UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

Civil Case No.: 0:17cv60794

JEROME RAMSARAN, individually and on behalf of all others similarly situated,

Plaintiff,

vs.

TABATCHNICK FINE FOODS INC., a New Jersey Corporation,

Defendant.

ORIGINAL CLASS ACTION COMPLAINT

Plaintiff, JEROME RAMSARAN ("Plaintiff") by and through the undersigned counsel, pursuant to all applicable *Federal Rules of Civil Procedure*, hereby files this Class Action Complaint, on behalf of himself and all others similarly situated throughout the United States, and alleges against Defendant, TABACHTNICK FINE FOODS, INC. ("Defendant") as follows:

I. INTRODUCTION

1. Defendant represents itself as a nationally recognized soup company of "handcrafted soups made from the highest quality, natural ingredients."[1] Defendant

[1] Tabachnick Fine Foods, Inc., April 19 2017, http://tabatchnick.com.

manufactures, markets, advertises, distributes and sells various prepackaged soups. At issue here are Defendant's Tabatchnick soup products which are advertised as "ALL NATURAL" as set forth in paragraph 28, (collectively, the "Products").

2. Defendant represents that the products are "ALL NATURAL" when in fact they are not because they contain ingredients that are not "all natural," specifically Genetically Modified Organisms ("GMOs").

3. Defendant's products labeled as "All Natural" that are at issue in this case include at least one of the following synthetic and/or artificial ingredients: GMO soy, GMO soy-derivatives, GMO corn, GMO corn-derivatives, and GMO canola.

4. Plaintiff and Class Members were induced to buy the Products by the words 'All Natural' on the packaging and Defendant's online representations that the Products were all natural. Plaintiff expected to purchase products with wholesome ingredients untouched by scientific modifications—only to learn that they were in fact consuming bioengineered, artificial and synthetic ingredients.

5. The terms GM foods or GMOs (genetically-modified organisms) commonly refer to crop plants created for human or animal consumption using the latest molecular biology techniques. These plants have been modified in the laboratory through a process whereby the genes of one species are inserted into another species. The purported purpose of genetic engineering plants is to enhance certain traits, such as, for example, increased resistance to herbicides.

6. In order to genetically modify crops, foreign DNA is inserted into the primary plant species using one of three ways: 1) E.coli bacteria is combined with a soil bacteria that causes tumors that allows the foreign bacteria to breach the host plant's cells; 2) Electricity is applied to the host plant to rupture its cell walls, thus allowing the foreign DNA to invade; or 3) a "gene gun" blasts the engineered DNA directly into the plant's cells.[2]

7. Genetic engineering is different from natural/conventional plant breeding and poses distinct risks. Specifically, the genetic engineering and associated tissue culture processes

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[2] "GMO Defined," GMO Awareness, April 17 2017, https://gmo-awareness.com/all-about-gmos/gmo-defined/.

are highly mutagenic, leading to unpredictable changes in the DNA and proteins of the resulting GMO that can lead to unexpected toxic or allergenic effects. [3]

8. Genes can be transferred from one plant to another and genes from non-plant organisms can be transferred into a plant. One common example is the use of *Bacillus thuringiensis,* (B.t.) genes into corn. B.t. is a naturally occurring bacterium that produces crystal proteins that are lethal to insect larvae. Using B.t. crystal protein genes in corn enable the corn to produce its own pesticides against insects.

9. The Products pose a potential threat to consumers because medical research and scientific studies have yet to determine the long-term health effects of genetically engineered foods. Numerous studies suggest that GMOs may in fact be harmful to a consumer's health. For example, an insecticidal toxin, known as BT toxin, is often inserted into the genetic code of an array of crops to enable the plant to produce its own insecticide. This insecticide is released when insects ingest it.[4] Though BT toxin was supposed to be safe for humans (the digestion system in the human body was supposed to destroy it), more recent studies have shown that the human gut is actually not destroying it.[5] Canadian researchers this year reported that the blood of ninety-three percent (93%) of pregnant women and eighty percent (80%) of their umbilical-cord blood samples contained a pesticide implanted in GMO corn by the biotech company Monsanto, though digestion was supposed to remove it from the body.[6]

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3. Michael Antoniou, Claire Robinson, and John Fagan. GMO MYTHS AND TRUTHS: AN EVIDENCE-BASED EXAMINATION OF THE CLAIMS MADE FOR THE SAFETY AND EFFICACY OF GENETICALLY MODIFIED CROPS. Earth Open Source. June 2012 at 21.

4. Goldberg, Max. "For the First Time Ever, Monsanto will be Marketing its Products Directly to Consumers with Sweet Corn-Serious Implications." New York Times, 12 August 2011. http://livingmaxwell.com/monsanto-gmo-sweet-corn.

5. Goldberg, Max. "For the First Time Ever, Monsanto will be Marketing its Products Directly to Consumers with Sweet Corn-Serious Implications." New York Times, 12 August 2011. http://livingmaxwell.com/monsanto-gmo-swet-corn.

6. Eng, Monica. "Debate rages over labeling biotech foods; Industry resists listing genetically modified ingredients; consumer worries continue." L.A. Times. June 2, 2011. BUSINESS; Business Desk; Part B; Pg. 4; Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks protests." Chicago Tribune. May 25, 2011.

10. Federal regulations define an all-natural product as one containing no artificial or synthetic ingredient, nor any ingredient that has been more than 'minimally processed." Clearly, an organism that has undergone sophisticated bioengineering can no longer be described as minimally processed. 7 C.F.R. § 205.2.

11. Defendant's false and misleading representations and omissions violate state and federal law, detailed more fully below, including Florida Deceptive and Unfair Trade Practices Act (FDUTPA).

II. JURISDICTION AND VENUE

12. This Court has jurisdiction over the subject matter presented by this Complaint because it is a class action arising under 18 U.S.C. § 1332(d), which, under the Class Action Fairness Act of 2005 ("CAFA"), Pub. L. No. 109-2, 119 Stat. 4 (2005), explicitly provides for the original jurisdiction of the Federal Courts of any class action in which any member of the Plaintiffs class is a citizen of a state different from any Defendant, and in which the matter in controversy exceeds in the aggregate the sum of $5,000,000, exclusive of interest and costs.

13. On information and belief, Plaintiff alleges that the total claims of individual class members in this action are in excess of $5,000,000 in the aggregate, exclusive of interest and costs, as required by 28 U.S.C. § 1332(d)(2), (5). Plaintiff is a citizen of the States of Florida, as set forth below, and Defendant can be considered a citizen of New Jersey. Therefore, diversity of citizenship exists under CAFA as required by 28 U.S.C. § 1332(d)(2)(A).

14. Furthermore, Plaintiff alleges that the total number of members of the proposed Plaintiff Class is greater than 100, pursuant to 28 U.S.C. § 1332(d)(5)(B).

15. Venue in this district is proper pursuant to 28 U.S.C. §1391(b) because Defendant conducts business within, may be found in, and is subject to personal jurisdiction in this judicial district, and Plaintiff resides in and purchased the Products that are the subject of this action in this judicial district.

III. PARTIES

16. Plaintiff Jerome Ramsaran is an individual consumer over the age of eighteen. He resides in Broward County and is a citizen of Florida. Plaintiff seeks injunctive relief and damages on behalf of himself and the Class, and respectfully requests a jury trial on damage claims.

17. Defendant Tabatchnick Fine Foods, Inc. ("Tabatchnick") is a New Jersey corporation with its principal place of business located at 1230 Hamilton Street, Somerset, New Jersey 08873. Therefore, Tabatchnick is a "citizen" of the State of New Jersey. Defendant Tabatchnick also promoted and marketed the Products at issue in this jurisdiction and in this judicial district.

IV. FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

Plaintiff's Purchase of the Products

18. Plaintiff Jerome Ramsaran has purchased Tabatchnick All Natural Minestrone Soup, Tabatchnick All Natural Barley & Mushroom Soup, Tabatchnick Vegetable Low Sodium Soup, and Tabatchnick All Natural Barley & Mushroom Low Sodium Soup during the Class period (December 2016), from a Fresh Market Supermarket located at 18299 Biscayne Blvd, Aventura, Florida 33160, *See* **Exhibit A,** attached hereto and incorporated herein, a true and correct representation of the Product labels.

19. Plaintiff believed the material All-Natural representation in regards to the Products meant that the Products did not contain, nor were they made with, any genetically modified ingredients, nor any synthetic or artificial ingredients. If Plaintiff had known the Products contained GMOs and thus were not all-natural, he would not have purchased them.

20. The Products containing GMOs are not "all natural," do contain something artificial and Defendant's advertising and labeling is deceptive and likely to mislead the public as a result. Plaintiff and Class members would not have purchased the Products if they had known that Defendant's "all natural" statements about the Products are false because they contain GMOs.

21. In purchasing the Products, Plaintiff saw, read, and relied on the packages and advertising for the Products claiming to be all natural and/or natural. Plaintiff and Class members have been damaged by their purchase of the Products because the labeling and advertising for the Products was and is deceptive and misleading; therefore, the Products are worth less than what Plaintiff paid for them, and Plaintiff and Class Members did not receive what they reasonably intended to receive, which was a product that was GMO-free and did not contain artificial and synthetic ingredients.

22. Plaintiff and class members purchased the Products because they believed that the Products had nothing artificial and were "All Natural," which they interpreted to mean that the Products do not contain any GMOs or artificial and synthetic ingredients.

23. Defendant's statement that the Products were "All Natural" was important to Plaintiff and Class members in deciding to purchase and consume the Products because they would not have purchased and consumed the Products had they not been advertised and labeled as "All Natural," or if the Products had clearly disclosed that they contain GMO ingredients in advertising for the Products not related to the labeling.

24. Plaintiff reasonably relied on Defendant's "all natural" representations, given Defendant Tabatchnick's strategic branding in the marketplace as a wholesome food company. This branding is further supported by Defendant's statements on its website, such as "highest quality, natural ingredients."

25. In addition, Defendant kept the price of the Products artificially high in order to encourage this favorable perception of the Tabatchnick brand among buyers, making consumers believe the Products were superior to other, comparable products because the Tabatchnick Products were "all natural" whereas the others were not. Plaintiff and Class members paid this price premium for the Products because they believed the Products were GMO-free and did not contain artificial and synthetic ingredients (in other words, they believed they are "All Natural" and contained nothing synthetic).

Defendants' Advertising and Labeling of its All Natural Products

26. Defendant manufactures, markets, advertises, distributes and sells various pre-packaged soup products.

27. Defendant has promised that the TABATCHNICK brand delivers products that are "all-natural" and contain nothing synthetic.

28. The following products are labeled "All Natural" but contain at least one genetically modified ingredient, as follows:

a. Tabatchnick Balsamic Tomato and Rice Soup
b. Tabatchnick Barley Mushroom Soup
c. Tabatchnick Barley Mushroom Soup Low Sodium
d. Tabatchnick Black Bean Soup
e. Tabatchnick Cabbage Soup

f. Tabatchnick Minestrone Soup

g. Tabatchnick Minestrone Soup low sodium

h. Tabatchnick Old Fashion Potato Soup

i. Tabatchnick Southwest Bean Soup

j. Tabatchnick Split Pea Soup

k. Tabatchnick Split Pea Soup low sodium

l. Tabatchnick Tomato with Basil

m. Tabatchnick Tuscany Lentil Soup low sodium

n. Tabatchnick Tuscany Lentil Soup

o. Tabatchnick Vegetable Soup

p. Tabatchnick Vegetable Soup low sodium

q. Tabatchnick Vegetarian Chili

r. Tabatchnick Wilderness Wild Rice Soup

s. Tabatchnick Yankee Bean Soup

29. All products listed in paragraph 28 above are collectively referred to as the "Products."

Genetically Modified Ingredients Are Not "All Natural"

30. Defendant labels, markets, and/or advertises the Products as "ALL NATURAL." Defendant's claim is misleading, however, because Defendants' Products contain GMOs, ingredients that have been modified through biotechnology and are therefore not all natural.

31. As of January 2016, Monsanto was the world's dominant producer of genetically modified seeds; over 80% of the U.S. corn crop is grown with seeds containing Monsanto's technology. Monsanto defines GMOs as "any organism the genetics of which have been altered through the use of modern biotechnology to create a novel combination of genetic material. GMOS may be the source of genetically modified food ingredients and are widely use in scientific research and to produce goods other than food."[7]

32. GMOs are not expected to be in foods labeled "All Natural." Recently, Americans have expressed a heightened concern about the safety of GMO Products, as evinced by the fact that legislation requiring labeling GMOs have been proposed in more than a dozen states since

[7] Monsanto. Glossary, April 19 2017, http://www.monsanto.com/newsviews/pages/glossary.aspx.

2011.[8] In addition, polls taken by the Pew Center, Consumers Union, Harris Interactive and ABC over the last decade that have consistently found that the vast majority of Americans would like to see genetically modified foods better regulated and labeled.[9]

33. Concerns about GMOs fall into three categories: environmental hazards, human health risks and economic concerns.

34. Concerns for human health risks associated with GMOs include the possibility that introducing a new gene into a plant may create a new allergen, cause an allergic reaction in susceptible individuals or have an unexpected and negative impact on overall human health.

35. Furthermore, the FDA has loosely defined the term "natural" as a product that contains no synthetic or artificial ingredients.[10] According to federal regulations, an ingredient is synthetic if it is:

> [a] substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes." 7 C.F.R. §205.2.

36. Similarly, the USDA's Food Safety and Inspection Service ("FSIS") defines a "natural" product as a product that does not contain any artificial or synthetic ingredient and does not contain any ingredient that is more than "minimally processed," defined as:

> (a) those traditional processes used to make food edible or to preserve it or to make it safe for human consumption, e.g., smoking, roasting, freezing, drying, and fermenting, or (b) those physical processes which do not fundamentally alter the raw

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8. *See http://www.nytimes.com/2012/05/25/science/dispute-over-labeling-of-genetically-modified-food.html?_r=0* (last visited January 15, 2013).

9. Eng, Monica. "Debate rages over labeling biotech foods; Industry resists listing genetically modified ingredients; consumer worries continue." L.A. Times. June 2, 2011. BUSINESS; Business Desk; Part B; p. 4.

10. FDA Consumer Health Information, Food Label Helps Consumers Make Healthier Choices, available at www.fda.gov/downloads/ForConsumers/ConsumerUpdates!UCM199361.pdf.

> product and/or which only separate a whole, intact food into component parts, e.g., grinding meat, separating eggs into albumen and yolk, and pressing fruits to produce juices.
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> Relatively severe processes, e.g., solvent extraction, acid hydrolysis, and chemical bleaching would clearly be considered more than minimal processing. . . .

USDA FSIS, Food Standards and Labeling Policy Book, available at *www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf31.*

37. The scientific description of how GMOs are produced refutes any attempt to categorize them as 'minimally processed,' "all-natural" or substantially similar to something naturally occurring. Contemporary research on GMOs has made clear that genetic engineering is completely different from natural breeding and entails different risks because the genetic engineering and associated tissue culture processes are imprecise and highly mutagenic, leading to unpredictable changes in the DNA, proteins, and biochemical composition of the resulting GMO that can lead to unexpected toxic or allergenic effects and nutritional disturbances:

> [T]he process of inserting a genetically modified gene into the DNA of a plant cell is crude, uncontrolled, and imprecise, and causes mutations – heritable changes – in the plant's DNA blueprint. These mutations can alter the functioning of the natural genes of the plant in unpredictable and potentially harmful ways.
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> Because of these diverse interactions, and because even the simplest organism is extremely complex, it is impossible to predict the impacts of even a single GM gene on the organism. It is even more impossible to predict the impact of the GMO on its environment – the complexity of living systems is too great. In short, unintended, uncontrolled mutations occur during the GM process and complex interactions occur at multiple levels within

> the organism as a result of the insertion of even a single new gene. For these reasons, a seemingly simple genetic modification can give rise to many unexpected changes in the resulting crop and the foods produced from it. The unintended changes could include alterations in the nutritional content of the food, toxic and allergenic effects, poor crop performance, and generation of characteristics that harm the environment.[11]

38. At a minimum a reasonable consumer would expect a company's representation of 'all-natural' to conform to the company's own published definition, as well as the federal regulation. However, the process of manufacturing a GMO is clearly beyond "minimal processing;" one would certainly not expect a consumer to bioengineer an ingredient in their kitchen.

39. Despite this, Defendants have falsely represented their Products are all natural even though they contain GMOs, namely Canola, Corn, Soy, Corn variations, and/or Soy variations. Canola, Corn, Soy, Corn variations, and/or Soy variations, among other ingredients, are known to be derived from GMOs and serve as part of the main ingredients in the Products.[12] However, Defendant's Products contain no warning or disclaimer that the Products contain GMOs in its advertising for the Products (not related to the label).

Genetically Modified Ingredients are Hazardous to Consume

40. To this day, no scientific studies have guaranteed that GMOs are safe for human consumption in the long-term. In fact, many indicate the contrary. More than one hundred peer-review studies have shown that GMOs damage the vital organs, immune systems and reproductive functions of animals. Conscientious consumers have been particularly alarmed by

11. Michael Antoniou, Claire Robinson, and John Fagan. GMO MYTHS AND TRUTHS: AN EVIDENCE-BASED EXAMINATION OF THE CLAIMS MADE FOR THE SAFETY AND EFFICACY OF GENETICALLY MODIFIED CROPS. Earth Open Source. June 2012 at 11.

[12] As of 2014, the USDA reports the following percent of all crops grown in the U.S. are genetically modified: Soybeans – 94% (up from 93% in 2013); Corn – 93% (up from 90% in 2013). *See* "GMO Defined," GMO Awareness, April 17 2017, https://gmo-awareness.com/all-about-gmos/gmo-defined/.

the use of gene splicing to incorporate a bacterial toxin in plants that can repel pests.[13] Canadian researchers reported that the blood of ninety-three percent of pregnant women and eighty percent of their umbilical cord blood samples contained a pesticide implanted in GMO corn by the biotech company Monsanto, though manufacturers of GMOs claim that digestion is supposed to remove it from the body. "Given the potential toxicity of these environmental pollutants and the fragility of the fetus, more studies are needed," they wrote in Reproductive Toxicology.[14]

41. Other concerns that have been raised by environmental groups include the possibility that GMOs contribute to the spread of antibiotic resistance, and could introduce new allergens into foods.[15] Concern surrounding the latter topic of allergens relates to two factors; the possibility that genes from known allergens may be inserted into crops not typically associated with allergenicity and the possibility of creating new, unknown allergens by either inserting novel genes into crops or changing the expression of endogenous proteins.[16] A person allergic to Brazil nuts, for example only, would be at risk of suffering an allergic reaction from consuming a product that contained a GMO bioengineered to contain DNA from Brazil nuts. The consumer would be unaware of the potential allergic reaction because the product containing the GMO would in no way warn of or even indicate its genetically modified condition.

42. While the Food and Drug Administration (FDA) has allowed the sale and planting of genetically modified foods for 15 years, the FDA wrote in a statement to the Tribune that " [u]ltimately, it is the food producer who is responsible for assuring safety," noting also that

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13. Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks protests." Chicago Tribune. May 25, 2011.

14. Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks protests." Chicago Tribune. May 25, 2011. *See also* Goldberg, Max. "For the First Time Ever, Monsanto will be Marketing its Products Directly to Consumers with Sweet Corn-Serious Implications." New York Times, 12 August 2011. http://livingmaxwell.com/monsanto-gmo-sweet-corn.

15. Bakshi A (2003). "Potential adverse health effects of genetically modified crops". *J Toxicol Environ Health B Crit Rev 6* (3): 211–25.

16. Key S, Ma JK, Drake PM (June 2008). "Genetically modified plants and human health". *J R Soc Med* 101 (6): 290–8.

manufacturers are encouraged to consult with the agency about their products.[17] The European Union has recognized the potential dangers inherent in consuming genetically modified organisms and has some of the most stringent GMO regulations in the world. In the European Union all GMOs are considered "new food" and subject to extensive, case-by-case, science based food evaluation by the European Food Safety Authority (EFSA). The EFSA reports to the European Commission who then draft a proposal which if accepted will be adopted by the EC or passed on to the Council of Agricultural Ministers. [18] There is also a safeguard clause that Member States can invoke to restrict or prohibit the use and/or sale of a GMO within their territory if they have a justifiable reason to consider that the approved GMO constitutes a risk to human health or the environment.[19] In February 2008, for example, the French government used the safeguard clause to ban the cultivation of MON810 after Senator Jean-François Le Grand, chairman of a committee set up to evaluate biotechnology, said there were "serious doubts" about the safety of the product.[20] By 2010, the only GMO food crop with approval for cultivation in Europe is the GM maize MON810, and a second GMO, a potato called Amflora, was approved for cultivation for industrial applications in the EU by the European Commission.[21] Despite the European Union's approval of MON 810, however, it has been banned for cultivation by Germany, Austria, France, Greece, Luxembourg, Poland and Bulgaria. Meanwhile, Italy does not allow for the cultivation if GMOs.[22]

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17. Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks protests." Chicago Tribune. May 25, 2011.

18. Davison, J. (February 2010). "GM plants: Science, politics and EC regulations". *Plant Science* 178 (2): 94–98.

19. European Commission. "Food Safety: From the farm to the fork (What are the National safeguard measures)". Europa.

20. AFP – Feb 8, 2008 (2008-02-08). "AFP: French GM ban infuriates farmers, delights environmentalists."

21. "European Commission approves Amflora starch potato - BASF - The Chemical Company - Corporate Website". BASF. http://www.basf.com/group/pressrelease/P-10-179. Retrieved 2010-09-24.

22. Barker, Debbie. "Part II: The Emperor has No Clothes." p. 37.

43. In addition, independent scientific testing of the effects of GMOs on rats, hamsters, and mice have generated great concern as to the safety of GMOs. The tests have been conducted by: Dr. Irina Ermakova, the Institute of High Neural Activity and Neurophysiology of Russian Academy of Sciences, Moscow; Dr. Alexey Surov and Dr. Alexander Baranov, the Institute of Environmental and Evolution Problems and the Institute of Developmental Biology, Moscow); and Dr. Maria Konovalova, the Saratov Agrarian University. All three of these studies demonstrate significant biological and behavioral changes in the animals when GM soy or GM corn was put into their feed. Some of the biological effects include increased mortality among newborns in the first generation, reduced quantity of offspring, and spike in sterility among second generation animals. On the behavioral front, animals became more aggressive and lost maternal instincts.[23]

44. Another study conducted by Dr. Arpad Pusztai the potential health risks that GMOs pose to internal organs. Dr. Arpad Pusztai's research has shown that rats fed with GE potatoes had enlarged pancreases, their brains had shrunk, and their immunity had been damaged. Dr. Eric Seralini's research demonstrated that organ damage can occur. In addition, the Committee of Independent Research and Information on Genetic Engineering (CRIIGEN) and universities at Caen and Rouen were able to get raw data of Monsanto's 2002 feeding trials on rats at the European Council order and made it public in 2005. The researchers found that rats fed with three approved corn varieties of GE corn—Mon 863, insecticide products, Mon 810, and Roundup Ready herbicide —suffered organ damage. The data "clearly underlines adverse impacts on kidneys and liver, the dietary, detoxifying organs as well as different levels of damages to the heart, adrenal glands, spleen and hematopoietic systems," according to Dr. Gilles Eric Seralini, a molecular biologist at the University of Caen.[24]

45. Additionally, evidence of liver and kidney toxicity appeared when rats were fed an approved GE maize variety (Mon 863) (Seralini GE, Cellier D. & Spironx de Vendomois, J, 2007, "New analysis of rat feeding study with a GM Maize", Archives of Environmental

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23. Barker, Debbie. "Part II: The Emperor has No Clothes." P. 39.

24. Dr. Shiva Vandana, "Introduction: The GMO Emperor has No Clothes." p. 17. "A Comparison of the Effects of Three GM Corn Varieties on Mammalian Health," Joel Spiroux de Veu de Mois, Francois Roullier, Dominique Cellise, Gilles Eric Serelini, *International Journal of Biological Science*s, 2009, 5: 706-726.

Contamination and Toxicology, 10,1007, S 00244-006-0149-5). Similar effects were observed when Monsanto fed its GT-73 Roundup Ready canola variety to rats. The rats showed a 12 percent to 16 percent increase in liver weight.[25]

46. Even the World Health Organization (WHO) cautions that "Different GM organisms include different genes inserted in different ways. This means that individual GM foods and their safety should be assessed on a case-by-case basis and that it is not possible to make general statements on the safety of all GM foods."[26] More recently, Americans have also expressed a heightened concern about the safety of GMO products, as evinced by the fact that 14 states have currently introduced legislation on GMO labeling. Alaska, with its huge wild salmon industry, has already passed a biotech seafood labeling law.[27] In addition, polls taken by the Pew Center, Consumers Union, Harris Interactive and ABC over the last decade that have consistently found that the vast majority of Americans would like to see genetically modified foods better regulated and labeled.[28] Plaintiffs contend that Defendants' failure to disclose in its advertising for the Products, not related to the labeling for the Products, the presence of GMOs in its Products, amounts to a material misrepresentation. Plaintiffs would not have purchased the Products had she known they contain GMOs.

47. At a minimum, Plaintiff and Class Members contend that Defendant should cease labeling the Products "All Natural" and/or that Defendants should identify that the Products contain genetically modified ingredients in its advertising not related to the labeling. Failure to is an omission of a material fact and violates a consumer's democratic right to information and choice. Most people consider the decision of what they put into their bodies to be tremendously

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25. Dr. Shiva Vandana, "Introduction: The GMO Emperor has No Clothes." p. 18. *See* Greenpeace (2004) "Greenpeace critique of Monsanto's Roundup Ready Oilseed rape, GT-73," *http://www.greenpeace.at/uploads/media/GT73_Greenpeace_comments_Oct_2004_01.pdf*.

26. Dr. Shiva Vandana, "Introduction: The GMO Emperor has No Clothes." p. 19. *See* "20 Questions on Genetically Modified Foods." World Health Organization. *http://www.who.int/foodsafety/publications/biotech/20questions/en/*.

27. Eng, Monica. "Altered food labeling sought \ Prevalence of genetically modified fare sparks protests." Chicago Tribune. May 25, 2011.

28. Eng, Monica. "Debate rages over labeling biotech foods; Industry resists listing genetically modified ingredients; consumer worries continue." L.A. Times. June 2, 2011. BUSINESS; Business Desk; Part B; p. 4.

important. People follow restricted diets for religious reasons (some observers of the Jewish faith keep Kosher, some observers of Muslim faith only eat Halal food, and some observers of Hindu faith refuse beef), for moral or personal reasons (many vegetarians and vegans restrict their diets for moral reasons), or because they physically cannot eat certain foods (those with celiac disease cannot eat wheat, those who are lactose intolerant cannot consume dairy products, and those with other food allergies face similar restrictions). In the latter scenario, eating the food in question could cause severe physical harm or death. In the first two scenarios, while the diets may be driven by personal choice rather than physical necessity, the beliefs behind the choices are often deeply held. If a Muslim eats soup that is labeled vegetarian but in fact contains pork, or if a vegetarian eats cereal that contains mouse parts, the mislabeling that led to the inadvertent consumption is likely to be extremely offensive.[29] Likewise, Defendant's covert inclusion of GMOs in its Products, amounts to an unlawful affront to the health conscious consumers and the public at large. As Wendell Berry Notes in her *Twelve Paragraphs on Biotechnology*, "[i]n biotechnology, as in any technology affecting living systems, there is nothing perfectly predictable. What we do within living bodies and in the living world is never a simple mechanical procedure such as threading a needle or winding a watch. Mystery exists; unforeseen and unforeseeable consequences are common."[30] Accordingly, Defendants' failure to disclose the presence of GMOs in its Products, in advertising not related to the labeling for the Products, violates the consumer's right to know what is being introduced into his or her body/internal system, and right to choose whether he or she wishes to participate in the current experimental stage of genetically modified organisms and their comprehensive effect on human health.

V. CLASS ALLEGATIONS

48. Plaintiff re-alleges and incorporate by reference all allegations set forth above.

49. Plaintiff brings this class action pursuant Federal Rule of Civil Procedure 23 and seek certification of the claims and certain issues in this action pursuant to the applicable provisions of Federal Rule of Civil Procedure 23 on behalf of the following individuals: All

29. Valery Federici. "Genetically Modified Food and Informed Consumer Choice: Comparing U.S. and E.U. Labeling Laws." *35 Brooklyn J. Int'l L. 51 5* at 528.

30. Wendell Berry, "Twelve Paragraphs on Biotechnology." The GMO Emperor has no Clothes." p.43.

persons throughout the United States who purchased a TABATCHNICK Product containing a genetically modified ingredient within the four years preceding the filing of this complaint. Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant's officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from the Class is any judge, justice, or judicial officer presiding over this matter and the members of their immediate families and judicial staff. Plaintiff reserves the right to amend the Class definitions if further investigation and discovery indicates that the Class definitions should be narrowed, expanded, or otherwise modified.

50. Defendant's practices and omissions were applied uniformly to all members of the Class, so that the questions of law and fact are common to all members of the Class. All members of the Class were and are similarly affected by having purchased and used the Products containing genetically modified ingredients, despite the clear representation by Defendants that the Products for their intended and foreseeable purpose, and the relief sought herein is for the benefit of Plaintiff and members of the putative Class.

51. Plaintiff is informed and believes, and on that basis alleges, that the Plaintiff Class is so numerous that joinder of all members would be impractical. Based on the annual sales of the Products and the popularity of the Products, it is apparent that the number of consumers of the Products would at least be in the many thousands, thereby making joinder impossible.

52. Questions of law and fact common to the Plaintiff and the Class exist that predominate over questions affecting only individual members, including, *inter alia*:

a. Whether Defendant's practices in connection with the design, testing, manufacture, assembly, development, promotion, marketing, advertising and sale of the Products were deceptive or unfair in any respect, thereby violating the Florida Deceptive and Unfair Trade Practices Act, *inter alia*, sections 501.201 to 201.213, *Florida Statutes*;

b. Whether Defendant negligently misrepresented the true nature of the Products;

c. Whether Defendant breached express warranties in its sale of the Products, thereby causing harm to Plaintiff and members of the Class;

d. Whether Defendant breached implied warranties in its sale of the Products, thereby causing harm to Plaintiff and members of the Class;

e. Whether Defendant failed to adequately warn of, and/or concealed the dangers and health risks associated with the Products;

f. Whether the Products are "All Natural;"

g. Whether the ingredients contained within the Products are "All Natural;"

h. Whether Defendants' conduct as set forth above injured consumers and if so, the extent of the injury; and

i. Whether Plaintiff and members of the Class are entitled to a Declaratory Judgment as a result of Defendants' practices and representations related to the marketing, labeling and sales of the Products.

53. The claims asserted by Plaintiff in this action are typical of the claims of the members of the Plaintiff Class, as the claims arise from the same course of conduct by Defendant, and the relief sought is common.

54. Plaintiff will fairly and adequately represent and protect the interests of the members of the Plaintiff Class. Plaintiff has retained counsel competent and experienced in both consumer protection and class action litigation.

55. Certification of this class action is appropriate under Federal Rule of Civil Procedure 23 because the questions of law or fact common to the respective members of the Class predominate over questions of law or fact affecting only individual members. This predominance makes class litigation superior to any other method available for the fair and efficient adjudication of these claims.

56. Absent a class action, it would be highly unlikely that the representative Plaintiff or any other members of the Class would be able to protect its own interests because the cost of litigation through individual lawsuits might exceed expected recovery.

57. Certification is also appropriate because Defendant acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive relief with respect to the Class as a whole.

58. Further, given the large number of class members, allowing individual actions to proceed in lieu of a class action would run the risk of yielding inconsistent and conflicting adjudications.

59. A class action is a fair and appropriate method for the adjudication of the controversy, in that it will permit a large number of claims to be resolved in a single forum simultaneously, efficiently, and without the unnecessary hardship that would result from the

prosecution of numerous individual actions and the duplication of discovery, effort, expense and burden on the courts that such individual actions would engender.

60. The benefits of proceeding as a class action, including providing a method for obtaining redress for claims that would not be practical to pursue individually, outweigh any difficulties that might be argued with regard to the management of this class action.

VI. FIRST CAUSE OF ACTION:

FOR VIOLATIONS OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES ACT, FLA. STAT. §§ 501.201, *ET SEQ*.

61. Plaintiff re-alleges and incorporate by reference verbatim the allegations set forth in the preceding paragraphs.

62. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 201.213, *Florida Statutes*. The express purpose of the Act is to "protect the consuming public...from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce" Section 501.202(2).

63. The sale of the Products at issue in this cause was a "consumer transaction" within the scope of the Florida Deceptive and Unfair Trade Practices Act, Sections 501.201 to 201.213, *Florida Statutes*.

64. Plaintiff is a "consumer" as defined by Section 501.203, *Florida Statutes*. Each of Defendants' Products is a "good" within the meaning of the Act. Defendant is engaged in trade or commerce within the meaning of the Act.

65. Section 501.204(1), *Florida Statutes* declares as unlawful "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce".

66. Section 501.204(2), *Florida Statutes* states that "due consideration be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a)(1) of the Trade Commission Act". Defendant's unfair and deceptive practices are likely to mislead – and have misled – the consumer acting reasonably under the circumstances and, therefore, violate Section 500.04, Florida Statutes and 21 U.S.C. Section 343.

67. Defendant has violated the Act by engaging in the unfair and deceptive practices described above, which offend public policies and are immoral, unethical, unscrupulous and

substantially injurious to consumers. Specifically, Defendant has represented that the Products are "ALL NATURAL" and contain nothing artificial, when in fact the Products contain GMOs.

68. Plaintiff and Class Members have been aggrieved by Defendant's unfair and deceptive practices in that they purchased and consumed Defendant's Products.

69. The Reasonable Consumer necessarily relies on the food companies to honestly represent the true nature of their ingredients.

70. As described in detail above, Defendant has represented that its products are 'all-natural' and contain nothing artificial when in reality they contain GMOs. Clearly an ingredient that has been bioengineered has undergone far more severe processing than anything resembling 'natural.'

71. Defendant has deceived reasonable consumers, like Plaintiff and the Class, into believing its Products were something they were not—"All Natural."

72. The knowledge required to discern the true nature of Defendant's Products is beyond that of the reasonable consumer—namely that the Products contain GMOs.

73. Federal and State Courts decide omission and misrepresentation matters regularly, including those involving a reasonable consumer's understanding of the meaning of 'all-natural.' Accordingly, the issue of whether the all-natural label is misleading to a reasonable consumer is well within the jurisdiction of the Court.

74. The damages suffered by the Plaintiff and the Class were directly and proximately caused by the deceptive, misleading and unfair practices of Defendant, as described above.

75. Pursuant to Section 501.211(1), *Florida Statutes*, Plaintiff and the Class seek a declaratory judgment and court order enjoining the above described wrongful acts and practices of the Defendants and for restitution and disgorgement.

76. Additionally, pursuant to sections 501.211(2) and 501.2105, *Florida Statutes*, Plaintiff and the Class make claims for damages, attorney's fees and costs.

V. SECOND CAUSE OF ACTION:
NEGLIGENT MISREPRESENTATION

77. Plaintiff re-alleges and incorporate by reference verbatim the allegations set forth in the preceding paragraphs.

78. Defendant has negligently represented that the Products have nothing artificial and are all "ALL NATURAL," when in fact, they are not because they contain GMOs.

79. Defendant has omitted a material fact to the public, including Plaintiff and Class Members, about its Products. Through advertising not related to the label, Defendant has failed to disclose that the Products contain Genetically Modified Organisms.

80. Defendant knew or should have known that these omissions would materially affect Plaintiff and Class Members' decisions to purchase the Products.

81. Plaintiff and other reasonable consumers, including the Class members, reasonably relied on Defendant's representations set forth herein, and, in reliance thereon, purchased the Products.

82. The reliance by Plaintiff and Class members was reasonable and justified in that Defendant appeared to be, and represented itself to be, a reputable business, and it distributed the Products through reputable companies.

83. Plaintiff and Class members would not have been willing to pay for Defendant's Products if they knew that they contained genetically modified organisms.

84. As a direct and proximate result of these misrepresentations, Plaintiff and Members of the Class were induced to purchase and consume Defendant's Products, and have suffered damages to be determined at trial in that, among other things, they have been deprived of the benefit of their bargain in that they bought Products that were not what they were represented to be, and they have spent money on Products that had less value than was reflected in the premium purchase price they paid for the Products.

VI. THIRD CAUSE OF ACTION:

BREACH OF IMPLIED WARRANTY OF FITNESS FOR PURPOSE

85. Plaintiff re-alleges and incorporates by reference verbatim the allegations set forth in the preceding paragraphs.

86. Defendant has represented that the Products are "ALL NATURAL" and contain nothing artificial when in fact, they contain GMOs. Therefore, Defendant impliedly warranted that the Products do not contain synthetic ingredients such as GMOs.

87. Plaintiff and other Members of the Class sought a conventional, safe and healthy salad dressing. In doing so, Plaintiff and other Members of the Class relied on Defendant's skill and judgment to select and furnish suitable goods for that purpose, and on or about that time, Defendants sold the Products to Plaintiff and other Members of the Class.

88. By their representations regarding the reputable nature of its companies and related entities, and by their promotion and marketing of their Products, Defendant warranted that the Products were safe, healthy, and natural foods for use by consumers. Plaintiff and Members of the Class bought the Products from Defendant, relying on Defendant's skill and judgment. However, Defendant's Products were not safe and conventional products because they contained genetically modified organisms as set forth in detail above.

89. At the time of sale, Defendant had reason to know the particular purpose for which the goods were required, and that Plaintiff and Members of the Class were relying on Defendant's skill and judgment to select and furnish safe and conventional goods, so that there was an implied warranty that the goods (the Products), were fit for this purpose.

90. However, Defendant breached the warranty implied at the time of sale because Plaintiff and Members of the Class did not receive suitable goods in as much as the goods contained GMOs.

91. Because the Products have not been scientifically proven to be safe and healthy for consumption through any long-term studies and contain ingredients that are not "all natural" and do indeed contain synthetic ingredients, the Products were not fit for the particular purpose for which it was marketed.

92. As a proximate result of this breach of warranty by Defendant, Plaintiff and Members of the Class have suffered actual damages in an amount to be determined at trial in that they were induced to purchase products they would not have purchased had they known the true facts about, and have spent money on products that were not what they were represented to be, and that lack the value Defendant represented the Products to have.

VII. FOURTH CAUSE OF ACTION:
BREACH OF EXPRESS WARRANTY

93. Plaintiff re-alleges and incorporates by reference verbatim the allegations set forth in the preceding paragraphs.

94. Defendant has expressly represented that the Products have nothing artificial and are "ALL NATURAL," when in fact, they are not because they contain GMOs.

95. Plaintiff is informed and believe, and thereon alleges, that Defendant made different express warranties, including, but not limited to, that the Products were safe, healthy, and natural foods and would not be harmful to the consumer using them.

96. As stated hereinabove, there is no scientific evidence to support Defendant's contention that the Products are natural and safe for human consumption, and Defendant withheld the existence of the genetically modified organisms in its Products and failed to warn of the dangers and health risks associated with use of the Products as more fully described above.

97. The failure to produce any scientific evidence ensuring the long-term safety associated with use of the Products constitutes breaches of all applicable express and implied warranties as alleged in this complaint, based on all laws that support the breach of express warranty claims by Plaintiff and other members of the Class regarding the true nature of the Products; these laws include but are not limited to the Common Law and Florida's Consumer Protection Act.

98. As a proximate result of the failure of the Products to perform as expressly warranted by Defendant, Plaintiff and members of the Class have suffered actual damages in an amount to be determined at trial in that they were induced to purchase products they would not have purchased had they known the true facts about, and have spent money on products that were not what they were represented to be, and that lack the value Defendant represented the Products to have.

99. Plaintiff and Class members gave timely notice to Defendants of this breach on behalf of themselves and all members of the Plaintiff Class directly through a Notice letter sent to Defendants on January 13, 2017.

100. Furthermore, Defendant continues to market the Products without extensive scientific evidence to support the claim that the Products are safe for human consumption in the long-run.

VIII. FIFTH CAUSE OF ACTION:
DECLARATORY JUDGMENT

101. Plaintiff re-alleges and incorporates by reference verbatim the allegations set forth in the preceding paragraphs.

102. This cause of action is explicitly being pled in the alternative to Plaintiff's causes of action for Breach of Express Warranty and Breach of Implied Warranty of Merchantability.

103. Defendants have represented on its label that its Products are "All Natural" when in fact, they are not, because they contain GMOs, a fact that Defendant fails to disclose in its advertising for the Products not related to the labeling for the Products.

104. Plaintiff and the members of the Class seek a declaratory judgment, pursuant to the Federal Declaratory Judgments Law, 28 U.S.C. §§ 2201 *et seq.* and *Federal Rule of Civil Procedure* 57, requiring Defendant to cease using genetically modified organisms in its All Natural products and/or stopping Defendant from representing its products are All Natural when they are not. In requesting this declaratory relief, Plaintiff and Class members are requesting an interpretation of the rights, legal status and relationships of the parties under the above law and facts.

105. Such interpretation is appropriate under the provisions of the Federal Declaratory Judgments Law, 28 U.S.C. §§ 2201 *et seq.* and *Federal Rule of Civil Procedure* 57.

106. Plaintiff seeks all available remedies pursuant to this cause of action.

XI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of himself and all others similarly situated, prays for relief, jointly and severally pursuant to each cause of action set forth in this Complaint as follows:

1. For an order certifying that the action may be maintained as a class action and Plaintiff's counsel be appointed as Class Counsel and Plaintiff be appointed as class representative;

2. For an award of equitable relief as follows:

   a. Enjoining Defendant from continuing to engage, use, or employ any unfair and/or deceptive business acts or practices related to the design, testing, manufacture, assembly, development, marketing and advertising of the Products for the purpose of selling the Products in such manner as set forth in detail above;

   b. Restoring all monies that may have been acquired by Defendant as a result of such unfair and/or deceptive act or practices; and

   c. Requiring Defendant to disgorge all ill-gotten gains flowing from the conduct described herein.

3. For a Declaratory Judgment as specified above;

4. For actual damages in an amount to be determined at trial;

5. For an award of attorney's fees and costs;

6. For pre- and post-judgment interest on any amounts awarded; and

7. For any other award the Court might deem just, appropriate, or proper.

X. DEMAND FOR JURY TRIAL

Plaintiffs demand a jury trial on all issues so triable.

Respectfully Submitted,

Dated: April 24, 2017

By: /s/ Angela Arango-Chaffin

Angela Arango-Chaffin, Esq.
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angela@chaffinlawfirm.com
540 West Avenue, Suite 1113
Miami Beach, FL 33139
(713) 818-2515

Alexander J. Korolinsky, Esq.
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korolinsky@outlook.com
700 Lavaca Suite 1400
Austin, Texas 78701
500 S. Australian Avenue
West Palm Beach, Florida 33401
(888) 637-3399

Attorneys for Plaintiff Jerome Ramsaran and the Proposed Class

JS 44 (Rev. 12/12) **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.) **NOTICE: Attorneys MUST Indicate All Re-filed Cases Below.**

I. (a) PLAINTIFFS

Jerome Ramsaran, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff Broward County, FL
(EXCEPT IN U.S. PLAINTIFF CASES)

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

The Chaffin Law Firm, 540 West Avenue, Suite 1113
Miami Beach, FL 33139
(713) 818-2515

DEFENDANTS

Tabatchnick Fine Foods Inc.

County of Residence of First Listed Defendant Somerset County, NJ
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

(d) Check County Where Action Arose: ❒ MIAMI- DADE ❒ MONROE ☑ BROWARD ❒ PALM BEACH ❒ MARTIN ❒ ST. LUCIE ❒ INDIAN RIVER ❒ OKEECHOBEE ❒ HIGHLANDS

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

❒ 1 U.S. Government Plaintiff
❒ 3 Federal Question (U.S. Government Not a Party)
❒ 2 U.S. Government Defendant
☑ 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)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☑ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	☑ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

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

CONTRACT
❒ 110 Insurance
❒ 120 Marine
❒ 130 Miller Act
❒ 140 Negotiable Instrument
❒ 150 Recovery of Overpayment & Enforcement of Judgment
❒ 151 Medicare Act
❒ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
❒ 153 Recovery of Overpayment of Veteran's Benefits
❒ 160 Stockholders' Suits
❒ 190 Other Contract
❒ 195 Contract Product Liability
❒ 196 Franchise

REAL PROPERTY
❒ 210 Land Condemnation
❒ 220 Foreclosure
❒ 230 Rent Lease & Ejectment
❒ 240 Torts to Land
❒ 245 Tort Product Liability
❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
❒ 310 Airplane
❒ 315 Airplane Product Liability
❒ 320 Assault, Libel & Slander
❒ 330 Federal Employers' Liability
❒ 340 Marine
❒ 345 Marine Product Liability
❒ 350 Motor Vehicle
❒ 355 Motor Vehicle Product Liability
❒ 360 Other Personal Injury

PERSONAL INJURY
❒ 362 Personal Injury - Med. Malpractice
❒ 365 Personal Injury - Product Liability
❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
❒ 370 Other Fraud
❒ 371 Truth in Lending
❒ 380 Other Personal Property Damage
❒ 385 Property Damage Product Liability

CIVIL RIGHTS
❒ 441 Voting
❒ 442 Employment
❒ 443 Housing/ Accommodations
❒ 444 Welfare
❒ 445 Amer. w/Disabilities - Employment
❒ 446 Amer. w/Disabilities - Other
❒ 440 Other Civil Rights

PRISONER PETITIONS
❒ 510 Motions to Vacate Sentence
Habeas Corpus:
❒ 530 General
❒ 535 Death Penalty
❒ 540 Mandamus & Other
❒ 550 Civil Rights
❒ 555 Prison Condition

FORFEITURE/PENALTY
❒ 610 Agriculture
❒ 620 Other Food & Drug
❒ 625 Drug Related Seizure of Property 21 USC 881
❒ 630 Liquor Laws
❒ 640 R.R. & Truck
❒ 650 Airline Regs.
❒ 660 Occupational Safety/Health
❒ 690 Other

LABOR
❒ 710 Fair Labor Standards Act
❒ 720 Labor/Mgmt. Relations
❒ 730 Labor/Mgmt.Reporting & Disclosure Act
❒ 740 Railway Labor Act
❒ 790 Other Labor Litigation
❒ 791 Empl. Ret. Inc. Security Act

IMMIGRATION
❒ 462 Naturalization Application
❒ 463 Habeas Corpus-Alien Detainee
❒ 465 Other Immigration Actions

BANKRUPTCY
❒ 422 Appeal 28 USC 158
❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
❒ 820 Copyrights
❒ 830 Patent
❒ 840 Trademark

SOCIAL SECURITY
❒ 861 HIA (1395ff)
❒ 862 Black Lung (923)
❒ 863 DIWC/DIWW (405(g))
❒ 864 SSID Title XVI
❒ 865 RSI (405(g))

FEDERAL TAX SUITS
❒ 870 Taxes (U.S. Plaintiff or Defendant)
❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
❒ 400 State Reapportionment
❒ 410 Antitrust
❒ 430 Banks and Banking
❒ 450 Commerce
❒ 460 Deportation
❒ 470 Racketeer Influenced and Corrupt Organizations
❒ 480 Consumer Credit
❒ 490 Cable/Sat TV
❒ 810 Selective Service
❒ 850 Securities/Commodities/ Exchange
❒ 875 Customer Challenge 12 USC 3410
❒ 890 Other Statutory Actions
❒ 891 Agricultural Acts
❒ 892 Economic Stabilization Act
❒ 893 Environmental Matters
❒ 894 Energy Allocation Act
❒ 895 Freedom of Information Act
❒ 900 Appeal of Fee Determination Under Equal Access to Justice
❒ 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

☑ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Re-filed- **(see VI below)** ❒ 4 Reinstated or Reopened ❒ 5 Transferred from another district (specify) ❒ 6 Multidistrict Litigation ❒ 7 Appeal to District Judge from Magistrate Judgment

VI. RELATED/RE-FILED CASE(S).

(See instructions second page):

a) Re-filed Case ❒ YES ☑ NO b) Related Cases ❒ YES ☑ NO

JUDGE DOCKET NUMBER

VII. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing and Write a Brief Statement of Cause **(Do not cite jurisdictional statutes unless diversity)**:

28 U.S.C. § 1332(d)2

LENGTH OF TRIAL via 5 days estimated (for both sides to try entire case)

VIII. REQUESTED IN COMPLAINT:

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

DEMAND $ 5,000,000.00

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

ABOVE INFORMATION IS TRUE & CORRECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF ATTORNEY OF RECORD /s/ Angela Arango-Chaffin

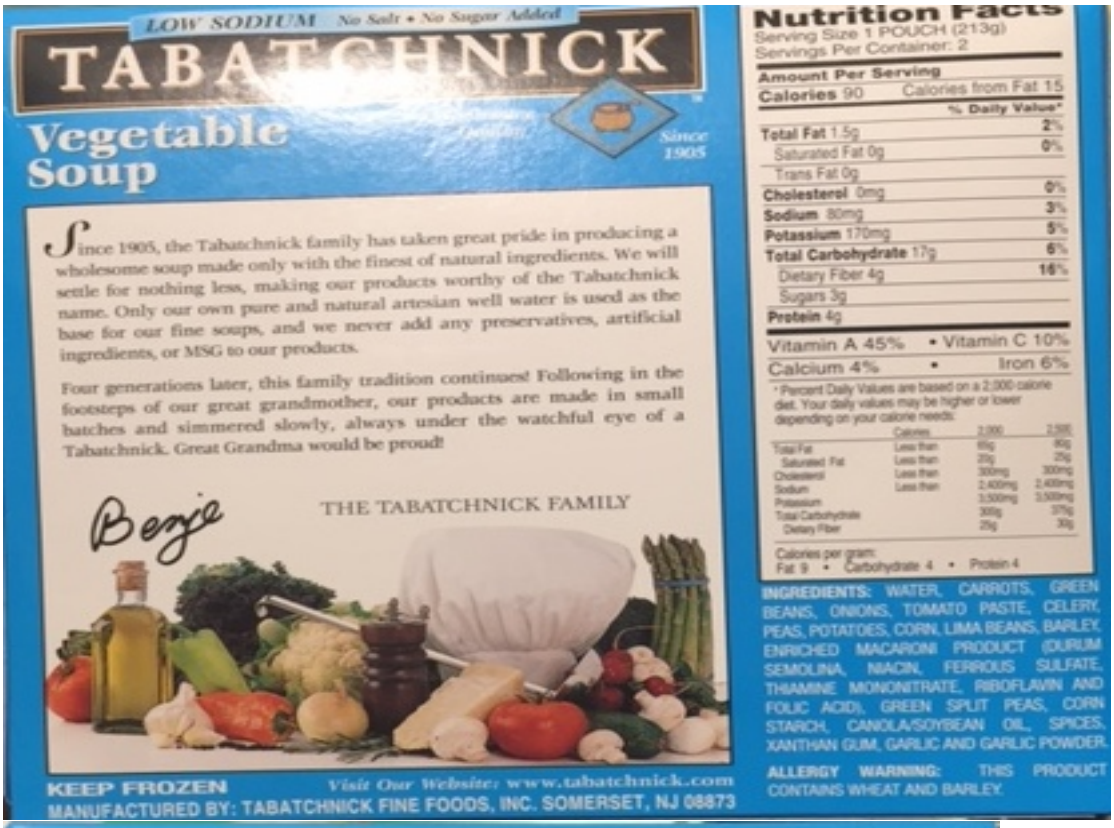
DATE 4/21/2017

FOR OFFICE USE ONLY

AMOUNT _____ RECEIPT # _____ IFP _____

Print Reset

EXHIBIT A


LOW SODIUM No Salt • No Sugar Added
TABATCHNICK
Vegetable Soup
Since 1905
Since 1905, the Tabatchnick family has taken great pride in producing a wholesome soup made only with the finest of natural ingredients. We will settle for nothing less, making our products worthy of the Tabatchnick name. Only our own pure and natural artesian well water is used as the base for our fine soups, and we never add any preservatives, artificial ingredients, or MSG to our products.
Four generations later, this family tradition continues! Following in the footsteps of our great grandmother, our products are made in small batches and simmered slowly, always under the watchful eye of a Tabatchnick. Great Grandma would be proud!
Bezie
THE TABATCHNICK FAMILY
KEEP FROZEN
Visit Our Website: www.tabatchnick.com
MANUFACTURED BY: TABATCHNICK FINE FOODS, INC. SOMERSET, NJ 08873
Nutrition Facts
Serving Size 1 POUCH (213g)
Servings Per Container: 2
Amount Per Serving
Calories 90 Calories from Fat 15
% Daily Value*
Total Fat 1.5g 2%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 80mg 3%
Potassium 170mg 5%
Total Carbohydrate 17g 6%
Dietary Fiber 4g 16%
Sugars 3g
Protein 4g
Vitamin A 45% • Vitamin C 10%
Calcium 4% • Iron 6%
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:
Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4
INGREDIENTS: WATER, CARROTS, GREEN BEANS, ONIONS, TOMATO PASTE, CELERY, PEAS, POTATOES, CORN, LIMA BEANS, BARLEY, ENRICHED MACARONI PRODUCT (DURUM SEMOLINA, NIACIN, FERROUS SULFATE, THIAMINE MONONITRATE, RIBOFLAVIN AND FOLIC ACID), GREEN SPLIT PEAS, CORN STARCH, CANOLA/SOYBEAN OIL, SPICES, XANTHAN GUM, GARLIC AND GARLIC POWDER.
ALLERGY WARNING: THIS PRODUCT CONTAINS WHEAT AND BARLEY.


TABATCHNICK
Vegetable Soup
Wholesome Quality
Since 1905
All Natural
LOW SODIUM
No Salt • No Sugar Added
See nutritional information
TWO MICROWAVABLE COOKING POUCHES
NET WT. 15 OZ. (426G)
SERVING SUGGESTION


TABATCHNICK
Wholesome Quality
Since 1905
Barley & Mushroom Soup
All Natural
80 Calories
See nutritional information
TWO COOKING POUCHES
NET WT. 15 OZ. (426G)
SERVING SUGGESTION


TABATCHNICK
Barley & Mushroom Soup
Wholesome Quality
Since 1905
Since 1905, the Tabatchnick family has taken great pride in producing a wholesome soup made only with the finest of natural ingredients. We will settle for nothing less, making our products worthy of the Tabatchnick name. Only our own pure and natural artesian well water is used as the base for our fine soups, and we never add any preservatives, artificial ingredients, or MSG to our products.
Four generations later, this family tradition continues! Following in the footsteps of our great grandmother, our products are made in small batches and simmered slowly, always under the watchful eye of a Tabatchnick. Great Grandma would be proud!
Bezia
THE TABATCHNICK FAMILY
KEEP FROZEN
Visit Our Website: www.tabatchnick.com
MANUFACTURED BY: TABATCHNICK FINE FOODS, INC. SOMERSET, NJ 08873
Nutrition Facts
Serving Size 1 POUCH (213g)
Servings Per Container: 2
Amount Per Serving
Calories 80 Calories from Fat 10
% Daily Value*
Total Fat 1g 1%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 480mg 20%
Potassium 190mg 6%
Total Carbohydrate 17g 6%
Dietary Fiber 3g 14%
Sugars 1g
Protein 3g
Vitamin A 35% • Vitamin C 4%
Calcium 2% • Iron 4%
INGREDIENTS: WATER, BARLEY, CARROTS, MUSHROOMS, ONIONS, CELERY, CORN STARCH, SALT, SPICES, CANOLA/SOYBEAN OIL, MIREPOIX (VEGETABLES [CARROTS, CELERY, ONIONS], SOYBEAN OIL, SUGAR, SALT, CORN STARCH, NATURAL FLAVOR, XANTHAN GUM, GARLIC, NATURAL FLAVORS AND ANNATTO EXTRACT.
ALLERGY WARNING: THIS PRODUCT CONTAINS BARLEY


TABATCHNICK
Minestrone Soup
Wholesome Quality
Since 1905
All Natural
110 Calories
See nutritional information
TWO
COOKING POUCHES
NET WT. 15 OZ. (426G)


TABATCHNICK
Minestrone Soup
Wholesome Quality
Since 1905
Since 1905, the Tabatchnick family has taken great pride in producing a wholesome soup made only with the finest of natural ingredients. We will settle for nothing less, making our products worthy of the Tabatchnick name. Only our own pure and natural artesian well water is used as the base for our fine soups, and we never add any preservatives, artificial ingredients, or MSG to our products.
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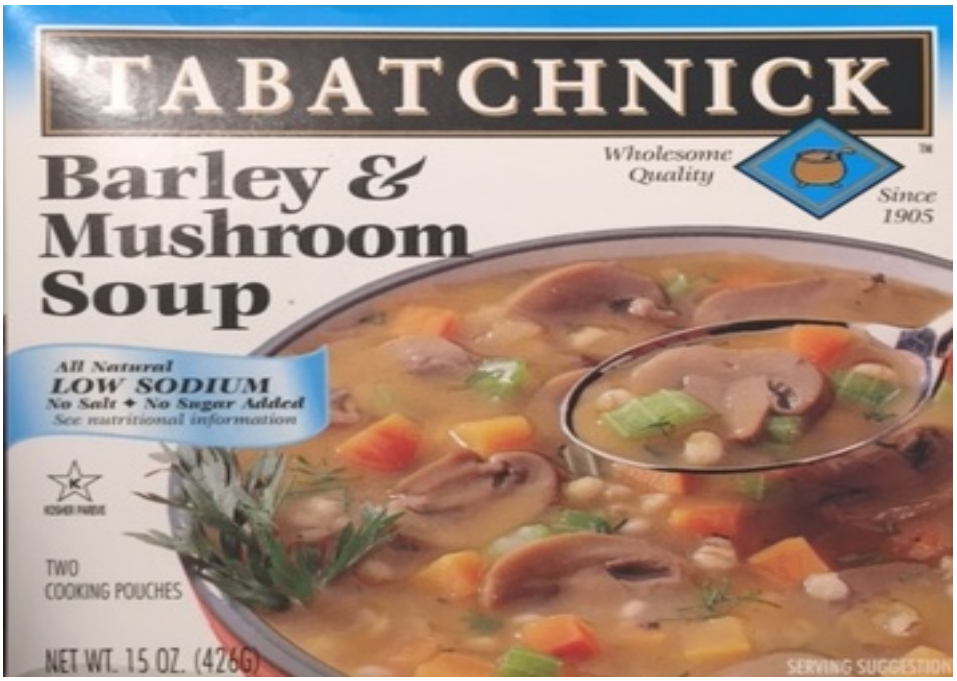
THE TABATCHNICK FAMILY
KEEP FROZEN
Visit Our Website: www.tabatchnick.com
MANUFACTURED BY: TABATCHNICK FINE FOODS, INC. SOMERSET, NJ 08873
Nutrition Facts
Serving Size 1 POUCH (213g)
Servings Per Container: 2
Amount Per Serving
Calories 110 Calories from Fat 15
% Daily Value*
Total Fat 1.5g 2%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 480mg 20%
Potassium 300mg 9%
Total Carbohydrate 20g 7%
Dietary Fiber 4g 17%
Sugars 3g
Protein 5g
Vitamin A 45% • Vitamin C 10%
Calcium 6% • Iron 8%
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:
Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4
INGREDIENTS: WATER, CARROTS, ONIONS, TOMATO PASTE, GREEN BEANS, TOMATOES (DICED TOMATOES, TOMATO JUICE), CELERY, GREAT NORTHERN BEANS, ENRICHED MACARONI PRODUCT (SEMOLINA, NIACIN, FERROUS SULFATE, THIAMINE MONONITRATE, RIBOFLAVIN AND FOLIC ACID), KIDNEY BEANS, PEAS, SPINACH, CORN STARCH, LIMA BEANS, SALT, CANOLA OIL/SOYBEAN OIL, SPICES, XANTHAN GUM, GARLIC, AND MIREPOIX (VEGETABLES [CARROT, CELERY, ONION], SOYBEAN OIL, SUGAR, SALT, CORN STARCH, NATURAL FLAVOR).
ALLERGY WARNING: THIS PRODUCT CONTAINS WHEAT.


TABATCHNICK
Barley & Mushroom Soup
Wholesome Quality
Since 1905
All Natural
LOW SODIUM
No Salt • No Sugar Added
See nutritional information
TWO COOKING POUCHES
NET WT. 15 OZ. (426G)
SERVING SUGGESTION


LOW SODIUM No Salt • No Sugar Added
TABATCHNICK
Barley & Mushroom Soup
Wholesome Quality
Since 1905
Since 1905, the Tabatchnick family has taken great pride in producing a wholesome soup made only with the finest of natural ingredients. We will settle for nothing less, making our products worthy of the Tabatchnick name. Only our own pure and natural artesian well water is used as the base for our fine soups, and we never add any preservatives, artificial ingredients, or MSG to our products.
Four generations later, this family tradition continues! Following in the footsteps of our great grandmother, our products are made in small batches and simmered slowly, always under the watchful eye of a Tabatchnick. Great Grandma would be proud!
Bezje
THE TABATCHNICK FAMILY
Visit Our Website: www.tabatchnick.com
Nutrition Facts
Serving Size 1 POUCH (213g)
Servings Per Container: 2
Amount Per Serving
Calories 80 Calories from Fat 10
% Daily Value*
Total Fat 1g 1%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 80mg 3%
Potassium 200mg 6%
Total Carbohydrate 17g 6%
Dietary Fiber 3g 14%
Sugars 1g
Protein 3g
Vitamin A 35% • Vitamin C 4%
Calcium 2% • Iron 4%
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:
Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4
INGREDIENTS: WATER, BARLEY, CARROTS, MUSHROOMS, ONIONS, CELERY, CORN STARCH, SPICES, CANOLA/SOYBEAN OIL, XANTHAN GUM, GARLIC, DRIED GARLIC, NATURAL FLAVORS, AND ANNATTO EXTRACT.
ALLERGY WARNING: THIS PRODUCT CONTAINS BARLEY