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Weekly Notable Ruling Roundup



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

- ***Elena Nacarino, et al. v. Kashi Company and Molly Brown, et al. v. Kellogg Company***, Nos. 22-15377 and 22-15658 (9th Cir. – August 14, 2023): The Ninth Circuit granted dismissal of two putative class actions alleging defendants misleadingly advertised the protein content contained in its ***cereal*** and ***veggie burger products***. The panel held that plaintiffs' claims failed, reasoning that the protein content claims on the front of the packages complied with federal regulations. The appellate court found that the plaintiff's state-law claims sought to impose different requirements from those prescribed by federal law, and therefore the state law claims were preempted. The Ninth Circuit wrote: "FDA regulations specifically allow manufacturers to measure protein quantity using the nitrogen method, to display that value in the Nutritional Facts Panel, and to use it to make a quantitative nutrient content claim." Opinion linked [here](#).
- ***Craig Wiggins v. Unilever U.S. Inc. dba Dove***, No. 1:21-cv-01964-PGG (S.D.N.Y. – July 26, 2023): The Southern District of New York court granted dismissal of a putative class action alleging defendant's ***cosmetic washes and shampoos*** are not "hypoallergenic" as claimed on the products' labels. The court held that plaintiff's claim failed, because they failed to plausibly allege that the chemicals they cite cause allergic reactions and eye irritation as to render the challenged labels false and misleading. Leave to amend was granted to allow plaintiff to further substantiate the allegations. Opinion linked [here](#).

## Authors

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