

FILED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

2016 MAR 15 AM 10:20

U.S. DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO, FL 32801

Ashley Waldo, on behalf of
herself and all others similarly situated,

Plaintiff,

CASE NO.:

6:16-CV-427-OR1-41-DAB

v.

SANTA FE NATURAL TOBACCO
COMPANY, INC., and REYNOLDS
AMERICAN INC.,

Defendants.

_____ /

CLASS ACTION COMPLAINT

Plaintiff Ashley Waldo (“**Waldo**” or “**Plaintiff**”), individually and on behalf of all others similarly situated, by and through the undersigned counsel, files this Class Action Complaint, and alleges against Defendants, Santa Fe Natural Tobacco Company, Inc. (“**Santa Fe**”) and Reynolds American Inc. (“**Reynolds American**”) (collectively, “**Defendants**”) as follows:

NATURE OF ACTION

1. Defendants manufacture, market, and sell Natural American Spirit cigarettes. Defendants’ product labeling, advertising and website describe these cigarettes as “Natural,” “Additive Free,” “100% Additive Free,” “Organic,” and an “unadulterated tobacco product.” These terms are intended to suggest that Natural American Spirit cigarettes are healthier, safer, and present a lower risk of tobacco-related disease than other tobacco products. Defendants, however, have no competent or reliable scientific evidence to back their labeling and advertising claims. Defendants’ claims are patently deceptive, especially in today’s market, where these terms have a potent meaning for the health-and environmentally-conscious consumer. Moreover,

as the U.S. Food and Drug Administration (“**FDA**”) recently determined, Natural American Spirit cigarettes are in fact “adulterated.” Using these deceptive terms, Defendants are able to successfully price Natural American Spirit cigarettes higher than other competitive cigarette brands.

2. Plaintiff and the Class have been deceived by Defendants’ advertising, labeling and other statements characterizing the cigarettes as “100% additive-free,” “natural” and/or “organic.” In fact, these cigarettes were not less harmful, healthier or less carcinogenic. Rather, they were at least as dangerous and harmful as regular cigarettes, and Defendants were aware of this. But for Defendants’ false and deceptive advertising, marketing and labeling of Natural American Spirit cigarettes, Plaintiff and members of the Class would not have purchased or would not have paid a premium price of the Natural American Spirit cigarettes. Individually and on behalf of all those similarly situated, Plaintiff seeks redress for Defendants’ misleading and deceptive trade practices.

JURISDICTION AND VENUE

3. The Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because Plaintiff is a citizen of Florida, Defendants are citizens of New Mexico and North Carolina, there are currently 100 or more class members, and the aggregate amount in controversy will exceed \$5,000,000.

4. The Court has personal jurisdiction over all Defendants because they are authorized to do business and in fact do business in the Middle District of Florida and have sufficient minimum contacts with this District, and each Defendant otherwise intentionally avails itself of the markets in this state through the promotion, marketing and sale of American Spirits

to render the exercise of jurisdiction by this Court permissible under Florida law and the U.S. Constitution.

5. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 1391(b)(2) and (3) because a substantial part of the events or omissions giving rise to the claims at issue in this Complaint arose in this District, Plaintiff resides in this District and purchased Defendants' cigarettes in this District, the claim that is the subject of this action is situated in this District, and Defendants are subject to the Court's personal jurisdiction with respect to this action.

PARTIES

6. Plaintiff, Ashley Waldo, resides in the Middle District of Florida, and is a resident of the state of Florida. Plaintiff purchased American Spirits during the Class Period. Plaintiff smoked American Spirits specifically because of Defendants' advertising and other statements stating or implying that American Spirits are "Natural," "Additive Free," "100% Additive Free," and "Organic," which, to her, meant that American Spirits are safer, healthier and less carcinogenic than other cigarette brands. Plaintiff incurred losses and damages as a result of the activities alleged herein. Plaintiff has suffered injury-in-fact for which she is entitled to seek monetary damages.

7. Defendant Santa Fe Natural Tobacco Company, Inc. is a New Mexico corporation. Its principal place of business is One Plaza La Prensa, Santa Fe, New Mexico 87507. Santa Fe manufactures, promotes and sells Natural American Spirit cigarettes. Santa Fe, a subsidiary of Reynolds American Inc., has been and still is engaged in the business of manufacturing, promoting and selling American Spirits throughout the United States.

8. Defendant Reynolds American Inc. is a North Carolina corporation. Its principal place of business is 401 North Main Street, Winston-Salem, North Carolina 27101. Santa Fe Natural Tobacco Company, Inc. is a wholly owned subsidiary of Reynolds American. Reynolds American is severally, jointly, and vicariously liable for the actions of Santa Fe.

FACTUAL ALLEGATIONS

A. The Natural American Spirit Cigarette

9. According to Reynolds American, Defendants manufacture the “fastest growing super-premium cigarette brand[.]”¹ Santa Fe.

10. Santa Fe, created in 1982, holds itself out as a “natural tobacco” company.

11. Santa Fe’s first product was loose tobacco, which were called “The Original American Spirit” cigarette.²

12. When describing the company’s creation, a founding member remarked, “The initial proposal was to produce a natural tobacco product, an unadulterated tobacco product.”³

13. Defendants advertise and label its cigarettes as “100% natural.”

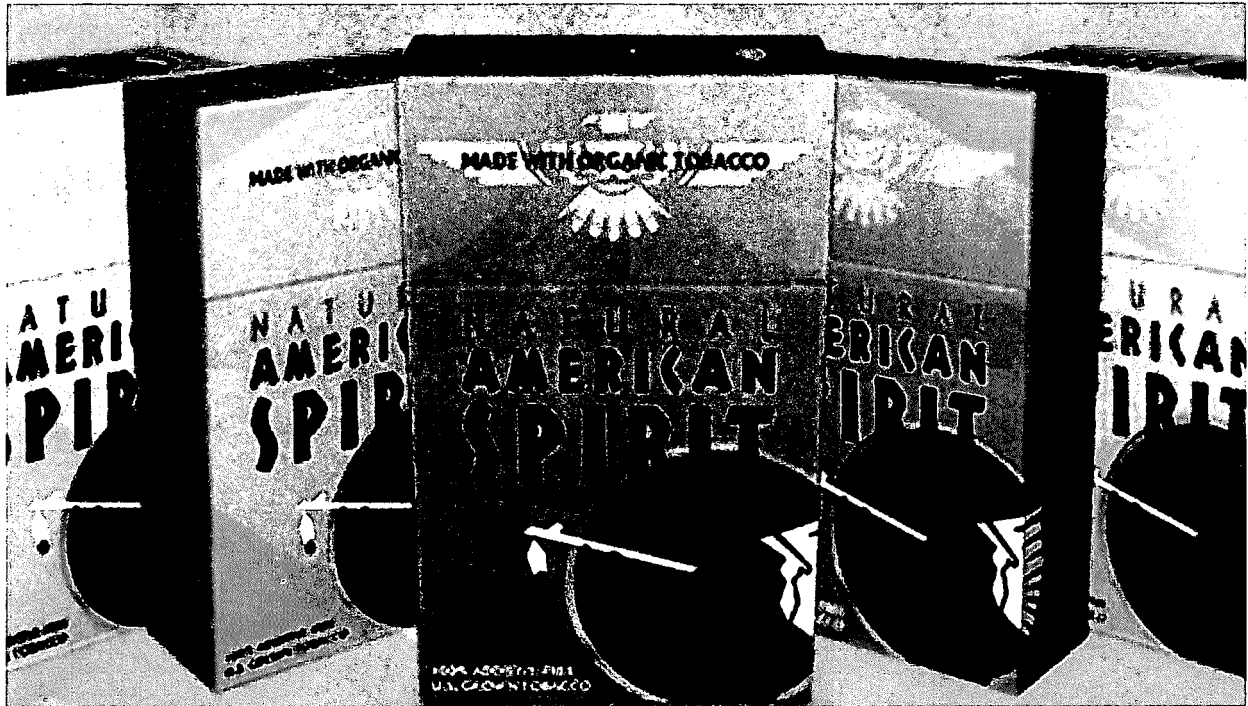
14. Defendants boast that “no other cigarette company has positioned itself as 100% natural.”

15. Defendants also represent that its cigarettes are “Natural,” “Additive Free,” and “Organic.”

¹ <http://www.sec.gov/Archives/edgar/data/1275283/000119312513050521/d449654d10k.htm> (last visited March 10, 2016).

² <https://www.sfntc.com/site/ourCompany/sfntc-story/> (last visited March 10, 2016).

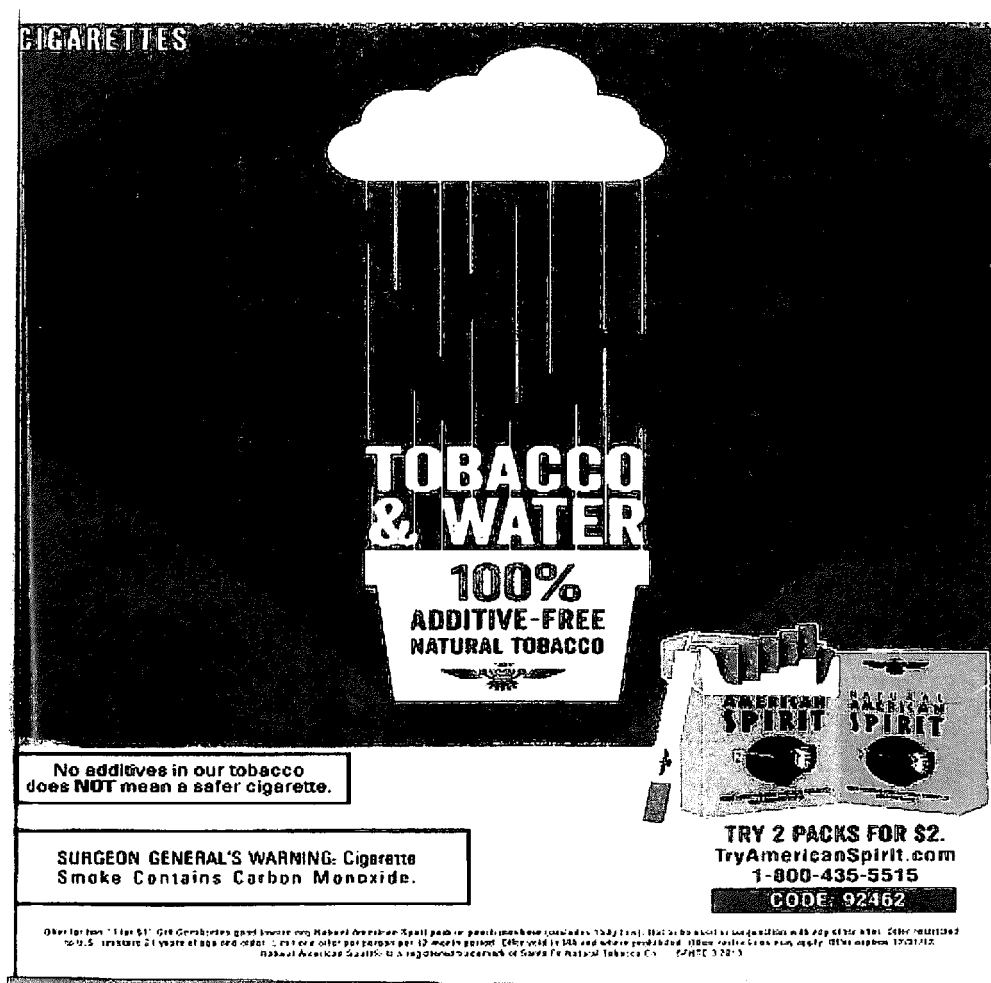
³ <https://www.sfntc.com/site/ourCompany/sfntc-story/> (last visited March 10, 2016).



16. Defendants' product development and marketing scheme targets smokers inclined to buy natural, organic products in the belief that such products are healthier or more environmentally responsible. Defendants exploit these consumer attitudes in various ways. One American Spirit advertisement, for example, reads:

We make our cigarettes with 100 percent additive-free tobacco, including styles with 100 percent U.S. grown tobacco, and with certified organic tobacco. Our blenders create the highest quality tobacco blends and only use two ingredients: whole leaf tobacco and water.⁴

⁴ <https://www.sfntc.com/site/ourProduct/overview/> (last visited March 10, 2016).



As another example, Defendants sent a direct mailing advertisement depicting a rain drop over a tobacco leaf that read:

“TOBACCO + WATER THAT’S ALL[,] For over 30 years we’ve created premium, whole leaf, 100% additive-free natural tobacco products using only what the earth has given us.”

Defendants also include in their advertisement alleged smoker testimonials such as: “I only purchase organic products at the grocery store and obviously I would only smoke a cigarette made with organic tobacco.”

17. As a result of this misleading and deceptive marketing campaign, Natural American Spirit sales increased by 86 percent from 2009 to 2014, as compared to an overall 17 percent decline in cigarette sales in the United States over the same time period.

18. American Spirits have become one of the top 10 best-selling cigarette brands even though it is priced higher than most other competitive brands.

B. Defendants' Misleading and Deceptive Advertising

19. Natural American Spirit cigarettes consumers, like Plaintiff, expect that the cigarette is healthier, less harmful or less carcinogenic than other cigarettes. These consumers associate Defendants' advertising terms such as "natural," "organic," and "additive free" with reduced risk.

20. Tobacco company studies confirm these consumer associations. For example, when asked the implication of a natural cigarette compared to one with additives, focus group members thought that the absence of artificial additives assured a lower health hazard and longevity. In a 1983 study, participants described chemicals as undesirable or "not good for you." A 1996 study viewed natural as purer. A 1998 study found that natural meant less harmful.

21. Defendants deceptively exploit their insistent marketing message of a safer cigarette in other ways. They sell American Spirit cigarettes in health food stores; and Defendants accompany their cigarettes with literature from "America's leading natural foods teacher" who claims that the cigarettes are medicinal and that Native Americans smoke such additive free cigarettes without developing cancer.

22. Defendants' intensive and successful advertising of American Spirits as natural, organic, wholesome and additive-free is overwhelming. The consuming public precisely thinks: "natural" and "organic" cigarettes are healthier and safer or less carcinogenic than cigarettes

containing chemicals. In a 1997 interview, American Spirits smokers thought that Defendants “care[] more about its customers” than other cigarette companies.

23. Defendants’ claims that American Spirit cigarettes are natural and “100% Additive Free” are deceptive and misleading. First, Defendants add menthol and other flavors to its cigarettes. Menthol and flavoring agents are “additives.” Mentholated cigarettes are particularly insidious because they make people more likely to start smoking, lead to greater nicotine dependence, and decrease the rate of quitting.

24. Second, a recent scientific study demonstrates that American Spirits are far more toxic and carcinogenic than other cigarettes.⁵ Scientists from the Center for Tobacco Products and the Tobacco and Volatiles Branch of the Centers for Disease Control and Prevention examined polycyclic aromatic hydrocarbons (PAHs), a class of carcinogenic compounds in cigarette smoke. PAHs do not naturally occur in the tobacco plant; rather, they are formed during the smoking process. Of the 50 mainstream U.S. cigarettes tested, the American Spirit Blue cigarette had the highest total PAH yields. It delivered from 60% to 170% higher PAH yields than the average PAH yields of all cigarettes analyzed. This is because American Spirit Blues, and, upon information and belief, American Spirits in general, have the highest tobacco mass. It has 216 mg more mass than the average tobacco mass of 49 other cigarettes. While consumers, such as Plaintiff and the Class, smoke American Spirits because they think those cigarettes are less carcinogenic, the opposite is true—they are more carcinogenic.

25. American Spirits also contain the highest levels of freebase nicotine. The more freebase nicotine, the more addictive the cigarette. American Spirits’ freebase nicotine levels are at 36 percent, compared to Camel’s 2.7 percent, Winston’s 6.2 percent, and Marlboro’s 9.6

⁵ Vu, A. T., Taylor, Kenneth, M., et al. Polycyclic Aromatic Hydrocarbons in the Mainstream Smoke of Popular U.S. Cigarettes. *Chemical Research in Toxicology*, 2015, 28:1616-26.

percent.⁶ While consumers, such as Plaintiff and the Class, smoke American Spirits as an alternative to quitting or because they think American Spirits will actually help them quit, the opposite is true—they are smoking a more addictive cigarette.

26. What's more, Plaintiff and the Class paid a premium price for American Spirits, which they believed were safer and less carcinogenic than other cigarettes. Defendants' public financial statements boast that they purposefully price American Spirits higher than other brands.

C. The Food and Drug Administration's Warning Letter

27. On August 27, 2015, the Center for Tobacco Products of the U.S. Food and Drug Administration issued a warning letter to Defendants.⁷

28. The FDA warned Santa Fe that advertising its products as “natural” and “additive-free” is in violation of federal law because the labeling “represents explicitly and/or implicitly that the products or their smoke do not contain or are free of a substance and/or that the products present a lower risk of tobacco-related disease or are less harmful than one or more other commercially marketed tobacco products.”

29. The FDA found that Natural American Spirit cigarettes are adulterated “because they are modified risk tobacco products sold or distributed without an FDA order in effect that permits such sale or distribution.”

30. Specifically, the FDA stated that: “Natural American Spirit cigarettes, which uses the descriptors ‘Natural’ and ‘Additive Free,’ represents explicitly and/or implicitly that the products or their smoke do not contain or are free of a substance and/or that the products present a lower risk of tobacco-related disease or are less harmful than one or more other commercially

⁶ Pankow, J., Barsanti, K., & Peyton, D. (2003) Fraction of Free-Base Nicotine in Fresh Smoke Particulate Matter from the Eclipse “Cigarette” by 1H NMR Spectroscopy. *Chemical Research in Toxicology*, 16(1): 23-27.

⁷ <http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2015/ucm459778.htm>

marketed tobacco products. As such, these products are modified risk tobacco products. Because these products are sold or distributed to customers in the United States without an appropriate FDA order in effect under section 911(g) of the FD&C Act (21 U.S.C. § 387k(g)), these products are adulterated under section 902(8) of the FD&C Act (21 U.S.C. § 387b(8)).”

31. The FDA’s letter demonstrates that Defendants’ marketing, advertising and labeling that Natural American Spirit cigarettes are “natural” and “additive-free” falsely and misleadingly conveys to consumers that the cigarettes are healthier or less harmful than other cigarettes. The FDA found Natural American Spirit cigarettes to be a “modified risk tobacco product,” which is defined as “any tobacco product that is sold or distributed for use *to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products.*” 21 U.S.C.A. § 387k(b)(1) (emphasis added).

32. Defendants’ manufacture and sale of adulterated tobacco products and unapproved modified risk tobacco products are expressly prohibited by law and Defendants’ actions are an ongoing deceptive trade practice.

D. Defendants Consciously or Recklessly Disregarded the Rights and Safety of Consumers

33. Defendants know and have known that their advertising, marketing, labeling and packaging of Natural American Spirit cigarettes is deceptive and misleading.

34. Defendants have knowingly and intentionally misled consumers to believe that Natural American Spirit cigarettes are healthier or less harmful than other cigarettes, even though there is no research or evidence supporting these claims and even though they possess knowledge that Natural American Spirit cigarettes contain additives and are not natural.

35. Defendants have continued their advertising and marketing practices to consumers, including Plaintiff and the Class, without disclosing the truth of their deceptive trade practices.

CLASS ACTION ALLEGATIONS

36. Pursuant to Rule 23(a),(b)(1),(b)(2),(b)(3) and (c)(4) of the Federal Rules of Civil Procedure, Plaintiff brings this action on behalf of herself and the following class and subclass (collectively the “Classes”) initially defined as:

The Nationwide Class

All persons in the United States who purchased Natural American Spirit cigarettes for personal consumption from the first date Santa Fe Natural Tobacco Company placed its Natural American Spirit cigarettes into the stream of commerce through at least August 27, 2015. Collectively, all these persons will be referred to as “Plaintiffs” or “Plaintiffs Class.”

The Florida Subclass

All persons in the state of Florida who purchased Natural American Spirit cigarettes for personal consumption from the first date Santa Fe Natural Tobacco Company placed its Natural American Spirit cigarettes into the stream of commerce through at least August 27, 2015.

37. Excluded from the Classes are: Defendants and any entity or entities in which Defendants have a controlling interest; any entity or entities in which Defendants’ officers, directors, or employees are employed and any of the legal representatives, heirs, successors or assigns of Defendants; the Judge to whom this case is assigned and any member of the Judge’s court staff; all persons that properly execute and timely file a request for exclusion from the Classes.

38. Plaintiff reserves the right to amend the Class definitions if discovery and further investigation reveal that any Class should be divided into additional subclasses or modified in any other way.

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

40. The action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of the Federal Rules of Civil Procedure Rule 23(a)(1-4) and (b)(1).

41. Numerosity—the Class is so numerous that the individual joinder of all its members, in this or any action, is impracticable. The exact number or identification of the Class members is presently unknown to Plaintiff, but it is believed that Class members number at least in the thousands. The identity of Class members is ascertainable. Class members may be informed of the pendency of this Class action by a combination of direct mail and public notice, or other means.

42. Commonality and Predominance—Common questions of fact and law exist as to all members of the Class, which predominate over questions affecting only individual members of the Class. State specific consumer protection and deceptive trade practices law should apply among the citizens of different states, respectively. These include, but are not limited to the following:

a. Whether Defendants engaged in unfair or deceptive or unconscionable business practices alleged herein;

b. Whether Defendants made deceptive and misleading representations or material omissions with respect to Natural American Spirit cigarettes;

c. Whether Defendants represented that Natural American Spirit cigarettes have characteristics, uses, benefits or qualities that they do not have;

d. Whether Defendants' unfair and deceptive practices harmed Plaintiff and the Class;

e. Whether Plaintiff and the Class have been damaged by the unlawful actions of the Defendants and the amount of damages to the Class;

f. Whether Defendants were unjustly enriched by its deceptive practices;

g. Whether Court-supervised medical monitoring is appropriate under the circumstances, including equitably mandating Defendants create and/or pay the costs of smoking cessation programs;

43. Typicality—Plaintiff's claims are typical of the claims of the members of the Class because Plaintiff purchased American Spirits that Defendants' deceptively promoted, sold and distributed. Plaintiff is asserting the same rights, making the same claims, and seeking the same relief for herself and for all other class members. Defendants' unfair and/or deceptive actions concern the same business practices described herein irrespective of where they occurred or were experienced. Plaintiff and each Class Member sustained similar injuries arising out of Defendants' conduct.

44. The injuries of each Class member were caused directly by Defendants' wrongful conduct. The factual underpinning of Defendants' misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all Class members. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of each member of the Class and are based on the same legal theories.

45. Adequacy—Plaintiff is an adequate representative of the Class because Plaintiff is a Class member and Plaintiff's interests do not conflict with the interests of the members of the Class that Plaintiff seeks to represent. Plaintiff is represented by experienced and able counsel

who have successfully litigated numerous consumer class actions, and Plaintiff's counsel intends to prosecute this action vigorously for the benefit of the entire Class. Plaintiff and Plaintiff's counsel can fairly and adequately protect the interests of the members of the Plaintiffs Class.

46. Superiority—The class action is the best available method for the efficient adjudication of this litigation because individual litigation of the Class claims would be impractical and individual litigation would be unduly burdensome to the courts. Individual litigation has the potential to result in inconsistent or contradictory judgments. A class action in this case presents fewer management problems and provides the benefits of a single adjudication, economies of scale, and comprehensive supervision by a single court. As the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class treatment of common questions of law and fact would also be superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the Court and the litigants, and will promote consistency and efficiency of adjudication.

CLAIMS FOR RELIEF

A. Claims Brought on behalf of the Nationwide Class and all Subclasses

COUNT I

UNJUST ENRICHMENT (By Plaintiff and the Nationwide Class)

47. Plaintiff realleges and incorporates by reference paragraphs 1-46 above as if fully set forth herein.

48. Plaintiff brings this claim individually and on behalf of the members of the Nationwide Class and all Subclasses against Defendants.

49. Plaintiff and the Nationwide Class members conferred a benefit on Defendants by purchasing Natural American Spirit cigarettes.

50. Defendants have unjustly retained a benefit to the detriment of Plaintiff and members of the Nationwide Class. Defendants misrepresented and deceived Plaintiff and members of the Nationwide Class regarding the facts concerning additives in Natural American Spirit cigarettes. Defendants did so for the purpose of enriching themselves. Plaintiff and Class members would not have purchased Natural American Spirit cigarettes or would not have paid as much for the cigarettes had they known the true facts. Thus, Defendants continue to possess money paid by Plaintiff and the Nationwide Class to which they are not entitled.

51. Defendants' retention of the benefit violates fundamental principles of justice, equity and good conscience.

52. As a result of Defendants' unlawful and deceptive actions described above, Defendants were enriched at the expense of Plaintiff and the Class.

53. As a direct and proximate result of Defendants' above-described conduct, Plaintiff and the Nationwide Class members have sustained damages

54. As a result of Defendants' unlawful and deceptive actions described above, Defendants were enriched as the expense of Plaintiff and the Class.

55. Under the circumstances, it would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits it received from Plaintiff and the Class. Thus, it would be unjust and inequitable for Defendants to retain the benefit without restitution to Plaintiff and the Class for the monies paid to Defendants for the American Spirits.

COUNT II

**INJUNCTIVE RELIEF—MEDICAL MONITORING & SMOKING CESSATION
CLINICS**

(By Plaintiff and the Nationwide Class)

56. Plaintiff realleges and incorporates by reference paragraphs 1-46 above as if fully set forth herein.

57. Plaintiff brings this claim individually and on behalf of the members of the Nationwide Class and all Subclasses against Defendants.

58. As alleged above, Defendants deceived Plaintiff and the Nationwide Class into thinking that Natural American Spirits are healthier, safer and less carcinogenic than alternative cigarettes.

59. Defendants exposed consumers, including Plaintiff and the Class to a product that is addictive and disease causing.

60. Plaintiff and Nationwide Class members switched to smoking American Spirits because they thought that a “Natural,” “Organic,” and “Additive Free” cigarette, as Defendants deceptively advertised, would help them quit smoking or was a healthy alternative to cigarettes.

61. Smoking an addictive and potentially disease-causing product makes medical examinations and smoking cessation programs reasonable and necessary.

62. The extent of the significantly increased risk and the catastrophic nature of the illnesses to which Defendants have exposed Plaintiff and the Nationwide Class require such medical monitoring program and/or smoking cessation programs for Plaintiff and the Nationwide Class.

63. Plaintiff, on behalf of himself and similarly situated Nationwide Class members, invoke the equitable and injunctive power of the Court to require Defendants to fund a Court-

supervised medical monitoring and smoking cessation programs because of the significantly increased risks of injury attributable to smoking American Spirits.

64. Such relief is available notwithstanding the absence of the manifestations of a present physical injury or symptomatic disease.

65. Failure to establish a medical monitoring and smoking cessation programs will result in the infliction of immeasurable and unconscionable personal injuries which are preventable.

B. Claims on Behalf of the Florida Subclass under Florida Law

COUNT III

**Violation of the Florida Deceptive and Unfair Trade Practices Act
(Fla. Stat. sec. 501.201 *et seq.*)
(By Plaintiff and the Florida Subclass)**

66. Plaintiff realleges and incorporates by reference paragraphs 1-46 above as if fully set forth herein.

67. Plaintiff brings this claim individually and on behalf of the members of the Florida Subclass against Defendants.

68. 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.” § 501.202(2), Fla. Stat.

69. Section 501.204(1), Fla. Stat. 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.”

70. Selling, distributing, or introducing American Spirits cigarettes in interstate commerce are “consumer transaction[s]” in the scope of FDUTPA.

71. Plaintiff is a “consumer[s]” as defined by §501.203, Fla. Stat.

72. Defendants’ American Spirits are goods within the meaning of FDUTPA and Defendants are engaged in trade or commerce within the meaning of FDUTPA.

73. Defendants’ unfair and deceptive practices are likely to mislead – and have misled – reasonable consumers, such as Plaintiff and members of the Florida subclass.

74. Defendants have violated FDUTPA by engaging in the unfair and deceptive practices described above, which are unconscionable and which offend public policy and which are immoral, unethical, unscrupulous and substantially injurious to consumers.

75. Specifically, Defendants have represented that American Spirits are “Additive Free,” “100% Additive Free,” “Natural” and “Organic,” when in fact, the cigarettes are engineered to deliver a higher level of nicotine, and/or contain additives and flavorings.

76. Plaintiff and the Florida Subclass have been aggrieved by Defendants unfair deceptive and unconscionable practices in violation of FDUPA, in that they purchased and consumed Defendants’ deceptive product.

77. Plaintiff and the Florida Subclass, as reasonable consumers, relied on Defendants to honestly and accurately represent the true nature of American Spirits.

78. Defendants have deceived reasonable consumers, like Plaintiff and the Florida Subclass, into believing American Spirits were something they were not: healthier and safer than other cigarettes.

79. The knowledge required to discern the true nature of American Spirits is beyond that of the reasonable consumer.

80. Plaintiff and the Florida Subclass have sustained damages as a direct and proximate result of Defendants tortious conduct.

81. Pursuant to §§501.211(2) and 501.2105, Fla. Stat., Plaintiff and the Florida Subclass demand damages, attorney's fees and costs and any other equitable and legal relief to which they may be entitled.

COUNT IV
Injunctive Relief-Medical Monitoring
(By Plaintiff and the Florida Subclass)

82. Plaintiff realleges and incorporates by reference paragraphs 1-46 above as if fully set forth herein.

83. Plaintiff brings this claim individually and on behalf of the members of the Florida Subclass against Defendants.

84. As alleged above, Defendants deceived Plaintiff and the Florida Subclass into thinking that American Spirits are healthier, safer and less carcinogenic than alternative cigarettes.

85. Defendants have exposed consumers, including Plaintiff and the Florida Subclass to a product that is addictive and disease causing.

86. Plaintiff and Florida Subclass members switched to smoking American Spirits because they thought that a "Natural," "Organic," and "Additive Free" cigarette, as Defendants deceptively advertise, will help them quit smoking or is a healthy alternative to alternative cigarettes.

87. Smoking an addictive and potentially disease-causing product makes medical examinations and smoking cessation programs reasonable and necessary.

88. The extent of the significantly increased risk and the catastrophic nature of the illnesses to which Defendants have exposed Plaintiff and the Florida Subclass require such

medical monitoring program and/or smoking cessation programs for Plaintiff and the Florida Subclass.

89. Plaintiff, on behalf of himself and similarly situated Florida Subclass members, invoke the equitable and injunctive power of the Court to require Defendants to fund a Court-supervised medical monitoring and smoking cessation programs because of the significantly increased risks of injury attributable to smoking American Spirits.

90. Florida recognizes Plaintiff and Class members' rights to medical monitoring as a cognizable cause of action. *See Petito vs. A.H. Robbins Co., Inc.*, 750 So.2d 103 (Fla. 3rd DCA 1999). Such relief is available notwithstanding the absence of the manifestations of a present physical injury or symptomatic disease.

91. Failure to establish a medical monitoring and smoking cessation programs will result in the infliction of immeasurable and unconscionable injuries which are preventable.

WHEREFORE, Plaintiff, on behalf of himself individually and on behalf of all Class members, seeks the following relief against all Defendants:

- A. An order certifying this action to be a proper class action pursuant to Federal Rule of Civil Procedure 23(a), (b)(1), (b)(2), (b)(3) and (c)(4), establishing an appropriate Class and any Subclasses the Court deems appropriate, and finding that Plaintiff is a proper representative of the Class;
- B. Actual damages and/or an award equal to the amount by which the Defendants have been unjustly enriched;
- C. An order requiring medical monitoring and smoking cessation programs;
- D. An order awarding interest;
- E. The costs of this proceeding and attorneys' fees;

- F. Any further compensatory, injunctive, equitable or declaratory relief i as may be just and proper.

JURY TRIAL DEMAND

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

Dated: March 15, 2016

Respectfully submitted,

**MORGAN & MORGAN
COMPLEX LITIGATION GROUP**

/s/ John A. Yanchunis

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Attorneys for Plaintiff and the 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.)

I. (a) PLAINTIFFS

Ashley Waldo, on behalf of herself and all others similarly situated

DEFENDANTS

SANTA FE NATURAL TOBACCO COMPANY, INC., and REYNOLDS AMERICAN INC.

(b) County of Residence of First Listed Plaintiff Orange County, Florida
(EXCEPT IN U.S. PLAINTIFF CASES)County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
Morgan & Morgan Complex Litigation Group
201 N. Franklin Street, 7th Floor
Tampa, FL 33602

Attorneys (If Known)

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

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

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

| CONTRACT | TORTS | FORFEITURE/PENALTY | BANKRUPTCY | OTHER/STATUTES | |
|---|--|--|---|---|---|
| <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice | PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability | <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions | <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY/RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609 | <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes |
| REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education | PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement | | | |

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 ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)Brief description of cause:
Florida Deceptive and Unfair Trade Practices Act**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
5,000,000.00CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE See attached

DOCKET NUMBER

DATE
03/15/2016SIGNATURE OF ATTORNEY OF RECORD
/s/ John Yanchunis

FOR OFFICE USE ONLY

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

SANTA FE NATURAL TOBACCO COMPANY MARKETING, SALES PRACTICES, AND PRODUCTS LIABILITY
LITIGATION
MDL NO. 2695

| | Case | District and Division | Date Filed | Judge Assigned |
|----|---|--|---|----------------------------------|
| 1. | <i>Ceyhan Haksal, et al. v. Santa Fe Natural Tobacco Company, Inc., et al.</i> , 1:15-cv-001163 | United States District Court for the District of New Mexico, Albuquerque Division | December 22, 2015 | Hon. Judge James O. Browning |
| 2. | <i>Dunn v. Santa Fe Natural Tobacco Company, Inc.</i> , No. 1:15-cv-01142 | United States District Court for the District of New Mexico, Albuquerque Division | December 16, 2015 | Hon. Judge James A. Parker |
| 3. | <i>Russell Brattain v. Santa Fe Natural Tobacco Company, Inc. et al.</i> , 4:15-cv-04705-JSW | United States District Court for the Northern District of California, Oakland Division | October 9, 2015 | Hon. Judge Jeffrey S. White |
| 4. | <i>Theodore Rothman v. Santa Fe Natural Tobacco Co., Inc., et al.</i> , No. 7:15-cv-08622 | United States District Court for the Southern District of New York, White Plains Division | November 3, 2015 | Hon. Judge Nelson Stephen Roman |
| 5. | <i>Sproule v. Santa Fe Natural Tobacco Co., Inc., et al.</i> , No. 15-cv-62064 | United States District Court for the Southern District of Florida, Ft. Lauderdale Division | September 30, 2015; Amended Complaint October 14, 2015 | Hon. Judge Joan A. Lenard |
| 6. | <i>Cuebas v. Santa Fe Natural Tobacco Co. et al.</i> , Civ. No. 16-cv-00270 | United States District Court for the Southern District of New York, White Plains Division | | Hon. Judge Nelson Stephen Roman |
| 7. | <i>Okstad v. Santa Fe Natural Tobacco Co.</i> , 16-cv-00084 | United States District Court for the Middle District of Florida, Jacksonville Division | | Hon. Judge Marcia Morales Howard |
| 8. | <i>Ruggiero v. Santa Fe Natural Tobacco Co.</i> , 16-cv-00493 | United States District Court for the District of Columbia | March 14, 2016 | |