



Court Correctly Rejects Crestfallen Halloween Candy Consumers' Class Action

by Glenn G. Lammi

Last month, America's candy makers started filling stores with Halloween-themed offerings. [Reese's Peanut Butter Pumpkins](#) is one of the most popular. If you're like me and have a peanut allergy, you look longingly at those orange packages and instead, perhaps, reach for a milk-chocolate pumpkin and leave that Reese's for someone else.

The next shopper might be tempted by the anticipated taste of the peanut-chocolate merger and put the Reese's cup in their cart. Or they could be drawn in by the whimsical eyes and mouth carved into the candy pumpkin on the package. It was that feature of the packaging that, in 2023, supposedly led two men in two different Publix stores in Florida to choose the Reese's product. When Nathan Vidal and Eduardo Granados unwrapped their packages, they found uncarved, pumpkin-shaped peanut butter cups. Vidal and Granados felt betrayed. It didn't matter that "DECORATING SUGGESTION" is printed next to the image.

Did these Florida men complain to Hershey or seek refunds from Publix (depriving store clerks of entertaining conversations)? Nope. Instead, they filed a consumer-fraud class action. They proposed to represent every other Floridian whom Hershey bamboozled into purchasing Reese's Peanut Butter Pumpkins.

On September 16, 2026 (right around Halloween candy arrival time!), the U.S. District Court for the Southern District of Florida dismissed Vidal and Granados' putative class action for the second time. [Vidal v. Hershey Co.](#), 2026 WL 2730303 (S.D. Fla. Sept 9, 2026). Judge Melissa Damian held that without a viable claim for economic injury, the only harm plaintiffs could allege was disappointment—a harm insufficient to maintain Article III standing to sue. Judge Damian's workmanlike analysis of the plaintiffs' economic-injury theories is a worthwhile read for other class-action defendants.

Benefit-of-the-Bargain Harm

To establish standing under a benefit-of-the-bargain theory, a plaintiff must show the product she received was of lesser value or completely worthless. In dismissing Vidal and Granados' first complaint, Judge Damian found that the plaintiffs failed to show the uncarved peanut butter cup was inedible or illegal, or caused physical harm. The plaintiffs' "subjective, personal expectations" of the product do not objectively establish that the item was worth less or lacked any value.

To navigate around Judge Damian's previous reasoning on benefit-of-the-bargain, the plaintiffs advanced a hard-to-believe new motivation for their Reese's purchase. They didn't want to eat the Peanut Butter Pumpkins; they bought them "for the novelty/party-display value of the depicted faces." For Vidal

and Granados, scattering the smiling-pumpkin packages around for party guests wasn't good enough. The product only had artistic value to these discerning gentlemen if the cup had face carvings.

This theory of harm, the court reasoned, was even *less* plausible than the plaintiffs' original theory. The complaint still failed to allege that the lack of carvings rendered the product worthless. And a photo in the plaintiffs' complaint revealed that what's inside the package *is* novel—unlike regular Reese's Peanut Butter Cups, it's shaped like a pumpkin.

Price-Premium Harm

For the price-premium theory, a plaintiff must show that because of the defendant's false advertising or deceptive labeling, she paid more for a product than she otherwise would. The proof must be based on objective facts, not a plaintiff's personal belief that what they received was of lesser value.

In its previous opinion, the court held that Vidal and Granados presented no facts that established the price they paid was higher than the actual market value of what they received.

For the amended complaint, the plaintiffs' lawyers searched for some facts. They sent investigators to Target, Walmart, and Hershey's online store. They compared the prices of the original Reese's Peanut Butter Cup with the Halloween version and reported that the pumpkin-shaped cups cost up to 25% more per ounce than the original.

In her opinion, Judge Damian notes two obvious flaws in this approach. First, the investigators didn't visit Publix, the store where Vidal and Granados claim to have bought the offending product. That's a dumbfounding oversight by the lawyers. As Judge Damian notes, "That, of course, begs the question whether they actually paid a price premium . . . [at] Publix."

Second, the plaintiffs compared apples to oranges, not apples to apples. Their complaint did not allege "that they paid the higher price for the Reese's Peanut Butter Pumpkins but instead received plain Reese's Peanut Butter Cups." Perhaps the plaintiffs thought this was the best they could do, because Hershey does not sell carved Peanut Butter Pumpkins.

That left them with two options. One was to propose a hypothetical premium price for carved cups. But as the court explains, such a hypothetical price, even supported by expert testimony, "is too speculative to be an 'actual injury' under Article III." The other was to compare the actual value of the Reese's candy without the carvings to a competing product that has carvings in the candy and depicts the product that way on the packaging. The plaintiffs failed to make this argument. Judge Damian, though, identified what the plaintiffs' lawyers missed—[Ghirardelli's Milk Chocolate Jack O' Lanterns](#).

Reuters [reported](#) that the plaintiffs will appeal Judge Damian's ruling to the U.S. Court of Appeals for the Eleventh Circuit.

When I told friends and colleagues about this case, the common reaction was "who in the world would file a lawsuit over this?" As readers of the *WLF Legal Pulse* know, this is but one of the avalanche of dubious lawsuits we've analyzed in the past decade filed by law firms that see a lawsuit on every consumer-product package and in every ad. The [law firm](#) involved in this case, for instance, has sued Burger King, McDonald's, and Wendy's over the size of their hamburgers. Their plaintiffs, like Vidal and Granados here, are just along for the ride.

Though few of these consumer-fraud suits have yielded million-dollar verdicts or settlements, they do impose costs. Defendants pay millions in court and legal fees, costs that they pass on to consumers. And even a meritless suit can force a label change. Earlier this month, Hershey [replaced](#) “Decorating Suggestion” with “Carving not on actual product.” Courts incur costs paid by taxpayers to hear these claims and devote time that could be better spent on meritorious cases. Well-reasoned decisions like Judge Damian’s in *Vidal*, ones that keep uninjured individuals out of federal courts, are an essential tool for stopping the spread of litigation abuse. The Eleventh Circuit should affirm the outcome and solidify her reasoning in its eventual opinion.