

Food Litigation Newsletter



THIS NEWSLETTER AIMS to keep those in the food industry up to speed on developments in food labeling and nutritional content litigation.

ABOUT

Perkins Coie's Food Litigation Group defends packaged food companies in cases throughout the country.

Please visit our website at perkinscoie.com/foodlitnews for more information.

RECENT SIGNIFICANT RULINGS

Court Grants Preliminary Approval of Kashi All Natural Settlement

Eggnatz v. Kashi Co., No. 12-cv-21678 (S.D. Fla.): The Court preliminarily approved a settlement in this a putative class alleging that Kashi products were mislabeled as "all natural" and containing "nothing artificial" despite containing GMOs. The terms of the agreement are as follows:

Kashi will reimburse class members with proof of purchase at a rate of \$0.55 per unit, with no limit on the number of units for which class member can be reimbursed. For class members with no proof of purchase, reimbursement will be limited to 50 units (or \$27.50). Kashi also agrees to provide Plaintiffs' counsel with compliance information regarding Non-GMO Verified label designations for a period of three years, and will remove the phrases "All Natural," "100% Natural," and "Nothing Artificial" from labels on products containing any of the challenged ingredients. Kashi agrees that the total amount available to the class will be at least \$2 million (but not more than \$3.99 million), and Kashi will not oppose class counsel's request for attorney's fees of up to \$1.5 million. *Order not currently available.*

NEW COMPLAINTS

Jung v. McCormick & Co., Inc., No. 1:15-cv-01448 (D.D.C.): putative class action alleging violations of the District of Columbia's Consumer Protection Procedures Act and unjust enrichment on claims that Defendant is unlawfully and unjustifiably slack filling its ground black pepper which misleads consumers into thinking the tins contain more pepper.

[Complaint.](#)

Bittle v. McCormick & Co., Inc., No. 3:15-cv-00989 (S.D. Ill.): putative class action alleging violations of Illinois' Consumer Fraud and Deceptive Business Practices Act, fraudulent concealment, unjust enrichment and individual subclasses for each other states' unfair competition statutes on claims that Defendant is unlawfully and unjustifiably slack filling its ground black pepper which misleads consumers into thinking the tins contain more pepper. [Complaint.](#)

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CONTACTS

DAVID BIDERMAN

Partner

Los Angeles and San Francisco
+1.310.788.3220

CHARLES SIPOS

Partner

Seattle
+1.206.359.3983

BREENA ROOS

Counsel

Seattle
+1.206.359.6225

Consumer Advocacy Group, Inc. v. CTC Food Int'l, Inc., et al., No. RG15784625 (Cal. Super. Ct. – Alameda Cnty): Proposition 65 complaint alleging that Defendants' seaweed products contain lead and cadmium. [Complaint.](#)

Sprenger v. Church & Dwight Co., Inc., No. 3:15-cv-01991 (S.D. Cal.): putative class action alleging violations of California's CLRA, Bus. & Prof. Code 17533.7 and UCL on claims that Defendant's health supplements deceive consumers because they are labeled as "Made In The USA" when they include foreign ingredients. [Complaint.](#)

As You Sow v. Icrest Int'l LLC, No. RG15-786176 (Alameda Super.): Proposition 65 complaint alleging that Defendant does not warn consumers that its sushi contains cadmium. [Complaint.](#)

Schott v. BLK Brands LLC, No. 15-21404CA01 (Miami-Dade Cty Circuit Ct.): Putative class action alleging a single unjust enrichment claim, alleging that Defendants misrepresent their alkaline bottled water products as having health benefits, such as increasing hydration and promoting alkaline pH balance, that they do not have. [Complaint.](#)

Schott v. Lenny & Larry's Inc., No. 15-21402CA01 (Miami-Dade Cty Circuit Ct.): Putative class action alleging a single unjust enrichment claim, alleging that Defendant misrepresents its cookie and other baked goods products as being "vegan" and "all natural," when in fact they contain artificial, synthetic ingredients such as thiamine mononitrate and riboflavin, and are produced in a facility that also processes milk and eggs. [Complaint.](#)