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# Hughes Hubbard & Reed

## Hughes Hubbard Wins Dismissal of Trademark Suit for Grocery Wholesaler

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**November 1, 2021** – HHR secured a favorable ruling for Best Foods LLC when a California federal judge dismissed a trademark infringement lawsuit brought by Nestle USA (NUSA) against the specialty grocery wholesaler.

On Sept. 9, U.S. District Judge Mark Scarsi granted HHR’s motion to dismiss the suit on the ground that the owner of NUSA’s trademarks, Societe des Produits Nestle S.A. (SPN), has not been joined in the litigation despite having an interest in the claims put forward by NUSA as required by the Federal Rules of Civil Procedure.

In March, NUSA filed a complaint accusing Best Foods of unfair competition and false advertising for selling gray market Mexican Nestle products in the U.S. through illegitimate distribution channels. NUSA sought injunctive relief, accounting and disgorgement and damages among other remedies for Best Foods’ alleged unauthorized sale of Nescafe coffee, La Lechera milk and Media Crema cream products.

In its motion, HHR argued that SPN, as the owner of Nestle’s trademarks, is a required party under the federal rules.

Judge Scarsi agreed with HHR and concluded that “until NUSA removes such allegations or joins SPN as a party, the Court cannot grant NUSA’s requested relief without inappropriately affecting SPN’s ownership interests in the Nestle Marks or subjecting Best Foods to potentially duplicative liability.”

NUSA filed an amended complaint on Oct. 1, this time adding SPN as a plaintiff. Best Foods filed a motion to

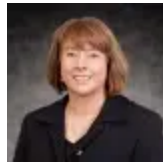
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Diego Durán de la Vega and Rita Haeusler lead the HHR team, which also includes Michael Polka, with key assistance from Jim Dabney, Robert Bell, Jim Klaiber, Hilary McDonnell, Racquel Gonoretzky, James Larson, Kenneth Corte, Natasha Faisal and Vienna Roche.

## Related People



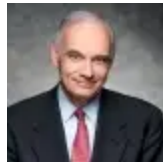
**Diego Durán de la Vega**



**Rita M. Haeusler**



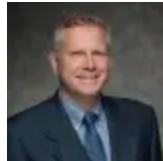
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