IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

HAUNAH VANLANINGHAM and DANIELLE SCHWARTZ, individually and on behalf of all similarly situated current citizens of Illinois,

Plaintiffs,

v.

CAMPBELL SOUP CO.,

Defendant.

Case No. 3:20-CV-00647-NJR

MEMORANDUM AND ORDER

ROSENSTENGEL, Chief Judge:

Pending before the court is a motion to dismiss (Doc. 19) by Defendant Campbell Soup Co. ("Campbell"). For the reasons set forth below, the Court denies the Motion.

FACTUAL & PROCEDURAL BACKGROUND

Plaintiffs Haunah Vanlaningham and Danielle Schwartz ("Consumers") are citizens of Illinois who in 2018 purchased soup manufactured by Campbell which was labelled as containing "no preservatives added" and "made with patience, not preservatives" (Doc. 3-1 at 5). Consumers state that these labels on the soups that they purchased are generally characteristic of soups in Campbell's "Home Style Soup" and "Slow Kettle Soup" product lines.

Consumers filed this action on behalf of a class of Illinois consumers on March 6, 2020, in the Circuit Court for St. Clair County, Illinois, seeking monetary damages for deceptive advertising in violation of the Illinois Consumer Fraud and Deceptive Business

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Practices Act ("ICFA") and breach of express warranty under Illinois common law. Campbell removed the action to this Court on July 1, 2020. This Court has jurisdiction pursuant to the Class Action Fairness Act of 2005, 28 U.S.C. § 1332(d), as the Consumers allege a class and (1) the aggregate number of members in the proposed class is 100 or more; (2) the amount in controversy exceeds the sum or value of $5,000,000, exclusive of interests and costs; and (3) the parties are minimally diverse, as Campbell is a New Jersey corporation.

Specifically, Consumers state that Campbell represented that their soups lack artificial flavorings and preservatives (the "Representations"), and these Representations enabled them to charge a premium from customers willing to pay extra to avoid those types of ingredients. Consumers allege that the Representations were false, however, because the soups in question contained ingredients including citric acid, ascorbic acid, succinic acid, monosodium glutamate, sodium phosphate, disodium guanylate, disodium inosinate, and xanthan gum (the "Challenged Ingredients") (Doc. 3-1 at 10). According to Consumers, these ingredients constitute artificial flavors and preservatives. Consumers purchased products from Campbell in reliance on the Representation, paying more than they would have for other similar products without the Representation (*Id.* at 11).

On August 7, 2020, Campbell filed the instant motion to dismiss under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1). Campbell notes that relevant guidance from the FDA indicates that the actual function of an ingredient determines whether it is considered a preservative for labeling purposes, and the Challenged Ingredients are

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capable of many functions in food (Doc. 20 at 7). Campbell notes that the complaints make no allegations as to the actual function of the Challenged Ingredients in the soups in question (*Id.*). Campbell further states that Consumers' claims relate to representations on Campbell's website and that the complaint fails to allege that Consumers actually saw the website representations before purchasing the soups (*Id.* at 8). Lastly, Campbell argues that Consumers' claims are preempted under federal law, as the Representations are identical to statements on other Campbell's soup products which the FDA has found to be not misleading (*Id.* at 7).

LEGAL STANDARD

The purpose of a Rule 12(b)(6) motion is to decide the adequacy of the complaint, not to determine the merits of the case or decide whether a plaintiff will ultimately prevail. *Gibson v. City of Chicago*, 910 F.2d 1510, 1520 (7th Cir. 1990). To survive a Rule 12(b)(6) motion to dismiss, a plaintiff only needs to allege enough facts to state a claim for relief that is plausible on its face. *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007). A plaintiff need not plead detailed factual allegations, but must provide "more than labels and conclusions, and a formulaic recitation of the elements." *Id.* For purposes of a motion to dismiss under Rule 12(b)(6), the Court must accept all well-pleaded facts as true and draw all possible inferences in favor of the plaintiff. *McReynolds v. Merrill Lynch & Co., Inc.*, 694 F.3d 873, 879 (7th Cir. 2012).

A motion to dismiss for lack of standing implicates Federal Rule of Civil Procedure 12(b)(1) and falls under a similar standard. *See Warth v. Seldin*, 422 U.S. 490, 503 (1975). The court must accept all material allegations of the complaint as true, and construe facts

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in favor of the complaining party. *Id.*

ANALYSIS

I. Conflict Preemption

Under the doctrine of conflict preemption, a claim under state law is barred where it would "stand as an obstacle to the accomplishment and execution of the full purposes and objectives of federal law." *Patriotic Veterans, Inc. v. Indiana*, 736 F.3d 1041, 1049 (7th Cir. 2013) (quotations omitted). Preemption doctrine should not be lightly applied, and the burden is on the party seeking preemption to present a showing of conflict "strong enough to overcome the presumption that state and local regulations can coexist with federal regulation." *Id.* "In addition to starting with a presumption against preemption, in order for a court to find conflict preemption it must either be impossible for a private party to comply with both the state and federal law or the state law must stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress." *Id.* (quotations omitted).

To assess whether a state law constitutes an "obstacle," the Court will consider the federal and state provisions in question in the context of the federal government's stated goals, the relative powers of state and federal government, and the history and function of the provisions in question. *See, e.g.*, *Geier v. Am. Honda Motor Co.*, 529 U.S. 861, 873-77 (2000) (noting stated intent of federal authorities in finding obstacle); *Maryland v. Louisiana*, 451 U.S. 725, 747-50 (1981) (considering historical development and function of federal provision in finding obstacle); *Hines v. Davidowitz*, 312 U.S. 52, 67-68 (1941)

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(discussing relative powers of federal and state governments in the fields of international relations and immigration in finding obstacle).

Here, Campbell asserts that the state law claims in this case would conflict with the Federal Meat Inspection Act, 21 U.S.C. § 601 *et seq.* ("FMIA"), and Poultry Products Inspection Act, 21 U.S.C. § 451 *et seq.* ("PPIA"). These acts form an integral part of the regulatory structure through which the federal government "administers inspection services, labeling requirements, marketing controls and other health and safety constraints on the meat processing industry." *Windy City Meat Co. v. United States Dep't of Agriculture*, 926 F.2d 672, 675 (7th Cir. 1991). In granting the USDA power to impose standards for labelling of meat products, these statutes require determination of whether labels of meat products are "false or misleading." *E.g.*, 21 U.S.C. § 457(d). The statutes contain provisions that expressly preempt state labelling requirements "in addition to, or different than" those imposed by the USDA for poultry and meat products. 21 U.S.C. §§ 467e, 678.

Based on these preemption provisions, courts in the past have struck down suits that attempt to bring state-law causes of action imposing labelling requirements on poultry and meat products. *See Meaunrit v. ConAgra Foods Inc.*, 2010 WL 2867393 at *6-7 (N.D. Cal. July 20, 2010) (collecting cases).

Here, it is not disputed that Campbell did go through USDA review and obtained approval for soups in its Slow Kettle and Home Style product lines that contained meat and poultry and that the USDA found that the Representations on those soups were not misleading. If the action in question involved soups that contained meat and poultry,

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