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October 20, 2016

Food & Consumer Packaged Goods Litigation

### **New Filings for October 20, 2016**

*Barnes, et al. v. Frontera Foods, Inc.*, No. 16-L-0459 (Ill. Cir. Ct. – St. Clair Cnty.): putative class action asserting violations of the Illinois Consumer Fraud and Deceptive Business Practices Act and a claim of unjust enrichment. Plaintiffs allege Defendant's salsa products are misleadingly labeled as containing ECJ, which is just sugar, and are marketed as "all natural," when in fact, the products contain synthetic ingredients such as citric acid and sodium citrate. [Complaint](#).

*Tamayo v. Publix Super Mkts., Inc.*, No. 6:16-cv-1646 (M.D. Fla.): putative class action asserting violations of Florida's consumer protection laws, and raising claims for fraudulent and negligent misrepresentation, and unjust enrichment. Plaintiff alleges that Defendant falsely advertises its grated parmesan and Romano cheese products as containing "100% cheese," when the products contain significant amounts of adulterants and fillers, including cellulose, a filler and anti-clumping agent derived from wood pulp. [Complaint](#).

*Huppert v. The Hershey Co.*, No. 7:16-cv-7338 (S.D.N.Y.): putative class action asserting violations of New York's consumer protection statutes. Plaintiff alleges packages of certain varieties of Hershey Kisses are underfilled, but sold for the same price as other similarly packaged, but not underfilled varieties of the chocolate candies. Plaintiff claims this practice allows Defendant to deceive consumers by secretly imposing a price premium on the varieties sold in underfilled bags. [Complaint](#).

*Envtl. Research Ctr., Inc. v. Le-Vel Brands, LLC*, No. RG-16-831900 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging Defendant fails to warn consumers that its dietary supplement products contain lead.

*Garcia v. Rebbl Inc.*, No. 00876919CXC (Cal. Super. Ct. – Orange Cnty.): putative class action asserting violations of California's UCL, CLRA, FAL and a claim for negligent misrepresentation. Plaintiff alleges Defendant misleadingly labels and markets its drinks as healthy and lists "evaporated can juice" as an ingredient to perpetuate its healthy claims without explaining that "evaporated cane juice" is plain sugar. [Complaint](#).

*Daboussi v. Iovate Health Scis., USA, Inc.*, No. BC635205 (Cal. Sup. Ct. – Los Angeles Cnty.): putative class action asserting violations of the UCL, FAL, CLRA, and claims for breach of warranty (express and implied merchantability). Plaintiff alleges Defendant's weight loss claims for products containing green coffee are false and not supported by scientific studies. [Complaint](#).

*Chmielewski v. Publix Super Mkts., Inc.*, No. 8:16-cv-2725 (M.D. Fla.): putative class action asserting violations of Florida's consumer protection laws, and raising claims for breach of warranty (express and implied merchantability), negligent misrepresentation, and unjust enrichment. Plaintiff alleges Defendant falsely advertises its grated parmesan cheese product as containing "100% cheese," when the products contain significant amounts of adulterants and fillers, including cellulose, a filler and anti-clumping agent derived from wood pulp. [Complaint](#).

*Scholder v. Sioux Honey Ass'n Coop.*, No. 2:16-cv-5369 (E.D.N.Y): copycat putative class action asserting violations of NY GBL §§ 349–350, and raising claims for breach of express warranty and unjust enrichment. Plaintiff alleges Defendant falsely advertises and promotes various honey products as "100% all-natural," "100% pure" and "contains no man-made additives or additives of any kind," however, the products contain glyphosate, a synthetic biocide. [Complaint](#).

*McCartney v. Navitas, LLC*, No. RG16-833056 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging Defendant fails to warn consumers that its goji berries contain lead. [Complaint](#).

*Pellitteri v. Publix Super Mkts., Inc.*, No. 3:16-cv-9420 (N.D. Ill.): copycat putative class action asserting violations of the Florida Deceptive and Unfair Trade Practices Act and a claim for breach of express warranty. Plaintiff alleges Defendant falsely advertises its grated parmesan cheese products as containing "100% parmesan cheese," or "100% real grated romano parmesan cheese" when the products contain significant amounts of adulterants and fillers, including cellulose, a filler and anti-clumping agent derived from wood pulp. [Complaint](#).

*Envtl. Research Ctr. v. Natural Factors Nutritional Prods. Ltd. et al.*, No. RG16833396 (Cal. Sup. Court. – Alameda Cnty.): Proposition 65 complaint alleging Defendants' dietary supplement products (protein shakes) contain lead. [Complaint](#).

*Envtl. Research*

*Ctr. v. Trader Joe's Co., et al.*, No. RG16-833585 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging Defendants' powdered dietary supplement products contain lead. [Complaint](#).

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## Food & Consumer Packaged Goods Litigation

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