

## **Court Rules Plaintiff's Labeling Claims Preempted by Federal Law in Trans Fat Labeling Action**

*Walker v. ConAgra Foods, Inc.*, No. 4:15-cv-2424 (N.D. Cal.): The Court granted Defendants motion to dismiss with leave to amend in this putative class action asserting breach of warranty claims (express and implied merchantability) and violations of California's consumer protection statutes. The complaint alleges Defendant misleadingly markets its Crunch n' Munch caramel popcorn snacks as containing "0g Trans Fat per serving," although the snacks actually contain trans fats. The Court found Plaintiff's mislabeling claims were expressly preempted by the NLEA. In a desperate bid to save the action, Plaintiff argued that he asserted two theories in support of his UCL and breach of warranty claims—mislabeling and the notion that the mere use of trans fat is an unfair business practice, because safe alternatives are available and actually used in competing products. The Court declined to consider the merits of Plaintiff's "use theory" and whether the theory was also preempted by the NLEA, however, because the complaint was devoid of any allegations supporting the theory. Instead, the Court dismissed the UCL and breach of implied warranty claims with leave to amend, although it denied leave to amend the mislabeling claims. [Order](#).

### **Explore more in**

[Food & Consumer Packaged Goods Litigation](#) [Food & Beverage](#)

Blog series

## **Food & Consumer Packaged Goods Litigation**

Food & Consumer Packaged Goods Litigation shares timely insights into litigation developments, emerging arguments and challenges facing food and consumer packaged goods manufacturers and related industries.

[Subscribe ?](#)

[View the blog](#)