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Food & Consumer Packaged Goods Litigation

Denial of Motion for Reconsideration in Baby Food False Advertising Suit

Zakaria v. Gerber Products Co., No. 2:15-cv-00200 (C.D. Cal.): The Court denied Defendant's motion for reconsideration of an earlier order denying a motion to dismiss in this putative class action alleging Defendant's violated California's UCL, FAL, and CLRA, when they advertised their baby food products as helping to prevent infants from developing allergies. The Court rejected Defendant's argument that *In re GNC Corporation*, No. 14-1724, 2015 WL 3798174 (4th Cir. June 19, 2015), represented a change in the law. First, the Court ruled that the Fourth Circuit's conclusion that consumers accusing manufacturers of making false advertising statements must show that no reasonable expert would agree with the statements was inconsistent with California precedent and not binding. Second, the Court noted that Plaintiff does not allege that all experts agree that Defendant's product lacks a health benefit, but rather that the product in fact lacks that benefit. Third, the Court found that Plaintiff's asserted theories of liability went beyond a claim that Defendant knowingly made a false statement about its product. [Order](#).

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