

Ninth Circuit Reverses Summary Judgment in “All Natural Fruit” Case, Upholds Denial of Class Certification

[Brazil v. Dole Packaged Foods, LLC](#), No. 14-17480 (9th Cir.): In an unpublished decision, the Ninth Circuit reversed the district Court's dismissal on summary judgment of Plaintiff's claims under the UCL, FAL, and CLRA, but upheld the district Court's denial of class certification in this closely watched case alleging that the use of the word "All Natural Fruit" on Defendant's products containing synthetic citric and ascorbic acids is misleading. The Court held Plaintiff's evidence, including the label; his testimony; consumer surveys; the FDA's informal, non-binding "natural" policy; and FDA warning letters, could allow a trier of fact to conclude Defendant's label is misleading to a reasonable consumer. The Court also revived Plaintiff's individual claim for unjust enrichment because the claim can be pleaded in the alternative in quasi-contract actions. The Court, however, upheld the district Court's class certification decisions limiting damages to the "price premium" attributable to the "All Natural Fruit" labels and ultimately decertifying the damages class because Plaintiff did not show how the price premium could be calculated with proof common to the class. The case was remanded to the district Court for Plaintiff to pursue injunctive relief on behalf of the class and his individual restitution claim. We previously reported on this case [here](#) and [here](#).

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