

## **“Wildly Nutritious” Fruit Lawsuit Ends With Dole’s Victory on Summary Judgment**

Brazil v. Dole Packaged Foods, LLC, No. 5:12-cv-01831(N.D. Cal.): After partially decertifying a putative class action alleging that Dole's fruit products are misbranded as "all natural," Judge Lucy Koh granted Dole's motion for summary judgment, bringing to an end the lengthy Brazil v. Dole litigation. Judge Koh found that plaintiff failed to present evidence demonstrating that a reasonable consumer would be misled by the "all natural" label because he had not shown that consumers believed "all natural fruit" did not contain citric acid and ascorbic acid. While the named plaintiff himself testified that he was misled, the court pointed out that the law requires more than a few isolated examples of actual deception and concluded that plaintiff's testimony was insufficient to ward off summary judgment. Moving on to the question of whether there was any evidence that Dole violated any underlying law, the court held that California's Sherman Law required plaintiff to show the label was misleading and deceptive to consumers. And because he had not, plaintiff's UCL claim based on "unlawful" acts failed as a matter of law. On these two bases, the court granted summary judgment and entered judgment in favor of Dole, concluding the Brazil case. [Order.](#)

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