

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

KATHLEEN GIBSON,  
DANIELLE S. COOPER, ROBYN JAFFEE,  
and LEWIS DALY, on behalf of themselves  
and all others similarly situated,

Plaintiffs,

Case No. 16-cv-04853

v.

THE QUAKER OATS COMPANY,

The Hon. Charles Norgle

Defendant.

**CONSOLIDATED AMENDED CLASS ACTION COMPLAINT**

Plaintiffs Kathleen Gibson, Robyn Jaffee, Danielle Cooper, and Lewis Daly, individually and on behalf of all others similarly situated, through and by their undersigned counsel, hereby file this Amended Consolidated Class Action Complaint for Equitable Relief and Damages, against Defendant The Quaker Oats Company (“Quaker”), and allege as follows:

1. Defendant aggressively advertises and promotes its oatmeal products as “100% Natural,” and claims its oats are grown using “eco-friendly” methods that pose “less risk of pollutants and groundwater pollution.” These claims are false, deceptive, and misleading. The oat products at issue are not “100% Natural,” but instead contain the chemical glyphosate, a potent biocide and human endocrine disruptor, with detrimental health effects that are still becoming known.

2. Although the exact source of glyphosate in these oat products is known only to Quaker and its suppliers, glyphosate most likely makes its way into the products when the oat crops are sprayed with the chemical in order to dry them out and produce an earlier, more uniform harvest—a practice with no health benefits, meant only to increase yield and, therefore, profit.

3. Plaintiffs bring this deceptive advertising case on behalf of a nationwide class of consumers who purchased the oat products, and seek relief including refunds to purchasers for the falsely advertised products and a court-ordered corrective advertising campaign to inform the public of the true nature of Quaker's glyphosate-contaminated oats.

### **INTRODUCTION**

4. This is a proposed consumer protection class action against The Quaker Oats Company and its parent, PepsiCo, Inc. (collectively, "Quaker") for injunctive relief and economic damages based on misrepresentations and omissions committed by Quaker regarding certain varieties of its products, which Quaker falsely and deceptively labels and markets as "Natural," "100% Natural," "100% Natural Whole Grain," and "Heart Healthy" or "part of a heart healthy diet." The products are not "Natural," "100% Natural," or "100% Natural Whole Grain" as labeled and marketed. In fact, the products contain glyphosate, a potent and *unnatural* biocide.

5. Specifically, the products at issue are: (1) Quaker Oats Old-Fashioned, (2) Quaker Oats Quick 1-Minute, (3) Quaker Steel Cut Oats, and (4) Quaker Steel Cut Oats Quick 3-Minute (collectively, "Quaker Oats," or the "Products").

6. Aware of the health risks and environmental damage caused by artificial-chemical-laden foods, especially packaged foods, consumers increasingly demand foods that are natural and whole, and that omit artificial chemicals.

7. Quaker knows that consumers seek out and wish to purchase whole, natural foods that do not contain artificial chemicals, and that consumers will pay more for foods that they believe to be natural than they will pay for foods that they do not believe to be natural.

8. To capture this growing market, Quaker labels its Quaker Oats products as “100% Natural Whole Grain.” Quaker also states, on the front labels of its Quaker Oats Old Fashioned product, “As part of a heart-healthy diet, the soluble fiber in Oatmeal can help reduce cholesterol.” The back of its Quaker Oats Old Fashioned label advises consumers, “Get your day off to a Heart Healthy Start with Whole Grain Quaker Oatmeal!”











9. The only ingredient listed on Quaker’s “100% Natural Whole Grain” Quaker Oats products is “100% Natural Whole-Grain Quaker Quality Rolled Oats.”

Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

**Ingredients:** 100% Natural Whole Grain Quaker Quality Rolled Oats. (104-1-17)

10. No reasonable consumer, seeing these representations, would expect Quaker Oats to contain anything unnatural, or anything other than whole, rolled oats.

11. Quaker Oats, despite their labels, *do* contain something other than whole, rolled oats; namely, Quaker Oats contain glyphosate.

12. Glyphosate is not “Natural” or “100% Natural.” Glyphosate is a synthetic biocide and a human endocrine disruptor, with additional health dangers becoming known.

13. The amount of glyphosate in Quaker Oats—1.18 parts per million, as tested, at plaintiffs’ request, by an independent laboratory using liquid chromatography mass spectrometry—falls within the 30 parts per million that the Environmental Protection Agency allows in cereal grains, although it is unclear whether regulations permit the specific use(s) of glyphosate that lead to its presence in Quaker Oats. More importantly, Quaker goes beyond asserting that the glyphosate in Quaker Oats falls within EPA tolerances: it claims that Quaker Oats are “Natural” and contain “100% Natural Whole Grain” and nothing else. *See* Exhibit 1.

14. By deceiving consumers about the nature, quality, and/or ingredients of its Quaker Oats, Quaker is able to sell a greater volume of Quaker Oats, to charge higher prices for Quaker Oats, and to take away market share from competing products, thereby increasing its own sales and profits.

15. Consumers lack the scientific knowledge necessary to determine whether Quaker Oats in fact contain only “100% Natural Whole Grain,” to know or to ascertain the true ingredients and quality of Quaker Oats, or to assess the safety of ingesting glyphosate. Reasonable consumers must and do rely on Quaker to report honestly what Quaker Oats contain, and whether the ingredients in fact are “Natural” or “Heart Healthy.”

16. Quaker further hides the fact that the oats contain a modern biocide by marketing some Quaker Oats as “Old Fashioned,” and all Quaker Oats under a picture of a man dressed in Colonial-era attire.



17. Across all Quaker Oats products, Quaker conceals the presence of glyphosate, fails to warn consumers of the presence of glyphosate, and fails to warn consumers about the harmful effects of ingesting glyphosate.

18. Should any consumer seek further information, Quaker’s own website declares that Quaker Oats are “a healthful and tasty ingredient to many recipes.” <http://www.quakeroats.com/products/hot-cereals/old-fashioned-oats.aspx> (last visited July 26, 2016). Quaker’s website further promotes the health benefits of Quaker Oats, stating: “Even better, the goodness doesn’t stop with the taste; Quaker Oats is 100% whole grains which may help reduce the risk of heart disease.” *Id.* (last visited July 26, 2016).



# —QUAKER® OATS—

OLD FASHIONED

★★★★★ 4.3 (387) [Write a review](#)

Mornings, meet your maker. A piping hot bowl of Quaker Oats is one of nature's most perfect energy sources. It goes great with everything from fresh or dried fruits to crunchy nuts. Even better, the goodness doesn't stop with the taste; Quaker Oats is 100% whole grains which may help reduce the risk of heart disease.\*

- Made with 100% natural wholegrain oats
- Helps keep you full through the morning\*\*
- A sodium free food
- Can be used as a healthful and tasty ingredient to many recipes. [Check our recipe section!](#)

\*As part of a diet low in saturated fat and cholesterol and rich in whole grains and other plant foods.

\*\* Serve with 8oz of skim milk.

WHERE TO BUY

COMPARE PRODUCTS



19. Quaker intended for consumers to rely on its representations, and hundreds of thousands of reasonable consumers did in fact so rely. As a result of its false and misleading labeling, failure to warn, and omissions of fact, Quaker was able to sell Quaker Oats to hundreds of thousands of consumers throughout the United States and to realize sizeable profits.

20. Quaker's false and misleading representations, failure to warn, and omissions of fact violate the law.

21. Plaintiffs are not seeking damages for personal injuries in this Complaint<sup>1</sup>; instead, this case is based on Quaker's misrepresentations and omissions regarding the Quaker Oats Products purchased by Plaintiffs and Class Members (as defined in ¶ 129, *infra*) during the

<sup>1</sup> All potential claims for individual tort relief by Plaintiffs and Putative Class Members are preserved and outside the scope of the relief sought in this litigation.

Class Period (as described in ¶ 125, *infra*).

22. Plaintiffs and other Class Members who purchased Quaker Oats suffered economic damages in a similar manner because they purchased, purchased more of, or paid more for Quaker Oats than they would have had they known the Products were not “Natural” or “100% Natural” as labeled and marketed. When a product purports to be “100% Natural,” consumers not only are willing to pay more for the product, they expect it to be pesticide-free. Had Plaintiffs and Class Members known at or before the time of purchase that the Products in fact contained glyphosate, a synthetic biocide with adverse human health effects, they would not have purchased or used the Products, and they will not continue to use them unless and until remedial action is taken.

23. Plaintiffs and other Class Members did not bargain for Products that contain unnatural ingredients in exchange for their payment of the purchase price. Plaintiffs contend that the Products are not “Natural” or “100% Natural Whole Grain” as labeled and marketed, and as a result, such representations mislead consumers into purchasing the Products.

24. The Products are sold pursuant to unlawful trade practices because they offend public policy and are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

25. Accordingly, Plaintiffs seek relief equal to the aggregate retail purchase price paid by Plaintiffs and Class Members during the Class Period, because the Products are worthless and useless due to Quaker’s misrepresentations regarding the true nature, quality, and ingredients of the Products and its failure to warn consumers of the presence of glyphosate and the harmful effects of ingesting glyphosate.

26. Plaintiffs bring this action to stop Quaker’s deceptive and misleading practices.

### **JURISDICTION AND VENUE**

27. This Court has original subject-matter jurisdiction over this proposed class action pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act (“CAFA”). CAFA explicitly provides for the original jurisdiction of the federal courts in any class action in which at least 100 members are in the proposed plaintiff class, any member of the plaintiff class is a citizen of a State different from any defendant, and the matter in controversy exceeds the sum of \$5,000,000.00, exclusive of interest and costs. Plaintiff Gibson is a citizen of Illinois. Plaintiff Cooper is a citizen of California. Plaintiff Jaffee is a citizen of Florida. Plaintiff Daly is a citizen of New York. On information and belief, defendant Quaker Oats Company is a citizen of Illinois. On information and belief, the amount in controversy exceeds \$5,000,000.00

28. This Court has personal jurisdiction over the Defendant. On information and belief, Quaker Oats Company is a Chicago, Illinois-based division of PepsiCo, Inc. Quaker purposefully avails itself of the laws of Illinois to market Quaker Oats to consumers nationwide, including consumers in Illinois, and distributes Quaker Oats to numerous retailers throughout the United State, including in Illinois.

29. Venue is proper in this District under 28 U.S.C. § 1391(b)(1) and (b)(2). Substantial acts in furtherance of the alleged improper conduct, including the dissemination of false and misleading information regarding the nature, quality, and/or ingredients of Quaker Oats, occurred within this District. Quaker resides in this District.

### **PARTIES**

30. At all times mentioned herein, Quaker Oats Company was a Chicago, Illinois-based division of PepsiCo, Inc., a North Carolina corporation headquartered in Purchase, New York, and one of the world’s largest food and beverage companies. Quaker was, at all relevant

times, engaged in commercial transactions throughout the States of Illinois, California, Florida, and New York, including in this judicial District, and including internet sales.

31. Quaker manufactures and/or causes the manufacture of oat-based food products, and markets and distributes the products in retail stores in Illinois and throughout the United States. Quaker Foods North America, of which, upon information and belief, Quaker is a part, makes, markets, sells, and distributes products spanning several categories such as hot and ready-to-eat cereals, rice, pasta, dairy, and other branded products.

32. At all times mentioned herein, Plaintiff Gibson was and is an individual consumer over the age of 18, a citizen of the State of Illinois, and a resident of Cook County, Illinois. During the class period, Plaintiff Gibson has purchased Quaker Oats (specifically, Quaker Oats Old-Fashioned and Quaker Oats Quick 1-Minute) on several occasions at various Mariano's grocery stores in Chicago, Illinois.

33. At all times mentioned herein, Plaintiff Cooper was and is an individual consumer over the age of 18, a citizen of the State of California, and a resident of San Francisco County, California. During the class period, Plaintiff Cooper frequently purchased Quaker Oats (specifically, Quaker Oats Old-Fashioned and Quaker Oats Quick 1-Minute) from a Safeway store located in San Francisco.

34. At all times mentioned herein, Plaintiff Jaffee was and is an individual consumer over the age of 18, a citizen of the State of Florida, and a resident of Dade County, Florida. During the class period, Plaintiff Jaffee has purchased Quaker Oats (specifically, Quaker Oats Old Fashioned) when shopping approximately once each week at a Publix store in North Miami, Florida.

35. At all times mentioned herein, Plaintiff Daly was and is an individual consumer over the age of 18, a citizen of the State of New York, and a resident of Kings County. During the class period, Plaintiff Daly has purchased Quaker Oats (specifically, Quaker Oats Quick 1-Minute) approximately monthly at a Met Food market in Brooklyn, New York.

36. In deciding to make these purchases, Plaintiffs saw, relied upon, and reasonably believed Quaker's representations that Quaker Oats are natural and healthful, and comprise only "100% Natural Whole Grain," are "Heart Healthy," and are "part of a heart healthy diet."

37. When a product purports to be "100% Natural," consumers are willing to pay more for the product, and they expect it to be free from artificial chemicals such as biocides.

38. Plaintiffs were willing to pay more for Quaker Oats because they expected the Products to be free from artificial chemicals such as biocides.

39. Had Plaintiffs known at the time that Quaker Oats contain the unnatural biocide glyphosate, they would not have purchased or continued to purchase Quaker Oats.

40. Had Plaintiffs been warned of the dangers of ingesting glyphosate, and of the presence of glyphosate in Quaker Oats, they would not have purchased or continued to purchase Quaker Oats.

41. If Quaker Oats were reformulated such that Quaker's representations were truthful, *i.e.*, such that Quaker Oats contained only "100% Natural Whole Grain" and no glyphosate, Plaintiffs would consider purchasing Quaker Oats in the future.

### **FACTUAL ALLEGATIONS**

42. American consumers increasingly and consciously seek out natural and healthful food products. Once a small niche market, natural and healthful foods are now sold by conventional retailers, and their sales continue to soar. The trend toward natural and healthful



food products includes, for many consumers, a preference for whole grains over processed or otherwise refined grains.

43. Consumers value natural foods, including whole grains, for myriad health, environmental, and political reasons, including avoiding artificial chemicals and/or other additives, attaining health and wellness, helping the environment, and financially supporting companies that share these values.

**A. Quaker's Brand Image: Natural, "Green," and Environmentally Conscious.**

44. Hoping to capture this growing market, Quaker markets Quaker Oats as a natural and healthful choice containing only "100% Natural Whole Grain." Quaker does not disclose the presence in Quaker Oats of anything other than "100% Natural Whole Grain."

45. Quaker cultivates its image as a healthful, wholesome, impurity-free brand—the kind of company whose label claims can be trusted. Indeed, Quaker advertises its Quaker Oats with the "image of a man dressed in the Quaker garb . . . because the Quaker faith projected the values of honesty, integrity, purity and strength." <http://www.quakeroats.com/about-quaker-oats/content/quaker-faq.aspx> (last visited July 26, 2016).

46. Quaker presents itself as a leader in environmental responsibility. On its website, Quaker asserts, "As part of Quaker's holistic approach to environmental sustainability, we have taken special interest in our milling and manufacturing processes." <http://www.quakeroats.com/oats-do-more/for-your-world/oats-and-the-environment/innovations-in-milling-and-manufacturing> (last visited July 26, 2016).

47. Quaker also presents itself as an expert source of information on oats, touting their health benefits and environmentally friendly properties. Quaker's website headlines the "Quaker Oats Center of Excellence," billed as "advancing the unique benefits of the oat" with a

“Scientific Advisory Board comprised of prominent experts in science, agricultural sustainability, product innovation and consumer insights.” <http://www.quakeroats.com/about-quaker-oats/content/quakeroats-center-of-excellence.aspx> (last visited July 26, 2016); <http://www.quakeroats.com/about-quaker-oats/content/quakeroats-center-of-excellence/meet-the-experts.aspx> (last visited July 26, 2016).

48. Quaker claims that it has unique expertise in oat cultivation by its status as the world’s largest miller of oats:

At Quaker, we know our oats. Having worked with farmers for over 70 years, we have high standards for our growers. But we appreciate the farmers who have helped us become the world’s largest miller of oats, and have worked with them over the years to implement new changes and innovations in the way they farm their land.

While the health benefits of oats are well documented, many people will be surprised to learn about the numerous environmental advantages associated with this humble grain. Oats provide benefits to the environment that are surprising from such an unassuming grain.

<http://www.quakeroats.com/oats-do-more/for-your-world/oats-and-the-environment/growing-our-oat> (last visited July 26, 2016). Quaker’s website goes on to assert that cultivating oats reduces the risk of ground- and surface-water contamination and, because oats require less tilling, reduces soil’s susceptibility to erosion. *See id.*

49. Quaker asserts that cultivating oats *reduces* the use of herbicides that risk pollution and groundwater contamination: “Since oats require less herbicide spray than many other grains, there is less risk of pollutants and groundwater contamination.” *Id.* Quaker’s assertion reinforces reasonable consumers’ impression Quaker Oats are “100% Natural” products in which they will not find herbicides.

50. Quaker also suggests that purchasing Quaker Oats is a “green” choice, and that Quaker Oats are “eco-friendly.” Its website links to Facebook “conversations” with topics like,

“What are some of your tips for living a ‘greener’ life?”, and runs polls like, “What’s preventing you from buying ‘eco-friendly’ products?” See <http://www.quakeroats.com/oats-do-more/for-your-world/oats-and-the-environment> (last visited July 26, 2016).

51. Indeed, Quaker presents itself as a “green” organization from top to bottom:

Quaker is working to incorporate sustainability practices into every facet of its operation. From the corporate level to employee sponsored grassroots organizations, we are dedicated to reducing our impact on the environment.

...

Our employees reflect and help drive Quaker’s commitment to “green” practices.

...

At every level of Quaker, we are committed to improving our environmental practices throughout every step of our business. Whether it’s how our products are packaged and shipped or the types of cups our employees use in the breakroom, Quaker is thinking about how best to implement positive change within the world.

<http://www.quakeroats.com/oats-do-more/for-your-world/oats-and-the-environment/we-are-living-change> (last visited July 26, 2016).

52. Quaker also promotes the health benefits of its products, explaining, “With the growing number of people who are overweight or obese in America, it is now more important than ever that we educate ourselves about the foods that we are eating and their nutritional content.” <http://www.quakeroats.com/oats-do-more/for-your-health/healthy-eating/what-to-look-for-when-reading-food-labels> (last visited July 26, 2016).

53. Nowhere on its website does Quaker mention the presence of glyphosate in Quaker Oats.

54. Nowhere on its website does Quaker warn of the health risks of ingesting glyphosate.

55. Nowhere on its website does Quaker explain that glyphosate does not benefit the environment.

**B. Quaker Presents Quaker Oats as “100% Natural” and “Heart Healthy.”**

56. Quaker prominently labels its Old Fashioned Quaker Oats product as “100% Natural Whole Grain” that is “part of a heart-healthy diet.” These representations appear on the front label of the product. Should any consumer seek additional information from the back of the label, Quaker lists the product’s ingredients as not only “100% Natural,” but also as having a special quality: “100% Natural Whole Grain Quaker Quality Rolled Oats.”

57. Quaker prominently labels its Quick 1-Minute Quaker Oats product as “100% Natural Whole Grain” that is “Heart Healthy.” These representations appear on the front label of the product. Should any consumer seek additional information from the back of the label, Quaker lists the product’s ingredients as not only “100% Natural,” but also as having a special quality: “100% Natural Whole Grain Quaker Quality Rolled Oats.”

58. Quaker prominently labels its Quaker Steel Cut Oats product as “Hearty 100% Natural Whole Grain Oats” that is “part of a heart healthy diet.” These representations appear on the front label of the product. Should any consumer seek additional information from the back of the label, Quaker lists the product’s ingredients as not only “100% Natural,” but also as having a special quality: “100% Natural Whole Grain Quaker Quality Steel Cut Oats.”

59. Quaker prominently labels its Quaker Steel Cut Oats Quick 3-Minute product as “100% Natural Whole Grain Oats” and “heart healthy.” These representations appear on the front label of the product. Should any consumer seek additional information from the back of the label, Quaker lists the product’s ingredients as not only “100% Natural,” but also as having a special quality: “100% Natural Whole Grain Quaker Quality Steel Cut Oats.”

60. Upon information and belief, Quaker has profited enormously from its fraudulently marketed products and its carefully orchestrated label and image.

61. Representing that a product is “Natural,” “100% Natural,” “100% Natural Whole Grain,” or “Healthy” is a statement of fact.

62. Failing to disclose that a product contains glyphosate and failing to warn of the dangers of ingesting glyphosate are omissions of material fact.

63. Quaker further enhances the image of a natural, wholesome product by marketing some Quaker Oats as “Old Fashioned,” and all Quaker Oats under a picture of a man dressed in Colonial-era attire.

64. Consumers reasonably believe that a product labeled “Natural” or “100% Natural” does not contain synthetic ingredients.

65. Consumers reasonably believe that a product labeled “Natural” or “100% Natural” does not contain synthetic biocides.

66. In 2014, the Consumer Reports® National Research Center conducted a nationally representative phone survey to assess consumer opinion regarding food labeling. *See* <http://www.greenerchoices.org/pdf/consumerreportsfoodlabelingsurveyjune2014.pdf> (last visited July 26, 2016).

67. Sixty-six percent of all respondents in the Consumer Reports survey said that a “natural” label on packaged and processed foods means that “no toxic pesticides were used.” *See id.*

68. Consumers reasonably believe that a product labeled “100% Natural Whole Grain,” especially a product whose only ingredient is listed as “100% Natural Whole-Grain Quaker Quality Rolled Oats,” does not contain anything other than natural oats.



69. Quaker knows and intends that when consumers see labels promising that a product is “Natural,” “100% Natural,” or “100% Natural Whole Grain,” consumers will understand that to mean that, at the very least, the product does not contain synthetic ingredients or harmful chemicals.

70. Referring to its “Old Fashioned” and “Quick Oats” products, Quaker’s website states that “100% Natural” “means these products do not contain any artificial or synthetic ingredients, just oats.” *See* <https://cu.pepsico.com/quaker> (last visited July 26, 2016).

71. Consumers reasonably expect that if a product contains a harmful substance, the presence of that substance will be disclosed, and they will be warned of the dangers associated with the substance.

**C. Glyphosate Is an Unnatural, Hidden Substance.**

72. Quaker’s representations that Quaker Oats are “Natural,” “100% Natural,” or “100% Natural Whole Grain” are false. In fact, quantitative testing has revealed that Quaker Oats contain glyphosate.

73. Quaker Oats thus are not “Natural” or “100% Natural,” and do not contain “100% Natural Whole Grain,” and labeling them as such is misleading and deceptive.

74. Because of the adverse health effects of glyphosate, which are becoming more widely known, Quaker Oats are not “Healthy” or “Heart-Healthy.” Moreover, despite Quaker’s “Heart-Healthy” claims, the presence of glyphosate in Quaker Oats reduces the level of beta glucan, a soluble fiber linked to improvements in cholesterol levels and cardiovascular health. Under U.S. Food and Drug Administration regulations, the permissibility of a manufacturer’s “heart healthy” claims depends, in part, on the level of soluble fibers such as beta glucan in a

product.<sup>2</sup>

75. Quaker thus has a duty to disclose the presence of glyphosate and to warn of the dangers associated with glyphosate.

76. On information and belief, glyphosate is, by volume, the world's most widely produced herbicide.

77. In 2015, the International Agency for Research on Cancer ("IARC"), a research arm of the World Health Organization, declared glyphosate a category 2A "probable" human carcinogen. A summary of the study underlying this declaration was published in *The Lancet Oncology*, Vol. 16, No. 5 (May 2015).<sup>3</sup> The IARC study noted such carcinogenic risk factors as DNA damage to human cells resulting from exposure to glyphosate. *See id.* Glyphosate has been previously found to be a suspected human endocrine disruptor, with estrogenic effects even at extremely low concentrations.<sup>4</sup>

78. Glyphosate, as a biocide, functions by disrupting the shikimate pathway.<sup>5</sup> Although humans themselves do not have a shikimate pathway, the shikimate pathway is present

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<sup>2</sup> *See*

<http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm064919.htm> (last visited July 26, 2016).

<sup>3</sup> Available at <http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045%2815%2970134-8/abstract> (last visited July 26, 2016).

<sup>4</sup> *See* Thongprakaisang, S., *et al.*, "Glyphosate induces human breast cancer cells growth via estrogen receptors," 59 *Food & Chem. Toxicol.* 129 (June 2013), *abstract available at* <http://www.ncbi.nlm.nih.gov/pubmed/23756170> (last visited July 26, 2016); *see also, e.g.*, Gasnier, C. *et al.*, "Glyphosate-based herbicides are toxic and endocrine disruptors in human cell lines," 262(3) *Toxicology* 184 (Aug. 21, 2009), *abstract available at* <http://www.ncbi.nlm.nih.gov/pubmed/19539684> (last visited July 26, 2016).

<sup>5</sup> *See, e.g.*, Heike, H. & N. Amrhein, "The Site of the Inhibition of the Shikimate Pathway by Glyphosate," *Plant Physiol.* 66:823 (1980), *available at* <http://www.plantphysiol.org/content/66/5/823.full.pdf> (last visited July 26, 2016); *see also* <http://www.glyphosate.eu/glyphosate-mechanism-action> (last visited July 26, 2016).

in bacteria, including bacteria that inhabit the human gut and are essential to proper immune functioning. Glyphosate thus is suspected to disrupt human immune function as well.

79. Studies examining low doses of glyphosate-based herbicides at levels that are generally considered “safe” for humans show that these compounds can nevertheless cause liver and kidney damage.<sup>6</sup>

80. Glyphosate is derived from the amino acid glycine. To create glyphosate, one of the hydrogen atoms in glycine is artificially replaced with a phosphonomethyl group.

81. Glyphosate is not “Natural.”

82. Glyphosate is neither “100% Natural” nor present in “100% Natural Whole Grain.”

83. On information and belief, glyphosate is used to increase oat harvest for commercial purposes; is not necessary to successful planting, growing, or harvesting of oats; is not a “natural” method of growing or harvesting oats; is applied to oats as a drying agent shortly before harvest; and is applied for commercial gain only.

84. Glyphosate is a dangerous substance, the presence and dangers of which should be disclosed.

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<sup>6</sup> Myers, J., *et al.*, “Concerns over use of glyphosate-based herbicides and risks associated with exposures: a consensus statement,” *Environ. Health* 2016 15:9, available at <https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0> (last visited July 26, 2016); *see also* Seralini, G.E., *et al.*, “Republished study: long-term toxicity of a Roundup herbicide and a Roundup-tolerant genetically modified maize,” *Environ. Sci. Europe* 2014;26:14, available at <http://enveurope.springeropen.com/articles/10.1186/s12302-014-0014-5> (last visited July 26, 2016); Benedetti, A.L., “The effects of sub-chronic exposure of Wistar rats to the herbicide Glyphosate-Biocarb,” *Toxicol. Lett.* 2004;153(2):227–232, available at <http://www.ncbi.nlm.nih.gov/pubmed/15451553> (last visited July 26, 2016); Larsen, K., *et al.*, “Effects of Sublethal Exposure to a Glyphosate-Based Herbicide Formulation on Metabolic Activities of Different Xenobiotic-Metabolizing Enzymes in Rats,” *Int. J. Toxicol.* 2014, available at <http://www.ncbi.nlm.nih.gov/pubmed/24985121> (last visited July 26, 2016); Mesnage R., *et al.*, “Transcriptome profile analysis reflects rat liver and kidney damage following chronic ultra-low dose Roundup exposure,” *Environ. Health* 2015;14:70, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4549093/> (last visited July 26, 2016).

**D. Quaker's Labels Are Misleading and Omit Relevant Information.**

85. Quaker's conduct in labeling Quaker Oats "Natural," "100% Natural," and "100% Natural Whole Grain" deceived and/or was likely to deceive the public. Consumers were deceived into believing that the listed ingredients were all the ingredients, and that the product was "Natural" and "100% Natural," and that nothing in Quaker Oats was not "Natural." Instead, Quaker Oats contain glyphosate, an *unnatural* biocide with myriad potential adverse health effects.

86. Consumers cannot discover the true nature of Quaker Oats from reading the label. Consumers cannot discover the true nature of Quaker Oats even by visiting Quaker's website, which makes no mention of glyphosate. Discovery of the true nature of the ingredients requires knowledge of chemistry and access to laboratory testing that is not available to the average reasonable consumer.

87. Quaker deceptively and misleadingly conceals material facts about Quaker Oats, namely, that Quaker Oats are not "Natural" or "100% Natural," because in fact they contain glyphosate; and that Quaker Oats are not what a reasonable consumer would consider "Natural" or "100% Natural," because in fact they contain glyphosate.

88. Quaker fails to warn consumers of the dangers of consuming glyphosate.

89. Plaintiffs and the Class Members are not at fault for failing to discover Quaker's wrongs earlier, and had no actual or presumptive knowledge of facts sufficient to put them on inquiry notice.

90. The production process Quaker uses for Quaker Oats is known only to Quaker and its suppliers. Quaker has not disclosed such information to Plaintiffs or the Class Members. Testing reveals the presence of glyphosate in Quaker Oats, but only Quaker knows the methods

by which its oats are grown, harvested, and processed, or what would account for the presence of glyphosate in Quaker Oats. Quaker's concealment tolls the applicable statute of limitations.

91. To this day, Quaker continues to conceal and suppress the true nature, identity, source, and production method of Quaker Oats.

**E. Quaker Knew, or Should Have Known, That Its Representations Were False.**

92. Quaker holds itself out to the public as a trusted expert in the growing, harvesting, and processing of oats.

93. Quaker knew what representations it made on the labels of Quaker Oats. It also knew how the oats were grown, harvested, and processed, and that they were likely to contain glyphosate, an unnatural and dangerous biocide.

94. Quaker thus knew all the facts demonstrating that Quaker Oats were mislabeled and falsely advertised, and that it had a duty to disclose the presence of glyphosate and to warn consumers about the dangers associated with glyphosate.

**F. Quaker Intended for Consumers to Rely on Its Misrepresentations.**

95. Quaker made the false, deceptive, and misleading representations and omissions intending for Plaintiffs and the Class Members to rely upon these representations and omissions in purchasing Quaker Oats.

96. In making the false, misleading, and deceptive representations and omissions at issue, Quaker knew and intended that consumers would purchase Quaker Oats when consumers would otherwise purchase a competing product.

97. Consumers are willing to pay more for a product that purports to be "100% Natural," and they expect that product to be pesticide-free.



98. In making the false, misleading, and deceptive representations and omissions at issue, Quaker also knew and intended that consumers would pay more for “Natural” or “100% Natural” oats that are free of unnatural agents than they would pay for oats that are not “Natural” or “100% Natural,” furthering Quaker’s commercial interest in increasing sales of its products and decreasing the sales of the all-natural and/or glyphosate-free products that are truthfully marketed by its competitors.

99. Quaker knows that consumers prefer “Natural” and “100% Natural” foods and foods that do not contain dangerous or potentially dangerous chemicals. Quaker knows that consumers will pay more for “Natural” or “100% Natural” foods or would not purchase the foods at all unless they were “Natural” and/or “100% Natural” and/or free from unnatural and potentially dangerous chemicals.

100. Similarly, independent survey results confirm that consumers will purchase more “Natural” products than conventional products, and will pay more for “Natural” products.

**G. Consumers Reasonably Rely on Quaker’s Misrepresentations.**

101. Consumers frequently rely on label representations and information in making purchase decisions, especially in purchasing food.

102. When Plaintiffs and the Class Members purchased Quaker Oats, they saw the false, misleading, and deceptive representations detailed above, and did not receive disclosure of the presence of glyphosate or any warning of the dangers associated with glyphosate, as detailed above.

103. These misrepresentations and omissions were uniform and were communicated to Plaintiffs and every other member of the Class at every point of purchase and consumption.

104. Plaintiffs and the Class Members were among the intended recipients of Quaker's deceptive representations and omissions.

105. Plaintiffs and the Class Members reasonably relied to their detriment on Quaker's misleading representations and omissions.

106. Quaker's false, misleading, and deceptive misrepresentations and omissions deceived and misled, and are likely to continue to deceive and mislead, Plaintiffs, the Class Members, reasonable consumers, and the general public.

107. Quaker's misleading affirmative statements further obscured what it failed to disclose, and the warnings it failed to give. Thus, reliance upon Quaker's misleading and deceptive representations and omissions may be presumed.

108. Quaker made the deceptive representations and omissions with the intent to induce Plaintiffs and the Class Members to purchase Quaker Oats. Plaintiffs' and the Class Members' reliance upon such representations and omissions may be presumed.

109. Quaker's deceptive representations and omissions are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions. Thus, Plaintiffs' and the Class Members' reliance upon such representations and omissions may be presumed as a matter of law; the representations and omissions were material; and a nexus exists between Quaker's conduct, on the one hand, and Plaintiffs' and the Class Members' decisions to purchase Quaker Oats at a certain price, on the other hand.

110. As an immediate, direct, and proximate result of Quaker's false, misleading, and deceptive representations and omissions, Quaker injured Plaintiffs and the Class Members in that they:

- a. paid a sum of money for a product that was falsely represented;
- b. paid a sum of money for a product containing glyphosate, of which they received no warning;
- c. paid more for a product that was falsely represented than they would have paid had the product not been falsely represented;
- d. were deprived the benefit of the bargain because the Quaker Oats they purchased were different from what Quaker warranted;
- e. were deprived the benefit of the bargain because the Quaker Oats they purchased had less value than what was represented;
- f. did not receive a product that measured up to their expectations as created by Quaker;
- g. ingested (or caused their children to ingest) a substance that was other than what was represented;
- h. ingested (or caused their children to ingest) a substance they did not expect or consent to;
- i. ingested (or caused their children to ingest) a product that included an unnatural substance;
- j. without their knowing consent, ingested (or caused their children to ingest) a biocide that is harmful to their health or their children's health;
- k. without their knowing consent, ingested (or caused their children to ingest) a substance that is, contains, or is produced with a known or suspected hazardous substance;

- l. without their knowing consent, ingested (or caused their children to ingest) a substance that poses health or environmental risks;
- m. without their knowing consent, ingested (or caused their children to ingest) a substance that is otherwise harmful to the environment and/or the farmers and other workers who utilize or process such substance;
- n. ingested (or caused their children to ingest) a substance that was of a lower quality than what Quaker promised;
- o. were denied the benefit of knowing what they ingested (or caused their children to ingest);
- p. were caused unwittingly to support an industry that contributes to environmental, ecological, or health damage;
- q. were denied the benefit of supporting an industry that sells natural products and contributes to environmental sustainability; and/or
- r. were denied the benefit of the beneficial properties of the “Natural” products promised.

111. Had Quaker not made the false, misleading, and deceptive representations and omissions, and had Quaker not failed to warn of the presence of glyphosate and dangers associated with glyphosate, Plaintiffs and the Class Members would not have been injured as listed above. Accordingly, Plaintiffs and the Class Members have suffered “injury in fact” as a result of Quaker’s wrongful conduct.

112. Plaintiffs and the Class Members all paid money for Quaker Oats, but did not obtain the full value of the advertised products due to Quaker’s misrepresentations and omissions. Plaintiffs and the Class Members purchased, purchased more of, or paid more for,

Quaker Oats than they would have had they known the truth about Quaker Oats. Accordingly, Plaintiffs and the Class Members have suffered “injury in fact” and lost money or property as a result of Quaker’s wrongful conduct.

**H. Quaker Benefited From Its Misleading Representations and Omissions.**

113. As the intended, direct, and proximate result of Quaker’s false, misleading, and deceptive representations and omissions, Quaker has been unjustly enriched through more sales of Quaker Oats and higher profits at the expense of Plaintiffs and the Class Members. As a direct and proximate result of its deception, Quaker also unfairly obtained other benefits, including the higher value associated with a “natural” brand, redirecting sales to it and away from its competitors, and increased sales of its other products.

114. Plaintiffs, and all other similarly situated consumers, did not bargain for products that contain unnatural ingredients in exchange for their payment of the purchase price.

115. Defendant has profited by failing to warn consumers of the presence of glyphosate in the Products or of the health effects of consuming glyphosate.

116. Upon information and belief, Defendant has failed to remedy the problem with the Products, thus causing future harm to consumers. Plaintiffs, Class Members, and future purchasers in the consuming public are at risk of real, immediate, and continuing harm if the Products continue to be sold as is, and without adequate warning of the presence of glyphosate and of the health effects of ingesting glyphosate.

117. Plaintiffs would continue to purchase the Products again in the future if they were reformulated so that the labels were truthful and they did not contain glyphosate.

118. Defendant has failed to provide adequate relief to the Plaintiffs or Class Members as of the date of filing this Complaint.



119. Plaintiffs contend that the Products were sold pursuant to unfair and unconscionable trade practices because the sale of the Products offends public policy and is immoral, unethical, oppressive, unscrupulous, and caused substantial economic injuries to Plaintiffs and Class Members.

120. Reasonable consumers do not expect Products advertised as “Natural,” “100% Natural,” and “100% Natural Whole Grain” to contain unnatural ingredients such as glyphosate. Defendant’s statements and other representations convey a series of express and implied claims and/or omissions that Defendant knows are material to the reasonable consumer in making a purchasing decision, and that Defendant intended for consumers to rely upon when choosing to purchase the Products.

121. Defendant misrepresented the nature, quality, and/or ingredients of the Products, and/or failed to adequately disclose the health risks of ingesting the glyphosate contained in the Products, which was and is false, misleading, and/or likely to deceive reasonable consumers. Reasonable consumers expect the presence of such ingredients to be disclosed so that they can make informed purchasing decisions.

122. Therefore, the Products are valueless, and not worth the purchase price that Plaintiffs and Class Members paid for them, and/or are not what Plaintiffs and Class Members reasonably intended to receive.

123. Accordingly, Plaintiffs seek, individually and on behalf of all other similarly situated purchasers of the Products during the Class Period, injunctive relief, and actual economic damages equaling the aggregate purchase price paid for the Products by Plaintiffs and Class Members during the Class Period.

124. Plaintiffs also seek declaratory relief in the form of an order declaring Defendant's conduct to be unlawful, as well as injunctive and equitable relief putting an end to Defendant's misleading and unfair business practices, including clear and full disclosure of the presence of glyphosate in the Products and of the health effects of ingesting glyphosate and/or a reformulation of the Products so that they no longer contain glyphosate.

### **CLASS ALLEGATIONS**

125. This action is maintainable as a class action under Rules 23(b)(1), (b)(2), and (3) of the Federal Rules of Civil Procedure.

126. Class Definition. The class definition(s) may depend on the information obtained throughout discovery. Notwithstanding, at this time, Plaintiffs bring this class action and seek certification of the claims and issues in this action, applying Illinois law, on behalf of a National Class, defined as follows:

National Class: All persons in the United States who have purchased the Products, for personal use, and not for resale, within any applicable limitations period until Notice is provided to the Class (the "Class Period").

Alternatively, Plaintiffs bring this action on behalf of California, Florida, Illinois, and New York Classes, defined as follows:

California Class: All persons in the State of California who purchased the Products, for personal use and not for resale, within the Class Period.

Florida Class: All persons in the State of Florida who purchased the Products, for personal use and not for resale, within the Class Period.

Illinois Class: All persons in the State of Illinois who purchased the Products, for personal use and not for resale, within the Class Period.

New York Class: All persons in the State of New York who purchased the Products, for personal use and not for resale, within the Class Period.

127. Excluded from the Class are (1) Defendant, any entity or division in which Defendant has a controlling interest, and Defendant's legal representatives, officers, directors, assigns, and successors; and (2) the judge to whom this case is assigned and the judge's staff.

128. Plaintiffs bring the action pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), 23(b)(2), and 23(b)(3).

129. Plaintiffs reserve the right to amend the Class definition(s) if further information, discovery, or rulings indicate that the Class definition(s) should be narrowed, expanded, or otherwise modified, including but not limited to, the creation of subclasses or additional classes based on geography and/or location of sale, or to certify issues-based classes pursuant to Rule 23(c)(4).

130. All members of the Class (collectively, the "Class Members") were and are similarly affected by the deceptive advertising of the Products, and the relief sought herein is for the benefit of Plaintiffs and the other Class Members.

**A. Numerosity.**

131. Based on the annual sales of the Products and the popularity of the Products, it is readily apparent that the number of consumers in the Class is so large as to make joinder impracticable, if not impossible. Class Members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and published notice.

**B. Commonality.**

132. There are numerous questions of law and fact common to Plaintiffs and the other Class Members that predominate over questions affecting only individual members, including:

- a. Whether Defendant's practices and representations related to the marketing, labeling and sales of the Products were unfair, deceptive, fraudulent, and/or unlawful in any respect, thereby violating Illinois law;
- b. Whether Defendant failed to warn Plaintiffs and the other Class Members of the presence of glyphosate in the Products and/or of the health effects of ingesting glyphosate in violation of Illinois law with its practices and representations related to the marketing, labeling, and sale of the Products;
- c. Whether Defendant breached an express warranty created through the labeling and marketing of its falsely labeled Products;
- d. Whether Defendant's conduct as set forth above economically injured Plaintiffs and the other Class Members; and
- e. Whether Plaintiffs and the other Class Members are entitled to injunctive relief.

**C. Typicality.**

133. The claims asserted by Plaintiffs in this action are typical of the claims of the Class Members, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class is common to the Class Members. Further, there are no defenses available to Defendant that are unique to Plaintiffs.

**D. Adequacy.**

134. Plaintiffs will fairly and adequately represent and protect the interests of the Class. Plaintiffs are adequate representatives of the Class because their interests do not conflict with the interests of the Class members they seek to represent, and they have retained counsel competent and experienced in both consumer protection and class action litigation. Plaintiffs and Plaintiffs' counsel will fairly and adequately protect Class Members' interests. Undersigned

counsel have represented consumers in a wide variety of actions where they have sought to protect consumers from fraudulent, deceptive, and unlawful practices.

**E. Predominance and Superiority.**

135. The prerequisites to maintaining a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) are met because questions of law and fact common to each class member 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.

136. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of the Class Members is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual Class Members. Each Class Member has been damaged and is entitled to recovery as a result of the violations alleged herein.

137. Moreover, because 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 Class Members to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class action treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

138. Plaintiffs are unaware of any difficulties in managing this case that should preclude class action.

**F. Declaratory and Injunctive Relief.**

139. Certification also is appropriate under Rule 23(b)(2) because Defendant acted, or refused to act, on grounds generally applicable to the Class, thereby making appropriate the

injunctive relief sought on behalf of the Class. Further, under Rule 23(b)(1), given the large number of consumers of the Products, allowing individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications.

## **CAUSES OF ACTION**

### **FIRST CLAIM FOR RELIEF VIOLATION OF ILLINOIS FOOD, DRUG, AND COSMETIC ACT On behalf of Plaintiffs, Individually, and the National Class**

140. Plaintiffs re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

141. Plaintiffs and the other Class Members are “Persons” as defined by 410 ILCS 620/2.1.

142. Quaker Oats are “Food” as defined under 410 ILCS 620/2.3 because they are “articles used for food or drink in man[.]”

143. Quaker Oats are “adulterated” foods as defined under 410 ILCS 620/10 because they “bear[] or contain[] any poisonous or deleterious substance which may render [them] injurious to health[.]”

144. Quaker Oats are “contaminated with filth” as defined under 410 ILCS 620/2.15 because they are “not securely protected . . . as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.”

145. Quaker Oats are “misbranded” as defined under 410 ILCS 620/2.11 because the labeling or advertisement of the products:

- a. is misleading in light of the representations made or suggested by statement, word, design, device, sound, or any combination thereof;

- b. fails to reveal material facts in the light of the representations made or suggested by statement, word design, device, sound, or any combination thereof; and/or
- c. fails to reveal material facts with respect to the consequences which may result from the use of the products to which the labeling or advertisement related under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions or use as are customary and usual.

146. Quaker's sale of Quaker Oats violates one or more enumerated acts prohibited under 410 ILCS 620/3, including but not limited to:

- a. the manufacture, sale, delivery, holding, or offering for sale any food that is adulterated or misbranded;
- b. the adulteration or misbranding of any food;
- c. the receipt in commerce of any food that is adulterated or misbranded and the delivery or proffered delivery thereof for pay or otherwise; and
- d. the dissemination of any false advertisement.

147. As a direct and proximate result of Quaker's wrongful conduct and violations of 410 ILCS 620, Plaintiffs and the Class have suffered damages in an amount to be proven at trial.

**SECOND CLAIM FOR RELIEF**  
**VIOLATION OF ILLINOIS CONSUMER FRAUD AND**  
**DECEPTIVE BUSINESS PRACTICES ACT**  
**On behalf of Plaintiffs, Individually, and the National Class**

148. Plaintiffs re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

149. Quaker is a "person" as that term is defined in 815 ILCS 505/1(c).



150. Plaintiffs and the Class Members are “consumers” as that term is defined in 815 ILCS 505/1(e).

151. The Illinois Consumer Fraud and Deceptive Business Practices Act (“Illinois CFA”) prohibits “unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact . . . in the conduct of trade or commerce . . . whether any person has in fact been misled, deceived or damaged thereby.” 815 ILCS 505/2.

152. Quaker has violated the Illinois CFA by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous, and substantially injurious to consumers. Specifically, Quaker has misrepresented the true nature, quality, and ingredients of the Products and failed to adequately warn of and disclose the presence of glyphosate in the Products and/or the health effects of ingesting glyphosate, thereby disseminating representations or omissions that are false, deceptive, and likely to mislead a reasonable consumer, such as Plaintiffs and Class Members.

153. Quaker misrepresented and/or omitted facts about the presence of glyphosate in the Products and the health effects of ingesting glyphosate, which were and are material to Plaintiffs’ and Class Members’ decisions to purchase the Products.

154. Quaker’s sale of the Products is an unfair method of competition, unconscionable act and practice, and an unfair and deceptive act and practice in the conduct of its business.

155. As a result of Quaker's deceptive and unfair acts, Plaintiffs and Class Members have been damaged in the amount of the aggregate retail sales of the Products throughout the Class Period.

156. Quaker's conduct offends established public policy, and is immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

157. Quaker should also be ordered to cease and/or continue ceasing its deceptive and unfair advertising, and should be made to engage in a corrective advertising campaign, to inform consumers of the presence of glyphosate in the Products and the health effects of ingesting glyphosate.

**THIRD CLAIM FOR RELIEF**  
**VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**  
**On behalf of Plaintiff Cooper, Individually, and the California Class**

158. Plaintiff Cooper re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

159. This cause of action is brought pursuant to California's Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750-1785 (the "CLRA").

160. Plaintiff Cooper and the other California Class Members are "consumers," as the term is defined by California Civil Code § 1761(d), because they bought the falsely labeled Products for personal, family, or household purposes. Defendant is a "person" under Cal. Civ. Code § 1761(c).

161. Plaintiff Cooper, the other California Class Members, and Quaker have engaged in "transactions," as that term is defined by California Civil Code §1761(e).

162. The Products are "goods" under Cal. Civ. Code § 1761(a).

163. The conduct alleged in this Complaint constitutes unfair methods of competition and unfair and deceptive acts and practices for the purposes of the CLRA, and the conduct was undertaken by Quaker in transactions intended to result in, and which did result in, the sale of goods to consumers.

164. Quaker's false and fraudulent representations and omissions have violated, and continue to violate, the CLRA because they extend to transactions that are intended to result, or have resulted, in the sale of goods to consumers, including Plaintiff Cooper and the other California Class Members. Specifically, Quaker has misrepresented the true nature, quality, and ingredients of the Products and failed to adequately warn of and disclose the presence of glyphosate in the Products and/or the health effects of ingesting glyphosate, thereby disseminating representations or omissions that are false, deceptive, and likely to mislead a reasonable consumer, such as Plaintiff Cooper and the other California Class Members.

165. Quaker misrepresented and/or omitted facts about the presence of glyphosate in the Products and the health effects of ingesting glyphosate, which were and are material to Plaintiff Cooper and the other California Class Members' decisions to purchase the Products.

166. Quaker's conduct violates Cal. Civ. Code § 1770(a)(5), which prohibits "[r]epresenting that goods . . . have . . . characteristics [or] benefits . . . which they do not have," and Cal. Civ. Code § 1770(a)(7), which prohibits: "[r]epresenting that goods . . . are of a particular standard, quality, or grade . . . if they are of another," causing injury to Plaintiff Cooper and the other California Class Members.

167. As a result of engaging in such conduct, Quaker has violated California Civil Code §§ 1770(a)(5), (a)(7), and (a)(9).

168. Plaintiff Cooper and the other California Class Members have suffered damages in an amount to be determined at trial as a result of Quaker's unfair and deceptive acts and conduct.

169. Plaintiff Cooper and the other California Class Members seek preliminary injunctive relief, and permanent injunctive relief against Quaker's unfair and deceptive acts and conduct.

170. Pursuant to California Civil Code § 1780(a)(2) and (a)(5), Plaintiff Cooper seeks an order of this Court that includes, but is not limited to, an order enjoining Quaker from continuing to engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law.

171. Plaintiff Cooper and the other California Class Members may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

172. The unfair and deceptive acts and practices of Quaker, as described above, present a serious threat to Plaintiff Cooper and the other California Class Members.

**FOURTH CLAIM FOR RELIEF**  
**VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW**  
**On behalf of Plaintiff Cooper, Individually, and in the California Class**

173. Plaintiff Cooper re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

174. This cause of action is brought pursuant to California's False Advertising Law (the "FAL"), Cal. Bus. & Prof. Code § 17500 *et seq.*

175. Such acts of Quaker, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

176. At all material times, Quaker engaged in a scheme of offering the Products for sale to Plaintiff Cooper and the other California Class Members by way of distributing to the public, *inter alia*, commercial marketing and advertising, the World Wide Web (Internet), the Product packaging and labeling, and other promotional materials and offered for sale the Products on a nationwide basis, including in California.

177. The misrepresentations and non-disclosures by Quaker of the material facts detailed above constitute false and misleading advertising, and therefore constitute a violation of Cal. Bus. & Prof. Code § 17500, *et seq.*

178. Said advertisements and inducements were made nationwide, including within the State of California, and come within the definition of advertising contained in the FAL in that such promotional materials were intended as inducements to purchase Quaker's Quaker Oats and are statements disseminated by Quaker to Plaintiff Cooper and the other California Class Members. Quaker knew, or in the exercise of reasonable care should have known, that these representations were misleading and deceptive.

179. Consumers, including Plaintiff Cooper and the other California Class Members, necessarily and reasonably relied on these materials concerning Quaker's Products. Consumers, including Plaintiff Cooper and the other California Class Members, were among the intended targets of such representations.

180. The above acts of Quaker did and were likely to deceive reasonable consumers, including Plaintiff Cooper and the other California Class Members, by obfuscating the nature, quality, and/or ingredients of the Products, in violation of the "misleading" prong of the FAL.

181. The business practices alleged above are unlawful under the CLRA, which forbids misleading and deceptive advertising.

182. Plaintiff Cooper and the other California Class Members have suffered injury in fact and have lost money or property as a result of Quaker's violations of the FAL.

183. As a result, Quaker has been unjustly enriched at the expense of Plaintiff Cooper and the other California Class Members. Plaintiff Cooper and the other California Class Members, pursuant to California Business and Professions Code § 17535, are entitled to an order of this Court enjoining such future conduct on the part of Quaker, and such other orders and judgments which may be necessary to disgorge Quaker's ill-gotten gains and restore to any person in interest any money paid for its falsely labeled Products as a result of the wrongful conduct of Quaker.

**FIFTH CLAIM FOR RELIEF**  
**VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW**  
**On behalf of Plaintiff Cooper, Individually, and the California Class**

184. Plaintiff Cooper re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

185. This cause of action is brought pursuant to California's Unfair Competition Law (the "UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.*

186. By committing the acts and practices alleged herein, Quaker has engaged in deceptive, unfair, and unlawful business practices in violation of the UCL.

187. Plaintiff Cooper has standing to pursue this claim as she has suffered injury in fact and has lost money or property as a result of Quaker's actions as set forth above. California Class Members also have suffered injury in fact and have lost money or property as a result of Quaker's actions as set forth above.

188. The violation of any law constitutes an "unlawful" business practice under Cal. Bus. & Prof. Code § 17200.

189. Each of Quaker's false representations alleged herein violates 21 U.S.C. § 331; Cal. Civ. Code § 1709; Cal. Civ. Code § 1750 *et seq.*; Cal. Com. Code § 2313; and Cal. Bus. & Prof. Code § 17500 *et seq.*

190. Quaker has violated the UCL's proscription against engaging in unlawful conduct as a result of its violations of (i) the CLRA, as alleged above, and (ii) the FAL, as alleged above.

191. In addition, Quaker has violated the UCL's proscription against engaging in unlawful conduct as a result of its violations of the Sherman Law, Cal. Health & Safety Code § 109875 *et seq.*, which forbids misbranding of any food, *id.* at § 110398, such as by false or misleading labeling, *id.* at § 111730.

192. The Sherman Law defines a "person" as "any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within the state, and any representative, agent, or agency of any of the foregoing." Cal. Health & Safety Code § 109995. Defendant is a "person" within the meaning of the Sherman Law.

193. As more fully described herein, Quaker's misleading marketing, advertising, packaging, and labeling of the Products is likely to deceive a reasonable consumer. Indeed, Plaintiff Cooper and the other California Class Members were unquestionably deceived regarding the characteristics of Quaker's Products, as Quaker's marketing, advertising, packaging, and labeling of Quaker Oats misrepresents and/or omits the true nature, quality, and/or ingredients of the Products.



194. There is no benefit to consumers or competition from deceptively marketing and labeling products. Indeed, the harm to consumers and competition is substantial. Plaintiff Cooper and the other California Class Members who purchased the Products suffered a substantial injury as alleged herein.

195. Plaintiff Cooper and the other California Class Members who purchased Quaker Oats had no way of reasonably knowing that the Products they purchased were not as marketed, advertised, packaged, and labeled. Thus, they could not have reasonably avoided the injury each of them suffered.

196. Quaker's acts and omissions alleged above constitute unfair business practices under Cal. Bus. & Prof. Code § 17200, because the gravity of the consequences of Quaker's conduct as described above outweighs any justification, motive, or reason therefor, particularly considering the available legal alternatives which exist in the marketplace, and such conduct is immoral, unethical, unscrupulous, offends established public policy, or is substantially injurious to Plaintiff Cooper and the other California Class Members. Quaker's false and misleading representations and omissions also violate legislatively declared policy as they have violated numerous state and federal laws. Moreover, the gravity of the harm to Plaintiff Cooper and the other California Class Members resulting from Quaker's conduct outweighs Quaker's legitimate reasons, justifications, and/or motives for engaging in such deceptive acts and practices, if any.

197. Each false and misleading representation and omission constitutes fraudulent business practices under Cal. Bus. & Prof. Code § 17200, because the representations and omissions were false. Quaker's representations and deceptive concealment were fraudulent under the statute because they were misleading and were likely to and did deceive the reasonable consumer, including Plaintiff Cooper and the other California Class Members.

198. Quaker's violations continue to this day.

199. Pursuant to California Business and Professions Code § 17203, Plaintiff Cooper and the other California Class Members seek an order of this Court that includes, but is not limited to, an order enjoining such future conduct on the part of Quaker and such other orders and judgments that may be necessary to disgorge Quaker's ill-gotten gains and to restore to any person in interest any money paid for Quaker's falsely labeled Products as a result of the wrongful conduct of Quaker.

**SIXTH CLAIM FOR RELIEF**  
**VIOLATION OF THE FLORIDA UNFAIR AND**  
**DECEPTIVE TRADE PRACTICES ACT**

**On behalf of Plaintiff Jaffee, Individually, and the Florida Class**

200. Plaintiff Jaffee re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

201. This cause of action is brought pursuant to the FDUTPA, Sections 501.201 to 501.213, Florida Statutes. The express purpose of the 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." FDUTPA § 501.202(2).

202. The sale of the Products at issue in this case constituted a "consumer transaction" within the scope of FDUTPA, Sections 501.201 to 501.213, Florida Statutes.

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

204. Section 501.204(2), Florida Statutes states that "due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal

courts relating to Section 5(a)(1) of the Trade Commission Act.” Quaker’s unfair and deceptive practices are likely to mislead—and have misled—the consumer acting reasonably under the circumstances and, therefore, violate Section 500.04, Florida Statutes and 21 C.F.R. § 740.1.

205. Quaker has violated the FDUTPA by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous, and substantially injurious to consumers. Specifically, Quaker has misrepresented the true nature, quality, and ingredients of the Products and failed to adequately warn of and disclose the presence of glyphosate in the Products and/or the health effects of ingesting glyphosate, thereby disseminating representations or omissions that are false, deceptive, and likely to mislead a reasonable consumer, such as Plaintiff Jaffee and the other Florida Class Members.

206. Simply put, Quaker misrepresented and/or omitted facts about the presence of glyphosate in the Products and the health effects of ingesting glyphosate, which were and are material to Plaintiff Jaffee’s and the other Florida Class Members’ decisions to purchase the Products.

207. Quaker’s sale of the Products is an unfair method of competition, unconscionable act and practice, and an unfair and deceptive act and practice in the conduct of its business.

208. As a result of Quaker’s deceptive and unfair acts, Plaintiff Jaffee and the other Florida Class Members have been damaged in the amount of the aggregate retail sales of the Products throughout the Class Period.

209. Quaker’s conduct offends established public policy, and is immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

210. Quaker should also be ordered to cease and/or continue ceasing its deceptive and unfair advertising, and it should be made to engage in a corrective advertising campaign to inform consumers of the presence of glyphosate in the Products and the health effects of ingesting glyphosate.

**SEVENTH CLAIM FOR RELIEF**  
**VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 349: MISLABELING**  
**On behalf of Plaintiff Daly, Individually, and the New York Class**

211. Plaintiff Daly re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

212. The acts of Quaker, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

213. Quaker has labeled its Quaker Oats products as “Natural” and “100% Natural Whole Grain,” has indicated that the Products’ ingredients are limited to “100% Natural Whole Grain Oats,” and has otherwise presented an image and marketing materials suggesting that the Products contain nothing other than whole-grain oats, when in fact the Products contain glyphosate, an unnatural biocide.

214. Quaker has violated, and continues to violate, § 349 of the New York General Business Law, which makes deceptive acts and practices unlawful. As a direct and proximate result of Quaker’s violation of § 349, Plaintiff Daly and the other New York Class Members have suffered damages in an amount to be determined at trial.

215. Pursuant to New York General Business Law § 349, Plaintiff Daly seeks an order of this Court that includes, but is not limited to, an order enjoining Quaker from continuing to engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law.

216. Plaintiff Daly and the other New York Class Members may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

217. The unfair and deceptive acts and practices of Quaker, as described above, present a serious threat to Plaintiff Daly and the other New York Class Members.

**EIGHTH CLAIM FOR RELIEF**  
**VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 349: FAILURE TO WARN**  
**On behalf of Plaintiff Daly, Individually, and the New York Class**

218. Plaintiff Daly re-alleges and incorporates by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

219. The acts of Quaker, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

220. Quaker has indicated that its Quaker Oats contain only “100% Natural Whole Grain Oats,” and has failed to warn that the products in fact contain glyphosate, and has failed to warn consumers of the dangers associated with glyphosate.

221. Quaker has violated, and continues to violate, § 349 of the New York General Business Law, which makes deceptive acts and practices unlawful. As a direct and proximate result of Quaker’s violation of § 349, Plaintiff Daly and the other New York Class Members have suffered damages in an amount to be determined at trial.

222. Pursuant to New York General Business Law § 349, Plaintiff Daly seeks an order of this Court that includes, but is not limited to, an order enjoining Quaker from continuing to engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law.

223. Plaintiff Daly and the other New York Class Members may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

224. The unfair and deceptive acts and practices of Quaker, as described above, present a serious threat to Plaintiff Daly and the other New York Class Members.

**NINTH CLAIM FOR RELIEF**  
**VIOLATION OF NEW YORK GENERAL BUSINESS LAW § 350**  
**On behalf of Plaintiff Daly, Individually, and the New York Class**

225. Plaintiff Daly re-alleges and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

226. The acts of Quaker, as described above, and each of them, constitute unlawful, deceptive, and fraudulent business acts and practices.

227. New York General Business Law § 350 provides: “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.”

228. GBL § 350-a defines “false advertising,” in relevant part, as “advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect.”

229. Plaintiff Daly and the other New York Class Members are consumers who purchased Quaker Oats in New York.

230. As sellers of goods to the consuming public, Quaker is engaged in the conduct of business, trade, or commerce within the intended ambit of GBL § 350.

231. Quaker’s representations made by statement, word, design, device, sound, or any combination thereof, and also the extent to which Quaker’s advertising fails to reveal material facts with respect to Quaker Oats, as described above, constitute false advertising in violation of the New York General Business Law.

232. Quaker’s false advertising was knowing and intentional.

233. Quaker’s actions led to direct, foreseeable, and proximate injury to Plaintiff Daly and the other New York Class Members.

234. As a consequence of Quaker’s deceptive marketing scheme, Plaintiff Daly and the other New York Class Members suffered an ascertainable loss, insofar as they would not

have purchased Quaker Oats had the truth been known, or would have purchased Quaker Oats on different terms, and as a result of Quaker's conduct, they received a product of less value than what they paid for.

235. By reason of the foregoing, Quaker is liable to Plaintiff Daly and the other New York Class Members for actual damages or five hundred dollars (\$500) for each sale of Quaker Oats (whichever is greater), injunctive relief, attorneys' fees, and the costs of this suit.

236. Plaintiff Daly and the other New York Class Members further seek to enjoin the false advertising described above.

237. Absent injunctive relief, Quaker will continue to deceptively market Quaker Oats.

**TENTH CLAIM FOR RELIEF**  
**NEGLIGENT MISREPRESENTATION**  
**On behalf of Plaintiffs, Individually, and the National Class**

238. Plaintiffs re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

239. Throughout the Class Period, Quaker made incorrect representations and/or omissions of fact regarding the Products.

240. Quaker advertised, labeled, packaged, marketed, distributed, and sold the Products, without adequately warning Plaintiffs and Class Members of the presence of glyphosate in the Products and/or the health effects of ingesting glyphosate on media such as on the Products' packaging and labeling. Further, Quaker represents that the Products are "Natural," "100% Natural," and "100% Natural Whole Grain" despite the presence of glyphosate, a synthetic biocide.

241. Quaker was negligent in making the misrepresentations and/or omissions at issue because it knew, or should have known, that the Products contain glyphosate.



242. Plaintiffs and Class Members relied on Quaker's misrepresentations and/or omissions in purchasing the Products they believed did not synthetic or unnatural ingredients, or anything other than "100% Natural Whole Grain."

243. The factual misrepresentations and/or omissions committed by Quaker were material to Plaintiffs and Class Members in making their purchases of the Products.

244. Plaintiffs and other Class Members relied upon the incorrect representations and/or omissions made about the Products to their detriment, in that Plaintiffs and other Class Members paid the purchase price for the Products based upon the incorrect representations and/or omissions, and had Plaintiffs and Class Members known the truth about the Products, they would not have purchased the Products.

**ELEVENTH CLAIM FOR RELIEF**  
**BREACH OF EXPRESS WARRANTY**

**On behalf of Plaintiffs, Individually, and the National Class**

245. Plaintiffs re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

246. Quaker provided Plaintiffs and Class Members with written express warranties including, but not limited to, warranties that Quaker Oats were "Natural," "100% Natural," and "100% Natural Whole Grain."

247. These affirmations of fact or promises by Quaker relate to the goods and became part of the basis of the bargain.

248. Plaintiffs and Class Members purchased Quaker Oats believing them to conform to the express warranties.

249. Quaker breached these warranties. This breach resulted in damages to Plaintiffs and the other Class Members, who bought Quaker Oats but did not receive the goods as warranted.

250. As a proximate result of the breach of warranties by Quaker, Plaintiffs and the other Class Members did not receive goods as warranted. Plaintiffs and the Class Members therefore have been injured and have suffered damages in an amount to be proven at trial. Among other things, Plaintiffs and the Class Members did not receive the benefit of the bargain and have suffered other injuries as detailed above. Moreover, had Plaintiffs and the Class Members known the true facts, they would not have purchased Quaker Oats, or would have purchased Quaker Oats on different terms.

**TWELFTH CLAIM FOR RELIEF**  
**UNJUST ENRICHMENT**  
**On behalf of Plaintiffs, Individually, and the National Class**

251. Plaintiffs re-allege and incorporate by reference the allegations set forth in the preceding paragraphs of this Complaint, as if fully set forth herein verbatim. This cause of action is brought in the alternative to contract or warranty-based causes of action.

252. As a result of Quaker's deceptive, fraudulent, and misleading labeling, advertising, marketing, and sales of Quaker Oats, Quaker was enriched at the expense of Plaintiffs and the other Class Members through the payment of the purchase price, or for the payment of a price higher than otherwise would have been paid, for Quaker Oats.

253. As a result of Quaker's failure to warn about the presence of glyphosate and about the dangers associated with glyphosate, Quaker was enriched at the expense of Plaintiffs and the other Class Members through the payment of the purchase price, or for the payment of a price higher than otherwise would have been paid, for Quaker Oats.

254. Under the circumstances, it would be inequitable to permit Quaker to retain the ill-gotten benefits that it received from Plaintiffs and the other Class Members, in light of the fact that the Quaker Oats purchased by Plaintiffs and the other Class Members were not what Quaker purported them to be.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs, individually and on behalf of the Class, pray for relief as follows:

A. Certification of the Class proposed herein under Federal Rule of Civil Procedure 23(a), (b)(1), (b)(2), and (b)(3); appointment of Plaintiffs Kathleen Gibson, Danielle Cooper, Robyn Jaffee, and Lewis Daly as representatives of the Class; and appointment of their undersigned counsel as counsel for the Class;

B. A declaration that Defendant is financially responsible for notifying members of the Class of the pendency of this suit;

C. An order declaring Defendant's conduct to be in violation of applicable law and enjoining Defendant from pursuing the unlawful acts and practices alleged herein by adequately disclosing the presence of glyphosate in the Products and of the health effects of ingesting glyphosate;

D. An order requiring an accounting for, and imposition of a constructive trust upon, all monies received by Defendant as a result of the unfair, misleading, fraudulent, and unlawful conduct alleged herein;

E. For an order requiring Defendant to pay full restitution to Plaintiffs and all Class Members;

F. For an order requiring Defendant to engage in a corrective advertising campaign to inform the public concerning the true nature of Quaker Oats, including a recall of the Products;

G. For an order requiring Defendant to disgorge all ill-gotten gains flowing from the conduct alleged in this Complaint;

- H. For an award of all damages and penalties authorized by law;
- I. For an order awarding reasonable attorneys' fees and the costs;
- J. For an award of pre- and post-judgment interest on any amounts awarded; and
- K. For such other and further relief as may be deemed just, necessary or proper.

**JURY DEMAND**

Plaintiffs hereby demand a jury trial on all issues so triable.

Dated: August 11, 2016

Respectfully submitted,

/s/ Edward A. Wallace

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*Counsel for Plaintiffs and the Proposed Classes*

**CERTIFICATE OF SERVICE**

I, Edward A. Wallace, hereby certify that a copy of the foregoing was filed using this Court's CM/ECF service, which will send notification of such filing to all counsel of record on August 11, 2016.

By: /s/ Edward A. Wallace  
Edward A. Wallace