

**THE RICHMAN LAW GROUP**

Kim E. Richman  
krichman@richmanlawgroup.com  
81 Prospect Street  
Brooklyn, NY 11201  
Telephone: (212) 687-8291  
Facsimile: (212) 687-8292

*Additional Plaintiff's Counsel on Signature Page*

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

<p>YESENIA NUEZ, on behalf of herself and all others similarly situated,</p> <p style="text-align: center;">Plaintiff,</p> <p style="text-align: center;">v.</p> <p>GENERAL MILLS, INC.,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No.</p> <p><b>CLASS ACTION COMPLAINT</b></p> <p><u>DEMAND FOR JURY TRIAL</u></p>
--	--

Plaintiff Yesenia Nuez (“Plaintiff”), a resident of New York, individually and on behalf of others similarly situated, by and through her undersigned counsel, hereby files this Class Action Complaint for Equitable Relief and Damages, against Defendant, General Mills, Inc., (“General Mills” or “Defendant”), and alleges as follows:

1. Defendant aggressively advertises and promotes its Nature Valley products (as defined below) as “Made with 100% Natural Whole Grain Oats.” These claims are false, misleading, and deceptive. The products at issue are not made with “100% natural whole grain oats,” but instead oats containing the chemical glyphosate, a potent biocide, probable human carcinogen, and human endocrine disruptor, with detrimental health effects that are still becoming known.



2. Although the exact source of glyphosate in these oat products is known only to General Mills and its suppliers,<sup>1</sup> glyphosate most likely makes its way into the products when the oat crops are sprayed with the chemical in order to dry them out and produce an earlier, more uniform harvest—a practice with no health benefits, meant only to increase yield and, therefore, profit.

3. Plaintiff brings this deceptive advertising case on behalf of a class of consumers

---

<sup>1</sup> Based on initial testing and research, oats that have been treated with glyphosate are most likely the source of glyphosate in the Products. Further discovery will reveal the precise source of the glyphosate.

who purchased Nature Valley products in New York, and seeks relief including refunds to purchasers for the falsely advertised products and a court-ordered corrective advertising campaign to inform the public of the true nature of General Mills' glyphosate-contaminated products.

### **INTRODUCTION**

4. This is a proposed consumer protection class action against General Mills for injunctive relief and economic damages based on misrepresentations and omissions committed by General Mills regarding Nature Valley products, which General Mills falsely and deceptively labels and markets as "Made with 100% Natural Whole Grain Oats." In fact, the products contain glyphosate, a potent and *unnatural* biocide.

5. Specifically, the products at issue<sup>2</sup> include, but are not limited to:
- a. Crunchy granola bars (Oats 'n Honey, Peanut Butter, Maple Brown Sugar, Vanilla Almond Nut & Seed, Coconut, Pecan, and other varieties);
  - b. Trail Mix chewy granola bars (Fruit & Nut, Dark Chocolate & nut, and other varieties);
  - c. Sweet & Salty Nut granola bars (Peanut, Almond, and other varieties);
  - d. Breakfast Biscuits (Honey, Blueberry, Lemon Poppy Seed, and other varieties);
  - e. Biscuits (with Almond Butter, with Peanut Butter, and other varieties);
  - f. Oatmeal Squares (Blueberry, Peanut Butter, Cinnamon Brown Sugar, Banana Bread & Dark Chocolate, and other varieties);

---

<sup>2</sup> Discovery may demonstrate that additional General Mills products are within the scope of this Complaint.

- g. Oatmeal Bars (Peanut Butter, Cinnamon Brown Sugar, and other varieties); and
- h. Oatmeal Bistro Cups (Brown Sugar Pecan, Apple Cinnamon Almond, and other varieties) (collectively, “Nature Valley” or the “Products”).

6. Consumers are concerned about the potential health risks and environmental damage caused by artificial-chemical-laden foods, especially packaged foods. Thus consumers increasingly demand foods that are natural and whole, and that omit artificial chemicals.

7. General Mills knows that consumers seek out and wish to purchase whole, natural foods that do not contain artificial chemicals, and that consumers will pay more for foods that they believe to be natural than they will pay for foods that they do not believe to be natural.

8. To capture this growing market, General Mills labels the Products as “Made with 100% Natural Whole Grain Oats.”

9. No reasonable consumer, seeing these representations, would expect the Products or its oat ingredients to contain anything unnatural, and certainly not the synthetic biocide, glyphosate.

10. However, the Products, despite the labels, do contain something that is unnatural, namely, glyphosate.

11. Glyphosate is not “Natural.” Glyphosate is a synthetic biocide, probable human carcinogen, and a human endocrine disruptor, with additional health dangers becoming known.

12. Tests conducted by an independent laboratory using liquid chromatography mass spectrometry with a reporting limit of 0.02 parts per million (ppm), revealed the amount of glyphosate in the Nature Valley to be 0.45 ppm.

13. General Mills does not disclose the presence of glyphosate in the Products;

instead, it misrepresents that the Products are natural by falsely claiming that they are “Made with 100% Natural Whole Grain Oats.”

14. By deceiving consumers about the nature, quality, and/or ingredients of the Products, General Mills is able to sell a greater volume of the Products, to charge higher prices for the Products, and to take away market share from competing products, thereby increasing its own sales and profits.

15. Consumers lack the scientific knowledge necessary to determine whether the oats or other ingredients in the Products are in fact “100% Natural.” Moreover, at the point of purchase, reasonable consumers lack the ability to know or to ascertain the true ingredients and quality of the Products, or to assess the safety of ingesting glyphosate. Reasonable consumers must and do rely on General Mills to report honestly what the Products contain, and whether the ingredients are in fact “100% Natural.”

16. Across all Nature Valley products, General Mills conceals the presence of glyphosate, fails to disclose of the presence of glyphosate, and fails to disclose to consumers about the harmful effects of ingesting glyphosate.

17. Should any consumer seek further information, General Mills’ Nature Valley website declares that the Products are full of “whole grain goodness” and a “treat of quality whole grain,” and “premium restaurant quality oatmeal.” The website further promotes the health benefits of the Products, stating, for example, the Products “provide nutritious energy. *See* <http://www.naturevalley.com/category/product-categories/> at pages 1-8, last visited August 11, 2016.

18. General Mills intends for consumers to rely on its representations, and hundreds of thousands of reasonable consumers did in fact so rely. As a result of its false and misleading

labeling and omissions of fact, General Mills was able to sell the Products to hundreds of thousands of consumers throughout the United States and to realize sizeable profits.

19. General Mills' false and misleading representations and omissions of fact violate New York General Business Law §§ 349-50 and common law.

20. Plaintiff is not seeking damages for any personal injuries in this Complaint;<sup>3</sup> instead, this case is based on General Mills' misrepresentations and omissions regarding the Products purchased by Plaintiff and Class Members during the class period, defined below.

21. Plaintiff and numerous other Class Members who purchased the Products suffered economic damages in a similar manner because they purchased more of, or paid more for the Products than they would have had they known the Products were not natural or "Made with 100% Natural Whole Grain Oats" as labeled and marketed. When a product purports to include "100% Natural" ingredients, consumers not only are willing to pay more for the product, they expect it to be free of synthetic pesticides. Had Plaintiff and Class Members known at or before the time of purchase that the Products, in fact, contain glyphosate, a synthetic biocide with human health effects, they would not have purchased or used the Products, and they will not continue to use them unless and until remedial action is taken.

22. Plaintiff, and all other similarly situated consumers, did not bargain for products that contain unnatural chemicals or ingredients<sup>4</sup> in exchange for their payment of the purchase price. Plaintiff contends that the Products are not natural or "Made with 100% Natural Whole Grain Oats" as labeled and marketed, and as a result, such representations mislead consumers

---

<sup>3</sup> All potential claims for individual tort relief by Plaintiff and putative Class Members are preserved and outside the scope of the damages sought in this litigation.

<sup>4</sup> As glyphosate is added to oats during production, it is an ingredient in the final product.

into purchasing the Products.

23. The Products are sold pursuant to unlawful trade practices because they offend public policy and are immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers.

24. Accordingly, Plaintiff seeks relief equal to the aggregate retail purchase price paid by Plaintiff and Class Members during the Class Period, because the Products are worthless and useless due to General Mills' misrepresentations regarding the true nature, quality, and ingredients of the Products and its failure to disclose to consumers of the presence of glyphosate and the harmful effects of ingesting glyphosate.

25. Plaintiff brings this action to stop General Mills' deceptive and misleading practices.

### **JURISDICTION AND VENUE**

26. This Court has original subject-matter jurisdiction over this proposed class action pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act ("CAFA"). CAFA explicitly provides for the original jurisdiction of the federal courts in any class action in which at least 100 members are in the proposed plaintiff class, any member of the plaintiff class is a citizen of a State different from any defendant, and the matter in controversy exceeds the sum of \$5,000,000.00, exclusive of interest and costs. Plaintiff is a citizen of New York, and on information and belief, defendant General Mills is a citizen of Delaware and Minnesota. On information and belief, the amount in controversy exceeds \$5,000,000.00.

27. This Court has personal jurisdiction over the parties in this case. Plaintiff is a citizen of New York and resident of Staten Island, Richmond County, New York. General Mills purposefully avails itself of the laws of New York to market Nature Valley to consumers in New

York, and distributes Nature Valley to numerous retailers throughout New York.

28. Venue is proper in this District under 28 U.S.C. § 1391(b)(1). Substantial acts in furtherance of the alleged improper conduct, including the dissemination of false and misleading information regarding the nature, quality, and/or ingredients of the Products, occurred within this District.

### **PARTIES**

29. At all times mentioned herein, General Mills, Inc. was a Delaware corporation headquartered in Minneapolis, Minnesota, and a leading global manufacturer and marketer of branded consumer foods sold through retail stores. General Mills was, at all relevant times, engaged in commercial transactions throughout the State of New York, including this judicial District, including internet sales.

30. General Mills makes, markets, sells, and distributes food products under various trademarks, including Nature Valley. General Mills manufactures and/or causes the manufacture of oat-based food products, and markets and distributes the products in retail stores in New York and throughout the United States.

31. At all times mentioned herein, Plaintiff was and is an individual consumer over the age of 18, a citizen of the State of New York, and a resident of the County of Richmond. During the class period, Plaintiff has purchased boxes of Nature Valley (specifically, Nature Valley Crunchy Oats 'n Honey granola bars) on several occasions, often in bulk, from Costco and CVS stores in Staten Island, New York, as well as Amazon.com.

### **FACTUAL ALLEGATIONS**

32. In deciding to make these purchases, Plaintiff saw, relied upon, and reasonably

believed General Mills' representations that the Products are natural, healthful, and "Made with 100% Natural Whole Grain Oats."

33. When a product purports to be comprised of "100% Natural" ingredients consumers not only are willing to pay more for the product, they expect it to be free from artificial chemicals such as biocides.

34. Plaintiff was willing to pay more for the Products because she expected the Products to be free from artificial chemicals such as biocides.

35. Had Plaintiff known at the time that the Products contains the unnatural biocide glyphosate, she would not have purchased or continued to purchase the Products.

36. Had Plaintiff known of the presence of glyphosate in the Products, she would not have purchased or continued to purchase the Products.

37. If the Products were reformulated such that General Mills' representations were truthful, *i.e.*, such that the Products were "Made with 100% Natural Whole Grain Oats" and did not contain glyphosate, Plaintiff would consider purchasing the Products in the future.

**A. General Mills Cultivates a "Natural" Brand Image for Nature Valley**

38. American consumers increasingly and consciously seek out natural and healthful food products. Once a small niche market, healthful, natural foods are now sold by conventional retailers, and their sales continue to soar. The trend toward natural and healthful food products includes, for many consumers, a preference for whole grains over processed or otherwise refined grains.

39. Consumers value natural foods, including whole grains, for a myriad of health, environmental, and political reasons, including avoiding chemicals and additives, attaining

health and wellness, helping the environment, and financially supporting companies that share these values.

40. Hoping to capture this growing market, General Mills markets Nature Valley as a natural and healthful choice that is “Made with 100% Natural Whole Grain Oats.” General Mills does not disclose the presence of glyphosate in the Products.

41. A recent nationally representative Consumer Reports survey of 1,005 adults found that more than half of consumers usually seek out products with a “natural” food label, often in the false belief that they’re produced without genetically modified organisms, hormones, pesticides, or artificial ingredients. *See* Consumer Reports National Research Center, *Natural Food Labels Survey* (2015).<sup>5</sup>

42. General Mills cultivates an image of Nature Valley as a healthful, wholesome, impurity-free brand—the kind of company whose label claims can be trusted, stating on its website: “*Nature Valley* created the granola bar category in 1975. Much has changed in nearly four decades. One thing hasn’t. No matter how many new flavors we create, be assured that with *Nature Valley* you’re always getting *The Taste Nature Intended*.” *See* <http://www.generalmills.com/Brands/Snacks/nature-valley>, last visited August 11, 2016 (italics in original).

43. General Mills presents itself as a leader in the production of oats, touting their health benefits and environmentally friendly properties:

Oats are at the core of General Mills’ business.

---

<sup>5</sup> Available at [http://www.consumerreports.org/content/dam/cro/magazine-articles/2016/March/Consumer\\_Reports\\_Natural\\_Food\\_Labels\\_Survey\\_2015.pdf](http://www.consumerreports.org/content/dam/cro/magazine-articles/2016/March/Consumer_Reports_Natural_Food_Labels_Survey_2015.pdf), last visited August 19, 2016

Our company has brought the power of oats to consumers since 1941, when we introduced *Cheerioats*— the first ready-to-eat cereal made from oats.

We believe in the goodness of oats. They are nutrient-dense, affordable, naturally gluten-free and come in convenient forms.

Oats are unique in many ways:

- They have the highest concentrations of protein among common varieties of whole grains, more soluble fiber than most other whole grains, are a top source of the soluble fiber, beta-glucan, and contain unique antioxidants.
- Oats naturally taste good and, when roasted, develop a nutty oat flavor.
- Oats are a sustainable crop – oats are a hardy grain that require little water to grow.

See <http://www.generalmills.com/en/Health/well-being/whole-grain>, last visited August 11, 2016.

44. General Mills also promotes the health benefits of its products, explaining, “Eating grains, especially whole grains, provides health benefits. People who eat whole grains as part of a healthy diet have a reduced risk of some chronic diseases. Grains provide many

nutrients that are vital for the health and maintenance of our bodies.” *See*

<http://www.generalmills.com/en/Health/well-being/whole-grain>, last visited July 20, 2016.

45. Nowhere on its website does General Mills mention the presence of glyphosate in the Products.

46. Nowhere on its website does General Mills disclose the health risks of ingesting glyphosate.

47. Nowhere on its website does General Mills explain the environmental risks presented by glyphosate.

**B. General Mills Represents Nature Valley as “100% Natural” and “Healthy”**

48. General Mills prominently labels Nature Valley Crunchy Oats ‘n Honey granola bars as “Made with 100% Natural Whole Grain Oats.” These representations appear on the front label of the product.

49. Should any consumer seek additional information from the back of the label, General Mills lists the product’s main ingredient as “Whole Grain Oats.”

50. General Mills states, on the packaging of its Nature Valley Crunchy Oats ‘n Honey granola bars, “Nature Valley™ Crunchy bars start with the **best ingredients** from nature like 100% natural whole grain oats and honey.”

51. Should any consumer seek further information, General Mills’ Nature Valley website declares: “Nature Valley Crunchy bars start with the best ingredients from nature like 100% natural whole grain oats and honey.” *See* [www.naturevalley.com/crunchy/](http://www.naturevalley.com/crunchy/), last visited August 11, 2016.

52. The Nature Valley website states: “Our bars come straight from nature. Sun-dried raisins. Crunchy peanuts. Sweet cranberries. Wholesome almonds and oats. And an occasional dash of rich dark chocolate. Take them on the trail, put them in your pack, stock a drawer at work – no matter where you are, our bars keep you going for all of life’s adventures.” *See* [http://www.naturevalley.com/nature\\_valley\\_products/](http://www.naturevalley.com/nature_valley_products/), last visited August 11, 2016.

53. Regarding Nature Valley Biscuits, the website states: “Nature Valley Biscuits® combine a delicious crispy texture, and the goodness of 100% natural whole grain oats.” *See, e.g.,* [www.naturevalley.com/nv-products/blueberry-biscuits/](http://www.naturevalley.com/nv-products/blueberry-biscuits/), last visited August 11, 2016.

54. Regarding Nature Valley Oatmeal Bistro Cups, the website declares: “Made with 100% natural whole grain oats simply brew, stir and enjoy!” *See* [www.naturevalley.com/nv-products/brown-sugar-pecan-bistro-cups/](http://www.naturevalley.com/nv-products/brown-sugar-pecan-bistro-cups/), last visited August 11, 2016.

55. Regarding Nature Valley Oatmeal Squares, the website declares: “100% nature whole grain oats soft baked to perfection.” *See* <http://www.naturevalley.com/nv-products/cinnamon-brown-sugar-oatmeal-squares/>, last visited August 11, 2016.

56. Several retailer websites extol the purported health benefits of the Products: “It’s not only wholesome but also *healthy* and makes snack time a lot of fun.” *See* <http://www.annassupermarket.com/#!/product/prd1/2489707351/nature-valley-value-pack-24-bars>, last visited August 11, 2016; <https://www.diapers.com/p/nature-valley-crunchy-granola-bars-value-pack-oats-n-honey-0-74-oz-24-ct-210256>, last visited August 11, 2016; <https://www.amazon.com/Nature-Valley-Oats-Honey-Value/dp/B00MFC60K0>, last visited August 11, 2016 (emphasis added).

57. Upon information and belief, General Mills has profited enormously from its falsely marketed products and its carefully orchestrated label and image.

58. Representing that a product is “Natural,” “Made with 100% Natural Whole Grain Oats,” and “healthy” is a (false) statement of fact.

59. Failing to disclose that a product contains glyphosate is an omission of relevant and material fact.

60. Consumers reasonably believe that a product or ingredient represented as natural or 100% natural does not contain synthetic ingredients and that a product labeled “Made with 100% natural whole grain oats” does not contain synthetic chemicals in its oat ingredients.

61. Consumers reasonably believe that a product or ingredient represented as natural or 100% natural does not contain biocides and that a product labeled “Made with 100% natural whole grain oats” does not contain a biocide in its oat ingredients.

62. In 2014, the Consumer Report National Research Center conducted a nationally representative phone survey to assess consumer opinion regarding food labeling. *See* <http://www.greenerchoices.org/pdf/consumerreportsfoodlabelingsurveyjune2014.pdf>, last visited August 11, 2016.

63. Sixty-six percent of all respondents in the Consumer Reports survey said that a “natural” label on packaged and processed foods means that “no toxic pesticides were used.” *See id.*

64. Consumers reasonably believe that a product labeled “Made with 100% Natural Whole Grain Oats,” especially a product whose main ingredient is listed as “Whole Grain Oats,” does not contain unnatural, synthetic ingredients.

65. General Mills knows and intends that when consumers see the product advertisements or labels promising the product is “Natural,” “Made with 100% Natural Whole Grain Oats,” and “healthy” consumers will understand that to mean that, at the very least, the

oats or other ingredients in the product do not contain synthetic ingredients or harmful chemicals.

66. Consumers reasonably expect that if a product contains a harmful substance, the presence of that substance will be disclosed.

### **C. Glyphosate Is Neither Natural Nor Healthful**

67. General Mills' representations that the Products are "Natural" or "Made with 100% Natural Whole Grain Oats" are false. In fact, quantitative testing revealed that the Products contain glyphosate.

68. The Products thus are not "Natural" and they are not "Made with 100% Natural Whole Grain Oats," and labeling or advertising the Products as such is misleading and deceptive.

69. Because of the adverse health effects of glyphosate, which are becoming more widely known, the Products are not "healthy."

70. By not disclosing the presence of glyphosate, General Mills' representations of the Products are and were deceptive and misleading.

71. On information and belief, glyphosate is, by volume, the world's most widely produced herbicide.

72. In 2015, the International Agency for Research on Cancer (IARC), a research arm of the World Health Organization, declared glyphosate a category 2A "probable" human carcinogen. A summary of the study underlying this declaration was published in *The Lancet Oncology*, Vol. 16, No. 5 (May 2015).<sup>6</sup> The IARC study noted such carcinogenic risk factors as

---

<sup>6</sup> Available at <http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045%2815%2970134-8/abstract>, last visited July 20, 2016.

DNA damage to human cells resulting from exposure to glyphosate. *See id.* Glyphosate has been previously found to be a suspected human endocrine disruptor, with estrogenic effects even at extremely low concentrations.<sup>7</sup>

73. In November 2015, the European Food Safety Agency published conclusions suggesting that the combined use of glyphosate with other chemicals posed greater potential health risks than when glyphosate is used alone. In light of those conclusions, in April 2016, following a review of products containing glyphosate and tallowamine, France's health and safety agency announced its intention to ban weed-killers that combine the two chemicals.<sup>8</sup>

74. Glyphosate, as a biocide, functions by disrupting the shikimate pathway, a metabolic pathway for synthesis of essential amino acids in bacteria, fungus, and other organisms.<sup>9</sup> Although humans themselves do not have a shikimate pathway, the shikimate pathway is present in bacteria, including bacteria that inhabit the human gut and are essential to proper immune functioning. Glyphosate thus is suspected to disrupt human immune function as well.

75. Studies examining low doses of glyphosate-based herbicides at levels that are generally considered "safe" for humans show that these compounds can nevertheless cause liver

---

<sup>7</sup> See Thongprakaisang, S. *et al.*, "Glyphosate induces human breast cancer cells growth via estrogen receptors," 59 *Food & Chem. Toxicol.* 129 (June 2013), abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/23756170>, last visited July 20, 2016; see also, e.g., Gasnier, C. *et al.*, "Glyphosate-based herbicides are toxic and endocrine disruptors in human cell lines," 262(3) *Toxicology* 184 (Aug. 21, 2009), abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/19539684>, last visited July 20, 2016.

<sup>8</sup> See "France to Ban Some Glyphosate Weedkillers Amid Health Concerns," Reuters, Apr. 8, 2016, available at <http://www.reuters.com/article/us-france-glyphosate-idUSKCN0X512S>, last visited July 20, 2016.

<sup>9</sup> See, e.g., Heike, H. & N. Amrhein, "The Site of the Inhibition of the Shikimate Pathway by Glyphosate," *Plant Physiol.* 66:823 (1980), available at <http://www.plantphysiol.org/content/66/5/823.full.pdf>, last visited July 20, 2016; see also <http://www.glyphosate.eu/glyphosate-mechanism-action>, last visited July 20, 2016.

and kidney damage.<sup>10</sup>

76. Glyphosate is derived from the amino acid glycine. To create glyphosate, one of the hydrogen atoms in glycine is artificially replaced with a phosphonomethyl group.

77. Glyphosate is not natural.

78. Glyphosate is not present in whole grain oats that are 100% natural.

79. On information and belief, glyphosate is used to increase oat harvest for commercial purposes; is not necessary to successful planting, growing, or harvesting of oats; is not a “natural” method of growing or harvesting oats; is applied to oats as a drying agent shortly before harvest; and is applied for commercial purposes only.

80. The presence of glyphosate is material to reasonable consumers.

#### **D. Nature Valley’s Labels Are Misleading and Omit Material Facts**

81. General Mills’ conduct in representing or labeling the Products as natural and “Made with 100% Natural Whole Grain Oats” deceived and/or was likely to deceive the public. Consumers were deceived into believing that the listed ingredients were all the ingredients, and that the Products are natural, consisting of 100% natural oats, and that nothing in the oats was not natural. Instead, the oats or other ingredients in the Products contain glyphosate, an *unnatural* biocide, probable human carcinogen, and human endocrine disruptor, with a myriad of other

---

<sup>10</sup> Myers, J. et al, “Concerns over use of glyphosate-based herbicides and risks associated with exposures: a consensus statement,” *Environ. Health* 2016 15:19, available at <https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0>, last visited July 20, 2016. See also Benedetti A.L., “The effects of sub-chronic exposure of Wistar rats to the herbicide Glyphosate-Biocarb,” *Toxicol. Lett.* 2004 153(2):227–232, available at <http://www.ncbi.nlm.nih.gov/pubmed/15451553>, last visited July 20, 2016; Larsen K. et al, “Effects of Sublethal Exposure to a Glyphosate-Based Herbicide Formulation on Metabolic Activities of Different Xenobiotic-Metabolizing Enzymes in Rats,” *Int. J. Toxicol.* 2014, available at <http://www.ncbi.nlm.nih.gov/pubmed/24985121>, last visited July 20, 2016; Mesnage R. et al, “Transcriptome profile analysis reflects rat liver and kidney damage following chronic ultra-low dose Roundup exposure,” *Environ. Health* 2015 14:70, available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4549093/>, last visited July 20, 2016.

potential health effects.

82. Consumers cannot discover the true nature of the Products from reading the labels. Consumers cannot not discover the true nature of the Products even by visiting Nature Valley's website, which makes no mention of glyphosate. Discovery of the true nature of the ingredients requires knowledge of chemistry and access to laboratory testing that is not available to the average reasonable consumer. General Mills deceptively and misleadingly conceals material facts about the Products, namely, that the Products are not "Natural," "Made with 100% Natural Whole Grain Oats," and "healthy," because in fact the Products contain glyphosate; and the Products are not what a reasonable consumer would consider "Natural," "Made with 100% Natural Whole Grain Oats," and "healthy," because in fact they contain glyphosate.

83. Plaintiff and the Class Members are not at fault for failing to discover General Mills' wrongs earlier, and had no actual or presumptive knowledge of facts sufficient to put them on inquiry notice.

84. The production process General Mills uses for the Products is known only to General Mills and its suppliers. General Mills has not disclosed such information to Plaintiff or the Class Members. Quantitative testing reveals the presence of glyphosate in the Products, but only General Mills knows the methods by which its oats are grown, harvested, and processed, or what would account for the presence of glyphosate in Nature Valley. General Mills' concealment tolls the applicable statute of limitations.

85. To this day, General Mills continues to conceal and suppress the true nature, identity, source, and production method of the Products.

**E. General Mills Knew that Its Representations Were False**

86. General Mills holds itself out to the public as a trusted expert in the growing, harvesting, and processing of oats.

87. General Mills knew what representations it made on the labels of the Products. It also knew how the oats were grown, harvested, and processed, and that they contain glyphosate, an unnatural and dangerous biocide.

88. General Mills thus knew, or should have known, that the Products were mislabeled and falsely advertised, and that it is misleading to not disclose the presence of glyphosate.

**F. General Mills Intended for Consumers to Rely on Its Misrepresentations**

89. General Mills made the false, misleading, and deceptive representations and omissions intending for Plaintiff and the Class Members to rely upon these representations and omissions in purchasing the Products.

90. In making the false, misleading, and deceptive representations and omissions at issue, General Mills knew and intended that consumers would purchase the Products when consumers would otherwise purchase a competing product.

91. In its 2015 Annual Report, General Mills recognized consumers' desire for natural foods:

Consumers are increasingly interested in natural foods with simple ingredients and are limiting things like gluten, simple carbohydrates and artificial ingredients. They also are looking for more protein, fiber, whole grains and organic products. And they are snacking more than ever. In categories where we applied a "consumer first" approach and responded to these changes, we posted good growth. For example, retail sales for our grain snacks grew 4 percent, and we gained nearly two points of market share on the strength of our *Nature Valley* and *Fiber One* brands.

See General Mills 2015 Annual Report at 3, available at <http://bit.ly/2a9PEcS>, last visited August 11, 2016.

92. Expanding its portfolio of “natural” and “organic” brands is a cornerstone of General Mills’ business strategy:

U.S. industry sales for natural and organic foods have been growing at a double-digit pace over the past three years. And sales are projected to continue to grow at a double-digit rate. We’ve been building our capabilities for sourcing, manufacturing and marketing natural and organic brands for the past 15 years. With the acquisition of Annie’s, Inc. in October 2014, we’re now the fourth-largest natural and organic food manufacturer in the U.S. We have strong levels of innovation coming in 2016 across our brands, including new *Cascadian Farm* cereals, *Annie’s* soups and *Food Should Taste Good* snack bars. We see great opportunities to grow our brands by innovating, and by increasing their distribution in natural and organic stores and in traditional grocery outlets.

See *id.* at 6.

93. Consumers are willing to pay more for a product with ingredients that purport to be “100% Natural,” and they expect that product to be pesticide-free.

94. In making the false, misleading, and deceptive representations and omissions at issue, General Mills also knew and intended that consumers would pay more for products made of “Natural” or “100% Natural” ingredients that are free of unnatural agents than they would pay for products made of ingredients that are not “Natural” or “100% Natural,” furthering General Mills’ private interest of increasing sales of its products.

95. General Mills knows that consumers prefer “Natural” and “100% Natural” ingredients, and foods that do not contain dangerous or potentially dangerous chemicals. General Mills knows that consumers will pay more for “Natural” foods or foods with “100% Natural” ingredients or would not purchase the foods at all unless they were “Natural” or made with

“100% Natural” ingredients and free from unnatural and dangerous chemicals.

96. Similarly, independent surveys confirm that consumers will purchase more “Natural” products than conventional products, and will pay more for “Natural” products.

**G. Consumers Reasonably Relied on General Mills’ Misrepresentations**

97. Consumers frequently rely on label representations and information in making purchase decisions, especially in purchasing food.

98. When Plaintiff and the Class Members purchased the Products, they saw the false, misleading, and deceptive representations detailed above, and did not receive disclosure of the presence of glyphosate.

99. These misrepresentations and omissions were uniform and were communicated to Plaintiff and every other member of the Class at every point of purchase and consumption.

100. Plaintiff and the Class Members were among the intended recipients of General Mills’ deceptive representations and omissions.

101. Plaintiff and the Class Members reasonably relied to their detriment on General Mills’ misleading representations and omissions.

102. General Mills’ false, misleading, and deceptive misrepresentations and omissions deceived and misled, and are likely to continue to deceive and mislead, Plaintiff, the Class Members, reasonable consumers, and the general public.

103. General Mills’ misleading affirmative statements further obscured what it failed to disclose. Thus, reliance upon General Mills’ misleading and deceptive representations and omissions may be presumed.

104. General Mills made the deceptive representations and omissions with the intent to

induce Plaintiff and the Class Members to purchase the Products. Plaintiff's and the Class Members' reliance upon such representations and omissions may be presumed.

105. General Mills' deceptive representations and omissions are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions. Thus, Plaintiff's and the Class Members' reliance upon such representations and omissions may be presumed as a matter of law; the representations and omissions were material; and a nexus exists between General Mills' conduct, on the one hand, and Plaintiff's and the Class Members' decisions to purchase the Products at a certain price, on the other hand.

106. As an immediate, direct, and proximate result of General Mills' false, misleading, and deceptive representations and omissions, General Mills injured Plaintiff and the Class Members in that they:

- a. paid a sum of money for a Product that was falsely represented;
- b. paid a sum of money for a Product containing glyphosate, of which they received no disclosure;
- c. paid more for a Product that was falsely represented than they would have paid had the Product not been falsely represented;
- d. were deprived the benefit of the bargain because the Products they purchased were different from what General Mills warranted;
- e. were deprived the benefit of the bargain because the Products they purchased had less value than what was represented;
- f. did not receive a Product that measured up to their expectations as created by General Mills;

g. ingested (or caused their children to ingest) a substance that was other than what was represented;

h. ingested (or caused their children to ingest) a substance they did not expect or consent to;

i. ingested (or caused their children to ingest) a Product that included an unnatural substance;

j. without their knowing consent, ingested (or caused their children to ingest) an herbicide that is harmful to their health or their children's health;

k. without their knowing consent, ingested (or caused their children to ingest) a substance that is, contains, or is produced with a known or suspected toxin, carcinogen, or hazardous substance;

l. without their knowing consent, ingested (or caused their children to ingest) a substance that poses health or environmental risks;

m. without their knowing consent, ingested (or caused their children to ingest) a substance that is otherwise harmful to the environment and/or the farmers and other workers who utilize or process such substance;

n. ingested (or caused their children to ingest) a substance that was of a lower quality than what General Mills promised;

o. were denied the benefit of knowing what they ingested (or caused their children to ingest);

p. were caused unwittingly to support an industry that contributes to environmental, ecological, or health damage;

q. were denied the benefit of supporting an industry that sells natural products

and contributes to environmental sustainability; and/or

r. were denied the benefit of the beneficial properties of the “Natural” ingredients promised.

107. Had General Mills not made the false, misleading, and deceptive representations and omissions regarding the presence of glyphosate or dangers associated with glyphosate, Plaintiff and the Class Members would not have been injured as listed above. Accordingly, Plaintiff and the Class Members have suffered “injury in fact” as a result of General Mills’ wrongful conduct.

108. Plaintiff and the Class Members all paid money for the Products, but did not obtain the full value of the advertised products due to General Mills’ misrepresentations and omissions. Plaintiff and the Class Members purchased, purchased more of, or paid more for, the Products than they would have had they known the truth about the Products. Accordingly, Plaintiff and the Class Members have suffered “injury in fact” and lost money or property as a result of General Mills’ wrongful conduct.

**B. General Mills Benefited from Its Misleading Representations and Omissions**

109. As the intended, direct, and proximate result of General Mills’ false, misleading, and deceptive representations and omissions, General Mills has been unjustly enriched through more sales of the Products and higher profits at the expense of Plaintiff and the Class Members. As a direct and proximate result of its deception, General Mills also unfairly obtained other benefits, including the higher value associated with a “natural” brand, redirecting sales to it and away from its competitors, and increased sales of its other products.

110. Plaintiff, and all other similarly situated consumers, did not bargain for Products

that contain unnatural ingredients in exchange for their payment of the purchase price.

111. General Mills has profited by failing to disclose to consumers of the presence of glyphosate in the Products or of the health effects of consuming glyphosate.

112. Upon information and belief, General Mills has failed to remedy the problem with the Products, thus causing future harm to consumers. Plaintiff, Class Members, and future purchasers in the consuming public, are at risk of real, immediate, and continuing harm if the Products continue to be sold as is, and without disclosure of the presence of glyphosate and of the health effects of ingesting glyphosate.

113. Plaintiff would continue to purchase the Products again in the future if the Products were reformulated so that the label was truthful and the Products did not contain glyphosate.

114. General Mills has failed to provide adequate relief to Plaintiff or Class Members as of the date of filing this Complaint.

115. Plaintiff contends that the Products were sold pursuant to unfair and unconscionable trade practices because the sale of the Products offends public policy and is immoral, unethical, oppressive, unscrupulous, and caused substantial economic injuries to Plaintiff and Class Members.

116. Reasonable consumers do not expect the Products, represented and advertised as natural, “healthy,” and “Made with 100% Natural Whole Grain Oats,” to contain unnatural chemicals or ingredients such as glyphosate. Defendant’s statements and other representations convey a series of express and implied claims and/or omissions which Defendant knows are material to the reasonable consumer in making a purchasing decision, and which Defendant intended for consumers to rely upon when choosing to purchase the Products.

117. General Mills misrepresented the nature, quality, and/or ingredients of the Products, and/or failed to adequately disclose the health risks of ingesting the glyphosate contained in the Products, which was and is false, misleading, and/or likely to deceive reasonable consumers. Reasonable consumers expect the presence of such ingredients to be disclosed so that they can make informed purchasing decisions.

118. Therefore, the Products are valueless, and not worth the purchase price that Plaintiff and Class Members paid for them, and/or are not what Plaintiff and Class Members reasonably intended to receive.

119. Accordingly, Plaintiff seeks, individually and on behalf of all other similarly situated purchasers of the Products during the Class Period, injunctive relief, and actual economic damages equaling the aggregate purchase price paid for the Products by Plaintiff and Class Members during the Class Period.

120. Plaintiff also seeks declaratory relief in the form of an order declaring Defendant's conduct to be unlawful, as well as injunctive and equitable relief putting an end to Defendant's misleading and unfair business practices, including clear and full disclosure of the presence of glyphosate in the Products and of the health effects of ingesting glyphosate and/or a reformulation of the Products so that the Products no longer contain glyphosate.

#### **CLASS ALLEGATIONS**

121. Plaintiff re-alleges and incorporates by reference the allegations set forth in each of the preceding paragraphs of this Complaint.

122. This action is maintainable as a class action under Rules 23(b)(2) and (3) of the Federal Rules of Civil Procedure.

123. The class definition(s) may depend on the information obtained throughout

discovery. Notwithstanding, at this time, Plaintiff brings this action and seeks certification of the claims and certain issues in this action on behalf of a Class of individuals defined as:

All persons who purchased the Products (as defined herein) within the State of New York during the period within the applicable statute of limitations before the filing of this complaint until the date of class certification (the “Class Period”).

124. Excluded from the Class are: (1) Defendant, any entity or division in which Defendant has a controlling interest, and their legal representatives, officers, directors, assigns, and successors; and (2) the judge to whom this case is assigned and the judge’s staff.

125. Plaintiff brings the Class pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(1), 23(b)(2), and 23(b)(3).

126. Plaintiff reserves the right to amend the Class definitions if further information and discovery indicates that the Class definitions should be narrowed, expanded, or otherwise modified.

127. All members of the Class were and are similarly affected by the deceptive advertising of the Products, and the relief sought herein is for the benefit of Plaintiff and members of the Class.

**A. Numerosity**

128. Based on the annual sales of the Products and the popularity of the Products, it is readily apparent that the number of consumers in the Class is so large as to make joinder impracticable, if not impossible. Class Members may be notified of the pendency of this action by recognized, Court-approved notice dissemination methods, which may include U.S. Mail, electronic mail, Internet postings, and/or published notice.

**B. Commonality**

129. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect individual Class members include:

- a. Whether Defendant's practices and representations related to the marketing, labeling and sales of the Products were false, misleading, deceptive, unfair, and/or unlawful in any respect, thereby violating New York law;
- b. Whether Defendant failed to disclose to Plaintiff and Class Members of the presence of glyphosate in the Products and/or of the health effects of ingesting glyphosate in violation of New York law with its practices and representations related to the marketing, labeling, and sale of the Products;
- c. Whether Defendant breached an express warranty created through the labeling and marketing of its falsely labeled Products;
- d. Whether Defendant's conduct as set forth above economically injured Plaintiff and Class Members; and
- e. Whether Plaintiff and Class Members are entitled to injunctive relief.

**C. Typicality**

130. The claims asserted by Plaintiff in this action are typical of the claims of the Class Members, as the claims arise from the same course of conduct by Defendant, and the relief sought within the Class is common to the Class Members. Further, there are no defenses available to Defendant that are unique to Plaintiff.

**D. Adequacy**

131. Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff is an adequate representative of the Class because her interests do not conflict with the interests of the Class members she seeks to represent, and she has retained counsel competent and experienced in both consumer protection and class action litigation. Plaintiff and Plaintiff's counsel will fairly and adequately protect the interests of the members of the Class. Undersigned counsel has represented consumers in a wide variety of actions where they have sought to protect consumers from false and deceptive practices.

**E. Predominance and Superiority**

132. The prerequisites to maintaining a class action pursuant to Federal Rule of Civil Procedure 23(b)(3) are met because questions of law and fact common to each Class Member predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

133. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of the Class is not practicable, and questions of law and fact common to the Class predominate over any questions affecting only individual Class Members. Each Class Member has been damaged and is entitled to recovery as a result of the violations alleged herein.

134. Moreover, because the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation would make it difficult or impossible for individual Class Members to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class action

treatment will allow those persons similarly situated to litigate their claims in the manner that is most efficient and economical for the parties and the judicial system.

135. Plaintiff is unaware of any difficulties in managing this case that should preclude class action.

**F. Declaratory and Injunctive Relief**

136. Certification also is appropriate under Rule 23(b)(2) because Defendant acted, or refused to act, on grounds generally applicable to the Class, thereby making appropriate the injunctive relief sought on behalf of the Class. Further, given the large number of consumers of the Products, allowing individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications.

**CAUSES OF ACTION**

**COUNT I**

**(Violation of the New York General Business Law § 349: Mislabeling)**

**On Behalf of the Class**

137. The acts of General Mills, as described above, and each of them, constitute unfair or deceptive acts and practices.

138. General Mills has labeled and/ or represented the Products as natural and “Made with 100% Natural Whole Grain Oats,” has indicated that the products’ main ingredient is “Whole Grain Oats,” and has otherwise presented an image and marketing materials suggesting that the products contain 100% natural whole-grain oats, when in fact the oats or other ingredients in the Products contain glyphosate, an unnatural biocide.

139. General Mills has violated, and continues to violate, § 349 of the New York

General Business Law, which makes deceptive acts and practices unlawful. As a direct and proximate result of General Mills' violation of § 349, Plaintiff and Class Members have suffered damages in an amount to be determined at trial.

140. By reason of the foregoing, General Mills is liable to Plaintiff and Class Members for actual damages or fifty dollars (\$50) for each sale of the Products (whichever is greater), injunctive relief, attorneys' fees, and the costs of this suit.

141. Pursuant to New York General Business Law § 349, Plaintiff seeks an order of this Court that includes, but is not limited to, an order enjoining General Mills from continuing to engage in unfair or deceptive business practices or any other act prohibited by law.

142. Plaintiff and Class Members may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

143. The unfair and deceptive acts and practices of General Mills, as described above, present a serious threat to Plaintiff and Class Members.

144. THEREFORE, Plaintiff prays for relief as set forth below.

## **COUNT II**

### **(Violation of the New York General Business Law § 349: Material Omissions)**

#### **On Behalf of the Class**

145. The acts of General Mills, as described above, and each of them, constitute unfair or deceptive business acts and practices.

146. General Mills has indicated that the Products are "Made with 100% Natural Whole Grain Oats," has omitted the fact that the Products in fact contain glyphosate.

147. General Mills has violated, and continues to violate, § 349 of the New York

General Business Law, which makes deceptive acts and practices unlawful. As a direct and proximate result of General Mills' violation of § 349, Plaintiff and Class Members have suffered damages in an amount to be determined at trial.

148. Pursuant to New York General Business Law § 349, Plaintiff seeks an order of this Court that includes, but is not limited to, an order enjoining General Mills from continuing to engage in unfair or deceptive business practices or any other act prohibited by law.

149. Plaintiff and Class Members may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

150. The unfair and deceptive acts and practices of General Mills, as described above, present a serious threat to Plaintiff and Class Members.

151. THEREFORE, Plaintiff prays for relief as set forth below.

### **COUNT III**

#### **(Violation of the New York General Business Law § 350)**

##### **On Behalf of the Class**

152. The acts of General Mills, as described above, and each of them, constitute unfair or deceptive business acts and practices.

153. New York General Business Law § 350 provides: "False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful."

154. GBL § 350-a defines "false advertising," in relevant part, as "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any

combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations.”

155. Plaintiff and Class Members are consumers who purchased the Products in New York.

156. As sellers of goods to the consuming public, General Mills is engaged in the conduct of business, trade, or commerce within the intended ambit of GBL § 350.

157. General Mills’ representations made by statement, word, design, device, sound, or any combination thereof, and also the extent to which General Mills’ advertising fails to reveal material facts with respect to the Products, as described above, constitute false advertising in violation of the New York General Business Law.

158. General Mills’ false advertising was knowing and intentional.

159. General Mills’ actions led to direct, foreseeable, and proximate injury to Plaintiff and Class Members.

160. As a consequence of General Mills’ deceptive marketing scheme, Plaintiff and Class Members suffered an ascertainable loss, insofar as they would not have purchased the Products had the truth been known, or would have purchased the products on different terms, and as a result of General Mills’ conduct, they received a product of less value than what they paid for.

161. By reason of the foregoing, General Mills is liable to Plaintiff and Class Members for actual damages or five hundred dollars (\$500) for each sale of the Products (whichever is greater), injunctive relief, attorneys’ fees, and the costs of this suit.

162. Plaintiff and Class Members further seek to enjoin the false advertising described above.

163. Absent injunctive relief, General Mills will continue to deceptively market Nature Valley.

164. THEREFORE, Plaintiff prays for relief as set forth below.

**COUNT IV**

**(Based on Breach of Express Warranty)**

**On Behalf of the Class**

165. General Mills provided Plaintiff and Class Members with written express warranties including, but not limited to, warranties that Products were “Made with 100% Natural Whole Grain Oats.”

166. These affirmations of fact or promises by General Mills relate to the goods and became part of the basis of the bargain.

167. Plaintiff and Class Members purchased Nature Valley believing them to conform to the express warranties.

168. General Mills breached these warranties. This breach resulted in damages to Plaintiff and Class Members, who bought the Products but did not receive the goods as warranted.

169. Within a reasonable time after she knew or should have known of such breach, Plaintiff, on behalf of herself and the other members of the Class, placed General Mills on notice thereof.

170. As a proximate result of the breach of warranties by General Mills, Plaintiff and the Class Members did not receive goods as warranted. Plaintiff and the members of the Class therefore have been injured and have suffered damages in an amount to be proven at trial. Among other things, Plaintiff and Class Members did not receive the benefit of the bargain and

have suffered other injuries as detailed above. Moreover, had Plaintiff and Class Members known the true facts, they would not have purchased the Products, or would have purchased the Products on different terms.

171. THEREFORE, Plaintiff prays for relief as set forth below.

**COUNT V**

**(Unjust Enrichment)**

**On Behalf of the Class**

172. As a result of General Mills' false, misleading, and deceptive labeling, advertising, marketing, and sales of the Products, General Mills was enriched at the expense of Plaintiff and Class Members through the payment of the purchase price, or for the payment of a price higher than otherwise would have been paid, for the Products.

173. As a result of General Mills' omission of the presence of glyphosate, General Mills was enriched at the expense of Plaintiff and Class Members through the payment of the purchase price, or for the payment of a price higher than otherwise would have been paid, for the Products.

174. Under the circumstances, it would be against equity and good conscience to permit General Mills to retain the ill-gotten benefits that it received from Plaintiff and Class Members, in light of the fact that the Products purchased by Plaintiff and Class Members were not what General Mills purported them to be. Thus, it would be unjust or inequitable for General Mills to retain the benefit without restitution to Plaintiff and the other members of the Class for the monies paid to General Mills for the Products.

175. THEREFORE, Plaintiff prays for relief as set forth below.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff demands judgment on behalf of herself and the proposed Class providing such relief as follows:

A. Certification of the Class proposed herein under Federal Rule of Civil Procedure 23(a), (b)(1), (b)(2), and (b)(3); appointment of Plaintiff as representative of the Class; and appointment of her undersigned counsel as counsel for the Class;

B. A declaration that General Mills is financially responsible for notifying members of the Class of the pendency of this suit;

C. An order requiring an accounting for, and imposition of a constructive trust upon, all monies received by General Mills as a result of the unfair, misleading, and unlawful conduct alleged herein;

D. Restitution, disgorgement, refund, and/or other monetary damages, together with costs and disbursements, including reasonable attorneys' fees pursuant to the applicable statutes and prejudgment interest at the maximum rate allowable by law;

E. Injunctive relief and statutory or actual damages pursuant to New York General Business Law § 349, New York General Business Law § 350, and common law, enjoining General Mills' unlawful and deceptive acts;

F. Punitive damages in accordance with proof and in an amount consistent with applicable precedent; and

G. Such further relief as this Court may deem just and proper.

**JURY TRIAL DEMANDED**

Plaintiff hereby demands a trial by jury.

DATED: August 24, 2016

**THE RICHMAN LAW GROUP**



By: Kim E. Richman  
Email: [krichman@richmanlawgroup.com](mailto:krichman@richmanlawgroup.com)  
81 Prospect Street  
Brooklyn, New York 11201  
Telephone: (212) 687-8291  
Facsimile: (212) 687-8292

Beth E. Terrell  
Email: [bterrell@terrellmarshall.com](mailto:bterrell@terrellmarshall.com)  
Adrienne D. McEntee  
Email: [amcentee@terrellmarshall.com](mailto:amcentee@terrellmarshall.com)  
TERRELL MARSHALL LAW GROUP PLLC  
936 North 34th Street, Suite 300  
Seattle, Washington 98103  
Telephone: (206) 816-6603  
Facsimile: (206) 319-5450

Lori G. Feldman  
[lfeldman@zlk.com](mailto:lfeldman@zlk.com)  
Courtney E. Maccarone  
[cmaccarone@zlk.com](mailto:cmaccarone@zlk.com)  
LEVI & KORSINSKY LLP  
30 Broad Street, 24th Floor  
New York, New York 10004  
Telephone: (212) 363-7500  
Facsimile: (212) 363-7171

*Attorneys for Plaintiff and Proposed Class*