



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

- ***Makiko Fukaya v. Daiso California LLC et al.***, No. 3:23-cv-00099-JSC (N.D. Cal. - May 11, 2023): The Northern District of California trimmed a putative class action challenging the labeling of the defendant's ***cookie*** and ***snack products***. Specifically, the plaintiff alleged that the products were labeled as not containing tree nut ingredients when, in fact, they did. The court held that the plaintiff did not have standing to pursue injunctive relief under the Consumers Legal Remedies Act (CLRA), FAL, and Unfair Competition Law (UCL) and dismissed these claims with leave to amend. The court also granted dismissal of the plaintiff's express warranty claims as inadequately pleaded. But the court allowed the plaintiff's request for disgorgement under the FAL and UCL to survive. [Opinion linked here.](#)

- ***Chris Guerra v. Kind, LLC***, No. 3:22-cv-06654-RS (N.D. Cal. - May 11, 2023): The Northern District of California trimmed a putative class action challenging the statements made on the packaging of the defendant's ***protein and nut bars, oatmeal, and cereal*** products regarding the protein content of those products. The court dismissed claims premised on front-label protein claims as being unlawful per se and the omission of a "% Daily Value" for protein in the nutrition facts panel. The court allowed claims to proceed on a misleading-by-omission theory, finding that they "barely" survived preemption. [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](#)