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May 14, 2015

Food & Consumer Packaged Goods Litigation

Cholesterol Case Survives Renewed Effort Dismissal

Aguilar v. Boulder Brands, Inc. No. 3:12-cv-01862 (S.D. Cal.): In this putative class action alleging violations of California's UCL and CLRA, Plaintiff claims that Defendant's Smart Balance spreadable butter is deceptively marketed as helping to block cholesterol, when it in fact does not contain a sufficient amount of plant sterols to do so. Plaintiffs had initially moved and was granted leave to file a second amended complaint. As part of its order granting Plaintiffs leave, the Court found that Defendant's labels could plausibly be read as implying that Defendant's spreadable butter carried a clinically meaningful cholesterol blocking benefit. Relying on this earlier order, the Court denied Defendant's motion to dismiss Plaintiffs' second amended complaint. The Court treated Defendant's motion to dismiss as one for reconsideration, and concluded that, in granting Plaintiffs leave to file an amended complaint, the Court already determined that the complaint stated a valid claim. [Order.](#)

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