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If you would like to become a AONH Member, upgrade to the Elite Membership, or register for our Annual Natural Health Care Conference, please email:

info@aonh.org or call
202-505-AONH (2664)

Upcoming Events

- **AONH Monthly Webinar, Wed., March 19, 2014 at 8 pm EST/7 pm CST**
AONH Members will receive an email invitation to join us for the AONH Monthly Webinar. **Ken Mason of PMA Solutions** discusses “PMA: The Do’s and Don’t of Operating in the Private Domain.”



- **(TNC) Therapeutic Nutritional Counselor Course, March 17-21, May 12-16, Sept 22-26, Oct 27-31, Nov 27-Dec 1 & (HHP) Holistic Healthcare Practitioner Certification Course, March 24-26, May 19-21**

Courses require from 2-4 months of preparatory reading, study modules, and assignments prior to the hands on training. Course sign up deadline is fast approaching.

Contact: 262-629-4301 or education@karensenergy.com



- **AONH Annual Natural Health Care Conference, Nov. 6-8, 2014**
“Living Up to Our Full Potential”

The AONH Annual Conference joins health care advocates and providers for an enlightening program geared to the up-to-date natural health care practitioner. Registration for the event is normally \$350. **AONH ELITE MEMBERS \$240, SELECT MEMBERS \$280, ASSOCIATE MEMBERS \$315, NON-AONH MEMBERS \$350.** Registration Required. Event will be held in the Douglasville, Georgia.



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AONH NEWS



this issue

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The Mission of Your Association

AONH is dedicated to public education and the professional development of natural health care around the world. Our aim is to unite our like minded members and speak as one voice and with one purpose.

Getting Involved
Associate, Select, and Elite Memberships are available.

For further information on benefits you or your company can receive, please register for membership by visiting: www.aonh.org

What does “natural” really mean?

Tort lawyers and anti-GMO activists are taking action by filing class action lawsuits against major food manufacturers for using the term “natural” on their product's labels in a deceptive manner. The suits claim labels are deceptive because the products are made with genetically modified ingredients such as GM corn or soy—about 90 percent of those crops grown in the United States are genetically modified.(2)

A class action lawsuit is one in which a large group of people collectively bring a claim to court, or a large group of defendants is being sued. Plaintiffs however, face an uphill battle in court trying to prove legal deception. Two hurdles must be overcome. For one, tort lawyers would have to prove that ingredients labeled as ‘natural’ are subject to federal labeling guidelines. Having met this criterion they would then have to prove that GMOs fall under this regulation. But current law suggests that overcoming both hurdles is a daunting task as there are no legal definitions for use of the term “natural” or its derivatives. Also, because the Food and Drug Administration (FDA) has stated that GMOs present no unique health risk, there is no legal obligation for food manufacturers to label food that contain GMOs.

There are several reasons why lawsuits against food companies get thrown out or stall in the court. In the unique case of GMO-specific lawsuits, the main reason is: there simply is no common understanding among consumers of what GMOs are, what bioengineered crops are, or what “natural” means in that specific context. This suggests that it is not possible to establish that the defendants’ labels are misleading or deceptive. Their argument is that it is difficult to say because there is a broad class of consumers whose common characteristic are merely that they bought the

defendants’ products.

Relatedly, even setting aside the issue of reliance, the issues concerning the lack of a clear meaning of “natural” in the context of bioengineered food ingredients may well implicate the threshold issue of whether the statements appearing on the product packages are “deceptive” as to each class member in the first place.

Subjective Opinion?



Wide variations almost certainly exist among purchasers as to what they think (if anything) “natural” means (in the GMO context). This presents both substantive (whether the package was deceptive for that consumer), and class issues (varying, or no, individual perceptions



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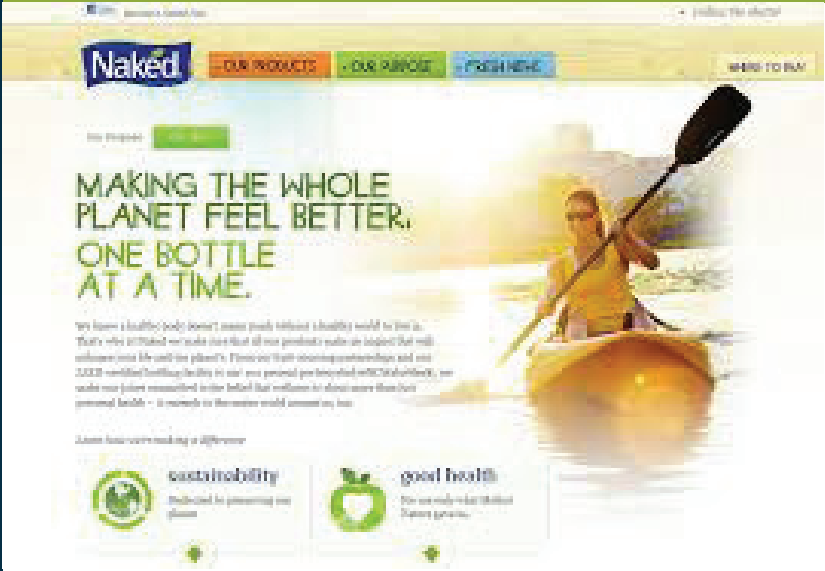
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Sam Abukittah Founder & President

Camille Carlson Publicity Director



of “natural” in this context among class members). If one consumer feels deceived by a ‘natural’ label when the food contains GMOs, there is no sufficient evidence to suggest that the majority of consumers also feel the same way. For this reason, a judge cannot certify that the plaintiff represents a class of consumers (2).

Most courts addressing proposed national class action suits reject the argument advanced by plaintiffs that the law of a single jurisdiction can apply to all class members’ claims. Pursuant to choice of law principles, these courts typically hold that the law of the state in which each class member is a resident will apply to that class member’s claims. This fact usually dooms a finding of predominance under Rule 23(b)(3) (5).

In food labeling cases, several courts have applied these principles to strike allegations or deny certification of a nationwide class (5).

What does “all natural” mean?

“Natural foods” and “all natural foods” are widely used terms in food labeling and marketing with a variety of definitions, most of which are vague. In the United States, neither the Food and Drug Administration (FDA) nor the U.S. Department of Agriculture (USDA) have rules for “natural.” According to the FDA, from a food science perspective, it is difficult to define a food product that is ‘natural’ because the food has probably been processed and is no longer the product of the earth. The term is assumed to imply foods that are minimally processed and do not contain manufactured ingredients, but the lack of standards in most jurisdictions means that the term assures nothing. That said, FDA has not developed a definition for use of the term natural or its derivatives. However, the agency has not objected



to the use of the term if the food does not contain added color, artificial flavors, or synthetic substances (1).

The Food, Drug, and Cosmetic Act prohibits labeling that is false or misleading, but does not give any specifics. As there is no legal meaning for natural foods, food manufacturers can include ingredients that may not be considered natural by some consumers. The non-profit organizations and individual plaintiffs bringing these claims are attempting, through the device of a class action lawsuit and the accompanying monetary and injunctive exposure to the company whose packaging and labeling is being challenged, to advance their conception of what the rules ought to be for the American food industry.

Where do we stand?

Michele Simon, a public health lawyer and critic of food industry marketing practices, noted that there are numerous cases making their way through the legal system because of food companies’ use of the word natural.

Naked Juice Company, owned by Pepsi Co, has agreed to pay \$9 million to settle a class-action suit for use of its “all-natural” product labels. PepsiCo Inc. has also stated it will no longer label its Naked juices as being “all-natural” (4).

The lawsuit against PepsiCo noted that the company cultivates a “healthy and socially conscious image” to boost sales of the drinks, which typically cost around \$4 a bottle. It noted that PepsiCo knew its target market would be willing to pay more for natural drinks that are 100% juice and free of genetically modified organisms (4).

The PepsiCo case was notable because the company was in essence addressing the murkiness of the word with the settlement. “This company is basically surrendering the use of the offensive, deceptive marketing term,” Simon said.

“We badly want them to provide some clarity on the issue, but they’ve repeatedly failed to do anything,” said Stephen Gardner, a lawyer with the Center for Science in the Public Interest, a food-industry watchdog group. So far, recent “natural” cases haven’t played out in predictable or uniform fashion. Some have settled after companies agreed to tweak their packaging. Others are still pending, years after they were filed. But the cases, much like other varieties of class actions against corporations, tend not to go to trial. “Companies generally don’t want the financial and public-relations exposure from a jury trial,” said Mr. Gardner. So they often settle quickly, he said (3).

When viewed in light of the regulatory backdrop outlined above, the question becomes whether a class should be certified based upon a GMO plaintiff’s subjective opinion (if the plaintiff has an opinion at all) that the challenged products are not “natural” and should not be so labeled because they are made from the nation’s routinely grown and consumed bioengineered crops (5).

How can you make a difference?

How the individual becomes proactively involved in making a difference is by joining others and spreading information and promoting awareness. In this regard, it is not the FDA’s task but our own to seek definitions and share common understandings and values as these are key to remotely be considered a class under legal terms. There are different avenues for change and while most issues have seen advocates of natural health take a defensive stance, this proactivity and union under one voice, one mission is extremely relevant if we are to take part of class action suits. The measure and degree of involvement we choose to take part of rests on personal choice but contributes to our overall success.

Works Cited

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Enjoy Your AONH Community Attend the FALL ANNUAL AONH Natural Health Care Conference themed “Living up to our full potential”



AONH Annual Natural Health Care Conference is November 6-8, 2014 As a member of the AONH you are eligible for special savings!

Join this fascinating group of natural health care professionals, and those who are seriously interested in natural health care, for an intensive 3-day conference complete with our new Vendor Pavillion. The Pavillion allows attendees to “try out’ new

modalities and products as well as meet industry personalities, authors, and leaders.

The program will be centered on the latest advances in natural health care as well as the battle to keep it available to all who choose to utilize it!

Where is the conference?

Douglasville, Georgia (A short drive west of Atlanta)

Douglasville Conference Center 6700 Church St., Douglasville, GA 30135

How much to attend?

\$240 (including healthy daily lunch) for Elite AONH Members
\$280 (including healthy daily lunch) for Select AONH Members
\$315 (including healthy daily lunch) for Associate AONH Members
\$350 (including healthy daily lunch) for a non-member

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