

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

Lauren Biegel, Greg Maroney, Ryan Cosgrove,
Clive Rhoden, Stephen Bradshaw, Angela
Farve and Christina Henderson, individually
and on behalf of all others similarly situated,

Plaintiffs,

- against -

Blue Diamond Growers,

Defendant

7:20-cv-03032-CS

Second Amended
Class Action Complaint

Jury Trial Demanded

Plaintiffs by attorneys allege upon information and belief, except for allegations pertaining to Plaintiffs, which are based on personal knowledge:

1. Blue Diamond Growers (“Defendant”) manufactures, distributes, markets, labels and sells vanilla almondmilk, vanilla almondmilk coconutmilk blend, and vanilla almondmilk yogurt purporting to be flavored with more than a negligible amount of extracts of vanilla beans – “Vanilla” – under its Almond Breeze brand (the “Products”).

2. Demand for real vanilla “has been steadily increasing...due to consumer demand for natural foods that are free of artificial ingredients.”¹

3. According to one flavor supplier, today’s consumers “want real vanilla, not imitation [vanilla] flavoring.”

4. Vanilla (*Vanilla planifolia Andrews* and *Vanilla tahitensis Moore*) comes from an orchid plant that originated in Mexico where it was first cultivated.

¹ Chagrin Valley Soap & Salve Company, FAQs, [Why Are The Prices of Vanilla Bean Products Always Increasing?](#)

5. The vanilla orchid produces a fruit pod, the vanilla bean, which is the raw material for vanilla flavorings.

6. The vanilla bean is heated in the sun for weeks, soaked in alcohol and its flavor constituents extracted (vanilla extract).

7. Vanillin (3-methoxy-4-hydroxybenzaldehyde) is the major component of natural vanilla extract and is responsible for roughly one-third of vanilla's flavor and aroma.

8. Vanillin is found in the form of its β -D-glucoside (glucovanillin) in green vanilla beans.

9. The curing process, including the hydrolysis of its β -D-glucoside, leads to the release of vanillin from glucovanillin, at concentrations of 1-4% of dry weight of cured beans.

10. Vanilla's unique flavor is due to the hundreds of odor-active compounds besides vanillin, such as acids, ethers, alcohols, acetals, heterocyclics, phenolics, hydrocarbons, esters and carbonyls.

11. Methyl cinnamate and cinnamyl alcohol provide cinnamon and creamy notes.

12. P-cresol contributes flavor notes described as woody and spicy.

13. Acetovanillone provides a sweet, honey taste.

14. P-hydroxybenzoic acid and vanillic acid are significant phenolic compounds which contribute to vanilla's aroma.

15. 4-methoxybenzaldehyde (p-anisaldehyde) and 4-methoxybenzyl alcohol (p-anisyl alcohol) provide creamy and floral flavor notes.

16. The isolation of vanillin from vanilla in the late 19th century resulted in foods purporting to contain vanilla, which either contained no vanilla or a trace or *de minimis* amount, boosted by low cost, synthetic vanillin.

17. Natural flavors are the extractives or essences from a fruit or vegetable, made through natural processes, such as distillation, roasting, heating, enzymolysis or fermentation. *See* 21 C.F.R. § 101.22(a)(3).

18. Artificial flavors are made from synthetic sources or through non-natural processes, such as chemical reactions, high heat and high pressure. *See* 21 C.F.R. § 101.22(a)(1).

19. At least seven out of ten consumers avoid artificial flavors because they have been linked to detrimental health effects, contain synthetic ingredients and are highly processed.

20. All demographics of consumers, from Generation Z to Baby Boomers – say they would pay more for foods with no artificial flavors because they are perceived as more natural.

21. Federal regulations, which have been adopted by every state, require companies to truthfully disclose the source of a product’s flavor. 21 C.F.R. § 101.22.

22. For example, foods labeled vanilla and strawberry yogurt will get their flavor from vanilla and strawberry ingredients.

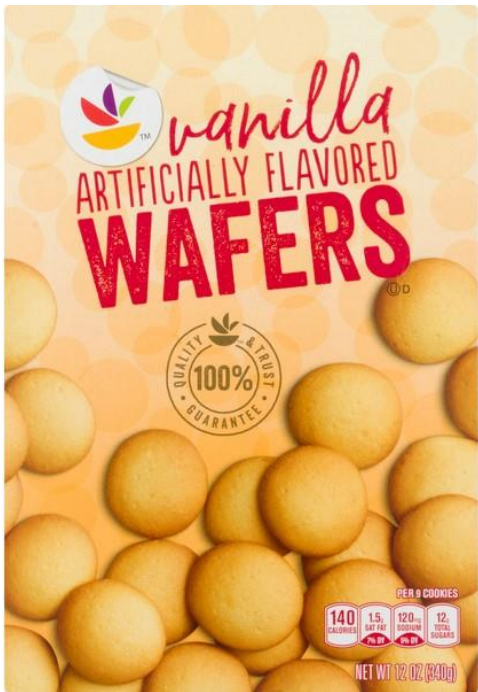
23. Where those same yogurts are represented as “Artificially Flavored,” consumers will not expect real vanilla or real strawberries. *See* 21 C.F.R. § 101.22(i)(2) (requiring a food with artificial flavor that simulates the characterizing flavor be labeled as “Artificially Flavored”).

24. Consumers are accustomed to such truthful labeling, present across all food and beverages.

25. For example, the milk protein drinks below are represented as “vanilla,” but they disclose they are “Artificially Flavored,” so consumers will know their vanilla taste is not from real vanilla.



26. When consumers see other “vanilla” products, like U-bet Vanilla Syrup, Vanilla Wafers or Vanilla Almond Bark, they are told that the taste is not from real, but artificial vanilla, because their labels state, “Artificially Flavored.”



27. For coffee and pie filling, consumers will not be misled to expect real vanilla because the labels clearly state, “Artificially Flavored.”

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