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Food & Consumer Packaged Goods Litigation

## **Court Denies Class Certification for Failure to Meet Predominance Test**

*Caldera v. The J.M. Smucker Co.*, No. 2:12cv4936 (C.D. Cal.): The court denied plaintiff's motion for class certification in a case alleging claims under California consumer protection statutes based on defendant's labeling of Crisco products as containing "50% Less Saturated Fat Than Butter" and of Un crustables products as "Whole Grain 16g or more." With respect to the proposed damages class, the court held that the proposed class failed the predominance test under *Wal-Mart Stores, Inc. v. Dukes*, 131 S. Ct. 2541, 2556 (2011), because plaintiff failed to offer any method of determining damages on a class-wide basis. The court found that plaintiff's offered method—a full refund of purchase price—was not appropriate because some class members received some benefit from the products. The court also declined to certify a proposed class for injunctive relief, based on plaintiff's failure to articulate why certification under Rule 23(b)(2) was warranted. [Order.](#)

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