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Kroger to Pay \$1.25 Million to Resolve False Advertising Lawsuit

VENTURA Calif. – Ventura County District Attorney Erik Nasarenko announced today that The Kroger Co. will pay \$1.25 million to resolve a civil enforcement action alleging violations of California's False Advertising Law and Unfair Competition Law arising from inaccurate calorie information advertised on several Kroger-branded bread products.

The lawsuit was jointly prosecuted and investigated by the District Attorneys' Offices of Ventura, Santa Barbara, and Riverside Counties following an investigation into calorie representations on five varieties of Kroger's Carbmaster bread products, including white, wheat, and multi-seed breads, as well as hamburger and hot dog buns. The products were sold online and at Kroger-owned Ralphs, Food 4 Less, and Foods Co. stores throughout California.

The investigation found that Kroger miscalculated the calorie content of the products and advertised inaccurate calorie values on both product packaging and on its websites. Although Kroger later corrected the calorie information within the FDA Nutrition Facts Panel, the company continued advertising substantially lower calorie counts on consumer-facing packaging for months afterward. In at least one instance, inaccurate calorie information remained on Kroger's online product listings for approximately two years after the company became aware of the investigation.

The calorie discrepancies were significant. For example, Kroger advertised that its Carbmaster Hamburger Buns contained 50 calories when they actually contained 100 calories. Similarly, Kroger advertised that certain bread varieties contained 30 calories per serving when the correct value was 50 calories.

“Even after being specifically warned about the inaccurate calorie information in their online advertising, Kroger continued its deceptive and false advertising practices, resulting in customers believing one thing but actually buying something else,” said District Attorney Erik Nasarenko.

“Their defiance must be met with a strong civil enforcement action to ensure that the public receives truthful nutritional information, and marketplace competitors are not disadvantaged.”

As part of the litigation, courts sanctioned Kroger on two separate occasions. A federal court imposed monetary sanctions after finding that the company's legal arguments were clearly contrary to established federal law. In Santa Barbara County Superior Court, Kroger was sanctioned for failing to comply with multiple court orders related to discovery obligations.

The settlement resolves allegations that Kroger violated California's consumer protection laws. In addition to the monetary payment, Kroger has taken steps to correct the inaccurate calorie representations.

Senior Deputy District Attorney Andrew Reid, a member of the Special Prosecutions Consumer Protection Unit, prosecuted the case on behalf of the Ventura County District Attorney's Office.