



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

- ***Terri Little v. Naturestar North America, LLC, et al.***, No. 1:22-cv-00232-JLT-EPG (E.D. Cal. – November 29, 2023): The U.S. District Court for the Eastern District of California dismissed a putative class action challenging the labeling and marketing of defendants' single-use tableware and food storage bags as "compostable." Specifically, the plaintiff alleged that the products contained significant amounts of perfluoroalkyl and polyfluoroalkyl substances (PFAS), which are not compostable. The court concluded sua sponte that it lacked subject matter jurisdiction because plaintiff failed to adequately allege diversity of citizenship and failed to allege that there is a sufficient amount in controversy for Class Action Fairness Act (CAFA) jurisdiction. The court dismissed the complaint with leave to amend. Opinion linked [here](#).

- ***Charlene Vazquez v. Walmart, Inc.***, No. 1:22-cv-06215-JPO (S.D.N.Y. – November 29, 2023): The U.S. District Court for the Southern District of New York dismissed a putative class action challenging the labeling of defendant's Oats & Honey Crunchy Granola Bars. Specifically, the plaintiff alleged that the representations on the product's labeling were misleading because the product contains a de minimis amount of honey. The court found that contrary to the plaintiff's claim, a reasonable consumer would not expect that the product consists of "only oats and honey or a limited number of ingredients beyond these two," but instead a reasonable consumer would likely understand the packaging's reference to "honey" as a reference to the product's flavor. The court concluded that because the plaintiff's allegations do not support a claim of material misrepresentation, none of the causes of action survived the motion to dismiss. Opinion linked [here](#).
- ***Lynn Zimmerman, et al. v. L'Oreal USA Inc.***, No. 22-cv-07609-HSG (N.D. Cal. – December 8, 2023): The U.S. District Court for the Northern District of California trimmed a putative class action challenging purported sunscreen benefit representations on some of the defendant's cosmetic products. Specifically, the plaintiffs alleged that the representations such as "Up to 24HR Breathable Texture," "Up to 24H Fresh Wear," and "Sunscreen Broad Spectrum SPF 25" would lead a reasonable consumer to believe that the product provided 24 hours of sunscreen protection when the products' sun protection factor (SPF) lasts only two hours. The court noted that the back label instructions directed to "reapply at least every 2 hours for sunscreen use," but the instructions on at least one of the challenged products were printed underneath a peel-back sticker. The court could not conclude as a matter of law that a reasonable consumer would peel back the sticker on the label in the store prior to purchase, and the court allowed the claim to proceed as to those products. By contrast, where the back label instructions to "reapply at least every 2 hours for sunscreen use" were located directly on the back of the product visible to the consumer prior to purchase, the court concluded the challenged representations were not likely to mislead a reasonable consumer. Opinion linked [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.

Authors



[David T. Biderman](#)

Partner

DBiderman@perkinscoie.com [310.788.3220](tel:310.788.3220)



Thomas (Tommy) Tobin

Counsel

TTobin@perkinscoie.com [206.359.3157](tel:206.359.3157)

Explore more in

[Food & Consumer Packaged Goods Litigation](#) [Food & Beverage](#)

Blog series

Food & Consumer Packaged Goods Litigation

Food & Consumer Packaged Goods Litigation shares timely insights into litigation developments, emerging arguments and challenges facing food and consumer packaged goods manufacturers and related industries.

[View the blog](#)