

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF CALIFORNIA

Leah Testone v. Go Macro, LLC

No. 25-cv-1743-RSH-KSC, United States District Court for the Southern District of California (December 17, 2025)

SUMMARY

The United States District Court for the Southern District of California grants Go Macro, LLC’s motion to dismiss a putative consumer class action challenging the labeling of its snack and protein bars as healthy. The court holds that the plaintiff’s claims are not shown to be preempted by the Nutrition Labeling and Education Act but fail to satisfy Federal Rule of Civil Procedure 9(b)’s heightened pleading standard. The complaint is dismissed with leave to amend within fourteen days.

CASE DETAILS

COURT	United States District Court for the Southern District of California
WRITING FOR THE COURT	Robert S. Huie
JURISDICTION	United States District Court for the Southern District of California
DECIDED	December 17, 2025
DOCKET	25-cv-1743-RSH-KSC
DISPOSITION	other
PROCEDURAL POSTURE	Defendant moved under Federal Rule of Civil Procedure 12(b)(6) to dismiss a putative nationwide and California consumer class action challenging allegedly misleading health-related labeling on snack and protein bars.
STANDARD OF REVIEW	On a Rule 12(b)(6) motion, the court tests the legal sufficiency of the claims, accepts well-pleaded factual allegations as true, construes them in the plaintiff’s favor, disregards conclusory allegations and unwarranted inferences, and determines whether the allegations plausibly state an entitlement to relief. Fraud-based claims must also satisfy Rule 9(b)’s particularity requirement.
PRECEDENTIAL VALUE	Unpublished district court order; persuasive value only.
PARTIES	Leah Testone v. Go Macro, LLC

TOPICS

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QUESTIONS PRESENTED

1. Whether the claims were preempted by the Nutrition Labeling and Education Act, 21 U.S.C. § 343-1(a)(2).
2. Whether the claims, which were based on alleged misrepresentations concerning the healthfulness of Defendant's products, were subject to and satisfied Federal Rule of Civil Procedure 9(b).
3. Whether Plaintiff had standing to pursue her individual claims and whether the court should resolve at the pleading stage her standing to seek injunctive relief or represent purchasers of different products or residents of different states.

HOLDINGS

1. The court declined to find Plaintiff's claims preempted under 21 U.S.C. § 343-1(a)(2) because Defendant did not show that the claims imposed a nonidentical state-law labeling requirement of the type covered by the statutory provision.
2. Plaintiff's claims sounded in fraud and were subject to Rule 9(b), but the Complaint failed to plead the alleged misrepresentations with the required particularity.
3. Plaintiff had standing to assert her own claims based on products she purchased in reliance on Defendant's alleged misrepresentations, but the court declined to decide at that stage whether she could pursue injunctive relief or represent purchasers of different products or residents of different states.

KEY QUOTATIONS

“The Court concludes that Plaintiff’s claims are subject to dismissal for failing to satisfy Rule 9(b), but grants Plaintiff the opportunity to amend her pleading to satisfy Rule 9(b) and address the deficiencies identified in previous paragraph.” (at 5)

“For the foregoing reasons, Defendant’s motion to dismiss is GRANTED. The Court DISMISSES the Complaint with leave to amend.” (at 9)

FACTUAL BACKGROUND

Plaintiff alleged that Go Macro deceptively labeled more than twenty varieties of snack and protein bars as healthy despite their added sugar content. The challenged representations included statements such as "Finally—a bar that's both delicious and good for you!" and other health and wellness slogans, as well as a heart drawing. Plaintiff alleged that she purchased certain bars from retail stores and online retailers, relied on the representations, and suffered economic harm because she would not have purchased the products had she known the statements were allegedly false or misleading.

PROCEDURAL HISTORY

Plaintiff filed the putative class action on July 8, 2025. Defendant moved to dismiss on September 9, 2025. The court granted the motion, dismissed the Complaint for failure to satisfy Federal Rule of Civil Procedure 9(b), and granted Plaintiff fourteen days to amend in compliance with Civil Local Rule 15.1.

DISPOSITION

other

CASES CITED

- Navarro v. Block, 250 F.3d 729, 732 (9th Cir. 2001)
- Bell Atl. Corp. v. Twombly, 550 U.S. 544, 555, 570 (2007)
- Ashcroft v. Iqbal, 556 U.S. 662, 678-79 (2009)
- Starr v. Baca, 652 F.3d 1202, 1216 (9th Cir. 2011)
- Cahill v. Liberty Mut. Ins. Co., 80 F.3d 336, 337-38 (9th Cir. 1996)
- Nat'l Wildlife Fed'n v. Espy, 45 F.3d 1337, 1340 (9th Cir. 1995)
- Telesaurus VPC, LLC v. Power, 623 F.3d 998, 1003 (9th Cir. 2010)
- Pareto v. FDIC, 139 F.3d 696, 699 (9th Cir. 1998)
- In re Syntex Corp. Sec. Litig., 95 F.3d 922, 926 (9th Cir. 1996)
- Shroyer v. New Cingular Wireless Servs., Inc., 622 F.3d 1035, 1041 (9th Cir. 2010)
- Swartz v. KPMG LLP, 476 F.3d 756, 764 (9th Cir. 2007)
- Edwards v. Marin Park, Inc., 356 F.3d 1058, 1066 (9th Cir. 2004)
- Vess v. Ciba-Geigy Corp. USA, 317 F.3d 1097, 1106-07 (9th Cir. 2003)
- Cooper v. Pickett, 137 F.3d 616, 627 (9th Cir. 1997)
- Kearns v. Ford Motor Co., 567 F.3d 1120, 1124-25 (9th Cir. 2009)
- Davidson v. Kimberly–Clark Corp., 889 F.3d 956, 964 (9th Cir. 2018)
- LeGrand v. Abbott Labs., 655 F. Supp. 3d 871, 888 (N.D. Cal. 2023)
- Carter v. Rasier-CA, LLC, No. 17-CV-00003-HSG, 2017 WL 4098858, at *4 (N.D. Cal. Sept. 15, 2017), aff'd, 724 F. App'x 586 (9th Cir. 2018)
- Arabian v. Organic Candy Factory, No. 2:17-cv-05410-ODW-PLA, 2018 WL 1406608, at *3 (C.D. Cal. Mar. 19, 2018)
- Kokkonen v. Guardian Life Ins. Co. of Am., 511 U.S. 375, 377 (1994)
- Lujan v. Defenders of Wildlife, 504 U.S. 555, 560 (1992)
- Spokeo, Inc. v. Robins, 578 U.S. 330, 338-39 (2016)
- Ellis v. Costco Wholesale Corp., 657 F.3d 970, 978 (9th Cir. 2011)
- Melendres v. Arpaio, 784 F.3d 1254, 1261-62 (9th Cir. 2015)

