

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION

PAULA SALOURAS,	)	
individually, and on behalf of all others	)	
similarly-situated,	)	
	)	
Plaintiff,	)	2023CH01397
	)	
v.	)	
	)	
BARILLA AMERICA, INC.,	)	
	)	
Defendant.	)	

FILED DATE: 2/14/2023 12:00 AM 2023CH01397

**CLASS ACTION COMPLAINT**

Plaintiff, Paula Salouras, individually and on behalf of all others similarly-situated, alleges the following facts and claims upon personal knowledge, investigation of counsel, and information and belief.

**INTRODUCTION**

1. This case arises out of Defendant Barilla America, Inc.’s (“Defendant”) deceptive, unfair, and false merchandising practices regarding certain of its Barilla® brand pastas (the “Products”).

2. On the labels of the Products, Defendant prominently represents that the Products are “ITALY’S #1 BRAND OF PASTA®,” deliberately leading reasonable consumers, including Plaintiff, to believe that the Products are made in Italy (hereinafter, “**Italian Origin Representation**” or “**Challenged Representation**”). Defendant reinforces the Challenged Representation on the Products by replicating Italy’s national flag’s green, white, and red colors surrounding the Challenged Representation, further perpetuating the notion that the Products are authentic pastas from Italy.

3. However, contrary to this labeling, the Products are not made in Italy, the Products' ingredients are not from Italy, and the Products are not manufactured in Italy. Rather, the Products are made and manufactured in Iowa and New York, with ingredients (such as the main ingredient, durum wheat) sourced in countries other than Italy.<sup>1</sup> Through falsely, misleadingly, and deceptively labeling the Products, Defendant sought to take advantage of consumers' desire for authentic Italian pasta, while cutting costs and reaping the financial benefits of manufacturing the Products in the United States of America. Defendant has done so at the expense of unwitting consumers, as well as Defendant's lawfully acting competitors, over whom Defendant maintains an unfair competitive advantage.

4. Defendant's branding and packaging of the Products is designed to – and does – deceive, mislead, and defraud Plaintiff and consumers like Plaintiff.

5. Plaintiff brings this case to recover damages for Defendant's false, deceptive, and misleading marketing and advertising in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA"), 815 ILCS 505/1 *et seq.*, and common law.

### PARTIES

6. Plaintiff, Paula Salouras, is an Illinois citizen and resident of Cook County, Illinois. During the Class Period (as defined below), Plaintiff purchased one box each of the Spaghetti, Orzo, and Pastina pastas from the Barilla® *Classic Blue Box Pasta* product line (the "**Purchased Products**") for approximately \$2.00 each, for personal, family, or household purposes. Images of the exemplar Purchased Products are depicted below:

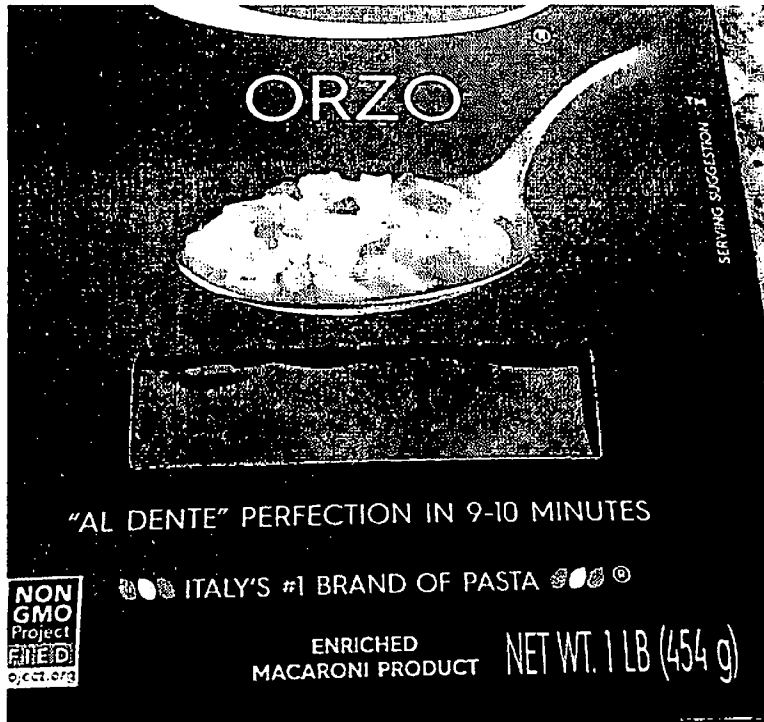
(1) Barilla® *Classic Blue Box Pasta* (Spaghetti):

---

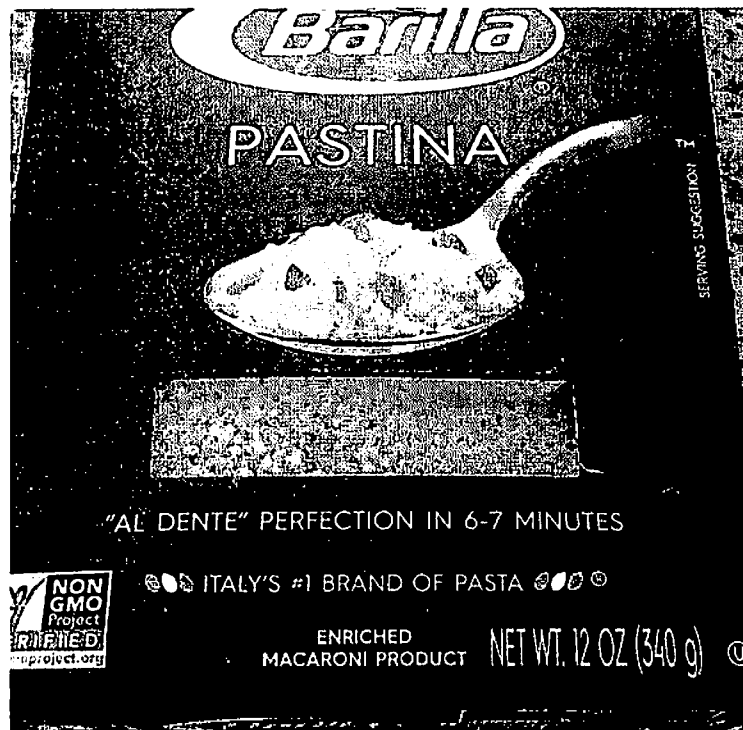
<sup>1</sup> See BARILLA, *FAQ—Company Related (Q3)*, <https://www.barilla.com/en-us/help/business-or-company-related-questions> (accessed Feb. 8, 2023) ("Barilla Pasta that is sold in the United States is made in our plants in Ames, IA and Avon, NY. . . . Barilla purchases its wheat from around the world").



(2) Barilla® Classic Blue Box Pasta (Orzo):



(3) Barilla® *Classic Blue Box Pasta (Pastina)*:



7. Plaintiff's claims are typical of all class members. The labels of the Products purchased by Plaintiff and the Class are the same and/or substantially similar in that they all uniformly represent that the Products are made in Italy with authentic Italian ingredients when the Products are instead made and manufactured in Iowa and New York, with ingredients (such as the main ingredient, durum wheat) sourced in countries other than Italy. As a result, the representations are deceptive, false, and unfair, and injure Plaintiff and Class members in the same way.

8. Defendant Barilla America, Inc. is a corporation headquartered and/or maintaining a principal place of business in the State of Illinois. Defendant is one of the owners, manufacturers, marketers, and/or distributors of the Products, and is one of the companies that created, authorized, and controlled the use of the copyrighted Challenged Representation to market the Products. Defendant and its agents promoted, marketed, and sold the Products at issue throughout the United

States and, in particular, within this judicial district. The unfair, unlawful, deceptive, and misleading Challenged Representations on the Products were prepared, authorized, ratified, and/or approved by Defendant and its agents, and were disseminated throughout Illinois and the nation by Defendant and its agents to deceive and mislead consumers in the State of Illinois and the United States into purchasing the Products.

9. Plaintiff bought the Purchased Products because she liked the products for their intended use, expected them to be made in Italy with authentic Italian ingredients due to the product labelling.

10. Plaintiff was deceived by and relied upon the Products' deceptive labeling.

11. Plaintiff would not have purchased the Products in the absence of Defendant's misrepresentations and omissions.

12. The Products were worth less than what Plaintiff paid for them and she would not have paid as much absent Defendant's false and misleading statements and omissions.

13. Plaintiff intends to, seeks to, and will purchase the Products again when she can do so with the assurance that Products' labels are consistent with the Products' components. Further, Plaintiff is an average consumer who is not sophisticated in, for example, where ingredients are sourced or the location where different products are made, similar to and including the Products. Indeed, Plaintiff does not have any personal knowledge of the sourcing of ingredients or manufacture of the Products. Since Plaintiff would like to purchase the Products again to obtain the benefits of the Challenged Representation that Defendants continues to use—despite the fact that the Products were once marred by false advertising or warranties—Plaintiff would likely and reasonably, but incorrectly, assume the Products are true to and conform with the Challenged Representation on their labels, packaging, and Defendant's advertisements, including Defendant's

websites and social media platforms. Accordingly, Plaintiff is at a risk of reasonably, but incorrectly, assuming that Defendant has fixed the Products such that Plaintiff may buy them again, believing they are no longer falsely advertised and warranted. In this regard, Plaintiff is currently and in the future deprived of the ability to rely on the Challenged Representations to purchase the Products.

### JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction over this action because a substantial portion of the transactions and occurrences giving rise to this action occurred in the state of Illinois.

15. This court has personal jurisdiction over Defendant Barilla America, Inc., because Defendant is a citizen of the state of Illinois and maintains a registered agent in the state of Illinois.

16. Venue is proper in Cook County, because Defendant Barilla America, Inc. is doing business in Cook County, and/or Defendant has offices in Cook County, and/or the transactions giving rise to this action, or substantial portions thereof, occurred in Cook County.

### ALLEGATIONS OF FACT

#### A. Products and Labels at Issue

17. Defendant manufactures, distributes, markets, labels and sells the Products under its “Barilla®” brand.

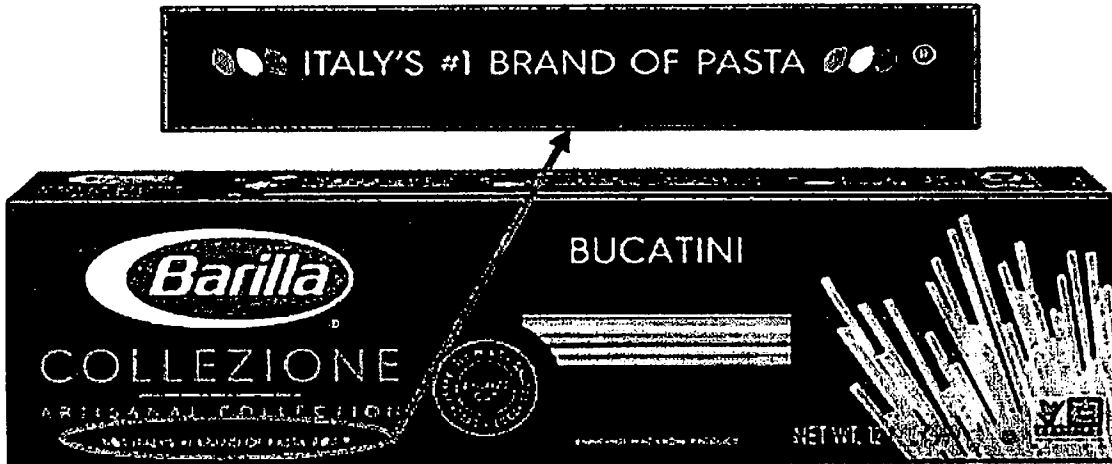
18. In an effort to increase profits and to obtain an unfair competitive advantage over its lawfully acting competitors, Defendant falsely and misleadingly labels certain of its Barilla® brand pastas as “ITALY’S #1 BRAND OF PASTA®,” deliberately leading reasonable consumers, including Plaintiff, to believe that the Products are made in Italy (hereinafter, “**Italian Origin Representation**” or “**Challenged Representation**”). Defendant reinforces the Challenged Representation on the Products by replicating Italy’s national flag’s green, white, and red colors surrounding the Challenged Representation, further perpetuating the notion that the Products are

authentic pastas from Italy. Fair and accurate depictions of the Products' front packaging, from each of the five product lines (*Classic Blue Box*, *Collezione Artisanal*, *Gluten Free*, *Veggie*, and *Whole Wheat*), are depicted below with the Challenged Representation circled in red.

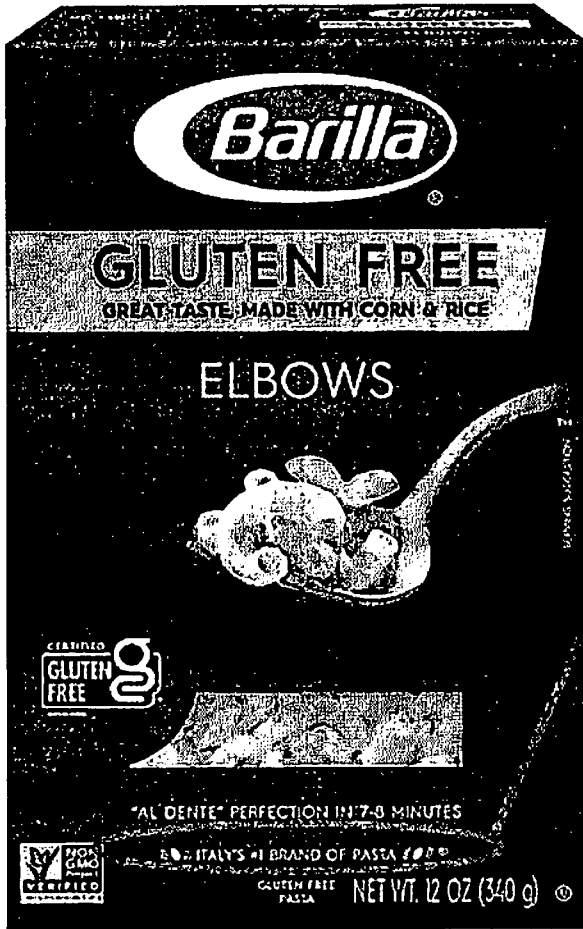
(1) Barilla® *Classic Blue Box Pasta* (Angel Hair):



(2) Barilla® *Collezione Artisanal Pasta* (Bucatini):



(3) Barilla® *Gluten Free* Pasta (Elbows):



ITALY'S #1 BRAND OF PASTA



(4) Barilla® Veggie Pasta (Rotini):



(5) Barilla® *Whole Grain* Pasta (Elbows):



19. The Deception of the Challenged Representation. The Challenged Representation has misled reasonable consumers, including Plaintiff, into believing that the

Products are made in Italy. However, contrary to this labeling, the Products are not made in Italy, the Products' ingredients are not from Italy, and the Products are not manufactured in Italy. Rather, the Products are made and manufactured in Iowa and New York, with ingredients (such as the main ingredient, durum wheat) sourced in countries other than Italy. Through falsely, misleadingly, and deceptively labeling the Products, Defendant sought to take advantage of consumers' desire for authentic Italian pasta, while cutting costs and reaping the financial benefits of manufacturing the Products in the United States of America. Defendant has done so at the expense of unwitting consumers, as well as Defendant's lawfully acting competitors, over whom Defendant maintains an unfair competitive advantage.

20. **The Products.** The Products at issue are Barilla® brand pastas sold to consumers in the United States that contain the Challenged Representation on the front labels and/or packaging, regardless of the Product's size or variations—such as flavor, type of pasta, or type of packaging (collectively referred to herein and throughout this complaint as the “**Products**”), which include, but are not necessarily limited to, the following product lines (*Classic Blue Box*, *Collezione Artisanal*, *Gluten Free*, *Veggie*, and *Whole Grain*) and pastas:

- a. (1) Barilla® *Classic Blue Box Pastas*, including
  1. Angel Hair,
  2. Campanelle,
  3. Cellentani,
  4. Ditalini,
  5. Elbows,
  6. Farfalle,
  7. Fettucine,

8. Fideo Cut Spaghetti,
9. Gemelli,
10. Jumbo Shells,
11. Large Shells,
12. Linguine,
13. Linguine Fini,
14. Manicotti,
15. Medium Shells,
16. Mezzi Rigatoni,
17. Mini Farfalle,
18. Mini Penne,
19. Mini Wheels,
20. Mostaccioli,
21. Orzo,
22. Pastina,
23. Pennce,
24. Pipette,
25. Rigatoni,
26. Rotini,
27. Spaghetti,
28. Spaghetti Rigati,
29. Thick Spaghetti,
30. Thin Spaghetti,

31. Tri-Color Penne,
32. Tri-Color Rotini,
33. Wavy Lasagne, and
34. Ziti

b. (2) Barilla® *Collezione Artisanal* Pastas, including

35. Bucatini,
36. Casarecce,
37. Orecchiette,
38. Penne,
39. Rigatoni, and
40. Spaghetti

c. (3) Barilla® *Gluten Free* Pastas, including

41. Elbows,
42. Fettuccine,
43. Penne,
44. Rotini, and
45. Spaghetti

d. (4) Barilla® *Veggie* Pastas, including

46. Rotini, and
47. Spaghetti

e. (5) Barilla® *Whole Grain* Pastas, including

48. Elbows,
49. Lasagne,

- 50. Linguine,
- 51. Penne,
- 52. Rotini,
- 53. Spaghetti, and
- 54. Thin Spaghetti

**B. Consumer Demand for Authentic Italian-Made Pastas**

21. **Background – Italian Products.** Generally, Country of Origin claims have “a considerable influence on [consumers regarding] the quality perception of a product.”<sup>2</sup> Relevant here, authentic Italian products, including pastas, hold a certain prestige and generally viewed as a higher quality product.<sup>3</sup> Products “Made in Italy” are “based on creativity [and] matched with quality and design.”<sup>4</sup> Indeed, the “Made in Italy” claim has evolved into a brand that distinguishes Italian products from other products, specifically in fashion, food, furniture, and mechanical engineering.<sup>5</sup> “Italian-Made” branding is often associated with superior quality, extreme attention to detail, elegance, and a long established tradition in manufacturing.<sup>6</sup> Notably, the general “Italianness” of a product influences consumers overall evaluation of a product.<sup>7</sup> Consumers seek out products that look or sound like they are from Italy because Italian products have a better

---

<sup>2</sup> Flavia Bonaiuto, et. al., *Italian Food? Sounds Good! Made in Italy and Italian Sounding Effects on Food Products' Assessment by Consumers*, *Front. Psychol.* (Mar. 3, 2021), <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.581492/full#B62> (accessed Feb. 8, 2023); Warren J. Bilkey and Erik Nes, *Country-of-origin effects on product evaluations*, *J. Int. Business Studies* 8, 89–99 (1962) doi: 10.1057/palgrave.jibs.8490539 (accessed Feb. 8, 2023).

<sup>3</sup> See MADE IN ITALY, *Made in Italy*, <https://madeinitaly.org/en/made-in-italy/made-in-italy.php> (accessed Feb. 8, 2023).

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Flavia Bonaiuto, et. al., *Italian Food? Sounds Good! Made in Italy and Italian Sounding Effects on Food Products' Assessment by Consumers*, *Front. Psychol.* (Mar. 3, 2021), <https://www.frontiersin.org/articles/10.3389/fpsyg.2021.581492/full#B62> (accessed Feb. 8, 2023).

reputation, and, as such, consumers willingly pay more for Italian sounding and/or looking products.<sup>8</sup> Thus, Manufacturers use “Italian Sounding” descriptors—e.g., Italian-sounding names, images, shapes, and places of production typically associated with Italy—and use “[c]olors evoking the Italian flag and images of famous Italian landscapes or monuments—e.g., the gulf of Naples, the tower of Pisa—reproduced on the label and packaging” to mislead consumers into believing that products are manufactured and/or made in Italy.<sup>9</sup> This is done to exploit a product’s purported Italian origin to drive sales and increase the perceived monetary value of the product, reaping the benefits of selling a premium product without incurring the costs to make it.<sup>10</sup>

22. **Background—Italian Pasta.** “The food industry is the second most important sector of [the] Italian economy” and Italy is the 10th greatest exporter of food worldwide.<sup>11</sup> Pasta is and has been an integral part of Italian culture since the thirteenth and fourteenth centuries.<sup>12</sup> Today, Italy produces 3.5 million tons of pasta per year, making the country the world’s top pasta producer.<sup>13</sup> Pursuant to Italian standards and law, dry “made in Italy” pasta is generally made from the drawing, rolling, and drying of dough prepared exclusively with durum wheat or semolina and water.<sup>14</sup> Indeed, Italian pasta is one of the best and most sought after products in the global

---

<sup>8</sup> *Id.*

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

<sup>10</sup>

<sup>11</sup> *Id.*

<sup>12</sup> Timothy Santonastaso, *A Brief History of Pasta*, *Italics Magazine* (May 29, 2020), <https://italicsmag.com/2020/05/29/a-brief-history-of-pasta/> (accessed Feb. 8, 2022).

<sup>13</sup> INT’L PASTA ORGANISATION, *World Consumption Boom Since the Lockdown Started 1 Consumer Out of 4 Ate More, 25% Export Increase in 6 Months* (Oct. 16, 2020), 25 <https://internationalpasta.org/news/pasta-world-consumption-boom-since-the-lockdown-started-1-consumer-out-of-4-ate-more-25-export-increase-in-6-months/> (accessed Feb. 8, 2023).

<sup>14</sup> See MADE IN ITALY, *Pasta Made in Italy*, <http://pasta.madeinitaly.org/> (accessed Feb. 8, 2023).

market.<sup>15</sup> Italian durum wheat is among some of the “best varieties and characterized by an elevated protein content, an high gluten quality, a golden yellow color and a low content of ashes. However, Italy’s production of local durum wheat cannot meet worldwide demands and in the past fifteen years, production of Italian durum wheat far exceeds the export of pastas.<sup>16</sup> Since the demand for Italian durum wheat is exponentially high, it is sold at premium.<sup>17</sup> Thus, in response to consumers’ desire for authentic Italian pastas, many companies, including Defendant, have scrambled to manufacture, market, and sell purportedly authentic ‘Italian-made’ pastas, using durum wheat that is not sourced in Italy, in an effort to gain market share and increase sales.

**23. Defendant’s History and Origin of United States Barilla® Brand Products.** Defendant started as a bread and pasta shop in 1877 in Parma, Italy. In 1999, the first of Defendant’s United States plants opened in Ames, Iowa, and in 2008 Defendant opened a second plant in Avon, New York. All Barilla® brand Products that are sold in the United States, with the exception of the Barilla® Tortellini and the Barilla® Oven Ready Lasagna (not at issue in this case), are made in United States plants, and not in Italy. Ingredients for Barilla® pastas are not all sourced in Italy. Therefore, the overwhelming majority of Barilla® pastas sold in the United States, including all of the Products at issue here, are not of made in Italy—be it the sourcing of ingredients (like durum wheat) or the manufacturing of the Products, despite Defendant’s labeling and advertising of the Products with the Challenged Representation. Defendant admits that it uses wheat from around the world and does not exclusively use the preeminent Italian durum wheat,

---

<sup>15</sup> Luca Fazio, *The pasta is ‘made in Italy.’ The wheat isn’t*, il manifesto (Nov. 24, 2017), <https://global.ilmanifesto.it/the-pasta-is-made-in-italy-the-wheat-isnt/> (accessed Feb. 8, 2023).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*



despite its commitment in 2019 to use Italian durum wheat for certain classic pasta formats so long as they are sold in Italy and not the United States.

24. **FTC Guidelines.** Manufacturers and marketers use country of origin claims to help distinguish their products over other products, knowing consumers rely on the accuracy of those claims in making their purchasing decisions. Thus, accurate label representations as to the source of the products are extremely important. The United States Federal Trade Commission (“FTC”) created standards regarding the “Made in USA” claim to help companies avoid making misleading and deceptive claims.<sup>18</sup> If a product is advertised as “Made in USA,” then “all or virtually all” of the product must be made in the United States.<sup>19</sup> Specifically, the FTC stated:

In connection with promoting or offering for sale any good or service, . . . it is an unfair or deceptive act or practice . . . to label any product as Made in the United States unless the final assembly or processing of the product occurs in the United States, all significant processing that goes into the product occurs in the United States, and all or virtually all ingredients or components of the product are made and sourced in the United States.

16 C.F.R. § 323.2. Here, Defendant disregarded FTC guidelines governing “Made in USA” claims, analogous to the Challenged Representation in this case, opting to manufacture the Products outside of Italy, using ingredients that are not sourced from Italy (such as the main ingredient wheat durum), certainly failing to satisfy the “all or virtually all” standard that requires both the Products’ ingredients and manufacture to originate from the claimed country of origin.

**C. Defendant’s Brand Strategy and Long-Standing Marketing Campaign**

25. **Brand Strategy/Marketing Campaign.** Defendant deliberately designed and executed a decades long marketing campaign to identify the Barilla® brand, company, and

---

<sup>18</sup> See Federal Trade Commission, *Complying with the MADE IN USA STANDARD*, <https://www.ftc.gov/system/files/documents/plain-language/bus03-complying-made-usa-standard.pdf> (accessed Feb. 8, 2023); see also generally 16 C.F.R. § 323.2—Made in USA Labeling; 62 FR 63756-01, 1997 WL 737641.

<sup>19</sup> *Id.*

Products at issue in this case, as authentic, genuine Italian pastas—made from ingredients sources in Italy (like durum wheat), and manufactured in Italy. Not only does Defendant label the Products’ packaging with the Challenged Representation—Italy’s #1 Brand of Pasta, but Defendant has also heavily advertised Barilla® brand pastas as Italian for the past century. Defendant maintains several Barilla websites, a recognized Barilla Historical Archive, Barilla Pasta Museum, and Barilla Academy—all designed to promote the brand and company’s Italian identity to convince consumers that Barilla® brand pastas, like the Products, come from Italian ingredients, processed and manufactured in Italian factories, and then exported for sale to various countries, including, in particular, the United States.

26. **Challenged Representations on Products’ Labels.** Defendant falsely and misleadingly labels the Products with the Challenged Representation: “ITALY’S #1 BRAND OF PASTA,” surrounded by an artistic recreation of the Italian flag, as depicted below.



The Challenged Representation on the Products’ packaging is conspicuous. It is prominently placed on each Product’s primary display panel of the front label or packaging. The front primary display panel contains scant imagery and information about the Products, largely limited to the brand name (Barilla®); identity of the product line (e.g., Classic Blue Box), type of pasta (e.g., spaghetti), and a few claims about the Products’ attributes (e.g., net weight). To draw the consumers’ attention, the Challenged Representation is written in all capital letters; clear, legible, and highly visible white font; surrounded by an artistic recreation of the Italian flag; all of which starkly contrasts with the packaging’s vast dark blue background. The Challenged Representation is also surrounded by Italian flags (including colors, depicted left to right, green, white, and red)

to emphasize that the Product is made in Italy. Indeed, Defendant copyrighted the Challenged Representation, with the Italian flags depicted on its left and right. The net-effect or net-impression on consumers is that the Products are made in Italy—including the harvesting of ingredients from Italy and the manufacture of the pastas in Italy.

27. **Barilla Website.** Defendant emphasizes the Italian-made Products’ purported attribute in its advertising of the Products as part of its long-standing marketing campaign and brand strategy to identify “Barilla®” pastas as Italy-made. Not only has Defendant labeled more than fifty of its Products, including its decade’s old Classic Blue Box Products, with the Challenged Representation, but Defendant engaged in a marketing campaign, initiated long before and continuing throughout the Class Period, that likewise emphasizes Barilla®’s Italian origin. Defendant’s marketing campaign and brand strategy are evidenced by its [www.barilla.com](http://www.barilla.com) website. For example:

- a. **Home.** On the homepage of its official website, Defendant describes itself as “an Italian family-owned food company” that is a “world leader in the markets of pasta and ready-to-use sauces in continental Europe, bakery products in Italy and crispbread in Scandinavia, the Barilla Group is recognized worldwide as a symbol of Italian know-how.”
- b. **Classic Blue Box.** At the top of the Classic Blue Box product line webpage, Defendant brags that Italians recognize the Barilla® brand Products merely their signature dark blue box packaging and that Italians have favored the Products for more than one hundred years, writing: “Italians know the familiar Blue Box means quality, perfectly al dente pasta every time. That’s why Barilla has been an Italian favorite for over 140 years, and continues to be the #1 pasta in Italy today.”
- c. **Collezione Artisanal.** Similarly, at the top of the Collezione Artisanal product line webpage, Defendant emphasizes the *Italian* manufacturing process for the Products, writing: “Barilla® Collezione features six artisanal pasta shapes and our signature tortellini. Collezione is crafted using traditional Italian bronze plates for a homemade “al dente” texture that perfectly holds sauces every time.” Indeed, Defendant used the Italian word for “Collection” to name its artisanal “Collezione” product line.
- d. **Whole Green.** Likewise, at the top of the Whole Green product line webpage, Defendant admits that, by brand-identity alone, consumers expect Barilla® brand

pastas to be *Italian-made*, writing: “Our Whole Grain pasta provides the same great taste, ‘al dente’ texture, and quality you have come to expect from Barilla, Italy’s #1 brand pasta.”

28. **Barilla Group’s Website, Barilla Historic Archive, Museum, and Academy.**

The Barilla Group owns and controls, through various subsidiaries like Defendant, several brands of pasta that are identified by particular countries of origin, such as the Italian-made pasta brands Barilla®, Voiello®, and Pasta Evangelists®. The Barilla Group maintains a website, [www.barillagroup.com/en](http://www.barillagroup.com/en), that markets the Barilla® brand and company as undeniably Italian, dedicated to the manufacturing, marketing and selling of Italian-made pastas. Its website furthers Defendant’s long-standing marketing campaign and brand strategy to expound Barilla®’s Italian origin and cement the Barilla® brand and company’s identity as providing Italian-made pastas.

For example:

- a. **Barilla Brand Webpage.** The Barilla Group maintains a webpage dedicated to the Barilla.
  1. **Blue-Box Identity.** On the dedicated Barilla® brand webpage, the company utilizes the Barilla® classic blue box design, including its content, color scheme and layout, to headline the webpage, reinforcing the brand’s Italian-made identity, and emphasizing that the quality of Barilla® pastas derives from its “Italian culture.” (“Offering quality is one of the biggest signs of affection, especially in the Italian culture. . . . This attitude represents Barilla’s brand point of view.”).
  2. **Iconic Italian Film and Music.** Directly below the headline, the Barilla Group posts a video that depicts families enjoying Barilla® pasta and features the artist Noa (Achinoam Nini) singing “Beautiful That Way,” a vocal version of the theme song from Roberto Benigni’s Oscar-winning, 1997 Italian film “Life is Beautiful,” set to easily-recognizable Italian folk melodies written by Italy’s foremost film composer Nicola Piovani. The same video is posted on Defendant’s Barilla® website to promote the Products. In this way, Defendant harnessed the notoriety of an iconic Italian movie, with an award-winning soundtrack, and easily recognizable Italian folk music melodies, to advertise Barilla® brand pastas and strengthen the association between the Products and their purported Italian origin.

3. **Barilla Quality Manifesto.** Beneath the video, the Barilla Group touts Defendant's "Barilla Quality Manifesto," describing the importance of harvesting Defendant's "precious ingredient," "the highest quality durum wheat," to create the "perfect semolina blend," through constant improvement of Defendant's method to transform durum wheat into pasta, to provide "an authentic full taste," so that families can enjoy Defendant's "flavorful and genuine pasta" at home. In this way, Barilla® brand pastas are marketed as authentic and genuine Italian made pastas derived from Italian durum wheat.
  4. **Spotify Playlist.** Defendant utilizes music sharing platforms, like Spotify, to further associate the Barilla® brand's identity with Italy. Approximately three-quarters of the way down Barilla Group's Barilla® brand webpage, the Barilla Group provides a link to its Spotify "Barilla Italia" playlist, which overwhelmingly contains Italian music.
- b. **History.** The Barilla Group chronologizes the company's history, since its founding in 1877, on several webpages demarcated by the tenure of each male family members' era in leadership. In doing so, the company heavily ties its identity to Italy. For example:
1. **1877-1912.** During Peitro Barilla, Sr.'s era from 1877 to 1912, the company describes the modest beginnings of Barilla® brand pasta in opening a pasta shop in 1877, emphasizing its location in Parma, Italy.
  2. **1912-1947.** During Gualtiero and Riccardo Barilla's era from 1912 to 1947, the company launched a line of Barilla® brand pasta in 1937, described as "the ideal dietary food for a critical period in Italy."
  3. **1947-1993.** During Gianni and Pietro Barilla's era from 1947 to 1993, the company notes the construction of various factories, emphasizing their location in Italy, including the bakery factory in Rubbiano, Parma, Italy, in 1965, and the "largest pasta production plant" in Pedrignano, Parma, Italy, in 1969, as well as the launch of several other Italian-named product lines for Barilla's sister-pastas, like Voiello in 1973, and Mulino Bianco in 1975. The company describes how, in 1965 to 1970, it used an Italian media personality, Mina, to make several clips advertising Barilla® brand pasta on "Italian TV," and, similarly, in 1979, it used "famous" Italian-named directors and cartoonists to advertise Barilla® brand pasta. The company also touts the acquisition of another brand called Novara in 1992, emphasizing its Northern Italy affiliation.
  4. **1993-Present.** During Guido, Luca, and Paolo Barilla's era from 1993 to at least 2022, the company boasts about the 2004 inauguration of Academia Barilla, "an international project devoted to safeguarding, developing, and promoting the regional Italian gastronomic culture as a unique World Heritage." The company further emphasizes, in 2012, the

opening of its first “Pasta Sauces Plant”; in 2015, the arrival of its first wheat transport train; and in 2020, its acquisition of the Muggia pasta plant, each time emphasizing their locations in Italy.

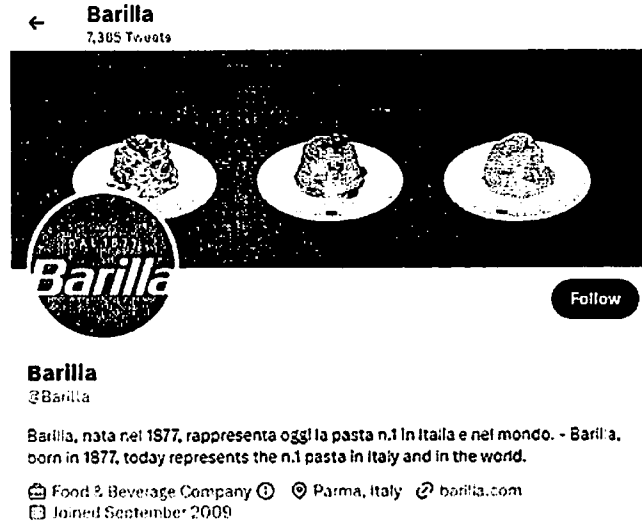
- c. **Family Company Webpage.** The Barilla Group lists its Chairman, Deputy Chairmen, and Chief Executive Officer on its “Family Company” webpage, expressly identifying each of the current company leaders being Italian born.
- d. **We Use Only Quality Wheat Webpage.** The Barilla Group boasts on its “We Use Only Quality Wheats” webpage that the Barilla® brand pastas are made from the “best quality durum wheat in the world,” emphasizing its “commit[ment] to . . . purchas[e] . . . Italian durum” and manufacture “classic pasta formats destined to the Italian market . . . us[ing] 100% Italian wheats.”
- e. **Historical Archive.** The Barilla Group provides a Historical Archive to let consumers “[d]iscover the heart of [its] company” through the marketing of Barilla® brand pastas, calling its past its future. Immediately below this headline, a video is posted depicting: a reenactment of the company’s founder in the fields of Italy harvesting wheat and examining grains; the humble beginnings of the first Barilla® pasta shop opened in Italy and the first Barilla® pasta factory in Italy and the craftsmanship of making pasta; imagery of families enjoying Barilla® brand products throughout modern history; and a return to the company founder’s beginnings on the wheat fields of Italy, explaining how the company’s past, grounded in Italy and Italian culture, is its future.
- f. **Archivio Storico Barilla.** The Barilla Group provides a link on its Historical Archive webpage to its website, [www.ArchivioStoricoBarilla.com/en/](http://www.ArchivioStoricoBarilla.com/en/), which catalogues over 60,000 documents showing the history, economic activity, and marketing strategy of iconic Barilla® brands, including posters, promotional items, television and cinema commercials, developed in collaboration with several famous Italian directors.
  1. **Story of the Archive.** The company describes its linked archive as “a symbolic project,” launched in 1987, to get “back [to] the memory of the past; preserv[e] with the most correct criteria [its] materials and [] documentation; giving them value to make them become again part of the Company’s culture and of the wider social reality.” In doing so, the company acknowledges, “*[t]he history of Barilla has intertwined for more than a century with that of the city and, more generally, with the history of the Italian economy and culture,*” inextricably tethering the entire Barilla® brand and company identity to the country and culture of Italy. A mere perusal of the archive undeniably identifies Barilla® as Italian. Indeed, the company admits that the archive does not simply safeguard historical documents, but it is used to market the Barilla® brand and company as belonging to Italy, stating the archive, containing thousands of promotional materials readily identifiable as Italian, “is also involved in the cultural promotion of Barilla.”

2. **Mission.** The company further explains its mission in creating the Barilla Historical Archive to “promote[] and enhance[] . . . the cultural evolution of the enterprise and the historic memory of the Company generations, documenting the social development of Italy”; deliberately “disseminat[ing] its knowledge” on an “international” level; and “promoting the presence of Barilla” on platforms and in spaces far exceeding those traditionally occupied by a food manufacturer selling its products. In this way, the company deliberately establishes its identity and the Barilla® brand as an Italian company, making Italian pastas, in Italy, on an international scale that reaches far beyond mere commercial marketing spaces into educational spaces and historical archives.
3. **Pasta Museum.** On May 10, 2014, the Barilla Group inaugurated a Barilla® brand pasta museum, located in Giarolo, Collecchio, Italy. In its description of the museum, the company emphasizes its Barilla® pastas are made from durum wheat found in Sicily, Liguria, Bologna, and Naples, Italy. The museum has several sections dedicated to the wheat that makes Barilla® pastas; the evolution of the grinding and dry pasta manufacturing processes; and the historical marketing and advertising of its pastas.
4. **Academy Barilla.** In May 2004, the Barilla Group inaugurated an “international center for promotion, tutelage and development of the art of Italian Gastronomy.” On Barilla Group’s Education webpage, it provides a link to the academy. The company describes the Barilla Academy’s “mission of discovering and disseminating the Italian gastronomic and cultural heritage,” “to strengthen the awareness of the deep roots of the Italian gastronomic tradition.” Thus, the Barilla Academy’s main purpose is to tether pastas, like Barilla® brand pastas, among other foods, to Italy.
5. **Declaration.** Indeed, the Ministry of Cultural Heritage and Activities, on November 30, 1999, declared the company’s archive “of considerable historical interest” as it “witnessed the development of the food industry in Parma and the evolution of customs in Italy.” The archive solidifies, on an international and historic scale, the undeniable, century’s old, and deliberately marketed identity of Barilla® brand pastas as authentic, genuine Italian-made pastas.

29. **Social Media Representations.** Defendant continuously uses deceptive labeling and marketing techniques to falsely portray its Products as made in Italy, taking advantage of social media platforms like Twitter and Instagram. For example:

- a. **Twitter Screenshot.** Barilla’s official Twitter biography, depicted below, is written in the Italian language, “Barilla, nata nel 1877, rappresenta oggi la pasta

n.1 in Italia e nel mondo,” to reinforce the brand and company’s Italian identity. See Twitter, @Barilla, at <https://twitter.com/Barilla> (accessed Feb. 8, 2023) (translated to English: born in 1877, today it represents the no. 1 pasta in Italy and in the world). Barilla uses its Twitter account to emphasize its geographic location in “Parma, Italy” (where the Barilla Group’s headquarters are located):



b. **Instagram Screenshot.** Similarly, Defendant’s Instagram account for Barilla®, for example, features a video about the origins of Carbonara, an Italian pasta dish, narrated in the Italian language, and depicting iconic imagery strongly associated with Italy to reinforce the Barilla® brand image and corporate identity as a credible manufacturer of authentic Italian pastas:





**D. Plaintiff and Reasonable Consumers Were Misled by the Challenged Representation into Buying the Products, to Their Detriment, Consistent with Defendant's Deliberate Marketing Scheme to Exact a Premium for the Falsely Advertised Products**

30. **Reasonable Consumer's Perception.** The Challenged Representation, combined with Defendant's pervasive marketing campaign and brand strategy, lead reasonable consumers, like Plaintiff, into believing that the Products conform to the Challenged Representation—meaning, consumers are led to believe that the Products are made in Italy, i.e., their ingredients are sourced in Italy and the finished Products are manufactured in Italy. Defendant's branding and packaging of the Products is designed to – and does – deceive, mislead, and defraud Plaintiff and consumers.

31. **No Clear and Conspicuous Disclaimers Dispel the Deception.** Nothing on the Products' labeling or packaging would lead reasonable consumers to believe that the Challenged Representation—that the Products are made in Italy, their ingredients are sourced in Italy, and the finished Products are manufactured in Italy—is not true. That is because the Products' labeling and packaging do not contain a clear, unambiguous, and conspicuously displayed statement, reasonably proximate to the Challenged Representation, that reasonable consumers are likely to notice, read, and understand to mean that, contrary to the prominent, clear, and unambiguous front-label Challenged Representation, reinforced and emphasized by a massive, long-standing marketing campaign and brand strategy described herein, that the Challenged Representation is indeed false as the Products' ingredients are not sourced in Italy and the Products themselves are not assembled or manufactured in Italy. Indeed, studies show that only approximately 7.7% to

11.6% of people even look at a consumer product's side or back labels before they buy it.<sup>20</sup> Thus, the very placement of qualifying statements or contradictory disclaimers on back or side panels, by their very placement, are not sufficiently conspicuous to presume that a reasonable consumer would have even noticed it, let alone understood it to qualify or contradict prominently placed front-panel representations, like the Challenged Representations.

32. **Materiality.** The Challenged Representation is material to reasonable consumers, including Plaintiff, in deciding to buy the Products—meaning that the Italian-made Products-attribute is important to consumers and motivates them to buy the Products.

33. **Reliance.** A reasonable would rely on the Challenged Representation in deciding to purchase the Products.

---

<sup>20</sup> Gruncert, Klaus, et. al, *Nutrition knowledge, and use and understanding of nutrition information on food labels among consumers in the UK*, 55 *Appetite* 177, at 179-181 (2010) available at <https://reader.elsevier.com/reader/sd/pii/S0195666310003661?token=95E4146C1BB7D7A7C9A487F22F0B445BD44499550086E04870765EBE116ED32DBFE3795E60B69C75831563CD1BC6655A&originRegion=us-east-1&originCreation=20220720162546> (last accessed Feb. 8, 2023) (consumer purchasing behavior study using in-store observation and interview data collection methodology to realistically estimate the degree consumers use nutritional information (found on side/back panels of food product labels and packaging), finding: (1) only 11.6% of respondents, who looked at a product and placed it in their shopping cart, were actually observed looking at the side/back panels of its packaging or labels (panels other than the front panel) before placing it in the cart; (2) of those who looked at the side/back panels, only 31.8% looked at it the product “in detail” (i.e., 3.7% of respondents who looked at the product, looked at side/back panels in detail)); and (3) the respondents self-reported frequency of reviewing side/back panels (for nutritional information) is overreported by 50% when the in-store interview data and observational data are compared); Gruncert, Klaus, et. al, *Use and understanding of nutrition information on food labels in six European countries*, 18(3) *Journal of Public Health* 261, 261, 263, 266 (2010), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2967247/> (last accessed Feb. 8, 2023) (consumer purchasing behavior study using in-store observation and interview data collection methodology to evaluate whether people look at food labels before buying them, where they looked, and how long they looked, finding: (1) respondents spent, on average, approximately 35 seconds, per product, on products they bought; and (2) 62.6% of respondents looked at the front packaging, and only 7.7% looked elsewhere (side/back panels) on the packaging, for products they bought); Benn, Yael, et al., *What information do consumers consider and how do they look for it, when shopping for groceries online*, 89 *Appetite* 265, 265, 270 (2015), available at <https://www.sciencedirect.com/science/article/pii/S0195666315000422#bib0060> (last accessed Feb. 8, 2023) (consumer purchasing behavior study using online eye-movement tracking and recordation, finding: (1) once on the product webpages, respondents tend to look at the pictures of products, rather than examine detailed product information; and (2) by comparison to pictures of products where 13.83-19.07% of respondents fixated, far less fixated on subsidiary information: 4.17% of respondents looked at nutrition information, 3.30% ingredients, 2.97% allergy information, and 0.09% recycling information for example).

34. **Falsity.** The Challenged Representation is false and deceptive because the Products are not made in Italy—meaning the ingredients are not sourced in Italy and/or the finished Products are not manufactured in Italy. Indeed, Defendant admits that Products sold in the United States are made in the United States, not Italy.

35. **Consumers Lack Knowledge of Falsity.** The Class, including Plaintiff, who purchased the Products, do not know, and have no reason to know, at the time of purchase, that the Products' Challenged Representation is false, misleading, deceptive, and unlawful—that is because the Class, including Plaintiff, do not work for Defendant and have no personal knowledge of the Country in which the Products are made—be it where the ingredients are sourced or the finished Products are manufactured.

36. **Defendant' Knowledge.** Defendant knew, or should have known, that the Challenged Representation was false, misleading, deceptive, and unlawful, at the time that Defendant manufactured, marketed, advertised, labeled, and sold the Products using the Challenged Representations to Plaintiff and the Class. Defendant intentionally and deliberately used the Challenged Representation, alongside its massive marketing campaign and brand strategy, to cause Plaintiff and similarly situated consumers to buy the Products believing that the Challenged representation is true.

- a. **Knowledge of Falsity.** Defendant manufactured the Products, selecting its ingredients (like wheat durum) from countries other than Italy, and manufacturing the Products in factories outside of Italy, even though Defendant marketed its Products as made in Italy. *See* BARILLA, *FAQ—Company Related (Q3)*, <https://www.barilla.com/en-us/help/business-or-company-related-questions> (accessed Feb. 8, 2023) (“Barilla Pasta that is sold in the United States is made in

our plants in Ames, IA and Avon, NY. . . . Barilla purchases its wheat from around the world”); YOUTUBE, Barilla US, Barilla | Meet the Team: Greg, Wheat-Sourcing Expert (60s), <https://www.youtube.com/watch?v=BK1zN2iz0dw> (accessed Feb. 8, 2023) (link to video on Barilla Group’s Barilla Brand Webpage at <https://www.barillagroup.com/en/brands/barilla/> (accessed Feb. 8, 2023) (describing the North American company’s careful selection of durum wheat).

- b. **Knowledge of Reasonable Consumers’ Perception.** Defendant knew or should have known that the Challenged Representation would lead reasonable consumers into believing that the Products are made in Italy—meaning that the ingredients all come from Italy and the finished Products are manufactured in Italy. Not only has Defendant utilized a long-standing brand strategy to identify the Products as Italian-made—executed through a decades-long marketing campaign described *supra*, but Defendant also has an obligation under section 5 of the Federal Trade Commission Act, codified at 15 U.S.C. §§ 45, to evaluate its marketing claims from the perspective of the reasonable consumer. That means Defendant was statutorily obligated to consider whether the Challenged Representation, be it in isolation or conjunction with its marketing campaign, would mislead reasonable consumers into believing that the Products are made in Italy. Thus, Defendant either knew the Challenged Representation is misleading before it marketed the Products to the Class, including Plaintiff, or Defendant would have known that it is deceptive had it complied with its statutory obligations.
- c. **Knowledge of Materiality.** Defendant knew or should have known of the Challenged Representations materiality to consumers. First, manufacturers and

marketers, like Defendant, generally reserve the front primary display panel of labels or packaging on consumer products for the most important and persuasive information, which they believe will motivate consumers to buy the products. Here, the conspicuousness of the Challenged Representation on the Products' labels and packaging demonstrates Defendant's awareness of its importance to consumers and Defendant's understanding that consumers prefer and are motivated to buy products that conform to the Challenged Representation. Second, manufacturers and marketers repeat marketing claims to emphasize and characterize a brand or product line, shaping the consumers' expectations, because they believe those repeated messages will drive consumers to buy the Product. Here, the constant, unwavering use of the Challenged Representation on countless Products, advertisements, and throughout Defendant's marketing campaign spanning decades, evidences Defendant's awareness that the falsely advertised Product-attribute is important to consumers. It also evidences Defendant's intent to convince consumers that the Products conform to the Challenged Representations and, ultimately, drive sales.

- d. **Defendant's Continued Deception, Despite Its Knowledge.** Defendant, as the manufacturer and marketer of the Products, had exclusive control over the Challenged Representation's inclusion on the Products' labels, packaging, and advertisements—i.e., Defendant readily and easily could have stopped using the Challenged Representation to sell the Products. However, despite Defendant's knowledge of the Challenged Representation's falsity, and Defendant's knowledge that consumers reasonably rely on the representation in deciding to buy

the Products—Italian-Made—Defendant deliberately chose to market the Products with the Challenged Representation thereby misleading consumers into buying or overpaying for the Products. Thus, Defendant knew, or should have known, at all relevant times, that the Challenged Representation misleads reasonable consumers, such as Plaintiff, into buying the Products to attain the product-attributes that Defendant falsely advertised and warranted.

37. **Detriment.** Plaintiff and similarly situated consumers would not have purchased the Products, or would not have overpaid a price premium for the Products, if they had known that the Challenged Representations were false and, therefore, the Products do not have the attribute claimed, promised, warranted, advertised, and/or represented. Plaintiff saw the representation and it caused him damages as set forth herein; she purchased the product as a proximate cause of the representation. The value of the Products that Plaintiff and similarly situated consumers purchased and consumed were materially less than its value as represented by Defendant. Had Plaintiff and similarly situated consumers known the truth, they would not have bought the Products or would have paid less for them. As a result of the false and misleading labeling, the Products are sold at a premium price, compared to other similar products represented in a non-misleading way, and higher than the price of the Products if they were represented in a non-misleading way. Accordingly, based on Defendant’s material misrepresentations and omissions, reasonable consumers, including Plaintiff, purchased the Products to their detriment, and Defendant sold more of the Products and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers like Plaintiff.

**E. The Products are Substantially Similar**

38. As described herein, Plaintiff purchased the Spaghetti, Orzo, and Pastina pastas from the Barilla® *Classic Blue Box Pasta* product line (collectively, the “**Purchased Products**”).

The additional Products (collectively, the “**Unpurchased Products**”) are substantially similar to the Purchased Products.

- a. **Defendant.** All Products are manufactured, sold, marketed, advertised, labeled, and packaged by Defendant.
- b. **Brand.** All Products are sold under the same brand name: Barilla®.
- c. **Purpose.** All Products are dry pastas intended for human consumption.
- d. **Ingredients.** All Products are made from largely the same ingredients or types of ingredients, predominantly made from durum wheat, milled in the same or similar manner, and manufactured into the finished Products in the same or similar manner.
- e. **Marketing Demographics.** All Products are marketed directly to consumers for personal consumption. In particular, the Products are manufactured as food to feed families.
- f. **Challenged Misrepresentation.** All Products contain the same Challenged Representation (“ITALY’S #1 BRAND OF PASTA”) conspicuously and prominently placed on the primary display panel of the front label and/or packaging. In addition, Defendant reinforces the Challenged Representation on each Product by displaying images of the Italian flag surrounding the Challenged Representation. Indeed, Defendant copyrighted the Challenged Representation with the Italian flag imagery.
- g. **Packaging.** All Products are packaged in similar packaging—using a dark blue background, and similar color schemes for written content. The Products largely share in common the same marketing claims written on the box, including brand

identity (Barilla®), pasta type (e.g., spaghetti), and a few product features (e.g., net weight).

- h. **Misleading Effect.** The misleading effect of the Challenged Representation on consumers is the same for all Products—consumers over-pay a premium for Italian-made Products, but receive Products that are not Italian-made.

### **CLASS ALLEGATIONS**

39. Pursuant to 735 ILCS 5/2-801 et. seq., Plaintiff brings this action on her own behalf and on behalf of a proposed class of all other similarly situated persons in the State of Illinois (“Class Members” of the “Class”) consisting of:

All consumers in the State of Illinois who purchased the Products for personal purposes from January 1, 2018 up through preliminary approval (the “Class Period”).

40. Excluded from the Class are: (a) consumers in States other than the State of Illinois; (b) federal, state, and/or local governments, including, but not limited to, their departments, agencies, divisions, bureaus, boards, sections, groups, counsels, and/or subdivisions; (c) any entity in which Defendant has a controlling interest, to include, but not limited to, their legal representative, heirs, and successors; (d) all persons who are presently in bankruptcy proceedings or who obtained a bankruptcy discharge in the last three years; (e) any judicial officer in the lawsuit and/or persons within the third degree of consanguinity to such judge

41. Upon information and belief, the Class consists of thousands of purchasers. Accordingly, it would be impracticable to join all Class Members before the Court.

42. There are numerous and substantial questions of law or fact common to all the members of the Class and which predominate over any individual issues and include whether Defendant’s representations were and are misleading and if Plaintiff and Class Members are entitled to damages.



43. The claims of the Plaintiff are typical of the claims of Class Members, in that they share the above-referenced facts and legal claims or questions with Class Members, there is a sufficient relationship between the damage to Plaintiff and Defendant's conduct affecting Class Members, and Plaintiff has no interest adverse to the interests other Class Members.

44. Plaintiff will fairly and adequately protect the interests of Class Members and has retained counsel experienced and competent in the prosecution of complex class actions including complex questions that arise in consumer protection litigation.

45. A class action is superior to other methods for the fair and efficient adjudication of this controversy, since individual joinder of all Class Members is impracticable and no other group method of adjudication of all claims asserted herein is more efficient and manageable for at least the following reasons:

- a. the claim presented in this case predominates over any questions of law or fact, if any exists at all, affecting any individual member of the Class;
- b. absent a Class, the Class Members will continue to suffer damage and Defendant's unlawful conduct will continue without remedy while Defendant profit from and enjoys its ill-gotten gains;
- c. given the size of individual Class Members' claims, few, if any, Class Members could afford to or would seek legal redress individually for the wrongs Defendant committed against them, and absent Class Members have no substantial interest in individually controlling the prosecution of individual actions;
- d. when the liability of Defendant has been adjudicated, claims of all Class Members can be administered efficiently and/or determined uniformly by the Court; and
- e. this action presents no difficulty that would impede its management by the court as a class action which is the best available means by which Plaintiff and Class Members can seek redress for the harm caused to them by Defendant.

46. Because Plaintiff seeks relief for the entire Class, the prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendant.

47. Further, bringing individual claims would overburden the Courts and be an inefficient method of resolving the dispute which is the center of this litigation. Adjudications with respect to individual members of the Class would, as a practical matter, be dispositive of the interest of other members of the Class who are not parties to the adjudication and may impair or impede their ability to protect their interests. Thus, class treatment is a superior method for adjudication of the issues in this case.

48. Plaintiff's counsel is competent and experienced in complex class action litigation and intends to protect Class Members' interests adequately and fairly.

### **CLAIMS FOR RELIEF**

#### **Count One – Violation of the ICFA**

49. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs as if fully set forth herein.

50. The ICFA declares the following to be unlawful: “Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact...in the conduct of any trade or commerce[.]” 815 Ill. Comp. Stat. Ann. 505/2.

51. Defendant's conduct in advertising and selling the Products with the Italian Origin Representation constitutes the act, use and employment of deception, misrepresentation, and unfair practices in the conduct of Defendant's trade or commerce.

52. Defendant intended that Plaintiff and the Class Members would rely on the Products' Italian Origin Representation.

53. The Italian Origin Representation is a material misrepresentation because it concerns the type of information upon which a reasonable consumer would be expected to rely in deciding whether to purchase.

54. Because Defendant is in the business of selling its Products, Defendant committed the unfair and deceptive acts in the conduct of its trade and commerce.

55. Defendant's practice of advertising and selling the Products with the Italian Origin Representation is unfair. The practice offends public policy and is immoral, unethical, and unscrupulous because consumers are paying more for the Products than they otherwise would have. Selling the Products with the Italian Origin Representation when the Products are not made in Italy, the Products' ingredients are not from Italy, and the Products are not manufactured in Italy offends the public's expectation to be told the truth about the Products they are buying.

56. Defendant's conduct causes substantial injury to consumers because consumers being misled into purchasing Products that are not what they are represented to be.

57. Because the Products are not of Italian origin as they were represented to be, the Products, as sold, are worth less than the Products as represented, and Plaintiff and Class Members paid a premium for the Products. Had the truth been known, Plaintiff and Class Members would not have purchased the Products or would have paid less for them.

58. Plaintiff and Class Members were deceived by the labels with the Italian Origin Representation on the Products and suffered economic damages as a proximate result of Defendant's unlawful conduct as alleged herein, including the difference between the actual value of the Products and the value of the Products if they had been as represented.

**Count Two – Unjust Enrichment**

59. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs as if fully set forth herein.

60. By purchasing the Products, Plaintiff and the Class Members conferred a benefit on Defendant in the form of the purchase prices of the Products.

61. Defendant appreciated the benefit because, were consumers not to purchase the Products, Defendant would have no sales and make no money.

62. Defendant's acceptance and retention of the benefit is inequitable and unjust and violates the fundamental principles of justice, equity, and good conscience because the benefit was obtained by Defendant's misleading representations about the Products.

63. Equity cannot in good conscience permit Defendant to be economically enriched for such actions at Plaintiff and Class Members' expense and in violation of the law, and therefore restitution and/or disgorgement of such economic enrichment is required.

**Count III - Breach of Express Warranty**

64. Plaintiff repeats and re-alleges the allegations of the preceding paragraphs as if fully set forth herein.

65. Defendant made the affirmation of fact and the promise to Plaintiff and the Class Members that the Products were of Italian origin guaranteeing to Plaintiff and the Class Members that the Products were in conformance with the representations.

66. These affirmations of fact and promises became part of the basis of the bargain in which Plaintiff and Class Members purchased Defendant's Products, and Plaintiff and Class Members relied on the affirmations when making their purchasing decisions.

67. Defendant breached the express warranty that the Products were of Italian origin by providing Plaintiff and Class Members Products that were not made in Italy, whose ingredients were not from Italy, and were not manufactured in Italy.

68. As a result of Defendant's breach of warranty, Plaintiff and the Class Members have been deprived of the benefit of their bargain in that they bought the Products that were not what they were represented to be, and they have spent money on the Products that had less value than was reflected in the premium purchase price they paid for the Products.

69. Because Defendant made the affirmation of fact and promise directly on their own labels and packaging, privity is not required to bring this claim.

70. Because Defendant had actual knowledge that its Products were not of Italian origin, pre-suit notice of this claim is not required.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all similarly situated persons in the State of Illinois, prays the Court:

- a. grant certification of this case as a class action;
- b. appoint Plaintiff as Class Representative and Plaintiff's counsel as Class Counsel;
- c. award compensatory damages to Plaintiff and the proposed Class, or, alternatively, require Defendant to disgorge or pay restitution of its ill-gotten gains;
- d. award pre- and post-judgment interest;

- e. award reasonable and necessary attorneys' fees and costs; and
- f. for all such other and further relief, as may be just and proper.

PAULA SALOURAS, individually, and  
on behalf of all others similarly-situated

By: /s/ Peter S. Lubin  
One of her attorneys

Peter S. Lubin  
Patrick Austermuehle  
LUBIN AUSTERMUEHLE, P.C. (63335)  
17W220 22<sup>nd</sup> Street, Suite 410  
Oakbrook Terrace, IL 60181  
630-333-0333  
[peter@l-a.law](mailto:peter@l-a.law)  
[patrick@l-a.law](mailto:patrick@l-a.law)

Bruce W. Steckler  
Steckler Wayne Cherry & Love PLLC  
(Pro Hac Vice forthcoming)  
12720 Hillcrest Suite 1045  
Dallas, Texas 75230  
(972) 387-4040  
[Bruce@stecklerlaw.com](mailto:Bruce@stecklerlaw.com)