



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

***Lindsay Finster v. Sephora USA Inc.***, No. 6:22-cv-01187 (N.D.N.Y. – March 15, 2024): The Northern District of New York dismissed a putative class action alleging that the marketing and labeling of defendant's "***Clean at Sephora***" campaign leads consumers to believe that cosmetics bearing the representation did not contain any ingredients that were synthetic or connected to causing physical harm. The court concluded that plaintiff failed to plausibly allege that defendant materially misled consumers as nowhere on the label or in the marketing materials did defendant make any claim that the products are free of all synthetic or harmful ingredients. The court also concluded that plaintiff had failed to provide adequate pre-suit notice and failed to plead with adequate particularity under Rule 9(b). Opinion available [here](#).

***In re Trader Joe's Company Dark Chocolate Litigation***, No. 3:23-cv-00061-RBM-KSC (S.D. Cal. – March 27, 2024): The Southern District of California trimmed a putative class action alleging defendant's ***dark chocolate products*** contain undisclosed lead, cadmium, and arsenic (the "heavy metals"). The court concluded that plaintiffs had plausibly alleged a reasonable consumer could be misled by the lack of any disclosure on the products indicating that they contain heavy metals when they contain the levels of heavy metals based on the allegations. The court noted that it must accept as true that the products actually contain undisclosed heavy metals. The court further reasoned that the determination of what level of heavy metals would be misleading to a reasonable consumer is a question not amenable to resolution on a motion to dismiss, writing that "[t]he court is not inclined to pick a threshold level of each Heavy Metal in each Product at which a reasonable consumer would be misled by the absence of a label disclosing its presence, particularly in ruling on a motion to dismiss." 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](mailto:khale@perkinscoie.com).

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