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### Most Claims in Whole Foods “All Natural” Labeling Suit Survive Dismissal

*Garrison v. Whole Foods Market Group, Inc., No. 3:13-cv-05222* (N.D. Cal.): Most of plaintiffs' California statutory and common law claims survived Whole Foods' motion to dismiss a proposed class action alleging it falsely labels baked goods that contain synthetic ingredients as "all natural." Rejecting defendant's preemption argument, the court held that the federal Food, Drug, and Cosmetic Act does not preempt state law "all natural" labeling claims. The court also rejected defendant's primary jurisdiction argument, noting that the FDA had declined to adopt a formal definition of the word "natural" in the context of food labeling. The court also concluded that the complaint's allegations satisfied Rule 9(b) and were sufficient to put Whole Foods on notice about the circumstances of plaintiff's false labeling and advertising claims. The court next found that plaintiffs had standing to sue regarding products they did not buy where the labels at issue were nearly identical to the purchased products and the unpurchased products did not implicate a "significantly different set of concerns" than the purchased products. The court did dismiss plaintiffs' unjust enrichment claim, finding it was duplicative of their other claims, and plaintiffs' claims for injunctive relief, finding no risk for future injury that could be remedied with an injunction where plaintiffs expressed no interest in future purchases. [Order](#).

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