

CLIENT SUCCESS



## Winston Negotiates Very Favorable Resolution of Consumer Class Actions Involving Multi-function Ingredient Labeling Claims for T. Marzetti

MAY 1, 2023

We represented **Lancaster Colony Corp. and its subsidiary T. Marzetti Co.** in two nearly identical consumer class actions, both of which alleged that the use of citric acid in Marzetti's Texas Toast products rendered the statement "no preservatives" on the front of the packaging false and/or misleading, regardless of whether the ingredient is included for preservative purposes. We moved for dismissal in both cases and after extensive negotiations and mediation, we settled for a *de minimis* amount in May 2023.

These litigations were very important in the false advertising arena because they involved an issue that has been at the heart of labeling disputes for years—if an ingredient inherently features more than one function (i.e., taste, preservation, health benefits, etc.), but is included in a product for only one purpose, is it misleading to omit the other features from a label?

While citric acid inherently has more than one function—flavor enhancement and preservation—our client's use of citric acid in the Texas Toast flash-frozen product is intended for flavor enhancement, not preservation.

### IMPACT

These matters were hugely significant for our client as Texas Toast is one of its top-selling products in terms of annual sales. While the matters settled, the fact that they settled for a *de minimis* amount may chill plaintiffs' lawyers from filing multi-function ingredient-related litigations.

***Olmos, et al. v. T. Marzetti Co.*** (Case. No. 2:21-cv-03159-JAK-MRW, U.S. District Court for the Central District of California); and ***Simeone, et al. v. T. Marzetti Co.*** (Case No. 7:21-cv-09111-KMK, U.S. District Court for the Southern District of New York)

1 Min Read

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## Related Capabilities

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Commercial Litigation & Disputes

Advertising Litigation

## Related Professionals

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