

Jury Awards Tea Drinkers \$2.36 Million in Made in USA Dispute

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In 2020, plaintiffs [filed a class action complaint](#) in California federal court against Bigelow Tea, alleging that the company falsely represents that its teas are made in the United States, when the tea leaves are actually grown and processed abroad. Among other things, the plaintiffs pointed to Bigelow's use of term "Manufactured in the USA" on the backs of certain packages.

As we [reported](#) last year, one of the key questions in the case is how consumers understand the "manufactured" claim. Bigelow argued that the claim refers only to the tea bags – not to the tea itself – and that the claim was truthful because the bags are made in this country. In contrast, the plaintiffs argued that consumers understand the claim to mean that the tea itself is processed in the USA.

The court granted partial summary judgment to the plaintiffs, rejecting Bigelow's argument that its "manufactured" claim refers only to the tea bags. The court wrote that "the tea leaves are not only a component part of the tea bag; they are the very essence of the tea bag." Because the leaves are grown and processed abroad, the court found the "Manufactured in the USA" statement to be literally false.

Both the plaintiffs and the court leaned on FTC guidance throughout the case. In its order granting partial summary judgement, the court noted that the FTC has determined that "consumers are likely to understand an unqualified U.S. origin claim to mean that the advertised product is 'all or virtually all' made in the United States."

Bigelow was further hurt during the trial when the plaintiffs' attorney introduced various internal emails and documents showing that company executives had debated if they could use a "Made in the USA" label, in light of the FTC's stringent "all or virtually all" standard. Although the CEO denied any intent to suggest to consumers that the tea leaves were from the USA, she admitted that they weren't.

During the trial, an expert hired by the plaintiffs testified that he had conducted a survey to measure the economic value consumers placed on the "Manufactured in the USA" claim, and determined that the class overpaid by 11.3%, or \$3.26 million, due to that claim appearing on the labels. On Tuesday, after three hours of deliberations, the jury awarded a class of California tea buyers \$2.36 million in damages.

"Made in USA" claims will likely continue to be a target for both plaintiffs' attorneys and the FTC. Companies that make these claims should take a close look at FTC guidance to ensure they are complying with the Commission's strict rules. And when debating these claims internally, companies

should be careful about what they put in writing to make sure it isn't used against them later.