

Court Denies Preemption Arguments But Dismisses Kellogg in Kashi Case

Eggnatz v. Kashi Co., No. 12cv21678 (S.D. Fla.) The court granted in part and denied in part defendant's motion to dismiss a putative class action alleging that Kashi products were mislabeled as "all natural" despite containing GMOs. The court rejected defendant's preemption argument, holding that GMO-based claims are not preempted by FDA policy or regulations in that FDA had not taken a stance on the GMOs in their definition of "natural." The court further rejected defendant's argument that plaintiffs' claims regarding vitamins and hexane-processed soy are preempted, finding that plaintiffs sufficiently alleged that a reasonable consumer would not expect such ingredients in food labeled "all natural." The court then held that plaintiffs sufficiently pled their claims with sufficient specificity. The court dismissed all claims for Kashi products that plaintiffs did not allege they purchased. Finally, the court dismissed as to Kellogg, the parent of Kashi, because plaintiffs did not allege that Kashi was a "mere instrumentality" or "alter ego" of Kellogg. [Order](#).

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