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12
13 **UNITED STATES DISTRICT COURT**
NORTHERN DISTRICT OF CALIFORNIA

14
15 TAMARA FRANKEL and
NATASHA PARACHA, On Behalf
16 of Themselves and All Others
17 Similarly Situated,

18 Plaintiffs,

19 v.

20
21 BOB'S RED MILL NATURAL
FOODS, INC., an Oregon
22 Corporation.

23 Defendant.
24

Case No.:

CLASS ACTION COMPLAINT FOR:

1. VIOLATION OF THE UNFAIR COMPETITION LAW, Business and Professions Code §17200 *et seq.*; and
2. VIOLATION OF THE CONSUMERS LEGAL REMEDIES ACT, Civil Code §1750 *et seq.*

DEMAND FOR JURY TRIAL

1 Plaintiffs Tamara Frankel and Natasha Paracha bring this action on behalf of
2 themselves and all others similarly situated against Defendant Bob’s Red Mill
3 Natural Foods and states:

4 **FACTUAL ALLEGATIONS**

5 1. Defendant manufactures, markets, sells, and distributes various food
6 products under its Bob’s Red Mill brand. This lawsuit concerns two of those
7 products: Steel Cut Oats and Old Fashioned Rolled Oats (the “Products”).¹

8 2. In marketing its Products, Defendant seeks to appeal to the consuming
9 public’s ever-growing health consciousness and increasing appetite for nutritious,
10 wholesome foods that will benefit their health and avoidance of highly-processed
11 foods with non-healthy attributes such as GMOs, artificial additives, gluten, added
12 sugars, and hydrogenated oils.

13 3. Defendant makes several detailed representations about the health
14 attributes of its Products on the front of the Product packages. Defendant represents
15 on the front of its Products that the Products are “Whole Grain”. The front of the Old
16 Fashioned Rolled Oats further states that the Product is “Gluten Free”, “Wheat Free”,
17 “Dairy Free”, and “purity tested”. The front of the Steel Cut Oats further states that
18 the Product is a “Friend of the Heart” and is “wholesome”, and the Product package
19 further boasts “To Your Good Health” and “You Can See Our Quality”. These
20 representations are collectively referred to as the “Product healthy attribute
21 representations”.

22 4. The Product healthy attribute representations lead reasonable consumers
23 to believe the Products will foster their “good health” and not potentially harm their
24 health.

25 5. However, recent testing by the Environmental Working Group (EWG),
26

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¹ Plaintiffs reserve the right to add additional products upon completion of discovery.
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1 a nonprofit organization dedicated to protecting human health and the environment,
2 revealed that Defendant's Products contain glyphosate, one of the most widely used
3 herbicides in the United States. EWG's Children's Health Initiative, "Breakfast With
4 a Dose of Roundup?" August 15, 2018, *available at*
5 <https://www.ewg.org/childrenshealth/glyphosateincereal/#.W3TTbPZFW2w>
6 ("EWG") (last visited August 23, 2018). Each year, more than 250 million pounds of
7 glyphosate is sprayed on American crops, including wheat, barley, and oats just
8 before they are harvested. *Id.*

9 6. The International Agency for Research on Cancer, part of the World
10 Health Organization, has determined that glyphosate is "probably carcinogenic to
11 humans". IARC Monographs Volume 112: evaluation of five organophosphate
12 insecticides and herbicides, March 20, 2015, *available at*
13 <http://www.iarc.fr/en/media-centre/iarcnews/pdf/MonographVolume112.pdf> (last
14 visited August 23, 2018). Glyphosate is even more dangerous for children, who are
15 more susceptible to carcinogens. *See EWG.*

16 7. Because it is a carcinogen with no nutritional value, the presence of *any*
17 amount of glyphosate in the Products is material to reasonable consumers. No
18 reasonable consumer would purchase the Products knowing that they contained
19 glyphosate.

20 8. Even though Defendant knew that the Products contain the probable
21 carcinogen glyphosate or, at a minimum, that it could not guarantee the Products did
22 not contain glyphosate given its wide use as a pesticide, Defendant does not disclose
23 this information on the front of the Product labels, choosing instead to specifically
24 identify only the healthy attributes of its Products. Nor does Defendant include this
25 information on the back or sides of the packages, where more detailed Product
26 information is generally found, instead choosing to repeat and reinforce the healthy
27 attributes identified on the front of the packages. In fact, nowhere on its Product

1 packages – inside or out – does Defendant disclose that the Products contain or likely
2 contain glyphosate, such that Defendant’s Product healthy attribute representations
3 are misleading half-truths.

4 9. As the manufacturer and distributor of the Products, Defendant knew
5 that the Products contained or likely contained glyphosate. By contrast, Plaintiffs
6 and consumers did not and do not have access to such information. Nor is that fact
7 easily discovered by Plaintiffs and consumers before purchase of the Products.
8 Because Defendant had knowledge that the Products contain or likely contain
9 glyphosate, and Plaintiffs and consumers did not, Defendant had a duty to disclose
10 that fact—and that glyphosate is a probable carcinogen—to consumers, which it did
11 not do.

12 10. Consumers have a reasonable expectation that material product
13 information, such as the presence of a probable carcinogen like glyphosate, will be
14 provided by a product manufacturer, especially when the manufacturer affirmatively
15 identifies the health-related attributes of its Products such as “Gluten Free”, “Whole
16 Grain”, and “Friend of the Heart”. By only identifying the health attributes of its
17 Products and failing to disclose that the Products contain or likely contain glyphosate,
18 Defendant actively concealed this information from Plaintiffs, Class members, and
19 the general public. *See* representative Product labels, attached hereto as Exhibit A.

20 11. Defendant had a duty to disclose the fact that the Products contain or
21 likely contain glyphosate and that glyphosate is a probable carcinogen, which was
22 known to Defendant and unknown and/or not reasonably accessible to Plaintiffs and
23 consumers, on its Product labels where the disclosure could be viewed by Plaintiffs
24 and consumers at the point-of-sale.

25 12. By failing to disclose the fact that the Products contain or likely contain
26 glyphosate and continuing to sell the Products in packages omitting this information,
27 Defendant has and continues to deceive and mislead consumers, including Plaintiffs.

1 13. As a result of Defendant's misleading half-truths and material
2 nondisclosures, consumers will continue to purchase Defendant's Products that,
3 unbeknownst to them, contain or likely contain glyphosate.

4 14. Plaintiffs bring this action on behalf of themselves and other similarly
5 situated consumers who purchased the Products to halt the dissemination of this
6 misleading and deceptive advertising message, correct the misleading perception it
7 has created in the minds of consumers, and obtain redress for those who have
8 purchased the Products. Based on violations of California unfair competition laws
9 (detailed below), Plaintiffs seek declaratory, injunctive, and restitutionary relief for
10 consumers who purchased the Products.

11 **JURISDICTION AND VENUE**

12 15. This Court has original jurisdiction pursuant to 28 U.S.C. §1332(d)(2).
13 The matter in controversy, exclusive of interest and costs, exceeds the sum or value
14 of \$5,000,000 and is a class action in which there are in excess of 100 class members
15 and some members of the Class are citizens of a state different from Defendant.

16 16. This Court has personal jurisdiction over Defendant because Defendant
17 is authorized to conduct and do business in California, including this District.
18 Defendant marketed, promoted, distributed, and sold the Products in California, and
19 Defendant has sufficient minimum contacts with this State and/or sufficiently availed
20 itself of the markets in this State through its promotion, sales, distribution, and
21 marketing within this State, including this District, to render the exercise of
22 jurisdiction by this Court permissible.

23 17. Venue is proper in this Court pursuant to 28 U.S.C. §§1391(a) and (b)
24 because a substantial part of the events giving rise to Plaintiff Frankel's claims
25 occurred while she resided in this judicial district. Venue is also proper under 18
26 U.S.C. §1965(a) because Defendant transacts substantial business in this District.

27 //

PARTIES

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2 18. Plaintiff Tamara Frankel resides in San Francisco County, California.
3 Throughout the relevant period, Plaintiff Frankel routinely was exposed to, saw, and
4 relied upon Defendant's Product healthy attribute representations by reading the
5 Bob's Red Mill Steel Cut Oats Product labels (both the large package and the smaller
6 single serving packages) at various stores in the San Francisco Bay area, including
7 Safeway in Santa Clara, California, Draeger's in Los Altos, California, and Whole
8 Foods in San Francisco, California. Plaintiff Frankel purchased the Products for
9 approximately \$2 of the single serving and \$7-8 for the larger package. At all
10 relevant times, Plaintiff was unaware that the Products contained glyphosate or that
11 Defendant could not guarantee they did not contain glyphosate. Had Defendant
12 disclosed on the packages that the Products contained or may contain glyphosate,
13 Plaintiff Frankel would have seen and read that disclosure and would not have
14 purchased them. As a result, Plaintiff Frankel suffered injury in fact and lost money
15 at the time of purchase.

16 19. Plaintiff Natasha Paracha resides in Los Angeles County, California.
17 Throughout the relevant period, Plaintiff Paracha routinely was exposed to, saw, and
18 relied upon Defendant's Product healthy attribute representations by reading the
19 Bob's Red Mill Steel Cut Oats and Bob's Red Mill Old Fashioned Rolled Oats
20 Product labels at various stores in her area, including the Cal Poly Farms store in
21 Pomona, California and Sprouts in Brea, California. Plaintiff Paracha purchased the
22 Products for approximately \$6-8/package. At all relevant times, Plaintiff was
23 unaware that the Products contained glyphosate or that Defendant could not guarantee
24 they did not contain glyphosate. Had Defendant disclosed on the packages that the
25 Products contained or may contain glyphosate, Plaintiff Paracha would have seen and
26 read that disclosure and would not have purchased them. As a result, Plaintiff
27 Paracha suffered injury in fact and lost money at the time of purchase.

1 20. Defendant Bob’s Red Mill Natural Foods is an employee-owned
2 company whose headquarters is located at 13521 SE Pheasant Ct, Milwaukie, OR
3 97222. Bob’s Red Mill Natural Foods manufactures, advertises, markets, distributes,
4 and/or sells the Products to tens of thousands of consumers in California and
5 throughout the United States.

6
7 **CLASS DEFINITION AND ALLEGATIONS**

8 21. Plaintiffs brings this action on behalf of themselves and all other
9 similarly situated consumers pursuant to Rule 23(a), (b)(2), and (b)(3) of the Federal
10 Rules of Civil Procedure and seeks certification of the following Class:

11 **Multi-State Class Action**

12 All consumers who, within the applicable statute of limitations
13 period until the date notice is disseminated, purchased the Products
14 in California, Florida, Illinois, Massachusetts, Michigan, Minnesota,
Missouri, New Jersey, New York, and Washington.²

15 Excluded from this Class are Defendant and its officers,
16 directors, employees and those who purchased the Products
17 for the purpose of resale.

18 22. In the alternative to a Multi-State Class, Plaintiffs seek certification of the
19 following California-Only Class:

20 **California-Only Class Action**

21 All California consumers who within the applicable statute
22 of limitations period until the date notice is disseminated,
purchased the Products.

23 ² The States in the Multistate Class are limited to those States with similar consumer
24 fraud laws as applied to the facts of this case: California (Cal. Bus. & Prof. Code
25 §17200, *et seq.*); Florida (Fla. Stat. §501.201, *et seq.*); Illinois (815 Ill. Comp. Stat.
26 502/1, *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A, *et seq.*); Michigan (Mich.
27 Comp. Laws §445.901, *et seq.*); Minnesota (Minn. Stat. §325F.67, *et seq.*);
Missouri (Mo. Rev. Stat. 010, *et seq.*); New Jersey (N.J. Stat. §56:8-1, *et seq.*); New
28 York (N.Y. Gen. Bus. Law §349, *et seq.*); and Washington (Wash. Rev. Code
§19.86.010, *et seq.*). These statutes are referred to as “Similar Consumer Fraud
Statutes.”

1 Excluded from this Class are Defendant and its officers,
2 directors and employees, and those who purchased the
Products for the purpose of resale.

3 23. **Numerosity.** The members of the Classes are so numerous that joinder
4 of all members of the Classes is impracticable. Plaintiffs are informed and believe
5 that the proposed Classes contain thousands of purchasers of the Products who have
6 been damaged by Defendant's conduct as alleged herein. The precise number of
7 Class members is unknown to Plaintiffs.

8 24. **Existence and Predominance of Common Questions of Law and**
9 **Fact.** This action involves common questions of law and fact, which predominate
10 over any questions affecting individual Class members. These common legal and
11 factual questions include, but are not limited to, the following:

- 12 (a) whether Defendant's alleged conduct is unlawful;
13 (b) whether the alleged conduct constitutes violations of the laws asserted;
14 (c) whether Defendant engaged in misleading and/or deceptive advertising;

15 and

16 (d) whether Plaintiffs and Class members are entitled to appropriate
17 remedies, including restitution and injunctive relief.

18 25. **Typicality.** Plaintiffs' claims are typical of the claims of the members
19 of the Classes because, *inter alia*, all Class members were injured through the
20 uniform misconduct described above. Plaintiffs are also advancing the same claims
21 and legal theories on behalf of themselves and all Class members.

22 26. **Adequacy of Representation.** Plaintiffs will fairly and adequately
23 protect the interests of Class members. Plaintiffs have retained counsel experienced
24 in complex consumer class action litigation, and Plaintiffs intend to prosecute this
25 action vigorously. Plaintiffs have no adverse or antagonistic interests to those of the
26 Classes.

27 27. **Superiority.** A class action is superior to all other available means for
28

1 the fair and efficient adjudication of this controversy. The damages or other financial
2 detriment suffered by individual Class members is relatively small compared to the
3 burden and expense that would be entailed by individual litigation of their claims
4 against Defendant. It would thus be virtually impossible for members of the Classes,
5 on an individual basis, to obtain effective redress for the wrongs done to them.
6 Furthermore, even if Class members could afford such individualized litigation, the
7 court system could not. Individualized litigation would create the danger of
8 inconsistent or contradictory judgments arising from the same set of facts.
9 Individualized litigation would also increase the delay and expense to all parties and
10 the court system from the issues raised by this action. By contrast, the class action
11 device provides the benefits of adjudication of these issues in a single proceeding,
12 economies of scale, and comprehensive supervision by a single court, and presents
13 no unusual management difficulties under the circumstances here.

14 28. Unless a Class is certified, Defendant will retain monies received as a
15 result of its conduct that were taken from Plaintiffs and Class members.

16 **COUNT I**

17 **Violation of Business & Professions Code §17200, et seq.**
18 **and Similar Consumer Fraud Statutes, supra note 2**
19 **(On Behalf of the Multi-State or California-Only Class)**

20 29. Plaintiffs repeat and re-allege the allegations contained in the
21 paragraphs above, as if fully set forth herein.

22 30. Plaintiffs bring this claim individually and on behalf of the Classes.

23 31. As alleged herein, Plaintiffs have suffered injury in fact and lost money
24 or property at the time of purchase as a result of Defendant's conduct because they
25 purchased Defendant's Products in reliance on Defendant's Product healthy attribute
26 representations. Had Plaintiffs known that the Products contained glyphosate or that
27 Defendant could not guarantee the Products did not contain glyphosate, Plaintiffs

1 would not have purchased the Products.

2 32. The Unfair Competition Law, Business & Professions Code §17200, *et*
3 *seq.* (“UCL”) prohibits any “unlawful,” “fraudulent,” or “unfair” business act or
4 practice and any false or misleading advertising. The Similar Consumer Fraud
5 Statutes likewise prohibit the use of unfair or deceptive practices in the course of
6 trade or commerce, and are to be liberally construed.

7 33. In the course of conducting business, Defendant committed “unlawful”
8 business practices by, *inter alia*, making the Product healthy attribute representations,
9 which are misleading half-truths, and the material omissions (which also constitutes
10 advertising within the meaning of §17200) regarding the Products’ labeling, as set
11 forth more fully herein, and violating Civil Code §§ 1552, 1573, 1709, and 1711, the
12 California Legal Remedies Act, Civil Code § 1750, *et seq.*, Business & Professions
13 Code §§ 17200, *et seq.* and 17500, *et seq.*, the Similar Consumer Fraud Statutes, and
14 the common law.

15 34. Plaintiffs reserve the right to allege other violations of law, which
16 constitute other unlawful business acts or practices. Such conduct is ongoing and
17 continues to this date.

18 35. In the course of conducting business, Defendant committed “unfair”
19 business acts or practices by, *inter alia*, making the Product healthy attribute
20 representations, which are misleading half-truths, and material omissions (which also
21 constitutes advertising within the meaning of § 17200) regarding the Products’
22 labeling, as set forth more fully herein. There is no societal benefit from false
23 advertising, only harm. While Plaintiffs and the public at large were and continue to
24 be harmed, Defendant has been unjustly enriched by its misleading half-truths and
25 material omissions. Because the utility of Defendant’s conduct (zero) is outweighed
26 by the gravity of harm to Plaintiffs, consumers, and the competitive market,
27 Defendant’s conduct is “unfair” having offended an established public policy.

1 Further, Defendant engaged in immoral, unethical, oppressive, and unscrupulous
2 activities that are substantially injurious to the public at large.

3 36. There were reasonable available alternatives to further Defendant's
4 legitimate business interests, other than the conduct described herein.

5 37. In the course of conducting business, Defendant committed "fraudulent
6 business act[s] or practices" and deceptive or misleading advertising by, *inter alia*,
7 making the Product healthy attribute representations, which are misleading half-
8 truths, and the material omissions (which also constitutes advertising within the
9 meaning of §17200) regarding the Products as set forth more fully herein.

10 38. Defendant's actions, claims, and misleading statements, as more fully
11 set forth above, are misleading and/or likely to deceive the consuming public within
12 the meaning of Business & Professions Code §17200, *et seq.* and the Similar
13 Consumer Fraud Statutes.

14 39. Plaintiffs relied on Defendant's Product healthy attribute
15 representations and was in fact injured as a result of those misleading half-truths and
16 material omissions. Plaintiffs have suffered injury in fact and lost money as a result
17 of their purchases of Defendant's Products.

18 40. Unless restrained and enjoined, Defendant will continue to engage in
19 the above described conduct. Accordingly, injunctive relief is appropriate.

20 41. Plaintiffs, on behalf of themselves, all others similarly situated, and the
21 general public, seeks declaratory relief and an injunction prohibiting Defendant from
22 continuing such practices, restitution of all money obtained from Plaintiffs and the
23 members of the Classes collected as a result of unfair competition, and all other relief
24 this Court deems appropriate, consistent with Business & Professions Code § 17203
25 and the Similar Consumer Fraud Statutes.

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2 **COUNT II**
3 **Violations of the Consumers Legal Remedies Act – Civil Code § 1750 *et seq.***
4 **(On Behalf of the California-Only Class)**

5 42. Plaintiffs repeat and re-allege the allegations contained in the
6 paragraphs above, as if fully set forth herein.

7 43. Plaintiffs brings this claim individually and on behalf of the California-
8 Only Class.

9 44. This cause of action is brought pursuant to the Consumers Legal
10 Remedies Act, California Civil Code § 1750, *et seq.* (the “Act”).

11 45. Plaintiffs are consumers as defined by California Civil Code § 1761(d).
12 The Products are “goods” within the meaning of the Act.

13 46. Defendant violated and continues to violate the Act by engaging in the
14 following practices proscribed by California Civil Code § 1770(a) in transactions
15 with Plaintiffs and the California-Only Class which were intended to result in, and
16 did result in, the sale of the Products:

17 (5) Representing that [the Products have] . . . characteristics, . . . uses [and]
18 benefits . . . which [they do] not have

19 * * *

20 (7) Representing that [the Products] are of a particular standard, quality, or
21 grade . . . if they are of another.

22 47. Defendant violated the Act by making the Product healthy attribute
23 representations, which are misleading half-truths, and the material omissions, as
24 described above, when it knew or should have known that the misleading half-truths
25 and material omissions were misleading and deceptive.

26 48. Pursuant to California Civil Code § 1782(d), Plaintiffs and the
27 California-Only Class seek a Court Order declaring Defendant to be in violation of
28 the CLRA, enjoining the above-described wrongful acts and practices of Defendant,

1 and ordering restitution and disgorgement.

2 49. Pursuant to § 1782 of the Act, Plaintiffs notified Defendant in writing
3 by certified mail of the particular violations of § 1770 of the Act and demanded that
4 Defendant rectify the problems associated with the actions detailed above and give
5 notice to all affected consumers of Defendant's intent to so act. A copy of the letter
6 is attached hereto as Exhibit B.

7 50. If Defendant fails to rectify or agree to rectify the problems associated
8 with the actions detailed above and give notice to all affected consumers within 30
9 days of the date of written notice pursuant to § 1782 of the Act, Plaintiffs will amend
10 this Complaint to add claims for actual, punitive, and statutory damages as
11 appropriate.

12 51. Pursuant to § 1780 (d) of the Act, attached hereto as Exhibit C is the
13 affidavit showing that this action has been commenced in the proper forum.

14
15 **PRAYER FOR RELIEF**

16 Wherefore, Plaintiffs pray for a judgment:

- 17 A. Certifying the Classes as requested herein;
18 B. Issuing an order declaring that Defendant is in violation of the UCL and
19 CLRA;
20 C. Enjoining Defendant's conduct;
21 D. Awarding restitution and disgorgement of Defendant's revenues to
22 Plaintiffs and the proposed Class members;
23 E. Awarding attorneys' fees and costs; and
24 F. Providing such further relief as may be just and proper.

25 **DEMAND FOR JURY TRIAL**

26 Plaintiffs hereby demand a trial of their claims by jury to the extent
27 authorized by law.

1 Dated: August 31, 2018

BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.

/s/Patricia N. Syverson

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail notice list, and I hereby certify that I have mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF participants indicated on the Manual Notice list.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed the 31st day of August 2018.

/s/Patricia N. Syverson
Patricia N. Syverson

EXHIBIT A



Nutrition Facts

Serving Size: 1/2 cup dry (48g)

Servings Per Container: About 19

Amount Per Serving

Calories 190 Calories from Fat 30

% Daily Value*

Total Fat 3.5g 5%

Saturated Fat 0.5g 3%

Trans Fat 0g 0%

Cholesterol 0mg 0%

Sodium 0mg 0%

Total Carbohydrate 32g 11%

Dietary Fiber 5g 20%

Soluble Fiber 1.6g

Insoluble Fiber 3.4g

Sugars 1g

Protein 7g

Vitamin A 0% • Vitamin C 0%

Calcium 2% • Iron 15%

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

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carb.		300g	375g
Dietary Fiber		25g	30g

INGREDIENT: Whole Grain Oats.

Bob's Red Mill Natural Foods, Inc.
13521 SE Pheasant Court
Milwaukie, Oregon 97222

Manufactured in a facility that also uses tree nuts and soy.



Free Oatmeal Toffee Cookies

This invention is the brain-child of Red Mill hero, Heidi M. Her culinary inspiration blew us a way of decadence. Thanks Heidi. You're a genius!

- 1/2 tsp Baking Soda
- 1/2 tsp Baking Powder
- 1/2 tsp Sea Salt
- 1 tsp Xanthan Gum
- 1 cup Bob's Red Mill® Gluten Free All Purpose Baking Flour
- 1/2 cup Vegetable Shortening
- 1/2 cup Brown Sugar
- 1/2 cup Granulated Sugar
- 1 Egg
- 1 tsp Vanilla
- 2 tsp Water
- 1 1/2 cups Bob's Red Mill® Gluten Free Rolled Oats
- 1 cup Toffee Baking Bits

Sift together dry ingredients except oats and toffee and set aside. Cream shortening and sugars together. Add egg, vanilla and water and mix until well blended. Add flour mixture and mix until just combined. Stir in oatmeal and toffee bits. Cover cookie sheet with parchment paper and place rounded balls of dough about 3 inches apart on the sheet. Bake at 350° F for 10-12 minutes. Allow to cool before removing from sheet. Makes 1 dozen cookies.

NUTRITIONAL INFORMATION • Serving 40 Cookies: Calories 100, Calories from Fat 50, Total Fat 4.5g, Saturated Fat 1.5g, Cholesterol 5mg, Sodium 75mg, Total Carbohydrate 13g, Dietary Fiber 0g, Sugars 9g and Protein 1g.

WHOLE GRAIN FOODS FOR EVERY MEAL OF THE DAY®

DID YOU KNOW?

The USDA's dietary guidelines call for three 16-gram servings of whole grain foods every day. Eating just a single portion of Bob's Red Mill® Gluten Free Rolled Oats provides all three recommended servings.

MAKE THE WORLD'S BEST OATMEAL AT HOME

It's so simple. Bring 2 cups water and 1/4 tsp salt (optional) to a boil. Add 1 cup of Bob's Red Mill® Gluten Free Rolled Oats, reduce heat and cook for 10 to 20 minutes (time depending on the consistency that you like your cereal) stirring occasionally. Cover, remove from heat and let stand for a few minutes. Enjoy. Makes 2 servings.

IN THE MICROWAVE

Say you're in a hurry. Combine 1/2 cup oats and 1 cup water. Cover and microwave on high for 3 to 5 minutes. Let stand for two minutes. Enjoy. Makes one serving.

SERVING SUGGESTIONS

- Serve with milk, cream, or a pat of butter.
- Add brown sugar, honey, or maple syrup for sweetness.
- Add fresh or dried fruit, raisins, nuts, and/or cinnamon.



lets low in saturated fat
and cholesterol, and contains as
possible in trans fat, to help reduce
the risk of heart disease

These aren't ordinary oats...



Our Gluten Free Rolled Oats are pure and delicious. They are grown with great care on some of the finest oat-growing fields in the world. To ensure that they stay just as gluten free as the day their seedlings sprouted from the earth, we test each batch in our quality control laboratory when they arrive from the farm and once again after they are packaged in our dedicated gluten free facility.

Please be advised that a small percentage of people with celiac disease may not tolerate even the purest of oats. If you are unsure whether oats are suitable for your diet, please check first with your health advisor before eating them.

Be sure to check out the rest of our line of over 70 gluten free products including:

- Gluten Free Steel Cut Oats
- Gluten Free Quick Cooking Rolled Oats
- Gluten Free Oat Flour

www.bobsredmill.com

FREE of PRESERVATIVES
AND CHEMICAL ADDITIVES

BEST OATMEAL

Bob's Red Mill®



To Your Good Health...
Bob Moore



FRIEND of the HEART

THE 100% WHOLE GRAIN
AWARD WINNING CEREAL

STEEL CUT OATS

• ALSO KNOWN AS PINHEAD OATS OR IRISH OATS •

THE GOLDEN SPURTLE™
WORLD CHAMPION OATMEAL®

The Bob's Red Mill team went to Scotland to compete in the Olympics of oatmeal, the Annual Golden Spurtle™ World Porridge Making Championship. And, for the first time in the competition's history, it was won by oatmeal from outside of Scotland by Bob's Red Mill® Steel Cut Oats — the very same oats that are in this bag.



PAREVE

wholesome

NET WT 24 OZ (1LB 8 OZ) 680g



keeps best refrigerated or frozen

You Can See Our Quality!

Nutrition Facts

Serving Size: 1/4 cup dry (44g)

Servings Per Container: About 15

Amount Per Serving

Calories 170 Calories from Fat 25

		% Daily Value*
Total Fat	3g	5%
Saturated Fat	0.5g	3%
Trans Fat	0g	
Cholesterol	0mg	0%
Sodium	0mg	0%
Total Carbohydrate	29g	10%
Dietary Fiber	5g	19%
Soluble Fiber	1.6g	
Insoluble Fiber	3.4g	
Sugars	0g	
Protein	7g	
Vitamin A	0%	• Vitamin C 0%
Calcium	2%	• Iron 10%

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

		2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carb.		300g	375g
Dietary Fiber		25g	30g

INGREDIENT: Whole Grain Oats.

Bob's Red Mill Natural Foods, Inc.
13521 SE Pheasant Court
Milwaukie, Oregon 97222

Manufactured in a facility that also uses tree nuts, soy, wheat and milk.

An Employee-Owned Company

Oregon Orchard Oat Brûlée™

1/2 cup Bob's Red Mill® Steel Cut Oats
 2 cups Water
 1/2 tsp Salt
 1/2 cup Heavy Cream (or soy creamer)

Pear Compote

1 Tbsp unsalted Butter
 1/4 tsp toasted, crushed Coriander Seeds**
 1 1/2 cups Pears, dice 1
 1/4 tsp Cinnamon/Sugar Mixture
 (made from 1 Tbsp Cinnamon & 3 Tbsp Sugar)
 1/4 cup Tart Dried Cherries
 1/4 - 1 cup Granulated Sugar (for brûlée topping)
 Finely chopped Hazelnuts

Directions

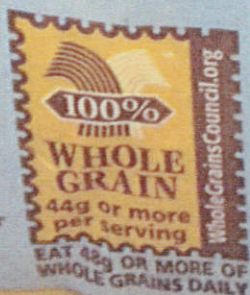
Oats: Bring water and oats to a boil. Add salt and cream. Cook 17-18 minutes, stirring.

Pear Compote: Melt butter over low flame in sauté pan. When butter is just beginning to color, add coriander and let it perfume the butter for a few seconds. Add the pears, and give the pan a shake. Sprinkle the cinnamon sugar over the pears and toss again to coat evenly. Add the cherries and toss to coat. Continue to let the compote simmer until the juices begin to caramelize. Add to the oats and mix in gently.

Fill 3 to 4 (depending on the size) oven-safe bowls or ramekins with oat mixture. Create a rounded top and use granulated sugar for garnish. Use a culinary torch to gently melt sugar, creating a chopped hazelnuts and enjoy! If a torch is hard to come by, skipping the candied topping will still produce delightful results.

**To toast steel cut oats, preheat the oven to 350°F. Place the oats on a cookie sheet and toast them for 20 minutes, stirring often to toast evenly and not burn. When slightly golden, remove.

**To toast coriander seed, place seeds in a hot, dry pan and toast for about 30 seconds. Crush them by using a mortar and pestle, or create your own using the end of a spurtle.



DID YOU KNOW?

The USDA's dietary guidelines call for three 16 gram servings of whole grain foods every day. Eating just a single portion of Bob's Red Mill® Steel Cut Oats provides nearly all three recommended servings.

MAKE THE WORLD'S BEST OATMEAL AT HOME

This is exactly what we did to win in Scotland. It's simple. Bring three cups filtered water to a boil. Add 1/4 tsp salt and 1 cup Bob's Red Mill® Steel Cut Oats. Reduce heat to a low simmer. Cover and cook for 10 (al dente) to 20 minutes (creamy). Stir every few minutes. Remove from heat and let stand for two minutes. Serve four hearty bowls; prepare for accolades.

Official Oatmeal of

SPAR★ FOR THE SPURTLÉ

THE ULTIMATE OATMEAL
THROWDOWN

www.sparforthespurtle.com

Our product line is diverse and extensive. For information on recipes, visit our website www.bobsredmill.com



HOW?

Guidelines
servings
every day,
portion of
Oats

Dear Friends

Steel Cut Oats have always been a universal customer favorite at Bob's Red Mill. Their robust oat flavor, texture and ease of preparation plus proven nutritious benefits and cholesterol reduction make them a perfect breakfast.

A few years back we learned of the World Championship Porridge Competition in Scotland called the "Golden Spurtle." At that point we had yet to discover the spurtle - a centuries-old Scottish wooden porridge stirring implement.

The Bob's Red Mill team traveled to Carrbridge, Scotland to compete in the World Porridge Championship. We competed against fourteen other teams from around the globe. Our team's belief in our porridge skills and our consistently superior oats never wavered.

That crisp October morning all teams paraded through town behind a bagpipe band. After three heats of competition, we remained one of five finalists. All five finalists prepared their traditional recipe - oats, salt and water - for the judges. Finally, the announcement: "Bob's Red Mill, is the new Golden Spurtle World Porridge Champion."

The Bob's Red Mill Steel Cut Oats we knew to be superior were now proven the "WORLD'S BEST".

Please know, dear friends, you can easily experience the world's best porridge by following the simple stovetop recipe on this package. No tricks or gimmicks. Oats in this package are the "World's Best."

To your good health,

Bob Moore

FREE of PRESERVATIVES
CHEMICAL ADDITIVES

WORLD'S
HOME

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EXHIBIT B



WILLIAM G. FAIRBOURN
VAN BUNCH
ELAINE A. RYAN
KIMBERLY C. PAGE
WILLIAM F. KING
CARRIE A. LALIBERTE
NADA DJORDJEVIC⁴

ANDREW S. FRIEDMAN
ROBERT J. SPURLOCK
ANDREW Q. EVERROAD
CHRISTINA L. HANISCH
T. BRENT JORDAN²
LISA T. HAUSER
ANDREA M. WRIGHT

FRANCIS J. BALINT, JR.
C. KEVIN DYKSTRA
PATRICIA N. SYVERSON
MANFRED P. MUECKE¹
TY D. FRANKEL
DANIEL R. LEATHERS³

MICHAEL N. WIDENER, Of Counsel

¹ Admitted Only in California
² Admitted Only in Pennsylvania
³ Admitted Only in New Jersey, New York
and Pennsylvania
⁴ Admitted Only in Illinois

August 31, 2018

VIA CERTIFIED MAIL
(RECEIPT NO7014 1200 0001 5814 2024)

Bob's Red Mill Natural Foods
General Counsel
13521 SE Pheasant Ct,
Milwaukie, OR 97222

Re: *Tamara Frankel v. Bob's Red Mill Natural Foods*

Dear Sir or Madam:

Our law firm together with Siprut PC represents Tamara Frankel and Natasha Paracha ("Plaintiffs") and all other consumers similarly situated in an action against Bob's Red Mill Natural Foods ("Bob's" or "Defendant"), arising out of, *inter alia*, misrepresentations and material omissions by Defendant that lead reasonable consumers to believe that your Products¹ will foster their good health and not potentially harm their health.

Plaintiffs and others similarly situated purchased Defendant's Products unaware that the Products contained or likely contained glyphosate, a probable carcinogen. Because Defendant does not disclose this fact on its Product packages, the healthy attribute representations Defendant makes on its Product packages are misleading half-truths reasonably likely to deceive the public. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is enclosed and incorporated by this reference.

Defendant's misleading half-truths and material omissions are misleading and constitute unfair methods of competition and unlawful practices, undertaken by Defendant with the intent to induce the consuming public to purchase the Products. The misleading half-truths and material omissions do not assist consumers; they simply mislead them.

Defendant's misleading half-truths and material omissions violate California Civil Code §1770(a) under, *inter alia*, the following subdivisions:

¹ The products include Bob's Red Mill Steel Cut Oats and Bob's Red Mill Old Fashioned Rolled Oats.

August 31, 2018
Page 2

- (5) Representing that [the Products have] . . . characteristics, . . . uses [or] benefits. . . which [they do] not have.

* * *

- (7) Representing that [the Products] are of a particular standard, quality, or grade . . . if they are of another.

California Civil Code §§ 1770(a)(5) and (7).

Defendant's misleading half-truths and material omissions also constitute violations of California Business and Professions Code §17200, *et seq.*

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code § 1782, we hereby demand on behalf of our client and all others similarly situated that Bob's immediately correct and rectify this violation of California Civil Code § 1770 by ceasing the misleading marketing campaign and ceasing dissemination of misleading and deceptive information as described in the enclosed Complaint. In addition, Bob's should offer a refund to all consumer purchasers of the Products plus reimbursement for interest, costs, and fees.

Plaintiffs will, after 30 days from the date of this letter, file a further amended Complaint as permitted by California Civil Code § 1782, to include claims for actual and punitive damages (as may be appropriate) if a full and adequate response to this letter is not received. These damage claims also would include claims under the Consumers Legal Remedies Act. Thus, to avoid further litigation, it is in the interest of all parties concerned that Bob's address these violations immediately.

Bob's must undertake all of the following actions to satisfy the requirements of California Civil Code § 1782(c):

1. Identify or make a reasonable attempt to identify purchasers of the Products;
2. Notify all such purchasers so identified that upon their request, Bob's will offer an appropriate remedy for its wrongful conduct, which can include a full refund of the purchase price paid for the Products, plus interest, costs and fees;
3. Undertake (or promise to undertake within a reasonable time if it cannot be done immediately) the actions described above for all Product purchasers who so request; and
4. Cease from representing to consumers that the Products provide the healthy

August 31, 2018
Page 3

attributes identified on the Product packages, without also disclosing that the Products contain or likely contain glyphosate, as more fully described in the enclosed Complaint.

We await your response.

Very truly yours,

A handwritten signature in black ink, appearing to read "Patricia N. Syverson". The signature is fluid and cursive, with a large initial "P" and "S".

Patricia N. Syverson
For the Firm

PNS:td
Enclosures

EXHIBIT C

1 BONNETT, FAIRBOURN, FRIEDMAN
& BALINT, P.C.
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6 BONNETT, FAIRBOURN, FRIEDMAN
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11 SIPRUT PC
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15 mchang@siprut.com
16 Telephone: (312) 236-0000

Attorneys for Plaintiffs

17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**
19

20 TAMARA FRANKEL and NATASHA
PARACHA, On Behalf of Themselves
21 and All Others Similarly Situated,

22 Plaintiffs,

23 v.

24 BOB'S RED MILL NATURAL
25 FOODS, INC., an Oregon Corporation.

26 Defendant.
27
28

Case No.:

CLASS ACTION

**DECLARATION OF PATRICIA N.
SYVERSON PURSUANT TO
CALIFORNIA CIVIL CODE §
1780(d)**

1 I, Patricia N. Syverson, declare as follows:

2 1. I am an attorney duly licensed to practice before all of the courts of
3 the State of California. I am a shareholder of the law firm of Bonnett, Fairbourn,
4 Friedman & Balint, P.C., the counsel of record for Plaintiffs in the above-entitled
5 action.

6 2. Defendant Bob's Red Mill Natural Foods has done and is doing
7 business in the Northern District of California. Such business includes the
8 distributing, marketing, labeling, packaging and sale of Bob's Red Mill Steel Cut
9 Oats and Bob's Red Mill Old Fashioned Oats. Furthermore, Plaintiff Tamara
10 Frankel purchased the Bob's Red Mill Steel Cut Oats product in Santa Clara,
11 California, Los Altos, California, and San Francisco, California.

12 3. I declare under penalty of perjury under the laws of the State of
13 California that the foregoing is true and correct.

14 Executed this 31st day of August 2018, at San Diego, California.

15 BONNETT, FAIRBOURN, FRIEDMAN
16 & BALINT, P.C.

17 */s/Patricia N. Syverson*
18 Patricia N. Syverson (203111)
19 Manfred P. Muecke (222893)
20 600 W. Broadway, Suite 900
21 San Diego, CA 92101
22 psyverson@bffb.com
23 mmuecke@bffb.com
24 Telephone: (619) 798-4593

21 BONNETT, FAIRBOURN, FRIEDMAN
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26 SIPRUT PC
27 Stewart M. Weltman (*To be Admitted Pro Hac Vice*)
28 Todd L. McLawhorn (*To be Admitted Pro Hac Vice*)
Michael Chang (*To be Admitted Pro Hac Vice*)
17 North State Street

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CERTIFICATE OF SERVICE

I hereby certify that on August 31, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the e-mail addresses denoted on the Electronic mail notice list

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on August 31, 2018.

/s/Patricia N. Syverson
Patricia N. Syverson (203111)
BONNETT FAIRBOURN FRIEDMAN
& BALINT, P.C.
600 W. Broadway, Suite 900
San Diego, CA 92101
Telephone: (619) 798-4593

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
TAMARA FRANKEL and NATASHA PARACHA, On Behalf of Themselves and All Others Similarly Situated
(b) County of Residence of First Listed Plaintiff San Francisco
(c) Attorneys (Firm Name, Address, and Telephone Number)
Bonnett Fairbourn Friedman & Balint, PC, 600 W. Broadway, Ste 900 San Diego, CA 92101, 619-798-4593

DEFENDANTS
BOB'S RED MILL NATURAL FOODS, INC., an Oregon Corporation
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Motor Vehicle, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC § 1332
Brief description of cause:
To recover damages sustained as a result of Defendant's sale of Steel Cut Oats and Old Fashioned Rolled Oats

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
(See instructions): JUDGE DOCKET NUMBER

DATE 08/31/2018 SIGNATURE OF ATTORNEY OF RECORD s/Patricia N. Syverson

IX. DIVISIONAL ASSIGNMENT (Civil L.R. 3-2)
(Place an "X" in One Box Only)
SAN FRANCISCO/OAKLAND SAN JOSE EUREKA