

Seafood Fraud Allegations Hit Fast Food Business

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Rubio's Fresh Mexican Grill(R) Has Been Selling 'Lobster Burritos' for Years-But with 'Langostino' in Them Instead

As the Health-Mex market heats up in California, a class action has been filed on behalf of consumers allegedly defrauded by restaurant chain's menu language. Who's had Langostino Newburg?

Fans of Rubio's Fresh Mexican Grill(R) (NASDAQ:RUBO) , the self-described "Home of the Original Fish Taco," may want to reconsider their diets once they find out what one customer discovered after a recent meal at the Manhattan Beach, California Rubio's: There is nothing Americans traditionally call lobster in Rubio's "lobster burrito."

Seafood fraud normally is reserved for fish markets and high-end restaurants, where shark and ray meat are sometimes sold as scallops or formed-and-colored fish is sold as crab. A new class action, filed Tuesday in California Superior Court in Los Angeles by sometime consumer-attorney Ray E. Gallo, alleges that Rubio's "lobster burrito" is really a "langostino burrito." And a langostino, a small crayfish-or-shrimp-like creature caught mainly off the coast of Chile, just isn't what most Americans think they're getting when they're promised "lobster." Indeed, these langostinos are commonly called Red or Yellow Prawns.

"This case isn't just about bogus menu language that calls a product something it's not," said Ray Gallo, lead attorney for the plaintiffs. "This is an insult to one of America's favorite delicacies. Just the idea of a lobster gets seafood lovers salivating. It's the highest-priced delicacy on many five-star menus. For the fast-food consumer dining at Rubio's, a meal of lobster would be a real treat -- if Rubio's actually delivered what its burrito's name leads consumers to expect."

Gallo noted that, according to various sources, the meat in a Rubio's "lobster burrito" is apparently the tiny Chilean langostino, not the much bigger, tastier species of sea life that consumers think of as "lobster." The Chilean langostino, in important ways like taste and consistency is, many feel, more like a shrimp than a lobster. Why does Rubios call its langostino burrito a "Lobster Burrito?" Gallo says, "Rubio's sells a lot of them at \$6 each. Which sounds better to you, langostino or lobster?"

Rubio's has made some attempt to avoid liability already. After being notified by Gallo that the lawsuit was coming, Rubio's changed its burrito's name to the "langostino lobster burrito." Does this solve the problem? Gallo says no: "To my knowledge, there is no such thing as a 'langostino lobster.' Have you ever heard of that? Maybe Rubio's has bred a new species to stuff into its burritos. But I doubt it. The bottom line in my opinion is this: Unless Rubio's is putting both langostino and lobster in its burrito now, the 'langostino lobster burrito' is misleadingly labeled, too."

Gallo admits he likes Rubio's food, though: "It's unfortunate that Rubio's, which I otherwise feel is a quality fast-food restaurant, succumbed to mislabeling its burritos. I've tried the burrito and it tastes good. Rubio's should just call it what it is. In the meantime, I think Rubio's owes all its 'lobster burrito' customers at least an apology and a refund."

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