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March 15, 2016

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Ninth Circuit to Hear Oral Argument in Suit Seeking Refunds for Allegedly Misleading Yogurt Labels

(Kane v. Chobani, Inc.)

“It is high time to halt the deluge of food mislabeling claims being filed by plaintiffs’ lawyers ... [T]here is no evidence that plaintiffs were injured by the supposed mislabeling they allege.”—Richard Samp, WLF Chief Counsel

WASHINGTON, DC—The U.S. Court of Appeals for the Ninth Circuit will hear oral argument on Wednesday, March 16, 2016 at 9:00 a.m. PDT in *Kane v. Chobani, Inc.*, a case that will address the circumstances under which consumers may sue manufacturers for selling food with allegedly misleading labeling. WLF Chief Counsel Richard Samp will be available following the oral argument to discuss the case and its likely outcome.

The food manufacturer in this case is alleged to have violated California law by including an “only natural ingredients” label on its yogurt, even though the yogurt included color additives that allegedly did not qualify as “natural.” The plaintiffs also allege the ingredients list misled them because it used the term “evaporated cane juice” instead of “dried cane syrup” to describe the added sugars in the yogurt. Whether class actions like this are actionable under California’s Unfair Competition Law (UCL) is a hotly contested issue. California voters amended the UCL in 2004 to cut back on the right of individuals to sue businesses for allegedly false claims in the absence of evidence that they relied on the claims. WLF’s brief urges the appeals court to affirm the trial court’s determination that the plaintiffs did not adequately plead reliance in this case.

WLF argues that the plaintiffs could not possibly have relied on the two cited label provisions in their purchasing decisions, given that: (1) the label explicitly stated that the yogurt contained color additives, so the term “natural” could not have led them to believe otherwise; (2) “evaporated cane juice” is a commonly used term to describe added sugars; and (3) plaintiffs admit that they knew the yogurt contained fruit and vegetable juice concentrate and that such concentrate is a well-known source of added sugar; knowing that, they could not have genuinely believed that the yogurt contained no added sugars.

Before the argument, WLF issued the following statement by Chief Counsel Richard Samp: “It is high time to halt the deluge of food mislabeling claims being filed by plaintiffs’ lawyers under California’s Unfair Competition Law. In virtually all of the pending food labeling suits, including this one, there is no evidence that plaintiffs were injured by the supposed mislabeling they allege. Voters amended the UCL precisely because they wanted to prevent abusive suits filed by individuals uninjured by the business practices to which they object.”

WLF is a public interest law firm and policy center that regularly litigates in support of civil justice reform, to ensure that unwarranted lawsuits do not drive up costs for all consumers.