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*Source: The Sugar Association
September 18, 2013 17:42*

Sugar Association Concerned About Court Ruling's Impact on Free Speech

LOS ANGELES, Sept. 18, 2013 (GLOBE NEWSWIRE) -- Attorneys for The Sugar Association, a trade group that represents thousands of sugar farmers and other producers, say it is concerned about how a ruling by a federal court in Los Angeles may inadvertently threaten the First Amendment right to free speech.

The sugar trade group, along with several of its members, is a plaintiff in an important false advertising lawsuit against the makers of high fructose corn syrup (HFCS). The defendants are charged with spending millions of dollars commercially advertising HFCS as a "natural" "corn sugar," and claiming that "your body can't tell the difference" between it and common table sugar. After the court ruled that a preliminary review of evidence showed "a reasonable probability of success" that these statements are false, defendants including Archer-Daniels-Midland, Cargill and other corn processors that make HFCS filed a countersuit alleging that The Sugar Association's editorial speech and republication of articles by third parties somehow constituted false "advertising" as well.

Among the articles in question is one written by Dr. John McElligot, a medical doctor and Fellow of the American College of Physicians, who had previously published an article critical of HFCS. Another article was written by Linda Bonvie, an investigative journalist and blogger, who had exposed "bullying" by the Corn Refiners Association of persons within the UCLA press office for issuing a press release about a peer-reviewed journal article with findings relevant to the health and safety of HFCS. The court's most recent ruling allows claims based on the republication of these articles to proceed.

"Because the court's ruling is one that is preliminary, and not based on any evaluation of the evidence, it is of little consequence to how this lawsuit will end," said co-lead attorney for The Sugar Association, Adam Fox with the law firm Squire Sanders. "We are quite confident that when the evidence is in, the corn processors' claim will be defeated."

"Of greater concern," Fox continued, "is that ADM and Cargill will interpret the ruling as a 'green light' to continue their bullying campaigns against those who have anything negative to say about HFCS, regardless of the truth." Indeed, in recent weeks, Fox noted, the corn processors have issued subpoenas to numerous academics and researchers across the country, apparently with no justification other than their having published peer-reviewed studies that demonstrate HFCS is different from and potentially more deleterious to health than natural sugar. "These subpoenas appear to be part of a much larger, and ongoing effort to intimidate and silence anyone who dissents from the view that HFCS is healthy and no different from common table sugar," said Fox.

Last year, the United States Food and Drug Administration rejected a petition by the corn processors to change the common or usual name for HFCS to "corn sugar" because, among other reasons, "the use of the term 'sugar' to describe HFCS . . . would not accurately identify or describe the basic nature of the food or its characterizing properties."

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