



# HERBERT SMITH FREEHILLS REPRESENTS ACH IN CONSUMER CLASS ACTION

17 June 2016 | New York  
News

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Herbert Smith Freehills successfully advised ACH Food Co. in a consumer class action alleging that “all natural” labels on bottles of Weber barbeque sauce were misleading.

Massachusetts federal judge granted ACH’s motion to dismiss the case after determining that the company’s tendering of a \$75 check to plaintiff Joseph Demmler didn’t represent a settlement offer. The plaintiff purportedly rejected the check because ACH offered relief to only Demmler and not the entire class. ACH maintained that plaintiff’s rejection of the \$75 check mooted the case.

“Today’s decision sets significant precedent for consumer class actions going forward,” said New York partner David Wallace. “The outcome will provide defendants in similar cases a new tool to help resolve these matters on the front end by tendering relief in response to the pre-suit demand letter, which is typically mandated by state consumer protection statutes -- for purposes of encouraging extra-judicial resolution of disputes of this sort as a policy matter.”

The Herbert Smith Freehills team was led by partner David Wallace. The case is *Demmler v. ACH Food Companies, Inc.*, No. 1:15-cv-13556-LTS (D. Mass. June 9, 2016).

**About Herbert Smith Freehills**

Operating from over 26 offices across Asia Pacific, EMEA and North America, Herbert Smith Freehills is at the heart of the new global business landscape providing premium quality, full-service legal advice. We provide many of the world's most important organisations with access to market-leading dispute resolution, projects and transactional legal advice, combined with expertise in a number of global industry sectors, including energy, natural resources, infrastructure, technology and financial services.

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