

Kardashians Off the Hook in Suit Over Diet-Product Endorsement

By Charles Toutant All Articles

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A federal judge has dismissed a class-action suit against Kourtney, Khloe and Kimberly Kardashian over their endorsement of QuickTrim diet products.

U.S. Magistrate Judge Andrew Peck in the Southern District of New York threw out the suit on Sept. 17, saying he was "reluctant to serve as a parking lot for this case" while a related California settlement is the subject of an appeal.

Peck ruled after plaintiff counsel told him the New York class representatives would opt out of the California settlement but did not do so.

The Kardashians promoted the products on television and through Facebook and Twitter, and their pictures appeared on packaging for the line of drink mixes, capsules and lotions.

The plaintiffs, saying the sisters "personify the product," alleged that the ads made false and unsubstantiated claims that users would shed excess weight. They also claimed the products, whose main ingredient is caffeine, should be regulated as drugs by the Food and Drug Administration.

The suit included counts of Magnuson-Moss Warranty Act violations, breach of express and implied warranty and violation of California, Florida and New York consumer protection laws.

Named as defendants along with the Kardashians are QuickTrim of West Palm Beach, Fla., and the products' distributor, Windmill Health Products of West Caldwell, N.J.

The suit also named Amazon, Drugstore.com, CVS, Walgreens, Walmart and GNC, which sold QuickTrim products. Those defendants, represented by Riker, Danzig, Scherer, Hyland & Perretti of Morristown, were dismissed in July 2012.

The New York case, *Cowan v. Windmill Health Products*, was filed in March 2012 by Bursor & Fisher of New York. The similar case, *Anaya v. QuickTrim*, was filed in March 2012 by the Los Angeles firm of Kabateck Brown Kellner in Superior Court in San Bernardino, Calif.

Last Aug. 15, an attorney for QuickTrim, Bruce Nagel of Nagel Rice in Roseland, told Peck a settlement in the California case had been approved on Aug. 5. Nagel also said the four class representatives in the New York case failed to opt out of the California case. He asked Peck to continue a stay in the New York suit until a final order was issued in the California case.

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Peck ended up dismissing the case, with the consent of the parties and without prejudice. The parties agreed that the New York case can be re-filed if the California settlement is overturned.

Class counsel Marchese and Scott Bursar of Bursar & Fisher did not return calls.

The Kardashians were represented by Laura Castner and Michael Kump of Kinsella, Weitzman, Iser, Kump & Aldisert of Santa Monica, Calif.

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