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REESE RICHMAN LLP

Michael R. Reese (State Bar No. 206773)
Kim E. Richman (*pro hac vice* to be sought)
875 Avenue of the Americas, 18th Floor
New York, New York 10001
Telephone: (212) 643-0500
Facsimile: (212) 253-4272
Email: mreese@reese-richman.com
krichman@reese-richman.com

THE GOLAN FIRM

Yvette Golan
1919 Decatur St.
Houston, Texas 77007
Telephone: (866) 298-4150, ext. 101
Facsimile: (928) 441-8250
Email: ygolan@tgfirm.com

Counsel for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

SEAN BOHAC, on behalf of himself and all
others similarly situated,

Plaintiff,

v.

GENERAL MILLS, INC.,

Defendant.

Case No. **012-5280**

COMPLAINT

CLASS ACTION

DEMAND FOR JURY TRIAL

E-filing

ORIGINAL
FILED
OCT 12 2012
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

ADR

MEJ

1 Plaintiff Sean Bohac (“Plaintiff”), on behalf of himself and all others similarly situated, and
2 by and through his undersigned counsel, alleges the following based upon his own personal
3 knowledge and the investigation of his counsel. Plaintiff believes that substantial evidentiary
4 support will exist for the allegations set forth herein after a reasonable opportunity for discovery.

5 **NATURE OF THE ACTION**

6 1. This is a proposed class action against General Mills, Inc. (“General Mills” or
7 “Defendant”) for misleading consumers about the nature of the ingredients of its products sold under
8 the Nature Valley brand name that included the representation “100% NATURAL” and other similar
9 representations in the product labeling, packaging, marketing, advertising, and promotional materials
10 (“Nature Valley,” “Product,” or “Products”), including, by way of example and without limitation:

- 11 • Nature Valley Crunchy Granola Bars: Oats n’ Honey; Peanut Butter;
12 Roasted Almond; Apple Crisp; Cinnamon; Maple Brown Sugar; Pecan
Crunch; Oats n’ Dark Chocolate; and Dark Chocolate Peanut Butter;
- 13 • Sweet & Salty Nut Granola Bars: Almond; Peanut; Cashew; Roasted
Mixed Nut; Dark Chocolate; and Peanut & Almond;
- 14 • Protein Chewy Bars: Peanut Butter Dark Chocolate and Peanut, Almond
& Dark Chocolate;
- 15 • Granola Thins Crispy Squares: Dark Chocolate; Peanut Butter; and Dark
Chocolate Peanut Butter;
- 16 • Trail Mix Chewy Granola Bars: Fruit & Nut; Cranberry & Pomegranate;
17 and Dark Chocolate & Nut;
- 18 • Roasted Nut Crunch Granola Bars: Almond Crunch and Peanut Crunch;
and
- 19 • Yogurt Chewy Granola Bars: Vanilla and Strawberry.

20 2. Defendant has discontinued offering some Products and regularly introduces new
21 products that are also falsely labeled as “100% NATURAL” or “all natural.” The identity of these
22 additional products will be ascertained through discovery and are included in the list of Products.

23 3. During a period of time from October 12, 2006, to the present, Defendant engaged in
24 a widespread marketing campaign to mislead consumers about the nature of the ingredients in its
25 Nature Valley Products. Specifically, Defendant conveyed to consumers that the Products are
26 “100% NATURAL,” even though Defendant knew that such statements were false and misleading.
27 Additionally, the name “Nature Valley,” representations such as “Natural Energy Bar,” the
28 representation that the Products are “granola bars,” and the green coloring and “pastoral” images on

1 the packaging all convey qualities of healthfulness and naturalness that Defendant knew were false
2 and misleading in light of the fact that the Products contain unnatural ingredients.

3 4. By deceiving consumers about the nature, quality, and/or ingredients of the Products
4 as detailed herein, thereby distinguishing them from similar products, such as store-brand granola
5 bars, Defendant was able to command a premium price for the Products. Defendant was motivated
6 to mislead consumers for no other reason than to take away market share from competing products,
7 thereby increasing its own sales and profits.

8 5. Defendant conveyed its misrepresentations about the Products through a widespread
9 marketing and advertising campaign on the Product packaging, on various websites, including
10 <http://www.naturevalley.com>, and in Product advertisements and promotional materials.

11 6. For example, Defendant prominently places the representation “100% NATURAL”
12 on the front of its Products. *See, e.g.*, Exhibit 1. Defendant also places the “100% NATURAL” or
13 “all natural” representations on the back, top, and/or bottom of the Product boxes and/or on the
14 wrappers that contain each individual granola bar. *See, e.g.*, Exhibit 2.

15 7. Further, Defendant makes representations on the back of the boxes such as the
16 following: “Since 1975, Nature Valley has been making great tasting crunchy granola bars with
17 100% natural ingredients like whole grain oats & honey.” *See* Exhibit 2.

18 8. The representation that the Products are “100% natural” is central to the marketing of
19 the Products and is displayed prominently on their packaging. The misrepresentations were uniform
20 and were communicated to Plaintiff and every other member of the Class at every point of purchase
21 and consumption.

22 9. Unfortunately for consumers, the Products are not “100% natural.” For one, the
23 Products are derived from unnatural, genetically modified plants (a/k/a genetically modified
24 organisms or “GMOs”). Recent GMO testing of Nature Valley 100% NATURAL Crunchy Oats ‘n
25 Honey Granola Bars by an independent lab demonstrates that the product contained GMOs,
26 including viral and bacterial genes. *See* Exhibit 3 (lab results indicating that a sample of the Product
27 was found to contain the 35S and NOS markers, which are derived, respectively, from the
28 cauliflower mosaic virus and from *Agrobacterium tumefaciens* bacteria).

1 10. The term “natural” has been defined, at least partially, by federal agencies. The Food
2 and Drug Administration (“FDA”) has defined the outer boundaries of the use of the term “natural”
3 by stating that a product is not natural if it contains synthetic or artificial ingredients.¹ Similarly, the
4 USDA’s Food Safety and Inspection Service (“FSIS”) defines a “natural” product as a product that
5 does not contain any artificial or synthetic ingredients and does not contain any ingredient that is
6 more than “minimally processed.”²

7 11. According to USDA federal regulations, an ingredient is synthetic if it is:

8 [a] substance that is formulated or manufactured by a chemical process or by
9 a process that chemically changes a substance extracted from naturally
10 occurring plant, animal, or mineral sources, except that such term shall not
 apply to substances created by naturally occurring biological processes.³

11 12. “Unnatural” is a defining characteristic of GMO foods. For example, the Monsanto
12 Company, an agricultural company that pioneered GMO seeds, defines GMOs as “[p]lants or
13 animals that have had their **genetic makeup altered to exhibit traits that are not naturally theirs**.
14 In general, genes are taken (copied) from one organism that shows a desired trait and transferred into
15 the genetic code of another organism.”⁴

16 13. Furthermore, as described in greater detail herein, Defendant adds a substantial
17 amount of unnaturally processed and synthetic ingredients to its so-called “natural” Products. *See*
18 Exhibit 4.

19 14. These synthetic and excessively processed ingredients are not mere trace ingredients
20 in the Products. For example, in the Sweet & Salty Nut/Roasted Mixed Nut granola bar, there is
21 more high maltose corn syrup than cashews, more high maltose corn syrup than almonds, and more

22
23 ¹ See FDA, *Food Label Helps Consumers Make Healthier Choices*,
www.fda.gov/downloads/ForConsumers/ConsumerUpdates/UCM199361.pdf 2.

24 ² See, e.g., USDA, FSIS, *Fact Sheets, Food Labeling, Meat and Poultry Labeling Terms*,
25 http://www.fsis.usda.gov/FACTSheets/Meat_&_Poultry_Labeling_Terms/index.asp#14
26 (“natural”).

27 ³ 7 C.F.R. § 205.2.

28 ⁴ See <http://www.monsanto.com/newsviews/Pages/glossary.aspx#g> (emphasis added).

1 high maltose corn syrup than oats. In the Chewy Trail Mix/Fruit & Nut granola bar, there is more
2 high maltose corn syrup than any fruit ingredient and more high maltose corn syrup than any nut
3 ingredient. There is more maltodextrin than any pomegranate ingredient in the Chewy Trail
4 Mix/Cranberry & Pomegranate granola bar. In the Strawberry Yogurt Chewy granola bars, there is
5 more calcium carbonate than any ingredient even derived from strawberries.

6 15. Because the Products contains GMOs and other unnatural ingredients, Defendant's
7 claims that the Products are "100% NATURAL" and other representations of the healthfulness and
8 naturalness of the Products are false, misleading, and designed to deceive consumers into
9 purchasing the Products. Plaintiff brings this action to stop Defendant's misleading practice.

10 **JURISDICTION AND VENUE**

11 16. This Court has personal jurisdiction over the parties in this case. Plaintiff is a citizen
12 of California and, by filing this complaint, consents to this Court having personal jurisdiction over
13 him. Defendant's counsel has informed Plaintiff's counsel that Defendant also consents to personal
14 jurisdiction of this Court. Additionally, Defendant purposefully avails itself of the California
15 consumer market and provides the Products for sale to at least hundreds of locations within this
16 District and thousands of retail locations throughout California, where the Products are purchased by
17 thousands of consumers every day.

18 17. This Court has original subject-matter jurisdiction over this proposed class action
19 pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class Action Fairness Act
20 ("CAFA"), explicitly provides for the original jurisdiction of the federal courts in any class action in
21 which at least 100 members are in the proposed plaintiff class, any member of the plaintiff class is a
22 citizen of a State different from any defendant, and the matter in controversy exceeds the sum of
23 \$5,000,000.00, exclusive of interest and costs. Plaintiff alleges that the total claims of individual
24 members of the proposed Class (as defined herein) are well in excess of \$5,000,000.00 in the
25 aggregate, exclusive of interest and costs.

26 18. Venue is proper in this District under 28 U.S.C. § 1391(a). Substantial acts in
27 furtherance of the alleged improper conduct, including the dissemination of false and misleading
28

1 information regarding the nature, quality, and/or ingredients of the Products, occurred within this
2 District. Additionally, Defendant has agreed not to contest venue.

3 **Intradistrict Assignment**

4 19. Assignment to the Oakland Division is appropriate under Civil L.R. 3-2(c) and (d)
5 because a substantial part of the events or omissions that give rise to the claim – including the
6 dissemination of false and misleading information regarding the nature, quality, and/or ingredients of
7 the Products – occurred within the Counties of Alameda, Contra Costa, Del Norte, Humboldt, Lake,
8 Marin, Mendocino, Napa, San Francisco, San Mateo, and Sonoma.

9 **PARTIES**

10 20. Plaintiff Sean Bohac resides in San Diego, California, and has no intention of
11 changing his residence. Plaintiff Bohac purchased several varieties of the Products over the last
12 three or four years at retail prices. For example, he purchased the “Oats ‘n Honey” variety and the
13 peanut butter crunchy granola bar varieties, both as single bars and in boxes of multiple bars, from
14 various San Diego supermarkets. In doing so, he relied upon the representation that Nature Valley
15 was “100% NATURAL” in deciding to purchase the Products. Additionally, he relied upon the
16 name “Nature Valley,” representations such as “Natural Energy Bar,” the representation that the
17 Products are “granola bars,” and the green coloring and “pastoral” images on the packaging, all of
18 which convey qualities of healthfulness and naturalness to a reasonable consumer. Had Plaintiff
19 Bohac known at the time that the Products were not, in fact, “natural” but, instead, made with GMOs
20 and other unnatural ingredients, he would not have purchased the Products or paid a premium for the
21 Products.

22 21. Defendant General Mills, Inc. is a Delaware corporation with its principal place of
23 business in Minneapolis, Minnesota. It owns and retails the Nature Valley brand and markets,
24 distributes, and sells the Products throughout California and nationwide.

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27 //

SUBSTANTIVE ALLEGATIONS

Reasonable consumers have reasonable concerns about GMOs, which have been found in the Nature Valley Products.

22. GMOs have created controversy around the world due to concerns about food safety, the effect on natural ecosystems, gene flow (a/k/a “gene migration” or “genetic drift”) into non-GMO crops, and other issues.

23. A recent study published in the journal *Food and Chemical Toxicology* found that genetically modified corn causes rats to develop tumors and die more readily than control subjects not fed the GMO corn.⁵

24. One consumer response to such concerns has been to purchase products represented as “natural” rather than food products that are derived from GMOs.

25. A product that is derived from GMOs is unnatural by definition.⁶

26. Independent testing has determined that the GMO ingredients in Nature Valley contain genes from a virus (cauliflower mosaic virus, or CaMV) and from bacteria (*Agrobacterium tumefaciens*).

27. Natural breeding can occur only between closely related life forms – *e.g.*, wheat with wheat. Natural breeding techniques cannot add the genes of a different organism – *e.g.*, adding fish genes to a wheat seed. Instead, to add genes of an organism to a different organism, scientists must use genetic engineering, producing an organism that could not otherwise exist in nature. Thus, natural oats, corn, soy, and other plants could not include the genes of a virus or of bacteria, unless the plant DNA was altered through genetic modification.

⁵ <http://research.sustainablefoodtrust.org/wp-content/uploads/2012/09/Final-Paper.pdf>.

⁶ See <http://www.monsanto.com/newsviews/Pages/glossary.aspx#g> (defining GMOs as plants or animals that have had their genetic makeup altered to exhibit traits that are not naturally theirs); <http://www.who.int/foodsafety/publications/biotech/20questions/en> (defining GMOs as “organisms in which the genetic material (DNA) has been altered in a way that does not occur naturally.”).

1 28. The viral and bacterial genes were added to the ingredients in the Products so that
2 other foreign genes would be “activated.” The identity and source of these other genes is unknown
3 but may come from bacteria, viruses, insects, or animals. In the past, for example, corn has been
4 engineered with mouse genes, jellyfish genes, hepatitis virus genes, rabies virus genes, chicken
5 genes, and even human genes.⁷

6 29. Moreover, genetically modified plants are fundamentally different from naturally
7 existing plants because inserting foreign genes into plant DNA alters the original genes, just as
8 inserting a new letter can alter the meaning of a word. Foreign genes reduce or increase the natural
9 plant gene’s function, sometimes blocking its expression altogether. These unexpected
10 consequences can yield alterations in the nutritional content of the food, toxic and allergenic effects,
11 poor crop performance, and generations of environmental damage.

12 30. These artificial, manmade plants are also “synthetic” under federal definition, as they
13 were “formulated or manufactured by a chemical process or by a process that chemically changes a
14 substance.”⁸

15 31. In accordance with expert definitions and common sense, reasonable consumers
16 understand that such genetically modified ingredients are *not* natural.

17 32. Indeed, surveys show that a majority of consumers believe the term “natural” implies
18 the absence of genetically modified ingredients.⁹ Additionally, for a majority of consumers, a
19 “natural” label is either “important” or “very important.”¹⁰

21 ⁷ See, e.g., USDA APHIS Permit Nos. 98-117-01r (corn genetically engineered to express human
22 hemoglobin protein chains); 98-117-02r (human procollagen type chain protein); 98-117-03r (human
23 serum albumin protein); 98-117-04r (rabies virus G glycoprotein); Nat. Biotech. 18: 670-674
(chicken gene).

24 ⁸ 7 C.F.R. § 205.2.

25 ⁹ See Canada Organic Trade Association, *Consumer Confusion About the Difference: “Natural”*
26 *and “Organic” Product Claims* (2010), at 6, available at
27 <http://www.ocpro.ca/docs/Library/White%20Paper%20Nat-Org%20COTA.pdf> (citing The
28 Hartman Group, *Beyond Organic and Natural* (2010), available at <http://www.hartman-group.com/publications/reports/beyond-organic-and-natural>).

1 **In addition to GMOs, the Nature Valley Products contain several other unnatural ingredients.**

2 33. The Products also contain a variety of other heavily processed, unnatural ingredients,
3 including sodium bicarbonate, soy lecithin, soy protein isolate, corn syrup, high fructose corn syrup,
4 high maltose corn syrup, maltodextrin, dextrose monohydrate, tocopherols, calcium carbonate, and
5 glycerin. As detailed below, although a reasonable consumer might interpret the names of some of
6 the ingredients as “natural,” the ingredients are, in fact, synthetic and unnatural.

7 34. ***Sodium bicarbonate*** (a/k/a “baking soda”) is manufactured from sodium carbonate
8 and carbon dioxide, a synthetic compound, usually via the “Solvay process,” which uses sodium
9 chloride and calcium carbonate as raw materials. Calcium carbonate is heated until it decomposes,
10 producing calcium oxide and carbon dioxide. A sodium chloride solution is saturated with ammonia
11 and fed directly into carbonation columns. Carbon dioxide from the lime kilns is purified and then
12 passed into the ammoniated sodium chloride solution, producing a precipitate of crude sodium
13 bicarbonate. This crude product is then purified in a second crystallization step to obtain the
14 commercial sodium bicarbonate.

15 35. Soy ingredients such as ***soy lecithin*** and ***soy protein isolate*** are used to increase
16 protein content without increasing the carbohydrate and fat content, creating a protein, fat, and
17 carbohydrate ratio unlike that of a natural and non-processed protein source. These soy products are
18 all heavily processed to remove the natural “bean” flavor so that the finished “soy” product no
19 longer tastes like soy. Soy protein products are further refined through unnatural processes, using
20 chemical additives, acid washes, and alkaline solutions. The residue of hexane-extracted soybeans is
21 chemically cleaned and processed to make soy flour or soy grits. Soy lecithin is processed and
22 isolated as a gum after the re-hydration of hexane-extracted soybeans.

23 36. Soy protein isolate is so heavily processed that a Technical Advisory Panel
24 addressing the requirements of the Organic Foods Production Act of 1990 concluded that it is a
25

27 ¹⁰ See Context Marketing, *Beyond Organic: How Evolving Consumer Concerns Influence Food*
28 *Purchases* (2009), available at <http://www.contextmarketing.com/foodissuesreport.pdf>.

synthetic substance. The spray drying process forms nitrites, which form potent carcinogens. The alkaline processing forms lysinoalanine, a toxin.¹¹

37. To produce ***corn syrup***, corn is first wet milled to produce corn starch. To leach the starch from the kernel, the shelled corn is soaked for 30-48 hours in a dilute sulfur dioxide solution, a synthetic substance. This produces corn steep liquor, one of 2800 High Production Volume chemicals identified in the U.S. Environmental Protection Agency's 1990 Toxic Substances Control Act Inventory Update Rule. Once the starch is leached, it is then further processed to produce corn syrup.

38. While the precise manufacturing process used in Nature Valley's Products is not yet known, corn syrup can be produced by combining the corn starch with dilute hydrochloric acid or weak sulfuric acid (both hazardous substances) or by using starch-splitting enzymes. Alpha-amylase (an enzyme secreted by the bacteria *Bacillus*) breaks the starch into oligosaccharides, which in turn are further broken down into glucose by adding glucoamylase (an enzyme secreted by the fungus *Aspergillus*). The resulting corn syrup is almost entirely comprised of glucose.

39. Not yet having the manufacturer's desired sweetness, corn syrup is often further enzymatically processed to convert some of its glucose into fructose by xylose isomerase (a/k/a glucose isomerase) to produce ***high fructose corn syrup*** (a/k/a "HFCS"). The glucose isomerase used to develop HFCS is derived from various microorganisms, including *Streptomyces rubiginosus*, *Actinoplanes missouriensis*, *Streptomyces olivaceus*, *Streptomyces olivochromogenes*, and *Bacillus coagulans*.

40. To produce ***high maltose corn syrup*** (a/k/a "HMCS"), the corn syrup production process is altered to limit dextrose and then enzymatically treated (often with with alpha-amylase or beta-amylase) to convert some of the glucose into maltose.

41. Similarly, ***maltodextrin*** is a saccharide polymer that is produced through partial acid and enzymatic hydrolysis of corn starch. The acid hydrolysis process is specifically deemed to be a "[r]elatively severe process" that renders an ingredient no longer "natural."

¹¹ See Database of Select Committee on GRAS Substances (SCOGS) Reviews, Soy Protein Isolate.

42. ***Dextrose monohydrate*** (a/k/a “dextrose”) is enzymatically synthesized in a similar manner, crystallizing D-glucose with one molecule of water.

43. Synthetic chemicals are often used to extract and purify the enzymes used to produce corn syrup, high fructose corn syrup, high maltose corn syrup, maltodextrin, and dextrose monohydrate. The microorganisms, fungi, and bacteria used to produce these enzymes are also often genetically modified.

44. ***Tocopherols*** are chemical preservatives listed by federal regulations as synthetic substances. They are produced by molecular distillation, solvent extraction, or absorption chromatography.

45. To be added as a food ingredient, ***calcium carbonate*** must be produced from calcium hydroxide, calcium chloride, or as a byproduct in the lime soda process. Federal regulations recognize calcium hydroxide as a synthetic compound, and the FDA has declared that calcium chloride renders a food no longer “natural.”¹² The lime soda process employs hazardous and synthetic substances and requires processing techniques so excessive so as to render the finished product unnatural. In fact, the EPA has promulgated regulations specifically addressing the environmental impact of calcium carbonate produced through the lime process and by recovery from Solvay waste products. Additionally, when used in drugs, calcium carbonate is listed as a synthetic compound by federal regulation.

46. ***Glycerin*** is also listed by federal regulations as a synthetic substance. It is produced through various extensive means using synthetic and/or hazardous substances, including epichlorohydrin (hazardous), sodium hydroxide (synthetic and hazardous), allyl alcohol (synthetic and hazardous), hydrogen peroxide (synthetic), and peracetic acid (synthetic).

47. Discovery is necessary to uncover the true nature of other ingredients in Defendant’s Products. For example, Defendant lists unspecified “***color added***” as an ingredient in some of its Nature Valley products. Stating its policy, the FDA explains, “[s]ince all added colors result in an

¹² See FDA Warning letter to Karl A. Hirzel, Hirzel Canning Co., (Aug. 29, 2001).

1 artificially colored food, we would object to the declaration of any added color as ‘food’ or
2 ‘natural.’”¹³

3 48. Defendant also adds unspecified “*cultures*” to some of its Products, concealing the
4 identity, source, and nature of these ingredients and failing to identify the substrate, which violates
5 federal regulation.¹⁴

6 49. Defendant also injects “*natural flavor*” in some of Products, concealing from
7 consumers the identity, source, or nature of these ingredients. While “natural flavors” must be
8 *derived* from a “spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud,
9 root, leaf or similar plant material, meat, seafood, poultry, eggs, dairy products, or fermentation
10 products thereof,” it remains unknown whether the processing used to derive the “flavor” from the
11 natural source renders the final ingredient so heavily processed that it can no longer be considered to
12 be a “natural” ingredient. Further discover is, therefore, necessary with regard to that issue.

13 **Despite all these unnatural ingredients, Defendant markets its Products as “natural.”**

14 50. Despite knowing that GMOs are not natural and that its Products contain GMOs and
15 other unnatural, highly processed substances, Defendant has engaged in a widespread marketing and
16 advertising campaign to portray the Products as being “natural.”

17 51. Defendant engaged in this misleading and deceptive campaign to charge a premium
18 for the Products and take away market share from other similar products.

19 52. Defendant sells the Products to consumers nationwide. Defendant places the
20 representation “100% NATURAL” on the front of multi-bar boxes of the granola bar Products, as
21 well as on the back, top, and bottom of the granola bar Product boxes and on the wrappers that
22 contain each individual granola bar.

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26 ¹³ FDA Compliance Policy Guide Sec. 587.100.

27 ¹⁴ 21 C.F.R. 101.4(b)(5).
28

1 53. Further, Defendant makes representation on the back of the boxes such as the
2 following: “Since 1975, Nature Valley has been making great tasting crunchy granola bars with
3 100% natural ingredients like whole grain oats & honey.”

4 54. Other prominent representations that Defendant makes on the packaging of its
5 Products are the name “Nature Valley,” representations such as “Natural Energy Bar,” the
6 representation that the Products are “granola bars,” and the green coloring and “pastoral” images on
7 the packaging all convey qualities of healthfulness and naturalness.

8 55. As stated herein, such representations and the widespread marketing campaign
9 portraying the Products as being “natural” are misleading and deceptive to consumers because the
10 Products are made with unnatural ingredients, while Defendant’s marketing and other materials do
11 not disclose this fact, which has been verified by independent testing and careful review of the
12 ingredients in the Products.

13 56. Consumers frequently rely on food label representations and information in making
14 purchase decisions. Here, Plaintiff and the other Class members reasonably relied to their detriment
15 on Defendant’s misleading representations and omissions. Defendant’s misleading affirmative
16 statements about the “naturalness” of its Products obscured the material facts that Defendant failed
17 to disclose about the unnaturalness of its Products.

18 57. Plaintiff and the other Class members were among the intended recipients of
19 Defendant’s deceptive representations and omissions. Defendant made the deceptive representations
20 and omissions on the Products with the intent to induce Plaintiff’s and the other Class members’
21 purchase of the Products. Defendant’s deceptive representations and omissions are material in that a
22 reasonable person would attach importance to such information and would be induced to act upon
23 such information in making purchase decisions. Thus, Plaintiff’s and the other Class members’
24 reliance upon Defendant’s misleading and deceptive representations and omissions may be
25 presumed.

26 58. The materiality of those representations and omissions also establishes causation
27 between Defendant’s conduct and the injuries sustained by Plaintiff and the Class.

1 59. Defendant's false, misleading, and deceptive misrepresentations and omissions are
2 likely to continue to deceive and mislead reasonable consumers and the general public, as they have
3 already deceived and misled Plaintiff and the other Class members.

4 60. In making the false, misleading, and deceptive representations and omissions,
5 Defendant knew and intended that consumers would pay a premium for "natural" products over
6 comparable products that are not "natural," furthering Defendants' private interest of increasing sales
7 for its Products and decreasing the sales of products that are truthfully offered as "natural" by
8 Defendant's competitors.

9 61. As an immediate, direct, and proximate result of Defendant's false, misleading, and
10 deceptive representations and omissions, Defendant injured Plaintiffs and the other Class members
11 in that they:

- 12 a. paid a sum of money for Products that were not as represented;
- 13 b. paid a premium price for Products that were not as represented;
- 14 c. were deprived the benefit of the bargain because the Products they purchased were
15 different than what Defendant warranted;
- 16 d. were deprived the benefit of the bargain because the Products they purchased had
17 less value than what was represented by Defendant;
- 18 e. did not receive Products that measured up to their expectations as created by
19 Defendant;
- 20 f. ingested a substance that was other than what was represented by Defendants;
- 21 g. ingested a substance that Plaintiff and the other members of the Class did not expect
22 or consent to;
- 23 h. ingested a product that was artificial, synthetic, or otherwise unnatural;
- 24 i. ingested a substance that was of a lower quality than what Defendant promised;
- 25 j. were denied the benefit of knowing what they ingested;
- 26 k. were denied the benefit of truthful food labels;
- 27 l. were forced unwittingly to support an industry that contributes to environmental,
28 ecological, and/or health damage;
- m. were denied the benefit of supporting an industry that sells natural foods and
 contributes to environmental sustainability; and
- n. were denied the benefit of the beneficial properties of the natural foods promised.

24 62. Had Defendant not made the false, misleading, and deceptive representations and
25 omissions, Plaintiff and the other Class members would not have been injured. Among other things,
26 they would not have been denied the benefit of the bargain. They would not have ingested a
27 substance that they did not expect or consent to. They would not have been forced unwittingly to
28 support an industry that contributes to environmental damage. They would not have suffered the

1 other injuries listed above. Accordingly, Plaintiff and the other Class members have suffered injury
2 in fact as a result of Defendant's wrongful conduct

3 63. Plaintiff and the other Class members all paid money for the Products. However,
4 Plaintiff and the other Class members did not obtain the full value of the advertised Products due to
5 Defendant's misrepresentations and omissions. Plaintiff and the other Class members purchased,
6 purchased more of, or paid more for, the Products than they would have had they known the truth
7 about the Products' unnaturalness. Accordingly, Plaintiff and the other Class members have suffered
8 injury in fact and lost money or property as a result of Defendant's wrongful conduct.

9 **CLASS ALLEGATIONS**

10 64. Plaintiff brings this action as a class action pursuant to Rule 23 of the Federal Rules
11 of Civil Procedure on behalf of the following nationwide class (the "Class"):

12 all persons in the United States who purchased Defendant's Products (as
13 defined herein) from October 12, 2006, to the date of certification of the
14 Class (the "Class Period"); excluded from the Class are officers and directors
15 of Defendant; members of the immediate families of the officers and
16 directors of Defendant; Defendant's legal representatives, heirs, successors,
or assigns; and any entity in which they have or have had a controlling
interest.

17 65. Additionally, Plaintiff brings this action as a class action pursuant to Rule 23 of the
18 Federal Rules of Civil Procedure on behalf of the following sub-class (the "California Sub-Class"):

19 all California residents who purchased Defendant's Products (as defined
20 herein) in California during the Class Period.

21 66. At this time, Plaintiff does not know the exact number of members of the Class or
22 California Sub-Class; however, given the nature of the claims and the number of retail stores selling
23 Defendant's Products, Plaintiff believes that members are so numerous that joinder of all of them is
24 impracticable.

25 67. There is a well-defined community of interest in the questions of law and fact
26 involved in this case. Questions of law and fact common to the members of the Class and the
27 California Sub-Class that predominate over questions that may affect individual members include:
28

- a. Whether Defendant labeled, marketed, advertised, and/or sold the Products to Plaintiff and the other members of the Class and the California Sub-Class using false, misleading, and/or deceptive statements or representations, including statements or representations concerning the nature, quality, and/or ingredients of the Products;
- b. Whether Defendant omitted and/or misrepresented material facts in connection with the sales of the Products;
- c. Whether Defendant participated in and pursued the common course of conduct complained of herein; and
- d. Whether Defendant's labeling, marketing, advertising, and/or selling of the Products as "natural" constitutes an unfair or deceptive consumer sales practice.

68. Plaintiff's claims are typical of those of the Class and the California Sub-Class because Plaintiff, like all members of the Class and the California Sub-Class, purchased Defendant's Products bearing the "100% NATURAL" label and other representations of healthfulness and naturalness in a typical consumer setting at a premium price and sustained damages from Defendant's wrongful conduct.

69. Plaintiff will fairly and adequately protect the interests of the Class and the California Sub-Class and has retained counsel that is experienced in litigating complex class actions. Plaintiff has no interests that conflict with those of the Class and the California Sub-Class.

70. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

71. The prerequisites to maintaining a class action for injunctive or equitable relief pursuant to Federal Rule of Civil Procedure 23(b)(2) are met, as Defendant has acted or refused to act on grounds generally applicable to the Class and the California Sub-Class, thereby making appropriate final injunctive or equitable relief with respect to the Class and the California Sub-Class as a whole.

72. The prosecution of separate actions by members of the Class or the California Sub-Class would create a risk of establishing inconsistent rulings and/or incompatible standards of

1 conduct for Defendant. For example, one court might enjoin Defendant from performing the
2 challenged acts, whereas another might not. Additionally, individual actions may be dispositive of
3 the interests of the Class or the California Sub-Class, even though certain members of the Class or
4 the California Sub-Class are not parties to such actions.

5 73. Defendant's conduct is generally applicable to the Class and the California Sub-Class
6 as a whole and Plaintiff seeks, *inter alia*, equitable remedies with respect to the Class and the
7 California Sub-Class as a whole. As such, Defendant's systematic policies and practices make
8 declaratory relief with respect to the Class and the California Sub-Class as a whole appropriate.

9 **CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **(Violation of the Minnesota Uniform Deceptive Trade Practices Act,**
12 **Minnesota Statutes § 325D.43 *et seq.*)**

13 74. Plaintiff repeats each and every allegation contained in the paragraphs above and
14 incorporates such allegations by reference herein.

15 75. This claim is brought against Defendant on behalf of the nationwide Class and the
16 California Sub-Class, pursuant to Minnesota's Uniform Deceptive Trade Practices Act ("UDTPA"),
17 Minnesota Statutes § 325D.43 *et seq.*

18 76. Defendant's conduct violated and continues to violate the UDTPA in at least the
19 following respects:

20 a. In violation of § 325D.44(5), Defendant represented that goods or services have
21 sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities
22 that they do not have;

23 b. In violation § 325D.44(7), Defendant represented that goods or services are of a
24 particular standard, quality, or grade when they are of another.

25 77. Defendant engaged in these unfair and deceptive acts and practices with the intent
26 that they result, and which did result, in the sale of food products to Plaintiff and the other Class and
27 California Sub-Class members. As a result of Defendant's practices, Plaintiff and the other members
28 of the Class and California Sub-Class have suffered damages as described herein.

78. The fact that consumers purchased the food Products is material in that a reasonable person would have considered the designation that the Products were “natural” to be an important factor that would have meaningfully affected his or her decision regarding whether to purchase the Products instead of other competing food products or to purchase the Products at a premium price.

79. Defendant's representations injured Plaintiff and the other members of the Class and California Sub-Class in that Plaintiff and the other Nationwide Class members paid for Products portrayed as "natural" that, in actuality, are not natural at all because they contain GMOs and other unnatural ingredients.

80. As a result of Defendant's acts and practices as alleged in this Complaint, Plaintiff, on behalf of himself and all other members of the Class and the California Sub-Class, seeks an order of this Court that includes, but is not limited to, actual damages in an amount to be proven at trial, pursuant to Minnesota Statutes § 8.31, and an injunction prohibiting Defendant from continuing to engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law. Plaintiff, on behalf of himself and the other Class and California Sub-Class members, additionally seeks costs and reasonable attorneys' fees pursuant to Minnesota Statutes § 8.31.

81. THEREFORE, Plaintiff prays for relief as set forth below.

SECOND CAUSE OF ACTION

**(Violation of the California Consumers Legal Remedies Act,
California Civil Code § 1750 *et seq.*)
(on behalf of the California Sub-Class only)**

82. Plaintiff repeats each and every allegation contained in the paragraphs above and incorporates such allegations by reference herein.

83. This cause of action is brought pursuant to the California Consumers Legal Remedies Act, California Civil Code § 1750 *et seq.* (the “CLRA”), on Plaintiff’s behalf and on behalf of the California Sub-Class.

84. Defendant has waived the 30-day notice period required under the CLRA, California Civil Code § 1782, with regard to seeking monetary damages.

1 85. Plaintiff and the other members of the California Sub-Class are “consumers,” as the
2 term is defined by California Civil Code § 1761(d), because they bought the Products for personal,
3 family, or household purposes.

4 86. Plaintiff, the other members of the California Sub-Class, and Defendant have engaged
5 in “transactions,” as that term is defined by California Civil Code § 1761(e).

6 87. The conduct alleged in this Complaint constitutes unfair methods of competition and
7 unfair and deceptive acts and practices for the purposes of the CLRA, and the conduct was
8 undertaken by Defendant in transactions intended to result in, and which did result in, the sale of
9 goods to consumers.

10 88. As alleged more fully above, Defendant has violated the CLRA by falsely
11 representing to Plaintiff and the other California Sub-Class members that the Products are “natural”
12 when, in fact, the Products are not natural because the Products contain GMOs and other unnatural
13 ingredients.

14 89. As a result of engaging in such conduct, Defendant has violated California Civil Code
15 § 1770(a)(5), (a)(7), and (a)(9).

16 90. Pursuant to California Civil Code § 1780(a)(2) and (a)(5), Plaintiff seeks an order of
17 this Court that includes, but is not limited to, an order enjoining Defendant from continuing to
18 engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law.

19 91. Plaintiff and the other members of the California Sub-Class may be irreparably
20 harmed and/or denied an effective and complete remedy if such an order is not granted.

21 92. The unfair and deceptive acts and practices of Defendant, as described above, present
22 a serious threat to Plaintiff and the other members of the California Sub-Class.

23 93. THEREFORE, Plaintiff prays for relief as set forth below.

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1 **THIRD CAUSE OF ACTION**

2 **(Violation of the California False Advertising Law,**
3 **California Business and Professions Code § 17500 *et seq.*)**
4 **(on behalf of the California Sub-Class only)**

5 94. Plaintiff repeats each and every allegation contained in the paragraphs above and
6 incorporates such allegations by reference herein.

7 95. This cause of action is brought pursuant to California's False Advertising Law,
8 California Business and Professions Code § 17500 *et seq.* (the "FAL"), on Plaintiff's behalf and on
9 behalf of the California Sub-Class.

10 96. Such acts of Defendant, as described above, and each of them constitute unlawful
11 business acts and practices.

12 97. At all material times, Defendant engaged in a scheme of offering the Products for sale
13 to Plaintiff and the other members of the California Sub-Class by way of, *inter alia*, commercial
14 marketing and advertising, the World Wide Web (Internet), Product packaging and labeling, and
15 other promotional materials. As described more fully herein, Defendant's portrayal of the Products
16 as "natural" is misleading and deceptive because the Products contain GMOs and other unnatural
17 ingredients. Said advertisements and inducements were made within the State of California and
18 come within the definition of advertising contained in the FAL in that such promotional materials
19 were intended as inducements to purchase Defendant's Products and are statements disseminated by
20 Defendant to Plaintiff and the other California Sub-Class members that were intended to reach
21 Plaintiff and the other California Sub-Class members. Defendant knew, or in the exercise of
22 reasonable care should have known, that these representations were misleading and deceptive.

23 98. In furtherance of said plan and scheme, Defendant has prepared and distributed within
24 the State of California – via commercial marketing and advertising, the World Wide Web (Internet),
25 Product packaging and labeling, and other promotional materials – statements that misleadingly and
26 deceptively represent the Products as being "natural." Consumers, including Plaintiff and the other
27 California Sub-Class members, necessarily and reasonably relied on these materials concerning
28 Defendant's Products. Consumers, including Plaintiff and the other California Sub-Class members,
were among the intended targets of such representations.

99. The above acts of Defendant, in disseminating said misleading and deceptive statements throughout the State of California to consumers, including Plaintiff and the other members of the California Sub-Class, were and are likely to deceive reasonable consumers, including Plaintiff and the other members of the California Sub-Class, by obfuscating the nature, quality, and/or ingredients of the Products, in violation of the “misleading” prong of the FAL.

100. The business practices alleged above are unlawful under the CLRA, which forbids misleading and deceptive advertising.

101. Plaintiff and the other members of the California Sub-Class have suffered injury in fact and have lost money or property as a result of Defendant's violations of the FAL.

102. As a result, Defendant has been unjustly enriched at the expense of Plaintiff and the other members of the California Sub-Class. Plaintiff and the California Sub-Class, pursuant to California Business and Professions Code § 17535, are entitled to an order of this Court enjoining such future conduct on the part of Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore to any person in interest any money paid for their Products as a result of the wrongful conduct of Defendant.

103. THEREFORE, Plaintiff prays for relief as set forth below.

FOURTH CAUSE OF ACTION

**(Violation of the California Unfair Competition Law,
California Business and Professions Code § 17200 *et seq.*)
(on behalf of the California Sub-Class only)**

104. Plaintiff repeats each and every allegation contained in the paragraphs above and incorporates such allegations by reference herein.

105. This cause of action is brought pursuant to California’s Unfair Competition Law, California Business and Professions Code § 17200 *et seq.* (the “UCL”), on Plaintiff’s behalf and on behalf of the California Sub-Class.

106. By committing the acts and practices alleged herein, Defendant has engaged in deceptive, unfair, and unlawful business practices in violation of the UCL.

107. Defendant has violated the UCL's proscription against engaging in unlawful conduct as a result of its violations of (i) the CLRA, as alleged above, and (ii) the FAL, as alleged above.

1 108. In addition, Defendant has violated the UCL’s proscription against engaging in
2 unlawful conduct as a result of its violations of the Sherman Law, California Health & Safety Code
3 § 109875 *et seq.*, which forbids (1) misbranding of any food or drug, *id.* at §§ 10398 and 111445,
4 and (2) manufacturing, selling, delivering, holding, or offering for sale any food or drug that is
5 misbranded or delivering or proffering such for delivery, *id.* at §§110770 and 111450.

6 109. In relevant part, the Sherman Law declares that food is misbranded if its labeling is
7 false or misleading in any particular way and further provides that it is unlawful for any person to
8 misbrand any food. California Health & Safety Code §§ 110660 and 110765.

9 110. The Sherman Law defines a “person” as “any individual, firm, partnership, trust,
10 corporation, limited liability company, company, estate, public or private institution, association,
11 organization, group, city, county, city and county, political subdivision of this state, other
12 governmental agency within the state, and any representative, agent, or agency of any of the
13 foregoing.” California Health & Safety Code § 109995. Defendant is a corporation and, therefore,
14 Defendant is a “person” within the meaning of the Sherman Law.

15 111. As more fully described herein, Defendant’s misleading marketing, advertising,
16 packaging, and labeling of the Products is likely to deceive a reasonable consumer. Indeed, Plaintiff
17 and the other California Sub-Class members were unquestionably deceived regarding the
18 characteristics of Defendant’s Products, as Defendant’s marketing, advertising, packaging, and
19 labeling of the Products misrepresents and/or omits the true nature, quality, and/or ingredients of the
20 Products. Defendant’s portrayal of the Products as “natural” is misleading and deceptive because the
21 Products contain GMOs and other unnatural ingredients.

22 112. Plaintiff and the other members of the California Sub-Class who purchased the
23 Products suffered a substantial injury by virtue of buying a product they would not have purchased
24 and/or paying a premium that they would not have absent Defendant’s unlawful, fraudulent, and
25 unfair marketing, advertising, packaging, and labeling.

26 113. There is no benefit to consumers or competition from deceptively marketing and
27 labeling products that contain GMOs as “natural.” Indeed, the harm to consumers and competition is
28 substantial.

114. Plaintiff and the other members of the California Sub-Class who purchased the Products had no way of reasonably knowing that the Products they purchased were not as marketed, advertised, packaged, and labeled. Thus, they could not have reasonably avoided the injury each of them suffered.

115. The gravity of the consequences of Defendant's conduct as described above outweighs any justification, motive, or reason therefor, particularly considering the available legal alternatives which exist in the marketplace, and such conduct is immoral, unethical, unscrupulous, offends established public policy, or is substantially injurious to Plaintiff and the other members of the California Sub-Class.

116. Defendant's violations of the UCL continue to this day.

117. Pursuant to California Business and Professions Code § 17203, Plaintiff and the other members of the California Sub-Class seek an order of this Court that includes, but is not limited to, an order enjoining such future conduct on the part of Defendant and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and to restore to any person in interest any money paid for Defendant's Products as a result of the wrongful conduct of Defendant.

118. THEREFORE, Plaintiff prays for relief as set forth below.

FIFTH CAUSE OF ACTION

(Breach of Express Warranty)

119. Plaintiff repeats each and every allegation contained in the paragraphs above and incorporates such allegations by reference herein.

120. This cause of action is brought on Plaintiff's behalf and on behalf of the nationwide Class and the California Sub-Class, pursuant to Minnesota law for the Class and pursuant to California law for the California Sub-Class.

121. Defendant provided Plaintiff and other members of the Class and the California Sub-Class with written express warranties including, but not limited to, warranties that their Products were “natural,” as set forth above.

122. Defendant breached these warranties. This breach resulted in damages to Plaintiff and other members of the Class and the California Sub-Class, who bought Products but did not

1 receive the goods as warranted, in that the Products were not natural because they contained GMOs
2 and other unnatural ingredients.

3 123. As a proximate result of the breach of warranties by Defendant, Plaintiff and the other
4 members of the Class and the California Sub-Class have suffered damages in an amount to be
5 determined at trial in that, among other things, they purchased and paid for Products that did not
6 conform to what was promised as promoted, marketed, advertised, packaged, and labeled by
7 Defendant, and they were deprived of the benefit of their bargain and spent money on Products that
8 did not have any value or had less value than warranted, or Products that they would not have
9 purchased and used had they known the true facts about them.

10 124. THEREFORE, Plaintiff prays for relief as set forth below.

11 **SIXTH CAUSE OF ACTION**

12 **(Breach of Implied Warranty of Merchantability)**

13 125. Plaintiff repeats each and every allegation contained in the paragraphs above and
14 incorporates such allegations by reference herein.

15 126. This cause of action is brought on Plaintiff's behalf and on behalf of the nationwide
16 Class and the California Sub-Class, pursuant to Minnesota law for the Class and pursuant to
17 California law for the California Sub-Class.

18 127. Plaintiff and the other members of the Class and the California Sub-Class purchased
19 Defendant's Products, which were promoted, marketed, advertised, packaged, and labeled as being
20 "natural," as set forth above. Pursuant to these sales, Defendant impliedly warranted that their
21 Products would be merchantable and fit for the ordinary purposes for which such goods are used and
22 would conform to the promises or affirmations of fact made in the Products' promotions, marketing,
23 advertising, packaging, and labels. Plaintiff and the other members of the Class and the California
24 Sub-Class relied on Defendant's representations that the Products had particular characteristics, as
25 set forth above, and, at or about that time, Defendant sold the Products to Plaintiff and the other
26 members of the Class and the California Sub-Class. By its representations regarding the reputable
27 nature of the company and related entities, and by its promotion, marketing, advertising, packaging
28 and labeling of the Products, Defendant warranted that the Products were "natural," as set forth

1 herein. Plaintiff and the other members of the Class and the California Sub-Class bought the
2 Products relying on Defendant's representations that the Products were "natural," when, in fact, the
3 Products were not natural because they contained GMOs and other unnatural ingredients.

4 128. Defendant breached the warranty implied at the time of sale in that Plaintiff and the
5 other members of the Class and the California Sub-Class did not receive goods that were natural as
6 represented and, thus, the goods were not merchantable as fit for the ordinary purposes for which
7 such goods are used or as promoted, marketed, advertised, packaged, labeled, or sold.

8 129. As a proximate result of this breach of warranty by Defendant, Plaintiff and the other
9 members of the Class and the California Sub-Class have suffered damages in an amount to be
10 determined at trial in that, among other things, they purchased and paid for Products that did not
11 conform to what was promised as promoted, marketed, advertised, packaged, and labeled by
12 Defendant, and they were deprived of the benefit of their bargain and spent money on Products that
13 did not have any value or had less value than warranted or Products that they would not have
14 purchased and used had they known the true facts about them.

15 130. THEREFORE, Plaintiff prays for relief as set forth below.

16 **SEVENTH CAUSE OF ACTION**

17 **(Breach of Implied Warranty of Fitness for Particular Purpose)**

18 131. Plaintiff repeats each and every allegation contained in the paragraphs above and
19 incorporates such allegations by reference herein.

20 132. This cause of action is brought on Plaintiff's behalf and on behalf of the nationwide
21 Class and the California Sub-Class, pursuant to Minnesota law for the Class and pursuant to
22 California law for the California Sub-Class.

23 133. Plaintiff and the other members of the Class and the California Sub-Class purchased
24 Defendant's Products, which were promoted, marketed, advertised, packaged, and labeled as being
25 "natural." Pursuant to these sales and by its promotion, marketing, advertising, packaging, and
26 labeling, Defendant impliedly warranted that the Products were natural, as set forth above. Plaintiff
27 and the other members of the Class and the California Sub-Class bought the Products from
28 Defendant relying on Defendant's skill and judgment in furnishing suitable goods as well as its

1 representation that the Products were natural, as set forth above. However, Defendant's Products
2 were not natural in that they contained GMOs and other unnatural ingredients.

3 134. Defendant breached the warranty implied at the time of sale in that Plaintiff and the
4 other members of the Class and the California Sub-Class did not receive Products that were natural
5 as represented, and thus the goods were not fit for the purpose as promoted, marketed, advertised,
6 packaged, labeled, or sold.

7 135. As a result of this breach of warranty by Defendant, Plaintiff and the other members
8 of the Class and the California Sub-Class have suffered damages in an amount to be determined at
9 trial in that, among other things, they purchased and paid for Products that did not conform to what
10 was promised as promoted, marketed, advertised, packaged, and labeled by Defendant, and they
11 were deprived of the benefit of their bargain and spent money on Products that did not have any
12 value or had less value than warranted or products they would not have purchased and used had they
13 known the true facts about them.

14 136. THEREFORE, Plaintiff prays for relief as set forth below.

15 **EIGHTH CAUSE OF ACTION**

16 **(Deceit and/or Misrepresentation)**

17 137. Plaintiff repeats each and every allegation contained in the paragraphs above and
18 incorporates such allegations by reference herein.

19 138. This cause of action is brought on Plaintiff's behalf and on behalf of the Class and the
20 California Sub-Class, pursuant to Minnesota law for the Class and pursuant to California law for the
21 California Sub-Class.

22 139. Defendant, through its labeling, advertising, and marketing of the Products, makes
23 uniform representations and offers regarding the nature of the Products, as described above.
24 Defendant engaged in, and continues to engage in, such fraudulent, misrepresentative, false, and/or
25 deceptive acts with full knowledge that such acts were, and are, in fact, misrepresentative, false, or
26 deceptive.

27 140. The aforementioned misrepresentations, deceptive, and/or false acts and omissions
28 concern material facts that are essential to the analysis undertaken by Plaintiff and the other

1 members of the Class and the California Sub-Class in deciding whether to purchase Defendant's
2 Products.

3 141. Plaintiff and the other members of the Class and the California Sub-Class would have
4 acted differently had they not been misled – *i.e.*, they would not have paid money for the Products in
5 the first place and/or they would not have paid a premium price for the Products over similar
6 products.

7 142. Defendant has a duty to correct the misinformation it disseminates through its
8 advertising of the Products. By not informing Plaintiff and the other members of the Class and the
9 California Sub-Class, Defendant breached this duty. Defendant also gained financially from, and as
10 a result of, this breach. Moreover, Defendant has a duty to disclose the omitted facts because
11 Defendant was in possession of knowledge about the identity, formulation, and production of the
12 Products and of their ingredients, and this information is not reasonably available to consumers.

13 143. By and through such deceits, misrepresentations, and/or omissions, Defendant
14 intended to induce Plaintiff and the other members of the Class and the California Sub-Class to alter
15 their position to their detriment.

16 144. Plaintiff and the other members of the Class and the California Sub-Class justifiably
17 and reasonably relied on Defendant's misrepresentations, and, as such, were damaged by Defendant.

18 145. As a direct and proximate result of Defendant's deceits and/or misrepresentations,
19 Plaintiff and the other Class and California Sub-Class members have suffered damages in an amount
20 equal to the amount they paid for Defendant's Products. The exact amount of these damages will be
21 proven at trial.

22 146. Defendant acted with intent to defraud, or with reckless or negligent disregard of the
23 rights of, Plaintiff and the other Class and California Sub-Class members.

24 147. Plaintiff and the Class and California Sub-Class members are entitled to punitive
25 damages.

26 148. THEREFORE, Plaintiff prays for relief as set forth below.
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1 **NINTH CAUSE OF ACTION**

2 **(Unjust Enrichment)**

3 149. Plaintiff repeats each and every allegation contained in the paragraphs above and
4 incorporates such allegations by reference herein.

5 150. This cause of action is brought on Plaintiff's behalf and on behalf of the nationwide
6 Class and the California Sub-Class, pursuant to Minnesota law for the Class and pursuant to
7 California law for the California Sub-Class.

8 151. As a result of Defendant's deceptive, fraudulent, and misleading labeling, advertising,
9 marketing, and sales of the Products, Defendant was enriched at the expense of Plaintiff and the
10 other members of the Class and the California Sub-Class through the payment of the purchase price
11 for Defendant's Products.

12 152. Under the circumstances, it would be against equity and good conscience to permit
13 Defendant to retain the ill-gotten benefits that it received from Plaintiff and the other members of the
14 Class and the California Sub-Class, in light of the fact that the Products purchased by Plaintiff and
15 the other members of the Class and the California Sub-Class were not what Defendant purported
16 them to be. Thus, it would be unjust or inequitable for Defendant to retain the benefit without
17 restitution to Plaintiff and the other members of the Class and the California Sub-Class for the
18 monies paid to Defendant for such Products.

19 153. THEREFORE, Plaintiff prays for relief as set forth below.

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1 **PRAYER FOR RELIEF**

2 **WHEREFORE**, Plaintiff demands judgment on behalf of himself and the proposed Class
3 and California Sub-Class providing such relief as follows:

4 A. Certification of the nationwide Class and the California Sub-Class proposed herein
5 under Federal Rule of Civil Procedure 23(a) and (b)(3); appointment of Plaintiff as representative of
6 the Class and the California Sub-Class; and appointment of his undersigned counsel as counsel for
7 the Class and the California Sub-Class;

8 B. A declaration that Defendant is financially responsible for notifying members of the
9 Class and the California Sub-Class of the pendency of this suit;

10 C. Restitution to the California Sub-Class pursuant to California Business and
11 Professions Code §§ 17203 and 17535;

12 D. Disgorgement to the California Sub-Class pursuant to California Business and
13 Professions Code §§ 17203 and 17535;

14 E. Damages, together with costs and disbursements, including reasonable attorneys' fees,
15 pursuant to Minnesota Statutes § 8.31(3a);

16 F. Injunctive relief, pursuant to Minnesota Statutes § 325D.43 *et seq.*, enjoining
17 Defendant's unlawful and deceptive acts;

18 G. Injunctive relief on behalf of the California Sub-Class, pursuant to California Business
19 and Professions Code §§ 17203 and 17535 and pursuant to California Civil Code § 1780, enjoining
20 Defendant's unlawful and deceptive acts;

21 H. Monetary damages, including, but not limited to any compensatory, incidental, or
22 consequential damages in an amount to be determined at trial, together with prejudgment interest at
23 the maximum rate allowable by law with respect to the common law claims alleged;

24 I. Statutory damages in the maximum amount provided by law;

25 J. Punitive damages in accordance with proof and in an amount consistent with
26 applicable precedent;

27 K. An award to Plaintiff and the other Class and California Sub-Class members of the
28 reasonable costs and expenses of the lawsuit, including their attorneys' fees; and

L. Such further relief as this Court may deem just and proper.

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Dated: October 12, 2012

Michael R. Rose

REESE RICHMAN LLP

875 Avenue of the Americas, 18th Floor
New York, New York 10001

krichman@reeserichman.com

Email: ygolan@tgfirm.com

CLASS ACTION COMPLAINT

EXHIBIT 1













EXHIBIT 2



NATURE VALLEY
100% NATURAL

Discover the different sides of the Valley.

Explore the delicious combinations of fruits & nuts.

CHEWY TRAIL MIX

Satisfy your sweet & salty craving.

SWEET & SALTY NUT
CRANOLA BARS

**100% Natural.
100% Delicious.**

Since 1975, Nature Valley has been making great tasting crunchy granola bars with 100% natural ingredients like whole grain oats & honey.



EXHIBIT 3

Reese Richman, LLP
875 Avenue of the Americas, 18th Floor
New York, New York 10001

Michael R. Reese
212.643.0500- Phone
212.253.4272- Fax

CERTIFICATE OF ANALYSIS

June 6, 2012

For samples received 4-12-12 for the detection of genetically modified organisms (GMO).

Results:

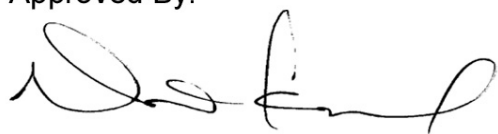
Sample No.	Sample Description	GMO
0412001-RR	Nature Valley Crunchy Granola Bars- Oats 'N Honey	
		35S Present
		NOS Present

Notes:

Test sample was analyzed for the presence of GMO by qualitative PCR analysis. DNA was extracted and analyzed for the presence of the 35S promoter and NOS terminator. No inhibition was observed and soy DNA was detected at reduced levels.

GMO Detection Limit = 0.01%

Approved By:



Nidal Kahl, Director

EXHIBIT 4

Crunchy: Oats n' Honey



Crunchy: Roasted Almond



Crunchy: Peanut Butter



Crunchy: Apple Crisp



Crunchy: Cinnamon

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Yellow Corn Flour, Brown Sugar Syrup, Soy Flour, Salt, Cinnamon, Soy Lecithin, Baking Soda. CONTAINS SOY; MAY CONTAIN PEANUT, ALMOND AND PECAN INGREDIENTS.

DISTRIBUTED BY
GENERAL MILLS SALES, INC.
MINNEAPOLIS, MN 55440 USA
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Carbohydrate Choices: 2

3202645151

Crunchy: Pecan Crunch

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Brown Sugar Syrup, Pecan Pieces, Yellow Corn Flour, Soy Flour, Salt, Soy Lecithin, Baking Soda, Natural Flavor. CONTAINS PECAN, SOY; MAY CONTAIN PEANUT AND ALMOND INGREDIENTS.

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Carbohydrate Choices: 2

3607716155

Crunchy: Maple Brown Sugar

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Yellow Corn Flour, Soy Flour, Brown Sugar Syrup, Maple Syrup, Salt, Soy Lecithin, Baking Soda, Natural Flavor. CONTAINS SOY; MAY CONTAIN PEANUT, ALMOND AND PECAN INGREDIENTS.

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Carbohydrate Choices: 2

3712659155

Crunchy: Oats n' Dark Chocolate

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Dark Chocolate Pieces (sugar, chocolate liquor, cocoa butter, soy lecithin, natural flavor, salt), Yellow Corn Flour, Honey, Soy Flour, Cocoa, Brown Sugar Syrup, Salt, Soy Lecithin, Natural Flavor, Baking Soda. CONTAINS SOY; MAY CONTAIN PEANUT, ALMOND AND PECAN INGREDIENTS.

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Carbohydrate Choices: 2

3526223103

Crunchy: Dark Chocolate Peanut Butter

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Dark Chocolate Chips (sugar, chocolate liquor, cocoa butter, soy lecithin, natural flavor, salt), Roasted Peanuts, Yellow Corn Flour, Soy Flour, Peanut Butter (peanuts, salt), Brown Sugar Syrup, Honey, Salt, Natural Flavor, Soy Lecithin, Baking Soda.
CONTAINS PEANUT, SOY; MAY CONTAIN ALMOND AND PECAN INGREDIENTS.

DIST. BY GENERAL MILLS SALES, INC.
 MINNEAPOLIS, MN 55440 USA

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Carbohydrate Choices: 2

3737140103

Sweet & Salty Nut: Peanut

Ingredients: Roasted Peanuts, High Maltose Corn Syrup, Sugar, Whole Grain Oats, Tapioca Syrup, Palm Kernel Oil, Rice Flour, Fructose, Whole Grain Wheat, Peanut Butter (peanuts, salt), Canola Oil, Maltodextrin, Salt, Partially Defatted Peanut Flour, Soy Lecithin, Reduced Minerals Whey, Nonfat Milk, Barley Malt Extract, Honey Roasted Almond Butter (almonds, honey, maltodextrin, palm oil, mixed tocopherols), Baking Soda, Natural Flavor, Mixed Tocopherols Added to Retain Freshness.

CONTAINS PEANUT, WHEAT, MILK, SOY AND ALMOND INGREDIENTS.

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Carbohydrate Choices: 1

3499255107

Sweet & Salty Nut: Almond

Ingredients: Almonds, Whole Grain Oats, High Maltose Corn Syrup, Sugar, Tapioca Syrup, Rice Flour, Palm Kernel Oil, Whole Grain Wheat, Fructose, Honey Roasted Almond Butter (almonds, honey, maltodextrin, palm oil, mixed tocopherols), Canola Oil, Maltodextrin, Salt, Soy Lecithin, Reduced Minerals Whey, Nonfat Milk, Barley Malt Extract, Baking Soda, Natural Flavor, Mixed Tocopherols Added to Retain Freshness.
CONTAINS ALMOND, WHEAT, MILK AND SOY; MAY CONTAIN PEANUT INGREDIENTS.

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Carbohydrate Choices: 1½

3474653108

Sweet & Salty Nut: Cashew

Ingredients: Cashews Roasted in Safflower Oil, Whole Grain Oats, High Maltose Corn Syrup, Sugar, Tapioca Syrup, Rice Flour, Palm Kernel Oil, Whole Grain Wheat, Fructose, Cashew Butter (cashew nuts, safflower oil), Canola Oil, Maltodextrin, Salt, Soy Lecithin, Reduced Minerals Whey, Nonfat Milk, Barley Malt Extract, Partially Defatted Peanut Flour, Baking Soda, Natural Flavor, Mixed Tocopherols Added to Retain Freshness.
CONTAINS CASHEW, WHEAT, MILK, SOY, PEANUT; MAY CONTAIN PECAN, MACADAMIA AND ALMOND INGREDIENTS.

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Carbohydrate Choices: 1 1/2

3567974102

Sweet & Salty Nut: Roasted Mixed Nut

Ingredients: Roasted Peanuts, High Maltose Corn Syrup, Sugar, Whole Grain Oats, Tapioca Syrup, Palm Kernel Oil, Rice Flour, Cashews Roasted in Safflower Oil, Almonds, Fructose, Whole Grain Wheat, Canola Oil, Maltodextrin, Salt, Soy Lecithin, Reduced Minerals Whey, Nonfat Milk, Partially Defatted Peanut Flour, Honey Roasted Almond Butter (almonds, honey, maltodextrin, palm oil, mixed tocopherols), Barley Malt Extract, Cashew Butter (cashew nuts, safflower oil), Baking Soda, Natural Flavor. Mixed Tocopherols Added to Retain Freshness.

CONTAINS PEANUT, CASHEW, ALMOND, WHEAT, MILK, SOY; MAY CONTAIN PECAN AND MACADAMIA INGREDIENTS.

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Carbohydrate Choices: 1 1/2

3615820102

Sweet & Salty Nut: Dark Chocolate, Peanut, Almond

Ingredients: Roasted Peanuts, Sugar, Corn Syrup, Whole Grain Oats, Dark Chocolate Chunks (sugar, chocolate liquor, cocoa butter, soy lecithin, natural flavor), Tapioca Syrup, Palm Kernel Oil, Rice Flour, Almonds, Whole Grain Wheat, Fructose, Cocoa, Canola Oil, Salt, Rice Maltodextrin, Soy Lecithin, Milk, Barley Malt Extract, Baking Soda, Natural Flavor, Mixed Tocopherols Added to Retain Freshness.

CONTAINS PEANUT, ALMOND, WHEAT, SOY AND MILK INGREDIENTS.

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Carbohydrate Choices: 1 1/2

3774410107

Protein: Peanut Butter Dark Chocolate

Ingredients: Roasted Peanuts, Soy Protein Isolate, Chicory Root Extract, Sugar, Vegetable Oils (palm kernel, palm, canola, peanut), Whey Protein Concentrate, High Maltose Corn Syrup, Cocoa, Fructose, Peanut Butter (peanuts, salt), Vegetable Glycerin, Rice Starch, Honey, Rice Maltodextrin, Salt, Soy Lecithin, Natural Flavor.

CONTAINS PEANUT, SOY AND MILK INGREDIENTS.

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Carbohydrate Choices: 1

3553259102

Protein: Peanut, Almond & Dark Chocolate

Ingredients: Roasted Peanuts, Almonds, Soy Protein Isolate, Chicory Root Extract, Sugar, Vegetable Oils (palm kernel, palm, canola), Roasted Sunflower Seeds (sunflower seeds, sunflower oil), Toasted Coconut, Whey Protein Concentrate, Tapioca Syrup, High Maltose Corn Syrup, Fructose, Cocoa, Vegetable Glycerin, Rice Starch, Rice Maltodextrin, Salt, Soy Lecithin, Dextrose, Baking Soda, Natural Flavor.

CONTAINS PEANUT, ALMOND, SOY, SUNFLOWER AND MILK INGREDIENTS.

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Carbohydrate Choices: 1

3854575102

Granola Thins: Peanut Butter

Ingredients: Whole Grain Oats, Sugar, Vegetable Oil (canola, palm kernel, palm), Roasted Peanuts, Rice Flour, High Maltose Corn Syrup, Partially Defatted Peanut Flour, Peanut Butter (peanuts), Honey, Rice Maltodextrin, Nonfat Milk, Salt, Whey, Soy Lecithin, Baking Soda, Barley Malt Extract, Natural Flavor.

CONTAINS PEANUT, MILK, SOY; MAY CONTAIN EGG, ALMOND, WALNUT, PECAN, CASHEW, WHEAT, SUNFLOWER AND MACADAMIA INGREDIENTS.

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Carbohydrate Choices: 1/2

3382546108

Granola Thins: Dark Chocolate

Ingredients: Whole Grain Oats, Sugar, Vegetable Oil (canola, palm kernel, palm), Rice Flour, High Maltose Corn Syrup, Cocoa, Honey, Rice Maltodextrin, Salt, Soy Lecithin, Milk, Baking Soda, Barley Malt Extract, Natural Flavor.

CONTAINS SOY, MILK; MAY CONTAIN EGG, PEANUT, ALMOND, WALNUT, PECAN, CASHEW, WHEAT, SUNFLOWER AND MACADAMIA INGREDIENTS.

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Carbohydrate Choices: 1

3362095108

Granola Thins: Dark Chocolate Peanut Butter

Ingredients: Whole Grain Oats, Sugar, Vegetable Oils (canola, palm kernel, palm), Roasted Peanuts, Rice Flour, High Maltose Corn Syrup, Cocoa.

Contains 2% or less of: Peanut Flour Partially Defatted, Honey, Rice Maltodextrin, Salt, Soy Lecithin, Milk, Baking Soda, Malt Extract, Natural Flavor.

CONTAINS PEANUT, SOY, MILK; MAY CONTAIN ALMOND, CASHEW, PECAN, MACADAMIA, SUNFLOWER, WHEAT AND EGG INGREDIENTS.

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Carbohydrate Choices: 1

3241947103

Trail Mix: Fruit & Nut



Trail Mix: Dark Chocolate & Nut



Trail Mix: Cranberry & Pomegranate



Roasted Nut Crunch: Almond Crunch



Roasted Nut Crunch: Peanut Crunch

Ingredients: Roasted Peanuts, Sunflower Seeds
Sugar, Corn Syrup, Yellow Corn Flour, Salt,
Corn Oil, Calcium Carbonate, Color Added.
Tocopherol Added to Retain Freshness.

CONTAINS PEANUT, SUNFLOWER; MAY CONTAIN
ALMOND AND SOY INGREDIENTS.

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GLUTEN FREE

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Carbohydrate Choices: 1

3593210108

Yogurt: Vanilla

Ingredients: Granola (whole grain oats,
sugar, canola oil, fructose, salt, baking soda),
Corn Syrup, Sugar, Rice Flour, Whole Grain
Wheat, Honey, Palm Kernel Oil, Dextrose,
Maltodextrin, Canola Oil, Yogurt Powder
(nonfat milk, whey protein concentrate,
cultures), Soy Lecithin, Calcium Carbonate,
Nonfat Dry Milk, Barley Malt Extract, Salt,
Soy Lecithin, Natural Flavor, Mixed
Tocopherols Added to Retain Freshness.

CONTAINS WHEAT, MILK, SOY; MAY CONTAIN
PEANUT, ALMOND AND SUNFLOWER INGREDIENTS.

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Carbohydrate Choices: 2

3195265135

Yogurt: Strawberry

Ingredients: Granola (whole grain oats,
sugar, canola oil, fructose, salt, baking soda),
Corn Syrup, Sugar, Rice Flour, Whole Grain
Wheat, Honey, Palm Kernel Oil, Dextrose,
Maltodextrin, Canola Oil, Soy Lecithin,
Yogurt Powder (nonfat milk, whey protein
concentrate, cultures), Calcium Carbonate,
Nonfat Dry Milk, Strawberry Powder, Barley
Malt Extract, Salt, Natural Flavor, Mixed
Tocopherols Added to Retain Freshness.
CONTAINS WHEAT, MILK, SOY; MAY CONTAIN
PEANUT, ALMOND AND SUNFLOWER INGREDIENTS.

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Carbohydrate Choices: 2

3167998135