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Food & Consumer Packaged Goods Litigation

Milk and Preservative Labeling Claims Partially Dismissed

Gitson v. Trader Joe's Co., No. 3:13-cv-01333 (N.D. Cal.): The court granted in part a motion to dismiss putative class action claims that the defendant's products are misleadingly labeled in that they label some products as containing evaporated cane juice, label non-milk products as "milk," and contain undisclosed preservatives. The court reaffirmed its view that plaintiffs have standing to bring suit as to non-purchased but substantially similar products – but ruled that plaintiffs here had failed to meet their burden to plead with specificity as concerned products allegedly containing preservatives. In particular, the court held that plaintiffs had not specified what "other" preservatives those products contained. Likewise, the court found that plaintiffs lacked standing to bring the "milk" claims, because the amended complaint did not provide any specific facts describing how plaintiffs had relied on the alleged misrepresentations that the products were "milk." The court also granted the motion on federal preemption grounds to the extent that plaintiffs' claims sought to require defendants to label their products as "misbranded," since such a requirement exceeds FDCA labeling requirements. The court denied the motion with regard to the alleged preservatives, finding that plaintiffs had adequately described them. The court also held that plaintiffs had standing to bring evaporated cane juice claims, because they adequately pled reliance. [Order](#).

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