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New Filings – June 19, 2017

[Hensel v. Andrea's Fine Foods, Inc., et al.](#), No. 1722-CC01421 (Mo. Cir. Ct. – St. Louis Cnty.): Putative class action alleging violations of Missouri's Merchandising Practices Act and raising claims of negligent misrepresentation and unjust enrichment. Plaintiff claims that Defendants falsely marketed their pie and pie crust products as "all natural," although the products contain xanthan gum, a synthetic substance. [George v. Think.Eat.Live.Foods, LLC](#), No. 1722-CC01417 (Mo. Cir. Ct. – St. Louis Cnty.): Putative class action alleging violations of Missouri's Merchandising Practices Act and raising claims of negligent misrepresentation and unjust enrichment. Plaintiff claims that Defendant misleadingly marketed its muffin and power bar mixes as "Natural" and "Real Food," although the products contain sodium acid pyrophosphate, a synthetic substance. [Albright v. Traders Point Farm Organics, Inc.](#), No. 1722-CC01414 (Mo. Cir. Ct. – St. Louis Cnty.): Putative class action alleging violations of Missouri's Merchandising Practices Act and raising claims of negligence and unjust enrichment. Plaintiff claims Defendant misleads consumers as to the sugar content of its "Traders Point Creamery" branded milk and yogurt products, by listing evaporated cane juice as an ingredient. [Meade, et al. v. Little Caesar Pizza, et al.](#), No. 17-008275-NO (Mich. Cir. Ct. – Wayne Cnty.): Putative class action alleging fraud. Plaintiffs claim Defendants advertised a "halal" style pepperoni as a pizza topping, although the topping was actually regular pork. [Lazar, et al. v. Smart Eating Michigan LLC, et al.](#), No. 2:17-cv-11806 (E.D. Mich.): Putative class action asserting violations of Michigan's consumer protection laws and raising a claim for unjust enrichment. Plaintiffs allege that Defendants marketed their pizza toppings as "all-natural" and containing "no additives or preservatives, no artificial colors or flavors," although the toppings contain dextrose, lactic acid, sodium nitrate, and other preservatives. [Martin v. W.M. Wrigley Jr. Co.](#), No. 1716-CV12857 (Mo. Cir. Ct. – Jackson Cnty.): Putative class action alleging violations of Missouri's Merchandising Practices Act and raising claims of negligent misrepresentation and unjust enrichment. Plaintiff claims that Defendant's "Eclipse" brand of gum is sold in packages containing non-functional slack fill, which "deceives reasonable consumers as to the amount of gum contained in the product." [Petkevicius, et al. v. NBTY, Inc., et al.](#), No. 3:17-cv-1152 (S.D. Cal.): Putative class action alleging violations of California and New York's consumer protection laws, and raising a claim for breach of express warranty. Plaintiff claims that Defendants misleadingly market their "Nature's Bounty" brand of dietary supplement products containing Ginkgo Biloba as having numerous health benefits, despite the lack of scientific evidence to support those claims. **NEW PROPOSITION 65 FILINGS** [Env'tl Research Ctr. v. Robinson Pharma, Inc., et al.](#), No. RG-17862850 (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging defendants failed to warn that their nutritional supplement products contain lead. [Env'tl Research Ctr. v. Nutrawise Corp., et al.](#), No. RG17-863290: (Cal. Super. Ct. – Alameda Cnty.): Proposition 65 action alleging Defendants' dietary supplement products contain lead. **RECENT SIGNIFICANT RULINGS** [In re Trader Joe's Tuna Litig.](#), No. 2:16-cv-1371 (C.D. Cal.): The Court dismissed this consolidated putative class action, alleging violations of various states' consumer protection laws, and raising claims of fraud, breach of warranty, fraudulent misrepresentation, and unjust enrichment. Plaintiffs claimed that Trader Joe's misled consumers by selling five-ounce canned tuna products that did not meet a pressed cake weight standard established in FDA regulations, even though the labels of the products-at-issue accurately represented the net and drained weight of its contents. The Court rejected Plaintiffs' misrepresentation theory, finding Plaintiffs' state law claims were impliedly preempted, because they relied entirely on violation of a federal regulation that can only be enforced by the FDA. Because it was Plaintiffs' first dismissal, the Court granted leave to amend.

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