



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

- *Climbing Kites LLC, et al. v. State of Iowa, et al.*, No. 24-cv-00202 (S.D. Iowa July 2, 2024): The U.S. District Court for the Southern District of Iowa denied a preliminary injunction brought by two manufacturers of *beverages infused with THC derived from hemp* to prevent the enforcement of Iowa House File 2605, which imposes potency limits and labeling requirements for consumable hemp products. Plaintiffs claimed that the state law was preempted and that the court should enjoin enforcement of the law under the doctrine of primary jurisdiction until the U.S. Food and Drug Administration (FDA) issues guidance on consumable hemp products. The court concluded that the state law was not preempted because federal law does not expressly or impliedly prohibit states from regulating the amount of THC in

consumable hemp products or require specific safety warnings on their labels. The court declined to invoke the doctrine of primary jurisdiction because the FDA has not indicated that it intends to regulate consumable hemp products in the near future. Opinion can be viewed [here](#).

- ***Gillian Davidson, et al. v. Sprout Foods, Inc.***, No. 22-16656 (9th Cir. 2024): The U.S. Court of Appeals for the Ninth Circuit allowed certain claims to survive in a putative class action concerning nutrient claims on ***baby food*** labeling. Plaintiffs-appellants argued that representations such as “3g of Protein, 5g of Fiber and 300mg Omega-3 from Chia ALA” implied that the products were healthy for children when they also contained certain levels of “free sugar content.” The panel concluded that federal law allows states to adopt identical standards for food labeling and does not limit how the states can enforce those standards. The panel reversed dismissal of claims brought under California’s Sherman Law and an unjust enrichment theory. However, the appeals court agreed with the district court that the consumers did not allege enough facts to support their fraud-based claims, concluding these claims had to meet a higher standard of pleading and that the consumers did not explain why defendant’s products were harmful or how they were misled by the labels. The appeals court affirmed the district court’s dismissal of fraud-based claims. Opinion can be viewed [here](#).

If you are a food or CPG company contact interested in receiving our daily email update on filings and notable rulings, please reach out to Kellie Hale with your request to be added: [khale@perkinscoie.com](mailto:khale@perkinscoie.com).

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