

1 **THE WESTON FIRM**
2 GREGORY S. WESTON (239944)
3 *greg@westonfirm.com*
4 DAVID ELLIOT (270381)
5 *david@westonfirm.com*
6 1405 Morena Blvd., Suite 201
7 San Diego, CA 92110
8 Telephone: (619) 798-2006
9 Facsimile: (313) 293-7071

10 *Counsel for Plaintiff*

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 SHAVONDA HAWKINS, on behalf
14 of herself and all others similarly
15 situated,

16 Plaintiff,

17 v.

18 ADVANCEPIERRE FOODS, INC.,

19 Defendant.

Case No: '15CV2309 JAH BLM

Pleading Type: Class Action

**CLASS ACTION COMPLAINT FOR INJUNCTIVE
RELIEF, ABATEMENT OF NUISANCE,
VIOLATIONS OF THE UNFAIR COMPETITION
LAW, AND BREACH OF IMPLIED WARRANTY**

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

1

2 I. JURISDICTION AND VENUE.....1

3 II. NATURE OF THE ACTION.....1

4 III. PARTIES.....2

5 IV. NATURE OF TRANS FAT3

6 A. There is a Scientific Consensus That Trans Fat is Extremely Harmful4

7 B. The Artificial Trans Fat in Fast Bites Causes Cardiovascular Disease.....6

8 C. The Artificial Trans Fat in Fast Bites Causes Type-2 Diabetes9

9 D. The Artificial Trans Fat in Fast Bites Causes Breast, Prostate, and Colorectal Cancer10

10 E. The Artificial Trans Fat in Fast Bites Causes Alzheimer’s Disease and Cognitive Decline
.....11

11 F. The Artificial Trans Fat in Fast Bites Causes Organ Damage13

12 G. Artificial Trans Fat Is So Inherently Dangerous It Has Been Banned by an Increasing
Number of American and European Jurisdictions13

13 V. PLAINTIFF’S PURCHASES OF FAST BITES15

14 VI. FAST BITES UNNECESSARILY CONTAIN PHO AND ARTIFICIAL TRANS FAT .15

15 VII. DEFENDANT’S PRACTICES ARE “UNFAIR” WITHIN THE MEANING OF THE
16 CALIFORNIA UNFAIR COMPETITION LAW.....15

17 VIII. DEFENDANT’S PRACTICES ARE “UNLAWFUL” WITHIN THE MEANING OF THE
18 CALIFORNIA UNFAIR COMPETITION LAW.....16

19 IX. INJURY.....17

20 X. DELAYED DISCOVERY18

21 XI. CLASS ACTION ALLEGATIONS.....19

22 XII. CAUSES OF ACTION.....21

23 XIII. PRAYER FOR RELIEF26

24 XIV. JURY DEMAND.....26

25 XV. APPENDIX A: FAST BITES II

26 XVI. APPENDIX B: LIST OF TRANS FAT FREE SANDWICHES III

27

28

1 Plaintiff Shavonda Hawkins, on behalf of herself, all others similarly situated, and
2 the general public, by and through her undersigned counsel, hereby sues Defendant
3 AdvancePierre Foods, Inc. (“AdvancePierre” or “Defendant”), and upon information and
4 belief and investigation of counsel, alleges as follows:

5 6 **I. JURISDICTION AND VENUE**

7 1. This Court has original jurisdiction over this action under 28 U.S.C.
8 § 1332(d)(2) (The Class Action Fairness Act) because the matter in controversy exceeds
9 the sum or value of \$5,000,000 exclusive of interest and costs and because more than
10 two-thirds of the members of the class defined herein reside in states other than the state
11 of which AdvancePierre resides.

12 2. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Plaintiff
13 suffered injuries, as a result of Defendant’s acts, in this District, many of the acts and
14 transactions giving rise to this action occurred in this District, and Defendant: (1) is
15 authorized to conduct business in this District and has intentionally availed itself of the
16 laws and markets of this District through the distribution and sale of its products in this
17 District; and (2) is subject to personal jurisdiction in this District.

18 19 **II. NATURE OF THE ACTION**

20 3. AdvancePierre manufactures, distributes, and sells a variety of
21 microwaveable sandwiches under the brand name Fast Bites, which contain partially
22 hydrogenated oil (“PHO”).¹

23 4. PHO is a food additive banned in many parts of the world due to its artificial
24 trans fat content.

25 5. Artificial trans fat is a toxin and carcinogen for which there are many safe
26 and commercially viable substitutes.

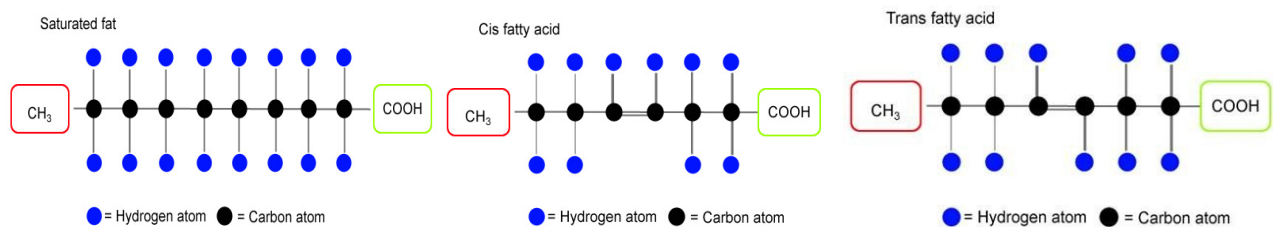
27 _____
28 ¹ The varieties of Fast Bites are identified in Appendix A.

IV. NATURE OF TRANS FAT

12. Artificial trans fat is a toxic, unlawful food additive manufactured via an industrial process called partial hydrogenation, in which hydrogen atoms are added to normal vegetable oil by heating the oil to temperatures above 400°F in the presence of ion donor catalyst metals such as rhodium, ruthenium, and nickel.² The resulting product is known as partially hydrogenated oil, or PHO, and it is used in dangerous quantities in Fast Bites.

13. PHO was invented in 1901 and patented in 1902 by German chemist Wilhelm Normann. Artificial trans fat molecules differ chemically from the natural fat molecules in other food products.³

14. Natural fat, except the trace amounts of natural trans fat from ruminant animal sources like beef, milk, and mutton, comes in two varieties: (1) fats that lack carbon double bonds (“saturated fat”) and (2) fats that have carbon double bonds with contiguous hydrogen atoms (“cis fat”). Trans fat, in contrast to cis fat, has carbon double bonds with hydrogen atoms on opposite sides of the carbon chain.



15. PHO was initially thought to be a “wonder product” attractive to the processed food industry because it combines the very low cost of unsaturated cis fat with

² See Alice H. Lichtenstein, *Trans Fatty Acids, Plasma Lipid Levels, and Risk of Developing Cardiovascular Disease*, 95 CIRCULATION 2588, 2588-90 (1997).

³ See Alberto Ascherio et al., *Trans Fatty Acids & Coronary Heart Disease*, 340 NEW ENG. J. MED. 94, 94-8 (1999). See also Walter Willett, *The Scientific Case for Banning Trans Fats*, Scientific American, available at www.scientificamerican.com/article/the-scientific-case-for-banning-trans-fats/ (last visited June 24, 2015).

1 the “mouth feel” and long shelf life of saturated fat. Like processed cis fat, PHO is
2 manufactured from low-cost legumes,⁴ while the saturated fat it replaces in processed
3 food is derived from relatively expensive animal and tropical plant sources.⁵ Given its
4 versatility, ten years ago PHO was used in 40% of processed packaged foods.⁶ Now, that
5 its toxic properties are known, few food companies continue to use PHO. Defendant,
6 however, has decided not to follow its more responsible peers and cease using PHO,
7 instead unfairly placing its profits over public health.

8
9 **A. There is a Scientific Consensus That Trans Fat is Extremely Harmful**

10 16. As detailed further herein, PHO causes cardiovascular heart disease,
11 diabetes, cancer, and Alzheimer’s disease, and accelerates memory damage and cognitive
12 decline.

13 17. There is “no safe level” of PHO or artificial trans fat intake.⁷

14 18. According to the established consensus of scientists, consumers should keep
15 their consumption of trans fat “as low as possible.”⁸

16 19. In addition, “trans fatty acids are not essential and provide no known benefit
17 to human health.”⁹ Thus, while “the [Institute of Medicine] sets tolerable upper intake
18

19 ⁴ e.g., corn oil, soybean oil, peanut oil

20 ⁵ e.g., butter, cream, tallow, palm, coconut oil

21 ⁶ Mary Carmichael, *The Skinny on Bad Fat*, Newsweek, Dec. 1, 2003, at 66. *See also*
22 Kim Severson, *Hidden Killer. It’s Trans Fat. It’s Dangerous. And It’s In Food You Eat*
23 *Every Day*, S.F. CHRON., Jan. 30, 2002.

24 ⁷ Food & Nutrition Bd., Inst. of Med., *Dietary Reference Intakes For Energy,*
25 *Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids* (2005).

26 ⁸ *Id.*

27 ⁹ Food Labeling; Health Claim; Phytosterols and Risk of Coronary Heart Disease;
28 Proposed Rule, 75 Fed. Reg. at 76542 (Dec. 8, 2010).

1 levels (UL) for the highest level of daily nutrient intake that is likely to pose no risk of
2 adverse health effects to almost all individuals in the general population[,] . . . the IOM
3 does **not** set a UL for trans fatty acid because **any** incremental increase in trans fatty acid
4 intake increases the risk of CHD.”¹⁰

5 20. Today there is no question about the scientific consensus on trans fat. Dr.
6 Julie Louise Gerberding, who served for both of President Bush’s two terms as head of
7 the United States Centers for Disease Control and Prevention, writes:

8 The scientific rationale for eliminating exposure to artificial trans fatty
9 acids in foods is rock solid. There is no evidence that they provide any
10 health benefit, and they are certainly harmful. These compounds
11 adversely affect both low- and high-density lipoprotein cholesterol levels
12 and increase the risk for coronary heart disease, even at relatively low
13 levels of dietary intake. Gram for gram, trans fats are far more potent
14 than saturated fats in increasing the risk for heart disease, perhaps
15 because they also have pro-inflammatory properties and other adverse
16 effects on vascular endothelium. [. . .]. Eliminating exposure to these
17 dangerous fats could have a powerful population impact—potentially
18 protecting 30,000 to 100,000 Americans from death related to heart
19 disease each year.¹¹

20 21. Dr. Mozaffarian of Harvard Medical School writes in the New England
21 Journal of Medicine:

22 Given the adverse effects of trans fatty acids on serum lipid levels,
23 systemic inflammation, and possibly other risk factors for cardiovascular
24 disease and the positive associations with the risk of CHD, sudden death

25 ¹⁰ *Id.* (emphasis added).

26 ¹¹ Julie Louise Gerberding, *Safer Fats for Healthier Hearts: The Case for Eliminating*
27 *Dietary Artificial Trans Fat Intake*, 151 ANN. INTERN. MED., 137-38 (2009).
28

1 from cardiac causes, and possibly diabetes, the potential for harm is clear.
2 The evidence and the magnitude of adverse health effects of trans fatty
3 acids are in fact far stronger on average than those of food contaminants
4 or pesticide residues, which have in some cases received considerable
5 attention.¹²

6 22. Given its nature as an artificial chemical not naturally found in any food and
7 the considerable harm that it causes to human health, Dr. Walter Willett, also at Harvard
8 Medical School, finds the most direct analogue of trans fat to be not any natural fat but
9 contaminants such as pesticides. He states that the addition of artificial trans fat to food by
10 companies like AdvancePierre “is a food safety issue . . . this is actually contamination.”¹³
11

12 **B. The Artificial Trans Fat in Fast Bites Causes Cardiovascular Disease**

13 23. Trans fat raises the risk of CHD more than any other known consumed
14 substance.¹⁴

15 24. Removing trans fat equivalent to 2% of total calories from the American diet
16 “would prevent approximately 30,000 premature coronary deaths per year, and
17 epidemiologic evidence suggests this number is closer to 100,000 premature deaths
18 annually.”¹⁵

19 25. From “10 to 19 percent of CHD events in the United States could be averted
20 by reducing the intake of trans fat.”¹⁶

21 _____
22 ¹² Dariush Mozaffarian et al., *Trans Fatty Acids and Cardiovascular Disease*, 354 N.
23 ENGL. J. MED. 1601-13 (2006).

24 ¹³ Rebecca Coombes, *Trans fats: chasing a global ban*, 343 British Med. J. (2011).

25 ¹⁴ Mozaffarian, 354 NEW ENG. J. MED. at 1603.

26 ¹⁵ Alberto Ascherio et al., *Trans Fatty Acids & Coronary Heart Disease*, 340 NEW ENG.
27 J. MED. 94, 94-8 (1999).

28 ¹⁶ Mozaffarian, 354 NEW ENG. J. MED. at 1611.

1 26. By raising LDL levels and lowering HDL levels, trans fat causes a wide
2 variety of dangerous heart conditions, including vasodilation, coronary artery disease,
3 and primary cardiac arrest.

4 27. In a joint Dietary Guidelines Advisory Committee Report, the Department of
5 Health and Human Services and the U.S. Department of Agriculture recognized “[t]he
6 relationship between trans fatty acid intake and LDL cholesterol is direct and progressive,
7 increasing the risk of cardiovascular disease.”¹⁷

8 28. The American Heart Association warns, “trans fats raise your bad (LDL)
9 cholesterol levels and lower your good (HDL) cholesterol levels. Eating trans fats
10 increases your risk of developing heart disease.”¹⁸

11 29. After a review of literature on the connection between the consumption of
12 artificial trans fat and coronary heart disease, the FDA concluded:

13 [B]ased on the consistent results across a number of the most persuasive
14 types of study designs (i.e., intervention trials and prospective cohort
15 studies) that were conducted using a range of test conditions and across
16 different geographical regions and populations . . . the available evidence
17 for an adverse relationship between trans fat intake and CHD risk is
18 strong.¹⁹

19 30. The FDA further found “[t]o date, there have been no reports issued by
20 authoritative sources that provide a level of trans fat in the diet . . . below which there is
21

22 ¹⁷ Dep’t of Health & Human Serv. & U.S. Dep’t of Agric., 2005 Dietary Guidelines
23 Advisory Committee Report, Section 10 (2005).

24 ¹⁸ Am. Heart Ass’n., *Trans Fat Overview*, available at
25 [http://www.heart.org/HEARTORG/GettingHealthy/FatsAndOils/Fats101/Trans-](http://www.heart.org/HEARTORG/GettingHealthy/FatsAndOils/Fats101/Trans-Fats_UCM_301120_Article.jsp)
26 [Fats_UCM_301120_Article.jsp](http://www.heart.org/HEARTORG/GettingHealthy/FatsAndOils/Fats101/Trans-Fats_UCM_301120_Article.jsp) (last visited June 24, 2015).

27 ¹⁹ Ctr. for Food Safety & Applied Nutrition, U.S. Food & Drug Admin., Questions &
28 Answers About *Trans* Fat Nutrition Labeling.

1 no risk of [Coronary Heart Disease].”²⁰ Rather, there “is a positive linear trend between
2 trans fatty acid intake and LDL cholesterol concentration, and therefore there is a positive
3 relationship between trans fatty acid intake and the risk of CHD.”²¹

4 31. This evidence of trans fat’s horrific impact on the health of Americans is
5 more than 20 years old. Dr. Walter Willett of Harvard Medical School found in 1994:

6 [E]ven the lower estimates from the effects [of PHO] on blood lipids
7 would suggest that more than 30,000 deaths per year may be due to the
8 consumption of partially hydrogenated vegetable fat. Furthermore, the
9 number of attributable cases of nonfatal coronary heart disease will be
10 even larger.²²

11 32. By taking blood samples from 179 survivors of cardiac arrest and 285
12 randomly-selected control patients and comparing the top fifth with the bottom fifth of
13 participants by trans fat intake, another study published in the American Heart
14 Association’s *Circulation* found that the largest consumers of trans fat have three times
15 the risk of suffering primary cardiac arrest, even after controlling for a variety of medical
16 and lifestyle risk factors.²³

17 33. Australian researchers observed that heart attack patients possess elevated
18 amounts of trans fat in their adipose tissue compared to controls, strongly linking heart
19 disease with long-term consumption of trans fat.²⁴

21 ²⁰ 75 Fed. Reg. 76526, 76542 (Dec. 8, 2010).

22 ²¹ *Id.*

23 ²² W.C. Willett et al., *Trans Fatty Acids: Are the Effects only Marginal?* 84 AM. J. PUB.
24 HEALTH 722, 723 (1994).

25 ²³ Rozenn N. Lemaitre et al., *Cell Membrane Trans-Fatty Acids and the Risk of Primary*
26 *Cardiac Arrest*, 105 CIRCULATION 697, 697-701 (2002).

27 ²⁴ Peter M. Clifton et al., *Trans Fatty Acids In Adipose Tissue And The Food Supply Are*
28 *Associated With Myocardial Infarction*. 134 J. NUTR. 874, 874-79 (2004).

1 34. While cholesterol dysregulation and pro-inflammatory effects are the best-
2 documented pathways through which trans fat causes heart disease and death, another
3 study isolated an additional method by which trans fat causes atherosclerosis, namely by
4 degrading the function of TGF- β , a protein responsible for preventing the development of
5 atherosclerotic lesions.²⁵

6 35. TGF- β also functions to suppress cancerous tumors. The same scientists
7 suggest that the degradation of TGF- β may be the reason that trans fat consumption is
8 strongly linked to multiple forms of cancer.²⁶

9
10 **C. The Artificial Trans Fat in Fast Bites Causes Type-2 Diabetes**

11 36. Artificial trans fat also causes type-2 diabetes.²⁷

12 37. In particular, trans fat disrupts the body's glucose and insulin regulation
13 system by incorporating itself into cell membranes, causing the insulin receptors on cell
14 walls to malfunction, and in turn elevating blood glucose levels and stimulating further
15 release of insulin.

16 38. Researchers at Northwestern University's medical school found that mice
17 show multiple markers of type-2 diabetes after eating a high trans fat diet for only four
18 weeks.²⁸

19 39. By the eighth week of the study, mice fed the diet high in trans fat showed a
20 500% increase compared to the control group in hepatic interleukin-1 β gene expression,
21

22 ²⁵ Chen, C.L. et al., *A mechanism by which dietary trans fats cause atherosclerosis*, J. OF
23 NUT. BIOCHEMISTRY 22(7) 649-655 (2011).

24 ²⁶ *Id.*

25 ²⁷ Am. Heart Ass'n., *Trans Fat Overview*.

26 ²⁸ Sean W. P. Koppe et al., *Trans fat feeding results in higher serum alanine*
27 *aminotransferase and increased insulin resistance compared with a standard murine*
28 *high-fat diet*, 297 AM. J. PHYSIOL. GASTROINTEST LIVER PHYSIOL. 378 (2009).

1 one such marker of diabetes, indicating the extreme stress even short-term exposure to
2 artificial trans fat places on the body.²⁹

3 40. A 14-year study of 84,204 women found that for every 2 percent increase in
4 energy intake from artificial trans fat, the relative risk of type-2 diabetes was increased by
5 39 percent.³⁰

6
7 **D. The Artificial Trans Fat in Fast Bites Causes Breast, Prostate, and**
8 **Colorectal Cancer**

9 41. Trans fat is a carcinogen which causes breast, prostate, and colorectal
10 cancer.

11 42. A 13-year study of 19,934 French women showed 75 percent more women
12 contracted breast cancer in the highest quintile of trans fat consumption than did those in
13 the lowest.³¹

14 43. In a 25-year study of 14,916 American physicians, those in the highest
15 quintile of trans fat consumption had more than double the risk of developing prostate
16 cancer than the doctors in the lowest quintile.³²

17 44. A study of 1,012 American males observing trans fat intake and the risk of
18 prostate cancer found “[c]ompared with the lowest quartile of total trans-fatty acid
19 consumption, the higher quartiles gave odds ratios (ORs) equal to 1.58,” meaning those
20

21 ²⁹ *Id.*

22 ³⁰ Jorge Salmeron et al., *Dietary Fat Intake and Risk of Type 2 Diabetes in Women*, 73
23 AM. J. CLINICAL NUTRITION 1019, 1023 (2001).

24 ³¹ Véronique Chajès et al., *Association between Serum Trans-Monounsaturated Fatty*
25 *Acids and Breast Cancer Risk in the E3N-EPIC Study*. 167 AM. J. EPIDEMIOLOGY 1312,
26 1316 (2008).

27 ³² Jorge Chavarro et al., *A Prospective Study of Blood Trans Fatty Acid Levels and Risk*
28 *of Prostate Cancer.*, 47 PROC. AM. ASSOC. CANCER RESEARCH 95, 99 (2006).

1 in the highest quartile are 58% more likely to contract prostate cancer than those in the
2 lowest.³³

3 45. A 600-person study found an 86 percent greater risk of colorectal cancer in
4 the highest trans fat consumption quartile.³⁴

5 46. A 2,910-person study found “trans-monounsaturated fatty acids . . . were
6 dose-dependently associated with colorectal cancer risk,” which showed “the importance
7 of type of fat in the etiology and prevention of colorectal cancer.”³⁵

8
9 **E. The Artificial Trans Fat in Fast Bites Causes Alzheimer’s Disease and**
10 **Cognitive Decline**

11 47. Trans fat causes Alzheimer’s Disease and cognitive decline.

12 48. In a study examining 815 Chicago area seniors, researchers found “increased
13 risk of incident Alzheimer disease among persons with high intakes of . . . trans-
14 unsaturated fats.”³⁶

15 49. The study “observed a strong increased risk of Alzheimer disease with
16 consumption of trans-unsaturated fat.”³⁷

17 50. In a study of 1,486 women with type-2 diabetes, researchers found “[h]igher
18 intakes of . . . trans fat since midlife . . . were [] highly associated with worse cognitive

19 _____
20 ³³ Xin Liu et al., *Trans-Fatty Acid Intake and Increased Risk of Advanced Prostate*
21 *Cancer: Modification by RNASEL R462Q Variant*, 28 CARCINOGENESIS 1232, 1232
(2007).

22 ³⁴ L.C. Vinikoor et al., *Consumption of Trans-Fatty Acid and its Association with*
23 *Colorectal Adenomas*, 168 AM. J. OF EPIDEMIOLOGY 289, 294 (2008).

24 ³⁵ Evropi Theodoratou et al., *Dietary Fatty Acids and Colorectal Cancer: A Case-Control*
25 *Study*, 166 AM. J. EPIDEMIOLOGY 181 (2007).

26 ³⁶ Martha Clare Morris et al., *Dietary Fats and the Risk of Incident Alzheimer Disease*, 60
27 ARCH. NEUROL. 194, 198-9 (2003).

28 ³⁷ *Id.*

1 decline”³⁸

2 51. The study cautioned “[d]ietary fat intake can alter glucose and lipid
3 metabolism and is related to cardiovascular disease risk in individuals with type 2
4 diabetes. Because insulin, cholesterol, and vascular disease all appear to play important
5 roles in brain aging and cognitive impairments, dietary fat modification may be a
6 particularly effective strategy for preventing cognitive decline, especially in individuals
7 with diabetes.”³⁹ (citations omitted).

8 52. Artificial trans fat also damages the brains of those who consume it. A study
9 conducted by UCSD School of Medicine of 1,018 men, mostly younger men, found trans
10 fat consumption to be strongly correlated with impaired memory.⁴⁰ The authors of the
11 study, appearing last year in *Circulation*, the American Heart Association’s peer-
12 reviewed journal, conclude that “Greater dTFA [dietary trans fatty acid] was significantly
13 associated with worse word memory in adults aged 20-45 years, often critical years for
14 career building.”

15 53. Performing a word memory test, each additional gram per day of trans fat
16 consumed was associated with 0.76 fewer words correctly recalled. The authors suggest
17 trans fat’s well-established pro-oxidant effect and its damage to cell energy processes is
18 the pathway by which trans fat consumption damages memory ability. The young men
19 with the highest trans fat consumption scored 12 fewer recalled words on the 104-word
20 test.⁴¹

23 ³⁸ Elizabeth E. Devore et al., *Dietary Fat Intake and Cognitive Decline in Women with*
24 *Type 2 Diabetes*, 32 DIABETES CARE 635 (2009).

25 ³⁹ *Id.*

26 ⁴⁰ Golomb, B. et al., *Trans Fat Consumption is Adversely Linked to Memory in Working-*
27 *Age Adults*, J. OF AM. HEARTH ASSOC. 130:A15572 (2014).

28 ⁴¹ *Id.*

1 **F. The Artificial Trans Fat in Fast Bites Causes Organ Damage**

2 54. Artificial trans fat damages vital organs, including the heart, by causing
3 chronic systemic inflammation, where the immune system becomes persistently
4 overactive, damages cells, and causes organ dysfunction.⁴²

5
6 **G. Artificial Trans Fat Is So Inherently Dangerous It Has Been Banned by**
7 **an Increasing Number of American and European Jurisdictions**

8 55. In 2008, California became the first state to ban all restaurant food with
9 artificial trans fat. Trans fats now may not be served in California’s schools or restaurants
10 in an amount greater than half a gram per serving, nor contain any ingredient with more
11 than this amount.⁴³

12 56. New York City banned trans fat in restaurants in 2006. Similar laws exist in
13 Philadelphia; Baltimore; Stamford, Connecticut; and Montgomery County, Maryland.

14 57. A 2004 Danish law restricted all foods to fewer than 2 percent of calories
15 from artificial trans fat. Switzerland made the same restriction in 2008.⁴⁴

16 58. After conducting a surveillance study of Denmark’s 2004 trans fat ban,
17 researchers concluded the change “did not appreciably affect the quality, cost or
18

19 ⁴² See Lopez-Garcia et al., *Consumption of Trans Fat is Related to Plasma Markers of*
20 *Inflammation and Endothelial Dysfunction*, 135 J. NUTR. 562-66 (2005); see also Baer et
21 al., *Dietary fatty acids affect plasma markers of inflammation in healthy men fed*
22 *controlled diets; a randomized crossover study*, 79 AM. J. CLIN. NUTR. 969-73 (2004);
23 Mozaffarian & Clarke, *Quantitative effects on cardiovascular risk factors and coronary*
24 *heart disease risk of replacing partially hydrogenated vegetable oils with other fats and*
25 *oils*, 63 EURO. J. OF CLIN. NUTR. S22-S33 (2009); Mozaffarian et al., *Trans Fatty acids*
26 *and systemic inflammation in heart failure*, 80 AM. J. CLIN. NUTR. 1521-25 (2004).

27 ⁴³ Cal. Educ. Code § 49431.7; Cal. Health & Saf. Code § 114377.

28 ⁴⁴ Andrew Collier, *Deadly Fats: Why Are We still Eating Them?*, THE INDEPENDENT
(UK), June 10, 2008.

1 availability of food” and did not have “any noticeable effect for the consumers.”⁴⁵

2 59. Similar bans have been introduced in Austria and Hungary. Brazil,
3 Argentina, Chile, and South Africa have all taken steps to reduce or eliminate artificial
4 trans fats from food.⁴⁶

5 60. In 2006, a trans fat task force co-chaired by Health Canada and the Heart
6 and Stroke Foundation of Canada recommended capping trans fat content at 2 percent of
7 calories for tub margarines and spreads and 5 percent for all other foods. On September
8 30, 2009, British Columbia became the first province to impose these rules on all
9 restaurants, schools, hospitals, and special events.⁴⁷

10 61. In its European Food and Nutrition Action Plan 2015-2020, the World
11 Health Organization identified one of its goals as “making the European Region trans fat-
12 free.”⁴⁸ The European Commission is preparing legislation to ban the use of trans fats in
13 28 nations in the European Union.⁴⁹

14 62. On June 17, 2015, the FDA released its Final Determination Regarding
15 Partially Hydrogenated Oils, in which it declared “PHOs are not GRAS [Generally
16 Recognized as Safe] for any use in human food.”⁵⁰

17 63. The FDA will begin filing its own enforcement actions against companies

18 ⁴⁵ Mozaffarian, 354 New Eng. J. Med. at 1610; *see also* Steen Stender, *High Levels of*
19 *Industrially Produced Trans Fat in Popular Fast Food*, 354 NEW ENG. J. MED. 1650,
20 1652 (2006).

21 ⁴⁶ Coombes, *Trans fats: chasing a global ban*, 343 BRITISH MED. J. 5567 (2011).

22 ⁴⁷ *Province Restricts Trans Fat in B.C.*, British Columbia Ministry of Healthy Living and
23 Sport Press Release (2009), *available at* <http://tinyurl.com/betty15>

24 ⁴⁸ Regional Committee for Europe, *European Food and Nutrition Action Plan 2015-2020*,
25 64th session.

26 ⁴⁹ Basu, J. *European trans fat report ‘could lead to ban’*, FoodNavigator.com, April 15,
27 2015.

28 ⁵⁰ FDA Final PHO Determination, 80 Fed. Reg. 34650, 34651 (June 17, 2015).

1 that use PHOs in 2018.

2
3 **V. PLAINTIFF’S PURCHASES OF FAST BITES**

4 64. Plaintiff Shavonda Hawkins has purchased Fast Bites as many as a hundred
5 times during the Class Period, mostly from the refrigerated food section of dollar stores.

6
7 **VI. FAST BITES UNNECESSARILY CONTAIN PHO AND ARTIFICIAL**
8 **TRANS FAT**

9 65. Pierre’s use of PHO in Fast Bites is unnecessary. There are safe substitutes
10 for PHO and artificial trans fat.

11 66. Most manufacturers of competing frozen microwave sandwich products
12 have responsibly decided to refrain from adding artificial trans fat to their products. Such
13 brands sold in the US include White Castle, Lean Cuisine, Jimmy Dean, Weightwatchers
14 Smart Ones, and Banquet. Defendant even manufactures other microwave sandwiches
15 which do not contain artificial trans fat, sold under their Drive Thru brand. A more
16 detailed list of such products and manufacturers is attached hereto as **Appendix B**.

17 67. Although commercially viable alternative formulations and substitutes for
18 PHO were and are available, Defendant elects not to use them in the Fast Bites in order to
19 increase its profits at the expense of consumers’ health.

20
21 **VII. DEFENDANT’S PRACTICES ARE “UNFAIR” WITHIN THE MEANING**
22 **OF THE CALIFORNIA UNFAIR COMPETITION LAW**

23 68. Defendant’s practices as described herein are “unfair” within the meaning of
24 the California Unfair Competition Law because its conduct is immoral, unethical,
25 unscrupulous, or substantially injurious to consumers, and the utility of the conduct to
26 Defendant does not outweigh the gravity of the harm to AdvancePierre’s victims.

27 69. In particular, while Defendant’s use of PHO in Fast Bites may have some
28 utility to Defendant in that it allows Defendant to realize higher profit margins than if it

1 used safer PHO substitutes, this utility is small and far outweighed by the gravity of the
2 serious health harm AdvancePierre inflicted upon consumers.

3 70. Defendant’s conduct injures competing manufacturers of microwave frozen
4 sandwiches that do not engage in its unfair, immoral behavior, especially those
5 competing for the limited frozen aisle shelf space at the discount/dollar stores
6 AdvancePierre targets.

7 71. Moreover, Defendant’s practices violate public policy as declared by
8 specific constitutional, statutory, or regulatory provisions, including the California Health
9 and Safety Code § 114377 and California Education Code § 49431.7.

10 72. Defendant’s actions also violate public policy by causing the United States,
11 California, and every other state to pay—via Medicare, Medicaid, Affordable Care Act
12 Exchange subsidies, veterans’ health programs, public employee and retiree health
13 insurance—for treatment of trans fat-related illnesses.

14 73. Further, the injury to consumers from Defendant’s practices is substantial,
15 not outweighed by benefits to consumers or competition, and not one consumers
16 themselves could reasonably have avoided.

17
18 **VIII. DEFENDANT’S PRACTICES ARE “UNLAWFUL” WITHIN THE**
19 **MEANING OF THE CALIFORNIA UNFAIR COMPETITION LAW**

20 74. Defendant’s practices as described herein are “unlawful” within the meaning
21 of the California Unfair Competition Law because PHO is not Generally Recognized as
22 Safe (GRAS). Therefore, Defendant’s use of PHO renders its products adulterated within
23 the meaning of 21 U.S.C. § 342(a)(2)(C).

24 75. The PHO used in Fast Bites is not on the FDA’s list of the hundreds of
25 substances it considers GRAS.⁵¹

26 76. PHO also fails to meet the fundamental requirement for GRAS status—that

27 ⁵¹ See 21 C.F.R. §§ 181, 182, 184 and 186.
28

1 the substance is safe. In fact, the FDA has explicitly recognized that there is no safe level
2 of artificial trans fat consumption.

3 77. Under the Food Additives Amendment of 1958, which amended the FDCA,
4 all food additives are unsafe unless they (1) fall within a specified exemption to the
5 statute's definition of food additive, or (2) their use is pursuant to FDA approval. Because
6 the PHO used in Fast Bites does not meet either of these exceptions, they are, and long
7 have been, unsafe and unlawful for use in food.

8 78. Defendant's use of PHO in Fast Bites thus constitutes adulteration under 21
9 U.S.C. § 342.

10 79. On November 8, 2013, the FDA made its initial determination that PHO is
11 not GRAS.⁵²

12 80. On June 17, 2015, after extensive public comment, the FDA made a final
13 termination that PHO is not GRAS.⁵³

14 81. At no point during the class period was there a scientific consensus PHO
15 was safe. Indeed, for more than two decades, the scientific consensus has been that it is
16 unsafe.

17 18 **IX. INJURY**

19 82. When purchasing Fast Bites, Plaintiff was seeking products of particular
20 qualities, including products that did not negatively affect blood cholesterol levels or the
21 health of her cardiovascular system, and products made with safe, lawful ingredients.

22 83. Plaintiff purchased Fast Bites believing they had the qualities she sought
23 based on the natural assumption that food sold in stores by large companies would not
24 have unsafe and unlawful ingredients.

25
26 _____
⁵² 78 Fed. Reg. 67169 (November 8, 2013).

27 ⁵³ 80 Fed. Reg. 34650 (June 17, 2015).
28

1 84. Instead, they were actually unsatisfactory to her for the reasons described
2 herein.

3 85. Plaintiff lost money as a result of Defendant's conduct because she
4 purchased products that were detrimental to her health and were unfairly offered for sale
5 in violation of federal and California law. Had Defendant not violated the law, Plaintiff
6 would not have been injured.

7 86. Plaintiff suffered physical injury when she repeatedly consumed Defendant's
8 Fast Bites, because consuming artificial trans fat in *any* quantity, including the quantity
9 she actually consumed, inflames and damages vital organs and substantially increases the
10 risk of heart disease, diabetes, cancer, and death.

11 87. Fast Bites contain an unsafe amount of artificial trans fat which renders them
12 unfit for their ordinary use.

13 88. Fast Bites are not fit for human consumption and have a value of \$0.

14 89. Like most consumers, Ms. Hawkins is a busy person and cannot reasonably
15 inspect every ingredient of every food that she purchases for herself and her large family,
16 and she was unaware that the Products were dangerous when she purchased them.

17 90. Plaintiff is not a nutritionist, food expert, or food scientist, but rather a lay
18 consumer who did not have the specialized knowledge that Defendant had. Even today,
19 the details of the dangers of artificial trans fat are unknown to millions of Americans.

20 91. Plaintiff lost money as a result of Defendant's unlawful behavior. Plaintiff
21 altered her position to her detriment and suffered loss in an amount equal to the amount
22 she paid for Fast Bites.

23
24 **X. DELAYED DISCOVERY**

25 92. Plaintiff did not discover that Defendant's behavior was unfair and unlawful
26 until August 2015, when she learned the true extent of the dangers of consuming trans
27 fat, and that Defendant was still selling the product illegally. Until this time, she lacked
28 the knowledge regarding the facts of her claims against Defendant.

1 93. Plaintiff is a reasonably diligent consumer who exercised reasonable
2 diligence in her purchase, use, and consumption of the Products. Nevertheless, she would
3 not have been able to discover Defendant’s deceptive practices and lacked the means to
4 discover them given that, like nearly all consumers, she is not an expert on nutrition and
5 does not typically read or have ready access to scholarly journals such as The Journal of
6 Nutrition,⁵⁴ The European Journal of Clinical Nutrition,⁵⁵ and The New England Journal
7 of Medicine,⁵⁶ where the scientific evidence of artificial trans fat’s dangers was
8 published.

9
10 **XI. CLASS ACTION ALLEGATIONS**

11 94. Plaintiff brings this action on behalf of herself and all others similarly
12 situated (the “Class”), excluding Defendant’s officers, directors, and employees, and the
13 Court, its officers and their families. The Class is defined as:

14 All persons who purchased in the United States, on or after January 1,
15 2008 (the “Class Period”), for household or personal use, microwavable
16 sandwiches products manufactured or distributed by Defendant
17 containing partially hydrogenated oil.

18 95. Questions of law and fact common to Plaintiff and the Class include:

- 19 a. Whether AdvancePierre’s conduct constitutes a violation of the unfair
20 prong of California’s Unfair Competition Law;

21 _____
22 ⁵⁴ Peter M. Clifton et al., *Trans Fatty Acids In Adipose Tissue And The Food Supply Are*
Associated With Myocardial Infarction, 134 J. NUTR. 874, 874-79 (2004).

23 ⁵⁵ A. Tavani et al., *Margarine intake and risk of nonfatal acute myocardial infarction in*
24 *Italian women*, 51 EUR. J. CLIN. NUTR. 30–32 (1997) (estimating a 50 percent greater risk
25 of heart attack in women with high consumption of margarine, an association
26 “independent of body mass index, history of hypertension and hyperlipidemia”).

27 ⁵⁶ Mozaffarian, 354 NEW ENG. J. MED. at 1611 (“10 to 19 percent of CHD events in the
28 United States could be averted by reducing the intake of trans fat”).

- 1 b. Whether AdvancePierre's conduct is a nuisance as defined by Cal. Civ.
2 Code §§ 3479-3493;
- 3 c. Whether AdvancePierre's conduct constitutes a violation of the
4 unlawful prong of California's Unfair Competition Law;
- 5 d. Whether AdvancePierre's conduct was immoral, unethical,
6 unscrupulous, or substantially injurious to consumers;
- 7 e. Whether the slight utility AdvancePierre realizes as a result of its
8 conduct outweighs the gravity of the harm the conduct causes to its
9 victims;
- 10 f. Whether AdvancePierre's conduct violates public policy as declared by
11 specific constitutional, statutory, or regulatory provisions;
- 12 g. Whether the injury to consumers from AdvancePierre's practices is
13 substantial;
- 14 h. Whether the injury to consumers from AdvancePierre's practices is
15 outweighed by benefits to consumers or competition;
- 16 i. Whether Class members are entitled to restitution;
- 17 j. Whether Class members are entitled to an injunction and, if so, its
18 terms; and
- 19 k. Whether Class members are entitled to any further relief.

20 96. Plaintiff's claims are typical of the Class' claims because all Class members
21 were subjected to the same economic harm when they purchased Fast Bites and suffered
22 economic injury.

23 97. Plaintiff will fairly and adequately protect the interests of the Class, has no
24 interests that are incompatible with the interests of the Class, and has retained counsel
25 competent and experienced in class litigation.

26 98. The Class is sufficiently numerous, as it includes thousands of individuals
27 who purchased Fast Bites throughout the United States during the Class Period.

28 99. Class representation is superior to other options for the resolution of the

1 controversy. The relief sought for each Class member is small, as little as one dollar for
2 some Class members. Absent the availability of class action procedures, it would be
3 infeasible for Class members to redress the wrongs done to them.

4 100. Pierre has acted on grounds applicable to the Class, thereby making final
5 injunctive relief or declaratory relief appropriate concerning the Class as a whole.

6 101. Questions of law and fact common to the Class predominate over any
7 questions affecting only individual members.

8 102. Class treatment is appropriate under Fed. R. Civ. P. 23(a) and both Fed. R.
9 Civ. P. 23(b)(2) and 23(b)(3). Plaintiff will, if notice is required, confer with Defendant
10 and seek to present the Court with a stipulation and proposed order on the details of a
11 class notice plan.

12 13 **XII. CAUSES OF ACTION**

14 **First Cause of Action**

15 **California Unfair Competition Law (Unlawful Prong)**

16 **Cal. Bus. & Prof. Code §§ 17200 *et seq.***

17 103. Plaintiff realleges and incorporates the allegations elsewhere in the
18 Complaint as if set forth in full herein.

19 104. Defendant has made and distributed, in interstate commerce and in this
20 District, products that contain unlawful food additives. Fast Bites were placed into
21 interstate commerce by Defendant and sold throughout the country and in this District.

22 105. Cal. Bus. & Prof. Code § 17200 prohibits any “unlawful, unfair or
23 fraudulent business act or practice.”

24 106. Defendant’s conduct is “unlawful” because it violates the Federal Food,
25 Drug, and Cosmetic Act (“FDCA”), specifically, the Food Additives Amendment of
26 1958, which deems a food additive unsafe unless it has met two exceptions, neither of
27 which the PHO used in Fast Bites has met. 21 U.S.C. §§ 348, 342.

28 107. Defendant’s conduct also violates the FDCA:

- 1 • 21 U.S.C. § 331(a) (prohibiting the “introduction or delivery for introduction
2 into interstate commerce of any food, drug, device, tobacco product, or
3 cosmetic that is adulterated or misbranded”);
- 4 • 21 U.S.C. § 331(b) (prohibiting the “adulteration or misbranding of any food,
5 drug, device, tobacco product, or cosmetic in interstate commerce”);
- 6 • 21 U.S.C. § 331(c) (prohibiting the “receipt in interstate commerce of any food,
7 drug, device, tobacco product, or cosmetic that is adulterated or misbranded,
8 and the delivery or proffered delivery thereof for pay or otherwise”);
- 9 • 21 U.S.C. § 331(k) (prohibiting the doing of any other act with respect to, a
10 food, drug, device, tobacco product, or cosmetic, if such act is done while such
11 article is held for sale (whether or not the first sale) after shipment in interstate
12 commerce and results in such article being adulterated or misbranded”);
- 13 • 21 U.S.C. § 342(a) (which deems any food adulterated if it “contains any
14 poisonous or deleterious substance which may render it injurious to health”);
- 15 • 21 U.S.C. § 348 (prohibiting the use of any food additive unless it has been
16 deemed GRAS);

17 108. Defendant’s conduct violates other provisions of the FDCA.

18 109. Defendant’s conduct further violates The California Sherman Food, Drug,
19 and Cosmetic Law (“Sherman Law”), Cal. Health & Safety Code § 110100, which adopts
20 all FDA regulations as state regulations. AdvancePierre’s conduct also violates the
21 following sections of the Sherman Law:

- 22 • § 110100 (adopting all FDA regulations as state regulations);
- 23 • § 110398 (“It is unlawful for any person to advertise any food, drug, device, or
24 cosmetic that is adulterated or misbranded.”);

25 110. The use of artificial trans fat in Fast Bites thus constitutes a violation of the
26 FDCA and the Sherman Law and, as such, violated the “unlawful” prong of the UCL.

27 111. Plaintiff suffered injury in fact and lost money or property as a result of
28 Defendant’s unlawful acts: she was denied the benefit of the bargain when she decided to

1 purchase Fast Bites over competing products that are less expensive and/or contain no
2 artificial trans fat.

3 112. Had Plaintiff been aware of Defendant's unlawful tactics, she would not
4 have purchased Fast Bites.

5 113. Defendant's unlawful acts allowed it to sell more units of Fast Bites than it
6 would have otherwise, and at a higher price.

7 114. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an order
8 enjoining AdvancePierre from continuing to conduct business through unlawful, unfair,
9 and/or fraudulent acts and practices and to commence a corrective advertising campaign.
10 Plaintiff intends to purchase the Products in the future when Defendant ceases its unfair
11 business practices and removes trans fat.

12 115. Plaintiff also seeks an order for the disgorgement and restitution of all
13 monies from the sale of the Fast Bites, which were acquired through acts of unfair
14 competition.

15
16 **Second Cause of Action**

17 **California Unfair Competition Law (Unfair Prong)**

18 **Cal. Bus. & Prof. Code §§ 17200 *et seq.***

19 116. Plaintiff realleges and incorporates the allegations elsewhere in the
20 Complaint as if set forth in full herein.

21 117. Cal. Bus. & Prof. Code § 17200 prohibits any "unlawful, unfair or
22 fraudulent business act or practice."

23 118. The business practices and omissions of Defendant as alleged herein
24 constitute "unfair" business acts and practices in that its conduct is immoral, unethical,
25 unscrupulous, or substantially injurious to consumers and the utility of its conduct, if any,
26 does not outweigh the gravity of the harm to AdvancePierre's victims.

27 119. Further, Defendant's practices are unfair because they violate public policy
28 as declared by specific constitutional, statutory, or regulatory provisions, including those

1 policies embodied in the California Health and Safety Code and California Education
2 Code.

3 120. Further, Defendant's practices are unfair because the injury to consumers
4 from Defendant's practices is substantial, not outweighed by benefits to consumers or
5 competition, and not one consumers themselves could reasonably have avoided.

6 121. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an order
7 enjoining AdvancePierre from continuing to conduct business through unfair acts and
8 practices and to commence a corrective advertising campaign. Plaintiff intends to
9 purchase the products in the future when Defendant ceases its unfair business practices
10 and removes trans fat.

11 122. Plaintiff also seeks an order for the disgorgement and restitution of all
12 monies from the sale of the Fast Bites, which were acquired through acts of unfair
13 competition.

14
15 **Third Cause of Action**

16 **Nuisance**

17 **Cal. Civ. Code §§ 3479-3493**

18 123. Plaintiff realleges and incorporates the allegations elsewhere in the
19 Complaint as if set forth in full herein.

20 124. The public has a common right to a safe food supply and a common interest
21 in ensuring that only safe foods are allowed for sale.

22 125. Artificial trans fat is a dangerous and illegal ingredient that is harmful when
23 consumed by humans in any amount.

24 126. Defendant actively promotes and sells its Fast Bites, which contain trans fat.
25 Defendant sells its Fast Bites to the public at large.

26 127. Defendant's actions complained of herein have created a harmful condition
27 that is injurious to the health of the public and affects a substantial number of people.

28 128. These acts substantially and unreasonably interfere with the public's

1 interests in having only safe, uncontaminated foods available for purchase, cause an
2 unreasonable inconvenience to avoid, and are a menace to the public health and to the
3 safety of children.

4 129. Pierre is liable in public nuisance because by promoting and selling its Fast
5 Bites that contain dangerous amounts of trans fat, it has created a dangerous condition
6 that interferes with the public interest.

7 130. Plaintiff suffered specific physical and emotional harm from Defendant's
8 conduct when she consumed Defendant's Fast Bites. Plaintiff continues to suffer
9 emotional harm from knowing that she unwittingly injured herself and others through the
10 consumption of the Fast Bites.

11 131. In accordance with Cal. Civ. Code § 3491, Plaintiff seeks an order abating
12 Defendant's injurious practices, and enjoining further acts.

13
14 **Fourth Cause of Action**

15 **Breach of Implied Warranty of Merchantability**

16 132. Plaintiff realleges and incorporates the allegations elsewhere in the
17 Complaint as if set forth in full herein.

18 133. Defendant is a merchant with respect to goods of this kind, which were sold
19 to Plaintiff and other consumers, and there was in the sale to Plaintiff and other
20 consumers an implied warranty that those goods were merchantable.

21 134. However, AdvancePierre breached that warranty implied in the contract for
22 the sale of goods in that the Fast Bites are not safe for human consumption as set forth in
23 detail herein above.

24 135. As a result of Defendant's conduct, Plaintiff did not receive goods as
25 impliedly warranted by Defendant to be merchantable.

26 136. As a proximate result of this breach of warranty by Defendant, Plaintiff and
27 other consumers have been damaged.

28 137. Plaintiff also seeks damages for the injury he suffered from AdvancePierre's

1 breach of the implied warranty.
2

3 **XIII. PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated, and the
5 general public, prays for judgment against Defendant as follows:

- 6 A. An order confirming that this class action is properly maintainable as a
7 nationwide class action as defined above, appointing Plaintiff and her
8 undersigned counsel to represent the Class, and requiring Defendant to bear
9 the cost of class notice;
- 10 B. An order requiring AdvancePierre to pay restitution to Plaintiff and the Class
11 so that they may be restored any money which may have been acquired by
12 means of any unfair practice;
- 13 C. An order requiring Defendant to disgorge any benefits received from
14 Plaintiff and/or unjust enrichment realized as a result of unfair practices;
- 15 D. An order declaring the conduct complained of herein violates the Unfair
16 Competition Law;
- 17 E. An order requiring Defendant to cease and desist its unfair practices;
- 18 F. An order requiring AdvancePierre to engage in a corrective advertising
19 campaign;
- 20 G. An order abating Defendant's injurious practices;
- 21 H. An award of damages, pre-judgment, and post-judgment interest;
- 22 I. An award of attorneys' fees and costs; and
- 23 J. Such other and further relief as this Court may deem just, equitable, or
24 proper.

25
26 **XIV. JURY DEMAND**

27 Plaintiff requests a trial by jury.
28

1 DATED: October 14, 2015

Respectfully Submitted,

2 /s/ Gregory S. Weston

3 **THE WESTON FIRM**

4 GREGORY S. WESTON

5 DAVID ELLIOT

6 1405 Morena Blvd., Suite 201

7 San Diego, CA 92110

8 Telephone: (619) 798-2006

9 Facsimile: (313) 293-7071

10 *Counsel for Plaintiff*

11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **XV. APPENDIX A: FAST BITES**

- 2 • Fast Bites Sausage and Cheese Biscuit
- 3 • Fast Bites Mini Chicken Sandwich
- 4 • Fast Bites Spicy Chicken Sandwich
- 5 • Fast Bites Rib Sandwich
- 6 • Fast Bike BBQ Rib Sandwich
- 7 • Fast Bites Chili Cheese Hotdog
- 8 • Fast Bites Mini Cheese Burger
- 9 • Fast Bites Fish and Cheese Sandwich
- 10 • Fast Bites Chicken Sandwich
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28

1 **XVI. Appendix B: List of Trans Fat Free Sandwiches**

- 2 • Each of the following microwavable sandwiches distributed by the White Castle:
- 3 • Hamburgers
- 4 • Cheeseburgers
- 5
- 6 • Each of the following microwavable sandwiches distributed by Nestle USA, Inc.:
- 7 • Lean Cuisine Veggie Egg White English Muffin
- 8 • Lean Cuisine Canadian Bacon English Muffin
- 9 • Lean Cuisine Turkey Sausage English Muffin
- 10
- 11 • Each of the following microwavable sandwiches distributed by Hillshire Brands:
- 12 • Jimmy Dean Delights Smoked Ham Sandwich
- 13 • Jimmy Dean Canadian Bacon, Whole Cracked Egg & Cheese Muffin Sandwich
- 14 • Jimmy Dean Pulled Pork Sandwich
- 15 • Jimmy Dean Delights Pulled Pork Sandwich
- 16 • Jimmy Dean Delights Hickory Smoked Turkey Breast Sandwich
- 17 • Jimmy Dean Maple Pancake and Sausage Snack Size Sandwich
- 18 • Jimmy Dean Southern Style Chicken Biscuit Snack Size Sandwich
- 19 • Jimmy Dean Delights Applewood Smoke Chicken Sausage, Egg Whites & Cheese
- 20 Muffin Sandwich
- 21 • Jimmy Dean Delights Turkey Sausage, Egg White & Cheese English Muffin
- 22 • Jimmy Dean Delights Turkey Sausage, Egg White & Cheese Croissant
- 23 • Jimmy Dean Delights Egg White with Spinach & Mozzarella-Style Cheese Product
- 24 Honey Wheat Flatbread
- 25 • Jimmy Dean Delights Turkey Sausage, Egg White & Cheese Whole Grain Bagel
- 26 • Jimmy Dean Delights Cinnamon Glazed French Toast & Turkey Sausage Griddlers
- 27 • Jimmy Dean Delights Maple Pancakes & Turkey Sausage Griddlers
- 28

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

- Each of the following microwavable sandwiches distributed by the H.J. Heinz Company:
 - Weightwatchers Smart Ones Mini Cheeseburger
 - Weightwatchers Smart Ones English Muffin Sandwich Canadian Style Turkey Bacon
 - Weightwatchers Smart Ones English Muffin Sandwich Turkey Sausage
 - Weightwatchers Smart Ones Spicy Chicken Slider

- Each of the following microwavable sandwiches distributed by ConAgra Foods, Inc.:
 - Banquet Sausage & Pancake Minis

- Each of the following microwavable sandwiches distributed by AdvancePierre Foods, Inc.:
 - Drive Thru Jumbo Cheeseburger
 - Drive Thru Spicy Chicken Sandwich
 - Drive Thru Double Cheeseburger
 - Drive Thru Jalapeno Cheeseburger
 - Drive Thru BBQ Pork Rib Sandwich

- Each of the following microwavable sandwiches distributed by Golden County Foods, Inc.:
 - IHOP at Home Applewood Bacon, Egg and Cheese Flatbread Breakfast Sandwiches
 - IHOP at Home French Toast Breakfast Sandwiches

- The following microwavable sandwiches distributed by Amy’s Kitchen, Inc.:

- 1 • Breakfast Sandwich Veggie Sausage
- 2 • Each of the following microwavable sandwiches distributed by Kellogg Company.:
- 3 • Special K Ham, Egg & Pepper Jack Cheese Flatbread Breakfast Sandwich
- 4 • Special K Sausage, Egg & Cheese Flatbread Breakfast Sandwich

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