CLIENT ALERTS & INSIGHTS

Frankenstein at the Front Panel: What New Labeling Lawsuits Mean for Supplement Sellers

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Key Takeaways

- Two recent lawsuits claim supplement labels may mislead consumers by highlighting creatine content per serving on the front panel without clearly showing that a serving includes multiple gummies or tablets.
- The cases reflect a growing litigation theory targeting potentially confusing serving-size disclosures, even when products contain the advertised ingredients and perform as expected.
- Supplement companies should review front-label claims to clearly show serving sizes, units per serving, and total servings to help reduce litigation risk.

Two recent lawsuits against supplement sellers may signal a shift in the plaintiffs' bar's approach to labeling claims. On August 20, 2026, Julissa Martinez filed a putative class action in New York Supreme Court, Queens County, against Bloom Nu LLC, maker of Bloom-branded berry-flavored creatine monohydrate gummies. (*Martinez v. Bloom Nu, LLC*, Index No. 724805/2026.) Less than two weeks later, on September 1, Dean Fetters filed a similar putative class action in the U.S. District Court for the Central District of California against Universal Nutrition, maker of "Animal 5g Creatine Chews." (*Fetters v. Universal Protein Supplements Corporation d/b/a Universal Nutrition*, Case No. 2:26-cv-09758.)

Neither plaintiff alleges that the gummies lack creatine or fail to work, but instead that certain front-panel statements-"Creatine 5g Per Serving" and "36 Gummies" or "5g Creatine" and "120 Chewable Tablets"-invite a misleading calculation.

The result is a labeling "monster": a gap between what the front panel suggests and what the back panel explains. These cases serve as examples of an emerging, but not yet judicially established, combination-declaration/per-unit dosage theory. These cases urge sellers of supplements and other count-based products to make the serving-size math clear where consumers first see it, and they urge courts to require sellers to do so.

Stitching Up the Labeling "Monster"

Most supplement suits allege either a contents problem (the product lacks the advertised ingredient or amount) or an efficacy issue (the product does not perform as described). *Martinez* and *Fetters*, by contrast,allege neither. Instead, they stitch together allegedly "accurate-but-incomplete" front-panel statements and allege that they create an inaccurate impression.

Specifically, they allege that a reasonable consumer may *assume* that one gummy is a serving and multiply the amount of creatine per serving (five grams) by the total servings per package (36 gummies or 120 chewable tablets) unless they consult the back panel. Only then will the consumer learn that one serving of *three gummies* or *four chewable tablets* provides five grams of creatine.

Though the complaints share a similar theory, they proceed under different legal vehicles and in separate jurisdictions.

- ***Martinez***: asserts a consumer protection-based claim pursuant to N.Y. Gen. Bus. Law §§ 349 and 350, as well as a claim for "misbranding of food" under N.Y. AGM § 201(1).
- ***Fetters***: by contrast, pleads consumer-protection, false-advertising, warranty, misrepresentation, fraud, and unjust-enrichment claims-including those under the Cal. Civ. Code § 1750, *et seq.*, Cal. Bus. & Prof. Code § 17200, *et seq.*, Cal. Bus. & Prof. Code § 17200, *et seq.*; Cal. Com. Code § 2313, and Cal. Com. Code § 2314.

Rather than seeking full refunds, each case pursues a price-premium theory-namely, one that awards the difference between what consumers paid for the as-represented product and what they would have paid if the products had been accurately labeled. Interestingly, in *Martinez*, per-unit damages are contemplated to be as low as $0.20. It also waives penalties and punitive damages, while *Fetters* seeks restitution, disgorgement, injunctive relief, and other relief available under its asserted California claims.

Emerging "Frankenstein" Theories

Though consumer-protection claims are a dime-a-dozen in the supplement space, claims built on the interaction between potency and unit-count disclosures are rarer. At this point, neither complaint offers a strong reason to believe that these related theories will succeed, but their close timing and similar allegations make the issue worth watching.

Taken together, the complaints present "Frankenstein-like" theories with three features:

- **Implied Math**. These cases rely on an assumption about what consumers will ultimately assume when reviewing product labels. Specifically, the reasonable consumer may *assume* that one gummy is a serving and multiply the amount of creatine per serving (five grams) by the total servings per package (36 gummies or 120 chewable tablets) unless they consult the back panel.
- **Front Label Focus**. Though there is no explicit dispute that the products deliver what the back label promises, these cases contend that the front label misleads consumers as to what to expect.

- **Clearer Alternatives**. The complaints point to more explicit alternatives such as "5g Creatine Monohydrate Per 3 Soft Chews," "90 Soft Chews," "30 Day Supply," "1g" per chew, and "per serving" language as clearer alternatives. Neither complaint establishes that any one alternative is legally required.

Trick or Treat? Two Paths, Similar Risks

Of course, supplements are not the only products with content-based, front-label representations. For example, over-the-counter medications often disclose the amount of active ingredient(s) per pill without disclosing the number of pills necessary for an effective (or full) dose. Similarly, food products use the front label to tout the quantity of beneficial nutrients that they contain-an ever-popular trend due to the current "high protein" craze.

These theories face significant obstacles. Courts are reluctant to find that reasonable consumers ignore back-panel disclosures or otherwise equate "per serving" with "per unit." Furthermore, the adopted theories present potential class certification issues. More specifically, because they rely on mere assumptions about consumer understandings, and at least in one case, contemplate varying degrees of damages, it may prove difficult for the plaintiffs to establish ascertainability or predominance.

Regardless, even weak or ultimately unsuccessful complaints impose costs: management distraction, legal fees, discovery, and reputational risk. Sellers should, therefore, undertake a proactive label review rather than relying on back panel disclosures or awaiting a favorable outcome.

"Reanimate" Your Label Review

To deter lawsuits, companies selling multi-unit-serving products-particularly gummies, soft chews, capsules, and tablets where the count appears on the front label-should consider the following:

- **Show the Serving Math**. Put multi-unit serving sizes next to any per-serving potency claims, with the serving size appearing as prominently on the label as the potency claim. For example, if there are "5 grams per 3 gummies," using a uniform font, size, and typeface minimizes the chance of (real or feigned) consumer confusion. Companies should also consider adding the full number of servings included in the package, such as "12 servings" or "12-day supply."
- **Combination Declarations**. Ensure that all labels (front and back) comply with the "combination declaration" requirements-specifically, those listed in FDA regulations, such as 21 C.F.R. § 101.7 (*net quantity of contents declaration requirements*), the Food, Drugs, and Cosmetics Act (21 U.S.C. § 343(a), (e)), and relevant state analogs. If a simple "count" does not adequately convey quantity, consider adding weight, measure, or unit-size information. Companies should also audit front-panel numbers to determine whether a consumer could multiply them and reach a misleading total.
- **Document and Benchmark**. Document the review and its rationale and benchmark clear competitors. A good-faith compliance record and familiar industry practice can support a reasonableness defense, which may prevent your label from becoming the next litigation monster.