



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

- ***Kerstine Bryan v. Del Monte Foods, Inc.***, No. 4:23-cv-00865-MMC (N.D. Cal. – October 19, 2023): The Northern District of California dismissed a putative class action alleging that the labeling of defendant's Mango Chunks and Peach Chunks fruit cups was false or misleading. Specifically, plaintiff alleged the phrase "fruit naturals" was misleading, as she understood the representation to mean the products contained only natural ingredients, when they actually contained multiple synthetic ingredients. The Court held that plaintiff had not plausibly alleged that the products' front label, as clarified by the back label, would mislead a reasonable consumer into thinking that the products did not contain synthetic ingredients. The Court found that the front label's statement, "fruit naturals" did not "make any affirmative promise

about what proportion of the ingredients are natural," and the Court concluded that such ambiguity could be resolved by reference to the back label, which clearly disclosed the inclusion of the alleged synthetic ingredients. Opinion linked [here](#).

- ***Mohamad Tlaib v. Chattem, Inc.***, No. 1:23-cv-00376 (N.D. Ill.– September 8, 2023): The Northern District of Illinois dismissed a complaint that alleged the marketing and labeling of defendant's dry mouth lozenges were misleading because of the representations that the product would improve oral health by soothing dry mouth, moisturizing mouth tissue, and freshening breath. Plaintiff challenged the representations alleging that laboratory testing shows that the product has a low pH, which can damage tooth enamel and root dentin. The court held that plaintiff did not sufficiently allege that defendant engaged in a deceptive act or practice and did not identify a specific deceptive statement that a significant portion of targeted consumers would find false or misleading. The court held that plaintiff's interpretation of the product's label was unreasonable under the circumstances, and the label is not deceptive as a matter of law because plaintiff did not allege that the product did not actually soothe his dry mouth, moisturize his mouth tissue, or freshen his breath. The court additionally held that the product did not expressly represent or imply that it will have a certain pH level or improve general "oral health." Opinion linked [here](#).

If you are a food or CPG company contact interested in receiving our daily email update on filings and notable rulings, please reach out to Kellie Hale with your request to be added: [khale@perkinscoie.com](mailto:khale@perkinscoie.com).

## Authors



### [David T. Biderman](#)

Partner

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



### [Thomas \(Tommy\) Tobin](#)

Counsel

[TTobin@perkinscoie.com](mailto:TTobin@perkinscoie.com) [206.359.3157](tel:206.359.3157)

## 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.

[View the blog](#)