CLIENT ALERTS & INSIGHTS

What's in a Name?: Courts Refuse to Stretch Product Names into Promises

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Authors: Ruddy S. Abam, Michael D. Meuti, Michael B. Silverstein

Featured Practices: Litigation, Consumer Protection & Class Actions, False Advertising & Unfair Competition

Key Takeaways

- The plaintiffs' bar has tried to transform everyday food items' names into promises about what the items actually contain. But new decisions from courts in Illinois and New York reject that approach, holding that a product's name alone won't mislead a reasonable shopper if the company doesn't make clear statements about ingredients.
- In *Daly v. Dunkin' Brands, Inc. et al* ("Dunkin") and *Halim v. Buffalo Wild Wings, Inc et al* ("BWW"), the judges relied on context and common sense to reject deceptive-advertising claims based on taking product names literally.
- Together, the two cases suggest a trend toward a stricter "reasonable consumer" test, requiring actual statements that could mislead rather than accepting plaintiff assumptions about product names.

Why These Cases Matter: Subjective Interpretations Don't Equal Reasonable Consumer Confusion

Courts are making clear that a consumer's subjective interpretation of a product's name isn't enough to support a false-advertising claim. Instead, those claims fail unless the seller made a statement that would mislead a reasonable consumer.

Courts have long applied that "reasonable consumer" standard to false-advertising claims. Even though the standard is at least nominally objective, the results have not always been predictable, and some courts have applied it forgivingly and allowed aggressive interpretations of advertisements to overcome motions on the pleadings and proceed into discovery. These recent cases, however, draw a simple line: without an actual claim about ingredients or contents, product names alone generally won't mislead the average consumer.

In both the *Dunkin* and the *BWW* cases, the courts granted motions to dismiss, signaling that claims based on subjective interpretations of product names fail when a truly reasonable consumer would not interpret the name the same way. In *BWW*

, the plaintiff claimed that the name "boneless wings" was deceptive because BWW did not actually serve deboned chicken wings. The court disagreed, noting that "boneless wings" is a familiar, "fanciful" product name understood to describe a style of chicken made from breast meat-just like "cauliflower wings" are not actually wings. Similarly, the *Dunkin* plaintiff claimed that the names of Dunkin's Refresher drinks-like *Mango Pineapple* Refresher-were deceptive, because the drinks did not contain those actual fruits. The court held the menu names describe flavors, not ingredients, especially because Dunkin' never said the drinks were "made with real fruit."

These decisions give defendants strong early defenses in putative class actions based on product names alone.

- **Familiarity and Norms Matter:** "Boneless wings" is a widely used term that consumers understand as a style of food made from breast meat, not a literal body part.
- **The Absence of Ingredient Claims Is Instructive:** In *Dunkin*, the menu board listed flavors but no ingredient claims like "made with Mango and Pineapple" or "contains real fruit," making it unreasonable for shoppers to assume otherwise.
- **Common Sense Carries the Day:** The *BWW* court invoked an everyday inference-just as "cauliflower wings" are not wings, "boneless wings" are not deboned wing meat. These are familiar food items whose meaning is apparent to consumers without further inquiry.

What's the Broader Trend?

Courts are shutting down claims based only on product names. Although these rulings do not reflect a unanimous position across jurisdictions, the message is steady: without an affirmative statement about the product, unsupported interpretations alone cannot sustain a deceptive-advertising lawsuit. This tightening standard benefits defendants by distinguishing actual representations from assumptions, enabling pre-discovery dismissal when complaints lack actual misrepresentations, and providing precedent for defending similar cases.

When in Doubt, Spell It Out: What Businesses Should Do

While common-sense and context should rule the day, advertisers should still be mindful of what a "reasonable consumer" might think and take steps to ensure consumers have appropriate context:

1. Use clear ingredient disclosures or complete product profiles.
2. Avoid unsubstantiated phrasing (e.g., "made with," "contains," "real").
3. Add disclaimers when a product name could be misunderstood.
4. Regularly audit product names so they describe flavor and style.
5. Use consumer research when naming new products to better understand how names could be interpreted.

Given the increase in state and federal scrutiny of transparency in advertising, businesses should regularly engage legal counsel for periodic reviews to minimize exposure.