

**CIRCUIT COURT FOR THE 20<sup>TH</sup> JUDICIAL CIRCUIT  
COUNTY OF ST. CLAIR, STATE OF ILLINOIS**

ANGELA BARNES, GAYLE )  
GREENWOOD, JAMIE BLANKENSHIP, )  
and DOMINIC SIEBERT, individually and )  
on behalf of all other similarly-situated in )  
the United States, )

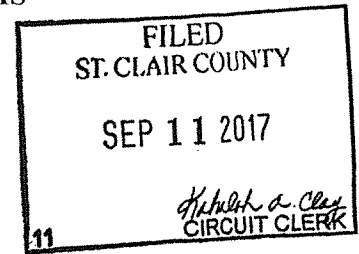
Plaintiffs, )

v. )

RIVER NORTH FOODS, INC., )

Defendant. )

No. 16 L 459



**FOURTH AMENDED CLASS ACTION COMPLAINT**

Plaintiffs, Angela Barnes, Gayle Greenwood, Jamie Blankenship, and Dominic Siebert, individually and on behalf of all other similarly-situated citizens of the United States, allege the following facts and claims upon personal knowledge, investigation of counsel, and information and belief.

**CASE SUMMARY**

1. This case arises out of Defendant River North Foods, Inc.'s ("River North") deceptive, unfair, and false merchandising practices regarding Nuevo Tex-Mex Salpica Mango Peach Salsa; Nuevo Tex-Mex Salpica Habanero Lime Salsa; Nuevo Tex-Mex Salpica Jalapeno Jack Queso; Frontera Salsa Tomatillo; Frontera Salsa Chipotle; Frontera Salsa Mango Key Lime; Frontera Salsa Guajillo; Frontera Salsa New Mexico Red Chile; Frontera Red Tomato Salsa Mexicana (Medium); Frontera Red Tomato Salsa Mexicana (Mild); Frontera Key Lime Cilantro Taco Skillet Sauce; Frontera Key Lime Shrimp Taco Skillet Sauce; Frontera New Mexico Taco Skillet Sauce; Frontera Chicken Taco Skillet Sauce; Frontera Garlicky Carnitas Slow Cook Sauce; Frontera Garlic Pork Carnitas Slow Cook Sauce; Frontera Roasted Garlic Chicken Skillet

Sauce; Frontera Red Chile Enchilada Sauce; Frontera Texas Original Taco Sauce; Frontera Chipotle Garlic Taco Sauce; Frontera Ground Beef Taco Skillet Sauce; Frontera Classic Fajita Skillet Sauce; Frontera Classic Red Mole Skillet Sauce; Frontera Mexican White Rice Seasoning Sauce; Frontera Mexican Red Rice Seasoning Sauce; Frontera Chipotle Chili Seasoning Sauce; Frontera Green Chile Enchilada Sauce; Roasted Tomato Chicken Skillet Sauce; Frontera Veggie Taco Skillet Sauce; Frontera Carne Asada Marinade; Frontera Chipotle Honey Marinade; Frontera Al Pastor Marinade; Frontera Three Citrus Garlic Marinade; Frontera Guacamole Mix; Frontera Original Guacamole Mix with Tangy Tomatillo, Green Chile and Garlic; Frontera Key Lime Avocado Salsa; Frontera Black Bean Chili Starter; Frontera Black Bean Tomato Soup; Frontera Roasted Tomato Soup; Frontera Enchilada Sauce Chipotle Garlic; Frontera Chipotle Cranberry Salsa; Frontera Classic Tortilla Soup; Frontera Roasted Corn Salsa; Frontera Habanero Hot Sauce; Frontera Roasted Habanero Salsa; Frontera Jalapeno Hot Sauce; Frontera Jalapeno Cilantro Salsa; Frontera Peanut Mole Summer Sauce; Frontera Chipotle Pumpkin Salsa; Frontera Roasted Tomato Salsa; Frontera Roasted Vegetable Soup; Frontera New Mexico Three Bean Chili; Frontera Ballpark Nacho Sauce; Frontera Black Bean Nacho Sauce; Salpica Chipotle Garlic Salsa; Frontera Cowboy Red Bean Dip; Frontera Grilled Pineapple Key Lime Salsa; Salpica Cilantro Green Olive Salsa; Salpica Salsa con Queso with Smoked Jalapeno; Salpica Rustic Tomato Salsa; Frontera Texas Picante Sauce; Salpica Tomato Jalapeno Salsa; Salpica Salsa Verde; Frontera Texas Chili Starter; Frontera White Bean Chili Starter; Frontera Pouch Spicy Guacamole; Frontera Chipotle Garlic Taco Skillet Sauce; Steak Taco Skillet Sauce; Frontera Corn & Poblano Salsa; Frontera Crushed Fire-Roasted Tomatoes with Chipotle; Frontera Crushed Fire-Roasted Tomatoes with Roasted Garlic and Onion; Frontera Crushed Fire-Roasted Tomatillos with Garlic and Poblano; Frontera Garlicky White Rice Seasoning Sauce;

Frontera Roasted Tomato Rice Seasoning Sauce with Garlic and Red Chile; Frontera Maraca Bloody Mary Mix; Frontera Lime and Sea Salt Tortilla Chips (altogether the “Products”).

2. On the label of the Products, Defendant prominently represents that the Products are “All Natural,” which leads consumers to believe that the Products only consist of natural ingredients, and/or the Products list Evaporated Cane Juice (“ECJ”) as an ingredient.

3. The Products, however, contain Xanthan Gum, Citric Acid, Disodium Phosphate, and/or Sodium Citrate (the “Synthetic Ingredients”), and/or sugar mislabeled as ECJ.

4. The Products labeled “All Natural” but that contain the Synthetic Ingredients are false, deceptive, unfair, and misleading.

5. According to the FTC, “if companies market their products as ‘all natural’ or ‘100% natural,’ consumers have a right to take them at their word.” <https://www.ftc.gov/news-events/blogs/business-blog/2016/04/are-your-all-natural-claims-all-accurate>

6. The FTC recently made clear that “‘all-natural’ or ‘100% natural’ mean just that. If you advertise your product as ‘all-natural’ or ‘100% natural’ and it contains artificial ingredients or chemicals, now is the natural time for a compliance check.” <https://www.ftc.gov/news-events/blogs/business-blog/2016/04/are-your-all-natural-claims-all-accurate>

7. Moreover, some of the Products list Evaporated Cane Juice (“ECJ”) as an ingredient. ECJ, however, is not juice at all—it is sugar in disguise. In May 2016, the FDA made clear that “the term ‘evaporated cane juice’ is false and misleading because it suggests that the sweetener is ‘juice’ or is made from ‘juice’ and does not reveal that its basic nature and characterizing properties are those of sugar.” The FDA continued: “The term ‘evaporated cane

juice’ is not the common or usual name of any type of sweetener” and “this ingredient should instead be declared on food labels as ‘sugar.’”

8. By mislabeling sugar as ECJ, Defendant misleads consumers into thinking those Products have less sugar than they actually contain.

9. Plaintiffs bring this case to recover damages for Defendant’s false, deceptive, unfair, and misleading marketing and advertising in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (“ICFA”) and Illinois common law, as well as the following statutes from other jurisdictions: Ala. Code §§ 8-19-1 to 8-19-15; Alaska Stat. §§ 45.50.471 to 45.50.561; Ariz. Rev. Stat. Ann. §§ 44-1521 to 44-1534; Ark. Stat. Ann. §§ 4-88-101 to 4-88-115; Cal. Civ. Code §§ 1750 to 1784; Cal. Bus. & Prof. Code §§ 17200 to 17209; Col. Rev. Stat. §§ 6-1-101 to 6-1-1001; Conn. Gen. Stat. §§ 42-110a to 42-110q; Del. Code. Ann. tit. 6, §§ 2501 to 2598; D.C. Code Ann. §§ 28-3901 to 28-3909; Fla. Stat. Ann. §§ 501.201 to 501.976; Ga. Code Ann. §§ 10-1-370 to 10-1-438; Hawaii Rev. Stat. §§ 481A to 481X; Idaho Code §§ 48-601 to 48-619; Ill. Rev. Stat. ch. 815, §§ 505 to 601; Ind. Code Ann. §§ 24-5-0.5 to 24-5-25; Iowa Code Ann. §§ 714.16 to 714.26, 714A, B, D; Kan. Stat. Ann. §§ 50-623 to 50-6107; Ky. Rev. Stat. §§ 367.110 to 367.993; La. Rev. Stat. Ann. §§ 51:1401 to 51:1425; Me. Rev. Stat. Ann. tit. 5, §§ 205A to 214; Me. Rev. Stat. Ann. tit. 10, §§ 1211 to 1216; Md. Com. Law Code Ann. §§ 13-101 to 13-501; Mass. Gen. Laws Ann. ch 93A §§ 1 to 11; Mich. Comp. Laws §§ 445.901 to 445.922; Minn. Stat. Ann. §§ 325D.09 to 325D.16; Minn. Stat. Ann. §§ 325D.43 to 325D.48; Minn. Stat. Ann. §§ 325F.67 to 325F.99, 325G; Miss. Code. Ann. §§ 75-24-1 to 75-24-175; Mo. Rev. Stat. §§ 407.010 to 407.1355; Mont. Code. Ann. §§ 30-14-101 to 30-14-143; Neb. Rev. Stat. §§ 59-1601 to 59-1623; Neb. Rev. Stat. §§ 87-301 to 87-306; Nev. Rev. Stat. §§ 598.0903 to 598A; N.H. Rev. Stat. Ann. §§ 358-A:1 to 358-A:13; N.J. Stat. Ann. §§ 56:8-1 to 56:8-184;

N.M. Stat. Ann. §§ 57-12-1 to 57-12-26, 12B; N.Y. Gen. Bus. Law §§ 349 to 350-f-1; N.C. Gen. Stat. §§ 75-1 to 75-115; N.D. Cent. Stat. §§ 51-15-01 to 51-15-11; Ohio Rev. Code Ann. §§ 1345.01 to 1345.99; Ohio Rev. Code Ann. 4165.01 to 4165.04; Okla. Stat. Ann. tit. 15, §§ 751 to 799; Okla. Stat. Ann. tit. 78, §§ 51 to 55; Or. Rev. Stat. §§ 646.605 to 646.656; Pa. Stat. Ann. tit. 73, §§ 201-1 to 210-6; R.I. Gen. Laws §§ 6-13.1-1 to 6-13.1-28; S.C. Code §§ 39-5-10 to 39-5-170; S.D. Codified Laws Ann. §§ 37-24-1 to 37-24-48; Tenn. Code Ann. §§ 47-18-101 to 47-18-5304; Tex. Bus. & Com. Code Ann. §§ 17.01 to 17.904; Utah Code Ann. §§ 13-11-1 to 13-11-23; Vt. Stat. Ann. tit. 9, §§ 2451 to 2480n; Va. Code §§ 59.1-196 to 59.1-207; Wash. Rev. Code §§ 19.86.010 to 19.86.920; W. Va. Code §§ 46A-6-101 to 46A-6-110; W. Va. Code §§ 46A-7-101 to 46A-7-115; Wis. Stat. §§ 100.01 to 100.55; Wyo. Stat. §§ 40-12-101 to 40-12-509; and 23 L.P.R.A. § 1001 *et seq.*

### **PARTIES**

10. Plaintiff Angela Barnes is a resident of St. Clair County, Illinois. On at least one occasion during the Class Period (as defined below), including in July or August 2016, Plaintiff purchased Defendant's All Natural Nuevo Tex-Mex Salpica Jalapeno Jack Queso and All Natural Nuevo Tex-Mex Salpica Mango Peach Salsa at Fresh Thyme Market for personal, family, or household purposes after reviewing the "All Natural" labels, which deceived her. If Plaintiff had known the Products contained artificial and synthetic ingredients, she would not have purchased them or would have paid less for them. The purchase price of each Product was \$3.99.

11. Plaintiff Gayle Greenwood is a resident of St. Clair County, Illinois. On at least one occasion during the Class Period (as defined below), including in July or August 2016, Plaintiff purchased Defendant's All Natural Red Tomato Salsa Mexicana at Fresh Thyme Market

for personal, family, or household purposes after reviewing the “All Natural” label, which deceived her. If Plaintiff had known the Product contained artificial and synthetic ingredients, she would not have purchased it or would have paid less for it. The purchase price of the Product was \$3.99.

12. Plaintiff Jamie Blankenship is a resident of St. Clair County, Illinois. On regular occasions over the course of the Class Period (as defined below), Plaintiff purchased Defendant’s Original Guacamole Mix, Key Lime Cilantro Taco Skillet Sauce, Green Chile Enchilada Sauce, New Mexico Taco Skillet Sauce, Garlicky Carnitas Slow Cook Sauce, Red Chile Enchilada Sauce, and Texas Original Taco Skillet Sauce at Schnucks for personal, family, or household purposes after reviewing the “All Natural” and “ECJ” labels, which deceived her. If Plaintiff had known the Products contained artificial and synthetic ingredients and sugar disguised as ECJ, she would not have purchased them or would have paid less for them. Upon information and belief, the purchase price of the Products was \$2.37.

13. Plaintiff Dominic Siebert is a resident of St. Clair County, Illinois. On regular occasions over the course of the Class Period (as defined below), Plaintiff purchased Defendant’s Texas Original Taco Skillet Sauce and New Mexico Taco Skillet Sauce at Dierberg’s and Target for personal, family, or household purposes after reviewing the “All Natural” and “ECJ” labels, which deceived him. If Plaintiff had known the Products contained artificial and synthetic ingredients and sugar disguised as ECJ, he would not have purchased them or would have paid less for them. Upon information and belief, the purchase price of the Products was \$2.37.

14. Defendant Frontera is an Illinois corporation with its principal place of business located on North Clark Street in Chicago, Illinois.

## **JURISDICTION AND VENUE**

15. This Court has subject matter jurisdiction over this action because the amount in controversy exceeds the minimum jurisdictional limits of the Court.

16. This Court has personal jurisdiction over Defendant because Defendant is an Illinois resident. In addition, as explained below, Defendant has committed affirmative tortious acts within the State of Illinois that give rise to civil liability, including distributing the fraudulent Products for sale throughout the State of Illinois.

17. Venue is proper in this forum pursuant to 735 ILCS 5/2-101 because the transactions out of which the causes of action arose occurred in this county.

## **ALLEGATIONS OF FACT**

### **The Deceptive Advertising**

18. Defendant manufactures, sells, and distributes Mexican food products, including the Products.

19. Knowing that consumers like Plaintiffs are increasingly interested in purchasing products that do not contain potentially harmful synthetic ingredients and added sugar, Defendant sought to take advantage of this growing market by labeling certain products as “All Natural” and/or as containing ECJ instead of sugar.

20. By affixing such a label to the packaging of the Products, Defendant was able to entice consumers like Plaintiffs to pay a premium for the Products or pay more for them than they otherwise would have had the truth be known.

21. The labels of the Products are deceptive, false, unfair, and misleading in that Defendant prominently represented that the Products are “All Natural,” and/or Defendant listed ECJ as an ingredient instead of sugar.

22. With respect to the Products that contain the Synthetic Ingredients, they are not “All Natural” because they contain the Synthetic Ingredients.

23. Dipotassium Phosphate is a synthetic phosphorous and potassium supplement. 7 C.F.R. 205.605(b) identifies Dipotassium Phosphate as a synthetic substance.

24. Xanthan Gum is a synthetic thickener that is commercially manufactured by the likes of Cargill by fermenting bacteria with a carbohydrate (often GMO corn syrup), which is then sterilized and dried with isopropyl alcohol or ethanol before being pressed and ground for distribution. 7 C.F.R. 205.605(b) identifies Xanthan Gum as a synthetic substance.

25. Citric Acid is a synthetically manufactured additive, preservative, and flavoring agent that is manufactured by fermenting a sugar, usually highly processed and/or genetically modified corn syrup, with black mold (*aspergillus niger*), usually also genetically modified, and then treating the fermentation with sulfuric acid. In a warning letter to Hirzel Canning Company, the FDA indicated that the addition of Citric Acid to a product precludes the use of the term “natural” to describe the product. While Citric Acid does exist naturally in citrus fruits, on information and belief, the Citric Acid used in the Products is synthetically manufactured.

26. Sodium Citrate is a shortened term for Trisodium Citrate. It is used as an antioxidant in food as well as to improve the effects of other antioxidants. Sodium Citrate can also be used as an acidity regulator and sequestrant. It is often added to highly acidic liquids to help neutralize them and promote gelling. Sodium citrate is manufactured by the neutralization of citric acid with sodium hydroxide. 7 C.F.R. 205.605(b) identifies Sodium Citrate as a synthetic substance.

27. Consistent with FDA and FTC guidance, Plaintiffs and reasonable consumers, reasonably believe and assume that a product labeled “All Natural” does not contain any added color, artificial flavors, or synthetic substances.

28. Neither Plaintiffs nor any reasonable consumer would expect to find synthetic ingredients in a product labeled “All Natural.”

29. Neither Plaintiffs nor any reasonable consumer would know nor should know that the Synthetic Ingredients are not natural when reviewing the product label.

30. ECJ, moreover, is not juice. It is sugar.

31. By calling added sugar “ECJ,” Defendant misled Plaintiffs and reasonable consumers into believing that certain of the Products contain less sugar than they actually do.

32. The FDA could not be more clear: “Sweeteners derived from sugar cane should not be listed in the ingredient declarations by names such as ‘evaporated cane juice,’ which suggests that the ingredients are made from or contain fruit or vegetable ‘juice[.]’ We consider such representations to be false and misleading[.]”

33. As a result of Defendant’s deceitful labels, Defendant was able to charge and Plaintiffs and class members paid a premium for the Products.

34. The Products, moreover, were worth less than they were represented to be, and Plaintiffs and Class Members paid extra for them due to the “All Natural” label and/or the ECJ representation.

35. Because the labels of the Products are substantially similar in making the false “All Natural” and/or ECJ representations, Plaintiffs have standing to bring claims on behalf of all of the Products.

36. Defendant's misrepresentations constitute unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation within the meaning of the ICFA and/or the other statutes listed in Paragraph 9 of this complaint.

### **CLASS ALLEGATIONS**

37. Pursuant to 735 ILCS 5/2-801 et. seq., Plaintiffs bring this action on their own behalf and on behalf of a proposed class of all other similarly situated citizens of the United States ("Class Members" of the "Class") consisting of:

All citizens of the United States who purchased any of the Products for personal, household, or family purposes in the five years preceding the filing of the Complaint up through preliminary approval (the "Class Period").

38. Excluded from the Class are: (a) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (b) any entity in which Defendant has a controlling interest, to include, but not limited to, their legal representative, heirs, and successors; (c) all persons who are presently in bankruptcy proceedings or who obtained a bankruptcy discharge in the last three years; and (d) any judicial officer in the lawsuit and/or persons within the third degree of consanguinity to such judge.

39. Upon information and belief, the Class consists of millions of purchasers. Accordingly, it would be impracticable to join all Class Members before the Court.

40. There are numerous and substantial questions of law or fact common to all of the members of the Class and which predominate over any individual issues. Included within the common question of law or fact are:

40.1. whether the "All Natural" claim on certain of the Products' labels is false, misleading, unfair, and deceptive;

- 40.2. whether the representation that certain of the Products contain ECJ instead of sugar is false, misleading, unfair, and deceptive;
- 40.3. whether Defendant violated the ICFA and/or other states' consumer protection statutes by selling the Products with false, misleading, and deceptive representations;
- 40.4. whether Defendant's acts constitute deceptive and fraudulent business acts and practices or deceptive, untrue, and misleading advertising;
- 40.5. whether Defendant was unjustly enriched; and
- 40.6. the proper measure of damages sustained by Plaintiffs and Class Members.

41. The claims of the Plaintiffs are typical of the claims of Class Members, in that they share the above-referenced facts and legal claims or questions with Class Members, there is a sufficient relationship between the damage to Plaintiffs and Defendant's conduct affecting Class Members, and Plaintiffs have no interests adverse to the interests other Class Members.

42. Plaintiffs will fairly and adequately protect the interests of Class Members and have retained counsel experienced and competent in the prosecution of complex class actions including complex questions that arise in consumer protection litigation.

43. A class action is superior to other methods for the fair and efficient adjudication of this controversy, since individual joinder of all Class Members is impracticable and no other group method of adjudication of all claims asserted herein is more efficient and manageable for at least the following reasons:

- 43.1. the claim presented in this case predominates over any questions of law or fact, if any exists at all, affecting any individual member of the Class;
- 43.2. absent a Class, the Class Members will continue to suffer damage and Defendant's unlawful conduct will continue without remedy while Defendant profits from and enjoy its ill-gotten gains;

- 43.3. given the size of individual Class Members' claims, few, if any, Class Members could afford to or would seek legal redress individually for the wrongs Defendant committed against them, and absent Class Members have no substantial interest in individually controlling the prosecution of individual actions;
- 43.4. when the liability of Defendant has been adjudicated, claims of all Class Members can be administered efficiently and/or determined uniformly by the Court; and
- 43.5. this action presents no difficulty that would impede its management by the court as a class action, which is the best available means by which Plaintiff and members of the Class can seek redress for the harm caused to them by Defendant.

44. Because Plaintiffs seek relief for the entire Class, the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual member of the Class, which would establish incompatible standards of conduct for Defendant.

45. Further, bringing individual claims would overburden the Courts and be an inefficient method of resolving the dispute, which is the center of this litigation. Adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members of the Class who are not parties to the adjudication and may impair or impede their ability to protect their interests. As a consequence, class treatment is a superior method for adjudication of the issues in this case.

46. Defendant has acted on grounds that apply generally to the Classes, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

### **CLAIMS FOR RELIEF**

#### **COUNT I**

#### **Violation of the ICFA and Other State Consumer Protection Statutes**

47. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if fully set forth herein.

48. The ICFA declares the following to be unlawful: “Unfair methods of competition and 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 any trade or commerce[.]” 815 Ill. Comp. Stat. Ann. 505/2

49. The other consumer protection statutes listed in Paragraph 9 of this complaint contain similar prohibitions against unfair or deceptive acts or practices.

50. Defendant’s conduct in representing (1) that certain of the Products are “All Natural” when they in fact contain the Synthetic Ingredients, and (2) that certain of the Products contain ECJ when they in fact contain added sugar constitutes the act, use and employment of deception, fraud, false pretenses, false promises, misrepresentation, and unfair practices in the conduct of Defendant’s trade or commerce.

51. Defendant intended that Plaintiffs and the Class Members would rely on the “ALL NATURAL” and ECJ representations. Defendant is aware that consumers like Plaintiffs and Class Members are becoming increasingly interested in purchasing natural, healthy products that do not contain artificial, synthetic ingredients or added sugar. Defendant intended to prey on this interest.

52. The “ALL NATURAL” and ECJ misrepresentations are material because they concern the type of information upon which a reasonable consumer would be expected to rely in making a decision whether to purchase.

53. Because Defendant is in the business of selling food products, Defendant committed the unfair and deceptive acts in the conduct of their trade and commerce.

54. Defendant's practice of representing (1) that certain of the Products are "All Natural" when they in fact contain the Synthetic Ingredients, and (2) that certain of the Products contain ECJ when they in fact contain added sugar is also unfair because it offends public policy and is immoral, unethical, and unscrupulous because Illinois consumers are increasingly interested in purchasing and consuming healthy, truly natural products without synthetic substances and/or added sugar. Falsely selling products as "ALL NATURAL" and as containing ECJ offends the public's expectation to be told the truth about the products they are buying.

55. Defendant's conduct also causes substantial injury to consumers. Not only are consumers being misled into purchasing Products that are not what they are represented to be, but exposing consumers to unwanted synthetic ingredients and sugar is substantially injurious.

56. Neither Plaintiffs nor any reasonable consumer would expect to find artificial, synthetic, ingredients in a Product labeled "ALL NATURAL."

57. Neither Plaintiffs nor any reasonable consumer when reviewing the ingredient lists of the Products would know nor should know that the Synthetic Ingredients are not natural or that ECJ is actually sugar in disguise.

58. Because certain of the Products are not "ALL NATURAL" as they are represented to be and others contain added, disguised sugar, the Products as sold were worth less than the Products as represented, and Plaintiffs and Class Members paid a premium for them. Had the truth be known, Plaintiffs and Class Members would not have purchased the Products or would have paid less for them.

59. Plaintiffs and Class Members were deceived by the "ALL NATURAL" and ECJ labeling on the Products and suffered economic damages as a proximate result of Defendant's

unlawful conduct as alleged herein, including the difference between the actual value of the Products and the value of the Products if they had been as represented.

60. Plaintiffs also seek to enjoin Defendant's ongoing deceptive practices relating to its claims on the Products' labels and advertising.

## **COUNT II**

### **Unjust Enrichment**

61. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if fully set forth herein.

62. By purchasing the Products, Plaintiffs and the class members conferred a benefit on Defendant in the form of the purchase price of the fraudulent Products.

63. Defendant appreciated the benefit because, were consumers not to purchase the Products, Defendant would have no sales and make no money.

64. Defendant's acceptance and retention of the benefit is inequitable and unjust because the benefit was obtained by Defendant's fraudulent and misleading representations about the Products.

65. Equity cannot in good conscience permit Defendant to be economically enriched for such actions at Plaintiffs and Class Members' expense, and therefore restitution and/or disgorgement of such economic enrichment is required.

## **COUNT III**

### **Breach of Express and Implied Warranties**

66. Plaintiffs repeat and re-allege the allegations of the preceding paragraphs as if fully set forth herein.

67. Defendant made the affirmation of fact and the promise to Plaintiffs and the Class Members that the Products are “All Natural,” guaranteeing to Plaintiffs and the Class Members that the Products were in conformance with the representations.

68. These affirmations of fact and promises became part of the basis of the bargain in which Plaintiffs and Class Members purchased Defendant’s Products, and Plaintiffs and Class Members relied on the affirmations when making their purchasing decisions.

69. Defendant breached its express warranty that the Products were “All Natural” by providing Plaintiffs and Class Members with Products that contained artificial, synthetic ingredients.

70. Moreover, the Products were not of merchantable quality because they were not fit for the ordinary purpose of being “All Natural” food.

71. As a result of Defendant’s breaches of warranty, Plaintiffs and the Class Members have been deprived of the benefit of their bargain in that they bought Products that were not what they were was represented to be, and they have spent money on Products that had less value than was reflected in the premium purchase price they paid for the Products.

72. Because Defendant made the affirmation of fact and promise directly on its own labels and packaging, privity is not required to bring these claims.

73. Because Defendant has actual knowledge that its Products contain artificial, synthetic ingredients, and because Plaintiffs have already alerted Defendant to the issues with the Products, pre-suit notice of these warranty claims is not required.

## PRAYER FOR RELIEF

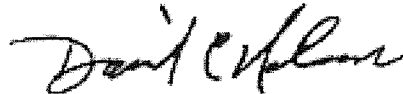
WHEREFORE, Plaintiffs, individually and on behalf of all similarly situated persons, prays the Court:

- a. grant certification of this case as a class action;
- b. appoint Plaintiffs as Class Representative and Plaintiffs' counsel as Class Counsel;
- c. award compensatory damages to Plaintiffs and the proposed Class, or, alternatively, require Defendant to disgorge or pay restitution of its ill-gotten gains;
- d. for an award of declaratory and equitable relief declaring Defendant's conduct to be in violation of ICFA and enjoining Defendant from continuing to engage in deceptive, unfair, and false marketing of the Products;
- e. award pre- and post-judgment interest;
- f. award reasonable and necessary attorneys' fees and costs; and
- g. for all such other and further relief as may be just and proper.

Dated September 11, 2017

Angela Barnes, Gayle Greenwood, Jamie Blankenship and  
Dominic Siebert Individually, and on Behalf of a Class of  
Similarly Situated Individuals, Plaintiffs

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