

Unilever Drops False Ad Lawsuit Against Just Mayo

By David Bario

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Here we were thinking that the condiment war between Unilever and vegan spread maker Hampton Creek Inc. would linger into 2015, giving comedians and the business press lots more time to crack mayonnaise jokes.

But it was not to be. On Thursday, Unilever, the maker of Hellmann's Real Mayonnaise, abruptly dismissed its false advertising suit against eggless mayonnaise upstart Hampton Creek, which makes Just Mayo. Unilever's attorneys at Debevoise & Plimpton filed a one-sentence notice of voluntary dismissal in federal court in Newark, handing what appears to be a speedy victory to Hampton Creek and its lawyers at Boies, Schiller & Flexner.

Unilever parent Conopco Inc. sued Hampton Creek on Halloween, claiming that its marquee product deceives consumers into thinking that it is superior to Hellmann's and that it is true mayonnaise, rather than an eggless substitute. The complaint accused Hampton Creek of siphoning Unilever's market share and faking its mayonnaise credentials—the only "real" mayonnaise, Unilever says, conforms to federal guidelines mandating eggs, oil and vinegar or citrus.

Is it really over? Unilever's notice on Thursday was filed under a procedural rule that would allow the company to refile its claims one more time, so the lawsuit could return. If it does, Unilever might draw a more sympathetic judge. At an initial conference on Dec. 3, U.S. District Judge William Walls didn't seem too impressed by the



Source: Court documents

case, judging by a transcript. Walls made a couple of mayonnaise jokes of his own, and he warned the lawyers not to expect much from him before springtime. He also made it clear that he wasn't wowed by the case's Big Law imprimatur, warning that he didn't want to see rows of associates "staring at me."

We contacted Debevoise partner Bruce Keller and a Unilever spokesperson for more information late Thursday, but neither responded.

Boies Schiller's Joshua Schiller, who represents Hampton Creek, said he was just as surprised as we were by Unilever's retreat. He also confirmed that there was no settlement reached in the case. "It was a capitulation," Schiller said.