

What's Brewing in Food & Beverage Litigation: Labeling Claims, Class Actions and What's Next?

Holland & Knight Food and Beverage Litigation Team

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Overview of Issues

- Multifunctional Ingredients
- Ascorbic Acid
- Malic Acid
- Other Synthetics
- Embedded (sub)Ingredients
- Serving Size Challenge
- False Origin
- Economic Harm
- Objective Misleading Standard
- Labeling Ambiguity
- Failure to Rely
- Federal Preemption

Multifunctional Ingredients

- “Multifunctional food ingredients . . . are designed to perform multiple functions at once, making them useful for food manufacturers looking to optimize processes and improve product characteristics. For example, a single multifunctional ingredient may function as an emulsifier, stabilizer, and preservative, assisting in the maintenance of product consistency, prolonging freshness, and preventing ingredient separation. . . . The use of multifunctional ingredients is growing as the food industry focuses on clean labels, reducing the number of additives without compromising quality. By minimizing the need for multiple additives, these ingredients help in creating simpler, more natural food products, meeting consumer demands for healthier and more transparent food options.”
 - Spherical Insights, *Global Multifunctional Food Ingredients Market Insights*, Aug. 2024
 - <https://www.sphericalinsights.com/reports/multifunctional-food-ingredients-market> (used with permission)

Ascorbic Acid

- Antioxidant, acidulent/buffer, fortifier (Vitamin C).
- Is the accuracy of the label claim determined by the intended function; e.g., as a source of Vitamin C, or the mere presence of an ingredient that can act as a preservative?

Smith v. Gerber Prods. Co., Civil Act No. 23-9834 (S.D. N.Y.)

- Plaintiff challenged the claim there were “no preservatives in defendant’s freeze-dried fruit and vegetable snacks.”
- Raises the question whether an ingredient must act like a preservative to be a preservative or whether the mere presence of an ingredient that can function as a preservative renders actionable a “preservative free” claim.



Malic Acid

- Flavor enhancer, acidulent.
- Claims based on alleged misrepresentation of functional category.
- Malic acid (originally isolated from juice of unripe apples) is tart, providing a tang or bite in sweets like hard candies.
- If malic acid is not natural (more on that later), does the accuracy of the label claim depend on whether it is acting as a flavor or a flavor enhancer?
- Does the hypothetical reasonable consumer distinguish between ingredients that contribute to the overall flavor profile but are not themselves usually thought of as a flavoring ingredient?

Malic Acid

Trammell v. KLN Enter., Inc., 176 F. 4th 629 (9th Cir. 2026).

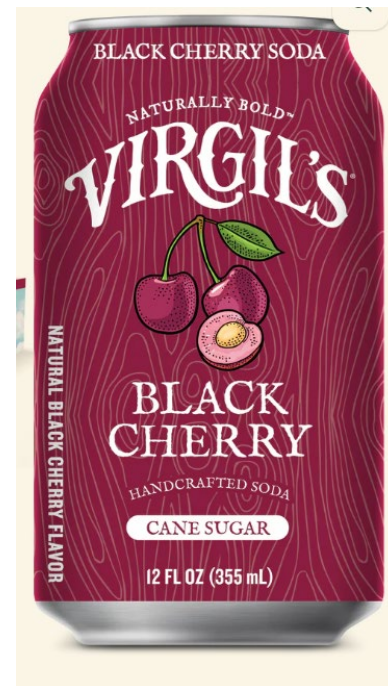
- Consumer filed a putative class action against licorice manufacturer for alleged misrepresentation that its berry snacks contained no artificial flavors.
- “Pleading the presence of an artificial flavor in the product—namely, artificial DL malic acid, as disclosed by laboratory tests ... is enough to satisfy the reasonable-consumer standard on a motion to dismiss.”
- Defendant argues that under FDA regulations “‘malic acid’ is a mere ‘flavor enhancer,’ not a ‘flavoring agent,’” but “the question is what a reasonable consumer expects, not what a regulatory expert in the food-and-beverage industry knows. And here, *Trammell* has plausibly alleged that a reasonable consumer expects the Product to be free of artificial flavors and that it would be misleading to that consumer if the Product contained an artificial petroleum substrate as a flavoring—whether as a flavor itself or as a flavor enhancement.”



Malic Acid

Jones v. Reed's, Inc., 2026 WL 622724 (N.D. Cal. Mar. 5, 2026).

- Plaintiff alleged that malic acid amounts to artificial flavoring that must be shown as such on a label.
- Defendant argued that malic acid occurs naturally in fruit and that plaintiff failed to allege that the malic acid in these products was artificial. But the court found that plaintiff alleged enough because the starting material from which it is made is petroleum-derived fumaric acid.
- Defendant argued that plaintiff failed to allege that malic acid functioned as flavor rather than a pH control agent. But the court ruled this issue cannot be decided at the motion to dismiss stage.
- Motion to dismiss denied except as relates to claim for injunctive relief.



Other Synthetics

Gradney v. Polar Beverages, 797 F. Supp.3d 1016 (N.D. Cal. 2025).

Gradney v. Polar Beverages, 2026 WL 1709214 (N.D. Cal. June 12, 2026).

- Buyers brought putative class action against manufacturer of flavored seltzer water labeled as “100% Natural,” alleging that it contained synthetic ingredients.
- Buyers allege presence of ocimene quintoxide, a known synthetic, and a series of terpineols, as well as radiocarbon testing showing that it was 9-13% fossil carbons.
- Court held it is a question of fact whether a reasonable consumer would find the label false or misleading if the product contains an ingredient derived from a synthetic source even if the chemical structure or molecular formula is identical.
- Motion to dismiss denied.



Embedded (sub)ingredients

- **Chocolate:** One or more ingredients derived from the cacao plant; e.g., cocoa mass and cocoa butter, plus sweetener, milk (optional), emulsifier (optional), and vanilla (optional).
 - Lecithin is naturally occurring, but is it “natural?”
 - Industrial processing
 - GMO soybeans
- **Breadcrumbs:** Wheat flour, water, salt, baking soda, spices.
- **Carrageenan and sodium phosphate:** Included in a spice mix. Disclosed on label’s list of ingredients.
 - What function are they serving?
 - Are they necessarily spices (or flavors) because they are components of the spice mix?

Embedded (sub)ingredients

- **Baking powder:** Base, acid(s) and desiccant.
 - Base is usually baking soda a/k/a sodium bicarbonate.
 - Acids; e.g., cream of tartar (largely obsolete), metal-acid salts.
 - Desiccant; e.g., corn starch, potato starch.
 - Aluminum-free baking powders use phosphate salts.
- Common choice is sodium acid pyrophosphate (SAPP).
 - SAPP is expressly allowed in “organic” foods, see 7 C.F.R. s. 205-605(b)(30) (“synthetics allowed”).
- Are foods permissibly labeled “organic” necessarily “natural?”

Serving Size Challenge

Harvey v. WK Kellogg Co., 2025 WL 3706665 (E.D. N.Y. Dec. 22, 2025).

- Plaintiff contends that he purchased the 16.2-ounce box of cereal in “reasonable reliance” on the label’s advertising that “1 1/3 cups of the cereal is equivalent to 39 grams of the cereal” and that the cereal “contains about 12 servings per container,” both of which Plaintiff avers are “erroneously stated” metrics.
- Based on plaintiff’s testing, a 1 1/3 cup serving of the product weighs over 45 grams, not the 39 grams claimed on the NFP of the Product’s label and, thus, 13.68% fewer servings than promised.
- Court ruled that Plaintiff’s claims are not preempted because the allegations are that the product’s labels do not comply with the FDCA.



False Origin

Graham v. Andros Foods USA, Inc., 2026 WL 1494092 (C.D. Cal. May 26, 2026).

- Plaintiff alleges that the product misleads consumers to believe it is made exclusively in France when some product was manufactured in Belgium.
- Key elements: Brand name “Bonne Maman” (French for “good mommy”) and the Vichy red/white print. 59% of survey respondents thought it was made in France.
- Reasonable consumer would not be misled. French is spoken in Belgium. Back of label reads “Produced by Materne Conflux S.A. – I Alle Des Cerisiers B-5151-Floreffe-Belgium.”
- Motion to dismiss violations of California consumer protection laws, breach of warranty and misrepresentation granted.



Economic Harm

Wysocki v. Chobani, Inc., 2026 WL 926713 (S.D. Cal. Apr. 6, 2026).

- Consumer sufficiently alleged economic harm for Article III standing by claiming she would not have purchased product or would not have purchased it on the same terms if she knew the true facts.
- Consumer plausibly alleged that yogurt product label reading “Only Natural Ingredients” was misleading because third party testing confirmed yogurt contained trace amounts of dibutyl phthalate (DBP), although orders of magnitude below Proposition 65’s warning threshold.
- A plaintiff does not need to allege the presence of the alleged harmful substance, at a particular level, to support a misrepresentation claim at the motion to dismiss stage.
- Partial dismissal granted.



Economic Harm Objective Misleading Standard

Van Wagner v. Wellness Pet Co., Inc., 2026 WL 621830 (S.D. N.Y. Mar. 5, 2026).

- Pet food product label includes the following:
“NATURAL FOOD FOR ADULT CATS,” and in smaller font below, “with added vitamins, minerals & taurine.”
- It was enough for standing that Plaintiff specifically alleges that because of defendants’ “natural” labeling, she believed something about the Product that was not true, and paid more than she would have or should have otherwise.
- Plaintiff’s interpretation that “natural” applies both to “food” and to the “added vitamins, minerals and taurine” is a “strained reading of the advertisements.”
- Plaintiff’s claim is “patently implausible” and “unrealistic.”
- Motion to dismiss granted.



Objective Misleading Standard

Zinger v. Bai Brands, LLC., 2026 WL 849760 (S.D. N.Y. Mar. 27, 2026).

- The New York Court of Appeals has adopted an objective definition of “misleading,” under which the alleged act must be “likely to mislead a reasonable consumer acting reasonably under the circumstances.”
- Bai Brands sells flavored waters as containing “No Artificial Sweeteners.” But the waters also contain the sweetener erythritol. It is derived by fermenting corn or sugar but can be found in certain fruits including grapes and pears.
- Plaintiff failed to provide evidence of what definition a reasonable consumer would ascribe to “artificial.”
- Summary judgment for defendant.



Labeling Ambiguity

Bryan v. Del Monte Foods, Inc., 2024 WL 4866952 (9th Cir. Nov. 22, 2024).

- A front label is ambiguous if “reasonable consumers would necessarily require more information before they could reasonably conclude” that the front label makes a specific factual representation.
- Defendant Del Monte Foods, Inc., labels its fruit cups using the phrase “fruit naturals®” together with the picture and name of the fruit in the cups, followed by the phrase “in extra light syrup.”
- “Naturals” is a noun rather than adjective. The presence of the registered trademark symbol after “fruit naturals” suggests that the phrase is just the name of the product.
- The reasonable consumer would turn to the back label for clarification. The back label accurately and clearly discloses several synthetic ingredients.
- Dismissal of case affirmed.



Labeling Ambiguity

Rich v. Mott's LLP, 2026 WL 1831557 (D. Del. June 25, 2026).

- Plaintiffs allege that marketing products as “100% Lemon Juice” or “100% Lime Juice” with the phrase “from Concentrate with Added Ingredients” and “Natural Strength” despite containing artificial preservatives sodium benzoate and sodium metabisulfite was misleading.
- Plaintiffs plausibly alleged the front label is unambiguous yet deceptive. The phrase “With Added Ingredients” is neutral and does not clarify the presence of artificial preservatives.
- Court declined the defendant’s argument that consumers would consult the ingredient list.
- Court granted defendant’s motion to dismiss plaintiffs’ claim for injunctive relief but denied it as to all other claims including fraud.



Failure to Rely

Iglesias v. Arizona Beverages USA, LLC, 2025 WL 2714143 (N.D. Cal. Aug. 14, 2025).

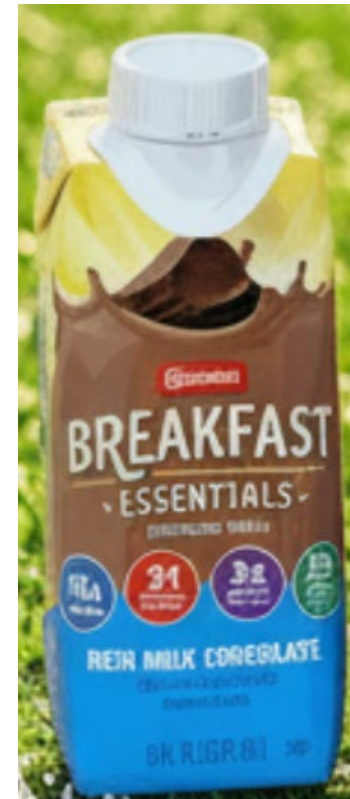
- Plaintiff argued that Arizona beverages are deceptive due, in part, to their “All Natural,” “100% Natural,” or “100% All Natural” labels.
- But plaintiff failed to show actual reliance on the label because he continued to purchase Arizona beverages after engaging counsel, filing suit, and sending a demand letter.
- Plaintiff’s “continued purchases fatally undermine his ability to prove that ‘absent such representation, he would not, in all reasonable probability, have entered into the contract or other transaction.’”
- Summary judgment for defendant.



Federal Preemption

Testori v. Nestlé Health Sci. US Holdings, Inc., 2026 WL 1282540 (E.D. Cal. May 11, 2026).

- Plaintiff alleged that the front label's emphasis on protein and “nutritional drink” claims misled consumers by omitting the product's high sugar content, which was disclosed only on the back label.
- Nutrient claims based on sugar content are preempted because FDA does not recognize sugar as a disqualifying nutrient preventing health or nutrient claims.
- Motion to dismiss granted based on federal preemption and failure to state a claim under the California consumer protection laws.



Food &
Beverage
Litigation Team



Meet Our Presenters



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Questions?



A low-angle, upward-looking perspective of a modern skyscraper with a glass facade. The building's structure is composed of a grid of dark metal frames holding large glass panels. The sky is a clear, vibrant blue with a few wispy white clouds. The text "Holland & Knight" is centered in a white, classic serif font.

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