April 18, 2016

Whole Foods' Motion for Summary Judgment Granted-in-Part and Denied-in-Part in Baked Goods Labeling Row

Garrison v. Whole Foods Market, Inc., No. 3:13-cv-5222 (N.D. Cal.): The Court granted in part and denied in part Defendant's motion for summary judgment in this putative class action alleging that Whole Foods' house-brand baked goods are mislabeled "all natural" in violation of California consumer protection statutes because they include "synthetic" ingredients including sodium acid pyrophosphate and maltodextrin. With regard to Plaintiffs' claims for breach of contract and violation of the CLRA, the Court granted Defendant's motion, after finding Plaintiffs' lacked privity with Defendant to bring a contract claim. The Court disposed of the CLRA claim because Plaintiffs sent the statutorily required pre-suit notice to the wrong entity and never cured the defect. The Court denied, however, to dispose of Plaintiffs' claims under the FAL, UCL, and common law claims of fraud, negligent misrepresentation, and breach of express warranty. Having reviewed a transcript of Plaintiffs' deposition testimony, the Court expressed doubt that a jury would find Plaintiffs' claims to have been deceived by "all natural" labels credible. Although Plaintiffs could not identify the dates on which the bought the products at issue and had no receipts, the Court found Plaintiffs' testimony that they recalled purchasing the products sufficient to create a factual issue for the jury. Despite expressing similar reservations about the credibility of Plaintiffs' claims to have paid a premium for products that they believed did not contain synthetic ingredients, the Court found there was sufficient evidence for a jury to find that Plaintiffs had suffered actual injury to survive summary judgment. *[Order.](#)* The Court issued an identical ruling in related case, *Garrison v. Whole Foods Mkt. Cal., Inc.,* No. 3:14-cv-0334 (N.D. Cal.). *[Order.](#)*

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