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U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

KORMAN, J.

GO, M.J.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

VINCENT RIEDEL and JOHN DOES 1-100,
individually and on behalf of all others similarly situated,

Plaintiff,

v.

LUCINI ITALIA COMPANY,

Defendant.

Case No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, VINCENT RIEDEL, individually and on behalf of all others similarly situated in the United States of America, by and through his undersigned counsel, hereby brings this class action against Defendant, LUCINI ITALIA COMPANY (hereinafter, "LUCINI" or "Defendant"), and alleges the following upon his own knowledge, or where he lacks personal knowledge, upon information and belief, including the investigation of his counsel:

NATURE OF THE ACTION

1. Consumers attribute a wide range of benefits to foods made entirely of natural ingredients. Consumers perceive all-natural foods to be higher quality, healthier, safer to eat and less damaging to the environment.

2. In a survey conducted by the Shelton Group in 2009, the most popular food label among consumers was "100% natural."[1] "All natural ingredients" was the second most popular food label among consumers and both of those labels beat out "Contains natural ingredients."[2]

3. While food manufacturers have sought to capitalize on this fast-growing market for natural products, now a multi-billion dollar industry, not all manufacturers truthfully represent the nature and quality of their products. Some manufacturers seek to capture a share of the market by touting their products as "All Natural" when in fact, they are not.

4. LUCINI ITALIA COMPANY is an example of a manufacturer who has sought to exploit the market for natural products. At all material times hereto, LUCINI has unlawfully, fraudulently, unfairly, misleadingly, and/or deceptively represented that its Lucini® products contain"100% Natural Ingredients" when they contain Citric Acid, a non-natural, chemically processed ingredient.

5. Defendant sold Plaintiffs and Class members, and continues to sell consumers the following products with misleading "100% Natural Ingredients" language:

   i. Lucini® Delicate Cucumber & Shallot Vinaigrette
   ii. Lucini® Bold Parmesan & Garlic Vinaigrette
   iii. Lucini® Tuscan Balsamic Vinaigrette (collectively, the "Products").

Such Products are detailed under **EXHIBIT A**.

6. Merriam-Webster's Dictionary defines "natural"[3] as an adjective as follows:

   i. "existing in nature and not made or caused by people : coming from nature"

   ii. "not having any extra substances or chemicals added : not containing anything artificial"

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[1] *See, e.g.*, Consumers Prefer'100% Natural' Label Over 'Organic', Environmental Leader (Jul. 3, 2009), http://environmentalleader.com/2009/07/03/consumers-prefer-100-natural-label-over-organic (describing EcoPulse market report by Shelton Group) (last visited March 10, 2014).

[2] *Id.*

[3] *See* http://www.merriam-webster.com/dictionary/natural (last visited October 19, 2015).

7. Merriam-Webster's Dictionary defines "synthetic"[4] as an adjective as follows:

i. "made by combining different substances : not natural"

8. Merriam-Webster's Dictionary defines "artificial"[5] as an adjective as follows:

i. "not natural or real : made produced, or done to seem like something natural"

ii. "not happening or existing naturally : created or caused by people"

9. As demonstrated by the definitions above, and believed by Plaintiffs and other reasonable consumers, the term "natural" does not apply to products that contain artificial or synthetic ingredients, which are not natural by their very definitions.

10. The term "natural" only applies to those products that contain no natural or synthetic ingredients and consist entirely of ingredients that are only minimally processed. Defendant however, deceptively used the term "natural" to describe a product containing ingredients that have been either extensively chemically processed or fundamentally altered from their natural state and thus cannot be considered "minimally processed." The use of the term "natural" to describe such product creates consumer confusion and is misleading. Plaintiff alleges that the Defendant dishonestly describes its Lucini® Products as containing "100% Natural Ingredients" when, in fact, they are not.

11. At all material times hereto, Defendant has manufactured, marketed and distributed its Lucini® Products (herein, referred to collectively as "Products") with labels that claim the Products contain "100% Natural Ingredients" when the Products certainly do not contain "100% Natural Ingredients." The presence of Citric Acid, a synthetic and/or artificial ingredient in

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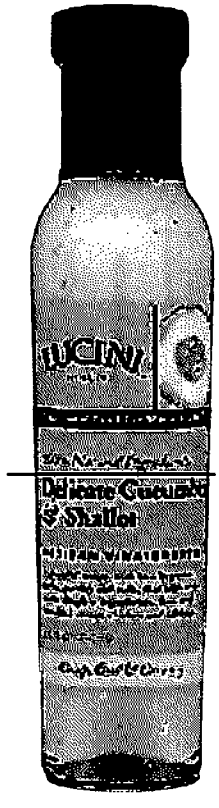
[4] *See* http://www.merriam-webster.com/dictionary/synthetic (last visited October 19, 2015).
[5] *See* http://www.merriam-webster.com/dictionary/artificial (last visited October 19, 2015).

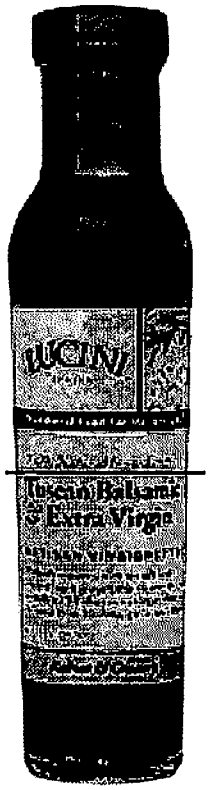
Defendant's Lucini® Products causes it to not be natural, rendering Defendant's claim false, misleading, and likely to deceive reasonable consumers.

12. By marketing the Lucini® Products as containing "100% Natural Ingredients," Defendant is taking wrongful advantage of consumers' strong preference for foods made entirely of natural ingredients.

13. As shown below, the representation that the Lucini® Products contain "100% Natural Ingredients" is central to the marketing of the Products and is clearly and prominently displayed on the front packaging, where it cannot be missed by consumers:




UCINI
Bold Parmesan
& Garlic



See also **EXHIBIT A.**

14. Defendant has unjustly profited in the lucrative market for natural foods by misleadingly labeling its Lucini® Products as containing "100% Natural Ingredients" and selling it to consumers who sought to purchase products made from ingredients that are naturally occurring and who were willing to pay more for such foods.

15. This lawsuit seeks redress for the deceptive manner in which Defendant has and continues to market its Lucini® Products to the general public. Plaintiffs bring this proposed consumer class action individually and on behalf of all other persons nationwide, who, from the applicable limitations period up to and including the present ("Class Period"), purchased Lucini® Products for consumption and not resale.

16. Plaintiff seeks to secure, among other things, equitable and declaratory relief, restitution, and alternative damages, for similarly situated United States purchasers, against Lucini, for (1) deceptive acts or practices in violation of New York's Deceptive Acts or Practices Law, Gen. Bus. Law § 349, *et seq.* ("NY GBL"); (2) Negligent Misrepresentation; (3) Breach of Express Warranty; (4) Violation of the Magnusson-Moss Warranty Act, 15 U.S.C. §§ 2301 *et. seq.*; and (5) Unjust Enrichment. In addition to damages, Plaintiff is seeking an Order requiring Defendant to cease using synthetic or artificial ingredients in its Lucini® Products, and/or Ordering Defendant to cease from representing that its Products contain "100% Natural Ingredients" on the packaging while they contain heavily chemically processed, synthetic or artificial ingredients.

17. Plaintiffs expressly does not seek to contest or enforce any state law that has requirements beyond those required by federal laws or regulations.

JURISDICTION AND VENUE

18. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because this is a class action, as defined by 28 U.S.C § 1332(d)(1)(B), in which a member of the putative class is a citizen of a different state than Defendant, and the amount in controversy exceeds the sum or value of $5,000,000, excluding interest and costs. *See* 28 U.S.C. § 1332(d)(2).

19. 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.

20. 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.

21. 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.

22. This Court has personal jurisdiction over Plaintiff because Plaintiff submits to the Court's jurisdiction. This Court has personal jurisdiction over Defendant, pursuant to New York Statute N.Y. CVP. Law § 302, because it conducts substantial business in this District, some of the actions giving rise to the Complaint took place in this District, and some of Plaintiff's claims arise out of Defendant 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 Defendant's acts and omissions outside this state. Additionally, this court has personal jurisdiction over Defendant because its Product is advertised, marketed, distributed, and sold throughout New York State; Defendant engaged in the wrongdoing alleged in this Complaint throughout the United States, including in New York State; and Defendant has sufficient minimum contacts with New York and/or otherwise have intentionally availed itself 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, Defendant is engaged in substantial and not isolated activity within New York State.

23. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to these claims occurred in this District, the Defendant has caused harm to class members residing in this District, and the Defendant is residents of this District under 28 U.S.C. 1391(c)(2) because it is subject to personal jurisdiction in this district.

PARTIES

Plaintiffs

24. Plaintiff RIEDEL is, and at all times relevant hereto has been, a citizen of the State of New York and resides in Suffolk County. During the Class Period, Plaintiff RIEDEL purchased a LUCINI® Product for personal consumption within the State of New York. Plaintiff purchased the Product from an online grocery store, Worldpantry.com. The purchase price was approximately $5.99 (or more) for an individual bottle of the Delicate Cucumber and Shallot Vinaigrette Product. Plaintiff RIEDEL purchased the Product at a premium price and was financially injured as a result of Defendant's deceptive conduct as alleged herein. Further, should Plaintiff RIEDEL encounter the Product in the future, he could not rely on the truthfulness of the packaging, absent corrective changes to the packaging. However, Plaintiff RIEDEL would still be willing to purchase the current formulation of the Product, absent the price premium, so long as Defendant engages in corrective advertising.

25. Plaintiffs JOHN DOES 1-100 are, and at all times relevant hereto has been, citizens of the any of the fifty states and the District of Columbia. During the Class Period, Plaintiffs JOHN DOES 1-100 purchased the Product for personal consumption or household use within the United States. Plaintiffs purchased the Product at a premium price and were financially injured as a result of Defendant's deceptive conduct as alleged herein.

Defendant

26. Defendant LUCINI ITALIA COMPANY is a corporation organized under the laws of Illinois with its headquarters at 1367 East Lassen Suite A-1, Chico, CA 95973 and an address for service of process at 222 South Riverside Plaza Suite 2100, Chicago, IL 60606.

Defendant develops, markets and sells food products under the "Lucini®" brand name throughout the United States.

27. Defendant owns, manufactures and distributes Lucini® Products, and created and/or authorized the unlawful, fraudulent, unfair, misleading and/or deceptive labeling and advertising for the Product. The product label for Lucini® Products, relied upon by Plaintiff, was prepared and/or approved by Defendant and its agents, and was disseminated by Defendant and its agents with the "100% Natural Ingredients" misrepresentation alleged herein. The Product label was designed to encourage consumers to purchase Lucini® Products and reasonably misled Plaintiff and the Class into purchasing the Product.

28. Plaintiff alleges that, at all times relevant herein, LUCINI ITALIA COMPANY and its subsidiaries, affiliates, and other related entities, as well as their respective employees, were the agents, servants and employees of LUCINI ITALIA COMPANY, and at all times relevant herein, each was acting within the purpose and scope of that agency and employment. Plaintiff further alleges on information and belief that at all times relevant herein, the distributors who delivered and sold the Products, as well as their respective employees, also were LUCINI ITALIA COMPANY's agents, servants and employees, and at all times herein, each was acting within the purpose and scope of that agency and employment. In addition, Plaintiff alleges that, in committing the wrongful acts alleged herein, LUCINI ITALIA COMPANY, 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 LUCINI ITALIA COMPANY participated in the making of such representations in that it disseminated those misrepresentations and/or caused them to be disseminated.

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

FACTUAL ALLEGATIONS

Defendant's Advertising of Lucini® Products

30. LUCINI ITALIA COMPANY manufactures, distributes, markets, advertises and sells Lucini® Products with a claim that it contains "100% Natural" ingredients. The Product is available at grocery stores, food chains, convenience stores, drug stores and other retail outlets throughout the United States as well as on Defendant's "Lucini e-store" (http://shop.lucini.com/Vinaigrettes/c/Lucini@Vinaigrettes).

31. Defendant's "100% Natural" statement, displayed on the front of the Lucini® Products packaging for the Product, is untrue, misleading, and likely to deceive reasonable consumers, such as Plaintiff and members of the Class, because the Products do not contain "100% Natural Ingredients" due to the presence of Citric Acid, a synthetic and/or artificial ingredient in the Product.

32. As the "100% Natural Ingredients" statement on the Product is clearly and prominently displayed on the front of each individual bottle of Lucini® Products, Plaintiff and all consumers within the Class who purchased the Product were exposed to the same misleading "100% Natural" claim.

33. Plaintiff and the Class were charged a price premium for the allegedly "100% Natural" Product over products that did not claim to be "100% Natural."

34. Defendant's "100% Natural Ingredients" representation conveys a series of express claims which Defendant knows are material to the reasonable consumer, and which Defendant intends for consumers to rely upon when choosing to purchase Lucini® Products.

Lucini® Products Are Not Natural

35. The United States Food and Drug Administration ("FDA"), which has responsibility for regulating the labeling of food products such as the Lucini® Products sold by Defendant, has not promulgated a regulation defining the terms "natural" or "100% Natural." Courts and trade members have requested that the FDA provide a regulatory definition of the term, but, the FDA has declined to provide a determination because the time required to conduct a public hearing "would take two to three years to complete," and the agency's resources are currently devoted to other, higher priorities.[6] However, the agency has established a policy defining the outer boundaries of the use of the term "natural" by clarifying when a product is not natural.

36. With regard to the meaning of "natural" on a food label, the agency has said as follows: "FDA has not developed a definition for use of the term natural or its derivatives. However, the agency has not objected to the use of the term **if the food does not contain added color, artificial flavors, or synthetic substances.**"[7] Other informal guidance issued by the FDA on the term "natural" in the context of food has also understood it "as meaning that nothing

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[6] *See* Letter from Michael M. Landa, Acting Director, Center for Food Safety and Applied Nutrition to Judge Jerome B. Simandle dated September 16, 2010, filed in *Ries et al., v. Hornell Brewing Co., Inc.*, Case No. 10-1139 (N.D. Cal.), Docket No. 54.

[7] http://www.fda.gov/AboutFDA/Transparency/Basics/ucm214868.htm

artificial or synthetic (including all color additives regardless of source) has been included in , or has been added to, a food that would not normally be expected to be in the food." [8]

37. Thus, although there is not an exacting definition of "natural" in reference to food, there is no reasonable definition of "natural" that includes ingredients that, even if sourced from "nature" (as all product ingredients must be), are subjected to extensive transformative chemical processing before their inclusion in a product. For example, the National Advertising Division of the Better Business Bureau ("NAD") has found that a "natural" ingredient does *not* include one that, while "literally sourced in nature (as is every chemical substance), . . . is, nevertheless subjected to extensive processing before metamorphosing into the" ingredient that is included in the final product. *Tom's of Maine (Tom's of Maine Natural Mouthwash)*, Report #3470, NAD/CARU Case Reports 4 (June 1998).

38. Similar to the FDA, the United States Department of Agriculture ("USDA"), which regulates the labeling of meat and poultry, has also set limits on the use of the term "natural."

39. The USDA has issued a Foods Standards and Labeling Policy Book (Aug. 2005) for products it regulates, which states that the term "natural" may be used on labeling for products that contain processed ingredients only where such ingredients are subjected to "minimal" processing. *See* Office of Pol'y, Program & Emp. Dev. Food Safety & Inspection Serv., U.S. Dep't of Agric., *Food Standards and Labeling Policy Book* (2005).[9] According to the USDA, "[m]inimal processing may include: (a) those traditional processes used to make food edible or to preserve it or to make it safe for human consumption, e.g., smoking, roasting, freezing, drying,

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[8] *See* Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food, 58 Fed. Reg. 2302, 2407 (Jan. 6, 1993), available at http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/FoodAdvisoryCommittee/UCM248504.pdf.

[9] *See United States Department of Agriculture Food Standards and Labeling Policy book* available at http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf (last visited October 26, 2015).

and fermenting, or (b) those physical processes which do not fundamentally alter the raw product and/or which only separate a whole, intact food into component parts, e.g., grinding meat, separating eggs into albumen and yolk, and pressing fruits to produce juices."[10] However, "[r]elatively severe processes, e.g., solvent extraction, acid hydrolysis and chemical bleaching would clearly be considered more than minimal processing."[11]

40. Under the USDA's guidelines, if a product is severely processed, the product can be labeled "100% Natural" if the ingredient would not significantly change the character of the product to the point that it could no longer be considered a natural product. However, even in that case, "***the natural claim must be qualified to clearly and conspicuously identify the ingredient, e.g., all natural or all natural ingredients except dextrose, modified food starch, etc.***"[12] (emphasis added).

41. The terms "synthetic" and "artificial" closely resemble each other and in common parlance are taken as synonymous. The scientific community defines "artificial" as something not found in nature, whereas a "synthetic" is defined as something man-made, whether it merely mimics nature or is not found in nature.[13]

42. Congress has defined "synthetic" to mean "a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes." 7 U.S.C. § 6502(21). *See also* C.F.R. § 205.1, *et seq* defining, in USDA's National Organic Program

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[10] *Id.*
[11] *Id.*
[12] United States Department of Agriculture Food Standards and Labeling Policy book, available at http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf (last visited October 23, 2015).
[13] Peter E. Nielsen, *Natural-synthetic-artificial!*, Artificial DNA: PNA & XNA, Volume 1, Issue 1 (July/August/September 2010), available at http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3109441/

regulations, a "nonsynthetic (natural)" as "[a] substance that is derived from mineral, plant or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. § 6502(21)").

43. In addition to defining "synthetic," federal authorities have also expressly recognized certain chemicals as synthetics.

44. Citric acid (2-hydroxy-propane-1,2,3-tricarboxylic acid) is a synthetic, non-natural ingredient. While the chemical's name has the word "citric" in it, citric acid is no longer extracted from the citrus fruit but industrially manufactured by fermenting certain genetically mutant strains of the black mold fungus, *Aspergillus niger*.

45. A technical evaluation report for the substance citric acid compiled by the United States Department of Agriculture, Agricultural Marketing Service ("USDA AMS") for the National Organic Program classified citric acid as "Synthetic Allowed". See **EXHIBIT B**, Page 4, available at http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5067876. As one of the USDA AMS reviewers commented,

> "[Citric acid] is a natural[ly] occurring substance that commercially goes through numerous chemical processes to get to [its] final usable form. This processing would suggest that it be classified as synthetic." Id. at 3.

The report further explains, under the "How Made" question, that citric acid is made –

> "Traditionally by extraction from citrus juice, no longer commercially available. It is now extracted by fermentation of a carbohydrate substrate (often molasses) by citric acid bacteria, Aspergillus niger (a mold) or Candida guilliermondii (a yeast). Citric acid is recovered from the fermentation broth by a lime and sulfuric acid process in which the citric acid is first precipitated as a calcium salt and then reacidulated with sulfuric acid." Id. at 4.

46. Because Citric Acid is a synthetic acid and cannot be reasonably considered a natural ingredient, Defendants' claim that the Products contain "100% Natural Ingredients" is false, deceptive, and misleading, and the Products are misbranded under federal and state law.

47. As Lucini® Products contains Citric Acid, a synthetic and/or artificial ingredient, the claim that the Products contain "100% Natural Ingredients" is both literally false and misleading under any reasonable definition of "natural."

The "100% Natural Ingredients" Claim on Lucini® Products is Material to Reasonable Consumers

48. American consumers are health conscious and look for wholesome, natural foods to keep a healthy diet, so they frequently take nutrition information into consideration in selecting and purchasing food items. Product package labels, including nutrition labels, are vehicles that convey nutrition information to consumers that they can and do use to make purchasing decisions. As noted by FDA commissioner Margaret Hamburg during an October 2009 media briefing, "[s]tudies show that consumers trust and believe the nutrition facts information and that many consumers use it to help them build a healthy diet."

49. The prevalence of claims about nutritional content on food packaging in the United States has increased in recent years as manufacturers have sought to provide consumers with nutrition information and thereby influence their purchasing decisions. The results of a recent FDA Food Label and Package Survey found that approximately 4.8% of food products sold in the United States had either a health claim or a qualified health claim on the food package, and that more than half (53.2%) of the food products reviewed had nutrient content claims on the packaging.

50. American consumers are increasingly seeking "All Natural" ingredients in the foods they purchase. Although this segment of the health food market was once a niche market, natural foods are increasingly becoming part of the mainstream food landscape. According to *Natural Foods Merchandiser*, a leading information provider for the natural, organic and healthy products industry, the natural food industry enjoyed over $81 billion in total revenue in 2010,

and grew over 7% in 2009.[14] The market for all natural and organic foods grew 9% in 2010 to $39 billion, and 2010 sales were 63% higher than sales in 2005.[15]

51. Consumers desire "All Natural" ingredients in food products for a myriad of reasons, including wanting to live a healthier lifestyle, perceived benefits in avoiding disease and other chronic conditions, as well as to increase weight loss and avoid chemical additives in their food. The "All Natural" branding also appears to appeal to individual consumers' interest in supporting sustainable living and environmentally sensitive food consumption, helping the environment, assisting local farmers, assisting factory workers who would otherwise be exposed to synthetic and hazardous substances, and financially supporting the companies that share these values. As a result, consumers are willing to pay a higher price for "All Natural" food and beverages.

52. According to an article in *The Economist*, "natural" products are a fast growing market because of the power of "mother nature" in the hands of marketers, which conjures up images of heart-warming wholesomeness and rustic simplicity.[16]

53. As a result of Defendant's deception, consumers – including Plaintiffs and members of the proposed Class – have purchased Products that contain synthetic or highly chemically processed ingredients in reliance on Defendant's "100% Natural Ingredients" claims. Moreover, Plaintiffs and Class members have paid a premium for the Products over other similar food products sold on the market. A sample of other similar food products are provided below:

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[14] *See Natural and Organic Products Industry Sales Hit $81 Billion*, Natural Foods Merchandiser, (June 1, 2011), available at: http://www.prnewswire.com/news-releases/natural-and-organic-products-industry-sales-hit-81-billion-122958763.html

[15] http://www.marketwired.com/press-release/natural-and-organic-food-and-beverage-market-to-double-by-2015-1525854.htm (last visited October 26, 2015).

[16] *Chemical Blessings: What Rousseau got Wrong*, The Economist, (October 26, 2015) available at: http://www.economist.com/node/10633398

Product	Price	Retailer
Newman's Own Creamy Caesar Dressing	$3.28	Walmart.com
Wish-Bone Salad Dressing, Light Raspberry Walnut Vinaigrette	$3.97	Amazon.com
Lucini® Delicate Cucumber and Shallot Vinaigrette	**$5.99**	**WorldPantry.com**

54. By representing that the Products contained "100% Natural Ingredients," Defendant sought to capitalize on consumers' preference for natural Products and the association between such Products and a wholesome way of life. Consumers are willing to pay more for natural Products because of this association as well as the perceived higher quality, health and safety benefits and low impact on the environment associated with products labeled as "Natural."

Defendant Deceptively Advertises on the Labeling of Lucini® Products that the Products Contain "100% Natural Ingredients" to Induce Consumers to Purchase the Products

55. The Products were labeled with the "100% Natural Ingredients" claim yet contain synthetic, non-natural and extensively processed ingredient Citric Acid.

56. The "100% Natural Ingredients" claims appear on the labels and Product pages of the Products, as shown in **EXHIBIT A.**

57. Within the last twelve months, Plaintiffs purchased various Lucini® Products. Plaintiffs were attracted to these Products because they prefer to consume and use natural products for health reasons. Plaintiffs believe that all natural products contain only ingredients that occur in nature or are minimally processed and that they would not include Folic Acid, Citric Acid amongst such ingredients. As a result, the Products with their deceptive "Natural" claims on the Product packaging had no value to Plaintiffs. Defendant marketed the Products as containing"100% Natural Ingredients" to induce consumers to purchase the Products.

Plaintiffs Relied on Defendant's "All Natural" Statement

58. Under the FDCA, the term "false" has its usual meaning of "untruthful," while the term "misleading" is a term of art. Misbranding reaches not only false claims, but also those claims that might be technically true, although still misleading. If any one representation in the labeling is misleading, the entire food is misbranded. No other statement in the labeling cures a misleading statement. "Misleading" is judged in reference to "the ignorant, the unthinking and the credulous who, when making a purchase, do not stop to analyze." *United States v. El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (9th Cir. 1951). Under the FDCA, it is not necessary to prove that anyone was actually misled. New York law similarly does not require proof of actual reliance. *See Pelman ex rel. Pelman v. McDonald's Corp.*, 396 F. Supp. 2d 439, 445 (S.D.N.Y. 2005).

59. New York and federal law have placed similar requirements on food companies that are designed to ensure that the claims companies are making about their products to consumers are truthful and accurate.

60. Defendant's labeling and advertising of the Products violate various state laws against misbranding. New York State law broadly prohibits the misbranding of food in language identical to that found in regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 et seq.:

> *Pursuant to N.Y. State Education Law § 6815, "[f]ood shall be deemed to be misbranded: 1. If its labeling is false or misleading in any particular..."*

61. Defendant's Products were misbranded under New York law because they misled Plaintiff and Class members about the naturalness of the Products.

62. Although Defendant marketed the Products as containing"100% Natural Ingredients", they failed to also disclose material information about the Products; the fact that they contained

unnatural, synthetic, and/or artificial ingredients. This non-disclosure, while at the same time branding the Products as containing"100% Natural Ingredients" was deceptive and likely to mislead a reasonable consumer.

63. A representation that a product is contains"100% Natural Ingredients" is material to a reasonable consumer when deciding to purchase a product. According to Consumers Union, "Eighty-six percent of consumers expect a 'natural' label to mean processed foods do not contain any artificial ingredients."[17]

64. Plaintiffs did, and a reasonable consumer would, attach importance to whether Defendant's Products are "misbranded," i.e., not legally salable, or capable of legal possession, and/or contain highly processed ingredients.

65. Plaintiffs did not know, and had no reason to know, that the Products did not contain "100% Natural Ingredients".

66. Defendant's Product labeling and misleading website was a material factor in Plaintiffs' and Class members' decisions to purchase the Products. Relying on Defendant's Product labeling and misleading website, Plaintiffs and Class members believed that they were getting Products that contained "100% Natural Ingredients". Had Plaintiffs known Defendant's Products were highly processed, they would not have purchased them.

67. Defendant's Product labeling as alleged herein is deceptive and misleading and was designed to increase sales of the Products. Defendant's misrepresentations are part of their systematic Product packaging practice.

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[17] Notice of the Federal Trade Commission, Comments of Consumers Union on Proposed Guides for Use of Environmental Marketing Claims, 16 CFR § 260, Dec. 10, 2010, http://www.ftc.gov/os/comments/greenguiderevisions/00289-57072.pdf (last visited August 9, 2014).

68. At the point of sale, Plaintiffs and Class members did not know, and had no reason to know, that the Products were misbranded as set forth herein, and would not have bought the Products had they known the truth about them.

69. Defendant's false and deceptive labeling is misleading and in violation of FDA and consumer protection laws of each of the 50 states and the District of Columbia, and the Products at issue are misbranded as a matter of law. Misbranded products cannot be legally manufactured, advertised, distributed, held or sold in the United States. Plaintiffs and Class members would not have bought the Products had they known they were misbranded and illegal to sell or possess.

70. As a result of Defendant's misrepresentations, Plaintiffs and thousands of others throughout the United States purchased the Products.

71. Plaintiffs and the Class (defined below) have been damaged by Defendant's deceptive and unfair conduct in that they purchased Products with false and deceptive labeling and paid premium prices they otherwise would not have paid over other comparable products that did not claim to contain "100% Natural Ingredients".

CLASS ACTION ALLEGATIONS

The Nationwide Class

72. Plaintiffs bring this action as a class action pursuant to 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

73. Plaintiff RIEDEL seek 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 proposed Classes exclude current and former officers and directors of Defendant, members of the immediate families of the officers and directors of Defendant, Defendant's legal representatives, heirs, successors, assigns, and any entity in which they have or have had a controlling interest, and the judicial officer to whom this lawsuit is assigned.

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

75. 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.

76. Questions of law and fact arise from Defendant's 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 labeling "100% Natural Ingredients" on Products containing the synthetic or highly processed ingredient, Citric Acid, was false and misleading;

b. whether Defendant engaged in a marketing practice intended to deceive consumers by labeling "100% Natural Ingredients" on Products containing the synthetic or highly processed ingredient Citric Acid;

c. whether Defendant deprived Plaintiffs and the Class of the benefit of the bargain because the Products purchased were different than what Defendant warranted;

d. whether Defendant deprived Plaintiffs and the Class of the benefit of the bargain because the Products they purchased had less value than what was represented by Defendant;

e. whether Defendant caused Plaintiffs and the Class to purchase a substance that was other than what was represented by Defendant;

f. whether Defendant caused Plaintiffs and the Class to purchase Products that were artificial, synthetic, or otherwise unnatural;

g. whether Defendant has been unjustly enriched at the expense of Plaintiffs and other Class members by their misconduct;

h. whether Defendant must disgorge any and all profits they have made as a result of their misconduct; and

i. whether Defendant should be barred from marketing the Products as containing "100% Natural Ingredients".

77. 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 Defendant's Products and sustained similar injuries arising out of Defendant's conduct in violation of New York State law. Defendant's 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 Defendant's wrongful misconduct. In addition, the factual underpinning of Defendant's misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all members of the Class. Plaintiffs' 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.

78. Plaintiffs will fairly and adequately represent and pursue the interests of the Class and have 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.

79. 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.

80. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(2) are met, as Defendant 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.

81. 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.

82. 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 Defendant. 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.

83. Defendant's 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, Defendant's 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)

84. Plaintiff RIEDEL realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

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

86. 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."

87. Under the § 349, it is not necessary to prove justifiable reliance. ("To the extent that the Appellate Division order imposed a reliance requirement on General Business Law [§] 349 ... claims, it was error. Justifiable reliance by the plaintiff is not an element of the statutory claim." *Koch v. Acker, Merrall & Condit Co.*, 18 N.Y.3d 940, 941 (N.Y. App. Div. 2012) (internal citations omitted)).

88. Any person who has been injured by reason of any violation of the NY GBL may bring an action in their own name to enjoin such unlawful act or practice, an action to recover their 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.

89. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that their Products contain "100% Natural Ingredients" ingredients were unfair, deceptive, and misleading and are in violation of the NY GBL § 349.

90. The foregoing deceptive acts and practices were directed at customers.

91. Defendant should be enjoined from marketing their products as containing "100% Natural Ingredients" as described above pursuant to NY GBL § 349.

92. Plaintiff RIEDEL, on behalf of himself and all others similarly situated, respectfully demands a judgment enjoining Defendant's conduct, awarding costs of this proceeding and attorneys' fees, as provided by NY GBL, 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)

93. Plaintiff RIEDEL realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

94. Plaintiff RIEDEL brings this claim on behalf of himself and the other members of the Class for violations of NY GBL § 349.

95. Defendant's business act 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.

96. The practices of Defendant 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. Defendant 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 and the Class about facts that could not reasonably be known by them;

b. Defendant knowingly and falsely represented and advertised that the Products contain "100% Natural Ingredients" with an intent to cause Plaintiff and the Class to believe that they are made with unadulterated, unprocessed ingredients, even though they are not;

c. Defendant failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;

d. Defendant caused Plaintiff and the Class to suffer a probability of confusion and a misunderstanding of legal rights, obligations and/or remedies by and through their conduct;

e. Defendant failed to reveal material facts to Plaintiff and the Class with the intent that Plaintiff and the Class rely upon the omission;

f. Defendant made material representations and statements of fact to Plaintiff and the Class that resulted in Plaintiff and the Class reasonably believing the represented or suggested state of affairs to be other than what they actually were; and

g. Defendant intended that Plaintiff and the members of the Class rely on their misrepresentations and omissions, so that Plaintiff and Class members would purchase the Products.

97. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that its Products contain "100% Natural Ingredients" were unfair, deceptive, and misleading and are in violation of NY GBL § 349.

98. Under all of the circumstances, Defendant's 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.

99. Defendant's actions impact the public interest because Plaintiff and members of the Class were injured in exactly the same way as thousands of others purchasing the Product as a result of and pursuant to Defendant's generalized course of deception.

100. By committing the acts alleged in this Complaint, Defendant have misled Plaintiff and the Class into purchasing the Products, in part or in whole, due to an erroneous belief that the

Products contain "100% Natural Ingredients". This is a deceptive business practice that violates NY GBL § 349.

101. Defendant's "100% Natural Ingredients" claims misled Plaintiff and the Class, and are likely in the future to mislead reasonable consumers. Had Plaintiff and the Class known of the true facts about the Products, they would not have purchased the Products and/or paid substantially less for similar products.

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

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

COUNT III

NEGLIGENT MISREPRESENTATION
(All States)

104. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

105. Defendant, directly or through its agents and employees, made false representations, concealments, and nondisclosures to Plaintiffs and members of the Class.

106. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendant have failed to fulfill its duties to disclose the material facts set forth above. The direct and proximate cause of this failure to disclose was Defendant's negligence and carelessness.

107. Defendant, 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. Defendant made and intended the misrepresentations to induce the reliance of Plaintiffs and members of the Class.

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

109. As a result of Defendant's 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 IV

BREACH OF EXPRESS WARRANTIES
(All States)

110. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

111. Defendant provided Plaintiffs and the Class with written express warranties, including, but not limited to, warranties that the Products contain natural or all-natural ingredients and/or no preservatives. The natural claims made by Defendant 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. Plaintiffs placed importance on Defendant's natural claims.

112. Defendant breached the terms of this contract, including the express warranties, with Plaintiffs and the Class by not providing Products with the natures and quality as promised.

113. As a proximate result of Defendant's 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 Defendant 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 V

UNJUST ENRICHMENT
(All States)

114. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

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

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

117. Defendant 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 Defendant and for which Defendant have been unjustly enriched.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other similarly situated, seek judgment against Defendant, 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 Defendant 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 (i) requiring Defendant to immediately cease their wrongful conduct as set forth in this Complaint; (ii) enjoining Defendant from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; (iii) ordering Defendant to engage in a corrective advertising campaign; and (iv) requiring Defendant 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 situates, demand a trial by jury on all questions of fact raised by the Complaint.

Dated: January 13, 2016

Respectfully submitted,

LEE LITIGATION GROUP, PLLC
C.K. Lee (CL 4086)
Anne Seelig (AS 3976)
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

EXHIBIT A

TABLE OF CONTENTS

Lucini Delicate Cucumber & Shallot Vinaigrette

DELICATE CUCUMBER & SHALLOT VINAIGRETTE

CRISP, COOL & CREAMY - A graceful recipe, with locally grown garlic, parsley and milk, that adds style to the simplest ingredients. Voted "best salad dressing in America" by top chefs and magazine edits, this delightful vinaigrette is sure to be unlike anything you have experienced before. Toss with shredded carrot, chicken and cabbage.

250ml bottle $5.99 1 ADD TO BAG

6 x 250ml bottle $32.94 1 ADD TO BAG
$5.49 per bottle - SAVE $3.00!

MORE INFORMATION

Our vinaigrettes are made with the highest-quality and best local ingredients available, representing a commitment to culinary excellence and real food that is both convenient and flavorful. Full bodied and bursting with all natural flavors, they are specially blended to provide a versatile dressing that adheres well to greens, adds punch to sandwiches and brings new depth to meats and poultry when used as a marinade.

INGREDIENTS

Expeller Pressed High Oleic Sunflower Oil, Cultured Part-Skim Milk, Non-Fat Milk, Extra Virgin Olive Oil, White Wine Vinegar, Cucumber Juice, Water, Evaporated Cane Juice, Shallots, Sea Salt, Dijon Mustard (vinegar, water, mustard seed, salt, white wine, citric acid, tartaric acid, spice), Garlic, Natural Flavor, Parsley, Xanthan Gum (natural thickener), Black Pepper, Pectin

CERTIFICATIONS

This product has earned the right to display the following marks:

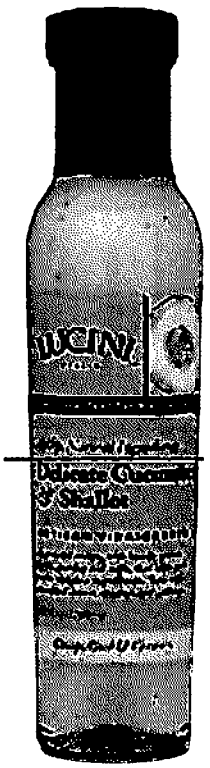
NUTRITIONAL FACTS

Nutrition Facts
Serving Size 2 Tbsp (30ml)
Servings Per Container: about 8

Amount Per Serving	
Calories 120	Calories from Fat 110
	% Daily Value*
Total Fat 12g	18%
Saturated Fat 1g	5%
Sodium 170mg	7%
Total Carbohydrate 2g	1%
Sugars 1g	
Protein 0g	
Iron	2%

Not a significant source of Trans Fat, Cholesterol, Dietary Fiber, Vitamin A, Vitamin C or Calcium

*Percent Daily Values are based on a 2,000 calorie diet



Lucini Bold Parmesan & Garlic Vinaigrette

BOLD PARMESAN & GARLIC VINAIGRETTE

RICH & TANGY - Freshly grated cheese, garlic and cracked black pepper provide hearty richness that is balanced by sharp dijon mustard and a smidge of anchovy. A fresh take on a classic Caesar dressing, this vinaigrette is wonderful when used a marinade for pork and chicken, or serve with crisp romaine and crunchy homemade croutons.

250ml bottle $5.99 [1] ADD TO BAG

6 x 250ml bottle $32.94 [1] ADD TO BAG
$5.49 per bottle - SAVE $3.00!

MORE INFORMATION

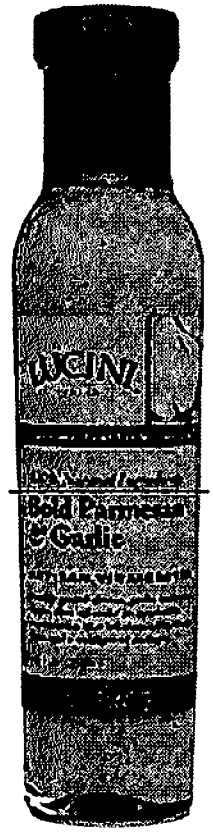
Our vinaigrettes are made with the highest-quality and best local ingredients available, representing a commitment to culinary excellence and real food that is both convenient and flavorful. Full bodied and bursting with all natural flavors, they are specially blended to provide a versatile dressing that adheres well to greens, adds punch to sandwiches and brings new depth to meats and poultry when used as a marinade.

INGREDIENTS

Expeller Pressed High Oleic Sunflower Oil, Water, Parmesan Cheese (milk, salt, enzymes), White Wine Vinegar, Dijon Mustard (vinegar, water, mustard seed, salt, white wine, citric acid, tartaric acid, spice), Garlic, Sea Salt, Anchovy Paste, Evaporated Cane Juice, Black Pepper, Xanthan Gum (natural thickener), Red Pepper

NUTRITIONAL FACTS

Nutrition Facts
Serving Size 2 Tbsp (30ml)
Servings Per Container: about 8
Amount Per Serving
Calories 130 Calories from Fat 120
% Daily Value*
Total Fat 13g 20%
Saturated Fat 1.5g 8%
Cholesterol 5mg 2%
Sodium 240mg 10%
Total Carbohydrate 2g <1%
Sugars 1g
Protein 0g
Calcium 2%
Not a significant source of Dietary Fiber, Vitamin A, Vitamin C or Iron
*Percent Daily Values are based on a 2,000 calorie diet


WGIN
Bold Parmesan
& Garlic

Lucini Tuscan Balsamic Vinaigrette

TUSCAN BALSAMIC VINAIGRETTE

ROBUST & CREAMY - Perfectly seasoned with sea salt and cracked black pepper, this creamy recipe is made with Italian extra virgin olive oil, balsamic from Modena, garlic & dijon. Toss with fresh tomatoes, cucumbers and gorgonzola dolce for a memorable salad.

250ml bottle	$5.99	1	ADD TO BAG
6 x 250ml bottle $5.49 per bottle - SAVE $3.00!	$32.94	1	ADD TO BAG

MORE INFORMATION

Our vinaigrettes are made with the highest-quality and best local ingredients available, representing a commitment to culinary excellence and real food that is both convenient and flavorful. Full bodied and bursting with all natural flavors, they are specially blended to provide a versatile dressing that adheres well to greens, adds punch to sandwiches and brings new depth to meats and poultry when used as a marinade.

INGREDIENTS

Water, Extra Virgin Olive Oil, Balsamic Vinegar, Expeller Pressed High Oleic Sunflower Oil, Evaporated Cane Juice, Sea Salt, Garlic, Dijon Mustard (vinegar, water, mustard seed, salt, white wine, citric acid, tartaric acid, spice), Cracked Black Pepper, Xanthan Gum (natural thickener), Caramel Color

CERTIFICATIONS

This product has earned the right to display the following marks:

VEGAN

NUTRITIONAL FACTS

Nutrition Facts

Serving Size 2 Tbsp (30ml)
Servings Per Container: about 8

Amount Per Serving
Calories 120 Calories from Fat 110

% Daily Value*

Total Fat 12g	18%
Saturated Fat 1.5g	8%
Sodium 160mg	6%
Total Carbohydrate 3g	1%
Sugars 3g	
Protein 0g	

Not a significant source of Trans Fat, Cholesterol, Dietary Fiber, Vitamin A, Vitamin C, Calcium or Iron

*Percent Daily Values are based on a 2,000 calorie diet

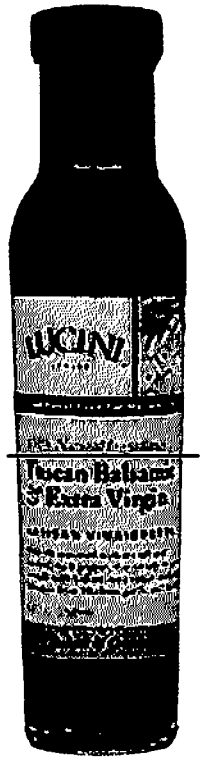

LUCINI

EXHIBIT B

NON 5
SYN 5

allowed

NOSB NATIONAL LIST
FILE CHECKLIST

PROCESSING

MATERIAL NAME: Citric Acid

CATEGORY: Synthetic Allowed **Complete?:** 3/16

✓ **NOSB Database Form**

✓ **References**

✓ **MSDS (or equivalent)**

✓ **FASP (FDA)**

✓ **Date file mailed out:** 1/8/95

✓ **TAP Reviews from:** Steve Taylor
Steven Harper
Bob Durst

Supplemental Information:

Microbial form. only ....
because of substrate might be
ag product

MISSING INFORMATION: _____

NOSB/NATIONAL LIST COMMENT FORM/BALLOT

Use this page to write down comments and questions regarding the data presented in the file of this National List material. Also record your planned opinion/vote to save time at the meeting on the National List.

Name of Material Citric Acid

Type of Use: ____ **Crops;** ____ **Livestock;** ✓ **Processing**

TAP Review by:

1. Steve Taylor
2. Steven Harper
3. Bob Durst

Comments/Questions:

My Opinion/Vote is:

Signature _____ **Date** _____

USDA/TAP REVIEWER COMMENT FORM

Use this page or an equivalent to write down comments and summarize your evaluation regarding the data presented in the file of this potential National List material. Attach additional sheets if you wish.

This file is due back to us within 30 days of: Jan 7

Name of Material: Citric Acid

Reviewer Name: Steve Taylor

Is this substance Natural or Synthetic? Explain (if appropriate)

Natural

Please comment on the accuracy of the information in the file:

This material should be added to the National List as:

____ **Synthetic Allowed** ____ **Prohibited Natural**

or, ____ **This material does not belong on the National List because:**

Are there any restrictions or limitations that should be placed on this material by use or application on the National List?

Made by fermentation. Fermentation is natural but process does ~~any~~ involve use of other substances: substrates: corn syrup, sucrose ammonium bicarbonate

Any additional comments or references?

Need to find out more about process and processing aids to make determination.

Signature Steve Taylor **Date** 3-5-95

2.

USDA/TAP REVIEWER COMMENT FORM

Use this page or an equivalent to write down comments and summarize your evaluation regarding the data presented in the file of this potential National List material. Attach additional sheets if you wish.

This file is due back to us within 30 days of: Jan 7

Name of Material: Citric Acid

Reviewer Name: Steven Harper

Is this substance Natural or Synthetic? Explain (if appropriate)

Synthetic

Please comment on the accuracy of the information in the file:

Good

This material should be added to the National List as:

__x__ **Synthetic Allowed** ____ **Prohibited Natural**

or, ____ **This material does not belong on the National List because:**

Are there any restrictions or limitations that should be placed on this material by use or application on the National List?

No.

Any additional comments or references?

Signature Steven Harper **Date** 3/10/05

3.

USDA/TAP Reviewer Comment Form

Material: Citric acid

Reviewer: Bob Durst

Is this substance Natural or Synthetic? Explain (if appropriate)

It is a natural occurring substance that commercially goes through numerous chemical processes to get to it's final usable form. This processing would suggest that it be classified as synthetic.

Please comment on the accuracy of the information in the file:

The file is accurate.

This material should be added to the National List as:

__X__ Synthetic Allowed,

_____ Prohibited Natural, or

_____ This material does not belong on the National List because:

Are there any restriction or limitations that should be placed on this material by use or application on the National List?

Must be listed on the ingredient label if it used used.

Unless it is actually derived from a natural source the labeling must not indicate that it is a natural compound.

Any additional comments or references?

As with all synthetic inorganic salts, source must be food grade. In addition each lot should be analyzed for toxic element concentrations (mercury, lead, cadmium, arsenic, thallium and antimony) and a near zero tolerance adopted.

Since citrus juices are a high natural source of citric acid, it might be advisable to find a manufacturer that is willing to isolate citric acid from organically grown fruit in an organically acceptable manner, and get a natural citric acid.

Signature Robert W. Durst Date 3/4/95

NOSB Materials Database

4.

Identification

Common Name	**Citric Acid**	**Chemical Name**	B-hydroxy-tricarboxylic acid C6H8O7
Other Names	Citric Acid, Anhydrous USP/FCC		
Code #: CAS	77-92-9	**Code #: Other**	21 CFR 182-1033
N. L. Category	Synthetic Allowed	**MSDS**	◉ yes ○ no

Chemistry

Family	Aliphatic Acid
Composition	$C_6H_8O_7$
Properties	Colorless, translucent crystals, (or) white granular to fine crystalline powder, odorless, strong acid taste.
How Made	Traditionally by extraction from citrus juice, no longer commercially available. It is now extracted by fermentation of a carbohydrate substrate (often molasses) by citric acid bacteria, *Aspergillus niger* (a mold) or *Candida guilliermondii* (a yeast). Citric acid is recovered from the fermentation broth by a lime and sulfuric acid process in which the citric acid is first precipitated as a calcium salt and then reacidulated with sulfuric acid.

Use/Action

Type of Use	Processing
Specific Use(s)	Production of fruit products, juices, oils, fats etc. for pH control, flavor enhancer, flavoring agent or adjuvant, leavening agent, sequestrant, antioxidant, solvent, antimicrogial agent, surface-active agent.
Action	Optimizes stability of frozen foods by enhancing the action of antioxidants and inactivating enzymes. Brings out flavor in carbonated beverages. Acts as a synergist for antioxidants employed in inhibiting rancidity in foods containg fats and oils.
Combinations	pure substance

Status

OFPA	
N. L. Restriction	Currently considered synthetic by NOSB.
EPA, FDA, etc	FDA -GRAS
Directions	
Safety Guidelines	Eye irritant, dust may cause mild respiratory irritation.
State Differences	
Historical status	Always been allowed in organic processing and considered natural.
Internationl status	Allowed by IFOAM, EU and Codex.

NOSB Materials Database

5.

OFPA Criteria

2119(m)1: chemical interactions **Not Applicable**

2119(m)2: toxicity & persistence **Not Applicable**

2119(m)3: manufacture & disposal consequences

Microbial fermentation –Clarification --Precipitation –Dissolution –Crystallization --Drying –Sifting –packaging. The NOSB judged that citric acid produced by natural fermentation of carbohydrate substrates and purified by the lime-sulfuric method is synthetic because the citric acid comes into contact with lime and sulfuric acid and because of the chemical change from citric acid to calcium citrate and then back to citric acid during purification.

Biomass residuals are usually recycled as animal feeds and for agriculture.

2119(m)4: effect on human health

Material has been affirmed as GRAS by FDA for use in foods. The amount of citrate added to foods by food processors is about 500 mg per person per day. This amount occurs naturally in 2 ounces of orange juice and does not constitute a significant addition to the total body load.

Long term oral over exposure may cause damage to tooth enamel. Considered an irritatant to eyes and respiratory system during manufacture and handling. Recommended use of eye and respiratory protection during handling. Oral LD50 (rat) 11,700 mg/kg; dermal (acute) tested on skin of rabbit 500mg/24 hr moderate; eye 750 mg/24hr severe. FDA tests show no effect on reproduction, teratogenicity or oncogenicity in rats.

2119(m)5: agroecosystem biology **Not Applicable**

2119(m)6: alternatives to substance

Lactic acid (has some taste problems and not used in infant foods).
Vinegar (strange taste in some foods).
Citrus juices.

2119(m)7: Is it compatible?

Compatible

References

1. FDA. 1977. Evaluation of the health aspects of citric acid, sodium citrate, potassium citrate, calcium citrate, ammonium citrate, triethyl citrate, isopropyl citrate, and stearyl citrate as food ingredients. SCOGS-84. Life Science Research Office, 9650 Rockville Pike, Bethesda, Maryland 20014.

2. Ag Partners of Davis, *Materials Report for Citric Acid*, 1995. Organic Trade Association, Greenfield, MA

6.

MSDS for CITRIC ACID, MONOHYDRATE Page 1

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1 - PRODUCT IDENTIFICATION

PRODUCT NAME: CITRIC ACID, MONOHYDRATE
FORMULA: HOC(COOH)(CH2COOH)2 H2O FORMULA WT: 210.14
CAS NO.: 5949-29-1
COMMON SYNONYMS: 2-HYDROXY-1,2,3,PROPANE-TRICARBOXYLIC ACID, MONOHYDRATE
PRODUCT CODES: 0118,0120,0119,0110
EFFECTIVE: 12/01/86 REVISION #02

PRECAUTIONARY LABELLING
BAKER SAF-T-DATA(TM) SYSTEM
HEALTH - 0 NONE
FLAMMABILITY - 1 SLIGHT
REACTIVITY - 0 NONE
CONTACT - 1 SLIGHT
HAZARD RATINGS ARE 0 TO 4 (0 = NO HAZARD; 4 = EXTREME HAZARD).
LABORATORY PROTECTIVE EQUIPMENT: SAFETY GLASSES; LAB COAT

PRECAUTIONARY LABEL STATEMENTS
CAUTION
MAY CAUSE IRRITATION
DURING USE AVOID CONTACT WITH EYES, SKIN, CLOTHING. WASH THOROUGHLY AFTER HANDLING. WHEN NOT IN USE KEEP IN TIGHTLY CLOSED CONTAINER.
SAF-T-DATA(TM) STORAGE COLOR CODE: ORANGE (GENERAL STORAGE)

2 - HAZARDOUS COMPONENTS

COMPONENT	%	CAS NO.
CITRIC ACID, MONOHYDRATE		05949-29-1

3 - PHYSICAL DATA

BOILING POINT: N/A VAPOR PRESSURE(MM HG): N/A
MELTING POINT: N/A VAPOR DENSITY(AIR=1): N/A
SPECIFIC GRAVITY: 1.54 EVAPORATION RATE: N/A
(H2O=1) (BUTYL ACETATE=1)
SOLUBILITY(H2O): APPRECIABLE (MORE THAN 10 %) % VOLATILES BY VOLUME: 0
APPEARANCE & ODOR: WHITE, ODORLESS POWDER.

4 - FIRE AND EXPLOSION HAZARD DATA

FLASH POINT (CLOSED CUP N/A
FLAMMABLE LIMITS: UPPER - N/A % LOWER - N/A %
FIRE EXTINGUISHING MEDIA
USE WATER SPRAY, CARBON DIOXIDE, DRY CHEMICAL OR ORDINARY FOAM.

SPECIAL FIRE-FIGHTING PROCEDURES
FIREFIGHTERS SHOULD WEAR PROPER PROTECTIVE EQUIPMENT AND SELF-CONTAINED BREATHING APPARATUS WITH FULL FACEPIECE OPERATED IN POSITIVE PRESSURE MODE.

TOXIC GASES PRODUCED: CARBON MONOXIDE, CARBON DIOXIDE

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5 - HEALTH HAZARD DATA

TOXICITY TEST RESULTS AND SAFETY AND HEALTH EFFECTS ARE LISTED FOR THE ANHYDROUS PRODUCT.

TOXICITY: LD50 (ORAL-RAT)(G/KG) - 11.7
LD50 (IPR-RAT)(MG/KG) - 883
LD50 (SCU-RAT)(MG/KG) - 5500
LD50 (ORAL-MOUSE)(MG/KG) - 5040

CARCINOGENICITY: NTP: NO IARC: NO Z LIST: NO OSHA REG: NO

EFFECTS OF OVEREXPOSURE
DUST MAY IRRITATE NOSE AND THROAT.
DUST MAY CAUSE HEADACHE, COUGHING, DIZZINESS OR DIFFICULT BREATHING.
DUST MAY IRRITATE OR BURN MUCOUS MEMBRANES.
CONTACT WITH SKIN OR EYES MAY CAUSE IRRITATION.

TARGET ORGANS: EYES, SKIN
MEDICAL CONDITIONS GENERALLY AGGRAVATED BY EXPOSURE: NONE IDENTIFIED
ROUTES OF ENTRY: INHALATION, EYE CONTACT, SKIN CONTACT

EMERGENCY AND FIRST AID PROCEDURES
INGESTION: IF SWALLOWED AND THE PERSON IS CONSCIOUS, IMMEDIATELY GIVE LARGE AMOUNTS OF WATER. GET MEDICAL ATTENTION.
INHALATION: IF A PERSON BREATHES IN LARGE AMOUNTS, MOVE THE EXPOSED PERSON TO FRESH AIR. GET MEDICAL ATTENTION.
EYE CONTACT: IMMEDIATELY FLUSH WITH PLENTY OF WATER FOR AT LEAST 15 MINUTES. GET MEDICAL ATTENTION.
SKIN CONTACT: IMMEDIATELY WASH WITH PLENTY OF SOAP AND WATER FOR AT LEAST 15 MINUTES.

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6 - REACTIVITY DATA

STABILITY: STABLE HAZARDOUS POLYMERIZATION: WILL NOT OCCUR
INCOMPATIBLES: STRONG BASES
DECOMPOSITION PRODUCTS: CARBON MONOXIDE, CARBON DIOXIDE

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7 - SPILL AND DISPOSAL PROCEDURES

STEPS TO BE TAKEN IN THE EVENT OF A SPILL OR DISCHARGE
WEAR SUITABLE PROTECTIVE CLOTHING. CAREFULLY SWEEP UP AND REMOVE.
DISPOSAL PROCEDURE
DISPOSE IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL REGULATIONS.

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8 - PROTECTIVE EQUIPMENT

VENTILATION: USE ADEQUATE GENERAL OR LOCAL EXHAUST VENTILATION TO KEEP FUME OR DUST LEVELS AS LOW AS POSSIBLE.
RESPIRATORY PROTECTION: NONE REQUIRED WHERE ADEQUATE VENTILATION CONDITIONS EXIST. IF AIRBORNE CONCENTRATION IS HIGH, USE AN APPROPRIATE RESPIRATOR OR DUST MASK.
EYE/SKIN PROTECTION: SAFETY GLASSES WITH SIDESHIELDS, NITRILE GLOVES RECOMMENDED.

9 - STORAGE AND HANDLING PRECAUTIONS

SAF-T-DATA(TM) STORAGE COLOR CODE: ORANGE (GENERAL STORAGE)
SPECIAL PRECAUTIONS
KEEP CONTAINER TIGHTLY CLOSED. SUITABLE FOR ANY GENERAL CHEMICAL STORAGE AREA.

10 - TRANSPORTATION DATA AND ADDITIONAL INFORMATION

DOMESTIC (D.O.T.)
PROPER SHIPPING NAME CHEMICALS, N.O.S. (NON-REGULATED)

INTERNATIONAL (I.M.O.)
PROPER SHIPPING NAME CHEMICALS, N.O.S. (NON-REGULATED)

9.

DOCNUM=1937

U.S. FOOD AND DRUG ADMINISTRATION
FOOD ADDITIVE SAFETY PROFILE

CITRIC ACID

CAS#:	000077929	HUMAN CONSUMPTION:	90.5367 MG/KG BW/DAY/PERSON
FASP#:	1937	MARKET DISAPPEARANCE:	106833333.333LBS/YR
TYPE:	ASP	MARKET SURVEY:	87
NAS#:	2306	JECFA:	NL-C
FEMA#:	2306	JECFA ADI:	MG/KG BW/DAY/PERSON
GRAS#:	3	JECFA ESTABLISHED:	1979
POTENTIAL BEVERAGE USE		LAST UPDATE:	931115
FW:	192.12	DENSITY:	LOGP:

STRUCTURE CATEGORIES: A6

COMPONENTS:

SYNONYMS:
CITRIC ACID, ANHYDROUS
2-HYDROXY-1,2,3-PROPANETRICARBOXYLIC ACID
HYDROXYTRICARBOXYLIC ACID, BETA-
1,2,3-PROPANETRICARBOXYLIC ACID, 2-HYDROXY-
ACIDE CITRIQUE

CHEMICAL FUNCTION: F

TECHNICAL EFFECT:
PH CONTROL AGENT
FLAVOR ENHANCER
FLAVORING AGENT OR ADJUVANT
LEAVENING AGENT
SEQUESTRANT
ANTIOXIDANT
SOLVENT OR VEHICLE
SURFACE-ACTIVE AGENT
ANTIMICROBIAL AGENT
ENZYME

CFR REG NUMBERS:

173.165	172.755	182.6033
182.1033	PART 133	PART 146
161.190	PART 169	PART 150
155.130	145.145	131.111
131.112	131.136	131.144
131.138	131.146	146.187
150.161	150.141	166.40
169.115	169.140	169.150
173.160	173.280	145.131
166.110	184.1033	

MINIMUM TESTING LEVEL: 3

COMMENTS: STUDY 1-12 FROM SCOGS-84

BOX 4A: LOWEST EFFECT LEVEL OBSERVED IN ALL AVAILABLE RAT OR MOUSE STUDIES

STUDY: 4 COMPLETENESS: RANKING FACTOR: 1.938E-2
SPECIES: RAT LEL: 4670 MG/KG BW/DAY
EFFECTS: CHOLESTEROL DECREASE
GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
ORGAN WEIGHT DECREASE
CELLULAR ATROPHY
SITES: THYMUS
SPLEEN
COMMENTS: MALES ONLY
SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES
DATA FROM SCOGS-84

10.

BOX 4C: LOWEST EFFECT LEVEL OBSERVED IN ALL AVAILABLE STUDIES

STUDY: 4 COMPLETENESS: RANKING FACTOR: 1.938E-2
SPECIES: RAT LEL: 4670 MG/KG BW/DAY
EFFECTS: CHOLESTEROL DECREASE
GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
ORGAN WEIGHT DECREASE
CELLULAR ATROPHY
SITES: THYMUS
SPLEEN
COMMENTS: MALES ONLY
SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES
DATA FROM SCOGS-84

BOX 7: ACUTE TOXICITY INFORMATION

STUDY: 2 SOURCE: J TAKEDA RES LAB 30:25-31
SPECIES: RAT YEAR: 1971
LD50: 12000 MG/KG BW
COMMENTS:

STUDY: 1 SOURCE: J TAKEDA RES LAB 30:25-31
SPECIES: MOUSE YEAR: 1971
LD50: 5000 MG/KG BW
COMMENTS:

BOX 9: ORAL TOXICITY STUDIES (OTHER THAN ACUTE)

STUDY: 3 COMPLETENESS: SOURCE: REV PORT FARM 20:41-46
TYPE: SHORT TERM YEAR: 1970
SPECIES: RAT LEL: 200 MG/KG BW/DAY
DURATION: 9 DAYS HNEL:
EFFECTS: BODY WEIGHT DECREASE
SITES:
COMMENTS: INITIAL DECREASE IN WEIGHT DID NOT PERSIST
NOT USED FOR PRIORITY RANKING

STUDY: 4 COMPLETENESS: SOURCE: J TAKEDA RES LAB 30:25-31
TYPE: SHORT TERM YEAR: 1971
SPECIES: RAT LEL: 4670 MG/KG BW/DAY
DURATION: 42 DAYS HNEL: 2260 MG/KG BW/DAY
EFFECTS: CHOLESTEROL DECREASE
GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
ORGAN WEIGHT DECREASE
CELLULAR ATROPHY
SITES: THYMUS SPLEEN
COMMENTS: SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES

STUDY: 5 COMPLETENESS: SOURCE: J AM PHARM ASSOC SCI ED
34:86-89
TYPE: SUBCHRONIC RODENT YEAR: 1945
SPECIES: RAT LEL: > MG/KG BW/DAY
DURATION: 90 DAYS HNEL: 600 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: BODY WEIGHT, BLOOD, HISTOPATH AND REPRODUCTION OBSERVED

STUDY: 6 COMPLETENESS: SOURCE: J AM PHARM ASSOC SCI ED
34:86-89
TYPE: SUBCHRONIC MAMMAL (NON-RODENT) YEAR: 1945
SPECIES: DOG LEL: > MG/KG BW/DAY
DURATION: 112 DAYS HNEL: 1380 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: NO BEHAVIORAL, BIOCHEMICAL OR HISTOPATHOLOGICAL ABNORMALITIES

STUDY: 10 COMPLETENESS: SOURCE: GRP 7T0195 3
TYPE: TERATOGENICITY YEAR: 1973
SPECIES: RAT LEL: > MG/KG BW/DAY

DURATION: 10 DAYS HNEL: 295 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: ADMINISTERED DAY 6-15 OF GESTATION

STUDY: 9 COMPLETENESS: SOURCE: GRP 7T0195 3
TYPE: TERATOGENICITY YEAR: 1973
SPECIES: MOUSE LEL: > MG/KG BW/DAY
DURATION: 10 DAYS HNEL: 241 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: ADMINISTERED DAY 6-15 OF GESTATION

STUDY: 11 COMPLETENESS: SOURCE: GRP 7T0195 3
TYPE: TERATOGENICITY YEAR: 1973
SPECIES: HAMSTER LEL: > MG/KG BW/DAY
DURATION: 5 DAYS HNEL: 272 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: ADMINISTERED DAY 6-10 OF GESTATION

STUDY: 12 COMPLETENESS: SOURCE: GRP 7T0195 3
TYPE: TERATOGENICITY YEAR: 1973
SPECIES: RABBIT LEL: > MG/KG BW/DAY
DURATION: 13 DAYS HNEL: 425 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: ADMINISTERED DAY 6-18 OF GESTATION

STUDY: 8 COMPLETENESS: SOURCE: J AGRIC FOOD CHEM 5:759-760
TYPE: RAT ONCOGENICITY YEAR: 1957
SPECIES: RAT LEL: > MG/KG BW/DAY
DURATION: 728 DAYS HNEL: 2000 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS: MALES ONLY

STUDY: 7 COMPLETENESS: SOURCE: VOEDING 17:137-148
TYPE: REPRODUCTION (3-GENERATION) YEAR: 1956
SPECIES: RAT LEL: > MG/KG BW/DAY
DURATION: HNEL: 800 MG/KG BW/DAY
EFFECTS: NO EFFECTS
SITES:
COMMENTS:

BOX 3: GENETIC TOXICITY STUDIES

STUDY: 15 COMPLETENESS: SOURCE:
TYPE: YEAR:
SPECIES: LEL: MG/KG BW/DAY
DURATION: HNEL:
EFFECTS:
CELLS:
COMMENTS:

JS 44 (Rev. 11/15) CV 16 169

CIVIL COVER SHEET

KORMAN, J.
GO, M.J.

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

VINCENT RIEDEL and JOHN DOES 1-100

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

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

C.K. Lee, Esq., Lee Litigation Group, PLLC
30 East 39th Street, Second Floor, New York, NY 10016
Tel.: (212) 465-1188

DEFENDANTS

LUCINI ITALIA COMPANY

County of Residence of First Listed Defendant Butte County
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys *(If Known)*

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 (Excludes 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 - Medical 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
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 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/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income 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
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 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

U.S. DISTRICT COURT
EASTERN DISTRICT
OF NEW YORK

FILED
CLERK
JAN 13 AM 11:07

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

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 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); New York General Business Law Section 349

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 _____

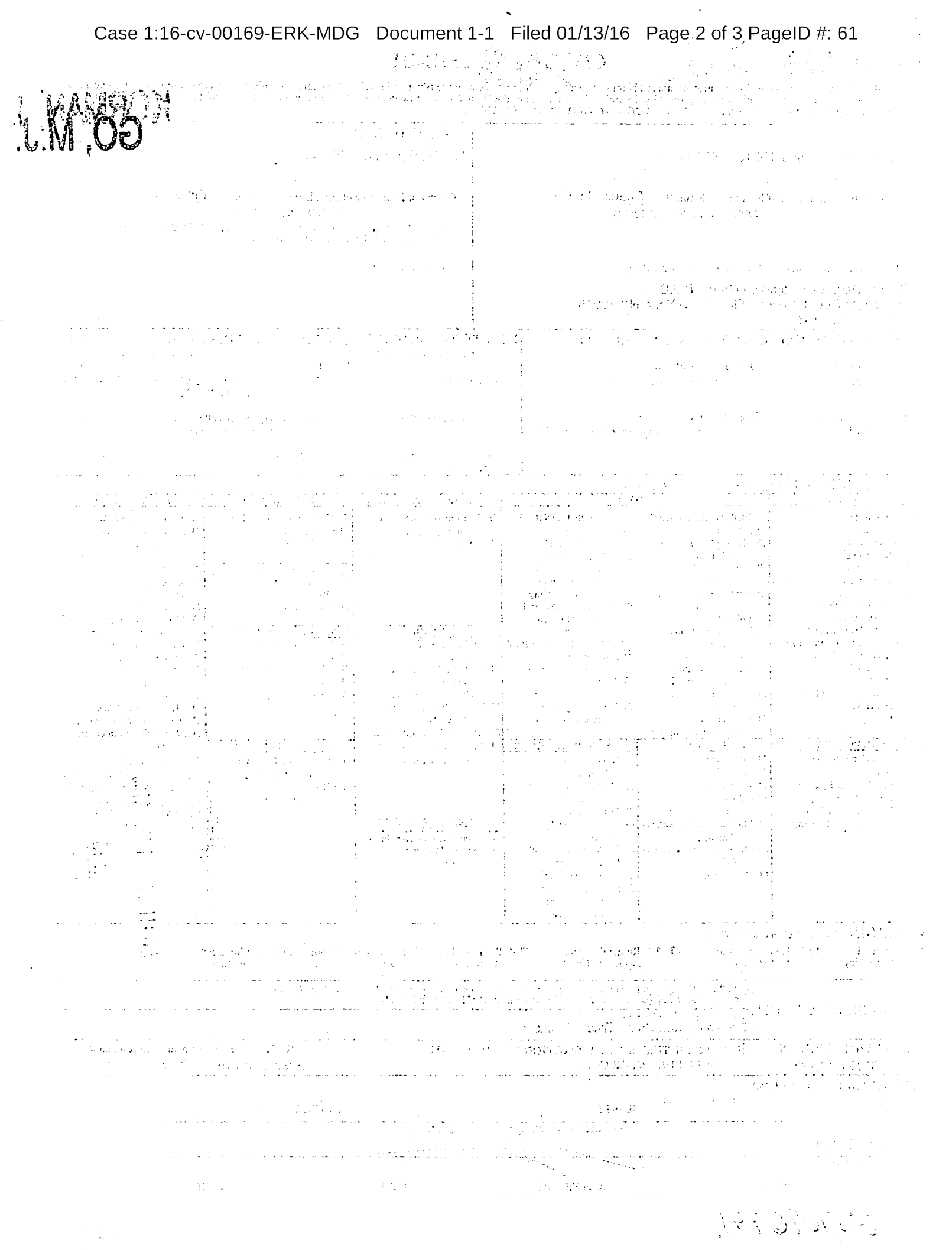
DATE 1/13/16

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

465096991



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: