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Legal Alerts

The Allulose "Zero Sugar" Ruling and Why It Matters for the Food and Beverage Industry

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On July 27, 2026, the Seventh Circuit Court of Appeals revived a consumer class action against Chobani, holding that allulose counts as a "sugar" under FDA labeling rules. The case is *Franco v. Chobani, LLC,* No. 25-2087, and if you're a brand selling products with allulose, an investor in one, a retailer stocking them or an agency helping market them, it matters to you.

The Dispute Behind the "Zero Sugar" Claim

Allulose is a naturally occurring sweetener that has minimal calories. Studies have shown it doesn't raise blood sugar and doesn't cause cavities. In 2020, the FDA told the industry it wouldn't count allulose as sugar on Nutrition Facts panels while it studied the issue further. Chobani relied on that guidance to develop and market its "Zero Sugar" yogurt, and Chobani also asserts that the FDA specifically reviewed and approved its "Zero Sugar" labeling in connection with a 2023 marketing permit.

Two consumers sued, alleging the "zero sugar" label was misleading, because the product actually contains four grams of allulose per serving, which the consumers claim is a "sugar," and is well above the 0.5-gram federal threshold for "sugar free" claims.

Why the Court Revived the Case

The trial court initially threw out the lawsuit, reasoning that the FDA's 2020 guidance authorized Chobani's label and that federal law blocked consumers from bringing state-law claims challenging it.

The Seventh Circuit unanimously reversed. The court concluded that the FDA regulation defining "total sugars" covers all monosaccharides, and allulose is a monosaccharide. The FDA itself surprisingly filed a brief in the case agreeing with that reading. The court also held that the 2020 guidance was just a decision not to enforce, rather than a ruling that allulose labels were lawful. That distinction is critical; it means the guidance doesn't shield companies from consumer lawsuits under state law.

Where the Ruling Leaves the Food and Beverage Industry

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The case isn't over. The lawsuit goes back to the trial court for reconsideration, and Chobani still has arguments to make, including a theory that the FDA's approval of its specific label should block the claims.

But the Seventh Circuit's reasoning applies well beyond Chobani, and here's what anyone in the allulose-product space should be thinking about right now:

1. For any brand selling a product labeled "zero sugar" or "sugar free" that contains allulose, the FDA's 2020 guidance alone won't protect against a consumer lawsuit. That guidance said the FDA wouldn't enforce; it didn't say the label was legal. The court drew a sharp line between the two.
2. The FDA itself took the position in this litigation that allulose remains a "sugar" under the existing regulation, notwithstanding its 2020 enforcement guidance. The agency filed a brief in this case arguing that allulose is a sugar under its own regulation, effectively contradicting the 2020 guidance. Nobody in this space should assume the FDA's enforcement posture will stay where it was.
3. Because the court found that allulose is a sugar under the federal rules, federal law doesn't block state consumer protection claims. That opens the door to class actions in multiple states.

This also isn't just about allulose. The court's reasoning turned on the FDA regulation defining "total sugars" covering all monosaccharides. Tagatose, another rare sugar gaining traction as a low-calorie sweetener, is also a monosaccharide. The FDA granted tagatose the same type of enforcement-discretion treatment in late 2025, telling manufacturers they could exclude it from "Total Sugars" and "Added Sugars" on the label. That means any product using tagatose under similar "zero sugar" or "sugar free" claims faces the same vulnerability the *Franco* court just identified. If you're working with rare sugars beyond allulose, the logic of this decision applies broadly.

The practical takeaway is clear. Brands using allulose or other rare sugars in products labeled "zero sugar" or "sugar free" should be taking a hard look at their labeling and assessing their litigation risk; the 0.5-gram-per-serving threshold under federal rules doesn't leave much room. Investors should be asking portfolio companies about their allulose exposure. Retailers should understand that the products on their shelves could draw claims too. And agencies advising on packaging and marketing language should be aware that the legal ground has shifted.

If you have questions about how this decision affects your business, please reach out to our Food & Beverage team.

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Authored by

Hillary H. Hughes

Principal|New York

212.965.4527 hillary.hughes@foster.com

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