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January 24, 2017

Food & Consumer Packaged Goods Litigation

### **Recent Significant Rulings for January 24, 2017**

**Stay Lifted In Olive Oil False Advertising Suit** *Koller v. Med Foods, Inc.*, No. 3:14-cv-2400 (N.D. Cal.): The Court issued an order lifting the stay of this putative class action asserting violations of California's CLRA, FAL, UCL, and raising claims for fraud and deceit. Plaintiff claims Defendants misled consumers into paying a premium for their olive oil products by marketing and advertising them as "extra virgin" and imported from Italy, when the olive oil is mixed with refined oil and the bottle is insufficient to protect it from heat and sunlight damage, causing the chemicals to break down and not stay extra virgin. The action was stayed pending decisions from the Ninth Circuit in *Jones v. ConAgra Foods*, No. 14-16327, *Brazil v. Dole Packaged Foods, LLC*, No. 14-17480, and *Kosta v. Del Monte Foods*, No. 15-16974, after the Court found those decisions might affect class certification issues like ascertainability and common proof of damages. On January 3, 2017, the Ninth Circuit issued two separate decisions in *Briseno*, and on January 19, 2017, the Court lifted the stay and advised the Plaintiff that it may renew his motion for class certification. (Previous Law360 coverage of the action [here](#)).

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