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January 10, 2018

Food & Consumer Packaged Goods Litigation

# Rulings, Orders, Settlements - January 10, 2018

**Court Grants Motion to Dismiss Class Action Involving Organic Baby Formula** [Organic Consumers Association v. The Hain Celestial Group, Inc.](#), No. 1:16-cv-00925 (D.D.C.): The Court entered an order granting Defendant's motion to dismiss this putative class action for violation of the District of Columbia Consumer Protection Procedures Act. Plaintiff alleged that Defendant's "Earth's Best" brand infant and toddler formula is falsely and misleadingly labeled "organic," when it in fact contains several ingredients that are not permitted in organic food products, among them, ascorbyl palmitate, zinc sulfate, sodium selenite, and taurine. The Court found that Plaintiff's claims are preempted by the Organic Food Production Act of 1990, concluding that allowing Plaintiff to proceed and potentially prevail in the action would frustrate the OFPA's goals of national uniformity, creating "a patchwork of conflicting rules about the permissible use of the term 'organic.'" **Courts Lifts Stay in Bakery False Advertising Suit** [Ang, et al. v. Bimbo Bakeries USA, Inc.](#), No. 4:13-CV-01196 (N.D. Cal.): The Court issued an order lifting the stay of this putative class action asserting violations of California's CLRA and the Unlawful Business Acts and Practices, Unfair Business Acts and Practices, Fraudulent Business Acts and Practices, Misleading and Deceptive Advertising, and Untrue Advertising provisions of California's UCL, and raising a claim for restitution based on unjust enrichment. Plaintiffs allege that many of Defendant's breads and baked goods are falsely and misleadingly labeled by touting various health benefits and nutrient content claims which are untrue. The Court originally stayed the case in March 2016 pending decisions from the Ninth Circuit in *Brazil v. Dole Packaged Foods, LLC*, No. 14-17480 and *Jones v. ConAgra Foods*, No. 14-16327. The Court granted the parties' joint request to lift the stay.

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