

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

JEANETTE COSTOSO, On Behalf Of
Herself And All Others Similarly
Situating,

Plaintiff,

v.

WAL-MART STORES, INC. d/b/a
Great Value,

Defendant.

Case No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff, JEANETTE COSTOSO, individually and on behalf of all others similarly situated throughout the country, by her attorneys THE JTB LAW GROUP, LLC, alleges the following upon information and belief, except for those allegations pertaining to Plaintiff, which are based on personal knowledge:

NATURE OF THE ACTION

1. This action seeks to remedy the unlawful, deceptive, and misleading business practices of Wal-Mart Stores, Inc. d/b/a Great Value (herein after, “Defendant”) with respect to the manufacture, distribution, marketing, and sale of Great Value 100% Grated Parmesan Cheese (the “Product”).

2. In order to induce consumers to purchase Defendant’s product, Defendant’s advertising, marketing, and on-label texts prominently feature the warranty and representation: “100% Grated Parmesan Cheese.”

3. Notwithstanding Defendant’s warranty and representation, independent laboratory testing shows that the product is not in fact “100%” grated Parmesan, but rather contains

significant quantities of adulterants and fillers. In fact, testing shows that at least 7% to 10% of the purportedly “100%” Parmesan cheese consists of cellulose, a filler and anti-clumping agent derived from *wood pulp*.

4. Plaintiff brings this action against Defendant on behalf of herself and a nationwide class of consumers who purchased the Product during the applicable statute of limitations period (the “Class Period”).

PARTIES

5. Plaintiff Jeanette Costoso is an individual consumer who, at all times material hereto, was a citizen of New York residing in Nassau County. During the Class Period, Plaintiff purchased the Product at her local Wal-Mart store in the State of New York.

6. Plaintiff was induced to purchase the Product based upon the only statement appearing on the front of the label, i.e., “100% Grated Parmesan Cheese.” Plaintiff would not have purchased the product at a premium price, and/or would have paid significantly less for the product, had she known that the “100%” representation is false and mischaracterizes the amount and percentage of Parmesan Cheese in the container. Plaintiff suffered injury in fact and lost money as a result of Defendant’s deceptive, misleading, false, unfair, and fraudulent practices, as described herein.

7. Defendant, Wal-Mart Stores, Inc. d/b/a Great Value, is a corporation with its principal place of business in Bentonville, Arkansas, and is organized and existing under the laws of the State of Delaware. Defendant develops, manufactures, distributes, sells and advertises the product at issue here – “Great Value 100% Grated Parmesan Cheese” (the “Product”) – nationwide, including in the State of New York. Defendant has long maintained substantial distribution, marketing, and sales operations in Arkansas.

JURISDICTION and VENUE

8. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(d)(2). Upon information and belief, the amount in controversy is in excess of \$5,000,000, exclusive of interests and costs.

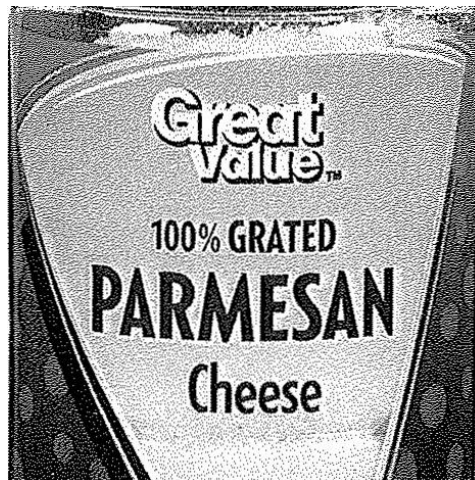
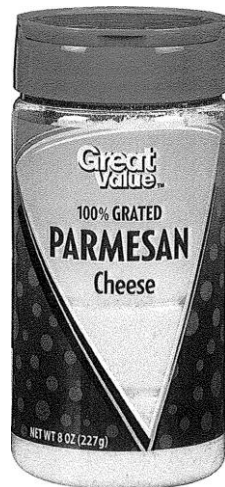
9. Venue is proper because Plaintiff and many Class Members reside in the Eastern District of New York, and throughout the State of New York.

10. This Court has personal jurisdiction over the Defendant because the Defendant conducts and transacts business in the State of New York, contracts to supply goods within the State of New York, and supplies goods within the State of New York.

FACTS COMMON TO ALL CAUSES OF ACTION

**Defendant's False Representation
That the Product is "100%" Parmesan**

11. As can be seen in the images below, Defendant makes *only one* marketing representation on the label: the Product is "100%" Grated Parmesan Cheese. Consumers, including Plaintiff, reasonably rely on the label and believe Defendant's statement that the Product consists of "100%" Parmesan Cheese means no substitutes or fillers are present in the container. Because the Product does in fact contain fillers and substitutes, the "100%" Parmesan claim is literally false and is also misleading to consumers, including Plaintiff.



12. Independent testing shows that at least 7% to 10% of the Product is not Parmesan Cheese. Indeed, at least 7% to 10% of the Product is not even cheese of any kind, but is rather comprised of fillers and additives. In fact, at least 7% to 10% of the Product is cellulose, an anti-clumping agent derived from *wood chips*.

CLASS ALLEGATIONS

13. Plaintiff brings this case as a class action under Federal Rule of Civil Procedure 23 on behalf of a Class consisting of all persons in the United States who, within the relevant statute of limitations period, purchased Kraft's "100% Grated Parmesan Cheese" Products.

14. Plaintiff also seeks to represent a subclass defined as all members of the Class who purchased the Products in New York (the "New York Subclass"). The Class and New York Subclass shall be referred to collectively throughout the Complaint as "the Class."

15. Excluded from the Class are Defendant, the officers and directors of the Defendant at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendant has or had a controlling interest. Any judge and/or magistrate judge to whom this action is assigned and any members of such judges' staffs and immediate families are also excluded from the Class. Also excluded from the Class are persons or entities that purchased the Product for purposes of resale.

16. The Class is properly brought and should be maintained as a class action under Rule 23(a), because the class action prerequisites of numerosity, commonality, typicality, and adequacy are satisfied, in that:

17. Numerosity: Class Members are so numerous that joinder of all members is impracticable. Defendant sells millions of containers of the Product in its stores nationwide, and Plaintiff believes that there are thousands of consumers who are members of the Class described

above who have been damaged by Defendant's deceptive and misleading practices. The precise number of Class members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class members may be notified of the pendency of his action by mail and/or publication.

18. Commonality: The questions of law and fact common to the Class Members which predominate over any questions which may affect individual Class Members include, but are not limited to:

- a. Whether Defendant is responsible for the conduct alleged herein which was uniformly directed at all consumers who purchased the Product;
- b. Whether Defendant's misconduct set forth in this Complaint demonstrates that Defendant has engaged in illegal, unfair, fraudulent, or unlawful business practices with respect to the advertising, marketing, and sale of the Product;
- c. Whether Defendant made false and/or misleading statements to the Class and the public concerning the Product.
- d. Whether Defendant's false and misleading statements concerning the Product were likely to deceive the public;
- e. Whether Plaintiff and the Class are entitled to injunctive relief;
- f. Whether Plaintiff and the Class are entitled to money damages under the same causes of action as the other Class Members.

19. Typicality: Plaintiff is a member of the Class and of the New York Subclass. Plaintiff's claims are typical of the claims of each Class Member in that every member of the Class was susceptible to the same deceptive, misleading conduct and purchased the Defendant's Product. Plaintiff is entitled to relief under the same causes of action as the other Class Members.

20. Adequacy: Plaintiff is an adequate representative of the Class because her interests do not conflict with the interests of the Class Members she seeks to represent; her consumer fraud claims are common to all members of the Class and she has a strong interest in vindicating her rights; she has retained counsel competent and experienced in complex class

action litigation and they intend to vigorously prosecute this action. Plaintiff has no interests which conflict with those of the Class. The Class Members' interests will be fairly and adequately protected by Plaintiff and her counsel. Defendant has acted in a manner generally applicable to the Class, making relief appropriate with respect to Plaintiff and the Class Members. The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications.

21. Superiority: The class mechanism is superior to other available means for the fair and efficient adjudication of this controversy because:

- a. The joinder of thousands of individual Class Members is impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or litigation resources;
- b. The individual claims of the Class Members may be relatively modest compared with the expense of litigating the claim, thereby making it impracticable, unduly burdensome, and expensive – if not totally impossible – to justify individual actions;
- c. When Defendant's liability has been adjudicated, all Class Members' claims can be determined by the Court and administered efficiently in a manner far less burdensome and expensive than if it were attempted through filing, discovery, and trial of all individual cases;
- d. This class action will promote orderly, efficient, expeditious, and appropriate adjudication and administration of Class claims;
- e. Plaintiff knows of no difficulty likely to be encountered in the management of this action that would preclude its maintenance as a class action;
- f. This class action will assure uniformity of decisions among Class Members;
- g. The Class is readily definable and prosecution of this action as a class action will eliminate the possibility of repetitious litigation;
- h. Class Members' interests in individually controlling the prosecution of separate actions is outweighed by their interest in efficient resolution by a single class action; and
- i. It would be desirable to concentrate in this single venue the litigation of all plaintiffs who were induced by Defendant's uniform false and illegal advertising

to purchase its Product.

22. Accordingly, this Class is properly brought and should be maintained as a class action under Rule 23(b)(3) because questions of law or fact common to Class Members predominate over any questions affecting only individual members, Plaintiff's claims are typical of those of the Class, Plaintiff is an adequate representative of the Class, and a class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

FIRST CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 349

(On Behalf of Plaintiff and All Class and/or New York Subclass Members)

23. Plaintiff repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

24. New York General Business Law Section 349 ("GBL § 349") declares unlawful "[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state...."

25. The conduct of Defendant alleged herein constitutes recurring, "unlawful" deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff and the Class and/or New York Subclass Members seek monetary damages and the entry of preliminary and permanent injunctive relief against Defendant, enjoining it from inaccurately describing, labeling, marketing, and promoting its Product.

26. Defendant inaccurately and deceptively presents the Product to consumers.

27. Defendant's improper consumer-oriented conduct-including labeling and advertising that the Product features "100%" Grated Parmesan Cheese-is misleading in a material way in that it, *inter alia*, induced Plaintiff and the Class to purchase and pay a premium for Defendant's Product and to use this Product when they otherwise would not have.

28. Defendant made its illegal, untrue and/or misleading statements and

representations willfully, wantonly, and with reckless disregard for the truth.

29. Plaintiff and the Class have been injured inasmuch as they paid a premium for a product that was – contrary to Defendant’s representations – not made of “100%” Grated Parmesan Cheese. Accordingly, Plaintiff and the Class and/or New York Subclass Members received less than what they bargained and/or paid for.

30. Defendant’s advertising and Product packaging and labeling induced the Plaintiff and Class and/or New York Subclass Members to buy Defendant’s Product and to pay a premium price for it.

31. Defendant’s deceptive, illegal, and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(a) and Plaintiff and the Class have been damaged thereby.

32. As a result of Defendant’s recurring, “unlawful” deceptive acts and practices, Plaintiff and the Class are entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant ‘s unlawful conduct, interest, and attorneys’ fees and costs.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 350

(On Behalf of Plaintiff and All Class and/or New York Subclass Members)

33. Plaintiff repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

34. N.Y. Gen. Bus. Law § 350 provides, in part, as follows:

False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.

35. N.Y. Gen. Bus. Law § 350a(l) provides, in part, as follows:

The term ‘false advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising

is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual

36. Defendant's labeling and advertisements contain untrue, illegal, and materially misleading statements concerning Defendant's Product inasmuch as they misrepresent that the Product contains "100%" Grated Parmesan Cheese.

37. Plaintiff and the Class have been injured inasmuch as they relied upon the labeling, packaging and advertising and paid a premium for a Product that was – contrary to Defendant's representations – not "100%" Grated Parmesan Cheese. Accordingly, Plaintiff and the Class received less than what they bargained and/or paid for.

38. Defendant's advertising, packaging and product labeling induced the Plaintiff and Class to buy Defendant's Product.

39. Defendant made untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

40. Defendant's conduct constitutes multiple, separate violations of N.Y. Gen. Bus. Law § 350.

41. Defendant made the material misrepresentations described in this Complaint in Defendant's advertising, and on the Product's packaging and labeling.

42. Defendant's material misrepresentations were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, all consumers purchasing the Product were and continue to be exposed to Defendant's material misrepresentations.

43. As a result of Defendant's recurring, "unlawful" deceptive acts and practices, Plaintiff and Class and/or New York Subclass Members are entitled to monetary, compensatory,

treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant's unlawful conduct, interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION
VIOLATION OF STATE CONSUMER PROTECTION STATUTES
(On Behalf of Plaintiff and All Class Members)

44. Plaintiff repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

51. Plaintiff and Class Members have been injured as a result of Defendant's violations of the following state consumer protection statutes, which also provide a basis for redress to Plaintiff and Class Members based on Defendant's fraudulent, deceptive, unfair and unconscionable acts, practices and conduct.

52. Defendant's conduct as alleged herein violates the consumer protection, unfair trade practices and deceptive acts laws of each of the following jurisdictions:

- a. **Alaska:** Defendant's practices were and are in violation of Alaska's Unfair Trade Practices and Consumer Protection Act, Alaska Stat. § 45.50.471, *et seq.*
- b. **Arizona:** Defendant's practices were and are in violation of Arizona's Consumer Fraud Act, Ariz. Rev. Stat. Ann. §§ 44-1521, *et seq.*
- c. **Arkansas:** Defendant's practices were and are in violation of Arkansas Code Ann. § 4-88-101, *et seq.*
- d. **California:** Defendant's practices were and are in violation of California Consumer Legal Remedies Act, Civil Code § 1750, *et seq.*, and California's Unfair Competition Law, California Business and Professions Code § 17200, *et seq.*
- e. **Colorado:** Defendant's practices were and are in violation of Colorado's Consumer Protection Act, Colo. Rev. Stat. §§ 61-1-101, *et seq.*
- f. **Connecticut:** Defendant's practices were and are in violation of Connecticut's Gen. Stat. § 42-110a, *et seq.*
- g. **Delaware:** Defendant's practices were and are in violation of Delaware's Consumer Fraud Act, Del. Code Ann. Tit. 6, § 2511, *et seq.* and the Deceptive

Trade Practices Act, Del. Code Ann. Tit. 6, § 2531, *et seq.*

h. **District of Columbia:** Defendant's practices were and are in violation of the District of Columbia's Consumer Protection Act, D.C. Code § 28-3901, *et seq.*

i. **Florida:** Defendant's practices were and are in violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*

j. **Hawaii:** Defendant's practices were and are in violation of the Hawaii's Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. § 48 1A-1, *et seq.* and Haw. Rev. Stat. § 480-2.

k. **Idaho:** Defendant's practices were and are in violation of Idaho's Consumer Protection Act, Idaho Code Ann. § 48-601, *et seq.*

l. **Illinois:** Defendant's acts and practices were and are in violation of Illinois' Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. 505/2; and Uniform Deceptive Trade Practices Act, 815 Ill. Comp. Stat. 510/2.

m. **Indiana:** Defendant's practices were and are in violation of Indiana's Deceptive Consumer Sales Act, Ind. Code Ann. § 24-5-0.5-1, *et seq.*

n. **Kansas:** Defendant's practices were and are in violation of Kansas's Consumer Protection Act, Kat. Stat. Ann. § 50-623, *et seq.*

o. **Kentucky:** Defendant's practices were and are in violation of Kentucky's Consumer Protection Act, Ky. Rev. Stat. Ann. § 367.110, *et seq.*

p. **Maine:** Defendant's practices were and are in violation of the Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. Ann. Tit. 5, § 205-A, *et seq.* and 10 Me. Rev. Stat. Ann. § 1101, *et seq.*

q. **Maryland:** Defendant's practices were and are in violation of Maryland's Consumer Protection Act, Md. Code Ann. Com. Law § 13-101, *et seq.*

r. **Massachusetts:** Defendant's practices were unfair and deceptive acts and practices in violation of Massachusetts' Consumer Protection Act, Mass. Gen. Laws Ch. 93A, § 2.

s. **Michigan:** Defendant's practices were and are in violation of Michigan's Consumer Protection Act, Mich. Comp. Laws Ann. § 445.901, *et seq.*

t. **Minnesota:** Defendant's practices were and are in violation of Minnesota's Prevention of Consumer Fraud Act, Minn. Stat. § 325F.68, *et seq.* and the Unlawful Trade Practices law, Minn. Stat. § 3250.09, *et seq.*

- u. **Missouri:** Defendant's practices were and are in violation of Missouri's Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*
- v. **Nebraska:** Defendant's practices were and are in violation of Nebraska's Consumer Protection Act, Neb. Rev. Stat. § 59-1601, *et seq.* and the Uniform Deceptive Trade Practices Act, § 87-302, *et seq.*
- w. **Nevada:** Defendant's practices were and are in violation of Nevada's Deceptive Trade Practices Act, Nev. Rev. Stat. Ann. §§ 598.0903 and 41.600.
- x. **New Hampshire:** Defendant's practices were and are in violation of New Hampshire's Regulation of Business Practices for Consumer Protection, N.H. Rev. Stat. Ann. § 358-A:1, *et seq.*
- y. **New Jersey:** Defendant's practices were and are in violation of New Jersey's Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1, *et seq.*
- z. **New Mexico:** Defendant's practices were and are in violation of New Mexico's Unfair Practices Act, N.M. Stat. Ann. § 57-12-1, *et seq.*
- aa. **New York:** Defendant's practices were in and are in violation of New York's Gen. Bus. Law §§ 349, *et seq.*
- bb. **North Carolina:** Defendant's practices were and are in violation of North Carolina's Unfair Deceptive Trade Practices Act, N.C. Gen. Stat. Ann. § 75-1, *et seq.*
- cc. **North Dakota:** Defendant's practices were and are in violation of North Dakota's Unlawful Sales or Advertising Practices law, N.D. Cent. Code § 51-15-01, *et seq.*
- dd. **Ohio:** Defendant's practices were and are in violation of Ohio's Consumer Sales Practices Act, Ohio Rev. Code Ann. § 1345.01, *et seq.* and Ohio's Deceptive Trade Practices Act. Ohio Rev. Code Ann. § 4165.01, *et seq.*
- ee. **Oklahoma:** Defendant's practices were and are in violation of Oklahoma's Consumer Protection Act, Okla. Stat. Ann. Tit. 15 § 751, *et seq.*, and Oklahoma's Deceptive Trade Practices Act, Okla. Stat. Ann. Tit. 78 § 51, *et seq.*
- ff. **Oregon:** Defendant's practices were and are in violation of Oregon's Unlawful Trade Practices law, Or. Rev. Stat. § 646.605, *et seq.*
- gg. **Pennsylvania:** Defendant's practices were and are in violation of Pennsylvania's Unfair Trade Practice and Consumer Protection Law, 73 Pa. Stat. Ann. § 201-1, *et seq.*
- hh. **Rhode Island:** Defendant's practices were and are in violation of Rhode Island's Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, *et seq.*

ii. **South Dakota:** Defendant's practices were and are in violation of South Dakota's Deceptive Trade Practices and Consumer Protection Act, S.D. Codified Laws § 37-24-1, *et seq.*

jj. **Texas:** Defendant's practices were and are in violation of Texas' Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Com. Code Ann. § 17.41, *et seq.*

kk. **Utah:** Defendant's practices were and are in violation of Utah's Consumer Sales Practices Act, Utah Code Ann. § 13-11-1, *et seq.*, and Utah's Truth in Advertising Law, Utah Code Ann. § 13-11a-1, *et seq.*

ll. **Vermont:** Defendant's practices were and are in violation of Vermont's Consumer Fraud Act, Vt. Stat. Ann. Tit. 9 § 2451, *et seq.*

mm. **Washington:** Defendant's practices were and are in violation of Washington Consumer Protection Act, Wash. Rev. Code Ann. § 19.86, *et seq.*

nn. **West Virginia:** Defendant's practices were and are in violation of West Virginia's Consumer Credit and Protection Act, W. Va. Code § 46A-6-101, *et seq.*

oo. **Wisconsin:** Defendant's practices were and are in violation of Wisconsin's Consumer Act, Wis. Stat. §421.101, *et seq.*

pp. **Wyoming:** Defendant's practices were and are in violation of Wyoming's Consumer Protection Act, Wyo. Stat. Ann. §40-12-101, *et seq.*

53. Defendant violated the aforementioned states' unfair and deceptive acts and practices laws by representing that the Product is "100%" Grated Parmesan Cheese.

54. Contrary to Defendant's representations, the Product does not contain "100%" Grated Parmesan Cheese.

55. Defendant's misrepresentations were material to Plaintiff s and Class Members' decision to pay a significant premium for the Product.

56. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

57. As a result of Defendant's violations of the aforementioned states' unfair and deceptive practices laws, Plaintiff and Class Members paid a significant premium for the Product

as compared to products serving the same purpose.

58. As a result of Defendant's violations, Defendant has been unjustly enriched.

59. Pursuant to the aforementioned states' unfair and deceptive practices laws, Plaintiff and Class Members are entitled to recover compensatory damages, restitution, punitive and special damages including but not limited to treble damages, reasonable attorneys' fees and costs and other injunctive or declaratory relief as deemed appropriate or permitted pursuant to the relevant law.

68. As a direct and proximate result of Defendant's breach of express warranty, Plaintiff and Class Members were damaged in the amount of the price they paid for the Product, in an amount to be proven at trial.

FIFTH CAUSE OF ACTION
BREACH OF EXPRESS WARRANTY
(On Behalf of Plaintiff and All Class Members)

69. Plaintiff repeats and realleges each and every allegation contained in the forgoing paragraphs as if fully set forth herein.

70. Plaintiff brings this Count individually and on behalf of the members of the Class.

71. In connection with the sale of the Product, Defendant issued an express warranty that the Product consisted of "100%" Parmesan cheese.

72. Defendant's affirmation of fact and promise on the Product's label that the Product consisted of "100%" Parmesan cheese became part of the basis of the bargain between Defendant and Plaintiff and Class members, thereby creating express warranties that the Product would conform to Defendant's affirmation of fact, representations, promise, and description.

73. Defendant breached its express warranty because Defendant's "100% Grated Parmesan Cheese" does not in fact consist of 100% Parmesan cheese, but is rather substantially

filled with cellulose and fillers. In short, the Product does not live up to Defendant's express warranty.

74. Plaintiff and the Class Members were injured as a direct and proximate result of Defendant's breach because: (a) they would not have purchased the Product if they had known the true facts; (b) they paid for the Product due to the mislabeling of the Product; (c) they would not have purchased the Product on the same terms if they had known the true facts; (d) they paid a price premium for the Product due to Defendant's false warranties and affirmations of fact; and (d) the Product did not have the characteristics or qualities as promised.

SIXTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(On Behalf of Plaintiff and All Class Members)

75. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

76. Defendant is in the business of manufacturing, distributing, marketing and advertising "100%" Grated Parmesan Cheese.

77. Under the Uniform Commercial Code's implied warranty of merchantability, the Defendant warranted to Plaintiff and Class Members that the Product contains "100% Grated Parmesan Cheese.

78. Defendant breached the implied warranty of merchantability in that Defendant's Product deviates from the product description, and reasonable consumers expecting a product that conforms to its label would not accept the Defendant's product if they knew it did not contain "100%" Grated Parmesan Cheese.

79. Within a reasonable amount of time after the Plaintiff discovered that the Product did in fact violate federal law, Plaintiff notified the Defendant of such breach.

80. The inability of the Defendant's Product to meet the label description was wholly due to the Defendant's fault and without Plaintiff's or Class Members' fault or neglect, and was solely due to the Defendant's manufacture and distribution of the Product to the public.

81. As a result of the foregoing, Plaintiff and Class Members have been damaged in the amount paid for the Defendant's Product, together with interest thereon from the date of purchase.

SEVENTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE
(On Behalf of Plaintiff and All Class Members)

82. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

83. Plaintiff and Class Members bought the Defendant's Product with the specific purpose of buying "100%" Grated Parmesan Cheese.

84. Defendant knew or had reason to know that the Plaintiff and other Class Members were buying its Product with the specific purpose of buying a product that was purportedly "100%" Grated Parmesan Cheese.

85. Plaintiff and the other Class Members, intending to use a fully compliant and legal product, relied on the Defendant in selecting its Product to fit their specific intended use.

86. Plaintiff's and Class Members' reliance on Defendant in selecting Defendant's Product to fit their particular purpose was reasonable given Defendant's claims and representations in its advertising, packaging and labeling concerning the Product's ingredients.

87. Plaintiff and the other Class Members' reliance on Defendant in selecting

Defendant's Product to fit their particular use was reasonable given Defendant's particular knowledge of the Product it manufactures and distributes.

88. As a result of the foregoing, Plaintiff and Class Members have been damaged in the amount paid for the Defendant's Product, together with interest thereon from the date of purchase.

EIGHTH CAUSE OF ACTION
COMMON LAW UNJUST ENRICHMENT

(On Behalf of Plaintiff and All Class Members in the Alternative)

89. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

90. Plaintiff, on behalf of herself and consumers nationwide, brings a common law claim for unjust enrichment.

91. Defendant's conduct violated, *inter alia*, state and federal law by manufacturing, advertising, marketing, and selling its Product while misrepresenting and omitting material facts.

92. Defendant's unlawful conduct as described in this Complaint allowed Defendant to knowingly realize substantial revenues from selling the Product at the expense of, and to the detriment or impoverishment of, Plaintiff and Class Members, and to Defendant's benefit and enrichment. Defendant has thereby violated fundamental principles of justice, equity, and good conscience.

93. Plaintiff and Class Members conferred significant financial benefits and paid substantial compensation to Defendant for a Product that was not as the Defendant represented it to be.

94. Under New York's common law principles of unjust enrichment, it is inequitable for Defendant to retain the benefits conferred by Plaintiff's and Class Members' overpayments.

95. Plaintiff and Class Members seek disgorgement of all profits resulting from such overpayments and establishment of a constructive trust from which Plaintiff and Class Members may seek restitution.

NINTH CAUSE OF ACTION
COMMON LAW FRAUD

(On Behalf of Plaintiff and All Class Members in the Alternative)

96. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

97. Plaintiff, on behalf of herself and consumers nationwide, brings a common law claim for fraud.

98. As discussed above, Defendant provided Plaintiff and Class members with false or misleading material information and failed to disclose material facts about the Product, including but not limited to the fact that the Product did not consist of “100%” Parmesan cheese. Defendant made these misrepresentations and omissions with knowledge of their falsehood.

99. The misrepresentations and omission made by Defendant, upon which Plaintiff and Class members reasonably and justifiably relied, were intended to induce and actually induced Plaintiff and Class members to purchase the Product.

100. The fraudulent actions of Defendant caused damage to Plaintiff and Class members, who are entitled to damages and other legal and equitable relief as a result.

JURY DEMAND

Plaintiff demands a trial by jury on all issues.

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for judgment as follows:

- A.** Declaring this action to be a proper class action and certifying Plaintiff as the representative of the Class under Rule 23 of the FRCP;
- B.** Entering preliminary and permanent injunctive relief against Defendant, directing Defendant

to correct their practices and to comply with consumer protection statutes nationwide, including New York consumer protection law;

- C. Awarding monetary damages, including treble damages;
- D. Awarding punitive damages;
- E. Awarding Plaintiff and Class Members their costs and expenses incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys and experts, and reimbursement of Plaintiff's expenses; and
- F. Granting such other and further relief as the Court may deem just and proper.

Dated: March 8, 2016

Respectfully submitted,
THE JTB LAW GROUP, LLC



Patrick S. Almonrode
patalmonrode@jtblawgroup.com
Jason T. Brown
jtb@jtblawgroup.com
(877) 561-0000 (office)
(855) 582-5297 (fax)

Attorneys for Plaintiff

JS 44 (Rev. 11/15)

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
 JEANETTE COSTOSO, On Behalf Of Herself And All Others Similarly Situated,

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

 (c) Attorneys (Firm Name, Address, and Telephone Number)
 JTB Law Group, LLC, 155 2nd Street, Suite 4, Jersey City, New Jersey
 07302 (877) 561-0000

DEFENDANTS
 WAL-MART STORES, INC. d/b/a Great Value,

 County of Residence of First Listed Defendant _____
 (IN U.S. PLAINTIFF CASES ONLY)
 NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

 Attorneys (If Known)

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)
 (For Diversity Cases Only)

	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 checked="" 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	<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))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <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 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	CIVIL RIGHTS	PRISONER PETITIONS	FEDERAL TAX SUITS		
<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	<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	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	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609		

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):
 Brief description of cause:
 Consumer Fraud

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: 03/08/2016 SIGNATURE OF ATTORNEY OF RECORD: Jason T. Brown

FOR OFFICE USE ONLY: RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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, Jason T. Brown, counsel for Plaintiff, 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 of 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? Yes
 - 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

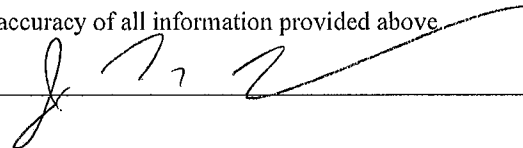
I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- 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: 

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

_____ District of _____

)	
)	
)	
)	
_____)	
<i>Plaintiff(s)</i>)	
v.)	Civil Action No.
)	
)	
)	
_____)	
<i>Defendant(s)</i>)	

SUMMONS IN A CIVIL ACTION

To: *(Defendant’s name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: