A class-action lawsuit filed in August against Hormel Foods alleges that the company’s Black Label Center Cut Bacon (Center Cut Bacon) is falsely labeled as containing “25% Less Fat Than Our Regular Bacon.”

Plaintiffs allege that the claimed reduction in fat content is based on a smaller serving size rather than an actual decrease in fat content, and that the Center Cut Bacon did not contain 25% less fat than any other bacon product sold by Defendant when accounting for serving size. Furthermore, Plaintiffs allege that the labeling misleads consumers by failing to identify the reference food as required by federal regulation when a claim comparing nutrient levels to a reference food is made (i.e., a “relative claim”). See 21 CFR 101.13(j)(2)(ii). While Plaintiffs surmised that the reference food was Original Bacon, Center Cut Bacon contained only 14% less fat Original Cut Bacon when the serving size was accounted for (by computing fat content on a per gram basis).

More broadly, Plaintiffs allege that the practice of using different serving sizes
for similar bacon products confused consumers and made it more difficult for them to verify the truthfulness of the fat reduction claim. This case is a good example of how nutrient content claims even on meat products regulated by USDA FSIS can be targeted in class action lawsuits.

© 2021 Keller and Heckman LLP

National Law Review, Volume XI, Number 271

Source URL: https://www.natlawreview.com/article/lawsuit-alleges-fat-content-deceptively-labeled