



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

In Re Plum Baby Food Litigation, No. 4:21-CV-00913-YGR (N.D. Cal. – March 28, 2024): The Northern District of California granted summary judgment in an action challenging defendant's ***baby food products*** regarding allegedly undisclosed heavy metals. Applying Ninth Circuit law, the Court concluded that plaintiffs had not established that the allegedly undisclosed heavy metals constituted an unreasonable safety hazard or affected the product's central function. The Court further reasoned that the theory that regular consumption of the baby food products over a period of time could lead to potentially dangerous accumulations of these substances was "conjectural." In addition, the Court determined that the non-disclosure of trace heavy metals on the products' labels did not violate the consumer protection laws of California, New York, Illinois, Minnesota, or

Pennsylvania, as Plum had no such duty under of the laws of those states given their failures of proof. Among other things, the court noted (i) since 2017 the company had disclosed on its own website that the products may contain heavy metals and (ii) the topic of heavy metals in baby foods has received widespread media attention. The Court also concluded that plaintiffs had failed to allege that the products were not fit for consumption, writing "no reasonable jury could determine that the presence of heavy metals and perchlorate renders the product incapable of nourishment." Order can be viewed [here](#). *Note: Perkins Coie LLP represented Plum, PBC.*

In Re: Recalled Abbott Infant Formula Products Liability Litigation, No. 23-2525 (7th Cir. – April 2, 2024): The Seventh Circuit Court of Appeals upheld the district court's dismissal of a putative class action involving the voluntary recall of defendant's ***powdered infant formula*** due to unsanitary conditions at one of their facilities. The appeal focused on the issue of standing, specifically whether the plaintiffs suffered an "injury in fact." The Court concluded that the plaintiffs' alleged injury was hypothetical or conjectural, and that they did not shown that the products they purchased were actually contaminated. Opinion can be viewed [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.

Authors



[David T. Biderman](#)

Partner

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

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