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WEINSTEIN, J.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ORENSTEIN, M.J.

LINGXI KONG, LYNN MOORE, JING YE,
 JOHN DOE (ILLINOIS),
 JOHN DOE (TEXAS),
 JOHN DOE (FLORIDA),
 JOHN DOE (MICHIGAN),
 JOHN DOE (NEW JERSEY),
 JOHN DOE (PENNSYLVANIA)
 and JOHN DOE 1-100, on behalf of themselves
 and others similarly situated,

Case No.:

Plaintiffs,

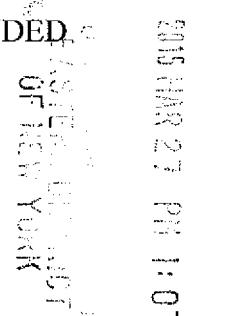
v.

SWCC USA 1234, LLC (formerly known as
 WEDDERSPON ORGANIC USA, LLC) and
 WEDDERSPON ORGANIC, INC.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Defendant.



Plaintiffs, LINGXI KONG, LYNN MOORE, JING YE, JOHN DOE (ILLINOIS), JOHN DOE (TEXAS), JOHN DOE (FLORIDA), JOHN DOE (MICHIGAN), JOHN DOE (NEW JERSEY), JOHN DOE (PENNSYLVANIA) and JOHN DOE 1-100 (hereinafter, "Plaintiffs"), on behalf of themselves and others similarly situated, by and through their undersigned attorneys, hereby file this Class Action Complaint against Defendants, SWCC USA 1234, LLC (formerly known as WEDDERSPON ORGANIC USA, LLC) and WEDDERSPON ORGANIC, INC.

(collectively, “Wedderspoon” or “Defendants”) and state as follows based upon their own personal knowledge and the investigation of their counsel:

NATURE OF THE ACTION

1. The therapeutic effect of honey is seeing a revival. The especially high antibacterial activities of mānuka honey, a type of honey from bees that pollinate the flowers of the mānuka bush (*Leptospermum Scoparium*) indigenous to New Zealand, has received increasingly more attention from the scientific world. Research by an international network of laboratories have shown that New Zealand’s mānuka honeys are one of the two major medicinal honeys that have exhibited high antibacterial potency relative to other honeys.¹ Its effectiveness as dressing of wounds, burns, skin ulcers and in reducing inflammations has been well documented.²

2. Such research findings have also caused an explosion in commercial growth of New Zealand apiaries, whose mānuka honey products have become increasingly more sought-after by the health-conscious middle class from a number of Western countries, including the United States. However, while the demand for medicinal honeys soared, the supply of natural mānuka honey with high antibacterial potency remains limited. As a result, the price for a bottle of mānuka honey can be as high as over ten times that of ordinary honeys.

3. Against this backdrop, this class action seeks redress for Defendants’ deceptive practices in their marketing, advertising, labeling and promotion of their mānuka honey Products (as

¹ See Paulus H. S. Kwakman et al., *Two Major Medicinal Honeys Have Different Mechanisms of Bactericidal Activity*, PLOS ONE, Volume 6, Issue 3 (March 2011), available at <http://www.umf.org.nz/Modules/LSDocumentManager/DocumentDownload.aspx?DocumentId=36>; see also, Manisha Deb Mandal et al., *Honey: its medicinal property and antibacterial activity*, ASIAN PAC. J. TROP. BIOMED. Apr. 2011; 1(2): 154–160, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3609166/>; Alison Wallace et al., *Demonstrating the safety of manuka honey UMF® 20+ in a human clinical trial with healthy individuals*, p. 4, BRITISH JOURNAL OF NUTRITION (2009), available at <http://www.umf.org.nz/Modules/LSDocumentManager/DocumentDownload.aspx?DocumentId=34>.

² Mandal at 154-155.

defined in ¶ 31 below) as having either “16+” or “12+” mānuka activity ratings (“mānuka activity ratings claim”), thereby deceiving or materially misleading consumers into erroneously believing that such Products have the same level of antibacterial activity (or potency) as the UMF® 16+ or 12+ honeys, and suffering injury as a result.

4. The UMF® honeys are New Zealand mānuka honeys licensed by the Unique Mānuka Factor® Honey Association (“UMFHA”) (formerly known as the “Active Mānuka Honey Association”), New Zealand, to use the UMF® trademark.³ An example of mānuka honey bearing the UMF® trademark and rating is provided below.



http://www.manukahoney.com/img/usr/product/0001_v1_manuka_honey_umf_16_250g.jpg

5. The UMF® licenses are internationally recognizable and verifiable, and are established and controlled by the UMFHA through conducting independent, third-party audits, sampling and

³ See generally, *What is UMF® honey?*, UMFHA, <http://www.umf.org.nz/what-is-umf-honey>.

testing.⁴ Only companies licensed by the UMFHA are allowed to use the UMF® trademark, which currently include 57 companies listed on the UMFHA website. See <http://www.umf.org.nz/licensees>. Wedderspoon is not one of the licensees.

6. As illustrated above, at the center of the hexagonal, beehive-shaped UMF® trademark is the numeric UMF® rating of “16+”. “12+” is another common rating for UMF® honeys. Such numeric rating is an index for mānuka honeys’ non-peroxide antibacterial activity, with the higher rating indicating higher antibacterial potency.⁵ For example, a mānuka honey rated UMF® 10 will have a non-peroxide antibacterial activity equivalent to a 10% w/v solution of phenol in water.⁶ Similarly, a “16+” mānuka honey would have a non-peroxide antibacterial potency equivalent to or above a 16% w/v phenol solution. Such rating system has been employed and standardized by the UMFHA, its testing methods publicly accessible, and its results independently verifiable.⁷

7. The clearly defined rating system, as well as the stringent, independent control measures employed by the UMFHA to ensure the accuracy of UMF® ratings claims, is necessary considering the fact that mānuka honeys produced in New Zealand have a wide range of variability in terms of their UMF® level (or antibacterial potency).⁸ As scholars have noted,

⁴ See *About UMF®*, UMFHA, <http://www.umf.org.nz/umf-trademark>.

⁵ See, e.g., Alison Wallace et al., p. 4; Jonathan McD C Stephens, *The factors responsible for the varying levels of UMF® in mānuka (*Leptospermum scoparium*) honey*, p. 4, RESEARCH COMMONS AT THE UNIVERSITY OF WAIKATO, February 2006, available at <http://researchcommons.waikato.ac.nz/bitstream/handle/10289/2655/thesis.pdf?sequence=2>.

⁶ *Id.* The word “non-peroxide” is used because the antibacterial property of ordinary, non-mānuka honeys is mainly attributed to the presence of hydrogen peroxide (H₂O₂) in the honey, whereas research has shown that mānuka honeys have other unique active factors which contribute to its heightened antibacterial potency. *See id.* at 3.

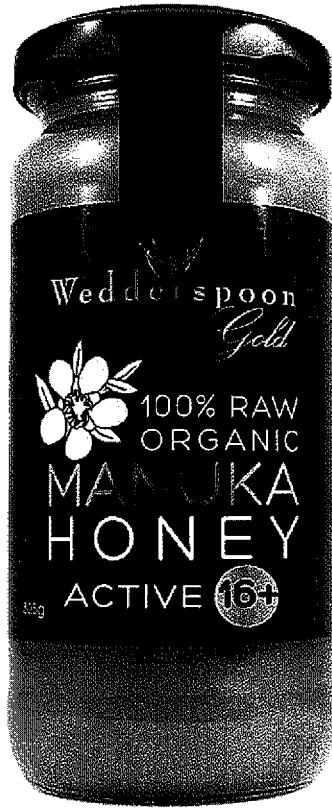
⁷ See generally, <http://www.umf.org.nz/umf-trademark/internationally-recognised-activity-testing>.

⁸ See Stephens at 7-8 (observing that while “all regions produce a significant range of UMF®, and some areas contain a remarkable variability,” it is accepted in the New Zealand honey industry that “traditionally the north and east of the North Island are considered regions that produce mānuka honeys with UMF® activity, and for the most part other regions do not”). Notably, Wedderspoon’s mānuka

because mānuka honeys with high levels of UMF® are produced only in certain geographical regions in New Zealand, that is, the North and East of the North Island of New Zealand, “Consequently, high activity UMF® mānuka honey is a desirable resource of limited quantity.”⁹ It is also hardly surprising that higher UMF® ratings are usually linked with higher prices.

8. Despite **not** being one of the licensed providers of the UMF® honeys, Wedderspoon, through a widespread and unified advertising campaign via the internet, social media, magazines, and most importantly, on each and every Product’s label and packaging, claims that its mānuka honey Products have either “Active 16+” or “12+” mānuka ratings (“mānuka ratings claim”), as illustrated below, even though they (i) have never been independently certified by the UMFHA to have the antibacterial potency level of UMF® “16+” or “12+”, and (ii) do not have the antibacterial potency level equivalent to UMF® “16+” or “12+” honeys. Their designation is purely arbitrary and is intended to confuse and deceive the unsuspecting consumer that their Product is UMFHA certified, when it is not. As alleged with specificity herein, Defendants have engaged in, and continue to engage in, false and deceptive acts and business practices in connection with the marketing and sale of the Products, which has injured Plaintiffs and the putative class who are relying on the designation and paying a pricing premium for the perceived medicinal benefit that does not actually exist in the Products.

honey Products are sourced from “New Zealand’s South Island.” See <http://www.wedderspoon.com/shop/Wedderspoon-Gold-Organic-Raw-MAnuka-16.html>.
⁹ *Id.* at 8.



http://www.wedderspoon.com/shop/images/D/organic_gold_manuka_16%2B-01.jpg

9. Plaintiffs brings this proposed consumer class action on behalf of themselves and all other persons nationwide, who, from the applicable limitations period up to and including the present (the “Class Period”), purchased for consumption and not resale, the Products.

10. Defendants violated statutes enacted in each of the fifty states and the District of Columbia, which are designed to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising. These statutes are:

- a. Alabama Deceptive Trade Practices Act, Ala. Statues Ann. §§ 8-19-1, *et seq.*;
- b. Alaska Unfair Trade Practices and Consumer Protection Act, AS § 45.50.471, *et seq.*;
- c. Arizona Consumer Fraud Act, Arizona Revised Statutes, §§ 44-1521, *et seq.*;
- d. Arkansas Deceptive Trade Practices Act, Ark. Code § 4-88-101, *et seq.*;
- e. California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*, and California's Unfair Competition Law, Cal. Bus. & Prof Code § 17200, *et seq.*;
- f. Colorado Consumer Protection Act, Colo. Rev. Stat. § 6 - 1-101, *et seq.*;
- g. Connecticut Unfair Trade Practices Act, Conn. Gen. Stat § 42-110a, *et seq.*;
- h. Delaware Deceptive Trade Practices Act, 6 Del. Code § 2511, *et seq.*;
- i. District of Columbia Consumer Protection Procedures Act, D.C. Code § 28 3901, *et seq.*;

- j. Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*;
- k. Georgia Fair Business Practices Act, § 10-1-390 *et seq.*;
- l. Hawaii Unfair and Deceptive Practices Act, Hawaii Revised Statues § 480 1, *et seq.*, and Hawaii Uniform Deceptive Trade Practices Act, Hawaii Revised Statutes § 481A-1, *et seq.*;
- m. Idaho Consumer Protection Act, Idaho Code § 48-601, *et seq.*;
- n. Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505/1, *et seq.*;
- o. Indiana Deceptive Consumer Sales Act, Indiana Code Ann. §§ 24-5-0.5-0.1, *et seq.*;
- p. Iowa Consumer Fraud Act, Iowa Code §§ 714.16, *et seq.*;
- q. Kansas Consumer Protection Act, Kan. Stat. Ann §§ 50 626, *et seq.*;
- r. Kentucky Consumer Protection Act, Ky. Rev. Stat. Ann. §§ 367.110, *et seq.*, and the Kentucky Unfair Trade Practices Act, Ky. Rev. Stat. Ann §§ 365.020, *et seq.*;
- s. Louisiana Unfair Trade Practices and Consumer Protection Law, La. Rev. Stat. Ann. § § 51:1401, *et seq.*;
- t. Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. § 205A, *et seq.*, and Maine Uniform Deceptive Trade Practices Act, Me. Rev. Stat. Ann. 10, § 1211, *et seq.*,
- u. Maryland Consumer Protection Act, Md. Com. Law Code § 13-101, *et seq.*;
- v. Massachusetts Unfair and Deceptive Practices Act, Mass. Gen. Laws ch. 93A;
- w. Michigan Consumer Protection Act, § § 445.901, *et seq.*;
- x. Minnesota Prevention of Consumer Fraud Act, Minn. Stat §§ 325F.68, *et seq.*; and Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325D.43, *et seq.*;
- y. Mississippi Consumer Protection Act, Miss. Code Ann. §§ 75-24-1, *et seq.*;
- z. Missouri Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*;
- aa. Montana Unfair Trade Practices and Consumer Protection Act, Mont. Code §30-14-101, *et seq.*;
- bb. Nebraska Consumer Protection Act, Neb. Rev. Stat. § 59 1601, *et seq.*, and the Nebraska Uniform Deceptive Trade Practices Act, Neb. Rev. Stat. § 87-301, *et seq.*;
- cc. Nevada Trade Regulation and Practices Act, Nev. Rev. Stat. §§ 598.0903, *et seq.*;
- dd. New Hampshire Consumer Protection Act, N.H. Rev. Stat. § 358-A:1, *et seq.* ;
- ee. New Jersey Consumer Fraud Act, N.J. Stat. Ann. §§ 56:8 1, *et seq.*;
- ff. New Mexico Unfair Practices Act, N.M. Stat. Ann. §§ 57 12 1, *et seq.* ;
- gg. New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law § 349;
- hh. North Dakota Consumer Fraud Act, N.D. Cent. Code §§ 51 15 01, *et seq.*;
- ii. North Carolina Unfair and Deceptive Trade Practices Act, North Carolina General Statutes §§ 75-1, *et seq.*;
- jj. Ohio Deceptive Trade Practices Act, Ohio Rev. Code. Ann. §§ 4165.01. *et seq.*;
- kk. Oklahoma Consumer Protection Act, Okla. Stat. 15 § 751, *et seq.*;
- ll. Oregon Unfair Trade Practices Act, Rev. Stat § 646.605, *et seq.*;
- mm. Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 Penn. Stat. Ann. § § 201-1, *et seq.*;
- nn. Rhode Island Unfair Trade Practices And Consumer Protection Act, R.I. Gen. Laws § 6-13.1-1, *et seq.*;
- oo. South Carolina Unfair Trade Practices Act, S.C. Code Laws § 39-5-10, *et seq.* ;
- pp. South Dakota's Deceptive Trade Practices and Consumer Protection Law, S.D. Codified Laws §§ 37 24 1, *et seq.*;
- qq. Tennessee Trade Practices Act, Tennessee Code Annotated §§ 47-25-101, *et seq.*;
- rr. Texas Stat. Ann. §§ 17.41, *et seq.*, Texas Deceptive Trade Practices Act;
- ss. Utah Unfair Practices Act, Utah Code Ann. §§ 13-5-1, *et seq.*;
- tt. Vermont Consumer Fraud Act, Vt. Stat. Ann. tit.9, § 2451, *et seq.*;
- uu. Virginia Consumer Protection Act, Virginia Code Ann. §§59.1-196, *et seq.*;

- vv. Washington Consumer Fraud Act, Wash. Rev. Code § 19.86.010, *et seq.*;
- ww. West Virginia Consumer Credit and Protection Act, West Virginia Code § 46A-6-101, *et seq.*;
- xx. Wisconsin Deceptive Trade Practices Act, Wis. Stat. §§ 100. 18, *et seq.*;
- yy. Wyoming Consumer Protection Act, Wyoming Stat. Ann. §§40-12-101, *et seq.*

JURISDICTION AND VENUE

11. This Court has original jurisdiction over this matter pursuant to 28 U.S.C. § 1332(d). This is a putative class action whereby: (i) the proposed class consists of over 100 class members; (ii) at least some of the proposed class members have a different citizenship from Defendants; and (iii) the amount in controversy exceeds the sum of value of \$5,000,000.00, excluding interest and costs.

12. The Court has jurisdiction over the federal claims alleged herein pursuant to 28 U.S.C. § 1331 because it arises under the laws of the United States.

13. The Court has jurisdiction over the state law claims because they form part of the same case or controversy under Article III of the United States Constitution.

14. Alternatively, the Court has jurisdiction over all claims alleged herein pursuant to 28 U.S.C. § 1332 because the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different states.

15. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit to the Court's jurisdiction. This Court has personal jurisdiction over Defendants, pursuant to New York Statute N.Y. CVP. Law § 302, because they conduct substantial business in this District, some of the actions giving rise to the Complaint took place in this District, and some of Plaintiffs' claims arise out of Defendants operating, conducting, engaging in, or carrying on a business or business venture in this state or having an office or agency in this state; committing a tortious act in this state; and causing injury to person or property in this state arising out of Defendants' acts and omissions outside this state.

16. Additionally, this court has personal jurisdiction over Defendants because their Product is advertised, marketed, distributed, and sold throughout New York State; Defendants engaged in the wrongdoing alleged in this Complaint throughout the United States, including in New York State; and Defendants have sufficient minimum contacts with New York and/or otherwise have intentionally availed themselves of the markets in New York State, rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Moreover, Defendants are engaged in substantial and not isolated activity within New York State.

17. Venue is proper in this Court pursuant to 28 U.S.C. § 1331(a) because a substantial part of the events or omissions giving rise to these claims occurred in this District, the Defendants have caused harm to class members residing in this District, and the Defendants are residents of this District under 28 U.S.C. 1331(c)(2) because they are subject to personal jurisdiction in this district.

PARTIES

18. Plaintiff, LINGXI KONG, is a citizen of the State of New York and resides in Queens County. In or around 2014, Plaintiff KONG was exposed to and saw Defendants' "Wedderspoon Gold Organic Raw Manuka 16+" honey on www.wedderspoon.com ("Website"). In reliance on Defendants' claim that the Product was tested to be a "16+" manuka honey, Plaintiff KONG purchased such Product directly from Defendants' Website for personal consumption. The retail price was approximately \$39.99 (or more) for one 11.5 ounce bottle of the Product. Had Plaintiff KONG known the truth about Defendants' misrepresentations, he would not have purchased the premium priced Product but would have purchased a less expensive honey product.

19. Plaintiff, LYNN MOORE, is a citizen of the State of California and resides in Contra Costa County. In or around 2015, Plaintiff MOORE was exposed to and saw Defendants' manuka honey Products on www.amazon.com ("Amazon"). In reliance on Defendants' claim that the manuka honey Products are rated "Active 12+" and "Active 16+", Plaintiff MOORE purchased on Amazon the (i) Wedderspoon Gold Organic Raw Manuka Active 12+ Product for \$29.99 (or more); and (ii) the Premium Raw Manuka Active 16+ Honey in 500g Product for \$39.99 (or more). Had Plaintiff MOORE known the truth about Defendants' misrepresentations, she would not have purchased the premium priced Products but would have purchased less expensive honey products.

20. Plaintiff, JING YE, is a citizen of and resides in the State of California and resides in San Mateo County. Plaintiff JING YE was exposed to and saw Defendants' manuka ratings claims on the Whole Foods online store on Google Express. In reliance on Defendants' claim that the manuka honey Products are rated "Active 12+" and "Active 16+", Plaintiff YE purchased via Google Express the Premium Raw Manuka Active 16+ Honey in 500g Product for \$39.99 (or more) for personal consumption in the State of California. Had Plaintiff YE known the truth about Defendants' misrepresentations, she would not have purchased the premium priced Products but would have purchased less expensive honey products.

21. Plaintiff, JOHN DOE (Illinois), is a citizen of and resides in the State of Illinois. Plaintiff JOHN DOE (Illinois) was exposed to Defendants' manuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in the State of Illinois. Plaintiff JOHN DOE (Illinois) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

22. Plaintiff, JOHN DOE (Texas), is a citizen of and resides in the State of Texas. Plaintiff JOHN DOE (Texas) was exposed to Defendants' mānuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in the State of Texas. Plaintiff JOHN DOE (Texas) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

23. Plaintiff, JOHN DOE (Florida), is a citizen of and resides in the State of Florida. Plaintiff JOHN DOE (Florida) was exposed to Defendants' mānuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in the State of Florida. Plaintiff JOHN DOE (Florida) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

24. Plaintiff, JOHN DOE (Michigan), is a citizen of and resides in the State of Michigan. Plaintiff JOHN DOE (Michigan) was exposed to Defendants' mānuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in the State of Michigan. Plaintiff JOHN DOE (Michigan) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

25. Plaintiff, JOHN DOE (New Jersey), is a citizen of and resides in the State of New Jersey. Plaintiff JOHN DOE (New Jersey) was exposed to Defendants' mānuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in the State of New Jersey. Plaintiff JOHN DOE (New Jersey) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

26. Plaintiff, JOHN DOE (Pennsylvania), is a citizen of and resides in the State of Pennsylvania. Plaintiff JOHN DOE (Pennsylvania) was exposed to Defendants' mānuka ratings claims and, in reliance on such claims, purchased such Product(s) for personal consumption in

the State of Pennsylvania. Plaintiff JOHN DOE (Pennsylvania) purchased the Product(s) at a premium price and was financially injured as a result of Defendants' deceptive conduct as alleged herein.

27. Defendant SWCC USA 1234, LLC (formerly known as WEDDERSPOON ORGANIC USA, LLC) is a limited liability company organized under the laws of the state of Pennsylvania, with its principal place of business at 334 Central Avenue, Malvern, PA 19355 and an address for the service of process at The Corporation Trust Company, Corporation Trust Center, 1209 Orange Street, Wilmington, Delaware, 19801.

28. Defendant WEDDERSPOON ORGANIC, INC. is a Canadian business corporation with a mailing address at P.O. Box 493, Duncan, BC V9L 3X8, Canada.

FACTUAL ALLEGATIONS

Defendants

29. Defendant SWCC USA 1234, LLC (formerly known as WEDDERSPOON ORGANIC USA, LLC) is the United States subsidiary of the Canadian corporation, WEDDERSPOON ORGANIC, INC. (together, "Wedderspoon"). Defendants develop, manufacture, market and sell honey products all over Canada and the United States.

30. Defendants' honey products can be purchased anywhere in the United States through their online store at www.wedderspoon.com. Most of Defendants' products, including the mānuka honey Products, can also be ordered from major online marketplaces such as Amazon or eBay, or from online specialty stores such as www.vitacost.com or www.drugstore.com.

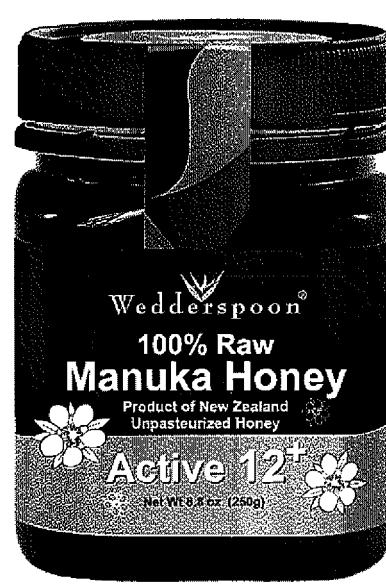
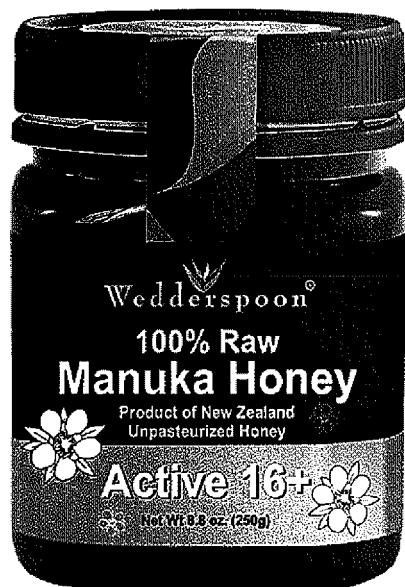
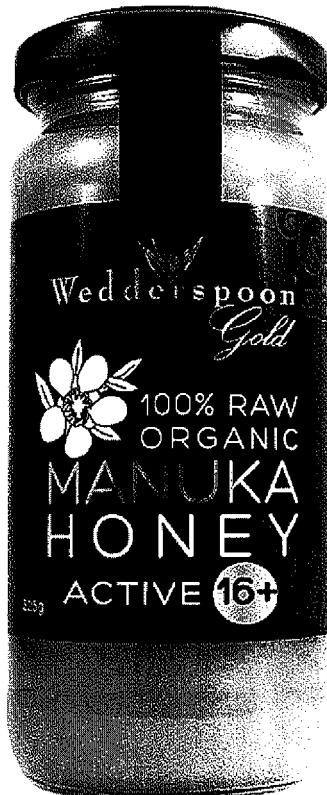
Mānuka Ratings Claims

31. Defendants manufacture, market and sell mānuka honey products (each individually, "Product" and collectively, the "Products") in grades and sizes as follows:

Category	Product	Mānuka Ratings Claim	
		Active 12+	Active 16+
Organic Mānuka Honey	Wedderspoon Gold Organic Raw Manuka	\$36.99 per 11.5 ounce bottle	\$39.99 per 11.5 ounce bottle
Non-Organic Mānuka Honey	Manuka on the Go	--	\$35.50 per box of 24 individual teaspoon-sized servings
	Premium Raw Manuka Active Honey	\$25.43 per 8.8 ounce (250g) jar /\$41.99 per 17.6 ounce (500g) jar	\$28.99 per 8.8 ounce (250g) jar/\$49.99 per 17.6 ounce (500g) jar
	100% Raw Premium Manuka Honey with Bee Venom - 250g	\$30.99 per 8.8 ounce jar	--

32. Defendants have consistently conveyed the very specific message to consumers throughout the United States that the Products are certified to have “Active 16+” or “Active 12+” mānuka honey ratings, even though they are not a licensed UMF® mānuka honey provider and their Products are not certified or approved by the UMF® ratings.

33. Defendants’ false and misleading mānuka ratings claims begin with their deceptive product label and packaging. On each and every mānuka honey Product package label, Defendants prominently represent that the Product has an “Active 16+” or “Active 12+” rating. See examples below:



34. Although the "12+" and "16+" numeric ratings are not modified by "UMF®" as the UMF® honeys and are, instead, modified by the word "Active," it does not immunize such label

from being deceptive and/or materially misleading to the consumer. In fact, Defendants intentionally labeled their Products this way in order to deceive and/or mislead consumers into believing that the Products are genuine UMF® honeys, or at least have the equivalent antibacterial potency as UMF® honeys with the same numeric rating.

35. This is because, first, the modifier, “Active”, which means “effective” when used in phrases such as “active ingredient,” suggests medicinal use. Labeling the Products as “Active 12+” or “Active 16+” causes consumers (who are already aware of the antibacterial effect of mānuka honeys) to make the natural association between the numerical ratings on the label and the antibacterial effect of the Product. Defendants intentionally used the modifier “Active” to deceive and/or mislead consumers into believing that “Active 16+” and “Active 12+” indicate the antibacterial activity level of the Products. Plaintiffs and Class members relied on Defendants’ Product labeling and were harmed.

36. Second, Defendants copied the concept and the design of the UMF® logo. On their Website, at www.wedderspoon.com, next to the product descriptions and right above the area where orders for Products can be directly placed, Defendants prominently represent the “16+” and “12+” ratings in a yellow, hexagonal, beehive-shaped logo. The image below shows that such logos are placed right next to a Product’s product description where the customer cannot miss it.

Wedderspoon Gold Organic Raw Manuka 16+

Next product →



Wedderspoon Gold, our gourmet line, is elegantly packaged in glass jars containing the strongest, raw, nutrient rich honey with potent, naturally occurring properties.



Wedderspoon's Raw Organic Manuka Active Honey is sourced from the remote pristine areas of New Zealand's South Island. As part of our testing methods and to differentiate our potency level, each batch of Wedderspoon Manuka Honey 16+ is sourced and tested for its higher pollen count, live enzymes, antioxidants and various phytochemical components. 11.5 oz



16+



Activity	16+
Type	Manuka
Weight	325g
Raw	100%
Organic	Yes
Quantity	1
Market price:	\$39.99

Our price: \$35.99

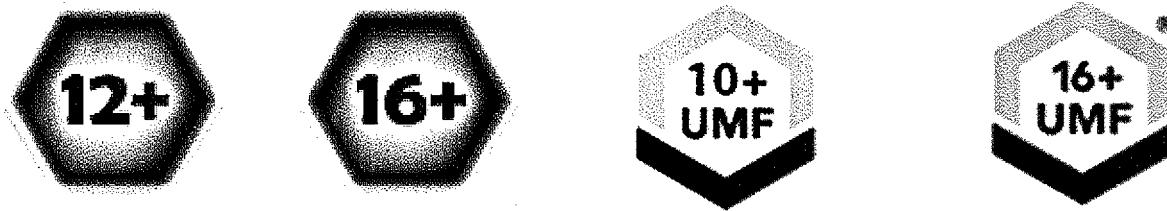
Qty Add to cart

 Like {32}  Tweet {1}  +1 {0}

[Ask a question about this product](#)

See <http://www.wedderspoon.com/shop/Wedderspoon-Gold-Organic-Raw-MAnuka-16.html> (emphasis added).

37. Such beehive shaped logo is built upon the same concept as, and has a design similar to, the UMF® logo (see below for a comparison of the two logos). In reliance on Defendants' labels which mimic the UMF® logo, Plaintiffs and Class members are deceived or misled into believing that the Products either (i) are certified, genuine UMF® honeys, or (ii) have the same antibacterial potency as UMF® honeys with the same ratings.



Left: Wedderspoon's mānuka rating logos; Right: official UMF® rating logos.

38. However, the most troublesome aspect of Defendants' manuka ratings claim lies in their use of such numeric ratings themselves. The numeric ratings ("12+" and "16+") assigned to the various Products, in and of themselves, are just numbers followed by plus signs and have no independent meaning outside of the UMF® ratings context. Plaintiffs and Class members can only believe the "16+" or "12+" numeric ratings to be an indication of the antibacterial activity level of mānuka honeys as designated by the UMFHA.

39. When Plaintiffs and Class members investigate Defendants' ratings claims on their Website, Defendants never clearly explained what "12+" or "16+" mean. Defendants state the following in the product description of one of the Products, "Wedderspoon Gold Organic Raw Manuka 16+", on their Website:

"Wedderspoon's Raw Organic Manuka Active Honey is sourced from the remote pristine areas of New Zealand's South Island. As part of our testing methods and to differentiate our potency level, each batch of Wedderspoon Manuka Honey 16+ is sourced and tested for its higher pollen count, live enzymes, antioxidants and various phytochemical components. 11.5 oz"

See Image in ¶ 36 supra, available at <http://www.wedderspoon.com/shop/Wedderspoon-Gold-Organic-Raw-MAnuka-16.html> (emphasis added). Exactly the same description is on the product page for "Wedderspoon Gold Organic Raw Manuka 12+", only "16+" is replaced with "12+".

See EXHIBIT 1, available at <http://www.wedderspoon.com/shop/Wedderspoon-Gold-Organic-Raw-Manuka-12-SKU1741.html>. Such description is extremely vague. First, it seems to suggest

that the numeric ratings are used to differentiate a certain “potency level”, but Defendants do not state what kind of rating system is being used to support the rating of Active 12+ or 16+.

40. Moreover, **nowhere** on Defendants’ Website, nor anywhere else in the world in their advertising material (social media, magazine, etc.), do Defendants publish the criteria upon which such ratings are assigned, be it a certain “potency level”, “pollen count, live enzymes, antioxidants, [or] the phytochemical components” of the Products.

41. For example, on the “Choosing Wedderspoon Mānuka” page of the Website, which is not a webpage where orders can be directly placed, Wedderspoon further “explains” –

“The Scale 12+ and 16+ are simply potency indicators of a total average of the multiple MEASURABLE components we look for in our RAW, Unpasteurized, Natural, Authentic Manuka Honey.”

See EXHIBIT 2, available at http://www.wedderspoon.com/shop/pages/choosing_Wedderspoon_Manuka.html (emphasis in the original).

The quote above still falls short. It does not state what ingredients or aspects of the Product are measured, how they are measured, or what weight is given to each ingredient or aspect if a compound of factors is considered. Defendants’ muddled explanation is in sharp contrast to the clearly defined UMF® ratings. *See ¶ 6 supra.* Under the UMF® rating scale, a “12+” rating is assigned to a UMF® honey when the mānuka honey’s non-peroxide antibacterial potency is shown to be equivalent to or above that of a 12% w/v phenol solution (based on UMFHA-certified, independent testing results). Similarly, a “16+” rating is assigned when the mānuka honey’s non-peroxide antibacterial potency is shown to be equivalent to or above that of a 16% w/v phenol solution. Defendants, however, are unable to even articulate what exactly their numeric ratings represent.

42. Defendants' vague mānuka ratings claims are juxtaposed with their equally deceptive (and vitriolic) comments on their competitor mānuka honey brands, which is baseless as it is not based on any scientific research, nor even any concrete facts:

"To be clear, there are no official standards for measuring Manuka Honey, although other companies would like you to think so. These companies focus their efforts on measuring one component, methylglyoxal and using substandard Manuka honey blends, they add chemicals to artificially boost the levels. Science shows that high levels of methylglyoxal destroy the majority of antioxidant components in Manuka honey and it also has been discovered that higher numbers do not necessarily equate to the honey being more effective. This practice of artificially raising the methylglyoxal levels can be detrimental to the honey (by denaturing it) and do not allow for truly RAW, NATURAL and UNPASTEURIZED honey."

See EXHIBIT 2. Such statement is even more misleading considering that it does not disclose the fact that the UMFHA requires all UMF® honeys to be natural and without artificial ingredients.¹⁰

43. On the FAQ page of Defendants' Website, which is also not a webpage where orders for a Product can be directly placed, Defendants state the following:

What is the difference between the active 12+ and active 16+?

In Canada or the USA, the meaning of these numbers are used to differentiate the quality between two Manuka honeys and approved as titles for our labels. They are not exactly related to other known trademarks such as products licensed by the Unique Manuka Factor Association since such trademarks are covering medical claims, not supported by the Food and Drug Administration or the Canadian Food Inspection Agency and therefore not legally approved for foods and honeys. As part of our lab testings, we separate batches from high grade of Manuka from the lower grade, differentiating the active 12+ from the active 16+. Therefore and while our grading system varies from the norm, Wedderspoon believes to have a more appropriate rating system for its honeys, accounting for important factors, mostly omitted and sometimes on purposes by our competition. Such factors could include live enzymes, pollen count, chemical/residue analysis, antioxidant levels, the raw status or unpasteurisation process and various other phytochemical factors found in Manuka honey. It is also important to know that Manuka honey has not uncovered all its benefits and more research needs to be done on the subject. However, Wedderspoon brings you the confidence to provide one of the best quality Manuka line and brand on the market place in North America. For more guarantees and to find out why Wedderspoon is the leading brand of Manuka honey in North America, review the hundreds of testimonials from current users on other online stores and on our website.

¹⁰ See UMFHA, *What is Unique About UMF® Honey?*, available at <http://www.umf.org.nz/>.

See EXHIBIT 3, available at <http://www.wedderspoon.com/shop/pages/FAQ.html> (emphasis added).

Defendants simultaneously denigrate UMFHA certified products yet simultaneously seek to emulate them by utilizing their own “rating” system that is identical to that of the UMFHA. If Defendants are claiming that their “16+” and “12+” ratings mean completely different things from the UMF® 16+ or 12+ ratings, or in other words, if Defendants’ Products are evaluated based on completely different criteria from the UMFHA, it would be reasonable to expect them to (i) explain the objective criteria they used in assigning the different numeric ratings; (ii) explain what the numbers assigned mean; (iii) use appropriate labels to differentiate their various grades of products rated by such objective criteria; and (iv) **avoid** labeling their Products in a way that can be interpreted by a reasonable consumer to be a UMF® rating or its equivalent. For example, based on the above statement of Defendants, Defendants could have labeled their Products as “Grade AA” and “Grade A”, respectively, to avoid being mistaken for UMF® honeys. Clearly, Defendants’ decision to use “Active 16+” and “Active 12+” ratings was an intentional effort to deceive and/or materially mislead the consumer into believing that the Products are genuine UMF® honeys or the equivalent.

44. In truth, the Products labeled as either “Active 12+” or “Active 16+” by Defendants are not UMF® “12+” or “16+” honeys certified by the UMFHA.

45. Further, upon information and belief, the Products labeled as either “Active 12+” or “Active 16+” do not have the non-peroxide antibacterial potency equivalent to 12% or 16% w/v phenol solutions.

46. Defendants intentionally labeled the Products as “Active 12+” and “Active 16+” to deceive and/or materially mislead the consumer into believing that such Products are either

genuine UMF® honeys or the equivalent thereof with respect to their antibacterial potency, even though the Products are neither.

47. Defendants' Products are attractive to their target market due to their deceptive and/or materially misleading manuka ratings claim. Plaintiffs and class members are exposed to Defendants' deceptive manuka ratings claim because they appear prominently and conspicuously on the label of each and every Product, their Website, and on other ecommerce websites where the Products can be ordered. *See EXHIBIT 4.*

48. Shortly prior to the filing of this lawsuit but after Plaintiff LYNN MOORE had sent Defendants a Consumer Legal Remedies Act ("CLRA") demand letter, Defendants changed the packaging for certain Products. Instead of labeling such Products as "Active 12+" or "Active 16+," the new packaging labels the Products as either "KFactor 12" or "KFactor 16." The new packaging (see below) is still deceptive and/or misleading in a material way because it includes the same numbering system intended to deceive and/or mislead the consumer about the quality or ratings of the Products. The fact that such numbering system can consist of virtually any arbitrary word paired with a number underscores Defendants' intent to deceive and/or mislead.



The Impact of Defendants' Deceptive Conduct

49. Even though the Products are neither genuine UMF® honeys, nor do they have the equivalent antibacterial potency, Defendants have employed numerous methods to convey their uniform, deceptive manuka ratings claim to consumers, including on their own Website, magazines, social media websites and importantly, on the Product's packaging and label where it cannot be missed by consumers. Consumers pay a premium over other honeys, which unlike the Products are not falsely advertised as "Active 12+" or "Active 16+". A bottle of Wedderspoon's "Certified Organic Active Beechwood Honey in 500g", which is also sourced from New Zealand but without the "Active 16+" or "Active 12+" ratings, has a retail price of \$17.79 per 17.6 ounce bottle. *See EXHIBIT 5.* In contrast, the "Premium Raw Manuka Active 12+ Honey in 500g" is priced at \$41.99 per 17.6 ounce bottle, or \$24.20 more expensive, and the "Premium Raw Manuka Active 16+ Honey in 500g", is priced at \$49.99 per 17.6 ounce bottle, or \$32.20 more

expensive. *See EXHIBIT 6.* The only reason a consumer would pay the premium price of the Products is because they had been deceived or materially misled by Defendants' mānuka ratings claims.

50. As the manufacturers, sellers and/or distributors of the Product, Defendants possess specialized knowledge regarding the content contained in the Products.

51. Defendants knew or should have known, that due to their deceptive and/or materially misleading label and packaging, a reasonable customer could expect the Products to be genuine UMF® honeys or possess the equivalent antibacterial potency.

52. As a result of Defendants' deceptive representations, consumers – including Plaintiffs and members of the proposed Class – have purchased the Products in reliance of such representations. They have paid a price premium for the Products over other non-UMF® honeys sold in the market that do not claim to have UMF® ratings. A list of other honey products (Wedderspoon and other brands) that do not have the "Active 12+" or "Active 16+" mānuka ratings are provided below to compare with two of the Products (in bold):

BRAND	PRODUCT	QUANTITY	RETAIL PRICE
Madhava	Madhava Organic Agave Nectar - Vanilla	11.8 oz.	\$4.16
Huckleberry Haven	Wild Huckleberry Honey	11.0 oz.	\$6.99
Honey Republic	Raw Organic Acacia Honey	11.1 oz.	\$10.99
Wedderspoon	Gold Organic Raw Rata Honey	11.5 oz.	\$16.99
Wedderspoon	Gold Organic Raw Manuka 16+	11.5 oz.	\$39.99
Wedderspoon	Gold Organic Raw Manuka 12+	11.5 oz.	\$36.99

53. Plaintiffs and members of the proposed Class have been and will continue to be deceived and/or materially misled by Defendants' deceptive mānuka ratings claims. Plaintiff KONG purchased one of the Products, "Wedderspoon Gold Organic Raw Manuka 16+", during the Class period and in doing so, read and considered the Product label, packaging and online description on the product page where he placed his order, and based his decision to buy the Product and pay the price premium on the "Active 16+" representation. Defendants' mānuka ratings claims were a material factor in influencing Plaintiff KONG's decision to purchase and use the Product. Plaintiff KONG would not have purchased the premium priced Product had he known that Defendants' mānuka ratings claims were false and misleading. Class members similarly were deceived and as a result, Plaintiffs and the Class members have been damaged in their purchases of the Products. Plaintiffs and the Class members have been deceived into purchasing one or more of the Products that they believed, based on Defendants' representations, are genuine UMF® honeys or their equivalent with respect to antibacterial potency, when in fact, they are not.

54. Based on the purported mānuka ratings claims conveyed in their marketing and advertising campaign, Defendants are able to price the Products at a premium over other honey products they sold. The price premium can be as high as \$32.20 per bottle of honey.

55. Defendants have reaped enormous profits from their false, misleading and deceptive marketing and sale of the Products.

56. Plaintiffs bring this action on behalf of themselves and other similarly situated consumers who have purchased the Products to stop the dissemination of this false, misleading and deceptive advertising message, correct the false and misleading perception it has created in the minds of consumers, and obtain redress for those who have purchased the Products. Plaintiff

alleges breach of express warranty, unjust enrichment and violations of consumer protection laws in all states and the District of Columbia.

57. Through this action, Plaintiffs seek injunctive relief, actual damages, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs and all other relief available to the Class as a result of Defendants' unlawful conduct.

RULE 23 CLASS ALLEGATIONS

The Nationwide Class

58. Plaintiffs bring this action as a class action pursuant Rule 23 of the Federal Rules of Civil Procedure on behalf of the following class (the "Class"):

All persons or entities in the United States who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

The New York Class

59. Plaintiff LINGXI KONG seeks to represent a class consisting of the following subclass (the "New York Class"):

All New York residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

The California Class

60. Plaintiffs LYNN MOORE and JING YE seek to represent a class consisting of the following subclass (the "California Class"):

All California residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

61. Excluded from the Class(es) are current and former officers and directors of Defendants, members of the immediate families of the officers and directors of Defendants, Defendants' legal

representatives, heirs, successors, assigns, and any entity in which they have or have had a controlling interest. Also excluded from the Class is the judicial officer to whom this lawsuit is assigned.

62. Plaintiffs reserve the right to revise the Class definition based on facts learned in the course of litigating this matter.

63. This action is proper for class treatment under Rules 23(b)(1)(B) and 23(b)(3) of the Federal Rules of Civil Procedure. While the exact number and identities of other Class members are unknown to Plaintiffs at this time, Plaintiffs are informed and believe that there are thousands of Class members. Thus, the Class is so numerous that individual joinder of all Class members is impracticable.

64. Questions of law and fact arise from Defendants' conduct described herein. Such questions are common to all Class members and predominate over any questions affecting only individual Class members and include:

- a. Whether Defendants' marketing, promotion and advertising of the Products is false, fraudulent, deceptive, unlawful or misleading;
- b. Whether Defendants have breached warranties made to the consuming public about their Products;
- c. Whether Defendants' marketing, promotion, advertising and sale of the Products is and was a deceptive act or practice in the conduct of business directed at consumers, giving rise to a violation of each of the fifty states' and the District of Columbia's consumer protection laws as listed in ¶ 11;

- d. Whether Defendants' Active 12+ or 16+ arbitrary rating system is intended to cause Plaintiffs and Class members to believe that the Products are UMFHA certified, when they are not;
- e. Whether Defendants' marketing, promotion, advertising and sale of the Products is and was a deceptive act or practice in the conduct of business directed at consumers, giving rise to consumer law violations in all other jurisdictions;
- f. Whether Plaintiffs and members of the Class sustained injuries or damages as a result of Defendants' false advertising of the Products;
- g. Whether Defendants' conduct constitutes unjust enrichment, and whether equity calls for disgorgement of unjustly obtained or retained funds, restitution to, or other remedies for the benefit of the Class;
- h. Whether Plaintiffs and members of the Class are entitled to equitable relief and prospective injunctive relief enjoining Defendants from continuing to engage in the fraudulent, deceitful, unlawful and unfair common scheme as alleged in this Complaint; and
- i. Whether Defendants' conduct rises to the level of reprehensibility under applicable law such that the imposition of punitive damages is necessary and appropriate to fulfill the societal interest in punishment and deterrence, and the amount of such damages and/or their ratio to the actual or potential harm to the Class.

65. Plaintiffs' claims are typical of those of the Class members because Plaintiffs and the other Class members sustained damages arising out of the same wrongful conduct, as detailed herein. Plaintiffs purchased Defendants' Product(s) during the Class Period and sustained

similar injuries arising out of Defendants' conduct in violation of each of the fifty states' and the District of Columbia's consumer protection laws listed in ¶ 11. Defendants' unlawful, unfair and fraudulent actions concern the same business practices described herein irrespective of where they occurred or were experienced. The injuries of the Class were caused directly by Defendants' wrongful misconduct. In addition, the factual underpinning of Defendants' misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all members of the Class. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the members of the Class and are based on the same legal theories.

66. Plaintiffs will fairly and adequately represent and pursue the interests of the Class and has retained competent counsel experienced in prosecuting nationwide class actions. Plaintiffs understand the nature of their claims herein, have no disqualifying conditions, and will vigorously represent the interests of the Class. Neither Plaintiffs nor Plaintiffs' counsel have any interests that conflict with or are antagonistic to the interests of the Class. Plaintiffs have retained highly competent and experienced class action attorneys to represent their interests and those of the Class. Plaintiffs and Plaintiffs' counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiffs and counsel are aware of their fiduciary responsibilities to the Class and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the Class.

67. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The damages suffered by any individual class member are too small to make it economically feasible for an individual class member to prosecute a separate action, and it is desirable for judicial efficiency to concentrate the litigation of the claims in this forum.

Furthermore, the adjudication of this controversy through a class action will avoid the potentially inconsistent and conflicting adjudications of the claims asserted herein. There will be no difficulty in the management of this action as a class action.

68. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(2) are met, as Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

69. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common to the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

70. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendants. Additionally, individual actions may be dispositive of the interest of all members of the Class, although certain Class members are not parties to such actions.

71. Defendants' conduct is generally applicable to the Class as a whole and Plaintiffs seek, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendants' systematic policies and practices make declaratory relief with respect to the Class as a whole appropriate.

CAUSES OF ACTION

COUNT I

INJUNCTION FOR VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)

72. Plaintiff LINGXI KONG realleges and incorporates herein by reference the allegations contained in all preceding paragraphs and further alleges as follows:

73. Plaintiff KONG brings this claim individually and on behalf of the other members of the New York Class for an injunction for Defendants' violations of New York's Deceptive Acts or Practices Law, Gen. Bus. Law § 349 ("NY GBL § 349").

74. NY GBL § 349 provides that deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are unlawful.

75. Any person who has been injured by reason of any violation of the NY GBL § 349 may bring an action in his own name to enjoin such unlawful act or practice, an action to recover his actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

76. The practices employed by Defendants, whereby Defendants advertised, promoted, and marketed that their Products have "Active 16+" or "Active 12+" ratings are unfair, deceptive, and misleading and are in violation of NY GBL § 349.

77. Defendants should be enjoined from marketing their Product as having "Active 16+" or "Active 12+" ratings without further specification as described above pursuant to NY GBL § 349.

78. Plaintiff KONG, on behalf of himself and all others similarly situated, respectfully demands a judgment enjoining Defendants' conduct, awarding costs of this proceeding and attorneys' fees, as provided by NY GBL § 349, and such other relief as this Court deems just and proper.

COUNT II

**VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349
(DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)**

79. Plaintiff LINGXI KONG realleges and incorporates herein by reference the allegations contained in all preceding paragraphs and further allege as follows:

80. Plaintiff KONG brings this claim individually and on behalf of the other members of the New York Class for Defendants' violations of NY GBL § 349.

81. Defendants' business acts and practices and/or omissions alleged herein constitute deceptive acts or practices under NY GBL § 349, which were enacted to protect the consuming public from those who engage in unconscionable, deceptive or unfair acts or practices in the conduct of any business, trade or commerce.

82. The practices of Defendants described throughout this Complaint, were specifically directed to consumers and violate the NY GBL § 349 for, inter alia, one or more of the following reasons:

- a. Defendants engaged in deceptive, unfair and unconscionable commercial practices in failing to reveal material facts and information about the Products, which did, or tended to, mislead Plaintiff KONG and the New York Class about facts that could not reasonably be known by them;
- b. Defendants knowingly and falsely represented and advertised that the Products have "Active 16+" and "Active 12+" ratings with an intent to cause Plaintiff KONG and members of the New York Class to believe that they are genuine UMF® honeys certified by the UMFHA, even though they are not;
- c. Defendants knowingly and falsely represented and advertised that the Products have "Active 16+" and "Active 12+" ratings with an intent to cause Plaintiff

KONG and members of the New York Class to believe that they have the equivalent antibacterial potency as UMF® honeys, even though they do not;

- d. Defendants failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;
- e. Defendants caused Plaintiff KONG and the New York Class to suffer a probability of confusion and a misunderstanding of legal rights, obligations and/or remedies by and through its conduct;
- f. Defendants failed to reveal material facts to Plaintiff KONG and the New York Class with the intent that Plaintiff KONG and the New York Class members rely upon the omission;
- g. Defendants made material representations and statements of fact to Plaintiff KONG and the New York Class that resulted in Plaintiff KONG and the New York Class reasonably believing the represented or suggested state of affairs to be other than what they actually were; and
- h. Defendants intended that Plaintiff KONG and the members of the New York Class rely on their misrepresentations and omissions, so that Plaintiff KONG and the New York Class members would purchase the Products.

83. Under all of the circumstances, Defendants' conduct in employing these unfair and deceptive trade practices was malicious, willful, wanton and outrageous such as to shock the conscience of the community and warrant the imposition of punitive damages.

84. Defendants' actions impact the public interest because Plaintiff KONG and members of the New York Class were injured in exactly the same way as thousands of others purchasing the Product as a result of and pursuant to Defendants' generalized course of deception.

85. By committing the acts alleged in this Complaint, Defendants have misled Plaintiff KONG and the New York Class into purchasing the Products, in part or in whole, due to an erroneous belief that the Products are either genuine UMF® mānuka honeys or have the antibacterial potency equivalent to UMF® honeys with the same ratings. This is a deceptive business practice that violates NY GBL § 349.

86. Defendants' mānuka ratings claims misled Plaintiff KONG, and are likely in the future to mislead reasonable consumers. Had Plaintiff KONG and members of the New York Class known of the true facts about the Products, they would not have purchased the Products and/or paid substantially less for another product.

87. The foregoing deceptive acts, omissions and practices were directed at consumers.

88. The foregoing deceptive acts, omissions and practices set forth in connection with Defendants' violations of NY GBL § 349 proximately caused Plaintiff KONG and other members of the New York Class to suffer actual damages in the form of, *inter alia*, monies spent to purchase the Products. Plaintiff KONG and other members of the New York Class are entitled to recover such damages, together with equitable and declaratory relief, appropriate damages, including punitive damages, attorneys' fees and costs.

COUNT III

Violations of California's Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*

89. Plaintiffs LYNN MOORE and JING YE reallege and incorporate herein by reference the allegations contained in all preceding paragraphs and further alleges as follows:

90. Plaintiffs LYNN MOORE and JING YE bring this claim individually and on behalf of the other members of the California Class for Defendants' violations of California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1761(d).

91. Plaintiffs LYNN MOORE, JING YE and California Class members are consumers who purchased the Products for personal, family or household purposes. Plaintiff JING YE and the California Class members are “consumers” as that term is defined by the CLRA in Cal. Civ. Code § 1761(d). Plaintiffs LYNN MOORE, JING YE and the California Class members are not sophisticated experts with independent knowledge of the character, effectiveness, nature, grades, ratings or the antibacterial potency of the mānuka honey Products.

92. Products that Plaintiffs LYNN MOORE, JING YE and other California Class members purchased from Defendants were “goods” within the meaning of Cal. Civ. Code § 1761(a).

93. Defendants’ actions, representations, and conduct have violated, and continue to violate the CLRA, because they extend to transactions that intended to result, or which have resulted in, the sale of goods to consumers.

94. Defendants’ mānuka ratings claims violate federal and California law because (i) the Products are not certified, genuine UMF® honeys, (ii) nor do they have the equivalent antibacterial potency as UMF® honeys with the same ratings.

95. California’s Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5), prohibits “[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have.” By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(5) of the CLRA, because Defendants’ conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it misrepresents that the Products have sponsorship, approval, characteristics, ingredients, uses, benefits which they do not have.

96. Cal. Civ. Code § 1770(a)(7) prohibits representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another. By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(7) of the CLRA, because Defendants' conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it misrepresents the particular standard, quality or grade of the goods.

97. Cal. Civ. Code § 1770(a)(9) further prohibits “[a]dvertising goods or services with intent not to sell them as advertised.” By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(9), because Defendants' conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it advertises goods with the intent not to sell the goods as advertised.

98. Plaintiffs LYNN MOORE, JING YE and the California Class members are not sophisticated experts about the character, effectiveness, nature, level, grade, ratings or antibacterial potency of the Products. Plaintiffs LYNN MOORE, JING YE and the California Class acted reasonably when they purchased the Products based on their belief that Defendants' representations were true and lawful.

99. Plaintiffs LYNN MOORE, JING YE and the California Class suffered injuries caused by Defendant because (a) they would not have purchased the Products on the same terms absent Defendants' illegal and misleading conduct as set forth herein, or if the true facts were known concerning Defendants' representations; (b) they paid a price premium for the Products due to Defendants' misrepresentations and deceptive mānuka ratings claims; and (c) the Products did not have the characteristics, benefits, or quantities as promised.

100. On or about February 23, 2015, prior to filing this action, a CLRA notice letter was served on Defendant which complies in all respects with California Civil Code § 1782(a). Plaintiff LYNN MOORE sent WEDDERSPOON ORGANIC USA, LLC, on behalf of herself and the proposed California Class, a letter via certified mail, return receipt requested, advising Defendants that they are in violation of the CLRA and demanding that they cease and desist from such violations and make full restitution by refunding the monies received therefrom. A true and correct copy of Plaintiff LYNN MOORE's letter is attached hereto as **EXHIBIT 7**. After such demand letter was received by Defendants but prior to the filing of this Complaint, Defendants changed the packaging of some of their Products. However, the new packaging is still deceptive and/or materially misleading for reasons stated above.

101. Wherefore, Plaintiffs LYNN MOORE and JING YE seek damages, restitution, and injunctive relief for these violations of the CLRA.

COUNT IV

**Violation of California's Unfair Competition Law,
California Business & Professions Code §§ 17200, et seq.**

102. Plaintiffs LYNN MOORE and JING YE reallege and incorporate herein by reference the allegations contained in all preceding paragraphs and further allege as follows:

103. Plaintiffs LYNN MOORE and JING YE bring this claim individually and on behalf of the members of the proposed California Class for Defendants' violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq.

104. The UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising . . ."

105. Defendants' mānuka ratings claims violate federal and California law because (i) the Products are not certified, genuine UMF® honeys, (ii) nor do they have the equivalent antibacterial potency as UMF® honeys with the same ratings.

106. Defendants' business practices, described herein, violated the "unlawful" prong of the UCL by violating Section 403(r) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 343(r)(1)(a), California Health & Safety Code § 110670, the CLRA, and other applicable law as described herein.

107. Defendants' business practices, described herein, violated the "unfair" prong of the UCL in that their conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any alleged benefits. Defendants' advertising is of no benefit to consumers, and its failure to comply with the FDCA and parallel California labeling requirements and deceptive advertising concerning the nature and effectiveness of the Products offends the public policy advanced by the FDCA "to protect the public health" by ensuring that "foods are safe, wholesome, sanitary, and properly labeled." 21 U.S.C. § 393(b)(2)(A).

108. Defendant violated the "fraudulent" prong of the UCL by misleading Plaintiff JING YE and the California Class to believe that the mānuka ratings claims made about the Products were lawful, true and not intended to deceive or mislead the consumers.

109. Plaintiffs LYNN MOORE, JING YE and the California Class members are not sophisticated experts about the character, effectiveness, nature, level, grade, ratings or the antibacterial potency of the Products. Plaintiffs LYNN MOORE, JING YE and the California Class acted reasonably when they purchased the Products based on their belief that Defendants' representations were true and lawful.

110. Plaintiffs LYNN MOORE, JING YE and the California Class lost money or property as a result of Defendants' UCL violations because (a) they would not have purchased the Products on the same terms absent Defendants' illegal conduct as set forth herein, or if the true facts were known concerning Defendants' representations; (b) they paid a price premium for the Products due to Defendants' misrepresentations and unauthorized nutrient content claims; and (c) the Products did not have the characteristics, benefits, or quantities as promised.

COUNT V

**Violation of California's False Advertising Law,
California Business & Professions Code §§ 17500, et seq.**

111. Plaintiffs LYNN MOORE and JING YE reallege and incorporate herein by reference the allegations contained in all preceding paragraphs and further allege as follows:

112. Plaintiffs LYNN MOORE and JING YE bring this claim individually and on behalf of the members of the proposed California Class for Defendants' violations of California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§ 17500, et seq.

113. Under the FAL, the State of California makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, ... in any advertising device ... or in any other manner or means whatever, including over the Internet, any statement, concerning ... personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

114. Defendant engaged in a scheme of offering misbranded mānuka honey Products for sale to Plaintiffs LYNN MOORE, JING YE and the California Class members by way of product packaging, labeling, and other promotional materials including the Internet. These materials misrepresented the true content and nature of the misbranded mānuka honey Products.

Defendants' advertisements and inducements were made in California and come within the definition of advertising as contained in Bus. & Prof. Code § 17500, et seq. in that the product packaging, labeling, and promotional materials were intended as inducements to purchase Defendants' Products, and are statements disseminated by Defendant to Plaintiffs LYNN MOORE, JING YE and the California Class members. Defendant knew that these statements were unauthorized, inaccurate, and misleading.

115. Defendants' mānuka ratings claims violate federal and California law because (i) the Products are not certified, genuine UMF® honeys, (ii) nor do they have the equivalent antibacterial potency as UMF® honeys with the same ratings.

116. Defendant violated § 17500, et seq. by misleading Plaintiff JING YE and the California Class to believe that the mānuka ratings claims made about the Products were true as described herein.

117. Defendant knew or should have known, through the exercise of reasonable care that the Products were and continue to be misbranded, and that their representations about the mānuka ratings were untrue and misleading.

118. Plaintiff JING YE and the California Class lost money or property as a result of Defendants' FAL violations because (a) they would not have purchased the Products on the same terms absent Defendants' illegal conduct as set forth herein, or if the true facts were known concerning Defendants' representations; (b) they paid a price premium for the Products due to Defendants' misrepresentations and unauthorized nutrient content claims; and (c) the Products did not have the characteristics, benefits, or quantities as promised.

COUNT VI

Violation of Illinois's Consumer Fraud and Deceptive Business Practices Act, 815 ILCS § 505, et seq.

119. Plaintiff JOHN DOE (Illinois) realleges and incorporates herein by reference the allegations contained in all preceding paragraphs and further alleges as follows:

120. Plaintiff JOHN DOE (Illinois) brings this claim individually and on behalf of the other members of the Illinois Class for violations of Illinois's Consumer Fraud and Deceptive Business Practice Act, ("ICFA"), 815 ILC § 505, et seq.

121. Plaintiff JOHN DOE (Illinois) and Illinois Class members are consumers who purchased the Products for personal, family or household purposes. Plaintiff JOHN DOE (Illinois) and the Illinois Class members are "consumers" as that term is defined by the ICFA, 815 ILC § 505/1(e) as they purchased the Products for personal consumption or of a member of their household and not for resale.

122. Products that Plaintiff JOHN DOE (Illinois) and other Illinois Class members purchased from Defendants were "merchandise" within the meaning of the ICFA, 815 ILC § 505/1(b).

123. Under Illinois law, 815 ILC § 505/2, "[u]nfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact ... in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby." By engaging in the conduct set forth herein, Defendant violated and continues to violate § 505/2 of the ICFA, because Defendants' conduct constitutes unfair methods of competition and unfair or deceptive acts or practices, in that it misrepresents that the Products have sponsorship, approval, characteristics, ingredients, uses, benefits which they do not have.

124. Defendants' mānuka ratings claims constitute a deceptive act or practice under the ICFA because the consumers are deceived or misled into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

125. Defendants intended that Plaintiff JOHN DOE (Illinois) and other members of the Illinois Class rely on their deceptive act or practice. As described herein, the only purpose of labeling and marketing the Products as "Active 12+" and "Active 16+" is to deceive or mislead consumers into relying on the misinformation and believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

126. Defendants' deceptive act or practice occurred in the course of trade or commerce. "The terms "trade" and "commerce" mean the advertising, offering for sale, sale, or distribution of any services and any property...." 815 ILC § 505/1(f). Defendants' deceptive act or practice occurred in the advertising, offering for sale, sale, or distribution of the Products.

127. Plaintiff JOHN DOE (Illinois) and the Illinois Class suffered actual damage proximately caused by Defendant because (a) they would not have purchased the Products on the same terms absent Defendants' illegal and misleading conduct as set forth herein, or if the true facts were known concerning Defendants' representations; (b) they paid a price premium for the Products due to Defendants' misrepresentations and deceptive mānuka ratings claims; and (c) the Products did not have the characteristics, benefits, or quantities as promised.

128. Wherefore, Plaintiff JOHN DOE (Illinois) seeks damages, restitution, and injunctive relief for these violations of the ICFA.

COUNT VII

**Violation of Texas' Deceptive Trade Practices Act,
Tex. Bus. & Com. Code §§ 17.41, *et seq.***

129. Plaintiff JOHN DOE (Texas) realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

130. Plaintiff JOHN DOE (Texas) brings this claim individually and on behalf of the Texas Class for Defendants' violations of Texas' Deceptive Trade Practices Act, §§ 17.41, *et seq.*

131. The subject Products are "goods" under Tex. Bus. & Com. Code § 17.45(1) because they are tangible chattel.

132. Each Defendant is a "person" under Tex. Bus. & Com. Code § 17.45(3) because it is a corporation.

133. Plaintiff JANE DOE (Texas) and the other Texas Class members are "consumers" under Tex. Bus. & Com. Code § 17.45(4) because they bought or acquired the Products by purchase.

134. At all relevant times, Defendants have engaged in "trade" and "commerce" under Tex. Bus. & Com. Code § 17.45(6) by advertising, offering for sale, selling and/or distributing the Products in the United States, including Texas, directly or indirectly affecting Texas citizens through that trade and commerce.

135. The allegations set forth herein constitute false, misleading or deceptive trade acts or practices in violation of Texas's Deceptive Trade Practices Consumer Protection Act ("DTPA"), Tex. Bus. & Com. Code § 17.41, *et seq.*

136. Defendants have made and continue to make deceptive, false and misleading statements concerning the health and nutritional benefits of its Products, namely manufacturing, selling, marketing, packaging and advertising the Products with false and misleading statements

concerning its health and nutritional benefits, as alleged herein. Defendants falsely represented that the Products have “Active 12+” or “Active 16+” ratings, which they intended to deceive and/or mislead and did deceive and/or mislead the consumers into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

137. Defendants engaged in deceptive acts in that they represented that the Products have characteristics, uses, benefits, and qualities which they do not have; represented that the Products are of a particular standard and quality when they are not; and advertised the Products with the intent not to sell them as advertised.

138. Plaintiff JOHN DOE (Texas) and other Texas Class members relied to their detriment on those false, misleading, and/or deceptive acts and practices.

139. Defendants’ false, misleading, and/or deceptive acts and practices were the cause of the economic damages sustained by Plaintiff JOHN DOE (Texas) and other members of the Texas Class.

140. Defendants’ violations of the DTPA were made in connection with the purchase of the Products by Plaintiff JOHN DOE (Texas) and other Texas Class members.

141. Plaintiff JOHN DOE (Texas) and other Texas Class members relied on Defendants to disclose material information they knew about and not induce them into transactions which they would not have entered had Defendants disclosed accurate information.

142. Plaintiffs ask that the Court enter judgment in favor of Plaintiff JOHN DOE (Texas) and the Texas Class and against Defendants for the following: injunctive relief against

further violations, compensatory damages, punitive damages and such other relief as the Court deems proper.

COUNT VIII

**Violation of Florida's Deceptive and Unfair Trade Practices Act,
Fla. Stat. Ann. § 501.201, et seq.**

143. Plaintiff JOHN DOE (Florida) realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

144. Plaintiff JOHN DOE (Florida) brings this claim individually and on behalf of the Florida Class for Defendants' violations of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, et seq.

145. Section 501.204(1) of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") makes "unfair or deceptive acts or practices in the conduct or any trade or commerce" in Florida unlawful.

146. Throughout the Class Period, by advertising, marketing, distributing, and/or selling the Products with the mānuka ratings claims, to Plaintiff JOHN DOE (Florida) and other Florida Class members, Defendants violated the FDUTPA by engaging in false advertising concerning the health and nutritional benefits of the Products.

147. Defendants have made and continue to make deceptive, false and misleading statements concerning the health and nutritional benefits of its Products, namely manufacturing, selling, marketing, packaging and advertising the Products with false and misleading statements concerning its health and nutritional benefits, as alleged herein. Defendants falsely represented that the Products have "Active 12+" or "Active 16+" ratings, which they intended to deceive and/or mislead and did deceive and/or mislead the consumers into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the

equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

148. Plaintiff JOHN DOE (Florida) and other Florida Class members seek to enjoin such unlawful acts and practices as described above. Each of the Florida Class members will be irreparably harmed unless the unlawful actions of Defendants are enjoined in that they will continue to be unable to rely on the Defendants' mānuka ratings claims.

149. Had Plaintiff JOHN DOE (Florida) and the Florida Class members known the misleading and/or deceptive nature of Defendants' claims, they would not have purchased the Products.

150. Plaintiff JOHN DOE (Florida) and the Florida Class members were injured in fact and lost money as a result of Defendants' conduct of improperly describing the Products as "Active 12+" or "Active 16+". Plaintiff JOHN DOE (Florida) and the Florida Class members paid for Defendants' premium priced Products, but received Products that were worth less than the Products for which they paid.

151. Plaintiff JOHN DOE (Florida) and the Florida Class seek declaratory relief, enjoining Defendants from continuing to disseminate their false and misleading statements, actual damages plus attorney's fees and court costs, and other relief allowable under the FDUTPA.

COUNT IX

Violation of Michigan's Consumer Protection Act, MCL §§ 445.901, et seq.

152. Plaintiff JOHN DOE (Michigan) realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

153. Plaintiff JOHN DOE (Michigan) brings this claim individually and on behalf of the Michigan Class for Defendants' violations under the Michigan Consumer Protection Act, MCL §§ 445.901. *et seq.* (the "MCPA").

154. Defendants' actions constitute unlawful, unfair, deceptive and fraudulent actions/practices as defined by the MCPA, MCL §445.901, *et seq.*, as they occurred in the course of trade or commerce.

155. As part of its fraudulent marketing practices Defendants engaged in a pattern and practice of knowingly and intentionally making numerous false representations and omissions of material facts, with the intent to deceive and fraudulently induce reliance by Plaintiff JOHN DOE (Michigan) and the members of the Michigan Class. These false representations and omissions were uniform and identical in nature as they all represent that the Products have "Active 12+" or "Active 16+" ratings.

156. Defendants have made and continue to make deceptive, false and misleading statements concerning the health and nutritional benefits of its Products, namely manufacturing, selling, marketing, packaging and advertising the Products with false and misleading statements concerning its health and nutritional benefits, as alleged herein. Defendants falsely represented that the Products have "Active 12+" or "Active 16+" ratings, which they intended to deceive and/or mislead and did deceive and/or mislead the consumers into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

157. Had Plaintiff JOHN DOE (Michigan) and the Michigan Class known the misleading and/or deceptive nature of Defendants' claims, they would not have purchased the

Products. Defendants' acts, practices and omissions, therefore, were material to Plaintiffs' decision to purchase the Products at a premium price, and were justifiably relied upon by Plaintiffs.

158. The unfair and deceptive trade acts and practices have directly, foreseeably and proximately caused damage to Plaintiff JOHN DOE (Michigan) and other members of the Michigan Class.

159. The Defendants' practices, in addition, are unfair and deceptive because they have caused Plaintiff JOHN DOE (Michigan) and the Michigan Class substantial harm, which is not outweighed by any countervailing benefits to consumers or competition, and is not an injury consumers themselves could have reasonably avoided.

160. The Defendants' acts and practices have misled and deceived the general public in the past, and will continue to mislead and deceive the general public into the future, by, among other things, causing them to purchase Products with false and misleading statements concerning its characteristics, benefits and ingredients at a premium price.

161. Plaintiff JOHN DOE (Michigan) and the Michigan Class are entitled to preliminary and permanent injunctive relief ordering the Defendants to immediately cease these unfair business practices, as well as disgorgement and restitution to Plaintiff JOHN DOE (Michigan) and the Michigan Class of all revenue associated with their unfair practices, or such revenues as the Court may find equitable and just.

COUNT X

**Violation of New Jersey's Consumer Fraud Act,
N.J.S.A.56:8-1, et seq.**

162. Plaintiff JOHN DOE (New Jersey) realleges and incorporates herein by reference the allegations contained in all preceding paragraphs of this Complaint, as if fully set forth herein.

163. Plaintiff JOHN DOE (New Jersey) bring this claim individually and on behalf of the other members of the New Jersey Class for violations of New Jersey's Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*

164. At all relevant times, Defendants were and are "persons," as defined by N.J.S.A. 56:8-1(d).

165. At all relevant times, Defendants' Products constituted "merchandise," as defined by N.J.S.A. 56:8-1(c).

166. At all relevant times, Defendants' manufacturing, marketing, advertising, sales and/or distribution of the Products at issue met the definition of "advertisement" set forth by N.J.S.A. 56:8-1(a).

167. At all relevant times, Defendants' manufacturing, marketing, advertising, sales and/or distribution of the Products at issue met the definition of "sale" set forth by N.J.S.A. 56:8-1(e).

168. N.J.S.A. 56:8-2 provides that "[t]he act, use or employment by any person of any unconscionable practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of material fact with the intent that others rely upon such concealment, suppression or omission, ...is declared to be an unlawful practice..."

169. Defendants have made and continue to make deceptive, false and misleading statements concerning the health and nutritional benefits of its Products, namely manufacturing, selling, marketing, packaging and advertising the Products with false and misleading statements

concerning its health and nutritional benefits, as alleged herein. Defendants falsely represented that the Products have “Active 12+” or “Active 16+” ratings, which they intended to deceive and/or mislead and did deceive and/or mislead the consumers into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

170. As described in detail above, Defendants uniformly misrepresented to Plaintiff JOHN DOE (New Jersey) and each member of the New Jersey Class, by means of their advertising, marketing and other promotional materials, and on the Products’ labeling and packaging, the Products’ health and nutritional benefits.

171. Defendants have therefore engaged in practices which are unconscionable, deceptive and fraudulent and which are based on false pretenses, false promises, misrepresentations, and the knowing concealment, suppression, or omission of material fact with the intent that others rely upon such concealment, suppression or omission in their manufacturing, advertising, marketing, selling and distribution of the Products. Defendants have therefore violated the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1, *et seq.*

172. As a direct and proximate result of Defendants’ improper conduct, Plaintiff JOHN DOE (New Jersey) and other members of the New Jersey Class have suffered damages and ascertainable losses of moneys and/or property, by paying more for the Products than they would have, and/or by purchasing the Products which they would not have purchased, if the benefits of taking such Products had not been misrepresented, in amounts to be determined at trial.

COUNT XI

**Violation of Pennsylvania’s Unfair Trade Practices and Consumer Protection Law,
73 Penn. Stat. Ann. §§ 201-1, et seq.**

173. Plaintiff JOHN DOE (Pennsylvania) realleges and incorporates herein by reference the allegations contained in all preceding paragraphs of this Complaint, as if fully set forth herein.

174. Plaintiff JOHN DOE (Pennsylvania) brings this claim individually and on behalf of the Pennsylvania Class.

175. This is a claim for violation of the Pennsylvania Unfair Trade Practices and Consumer Protection Law (“UTPCPL”), 73 P.S. § 201-2(ksi).

176. At all relevant times material hereto, Defendant conducted trade and commerce within the meaning of the UTPCPL.

177. Plaintiff JOHN DOE (Pennsylvania) and the Pennsylvania Class are “persons” as defined and construed under the UTPCPL.

178. Defendants have made and continue to make deceptive, false and misleading statements concerning the health and nutritional benefits of its Products, namely manufacturing, selling, marketing, packaging and advertising the Products with false and misleading statements concerning its health and nutritional benefits, as alleged herein. Defendants falsely represented that the Products have “Active 12+” or “Active 16+” ratings, which they intended to deceive and/or mislead and did deceive and/or mislead the consumers into believing that (i) the Products are certified, genuine UMF® honeys even though they are not, or that (ii) they have the equivalent antibacterial potency as UMF® honeys with the same ratings even though they do not.

179. Defendants’ conduct as set forth herein constitutes and unconscionable commercial practice comprised of deceptive acts or practices in violation of the UTPCPL, 73 P.S. § 201-2(ksi), including its practice of misleading consumers in the promotion, marketing,

advertising, packaging and labeling of its Products as described herein. Specifically, Defendants misbranded their Products as "Active 12+" or "Active 16+" in an effort to deceive or mislead Plaintiff JOHN DOE (Pennsylvania) and other members of the Pennsylvania Class.

180. Defendants' conduct as set forth herein has been unfair in violation of the UTPCPL because the acts or practices violate established public policy, and because the harm they cause to consumers in Pennsylvania greatly outweighs any benefits associated with those practices.

181. As a direct and proximate result of Defendants' statutory violations, Plaintiff JOHN DOE (Pennsylvania) and the Pennsylvania Class members have been injured and suffered actual and ascertainable losses of money as a result of Defendants' unconscionable, deceptive, and/or unfair trade practices.

182. As a result of the harm caused by Defendants' violation of Pennsylvania consumer protection law, Plaintiff JOHN DOE (Pennsylvania) and Pennsylvania Class members are entitled to recover compensatory damages, punitive damages, and attorneys' fees as set forth below.

COUNT XII

**NEGLIGENT MISREPRESENTATION
(All States)**

183. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs of this Complaint, as if fully set forth herein.

184. Defendants, directly or through their agents and employees, made false representations, concealments, and nondisclosures to Plaintiffs and members of the Class.

185. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendants have failed to fulfill their duties to disclose the material facts set

forth above. The direct and proximate cause of this failure to disclose was Defendants' negligence and carelessness.

186. Defendants, in making the misrepresentations and omissions, and in doing the acts alleged above, knew or reasonably should have known that the representations were not true. Defendants made and intended the misrepresentations to induce the reliance of Plaintiffs and members of the Class.

187. Plaintiffs and members of the Class relied upon these false representations and nondisclosures by Defendants when purchasing the Products, which reliance was justified and reasonably foreseeable.

188. As a result of Defendants' wrongful conduct, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other general and specific damages, including but not limited to the amounts paid for the Products, and any interest that would have been accrued on those monies, all in an amount to be determined according to proof at time of trial.

COUNT XIII

BREACH OF EXPRESS WARRANTIES (All States)

189. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs of this Complaint, as if fully set forth herein.

190. Defendants provided Plaintiffs and other members of the Class with written express warranties, including, but not limited to, warranties that the Products have the antibacterial potency levels equivalent to that of UMF® 16+ or UMF® 12+ honeys. The mānuka ratings claims made by Defendants are an affirmation of fact that became part of the basis of the

bargain and created an express warranty that the good would conform to the stated promise. Plaintiff placed importance on Defendants' mānuka ratings claims.

191. Defendants breached the terms of this contract, including the express warranties, with Plaintiffs and the Class by not providing Products with the antibacterial potency level as promised.

192. As a proximate result of Defendants' breach of warranties, Plaintiffs and Class members have suffered damages in an amount to be determined by the Court and/or jury, in that, among other things, they purchased and paid for products that did not conform to what Defendants promised in their promotion, marketing, advertising, packaging and labeling, and they were deprived of the benefit of their bargain and spent money on products that did not have any value or had less value than warranted or products that they would not have purchased and used had they known the true facts about them.

COUNT XIV

**UNJUST ENRICHMENT
(All States)**

193. Plaintiffs reallege and incorporate herein by reference the allegations contained in all preceding paragraphs of this Complaint, as if fully set forth herein.

194. Defendants received certain monies as a result of their uniform deceptive marketing of the Products that are excessive and unreasonable.

195. Plaintiffs and the Class conferred a benefit on Defendants through purchasing the Products, and Defendants have knowledge of this benefit and have voluntarily accepted and retained the benefits conferred on them.

196. Defendants will be unjustly enriched if they are allowed to retain such funds, and each Class member is entitled to an amount equal to the amount they enriched Defendants and for which Defendants have been unjustly enriched.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other similarly situated, seek judgment against Defendants, as follows:

- a. An Order that this action be maintained as a class action and appointing Plaintiffs as representatives of the Nationwide Class and/or their respective state Class;
- b. An Order appointing the undersigned attorney as class counsel in this action;
- c. Restitution and disgorgement of all amounts obtained by Defendants as a result of their misconduct, together with interest thereon from the date of payment, to the victims of such violations;
- d. All recoverable compensatory and other damages sustained by Plaintiffs and the Class;
- e. Actual and/or statutory damages for injuries suffered by Plaintiffs and the Class and in the maximum amount permitted by applicable law;
- f. An order (1) requiring Defendants to immediately cease its wrongful conduct as set forth in this Complaint; (2) enjoining Defendants from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; (3) ordering Defendants to engage in a corrective advertising campaign; and (4)

requiring Defendants to reimburse Plaintiffs and all members of the Class the amounts paid for the Products;

- g. Statutory pre-judgment and post-judgment interest on any amounts;
- h. Payment of reasonable attorneys' fees and costs; and
- i. Such other relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs, on behalf of themselves and all others similarly situated, demand a trial by jury on all questions of fact raised by the Complaint.

Dated: March 27, 2015

Respectfully submitted,

LEE LITIGATION GROUP, PLLC
C.K. Lee (CL 4086)
30 East 39th Street, Second Floor
New York, NY 10016
Tel.: 212-465-1188
Fax: 212-465-1181
Attorneys for Plaintiffs and the Class

By: _____

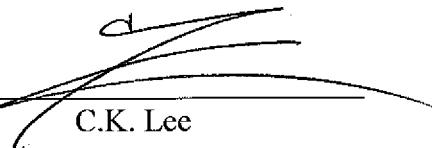

C.K. Lee

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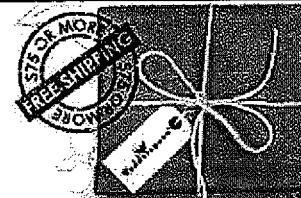
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Wedderspoon's Raw Organic Manuka Active Honey is sourced from the remote pristine areas of New Zealand's South Island. As part of our testing methods and to differentiate our potency level, each batch of Wedderspoon Manuka Honey 12+ is sourced and tested for its higher pollen count, live enzymes, antioxidants and various phytochemical components. 11.5 oz



12+

Activity	12+	10%
Type	Manuka	
Weight	325g	
Raw	100%	
Organic	Yes	
Quantity	1	
Market price:	\$36.99	

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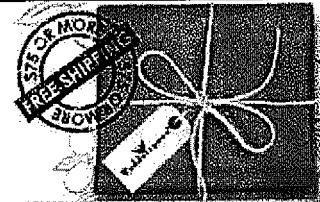
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Choosing Wedderspoon Manuka

Wedderspoon is proud to announce that we are the first and only Non Gmo verified Manuka Honey available nationwide.

We are committed to measuring several key components in our Manuka Honey, as opposed to just one as other brands do. Manuka honey has many natural benefits and we look and test for:

250+ chemical residues

Unpasteurization (Raw)

65% or higher pollen count

pH level consistency

Antioxidant levels

Live enzymes

Phenolic compounds

Purity

We consistently strive to keep all of the natural benefits of the honey from being compromised. The Scale 12+ and 16+ are simply potency indicators of a total average of the multiple MEASURABLE components we look for in our RAW, Unpasteurized, Natural, Authentic Manuka Honey.

To be clear, there are no official standards for measuring Manuka Honey, although other companies would like you to think so. These companies focus their efforts on measuring one component, methylglyoxal and using substandard Manuka honey blends, they add chemicals to artificially boost the levels. Science shows that high levels of methylglyoxal destroy the majority of antioxidant components in Manuka honey and it also has been discovered that higher numbers do not necessarily equate to the honey being more effective. This practice of artificially raising the methylglyoxal levels can be detrimental to the honey (by denaturing it) and do not allow for truly RAW, NATURAL and UNPASTEURIZED honey.

Wedderspoon provides a premium manuka honey, which not only contains naturally occurring methylglyoxal components, but also live enzymes, high pollen count, antioxidant properties. These components as well as the raw and unpasteurized aspect, assures us that we are always providing the highest quality authentic Manuka honey available on the market.

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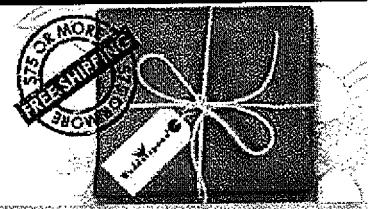
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FAQ

Most frequently asked questions about Manuka Honey

What is Manuka Honey?

Manuka honey is a highly nutritious, special kind of honey that comes from the Manuka flower nectar gathered by the bees in New Zealand. Manuka is a Maori word that refers to the medicinal flower that grows on both New Zealand's North and South Islands. Manuka Honey is a completely natural, holistic, bio-available and biodegradable product.

Is Manuka honey related to the Tea Tree in Australia?

Yes, Manuka Honey originates from the Manuka bush (Tree), which is in the same family as the Melaleuca in Australia, otherwise known as Tea Tree, both of which are world renown for their vast healing properties, Manuka having unique properties, not found in other honeys. Simply research the benefits of Manuka Honey online and on valid Scientific websites that could provide a wealth of information.

Can I find Manuka growing in other countries?

Manuka honey is produced in New Zealand from the nectar of Manuka flowers. Manuka is an indigenous Maori word, therefore it is native to New Zealand. Being a part of the Leptospermum scoparium variety, the Australian "Jelly Bush" honey should just be called precisely that, as it typically produces a honey that is very noticeably very different in taste and texture. However, despite these big differences, the Australians can technically somewhat call their jelly bush honey as being Manuka because they are somehow related through the Genus Leptospermum. There are approximately 150 non-medicinal varieties of Leptospermum in existence that are not all related to the Tea Tree, nor do ALL the varieties originate from New Zealand.

How do I take Manuka Honey?

Manuka Honey can be taken by the heaping teaspoonful up to 3 times a day depending on your condition. For example, for general digestive maintenance a teaspoon taken daily, at least half an hour before any food is ideal. You can also spread it on a dry cracker or a piece of organic bread.

Can I mix the raw honey with a hot drink or will I kill its natural properties?

Although the naturally occurring properties of our product remain stable under heat, light or cold conditions, for optimal use, we do not recommend putting it in tea as heat will destroy the naturally occurring bee enzymes.

How do I store my Wedderspoon Manuka honey once it has been opened?

Manuka honey should be stored in a cool dry place.

What is the difference between the active 12+ and active 16+?



Queen of the Hive - Organic lip balm with Manuka Honey and Peppermint

\$4.99

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In Canada or the USA, the meaning of these numbers are used to differentiate the quality between two Manuka honeys and approved as titles for our labels. They are not exactly related to other known trademarks such as products licensed by the Unique Manuka Factor Association since such trademarks are covering medical claims, not supported by the Food and Drug Administration or the Canadian Food Inspection Agency and therefore not legally approved for foods and honeys. As part of our lab testing, we separate batches from high grade of Manuka from the lower grade, differentiating the active 12+ from the active 16+. Therefore and while our grading system varies from the norm, Wedderspoon believes to have a more appropriate rating system for its honeys, accounting for important factors, mostly omitted and sometimes on purposes by our competition. Such factors could include live enzymes, pollen count, chemical/residue analysis, antioxidant levels, the raw status or unpasteurisation process and various other phytochemical factors found in Manuka honey. It is also important to know that Manuka honey has not uncovered all its benefits and more research needs to be done on the subject. However, Wedderspoon brings you the confidence to provide one of the best quality Manuka line and brand on the market place in North America. For more guarantees and to find out why Wedderspoon is the leading brand of Manuka honey in North America, review the hundreds of testimonials from current users on other online stores and on our website.

Can I find Activity levels in other honeys?

Yes, in fact, our Organic Beechwood Honey also has been tested to contain the same activity found in Manuka Honey. Other honeys such as Clover also contain activity levels, although they are present in very low amounts.

I am monitoring my carbohydrate intake. How can I include the manuka honey in a low carb diet?

Honey is a natural product unlike white refined sugar or artificial sweeteners. Scientifically, honey is considered to be "opposite" to conventional sugar. It might then be worth including in your diet, with moderation, for the numerous intrinsic health benefits! One Tablespoon of honey contains 17g of carbohydrates.

I know Organic Manuka Honey is great for adults and children above 1 year of age. Can I give it to an infant aged younger than 12 months?

NO! Infants under 12 months of age do not have a fully developed immune system yet, so they should not be given any kind of honey to eat. Infant botulism is a rare, but serious paralytic disease caused by the spores of a bacterial microorganism, Clostridium botulinum. These spores can germinate, grow and produce toxins in the lower bowel of some infants and pasteurization (sterilization) CANNOT kill such spores. Older children and adults are normally able to ingest the spores without any harm.

 **Wedderspoon Organic USA**

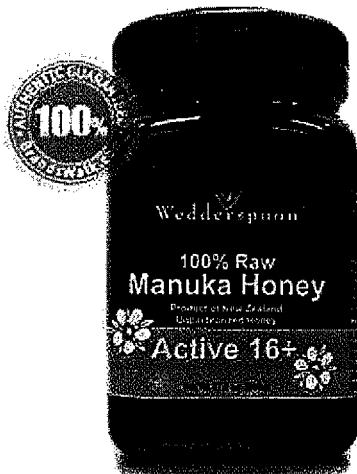
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Wedderspoon Premium Raw Manuka Honey Active 16+ 500g/17.6oz AUTHENTIC***

Item condition:

Quantity: More than 10 available / 6 sold

Price: US \$39.99

[Buy It Now](#)[Add to cart](#)

9 watching

[Add to watch list](#)[Add to collection](#)[Free shipping](#)[30-day returns](#)

Located in United States

Shipping: FREE Standard Shipping | [See details](#)

Item location: Newport Beach, California, United States

Ships to: Worldwide

Delivery: Estimated on or before **Tue, Dec. 09** to 2015

Payments:

Credit Cards processed by PayPal

PayPal CREDITNew customers get \$10 back on 1st purchase [Apply Now](#)[| See Terms](#)[See details](#)Returns: 30 days money back, buyer pays return shipping
[| See details](#)Guarantee: [| See details](#)
Get the item you ordered or get your money back.
Covers your purchase price and original shipping.**People who viewed this item also viewed**[Feedback](#)

Wedderspoon Raw Manuka Honey Act...

\$39.95

[Buy It Now](#)
Free shipping

Wedderspoon Organic 100% Raw Manuka...

\$39.99

[Buy It Now](#)
Free shipping

NEW WEDDERSSPOON RAW MANUKA

\$46.39

[Buy It Now](#)
Free shipping

Wedderspoon Raw Manuka Honey Act...

\$49.70

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Free shipping[Description](#)[Shipping and payments](#)[Print](#)

eBay item number:

Seller assumes all responsibility for this listing.

Last updated on Nov 30, 2014 05:44:05 PST [View all revisions](#)**BrandsWalk**

brandwalk (5846) 99.9%

 [Sign up for newsletter](#)[Visit Store: Br](#)**Categories****Wedderspoon Premium Raw Manuka Honey Active 16+ 500g/17.6oz ***100% /**

Awesome Screenshot

Launch app for advanced annotation

Done

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2 sites 1 bag

0 items \$0.00

check

drugstore.com

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& healthpersonal
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NEW!



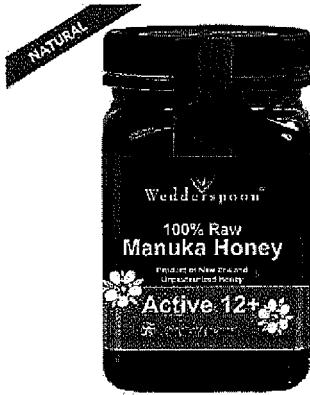
Always® Discreet incontinence liners

NEW!



buy 2 Nicorette items, save \$10 & get 4 g

home > medicine & health > digestion & nausea > natural digestive remedies

[view larger image](#)[see more from Wedderspoon](#)**Wedderspoon 100% Raw Organic Manuka Honey Active 12+ 17.6 oz (500g)**

★☆☆☆☆ (1)

[read reviews](#) | [write a review](#)[Like](#) 14 people like this. Sign Up to see what your friends like.[g+1](#)[D](#)

suggested: \$39.99

in stock

our price: \$37.99

save 5% (\$2.00)

selected size: 17.6 oz

8.8 oz

17.6 oz



Auto-Reorder & Save: Get 10% off or more on all future shipments of this item.

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ship this item

one time only

quantity: 1

[add to bag](#)[save to your list™](#)[product details](#)[ingredients](#)[reviews](#)[directions](#)**100% Raw Manuka Honey Active 12+**

- OMA
- Unpasteurized Honey

From a place where our beekeepers actually talk to their bees and take the time to understand nature to its fullest, Wedderspoon's products have received word of mouth recognition throughout North America due to their outstanding quality and consistency. Our honeys have been harvested following strict Organic New Zealand guidelines. We hope you enjoy the well known benefits of manuka honey and share your Wedderspoon story with friends and family. At Wedderspoon Organic, we bring you the finest in organic products because we know quality matters.

We Guarantee:

- Honey that is free from harmful chemicals & pesticides
- Antibiotic and GMO Free honey
- Each are made from environmentally friendly material
- Each jar is traceable back to master beekeeper
- Activity in our honeys has been reached naturally and has not been increased by man

Product of New Zealand

©Wedderspoon Organic USA, LLC

this item qualifies for**everyday FREE shipping with \$35 ore****\$5 back with drugstore.com dollars™
you'll earn \$1.90*****SHOPRUNNER free 2-day shipping
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Walgreens**PREScription
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People who viewed this item also viewed

Wedderspoon - 100% Raw Manuka Honey A 16+



★★★★★ (7)

\$44.99 \$40.99
save 9% (\$4.00)[add to bag](#)

Wedderspoon - 100% Raw Organic Manuka Active 12+



★★★★★ (1)

\$24.99 \$22.99
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Comvita - Manuka Honey UMF 10+

\$51.99 \$41.99
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Comvita - Manuka Honey UMF 5+

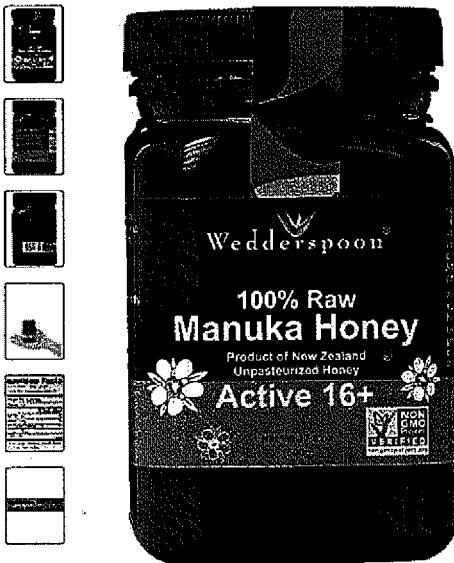
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save 19% (\$10.00)[add to bag](#)**related products**

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wedderspoon manuka

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Wedderspoon Raw Manuka Honey

Active 16+, 17.6-Ounce Jar

by Wedderspoon

729 customer reviews

| 29 answered questions

#1 Best Seller in Honey

Price: \$39.99 (\$2.22 / oz) & FREE Shipping. Details

Only 6 left in stock.

Sold by global enterprise and Fulfilled by Amazon.

Want it tomorrow, Dec. 3? Order within 17 hrs 55 mins and choose Same-Day Delivery at checkout. Details

Size: 17.6 oz

0 8.8oz 17.6 oz

- Manuka; Manuka Honey

23 new from \$32.20

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Other Sellers on Amazon

\$32.20 (\$1.79 / oz)

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+\$5.49 shipping

Sold by: The Healthy Home Shop

\$39.99 (\$2.22 / oz)

[Add to Cart](#)

& FREE Shipping. Details

Sold by: Pure Essence Health

\$39.99 (\$2.22 / oz)

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& FREE Shipping. Details

Sold by: Wedderspoon

23 new from \$32.20

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RAVPower 2nd Gen Mini 3000mAh Portable Char...

(254)

\$39.99 \$19.99

Advertisement

Frequently Bought Together



Price for both: \$69.98

[Show availability and shipping details](#)

- This item: Wedderspoon Raw Manuka Honey Active 16+, 17.6-Ounce Jar \$39.99 (\$2.22 / oz)
- MGO 400+ MANUKA HONEY 100% Pure by Manuka Health New Zealand Ltd. - 8.8oz jar \$29.99 (\$12.00 / 100 g)

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| Wedderspoon | - Raw Manuka Honey - 15% Off. Top Rated Wedderspoon Retailer | wedderspoon.iherb.com/Manuka-Honey |
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Size: 17.6 oz



FREE SHIPPING OVER \$49 | Order by 1 p.m. & receive your order in 1-4 days!*

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Wedderspoon 100% Raw Organic Manuka Honey Active
16+ ~ 11.5 oz

SKU #: 094922059949 | Shipping Weight: 1.1 lb | Servings: About 15

★★★★★ 3.5 / 5 Out of 5 stars [Read all 2 reviews](#)

You Save: 9%

Retail price: \$39.99

Vitacost price: \$36.31

In stock

Deliver 1 Time Only

Add to Set & Save

Add to My List

Quantity:

Roll over image to magnify & Click to Zoom
Images may vary from actual product

Enjoy our low price guarantee and never run out with Set & Save.

Non-GMO Project Verified

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Wedderspoon 100% Raw Organic Manuka Honey Active 16+ Description

At Wedderspoon Organic, we bring you the finest in organic products because we know quality & authenticity matters.

We guarantee:

Honey that is free from Chemicals & Pesticides

Antibiotic and GMOs free Honey

Hives are made from environmentally friendly material

Our honeys have been harvested following strict Organi



elines.

Directions

No need to refrigerate once opened.

Disclaimer

These statements have not been evaluated by the FDA. These products are not intended to diagnose, treat, cure, or prevent any disease.

[Nutrition Facts](#)

Compare & Save



Vitacost Raw & Unfiltered Honey - Non-GMO – 24 oz (680 g)

Rating: ★★★★★

Vitacost price: \$6.99

Frequently Bought Together:



Retail price together: \$53.48

Vitacost price: \$48.50

You Save: 9%

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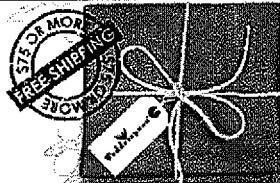
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NEW

Wedderspoon

We now offer
FREE SHIPPING
On orders of \$75 or more



[Check our Current Offers](#)

Categories

- [International Specialty Raw and Organic Honeys](#)
- [Body Care Products](#)
- [Organic Bees Wax Candles](#)
- [Organic Honey Lozenges](#)
- [Hand Crafted Honey Dippers](#)
- [Super Saver Case Deals](#)
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[Wedderspoon Gold Organic Raw Beechwood Honey](#)
\$15.25



[Certified Organic Active Beechwood Honey in 500g](#)
\$15.99



Beechwood Honey is produced by bees who gather the sweet aromatic nectar that appears like dew on the beechwood trees of New Zealand's South Island rainforests.



10%

Activity	
Type	Beechwood
Weight	500g
Raw	100%
Organic	Yes
Quantity	1
Market price:	\$17.79

Our price: \$15.99

Qty

[Add to cart](#)

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Tweet 0

8+1

0

[Ask a question about this product](#)

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100% Canadian-owned

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BUSY BEE NETWORKS



The Wedderspoon logo of premium genuine certified organic honey products all carry the OMA mark (Organic Manuka Active), 100% New Zealand approved, which combines activity with organic certification! When you see this mark, you can be confident that the Manuka Honey is of the high quality and independently tested for its activity while being organically certified.

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- [Wedderspoon Organic UK](#)
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[Home :: International Specialty Raw and Organic Honeys :: 100% Raw Premium Manuka Honey :: Premium Raw Manuka Active 16+ Honey in 500g](#)

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Recently Viewed



[Premium Raw Manuka Active 16+ Honey in 500g](#)
\$39.99



[Certified Organic Active Beechwood Honey in 500g](#)
\$15.99

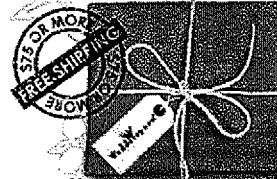
Gift certificate



NEW

Wedderspoon

We now offer
FREE SHIPPING
On orders of \$75 or more



[Check our Current Offers](#)

Premium Raw Manuka Active 16+ Honey in 500g

[← Previous product](#) | [Next product →](#)



Our premium line of Manuka honeys are not Genetically Modified, are antibiotic free, unpasteurized, and each batch can be traced directly back to the beekeeper. For our Certified Organic Manuka 16+, [click here](#)



16+

20%

Activity	16+
Type	Manuka
Weight	500g
Raw	100%
Organic	No
Quantity	1
Market price:	\$49.99

Our price: \$39.99

Qty Add to cart

Like 23 Tweet 1 Google+ 0

[Ask a question about this product](#)

Related products

Customers also bought

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EXHIBIT 7

LEE LITIGATION GROUP, PLLC

30 EAST 39TH STREET, SECOND FLOOR
NEW YORK, NY 10016
TEL: 212-465-1180
FAX: 212-465-1181
INFO@LEELITIGATION.COM

WRITER'S DIRECT: 212-465-1188
cklee@leelitigation.com

February 23, 2015

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Legal Department
SWCC USA 1234, LLC
(formerly known as Wedderspoon Organic USA, LLC)
334 Central Avenue
Malvern, PA 19355

Re: *Demand Letter re:*

Wedderspoon Gold Organic Raw Manuka Active 16+;
Wedderspoon Gold Organic Raw Manuka Active 12+;
Premium Raw Manuka Active 16+ Honey in 250g;
Premium Raw Manuka Active 16+ Honey in 500g;
Premium Raw Manuka Active 12+ Honey in 250g;
Premium Raw Manuka Active 12+ Honey in 500g;
100% Raw Premium Manuka Honey with Bee Venom -
250g Active 12+; and
Manuka on the Go Raw Manuka Honey Packs Active 16+
(together, the "Products")

To Whom It May Concern:

This demand letter serves as a notice and demand for corrective action on behalf of my client, Lynn Moore and all other persons similarly situated, arising from violations of numerous provisions of California law including the Consumers Legal Remedies Act, Civil Code § 1770, including but not limited to subsections (a)(5), (7) and (9) and violations of consumer protection laws of each of the fifty states and the District of Columbia. This demand letter serves as notice pursuant to state laws concerning your deceptive and misleading Product packaging.

You have participated in the manufacture, marketing and sale of the manuka honey Products. The Products are represented on their labels as having the ratings of "Active 12+" or "Active 16+", even though they do not have the UMF® ratings of "12+" or "16+". Such false and misleading representations violate the Federal Food Drug & Cosmetic Act ("FDCA") Section 403 (21 U.S.C. 343, food labeling laws and consumer protection laws of each of the fifty states and the District of Columbia. As a result, consumers are misled as to the quality, of the Products.

Ms. Lynn Moore, a resident of California, purchased the Wedderspoon Gold Organic Raw Manuka Active 12+ and the Premium Raw Manuka Active 16+ Honey in 500g Products and is acting on behalf of a class defined as all persons in each of the fifty states and the District of Columbia who purchased the Products (hereafter, the "Class").

To cure the defects described above, we demand that you (i) cease and desist from continuing to package and/or market the Products with representations of "Active 12+" or "Active 16+"; (ii) issue an immediate recall on any Products with such representations; and (iii) make full restitution to all purchasers throughout the United States of all purchase money obtained from sales thereof.

We further demand that you preserve all documents and other evidence which refer or relate to any of the above-described practices including, but not limited to the following:

- (i) All documents concerning the manufacture, labeling and packaging process for the Products;
- (ii) All communications with the U.S. Food and Drug Administration concerning the product development, labeling, packaging, marketing and sales of the Products;
- (iii) All documents concerning the advertisement, marketing, or sale of the Products; and
- (iv) All communications with customers concerning complaints or comments concerning the Products.

We are willing to negotiate to attempt to resolve the demands asserted in this letter. If you wish to enter into such discussions, please contact me immediately. If I do not hear from you promptly, I will conclude that you are not interested in resolving this dispute short of litigation. If you contend that any statement in this letter is inaccurate in any respect, please provide us with your contentions and supporting documents promptly.

Very truly yours,

C.K. Lee, Esq.

CV 15 1635

JS 44 (Rev. 1/2013)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM)

I. (a) PLAINTIFFS
LINGXI KONG et al.

WEINSTEIN, J.

(b) County of Residence of First Listed Plaintiff Queens County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

C.K. LEE, Esq. LITIGATION GROUP, PLLC
30 East 39th Street, 2nd Fl., New York, NY 10016
Tel.: 212-465-1188 Fax: 212-465-1181

DEFENDANTS

SWCC USA 1234, LLC (f/k/a WEDDERSPOON ORGANIC USA, LLC)
and WEDDERSPOON ORGANIC, INC.

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Randy Friedberg, Esq., White and Williams LLP
One Penn Plaza, 250 W. 34th Street, Suite 4110, New York, NY
10019, Tel. 212-714-3079 Fax 212-631-1241

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input checked="" type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 1	<input type="checkbox"/>	<input type="checkbox"/> 4	<input type="checkbox"/> 4
			<input type="checkbox"/> 2	<input type="checkbox"/> 2	<input type="checkbox"/> 5
			<input type="checkbox"/> 3	<input type="checkbox"/> 3	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical	<input type="checkbox"/> PROPERTY RIGHTS	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> Personal Injury Product Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> PERSONAL PROPERTY	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input checked="" type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RS1 (405(g))	<input type="checkbox"/> 893 Environmental Matters
	<input type="checkbox"/> CIVIL RIGHTS	<input type="checkbox"/> PRISONER PETITIONS		<input type="checkbox"/> 895 Freedom of Information Act
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> Habeas Corpus:	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 896 Arbitration
	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence		<input type="checkbox"/> 950 Constitutionality of State Statutes
	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General		
	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 535 Death Penalty		
	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	Other:		
	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 540 Mandamus & Other		
		<input type="checkbox"/> 550 Civil Rights		
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		
		<input type="checkbox"/> IMMIGRATION		
		<input type="checkbox"/> 462 Naturalization Application		
		<input type="checkbox"/> 465 Other Immigration Actions		

V. ORIGIN (Place an "X" in One Box Only)

- | | | | | | |
|---|---|--|---|--|---|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from Another District (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation |
|---|---|--|---|--|---|

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)Brief description of cause:
Deceptive and Unfair Trade Practices

VII. REQUESTED IN COMPLAINT:

 CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER _____

DATE

3-27-15

SIGNATURE OF ATTORNEY OF RECORD

JUDGE _____

MAG. JUDGE _____

RECEIPT #

AMOUNT

APPLYING IFFP

4553086267

ARMSTRONG

ORENSTEIN, M.J.

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, C.K. Lee, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more or its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: 