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December 28, 2015

Food & Consumer Packaged Goods Litigation

# Partial Dismissal Granted in Trader Joe's Labeling Row

*Gitson v. Trader Joe's Co.*, No. 3:13-cv-1333 (N.D. Cal.): The Court granted in part and denied in part Defendant's third motion to dismiss this putative class action alleging that various Trader Joe's products are misleading or misbranded. Defendant's latest motion sought dismissal of Plaintiff's claims relating to "soymilk" products. The Court found Plaintiff's claims were preempted by the federal Food, Drug and Cosmetic Act ("FDCA"), and that Plaintiff failed to plausibly allege that the use of the term "soy milk" is false and misleading, because the reasonable consumer would not think soy milk comes from a cow. The Court also rejected Plaintiff's contention that Defendant "passes off" its soy milk products as cow's milk, a food that has been given a standard of identity by the FDA. The Court denied Defendant's motion to dismiss claims regarding additives including citric acid, and denied Defendant's motion to strike Plaintiff's allegations relating to the FDA's "interim position" on evaporated cane juice. [Order](#).

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