

Extra-Virgin Olive Oil Lawsuit Fails Test

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To much fanfare, [Callahan & Blaine](#) filed a lawsuit last August in Orange County Superior Court asserting that 10 major olive oil brands were not as extra-virgin as they claimed. The lawsuit was based on a UC Davis study that found that 69 percent of imported olive oils advertised as extra-virgin did not meet international standards for the label. Only 10 percent of California oils sampled failed the test.

But Tuesday, lead attorney **Daniel Callahan** said that he would not pursue the lawsuit that he had filed on behalf of a group of prominent California restaurateurs and chefs because additional testing conducted by his firm found widely divergent results. "The results are blatantly inconsistent," said Callahan. "We would not be able to carry our own burden of proof or have consistency from our own experts."



Daniel Callahan

The lawsuit against a large group of olive oil distributors and retailers had sought punitive damages as well as reimbursement for profits made from alleged false marketing and advertising to sell olive oil as extra-virgin when, in fact, it was of a lower grade.

Casting a wide net, the lawsuit, which sought class action status, had targeted 10 major brands, including Bertolli, Carapelli, Colavita, Filippo Berio, Mazolla, Mezzetta, Pompeian, Rachael Ray, Star and Safeway Select, as well as 10 major supermarkets chains and big box stores for allegedly marketing substandard olive oil under the extra-virgin label.

Last month, a second UC Davis study using a larger sample size again found some of the extra-virgin product was of lesser quality. This study, released by UC Davis Olive Center and the Australian Oils Research Laboratory, found that 73 percent of the samples failed sensory standards, which could indicate that the oils were of poor quality or had been adulterated with cheaper refined oils such as canola, nut or seed oils. While the first study analyzed 52 samples of 14 brands and the second increased the sample size to 134 samples from eight producers.

But the [North American Olive Oil Association](#) (NAOOA), which represents most of the importers and is based in New Jersey, strenuously objected to the findings of both studies and said its own testing found few problems. "Consumers can trust the quality, purity and value of heart-healthy imported olive oils," said **Bob Bauer**, president of NAOOA. "Consumers can continue to trust the quality of the imported olive oils they buy in supermarkets throughout the United States, contrary to what the authors of a report funded by a small contingent of domestic oil producers would like them believe," said the NAOOA in a statement.

Before moving ahead with the lawsuit, Callahan wanted to replicate the UC Davis study and have expert testimony in place. But this proved more difficult than expected. "I wanted to be sure I had a case," said Callahan, widely regarded as one of the state's leading plaintiff attorneys. "We were going up against some really large international companies." Callahan said while the lawsuit had been filed, it had not yet been served.

The lawsuit ran into trouble when UC Davis refused to allow its faculty members to serve as expert witnesses. Then, **replicating the UC Davis tests proved impossible**. Callahan & Blaine sent olive oil samples to leading testing facilities in Georgia and Germany. But the testing results were widely divergent. The German test agreed with UC Davis on some measures and disagreed with others. At UC Davis, which boasts one of the leading agricultural departments in the nation, the testing is based on taste. In Germany, on the other hand, the testing is both chemical and taste. "Taste tests are very subjective," said Callahan.

In the end, Callahan said, "It was one of those things that looked good, but when investigated it was not worth pursuing. Filing a lawsuit is a serious matter. Whether it is contingency or hourly, you are committing yourself or your clients funds and you have to make sure you know what you are doing."