

**LEE LITIGATION GROUP, PLLC**

C.K. Lee (CL 4086)  
Anne Seelig (AS 3976)  
30 East 39th Street, Second Floor  
New York, NY 10016  
Tel.: 212-465-1188  
Fax: 212-465-1181  
*Attorneys for Plaintiff and the Class*

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

---

COURTNEY ROSS,  
*on behalf of herself and others similarly situated,*

Plaintiff,

v.

NESTLE USA, INC.,

Defendant.

---

Case No.:

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

Plaintiff COURTNEY ROSS, individually and on behalf of all others similarly situated, by her undersigned attorneys, as and for her Complaint against the Defendant, NESTLE USA INC., alleges the following based upon personal knowledge as to herself and her own action, and, as to all other matters, respectfully alleges, upon information and belief, as follows (Plaintiff believes that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery):

**NATURE OF THE ACTION**

1. Plaintiff MICHELLE ROSS, on behalf of herself and others similarly situated, by and through her undersigned attorneys, brings this class action against Defendant, NESTLE USA, INC, for the deceptive practice of marketing its Lean Cuisine® frozen meals as having “No

Preservatives” when many of them contain citric acid (2-hydroxypropane-1,2,3-tricarboxylic acid), a well-known preservative commonly used in commercial food and drink products.

2. Defendant sold Plaintiff and Class members, and continues to sell consumers, the following products containing citric acid with misleading “No Preservatives” language:

- a. Lean Cuisine® *favorites* Alfredo Pasta with Chicken & Broccoli
- b. Lean Cuisine® *favorites* Four Cheese Cannelloni
- c. Lean Cuisine® *favorites* Cheese Ravioli
- d. Lean Cuisine® *favorites* Chicken Enchilada Suiza
- e. Lean Cuisine® *favorites* Fettuccini Alfredo
- f. Lean Cuisine® *favorites* Classic Five Cheese Lasagna
- g. Lean Cuisine® *favorites* Asian-Style Pot Stickers
- h. Lean Cuisine® *favorites* Spaghetti with Meatballs
- i. Lean Cuisine® *favorites* Macaroni & Cheese
- j. Lean Cuisine® *favorites* Chicken Fettuccini
- k. Lean Cuisine® *favorites* Five Cheese Rigatoni
- l. Lean Cuisine® *favorites* Cheddar Potatoes with Broccoli
- m. Lean Cuisine® *favorites* Lasagna with Meat Sauce
- n. Lean Cuisine® MARKETPLACE Roasted Chicken & Garden Vegetables
- o. Lean Cuisine® MARKETPLACE Creamy Basil Chicken with Tortellini
- p. Lean Cuisine® MARKETPLACE Chicken with Almonds
- q. Lean Cuisine® MARKETPLACE Sesame Chicken
- r. Lean Cuisine® MARKETPLACE Chicken Pecan
- s. Lean Cuisine® MARKETPLACE Ginger Garlic Stir Fry with Chicken
- t. Lean Cuisine® MARKETPLACE Tortilla Crusted Fish
- u. Lean Cuisine® MARKETPLACE Orange Chicken
- v. Lean Cuisine® MARKETPLACE Apple Cranberry Chicken
- w. Lean Cuisine® MARKETPLACE Chile Lime Chicken
- x. Lean Cuisine® MARKETPLACE Mushroom Mezzaluna Ravioli
- y. Lean Cuisine® MARKETPLACE Ranchero Braised Beef
- z. Lean Cuisine® MARKETPLACE Cheese and Bean Enchilada Verde
- aa. Lean Cuisine® MARKETPLACE Cheese Tortellini
- bb. Lean Cuisine® MARKETPLACE Ricotta Cheese & Spinach Ravioli
- cc. Lean Cuisine® MARKETPLACE Spicy Beef & Bean Enchilada
- dd. Lean Cuisine® MARKETPLACE Spicy Mexican Black Beans & Rice
- ee. Lean Cuisine® *Comfort* Chicken Parmesan
- ff. Lean Cuisine® *Comfort* Herb Roasted Chicken
- gg. Lean Cuisine® *Comfort* Meatloaf with Mashed Potatoes
- hh. Lean Cuisine® *Comfort* Salisbury Steak with Macaroni & Cheese
- ii. Lean Cuisine® *Comfort* Shrimp Alfredo
- jj. Lean Cuisine® *Comfort* Grilled Chicken Caesar
- kk. Lean Cuisine® *Craveables* Four Cheese Pizza

- II. Any other Lean Cuisine® product that contains citric acid and is accompanied by “No Preservatives” language on the label (collectively, the “Products”).

Such Products are detailed under **EXHIBIT A**.

3. Defendant engaged in deceptive labeling practices by expressly representing on its Product labels and website that the Products have “No Preservatives” despite the presence of citric acid.

4. By deceptively marketing the Products as having “No Preservatives,” Defendant wrongfully capitalized on, and reaped enormous profits from, consumers’ strong preference for food products made free of preservatives.

5. Defendant marketed its Lean Cuisine® Products in a way that is deceptive to consumers under the consumer protection laws of New York. Defendant has been unjustly enriched as a result of its conduct. For these reasons, Plaintiff seek the relief set forth herein.

6. Plaintiff brings this proposed consumer class action on behalf of herself and all other persons in New York, who, from the applicable limitations period up to and including the present (“Class Period”), purchased for consumption and not resale any of Defendant’s Products.

### **JURISDICTION AND VENUE**

7. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 because this is a class action, as defined by 28 U.S.C § 1332(d)(1)(B), in which a member of the putative class is a citizen of a different state than Defendant, and the amount in controversy exceeds the sum or value of \$5,000,000, excluding interest and costs. *See* 28 U.S.C. § 1332(d)(2).

8. This Court has personal jurisdiction over Plaintiff because Plaintiff submits to the Court's jurisdiction. This Court has personal jurisdiction over Defendant, pursuant to New York Statute N.Y. CVP. Law § 302, because it conducts substantial business in this District, some of the actions giving rise to the Complaint took place in this District, and some of Plaintiffs’ claims

arise out of Defendant operating, conducting, engaging in or carrying on a business or business venture in this state or having an office or agency in this state; committing a tortious act in this state; and causing injury to person or property in this state arising out of Defendant's acts and omissions outside this state. Additionally, this court has personal jurisdiction over Defendant because its Products are advertised, marketed, distributed, and sold throughout New York State; Defendant engaged in the wrongdoing alleged in this Complaint throughout the United States, including in New York State; and Defendant has sufficient minimum contacts with New York and/or otherwise has intentionally availed itself of the markets in New York State, rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Moreover, Defendant is engaged in substantial and not isolated activity within New York State.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial part of the events or omissions giving rise to these claims occurred in this District, the Defendant has caused harm to class members residing in this District, and the Defendant is a resident of this District under 28 U.S.C. 1391(c)(2) because it is subject to personal jurisdiction in this district.

### **PARTIES**

#### ***Plaintiff***

10. Plaintiff COURTNEY ROSS is, and at all times relevant hereto has been, a citizen of the State of New York and a resident of New York County. On September 29, 2016 Plaintiff ROSS purchased a Lean Cuisine® Four Cheese Pizza for personal consumption at a CVS located on Fifth Avenue in Manhattan for the purchase price of \$3.39.

11. As the result of Defendant's deceptive conduct as alleged herein, Plaintiff ROSS was injured when she paid the purchase price or a price premium for a Product that did not deliver what

it promised. She paid the above sum on the assumption that this was for food free of preservatives and would not have paid this money had she known that it contained preservatives. Defendant promised Plaintiff ROSS a preservative-free meal but delivered something else entirely, thereby depriving her of the benefit of her bargain. Plaintiff ROSS, as a reasonable consumer, derived no value from Defendant's preservative-laden pizza, or at most derived very little value, so she was injured in an amount of up to \$3.39. Damages can be calculated through expert testimony at trial. Further, should Plaintiff ROSS encounter the Products in the future, she could not rely on the truthfulness of the packaging, absent corrective changes to the packaging and advertising of the Products.

***Defendant***

12. Defendant NESTLE USA, INC. is a corporation organized under the laws of Delaware with its headquarters at 800 North Brand Blvd, Glendale, CA 91203. Its address for service of process is CT Corporation System, 1633 Broadway, New York, NY 10019.

13. Defendant develops, markets and sells food products under the Lean Cuisine® brand name throughout the United States. The advertising for the Products, relied upon by Plaintiff, was prepared and/or approved by Defendant and its agents, and was disseminated by Defendant and its agents through advertising and labeling containing the misrepresentations alleged herein. The advertising and labeling for the Products was designed to encourage consumers to purchase the Products and reasonably misled the reasonable consumer, i.e. Plaintiff and the Class, into purchasing the Products. Defendant owns, manufactures and distributes the Products, and created and/or authorized the unlawful, fraudulent, unfair, misleading and/or deceptive labeling and advertising for the Products.

**FACTUAL ALLEGATIONS**

**Defendant Markets Its Products As Free of Preservatives Even Though They Contain Citric Acid**

14. Defendant manufactures, markets, advertises and sells its extensive Lean Cuisine® line of frozen products across the United States.

15. The Products are available at numerous retail and online outlets such as Duane Reade, Target, and Amazon.com.

16. In addition to the “No Preservatives” claim on the front of each Product, the official Lean Cuisine® website displays product descriptions and full lists of ingredients for most of the Products. The Products’ webpages again and again make Defendant’s “No Preservatives” misrepresentation. *See* **EXHIBIT A**

17. While Plaintiff ROSS’s purchase is not listed on the website as a “No Preservatives” product, it makes the same claim on its front label despite containing citric acid. The ingredients list and the front label with its prominent “No Preservatives” misrepresentation are shown below:





By representing that the Products have “No Preservatives,” Defendant sought to capitalize on consumers’ preference for less processed products with fewer additives and the association between such products and a wholesome way of life. Consumers are willing to pay more for

products with no additives because of this association as well as the perceived higher quality, health and safety benefits associated with preservative-free foods.

18. The marketing research firm Mintel reports that more and more Americans are concerned to avoid food containing preservatives:

Foods bearing “free-from” claims are increasingly relevant to Americans, as they perceive the products as closely tied to health. New research from Mintel reveals that **84 percent of American free-from consumers buy free-from foods because they are seeking out more natural or less processed foods**. In fact, 43 percent of consumers agree that free-from foods are healthier than foods without a free-from claim, while another three in five believe the fewer ingredients a product has, the healthier it is (59 percent).

Among the top claims free-from consumers deem most important are trans fat-free (78 percent) and preservative-free (71 percent).

<http://www.mintel.com/press-centre/food-and-drink/84-of-americans-buy-free-from-foods-because-they-believe-them-to-be-more-natural-or-less-processed> (last accessed 11/2/16)

19. And alternet.org reports research showing that most Americans are prepared to pay a premium price for such healthier options:

Not only are consumers increasingly seeking out wholesome foods, they are willing to pay a premium for them. According to Nielsen’s 2015 Global Health & Wellness Survey that polled over 30,000 people online, 88 percent of Americans are willing to pay more for healthier foods. Global sales of healthy food products are estimated to reach \$1 trillion by 2017, according to Euromonitor.

When it comes to what consumers will be seeking out more of over the coming year, it may amount to single word. “Just think of the word no,” Seifer said. “No preservatives, no additives, no growth hormones.”

<http://www.alternet.org/food/8-food-trends-watch-2016> (last accessed 11/2/16)

20. Given these trends, Defendant had a natural interest in misrepresenting its Products as free of preservatives despite the presence of citric acid, as this provided a clear marketing advantage over competitors who do not engage in such deceptive conduct.



**Citric Acid Is A Preservative**

21. The FDA classifies citric acid as a preservative. Citric acid is identified as a preservative in the FDA's Overview of Food Ingredients, Additives, and Colors, on the FDA's website:

Types of Ingredients	What They Do	Examples of Uses	Names Found on Product Labels
Preservatives	Prevent food spoilage from bacteria, molds, fungi, or yeast (antimicrobials); slow or prevent changes in color, flavor, or texture and delay rancidity (antioxidants); maintain freshness	Fruit sauces and jellies, beverages, baked goods, cured meats, oils and margarines, cereals, dressings, snack foods, fruits and vegetables	Ascorbic acid, <u>citric acid</u> , sodium benzoate, calcium propionate, sodium erythorbate, sodium nitrite, calcium sorbate, potassium sorbate, BHA, BHT, EDTA, tocopherols (Vitamin E)

<http://www.fda.gov/Food/IngredientsPackagingLabeling/FoodAdditivesIngredients/ucm094211.htm>. (last accessed 11/2/16) (emphasis added)

22. The FDA's classification of citric acid as a preservative is further confirmed by its Warning Letter, dated October 6, 2010, to the manufacturer of the Chiquita brand "Pineapple Bites with Coconut" and "Pineapple Bites":

The "Pineapple Bites" and "Pineapple Bites with Coconut" products are further misbranded within the meaning of section 403(k) of the Act [21 U.S.C. 343(k)] in that they contain the chemical preservative ascorbic acid and citric acid but their labels fail to declare these preservatives with a description of their functions. 21 CFR 101.22."

See **EXHIBIT B**, FDA Warning Letter dated October 6, 2010.

23. Gos International, a leading distributor of market research, emphasizes citric acid's usefulness as a preservative in frozen foods like Defendant's: "Citric acid plays a vital role in the

stability of frozen food. The increased demand for canned and frozen food sector has elevated the demand for citric acid globally.”<sup>1</sup>

24. This is confirmed by the scholarly literature:

The chelating and acidic properties of citric acid enable it to optimize the stability of frozen food products by enhancing the action of antioxidants and inactivating naturally present enzymes which could cause undesirable browning and loss of flavor.

*Kirk-Othmer Food and Feed Technology*, Volume 1, p. 262 (John Wiley & Sons, 2007)

In the processing of frozen foods, citric acid is used for several reasons. Through its chelating and pH adjustment properties, citric acid is able to optimize the stability of frozen food products by enhancing the activity of antioxidants and inactivating enzymes.

Laszlo P. Somogyi, “Direct Food Additives in Fruit Processing,” in *Processing Fruits: Science and Technology*, Second Edition, Diane M. Barrett, Laszlo Somogyi, and Hosahalli S. Ramaswamy, eds., p. 302 (CRC Press, 2004)

25. Health Canada, an official government organization, notes that citric acid functions as a preservative for fats and oils, as well as for meat, seafood, and poultry – all of which are present in many of Defendant’s Products.<sup>2</sup>

26. Other manufacturers of frozen dinners admit that citric acid is a preservative and do not make deceptive “No Preservatives” claims. For example, the ingredients list of Hungry-Man® Selects Spicy Classic Fried Chicken acknowledges that citric acid is being used to preserve flavor or freshness at numerous points, with reference to the chicken, the mashed potatoes, and the seasoning:

---

<sup>1</sup> <https://www.linkedin.com/pulse/citric-acid-market-grade-food-industrial-others-form-powder-reports>

<sup>2</sup> <http://www.hc-sc.gc.ca/fn-an/securit/addit/list/11-preserv-conserv-eng.php>

# Hungry-Man® Selects Spicy Fried Chicken 16 oz. Box

★★★★★ 3 reviews Q&A By: Hungry-Man Walmart #: 551585910



**INGREDIENTS:** FRIED CHICKEN (DARK MEAT CHICKEN PORTIONS, CHICKEN STOCK, VEGETABLE OIL (PARTIALLY HYDROGENATED SOYBEAN OIL (TBHQ AND CITRIC ACID TO PRESERVE FRESHNESS)), ENRICHED WHEAT FLOUR (WHEAT FLOUR, NIACIN, REDUCED IRON, THIAMINE MONONITRATE, RIBOFLAVIN, FOLIC ACID), SPICY SEASONING (SPICES, ONION POWDER, GARLIC POWDER, DEXTROSE, SUGAR, NATURAL FLAVORS, EXTRACTIVE OF PAPRIKA (COLOR), CARAMEL COLOR, MALTODEXTRIN, CAYENNE PEPPER SAUCE POWDER (AGED RED PEPPERS, VINEGAR, SALT, GARLIC), VINEGAR SOLIDS, YEAST EXTRACT, DEXTRIN, SALT), SALT, SOY PROTEIN ISOLATE, SODIUM PHOSPHATES, MONOSODIUM GLUTAMATE, SPICE), **MASHED POTATOES** (WATER, DEHYDRATED POTATO FLAKES (POTATOES, MONO AND DIGLYCERIDES, SODIUM ACID PYROPHOSPHATE, CITRIC ACID), SEASONING SAUCE (VEGETABLE OIL (PARTIALLY HYDROGENATED SOYBEAN OIL (TBHQ AND CITRIC ACID TO PRESERVE FRESHNESS)), WATER, MONO AND DIGLYCERIDES WITH BHT AND CITRIC ACID TO PROTECT FLAVOR, BETA CAROTENE FOR COLOR (CORN OIL, DL-ALPHA-TOCOPHEROL)), CONTAINS 2% OR LESS OF: SALT, DRIED DAIRY BLEND (WHEY, CALCIUM CASEINATE), **MIXED VEGETABLES** (CARROTS, CORN, CUT GREEN BEANS), **APPLE DESSERT** (WATER, SUGAR, REHYDRATED APPLES, MODIFIED FOOD STARCH, DEHYDRATED APPLE FLAKES (CALCIUM STEARATE), NATURAL AND ARTIFICIAL FLAVOR (WATER, PROPYLENE GLYCOL, ETHANOL, NATURAL AND ARTIFICIAL FLAVOR, CARAMEL COLOR, VANILLA EXTRACTIVES), SPICES, CITRIC ACID, SALT, DRIED EGG YOLKS), **SEASONING SAUCE** (WATER, SUGAR, SEASONING SAUCE (VEGETABLE OIL (PARTIALLY HYDROGENATED SOYBEAN OIL (TBHQ AND CITRIC ACID TO PRESERVE FRESHNESS)), WATER, MONO AND DIGLYCERIDES WITH BHT AND CITRIC ACID TO PROTECT FLAVOR, BETA CAROTENE FOR COLOR (CORN OIL, DL-ALPHA-TOCOPHEROL)), SALT, VEGETABLE OIL (PARTIALLY HYDROGENATED SOYBEAN OIL (TBHQ AND CITRIC ACID TO PRESERVE FRESHNESS))), **CONTAINS 2% OR LESS OF: SEASONING SAUCE** (VEGETABLE OIL (PARTIALLY HYDROGENATED SOYBEAN OIL (TBHQ AND CITRIC ACID TO PRESERVE FRESHNESS)), WATER, MONO AND DIGLYCERIDES WITH BHT AND CITRIC ACID TO PROTECT FLAVOR, BETA CAROTENE FOR COLOR (CORN OIL, DL-ALPHA-TOCOPHEROL)).

**CONTAINS: SOY, WHEAT, MILK, EGGS**

<https://www.walmart.com/ip/Hungry-Man-Selects-Spicy-Classic-Fried-Chicken-Dinner-16-oz/35264434> (last accessed 12/05/16)

27. Citric acid’s ability to protect flavor is likewise acknowledged in the ingredients list of the Jimmy Dean Delights® Turkey Sausage Breakfast Bowl:

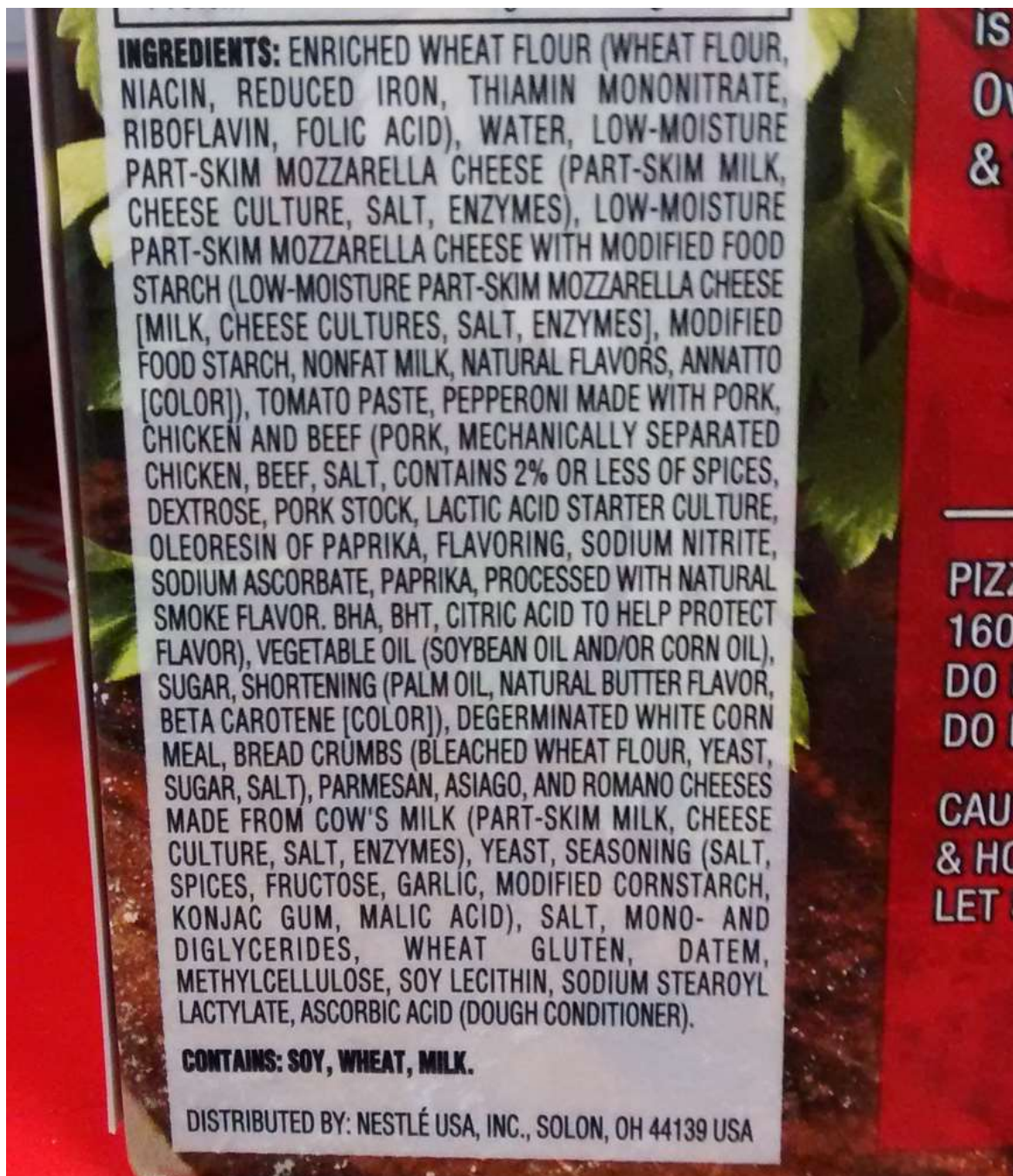
**INGREDIENTS:** PRE-COOKED SCRAMBLED EGG WHITES (EGG WHITES, NONFAT MILK, MODIFIED CORN STARCH, WHEY PROTEIN ISOLATE, SOYBEAN OIL, CARRAGEENAN, SALT, NATURAL EGG FLAVOR, GUAR GUM, XANTHAN GUM), **DICED POTATOES** (POTATOES, VEGETABLE OIL [SOYBEAN AND/OR COTTONSEED OILS], MALTODEXTRIN, SALT, DEXTROSE, TETRASODIUM PYROPHOSPHATE AND SODIUM ACID PYROPHOSPHATE [TO MAINTAIN NATURAL COLOR]), **COOKED TURKEY SAUSAGE CRUMBLES, CARAMEL COLOR ADDED, BHT AND CITRIC ACID ADDED TO HELP PROTECT FLAVOR** (GROUND TURKEY, SEASONING [SALT, DEXTROSE, SUGAR, SPICES, BHT, CITRIC ACID], CARAMEL COLOR), **REDUCED FAT SHREDDED MILD CHEDDAR CHEESE** ((PASTEURIZED PART SKIM MILK, CHEESE CULTURE, SALT, ENZYMES, ANNATTO COLOR, VITAMIN A), CELLULOSE (TO PREVENT CAKING), MAY ALSO CONTAIN NATAMYCIN (A MOLD INHIBITOR)), **WATER.**

**CONTAINS: MILK, EGGS**

DISTRIBUTED BY THE HILLSHIRE BRANDS COMPANY,  
CHICAGO, IL 60607 USA

©2016 TYSON FOODS, INC.

28. Citric acid's nature as a preservative is also acknowledged in another of Defendant's product lines, DiGiorno® pizza, which unlike Lean Cuisine® does not target health-conscious consumers. Below is the ingredients list in the DiGiorno® Traditional Crust pepperoni pizza, where citric acid is clearly described as a flavor-protector:



29. Defendant also acknowledges citric acid's preservative qualities in its Lean Pockets® garlic chicken white pizza, where citric acid is described as a preservative right alongside potassium sorbate:



**Defendant’s “No Preservatives” Misrepresentation Violates Federal and State Laws**

30. New York and federal law place similar requirements on food companies that are designed to ensure that the claims they make about their products to consumers are truthful and accurate. Both New York and federal laws were violated by Defendant’s deceptive “No Preservatives” misrepresentations.

31. Defendant’s deceptive misrepresentations violate the FDCA, which provides that “[a] food shall be deemed misbranded.. If its labeling is false or misleading in any particular.” 21 U.S.C. § 343 (a)(1).

32. Defendant’s deceptive misrepresentations violate N.Y. Agm. Law § 201, which likewise deems that “[f]ood shall be deemed to be misbranded: 1. If its labeling is false or misleading in any particular.”

33. Independently of these, Defendant’s deceptive misrepresentations also violate NY GBL § 349, which declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade or commerce.”

**Defendant’s Misrepresentations Were Material To A Reasonable Consumer and Relied Upon By Plaintiff and the Class**

34. At the point of sale, Plaintiff and Class members did not know, and had no reason to know, that the Products were misbranded as set forth herein, and would not have bought the Products had they known the truth about them. “Misleading” is judged in reference to “the ignorant, the unthinking and the credulous who, when making a purchase, do not stop to analyze.” *United States v. El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (9th Cir. 1951).

35. A representation that a product has “No Preservatives” is material to a reasonable consumer when deciding to purchase a product. Plaintiff did, and a reasonable consumer would, attach importance to whether Defendant’s Products have “No Preservatives” because it is common

knowledge that consumers prefer to avoid foods with potentially unhealthy additives (see consumer behavior research above).

36. Defendant's Product labeling or misleading website were material factors in Plaintiff's and Class members' decisions to purchase the Products. Relying on Defendant's Product labeling or misleading website, Plaintiff and Class members believed that they were getting Products that had "No Preservatives" and made their purchasing decisions on the basis of this mistaken belief—intentionally induced by Defendant.

**Plaintiff and the Class Were Injured As The Result of Defendant's Deceptive Practices**

37. Defendant's Product labeling as alleged herein is deceptive and misleading and was designed to increase sales of the Products. Defendant's misrepresentations are part of its systematic Product packaging practice.

38. As a result of Defendant's misrepresentations, Plaintiff and thousands of others in New York and throughout the United States purchased the Products and were injured thereby. They paid money for food that was represented to them as preservative-free, and then received food that was preservative-laden. Plaintiff and the Class were thus deprived of the benefit of their bargain. They would not have purchased the Products, or would only have been willing to pay less for them, had they known the truth. Thus, they were injured in the amount of the purchase price or, alternatively, in the amount of the price premium they paid—the amount they paid beyond what they would have been willing to pay had they not been deceived about the Products (for which they would not have paid the full purchase price—see consumer behavior research above).

39. See *Orlander v. Staples, Inc.*, 802 F.3d 289, 302 (2d Cir. 2015) ("the issue of 'price premium' was relevant because it showed that plaintiffs paid more than they would have for the good but for the deceptive practices of the defendant-sellers"); *Kacocha v. Nestle Purina Petcare*



Co., No. 15-CV-5489 (KMK), 2016 U.S. Dist. LEXIS 107097, at \*51-52 (S.D.N.Y. Aug. 11, 2016) (“[I]n his Complaint, Plaintiff seeks monetary damages on the grounds that he ‘would not have paid the premium price he paid’ to buy the Products had he ‘known the truth.’...Case law makes clear that this is sufficient at the motion-to-dismiss phase for a § 349 claim to survive.”); *Koenig v. Boulder Brands, Inc.*, 995 F. Supp. 2d 274, 288-89 (S.D.N.Y. 2014) (Plaintiffs claim that, but for Defendants' "unfair and deceptive practices," they—and the putative class—would not have purchased, or paid a price premium for, Smart Balance. Compl. ¶¶ 7, 81. Indeed, Plaintiffs claim that they paid price premiums specifically ‘based on Defendants' misrepresentations,’ and allege that they deserve damages in the amount of either the purchase prices, or the price premiums, that they paid for Smart Balance. *Id.* ¶ 81. Accordingly, the Court finds that Plaintiffs have adequately alleged injury under GBL § 349...”)

### **CLASS ACTION ALLEGATIONS**

40. Plaintiff ROSS seeks to represent the following class:

All New York residents who made retail purchases of the Products during the applicable limitations period, and/or such subClass as the Court may deem appropriate. (“the Class”)

The proposed Class excludes current and former officers and directors of Defendant, members of the immediate families of the officers and directors of Defendant, Defendant’s legal representatives, heirs, successors, assigns, and any entity in which they have or have had a controlling interest, and the judicial officer to whom this lawsuit is assigned.

41. Plaintiff reserves the right to revise the Class definition based on facts learned in the course of litigating this matter.

42. This action is proper for class treatment under Rule 23 of the Federal Rules of Civil Procedure.

43. While the exact number and identities of other Class members are unknown to Plaintiff at this time, Plaintiff is informed and believes that there are thousands of Class members. Thus, the Class is so numerous that individual joinder of all Class members is impracticable.

44. Questions of law and fact arise from Defendant's conduct described herein. Such questions are common to all Class members and predominate over any questions affecting only individual Class members. These include:

- a. whether labeling "No Preservatives" on Products containing citric acid was false and misleading;
- b. whether Defendant engaged in a marketing practice intended to deceive consumers by labeling "No Preservatives" on Products containing citric acid;
- c. whether Defendant deprived Plaintiff and the Class of the benefit of their bargain because the Products purchased were different than what Defendant warranted;
- d. whether Defendant deprived Plaintiff and the Class of the benefit of the bargain because the Products they purchased had less value than what was represented by Defendant;
- e. whether Defendant caused Plaintiff and the Class to purchase a substance that was other than what was represented by Defendant;
- f. whether Defendant has been unjustly enriched at the expense of Plaintiff and other Class members by its misconduct;
- g. whether Defendant must disgorge any and all profits it has made as a result of its misconduct; and
- h. whether Defendant should be barred from marketing the Products as having "No Preservatives."

45. Plaintiff's claims are typical of those of Class members because Plaintiff and the other Class members sustained damages arising out of the same wrongful conduct, as detailed herein. Plaintiff and other Class members purchased Defendant's Products and sustained similar injuries arising out of Defendant's conduct in violation of New York State law. Defendant's unlawful, unfair and fraudulent actions concern the same business practices described herein irrespective of where they occurred or were experienced. The injuries of the Class were caused directly by Defendant's wrongful misconduct. In addition, the factual underpinning of Defendant's misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all members of the Class. Plaintiff's claims arise from the same practices and course of conduct that give rise to the claims of the members of the Class and are based on the same legal theories.

46. Plaintiff will fairly and adequately represent and pursue the interests of the Class and has retained competent counsel experienced in prosecuting nationwide class actions. Plaintiff understands the nature of her claims herein, has no disqualifying conditions, and will vigorously represent the interests of the Class. Neither Plaintiff nor Plaintiff's counsel have any interests that conflict with or are antagonistic to the interests of the Class. Plaintiff has retained highly competent and experienced class action attorneys to represent her interests and those of the Class. Plaintiff and Plaintiff's counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiff and counsel are aware of their fiduciary responsibilities to the Class and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the Class.

47. A class action is superior to other available methods for the fair and efficient adjudication of this controversy. The damages suffered by any individual class member are too

small to make it economically feasible for an individual class member to prosecute a separate action, and it is desirable for judicial efficiency to concentrate the litigation of the claims in this forum. Furthermore, the adjudication of this controversy through a class action will avoid the potentially inconsistent and conflicting adjudications of the claims asserted herein. There will be no difficulty in the management of this action as a class action.

48. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(2) are met, as Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

49. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common to the Class predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

50. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendant. Additionally, individual actions may be dispositive of the interest of all members of the Class, although certain Class members are not parties to such actions.

51. Defendant's conduct is generally applicable to the Class as a whole and Plaintiff seeks, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendant's systematic policies and practices make declaratory relief with respect to the Class as a whole appropriate.

**CAUSES OF ACTION**

**COUNT I**

**INJUNCTION FOR VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349  
(DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)**

52. Plaintiff ROSS realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

53. Plaintiff ROSS brings this claim on behalf of herself and the other members of the Class for an injunction for violations of New York’s Deceptive Acts or Practices Law, Gen. Bus. Law § 349 (“NY GBL § 349”).

54. NY GBL § 349 provides that “deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are . . . unlawful.”

55. Under the § 349, it is not necessary to prove justifiable reliance. (“To the extent that the Appellate Division order imposed a reliance requirement on General Business Law [§] 349 . . . claims, it was error. Justifiable reliance by the plaintiff is not an element of the statutory claim.” *Koch v. Acker, Merrall & Condit Co.*, 18 N.Y.3d 940, 941 (N.Y. App. Div. 2012) (internal citations omitted)).

56. Any person who has been injured by reason of any violation of the NY GBL § 349 may bring an action in their own name to enjoin such unlawful act or practice, an action to recover their actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the Defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

57. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that its Products contain “No Preservatives” were unfair, deceptive, and misleading and are in violation of the NY GBL § 349.

58. The foregoing deceptive acts and practices were directed at customers.

59. Defendant should be enjoined from marketing its products as containing “No Preservatives” as described above pursuant to NY GBL § 349.

60. Plaintiff ROSS, on behalf of herself and all others similarly situated, respectfully demands a judgment enjoining Defendant’s conduct, awarding costs of this proceeding and attorneys’ fees, as provided by NY GBL§ 349, and such other relief as this Court deems just and proper.

## **COUNT II**

### **DAMAGES FOR VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT)**

61. Plaintiff ROSS realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

62. Plaintiff ROSS brings this claim individually and on behalf of the other members of the Class for violations of NY GBL § 349.

63. Defendant’s business act and practices and/or omissions alleged herein constitute deceptive acts or practices under NY GBL § 349, which were enacted to protect the consuming public from those who engage in unconscionable, deceptive or unfair acts or practices in the conduct of any business, trade or commerce.

64. The practices of Defendant described throughout this Complaint, were specifically directed to consumers and violate the NY GBL § 349 for, *inter alia*, one or more of the following reasons:

- a. Defendant knowingly and falsely represented and advertised that the Products have “No Preservatives” with an intent to cause Plaintiff and members of the Class to believe that they do not contain preservatives;
- b. Defendant caused Plaintiff and the Class to suffer a probability of confusion and a misunderstanding of legal rights, obligations and/or remedies by and through its conduct; and
- c. Defendant intended that Plaintiff and the members of the Class rely on its misrepresentations, so that Plaintiff and Class members would purchase the Products.

65. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that its Products have “No Preservatives” were unfair, deceptive, and misleading and are in violation of NY GBL § 349.

66. Under the circumstances, Defendant’s conduct in employing these unfair and deceptive trade practices was malicious, willful, wanton and outrageous such as to shock the conscience of the community and warrant the imposition of punitive damages.

67. Defendant’s actions impact the public interest because Plaintiff and members of the Class were injured in exactly the same way as thousands of others purchasing the Products as a result of Defendant’s general course of deception.

68. By committing the acts alleged in this Complaint, Defendant has misled Plaintiff and the Class into purchasing the Products, in part or in whole, due to an erroneous belief that the

Products have “No Preservatives”. This is a deceptive business practice that violates NY GBL § 349.

69. Defendant’s “No Preservatives” claim misled Plaintiff and is likely in the future to mislead reasonable consumers. Had Plaintiff and members of the Class known the truth about the Products, they would not have purchased them.

70. The foregoing deceptive acts and practices were directed at consumers.

71. The foregoing deceptive acts and practices set forth in connection with Defendant’s violations of NY GBL § 349 proximately caused Plaintiff and other members of the Class to suffer actual damages in the form of, *inter alia*, monies spent to purchase the Products. Plaintiff and other members of the Class are entitled to recover such damages, together with equitable and declaratory relief, appropriate damages, including punitive damages, attorneys' fees and costs. Damages can be calculated through expert testimony at trial.

### **COUNT III**

#### **COMMON LAW FRAUD**

72. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

73. Defendant intentionally made materially false and misleading representations regarding the absence of preservatives in its Products.

74. Plaintiff and members of the Class were induced by, and relied on, Defendant’s false and misleading representations and did not know the truth about the Product at the time when they purchased the Product.

75. Defendant knew or should have known of its false and misleading representations. Defendant nevertheless continued to promote and encourage customers to purchase the Product in



a misleading and deceptive manner. Had Defendant adequately disclosed the true nature of the Product, Plaintiff and Class members would not have purchased the Product.

76. Plaintiff and Class members have been injured as a result of Defendant's fraudulent conduct.

77. Defendant is liable to Plaintiff and Class members for damages sustained as a result of Defendant's fraud. In order for Plaintiff and Class members to be made whole, they need to receive either the price premium paid for the Products or a refund of the purchase price.

#### **COUNT IV**

#### **UNJUST ENRICHMENT**

78. Plaintiff realleges and incorporates herein by reference the allegations contained in all preceding paragraphs, and further alleges as follows:

79. Defendant received certain monies as a result of its uniform deceptive marketing of the Products that are excessive and unreasonable.

80. Plaintiff and the Class conferred a benefit on Defendant through purchasing the Products, and Defendant has knowledge of this benefit and has voluntarily accepted and retained the benefits conferred on them.

81. Defendant will be unjustly enriched if it is allowed to retain such funds, and each Class member is entitled to an amount equal to the amount they enriched Defendant and for which Defendant has been unjustly enriched. The amount of unjust enrichment can be calculated through expert testimony at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all other similarly situated, seeks judgment against Defendant, as follows:

- a. An Order that this action be maintained as a class action and appointing Plaintiff as representative of the Class;
- b. An Order appointing the undersigned attorney as class counsel in this action;
- c. Restitution and disgorgement of all amounts obtained by Defendant as a result of its misconduct, together with interest thereon from the date of payment, to the victims of such violations;
- d. All recoverable compensatory and other damages sustained by Plaintiff and the Class;
- e. Actual and/or statutory damages for injuries suffered by Plaintiff and the Class and in the maximum amount permitted by applicable law;
- f. An order (i) requiring Defendant to immediately cease its wrongful conduct as set forth in this Complaint; (ii) ordering Defendant to engage in a corrective advertising campaign; and (iii) requiring Defendant to reimburse Plaintiff and all members of the Class the amounts paid for the Products;
- g. Statutory pre-judgment and post-judgment interest on any amounts;
- h. Payment of reasonable attorney's fees and costs; and
- i. Such other relief as the Court may deem just and proper.



# EXHIBIT A

**TABLE OF CONTENTS**

**Lean Cuisine® Products**

Lean Cuisine® *favorites* Alfredo Pasta with Chicken & Broccoli ..... 3

Lean Cuisine® *favorites* Four Cheese Cannelloni ..... 4

Lean Cuisine® *favorites* Cheese Ravioli ..... 5

Lean Cuisine® *favorites* Chicken Enchilada Suiza ..... 6

Lean Cuisine® *favorites* Fettuccini Alfredo ..... 7

Lean Cuisine® *favorites* Classic Five Cheese Lasagna ..... 8

Lean Cuisine® *favorites* Asian-Style Pot Stickers..... 9

Lean Cuisine® *favorites* Spaghetti with Meatballs..... 10

Lean Cuisine® *favorites* Macaroni & Cheese..... 11

Lean Cuisine® *favorites* Chicken Fettuccini ..... 12

Lean Cuisine® *favorites* Five Cheese Rigatoni ..... 13

Lean Cuisine® *favorites* Cheddar Potatoes with Broccoli..... 14

Lean Cuisine® *favorites* Lasagna with Meat Sauce ..... 15

Lean Cuisine® *MARKETPLACE* Roasted Chicken & Garden Vegetables ..... 16

Lean Cuisine® *MARKETPLACE* Creamy Basil Chicken with Tortellini ..... 17

Lean Cuisine® *MARKETPLACE* Chicken with Almonds..... 18

Lean Cuisine® *MARKETPLACE* Sesame Chicken ..... 19

Lean Cuisine® *MARKETPLACE* Chicken Pecan ..... 20

Lean Cuisine® *MARKETPLACE* Ginger Garlic Stir Fry with Chicken ..... 21

Lean Cuisine® *MARKETPLACE* Tortilla Crusted Fish..... 22

Lean Cuisine® *MARKETPLACE* Orange Chicken..... 23

Lean Cuisine® *MARKETPLACE* Apple Cranberry Chicken..... 24

Lean Cuisine® *MARKETPLACE* Chile Lime Chicken ..... 25

Lean Cuisine® *MARKETPLACE* Mushroom Mezzaluna Ravioli ..... 26

Lean Cuisine® *MARKETPLACE* Ranchero Braised Beef..... 27

Lean Cuisine® *MARKETPLACE* Cheese and Bean Enchilada Verde..... 28

Lean Cuisine® *MARKETPLACE* Cheese Tortellini ..... 29

Lean Cuisine® *MARKETPLACE* Ricotta Cheese & Spinach Ravioli ..... 30

Lean Cuisine® *MARKETPLACE* Spicy Beef & Bean Enchilada ..... 31

Lean Cuisine® *MARKETPLACE* Spicy Mexican Black Beans & Rice ..... 32

Lean Cuisine® *Comfort* Chicken Parmesan ..... 33

Lean Cuisine® *Comfort* Herb Roasted Chicken ..... 34

Lean Cuisine® *Comfort* Meatloaf with Mashed Potatoes..... 35

Lean Cuisine® *Comfort* Salisbury Steak with Macaroni & Cheese ..... 36

Lean Cuisine® *Comfort* Shrimp Alfredo ..... 37

Lean Cuisine® *Comfort* Grilled Chicken Caesar..... 38

**(all webpages last accessed 09/14/2016)**

## Lean Cuisine® favorites Alfredo Pasta with Chicken & Broccoli

**Alfredo Pasta with Chicken & Broccoli**

White meat chicken, broccoli & rigatoni in a creamy alfredo sauce

★★★★★ (See all 196 reviews)

CHEESE CHICKEN HIGH PROTEIN ITALIAN NO PRESERVATIVES

PASTA

**NUTRITION BASICS**

Calories	280
Fat	4g
Fiber	2g
Protein	17g
Sodium	600mg
Carbohydrates	45g

SEE FULL NUTRITION INFO

### Ingredients

blanched rigatoni (water, semolina, wheat gluten), skim milk, broccoli, cooked chicken white meat (chicken white meat, water, seasoning (salt, maltodextrin, garlic, sugar, spices, dextrose, yeast extract, carrageenan, orange peel, onion, soybean oil, chicken fat, paprika, chicken broth, dehydrated celery, natural flavor), isolated soy protein, modified cornstarch, caramel color, maltodextrin, sodium phosphates, canola oil), water, cream, 2% or less of modified cornstarch, parmesan cheese paste (granular and parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), salt, rice starch, enzyme modified parmesan cheese paste (parmesan cheese (cultured part-skim milk, salt, enzymes), water, whey protein concentrate (from milk), reduced fat milk, milk protein concentrate, enzymes, nonfat milk, cultures), bleached wheat flour, butterfat, romano cheese product ((pasteurized cow's milk, cheese cultures, salt, enzymes), water, salt, lactic acid), mono-&diglycerides, spice, xanthan gum, dehydrated onions, lactic acid, calcium lactate

## Lean Cuisine® *favorites* Four Cheese Cannelloni

### Four Cheese Cannelloni

with ricotta, mozzarella, parmesan & romano cheese

★★★★★ (See all 58 reviews)

CHEESE

ITALIAN

MEATLESS

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	230
Fat	6g
Fiber	3g
Protein	11g
Sodium	690mg
Carbohydrates	33g

SEE FULL NUTRITION INFO

### Ingredients

cheese cannelloni (ricotta cheese (pasteurized whey, milk fat, milk), enriched durum wheat flour (durum wheat flour, niacin, ferrous sulfate, thiamine mononitrate, riboflavin, folic acid), fat free ricotta cheese (whey, skim milk, vinegar, xanthan gum, carrageenan), water, mozzarella cheese (pasteurized milk, cultures, salt, enzymes, nonfat milk), whole eggs, parmesan cheese (pasteurized part-skim milk, cheese cultures, salt, enzymes), modified corn starch, salt, romano cheese (pasteurized cow's milk, cheese cultures, salt, enzymes), black pepper, parsley, beta carotene), tomato puree (water, tomato paste), water, tomatoes (diced tomatoes, tomato juice, citric acid, calcium chloride), onions, 2% or less of modified cornstarch, sugar, garlic puree, soybean oil, basil, salt, spices, potassium chloride, xanthan gum, yeast extract, cultured whey.

## Lean Cuisine® favorites Cheese Ravioli

### Cheese Ravioli

with chunky tomato sauce

★★★★★ (See all 94 reviews)

CHEESE

ITALIAN

MEATLESS

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	250
Fat	6g
Fiber	3g
Protein	10g
Sodium	620mg
Carbohydrates	40g

SEE FULL NUTRITION INFO

### Ingredients

blanched reduced fat cheese ravioli (enriched durum flour&semolina (durum wheat flour, semolina, niacin, iron, thiamin mononitrate, riboflavin, folic acid), ricotta cheese (whey, milk, cream, vinegar), water, fat free ricotta cheese (whey, skim milk, vinegar, xanthan gum, vitamin a palmitate), eggs, romano cheese made from sheep's milk (cultured sheep's milk, salt, enzymes), modified food starch, salt, spices, parsley), tomato puree (water, tomato paste), water, tomatoes (diced tomatoes, tomato juice, citric acid, calcium chloride), onions, 2% or less of modified cornstarch, sugar, basil, salt, dehydrated garlic, spices, xanthan gum, potassium chloride, yeast extract, cultured whey.



## Lean Cuisine® favorites Chicken Enchilada Suiza

### Chicken Enchilada Suiza

Chicken Enchilada Suiza with a sour cream sauce and mexican-style rice.

★★★★☆ (See all 179 reviews)

CHEESE

CHICKEN

MEXICAN

NO PRESERVATIVES

#### NUTRITION BASICS

Calories	280
Fat	4g
Fiber	3g
Protein	10g
Sodium	520mg
Carbohydrates	51g

#### Ingredients

blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), chicken enchilada (corn tortilla (corn masa {corn flour, cellulose gum, mono- and diglycerides, trace of lime}, water), cooked chicken meat (chicken, carrageenan), tomatoes (tomatoes, tomato juice, salt, calcium chloride, citric acid), onions, water, green chiles (green chiles, citric acid, salt, calcium chloride), modified cornstarch, garlic powder, jalapeno peppers (jalapeno peppers, water, salt, acetic acid, calcium chloride), paprika, spices, salt, cilantro), water, skim milk, onions, corn, red peppers, 2% or less of buttermilk powder, green chiles and citric acid, cheddar cheese (milk, cheese culture, salt, enzymes, annatto), apple cider vinegar, dehydrated sour cream (sour cream (cultured cream, nonfat milk)), modified cornstarch, garlic puree, bleached wheat flour, cilantro, salt, spices, jalapeno puree (jalapeno peppers, salt, acetic acid and calcium chloride), sugar, soybean oil, yeast extract, chicken fat, lime juice concentrate, seasoning (corn maltodextrin, medium chain triglycerides, modified corn starch, natural flavors), seasoning (wheat starch, extracts of annatto and turmeric color, natural flavor), dehydrated onions.

## Lean Cuisine® favorites Fettuccini Alfredo

# Fettuccini Alfredo

tender pasta with a creamy cheese sauce

★★★★☆ (See all 64 reviews)

CHEESE

ITALIAN

MEATLESS

NO PRESERVATIVES

PASTA

### NUTRITION BASICS

Calories	260
Fat	5g
Fiber	2g
Protein	9g
Sodium	570mg
Carbohydrates	45g

### Ingredients

blanched fettuccini (water, semolina, wheat gluten), skim milk, water, 2% or less of cream, soybean oil, romano cheese ((made from cow's milk), cultured milk, enzymes, salt), parmesan cheese (cultured milk, salt, enzymes), parmesan cheese paste (granular and parmesan cheese (pasturized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), modified cornstarch, salt, bleached wheat flour, rice starch, asiago cheese (cultured milk, salt, enzymes) yeast extract, butterfat, spices, enzyme modified parmesan cheese (cultured milk, water, salt, enzymes), enzyme modified cheese (cultured milk, water, salt, enzymes), potassium chloride, whey protein concentrate, xanthan gum, whey, seasoning (wheat starch, extracts of annatto and tumeric color, natural flavor

## Lean Cuisine® *favorites* Classic Five Cheese Lasagna

### Classic Five Cheese Lasagna

with low fat ricotta, reduced fat mozzarella, provolone, romano & parmesan cheeses

★★★★★ (See all 41 reviews)

CHEESE

ITALIAN

MEATLESS

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	350
Fat	7g
Fiber	4g
Protein	20g
Sodium	620mg
Carbohydrates	51g

### Ingredients

blanched macaroni product (water, semolina), tomato puree (water, tomato paste), water, low fat ricotta cheese (pasteurized whey, pasteurized milk, pasteurized cream, vinegar, carrageenan, xanthan gum), reduced fat mozzarella cheese and modified cornstarch (reduced fat mozzarella cheese (pasteurized milk, nonfat milk, cheese cultures), modified cornstarch, salt, sodium citrate, flavors, vitamin a palmitate, enzymes), tomatoes (diced tomatoes, tomato juice, citric acid, calcium chloride), onions, 2% or less of modified cornstarch, provolone cheese (cultured milk, salt, enzymes, natural smoke flavor), bread crumbs (bleached wheat flour contains 2% or less of: sugar, yeast, salt), sugar, soybean oil, romano cheese (cultured cow's milk, salt, enzymes), dehydrated garlic, parmesan cheese (cultured milk, salt, enzymes), salt, cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, enzymes, cultures, phosphoric acid, xanthan gum), spices, yeast extract, extra virgin olive oil, asiago cheese (cultured milk, salt, enzymes), enzyme modified parmesan cheese (cultured milk, water, salt, enzymes), xanthan gum, enzyme modified romano cheese (cultured cow's milk, water, salt, enzymes), potassium chloride, whey.

**Lean Cuisine® favorites Asian-Style Pot Stickers**

# Asian-Style Pot Stickers

chicken &amp; vegetable dumplings with rice in an asian-style dipping sauce

★★★★★ (See all 65 reviews)

ASIAN

CHICKEN

NO PRESERVATIVES

## NUTRITION BASICS

Calories	280
Fat	4g
Fiber	3g
Protein	9g
Sodium	530mg
Carbohydrates	52g

## Ingredients

cooked chicken and vegetable pot stickers (filling: chicken, cabbage, onion, soybean oil, sesame oil, salt, spices, sugar, garlic. wrapper: bleached enriched flour (wheat flour, niacin, reduced iron, thiamin mononitrate, riboflavin, folic acid), water, food starch, salt), blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), water, peas, carrots, red peppers, 2% or less of sugar, brown sugar, modified cornstarch, soy sauce (water, wheat, soybeans, salt), dehydrated soy sauce (soybeans, salt, wheat), apple cider vinegar, ginger puree (ginger, water, citric acid), xanthan gum, caramel color, citric acid, spice.

## Lean Cuisine® favorites Spaghetti with Meatballs

### Spaghetti with Meatballs

in a hearty tomato sauce

★★★★★ (See all 46 reviews)

BEEF

CHEESE

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	270
Fat	5g
Fiber	4g
Protein	15g
Sodium	600mg
Carbohydrates	41g

#### Ingredients

blanched spaghetti (water, semolina), tomato puree (water, tomato paste), water, beef and pork, tomatoes, 2% or less of modified cornstarch, onions, rolled oats, soy protein concentrate (with caramel color), bleached wheat flour, sugar, soybean oil, dehydrated onions, salt, basil, beef flavor (salt, seasoning (including hydrolyzed beef protein), tapioca dextrin, modified cornstarch, palm oil, corn maltodextrin, citric acid, arabic gum), beef, spices, cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, enzymes, cultures, phosphoric acid, xanthan gum), dehydrated soy sauce (soybeans, salt, wheat), beef flavor (maltodextrin, salt, beef extract, rendered beef fat, sesame oil), egg whites, dehydrated garlic, natural flavors, cultured whey, yeast extract, beef stock, caramel color, potassium chloride.

## Lean Cuisine® favorites Macaroni & Cheese

### Macaroni & Cheese

Tender macaroni in a creamy cheddar cheese sauce

★★★★☆ (See all 68 reviews)

AMERICAN

CHEESE

HIGH PROTEIN

MEATLESS

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	300
Fat	6g
Fiber	2g
Protein	13g
Sodium	560mg
Carbohydrates	48g

#### Ingredients

blanched macaroni (water, semolina, wheat gluten), skim milk, water, cheddar club cheese (cheddar cheese (cultured milk, salt, enzymes), water, salt, annatto color), 2% or less of cheese flavor (cheddar, granular, semisoft and blue cheese (cultured milk, salt, enzymes), water, sodium phosphate, whey, vinegar, salt, citric acid), modified cornstarch, cheddar cheese (cultured milk, salt, enzymes), rice starch, bleached wheat flour, salt, potassium chloride, cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, enzymes, cultures, phosphoric acid, xanthan gum), cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, disodium phosphate, natural flavors), spices, cultured whey, carrageenan, yeast extract, annatto color, natural flavor

## Lean Cuisine® *favorites* Chicken Fettuccini

### Chicken Fettuccini

Chicken tenderloins, broccoli and fettuccini in a creamy alfredo sauce.

★★★★★ (See all 31 reviews)

CHEESE

CHICKEN

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	280
Fat	5g
Fiber	3g
Protein	16g
Sodium	600mg
Carbohydrates	43g

### Ingredients

blanched fettuccini (water, semolina, wheat gluten), skim milk, cooked chicken tenderloin (chicken tenderloins, water, seasoning (modified corn starch, sugar, potassium chloride, yeast extract, dextrose, spice, onion powder, garlic powder, paprika), soybean oil, isolated soy protein, salt, sodium phosphates), broccoli, water, 2% or less of cream, modified cornstarch, salt, enzyme modified parmesan cheese paste (parmesan cheese (cultured part-skim milk, salt, enzymes), water, whey protein concentrate (from milk), reduced fat milk, milk protein concentrate, enzymes, nonfat milk, cultures), parmesan cheese paste (granular and parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), soybean oil, bleached wheat flour, romano cheese product ((pasteurized cow's milk, cheese cultures, salt, enzymes), water, salt, lactic acid), butterfat, whey protein concentrate, cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, enzymes, cultures, phosphoric acid, xanthan gum), spices, mono-&diglycerides, xanthan gum, flavor (maltodextrin, flavoring and modified food starch), yeast extract, seasoning (wheat starch, extracts of annatto and turmeric color, natural flavor).

## Lean Cuisine® favorites Five Cheese Rigatoni

### Five Cheese Rigatoni

rigatoni pasta in a sweet tomato sauce topped with a five cheese blend

★★★★★ (See all 40 reviews)

CHEESE

ITALIAN

MEATLESS

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	360
Fat	8g
Fiber	4g
Protein	15g
Sodium	560mg
Carbohydrates	56g

### Ingredients

enriched macaroni (semolina, niacin, ferrous sulfate, thiamin mononitrate, riboflavin, folic acid), water, tomato puree (water, tomato paste), tomatoes, part-skim mozzarella cheese ((pasteurized milk, cultures, salt, enzymes), modified food starch\* (\*ingredient not in regular mozzarella cheese)), onions, 2% or less of monterey jack cheese (cultured milk, salt, enzymes), parmesan cheese (cultured milk, salt, enzymes), soybean oil, parmesan cheese paste (granular and parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), sugar, romano cheese ((made from cow's milk), cultured milk, enzymes, salt), basil, modified cornstarch, garlic puree, cultured whey, asiago cheese (cultured milk, salt, enzymes), salt, brown sugar syrup, extra virgin olive oil, enzyme modified parmesan cheese (cultured milk, water, salt, enzymes), spices, enzyme modified cheese (cultured milk, water, salt, enzymes), whey protein concentrate, xanthan gum, whey



**Lean Cuisine® favorites Cheddar Potatoes with Broccoli**

# Cheddar Potatoes with Broccoli

potatoes with broccoli and cheddar cheese sauce

★★★★★ (See all 22 reviews)

AMERICAN

CHEESE

MEATLESS

NO PRESERVATIVES

## NUTRITION BASICS

Calories	220
Fat	3g
Fiber	4g
Protein	9g
Sodium	670mg
Carbohydrates	38g

## Ingredients

roasted potatoes, broccoli, skim milk, water, 2% or less of sharp cheddar cheese product ((pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid, natural flavor), cheddar club cheese (cheddar cheese (cultured milk, salt, enzymes), water, salt, annatto color), cheese flavor (cheddar, granular, semisoft and blue cheese (cultured milk, salt, enzymes), water, sodium phosphate, whey, vinegar, salt, citric acid), modified cornstarch, bleached wheat flour, salt, potassium chloride, xanthan gum, yeast extract, seasoning (wheat starch, extracts of annatto and turmeric color, natural flavor), annatto color, spices

## Lean Cuisine® favorites Lasagna with Meat Sauce

# Lasagna with Meat Sauce

Layered pasta with seasoned meat, tomato & reduced fat mozzarella cheese

★★★★★ (See all 104 reviews)

BEEF

CHEESE

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

### NUTRITION BASICS

Calories	320
Fat	8g
Fiber	4g
Protein	18g
Sodium	650mg
Carbohydrates	45g

### Ingredients

tomatoes, blanched macaroni product (water, semolina), tomato puree (water, tomato paste), part skim mozzarella cheese (cultured milk, salt, enzymes), dry curd cottage cheese (cultured skim milk, enzymes), pork, water, beef, onions, 2% or less of garlic puree, sugar, modified cornstarch, soy protein concentrate (with caramel color), basil, salt, seasoning (soy sauce, (water, soybean, wheat, salt), autolyzed yeast extract, dextrose, soybean oil), modified food starch, spices, potassium chloride, skim milk, flavors, dehydrated garlic, xanthan gum, dehydrated onions, natural flavor

## Lean Cuisine® *MARKETPLACE* Roasted Chicken & Garden Vegetables

### Roasted Chicken and Garden Vegetables

Chicken tenderloins with broccoli, carrots and vermicelli in a spicy fire-roasted tomato sauce.

★★★★★ (See all 80 reviews)

1 CUP VEGETABLES

AMERICAN

CHICKEN

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

#### NUTRITION BASICS

Calories	220
Fat	4g
Fiber	5g
Protein	16g
Sodium	620mg
Carbohydrates	31g

#### Ingredients

ingredients: blanched vermicelli (water, semolina, wheat gluten), tomatoes (diced tomatoes, tomato juice, citric acid, calcium chloride), cooked chicken tenderloin (chicken tenderloins, water, seasoning [modified corn starch, sugar, potassium chloride, yeast extract, dextrose, spice, onion powder, garlic powder, paprika], soybean oil, isolated soy protein, salt, sodium phosphates), tomato puree (water, tomato paste), broccoli, fire roasted tomatoes (tomatoes, tomato juice, salt, citric acid, calcium chloride), carrots, yellow carrots, 2% or less of onions, water, soybean oil, sugar, modified cornstarch, garlic puree, basil, salt, potassium chloride, autolyzed yeast extract (yeast extract, salt), spices, cultured whey, xanthan gum.

**Lean Cuisine® MARKETPLACE Creamy Basil Chicken with Tortellini****Creamy Basil Chicken with Tortellini**

grilled white meat chicken over cheese tortellini with italian green beans, red bell peppers &amp; yellow carrots

★★★★ (See all 54 reviews)

CHEESE

CHICKEN

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

PROTEIN

**NUTRITION BASICS**

Calories	230
Fat	5g
Fiber	2g
Protein	19g
Sodium	490mg
Carbohydrates	28g

**Ingredients**

skim milk, low fat asiago cheese tortellini (enriched extra fancy durum flour and semolina [durum wheat flour, semolina, niacin, iron {ferrous sulfate}, thiamin mononitrate, riboflavin, folic acid], water, fat free ricotta cheese [pasteurized whey, pasteurized skim milk, vinegar, xanthan gum, vitamin a palmitate], whole eggs, asiago cheese [pasteurized milk, cheese cultures, salt, enzymes], bread crumbs [wheat flour], skim milk with vitamin a added, parmesan cheese [pasteurized part skim milk, cheese cultures, salt, enzymes], romano cheese made from cow's milk [pasteurized milk, cheese cultures, salt, enzymes], cooked onions, low moisture part skim mozzarella cheese [pasteurized milk, cheese cultures, salt, enzymes], butter [cream, salt], brown sugar [sugar, cane syrups], white distilled vinegar [white distilled vinegar, water], roasted garlic, cooked garlic, spices, salt, modified cornstarch, beta carotene), cooked white meat chicken (white meat chicken, water, modified tapioca starch, chicken flavor [dried chicken broth, chicken powder, natural flavor], carrageenan, whey protein concentrate, soybean oil, corn syrup solids, sodium phosphate, salt), italian green beans, water, yellow carrots, red peppers, 2% or less of cream, modified cornstarch, parmesan cheese paste (granular and parmesan cheese [pasteurized milk, cheese cultures, salt, enzymes], water, salt, lactic acid, citric acid), basil, garlic puree, potato starch, sea salt, butter (cream, salt), dried cream extract, yeast extract, potassium chloride, spice, xanthan gum, lactic acid, calcium lactate, seasoning (wheat starch, extracts of annatto and turmeric color, natural flavor).

**Lean Cuisine® MARKETPLACE Chicken with Almonds**

# Chicken with Almonds

Chicken tenderloins with rice,vegetables and almonds.

★★★★☆ (See all 50 reviews)

AMERICAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

## NUTRITION BASICS

Calories	290
Fat	5g
Fiber	4g
Protein	16g
Sodium	490mg
Carbohydrates	44g

## Ingredients

blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), cooked chicken tenderloin (chicken tenderloins, water, seasoning (modified corn starch, sugar, potassium chloride, yeast extract, dextrose, spice, onion powder, garlic powder, paprika), isolated soy protein, salt, sodium phosphates), water, green beans, broccoli, brown sugar, yellow carrots, almonds, 2% or less of soy sauce (water, wheat, soybeans, salt), modified cornstarch, sugar, dehydrated soy sauce (soybeans, salt, wheat), ginger puree (ginger, water, citric acid), soybean oil, brown sugar syrup, apple cider vinegar, caramel color, citric acid

**Lean Cuisine® MARKETPLACE Sesame Chicken****Sesame Chicken**

Sesame breaded chicken tenderloins with pasta, green beans and red peppers.

★★★★ (See all 166 reviews)

ASIAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

PASTA

**NUTRITION BASICS**

Calories	330
Fat	9g
Fiber	3g
Protein	14g
Sodium	650mg
Carbohydrates	48g

**Ingredients**

blanched spaghetti (water, semolina), sesame breaded chicken tenderloins (cooked chicken tenderloins, water, seasoning (dried soy sauce {soybeans, wheat, salt}, maltodextrin, fructose, salt, autolyzed yeast extract, flavor, modified corn starch, mixed triglycerides, chicken broth powder, wheat dextrin, contains less than 2% butter {cream, salt}, carrots, chicken fat, citric acid, cornstarch, sesame oil, sugar, tapioca dextrin), isolated soy protein, modified rice starch, roasted sesame oil, sodium phosphates, salt. battered and breaded with: water, bleached wheat flour, yellow corn flour, bleached enriched wheat flour (niacin, reduced iron, thiamine mononitrate, riboflavin, folic acid), sesame seeds, modified corn starch, salt, leavening (sodium bicarbonate, sodium aluminum phosphate, monocalcium phosphate), nonfat dry milk, dextrose, soybean oil, partially hydrogenated soybean and/or cottonseed oil, yeast, dried onion powder, dried garlic powder, dried whole eggs, extractives of paprika, oleoresin paprika and annatto. breading set in soybean oil.), water, green beans, plum sauce (sugar, salted plums, water, rice vinegar, modified cornstarch, ginger, citric acid, sodium citrate, chili peppers, xanthan gum, contains wheat, soybeans), red peppers, 2% or less of sugar, sesame oil, soy sauce (water, wheat, soybeans, salt), modified cornstarch, garlic puree, sesame seeds, dehydrated soy sauce (soybeans, salt, wheat), vinegar concentrate (rice vinegar, corn syrup, natural flavor), spice.

**Lean Cuisine® MARKETPLACE Chicken Pecan**

## Chicken Pecan

roasted chicken tenderloins in a maple-bourbon sauce with pecans, currants, veggies &amp; whole wheat orzo

★★★★★ (See all 95 reviews)

AMERICAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

PROTEIN

### NUTRITION BASICS

Calories	320
Fat	7g
Fiber	3g
Protein	15g
Sodium	560mg
Carbohydrates	49g

### Ingredients

blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), cooked chicken tenderloin (chicken tenderloins, water, seasoning [modified corn starch, sugar, potassium chloride, yeast extract, dextrose, spice, onion powder, garlic powder, paprika], soybean oil, isolated soy protein, salt, sodium phosphates), water, sweet potatoes, barley, apples (apples, citric acid, salt, water), blanched wild rice, dried cranberries (cranberries, sugar, sunflower oil), 2% or less of orange juice concentrate, pecans, chicken broth, soybean oil, brown sugar, modified cornstarch, parsley, salted bourbon (bourbon, salt), butter (cream, salt), dark balsamic vinegar, sugar, sea salt, chicken flavor (salt, yeast extract, maltodextrin, chicken powder, flavor, soy sauce [soybean, wheat, salt]), garlic puree, spices, potassium chloride, dehydrated onions, maple flavor (corn syrup, water, propylene glycol, caramel color, natural flavors, ethyl alcohol, glycerin), caramel color..

## Lean Cuisine® MARKETPLACE Ginger Garlic Stir Fry with Chicken

### Ginger Garlic Stir Fry with Chicken

White meat chicken with snap peas, water chestnuts, red peppers, broccoli, whole grain rice & ginger garlic carrot sauce

★★★★★ (See all 15 reviews)

ASIAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

PROTEIN

WHOLE GRAINS

#### NUTRITION BASICS

Calories	290
Fat	3g
Fiber	5g
Protein	17g
Sodium	630mg
Carbohydrates	48g

#### Ingredients

blanched whole wheat spaghetti (water, whole durum wheat flour), cooked white meat chicken (white meat chicken, water, modified tapioca starch, chicken flavor (dried chicken broth, chicken powder, natural flavor), carrageenan, whey protein concentrate, soybean oil, corn syrup solids, sodium phosphate, salt), water, snap peas, broccoli, carrots, red peppers, sugar, 2% or less of sea salt, soy sauce (water, wheat, soybeans, salt), chicken broth, ginger puree (ginger, water, citric acid), chili garlic sauce (salted chili peppers (chili peppers, salt), garlic, sugar, rice vinegar, water, modified cornstarch, acetic acid), modified cornstarch, soybean oil, white vinegar, dehydrated soy sauce (soybeans, salt, wheat), sesame oil, potassium chloride, lactic acid, caramel color, calcium lactate.



**Lean Cuisine® MARKETPLACE Tortilla Crusted Fish**

## Tortilla Crusted Fish

tortilla crusted fish with rice,poblano peppers and corn in a sour cream sauce.

★★★★★ (See all 122 reviews)

CHEESE

MEXICAN

NO PRESERVATIVES

SEAFOOD

### NUTRITION BASICS

Calories	300
Fat	9g
Fiber	2g
Protein	14g
Sodium	490mg
Carbohydrates	41g

### Ingredients

tortilla crusted alaska pollock (alaska pollock, enriched bleached flour (wheat flour, niacin, reduced iron, thiamin mononitrate, riboflavin, folic acid), water, modified cornstarch, tortilla chips (yellow whole corn, vegetable oil {corn, soybean, and/or sunflower oil}), sugar, yellow corn flour, potassium chloride, white corn flour, salt, spices, dextrose, egg white, tomato powder, natural flavor, whey, maltodextrin, yeast, onion powder, leavening (sodium aluminum phosphate, sodium bicarbonate), soy flour, garlic powder, torula yeast, citric acid, corn oil. prefried in cottonseed and/or canola oil), blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), skim milk, corn, tomatillos, red peppers, water, chile peppers, onions, 2% or less of reduced fat cheddar cheese (cultured part-skim milk, salt, enzymes, annatto color), buttermilk powder, dehydrated sour cream (sour cream (cultured cream, nonfat milk)), modified cornstarch, salt, soybean oil, garlic puree, cultured whey, cilantro, jalapeno puree (jalapeno peppers, salt, acetic acid and calcium chloride), bleached wheat flour, sugar, potassium chloride, lactic acid, spices, calcium lactate.

## Lean Cuisine® MARKETPLACE Orange Chicken

### Orange Chicken

Orange chicken in a sweet & spicy asian-style sauce with rice, roasted almonds & edamame

★★★★ (See all 54 reviews)

ASIAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

#### NUTRITION BASICS

Calories	310
Fat	8g
Fiber	2g
Protein	14g
Sodium	690mg
Carbohydrates	46g

#### Ingredients

blanched enriched long grain parboiled rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), water, sesame breaded chicken tenderloins (cooked chicken tenderloins, water, seasoning [dried soy sauce {soybeans, wheat, salt}, maltodextrin, fructose, salt, autolyzed yeast extract, flavor, modified corn starch, mixed triglycerides, chicken broth powder, wheat dextrin, contains less than 2% butter {cream, salt}, carrots, chicken fat, citric acid, cornstarch, sesame oil, sugar, tapioca dextrin], isolated soy protein, modified rice starch, roasted sesame oil, sodium phosphates, salt. battered and breaded with: water, bleached wheat flour, yellow corn flour, bleached enriched wheat flour [niacin, reduced iron, thiamine mononitrate, riboflavin, folic acid], sesame seeds, modified corn starch, salt, leavening [sodium bicarbonate, sodium aluminum phosphate, monocalcium phosphate], nonfat dry milk, dextrose, soybean oil, partially hydrogenated soybean and/or cottonseed oil, yeast, dried onion powder, dried garlic powder, dried whole eggs, extractives of paprika, oleoresin paprika and annatto. breading set in soybean oil), orange juice concentrate, red peppers, yellow carrots, edamame soybeans, sugar, 2% or less of soy sauce (water, wheat, soybeans, salt), modified cornstarch, chili garlic sauce (salted chili peppers [chili peppers, salt], garlic, sugar, rice vinegar, water, modified cornstarch, acetic acid), almonds, white vinegar, honey, brown sugar syrup, dehydrated soy sauce (soybeans, salt, wheat), sesame oil, garlic puree, ginger puree (ginger, water, citric acid), orange blend (orange peel, sugar, orange oil), potassium chloride, dehydrated red peppers, spices, caramel color

## Lean Cuisine® *MARKETPLACE* Apple Cranberry Chicken

### Apple Cranberry Chicken

Grilled white meat chicken in an apple reduction with cranberries, french cut green beans & carrots and whole wheat orzo pasta.

★★★★☆ (See all 83 reviews)

AMERICAN

CHICKEN

HIGH PROTEIN

NO PRESERVATIVES

PASTA

WHOLE GRAINS

#### NUTRITION BASICS

Calories	280
Fat	4g
Fiber	5g
Protein	14g
Sodium	470mg
Carbohydrates	48g

#### Ingredients

blanched whole wheat orzo pasta (water, whole durum wheat flour), cooked white meat chicken (white meat chicken, water, modified tapioca starch, chicken flavor (dried chicken broth, chicken powder, natural flavor), carrageenan, whey protein concentrate, soybean oil, corn syrup solids, sodium phosphate, salt), water, carrots, green beans, wheat berries, apple juice concentrate, dried cranberries (cranberries, sugar, sunflower oil), apples (apples, citric acid, salt, water), 2% or less of butter (cream, salt), modified cornstarch, chicken broth, orange juice concentrate, apple cider vinegar, sugar, soybean oil, sea salt, ginger puree (ginger, water, citric acid), yeast extract, spices, lemon juice concentrate, citric acid.

**Lean Cuisine® MARKETPLACE Chile Lime Chicken**

## Chile Lime Chicken

tender white meat chicken in a red chile lime sauce with a medley of roasted corn, peppers &amp; rice

★★★★ (See all 22 reviews)

CHICKEN

GLUTEN FREE

HIGH PROTEIN

MEXICAN

NEW RECIPE

NO PRESERVATIVES

### NUTRITION BASICS

Calories	250
Fat	2g
Fiber	2g
Protein	17g
Sodium	570mg
Carbohydrates	41g

### Ingredients

sauce and cooked chicken: white meat chicken, water, tomatoes, red pepper puree, tomato paste, onions, sugar, modified food starch, cilantro, soybean oil, spices, garlic, sea salt, dried onions, lime juice concentrate, jalapeno pepper puree, salt, isolated soy protein, seasoning (dried chicken broth, chicken powder, natural flavor), maltodextrin, sodium phosphate, potassium chloride, vinegar, xanthan gum, citric acid. rice and vegetables: cooked enriched long grain rice (water, rice, iron, niacin, thiamin mononitrate, folic acid), corn, red peppers, roasted poblano chiles, water, cilantro, lime juice concentrate, sugar, sea salt, potassium chloride, spices.

## Lean Cuisine® MARKETPLACE Mushroom Mezzaluna Ravioli

### Mushroom Mezzaluna Ravioli

ravioli filled with portobello & button mushrooms, romano & ricotta cheeses in a creamy marsala wine sauce with spinach & red peppers

★★★★★ (See all 117 reviews)

CHEESE

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

#### NUTRITION BASICS

Calories	290
Fat	9g
Fiber	3g
Protein	13g
Sodium	680mg
Carbohydrates	40g

### Ingredients

blanched portobello mushroom ravioli (water, enriched extra fancy durum flour and semolina [durum wheat flour, semolina, niacin, iron {ferrous sulfate}, thiamin mononitrate, riboflavin, folic acid], fat free ricotta cheese [pasteurized whey, pasteurized skim milk, vinegar, xanthan gum, vitamin a palmitate], skim milk with vitamin a added, white mushrooms, bread crumbs [bleached wheat flour, yeast, sugar, salt], portobello mushrooms, swiss cheese [pasteurized milk, cheese cultures, salt, enzymes], whole eggs, onions, parmesan cheese [pasteurized part skim milk, cheese cultures, salt, enzymes], romano cheese made from cow's milk [pasteurized milk, cheese cultures, salt, enzymes], wine [wine,salt], food starch-modified, portobello mushroom powder, garlic, salt, soybean oil, porcini powder, sugar, spices, parsley), skim milk, red peppers, spinach, water,

parmesan and asiago cheese blend with flavor (parmesan cheese [cultured milk, salt, enzymes], asiago cheese [cultured milk, salt, enzymes], enzyme modified parmesan cheese [cultured milk, water, salt, enzymes], whey, salt), 2% or less of soybean oil, modified cornstarch, marsala wine, mushroom base (sauteed mushrooms, sugar, salt, canola oil, maltodextrin, onion powder, 2% or less of potato starch, hydrolyzed wheat gluten, mushroom juice concentrate, caramel color, natural flavors, garlic juice concentrate, onion juice concentrate, soybean oil, xanthan gum), mushroom flavor (maltodextrin, modified cornstarch, flavoring, mushrooms, safflower oil, potato maltodextrin, ascorbic acid, caramel color, citric acid, glucose), butter (cream, salt), sea salt, garlic puree, chicken broth, yeast extract, dehydrated onions, potassium chloride, caramel color, natural flavors, seasoning (maltodextrin, flavor, enzyme modified butterfat), spices, lactic acid, calcium lactate.

**Lean Cuisine® MARKETPLACE Ranchero Braised Beef**

## Ranchero Braised Beef

braised beef in a spicy red chile sauce served with a side of chipotle mashed sweet potatoes

★★★★★ (See all 128 reviews)

BEEF

GLUTEN FREE

MEXICAN

NO PRESERVATIVES

### NUTRITION BASICS

Calories	250
Fat	6g
Fiber	2g
Protein	15g
Sodium	570mg
Carbohydrates	33g

### Ingredients

sweet potatoes, seasoned cooked prime rib beef steak and modified corn starch product caramel color added (beef, beef broth, modified corn starch, salt, sodium phosphates, dextrose, caramel color, natural flavor), water, skim milk, tomato puree (water, tomato paste), green chiles (with citric acid, salt, calcium chloride), sugar, onions, 2% or less of brown sugar, molasses, soybean oil, modified food starch, spices, sea salt, orange juice concentrate, jalapeno puree (jalapeno peppers, vinegar, salt), potassium chloride, paprika, dried garlic, dried onions, vanilla flavor and invert sugar, carrageenan with dextrose.

**Lean Cuisine® MARKETPLACE Cheese and Bean Enchilada Verde**

## Cheese and Bean Enchilada Verde

with a tangy verde sauce &amp; a side of mexican-style seasoned corn

★★★★ (See all 74 reviews)

CHEESE

MEATLESS

MEXICAN

NEW RECIPE

NO PRESERVATIVES

ORGANIC/NON-GMO

### NUTRITION BASICS

Calories	260
Fat	9g
Fiber	6g
Protein	9g
Sodium	660mg
Carbohydrates	42g

### Ingredients

cheese and bean enchilada (corn tortilla [water, organic corn flour {organic stone-ground corn masa flour, trace of lime}, corn starch]; filling [mozzarella cheese {pasteurized part-skim milk, cheese cultures, salt, enzymes}, tomato, diced organic onion, green chile {green chiles, water, salt, citric acid}, cooked organic pinto beans {water, organic pinto beans, salt}, roasted red bell pepper, cooked organic black beans {water, organic black beans, salt}, corn starch, onion powder, garlic powder, salt, chile pepper, cumin, black pepper]), organic sweet corn, organic tomatillos puree, water, organic poblano peppers, parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), onion puree, rice starch, expeller pressed high oleic sunflower oil, cilantro, jalapeno puree (jalapeno peppers, vinegar, salt), sea salt, garlic puree, cumin, paprika, lime juice concentrate, ancho chili pepper, oregano.

**Lean Cuisine® MARKETPLACE Cheese Tortellini**

## Cheese Tortellini

in roasted red pepper sauce with aged parmesan cheese

★★★★★ (See all 35 reviews)

CHEESE

ITALIAN

MEATLESS

NEW RECIPE

NO PRESERVATIVES

ORGANIC/NON-GMO

PASTA

### NUTRITION BASICS

Calories	300
Fat	8g
Fiber	3g
Protein	12g
Sodium	610mg
Carbohydrates	44g

### Ingredients

cheese tortellini (water, organic durum wheat flour, organic ricotta cheese (organic whey, organic cream, organic vinegar, salt, carrageenan {from seaweed}), romano cheese made from cows milk [cultured milk, salt, enzymes], bread crumbs [wheat flour, sugar, yeast, salt], imported parmesan cheese [part skim cow's milk, cultures, salt, cornstarch], organic eggs, less than 2% of spice, nutmeg, sea salt), organic roasted red pepper puree, organic tomato puree (organic tomatoes, citric acid), water, organic tomatoes, organic onions, organic red bell pepper, parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), organic extra virgin olive oil, organic garlic puree, red wine vinegar (red wine vinegar, water), brown sugar, sea salt, rice starch, basil, black pepper, oregano.



**Lean Cuisine® MARKETPLACE Ricotta Cheese & Spinach Ravioli**

## Ricotta Cheese & Spinach Ravioli

in a rich tomato garlic sauce

★★★★★ (See all 70 reviews)

CHEESE

HIGH PROTEIN

ITALIAN

MEATLESS

NEW RECIPE

NO PRESERVATIVES

ORGANIC/NON-GMO

PASTA

### NUTRITION BASICS

Calories	310
Fat	7g
Fiber	4g
Protein	10g
Sodium	690mg
Carbohydrates	51g

### Ingredients

ricotta cheese & spinach ravioli (organic durum wheat, water, organic ricotta cheese [organic whey, organic milk, organic cream, organic vinegar, salt, carrageenan (from seaweed), spinach, organic romano cheese [organic cow's milk, salt, cheese cultures, enzymes], part skim mozzarella cheese [part-skim milk, cheese culture, salt, enzymes], eggs, less than 2% of garlic, onions, lemon juice [water, lemon juice concentrate, lemon juice], sea salt, bread crumbs [wheat flour, sugar, yeast, salt], spice), organic tomato puree (organic tomatoes, citric acid), water, spinach, organic tomatoes, brown sugar, parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), organic onions, organic extra virgin olive oil, organic garlic puree, sea salt, rice starch, basil, dried onions, black pepper, oregano.

## Lean Cuisine® MARKETPLACE Spicy Beef & Bean Enchilada

### Spicy Beef & Bean Enchilada

shredded beef & bean enchilada in a spicy chile sauce with mexican-style rice

★★★★★ (See all 75 reviews)

BEEF

CHEESE

GLUTEN FREE

MEXICAN

NEW RECIPE

NO PRESERVATIVES

#### NUTRITION BASICS

Calories	300
Fat	6g
Fiber	5g
Protein	11g
Sodium	680mg
Carbohydrates	50g

#### Ingredients

enchilada and sauce: tortilla (water, corn masa flour, lime-water, cornstarch), water, tomato puree (water, tomato paste), cooked beef, onions, green chile, green peppers, red peppers, monterrey jack cheese (pasteurized milk, cheese cultures, salt, enzymes), poblano pepper, sugar, molasses, modified food starch, chili pepper, salt, soybean oil, pinto beans (water, pinto beans, salt), jalapeno pepper puree, potato starch, orange juice concentrate, potassium chloride, spices, garlic, xanthan gum, acetic acid, calcium chloride. rice and vegetable mix: cooked enriched long grain rice (water, rice, iron, thiamin mononitrate, folic acid), skim milk, water, corn, zucchini, red peppers, black beans, american cheese spread (cheddar and colby cheese [pasteurized milk, cheese culture, salt, enzymes], water, whey, sodium phosphate, whey protein concentrate, skim milk, milkfat, salt, carrageenan, cellulose gum), dehydrated sour cream (sour cream [cultured cream, nonfat milk]), modified food starch, cilantro, soybean oil, jalapeno pepper puree, salt, yeast extract, sugar, garlic puree, potassium chloride, spices, maltodextrin, dried garlic, mono & diglycerides, sour cream solids, carrots, celery, onions, chili pepper, canola oil, corn starch, cultured buttermilk, carrageenan, acetic acid, dextrose, natural flavors, citric acid, tapioca dextrin, calcium chloride, carrot juice concentrate, flavor.

## Lean Cuisine® MARKETPLACE Spicy Mexican Black Beans & Rice

### Spicy Mexican Black Beans & Rice

with a spicy red chile sauce & creamy monterey jack cheese

★★★★★ (See all 52 reviews)

CHEESE	MEATLESS	MEXICAN	NEW RECIPE	NO PRESERVATIVES
ORGANIC/NON-GMO	WHOLE GRAINS			

#### NUTRITION BASICS

Calories	280
Fat	5g
Fiber	4g
Protein	8g
Sodium	690mg
Carbohydrates	46g

#### Ingredients

cooked organic long grain rice, water, organic tomato puree (organic tomatoes, citric acid), monterey jack cheese (pasteurized milk, cheese cultures, salt, enzymes), organic sweet corn, organic tomatillos puree, organic black bean ([water, black beans], salt), organic poblano peppers, organic onions, organic red bell pepper, brown sugar, cilantro, sea salt, expeller pressed high oleic sunflower oil, dried onions, cumin, rice starch, lime juice concentrate, ancho chili pepper, jalapeno puree (jalapeno peppers, vinegar, salt), paprika, dried garlic, cinnamon.

## Lean Cuisine® *Comfort* Chicken Parmesan

### Chicken Parmesan

Breaded white meat chicken patty with spaghetti in a chunky tomato basil sauce.

★★★★★ (See all 179 reviews)

AMERICAN

CHEESE

CHICKEN

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

PROTEIN

#### NUTRITION BASICS

Calories	310
Fat	9g
Fiber	2g
Protein	18g
Sodium	660mg
Carbohydrates	39g

### Ingredients

tomatoes (diced tomatoes, tomato juice, citric acid, calcium chloride), blanched spaghetti (water, semolina), cooked breaded white chicken meat, ground and formed (white chicken meat, water, seasoning [modified food starch, sugar, potassium chloride, yeast extract, dextrose, spice, onion powder, garlic powder, paprika], isolated soy protein, sodium phosphate, salt. breaded with: enriched bleached wheat flour [niacin, reduced iron, thiamine mononitrate, riboflavin, folic acid], dextrose, salt, maltodextrin, parmesan cheese [partially skim milk, cultures, salt, enzymes], whey, enzyme modified parmesan cheese [parmesan cheese {milk, starter culture, salt, enzymes}, cream, natural flavor], spice, onion powder, garlic powder, parsley, caramel color, soybean oil, extractives of paprika. breading set in vegetable oil), tomato puree (water, tomato paste), part skim mozzarella cheese (cultured milk, salt, enzymes), onions, 2% or less of water, sugar, soybean oil, basil, modified cornstarch, garlic puree, salt, potassium chloride, spices, skim milk, xanthan gum, flavors.

## Lean Cuisine® *Comfort* Herb Roasted Chicken

### Herb Roasted Chicken

tender white meat chicken & creamy herb sauce with roasted potatoes & broccoli florets

★★★★ (See all 132 reviews)

AMERICAN

CHICKEN

GLUTEN FREE

HIGH PROTEIN

NEW RECIPE

NO PRESERVATIVES

#### NUTRITION BASICS

Calories	170
Fat	4g
Fiber	3g
Protein	16g
Sodium	510mg
Carbohydrates	18g

### Ingredients

chicken and sauce: cooked herb glazed chicken breast patty (chicken breast with rib meat, water, isolated soy protein, citrus flour, seasoning [dried chicken broth, chicken powder, flavor, disodium phosphate], potassium chloride, sugar, potassium and sodium phosphates, salt. glazed with: water, seasoning [modified cornstarch, sugar, dried tomato, spices, dried garlic, dried onion, maltodextrin, salt, dried mushrooms, xanthan gum], modified cornstarch, caramel color), skim milk, water, mushrooms, onions, modified food starch, soybean oil, salt, spices, maltodextrin, sugar, autolyzed yeast extract, potassium chloride, garlic, natural cream flavor, flavoring, xanthan gum, chicken fat, dried chicken broth, gum acacia, sodium lactate, sesame oil, sodium phosphates, canola lecithin, citric acid, lactic acid, potassium phosphate, potato maltodextrin, sodium citrate. vegetables: red skin potatoes, broccoli, red peppers, water, garlic, butter (cream, salt), modified food starch, sugar, salt, potassium chloride, dried garlic, dried onions, spices, carrageenan, cultured dextrose.

## Lean Cuisine® *Comfort* Meatloaf with Mashed Potatoes

### Meatloaf with Mashed Potatoes

Savory meatloaf with gravy and creamy red-skin mashed potatoes.

★★★★★ (See all 115 reviews)

AMERICAN

BEEF

HIGH PROTEIN

NO PRESERVATIVES

PROTEIN

#### NUTRITION BASICS

Calories	240
Fat	7g
Fiber	3g
Protein	20g
Sodium	540mg
Carbohydrates	25g

#### Ingredients

red skin potatoes, beef, water, cream, onions, tomatoes, 2% or less of: soy protein concentrate (with caramel color), modified cornstarch, rolled oats, tomato puree (water, tomato paste), green peppers, beef flavor (maltodextrin, salt, beef extract, rendered beef fat, sesame oil), salt, sour cream flavor (maltodextrin, sour cream solids, cultured buttermilk, natural flavors, citric acid, yeast extract), brown sugar syrup, brown sugar, bleached wheat flour, potassium chloride, sugar, dehydrated onions, egg whites, worcestershire sauce (vinegar, molasses, water, high fructose corn syrup, salt, anchovies, tamarind, spices, natural flavor, caramel color, onion powder, garlic powder), soybean oil, dehydrated garlic, garlic puree, spices, dehydrated soy sauce (soybeans, salt, wheat), seasoning (tomato paste, natural flavor), seasoning (maltodextrin, flavor, enzyme modified butterfat), caramel color, xanthan gum, carrageenan with dextrose, natural flavors, cultured whey, beef stock, lactic acid, calcium lactate

## Lean Cuisine® *Comfort* Salisbury Steak with Macaroni & Cheese

### Salisbury Steak with Macaroni & Cheese

Salisbury steak with macaroni and cheese

★★★★☆ (See all 53 reviews)

AMERICAN

BEEF

CHEESE

NO PRESERVATIVES

PASTA

PROTEIN

#### NUTRITION BASICS

Calories	260
Fat	8g
Fiber	3g
Protein	22g
Sodium	570mg
Carbohydrates	25g

#### Ingredients

water, beef, blanched macaroni (water, semolina, wheat gluten), skim milk, onions, mushrooms, 2% or less of modified cornstarch, soy protein concentrate (with caramel color), cheddar club cheese (cheddar cheese (cultured milk, salt, enzymes), water, salt, annatto color), rolled oats, cheese flavor (cheddar, granular, semisoft and blue cheese (cultured milk, salt, enzymes), water, sodium phosphate, whey, vinegar, salt, citric acid), tomato puree (water, tomato paste), bleached wheat flour, salt, potassium chloride, cheddar cheese (cultured milk, salt, enzymes), rice starch, flavor (maltodextrin, salt, yeast extract, soy sauce (soybeans, wheat, salt), contains less than 2% beef extract, beef fat, flavor, tapioca dextrin, thiamin hydrochloride), flavor (water, flavor, maltodextrin, salt, caramel color, less than 2% of lactic acid, enzyme modified cream), yeast extract, garlic puree, sugar, egg whites, cheese flavor (cheddar cheese (cultured milk, salt, enzymes), water, salt, enzymes, cultures, phosphoric acid, xanthan gum), dehydrated soy sauce (soybeans, salt, wheat), mushroom base (sautéed mushrooms, sugar, salt, canola oil, maltodextrin, onion powder, 2% or less of potato starch, hydrolyzed wheat gluten, mushroom juice concentrate, caramel color, natural flavors, garlic juice concentrate, onion juice concentrate, soybean oil, xanthan gum), dehydrated garlic, spices, caramel color, soybean oil, natural flavors, cultured whey, beef stock, carrageenan, annatto color, natural flavor.

**Lean Cuisine® Comfort Shrimp Alfredo**

## Shrimp Alfredo

shrimp alfredo with broccoli, peas &amp; linguine in a creamy alfredo sauce.

★★★★ (See all 44 reviews)

CHEESE

HIGH PROTEIN

ITALIAN

NO PRESERVATIVES

PASTA

SEAFOOD

### NUTRITION BASICS

Calories	200
Fat	3g
Fiber	2g
Protein	13g
Sodium	650mg
Carbohydrates	30g

### Ingredients

blanched linguine (water, semolina, wheat gluten), skim milk, shrimp (water, salt, sodium phosphates), broccoli, water, peas, 2% or less of cream, parmesan cheese paste (granular and parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), romano cheese (cultured cow's milk, salt, enzymes), parmesan cheese (cultured milk, salt, enzymes), modified cornstarch, salt, soybean oil, garlic puree, bleached wheat flour, rice starch, yeast extract, butterfat, potassium chloride, asiago cheese (cultured milk, salt, enzymes), mono-&diglycerides, spices, enzyme modified parmesan cheese (cultured milk, water, salt, enzymes), enzyme modified romano cheese (cultured cow's milk, water, salt, enzymes), xanthan gum, whey, seasoning (wheat starch, extracts of annatto and turmeric color, natural flavor).



## Lean Cuisine® *Comfort* Grilled Chicken Caesar

### Grilled Chicken Caesar

White meat chicken broccoli & garlic flavored radiatore pasta in a parmesan caesar sauce.

★★★★★ (See all 27 reviews)

CHEESE

CHICKEN

HIGH PROTEIN

ITALIAN

MEDITERRANEAN

NO PRESERVATIVES

PASTA

PROTEIN

#### NUTRITION BASICS

Calories	230
Fat	6g
Fiber	3g
Protein	18g
Sodium	550mg
Carbohydrates	25g

### Ingredients

blanched radiatore (water, semolina, flavor (contains gelatin from fish {tilapia, perch}), wheat gluten), cooked chicken white meat (chicken white meat, water, seasoning (salt, maltodextrin, garlic, sugar, spices, dextrose, yeast extract, carrageenan, orange peel, onion, soybean oil, chicken fat, paprika, chicken broth, dehydrated celery, natural flavor), isolated soy protein, modified cornstarch, caramel color, maltodextrin, sodium phosphates, canola oil), water, broccoli, red peppers, parmesan cheese (cultured milk, salt, enzymes), 2% or less of onions, asiago cheese (cultured milk, salt, enzymes), soybean oil, modified cornstarch, white vinegar, garlic puree, parmesan cheese paste (granular and parmesan cheese (pasteurized milk, cheese cultures, salt, enzymes), water, salt, lactic acid, citric acid), enzyme modified parmesan cheese (cultured milk, water, salt, enzymes), salt, whey protein concentrate, yeast extract, lemon juice concentrate, spice, cultured whey, xanthan gum, caramel color

# EXHIBIT B

## Archived Content

The content on this page is provided for reference purposes only. This content has not been altered or updated since it was archived.

Search Archive

[Home](#) [Inspections, Compliance, Enforcement, and Criminal Investigations](#) [Compliance Actions and Activities](#) [Warning Letters](#)

## Inspections, Compliance, Enforcement, and Criminal Investigations

### Fresh Express Incorporated 10/6/10



Department of Health and Human Services

Public Health Service  
Food and Drug Administration  
San Francisco District  
1431 Harbor Bay Parkway  
Alameda, CA 94502-7070  
Telephone: 510/337-6700

### WARNING LETTER

#### Via UPS

October 6, 2010

Fernando Aguirre, President and CEO  
Chiquita Brands International, Inc. and Fresh Express, Incorporated  
250 East Fifth Street  
Cincinnati, OR 45202

Dear Mr. Aguirre:

Starting on May 21, 2010 and ending on June 10, 2010, the Food and Drug Administration (FDA) inspected your food manufacturing facility located at 900 E. Blanco Road, Salinas, California. During this inspection, FDA investigators collected labels for your products and reviewed their labeling at

<http://www.chiquita.com><sup>1</sup>. Based on our review, we have concluded that your Chiquita brand "Pineapple Bites with Coconut" and "Pineapple Bites" products are misbranded in violation of the Federal Food, Drug, and Cosmetic Act (the Act) and the applicable regulations in Title 21, Code of Federal Regulations, Part 101 (21 CFR 101). You can find the Act and FDA regulations through links at FDA's Internet home page at <http://www.fda.gov><sup>2</sup>.

Specifically, your "Pineapple Bites with Coconut" product is misbranded within the meaning of Section 403(a) of the Act [21 U.S.C. § 343(a)] in that its statement of identity, "Pineapple Bites with Coconut", is false and misleading. The ingredient statement for this product states that it is made with coconut; however, our investigation determined that this product is made with a coconut flavor spray. The characterizing flavor of your Pineapple with Coconut product must be identified in accordance with 21 CFR 101.22(i)(1)(iii) (for example, "coconut flavor").

Your "Pineapple Bites" and "Pineapple Bites with Coconut" products are misbranded within the meaning of Section 403(r)(1)(A) of the Act [21 U.S.C. § 343(r)(1)(A)] because their labeling bears nutrient content claims but the products do not meet the requirements for the claims.

Specifically, their labeling includes the claim "Plus ... Antioxidants." However, this claim does not include the names of the nutrients that are the subject of the claim or, alternatively, link the term "antioxidants" by a symbol (e.g., an asterisk) that refers to the same symbol that appears elsewhere on the same panel of the product label, followed by the name or names of the nutrients with recognized antioxidant activity. 21 CFR 101.54(g)(4). Your use of this antioxidant claim therefore misbrands your products under section 403(r)(2)(A)(i) of the Act [21 U.S.C. § 343(r)(2)(A)(i)].

Your "Pineapple Bites" and "Pineapple Bites with Coconut" products also bear the claim "Plus Phytonutrients." "Phytonutrients" are not nutrients for which a recommended daily intake (RDI) or daily recommended value (DRV) has been established. Therefore, nutrient content claims regarding "phytonutrients" are not authorized and further misbrand your products under section 403(r)(2)(A)(i) of the Act [21 U.S.C. § 343(r)(2)(A)(i)]. To the extent phytonutrients are intended to be the basis for an antioxidant nutrient content claim, that use would violate FDA regulations for the same reason and because phytonutrients are not recognized as having antioxidant activity. 21 CFR 101.54(g)(1) and (2).

Both your "Pineapple Bites" and "Pineapple Bites with Coconut" products also bear the statement "Only 40 Calories." This statement implies that the products are "low calorie" foods. A "low calorie" claim may be made if a food with a reference amount customarily consumed (RACC) greater than 30 grams (g) or greater than 2 tablespoons does not provide more than 40 calories per RACC. 21 CFR 101.60(b)(2)(i)(A). The RACC established for pineapple is 140 g. See 21 CFR 101.12(b) (Table 2, Fruits and Fruit Juices, All other fruits fresh, canned, or frozen).

The nutrition information for both products states that there are 40 calories per 1 piece (80 g) of product; this equals about 70 calories per RACC. Therefore, under 21 CFR 101.13(i)(2), the products are required to carry a disclaimer adjacent to the claim, e.g., "Only 40 calories per serving, not a low calorie food". Because your products fail to bear the required disclaimer, they are misbranded within the meaning of section 403(r)(1)(A) of the Act.

The "Pineapple Bites" and "Pineapple Bites with Coconut" products are further misbranded within the meaning of section 403(k) of the Act [21 U.S.C. 343(k)] in that they contain the chemical preservatives ascorbic acid and citric acid but their labels fail to declare these preservatives with a description of their functions. 21 CFR 101.22. Further, the ingredients ascorbic acid and citric acid must be declared by their common or usual names. 21 CFR 101.4(a).

This letter is not intended to be an all-inclusive review of your firm's products and processes. It is your responsibility to ensure that your firm and your products comply with the Act and FDA, regulations. You should take prompt action to correct the violations. Failure to promptly correct these violations may result in regulatory action without further notice. For instance, we may take further action to seize your product or enjoin your firm from operating.

We also note that, FDA (through its contractor) obtained two samples of Fresh Express Hearts of Romaine the testing of which yielded human pathogens. One sample was found to contain *Salmonella Anatum*; another sample was found to contain *E. coli O157:H7*. We acknowledge that you issued letters to your customers in an effort to recall affected products. However, FDA recommends that you review your firm's criteria for receipt of raw product, your procedures for ensuring that wash, flume and processing water do not contaminate your products and any other conditions and practices that may relate to the cause of the contamination.

We further acknowledge your June 25, 2010 response to the Good Manufacturing Practices violations cited in the FDA Form 483 regarding this inspection. In your response, you committed to:

- Retrain employees to replace or sanitize their gloves after contacting unsanitized surfaces;
- Include the dryer hoist controls and the equipment control panels that involve direct employee contact in your daily wash and sanitation procedures;
- Create a new storage system for aprons, gloves, and sleeve guards for times during manufacturing when they are not in use; and
- Modify your cutting surface inspection and replacement program so that cutting surfaces will be changed after every **(b)(4)** of use.

However, you did not provide documentation to demonstrate that these corrections have been made. You also did not address the observation that your technician improperly read the free chlorine indicator tests in the flume water. Please provide this information and documentation in your response to this Warning Letter.

In addition to the labeling issues identified above, we note that the available labeling space is at least 6" in height; therefore, the size of the nutrition information declared on these packages is not appropriate and does not meet the formatting requirements under 21 CFR 101.9(d), including hairline and footnote requirements. We note that since some of the nutrients are at insignificant levels, a shortened version of the Nutrition Facts panel may be used, e.g., the statement "Not a significant source of dietary fiber", at the bottom of the table of nutrient values as allowed under 21 CFR 101.9(c).

Please notify this office in writing within fifteen (15) working days from the date you receive this letter of

the specific steps you have taken to correct the noted violations, including an explanation of how you plan to prevent these violations, or similar violations, from occurring again. Please include documentation of the corrective actions you have taken. If your planned corrections will occur over time, please include a timetable for implementation of those corrections. If corrective action cannot be completed within 15 working days, state the reason for the delay and the time within which the corrections will be completed.

Your response should be sent to:

Darlene B. Almogela  
Director of Compliance  
United States Food and Drug Administration  
1431 Harbor Bay Parkway  
Alameda, CA 94502

If you have any questions about the content of this letter please contact Sergio Chavez, Compliance Officer, at 510-337-6886.

/s/

Barbara Cassens  
District Director

Page Last Updated: 10/08/2010

Note: If you need help accessing information in different file formats, see Instructions for Downloading Viewers and Players.


[Accessibility](#) [Contact FDA](#) [Careers](#) [FDA Basics](#) [FOIA](#) [No Fear Act](#) [Site Map](#) [Transparency Website](#)  
[Policies](#)

U.S. Food and Drug Administration  
10903 New Hampshire Avenue  
Silver Spring, MD 20993  
Ph. 1-888-INFO-FDA (1-888-463-6332)  
Email FDA



For Government For Press

[Combination Products](#) [Advisory Committees](#) [Science & Research](#) [Regulatory Information](#) [Safety](#)  
[Emergency Preparedness](#) [International Programs](#) [News & Events](#) [Training and Continuing Education](#)  
[Inspections/Compliance](#) [State & Local Officials](#) [Consumers](#) [Industry](#) [Health Professionals](#) [FDA Archive](#)

 U.S. Department of **Health & Human Services**

---

#### Links on this page:

1. <http://www.chiquita.com/>
2. <http://www.fda.gov>