



Our weekly roundup aims to keep our readers up to date on recent notable rulings in the food & consumer packaged goods space.

- ***Lisa Slawsby v. Champion Petfoods USA, Inc., et al.***, No. 1:18-cv-10701-GAO (D. Mass. - March 27, 2023): The U.S. District Court of Massachusetts dismissed a putative class action alleging that marketing pet foods as "biologically appropriate" was false or misleading. The plaintiff asserted that the presence of heavy metals and Bisphenol A (BPA) rendered the representation false and that the dog food products were unsafe for consumption. The court held that the plaintiff failed to identify any objective basis for claiming the heavy metals and BPA in the pet food are excessive or unsafe. Further, since the plaintiff fed all of the food to her dog, who suffered no harm and presumably enjoyed the nutrition, the plaintiff "received the benefit of the bargain and [could not] use hindsight to re-bargain the exchange." Opinion

linked [here](#).

- ***Eduardo Hernandez, et al. v. Johnson & Johnson Consumer Inc.***, No 19-cv-15679-ZNQ-TJB (D.N.J. - March 24, 2023): The District Court of New Jersey dismissed with prejudice the plaintiffs' amended class action complaint alleging the use of "rapid-release gelcaps" on packaging for acetaminophen products misled consumers into believing they would relieve pain faster than other, less expensive acetaminophen products. The amended complaint sought only injunctive relief. The court dismissed the suit as the plaintiffs failed to allege that they planned to buy the defendant's rapid-release gelcaps in the future. The court held that the plaintiffs could not show an "injury in fact" to establish Article III standing, because they are aware of the alleged harm caused by the product and would not purchase it again. The plaintiffs are represented by Simmons Hanly Conroy LLC. Opinion linked [here](#).
- ***Peter Hoffman v. Kraft Heinz Foods Co.***, No. 2:22-cv-06060-JLS-JEM (C.D. Cal. - February 7, 2023): The U.S. District Court for the Southern District of New York granted dismissal of a putative class action alleging that the defendant deceptively marketed its flavored drink mix as only containing natural flavors, when it actually contained artificial flavors. The court held that the plaintiff's claim failed because they could not adequately demonstrate that the DL-malic acid in the flavored drink mix is (1) a flavor or (2) artificial. Additionally, the challenged labeling statements do not say the drink mix has "only" natural flavors. As such, the judge found that a reasonable consumer would not be misled. The court dismissed the plaintiff's state law claims for fraud and breach of warranty on the same grounds and denied leave to amend. Opinion linked [here](#).

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