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Food & Consumer Packaged Goods Litigation

Court Grants in Part and Denies in Part Motion to Dismiss in False Advertising Suit Involving Tortillas

Guttmann v. La Tapatia Tortilleria, Inc., 3:15-cv-2042 (N.D. Cal.): In a putative class action alleging claims under California's UCL, FAL, and CLRA, as well as breaches of express and implied warranty, claiming that Defendant misrepresents its tortilla products as having "0g Trans Fat," among other alleged "health" claims and suggesting that the use of PHOs is unfair, the Court granted a motion to dismiss the consumer protection claims on standing grounds. The Court held that actual reliance is an element of standing under each of California's consumer protection statutes and that Plaintiff could not possibly have relied upon the "0g Trans Fat" claims because of his prior PHO litigation history. The Court denied the motion as to the warranty claims, although expressing "skepticism of the ultimate legal viability" of these claims, because Article III standing does not require actual reliance, and Plaintiff met the other required elements. [Order](#).

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