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March 13, 2017

Food & Consumer Packaged Goods Litigation

### **New Filings - March 13, 2017**

*Erika McCartney v. Pacific West Ingredients LLC, et al.*, No. CGC-17-556912 (Cal. Super. Ct. – San Francisco Cnty.): Proposition 65 action alleging Defendants failed to warn consumers their Organic Merchants Co. brand cacao nibs contain cadmium. [Burton, et al. v. Inventure Foods, Inc.](#), No. 3:17-cv-0134 (S.D. Ill.): Putative class action for violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, Missouri Merchandising Practices Act, unjust enrichment, and breach of express warranty. Plaintiff alleges that Defendant misleadingly markets and sells its Boulder Canyon branded snack chips as containing "evaporated cane juice" on their ingredient lists, instead of sugar. Complaint attached. [House of Salads, LLC v. The Dependable Food Corp., et al.](#), No. 1:17-cv-0714 (E.D.N.Y.): Putative slack-fill class action for breach of express and implied warranties, unjust enrichment, negligent misrepresentation, fraud, and violations of New York's Deceptive and Unfair Trade Practice provision of the GBL, and the Fair Packaging and Labeling Act. Plaintiff alleges that Defendants are over-billing their customers by providing roughly 8% less mayonnaise than what they claim on their invoices. *Escobar v. Just Born, Inc.*, No. BC649182 (Cal. Sup. Ct. – Los Angeles Cnty.): Putative non-functional slack-fill class action for violation of California's CLRA alleging that Defendant misled consumers about the amount of candy inside its packaging. *Environmental Research Center, Inc. v. Natural Health Trends Corp., et al.*, No. RG17-848553 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging Defendants failed to warn consumers their dietary supplements contain lead. *Tamar Kaloustian v. ZB Importing, Inc.*, No. BC649678 (Cal. Super. Ct. – Los Angeles Cnty.): Proposition 65 action alleging defendant fails to warn consumers that its snack products contain lead. *Tamar Kaloustian v. Sunflower Farmers Markets, LLC*, No. BC649679 (Cal. Super. Ct. – Los Angeles Cnty.): Proposition 65 action alleging defendant fails to warn consumers that its snack products contain lead. *Shalika v. Skeeter Snacks, LLC*, No. CIVDS1702247 (Cal. Sup. Ct. – San Bernardino Cnty.): Putative class action alleging that Defendant falsely labels and markets its products as being "All Natural," when they contain synthetic and artificial ingredients. *Adam v. Wal-Mart Stores, Inc.*, No. A1700827 (Ohio Ct. of Common Pleas – Hamilton Cnty.): Putative class action for violation of Ohio's Consumer Sales Practices Act and raising a claim for fraud. Plaintiff alleges that Defendant falsely markets and sells its beer as "craft beer," when it is mass-produced and does not meet the standard definition of craft beer. *Consumer Advocacy Group v. Jayone Foods, Inc., et al.*, No. RG17-849000 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging defendant fails to warn consumers that its dried anchovies contain lead. [Brown v. Harry and David, LLC](#), No. 1:17-cv-0999 (S.D.N.Y.): Putative slack-fill class action asserting violations of New York's Deceptive and Unfair Trade Practices and False Advertising provisions of the GBL, and raising a claim for common law fraud. Plaintiff alleges that Defendant packages its 10 oz. Harry & David® Moose Munch® Gourmet Popcorn products in non-transparent cylindrical cardboard boxes that contain excessive empty space or "slack-fill." *Erika McCartney v. Freeland Foods, Inc., et al.*, No. CGC-17-557063 (Cal. Super. Ct. – San Francisco Cnty.): Proposition 65 action alleging Defendants failed to warn consumers their Go Raw chocolate contains cadmium. *Gordon v. Tootsie Roll Industries, Inc.*, No. BC649875 (Cal. Sup. Ct. – Los Angeles Cnty.): Putative non-functional slack-fill class action for violation of California's CLRA, alleging that Defendant misled consumers about the amount of candy inside its packaging. [White v. Just Born, Inc., No. 2:17-cv-4025 \(W.D. Mo.\)](#): Putative non-functional slack-fill class action for violation of Missouri's Merchandising Practices Act, and raising a claim for unjust enrichment. Plaintiff alleges that Defendant misleads consumers about the amount of Hot Tamales candy and Mike and Ike candy inside their opaque, cardboard packaging. *Erika McCartney v. Sunfood Corporation*, No. CGC-17-557098 (Cal. Super. Ct. – San Francisco Cnty.): Proposition 65 action alleging Defendant failed to warn consumers its Sunfood goji berries contain lead.

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