

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

JOHN DALY, individually and on behalf of  
all others similarly situated,

Plaintiff,

v.

TOM'S OF MAINE, INC.

Defendant.

Case No. 1:23-cv-00223

**FIRST AMENDED CLASS ACTION  
COMPLAINT**

**JURY DEMANDED**

Now comes the Plaintiff, JOHN DALY (“Plaintiff”), individually and on behalf of all others similarly situated, by and through his attorneys, and for his First Amended Class Action Complaint against the Defendant, TOM’S OF MAINE, INC., (“Defendant”), Plaintiff alleges and states as follows:

**PRELIMINARY STATEMENT**

1. This is an action for damages, injunctive relief, and any other available legal or equitable remedies, for violations of Illinois Consumer Fraud and Deceptive Businesses Practices Act (“ILCFA”), 815 ILCS 505/1 *et seq.*, common law fraud, and unjust enrichment, resulting from the illegal actions of Defendant, in intentionally labeling its products with false and misleading claims that they are natural, when Defendant’s products contain synthetic ingredients. Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by his attorneys.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction pursuant to 28 U.S.C. §1332(d), because the matter in controversy exceeds the sum or value of \$5,000,000 exclusive of interest or costs and is a class action in which the members of the class are citizens of a State different from the Defendant.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to this claim occurred in this District.

### **PARTIES**

4. Plaintiff is an individual who was at all relevant times residing in Lemont, Illinois.

5. Defendant is a Maine corporation whose principal place of business is located in Kennebunk, Maine.

6. At all times relevant hereto, Defendant was engaged in the marketing, manufacturing, and sale of toothpaste.

### **FACTS COMMON TO ALL COUNTS**

7. Defendant manufactures, advertises, markets, sells, and distributes toothpaste throughout the United States.

8. During the Class Period Defendant sold the following toothpaste (the “Products”) labeled, marketed, and advertised as natural but which contain the following synthetic ingredients:

- a. Antiplaque and Whitening Peppermint: Glycerin, Xylitol, Hydrated Silica, Sodium Lauryl Sulfate,
- b. Antiplaque and Whitening Spearmint: Glycerin, Xylitol, Hydrated Silica, Sodium Lauryl Sulfate
- c. Activated Charcoal Peppermint: Hydrated Silica, Sorbitol, Glycerin, Xylitol

- d. Luminous White Clean Mint: Hydrated Silica, Glycerin, Sorbitol, Xylitol, Sodium Lauryl Sulfate
- e. Children's Silly Strawberry: Glycerin, Hydrated Silica, Sodium Lauryl Sulfate
- f. Propolis & Myrrh Cinnamint: Glycerin, Hydrated Silica, Xylitol, Sodium Lauryl Sulfate
- g. Botanically Bright Peppermint: Glycerin, Hydrated Silica, Xylitol, Sodium Lauryl Sulfate
- h. Propolis and Myrrh Fennel: Glycerin Hydrated Silica, Xylitol, Sodium Lauryl Sulfate
- i. Antiplaque and Whitening Fennel: Glycerin, Xylitol, Hydrated Silica, Sodium Lauryl Sulfate
- j. Antiplaque and Whitening Spearmint Gel: Sorbitol, Hydrated Silica, Glycerin, Xylitol, Sodium Lauryl Sulfate
- k. Toddler Training Mild Fruit: Glycerin, Hydrated silica, Xylitol,
- l. Whole Care Cinnamon Clove: Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- m. Whole Care Peppermint: Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- n. Whole Care Spearmint: Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- o. Whole Care Wintermint: Sorbitol, Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate

- p. Simply White Clean Mint: Sorbitol, Hydrated Silica, Glycerin, Xylitol, Sodium Lauryl Sulfate,
- q. Kids Outrageous Orange Mango: Hydrated Silica, Glycerin, Sodium Lauryl Sulfate
- r. Wicked Cool Mild Mint: Hydrated Silica, Glycerin, Sodium Lauryl Sulfate
- s. Wicked Fresh Cool Peppermint: Hydrated Silica, Glycerin, Xylitol, Sodium Lauryl Sulfate
- t. Wicked Fresh Spearmint Ice: Hydrated Silica, Xylitol, Sodium Lauryl Sulfate
- u. Rapid Relief Sensitive Fresh Mint: Sorbitol, Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- v. Simply White Sweet Mint: Sorbitol, Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- w. Teeth + Gum Health Cool Mint: Sorbitol, Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate
- x. Teeth + Gum Health Fresh Mint: Sorbitol, Hydrated Silica, Xylitol, Glycerin, Sodium Lauryl Sulfate

9. All of the Products listed in Paragraph No 6. above are substantially similar because all products are toothpaste, all products contain the same false “Natural” labeling, and all Products contain a combination of the synthetic ingredients Sorbitol, Hydrated Silica, Xylitol, Glycerin, and Sodium Lauryl Sulfate.

10. On October 8, 2022, Plaintiff purchased a Antiplaque and Whitening Peppermint Product labeled, marketed, and sold as natural, from a Target located in Lemont, IL.

11. The Product Plaintiff purchased contains Glycerin, Xylitol, Hydrated Silica, and Sodium Lauryl Sulfate, which appear in some combination in every single product listed above. Specifically, Glycerin appears in all but one of the Products, Xylitol appears in all but three of the Products, Hydrated Silica appears in all of the Products, and Sodium Lauryl Sulfate is in all but two of the Products.

12. At the time Plaintiff purchased his Product he read Defendant's labeling claiming the Product was "Natural".

13. Plaintiff, like any reasonable consumer, understands that products labeled as natural do not contain synthetic ingredients.

14. Plaintiff, and reasonable consumers, understand the term "natural" based on common parlance, such that the term natural means as found in nature and not involving anything made or done by people.<sup>1</sup>

15. Plaintiff, and reasonable consumers, do not understand the term "natural" to refer to compounds created in a laboratory by chemical manipulations.

16. Plaintiff, a reasonable consumer, reviewed the "natural" label on the front of the package, believed Defendant's representation at face value based on common usage of the term natural, and purchased Defendant's Product in reliance thereupon.

17. Defendant explains on its website that the challenged ingredients are created as generally described below in paragraphs 18 through 29.<sup>2</sup>

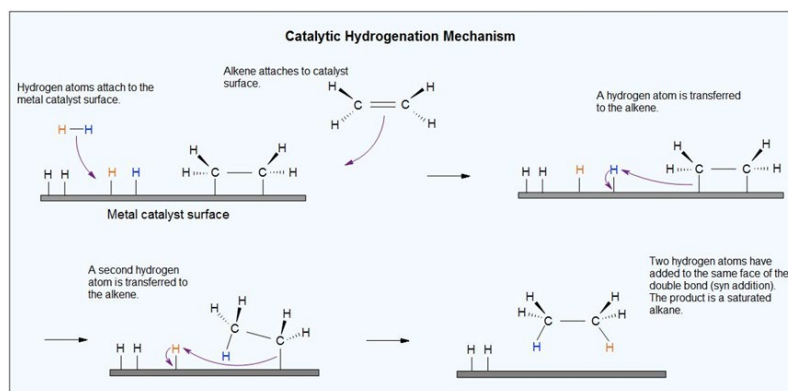
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<sup>1</sup> Definition reflecting common parlance found at: <https://dictionary.cambridge.org/us/dictionary/english/natural>

<sup>2</sup> Tom's of Maine website appears at: <https://www.tomsofmaine.com/our-promise/ingredients>

18. Hydrogenation is a synthetic reaction that between hydrogen gas and an unsaturated double bond in a molecule under high pressure in the presence of a metal catalyst. <sup>3</sup>

19. The following diagram depicts the hydrogenation process: <sup>4</sup>



20. Sulfonation is a chemical reaction which introduces the sulfonic acid functional group into a molecule. <sup>5</sup>

21. Neutralization is a chemical reaction where an acid and a base are reacted to form water and a salt. <sup>6</sup>

22. Saponification is the process of reacting an ester with water and a strong base to create a carboxylic acid and alcohol. <sup>7</sup>

<sup>3</sup> Monoj K Gupta, Practical Guide To Vegetable Oil Processing <https://www.sciencedirect.com/book/9781630670504/practical-guide-to-vegetable-oil-processing>

<sup>4</sup> Catalytic Hydrogenation of Alkenes, [https://chem.libretexts.org/Bookshelves/Organic\\_Chemistry/Supplemental\\_Modules\\_\(Organic\\_Chemistry\)/Alkenes/Reactivity\\_of\\_Alkenes/Catalytic\\_Hydrogenation](https://chem.libretexts.org/Bookshelves/Organic_Chemistry/Supplemental_Modules_(Organic_Chemistry)/Alkenes/Reactivity_of_Alkenes/Catalytic_Hydrogenation)

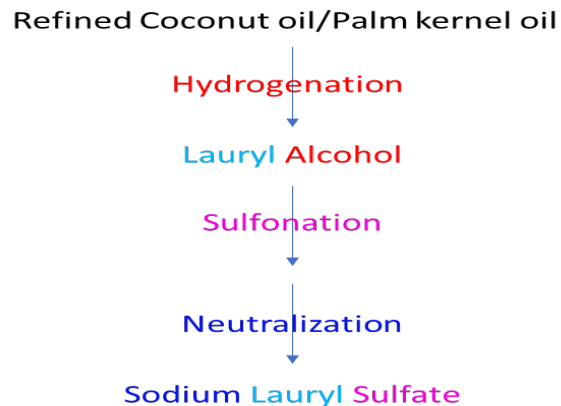
<sup>5</sup> Information available at: <http://www.chem.ucla.edu/~harding/IGOC/S/sulfonation.html#:~:text=Sulfonation%3A%20A%20chemical%20reaction%20which,benzene%20into%20benzene%20sulfonic%20acid.>

<sup>6</sup> Information available at: [https://chem.libretexts.org/Bookshelves/Physical\\_and\\_Theoretical\\_Chemistry\\_Textbook\\_Maps/Supplemental\\_Modules\\_\(Physical\\_and\\_Theoretical\\_Chemistry\)/Acids\\_and\\_Bases/Acid\\_Base\\_Reactions/Neutralization](https://chem.libretexts.org/Bookshelves/Physical_and_Theoretical_Chemistry_Textbook_Maps/Supplemental_Modules_(Physical_and_Theoretical_Chemistry)/Acids_and_Bases/Acid_Base_Reactions/Neutralization)

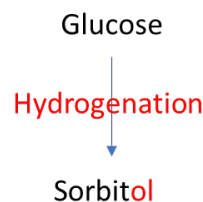
<sup>7</sup> Information available at: [https://chem.libretexts.org/Bookshelves/Organic\\_Chemistry/Supplemental\\_Modules\\_\(Organic\\_Chemistry\)/Esters/Reactivity\\_of\\_Esters/Saponification](https://chem.libretexts.org/Bookshelves/Organic_Chemistry/Supplemental_Modules_(Organic_Chemistry)/Esters/Reactivity_of_Esters/Saponification)

23. Sodium Lauryl Sulfate is synthesized from the sulfonation of lauryl alcohol and a following neutralization. The lauryl alcohol is synthesized from refined and hydrogenated coconut or palm kernel oil.

24. To create Sodium Lauryl Sulfate, coconut oil or palm kernel oil is fractionated to separate out lauric acid which is then hydrogenated as depicted in the chart<sup>8</sup> below:



25. Sorbitol is a synthetic chemical produced from the hydrogenation of glucose, as depicted in the chart<sup>9</sup> below:

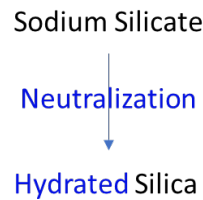



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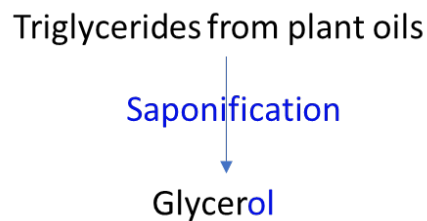
<sup>8</sup> Figure 1: Chemical reactions separating sodium lauryl sulfate from a natural product. The synthetic reactions are color coordinated to highlight the synthetic bonds formed by different chemical reactions to create the synthetic product.

<sup>9</sup> Chemical reactions separating sorbitol from a natural product. The synthetic reactions are color coordinated to highlight the synthetic bonds formed by different chemical reactions to create the synthetic product.

26. Hydrated Silica is a Synthetic Chemical produced from the neutralization of sodium silicate with a strong acid as depicted in the chart<sup>10</sup> below:



27. Glycerin, also referred to as Glycerol, is produced from the saponification of plant oils as depicted in the chart<sup>11</sup> below:



28. During saponification plants and animal oils containing triglycerides are reacted with a strong base (like sodium hydroxide) to produce a fatty sodium salt and glycerol.

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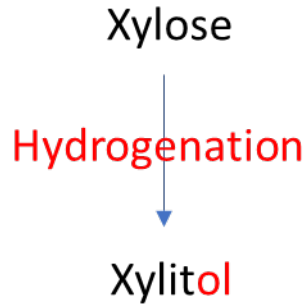
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<sup>10</sup> Chemical reactions separating Hydrated silica from a natural product. The synthetic reactions are color coordinated to highlight the synthetic bonds formed by different chemical reactions to create the synthetic product.

<sup>11</sup> Chemical reactions separating Glycerin from a natural product. The synthetic reactions are color coordinated to highlight the synthetic bonds formed by different chemical reactions to create the synthetic product.



29. Xylitol is a synthetic chemical produced from the hydrogenation of xylose, as depicted by the chart<sup>12</sup> below:



30. The following are examples of the Products' fraudulent labeling:



<sup>12</sup> Chemical reactions separating Xylitol from a natural product. The synthetic reactions are color coordinated to highlight the synthetic bonds formed by different chemical reactions to create the synthetic product.







31. Persons, like Plaintiff herein, have an interest in purchasing products that do not contain false and misleading claims with regards to the contents of the Products.

32. By making false and misleading claims about the Products, Defendant impaired Plaintiff's ability to choose the type and quality of products he chose to buy.

33. Therefore, Plaintiff has been deprived of his legally protected interest to obtain true and accurate information about his consumer products as required by law.

34. As a result of Defendant's fraudulent labeling, Plaintiff and the Class have been misled into purchasing Products that did not provide them with the benefit of the bargain they paid money for, namely that the Products would be natural.

35. As a result of Defendant's fraudulent labeling, Plaintiff and the Class paid a price premium for a premium natural Product, but instead received a non-premium Product with artificial ingredients.

36. Plaintiff and the Class purchased Defendant's Products because Defendant's advertising claimed that the Products were natural.

37. Furthermore, due to Defendant's intentional, deceitful practice of falsely labeling the Products as natural when they are not, Plaintiff could not have known that the Product was not natural.

38. Plaintiff was unaware that the Product contained synthetic ingredients when he purchased it.

39. Worse than the lost money, Plaintiff and the Class were deprived of their protected interest to choose the type and quality of products they ingest.

40. Plaintiff is interested in purchasing the Products again in the future, and as a result he will be harmed if Defendant is not forced to correct the fraudulent labeling or remove the synthetic ingredients.

41. Defendant, and not Plaintiff or the Class, knew or should have known that labeling, marketing, and selling the Products as natural was false, deceptive, and misleading, and that Plaintiff and the Class members would not be able to tell the Products they purchased were not natural unless Defendant expressly told them.

42. On information and belief, Defendant employs professional chemists to create the chemical formulas of Defendant's Products. Therefore, Defendant through its employees knew or should have known that the challenged ingredients are not naturally produced, and that by adding the challenged ingredients to its products they would not be natural.

43. On information and belief, Defendant did know that Products were not natural but chose to label the Products as natural because it did not believe its customers were well educated enough to know the difference.

44. As a result of Defendant's acts and omissions outlined above, Plaintiff has suffered concrete and particularized injuries and harm, which include, but are not limited to, the following:

- a. Lost money;
- b. Wasting Plaintiff's time; and
- c. Stress, aggravation, frustration, loss of trust, loss of serenity, and loss of confidence in product labeling.

### **CLASS ALLEGATIONS**

45. Plaintiff brings this action on behalf of herself and all others similarly situated, as a member of the proposed class (the "Class"), defined as follows:

All persons within the State of Illinois who purchased the Products within five years prior to the filing of the Complaint through the date of class certification.

46. Defendant, its employees and agents are excluded from the Class. Plaintiff does not know the number of members in the Class, but believes the members number in the thousands, if not more. Thus, this matter should be certified as a Class Action to assist in the expeditious litigation of the matter.

47. The Class are so numerous that the individual joinder of all of their members is impractical. While the exact number and identities of their members are unknown to Plaintiff at this time and can only be ascertained through appropriate discovery, Plaintiff is informed and believes and thereon alleges that the Class include thousands, if not millions of members. Plaintiff alleges that the class members may be ascertained by the records maintained by Defendant.

48. This suit is properly maintainable as a class action pursuant to Fed. R. Civ. P. 23(a) because the Class are so numerous that joinder of their members is impractical and the disposition of their claims in the Class Action will provide substantial benefits both to the parties and the Court.

49. There are questions of law and fact common to the Class affecting the parties to be represented. The questions of law and fact common to the Class predominate over questions which may affect individual class members and include, but are not necessarily limited to, the following:

- a. Whether the Defendant intentionally, negligently, or recklessly disseminated false and misleading information by including the statement “Natural” on the front of the Products’ packaging;
- b. Whether the Class members were informed of the artificial nature of the ingredients in the Products;
- c. Whether the Products contain artificial ingredients;
- d. Whether Defendant’s conduct was unfair and deceptive;
- e. Whether Defendant unjustly enriched itself as a result of the unlawful conduct alleged above;
- f. Whether the statement “Natural” is misleading or false;
- g. Whether there should be a tolling of the statute of limitations; and
- h. Whether the Class are entitled to restitution, actual damages, punitive damages, and attorney fees and costs

50. As a resident of the United States and the State of Illinois who purchased the Products, Plaintiff is asserting claims that are typical of the Class.

51. Plaintiff has no interests adverse or antagonistic to the interests of the other members of the Class.

52. Plaintiff will fairly and adequately protect the interests of the members of the Class. Plaintiff has retained attorneys experienced in the prosecution of class actions.

53. A class action is superior to other available methods of fair and efficient adjudication of this controversy, since individual litigation of the claims of all Class members is impracticable. Even if every Class member could afford individual litigation, the court system could not. It would be unduly burdensome to the courts in which individual litigation of numerous issues would proceed. Individualized litigation would also present the potential for varying, inconsistent or contradictory judgments and would magnify the delay and expense to all parties, and to the court system, resulting from multiple trials of the same complex factual issues. By contrast, the conduct of this action as a class action presents fewer management difficulties, conserves the resources of the parties and of the court system and protects the rights of each class member. Class treatment will also permit the adjudication of relatively small claims by many class members who could not otherwise afford to seek legal redress for the wrongs complained of herein.

54. The prosecution of separate actions by individual members of the Class would create a risk of adjudications with respect to them that would, as a practical matter, be dispositive of the interests of the other class members not parties to such adjudications or that would substantially impair or impede the ability of such non-party class members to protect their interests.

55. Plaintiff's claims and injuries are identical to the claims and injuries of all class members, because all claims and injuries of all class members are based on the same false labeling and the same legal theory. All allegations arise from the identical, false, affirmative written statements made by Defendant when it claimed the Products were "Natural," when in reality the Products contained synthetic ingredients.

56. Defendant has acted or refused to act in respect generally applicable to the Class thereby making appropriate final and injunctive relief with regard to the members of the Class as a whole.



57. Defendants failed to comply with the requirements of the ILCFA, including but not limited to 815 ILCS 505/2 as to the Class with respect to the above-alleged transactions.

58. The size and definition of the Class can be identified by Defendant's own records.

**COUNT I**  
**VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD AND**  
**DECEPTIVE BUSINESS PRACTICES ACT, 815 ILCS 505/1, et seq.**

59. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 58 above as if fully reiterated herein.

60. Plaintiff is a "person" as defined in 815 ILCS 505/1(c), as he is a natural person.

61. Defendant is a "person" as defined in 815 ILCS 505/1(c), as it is a company and a business entity and/or association.

62. 815 ILCS 505/2 states:

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, or the use or employment of any practice described in Section 2 of the "Uniform Deceptive Trade Practices Act", approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby.

63. Through its representation that the Products were natural, Defendant made false promises, misrepresentations, concealments, suppressions, and omissions of material facts, with the intent that Plaintiff rely upon said false promises, misrepresentations, concealments, suppressions, and omissions of material facts.

64. 815 ILCS 505/10a states:

(a) Any person who suffers actual damage as a result of a violation of this Act committed by any other person may bring an action

against such person. The court, in its discretion may award actual economic damages or any other relief which the court deems proper...

(c) [T]he Court may grant injunctive relief where appropriate and may award, in addition to the relief provided in this Section, reasonable attorney's fees and costs to the prevailing party.

65. In taking the actions and omissions set forth above, and making the false promises, misrepresentations, concealments, suppressions, and omissions of material facts set forth above, Defendant violated the Illinois Consumer Fraud and Deceptive Business Practices Act, including, but not limited to, 815 ILCS 505/2.

66. Defendant failed to comply with the requirements of the ILCFA, including, but not limited to, 815 ILCS 505/2 as to the Class members with respect to the above-alleged transactions

67. By reason thereof, Plaintiff is entitled to a judgment against Defendant, declaring that Defendant's conduct violated 815 ILCS 505/2, enjoining Defendant from engaging in similar conduct in the future, and awarding actual damages, punitive damages, injunctive relief, costs, and attorneys' fees.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and appointing Plaintiff as Representative of the Class;
- b. An order certifying the undersigned counsel as the Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;

- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

**COUNT II**  
**COMMON LAW FRAUD**

68. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 58 above as if fully reiterated herein.

69. Through its false statements that the Products were natural, Defendant made false statements of material fact.

70. At the time Defendant made its statements to Plaintiff that the Products were natural, it knew, or reasonably should have known, that the statements described above were false.

71. At the time Defendant made the statements to Plaintiff, Defendant intended to induce Plaintiff to purchase the Products.

72. Plaintiff relied upon the truth of the statements described above and purchased the Products, only to find that the Product he purchased was not natural.

73. As a result of their reasonable reliance upon Defendant's false statements of material fact as set forth above, Plaintiff and other members of the Class have suffered concrete and particularized injuries, harm, and damages which include, but are not limited to, the loss of money spent on products they did not want to buy, and stress, aggravation, frustration, inconvenience, emotional distress, mental anguish, and similar categories of damages.

**PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- a. An order certifying the Class and appointing Plaintiff as Representative of the Class;
- b. An order certifying the undersigned counsel as the Class Counsel;
- c. An order requiring Defendant, at its own cost, to notify all members of the Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- d. Judgment against Defendant in an amount to be determined at trial;
- e. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- f. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- g. Any other relief deemed just and proper by this Court.

**COUNT III**  
**UNJUST ENRICHMENT**

74. Plaintiff incorporates all of the allegations and statements made in Paragraphs 1 through 58 above as if fully reiterated herein.

75. Plaintiff conferred monetary benefits to Defendant by purchasing the Products.

76. Defendant has been unjustly enriched by retaining the revenues derived from Plaintiff's purchase of the Products based on the false statements that the Products were natural.

77. Defendant's retention of the revenue it received from Plaintiff, and the Class members, is unjust and inequitable because Defendant's false statements caused injuries to Plaintiff, and the Class members, as they would not have purchased the Products, or would not

have paid a premium price, if they knew the Products were not natural.

78. Defendant's unjust retention of the benefits conferred on it by Plaintiff, and the Class members, entitles Plaintiff, and the Class members, to restitution of the money they paid to Defendant for the Products.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff prays for a judgment against Defendant as follows:

- h. An order certifying the Class and appointing Plaintiff as Representative of the Class;
- i. An order certifying the undersigned counsel as the Class Counsel;
- j. An order requiring Defendant, at its own cost, to notify all members of the Class of the unlawful, unfair, deceptive, and unconscionable conduct herein;
- k. Judgment against Defendant in an amount to be determined at trial;
- l. An order for injunctive relief prohibiting such conduct by Defendant in the future;
- m. Judgment against Defendant for Plaintiff's attorneys' fees, court costs, and other litigation costs; and
- n. Any other relief deemed just and proper by this Court.

### **JURY DEMAND**

Plaintiff demands a trial by jury on all issues in this action so triable, except for any issues relating to the amount of attorneys' fees and costs to be awarded should Plaintiff prevail on any of her claims in this action.

RESPECTFULLY SUBMITTED,

JOHN DALY

By: /s/ Todd M. Friedman  
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**CERTIFICATE OF SERVICE**

I hereby certify that, on March 16, 2023, a copy of the foregoing First Amended Complaint was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt.

/s/ Steven G. Perry  
Attorney for Plaintiff