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[Home](#) / [Money](#) / [Investing](#) / [Investing News](#) / [PepsiCo Can Be Sued Over He...](#)

## PepsiCo Can Be Sued Over Health Claims for Gatorade Protein Bars, Judge Says

By [Reuters](#)

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REUTERS

FILE PHOTO: PepsiCo logo is seen outside a factory in Leicester, Britain, August 14, 2024. REUTERS/Hollie Adams/File Photo

By Jonathan Stempel

(Reuters) - PepsiCo can be sued for marketing its Gatorade protein bars as good for you though they have more sugar than protein and more sugar than typical candy bars, a federal judge ruled.

In a decision on Wednesday, U.S. District Judge Casey Pitts in San Jose, California said three self-described fitness enthusiasts leading a proposed class action plausibly alleged that PepsiCo's marketing and labeling was deceptive.

Neither PepsiCo nor its lawyers immediately responded to requests for comment.

Not all protein bars are equal in nutritional benefits.

PepsiCo was accused last September of violating federal and state consumer protection laws by creating a "health halo" around Gatorade bars, including assurances they "help muscles rebuild," are "used by the pros" and are "backed by science."

According to the lawsuit, the bars are actually "fortified junk food" with 29 grams of sugar, including 28 grams of added sugar -- more than the American Heart Association's recommended 25 gram daily limit for women -- and just 20 grams of protein.

The plaintiffs said excess consumption of added sugar is linked to high rates of obesity, diabetes and cardiovascular disease.

They said they wouldn't have bought Gatorade bars or would have paid less had they understood their nutritional character, and are seeking unspecified damages.

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PepsiCo called the deception claims "implausible" because it did not market the bars as healthy or low in sugar, especially for flavors such as Chocolate Chip and Cookies and Cream.

Pitts, however, said reasonable consumers might be unable to readily interpret the sugar content on labels, and be misled by PepsiCo's "self-proclaimed science-backed claims."

The judge also agreed that PepsiCo can make health- and protein-content claims consistent with federal regulations.

He said, for example, that the U.S. Food and Drug Administration does not consider sugar a "disqualifying ingredient" when making health claims.

Maia Kats, a lawyer for the plaintiffs, said they welcomed the decision and would continue pursuing their claims.

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PepsiCo is based in Purchase, New York. Its dozens of brands also include Fritos, Lay's, Mountain Dew and Ocean Spray.

The case is McCausland et al v PepsiCo Inc, U.S. District Court, Northern District of California, No. 23-04526.

(Reporting by Jonathan Stempel in New York, Editing by Franklin Paul)

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