

- 1 (e) Are Defendants' chickens raised with any "antibiotics?"
2 (f) When "humanely slaughtered," do Defendants' chickens receive
3 painkillers, and/or general or local anesthesia?
4 (i) What is Defendants' definition of "humane slaughter?"
5 (j) To obtain WHOLE FOODS certification as "humanely slaughtered,"
6 what slaughterhouse conditions must be satisfied?
7 (k) How are Defendants' chickens slaughtered any differently than
8 chickens at conventional animal agriculture operations?

9 (10) Numerosity: The number of prospective Plaintiff Class members is so
10 large that it is impractical to bring them all before the Court. Plaintiffs anticipate
11 thousands and thousands of class members.

12 (11) Community of Interest: There are no affirmative defenses that Defendants
13 may assert against some, but not all members. Class action treatment in no way
14 impairs Defendants' ability to defend any given class member claim.

15 (12) Superiority Requirement: Class action treatment is the superior method for
16 adjudicating this controversy. In order to benefit, protect, and advance consumer
17 rights, Plaintiffs urge the Court to certify this lawsuit as a class action.

18 (13) Typicality Requirement: Plaintiffs' claims include all claims that any given
19 consumer might reasonably assert under like circumstances.

20 (14) Finite and Ascertainable Class: Plaintiff Class consists of a finite and
21 ascertainable group of consumers whom the Court can easily contact for purposes
22 of class certification.

23 (15) Fair & Adequate Representation: As advocates for consumer rights,
24 Plaintiffs will protect and safeguard the interests of all. Plaintiffs anticipate no
25 difficulties in maintaining this litigation as a class action.

26 (16) Substantial Benefits: To certify this litigation as a class action brings
27 "substantial benefits" to the general public and to California; Plaintiffs are thus
28 entitled to an attorney's fees award under CCP §1021.5.

1 (23) Store Departments » Meat & Poultry » Chicken: "...our chicken is from
2 birds raised with plenty of room to flap their wings, run around, scratch, peck
3 and forage!" [WHOLEFOODSMARKET.COM] Contrary to this statement, Plaintiffs
4 are informed and believe that Defendants' chickens have insufficient room for
5 such activities due to confinement, tethering, caging, and general overcrowding.

6 (24) Store Departments » Meat & Poultry » Chicken: "*With our chicken ...*
7 *No physical alterations.*" [WHOLEFOODSMARKET.COM] Contrary to this statement,
8 Plaintiffs are informed and believe that Defendants' chickens are indeed altered;
9 to prevent pecking, farmers slice-off the chickens' beaks (with no painkillers).

10 (25) Store Departments » Meat & Poultry » Chicken: "*With our chicken ...*
11 *No antibiotics—ever.*" [WHOLEFOODSMARKET.COM] Contrary to this statement,
12 Plaintiffs are informed and believe that Defendants' chickens are indeed raised
13 with antibiotics to combat disease. Also, the chickens eat birdfeed derived from
14 GMO crops sprayed with Glyphosate—an antibiotic—which the chickens ingest,
15 and which consumers in turn ingest when they eat the chickens.

16 (26) Store Departments » Meat & Poultry » Farm Animal & Meat Quality
17 Standards: "*All animals must be humanely raised, transported and slaughtered.*"
18 [WHOLEFOODSMARKET.COM] Contrary to this statement, Plaintiffs contend that
19 WHOLE FOODS' claim of "humane slaughter" is false and misleading because--
20 (i) Defendants' farmers slaughter chickens with no painkillers and/or anesthesia;
21 (ii) Defendants' farmers slaughter chickens on assembly lines of violence that
22 inflict immense pain and suffering; (iii) the law presumes that animals, given the
23 choice, choose life. "Humane slaughter" is a lie—the chickens have no wish to die.
24 It is impossible to "humanely kill" an animal who wishes to live.

25 (27) Plaintiffs contend that "humane slaughter" is legally oxymoronic, and
26 thus, presumptively misleading under California law. There is no such thing as
27 "humane slaughter." Contrary to Defendants' claims, their chickens live the same
28 wretched lives—and die the same violent deaths—as other grocery store chickens.

1 (28) But WHOLE FOODS takes the “humane slaughter” fairytale to dizzying
2 heights—by supposedly *certifying* the “humaneness” of slaughterhouse killing.
3 Defendants pretend that a third party *certifies* the killing as “humane,” but this
4 third party, *Global Animal Partners*, is actually just WHOLE FOODS’ alter ego.
5 “Certified humane killing” is presumptively misleading because “humane killing”
6 is itself a lie—and lies can never be *certified* as true.

7 (29) Defendants mislead the public about animal welfare in order to justify their
8 over-inflated chicken prices. Defendants’ “humane slaughter” ads target those
9 consumers who wish to boycott the horrors of factory farming. WHOLE FOODS
10 misleads consumers by pretending that their chickens live happier lives—and die
11 less violent deaths—than other grocery store chickens; but the truth is, Defendants’
12 chickens live miserable lives confined in the same filthy, overcrowded conditions,
13 and they die violent deaths in the same frightful slaughterhouses that inflict the
14 same levels of pain and suffering that other grocery chickens endure.

15 (30) The animal welfare statements that Defendants publish are statements of
16 material fact, upon which Plaintiffs and others reasonably rely, ultimately to their
17 detriment, when purchasing chickens and shopping at WHOLE FOODS.

18 (31) Defendants’ false and misleading advertising is continuous and ongoing.
19 Defendants continue to publish false and misleading statements at their website,
20 and at their store locations. Plaintiff thus seeks a preliminary and permanent
21 injunction to forever prohibit Defendants from making false or misleading
22 statements concerning animal welfare standards. Unless Defendants are so
23 restrained, they will continue to mislead consumers.

24 (32) As a direct result of Defendants’ false and misleading statements concerning
25 animal welfare, Plaintiff was induced to purchase overpriced chickens, for which
26 he sustains harm, for which he is entitled to money damages in an amount to be
27 determined by a jury, along with reimbursement of costs, expenses and reasonable
28 attorney’s fees.

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(33) Plaintiffs also dispute Defendants' claims that their eggs supposedly come from "cage-free" chickens, as Defendants advertise inside their store locations. Plaintiffs purchased eggs in reliance on Defendants' "cage-free" claims. Contrary to Defendants' in-store representations regarding "cage-free" eggs, Plaintiffs are informed and believe that Defendants do indeed cage their egg-laying chickens, while transporting them and while raising them on the farm. Plaintiffs contend that Defendants' "cage-free" claims are false and misleading and Plaintiffs sustain harm by purchasing overpriced eggs based on these claims.

(34) WHOLE FOODS intentionally misleads consumers, for which punitive damages are appropriate. Businesses that intentionally mislead consumers demonstrate a conscious disregard for the rights of others, for which punitive damages are appropriate. Defendants engage in blatant "fraud"—by intentional misrepresentation, deceit, and concealment of facts—in the precise manner that C.C. §3294(c)(3) contemplates, for which punitive damages are indeed appropriate.

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☞ PRAYER for RELIEF ☞

WHEREFORE, Plaintiffs pray for judgment against Defendants, and each of them, in the following manner:

- (i) for certification of this lawsuit as a class action under CCP §382;
- (ii) for monetary damages as compensation for Defendants' violations of B & P §17500;
- (iii) for costs and expenses of suit;
- (iv) for reasonable attorney's fees;
- (v) for punitive and exemplary damages, as per C.C. §3294(c)(3);
- (vi) for a preliminary and permanent injunction now and forever prohibiting Defendants from making false and misleading advertising statements concerning animal welfare standards;
- (vii) for such other and further relief as the Court may deem just and proper.

Dated: Mar. 19, 2015

LAW OFFICES OF T. MATTHEW PHILLIPS

T. Matthew Phillips
 T. Matthew Phillips, Esq.
 Plaintiff Class Counsel.

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☞ VERIFICATION ☞

My name is ELVIS MIRZAIE and I am a Plaintiff herein. I have read this lawsuit and I am familiar with the allegations, which are true of my own personal knowledge, except as to those matters alleged on information and belief, and as to those matters, I reasonably believe them to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is both true and correct.

Dated: Mar. 19, 2015

Elvis Mirzaie

Elvis Mirzaie, Plaintiff

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