

UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

MICHAEL HARA, ANDREA HOGAN, and
LARRY ROLLINGER Jr., individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

TARGET CORPORATION, KRAFT HEINZ
FOODS COMPANY, AND WAL-MART
STORES, INC.,

Defendants.

CLASS ACTION COMPLAINT

Case No.

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiffs Michael Hara, Andrea Hogan, and Larry Rollinger Jr. (“Plaintiffs”), individually and on behalf of all those similarly situated, bring this lawsuit against Defendants Target Corporation (“Target”), Kraft Heinz Foods Company (“Kraft”), and Wal-Mart Stores, Inc. (“Wal-Mart”)(collectively “Defendants”). These allegations are based upon personal knowledge as to facts pertaining to Plaintiffs and upon information and belief as to all other matters, based on the investigation of their counsel.

NATURE OF THE ACTION

1. This complaint challenges the practices of Defendants for falsely and misleadingly advertising their Parmesan cheese Products as containing “100%” Parmesan cheese (the Wal-Mart product, the Kraft product, and the Target product are referred to collectively herein as the

“Products”). The front labels of all Defendants’ packaging prominently proclaim that their Products contain “100%” grated Parmesan cheese. However, these representations are false.

2. Independent laboratory testing has revealed that Walmart’s and Kraft’s Parmesan cheese Products do not in fact contain “100%” Parmesan cheese. Instead, these Products contain a substantial amount of cellulose, a filler and anti-clumping agent. Specifically, Wal-Mart’s Great Value brand contained 7.8% cellulose and Kraft’s brand contained 3.8% cellulose.

3. According to recent news articles, the U.S. Food and Drug Administration (“FDA”) concluded that “no parmesan cheese was used to manufacture” the Market Pantry brand 100% grated Parmesan cheese sold at Target Corp. Stores.

4. Plaintiffs, and members of the Classes defined herein, purchased Defendants’ “100%” Parmesan cheese Products because they were deceived into believing that they contained 100% Parmesan cheese. Plaintiffs and members of the Classes have been injured and have suffered financial harm as a result of Defendants’ acts.

5. As such, Plaintiffs bring this class action on behalf of themselves and persons who purchased Defendants’ “100%” Parmesan cheese Products for personal use.

PARTIES

6. Plaintiff Michael Hara is an individual currently residing in Minnesota. Plaintiff Hara has been a resident of Minnesota during the entire Class Period. While residing in Minnesota, Plaintiff Hara purchased Market Pantry “100% grated Parmesan cheese” from a Target store in Minnesota. Plaintiff observed the product’s labeling and reasonably relied upon its representation that the product contained 100% Parmesan cheese. However, Plaintiff’s Market Pantry 100% grated Parmesan cheese does not contain 100% Parmesan cheese. If Plaintiff had known that the product did not contain 100% Parmesan cheese, he would not have purchased the product.

7. Plaintiff Larry Rollinger Jr. is an individual currently residing in Minnesota. Plaintiff Rollinger has been a resident of Minnesota during the entire Class Period. While residing in Minnesota, Plaintiff Rollinger purchased Kraft “100% grated Parmesan cheese” from a store in Minnesota. Also while residing in Minnesota, Plaintiff Rollinger purchased Great Value “100%” grated Parmesan cheese from a Wal-Mart store in Minnesota. Plaintiff observed Kraft’s and Walmart’s product labeling and reasonably relied upon their representations that their products contained 100% Parmesan cheese. However, Plaintiff’s Kraft 100% grated Parmesan cheese and Great Value “100%” grated Parmesan cheese do not contain 100% Parmesan cheese. If Plaintiff had known that the products did not contain 100% Parmesan cheese, he would not have purchased the products.

8. Plaintiff Andrea Hogan is an individual currently residing in Minnesota. Plaintiff Hogan has been a resident of Minnesota during the entire Class Period. While residing in Minnesota, Plaintiff Hogan purchased Great Value “100%” grated Parmesan cheese from a Wal-Mart store in Minnesota. Plaintiff observed the product’s labeling and reasonably relied upon its representation that the product contained 100% Parmesan cheese. However, Plaintiff’s Great Value 100% grated Parmesan cheese did not contain 100% Parmesan cheese. If Plaintiff had known that the product did not contain 100% Parmesan cheese, she would not have purchased the product.

9. Defendant Target Corporation is a Minnesota Corporation with its principal place of business located at 1000 Nicollet Mall, Minneapolis, Minnesota 55403. Market Pantry is one of 10 Target brands that bring in at least \$1 billion a year. Introduced approximately fifteen years ago, Market Pantry is now a cornerstone of Defendant’s food business, which is a category that

generates more than one-fifth of sales. Target manufactures, sells, distributes and advertises its Market Pantry “100%” grated Parmesan cheese on a nationwide basis, including in Minnesota.

10. Defendant Kraft Heinz Foods Company is a Pennsylvania corporation with headquarters in Pittsburgh, Pennsylvania and Chicago, Illinois. Defendant Kraft manufactures, sells, distributes and advertises its Kraft “100%” grated Parmesan cheese on a nationwide basis, including in Minnesota.

11. Defendant Wal-Mart Stores, Inc. is a Delaware corporation with its principal place of business at 702 S.W. 8th Street, Bentonville, Arkansas 72716. Great Value is a Wal-Mart owned brand. Defendant Wal-Mart manufactures, sells, distributes and advertises its Great Value “100%” grated Parmesan cheese on a nationwide basis, including in Minnesota.

JURISDICTION AND VENUE

12. This Court has subject matter jurisdiction over this class action pursuant to 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and because members of the proposed Classes are citizens of a state different than Defendants.

13. This Court has personal jurisdiction over the Defendant Target because Target maintains its principal headquarters in Minnesota, regularly conducts business in this district, and has sufficient minimum contacts with this district. Target availed itself of this jurisdiction by marketing and selling products from Minnesota to consumers nationwide. Moreover, a substantial portion of the wrongdoings alleged herein occurred in Minnesota. Upon information and belief, Minnesota is where Target made its marketing and promotional decisions concerning labeling its Market Pantry Parmesan cheese containers as containing “100%” Parmesan cheese.

14. This court has personal jurisdiction over Defendants Kraft and Wal-Mart because a substantial portion of the wrongdoings alleged herein occurred in Minnesota. Defendants also have sufficient minimum contacts with Minnesota, and have otherwise purposely availed themselves of the markets in Minnesota, through the promotion, marketing, and sale of products sufficient to render the exercise of jurisdiction by this Court permissible under traditional notions of fair play and substantial justice. Defendant Wal-Mart also owns and operates stores in this judicial district.

15. Pursuant to 28 U.S.C. § 1391, venue is proper in the District of Minnesota because Defendant Target's principal place of business is in this District and because a substantial part of the events underlying Plaintiffs' claims occurred in this District as all Defendants do business in this District, including selling and distributing the Products at issue in this District.

FACTUAL BACKGROUND

16. On the front of Defendant Kraft's grated Parmesan cheese containers is a prominent marketing advertisement proclaiming that its grated Parmesan cheese product contains "100%" grated Parmesan cheese.



17. In addition, Kraft’s television advertisements have represented that its product contains “100%” Parmesan cheese. In fact, Kraft has been making this false and misleading representation for decades. For example, Kraft has chastised its competitors claiming that “some grated toppings are 1/3 fats and fillers, but Kraft is 100% grated Parmesan.”

18. Kraft’s commercials have also stated “If you won’t settle for Parmesan cheese that isn’t 100 percent Parmesan . . . make sure you get one that is! Kraft Parmesan, it’s always 100 percent Parmesan, no fillers.”

19. On the front of Defendant Wal-Mart's Great Value grated Parmesan cheese containers is a prominent marketing advertisement proclaiming that its grated Parmesan cheese product contains "100%" grated Parmesan cheese.



20. On its website, Defendant Walmart represents that its "100% grated Parmesan Cheese" contains 100% Parmesan. Further, on Walmart.com, Walmart claims that its product "is 100 percent cheese aged for more than 10 months for flavor" and that "[t]his 100 percent Parmesan grated cheese makes for a wonderful addition to your cooking supplies."

21. On the front of Defendant Target's Market Pantry grated Parmesan cheese containers is a prominent marketing advertisement proclaiming that its grated Parmesan cheese product contains "100%" grated Parmesan cheese.



22. In making their purchasing decisions, consumers, including Plaintiffs, reasonably rely on Defendants' claims that their Parmesan cheese consists of "100%" Parmesan cheese. Consumers, including Plaintiffs, believe Defendants' statements that their Products consist of "100%" Parmesan cheese means that no other cheeses, substitutes or fillers are present in the containers.

23. However, Kraft's, Wal-Mart's and Target's "100%" grated Parmesan cheese claims are literally false and misleading to consumers as their "100%" grated Parmesan cheese actually contains fillers, substitutes, and/or other cheeses.

24. Independent laboratory testing has revealed that Walmart's and Kraft's Parmesan cheese products do not in fact contain "100%" Parmesan cheese. Instead, these products contain

a substantial amount of cellulose, a non-digestible byproduct of wood pulp that manufacturers may add as filler to reduce manufacturing costs. Specifically, Wal-Mart's Great Value brand contained 7.8% cellulose and Kraft's brand contained 3.8% cellulose.¹

25. A Bloomberg news article has reported that an FDA investigation discovered that "no parmesan cheese was used to manufacture" the Market Pantry brand 100% grated Parmesan cheese sold at Target Corp. Stores. Instead, the FDA's investigation revealed there was a mixture of Swiss, mozzarella, white cheddar and cellulose.²

26. Defendants have made, and continue to make, false and misleading claims regarding the composition, contents, and quality of their "100%" grated Parmesan cheese Products. Defendants therefore have misled and continue to mislead consumers throughout the United States and have been able to charge more for their Parmesan cheese Products than they would have been able to if they had properly and truthfully labeled their Products.

CLASS ACTION ALLEGATIONS

27. Plaintiffs bring this action pursuant to Rule 23(b)(2) and 23(b)(3) of the Federal Rules of Civil Procedure, on behalf of themselves and the members of the following "Nationwide Class":

All persons in the United States who purchased the Products for personal use.

28. Pursuant to Rule 23, Plaintiff Hara seeks to represent a "Target Nationwide" subclass defined as:

All persons in the United States who purchased Market Pantry 100% grated Parmesan cheese for personal use.

¹ <http://www.bloomberg.com/news/articles/2016-02-16/the-parmesan-cheese-you-sprinkle-on-your-penne-could-be-wood>

² *Id.*

29. Pursuant to Rule 23, Plaintiff Hara seeks to represent a “Target Minnesota” subclass defined as:

All persons in the State of Minnesota who purchased Market Pantry 100% grated Parmesan cheese for personal use.

30. Pursuant to Rule 23, Plaintiff Rollinger seeks to represent a “Kraft Minnesota” subclass defined as:

All persons in the State of Minnesota who purchased Kraft 100% grated Parmesan cheese for personal use.

31. Pursuant to Rule 23, Plaintiffs Rollinger and Hogan seek to represent a “Wal-Mart Minnesota” subclass defined as:

All persons in the State of Minnesota who purchased Great Value 100% grated Parmesan cheese for personal use.

32. Excluded from the Classes are Defendants, any entity in which Defendants have a controlling interest or which have a controlling interest in Defendants, and Defendants’ legal representatives, predecessors, successors, assigns, and employees, as well as governmental entities.

33. This action can be maintained as a class action because there is a well-defined community of interest in the litigation and the proposed Classes are easily ascertainable.

34. **Numerosity:** Pursuant to Rule 23(a)(1), Class members are so numerous that their individual joinder is impracticable. While the exact number of Class members is not known at this time, on information and belief, the number of Class members exceeds 1,000.

35. **Typicality:** Plaintiffs’ claims are typical of the claims of each member of the Classes because Plaintiffs purchased Defendants’ Products during the Class Period. Plaintiffs and

each member of the Classes sustained similar injuries arising out of Defendants' conduct. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of the Classes and are based on the same legal theories.

36. **Common Questions Predominate:** Pursuant to Rule 23(a)(2) and (b)(3), questions of fact and law, are common to the Classes. Common questions of law and fact predominate over the questions affecting only individual Class members. Some of the common legal and factual questions include:

(a) Whether Defendants' advertisements that their Products contained 100% Parmesan cheese were and are likely to mislead consumers;

(b) Whether Defendants' conduct violated the consumer fraud laws of Minnesota;

(c) Whether Defendants were unjustly enriched by selling containers of grated Parmesan cheese that contained less than 100% Parmesan cheese; and

(d) The nature and extent of damages and other remedies to which the conduct of Defendants entitles Plaintiffs and the members of the Classes.

37. **Adequacy:** Plaintiffs will fairly and adequately protect the interests of the Classes. Plaintiffs are familiar with the basic facts that form the bases of the Class members' claims. Plaintiffs' interests do not conflict with the interests of the other members of the Classes that they seeks to represent. Plaintiffs have retained counsel competent and experienced in class action litigation and intend to prosecute this action vigorously.

38. **Superiority:** A class action is superior to other available methods for the fair and efficient adjudication of this controversy because joinder of all Class members is impracticable. The prosecution of separate actions by individual members of the Class would impose heavy

burdens upon the courts and Defendants, and would create a risk of inconsistent or varying adjudications of the questions of law and fact common to the Class. A class action would achieve substantial economies of time, effort and expense, and would assure uniformity of decision as to persons similarly situated without sacrificing procedural fairness.

39. Individual litigation of the legal and factual issues raised by the conduct of the Defendants would increase delay and expense to all parties and to the court system. The class action device presents far fewer management difficulties and provides the benefits of a single, uniform adjudication, economies of scale and comprehensive supervision by a single court.

COUNT I
VIOLATION OF THE MINNESOTA PREVENTION OF CONSUMER FRAUD ACT,
MINN. STAT. § 325F.68-70
On behalf of the Target Nationwide Subclass, Kraft Minnesota Subclass, and the Wal-Mart
Minnesota Subclass

40. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

41. Plaintiffs bring these claims individually and on behalf of the Classes.

42. Minnesota law protects consumers. The Minnesota Prevention of Consumer Fraud Act (“MPCFA”) makes unlawful, “[t]he act, use, or employment by any person of any fraud, false pretense, false promise, misrepresentation, misleading statement or deceptive practice, with the intent that others rely thereon in connection with the sale of any merchandise, whether or not any person has in fact been misled, deceived, or damaged thereby.” Minn. Stat. § 325F.69, subd. 1.

43. The Minnesota Private Attorney General statute further provides that “any person injured by a violation of [the MPCFA] may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney's fees, and receive other equitable relief as determined by the court.” Minn. Stat. § 8.31, subd 3a.

44. Plaintiffs, members of the Classes, and Defendants are “Persons” as defined by the Minnesota Prevention of Consumer Fraud Act (“MPCFA”), Minn. Stat. § 325F.68, subd 3.

45. The Products sold by Defendants to Plaintiffs and the Classes are “Merchandise” as defined by Minn. Stat. § 325F.68, subd 2.

46. The Defendants misrepresented material facts regarding the composition, contents, and quality of their Products. Accordingly, Defendants engaged in unlawful trade practices, including misleadingly advertising the composition, contents, and quality of their Products, with the intent to sell them without the contents represented.

47. By concealing and omitting material information from Plaintiffs and the Class members and by making affirmative misrepresentations as described above, the Defendants engaged in deceptive business practices prohibited by the MPCFA. The Defendants’ material omissions and misrepresentations were made with the intent that Plaintiffs and the Class members would rely upon them, and Plaintiffs and the Class members did in fact rely upon those material omissions and misstatements.

48. The Defendants’ unfair or deceptive acts or practices were likely to and did in fact deceive reasonable consumers, including Plaintiffs.

49. Plaintiffs and the Class members sustained damages as a result of the Defendants’ unlawful acts and are, therefore, entitled to damages and other relief as provided under the MPCFA.

50. The enforcement of this action provides a substantial public benefit in that it will halt the false, deceptive, and misleading practices of Defendants towards Plaintiffs and members of the Classes.

COUNT II
VIOLATION OF MINNESOTA DECEPTIVE TRADE PRACTICES ACT,
MINN. STAT. § 325D.44, *et seq.*
On behalf of the Target Nationwide Subclass, Kraft Minnesota Subclass, and the Wal-Mart
Minnesota Subclass

51. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

52. Plaintiffs bring this claim individually and on behalf of the Class members.

53. The Minnesota Deceptive Trade Practices Act (“MDTPA”) provides, in pertinent part, that “[a] person engages in a deceptive trade practice when, in the course of business, vocation, or occupation the person: . . . “(5) represents that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have”; or “(13) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.” Minn. Stat. § 325D.44, Subds. 1 (5), (13).

54. By engaging in the conduct alleged herein, Defendants violated and continue to violate the MDTPA.

55. Defendants, in the course of their business, vocation or occupation, have and continue to advertise, promote, market, and sell their Products as containing “100%” Parmesan cheese, when they in fact do not contain 100% Parmesan cheese.

56. This conduct has caused, and is likely to continue to cause, confusion or misunderstanding as to the quantities of goods.

57. As a result of Defendants’ practices relating to the misrepresentation of the content and quality of their Products, Plaintiffs and members of the Classes have suffered actual damages because they would not have purchased the Parmesan cheese in question if they had known it did

not contain the ingredient that was advertised, that it contained other ingredients, or that it did not contain “100%” Parmesan cheese.

58. As a result of Defendants’ practices, Plaintiffs and members of the Classes suffered damages.

59. Plaintiff and the Class members are, therefore, entitled to injunctive and other relief as provided under the MDTPA.

COUNT III
VIOLATION OF THE MINNESOTA FALSE STATEMENT IN ADVERTISEMENT
ACT, MINN. STAT § 325F.67
On behalf of the Target Minnesota Subclass, Kraft Minnesota Subclass, and the Wal-Mart
Minnesota Subclass

60. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

61. Plaintiffs bring this claim individually and on behalf of the Class members.

62. Minnesota law protects consumers from false advertising. The Minnesota False Statement in Advertisement Act, Minn. Stat. § 325F.67 (2014), provides in part as follows:

Any person, firm, corporation, or association who, with intent to sell or in anywise dispose of merchandise, . . . or anything offered by such person, firm, corporation, or association, directly or indirectly, to the public, for sale or distribution, or with intent to increase the consumption thereof...makes, publishes disseminates, circulates, or places before the public...in this state, in a newspaper or other publication, or in the form of a book, notice, handbill, poster, bill, label, price tag, circular, pamphlet, program, or letter, or over any radio or television station, or in any other way, an advertisement of any sort regarding merchandise, . . . or anything so offered to the public, for use, consumption, purchase, or sale, which advertisement contains any material assertion, representation or statement of fact which is untrue, deceptive, or misleading, shall, whether or not pecuniary or other specific damage to any person occurs as a direct result thereof, be guilty of a misdemeanor, and any such act is declared to be a public nuisance and may be enjoined as such.

63. Furthermore, Minnesota law provides that “any person injured by a violation of any of the laws referred to in subdivision 1 [which includes Minn. Stat. § 325F.67] may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney’s fees, and receive other equitable relief as determined by the court.” Minn. Stat. § 8.31, subd. 3a.

64. Defendants’ Products are “merchandise” within the meaning of Minn. Stat. § 325F.67, and their containers and advertisements are advertising within the meaning of Minn. Stat. § 325F.67. Defendants offered Parmesan cheese for sale in Minnesota to Plaintiffs and the Class members. The Product containers and advertisements are intended to encourage Plaintiffs and the Class members to purchase the Products and increase consumption, and are material assertions, representations, and/or statements of fact that were made and disseminated by Defendants to Plaintiffs and members of the Class.

65. Defendants’ Product containers and advertisements are representations and statements of fact regarding the ingredients that are represented on the labels, which are untrue, deceptive or misleading because the Parmesan cheese contained therein does not contain the ingredients as listed on the labels or mentioned in advertisements, the Products contained undisclosed ingredients, and/or did not contain “100%” Parmesan cheese.

66. These assertions are material representations or statements of fact which are untrue, deceptive or misleading and constitute a violation of the Minnesota False Statement in Advertisement Act.

67. Defendants had a duty to truthfully and accurately disclose the actual contents of their 100% grated Parmesan cheese.

68. Defendants' failure to disclose the material facts that their Products do not contain the ingredients listed on the labels, the Products contain undisclosed ingredients, and/or do not contain "100%" Parmesan cheese in light of the deceptive, misleading and untrue statements on the Product labels, is a violation of the Minnesota False Statement in Advertisement Act.

69. Defendants intended to sell their Parmesan cheese and increase consumption of their Product brands. Defendants induced Plaintiffs and the Class members to purchase the Parmesan cheese at issue based on statements contained on the Product labels and in advertisements.

70. Defendants' misrepresentations and omissions have the capacity and ability to deceive consumers. A reasonable consumer would have been deceived and misled by Defendants' misrepresentations and omissions.

71. Plaintiffs and the Class members were misled and deceived by Defendants' material misrepresentations and omissions and were damaged and injured as a result of Defendants' conduct because if they had known the Products did not contain the ingredients listed on the labels, the Products contained undisclosed ingredients, and/or did not contain "100%" Parmesan cheese, they would not have purchased the Products, and they did not receive the value they expected to receive when they purchased the Products.

72. The enforcement of this action provides a substantial public benefit in that it will halt the false, deceptive, and misleading practices of Defendants towards Plaintiffs and members of the Classes.

COUNT IV
VIOLATION OF THE UNLAWFUL TRADE PRACTICES ACT,
MINN. STAT. § 325D.09-16
On behalf of the Target Nationwide Subclass, Kraft Minnesota Subclass, and the Wal-Mart
Minnesota Subclass

73. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

74. Plaintiffs bring this claim individually and on behalf of the Class members.

75. Minnesota’s Unlawful Trade Practices Act provides that “[n]o person shall, in connection with the sale of merchandise, knowingly misrepresent, directly or indirectly, the true quality, ingredients or origin of such merchandise.” Minn. Stat. § 325D.13.

76. The Act further provides, in relevant part, that “[a]ny person damaged or who is threatened with loss, damage, or injury by reason of a violation of sections 325D.09 to 325D.16 shall be entitled to sue for and have injunctive relief in any court of competent jurisdiction against any damage or threatened loss or injury by reason of a violation... and for the amount of the actual damages, if any.” Minn. Stat. § 325D.15.

77. Minnesota law provides that “any person injured by a violation of any of the laws referred to in subdivision 1 [including the Unlawful Trade Practices Act] may bring a civil action and recover damages, together with costs and disbursements, including costs of investigation and reasonable attorney’s fees, and receive other equitable relief as determined by the court.” Minn. Stat. § 8.31, subd. 3a.

78. In connection with the sale of their Products, Defendants knew or should have known that their Products did not contain the ingredients listed on the labels, the Products contained undisclosed ingredients, and/or did not contain “100%” Parmesan cheese. Defendants misrepresented the ingredients of their Products by stating on the Product packaging and labels

that the Products contained “100%” Parmesan cheese and by failing to list all of the ingredients on the Product labels.

79. Defendants have a duty to disclose the actual contents of their Parmesan cheese. By failing to disclose the correct and true content, quality, and ingredients on the Product labels, Defendants’ representations about the contents in their Parmesan cheese were false and misleading. Defendants had special knowledge about the true content of their Parmesan cheese, and Defendants knew or should have known the actual ingredients in their Parmesan cheese, and such knowledge which was in Defendants’ exclusive possession and was not known to Plaintiffs or Class members.

80. Defendants’ omissions and misrepresentations have the propensity and ability to deceive consumers. A reasonable consumer would have been deceived and misled by Defendants’ omissions and misrepresentations.

81. Plaintiffs and the Class members were misled and deceived by Defendants’ material misrepresentations and omissions and were damaged and injured as a result of Defendants’ conduct because if they had known the Parmesan cheese did not contain the ingredients listed on the labels, contained undisclosed ingredients, and/or did not contain “100%” Parmesan cheese, they would not have purchased the Products. As such, they did not receive the value they expected to receive when they purchased the Products.

82. The enforcement of this action provides a substantial public benefit in that it will halt the false, deceptive, and misleading practices of Defendants towards Plaintiffs and members of the Classes.

COUNT V
UNJUST ENRICHMENT
On behalf of the Nationwide Class

83. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

84. Plaintiffs bring this claim individually and on behalf of the Class.

85. Plaintiffs and members of the Class paid for the purchase of the Products manufactured, marketed and sold by Defendants. Defendants represented that their Products contain “100%” Parmesan Cheese.

86. The Products purchased by Plaintiffs and members of the Class did not contain “100%” Parmesan Cheese as was represented on the containers.

87. Defendants unjustly retained a benefit to detriment of Plaintiffs and members of the Class. Defendants continue to possess money paid by Plaintiffs and members of the Class to which they are not entitled.

88. Defendants have violated the principles of fairness, justice and equity by retaining this benefit. Defendants failed to adequately disclose to Plaintiffs and the Class that the containers do not contain “100%” Parmesan cheese.

89. As a direct and proximate result of the Defendants’ misrepresentations and/or omissions with respect to the content of their Parmesan cheese, Plaintiffs and the Class have suffered damages in an amount to be proven at trial.

COUNT VI
NEGLIGENT MISREPRESENTATION
On behalf of the Nationwide Class

90. Plaintiffs reallege and incorporate by reference the preceding allegations as if fully set forth herein.

91. Plaintiffs bring this claim individually and on behalf of the Class.

92. Defendants made representations to Plaintiffs and members of the Class concerning the content of their Parmesan cheese Products that were not true.

93. Defendants owed a duty of care to Plaintiffs and members of the Class to provide the Product to purchasers as it was marketed and advertised by Defendants.

94. Defendants had no reasonable grounds for believing the representations that they made regarding the contents of their Parmesan cheese were true when they made them, and did not exercise reasonable care to ensure that the Products that were manufactured, marketed and sold were what Defendants represented them to be.

95. Plaintiffs and members of the Class justifiably relied upon the representation on the Product labels.

96. These actions by Defendants caused damage to Plaintiffs and members of the Class.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and members of the Classes request that the Court enter an order or judgment against the Defendants including the following:

A. Declaring that this action may be maintained as a class action pursuant to Federal Rules of Civil Procedure, Rule 23, and for an order certifying this case as a class action and appointing Plaintiffs as Class representatives;

B. Appoint the undersigned counsel as Class Counsel;

C. Award all damages to which Plaintiffs and members of the Classes are entitled, in an amount to be determined at trial or upon judgment;

D. Award appropriate injunctive and/or declaratory relief;

E. Award pre-judgment and post-judgment interest on any monetary relief;

