

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ADRIENNE PIETRES and BRENDA
NATOLI, individually and on behalf of all
others similarly situated,

Plaintiffs,

v.

NESTLE PURINA PETCARE COMPANY,

Defendant.

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiffs Adrienne Pietres and Brenda Natoli (collectively the “Plaintiffs”), bring this action on behalf of themselves and all others similarly situated against Defendant Nestle Purina Petcare Company (“Defendant” or “Purina”). Plaintiffs make the following allegations pursuant to the investigation of their counsel and based upon information and belief, except as to the allegations specifically pertaining to the Plaintiffs themselves, which are based on personal knowledge.

NATURE OF THE ACTION

1. Defendant formulates, manufactures, advertises, and/or sells multiple types of wet and dry pet food throughout the United States, including in New York. Defendant markets its Products in a systematically misleading manner by misrepresenting that many of its products are “natural” (the “Products”).

2. Defendant clearly claims the Products are “natural” on the Products’ label, capitalizing on the preference of health-conscious pet owners to purchase pet food that is free from synthetic ingredients. However, Defendant’s Products contain multiple synthetic ingredients.

3. Defendant’s Products that contain these false representations include but are not

limited to the following Products:

- Purina Cat Chow Naturals Original
- Purina Cat Chow Naturals Indoor
- Purina Cat Chow Naturals Grain Free Formula
- Purina ONE +Plus Indoor Advantage Senior 7+ Dry Cat Food
- Purina ONE +Plus Indoor Advantage Dry Cat Food
- Purina ONE +Plus Indoor Advantage Real Salmon #1 Ingredient Dry Cat Food
- Purina ONE +Plus Hairball Formula Dry Cat Food
- Purina ONE +Plus Sensitive Skin & Stomach Dry Cat Food
- Purina ONE Ideal Weight High Protein Dry Cat Food
- Purina ONE Tender Selects Blend With Real Chicken Dry Cat Food
- Purina ONE Tender Selects Blend With Real Salmon Dry Cat Food
- Purina ONE +Plus Healthy Kitten Formula Natural Dry Cat Food
- Purina ONE Grain Free Turkey Wet Cat Food Recipe
- Purina ONE Grain Free Chicken Wet Cat Food Recipe
- Purina ONE Grain Free Beef Wet Cat Food Recipe
- Purina ONE Grain Free Ocean Whitefish Wet Cat Food Recipe
- Purina ONE True Instinct Chicken & Turkey Recipe in Gravy Wet Cat Food
- Purina ONE True Instinct Chicken & Salmon Recipe in Sauce Wet Cat Food
- Purina ONE True Instinct Salmon & Trout Recipe in Sauce Wet Cat Food
- Purina ONE True Instinct Chicken Recipe in Gravy Wet Cat Food
- Purina ONE True Instinct Tuna Recipe in Sauce Wet Cat Food
- Purina ONE True Instinct Turkey Recipe in Gravy Wet Cat Food
- Purina ONE Indoor Advantage Senior 7+ Chicken & Ocean Fish Recipe Paté Wet Cat Food
- Purina ONE Ideal Weight White Meat Chicken Recipe in Sauce Wet Cat Food
- Purina ONE Ideal Weight Tender Salmon Recipe in Sauce Wet Cat Food
- Purina ONE Indoor + Hairball Ocean Whitefish & Rice Recipe Wet Cat Food
- Purina ONE Healthy Kitten Chicken & Salmon Recipe Wet Cat Food
- Purina ONE Natural Weight Control Ideal Weight Tender Salmon Wet Cat Food
- Beyond Mixers+ Digestive Support for Cats Turkey & Brown Rice Recipe With Accents of Whole Flaxseed
- Beyond Mixers+ Digestive Support for Cats Salmon & Pumpkin Recipe With Accents of Whole Chia Seeds
- Beyond Mixers+ Immune Support for Cats Alaskan Cod Recipe With Elderberry Juice
- Beyond Mixers+ Immune Support for Cats Turkey & Canadian Duck Recipe With Vegetable Juice
- Beyond Grain Free Trout & Catfish Recipe Paté Wet Cat Food
- Beyond Grain Free Wild Salmon Recipe Paté Wet Cat Food
- Beyond Organic Chicken & Carrot Recipe Paté Natural Wet Cat Food
- Prina Beyond Cage-Free Chicken, Beef & Carrot Recipe in Gravy Wet Cat Food
- Beyond Grain Free Arctic Char & Spinach Recipe Paté Wet Cat Food
- Beyond Grain Free Chicken & Sweet Potato Recipe Paté Wet Cat Food

- Beyond Wild Alaskan Salmon & Sweet Potato Recipe in Gravy Wet Cat Food
- Beyond Cage-Free Turkey, Sweet Potato & Spinach Recipe in Gravy Wet Cat Food
- Beyond Grain Free Canadian Duck & Sweet Potato Recipe Paté Wet Cat Food
- Beyond Grain Free Line-Caught Alaskan Cod & Spinach Recipe Paté Wet Cat Food
- Beyond Wild-Caught Tuna, Wild Alaskan Cod & Carrot Recipe in Gravy Wet Cat Food
- Beyond Kitten Chicken & Oatmeal Recipe Dry Cat Food
- Beyond Simply White Meat Chicken & Whole Oat Meal Recipe Dry Cat Food
- Beyond Simply Grain Free White Meat Chicken & Egg Recipe Dry Cat Food
- Beyond Simply Grain Free Wild-Caught Whitefish & Cage-Free Egg Recipe Dry Cat Food
- Beyond Simply Indoor Cat Grain Free Wild-Caught Salmon, Egg & Sweet Potato Recipe Dry Cat Food
- Fancy Feast Savory Purée Naturals With Natural Tuna In A Demi-Glace Cat Treats
- Fancy Feast Savory Purée Naturals With Natural Chicken In A Demi-Glace Cat Treats
- Fancy Feast Savory Purée Naturals With Natural Salmon & Tuna In A Demi-Glace Cat Treats
- Purely Fancy Feast Natural White Meat Chicken Wet Cat Food in a Delicate Broth
- Fancy Feast Natural White Meat Chicken & Flaked Tuna Wet Cat Food in a Delicate Broth
- Fancy Feast Natural Flaked Skipjack Tuna Wet Cat Food in a Delicate Broth
- Purely Fancy Feast Natural Tender Tongol Tuna Wet Cat Food in a Delicate Broth
- Fancy Feast Natural Seabass & Shrimp Wet Cat Food in a Delicate Broth
- Fancy Feast Gourmet Naturals Natural Whitefish Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Beef Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Turkey Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Tuna Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Trout & Tuna Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Rainbow Trout Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Beef Recipe In Gravy Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Wild Alaskan Salmon Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural White Meat Chicken & Beef Recipe Wet Cat Food
- Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe In Gravy Wet Cat Food
- Fancy Feast Gourmet Naturals Natural Wild Alaskan Salmon & Shrimp Recipe In Gravy Wet Cat Food
- Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe Wet Kitten Food
- Fancy Feast Gourmet Naturals Natural Wild Alaskan Salmon Recipe Wet Kitten Food

4. As a result of its deceptive conduct, Defendant violates state consumer protection statutes and has been unjustly enriched at the expense of consumers.

5. Plaintiffs purchased Defendant's Products and, on behalf of themselves and similarly situated purchasers, assert claims for violations of New York General Business Law §§ 349 and 350, for breach of express warranty, and for unjust enrichment.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(a) because this case is a class action where the aggregate claims of all members of the proposed class are in excess of \$5,000,000.00 exclusive of interest and costs, there are over 100 members of the putative class, and at least one class member is a citizen of a state different than Defendant.

7. This Court has personal jurisdiction over Defendant because a substantial portion of the events that gave rise to Plaintiff's claims occurred in New York, and because Defendant purposefully availed itself of the benefit of conducting business in New York State by manufacturing several of its Products in a manufacturing plant located in Dunkirk, New York.

8. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b)(2) because a substantial portion of the events that gave rise to Plaintiffs' claims occurred in this District.

PARTIES

9. Plaintiff Adrienne Pietres is a citizen of New York who resides in New Windsor, New York. Ms. Pietres has purchased the Products for personal use at various times during the applicable statute of limitations. Most recently, in or around September 2023, Ms. Pietres purchased Purina ONE +Plus Indoor Advantage Real Salmon #1 Ingredient Dry Cat Food from a Walmart in Newburgh, New York for approximately \$14. In purchasing the Product, Ms. Pietres relied on Defendant's false, misleading, and deceptive marketing of the Product as "natural." Ms. Pietres understood that "natural" meant that the Product did not contain any synthetic ingredients, but in fact, the Product she purchased did contain multiple synthetic ingredients,

including: zinc sulfate, copper sulfate, calcium pantothenate (or D-calcium pantothenate), thiamine mononitrate, l-lysine hydrochloride, pyridoxine hydrochloride, and menadione sodium bisulfite complex. Had Ms. Pietres known that Defendant's "natural" representation was false and misleading, she would not have purchased the Product or would have only been willing to purchase the Product at a lesser price.

10. Plaintiff Brenda Natoli is a citizen of New York who resides in Mount Vernon, New York. Ms. Natoli has purchased the Products for personal use at various times during the applicable statute of limitations. Most recently, in or around June 2023, Ms. Natoli purchased Purina Beyond Grain Free Wild Salmon Recipe Paté Wet Cat Food from Amazon.com for approximately \$16.68. In purchasing the Product, Ms. Natoli relied on Defendant's false, misleading, and deceptive marketing of the Product as "natural." Ms. Natoli understood that "natural" meant that the Product did not contain any synthetic ingredients or fillers, but in fact, the Product she purchased did contain multiple synthetic ingredients, including: zinc sulfate, copper sulfate, calcium pantothenate (or D-calcium pantothenate), thiamine mononitrate, pyridoxine hydrochloride, and menadione sodium bisulfite complex. Had Ms. Natoli known that Defendant's "natural" representation was false and misleading, she would not have purchased the Product or would have only been willing to purchase the Product at a lesser price.

11. Defendant Nestle Purina Petcare Company is a Missouri corporation, whose principal place of business is located at 901 Chouteau Avenue, Saint Louis, MO 63102-1009. At all times relevant hereto, Defendant was engaged in the marketing, manufacturing, and sale of the Products.

GENERAL ALLEGATIONS

12. Defendant's labeling on the Products states that the Products are "natural with

added vitamins, minerals & nutrients,” with the word “natural” in large font.



This is the Product that Plaintiff Pietres purchased.



This is the Product that Plaintiff Natoli purchased.

13. The Products are sold in a variety of outlets, including Walmart, Chewy.com, Amazon.com, and various other supermarkets and grocery stores.

14. Defendant’s labeling and advertising puts forth a straightforward, material message: the Products contain only ingredients that are natural. Reasonable consumers would understand Defendant’s labeling to mean that the Products contain only natural ingredients, and not any synthetic substances.

15. Although Defendant includes “with added vitamins, minerals & nutrients” to its labeling, an ordinary person would understand Defendant’s claim to mean that the “added vitamins, minerals and nutrients” are natural as well. Because the labeling claim uses the word “and” rather than “but,” and does not specify that the added vitamins, minerals and/or nutrients are synthetic, a reasonable consumer would expect that the “added vitamins, minerals and

nutrients” are natural as well. Regardless, some of the synthetic ingredients in the Products are not vitamins, minerals or nutrients, and so this phrase does nothing to detract from the falsity of Defendant’s misrepresentations.

16. Defendant makes natural claims in an effort to capitalize on the growing market for natural products. Health-conscious pet owners are willing to pay a price premium for products labeled and advertised as natural, believing Defendant’s misrepresentations that the Products are natural and, accordingly, better and safer for their pet friends to consume than other non-natural products.

17. But the Products cannot be considered “natural” because they contain synthetic ingredients. Specifically, Defendant’s Products contain the following non-exhaustive list of synthetic ingredients:

- (a) ***Glycerin***. Glycerin is an emollient that, according to the FDA, is a synthetic substance. 7 C.F.R. 205.603(a)(14). The glycerin used in Defendant’s Products is not “natural” but instead, is manufactured through saponification, whereby fat molecules in vegetable oil are chemically altered using sodium hydroxide, a highly toxic chemical.
- (b) ***Zinc Sulfate***. Zinc sulfate, according to the FDA, is a synthetic substance. 7 C.F.R. 205.603(b)(11).
- (c) ***Copper Sulfate***. Copper sulfate is a toxic, inorganic compound “that has been registered for use in pesticide products in the United States since 1956.” 7 C.F.R. 205.603(b)(1). The copper sulfate used in Defendant’s Products is not “natural” but instead is manufactured by adding copper to sulfate.
- (d) ***D-calcium Pantothenate***. D-calcium pantothenate, also known as calcium

pantothenate, is a salt derived from the pantothenic acid and “is prepared synthetically from isobutyraldehyde and formaldehyde via 1,1-dimethyl-2-hydroxy-propionaldehyde and pantolactone.” 21 C.F.R. 184.1212(a).

- (e) ***L-lysine Monohydrochloride.*** L-lysine monohydrochloride is the product of an acidification reaction between l-lysine and hydrochloric acid.
- (f) ***Thiamine Mononitrate.*** Thiamine mononitrate is a synthetic stable nitrate salt that is chemically and structurally different from natural thiamine, and the changes required to transform thiamine to thiamine mononitrate do not result from a natural process.
- (g) ***Pyridoxine Hydrochloride.*** Pyridoxine hydrochloride is synthetically created by treating pyridoxine with hydrochloride acid to form a salt compound.
- (h) ***Dl-methionine.*** Dl-methionine is a synthetic version of L-methionine.
- (i) ***Menadione sodium bisulfite complex.*** This is also known as vitamin K3, the synthetic analogue of vitamin K.
- (j) ***Xanthan Gum.*** Xanthan gum is a thickening agent that, according to FDA regulations, is a synthetic substance. 7 C.F.R. 205.605(b)(37). Xanthan gum is not “natural” but is instead manufactured through fermentation of carbohydrates and subsequent treatment of the byproduct with isopropyl alcohol.

18. No product labeled “natural” should contain any of these ingredients. And yet, the Products contain most, if not all of them:

<u>Product</u>	<u>Synthetic Ingredients</u>
Purina Cat Chow Naturals Original	Zinc Sulfate Copper Sulfate Thiamine Mononitrate Calcium Pantothenate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina Cat Chow Naturals Indoor	Zinc Sulfate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Copper Sulfate Zinc Sulfate Copper Sulfate Thiamine Mononitrate Calcium Pantothenate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex DL-Methionine*
Purina Cat Chow Naturals Grain Free Formula	Thiamine Mononitrate Calcium Pantothenate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE +Plus Indoor Advantage Senior 7+ Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Purina ONE +Plus Indoor Advantage Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Purina ONE +Plus Indoor Advantage Real Salmon #1 Ingredient Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Purina ONE +Plus Hairball Formula Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE +Plus Sensitive Skin & Stomach Dry Cat Food	Glycerin Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride

<u>Product</u>	<u>Synthetic Ingredients</u>
	Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Purina ONE Ideal Weight High Protein Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Purina ONE Tender Selects Blend With Real Chicken Dry Cat Food	Glycerin Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride DL-Methionine L-lysine Monohydrochloride
Purina ONE Tender Selects Blend With Real Salmon Dry Cat Food	Glycerin Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride DL-Methionine L-lysine Monohydrochloride
Purina ONE +Plus Healthy Kitten Formula Natural Dry Cat Food	Glycerin Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex DL-methionine L-lysine Monohydrochloride
Purina ONE Grain Free Turkey Wet Cat Food Recipe	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Grain Free Chicken Wet Cat Food Recipe	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride

<u>Product</u>	<u>Synthetic Ingredients</u>
	Menadione Sodium Bisulfite Complex
Purina ONE Grain Free Beef Wet Cat Food Recipe	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Grain Free Ocean Whitefish Wet Cat Food Recipe	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Chicken & Turkey Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Chicken & Salmon Recipe in Sauce Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Salmon & Trout Recipe in Sauce Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Chicken Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Tuna Recipe in Sauce Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE True Instinct Turkey Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Indoor Advantage Senior 7+ Chicken & Ocean Fish Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Ideal Weight White Meat Chicken Recipe in Sauce Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Ideal Weight Tender Salmon Recipe in Sauce Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Indoor + Hairball Ocean Whitefish & Rice Recipe Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Healthy Kitten Chicken & Salmon Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Thiamine Mononitrate Calcium Pantothenate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purina ONE Natural Weight Control Ideal Weight Tender Salmon Wet Cat Food	Xanthan Gum Zinc Sulfate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Mixers+ Digestive Support for Cats Turkey & Brown Rice Recipe With Accents of Whole Flaxseed	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Mixers+ Digestive Support for Cats Salmon & Pumpkin Recipe With Accents of Whole Chia Seeds	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Mixers+ Immune Support for Cats Alaskan Cod Recipe With Elderberry Juice	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Mixers+ Immune Support for Cats Turkey & Canadian Duck Recipe With Vegetable Juice	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Trout & Catfish Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Wild Salmon Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Organic Chicken & Carrot Recipe Paté Natural Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Prina Beyond Cage-Free Chicken, Beef & Carrot Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Arctic Char & Spinach Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Chicken & Sweet Potato Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Wild Alaskan Salmon & Sweet Potato Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Cage-Free Turkey, Sweet Potato & Spinach Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Canadian Duck & Sweet Potato Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Grain Free Line-Caught Alaskan Cod & Spinach Recipe Paté Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Wild-Caught Tuna, Wild Alaskan Cod & Carrot Recipe in Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Beyond Kitten Chicken & Oatmeal Recipe Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Beyond Simply White Meat Chicken & Whole Oat Meal Recipe Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Beyond Simply Grain Free White Meat Chicken & Egg Recipe Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex L-lysine Monohydrochloride
Beyond Simply Grain Free Wild-Caught Whitefish & Cage-Free Egg Recipe Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex DL-Methionine L-lysine Monohydrochloride
Beyond Simply Indoor Cat Grain Free Wild-Caught Salmon, Egg & Sweet Potato Recipe Dry Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex DL-Methionine

<u>Product</u>	<u>Synthetic Ingredients</u>
	L-lysine Monohydrochloride
Fancy Feast Savory Purée Naturals With Natural Tuna In A Demi-Glace Cat Treats	Xanthan Gum
Fancy Feast Savory Purée Naturals With Natural Chicken In A Demi-Glace Cat Treats	Xanthan Gum
Fancy Feast Savory Purée Naturals With Natural Salmon & Tuna In A Demi-Glace Cat Treats	Xanthan Gum
Purely Fancy Feast Natural White Meat Chicken Wet Cat Food in a Delicate Broth	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Natural White Meat Chicken & Flaked Tuna Wet Cat Food in a Delicate Broth	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Natural Flaked Skipjack Tuna Wet Cat Food in a Delicate Broth	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Purely Fancy Feast Natural Tender Tongol Tuna Wet Cat Food in a Delicate Broth	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Natural Seabass & Shrimp Wet Cat Food in a Delicate Broth	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Whitefish Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Beef Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Turkey Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Tuna Recipe Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Trout & Tuna Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Rainbow Trout Recipe Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Beef Recipe In Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Wild Alaskan Salmon Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate

<u>Product</u>	<u>Synthetic Ingredients</u>
	Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe Wet Cat Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural White Meat Chicken & Beef Recipe Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe In Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Wild ¹ Alaskan Salmon & Shrimp Recipe In Gravy Wet Cat Food	Xanthan Gum Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural White Meat Chicken Recipe Wet Kitten Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex
Fancy Feast Gourmet Naturals Natural Wild Alaskan Salmon Recipe Wet Kitten Food	Zinc Sulfate Copper Sulfate Calcium Pantothenate Thiamine Mononitrate Pyridoxine Hydrochloride Menadione Sodium Bisulfite Complex

¹ Original spelling on Purina website at <https://www.purina.com/cats/shop/fancy-feast-gourmet-naturals-salmon-shrimp-gravy-wet-cat-food> (last accessed Oct. 5, 2023).

19. Defendant has profited enormously from its false and misleading representation that its Products contain only natural products. The purpose of this action is to require Defendant to change its labeling claims and to provide consumers with monetary relief for its deceptive and misleading product claims.

CLASS ACTION ALLEGATIONS

20. Plaintiffs seek to represent a class defined as all persons in the United States who, during the maximum period of time permitted by law, purchased Defendant's Products primarily for personal, family or household consumption, and not for resale (the "Nationwide Class").

21. Plaintiffs also seek to represent a subclass defined as all Class members who purchased the Products in New York (the "New York Subclass") (collectively with the Nationwide Class, the "Classes").

22. **Numerosity Fed. R. Civ. P. 23(a)(1).** Members of the Classes are so numerous that their individual joinder herein is impracticable. On information and belief, members of the Class number in the millions. The precise number of Class members and their identities are unknown to Plaintiffs at this time but may be determined through discovery. Class members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

23. **Commonality and Predominance (Fed. R. Civ. P. 23(a)(2) and 23(b)(3)).** There is a well-defined community of interest in the questions of law and fact involved in this case. Common questions of law and fact that exist as to all Class members and predominate over questions affecting only individual Class members include, but are not limited to:

- (a) the true nature and presence of synthetic ingredients in the Products;
- (b) whether Defendant's marketing, advertising, packaging, labeling, and other promotional materials for the Products are deceptive and misleading;

- (c) whether the Plaintiffs and members of the Classes have suffered damages as a result of Defendant's actions, and the amount thereof;
- (d) whether Defendant has been unjustly enriched as a result of the unlawful, fraudulent, and unfair conduct alleged in this Complaint such that it would be inequitable for Defendant to retain the benefits conferred upon Purina by Plaintiffs and the Classes; and
- (e) whether Plaintiffs and members of the Classes are entitled to attorneys' fees and costs.

24. **Typicality (Fed. R. Civ. P. 23(a)(3)).** The claims of the named Plaintiffs are typical of the claims of the Class in that the named Plaintiffs were exposed to Defendant's false and misleading marketing, purchased Defendant's Products, and suffered a loss as a result of those purchases.

25. **Adequacy (Fed. R. Civ. P. 23(a)(4)).** Plaintiffs are adequate representatives of the Classes because their interests do not conflict with the interests of the Class members they seek to represent, they have retained competent counsel experienced in prosecuting class actions, and they intend to prosecute this action vigorously. The interests of Class members will be fairly and adequately protected by Plaintiffs and their counsel.

26. **Superiority (Fed. R. Civ. P. 23(b)(3)).** The class mechanism is superior to other available means for the fair and efficient adjudication of the claims of Class members. Even if every member of the Classes could afford to pursue individual litigation, the court system could not. Individualized litigation would be unduly burdensome to the courts in which individual litigation of numerous cases would proceed. Individualized litigation would also increase the delay and expense to all parties and would present the potential for varying, inconsistent, or

contradictory judgments—magnifying the delay and expense to all parties and to the court system resulting from multiple trials of the same factual issues. In contrast, the maintenance of this action as a class action, with respect to some or all of the issues presented herein, presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant’s liability. Class treatment of the liability issues would ensure that all claims and claimants are before this Court for consistent adjudication of the liability issues. Plaintiffs anticipate no difficulty in the management of this action as a class action.

CAUSES OF ACTION

COUNT I

**Violation of the New York General Business Law § 349
(On behalf of the New York Subclass)**

27. Plaintiffs incorporate by reference and re-alleges herein all paragraphs alleged above.

28. Plaintiffs Pietres and Natoli bring this cause of action on behalf of themselves and members of the New York Subclass against Defendant.

29. Plaintiffs and New York Subclass members are “persons” within the meaning of the GBL § 349(h).

30. Defendant is a “person, firm, corporation or association or agent or employee thereof” within the meaning of GBL § 349(b).

31. Under GBL § 349, “[d]eceptive acts or practices in the conduct of any business, trade or commerce are unlawful.”

32. Defendant made false and misleading statements by marketing the Products as “natural” when the Products in fact it contained synthetic ingredients.

33. In doing so, Defendant engaged in deceptive acts or practices in violation of GBL

§ 349.

34. Defendant deceptive acts or practices were materially misleading. Defendant's conduct was likely to and did deceive reasonable consumers, including Plaintiffs, about the quality of its Products, as discussed throughout.

35. Plaintiffs and New York Subclass members were unaware of, and lacked a reasonable means of discovering, the material facts that Defendant withheld.

36. Defendant's actions set forth above occurred in the conduct of trade or commerce.

37. The foregoing deceptive acts and practices were directed at consumers.

38. Defendant's misleading conduct concerns widely purchased consumer products and affects the public interest. Defendant's conduct includes unfair and misleading acts or practices that have the capacity to deceive consumers and are harmful to the public at large. Defendant's conduct is misleading in a material way because it fundamentally misrepresents the production and quality of the Products.

39. Plaintiffs and New York Subclass members suffered ascertainable loss as a direct and proximate result of Defendant's GBL violations in that: (i) they would not have purchased the Products had they known the truth; and (ii) they overpaid for the Products on account of the misrepresentations and omissions, as described herein. As a result, Plaintiffs and New York Subclass members have been damaged either in the full amount of the purchase price of the Products or in the difference in value between the Products as warranted (completely "natural") and the Products as actually sold (containing one or more synthetic ingredients).

40. On behalf of themselves and other members of the New York Subclass, Plaintiffs seek to enjoin Defendant's unlawful acts and practices described herein, to recover their actual damages or \$50, whichever is greater, reasonable attorney's fees and costs, and any other just

and proper relief available under GBL § 349.

COUNT II
Violation of the New York General Business Law § 350
(On behalf of the New York Subclass)

41. Plaintiffs incorporate by reference and re-alleges herein all paragraphs alleged above.

42. Plaintiffs Pietres and Natoli bring this cause of action on behalf of themselves and members of the New York Subclass against Defendant.

43. GBL § 350 provides that “[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.”

44. Defendant’s labeling and advertisement of the Products was false and misleading in a material way. Specifically, Defendant advertised the Products as “natural” when in fact the Products contain synthetic ingredients.

45. Plaintiffs understood Defendant’s misrepresentations to mean that the Products in fact were “natural” and contained no synthetic ingredients as reasonable consumers understand the term.

46. This misrepresentation was consumer-oriented and was likely to mislead a reasonable consumer acting reasonably under the circumstances.

47. This misrepresentation has resulted in consumer injury or harm to the public interest.

48. As a result of this misrepresentation, Plaintiffs and New York Subclass members have suffered economic injury because: (i) they would not have purchased the Product had they known the truth; and (ii) they overpaid for the Products on account of the misrepresentations and omissions, as described herein. As a result, Plaintiffs and New York Subclass members have been damaged either in the full amount of the purchase price of the Products or in the difference

in value between the Products as warranted (completely “natural”) and the Products as actually sold (containing one or more synthetic ingredients).

49. By reason of the foregoing and as a result of Defendant’s conduct, Plaintiffs and New York Subclass members seek to enjoin the unlawful acts and practices described herein, to recover their actual damages or five hundred dollars, whichever is greater, three times actual damages, reasonable attorneys’ fees and costs, and any other just and proper relief available under GBL § 350.

COUNT III
Breach of Express Warranty
(On behalf of the Nationwide Class and the New York Subclass)

50. Plaintiffs incorporate by reference and re-allege each and every allegation set forth above as though fully set forth herein.

51. Plaintiffs bring this claim individually and on behalf of the members of the Classes against Defendant.

52. Defendant, as the producer, marketer, distributor, and/or seller, expressly warranted that the Products have only “natural” ingredients, “with added vitamins, minerals & nutrients.”

53. Defendant’s representations and warranties were part of the description of the goods and the bargain upon which the Products were offered for sale and purchased by Plaintiffs and members of the Classes.

54. However, the Products do not conform to Defendant’s representations and warranties because the Products contain multiple synthetic ingredients. By falsely representing the Products in this way, Defendant breached express warranties.

55. As a direct and proximate cause of Defendant’s breach of express warranty,

Plaintiffs and members of the Classes have been injured and harmed in an amount to be proven at trial. Had Plaintiffs and members of the Classes known the Products were not in fact “natural,” they would not have purchased the Products, or would have paid substantially less for them.

56. Prior to filing this action, Defendant was served via certified mail with a pre-suit notice letter on behalf of the Plaintiffs that complied in all respects with U.C.C. §§ 2-313 and 2-607.

57. Plaintiffs’ counsel sent Defendant a letter advising that Defendant breached an express warranty and demanding that Defendant make full restitution by refunding the monies received therefrom. A true and correct copy of Plaintiffs’ counsel’s letter is attached hereto as Exhibit 1.

COUNT IV
Unjust Enrichment
(On Behalf of the Nationwide Class and New York Subclass)

58. Plaintiffs incorporate by reference and re-alleges each and every allegation set forth above as though fully set forth herein.

59. Plaintiffs bring this claim individually and on behalf of Class members against Defendant.

60. Plaintiffs and Class members conferred benefits on Defendant by paying money to Defendant for the purchase of the Products.

61. Defendant has knowledge of such benefits.

62. Defendant has been unjustly enriched in retaining the revenues derived from Plaintiffs’ and Class members’ purchase of the Products. Retention of those moneys under these circumstances is unjust and inequitable because Defendant misrepresented that the Products were

“natural” when in fact the Products contain FDA recognized synthetic substances.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs, individually and on behalf of all others similarly situated, seek judgment against Defendant, as follows:

- (a) For an order certifying the Nationwide Class and the New York Subclass under Rule 23 of the Federal Rules of Civil Procedure, naming Plaintiffs as representatives of the Nationwide Class and the New York Subclass, and naming Plaintiffs’ attorneys as Class Counsel to represent the Nationwide Class and New York Subclass;
- (b) For an order finding in favor of Plaintiffs and the Classes on all counts asserted herein;
- (c) For an order finding in favor of Plaintiffs, the Nationwide Class, and the New York Subclass on all counts asserted herein;
- (d) For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury;
- (e) For prejudgment interest on all amounts awarded;
- (f) For an order of restitution and all other forms of equitable monetary relief;
- (g) For an order enjoining Defendant from continuing the illegal practices detailed herein and compelling Defendant to undertake a corrective advertising campaign; and
- (h) For an order awarding Plaintiffs and the New York Class their reasonable attorneys’ fees and expenses and costs of suit.

DEMAND FOR TRIAL BY JURY

Pursuant to Federal Rule of Civil Procedure 38(b), Plaintiffs demand a trial by jury of any

and all issues in this action so triable as of right.

Dated: October 12, 2023

BURSOR & FISHER, P.A.

By: /s/ Joshua D. Arisohn
Joshua D. Arisohn

BURSOR & FISHER, P.A.

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