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November 14, 2016

Food & Consumer Packaged Goods Litigation

## **Decerbo v. Melitta United States of America Inc.**

*Decerbo v. Melitta United States of America Inc.*, No. 8:16-cv-00850 (M.D. Fl.): In this putative class action alleging Defendant deceptively mislabeled its flavored coffee products by omitting federally- and state-mandated language about artificial flavorings on its "French Vanilla" and "Hazelnut Creme" flavored coffees, the Court granted in part Defendant's motion to dismiss. Defendant moved to dismiss Plaintiffs' claims on the grounds that the Plaintiff's consumer fraud claims fail to allege any unlawful conduct by Defendant and for failure to allege an ascertainable loss, and argued that its labels expressly identify that its flavored coffee products are made with "Natural and Artificial Flavors." The Court held that Plaintiff has standing to pursue claims for monetary damages and prospective injunctive relief only with respect to products she has actually purchased from the Defendant. The Court also held that Plaintiff had failed to state a claim based on failure to attach or incorporate clear, complete and accurate images or descriptions of the allegedly offending product labeling, which made it impossible for the Court to determine whether the representations at issue could plausibly violate state consumer fraud and warranty laws.

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