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Food & Consumer Packaged Goods Litigation

Association des Eleveurs de Canards et D'Oies du Quebec v. Harris

In *Association des Eleveurs de Canards et D'Oies du Quebec v. Harris*, Case No. 12cv5735 (C.D. Cal.), Judge Stephen Wilson of the U.S. District Court for the Central District of California ruled that the law prohibiting the sale of fois gras in California (Cal. Health & Safety Code § 25982) is expressly preempted by the federal Poultry Products Inspections Act, which regulates the sale and distribution of fois gras and supersedes the terms of California's healthy and safety codes. Specifically, the court held that the California law imposed an ingredient requirement in addition to or different than the federal requirements: "fois gras products may comply with all federal requirements but still violate § 25982 because their products contain a particular constituent—force-fed bird's liver. Accordingly, § 25982 imposes an ingredient requirement in addition to or different than the federal laws and regulations" As a result, the court granted plaintiffs' summary judgment motion on preemption grounds. The challengers that brought the suit were producers of fois gras in Canada and New York and California restaurant owners, who argued that the law was preempted by the PPIA and violated the Commerce Clause by placing substantial burden on interstate commerce.

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