

## Bat Buyers Swing For Cert. In Rawlings False Ad Suit

By **Mike Curley**

Law360 (January 17, 2020, 7:07 PM EST) -- A group of baseball bat buyers on Friday asked a California federal judge to grant class certification in a suit alleging that Rawlings Sporting Goods Co. Inc. mislabeled the weight of its non-wood baseball bats, selling them at a heavier weight than advertised.

Richard Sotelo told the court that the case is suited for class treatment because of the large size of the proposed class and the common facts, such as the bat weight and advertising, that tie the case together such that it can be resolved in one go.

With Rawlings and its retailers selling a large number of bats in California, the class is large enough to justify certification, Sotelo argued, though the exact number of sales was redacted in the motion. Also redacted was most of a three-page section on the Rawlings CEO's alleged knowledge about the difference between the labeled weight and actual weight.

The class' claims that Rawlings misstated the weight of the bats on its advertising and labeling can be resolved through common questions of fact, including whether Rawlings misrepresented the weight, whether customers would find the difference in weight material, and whether Rawlings violated state and federal consumer protection laws, according to the motion.

Those common questions predominate, and can be resolved with common proof and evidence, Sotelo argued, making the case appropriate for class certification.

In the motion, Sotelo seeks to represent a class that includes all California customers who bought one of Rawlings' non-wood adult or youth baseball bats between October 2014 and today.

Sotelo moved to name himself as class representative, arguing that his experience is typical among the class and that he is an adequate representative. He also sought to name his attorneys from The Sultzter Law Group PC and McLaughlin & Stern LLP as co-lead class counsel, and Shoop PC and C. Mario Jaramillo PLLC as local counsel.

Representatives for Sotelo and Rawlings could not immediately be reached for comment Friday.

In his **October 2018 complaint**, Sotelo claimed Missouri-based Rawlings is routinely selling children's baseball bats that are 2 to 3 ounces heavier than their advertised weight, a difference he said is significant enough to render the bats unusable and potentially unsafe.

He claimed that in November 2017 he purchased a 1-pound 2018 Rawlings Youth 5150 USA-model baseball bat for his 8-year-old son that proved to be 2.6 ounces heavier than advertised, and that his son cannot use it. Additionally, he said, a bat that is too heavy can risk muscle strains and be dangerous to other players and bystanders.

In May, U.S. District Judge George H. Wu **dismissed** breach of implied contract and unjust enrichment claims brought by Sotelo, while the bulk of his state law false advertising and competition claims survived the baseball equipment company's **bid to dismiss**.

In that motion to dismiss, Rawlings had argued that Sotelo cannot represent the class of baseball bat buyers based on the single bat he purchased for his son. Rawlings also argued it did not falsely advertise the bat's weight, but rather, the misrepresentation was made by the third-party website Sotelo bought the bat from.

Sotelo is represented by David R. Shoop of Shoop PC, Janine Pollack and Michael Liskow of The Sultzter

Law Group PC, Lee S. Shalov and Jason S. Giaimo of McLaughlin & Stern LLP and C. Mario Jaramillo of C. Mario Jaramillo PLLC.

Rawlings is represented by Eric Y. Kizirian of Lewis Brisbois Bisgaard & Smith LLP and Michael R. Annis and A. James Sprung of Husch Blackwell LLP.

The case is Richard Sotelo v. Rawlings Sporting Goods Co. Inc., case number 2:18-cv-09166, in the United States District Court for the Central District of California.

--Additional reporting by Rick Archer. Editing by Emily Kokoll.