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BLOGS

Class Certification

Illinois Federal Court Denies Motion for Class Certification

An Illinois federal district court recently dismissed a motion for class certification arising out of the plaintiffs' claim that they were deceived about the ingredients in McDonald's french fries and hash browns. *In re McDonald's French Fries Litig.*, 2009 WL 1286024 (N.D. Ill. May 6, 2009). The plaintiffs had claimed that McDonald's falsely stated that its potato products were gluten, wheat, and dairy-free (i.e., "allergen free") through its Web site and literature available at McDonald's restaurants. The plaintiffs further alleged that they purchased these products based solely on representations that the products were allergen free. Based on this claim, the plaintiffs sought to certify a national class of all persons in the United States who purchased potato products from McDonald's restaurants on or after February 27, 2002, through February 7, 2006, and had been medically diagnosed with celiac disease, galactosemia, autism, and/or wheat, gluten, or dairy allergies at the time of the purchase.

In denying the motion for class certification, the court found the proposed class was different from the claims in the case and was thus over inclusive. Specifically, the court found that the proposed class members did not consist only of those persons who saw or otherwise knew about McDonald's representations that its potato products were allergen free and who purchased such products on the basis of that representation. Further, the court found that class certification was inappropriate because many of the people purchasing the potato products were not deceived or would have bought the products anyway. The court also held that rewriting the class definition by limiting it to persons with one of the stated diagnoses who purchased potato products in reliance on McDonald's representations—and who would not otherwise have purchased the products—would not solve the certification problem because a separate evidentiary hearing would be required for each claimant. The court determined that the time required for such hearings outweighed the gain to be realized.