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Food & Consumer Packaged Goods Litigation

Certification Denied on Ascertainability Grounds in ZonePerfect “Natural” Class Action

Sethavanish v. ZonePerfect Nutrition Co., 12cv2907 (N.D. Cal.): The court denied class certification in a putative class action based on defendant's alleged misuse of the phrase "All-Natural Nutrition Bars" on its products, where the products contain allegedly "synthetic" ingredients. Plaintiff alleged that she purchased the bars for her husband and that she would have purchased other, less expensive bars, had she been aware of the alleged synthetic ingredients. The court ruled that plaintiff had failed to establish that the proposed class was ascertainable because defendant sells predominantly to retailers, not directly to consumers, and there were no records to identify which consumers purchased the accused bars. The court expressly adopted the reasoning of the Third Circuit's *Carrera v. Bayer Corp.* decision on ascertainability, where class certification was denied on the same grounds. [Order](#).

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