



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

- ***Gracemarie Venticinque v. Back to Nature Foods Company, LLC***, No. 23-1236-cv (2d Cir. 2024): In an unpublished opinion, the U.S. Court of Appeals for the Second Circuit reversed a district court’s dismissal of a putative class action challenging the labeling of defendant’s ***Stoneground Wheat Crackers***. Plaintiff-appellant alleged that a representation that the product contained “organic whole wheat flour” was deceptive and misleading as the predominant flour in the crackers is organic unbleached enriched wheat flour. The appellate panel concluded that its prior decision in *Mantikas v. Kellogg Co.* controlled the outcome of this “strikingly similar” matter. As in *Mantikas*, the panel held that a reasonable consumer should not be expected to consult the Nutrition Facts label to correct misleading information on the front

label. Opinion can be viewed [here](#).

- ***Summer Whiteside v. Kimberly Clark Corp.***, No. 23-55581 (9th Cir. 2024): The Ninth Circuit partially vacated the district court’s dismissal of a putative class action alleging that labeling of defendant’s ***baby wipes*** with the statement “plant-based wipes” is deceptive and misleading as the product contains synthetic ingredients. Specifically, the court reviewed two sets of products: one with an asterisk and qualifying statements and one without this language. For both sets of products, the back panel provided a list of the product’s ingredients. The appellate panel concluded that the products without the asterisk could be interpreted by a reasonable consumer as representing that the products do not contain synthetic ingredients, and it reversed the district court’s dismissal as to these products. By contrast, the panel affirmed the dismissal of products with the asterisk and qualifying statements, reasoning that these statements taken in context with the product’s back label would not plausibly be misleading to a reasonable consumer. 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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