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Food & Consumer Packaged Goods Litigation

Dismissal With Prejudice of False Advertising Claims Related to Whole Foods' 5-Step Meat Rating System

People for the Ethical Treatment of Animals, Inc. ("PETA") et al. v. Whole Foods, Inc., No. 5:15-cv-4301 (N.D. Cal.): The Court granted Defendant's motion to dismiss with prejudice, disposing of this putative class action asserting violations of California's UCL, FAL, and CLRA, based on the allegation that Whole Foods' representations that it has a five-step rating system for sourcing meat products and that its meat suppliers meet high standards for animal treatment are false because the standards are meaningless and not rigorously enforced. The Court previously dismissed Plaintiffs' second amended complaint with leave to amend because it contained insufficient information about Whole Foods' in store advertisements to plead fraud with the specificity required by Rule 9(b). The Court dismissed the third amended complaint for a similar reason—Plaintiffs failed to allege affirmative misrepresentations or actionable omissions giving rise to liability under California's consumer protection statutes. Plaintiffs conceded that many of the statements made by Whole Foods were factually correct. The Court found the remaining statements (e.g., "Raised Right Tastes Right") were not actionable statements of fact, but rather, mere puffery. Similarly, the Court rejected Plaintiffs' argument that the statements were actionable omissions, recognizing that retailers have no duty to disclose product information unless it relates to a consumer safety issue. The Court found these failures fatal to Plaintiffs' claims. [Order](#).

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