

Anti-Hero?

**By Reg P. Wydeven
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As I have mentioned in numerous previous articles, my son has some pretty severe food allergies. He's a great eater, but going out can be a bit of a challenge. Thankfully, there are a few restaurants where he can find something he loves to eat. Even better, a few of them are national chains.

One of my son's favorite meals is a BLT on wheat from Subway. The sandwich artists there are very considerate, as they put on fresh gloves when they make his sandwich and use a clean knife to ensure no cross-contamination. While they go the extra mile for food allergens, Subway purportedly doesn't measure up in other areas.

John Farley and Charles Noah Pendrack, two men from New Jersey, sued the world's biggest fast food chain last week for false advertising because the footlong subs they bought were less than 12 inches long.

The suit was filed by attorney Stephen DeNittis, and seeks compensatory damages from the Milford, Conn.-based chain and a change in the company's business practices. Namely, Subway should either ensure their subs are indeed 12 inches long or else stop marketing them as "footlongs." DeNittis is also seeking class-action status for the suit and is preparing to file a similar lawsuit in Philadelphia.

As part of his preparations, DeNittis ordered footlongs from 17 of the chains 38,000 locations, and all of them were under 12 inches long. As a result, he asserts, "The case is about holding companies to deliver what they've promised."

Meanwhile, Illinois resident Nguyen Buren sued Subway in Chicago, also claiming the sub he bought was less than 12 inches long. His suit alleges a "pattern of fraudulent, deceptive and otherwise improper advertising, sales and marketing practices."

Buren's suit, which is also seeking class-action status, was filed by his attorney, Tom Zimmerman, and is asking for damages in excess of \$5 million. "This is no different than if you bought a dozen eggs and they gave you 11 or you bought a dozen doughnuts and they gave you 11," he explains. "Here, you bought a dozen inches of sandwich and you got less than 11. It's no different, and yet you're paying for 12."

The genesis for the suit was a photo of a turkey sub that Australian Matt Corby posted on Subway's Facebook page earlier this month. The sandwich was lying next to a tape measure that showed it was only 11 inches long. The photo went viral, generating more than 118,000 "likes" in one day.

In response to the suits, Subway released a statement saying, "We have redoubled our efforts to ensure consistency and correct length in every sandwich we serve." It went on to say, "Our commitment remains steadfast to ensure that every Subway Footlong sandwich is 12 inches at each location worldwide."

Who says size doesn't matter?

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