

I'll Drink to That

By Reg P. Wydeven
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My wife wants me to stop doing research for these articles, as they typically focus on the manufacturers of many of her favorite products who invariably end up in court getting sued for some problem with their goods.

My wife loves Mountain Dew, so that's why she was upset when I wrote about Ronald Ball, who sued PepsiCo because he found a dead mouse in his can of Mountain Dew. PepsiCo countered that because of the acidic nature of soda, the mouse would never remain intact, but would instead dissolve into a "jelly-like substance."

As a first grade teacher, my wife is exposed to oodles of germs, so she regularly takes Airborne, the herbal supplement that purportedly helped fight off colds. She wasn't thrilled when I wrote about Airborne agreeing to pay \$23.3 million to settle a class-action lawsuit brought against it by the Center for Science in the Public Interest. The non-profit advocacy group sued because its Senior nutritionist, David Schardt, explains, "There's no credible evidence that what's in Airborne can prevent colds or protect you from a germ environment. Airborne is basically an overpriced, run-of-the-mill vitamin pill that's been cleverly, but deceptively, marketed." Ouch.

Because of those first two articles, to stay healthy, my wife has recently turned to Vitaminwater, Coca-Cola's soft drink that claims to reduce the risk for eye disease, promote healthy joints and support "optimal immune function."

I hope she doesn't read this week's article.

CSPI is back in court after filing suit in 2009 against Coca-Cola for deceptive labeling and marketing for Vitaminwater. U.S. Magistrate Judge Robert M. Levy recently ruled that the lawsuit can proceed as a class action and he recommended that the plaintiffs can litigate for declaratory and injunctive relief, but not for damages. In 2010, Judge John Gleeson in New York ruled that Vitaminwater's use of the word "healthy" violates FDA labeling rules.

Michael F. Jacobson, CSPI's executive director, claims, "The marketing of Vitaminwater will go down in history as one of the boldest and brashiest attempts ever to affix a healthy halo to what is essentially a junk food, a non-carbonated soda. Vitaminwater, like Coca-Cola itself, promotes weight gain, obesity, diabetes, heart disease, and cannot deliver on any of the dishonest claims it has made over the years."

Coca-Cola responded by releasing a statement saying, "We firmly believe the plaintiffs' claims are without merit and will ultimately be rejected."

Well, at least my wife can turn to 7Up, which supplies antioxidants in its regular, diet cherry, mixed berry and pomegranate flavors. Oh wait, CSPI also sued 7Up manufacturer Dr Pepper Snapple Group because the antioxidants in the soda came from a vitamin E additive, and not any actual fruit. The FDA does not allow companies to add vitamins to carbonated soft drinks and junk food.

CSPI litigation director Steve Gardner said, "Soda is not a health food, and should not be marketed as a healthy source of antioxidants or other nutrients." In a legal settlement, Dr Pepper Snapple Group agreed to remove the vitamin E, and pay \$5,000 to CSPI and \$237,500 for its attorney's fees.

Coca-Cola is also being sued by consumers for mislabeling its Simply Orange and Minute Maid orange juice brands as "100 percent pure squeeze" and "not from concentrate."

Because my wife is allergic to milk, the only thing left to drink is wine, which she'll be ready for after reading this.

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