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Federal court dismisses false advertising claims, ruling that studies cited in complaint did not plausibly support allegation that "Natural Artesian Water" was contaminated with microplastics

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Takeaway: It seems that more and more false advertising cases are filed these days alleging that consumer products are contaminated with some sort of harmful substance or chemical. At their core, these types of cases depend on scientific tests or studies, showing, for example, that the consumer product in fact contains a harmful contaminant. A recent case, *Daly v. The Wonderful Company, LLC*, Case No. 24 C 1267, 2025 WL 672913 (N.D. Ill. Mar. 3, 2025), demonstrates that, in any effort to base a claim on science, the alleged scientific tests or studies must plausibly support the contamination theory of the case.

In that case, John Daly and other plaintiffs brought a putative class action against The Wonderful Company, LLC (TWC), the seller and distributor of bottled Fiji Water, claiming that the "Natural Artesian Water" claim on the product label is false because the bottled water contains microplastics. Plaintiffs asserted claims under state consumer protection laws, as well as for fraud and unjust enrichment, seeking to represent a putative class of U.S. purchasers and subclasses from Illinois, New York, Nevada, and Pennsylvania. TWC moved to dismiss the complaint on a number of grounds, including on the grounds that plaintiffs did not plausibly allege that Fiji Water even contains microplastics or that the "Natural Artesian Water" claim would mislead a reasonable consumer.

Plaintiffs' operative complaint did not cite any "contemporaneous tests" showing that bottles of Fiji Water contain microplastics. *Id*. at *6. The only testing referenced was that of other brands of bottled water. They also cited a "non-definitive" study "regarding a proposed mechanism for how microplastic contamination of bottled water occurs – from twisting the lid open and shut," but that study did not include Fiji Water bottles, either. *Id*.

The district court concluded that the plaintiffs' allegations were "insufficient to 'nudge[] their claims across the line from conceivable to plausible." *Id*. at *6 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The court ruled: "Allowing a suit of this type to proceed on this basis would basically open the door to enabling any purchaser of any consumable product to file a lawsuit simply saying, 'I bought product X, and it contains microplastics' (or 'forever' chemicals, or heavy metals, or whatever) and thereby get past a motion to dismiss and into discovery and class certification proceedings. Given the context (consumable products claimed to include contaminants), plausibility requires more." The district

court concluded that the plaintiffs' "conclusory and unsupported allegation that Fiji Water is contaminated with microplastics, thus rendering the 'Natural' appellation misleading, is insufficient to give rise to a plausible claim for relief." *Id*. at *7.

Because whether the bottled water was contaminated with microplastics was central to each of the plaintiffs' claims, the district court dismissed all of the plaintiffs' claims but also granted leave to file a proposed second amended complaint.