



CSPI Files Objection to Proposed Vitaminwater Lawsuit Settlement

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Copycat Suit Enriches Lawyers, Provides no Relief to Consumers

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A [proposed agreement](#) to settle a class action lawsuit against Coca-Cola over its marketing of Vitaminwater would enrich several private law firms but would not stop deceptive marketing of the products or provide any legal relief to consumers. The nonprofit Center for Science in the Public Interest today filed an objection to the proposed agreement.

CSPI [first sued](#) Coca-Cola in federal court in California in 2009 citing deceptive and unsubstantiated claims positioning Vitaminwater as a more healthful alternative to soda, by using health-related buzz words such as "defense," "rescue," "energy," and "endurance." Vitaminwater labels also made a wide range of dramatic claims that the products would promote healthy joints, reduce risk of eye disease, or perform other benefits. (Labels for the "xxx blueberry pomegranate acai" variety of Vitaminwater claimed its antioxidants would make the drinker "last longer" in some unspecified way.) And despite references to blueberry, strawberry, kiwi, peach, mango, and other fruits, Vitaminwater typically contains no more than one percent juice.



Even the very name Vitaminwater is deceptive, says CSPI, for it also obscures the sugar content of the drink. In 2010 a federal judge [seemed to agree](#), dismissing Coca-Cola's motion to dismiss the suit and writing that the names of the drinks, along with other statements on the label, "have the potential to reinforce a consumer's mistaken belief that the product is comprised of only vitamins and water." Coca-Cola had argued that "no consumer could reasonably be misled into thinking Vitaminwater was a healthy beverage," an argument [skewed by Stephen Colbert last year](#).

CSPI's litigation triggered a number of copycat lawsuits filed in other federal courts, all of whom are parties to the proposed settlement agreement, which is being considered by a federal court in the Southern District of Ohio Western Division. The agreement proposes a \$1.2 million payment from Coca-Cola to the lawyers, but substantively only forbids Coca-Cola from making statements in connection with Vitaminwater that it had already stopped making. The agreement also forbids the plaintiffs and their lawyers from communicating about the settlement with any third party—including the news media—without the permission of Coca-Cola.

The agreement does not prevent Vitaminwater from continuing to use terms like "focus," "revive," and "energy" on labels, nor does it prevent the company from naming various fruits on the label, such as kiwi, strawberry, blueberry, pomegranate, or acai, even though the drinks have no more than one percent of any kind of juice. Vitaminwater "focus kiwi-strawberry," for instance, has no kiwi juice or strawberry juice. The proposed agreement also would not prevent Coca-Cola from adding vitamins to the product in the first place—even though CSPI's lawsuit contends that the practice is in violation of the Food and Drug Administration's prohibition on fortifying junk foods with vitamins.

"It's no wonder Coca-Cola is eager to enter into this particular settlement agreement," said CSPI litigation director Steve Gardner. "The agreement 'prevents' Vitaminwater labels from using a handful of statements that the company had long abandoned anyway. But it does nothing to prevent the kind of deception that continues to this very day on *current* Vitaminwater labels. And it gives a bunch of lawyers who don't care about consumers' interests a million dollar payday. That's a great deal for Coke and a few unprincipled lawyers, but no benefit at all for consumers."

Soda and other sugary drinks such as Vitaminwater promote diabetes, heart disease, obesity, and other health problems, according to CSPI.

"Coke is still trying to dress up sugar water as a health food, yet Vitaminwater does a lot of harm and zero good," Gardner said.



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