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12
13 **UNITED STATES DISTRICT COURT**
14 **CENTRAL DISTRICT OF CALIFORNIA**
15 **EASTERN DIVISION**

16

JAMES CARROLL SCOTT,) Case No.
17 NESHA RITCHIE and GABRIEL)
18 ADKINS on behalf of themselves) **CLASS ACTION COMPLAINT**
19 and all others similarly situated,) DEMAND FOR JURY TRIAL
20 Plaintiffs,)
21)
22 v.)
23)
24 GENERAL MILLS, INC.,)
25)
26 Defendant.)
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1 Plaintiffs James Carroll Scott (“Scott”), Nesha Ritchie (“Ritchie) and
2 Gabriel Adkins (“Adkins”) (collectively "Plaintiffs"), on behalf of themselves, all
3 others similarly situated, and the general public, by and through their undersigned
4 counsel, hereby bring this action against General Mills, Inc., and allege the
5 following upon their own knowledge, or where they lack personal knowledge,
6 upon information and belief, including the investigation of their counsel.

7
8 **I. INTRODUCTION**

9 1. Defendant General Mills, Inc. ("General Mills" or "Defendant"),
10 manufactures, advertises, sells and promotes various consumer products under the
11 brand name "Natural Valley." These products, as more fully discussed below,
12 contain oats that, in turn, are tainted by the presence of the unnatural biocide and
13 chemical *glyphosate*.

14 2. There is compelling scientific evidence that glyphosate, a potent
15 synthetic herbicide, causes detrimental health effects. In 2015, the International
16 Agency for Research on Cancer (IARC), a research arm of the World Health
17 Organization, declared glyphosate a category 2A "probable human carcinogen."
18 Glyphosate has also been found to be a suspected human endocrine disruptor.
19 Scientific studies of the effect of glyphosate based herbicides — an unnatural
20 biocide routinely sprayed on many crops, including oats — show that, even at low
21 dosage levels, such compounds can cause liver and kidney damage. No
22 reasonable health conscious consumer would knowingly and voluntarily ingest
23 glyphosate given its reported health risks.

24 3. As more information is continuously revealed about the detrimental
25 health effects of chemicals used in the agriculture industry and on products that
26 are ingested by humans, including glyphosate, consumers have grown
27 increasingly wary of artificial-chemical-laden foods, especially packaged foods,
28

1 and increasingly demanding foods that are devoid of potentially harmful artificial
2 chemicals.

3 4. Specifically, the Nature Valley Products at issue¹ (collectively also
4 referred to as "Product" or "Products") include, but are not limited to:

- 5
- 6 • Crunchy granola bars (Oats 'n Honey, Peanut Butter, Maple Brown
7 Sugar, Oats'n Dark Chocolate, Vanilla Almond Nut & Seed,
8 Coconut, Pecan, and other varieties);
- 9
- 10 • Trail Mix chewy granola bars (Fruit & Nut, Dark Chocolate & nut,
11 and other varieties);
- 12
- 13 • Sweet & Salty Nut granola bars (Peanut, Almond, and other
14 varieties);
- 15
- 16 • Breakfast Biscuits (Honey, Blueberry, Lemon Poppy Seed, and other
17 varieties);
- 18
- 19 • Biscuits (with Almond Butter, with Peanut Butter, and other
20 varieties);
- 21
- 22 • Oatmeal Squares (Blueberry, Peanut Butter, Cinnamon Brown Sugar,
23 Banana Bread & Dark Chocolate, and other varieties);
- 24

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26 ¹ Discovery may demonstrate that additional General Mills products are
27 within the scope of this Complaint.

- 1 • Oatmeal Bars (Peanut Butter, Cinnamon Brown Sugar, and other
2 varieties); and
- 3
- 4 • Oatmeal Bistro Cups (Brown Sugar Pecan, Apple Cinnamon
5 Almond, and other varieties) (collectively, "Nature Valley
6 Product(s)" or the "Product(s)").
- 7

8 5. While the etiology of General Mills' inclusion of glyphosate in its
9 Nature Valley products has not yet been fully disclosed by the Company,
10 glyphosate is sprayed onto oat crops in a process called "desiccation" to dry them
11 out in order to produce a faster and more uniform harvest – thereby increasing
12 yields, and ultimately, profits.

13 6. General Mills recognizes and is aware of the fact that consumers
14 desire and seek to purchase wholesome-natural foods free of artificial chemicals
15 — especially chemicals that are dangerous to human health — and are willing to
16 pay more for foods that they believe to be "natural," while avoiding products
17 containing artificial chemicals, including unnatural biocides such as glyphosate.

18 7. Nevertheless, General Mills' Nature Valley Product labeling and
19 advertising conceals and fails to disclose or warn of the fact that they do or may
20 contain this harmful ingredient, and that scientific studies have linked glyphosate
21 to adverse human health risks. And in order to further induce unwitting consumer
22 demand and purchase, Defendant deceptively labels, advertises and sells these
23 Nature Valley Products as made with "100% NATURAL Whole Grain Oats,"
24 even though, in truth, the whole grain oats are tainted in their harvesting process
25 with the potent unnatural biocide glyphosate.

26 8. Plaintiffs bring this deceptive food labeling and advertising case on
27 behalf of consumers who purchased defendant's Nature Valley Products, and
28

1 request both injunctive and economic relief, including refunds to purchasers, and
2 for a court ordered corrective advertising campaign to inform the public of the
3 true nature of General Mills' glyphosate-contaminated Nature Valley Products.
4 Plaintiffs are not seeking damages for any personal injuries in this Complaint. All
5 potential claims for individual tort relief by Plaintiffs and putative Class Members
6 are preserved and outside the scope of the damages sought in this litigation. This
7 case is based on economic damages arising from and caused by General Mills'
8 misrepresentations and omissions regarding the Products purchased by Plaintiffs
9 and Class Members during the class period, as defined below.

10
11 **II. JURISDICTION AND VENUE**

12 9. This Court has original subject-matter jurisdiction over this proposed
13 class action pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act
14 ("CAFA"). CAFA explicitly provides for the original jurisdiction of the federal
15 courts in any class action in which at least 100 members are in the proposed
16 plaintiffs' classes, any member of the plaintiffs' class is a citizen of a State
17 different from any defendant, and the matter in controversy exceeds the sum of
18 \$5,000,000.00, exclusive of interest and costs. Plaintiff Scott is a resident and
19 citizen of Arkansas, Plaintiffs Ritchie and Adkins are residents and citizens of
20 California, and defendant General Mills is a citizen of Delaware and Minnesota.
21 On information and belief, the amount in controversy exceeds \$5,000,000.

22 10. This Court has personal jurisdiction over the Defendant in this case.
23 General Mills has a manufacturing plant that produces the offending Product in
24 this District in Carson, California and transacts business in this District, including
25 selling the Products in this District, or exporting them from this District for sale in
26 California and elsewhere.

27 11. Venue is proper in this District under 28 U.S.C. § 1391(a).
28

1 Substantial acts in furtherance of the alleged improper conduct, including the
2 dissemination of false and misleading information regarding the nature, quality,
3 and/or ingredients of Nature Valley, occurred within this District.

4
5 **III. PARTIES**

6 **A. Plaintiffs**

7 12. Plaintiff James Carroll Scott is a citizen and resident of the State of
8 Arkansas. Plaintiff purchased one or more of the Nature Valley Products on many
9 occasions within the past several years. Most recently, on August 18, 2016,
10 Plaintiff purchased a box of twelve Nature Valley Oats 'n Honey granola bars that
11 General Mills labeled as "Made with 100% NATURAL Whole Grain Oats" on the
12 front left side of the box from Wal-Mart. On September 4, 2016, Mr. Scott
13 purchased two boxes containing twelve Nature Valley bars in each: one box of
14 twelve Nature Valley Peanut Butter granola bars and one box of twelve Nature
15 Valley Oats 'n Honey granola bars from Wal-Mart. Both boxes for those
16 September 4, 2016 purchases are also labeled "made with 100% NATURAL
17 Whole Grain Oats." In addition to the above, Mr. Scott also purchased Nature
18 Valley Oats 'n Dark Chocolate granola bars from Wal-Mart. Reliable analytical
19 scientific testing of granola bars purchased by Mr. Scott reveal and confirm the
20 hidden presence of the toxin glyphosate as follows: Nature Valley Oats n' Honey
21 granola bar — 0.68 PPM; Nature Valley Oats n' Dark Chocolate granola bar —
22 0.60 PPM; and Nature Valley Oats n' Peanut Butter granola bar — 0.30 PPM

23 13. Plaintiff Nesha Ritchie ("Ritchie") is a citizen and resident of
24 Ontario, California. Over the past four years, Mr. Ritchie has purchased one or
25 more Nature Valley Products on a variety of occasions, specifically including a
26 package of approximately ninety-eight Nature Valley Oats n' Honey granola bars
27 at Costco on or about August 2016, which were advertised and labeled as "made
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1 with 100% NATURAL whole grain oats."

2 14. Plaintiff Gabriel Adkins ("Adkins") is a citizen and resident of
3 Fresno, California. Over the past several years, Mr. Adkins has purchased one or
4 more of the Nature Valley Products on many occasions, specifically including 20
5 to 25 packages of either Nature Valley Oats n' Honey granola bars or Nature
6 Valley Oats n' Chocolate or Oats n' Peanut Butter granola bars at 7/11
7 convenience stores. Most recently on August 2016, Mr. Adkins purchased Oats n'
8 Honey and Oats n' Peanut Butter at a 7/11 convenience store, which were
9 advertised as "made with 100% NATURAL whole grain oats."

10 15. At no time prior to the purchases of Nature Valley Products were
11 Plaintiffs aware of or warned by General Mills that these products generally
12 contain harmful glyphosate and thus are not truly wholesome and made with
13 100% natural whole grain oats as represented and advertised. Upon making their
14 purchases, Plaintiffs read, relied upon, and reasonably believed General Mills'
15 representations that the Nature Valley Products were natural, wholesome and
16 "made with 100 percent NATURAL whole grain oats."

17 16. Plaintiffs purchased Nature Valley Products because they believed
18 and expected them to be free of synthetic and unnatural compounds: a reasonable
19 expectation given the representation in the product labeling and advertisements
20 that they were made with "100% NATURAL Whole Grain Oats," which further
21 conveyed the notion that such products were free of unnatural biocides and
22 potentially harmful chemicals. Had Plaintiffs known at the time that Nature
23 Valley Products contained the unnatural biocide glyphosate, in any quantity, or
24 that they were at risk of ingesting glyphosate given its adverse health risks, they
25 would not have purchased or continued to purchase the Products.

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B. Defendant

17. Defendant General Mills is a Delaware Corporation with its principal place of business in Minneapolis, Minnesota. Defendant is a leading global manufacturer and marketer of branded consumer foods and was, at all times mentioned herein, engaged in commercial transactions throughout the state of Minnesota, including this Judicial District, both for retail stores and internet sales. General Mills manufactures, markets, sells and distributes food products under a variety of trade names and trademarks, including the subject Nature Valley Products. The General Mills "oat-based food products" that it manufactures or otherwise causes to be manufactured are marketed and distributed under the Nature Valley brand name in retail stores throughout the United States, including California and Arkansas.

IV. SUBSTANTIVE FACTUAL ALLEGATIONS

18. As demonstrated by the following examples, Nature Valley Product labeling and packaging is designed to deceive health conscious consumers' and induce their purchases by concealing and otherwise failing to disclose the presence of glyphosate and, to that end, by encouraging consumers to believe that the oats therein are "100% NATURAL" and free of dangerous chemicals, biocides, pesticides and other offensive contaminants:

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Nutrition Facts			
Serving Size 2 bars (42g)			
Servings Per Container 6			
Amount Per Serving		2 bars	1 bar
Calories		190	100
Calories from Fat		60	30
	% DV*		% DV*
Total Fat	7g	11%	3.5g 6%
Saturated Fat	1g	4%	0g 0%
Trans Fat	0g		0g
Cholesterol	0mg	0%	0mg 0%
Sodium	180mg	7%	90mg 4%
Total Carbohydrate	29g	10%	15g 5%
Dietary Fiber	2g	9%	1g 4%
Sugars	11g		6g
Protein	3g		2g
Iron		4%	2%

† Fat is a significant source of vitamin A, vitamin C and calcium.

* Percent Daily Values (DV) are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.

	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	30g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	370g
Dietary Fiber		25g	30g

Ingredients: Whole Grain Oats, Sugar, Canola Oil, Rice Flour, Honey, Salt, Brown Sugar Syrup, Baking Soda, Soy Lecithin, Natural Flavor.
CONTAINS SOY; MAY CONTAIN PEANUT, ALMOND AND PECAN INGREDIENTS.
 DIST. BY GENERAL MILLS SALES, INC.,
 MINNEAPOLIS, MN 55440 USA
 © General Mills 3307623108
 [Carbohydrate Choices: 2]

Fig.1; Related Nutritional Information and Ingredients



Fig. 2, Packaging for Nature Valley Crunchy Granola Bars

A. Glyphosate – A Probable Human Carcinogen Tainting America's Crops

19. Glyphosate, the most widely used herbicide in the world, exists as an unnatural biocide. It is not a "natural" product or substance. Instead, it is derived from an amino acid glycine and is created by artificially replacing one of the hydrogen atoms in glycine with a phosphonomethyl. Glyphosate, as a biocide,

1 functions by disrupting the shikimate pathway.² Although humans themselves do
2 not have a shikimate pathway, the shikimate pathway is present in bacteria,
3 including bacteria that inhabit the human gut, and are essential to proper immune
4 functioning.

5 20. Monsanto patented the glyphosate herbicide in the 1970's, bringing it
6 to the market under the trade name "RoundUp" after which it became quite
7 popular for its ability to kill troublesome weeds. Glyphosate usage skyrocketed in
8 the mid-1990s when Monsanto introduced "Round Up Ready" crops that were
9 genetically engineered to be immune to glyphosate — meaning farmers could
10 spray the chemical herbicide directly over the crops without harming them.
11 Glyphosate use by United States farmers rose from 12.5 million pounds in 1995 to
12 250 million pounds in 2014, a 20-fold increase. Its global use rose from 112.6
13 million pounds in 1995 to 1.65 billion pounds in 2014 according to a research
14 article published in the peer-reviewed Journal entitled *Environmental Sciences*
15 *Europe* by Charles Benbrook.

16 21. In a farming process known as "desiccation," rather than wait for
17 crops to dry out prior to harvest – which takes an approximate two week period of
18 time to occur naturally – farmers spray crops with glyphosate, thereby killing the
19 crops and accelerating their drying. Today, *glyphosate is routinely sprayed on* a
20 host of crops, including *oats*. See
21 [https://www.organicconsumers.org/news/monsantos-roundup-enough-make-you-](https://www.organicconsumers.org/news/monsantos-roundup-enough-make-you-sick)
22 [sick](https://www.organicconsumers.org/news/monsantos-roundup-enough-make-you-sick), last visited September 28, 2016. Glyphosate is not necessary for successful

23 _____
24 ² See, e.g., Heike, H. & N. Amrhein, "The Site of the Inhibition of the
25 Shikimate Pathway by Glyphosate," *Plant Physiol.* 66:823 (1980), available at
26 <http://www.plantphysiol.org/content/66/5/823.full.pdf>, last visited September 27,
27 2016; see also <http://www.glyphosate.eu/glyphosate-mechanism-action>, last
28 visited September 27, 2016.

1 planting, growing, and harvesting of oats. As a consequence of the desiccation
2 process using glyphosate, the health and well being of consumers is being
3 sacrificed on the altar of increased profit margins.

4 22. In 2015, the IARC declared glyphosate a "category 2A probable
5 *human carcinogen*." A summary of the study underlying this declaration was
6 published in *The Lancet Oncology*, Vol. 16, No. 5 (May 2015).³ The IARC study
7 noted such carcinogenic risk factors as DNA damage to human cells resulting
8 from exposure to glyphosate.⁴ Previously, glyphosate had been found to be a
9 suspected *human endocrine disruptor, with estrogenic effects* even at *extremely*
10 *low concentrations*.⁵

11 23. Scientific study has produced **evidence linking glyphosate** with of a
12 host of **cancers**. Unfortunately, glyphosate's presence as a toxin in America's
13 food supply has become ubiquitous. As Gretchen DuBeau, Executive and Legal
14 Director of the Alliance for Natural Health – USA has stated, "glyphosate has
15 been linked to increases in levels of breast, thyroid, kidney, pancreatic, liver and
16 bladder cancers and is being served for breakfast, lunch and dinner around the
17 world." Alarming, DuBeau revealed that "the fact that it is showing up in foods
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19 ³ Available at
20 <http://www.thelancet.com/journals/lanonc/article/PIIS14702045%2815%2970134-8/abstract>, last visited September 27, 2016.

21 ⁴ *Id.*

22 ⁵ See Thongprakaisang, S. *et al.*, "Glyphosate induces human breast cancer
23 cells growth via estrogen receptors," 59 *Food & Chem. Toxicol.* 129 (June 2013),
24 abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/23756170>, last visited
25 September 27, 2016; see also, e.g., Gasnier, C. *et al.*, "Glyphosate-based
26 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 September 27, 2016.

1 like eggs and coffee creamer, which don't directly contact the herbicide, shows
2 that it is being passed on by animals who ingest it in their feed." The presence of
3 glyphosate in eggs and dairy supports fear that the chemical accumulates in
4 animal and human tissue in a process called "bioaccumulation."

5 24. **Even** studies examining **exposure to low doses** of glyphosate-based
6 herbicides show that these compounds can nevertheless **cause liver and kidney**
7 **damage**.⁶

8 25. According to a September 13, 2016, article entitled "*ALERT:*
9 *Certified Organic Food Grown in U.S. Found Contaminated with Glyphosate*
10 *Herbicide*," by "Health Impact News" editor Bryan Shilhavy, glyphosate "is in
11 80% of our food supply in the US and some scientist believe it may well be the
12 **most toxic chemical ever approved for commercial use**." Shilhavy further reports
13 that "glyphosate is now linked to kidney disease, antibiotic resistant bacteria,
14 inflammatory bowel disease, obesity, depression, ADHD, autism, Alzheimer's
15 Disease, Parkinson's Disease, ALS, Multiple Sclerosis, cancer, cachexia,
16 infertility, and developmental malformations," adding that "it **destroys the**
17 **microbiome of humans** and plants, which is the **root cause of many modern**

18 ⁶ Myers, J. et al, "Concerns over use of glyphosate-based herbicides and risks
19 associated with exposures: a consensus statement," *Environ. Health* 2016 15:19,
20 available at [https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-](https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0)
21 [0117-0](https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0), last visited September 27, 2016. *See also* Benedetti A.L., "The effects of
22 sub-chronic exposure of Wistar rats to the herbicide Glyphosate-Biocarb," *Toxicol.*
23 *Lett.* 2004 153(2):227–232, available at
24 <http://www.ncbi.nlm.nih.gov/pubmed/15451553>, last visited September 27, 2016;
25 Larsen K. et al, "Effects of Sublethal Exposure to a Glyphosate-Based Herbicide
26 Formulation on Metabolic Activities of Different Xenobiotic-Metabolizing
27 Enzymes in Rats," *Int. J. Toxicol.* 2014, available at
28 <http://www.ncbi.nlm.nih.gov/pubmed/24985121>, last visited September 27, 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 September 27, 2016.

1 *diseases.*"

2 26. Commencing in early 2016, the US Food & Drug Administration
3 ("FDA") began testing for residues of glyphosate after the **World Health**
4 **Organization's cancer experts declared** in 2015 that the chemical is a
5 "**probable human carcinogen.**" The FDA's move came amid growing concern
6 about glyphosate safety and after the United States Government Accountability
7 Office rebuked the agency for having previously failed to do such assessments.

8 27. No reasonable consumer would voluntarily ingest glyphosate in any
9 amount. Nor would a reasonable consumer voluntarily ingest a product
10 contaminated with, or otherwise containing, glyphosate. No reasonable consumer
11 would expect to find glyphosate in a product that is labeled or marketed as
12 "natural," or "wholesome." No reasonable consumer would purchase or ingest a
13 product containing glyphosate if the actual or potential presence of such unnatural
14 biocide and its potential adverse health risks were adequately and fully disclosed
15 before making a purchase decision.

16

17 **B. General Mills Deceptively Labels and Markets Nature Valley**
18 **Products**

19 28. Despite portraying its Products as "*wholesome*" — a euphemism for
20 "healthy" — in the face of growing consumer demand for healthy food products,
21 General Mills conceals and fails to disclose or warn consumers about the presence
22 of glyphosate in its Products or its related health risks. To that end, despite its
23 knowledge that glyphosate is an unnatural biocide linked to adverse health risks
24 and conditions, General Mills markets Nature Valley Products as "*Made with*
25 *100% NATURAL Whole Grain Oats*" and labels them as such.

26 29. As a background to this deceitful practice, General Mills' public
27 advertising statements and labeling are designed to portray an image of a health
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1 conscious, environmental and consumer friendly food company that is genuinely
2 concerned about consumers' health and needs. For example, General Mills states
3 variously on its website:

4 “*Nature Valley* created the granola bar category in 1975 ...

5 No matter how many new flavors we create, be assured that with
6 *Nature Valley* you’re always getting *The Taste Nature Intended*.”⁷

7 ***

8 Oats are at the core of General Mills' business.

9 We believe in the goodness of oats. They are nutrient-dense,
10 affordable, naturally gluten-free and come in convenient forms.

11 Oats are unique in many ways:

- 12
- 13 They have the highest concentrations of protein among
14 common varieties of whole grains, more soluble fiber than most
15 other whole grains, are a top source of the soluble fiber, beta-
16 glucan, and contain unique antioxidants.
 - 17 Oats naturally taste good and, when roasted, develop a nutty oat
18 flavor.
 - 19 Eating grains, especially whole grains, provides health benefits.
20 People who eat whole grains as part of a healthy diet have a
21 reduced risk of some chronic diseases. Grains provide many
22 nutrients that are vital for the health and maintenance of our
23 bodies.⁸

30. This continuing and consistent theme is pervasive throughout

24 ⁷ See <http://www.generalmills.com/Brands/Snacks/nature-valley>, last visited
September 28, 2016 (italics in original).

25 ⁸ See <http://www.generalmills.com/en/Health/well-being/whole-grain>, last
26 visited September 28, 2016.

1 General Mills' Product advertising and labeling. For example, General Mills'
2 Nature Valley Crunchy Oats 'n Honey granola bars are expressly labeled on the
3 front label of the product as "*Made with 100% NATURAL Whole Grain Oats.*"
4 The back of the label lists the product's main ingredient as "Whole Grain Oats."
5 "Nature Valley™ Crunchy bar packaging represent that they start with the best
6 ingredients from nature like *100% natural whole grain oats and honey.*"
7 General Mills' Nature Valley website also declares that: "Nature Valley Crunchy
8 bars start with the best ingredients from nature like **100% natural whole grain**
9 **oats and honey.**"⁹

10 31. General Mills' Nature Valley website states: "Our bars come *straight*
11 *from nature.* Sun-dried raisins. Crunchy peanuts. Sweet cranberries. *Wholesome*
12 almonds and **oats**. And an occasional dash of rich dark chocolate."¹⁰

13 32. General Mills deceitful product labeling and marketing is not only
14 confined only to its Nature Valley bars. For example, Nature Valley Biscuits are
15 similarly represented on its website stating: "Nature Valley Biscuits® combine a
16 delicious crispy texture, and the goodness of *100% natural whole grain oats.*"¹¹
17 Nature Valley Oatmeal Bistro Cups, are similarly represented on the website,
18 declaring: "Made with *100% natural whole grain oats* simply brew, stir and
19 enjoy!"¹² And the website regarding Nature Valley Oatmeal Squares: "**100%**

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21 ⁹ See www.naturevalley.com/crunchy/, last visited September 28, 2016.

22 ¹⁰ See http://www.naturevalley.com/nature_valley_products/, last visited
23 September 28, 2016.

24 ¹¹ See, e.g., www.naturevalley.com/nv-products/blueberry-biscuits/, last
25 visited September 27, 2016.

26 ¹² See www.naturevalley.com/nv-products/brown-sugar-pecan-bistro-cups/,
27 last visited September 28, 2016.

1 *nature whole grain oats* soft baked to perfection."¹³

2 33. A reasonable consumer reading General Mills Nature Valley Product
3 packaging containing advertising and labeling representations that such products
4 are made with "100% NATURAL Whole Grain Oats" would understandably
5 expect and believe that the oats utilized in that product do not contain anything
6 that is unnatural and that the ingredients in the Product are as represented on the
7 statement of nutrition facts appearing on the packaging. As set forth in ¶ 15,
8 General Mills does not warn of or disclose the use or presence of glyphosate in its
9 Nature Valley Products, nor does the product packaging or labeling inform health
10 conscious consumers that the Product is contaminated with a known toxin and
11 "possible human carcinogen."

12
13 **C. General Mills' Deceptive Conduct Induces Consumer Purchase**
14 **Causing Them Harm**

15 34. General Mills knows and intends that when consumers see the
16 Product advertisements or labels concealing and failing to disclose the presence of
17 glyphosate or its related health risks, while representing that the product is
18 "**wholesome**" and "**Made with 100% NATURAL Whole Grain Oats**," they will
19 understand that to mean, at the very least, that the oats or other ingredients in the
20 product do not contain synthetic ingredients or harmful chemicals such as
21 unnatural biocides. Defendant's false statements, omissions, labeling and
22 marketing without disclosing the general presence of glyphosate in its Nature
23 Valley Products and its related health risks, were designed and intended to induce,
24 and did induce, consumers to reasonably believe that said Products do not contain

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26 ¹³ See <http://www.naturevalley.com/nv-products/cinnamon-brown-sugar-oatmeal-squares/>, last visited September 28, 2016.

1 synthetic chemical ingredients, or unnatural biocides.

2 35. In 2014, the Consumer Report National Research Center conducted a
3 national phone survey in order to assess consumer opinion regarding food
4 labeling. Sixty-six percent of all respondents in the Consumer Reports survey said
5 that a "natural" label on packaged and processed foods meant to them that "no
6 toxic pesticides were used."¹⁴

7 36. In its 2015 Annual Report to its shareholders, General Mills
8 described consumers' desire for natural foods and its business strategy designed to
9 take advantage of the increasing consumer appetite for natural foods, stating:

10 Consumers are increasingly interested in natural foods with simple
11 ingredients and are limiting things like gluten, simple carbohydrates
12 and artificial ingredients. They also are looking for more protein,
13 fiber, whole grains and organic products. And they are snacking more
14 than ever. In categories where we applied a "consumer first"
15 approach and responded to these changes, we posted good growth.
16 For example, retail sales for our grain snacks grew 4 percent, and we
gained nearly two points of market share on the strength of our Nature
Valley and Fiber One brands.

17 37. Reasonable consumers do not possess the expertise capable of
18 enabling them to ascertain the fact that, in truth, such Products contain glyphosate.
19 To the contrary, any reasonable consumer must necessarily rely on General Mills
20 to honestly disclose any potentially harmful chemicals Nature Valley Products'
21 contain. Consumers are willing to pay more for a premium product that they
22 expect that product to be free of synthetic chemicals.

23 38. Placing profits over concerns for the health of its consumers,
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25 ¹⁴ See
26 [http://www.greenerchoices.org/pdf/consumerreportsfoodlabelingsurveyjune2014.](http://www.greenerchoices.org/pdf/consumerreportsfoodlabelingsurveyjune2014.pdf)
27 pdf, last visited September 28, 2016

28

1 Defendant purposely concealed and failed to warn consumers regarding the risk of
2 existence of glyphosate in its oats and its related dangers.

3 39. In making the false, misleading, and deceptive representations and
4 omissions at issue, General Mills knew and intended that consumers would pay
5 more for "wholesome" and "100% NATURAL" oats free of unnatural agents than
6 they would pay for oats that are tainted by a dangerous chemical, furthering
7 General Mills' interest of increasing sales of its products.

8 40. Indeed, General Mills well knows and understands the methods by
9 which the oats it uses in the Products are grown, harvested, and processed, and the
10 etiology of the presence of glyphosate oats contained in its Nature Valley
11 Products.

12 41. General Mills knew that Nature Valley was mislabeled and
13 deceptively and falsely advertised. It was aware of its a duty to disclose the
14 presence or risk of glyphosate, including its related health risks, failing which it
15 needed to cease labeling or marketing its products as "wholesome" and the tainted
16 oats therein as "100% NATURAL." General Mills knew at all times that in the
17 event of any such truthful and cautionary disclosure or labeling, consumers would
18 not purchase the Nature Valley Products or would otherwise purchase a
19 competing product.

20 42. Plaintiffs and the Class Members were among the intended recipients
21 of General Mills' deceptive representations and omissions. These
22 misrepresentations and omissions were uniform and were communicated to
23 Plaintiffs and every other Class Member at every point of purchase and
24 consumption.

25 43. General Mills' deceptive representations and omissions are material
26 in that a reasonable person would attach importance to such information and
27 would be induced to act upon such information in making purchasing decisions.
28

1 44. General Mills' false, misleading, and deceptive misrepresentations
2 and omissions deceived and misled, and are likely to continue to deceive and
3 mislead, Plaintiff, the Class members, reasonable consumers, and the general
4 public and induced them to purchase its Nature Valley Products.

5 45. General Mills' false, misleading, and deceptive representations and
6 omissions have caused Plaintiffs and the Class Members to suffer damages and
7 harm. As a direct and proximate result of Defendant's deceptive conduct,
8 Plaintiffs and the Class Members were deceived and induced to purchase Nature
9 Valley Products that they wouldn't have purchased had the products not been
10 falsely represented, or had they known that such Products generally contained a
11 substance that is a known suspected toxin, probable carcinogen and reported
12 health risk that they or their children and family members would ingest.

13 46. Accordingly, Plaintiffs and the Class Members have lost money or
14 property as a result of General Mills' wrongful conduct.

15 47. But for General Mills' false, misleading, and deceptive
16 representations and omissions, Plaintiffs and the Class Members would not have
17 been injured as described.

18
19 **D. General Mills' Unjustly Benefits from Its Deceptive Conduct**

20 48. General Mills' false, misleading, and deceptive representations and
21 omissions have consequently enriched the company via sales of Nature Valley
22 Products at the expense of Plaintiff and the Class Members.

23 49. Plaintiffs, and all other similarly situated consumers, did not bargain
24 for accepting or undertaking the risk that the "wholesome" Products did or could
25 potentially contain unnatural chemical ingredients which they would unwittingly
26 ingest, with attendant and serious adverse health risks, rather than 100% natural
27 whole oats.

1 50. Upon information and belief, General Mills has not yet remedied its
2 product labeling misconduct which continues, thus causing continuing harm to
3 consumers, as the Products continue to be sold without adequate warning and
4 disclosure regarding the presence or potential presence of glyphosate and its
5 related health risks.

6 51. Nature Valley Products were sold pursuant to unfair, immoral,
7 unethical, oppressive, and unscrupulous, trade practice that offends public policy,
8 causing substantial economic injuries to Plaintiffs and Class Members.

9 52. But while the Products are valueless, or not worth the purchase price
10 that Plaintiffs and Class Members paid for them, and are not what Plaintiffs and
11 Class Members reasonably intended to receive, General Mills has garnered
12 substantial sums of money from unwitting, innocent consumers and has been
13 unfairly and unjustly enriched thereby in amounts to be determined upon
14 discovery.

15
16 **V. CLASS ACTION ALLEGATIONS**

17 53. Plaintiffs bring this lawsuit as a class action on their own behalf and
18 on behalf of all other persons similarly situated as members of the proposed
19 nationwide and state classes pursuant to Federal Rules of Civil Procedure 23(a),
20 23(b)(1), 23(b)(2) and 23(b)(3). This action satisfies the numerosity,
21 commonality, typicality, adequacy, predominance, and superiority requirements of
22 those provisions.

23 54. The proposed nationwide class (hereinafter "Nationwide Class") is
24 defined as:

25 All persons who purchased Nature Valley Products from a retail
26 location within the United States during the period from four years
27 before the filing of this complaint until the date of class certification
28 (the "Class Period")

1 55. The proposed California purchaser class (hereinafter "California
2 Purchaser Class") is defined as follows:

3 All persons who purchased Nature Valley (as defined
4 herein) from a retail location within the State of California
5 during the period within the applicable statute of limitations
6 before the filing of this complaint until the date of class
7 certification (the "Class Period").

8 56. The Proposed Arkansas purchaser class (hereinafter "Arkansas
9 Purchaser Class" is defined as follows:

10 All persons who purchased Nature Valley (as defined
11 herein) from a retail location within the State of Arkansas
12 during the period within the applicable statute of limitations
13 before the filing of this complaint until the date of class
14 certification (the "Class Period").

15 57. Excluded from the above classes are: (1) Defendant, any entity or
16 division in which Defendant has a controlling interest, and their legal
17 representatives, officers, directors, assigns, and successors; (2) the Judge to whom
18 this case is assigned and the Judge's staff; and (3) governmental entities. Plaintiffs
19 reserve the right to amend the Class definition if discovery and further
20 investigation reveal that the Class should be expanded, divided into subclasses or
21 modified in any other way.

22 58. All members of the Class were and are similarly affected by the
23 deceptive labeling and advertising of the Products and the relief sought herein is
24 for the benefit of Plaintiffs and Members of the Class.

1 **A. Numerosity and Ascertainability**

2 59. Although the exact number of Class Members is uncertain and can be
3 ascertained only through appropriate discovery, the number is great enough such
4 that joinder is impracticable. The disposition of the claims of these class members
5 in a single action will provide substantial benefits to all parties and to the Court.
6 Class Members are readily identifiable from information and records in
7 Defendants' possession, custody, or control.

8
9 **B. Typicality**

10 60. Plaintiffs' claims are typical of the claims of the Class in that, like all
11 class members, they arise from the same course of conduct by Defendant and the
12 relief sought is common to all Class Members who have been damaged by
13 Defendant's conduct. The factual bases of Defendant's misconduct are common to
14 all Class Members and represent a common thread of misconduct resulting in
15 injury to all Class Members.

16
17 **C. Adequate Representation**

18 61. Plaintiffs will fairly and adequately represent and protect the interests
19 of the Class. Plaintiffs have retained counsel with substantial experience in
20 prosecuting consumer and data breach class actions, and therefore Plaintiffs'
21 counsel is also adequate under Rule 23.

22 62. Plaintiffs and their counsel are committed to vigorously prosecuting
23 this action on behalf of the Class and have the financial resources to do so.
24 Neither Plaintiffs nor their counsel have interests adverse to those of the Class.

25
26 **D. Predominance of Common Issues**

27 63. There are numerous questions of law and fact common to Plaintiffs
28

1 and the Class Members that predominate over any question affecting only
2 individual Class Members. The answers to these common questions will advance
3 resolution of the litigation as to all Class Members. These common questions of
4 law and fact include:

- 5 • Whether Nature Valley Products advertising and labeling
6 adequately disclosed the presence of glyphosate and its related
7 adverse health risks;
- 8 • Whether Defendant engaged in the wrongful conduct alleged
9 herein;
- 10 • Whether Defendant's practices and representations related to
11 the marketing, labeling, and sales of the Products were unfair,
12 deceptive, fraudulent, and/or unlawful in any respect, thereby
13 violating Minnesota, California and/or Arkansas law;
- 14 • Whether Defendant breached an express warranty created
15 through the labeling and marketing of its falsely labeled
16 Products;
- 17 • Whether Defendant's conduct as set forth above economically
18 injured Plaintiffs and Class;
- 19 • Whether Plaintiffs and Class Members suffered injury as a
20 proximate result of Defendant's conduct or failure to act;
- 21 • The proper amount of restitution or disgorgement; and
- 22 • Whether Plaintiffs and Class Members are entitled to recover
23 damages, equitable relief and other relief, and the extent of the
24 remedies that should be afforded to Plaintiffs and Class
25 Members.

1 **E. Predominance and Superiority of Class Action**

2 64. The prerequisites to maintaining a class action pursuant to Federal
3 Rule of Civil Procedure 23(b)(3) are met because questions of law and fact
4 common to each Class Member predominate over any questions affecting only
5 individual members and a class action is superior to other available methods for
6 fairly and efficiently adjudicating the controversy.

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

13 66. Moreover, because the damages suffered by individual members of
14 the Class may be relatively small, the expense and burden of individual litigation
15 would make it difficult or impossible for individual Class Members to redress the
16 wrongs done to them, while an important public interest will be served by
17 addressing the matter as a class action. Class action treatment will allow those
18 persons similarly situated to litigate their claims in the manner that is most
19 efficient and economical for the parties and the judicial system.

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

22
23 **F. Declaratory and Injunctive Relief**

24 68. Certification also is appropriate under Rules 23(b)(1) and (b)(2)
25 because Defendant acted, or refused to act, on grounds generally applicable to the
26 Class, thereby making appropriate the injunctive relief sought on behalf of the
27 Class. Further, given the large number of consumers of the Products, allowing
28

1 individual actions to proceed in lieu of a class action would run the risk of
2 yielding inconsistent and conflicting adjudications.

3
4 **VI. CAUSES OF ACTION**

5 **COUNT I**

6 **Violation of the Minnesota Prevention of Consumer Fraud Act**

7 **Minn. Stat. § 325F.69**

8 **[On Behalf of the Nationwide Class]**

9 69. Plaintiffs reallege and incorporate on behalf of the Nationwide Class
10 the foregoing allegations as though fully set forth at length herein.

11 70. General Mills' action and conduct as described herein, constitutes
12 unlawful, deceptive, and fraudulent business acts and practices that originated and
13 were conducted within and exported out of the State of Minnesota, and were
14 directed at the Class members.

15 71. Defendant omitted that Defendant's Nature Valley Products were not
16 truly "Natural" or "Made With 100% Natural Whole Oats" and, concealed the fact
17 that the Products contained glyphosate.

18 72. This omitted fact was material in that a reasonable consumer would
19 not have purchased Nature Valley products from General Mills, or would have
20 paid less for Nature Valley products from General Mills, had they known the
21 information that was concealed by the Defendants prior to purchase.

22 73. Minn. Stat. § 325F.69 Subd. 1 provides:

23 The act, use, or employment by any person of fraud, false pretenses,
24 false promise, misrepresentation, misleading statement or deceptive
25 practice, with the intent that others rely thereon in connection with the
26 sale of any merchandise, whether or not any person has in fact been
27 misled, deceived, or damaged, is enjoined as provided in section
28 325F.70.

1 74. General Mills is a seller of Nature Valley food products. The
2 products fall within the meaning of "merchandise" under Minn. Stat. § 325F.68,
3 Subd. 2.

4 75. General Mills which has labeled or advertised its Nature Valley
5 products as made With "100% NATURAL Whole Grain Oats," and has indicated
6 that the products' main ingredient is "Whole Grain Oats," has otherwise presented
7 an image and marketing materials suggesting that its products contain 100%
8 natural whole-grain oats, despite the fact that the products contain glyphosate, a
9 synthetic chemical that has been deemed a probable human carcinogen by the
10 World Health Organization.

11 76. General Mills' pattern and practice of failing to inform consumers,
12 including Plaintiffs and the Class Members, that its Nature Valley Products
13 contain glyphosate constitutes the sale of such products through the use of fraud,
14 false pretense, and deceptive practices and, is deceptive conduct that constitutes
15 multiple separate violations of Minn. Stat. § 325F.69.

16 77. General Mills intended that Plaintiffs and Class Members rely upon
17 the omission it made in connection with the sale of its Nature Valley products in
18 violation of Minn. Stat. §325F.69.

19 78. General Mills has violated, and continues to violate, Minn. Stat. §
20 325F.69, which makes deceptive acts and practices unlawful.

21 79. As a direct and proximate result of General Mills' violation of §
22 325F.69, Plaintiffs and other Class Members have suffered damages in an amount
23 to be determined at trial.

24 80. As a result of General Mills' misconduct, and in addition to being
25 entitled to recover damages, Plaintiffs and Class Members are entitled to
26 injunctive and equitable relief including, but not limited to, restitution,
27
28

1 disgorgement and an award of attorneys' fees pursuant to Minn. Stat. § 8.31, Subd.
2 3a.

3
4 **COUNT II**
5 **Violation of Minnesota Unlawful Trade Practices Act**
6 **Minn. Stat. § 325D.13**
7 **[On Behalf of the Nationwide Class]**

8 81. Plaintiffs reallege and incorporate on behalf of the Nationwide Class
9 the foregoing allegations as though fully set forth at length herein.

10 82. Minn. Stat. § 325D.13 provides:

11 No person shall, in connection with the sale of merchandise,
12 knowingly misrepresent, directly or indirectly, the true quality,
13 ingredients or origin of such merchandise.

14 83. General Mills is a "person" within the meaning of § 325D.10.

15 84. General Mills unlawful conduct and deceptive trade practices
16 includes, but is not limited to Defendant's fraudulent omission that its Nature
17 Valley products were not "made with "100% NATURAL Whole Oats" and,
18 instead, that the products actually contained glyphosate, a synthetic biocide and
19 probable human carcinogen.

20 85. The acts of General Mills, as described above, and each of them,
21 constitute unlawful, deceptive, and fraudulent business acts and practices.

22 86. These deceptive practices originated in the State of Minnesota and
23 were directed at the Class members.

24 87. As a result of General Mills' practices described herein, Plaintiffs
25 have suffered actual damages by purchasing Natural Valley Products that they
26 otherwise would not have purchased, or by paying more for Natural Valley
27 Products than they would have otherwise paid, had they known this fact prior to
28 purchase.

88. General Mills' conduct described herein constitutes a violation of

1 Minn. Stat. § 325D.13, injuring Plaintiffs and entitling them to damages and
2 injunctive and equitable relief including, but not limited to, restitution,
3 disgorgement and an award of attorneys' fees pursuant to Minn. Stat. § 8.31, Subd.
4 3a.

5
6 **COUNT III**
7 **Violation of Minnesota Uniform Deceptive Trade Practices Act**
8 **Minn. Stat. § 325D.44**
9 **[On Behalf of the Nationwide Class]**

10 89. Plaintiffs reallege and incorporate on behalf of the Nationwide Class
11 the foregoing allegations as though fully set forth at length herein.

12 90. Minn. Stat. § 325D.44, Subd. 1 provides:

13 A person engages in a deceptive trade practice when, in the
14 course of business, vocation, or occupation, the person:
15 (5) represents that goods or services have . . . characteristics,
16 ingredients, uses, benefits . . . they do not;

17 (13) engages in any other conduct which similarly creates a
18 likelihood of confusion or misunderstanding.

19 91. General Mills' material omissions constitute deceptive conduct that
20 violates Minn. Stat. § 325D.44. Specifically, Defendant omitted that Defendant's
21 Nature Valley Products were not "Made with 100% NATURAL Whole Oats" at
22 the time of sale and, instead, that the products actually contain glyphosate, an
23 unnatural biocide.

24 92. General Mills' actions and conduct as described herein, constitutes
25 unlawful, deceptive, and fraudulent business acts and practices.

26 93. These unlawful practices originated out of the State of Minnesota and
27 were directed at the Class members.

28 94. As a result of General Mills' practices described herein, Plaintiffs

1 have suffered actual damages by purchasing Natural Valley Products that they
2 otherwise would not have purchased, or by paying more for Natural Valley
3 Products than they would have otherwise paid, had they known the information
4 that Defendant concealed prior to purchase.

5 95. Defendant willfully engaged in such trade practices knowing them to
6 be deceptive. Accordingly, Plaintiffs are entitled to recover damages and all other
7 remedies available at law, including costs and attorneys' fees under Minn. Stat. §
8 325D.45, Subd. 2.

9
10 **COUNT IV**
11 **Breach of Express Warranty**
12 **[On Behalf of the Nationwide Class]**

13 96. Plaintiffs reallege and incorporate on behalf of the Nationwide Class
14 the foregoing allegations as though fully set forth at length herein.

15 97. General Mills provided Plaintiffs and other members of the Class
16 with written express warranties affirmations of fact or promises related to the
17 goods that became part of the basis of the bargain, including, but not limited to,
18 that its Nature Valley Products are made with "100% NATURAL Whole Grain
19 Oats."

20 98. Plaintiffs and members of the Class purchased Nature Valley
21 believing them to conform to the aforesaid express warranties.

22 99. General Mills breached these warranties.

23 100. As direct and proximate result of the breach of warranties by General
24 Mills, Plaintiffs and the other members of the Class did not receive goods as
25 warranted. Plaintiffs and members of the Class did not receive the benefit of the
26 bargain and have suffered other injuries as detailed above. Had Plaintiffs and the
27 Class members known the true facts, they would not have purchased Nature
28

1 Valley, or would have purchased Nature Valley on different terms. Plaintiffs and
2 the members of the Class therefore have been injured and have suffered damages
3 in an amount to be proven at trial.

4
5 **COUNT V**
6 **Unjust Enrichment**
7 **[On Behalf of the Nationwide Class]**

8 101. Plaintiffs reallege and incorporate on behalf of the Nationwide Class
9 the foregoing allegations as though fully set forth at length herein.

10 102. Alternatively, and without prejudice to Plaintiffs' contract based
11 claims, General Mills' deceptive and fraudulent labeling, advertising, marketing,
12 and sales of Nature Valley Products and enriched Defendant at the expense of
13 Plaintiffs and the other members of the Class through the payment of the purchase
14 price, or via the payment of a higher price than otherwise would have been paid
15 for said Products.

16 103. Equity and good conscience require that General Mills be compelled
17 to disgorge all ill-gotten benefits it received from Plaintiffs and the other members
18 of the Class. The Nature Valley Products purchased by Plaintiffs and the other
19 members of the Class were not what General Mills purported them to be. It would
20 be unjust and inequitable for General Mills to retain the benefit without restitution
21 to Plaintiffs and the other members of the Class for the monies paid to General
22 Mills for Nature Valley Products.

23 **COUNT VI**

24 **Violation of California's Consumer Legal Remedies Act ("CLRA")**
25 **Cal. Civ. Code §§ 1750, et seq.**
26 **[On Behalf of Plaintiffs Ritchie, Adkins and the California Purchaser Class]**

27
28 104. Plaintiffs Ritchie and Adkins incorporate by reference the foregoing

1 allegations as if fully set forth herein.

2 105. Plaintiffs Ritchie and Adkins and each member of the California
3 Purchaser Class are “consumers” as defined by Cal. Civ. Code § 1761(d).

4 106. Defendant is a “person” as defined by Cal. Civ. Code § 1761(c).

5 107. Defendant's Nature Valley Products are “goods” as defined by Cal.
6 Civ. Code § 1761(a).154. Defendants’ sale of Nature Valley Products to
7 wholesalers, retailers and consumers, including plaintiffs Ritchie and Adkins,
8 constitutes transactions that were intended to result, or did result, in the sale of
9 goods to consumers within the meaning of Cal. Civ. Code §§ 1761(e) and 1770(a).

10 108. The CLRA protects consumers against unfair and deceptive practices,
11 and is intended to provide an efficient means of securing such protection.

12 109. Defendant violated the CLRA by engaging in unfair and deceptive
13 practices, and by causing harm to Plaintiff Adkins and the California Class
14 Purchaser.

15 110. Specifically, Defendant engaged in a manufacturing process that it
16 knew caused an unnatural biocide and toxin – glyphosate – which is linked to
17 serious adverse health effects, including cancer, to be included and reside in the
18 Products and concealed and failed to disclose or warn of the general presence of
19 glyphosate in the Products, despite labeling and advertising the oats on which the
20 toxin was applied as "100% NATURAL," thereby deceiving consumers.

21 111. Defendants’ failure to disclose the presence of glyphosate violated
22 the CLRA in multiple ways:

- 23 a. In violation of Cal. Civ. Code § 1770(a)(5), Defendant represented
24 that its Products had characteristics, ingredients, uses, benefits, or
25 qualities which they did not have;

1 b. In violation of Cal. Civ. Code § 1770(a)(7), Defendant represented
2 that its Products were of a particular standard, quality, or grade, when
3 they were of another;

4 c. In violation of Cal. Civ. Code § 1770(a)(9), Defendant advertised its
5 Products with the intent not to sell them as advertised;

6 d. In violation of Cal. Civ. Code § 1770(a)(14), Defendant knowingly
7 and intentionally withheld material information from Plaintiffs and
8 the Class – namely that their "100% NATURAL whole grain oats"
9 Products contained glyphosate, a toxin and unnatural biocide linked
10 to cancer and other adverse health conditions;

11 112. Defendant's unfair or deceptive acts or practices were capable of
12 deceiving a substantial portion of the purchasing public.

13 113. Defendant did not disclose the truth about the Products to consumers
14 because it knew consumers would not purchase them if they knew they were
15 tainted with glyphosate.

16 114. Defendant was under a duty to Plaintiffs Ritchie and Adkins and the
17 California Purchaser Class to disclose that the Products contained glyphosate for
18 several reasons including, but not limited to:

19 a. Defendant was in a superior position to know that the
20 glyphosate was used in the harvesting and processing of the
21 oats and was not removed in the manufacturing process by
22 General Mills.

23 b. Plaintiffs Ritchie and Adkins and the California Purchaser
24 Class could not reasonably have been expected to know or
25 discover that Defendant included glyphosate in the Products;

26 d. Defendant knew that Plaintiff Adkins and the California
27 Purchaser Class members would not purchase the Products if
28

1 they knew of presence of glyphosate in them despite
2 advertising that they are made with "100% NATURAL" whole
3 grain oats.

4 115. By failing to disclose the presence of glyposate, or warn consumers,
5 Defendant knowingly and intentionally concealed material facts and breached
6 their duty to Plaintiffs and the Classes.

7 116. The facts concealed or not disclosed by Defendant are material in that
8 a reasonable consumer would have considered them to be important in deciding
9 whether or not to purchase, or how much to pay for, the Products.

10 117. Plaintiffs Ritchie and Adkins and the California Purchaser Class
11 reasonably expected that their "100% NATURAL" Products would be free from
12 glyphosate – a dangerous, unnatural biocide and toxin.

13 118. Through the omissions detailed herein, Defendant wrongfully
14 induced Plaintiffs Ritchie and Adkins and the other members of the California
15 Purchaser Class to purchase the Products when they otherwise would not have
16 purchased them.

17 119. As a direct and proximate result of Defendants' violations of the
18 CLRA, Plaintiffs Ritchie and Adkins and each California Purchaser Class member
19 have suffered harm in the form of paying moneys to purchase the Products when
20 they otherwise would not have purchased them.

21 120. Pursuant to Cal. Civ. Code § 1780(a) and (b), Plaintiffs Ritchie and
22 Adkins, individually and on behalf of the California Purchaser Class, seeks an
23 injunction requiring Defendant to cease and desist the illegal conduct alleged in
24 this Complaint, damages for Defendant's violations, and all other appropriate
25 remedies for Defendants' violations of the CLRA.

26 121. It would be futile to serve Defendant with notice pursuant to Cal.
27 Civ. Code § 1 782(a) since it continues to engage in its deceptive conduct as
28

1 alleged herein with respect to the sale of the Products despite prior demands to
2 cease and desist.

3
4 **COUNT VII**

5 **Violation of California’s Unfair Competition Law (“UCL”)**
6 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

7 **[On Behalf Of Plaintiffs Ritchie, Adkins And The California Purchaser Class]**

8 122. Plaintiffs Ritchie and Adkins incorporate by reference the foregoing
9 allegations as if fully set forth herein.

10 123. The UCL protects consumers and competitors by promoting fair
11 competition in commercial markets for goods and services.

12 124. The UCL prohibits any unlawful, unfair, or fraudulent business act or
13 practice, including the employment of any deception, fraud, false pretense, false
14 promise, misrepresentation, or the concealment, suppression, or omission of any
15 material fact.

16 125. Defendant violated the UCL by engaging in unlawful, unfair and
17 fraudulent business acts or practices.

18 126. Defendant's conduct is unlawful because, as explained above, it
19 violates California’s Unfair Competition Law (Cal. Bus. & Prof. Code § 17200 *et*
20 *seq.*), California’s False Advertising Law (Cal. Bus. & Prof. Code § 17500 *et*
21 *seq.*), and constitutes unjust enrichment, intentional misrepresentation and/or
22 fraud by omission, and negligent misrepresentation and/or omission.

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

27 128. The Sherman Law defines a “person” as “any individual, firm,
28 partnership, trust, corporation, limited liability company, company, estate, public

1 or private institution, association, organization, group, city, county, city and
2 county, political subdivision of this state, other governmental agency within the
3 state, and any representative, agent, or agency of any of the foregoing.” Cal.
4 Health & Safety Code § 109995. Defendant is a “person” within the meaning of
5 the Sherman Law.

6 129. Defendant's conduct is unfair because it is substantially injurious to
7 consumers, and is immoral, unethical, oppressive and unscrupulous. Defendant's
8 conduct is not outweighed by any countervailing benefits to consumers or
9 competition, and Defendant's conduct, and the harm it causes, is not reasonably
10 avoidable by consumers.

11 130. Had Defendant disclosed or warned that its Products contained
12 glyphosate, consumers would not have purchased them.

13 131. The injury to consumer rights, and the causing of consumers to buy
14 products they otherwise would not have purchased, outweighs Defendant's profit
15 motive and product branding considerations.

16 132. Defendants' conduct is fraudulent because it is reasonably likely to
17 deceive consumers.

18 133. The true nature and composition of an ingested consumer product are
19 a material term of any transaction in that they directly affect a consumer's choice
20 and conduct in purchasing product.

21 134. Defendant's unlawful, fraudulent and unfair conduct occurred during
22 the marketing, distribution, and sale of the Products and therefore occurred in the
23 course of Defendant's business practices.

24 135. Defendant's conduct directly and proximately caused Plaintiff Adkins
25 and the California Purchaser Class actual monetary damages in the form of the
26 price paid for the Products.

27

28

1 136. Pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs Ritchie and
2 Adkins seek an order (1) requiring Defendant to cease the fraudulent and unfair
3 practices described herein; (2) requiring Defendant to restore to Plaintiffs and
4 each Class member any money acquired by means of unfair competition
5 (restitution); and, (3) awarding reasonable costs and attorneys' fees pursuant to
6 Cal. Code Civ. Proc. § 1021.5.

7 **COUNT VIII**

8
9 **Violation of California's False Advertising Law ("FAL")**
10 **Cal. Bus. & Prof. Code §§ 17500, *et seq.***
11 **[On Behalf Of Plaintiffs Ritchie, Adkins and the California Consumer Class]**

12 137. Plaintiffs Ritchie and Adkins incorporate by reference the foregoing
13 allegations as if fully set forth herein.

14 138. The FAL prohibits corporations from intentionally disseminating
15 advertisements for products or services that are "unfair, deceptive, untrue, or
16 misleading." Cal. Bus. & Prof. Code §17500.

17 139. As detailed herein, Defendant disseminated unfair, deceptive, untrue,
18 and misleading advertisements because Defendant's advertising, marketing, and
19 promotional materials do not disclose or warn that the Products contain
20 glyphosate.

21 140. As explained above, a reasonable person is likely to be deceived by
22 Defendant's omissions.

23 141. Defendants knew or should have known when creating and
24 disseminating advertisements without disclosing and warning that the Products
25 contain glyphosate that their advertising was materially false and misleading.

26 142. Had Plaintiffs known the full truth about the composition of the
27 Products generally containing glyphosate they would not have purchased them.

1 143. Defendant's conduct directly and proximately caused Plaintiffs
2 Ritchie and Adkins and the California Purchaser Class actual monetary damages
3 in the form of the price paid for the Products.

4 144. Plaintiffs seeks an order (1) requiring Defendant to cease the false
5 advertising practices described herein; (2) requiring Defendant to restore to Class
6 members any money acquired by means of false advertising (restitution); and, (3)
7 awarding reasonable costs and attorneys' fees pursuant to Cal. Code Civ. Proc. §
8 1021.5.

9
10 **COUNT IX**
11 **Violations Of The Deceptive Trade Practice Act**
12 **(Ark. Code Ann. § 4-88-101, *Et Seq.*)**

13 145. Plaintiff Scott incorporates by reference each preceding paragraph as
14 though fully set forth herein.

15 146. Plaintiff Scott brings this action on behalf of himself and the
16 Arkansas Purchaser Class against all Defendants.

17 147. Defendants, Plaintiff, and the Arkansas Class are “persons” within
18 the meaning of Arkansas Deceptive Trade Practices Act (“Arkansas DTPA”), Ark.
19 Code Ann. § 4-88-102(5).

20 148. The Products are “goods” within the meaning of Ark. Code Ann. § 4-
21 88102(4).

22 149. The Arkansas DTPA prohibits “[d]eceptive and unconscionable trade
23 practices,” which include, but are not limited to, a list of enumerated items,
24 including “[e]ngaging in any other unconscionable, false, or deceptive act or
25 practice in business, commerce, or trade[.]” Ark. Code Ann. § 4-88-107(a)(10).
26 The Arkansas DTPA also prohibits the following when utilized in connection with
27 the sale or advertisement of any goods: “(1) The act, use, or employment by any
28 person of any deception, fraud, or false pretense; or (2) The concealment,

1 suppression, or omission of any material fact with intent that others rely upon the
2 concealment, suppression, or omission.” Ark. Code Ann. § 4-88-108.

3 150. In the course of their business, Defendant concealed and suppressed
4 material facts concerning the Products. Defendant accomplished this by
5 concealing and failing to warn or disclose that glyphosate was generally present
6 on the whole grain oats which it deceptively characterized as "100% natural."
7 Plaintiff Scott and the Arkansas Purchaser Class members had no way of knowing
8 that General Mills' Product labeling and advertising were thereby false and
9 misleading. Plaintiff Scott and the Arkansas Purchaser Class members did not
10 and could not unravel the deception on their own.

11 151. Defendant thus violated the Act by, at minimum: employing
12 deception, deceptive acts or practices, fraud, misrepresentations, or concealment,
13 suppression or omission of any material fact with intent that others rely upon such
14 concealment, suppression or omission, in connection with the sale of the Nature
15 Valley Products.

16 152. General Mills' actions as set forth above occurred in the conduct of
17 trade or commerce.

18 153. Defendant knew the true nature of its deceptively labeled 100%
19 natural Products, but actively concealed the presence of glyphosate. General
20 Mills also knew that it valued profits over the health, safety and welfare of its
21 customers and that it was manufacturing, selling, and distributing Products
22 throughout the United States that contained a probable human carcinogen.

23 154. General Mills intentionally and knowingly misrepresented and
24 concealed material facts regarding the Products with intent to mislead Plaintiff
25 Scott and the Arkansas Purchaser Class.

26 155. General Mills knew or should have known that its conduct violated
27 the Arkansas DTPA.

28

1 156. General Mills owed Plaintiff Scott and the Arkansas Purchaser Class
2 a duty to disclose health and safety risks of the Products.

3 157. The information that General Mills concealed regarding the Products
4 was material to Plaintiff Scott and the Arkansas Purchaser Class.

5 158. Defendant's unfair or deceptive acts or practices were likely to and
6 did in fact deceive reasonable consumers, including Plaintiff Scott, about the true
7 wholesomeness and safety of the Products, the quality of the brand and their true
8 value.

9 159. Plaintiff Scott and the Arkansas Purchaser Class suffered
10 ascertainable loss and actual damages as a direct and proximate result of
11 Defendants' misrepresentations and its concealment of and failure to disclose
12 material information. Plaintiff Scott and the Arkansas Purchaser Class members
13 who purchased the Products would not have purchased them at all had the truth
14 regarding their contents been disclosed.

15 160. Defendant had an ongoing duty to all its customers to refrain from
16 unfair and deceptive practices under the Arkansas DTPA.

17 161. Defendant's violations present a continuing risk to Plaintiffs as well
18 as to the general public. Defendants' unlawful acts and practices complained of
19 herein affect the public interest.

20 162. As a direct and proximate result of Defendant's violations of the
21 Arkansas DTPA, Plaintiff Scott and the Arkansas Purchaser Class have suffered
22 injury-in-fact and/or actual damage.

23 163. Plaintiff Scott and the Arkansas Purchaser Class seek monetary relief
24 against Defendant in an amount to be determined at trial, and punitive damages
25 because General Mills acted wantonly in causing them injury, or with such a
26 conscious indifference to the consequences that malice may be inferred.

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1 164. Plaintiff Scott also seeks an order enjoining Defendants' unfair,
2 unlawful, and/or deceptive practices, attorneys' fees, and any other just and proper
3 relief available under the Arkansas DTPA.

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7 **PRAYER FOR RELIEF**

8 **WHEREFORE**, Plaintiffs demand judgment on behalf of themselves and
9 the proposed Class providing such relief as follows:

10 A. Certification of the Class proposed herein under Federal Rule of Civil
11 Procedure 23(a), (b)(1), (b)(2), and (b)(3); appointment of Plaintiffs as
12 representatives of the Class; and appointment of his undersigned counsel as
13 counsel for the Class;

14 B. A declaration that General Mills is financially responsible for
15 notifying members of the Class of the pendency of this suit;

16 C. An order requiring an accounting for, and imposition of, a
17 constructive trust upon all monies received by General Mills as a result of the
18 unfair, misleading, fraudulent, and unlawful conduct alleged herein;

19 D. Restitution, disgorgement, refund, and/or other monetary damages,
20 together with costs and disbursements, including reasonable attorneys' fees,
21 pursuant to the applicable statutes and prejudgment interest at the maximum rate
22 allowable by law;

23 E. Injunctive relief pursuant to Minnesota, California and/or Arkansas
24 law and common law, enjoining General Mills' unlawful and deceptive acts;

25 F. Injunctive relief and statutory or actual damages pursuant to
26 Minnesota, California and/or Arkansas law; and

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G. Such other and further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

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

DATED: October 3, 2016

Respectfully submitted,

/s/ STEPHEN R. BASSER
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