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FEDERAL DISTRICT COURT
LOS ANGELES

FILED

10 Counsel for Plaintiffs and the Proposed Classes

11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA

13 MARY HENDERSON and EILEEN
14 JOY PEVIANI, on behalf of
15 themselves and all others similarly
16 situated,

17 Plaintiffs,

18 v.

19 GRUMA CORPORATION,

20 Defendant.

Case No. 2:10-cv-04173 AHM AJWx
Pleading Type: Class Action

**CORRECTED FIRST AMENDED
COMPLAINT FOR VIOLATIONS OF**

THE UNFAIR COMPETITION LAW,

FALSE ADVERTISING LAW, AND

CONSUMER LEGAL REMEDIES ACT

DEMAND FOR JURY TRIAL

1 Plaintiffs Mary Henderson and Eileen Joy Peviani, on behalf of themselves,
2 all others similarly situated, and the general public, by and through undersigned
3 counsel, hereby sue Defendant Gruma Corporation (“Gruma”) and, upon
4 information and belief and investigation of counsel, allege as follows:

5 **JURISDICTION AND VENUE**

6 1. This Court has original jurisdiction over this action under 28 U.S.C.
7 §1331 and 15 U.S.C. §1121.

8 2. This Court also has original jurisdiction under 28 U.S.C. §1332(d)(2)
9 (The Class Action Fairness Act) because the matter in controversy exceeds the sum
10 or value of \$5,000,000 exclusive of interest and costs and more than two-thirds of
11 the members of the Classes reside in states other than the state of which Defendant
12 is a citizen.

13 3. Venue is proper in this Court pursuant to 28 U.S.C. §1391 because
14 Plaintiffs reside in and suffered injuries as a result of Defendant’s acts in this
15 District, many of the acts and transactions giving rise to this action occurred in this
16 District, and Defendant (1) are authorized to conduct business in this District and
17 have intentionally availed themselves of the laws and markets of this District
18 through the promotion, marketing, distribution, and sale of their products in this
19 district; (2) reside in this District; and (3) are subject to personal jurisdiction in this
20 District.

21 **INTRODUCTION**

22 4. Plaintiffs regularly purchased, during each year of the Class Period
23 defined herein, Mission Guacamole and Mission Spicy Bean Dip (collectively, the
24 “Mission Trans Fat Products”).

25 5. Gruma falsely and misleadingly markets the Mission Trans Fat
26 Products as “0g TRANS FAT” even though they contain dangerous levels of
27 artificial *trans* fat, a toxic food additive banned in many parts of the world.

28 6. Gruma further misleadingly markets Mission Spicy Bean Dip as “0g

1 Cholesterol,” even though the artificial *trans* fat in the Mission Spicy Bean Dip
2 increases blood cholesterol levels.

3 7. Gruma further falsely and misleadingly markets Mission Spicy Bean
4 Dip as “All Natural,” even though the product contains partially hydrogenated
5 soybean oil, a man-made, toxic substance.

6 8. Gruma further misleadingly markets Mission Guacamole as made
7 “WITH GARDEN VEGETABLES,” implying the product is healthy, even though
8 the product contains almost no vegetables, and despite that it contains dangerous
9 artificial *trans* fat.

10 9. Gruma further falsely markets Mission Guacamole as “Guacamole”
11 made in “The Authentic Tradition,” even though it contains essentially no avocado,
12 which by definition is the principal ingredient in guacamole.

13 10. Absent the false and misleading statements and misstatements of
14 Gruma described herein, Plaintiffs would not have purchased the Mission Trans
15 Fat Products.

16 11. Plaintiffs seek an order that compels Gruma to (1) cease marketing the
17 Mission Trans Fat Products using the misleading tactics complained of herein, (2)
18 conduct a corrective advertising campaign, (3) restore the amounts by which
19 Gruma was unjustly enriched, and (4) destroy all misleading and deceptive
20 materials and products.

21 **PARTIES**

22 12. Defendant Gruma Corporation is a Nevada corporation with its
23 principal place of business in Texas and a wholly-owned subsidiary of Gruma
24 S.A.B. de C.V.

25 13. Defendant produces, manufactures, packages, vends, markets, and
26 has an economic interest in the sale of the Mission Trans Fat Products.

27 14. Defendant maintains extensive operations throughout California,
28 including: (1) offices in Los Angeles and Madera; (2) wholesale operations in

1 Burbank and West Sacramento; (3) food manufacturing and packaging facilities in
2 Burbank, Fresno, Los Angeles, Rancho Cucamonga, San Diego, Turlock, Ventura,
3 and Whittier; and (4) a food warehouse in Burbank.

4 15. Plaintiff Mary Henderson is a resident of California who purchased
5 the Mission Trans Fat Products for herself, her husband, and her two sons.

6 16. Between 2006 and 2010, Mrs. Henderson primarily purchased the
7 Mission Trans Fat Products from the following grocery stores: (1) the Albertsons
8 grocery store located at 3180 North Garey Avenue, Pomona, California 91767; (2)
9 the Stater Bros. grocery store located at 1055 West Foothill Boulevard, Claremont,
10 California 91711; and (3) the Vons grocery store located at 550 East Baseline
11 Road, Claremont, California 91711.

12 17. Mrs. Henderson purchased the Mission Trans Fat Products three to
13 four times per year.

14 18. Plaintiff Eileen Joy Peviani is a resident of California who purchased
15 the Mission Trans Fat Products for herself, her four children, and her
16 grandchildren.

17 19. Between 2006 and 2010, Ms. Peviani primarily purchased the Mission
18 Trans Fat Products from the Albertsons grocery store located at 27702 Crown
19 Valley Parkway, Suite B, Ladera Ranch, California 92694.

20 20. Ms. Peviani purchased the Mission Trans Fat products approximately
21 once every two months.

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1 **SUMMARY OF THE STRONG EVIDENCE OF HEALTH DANGERS**
2 **OF ARTIFICIAL TRANS FAT**

3 **Artificial trans fat is a manufactured food product whose basic chemical**
4 **structure is different from natural fat molecules.**

5 21. *Trans* fat is naturally found in trace amounts in foods derived from
6 ruminant animals, primarily in cow's milk and red meat.¹ It is also found in small
7 quantities in human breast milk.

8 22. Also known as vaccenic acid, natural *trans* fat has never been linked
9 to any negative health effect in human beings and is chemically different than
10 artificial *trans* fat.

11 23. Initial studies on rats indicate that consumption of vaccenic acid is
12 beneficial to health.²

13 24. Artificial *trans* fat, by contrast, is manufactured in an industrial
14 process called partial hydrogenation, in which hydrogen atoms are added to normal
15 vegetable oil by heating the oil to temperatures above 400 degrees Fahrenheit in
16 the presence of ion donor catalyst metals such as rhodium, ruthenium, and nickel.³

17 25. The resulting product is known as partially hydrogenated vegetable oil
18 (“PHVO”), which was invented in 1901 and patented in 1902 by German chemist
19 Wilhelm Normann. PHVO is an ingredient in the Mission Trans Fat Products and
20 the main source of *trans* fat in the American diet.⁴

21 26. *Trans* fat molecules chemically differ from the natural fat molecules
22 in other food products. Natural fat, except the trace amounts of natural *trans* fat

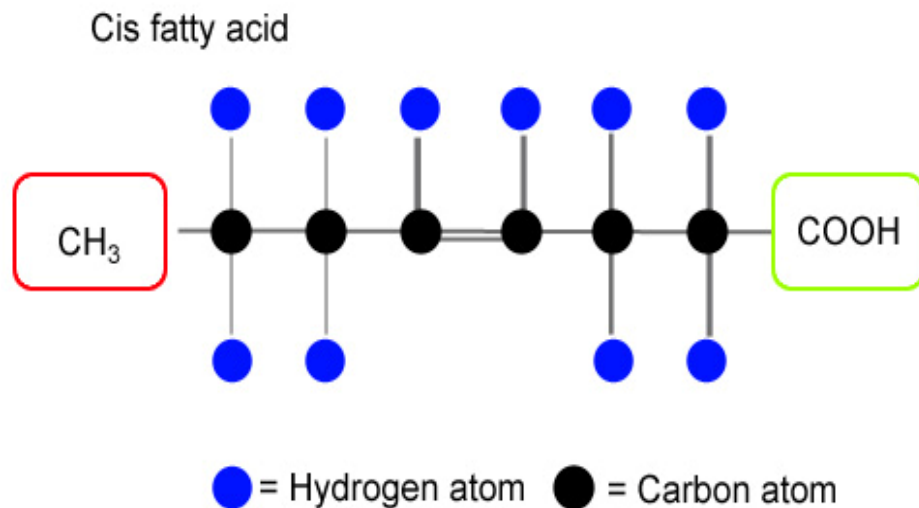
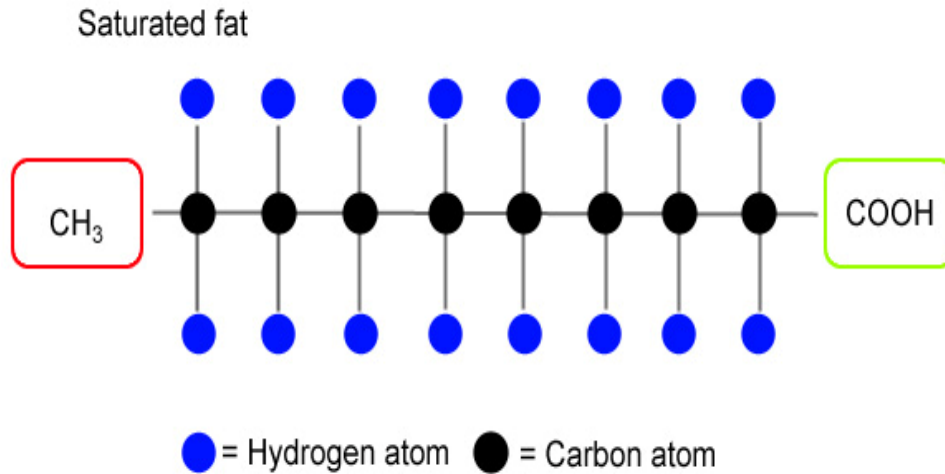
23 _____
24 ¹ Dariush Mozaffarian *et al.*, *Trans Fatty Acids and Cardiovascular Disease*,
354 *New Eng. J. Med.* 1601, 1608 (2008).

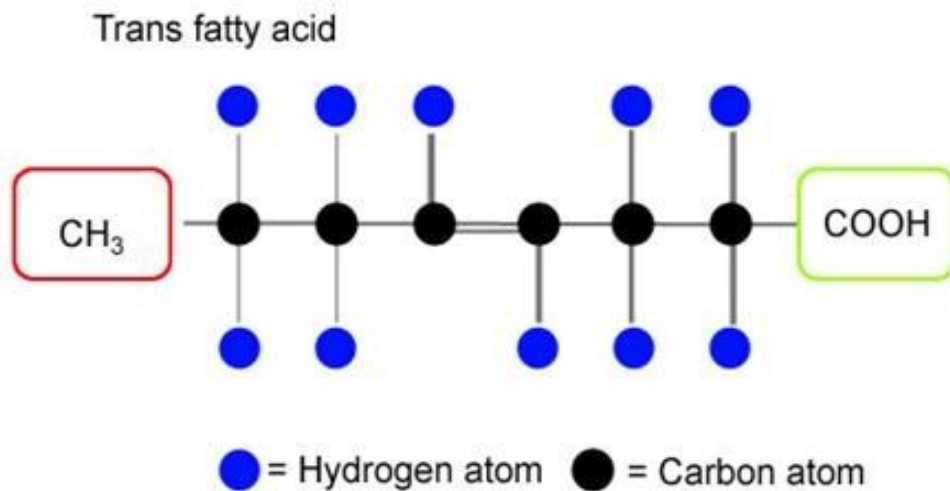
25 ² Ye Wang *et al.*, *Trans-11 Vaccenic Acid Dietary Supplementation Induces*
26 *Hypolipidemic Effects on JCR:LA-cp Rats*, 138 *J. Nutrition* 2117 (November
2008).

27 ³ See Alice H. Lichtenstein, *Trans Fatty Acids, Plasma Lipid Levels, and*
28 *Risk of Developing Cardiovascular Disease*, 95 *Circulation* 2588, 2588-90 (1997).

⁴ See Mozaffarian, 354 *New Eng. J. Med.* at 1608.

1 from ruminant animals, comes in two varieties: (1) fats that lack carbon double
2 bonds (“saturated fat”) and (2) fats that have carbon double bonds with the
3 hydrogen atoms on the same side on the carbon chain (“cis fat”). *Trans* fat,
4 however, has double bonds on opposite sides of its carbon chain:





27. PHVO was initially a “wonder product” attractive to the packaged food industry because it combines the low cost of unsaturated *cis* fat with the flexibility, long shelf life, physical solidity, and flavor stability of saturated fat. Like *cis* fat, PHVO is manufactured from lower-cost legumes,⁵ while saturated fat is derived from relatively expensive animal and tropical plant sources.⁶

28. The industrial process that adds hydrogen ions to normal vegetable oil permits food products to withstand heavy mechanical processing and high temperatures.⁷ Given its versatility, PHVO was recently used in 40 percent of processed packaged foods.⁸

29. Artificial *trans* fat does not exist in nature, and the human body has not evolved to digest it. The same unusual and unnatural chemical structure that gives artificial *trans* fat properties attractive from an industrial perspective makes it

⁵ e.g., corn oil, soybean oil, peanut oil

⁶ e.g., butter, cream, tallow, coconut oil

⁷ See Alberto Ascherio *et al.*, *Trans Fatty Acids & Coronary Heart Disease*, 340 *New Eng. J. Med.* 94, 94-8 (1999). See also Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., *Questions & Answers About Trans Fat Nutrition Labeling (Update 2006) (2003)*, available at <http://www.cfsan.fda.gov/%7Edms/qatrans2.html#fn>.

⁸ Mary Carmichael, *The Skinny on Bad Fat*, *Newsweek*, Dec. 1, 2003, at 66. See also Kim Severson, *Hidden Killer. It's Trans Fat. It's Dangerous. And It's In Food You Eat Every Day*, *S.F. Chron.*, Jan. 30, 2002.

1 highly toxic to human health.

2 **Artificial *trans* fat causes cardiovascular disease, type 2 diabetes, and cancer.**

3 • **Coronary Heart Disease, Atherosclerosis, and Chronic Cardiac**
4 **Inflammation**

5 30. In a joint Dietary Guidelines Advisory Committee Report, the U.S.
6 Department of Health and Human Services and the U.S. Department of Agriculture
7 recognized “[t]he relationship between *trans* fatty acid intake and LDL
8 cholesterol is direct and progressive, increasing the risk of cardiovascular
9 disease.”⁹

10 31. Food products with artificial *trans* fat harm the heart by “rais[ing] the
11 concentration of the most dangerous form of serum cholesterol (LDL cholesterol)”
12 and “lower[ing] a protective form of serum cholesterol (HDL cholesterol).”¹⁰

13 32. The American Heart Association notes “*trans* fats raise your bad
14 (LDL) cholesterol levels and lower your good (HDL) cholesterol levels. Eating
15 *trans* fats increases your risk of developing heart disease.”¹¹

16 33. After an extensive evaluation of the scientific literature on the *trans*
17 fat/CHD connection, the FDA concluded:

18 [B]ased on the consistent results across a number of the most
19 persuasive types of study designs (i.e., intervention trials and
20 prospective cohort studies) that were conducted using a range of test
21 conditions and across different geographical regions and population . .
22 . the available evidence for an adverse relationship between *trans* fat
23 intake and CHD risk is strong.¹²

24 34. *Trans* fat raises the risk of CHD more than any other known nutritive

25 ⁹ Dep’t of Health & Human Serv. & U.S. Dep’t of Agric., 2005 Dietary
26 Guidelines Advisory Committee Report, Section 10 (2005).

¹⁰ *Id.*

27 ¹¹ Am. Heart Ass’n., *Trans Fat Overview*, available at
<http://www.americanheart.org/presenter.jhtml?identifier=3045792>.

28 ¹² Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin.,
Questions & Answers About *Trans* Fat Nutrition Labeling.

1 product.¹³

2 35. Removing 2% of daily calories from *trans* fat from the American diet
3 “would prevent approximately 30,000 premature coronary deaths per year, and
4 epidemiologic evidence suggests this number is closer to 100,000 premature
5 deaths annually.”¹⁴

6 36. A study on the impact of *trans* fatty acids on heart health provides
7 evidence that:

8 [E]ven the lower estimates from the effects [of PHVO] on blood lipids
9 would suggest that more than 30,000 deaths per year may be due to
10 the consumption of partially hydrogenated vegetable fat. Furthermore,
11 the number of attributable cases of nonfatal coronary heart disease
will be even larger.¹⁵

12 37. Since “the adverse effect of *trans* fatty acids is stronger than that of
13 saturated fatty acids,” saturated fat consumption would need to be reduced by 10
14 percent of caloric intake to have the same impact as a 2-percent reduction of *trans*
15 fat intake.¹⁶

16 38. “10 to 19 percent of CHD events in the United States could be averted
17 by reducing the intake of *trans* fat.”¹⁷

18 39. By raising LDL levels and lowering HDL levels, *trans* fat causes a
19 wide variety of dangerous heart conditions, including low flow-mediated
20 vasodilation, coronary artery disease, and primary cardiac arrest.

21 40. After conducting a crossover diet trial, Danish researchers determined
22 that healthy men and women who maintained a high-*trans* fat diet had 21 percent
23 lower protective HDL levels and 29 percent lower flow-mediated vasodilation

24 ¹³ Mozaffarian, 354 New Eng. J. Med. at 1603.

25 ¹⁴ Alberto Ascherio *et al.*, *Trans Fatty Acids & Coronary Heart Disease*,
26 340 New Eng. J. Med. 94, 94-8 (1999).

27 ¹⁵ W.C. Willett *et al.*, *Trans Fatty Acids: Are the Effects only Marginal?* 84
Am. J. Pub. Health 722, 723 (1994).

28 ¹⁶ Mozaffarian, 354 New Eng. J. Med. at 1609.

¹⁷ See Mozaffarian, 354 New Eng. J. Med. at 1611.

1 (“FMD”) than those on a high-saturated fat diet. Since FMD measures the percent
2 increase between the diameter of the artery at ordinary and at maximum dilation,
3 low FMD is “a risk marker of coronary heart disease.”¹⁸

4 41. Australian researchers observed that heart attack patients possess
5 elevated amounts of *trans* fat in their adipose tissue, strongly linking heart disease
6 with long-term consumption of *trans* fat.¹⁹

7 42. By taking blood samples from 179 survivors of cardiac arrest and 285
8 randomly-selected control patients and comparing the top fifth with the bottom
9 fifth of participants by *trans* fat intake, another study published in the American
10 Heart Association’s *Circulation* found that the largest consumers of *trans* fat have
11 three times the risk of suffering primary cardiac arrest, even after controlling for a
12 variety of medical and lifestyle risk factors.²⁰

13 43. *Trans* fat also causes heart disease because it interferes with the
14 normal operation of the endothelial cells that line, regulate, and protect the heart
15 and arteries.²¹

16 44. Artificial *trans* fat further damages the heart and other vital organs by
17 causing chronic systemic inflammation, where the immune system becomes
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20 ¹⁸ Nicole M. De Roos *et al.*, *Replacement of Dietary Saturated Fatty Acids*
21 *by Trans Fatty Acids Lowers Serum HDL Cholesterol and Impairs Endothelial*
22 *Function in Healthy Men and Women*, 21 *Am. Heart Assoc.* 1233, 1233-37
(2001).

23 ¹⁹ Peter M. Clifton *et al.*, *Trans Fatty Acids In Adipose Tissue And The Food*
24 *Supply Are Associated With Myocardial Infarction*. 134 *J. of Nutrition* 874, 874-79
(2004).

25 ²⁰ Rozenn N. Lemaitre *et al.*, *Cell Membrane Trans-Fatty Acids and the Risk*
26 *of Primary Cardiac Arrest*, 105 *Circulation* 697, 697-701 (2002).

27 ²¹ See Zapolska-Downar *et al.*, *Trans Fatty Acids Induce Apoptosis in*
28 *Human Endothelial Cells*, 56 *J. Phys. And Pharm.* 4, 611-625 (2005); Lopez-
Garcia et al., *Consumption of Trans Fat is Related to Plasma Markers of*
Inflammation and Endothelial Dysfunction, 135 *J. of Nutr.* 562-66 (2005).

1 persistently overactive, damages cells, and causes organ dysfunction.²²

2 45. In June 2009, scientists found that mice fed a control diet “did not
3 exhibit appreciable atherosclerotic plaque formation,” but adding trans fat to their
4 diet stimulated atherosclerotic development on its own, “which is an event not
5 normally observed in [mice].” Further, “the higher the circulating [trans fat] was,
6 the more extensive were the atherosclerotic lesions,” thus showing trans fat
7 consumption “can directly induce atherosclerosis.”²³

8 • **Type 2 Diabetes**

9 46. Artificial *trans* fat causes type 2 diabetes.²⁴

10 47. In particular, *trans* fat disrupts the body’s glucose and insulin
11 regulation system by incorporating itself into cell membranes, causing the insulin
12 receptors on cell walls to malfunction, and in turn elevating blood glucose levels
13 and stimulating further release of insulin. Researchers at Northwestern
14 University’s medical school found that mice show multiple markers of type 2
15 diabetes after eating a *trans* fat diet for only four weeks. By the eighth week of the
16 study, mice fed the diet high in *trans* fat showed a 500% increase compared to the
17 control group in hepatic interleukin-1 β gene expression, one such marker of
18 diabetes, indicating the extreme stress *trans* fat places on the body.²⁵

19 _____
20 ²² See *id.*; see also Baer et al., *Dietary fatty acids affect plasma markers of*
21 *inflammation in healthy men fed controlled diets: a randomized crossover study*,
22 79 Am. J. Clin. Nutr. 969-73 (2004); Mozaffarian & Clarke, *Quantitative effects on*
23 *cardiovascular risk factors and coronary heart disease risk of replacing partially*
24 *hydrogenated vegetable oils with other fats and oils*, 63 Euro. J. of Clin. Nutr. S22-
25 S33 (2009); Mozaffarian et al., *Trans Fatty acids and systemic inflammation in*
26 *heart failure*, 80 Am. J. Clin. Nutr. 1521-25 (2004).

27 ²³ Bassett et al., *trans-Fatty Acids in the Diet Stimulate Atherosclerosis*, 58 J.
28 Metabolism Clin. And Exper. 1802-1808 (2009).

²⁴ Am. Heart Ass’n., *Trans Fat Overview*.

²⁵ Sean W. P. Koppe et al., *Trans fat feeding results in higher serum alanine*
aminotransferase and increased insulin resistance compared with a standard
murine high-fat diet, 297 Am. J. Physiol. Gastrointest Liver Physiol. G378-84
(2009).

1 48. A 14-year study of 84,204 women found that for every 2 percent
2 increase in energy intake from *trans* fat, the relative risk of type 2 diabetes
3 increases the risk of type 2 diabetes by 39 percent.²⁶

4 49. Further, in addition to **causing** type 2 diabetes, artificial *trans* fat also
5 **accelerates** diabetes-related health decline. See Devore et al., *Dietary fat intake*
6 *and cognitive decline in women with type 2 diabetes*, 32 *Diabetes Care* 635-640
7 (2009). This study covered 1,486 participants and carefully controlled for body
8 mass index, physical activity, diabetes severity, depression, vitamin E supplement
9 use, alcohol intake, smoking status, and history of high blood pressure, high
10 cholesterol, or myocardial infarction.

11 50. Even after controlling for these factors, the tertile of women who
12 consumed the largest amount of artificial *trans* fat suffered cognitive decline
13 equivalent to 7 years of added aging compared to the tertile of women who
14 consumed the lowest amount, yet this difference in consumption between these
15 two carefully controlled groups amounted to about 2.1g per day. *Id.* at 637. This
16 result was statistically significant at a 99.8% level. *Id.* at 637, Table 2. The authors
17 further note that their results are consistent with other studies showing *trans* fat
18 causes diabetes by inducing insulin resistance, and suggest *trans* fat causes
19 Alzheimer's disease, as "insulin resistance, high insulin levels, and cholesterol are
20 all implicated in β -amyloid accumulation in the brain--the pathologic hallmark of
21 Alzheimer's disease." *Id.* at 639.

22 • **Breast, Prostate, and Colorectal Cancer**

23 51. *Trans* fat is a known carcinogen shown to cause breast, prostate, and
24 colorectal cancer.

25 52. A 13-year study of 19,934 French women showed 75 percent more
26 women contracted breast cancer in the highest quintile of *trans* fat consumption

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28 ²⁶ Jorge Salmeron et al., *Dietary Fat Intake and Risk of Type 2 Diabetes in Women*, 73 *Am. J. of Clinical Nutrition* 1019, 1023 (2001).

1 than did those in the lowest.²⁷

2 53. In a 25-year study of 14,916 U.S. physicians, the doctors in the
3 highest quintile of *trans* fat intake had over a 100% greater risk of developing
4 prostate cancer than the doctors in the lowest quintile.²⁸

5 54. A study of 1,012 American males observing *trans* fat intake and the
6 risk of prostate cancer found “[c]ompared with the lowest quartile of total *trans*-
7 fatty acid consumption, the higher quartiles gave odds ratios (ORs) equal to 1.58,”
8 meaning those in the highest quartile are 58% more likely to contract prostate
9 cancer than those in the lowest.²⁹

10 55. A 600-person study found an 86 percent greater risk of colorectal
11 cancer in the highest *trans* fat consumption quartile than in the lowest.³⁰

12 56. A 2,910-person study found “trans-monounsaturated fatty acids . . .
13 were dose-dependently associated with colorectal cancer risk,” which showed “the
14 importance of type of fat in the etiology and prevention of colorectal cancer.”³¹

15 57. The serious health conditions caused by *trans* fat consumption only
16 occur from artificial *trans* fat, not the trace natural *trans* fat found in ruminant
17 sources:

18 Of four prospective studies evaluating the relation between the intake
19 of *trans* fatty acids from ruminants and the risk of CHD, none

20 ²⁷ Véronique Chajès *et al.*, *Association between Serum Trans-*
21 *Monounsaturated Fatty Acids and Breast Cancer Risk in the E3N-EPIC Study*. 167
22 *Am. J. of Epidemiology* 1312, 1316 (2008).

23 ²⁸ Jorge Chavarro *et al.*, *A Prospective Study of Blood Trans Fatty Acid*
24 *Levels and Risk of Prostate Cancer.*, 47 *Proc. Am. Assoc. of Cancer Research* 95,
25 99 (2006).

26 ²⁹ Xin Liu *et al.*, *Trans-Fatty Acid Intake and Increased Risk of Advanced*
27 *Prostate Cancer: Modification by RNASEL R462Q Variant*, 28 *Carcinogenesis*
28 1232, 1232 (2007).

³⁰ L.C. Vinikoor *et al.*, *Consumption of Trans-Fatty Acid and its Association*
with *Colorectal Adenomas*, 168 *Am. J. of Epidemiology* 289, 294 (2008).

³¹ Evropi Theodoratou *et al.*, *Dietary Fatty Acids and Colorectal Cancer: A*
Case-Control Study, 166 *Am. J. of Epidemiology* 181 (2007).

1 identified a significant positive association, whereas three identified
2 nonsignificant trends toward an inverse association. . . . [T]he sum of
3 the current evidence suggests that the public health implications of
consuming *trans* fats from ruminant products are relatively limited.³²

4 **The grave, concrete risks of artificial *trans* fat consumption far outweigh any**
5 **conceivable benefits of Gruma’s conduct.**

6 58. There is no health benefit to artificial *trans* fat consumption and “no
7 safe level” of artificial *trans* fat intake.³³

8 59. According to the established consensus of the scientific community,
9 consumers should keep their consumption of *trans* fat “as low as possible.”³⁴

10 60. As Dariush Mozaffarian, M.D., notes in the New England Journal of
11 Medicine:

[T]rans fats from partially hydrogenated oils have no intrinsic health
value above their caloric value. Thus, from a nutritional standpoint,
the consumption *trans* fatty acids results in considerable potential
harm but no apparent benefit. . . . Thus, complete or near-complete
avoidance of industrially produced *trans* fat—a consumption of less
than 0.5 percent of the total energy intake—may be necessary to avoid
adverse effects and would be prudent to minimize health risks.³⁵

17 ***Trans* fat is so inherently dangerous that it is being banned in an increasing**
18 **number of American states and European countries.**

19 61. In 2008, California became the first state to ban all restaurant food
20 with artificial *trans* fat, a law affecting approximately 88,000 eating
21 establishments. *Trans* fats are now banned in restaurants as of January 1, 2010 and
22 on January 1, 2011 will be phased out of retailers.

23 _____
24 ³² Mozaffarian, 354 New Eng. J. Med. at 1608-1609.

25 ³³ Food & Nutrition Bd., Inst. of Med., Dietary Reference Intakes For
Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino
26 Acids (2005).

27 ³⁴ Food & Nutrition Bd., Inst. of Med., Dietary Reference Intakes For
Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino
28 Acids 424 (2005).

³⁵ Mozaffarian, 354 New Eng. J. Med. at 1609.

1 62. New York City banned all *trans* fat in its 20,000 food establishments
2 in 2006. Similar laws exist in Philadelphia; Baltimore; Stamford, Connecticut; and
3 Montgomery County, Maryland.

4 63. A 2004 Danish law restricted all foods to under 2 percent of calories
5 from *trans* fat. Switzerland made the same restriction in 2008.³⁶ Thus Mission
6 Bean Dip, prominently touted as a heart-healthy “no cholesterol” product on its
7 package, is illegal in these nations because it raises cholesterol and causes heart
8 disease.

9 64. After conducting a surveillance study of Denmark’s *trans* fat ban,
10 researchers concluded the change “did not appreciably affect the quality, cost or
11 availability of food” and did not have “any noticeable effect for the consumers.”³⁷

12 65. In 2006, a *trans* fat task force co-chaired by Health Canada and the
13 Heart and Stroke Foundation of Canada recommended capping *trans* fat content at
14 2 percent of calories for tub margarines and spreads and 5 percent for all other
15 foods. On September 30, 2009, British Columbia became the first province to
16 impose these rules on all restaurants, schools, hospitals, and special events.³⁸

17 **Direct consumption of dietary cholesterol is unrelated to heart disease.**

18 66. By raising bad cholesterol and lowering good cholesterol levels, *trans*
19 fat raises the risk of CHD more than any other known nutritive product.³⁹ By
20
21

22 ³⁶ Andrew Collier, *Deadly Fats: Why Are We still Eating Them?*, The
23 Independent (UK), June 10, 2008.

24 ³⁷ Mozaffarian, 354 New Eng. J. Med. at 1610; *see also* High Levels of
25 Industrially Produced *Trans* Fat in Popular Fast Food, 354 New Eng. J. Med. 1650,
1652 (2006).

26 ³⁸ *Province Restricts Trans Fat in B.C.*, British Columbia Ministry of
27 Healthy Living and Sport Press Release (2009), *available at*
28 http://www2.news.gov.bc.ca/news_releases_2005-2009/2009HLS0013-000315.htm.

³⁹ Mozaffarian, 354 New Eng. J. Med. at 1602.

1 contrast, dietary cholesterol intake is unrelated to CHD risk.⁴⁰

2 67. Gruma, however, markets Mission Spicy Bean Dip as “0g
3 Cholesterol,” implying a connection between dietary cholesterol and disease where
4 none exists, thereby misleading consumers who purchase the products into
5 believing it to be healthy when it in fact contains substantial and dangerous levels
6 of artificial *trans* fat.

7 68. Gruma’s “0g Cholesterol” claim further insinuates that consumption
8 of Mission Spicy Bean Dip is useful for the maintenance of healthy serum
9 cholesterol levels when in fact the consumption of the *trans*-fat laden Mission
10 Spicy Bean Dip negatively impacts serum cholesterol levels. Gruma thus deceives
11 consumers concerned about cardiovascular health into purchasing a product that is
12 harmful to their hearts.

13 69. Reasonable consumers, including Plaintiffs and the other Class
14 members, were and are likely to be deceived by Gruma’s advertising practices as
15 detailed herein.

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26 ⁴⁰ Katja L. Esrey *et al.*, *Relationship Between Dietary Intake and Coronary*
27 *Heart Disease Mortality: Lipid Research Clinics Prevalence Follow-up Study*, 49
28 *J. Clin. Epidemiol* 2:211, 212-216 (1996). *See also* Barbara Millen Posner *et al.*,
Dietary Lipid Predictors of Coronary Heart Disease in Men: The Framingham
Study, 151 *Arch Intern Med* 1181, 1184-86 (June 1991).

1 **SPECIFIC MISREPRESENTATIONS, MATERIAL OMISSIONS, AND**
2 **DECEPTIVE ACTS**

3 **Mission Guacamole**



20 70. **False and Misleading “0g TRANS FAT” claim:** As shown in the
21 photo above, the front label of Mission Guacamole, during the entirety of the Class
22 Period and in every part of the United States, claims the product is “0g TRANS
23 FAT.” But Mission Guacamole contains partially hydrogenated vegetable oil. As
24 described in detail above, the process of partial hydrogenation creates artificial
25 *trans* fat. Gruma’s claim that Mission Guacamole contains “0g” *trans* fat (“per
26 serving” or otherwise) is thus both literally false and highly misleading because it
27 contains partially hydrogenated oil. The actual content of *trans* fat per serving is
28 deceptively omitted.

1 71. **Misleading “WITH GARDEN VEGETABLES” claim:** The front
2 label of Mission Guacamole advertises “WITH GARDEN VEGETABLES.” This
3 statement is misleading because the product contains virtually no vegetables. It is
4 further misleading because the phrase “WITH GARDEN VEGITABLES” implies
5 that the product is at least somewhat healthy because of significant vegetable
6 content, when in fact it contains an ingredient that causes heart disease, diabetes,
7 and cancer.

8 72. **False and Misleading “Guacamole” made in “The Authentic**
9 **Tradition” claim:** Mission Guacamole claims on its label that it is “Guacamole”
10 made in “The Authentic Tradition.” It also contains large and prominent images of
11 avocados on the label. In fact, Mission Guacamole is far from “authentic” because
12 guacamole is mainly avocado, whereas Mission Guacamole contains *no* fresh
13 avocado and less than 2% “avocado powder.”

14 73. Merriam-Webster’s dictionary defines guacamole as “pureed or
15 mashed avocado seasoned with condiments.” Avocados have been synonymous
16 with guacamole and have been the primary ingredient for that food for nearly 600
17 years. Avocados are also known to have certain health benefits, including
18 substantial levels of folate, an important nutrient for health, and heart health in
19 particular. Avocados also contain vitamin E, monounsaturated fats, and
20 glutathione, all of which promote heart health and are not present in the same
21 degree in Mission Guacamole.

22 74. The basic recipe for guacamole today includes mashed avocado,
23 chopped tomato, onion, cilantro, lime, and chilies, and is seasoned with salt,
24 cumin, and pepper.⁴¹

25 _____
26 ⁴¹ The California Avocado Commission promotes a recipe for “Guacamole
27 Autentico” which calls for four ripe avocados, one teaspoon of ground cumin, one
28 medium tomato, a half cup of minced sweet white onion, two serrano chilies, a
quarter cup of chopped cilantro leaves, four tablespoons of fresh lime juice, hot
pepper sauce, sea salt, and white pepper to taste.

1 75. Accordingly, a reasonable consumer would and does expect a product
2 marketed as “Guacamole” made in “The Authentic Tradition” to consist primarily
3 of avocado. However, that is not true for Mission Guacamole. In fact, Mission
4 Guacamole contains no fresh avocados at all. Instead, the primary ingredients are
5 water, oil, and starch, with food dyes added to approximate the color of actual
6 guacamole.

7 76. Defendant’s use of the term “Guacamole” is thus deceptive and
8 misleading, and caused Plaintiffs to buy a product that was not what it represented
9 itself to be, including not containing heart-healthy avocados. This product is not
10 guacamole because it is not primarily made with avocados. Instead, it is a thick,
11 artificially dyed, oily, cancer-, diabetes- and heart attack-causing paste.

12
13 **Mission Spicy Bean Dip**



1 FAT,” “0g Cholesterol,” “WITH GARDEN VEGETABLES,” and “All Natural”
2 health claims.

3 83. Plaintiffs further read and relied on Gruma’s misleading “Guacamole”
4 made in “The Authentic Tradition” claim, believing that they were purchasing real
5 guacamole, complete with avocados, which have certain health benefits and
6 certainly do not cause cancer, diabetes, and heart disease when consumed at
7 consumers’ actual consumption levels.

8 84. Plaintiffs purchased the Mission Trans Fat Products believing they
9 had the qualities Plaintiffs sought based on their deceptive labeling, but the
10 products were actually unsatisfactory to Plaintiffs for the reasons described herein.

11 85. The Mission Trans Fat Products cost more than similar products
12 without misleading labeling, and would have cost less absent the false and
13 misleading statements.

14 86. Plaintiffs paid more for the Mission Trans Fat products, and would
15 have been willing to pay less, if they had not been misled by the false and
16 misleading labeling complained of herein. Plaintiffs would not have purchased the
17 Mission Trans Fat Products at the price they did absent these advertisements.

18 87. For these reasons, the Mission Trans Fat Products were worth less
19 than what Plaintiffs paid for them.

20 88. Plaintiffs purchased Gruma’s Mission Trans Fat Products instead of
21 other brands based on the false statements and misrepresentations described herein.

22 89. Instead of receiving products that have the advantages inherent in
23 being free of artificial *trans* fat, they received products that contained artificial
24 *trans* fat.

25 90. Instead of the “All Natural” bean dip Plaintiffs believed they were
26 purchasing based on Gruma’s false statements and misrepresentations, they
27 received a product containing man-made, and toxic, artificial *trans* fat.

28 91. Instead of a bean dip Plaintiffs believed would not raise their

1 cholesterol based on Gruma's false statements and misrepresentations, they
2 received a product that raises their cholesterol and damages the cells in their heart
3 and arteries.

4 92. Instead of the authentic guacamole, made primarily from avocados,
5 Plaintiffs believed they were purchasing based on Gruma's false statements and
6 misrepresentations, they received an oily paste, colored and flavored to resemble
7 authentic guacamole but bearing none of its beneficial nutritional properties; in its
8 place, Plaintiffs received a product containing a toxic additive illegal to sell for
9 human consumption in many parts of the world.

10 93. Plaintiffs lost money as a result of Gruma's deception in that Plaintiffs
11 did not receive what they had paid for.

12 94. Plaintiffs altered their position to their detriment and suffered
13 damages in an amount equal to the amount they paid for the Mission Trans Fat
14 Products.

15 **CLASS ACTION ALLEGATIONS**

16 95. Plaintiffs bring this action on behalf of themselves and all others
17 similarly situated on behalf of the following classes:

18 **Unfair Competition Law Class**

19 All persons (excluding officers, directors, and employees of Gruma)
20 who purchased, on or after June 4, 2006, the Mission Trans Fat
21 Products in the United States for their own use rather than resale or
22 distribution.

23 **Injunctive Relief Class**

24 All persons (excluding officers, directors, and employees of Gruma)
25 who are in the market for the Mission Trans Fat Products in
26 California.

27 96. Questions of law and fact common to Plaintiffs and the Classes
28 include:

- 1 a. Whether Gruma contributed to, committed, and/or is
2 responsible for the conduct alleged herein;
- 3 b. Whether Gruma's conduct constitutes the violations of law
4 alleged herein;
- 5 c. Whether Gruma acted willfully, recklessly, negligently, or with
6 gross negligence in the violations of law alleged herein; and
- 7 d. Whether Class members are entitled to compensatory,
8 injunctive, and other equitable relief.

9 97. By purchasing and/or using the Mission Trans Fat Products, all Class
10 members were subjected to the same wrongful conduct.

11 98. Absent Gruma's material deceptions, misstatements, and omissions,
12 Plaintiffs and other Class members would not have purchased the Mission Trans
13 Fat Products.

14 99. Plaintiffs' claims are typical of the Classes' claims. Plaintiffs will
15 fairly and adequately protect the interests of the Classes, have no interests that are
16 incompatible with the interests of the Classes, and have retained counsel competent
17 and experienced in class litigation.

18 100. The Classes are sufficiently numerous, as they each include hundreds
19 of thousands of individuals who purchased the Mission Trans Fat Products
20 throughout the United States.

21 101. Class representation is superior to other options for the resolution of
22 the controversy. The relief sought for each Class member is small. Absent the
23 availability of class action procedures, it would be infeasible for Class members to
24 redress the wrongs done to them.

25 102. Gruma has acted on grounds applicable to the Classes, thereby
26 making appropriate final injunctive relief or declaratory relief concerning the
27 Classes as a whole.

28 103. Questions of law and fact common to the Classes predominate over
any questions affecting only individual members.

1 104. Class treatment is appropriate under FRCP 23(a) and both 23(b)(2)
2 and 23(b)(3). Plaintiffs do not contemplate class notice if the class is certified
3 under FRCP 23(b)(2), which does not require notice, and notice via publication if
4 the class is certified under FRCP 23(b)(3) or if the Court determines class notice is
5 required notwithstanding that notice is not required under FRCP 23(b)(2).
6 Plaintiffs will, if notice is required, confer with Defendant and seek to present the
7 Court with a stipulation and proposed order on the details of a class notice plan.

8 **DELAYED DISCOVERY**

9 105. Plaintiffs did not discover that Gruma's labeling of the Mission Trans
10 Fat Products was false, deceptive, or misleading until late January 2010, during
11 telephone conversations with Gregory Weston.

12 106. While Plaintiffs knew that consumption of artificial *trans* fat was
13 generally worse than other types of dietary fat intake, they were unaware of the
14 grave health consequences of consuming products like the Mission Trans Fat
15 Products before that time, or the connection between the consumption of such
16 artificial *trans* fat and disease such as coronary heart disease, type-2 diabetes,
17 cancer, and death. Plaintiffs were also unaware that some companies claim their
18 products have no trans fat, when those products in fact contain trans fat.

19 107. Plaintiffs are not nutritionists, food experts, or food scientists; they are
20 lay consumers who did not possess the specialized knowledge Gruma had which
21 otherwise would have enabled them to associate partially hydrogenated oil with
22 artificial *trans* fat, and artificial *trans* fat with disease. Knowledge of the exact
23 amount of *trans* fats misleadingly labeled "0g trans fat" in the Mission Trans Fat
24 Products was exclusively in the possession of Gruma throughout the Class Period.

25 108. Plaintiffs, in the exercise of reasonable diligence, could not have
26 discovered Gruma's deceptive practices earlier because, like nearly all consumers,
27 they do not read or have access to scholarly publications such as The Journal of
28

1 Nutrition,⁴² The European Journal of Clinical Nutrition,⁴³ and The New England
2 Journal of Medicine.⁴⁴

3 109. Further, even today knowledge of the extensive use of artificial *trans*
4 fats, including that they necessarily exist where partially hydrogenated oil is used
5 as an ingredient in a food product, is generally unknown to the average consumer.

6 **FIRST CAUSE OF ACTION**

7 **Violations of the California Unfair Competition Law,**

8 **Bus. & Prof. Code §§ 17200 *et seq.***

9 **(Unlawful)**

10 110. Plaintiffs reallege and incorporate the allegations elsewhere in the
11 Complaint as if set forth in full herein.

12 111. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or
13 fraudulent business act or practice.”

14 112. The acts, omissions, misrepresentations, practices, and non-
15 disclosures of Gruma as alleged herein constitute “unlawful” business acts and
16 practices in that Gruma’s conduct violates the False Advertising Law and the
17 Consumer Legal Remedies Act.

18 113. Gruma’s conduct is further “unlawful” because it violates the Federal
19 Food, Drug, and Cosmetic Act (“FFDCA”) at (1) 21 U.S.C. § 343(a), which deems
20 food misbranded when the label contains a statement that is “false or misleading in
21 any particular;” and (2) 21 C.F.R. § 101.13(i)(3), which bars nutrient content

22 ⁴² Peter M. Clifton *et al.*, *Trans Fatty Acids In Adipose Tissue And The Food*
23 *Supply Are Associated With Myocardial Infarction*. 134 J. of Nutrition 874, 874-79
24 (2004).

25 ⁴³ A. Tavani *et al.* *Margarine intake and risk of nonfatal acute myocardial*
26 *infarction in Italian women*. Eur. J. Clin. Nutr. 51: 30–32 (1997) (estimating a 50%
27 greater risk of heart attack in women with high consumption of margarine, an
association “independent of body mass index, history of hypertension and
hyperlipidemia.”)

28 ⁴⁴ “10 to 19 percent of CHD events in the United States could be averted by
reducing the intake of trans fat.” 354 New Eng. J. Med. at 1611.

1 claims voluntarily placed on the front of a product label that are “false or
2 misleading in any respect.”

3 114. Gruma’s conduct likewise violates The California Sherman Food,
4 Drug, and Cosmetic Law (“Sherman Law”), at (1) Health & Safety Code §
5 110660, which deems food products “misbranded” if their labeling is “false or
6 misleading in any particular,” and (2) Health & Safety Code § 110670, which bars
7 nutrient content claims voluntarily placed on the front of a product label that fail to
8 comply with the federal regulation for nutrient content claims (i.e., “may not be
9 false or misleading in any respect”).

10 115. All of the challenged labeling statements made by Gruma thus
11 constitute violations of the FFDCA and the Sherman Law and as such violate the
12 “unlawful” prong of the UCL.

13 116. Gruma leveraged its deception to induce Plaintiffs and members of the
14 Classes to purchase products that were of lesser value and quality than advertised.

15 117. Plaintiffs suffered injury in fact and lost money or property as a result
16 of Gruma's deceptive advertising: they were denied the benefit of the bargain when
17 they decided to purchase the Mission Trans Fat Products over competitor products,
18 which are less expensive and/or contain no artificial trans fat. Had Plaintiffs been
19 aware of Gruma’s false and misleading advertising tactics, they would have paid
20 less than what they did for the Mission Trans Fat Products, or would not have
21 purchased them at all.

22 118. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an
23 order enjoining Gruma from continuing to conduct business through unlawful,
24 unfair, and/or fraudulent acts and practices and to commence a corrective
25 advertising campaign.

26 119. Plaintiffs also seek an order for restitution of all monies from the sale
27 of the Mission Trans Fat Products, which were acquired through unlawful, unfair,
28 acts.

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SECOND CAUSE OF ACTION

**Violations of the California Unfair Competition Law,
Bus. & Prof. Code §§ 17200 *et seq.*
(Unfair and Fraudulent)**

120. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

121. The acts, omissions, misrepresentations, practices, and non-disclosures of Gruma as alleged herein constitute “unfair” business acts and practices because Gruma’s conduct is immoral, unscrupulous, and offends public policy. Further, the gravity of Gruma’s conduct outweighs any conceivable benefit of such conduct.

122. The acts, omissions, misrepresentations, practices, and non-disclosures of Gruma as alleged herein constitute “fraudulent” business acts and practices because Gruma’s conduct has a tendency to deceive both the Class members and the general public.

123. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining Gruma from continuing to conduct business through unlawful, unfair and fraudulent acts and practices and to commence a corrective advertising campaign.

124. Plaintiffs also seek an order for restitution of all monies from the sale of the Mission Trans Fat Products, which were acquired through unlawful acts.

THIRD CAUSE OF ACTION

**Violations of the California False Advertising Law,
Bus. & Prof. Code §§ 17500 *et seq.***

125. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

126. In violation of Bus. & Prof. Code §§ 17500 *et seq.*, the

1 advertisements, labeling, policies, acts, and practices described herein were
2 designed to, and did, result in the purchase and use of the products without the
3 knowledge that the Mission Trans Fat Products contained toxic artificial *trans* fat.

4 127. Gruma either knew or reasonably should have known that the labels
5 on the Mission Trans Fat Products were untrue and/or misleading.

6 128. As a result, Plaintiffs, the Classes, and the general public are entitled
7 to injunctive and equitable relief, restitution, and an order for the disgorgement of
8 the funds by which Gruma was unjustly enriched.

9 **FOURTH CAUSE OF ACTION**

10 **Violations of the Consumer Legal Remedies Act,**

11 **Civ. Code §§ 1750 *et seq.***

12 **(Injunctive Relief and Restitution)**

13 129. Plaintiffs reallege and incorporate the allegations elsewhere in the
14 Complaint as if set forth in full herein.

15 130. The CLRA prohibits deceptive practices in connection with the
16 conduct of a business that provides goods, property, or services primarily for
17 personal, family, or household purposes.

18 131. Gruma's policies, acts, and practices were designed to, and did, result
19 in the purchase and use of the products primarily for personal, family, or household
20 purposes, and violated and continue to violate the following sections of the CLRA:

- 21 a. § 1770(a)(5): representing that goods have characteristics, uses,
22 or benefits which they do not have.
- 23 b. § 1770(a)(7): representing that goods are of a particular
24 standard, quality, or grade if they are of another.
- 25 c. § 1770(a)(9): advertising goods with intent not to sell them as
26 advertised.
- 27 d. § 1770(a)(16): representing the subject of a transaction has been
28 supplied in accordance with a previous representation when it
has not.

1 132. As a result, Plaintiffs and the Classes have suffered irreparable harm
2 and are entitled to injunctive relief and restitution.

3 **FIFTH CAUSE OF ACTION**

4 **Violations of the Consumer Legal Remedies Act,**

5 **Civ. Code §§ 1750 *et seq.***

6 **(Actual Damages and Punitive Damages)**

7 133. Plaintiffs reallege and incorporate the allegations elsewhere in the
8 Complaint as if set forth in full herein.

9 134. The CLRA prohibits deceptive practices in connection with the
10 conduct of a business that provides goods, property, or services primarily for
11 personal, family, or household purposes.

12 135. Gruma’s policies, acts, and practices were designed to, and did, result
13 in the purchase and use of the products primarily for personal, family, or household
14 purposes, and violated and continue to violate the following sections of the CLRA:

- 15 a. § 1770(a)(5): representing that goods have characteristics, uses,
16 or benefits which they do not have.
- 17 b. § 1770(a)(7): representing that goods are of a particular
18 standard, quality, or grade if they are of another.
- 19 c. § 1770(a)(9): advertising goods with intent not to sell them as
20 advertised.
- 21 d. § 1770(a)(16): representing the subject of a transaction has been
22 supplied in accordance with a previous representation when it
23 has not.

24 136. In compliance with Civ. Code § 1782, Plaintiffs sent written notice of
25 their claims more than 30 days before seeking damages.

26 137. Plaintiffs’ demand letters were sent by their counsel via registered
27 mail, return receipt requested, to each of the following:

- 28 (1) Gruma Corporation's California registered agent at:
CSC – Lawyers Incorporating Service
2730 Gateway Oaks Drive

1 Sacramento, CA 95833

2 (2) Gruma’s counsel of record:

3 R.D. Kirwan, Esq.

4 Akin Gump Strauss Hauer & Feld

5 2029 Century Park East, Ste. 2400

6 Los Angeles, CA 90067

7 (3) Gruma Corporation’s headquarters:

8 Gruma Corp. and Gruma S.A.B. de C.V.

9 1159 Cottonwood Lane, Suite 200

10 Irving, TX 75038.

11 The letters were received on June 28, 2010.

12 138. Gruma failed to respond at all to Plaintiffs' demand, much less rectify
13 its conduct, within 30 days of receiving Plaintiffs’ § 1782 notice.

14 139. The conduct described herein was long-standing and undertaken for
15 profit as a deliberate and uniform corporate policy rather than an isolated incident.
16 Gruma knew its statements were false, knew they violated the law, knew
17 consumers would be misled, and knew that it was poisoning them. Its conduct was
18 morally wrong, fraudulent, callous, and oppressive.

19 140. At very little additional cost, like many of its food industry peers,
20 Gruma might have used in place of artificial trans fat safe alternative ingredients
21 with similar properties such as palm oil or fully hydrogenated vegetable oil, both
22 of which are free of artificial trans fat. Instead, it choose to make more money by
23 poisoning and deceiving the public.

24 141. Pursuant to Civ. Code § 1780, Plaintiffs are entitled to actual and
25 punitive damages.

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiffs, on behalf of themselves, all others similarly
28 situated, and the general public, pray for judgment and relief against Defendant as

1 follows:

- 2 A. Declaring this action to be a proper class action.
- 3 B. An order enjoining Gruma from
 - 4 a. marketing the Mission Trans Fat Products as “0g TRANS FAT”
 - 5 or “0g Cholesterol” when they contain partially hydrogenated
 - 6 vegetable oils;
 - 7 b. marketing Mission Guacamole as “Guacamole” made in “The
 - 8 Authentic Tradition” when it contains less than 2 percent
 - 9 avocado powder; and
 - 10 c. using any other misleading health claim(s) on the products
 - 11 described herein.
- 12 C. An order compelling Gruma to conduct a corrective advertising
- 13 campaign the public of its previous false and misleading statements and omissions.
- 14 D. An order requiring Gruma to disgorge all monies, revenues, and
- 15 profits obtained by means of any wrongful act or practice.
- 16 E. An order compelling Gruma to destroy all misleading and deceptive
- 17 advertising materials and products.
- 18 F. An order requiring Gruma to restore all funds acquired by means of
- 19 any act or practice declared by this Court to be an unlawful, unfair, or fraudulent
- 20 business act or practice, untrue or misleading advertising, or a violation of the
- 21 CLRA, plus pre-and post-judgment interest thereon.
- 22 G. Actual damages.
- 23 H. Punitive damages.
- 24 I. Costs, expenses, and reasonable attorneys’ fees.
- 25 J. Any other and further relief the Court deems necessary, just, or
- 26 proper.

27 **JURY DEMAND**

28 Plaintiffs demand a trial by jury on all causes of action so triable.

1 DATED: August 26, 2010
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Respectfully Submitted,



Gregory S. Weston

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Counsel for Plaintiffs and the
Proposed Classes