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Food Supplier's Octopus Product Really Squid, Suit Says

By **Rachel Graf**

Law360, New York (June 29, 2017, 2:13 PM EDT) -- A Miami-based food vendor and its supplier have been misrepresenting their squid as octopus in an effort to boost profits, according to a proposed class action filed in California federal court.

Consumer Vivian Lejbman on Tuesday said Transnational Foods Inc. and its supplier Conservas Cerqueira SA falsely advertised a product as Pampa octopus when in fact it was squid, which is less expensive and an inferior type of seafood than octopus.

"The product's representations and omissions deceive and mislead reasonable consumers to believe that the product is octopus, when in reality, it is squid, which is cheaper, lower quality and more abundant than actual octopus, which is a rarer and highly sought after food delicacy than squid," the filing said.

Lejbman alleges that those who purchased the product overpaid, since the cost of octopus has "increased rapidly" in recent years amid dwindling populations while squid populations have been "thriving." As of April, the Pampa octopus products cost \$8.99 and \$7.99 per tin on Amazon, while the squid products each cost \$4.91 per tin, according to the filing.

The companies purposefully swapped out octopus for squid to save money and assumed consumers wouldn't notice the difference because the two foods taste similar, the suit said.

Lejbman decided to purchase the product after reading on the label that it was made of octopus and would not have bought the product at the higher price had she known it was squid, according to the filing.

"Plaintiff and members of the putative class relied, to their detriment, on defendants' material statements regarding the product being octopus in making their decision to purchase the product," the suit said.

Lejbman is seeking actual, statutory and punitive damages, restitution, disgorgement and injunctive relief barring the companies from selling the product until they determine what's really in it.

Representatives for Transnational Foods and counsel for Lejbman didn't immediately respond Thursday to requests for comment.

Lejbman is represented by Benjamin M. Lopatin of Eggnatz Lopatin & Pascucci LLP and James P. Gitkin of Salpeter Gitkin LLP.

Counsel information for Transnational Foods and Conservas Cerqueira was not available Thursday.

The suit is Vivian Lejbman v. Transnational Foods Inc. and Conservas Cerqueira SA, case number 3:17-cv-01317 in the U.S. District Court for the Southern District of California.

--Editing by Kelly Duncan.

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