



Our weekly roundup aims to keep our readers up to date on recent notable rulings in the food & consumer packaged goods space.

- ***Magdalena Bojko, et al. v. Pierre Fabre USA Inc.***, No. 22-cv-06728 (N.D. Ill. – June 27, 2023): The Northern District of Illinois trimmed a lawsuit involving ***dry shampoo products*** allegedly contaminated with the carcinogen benzene. Addressing standing, the court held the plaintiffs had alleged an injury; even though they had not alleged the products they purchased contained benzene—they had at least alleged a study found the types of products they purchased included benzene. Next, the court held plaintiffs' claims based on the omission of benzene from the ingredient list were preempted because benzene is a contaminant, not an ingredient. The court also dismissed claims based on affirmative representations because the products made no representations that suggest the absence of contaminants (e.g., "safe," "lab

tested," "benzene free"). The court tossed plaintiffs' lack-of-warning claims because they had not alleged with particularity that defendant knew the product contained benzene. Lastly, the court dismissed plaintiffs' warranty claims for pleading failures. Claims that the product was "adulterated" in violation of Illinois state law and federal law were allowed to proceed. Opinion linked [here](#).

- ***Rosita English v. Danone N.A. Public Benefit Corp.***, No. 7:22-cv-05105-VB (S.D.N.Y. – June 26, 2023): The Southern District of New York dismissed with prejudice a putative class action alleging the marketing of a ***coffee creamer product*** misleads consumers into believing the product contains cream from dairy ingredients when defendant's coffee creamer purportedly contains no cream or dairy ingredients. The court held that because plaintiff bought the product in Texas, she failed to state a claim under the New York General Business Law, nor did she specify the Texas Business and Commerce Code under which she was bringing the suit. The court ruled that because plaintiff is a Texas citizen and failed to state a claim for a product she actually purchased in Texas, plaintiff did not plausibly allege injury or fraudulent intent and lacked standing to assert claims under other states' consumer protection laws. Opinion linked [here](#).

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