

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

STEPHEN TREWIN and JOSEPH
FARHATT, On Behalf of Themselves and
All Others Similarly Situated,

Plaintiffs,

v.

CHURCH & DWIGHT, INC.,

Defendant.

Civil Action No. 12-1475 (MAS) (DEA)

ORDER

This matter comes before the Court upon Defendant Church & Dwight, Inc.'s ("Defendant"), Motion to Dismiss Plaintiffs' Amended Complaint and to Strike. (Def.'s Mot., ECF No. 46.) Plaintiffs Stephen Trewin and Joseph Farhatt (collectively, "Plaintiffs") filed Opposition. (Pls.' Opp'n, ECF No. 48.) Defendant filed a Reply. (Def.'s Reply, ECF No. 50.) The Court has carefully considered the pleadings and has decided the motion without oral argument pursuant to Local Civil Rule 78.1. After careful consideration, for the reasons set forth below, and for other good cause shown,

IT IS on this 30th day of September, 2013, **ORDERED THAT:**

1. Defendant's Motion is denied as to the Products purchased by Plaintiffs based on allegations regarding Defendant's label.

The Court previously granted Defendant's motion to dismiss due to Plaintiff's failure to comply with Rule 9(b). The Court finds that the label-based allegations in the Amended Complaint are pled with sufficient particularity to satisfy Rule 9(b).

The Court also finds that other issues raised by Defendant are best addressed on summary judgment. While Defendant may present strong arguments, at this juncture the Court may only determine whether the allegations in the Amended Complaint are sufficient to survive the motion to dismiss. The Court finds that the allegations are sufficient.

2. Defendant's Motion is granted with respect to Plaintiffs' Consumer Fraud Act claims based upon allegations regarding Defendant's advertising.

Plaintiffs' advertising-based allegations are general in nature and do not meet the heightened pleading standard of Rule 9(b). Therefore, Plaintiffs' Fraud Act claims based on Defendant's advertising are dismissed without prejudice.

3. Defendant's motion to strike is denied without prejudice.

Here, Plaintiffs allege facts that may demonstrate why the average consumer would be willing to pay a premium for deodorants without triclosan. The Court will not have to determine whether triclosan is dangerous because the chemical's actual effects are irrelevant to this case. If appropriate, Defendant may renew its motion or file a motion *in limine* later in the case.

s/ Michael A. Shipp
MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE