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2	LARRY BARLLY, State Bar. No. 114456 Supervising Deputy District Attorney Consumer Fraud and Environmental Protection Division	FILED YOLO SUPERIOR COURT
3	Yolo County District Attorney's Office 301 Second Street	DEC 3 0 2016
4	Woodland, CA 95695 Phone: (530) 666-8180	L. MENDOZA
5	Fax: (530) 666-8185	Deputy
6	JEFFREY ROSELL, Santa Cruz County District Attorney EDWARD T. BROWNE, State Bar No. 167638	
7	Assistant District Attorney Santa Cruz County District Attorney's Office	
8	701 Ocean Street, Suite 200 Santa Cruz, CA 95060	
9	(830) 454-2547	
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12	SUPERIOR COURT OF CALIFORNIA	
13	COUNTY OF YOLO	
14	THE PEOPLE OF THE STATE OF CALIFORNIA,	NO. CUILE-2178
15	Plaintiff,	COMPLAINT FOR INJUNCTION, CIVIL
16	VS.	PENALTIES, AND OTHER RELIEF
17	GENERAL MILLS INC., a Delaware Corporation,	
18	,	UNLIMITED CIVIL CASE
19	Defendant.	(Amount demanded exceeds \$10,000)
20		, ,
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22	JEFF W. REISIG, District Attorney of Yolo County, by LARRY BARLLY, Supervising	
23	Deputy District Attorney; and JEFFREY ROSELL Santa Cruz County District Attorney by	
24	EDWARD T. BROWNE, Assistant District Attorney, acting on information and belief, allege:	
25	JURISDICTION AND VENUE	
26	1. Acting to protect the general public from untrue and misleading representations	
27	and unlawful business practices, plaintiffs bring this suit in the name of THE PEOPLE OF THE	
28	Page 1 of 6	

STATE OF CALIFORNIA. Plaintiffs, by this action and pursuant to Business and Professions Code sections 17200, 17203, 17204, 17205, 17206, 17500, 17535 and 17536, seek to enjoin Defendant, GENERAL MILLS, INC. ("Defendant" or "GENERAL MILLS") from engaging in unfair and unlawful business practices as alleged herein and seek to obtain civil penalties and remedies for the Defendant's violation of the above statutes, and seek to recover its costs and cost of investigation pursuant Business and Professions Code section 12015.5.

2. At all times mentioned herein, Defendant has transacted business and committed violations as hereinafter described within the Counties of Yolo and Santa Cruz in the State of California and elsewhere in the State of California.

DEFENDANT

- Defendant GENERAL MILLS, INC. is, and was at all times mentioned herein, a
 Delaware Corporation, with its principal offices located at Number One General Mills Blvd.,
 Minneapolis, MN 55426.
- 4. At all times herein mentioned in this Complaint, Defendant has been, and is engaged in the business of manufacturing and/or packaging and/or distributing food products which are offered for sale to California consumers.
- 5. When reference is made to any act or omission of Defendant or its officers, agents, or employees, such allegations shall be deemed to mean that the officers, directors, employees, or representatives of Defendant did, or authorized, such act while engaged in the management, direction, representation or control of the affairs of said Defendant, and did so while acting within the course and scope of their duties and/or their actual or ostensible scope of their authority. Plaintiff further alleges that the individual Defendants were, and are, the alter egos of the corporate Defendant.

INTRODUCTION

6. This matter comes before the Court based on the People's allegations that GENERAL MILLS packaged its FIBER ONE bars (hereinafter FIBER ONE or "products", in violation of

California law relating to nonfunctional slack fill, and/or prohibitions against misleading advertising and unfair competition as shown in the attached Exhibit A.

FIRST CAUSE OF ACTION UNTRUE OR MISLEADING STATEMENTS (Business and Professions Code section 17500)

- 7. Plaintiff incorporates paragraphs 1 through 6 of this Complaint herein by reference.
- 8. Beginning on an exact date unknown to the plaintiff, but at least within three (3) years prior to the date of filing of this Complaint, Defendant, with the intent to induce members of the general public to purchase its products, made or caused to be made representations to the public which were untrue and misleading. Said untrue or misleading statements, which are unlawful under Business and Professions Code section 17500, included advertising FIBER ONE for sale wherein the container in which the product was packaged:
- (A) Was filled wholly or partially as to be misleading. Defendant's product was packaged in such a manner that there was a significant void space above the actual product in its container in violation California's packaging requirements pursuant to Business and Professions Code sections 12602, and 12606.2(b); and/or
- (B) In containers which had a substantial void space not visible by consumers, referred to as "nonfunctional slack fill" in violation of Business and Professions Code sections 12602, and 12606.2(c). This nonfunctional slack fill packaging, when displayed for sale to the public of the State of California, caused false representations to the public by implying that Defendant's product filled the entire package and included advertising its product for sale wherein the container in which the product was packaged contained less in volume than was stated on the bag.
- 9. The representations and statements made by Defendant, as set forth in the paragraphs above, were untrue or misleading when made, and were known, or should have been known, by Defendant to be untrue or misleading.

10. The conduct of Defendant as set forth above demonstrates the necessity for granting injunctive relief restraining such and similar acts of unfair competition pursuant to California Business and Professions Code sections 17535. Unless enjoined by order of this court, Defendant will retain the ability to and could make untrue or misleading statements in violation of Business and Professions Code section 17500.

SECOND CAUSE OF ACTION UNFAIR COMPETITION

(Business and Professions Code section 17200)

- 11. Plaintiff realleges and incorporates herein by reference all allegations contained in paragraphs 1 through 10 inclusive, of this Complaint.
- 12. Beginning on an exact date unknown to Plaintiff, but at least within four (4) years prior to the filing of this Complaint, Defendant engaged in unlawful acts or practices in the conduct of its business, which acts or practices constituted unfair competition within the meaning of section 17200 of the Business and Professions Code, and which included, but are not limited to:
- (A) Defendant made, or caused to be made, misleading representations regarding the packaging of its products as more fully described in paragraph 8 above, in violation of Business and Professions Code section 17500.
- (B) Defendant violated section 12602 of the Business and Professions Code, in that Defendant's products, as shown in Exhibit A, which was sold in California, was packaged in non-conforming type packages. Said non-conforming packages contained substantial extra space by volume in the interior of the package. The excess volume provided no benefit to the contents of the package and misled consumers.
- (C) Defendant violated section 12606.2(b) of the California Business and Professions Code, in that Defendant's products as shown in Exhibit A, was sold in a container that was filled so as to be misleading as to the actual size and filling of the products.

- (D) Defendant violated section 12606.2(c) of the California Business and Professions Code, in that Defendant's products as shown in Exhibit A were packaged in containers that were misleading in that they contained nonfunctional slack fill.
- 13. The conduct of Defendant as set forth above demonstrates the necessity for granting injunctive relief restraining such and similar acts of unfair competition pursuant to California Business and Professions Code sections 17203. Unless enjoined and restrained by order of the court, Defendant will retain the ability to, and may engage in, said acts of unfair competition, and misleading advertising.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT AS FOLLOWS:

- 1. Pursuant to California Business & Professions Code sections 17204 and 17535, Defendant and its officers, directors, agents, employees, representatives, and all persons acting in concert or participating with it, with actual or constructive notice of this injunction, be permanently enjoined and restrained from engaging in the following acts while advertising or attempting to sell any of its product to The People of the State of California:
- (A) Making any oral or written representations in violation of California

 Business and Professions Code section 17500 including, but not limited to, those acts set forth in the first cause of action of this complaint.
- (B) Engaging in any business practices in violation of California Business and Professions Code section 17200 including, but not limited to, those acts set forth in the second cause of action of this Complaint.
- 2. Defendant herein be assessed a civil penalty of Two Thousand Five Hundred Dollars (\$2,500) for each act of false or misleading advertising engaged in, in violation of California Business and Professions Code section 17500 as provided in section 17536.
 - 3. Defendant herein be assessed a civil penalty of Two Thousand Five Hundred

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1	Dollars (\$2,500) for each act of unlawful or unfair business practice engaged in, in violation of	
2	California Business and Professions Code section 17200 as provided in section 17206.	
3	4. Plaintiffs recover their costs.	
4	5. Plaintiffs have such other and further relief as the nature of the case may require,	
5	and the Court deems proper to fully and successfully dissipate the false and misleading	
6	representations, and the unfair, unlawful and fraudulent business practices complained of herein,	
7	and the effects thereof.	
8	DATED: 12/29/16 Respectfully submitted,	
9	JEFF W. REISIG	
10	DISTRICT ATTORNEY	
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12 13	By: LARRY BARLLY Supervising Deputy District Attorney	
$\begin{bmatrix} 13 \\ 14 \end{bmatrix}$	Supervising Deputy District Attorney Attorney for Plaintiff	
15	DATED: Respectfully submitted,	
16	JEFFREY ROSELL,	
17	DISTRICT ATTORNEY	
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19	By: EDWARD T. BROWNE	
20	Assistant District Attorney Attorney for Plaintiff	
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