

Pot Co. Escapes Potency Suit, Judge Warns Plaintiff Firm

By **Jonathan Capriel**

Law360 (March 17, 2026, 10:16 PM EDT) -- MariMed and other cannabis companies beat claims they intentionally mislabeled their products to sidestep Illinois THC potency limits, with a federal judge highlighting the string of consumer-led suit losses and warning counsel to "heed the strong and universal concerns about the plausibility of their legal theories."

Another proposed class action, which counted law firms Carroll Shamberg LLC and Luisi Holz Law as counsel was tossed in Illinois federal court Monday. While the dismissal was without prejudice, U.S. District Judge April M. Perry advised the plaintiff's attorneys that if they chose to refile they should keep in mind the course of the jurists who have ruled against them.

"Four judges have now dismissed the complaint as implausibly pled," the judge said. "A plaintiff is generally entitled to re-plead a complaint at least once before a dismissal is with prejudice, and therefore this dismissal is without prejudice. That said, plaintiff's counsel is cautioned that they should heed the strong and universal concerns about the plausibility of their legal theories that have been expressed by this bench."

Counsel for the plaintiff didn't immediately respond to a request for comment Tuesday.

This is at least the **fifth dismissal** of a federal lawsuit — as many as six when including an **Illinois state court** case — **contending** that **cannabis companies** are **intentionally** mislabeling their vape oils, cartridges and other products as a means of getting around the Illinois Cannabis Regulation and Tax Act. All these consumer-led cases count Luisi Holz Law as counsel.

In the current case, lead plaintiff Benjamin Patterson, claimed that 1,000-milligram vapable oil pens produced by Green Growth Group Inc., and several MariMed Inc. entities are worth less because they are mislabeled in a way that violated the law. Specifically, he claims the companies identified these products as "cannabis concentrates" when they are "cannabis-infused products." The former category is strictly limited to 100 milligrams of THC per package while cannabis-infused products do not have such a limit.

This means the companies are selling a vape oil pen that is about 10 times more potent than the law allows, according to Patterson.

But Judge Perry found a number of problems with the accusations, echoing concerns raised in the prior rulings in the Northern District of Illinois. When it comes to the fraud claims, the judge said the plaintiff was resting his pleadings on a mistake of law, not of fact.

"How to properly categorize defendants' vapable oils under the CRTA is a question of law, and mistakes of law cannot form the basis for an ICFA claim," Judge Perry said, pointing to the Illinois Supreme Court's decision in McIntosh v. Walgreens Boots Alliance Inc.

The judge also said Patterson lacked standing to bring the claims, rejecting his pleadings he suffered injury because he would not have purchased the product had he known it was not compliant with state law.

"Given that plaintiff already accepted the risk of purchasing something illegal under federal law, it cannot be said that he was damaged by purchasing something that was also potentially illegal under

state law," the judge said. "Plaintiff does not include any allegations to suggest that the vapable oil did not work as intended, caused him any ill effects, or that it was more expensive than any other vapable oil available on the market."

Counsel for the companies did not immediately respond to a request for comment Tuesday.

Patterson is represented by Kyle Shamberg of Carroll Shamberg LLC and Laura Luisi and Jamie Holz of Luisi Holz Law.

Green Growth Group, MariMed Inc., MariMed Advisors Inc., Mari Holdings IL LLC, Mari Holdings Mt. Vernon LLC and Mari Holdings Metropolis LLC are represented by Casey T. Grabenstein, Elizabeth A. Thompson and Bethany Beaver of Saul Ewing LLP.

The case is Benjamin Patterson et al. v. Green Growth Group Inc. et al., case number 1:25-cv-08766, in the U.S. District Court for the Northern District of Illinois.

--Editing by Kristen Becker.