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Notable Ruling Roundup



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

Nancy McCoy v. Nestlé USA, Inc., No. 3:23-cv-02218-MCR-HTC (N.D. Fla. – February 1, 2024): The Northern District of Florida dismissed a complaint with prejudice in putative class action alleging the labeling of defendant's ***lime flavored carbonated mineral water*** misleads consumers into expecting the water would contain an appreciable amount of lime juice because the label depicts two wedges of fresh lime and the word 'lime,' in a green-tinted bottle, when in fact it contains "natural flavors." The court concluded that plaintiff failed to plausibly allege that a reasonable consumer would believe that the product contained an appreciable amount of lime. The court reasoned that the label's use of the word "lime" and depiction of lime wedges represent only that the product is lime flavored, as the label does not state "made with lime" or use other language conveying that the product includes lime or lime juice. Opinion available [here](#).

Devonia Spearman Ruff v. Perfetti Van Melle USA Inc., No. 2:23-cv-00070-DLB-CJS (E.D. Ky. – January 27, 2024): The Eastern District of Kentucky dismissed an amended complaint in putative class action in which the plaintiff alleged the labeling of defendant's ***candies*** was misleading because a "tree nut free" representation below the ingredients list on the gummies' package, led her to believe that it did not contain any allergens. However, the candies contained coconut oil. While the court acknowledged FDA considers coconut to be a tree nut, the court concluded that it would be unreasonable for the plaintiff to have relied solely upon the "tree nut free" representation when she, by her own admission, carefully reviews the back-of-pack ingredient lists for potential allergens. Opinion available [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.

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