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12 UNITED STATES DISTRICT COURT  
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA

14 ANDREW J. PARK, on Behalf of Himself )  
15 and All Other Persons Similarly Situated, )

16 Plaintiff, )

17 v. )

18 GOYA FOODS, INC., )

19 Defendant. )

Case No.

**CLASS ACTION COMPLAINT  
FOR DAMAGES, EQUITABLE,  
DECLARATORY AND  
INJUNCTIVE RELIEF**

**JURY TRIAL DEMANDED**

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1 Plaintiff Andrew J. Park (“Plaintiff”), by his attorneys, alleges upon personal  
2 knowledge as to his own acts, and as to all other matters upon information and belief  
3 based upon, *inter alia*, the investigation made by and through his attorneys.

4 **INTRODUCTION**<sup>1</sup>

5 1. Plaintiff brings this consumer class action on behalf of himself and those  
6 who purchased Malta Goya (also referred to as the “Product”), which is  
7 manufactured and sold by Goya Foods, Inc. (“Defendant,” “Goya,” or the  
8 “Company”), during the relevant time period (the “Class”).

9 2. Plaintiff and the Class have been harmed by Goya’s mislabeling and  
10 improper marketing of Malta Goya. In particular, and as alleged in greater detail  
11 below, while Goya touts Malta Goya as follows - “[a] rich, non-alcoholic *nutritious*  
12 soft drink, brewed from the finest barley and hops”<sup>2</sup> - the Company has failed to  
13 disclose that the Product contains the carcinogen 4-methylimidazole (“4-MeI”) which  
14 has been on California’s Proposition 65 list of “Chemicals Known to the State to  
15 Cause Cancer or Reproductive Toxicity” since January 7, 2011.<sup>3</sup> *See, e.g.*, California  
16 Health & Safety Code § 25249.5, *et seq.*

17 3. Moreover, as evidenced by a recent article in *Consumer Reports*, last  
18 updated on or about February 10, 2014, and titled, “Caramel color: The health risk  
19 that may be in your soda,” one bottle of Malta Goya contains the toxin 4-MeI at  
20 levels which are well in excess of California Proposition 65 guidelines of 29  
21 micrograms per day.<sup>4</sup>

22 \_\_\_\_\_  
23 <sup>1</sup> At all times emphasis is added unless otherwise indicated.

24 <sup>2</sup> *See* [http://www.goya.com/english/product\\_subcategory/Beverages/Malta#60](http://www.goya.com/english/product_subcategory/Beverages/Malta#60).

25 <sup>3</sup> *See* [http://www.oehha.ca.gov/prop65/prop65\\_list/Newlist.html](http://www.oehha.ca.gov/prop65/prop65_list/Newlist.html).

26 <sup>4</sup> *See* <http://www.consumerreports.org/cro/news/2014/01/caramel-color-the-health-risk-that-may-be-in-your-soda/index.htm>  
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1 County, California, and has purchased Malta Goya for personal consumer use during  
2 the relevant time period. Moreover, Plaintiff read the label for the Product which did  
3 not contain a Proposition 65 warning and did not disclose the presence of 4-MeI, a  
4 carcinogen which has been on California's Proposition 65 list of "Chemicals Known  
5 to the State to Cause Cancer or Reproductive Toxicity" since January 7, 2011. The  
6 absence of such a disclosure was a material and substantial factor which influenced  
7 his decision to purchase Malta Goya. In fact, Plaintiff would not have purchased the  
8 Product had he known that it contained 4-MeI at levels well in excess of Proposition  
9 65 guidelines. As such, Plaintiff suffered injury in fact and lost money as a result of  
10 Defendant's practices.

11 9. Defendant Goya's headquarters are located at 100 Seaview Drive,  
12 Secaucus, New Jersey 07096. Moreover, one of Defendant's principal operating  
13 units, Goya Foods of California, is located in this District at 15320 Salt Lake Avenue,  
14 City of Industry, California 91745.<sup>5</sup> According to the Company's website, "Goya  
15 Foods is the largest, Hispanic-owned food company in the United States."<sup>6</sup> As noted  
16 in a *Forbes* article entitled "How Goya Became one of America's Fastest-Growing  
17 Food Companies," the Company achieved \$1.5 billion in revenues in 2012 and has  
18 3,500 employees.<sup>7</sup> Malta Goya is marketed and advertised by the Company as "[a]  
19 rich, non-alcoholic *nutritious* soft drink, brewed from the finest barley and hops."<sup>8</sup>

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23 <sup>5</sup> See [http://www.goya.com/english/about/contact\\_us.html](http://www.goya.com/english/about/contact_us.html).

24 <sup>6</sup> See <http://www.goya.com/english/about.html>.

25 <sup>7</sup> See <http://www.forbes.com/sites/erincarlyle/2013/05/08/how-goya-became-one-of-americas-fastest-growing-food-companies/>.

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27 <sup>8</sup> See [http://www.goya.com/english/product\\_subcategory/Beverages/Malta#60](http://www.goya.com/english/product_subcategory/Beverages/Malta#60).

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1 **CLASS ACTION ALLEGATIONS**

2 10. Plaintiff brings this lawsuit, both individually and as a class action on  
3 behalf of similarly situated consumers of Malta Goya pursuant to *Federal Rules of*  
4 *Civil Procedure* 23(a) and (b). The proposed Class is initially defined as:

5 All individuals in the State of California who purchased one or more  
6 bottles of Malta Goya from January 7, 2012 until the present.  
7 Excluded from the proposed Class is Defendant, its respective  
8 officers, directors, and employees, and any entity that has a  
controlling interest in Defendant.<sup>9</sup> Plaintiff reserves the right to amend  
the Class definition as necessary.

9 11. **Numerosity:** Upon information and belief, the Class comprises at least  
10 thousands of consumers and is so numerous that joinder of all members of the Class  
11 is impracticable. While the exact number of Class members is presently unknown  
12 and can only be ascertained through discovery, Plaintiff reasonably believes that  
13 there may be tens of thousands of Class members.

14 12. **Common Questions of Law and Fact Predominate:** There are  
15 questions of law and fact common to the Class, which predominate over any  
16 individual issues, including, but not limited to:

- 17 (A) Whether Defendant engaged in the conduct alleged herein;
- 18 (B) Whether Defendant’s practices were deceptive, unfair, improper  
and/or misleading;
- 19 (C) Whether Defendant made intentional omissions and/or  
20 misrepresentations;
- 21 (D) Whether Defendant made negligent omissions and/or  
22 misrepresentations;

23 \_\_\_\_\_  
24 <sup>9</sup> While 4-MeI was included on California’s Proposition 65 list of “Chemicals Known  
25 to the State to Cause Cancer or Reproductive Toxicity” on January 7, 2011, it was not  
26 until January 7, 2012, which is one year after it was listed, that it became subject to  
27 the clear and reasonable warning requirement regarding cancer causing chemicals  
pursuant to California Health & Safety Code § 25249.10(b).

- 1 (E) Whether Defendant's conduct as alleged herein constitutes and  
2 resulted in breach of contract;
- 3 (F) Whether Defendant's conduct as alleged herein constitutes and  
4 resulted in unjust enrichment;
- 5 (G) Whether Defendant's conduct as alleged herein violated the UCL,  
6 Cal. Bus. & Prof. Code §§ 17200, *et seq.*;
- 7 (H) Whether Defendant's conduct as alleged herein violated the FAL,  
8 Cal. Bus. & Prof. Code §§ 17500, *et seq.*;
- 9 (I) Whether Defendant's conduct as alleged herein violated the  
10 CLRA, Cal. Civ. Code §§ 1750, *et seq.*;
- 11 (J) Whether Plaintiff and Class members have sustained monetary  
12 loss and the proper measure of that loss; and
- 13 (K) Whether Plaintiff and Class members are entitled to declaratory  
14 and injunctive relief.

15 13. **Typicality:** Plaintiff's claims are typical of the claims of the members of  
16 the Class. Plaintiff and all members of the Class have been similarly affected by  
17 Defendant's common course of conduct since they all relied on Defendant's  
18 representations concerning their products and purchased the products based on those  
19 representations.

20 14. **Adequacy of Representation:** Plaintiff will fairly and adequately  
21 represent and protect the interest of the Class. Plaintiff has retained counsel with  
22 substantial experience in handling complex class action litigation. Plaintiff and his  
23 counsel are committed to prosecuting this action vigorously on behalf of the Class  
24 and have the financial resources to do so.

25 15. **Superiority of the Class Action:** A class action is superior to all other  
26 available methods for the fair and efficient adjudication of this lawsuit, because  
27 individual litigation of the claims of all Class members is economically unfeasible

1 and procedurally impracticable. While the aggregate damages sustained by the Class  
2 are likely in the millions of dollars, the individual damages incurred by each Class  
3 member resulting from Defendant’s wrongful conduct are too small to warrant the  
4 expense of individual suits. The likelihood of individual Class members prosecuting  
5 their own separate claims is remote, and even if every Class member could afford  
6 individual litigation, the court system would be unduly burdened by individual  
7 litigation of such cases. Individual members of the Class do not have a significant  
8 interest in individually controlling the prosecution of separate actions, and  
9 individualized litigation would also present the potential for varying, inconsistent, or  
10 contradictory judgments, and would magnify the delay and expense to all of the  
11 parties and to the court system because of multiple trials of the same factual and legal  
12 issues. Plaintiff knows of no difficulty to be encountered in the management of this  
13 action that would preclude its maintenance as a class action. In addition, Defendant  
14 has acted or refused to act on grounds generally applicable to the Class and, as such,  
15 final injunctive relief or corresponding declaratory relief with regard to the members  
16 of the Class as a whole is appropriate.

17 16. Unless a class is certified, Defendant will retain monies it took from  
18 Plaintiff and the proposed Class by means of its unlawful conduct. Unless an  
19 injunction is issued, Defendant will continue to commit the alleged violations, and  
20 the members of the Class and the general public will continue to be misled.

21 **FACTUAL ALLEGATIONS**

22 17. The soda marketplace is a multi-billion dollar industry. Moreover, well  
23 aware that consumers in recent years are trying to lead a healthier lifestyle,  
24 companies like Goya have aggressively tapped into these market segments. For  
25 example, Defendant promoted its Malta Goya product line as a “rich, non-alcoholic  
26 *nutritious* soft drink, brewed from the finest barley and hops.”

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1 18. However, during the relevant time period, Goya failed to disclose to the  
2 consuming public that its Product contains the toxin 4-MeI which has been on  
3 California's Proposition 65 list of "Chemicals Known to the State to Cause Cancer or  
4 Reproductive Toxicity" since January 7, 2011. Moreover, Goya has failed to disclose  
5 that Malta Goya contains levels of 4-MeI which are well in excess of Proposition 65  
6 guidelines. California's Office of Environmental Health Hazard Assessment  
7 ("OEHHA") describes 4-MeI as *"a compound used to make certain  
8 pharmaceuticals, photographic chemicals, dyes and pigments, cleaning and  
9 agricultural chemicals, and rubber products."*

10 19. As noted in a *Consumer Reports* article, last updated on or about  
11 February 10, 2014, and titled, "Caramel color: The health risk that may be in your  
12 soda," the article states in pertinent part:

13 It's the most common coloring in foods and drinks – and it can contain a  
14 potential carcinogen. Here's what Consumer Reports found when it tested  
soft drinks that have caramel color.

15 Caramel color, added to many soft drinks and some foods to turn them  
16 brown, may sound harmless, even appetizing. But in no way does it  
17 resemble real caramel. *Some types of this artificial coloring contain a  
18 potentially carcinogenic chemical called 4-methylimidazole (4-MeI).  
19 Under California's Proposition 65 law, any food or beverage sold in the  
20 state that exposes consumers to more than 29 micrograms of 4-MeI per  
21 day is supposed to carry a health-warning label.* In recent Consumer  
22 Reports' tests, each of the 12-ounce samples of Pepsi One and Malta Goya  
23 had more than 29 micrograms per can or bottle. While we cannot say that  
24 this violates California's Prop 65, we believe that these levels are too high,  
25 and we have asked the California Attorney General to investigate.

26 Caramel color is the single most used food coloring in the world, according  
27 to a 2013 report from market research firms Mintel and Leatherhead Food  
28 Research. *"There's no reason why consumers should be exposed to an  
avoidable and unnecessary risk that can stem from coloring food brown,"*  
says Urvashi Rangan, Ph.D., toxicologist and executive director of  
Consumer Reports' Food Safety & Sustainability Center. *"Manufacturers  
have lower 4-MeI alternatives available to them. Ideally there would be  
no 4-MeI in food."*

#### **The risks**

*In 2007, a federal government study concluded that 4-MeI caused cancer  
in mice and the International Agency for Research on Cancer determined*



1 *the chemical to be “possibly carcinogenic to humans” in 2011.* There’s no  
2 federal limit for levels of 4-MeI in foods and beverages, but *as of January*  
3 *7, 2012 California requires manufacturers to label a product sold in the*  
4 *state with a cancer warning if it exposes consumers to more than 29*  
5 *micrograms of 4-MeI per day.* In this case, the exposure comes from  
6 consumption.

7 The California Office of Environmental Health Hazard Assessment used 29  
8 micrograms as the cut off point because that’s the level they determined  
9 poses a one in 100,000 risk of cancer—that is, no more than one excess  
10 cancer case per 100,000 people who are exposed to that amount daily for a  
11 lifetime.

12 Consumer Reports’ experts think even that risk is too high. *“It’s possible to*  
13 *get more than 29 micrograms of 4-MeI in one can of some of the drinks*  
14 *we tested. And even if your choice of soft drink contains half that amount,*  
15 *many people have more than one can per day,”* says Rangan. “Given that  
16 coloring is deliberately added to foods, the amount of 4-MeI in them should  
17 pose a negligible risk, which is defined as no more than one excess cancer  
18 case in 1 million people.” *To meet that risk level, Consumer Reports’*  
19 *experts say a soft drink would need to contain about 3 micrograms or less*  
20 *per can.*

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### 22 **What we found**

23 While our study was not large enough to recommend one brand over  
24 another, both rounds of testing found that *the level of 4-MeI in the samples*  
25 *of Pepsi One and Malta Goya purchased in both locations exceeded 29*  
26 *micrograms per can or bottle.* The products we purchased in California did  
27 not have a cancer-risk warning label.

28 \*\*\*\*\*

Consumer Reports says there is analysis of government data that shows  
higher levels of daily consumption of soft drinks generally. “No matter how  
much consumers drink they don't expect their beverages to have a potential  
carcinogen in them. And we don't think 4-MeI should be in foods at all. Our  
tests of Coke samples show that it is possible to get to much lower levels,”  
says Rangan.

20. The information in this *Consumer Reports* article concerning excessive  
levels of 4-MeI found in Malta Goya was also disseminated through numerous other  
news sources. Moreover, according to the *Consumer Reports* article, Malta Goya  
was found to have 4-MeI levels of approximately 352.5 and 316.1 micrograms per  
bottle, depending on when the Product was tested. *This is more than 10 times*

1 ***Proposition 65 guidelines of 29 micrograms per day in only a single 12 ounce***  
2 ***bottle.***

3 21. As a result of Defendant's material omissions in this regard, Goya has  
4 been able to sell its Malta Goya product at a premium to the consuming public, and  
5 has also been able to sell more units than it otherwise would. Moreover, it has done  
6 so without revealing that levels of 4-Mel are contained in its Product and exceed  
7 California safety levels under Proposition 65.

8 22. In light of the foregoing, Defendant's failure to disclose that Malta Goya  
9 contains 4-Mel at levels which exceed California's Proposition 65 safety standards is  
10 false and misleading on its face.

11 **FIRST CAUSE OF ACTION**

12 **(Violations of the Unfair Competition Law,**  
13 **Cal. Bus. & Prof. Code §§ 17200, *et seq.*)**

14 23. Plaintiff, on behalf of himself and on behalf of all others similarly  
15 situated, realleges and incorporates herein by reference each of the foregoing  
16 paragraphs.

17 24. The UCL defines unfair business competition to include any "unfair,"  
18 "unlawful," or "fraudulent" business or practice. Cal. Bus. & Prof. Code §§ 17200,  
19 *et seq.* Unfair competition also includes "unfair, deceptive, untrue or misleading  
20 advertising." The UCL also provides for injunctive relief and restitution for  
21 violations.

22 25. Defendant committed acts of unfair competition, as defined by Cal. Bus.  
23 & Prof. Code § 17200, by falsely labeling Malta Goya.

24 26. Defendant's conduct is unlawful because it violates the False  
25 Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.* as alleged herein; the  
26 Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* as alleged herein;  
27 Proposition 65 and other State and Federal laws.

1           27. Defendant's conduct is unfair in that the harm to Plaintiff and the Class  
2 arising from it outweighs the utility, if any, of those practices, and because it offends  
3 established public policy and/or is immoral, unethical, oppressive, unscrupulous,  
4 and/or substantially injurious to Plaintiff and Class members. Defendant's actions  
5 also violate the spirit of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500,  
6 *et seq.*; the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*;  
7 Proposition 65 and other State and Federal laws.

8           28. Defendant's conduct was fraudulent and likely to deceive reasonable  
9 consumers in that Defendant omitted and/or failed to disclose material facts regarding  
10 the Product, and specifically the excessive levels of 4-MeI contained in Malta Goya.  
11 Defendant's failure to disclose the true contents of its Product deception by omission.  
12 Defendant had a duty to disclose these material facts.

13           29. The facts concealed and omitted are material facts in that a reasonable  
14 consumer would have considered them important in deciding whether or not to  
15 purchase the Product.

16           30. As a result of Defendant's practices, Plaintiff suffered injury in fact and  
17 lost money as a direct and proximate result of the acts and practices alleged above,  
18 pursuant to Cal. Bus. & Prof. Code § 17203. Plaintiff, on behalf of himself and all  
19 others similarly situated, seeks: (a) an Order requiring Defendant to cease the acts of  
20 unfair competition alleged herein; (b) full restitution of all monies paid to Defendant  
21 as a result of its deceptive practices, including, but not limited to, disgorgement of all  
22 profits derived from the sale of the Product; (c) interest at the highest rate allowable  
23 by law; and (d) the payment of Plaintiff's attorneys' fees and costs pursuant to, *inter*  
24 *alia*, Cal. Code of Civ. Proc. § 1021.5.

1 **SECOND CAUSE OF ACTION**

2 **(Violations of Consumers Legal Remedies Act,**

3 **Cal. Civ. Code §§ 1750, *et seq.*)**

4 31. Plaintiff, on behalf of himself and on behalf of all others similarly  
5 situated, realleges and incorporates herein by reference each of the foregoing  
6 paragraphs.

7 32. At all relevant times, Plaintiff and each proposed Class member was a  
8 “consumer,” as that term is defined in Cal. Civ. Code § 1761(d).

9 33. At all relevant times, Malta Goya constituted “goods,” as that term is  
10 defined in Cal. Civ. Code § 1761(a).

11 34. At all relevant times, Defendant was a “person,” as that term is defined  
12 in Cal. Civ. Code § 1761(c).

13 35. At all relevant times, Plaintiff and each proposed Class Member’s  
14 purchase of Malta Goya constituted a “transaction,” as that term is defined in Cal.  
15 Civ. Code § 1761(e).

16 36. Defendant’s practices, acts, policies, and course of conduct violated the  
17 CLRA in that Defendant represented that Malta Goya has characteristics, ingredients,  
18 uses and benefits which it did not have, in violation of §1770(a)(5) of the CLRA.

19 37. Defendant’s practices, acts, policies, and course of conduct violated the  
20 CLRA in that Defendant represented that Malta Goya was of a particular standard,  
21 quality, or grade, when it was of another, in violation of § 1770(a)(7) of the CLRA.

22 38. Defendant’s practices, acts, policies, and course of conduct violated the  
23 CLRA in that Defendant advertised Malta Goya with the intent not to sell it as  
24 advertised, in violation of § 1770(a)(9) of the CLRA.

25 39. Plaintiff will comply with Cal. Civ. Code § 1782(a) by serving a written  
26 letter on Defendant notifying it of the CLRA violations alleged herein. If Defendant  
27 has not rectified the issues complained of herein as set forth in the CLRA notice,  
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1 Plaintiff will amend this complaint to seek monetary relief, including restitution and  
2 damages under the CLRA. At this time, Plaintiff seeks an Order requiring Defendant  
3 to cease the acts of unfair competition alleged herein.

4 **THIRD CAUSE OF ACTION**

5 **(Violations of Cal. Bus. & Prof. Code §§ 17500, *et seq.*)**

6 40. Plaintiff, on behalf of himself and on behalf of all others similarly  
7 situated, realleges and incorporates herein by reference each of the foregoing  
8 paragraphs.

9 41. Defendant disseminated untrue or misleading advertising in the public  
10 domain in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by failing to disclose  
11 that Malta Goya contained the toxin 4-MeI at levels which exceed those guidelines  
12 listed in Proposition 65.

13 42. Defendant committed such violations of the False Advertising Law with  
14 actual knowledge or knowledge fairly implied on the basis of objective  
15 circumstances.

16 43. Plaintiff reasonably relied on Defendant's representations and/or  
17 omissions made in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*

18 44. As a result of Defendant's violations, Plaintiff suffered injury in fact and  
19 lost money.

20 45. Plaintiff, on behalf of himself and all others similarly situated, seeks: (a)  
21 an Order requiring Defendant to cease the acts of unfair competition alleged herein;  
22 (b) full restitution of all monies paid to Defendant as a result of its deceptive  
23 practices, including, but not limited to, disgorgement of all profits derived from the  
24 sale of the Product; (c) interest at the highest rate allowable by law; and (d) the  
25 payment of Plaintiff's attorneys' fees and costs pursuant to, *inter alia*, Cal. Code Civ.  
26 Proc. § 1021.5.

1 **FOURTH CAUSE OF ACTION**

2 **(Breach of Contract)**

3 46. Plaintiff, on behalf of himself and on behalf of all others similarly  
4 situated, realleges and incorporates herein by reference each of the foregoing  
5 paragraphs.

6 47. Plaintiff and the members of the Class entered into a contract with  
7 Defendant through the purchase of Malta Goya.

8 48. Implied in the contract between customers and Defendant was that the  
9 Product was labeled accurately and properly.

10 49. Defendant breached these contracts by failing to disclose the true  
11 contents of the Product and/or selling the mislabeled Product.

12 50. As a direct and proximate result of Defendant's breaches of contract,  
13 Plaintiff and Class Members have been damaged in amounts to be determined at trial.

14 **FIFTH CAUSE OF ACTION**

15 **(Intentional Misrepresentation)**

16 51. Plaintiff, on behalf of himself and on behalf of all others similarly  
17 situated, realleges and incorporates herein by reference each of the foregoing  
18 paragraphs.

19 52. During the relevant time period, Defendant represented to Plaintiff and  
20 Class members that Malta Goya was safe for consumption. These representations  
21 were contained in Defendant's advertising, on its website, and on the labels of the  
22 Product. The representations that were made to Class members were substantially  
23 similar for the purposes of this litigation.

24 53. However, Defendant failed to disclose that Malta Goya contains  
25 excessive levels of 4-MeI in violation of Proposition 65. Therefore, Defendant's  
26 representations were false. The true facts are that the Product contains the toxin 4-  
27 MeI at levels which violate Proposition 65.



1 subjected Plaintiff and Class members to a cruel and unjust hardship in conscious  
2 disregard of their rights, so as to justify an award of exemplary and punitive damages.

3 **SIXTH CAUSE OF ACTION**

4 **(Negligent Misrepresentation)**

5 59. Plaintiff, on behalf of himself and on behalf of all others similarly  
6 situated, realleges and incorporates herein by reference each of the foregoing  
7 paragraphs.

8 60. During the relevant time period, Defendant made representations to  
9 Plaintiff and Class members that the Product was safe for consumption which was  
10 contained in Defendant's advertising, on its website, and on the labels of the Product.  
11 The representations that were made to Class members were substantially similar for  
12 the purposes of this litigation.

13 61. However, Defendant's representations were false in that Malta Goya  
14 contains the toxic chemical 4-MeI at levels in excess of those listed in Proposition 65.

15 62. When Defendant made the representation set forth above, it knew or  
16 should have known them to be false, and made the representations with the intention  
17 to deceive and defraud Plaintiff and Class members to induce them to act in reliance  
18 upon those representations, or with the expectation that they would so act.

19 63. Plaintiff and Class members, at the time the representations were made  
20 by Defendant, and at the time they took the actions herein alleged, were ignorant of  
21 the falsity of the representations and believed them to be true. In reliance on these  
22 representations, Plaintiff and Class members were induced to purchase the Product  
23 and consume it. Had Plaintiff and Class members known the actual facts, they would  
24 not have taken such action. Reliance on Defendant's representations was justified  
25 because it was offering Malta Goya through reputable retail establishments  
26 throughout California and the Country. Plaintiff and Class members had no reason to  
27 believe that Defendant would act otherwise than as represented in its advertising.









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**AFFIDAVIT OF MICHAEL GOLDBERG**

I, Michael Goldberg, declare as follows:

1. I am a partner with the law firm of Glancy Binkow & Goldberg LLP, counsel for plaintiff Andrew J. Park in this action. I am admitted to practice law in California and before this Court, and am a member in good standing of the State Bar of California. This affidavit is made pursuant to California Civil Code § 1780(d) of the Consumers Legal Remedies Act. I make this affidavit based on my research of public records and also upon personal knowledge and, if called upon to do so, could and would testify competently thereto.

2. Based on my research of public records and personal knowledge, defendant Goya, Inc. does business within this County, as alleged in the accompanying Class Action Complaint.

I declare under penalty of perjury under the laws of the United States and State of California this 11<sup>th</sup> day of March 2014, in Los Angeles, California that the foregoing is true and correct.

*s/Michael Goldberg* \_\_\_\_\_  
Michael Goldberg