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17 *Attorneys for Plaintiff and Proposed Class and California Sub-Class*

18
19 **UNITED STATES DISTRICT COURT**
20 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
21
22 **SAN JOSE DIVISION**

23 ANDY WU, on behalf of himself and all others
24 similarly situated,

25 Plaintiff,

26 v.

27 POST FOODS, LLC and POST HOLDINGS,
28 INC.,

Defendants.

Case No.

**CLASS ACTION COMPLAINT
FOR EQUITABLE RELIEF AND
DAMAGES**

CLASS ACTION

JURY TRIAL DEMANDED

1 Plaintiff Andy Wu (“Plaintiff”), individually and on behalf of all others similarly situated,
2 by and through his undersigned counsel, hereby files this Class Action Complaint for Equitable
3 Relief and Damages against Defendants Post Holdings, Inc. and its wholly owned subsidiary,
4 Post Foods, LLC (collectively, “Post”) and alleges the following based upon information, belief,
5 and the investigation of his counsel:

6 1. Post aggressively advertises and promotes Post® Shredded Wheat products
7 (collectively, “Shredded Wheat”)¹ as “100% Natural Whole Grain Wheat” and a “Natural Source
8 of Fiber.” These claims are false, deceptive, and misleading. Shredded Wheat is not “100%
9 Natural,” but instead contains the artificial chemical glyphosate, a potent biocide that last year
10 was declared a probable human carcinogen by the cancer research arm of the World Health
11 Organization. Glyphosate makes its way into Shredded Wheat not simply because it is used as an
12 agricultural weed killer, but because it is sprayed on the wheat as a drying agent (to increase crop
13 yield and thereby to increase profit) shortly before harvest.

14 2. At this time, there is nothing unlawful about Shredded Wheat’s growing and
15 processing methods. What *is* unlawful, however, is Post’s claim that Shredded Wheat is
16 something that it is not — i.e., “100% Natural”— in order to capitalize on growing consumer
17 demand for healthful, natural products.

18 3. Plaintiff brings this deceptive advertising case on behalf of a class of consumers
19 who purchased Shredded Wheat in California, and seeks relief including refunds to purchasers
20 for the falsely advertised products and a court-ordered corrective advertising campaign to inform
21 the public of the true nature of Post’s glyphosate-contaminated wheat.

22 **INTRODUCTION**

23
24 4. This is a proposed Class Action Complaint against Post for injunctive relief and

25 ¹ The products at issue are Post Shredded Wheat Original Big Biscuit cereal, Post
26 Shredded Wheat Spoon Size Original cereal, and Post Shredded Wheat Spoon-Size Wheat ‘n
27 Bran cereal, (collectively, “Shredded Wheat”). Discovery may demonstrate that additional Post
28 products are within the scope of this Complaint.

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Bran cereal, (collectively, “Shredded Wheat”). Discovery may demonstrate that additional Post
products are within the scope of this Complaint.

1 economic damages based on misrepresentations and omissions committed by Post regarding
2 Shredded Wheat, which Post falsely and deceptively labels and markets as “100% Natural Whole
3 Grain Wheat” and a “Natural Source of Fiber.” *See* product labels attached as Exhibit 1.

4 5. In fact, Shredded Wheat contains glyphosate, a potent and *unnatural* biocide.

5 6. Aware of the health risks and environmental damage caused by chemical-laden
6 foods, especially packaged foods, consumers increasingly demand foods that are natural and
7 whole, and that omit chemicals.

8 7. Post knows that consumers seek out and wish to purchase whole, natural foods
9 that do not contain chemicals, and that consumers will pay more for foods that they believe to be
10 natural than they will pay for foods that they do not believe to be natural.

11 8. To capture this growing market, Post labels its Shredded Wheat products as
12 “100% Natural Whole Grain Wheat” and a “Natural Source of Fiber.”

13 9. The only ingredient listed on Post’s “100% Natural Whole Grain Wheat”
14 Shredded Wheat products is “Whole Grain Wheat.” *See* Ex. 1.

15 10. No reasonable consumer, seeing these representations, would expect Shredded
16 Wheat to contain anything unnatural, or anything other than whole-grain wheat.

17 11. Shredded Wheat, despite its labels, does contain something other than whole-grain
18 wheat, namely, glyphosate.

19 12. Glyphosate is not “Natural” or “100% Natural.” Glyphosate is a synthetic biocide
20 that the World Health Organization has named a probable human carcinogen, with additional
21 health dangers rapidly becoming known.

22 13. Glyphosate is “legal” in connection to food products, insofar as the law does not
23 preclude the use of glyphosate in treating and harvesting crops. Post, however, did not and does
24 not simply claim that its Shredded Wheat is “legal”; it claims that Shredded Wheat is “Natural”
25 and contains “100% Natural Whole Grain Wheat” and nothing else. *See* Exhibit 1.

26 14. By deceiving consumers about the nature, quality, and/or ingredients of its
27 Shredded Wheat, Post is able to sell a greater volume of Shredded Wheat, to charge higher prices

1 for Shredded Wheat, and to take away market share from competing products, thereby increasing
2 its own sales and profits.

3 15. Consumers lack the scientific knowledge necessary to determine whether
4 Shredded Wheat in fact contains only “100% Natural Whole Grain Wheat,” to know or to
5 ascertain the true ingredients and quality of Shredded Wheat, or to assess the safety of ingesting
6 glyphosate. Reasonable consumers must and do rely on Post to report honestly what Shredded
7 Wheat contains, and whether the ingredients are in fact “Natural.”

8 16. Across all Shredded Wheat products, Post conceals the presence of glyphosate,
9 fails to warn consumers of the presence of glyphosate, and fails to warn consumers about the
10 harmful effects of ingesting glyphosate.

11 17. Should any consumer seek further information, Post’s own website declares that
12 “eating Post Shredded Wheat cereal is a great way to boost your fiber intake without
13 compromising on variety.” [http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health)
14 [health](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health) (last visited May 12, 2016).

15 18. Post intended for consumers to rely on its representations, and hundreds of
16 thousands of reasonable consumers did in fact so rely. As a result of its false and misleading
17 labeling, failure to warn, and omissions of fact, Post was able to sell Shredded Wheat to hundreds
18 of thousands of consumers throughout the United States, including California, and to realize
19 sizeable profits.

20 19. When a product purports to be “100% Natural,” consumers are willing to pay
21 more for the product, and they also reasonably expect the product to be pesticide-free.

22 20. Post’s false and misleading representations, failure to warn, and omissions of fact
23 violate the California Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750-1785 (the
24 “CLRA”); the False Advertising Law, Cal. Bus. & Prof. Code § 17500 *et seq.* (the “FAL”); the
25 Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 *et seq.* (the “UCL”); and common law.

26 21. Plaintiff is not seeking damages for any personal injuries in this Complaint;
27 instead, this case is based on Post’s misrepresentations and omissions regarding the Shredded
28

1 Wheat products purchased by Plaintiff and Class Members during any applicable limitations
2 period.²

3 22. Accordingly, Plaintiff seeks relief equal to the aggregate retail purchase price paid
4 by Plaintiff and Class Members during any applicable limitations period, because the products
5 are worthless and useless due to Post's misrepresentations regarding the true nature, quality, and
6 ingredients of Shredded Wheat and its failure to warn consumers of the presence of glyphosate
7 and the harmful effects of ingesting glyphosate.

8 23. Plaintiff Wu brings this action to stop Post's deceptive and misleading practices.

9 **JURISDICTION AND VENUE**

10 24. This Court has original subject-matter jurisdiction over this proposed class action
11 pursuant to 28 U.S.C. § 1332(d), which under the provisions of the Class Action Fairness Act
12 explicitly provides for the original jurisdiction of the federal courts in any class action in which at
13 least 100 members are in the proposed plaintiff class, any member of the plaintiff class is a
14 citizen of a State different from any defendant, and the matter in controversy exceeds the sum of
15 \$5,000,000.00, exclusive of interest and costs. Plaintiff Wu is a citizen of California and on
16 information and belief, defendant Post is a citizen of Delaware and Missouri. On information and
17 belief, the amount in controversy exceeds \$5,000,000.00.

18 25. This Court has personal jurisdiction over the parties in this case. Plaintiff Wu is a
19 citizen of California and a resident of the City of San Jose, in the County of Santa Clara,
20 California. Post purposefully avails itself of the laws of California to market Shredded Wheat to
21 consumers nationwide, including consumers in California, and distributes Shredded Wheat to
22 numerous retailers throughout the United States, including California.

23 26. Venue is proper in this District under 28 U.S.C. § 1391(b)(2). Substantial acts in
24 furtherance of the alleged improper conduct, including the dissemination of false and misleading
25

26
27 ² All potential claims for individual tort relief by Plaintiff and Putative Class Members are preserved and outside the
28 scope of the relief sought in this litigation.

1 information regarding the nature, quality, and/or ingredients of Shredded Wheat, occurred within
2 this District.

3 **PARTIES**

4 27. At all times mentioned herein, Defendant Post Foods, LLC was and is a Delaware
5 corporation that maintains its principal place of business and headquarters in Parsippany, New
6 Jersey. Post Foods, LLC is a division of Post Holdings, Inc., a consumer packaged goods holding
7 company that is incorporated in Missouri and maintains its principal place of business and
8 headquarters in St. Louis, Missouri. Post was, at all relevant times, engaged in commercial
9 transactions, including internet sales, throughout the United States and the State of California,
10 including this judicial District.

11 28. Post manufactures and/or causes the manufacture of cereal products, and markets
12 and distributes the products in retail stores in California and throughout the United States.

13 29. At all times mentioned herein, Plaintiff Wu was and is an individual consumer
14 over the age of 18, a citizen of the State of California, and a resident of the County of Santa
15 Clara. From 2012 through 2014, Plaintiff Wu purchased Shredded Wheat at a Safeway store
16 located at 555 E. Calaveras Blvd., Milpitas, California 95035.

17 30. In deciding to make these purchases, Plaintiff Wu saw, relied upon, and
18 reasonably believed Post's representations that Shredded Wheat is natural and healthful, and
19 comprises only "100% Natural Whole Grain Wheat." These representations were a significant
20 reason for his purchases.

21 31. Plaintiff Wu was willing to pay more for Shredded Wheat because he expected it
22 to be pesticide-free.

23 32. Had Plaintiff Wu known at the time that Shredded Wheat contains the unnatural
24 biocide glyphosate, he would not have purchased or continued to purchase Shredded Wheat.

25 33. Had Plaintiff Wu been warned of the dangers of ingesting glyphosate, and of the
26 presence of glyphosate in the Shredded Wheat, he would not have purchased or continued to
27 purchase Shredded Wheat.

1 Post Holdings 2015 Annual Report at 25.

2 40. The back of Post's Shredded Wheat Original Big Biscuit label states that the
3 product contains "[a]n ingredient list that is so good, we have nothing to hide," and is "made with
4 nothing but goodness." The back of the Shredded Wheat Original Big Biscuit label restates the
5 front-of-label claim that the product comprises "100% Whole Grain Wheat," adding, "We make
6 it easy to understand what is in your food - it's just the natural goodness of whole grain wheat."
7 The back of the label also states, "Our flavor comes from 100% whole grain wheat, nothing
8 else," and enumerates various "health benefits" of the product's "whole grain wheat": "Heart
9 Health"; "Digestive Health"; and "Reduced Cancer Risk." *See* Ex. 1.

10 41. Post presents itself as an expert source of information on whole grains, touting
11 their nutritional and health benefits. Post's website directs consumers to "Get even more expert
12 nutrition and health information by browsing the topics below," which include "Fiber & Whole
13 Grains," "Diet & Exercise," and "Heart Health." [http://postfoods.com/our-brands/post-shredded-](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health)
14 [wheat/zero-in-on-health](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health) (last visited May 12, 2016).

15 42. Post also promotes the health benefits of its products, stating, "Making 100%
16 whole grain Post Shredded Wheat part of your regular diet, at breakfast or any other meal, is just
17 one way to choose a healthier lifestyle." [http://postfoods.com/our-brands/post-shredded-](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health)
18 [wheat/zero-in-on-health](http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health) (last visited May 12, 2016).

19 43. Post specifically promotes the heart health benefits of Shredded Wheat: "Post
20 Shredded Wheat cereals, made of 100% natural whole wheat, have always been a heart-healthy
21 choice. They're loaded with whole grains (at least 16g whole grains per serving) and dietary
22 fiber, are low in fat and saturated fat, have 0g trans-fat and are cholesterol-free."
23 <http://postfoods.com/our-brands/post-shredded-wheat/zero-in-on-health> (last visited May 12,
24 2016).

25 44. Post also states, on the front label of its Shredded Wheat Original Big Biscuit
26 product: "9 out of 10 doctors recommend Post Shredded Wheat to help reduce the risk of heart
27

1 disease.”

2 45. According to Post, Shredded Wheat “has always been a heart-healthy choice.” *Id.*
3 (last visited May 12, 2016).

4 46. Nowhere on its website does Post mention the presence of glyphosate in Shredded
5 Wheat.

6 47. Nowhere on its website does Post warn of the health risks of ingesting glyphosate.

7 48. Nowhere on its website does Post explain the environmental risks presented by
8 glyphosate.

9 **II. Shredded Wheat: Presented as “100% Natural”**

10 49. Post prominently labels its Shredded Wheat Original Big Biscuit product as
11 “100% Natural Whole Grain Wheat.” This representation appears on the front label of the
12 product. Should any consumer seek additional information from the side of the box, Post lists the
13 product’s ingredients as “whole grain wheat,” and *only* “whole grain wheat.”

14 50. Upon information and belief, Post has profited enormously from its fraudulently
15 marketed products and its carefully orchestrated label and image.

16 51. Representing that a product is “Natural,” “100% Natural,” or “100% Natural
17 Whole Grain Wheat” is a statement of fact.

18 52. Failing to disclose that a product contains glyphosate and failing to warn of the
19 dangers of ingesting glyphosate are omissions of relevant fact.

20 53. Consumers reasonably believe that a product labeled “Natural” or “100% Natural”
21 does not contain synthetic ingredients.

22 54. Consumers reasonably believe that a product labeled “Natural” or “100% Natural”
23 does not contain pesticides.

24 55. In 2014, the Consumer Reports® National Research Center conducted a nationally
25 representative phone survey to assess consumer opinion regarding food labeling. *See*
26 <http://www.greenerchoices.org/pdf/consumerreportsfoodlabelingsurveyjune2014.pdf> (last visited
27 May 12, 2016).

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

4 57. Consumers reasonably believe that a product labeled “100% Natural Whole Grain
5 Wheat,” especially a product whose only ingredient is listed as “whole grain wheat,” does not
6 contain anything other than natural wheat.

7 58. Post knows and intends that when consumers see the product labels promising the
8 product is “Natural,” “100% Natural,” or “100% Natural Whole Grain Wheat,” consumers will
9 understand that to mean that, at the very least, the product does not contain synthetic ingredients
10 or harmful chemicals.

11 59. Consumers reasonably expect that if a product contains a harmful substance, the
12 presence of that substance will be disclosed, and they will be warned of the dangers associated
13 with the substance.

14 **III. Glyphosate: The Unnatural Hidden Substance**

15 60. Post’s representations that Shredded Wheat is “Natural,” “100% Natural,” or
16 “100% Natural Whole Grain Wheat” are false. In fact, testing reveals that Shredded Wheat
17 contains glyphosate.

18 61. Shredded Wheat thus is not “Natural” or “100% Natural,” and does not contain
19 only “100% Natural Whole Grain Wheat,” and labeling it as such is misleading and deceptive.

20 62. Because glyphosate is a probable human carcinogen, Shredded Wheat is not
21 healthful. Moreover, the presence of glyphosate in Shredded Wheat reduces the level of beta
22 glucan, a soluble fiber linked to improvements in cholesterol levels and cardiovascular health.
23 Under U.S. Food and Drug Administration regulations, the permissibility of a manufacturer’s
24 “heart healthy” claims depends, in part, on the level of soluble fibers such as beta glucan in a
25 product.³

26 _____
27 ³ *See* <http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm0>
28

1 63. Post has a duty to disclose the presence of glyphosate and to warn of the dangers
2 associated with glyphosate.

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

5 65. Glyphosate was invented by the agrochemical and agricultural biotechnology
6 corporation Monsanto, which began marketing the herbicide in 1974 under the trade name
7 Roundup, after DDT was banned.⁴

8 66. By the late 1990s, use of Roundup had surged as a result of Monsanto's strategy
9 of genetically engineering seeds to grow food crops that could tolerate high doses of the
10 herbicide. The introduction of these genetically engineered seeds enabled farmers more easily to
11 control weeds on their crops.⁵

12 67. Monsanto also encouraged farmers to use Roundup as a desiccant to dry out their
13 crops in order to harvest them faster. Today, glyphosate is routinely sprayed directly on a host of
14 non-genetically modified crops, including wheat.⁶ On information and belief, this use of
15 glyphosate is not for any health or environmental purpose, and stems solely from a desire to
16 increase profit margins through higher crop yield.

17 68. In 2015, the International Agency for Research on Cancer (IARC), a research arm
18 of the World Health Organization, declared glyphosate a category 2A "probable" human
19 carcinogen. A summary of the study underlying this declaration was published in *The Lancet*
20 *Oncology*, Vol. 16, No. 5 (May 2015).⁷ The IARC study noted such carcinogenic risk factors as

21 _____
22 64919.htm (last visited May 12, 2016).

23 ⁴ See <https://www.organicconsumers.org/news/monsantos-roundup-enough-make-you-sick> (last visited
24 May 19, 2016).

25 ⁵ See *Id.*

26 ⁶ See *Id.*

27 ⁷ Available at <http://www.thelancet.com/journals/lanonc/article/PIIS1470-2045%2815%2970134-8/abstract>
28 (last visited May 12, 2016).

1 DNA damage to human cells resulting from exposure to glyphosate. Glyphosate has been
2 previously found to be a suspected human endocrine disruptor, with estrogenic effects even at
3 extremely low concentrations.⁸

4 69. In November 2015, the European Food Safety Agency published conclusions
5 suggesting that the combined use of glyphosate with other chemicals posed greater potential
6 health risks than when glyphosate is used alone. In light of those conclusions, in April 2016,
7 following a review of products containing glyphosate and tallowamine, France's health and
8 safety agency announced its intention to ban weed-killers that combine the two chemicals.⁹

9 70. Glyphosate, as a biocide, functions by disrupting the shikimate pathway, the
10 metabolic mechanism by which aromatic amino acids are synthesized.¹⁰ Humans do not have a
11 shikimate pathway. The shikimate pathway is present, however, in bacteria, *including* bacteria
12 that inhabit the human gut and are essential to proper immune functioning. Glyphosate thus is
13 suspected to disrupt human immune function as well.

14 71. Studies examining low doses of glyphosate-based herbicides at levels that are
15 generally considered "safe" for humans show that these compounds can nevertheless cause liver
16 and kidney damage.¹¹

18 ⁸ See Thongprakaisang, S. *et al.*, "Glyphosate induces human breast cancer cells growth via estrogen
19 receptors," 59 *Food & Chem. Toxicol.* 129 (June 2013), abstract available at
20 <http://www.ncbi.nlm.nih.gov/pubmed/23756170> (last visited May 12, 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 21, 2009), abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/19539684> (last visited May 12, 2016).

22 ⁹ See "France to Ban Some Glyphosate Weedkillers Amid Health Concerns," Reuters, Apr. 8, 2016,
23 available at <http://www.reuters.com/article/us-france-glyphosate-idUSKCN0X512S> (last visited May 19, 2016).

24 ¹⁰ See, e.g., Heike, H. & N. Amrhein, "The Site of the Inhibition of the Shikimate Pathway by Glyphosate,"
25 *Plant Physiol.* 66:823 (1980), available at <http://www.plantphysiol.org/content/66/5/823.full.pdf> (last visited May
26 12, 2016); see also <http://www.glyphosate.eu/glyphosate-mechanism-action> (last visited May 12, 2016).

27 ¹¹ Myers, J. *et al.*, "Concerns over use of glyphosate-based herbicides and risks associated with exposures: a
28 consensus statement."; 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 May 12, 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 May 12, 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

1 Shredded Wheat is not what a reasonable consumer would consider “Natural” or “100% Natural
2 Whole Grain Wheat,” because in fact it contains glyphosate.

3 80. Post fails to warn consumers of the dangers of consuming glyphosate.

4 81. Plaintiff and the members of the Class are not at fault for failing to discover Post’s
5 wrongs earlier, and had no actual or presumptive knowledge of facts sufficient to put them on
6 inquiry notice.

7 82. The production process Post uses for Shredded Wheat is known only to Post and
8 its suppliers. Post has not disclosed such information to Plaintiff or the Class members.
9 Quantitative testing reveals the presence of glyphosate in Shredded Wheat, but only Post knows
10 the methods by which its wheat is grown, harvested, and processed, or what would account for
11 the presence of glyphosate in Shredded Wheat. Post’s concealment tolls the applicable statute of
12 limitations.

13 83. To this day, Post continues to conceal and suppress the true nature, identity,
14 source, and method of production of Shredded Wheat.

15 **V. Post’s Knowledge That Its Representations Were False**

16 84. Post holds itself out to the public as a trusted expert in the growing, harvesting,
17 and processing of wheat.

18 85. Post knew what representations it made on the labels of Shredded Wheat. It also
19 knew how the wheat was grown, harvested, and processed, and that it was likely to contain
20 glyphosate, an unnatural and dangerous herbicide.

21 86. Post thus knew all the facts demonstrating that Shredded Wheat was mislabeled
22 and falsely advertised, and that it had a duty to disclose the presence of glyphosate and to warn
23 consumers about the dangers associated with glyphosate.

24 **VI. Post’s Intention for Consumers to Rely on Its Misrepresentations**

25 87. Post made the false, deceptive, and misleading representations and omissions
26 intending for Plaintiff and the Class members to rely upon these representations and omissions in
27 purchasing Shredded Wheat.

1 88. In making the false, misleading, and deceptive representations and omissions at
2 issue, Post knew and intended that consumers would purchase the Shredded Wheat when
3 consumers would otherwise purchase a competing product.

4 89. Consumers are willing to pay more for a product that purports to be “100%
5 Natural,” and they expect that product to be pesticide-free.

6 90. In making the false, misleading, and deceptive representations and omissions at
7 issue, Post also knew and intended that consumers would pay more for “Natural” or “100%
8 Natural” wheat that is free of unnatural agents than they would pay for wheat that is not
9 “Natural” or “100% Natural,” furthering Post’s private interest of increasing sales of its products
10 and decreasing the sales of the all-natural and/or glyphosate-free products that are truthfully
11 marketed by its competitors.

12 91. Post knows that consumers prefer “Natural” and “100% Natural” foods, and foods
13 that do not contain dangerous or potentially dangerous chemicals. Post knows that consumers
14 will pay more for “Natural” or “100% Natural” foods, or would not purchase the foods at all
15 unless they were “Natural” and/or “100% Natural” and/or free from unnatural and potentially
16 dangerous chemicals.

17 92. Independent surveys confirm that consumers will purchase more “Natural”
18 products than conventional products, and will pay more for “Natural” products.

19 **VII. Consumers’ Reasonable Reliance on Post’s Misrepresentations**

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

22 94. When Plaintiff Wu and the Class members purchased Shredded Wheat, they saw
23 the false, misleading, and deceptive representations detailed above, and did not receive disclosure
24 of the presence of glyphosate or any warning of the dangers associated with glyphosate, as
25 detailed above.

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

- 1 c. paid more for a product that was falsely represented than they would have paid
- 2 had the product not been falsely represented;
- 3 d. were deprived the benefit of the bargain because the Shredded Wheat they
- 4 purchased was different from what Post warranted;
- 5 e. were deprived the benefit of the bargain because the Shredded Wheat they
- 6 purchased had less value than what was represented;
- 7 f. did not receive a product that measured up to their expectations as created by Post;
- 8 g. ingested (and/or caused their children to ingest) a substance that was other than
- 9 what was represented;
- 10 h. ingested (and/or caused their children to ingest) a substance they did not expect or
- 11 consent to;
- 12 i. ingested (and/or caused their children to ingest) a product that included an
- 13 unnatural substance;
- 14 j. without their knowing consent, ingested (and/or caused their children to ingest) a
- 15 biocide that is harmful to their health and/or their children's health;
- 16 k. without their knowing consent, ingested (and/or caused their children to ingest) a
- 17 substance that is, contains, or is produced with a known or suspected toxin,
- 18 carcinogen, or hazardous substance;
- 19 l. without their knowing consent, ingested (and/or caused their children to ingest) a
- 20 substance that poses health or environmental risks;
- 21 m. without their knowing consent, ingested (and/or caused their children to ingest) a
- 22 substance that is otherwise harmful to the environment and/or the farmers and
- 23 other workers who utilize or process such substance;
- 24 n. ingested (and/or caused their children to ingest) a substance that was of a lower
- 25 quality than what Post promised;
- 26 o. were denied the benefit of knowing what they ingested (and/or caused their
- 27 children to ingest);

- 1 p. were caused unwittingly to support an industry that contributes to environmental,
2 ecological, and health damage;
- 3 q. were denied the benefit of supporting an industry that sells natural products and
4 contributes to environmental sustainability; and/or
- 5 r. Were denied the benefit of the beneficial properties of the “Natural” products
6 promised.

7 103. Had Post not made the false, misleading, and deceptive representations and
8 omissions, and had Post not failed to warn of the presence of glyphosate and dangers associated
9 with glyphosate, Plaintiff Wu and the Class members would not have been injured as listed
10 above. Accordingly, Plaintiff Wu and the Class members have suffered “injury in fact” as a result
11 of Post’s wrongful conduct.

12 104. Plaintiff Wu and the Class members all paid money for Shredded Wheat, but did
13 not obtain the full value of the advertised products due to Post’s misrepresentations and
14 omissions. Plaintiff Wu and the Class members purchased, purchased more of, or paid more for,
15 Shredded Wheat than they would have had they known the truth about Shredded Wheat.
16 Accordingly, Plaintiff Wu and the Class members have suffered “injury in fact” and lost money
17 or property as a result of Post’s wrongful conduct.

18 **IX. Post’s Benefit from Its Misleading Representations and Omissions**

19 105. Post labels and advertises its Shredded Wheat products in large, bold font as
20 “100% Natural Whole Grain Wheat” and has profited handsomely as a result.

21 106. For the fiscal year ending September 30, 2015, Post reported net sales of
22 \$1,260,800,000 and profits of \$205,500,000 in its Post Consumer Brands segment, which
23 includes branded ready-to-eat cereal products such as Shredded Wheat.

24 107. As the intended, direct, and proximate result of Post’s false, misleading, and
25 deceptive representations and omissions, Post has been unjustly enriched through more sales of
26 Shredded Wheat and higher profits at the expense of Plaintiff Wu and the Class members. As a
27 direct and proximate result of its deception, Post also unfairly obtained other benefits, including

1 the higher value associated with a “natural” brand, redirecting sales to it and away from its
2 competitors, and increased sales of its other products.

3 108. Plaintiff, and all other similarly situated consumers, did not bargain for Products
4 that contain unnatural ingredients in exchange for their payment of the purchase price.

5 109. Post has profited by failing to warn consumers of the presence of glyphosate in
6 Shredded Wheat and of the health effects of consuming glyphosate.

7 110. Upon information and belief, Post has failed to remedy the problem with Shredded
8 Wheat, thus causing future harm to consumers. Plaintiff, Class Members, and future purchasers
9 in the consuming public are at risk of real, immediate, and continuing harm if Shredded Wheat
10 continues to be sold as is, and without adequate warning of the presence of glyphosate and of the
11 health effects of ingesting glyphosate.

12 111. Plaintiff would continue to purchase Shredded Wheat again in the future if it were
13 reformulated so that the label representations were truthful.

14 112. Post has failed to provide adequate relief to Plaintiff or Class Members as of the
15 date of filing this Complaint.

16 113. Plaintiff contends that Shredded Wheat was sold pursuant to unfair and
17 unconscionable trade practices because the sale of Shredded Wheat offends public policy and is
18 immoral, unethical, oppressive, unscrupulous, and caused substantial economic injuries to
19 Plaintiff and Class Members.

20 114. Reasonable consumers do not expect products advertised as “Natural,” “100%
21 Natural,” and “100% Natural Whole Grain Wheat” to contain unnatural ingredients such as
22 glyphosate. Post’s statements and other representations convey a series of express and implied
23 claims and/or omissions which Post knows are material to the reasonable consumer in making a
24 purchasing decision, and which Post intended for consumers to rely upon when choosing to
25 purchase Shredded Wheat.

26 115. Post misrepresented the nature, quality, and/or ingredients of Shredded Wheat,
27 and/or failed to adequately disclose the health risks of ingesting the glyphosate contained in
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1 Shredded Wheat, which was and is false, misleading, and/or likely to deceive reasonable
2 consumers. Reasonable consumers expect the presence of such ingredients to be disclosed so that
3 they can make informed purchasing decisions.

4 116. Therefore, Shredded Wheat is valueless, and not worth the purchase price that
5 Plaintiff and Class Members paid for it, and/or is not what Plaintiff and Class Members
6 reasonably intended to receive.

7 117. Accordingly, Plaintiff seeks, individually and on behalf of similarly situated
8 purchasers of Shredded Wheat, injunctive relief, and actual economic damages equaling the
9 aggregate purchase price paid for Shredded Wheat by Plaintiff and Class Members during the
10 applicable limitations period.

11 118. Plaintiff also seeks declaratory relief in the form of an order declaring Post's
12 conduct to be unlawful, as well as injunctive and equitable relief putting an end to Post's
13 misleading and unfair business practices, including clear and full disclosure of the presence of
14 glyphosate in Shredded Wheat and of the health effects of ingesting glyphosate and/or a
15 reformulation of Shredded Wheat so that it no longer contains glyphosate.

16 **CLASS ALLEGATIONS**

17
18 119. Plaintiff Wu re-alleges and incorporates by reference the allegations set forth in
19 each of the preceding paragraphs of this Complaint.

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

22 121. The class definition(s) may depend on the information obtained throughout
23 discovery. Notwithstanding, at this time, Plaintiff Wu brings this action and seeks certification of
24 the claims and certain issues in this action on behalf of himself and all other similarly situated
25 individuals (the "Class"), defined as follows:

26 All persons who purchased Shredded Wheat (as defined herein) from a retail
27 location within the United States from the beginning of any applicable limitations
28 period through the date of class certification (the "National Class Period").

1 **II. Predominance of Common Questions of Law and Fact**

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

- 6 (a) Whether Post's practices and representations related to the marketing, labeling and
7 sales of Shredded Wheat were unfair, deceptive, fraudulent, and/or unlawful in
8 any respect, thereby violating California law;
- 9 (b) whether Post had a duty to disclose the presence of glyphosate in Shredded
10 Wheat;
- 11 (c) whether Post had a duty to warn about the dangers associated with glyphosate;
- 12 (d) Whether Post failed to warn Plaintiff and Class and California Sub-Class
13 Members of the presence of glyphosate in Shredded Wheat and/or of the health
14 effects of ingesting glyphosate in violation of California law with its practices and
15 representations related to the marketing, labeling, and sale of Shredded Wheat;
- 16 (e) whether Post breached a warranty created through the labeling and marketing of
17 Shredded Wheat;
- 18 (f) Whether Post's conduct as set forth above economically injured Plaintiff and
19 Class and California Sub-Class Members; and
- 20 (g) Whether Plaintiff and Class and California Sub-Class Members are entitled to
21 injunctive relief.

22 **III. Typicality**

23 129. Plaintiff Wu's claims are typical of those of the Class and California Sub-Class, as
24 the claims arise from the same course of conduct by Post, and the relief sought within the Class
25 and Sub-Class is common to the Class and Sub-Class members. Plaintiff, like all members of the
26 Class and California Sub-Class, relied on Post's false and misleading representations and
27 purchased Shredded Wheat, or paid more for Shredded Wheat than Plaintiff would have paid if
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1 the products had been properly labeled and sustained injury from Post's wrongful conduct.
2 Further, there are no defenses available to Post that are unique to Plaintiff.

3 **IV. Adequacy**

4 130. Plaintiff Wu will fairly and adequately protect the interests of the Class and
5 California Sub-Class. Plaintiff is an adequate representative of the Class and California Sub-
6 Class because his interests do not conflict with the interests of the Class and California Sub-Class
7 members he seeks to represent, and he has retained counsel competent and experienced in both
8 consumer protection and class action litigation. Plaintiff and Plaintiff's counsel will fairly and
9 adequately protect the interests of the members of the Class and California Sub-Class.
10 Undersigned counsel has represented consumers in a wide variety of actions where they have
11 sought to protect consumers from fraudulent and deceptive practices.

12 **V. Predominance and Superiority of Class Action**

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

17 132. Individual joinder of the Class and California Sub-Class Members is not
18 practicable, and questions of law and fact common to the Class and California Sub-Class
19 predominate over any questions affecting only individual Class and California Sub-Class
20 Members. Each Class and California Sub-Class Member has been damaged and is entitled to
21 recovery as a result of the violations alleged herein.

22 133. Moreover, because the damages suffered by individual members of the may be
23 relatively small, the expense and burden of individual litigation would make it difficult or
24 impossible for individual Class and California Sub-Class Members to redress the wrongs done to
25 them, while an important public interest will be served by addressing the matter as a class action.
26 Class action treatment will allow those persons similarly situated to litigate their claims in the
27 manner that is most efficient and economical for the parties and the judicial system.

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

3 **VI. Declaratory and Injunctive Relief**

4 Certification also is appropriate under Rule 23(b)(2) because Post acted, or refused to act,
5 on grounds generally applicable to the Class and California Sub-Class, thereby making
6 appropriate the injunctive relief sought on behalf of the Class. Further, given the large number of
7 consumers of Shredded Wheat, allowing individual actions to proceed in lieu of a class action
8 would run the risk of yielding inconsistent and conflicting adjudications.

9
10 **CAUSES OF ACTION**

11 **COUNT I**

12 **(Unfair and Deceptive Acts and Practices)**
13 **On Behalf of the Sub-Class**

14 135. Plaintiff re-alleges and incorporates by reference the allegations set forth in the
15 preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

16 136. This cause of action is brought pursuant to California's Consumers Legal
17 Remedies Act, Cal. Civ. Code §§ 1750-1785 (the "CLRA").

18 137. Plaintiff and the Class and California Sub-Class Members are "consumers," as the
19 term is defined by California Civil Code § 1761(d), because they bought the falsely labeled
20 Products for personal, family, or household purposes. Post is a "person" under Cal. Civ. Code §
21 1761(c).

22 138. The Products are "goods" under Cal. Civ. Code § 1761(a).

23 139. Plaintiff, Class Members, California Sub-Class Members, and Post have engaged
24 in "transactions," as that term is defined by California Civil Code §1761(e).

25 140. The conduct alleged in this Complaint constitutes unfair methods of competition
26 and unfair and deceptive acts and practices for the purposes of the CLRA, and the conduct was
27 undertaken by Post in transactions intended to result in, and which did result in, the sale of goods

1 to consumers.

2 141. Post's false and fraudulent representations and omissions have violated, and
3 continue to violate the CLRA because they extend to transactions that are intended to result, or
4 have resulted, in the sale of goods to consumers, including Plaintiff and Class and California
5 Sub-Class Members. Specifically, Post has misrepresented the true nature, quality, and
6 ingredients of Shredded Wheat and failed to adequately warn of and disclose the presence of
7 glyphosate in Shredded Wheat and/or the health effects of ingesting glyphosate, thereby
8 disseminating representations or omissions that are false, deceptive, and likely to mislead a
9 reasonable consumer, such as Plaintiff and Class and California Sub-Class Members.

10 142. Post misrepresented and/or omitted facts about the presence of glyphosate in
11 Shredded Wheat and the health effects of ingesting glyphosate, which were and are material to
12 Plaintiff's and Class and California Sub-Class Members' decisions to purchase Shredded Wheat.

13 143. Post's conduct violates Cal. Civ. Code § 1770(a)(5), which prohibits
14 "[r]epresenting that goods . . . have . . . characteristics [or] benefits . . . which they do not have,"
15 and Cal. Civ. Code § 1770(a)(7), which prohibits: "[r]epresenting that goods . . . are of a
16 particular standard, quality, or grade . . . if they are of another," causing injury to Plaintiff and
17 Class and California Sub-Class Members.

18 144. As a result of engaging in such conduct, Post has violated California Civil Code §
19 1770(a)(5), (a)(7), and (a)(9).

20 145. Plaintiff served Post with notice of its CLRA violations by certified mail, return
21 receipt requested, on June 22, 2016. After the requisite thirty days, if Post has still failed to
22 provide relief for its CLRA violations, Plaintiff will amend to seek damages.

23 146. Plaintiff and Class and California Sub-Class Members seek preliminary injunctive
24 relief, and permanent injunctive relief against Post's unfair and deceptive acts and conduct.

25 147. Pursuant to California Civil Code § 1780(a)(2) and (a)(5), Plaintiff seeks an order
26 of this Court that includes, but is not limited to, an order enjoining Post from continuing to
27 engage in unlawful, unfair, or fraudulent business practices or any other act prohibited by law.

1 Members. Post knew, or in the exercise of reasonable care should have known, that these
2 representations were misleading and deceptive.

3 157. Consumers, including Plaintiff and Class and California Sub-Class Members,
4 necessarily and reasonably relied on these materials concerning Post's Shredded Wheat.
5 Consumers, including Plaintiff and the Class and California Sub-Class members, were among the
6 intended targets of such representations.

7 158. The above acts of Post did and were likely to deceive reasonable consumers,
8 including Plaintiff and the other members of the Class and California Sub-Class, by obfuscating
9 the nature, quality, and/or ingredients of Shredded Wheat, in violation of the "misleading" prong
10 of the FAL.

11 159. The business practices alleged above are unlawful under the CLRA, which forbids
12 misleading and deceptive advertising.

13 160. Plaintiff and the other members of the Class and California Sub-Class have
14 suffered injury in fact and have lost money or property as a result of Post's violations of the FAL.

15 161. As a result, Post has been unjustly enriched at the expense of Plaintiff and the
16 other members of the Class and California Sub-Class. Plaintiff and the Class and California Sub-
17 Class, pursuant to California Business and Professions Code § 17535, are entitled to an order of
18 this Court enjoining such future conduct on the part of Post, and such other orders and judgments
19 which may be necessary to disgorge Post's ill-gotten gains and restore to any person in interest
20 any money paid for its falsely labeled Shredded Wheat as a result of the wrongful conduct of
21 Post.

22 162. THEREFORE, Plaintiff prays for relief as set forth below.

23 **COUNT III**

24 **(Violation of California's Unfair Competition Law)**
25 **On Behalf of the Sub-Class**

26 163. Plaintiff re-alleges and incorporates by reference the allegations set forth in the
27 preceding paragraphs of this Complaint, as if fully set forth herein verbatim.

1 164. This cause of action is brought pursuant to California’s Unfair Competition Law
2 (the “UCL”), Cal. Bus. & Prof. Code § 17200 *et seq.*

3 165. By committing the acts and practices alleged herein, Post has engaged in
4 deceptive, unfair, and unlawful business practices in violation of the UCL.

5 166. Plaintiff has standing to pursue this claim as she has suffered injury in fact and has
6 lost money or property as a result of Post’s actions as set forth above. Class and California Sub-
7 Class Members also have suffered injury in fact and have lost money or property as a result of
8 Post’s actions as set forth above.

9 167. The violation of any law constitutes an “unlawful” business practice under Cal.
10 Bus. & Prof. Code § 17200.

11 168. Each of Post’s false representations alleged herein violates 21 U.S.C. § 331; Cal.
12 Civ. Code § 1709; Cal. Civ. Code § 1750 *et seq.*; Cal. Com. Code § 2313; and Cal. Bus. & Prof.
13 Code § 17500 *et seq.*

14 169. Post has violated the UCL’s proscription against engaging in unlawful conduct as
15 a result of its violations of (i) the CLRA, as alleged above, and (ii) the FAL, as alleged above.

16 170. In addition, Post has violated the UCL’s proscription against engaging in unlawful
17 conduct as a result of its violations of the Sherman Law, Cal. Health & Safety Code § 109875 *et*
18 *seq.*, which forbids misbranding of any food, *Id.* at § 110398, such as by false or misleading
19 labeling, *Id.* at § 111730.

20 171. The Sherman Law defines a “person” as “any individual, firm, partnership, trust,
21 corporation, limited liability company, company, estate, public or private institution, association,
22 organization, group, city, county, city and county, political subdivision of this state, other
23 governmental agency within the state, and any representative, agent, or agency of any of the
24 foregoing.” Cal. Health & Safety Code § 109995. Post is a “person” within the meaning of the
25 Sherman Law.

26 172. As more fully described herein, Post’s misleading marketing, advertising,
27 packaging, and labeling of Shredded Wheat is likely to deceive a reasonable consumer. Indeed,
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1 Plaintiff and the other Class and California Sub-Class members were unquestionably deceived
2 regarding the characteristics of Post's Shredded Wheat, as Post's marketing, advertising,
3 packaging, and labeling of Shredded Wheat misrepresents and/or omits the true nature, quality,
4 and/or ingredients of Shredded Wheat.

5 173. There is no benefit to consumers or competition from deceptively marketing and
6 labeling products. Indeed, the harm to consumers and competition is substantial. Plaintiff and the
7 other members of the Class and California Sub-Class who purchased the Products suffered a
8 substantial injury as alleged herein.

9 174. Plaintiff and the other members of the Class and California Sub-Class who
10 purchased Shredded Wheat had no way of reasonably knowing that the Products they purchased
11 were not as marketed, advertised, packaged, and labeled. Thus, they could not have reasonably
12 avoided the injury each of them suffered.

13 175. Post's acts and omissions alleged above constitute unfair business practices under
14 Cal. Bus. & Prof. Code § 17200 because the gravity of the consequences of Post's conduct as
15 described above outweighs any justification, motive, or reason therefor, particularly considering
16 the available legal alternatives which exist in the marketplace, and such conduct is immoral,
17 unethical, unscrupulous, offends established public policy, or is substantially injurious to Plaintiff
18 and the other members of the Class and California Sub-Class. Post's false and misleading
19 representations and omissions also violate legislatively declared policy as they have violated
20 numerous state and federal laws. Moreover, the gravity of the harm to Plaintiff and Class and
21 California Sub-Class members resulting from Post's conduct outweighs Post's legitimate reasons,
22 justifications, and/or motives for engaging in such deceptive acts and practices, if any.

23 176. Each false and misleading representation and omission constitutes fraudulent
24 business practices under Cal. Bus. & Prof. Code § 17200 because the representations and
25 omissions were false. Post's representations and deceptive concealment were fraudulent under
26 the statute because they were misleading and were likely to and did deceive the reasonable
27 consumer, including Plaintiff and the Class and California Sub-Class Members.

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1 177. Post's violations continue to this day.

2 178. Pursuant to California Business and Professions Code § 17203, Plaintiff and the
3 other members of the Class and California Sub-Class seek an order of this Court that includes,
4 but is not limited to, an order enjoining such future conduct on the part of Post and such other
5 orders and judgments which may be necessary to disgorge Post's ill-gotten gains and to restore to
6 any person in interest any money paid for Post's falsely labeled Shredded Wheat as a result of the
7 wrongful conduct of Post.

8 179. THEREFORE, Plaintiff prays for relief as set forth below.

9 **COUNT IV**

10 **(Based on Breach of Express Warranty)**
11 **On Behalf of the Class and Sub-Class**

12 180. Post provided Plaintiff Wu and other members of the Class and California Sub-
13 Class with written express warranties including, but not limited to, warranties that Shredded
14 Wheat is "Natural," "100% Natural," and "100% Natural Whole Grain Wheat."

15 181. These affirmations of fact or promises by Post relate to the goods and became part
16 of the basis of the bargain.

17 182. Plaintiff Wu and members of the Class and California Sub-Class purchased
18 Shredded Wheat believing it to conform to the express warranties.

19 183. Post breached these warranties. This breach resulted in damages to Plaintiff Wu
20 and other members of the Class and California Sub-Class, who bought Shredded Wheat but did
21 not receive the goods as warranted.

22 184. As a proximate result of the breach of warranties by Post, Plaintiff Wu and the
23 other members of the Class and California Sub-Class did not receive goods as warranted.
24 Plaintiff Wu and the members of the Class and California Sub-Class therefore have been injured
25 and have suffered damages in an amount to be proven at trial. Among other things, Plaintiff and
26 members of the Class and California Sub-Class did not receive the benefit of the bargain and
27 have suffered other injuries as detailed above. Moreover, had Plaintiff Wu and the Class and
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1 California Sub-Class members known the true facts, they would not have purchased Shredded
2 Wheat, or would have purchased Shredded Wheat on different terms.

3 185. THEREFORE, Plaintiff prays for relief as set forth below.

4 **COUNT V**

5 **(Unjust Enrichment)**
6 **On Behalf of the Class and Sub-Class**

7 186. As a result of Post's deceptive, fraudulent, and misleading labeling, advertising,
8 marketing, and sales of Shredded Wheat, Post was enriched at the expense of Plaintiff Wu and
9 the other members of the Class and California Sub-Class through the payment of the purchase
10 price, or for the payment of a price higher than otherwise would have been paid, for Shredded
11 Wheat.

12 187. As a result of Post's failure to warn about the presence of glyphosate and about
13 the dangers associated with glyphosate, Post was enriched at the expense of Plaintiff Wu and the
14 other members of the Class and California Sub-Class through the payment of the purchase price,
15 or for the payment of a price higher than otherwise would have been paid, for Shredded Wheat.

16 188. Under the circumstances, it would be against equity and good conscience to
17 permit Post to retain the ill-gotten benefits that it received from Plaintiff Wu and the other
18 members of the Class and California Sub-Class, in light of the fact that the Shredded Wheat
19 purchased by Plaintiff Wu and the other members of the Class and California Sub-Class were not
20 what Post purported them to be. Thus, it would be unjust or inequitable for Post to retain the
21 benefit without restitution to Plaintiff Wu and the other members of the Class and California Sub-
22 Class for the monies paid to Post for Shredded Wheat.

23 189. THEREFORE, Plaintiff Wu prays for relief as set forth below.

24 **PRAYER FOR RELIEF**

25 **WHEREFORE**, Plaintiff Wu demands judgment on behalf of himself and the proposed
26 Class and California Sub-Class providing such relief as follows:
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L. For such other and further relief as may be deemed just, necessary, or proper.

JURY DEMAND

Plaintiff hereby demands a jury trial on all issues so triable.

RESPECTFULLY SUBMITTED AND DATED this 22nd day of June, 2016.

/s/ Michael F. Ram

Michael F. Ram
RAM, OLSON, CEREGHINO & KOPCZYNSKI LLP

*Attorneys for Plaintiff and Proposed Class and
California Sub-Class*

EXHIBIT A

EXHIBIT I



CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September, 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Andy Wu

(b) County of Residence of First Listed Plaintiff _____

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Michael F. Ram, SBN #104805 / RAM, OLSON, et. al.
101 Montgomery Street, Suite 1800, San Francisco, California 94104

DEFENDANTS

POST FOODS, LLC and POST HOLDINGS, INC.,

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

VI. CAUSE OF ACTION

Brief description of cause:
CLASS ACTION COMPLAINT

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 06/22/2016 SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____