

Court Considers Whether a "Smidgen" is Material in a False Advertising Suit

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Can a “smidgen” of difference sink an advertising claim? A recent class action against Prime energy drink raised that very question after lab tests showed caffeine levels slightly higher than advertised. The court concluded that the overage was not material, reasoning that consumers seeking an energy boost were unlikely to be misled by a few extra milligrams of caffeine. For legal, compliance, and marketing teams, the decision highlights how courts apply the reasonable consumer standard and reminds businesses that even small variances in product claims can invite scrutiny—though not all will prove actionable.

Hosted by Simone Roach. Based on a blog post by [Gonzalo E. Mon](#).