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May 01, 2015

Food & Consumer Packaged Goods Litigation

Court Grants Summary Judgment on Antioxidant Claims

Khasin v. The Hershey Co., No. 5:12cv01862 (N.D. Cal.): In this putative class action alleging claims under California's UCL, FAL, CLRA, and unjust enrichment claiming Defendant made misrepresentations about its products spanning antioxidant claims, nutrient content claims without the proper disclosures, health claims, sugar free claims, unlawful serving sizes, improperly listing polyglycerol polyricinoleic acid, and failing to disclose vanillin, the Court granted summary judgment in favor of Defendant. As reported [here](#), previously the Court had dismissed all of Plaintiff's claims except for the UCL claim concerning the statement "natural source of flavanol antioxidants" on certain labels of Defendant's dark chocolate and cocoa product. The Court dismissed this remaining claim for two main reasons. First, the court found that Plaintiff was unable to meet his burden as to whether a reasonable consumer would be misled by Defendant's statements. The evidence provided went more to how a reasonable consumer could react, not how they actually did react. Second, the Court found that Plaintiff did not meet his burden of showing he suffered economic injury through loss of money or property as a result of Defendant's alleged deceptive labeling. Rather than attempting to show economic injury, Plaintiff claimed his purchases were "legally worthless" because they were inaccurate representations of what he thought he was purchasing. [Order](#).

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