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## McCormick Inks \$3M Deal In 'Natural' Spices Labeling Suit

By **Melissa Angell**

Law360 (May 7, 2021, 10:45 PM EDT) -- A proposed class of consumers asked a New York federal judge on Friday to preliminarily approve a \$3 million settlement that would resolve claims in a nearly 5-year-old suit that alleges McCormick & Co. Inc. misled consumers in labeling its spices and other seasoning products as "natural."

The payments for the proposed class would be divided into Tiers 1 and 2, where the two diverge based on proof of purchase. For every unit purchased, those with a receipt may seek reimbursement of \$1 with no limit, whereas those without proof of purchase may only receive up to \$15.

In the 43-page motion for preliminary approval, class counsel said they intend to request up to 33% of the fund, or \$1 million, to cover attorney fees.

"This agreement is the product of extensive, arms-length, and vigorously contested motion practice through seasoned counsel, settlement negotiations and an exchange of information, including both informal and formal discovery," the motion said.

The proposed settlement is the latest development in the putative class action launched against the Maryland-based McCormick in 2016 over the labeling, marketing and advertising of its spice and seasoning products.

The proposed class argued that certain McCormick products are deceptively labeled as "natural" in an effort for the food company to drive sales and profit off of the expanding natural foods market.

McCormick won a stay in August 2018, which paused a portion of the suit until February 2019, to see if the U.S. Food and Drug Administration would issue any guidance regarding the usage of "natural" for food items.

But the FDA did not issue any rulemaking that addressed the term's usage by February 2019. The stay was then lifted in October 2020 and in March, the parties in suit met for a full-day mediation session that led to the proposed deal at hand.

Beyond reimbursement, McCormick agreed to modify the labeling on the products in question along with its website. However, the company is still permitted to sell existing inventory with the disputed labels, according to the agreement.

McCormick will also be allowed to use the term "natural" in accordance with the FDA's parameters for the term, such as in the context of natural flavors or natural colors.

Angeion Group, the company jointly selected by counsel for both parties, is the settlement administrator and will be in charge of notifying members of the settlement class.

Beyond the creation of a settlement class website, Angeion Group proposed a "robust" internet advertising campaign to get the word out to class members.

"Given the strength of digital advertising, as well as our target audience's internet use and affinity for

Facebook, we recommend utilizing a robust internet advertising campaign in conjunction with a strategic social media campaign to reach class members," Angeion Group wrote in its declaration regarding the proposed notice program.

Representatives for the parties did not immediately respond to Law360's requests for comment late Friday.

The proposed class is represented by Michael R. Reese of Reese LLP and Joshua H. Eggnatz of Eggnatz Pascucci PA.

McCormick & Co. Inc. is represented by Pieter Van Tol and Benjamin A. Fleming of Hogan Lovells US LLP.

The case is Megan Holve v. McCormick & Co. Inc., case number 6:16-cv-06702, in the U.S. District Court for the Western District of New York.

--Editing by Jay Jackson Jr.

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