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Food & Consumer Packaged Goods Litigation

# Court Changes Dismissal to Stay in “Evaporated Cane Juice” Case

*Swearigen v. Attune Foods, Inc.*, No. C 13-4541 SBA (N.D. Cal.): Plaintiffs claim Defendant's products are misleadingly labeled because they list "evaporated cane juice" as an ingredient instead of sugar. Based on the FDA's March 5, 2014 announcement that it was actively reviewing its position on use of the phrase "evaporated cane juice," the Court originally dismissed the plaintiffs' complaint without prejudice pending FDA action. Upon plaintiffs' request, the Court reopened the case, vacated the prior dismissal, and stayed the case pending FDA action. Because it is unclear when the FDA will issue final guidance on the term "evaporated cane juice," the court converted the dismissal to a stay because there is a risk the statute of limitations could run on plaintiff's claims before the FDA acts. [Order](#).

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