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Pinkberry Settles Suit Over Claims on Dessert

By [JENNIFER STEINHAUER](#)

LOS ANGELES — Of all the great self-deceptions perpetrated among the dieting public, none is perhaps as specious as the notion that frozen yogurt is somehow health food.

And so it is that Pinkberry, that purveyor of frozen confections here and in New York, has to pay the piper. Or, more specifically, a food bank and a children's charity, with a few greenbacks thrown in for the lawyer and the plaintiff who made the claim concerning the soft-serve dessert, a treat that at one point drove Los Angelenos into a state of frozen-mouthed frenzy.

In a class-action lawsuit filed last year, Pinkberry — which operates roughly 50 stores in California and New York — was accused of misrepresenting its product as “frozen yogurt” and making bogus health claims, including that the dessert (which comes in three flavors: plain, which is very sour; green tea, which is chalky; and coffee, uncommonly delicious) was “all-natural.”

In a preliminary settlement reached this week, Pinkberry denied any wrongdoing but agreed to pay \$750,000 to the Los Angeles Regional Food Bank and Para Los Niños. The plaintiff, Lisa Sutton, who said she suffered injuries and undue loss of money spent on Pinkberry products, will receive legal fees and a \$5,000 award for bringing the suit.

Under California law, a product cannot be marketed as frozen yogurt unless it is made from milk that is fermented with certain bacteria, mixed off-site rather than in stores, and sold with its ingredients prominently displayed. In the past, Pinkberry had been secret about its products' ingredients, but it now lists them on its Web site, and it has begun to mix the product off-site.

“It has always been made with yogurt,” said a company spokeswoman, Heather Wilson, who added that Pinkberry's owners were unaware of some of the state laws.

Pinkberry contains considerably more calories than its founder proclaimed in an interview last year, as well as some food additives. (The green tea flavor has 50 calories per half-cup, which is not even a small-size serving.)

“It was our allegation that it was not a natural product as that word is understood,” said Ray Gallo, the lawyer representing Ms. Sutton.