

1 Benjamin Heikali (SBN 307466)  
2 Joshua Nassir (SBN 318344)  
3 **FARUQI & FARUQI, LLP**  
4 10866 Wilshire Boulevard, Suite 1470  
5 Los Angeles, CA 90024  
6 Telephone: (424) 256-2884  
7 Facsimile: (424) 256-2885  
8 E-mail: bheikali@faruqilaw.com  
9 jnassir@faruqilaw.com

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6 Michael R. Reese (SBN 206773)  
7 **REESE LLP**  
8 100 West 93<sup>rd</sup> Street, 16th Floor  
9 New York, NY 10001  
10 Telephone: (212) 646-0500  
11 Facsimile: (212) 253-4272  
12 E-mail: mreese@reesellp.com  
13 *Attorneys for Plaintiff Pennie Roper*

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
12 **COUNTY OF STANISLAUS**

14 PENNIE ROPER, individually and on behalf of  
15 all others similarly situated,

16 Plaintiff,

17 v.

18 BIG HEART PET BRANDS, INC.,

19 Defendant.

CASE NO. CV-19-000848

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

This case has been assigned to Judge Beauchesne, Roger M.  
Dept. 24  
Department \_\_\_\_\_ for all purposes including Trial.

28 CLASS ACTION COMPLAINT

1 Plaintiff Pennie Roper ("Plaintiff"), by and through her undersigned counsel, brings this Class  
 2 Action Complaint against Defendant Big Heart Pet Brands, Inc. ("Defendant" or "Big Heart"), on  
 3 behalf of herself and all others similarly situated, and alleges upon personal knowledge as to her own  
 4 actions, and upon information and belief as to counsel's investigations and all other matters, as  
 5 follows:

### 6 NATURE OF THE ACTION

7 1. Plaintiff brings this consumer protection and false advertising class action lawsuit  
 8 against Defendant, based on Defendant's false and misleading representations regarding a number of  
 9 its "Nature's Recipe" brand products (the "Product(s)").<sup>1</sup>

10 2. Defendant has falsely and deceptively labeled and advertised the Products with the  
 11 following representations<sup>2</sup>: "All Natural," "All Natural Dog Food," and/or "All Natural Cat Food"  
 12 (collectively, the "Natural Representations").

13 3. However, the Products are not all natural, contrary to Defendant's representations.

14 4. In fact, the Products contain non-natural, artificial, and/or synthetic ingredients  
 15 including but not limited to sodium tripolyphosphate ("STPP") (a suspected neurotoxin), synthetic  
 16 vitamins and minerals, citric acid, and lactic acid.

17 5. Defendant purposefully, knowingly, recklessly, and/or negligently made the false and  
 18 misleading Natural Representations, as it knew, or should have known, that the Products contain  
 19 synthetic and/or artificial ingredients.

20 6. Plaintiff and other consumers relied on Defendant's false and misleading Natural  
 21 Representations when purchasing the Products. Had Plaintiff and the other consumers known that  
 22 Defendant's Natural Representations were false and misleading, they would not have purchased the  
 23 Products or would have paid significantly less for the Products. Consequently, Plaintiff and the other  
 24 consumers have suffered injury in fact as a result of Defendant's false and misleading Natural  
 25 Representations.

26 \_\_\_\_\_  
 27 <sup>1</sup> See full list *infra* and in Exhibit "A."

28 <sup>2</sup> Including, but not limited to, these representations. A detailed list of all alleged representations  
 can be found in Exhibit "A."

1           7.     Plaintiff brings this class action lawsuit on behalf of herself and all others similarly  
2 situated. Plaintiff seeks to represent a California Class and California Consumer Subclass  
3 (collectively, the "Class" or the "Classes," as defined below).

4           8.     Plaintiff, on behalf of herself and all others similarly situated, seeks damages,  
5 restitution, declaratory and injunctive relief, and all other remedies the Court deems appropriate.

6                           **JURISDICTION AND VENUE**

7           9.     This Court has personal jurisdiction over Defendant in part because Defendant has  
8 sufficient minimum contacts with California or otherwise intentionally did avail itself of the markets  
9 within California, through its sale of the Products to California consumers.

10          10.    Venue is proper in this County pursuant to Cal. Civ. Code P. § 395, as Plaintiff  
11 purchased one of the Products in this County.

12                           **PARTIES**

13          11.    Plaintiff Pennie Roper is a citizen of California, residing in Modesto, California. In  
14 2016, Ms. Roper purchased the Grain Free Salmon, Sweet Potato & Pumpkin Recipe from a PetSmart  
15 in Modesto, California. Ms. Roper purchased the Product at a premium price, relying on Defendant's  
16 representation on the Product that the Product was "All Natural Dog Food," believing that the Product  
17 would be free of artificial and synthetic ingredients. Ms. Roper would not have purchased the Product  
18 or would have paid significantly less for it had she known that Defendant's Natural Representations  
19 were false and misleading. Ms. Roper therefore suffered injury in fact and lost money as a result of  
20 Defendant's misleading, false, unfair, and fraudulent practices, as described herein. Despite being  
21 deceived, Ms. Roper would likely purchase the Products in the future if they were reformulated to be  
22 free of artificial and synthetic ingredients.

23          12.    Defendant Big Heart Pet Brands, Inc., is a Delaware corporation. Defendant, and/or  
24 its agents, formulate, manufacture, label, package, advertise, distribute, and sell the Products in  
25 California. Defendant has maintained substantial distribution and sales in California. During the  
26 relevant class period, the Products did and continue to state that the Products are distributed from  
27 "San Francisco, CA 94111."

28

**FACTUAL ALLEGATIONS**

**A. Background**

13. The United States Food and Drug Administration ("FDA") -- which has responsibility for regulating the labeling of the animal food products at issue in this case -- has not promulgated a regulation or law defining the terms "natural" or "all natural." However, the agency has established a policy defining the outer boundaries of the use of the term "natural" by clarifying that it "has not objected to the use of the term if the food does not contain added color, artificial flavors, or synthetic substances."<sup>3</sup>

14. Specifically, the FDA has stated that:

the agency will maintain its policy [] regarding the use of "natural," as meaning that nothing artificial or synthetic (including all color additives regardless of source) has been included in, or has been added to, a food that would not normally be expected to be in the food.

Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms, 58 Fed. Reg. 2302, 2407 (Jan. 6, 1993).

15. Other federal agencies provide further explanation of the term "natural." According to the United States Department of Agriculture's ("USDA") Food Safety and Inspection Service ("FSIS"), a "natural" product is:

[a] product containing no artificial ingredient or added color and is only minimally processed. Minimal processing means that the product was processed in a manner that does not fundamentally alter the product. The label must include a statement explaining the meaning of the term natural (such as "no artificial ingredients; minimally processed").<sup>4</sup>

16. In the FSIS's *Food Standards and Labeling Policy Book*, the FSIS informs the public about processes that are "clearly" not considered to be "minimal": "[r]elatively severe processes, e.g.,

<sup>3</sup> *What Is the Meaning of "Natural" on the Label of Food?*, www.FDA.GOV (June 28, 2017), <https://goo.gl/XYqaUs> (Internet Archive WayBack Machine capture) (last visited Feb 13, 2019); *see also* "Natural" on Food Labeling, www.FDA.GOV (Nov. 11, 2017), <https://goo.gl/mvteUK> (last visited Feb 13, 2019).

<sup>4</sup> *See* FOOD SAFETY & INSPECTION SERV., U.S. DEP'T OF AGRIC., *Meat and Poultry Labeling Terms*, at 3 of 3 (2011), available at <https://goo.gl/k7Syls> (last visited Feb 13, 2019).

1 solvent extraction, acid hydrolysis, and chemical bleaching would clearly be considered more than  
2 minimal processing.”<sup>5</sup>

3 17. According to USDA regulations, an ingredient is nonsynthetic (natural) if it is:

4 [a] substance that is derived from mineral, plant, or animal matter and  
5 does not undergo a synthetic process as defined in section 6502(21) of  
6 the Act (7 U.S.C. § 6502(21)). For the purposes of this part,  
7 nonsynthetic is used as a synonym for natural as the term is used in  
8 the Act.

9 7 C.F.R. § 205.2.

10 18. Further, an ingredient is synthetic if it is:

11 [a] substance that is formulated or manufactured by a chemical  
12 process or by a process that chemically changes a substance extracted  
13 from naturally occurring plant, animal, or mineral sources, except that  
14 such term shall not apply to substances created by naturally occurring  
15 biological processes.

16 *Id.*

17 19. The following ingredients, which are found in the Products, are synthetic and/or  
18 artificial and therefore cannot be “natural” under the federal regulations and FDA policy referenced  
19 above:

- 20 a. **Sodium Tripolyphosphate (“STPP”)** is a suspected neurotoxin according to  
21 the National Institute for Occupational Safety and Health’s (“NIOSH”) Registry of Toxic Effects of Chemical Substances.<sup>6</sup> Food-grade STPP may  
22 cause acute skin irritation.<sup>7</sup> The United States Environmental Protection  
23 Agency has listed STPP as a registered pesticide pursuant to the Federal

24 <sup>5</sup> See FOOD SAFETY & INSPECTION SERV., U.S. DEP’T OF AGRIC., *Food Standards and Labeling Policy Book*, at 108 of 187 (2005), available at <https://goo.gl/o6szaF> (last visited Feb 13, 2019).

25 <sup>6</sup> Varelzis Patroklos et al., *Plackett-Burman Experimental Design for Investigating the Effect of Porcine Plasma Protein, Trehalose and Bovine Meat Protein Isolate on Cook Yield and Texture of Minced Bovine Meat*, 2.3 J. FOOD RES. 122, 122 (2013), available at <https://goo.gl/bmdCyb> (click “PDF” link next to words “Full Text”) (last visited Feb 13, 2019).

26 <sup>7</sup> INNOPHOS, *Material Safety Data Sheet: Sodium Tripolyphosphate, Food Grade*, at 2 of 11 (2009), available at <https://goo.gl/7tCtCZ> (last visited Feb 13, 2019).

Insecticide, Fungicide, and Rodenticide Act,<sup>8</sup> and it is also listed as an air contaminant under California's Occupational Safety and Health Act.<sup>9</sup> STPP is also used in products such as home laundry detergent builder, industrial and institutional detergents, and dish washing detergents. According to the FSIS, STPP is an "anti-coagulant for use in recovered livestock blood which is subsequently used in food products[.]"<sup>10</sup> According to a summary on STPP by the United States National Library of Medicine ("USNLM"), STPP is "[p]repared by molecular dehydration of mono- & disodium phosphates" or by "[c]ontrolled calcination of sodium orthophosphate mixture from sodium carbonate & phosphoric acid."<sup>11</sup> According to the USNLM, animal studies have shown that this chemical induces emesis (vomiting) in dogs and that dietary administration in animals has caused a decrease in iron content in bone, liver, and spleen, and bone depletion of calcium.<sup>12</sup>

b. **Added Vitamins:**

- i. **Thiamine mononitrate** is the synthetic version of vitamin B1,<sup>13</sup> and "occurs as white crystals or a white crystalline powder and is prepared from thiamine hydrochloride by dissolving the hydrochloride salt in

<sup>8</sup> See *Chemical Profiles: Regulatory Coverage: Sodium Tripolyphosphate*, SCORECARD.GOODGUIDE.COM (2011), <https://goo.gl/rNsuFB> (last visited Feb 13, 2019); see also *Registered Pesticides (Federal Insecticide, Fungicide, and Rodenticide Act)*, SCORECARD.GOODGUIDE.COM (2011), <https://goo.gl/byKcmV> (last visited Feb 13, 2019).

<sup>9</sup> See *Chemical Profiles: Regulatory Coverage: Sodium Tripolyphosphate*, SCORECARD.GOODGUIDE.COM (2011), <https://goo.gl/rNsuFB> (last visited Feb 13, 2019); see also *Air Contaminants (California Occupational Safety and Health Act)*, SCORECARD.GOODGUIDE.COM (2011), <https://goo.gl/ExiKHm> (last visited Feb 13, 2019).

<sup>10</sup> FOOD SAFETY & INSPECTION SERV., U.S. DEP'T OF AGRIC., *Table of Safe and Suitable Ingredients: Miscellaneous Update 5/25/2017*, at 1 of 18 (2017), available at <https://goo.gl/S3682u> (last visited Feb 13, 2019).

<sup>11</sup> U.S. NAT'L LIBRARY OF MED., NAT'L INSTS. OF HEALTH, *Pentasodium Triphosphate: 10.2 Methods of Manufacturing*, PUBCHEM.NCBI.NLM.NIH.GOV (2018), <https://goo.gl/o1VQa6> (last visited Feb 13, 2019).

<sup>12</sup> U.S. NAT'L LIBRARY OF MED., NAT'L INSTS. OF HEALTH, *Pentasodium Triphosphate: 13.1.7 Toxicity Summary*, PUBCHEM.NCBI.NLM.NIH.GOV (2018), <https://goo.gl/hR37Bq> (last visited Feb 13, 2019).

<sup>13</sup> D. Burdick, *Thiamine (B1)*, in KIRK-OTTMER ENCYCLOPEDIA OF CHEMICAL TECHNOLOGY (2000).

alkaline solution followed by precipitation of the nitrate half-salt with a stoichiometric amount of nitric acid.” 21 C.F.R. § 184.1878(a). Thiamine mononitrate is not a naturally occurring substance in foods and is produced synthetically, according to the FDA.<sup>14</sup>

ii. **Menadione sodium bisulfite** is a synthetic vitamin (vitamin K3).<sup>15</sup> Menadione sodium bisulfite can cause carcinogenic effects and “is toxic to kidneys, lungs, liver, [and] mucous membranes.”<sup>16</sup> “Repeated or prolonged exposure to the substance can produce target organs damage.”<sup>17</sup>

iii. **Niacin**, or vitamin B3, is chemically synthesized.<sup>18</sup>

iv. **Folic Acid** is synthetically made by “the reaction of 2,3-dibromopropanol, 2,4,5-triamino-6-hydroxypyrimidine and para-aminobenzoyl glutamic acid.”<sup>19</sup>

v. **D-calcium pantothenate** is a commercial source for vitamin B5, and is a chemical made in a lab from D-pantothenic acid, according to the USNLM.<sup>20</sup> Calcium pantothenate is the calcium salt of the dextrorotary isomer of pantothenic acid.<sup>21</sup> It is used as a growth-prompting vitamin.

vi. **Riboflavin** “occurs as yellow to orange-yellow needles that are

<sup>14</sup> Warning Letter from Anne E. Johnson, Food and Drug Administration, to Franco DiGiacomo, P&S Ravioli Company (Aug. 4, 2015), available at <https://goo.gl/xtiBmQ> (last visited Feb 13, 2019).

<sup>15</sup> SAUNDERS COMPREHENSIVE VETERINARY DICTIONARY (4th ed. 2012).

<sup>16</sup> *Material Safety Data Sheet: Menadione-Sodium Bisulfite MSDS*, at 1 of 5, SCIENCELAB.COM (2013), available at <https://goo.gl/JqojoM> (last visited Feb 13, 2019); SAUNDERS COMPREHENSIVE VETERINARY DICTIONARY (4th ed. 2012).

<sup>17</sup> *Material Safety Data Sheet: Menadione-Sodium Bisulfite MSDS*, at 1 of 5, SCIENCELAB.COM (2013), available at <https://goo.gl/JqojoM> (last visited Feb 13, 2019).

<sup>18</sup> W. Friedrich, *Vitamins* (1988); Joseph E. Toomey, Jr., *Electrochemical Synthesis of Niacin and Other N-Heterocyclic Compounds* (1993), available at <https://goo.gl/KutLgN> (patent application EP0536309A1) (last visited Feb 13, 2019).

<sup>19</sup> U.S. NAT’L LIBRARY OF MED., NAT’L INSTS. OF HEALTH, *Folic Acid: 10 Use and Manufacturing*, PUBCHEM.NCBI.NLM.NIH.GOV (2018), <https://goo.gl/Ceyj2n> (last visited Feb 13, 2019).

<sup>20</sup> U.S. NAT’L LIBRARY OF MED., NAT’L INSTS. OF HEALTH, *Medline Plus: Pantothenic Acid*, MEDLINEPLUS.GOV (2018), <https://goo.gl/gEInQV> (last visited Feb 13, 2019).

<sup>21</sup> INFORMATICS INC., *Monograph on Pantothenates*, at 11 of 408 (1974).

crystallized from 2N acetic acid, alcohol, water, or pyridine.” 21 C.F.R. § 184.1695(a). “It may be prepared by chemical synthesis, [or] biosynthetically by the organism *Eremothecium ashbyii* . . .” *Id.*

vii. **Pyridoxine Hydrochloride**, a form of vitamin B6, is “the chemical 3-hydroxy-4,5-dihydroxymethyl-2-methylpyridine hydrochloride that is prepared by chemical synthesis.” 21 C.F.R. § 184.1676(a).<sup>22</sup>

viii. **Beta-carotene** is “synthesized by saponification of vitamin A acetate.” 21 C.F.R. § 184.1245(a). “The resulting alcohol is either reacted to form vitamin A Wittig reagent or oxidized to vitamin A aldehyde.” *Id.* “Vitamin A Wittig reagent and vitamin A aldehyde are reacted together to form beta-carotene.” *Id.*

ix. **Vitamin A Supplement** is produced from a multi-step synthetic procedure.<sup>23</sup>

c. **Added Minerals:**

i. **Sodium Selenite** is a white colored crystalline solid that is “prepared by evaporating an aqueous solution of sodium hydroxide and selenious acid between 60 and 100 deg C; . . . by heating a mixture of sodium chloride and selenium oxide.”<sup>24</sup> The chemical may irritate skin, eyes, and mucous membranes upon contact. Furthermore, the chemical is toxic by ingestion, inhalation, and skin absorption.<sup>25</sup> According to the NIOSH, prolonged exposure to sodium selenite may cause paleness, coated tongue, stomach disorders, nervousness, metallic taste, and a

<sup>22</sup> See also U.S. NAT’L LIBRARY OF MED., NAT’L INSTS. OF HEALTH, *Pyridoxine Hydrochloride: 9 Use and Manufacturing*, PUBCHEM.NCBI.NLM.NIH.GOV (2018), <https://goo.gl/62kNcn> (last visited Feb 13, 2019).

<sup>23</sup> T.W.G. Solomons & C.B. Fryhle, *Organic Chemistry* (7th ed. 2000).

<sup>24</sup> *The Merck Index: An Encyclopedia of Chemicals, Drugs, and Biologicals*, at 1489 (M.J. O’Neil ed., 2006).

<sup>25</sup> U.S. NAT’L LIBRARY OF MED., NAT’L INSTS. OF HEALTH, *Sodium Selenite*, PUBCHEM.NCBI.NLM.NIH.GOV (2018), <https://goo.gl/w2fEJr> (last visited Feb 13, 2019).



garlic odor of the breath.<sup>26</sup> “Fluid in the abdominal cavity, damage to the liver and spleen, and anemia have been reported in animals.”<sup>27</sup>

ii. **Copper Sulfate** “is prepared by the reaction of sulfuric acid with cupric oxide or with copper metal.” 21 C.F.R. § 184.1261(a).

iii. **Calcium Iodate** “does not occur naturally but can be prepared by passing chlorine into a hot solution of lime (CaCO<sub>3</sub>) in which iodine has been dissolved.” 21 C.F.R. § 184.1206(a).

d. **Citric Acid** is recognized by the FDA as an unnatural substance when used as a food additive. See Warning Letter from Food and Drug Administration to Hirzel Canning Company (Aug. 29, 2001) (“[T]he addition of . . . citric acid to these products preclude use of the term natural to describe this product.”). Citric acid may be manufactured through a solvent extraction process, which involves use of synthetic isoparaffinic petroleum hydrocarbons. See 21 C.F.R. 173.280.

e. **Lactic Acid** is a synthetic substance used as a food additive. 21 C.F.R. § 172.515. Lactic acid is synthetically formulated commercially through the fermentation of carbohydrates or by a procedure involving formation of lactonitrile from acetaldehyde and hydrogen cyanide and subsequent hydrolysis. 21 C.F.R. § 184.1061(a).

#### B. Defendant’s False And Misleading Representations Of The Products

20. During the class period, Defendant and/or its agents formulated, manufactured, labeled, packaged, distributed, advertised, and sold the following Products:

a. Nature’s Recipe Dog Recipes:

i. Puppy Dog Recipes:

<sup>26</sup> U.S. NAT’L LIBRARY OF MED., NAT’L INSTS. OF HEALTH, *Toxicology Data Network: Sodium Selenite*, TOXNET.NLM.NIH.GOV, <https://goo.gl/2YHFmV> (last visited Feb 13, 2019).

<sup>27</sup> U.S. DEP’T OF HEALTH & HUMAN SERVS. & U.S. DEP’T OF LABOR, *Occupational Health Guideline for Selenium and Its Inorganic Compounds (as Selenium)*, at 1 (1978), available at <https://goo.gl/cSLpyr> (last visited Feb 13, 2019).

1. Small Bites Chicken Meal & Rice Recipe;
2. Puppy Chicken Meal & Rice Recipe;
3. Grain Free Puppy Chicken Sweet Potato & Pumpkin Recipe;
4. Large Breed Puppy Recipe;
5. Puppy Lamb Meal & Rice Recipe.
- ii. Adult Dog Recipes:
  1. Adult Lamb & Rice Recipe Cuts in Gravy;
  2. Adult Lamb Meal & Rice Recipe;
  3. Pure Essentials™ Adult Duck & Brown Rice Recipe;
  4. Pure Essentials™ Adult Lamb & Brown Rice Recipe;
  5. Pure Essentials™ Adult Salmon & Brown Rice Recipe;
  6. Pure Essentials™ Grain Free Adult Chicken & Sweet Potato Recipe;
  7. Adult Chicken Meal & Rice Recipe.
- iii. Senior Dog Recipes:
  1. Senior Lamb & Rice Recipe Cuts in Gravy;
  2. Senior Lamb Meal & Rice Recipe.
- iv. Special Needs—Healthy Skin:
  1. Healthy Skin Vegetarian Recipe Cuts in Gravy;
  2. Healthy Skin Venison & Rice Recipe Cuts in Gravy;
  3. Healthy Skin Venison & Rice Recipe Homestyle Ground;
  4. Healthy Skin Vegetarian Recipe;
  5. Healthy Skin Venison Meal & Rice Recipe.
- v. Special Needs—Easy to Digest:
  1. Large Breed Grain Free Easy to Digest Chicken Sweet Potato & Pumpkin Recipe;
  2. Small Breed Grain Free Easy to Digest Chicken Sweet Potato & Pumpkin Recipe;

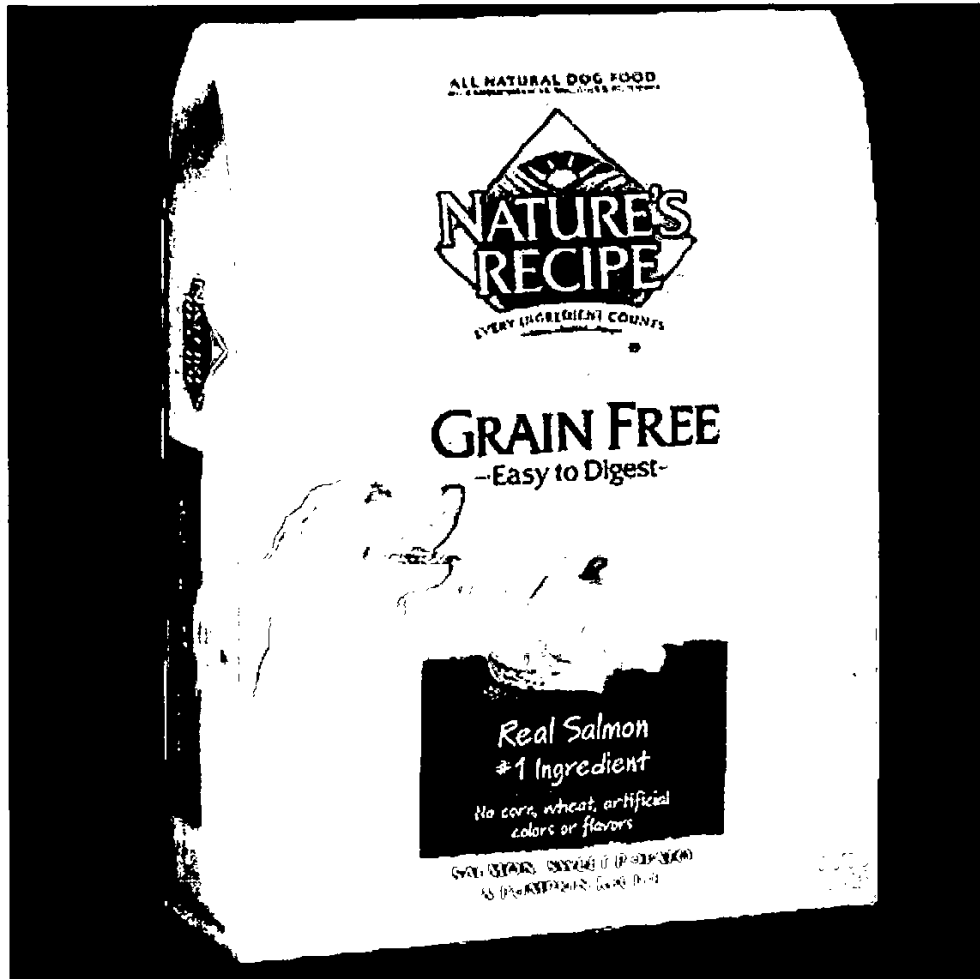
- 1 3. Easy to Digest Chicken Rice & Barley Recipe Cuts in Gravy;
- 2 4. Easy to Digest Chicken Rice & Barley Recipe Homestyle Ground;
- 3 5. Easy to Digest Lamb Rice & Barley Recipe Cuts in Gravy;
- 4 6. Easy to Digest Lamb Rice & Barley Recipe Homestyle Ground;
- 5 7. Easy to Digest Chicken Meal Rice & Barley Recipe;
- 6 8. Easy to Digest Fish Meal & Potato Recipe.
- 7 vi. Special Needs—Breed Specific:
- 8 1. Terrier Breed Chicken Rice & Barley Recipe;
- 9 2. Toy Breed Chicken Barley & Rice Recipe;
- 10 3. Large Breed Chicken & Oatmeal Recipe.
- 11 vii. Special Needs—Healthy Weight:
- 12 1. Healthy Weight Chicken Meal Rice & Barley Recipe.
- 13 viii. Special Needs—High Protein:
- 14 1. High Protein Chicken Meal & Lamb Meal Recipe.
- 15 ix. Special Needs—Joint Health:
- 16 1. Joint Health Fish Meal & Chicken Meal Recipe.
- 17 x. Premium—Grain Free:
- 18 1. Grain Free Chicken & Turkey Stew;
- 19 2. Grain Free Chicken & Venison Stew;
- 20 3. Grain Free Easy to Digest Chicken Sweet Potato & Pumpkin Recipe;
- 21 4. Grain Free Easy to Digest Salmon Sweet Potato & Pumpkin Recipe;
- 22 5. Grain Free Puppy Chicken Sweet Potato & Pumpkin Recipe;
- 23 xi. Wholesome Treats:
- 24 1. Grain Free Biscuits Salmon & Potato Recipe;
- 25 2. Grain Free Biscuits Turkey & Sweet Potato Recipe.
- 26 b. Nature's Recipe Cat Recipes:
- 27 i. Grain Free:
- 28

1. Grain Free Indoor Chicken and Potato Recipe;
  2. Grain Free Salmon and Potato Recipe.
- ii. Culinary Favorites™:
1. Culinary Favorites™ Rotisserie Recipe with Real Chicken & a Touch of Garden Vegetables;
  2. Culinary Favorites™ Grilled Recipe with Real Salmon & a Touch of Garden Vegetables.

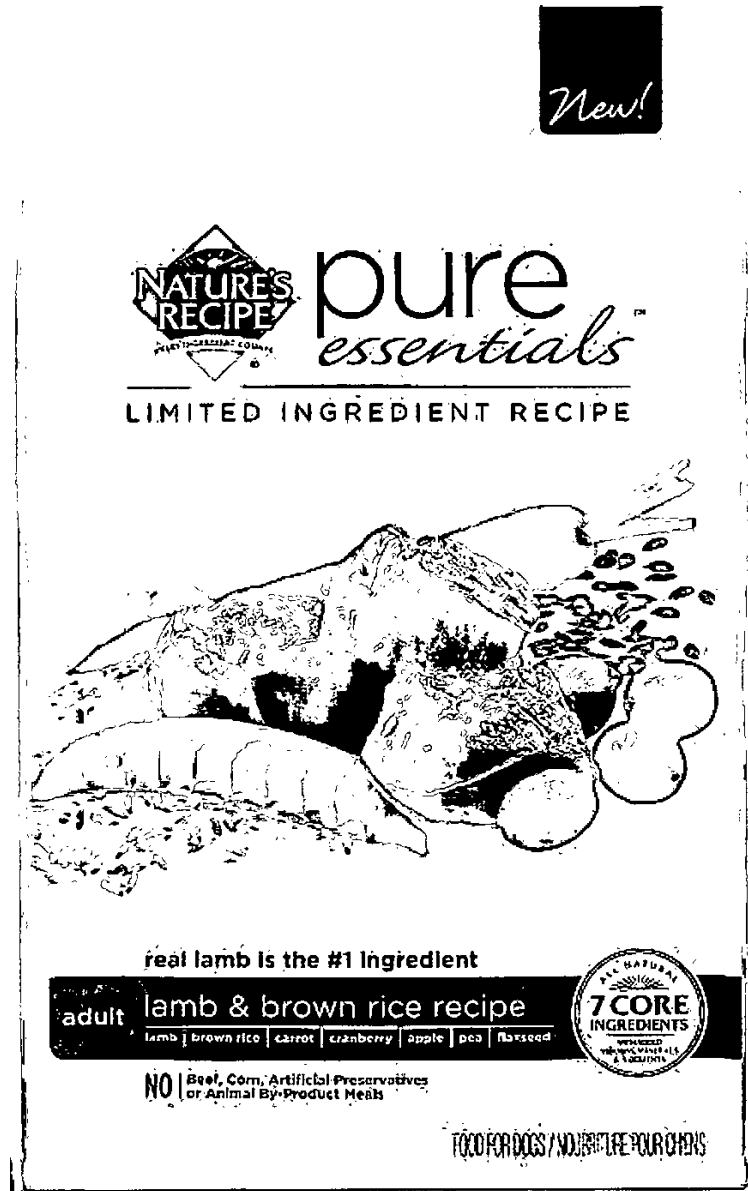
21. At all relevant times, Defendant conspicuously labeled and advertised the Products on their primary display panels with at least one of the Natural Representations, as the following examples show.<sup>28</sup>

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<sup>28</sup> For full list of Products and representations, *see* Exhibit “A.”



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22. At all relevant times, Defendant made the Natural Representations because consumers perceive all natural foods as better, healthier, and more wholesome. In fact, the demand for all natural foods has grown rapidly in recent years. The January 2015 Nielsen Global Health and Wellness Survey, along with its accompanying report titled "We Are What We Eat," noted that "[t]he most

desirable attributes are foods that are fresh, natural, and minimally processed” and that “[f]oods with all natural ingredients . . . are . . . considered very important to 43% of global respondents.”<sup>29</sup> Further, a March 2016 Nielson report titled “The Humanization of Pet Food” noted that “many consumers perceive natural foods to have unique advantages.”<sup>30</sup> This is a trend that Defendant has exploited through its false and deceptive Natural Representations.

23. Furthermore, according to a presentation made by Jim Barrit, government and regulatory affairs manager for Mars Petcare US, at the 2015 Feed & Pet Food Joint Conference on pet food labels, “NO ONE reads the back of pet food labels . . . they are confusing and overwhelming . . . . If they do, they are only looking at 2-3 first ingredients . . . .”<sup>31</sup> The Conference was attended by two Big Heart compliance employees.<sup>32</sup>

24. Defendant knew what representations it made about the Products, as the Natural Representations appeared on the Products’ labels. Defendant also knew what ingredients were added to each of the Products, since it formulated and manufactured, or oversaw the formulation and manufacturing of, the Products and then listed all the Products’ ingredients on the packaging. Furthermore, the Products are governed by federal regulations that control the labeling of the Products, and therefore Defendant was aware or should have been aware that some of the ingredients have been federally declared to be synthetic substances and/or require extensive processing to be used in food. Defendant knew that “all natural” and “natural” claims are material to consumers and sought to exploit that trend, as stated above. Defendant knew or should have known that consumers expect pet food labeled “all natural” and “natural,” including the Products at issue (which were labeled with the Natural Representations), to be free of synthetic ingredients.

<sup>29</sup> See Exhibit “B,” at 8.

<sup>30</sup> See Exhibit “C,” at 7.

<sup>31</sup> See Exhibit “D,” at 3.

<sup>32</sup> NAT’L GRAIN & FEED ASS’N, *2015 Feed & Pet Food Joint Conference Attendees* (2015), available at <https://goo.gl/xFgnCY> (last visited Feb 13, 2019).

1 **C. The Products Do Not Conform To The Natural Representations**

2 25. Contrary to the Natural Representations, the Products contain ingredients that are  
3 synthetic and/or artificial, including but not limited to STPP, synthetic vitamins and minerals, citric  
4 acid, and lactic acid.

5 26. **Exhibit "A"** to this Class Action Complaint depicts a full list of the Products sold  
6 during the class period, along with the false and misleading Natural Representations and a list of the  
7 ingredients for each of the Products. Ingredients that have been bolded are ingredients that are  
8 synthetic and/or artificial ingredients.

9 27. Because the Products contain ingredients that are synthetic and/or artificial,  
10 Defendant's Natural Representations are false and misleading.

11 28. Defendant knew or should have known that the Products contain ingredients that are  
12 synthetic and/or artificial and therefore are not all natural.

13 29. Defendant knew or should have known that Plaintiff and other consumers would rely  
14 on said material Natural Representations concerning the Products and would be misled and induced  
15 into purchasing the Products as a result of the Natural Representations.

16 30. Plaintiff reasonably understood Defendant's Natural Representations to mean that the  
17 Products did not contain any unnatural, synthetic, or artificial ingredients.

18 31. In reasonable reliance on Defendant's Natural Representations, Plaintiff purchased the  
19 Products at a premium price. Plaintiff and other consumers would not have purchased the Products  
20 or would have paid significantly less for the Products had they known that the Natural Representations  
21 were false and misleading. Therefore, Plaintiff and other consumers purchasing the Products suffered  
22 injury in fact and lost money as a result of Defendant's false, unfair, and fraudulent practices, as  
23 described herein.

24 32. Each consumer has been exposed to the same or substantially similar material  
25 misrepresentations about the Products, which appear prominently on the Products' packaging (i.e.,  
26 the Natural Representations).

27 33. Despite being misled, Plaintiff would likely repurchase the Products in the future if  
28



1 the Products were each reformulated to be free of the challenged ingredients and other synthetic  
2 and/or artificial ingredients. Plaintiff regularly visits pet stores or websites which carry the Products  
3 and will continually be presented with the labeling and packaging of the Products. However, Plaintiff,  
4 who is not an expert on pet food, nutrition, and ingredients, will remain unable to rely, with  
5 confidence, on the Natural Representations because she has no way of determining at the point of sale  
6 whether the Products would be free of the challenged ingredients and other synthetic and/or artificial  
7 ingredients.

8 **CLASS ACTION ALLEGATIONS**

9 34. Plaintiff brings this case as a class action, pursuant to California Code of Civil  
10 Procedure § 382 and Civil Code § 1781, on behalf of herself all California residents who purchased  
11 any of the Products in California during the relevant statute of limitations periods ("California  
12 Class").

13 35. Plaintiff also brings this case as a class action on behalf of all California residents who  
14 purchased any of the Products in California for personal, family, or household purposes, during the  
15 relevant statute of limitations periods ("California Consumer Subclass")

16 36. Collectively, the California Class and the California Consumer Subclass are herein  
17 referred to as the "Classes."

18 37. Excluded from the Classes are Defendant, the officers and directors of Defendant at  
19 all relevant times, members of their immediate families, and their legal representatives, heirs,  
20 successors, or assigns, and any entity in which Defendant has or had a controlling interest. Any judge  
21 and/or magistrate judge to whom this action is assigned and any members of such judges' staffs and  
22 immediate families are also excluded from the Classes. Also excluded from the Classes are persons  
23 or entities that purchased the Products for purposes of resale.

24 38. Plaintiff hereby reserves the right to amend or modify the class definitions, including  
25 but not limited to modifying or amending them with greater specificity or division, after having had  
26 an opportunity to conduct discovery.

27 39. Plaintiff is member of all Classes.  
28

1           40. Numerosity: Defendant has sold at least thousands of units of the Products in  
 2 California. Defendant's Products are available for sale through third party retailers and vendors  
 3 (including online), such as Petco, PetSmart, and Amazon. Accordingly, members of the Classes are  
 4 so numerous that their individual joinder herein is impractical. While the precise number of class  
 5 members and their identities are unknown to Plaintiff at this time, the number may be determined  
 6 through discovery.

7           41. Common Questions Predominate: Common questions of law and fact exist as to all  
 8 members of the Classes and predominate over questions affecting only individual class members.  
 9 Common legal and factual questions include, but are not limited to, the following: whether  
 10 Defendant's Natural Representations were false and misleading and therefore violated consumer  
 11 protection law and the common law.

12           42. Typicality: Plaintiff's claims are typical of the claims of the Classes she seeks to  
 13 represent in that Plaintiff and members of the Classes were exposed to the same or substantially  
 14 similar false and misleading Natural Representations, purchased the Products relying on the false and  
 15 misleading Natural Representations, and suffered losses as a result of such purchases.

16           43. Adequacy: Plaintiff is an adequate representative of the Classes because her interests  
 17 do not conflict with the interests of the members of the Classes she seeks to represent; she has retained  
 18 competent counsel experienced in prosecuting class actions; and she intends to prosecute this action  
 19 vigorously. Plaintiff and her counsel will fairly and adequately protect the interests of the Class  
 20 members.

21           44. Superiority: A class action is superior to other available means for the fair and efficient  
 22 adjudication of the claims of the members of the Classes. The size of each claim is too small to pursue  
 23 individually and each individual Class member lacks the resources to undergo the burden and expense  
 24 of individual prosecution of the complex and extensive litigation necessary to establish Defendant's  
 25 liability. Individualized litigation would increase the delay and expense to all parties and multiply the  
 26 burden on the judicial system presented by the complex legal and factual issues of this case.  
 27 Individualized litigation would also present a potential for inconsistent or contradictory judgments.

28

1 The class action mechanism is designed to remedy harms like this one that are too small in value to  
2 pursue on an individualized basis.

3 45. Defendant has acted or refused to act on grounds generally applicable to the Class  
4 members, thereby making final injunctive relief and/or corresponding declaratory relief appropriate  
5 with respect to the Classes as a whole. The prosecution of separate actions by individual class  
6 members would create the risk of inconsistent or varying adjudications with respect to individual  
7 class members that would establish incompatible standards of conduct for Defendant.

8 **FIRST CAUSE OF ACTION**

9 **Violation of California's Consumers Legal Remedies Act ("CLRA"),**  
10 **California Civil Code §§ 1750, *et seq.***  
**(for the California Consumer Subclass)**  
**(for injunctive relief only)**

11 46. Plaintiff repeats and realleges allegations set forth in paragraphs 1-45 and incorporates  
12 the same as if set forth herein at length.

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

15 48. The Products are "goods" within the meaning of Cal. Civ. Code § 1761(a), and the  
16 purchases of such Products by Plaintiff and members of the California Consumer Subclass constitute  
17 "transactions" within the meaning of Cal. Civ. Code § 1761(e).

18 49. Cal. Civ. Code § 1770(a)(2) prohibits "[m]isrepresenting the source, sponsorship,  
19 approval, or certification of goods or services." By falsely and deceitfully labeling and advertising the  
20 Products with Natural Representations, Defendant has misrepresented and continues to misrepresent  
21 both the source and the certification of goods, and thus have violated section 1770(a)(2) of the CLRA.

22 50. Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that goods or services have  
23 sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have . .  
24 . ." By falsely and deceitfully labeling and advertising the Products with Natural Representations,  
25 Defendant has represented and continues to represent that the Products have characteristics and benefits  
26 which they do not have. Therefore, Defendant has violated section 1770(a)(5) of the CLRA.

27 51. Cal. Civ. Code § 1770(a)(7) prohibits "[r]epresenting that goods or services are of a  
28

1 particular standard, quality, or grade, or that goods are of a particular style of model, if they are  
 2 another.” By falsely and deceitfully labeling and advertising the Products with Natural Representations,  
 3 Defendant has represented and continues to represent that the Products are of a particular standard, quality,  
 4 and/or grade when they are not. Therefore Defendant has violated section 1770(a)(7) of the CLRA.

5 52. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services with intent not  
 6 to sell them as advertised.” By falsely and deceitfully labeling and advertising the Products with Natural  
 7 Representations, and then not selling the Products to meet those advertised standards, Defendant has  
 8 violated section 1770(a)(9) of the CLRA.

9 53. At all relevant times, Defendant knew or reasonably should have known that the  
 10 Products were not all natural but rather contained synthetic and/or artificial ingredients.

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

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

19 56. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the California Consumer  
 20 Subclass seek injunctive relief, and all other remedies the court deems appropriate for Defendant’s  
 21 violations of the CLRA. Plaintiff seeks to enjoin Defendant from use of the Natural Representations  
 22 and similar representations regarding the quality of the Products.

23 **SECOND CAUSE OF ACTION**  
 24 **Violation of California’s Unfair Competition Law (“UCL”),**  
 25 **California Business & Professions Code §§ 17200, *et seq.***  
**(for the California Class)**

26 57. Plaintiff repeats and reallages allegations set forth in paragraphs 1-45 and incorporates  
 27 the same as if set forth herein at length.

1           58. Plaintiff brings this claim individually and on behalf of the members of the proposed  
2 California Class against Defendant.

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

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

8           61. Defendant’s false and misleading advertising of the Products therefore was and  
9 continues to be “unlawful” because it violates the CLRA, California’s False Advertising Law  
10 (“FAL”), and other applicable laws as described herein.

11           62. As a result of Defendant’s unlawful business acts and practices, Defendant has  
12 unlawfully obtained money from Plaintiff, and members of the California Class.

13           63. Under the UCL, a business act or practice is “unfair” if the Defendant’s conduct is  
14 substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive,  
15 and unscrupulous, as the benefits for committing such acts or practices are outweighed by the gravity  
16 of the harm to the alleged victims.

17           64. Defendant’s conduct was and continues to be of no benefit to purchasers of the  
18 Products, as it is false, misleading, unfair, and unlawful. Creating customer confusion as to the  
19 nutritional value of Defendant’s Products is of no benefit to customers. Therefore, Defendant’s  
20 conduct was “unfair.”

21           65. As a result of Defendant’s unfair business acts and practices, Defendant has and  
22 continue to unfairly obtain money from Plaintiff, and members of the California Class.

23           66. Under the UCL, a business act or practice is “fraudulent” if it actually deceives or is  
24 likely to deceive members of the consuming public.

25           67. Defendant’s conduct here was and continues to be fraudulent because it has the effect  
26 of deceiving consumers into believing that the Products are healthier and/or more nutritious than they  
27 actually are. Plaintiff and members of the California Class are not sophisticated experts on nutrition  
28

1 and food labeling, and therefore likely deferred heavily to Defendant's representations, believing that  
 2 they were accurate. Because Defendant misled Plaintiff and members of the California Class,  
 3 Defendant's conduct was "fraudulent."

4 68. As a result of Defendant's fraudulent business acts and practices, Defendant has and  
 5 continues to fraudulently obtain money from Plaintiff, and members of the California Class.

6 69. Plaintiff request that this Court cause Defendant to restore this unlawfully, unfairly,  
 7 and fraudulently obtained money to Plaintiff, and members of the California Class, to disgorge the  
 8 profits Defendant made on these transactions, and to enjoin Defendant from violating the UCL or  
 9 violating it in the same fashion in the future as discussed herein. Otherwise, Plaintiff, and members  
 10 of the California Class may be irreparably harmed and/or denied an effective and complete remedy if  
 11 such an order is not granted.

### 12 **THIRD CAUSE OF ACTION**

#### 13 **Violation of California's False Advertising Law ("FAL"),** 14 **California Business & Professions Code §§ 17500, *et seq.*** **(for the California Class)**

15 70. Plaintiff repeats and reallages allegations set forth in paragraphs 1-45 and incorporates  
 16 the same as if set forth herein at length.

17 71. Plaintiff brings this claim individually and on behalf of the members of the California  
 18 Class against Defendant.

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

25 73. Defendant has disseminated to the public, including Plaintiff and members the  
 26 California Class, false and misleading statements concerning the nature of the Products. Because  
 27 Defendant has disseminated false and misleading information regarding its Products, and Defendant  
 28

1 knew or should have known, through the exercise of reasonable care, that these representations were  
2 false and misleading, Defendant violated the FAL.

3 74. Furthermore, Defendant knew or should have known through the exercise of  
4 reasonable care that such representations were unauthorized, inaccurate, and misleading.

5 75. As a result of Defendant's false advertising, Defendant has and continue to  
6 fraudulently obtain money from Plaintiff and the California Class.

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

12 **FOURTH CAUSE OF ACTION**  
13 **Breach of Express Warranty**  
***(for the California Class)***

14 77. Plaintiff repeats and realleges allegations set forth in paragraphs 1-45 and incorporates  
15 the same as if set forth herein at length.

16 78. Plaintiff brings this claim individually and on behalf of the members of the proposed  
17 California Class against Defendant.

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

23 80. Defendant has expressly warranted that the Products are all natural products. These  
24 representations about the Products were affirmations made by Defendant to consumers that the  
25 Products are in fact all natural, became part of the basis of the bargain to purchase the Products, and  
26 created an express warranty that the Products would conform to these affirmations. In the alternative,  
27 the representations about the Products are descriptions of goods which were made as part of the basis  
28

1 of the bargain to purchase the Products, and which created an express warranty that the Products  
2 would conform to the product descriptions.

3 81. Plaintiff and members of the California Class reasonably and justifiably relied on  
4 Defendant's express warranties that the Products were all natural, believing that that the Products did  
5 in fact conform to these warranties.

6 82. Defendant has breached the express warranties made to Plaintiff and members of the  
7 California Class by failing to manufacture, distribute and sell the Products to satisfy those warranties.

8 83. Plaintiff and members of the California Class paid money for the Products but did not  
9 obtain the full value of the Products as represented. If Plaintiff and members of the California Class  
10 had known of the true nature of the Products, they would not have purchased the Products or would  
11 not have been willing to pay the premium price associated with Products.

12 84. As a result, Plaintiff and members of the California Class suffered injury and deserve  
13 to recover all damages afforded under the law.

14 **FIFTH CAUSE OF ACTION**  
15 **Breach of Implied Warranty**  
***(for the California Class)***

16 85. Plaintiff repeats and reallages allegations set forth in paragraphs 1-45 and incorporates  
17 the same as if set forth herein at length.

18 86. Plaintiff brings this claim individually and on behalf of the members of the proposed  
19 California Class against Defendant.

20 87. California Commercial Code § 2314(1) provides that "a warranty that the goods shall  
21 be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods  
22 of that kind."

23 88. Furthermore, California Commercial Code § 2314(2) provides that "[g]oods to be  
24 merchantable must be at least such as . . . [c]onform to the promises or affirmations of fact made on  
25 the container or label if any."

26 89. Defendant is a merchant with respect to the sale of dog and cat food products,  
27 including the Products. Therefore, a warranty of merchantability is implied in every contract for sale  
28



1 of the Products to California consumers.

2 90. In advertising the Products with Natural Representations, Defendant has made  
3 promises and/or affirmations of fact about the Products.

4 91. However, the Products did not and do not conform to the promises and/or affirmations  
5 of fact made by Defendant about the Products. To the contrary, the Products are not all natural.

6 92. Therefore, Defendant has breached its implied warranty of merchantability in regard  
7 to the Products.

8 93. If Plaintiff and members of the California Class had known that the Products did not  
9 conform to Defendant's promises or affirmations of fact, they would not have purchased the Products  
10 or would not have been willing to pay the premium price associated with Products. Therefore, as a  
11 direct and/or indirect result of Defendant's breach, Plaintiff and members of the California Class have  
12 suffered injury.

13 **SIXTH CAUSE OF ACTION**  
14 **Intentional Misrepresentation**  
**(for the California Class)**

15 94. Plaintiff repeats and reallages allegations set forth in paragraphs 1-45 and incorporates  
16 the same as if set forth herein at length.

17 95. Plaintiff brings this claim on behalf of the members of the proposed California Class  
18 against Defendant.

19 96. Under California law, the elements of a claim for intentional misrepresentation are:  
20 (1) a material misrepresentation by the defendant, (2) with the intent to defraud the plaintiff, (3) the  
21 plaintiff's reasonable reliance on the misrepresentation, and (4) the plaintiff suffers damage as a result  
22 of plaintiff's reliance. As set forth below, all elements are satisfied here.

23 97. As detailed above, Defendant has willfully, falsely, and knowingly made Natural  
24 Representations about the Products when the Products contain ingredients that are synthetic and/or  
25 artificial. Therefore, Defendant has made misrepresentations as to the Products.

26 98. Defendant's Natural Representations were material to a reasonable consumer (i.e., the  
27 type of misrepresentations to which a reasonable person would attach importance and would be  
28

1 induced to act thereon in making purchase decisions), because they relate to the quality,  
2 characteristics, and nutritional value of the Products.

3 99. Defendant knew or recklessly disregarded the fact that the Products were not all  
4 natural at the time that it made the Natural Representations.

5 100. Defendant intended for Plaintiff and the California Class members to rely on its  
6 Natural Representations in purchasing the Products, as evidenced by Defendant prominently featuring  
7 the Natural Representations on the Products' packaging.

8 101. Plaintiff and the California Class members have reasonably and justifiably relied on  
9 Defendant's Natural Representations when purchasing the Products; have been unaware of the true  
10 nature of the Products (i.e., the Products are not all natural, for the reasons given above); and had  
11 Plaintiff and the California Class members known the truth that the Natural Representations  
12 were false and misleading because the Products are not all natural (as detailed above), they would not  
13 have purchased the Products or would not have purchased them at the prices at which they were  
14 offered.

15 102. As a direct and proximate result of Defendant's false and misleading Natural  
16 Representations, Plaintiff and the California Class members have suffered economic losses and other  
17 general and specific damages, including but not limited to the monies paid to Defendant, and any  
18 interest that has accrued on those monies, all in an amount to be proven at trial.

19 **SEVENTH CAUSE OF ACTION**

20 **Breach of Quasi-Contract/Unjust Enrichment/Restitution under California Law**  
21 ***(for the California Class)***

22 103. Plaintiff repeats and reallages allegations set forth in paragraphs 1-45 and incorporates  
23 the same as if set forth herein at length.

24 104. Plaintiff brings this claim for quasi-contract/unjust enrichment/restitution under for  
25 the California Class against Defendant.

26 105. As detailed herein, Defendant intentionally and recklessly made false and misleading  
27 Natural Representations about the Products to Plaintiff and the members of the California Class to  
28 induce them to purchase the Products. Plaintiff and the members of the California Class have

1 reasonably relied on the misleading representations and have not received all of the benefits promised  
 2 by Defendant. Plaintiff and the members of the California Class therefore have been induced by  
 3 Defendant's misleading and false representations about the Products, and paid for them when they  
 4 would and/or should not have, or paid more money to Defendant for the Products than they otherwise  
 5 would and/or should have paid.

6 106. Defendant has obtained benefits from Plaintiff and the California Class members by  
 7 fraud, and Defendant would obtain an undue advantage if it were allowed to retain the monetary  
 8 benefits it received from Plaintiff and the California Class members on account of its false and  
 9 misleading Natural Representations.

10 107. The monies Defendant received were obtained under circumstances that were at the  
 11 expense of Plaintiff and the members of the California Class — i.e., Plaintiff and the California Class  
 12 members did not receive the full value of the benefit conferred upon Defendant.

13 108. Therefore, it is inequitable and unjust for Defendant to retain the profit, benefit, or  
 14 compensation conferred upon it without paying Plaintiff and the members of the California Class  
 15 back for the difference of the full value of the benefit compared to the value actually received.

16 109. As a direct and proximate result of Defendant's unjust enrichment, Plaintiff and  
 17 members of the California Class seek restitution, disgorgement, and/or the imposition of a  
 18 constructive trust upon all profits, benefits, and other compensation obtained by Defendant from its  
 19 deceptive, misleading, and unlawful conduct as alleged herein.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff, individually and on behalf of the members of the Classes,  
 22 respectfully requests the Court to enter an Order:

23 A. certifying the proposed Classes, as set forth above; naming Plaintiff as a representative  
 24 of all Classes; and naming Plaintiff's attorneys as Class Counsel to represent all Classes;

25 B. declaring that Defendant is financially responsible for notifying the Class members of  
 26 the pendency of this suit;

27 C. declaring that Defendant has committed the violations of law alleged herein;  
 28

- 1 D. providing for any and all injunctive relief the Court deems appropriate;  
2 E. awarding statutory damages in the maximum amount for which the law provides;  
3 F. awarding monetary damages, including but not limited to any compensatory,  
4 incidental, or consequential damages in an amount that the Court or jury will determine, in accordance  
5 with applicable law;  
6 G. providing for any and all equitable monetary relief the Court deems appropriate;  
7 H. awarding punitive or exemplary damages in accordance with proof and in an amount  
8 consistent with applicable precedent;  
9 I. awarding Plaintiff her reasonable costs and expenses of suit, including attorneys' fees;  
10 J. awarding pre- and post-judgment interest to the extent the law allows; and  
11 K. providing such further relief as this Court may deem just and proper.

12 **DEMAND FOR TRIAL BY JURY**

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

14  
15 Dated: February 13, 2019

**FARUQI & FARUQI, LLP**

16 By:   
17 Benjamin Heikali, Bar No. 307466  
18 10866 Wilshire Blvd., Suite 1470  
19 Los Angeles, CA 90024  
Telephone: 424.256.2884  
Fax: 424.256.2885  
E-mail: bheikali@faruqilaw.com

20 Michael R. Reese (SBN 206773)  
21 **REESE LLP**  
22 100 West 93<sup>rd</sup> Street, 16th Floor  
23 New York, NY 10001  
Telephone: (212) 646-0500  
Facsimile: (212) 253-4272  
E-mail: mreese@reesellp.com

24 *Attorneys for Plaintiff Pennie Roper*  
25  
26  
27  
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