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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

JOSHUA JOSEPH, individually and on  
behalf of all others similarly situated,

Plaintiff,

v.

THE J.M. SMUCKER COMPANY,

Defendant.

Case No.: 2:17-cv-08735

**CLASS ACTION COMPLAINT**

- 1. Violation of California Civil Code §1750, *et seq.***
- 2. Violation of California Business and Professions Code § 17200, *et seq.***
- 3. Violation of California Business and Professions Code § 17500, *et seq.***
- 4. Breach of Express Warranty**
- 5. Breach of Implied Warranty**
- 6. Common Law Fraud**
- 7. Intentional Misrepresentation**
- 8. Negligent Misrepresentation**
- 9. Quasi-Contract/Unjust Enrichment/Restitution**

**JURY TRIAL DEMANDED**

1 Plaintiff Joshua Joseph (“Plaintiff”), by and through his counsel, brings this  
2 Class Action Complaint against The J.M. Smucker Company (“Defendant”), on behalf  
3 of himself and all others similarly situated, and alleges upon personal knowledge as to  
4 his own actions, and upon information and belief as to counsel’s investigations and all  
5 other matters, as follows:

6 **NATURE OF THE ACTION**

7 1. Plaintiff brings this consumer protection and false advertising class action  
8 lawsuit against Defendant, based on Defendant’s false and misleading business  
9 practices with respect to the marketing and sale of its Crisco® 100% Extra Virgin Olive  
10 Oil No-Stick Spray and Crisco® 100% Canola Oil Original No-Stick Spray (the  
11 “Product(s)”)¹.

12 2. At all relevant times, Defendant has, labeled, marketed, and sold the  
13 Products as “100% EXTRA VIRGIN Olive Oil” and “100% CANOLA OIL”  
14 (collectively, the “100% Oil representation”), thereby representing that the Products  
15 contain only a single ingredient, canola oil or extra virgin olive oil.

16 3. However, unbeknownst to consumers, the Products also contain Soy  
17 Lecithin, Dimethyl Silicone, and Propellant, (collectively referred to as the “Additional  
18 Ingredients”).

19 4. Therefore, the Products fail to conform with a statement of quality made  
20 in Defendant’s labeling because neither of the Products are 100% oil, as represented  
21 by Defendant.

22 5. Defendant’s misrepresentations extend past the Products’ front label as  
23 the ingredient Defendant represents as “Propellant” is actually comprised of Propane  
24 and Isobutane, substances that are classified as “Hazardous Ingredients” by the  
25 Occupational Safety and Health Administration of the United States Department of  
26 Labor (“OSHA”). Rather than listing these substances by their actual and common  
27

28 <sup>1</sup> Depicted *infra* in paragraph 15.

1 names, as is required by California and federal law, Defendant masquerades them  
2 under the term “Propellant.”

3 6. Plaintiff and other consumers purchased the Products, reasonably relying  
4 on Defendant’s 100% Oil representation, and believing that the Products contain oil as  
5 the only ingredient. Had Plaintiff and other consumers known that the Products  
6 contained the Additional Ingredients, they would not have purchased the Products or  
7 would have paid significantly less for the Products. Therefore, Plaintiff and consumers  
8 have suffered injury in fact as a result of Defendant’s deceptive practices.

9 7. Plaintiff brings this class action lawsuit on behalf of himself and all others  
10 similarly situated. Plaintiff seeks to represent a California Subclass, a California  
11 Consumer Subclass, and a Nationwide Class (defined *infra* in paragraphs 47-49)  
12 (collectively referred to as “Classes”).

13 8. Plaintiff, on behalf of himself and other consumers, is seeking damages,  
14 restitution, declaratory and injunctive relief, and all other remedies the court deems  
15 appropriate.

### 16 **JURISDICTION AND VENUE**

17 9. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §  
18 1332(d)(2) because this case is a class action where the aggregate claims of all members  
19 of the proposed Classes are in excess of the amount of controversy requirement,  
20 exclusive of interests and costs, and Plaintiff, as well as most members of the proposed  
21 Classes, which total more than 100 class members, are citizens of states different from  
22 the state of Defendant.

23 10. This Court has personal jurisdiction over Defendant because Defendant  
24 has sufficient minimum contacts in California or otherwise intentionally did avail itself  
25 of the markets within California, through its sale of the Products in California and to  
26 California consumers.

27 11. Venue is proper in this District pursuant to 28 U.S.C. 1391(b)(2) because  
28

a substantial part of the events giving rise to this action occurred in this District and Defendant regularly conducts business throughout this District.

### **PARTIES**

12. Plaintiff Joshua Joseph is a citizen of California, residing in Los Angeles County. On or around February 2017, Mr. Joseph purchased the Crisco® 100% Extra Virgin Olive Oil No Stick Spray at Albertsons in Los Angeles, California. Mr. Joseph purchased the Product, reasonably relying on the Defendant’s “100% EXTRA VIRGIN Olive Oil” representation on the Product and believing that the Product was comprised solely of extra virgin olive oil, without any additional ingredients. Mr. Joseph would not have purchased the Product or would have paid significantly less for the Product had he known that the Product contained any ingredient other than pure oil. Mr. Joseph therefore suffered injury in fact and lost money as a result of Defendant’s misleading, false, unfair, and fraudulent practices, as described herein.

13. Defendant is incorporated in Ohio with its principal place of business in Orrville, Ohio. Defendant, directly and/or through its agents, formulates, manufactures, labels, markets, distributes, and sells the Products nationwide, including in California. Defendant has maintained substantial distribution and sales in this District. Based on information and belief, Defendant maintains a portion of its marketing in California, including senior marketing managers.

### **FACTUAL ALLEGATIONS**

#### **I. Defendant’s False And Misleading Advertising Of The Products As 100% Oil**

14. At all relevant times, Defendant directly and/or through its agents, has formulated, manufactured, labeled, marketed, distributed, and sold the Products across California and the United States. The Products are sold in store and/or online at various retailers and grocery stores including, but not limited to, Amazon.com, Albertsons, and Walmart.

1           15. At all relevant times, Defendant conspicuously represented on the front  
2 panel of the Products' labeling that each of the Products are "100% EXTRA VIRGIN  
3 Olive Oil" or "100% CANOLA Oil":<sup>2</sup>



25 <sup>2</sup> [https://www.walmart.com/ip/Crisco-No-Stick-Olive-Oil-100-Extra-Virgin-Cooking-Spray-5-](https://www.walmart.com/ip/Crisco-No-Stick-Olive-Oil-100-Extra-Virgin-Cooking-Spray-5-oz/10308243#read-more)  
26 [oz/10308243#read-more](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more) (last visited on December 4, 2017); [https://www.walmart.com/ip/Crisco-](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more)  
27 [Original-No-Stick-Spray-100-Canola-Oil-6-](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more)  
28 [oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=408](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more)  
[90275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more)  
[w111=online&w12=10308156&w13=&veh=sem#read-more](https://www.walmart.com/ip/Crisco-Original-No-Stick-Spray-100-Canola-Oil-6-oz/10308156?wmlspartner=wlp&adid=22222222227009483145&w10=&w11=g&w12=c&w13=40890275312&w14=pla78819867152&w15=9030938&w16=&w17=&w18=&w19=pla&w110=8175035&w111=online&w12=10308156&w13=&veh=sem#read-more) (last visited on December 4, 2017).





1 16. However, contrary to the representations made to Plaintiff and other  
2 consumers, both Products also contain Soy Lecithin, Dimethyl Silicone, and  
3 Propellant:<sup>3</sup>

4  
5 **INGREDIENTS: OLIVE OIL\*, SOY LECITHIN,**  
6 **DIMETHYL SILICONE (FOR ANTI-FOAMING),**  
7 **PROPELLANT.**  
8 **\*ADDS A TRIVIAL AMOUNT OF FAT**  
9

10  
11 **INGREDIENTS: CANOLA OIL\*, SOY LECITHIN,**  
12 **DIMETHYL SILICONE (FOR ANTI-FOAMING),**  
13 **PROPELLANT.**  
14 **\*ADDS A TRIVIAL AMOUNT OF FAT**  
15  
16

17 17. Therefore, Defendant's Products contain more than just oil.

18 18. According to 21 C.F.R. § 184.1400, "[c]ommercial lecithin [...] is  
19 isolated as a gum following hydration of solvent-extracted soy, safflower, or corn oils."  
20 "Most commercial lecithin is obtained in the process of degumming crude soy oil  
21 extracted from soy flakes with hexane."<sup>4</sup> Hexane, according to the University of  
22 California Berkeley Wellness website, is a "volatile solvent that's used [...] to extract  
23 oil from soybeans [...] [and] is classified as an air pollutant by the Environmental

24 <sup>3</sup> <https://www.amazon.com/Crisco-dinirao-Olive-Oil-Spray/dp/B000VDV0HI> (last visited on  
25 December 4, 2017); [https://www.amazon.com/Crisco-Original-No-Stick-Cooking-Spray/dp/B009LI30J0/ref=sr\\_1\\_5\\_a\\_it?ie=UTF8&qid=1508350282&sr=8-5&keywords=Crisco%2B100%25%2BCanola%2BOil%2BOriginal%2BNo%2BStick%2BSpray&th=1](https://www.amazon.com/Crisco-Original-No-Stick-Cooking-Spray/dp/B009LI30J0/ref=sr_1_5_a_it?ie=UTF8&qid=1508350282&sr=8-5&keywords=Crisco%2B100%25%2BCanola%2BOil%2BOriginal%2BNo%2BStick%2BSpray&th=1) (last visited on December 4, 2017)

26  
27 <sup>4</sup> <https://www.ams.usda.gov/sites/default/files/media/Lecithin%20bleached%20TR%202009.pdf>  
28 (last visited December 4, 2017).

1 Protection Agency (EPA) and as a neurotoxin by the Centers for Disease Control and  
2 Prevention (CDC).”<sup>5</sup>

3 19. According to the American Chemical Society, Dimethyl Silicone,  
4 otherwise known as Polydimethylsiloxane, is a chemical commonly used in lubricants  
5 and hydraulic fluids.<sup>6</sup>

6 20. The presence of the Additional Ingredients contradicts Defendant’s  
7 representation that the Products are 100% oil, making the 100% Oil representation false  
8 and misleading.

9 21. Plaintiff and other consumers did not, and are not expected to, look at the  
10 Nutrition Facts to ascertain what other ingredients would be in the Products, especially  
11 since Defendant’s 100% Oil representation is undoubtedly clear that the Product  
12 contains only oil.

## 13 **II. Defendant’s Listing of “Propellant” As An Ingredient Is Unlawful**

14 22. In addition to the 100% Oil representation, Defendant engages in unlawful  
15 conduct in connection with its use of the term “Propellant” on the Nutrition Facts of  
16 the Products.

17 23. For example, as depicted in Paragraph 16, Defendant lists “Propellant” as  
18 an ingredient in the Products, yet fails to list what “Propellant” is comprised of, let  
19 alone that Propellant is comprised of two natural gas liquids (“NGLs”), which are  
20 hydrocarbons in the same family as crude oil.<sup>7</sup>

21 24. In Defendant’s Material Safety Data Sheet (“MSDS”), issued on July 31,  
22 2012, the full composition of “Propellant” is disclosed.<sup>8</sup> The MSDS reveals that  
23 Propellant is not a single ingredient, but rather a term used to describe two NGLs,  
24

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25 <sup>5</sup> <http://www.berkeleywellness.com/healthy-eating/food-safety/article/hexane-soy-food> (last visited  
December 4, 2017)

26 <sup>6</sup> <https://www.acs.org/content/acs/en/molecule-of-the-week/archive/p/polydimethylsiloxane.html>  
(last visited December 4, 2017).

27 <sup>7</sup> <https://www.eia.gov/todayinenergy/detail.php?id=5930> (last visited December 4, 2017).

28 <sup>8</sup> Attached as **Exhibit “A.”**



1 Propane and Isobutane, which are classified as “Hazardous Ingredients” according to  
2 OSHA.<sup>9</sup>

3 25. Despite the presence of these ingredients, Defendant has failed to  
4 provide any disclosure or representation on the Products which would notify consumers  
5 that the Products contain Propane or Isobutane. As established, *infra*, in Paragraphs 26-  
6 36, Defendant has violated and is violating state and federal law by refraining from  
7 disclosing the common or usual name for Propellant.

8 26. Because Defendant and/or its agents formulated, manufactured, and  
9 labeled the Products, Defendant knew or should have known that the Products contain  
10 Propane and Isobutane.

11 27. Federal regulation establishes that “[i]ngredients required to be declared  
12 on the label or labeling of a food [...] except those ingredients exempted by § 101.100,  
13 shall be listed by common or usual name [...]” 21 C.F.R. § 101.4(a)(1).

14 28. Because Section 101.100 does not exempt Propane or Isobutane, they  
15 should be listed by their common or usual name. 21 C.F.R. § 101.100.

16 29. Under the FDA’s regulations, “[a] common or usual name of a food may  
17 be established by common usage or by establishment of a regulation in Subpart B of  
18 this part, in Part 104 of this chapter, in a standard of identity, or in other regulations in  
19 this chapter.” *Id.* at § 102.5(d).

20 30. No regulation in Subpart B of Chapter 21 establishes Propane or  
21 Isobutane as ‘Propellant’. *See generally id.* §§ 100, *et seq.* Part 104 of Chapter 1 is  
22 silent on the matter. *See id.* §§ 104.5, *et seq.* There is also no standard of identity for  
23 the term Propane or Isobutane. *See generally id.* §§ 130, *et seq.* Lastly, no other  
24 regulation in Chapter 1 of Title 21 of the Code of Regulations establishes “Propellant”  
25 as an alternate term for Propane or Isobutane. *See generally id.* §§ 1.1, *et seq.* Rather,  
26 the only alternate names provided for Propane in Chapter 1 are “dimethylmethane or  
27

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28 <sup>9</sup> *Id.*

1 propyl hydrid.” *Id.* at § 184.1655(a).

2 31. Section 102.5 also notes that “[t]he common or usual name of a food  
3 [...] shall accurately identify or describe, in as *simple and direct terms as possible*, the  
4 *basic nature of the food or its characterizing properties or ingredients.*” *Id.* at §  
5 102.5(a) (emphasis added).

6 32. Rather, in contravention of the standard set out in 21 C.F.R. § 102.5(a),  
7 Defendant utilizes the term “Propellant.”

8 33. If Defendant wished to comply with 21 C.F.R. § 102.5 and provide  
9 consumers with an accurate, simple, and direct term to describe the nature of  
10 Propellant, Defendant could and should have simply used the terms of the NGLs  
11 themselves, as Defendant used in its own MSDS, rather than concealing their identities.

12 34. However, because Defendant failed to list propane and isobutane, instead  
13 of propellant, Defendant has violated federal regulation.

14 35. Furthermore, under federal law, “[a] food shall be deemed to be  
15 misbranded-- [...] [u]nless its label bears (1) the common or usual name of the food, if  
16 any there be, and (2) in case it is fabricated from two or more ingredients, the common  
17 or usual name of each such ingredient.” 21 U.S.C. § 343(i).

18 36. Because “Propellant” is fabricated from “two or more ingredients,”  
19 Propane and Isobutane, and Defendant did not use the common or usual name of such  
20 ingredients, Propane and Isobutane, Defendant violated 21 U.S.C. § 343(i).

21 **III. Competitor Cooking Oil Sprays Representing to Be 100% Oil Are Able To**  
22 **Be Produced Without Additional Ingredients**

23 37. As demonstrated in the examples below, competing brands of cooking  
24 oil sprays that represent to be 100% oil are produced without the use of additional  
25  
26  
27  
28

ingredients.<sup>10</sup>



<sup>10</sup> <https://www.walmart.com/ip/Winona-Pure-100-Canola-Oil-5-fl-oz/45791848#read-more> (last visited December 4, 2017).

**IV. Plaintiff And Other Consumers Have Been Deceived And Harmed**

38. In reasonable reliance on Defendant's 100% Oil representation, and reasonably believing that the Products contain oil as the only ingredient, Plaintiff and other consumers purchased the Products.

39. Plaintiff and members of the Classes did not know, and had no reason to know, that the Products contained any ingredient other than oil. Had they known that the Products contained the Additional Ingredients and were not 100% oil, as represented, they would not have purchased them, or would have paid significantly less for them. Therefore, Plaintiff and members of the Classes have been deceived by Defendant's representations and have suffered injury in fact as a result of Defendant's improper and deceptive practices.

40. Because Defendant and/or its agents formulated, manufactured, and listed the ingredients on the Products, Defendant knew or should have known that the Products are not in fact "100% EXTRA VIRGIN Olive Oil" or "100% CANOLA OIL" as represented on the label.

41. Because Defendant and/or its agents formulated, manufactured, and listed the ingredients on the Products, Defendant knew or should have known that Propellant should have been listed by its common or usual name: propane and isobutane.

42. Defendant knew or should have known that Plaintiff and other members of the Classes, in purchasing the Products, would rely on Defendant's 100% Oil representation and therefore believe that the Products would not contain any additional ingredients.

43. Because the Products do not contain oil as the only ingredient, as reasonably expected by Plaintiff and other consumers, Defendant's uniform practice regarding the marketing and sale of the Products was and continues to be misleading and deceptive.

44. Each consumer has been exposed to the same or substantially similar

1 deceptive practice as at all relevant times, (1) Defendant uniformly represented on each  
2 of the Products that they were 100% oil, and (2) each of the Products contained  
3 ingredients in addition to oil.

4 45. Despite being deceived by Defendant, Plaintiff wishes and is likely to  
5 continue purchasing 100% oil products, including the Products, but only if they contain  
6 no additional ingredients. Although Plaintiff regularly visits stores where Defendant's  
7 cooking spray products are sold, because he was deceived in the past by Defendant,  
8 absent an injunction, he will be unable to rely with confidence on Defendant's  
9 representations in the future and will therefore abstain from purchasing the Products,  
10 even though he would like to purchase them. In addition, members of the proposed  
11 classes run the risk of continuing to purchase the Products, under the assumption that  
12 the Products are comprised solely of oil. Until Defendant reformulates the Products or  
13 Defendant is enjoined from making further false and misleading representations,  
14 Plaintiff and other consumers will continue to bear this ongoing injury.

15 46. As a result of its misleading business practice, and the harm caused to  
16 Plaintiff and other consumers, Defendant should be required to pay for all damages  
17 caused to consumers, including Plaintiff. Furthermore, Defendant should be enjoined  
18 from engaging in these deceptive practices.

19 **CLASS ACTION ALLEGATIONS**

20 47. Plaintiff brings this case as a class action that may be properly maintained  
21 under Federal Rule of Civil Procedure 23 on behalf of himself and all persons in the  
22 United States, who within the relevant statute of limitations periods, purchased any of  
23 the Products ("Nationwide Class").

24 48. Plaintiff also seeks to represent a subclass defined as all California  
25 residents, who within the relevant statute of limitations periods, purchased any of the  
26 Products ("California Subclass").

27 49. Plaintiff also seeks to represent a subclass defined as all California  
28

1 residents, who within the relevant statute of limitations periods, purchased any of the  
2 Products for personal, family, or household purposes (“California Consumer  
3 Subclass”).

4 50. Excluded from the Classes is Defendant, the officers and directors of the  
5 Defendant at all relevant times, members of its immediate families and its legal  
6 representatives, heirs, successors or assigns and any entity in which Defendant has or  
7 had a controlling interest. Any judge and/or magistrate judge to whom this action is  
8 assigned, and any members of such judges’ staffs and immediate families are also  
9 excluded from the Classes. Also excluded from the Classes are persons or entities that  
10 purchased the Products for sole purposes of resale.

11 51. Plaintiff hereby reserves the right to amend or modify the class definitions  
12 with greater specificity or division after having had an opportunity to conduct  
13 discovery.

14 52. Plaintiff is a member of all Classes.

15 53. Numerosity: According to information and belief, Defendant has sold  
16 tens of thousands of units of the Products. The Products is sold in store and/or online  
17 at various retailers and grocery stores including, but not limited to, Amazon.com,  
18 Ralphs, Albertsons, and Walmart. Accordingly, members of the Classes are so  
19 numerous that their individual joinder herein is impractical. While the precise number  
20 of class members and their identities are unknown to Plaintiff at this time, the number  
21 may be determined through discovery.

22 54. Common Questions Predominate: Common questions of law and fact  
23 exist as to all members of the Classes and predominate over questions affecting only  
24 individual class members. Common legal and factual questions include, but are not  
25 limited to, whether Defendant’s “100% EXTRA VIRGIN Olive Oil” and “100%  
26 CANOLA Oil” representations are false and misleading, and therefore violate various  
27 consumer protection statutes and common laws.



1        55. Typicality: Plaintiff's claims are typical of the claims of the Classes he  
2 seeks to represent in that Plaintiff and members of the Classes were all exposed to the  
3 same or substantially similar false and misleading representation, purchased the  
4 Products relying on the uniform false and misleading representations, and suffered  
5 losses as a result of such purchases.

6        56. Adequacy: Plaintiff is an adequate representative of the Classes because  
7 his interests do not conflict with the interests of the members of the Classes he seeks  
8 to represent, he has retained competent counsel experienced in prosecuting class  
9 actions, and he intends to prosecute this action vigorously. The interests of the  
10 members of the Classes will be fairly and adequately protected by the Plaintiff and his  
11 counsel.

12        57. Superiority: A class action is superior to other available means for the fair  
13 and efficient adjudication of the claims of the members of the Classes. The size of  
14 each claim is too small to pursue individually and each individual Class member will  
15 lack the resources to undergo the burden and expense of individual prosecution of the  
16 complex and extensive litigation necessary to establish Defendant's liability.  
17 Individualized litigation increases the delay and expense to all parties and multiplies  
18 the burden on the judicial system presented by the complex legal and factual issues of  
19 this case. Individualized litigation also presents a potential for inconsistent or  
20 contradictory judgments. The class action mechanism is designed to remedy harms  
21 like this one that are too small in value, although not insignificant, to file individual  
22 lawsuits for.

23        58. This lawsuit is maintainable as a class action under Federal Rule of Civil  
24 Procedure 23(b)(2) because Defendant has acted or refused to act on grounds that are  
25 generally applicable to the class members, thereby making final injunctive relief  
26 appropriate with respect to all Classes.

27        59. This lawsuit is maintainable as a class action under Federal Rule of Civil  
28

1 Procedure 23(b)(3) because the questions of law and fact common to the members of  
 2 the Classes predominate over any questions that affect only individual members, and  
 3 because the class action mechanism is superior to other available methods for the fair  
 4 and efficient adjudication of the controversy.

5 **FIRST CLAIM FOR RELIEF**  
 6 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**  
 7 **California Civil Code §§ 1750, *et seq.***  
 8 **(for the California Consumer Subclass)**

9 60. Plaintiff repeats the allegations contained in paragraphs 1-59 above as if  
 10 fully set forth herein.

11 61. Plaintiff brings this claim individually and on behalf of the members of  
 12 the proposed California Consumer Subclass against Defendant.

13 62. The Products are a “good” pursuant to Cal. Civ. Code § 1761(a), and the  
 14 purchases of the Products by Plaintiff and members of the California Consumer  
 15 Subclass constitute “transactions” pursuant to Cal. Civ. Code § 1761(e).

16 63. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or  
 17 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or  
 18 quantities which they do not have . . . .” By labeling the Products as “100% [] Oil”,  
 19 Defendant has represented and continues to represent that the Products are comprised  
 20 solely of oil, with no additional ingredients. However, the products contain the  
 21 Additional Ingredients. Therefore, Defendant has violated section 1770(a)(5) of the  
 22 CLRA.

23 64. Cal. Civ. Code § 1770(a)(7) prohibits “[r]epresenting that goods or services  
 24 are of a particular standard, quality, or grade, or that goods are of a particular style of  
 25 model, if they are another.” By falsely labeling the Products as “100% [] Oil”, Defendant  
 26 has represented and continues to represent that the Products are of a particular standard,  
 27 quality, and/or grade when they are not of that particular standard, quality, and/or grade.  
 28 Specifically, Defendant represents that the Products have the standard of being 100% oil

1 when in fact the Products also contain the Additional Ingredients. Therefore, Defendant  
2 has violated section 1770(a)(7) of the CLRA.

3 65. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services  
4 with intent not to sell them as advertised.” By falsely labeling the Products as “100% [  
5 Oil”, and then intentionally not selling the Products to meet the expectation that the  
6 Products contain only oil, Defendant has violated section 1770(a)(9) of the CLRA.

7 66. At all relevant times, Defendant knew or reasonably should have known  
8 that neither of the Products are 100% oil due to the Additional Ingredients, and that  
9 Plaintiff and other members of the California Consumer Subclass would reasonably  
10 and justifiably rely on the 100% Oil representation in purchasing the Products.

11 67. Plaintiff and members of the California Consumer Subclass reasonably  
12 and justifiably relied on Defendant’s misleading and fraudulent representations about  
13 the Products when purchasing them. Moreover, based on the very materiality of  
14 Defendant’s fraudulent and misleading conduct, reliance on such conduct as a material  
15 reason for the decision to purchase the Products may be presumed or inferred for  
16 Plaintiff and members of California Consumer Subclass.

17 68. Plaintiff and members of the California Consumer Subclass suffered  
18 injuries caused by Defendant because they would not have purchased the Products, or  
19 would have paid significantly less for the Products, had they known that Defendant’s  
20 conduct was misleading and fraudulent.

21 69. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the California  
22 Consumer Subclass seek damages, restitution, declaratory and injunctive relief, and all  
23 other remedies the Court deems appropriate for Defendant’s violations of the CLRA.

24 70. Pursuant to Cal. Civ. Code § 1782, on September 12, 2017, counsel for  
25 Plaintiff mailed a notice and demand letter by certified mail, with return receipt  
26 requested, to Defendant.<sup>11</sup> Defendant received the notice and demand letter on  
27

28 <sup>11</sup> See Exhibit “B.”

September 15, 2017.<sup>12</sup> Because Defendant has failed to fully rectify or remedy the damages caused within 30 days after receipt of the notice and demand letter, Plaintiff is timely filing this Class Action Complaint for a claim for damages under the CLRA.

**SECOND CLAIM FOR RELIEF**  
**Violation of California’s Unfair Competition Law (“UCL”),**  
**California Business & Professions Code §§ 17200, et seq.**  
*(for the California Subclass and California Consumer Subclass)*

71. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if fully set forth herein.

72. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

73. UCL §17200 provides, in pertinent part, that “unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising . . . .”

74. Under the UCL, a business act or practice is “unlawful” if it violates any established state or federal law.

75. Defendant’s false and misleading labeling of the Products therefore was and continues to be “unlawful” because it violates the CLRA, California’s False Advertising Law (“FAL”), the federal food labeling regulations outlined above, and other applicable laws as described herein.

76. As a result of Defendant’s unlawful business acts and practices, Defendant has and continues to unlawfully obtain money from Plaintiff and members of both the California Subclass and California Consumer Subclass.

77. Under the UCL, a business act or practice is “unfair” if the defendant’s conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the benefits for committing such acts or

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<sup>12</sup> *Id.*

1 practices are outweighed by the gravity of the harm to the alleged victims.

2 78. Defendant's conduct was and continues to be of no benefit to purchasers  
3 of the Products, as it is misleading, unfair, unlawful, and is injurious to consumers who  
4 rely on the representations about the Products but do not get what they were expecting.  
5 Deceiving consumer about the contents of the Products is of no benefit to the  
6 consumers. Therefore, Defendant's conduct was and continues to be "unfair."

7 79. As a result of Defendant's unfair business acts and practices, Defendant  
8 has and continues to unfairly obtain money from Plaintiff, and members of both the  
9 California Subclass and California Consumer Subclass.

10 80. Under the UCL, a business act or practice is "fraudulent" if it actually  
11 deceives or is likely to deceive members of the consuming public.

12 81. Defendant's conduct here was and continues to be fraudulent because it  
13 has and will continue to likely deceive consumers into believing that the Products are  
14 comprised of 100% oil, when they are not. Because Defendant misled and will likely  
15 continue to mislead Plaintiff and members of both the California Subclass and  
16 California Consumer Subclass, Defendant's conduct was "fraudulent."

17 82. As a result of Defendant's fraudulent business acts and practices,  
18 Defendant have and continues to fraudulently obtain money from Plaintiff, and  
19 members of both the California Subclass and California Consumer Subclass.

20 83. Plaintiff requests that this Court cause Defendant to restore this  
21 unlawfully, unfairly, and fraudulently obtained money to Plaintiff, and members of  
22 both the California Subclass and California Consumer Subclass, to disgorge the profits  
23 Defendant made on these transactions, and to enjoin Defendant from violating the UCL  
24 or violating it in the same fashion in the future as discussed herein. Otherwise, Plaintiff,  
25 and members of both the California Subclass and California Consumer Subclass, may  
26 be irreparably harmed and/or denied an effective and complete remedy if such an order  
27 is not granted.

**THIRD CLAIM FOR RELIEF**  
**Violation of California's False Advertising Law ("FAL"),**  
**California Business & Professions Code §§ 17500, et seq**  
***(for the California Subclass and California Consumer Subclass)***

84. Plaintiff repeats the allegations contained in paragraphs 1-83 above as if fully set forth herein.

85. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

86. California's FAL makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading." Cal. Bus. & Prof. Code §§ 17500.

87. Defendant has represented and continues to represent to the public, including Plaintiff and members of both the California Subclass and California Consumer Subclass, that the Products are "100% EXTRA VIRGIN Olive Oil" or "100% CANOLA OIL". Defendant's representations are false and misleading because the Products are not "100% EXTRA VIRGIN Olive Oil" or "100% CANOLA OIL[.]" However, in addition to the oil, the Products also contain the Additional Ingredients. Because Defendant has disseminated false and misleading information regarding their Products, and Defendant knew, or should have known through the exercise of reasonable care, that the information was and continues to be false and misleading, Defendant has violated the FAL and continues to do so.

88. As a result of Defendant's false advertising, Defendant has and continues to fraudulently obtain money from Plaintiff and members of both the California Subclass and California Consumer Subclass.



89. Plaintiff requests that this Court cause Defendant to restore this fraudulently obtained money to Plaintiff and members of both the California Subclass and California Consumer Subclass, to disgorge the profits Defendant made on these transactions, and to enjoin Defendant from violating the FAL or violating it in the same fashion in the future as discussed herein. Otherwise, Plaintiff and members of both the California Subclass and California Consumer Subclass may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

**FOURTH CLAIM FOR RELIEF**  
**Breach of Express Warranty,**  
**California Commercial Code § 2313**  
*(for the Nationwide Class; In the alternative, for the California Subclass and California Consumer Subclass)*

90. Plaintiff repeats the allegations contained in paragraphs 1-89 above as if fully set forth herein.

91. Plaintiff brings this claim individually and on behalf of the members of the proposed Nationwide Class. In the alternative, Plaintiff brings this claim individually, and on behalf of the proposed California Subclass and California Consumer Subclass

92. California Commercial Code § 2313 provides that “(a) Any affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise,” and “(b) Any description of the goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.” Cal. Comm. Code § 2313.

93. Defendant has expressly warranted that the Products are “100% EXTRA VIRGIN Olive Oil” or “100% CANOLA OIL”. These representation about the Products: (1) are affirmations of fact or promises made by Defendant, to consumers, that the Products are comprised solely of oil with no additional ingredients; (2) became part of the basis of the bargain to purchase the Products; and (3) created an express

1 warranty that the Products would conform to the affirmation of fact or promise. In the  
2 alternative, the representations are descriptions of good, which were made as part of  
3 the basis of the bargain to purchase the Products, and which created an express  
4 warranty that the Products would conform to the Products' description.

5 94. Plaintiff and members of the Classes reasonably and justifiably relied on  
6 the foregoing express warranty in purchasing the Products, believing that that the  
7 Products did in fact conform to the warranty.

8 95. Defendant has breached the express warranty made to Plaintiff and  
9 members of the Classes by failing to formulate, manufacture, and sell the Products to  
10 satisfy the warranty that the Products are 100% oil.

11 96. Plaintiff and members of the Classes did not obtain the full value of the  
12 Products as represented. If Plaintiff and members of both the California Subclass and  
13 California Consumer Subclass had known of the true nature of the Products, they would  
14 not have purchased the Products or would have paid less for the Products.

15 97. As a result, Plaintiff and members of the Classes have suffered injury and  
16 deserve to recover all damages afforded under the law.

17  
18 **FIFTH CLAIM FOR RELIEF**  
19 **Breach of Implied Warranty,**  
20 **California Commercial Code § 2314**  
*(for the Nationwide Class; In the alternative, for the California Subclass and*  
*California Consumer Subclass)*

21 98. Plaintiff repeats the allegations contained in paragraphs 1-97 above as if  
22 fully set forth herein.

23 99. Plaintiff brings this claim individually and on behalf of the members of  
24 the proposed Nationwide Class. In the alternative, Plaintiff brings this claim  
25 individually, and on behalf of the proposed California Subclass and California  
26 Consumer Subclass

27 100. California Commercial Code § 2314(1) provides that "a warranty that the  
28

1 goods shall be merchantable is implied in a contract for their sale if the seller is a  
2 merchant with respect to goods of that kind.” Cal. Comm. Code § 2314(1).

3 101. Furthermore, California Commercial Code § 2314(2) provides that  
4 “[g]oods to be merchantable must be at least... [c]onform to the promises or  
5 affirmations of fact made on the container or label if any.” Cal. Comm. Code §  
6 2314(2)(f).

7 102. Defendant is a merchant with respect to the sale of cooking sprays and  
8 oils, including the Products. Therefore, a warranty of merchantability is implied in  
9 every contract for sale of the Products to consumers.

10 103. In representing on the label that the Products are “100% EXTRA VIRGIN  
11 Olive Oil” and “100% CANOLA OIL[,]” Defendant has provided a promise or  
12 affirmation of fact to consumers that the Products only contain one ingredient, oil.

13 104. However, the Products also contain the Additional Ingredients.

14 105. Therefore, Defendant has breached its implied warranty of  
15 merchantability regarding the Products.

16 106. If Plaintiff and members of both the Classes had known that the Products  
17 did not conform to Defendant’s promise or affirmation of fact, they would not have  
18 purchased the Products or would have paid less for the Products. Therefore, as a direct  
19 and/or indirect result of Defendant’s breach, Plaintiff and members of the Classes have  
20 suffered injury and deserve to recover all damages afforded under the law.

21 **SIXTH CLAIM FOR RELIEF**  
22 **Common Law Fraud**  
*(for the Classes)*

23 107. Plaintiff repeats the allegations contained in paragraphs 1-106 above as if  
24 fully set forth herein.

25 108. Plaintiff brings this claim individually and on behalf of the members of  
26 the Classes against Defendant.

27 109. Defendant has willfully, falsely, and knowingly formulated the Products  
28

1 to not be comprised of 100% oil. Despite the presence of the Additional Ingredients,  
2 however, Defendant has intentionally represented that the Products are “100% EXTRA  
3 VIRGIN Olive Oil” or “100% CANOLA OIL”. Therefore, Defendant has made a  
4 knowing misrepresentations as to the Products.

5 110. Defendant’s misrepresentations were material (i.e., the type of  
6 misrepresentations to which a reasonable person would attach importance and would  
7 be induced to act thereon in making purchase decisions), because they relate to the  
8 composition of the Products.

9 111. Defendant knew or recklessly disregarded the fact that the Products were  
10 not 100% oil, but rather contained the Additional Ingredients as well.

11 112. Defendant intended that Plaintiff and other consumers rely on these  
12 representations, as the representations are made prominently on the front panel of the  
13 Products’ label.

14 113. Plaintiff and members of the Classes have reasonably and justifiably relied  
15 on Defendant’s misrepresentations when purchasing the Products and had the correct  
16 facts been known, would not have purchased the Products or would not have purchased  
17 them at the prices at which they were offered.

18 114. Therefore, as a direct and proximate result of Defendant’s fraud, Plaintiff  
19 and members of the Classes have suffered economic losses and other general and  
20 specific damages, including but not limited to the amounts paid for the Products, and  
21 any interest that would have accrued on those monies, all in an amount to be proven at  
22 trial.

23 **SEVENTH CLAIM FOR RELIEF**  
24 **Intentional Misrepresentation**  
***(for the Classes)***

25 115. Plaintiff repeats the allegations contained in paragraphs 1-114 above as if  
26 fully set forth herein.

27 116. Plaintiff brings this claim individually and on behalf of the members of  
28

1 the Classes against Defendant.

2 117. Defendant has labeled and marketed the Products in a manner indicating  
3 that the Products are comprised of solely oil. However, the Products are not solely  
4 comprised of oil, but contain the Additional Ingredients. Therefore, Defendant has  
5 made a misrepresentation as to the Products.

6 118. Defendant's representation regarding the Products is material to a  
7 reasonable consumer because it relates to the composition of the Products purchased  
8 by the consumer. A reasonable consumer would attach importance to such  
9 representation and would be induced to act thereon in making purchase decisions.

10 119. At all relevant times when such misrepresentation was made, Defendant  
11 knew that the representation was false and misleading, or have acted recklessly in  
12 making the representation and without regard to the truth.

13 120. Defendant intended that Plaintiff and other consumers rely on the  
14 representation made about the Products, as the representation is made on the front panel  
15 of the Products' label.

16 121. Plaintiff and members of the Classes have reasonably and justifiably relied  
17 on Defendant's intentional misrepresentation when purchasing the Products, and had  
18 the correct facts been known, would not have purchased the Products or would not have  
19 purchased them at the prices at which they were offered.

20 122. Therefore, as a direct and proximate result of Defendant's intentional  
21 misrepresentation, Plaintiff and members of the Classes have suffered economic losses  
22 and other general and specific damages, including but not limited to the amounts paid  
23 for the Products, and any interest that would have accrued on those monies, all in an  
24 amount to be proven at trial.

**EIGHTH CLAIM FOR RELIEF**  
**Negligent Misrepresentation**  
***(for the Classes)***

123. Plaintiff repeats the allegations contained in paragraphs 1-122 above as if fully set forth herein.

124. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendant.

125. Defendant has marketed the Products in a manner indicating that the Products are comprised of solely oil. However, the Products are not comprised solely of oil, but contain the Additional Ingredients. Therefore, Defendant has made a misrepresentation as to the Products.

126. Defendant's representation regarding the Products is material to a reasonable consumer because it relates to the composition of the Products purchased by consumers. A reasonable consumer would attach importance to such representation and would be induced to act thereon in making purchase decisions.

127. At all relevant times when such misrepresentation was made, Defendant knew or have been negligent in not knowing that that the representation was false and misleading. Defendant has no reasonable grounds for believing its representation was not false and misleading.

128. Defendant intended that Plaintiff and other consumers rely on the representation made about the Products, as the representation is made on the front panel of the Products label.

129. Plaintiff and members of the Classes have reasonably and justifiably relied on Defendant's negligent misrepresentation when purchasing the Products, and had the correct facts been known, would not have purchased the Products or would not have purchased them at the prices at which they were offered.

130. Therefore, as a direct and proximate result of Defendant's negligent misrepresentation, Plaintiff and members of the Classes have suffered economic losses



1 and other general and specific damages, including but not limited to the amounts paid  
2 for the Products, and any interest that would have accrued on those monies, all in an  
3 amount to be proven at trial.

4  
5 **NINTH CLAIM FOR RELIEF**  
6 **Quasi Contract/Unjust Enrichment/Restitution**  
7 ***(for the Classes)***

8 131. Plaintiff repeats the allegations contained in paragraphs 1-130 above as if  
9 fully set forth herein.

10 132. Plaintiff brings this claim individually and on behalf of the members of  
11 the Classes against Defendant.

12 133. As alleged herein, Defendant intentionally, recklessly, and/or negligently  
13 made a misleading representation about the Products to Plaintiff and members of the  
14 Classes to induce them to purchase the Products. Plaintiff and members of the Classes  
15 have reasonably relied on the misleading representation and have not received all of  
16 the benefits promised by Defendant. Plaintiff and members of the Classes therefore  
17 have been induced by Defendant's misleading and false representations about the  
18 Products, and paid for them when they would and/or should not have, or paid more  
19 money to Defendant for the Products than they otherwise would and/or should have  
20 paid.

21 134. Plaintiff and members of the Classes have conferred a benefit upon  
22 Defendant as Defendant have retained monies paid to them by Plaintiff and members  
23 of the Classes.

24 135. The monies received were obtained under circumstances that were at the  
25 expense of Plaintiff and members of the Classes – i.e., Plaintiff and members of the  
26 Classes did not receive the full value of the benefit conferred upon Defendant.

27 136. Therefore, it is inequitable and unjust for Defendant to retain the profit,  
28 benefit, or compensation conferred upon them without paying Plaintiff and the

1 members of the Classes back for the difference of the full value of the benefit compared  
2 to the value actually received.

3 137. As a direct and proximate result of Defendant's unjust enrichment,  
4 Plaintiff and members of the Classes are entitled to restitution, disgorgement, and/or  
5 the imposition of a constructive trust upon all profits, benefits, and other compensation  
6 obtained by Defendant from its deceptive, misleading, and unlawful conduct as alleged  
7 herein.

8 **PRAYER FOR RELIEF**

9 WHEREFORE, Plaintiff, individually and on behalf of all others similarly  
10 situated, seeks judgment against Defendant as follows:

11 a) For an order certifying the Nationwide Class, the California Subclass,  
12 and the California Consumer Subclass, under Rule 23 of the Federal Rules of Civil  
13 Procedure; naming Plaintiff as representative of all Classes; and naming Plaintiff's  
14 attorneys as Class Counsel to represent all Classes.

15 b) For an order declaring that Defendant's conduct violates the statutes  
16 and laws referenced herein;

17 c) For an order finding in favor of Plaintiff, and all Classes, on all counts  
18 asserted herein;

19 d) For an order awarding all damages in amounts to be determined by the  
20 Court and/or jury;

21 e) For prejudgment interest on all amounts awarded;

22 f) For interest on the amount of any and all economic losses, at the  
23 prevailing legal rate;

24 g) For an order of restitution and all other forms of equitable monetary  
25 relief;

26 h) For injunctive relief as pleaded or as the Court may deem proper;

27 i) For an order awarding Plaintiff and all Classes their reasonable  
28

1 attorneys' fees, expenses and costs of suit, including as provided by statute such as  
2 under California Code of Civil Procedure section 1021.5; and

3 j) For any other such relief as the Court deems just and proper.

4 **DEMAND FOR TRIAL BY JURY**

5 Plaintiff demands a trial by jury on all issues so triable.

6  
7 Dated: December 4, 2017

**FARUQI & FARUQI, LLP**

8 By: */s/ Benjamin Heikali*  
9 Benjamin Heikali, Bar No. 307466  
10 10866 Wilshire Blvd., Suite 1470  
11 Los Angeles, CA 90024  
12 Telephone: 424.256.2884  
13 Fax: 424.256.2885  
14 E-mail: bheikali@faruqilaw.com  
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**CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)**

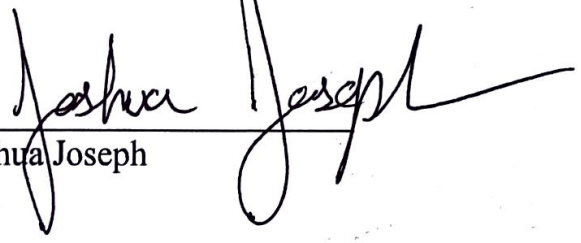
I, Joshua Joseph, declare as follows:

1. I am the Plaintiff in this action and a citizen of the State of California.

I have personal knowledge of the facts stated herein and, if called as a witness, I could testify competently thereto.

2. This Class Action Complaint is filed in the proper place of trial because I purchased one of the Products in this District and Defendant conducts a substantial amount of business in this District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on December 04, 2017 at Los Angeles, California.

  
\_\_\_\_\_  
Joshua Joseph

# EXHIBIT A

**J.M. Smucker Company**  
Cincinnati, Ohio 45217

# MATERIAL SAFETY DATA SHEET

**Issue Date: 7/31/12**

<b>Section 1</b>
<b>Emergency Telephone Number: 513-482-8000</b>
<b>Identity: Crisco No-Stick Cooking Spray, Crisco No-Stick Olive Cooking Spray, Crisco Professional (Vegetable and Olive) , Crisco Butter Flavor No-Stick Cooking Spray (all sizes)</b>
<b>Ingredients/Chemical Name: Vegetable Oil (Canola oil), Olive oil, soy lecithin, natural butter flavors with other natural flavors, Dimethyl Silicone and propellant</b>
<b>Other: Aerosol Pan Release</b>

<b>Section II – HAZARDOUS INGREDIENTS / IDENTITY INFORMATION</b>						
<b>Hazardous Ingredients as defined by OSHA, 29 CFR 1910.1200</b>						
Chemical Name	Common Name	CAS No.	ACGIH TLV	OSHA PEL	Other Limits Recommended	
Propane / Isobutane		68476-86-8	900 ppm	900 ppm		
Vegetable Oil			10 mg/m3	10 mg/m3		
DOT Classification: Aerosols, Flammable (each not exceeding 1 liter capacity) (UN 1950) Consumer commodity ORM-D						

<b>SECTION III – PHYSICAL / CHEMICAL CHARACTERISTICS</b>	
Boiling Point (F): -5.92°F Propellant	Specific Gravity (H2O=1): 0.85
Vapor Pressure (mm Hg): 60 +/-5 psig @70°F	Percent Volatile by Volume (%): 12-18%
Vapor Density (Air=1): Heavier than air	Evaporation Rate (nBuOAc=1): slower than B-acetate
Solubility in Water: Negligible	Appearance and Odor: Liquid under pressure

<b>Section IV – FLAMMABILITY AND REACTIVITY</b>	
Flash Point (Method Used): -131°F propellant 625°F concentrate	Explosive Limits: LEL: 1.8% UEL: 9.5%
Extinguishing Media: Use CO2 or dry chemical, water may be ineffective	
Special Fire Fighting Procedures: Wear self-contained breathing apparatus with a full-face piece operated in a positive pressure mode. Water fog may be used to help cool containers to help minimize pressure buildup. Vapors are heavier than air and may travel along the ground to sources of ignition	
Unusual Fire Hazards: Exposure to temperatures over 120° F may cause cans to burst. Reports have been made of ignition from pilot lights, heaters, etc. after vapors have been moved by ventilating fans. Exploding cans may travel great distances spewing burning material.	
Stability: Stable	Conditions to Avoid: None Known
Incompatibility (Materials to avoid): Strong oxidizers, heat and ignition sources	
Hazardous Decomposition / By Products: Oxides or carbon, nitrogen	Conditions to Avoid: None Known
Hazardous Polymerization: Will Not occur	



**SECTION V – HEALTH AND SAFETY DATA**

Route(s) of Entry: Eye Contact, inhalation and skin contact.

Health Hazards (Acute and Chronic): Eye contact can cause pain and slight corneal injury, vapors irritate eyes. Breathing may be mildly anesthetic, narcotic effects may be seen in the 500-10000 ppm range. Progressively higher levels can cause dizziness, unconsciousness and death. Prolonged or repeated skin contact may cause irritation, defatting.

Signs and Symptoms of Exposure: Eye contact may cause pain, tearing, itching, swelling and/or redness. Inhalation may cause dizziness, and at high levels unconsciousness or death. Prolonged skin contact may result in redness, itching and irritation.

Medical Conditions Generally Aggravated by Exposure: Pre-existing dermatitis conditions may be aggravated by prolonged contact with the product.

Emergency and First Aid Procedures: Eyes: Irrigate with flowing water at least 10 minutes. Hold lids open as it helps prevent scratching and minimizes irritation. Seek medical attention as material may become imbedded. Skin: Wash with soap and water. Consult a physician if irritation persists. Ingestion: Do not induce vomiting. Call a physician or poison control center immediately. Inhalation: Remove to fresh air. If not breathing, give mouth-to-mouth resuscitation. If breathing is difficult give oxygen. Call a physician as excessive exposure may cause irritation to the upper respiratory system.

**SECTION VI PRECAUTIONS FOR SAFE HANDLING AND USE**

Precautions to be Taken in Handling and Storing: Store below 120° F. Avoid direct sources of heat and ignition. Consult local fire marshal and insurance representative for specific storage requirements in your area.

Other Precautions: Do not use deformed or damaged cans. Keep out of reach of children.

Steps to be Taken in Case Material is Released or Spilled: Small spills: Absorb with inert material and dispose in trash. Large spills: Not likely with aerosol cans. Extinguish sources of ignition; ventilate area to remove propellant vapors. Be cautious of low-lying areas where vapors will accumulate. Do not enter areas without protective equipment. Do not allow to enter ground water or sewer systems. Absorb with inert material and place in waste disposal drums. Report spill if required by SARA III.

Waste Disposal Method: When disposing of unused containers, the preferred method is to send to a licensed reclaimer of incineration facility capable of handling aerosol cans. Do not puncture or incinerate without the proper equipment, as explosions are likely to occur with disastrous effects. In all instances dispose in accordance with federal, state and local guidelines.

**SECTION VII – SPECIAL PROTECTION INFORMATION**

Respiratory Protection (Specify Type): If using areas where the TV is likely to be exceeded, use a NIOSH/MSA approve respirator.

Ventilation	Local Exhaust: None required with normal use.	Special: None
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	Mechanical (General) : Acceptable	Other: None
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Eye Protection: None required with normal usage	Protective Gloves: None required with normal use. Protective gloves should be worn if prolonged direct contact is anticipated.
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Other Protective Equipment: None required with normal use.

Submitted for Review by:

D.A.Volker 07/2012

The submission of this MSDS may be required by law, but this is not an assertion that the substance is hazardous when used in accordance with proper safety practices and normal handling procedures. Data supplied is for use only in connection with occupational safety and health.

# EXHIBIT B



**FARUQI & FARUQI**  
LLP  
ATTORNEYS AT LAW

NEW YORK

CALIFORNIA

DELAWARE

PENNSYLVANIA

Ben Heikali  
bheikali@faruqilaw.com

September 12, 2017

**Via Certified U.S. Mail**  
**Return Receipt Requested**

The J.M. Smucker Company  
One Strawberry Lane  
Orrville, Ohio 44667

Re: *Class Action Notification and Pre-Lawsuit Demand Pursuant to California Civil Code Section 1782 and All Other Applicable Laws Requiring Pre-Suit Notice Concerning Crisco® 100% Canola Oil and 100% Extra Virgin Olive Oil no stick cooking sprays*

To Whom It May Concern:

Please be advised that Faruqi & Faruqi, LLP represents Joshua Joseph ("Client"), purchaser of Crisco® 100% Extra Virgin Olive Oil No Stick Spray. Our Client seeks to represent a class of consumers ("Class") who, within the relevant time period,<sup>1</sup> purchased Crisco® 100% Canola Oil No stick spray and/or Crisco® 100% Extra Virgin Olive Oil No Stick spray (the "Product(s)"). This letter provides The J.M. Smucker Company ("Defendant") with notice and demand for corrective action. All further communications intended for our Client must be directed through this office. Furthermore, this demand and notice letter is meant to comply with the requirements of *California Civil Code* §1782, and all other laws requiring a pre-suit demand and notice prior to litigation, on behalf of our Client and all others similarly situated should this matter proceed to litigation.

During the relevant time period, Defendant, directly and/or through its agents, has marketed, advertised, and labeled the Products as 100% Canola Oil and 100% Extra Virgin Olive Oil cooking sprays. However, neither of the Products are 100% oil as they both contain soy lecithin, dimethyl silicone, and propellant.

In or around February 2017 and at other times during the class period, our Client, a consumer residing in California, purchased the Crisco® 100% Extra Virgin Olive Oil No Stick Spray in Los Angeles County, California. Based on the representation that the Product is 100% Extra

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<sup>1</sup> From four years prior to the date of a prospective complaint filed by our Client.



**FARUQI & FARUQI**  
ATTORNEYS AT LAW

The J.M. Smucker Company

Page 2

September 12, 2017

Virgin Olive Oil, our Client reasonably believed that the Product was in fact purely extra virgin olive oil and did not contain other ingredients.

These business practices violate several California consumer protection statutes and laws. Pursuant to *California Civil Code* §1782(a)(1), our Client and the Class further provide notice that they believe Defendant has violated, and continues to violate the California Consumers Legal Remedies Act ("CLRA"), and specifically *California Civil Code* §1770, in at least the following manner:

1. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have (Section 1770(a)(5));
2. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Section 1770(a)(7)); and
3. Advertising goods or services with intent not to sell them as advertised (Section 1770(a)(9)).

It is our opinion that Defendant has also violated and continues to violate California Business and Professions Code Sections 17200 and 17500, in addition to common law and other statutory violations.

This letter not only serves as notification of Defendant's alleged violations of *California Civil Code* §1770 as outlined above, but also as our Client's demand, and all others similarly situated, that Defendant immediately corrects, repairs, refunds and otherwise rectifies the violations of § 1770 and the other statutes and causes of action referenced above, on a class-wide basis.

To cure the harmful conduct noted herein, we demand that Defendant: (1) cease and desist from advertising and selling of the Products in a false and misleading manner; (2) issue an immediate recall of the Products; and (3) make full restitution to the Class of all money obtained from the sales thereof.

We further demand that Defendant preserve all documents, emails, other electronically stored information and other evidence which refer or relate to any of the above-described practices, including, but not limited to:

1. All documents concerning the development and/or testing of the Products;
2. All documents concerning the formulation, composition, and/or ingredients of the Products;



**FARUQI & FARUQI**  
LLP  
ATTORNEYS AT LAW

The J.M. Smucker Company

Page 3

September 12, 2017

3. All documents concerning the decision to label, package, or advertise the Products as being 100% Canola Oil or 100% Extra Virgin Olive Oil
4. All documents concerning the manufacturing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
5. All documents concerning communications with any individual involved in the formulation, development, testing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
6. All documents concerning communications with purchasers of the Products;
7. All documents concerning the sales volume of the Products (in units and/or dollars), and the revenues derived therefrom; and
8. All documents concerning the identities and location of potential class members who purchased the Products.

Further, this letter serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should Defendant fail to rectify the unfair and deceptive scheme within thirty (30) days of receipt of this letter, our Client will file a class action complaint for actual damages, punitive damages, and all other damages permitted under the CLRA and the other statutes and causes of action available to him, along with interest, attorneys' fees and costs for Defendant's violations.

We are willing to discuss an appropriate way to remedy the demands asserted in this letter. If Defendant wishes to enter into such a discussion, please contact our firm immediately. If we do not hear from Defendant promptly, we will conclude that Defendant is not interested in resolving this dispute short of litigation in the form of a class action lawsuit. If Defendant contends that any statement in this letter is inaccurate in any respect, please provide our firm with Defendant's contentions and supporting documents promptly.

Please contact the undersigned if there are any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ben Heikali', written in a cursive style.

Ben Heikali

cc: Timothy J. Peter

**U.S. Postal Service™**  
**CERTIFIED MAIL® RECEIPT**  
 Domestic Mail Only
For delivery information, visit our website at [www.usps.com](http://www.usps.com)™.
 ORRVILLE, OH 44667  
**OFFICIAL USE**

Certified Mail Fee	\$3.35
Extra Services & Fees (check box, add fee)	\$2.75
<input type="checkbox"/> Return Receipt (hardcopy)	\$0.00
<input type="checkbox"/> Return Receipt (electronic)	\$0.00
<input type="checkbox"/> Certified Mail Restricted Delivery	\$0.00
<input type="checkbox"/> Adult Signature Required	\$0.00
<input type="checkbox"/> Adult Signature Restricted Delivery	\$0.00

0025  
43Postmark  
Here

Postage	\$0.49
Total Postage and Fees	\$6.59

09/12/2017

 Sent To **THE F.M. SHUCKER COMPANY**  
 Street and Apt. No., or PO Box No.  
**ONE STRAWBERRY LANE**  
 City, State, ZIP+4® **ORRVILLE, OH 44667**

PS Form 3800, April 2015 PSN 7530-02-000-9053

See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete Items 1, 2, and 3.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

## 1. Article Addressed to:

**THE F.M. SHUCKER COMPANY**  
**ONE STRAWBERRY LANE**  
**ORRVILLE, OH 44667**


9590 9402 3075 7124 5982 87

## 2. Article Number (Transfer from service label)

017 0660 0000 2722 6716

PS Form 3811, July 2015 PSN 7530-02-000-9053

**COMPLETE THIS SECTION ON DELIVERY**

## A. Signature

- ☐
- Agent
- 
- ☐
- Addressee

## B. Received by (Printed Name)

**SCOT THOMAS**

## C. Date of Delivery

**9-15-17**

- D. Is delivery address different from item 1?
- ☐
- Yes
- 
- If YES, enter delivery address below:
- ☐
- No

**PO BOX 280**  
**ORRVILLE OH 44667**

## 3. Service Type

- |  |   |
|--|---|
| <input type="checkbox"/> Adult Signature                               | <input type="checkbox"/> Priority Mail Express®                     |
| <input type="checkbox"/> Adult Signature Restricted Delivery           | <input type="checkbox"/> Registered Mail™                           |
| <input type="checkbox"/> Certified Mail®                               | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |

Domestic Return Receipt

**USPS TRACKING #**

9590 9402 3075 7124 5982 87

**United States**  
**Postal Service**

• Sender: Please print your name, address, and ZIP+4® in this box•

**Faruqi & Faruqi, LLP**  
**10866 Wilshire Blvd., Ste.1470**  
**Los Angeles, CA 90024**
**First-Class Mail**  
**Postage & Fees Paid**  
**USPS**  
**Permit No. G-10**


# USPS Tracking® Results

[FAQs > \(http://faq.usps.com/?articleId=220900\)](http://faq.usps.com/?articleId=220900)[Track Another Package](#) +[Remove](#) X

Tracking Number: 70170660000027226716



Delivered

**On Time****Expected Delivery On:** Friday, September 15, 2017 ⓘ**Product & Tracking Information**[See Available Actions](#)**Postal Product:**  
First-Class Mail®**Features:**  
Certified Mail™**See tracking for related item:** 9590940230757124598287 (/go/TrackConfirmAction?tLabels=9590940230757124598287)

DATE &amp; TIME

STATUS OF ITEM

LOCATION

September 15, 2017, 8:29 am

Delivered

ORRVILLE, OH 44667



Your item was delivered at 8:29 am on September 15, 2017 in ORRVILLE, OH 44667.

September 15, 2017, 7:53 am

Available for Pickup

ORRVILLE, OH 44667

September 15, 2017, 7:30 am

Available for Pickup

ORRVILLE, OH 44667

September 15, 2017, 7:06 am

Arrived at Unit

ORRVILLE, OH 44667

[See More](#) ∨**Available Actions**[Text & Email Updates](#)[See Less](#) ^**Can't find what you're looking for?**

Go to our FAQs section to find answers to your tracking questions.

[FAQs \(http://faq.usps.com/?articleId=220900\)](http://faq.usps.com/?articleId=220900)