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16 *Counsel for Plaintiff Dennis Culver*
17 *and the Proposed Class*

18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**
20 **WESTERN DIVISION**

21 DENNIS CULVER, individually and
22 on behalf of all others similarly
23 situated,

24 Plaintiff,

25 v.

26 UNILEVER UNITED STATES, INC.,

27 Defendant.
28

Case No. 2:19-cv-09263

**FIRST AMENDED CLASS
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

1 Plaintiff Dennis Culver (“Plaintiff”), individually and on behalf of all others
2 similarly situated (the “Class,” as defined below), brings this First Amended Class
3 Action Complaint against Defendant Unilever United States, Inc. (“Unilever” or
4 “Defendant”), and respectfully alleges as follows. Plaintiff bases the allegations
5 herein on personal knowledge as to matters related to, and known to, him. As to all
6 other matters, he bases his allegations on information and belief, through
7 investigation of his counsel. Plaintiff believes substantial evidentiary support exists
8 for the allegations below and seeks a reasonable opportunity for discovery.

9 **NATURE OF THE ACTION**

10 1. Plaintiff brings this consumer protection and false advertising class
11 action lawsuit against Defendant, based on Defendant’s deceptive business practices
12 with respect to the sale of its Maille Old Style Mustard and Maille Dijon Originale
13 Mustard products (collectively, the “Products”) that, even though appear to be made
14 in France, are not from France.

15 2. At all relevant times, Unilever has systematically marketed and sold the
16 Products with labeling, packaging, and advertising that indicate the Products are
17 made in France, such that any consumer who purchased the Products, or who
18 purchases the Products today or in the future, is exposed to Defendant’s uniform
19 representations indicating that the Products are made in France.

20 3. Each of the Products’ labels bears references to France and makes use
21 of the French language.

22 4. Specifically, the labels of the Products, which are actually made in
23 Canada, bear the following representations: “Paris,” “Depuis 1747,” and “Que
24 Maille.”

25 5. The Products’ labeling, packaging, and marketing led Plaintiff and the
26 Class members to reasonably believe they were purchasing mustard that was made
27 in France.

28 6. An online survey (the “Survey”) can help confirm that consumers are

1 being deceived. The Survey would be conducted among a demographically
2 representative sample of approximately 600 California consumers who purchased
3 Maille brand mustard within twelve months prior to participating in the Survey. As
4 part of the Survey, among other tasks, respondents will be shown the label of either
5 the Maille Old Style Mustard or Maille Dijon Originale Mustard, and will be asked
6 questions such as “Based on the product label, where do you believe the product is
7 made?” To respond, the respondents will be given a drop down list of 21 countries
8 (in alphabetical order), including France, Canada, and the U.S., as well as the option
9 to select “None of the above” or “Don’t know / Not sure.”

10 7. After being asked about their perceptions about product origin,
11 respondents will also be asked follow-up questions like “Please tell us how confident
12 or not confident you are that the product was made in that country.”

13 8. Pursuant to the Court’s Minutes of Telephonic Hearing, issued on
14 January 21, 2021 (ECF No. 36), an Offer of Proof for the Survey is filed concurrently
15 with this First Amended Complaint, which includes a mock-up of the Survey.

16 9. The results of the Survey will provide further evidence that Defendant
17 misleads, deceives, and confuses reasonable consumers, including Plaintiff and the
18 Class members, by portraying the Products as being made in France, when in fact
19 they are made in Canada.

20 10. Defendant’s conduct harms consumers by inducing them to purchase
21 the Products at a price premium on the false premise that the Products are made in
22 France.

23 11. Based on a reasonable investigation by Plaintiff’s counsel, the Products
24 are sold in California at a price per ounce above all other similar mustards produced
25 in North America. *See infra* ¶¶ 57-62. Indeed, at certain grocery stores, the Products
26 are sold for at least twice as much per ounce than other mustards produced in North
27 America. *Id.*

28 12. Plaintiff and other consumers would not have otherwise purchased the

1 Products, or would have paid substantially less for them had they known the truth.

2 13. Plaintiff now brings this action individually and on behalf of the
3 members of the proposed Class (defined *infra*) to stop Unilever’s unlawful practices,
4 seeking injunctive and monetary relief and such additional relief as the Court may
5 deem just and proper.

6 **JURISDICTION AND VENUE**

7 **Jurisdiction**

8 14. Pursuant to Local Rule 8-1, Plaintiff states that this Court has original
9 subject matter jurisdiction over this proposed class action pursuant to the Class
10 Action Fairness Act of 2005, Pub. L. No. 109-2, 119 Stat. 4 (codified in scattered
11 sections of Title 28 of the United States Code), under 28 U.S.C. § 1332(d), which
12 provides for the original jurisdiction of the federal district courts over “any civil
13 action in which the matter in controversy exceeds the sum or value of \$5,000,000,
14 exclusive of interest and costs, and [that] is a class action in which . . . any member
15 of a class of plaintiffs is a citizen of a State different from any defendant.” 28 U.S.C.
16 § 1332(d)(2)(A). Because Plaintiff is a citizen of California and Defendant is a
17 citizen of Delaware and New Jersey, at least one member of the plaintiff class is a
18 citizen of a State different from Defendant. Furthermore, Plaintiff alleges the matter
19 in controversy is well in excess of \$5,000,000 in the aggregate, exclusive of interest
20 and costs. Finally, Plaintiff alleges “the number of members of all proposed plaintiff
21 classes in the aggregate” is greater than 100. *See* 28 U.S.C. § 1332(d)(5)(B).

22 15. This Court has personal jurisdiction over Unilever because Unilever
23 has sufficient minimum contacts with the State of California, and/or otherwise
24 intentionally avails itself of the markets in the State of California through the
25 promotion, marketing, and sale of the “Maille” brand mustard products in this State
26 to render the exercise of jurisdiction by this Court permissible under traditional
27 notions of fair play and substantial justice. Furthermore, Plaintiff’s claims arise out
28 of Defendant’s conduct within California, including Defendant’s conduct of

1 disseminating in California false and misleading representations indicating that the
2 “Maille” brand mustard products at issue are made in France, when in fact they are
3 made in Canada.

4 **Venue**

5 16. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2)
6 because a substantial part of the events or omissions giving rise to Plaintiff’s claims
7 occurred within this District, including Plaintiff’s purchase of the Product based on
8 Defendant’s dissemination of false and misleading information about the geographic
9 origin of the Products.

10 **PARTIES**

11 **Plaintiff Dennis Culver**

12 17. Plaintiff Dennis Culver is a citizen of California and resides in
13 Carpinteria, California, in Santa Barbara County.

14 18. Plaintiff purchased the Maille Old Style Mustard Product and the
15 Maille Traditional Dijon Originale Mustard Product in 2018 and 2019 from the
16 following locations: Costco in Oxnard, California; Costco in Goleta, California; and
17 Albertsons in Carpinteria, California.

18 19. Plaintiff last purchased the Products in or around February 2019.

19 20. The labeling and marketing of the Products Plaintiff purchased
20 contained references to France and made use of the French language. For example,
21 the Products contain the following representations: “Paris,” “Depuis 1747,” and
22 “Que Maille.”

23 21. Based on these references to France and the use of the French language
24 on the labels of the Products purchased, Plaintiff reasonably believed the Products
25 he purchased were made in France.

26 22. Plaintiff paid for Products that he believed were made in France but
27 received Products that were in fact made in Canada.

28 23. Plaintiff would not have purchased the Products or would have paid

1 less for the Products had he known they were in fact made in Canada.

2 24. The Products that Plaintiff received were worth less than the Products
3 for which he paid. Plaintiff was injured in fact and lost money as a result of
4 Defendant’s improper conduct.

5 25. If Plaintiff knew the Product labels were truthful and non-misleading,
6 he would likely continue to purchase the Products in the future. At present, however,
7 Plaintiff cannot be confident that the labeling of the Products is, and will be, truthful
8 and non-misleading. In addition, Class members will continue to purchase the
9 Products, reasonably but incorrectly believing that they are made in France.

10 **Defendant Unilever United States, Inc.**

11 26. Defendant Unilever United States, Inc., is a corporation organized
12 under the laws of Delaware.

13 27. Unilever United States, Inc.’s principal executive office is located at
14 700 Sylvan Avenue, Englewood Cliffs, New Jersey 07632.¹

15 **ALLEGATIONS COMMON TO ALL CLAIMS**

16 28. France is world famous for its food, including its mustards, which have
17 been popular there for over 1500 years.² Indeed, in 1390, the French government
18 issued regulations for the manufacture of mustard, decreeing that it contain nothing
19 more than “good seed and suitable vinegar.” In the 13th century, Pope John XXII of
20 Avignon, France was so fond of mustard that he created a new papal position in
21 France – *grand moutardier du pape* (mustard-maker to the pope).³

22 29. “Maille” is a brand of mustards, salad dressings, oils, and other
23 products that originated in France in the 1700s.

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25 ¹ SEC’Y OF STATE, STATE OF CAL., *Corporation - Statement of Information: Unilever*
26 *United States, Inc.* (Sept. 15, 2020), available at
<https://businesssearch.sos.ca.gov/Document/RetrievePDF?Id=02406668-28955236>
(last visited Mar. 9, 2021)

27 ² See <https://www.thegoodlifeinfrance.com/the-history-of-mustard-in-france/>(last
visited Mar. 9, 2021)

28 ³ *Id.*

1 30. In 1747, Antoine-Claude Maille became a sudden celebrity, which
2 enabled him to successfully market and sell a range of aromatic mustards. That year,
3 he opened his first boutique in Paris and became official supplier to the court of King
4 Louis XV.⁴

5 31. In 1845, the Maille boutique at Dijon opened in the heart of the
6 Burgundy region in France, which is the home of Dijon mustard. *Id.*

7 32. The Maille boutique in Dijon continues to operate today. *Id.*

8 33. In 2007, Maille launched its boutique online in France to sell the
9 “exclusive products” found in the boutiques in Paris and Dijon. *Id.*

10 34. Unfortunately for consumers, at all relevant times, the Maille mustard
11 Products were not made in France. Rather, they were made in Canada.

12 35. At all relevant times, the Products were sold across California at a price
13 premium above other North American produced mustards.

14 36. The Products’ labeling, packaging, and marketing are likely to deceive
15 reasonable consumers, including Plaintiff and the Class members, and only serve the
16 profit-maximizing interests of Defendant.

17 37. Defendant deceptively labeled and packaged the Products to target
18 consumers who are interested in purchasing mustards made in France.

19 38. The overall brand image of the Maille mustard Products, including the
20 “Maille” name, is centered around France. Defendant uses references to France and
21 French words on the Products’ labels and packaging, creating the impression that
22 the Products are made in France.

23 39. The representations Defendant uses on the Product labels include all of
24 the following. Taken in isolation and in the various combinations in which they are
25 used on the labeling, these representations create a misleading perception that the
26 Products are made in France:

27 _____
28 ⁴ See *Our Story*, US.MAILLE.COM (2019), <https://us.maille.com/pages/our-story/>
(last visited Mar. 9, 2021)

- 1 a. the word “Paris”;
- 2 b. the words “Depuis 1747”; and
- 3 c. the words “Que Maille.”

4 40. For example, Defendant markets the Traditional Dijon Originale
5 Mustard Product using the following labeling:



1
2 41. Defendant also markets the Maille Old Style Mustard using the
3 following labeling:



20 42. Defendant knows, knew, or should have known that in making their
21 purchases of the Products, Plaintiff and the Class members did and would rely on
22 the labeling, packaging, and advertising of the Products and would reasonably
23 believe the Products were made in France.

24 43. In reasonable reliance on the representations listed above, and
25 reasonably believing the Products were made in France, Plaintiff and the Class
26 members purchased the Products.

27 44. In fact, numerous online comments posted on a website that reports on
28 consumer class actions and which had a written article about this case, further

1 demonstrate that reasonable consumers were indeed misled by the Products’
2 labeling⁵:

3 *Kris Sullivan*, Oct. 25, 2020

4 I just noticed that this mustard is made in Canada and was shocked. I’ve been
5 buying it for many years so of course I didn’t look where it was made since it
6 used to be made in France. Add me to the class action. I’ve probably spent
7 well over \$100 on this product over the years!

8 *Lawrence Cook*, Sept. 10, 2020

9 yes i feel deceived, i thought the product was made in france

10 *Misty Propps*, Nov. 5, 2019

11 I love this mustard, never thought it was from Canada! Add me please⁶

12 45. And complaints from Defendant’s own website further support
13 allegations that reasonable consumers were misled by the Products’ labeling⁷.

14 46. For example, in a post from January 16, 2020, a consumer stated⁸:

15 Unfortunately any negative review is removed. This mustard is not
16 authentic, It is made in Canada and [does] not have the same pungent
17 wonderful flavor as mustard from Dijon. Aside from being far
18 overpriced, one is better off getting the Trader Joe’s mustard that is
19 imported from Dijon and it cost just \$1.99 for 13 oz. as opposed to this
20 contrefacon at \$7.00 for 7.5 oz. Quelle honte!⁹

21 47. An online survey (the “Survey”) can help confirm that consumers are
22 in fact being deceived. The Survey would be conducted among a demographically
23 representative sample of approximately 600 California consumers who purchased

24 ⁵ These reviews were copied verbatim and any grammatical or typographical errors
25 are attributable to the original author.

26 ⁶ Steven Cohen, *Maille Class Action Says Mustard Is Made In Canada, Not Paris*,
27 TOPCLASSACTIONS.COM, <https://topclassactions.com/lawsuit-settlements/consumer-products/food/929572-maille-class-action-says-mustard-is-made-in-canada-not-paris/#:~:text=Unilever%20United%20States%20Inc.%20has,in%20fact%2C%20made%20in%20Canada.> (last visited Mar. 9, 2021).

28 ⁷ <https://us.maille.com/products/dijon-originale-mustard> (last visited Mar. 9, 2021).

⁸ This consumer review was copied verbatim and any typographical or grammatical error is attributed to its original author.

⁹ David Goldfarb, review of Traditional Dijon Originale Mustard, 7.5 oz, U.S.MAILLE.COM, <https://us.maille.com/products/dijon-originale-mustard> (last visited Mar. 9, 2021)

1 Maille brand mustard within twelve months prior to participating in the Survey. As
2 part of the Survey, among other tasks, respondents will be shown the label of either
3 the Maille Old Style Mustard or Maille Dijon Originale Mustard, and asked
4 questions such as “Based on the product label, where do you believe the product is
5 made?” To respond, the respondents will be given a drop down list of 21 countries
6 (in alphabetical order), including France, Canada, and the U.S., as well as the option
7 to select “None of the above” or “Don’t know / Not sure.”

8 48. After being asked about their perceptions about product origin,
9 respondents will also be asked follow-up questions like “Please tell us how confident
10 or not confident you are that the product was made in that country.”

11 49. Pursuant to the Court’s Minutes of Telephonic Hearing, issued on
12 January 21, 2021 (ECF No. 36), an Offer of Proof for the Survey is filed concurrently
13 with this First Amended Complaint, which includes mock-up of the Survey.

14 50. The results of the Survey will provide further evidence that Defendant
15 misleads, deceives, and confuses reasonable consumers, including Plaintiff and the
16 Class members, by portraying the Products as being made in France, when in fact
17 they are made in Canada.

18 51. Representations on the front of a product, like those regarding a
19 product’s geographic origin, can have a direct effect on product evaluations by
20 consumers, especially regarding the quality of the product.

21 52. Plaintiff and the Class members did not know, and had no reason to
22 know, that the Products are not made in France because of how the Products are
23 deceptively labeled, packaged, and advertised to create the impression they are made
24 in France. For example, research indicates that 90% of consumers make a purchase
25 after only visually examining the front of the packaging without physically having
26 the product in their hands.¹⁰

27 _____
28 ¹⁰ See Clement, J., *Visual influence on in-store buying decisions: an eye-track*

1 53. Because the Products are not made in France as reasonably expected by
2 Plaintiff and the Class members, Defendant’s marketing of the Products was and
3 continues to be misleading and deceptive.

4 54. Each consumer has been exposed to the same or substantially similar
5 deceptive practices because: 1) each Product contains identical or substantially
6 similar representations centered around France; and 2) none of the Products are in
7 fact made in France.

8 **Damages to Plaintiff and Class Members**

9 55. Plaintiff and the Class members have paid an unlawful price premium
10 for the Products based on their false representation that they are made in France.
11 Plaintiff and the Class members would have paid significantly less for the Products
12 had they known that the Products were not made in France. In the alternative,
13 Plaintiff and the Class members would not have purchased the Products at all had
14 they known the Products were not made in France. Consequently, Plaintiff and the
15 Class members purchasing the Products suffered injury in fact and lost money as a
16 result of Defendant’s false, unfair, and fraudulent practices, as described herein.

17 56. Based upon a reasonable investigation by Plaintiff’s counsel, the
18 Products are sold at a higher price per ounce as compared to other North American
19 produced mustards. This higher price constitutes a “price premium” for the Products
20 based on the false impression conveyed by Defendant that the Products are made in
21 France, when they are actually made in Canada.

22 57. Indeed, these allegations are based, in part, on the preliminary
23 investigation by Plaintiff’s counsel of the prices of other North American mustard
24 products sold at Ralphs, Whole Foods, Vons, and Albertsons, four common
25 supermarket chains in the Los Angeles Area.

26 58. Specifically, Plaintiff’s counsel visited the Ralphs located at 10861

27 _____
28 *experiment on the visual influence of packaging design*, 23 Journal of Marketing
Management, 917–928 (2007).

1 Weyburn Ave., Los Angeles, California 90024, on February 10, 2021; Whole Foods
2 located at 1050 Gayley Ave., Los Angeles, California 90024 on February 10, 2021;
3 Vons located at 3118 South Sepulveda Blvd. Los Angeles, California 90034, on
4 March 4, 2021; and Albertsons located at 2035 Hillhurst Ave. Los Angeles,
5 California 90027 on March 8, 2021.

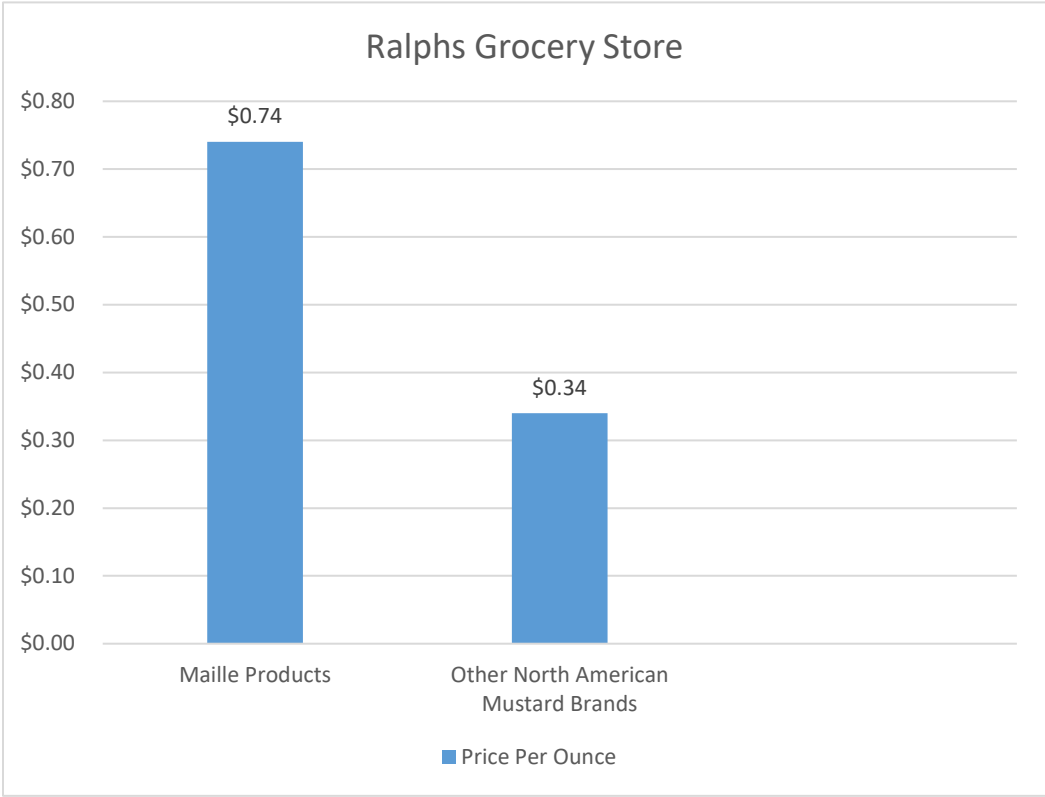
6 59. Plaintiff's counsel collected data from these grocery stores for all
7 mustards that were available for purchase on the date that Plaintiff's counsel visited
8 the grocery store.

9 60. Afterwards, Plaintiff's counsel excluded from the data all Maille
10 mustard products not at issue in this case, and all mustards from other brands not
11 made in North America.

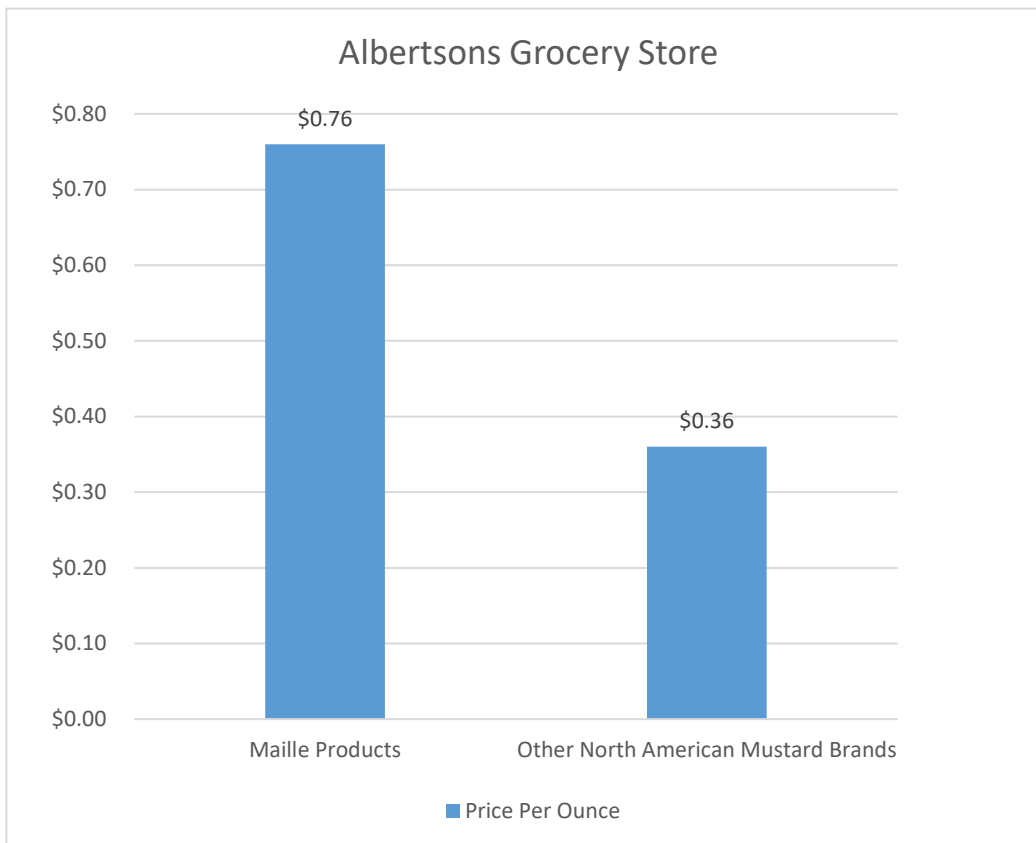
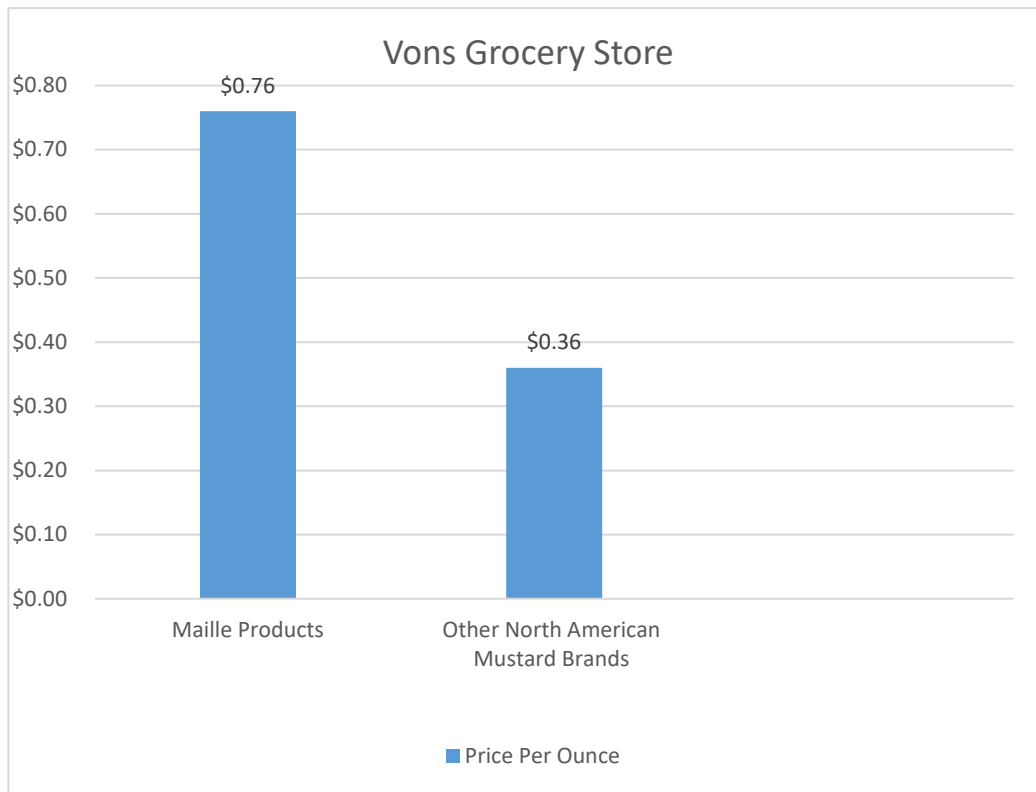
12 61. Below are bar graphs comparing the average price per ounce of the
13 Maille Products (i.e. Maille Old Style Mustard and Maille Dijon Originale Mustard)
14 and the average price per ounce of other North American mustard brands. Attached
15 as **Exhibit 1** are tables with all the North American mustard brands that Plaintiff's
16 counsel examined, including the size, cost, and price per ounce for each product.

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1 65. Excluded from the Class are: (a) Defendant, Defendant’s board
2 members, executive-level officers, attorneys, and immediate family members of any
3 of the foregoing persons; (b) governmental entities; (c) the Court, the Court’s
4 immediate family, and the Court staff; and (d) any person that timely and properly
5 excludes himself or herself from the Class in accordance with Court-approved
6 procedures.

7 66. Plaintiff reserves the right to alter the Class definitions as he deems
8 necessary at any time to the full extent that the Federal Rules of Civil Procedure, the
9 Local Rules of the United States District Court for the Central District of California,
10 and applicable precedent allow.

11 67. Certification of Plaintiff’s claims for class-wide treatment is
12 appropriate because Plaintiff can prove the elements of his claims on a class-wide
13 basis using the same evidence as individual Class members would use to prove those
14 elements in individual actions alleging the same claims.

15 68. Numerosity; Rule 23(a)(1): The size of the Class is so large that joinder
16 of all Class members is impracticable. Due to the nature of Defendant’s business,
17 Plaintiff believes there are thousands, if not millions, of Class members
18 geographically dispersed throughout California.

19 69. Existence and Predominance of Common Questions of Law and Fact;
20 Rule 23(a)(2), (b)(3): There are questions of law and fact common to the Class.
21 These questions predominate over any questions affect only individual Class
22 members.

23 70. All Class members were exposed to Defendant’s deceptive advertising
24 and marketing representations indicating that the Products were made in France,
25 when in fact the Products were not made in France.

26 71. Furthermore, common legal and factual questions include but are not
27 limited to:

28 a. whether Defendant engaged in the course of conduct alleged

- 1 herein;
- 2 b. whether Defendant’s conduct is likely to deceive a reasonable
- 3 consumer;
- 4 c. whether Defendant’s conduct constitutes an unfair or deceptive
- 5 act or practice;
- 6 d. whether Defendant violated the consumer protection statutes set
- 7 forth below;
- 8 e. whether Defendant was unjustly enriched by its conduct at issue;
- 9 f. whether Plaintiff and the Class members are entitled to actual,
- 10 statutory, or other forms of damages and other monetary relief;
- 11 and
- 12 g. whether Plaintiff and the Class members are entitled to equitable
- 13 relief, including but not limited to injunctive relief and equitable
- 14 restitution.

15 72. Defendant engaged in a common course of conduct in contravention of
16 the laws Plaintiff seeks to enforce individually and on behalf of the Class members.
17 Similar or identical statutory and common law violations, business practices, and
18 injuries are involved. Individual questions, if any, pale by comparison, in both
19 quality and quantity, to the numerous common questions that dominate this action.
20 Moreover, the common questions will yield common answers that will materially
21 advance the litigation.

22 73. Typicality; Rule 23(a)(3): Plaintiff’s claims are typical of the claims of
23 the Class members because Defendant injured all Class members through the
24 uniform misconduct described herein; all Class members were subject to
25 Defendant’s false, misleading, and unfair advertising and marketing practices and
26 representations, including the false and misleading representations indicating that
27 the Products were made in France when, in fact, they were not made in France; and
28 Plaintiff seeks the same relief as the Class members.

1 74. Furthermore, there are no defenses available to Defendant that are
2 unique to Plaintiff.

3 75. Adequacy of Representation; Rule 23(a)(4): Plaintiff is a fair and
4 adequate representative of the Class because Plaintiff’s interests do not conflict with
5 the Class members’ interests.

6 76. Plaintiff has selected competent counsel that are experienced in class
7 action and other complex litigation.

8 77. Plaintiff will prosecute this action vigorously and is highly motivated
9 to seek redress against Defendant. Plaintiff and his counsel are committed to
10 prosecuting this action vigorously on behalf of the Class and have the resources to
11 do so.

12 78. Injunctive or Declaratory Relief; Rule 23(b)(2): The requirements for
13 maintaining a class action pursuant to Rule 23(b)(2) are met, as Defendant has acted
14 or refused to act on grounds generally applicable to the Class, thereby making
15 appropriate final injunctive relief or corresponding declaratory relief with respect to
16 the Class as a whole.

17 79. Superiority; Rule 23(b)(3): The class action mechanism is superior to
18 other available means for the fair and efficient adjudication of this controversy for
19 reasons including but not limited to the following:

20 a. The damages individual Class members suffered are small
21 compared to the burden and expense of individual prosecution of
22 the complex and extensive litigation needed to address
23 Defendant’s conduct.

24 b. Further, it would be virtually impossible for the Class members
25 individually to redress effectively the wrongs done to them. Even
26 if Class members themselves could afford such individual
27 litigation, the court system could not. Individualized litigation
28 would unnecessarily increase the delay and expense to all parties

1 and to the court system and presents a potential for inconsistent
2 or contradictory rulings and judgments. By contrast, the class
3 action device presents far fewer management difficulties, allows
4 the hearing of claims which might otherwise go unaddressed
5 because of the relative expense of bringing individual lawsuits,
6 and provides the benefits of single adjudication, economies of
7 scale, and comprehensive supervision by a single court.

8 c. The prosecution of separate actions by the individual members
9 of the Class would create a risk of inconsistent or varying
10 adjudications with respect to individual Class members, which
11 would establish incompatible standards of conduct for
12 Defendant.

13 d. The prosecution of separate actions by individual Class members
14 would create a risk of adjudications with respect to them that
15 would, as a practical matter, be dispositive of the interests of
16 other Class members not parties to the adjudications or that
17 would substantively impair or impede their ability to protect their
18 interests.

19 80. Notice: Plaintiff and his counsel anticipate that notice to the proposed
20 Class will be effectuated through recognized, Court-approved notice dissemination
21 methods, which may include United States mail, electronic mail, Internet postings,
22 and/or published notice.

23 **CLAIMS FOR RELIEF**

24 **FIRST CLAIM**

25 **Violation of California’s Consumers Legal Remedies Act (“CLRA”)**

26 **CAL. CIV. CODE § 1750 *et seq.***

27 **On Behalf of the Class**

28 81. Plaintiff repeats each and every allegation contained in the paragraphs
above and incorporates such allegations by reference herein.

1 82. Plaintiff brings this claim against Defendant on behalf of the Class for
2 violation of California’s Consumers Legal Remedies Act, CAL. CIV. CODE § 1750 *et*
3 *seq.* (the “CLRA”).

4 83. This claim seeks monetary and injunctive relief pursuant to California
5 Civil Code section 1782.

6 84. The CLRA prohibits various deceptive practices in connection with the
7 conduct of a business providing goods, property, or services primarily for personal,
8 family, or household purposes.

9 85. Unilever designed its policies, acts, and practices to, and the policies,
10 acts, and practices did, result in Plaintiff and the Class members purchasing and
11 using the Products primarily for personal, family, or household purposes.

12 86. The Products are “goods” within the meaning of California Civil Code
13 section 1761(a), and the Plaintiff’s and the Class members’ purchases of the
14 Products constitute “transactions” within the meaning of California Civil Code
15 section 1761(e).

16 87. Unilever has violated the following sections of the CLRA:

17 a. California Civil Code section 1770(a)(2), which prohibits
18 “[m]isrepresenting the source, sponsorship, approval, or
19 certification of goods or services”;

20 b. California Civil Code section 1770(a)(4), which prohibits
21 “[u]sing deceptive representations or designations of geographic
22 origin in connection with goods or services”;

23 c. California Civil Code section 1770(a)(5), which prohibits
24 “[r]epresenting that goods or services have sponsorship,
25 approval, characteristics, ingredients, uses, benefits, or quantities
26 that they do not have or that a person has a sponsorship, approval,
27 status, affiliation, or connection that he or she does not have”;

28 d. California Civil Code section 1770(a)(7), which prohibits

1 “representing that goods or services are of a particular standard,
2 quality, or grade, or that goods are of a particular style or model,
3 if they are of another”;

4 e. California Civil Code section 1770(a)(9), which prohibits
5 “[a]dvertising goods or services with intent not to sell them as
6 advertised”; and

7 f. California Civil Code section 1770(a)(16), which prohibits
8 “[r]epresenting that the subject of a transaction has been supplied
9 in accordance with a previous representation when it has not.”

10 88. At all relevant times, Defendant has known or reasonably should have
11 known that the Products were not made in France, and that Plaintiff and the Class
12 members would reasonably and justifiably rely on the labeling, packaging, and other
13 advertisements in purchasing the Products.

14 89. Plaintiff and the Class members purchased the Products based on the
15 representations related to France, reasonably believing that the Products were made
16 in France.

17 90. Plaintiff and the Class members would not have purchased the
18 Products, but for Defendant’s misleading statements indicating the Products were
19 made in France.

20 91. Plaintiff and the Class members have reasonably and justifiably relied
21 on Defendant’s deceptive conduct when purchasing the Products. Moreover, based
22 on the very materiality of Defendant’s deceptive conduct, reliance on such conduct
23 as a material reason for the decision to purchase the Products may be presumed or
24 inferred for Plaintiff and the Class members.

25 92. Plaintiff and the Class members paid for Products that they believed
26 were made in France but did not receive Products that were made in France.

27 93. Plaintiff and the Class members were injured in fact and lost money as
28 a result of Defendant’s conduct because they would not have purchased the Products

1 or would have paid significantly less for the Products had they known that
2 Defendant's conduct was misleading and fraudulent.

3 94. Under California Civil Code section 1780(a)(2), Plaintiff and the Class
4 members seek injunctive relief, preventing Defendant from further wrongful acts
5 and unfair and unlawful business practices, as well as restitution, disgorgement of
6 profits, and any other relief this Court deems proper.

7 95. With Plaintiff's original complaint, he filed an affidavit showing that
8 venue is proper pursuant to California Civil Code section 1780(d). *See* ECF No. 1.

9 96. On April 1, 2019, counsel for Plaintiff mailed a CLRA notice and
10 demand letter (the "Notice Letter") by certified mail, with return receipt requested,
11 to Defendant. Defendant received the Notice Letter on April 4, 2019. The Notice
12 Letter provided notice of Defendant's violation of the CLRA and demanded that
13 Defendant correct, repair, replace, or otherwise rectify the unlawful, unfair, false,
14 and deceptive practices complained of herein. The Notice Letter also stated that if
15 Defendant refused to do so, Plaintiff would file a complaint seeking damages in
16 accordance with the CLRA. Defendant failed to comply with the Notice Letter.

17 97. Because Defendant failed to fully rectify or remedy the damages
18 caused, after waiting more than the statutorily required 30 days after it received the
19 Notice Letter, Plaintiff timely filed the original complaint against Defendant.

20 98. Therefore, Plaintiff prays for relief as set forth below.

21 **SECOND CLAIM**

22 **Violation of California's False Advertising Law**

23 **CAL. BUS. & PROF. CODE § 17500 *et seq.***

24 **On Behalf of the Class**

25 99. Plaintiff repeats each and every allegation contained in the paragraphs
26 above and incorporates such allegations by reference herein.

27 100. Plaintiff brings this claim against Unilever on behalf of the Class for
28 violation of California's False Advertising Law, California Business and Professions
Code § 17500 *et seq.* (the "FAL").

1 Competition Law, Cal. Bus. & Prof. Code § 17500 *et seq.* (the “UCL”).

2 109. The circumstances giving rise to the allegations of Plaintiff and the
3 Class members include Defendant’s corporate policies regarding the marketing, sale,
4 and provision of the Products.

5 110. The UCL prohibits “unfair competition,” which it defines to “mean and
6 include any unlawful, unfair or fraudulent business act or practice and unfair,
7 deceptive, untrue or misleading advertising and any act prohibited by [the FAL].”
8 CAL. BUS. & PROF. CODE § 17200.

9 111. By engaging in the acts and practices described above, Defendant
10 committed one or more acts of “unfair competition” as the UCL defines that term.

11 112. First, as detailed herein, Unilever’s acts, misrepresentations, omissions,
12 and practices violate the FAL and the CLRA, and they constitute breach of quasi-
13 contract / unjust enrichment under California law. On account of each of these
14 violations of law, Unilever has also violated the “unlawful” prong of the UCL.

15 113. Second, Defendant has committed “unfair” business acts or practices
16 by, among other things:

- 17 a. engaging in conduct for which the utility of the conduct, if any,
18 is outweighed by the gravity of the consequences to Plaintiff and
19 the Class members. Deceiving consumers as to the origin of the
20 Product is of no benefit to consumers;
- 21 b. engaging in conduct that is immoral, unethical, oppressive,
22 unscrupulous, or substantially injurious to Plaintiff and the Class
23 members; and
- 24 c. engaging in conduct that undermines or violates the spirit or
25 intent of the consumer protection laws alleged in this First
26 Amended Class Action Complaint.

27 114. Third, Defendant committed “fraudulent” business acts or practices by,
28 among other things, engaging in conduct Defendant knew or should have known

1 was likely to and did deceive reasonable consumers, including Plaintiff and the Class
2 members.

3 115. As detailed above, Defendant's marketing and sale of the Products to
4 Plaintiff and the Class members was likely to deceive a reasonable consumer
5 because Defendant's representations were likely to lead a reasonable consumer to
6 believe the Products were made in France, when in fact the Products were not made
7 in France.

8 116. In reliance on Defendant's false and misleading representations
9 indicating the Products were made in France, Plaintiff and the Class members
10 purchased the Products. Moreover, based on the very materiality of Defendant's
11 fraudulent and misleading conduct, reliance on such conduct as a material reason for
12 the decision to purchase the Products may be presumed or inferred for Plaintiff and
13 the Class members.

14 117. Unilever knew or should have known that its labeling and marketing of
15 the Products was likely to deceive a reasonable consumer.

16 118. Plaintiff and the Class members seek declaratory relief, restitution for
17 monies Unilever wrongfully obtained, disgorgement of ill-gotten revenues and/or
18 profits, injunctive relief, and other relief allowable under California Business and
19 Professions Code section 17203.

20 119. Therefore, Plaintiff prays for relief as set forth below.

21 **FOURTH CLAIM**
22 **Breach of Quasi-Contract / Unjust Enrichment / Restitution**
23 **Under California Law**
24 **On Behalf of the Class**

25 120. Plaintiff repeats each and every allegation contained in the paragraphs
26 above and incorporates such allegations by reference herein.

27 121. Plaintiff brings this claim for breach of quasi-contract / unjust
28 enrichment / restitution under California law against Unilever on behalf of the Class.

122. Under California law, the elements of a claim for breach of quasi-

1 contract / unjust enrichment / restitution are: (1) receipt of a benefit and (2) unjust
2 retention of the benefit at the expense of another.

3 123. As detailed above, Defendant has made deceptive representations to
4 Plaintiff and the Class members indicating the Products were made in France, to
5 induce them to purchase the Products. In fact, the Products were not made in France.

6 124. Defendant's conduct created a quasi-contract with Plaintiff and the
7 Class members, through which Defendant received a benefit of monetary
8 compensation without providing the benefits Defendant promised to Plaintiff and
9 the Class members.

10 125. Plaintiff and the Class members conferred a benefit upon Defendant
11 when they purchased the Products at a premium price, and Defendant has received
12 and retained the monies that Plaintiff and the Class members paid for the Products.

13 126. For the reasons described herein, the monetary benefits that Unilever
14 obtained from Plaintiff and the Class members are to the detriment of Plaintiff and
15 the Class members and violate fundamental principles of justice, equity, and good
16 conscience.

17 127. Such monetary benefits constitute unjust enrichment of Defendant, and
18 it would be inequitable under the circumstances for Defendant to retain the benefits
19 it has received.

20 128. As a direct and proximate result of Defendant's unjust enrichment,
21 Plaintiff and the Class members seek restitution, disgorgement, and/or the
22 imposition of a constructive trust upon all profits, benefits, and other compensation
23 that Defendant obtained from its deceptive and unlawful conduct as alleged herein.

24 129. Therefore, Plaintiff prays for relief as set forth below.

25 **PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff, individually and on behalf of the members of the
27 Class, respectfully requests the following relief:

28 A. certifying the proposed Class under Federal Rule of Civil Procedure

1 23(a), (b)(2), and (b)(3), as set forth above;

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

4 C. declaring that Defendant has committed the violations of law alleged
5 herein;

6 D. providing for any and all injunctive relief the Court deems appropriate;

7 E. awarding statutory damages in the maximum amount for which the law
8 provides;

9 F. awarding monetary damages, including but not limited to any
10 compensatory, incidental, or consequential damages in an amount that the Court or
11 jury will determine, in accordance with applicable law;

12 G. providing for any and all equitable monetary relief the Court deems
13 appropriate;

14 H. awarding punitive or exemplary damages in accordance with proof and
15 in an amount consistent with applicable precedent;

16 I. awarding Plaintiff his reasonable costs and expenses of suit, including
17 attorneys' fees;

18 J. awarding pre- and post-judgment interest to the extent the law allows;
19 and

20 K. providing such further relief as this Court may deem just and proper.
21

22 **DEMAND FOR JURY TRIAL**

23 Pursuant to Rule 38 of the Federal Rules of Civil Procedure, Plaintiff hereby
24 demands a trial by jury on all claims so triable.

25 Date: March 9, 2021

Respectfully submitted,

27 **FARUQI & FARUQI, LLP**

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and the Proposed Class*

EXHIBIT 1

Ralphs Grocery Store

Product	Oz	Cost	Cost Per Ounce
Maille Dijon Originale	13.4	\$8.99	\$0.67
Maille Dijon Originale	7.5	\$5.99	\$0.80
Inglehoffer Sweet Hot Pepper Mustard	10	\$4.99	\$0.50
Inglehoffer Honey Mustard	10.25	\$4.19	\$0.41
Inglehoffer Original Stone Ground Mustard	10	\$4.19	\$0.42
Grey Poupon Dijon	8	\$4.19	\$0.52
Grey Poupon Dijon	10	\$4.99	\$0.50
Grey Poupon Country Dijon	8	\$4.19	\$0.52
Bone Suckin' Mustard	12	\$7.59	\$0.63
Westbrae Natural Stoneground Mustard	8	\$4.69	\$0.59
Annie's Horseradish Mustard	9	\$4.69	\$0.52
Private Selection Garlic Whole Grain Mustard	8.75	\$2.69	\$0.31
Private Selection French Recipe Dijon	9	\$2.69	\$0.30
Private Selection Spicy Beer Whole Grain Mustard	9	\$2.69	\$0.30
Silver Spring Beer'n Brat Horseradish Mustard	9.5	\$3.29	\$0.35
Sir Kensington's Spicy Brown Mustard	9	\$5.59	\$0.62
Sir Kensington's Yellow Mustard	9	\$5.59	\$0.62
Beaver Sweet Hot Mustard	13	\$4.99	\$0.38
Beaver Hickory Bacon Flavored Mustard	12	\$5.99	\$0.50
Beaver Sweet Honey Mustard	13	\$4.99	\$0.38
Sweet Baby Ray's Honey Mustard	14	\$2.99	\$0.21
Simple Organic Truth Dijon Mustard	12	\$1.79	\$0.15
Simple Organic Truth Stone Ground	12	\$1.79	\$0.15
Kroger Horseradish Mustard	12	\$1.69	\$0.14
Kroger Spicy Brown Mustard	12	\$1.69	\$0.14
Kroger Dijon Mustard	12	\$1.69	\$0.14
Kroger Honey Mustard	12	\$1.69	\$0.14
Organicville Dijon Mustard	12	\$4.99	\$0.42
Organicville Stone Ground Mustard	12	\$4.99	\$0.42
Gulden's Spicy Brown Mustard	12	\$2.49	\$0.21
Kroger Yellow Mustard	8	\$0.99	\$0.12
Kroger Yellow Mustard	14	\$1.19	\$0.09
French's Classic Yellow Mustard	14	\$2.59	\$0.19
French's Dijon Mustard	12	\$3.79	\$0.32
French's Honey Mustard	12	\$3.79	\$0.32
Top ems Yellow Mustard	14	\$0.87	\$0.06
Sandwich Pal Sweet and Spicy Mustard	16	\$4.29	\$0.27
Sandwich Pal Jalapeno Mustard	16	\$4.29	\$0.27

Whole Foods Grocery Store

Product	Oz	Cost	Cost Per Ounce
Maille Old Style Mustard	7.3	\$5.49	\$0.75
Maille Dijon Originale	7.5	\$5.49	\$0.73
365 German Mustard	8	\$1.99	\$0.25
365 Dijon Mustard	8	\$1.99	\$0.25
365 Honey Mustard	8	\$1.99	\$0.25
365 Yellow Mustard	8	\$1.89	\$0.24
365 Yellow Mustard	14	\$1.79	\$0.13
Grey Poupon Country Dijon	8	\$4.19	\$0.52
Sierra Nevada Pale Ale Honey Spice	8	\$3.99	\$0.50
Sierra Nevada Spicy Brown Mustard	8	\$3.99	\$0.50
Annie's Horseradish Mustard	9	\$3.99	\$0.44
Sir Kensington's Dijon Mustard	11	\$3.97	\$0.36
Primal Kitchen Organic Spicy Brown Mustard	12	\$4.99	\$0.42
Organicville Stone Ground Mustard	12	\$4.39	\$0.37
Organicville Stone Ground Mustard	12	\$4.19	\$0.35
Organicville Dijon Mustard	12	\$4.19	\$0.35
Brooklyn Delhi Curry Mustard	10	\$5.99	\$0.60

Vons Grocery Store

Product	Oz	Cost	Cost Per Ounce
Maille Dijon Originale	7.5	\$5.99	\$0.80
Maille Dijon Originale	8.9	\$5.99	\$0.67
Maille Old Style Mustard	8.5	\$5.99	\$0.70
Maille Old Style Mustard	7.3	\$5.99	\$0.82
Beaver Deli Mustard	12.5	\$4.39	\$0.35
Beaver Honey Mustard	13	\$4.39	\$0.34
Beaver Jalapeno Mustard	13	\$4.39	\$0.34
Inglehoffer Applewood Smoked Bacon Mustard	10	\$4.99	\$0.50
Inglehoffer Original Stone Ground Mustard	10	\$4.99	\$0.50
Inglehoffer Traditional Dijon Mustard	9	\$4.99	\$0.55
Grey Poupon Dijon Mustard	10	\$5.29	\$0.53
Grey Poupon Deli Mustard	10	\$5.29	\$0.53
Grey Poupon Dijon Mustard	8	\$4.99	\$0.62
Grey Poupon Dijon Mustard	16	\$7.99	\$0.50
Silver Spring Dijon Mustard	9.5	\$2.99	\$0.31
Beaver Sweet Hot Mustard	13	\$4.39	\$0.34
Primal Kitchen Organic Spicy Brown Mustard	12	\$4.99	\$0.42
Organics Spicy Brown Mustard	12	\$3.99	\$0.33
Organics Honey Dijon Mustard	12	\$3.99	\$0.33
Organics Stone Ground Mustard	12	\$3.99	\$0.33
Organics Yellow Mustard	8	\$2.99	\$0.37
Heinz Yellow Mustard	8	\$3.49	\$0.44
Heinz Yellow Mustard	14	\$2.99	\$0.21
Signature Select Traditional Yellow Mustard	8	\$1.99	\$0.25
Signature Select Traditional Yellow Mustard	14	\$2.79	\$0.20
Signature Select Dijon Mustard	12	\$2.99	\$0.25
Signature Select Coarse Ground Dijon Mustard	12	\$2.99	\$0.25
Signature Select Honey Mustard	12	\$2.99	\$0.25
Signature Select Spicy Brown Mustard	12	\$2.99	\$0.25
French's Classic Yellow Mustard	8	\$2.59	\$0.32
French's Classic Yellow Mustard	14	\$2.99	\$0.21
French's Dijon Mustard	12	\$3.49	\$0.29
French's Spicy Brown Mustard	12	\$2.69	\$0.22
Sierra Nevada Stout Stoneground Mustard	8	\$3.49	\$0.44
Sierra Nevada Porter Spicy Brown Mustard	8	\$3.49	\$0.44
Gulden's Spicy Brown Mustard	12	\$2.99	\$0.25

Albertsons Grocery Store

Product	Oz	Cost	Cost Per Ounce
Maille Dijon Originale	7.5	\$5.99	\$0.80
Maille Dijon Originale	8.9	\$5.99	\$0.67
Maille Old Style Mustard	7.3	\$5.99	\$0.82
Inglehoffer Smoked Bacon	10	\$4.99	\$0.50
Inglehoffer Original Stone Ground	10	\$4.99	\$0.50
Inglehoffer Honey Mustard	10.25	\$4.99	\$0.49
Inglehoffer Traditional Dijon	9	\$4.99	\$0.55
Sierra Nevada Pale Ale Honey Spice	8	\$3.49	\$0.44
Sierra Nevada Stout Stoneground	8	\$3.49	\$0.44
Sierra Nevada Spicy Brown	8	\$3.49	\$0.44
Grey Poupon Dijon	8	\$4.99	\$0.62
Grey Poupon Dijon	10	\$5.29	\$0.53
Grey Poupon Dijon	16	\$7.99	\$0.50
Grey Poupon Deli	10	\$5.29	\$0.53
Silver Spring Beer'n Brat	9.5	\$3.49	\$0.37
Silver Spring Chipotle	9.5	\$3.49	\$0.37
Silver Spring Jalapeno	9.5	\$3.49	\$0.37
Signature Select Spicy Brown	12	\$2.99	\$0.25
Signature Select Sweet and Spicy	12	\$2.99	\$0.25
Signature Select Jalapeno	12	\$2.99	\$0.25
Signature Select Honey	12	\$2.99	\$0.25
Signature Select Dijon	12	\$2.99	\$0.25
Signature Select Course Ground Dijon	12	\$2.99	\$0.25
Beaver Deli Mustard	12.5	\$4.39	\$0.35
Beaver Honey Mustard	13	\$4.39	\$0.34
Beaver Sweet Hot	13	\$4.39	\$0.34
Beaver Jalapeno	13	\$4.39	\$0.34
Organics Spicy Brown	12	\$3.99	\$0.33
Organics Stone Ground	12	\$3.99	\$0.33
Organics Yellow	8	\$2.99	\$0.37
Gulden's Spicy Brown	12	\$2.49	\$0.21
French's Spicy Brown	12	\$2.69	\$0.22
French's Classic Yellow	8	\$2.59	\$0.32
French's Classic Yellow	20	\$3.99	\$0.20
French's Dijon	12	\$3.49	\$0.29
Heinz Organic Yellow	8	\$3.49	\$0.44
Heinz Spicy Brown	14	\$2.99	\$0.21
Heinz Honey	15	\$3.99	\$0.27
Morehouse	20	\$2.99	\$0.15