



Genetically Modified Organisms are not “All Natural”

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Law 17/34

Thesis Statement

The FDA should not allow companies that use Genetically Modified Organisms (GMO's) to label their products as “All Natural” or “100 % Natural”.

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Scope of the Paper

I will be discussing why companies should not label their products as all natural when they use Genetically Modified Organisms (GMO's), for example High Fructose Corn Syrup (HFCS) and genetically modified seeds. I will argue that GMO's cannot be considered as a natural ingredient.

Argument

Companies that use Genetically Modified Organisms (GMO's) should not be allowed to label their products as "All Natural" or "100% Natural". Genetically engineered or genetically modified organisms ("GMO"s, or "GM foods") are defined as those in which "the genetic material ("DNA") has been altered in such a way that does not occur naturally."¹ There has not been enough testing to know what the effects there are on human beings. As consumers we have the right to know if the foods we are eating have GMOs. When we buy a product that states "all natural" or "100% natural", it should mean just that. The definition of natural as it pertains to my argument, *Natural: Adjective, existing in or caused by nature; not made or caused by humankind.*²

The Food And Drug Administration (FDA) should have a policy in place for regulating GMO's in our food and therefore should not allow companies to label their products as "All Natural" or "100% Natural" when the product contains GMO's, to date the FDA does not.

We Start with Seeds

*Seeds that have been modified in a laboratory cannot be considered natural. High tech labs use gene splicing to create these seeds. Seeds may be crossed with bacteria's as opposed to other plants, which make it unnatural.*³ To date, the FDA has imposed no labeling requirements for any genetically modified foods.⁴ These are the seeds that are used in our food. These are Genetically Modified Organisms (GMO's). These seeds are genetically altered they cannot be considered "all natural".

GMOs in food are now illegal in many developed countries. There are only three counties in the USA have banned the planting of GMO crops: California counties of Trinity, Marin and Mendocino.⁵ The fact that there are countries and some USA counties that ban GMOs (as

¹ <http://www.who.int/foodsafety/publications/biotech/20questions/en/index.html>

² http://www.oxforddictionaries.com/us/definition/american_english/natural

³ *Hybrid Seeds vs. GMOs* 2013, Sept. 2013 Written by [Kristen](#)

⁴ *The Regulation of Gmos in Europe and the United States: A Case-Study of Contemporary European Regulatory Politics* Authors: Diahanna Lynch, and David Vogel April 5, 2001, September 2013
<http://www.crlsresearchguide.org>

⁵ <http://www.realnatural.org>

demonstrated in the picture below) should show that companies should not be allowed to be label "all natural".

Labeling & Bans

NO
The United States and Canada do not require labeling of genetically engineered foods

YES
In 50 countries there are significant restrictions or outright bans on GMOs.



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Court Cases to Date

1. **Cox v. Gruma Corp., 2013 U.S. Dist. LEXIS 80613 (D. Cal. 2013)**

Elizabeth Cox alleged that Gruma's use of "all natural" on its tortilla shells violated various consumer protection laws because they contained genetically-modified corn.⁷ In this case some

⁶ http://kidsgrowingstrong.org/sites/default/files/Images/news/Map_of_GMO_label.jpg

of these alleged violations were advertising and marketing, are false and misleading in violation of the California Unfair Competition Law, Bus. & Prof. Code; the California False Advertising Law; the Consumers Legal Remedies Act.⁸ She alleged that the company misled her therefore they should not have labeled it “all natural”. The court referred to the United States Food and Drug Administration for an administrative determination. The court stayed the case for a period of six months in order for the FDA to resolve the case.

2. Holk v. Snapple Beverage Corp., 575 F. 3d 329 - Court of Appeals, 3rd Circuit 2009

In the Holk v. Snapple case, Stacy Holk filed a class action lawsuit against Snapple claiming (I) the New Jersey Consumer Fraud Act; (II) unjust enrichment and common law restitution; (III) breach of express warranty; and (IV) breach of the implied warranty of merchantability.⁹ Her claims were based on the fact that one of the ingredients listed is High Fructose Corn Syrup. HFCS is made from genetically modified corn and processed with genetically modified enzymes.¹⁰ As part of the chemical process used to make high fructose corn syrup, the glucose and fructose which are naturally bound together become separated.¹¹ This is what makes High Fructose Corn Syrup a Genetically Modified Organism.

3. Van Atta v. General Mills, Inc., 2013 U.S. Dist. LEXIS 118137 (D. Colo. July 18, 2013)

Nicole Van Atta claims that in September of 2012 she purchased two products from General Mills that claimed to be “100%” Natural”. The plaintiff claimed that the products were not natural because they contained GMO’s. She claimed that GMO’s are not natural because GMO’s grow from seeds modified in a laboratory.¹² She also claimed she felt deceived by their label because she believed that the products were free of GMO’s when it said “All Natural”. There were also claims by Van Atta that there are increasing health concerns on the effect of

⁷ Federal District Courts Request FDA to Define "Natural" with Respect to Genetically-Modified Organisms (GMO) Foods By Lynn C. Tyler, M.S., Hae Park-Suk, Crystal T. Williams, Joan L. Long, and Olivia Fleming
The National Law Review, August 2, 2013, September 2013
http://www.organicconsumers.org/articles/article_28049.cfm

⁸ Cox v. Gruma Corp., 2013 U.S. Dist. LEXIS 97207 (D. Cal. 2013)

⁹ Holk v. Snapple Beverage Corp., 575 F. 3d 329 - Court of Appeals, 3rd Circuit 2009

¹⁰ Guess what’s lurking in your food by Via Feb. 23, 2009, Nov.2013, <http://www.highfructosecornsyrup.org>

¹¹ Why You Should Avoid High Fructose Corn Syrup by Dr Hyman 2013 <http://organicconnectmag.com/avoid-high-fructose-corn-syrup>

¹² ATTA v. GENERAL MILLS, INC., Dist. Court, D. Colorado 2013

GMO's on the human body. Plaintiff filed matter as a class action for injunctive relief, restitution, disgorgement, and damages against defendant.¹³ General Mill filed a claim to dismiss First Amended Class Action Complaint. The court cited Cox v. Gruma Corp., 2013 U.S. Dist. And denied General Mills motion to dismiss and stayed the case pending further recommendation from the FDA. This case is another example of the uncertainty of GMO's and how even the courts cannot come to a definite conclusion.

4. Barnes v. Campbell Soup Co., 2013 U.S. Dist. LEXIS 118225 (N.D. Cal. July 25, 2013)

In the Barnes case he claimed that Campbell Soup uses genetically modified corn in their soup that is labeled as "All Natural". The putative class action alleges causes of action for violations of the following state consumer protection laws: (1) California Consumer Legal Remedies Act ("CLRA") (2) Unfair Competition Law ("UCL"); and (3) False Advertising Law ("FAL").¹⁴ Here Campbell Soup filed a motion to dismiss on the basis that the Plaintiffs lack standing under Article III of the United States Constitution. *"Traditionally, to satisfy the Constitution's standing requirements, a plaintiff must show: (1) an "injury in fact" characterized as (a) concrete and particularized and (b) actual or imminent, not conjectural or hypothetical; (2) that the injury appears fairly traceable to the challenged action of the defendant; and (3) that the injury will likely, as opposed to merely speculatively, be redressed by a favorable decision."*¹⁵ *To establish standing under the UCL, FAL, and CLRA consumer protection statutes, "it is sufficient if a plaintiff alleges that he or she would not have purchased the goods in question absent the misrepresentations at issue."* *Khasin v. R.C. Bigelow, 2013 U.S. Dist. LEXIS 77084 (N.D. Cal. May 31, 2013)* In regard to my argument, the first standing requirement "injury in fact" was met by the plaintiff. The court here denied Campbell's motion to dismiss on the basis of standing.

As a consumer we have the right to know what we are consuming therefore giving us a choice whether to purchase the product or not.

5. In re Frito-Lay N. Am., Inc., 2013 U.S. Dist. LEXIS 123824 (E.D.N.Y. Aug. 29, 2013)

Here in the Frito-Lay case Plaintiffs again claim that if they would have been made aware that the chips in question were made from genetically modified corn they would not have purchased the Tostitos, Sun Chips, and Bean Dip products. Frito-Lay labeled these products as

¹³ ATTA v. GENERAL MILLS, INC., Dist. Court, D. Colorado 2013

¹⁴ Barnes v. Campbell Soup Co., 2013 U.S. Dist. LEXIS 118225 (N.D. Cal. July 25, 2013)

¹⁵ Barnes v. Campbell Soup Co., 2013 U.S. Dist. LEXIS 118225 (N.D. Cal. July 25, 2013)

“All Natural” and charged a premium price for these products as opposed to their other products that did not make this claim. Plaintiff’s based their claim on these facts. In purchasing the products at a premium price, plaintiffs assert that they relied on defendants’ misleading and deceptive misrepresentations that the products were made of all natural ingredients.¹⁶ These misleading and deceptive practices must stop. The FDA must regulate GMO’s and define a policy; otherwise these lawsuits will continue to be stayed without any resolution in the near future.

Should GMO’s be considered as “Natural”?

According to FDA policy, "natural" means the product does not contain synthetic or artificial ingredients.¹⁷ Does GMO’s contain synthetic or artificial ingredients? High Fructose Corn Syrup for example, uses an insoluble glucose isomerase enzyme preparation, which as quoted by Geraldine June of the FDA *“The use of synthetic fixing agents in the enzyme preparation, which is then used to produce HFCS, would not be consistent our policy regarding the use of the term ‘natural’.”*

Conclusion

In conclusion, this essay demonstrated the reasons why the FDA should not allow companies that use Genetically Modified Organisms (GMO’s) to label their products as “All Natural” or “100 % Natural” by presenting numerous courts cases arguing this issue. This essay also gave a brief description on how a seed is genetically modified to create a GMO. In this essay I have argued that consumers have the right to know what they are ingesting and whether or not they should purchase a food product that contains any form of GMO’s by reading a label that states so.

¹⁶ In re Frito-Lay N. Am., Inc., 2013 U.S. Dist. LEXIS 123824 (E.D.N.Y. Aug. 29, 2013)

¹⁷ <http://www.fda.gov/forconsumers/consumerupdates/ucm094536.htm>