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Food & Consumer Packaged Goods Litigation

## Smuckers Denied Dismissal of “All Natural” Labeling Suit Over Crisco Oil

*Ault v. J.M. Smucker Co.*, No. 03-cv-03409 (S.D.N.Y.): A federal court in New York rejected Smucker's motion to dismiss a putative class action that claims falsely marketing its Crisco cooking oils as "all natural" when the products are highly processed and made using genetically modified organisms ("GMOs"). Defendant first argued that plaintiff's state law claims are preempted by the FDA's informal policies and guidance regarding bioengineered foods or, alternatively, that the court should defer to the FDA on the issue under the primary jurisdiction doctrine. The court rejected both arguments in light of the FDA's January 2014 decision not to accept a referral from another court regarding whether foods containing GMOs can be labeled natural. Finally, the court found that plaintiff had standing as to some products, and reasoned that whether plaintiff could represent a class regarding other products should be considered at the class certification stage. [Order](#).

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