

Customers Cannot Assert a Claim Based on Starbucks's Alleged Failure to Provide the "Perfect" Coffee Experience

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On August 27, 2021, the Second Circuit upheld dismissal of a putative class action brought by Starbucks customers under New York consumer protection statutes. The plaintiffs alleged that Starbucks's marketing materials promoting the quality of its coffee – including claims such as “the finest whole bean coffees,” “Best Coffee for the Best You,” and a “PERFECT” coffee experience – were misleading due to the chain's alleged use of pest-control pesticides in some of its Manhattan stores. The district court disagreed, dismissing the complaint on the basis that the plaintiffs did not allege “any statements likely to mislead reasonable consumers.” *George v. Starbucks Corp.*, No. 19-6185, 2020 WL 6802955, at *2 (S.D.N.Y. Nov. 19, 2020). The court found that the vast majority of the challenged statements were patently puffery, while the only statement that could conceivably support a claim for deceptive business practices – that Starbucks baked goods contain “no artificial dyes or flavors” – was not rendered false or misleading by the alleged use of pesticides in Starbucks's stores. *Id.*

Undeterred, the plaintiffs appealed to the Second Circuit, arguing that Starbucks's advertising implied quality and purity inconsistent with the use of pesticides. Again, the plaintiffs were rebuffed by the court. In a short summary order, the Second Circuit agreed with the district court's reasoning and held that “almost all of Starbucks's statements referenced in the amended complaint constitute puffery.” *George v. Starbucks Corp.*, No. 20-4050-CV, 2021 WL 3825208, at *1 (2d Cir. Aug. 27, 2021). Those that were “specific enough to be more than puffery” referred only to “how Starbucks sources its products and crafts its coffee and the ingredients it uses in its baked goods” such that “[n]o reasonable consumer would believe that these statements communicate anything about the use of pesticide[s] in Starbucks's stores.” *Id.* at *2.

In so holding, the Second Circuit rejected what amounted to an attempt to gut puffery law, as well as an attempt to read into Starbucks's advertising statements alleged promises unrelated to the plain text and its logical implications. This decision is further evidence of what appears to be a growing willingness by some courts to dismiss at the pleading stage consumer protection claims related to

allegedly misleading advertisements when such claims are based solely on idiosyncratic inferences drawn by individual plaintiffs.

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