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Food & Consumer Packaged Goods Litigation

Court Denies Motion to Dismiss on Primary Jurisdiction Grounds

Zakaria v. Gerber Products Co., No. 2:15-cv-00200 (C.D. Cal.): The Court denied a motion to dismiss on primary jurisdiction grounds in this putative class action asserting claims under California UCL, FAL, and CLRA. In denying the motion, the Court held that the issue of whether Defendant's product claims were false and misleading was neither an issue of first impression nor a complex one requiring deference to agency expertise. The Court also rejected arguments that Plaintiff's complaint was insufficient as it referred to some advertisements Plaintiff had not seen, and did not link Plaintiff's purchasing decision to the FDA and FTC's regulatory proceedings cited in the complaint. It was enough, the Court held, that the complaint alleged that Plaintiff relied on the alleged misrepresentations when she purchased the products. [Order](#).

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