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September 12, 2016

Food & Consumer Packaged Goods Litigation

## New Filings for September 12, 2016

*Tamar Kaloustian v. Navitas LLC.*, No. CGC-16-553700 (Cal. Super. Ct. – San Francisco Cnty.): Proposition 65 action alleging defendant Navitas LLC does not warn about lead in Navitas Naturals Organic Mulberry Berries. Plaintiff is represented by the KJT Law Group. [Complaint.](#) *Guerra v. Hero Nutritionals, Inc.*, No. 2:16-cv-04563 (E.D.N.Y.): Putative class action asserting a violation of the New York General Business Law, the consumer protection statutes of all 50 states, and the Magnuson-Moss Warranty Act. Plaintiff alleges Defendant deceptively labels and markets its gummy vitamins as all natural, when they contain synthetic chemical ingredients, Tocopheryl Acetate, Calcium Citrate, Gelatin, Citric Acid, Lactic Acid, Sodium Citrate, Tricalcium Phosphate, and Trisodium Citrate. [Complaint.](#) *Gates, et al. v. NBTY, Inc., et al.*, No. 3:16-cv-2090 (S.D. Cal.): Putative class action alleging violations of California's Consumer Legal Remedies Act, New York Deceptive Trade Practices Act, unfair competition under Section 17200, unfair competition under California Business & Professions Code section 17500, and negligent misrepresentation. Plaintiff alleges that Defendants package their protein products in large, opaque containers that contain more than 37 percent empty space. *Fraser v. Kind LLC, et al.*, No. 4:16-cv-4766 (N.D. Cal.): False advertising class action for violation of California Unfair Competition Law and CLRA. Plaintiff alleges that Defendant falsely labels its snack bars as "Made in USA" when their ingredients are sourced from foreign nations. [Complaint.](#) *Ohlweiler v. Mars, Inc.*, No. 2:16-cv-6295 (C.D. Cal.): Non-functional slack fill class action alleging claims for false advertising, violation of the CLRA, breach of implied warranty, unjust enrichment, negligent misrepresentation, and fraud. Plaintiff alleges that Defendant misrepresents the quantity of candies contained in each unit of M&M's Minis tube products and that the product is consistently under-filled by 30% or more. [Complaint.](#) *Villagomez v. Free to Eat, Inc.*, No. 37-2016-28908 (Cal. Super. Ct. – San Diego Cnty.): False advertising class action alleging that Defendant manufactures, markets and sells "Free to Eat" cookies, which it advertises as "healthy," but lists "evaporated cane juice" on its ingredient list. *Kreider v. Dover Foods, Inc.*, No. 1622-CC10011 (St. Louis City Circuit Court, MO): False advertising class action alleging that Defendant misled consumers regarding the contents of its "all natural" cake, brownie, cookie, and breakfast mixes. *Organic Consumers Association v. Handsome Brook Farm LLC, et al.*, No. 16-CA-6223 (D.C. Super. Ct.): False advertising action alleging violations of the District of Columbia Consumer Procedures Protection Act. Plaintiff alleges that Defendants sold eggs labeled as coming from "pasture raised" hens, even though the hens were not raised in conditions that most consumers would consider to fit that description.

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## Food & Consumer Packaged Goods Litigation

Food & Consumer Packaged Goods Litigation shares timely insights into litigation developments, emerging arguments and challenges facing food and consumer packaged goods manufacturers and related industries.

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