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Food & Consumer Packaged Goods Litigation

Court Dismisses Claims Regarding Products Plaintiff Did Not Buy

Smedt v. The Hain Celestial Group, Inc., No. 5:12-cv-03029 (N.D. Cal.): On behalf of a putative nationwide class action, the plaintiff claimed defendant's use of the phrases "evaporated cane juice," "no trans fat," and "all natural" on the labels of three products she bought and 11 she did not violated California consumer protection and false advertising laws. As noted above, the court dismissed her evaporated cane juice claims under the primary jurisdiction doctrine pending FDA action. The court also granted defendant's partial motion to dismiss as to products the plaintiff did not buy. Because the complaint did not allege facts showing that the unpurchased products were "substantially similar" to the purchased products, the court held that plaintiff failed to establish standing or satisfy Rule 9(b) as to the unpurchased products. The court dismissed without prejudice all claims regarding the unpurchased products. [Order](#)

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