

# Court Approves \$1.5 Million Settlement in Greenwashing Case

Gonzalo E. Mon, Katie Rogers

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Last week, a California federal judge approved a \$1.5 million settlement to a class of Rust-Oleum customers who accused the company of “greenwashing” by using terms like “non-toxic” and “Earth Friendly” on labels for its Krud Kutter line of cleaning products. The plaintiffs had alleged that the claims are false and misleading, since the products can cause harm to humans, animals, and the environment.

The plaintiffs leaned on the FTC’s Green Guides to argue that a “non-toxic” claim likely conveys that a product is non-toxic for humans, animals, and the environment, and that wasn’t true of the cleaning products. Rust-Oleum countered that the Green Guides “are not valid metrics of how a reasonable consumer interprets the terms at issue.” Further, Rust-Oleum argued that no reasonable consumer would understand a “non-toxic” claim, together with a disclaimer that the products are skin and eye irritants, to mean that there is absolutely no risk associated with use of the product.

Although the court agreed that the Green Guides weren’t dispositive in determining how a reasonable consumer is likely to interpret a claim, the court held in its order denying Rust-Oleum’s motion to dismiss that “whether the plaintiff’s asserted definitions are reasonable will be for the jury to decide as part of the overall reasonable-consumer test.”

The plaintiffs similarly argued the term “Earth Friendly” on the label conveys broad reaching claims that Rust-Oleum can’t support. Rust-Oleum argued that an explanation on the back of the package—that “explicitly states what they mean by the term ‘Earth Friendly’ in that it ‘contains no inorganic phosphates, hazardous solvents or environmentally harmful surfactants’”—adequately qualifies the claim, such that consumers won’t be misled.

Again, the court held in its order denying Rust-Oleum’s motion to dismiss that whether the language on the back of the package can qualify a claim on the front is a triable issue of fact, noting that the “definition is in small type and the defendant’s own surveys provide evidence that most consumers do not read it.” (For more cases addressing this issue, click [here](#).)

The court also rejected Rust-Oleum’s argument that “Earth Friendly” is puffery. The court defined puffery as a statement that “is extremely unlikely to induce consumer reliance” and determined that “the term ‘Earth friendly’ is not so general or nonspecific as to make it ‘extremely unlikely’ that a consumer would rely on it.”

Unqualified “non-toxic” claims can present significant legal risk in light of the Green Guides’ interpretation of the claim—that a product, package, or service is non-toxic both for humans and for the environment. This interpretation sets a high bar for substantiation—one that few products are

likely to meet. To mitigate risk, companies should ensure that any qualifying disclosures are clear, prominent, and close to the main claim. Even then, it is important to recognize that in some cases, a disclosure may not be enough to cure an otherwise misleading representation. With ESG litigation continuing to rise, businesses should avoid overly broad claims and focus on making precise, substantiated statements supported by transparent disclosures. For more coverage on these types of cases, click [here](#).

The case is *Bush v. Rust-Oleum Corporation*.