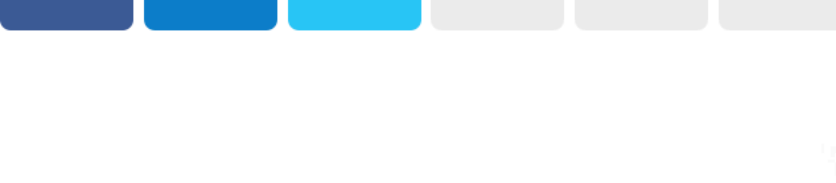


Prevagen Ruling Could Provide Check on Competitive Field of Consumer Supplements

The nationwide settlement could be one of the largest consumer class settlements in the country and might award tens of millions in damages.

By **Michael A. Mora** | June 25, 2020 at 06:17 PM



A nationwide class action settlement was just reached involving approximately 3 million consumers of a popular supplement claiming to improve brain health. The settlement, which is subject to court approval, will provide those consumers with partial refunds, and the supplement will have a changed label.

Consumers of the supplement, Prevagen, said that Quincy Bioscience, the supplement maker, was deceptive in its advertisements claiming that the brain health supplement improved memory and “supported brain function, [a] sharper mind, and clearer thinking.”

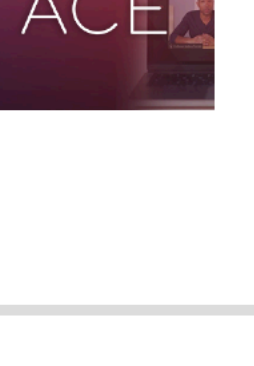
The ruling could provide a check on the competitive and lucrative field of consumer supplements that are not strictly regulated as drugs by the Food and Drug Administration. The cost of this settlement may limit future product claims on other supplements that cross the line between puffery and actual violation of various consumer protection laws.

The motion stated that the nationwide settlement could be one of the largest consumer class settlements in the country. It would resolve four different nationwide class actions pending in South Florida, Missouri, New York and California, awarding tens of millions in damages.

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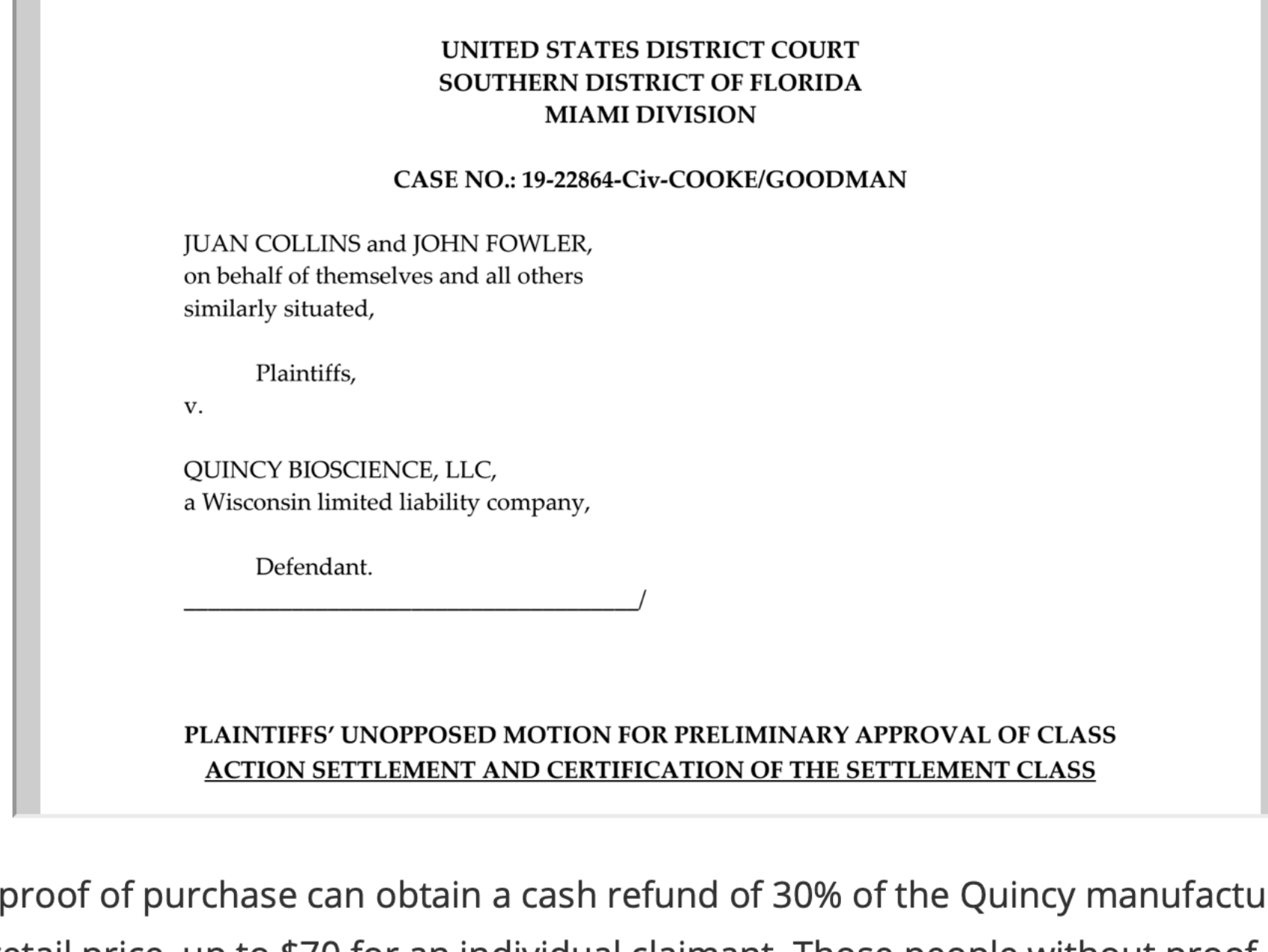
Now, U.S. Magistrate Judge Jonathan Goodman, who sits in Miami, will have to decide whether to issue a report and recommendation to grant preliminary approval and class certification of the proposed national consumer settlement.

Prevagen’s active ingredient is a dietary protein, apoaequorin, which was first discovered in glowing jellyfish. The plaintiffs said that when the protein is digested, it is transformed into common amino acids that are no different from those derived from other dietary proteins. Plaintiffs also asserted that this protein “cannot cross the blood-brain barrier to reach the brain or affect its functioning.”

Geoff Castillo, counsel for Quincy, declined to comment.

Under the settlement agreement, Quincy will offer class members refunds in various amounts based on a two-tier monetary relief structure, the motion stated.

Read the motion to approve:



Those with proof of purchase can obtain a cash refund of 30% of the Quincy manufacturer suggested retail price, up to \$70 for an individual claimant. Those people without proof of purchase, but with a valid claim, can obtain a cash refund of \$12.

Quincy has denied all allegations made against its popular brain health supplement. A recent jury trial in the Northern District of California with similar claims ended in a hung jury. The Northern District of California took the additional step of decertifying a class of California consumers who had purchased Prevagen brain health supplements.

Jack Scarola, a partner at Searcy Denney in West Palm Beach, and Adam Moskowitz of The Moskowitz Law Firm in Coral Gables, represented the plaintiffs in the Florida class action. And they said they are proud of the proposed settlement, which will still allow consumers to purchase the memory loss products knowing all the alleged risks and benefits.

“There is certainly a risk with any case going to trial as we saw in the other Prevagen case pending in California,” Moskowitz said in an email. “This settlement provides real, substantive monetary value to millions of customers nationwide that would like to participate and receive refunds, and it provides more and better disclosures of the product.”

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Michael A. Mora

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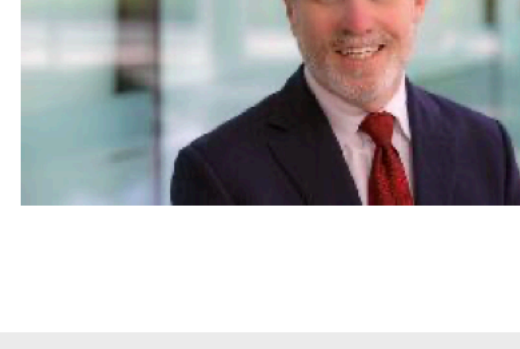
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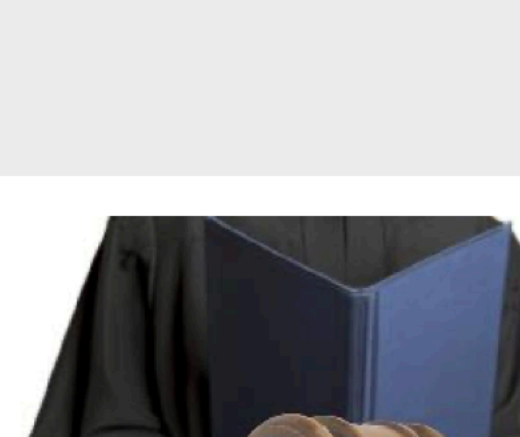
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