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Illinois federal court rejects class certification because allegedly deceived plaintiff continued buying the products after discovering the truth

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Takeaway: There are two ways to win a class action – beat it on the merits or defeat class certification. In a consumer fraud class action, a common defense strategy is to evaluate whether any unique defense applies to the claims advanced by the putative class representative that would make the representative inadequate to represent a putative class. In *Clark v. Blue Diamond Growers*, No. 22 C 1591, 2026 WL 483275 (N.D. Ill. Feb. 20, 2026), that strategy proved successful where the class defendant defeated class certification by showing the proposed class representative faced a unique "no deception" defense.

The *Clark* case involved Blue Diamond almonds. Blue Diamond Growers sells different kinds of almonds, including its Smokehouse® Almonds. The Smokehouse® Almonds, however, are not actually "smoked" in a "smokehouse." "Instead, the smokey flavor comes from seasoning." 2026 WL 483275, at *1.

Margo Clark purchased Smokehouse® Almonds during a three-year period (from March 2019 through March 2022) at various stores in Chicago. *Id.* at *2. Alleging the label Smokehouse® Almonds deceptively represents that the almonds are actually smoked in a smokehouse and that this representation deceived her into purchasing the almonds in the first place (or at a higher price), she sued Blue Diamond for consumer fraud, alleging a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA") and seeking to represent a class of Illinois purchasers. *Id.* at *1.

She moved to certify a class, but the district court denied the motion, concluding she was an inadequate class representative. The adequacy problem, according to the district court, stemmed from the evidence that she learned the "truth" about Smokehouse® Almonds – that they were seasoned instead of smoked – no later than March 2021, yet she continued to purchase the almonds "every few months for over a year." *Id.* at *2. According to the district court, that made her inadequate as a class representative.

The court observed that a plaintiff is "inadequate to be a class representative for ICFA claims if the plaintiff was aware of the alleged defects before she purchased the product." *Id.* at *2. Because she continued to buy the almonds after learning the truth about their smokey flavor, Blue Diamond could assert a "no deception" defense that applied to her, as opposed to the class as a whole.

In support of her class certification motion, Ms. Clark submitted contradictory evidence, some of which

supported the proposition that she did not discover the truth about the product until much later (until after she had been interviewed by her attorney). But, according to other evidence (an interrogatory response and deposition testimony), she discovered that the almonds were not smoked when she viewed an advertisement from her attorneys (probably in March 2021), yet she continued to purchase the almonds for another year (until around March 2022). *Id.* at *2. Accordingly, she was subject to a unique defense. As the district court observed, "[t]he unique defense need not be a slam dunk; it need only be arguable" because, during a jury trial, "Blue Diamond would focus on this issue as a unique defense relevant to Clark." *Id*. at *1, *3.