



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

- ***Jeanne Matthews v. Polar Corp.***, No. 1:22-cv-00649 (N.D. Ill. - March 22, 2023): The U.S. District Court for the Northern District of Illinois dismissed a putative class action alleging the defendant misrepresented their lemon-flavored seltzer products. Specifically, the plaintiff argued that the products were represented as being flavored with real lemon when they allegedly contained only a small amount of artificial lemon flavoring. The court held that the plaintiff's claim failed because a reasonable consumer would not be misled by the challenged labeling statements since the defendant made no claims as to the amount of lemon nor the type. The court noted that the product's labeling says only "LEMON," and a lemon-flavored seltzer water is what was promised and what the consumer actually received. The court further held that

the plaintiff failed to sufficiently plead that there was a false or misleading statement on the label, and it dismissed the plaintiff's state law claims for fraud, breach of warranty, negligent misrepresentation, and unjust enrichment on the same grounds. [Opinion linked here.](#)

- ***Kathy Richburg, et al. v. Conagra Brands Inc. and Julie Ruiz v. Conagra Brands Inc.***, Nos. 22-cv-02420 and 22-cv-02421 (N.D. Ill. - February 8, 2023): The U.S. District Court for the Northern District of Illinois granted dismissal of two putative class-action cases, which both alleged that the marketing and labeling of the defendant's microwave popcorn were false or misleading. Specifically, the plaintiffs claimed that the product's representations, such as "natural" and "100% real ingredients," were false or misleading when per- and polyfluoroalkyl substances (PFAS) could transfer from the microwave bags to the popcorn. The court held that the plaintiff's claim failed, finding that a reasonable consumer would not be misled by the challenged labeling statements because consumers understand "ingredients" to be those items listed in the ingredient list mandated by the U.S. Food and Drug Administration (FDA). The FDA exempts substances that transfer to foods from processing equipment or packaging from disclosure as an "ingredient." [Opinion linked here.](#)

Authors



[David T. Biderman](#)

Partner

DBiderman@perkinscoie.com [310.788.3220](tel:310.788.3220)

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](#)