

UNITED STATE DISTRICT COURT
DISTRICT OF MINNESOTA

MELVIN WALLACE, SHIRLEY HARDT,
LEWIS SIMPSON, WILLIAM COBB,
ERICA DAVIS-HOLDER, ROTEM
COHEN, JULIAN WAGNER, ROSE
WAGNER, ERIN STILWELL, MARIA
EUGENIA SAENZ VALIENTE and
ADAM BURNHAM individually and on
behalf of all others similarly situated,

Plaintiffs,

vs.

CONAGRA FOODS, INC d/b/a Hebrew
National, a Delaware corporation.

Defendant.

Case No. 12-cv-01354-DWF-FLN

**FIRST AMENDED
CLASS ACTION COMPLAINT**

(Jury Trial Demanded)

Plaintiffs Melvin Wallace, Shirley Hardt, Lewis Simpson, William Cobb, Erica Davis-Holder, Rotem Cohen, Julian Wagner, Rose Wagner, Erin Stilwell, Maria Eugenia Saenz Valiente and Adam Burnham (hereinafter collectively referred to as “Plaintiffs”) bring this action, by and through their undersigned counsel, on behalf of themselves and all others similarly situated, based on information and belief and the investigation of counsel, except for information based on personal knowledge, and hereby allege as follows:

I. GENERAL DESCRIPTION OF ACTION

1. The fraudulent mislabeling of food as kosher has been a significant problem in the United States for years. It is a problem that is impossible for any reasonable consumer to detect.

2. As explained in the *New York Times*:

“Kosher food is one of the products sold that is fraught with the potential for consumer fraud,” said W. Cary Edwards, the state’s Attorney General. “This is because it is essentially a ‘blind’ item; that is, buyers must rely on the integrity of the seller and/ or the protection of the government to prevent deception.”

The crux of the problem lies in the preparation of the product. Kosher products require specialized slaughtering and sanitary procedures, which add to costs.

Most consumers pay premium prices for kosher foods and, Mr. Edwards said, can “suffer great emotional stress” after learning that what they thought was kosher was not.

“In most cases,” he said, “you can’t tell by looking whether foods have been prepared and maintained so that they meet kosher requirements.”

* * *

“The penalty was more than warranted,” said Rabbi Yakov M. Dombroff, chief of the Kosher Enforcement Bureau. “They were selling nonkosher turkey and pastries as kosher for such a long period of time that they simply didn’t care. That’s out and out fraud.”

* * *

“If you include negligence,” Rabbi Dombroff said, “we’ve cut out 75 percent of kosher fraud in New Jersey. In theory, our goal is to put ourselves out of business. That would be the ultimate, but I’m afraid that will never happen.”

<http://www.nytimes.com/1988/01/03/nyregion/state-cracks-down-on-kosher-cheats.html>

(Exhibit C).

3. This lawsuit arises under state consumer protection laws based upon Defendant ConAgra Foods Inc.’s deceptive and misleading conduct regarding the nature, quality, and certification of the Hebrew National meat products it produces, labels, markets and sells. Irrespective of their faith(s), consumers nationwide may have an interest in purchasing kosher food because of special dietary restrictions, because they believe the kosher label is a symbol of purity or quality, or because kosher preparation methods comport with “similar religious requirements” under faiths other than Judaism. Upon information and belief, although Jewish consumers may make up less than thirty percent of the consumers of kosher food, all consumers may be interested in accurate kosher labeling for entirely non-religious reasons because of the greater care and cleanliness purportedly involved in the selection and preparation of kosher meat, and because of the premium price attached to a product bearing a kosher label.

4. As explained below, Defendant uniformly represented all of its Hebrew National products as being strictly “100% kosher” according to quality and manufacturing standards Defendant and its contractors define. Defendant provided

consumers a guarantee that all Hebrew National products meet that standard. Defendant sold these meat products to Plaintiffs and the Class at a premium price when, in fact, no price premium was warranted as the products sold were not strictly “100% Kosher” according to Defendant’s own standards and rules. Had Plaintiffs known that the products were not manufactured according to the represented standards, they would have purchased other comparable meat products at a lower price. As a result Defendant’s representations on each package of Hebrew National products are false, deceptive and misleading. Defendant’s conduct is likely to deceive reasonable consumers, including those in the Class, and cause them to overpay for the products. Defendant ConAgra Foods, Inc. d/b/a Hebrew National (hereinafter “Defendant” or ConAgra”) is a manufacturer and distributor of kosher meat products, including hot dogs/beef franks, salami, sausage and deli meats. <http://www.hebrewnational.com/products-promotions.jsp>. Defendant ConAgra Foods, Inc. conducts such operations through its “Hebrew National” division and under its “Hebrew National” brand. Besides Hebrew National, Defendant manufactures and markets numerous other food brands, including Hunts, Chef Boyardee, Reddi-Wip, Slim Jim, Banquet, Egg Beaters, Van Camp’s, Parkay, Healthy Choice, Wolf Brand Chili, Swiss Miss, La Choy, Gulden’s, Orville Redenbachers, Wesson and Pam. *See*, www.ConAgrafoods.com.

5. Defendant is not a religious institution. Rather, Defendant is a for-profit publically traded corporation with a secular purpose (NYSE: CAG). Defendant’s goal and intention is to sell as much Hebrew National products to the public as possible in order to maximize profits. Profits are maximized by selling the greatest quantity of Hebrew National products for the highest possible price while minimizing manufacturing costs and expenses. In order to do this, as described below, Defendant violated its duties to the class by, *inter alia*, intentionally turning a blind eye or failing to investigate or supervise whether the meat or manufacturing processes it used in Hebrew National products actually met the standard that Defendant uniformly represented to the public.

6. Defendant markets, distributes and sells its Hebrew National branded products nationwide, in and from its principal place of business in Omaha, Nebraska. Upon information and belief, major decisions are made in and from Defendant's offices in Nebraska regarding the business policies challenged in this lawsuit including, but not limited to, those related to: 1) the representation to the public of Hebrew National branded products as 100% kosher according to the strict and exacting standard it purports to follow; 2) agreements and dealings with contractors; 3) supervision of those contractors; and, 4) the marketing and the pricing of those products at premium rates. Those business policies and decisions occur in and emanate from Defendant's Nebraska offices and harm Hebrew National consumers nationwide, including the named Plaintiffs and the Class here.

7. Defendant labels all of its Hebrew National products as being made from "Premium cuts of 100% Kosher Beef." *See* Exhibit A. Defendant marks each package of Hebrew National products with the "Triangle K" symbol and represents that: "The Triangle K symbol is a trademarked logo that signifies "kashruth" (kosher) "*as defined by the most stringent Jews who follow Orthodox Jewish Law*. It's a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision." <http://www.hebrewnational.com/kosher-difference.jsp>. (Emphasis added). *See* Exhibits A and B. With regard to the Triangle K symbol found on every package, Defendant also represents: "Hebrew National proudly serves products under the kosher supervision of internationally recognized Triangle K organization. So not only do Hebrew National franks have only the purest ingredients, but there is rabbinical supervision of the food preparation process and packaging equipment...Because chemicals and food additives make it increasingly difficult to determine the kashruth status of a product, all ingredients and equipment must pass stringent supervision. These standards are so exacting that an entire formula can be prohibited if the supervising rabbi finds in it even a single non-kosher ingredient that makes up only one-tenth of 1% of the

total.” (Exhibit B). Further, under the Kosher Law Enforcement section of its website, Defendant provides: “We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients.”

8. These representations are central to Defendant’s marketing of Hebrew National products, and are displayed prominently and adopted on all Hebrew National product labels, packages, the Hebrew National website, and all Hebrew National advertisements. As described herein, these representations are inaccurate and deceptive as, in practice, Defendant’s manufacturing processes and products failed to adhere to the stringent standard that Defendant stated all Hebrew National products do. Adherence to these standards was necessary for any Hebrew National meat product to be labeled, marketed and represented in the manner Defendant did.

9. Throughout the Class Period, Defendant mislabeled its Hebrew National food products. On each package, Defendant represents all Hebrew National products sold to be manufactured to the “stringent” and “exacting” standard it and its contractors define and adopt. The food processing plants and contractors that supply the meat to Defendant for use in Hebrew National products, including those in Dakota County, Minnesota, fail to adhere to the strict standards that Defendant states is maintained, as described herein. Therefore, Hebrew National products are not made according to the standards represented. *See* Exhibit B.

10. Further, Defendant represents that “exacting” and “stringent supervision” is continuously exercised over the entire process of manufacturing Hebrew National products, ensuring strict and precise adherence to the stated standard (Exhibits A, B). In truth, however, the Hebrew National products Defendant labels, markets and sells to the public do not strictly comply with the standards that Defendant states they do. The supervision over the manufacturing process is not strict and “so exacting” as represented, but instead lax and inconsistent.

11. For instance, employees of the Hebrew National contractor, AER, have complained that the strict processes represented as being adhered to were not actually followed. They were then threatened with termination, transfer or other reprimand.

12. Plaintiffs do not seek to have this Court determine what constitutes kosher or *kashruth* under Jewish religious law. Plaintiffs do not seek to have the Court determine the standard for food to be labeled as kosher. Plaintiffs do not seek to have the court declare which standard of kashrut applies. Rather, Defendant (and its contractors) have already objectively defined and laid out in specific detail what standard it applies to Hebrew National products and which it represents to the public that its products strictly adhere to and satisfy in exacting fashion, without deviation. Defendant and its contractors define the rules that comprise this standard in the form of uniform statements on its website and marketing materials; sworn affidavits, expert and other testimony filed in other litigation; documents distributed to the general public; and/or other materials and things. Defendant and its contractors define what adherence to that standard entails. Thus, this case simply challenges Defendant's conduct passing off food products that it represents to the public as meeting a particular manufacturing and quality standard, which Defendant and its contractors define and adopt.

13. Neutral principles of law, including, *inter alia*, those documents and testimony, the rules of evidence and state consumer protection statutes, provide a neutral basis for the Court to determine whether Defendant sold Hebrew National products that failed to meet the standard that Defendant assured the public that its products met.

14. The State has a valid secular interest in protecting against deceptive and misleading conduct in the food market, which affects many consumers who seek to purchase kosher-labeled food for health-related and other non-religious reasons, as well as consumers who seek kosher-labeled food for religious reasons. Preventing fraud in the kosher food market benefits the general public, not just consumers of the Jewish faith.

15. Kosher meat products are sold at higher prices than comparable non-kosher products. Plaintiff and members of the Class who purchased Hebrew National products during the relevant time period have been damaged, *inter alia*, in that they purchased and paid a premium price for Defendant's Hebrew National products. The products purchased by the Class were labeled, advertised and guaranteed to be strictly 100% kosher beef and produced under "stringent supervision" when, in truth, the products routinely failed to adhere to those standards. As a result, the products did not warrant the premium price paid by unsuspecting consumers in the Class.

16. Defendant knew or should have known that the Hebrew National products it manufactured, marketed and sold did not meet their represented standard. Upon information and belief, the relationship with the former kosher certifier of Hebrew National products was terminated due to problems of unreliable certifications.¹ It was reasonably foreseeable to Defendant that the type of fraud and unreliability described in the above-cited *New York Times* article could occur and/or continue with regard to the meat used in Hebrew National products absent enhanced supervision and monitoring by Defendant. Upon information and belief, Defendant and/or its contractors, received reports that the meat being used in Hebrew National products did not meet the stated standards. Defendant should have known that the large quantity of cows slaughtered and meat harvested by AER and AFG made it highly unlikely that all processes necessary (as set forth by Defendant's and its contractors' rules) to certify the meat as strictly 100% kosher could be met. Despite this, Defendant took no or inadequate steps to further investigate, monitor and/or otherwise correct the mislabeling. Defendant failed to exercise the requisite care and due diligence to monitor and review the process in order to ensure that its labeling and representations were accurate.

17. Defendant's deceptive and wrongful conduct is designed to mislead and deceive consumers into purchasing its Hebrew National products, at premium prices, by

¹ Sue Fishkoff, *Kosher Nation*, Schocken Books, 2010 at 275-76.

labeling and marketing it as meeting a standard when, in truth, Defendant's Hebrew National products fail to adhere to that standard. As a result, Defendant violates applicable consumer protection laws, including Nebraska Consumer Protection Act and the Nebraska Uniform Deceptive Trade Practices Act - the state where the deceptive practices were approved, developed, endorsed and emanated from, harming consumers nationwide. Alternatively and/or in addition, Defendant's conduct violates the consumer protection and deceptive trade practice statutes of the states where Plaintiffs and the consumers' in the Class reside.

18. As a result of the Defendant's unlawful, unfair and misleading conduct, and other breaches, Plaintiffs, like other Class members, were deprived of the value of the goods they purchased. As a result of the Defendant's unlawful, unfair and misleading conduct, and other breaches, Plaintiffs, like other Class members, overpaid.

II. JURISDICTION AND VENUE

19. This case was commenced in the Dakota County District Court on or about May 18, 2012. Defendant subsequently removed this case to this court asserting the existence of proper federal jurisdiction.

20. Defendant has not yet filed a responsive pleading. By stipulation, the parties extended deadlines to July 13, 2012. Hence, this amended complaint is properly filed and served at this time as of right and relates back to the date the action was commenced.

21. At all times mentioned herein, the unlawful, misleading and deceptive acts and decisions committed by Defendant were conducted in and from its principal offices in Nebraska, were approved and sanctioned in and from its principal offices in Nebraska, and/or otherwise emanated from Defendant's principal offices in Nebraska, harming consumers nationwide, including Plaintiffs and the Class here. As a result, the Nebraska consumer protection laws referenced herein apply to Defendant's conduct with respect to each class member's transaction(s). The Nebraska consumer protection laws referenced

herein. Alternatively and/or in addition, Defendant's conduct violates the consumer protection and deceptive trade practice statutes of the states where Plaintiffs consumers' in the Class reside.

22. The unfair and deceptive acts and practices referenced herein have an impact on the public interest. The public has an interest in true and accurate labeling of all food products. As described within, Defendant's conduct violates that interest.

23. Defendant is subject to jurisdiction in this district by virtue of its' extensive business dealings and transactions within the State of Minnesota and this district. Defendant purposefully avails itself of the Minnesota consumer market and sells Hebrew National products in numerous locations in this district. Defendant's Hebrew National products are purchased by thousands of consumers in this district daily.

24. Further, many of the violations at issue occurred in this district, as certain suppliers of the meat Defendant ultimately uses in Hebrew National products and marks as kosher are located in this district and operate in this district but do not supply 100% kosher meat pursuant to the standard Defendant represents that its products adhere to.

25. Nebraska has a substantial interest in having its consumer protection laws applied to the class claims at issue in this case. Defendant is based in Nebraska. Defendant conducted, approved and endorsed the misleading and deceptive activities at issue in this case in and from its offices in Nebraska. These activities emanated from Defendant's principal place of business in Nebraska to Defendant's operations in other states, harming consumers nationwide. Nebraska has a substantial interest in preventing deceptive and misleading activities from occurring within Nebraska and injuring both residents of Nebraska and residents of other states (like Plaintiffs) who were injured when Defendant's challenged activities emanated from Nebraska to their state. Other states' interests in enforcing their consumer protection laws against Defendant do not substantially outweigh Nebraska's interests in that regard. If, however, the Court ultimately finds that is not the case, the Court can alternatively create state subclasses and

apply the consumer protection and deceptive trade practice statutes of Minnesota and other the states where Plaintiffs and consumers' in the Class reside. As such, Count IV is pled in the alternative to Counts II and III under the alternative pleading rules.

26. Venue is proper in this district as a substantial part of the events giving rise to the claim occurred in this district. Plaintiff Wallace resides in this district and purchased Defendant's Hebrew National products in this district during the relevant class period. Defendant conducts substantial business in this district, has sufficient minimum contacts with this district, and otherwise purposefully avails itself of the markets in this district, through the promotion, sale, and marketing of its products in this district. Certain meat processing plants and contractors which supply the kosher meat at issue (i.e., AER and AFG) are located and do business in this district. Many of the matters challenged in this lawsuit pertaining to the failure to follow the standard represented by Defendant on Hebrew National products, occurred in this district. Relevant witnesses live and/or worked at relevant times in this district.

27. This action does not attempt to assert any direct claims under any state's kosher statutes or seek to have the Court create any religious standard. Rather, this case is based strictly on Defendant's own representations and certifications of what it is selling to the public (and the Class) and the standard of kashrut (kosher) it claims its Hebrew National products adhere to. Defendant represents, warrants and guarantees that all Hebrew National products that it markets and sells are strictly 100% kosher. Claims against a manufacturer for failure to adhere to the standard that it represents that it does on food labels are actionable in this Court under the laws cited below. Further, the Court is not required to determine the applicable standard that Defendant claims it adheres to. Witnesses have previously testified in Minnesota state and/or federal courts, and/or made other representations, as to the applicable rules and requirements to satisfy the kosher standard represented to be upheld by Defendant and its contractors, with respect to each Hebrew National product sold to the Class during the class period.

28. Plaintiffs' claims are based on Defendant's conduct (a) representing to the Class that its products meet a specific and exact standard, but then failing to adhere to that standard factually in practice; (b) representing that there is "stringent supervision" over the entire Hebrew National product manufacturing and meat harvesting process, that is "so exacting" when, in truth, there is not; and (c) guaranteeing the Class that that all Hebrew National products were 100% kosher and adhered to the strict standard stated. Holding Defendant to its own representations does not create a fusion of government and religious functions and does not require this Court to place its imprimatur on the religious views of one branch of Judaism to the exclusion of others.

III. THE PARTIES

29. Plaintiff Melvin Wallace ("Wallace") appears individually and on behalf of all those similarly situated as described herein. Plaintiff Wallace resides in Dakota County, Minnesota. During the class period, Wallace regularly purchased Hebrew National products weekly for his own consumption in Minnesota. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Wallace. Wallace paid for a product that was 100% kosher, but did not receive such a product. Wallace believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Wallace purchased the Hebrew National products because he believed the kosher title and certification made them a higher quality product than other meat products on the market. Wallace would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being 100% kosher. Wallace was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as 100% kosher. Wallace paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Wallace overpaid because the Hebrew National products purchased were not actually 100% kosher beef, as represented.

30. Plaintiff Shirley Hardt (“Hardt”) appears individually and on behalf of all those similarly situated as described herein. Hardt resides in the Gila County, Arizona. Hardt has regularly purchased Hebrew National products for the past ten (10) years in Arizona. Hardt purchases the Hebrew National product for her consumption. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Hardt. Hardt paid for a product that was 100% kosher, but did not receive such a product. Hardt believed Defendant’s representation that Hebrew National products are made from 100% kosher beef. Hardt purchased the Hebrew National products because she believed the kosher title and certification made them a higher quality product than other meat products on the market. Hardt would not have purchased Defendant’s Hebrew National products at the premium price paid but for Defendant’s misleading statements about the product being strictly 100% kosher. Hardt was injured in fact and lost money as a result of Defendant’s conduct of improperly labeling Hebrew National products as strictly 100% kosher. Hardt paid a premium price for Defendant’s Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Hardt overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

31. Plaintiff Lewis Simpson (“Simpson”) appears individually and on behalf of all those similarly situated as described herein. Simpson resides in Mohave County, Arizona. Plaintiff Simpson has regularly purchased Hebrew National products for the past ten (10) years in Arizona. Simpson purchased Hebrew National products for his consumption. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Simpson. Simpson paid for a product that was 100% kosher, but did not receive such a product. Simpson believed Defendant’s representation that Hebrew National products are made from strictly 100% kosher beef. Simpson purchased the Hebrew

National products because he believed the kosher title and certification made them a higher quality product than other meat products on the market. Plaintiff would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Simpson was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as 100% kosher. Simpson paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Simpson overpaid because the Hebrew National products purchased were not actually 100% kosher beef, as represented.

32. Plaintiff William Cobb ("Cobb") appears individually and on behalf of all those similarly situated as described herein. Cobb resides in Coconino County, Arizona. During the class period, Cobb purchased Hebrew National products for his own consumption in Arizona. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Cobb. Cobb paid for a product that was 100% kosher, but did not receive such a product. Cobb purchased the Hebrew National product for his consumption. Cobb believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Cobb purchased the Hebrew National products because he believed the kosher title and certification made them a higher quality product than other meat products on the market. Cobb would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Cobb was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as strictly 100% kosher. Cobb paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be 100% kosher beef. Cobb overpaid because the Hebrew National products purchased were not actually 100% kosher beef, as represented.

33. Plaintiff Erica Davis-Holder (“Davis-Holder”) appears individually and on behalf of all those similarly situated as described herein. Davis-Holder resides in Berwyn, Cook County, Illinois. Davis-Holder has regularly purchased Hebrew National products throughout the class period in Illinois. Davis-Holder purchases the Hebrew National product for her consumption, often at her local Jewel grocery store. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Davis-Holder. Davis-Holder paid for a product that was 100% kosher, but did not receive such a product. Davis-Holder believed Defendant’s representation that Hebrew National products are made from 100% kosher beef. Davis-Holder purchased the Hebrew National products because she believed the kosher title and certification made them a higher quality product than other meat products on the market. Davis-Holder would not have purchased Defendant’s Hebrew National products at the premium price paid but for Defendant’s misleading statements about the product being strictly 100% kosher. Davis-Holder was injured in fact and lost money as a result of Defendant’s conduct of improperly labeling Hebrew National products as strictly 100% kosher. Davis-Holder paid a premium price (often as much as 5.99/package) for Defendant’s Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Davis-Holder overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

34. Plaintiff Rotem Cohen (“Cohen”) appears individually and on behalf of all those similarly situated as described herein. Rotem Cohen resides in New York, New York. Cohen has regularly purchased Hebrew National products throughout the class period in New York State. Cohen purchases the Hebrew National product for his consumption. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and was seen. Cohen paid for a product that was 100% kosher, but did not receive such a product. Cohen

believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Cohen purchased the Hebrew National products because she believed the kosher title and certification made them a higher quality product than other meat products on the market. Cohen would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Cohen was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as strictly 100% kosher. Cohen paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Cohen overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

35. Plaintiffs Julian Wagner and Rose Wagner (collectively the "Wagners") both appear individually and on behalf of all those similarly situated as described herein. Julian Wagner resides in both Bloomfield Hills, Michigan and Boca Raton, Florida. Rose Wagner resides in both Bloomfield Hills, Michigan and Boca Raton, Florida. The Wagners have regularly purchased Hebrew National products throughout the class period in both Michigan and Florida. The Wagners purchase the Hebrew National product for their consumption. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by the Wagners. The Wagners paid for a product that was 100% kosher, but did not receive such a product. The Wagners believed Defendant's representation that Hebrew National products are made from 100% kosher beef. The Wagners purchased the Hebrew National products because they believed the kosher title and certification made them a higher quality product than other meat products on the market. The Wagners would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. The Wagners were injured in fact and lost money as a result of Defendant's conduct of

improperly labeling Hebrew National products as strictly 100% kosher. The Wagners paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. The Wagners overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

36. Plaintiff Erin Stilwell ("Stilwell") appears individually and on behalf of all those similarly situated as described herein. Stilwell resides in Long Beach, California. Stilwell has regularly purchased Hebrew National products throughout the class period in California. Stilwell purchases the Hebrew National product for her consumption, often at her local Albertson's grocery store in Long Beach. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Stilwell. Stilwell paid for a product that was 100% kosher, but did not receive such a product. Stilwell believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Stilwell purchased the Hebrew National products because she believed the kosher title and certification made them a higher quality product than other meat products on the market. Stilwell would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Stilwell was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as strictly 100% kosher. Stilwell paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Stilwell overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

37. Plaintiff Maria Eugenia Saenz Valiente ("Saenz Valiente") appears individually and on behalf of all those similarly situated as described herein. Saenz Valiente resides in Long Beach, California. Saenz Valiente purchased Hebrew National

products during the class period in California, including in December, 2011. Saenz Valiente purchases the Hebrew National product for her consumption. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Plaintiff Saenz Valiente. Saenz Valiente paid for a product that was 100% kosher, but did not receive such a product. Saenz Valiente believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Saenz Valiente purchased the Hebrew National products because she believed the kosher title and certification made them a higher quality product than other meat products on the market. Saenz Valiente would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Saenz Valiente was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as strictly 100% kosher. Saenz Valiente paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Saenz Valiente overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

38. Plaintiff Adam Burnham ("Burnham") appears individually and on behalf of all those similarly situated as described herein. Burnham resides in Middlesex County, Massachusetts. Burnham has regularly purchased Hebrew National products throughout the class period in Massachusetts. Burnham purchased Hebrew National product for his consumption, including at Stop and Shop in January, 2012. The statements and Triangle K symbol signifying the product to be strictly 100% kosher appeared on the product at the time of each purchase and were seen by Burnham. Burnham paid for a product that was 100% kosher, but did not receive such a product. Burnham believed Defendant's representation that Hebrew National products are made from 100% kosher beef. Burnham purchased the Hebrew National products because he believed the kosher title and certification made them a higher quality product than other meat products on the

market. Burnham would not have purchased Defendant's Hebrew National products at the premium price paid but for Defendant's misleading statements about the product being strictly 100% kosher. Burnham was injured in fact and lost money as a result of Defendant's conduct of improperly labeling Hebrew National products as strictly 100% kosher. Burnham paid a premium price for Defendant's Hebrew National products because they were labeled and represented to be strictly 100% kosher beef. Burnham overpaid because the Hebrew National products purchased were not actually 100% kosher beef as represented.

39. Plaintiffs Wallace, Hardt, Simpson, Cobb, Davis-Holder, Cohen, Julian Wagner, Rose Wagner, Stilwell, Saenz Valiente, and Burnham (collectively referred to herein as "Plaintiffs") all have standing to assert the claims alleged herein on their own behalf and on behalf of the Class. All Plaintiffs were injured and overpaid because the Hebrew National products purchased were not actually 100% kosher beef and failed to meet the standard represented.

40. The Class, defined below, consists of any person in the United States who purchased any of Defendant's Hebrew National individually packaged meat products during the Class Period.

41. Plaintiffs are members of the Class. Plaintiffs and the Class all purchased Hebrew National products, which were all uniformly represented by Defendant to be strictly 100% kosher, and guaranteed to meet that standard, during the Class Period.

42. Defendant ConAgra Foods, Inc. is a Delaware corporation, with its principal place of business at One ConAgra Drive, I-237, Omaha, Nebraska 68102. Defendant's agent for service of process is at 380 Jackson Street #700, St. Paul Minnesota 55101. For purposes of residency, Defendant's corporate nerve center is located at One ConAgra Drive, I-237 Omaha, Nebraska 68102. Defendant manufactures, markets, distributes and sells Hebrew National products nationwide, including those purchased by Plaintiffs. At all times relevant to this action, including

throughout the Class Period, Defendant conducted business in this district, advertised in this district and marketed its products, including those at issue, in this district. Defendant claims that its products are in 97 percent of American households and reported over \$12 billion in net sales for fiscal year 2010 with an operating profit of over \$1.6 billion. <http://www.ConAgrafoods.com/>. Upon information and belief, a significant portion of these sales were of Hebrew National products.

IV. FACTUAL ALLEGATIONS

A. ConAgra Manufactures Hebrew National Meat Products.

43. Defendant manufactures, processes, markets and sells Hebrew National meat products throughout the United States. Those products are all uniformly and systematically labeled, marketed and represented to be 100% kosher according to the standard set forth above. See Exhibit A and www.hebrewnational.com. The labels and representations that Hebrew National products are strictly 100% kosher according to the standard set forth above are ultimately approved by Defendant for dissemination to the public in and from Defendant's offices in Nebraska. Such acts give rise to the claims asserted herein.

44. Defendant obtains the meat used to manufacture and produce the Hebrew National meat products it sells from AER Services, Inc ("AER") and/or American Foods Group, LLC ("AFG"). Upon information and belief, throughout the Class period, AER and AFG have been the sole providers of kosher meat used in Hebrew National products.

45. AER is a privately-held, for-profit Illinois corporation, with its principal place of business at 9025 Tripp Avenue, Skokie, IL 60076. The president and owner of AER is Shlomoh Ben-David ("Ben-David"). Rabbi Moshe Fyzakov ("Fyzakov") is the vice president and manager of AER. Fyzakov works out of AER offices in Denver, Colorado.

46. AER leases slaughterhouse space from companies such as AFG and hires specialized personnel such as shochets, bodeks, and machigiachs to engage in kosher

meat slaughtering, processing and inspection services. AER provides the services of these employees to companies such as ConAgra. AER provides the human resources for kosher meat slaughtering, processing and inspection services at the AFG facilities in South St. Paul, Minnesota, Green Bay, Wisconsin and Gibbon, Nebraska. (the AFG facilities in South St. Paul, Minnesota, Green Bay, Wisconsin and Gibbon, Nebraska are collectively referred to herein as the “AFG facilities”). The meat harvested from such activities is ultimately used by Defendant in the Hebrew National products it manufactures and sells to the Class.

47. AER and AFG are not religious institutions. Rather, they are both for-profit corporations with secular purposes.

48. Triangle K, Inc. (“Triangle K”) is a privately-held, for-profit New York corporation, with its principal place of businesses at or about 225 West 86th Street #717, New York, New York 10024 and/or 1240 E. 29th Street, Brooklyn, New York 11210. Triangle K is owned and operated by Chief Executive Officer Rabbi Jehoseph Howard Ralbag and/or his son, Rabbi Aryeh Ralbag. <http://trianglek.org/about.html>. Rabbi Aryeh Ralbag is the Head Kashruth Coordinator of the Triangle K kosher supervision and certification organization and in that capacity issues rabbinical rulings concerning the kosher processing activities related to the ritual slaughter, examination and supervision of the animals.

49. Triangle K’s operates as a for-profit kosher certifying agency for ConAgra and other food companies. <http://trianglek.org/products.html> (identifying Motts, Ocean Spray, Minute Maid, Kraft Pudding, Wonder Bread, Hostess, Frito Lay, and Del Monte among other products it certifies) Triangle K was incorporated in or about December 2003 (NY DOS: 2983707) and began certifying ConAgra’s Hebrew National meat products as kosher in or about January 2004.

50. Upon information and belief, in recent years, due to immigration and other problems, AER has experienced certain labor shortages, some which have contributed to

the certification problems and deficiencies at the AFG facilities discussed herein. AER recruited a significant number of people that it employs (as shochets, bodeks, and machigiachs) to supervise and conduct the kosher meat slaughtering, processing and inspection from Israel. Upon information and belief, AER had an arrangement with an unrelated entity, Ravenswood Budlong Congregation (“Ravenswood”) of Skokie, Illinois, to sponsor Israeli nationals for certain types of immigration visas, who in turn, were sent to work for AER at AFG facilities as shochets, bodeks and machigiachs. As a secular, for-profit business entity, AER could not secure work visas for these workers directly. As a result, AER arranged to have Ravenswood sponsor these workers for visas and if admitted to the United States, to provide the workers to AER to work at AFG facilities as shochets, bodeks and machigiachs. Ravenswood did not truly employ or supervise these workers, provide kosher certifications or otherwise perform work related to the kosher slaughtering process, yet certain workers were paid through Ravenswood. Upon information and belief, ultimately, the U.S. Immigration and Custom Enforcement and Department of Homeland Security, restricted the issuance of such visas. Further, upon information and belief, AER encouraged illegal aliens to travel to the United States as tourists, on student visas and/or otherwise and then work for AER in AFG facilities as shochets, bodeks and/or machigiachs. In order to facilitate the payment of wages to such persons, AER: (a) requested that other non-alien workers at the AFG facilities accept wages on those alien worker’s behalf and then pay those workers once the funds cleared their bank accounts; (b) paid the workers through friends and family members in Israel.²

² See also, American Jewish World, June 20, 2012, found at <http://www.ajwnews.com/archives/13701>:

“In fact, the American Jewish World has been hearing complaints from AER employees, and former employees, for more than two years, about shortcomings in the kosher slaughtering procedures. It has been difficult to write a conclusive story up to this point, because many of the AER employees did not want to go on the record and risk losing their jobs. Former employees even expressed fear for their personal safety, if they were identified in a story.

These practices are described in greater detail in the Affidavit of Leo Maurani in *Maurani v. AER*, No. 06-CV-00176 (D.Minn.) and the Verified Complaint in *Narcisco Cohen v. AER*, No. 07-CV-285 (D.Minn.), which are of public record and incorporated by reference. Certain workers' refusal to engage in such activities further led to labor shortages at AFG facilities and the inability to satisfy the kosher standards represented.

51. AER does not own the physical meat processing facilities where it conducts its kosher meat slaughtering, processing and inspection services needed to generate the meat for the Hebrew National products that Defendant produces but rather, leases facilities from AFG, and/or has an arrangement to supply certain workers to the AFG facilities to serve as shochets, bodeks, and mashigiachs in the harvest of meat for Hebrew National products.

52. AFG is the fifth largest beef processing company in the United States. <http://www.americanfoodsgroup.com/index.asp>. AER conducts its kosher meat slaughtering, processing and inspection services at meat processing facilities owned and/or operated by AFG, including the Dakota Premium Processing Foods Plant in South St. Paul, Minnesota, a plant in Green Bay, Wisconsin, and a plant in Gibbon, Nebraska

AER has been hiring men in Israel to come to the Midwest and work as kosher slaughterers (*shochtim*) and checkers (*bodekim*). One such person, an Israeli shochet, who visited the AJW offices in August 2010, said that AER was treating its employees "like dirt," housing them in apartments where they slept four to a room on mattresses on the floor. AER "would cheat on the kashrut issue," said this employee, who displayed IDs from the Dakota Premium Foods Plant, and the PM Beef Holdings slaughterhouse in Windom, Minn. Both photo IDs identified him as "Rabbi." AER also did kosher slaughter at plants in Green Bay, Wisc., and in Nebraska.

The Israeli employee of AER also stated that he was paid partial wages in the U.S., and collected most of his wages by sending a friend or family member to the town of Bnei Brak, Israel, where an AER associate doled out the money.

On this latter point, Shlomoh Ben-David, the proprietor of AER Services, spoke late last week to Shmarya Rosenberg, who runs the Web site called Failed Messiah. Rosenberg reported that Ben-David "pointed out that Israeli tax law allows Israelis working overseas to get \$100 in per diem. That money is not taxed. And it is that money [Ben-David] says was paid to the family of the schochet in the American Jewish World story."

(“AFG facilities”). See generally, <http://www.americanfoodsgroup.com/page.asp?pageid=12>. At times, those facilities are used and/or leased to another company to produce Islamic halal meat. <http://www.americanfoodsgroup.com/page.asp?pageid=14> (“Harvest facilities located in Long Prairie, Minnesota, South St. Paul, Minnesota, Gibbon, Nebraska and Green Bay, Wisconsin are certified for Halal slaughter.”)

53. AER employs personnel in the position of “Mashigiach” at the meat processing facilities it operates, including those in South St. Paul, Green Bay and Gibbon. A mashigiach is the person employed at the facility that is responsible for the supervision and observation of the meat packing and shipping processing to ensure compliance with the kosher slaughter and certification process.

54. AER also employs personnel in the positions of “Shochet” and “Bodek” at the meat processing facilities it operates, including those in South St. Paul, Green Bay and Gibbon. A shochet is a kosher butcher who performs the ritual slaughter. A bodek is a person employed at the facility that examines the carcass, including the animal’s lungs, to ensure it is kosher. A preliminary bodek stands at the beginning of the carcass examination line. Another bodek stands at the end of the carcass examination line and makes the final decision as to a carcass’ kosher status before the carcass leaves the harvest floor.

55. Defendant contracts with third-party kosher certification agency Triangle K to provide kosher food supervision and certification services. Kosher certifying agencies have existed in North America since the late 19th century.³ Kosher certification agencies

³ See generally Upton Sinclair, *The Jungle* (1906, Project Gutenberg ed. 2006) Chapter 3, page 63, available online at <<http://www.gutenberg.org/files/140/140-h/140-h.htm>> (“The visitors were taken there and shown them, all neatly hung in rows, labeled conspicuously with the tags of the government inspectors—and some, which had been killed by a special process, marked with the sign of the kosher rabbi, certifying that it was fit for sale to the orthodox. And then the visitors were taken to the other parts of the building, to see what became of each particle of the waste material that had vanished through the floor; and to the pickling rooms, and the salting

regulate the production of kosher foods such as ensuring that only kosher ingredients are used, and that equipment for processing kosher foods are exclusively used for kosher foods. Once a product is assessed and deemed kosher, each agency applies its unique symbol known as a “hechsher,” certifying the product as kosher.

56. Upon information and belief, in or about 2003, Defendant entered into an agreement with kosher certification agency Triangle K, in which Triangle K would oversee the processing and certification of all kosher meat to be used in Defendant’s Hebrew National products.

57. The Triangle K organization is responsible for the overall supervision of the kosher processing activities at multiple beef processing facilities owned by AFG, including the AFG facilities. This has been the case at all times since 2004 and throughout the Class Period.

58. Upon information and belief, AER is the sole slaughterer and inspector, and Triangle K the sole certifier, of all “kosher” meat used in Defendant’s Hebrew National products. Upon information and belief, all meat used in Hebrew National products during the Class Period came from the AFG facilities.

59. Triangle K is supposed to supervise all of the AER slaughtering operations to ensure they were conducted according to kosher dietary laws. Often, however, Triangle K personnel are not at the AFG facilities and kosher supervisory functions are delegated to or otherwise performed by AER personnel, such as mashigiachs. Those mashigiachs are to report any problems or transgressions to Rabbi Aryeh Ralbag and/or others at Triangle K, such as his sons.

60. As the manufacturer that packages and distributes the final product, however, Defendant remains ultimately responsible to consumers in the Class for untrue

rooms, the canning rooms, and the packing rooms, where choice meat was prepared for shipping in refrigerator cars, destined to be eaten in all the four corners of civilization.”)

and misleading statements on Hebrew National product labels. In turn, it provides consumers a “kosher guarantee.” (Exhibit G).

61. At all relevant times, Defendant, AER, AFG and Triangle K have had an agreement(s) whereby AER would conduct kosher slaughtering and kosher meat processing at AFG facilities, for which Triangle K was retained to provide supervision and kosher certification. In turn, upon information and belief, AER is the sole slaughterer and inspector, and Triangle K is the sole certifier, of all kosher meat used in Hebrew National products. Only AER employees are supposed to provide the kosher slaughtering services.

62. Upon information and belief, AFG delivers the cattle to the AFG facilities to ultimately be slaughtered, inspected and certified by AER and Triangle K. The non-kosher meat that is harvested during the slaughtering process is retained by AFG and ultimately sold to third-parties. The kosher meat that is harvested is sold by AFG to ConAgra. ConAgra ultimately processes the meat received into Hebrew National products which represents to the public (including the Class) that all such products are strictly 100% kosher “*as defined by the most stringent Jews who follow Orthodox Jewish Law.*” Because kosher meat commands a higher price from consumers than non-kosher meat, throughout the process AFG, AER, Triangle K and ConAgra all have a common financial interest in maximizing the amount of meat harvested from any cow slaughtered that can ultimately be labeled and sold as kosher.

63. During the relevant Class Period, certain mashigiachs, shochets, bodeks and/or others employed by AER complained to AER and Triangle K that the procedures they witnessed at the AFG facilities rendered the meat being processed not kosher. Although several such complaints were made to AER and Triangle K both entities did little or nothing to correct the transgressions. Rather, the persons making the complaints were terminated or otherwise threatened with adverse retaliation, such as job transfers to other AER facilities in other states. In turn, non-kosher meat was delivered to ConAgra

and packaged, labeled and sold to the public (including the Class here) as strictly 100% kosher.

B. ConAgra Markets All of Its Hebrew National Products As “100% Kosher” According to the Strictest and Most Exacting Standard.

64. Defendant sells numerous types of beef products under the Hebrew National brand, including Hebrew National Beef Franks. *See* http://www.ConAgrafoodscompany.com/consumer/brands/getBrand.do?page=hebrew_national (listing products) (Exhibit D). All of Defendant’s Hebrew National products come in packaging with a label that states the products are “MADE WITH PREMIUM CUTS OF **100% KOSHER BEEF.**” *See e.g.*, Exhibit A.

65. All of Defendant’s Hebrew National products come in packaging which contain the distinctive Triangle K symbol. *See e.g.*, Exhibit A. *See* http://www.ConAgrafoodscompany.com/consumer/brands/getBrand.do?page=Hebrew_national (listing products and labels) (Exhibit D).

66. Defendant’s website boasts that: “[t]he Triangle K symbol is a trademarked logo that signifies ‘kashruth’ (kosher) *“as defined by the most stringent Jews who follow Orthodox Jewish Law.* It’s a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision.”⁴ “Hebrew National proudly serves products under the kosher supervision of internationally recognized Triangle K organization. So not only do Hebrew National franks have only the purest ingredients, but there is rabbinical supervision of the food preparation process and packaging equipment....Because chemicals and food additives make it increasingly difficult to determine the kashruth status of a product, all ingredients and equipment must pass stringent supervision. These standards are so exacting that an entire formula can be prohibited if the supervising rabbi finds in it even a single non-kosher ingredient that makes up only one-tenth of 1% of the total.” (Exhibit B). Hence, Defendant itself

⁴ <http://www.hebrewnational.com/kosher-difference.jsp> *See also*, <http://trianglek.org/index.html>

defines and represents to the public the precise kosher standard that its Hebrew National products adhere to – the very strictest and exacting. In other documents and testimony, the elements of that standard are defined in objective terms

67. In doing so, Defendant intends that consumers, like Plaintiffs, rely on its kosher certification representations and believe they are purchasing only meat products that adhere to the strictest, most stringent and exacting standards of kosher food certification and supervision. Under “The Kosher Difference” section of its website, Defendant states:

Kosher, Shmosher—What’s the Difference?

You’ve heard the word kosher, but did you know it literally means “fit to eat”? For more than 100 years, Hebrew National® has followed strict dietary law, using only specific cuts of beef that meet the highest standards for quality, cleanliness, and safety—so artificial flavors, colors, fillers, and by-products simply don’t make the cut.

Go Ahead: Make My Dog

Hebrew National proudly serves products under the kosher supervision of the internationally recognized Triangle K organization. So, not only do Hebrew National franks have only the purest ingredients, but there is rabbinical supervision of the food preparation process and packaging equipment.

What Is Triangle K Supervision?

The Triangle K symbol is a trademarked logo that signifies “kashruth” (kosher) as defined by the most stringent Jews who follow Orthodox Jewish Law. It’s a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision. For more than half a century, Triangle K has been committed to making kosher food products available to people around the world.

KASHRUTH FOOD AND INGREDIENTS

Because chemicals and food additives make it increasingly difficult to determine the kashruth status of a product, all ingredients and equipment must pass stringent supervision. ***These standards are so exacting*** that an entire formula can be prohibited if the supervising rabbi finds in it even a single non-kosher ingredient that makes up only one-tenth of 1% of the total.

MANUFACTURING KOSHER

While there might be slight variations from plant to plant, the requirements for the manufacture of all kosher food are based on the same fundamental principle of Jewish Dietary Laws: only kosher ingredients processed in kosher equipment.

INVESTIGATION OF MANUFACTURING FACILITIES

First, a special supervisor, the mashgiach, or an ordained Orthodox rabbi conducts an investigation of the plant and its procedures, as well as the ingredients, equipment, and processes used in the production of the product.

If the preliminary investigation indicates acceptable ingredients and procedures, the manufacturer is informed as to the nature of rabbinical supervision required for the food product for a specific period of time. Each individual food product must be inspected and certified separately, and the certification process is ongoing; each product must be inspected every year.

KOSHER LAW ENFORCEMENT

In an effort to protect kosher-observant consumers, kosher laws have been incorporated into various state codes. For example, in New York, the Kosher Law Enforcement Division (KLED) is maintained to aid its large Jewish population and protect consumers from the mislabeling and misrepresentation of food products. A division of the state's Department of Agriculture and Markets, KLED's tasks include ensuring that businesses selling any item with kosher certification—particularly meat and poultry products—adhere to the state's labeling laws. *Rabbi Rubin stated, "We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients."*

The legal protection for kosher consumers was first introduced into American law in 1915. According to Kashrus, "New York has continued its leadership role by setting standards for the development of new ways to guard against fraud and misrepresentation in the sales and distribution of kosher food." KLED laws require that meat and meat parts (including poultry) be identified as kosher through the use of tags and plumbas. The regulations also address the procedures to be followed with respect to the required washing of meat and the method of transportation.

<http://www.hebrewnational.com/kosher-difference.jsp>.⁵ (Emphasis added) (Exhibit B).

⁵ Likewise, Triangle K's website provides:

Kosher Food Supervision and Certification of Manufacturers, Products and Plants Around the World

The Triangle K symbol is a patented and trademarked logo *that signifies "kashrut" as defined by the most stringent of Orthodox Jewish law*. The organization offers its rabbinical supervision and certification on any ingredient or product *that meets the strictest criteria of what makes such items kosher*.

68. Defendant further assures customers that ingredients in Hebrew National products “meet a higher standard.” In this regard, Defendant attempts to gain consumer’s trust by promoting that “We answer to a higher authority.”

Overview

For discriminating consumers who love premium frankfurters and deli meats, Hebrew National kosher products provide a uniquely superior taste experience because they’re made with the best quality ingredients that meet a higher standard.

Hebrew National is a leading kosher meat brand. In addition to the brand’s best-known beef franks, made with 100% pure kosher beef, Hebrew National produces a wide variety of products, including salami, bologna, knockwurst, flavored sausages, corned beef, pastrami, and franks in a blanket.

History

Hebrew National began in 1905 when Isadore Pinckowitz, a Romanian butcher, began making kosher sausages and frankfurters in a sixth-floor walk-up on Manhattan’s Lower East Side. The Hebrew National Kosher Sausage Factory, as the company was originally called, processed kosher meats for many New York delicatessens and grocery stores. The brand quickly became a favorite among the Jewish immigrant community and beyond.

Through the years, the brand has remained true to its original commitment to quality. It emphasized this commitment, and stayed true to its roots,

The food business has become a multi-billion dollar industry. Mass production and national and international distribution has brought new pressures to bear on company profits, production quantity, ingredient complexity and product diversification. And the reliability of kosher food certification has become a key figure in the company’s bottom line profit margin and customer satisfaction.

Triangle K is a symbol of integrity representing the most trusted and reliable name in strict rabbinical food certification and supervision. For over a half century we have been committed to making kosher food products available to Jewish people around the world in the widest variety of food products.

The commitment of this consortium of Orthodox Jewish rabbis is, above all else, rooted in their desire to see as wide a range of food products made available to kosher Jewish consumers worldwide.

To this end, Triangle K and Associates works side by side on an individual basis with each of their clients to create reasonable and cost effective certification and supervision programs.

<http://trianglek.org/index.html>. (Emphasis added) (Exhibit E).

when the tagline “We answer to a higher authority” was introduced in 1965. This focus helped it expand beyond an ethnic brand to a provider of premium, kosher-quality, delicious products.

http://www.ConAgrafoodscompany.com/consumer/brands/getBrand.do?page=hebrew_national (Exhibit D). *See also* <http://www.hebrewnational.com/history/100-years.jsp> (“In 1965, Hebrew National hot dogs launched the “We Answer to a Higher Authority” ad campaign. The slogan quickly became a symbol for quality, appealing to Jews and non-Jews alike.”)

69. Defendant is aware that consumers rely on “trusted seals, standards and symbols of higher quality” when making food product shopping decisions, and further recognizes that “kosher” is among the top eight trusted marks consumers look for when making food purchases. For example, in a News Release dated May 8, 2006, ConAgra stated as follows:

To determine what they should consider “better food,” many consumers are turning to trusted seals, standards and symbols of higher quality—indeed, more than nine in 10 Americans today consider trust marks to some degree when shopping.

A new “What’s In Store” survey of consumer shopping habits commissioned by ConAgra Foods confirms this trend:

- ***Fully 95 percent of Americans say they would consider quality symbols, seals & trust marks when food shopping.***
- Four times as many survey respondents said they are more likely to consider buying foods based on trust marks today than they were a year ago, compared to only a quarter as many who said less likely.
- ***While many symbols are present in the market today, the top eight trust marks consumers look for are: WHOLE GRAINS, HEART-HEALTHY, ZERO GRAMS TRANS-FAT, LOW SODIUM, NATURAL, DIETARY GUIDELINES, ORGANIC & KOSHER.***

* * *

In addition to Dietary Guideline standards, market research confirms growing interest among American food shoppers for certified organic and Kosher seals that have long traditions of their own, going back thousands of years in the case of Kosher.

* * *

For many, Kosher is the New Organic

The Kosher trend is also gaining momentum as more people come to understand the quality connection associated with the Kosher seal - which certifies both high-quality ingredients and processes that meet strict Kosher

standards. More than one in 10 Americans in the “What’s In Store” survey recognized the Kosher quality seal as something they would consider when making quality food-purchasing decisions.

For retailers, the correlation between increased consumer interest in the Kosher category and the success of the organic movement is noteworthy. Many consumers find similar appeal for product attributes in both the *Kosher and organic categories, as motivations for choosing Kosher - such as quality and purity of ingredients, and adherence to strict standards during manufacturing - are closely akin to the driving motivations behind the strong organic trend. For consumers, Kosher and organic products satisfy the need for better, higher quality foods.*

Food products such as premium Hebrew National(R) Kosher Beef franks, made with 100 percent Kosher quality beef with no artificial colors, flavors or by-products, have shown unprecedented growth and demand in recent years. The Kosher frank continues to gain mainstream market acceptance, moving from a niche product to one with national appeal. ConAgra Foods intends to position the brand to further accelerate the growing demand for Hebrew National franks, enhancing in-store marketing efforts to more clearly identity and highlight the benefits of Kosher.

ConAgra Foods, News Release, ConAgra Foods Survey – Seals & Standards of Quality Give Grocery Shoppers Confidence (May 8, 2006), http://investor.ConAgrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle_pf&ID=1008637&highlight= (emphasis added, footnotes omitted) (Exhibit F).

70. Defendant has conducted and/or commissioned consumer surveys which confirm that consumers trust and rely on manufacturers’ kosher food labels and certifications and do not want any surprises when purchasing such foods. In effort to gain the trust of its consumers, Defendant emphasizes the importance and exactness of the strict guidelines kosher food manufacturers must follow in order to provide the quality assurance consumers seek when purchasing kosher products:

“Hot dogs remain the top choice as summer fun food for active kids, but parents are more concerned than ever about the quality and purity of ingredients,” says Tom Bartley, director of Marketing, Hebrew National. “Parents don’t want any ‘mystery meat’ surprise inside their child’s food. *They don’t want any ifs, ands, or butts. They want premium quality, all beef and no surprises, which is what they get with kosher.* And that’s why kosher foods are gaining mainstream consumer acceptance. *Foods like Hebrew National’s 100 percent kosher beef franks give parents quality assurance and purity of ingredients they can trust,* similar to what they might find in organic foods.”

Today, more than nine out of 10 Americans look to ‘trust marks’ such as kosher and organic to help them determine their best food choice when shopping. In fact, with its long history of purity, cleanliness and higher quality, kosher is now one of the top eight trust marks Americans consider when shopping for quality foods. The kosher mark on Hebrew National packaging—a triangle with a “K” in the center—is a symbol of quality, freshness and purity of ingredients the brand has been delivering to families for more than 100 years.

The Kosher Difference

The Hebrew National survey gets to the meat of what Americans think about kosher and hot dogs, including:

- Changing times, changing to kosher: Among the reasons some Americans are choosing kosher now versus five years ago are the purity of kosher food (95 percent), higher-quality ingredients (92 percent) and food safety (90 percent). Great taste was noted by 80 percent of those respondents.
- Best tasting dog attributes: Seventy-nine percent say quality, 72 percent say all-beef, 68 percent say juiciness.
- Kosher tops the list: Eighty-three percent of those who purchase kosher products buy kosher hot dogs, making it the top kosher food choice among kosher users.

Appeal of Kosher Foods Grows

The food industry has responded to growing demand for kosher in a big way. Kosher food has blossomed to a \$9.4 billion-a-year industry whose sales climb at an annual rate of 15 percent. There are now more than 86,000 kosher-certified products.

Part of kosher’s appeal is strict guidelines kosher manufacturers must follow to ensure cleanliness, purity of ingredients and safety. Kosher food preparation is supervised by a rabbi and includes examination of ingredients as well as processing and packaging equipment. These standards are so rigorous that a food can be barred from receiving kosher certification if even a single non-kosher ingredient that makes up only one-tenth of one percent of the total is found.

http://media.ConAgrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle_pf&ID=1008355&highlight=F (emphasis added) (Exhibit J).

The new campaign was bolstered by a recent national survey, commissioned by ConAgra Foods, that found consumers consider “kosher” one of the top eight seals, standards and symbols they consider as signs of quality foods. ... choice, especially when it comes to meat. ***‘Kosher quality is increasingly relevant for all Americans. For moms, especially, kosher is becoming the ‘new organic,’ which they can trust for purity, freshness and quality ingredients,’ says Tom Bartley, marketing director, Hebrew National.*** “Our summer campaign will help remind consumers Hebrew National Franks are free of artificial colors, flavors and by-products,

containing only choice cuts of 100 percent kosher-quality beef--with no ifs, ands or butts.

http://media.ConAgrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle_pf&ID=1008510&highlight= (emphasis added) (Exhibit I).

71. Defendant intends consumers (including class members here) to rely on and trust its kosher representations and kosher certifications. *Id.* See also, http://www.ConAgrafoodservice.com/products_and_brands/franks.do (“Premium Taste. 100% Kosher Beef. Today, more patrons are concerned about quality ingredients and the purity of the foods they eat. Hebrew National® fits the bill. A kosher frank of uncompromising quality, Hebrew National is made with 100% butcher-quality cuts of beef and contains no fillers, artificial flavors, colors or by-products. For over 100 years, Hebrew National has adhered to the highest standards of quality, cleanliness and safety for a difference you can taste. Hebrew National offers a wide variety of products from franks to deli meats and lunchmeats.”) (Exhibit H).

72. Defendant guarantees consumers that Hebrew National products are made with 100% kosher beef. See, <http://media.ConAgrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle&ID=1148022&highlight=>. (“You don’t have to guess what’s inside a kosher hot dog. Hebrew National hot dogs are made with premium cuts of 100 percent kosher beef and have no artificial flavors, colors, fillers or by-products with ***the kosher guarantee***.”)(Exhibit G). See also, <http://www.hebrewnational.com/products-promotions.jsp> (“Products: Hebrew National® tastes great because for more than 100 years we’ve adhered to the highest quality standards. Our products are made with the finest ingredients and contain no artificial flavors, no artificial colors, no by-products, and no fillers. That’s our guarantee.”)

73. Through the foregoing statements, made uniformly to the public on its website or otherwise, Defendant confirms: 1) that it represents that its Hebrew National products are kosher “*as defined by the most stringent Jews who follow Orthodox Jewish Law*,” 2) that its Hebrew National products meet the highest and strictest standards of

kosher certification; 3) that Defendant intends consumers of Hebrew National products to rely on it to deliver only 100% kosher products which adhere to the strictest and most stringent standards of kosher certification and supervision; 4) that it expects consumers to rely on the kosher representations and certification marks placed on food labels so that they don't have to carefully check the ingredients themselves; and 5) 100% kosher beef in Hebrew National products is guaranteed. While making these statements to consumers, however, Defendant takes insufficient care to ensure the statements are true and accurate.

74. Defendant's conduct is likely to deceive reasonable consumers, including those in the Class.

75. The "100% Kosher Beef" representation appears uniformly on every package of Defendant's Hebrew National products sold to the Class, as that statement is part of Hebrew National's logo. *See* Exhibit A. The "100% Kosher Beef" label is a prominent part of Defendant's Hebrew National logo as it is written with bright blue lettering and in all capital letters. The Triangle K certification mark also appears uniformly on every package of Defendant's Hebrew National products. *See* Exhibit A. The Hebrew National logo and Triangle K certification mark that appears on every package of Hebrew National products are intended to inform consumers that any Hebrew National product purchased is strictly 100% kosher according to the exacting and stringent standard Defendant represents it adheres to.

76. By consistently and systematically marketing and advertising Hebrew National products as strictly 100% kosher, along with the Triangle K mark, throughout the Class Period, Defendant ensured that all consumers purchasing Hebrew National products would be exposed to Defendant's claim that all products purchased were 100% kosher according to the strictest, most exacting and most rigorous standard. As Defendant's own surveys and studies show, over 90% of its consumers trust and rely on such kosher "trust marks" when making food purchasing decisions. *See* Exhibit J

(*“Today, more than nine out of 10 Americans look to ‘trust marks’ such as kosher and organic to help them determine their best food choice when shopping.”*). Defendant intends consumers, such as those in the Class to rely on its representations in this regard.

77. The representation that all Hebrew National products are strictly 100% kosher according to the stated standard is material to the average consumer that purchases such products, which is why Defendant places the kosher label and Triangle K certification mark prominently on the front of all of its Hebrew National products. The materiality of the labeling misrepresentations alleged herein is determined by an objective reasonableness standard, not a subjective standard. Reasonable consumers purchasing Hebrew National products would attach importance to Defendant’s representation on Hebrew National product packages that the contents were strictly 100% kosher. Reasonable consumers making a decision as to whether to purchase Hebrew National products or another similar product would want to know whether the product chosen was actually 100% kosher or not before completing the purchase and parting with their money. *See Exhibit J (“Today, more than nine out of 10 Americans look to ‘trust marks’ such as kosher and organic to help them determine their best food choice when shopping.”)*. A product not labeled as strictly 100% kosher is less likely to be purchased by consumers who buy kosher food and less likely to command a premium price (as charged here). As Defendant quotes on its own website: “We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients.” (Exhibit B). Defendant’s conduct of labeling and marketing Hebrew National products as strictly 100% kosher when they are not, creates confusion and misunderstanding in reasonable consumers seeking kosher food. As such, Defendant’s conduct is misleading and deceptive.

C. Defendant's Hebrew National Products Fail To Meet The Standard It Represents the Products to Meet and Defines.

1. Kosher Meat Process

78. Traditionally, members of the Jewish religion followed the kosher standards to ensure consumption of safe and sanitary meats. However, today the exacting attention to preparation and preferred flavors of kosher meat explain why kosher products are purchased for their perceived superior quality and taste and not just for religious reasons.⁶ People of all religions purchase kosher products for their perceived superior quality and taste. In turn, kosher products are sold at a premium price compared to comparable non-kosher products.

79. Kosher standards derive from a few straightforward rules. For food to be kosher it must: (i) come from a proper source – for example only certain sources of meat and parts of the animal, (ii) be slaughtered, inspected and prepared in a specific manner – for example, animals must be slaughtered as quickly and painlessly as possible, and (iii) not be combined improperly with food that might otherwise be considered kosher. <http://www.hebrewnational.com/kosher-difference.jsp>.

80. The Court need not determine or establish these rules in this case. Defendant and its contractors (AER and Triangle K) have defined the applicable rules and standards for meat to be labeled as 100% kosher (in documents, testimony and the like) in objective terms. The court here needs only determine factually if Defendant's products satisfied the rules and standards that Defendant represented to the public (and the Class) that they did.

81. The Triangle K website describes the applicable standard in objective terms:

⁶ See <http://www.hebrewnational.com/history/100-years.jsp>; <http://www.hebrewnational.com/history/only-in-america.jsp>; <http://www.hebrewnational.com/kosher-difference.jsp>

Kosher Defined

* * *

ANIMALS: Only the meat of certain animals are kosher. These animals can be identified as having split hooves and chewing their cud - animals such as cows and sheep. There are many kosher animals such as deer, buffalo and others, however ALL animals must be slaughtered in a very specific ritualistic manner to be certified as kosher. And only a trained professional called a “shochet” may perform the slaughter.

<http://trianglek.org/kosherdefined.html> (Exhibit E).

82. Rabbi Aryeh Ralbag of Triangle K has testified to the applicable rules and requirements for kosher slaughter under the standard Defendant represents in objective terms. For instance, in *Marauni v. AER*, he submitted an affidavit that was filed with the Court attesting to the “Rules Governing Ritual Slaughter.” Affidavit of Rabbi Aryeh Ralbag at ¶¶ 3-10, filed in *Marauni v. AER*, No-06-cv-176, February 21, 2006.

83. Shlomoh Ben-David of AER has testified to the standard’s rules and requirements for kosher slaughter under the standard Defendant represents in objective terms. For instance, in *Marauni v. AER*, Shlomoh Ben-David submitted an affidavit that was filed with the Court attesting to these requirements. Affidavit of Shlomoh Ben-David at ¶3, filed in *Marauni v. AER*, No-06-cv-176, February 21, 2006, attached as Exhibit R.

84. Rabbi Michael Small of AER has testified to the standard’s rules and requirements for kosher slaughter under the standard Defendant represents in objective terms. For instance, in *Marauni v. AER*, he submitted an affidavit that was filed with the Court attesting to the “Rules Governing Ritual Slaughter.” Affidavit of Rabbi Michael Small at ¶¶ 4-9, filed in *Marauni v. AER*, No-06-cv-176, February 21, 2006, attached as Exhibit P.

85. Rabbi Moshe Fyzakov of AER has testified to the standard’s rules and requirements for kosher slaughter under the standard Defendant represents in objective terms. In *Git v. AER*, he submitted an affidavit that was filed with the Court attesting to these requirements. Affidavit of Rabbi Moshe Fyzakov at ¶5, submitted in *Git v. AER*,

No-19HA-CV-11-401 (Dakota County, Minn. District Court), dated May 10, 2011, attached as Exhibit Q.

86. Triangle K has published and disseminated a document or position statement to the public, confirming the kosher rules to be applied to satisfy the standard Defendant represents. *See* Statement of the Triangle K, June 2012, attached as Exhibit M).

87. AER has also published and disseminated a document or position statement to the public, confirming the kosher rules to be applied to satisfy the standard Defendant represents. *See* Position Statement of AER Services, Inc., June 21, 2012, attached as Exhibit N.

88. In order for meat to be represented and certified according to the strict standard Defendant guarantees all Hebrew National products adhere to, each of the rules described in the foregoing paragraphs must be followed without deviation. As set forth below, Plaintiffs do not dispute these rules. Plaintiffs simply dispute, and will present evidence showing that, in practice, the rules and standards represented by Defendant and its contractors were not actually followed.

89. **Certain animals cannot be eaten at all.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that in order for meat from an animal to be kosher, the animal must have both split hooves and chew its cud – cattle and sheep are the primary mammals used in the koshering process in the United States. This complaint does not allege that this rule was violated by Defendant.

90. **Of the animals that may be eaten, they must be slaughtered in a specific manner.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that of the animals that may be eaten, they must be

slaughtered in a specific manner.⁷ As described below, the animals whose meat is used by Defendant in Hebrew National products, however, is not consistently slaughtered in the proscribed manner required to be considered kosher under Defendant's own standards. Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

91. **External Inspection of the cattle before the slaughter to ensure animal is healthy and clean, not sick or dirty.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that there must be an external inspection of the animals to be slaughtered to ensure that only healthy and clean animals are slaughtered.⁸ Meat from sick animals, animals that were killed by other animals or animals that have died of natural causes cannot be marked kosher. Animals cannot have any missing limbs, broken bones or signs of illness. Further, unclean animals (i.e., those with dirty hides covered with mud, sand or stones) cannot be slaughtered and considered kosher. Only cattle that are free from physical defects and clean enough can be slaughtered for kosher consumption. This ensures that the clean cut necessary for kosher slaughter can be made and that the cattle can, after examination, be qualified for kosher consumption. Therefore, once cattle arrive at the meat processing plant, inspectors must thoroughly examine the exterior of the mammal for cuts, bruises, growths, and overall

⁷ See Affidavit of Rabbi Aryeh Rablag (Exhibit O), at ¶¶5, 7-9; Affidavit of Rabbi Michael Small (Exhibit P), at ¶¶6, 8-10; Affidavit of Shlomoh Ben-David (Exhibit R), at ¶¶2-4; Statement of Triangle K (Exhibit M), at ¶¶ 1-3; and, Position Statement of AER Services (Exhibit N), at p. 2.

⁸ See Affidavit of Rabbi Aryeh Rablag (Exhibit O), at ¶8; Affidavit of Rabbi Michael Small (Exhibit P), at ¶9; Affidavit of Rabbi Moshe Fyzakov (Exhibit Q), at ¶5; Affidavit of Shlomoh Ben-David (Exhibit R), at ¶¶2-4; Statement of Triangle K (Exhibit M), at ¶ 2; and, Position Statement of AER Services (Exhibit N), at p. 2.

cleanliness and health of the mammal. If any such defects are discovered the animal must be rejected and its meat cannot be marked kosher.

92. Despite these rules, the animals whose meat is used by Defendant in Hebrew National products is not consistently inspected in the above-stated manner, as required to be considered kosher under the standard Defendant represents to the public. Unclean and unhealthy animals have been selected for kosher slaughter. When dirt or growths are on the animal's neck the mandatory clean cut necessary for kosher slaughter (and ultimate certification) cannot be made. Meat from unclean animals (i.e. those with dirty hides covered with mud, sand or stones) or animals with physical defects is improperly marked as kosher. This issue is more pronounced in winter and fall months when the animals tend to arrive at the plant covered in more dirt than would be the case in late spring/summer. Dirt on the animals dulls the knives or causes nicks during cutting and the slaughters cannot make the mandatory clean cut.

93. Pressure is put on the employees inspecting and slaughtering the cows to maximize kosher meat production by slaughtering unclean cows. Further, certain quotas are applied at the AFG facilities to ensure that a certain predetermined amount of the total cattle population (approximately 70%) brought to the AFG facility for slaughter produces kosher meat to provide Defendant. By setting artificial, pre-determined quotas, the kosher inspection process becomes defective and unreliable. Because of these quotas, meat from cows that should not qualify for kosher certification ends up being marked kosher and used in Hebrew National products.

94. AER employees who object or refuse to slaughter dirty cows have been reprimanded and subject to retaliatory measures such as threats to transfer them to other positions, threats to transfer them to other AFG facilities in other states, or termination. AER employees who failed to comply with the artificial quotas were also subject to such reprimand. AER employees objecting to the slaughter of dirty cows have been offered financial incentives "to look the other way" and not say anything about the violation of

kosher laws. Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

95. **Method of the Slaughter.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that the cow must be slaughtered in a particular manner.⁹ Kosher slaughtering is known as shechitah, and the person who is to perform the slaughtering is called a shochet. The method of the kosher slaughter must be a quick, deep, stroke across the throat with a perfectly sharp blade with no nicks or unevenness. “[T]he animal [is required to] be killed by cutting horizontally across the throat, severing the trachea (windpipe), the esophagus, the jugular veins and the carotid arteries. The knife must be drawn across the throat of the animal in one or more swift, uninterrupted movements, and the blade of the knife must be free of nicks or other imperfections. The underlying principal is to kill the animal as quickly and painlessly as possible.”¹⁰ To ensure the knives are sharp, the shochet is trained to run his hand a requisite number of times along the blade after each slaughter to examine the sharpness of the blade and ensure that it is free of nicks. Additionally the blade used must be washed after each animal’s slaughter. This process of inspecting the knife’s blade and washing it must be done after each slaughter. The method of kosher slaughtering was developed to ensure that minimal pain and suffering is caused to the animal. If done properly, the slaughtering method is painless, causes unconsciousness within a few seconds and is widely recognized as the most humane method of slaughter possible.

⁹ See Affidavit of Rabbi Aryeh Ralbag (Exhibit O), at ¶¶5-8; Affidavit of Rabbi Michael Small (Exhibit P), at ¶¶6-9; Affidavit of Rabbi Moshe Fyzakov (Exhibit Q), at ¶5; Affidavit of Shlomoh Ben-David (Exhibit R), at ¶¶2-4; Statement of Triangle K (Exhibit M), at ¶1-2; and, Position Statement of AER Services (Exhibit N), at p. 2.

¹⁰ See Affidavit of Rabbi Aryeh Ralbag (Exhibit O), at ¶5; Affidavit of Rabbi Michael Small (Exhibit P), at ¶6.

96. If any of five events occurs during slaughtering process, it will disqualify the slaughter and render the meat non-kosher: (1) “any pause or interruption, however slight, during the act of slaughter;” (2) “any pressure applied to the knife;” (3) “any cutting out of the proper area;” (4) “any tearing rather than the severing of tissue;” (5) “any cutting while the knife is under cover, such as by the hair, wool or feathers of the animal; the knife’s blade must be fully exposed at all times.”¹¹

97. Despite these rules, the cows whose meat is used by Defendant in Hebrew National products are not consistently slaughtered in the above-stated manner, as required to be considered kosher under the standard Defendant represents to the public. For instance, the knives used often have nicks and are not properly cleaned and sharpened after each kill. Due to time restrictions, quota pressures, the amount of cows to be slaughtered, and the above-described labor shortage pressures, cows whose meat is used in Hebrew National products are often not inspected and slaughtered pursuant to Defendant’s (and its contractors’) own kosher rules. The rapid line speed at the AFG facilities leads to certain meat being improperly marked as kosher. Further, unclean animals are slaughtered preventing the mandatory clean cut. Additionally, to speed the process, a few seconds after the knife’s incision is made, the animals are shot with an air compressor gun with a hollow bolt piston¹² and thus, can actually be killed in that

¹¹ See Affidavit of Rabbi Aryeh Rabag (Exhibit O), at ¶7; Affidavit of Rabbi Michael Small (Exhibit P), at ¶8.

¹² See generally Luigi Viola, M.D., et al. “Suicide with a Butcher’s Bolt,” J. Forensic Sci., May 2004, Vol. 49, No. 3 (“The captive bolt pistol is an atypical firearm exclusively produced and used for butchery of breeding animals...”); and WIKIPEDIA, “Captive Bolt Pistol”, available online at <http://en.wikipedia.org/wiki/Captive_bolt_pistol> (“A captive bolt pistol (also variously known as a cattle gun, stunbolt gun, bolt gun, or stunner) is a device used for stunning animals prior to slaughter. The principle behind captive bolt stunning is a forceful strike on the forehead using a bolt to induce unconsciousness. The bolt may or may not destroy part of the brain. The bolt itself is a heavy rod made of non-rusting alloys, such as stainless steel. It is held in position inside the barrel of the stunner by means of rubber washers. The bolt is usually not visible in a stunner in good condition. The bolt is actuated by a trigger pull and is propelled forward by compressed air or by the discharge of a blank round ignited by a firing pin. After striking a shallow but forceful blow on the forehead of the animal, spring tension causes the bolt

manner.¹³ Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

98. **Post-slaughter inspection of the animal's organs.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that after the mammal is slaughtered the carcass and organs must be inspected again to confirm that the mammal has no medical condition or defect that would have caused the mammal to die of its own accord within a year, which would make the meat non-kosher. The animal must be “entirely free of specifically enumerated defects such as torn or perforated organ walls, missing or defective organs, missing limbs or broken bones, or the animal is forbidden for consumption.”¹⁴

99. The mammal's lungs, in particular, must be checked individually for any tears, perforations or imperfections. If any imperfections are discovered postmortem, the meat must be considered non-kosher.¹⁵ To detect imperfections and perforations, lung checkers (bodeks) working at the AFG facilities supplying Defendant kosher meat are supposed to take the lungs out of the cow's carcass, fill them with air using an air compressor and inspect the appearance of the lungs.

100. While AER and Triangle K represent that “inflation of the lungs is continuously and regularly performed, without exception, after slaughter,” in practice this

to recoil back into the barrel. The use of penetrating captive bolts has been discontinued in the commercial arena. The captive bolt pistol was invented in 1903 by Dr. Hugo Heiss, former director of a slaughterhouse in Straubing, Germany.”).

¹³ When the cow is killed by an air compressor gun, the blood does not drain from the animal, as it otherwise would.

¹⁴ See Affidavit of Rabbi Aryeh Ralbag (Exhibit O), at ¶8; Affidavit of Rabbi Micahel Small (Exhibit P), at ¶9 Statement of Triangle K (Exhibit M), at ¶¶ 2, 4; and, Position Statement of AER Services (Exhibit N), at p. 2.

¹⁵ See Statement of Triangle K (Exhibit M), at ¶ 2; and, Position Statement of AER Services (Exhibit N), at p. 2.

is not the case. The lungs of animals whose meat is used by Defendant in Hebrew National products is not consistently inspected after the slaughter in the foregoing manner, as required to be considered kosher. The required procedure of actually filling the lungs with air was rarely followed at AFG facilities supplying Defendant kosher meat. If done, it was only on rare occasions, such as during plant inspections. Due to the large quantity of cows being slaughtered at AFG facilities and the shortage of labor, as discussed above, the thorough checking and inflation of the lungs, according to the stated rules, was not possible to perform “without exception.” Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

101. **Removal of blood and washing of the meat.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that the blood must be promptly removed from the flesh of kosher animals and the meat washed every 72 hours.¹⁶ The first step in this process occurs at the time of slaughter. As discussed above, the method of slaughter allows for the rapid draining of most of the animal’s blood. After the slaughtering of the mammal, the remaining blood then must be removed, either by broiling or soaking and salting. For the meat to be considered kosher, this process must be complete within 72 hours after slaughter and before the meat is frozen or ground.¹⁷

102. Removing the excess blood by soaking and salting is a detailed process. First the meat must go through a preliminary washing in order to remove all visible blood. Second the meat must go through a soaking – immersion of the meat in room temperature water for at least half an hour. After soaking the meat must be washed again

¹⁶ See Statement of Triangle K (Exhibit M), at ¶ 5; and, Position Statement of AER Services (Exhibit N), at p. 2.

¹⁷ See Statement of Triangle K (Exhibit M), at ¶ 5; and, Position Statement of AER Services (Exhibit N), at p. 2.

to assure all visible blood is removed. Then both sides of the meat must be thoroughly salted. To be kosher, meat must not be consumed unless it has been salted, which is the final step in the kosher processing of meat. The meat must be washed at least once every 72 hours before the final salting to remain kosher. If the meat is not adequately washed or cooked to any degree before the salting process occurs, it renders the meat non-kosher. After being salted the piece of meat must rest for at least one hour. After the meat has lain in salt for the adequate time, the meat must be washed three separate times to remove all excess salt. Again, if the meat is not adequately washed or cooked to any degree during the washing process, the meat cannot be marked as kosher.¹⁸

103. The blood of animals whose meat is used by Defendant in Hebrew National products is not consistently drained of blood and adequately washed after the slaughter in the foregoing manner, as required to be considered kosher. When the animal is shot and killed by the air compressor gun after the incision, all blood may not drain. Meat processed at the AFG facilities is often inadequately washed, or if washed, washed with hot water which cooks part of the meat, rendering it non-kosher. When moving meat between the checking area and the cooler, hot water was often used to wash the meat, changing its surface color and cooking part of it. Further, in St. Paul, meat often sits in the loading area or in large transport cartons (called combos) for more than three days (72 hours) without being adequately washed. Often only the top portion of the meat held in the large (approx. 2000 pound) combos is sprayed lightly with water, preventing all meat in the combo from being thoroughly and adequately washed within the three day window. Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

¹⁸ See Statement of Triangle K (Exhibit M), at ¶ 5; and, Position Statement of AER Services (Exhibit N), at p. 2.

104. **Forbidden fats and nerves.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that there are portions of otherwise kosher mammals that are forbidden to be marked as kosher. This includes the sciatic nerve and its attached blood vessels, some forbidden stomach fats, a fat known as chalev which surround the vital organs and liver, and also as discussed, the blood. Because the sciatic nerve is difficult to remove and the greater number of blood vessels in the hind quarter of many animals, kosher butchers only use the top half of the mammal. The back / hind portion of the cow cannot be used and marked kosher unless the sciatic nerve is removed - a costly and time consuming process not undertaken by kosher meat processors in the United States, including AER and Defendant. Defendant depicts this on its website through a diagram showing that only the front half of the cow is used for kosher meat. <http://www.hebrewnational.com/kosher-difference.jsp> (Exhibit B).

105. **Persons performing the slaughter.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that the persons performing the animal's slaughter must be Jewish. Further, kosher slaughterers must be certified by a Rabbi stating that the individual is sufficiently trained and proficient in kosher slaughtering or checking processes.¹⁹ The animals whose meat is used by Defendant in Hebrew National products are not consistently slaughtered in accordance with these rules, as required to be considered kosher. For instance, certain employees have observed AER managers placing new names of employees on old certificates that had previously been issued to other slaughterers. Hence, by reason of the foregoing, the

¹⁹ See Affidavit of Rabbi Aryeh Rablag (Exhibit O), at ¶¶9-10; Affidavit of Rabbi Michael Small (Exhibit P), at ¶¶10-11; Affidavit of Shlomoh Ben-David (Exhibit R), at ¶¶3; Position Statement of AER Services (Exhibit N), at p. 2.

representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

106. **Segregation of Kosher Meat.** A rule adopted by Defendant and its contractors (Triangle K and AER) with respect to the kosher certification of Hebrew National meat products, pursuant to the represented standard, is that to retain its kosher status, kosher meat must be segregated and cannot be mixed with non-kosher meat.²⁰ In this regard, kosher meat must be properly tagged, so it can be identified at all times. These rules have not been consistently followed with the meat Defendant uses in Hebrew National products. Hence, by reason of the foregoing, the representation on Hebrew National products that they are 100% kosher pursuant to the standard Defendant represents is inaccurate and misleading.

107. Many of the transgressions noted above which confirm that meat at issue was not being slaughtered, inspected and processed in accordance with Defendant's and its contractors' own stated rules were reported to Rabbi Aryeh Rablag, Rabbi Moshe Fyazakov and/or AER managers by certain AER employees, working at the AFG plants (Mashigiashs) during the relevant time period. Despite this, transgressions continued.

108. Further, because of these transgressions and the unreliability of the kosher certifications on meat regularly processed at AFG facilities for sale to Defendant, AER workers at certain AFG facilities, including the South St. Paul, Minnesota facility, who actually kept kosher, would not consume Hebrew National products. Instead, workers were permitted to have specific cows slaughtered, marked and segregated in a more strict and exact fashion for their families' personal consumption. The plant offered these workers the opportunity to purchase this meat which satisfied a stricter standard of kosher. Thus, specifically selected cows would be slaughtered and checked in strict accordance with all kosher laws, unlike the cows that were routinely slaughtered for sale to Defendant and use in Hebrew National products. That meat would be then specially

²⁰ Position Statement of AER Services (Exhibit N), at p. 2

marked and segregated so AER's observant employees would know it was actually kosher meat. Such practices show that the meat slaughtered and processed according to less stringent standards and delivered to Defendant, does not meet the "stringent" and "exacting" standards as represented. In truth, the most stringent standards were only applied on the more limited portions of meat slaughtered for the personal use of these observant AER employees and not employed on the meat ultimately used in Hebrew National products.

VI. INJURY AND DAMAGE

109. Each Plaintiff and each class member purchased Hebrew National products during the Class period that were packaged and labeled as strictly 100% kosher, when they were not. The statements and kosher certification symbols made by Defendant on each package of Hebrew National products purchased were false because the meat used in the products failed to strictly comply with the rules for calling meat kosher, as defined by Defendant and its contractors and described above. Each Plaintiff and each class member saw the statements and symbols stating that the Hebrew National products were strictly 100% kosher both at the time of purchase and when the products were used. The statements and symbols are displayed prominently on the front of each Hebrew National product package and form part of the product logo so that any purchaser could not avoid seeing it (Exhibit A). Defendant's packaging and kosher certification symbols stating that the Hebrew National products were strictly 100% kosher have remained constant throughout the Class period and have not changed in any material way. The statements and symbols are uniform on each Hebrew National package. The statements and symbols were material to Plaintiffs and the class because reasonable consumers would want to know that a product met the standard the manufacturer represented it to be and which justified the premium price being charged before paying for the product. The statements and symbols that a product is strictly 100% kosher means something to reasonable consumers purchasing Hebrew National products, otherwise Defendant would not use it.

Defendant's surveys show that over 90% of consumers trust and rely on "trustmarks" such as "kosher" when making food purchasing decisions. Defendant's conduct is likely to deceive reasonable consumers.

110. Plaintiffs and the members of the Class suffered injury, incurred damage and financial loss as a result of Defendant's conduct complained of herein. Among other things, Plaintiffs and the Class paid a premium price for the Hebrew National products purchased believing them to be 100% strictly kosher, when they weren't. Like other class members, had Plaintiffs known that the product purchased did not meet the represented standard they would not have paid the premium price that they paid for it, but less, and/or purchased a substitute product that was actually kosher. By failing to provide kosher products, but a lesser product that should not have been labeled as 100% kosher Defendant injured Plaintiff and the members of the Class, caused them damage and caused them to incur out of pocket financial loss. No damages are sought for emotional distress.

V. CLASS ACTION ALLEGATIONS

111. This action is brought as a class action pursuant to Fed. R. Civ. P. 23 and any other applicable laws or rules of civil procedure.

112. **Class Definition:** The Class sought to be represented in this action is defined as follows:

All persons in the United States who purchased any individual package(s) of Defendant's Hebrew National meat products during the Class Period (hereinafter, the "Class").

The Class Period dates back the length of the longest applicable statute of limitations for any claim asserted, from the date this action was originally filed and continues through the present and the date of judgment. The limitations period for claims under Counts II and III is four years from the date this action was originally filed and continues through the present and the date of judgment. Excluded from the Class are: (a) any officers, directors or employees of the Defendant; (b) any judge assigned to hear this

case (or spouse or family member of any assigned judge); (c) any employee of the Court; (d) any juror selected to hear this case; and, (e) any of the legal counsel for any party. Alternatively, to the extent necessary, the Court can define subclasses consisting of residents of each state who purchased any of Defendant's Hebrew National meat products during the applicable Class Period for that state (i.e., the length of the longest applicable statute of limitations for any claim asserted). The limitations period for claims under Count IV is the length of the statute of limitations for each consumer protection statute cited, from the date this action was originally filed and continues through the present and the date of judgment.

113. **Numerosity of the Class.** Plaintiffs and members of the Class are so numerous that joinder of all members individually, in one action or otherwise, is impractical based on Defendant's national marketing and advertising campaigns that target consumers across the country. Tens of thousands of consumers purchased Defendant's Hebrew National meat products during the class period. Defendant's sales of Hebrew National products are reported in its 10K filings with the SEC, its annual reports, and other documents. Those reports show that the total sales of Hebrew National products during the Class period were so great that joinder of each purchaser's claim would be impractical.

114. **Common Questions of Fact and Law Exist and Predominate over Individual Issues.** There is a well-defined community of interest in the questions of law and fact involved affecting the parties to be represented. These common questions of law and fact exist as to all members of the class and predominate over the questions affecting only individual members of the class. These common legal and factual questions include without limitation:

- a. Whether the meat packaged and sold in Hebrew National products satisfies the standard Defendant represents;

- b. Whether the rules Defendant and its contractors (AER and Triangle K) state must be followed, for meat to be labeled as kosher, were actually strictly followed in practice;
- c. Whether Defendant's marketing, labeling and selling Hebrew National products as 100% kosher, according to the strict and exacting standard represented, had the tendency to mislead reasonable consumers;
- d. Whether reasonable consumers would consider the statements on Hebrew National packages that the products were actually 100% kosher to be an important factor when making a purchasing decision;
- e. Whether Defendant violated Nebraska Revised Statute Section 59-1602 et seq.;
- f. Whether Defendant violated Nebraska Revised Statute Section 87-302 et seq.;
- g. Whether Defendant violated other applicable state consumer protection and unfair and deceptive trade practice laws, cited in Count IV;
- h. Whether Defendant guaranteed the Class that its Hebrew National Products were 100% kosher according to the standard represented;
- i. Whether Defendant breached that guarantee;
- j. Whether Defendant breached its duties to the class to accurately label food products;
- k. Whether Defendant was negligent in failing to monitor the processes in which its Hebrew National products were manufactured to ensure all rules required to be able to label the products as 100% kosher were actually followed; and
- l. The proper measure of damages, restitution, equitable, or other relief due Class members, and the amount and nature of such relief.

115. Applying Nebraska law to the nationwide class comports with due process as Nebraska has a significant contact or significant aggregation of contacts to the claims asserted by each member of the plaintiff class, contacts creating state interests, in order to ensure that choice of Nebraska law is not arbitrary or unfair. Nebraska has a significant interest in preventing deceptive and misleading conduct from occurring in Nebraska and emanating to other states. Defendant has had significant contact or at least a significant aggregation of contacts with Nebraska relating to the claims of this case by maintaining corporate headquarters in Nebraska during the class period and selling the allegedly misrepresented / misbranded products in Nebraska. The decisions to mislabel Hebrew National products was made, approved or endorsed by Defendant's executives and managers, in and from their headquarters Nebraska. Those decisions and deceptive practices, emanated from Nebraska, to other states, harming all class members.

116. Alternatively, the Court can create subclasses consisting of all persons in the Class who purchased Hebrew National products in each state at any time during the Class Period. As such, Count IV is pled in the alternative to Counts II and III.

117. **Typicality.** Plaintiffs are all members of the Class. Plaintiffs' claims are typical of the claims of members of the Class, as the claims of Plaintiff and all Class Members arise from Defendant's wrongful conduct, as alleged more fully herein. Like all other class members, Plaintiffs purchased Hebrew National products during the class period containing the same labels and representations. Each product sold to all class members was uniformly depicted that it was strictly 100% kosher. Plaintiffs assert common legal claims on behalf of the entire Class based on the inaccuracy of those common labels and packages. The relief sought is common, unitary, and class-wide in nature.

118. **Adequacy of Representation.** The named Plaintiffs are adequate representatives of the Class on whose behalf this action is prosecuted. Plaintiffs' interests do not conflict with the interests of the Class. Plaintiffs have retained competent counsel

with experience in class action litigation and will prosecute this action vigorously. As a result, Plaintiffs can fairly and adequately represent and protect the interests of the class in that there are no conflicts between his interests and the interests of other class members, this action is not collusive, the named Plaintiffs and their counsel have the necessary resources to litigate this action, and counsel has the experience and ability required to prosecute this case as a class action.

119. **Predominance of Common Questions.** The proposed Class has a well defined community of interest in the questions of fact and law to be litigated. The common questions of law and fact are predominant with respect to the liability issues, relief issues and anticipated affirmative defenses. The named Plaintiffs have claims typical of the class members. Plaintiffs and all class members purchased Hebrew National products with the same representations, labels and “trust marks.” The same meat processing and kosher certification services used on one class member’s Hebrew National product were used on other class members’ Hebrew National products. At the time of purchase, no class member had any ability to detect the propriety and accuracy of the certifications made. As Defendant’s website concedes, consumers of food labeled as kosher should be protected: “We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients.” (Exhibit B). All Class Members share a common interest in receiving a cash remedy as compensation for Defendant’s wrongful conduct and stopping the unreliable kosher certification services described above.

120. Defendant and its contractors (AER and Triangle K) have defined the common rules and procedures that must be followed for meat to satisfy the stated standard. Those rules apply equally to each class member’s transaction.

121. Common facts and testimony will prove that, in practice, those rules were not strictly adhered to, but deviated from.

122. The question of whether Defendant materially misrepresented that their Hebrew National products were strictly 100% kosher according to a stringent and exacting standard adopted by Defendant is common to all class members and predominates over all class members' claims. The applicable standard is objective not subjective. Materially is established if a reasonable person would attach importance to its existence or non existence in determining his/her choice of action in the transaction in question.

123. Individual reliance is not an element of any claim asserted herein. Alternatively, to the extent reliance is found to be an element of any claim asserted herein, plaintiffs will provide sufficient, uniform evidence to satisfy any such burden, through common, circumstantial evidence, including consumer surveys, consumer reaction tests market research, and/or expert testimony. The surveys referenced above, which Defendant conducted, *inter alia*, show that Hebrew National consumers in the Class rely on kosher "trust marks" in making their food purchasing decisions and expect them to be truthful. ("Today, more than nine out of ten Americans look to "trust marks" such as kosher and organic to help them determine their best food choice when shopping.") (Exhibit J).

124. **Superiority of Class Adjudication.** The certification of a class in this action is superior to the litigation of a multitude of cases by members of the putative class. Class adjudication will conserve judicial resources and will avoid the possibility of inconsistent rulings. Moreover, there are class members who are unlikely to join or bring an action due to, among other reasons, their reluctance to sue Defendant and/or their inability to afford a separate action. Equity dictates that all persons who stand to benefit from the relief sought herein should be subject to the lawsuit and hence subject to an order spreading the costs of the litigation among the Class Members in relationship to the benefits received. The damages, restitution and other potential recovery for each individual member of the Class are modest, relative to the substantial burden and expense

of individual prosecution of these claims. Given the amount of the individual class members' claims, few, if any, Class Members could afford to seek legal redress individually for the wrongs complained of herein. Individualized litigation presents a potential for inconsistent or contradictory judgments. Individualized litigation increases the delay and expense to all parties and the court system presented by the complex legal and factual issues of the case. By contrast, the class action device presents far fewer management difficulties, and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

125. In the alternative, the above-referenced class may be certified because:

- a. The prosecution of separate actions by the individual members of the Class would create a risk of inconsistent or varying adjudication with respect to individual class members' claims which would establish incompatible standards of conduct for Defendant;
- b. The prosecution of separate actions by individual members of the Class would create a risk of adjudications which would as a practical matter be dispositive of the interests of other members of the class who are not parties to the adjudications, or which would substantially impair or impede the ability of other class members to protect their interests; and,
- c. Defendant has acted or refused to act on grounds generally applicable to the class, thereby making appropriate final and injunctive relief with respect to the Class.

COUNT I

NEGLIGENCE

126. Plaintiffs fully incorporate by reference herein all of the above paragraphs, as though fully set forth herein.

127. As demonstrated above, Defendant purchases meat that has been certified as "kosher" by the Triangle K organization. Triangle K certifies the meat that is

processed and prepared by AER employees at AFG facilities and ultimately used by Defendant in the Hebrew National products sold to the class.

128. Defendant and its contractors (AER and Triangle K) define and adopt certain rules that apply and which must be followed in order for meat to be certified as kosher according to the strict standard Defendant represents to the public that its Hebrew National products adhere to, without deviation. Those rules are set forth above.

129. As also set forth above, in practice, these rules have not been strictly followed. The meat Defendant used in Hebrew National products did not conform to those rules in all respects. Rather, the meat Defendant used in Hebrew National products deviated from those rules, as discussed above. As the meat Defendant used in Hebrew National products does not strictly adhere to the standard defined by Defendant and its contractors, it has been improperly certified and labeled as 100% kosher.

130. As a result, the Hebrew National products are deceptively and falsely labeled as adhering to the strict 100% kosher standard depicted on each package.

131. As set forth above, Defendant represents on the label of each Hebrew National product sold, as well as in its advertisements, website, marketing and other representations to the public that the meat used in its Hebrew National products (and the resulting product) is strictly 100% kosher, without any deviation whatsoever.

132. Defendant is not compelled to sell Hebrew National products in the manner it does or with the representations it makes. Defendant is not compelled to represent the Hebrew National products it sells as 100% kosher according to the strict and exacting standard it does. Defendant is not compelled to contract with AER, AFG or Triangle K, or accept those parties' certifications. Defendant independently makes the decision to sell, market and label Hebrew National products to the public in this way in order to maximize its profits.

133. In doing so, Defendant owed a duty to the Class to take care to properly and accurately label the Hebrew National food products it sold and to supervise the food

preparation and manufacturing process. Defendant knew or should have known that consumers of food marked as strictly 100% kosher have needs, concerns and/or desires and hence, preciseness and exactness in any kosher slaughtering and certification was required, otherwise those consumers would be injured and damaged. Defendant itself states on its website: “We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients.” Further, Defendant has conducted and/or commissioned consumer surveys which confirm that consumers trust and rely on manufacturers’ kosher food labels and certifications and do not want any surprises when purchasing such foods. In an effort to gain the trust of its consumers, Defendant emphasizes the importance and exactness of the strict guidelines kosher food manufacturers (including itself) must follow in order to provide the quality assurance consumers seek when purchasing kosher products.

134. Further, Defendant knew that consumers of kosher food had no ability to check ingredients or otherwise check or test the propriety of the slaughtering and manufacturing process on their own, and hence, would be relying on Defendant to only label and sell foods marked as being strictly 100% kosher, if the product actually satisfied that standard.

135. Thus, it was reasonably foreseeable to Defendant that if it improperly labeled and marketed Hebrew National Products as strictly 100% kosher, yet: (a) failed to take proper care and to properly ensure such products adhered to the stated standard in every respect, without deviation, and; (b) failed to supervise the process of obtaining meat used in such products to properly ensure such products adhered to the stated standard in every respect, consumers would be injured and damaged.

136. Defendant knew or should have been aware of the routine violations of kosher law that occur within AFG facilities. Reports of violations in the processing of kosher meat were made by workers in the AFG facilities to AER and Triangle K. However, Defendant failed to monitor, investigate, supervise and correct these practices,

and hence, continuously used that meat in Hebrew National products, and continuously represented every Hebrew National product as being strictly 100% kosher according to the most exact standards.

137. The utmost care should have been taken in selecting, supervising and retaining any entity (such as AER and Triangle K), participating in the kosher meat harvest and certification process. Defendant failed to exercise this due care.

138. Defendant failed to take reasonable care to ensure that it accurately labeled and prepared the Hebrew National products it sold and breached its duties of care to the Class.

139. Defendant's labeling and advertising its Hebrew National products as 100% kosher according to the strict and exacting standard represented robbed consumers of the ability to make an informed decision because the packaging of Hebrew National gives the false impression that the products purchased adhered to that standard. Defendant knew that consumers buying its products had no ability to independently confirm and verify whether the Hebrew National products purchased actually met the stated standard.

140. Reasonable consumers, like Plaintiffs, would have no reason to demand products be processed any differently as Defendant's labeling, marketing and advertising of its Hebrew National products consistently represented to consumers at all times that they would receive 100% kosher products processed according to the most stringent and strictest kosher dietary standards.

141. Plaintiffs, like any reasonable consumer, were unaware of the fact that Hebrew National products were not 100% kosher. Reasonable consumers are not in an adequate position to supervise the kosher dietary standards followed at the facilities that slaughter, process and certify kosher foods. Reasonable consumers rely on companies like Defendant to be honest in their manufacturing, labeling, advertising, and packaging.

This is particularly true when Defendant's advertisements and packages brand Hebrew National products as strictly 100% kosher according to a stringent and exact standard.

142. The mislabeling representations described herein were material. The materiality of the mislabeling representation as alleged herein is determined by an objective reasonableness standard, not a subjective standard. Reasonable consumers purchasing Hebrew National products would attach importance to Defendant's representation that Hebrew National products are strictly 100% kosher. Reasonable consumers making a decision whether to purchase Hebrew National products or another product would want to know whether the product chosen was actually "kosher" and met the stated standard or not before completing the purchase and parting with their money. Such certifications are material even to consumers who do not regularly keep kosher as the products still carry a premium price that they would not otherwise demand but for the strict 100% kosher certification provided on each Hebrew National product label. If Defendant did not believe it were material to its customers, they would have never bothered to put any kosher certification on the food labels.

143. It was reasonably foreseeable to Defendant that if it failed to provide 100% kosher meat products while representing that they were, that consumers purchasing the products would suffer injury, loss and damage. This is clear from the statements Defendant makes on its own website and press releases, as well as from the above-referenced customer surveys conducted.

144. As a direct and proximate result of the aforementioned acts, Defendant received and continues to hold money belonging to Plaintiffs and other consumers in the Class who were led to purchase the above-described products at premium prices by the acts of Defendant. Each class member overpaid by purchasing a product at a premium price that but for the kosher certification contained on each label would have demanded a lesser price. Plaintiffs and the Class, thus, suffered injury in fact and loss of money as a result of Defendant's conduct.

145. As a result of the foregoing, Plaintiffs seek damages and an injunction that requires that Defendant immediately cease the unlawful business acts and practices as alleged herein, and to enjoin Defendant from continuing to engage in any such acts and practices in the future. There is a public benefit involved in enjoining such conduct and providing the relief requested. Unless enjoined, the Hebrew National products will continue to be mislabeled as 100% kosher, and members of the public (including the Class) will continue to purchase Hebrew National products at artificially high premium prices and consumer products they are led to believe are 100% kosher, which in truth are not. As a result of the above-stated conduct, on behalf of the Class, Plaintiffs seek damages, restitution, disgorgement of ill-gotten gains, attorneys' fees, and all other remedies and relief that may be permitted by law and equity.

COUNT II

VIOLATION OF NEBRASKA UNIFORM DECEPTIVE TRADE PRACTICES ACT, NEB. REV. STAT. § 87- 301, *ET SEQ.*

146. Plaintiffs fully incorporate by reference herein all of the above paragraphs, as though fully set forth herein.

147. Throughout the Class Period, Defendant engaged in a public advertising and marketing campaign representing its Hebrew National products as made from "100% Kosher Beef."

148. Defendant's public advertising and marketing campaign further represent that Hebrew National has followed "strict dietary law, using only specific cuts of beef that meet the highest standard of quality..." and that such standards are determined by "the most stringent Jews who follow Orthodox Jewish Law."

149. The beef used in Defendant's Hebrew National products is in fact not 100% kosher according to the standard represented as the suppliers Defendant purchase the beef

from do not strictly adhere to kosher dietary standards in its processing of the beef, as represented.

150. Defendant's Hebrew National products are not 100% kosher according to the strict standard represented.

151. By engaging in the actions, misrepresentations, and misconduct set forth in this complaint, Defendant violated and continues to violate Nebraska Revised Statute § 87-302(5) and/or other applicable law, by representing that its Hebrew National products are made from cuts of 100% kosher beef when said products are not 100% kosher according to the standard represented.

152. By engaging in the actions, misrepresentations, and misconduct set forth in this complaint, Defendant violated and continues to violate Nebraska Revised Statute § 87-302(7) and/or other applicable law, by representing that Hebrew National products are of a particular standard, quality, or grade, when in fact that are of another.

153. By engaging in the actions, misrepresentations, and misconduct set forth in this complaint, Defendant violated and continues to violate Nebraska Revised Statute § 87-302(9) and/or other applicable law, by advertising Hebrew National products with intent not to sell them as advertised.

154. By engaging in the actions, misrepresentations, and misconduct set forth in this complaint, Defendant violated and continues to violate Nebraska Revised Statute § 87-302(15) and/or other applicable law, by using any scheme or device to defraud by means of obtaining money or property by knowingly false or fraudulent pretenses, representations, or promises.

155. Defendant's advertisements, labels and marketing representations are misleading, untrue, and likely to deceive the public.

156. Defendant engaged in its marketing and advertising campaign with intent to directly induce customers to purchase its Hebrew National products based on false claims.

157. In making and disseminating the statements alleged herein, Defendant knew or should have known that the statements on Hebrew National products packages were untrue or misleading.

158. Plaintiffs believed Defendant's representation that Hebrew National products were strictly 100% kosher according to the standard represented." Plaintiffs would not have purchased Hebrew National products at the premium price they did, but for Defendant's misleading statements about the product being strictly 100% kosher. Plaintiffs were injured in fact and lost money as a result of Defendant's conduct improperly describing Hebrew National products as kosher. Plaintiffs paid for a strictly "100% Kosher" product, but did not receive a product that was strictly "100% Kosher." Plaintiffs received a product that was derived from meat that was not processed strictly according to the kosher standards stated, and therefore was not 100% kosher.

159. Plaintiffs and Class Members seek injunctive and declaratory relief, enjoining Defendant from continuing to disseminate its untrue and misleading statements, as well as the cost of bringing this action (including reasonable attorneys' fees and costs), and any other relief allowed by law and deemed just and equitable in the circumstances.

COUNT III

VIOLATION OF NEBRASKA CONSUMER PROTECTION ACT, NEB. REV. STAT. § 59-1601 ET. SEQ.

160. Plaintiffs fully incorporate by reference herein all of the above paragraphs, as though fully set forth herein.

161. The circumstances giving rise to Plaintiffs' allegations include Defendant's corporate policies regarding the sale and marketing of Hebrew National products.

162. By engaging in the acts and practices described above, Defendant unlawfully committed one or more acts of "unfair methods of competition and unfair or

deceptive acts or practices in the conduct of any trade or commerce” within the meaning of Nebraska Revised Statute § 59-1602.

163. Defendant’s unlawful, unfair, and/or fraudulent practices include making false and/or misleading representations that Hebrew National products are made from “100% Kosher Beef.” Defendants represent that its Hebrew National products adhere to a strict standard for certifying meat products as kosher, that Defendant and its contractors define, yet in practice fail to satisfy.

164. Such action is unlawful, unfair, and/or fraudulent in that Defendant knew or should have known that such actions were likely to and did deceive the public, including Plaintiffs and other Class Members.

165. Plaintiffs believed Defendant’s representation that Hebrew National products are made from strictly “100% Kosher Beef.” Plaintiffs would not have purchased Hebrew National products at the premium price they did, but for Defendant’s misleading statements about the product being strictly 100% kosher. Plaintiffs were injured in fact and lost money as a result of Defendant’s conduct improperly describing Hebrew National products as kosher. Plaintiffs paid for a “100% Kosher” product, but did not receive a product that was “100% Kosher.” Plaintiffs received a product that was derived from meat that was not processed strictly according to the kosher standards stated, and therefore was not kosher and did not warrant the premium price charged.

166. By reason of the foregoing, Plaintiffs and Class Members seek damages, declaratory relief, restitution for monies wrongfully obtained, disgorgement of ill-gotten revenues and/or profits, and injunctive relief, as well as the cost of bringing this action (including reasonable attorneys’ fees and costs), and any other relief allowed by law and deemed just and equitable in the circumstances.

COUNT IV

VIOLATION OF STATE CONSUMER PROTECTION LAWS

167. Plaintiffs fully incorporate by reference herein all of the above paragraphs, as though fully set forth herein.

168. This Count is set forth in the alternative to, Counts II and III above. To the extent the Court deems necessary, the Court can certify state subclasses with the named plaintiff from each state appointed as the representative of the respective state subclass.

169. Each of the Plaintiffs and proposed Class members is a consumer, purchaser, or other person entitled to the protection of the consumer protection laws of the state in which they reside and purchased Hebrew National products.

170. The consumer protection laws of the state in which each of the Plaintiffs and proposed Class members resides and purchased Hebrew National products declares that unfair or deceptive acts or practices in the conduct of trade or commerce are unlawful.

171. All states have enacted statutes designed to protect consumers against unfair, deceptive, fraudulent, and unconscionable trade and business practices, and/or false advertising. Those statutes further allow consumers to bring private and/or class actions. These statutes are:

- (a) The Minnesota Prevention of Consumer Fraud Act, Minn. Stat. § 325F.69 (“CFA”); the Minnesota Unlawful Trade Practices Act, Minn. Stat. § 325D.13 (“UTPA”); and the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.44 (“UDTPA”);
- (b) Ariz. Rev. Stat. § 44-1522 *et seq.*;
- (c) California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*; and California’s Unfair Competition Law, Cal. Bus. & Prof Code § 17200, *et seq.*;
- (d) Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. §

501.201, *et seq.*;

- (e) Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/2, *et seq.* and Illinois Deceptive Trade Practices Act, 815 ILCS § 510/2, *et seq.*;
- (f) New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349, *et seq.*;
- (g) Michigan Consumer Protection Act, Mich. Comp. Laws § 445.901 *et seq.*;
- (h) Massachusetts Consumer Protection Act, Mass. Ge. Laws Ann Ch. 93A § 1 *et. seq.*

172. Hebrew National products constitute products to which these consumer protection statutes apply.

173. Proof of individual reliance or individual injury on the part of absent Class members is not required to establish a basis for relief under any of these consumer protection statutes.

174. To the extent required, the Plaintiffs have provided Defendant pre-filing notice under each of the above listed statutes and/or limited their claims. Despite provision of written notice to Defendant of the asserted violations of CLRA §1770 *et seq.*, Mass. Gen. Laws Ann. Ch. 93A § 1 and other applicable laws, to-date Defendant has not agreed to rectify the conduct complained of, as described within, and provide any relief demanded. *See Exhibits K, L.*

175. In the conduct of trade or commerce regarding the marketing and sale of Hebrew National products, Defendant engaged in unfair and deceptive acts or practices by representing that Hebrew National products are “100% kosher” including through product labels, print advertisements, in-store advertisements and/or Internet based advertisements, as described herein—when, in fact, they are not.

176. Defendant marks each package of Hebrew National products (hot dogs/beef franks, salami, sausage, deli meats etc.) with the “Triangle K” symbol and represents

that: “The Triangle K symbol is a trademarked logo that signifies “kashruth” (kosher) “*as defined by the most stringent Jews who follow Orthodox Jewish Law.*”

177. Defendant’s representations and advertisements of Hebrew National products are strictly 100% kosher when they were not, is deceptive, misleading, unfair and likely to deceive consumers, including the Plaintiffs and members of the Class.

178. Defendant and its contractors define the applicable rules required to satisfy the stated kosher standard, yet in practice have failed to adhere to those rules.

179. Defendant violated the foregoing laws and acted unlawfully, unfairly and deceptively by, among other things:

- a. representing that all Hebrew National meat products (hot dogs/beef franks, salami, sausage, deli meats etc.) are strictly 100% kosher;
- b. representing that Hebrew National meat products are of a particular style, grade, quality, and/or standard when in fact they are not;
- c. advertising Hebrew National meat products with intent not to sell them as advertised; and
- d. misrepresenting that a subject of a transaction has been supplied in accordance with a previous representation when it has not.

180. Defendant knew or should have known that its representations and advertisements of Hebrew National products are strictly 100% kosher, according to the standard represented, were untrue or misleading.

181. Defendant intended class members to rely on its labeling and representations that Hebrew National products are strictly 100% kosher. Defendant used or employed such deceptive and unlawful acts or practices with the intent that the Plaintiffs and other members of the Class would rely thereon or otherwise be deceived.

182. Plaintiffs and other members of the Class relied on Defendant’s representation that Hebrew National products are strictly “100% kosher.”

183. By way of this misrepresentation Plaintiffs and other members of the Class were deceived or likely to be deceived.

184. Plaintiffs and other members of the Class would not have purchased the Hebrew National at the premium prices they paid, or would not have purchased such products at all, had they known the truth and are thus entitled to a full or partial refund as allowed under each of the several state laws alleged herein.

185. Further, as a result of Defendant's misrepresentations, as alleged herein, Plaintiffs and other members of the Class did not receive the benefit of their bargain in purchasing Hebrew National products. As a result of Defendant's conduct, Plaintiffs and other members of the Class were damaged in an amount to be proven at trial.

186. Plaintiffs and other members of the Class are entitled to actual compensatory and for statutory damages (if any of the above-referenced statutes allow damages to be claimed), as well as injunctive relief, attorneys' fees and legal expenses under the various state laws implicated by this Claim.²¹

COUNT VI

BREACH OF CONTRACT

187. Plaintiffs fully incorporate by reference herein all of the above paragraphs, as though fully set forth herein.

188. Through its packaging, public statements and actions, Defendant guaranteed consumers of Hebrew National products that any Hebrew National products were 100% kosher. Defendant provided each person who purchased Hebrew National products a "kosher guarantee."

"You don't have to guess what's inside a kosher hot dog. Hebrew National hot dogs are made with premium cuts of 100 percent kosher beef and have no artificial flavors, colors, fillers or by-products with *the kosher guarantee.*")

²¹ Plaintiffs only seek damages under the above-referenced consumer protection statutes that allow damages to be claimed. In states where the above-referenced consumer protection statutes do not allow damages to be claimed, but only injunctive and/or other relief, Plaintiffs and the Class limit their claims to only seek the permissible relief.

<http://media.ConAgrafoods.com/phoenix.zhtml?c=202310&p=irol-newsArticle&ID=1148022&highlight=> (Exhibit G). *See also* <http://www.hebrewnational.com/products-promotions.jsp> (“Products: Hebrew National® tastes great because for more than 100 years we've adhered to the highest quality standards. Our products are made with the finest ingredients and contain no artificial flavors, no artificial colors, no by-products, and no fillers. That's our guarantee.”)

189. Plaintiffs, and each Class Member, formed an express and/or implied contract with Defendant at the time Plaintiffs and other Class Members purchased Hebrew National products.

190. The terms of the contract between Defendant and each Class member was to provide a “kosher guarantee” to the purchaser that all Hebrew National products purchased were made with premium cuts of 100 percent kosher beef. *See* Exhibit G

191. Hebrew National products purchased by the class were not made with premium cuts of 100 percent kosher beef, as represented and guaranteed by Defendant.

192. As a result, Defendant breached its contractual guarantee to the Class.

193. As a result of the foregoing, Plaintiff and the Class have been injured and damaged. Plaintiff and the Class did not receive what they paid for.

194. As a result of the foregoing, Defendant must provide the Class with appropriate compensation, in amount to be determined at trial. As a result of the foregoing, Plaintiffs and other members of the Class are entitled to damages, as well as injunctive relief, attorneys’ fees and legal expenses and all other relief deemed just and equitable in the circumstances.

IX. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of those similarly situated in the Class, pray for relief and judgment against Defendants, as follows:

- A. that this Court certify the Class and appoint the named Plaintiffs and the undersigned counsel to represent them in this litigation;
- B. that this Court enter judgment in favor of Plaintiffs and the Class, and against Defendant under the legal theories alleged herein;
- C. that this Court award damages to Plaintiffs and the Class on all Counts that allow damages;
- D. that this Court award restitution to Plaintiffs and the Class;
- E. that this Court award appropriate injunctive and declaratory relief to the extent necessary to prevent further violations in the manner complained of herein;
- F. that this Court award reasonable attorneys' fees, expenses, and costs of this suit;
- G. that this Court award Plaintiffs and the Class pre-judgment and post-judgment interest at the maximum rate allowable by law; and
- H. that this Court award all further relief as it deems equitable, just and proper.

JURY TRIAL DEMANDED

Plaintiffs seek a trial by jury for all appropriate issues on each and every cause of action in this Complaint

Respectfully submitted,

Dated: July 10, 2012

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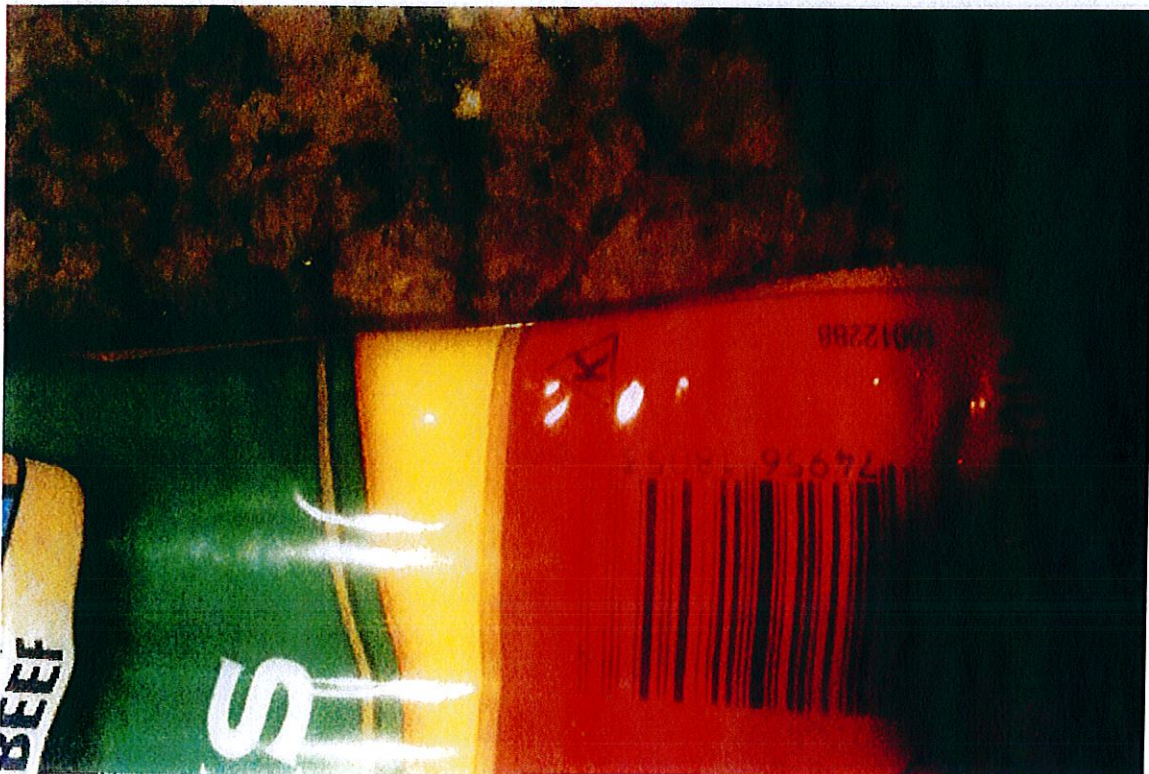
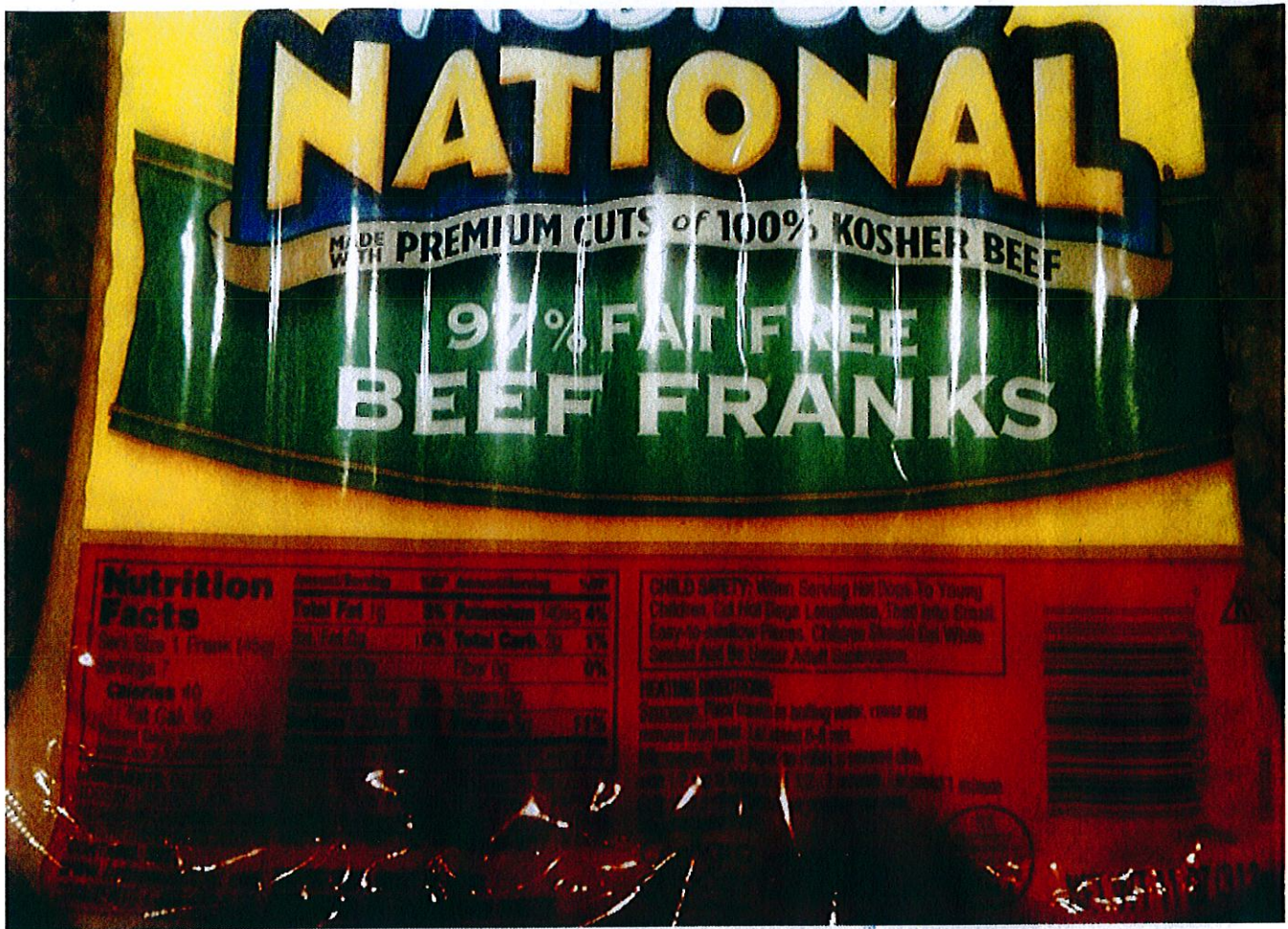
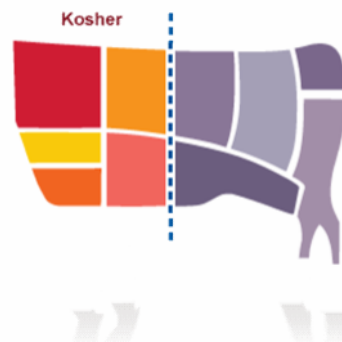


Exhibit A



Kosher, Shmosher—What's the Difference?

You've heard the word kosher, but did you know it literally means "fit to eat"? For more than 100 years, Hebrew National® has followed strict dietary law, using only specific cuts of beef that meet the highest standards for quality, cleanliness, and safety—so artificial flavors, colors, fillers, and by-products simply don't make the cut.

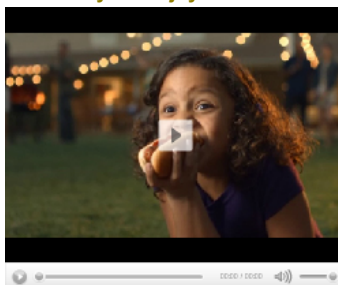


Our devoted fans can taste the kosher difference.



Join Our Fans on

This TV spot will maximize your enjoyment.



Taste the Kosher Difference Today



Go Ahead: Make My Dog

Hebrew National proudly serves products under the kosher supervision of the internationally recognized Triangle K organization. So, not only do Hebrew National franks have only the purest ingredients, but there is rabbinical supervision of the food preparation process and packaging equipment.

What Is Triangle K Supervision?

The Triangle K symbol is a trademarked logo that signifies "kashruth" (kosher) as defined by the most stringent Jews who follow Orthodox Jewish Law. It's a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision. For more than half a century, Triangle K has been committed to making kosher food products available to people around the world.

KASHRUTH FOOD AND INGREDIENTS

Because chemicals and food additives make it increasingly difficult to determine the kashruth status of a product, all ingredients and equipment must pass stringent supervision. These standards are so exacting that an entire formula can be prohibited if the supervising rabbi finds in it even a single non-kosher ingredient that makes up only one-tenth of 1% of the total.

MANUFACTURING KOSHER

While there might be slight variations from plant to plant, the requirements for the manufacture of all kosher food are based on the same fundamental principle of Jewish Dietary Laws: only kosher ingredients processed in kosher equipment.

INVESTIGATION OF MANUFACTURING FACILITIES

First, a special supervisor, the mashgiach, or an ordained Orthodox rabbi conducts an investigation of the plant and its procedures, as well as the ingredients, equipment, and processes used in the production of the product.

Exhibit B



If the preliminary investigation indicates acceptable ingredients and procedures, the manufacturer is informed as to the nature of rabbinical supervision required for the food product for a specific period of time. Each individual food product must be inspected and certified separately, and the certification process is ongoing; each product must be inspected every year.

KOSHER LAW ENFORCEMENT

In an effort to protect kosher-observant consumers, kosher laws have been incorporated into various state codes. For example, in New York, the Kosher Law Enforcement Division (KLED) is maintained to aid its large Jewish population and protect consumers from the mislabeling and misrepresentation of food products. A division of the state's Department of Agriculture and Markets, KLED's tasks include ensuring that businesses selling any item with kosher certification—particularly meat and poultry products—adhere to the state's labeling laws. Rabbi Rubin stated, "We feel the consumer is to be protected. If a market section says it is kosher, it should be kosher without the buyer having to carefully check the ingredients."

The legal protection for kosher consumers was first introduced into American law in 1915. According to Kashrus, "New York has continued its leadership role by setting standards for the development of new ways to guard against fraud and misrepresentation in the sales and distribution of kosher food." KLED laws require that meat and meat parts (including poultry) be identified as kosher through the use of tags and plumbas. The regulations also address the procedures to be followed with respect to the required washing of meat and the method of transportation.

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PRODUCTS & PROMOTIONS

Beef Franks
Deli Meats
Polish Sausage & Knockwurst
Promotions

RECIPES & TIPS

Recipes
Grilling Tips
America's Top Hot Dogs

THE KOSHER DIFFERENCE

OUR FANS

Hebrew National Raves
Ben's Deli
Desktops and IMs

OUR STORY

Only in America
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Archives

STATE CRACKS DOWN ON KOSHER CHEATS

By WAYNE L. DEAS
Published: January 03, 1988

THE state's Division of Consumer Affairs is sending a clear message to kosher food cheaters that they face stiff penalties.

In a recent action, the Tammy Brook Country Club in Cresskill was fined a record \$10,000 for serving nonkosher foods as kosher.

The fine, imposed after an investigation by the division's Kosher Enforcement Bureau, was the largest ever levied by the state for noncompliance with kosher regulations. It stemmed from revised rules that went into effect last November and broadened the bureau's authority.

"Kosher food is one of the products sold that is fraught with the potential for consumer fraud," said W. Cary Edwards, the state's Attorney General. "This is because it is essentially a 'blind' item; that is, buyers must rely on the integrity of the seller and/or the protection of the government to prevent deception."

The crux of the problem lies in the preparation of the product. Kosher products require specialized slaughtering and sanitary procedures, which add to costs.

Most consumers pay premium prices for kosher foods and, Mr. Edwards said, can "suffer great emotional stress" after learning that what they thought was kosher was not.

"In most cases," he said, "you can't tell by looking whether foods have been prepared and maintained so that they meet kosher requirements."

Before the Tammy Brook decision, fines for kosher fraud ranged from \$500 to \$5,000, Mr. Edwards said.

In addition to the \$10,000 fine, Tammy Brook agreed to pay \$1,244.50 in investigative costs to the state.

Also, the owners signed a consent order promising to fully comply with the state's kosher regulations, such as maintaining separate cooking and preparation implements for all kosher meat and other food products and storing wines certified as kosher only in a kosher area.

Robert F. Gallo, the attorney for Tammy Brook, said he wanted "to clear up the impression that the Tammy Brook Club was serving in mass entree items that were not kosher."

"That never happened," he said, adding that the violations had occurred only in "isolated incidents" and that the club's owners had "never attempted to purposely defraud" consumers.

"The penalty was more than warranted," said Rabbi Yakov M. Dombroff, chief of the Kosher Enforcement Bureau. "They were selling nonkosher turkey and pastries as kosher for such a long period of time that they simply didn't care. That's out and out fraud."

Rabbi Dombroff said that the Tammy Brook case was the first in which the bureau had received an "open admission of kosher fraud."

"The people that we catch will usually agree to paying the fine that we impose," he said, "but they will never admit to or deny reports by our agency."

The bureau was opened in 1984 and operates out of the Division of Consumer Affairs under the authority of the State Consumer Fraud Act.

After undergoing various problems of trying to enforce soft and unclear regulations for kosher fraud, the bureau sought legislative support to strengthen its authority.

Last November, revised regulations granted it full authority to inspect New Jersey-based manufacturers of kosher foods, along with the kosher butcher shops, delicatessens, caterers, hotels and restaurants that were previously included in the bureau's jurisdiction.

The addition of the manufacturers expands from 150 to 400 the number of businesses that could be inspected.

"Our regulations have broader authority, more-stringent penalties and the best structure of any state," Mr. Edwards said after the reworked requirements for the sale of kosher products went into effect.

Moreover, he said, the new rules carry "high thresholds of fines and penalties," including some of up to \$2,000 for each individual violation, full refunds to buyers and possible closing down of a convicted violator's business.

Other changes include a provision giving inspectors the right to enter the premises of all dealers in kosher foods, not just those who sell only meat and poultry.

Bureau inspectors also now have the authority to tag evidence they believe will be needed for an investigation and to order kosher food dealers not to disturb the evidence.

Advertising requirements were also affected. The bureau now governs the use of kosher food symbols, which signify that a product has been prepared under the supervision of a recognized kosher authority.

Exhibit C

Also, consumers must be given information, such as whether meat has been soaked and salted and the dates of packaging, to enable them to keep track of the process so that meats can be maintained according to kosher standards.

In restaurants, kosher meat and dairy products must now be totally separated, and clearly labeled utensils must be provided for each. Kosher meats must be properly deveined and, except for liver, washed within 72 hours of slaughter and each subsequent 72-hour period until it is salted.

"If you include negligence," Rabbi Dombroff said, "we've cut out 75 percent of kosher fraud in New Jersey. In theory, our goal is to put ourselves out of business. That would be the ultimate, but I'm afraid that will never happen."

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Select a Brand

Hebrew National

Overview

For discriminating consumers who love premium frankfurters and deli meats, Hebrew National kosher products provide a uniquely superior taste experience because they're made with the best quality ingredients that meet a higher standard.

Hebrew National is a leading kosher meat brand. In addition to the brand's best-known beef franks, made with 100% pure kosher beef, Hebrew National produces a wide variety of products, including salami, bologna, knockwurst, flavored sausages, corned beef, pastrami, and franks in a blanket.

History

Hebrew National began in 1905 when Isadore Pinckowitz, a Romanian butcher, began making kosher sausages and frankfurters in a sixth-floor walk-up on Manhattan's Lower East Side. The Hebrew National Kosher Sausage Factory, as the company was originally called, processed kosher meats for many New York delicatessens and grocery stores. The brand quickly became a favorite among the Jewish immigrant community and beyond.

Through the years, the brand has remained true to its original commitment to quality. It emphasized this commitment, and stayed true to its roots, when the tagline "We answer to a higher authority" was introduced in 1965. This focus helped it expand beyond an ethnic brand to a provider of premium, kosher-quality, delicious products.



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97% Fat Free Beef Franks



Nutrition Information



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Beef Bologna



Nutrition Information



Beef Franks



Nutrition Information



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Beef Knockwurst



Nutrition Information



Find Product at Store



Beef Polish Sausage



Nutrition Information



Find Product at Store



Beef Salami



Nutrition Information



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Bologna - Beef Chubs



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Exhibit D



Franks - 97% Fat Free



Franks - Beef Family Pack



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Franks - Bun Length



Nutrition Information



Franks - Reduced Fat Beef



Franks in a Blanket



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HN BEEF BOLOGNA 12/8Z



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HN BEEF SALAMI 12/8Z



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Jumbo Beef Franks



Nutrition Information



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Lean Beef Bologna



Nutrition Information



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Lean Beef Salami



Nutrition Information



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Quarter Pound Beef Franks



Nutrition Information



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Reduced Fat Beef Frank





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Salami - Beef Chubs



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Salami - Lean Beef Chubs



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Triangle K | Kosher Food Supervision and Certification

HOME | KOSHER DEFINED | ABOUT US | PRODUCTS | PRODUCT QUERY | CONTACT US



Kosher Food Supervision and Certification of Manufacturers, Products and Plants Around the World

The Triangle  symbol is a patented and trademarked logo that signifies "kashrut" as defined by the most stringent of Orthodox Jewish law. The organization offers its rabbinical supervision and certification on any ingredient or product that meets the strictest criteria of what makes such items kosher.

The food business has become a multi-billion dollar industry. Mass production and national and international distribution has brought new pressures to bear on company profits, production quantity, ingredient complexity and product diversification. And the reliability of Kosher food certification has become a key figure in the company's bottom line profit margin and customer satisfaction.

Triangle  is a symbol of integrity representing the most trusted and reliable name in strict rabbinical food certification and supervision. For over a half century we have been committed to making kosher food products available to Jewish people around the world in the widest variety of food products.

The commitment of this consortium of Orthodox Jewish rabbis is, above all else, rooted in their desire to see as wide a range of food products made available to kosher Jewish consumers worldwide.

To this end, Triangle  and Associates works side by side on an individual basis with each of their clients to create reasonable and cost effective certification and supervision programs.

Exhibit E

Triangle K | Kosher Food Supervision and Certification

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Kosher Defined

Kosher means 'proper', referring to foods which are acceptable to be eaten by those of the Jewish faith who practice and observe certain dietary laws as prescribed in the Torah, the Old Testament. Such foods and food product derivative are said to fall under the laws of Kashrut. These laws come primarily from the Bible, with additional Rabbinical decrees which have been handed down through generations of time. Our purpose here however, is only to introduce the novice to a very general overview of these laws. What follows, are some of the basic laws of what is and is not considered to be kosher in the strictest sense of the term. This is only an overview. Particular questions regarding any foods should be discussed with Rabbi Ralbag or an associate of the Triangle , rabbinical scholars thoroughly knowledgeable in all the laws of Kashrut.

ANIMALS: Only the meat of certain animals are kosher. These animals can be identified as having split hooves and chewing their cud - animals such as cows and sheep. There are many kosher animals such as deer, buffalo and others, however ALL animals must be slaughtered in a very specific ritualistic manner to be certified as kosher. And only a trained professional called a "shochet" may perform the slaughter.

NOTE: All liver must be broiled before use in recipes, because of a prohibition against ingesting blood.

POULTRY AND OTHER FOWL: We know which birds are kosher by means of tradition. The Torah lists which birds are not kosher. However, we are not sure of the exact translation of some of these species from the original Hebraic text in which the Bible was written. Therefore, only birds known by tradition to be kosher are considered so. This includes chicken, duck, turkey, quail, Cornish hens, doves/pigeons, geese, and pheasant.

NOTE: Poultry and fowl are considered to be meat and thus prohibitions against mixing dairy products with them applies.

Also, birds must be slaughtered in a very specific ritualistic manner as with all meats to be certified as kosher. Again, only a trained professional called a "shochet" is permitted to perform the slaughter.

NOTE: All liver must be broiled before use in recipes, because of a prohibition against ingesting blood.

FISH: All fish with scales and fins are kosher - fish such as tuna, carp, whitefish and salmon are kosher.

All other seafood is NOT kosher such as all shellfish; shrimp, lobster, clams, oysters, scallops, etc. and crustaceans (crabs, crayfish/crawfish, etc.). Also, scavengers "bottom-feeders" such as catfish & monkfish are not kosher.

NOTE: Kosher fish are not ritually killed.

FRUITS, VEGETABLES and GRAINS: All fruits, vegetables and grains are kosher. The one exception is with special laws pertaining to grape products. See below, WINES.

CHEESE: Although cheeses are dairy, some cheeses are not kosher if they are made with animal-origin rennet from a non-kosher animal.

INSECTS: All insects, crustaceans, shellfish, and other invertebrates are NEVER considered to be kosher. It is therefore necessary to be careful that vegetables are not infested with insects.

WINES: Rabbinical supervision is required over all wines and grape products. The reasoning for this stems from medieval times when wine was used by non-Jews in pagan rituals and libations. These rituals rendered those wines unfit for consumption by Jewish people and these laws have held fast into modern times.

Because of this sacramental aspect of wine in Judaism, there are special laws governing all grape products and only those grape products which have proper supervision are considered to be kosher by observant Jews. This applies not only to grape wine but grape juice, grape jelly, vinegar, and all soft drinks that use white grape juice as a sweetener. It does not apply to fresh grapes or raisins.

PARVE: Fish, eggs, vegetables, fruits and grain may be produced and manufactured with either milk or meat products. Thus, oils such as vegetable oils and shortenings may be used with both milk and meat products.

PREPARATION: It is forbidden to eat or cook milk and meat together. Therefore, if any product includes both meat - even a kosher meat - and a dairy product in its ingredients it CAN NOT be kosher. However, in today's highly sophisticated world of food technology many PARVE substitutes are available. It is also forbidden to use the same utensils that were used for manufacturing a non-kosher product for making a kosher product - unless the utensils or machinery are specially cleansed.

Again, this is just a basic overview of the laws of Kashrut and kosher foods. There is much more. Therefore, most foods that are manufactured must be produced under the reliable supervision of an organization such as Triangle  & Associates.

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ConAgra Foods Survey - Seals & Standards of Quality Give Grocery Shoppers Confidence

Consumers Increasingly Seek Trust Marks as Signs of Better Food; Consumer Trend towards Trust Marks: Organic and Kosher Trust Marks "Seal the Deal" More Than Ever

CHICAGO--(BUSINESS WIRE)--May 8, 2006-- "What's In Store" FMI consumer survey shows few know Dietary Guidelines, but they know whole grains

In the beginning there was Kosher. Then came Organic. Now MyPyramid.com. As fad diets and quick fixes fall from favor, more Americans are seeking ways to improve their eating habits with balanced, sensible solutions. But deciphering the right food choices isn't always easy, and too-busy lives and confusing nutrition information can leave people scratching their heads in the grocery aisles. To determine what they should consider "better food," many consumers are turning to trusted seals, standards and symbols of higher quality - indeed, more than nine in 10 Americans today consider trust marks to some degree when shopping.

A new "What's In Store" survey of consumer shopping habits commissioned by ConAgra Foods confirms this trend(a):

- Fully 95 percent of Americans say they would consider quality symbols, seals & trust marks when food shopping.
- Four times as many survey respondents said they are more likely to consider buying foods based on trust marks today than they were a year ago, compared to only a quarter as many who said less likely.
- While many symbols are present in the market today, the top eight trust marks consumers look for are: WHOLE GRAINS, HEART-HEALTHY, ZERO GRAMS TRANS-FAT, LOW SODIUM, NATURAL, DIETARY GUIDELINES, ORGANIC & KOSHER.

"Consumers are telling us they're looking for food choices that are more nutritious, along with great-tasting and convenient, but they want help in identifying what's good for them," said Debbie Carosella, vice president, Strategic Marketing, ConAgra Foods Consumer Foods. "We're trying to help by working with retailers to simplify people's shopping experience, and by putting appropriate quality seals on products meeting specific standards related to the new Dietary Guidelines - such as 'heart-healthy' for Healthy Choice, and 'made with 100 percent whole grains, 0g trans fat' on Orville Redenbacher's and ACT II popcorn.

"Interestingly, we're also seeing more mainstream shoppers ask for the quality, freshness and purity assurance they get from the Kosher seal on our Hebrew National(R) products and certified organic seals on our Hunt's(R) Organic canned tomatoes, Orville Redenbacher's(R) Organic Butter popcorn and now PAM(R) Organic cooking spray," said Carosella.

New Dietary Guidelines

The increased attention consumers are paying toward quality seals comes one year after the release of the new U.S. Dietary Guidelines and MyPyramid food guide, which outlines a more personalized approach for healthful eating. While more individually tailored, the redesigned MyPyramid - which removes many of the standard "do's & don'ts" of fad diets and has multiple nutrition profiles to match different individual nutrition needs - is more challenging for some consumers, heightening demand for other easy ways to identify foods that are good for you.

But while the new Dietary Guidelines may not be as cut and dry as the previous recommendations for healthful eating, its individual standards are gaining considerable currency among consumers looking for seals, standards to guide their search for good-for-you, good-to-eat foods. The "What's In Store" consumer survey bears this out:

Exhibit F

- While only 30 percent of Americans said they would consider the Dietary Guidelines when shopping for more healthful foods, almost double that number (54 percent) said they'd look for an indication that the food was a 'whole grain,' which is one of the top Dietary Guideline recommendations.
- The survey reflected consumer recognition of other key tenets of the Guidelines recommendations, such as eating for heart health (50 percent), reducing or eliminating trans fat (43 percent) and minimizing sodium (40 percent). So while many Americans may not know the Dietary Guidelines per se, they do seek ways to follow key standards advocated for good health.

Food companies such as ConAgra Foods have responded to consumers' need to easily identify healthful foods by flagging the nutritional benefits on packaging. Flags denoting whole-grain servings and zero grams of trans fat can be found on packaging for the new Healthy Choice Flour with Ultragrain(R) and Orville Redenbacher's and ACT II popcorn. The new Guidelines have also increased relevance for products such as the Healthy Choice line that helps consumers meet good nutrition recommendations for lean proteins, lower sodium and increased vegetables.

Organic Remains Front and Center

In addition to Dietary Guideline standards, market research confirms growing interest among American food shoppers for certified organic and Kosher seals that have long traditions of their own, going back thousands of years in the case of Kosher. For organic, a survey commissioned by Hunt's Organic(1) reports that nearly one in four Americans find organic labeling helpful, especially if certified by the USDA, in providing an additional assurance of quality and peace of mind when making choices to purchase "good foods" to serve their families.

The trend to consume organic products is clearly going mainstream, and retailers can expect more consumers to look for the trusted "certified organic" seal in the years to come. Indeed, sales in the organic canned tomato category have doubled in the last four years. According to the Organic Trade Association, the overall organic food industry was worth \$10.4 billion in 2003, and the market has grown 17 to 21 percent each year since 1997(2).

To meet growing consumer demand for organic, ConAgra Foods is offering organic varieties for top brand favorites:

- PAM(R) Organic - This July, PAM cooking spray is introducing PAM Organic, a certified organic cooking spray available in two varieties - PAM Organic Canola Oil and PAM Organic Olive Oil.
- Hunt's(R) Organic - Hunt's rolled out six new organic canned tomato products nationwide in January 2006, including diced, crushed and whole tomatoes, as well as two pasta sauces in traditional and roasted garlic.
- Orville Redenbacher's(R) Smart Pop!(R) Organic Popcorn - Orville Redenbacher's(R) rolled out a certified Organic Butter and Smart Pop!(R) Organic Butter to stores nationwide in January-March 2006.

For many, Kosher is the New Organic

The Kosher trend is also gaining momentum as more people come to understand the quality connection associated with the Kosher seal - which certifies both high-quality ingredients and processes that meet strict Kosher standards. More than one in 10 Americans in the "What's In Store" survey recognized the Kosher quality seal as something they would consider when making quality food-purchasing decisions.

For retailers, the correlation between increased consumer interest in the Kosher category and the success of the organic movement is noteworthy. Many consumers find similar appeal for product attributes in both the Kosher and organic categories, as motivations for choosing Kosher - such as quality and purity of ingredients, and adherence to strict standards during manufacturing - are closely akin to the driving motivations behind the strong organic trend. For consumers, Kosher and organic products satisfy the need for better, higher quality foods.

Food products such as premium Hebrew National(R) Kosher Beef franks, made with 100 percent Kosher quality beef with no artificial colors, flavors or by-products, have shown unprecedented growth and demand in recent years. The Kosher frank continues to gain mainstream market acceptance, moving from a niche product to one with national appeal. ConAgra Foods intends to position the brand to further accelerate the

growing demand for Hebrew National franks, enhancing in-store marketing efforts to more clearly identity and highlight the benefits of Kosher.

About ConAgra Foods

ConAgra Foods Inc. (NYSE:CAG) is one of North America's largest packaged food companies, serving grocery retailers, as well as restaurants and other foodservice establishments. Popular ConAgra Foods consumer brands include: Banquet, Chef Boyardee, Egg Beaters, Healthy Choice, Hebrew National, Hunt's, Marie Callender's, Orville Redenbacher's, PAM, and many others. For more information, visit www.conagrafoods.com.

(a) The survey was conducted by Ipsos U.S. Express on behalf of ConAgra Foods among a nationally representative sample of 1,023 American adults from April 25-27, 2006. The margin of error is +/- 3 percentage points.

(1) Survey conducted by Greenfield Online for Hunt's Organic with a representative sample of 1,130 Americans in December 2005, +/- 3 percent margin of error.

(2) Organic Trade Association

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Hebrew National(R), the Leading Brand of Kosher Beef Hot Dogs, and Grilling Guru Elizabeth Karmel Team up to Help Families Upgrade Their Summer Cookouts

Hebrew National Kosher Crew Will Upgrade the Hot Dog Experience in Cities Nationwide; Sweepstakes Offers \$25,000 Ultimate Backyard Upgrade

OMAHA, Neb.--(BUSINESS WIRE)--May 20, 2008--More women are cooking on outdoor grills than ever before, and recent research shows that during the grilling season, women use the grill more frequently than men - with 66 percent of women grilling twice a week compared to 57 percent of men.(1) Hot dogs are one of the most popular items for grilling, and Hebrew National(R), the leading brand of kosher hot dogs and other products, has teamed with grilling expert Elizabeth Karmel to help women and their families upgrade their hot dog and grilling experience.

Throughout the summer, Hebrew National and Karmel will offer tips, discount coupons, prizes and advice on using premium quality products to help families create great summer cookouts. Hebrew National also will award one lucky winner a backyard upgrade worth \$25,000.

Girls at the Grill and Expert Tips

Women have always taken the lead in preparing meals in the kitchen, and now more and more women are manning the grill outside. As a woman devoted to outdoor cooking, Karmel, author of the award-winning cookbook *Taming the Flame: Secrets for Hot-and-Quick Grilling and Low-and-Slow BBQ* notes that the first factor in a great grilling experience is quality. "Buy the best quality ingredients and let the heat of the grill work its magic," said Karmel. "When you want to satisfy that classic backyard hot dog craving--kosher, such as Hebrew National, is the best choice because they have the highest quality ingredients." If you follow Karmel's rule of thumb, your friends and family will applaud you meal after meal.

Some of Karmel's top tips for "Girls at the Grill" include:

- Use the best quality ingredients, from garden fresh produce to bakery buns to the meat you select.
- Purchase premium meats such as Hebrew National Franks, which are made from only premium cuts of 100 percent pure kosher beef. Hebrew National wins time after time in national taste tests.
- The key to making hot dogs that are perfectly caramelized on the outside and done on the inside is to control the heat! The best hot dogs are cooked on medium to medium-low heat.
- Adorn your hot dogs with more than just ketchup and mustard. Add a theme to your condiment table with a "Putting on the Dog" Bar--fill the ramekins with favorite toppings from the All-American hot dog capitals: New York, LA, Chicago, Boston and Cincinnati, to name the majors!

Watch for Hebrew National Kosher Crew Visits This Summer

You don't have to guess what's inside a kosher hot dog. Hebrew National hot dogs are made with premium cuts of 100 percent kosher beef and have no artificial flavors, colors, fillers or by-products with the kosher guarantee. To help more families enjoy premium quality at their cookouts, Hebrew National is sending Kosher Crew teams to upgrade residents' summer experiences in Baltimore, Cincinnati, Phoenix, and Tampa, Fla. this grilling season. Kosher Crew teams will appear at select events and festivals in these cities during July and August to give away premium prize packages featuring Hebrew National gear and coupons. Check www.hebrewnational.com during the summer for updates on Kosher Crew appearance dates and locations.

Online Sweepstakes Will Give Away Daily Prizes and a \$25,000 Ultimate Backyard Upgrade

Quality food isn't the only way to upgrade a cookout. Hebrew National also is launching the "Ultimate Backyard Upgrade" sweepstakes, which will give away five daily prizes worth \$100 and one lucky grand prize winner will receive an ultimate backyard upgrade worth \$25,000. Consumers can enter the sweepstakes or find official rules by visiting www.hebrewnational.com beginning July 14 - Sept. 7, 2008.

Exhibit G

"Hot dogs are a summertime favorite. Hebrew National has an award-winning taste that the whole family will enjoy and mom can feel good about serving, because Hebrew National is committed to providing premium quality kosher products," said Reggie Moore, vice president of marketing for Hebrew National. "Our Kosher Crews and 'Ultimate Backyard Upgrade' sweepstakes are designed to bring the Hebrew National experience to as many consumers as possible throughout the summer and will show that kosher means quality."

ABOUT HEBREW NATIONAL

Hebrew National, a brand of ConAgra(R) Foods, Inc., began in 1905 when Isadore Pinckowitz sold frankfurters in New York City under the Hebrew National name. Aside from hot dogs alone, Hebrew National makes additional premium kosher products including deli meats, specialty items like Franks in a Blanket and Cocktail Franks, breakfast sausages, sides and condiments. ConAgra Foods is one of North America's largest packaged-food companies with a strong presence in consumer grocery as well as restaurant and foodservice establishments. For more information, please visit www.hebrewnational.com or www.conagrafoods.com.

ABOUT CONAGRA FOODS

ConAgra Foods Inc. (NYSE: CAG) is one of North America's leading packaged food companies, serving grocery retailers, as well as restaurants and other foodservice establishments. Popular ConAgra Foods consumer brands include: Banquet, Chef Boyardee, Egg Beaters, Healthy Choice, Hebrew National, Hunt's, Marie Callender's, Orville Redenbacher's, PAM, and many others. For more information, please visit us at www.conagrafoods.com.

(1) Propane Education & Research Council (PERC) survey, January 2007.

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Franks

Customers notice quality, and our Hebrew National® kosher franks set the standard for the foodservice industry.



Premium Taste. 100% Kosher Beef.

Today, more patrons are concerned about quality ingredients and the purity of the foods they eat. Hebrew National® fits the bill. A kosher frank of uncompromising quality, Hebrew National is made with 100% butcher-quality cuts of beef and contain no fillers, artificial flavors, colors or by-products. For over 100 years, Hebrew National has adhered to the highest standards quality, cleanliness and safety for a difference you can taste.

Hebrew National offers a wide variety of products from franks to deli meats and lunchmeats.

[See All Hebrew National Products](#)

Exhibit H

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Hebrew National Launches Summer Campaign to Underscore Appeal of Kosher Quality as Valued Trustmark for Mainstream Americans

As more Americans view kosher as 'new organic,' brand moves to satisfy growing consumer demand for premium kosher all-beef franks as standard of quality & taste

OMAHA, Neb., Jun 15, 2006 (BUSINESS WIRE) -- In the beginning there was kosher, and the food it certified was good. Though its mission and meaning--literally "fit to eat"--date back more than 3,000 years, kosher's commitment to food quality standards and pure ingredients has never been more relevant to consumers. Today, the appeal of kosher quality, especially for moms, is going mainstream with a passion. Indeed, for many Americans, kosher is the "new organic." This summer, with research confirming its growing appeal and relevance, Hebrew National(R) is launching a major marketing campaign to satisfy surging demand for its premium kosher all-beef franks among mainstream American shoppers, who are discovering anew kosher's value as a "trustmark" for great-tasting, good-for-you, quality food.

The new campaign was bolstered by a recent national survey, commissioned by ConAgra Foods, that found consumers consider "kosher" one of the top eight seals, standards and symbols they consider as signs of quality foods. Moms in particular pay close attention to the quality of foods while shopping for their families and look to these "trustmarks" to help identify their best food choice, especially when it comes to meat.

"Kosher quality is increasingly relevant for all Americans. For moms, especially, kosher is becoming the 'new organic,' which they can trust for purity, freshness and quality ingredients," says Tom Bartley, marketing director, Hebrew National. "Our summer campaign will help remind consumers Hebrew National Franks are free of artificial colors, flavors and by-products, containing only choice cuts of 100 percent kosher-quality beef--with no ifs, ands or butts."

New advertising highlights kosher difference--no ifs, ands or butts

To highlight the growing popularity of kosher quality, Hebrew National is introducing new TV and online advertisements this week that communicate the kosher difference of its franks in a mainstream, fun way. The multi-million dollar campaign, the first major body of work developed by the new oneseven agency, differs from traditional food marketing ads by delivering an informative message with an irreverent humor that entertains viewers. Like many cutting-edge TV spots today, the ads feature colorful, progressive graphics, versus live action, to show how kosher beef relies on choice cuts of meat from the front part of cattle, guaranteeing "no ifs, ands or butts."

Hebrew National--whose franks sell in nearly half the nation's 30 major league ballparks with the recent addition of four parks--also has created marketing programs to remind fans they're eating a Hebrew National and what's the difference. For instance, for the first time in recent history Boston's Fenway Frank is joined by a branded hot dog, the "monstrous" nine-inch Hebrew National Frank. Special promotions also will give fans a chance to upgrade their experience at the ballpark with better seats and gear, as they upgrade their eating experience with Hebrew National.

In Detroit's Comerica Park, Tigers' fans will get a chance to recognize and reward the skills of their favorite hot dog hawkers as they judge Hebrew National(R)'s first-ever "Higher Authority Hawker Challenge," which is combing the stands at Comerica Park this summer to identify Detroit's all-time best hot dog hawkers. In the competition at Comerica Field, Tigers' food Hawkers will display their own kind of yell for the hearts and votes of Detroit fans. In a nail-biting showdown that pairs passion with poise, Hawkers will take to the stands to flaunt their distinctive hawking style during an audition to become a finalist and member of the 'Hawker Hall of Fame.' The standard hawker cry "get yer hot dog" won't be enough to get past the infield for first-place Detroit Tigers' fans, nor will it cut the mustard for hawking premium Hebrew National franks, which are made from 100 percent kosher quality beef with no fillers.

Exhibit I

Beyond baseball, the summer grilling season is underway and several food experts, including Grill Master Rick Browne, popular host of Barbecue America on PBS, have appeared on morning TV and radio shows around the country promoting the benefits of choosing top-quality, premium foods such as kosher hot dogs. Hebrew National also is working with retailers to make it easier for shoppers to find the premium franks by merchandising the product with upgraded, highly visible racking systems and coolers urging consumers to "Get Yer Hebrew National" at grocery stores.

According to the ConAgra Foods-commissioned consumer survey, more than 95 percent of Americans look to trusted seals such as kosher, organic and whole grain when shopping for their family. Kosher food is a \$9.4 billion-a-year industry growing by 15 percent a year. This year's Koshertfest, the world's biggest kosher trade show, attracted the highest number of buyers in its 17-year history.

It is the close supervision and strict regulation that guarantees quality and cleanliness of kosher foods. The food-preparation process is supervised by a rabbi and includes the examination of ingredients as well as processing and packaging equipment. These standards are so rigorous that food can be barred from receiving kosher certification if even a single non-kosher ingredient that makes up only one-tenth of one percent of the total is found. The kosher certification of Hebrew National Franks guarantees they are prepared at the highest level of quality. For more information about Hebrew National Franks and the kosher food-preparation process visit www.HebrewNational.com.

The Hebrew National brand is a registered trademark of ConAgra Brands, Inc

About ConAgra Foods

ConAgra Foods Inc. (NYSE:CAG) is one of North America's largest packaged food companies, serving grocery retailers, as well as restaurants and other foodservice establishments. Popular ConAgra Foods consumer brands include: Banquet, Chef Boyardee, Egg Beaters, Healthy Choice, Hebrew National, Hunt's, Marie Callender's, Orville Redenbacher's, PAM and many others. For more information, visit www.conagrafoods.com.

SOURCE:

ConAgra Foods Inc.

ConAgra Foods Inc.

Regina DeMars, 402-595-6727

Regina.demars@conagrafoods.com

or

Ketchum

Jonah Ansell, 312-228-6831

Jonah.ansell@ketchum.com

www.hebrewnational.com

www.conagrafoods.com

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News Release

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Let's Be Frank - When Buying Hot Dogs, Parents Want 'Fun Food' They Can Trust, Not a 'Mystery Meat' Surprise

Survey finds parents want assurance of 'no surprises' they get from quality, purity of kosher, much like organic; key factor in growing appeal of Hebrew National premium kosher beef franks for mainstream consumers

OMAHA, Neb., June 28, 2006 — A surprise inside is the last thing you want in your child's food. This summer, the all-American hot dog continues to top most lists of family-favorite fun foods for kids¹. But America's love for the hot dog is not unconditional. In a recent national survey, commissioned by Hebrew National®, fully 77 percent of parents cited 'no fillers or artificial ingredients' as the single most important quality they look for when buying hot dogs for their kids². Indeed, quality and pure ingredients were cited as the two top reasons for kosher's appeal among those who are more likely to choose kosher foods now versus five years ago.

Today, a growing number of mainstream Americans are choosing both organic and kosher foods for similar qualities -- their quality, freshness and purity of ingredients. Among kosher foods, kosher beef franks are leading the charge,³ making Hebrew National's Premium Kosher All-Beef Franks the perfect solution for parents looking for a 'mystery-free' frank this summer. Hebrew National's kosher beef franks contain only the finest cuts of 100 percent kosher beef, with no 'surprise' ingredients like artificial colors, flavors, fillers and by-products.

"Hot dogs remain the top choice as summer fun food for active kids ⁴, but parents are more concerned than ever about the quality and purity of ingredients," says Tom Bartley, director of Marketing, Hebrew National. "Parents don't want any 'mystery meat' surprise inside their child's food. They don't want any ifs, ands, or butts. They want premium quality, all beef and no surprises, which is what they get with kosher. And that's why kosher foods are gaining mainstream consumer acceptance. Foods like Hebrew National's 100 percent kosher beef franks give parents quality assurance and purity of ingredients they can trust, similar to what they might find in organic foods."

Today, more than nine out of 10 Americans look to 'trust marks' such as kosher and organic to help them determine their best food choice when shopping⁵. In fact, with its long history of purity, cleanliness and higher quality, kosher is now one of the top eight trust marks Americans consider when shopping for quality foods⁶. The kosher mark on Hebrew National packaging—a triangle with a "K" in the center—is a symbol of quality, freshness and purity of ingredients the brand has been delivering to families for more than 100 years.

The Kosher Difference

The Hebrew National survey gets to the meat of what Americans think about kosher and hot dogs, including:

- Changing times, changing to kosher: Among the reasons some Americans are choosing kosher now versus five years ago are the purity of kosher food (95 percent), higher-quality ingredients (92 percent) and food safety (90 percent). Great taste was noted by 80 percent of those respondents.
- Best tasting dog attributes: Seventy-nine percent say quality, 72 percent say all-beef, 68 percent say juiciness.
- Kosher tops the list: Eighty-three percent of those who purchase kosher products buy kosher hot dogs, making it the top kosher food choice among kosher users.

Appeal of Kosher Foods Grows

Exhibit J

The food industry has responded to growing demand for kosher in a big way. Kosher food has blossomed to a \$9.4 billion-a-year industry whose sales climb at an annual rate of 15 percent⁷. There are now more than 86,000 kosher-certified products⁸.

Part of kosher's appeal is strict guidelines kosher manufacturers must follow to ensure cleanliness, purity of ingredients and safety. Kosher food preparation is supervised by a rabbi and includes examination of ingredients as well as processing and packaging equipment. These standards are so rigorous that a food can be barred from receiving kosher certification if even a single non-kosher ingredient that makes up only one-tenth of one percent of the total is found.

This summer, as Americans of all ages devour an estimated seven billion hot dogs from the grill⁹, at the ballpark and elsewhere, Hebrew National, with more than a century of experience making quality kosher foods, is communicating with consumers about the quality assurance they get with kosher beef franks. For more information about Hebrew National Franks including information on kosher food-preparation and recipes, visit www.HebrewNational.com.

About ConAgra Foods

ConAgra Foods Inc. (NYSE:CAG) is one of North America's largest packaged food companies, serving grocery retailers, as well as restaurants and other foodservice establishments. Popular ConAgra Foods consumer brands include: Banquet, Chef Boyardee, Egg Beaters, Healthy Choice, Hebrew National, Hunt's, Marie Callender's, Orville Redenbacher's, PAM and many others. For more information, visit www.conagrafoods.com.

The survey on shoppers' attitudes about kosher and hot dogs was conducted by Synovate on behalf of Hebrew National with a nationally representative sample of 1,000 American adults in June 2005. The margin of error is +/- 3 %s.

1 National Hot Dog and Sausage Council (www.hot-dog.org)

2 Synovate "Hot dog/kosher" Survey, June 2005

3 Synovate "Hot dog/kosher" Survey, June 2005

4 National Hot Dog and Sausage Council (www.hot-dog.org)

5 What's In Store Survey conducted by Ipsos U.S. Express on behalf of ConAgra Foods with a representative sample of 1,023 American adults in April 2006. The margin of error is +/-3 percentage points.

6 "What's In Store" Survey, April 2006

7 "The Kosher Food Market" Mintel Report, October 2005

8 Kosherfest (www.kosherfest.com)

9 National Hot Dog and Sausage Council (www.hot-dog.org)

For more information, please contact:

Regina DeMars

(402) 595-6727

Regina.Demars@conagrafoods.com

Katie Trotsky

(312) 228-6846

Katie.Trotsky@ketchum.com

www.hebrewnational.com

www.conagrafoods.com



CALEB LH MARKER
DIRECT: (562) 216-7387
C.MARKER@RIDOUTLYONLAW.COM

April 26, 2012

*Via Certified Mail
Return Receipt Requested*

Conagra Foods, Inc.
One Conagra Drive 1-237
Omaha, NE 68102

Registered Agent:
THE PRENTICE-HALL CORPORATION
SYSTEM, INC.
2710 GATEWAY OAKS DR STE 150N
SACRAMENTO CA 95833

RE: *PRELIMINARY NOTICE AND DEMAND FOR CORRECTIVE ACTION
PURSUANT TO CALIFORNIA CIVIL CODE §1782*

To Whom It May Concern:

1. We represent Erin Stilwell and Maria Eugina Saenz Valiente who are both residents of the state of California. Both Ms. Stilwell and Ms. Saenz Valiente purchased Hebrew National meat products in California on several occasions within the last 3 years believing that the products were strictly 100% Kosher, as labeled. Conagra marks each package of Hebrew National products (hot dogs/beef franks, salami, sausage, deli meats etc.) with the "Triangle K" symbol and represents that: "The Triangle K symbol is a trademarked logo that signifies "kashruth" (kosher) "*as defined by the most stringent Jews who follow Orthodox Jewish Law*". It's a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision." <http://www.hebrewnational.com/kosher-difference.jsp>. (Emphasis added).

2. Both Ms. Stilwell and Ms. Saenz Valiente paid a premium price for the Hebrew National meat products purchased, believing representations on the product label that the product was strictly 100% kosher.

Exhibit K

3. Conagra represents and warrants that all individually packaged Hebrew National meat products that it markets and sells are 100% kosher "as defined by the most stringent Jews who follow Orthodox Jewish Law," when that is not the case. Both Ms. Stilwell and Ms. Saenz Valiente received Hebrew National products that were not 100% kosher. Conagra does not strictly comply with the standard it states it does on each package. Hebrew National products are not made from 100% kosher beef "as defined by the most stringent Jews who follow Orthodox Jewish Law." The food processing plants which Defendant purchase and/or otherwise obtain the meat used in Hebrew National products, including those in Minnesota, Wisconsin and Nebraska, fail to adhere to the kosher standards "as defined by the most stringent Jews who follow Orthodox Jewish Law" in numerous respects. As a result Defendant's representations on each package of Hebrew National products are false, deceptive and misleading.

4. This letter serves as a preliminary notice and demand for corrective action pursuant to the provisions of California Civil Code §1782, on behalf of Ms. Stilwell and Ms. Saenz Valiente as well as a class of similarly situated consumers who purchased individually packaged Hebrew National meat products manufactured, marketed and/or sold by Defendant within the last 4 years. (the "Class").

5. This demand is submitted not only on behalf of Ms. Stilwell and Ms. Saenz Valiente but also the entire Class of persons in California who, during the past four (4) years, purchased individually packaged Hebrew National meat products (hot dogs/beef franks, salami, sausage, deli meats etc.).

6. We are informed and believe that Conagra has violated provisions of the California Civil Code § 1750, et seq. and California Business and Professions Code § 17200, et seq., among other laws.

7. We are informed and believe that Conagra engages in deceptive and unlawful business conduct towards its customers including, but not limited to, false advertising practices and general mislabeling/misbranding of their Hebrew National products as 100% kosher.

8. We are informed and believe that Conagra violated the CLRA by, among other things:

- a. representing that Hebrew National meat products (hot dogs/beef franks, salami, sausage, deli meats etc.) are strictly 100% kosher, in violation of Civil Code § 1770(a)(5);
- b. representing that Hebrew National meat products are of a particular style when in fact it is not, in violation of Civil Code § 1770(a)(7);

- c. advertising Hebrew National meat products with intent not to sell it as advertised, in violation of Civil Code § 1770(a)(9); and
- d. misrepresenting that a subject of a transaction has been supplied in accordance with a previous representation when it has not, in violation of Civil Code § 1770(a)(16).

9. As the result of these legal violations, Ms. Stilwell and Ms. Saenz Valiente and other consumers in the Class were deprived of the value of goods they bargained for, suffered injury and sustained pecuniary loss. Like other class members, Ms. Stilwell and Ms. Saenz Valiente overpaid for the products purchased by paying a premium price for supposedly 100% kosher meat that was not warranted.

10. We hereby demand that Conagra immediately: (1) cease and desist from all of the above-described practices; and (2) completely disgorge and pay monetary damages equal to the total amount of monies paid for Hebrew National meat products by Ms. Stilwell and Ms. Saenz Valiente and other consumers in the Class, together with interest thereon calculated at the highest applicable legal rate, to Ms. Stilwell, Ms. Saenz Valiente and all other consumers who were affected by this conduct. This demand is made by Ms. Stilwell and Ms. Saenz Valiente on a collective basis on behalf of both herself and the Class of all similarly situated residents in California. California Civil Code §1782(c) requires that Conagra identify and provide the remedies demanded to all consumers similarly situated.

11. Please comply with this demand within 30 days from your receipt of this letter. If we do not hear from you within this time period with confirmation that all action demanded in paragraph 8 above has been fully complied with, we will assume that you will not take the corrective action requested.

12. This letter also serves as a demand that you preserve and maintain any and all relevant records pending the resolution of this matter including any such records that are stored electronically. Such records include, but are not limited to all records showing the identity of all of your customers, the amounts of monies paid by said customers, and all other documents relating to the above referenced information.

13. If you contend that any of the facts or information and belief contained in this letter is inaccurate in any respect, please provide us with all your contentions and all supporting documents/materials immediately upon your receipt of this letter, but in no event later than thirty (30) days from the date of receipt.

CONAGRA § 1782 DEMAND AND NOTICE
APRIL 26, 2012

PAGE 4

Should you have any questions or concerns, please feel free to contact me (562) 216-7387 or by e-mail at c.marker@ridoutlyonlaw.com.

Very truly yours,

RIDOUT & LYON, LLP

A handwritten signature in black ink, appearing to read 'Caleb Marker', is written over the firm name.

Caleb Marker
Attorney at Law

CLM/js

cc: Client

R L **RIDOUT+LYON**
Attorneys at Law

555 E. Ocean Blvd.
Suite 500
Long Beach, CA 90802

7010 3090 0001 6315 2530



CERTIFIED MAIL™

Registered Agent:
THE PRENTICE-HALL CORPORATION SYSTEM, INC.
2710 GATEWAY OAKS DR STE 150N
SACRAMENTO CA 95833

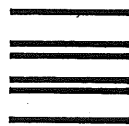


SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
1. Article Addressed to: <i>Conagra Foods, Inc.</i> <i>Prentice Hall Corporation System</i> <i>2710 Gateway Oaks Drive</i> <i>St. 150N</i> <i>Sacramento, CA</i> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits.		A. Signature ☒ Agent ☐ B. Received by (Printed Name) ☐ Addressee ☐ C. Date of Delivery D. Is delivery address different from item 1? ☐ Yes ☐ No If YES, enter delivery address below:	
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Ridout & Lyon, LLP
555 E. Ocean Blvd, Suite 500
Long Beach, CA 90802

*Ballantyne, Steward v. Canysa Foods, Inc.
CCEA Demand Letter*

7010 3090 0001 6315 2530

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Sent To Conagra Foods, Inc. The Pentia Hall Corp. Street, Apt. No., or PO Box No. 2710 Gateway Oaks Dr. Ste. 100 City, State, ZIP+4 Sacramento, CA 95833	
PS Form 3800, August 2005 See Reverse for Instructions	



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70103090000163152530		Delivered	April 30, 2012, 10:00 am	SACRAMENTO, CA 95814	Certified Mail™
		Arrival at Unit	April 30, 2012, 8:23 am	SACRAMENTO, CA 95813	
		Depart USPS Sort Facility	April 28, 2012	WEST SACRAMENTO, CA 95799	
		Processed through USPS Sort Facility	April 28, 2012, 12:16 am	WEST SACRAMENTO, CA 95799	

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May 18, 2012

HART L. ROBINOVITCH
Admitted in Minnesota and Arizona
Hart.Robinovitch@zimmreed.com

Via Certified Mail
RETURN RECEIPT REQUESTED

REPLY TO SCOTTSDALE

ConAgra Foods, Inc.
% Corporation Service Company
84 State Street
Boston, MA, 02109

**RE: PRELIMINARY NOTICE AND DEMAND FOR CORRECTIVE ACTION
PURSUANT TO MASSACHUSETTS GENERAL LAWS, CHAPTER 93A, §9(A)**

To Whom It May Concern:

We represent Mr. Adam Burnham, a resident of Middlesex County, Massachusetts. Mr. Burnham purchased Hebrew National meat products in Massachusetts on several occasions within the last 4 years believing that the products were strictly 100% Kosher, as labeled. ConAgra marks each package of Hebrew National products (hot dogs/beef franks, salami, sausage, deli meats etc.) with the "Triangle K" symbol and represents that: "The Triangle K symbol is a trademarked logo that signifies "kashruth" (kosher) "as defined by the most stringent Jews who follow Orthodox Jewish Law. It's a symbol of integrity, representing the most trusted and reliable name in strict rabbinical food certification and supervision." <http://www.hebrewnational.com/kosher-difference.jsp>. (Emphasis added).

Mr. Burnham paid a premium price for the Hebrew National meat products purchased, believing representations on the product label that the product was strictly 100% kosher.

ConAgra represents and warrants that all individually packaged Hebrew National meat products that it markets and sells are 100% kosher "as defined by the most stringent Jews who follow Orthodox Jewish Law," when that is not the case. Mr. Burnham received Hebrew National products that were not 100% kosher. ConAgra does not strictly comply with the standard it states it does on each package. Hebrew National products are not made from 100% kosher beef "as defined by the most stringent Jews who follow Orthodox Jewish Law." The food processing plants which ConAgra purchase and/or otherwise obtain the meat used in Hebrew National products, including those in Minnesota, Wisconsin and Nebraska, fail to adhere to the kosher standards "as defined by the most stringent Jews who follow Orthodox Jewish Law" in numerous respects. As a result ConAgra's representations on each package of Hebrew National products are false, deceptive and misleading.

This letter serves as a preliminary notice and demand for corrective action pursuant to Massachusetts General Laws, Chapter 93A, §9(a), on behalf of Mr. Burnham as well as a Class of persons in Massachusetts ("Class") who, during the past four (4) years, purchased individually packaged Hebrew National meat products (hot dogs/beef franks, salami, sausage, deli meats etc.)

We are informed and believe that ConAgra has violated provisions of the Massachusetts General Laws, Chapter 93A, among other laws.

ConAgra Foods, Inc.
May 18, 2012
Page 2

Mr. Burnham, and other members of the Class, purchased ConAgra's Hebrew National products after having been exposed to and in reasonable reliance on ConAgra's claims that Hebrew National products are made from 100% kosher beef. Mr. Burnham and other Class members were all exposed to ConAgra's claims at least on the label of every package of a Hebrew National product, and may have been exposed to the claim in additional forms of media including, but not limited to, television, print, and internet advertisements.

Mr. Burnham and the other Class members were not aware at the time of their purchase that ConAgra's 100% kosher beef claim was not and is not true.

ConAgra's allegedly false and misleading claims about their Hebrew National products being made from 100% kosher beef have mislead consumers and the public. ConAgra's representations and omissions are false and misleading and constitute unlawful, unfair, and/or deceptive acts or practices, undertaken by ConAgra with the intent of increasing sales of Hebrew National products to consumers in Massachusetts and nationwide.

Thus, ConAgra's acts and practices in marketing, advertising, and selling Hebrew National products as being made from 100% kosher beef violates the Massachusetts General Laws, Chapter 93A, §2.

Although we are prepared to litigate aggressively on behalf of Mr. Burnham and all other injured consumers should ConAgra choose that route, we think that protracted litigation may not be the best approach in this type of case. Accordingly, we hope that you carefully consider this demand for corrective action, cease ConAgra's deceptive and misleading advertising and marketing of Hebrew National products, and agree to provide all other relief requested herein. We look forward to your response.

DEMAND FOR RELIEF

On behalf of Mr. Burnham and all others similarly situated, we hereby demand that ConAgra immediately:

1. Compensate Class members for the actual damages incurred by them by offering to refund consumers for their purchases of Hebrew National products and provide reimbursement for interest, or pay statutory damages pursuant to c. 93A, §9(3), whichever results in a greater recovery;
2. Reimburse Mr. Burnham and Class members for their reasonable attorneys' fees and expenses incurred; and
3. Permanently and immediately correct and rectify ConAgra's violations by ceasing the deceptive and misleading marketing and advertising of Hebrew National products as being made from 100% kosher beef and initiate a corrective marketing and advertising campaign.

To clarify, this demand for full refund is made collectively by Mr. Burnham on behalf of the entire Class of Massachusetts consumers who purchased Hebrew National products in the past 4 years. Any attempt to provide relief to Mr. Burnham individually, but not to the class will be deficient and unsatisfactory.

Please be advised that ConAgra has thirty (30) days from the date of mailing of this letter to make a reasonable offer of relief. If ConAgra fails to make a reasonable offer to Mr. Burnham and the other members of the Class, Mr. Burnham will file a claim under Chapter 93A on behalf of himself and the other Class members seeking damages, injunctive relief, and attorneys' fees. You are advised that if the Court determines that ConAgra's conduct was willfully or knowingly unfair or deceptive, the Court must award Mr. Burnham and the Class members up to three times, but not less than two times, their actual damages.

ConAgra Foods, Inc.

May 18, 2012

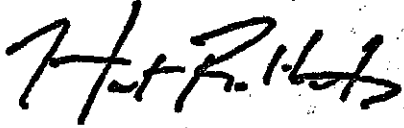
Page 3

If you contend that any of the facts or information and belief contained in this letter is inaccurate in any respect, please provide us with all your contentions and all supporting documents/materials immediately upon your receipt of this letter, but in no event later than thirty (30) days from the date of this letter's mailing.

Please feel free to contact me (480) 348-6400 or by e-mail at hart.robinovitch@zimmreed.com should you have any questions or concerns.

Very truly yours,

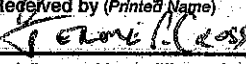
ZIMMERMAN REED, P.L.L.P.

A handwritten signature in black ink, appearing to read "Hart L. Robinovitch", with a stylized flourish at the end.

Hart L. Robinovitch
HLR/bcb

cc: Client

Domestic Return Receipt

2. Article Number	COMPLETE THIS SECTION ON DELIVERY	
7105 4522 6440 0000 0226	A. Signature X 	☐ Agent ☒ Addressee
1. Article Addressed to: ConAgra Foods, Inc. % Corporation Service Company 84 State Street Boston, MA 02109	B. Received by (Printed Name) 	C. Date of Delivery 9/24
	D. Is delivery address different from item 1? ☐ Yes If YES enter delivery address below: ☒ No	
	3. Service Type ☒ Certified 4. Restricted Delivery? (Extra Fee) ☐ Yes	

PS Form 3811

Domestic Return Receipt



K MESHULASH / TRIANGLE K INC. 1
1240 EAST 29TH STREET, BROOKLYN, NEW YORK 11210
TEL : 718.258.5596 FAX: 718.252.8418
EMAIL: RALBAGA@AOL.COM RABBIA@THETRIANGLEK.COM

RABBI JEHOSEPH RALBAG

RABBI ARYEH RALBAG
Rabbinical Coordinator

STATEMENT OF THE TRIANGLE-K

Outrageously false and defamatory allegations have been made by anonymous disgruntled individuals against Triangle-K's strict rabbinical supervision of Hebrew National products in a complaint filed in court against the company that owns Hebrew National. Those who make the false allegations know full well that because their identities are concealed and their false statements are made in a court pleading, Triangle-K and its principals cannot sue them for defamation. The court complaint is filed on behalf of 11 consumers, none of whom claims to keep kosher, and all allege that they buy Hebrew National products only because they are represented to be "a higher quality product."

If any person making such an allegation against Triangle-K has the integrity to do so in a manner that subjects him to a defamation lawsuit, Triangle-K and its principals will promptly institute proceedings against that person in a rabbinic court ("*Beit Din*") and, if authorized by the rabbinic court, will file a defamation lawsuit against the person, company, or organization responsible for such slander and libel.

The fact is that, contrary to the defamatory allegations, Triangle-K has substantially increased and improved the *kashrut* supervision on Hebrew National products since it began its supervision in 2004.

1. **Kashrut of the slaughtering operation.** – Triangle-K instituted a process under which slaughtering is now done with a team of two or three *shochtim* constantly in the kill box (depending on each specific plant). Each *shochet* on the team slaughters not more than a prescribed quota of cattle, and the knife used for the *shechitah* is examined before and after every slaughter for possible nicks by the *shochet* or by another member of the team. The team continuously slaughters in rotation. This ensures that no *shochet* becomes weary and careless and that the knives are always free of nicks. In addition each *shochet* is required to have numerous knives ready to slaughter with. Contrary to the false anonymous allegation in the court complaint, Hebrew National products are consistently slaughtered in the prescribed manner required to be considered kosher.



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 EMAIL: RALBAGA@AOL.COM RABBIA@THETRIANGLEK.COM

RABBI JEHOSEPH RALBAG

RABBI ARYEH RALBAG
 Rabbinical Coordinator

2. **Examination of cattle before and after shechitah.** – Only cattle that are free from physical defects and clean enough are slaughtered for kosher consumption. Triangle-K requires an examination of all cattle to insure that the clean cut necessary for kosher slaughter can be made and that the cattle can, after examination, be qualified for kosher consumption. In addition to prescribing a team of *shochtim*, Triangle-K instituted the requirement that there be two examiners (“*bodkim*”). One is a *bodek pnim*, who examines each animal’s lung while it is still in the animal. The other is a *bodek chutz*, who examines the animal’s lung after it has been removed and who inflates it. In some plants two *bodkei pnim* and two *bodkei chutz* are constantly on the line. Triangle-K represents that Hebrew National’s product is *stam* kosher, not *glatt* kosher. Its goal in providing the supervision to Hebrew National products is to make 100% *stam* kosher meat available to general consumers throughout the United States. Triangle-K also places numerous *mashgichim* at various points on the production line who make specific markings and *simanim* to ensure the correct labeling on the kosher-approved cattle.
3. **Examination of knives.** – Because of the “team” requirement instituted by Triangle-K, the knives used in the slaughtering process are constantly inspected to ensure that they have no nicks. Knives are checked after each *shechitah*, and if a nick is found the animal is marked non-kosher. Each evening, all Rabbis and *shochtim* are also required to present their knives to the *Rosh-Tsevet* (Crew manager) for inspection to make sure the knives do not have any nicks. In addition, cattle are not certified as kosher if an air compressor gun was used on the animal prior to *shechitah*.
4. **Post-slaughter inspection.** – All slaughtered cattle are carefully examined by a *bodek pnim* and by a *bodek chutz*. It is totally false and defamatory to say, as the court complaint declares anonymously, that the organs of animals used in Hebrew National products are “not consistently inspected after the slaughter.”



K MESHULASH / TRIANGLE K INC. 3
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RABBI ARYEH RALBAG
Rabbinical Coordinator

5. **Removal of blood.** – Triangle-K drains all slaughtered cattles’ blood and washes it in accordance with the strictest standards of Jewish Law. Allegations that the soaking, salting and washing are inadequate are totally false. Allegations that the carcass is *halachically* cooked before it is salted are totally false.
6. **Disciplining of shochtim.** – Triangle-K has required the dismissal of *shochtim* and *bodkim* who failed to comply with the high standards instituted by Triangle-K. It has never reprimanded or subjected to retaliatory measures any employee who objected to the “slaughter of dirty cows.” Nor has the Triangle-K asked any employee “to look the other way” if he saw a violation of kosher laws. Each plant’s head *shochet* and *bodek* reports to the Triangle-K on a weekly basis. The *shochtim* and *bodkim* are constantly tested and checked in surprise visits by Triangle-K for their knowledge of the *halachic* material and for their skills. Some *shochtim* and *bodkim* whose employment was terminated because of their failure to adhere to Triangle-K’s high standards may have initiated the false allegations on which the court complaint was based.

We strongly re-affirm that the Triangle-K Kashrus symbol on Hebrew National products guarantees that the product is 100% strictly Kosher.

The Triangle K Rabbinic team is always available to answer specific questions about any part of the process of the *shechitha*. We base our strict kosher certification on the writings and decisions of the greatest scholars and *poskim* of the last few hundred years of Rabbinic Jewish law and literature.

Rabbi Aryeh Ralbag - Triangle K Kosher Supervision

AER SERVICES, INC.
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June 21, 2012

POSITION STATEMENT OF AER SERVICES, INC.

Although not directly named as a defendant party in a recently filed lawsuit, Wallace et. al. vs. ConAgra Foods Inc., numerous false, inaccurate and misleading claims have been made that are specifically attributed either to the kosher operational services and/or kosher inspection services that are provided by AER Services, Inc. (“AER”).

This statement has been prepared by AER as a formal response to the false accusations whereby the public and all interested parties shall know that each and every claim that has been made in the lawsuit as attributed to AER is absolutely, categorically, and unequivocally false.

Contrary to what has been described to the public as an “invisible fraud” there is no such thing, and in practice, the contrary is the truth. AER’s kosher processing services are highly transparent and respected, constituting a highly integrated part of the meat processing operations at facilities where AER provides its services.

This statement is not intended to specifically address all of the false allegations contained in the lawsuit. Nevertheless, AER takes this opportunity to explicitly address and state for the record as follows:

It is a false accusation that:	It is a true statement of practice that:
Pressure is put on AER employees.	AER employees are employed by AER Services, Inc. an Illinois corporation, in good standing, that follows accepted operational customs and standards, and enforces all applicable laws in the workplace, including Federal, State and Jewish religious law. Employment obligations as well as benefits are regularly reviewed to ensure proper understanding and application.
AER employees are reprimanded and subject to retaliatory measures such as threats to transfer them to other positions, to work in other facilities in other states, or termination.	AER employees are not reprimanded for the reasons set forth in the lawsuit. Allegations of retaliatory measures, threats of transfer or termination are absolutely false. In the event that an AER employee has a concern, the AER employee has access to Rabbi Moshe Fyzakov’s cellphone number. Additionally, AER employees know that there is a corporate office and fax number. AER employees are constantly reminded that they should feel comfortable and able to reach out to either their supervisor, Rabbi Fyzakov or the corporate office, for any question or concern. In the past, when Jewish, religious law questions have arisen, Rabbi Fyzakov has promptly, professionally and halachically (according to Jewish, religious law) addressed such matters.
AER employees have been offered financial incentives “to look the other way” and not say anything about the	AER employees are involved in kosher meat processing operations that are governed and regulated by Jewish, religious law. AER would never tolerate and will never permit for a violation of the kosher laws

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violation of kosher laws.	to occur, as it is abhorrent to and a violation of Jewish, religious law.
Knives used often have nicks and due to time, quota pressures and labor shortage pressures are often not inspected properly.	Each knife used in the kosher processing performed by AER is carefully inspected by the shochet or by a co-shochet on the shochet team on the relevant day, both before and after the cut. If a nick is found after the cut, the animal is determined to be non-kosher and identified as such so that it is not mixed with the approved, kosher cattle.
Organs of animals whose meat is used by Defendant in Hebrew National products is not consistently inspected after slaughter.	Internal and external inspections are continually and regularly performed, without exception, after slaughter, in accordance with the kosher supervision guidelines as enforced by the Triangle K.
The required procedure of filling the lungs with air was rarely followed and was only done on rare occasions, such as during plant inspections.	Inflation of the lungs is continually and regularly performed, without exception, after slaughter, in accordance with the kosher supervision guidelines as enforced by the Triangle K.
The blood of animals whose meat is used is not consistently drained of blood and adequately washed after the slaughter.	Blood is removed and the meat is washed, in accordance with the kosher supervision guidelines as enforced by the Triangle K. Additional washings are in place as an extra precaution to ensure that the 72 hour time frame required by Jewish, religious law, is observed.
Meat often sits in the loading area or in large transport cartons (called combos) for more than three days without being adequately washed.	Combos are stored in refrigerators and are only brought to the loading docks within a very short period of time from the moment that said combos are to be transported.
The animals whose meat is used are not consistently slaughtered in accordance with these rules (namely, that such a person is Jewish and certified as being sufficiently trained and proficient in kosher slaughtering / checking processes).	AER employees, involved in the kosher operation services, are thoroughly investigated to ascertain and confirm that they are Jewish and certified, being sufficiently trained and proficient in kosher slaughtering / checking processes. The results of said investigations are recorded, maintained and preserved (including relevant documentation) in an AER's employee's personnel file.
AER managers place new names of employees on old certificates that had previously been issued to other slaughterers.	AER maintains valid, current and up to date records of all its employees, and maintains said valid records, both internally and externally for facility audits, when requested. Documentation relating to expired, out to date, and/or inactive employees is not utilized.
The kosher meat was not consistently – properly tagged so it can be identified at all times.	Kosher carcasses are fabricated continuously during the early morning hours, when only kosher carcasses are permitted entry unto the floor. Fabricated, kosher meat is placed in a combo and sealed by

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	an AER worker (a Mashgiach) with a distinct color liner (packaging material), and attaches a kosher tag with his handwritten signature. At all times, there are two distinct proofs to evidence the kosher contents of a combo.
Many of the claims alleged in the lawsuit were reported to Rabbi Moshe Fyzakov and AER managers.	All AER supervisors and AER employees are privy and have access to Rabbi Moshe Fyzakov's cellphone number. Additionally, AER employees know that there is a corporate office and fax number. AER employees are constantly reminded that they should feel comfortable and able to reach out to either their supervisor, Rabbi Fyzakov or the corporate office, for any question or concern. In the past, when Jewish, religious law questions have arisen, Rabbi Fyzakov has promptly, professionally and halachically (according to Jewish, religious law) addressed such matters.

As a kosher processing service company for the Hebrew National brand that is under the independent and absolute supervising authority of the Triangle K Kosher Supervision and Certification Organization ("**Triangle K**"), AER operates and provides its kosher services under and subject to the strict kosher certification standards that are decided, enforced and directed by the Triangle K. As a company of integrity that conducts itself according to both strict kosher standards as well as to professional standards of business conduct, AER states for the record that:

- AER **respects, observes and operates** in a manner that provides kosher services according to the strict kosher certification standards of the Triangle K; and
- AER **respects, observes and operates** with an open door policy to its employees welcoming the input, suggestions and concerns of its employees regarding any concerns, or issues that may arise in the workplace, which can be addressed either to a direct supervisor, the executive vice-president of operations and even the president of AER; and
- AER **respects, observes and operates** in a transparent kosher process, where it is noted that both facility and USDA employees are daily witnessing and observing AER's conduct and behavior.

AER has provided kosher processing services for many years and has built itself a reputation for trustworthiness, honesty, credibility and professionalism. AER did not and would not and will not risk all that it stands for and worked for to be falsely accused of the outrageous and willfully wrongful accusations that are contained in the lawsuit.

It is respectfully confirmed by this statement that AER intends to defend its name, reputation and good standing whether through its open and ongoing communication with the public and by initiating actions for relief and/or defending itself based on AER's rights as well as the protections entitled to AER under the law.

AER Services, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Leo Maruani,

Case No. 0:06-cv-176-MJD-AJB

Plaintiff,

v.

**AFFIDAVIT OF
RABBI ARYEH RALBAG**

AER Services, Inc.,

Defendant.

STATE OF NEW YORK)
 : SS
CITY OF NEW YORK)

Rabbi Aryeh Ralbag, being duly sworn on oath, states and alleges as follows:

Background

1. I am an Orthodox Jewish rabbi. I received my rabbinical ordination from the Lithuanian Chevron Yeshiva – Hebron Rabbinical College in Jerusalem in 1975. I serve as Rabbi and Spiritual Leader of the Young Israel of Avenue K/Congregation Ahavath Israel in Brooklyn, New York. I also head the *Beth Din* (rabbinical court) of the Union of Orthodox Rabbis of the United States and Canada, which deals with all issues of *Halakha* (Jewish rabbinical law). Most relevant to this lawsuit, I am the *posek* (issuer of rabbinical rulings) and Head Kashruth Coordinator of Triangle K Inc., an organization that offers rabbinical supervision and certification for food products that meet the strictest standards for “kosher” status under Orthodox Jewish law. I make this affidavit in support of the Motion to Dismiss filed by Defendant AER Services, Inc. (“AER”) in the above-captioned matter. I have personal knowledge of all facts testified to herein.

2. Triangle K Inc. provides services to companies such as ConAgra Foods, which sells Hebrew National hot dogs marked with our Triangle K logo, signifying that the product has been rabbinically certified as kosher. AER provides kosher slaughtering services for ConAgra. As explained in more detail below, Orthodox Jewish religion mandates that animals be slaughtered according to strict religious rituals; otherwise, the meat is not considered kosher and may not be consumed by observant Jews. Thus, Triangle K supervises AER's slaughtering activities in order to ensure that the resulting product is worthy of the Triangle K kosher certification. Part of my responsibilities for Triangle K include providing this supervision. In this supervising capacity, I first became acquainted with Plaintiff Leo Maruani in approximately the summer of 2003. Mr. Maruani was then employed by AER as a *shochet*, or kosher ritual slaughterer and inspector.

Importance of Ritual Slaughter to the Orthodox Jewish Faith

3. "Kosher" means "ritually fit for consumption," referring to foods which are acceptable for consumption by members of the Jewish faith who practice and observe Jewish dietary laws and customs known as *kashruth*. These laws come primarily from the Torah, or the Five Books of Moses, with additional Rabbinical decrees which have been handed down through the generations.

4. Observance of *kashruth* is a mainstay of Orthodox Jewish religion. Orthodox Jews believe that consumption of foods that are not kosher defiles the holy and eternal soul. The result of eating forbidden foods is referred to by the Talmudic Sages as *timtum halev* – damaging the heart's ability to fully comprehend. By observing *kashruth* as a matter of faith, a Jew's religious commitment permeates his life, home, and surroundings, bringing to him the message of God's teachings.

Rules Governing Ritual Slaughter

5. As part of *kashruth*, an animal may not be eaten unless it is slaughtered according to a specific ritual, called *shechitah*. *Shechitah* requires that the animal be killed by cutting horizontally across the throat, severing the trachea (windpipe), the esophagus, the jugular veins, and the carotid arteries. The knife must be drawn across the throat of the animal in one or more swift, uninterrupted movements, and the blade of the knife must be free of nicks or other imperfections. The underlying principle is to kill the animal as quickly and painlessly as possible.

6. The rules for *shechitah* derive from the Torah in Deuteronomy 12:21, “Then thou shalt kill of thy herd and of thy flock which the Lord hath given thee, as I have commanded thee.” The details of the method of slaughtering were taught by Moses and handed down orally until transcribed in detail in the Mishnah and Talmud, which are books of Jewish law. The Talmudic code in which dietary laws and regulations are set forth is the *Yoreh De’ah*.

7. The *Yoreh De’ah* prescribes that if any of the following five events occurs during *schechitah*, it will disqualify the *schechitah* and render the meat non-kosher: *sh’hiyah* – any pause or interruption, however slight, during the act of slaughter; *derasah* – any pressure applied to the knife; *hagramah* – any cutting out of the proper area; *ikur* – any tearing rather than severing of tissue; and *chaladah* – any cutting while the knife is under cover, such as by the hair, wool or feathers of the animal; the knife’s blade must be fully exposed at all times.

8. In addition, the *Yoreh De’ah* requires that the animal be entirely free of specifically enumerated defects such as torn or perforated organ walls, missing or defective organs, missing limbs or broken bones, or the animal is forbidden for consumption. Thus, a *bedikah*, or rigorous inspection of the animal, must be performed at the time of slaughter.

Religious Qualifications of a Ritual Slaughterer

9. Because of the detail and complexity of the rules for ritual slaughter and inspection, the *Yoreh De'ah* prescribes that the ritual slaughter and inspection must be performed by a specially trained and licensed individual called a *shochet*.

10. A *shochet* must possess a *kabbalah* certificate issued by an Orthodox Jewish rabbi. Under the *Yoreh De'ah*, only meat of animals slaughtered by a *shochet* who possesses a *kabbalah* certificate is fit for consumption. To obtain the *kabbalah* certificate, the *shochet* must pass an oral examination conducted by an Orthodox Jewish rabbi.

11. A rabbi should not issue a *kabbalah* certificate to someone who is lax in the fulfillment of religious duties. The *Yoreh De'ah* provides that a *shochet* must be *yirei shmayaim meirabim*, or “God-fearing in the public’s eye.” The reason is that the members of the Orthodox Jewish community who will eat the meat slaughtered by the *shochet* have to be able to trust the *shochet*’s word that he has performed his slaughtering and inspection responsibilities properly. In order for the community to be able to place this trust in the *shochet*, it is crucial that the *shochet* be someone who lives a visibly pious life in accordance with *Halakha*, or Jewish religious law.

12. Because Judaism has no central hierarchical authority to resolve questions of *Halakha*, different individuals and communities may have different answers to such questions. In observing *Halakha*, Jews may choose to follow the teachings of particular rabbis or to affiliate with a specific community. Thus, there is substantial room for subjectivity and disagreement as to whether a *shochet* is “God-fearing in the public’s eye.” The religious judgments and interpretations of the community the *shochet* serves, and the rabbi leading that community, is of central importance.

My Determination that Mr. Maruani Was Not Religiously Qualified

13. I was first appointed by ConAgra Foods as supervising rabbi for the production of Hebrew National hot dogs in the summer of 2003. At that time, I reviewed the qualifications of all *shochetim* that AER provided to perform slaughtering services in the plants under my supervision. After reviewing carefully the credentials of Mr. Maruani, I made the judgment at that time that Mr. Maruani was not “God-fearing in the public’s eye,” and I informed Shlomoh Ben-David, the President of AER, that Mr. Maruani was not an acceptable *shochet*.

14. The reasons I made this determination were several. First and most importantly, Mr. Maruani did not live within walking distance of an Orthodox Jewish synagogue. A necessary part of Orthodox Jewish observance is attending prayer services at an Orthodox Jewish synagogue on *shabbat*, the weekly day of rest in Judaism that is observed from before sundown on Friday until after nightfall on Saturday. Significantly, however, Orthodox Jews interpret the Torah to prohibit certain activities on *shabbat*, including driving or riding in a car or other motorized vehicle. Unless Mr. Maruani and his family lived within walking distance of an Orthodox Jewish synagogue, they could not walk to synagogue on *shabbat* and live a visibly pious life in accordance with the Orthodox Jewish faith.

15. Second, Mr. Maruani’s wife was not Jewish and had not been properly converted. According to *Halakha*, Jews may not marry non-Jews. Thus, the Orthodox Jewish religion does not recognize marriage with a non-Jewish partner to be valid. I checked the records of the *Beth Din* of the Union of Orthodox Rabbis of the United States and Canada, the rabbinical court responsible for authorizing conversions, to determine if Mr. Maruani’s wife had been properly converted and found that she had not.

16. Third, I had reason to believe that Mr. Maruani and his wife were not keeping the laws of purity within the framework of marriage, as required by *Dinei ishut*, the Jewish laws pertaining to women, personal status, and family life. Specifically, Mr. Maruani's wife did not cover her hair when in public and did not conduct herself in a modest manner as defined in the *Dinei ishut*. Further, I had reason to believe his wife did not use the *mikvah*, which is a ritual bath in which Orthodox Jewish women are required to immerse themselves after childbirth or menstruation before having intercourse with their husbands.

17. Fourth, Mr. Maruani did not dress as an Orthodox Jew should. Orthodox Jews interpret *Halakha* to require men to keep a full beard and to wear a dark suit and white shirt.

18. Fifth, Mr. Maruani's *kabbalah* certificate was unacceptable in my judgment because it was granted by an unacceptable source. This is a subjective determination that *Halakha* gives the supervising rabbi authority to make.

My Refusal to Allow Mr. Maruani to Work Under My Supervision

19. When I told Mr. Ben-David that Mr. Maruani was not an acceptable *shochet*, Mr. Ben-David asked me to allow Mr. Maruani time to correct the deficiencies. I agreed to this on a temporary basis, until the spring of 2004, when the Triangle K symbol would begin appearing on the product. (The period from my initial appointment in 2003 until the spring of 2004 was a transitional period, during which time Hebrew National hot dogs continued to be produced under the symbol and supervision of the rabbi who preceded me.) Over approximately the next year I had numerous conversations with Mr. Maruani in which I specifically told him that he was not a legitimate *shochet* because he did not live within walking distance of a synagogue, because he and his wife were not living a pious life, because his

credentials were unacceptable in my view, and because he was married to a non-Jew who had not been properly converted. I told Mr. Maruani that he would need to correct these problems in order to continue to work as a *shochet*. I also had numerous conversations with Mr. Ben-David about the fact that if Mr. Maruani did not correct these problems he could not continue to work under my supervision.

20. Despite these conversations, Mr. Maruani took no steps to conform his life to *Halakha*. Consequently, I determined that because he was not living a pious life in accordance with the Orthodox Jewish interpretation of *Halakha*, and was taking no steps to change this, he was not “God-fearing in the public’s eye” and was not qualified to be a *shochet*. Therefore, in the summer of 2004 I informed AER that I could no longer allow Mr. Maruani to work in any of the kosher slaughtering facilities under my supervision.

FURTHER AFFIANT SAYETH NOT.

Dated: February 16, 2006

s/ Aryeh Ralbag
Rabbi Aryeh Ralbag

Subscribed and sworn to before me
this 16th day of February, 2006.

s/ Sara Teitelbaum
Notary Public

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Leo Maruani,

Case No. 0:06-cv-176-MJD-AJB

Plaintiff,

v.

**AFFIDAVIT OF
RABBI MICHAEL SMALL**

AER Services, Inc.,

Defendant.

STATE OF ILLINOIS)
 : SS
COUNTY OF COOK)

Rabbi Michael Small, being duly sworn on oath, states and alleges as follows:

Background

1. I, Michael Small, am a Rabbi in the Orthodox Jewish faith. I received my rabbinical ordination from the foremost *Halachik* authority in this and the past generation, the revered and sainted Rabbi Moshe Feinstein of blessed memory, in 1951. I serve as Rabbi of the Poalie Zedek Congregation in Chicago, Illinois, and have served in that position for 50 years. I also serve, together with Rabbi Harry Kaufman of Montreal, Canada, as the Certifying/Supervising Rabbinical authority for Best Kosher Foods Corporation, a division of the Sara Lee Corporation that manufactures and markets a full line of kosher meat and some bakery products. I make this affidavit in support of the Motion to Dismiss filed by Defendant AER Services, Inc. ("AER") in the above-captioned matter. I have personal knowledge of all facts testified to herein.

2. Best Kosher Foods sells products under our logo “KS” within a Star of David, a registered trademark signifying that the product has been rabbinically certified as kosher by us. “Kosher” refers to foods that have been produced and manufactured in accordance with all requirements of *Halakha* (Jewish rabbinical law) and are therefore fit for consumption by members of the Orthodox Jewish community, as well as by members of the community at large who prefer to consume products that are manufactured according to strict Jewish dietary laws, customs, and practices. The Jewish dietary laws, known as *kashruth*, come primarily from the Torah, or the Five Books of Moses, with additional rabbinical authorities’ responsa and decrees handed down through the generations and codified in the *Yoreh De’ah* and other holy books of the Jewish faith. As the Certifying/Supervising Rabbinical authority for Best Kosher Foods, I am responsible for ensuring that products sold under our “KS” trademark/logo conform to the strictest standards of *kashruth*.

3. AER provides kosher slaughtering services for Best Kosher Foods. As explained in more detail below, *kashruth* mandates that animals be slaughtered according to strict religious rituals; otherwise, the meat is not considered kosher and may not be consumed by observant Jews. Thus, I am responsible for supervising AER’s slaughtering activities in order to ensure that the resulting product is worthy of the “KS” kosher certification. In this supervising capacity, I became acquainted with Plaintiff Leo Maruani, who was employed by AER as a *shochet*, or kosher ritual slaughterer and inspector.

Importance of Ritual Slaughter to the Orthodox Jewish Faith

4. Observance of *kashruth* is a mainstay of Orthodox Jewish religion. Orthodox Jews believe that consumption of foods that are not kosher defiles the holy and eternal soul. The

result of eating forbidden foods is referred to by the Talmudic Sages as *timtum halev* – damaging the heart’s ability to fully comprehend. By observing *kashruth* as a matter of faith, a Jew’s religious commitment permeates his life, home, and surroundings, bringing to him the message of God’s teachings.

5. As part of *kashruth*, an animal may not be eaten unless it is slaughtered according to a specific ritual, called *shechitah*.

Rules Governing Ritual Slaughter

6. *Shechitah* requires that the animal be killed by cutting horizontally across the throat, severing at a minimum the trachea (windpipe) and esophagus, and preferably the jugular veins and carotid arteries. The knife must be drawn across the throat of the animal in one or more swift, uninterrupted movements, and the blade of the knife must be free of nicks or other imperfections. The underlying principle is to kill the animal as quickly and painlessly as possible.

7. The rules for *shechitah* derive from the Torah in Deuteronomy 12:21, “Then thou shalt kill of thy herd and of thy flock which the Lord hath given thee, as I have commanded thee.” The details of the method of slaughtering were taught by Moses and handed down orally until transcribed in detail in the Mishnah and Talmud (books of Jewish law), codified and defined through rabbinical responsa and rulings through the generations, and set forth in the *Yoreh De’ah*.

8. The *Yoreh De’ah* prescribes that if any of the following five events occurs during *shechitah*, it will disqualify the *shechitah* and render the meat non-kosher: *sh’hiyah* – any

pause or interruption, however slight, during the act of slaughter; *derasah* – any pressure applied to the knife; *hagramah* – any cutting out of the proper area; *ikur* – any tearing rather than severing of tissue; and *chaladah* – any cutting while the knife is under cover, such as by the hair, wool or feathers of the animal; the knife’s blade must be fully exposed at all times.

9. In addition, the *Yoreh De’ah* requires that the animal be entirely free of specifically enumerated defects such as torn or perforated organ walls, missing or defective organs, missing limbs or broken bones, or the animal is forbidden for consumption. Thus, a *bedikah*, or rigorous inspection of the animal, must be performed at the time of slaughter.

Religious Qualifications of a Ritual Slaughterer

10. Because of the detail and complexity of the rules for ritual slaughter and inspection, the *Yoreh De’ah* prescribes that the ritual slaughter and inspection must be performed by a specially trained and licensed individual called a *shochet*.

11. A *shochet* must possess a *kabbalah* certificate issued by an Orthodox Jewish rabbi. Under the *Yoreh De’ah*, only meat of animals slaughtered by a *shochet* who possesses a *kabbalah* certificate is fit for consumption. To obtain the *kabbalah* certificate, the *shochet* must pass an oral examination conducted by an Orthodox Jewish rabbi.

12. A rabbi should not issue a *kabbalah* certificate to someone who is lax in the fulfillment of religious duties. The *Yoreh De’ah* provides that a *shochet* must be *yirei shmayaim meirabim*, or “God-fearing in the public’s eye.” The reason is that the members of the Orthodox Jewish community who will eat the meat slaughtered by the *shochet* have to be able to trust the *shochet*’s word that he has performed his slaughtering and inspection responsibilities properly.

In order for the community to be able to place this trust in the *shochet*, it is crucial that the *shochet* be someone who lives a visibly pious life in accordance with *Halakha*, or Jewish religious law.

13. Because Judaism has no central hierarchical authority to resolve questions of *Halakha*, different individuals and communities may have different answers to such questions. In observing and living daily life in accordance with and in conformity to the *Halakha*, Jews may choose to follow the teachings of particular rabbis or to affiliate with a specific community. Thus, there is substantial room for subjectivity and disagreement as to whether a *shochet* is “God-fearing in the public’s eye.” The religious judgments and interpretations of the community the *shochet* serves, and the rabbi leading that community, is of central importance.

My Determination that Mr. Maruani Was Not Religiously Qualified

14. Mr. Maruani was transferred to the Minnesota Beef Industries, Inc., slaughtering facility (supplying Best Kosher Foods) in Buffalo Lake, Minnesota – a facility under my supervision – in the summer of 2004. At that time, I told Shlomoh Ben-David, the President of AER, that Mr. Maruani would have to move to an Orthodox Jewish community so that he could live within walking distance of an Orthodox Jewish synagogue and fully participate and partake in the life and affairs of the community. At Mr. Ben-David’s request, I agreed to allow Mr. Maruani time to make the move, but I continued to insist to Mr. Ben-David on a near-weekly basis that Mr. Maruani would have to move, or I could not allow him to continue working under my supervision. I made clear to Mr. Ben-David that if Mr. Maruani did not move, he could not be considered an acceptable *shochet* under Orthodox Jewish law, and that the longer the situation was allowed to continue, the greater the damage to the goodwill and trust between myself, AER,

and the Orthodox Jewish community. Mr. Ben-David repeatedly indicated to me that he was continuing to discuss the issue with Mr. Maruani and that Mr. Maruani was going to move but needed a bit more time.

15. My reason for insisting that Mr. Maruani move to an Orthodox Jewish community was the following: A necessary part of Orthodox Jewish observance is attending prayer services at an Orthodox Jewish synagogue on *shabbat*, the weekly day of rest in Judaism that is observed from before sundown on Friday until after nightfall on Saturday. Significantly, however, Orthodox Jews interpret the Torah to prohibit certain activities on *shabbat*, including driving or riding in a car or other motorized vehicle. Unless Mr. Maruani and his family lived within walking distance of an Orthodox Jewish synagogue, they could not walk to synagogue on *shabbat* and thus live a visibly pious life in the eyes of the community. Stated more broadly, it is very important that a *shochet* be a visible participant in the religious activities of the Orthodox Jewish community and be observed by the community to be living his life in accordance with the Orthodox Jewish faith. Mr. Maruani could not possibly do this while he and his family were living in a different community. Thus, Mr. Maruani could not be considered “God-fearing in the public’s eye,” in which case he was not qualified to be a *shochet*.

16. After approximately one full year under my supervision, Mr. Maruani still had not moved to a residence within walking distance of a synagogue. It is my understanding that, based on my insistence that Mr. Maruani move, Mr. Ben-David finally gave Mr. Maruani an ultimatum and, when he would not agree to move, terminated his employment in September 2005. I fully support and approve of the decision to terminate Mr. Maruani’s employment. As I had repeatedly indicated to Mr. Ben-David, the situation had gone on too long and could not be allowed to continue indefinitely.

17. Had Mr. Maruani moved and continued to work under my supervision, I would have also insisted that he live a pious life in accordance with *Halakha* in all other respects. At the time he was working under my supervision, I was aware only of the issue of his residence, and I considered rectifying that situation to be a bare minimum requirement for him to continue to work as a *shochet*.

18. After Mr. Maruani's termination by AER, I learned of other issues that, in my view, made him an unacceptable *shochet*. Among other things, I learned that he was married to a non-Jew whose conversion was not universally accepted and that he and his wife were not living piously in other aspects of Jewish family life. Had I known of these issues while Mr. Maruani was still employed, I would have demanded that Mr. Maruani be terminated immediately.

FURTHER AFFIANT SAYETH NOT.

Dated: February 15, 2006

s/ Rabbi Michael Small

Rabbi Michael Small

Subscribed and sworn to before me
this 15th day of February, 2006.

s/ Ricky A. Alvarez

Notary Public

STATE OF MINNESOTA

DISTRICT COURT

DAKOTA COUNTY

FIRST JUDICIAL DISTRICT
CASE TYPE: CONTRACT

Moshe B. Git,

Case Type: CONTRACT

Plaintiff,

File No. 19HA-CV-11-401

vs.

**AFFIDAVIT OF RABBI MOSHE
FYZAKOV**

AER Services, Inc.,

Defendant.

1. I Moshe Fyzakov, being first duly sworn upon oath do hereby make this affidavit.

2. I am a Jewish Rabbi and employed by Defendant AER Services, Inc., which is a small, closely held corporation that provides kosher meat processing services.

3. AER employed the Plaintiff, Moshe Git, as a Mashgiach (Jewish ritual supervisor). As a Mashgiach, Plaintiff was responsible for and involved in the observation of the meat packing and shipping process to ensure compliance with Jewish dietary laws and the overall kosher process. Plaintiff's employment is governed by a specific employment agreement.

4. On June 1, 2010, AER terminated Plaintiff's employment.

5. Defendant employs individuals to provide kosher meat processing services.

The Kosher process is a religious practice and is part of the Jewish covenant with G-D.

Kosher foods are those that conform to the regulations of the Jewish Halakhic law

Exhibit Q

framework. Briefly, in order to be considered Kosher, mammals and fowl must be slaughtered by a trained individual (a shochet) using a special method of slaughter, known as *shechita* (a *shechita* slaughter severs the jugular vein, carotid artery, esophagus and trachea in a single continuous cutting movement with an unserrated, sharp knife, which is intended to avoid unnecessary pain to the animal.) Failure of any of these criteria renders the meat of the animal unsuitable. The body must then be checked after slaughter to confirm that the animal had no medical condition or defect that would make the meat unsuitable. These conditions (treifot) include approximately 70 different categories of injuries, diseases, and abnormalities whose presence renders the animal non-kosher.

6. The Kosher process involves the coordinated efforts of multiple individuals to assure that the food is, in fact, kosher; the importance of this process cannot be understated, it is more than just sedulous attention to process and detail, it is a matter of religion.

7. One of the facilities at which Defendant's employees perform kosher supervision and certification is the Dakota Premium Plant in South St. Paul, Minnesota. Defendant AER does not own the Dakota Premium plant and is not the only company or organization performing religious services relating to meat processing at the Dakota facility. In fact, the Dakota plant also permits Islamic halal slaughter.

8. I am aware that on Friday, May 28, 2010, Mr. Git became aware of an alleged issue relating to the validity of the kosher process on that day. The issue involved whether the May 28, 2010 kosher meat processing was invalid because of a potential

mixing with the Islamic halal slaughter. Mixing of the kosher slaughter with the halal slaughter would render the meat non-kosher.

9. I have read the affidavit presented to this Court by Moshe Git in which he states that one of the bodeks told him not to take any action until Tuesday, June 1, 2010. Mr. Git possessed Hashgacha authority in the kosher process, including the marking done by the bodekim. Mr. Git's statement is not correct as the bodek, Meir Igel, had no authority to instruct Mr. Git to "wait" to take action. Mr. Git was required, in the event of an issue, to contact Josef Ben-Zaken (who was the bodek in charge of the bodekim at that time as well as the team leader) and attempt to resolve the issue and in the event that failed, contact me. At no point in time did Mr. Git contact me to discuss this issue and Mr. Git also failed to discuss this issue fully with Josef Ben-Zaken, and did not inform Mr. Ben-Zaken of the issue until Tuesday, June 1, 2010.

10. Mr. Git's statement that he believed waiting until Tuesday would not pose any issue is false. In his affidavit, Mr. Git states that he received information from one of the bodeks that only the last cows checked on Friday had been killed by a *halal* or Islamic slaughterer rendering those carcasses non-kosher and that he believed that on Tuesday (four days after the event) he could simply determine which cow was last to slaughtered. During the course of the slaughter process, the animal is killed, skinned and cut in half. The carcass is then transferred via a rail system into a cooler where it is required—by the United States Department of Agriculture—to remain for at least 24 hours. At this time, meat is identified as kosher by a marking on the carcass and, for a

short period of time (approximately a couple of hours) the kosher meat can be roughly identified chronologically; that is, it could be determined which group of carcasses were the last carcass to enter the cooler. While in the cooler, the meat is moved around on the rail system and after a couple of hours it is nearly impossible to determine which carcass was the last to enter the cooler. Mr. Git is familiar with this process—having worked in the Dakota Premium plant for many years—and would certainly know that he could not simply wait until Tuesday and determine the “last cows killed” and that it would be futile to attempt to identify the “last cows slaughtered” after a few days.

11. During my entire tenure as a Rabbi I have never once been involved in a situation where a person involved in the kosher process waited even one day—let alone nearly four days—to address a problem similar to this one. Mr. Git’s decision to wait four days to divulge this information is inexplicable and beyond what any person performing kosher services would do. The decision to wait four days put the entire kosher slaughter at risk and removed the possibility of a quick investigation into the issue by myself and the other supervising Rabbi. Mr. Git’s decision was an aggravated decision that went well beyond simply making an error—it compounded a problem that should have been addressed when it was made. The issue of whether or not a slaughter is kosher is of paramount importance to the business of AER; in fact, this is AER’s business. The issue was, therefore, not some small matter that could be addressed at a later time, it was extremely significant.

12. I am aware that Mr. Git said he could not contact me because I was in Israel at the time of this incident. This statement is not true. I have a cell phone with

international coverage and voicemail; I frequently make and accept calls while I am in Israel and check my messages often—my cell phone number is from Denver, Colorado and has been my contact number for more than a decade. Mr. Git has contacted me on multiple times on my cell phone in the past and I believe that he, in fact, does have my number. I know that my cell phone number is posted in the Rabbi's room (break room) at Dakota Premium Plant. Even if Mr. Git did not have my number readily available, he could have contacted AER's corporate office and they would have provided him with my cell phone number or gotten in contact with me to inform me of this issue. The number for AER's corporate offices is readily available and I know that Mr. Git has contacted the corporate offices on multiple occasions. Additionally, I have an email account that Mr. Git could have used to contact me. I have had the same email address for years and Mr. Git has sent me emails.

13. If Mr. Git had contacted me, Defendant AER, the bodek who was in charge of the bodekim at the time (Josef Ben-Zaken), or even Rabbi Ralbag (who was not even an AER employee) on Friday, Sunday or Monday the investigative process could have begun and the meat properly designated as kosher; instead, based solely on Mr. Git's actions and failure to act, the meat was designated and sold as non-kosher and AER suffered an economic and reputational loss to its business. Although the meat was sold as non-kosher, It must be noted that after Rabbi Ralbag's investigation on Tuesday morning June 1, 2010, the meat was eventually determined to be kosher. If disclosure of

the issue had been made earlier, the investigation could have been completed and the determination made that the meat was kosher prior to the meat being sold as non-kosher.

14. Instead of first calling me on Tuesday, June 1, 2010, (as he was obligated to do by our agreement) Mr. Git improperly made his first call to Rabbi Ralbag, the certifying Rabbi for ConAgra. I did not become aware of the issue until late in the morning of June 1. I received a call advising me of the issue and informing me that due to the confusion over the possible mix-up, Rabbi Ralbag had tentatively determined that the meat was not kosher until he could conduct an investigation. From Israel, I participated in the investigation and it became clear that the internal/preliminary bodek who thought there might be an issue with the mixing of kosher slaughter with the halal slaughter was mistaken. It must be noted that this, preliminary/internal bodek was, at this time, a new employee who had less experience than both Mr. Skapino (the external/final bodek) and Mr. Ben-Zaken (the bodek in charge of the bodekim at that time) and, therefore, the opinion of the internal bodek needed to be analyzed in accordance with all the facts and experience of the individuals involved. Rabbi Ralbag rendered his decision that the meat was kosher and I instructed Mr. Ben-Zaken to see to it that the meat was properly marked. Following this conversation, I learned that Mr. Git had taken it upon himself to advise Mike Ferguson (an employee of the Dakota Premium Plant who worked in the sales office) that the meat was not kosher and Mr. Git removed the kosher markings from the meat. Mr. Git did not have the authority to notify Mr. Ferguson that the meat was not kosher nor did he have authority to remove the kosher markings from the meat. As we were attempting to correct this problem, I learned that Mr. Git had left

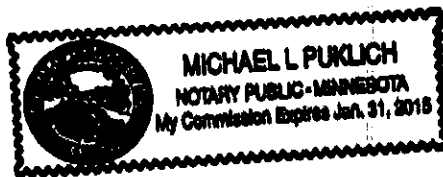
the premises and the meat had been sold as non-kosher. Because of Mr. Git's actions the entire day of kosher services was invalidated and the meat sold as non-kosher. Mr. Git only worked for about two and a half hours on June 1, which was the first day of the work week. I personally like Mr. Git but his actions are not excusable and under no circumstances were they proper. Mr. Git's actions, as described in my affidavit, are not those of a person who simply made a mistake—they vastly exceed a simple error or a miscalculation in judgment. Mr. Git had full knowledge of the situation yet failed to take appropriate actions on more than one occasion. This entire situation could have been avoided if Mr. Git would have acted reasonably instead of in blatant disregard of his duties—he simply ignored the steps AER has in place to address issues such as this. He also ignored the requirements in place that he himself negotiated in the agreement between himself and AER.

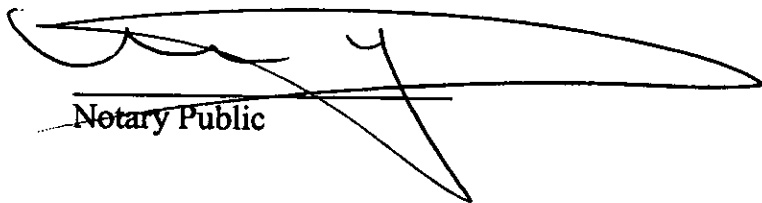
15. I was involved in the decision to terminate Mr. Git. Mr. Git was terminated for failure to notify anybody of the kosher/halal mixing for four days, failure to contact me as required by the agreement with AER, unilaterally informing Dakota Premium that the meat was not kosher, removing the kosher markings, and failure to remain at the plant during the pendency of the investigation. In my opinion, each of these acts would alone justify termination under the AER-Git agreement. Each of these acts was done with knowledge and anybody with experience in the kosher services business would realize that Mr. Git's actions and failures to act created a very high risk of causing the entire kosher to be at risk. In fact, the entire kosher slaughter was lost.

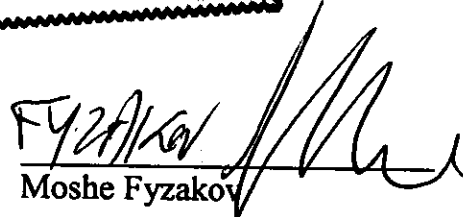
Further your affiant sayeth not.

Subscribed and sworn to before me

This 10 day of May, 2011




Notary Public


Moshe Fyzakov

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Leo Maruani,

Case No. 0:06-cv-176-MJD-AJB

Plaintiff,

v.

**AFFIDAVIT OF
SHLOMOH BEN-DAVID**

AER Services, Inc.,

Defendant.

STATE OF ILLINOIS)
 : SS
COUNTY OF COOK)

Shlomoh Ben-David, being duly sworn on oath, states and alleges as follows:

1. I am the President of AER Services, Inc. ("AER"). I make this affidavit in support of the Motion to Dismiss filed by AER in the above-captioned matter. I have personal knowledge of all facts testified to herein.

2. AER provides personnel to perform ritual slaughtering services for companies that sell kosher food products, such as ConAgra Foods and Best Kosher Foods, a division of the Sara Lee Corporation. ConAgra Foods and Best Kosher Foods separately retain the services of Orthodox Jewish rabbis to provide kosher certification for their products. The rabbis supervise our slaughtering operations to ensure that they are conducted according to their own rabbinical interpretations of *kashruth*, or the Jewish dietary laws derived from the Torah and detailed in the Talmud. They then certify the resulting meat product as kosher, meaning fit for consumption by Jews who practice and observe *kashruth*.

3. Based on *kashruth*, the supervising rabbis require that animals be slaughtered according to strict religious rituals and that the slaughter be performed by a *shochet*, or specially trained ritual slaughterer and inspector. The rabbis further require, according to *kashruth*, that the *shochet* have a license issued by an Orthodox Jewish rabbi and be someone who lives a visibly pious life in strict conformance with Orthodox Jewish beliefs – someone who is “God-fearing in the public’s eye.” The Orthodox Jewish community’s perception of the *shochet* as pious and God-fearing is extremely important: otherwise, the community will not be able to trust that the *shochet* has slaughtered the animals according to religious ritual and that the meat is fit for consumption.

4. Without qualified *shochetim* who meet the requirements of the rabbis based on Orthodox Jewish religion, AER cannot do business. Thus it is essential for AER’s business that every *shochet* we employ meet with the rabbis’ approval and that we maintain the rabbis’ trust and confidence.

5. AER employed Leo Maruani as a *shochet* from 1993 until September 8, 2005. Mr. Maruani was a very close personal friend of mine.

6. In early 2002, Mr. Maruani transferred from the Federal Beef plant in Rapid City, South Dakota, to the Dakota Premium Foods plant in South Saint Paul, Minnesota.

7. In approximately the summer of 2003, Rabbi Aryeh Ralbag was appointed by ConAgra Foods to be the supervising and certifying rabbinical authority for ConAgra’s “Hebrew National” brand of kosher foods. As a result of this appointment, the Dakota Premium Foods plant where Mr. Maruani worked came under Rabbi Ralbag’s supervision.

8. Shortly after his appointment, Rabbi Ralbag reviewed the qualifications of Mr. Maruani and all other *shochetim* working at plants under his supervision. He informed me at that

time that Mr. Maruani was not qualified to be a *shochet* because he was not living a pious life in conformance with Orthodox Jewish beliefs. Among other things, he noted that Mr. Maruani did not live within walking distance of an Orthodox Jewish synagogue, that in his view Mr. Maruani's license and credentials were unacceptable, and that Mr. Maruani was married to a non-Jewish wife who had not been properly converted.

9. I asked Rabbi Ralbag to allow Mr. Maruani time to correct these problems, and he agreed. Over the next year, Rabbi Ralbag had multiple discussions with Mr. Maruani about the changes he needed to make in order to become an acceptable *shochet*. Rabbi Ralbag also had repeated discussions with me and with Moshe Fayzakov, Vice President of AER, in which he warned us that if Mr. Maruani did not make the necessary changes, Rabbi Ralbag would no longer allow Mr. Maruani to work at any plant under his supervision. Because of my close friendship with Mr. Maruani, I always pleaded with Rabbi Ralbag to allow Mr. Maruani a bit more time. During this period of time I repeatedly warned Mr. Maruani that he needed to follow Rabbi Ralbag's religious guidance and take whatever steps were necessary to earn Rabbi Ralbag's approval, or he would not be able to continue to work as a *shochet*.

10. In the summer of 2004, Rabbi Ralbag definitively informed me that because Mr. Maruani had not made the necessary changes to live a pious life according to Orthodox Jewish beliefs, he could no longer allow Mr. Maruani to work in any of the facilities under his supervision.

11. AER then transferred Mr. Maruani to the Minnesota Beef Industries plant located in Buffalo Lake, Minnesota. At this plant, AER provides slaughtering services for Best Kosher Foods under the supervision of Rabbi Michael Small.

12. Shortly after the transfer, I informed Rabbi Small that Rabbi Ralbag had insisted that Mr. Maruani be removed from under his supervision and that Mr. Maruani was not living in an Orthodox Jewish community. Rabbi Small informed me that Mr. Maruani would have to move his family to an Orthodox Jewish community so that they could live within walking distance of an Orthodox Jewish synagogue. Otherwise, Rabbi Small told me, Mr. Maruani would not be living a visibly pious life in the eyes of the community, and thus was not religiously qualified to be a *shochet* and could not continue to work under Rabbi Small's supervision. At my request Rabbi Small agreed to allow Mr. Maruani additional time to make the move. I knew that Rabbi Small was unaware at that point of the issues regarding Mr. Maruani's wife or about his potentially unacceptable license and credentials. Based on my experience with Rabbi Ralbag, I was sure that if Rabbi Small did learn of these issues, he would insist on Mr. Maruani's removal from the plant. Because of my friendship with Mr. Maruani, I relied on his repeated promises to me that he was taking all necessary steps to remedy all of these issues, and that all he needed was a bit more time.

13. Over the next year I gave Mr. Maruani repeated warnings, both directly and through Mr. Fayzakov, that he needed to move to an Orthodox Jewish community and needed to bring his life into conformance with Orthodox Jewish beliefs as directed by Rabbis Ralbag and Small, or he would be disqualified by the rabbis and would no longer be able to work as a *shochet*. Mr. Maruani always equivocated and said that he needed a bit more time.

14. By the late summer of 2005, approximately a year after Mr. Maruani's transfer to the Buffalo Lake plant, he still had not moved to a home within walking distance of an Orthodox Jewish synagogue and had not taken any steps to address the other issues raised by Rabbi Ralbag. In the meantime, Rabbi Small continued to insist to me on an almost weekly basis that

Mr. Maruani would have to move, or he could not allow him to continue working under his supervision. Rabbi Small made clear to me that if Mr. Maruani did not move, he could not be considered an acceptable *shochet* under Orthodox Jewish law, and that the longer the situation was allowed to continue, the greater the damage to the goodwill and trust between himself and AER.

15. I finally issued an ultimatum to Mr. Maruani on approximately August 29, 2005, telling him that if he would not move to a home within walking distance of a synagogue and begin living his life as a visibly pious Orthodox Jew by the end of October 2005, AER would terminate his employment.

16. Mr. Maruani refused to comply with the ultimatum without conditions. Therefore, because Mr. Maruani would not comply with the rabbis' directives issued according to Orthodox Jewish law and beliefs, AER terminated Mr. Maruani's employment on September 8, 2005.

FURTHER AFFIANT SAYETH NOT.

Dated: February 21, 2006

s/ Shlomoh Ben-David
Shlomoh Ben-David

Subscribed and sworn to before me
this 21st day of February, 2006.

s/ Corina Dudas
Notary Public