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Notable Ruling Roundup



Our notable ruling roundup aims to keep our readers up to date on recent rulings in the food & consumer packaged goods space.

***Shamea Broussard, et al. v. Dole Packaged Foods, LLC***, No. 3:23-cv-03320 (N.D. Cal. – April 8, 2024): The Northern District of California dismissed without prejudice a putative class action alleging the labeling and marketing of defendant's ***fruit bowls, fridge packs, canned fruit, canned juices, and certain beverages*** as nutritious and healthy misleads consumers because the products contain sugar levels beyond daily recommendations set by the American Heart Association. The Court concluded the challenged statements such as "a promise to provide everyone, everywhere with good nutrition" and that the products "seal in goodness and nutrition" amounted to puffery and would not deceive a reasonable consumer. Opinion can be viewed [here](#).

***Patricia Donadio v. Bayer HealthCare LLC***, No. 6:22-cv-0652-EAW (W.D.N.Y. – March 18, 2024): The Western District of New York dismissed without leave to amend a putative class action challenging the marketing and labeling of an ***over-the-counter severe cold medication*** with the phrase "Honey Lemon Zest," accompanied by images of a lemon wedge and a honey dipper. Plaintiff alleged that the marketing gave consumers the impression that the medicine contains "honey and lemon ingredients beyond a de minimis amount." The Court noted that the packaging does not explicitly claim that the medicine is "made with" or "made from" honey, lemon, or lemon zest. Ultimately, the Court concluded a reasonable consumer would not think that the product actually contains honey and lemon because the labeling conveys that the product is honey and lemon flavored, and the lists of active and inactive ingredients do not include lemon or honey. Opinion can be viewed [here](#).

If you are a food or CPG company contact interested in receiving our daily email update on filings and notable rulings, please reach out to Kellie Hale with your request to be added: [khale@perkinscoie.com](mailto:khale@perkinscoie.com).

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