IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

Civil Case No.:

SUSAN LYNN SLAVINSKI, as an individual and on behalf of all others similarly situated,	:
Plaintiff,	:
vs.	:
NATURAL & TASTY LLC, a New Jersey limited liability company,	:
Defendant.	:

CLASS ACTION COMPLAINT

Plaintiff, SUSAN LYNN SLAVINSKI ("Plaintiff"), individually, and on behalf of all others similarly situated, by and through the undersigned counsel, and pursuant to the Federal Rules of Civil Procedure, hereby files this Class Action Complaint, and alleges against Defendant, NATURAL & TASTY LLC ("Natural & Tasty" or "Defendant"), as follows:

I. INTRODUCTION

1. At all material times hereto, Defendant has unlawfully, fraudulently, unfairly, misleadingly, and deceptively represented that its Goldbaum's Quinoa Crisps food products are "All Natural," and "GMO Free" despite the same containing unnatural, synthetic, artificial, and/or genetically modified ingredients.

2. Indeed, Defendant's Goldbaum's Multigrain Quinoa Crisps – Barbecue (the "Product") contains Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

3. Despite the presence of these unnatural, synthetic, artificial, and/or genetically modified ingredients, Defendant knowingly, recklessly, and/or negligently markets and sells the Product as being "All Natural" and "GMO Free."

4. At all material times hereto, Defendant manufactures, markets, advertises, and sells the Product as being "All Natural" and "GMO Free" on the Product's front packaging.

5. At all material times hereto, all packages of the Product packaging uniformly make the same "All Natural" and "GMO Free" claim in the same prominently displayed location on the same location of the Product, the front packaging. The representation that the Product is "All Natural" and "GMO Free," as communicated to Plaintiff and other members of the Class is central to the marketing and sale of the Product.

6. Defendant's representation that the Product is "All Natural" and "GMO Free" is false, misleading, and likely to deceive reasonable consumers because the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients.

7. As a result, Plaintiff brings this class action to secure, among other things, damages and equitable relief, declaratory relief, restitution, and in the alternative to damages, relief for unjust enrichment, for a Class of similarly situated Florida purchasers, against Defendant, for: (1) false, deceptive, unfair, and unlawful business practices in violation of Florida's Deceptive and Unfair Trade Practices Act ("FDUTPA"), FLA. STAT. §§ 501.201, *et seq.*; (2) Negligent Misrepresentation; (3) Breach of Express Warranty; (4) Violation of Magnusson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et seq.*; and (5) Unjust Enrichment (alleged in the alternative to Plaintiff's other causes of action).

8. Plaintiff is seeking damages individually and on behalf of the Class. In addition, Plaintiff is seeking an Order requiring Defendant to cease from representing that the Product is

"All Natural" and/or "GMO Free" on the packaging for all packages of the Product that contain unnatural, synthetic, artificial, and genetically modified ingredients.

9. Plaintiff expressly does not seek to contest or enforce any state law that has requirements beyond those required by Federal laws or regulations.

10. All allegations herein are based on information and belief and are likely to have evidentiary support after a reasonable opportunity for discovery.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over the subject matter presented by this Class Action Complaint because it is a class action arising under the Class Action Fairness Act of 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (2005), which explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the plaintiff class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of $5,000,000.00, exclusive of interest and costs.

12. Pursuant to 28 U.S.C. § 1332(d)(2)(A), Plaintiff alleges that the total claims of the individual members of the Plaintiff Class in this action are in excess of $5,000,000.00, in the aggregate, exclusive of interest and costs, and as set forth below, diversity of citizenship exists under CAFA because, as more fully set forth below, Plaintiff is a citizen of Florida, and Defendant can be considered a citizen of New Jersey for diversity purposes.

13. Venue in this judicial district is proper pursuant to 28 U.S.C. §1391(a) because, as set forth below, Defendant conducts business in, and may be found in, this district, and Plaintiff purchased the subject Product of this action in this judicial district.

III. PARTIES

14. Plaintiff, SUSAN LYNN SLAVINSKI, is an individual more than 18 years old,

and is a citizen of Florida, who resides in Palm Beach County.

15. Defendant, NATURAL & TASTY, LLC, promoted and marketed the Product at issue in this jurisdiction and in this Judicial District. Defendant is a New Jersey limited liability company, with its principal place of business located at 54 Freeman Street, Newark, NJ 07105-3773.

16. The Product's advertising relied upon by Plaintiff was prepared and/or approved by Defendant and its agents, and was disseminated by Defendant and its agents through advertising containing the misrepresentations alleged herein.

17. The advertising for the Product was designed to encourage consumers to purchase the Product and reasonably misled the reasonable consumer, *i.e.* Plaintiff and the Class into purchasing the Product.

18. Defendant is the owner, manufacturer, and distributor of the Product, and is the company that created and/or authorized the unlawful, fraudulent, unfair, misleading, and/or deceptive advertising for the Product.

19. Plaintiff alleges that, at all times relevant herein, Defendant and its subsidiaries, affiliates, and other related entities, as well as their respective employees, were the agents, servants and employees of Defendant, and at all times relevant herein, each were acting within the purpose and scope of that agency and employment.

20. Plaintiff further alleges on information and belief that at all times relevant herein, the distributors and retailers who delivered and sold the Product, as well as their respective employees, also were Defendant's agents, servants and employees, and at all times herein, each was acting within the purpose and scope of that agency and employment.

21. In addition, Plaintiff alleges that, in committing the wrongful acts alleged herein, Defendant, in concert with its subsidiaries, affiliates, and/or other related entities and their respective employees, planned, participated in, and furthered a common scheme to induce members of the public to purchase the Product by means of untrue, misleading, deceptive, and/or fraudulent representations, and that Defendant participated in the making of such representations in that it disseminated those misrepresentations and/or caused them to be disseminated.

22. Whenever reference in this Complaint is made to any act by Defendant or its subsidiaries, affiliates, distributors, retailers, and other related entities, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of Defendant committed, knew of, performed, authorized, ratified and/or directed that act or transaction on behalf of Defendant while actively engaged in the scope of their duties.

IV. FACTUAL ALLEGATIONS

23. Upon information and belief, almost all corn and soy grown in the United States are grown from seeds that have been genetically modified (commonly referred to as genetically modified organisms or "GMOs" for short), and as such, almost all corn and corn-based, as well as soy and soy-based ingredients in the United States are in fact unnatural, synthetic, artificial, and genetically modified ingredients.

24. Defendant manufactures, distributes, markets, advertises, and sells the Product, claiming the same is "All Natural" and "GMO Free," when in fact, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower); thus the Product is neither "All Natural" nor "GMO Free."

25. As a result, Defendant's "All Natural" and "GMO Free" claims, which are uniformly, consistently and prominently displayed on the front of each individual packaging of the Product, are untrue, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class.

26. Defendant unlawfully markets, advertises, sells, and distributes the Product to Florida purchasers in grocery stores, food chains, mass discounters, mass merchandisers, club stores, convenience stores, drug stores and/or dollar stores as their being "All Natural" and "GMO Free."

27. At all material times hereto, Defendant sells the Product at a premium price, above other similar products in the marketplace that do not claim to be "All Natural" and "GMO Free."

28. Plaintiff and members of the Class were charged a price premium for the Product over and above other products that do not claim to be "All Natural" and "GMO Free."

A. Defendant's False and Misleading Advertising is Likely to Deceive Reasonable Consumers

29. Defendant's false and misleading representations and omissions are likely to deceive Plaintiff and other reasonable consumers.

30. Reasonable consumers rely on food label representations and information in making purchase decisions.

31. Defendant's statements that the Product is "All Natural" and "GMO Free" is material to a reasonable consumer's purchase decision because reasonable consumers, such as Plaintiff and members of the Class, care whether food products contain unnatural, synthetic, artificial, and/or genetically modified ingredients, especially when a product claims to be "All Natural" and "GMO Free."

32. Reasonable consumers attach importance to "All Natural" and/or "GMO Free"

claims when making a purchasing decision.

33. Defendant markets and advertises the Product as "All Natural" and "GMO Free" in order to increase sales derived from the Product. Defendant is well-aware that claims of food being "All Natural" and/or "GMO Free" is material to reasonable consumers.

34. Plaintiff and the other Class members reasonably relied to their detriment on Defendant's misleading representations and omissions.

35. Plaintiff and the other Class members were among the intended recipients of Defendant's deceptive representations and omissions.

36. Upon information and belief, Defendant made the deceptive representations and omissions regarding the Product with the intent to induce Plaintiff's and the other Class members' purchase of the Product.

37. Defendant's representations and omissions are material because a reasonable person attaches importance to such "All Natural" and "GMO Free" statements, and would reasonably be induced to act upon such information in making purchase decisions.

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

39. Upon information and belief, in making the false, misleading, and deceptive representations and omissions, Defendant knew and intended that consumers would pay a price premium for the Product over comparable products that are not labeled "All Natural" and/or "GMO Free," furthering Defendant's private interest of increasing sales for the Product, and decreasing the sales of products by Defendant's competitors that do not claim to be "All Natural" and/or

"GMO Free."

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

1) paid a sum of money for the Product that was not as represented;

2) paid a premium price for the Product that was not as represented;

3) were deprived the benefit of the bargain because the Product they purchased was different than what Defendant warranted;

4) were deprived the benefit of the bargain because the Product they purchased had less value than what was represented by Defendant;

5) did not receive a Product that measured up to their expectations as created by Defendant;

6) ingested substances that were other than what was represented by Defendant;

7) ingested substances that Plaintiff and the other members of the Class did not expect or consent to;

8) ingested substances that are artificial, synthetic, genetically modified, or otherwise unnatural;

9) ingested substances that were of a lower quality than what Defendant promised;

10) were denied the benefit of knowing what they ingested;

11) were denied the benefit of truthful food labels;

12) were denied the benefit of supporting an industry that sells natural foods and contributes to environmental sustainability; and

13) were denied the benefit of the beneficial properties of the natural foods promised.

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

because Plaintiff and the other Class members would not have purchased the Product.

42. Accordingly, Plaintiff and the other Class members have suffered injury in fact and lost money or property as a result of Defendant's wrongful conduct.

43. Plaintiff and the other Class members did not obtain the full value of the advertised Product due to Defendant's misrepresentations and omissions.

44. Plaintiff and the other Class members purchased, purchased more of, or paid more for the Product than they would have done had they known the truth about the Product.

B. Plaintiff's Reliance and Damages

45. Plaintiff has purchased one or more of the Product in Palm Beach County, Florida, during the Class Period, including, but not limited to a purchase for personal use, in March of 2014, from a Home Goods located in Palm Beach Gardens, Florida.

46. The Product purchased by Plaintiff claimed to be "All Natural" and "GMO Free" on the front packaging, which Plaintiff perceived, read, and relied on in making Plaintiff's purchase.

47. However, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower), and as a result, the Product is neither "All Natural" nor "GMO Free."

48. Plaintiff interpreted the "All Natural" and "GMO Free" claims to mean that the Product did not contain unnatural, synthetic, artificial, or genetically modified ingredients.

49. Subsequent to purchasing the Product, however, Plaintiff discovered that the same is neither "All Natural" nor "GMO Free" because of the presence of unnatural, synthetic, artificial,

and/or genetically modified ingredients.

50. Plaintiff and members of the Class paid a price premium for the Product because the Product claimed to be "All Natural" and "GMO Free."

51. Plaintiff and members of the Class would not have purchased the Product had they known that the Product contained ingredients that are neither "All Natural" nor "GMO Free."

52. Likewise, if Plaintiff and members of the Class had known that the Product contained unnatural, synthetic, artificial, and/or genetically modified ingredients, Plaintiff and members of the Class would not have purchased the Product.

53. Accordingly, Plaintiff and members of the Class have suffered economic damages as a result of purchasing a Product that claims to be "All Natural" and "GMO Free" because the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients.

54. The Product is valueless, worth less than what Plaintiff and members of the Class paid for, and/or is not what Plaintiff and members of the Class reasonably intended to receive.

55. Plaintiff and the Class seek damages equal to the aggregate purchase price paid for the Product during the Class Period, as well as injunctive relief described below.

V. CLASS ACTION ALLEGATIONS

56. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Class Action Complaint as if fully set forth herein.

57. Pursuant to Rule 23, *Federal Rules of Civil Procedure*, Plaintiff brings this class action and seeks certification of the claims and certain issues in this action on behalf of a Class defined as:

> **All persons who have purchased for personal use one or more of the Products, from April 6, 2011, through and to the date Notice is provided to the Class.**

58. Plaintiff respectfully reserves the right to amend the Class definition if further investigation and discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified. Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff.

59. Defendant's practices and omissions were applied uniformly to all members of the Class, including any subclass, so that the questions of law and fact are common to all members of the Class and any subclass. All members of the Class and any subclass were and are similarly affected by the deceptive advertising for the Product, and the relief sought herein is for the benefit of Plaintiff and members of the Class and any subclass.

60. Based on the annual sales of the Product and the popularity of the Product, it is readily apparent that the number of consumers in both the Class and any subclass is so large as to make joinder impractical, if not impossible.

61. Questions of law and fact common to the Plaintiff Class and any subclass exist that predominate over questions affecting only individual members, including, *inter alia*:

a. Whether Defendant's business practices violated FDUTPA, FLA. STAT. §§ 501.201, *et seq.*;

b. Whether the Product is "All Natural;"

c. Whether the ingredients contained in the Product are "All Natural;"

d. Whether the Product is "GMO Free;"

e. Whether the ingredients contained in the Product are unnatural;

f. Whether the ingredients contained in the Product are synthetic;

g. Whether the ingredients contained in the Product are artificial;

h. Whether the ingredients contained in the Product are genetically modified;

i. Whether the claims "All Natural" and "GMO Free" on the Product's packaging is material to a reasonable consumer;

j. Whether the claim "All Natural" and "GMO Free" on the Product's packaging and advertising is likely to deceive a reasonable consumer;

k. Whether the claim "All Natural" and "GMO Free" on the Product's packaging and advertising is misleading to a reasonable consumer;

l. Whether a reasonable consumer is likely to be deceived by a claim that products are "All Natural" and/or "GMO Free" when the products contains unnatural, synthetic, artificial, and/or genetically modified ingredients;

m. Whether Defendant was unjustly enriched by the sale of the Product; and

n. Whether Defendant's conduct as set forth above injured consumers and if so, the extent of the injury.

62. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Class and any subclass, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class and any subclass is common to the members of each.

63. Plaintiff will fairly and adequately represent and protect the interests of the members of the Plaintiff Class and any subclass.

64. Plaintiff has retained counsel competent and experienced in both consumer protection and class action litigation.

65. Certification of this class action is appropriate under Rule 23, *Federal Rules of Civil Procedure*, because the questions of law or fact common to the respective members of the Class and any subclass predominate over questions of law or fact affecting only individual members. This predominance makes class litigation superior to any other method available for a fair and efficient decree of the claims.

66. Absent a class action, it would be highly unlikely that the representative Plaintiff or any other members of the Class or any subclass would be able to protect their own interests because the cost of litigation through individual lawsuits might exceed expected recovery.

67. Certification also is appropriate because Defendant acted, or refused to act, on grounds generally applicable to both the Class and any subclass, thereby making appropriate the relief sought on behalf of the Class and any subclass as respective wholes.

68. Further, given the large number of consumers of the Product, allowing individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications.

69. A class action is a fair and appropriate method for the adjudication of the controversy, in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the prosecution of numerous individual actions and the duplication of discovery, effort, expense and burden on the courts that individual actions would engender.

70. The benefits of proceeding as a class action, including providing a method for obtaining redress for claims that would not be practical to pursue individually, outweigh any difficulties that might be argued with regard to the management of this class action.

VI. FIRST CAUSE OF ACTION: FOR VIOLATIONS OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, FLA. STAT. §§ 501.201, *ET SEQ*.

71. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

72. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 501.213, *Florida Statutes*.

73. The express purpose of FDUTPA is to "protect the consuming public...from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce." FLA. STAT. § 501.202(2).

74. Section 501.204(1), *Florida Statutes*, declares as unlawful "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce."

75. The sale of the Product at issue in this cause was a "consumer transaction" within the scope of FDUTPA.

76. Plaintiff is a "consumer" as defined by Section 501.203, *Florida Statutes*.

77. Defendant's Product is a good within the meaning of FDUTPA and Defendant is engaged in trade or commerce within the meaning of FDUTPA.

78. Defendant's unfair and deceptive practices are likely to mislead – and have misled – reasonable consumers, such as Plaintiff and members of the Class, and therefore, violate Section 500.04, *Florida Statutes*.

79. Defendant has violated FDUTPA by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous and

substantially injurious to consumers.

80. Specifically, Defendant has represented that the Product is "All Natural" and "GMO Free," when in fact, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

81. Plaintiff and Class Members have been aggrieved by Defendant's unfair and deceptive practices in violation of FDUTPA, in that they purchased and consumed Defendant's mislabeled Product.

82. Reasonable consumers rely on Defendant to honestly represent the true nature of its ingredients.

83. Defendant has deceived reasonable consumers, like Plaintiff and members of the Class, into believing the Product was something it was not; specifically that the Product is "All Natural" and "GMO Free."

84. The knowledge required to discern the true nature of the Product is beyond that of the reasonable consumer—namely that the Product does or does not contain unnatural, synthetic, artificial, and/or genetically modified ingredients.

85. Plaintiff and the Class suffered damages and are entitled to injunctive relief.

86. Pursuant to sections 501.211(2) and 501.2105, *Florida Statutes*, Plaintiff and members of the Class make claims for damages, attorney's fees and costs. The damages suffered by the Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendant. Pursuant to Section 501.211(1), *Florida Statutes*, Plaintiff and the Class seek injunctive relief for, *inter alia*, the Court to enjoin Defendant's above-described

wrongful acts and practices, and for restitution and disgorgement.

87. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant's violations of FDUTPA.

VII. SECOND CAUSE OF ACTION: NEGLIGENT MISREPRESENTATION

88. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

89. Defendant has negligently represented that the Product is "All Natural" and "GMO Free."

90. Defendant has represented that the Product is "All Natural" and "GMO Free" when in fact, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

91. Defendant has misrepresented a material fact to the public, including Plaintiff and Class Members, about the Product.

92. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time the Product leaves Defendant's possession until the same arrives in stores to be sold to consumers.

93. Defendant knows the misstatements on the Product's packaging are material to the reasonable consumer and Defendant intends for consumers to rely upon the misstatements when choosing to purchase the Product.

94. Defendant has omitted the fact that the Product contains unnatural, synthetic,

artificial, and/or genetically modified ingredients, despite claiming that the Product is "All Natural" and "GMO Free."

95. Defendant knew or should have known that these misstatements or omissions would materially affect Plaintiff's and Class members' decisions to purchase the Product.

96. Plaintiff and other reasonable consumers, including the Class members, reasonably relied on Defendant's representations set forth herein, and, in reliance thereon, purchased the Product.

97. The reliance by Plaintiff and Class members was reasonable and justified in that Defendant appeared to be, and represented itself to be, a reputable business, and it distributed the Products through reputable companies.

98. Plaintiff and Class members would not have been willing to pay for Defendant's Product if they knew that the Product contained unnatural, synthetic, artificial, and/or genetically modified ingredients.

99. As a direct and proximate result of Defendant's misrepresentations, Plaintiff and members of the Class were induced to purchase Defendant's Product, and have suffered damages to be determined at trial, in that, among other things, they have been deprived of the benefit of their bargain because they bought a Product that was not what it was represented to be, and Plaintiff and members of the Class have spent money on the Product, which, because of the presence of the above-described unnatural, synthetic, and/or genetically modified ingredients in it, had less value than was reflected in the premium purchase price they paid for the Product.

100. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant's negligent misrepresentations.

VIII. THIRD CAUSE OF ACTION:
BREACH OF EXPRESS WARRANTY

101. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

102. Defendant has expressly represented that the Product is "All Natural" and "GMO Free" when in fact, the Product contains unnatural, synthetic, artificial, and genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

103. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time the same leaves Defendant's possession until the Product arrives in stores to be sold to consumers.

104. Plaintiff is informed and believes, and thereon alleges, that Defendant made an express warranty, including that the Product is "All Natural" and "GMO Free."

105. Defendant breached its express warranty by claiming that the Product is "All Natural" and "GMO Free" because the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients.

106. As a proximate result of the failure of the Product to perform as expressly warranted by Defendant, Plaintiff and members of the Class have suffered actual damages in an amount to be determined at trial, in that they were induced to purchase a product they would not have purchased had they known the true facts about it, and have spent money on a Product that was not what it was represented to be and that lacks the value Defendant represented the Product to have.

107. Plaintiff gave timely notice to Defendant of its breach of express warranty

individually and on behalf of all members of the Plaintiff Class, directly through a Notice letter sent to Defendant on or about February 4, 2015.

108. Plaintiff seeks all available remedies, damages, and awards as a result of Defendant's breach of express warranty.

IX. FOURTH CAUSE OF ACTION: VIOLATION OF THE MAGNUSON-MOSS WARRANTY ACT (15 U.S.C. §§ 2301 *et seq.*)

109. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

110. Defendant has breached express warranties regarding the Product, as described in the third cause of action above.

111. Defendant has expressly represented that the Product is "All Natural" and "GMO Free" when in fact, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

112. Plaintiff and the Class are consumers as defined in 15 U.S.C. § 2301(3).

113. Defendant is a supplier and warrantor as defined in 15 U.S.C. § 2301(4)(5).

114. The Product is a consumer product as defined in 15 U.S.C. § 2301(6).

115. By reason of Defendant's breach of express warranty, Defendant has violated the statutory rights due to Plaintiff and members of the Class pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C.§§ 2301 *et seq.*, thereby causing damages to Plaintiff and the Class.

116. Plaintiff gave timely notice to Defendant of its breach of express warranty

individually and on behalf of all members of the Plaintiff Class, directly through a Notice letter sent to Defendant on or about February 4, 2015.

117. Therefore, Plaintiff and the Class seek all available remedies, damages, and awards under the Magnuson-Moss Warranty Act.

X. FIFTH CAUSE OF ACTION: UNJUST ENRICHMENT

118. Plaintiff re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs numbered one (1) through seventy (70) of this Complaint as if fully set forth herein verbatim.

119. In its marketing and advertising, Defendant has made false and misleading statements and/or omissions regarding the Product, as described herein.

120. Defendant has represented that the Product is "All Natural" and "GMO Free" when in fact, the Product contains unnatural, synthetic, artificial, and/or genetically modified ingredients, including, but not limited to, Maltodextrin, Whole Grain Corn Flour, BBQ Seasoning, (Corn Starch, Caramel Color, Soybean Oil), and Vegetable Oil (Contains one or more of the following: Canola, Corn, Sunflower, Safflower).

121. The Product is marketed directly to consumers by Defendant, comes in sealed packages, and does not change from the time the same leaves Defendant's possession until the Product arrives in stores to be sold to consumers.

122. Plaintiff and Class Members conferred a benefit on Defendant by purchasing the Product. Defendant accepted and retained the benefit in the amount of the purchase price and/or profits it earned from sales of the Product to Plaintiff and other Class members.

123. Defendant profited from its unlawful, unfair, misleading, and deceptive practices and advertising at the expense of Plaintiff and Class members, under circumstances in which it

would be unjust for Defendant to be permitted to retain said benefit.

124. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact and has lost money or property as a result of Defendant's actions, as set forth herein. Defendant is aware that the claims and/or omissions that it makes about the Product is false, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class.

125. Plaintiff and Class members do not have an adequate remedy at law against Defendant (in the alternative to the other causes of action alleged herein).

126. Accordingly, the Product is valueless such that Plaintiff and Class members are entitled to restitution in an amount not less than the purchase price of the Product paid by Plaintiff and Class members during the Class Period.

127. Plaintiff and Class members are entitled to restitution of the excess amount paid for the Product, over and above what they would have paid if the Product had been adequately advertised, and Plaintiff and Class members are entitled to disgorgement of the profits Defendant derived from the sale of the Product.

XI. PRAYER FOR RELIEF

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

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

2. For an award of equitable relief for all causes of action as follows:

(a) Enjoining Defendant from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the design, testing,

manufacture, assembly, development, marketing, advertising, or sale of the Product for the purpose of selling the Product in such manner as set forth in detail above, or from making any claims found to violate FDUTPA or the other causes of action as set forth above;

(b) Requiring Defendant to make full restitution of all monies wrongfully obtained as a result of the conduct described in this Complaint;

(c) Restoring all monies that may have been acquired by Defendant as a result of such unfair and/or deceptive act or practices; and

(d) Requiring Defendant to disgorge all ill-gotten gains flowing from the conduct described herein.

3. For actual damages in an amount to be determined at trial for all causes of action;

4. For an award of attorney's fees and costs;

5. For any other relief the Court might deem just, appropriate, or proper; and

6. For an award of pre- and post-judgment interest on any amounts awarded**.**

XII. DEMAND FOR JURY TRIAL

Plaintiff respectfully demands a jury trial on all issues so triable.

Respectfully Submitted By,

Dated: April 6, 2015

/s/ Michael T. Fraser

Michael T. Fraser, Esq.
Fla. Bar No.: 87411
THE FRASER LAW FIRM, P.C
4120 Douglas Blvd., Ste. 306-262
Granite Bay, CA 95746
(888) 557-5115
(866) 212-8434 (fax)
Email: *mfraser@thefraserlawfirm.net*

Attorneys for Plaintiff Susan Lynn Slavinski and the Proposed Class

JS 44 (Rev. 12/12)

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.)* **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS SUSAN LYNN SLAVINSKI, as an individual and on behalf of all others similarly situated

DEFENDANTS NATURAL & TASTY, LLC

(b) County of Residence of First Listed Plaintiff Palm Beach County, Florida *(EXCEPT IN U.S. PLAINTIFF CASES)*

County of Residence of First Listed Defendant Essex County, New Jersey *(IN U.S. PLAINTIFF CASES ONLY)*

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
The Fraser Law Firm, P.C., 4120 Douglas Blvd., Suite 306-262, Granite Bay, CA 95746, (888) 557-5115

Attorneys *(If Known)*

(d) Check County Where Action Arose: ☐ MIAMI- DADE ☐ MONROE ☐ BROWARD ☑ PALM BEACH ☐ MARTIN ☐ ST. LUCIE ☐ INDIAN RIVER ☐ OKEECHOBEE ☐ HIGHLANDS

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☑ 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)*

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☑ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

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

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☒ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Med. Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence

Other:
- ☐ 530 General
- ☐ 535 Death Penalty
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee – Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

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

☑ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Re-filed **(See VI below)** ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district *(specify)* ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment ☐ 8 Remanded from Appellate Court

VI. RELATED/ RE-FILED CASE(S)

(See instructions): a) Re-filed Case ☐YES ☑NO b) Related Cases ☐YES ☑NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause ***(Do not cite jurisdictional statutes unless diversity)***:
False labeling of a food product. Trial is estimated to be 10 days.
LENGTH OF TRIAL via days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

☑ CHECK IF THIS IS A **CLASS ACTION** UNDER F.R.C.P. 23

DEMAND $ 5,000,001.00

CHECK YES only if demanded in complaint:
JURY DEMAND: ☑ Yes ☐ No

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

DATE: April 6, 2015

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # AMOUNT IFP JUDGE MAG JUDGE