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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF SAN FRANCISCO**

12 **MATTHEW RUSSO**, individually, and on
13 behalf of all others similarly situated,

14 *Plaintiff,*

15 vs.

16 **FARMHOUSE FOODS, INC.**, a California
17 corporation,

18 *Defendant.*

Civil No.

CAC-13-534947

Judge:

CLASS ACTION

COMPLAINT FOR:

1. Violations of California Business & Professions Code §§ 17500, *et seq.* (False Advertising Law);

2. Violations of California Business & Professions Code §§ 17200, *et seq.* (Unfair and Fraudulent Prongs of the Unfair Competition Law);

3. Violations of California Business & Professions Code §§ 17200, *et seq.* (Unlawful Prong of the Unfair Competition Law);

4. Violations of California Civil Code §§ 1750, *et seq.* (Consumer Legal Remedies Act); and

5. Breach of Express Warranty

California Class Representation

DEMAND FOR JURY TRIAL

BY FAX

1 Plaintiff, MATTHEW RUSSO, individually and on behalf of all others similarly situated in
2 the State of California, by and through his undersigned counsel, hereby files this Class Action
3 Complaint, alleging that Defendant deceptively and misleadingly marketed certain products as “all
4 natural,” when, in fact, those products contained unnatural, genetically-modified organisms and
5 other synthetic ingredients,¹ against Defendant, FARMHOUSE FOODS, INC., (“Farmhouse” or
6 “Defendant”), as follows:

7 **NATURE OF THE ACTION**

8 1. Plaintiff alleges that from October 18, 2009 through the present (the “Class Period”),
9 Defendant deceptively and misleadingly marketed certain products as “all natural” when, in fact,
10 those products contained unnatural, genetically-modified organisms (“GMOs”)² and other
11 synthetic/artificial ingredients.

12 2. For example, the deceptively and misleadingly marketed products include the
13 following:

14 **Rice**

- 15 1. Farmhouse All Natural Roasted Chicken Flavor Rice;
- 16 2. Farmhouse All Natural Brown & Wild Rice;
- 17 3. Farmhouse All Natural Broccoli Au Gratin Rice;
- 18 4. Farmhouse All Natural Mexican Rice;
- 19 5. Farmhouse All Natural Long Grain & Wild Rice Traditional Herbs & Seasoning;
- 20 6. Farmhouse All Natural Spanish Rice;
- 21 7. Farmhouse All Natural Rice Pilaf;
- 22 8. Farmhouse All Natural Long Grain & Wild Rice Herb & Butter Flavor; and
- 23 9. Farmhouse All Natural Long Grain Original White Rice;

24 **Pasta**

25 1. The allegations in this Complaint are based on the personal knowledge of the Plaintiff’s
26 investigation through their undersigned counsel, and on information and belief as to all other
27 matters.

28 2. As used herein, “genetically-modified” refers to the use of molecular biology techniques,
such as recombinant DNA techniques, to delete genes or to transfer genes for particular qualities
from one species to another. In contrast to conventional breeding techniques, modern molecular
biology techniques permit the insertion into an organism of genetic material from an unrelated
species, as the DNA of a fish into a tomato. See Ed Wallis, Fish Genes into Tomatoes: How the
World Regulates Genetically Modified Foods, 80 N.D. L. Rev. 421 (2004).

10. Farmhouse All Natural Angel Hair Butter & Parmesan Pasta
11. Farmhouse All Natural Fettuccine Alfredo Pasta;
12. Farmhouse All Natural Parmesan Pasta;
13. Farmhouse All Natural Four Cheese Pasta;
14. Farmhouse All Natural Herb & Butter Pasta; and
15. Farmhouse All Natural White Cheddar Pasta (collectively, the "Products").

3. The Products contain unnatural ingredients created by synthetic means and/or genetic modification.

4. For example, Farmhouse's Brown & Wild Rice with Traditional Herbs & Seasonings claims to be "all natural," while containing unnatural, synthetic ingredients known to be derived from genetic engineering, such as dextrose, corn starch, maltodextrin, sugar, citric acid, and soy sauce.³ In addition, Farmhouse's Four Cheese Pasta claims to be "all natural," while containing synthetic ingredients known to be derived from genetic engineering, such as corn starch, maltodextrin, and citric acid.⁴

5. Throughout the Class Period, Defendant has uniformly and systematically marketed and advertised the Products as "all natural" on each package of the Products, such that any California consumer who purchased today or in the future is exposed to Defendant's uniform "all natural" claim.

6. This claim is deceptive and misleading because the Products are not "all natural." Specifically, the Products contain ingredients made from unnatural synthetic ingredients and GMOs.

7. Accordingly, Defendant misled and deceived reasonable consumers, including the named Plaintiff and the other members of the Class, by portraying the Products containing non-natural, genetically-modified and synthetic ingredients as "all natural."

8. Defendant's conduct harms consumers by inducing them to purchase and consume the Products containing GMOs and synthetic ingredients, on the false premise that the Products are

3. See Exhibit 1, attached hereto and incorporated herein, copy of Brown & Wild Rice product labeling similar to the one purchased by the Plaintiff.

4. See Exhibit 2, attached hereto and incorporated herein, copy of the Four Cheese Pasta product labeling similar to the one purchased by the Plaintiff.

1 “all natural,” causing them to be worthless, and alternatively, by inducing consumers to pay a
2 premium price for the Products over comparable products that do not claim to be “all natural.”

3 **JURISDICTION AND VENUE**

4 9. This Court has jurisdiction over all causes of action asserted herein, pursuant to the
5 California Constitution.

6 10. Venue is proper in Court pursuant to Cal. Civ. P. § 395.5.

7 11. Defendant is a California corporation conducting business in San Francisco, County,
8 California, and many of the wrongful and unlawful acts and omissions of Defendant, which are
9 described herein, were committed by Defendant in the County of San Francisco, State of California.

10 12. In addition, San Francisco County is the county where all of the Plaintiff’s causes of
11 action accrued, as this is the County where the Plaintiff, Matthew Russo, was exposed to the
12 unlawful, unfair, and false “all natural” advertising, and where he purchased the Products.

13 13. The “Declaration of Benjamin M. Lopatin, Esq., Pursuant to Civil Code §1780(c) of
14 the Consumer Legal Remedies Act, Civil Code §§ 1750 *et seq.*” regarding venue under the
15 California Consumer Legal Remedies Act (“CLRA”) is submitted herewith and is incorporated
16 herein by reference.

17 **PARTIES**

18 14. Plaintiff, Matthew Russo, is a consumer over the age of eighteen (18) residing in the
19 city of San Francisco, County of San Francisco, California, and is otherwise *sui juris*.

20 15. Plaintiff purchased the Products at issue during early 2013, from a retail grocery store
21 located in San Francisco, California. The Products include, but are not limited to, Farmhouse’s
22 Brown & Wild Rice product that contains unnatural ingredients such as dextrose, corn starch,
23 maltodextrin, sugar, citric acid, and soy sauce, along with Farmhouse’s Four Cheese Pasta product
24 that contains unnatural ingredients such as corn starch, maltodextrin, and citric acid.

25 16. Matthew Russo purchased the Products in reliance upon the deceptive and fraudulent
26 representations made by Farmhouse, namely that the Products are “All Natural”—when they are
27 not—because they contain unnatural GMOs and/or synthetic ingredients. Indeed, Matthew Russo
28

1 would not have purchased the Products if he had known that the products are not "All Natural." The
2 products Matthew Russo received were worth less than the products for which he paid. Matthew
3 Russo was injured in fact and lost money as a result of Defendant' improper conduct.

4 17. Farmhouse Foods, Inc. is a corporation organized and existing under the laws of the
5 state of California, with its principal place of business at 3685 Mount Diablo Blvd., Suite 325,
6 Lafayette, California 94549.

7 18. Farmhouse Foods, Inc. lists with the California Secretary of State a registered agent
8 for service of process as: C. Angela De La Housaye, located at 1655 N. Main Street, Suite 260,
9 Walnut Creek, California 94549.

10 19. Defendant, directly and through its agents, has substantial contacts with and receives
11 substantial benefits and income and through the State of California. Directly and through its retailers,
12 distributors, and agents, Defendant has substantial contacts with, and receives benefits and income
13 from and through, the State of California.

14 20. Defendant is the owner, manufacturer and distributor of the Products, and is the
15 company that created and/or authorized the false, misleading and deceptive labeling and advertising
16 for the Products.

17 21. Plaintiff alleges that, at all times relevant herein, Defendant and its subsidiaries,
18 affiliates, and other related entities, as well as their respective employees, were the agents, servants
19 and employees of Defendant, and at all times relevant herein, each was acting within the purpose and
20 scope of that agency and employment. Plaintiff further alleges that at all times relevant herein, the
21 distributors and retailers who delivered and sold the Products, as well as their respective employees,
22 also were Defendant's agents, servants and employees, and at all times herein, each was acting
23 within the purpose and scope of that agency and employment. Additionally, Plaintiff alleges that, in
24 committing the wrongful acts alleged herein, Defendant, in concert with its subsidiaries, affiliates,
25 and/or other related entities and their respective employees, planned, participated in and furthered a
26 common scheme to induce members of the public to purchase the Products by means of false,
27 misleading, deceptive and fraudulent representations, and that Defendant participated in the making
28

1 of such representations in that it disseminated those misrepresentations and/or caused them to be
2 disseminated. Whenever reference in this Complaint is made to any act by Defendant or its
3 subsidiaries, affiliates, distributors, retailers and other related entities, such allegation shall be
4 deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of
5 Defendant committed, knew of, performed, authorized, ratified and/or directed that act or transaction
6 on behalf of Defendant while actively engaged in the scope of their duties.

7 22. Additionally, Plaintiff alleges that, in committing the wrongful acts alleged herein,
8 Defendant, in concert with its subsidiaries, affiliates, and/or other related entities and their respective
9 employees, planned, participated in and furthered a common scheme to induce members of the
10 public to purchase the Products by means of false, misleading, deceptive and fraudulent
11 representations, and that Defendant participated in the making of such representations in that it
12 disseminated those misrepresentations and/or caused them to be disseminated.

13 **FACTUAL ALLEGATIONS**

14 **Defendant Advertises and Markets the Products as "All Natural"**

15 23. Throughout the Class Period, Defendant marketed and advertised the Products as "all
16 natural" in product packaging.

17 24. Defendant placed the words "All Natural" on the Products (as defined in paragraph 2,
18 *supra*), in a bold, prominent font on the front of the packaging, as illustrated in the representative
19 images in Exhibits 1 & 2, described above.

20 25. By marketing and advertising the Products as "all natural" on the Products' packaging
21 and otherwise throughout the Class Period and throughout California, Defendant, ensured that all
22 consumers purchasing the Products would be, and all consumers purchasing the Products were,
23 exposed to Defendant's uniform misrepresentation that the Products are "all natural."

24 **GMOs Are Not Natural**

25 26. GMOs are not natural and certainly not "all natural." As more fully alleged below,
26 "unnatural" is a defining characteristic of genetically modified foods and other synthetic ingredients.

1 27. As of January 2010, Monsanto was the world's dominant producer of genetically
2 modified seeds; 80% of the U.S. corn crop is grown with seeds containing Monsanto's technology.⁵
3 Monsanto defines GMOs as "Plants or animals that *have had their genetic makeup altered to*
4 *exhibit traits that are not naturally theirs*. In general, genes are taken (copied) from one organism
5 that shows a desired trait and transferred into the genetic code of another organism."⁶

6 28. Romer Labs, a company that provides diagnostic solutions to the agricultural
7 industry, defines GMOs as "[a]griculturally important plants [that] are often genetically modified by
8 the insertion of DNA material from outside the organism into the plant's DNA sequence, allowing
9 the plant to *express novel traits that normally would not appear in nature*, such as herbicide or
10 insect resistance. Seed harvested from genetically modified plants will also contain these
11 modifications."⁷

12 29. The unnaturalness of GMOs is further evidenced by the explanations of health and
13 environmental organizations, such as The World Health Organization, which defines GMOs as
14 "organisms in which the genetic material (DNA) *has been altered in a way that does not occur*
15 *naturally*."⁸

16 30. Genetic engineering is not just an extension of conventional breeding. In fact, it
17 differs profoundly. "As a general rule, conventional breeding develops new plant varieties by the
18 process of selection, and seeks to achieve expression of genetic material which is already present
19 _____

20 5. Robert Langreth and Bruce Herper, The Planet Versus Monsanto, Forbes, Jan. 18, 2010,
21 [http://www.forbes.com/forbes/2010/0118/americas-best-company-10-gmos-dupont-planet-versus-](http://www.forbes.com/forbes/2010/0118/americas-best-company-10-gmos-dupont-planet-versus-monsanto.html)
22 [monsanto.html](http://www.forbes.com/forbes/2010/0118/americas-best-company-10-gmos-dupont-planet-versus-monsanto.html) (last visited Oct. 18, 2013).

23 6. Monsanto Glossary, <http://www.monsanto.com/newsviews/Pages/glossary.aspx#g> (last
24 visited Oct. 18, 2013) (emphasis added).

25 7. Romer Labs, <http://www.romerlabs.com/en/knowledge/gmo/> (last visited Oct. 18, 2013)
(emphasis added).

26 8. World Health Organization, 20 Questions on Genetically Modified (GM) Foods at
27 http://www.who.int/foodsafety/publications/biotech/en/20questions_en.pdf (last visited Oct. 18,
28 2013).

1 within a species.... Conventional breeding employs processes that occur in nature, such as sexual
2 and asexual reproduction....Genetic engineering works primarily through insertion of genetic
3 material, although gene insertion must also be followed up by selection. This insertion process does
4 not occur in nature.”⁹

5 31. To this day, no scientific studies have guaranteed that GMOs are safe for human
6 consumption in the long-term. In fact, many indicate the contrary. More than one hundred peer-
7 review studies have shown that GMOs damage the vital organs, immune systems and reproductive
8 functions of animals. Conscientious consumers have been particularly alarmed by the use of gene
9 splicing to incorporate a bacterial toxin in plants that can repel pests.¹⁰ Canadian researchers
10 reported that the blood of ninety-three percent of pregnant women and eighty percent of their
11 umbilical cord blood samples contained a pesticide implanted in GMO corn by the biotech company
12 Monsanto, though manufacturers of GMOs claim that digestion is supposed to remove it from the
13 body. “Given the potential toxicity of these environmental pollutants and the fragility of the fetus,
14 more studies are needed,” they wrote in Reproductive Toxicology.¹¹ Other concerns that have been
15 raised by environmental groups include the possibility that GMOs contribute to the spread of
16 antibiotic resistance, and could introduce new allergens into foods.¹² Concern surrounding the latter

18 9. Michael K. Hansen, Genetic Engineering Is Not An Extension Of Conventional Plant
19 Breeding; How genetic engineering differs from conventional breeding, hybridization, wide crosses
20 and horizontal gene transfer, [http://consumersunion.org/wp-content/uploads/2013/02/Wide-
Crosses.pdf](http://consumersunion.org/wp-content/uploads/2013/02/Wide-Crosses.pdf) (last visited Oct. 18, 2013).

21 10. Eng, Monica. “Altered food labeling sought \Prevalence of genetically modified fare sparks
22 protests.” Chicago Tribune. May 25, 2011.

23 11. Eng, Monica. “Altered food labeling sought \Prevalence of genetically modified fare sparks
24 protests.” Chicago Tribune. May 25, 2011. See also Goldberg, Max. “For the First Time Ever,
25 Monsanto will be Marketing its Products Directly to Consumers with Sweet Corn-Serious
26 Implications.” New York Times, 12 August 2011.

27 12. Bakshi A (2003). "Potential adverse health effects of genetically modified crops". J Toxicol
28 Environ Health B Crit Rev 6 (3): 211–25.

1 topic of allergens relates to two factors; the possibility that genes from known allergens may be
2 inserted into crops not typically associated with allergenicity and the possibility of creating new,
3 unknown allergens by either inserting novel genes into crops or changing the expression of
4 endogenous proteins.¹³ A person allergic to Brazil nuts, for example only, would be at risk of
5 suffering an allergic reaction from consuming a product that contained a GMO bioengineered to
6 contain DNA from Brazil nuts. The consumer would be unaware of the potential allergic reaction
7 because the product containing the GMO would in no way warn of or even indicate its genetically
8 modified condition.

9 32. While the Food and Drug Administration (FDA) has not formally defined the term
10 "natural" due to alleged deference to the judicial system, it has allowed the sale and planting of
11 genetically modified foods for 15 years. The FDA wrote in a statement to the Tribune that
12 "[u]ltimately, it is the food producer who is responsible for assuring safety," noting also that
13 manufacturers are encouraged to consult with the agency about their products.¹⁴ On the contrary, the
14 European Union has recognized the potential dangers inherent in consuming genetically modified
15 organisms and has some of the most stringent GMO regulations in the world. In the European Union
16 all GMOs are considered "new food" and subject to extensive, case-by-case, science based food
17 evaluation by the European Food Safety Authority (EFSA). The EFSA reports to the European
18 Commission who then draft a proposal which if accepted will be adopted by the EC or passed on to
19 the Council of Agricultural Ministers.¹⁵ There is also a safeguard clause that Member States can
20 invoke to restrict or prohibit the use and/or sale of a GMO within their territory if they have a

21
22 13. Key S, Ma JK, Drake PM (June 2008). "Genetically modified plants and human health". J R
23 Soc Med 101 (6): 290-8.

24 14. Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks
25 protests." Chicago Tribune. May 25, 2011.

26 15. Davison, J. (February 2010). "GM plants: Science, politics and EC regulations". Plant
27 Science 178 (2): 94-98.

1 justifiable reason to consider that the approved GMO constitutes a risk to human health or the
2 environment.¹⁶ By 2010, the only GMO food crop with approval for cultivation in Europe is the GM
3 maize MON810, and a second GMO, a potato called Amflora, was approved for cultivation for
4 industrial applications in the EU by the European Commission.¹⁷ Despite the European Union's
5 approval of MON 810, however, it has been banned for cultivation by Germany, Austria, France,
6 Greece, Luxembourg, Poland and Bulgaria. Meanwhile, Italy does not allow for the cultivation of
7 GMOs.¹⁸

8 33. In addition, independent scientific testing of the effects of GMOs on rats, hamsters,
9 and mice have generated great concern as to the safety of GMOs. The tests have been conducted by:
10 Dr. Irina Ermakova, the Institute of High Neural Activity and Neurophysiology of Russian Academy
11 of Sciences, Moscow; Dr. Alexey Surov and Dr. Alexander Baranov, the Institute of Environmental
12 and Evolution Problems and the Institute of Developmental Biology, Moscow); and Dr. Maria
13 Konovalova, the Saratov Agrarian University. All three of these studies demonstrate significant
14 biological and behavioral changes in the animals when GM soy or GM corn was put into their feed.
15 Some of the biological effects include increased mortality among newborns in the first generation,
16 reduced quantity of offspring, and spike in sterility among second generation animals. On the
17 behavioral front, animals became more aggressive and lost maternal instincts.¹⁹

18 34. Another study conducted by Dr. Arpad Pusztai the potential health risks that GMOs
19 pose to internal organs. Dr. Arpad Pusztai's research has shown that rats fed with GE potatoes had

21 16. European Commission. "Food Safety: From the farm to the fork (What are the National
22 safeguard measures)" Europa.eu, http://ec.europa.eu/food/index_en.htm (last visited Oct. 18, 2013).

23 17. European Commission approves Amflora starch potato, BASF - The Chemical Company -
Corporate Website, <http://www.basf.com/group/pressrelease/P-10-179> (last visited Oct. 18, 2013).

24 18. Barker, Debbie. "The GMO Emperor has No Clothes," p. 37,
25 http://www.navdanya.org/attachments/Latest_Publications7.pdf (last visited Oct. 18, 2013).

26
27 19. *Id.* at 39.

1 enlarged pancreases, their brains had shrunk, and their immunity had been damaged. Dr. Eric
2 Seralini's research demonstrated that organ damage can occur. In addition, the Committee of
3 Independent Research and Information on Genetic Engineering (CRIIGEN) and universities at Caen
4 and Rouen were able to get raw data of Monsanto's 2002 feeding trials on rats at the European
5 Council order and made it public in 2005. The researchers found that rats fed with three approved
6 corn varieties of GE corn—Mon 863, insecticide products, Mon 810, and Roundup Ready herbicide
7 —suffered organ damage. The data "clearly underlines adverse impacts on kidneys and liver, the
8 dietary, detoxifying organs as well as different levels of damages to the heart, adrenal glands, spleen
9 and hematopoietic systems," according to Dr. Gilles Eric Seralini, a molecular biologist at the
10 University of Caen.²⁰

11 35. Additionally, evidence of liver and kidney toxicity appeared when rats were fed an
12 approved GE maize variety (Mon 863) (Seralini GE, Cellier D. & Spironx de Vendomois, J, 2007,
13 "New analysis of rat feeding study with a GM Maize", Archives of Environmental Contamination
14 and Toxicology, 10,1007, S 00244-006-0149-5). Similar effects were observed when Monsanto fed
15 its GT-73 Roundup Ready canola variety to rats. The rats showed a 12 percent to 16 percent increase
16 in liver weight.²¹

17 36. Even the World Health Organization (WHO) cautions that "Different GM organisms
18 include different genes inserted in different ways. This means that individual GM foods and their
19 safety should be assessed on a case-by-case basis and that it is not possible to make general
20 statements on the safety of all GM foods."²² More recently, Americans have also expressed a

21
22 20. *Id.* at 17. *See also* "A Comparison of the Effects of Three GM Corn Varieties on Mammalian
23 Health," Joel Spiroux de Veu de Mois, Francois Roullier, Dominique Cellise, Gilles Eric Seralini,
International Journal of Biological Sciences, 2009, 5: 706-726.

24 21. *See supra* note 18, at 18. *See also* Greenpeace (2004) "Greenpeace critique of Monsanto's
25 Roundup Ready Oilseed rape, GT-73,"
26 http://www.greenpeace.at/uploads/media/GT73_Greenpeace_comments_Oct_2004_01.pdf (last
visited Oct. 18, 2013).

27 22. *See supra* note 18 at 19; *see also supra* note 8.

1 heightened concern about the safety of GMO products, as evinced by the fact that numerous states
2 have currently introduced legislation on GMO labeling. In addition, polls taken by the Pew Center,
3 Consumers Union, Harris Interactive and ABC over the last decade that have consistently found that
4 the vast majority of Americans would like to see genetically modified foods better regulated and
5 labeled.²³

6 37. At a minimum, Plaintiff contends that Defendant should cease labeling the Products
7 “all natural.” Most people consider the decision of what they put into their bodies to be
8 tremendously important. People follow restricted diets for religious reasons (some observers of the
9 Jewish faith keep Kosher, some observers of Muslim faith only eat Halal food, and some observers
10 of Hindu faith refuse beef), for moral or personal reasons (many vegetarians and vegans restrict their
11 diets for moral reasons), or because they physically cannot eat certain foods (those with celiac
12 disease cannot eat wheat, those who are lactose intolerant cannot consume dairy products, and those
13 with other food allergies face similar restrictions). In the latter scenario, eating the food in question
14 could cause severe physical harm or death. In the first two scenarios, while the diets may be driven
15 by personal choice rather than physical necessity, the beliefs behind the choices are often deeply
16 held. If a Muslim eats soup that is labeled vegetarian but in fact contains pork, or if a vegetarian eats
17 cereal that contains mouse parts, the mislabeling that led to the inadvertent consumption is likely to
18 be extremely offensive.²⁴

19 38. Likewise, Defendant’s covert inclusion of GMOs in its Products, amounts to an
20 unlawful affront to the health conscious consumers and the public at large. As Wendell Berry Notes
21 in her *Twelve Paragraphs on Biotechnology*, “[i]n biotechnology, as in any technology affecting
22 living systems, there is nothing perfectly predictable. What we do within living bodies and in the

23
24 23. Eng, Monica. “Debate rages over labeling biotech foods; Industry resists listing genetically
25 modified ingredients; consumer worries continue.” L.A. Times. June 2, 2011. BUSINESS; Business
Desk; Part B; p. 4.

26 24. Valery Federici. “Genetically Modified Food and Informed Consumer Choice: Comparing
27 U.S. and E.U. Labeling Laws.” 35 Brooklyn J. Int’l L. 51 5 at 528.

1 living world is never a simple mechanical procedure such as threading a needle or winding a watch.
2 Mystery exists; unforeseen and unforeseeable consequences are common.”²⁵ Accordingly,
3 Defendant’s “all natural” claim masks the existence of GMOs in the Products, and thus violates the
4 consumer’s right to know what is being introduced into his or her body/internal system, and right to
5 choose whether he or she wishes to participate in the current experimental stage of genetically
6 modified organisms and their comprehensive effect on human health.

7 39. As indicated by the definitions and descriptions above, which come from a wide array
8 of industry, government and health organizations, GMOs are not “all natural” and do not naturally
9 occur. GMOs are “created” artificially in a laboratory through genetic engineering. Thus, by
10 claiming the Products are “all natural” Defendant deceive and mislead reasonable consumers.

11 **Reasonable Consumers Have Concern Over GMOs**

12 40. There is an increasing concern amongst health experts and consumers alike that
13 introducing foreign genes into food plants may have unexpected and negative impacts on human
14 health, such as creating new allergens, causing allergic reactions in susceptible individuals, and
15 causing digestive issues.

16 41. Generally, the concerns about GMOs fall into three categories: environmental
17 hazards, human health risks and economic concerns. Some concerns for human health risks
18 associated with GMOs include, but are not limited to, the possibility that introducing a new gene into
19 a plant may create a new allergen, cause an allergic reaction in susceptible individuals or have an
20 unexpected and negative impact on overall human health.

21 42. Polls taken by the Pew Center, Consumers Union, Harris Interactive, the Huffington
22 Post and ABC over the last decade that have consistently found that the vast majority of Americans
23 would like to see genetically modified foods better regulated and labeled.²⁶

24 _____
25 25. See *supra* note 18, at 43.

26 26. Eng, Monica. “Debate rages over labeling biotech foods; Industry resists listing genetically
27 modified ingredients; consumer worries continue.” L.A. Times. June 2, 2011. BUSINESS; Business
28 Desk; Part B; p. 4.

1 43. Legislation requiring the labeling of GMOs has been proposed in more than a dozen
2 states since 2011.²⁷ During California's November 2012 election, the passage of Proposition 37
3 would have prohibited retailers and food companies from labeling or advertising of food as "natural"
4 if made from GMOs. Although Proposition 37 did not pass, 47.2% of California voters voted "yes"
5 and this continues to be an important consideration for California consumers when purchasing food
6 products.²⁸

7 44. Indeed, whether a packaged food item labeled "All Natural" contains genetically
8 modified and/or synthetic ingredients is a material question to a reasonable consumer.

9 **Defendant's Products Contain GMOs & Other Synthetic and Highly Processed Ingredients**

10 45. The Products contain unnatural ingredients in for the form of GMOs and other
11 synthetic ingredients, thereby causing the Products to fail to be "natural," and certainly not "all
12 natural." Specifically, dextrose, corn starch, maltodextrin, sugar, citric acid, and soy sauce are often
13 synthetically produced and/or produced by using GMOs.²⁹

14 46. The Products labeled "All Natural" also contain a variety of other synthetic, heavily
15 processed, unnatural ingredients, including dextrose, corn starch, maltodextrin, sugar, citric acid, and
16 soy sauce.

17 47. As detailed below, a reasonable consumer might interpret the names of some of the
18 ingredients as "natural," even though the ingredients are, in fact, highly-processed, synthetic, or
19 derived from GMOs—and thus unnatural.

20 48. *Corn* ingredients, such as *corn starch*, are heavily processed or derived from
21 _____

22 27. See Harmon & Pollack, Battle Brewing Over Labeling of Genetically Modified Food, N.Y.
23 Times, Science, May 24, 2012, http://www.nytimes.com/2012/05/25/science/dispute-over-labeling-of-genetically-modified-food.html?_r=0 (last visited Oct. 18, 2013).

24 28. California Election Results, L.A. Times, Nov. 6, 2012, <http://graphics.latimes.com/2012-election-results-california/> (last visited Oct. 18, 2013).

26 29. See Invisible GM Ingredients, Non-GMO Shopping Guide, <http://www.nongmoshoppingguide.com/brands/invisible-gm-ingredients.html> (last visited Oct. 18,
27 2013).

1 GMOs.³⁰ Corn products are often further refined through unnatural processes, using chemical
2 additives, acid washes, and alkaline solutions.³¹

3 49. *Soy* ingredients, such as *soy sauce* are heavily processed or derived from GMOs.³²
4 Soy products are often further refined through unnatural processes, using chemical additives, acid
5 washes, and alkaline solutions.³³

6 50. *Maltodextrin* is a saccharide polymer that is produced through partial acid and
7 enzymatic hydrolysis of corn starch.³⁴ The acid hydrolysis process is specifically deemed to be a
8 relatively severe process that renders an ingredient no longer “natural.”³⁵

9 51. *Dextrose* is glucose (sugar) produced from corn, which is highly genetically
10 modified.³⁶ Dextrose is enzymatically synthesized in a similar manner, crystallizing D-glucose with
11 one molecule of water.³⁷

12 52. Synthetic chemicals are often used to extract and purify the enzymes used to produce
13 maltodextrin and dextrose. The microorganisms, fungi, and bacteria used to produce these enzymes
14

15 30. Maize (corn), GMO Compass, [http://www.gmo-](http://www.gmo-compass.org/eng/database/plants/52.maize.html)
16 [compass.org/eng/database/plants/52.maize.html](http://www.gmo-compass.org/eng/database/plants/52.maize.html) (last visited Oct. 18, 2013).

17 31. *Id.*

18 32. Soy is Everywhere, GMO Compass, [http://www.gmo-](http://www.gmo-compass.org/eng/grocery_shopping/ingredients_additives/34.ingredients_additives_soybeans.html)
19 [compass.org/eng/grocery_shopping/ingredients_additives/34.ingredients_additives_soybeans.html](http://www.gmo-compass.org/eng/grocery_shopping/ingredients_additives/34.ingredients_additives_soybeans.html)
(last visited Oct. 16, 2013).

20 33. *Id.*

21 34. Maltodextrins, GMO Compass, [http://www.gmo-](http://www.gmo-compass.org/eng/database/ingredients/148.maltodextrins.html)
22 [compass.org/eng/database/ingredients/148.maltodextrins.html](http://www.gmo-compass.org/eng/database/ingredients/148.maltodextrins.html) (last visited Oct. 18, 2013).

23 35. *See id.*

24 36. Marion Nestle, What You Need to Know About the Four Types of Sugar in Food, The Daily
25 Green, Sept. 21, 2010, [http://www.thedailygreen.com/healthy-eating/blogs/healthy-food/types-of-](http://www.thedailygreen.com/healthy-eating/blogs/healthy-food/types-of-sugar-0921)
[sugar-0921](http://www.thedailygreen.com/healthy-eating/blogs/healthy-food/types-of-sugar-0921) (last visited Oct. 18, 2013)

26 37. Glucose, GMO Compass, [http://www.gmo-](http://www.gmo-compass.org/eng/database/ingredients/111.glucose.html)
27 [compass.org/eng/database/ingredients/111.glucose.html](http://www.gmo-compass.org/eng/database/ingredients/111.glucose.html) (last visited Oct. 17, 2013).

are often genetically modified.

53. *Sugar* is available in various forms and is produced from either sugarcane or sugar beet.³⁸ Sugar beet is primarily derived from genetic modification, while sugarcane is not.³⁹ For instance, the sugar in the Brown & Wild Rice product does not identify whether it is sugarcane or sugar beet; therefore, Discovery is necessary to uncover the true nature of Defendant's sugar ingredient.

54. *Citric Acid* is found in many fruits and cow's milk and was the first additive that was produced on a large scale using genetic modification/biotechnology.⁴⁰

55. Despite all these unnatural ingredients, Defendant knowingly markets the Products as "all natural."

Defendant Deceptively Markets the Products as "All Natural" to Induce Consumers to Purchase the Products

56. A representation that a product is "all natural" is material to a reasonable consumer. According to Consumers Union, "Eighty-six percent of consumers expect a 'natural' label to mean processed foods do not contain any artificial ingredients."⁴¹

57. Defendant markets and advertises the Products as "all natural" to increase sales of the Products and Defendant is well-aware that claims of food being "all natural" are material to consumers. Despite knowing that GMOs are not natural and that its Products contain GMOs and other unnatural, highly processed substances, Defendant has engaged in a widespread marketing and advertising campaign to portray the Products as being "all-natural."

38. Sugar, GMO Compass, <http://www.gmo-compass.org/eng/database/ingredients/207.sugar.html> (last visited Oct. 18, 2013).

39. *Id.*

40. Citric Acid, GMO Compass, http://www.gmo-compass.org/eng/database/e-numbers/206.citric_acid.html (last visited Oct. 18, 2013).

41. Notice of the Federal Trade Commission, Comments of Consumers Union on Proposed Guides for Use of Environmental Marketing Claims, 16 CFR § 260, Dec. 10, 2010, <http://www.ftc.gov/os/comments/greenguiderrevisions/00289-57072.pdf> (last visited Oct. 18, 2013)

1 58. Defendant engaged in this misleading and deceptive campaign to charge a premium
2 for the Products and take away market share from other similar products. As stated herein, such
3 representations and the widespread marketing campaign portraying the Products as being “all
4 natural” are misleading and likely to deceive reasonable consumers because the Products are not “all
5 natural” due to being made with unnatural ingredients.

6 **Plaintiff Was Economically Damaged**

7 59. Reasonable consumers frequently rely on food label representations and information
8 in making purchase decisions. Here, Plaintiff and the other Class members reasonably relied to their
9 detriment on Defendant’s misleading representations and omissions. Defendant’s misleading
10 affirmative statements about the “naturalness” of its Products obscured the material facts that
11 Defendant failed to disclose about the unnaturalness of its Products.

12 60. Plaintiff and the other Class members were among the intended recipients of
13 Defendant’s deceptive representations and omissions. Defendant made the deceptive representations
14 and omissions on the Products with the intent to induce Plaintiff’s and the other Class members’
15 purchase of the Products. Defendant’s deceptive representations and omissions are material in that a
16 reasonable person would attach importance to such information and would be induced to act upon
17 such information in making purchase decisions.

18 61. Thus, Plaintiff’s and the other Class members’ reliance upon Defendant’s misleading
19 and deceptive representations and omissions may be presumed. The materiality of those
20 representations and omissions also establishes causation between Defendant’s conduct and the
21 injuries sustained by Plaintiff and the Class.

22 62. Defendant’s false, misleading, and deceptive misrepresentations and omissions are
23 likely to continue to deceive and mislead reasonable consumers and the general public, as they have
24 already deceived and misled Plaintiff and the other Class members.

25 63. In making the false, misleading, and deceptive representations and omissions,
26 Defendant knew and intended that consumers would pay a premium for “all natural” labeled
27 products over comparable products that are not labeled “all natural,” furthering Defendant’s private
28

1 interest of increasing sales for its Products and decreasing the sales of products that are truthfully
2 offered as "all natural" by Defendant's competitors, or those that do not claim to be "all natural."

3 64. As an immediate, direct, and proximate result of Defendant's false, misleading, and
4 deceptive representations and omissions, Defendant injured Plaintiff and the other Class members in
5 that they:

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

26 65. Had Defendant not made the false, misleading, and deceptive representations and
27 omissions, Plaintiff and the other Class members would not have been economically injured.

28 66. Among other things, Plaintiff and the other Class members would not have been

denied the benefit of the bargain. They would not have ingested a substance that they did not expect or consent to. They would not have been forced unwittingly to support an industry that contributes to environmental damage.

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

CLASS ALLEGATIONS

68. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein verbatim.

69. Plaintiff brings this class action as a class action pursuant to California Civil Code § 1781 and California Code of Civil Procedure § 382, and seeks certification of the claims and certain issues in this action on behalf of:

all persons in California who have purchased for personal use, since October 18, 2009, one of the following Farmhouse Foods, Inc.'s Products: Farmhouse All Natural Roasted Chicken Flavor Rice; Farmhouse All Natural Brown & Wild Rice; Farmhouse All Natural Broccoli Au Gratin Rice; Farmhouse All Natural Mexican Rice; Farmhouse All Natural Long Grain & Wild Rice Traditional Herbs & Seasoning; Farmhouse All Natural Spanish Rice; Farmhouse All Natural Rice Pilaf; Farmhouse All Natural Long Grain & Wild Rice Herb & Butter Flavor; Farmhouse All Natural Long Grain Original White Rice; Farmhouse All Natural Angel Hair Butter & Parmesan Pasta; Farmhouse All Natural Fettuccine Alfredo Pasta; Farmhouse All Natural Parmesan Pasta; Farmhouse All Natural Four Cheese Pasta; Farmhouse All Natural Herb & Butter Pasta; and Farmhouse All Natural White Cheddar Pasta.

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2 70. Excluded from the Class are governmental entities, Defendant, any entity in which
3 Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal
4 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded
5 from the Class is any judge, justice, or judicial officer presiding over this matter and the members of
6 their immediate families and judicial staff.

7 71. Pursuant to Rule 3.760, *et seq.*, of the California Rules of Court, Plaintiff reserves the
8 right to amend or modify the class description by making it more specific or dividing the class
9 members into subclasses or limiting the issues.
10

11 72. NUMEROSITY: Plaintiff is informed and believes, and on that basis alleges, that the
12 Plaintiff Class is so numerous that individual joinder of all members would be impracticable. Based
13 on the annual sales of the Products and the popularity of the Products, it is apparent that the number
14 of consumers of the Products would be so large as to make joinder impossible as the Class is
15 comprised of hundreds of thousands of consumers geographically dispersed throughout California.
16 While the exact number of Class members is currently unknown, such information can be
17 ascertained through appropriate discovery.
18

19 73. COMMONALITY: Defendant's practices and omissions were applied uniformly to
20 all members of the Class, so that the questions of law and fact are common to all members of the
21 Class. All members of the putative Class were and are similarly affected by having purchased and
22 used the Products, and the relief sought herein is for the benefit of Plaintiff and members of the
23 putative Class. Questions of law and fact common to the Plaintiff Class exist that predominate over
24 questions affecting only individual members, including, *inter alia*:
25

- 26 (a) Whether Defendant's practices and representations made in connection with
27 the advertising, marketing, promotion and sales of the Products were
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1 deceptive, unlawful or unfair in any respect, thereby violating California's
2 Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.*;

3 (b) Whether Defendant's practices and representations made in connection with
4 the advertising, marketing, promotion and sales of the Products were
5 deceptive, unlawful or unfair in any respect, thereby violating California's
6 False Advertising Law ("FAL"), Cal. Bus. & Prof. Code § 17500 *et seq.*;

7 (c) Whether Defendant violated California's Consumer Legal Remedies Act
8 ("CLRA"), California Civil Code § 1750, *et seq.*, by the practices and
9 representations made in connection with the advertising, marketing,
10 promotion and sales of the Products within California;

11 (d) Whether Defendant's conduct in connection with the practices and
12 representations made in the advertising, marketing, promotion and sales of
13 the Products breached express warranties with regard to the Product;

14 (e) Whether Defendants failed to adequately warn of, and/or concealed the
15 dangers and health risks associated with the Products;

16 (f) Whether the Products are "All Natural;"

17 (g) Whether the ingredients contained within the Products are "All Natural;" and

18 (h) Whether Defendant's conduct as set forth above injured consumers, and if so,
19 the extent of the injury.

20 74. TYPICALITY: The claims asserted by Plaintiff in this action are typical of the
21 claims of the members of the Plaintiff Class, as the claims arise from the same course of conduct by
22 Defendant, all members of the Class have been similarly affected by Defendant's course of conduct,
23 and the relief sought is common.
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1 75. ADEQUACY: Plaintiff will fairly and adequately represent and protect the interests
2 of the members of the Plaintiff Class. Plaintiff has no interest adverse to the interests of the other
3 Class members. Plaintiff has retained competent counsel with substantial experience in both
4 consumer protection and class action litigation, who are committed to vigorously prosecuting this
5 action on behalf of the class.
6

7 76. SUPERIORITY: A class action is superior to other available methods for the fair and
8 efficient adjudication of the present controversy, in that it will permit a large number of claims to be
9 resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that
10 would result from the prosecution of numerous individual actions and the duplication of discovery,
11 effort, expense and burden on the courts that individual actions would engender. The benefits of
12 proceeding as a class action, including providing a method for obtaining redress for claims that
13 would not be practical to pursue individually, are far superior than any difficulties that might be
14 argued with regard to the management of this class action. This superiority makes class litigation
15 superior to any other method available for the fair and efficient adjudication of these claims. Absent
16 a class action, it would be highly unlikely that the representative Plaintiff or any other members of
17 the Class would be able to protect their own interests because the cost of litigation through
18 individual lawsuits might exceed expected recovery.
19

20 77. Certification of this class action is appropriate under California Civil Code §1781,
21 California Code of Civil Procedure §382 because the questions of law or fact common to the
22 respective members of the Class predominate over questions of law or fact affecting only individual
23 members. Certification also is appropriate because Defendant acted, or refused to act, on grounds
24 generally applicable to the Class, thereby making appropriate the relief sought on behalf of the Class
25 as a whole. Further, given the large number of consumers of the Products, allowing individual
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1 actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting
2 adjudications.

3 78. Certification of Plaintiff's claims for class-wide treatment is also appropriate because
4 Plaintiff can prove the elements of Plaintiff's claims on a class-wide basis using the same evidence
5 as would be used to prove those elements in individual actions alleging the same claims.

6
7 **CAUSES OF ACTION**

8 **COUNT I**

9 **Violation of California Business & Professions Code §§ 17500 *et seq.*
(Brought on behalf of Plaintiff and the California Class)**

10 79. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the
11 preceding paragraphs of this Complaint as if fully set forth herein verbatim.

12 80. Plaintiff brings this claim individually and on behalf of the other members of the
13 California Class.

14 81. Throughout the Class Period, Defendant engaged in a public advertising and
15 marketing campaign representing that the Products are "all natural."

16 82. The Products are in fact made from ingredients containing GMOs or synthetic
17 ingredients that are not natural. Defendant's advertisements and marketing representations are,
18 therefore, misleading, untrue, and likely to deceive the public.

19 83. Defendant engaged in their advertising and marketing campaign with intent to
20 directly induce customers to purchase the Products based on false claims.

21 84. In violation of California Bus. & Prof. Code §§ 17500, *et seq.*, Defendants
22 disseminated, or caused to be disseminated, the deceptive Products' labeling and advertising
23 representations that misleadingly claim that the Products are "all natural."

24 85. Plaintiff contend Defendants should cease labeling and advertising the Products as
25 "all natural," because the presence of GMOs and other artificial and synthetic ingredients, described
26 above, renders them not "all natural."
27

1 86. Defendants' Products' labeling and advertising representations are misleading
2 because it cannot support its claim that the Products are "all natural."

3 87. Defendants' labeling and advertising representations for the Products are by their very
4 nature unfair, deceptive and/or unlawful within the meaning of California Bus. & Prof. Code §§
5 17500 *et seq.* The representations were at all material times hereto likely to deceive reasonable
6 consumers.

7 88. In making and disseminating the deceptive representations alleged herein, Defendant
8 knew or should have known that the representations were misleading, and acted in violation of
9 California Bus. & Prof. Code §§ 17500 *et seq.*

10 89. As a direct and proximate result of Defendants' wrongful conduct, Plaintiff and
11 similarly situated California purchasers of the Products have suffered substantial monetary and non-
12 monetary damage.

13 90. Plaintiff was injured in fact and lost money as a result of Defendant's conduct of
14 improperly describing the Products as "all natural." Plaintiff paid for "all natural" products, but did
15 not receive such products. The products Plaintiff received were worth less than the products for
16 which Plaintiff paid.

17 91. Indeed, Plaintiff believed Defendant's representations that the Products were "all
18 natural." Plaintiff would not have purchased the Products had Plaintiff known the Products contained
19 GMOs or synthetic, artificial ingredients, which are unnatural.

20 92. Pursuant to Bus. & Prof. Code § 17535, Plaintiff, individually and on behalf of all
21 similarly situated California purchasers, seek an order of this Court requiring Defendants to restore
22 to purchasers of the Products, all monies that may have been acquired by Defendants as a result of
23 such unfair, deceptive and/or unlawful acts or practices. Plaintiff and members of the Class seek
24 declaratory relief, restitution for monies wrongfully obtained, disgorgement of ill-gotten revenues
25 and/or profits, injunctive relief enjoining Defendant from continuing to disseminate their untrue and
26 misleading statements, and other relief allowable under California Business & Professions Code
27 Section 17535.

1 93. Furthermore, as a result of Defendants' violations of the FAL, Plaintiff and similarly
2 situated California purchasers of the Products are entitled to restitution for out-of-pocket expenses
3 and economic harm.

4 94. Pursuant to Civil Code § 3287(a), Plaintiff and similarly situated California
5 purchasers of the Products are further entitled to pre-judgment interest as a direct and proximate
6 result of Defendants' wrongful conduct. The amount on which interest is to be calculated is a sum
7 certain and capable of calculation, and Plaintiff and similarly situated California purchasers of the
8 Products are entitled to interest in an amount according to proof.

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14 **COUNT II**
15 **Violation of the Unfair and Fraudulent Prongs of California Business & Professions Code**
16 **§§ 17200 *et seq.***
17 **(Brought on behalf of Plaintiff and the California Class)**

18 95. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the
19 preceding paragraphs of this Complaint as if fully set forth herein verbatim.

20 96. This cause of action is brought on behalf of Plaintiff and members of the general
21 public, pursuant to Cal. Bus. & Prof. Code §§ 17200 *et seq.*, which provides that "unfair competition
22 shall mean and include any unlawful, unfair or deceptive business act or practice and unfair,
23 deceptive, untrue or misleading advertising and any act prohibited by Chapter I (commencing with
24 Section 17500) as Part 3 of Division 7 of the Business and Professions Code."

25 97. Defendant committed "unfair" and/or "fraudulent" business acts or practices by,
26 among other things: (1) engaging in conduct where the utility of such conduct, if any, is outweighed
27 by the gravity of the consequences to Plaintiff and members of the Class; (2) engaging in conduct
28 that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and

1 members of the Class; and (3) engaging in conduct that undermines or violates the spirit or intent of
2 the consumer protection laws alleged in this Complaint.

3 98. As detailed above, Defendant's unfair and/or fraudulent practices include
4 disseminating false and/or misleading representations that the Products were "all natural."

5 99. Plaintiff believed Defendant's representations that the Products were "all natural."
6 Plaintiff would not have purchased the Products, but for Defendant's misleading statements about
7 the Products being "all natural." Plaintiff was injured in fact and lost money as a result of
8 Defendant's conduct of improperly describing the Products as "all natural." Plaintiff paid for "all
9 natural" Products, but did not receive products that were "all natural." Rather, Plaintiff received
10 Products that contained unnatural ingredients that were genetically engineered or synthetically
11 produced.

12 100. Therefore, Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in
13 fact and has lost money or property as a result of Defendant's actions as set forth herein.

14 101. Specifically, prior to the filing of this action, Plaintiff purchased at least two of the
15 Products for Plaintiff's own personal use. In doing so, Plaintiff relied upon the false representations
16 that the Products are "all natural." As detailed hereinabove, contrary to these representations by
17 Defendant, the presence of GMOs and other artificial and synthetic ingredients, such as dextrose,
18 corn starch, maltodextrin, sugar, citric acid, and soy sauce in the Products renders them not "all
19 natural."

20 102. In its marketing and advertising, Defendant makes false and misleading statements
21 regarding the uses and benefits of the Products, namely, that they are "all natural."

22 103. Defendant is aware that the claims they made about the Products are false and
23 misleading.

24 104. The misrepresentations Defendant makes about the Products are important to
25 reasonable consumers and constitute an unfair and fraudulent business practice within the meaning
26 of California Business & Professions Code section 17200, *et seq.*

1 105. Defendant's business practices, as alleged herein, are unfair because: (1) the injury to
2 consumers are substantial; (2) the injury is not outweighed by any countervailing benefits to
3 consumers or competition; and, (3) consumers could not reasonably have avoided the information
4 because Defendant intentionally mislead the consuming public by means of the claims made with
5 respect to the Products as set forth herein.

6 106. Defendant's business practices as alleged herein are fraudulent because they are likely
7 to deceive customers into believing the Products have characteristics, uses and benefits they do not
8 have, and the "all natural" claims are literally false.

9 107. In addition, Defendant's use of various forms of advertising media to advertise,
10 including the Products' labeling, call attention to or give publicity to the sale of goods or
11 merchandise which are not as represented in any manner, constitutes unfair competition, unfair,
12 deceptive, untrue or misleading advertising and an unlawful business practice within the meaning of
13 Business & Professions Code section 17200, *et seq.*

14 108. Defendant's wrongful business practices constituted (and constitute) a continuing
15 course of conduct of unfair competition since Defendant is marketing and selling the Products in a
16 manner likely to deceive the public.

17 109. Defendant has peddled, and continue to peddle, its misrepresentations through
18 advertising in California, including the Products' labeling.

19 110. There were reasonably available alternatives to further Defendant's legitimate
20 business interests, other than the conduct described herein.

21 111. Plaintiff and the putative members of the Class were misled into purchasing the
22 Products by Defendant's deceptive and fraudulent conduct as alleged hereinabove.

23 112. Plaintiff was misled and, because the misrepresentations and omissions were uniform
24 and material, presumably believed that the Products were "all natural" at the time Plaintiff purchased
25 the Products.

26 113. Defendant had an improper motive (profit before accurate marketing) in its practices
27 related to the deceptive labeling and advertising of the Products, as set forth above.

114. The use of such unfair and fraudulent business acts and practices was and is under the sole control of Defendant, and was deceptively hidden from members of the general public in Defendant's marketing, advertising and labeling of the Products.

115. As purchasers and consumers of Defendant's Products, and as members of the general public who purchased and used the Products, Plaintiff and the Class are entitled to and bring this class action seeking all available remedies under the UCL.

116. Pursuant to California Bus. & Prof. Code § 17203, Plaintiff, individually and on behalf of the Class, seeks an order of this Court requiring Defendant to restore all monies that may have been acquired by Defendant as a result of such unfair, deceptive and/or fraudulent business acts or practices.

117. Plaintiff and the Class will be denied an effective and complete remedy in the absence of such an order.

118. As a result of Defendant's violations of the UCL, Plaintiff and the Class are entitled to restitution for out-of-pocket expenses and economic harm. Pursuant to Civil Code § 3287(a), Plaintiff and the Class are further entitled to pre-judgment interest as a direct and proximate result of Defendants' unfair and fraudulent business conduct. The amount on which interest is to be calculated is a sum certain and capable of calculation, and Plaintiff and the Class are entitled to interest in an amount according to proof.

COUNT III
Violation of the Unlawful Prong of California Business & Professions Code §§ 17200 *et seq.*
(Brought on behalf of Plaintiff and the California Class)

119. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein verbatim.

120. This cause of action is brought on behalf of Plaintiff and members of the general public pursuant to Cal. Bus. & Prof. Code §§ 17200 *et seq.*, which provides that “unfair competition shall mean and include any unlawful, unfair or deceptive business act or practice and unfair,

1 deceptive, untrue or misleading advertising and any act prohibited by Chapter I (commencing with
2 Section 17500) as Part 3 of Division 7 of the Business and Professions Code.”

3 121. As detailed above, Defendant’s unlawful practices include disseminating false and/or
4 misleading representations that the Products were “all natural.”

5 122. Plaintiff believed Defendant’s representations that the Products were “all natural.”
6 Plaintiff would not have purchased the Products, but for Defendant’s misleading statements about
7 the Products being “all natural.” Plaintiff was injured in fact and lost money as a result of
8 Defendant’s conduct of improperly describing the Products as “all natural.” Plaintiff paid for “all
9 natural” Products, but did not receive products that were “all natural.” Rather, Plaintiff received
10 Products that contained unnatural ingredients that were genetically engineered or synthetically
11 produced.

12 123. Therefore, Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in
13 fact and has lost money or property as a result of Defendant’s actions as set forth herein.

14 124. Specifically, prior to the filing of this action, Plaintiff purchased at least two of the
15 Products for Plaintiff’s own personal use. In doing so, Plaintiff relied upon the false representations
16 that the Products are “all natural.” As detailed hereinabove, contrary to these representations by
17 Defendant, the presence of GMOs and other artificial and synthetic ingredients, such as dextrose,
18 corn starch, maltodextrin, sugar, citric acid, and soy sauce in the Products renders them not “all
19 natural.”

20 125. In its marketing and advertising, Defendant makes false and misleading statements
21 regarding the uses and benefits of the Products, namely, that they are “all natural.” Such marketing,
22 advertising and sale of the Products by Defendant is unlawful because (1) they are violating sections
23 1770(a)(5), 1770(a)(7) and 1770(a)(9) of the CLRA, California Civil Code section 1750, *et seq.*; and
24 (2) they are violating the FAL, California Business & Professions Code section 17500, *et seq.*
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126. Because Defendant's business conduct in advertising, marketing and selling the Products using false and misleading statements, in violation of the CLRA, FAL, and/or other federal and state laws or regulations, constitute a per se violation of the "unlawful" prong of the UCL.

127. As purchasers and consumers of Defendant's Products, and as members of the general public who purchased and used the Products, Plaintiff and the Class are entitled to and bring this class action seeking all available remedies under the UCL.

128. Pursuant to California Bus. & Prof. Code § 17203, Plaintiff, individually and on behalf of the Class, seeks an order of this Court requiring Defendant to restore all monies that may have been acquired by Defendant as a result of such unlawful business acts or practices.

129. Plaintiff and the Class will be denied an effective and complete remedy in the absence of such an order.

130. As a result of Defendant's violations of the UCL, Plaintiff and the Class are entitled to restitution for out-of-pocket expenses and economic harm. Pursuant to Civil Code § 3287(a), Plaintiff and the Class are further entitled to pre-judgment interest as a direct and proximate result of Defendant's unlawful business conduct. The amount on which interest is to be calculated is a sum certain and capable of calculation, and Plaintiff and the Class are entitled to interest in an amount according to proof.

COUNT IV

**Violation of the California Consumers Legal Remedies Act –
Cal. Civ. Code §§ 1750 *et seq.*
(Brought on behalf of Plaintiff and the California Class)**

131. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein verbatim.

132. Plaintiff brings this claim individually and on behalf of the other members of the California Class.

1 133. This cause of action is brought pursuant to the California Consumers Legal Remedies
2 Act, Cal. Civ. Code §§ 1750 et seq. (the "CLRA"). This cause of action seeks monetary damages
3 and injunctive relief pursuant to California Civil Code § 1782.

4 134. On or about July 3, 2013, Plaintiff, by and through counsel, sent a demand letter to
5 Defendant prior to the filing of this Complaint, pursuant to section 1770 of the CLRA. A copy of
6 Plaintiff's notice and demand letter sent to Defendant is attached hereto and incorporated herein as
7 Exhibit 3. Defendant did not correct the misrepresentations identified in the demand letter within the
8 statutory 30-day period.

9 135. Defendant's actions, representations, and conduct have violated, and continue to
10 violate, the CLRA because they extend to transactions that are intended to result, or that have
11 resulted, in the sale of goods to consumers.

12 136. Plaintiff and all members of the Class are "consumers" as that term is defined by the
13 CLRA in California Civil Code § 1761(d).

14 137. Defendant sold the Products, which are "goods" within the meaning of California
15 Civil Code § 1761(a), to Plaintiff and other members of the Class.

16 138. By engaging in the actions, misrepresentations, and misconduct set forth in this Class
17 Action Complaint, Defendant violated, and continue to violate, Civil Code § 1770(a)(5) by
18 misrepresenting that the Products are "all natural" products and have particular qualities that they do
19 not have, namely, that they are "all natural" when they are not.

20 139. By engaging in the actions, misrepresentations, and misconduct set forth in this Class
21 Action Complaint, Defendant violated, and continue to violate, Civil Code § 1770(a)(7) by
22 misrepresenting that the Products are "all natural" products and have particular standards, qualities
23 or grades that they do not have, namely, that they are "all natural" when they are not.

24 140. By engaging in the actions, misrepresentations, and misconduct set forth in this
25 Complaint, Defendant violated, and continue to violate, Civil Code § 1770(a)(9), by advertising the
26 Products with intent to sell the Products not as they were advertised.

141. By engaging in the actions, misrepresentations, and misconduct set forth in this Complaint, Defendant violated, and continue to violate, § 1770(a)(16) by misrepresenting that a subject of a transaction has been supplied in accordance with a previous representation when it has not.

142. Defendant violated the CLRA by representing through its advertisements the Products as described above when they knew, or should have known, that the representations and advertisements were unsubstantiated, false, and misleading.

143. Plaintiff believed Defendant's representations that the Products were "all natural." Plaintiff would not have purchased the Products, but for Defendant's misleading statements about the products being "all natural." Plaintiff was injured in fact and lost money as a result of Defendant's conduct of improperly describing the Products as "all natural." Plaintiff paid for an "all natural" product but did not receive a product that was "all natural." Plaintiff received products that contained unnatural ingredients that were genetically engineered in a laboratory, and which had their genetic codes artificially altered to exhibit un-natural qualities.

144. Plaintiff requests that this Court enjoin Defendant from continuing to employ the unlawful methods, acts, and practices alleged herein pursuant to California Civil Code § 1780(a)(2). If Defendant is not restrained from engaging in these types of practices in the future, Plaintiff and the members of the Class will be harmed in that they will continue to be unable to rely on Defendant's representations that the Products are "all natural."

COUNT V
Breach of Express Warranty Under California Law
(Brought on behalf of Plaintiff and the California Class)

145. Plaintiff re-alleges and fully incorporates by reference all allegations set forth in the preceding paragraphs of this Complaint as if fully set forth herein verbatim.

146. Plaintiff brings this claim individually and on behalf of the other members of the California Class.

147. The Plaintiff and other members of the Class formed a contract with Defendant at the time they purchased the Products. The terms of that contract include the promises and affirmations

1 of fact Defendant make on the Products' packaging and through marketing and advertising,
2 including Defendant's promise that the Products are "all natural," as described above. This
3 marketing and advertising constitute express warranties and became part of the basis of the bargain,
4 and are part of the standardized contract between the Plaintiff and other members of the Class, and
5 Defendant.

6 148. In addition or in the alternative to the formation of an express contract, Defendant
7 made each of their above-described representations to induce the Plaintiff and other members of the
8 Class to rely on such representations, and they each did so rely (and should be presumed to have
9 relied) on Defendant's "all natural" representations as a material factor in their decision(s) to
10 purchase the Products.

11 149. All conditions precedent to Defendant's liability under this contract have been
12 performed by the Plaintiff and other members of the Class when they purchased the Products for
13 their ordinary purposes.

14 150. At all times relevant to this action, Defendant have breached their express warranties
15 about the Products because the Products are not "all natural" because they contained GMOs,
16 synthetic ingredients, or plants that are not entirely natural, in violation of California Commercial
17 Code § 2313.

18 151. As a result of Defendant's breaches of their express warranties, the Plaintiff and other
19 members of the Class were damaged in the amount of the purchase price they paid for the Products,
20 in an aggregate amount to be proven at trial.

21
22 **PRAYER FOR RELIEF**

23 **WHEREFORE**, Plaintiff, Matthew Russo, individually, and on behalf of all others similarly
24 situated, prays for relief pursuant to each cause of action set forth in this Complaint as follows:

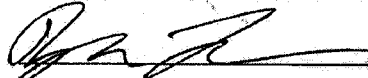
25 1. For an order certifying that the action may be maintained as a class action, certifying
26 Plaintiff as representative of the Class, and designating his attorneys Class counsel.

27 2. For an award of equitable relief as follows:
28

- 1 (a) Enjoining Defendant from making any claims for the Products found to violate the
2 UCL, FAL, or CLRA as set forth above;
3 (b) Requiring Defendant to make full restitution of all monies wrongfully obtained as a
4 result of the conduct described in this Complaint; and
5 (c) Requiring Defendant to disgorge all ill-gotten gains flowing from the conduct
6 described in this Complaint.
7
8 3. For an award of attorney's fees pursuant to, *inter alia*, §1780(d) of the CLRA and
9 Code of Civil Procedure §1021.5.
10 4. For actual damages in an amount to be determined at trial, including economic,
11 monetary, consequential, compensatory or statutory damages.
12 5. For punitive damages in an amount to be determined at trial.
13 6. For actual, statutory, and punitive damages as may be provided for by statute for
14 violations of the CLRA because the demanded corrections did not take place within the thirty (30)
15 day notice period.
16
17 7. For an award of costs;
18 8. For pre- and post-judgment interest on any amounts awarded;
19 9. For all other relief deemed just, appropriate, or proper.
20

21 Dated: October 18, 2013

**THE LAW OFFICES OF
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Dated: October 18, 2013


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CLASS ACTION COMPLAINT