

Walgreens Sued By Private Label Food Co. Over Strategy Shift

By **David Matthews**

Law360 (October 5, 2018, 6:02 PM EDT) -- Walgreen Co.'s shift away from selling foods under its own label allegedly came at the expense of one Philly cheesesteak company that is now taking the drugstore chain to court in an Illinois state court suit.

Leonetti's Frozen Foods Inc. accuses Walgreen's of pushing Leonetti to redesign the packaging for its Nice! brand cheesesteaks when it knew it was phasing out its private label foods, according to its complaint filed Oct. 2. Nice! is Walgreen's private label, and Leonetti's has worked with Walgreen's since 2011, but, according to the suit, had narrowed its business to the cheesesteaks by 2017.

Walgreens knew in 2017 it was discontinuing its "failed strategy" to compete with the likes of Trader Joe's and Costco through its own products, but still pushed Leonetti's to invest in a costly redesign for the cheesesteaks with reassurances they would be sold for years to come, the complaint said.

Leonetti's also alleges that Walgreen's stopped selling the cheesesteak sandwiches because of the chain's new executive team, which prioritized name brands that were willing to pay more to get their products in stores.

"Walgreen's internal goal was changing, unbeknownst to Leonetti's, from selling Walgreen's own private-label products (which required Walgreen's to spend its own money on advertising, etc.), to the sale of large brands that would throw advertising money at Walgreen's, thereby increasing its bottom line regardless of the number of actual food products sold."

Philadelphia-based Leonetti's said that it devoted about a third of its warehouse capacity to Walgreen's products and that that space has yet to be filled again. Leonetti's complaint does not mention how much money the company allegedly lost because of Walgreen's move.

Leonetti's said Walgreen's misrepresentation ended up killing about a third of its business and left it "stranded" with packaging materials for 100,000 sandwiches that would never be sold.

"Had Leonetti's known that the redesigned product would not be sold according to these terms, it would simply not have agreed to redesign the product in the first place," Leonetti's said in the complaint.

The lawsuit accuses Walgreen's of breach of contract, unjust enrichment, negligent misrepresentation and promissory estoppel. Leonetti's seeks an unspecified amount of damages including restitution for its repackaging costs.

A Walgreen's representative declined to comment.

Leonetti's is represented by David S. Almeida and Trevor J. Illes of Benesch Friedlander Coplan and Aronoff LLP.

Attorney information for the defendant was not available.

The case is Leonetti's Frozen Foods Inc. v. Walgreen Co., case number 2018-L-010721, in Cook

County Circuit Court.

--Editing by Peter Rozovsky.