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Food & Consumer Packaged Goods Litigation

## **Court Dismisses In Part Evaporated Cane Juice Claims Against Wallaby Yogurt**

*Morgan v. Wallaby Yogurt Co.*, No. 13cv0296 (N.D. Cal.): The court granted in part, and denied in part, defendant's motion to dismiss plaintiffs' complaint that alleged that various Wallaby yogurt products were mislabeled by listing ECJ as an ingredient. The court rejected Wallaby's primary jurisdiction defense, explaining that determining whether a label is misleading is within the court's abilities. The court also turned back defendant's preemption defense. The court did, however, dismiss plaintiffs' claims that the listing of ECJ as an ingredient was an "unfair" practice under California consumer protection law, because plaintiffs had not sufficiently alleged how that listing would deceive a reasonable consumer. [Order](#).

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