

1 CROSNER LEGAL, P.C.
 2 Craig W. Straub (SBN 249032)
 3 craig@crosnerlegal.com
 4 Kurt D. Kessler (SBN 327334)
 5 kurt@crosnerlegal.com
 6 Zachary M. Crosner (SBN 272295)
 7 zach@crosnerlegal.com
 8 9440 Santa Monica Blvd. Suite 301
 9 Beverly Hills, CA 90210
 10 Tel: (866) 276-7637
 11 Fax: (310) 510-6429

12 Attorneys for Plaintiff

13
 14 **UNITED STATES DISTRICT COURT FOR THE**
 15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 SUMMER WHITESIDE, individually
 17 and on behalf of all others similarly
 18 situated,

19 Plaintiff,

20 v.

21 CHOSEN FOODS, LLC,

22 Defendant.

23 Case No. '25CV481 CAB DDL

24 **CLASS ACTION COMPLAINT**

25 **DEMAND FOR JURY TRIAL**

CROSNER LEGAL, P.C.

INTRODUCTION

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1. Plaintiff Summer Whiteside (“Plaintiff”) brings this action individually and on behalf of all others similarly situated, and the general public, by and through undersigned counsel, against Chosen Foods, LLC (“Defendant” or “Chosen”), and upon information and belief and investigation of counsel, alleges as follows:

2. Defendant manufactures, distributes, advertises, and sells Chosen® Foods branded avocado oils.

3. The packaging of the avocado oil prominently displays on the front and side label that their Products are “non-GMO” and/or “non-GMO Project Verified” (collectively, the “Non-GMO Claims”).¹

4. The World Health Organization defines genetically modified organisms (“GMOs”) as “organisms in which the genetic material (DNA) has been altered in a way that does not occur naturally.”²

5. Defendant’s Non-GMO Claims are misleading because all avocado oil products are non-GMO—no GMO version of avocado oil is present on the market today. In fact, no GMO avocado oil has ever been sold. Defendant is using the Non-GMO Claims as a marketing ploy to greenwash its Products and gain an unfair advantage over its truthful competitors.

¹ “Products” is used throughout to mean Chosen® Foods branded avocado oil products with only avocado oil listed as an ingredient that are labeled as “Non-GMO” and/or “Non-GMO Project Verified” that are not also labeled as organic, including but not limited to Chosen® Foods 100% Pure Avocado Oil 1LT Glass Bottle, Chosen® Foods 100% Pure Avocado Oil BPA-Free PET 2LT Bottle, Chosen® Foods 100% Pure Avocado Oil 750 ML Glass Bottle, Chosen® Foods 100% Pure Avocado Oil 500ML Glass Bottle, Chosen® Foods 100% Pure Avocado Oil 250ML Glass Bottle, Chosen® Foods 100% Pure Avocado Oil BPA-Free PET 1.25L Bottle, and Chosen® Foods 100% Pure Avocado Oil Spray.

² Food, genetically modified, available at <https://www.who.int/news-room/questions-and-answers/item/food-genetically-modified>.

CROSNER LEGAL, P.C.

1 6. The California Supreme Court has recognized that this type of
2 literally true but misleading advertising is unlawful. This is because consumer
3 protection laws “prohibit not only advertising which is false, but also advertising
4 which although true, is either actually misleading or which has a capacity,
5 likelihood or tendency to deceive or confuse the public.” *Williams v. Gerber Prods.*
6 *Co.*, 552 F.3d 934, 938 (9th Cir. 2008) (quoting *Kasky v. Nike, Inc.*, 27 Cal. 4th
7 939, 951 (2002)).

8 7. Defendant’s advertising scheme is intended to give consumers the
9 impression that they are buying a premium product that is non-GMO, when in fact
10 the Non-GMO Claims do not distinguish the Products in any way from other
11 avocado oil products that do not have Non-GMO Claims.

12 8. Defendant does this because consumers perceive non-GMO foods as
13 better for them and healthier. As a result, the market for non-GMO foods has grown
14 rapidly in recent years. Defendant is seeking to take advantage of this trend by
15 misleading consumers into believing that its Products have a trait that other
16 competing avocado oils do not have.

17 9. By prominently featuring the Non-GMO Claims on its Products,
18 Defendant is intending to induce consumers to pay more for its Products than it
19 would pay for other comparable products that are not misleadingly labeled with
20 Non-GMO Claims. A consumer reasonably believes that the presence of the Non-
21 GMO Claims means the Products have qualities and traits associated with non-
22 GMO foods that comparable avocado oil products without the Non-GMO Claims
23 do not also have, when in fact all avocado oil for sale in the United States is non-
24 GMO.

25 10. Plaintiff, who purchased the Chosen 100% Pure Avocado Oil Spray
26 2-pack in California, was deceived by Defendant’s unlawful conduct and brings
27 this action individually and on behalf of consumers to remedy Defendant’s
28 unlawful acts.

CROSNER LEGAL, P.C.

JURISDICTION AND VENUE

11. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100 members in the proposed class; (2) members of the proposed class have a different citizenship from Defendant (Defendant is a Delaware corporation with its principal place of business in California); and (3) the claims of the proposed class members exceed \$5,000,000 in the aggregate, exclusive of interest and costs. The Products are sold at thousands of retail stores throughout the United States including Walmart,³ and Plaintiff is seeking to represent a class of nationwide consumers. Thus, there are over 100 members in the proposed class and the proposed class has different citizenships from Defendant since hundreds of proposed class members are not citizens of California or Delaware. Plaintiff seeks disgorgement and restitution. Plaintiff also seeks attorneys’ fees. Thus, this litigation exceeds the \$5 million requirement under 28 U.S.C. § 1332(d). *See Montera v. Premier Nutrition Corp., No. 16-CV-06980-RS, 2022 WL 10719057, at *3 (N.D. Cal. Oct. 18, 2022), aff’d, 111 F.4th 1018 (9th Cir. 2024)* (noting lodestar alone after jury trial in a false and misleading labeling consumer protection action was \$6,806,031.96).

12. This Court has personal jurisdiction over Defendant because Defendant conducts and transacts business in the State of California, contracts to supply goods within the State of California, supplies goods within the State of California, and has its principal place of business in San Diego, California. Defendant, on its own and through its agents, is responsible for the distribution, marketing, labeling, and sale of the Products in California, specifically in this district. The marketing of the Products, including the decision of what to include and not include on the labels, emanates from Defendant. Thus, Defendant has intentionally availed itself of the markets within California through its advertising,

³ There are over 4,500 Walmart retail stores in the United States. *See* <https://www.statista.com/statistics/269425/total-number-of-walmart-stores-in-the-united-states-by-type/#>.

CROSNER LEGAL, P.C.

1 marketing, and sale of the Products to consumers in California, including Plaintiff.
2 The Court also has specific jurisdiction over Defendant as it has purposefully
3 directed activities towards the forum state, Plaintiff’s claims arise out of those
4 activities, and it is reasonable for Defendant to defend this lawsuit because it has
5 sold deceptively advertised Products to Plaintiff and members of the Class in
6 California. By distributing and selling the Products in California, Defendant has
7 intentionally and expressly aimed conduct at California which caused harm to
8 Plaintiff and the Class that Defendant knows is likely to be suffered by
9 Californians.

10 13. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a
11 substantial part of the events or omissions giving rise to the claim occurred in this
12 District as Defendant’s principal place of business is in this district.

13 **PARTIES**

14 14. Defendant Chosen Foods, LLC is a Delaware corporation with a
15 principal place of business in San Diego, California. At all times during the class
16 period, Defendant was the manufacturer, distributor, and marketer of the Products.
17 Defendant represents itself as 100% committed to 100% purity and maintains that
18 its avocado oil is one of only two verified pure brands.⁴

19 15. Plaintiff is a resident of California. Plaintiff purchased Chosen®
20 Foods 100% Pure Avocado Oil Spray 2-pack during the class period in California.
21 Plaintiff relied on Defendant’s deceptive advertising and labeling claims in
22 purchasing the Products as set forth below.

23 **FACTUAL ALLEGATIONS**

24 **“NON-GMO” IS PROMINENTLY DISPLAYED ON THE LABEL**

25 16. The front label for the Products prominently states that it is “Non-
26 GMO Project Verified” thereby misleading reasonable consumers into believing

27 _____
28 ⁴ Purity, available at <https://chosenfoods.com/pages/purity>.

CROSNER LEGAL, P.C.

1 that Products are premium avocado oils that are superior to other otherwise
2 identical products that do not have such attributes. Below are exemplar images of
3 the front label of the Products depicting the Non-GMO statement:
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CROSNER LEGAL, P.C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



CROSNER LEGAL, P.C.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



CROSNER LEGAL, P.C.

1 17. The ingredients list for the Products includes solely avocado oil.

2 **GMO AVOCADO OIL DOES NOT EXIST**

3 18. GMO avocados and thus GMO avocado oil have never been sold to
4 consumers in the United States or indeed the entire world.

5 19. According to the Food and Drug Administration (the “FDA”), only
6 eleven GMO crops exist in the United States – alfalfa, apples, canola, corn, cotton,
7 papaya, pink pineapple, potatoes, soybeans, summer squash, and sugar beets.⁵

8 20. The Agricultural Marketing Service of the United States Department
9 of Agriculture maintains a list of Bioengineered Foods to identify the crops or food
10 that are available in bioengineered (another word for GMO) form throughout the
11 world—the complete list is alfalfa, apples, canola, corn, cotton, eggplant, papaya,
12 pink pineapple, potatoes, salmon, soybean, squash, sugar beet, and sugarcane.⁶
13 This list is codified at 7 CFR 66.6.

14 21. No GMO avocados are available at all. A consumer cannot purchase
15 a GMO avocado or avocado oil. They simply do not exist for sale.

16 22. A more expansive list of all GMO products from around the world
17 does not include avocado.⁷ GMO avocados or other GMO avocado products are
18 not available for consumers anywhere in the entire world.

19 23. The Hass avocado, the most common avocado sold in the United
20 States is not genetically modified and is the same type of avocado that Rudolph
21 Hass discovered and patented in 1935.⁸

22 _____
23 ⁵Agricultural Biotechnology, *available at*
<https://www.fda.gov/food/consumers/agricultural-biotechnology>.

24 ⁶List of Bioengineered Foods, *available at* [https://www.ams.usda.gov/rules-](https://www.ams.usda.gov/rules-regulations/be/bioengineered-foods-list)
25 [regulations/be/bioengineered-foods-list](https://www.ams.usda.gov/rules-regulations/be/bioengineered-foods-list).

26 ⁷GM Crops List, *available at*
<https://www.isaaa.org/gmapprovaldatabase/cropslist/default.asp>.

27 ⁸Organic vs Traditionally Grown Avocados, *available at*
28 <https://loveonetoday.com/how-to/organic-vs-traditionally-grown-avocados/>.

CROSNER LEGAL, P.C.

1 24. So, any pure avocado oil on the market cannot be GMO now. The
2 Non-GMO Claims on the Products are meaningless and a misleading attempt to
3 use those claims to distinguish the Products from other avocado oil products that
4 do not exist on the market, GMO avocado oil.

5 **THE NON-GMO CLAIMS ARE HIGHLY PROFITABLE**

6 25. Manufacturers and sellers use product packaging to convey natural
7 and purportedly healthy material. They do so because consumers find the
8 naturalness of a food product to be important in making purchasing decisions.

9 26. According to the Natural Foods Merchandiser, a leading chronicler
10 of the natural foods market in the United States, the natural food market, which
11 includes non-GMO foods, grew to \$215 billion in 2022 and continues to grow each
12 year.

13 27. Between 2019 and 2021, sales of foods with the Non-GMO Project
14 seal grew 41.6%, almost twice as much as those with no non-GMO labeling.
15 Accordingly, research found that the Non-GMO Project labeling drives purchases.

16 28. In 2018, 46 percent of surveyed American consumers answered that
17 they avoided genetically modified foods and 42 percent of those looked for the
18 non-GMO project seal to confirm that.⁹

19 29. It was estimated that the non-GMO food market was worth \$947.8
20 million in 2018 and that the market would continue to expand, potentially reaching
21 \$1.1 billion by 2023.

22 30. A study in 2015 revealed that, when directly compared item by item,
23 GMO-free food costs an average of 33% more than a comparable food item that is
24 not GMO-free. When compared on a per-ounce basis, GMO-free foods cost an
25

26 _____
27 ⁹ Report: nearly half of consumers avoid GMOs; more are buying non-GMO
28 products, *available at* <https://non-gmoreport.com/articles/report-nearly-half-of-consumers-avoid-gmos-more-are-buying-non-gmo-products/>.

CROSNER LEGAL, P.C.

1 average of 73% more.¹⁰ Consumers are willing and do pay more for foods that are
2 labeled non-GMO, believing they confer a health benefit from them compared to
3 other products in the same category.

4 31. In 2018, a consumer study revealed that there is a 10-62% price
5 premium connected to non-genetically modified products. When compared to
6 conventional versions of ice cream, breakfast cereal, tortilla chips, and cooking
7 and salad oils, consumers paid a non-GMO price premium of 10 percent, 26
8 percent, 24 percent, and 62 percent respectively.¹¹

9 32. Consumers pay a premium for foods that have non-GMO claims on
10 them, leading companies to use such claims on their products to reap the benefits
11 of the higher price they can charge as a result.

12 **DEFENDANT’S MISLEADING NON-GMO CLAIMS**

13 33. Per the Pew Research Center, 49% of U.S. adults believe foods that
14 contain GMO ingredients are less healthy than foods without them, and 88% of
15 consumers have a strong preference for including this information on the label. A
16 recent study revealed that consumers use non-GMO labels to guide their purchase
17 decisions.¹²

18 34. Knowing this, Defendant placed the Non-GMO Claims on its
19 Products, knowing that consumers rely on such labeling when making purchase
20 decisions.

21
22 _____
23 ¹⁰ Goodwin, Barry K, Marra, Michele C, and Piggott, Nicholas E, *The Cost of a*
24 *GMO-Free Market Basket of Food in the United States*, available at
<https://mospace.umsystem.edu/xmlui/bitstream/handle/10355/51946/CostGMOfreeUnitedStates.pdf?sequence=1&isAllowed=y>

25 ¹¹ GM Food Labels Could Burden Low-Income Consumers , *available at*
<https://undark.org/2018/04/19/gmo-labels-cost-low-income/>.

26 ¹² Do Consumers Care about GMO Labeling When Making Buying Decisions?,
27 *available at* [https://www.informs.org/News-Room/INFORMS-Releases/News-Releases/Do-Consumers-Care-about-GMO-Labeling-When-Making-Buying-](https://www.informs.org/News-Room/INFORMS-Releases/News-Releases/Do-Consumers-Care-about-GMO-Labeling-When-Making-Buying-Decisions)
28 [Decisions.](https://www.informs.org/News-Room/INFORMS-Releases/News-Releases/Do-Consumers-Care-about-GMO-Labeling-When-Making-Buying-Decisions)

CROSNER LEGAL, P.C.

1 35. However, there is no difference between an avocado oil product
2 without Non-GMO Claims and one with them—no GMO avocado oil exists.
3 Consumers are opting to choose Defendant’s Products and paying a premium for
4 the Non-GMO Claims which are misleading.

5 36. Numerous brands, such as Signature Select, Mantova, and Baja
6 Precious sell avocado oil without misleading claims regarding its GMO status on
7 the label.

8 37. Defendant’s efforts using the Non-GMO Claims are intended to
9 further Defendant’s desire to appear healthier and better for both the consumer and
10 the environment, thereby increasing the purchases of its Products and the prices it
11 can charge for them, increasing its revenues.

12 38. In its guidance released in 2015 and updated in 2019, the FDA
13 explicitly discussed non-GMO labeling on products that are not made using
14 modern biotechnology as a label that would be misleading to consumers. First, the
15 FDA reinforced that “a food is misbranded if its labeling is false or misleading in
16 any particular.” The FDA then went on to say that “[a]nother example of a
17 statement in food labeling that may be false or misleading could be the statement
18 “None of the ingredients in this food is genetically engineered on a food where
19 some ingredients of the ingredients are incapable of being produced through
20 genetic engineering.” The FDA continued, saying that it “may be necessary to
21 carefully qualify the statement where modern biotechnology is not used to produce
22 a particular ingredient or type of food” in order for the product to not be
23 mislabeled.¹³

24
25
26 _____
27 ¹³ Voluntary Labeling Indicating Whether Foods Have or Have Not Been Derived
28 from Genetically Engineered Plants: Guidance for Industry, FDA, issued
November 2015, revised March 2019, available at
<https://www.fda.gov/media/120958/download?attachment>.

CROSNER LEGAL, P.C.

1 39. Just like the FDA contemplated when writing its guidance,
2 Defendant’s Non-GMO Claims are misleading to reasonable consumers because
3 modern biotechnology is not used to produce anything in the Products. Defendant
4 is misleading consumers into believing that their Products have, as a result of the
5 Non-GMO Claims, traits associated with Non-GMO foods that comparable
6 products without claims relating to Non-GMO do not have.

7 40. Defendant did not provide any sort of qualification that the FDA
8 advised, instead choosing to deceive consumers into believing they were
9 purchasing a premium product, hiding the fact that consumers were instead
10 purchasing the Products without a single ingredient which modern biotechnology
11 is used to produce.

12 **REASONABLE CONSUMERS ARE DECEIVED BY DEFENDANT’S DECEPTIVE**
13 **LABELING AND SUFFERED ECONOMIC INJURY**

14 41. Consumers, like Plaintiff, relied on Defendant’s Non-GMO Claims.
15 The Non-GMO Claims on the labels of the Products are material to reasonable
16 consumers. As evidenced above, there is strong consumer demand for Non-GMO
17 foods and consumers are willing to pay more for them.

18 42. Plaintiff and the putative class members suffered economic injury as
19 a result of Defendant’s actions. Plaintiff and putative class members spent money
20 that, absent Defendant’s actions, they would not have spent. Plaintiff and putative
21 class members are entitled to restitution for the purchase price of the Products that
22 were misleadingly labeled and advertised.

23 43. Consumers, including Plaintiff, would not have purchased
24 Defendant’s Products, or would have paid less for the Products, if they had known
25 the Non-GMO Claims in fact conveyed nothing about the actual qualities of the
26 Products.

27 44. Literally true statements, like the Products, can be misleading to
28 consumers and lead them to purchase decisions they would not have otherwise

CROSNER LEGAL, P.C.

1 made, like here. *Bruton v. Gerber Prods. Co.*, 703 F. App'x 468, 471 (9th Cir.
2 2017); *Leoni v. State Bar*, 39 Cal. 3d 609, 627, 217 Cal.Rptr. 423, 704 P.2d 183
3 (1985) (holding that advertising, though not false, was misleading because “[a]
4 necessary fact ha[d] been omitted.”). Defendant omitted the necessary fact that
5 avocado oil sold in the United States today cannot be GMO, and consumers like
6 Plaintiff paid the price.

7 **PLAINTIFF’S PURCHASE OF THE PRODUCT**

8 45. Plaintiff purchased the Chosen® Foods 100% Pure Avocado Oil
9 Spray in a 2-pack with the Non-GMO Claims at a Costco near her home in
10 Riverside County at least once in the last six months. When purchasing the
11 Product, Plaintiff saw and relied on the Non-GMO Claims on the label. Plaintiff
12 would not have purchased the Product or at least would have paid less for it, had
13 she known the Product does not have qualities associated with the Non-GMO
14 Claims compared to comparable avocado oil products without any such claims, in
15 contradiction to the label. Plaintiff paid approximately \$23 for the Product which
16 was a 2-pack.

17 46. As a result, Plaintiff suffered injury in fact when she spent money to
18 purchase the Products she would not have purchased, or would have paid less for,
19 absent Defendant’s misconduct.

20 47. Plaintiff continues to see the Products for sale at retail stores near her
21 home in California and on amazon.com and she desires to purchase the Products
22 again if the Products were labeled in a non-deceptive manner. However, as a result
23 of Defendant’s ongoing misrepresentations and material omissions, Plaintiff is
24 unable to rely on the Products’ labeling when deciding in the future whether to
25 purchase the Products. Plaintiff is not a food scientist and does not know when or
26 if GMO avocado oil will be available for purchase.

27 **NO ADEQUATE REMEDY AT LAW**

28

CROSNER LEGAL, P.C.

1 48. Plaintiff and members of the class are entitled to equitable relief as
2 no adequate remedy at law exists. The statutes of limitations for the causes of
3 action pled herein vary. Class members who purchased the Products more than
4 three years prior to the filing of the complaint will be barred from recovery if
5 equitable relief were not permitted under the UCL.

6 49. The scope of actionable misconduct under the unfair prong of the
7 UCL is broader than the other causes of action asserted herein. It includes
8 Defendant’s overall unfair marketing scheme to promote and brand the Products,
9 across a multitude of media platforms, including the product labels, packaging,
10 and online advertisements, over a long period of time, in order to gain an unfair
11 advantage over competitor products without Non-GMO Claims. Plaintiff and class
12 members may also be entitled to restitution under the UCL, while not entitled to
13 damages under other causes of action asserted herein (e.g., the CLRA is limited to
14 certain types of plaintiffs (an individual who seeks or acquires, by purchase or
15 lease, any goods or services for personal, family, or household purposes) and other
16 statutorily enumerated conduct).

17 50. A primary litigation objective in this litigation is to obtain injunctive
18 relief in the form of a label change. Injunctive relief is appropriate on behalf of
19 Plaintiff and members of the class because Defendant continues to mislead
20 consumers as to the Products with the Non-GMO Claims when the Products cannot
21 be GMO.

22 51. Injunctive relief is necessary to prevent Defendant from continuing
23 to engage in the unfair, fraudulent, and/or unlawful conduct described herein and
24 to prevent future harm—none of which can be achieved through available legal
25 remedies (such as monetary damages to compensate past harm). Further, public
26 injunctions are available under the UCL, and damages will not adequately benefit
27 the general public in a manner equivalent to an injunction.
28

CROSNER LEGAL, P.C.

1 52. It is also premature to determine whether there is an adequate remedy
2 at law. No discovery has been conducted, and no expert reports have been
3 exchanged. Defendant’s internal documents may provide insight into different
4 damages theories such as restitution in the form of the profits gained attributable
5 to the conduct at issue.

6 **CLASS ACTION ALLEGATIONS**

7 53. Plaintiff brings this action as a class action pursuant to Federal Rules
8 of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of the following Class:

9 All persons in the United States who purchased the Products for
10 personal use from the beginning of any applicable limitations period
11 through the date class notice is disseminated.

12 54. Excluded from the class are: (i) Defendant and its officers, directors,
13 and employees; (ii) any person who files a valid and timely request for exclusion;
14 (iii) judicial officers and their immediate family members and associated court
15 staff assigned to the case; (iv) individuals who received a full refund of the
16 Products from Defendant.

17 55. Plaintiff reserves the right to amend or otherwise alter the class
18 definition presented to the Court at the appropriate time, or to propose or eliminate
19 subclasses, in response to facts learned through discovery, legal arguments
20 advanced by Defendant, or otherwise.

21 56. The Class is appropriate for certification because Plaintiff can prove
22 the elements of the claims on a classwide basis using the same evidence as would
23 be used to prove those elements in individual actions alleging the same claims.

24 57. Numerosity: Class Members are so numerous that joinder of all
25 members is impracticable. Plaintiff believes that there are thousands of consumers
26 who are Class Members described above who have been damaged by Defendant’s
27 deceptive and misleading practices.

28

CROSNER LEGAL, P.C.

1 58. Commonality: There is a well-defined community of interest in the
2 common questions of law and fact affecting all Class Members. The questions of
3 law and fact common to the Class Members which predominate over any questions
4 which may affect individual Class Members include, but are not limited to:

5 a. Whether Defendant is responsible for the conduct alleged herein
6 which was uniformly directed at all consumers who purchased the Products;

7 b. Whether Defendant’s misconduct set forth in this Complaint
8 demonstrates that Defendant engaged in unfair, fraudulent, or unlawful business
9 practices with respect to the advertising, marketing, and sale of the Products;

10 c. Whether Defendant made misrepresentations concerning the
11 Products that were likely to deceive the public;

12 d. Whether Plaintiff and the Class are entitled to injunctive relief;

13 e. Whether Plaintiff and the Class are entitled to money damages and/or
14 restitution under the same causes of action as the other Class Members.

15 59. Typicality: Plaintiff is a member of the Class that Plaintiff seeks to
16 represent. Plaintiff’s claims are typical of the claims of each Class Member in that
17 every member of the Class was susceptible to the same deceptive, misleading
18 conduct and purchased the Products. Plaintiff is entitled to relief under the same
19 causes of action as the other Class Members.

20 60. Adequacy: Plaintiff is an adequate Class representative because
21 Plaintiff’s interests do not conflict with the interests of the Class Members Plaintiff
22 seeks to represent; the consumer fraud claims are common to all other members of
23 the Class, and Plaintiff has a strong interest in vindicating the rights of the class;
24 Plaintiff has retained counsel competent and experienced in complex class action
25 litigation and Plaintiff intends to vigorously prosecute this action. Plaintiff has no
26 interests which conflict with those of the Class. The Class Members’ interests will
27 be fairly and adequately protected by Plaintiff and proposed Class Counsel.
28 Defendant has acted in a manner generally applicable to the Class, making relief

CROSNER LEGAL, P.C.

1 appropriate with respect to Plaintiff and the Class Members. The prosecution of
2 separate actions by individual Class Members would create a risk of inconsistent
3 and varying adjudications.

4 61. The Class is properly brought and should be maintained as a class
5 action because a class action is superior to traditional litigation of this controversy.
6 A class action is superior to the other available methods for the fair and efficient
7 adjudication of this controversy because:

8 a. The joinder of hundreds of individual Class Members is
9 impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or
10 litigation resources;

11 b. The individual claims of the Class Members may be relatively modest
12 compared with the expense of litigating the claim, thereby making it impracticable,
13 unduly burdensome, and expensive to justify individual actions;

14 c. When Defendant's liability has been adjudicated, all Class Members'
15 claims can be determined by the Court and administered efficiently in a manner
16 far less burdensome and expensive than if it were attempted through filing,
17 discovery, and trial of all individual cases;

18 d. This class action will promote orderly, efficient, expeditious, and
19 appropriate adjudication and administration of Class claims;

20 e. Plaintiff knows of no difficulty to be encountered in the management
21 of this action that would preclude its maintenance as a class action;

22 f. This class action will assure uniformity of decisions among Class
23 Members;

24 g. The Class is readily definable and prosecution of this action as a class
25 action will eliminate the possibility of repetitious litigation; and

26 h. Class Members' interests in individually controlling the prosecution
27 of separate actions is outweighed by their interest in efficient resolution by single
28 class action;

CROSNER LEGAL, P.C.

1 62. Additionally, or in the alternative, the Class also may be certified
2 because Defendant has acted or refused to act on grounds generally applicable to
3 the Class thereby making final declaratory and/or injunctive relief with respect to
4 the members of the Class as a whole, appropriate. As noted above, injunctive relief
5 is a primary form of relief sought in this action.

6 63. Plaintiff seeks preliminary and permanent injunctive and equitable
7 relief on behalf of the Class, on grounds generally applicable to the Class, to enjoin
8 and prevent Defendant from engaging in the acts described, and to require
9 Defendant to provide full restitution to Plaintiff and the Class members.

10 64. Unless the Class is certified, Defendant will retain monies that were
11 taken from Plaintiff and Class members as a result of Defendant’s wrongful
12 conduct. Unless a classwide injunction is issued, Defendant will continue to
13 commit the violations alleged and the members of the Class and the general public
14 will continue to be misled.

15 **FIRST CLAIM FOR RELIEF**

16 **Violation of California’s Consumers Legal Remedies Act**

17 **Cal. Civ. Code § 1750, *et seq.***

18 65. Plaintiff realleges and incorporates by reference all allegations
19 contained in this complaint, as though fully set forth herein.

20 66. Plaintiff brings this claim under the CLRA individually and on
21 behalf of the Class against Defendant.

22 67. At all times relevant hereto, Plaintiff and the members of the Class
23 are “consumer[s],” as defined in California Civil Code section 1761(d).

24 68. At all relevant times, Defendant was a “person,” as defined in
25 California Civil Code section 1761(c).

26 69. At all relevant times, the Products manufactured, marketed,
27 advertised, and sold by Defendant constituted “goods,” as defined in California
28 Civil Code section 1761(a).

CROSNER LEGAL, P.C.

1 70. The purchases of the Products by Plaintiff and the members of the
2 Class were and are “transactions” within the meaning of California Civil Code
3 section 1761(e).

4 71. Defendant disseminated, or caused to be disseminated, through its
5 advertising, misleading representations, including the Non-GMO Claims. These
6 are material misrepresentations and omissions as reasonable consumer would find
7 the fact that the Products are no different to comparable avocado oils without any
8 Non-GMO claims to be important in their decision in purchasing the Products.

9 72. Defendant’s representations violate the CLRA in the following
10 ways:

11 a) Defendant represented that the Products have characteristics,
12 ingredients, uses, and benefits which they do not have (Cal. Civ. Code §
13 1770(a)(5));

14 b) Defendant represented that the Products are of a particular
15 standard, quality, or grade, which they are not (Cal. Civ. Code § 1770(a)(7));

16 c) Defendant advertised the Products with an intent not to sell the
17 Products as advertised (Cal. Civ. Code § 1770(a)(9)); and

18 d) Defendant represented that the subject of a transaction has been
19 supplied in accordance with a previous representation when it has not (Cal.
20 Civ. Code § 1770(a)(16)).

21 73. Defendant violated the CLRA because the Products were prominently
22 advertised with the Non-GMO Claims but, in reality, it is no different from an
23 otherwise identical avocado oil product without any Non-GMO claims. Defendant
24 knew or should have known that consumers would want to know its Products do
25 not have the qualities associated with Non-GMO products when compared to
26 comparable avocado oils without any such claims.

27
28

CROSNER LEGAL, P.C.

1 74. Defendant’s actions as described herein were done with conscious
2 disregard of Plaintiff’s and the Class members’ rights and were wanton and
3 malicious.

4 75. Defendant’s wrongful business practices constituted, and constitute,
5 a continuing course of conduct in violation of the CLRA, since Defendant is still
6 representing that the Products have characteristics which they do not have.

7 76. Pursuant to California Civil Code section 1782(d), Plaintiff and the
8 members of the Class seek an order enjoining Defendant from engaging in the
9 methods, acts, and practices alleged herein. Plaintiff seeks all attorneys’ fees and
10 costs available under the CLRA.

11 77. Pursuant to California Civil Code section 1782, Plaintiff will notify
12 Defendant in writing by certified mail of the alleged violations of the CLRA and
13 will demand that Defendant rectify the problems associated with the actions
14 detailed above and give notice to all affected consumers of their intent to so act. If
15 Defendant fails to rectify or agree to rectify the problems associated with the
16 actions detailed herein and give notice to all affected consumers within 30 days of
17 the date of written notice pursuant to section 1782 of the CLRA, then Plaintiff will
18 amend the complaint to seek damages under the CLRA.

19 78. Pursuant to section 1780(d) of the CLRA, below is an affidavit
20 showing that this action was commenced in a proper forum.

21 **SECOND CLAIM FOR RELIEF**

22 **Violation of California’s Unfair Competition Law**

23 **Cal. Bus. & Prof. Code § 17200, et seq.**

24 79. Plaintiff realleges and incorporates by reference all allegations
25 contained in this complaint, as though fully set forth herein.

26 80. Plaintiff brings this claim under the UCL individually and on behalf
27 of the Class against Defendant.
28

CROSNER LEGAL, P.C.

1 81. The UCL prohibits any “unlawful,” “fraudulent,” or “unfair”
2 business act or practice and any false or misleading advertising.

3 82. Defendant committed unlawful business acts or practices by making
4 the representations and omitted material facts (which constitutes advertising
5 within the meaning of California Business & Professions Code section 17200), as
6 set forth more fully herein, and by violating California’s Consumers Legal
7 Remedies Act, Cal. Civ. Code §§17500, *et seq.*, California’s False Advertising
8 Law, Cal. Bus. & Prof. § 17500, *et seq.*, 15 U.S.C. § 45, and by breaching express
9 and implied warranties. Plaintiff, individually and on behalf of the other Class
10 members, reserves the right to allege other violations of law, which constitute other
11 unlawful business acts or practices. Such conduct is ongoing and continues to this
12 date.

13 83. Defendant committed “unfair” business acts or practices by: (1)
14 engaging in conduct where the utility of such conduct is outweighed by the harm
15 to Plaintiff and the members of the Class; (2) engaging in conduct that is immoral,
16 unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and the
17 members of the Class; and (3) engaging in conduct that undermines or violates the
18 intent of the consumer protection laws alleged herein.

19 84. There is no societal benefit from deceptive advertising. Plaintiff and
20 the other Class members paid for a Product that is not as advertised by Defendant.
21 Further, Defendant failed to disclose a material fact (that the comparable avocado
22 oil products cannot be GMO) of which it had knowledge. While Plaintiff and the
23 other Class members were harmed, Defendant was unjustly enriched by its false
24 misrepresentations and material omissions. As a result, Defendant’s conduct is
25 “unfair,” as it offended an established public policy. There were reasonably
26 available alternatives to further Defendant’s legitimate business interests, other
27 than the conduct described herein.

28

CROSNER LEGAL, P.C.

1 85. Defendant committed “fraudulent” business acts or practices by
2 making the representations of material fact regarding the Products set forth herein.
3 Defendant’s business practices as alleged are “fraudulent” under the UCL because
4 they are likely to deceive customers into believing the Products have qualities that
5 other comparable avocado oils that do not have non-GMO claims do not have,
6 when they in fact do not as all avocado oil is non-GMO.

7 86. Plaintiff and the other members of the Class have in fact been
8 deceived as a result of their reliance on Defendant’s material representations and
9 omissions. This reliance has caused harm to Plaintiff and the other members of the
10 Class, each of whom purchased Defendant’s Products. Plaintiff and the other Class
11 members have suffered injury in fact and lost money as a result of purchasing the
12 Products and Defendant’s unlawful, unfair, and fraudulent practices.

13 87. Defendant’s wrongful business practices and violations of the UCL
14 are ongoing.

15 88. Plaintiff and the Class seek pre-judgment interest as a direct and
16 proximate result of Defendant’s unfair and fraudulent business conduct. The
17 amount on which interest is to be calculated is a sum certain and capable of
18 calculation, and Plaintiff and the Class seek interest in an amount according to
19 proof.

20 89. Unless restrained and enjoined, Defendant will continue to engage in
21 the above-described conduct. Accordingly, injunctive relief is appropriate.
22 Pursuant to California Business & Professions Code section 17203, Plaintiff,
23 individually and on behalf of the Class, seeks (1) restitution from Defendant of all
24 money obtained from Plaintiff and the other Class members as a result of unfair
25 competition; (2) an injunction prohibiting Defendant from continuing such
26 practices in the State of California that do not comply with California law; and (3)
27 all other relief this Court deems appropriate, consistent with California Business
28 & Professions Code section 17203.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
SUMMER WHITESIDE, individually and on behalf of all others similarly situated,
(b) County of Residence of First Listed Plaintiff Wildomar
(c) Attorneys (Firm Name, Address, and Telephone Number)
Crosner Legal, P.C. 9440 Santa Monica Blvd. Suite 301 Beverly Hills, CA 90210 (866) 276-7637

DEFENDANTS
CHOSEN FOODS, LLC,
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
'25CV481 CAB DDL

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State [X] 1 [] 1
Citizen of Another State [] 2 [] 2
Citizen or Subject of a Foreign Country [] 3 [] 3
Incorporated or Principal Place of Business In This State [] 4 [X] 4
Incorporated and Principal Place of Business In Another State [] 5 [] 5
Foreign Nation [] 6 [] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, INTELLECTUAL PROPERTY RIGHTS, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Contract, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[] 2 Removed from State Court
[] 3 Remanded from Appellate Court
[] 4 Reinstated or Reopened
[] 5 Transferred from Another District (specify)
[] 6 Multidistrict Litigation - Transfer
[] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)
Brief description of cause:
Violations of California's Consumers Legal Remedies Act and Unfair Competition Law

VII. REQUESTED IN COMPLAINT:
[X] CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000
CHECK YES only if demanded in complaint: JURY DEMAND: [X] Yes [] No

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE: Feb 28, 2025 SIGNATURE OF ATTORNEY OF RECORD: /s/ Craig W. Straub

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE