

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 Plaintiffs and the Class

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

HEUNG MAN WONG and JOHN DOES 1-100,
on behalf of themselves and all others similarly situated,

Plaintiffs,

Case No.:

CLASS ACTION COMPLAINT

v.

JURY TRIAL DEMANDED

NEWMAN'S OWN, INC.,

Defendant.

Plaintiffs, HEUNG MAN WONG and JOHN DOES 1-100, on behalf of themselves and all others similarly situated in the United States of America, by and through their undersigned counsel, hereby bring this class action against Defendant, NEWMAN'S OWN, INC. (hereinafter, "NEWMAN'S OWN" or "Defendant"), and alleges the following upon their own knowledge, or where they lack personal knowledge, upon information and belief, including the investigation of their counsel:

NATURE OF THE ACTION

1. Consumers attribute a wide range of benefits to foods made entirely of natural ingredients. Consumers perceive all-natural foods to be higher quality, healthier, safer to eat and less damaging to the environment.

2. In a survey conducted by the Shelton Group in 2009, the most popular food label among consumers was “100% natural.”¹ “All natural ingredients” was the second most popular food label among consumers and both of those labels beat out “Contains natural ingredients.”²

3. While food manufacturers have sought to capitalize on this fast-growing market for natural products, now a multi-billion dollar industry, not all manufacturers truthfully represent the nature and quality of their products. Some manufacturers seek to capture a share of the market by touting their products as “All Natural” when in fact, they are not.

4. NEWMAN’S OWN is an example of a manufacturer who has sought to exploit the market for natural products. At all material times hereto, NEWMAN’S OWN has unlawfully, fraudulently, unfairly, misleadingly, and/or deceptively represented that it’s NEWMAN’S OWN® pasta sauce products are “All Natural” when they contain citric acid, a non-natural, chemically processed ingredient.

5. Merriam-Webster’s Dictionary defines “natural”³ as an adjective as follows:

- i. “existing in nature and not made or caused by people : coming from nature”
- ii. “not having any extra substances or chemicals added : not containing anything artificial”

6. Merriam-Webster’s Dictionary defines “synthetic”⁴ as an adjective as follows:

- i. “made by combining different substances : not natural”

7. Merriam-Webster’s Dictionary defines “artificial”⁵ as an adjective as follows:

¹ See, e.g., Consumers Prefer ‘100% Natural’ Label Over ‘Organic’, Environmental Leader (Jul. 3, 2009), <http://environmentalleader.com/2009/07/03/consumers-prefer-100-natural-label-over-organic> (describing EcoPulse market report by Shelton Group) (last visited March 10, 2014).

² *Id.*

³ See <http://www.merriam-webster.com/dictionary/natural> (last visited October 19, 2015).

⁴ See <http://www.merriam-webster.com/dictionary/synthetic> (last visited October 19, 2015).

⁵ See <http://www.merriam-webster.com/dictionary/artificial> (last visited October 19, 2015).

- i. “not natural or real : made produced, or done to seem like something natural”
- ii. “not happening or existing naturally : created or caused by people”

8. As demonstrated by the definitions above, and believed by Plaintiffs and other reasonable consumers, the term “natural” does not apply to products that contain artificial or synthetic ingredients, which are not natural by their very definitions.

9. The term “natural” only applies to those products that contain no natural or synthetic ingredients and consist entirely of ingredients that are only minimally processed. Defendant however, deceptively used the term “natural” to describe a product containing ingredients that have been either extensively chemically processed or fundamentally altered from their natural state and thus cannot be considered “minimally processed.” The use of the term “natural” to describe such product creates consumer confusion and is misleading. Plaintiffs allege that the Defendant dishonestly describes their NEWMAN’S OWN® pasta sauce products as being “All Natural” when, in fact, they are not.

10. At all material times hereto, Defendant has manufactured, marketed and distributed its NEWMAN’S OWN® pasta sauce Products (defined below) with labels that claim the products are “All Natural” when the product is certainly not “All Natural.” The addition of citric acid, a synthetic and/or artificial ingredient in Defendant’s NEWMAN’S OWN® pasta sauce products causes them to not be natural, rendering Defendant’s claim false, misleading, and likely to deceive reasonable consumers.

11. The pasta sauce product line is comprised of the following 15 oz. and 24 oz. products containing added citric acid:

- i. Alfredo Pasta Sauce
- ii. Cabernet Marinara Sauce

- iii. Fire Roasted Tomato & Garlic Pasta Sauce
- iv. Five Cheese Pasta Sauce
- v. Fra Diavolo Pasta Sauce
- vi. Garden Peppers Pasta Sauce
- vii. Italian Sausage & Peppers Pasta Sauce
- viii. Marinara Pasta Sauce
- ix. Marinara with Mushrooms Pasta Sauce
- x. Roasted Garlic & Peppers Pasta Sauce
- xi. Roasted Garlic Alfredo Pasta Sauce
- xii. Roasted Garlic Pasta Sauce
- xiii. Sockarooni Pasta Sauce
- xiv. Sweet Onion and Roasted Garlic Pasta Sauce
- xv. Tomato & Basil Bombolina Pasta Sauce
- xvi. Vodka Pasta Sauce
- xvii. Any Newman's Own pasta sauce Product that contains citric acid (collectively, the "Products").

12. By marketing the NEWMAN'S OWN® Products as "All Natural," Defendant is taking wrongful advantage of consumers' strong preference for foods made entirely of natural ingredients.

13. As shown in **EXHIBIT A**, the representation that the NEWMAN'S OWN® Products is made of "All Natural Ingredients" is central to the marketing of the Product and is clearly and prominently displayed on the front packaging and cap, where it cannot be missed by consumers.

14. Defendant has unjustly profited in the lucrative market for natural foods by misleadingly labeling its NEWMAN'S OWN® Products as "All Natural" and selling them to consumers who sought to purchase products made from ingredients that are naturally occurring and who were willing to pay more for such foods.

15. This lawsuit seeks redress for the deceptive manner in which Defendant has and continues to market its NEWMAN'S OWN® Products to the general public. Plaintiffs bring this proposed consumer class action individually and on behalf of all other persons nationwide, who, from the applicable limitations period up to and including the present ("Class Period"), purchased NEWMAN'S OWN® Products for consumption and not resale.

16. Plaintiffs expressly do not seek to contest or enforce any state law that has requirements beyond those required by federal laws or regulations.

JURISDICTION AND VENUE

17. 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).

18. The Court has jurisdiction over the federal claims alleged herein pursuant to 28 U.S.C. § 1331 because it arises under the laws of the United States.

19. The Court has jurisdiction over the state law claims because they form part of the same case or controversy under Article III of the United States Constitution.

20. Alternatively, the Court has jurisdiction over all claims alleged herein pursuant to 28 U.S.C § 1332 because the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different states.

21. This Court has personal jurisdiction over Plaintiffs because Plaintiffs submit 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 their 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 have 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.

22. 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 residents of this District under 28 U.S.C. 1391(c)(2) because it is subject to personal jurisdiction in this district.

PARTIES

Plaintiffs

23. Plaintiff WONG is, and at all times relevant hereto has been, a citizen of the State of New York and resides in Queens County. During the Class Period, Plaintiff WONG purchased NEWMAN'S OWN® Products for personal consumption within the State of New York. Plaintiff purchased the 24 oz. NEWMAN'S OWN® Marinara Pasta Sauce Product from a Target store located in Queens County in reliance on the "All Natural" claim printed boldly on the front label. The purchase price was approximately \$2.49 (or more) for an individual bottle of the Product. Plaintiff WONG purchased the Product at a premium price and was financially injured as a result of Defendant's deceptive conduct as alleged herein. Further, should Plaintiff WONG encounter the Products in the future, he could not rely on the truthfulness of the packaging, absent corrective changes to the packaging. However, Plaintiff WONG would still be willing to

purchase the current formulation of the Products, absent the price premium, so long as Defendant engages in corrective advertising.

24. Plaintiffs JOHN DOES 1-100 are and, at all relevant times hereto, have been citizens of the state of New York. Plaintiffs JOHN DOES 1-100 have purchased the Products for personal consumption within the State of New York. Plaintiffs JOHN DOES 1-100 purchased the Products at a premium price and were financially injured as a result of Defendant's deceptive conduct as alleged herein.

Defendant

25. Defendant NEWMAN'S OWN FOODS, INC. is a corporation organized under the laws of Connecticut with its headquarters at One Morningside Drive North, Westport, CT 06880 and an agent for service of process at R&C Service Company, 280 Trumbull Street, Hartford, CT 06103. Defendant develops, markets and sells food products, including dressings, sauces, frozen pizzas, salsas, snacks, oils, and skillet meals, under the "NEWMAN'S OWN®" brand name throughout the United States.

26. Defendant owns, manufactures and distributes NEWMAN'S OWN® Products, and created and/or authorized the unlawful, fraudulent, unfair, misleading and/or deceptive labeling and advertising for the Products. The product label for NEWMAN'S OWN® Products, relied upon by Plaintiffs, was prepared and/or approved by Defendant and its agents, and was disseminated by Defendant and its agents with the "All Natural" misrepresentation alleged herein. The Products' packaging and labels were designed to encourage consumers to purchase NEWMAN'S OWN® Products and reasonably misled Plaintiffs and the Class into purchasing the Products.

27. Plaintiffs allege that, at all times relevant herein, NEWMAN'S OWN FOODS, INC. and its subsidiaries, affiliates, and other related entities, as well as their respective employees, were the agents, servants and employees of NEWMAN'S OWN FOODS, INC., and at all times relevant herein, each was acting within the purpose and scope of that agency and employment. Plaintiffs further allege on information and belief that at all times relevant herein, the distributors who delivered and sold the Products, as well as their respective employees, also were NEWMAN'S OWN FOODS, INC.'s agents, servants and employees, and at all times herein, each was acting within the purpose and scope of that agency and employment. In addition, Plaintiffs allege that, in committing the wrongful acts alleged herein, NEWMAN'S OWN FOODS, INC., in concert with its subsidiaries, affiliates, and/or other related entities and their respective employees, planned, participated in and furthered a common scheme to induce members of the public to purchase the Product by means of untrue, misleading, deceptive, and/or fraudulent representations, and that NEWMAN'S OWN FOODS, INC. participated in the making of such representations in that it disseminated those misrepresentations and/or caused them to be disseminated.

28. Whenever reference in this Complaint is made to any act by NEWMAN'S OWN FOODS, INC. or its subsidiaries, affiliates, distributors, and other related entities, such allegation shall be deemed to mean that the principals, officers, directors, employees, agents, and/or representatives of NEWMAN'S OWN FOODS, INC. committed, knew of, performed, authorized, ratified and/or directed that act or transaction on behalf of NEWMAN'S OWN FOODS, INC. while actively engaged in the scope of their duties.

FACTUAL ALLEGATIONS

Defendant's Advertising of NEWMAN'S OWN® Products

29. NEWMAN'S OWN FOODS, INC. manufactures, distributes, markets, advertises and sells NEWMAN'S OWN® Products with the claim that they are "All Natural." The Products are available at grocery stores, food chains, convenience stores, and other retail outlets throughout the United States as well as on Defendant's NEWMAN'S OWN online store (located at <http://www.newmansown.com/food/type/sauce/>).

30. Defendant's "All Natural" statement, displayed on the front of the NEWMAN'S OWN® Products packaging for the Products, is untrue, misleading, and likely to deceive reasonable consumers, such as Plaintiffs and members of the Class, because the Products are not "All Natural," due to the addition of citric acid, a synthetic and/or artificial ingredient in the Products.

31. As the "All Natural" statement on the Product is clearly and prominently displayed on the front of each individual bottle of NEWMAN'S OWN® Products, Plaintiffs and all consumers within the Class who purchased the Products were exposed to the same misleading "All Natural" claim.

32. Plaintiffs and the Class were charged a price premium for the allegedly "All Natural" Products over pasta sauce products that did not claim to be "All Natural."

33. Defendant's "All Natural" representation conveys a series of express claims which Defendant knows are material to the reasonable consumer, and which Defendant intends for consumers to rely upon when choosing to purchase NEWMAN'S OWN® Products.

NEWMAN'S OWN® Pasta Sauce Products Are Not All Natural

34. The United States Food and Drug Administration ("FDA"), which has responsibility for regulating the labeling of food products such as the NEWMAN'S OWN® Products sold by Defendant, has not promulgated a regulation defining the terms "natural" or "All Natural."

Courts and trade members have requested that the FDA provide a regulatory definition of the term, but, the FDA has declined to provide a determination because the time required to conduct a public hearing “would take two to three years to complete,” and the agency’s resources are currently devoted to other, higher priorities.⁶ However, the agency has established a policy defining the outer boundaries of the use of the term “natural” by clarifying when a product is not natural.

35. With regard to the meaning of “natural” on a food label, the agency has said as follows: “FDA has not developed a definition for use of the term natural or its derivatives. However, the agency has not objected to the use of the term **if the food does not contain added color, artificial flavors, or synthetic substances.**”⁷ Other informal guidance issued by the FDA on the term “natural” in the context of food has also understood it “as meaning that nothing artificial or synthetic (including all color additives regardless of source) has been included in , or has been added to, a food that would not normally be expected to be in the food.”⁸

36. Thus, although there is not an exacting definition of “natural” in reference to food, there is no reasonable definition of “natural” that includes ingredients that, even if sourced from “nature” (as all product ingredients must be), are subjected to extensive transformative chemical processing before their inclusion in a product. For example, the National Advertising Division of the Better Business Bureau (“NAD”) has found that a “natural” ingredient does *not* include one that, while “literally sourced in nature (as is every chemical substance), . . . is, nevertheless

⁶ See Letter from Michael M. Landa, Acting Director, Center for Food Safety and Applied Nutrition to Judge Jerome B. Simandle dated September 16, 2010, filed in *Ries et al., v. Hornell Brewing Co., Inc.*, Case No. 10-1139 (N.D. Cal.), Docket No. 54.

⁷ <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm214868.htm>

⁸ See Food Labeling: Nutrient Content Claims, General Principles, Petitions, Definition of Terms; Definitions of Nutrient Content Claims for the Fat, Fatty Acid, and Cholesterol Content of Food, 58 Fed. Reg. 2302, 2407 (Jan. 6, 1993), available at <http://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/FoodAdvisoryCommittee/UCM248504.pdf>.

subjected to extensive processing before metamorphosing into the” ingredient that is included in the final product. *Tom’s of Maine (Tom’s of Maine Natural Mouthwash)*, Report #3470, NAD/CARU Case Reports 4 (June 1998).

37. Similar to the FDA, the United States Department of Agriculture (“USDA”), which regulates the labeling of meat and poultry, has also set limits on the use of the term “natural.”

38. The USDA has issued a Foods Standards and Labeling Policy Book (Aug. 2005) for products it regulates, which states that the term “natural” may be used on labeling for products that contain processed ingredients only where such ingredients are subjected to “minimal” processing. *See* Office of Pol’y, Program & Emp. Dev. Food Safety & Inspection Serv., U.S. Dep’t of Agric., *Food Standards and Labeling Policy Book* (2005).⁹ According to the USDA, “[m]inimal processing may include: (a) those traditional processes used to make food edible or to preserve it or to make it safe for human consumption, e.g., smoking, roasting, freezing, drying, and fermenting, or (b) those physical processes which do not fundamentally alter the raw product and/or which only separate a whole, intact food into component parts, e.g., grinding meat, separating eggs into albumen and yolk, and pressing fruits to produce juices.”¹⁰ However, “[r]elatively severe processes, e.g., solvent extraction, acid hydrolysis and chemical bleaching would clearly be considered more than minimal processing.”¹¹

39. Under the USDA’s guidelines, if a product is severely processed, the product can be labeled “All Natural” if the ingredient would not significantly change the character of the product to the point that it could no longer be considered a natural product. However, even in that case, “*the natural claim must be qualified to clearly and conspicuously identify the*

⁹ *See United States Department of Agriculture Food Standards and Labeling Policy book* available at http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf (last visited October 26, 2015).

¹⁰ *Id.*

¹¹ *Id.*

ingredient, e.g., all natural or all natural ingredients except dextrose, modified food starch, etc.”¹² (emphasis added).

40. The terms “synthetic” and “artificial” closely resemble each other and in common parlance are taken as synonymous. The scientific community defines “artificial” as something not found in nature, whereas a “synthetic” is defined as something man-made, whether it merely mimics nature or is not found in nature.¹³

41. Congress has defined “synthetic” to mean “a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.” 7 U.S.C. § 6502(21). *See also* C.F.R. § 205.1, *et seq* defining, in USDA’s National Organic Program regulations, a “nonsynthetic (natural)” as “[a] substance that is derived from mineral, plant or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. § 6502(21))”.

42. In addition to defining “synthetic,” federal authorities have also expressly recognized certain chemicals as synthetics.

43. Citric acid (2-hydroxy-propane-1,2,3-tricarboxylic acid) is a synthetic, non-natural ingredient. While the chemical’s name has the word “citric” in it, citric acid is no longer extracted from the citrus fruit but industrially manufactured by fermenting certain genetically mutant strains of the black mold fungus, *Aspergillus niger*.

¹² United States Department of Agriculture Food Standards and Labeling Policy book, available at http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf (last visited October 23, 2015).

¹³ Peter E. Nielsen, *Natural-synthetic-artificial!*, Artificial DNA: PNA & XNA, Volume 1, Issue 1 (July/August/September 2010), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3109441/>

44. A technical evaluation report for the substance citric acid compiled by the United States Department of Agriculture, Agricultural Marketing Service (“USDA AMS”) for the National Organic Program classified citric acid as “Synthetic Allowed”. See **EXHIBIT B**, Page 4, available at <http://www.ams.usda.gov/AMSV1.0/getfile?dDocName=STELPRDC5067876>. As one of the USDA AMS reviewers commented,

“[Citric acid] is a natural[ly] occurring substance that commercially goes through numerous chemical processes to get to [its] final usable form. This processing would suggest that it be classified as synthetic.” Id. at 3.

The report further explains, under the “How Made” question, that citric acid is made –

“Traditionally by extraction from citrus juice, no longer commercially available. It is now extracted by fermentation of a carbohydrate substrate (often molasses) by citric acid bacteria, *Aspergillus niger* (a mold) or *Candida guilliermondii* (a yeast). Citric acid is recovered from the fermentation broth by a lime and sulfuric acid process in which the citric acid is first precipitated as a calcium salt and then reacidulated with sulfuric acid.” Id. at 4.

45. Because citric acid is a synthetic acid and cannot be reasonably considered a natural ingredient, Defendant’s claim that the Products are “All Natural” is false, deceptive, and misleading, and the Products are misbranded under federal and state law.

46. As NEWMAN’S OWN® Products contains citric acid, a synthetic and/or artificial ingredient, the claim that the Product is “All Natural” is both literally false and misleading under any reasonable definition of “natural.”

The “All Natural” Claim on NEWMAN’S OWN® Pasta Sauce Products is Material to Reasonable Consumers

47. American consumers are health conscious and look for wholesome, natural foods to keep a healthy diet, so they frequently take nutrition information into consideration in selecting and purchasing food items. Product package labels, including nutrition labels, are vehicles that convey nutrition information to consumers that they can and do use to make purchasing

decisions. As noted by FDA commissioner Margaret Hamburg during an October 2009 media briefing, “[s]tudies show that consumers trust and believe the nutrition facts information and that many consumers use it to help them build a healthy diet.”

48. The prevalence of claims about nutritional content on food packaging in the United States has increased in recent years as manufacturers have sought to provide consumers with nutrition information and thereby influence their purchasing decisions. The results of a recent FDA Food Label and Package Survey found that approximately 4.8% of food products sold in the United States had either a health claim or a qualified health claim on the food package, and that more than half (53.2%) of the food products reviewed had nutrient content claims on the packaging.

49. American consumers are increasingly seeking “All Natural” ingredients in the foods they purchase. Although this segment of the health food market was once a niche market, natural foods are increasingly becoming part of the mainstream food landscape. According to *Natural Foods Merchandiser*, a leading information provider for the natural, organic and healthy products industry, the natural food industry enjoyed over \$81 billion in total revenue in 2010, and grew over 7% in 2009.¹⁴ The market for all natural and organic foods grew 9% in 2010 to \$39 billion, and 2010 sales were 63% higher than sales in 2005.¹⁵

50. Consumers desire “All Natural” ingredients in food products for a myriad of reasons, including wanting to live a healthier lifestyle, perceived benefits in avoiding disease and other chronic conditions, as well as to increase weight loss and avoid chemical additives in their food. The “All Natural” branding also appears to appeal to individual consumers’ interest in

¹⁴ See *Natural and Organic Products Industry Sales Hit \$81 Billion*, Natural Foods Merchandiser, (June 1, 2011), available at: <http://www.prnewswire.com/news-releases/natural-and-organic-products-industry-sales-hit-81-billion-122958763.html>

¹⁵ <http://www.marketwired.com/press-release/natural-and-organic-food-and-beverage-market-to-double-by-2015-1525854.htm> (last visited October 26, 2015).

supporting sustainable living and environmentally sensitive food consumption, helping the environment, assisting local farmers, assisting factory workers who would otherwise be exposed to synthetic and hazardous substances, and financially supporting the companies that share these values. As a result, consumers are willing to pay a higher price for “All Natural” food and beverages.

51. According to an article in *The Economist*, “natural” products are a fast growing market because of the power of “mother nature” in the hands of marketers, which conjures up images of heart-warming wholesomeness and rustic simplicity.¹⁶

52. As a result of Defendant’s deception, consumers – including Plaintiffs and members of the proposed Class – have purchased Products that contain synthetic or highly chemically processed ingredients in reliance on Defendant’s “All Natural” claims. Moreover, Plaintiffs and Class members have paid a premium for the Products over other similar food products sold on the market. A sample of other similar food products are provided below:

Product	Brand	Price	Retailer
Marinara Sauce, 24 oz.	Barilla	\$1.99	Amazon.com
Chunky Garden Tomato, Onion, & Garlic Sauce, 24 oz.	Prego	\$1.87	Target.com
Spicy Italian-style Sauce, 24 oz.	Ragu	\$1.77	Target.com
Marinara Pasta Sauce, 24 oz.	Newman’s Own	\$2.49	Target

53. By representing that the Products were “All Natural,” Defendants sought to capitalize on consumers’ preference for natural Products and the association between such Products and a wholesome way of life. Consumers are willing to pay more for natural products because of this

¹⁶ *Chemical Blessings: What Rousseau got Wrong*, *The Economist*, (October 26, 2015) available at: <http://www.economist.com/node/10633398>

association as well as the perceived higher quality, health and safety benefits and low impact on the environment associated with products labeled as “natural.”

Defendant Deceptively Advertises on the Labeling of NEWMAN'S OWN® Pasta Sauce Products that the Product is “All Natural” to Induce Consumers to Purchase the Product

54. The Products were labeled “All Natural” yet contain synthetic, non-natural and extensively processed ingredient citric acid.

55. The “All Natural” claim appears on the labels and website pages of the Products, as shown in **EXHIBIT A**.

56. Within the last twelve months, Plaintiff WONG purchased the 24 oz. NEWMAN'S OWN® Marinara Pasta Sauce Product for personal consumption. Plaintiff WONG was attracted to this Product because he prefers to consume and use natural products for health reasons. Plaintiff WONG believes that natural products contain only ingredients that occur in nature or are minimally processed, which would not include citric acid. As a result, the Products with their deceptive “All Natural” claims on the Product packaging had no value to Plaintiff WONG. Defendants marketed the Products as “All Natural” to induce consumers to purchase the Products.

Plaintiffs Relied on Defendant's “All Natural” Statement

57. Under the FDCA, the term “false” has its usual meaning of “untruthful,” while the term “misleading” is a term of art. Misbranding reaches not only false claims, but also those claims that might be technically true, although still misleading. If any one representation in the labeling is misleading, the entire food is misbranded. No other statement in the labeling cures a misleading statement. “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). Under the FDCA, it is not necessary to prove

that anyone was actually misled. New York law similarly does not require proof of actual reliance. *See Pelman ex rel. Pelman v. McDonald's Corp.*, 396 F. Supp. 2d 439, 445 (S.D.N.Y. 2005).

58. New York and federal law have placed similar requirements on food companies that are designed to ensure that the claims companies are making about their products to consumers are truthful and accurate.

59. Defendant's labeling and advertising of the Products violate various state laws against misbranding. New York State law broadly prohibits the misbranding of food in language identical to that found in regulations promulgated pursuant to the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. § 301 *et seq.*:

Pursuant to N.Y. State Education Law § 6815, "[f]ood shall be deemed to be misbranded: 1. If its labeling is false or misleading in any particular..."

60. Defendant's Products were misbranded under New York law because they misled Plaintiffs and Class members about the naturalness of the Products.

61. Although Defendant marketed the Products as "All Natural", they failed to also disclose material information about the Products; the fact that they contained unnatural, synthetic, and/or artificial ingredients. This non-disclosure, while at the same time branding the Products as "All Natural" was deceptive and likely to mislead a reasonable consumer.

62. A representation that a product is "All Natural" is material to a reasonable consumer when deciding to purchase a product. According to Consumers Union, "Eighty-six percent of consumers expect a 'natural' label to mean processed foods do not contain any artificial ingredients."¹⁷

¹⁷ Notice of the Federal Trade Commission, Comments of Consumers Union on Proposed Guides for Use of Environmental Marketing Claims, 16 CFR § 260, Dec. 10, 2010, <http://www.ftc.gov/os/comments/greenguiderevisions/00289-57072.pdf> (last visited August 9, 2014).

63. Plaintiffs did, and a reasonable consumer would, attach importance to whether Defendant's Products are "misbranded," i.e., not legally salable, or capable of legal possession, and/or contain highly processed ingredients.

64. Plaintiffs did not know, and had no reason to know, that the Products were not "All Natural."

65. Defendant's Product labeling and misleading website was a material factor in Plaintiffs' and Class members' decisions to purchase the Products. Relying on Defendant's Product labeling and misleading website, Plaintiffs and Class members believed that they were getting Products that were "All Natural." Had Plaintiffs known Defendant's Products contained a highly processed, non-natural ingredient, they would not have purchased them.

66. 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 their systematic product packaging practice.

67. At the point of sale, Plaintiffs 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.

68. Defendant's false and deceptive labeling is misleading and in violation of FDA and consumer protection laws of each of the fifty states and the District of Columbia, and the Products at issue are misbranded as a matter of law. Misbranded products cannot be legally manufactured, advertised, distributed, held or sold in the United States. Plaintiffs and Class members would not have bought the Products had they known they were misbranded and illegal to sell or possess.

69. As a result of Defendant's misrepresentations, Plaintiffs and thousands of others throughout the United States purchased the Products.

70. Plaintiffs and the Class (defined below) have been damaged by Defendant's deceptive and unfair conduct in that they purchased Products with false and deceptive labeling and paid premium prices they otherwise would not have paid over other comparable products that did not claim to be "All Natural."

CLASS ACTION ALLEGATIONS

The Nationwide Class

71. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following class (the "Class):

All persons or entities in the United States who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

The New York Class

72. Plaintiff WONG seeks to represent a class consisting of the following subclass (the "New York Class"):

All New York residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

73. The proposed Classes exclude 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.

74. Plaintiffs reserve the right to revise the Class definition based on facts learned in the course of litigating this matter.

75. This action is proper for class treatment under Rules 23(b)(1)(B) and 23(b)(3) of the Federal Rules of Civil Procedure. While the exact number and identities of other Class members are unknown to Plaintiffs at this time, Plaintiffs are informed and believe that there are thousands of Class members. Thus, the Class is so numerous that individual joinder of all Class members is impracticable.

76. 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 and include:

- a. whether labeling "All Natural" on Products containing citric acid, was false and misleading;
- b. whether Defendant engaged in a marketing practice intended to deceive consumers by labeling "All Natural" on Products containing citric acid;
- c. whether Defendant deprived Plaintiffs and the Class of the benefit of the bargain because the Products purchased were different than what Defendant warranted;
- d. whether Defendant deprived Plaintiffs 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 Plaintiffs and the Class to purchase a substance that was other than what was represented by Defendant;
- f. whether Defendant caused Plaintiffs and the Class to purchase Products that were artificial, synthetic, or otherwise unnatural;
- g. whether Defendant has been unjustly enriched at the expense of Plaintiffs and other Class members by their misconduct;

- h. whether Defendant must disgorge any and all profits they have made as a result of their misconduct; and
- i. whether Defendant should be barred from marketing the Products as “All Natural.”

77. Plaintiffs’ claims are typical of those of the Class members because Plaintiffs and the other Class members sustained damages arising out of the same wrongful conduct, as detailed herein. Plaintiffs 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. Plaintiffs’ 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.

78. Plaintiffs will fairly and adequately represent and pursue the interests of the Class and have retained competent counsel experienced in prosecuting nationwide class actions. Plaintiffs understand the nature of their claims herein, have no disqualifying conditions, and will vigorously represent the interests of the Class. Neither Plaintiffs nor Plaintiffs’ counsel have any interests that conflict with or are antagonistic to the interests of the Class. Plaintiffs have retained highly competent and experienced class action attorneys to represent their interests and those of the Class. Plaintiffs and Plaintiffs’ counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiffs 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.

79. 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.

80. 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.

81. 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.

82. 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.

83. Defendant's conduct is generally applicable to the Class as a whole and Plaintiffs seek, *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)

84. Plaintiff WONG realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

85. Plaintiff WONG brings this claim on behalf of himself 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").

86. 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."

87. 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)).

88. Any person who has been injured by reason of any violation of the NY GBL 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.

89. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that their Products are “All Natural” were unfair, deceptive, and misleading and are in violation of the NY GBL § 349.

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

91. Defendant should be enjoined from marketing their products as “All Natural” as described above pursuant to NY GBL § 349.

92. Plaintiff WONG, on behalf of himself 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, and such other relief as this Court deems just and proper.

COUNT II

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

93. Plaintiff WONG realleges and incorporates by reference the allegations contained in all preceding paragraphs and further alleges as follows:

94. Plaintiff WONG brings this claim on behalf of himself and the other members of the Class for violations of NY GBL § 349.

95. 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.

96. 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 engaged in deceptive, unfair and unconscionable commercial practices in failing to reveal material facts and information about the Products, which did, or tended to, mislead Plaintiff and the Class about facts that could not reasonably be known by them;
 - b. Defendants knowingly and falsely represented and advertised that the Products are “All Natural” with an intent to cause Plaintiff and members of the Class to believe that they are made with unadulterated, unprocessed ingredients, even though they are not;
 - c. Defendant failed to reveal facts that were material to the transactions in light of representations of fact made in a positive manner;
 - d. 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 their conduct;
 - e. Defendant failed to reveal material facts to Plaintiff and the Class with the intent that Plaintiff and the Class members rely upon the omission;
 - f. Defendant made material representations and statements of fact to Plaintiff and the Class that resulted in Plaintiff and the Class reasonably believing the represented or suggested state of affairs to be other than what they actually were;
- and

g. Defendant intended that Plaintiff and the members of the Class rely on their misrepresentations and omissions, so that Plaintiff and Class members would purchase the Products.

97. The practices employed by Defendant, whereby Defendant advertised, promoted, and marketed that their Products were “All Natural” were unfair, deceptive, and misleading and are in violation of NY GBL § 349.

98. Under all of 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.

99. 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 and pursuant to Defendant’s generalized course of deception.

100. 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 were “All Natural.” This is a deceptive business practice that violates NY GBL § 349.

101. Defendant’s “All Natural” claim misled Plaintiff, and is likely in the future to mislead reasonable consumers. Had Plaintiff and members of the Class known of the true facts about the Products, they would not have purchased the Products and/or paid substantially less for similar products.

102. The foregoing deceptive acts, omissions and practices were directed at consumers.

103. The foregoing deceptive acts, omissions and practices set forth in connection with Defendants' 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.

COUNT III

NEGLIGENT MISREPRESENTATION (All States)

104. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

105. Defendant, directly or through their agents and employees, made false representations, concealments, and nondisclosures to Plaintiffs and members of the Class.

106. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendant has failed to fulfill their duties to disclose the material facts set forth above. The direct and proximate cause of this failure to disclose was Defendant's negligence and carelessness.

107. Defendant, in making the misrepresentations and omissions, and in doing the acts alleged above, knew or reasonably should have known that the representations were not true. Defendant made and intended the misrepresentations to induce the reliance of Plaintiffs and members of the Class.

108. Plaintiffs and members of the Class relied upon these false representations and nondisclosures by Defendant when purchasing the Products, which reliance was justified and reasonably foreseeable.

109. As a result of Defendant's wrongful conduct, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other general and specific damages, including but not limited to the amounts paid for the Products, and any interest that

would have been accrued on those monies, all in an amount to be determined according to proof at time of trial.

COUNT IV

BREACH OF EXPRESS WARRANTIES (All States)

110. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

111. Defendant provided Plaintiffs and other members of the Class with written express warranties, including, but not limited to, warranties that the Products contain natural or all-natural ingredients. The natural claims made by Defendant are an affirmation of fact that became part of the basis of the bargain and created an express warranty that the good would conform to the stated promise. Plaintiffs placed importance on Defendant's natural claims.

112. Defendant breached the terms of this contract, including the express warranties, with Plaintiffs and the Class by not providing Products with the natures and quality as promised.

113. As a proximate result of Defendant's breach of warranties, Plaintiffs and Class members have suffered damages in an amount to be determined by the Court and/or jury, in that, among other things, they purchased and paid for products that did not conform to what Defendant promised in their promotion, marketing, advertising, packaging and labeling, and they were deprived of the benefit of their bargain and spent money on products that did not have any value or had less value than warranted or products that they would not have purchased and used had they known the true facts about them.

COUNT V

**UNJUST ENRICHMENT
(All States)**

114. Plaintiffs reallege and incorporate by reference the allegations contained in all preceding paragraphs and further allege as follows:

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

116. Plaintiffs 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.

117. Defendant will be unjustly enriched if they are 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.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all other similarly situated, seek judgment against Defendants, as follows:

- a. An Order that this action be maintained as a class action and appointing Plaintiffs as representatives of the Nationwide Class and/or their respective state 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 their 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 Plaintiffs and the Class;

- e. Actual and/or statutory damages for injuries suffered by Plaintiffs and the Class and in the maximum amount permitted by applicable law;
- f. An order (i) requiring Defendant to immediately cease their wrongful conduct as set forth in this Complaint; (ii) enjoining Defendant from continuing to misrepresent and conceal material information and conduct business via the unlawful, unfair and deceptive business acts and practices complained of herein; (iii) ordering Defendant to engage in a corrective advertising campaign; and (iv) requiring Defendant to reimburse Plaintiffs 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 attorneys' fees and costs; and
- i. Such other relief as the Court may deem just and proper.

DEMAND FOR TRIAL BY JURY

Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure, Plaintiffs, on behalf of themselves and all others similarly situated, demand a trial by jury on all questions of fact raised by the Complaint.

Dated: November 30, 2016

Respectfully submitted,

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 Plaintiffs and the Class

By: 

C.K. Lee

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

HEUNG MAN WONG and JOHN DOES 1-100

DEFENDANTS

NEWMAN'S OWN, INC.

(b) County of Residence of First Listed Plaintiff Queens

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Fairfield

(IN U.S. PLAINTIFF CASES ONLY)

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

C.K. Lee, Esq., Lee Litigation Group, PLLC

30 East 39th Street, Second Floor, New York, NY 10016

Tel.: (212) 465-1188

Attorneys (If Known)

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

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

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

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 1322(d) - New York General Business Law Section 349Brief description of cause:
Deceptive and Unfair Trade Practices**VII. REQUESTED IN COMPLAINT:**☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.**DEMAND \$**

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/30/16

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, C.K. Lee, counsel for Plaintiffs, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? _____

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes

☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes

(If yes, please explain)

☒ No

I certify the accuracy of all information provided above.

Signature: _____

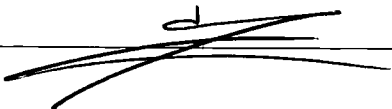


EXHIBIT A

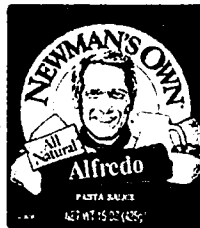
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Alfredo Pasta Sauce

All Natural® All Natural



Alfredo Pasta Sauce

Delight your pasta tonight with this creamy, cheesy sauce.

Available Sizes: 15 oz.



Like SK

Find This Product Near You

10016

Find



D Agostino Supermarket

575 3rd Ave New York, NY 10016
(212) 972-4892

D'agostino

505 3rd Ave New York, NY 10016
(212) 664-8198

D Agostino Supermarket

341 3rd Ave New York, NY 10010
(516) 686-0519

Want more results? Click on the map to zoom in on your location.

More products in this category



[D'Agostino Pasta Sauce](#)

All Natural Ingredients

Water, Cream, Parmesan Cheese Blend (Granular and Parmesan Cheese [Pasteurized Milk, Cheese Cultures, Salt, Enzymes], Water, Salt, Lactic Acid, Citric Acid), Cornstarch, Egg Yolks, Contains 2% Or Less Of: Sherry Cooking Wine, Butter, Salt, Romano Cheese Blend (Granular and Romano Cheese [Pasteurized Milk, Cheese Cultures, Salt, Enzymes], Water, Whey, Salt), Soybean Oil, Cane Sugar, Garlic*, Spice, Enzyme, Gum Arabic, Guar Gum, Natural Flavor

*Dried

Contains: Milk, Egg

Nutrition Facts

Serv. Size	1/4 Cup (61g)
Calories	70
Calories from fat	70
Total fat	8g (16% DV)
Saturated fat	4.5g (9% DV)
Trans fat	0g
Cholesterol	40mg (8% DV)
Sodium	400mg (17% DV)
Total Carbohydrate	2g (4% DV)
Dietary Fiber	0g (0% DV)
Sugars	1g
Protein	1g
Vitamin A	(6% DV)
Vitamin C	(0% DV)
Calcium	(4% DV)
Iron	(0% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Cabernet Marinara Sauce



Cabernet Marinara Pasta Sauce

Mama mia! One taste and you'll happily succumb.

Available Sizes: 24 oz.



Find This Product Near You

Legend



D'agostino

528 2nd Ave New York, NY 10016
(212) 694-3133

D Agostino Supermarket

570 2nd Ave New York, NY 10016
(212) 972-4192

D Agostino Supermarket

341 2nd Ave New York, NY 10016
(516) 433-0619

What's new in your neighborhood? Visit www.dagostino.com/locations

More products in this category



D'Agostino Pasta Sauce

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Cabernet Wine, Extra Virgin Olive Oil, Cane Sugar, Salt, Onions*, Basil, Garlic*, Spices

*Dried

Contains Sulfites

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	80
Calories from fat	15
Total fat	2g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	11g (4% DV)
Dietary Fiber	2g (8% DV)
Sugars	6g
Protein	2g
Vitamin A	(15% DV)
Vitamin C	(2% DV)
Calcium	(6% DV)
Iron	(6% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Fire Roasted Tomato & Garlic Pasta Sauce



Fire Roasted Tomato & Garlic Pasta Sauce

From penne to papardelle, this sauce puts pizzazz in any pasta dish!

Available Sizes: 24 oz.



Find This Product Near You

Legend



Target Store

543 River Rd Edgewater, NJ 07020
(201) 492-0252

Walmart Supercenter

77 Green Acres Rd Valley Stream, NY 11581
(516) 587-0127

More products in this category



What's new in this category? Click on the left to see the latest products!

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Fire Roasted Diced Tomatoes, Extra Virgin Olive Oil, Roasted Garlic, Salt, Spices, Garlic*, Onions*, Natural Flavor

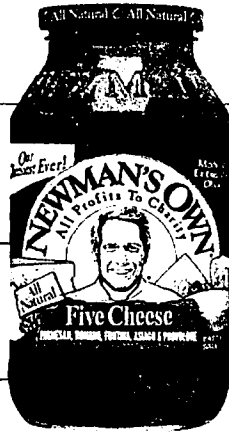
*Dried

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	2g (5% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	10g (2% DV)
Dietary Fiber	2g (8% DV)
Sugars	5g
Protein	2g
Vitamin A	15% DV
Vitamin C	10% DV
Calcium	10% DV
Iron	16% DV

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Five Cheese Pasta Sauce



Five Cheese Pasta Sauce

Say cheese! With Blue, Parmesan, Romano, Asiago and Provolone cheeses.

Available Sizes: 24 oz.



Find This Product Near You

Legend



Mrs Green's Natural Market

585 Hudson Street, York, NY 10014
(212) 654-3151

Brooklyn Harvest Market

25 E. 5th St Brooklyn, NY 11249
(718) 387-5588

Flatbush Food Cooperative

1415 Cortelyou Rd Brooklyn, NY 11238
(718) 254-9717

Map data © OpenStreetMap contributors, Imagery © Mapbox

More products in this category



Five Cheese Pasta Sauce

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Cane Sugar, White Wine, Parmesan Cheese (Pasteurized Milk, Cheese Cultures, Salt, Rennet), Romano Cheese Blend (Granular And Romano Cheese (Pasteurized Milk, Cheese Cultures, Salt, Enzymes), Water, Whey, Salt), Pecorino Romano Cheese (Pasteurized Sheep's Milk, Rennet, Salt), Salt, Fontina Cheese (Pasteurized Cow's Milk, Cheese Cultures, Salt, Enzymes), Extra Virgin Olive Oil, Asiago Cheese (Pasteurized Milk, Cheese Cultures, Salt, Rennet), Provolone Cheese (Pasteurized Milk, Cheese Cultures, Salt, Rennet), Spices, Garlic*, Onion*.

*Dried

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	80
Calories from fat	20
Total fat	2g (3% DV)
Saturated fat	1g (5% DV)
Trans fat	0g
Cholesterol	5mg (2% DV)
Sodium	40mg (19% DV)
Total Carbohydrate	11g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	6g
Protein	4g
Vitamin A	120% DV
Vitamin C	10% DV
Calcium	10% DV
Iron	10% DV

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Fra Diavolo Pasta Sauce



Fra Diavolo Pasta Sauce

Paul's devilishly spicy concoction is just heavenly.

Available Sizes: 24 oz.



Find This Product Near You

Legend



Brooklyn Harvest Market

35 N. 5th St Brooklyn, NY 11249
(718) 237-5533

Acme Market

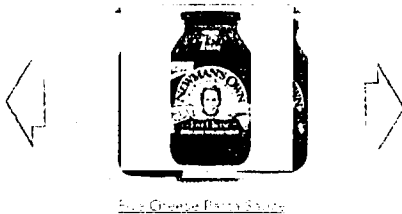
30 New Bridge Rd Bergenfield, NJ 07621
(201) 235-0353

Acme Market

501 New North Blvd Kentworth, NY 17033
(808) 256-0725

Want more results? Click on a location to see what's nearby.

More products in this category



Fra Diavolo Pasta Sauce

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Extra Virgin Olive Oil, Onions*, Salt, Spices, Garlic*, Crushed Red Pepper, Basil*, Parsley*, Oregano*

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	80
Calories from fat	25
Total fat	3g (5% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	10g (2% DV)
Dietary Fiber	2g (5% DV)
Sugars	4g
Protein	2g
Vitamin A	(20% DV)
Vitamin C	(10% DV)
Calcium	(8% DV)
Iron	(10% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Garden Peppers Pasta Sauce



Garden Peppers Pasta Sauce

Red and green bell peppers come together in this delightful imbroglio.

Available Sizes: 24 oz.



Find This Product Near You

Legend

D Agostino Supermarket

966 1st Ave New York, NY 10022
(212) 319-4870

D Agostino Supermarket

790 Greenwich St New York, NY 10014
(212) 691-9190

Brooklyn Harvest Market

3514 5th St Brooklyn, NY 11249
(718) 387-5555

When you click on a location, you will be able to see the location on a map.

More products in this category



Find This Product Near You

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Red Bell Peppers, Green Bell Peppers, Salt, Extra Virgin Olive Oil, Spices, Garlic*

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	50
Calories from fat	10
Total fat	1g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	440mg (18% DV)
Total Carbohydrate	8g (2% DV)
Dietary Fiber	2g (12% DV)
Sugars	5g
Protein	2g
Vitamin A	(20% DV)
Vitamin C	(6% DV)
Calcium	(6% DV)
Iron	(6% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Italian Sausage & Peppers Pasta Sauce



Italian Sausage & Peppers Pasta Sauce

Succulent sausage steals the show with peppery red and green peppers in a supporting role.

Available Sizes: 24 oz.



Find This Product Near You

Legend

More products in this category



Find This Product Near You

Fairway Market

550 2nd Ave New York, NY 10016
(848) 720-9430

Fairway Market

2127 Broadway New York, NY 10023
(212) 595-1555

Fairway Market

249 East 86th Street New York, NY 10021
(212) 827-2005

Map shows location of closest store to your location.

All Natural Ingredients

Tomato Purée (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Cooked Italian Sausage (Pork, Water, Salt, Spices, Paprika, Spice Extractives), Green and Red Bell Peppers, Cane Sugar, Salt, Onions*, Extra Virgin Olive Oil, Spices, Garlic*

*Dried

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	90
Calories from fat	30
Total fat	3.5g (5% DV)
Saturated fat	1g (2% DV)
Trans fat	0g
Cholesterol	5mg (10% DV)
Sodium	550mg (23% DV)
Total Carbohydrate	11g (4% DV)
Dietary Fiber	2g (8% DV)
Sugars	7g
Protein	4g
Vitamin A	(15% DV)
Vitamin C	(6% DV)
Calcium	(6% DV)
Iron	(6% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Marinara Pasta Sauce



Marinara Pasta Sauce

Our original Industrial Strength Venetian Spaghetti Sauce. The ultimate crowd pleaser!

Available Sizes: 24 oz



Find This Product Near You

Legend



Fairway Market

550 2nd Ave New York, NY 10016
(846) 710-9420

D Agostino Supermarket

370 3rd Ave New York, NY 10016
(212) 672-4592

D'agostino

520 3rd Ave New York, NY 10016
(212) 604-8185

[View more locations for Newman's Own products near you!](#)

More products in this category



Newman's Own Marinara Pasta Sauce

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Salt, Cane Sugar, Extra Virgin Olive Oil, Spices, Onion*, Garlic*

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	1g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	400mg (15% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	2g (12% DV)
Sugars	7g
Protein	3g
Vitamin A	(30% DV)
Vitamin C	(0% DV)
Calcium	(5% DV)
Iron	(10% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Marinara with Mushrooms Pasta Sauce



Marinara with Mushrooms Pasta Sauce

Mushrooms add oomph to our original Industrial Strength Venetian Spaghetti Sauce.

Available Sizes: 24 oz.



Find This Product Near You

Legend

More products in this category



Fra. Diavola Pasta Sauce

Fairway Market

3127 Broadway New York, NY 10023
(212) 595-1382

Fairway Market

140 East 68th Street New York, NY 10021
(212) 827-0066

Fairway Market

430-500 Van Brunt St Brooklyn, NY 11231
(718) 254-0902

What are we looking for? Show results for **Fairway Market** only.

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Mushrooms, Cane Sugar, Salt, Extra Virgin Olive Oil, Spices, Onion*, Garlic*

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	1g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	7g
Protein	3g
Vitamin A	125% DV
Vitamin C	10% DV
Calcium	10% DV
Iron	10% DV

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Roasted Garlic & Peppers Pasta Sauce



Roasted Garlic & Peppers Pasta Sauce

The Prince of the Garlic Bin and Princess Gwen Pepper are proud to present their progeny.

Available Sizes: 24 oz.



Find This Product Near You

Legend



More products in this category



For Diavolo Pasta Sauce

Mrs Green's Natural Market

1461 Boston Post Road, Larchmont, NY 10593
(914) 834-6657

The Fresh Market

723 White Plains Road, Scarborough, NY 10593
(914) 723-6600

The Fresh Market

277 E. Jennifer Parkway, Livingston, NJ 07039
(973) 532-1579

Want more results? Click on the map [below](#) to find more!

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Green and Red Bell Peppers, Roasted Garlic, Salt, Cane Sugar, Extra Virgin Olive Oil, Onions*, Garlic*, Spices, Pecorino Romano Cheese (Pasteurized Sheep's Milk, Cheese Cultures, Salt, Enzymes)

*Dried

Contains: Milk

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	1.5g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	11g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	0g
Protein	2g
Vitamin A	(20% DV)
Vitamin C	(10% DV)
Calcium	(4% DV)
Iron	(3% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Roasted Garlic Alfredo Pasta Sauce

All Natural All Natural



Roasted Garlic Alfredo Pasta Sauce

Roasted garlic enriches the flavor of this creamy, cheesy sauce.

Available Sizes: 15 oz.



Like 9K

Find This Product Near You

10016

Find



More products in this category



Roasted Garlic Alfredo Pasta Sauce

D'agostino

535 3rd Ave New York, NY 10016
212.694-8155

D Agostino Supermarket

578 3rd Ave New York, NY 10016
(212) 972-4591

D Agostino Supermarket

541 3rd Ave New York, NY 10016
516.654.0519

What's new in your neighborhood? All products are available.

All Natural Ingredients

Water, Cream, Parmesan Cheese Blend (Granular and Parmesan Cheese [Pasteurized Milk, Cheese Cultures, Salt, Enzymes], Water, Salt, Lactic Acid, Citric Acid), Cornstarch, Egg Yolk, Roasted Garlic, Contains 2% Or Less Of: Butter, Sherry Cooking Wine, Salt, Extra Virgin Olive Oil, Soybean Oil, Romano Cheese Blend (Granular and Romano Cheese [Pasteurized Milk, Cheese Cultures, Salt, Enzymes], Water, Whey, Salt), Cane Sugar, Garlic*, Spice, Enzyme, Gum Arabic, Guar Gum, Natural Flavor

*Dried

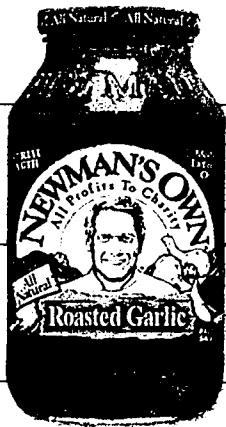
Contains: Milk, Egg

Nutrition Facts

Serv. Size	1/4 cup (61g)
Calories	80
Calories from fat	70
Total fat	8g (12% DV)
Saturated fat	4.5g (10% DV)
Trans fat	0g
Cholesterol	40mg (12% DV)
Sodium	400mg (17% DV)
Total Carbohydrate	4g (1% DV)
Dietary Fiber	0g (0% DV)
Sugars	1g
Protein	1g
Vitamin A	(6% DV)
Vitamin C	(0% DV)
Calcium	(4% DV)
Iron	(2% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Roasted Garlic Pasta Sauce



Roasted Garlic Pasta Sauce

A simple sauce that's simply scrumptious, from The Prince of the Garlic Bin.

Available Sizes: 24 oz.



Find This Product Near You

Legend

Find

More products in this category



Roa Garlic Pasta Sauce

Fairway Market

550 2nd Ave New York, NY 10016
(646) 735-9430

D Agostino Supermarket

573 3rd Ave New York, NY 10016
(212) 673-4500

D'agostino

573 3rd Ave New York, NY 10016
(212) 673-4500

Want more results? Click on the map to adjust location

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Roasted Garlic, Extra Virgin Olive Oil, Cane Sugar, Salt, Onions*, Garlic*, Spices

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	30
Total fat	1.5g (3% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	420mg (18% DV)
Total Carbohydrate	11g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	6g
Protein	2g
Vitamin A	120% DV
Vitamin C	10% DV
Calcium	14% DV
Iron	18% DV

Percent Daily Values (DV) are based on a 2,000 calorie diet

Sockarooni Pasta Sauce



Sockarooni Pasta Sauce

This concoction will blow your socks off! Peppers, spices and the whole shebang!

Available Sizes: 24 oz.



Find This Product Near You

Legend



Fairway Market

350 2nd Ave New York, NY 10016
(646) 703-9420

D'Agostino Supermarket

578 2nd Ave New York, NY 10016
(212) 972-4390

D'Agostino

525 2nd Ave New York, NY 10016
(212) 684-9133

What are you looking for? Click on a category to find it.

More products in this category



Fairway Market Pasta Sauce

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Diced Tomatoes, Green and Red Bell Peppers, Mushrooms, Cane Sugar, Salt, Onions*, Extra Virgin Olive Oil, Spices, Garlic*

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	1g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (16% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	7g
Protein	3g
Vitamin A	(25% DV)
Vitamin C	(10% DV)
Calcium	(10% DV)
Iron	(10% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Sweet Onion and Roasted Garlic Pasta Sauce



Sweet Onion and Roasted Garlic Pasta Sauce

So good it brings tears of joy!

Available Sizes: 24 oz.



Find This Product Near You

Legend

More products in this category



Fairway Market

559 2nd Ave New York, NY 10016
(646) 720-9420

Fairway Market

2825 12th Ave New York, NY 10027
(212) 234-8333

Fairway Market

480-600 Van Brunt St Brooklyn, NY 11221
(718) 254-0922

Want more results? Click on the first few results below.

All Natural Ingredients

Diced Tomatoes, Tomato Puree (Water, Tomato Paste, Citric Acid), Sauteed Onions (Onions, Olive Oil), Cane Sugar, Roasted Garlic, Cabernet Wine, Salt, Extra Virgin Olive Oil, Spices

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	70
Calories from fat	10
Total fat	1g (2% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	2g (5% DV)
Sugars	7g
Protein	1g
Vitamin A	(15% DV)
Vitamin C	(6% DV)
Calcium	(8% DV)
Iron	(6% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Tomato & Basil Bombolina Pasta Sauce



Tomato & Basil Bombolina Pasta Sauce

Bombolina! An intimate companion your pasta will never forget.

Available Sizes: 24 oz.



Find This Product Near You

Legend



More products in this category



Extra Virgin Olive Oil Pasta Sauce

Fairway Market

350 2nd Ave New York, NY 10016
(646) 720-0420

D Agostino Supermarket

571 3rd Ave New York, NY 10016
(212) 972-4072

D Agostino Supermarket

341 3rd Ave New York, NY 10016
(516) 636-0810

Want to see other items at this location? [Click here to view more items.](#)

All Natural Ingredients

Tomato Puree (Water, Tomato Paste, Citric Acid), Extra Virgin Olive Oil, Cane Sugar, Salt, Onions*, Basil, Garlic*, Spice, Natural Flavor

*Dried

Kosher



Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	30
Calories from fat	20
Total fat	2g (4% DV)
Saturated fat	0g (0% DV)
Trans fat	0g
Cholesterol	0mg (0% DV)
Sodium	460mg (19% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	3g (12% DV)
Sugars	7g
Protein	2g
Vitamin A	(2% DV)
Vitamin C	(0% DV)
Calcium	(0% DV)
Iron	(0% DV)

Percent Daily Values (DV) are based on a 2,000 calorie diet.

Vodka Pasta Sauce



Vodka Pasta Sauce

From Russia, with love!

Available Sizes: 24 oz.



Find This Product Near You

Legend

Fairway Market

550 2nd Ave New York, NY 10016
(646) 720-9420

D'agostino

526 3rd Ave New York, NY 10016
(212) 654-1181

D Agostino Supermarket

575 3rd Ave New York, NY 10016
(212) 972-4892

What's new in our store? View our full catalog here.

More products in this category



Find D'agostino Pasta Sauce

All Natural Ingredients

Diced Tomatoes, Tomato Puree (Water, Tomato Paste, Citric Acid), Cream (Milk), Onions, Extra Virgin Olive Oil, Romano Cheese (Pasteurized Cow's Milk, Cheese Cultures, Salt, Enzymes), Vodka, Garlic, Salt, Cane Sugar, Basil, Spices

Nutrition Facts

Serv. Size	1/2 Cup (125g)
Calories	120
Calories from fat	45
Total fat	5g (10% DV)
Saturated fat	1.5g (3% DV)
Trans fat	0g
Cholesterol	5mg (10% DV)
Sodium	440mg (18% DV)
Total Carbohydrate	12g (4% DV)
Dietary Fiber	2g (8% DV)
Sugars	5g
Protein	5g
Vitamin A	15% DV
Vitamin C	10% DV
Calcium	10% DV
Iron	6% DV

Percent Daily Values (DV) are based on a 2,000 calorie diet.

EXHIBIT B

Non 8
Syn 5

allowed

NOSB NATIONAL LIST FILE CHECKLIST

PROCESSING

MATERIAL NAME: Citric Acid

CATEGORY: Synthetic Allowed

Complete?: 3/16

✓

NOSB Database Form

✓

References

✓

MSDS (or equivalent)

✓

FASP (FDA)

✓

Date file mailed out: 1/8/95

✓

TAP Reviews from: Steve Taylor

Steven Harper

Bob Durst

Supplemental Information:

microbial form only ----
because of substrate might be
as product

MISSING INFORMATION: _____

NOSB/NATIONAL LIST COMMENT FORM/BALLOT

Use this page to write down comments and questions regarding the data presented in the file of this National List material. Also record your planned opinion/vote to save time at the meeting on the National List.

Name of Material Citric Acid

Type of Use: Crops; Livestock; ☒ Processing

TAP Review by:

1. Steve Taylor
2. Steven Harper
3. Bob Durst

Comments/Questions:

My Opinion/Vote is:

Signature _____ Date _____

1.

USDA/TAP REVIEWER COMMENT FORM

Use this page or an equivalent to write down comments and summarize your evaluation regarding the data presented in the file of this potential National List material. Attach additional sheets if you wish.

This file is due back to us within 30 days of: Jan 7

Name of Material: Citric Acid

Reviewer Name: Steve Taylor

Is this substance Natural or Synthetic? Explain (if appropriate)

Natural

Please comment on the accuracy of the information in the file:

This material should be added to the National List as:

 Synthetic Allowed Prohibited Natural

or, This material does not belong on the National List because:

Are there any restrictions or limitations that should be placed on this material by use or application on the National List?

Made by fermentation. Fermentation is natural but process does ~~any~~ involve use of other substances: substrates: corn syrup, sucrose
Any additional comments or references? ammonium bicarbonate

Need to find out more about process and processing aids to make determination.

Signature

Steve Taylor

Date

3-5-95

2.

USDA/TAP REVIEWER COMMENT FORM

Use this page or an equivalent to write down comments and summarize your evaluation regarding the data presented in the file of this potential National List material. Attach additional sheets if you wish.

This file is due back to us within 30 days of: Jan 7

Name of Material: Citric Acid

Reviewer Name: Steven Hayer

Is this substance Natural or Synthetic? Explain (if appropriate)

Synthetic

Please comment on the accuracy of the information in the file:

Good

This material should be added to the National List as:

 x Synthetic Allowed Prohibited Natural

or, This material does not belong on the National List because:

Are there any restrictions or limitations that should be placed on this material by use or application on the National List?

No.

Any additional comments or references?

Signature Steven Hayer Date 3/10/15

3.

USDA/TAP Reviewer Comment Form

Material: Citric acid

Reviewer: Bob Durst

Is this substance Natural or Synthetic? Explain (if appropriate)

It is a natural occurring substance that commercially goes through numerous chemical processes to get to it's final usable form. This processing would suggest that it be classified as synthetic.

Please comment on the accuracy of the information in the file:

The file is accurate.

This material should be added to the National List as:

☒ Synthetic Allowed,

☐ Prohibited Natural, or

☐ This material does not belong on the National List because:

Are there any restriction or limitations that should be placed on this material by use or application on the National List?

Must be listed on the ingredient label if it used used.

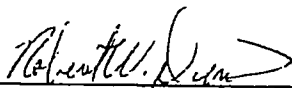
Unless it is actually derived from a natural source the labeling must not indicate that it is a natural compound.

Any additional comments or references?

As with all synthetic inorganic salts, source must be food grade. In addition each lot should be analyzed for toxic element concentrations (mercury, lead, cadmium, arsenic, thallium and antimony) and a near zero tolerance adopted.

Since citrus juices are a high natural source of citric acid, it might be advisable to find a manufacturer that is willing to isolate citric acid from organically grown fruit in an organically acceptable manner, and get a natural citric acid.

Signature



Date

3/4/95

NOSB Materials Database

4.

Identification

Common Name	Citric Acid	Chemical Name	B-hydroxy-tricarboxylic acid C ₆ H ₈ O ₇
Other Names	Citric Acid, Anhydrous USP/FCC		
Code #: CAS	77-92-9	Code #: Other	21 CFR 182-1033
N. L. Category	Synthetic Allowed	MSDS	<input checked="" type="radio"/> yes <input type="radio"/> no

Chemistry

Family	Aliphatic Acid
Composition	C ₆ H ₈ O ₇
Properties	Colorless, translucent crystals, (or) white granular to fine crystalline powder, odorless, strong acid taste.
How Made	Traditionally by extraction from citrus juice, no longer commercially available. It is now extracted by fermentation of a carbohydrate substrate (often molasses) by citric acid bacteria, <i>Aspergillus niger</i> (a mold) or <i>Candida guilliermondii</i> (a yeast). Citric acid is recovered from the fermentation broth by a lime and sulfuric acid process in which the citric acid is first precipitated as a calcium salt and then reacidulated with sulfuric acid.

Use/Action

Type of Use	Processing
Specific Use(s)	Production of fruit products, juices, oils, fats etc. for pH control, flavor enhancer, flavoring agent or adjuvant, leavening agent, sequestrant, antioxidant, solvent, antimicrobial agent, surface-active agent.
Action	Optimizes stability of frozen foods by enhancing the action of antioxidants and inactivating enzymes. Brings out flavor in carbonated beverages. Acts as a synergist for antioxidants employed in inhibiting rancidity in foods containing fats and oils.
Combinations	pure substance

Status

OFPA	
N. L. Restriction	Currently considered synthetic by NOSB.
EPA, FDA, etc	FDA -GRAS
Directions	
Safety Guidelines	Eye irritant, dust may cause mild respiratory irritation.
State Differences	
Historical status	Always been allowed in organic processing and considered natural.
International status	Allowed by IFOAM, EU and Codex.

NOSB Materials Database

5.

OFPA Criteria

2119(m)1: chemical interactions **Not Applicable**

2119(m)2: toxicity & persistence **Not Applicable**

2119(m)3: manufacture & disposal consequences

Microbial fermentation –Clarification –Precipitation –Dissolution –Crystallization –Drying –Sifting –packaging.
The NOSB judged that citric acid produced by natural fermentation of carbohydrate substrates and purified by the lime-sulfuric method is synthetic because the citric acid comes into contact with lime and sulfuric acid and because of the chemical change from citric acid to calcium citrate and then back to citric acid during purification.

Biomass residuals are usually recycled as animal feeds and for agriculture.

2119(m)4: effect on human health

Material has been affirmed as GRAS by FDA for use in foods. The amount of citrate added to foods by food processors is about 500 mg per person per day. This amount occurs naturally in 2 ounces of orange juice and does not constitute a significant addition to the total body load.

Long term oral over exposure may cause damage to tooth enamel. Considered an irritant to eyes and respiratory system during manufacture and handling. Recommended use of eye and respiratory protection during handling. Oral LD50 (rat) 11,700 mg/kg; dermal (acute) tested on skin of rabbit 500mg/24 hr moderate; eye 750 mg/24hr severe. FDA tests show no effect on reproduction, teratogenicity or oncogenicity in rats.

2119(m)5: agroecosystem biology **Not Applicable**

2119(m)6: alternatives to substance

Lactic acid (has some taste problems and not used in infant foods).

Vinegar (strange taste in some foods).

Citrus juices.

2119(m)7: Is it compatible?

Compatible

References

1. FDA. 1977. Evaluation of the health aspects of citric acid, sodium citrate, potassium citrate, calcium citrate, ammonium citrate, triethyl citrate, isopropyl citrate, and stearyl citrate as food ingredients. SCOGS-84. Life Science Research Office, 9650 Rockville Pike, Bethesda, Maryland 20014.

2. Ag Partners of Davis, *Materials Report for Citric Acid*, 1995. Organic Trade Association, Greenfield, MA

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MSDS for CITRIC ACID, MONOHYDRATE
-----**Page 1**-----
1 - PRODUCT IDENTIFICATION

PRODUCT NAME: CITRIC ACID, MONOHYDRATE
FORMULA: $\text{HOC}(\text{COOH})(\text{CH}_2\text{COOH})_2 \text{H}_2\text{O}$ FORMULA WT: 210.14
CAS NO.: 5949-29-1
COMMON SYNONYMS: 2-HYDROXY-1,2,3,PROPANE-TRICARBOXYLIC ACID, MONOHYDRATE
PRODUCT CODES: 0118,0120,0119,0110
EFFECTIVE: 12/01/86 REVISION #02

PRECAUTIONARY LABELLING

BAKER SAF-T-DATA(TM) SYSTEM

HEALTH - 0 NONE

FLAMMABILITY - 1 SLIGHT

REACTIVITY - 0 NONE

CONTACT - 1 SLIGHT

HAZARD RATINGS ARE 0 TO 4 (0 = NO HAZARD; 4 = EXTREME HAZARD).

LABORATORY PROTECTIVE EQUIPMENT: SAFETY GLASSES; LAB COAT

PRECAUTIONARY LABEL STATEMENTS

CAUTION

MAY CAUSE IRRITATION

DURING USE AVOID CONTACT WITH EYES, SKIN, CLOTHING. WASH THOROUGHLY AFTER HANDLING. WHEN NOT IN USE KEEP IN TIGHTLY CLOSED CONTAINER.

SAF-T-DATA(TM) STORAGE COLOR CODE: ORANGE (GENERAL STORAGE)

2 - HAZARDOUS COMPONENTS

COMPONENT	%	CAS NO.
CITRIC ACID, MONOHYDRATE		05949-29-1

3 - PHYSICAL DATA

BOILING POINT: N/A VAPOR PRESSURE(MM HG): N/A
MELTING POINT: N/A VAPOR DENSITY(AIR=1): N/A
SPECIFIC GRAVITY: 1.54 EVAPORATION RATE: N/A
(H₂O=1) (BUTYL ACETATE=1)
SOLUBILITY(H₂O): APPRECIABLE (MORE THAN 10 %) % VOLATILES BY VOLUME: 0
APPEARANCE & ODOR: WHITE, ODORLESS POWDER.

4 - FIRE AND EXPLOSION HAZARD DATA

FLASH POINT (CLOSED CUP) N/A
FLAMMABLE LIMITS: UPPER - N/A % LOWER - N/A %
FIRE EXTINGUISHING MEDIA
USE WATER SPRAY, CARBON DIOXIDE, DRY CHEMICAL OR ORDINARY FOAM.

SPECIAL FIRE-FIGHTING PROCEDURES

FIREFIGHTERS SHOULD WEAR PROPER PROTECTIVE EQUIPMENT AND SELF-CONTAINED BREATHING APPARATUS WITH FULL FACEPIECE OPERATED IN POSITIVE PRESSURE MODE.

TOXIC GASES PRODUCED: CARBON MONOXIDE, CARBON DIOXIDE

5 - HEALTH HAZARD DATA

TOXICITY TEST RESULTS AND SAFETY AND HEALTH EFFECTS ARE LISTED FOR THE ANHYDROUS PRODUCT.

TOXICITY: LD50 (ORAL-RAT)(G/KG) - 11.7

LD50 (IPR-RAT)(MG/KG) - 883

LD50 (SCU-RAT)(MG/KG) - 5500

LD50 (ORAL-MOUSE)(MG/KG) - 5040

CARCINOGENICITY: NTP: NO IARC: NO Z LIST: NO OSHA REG: NO
EFFECTS OF OVEREXPOSURE

DUST MAY IRRITATE NOSE AND THROAT.

DUST MAY CAUSE HEADACHE, COUGHING, DIZZINESS OR DIFFICULT BREATHING.

DUST MAY IRRITATE OR BURN MUCOUS MEMBRANES.

CONTACT WITH SKIN OR EYES MAY CAUSE IRRITATION.

TARGET ORGANS: EYES, SKIN

MEDICAL CONDITIONS GENERALLY AGGRAVATED BY EXPOSURE: NONE IDENTIFIED

ROUTES OF ENTRY: INHALATION, EYE CONTACT, SKIN CONTACT

EMERGENCY AND FIRST AID PROCEDURES

INGESTION: IF SWALLOWED AND THE PERSON IS CONSCIOUS, IMMEDIATELY GIVE LARGE AMOUNTS OF WATER. GET MEDICAL ATTENTION.

INHALATION: IF A PERSON BREATHES IN LARGE AMOUNTS, MOVE THE EXPOSED PERSON TO FRESH AIR. GET MEDICAL ATTENTION.

EYE CONTACT: IMMEDIATELY FLUSH WITH PLENTY OF WATER FOR AT LEAST 15 MINUTES. GET MEDICAL ATTENTION.

SKIN CONTACT: IMMEDIATELY WASH WITH PLENTY OF SOAP AND WATER FOR AT LEAST 15 MINUTES.

6 - REACTIVITY DATA

STABILITY: STABLE HAZARDOUS POLYMERIZATION: WILL NOT OCCUR

INCOMPATIBLES: STRONG BASES

DECOMPOSITION PRODUCTS: CARBON MONOXIDE, CARBON DIOXIDE

7 - SPILL AND DISPOSAL PROCEDURES

STEPS TO BE TAKEN IN THE EVENT OF A SPILL OR DISCHARGE

WEAR SUITABLE PROTECTIVE CLOTHING. CAREFULLY SWEEP UP AND REMOVE.

DISPOSAL PROCEDURE

DISPOSE IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL REGULATIONS.

8 - PROTECTIVE EQUIPMENT

VENTILATION: USE ADEQUATE GENERAL OR LOCAL EXHAUST VENTILATION TO KEEP FUME OR DUST LEVELS AS LOW AS POSSIBLE.

RESPIRATORY PROTECTION: NONE REQUIRED WHERE ADEQUATE VENTILATION CONDITIONS EXIST. IF AIRBORNE CONCENTRATION IS HIGH, USE AN APPROPRIATE RESPIRATOR OR DUST MASK.

EYE/SKIN PROTECTION: SAFETY GLASSES WITH SIDESHIELDS, NITRILE GLOVES RECOMMENDED.

9 - STORAGE AND HANDLING PRECAUTIONS

SAF-T-DATA(TM) STORAGE COLOR CODE: ORANGE (GENERAL STORAGE)
SPECIAL PRECAUTIONS

KEEP CONTAINER TIGHTLY CLOSED. SUITABLE FOR ANY GENERAL CHEMICAL STORAGE
AREA.

10 - TRANSPORTATION DATA AND ADDITIONAL INFORMATION

DOMESTIC (D.O.T.)

PROPER SHIPPING NAME CHEMICALS, N.O.S. (NON-REGULATED)

INTERNATIONAL (I.M.O.)

PROPER SHIPPING NAME CHEMICALS, N.O.S. (NON-REGULATED)

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U.S. FOOD AND DRUG ADMINISTRATION
FOOD ADDITIVE SAFETY PROFILE

CITRIC ACID

CAS#: 000077929 HUMAN CONSUMPTION: 90.5367 MG/KG BW/DAY/PERSON
 FASP#: 1937 MARKET DISAPPEARANCE: 106833333.333LBS/YR
 TYPE: ASP MARKET SURVEY: 87
 NAS#: 2306 JECFA: NL-C
 FEMA#: 2306 JECFA ADI: MG/KG BW/DAY/PERSON
 GRAS#: 3 JECFA ESTABLISHED: 1979
 POTENTIAL BEVERAGE USE LAST UPDATE: 931115

FW: 192.12 DENSITY: LOGP:

STRUCTURE CATEGORIES: A6

COMPONENTS:

SYNONYMS:

CITRIC ACID, ANHYDROUS
 2-HYDROXY-1,2,3-PROPANETRICARBOXYLIC ACID
 HYDROXYTRICARBOXYLIC ACID, BETA-
 1,2,3-PROPANETRICARBOXYLIC ACID, 2-HYDROXY-
 ACIDE CITRIQUE

CHEMICAL FUNCTION:

F

TECHNICAL EFFECT:

PH CONTROL AGENT
 FLAVOR ENHANCER
 FLAVORING AGENT OR ADJUVANT
 LEAVENING AGENT
 SEQUESTANT
 ANTIOXIDANT
 SOLVENT OR VEHICLE
 SURFACE-ACTIVE AGENT
 ANTIMICROBIAL AGENT
 ENZYME

CFR REG NUMBERS:

173.165	172.755	182.6033
182.1033	PART 133	PART 146
161.190	PART 169	PART 150
155.130	145.145	131.111
131.112	131.136	131.144
131.138	131.146	146.187
150.161	150.141	166.40
169.115	169.140	169.150
173.160	173.280	145.131
166.110	184.1033	

MINIMUM TESTING LEVEL: 3

COMMENTS: STUDY 1-12 FROM SCOGS-84

BOX 4A: LOWEST EFFECT LEVEL OBSERVED IN ALL AVAILABLE RAT OR MOUSE STUDIES

STUDY: 4 COMPLETENESS: RANKING FACTOR: 1.938E-2
 SPECIES: RAT LEL: 4670 MG/KG BW/DAY
 EFFECTS: CHOLESTEROL DECREASE
 GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
 ORGAN WEIGHT DECREASE
 CELLULAR ATROPHY
 SITES: THYMUS
 SPLEEN
 COMMENTS: MALES ONLY
 SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES
 DATA FROM SCOGS-84

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BOX 4C: LOWEST EFFECT LEVEL OBSERVED IN ALL AVAILABLE STUDIES

STUDY: 4 COMPLETENESS: RANKING FACTOR: 1.938E-2
 SPECIES: RAT LEL: 4670 MG/KG BW/DAY
 EFFECTS: CHOLESTEROL DECREASE
 GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
 ORGAN WEIGHT DECREASE
 CELLULAR ATROPHY
 SITES: THYMUS
 SPLEEN
 COMMENTS: MALES ONLY
 SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES
 DATA FROM SCOGS-84

BOX 7: ACUTE TOXICITY INFORMATION

STUDY: 2 SOURCE: J TAKEDA RES LAB 30:25-31
 SPECIES: RAT YEAR: 1971
 LD50: 12000 MG/KG BW
 COMMENTS:
 STUDY: 1 SOURCE: J TAKEDA RES LAB 30:25-31
 SPECIES: MOUSE YEAR: 1971
 LD50: 5000 MG/KG BW
 COMMENTS:

BOX 9: ORAL TOXICITY STUDIES (OTHER THAN ACUTE)

STUDY: 3 COMPLETENESS: SOURCE: REV PORT FARM 20:41-46
 TYPE: SHORT TERM YEAR: 1970
 SPECIES: RAT LEL: 200 MG/KG BW/DAY
 DURATION: 9 DAYS HNEL:
 EFFECTS: BODY WEIGHT DECREASE
 SITES:
 COMMENTS: INITIAL DECREASE IN WEIGHT DID NOT PERSIST
 NOT USED FOR PRIORITY RANKING
 STUDY: 4 COMPLETENESS: SOURCE: J TAKEDA RES LAB 30:25-31
 TYPE: SHORT TERM YEAR: 1971
 SPECIES: RAT LEL: 4670 MG/KG BW/DAY
 DURATION: 42 DAYS HNEL: 2260 MG/KG BW/DAY
 EFFECTS: CHOLESTEROL DECREASE
 GLUTAMIC-OXALOACETIC TRANSAMINASE (SGOT/AST) INCREASE
 ORGAN WEIGHT DECREASE
 CELLULAR ATROPHY
 SITES: THYMUS SPLEEN
 COMMENTS: SLIGHT ATROPHY OF THYMUS AND SPLENIC FOLLICLES
 STUDY: 5 COMPLETENESS: SOURCE: J AM PHARM ASSOC SCI ED
 34:86-89
 TYPE: SUBCHRONIC RODENT YEAR: 1945
 SPECIES: RAT LEL: > MG/KG BW/DAY
 DURATION: 90 DAYS HNEL: 600 MG/KG BW/DAY
 EFFECTS: NO EFFECTS
 SITES:
 COMMENTS: BODY WEIGHT, BLOOD, HISTOPATH AND REPRODUCTION OBSERVED
 STUDY: 6 COMPLETENESS: SOURCE: J AM PHARM ASSOC SCI ED
 34:86-89
 TYPE: SUBCHRONIC MAMMAL (NON-RODENT) YEAR: 1945
 SPECIES: DOG LEL: > MG/KG BW/DAY
 DURATION: 112 DAYS HNEL: 1380 MG/KG BW/DAY
 EFFECTS: NO EFFECTS
 SITES:
 COMMENTS: NO BEHAVIORAL, BIOCHEMICAL OR HISTOPATHOLOGICAL ABNORMALITIES
 STUDY: 10 COMPLETENESS: SOURCE: GRP 7T0195 3
 TYPE: TERATOGENICITY YEAR: 1973
 SPECIES: RAT LEL: > MG/KG BW/DAY

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DURATION: 10 DAYS
EFFECTS: NO EFFECTS
SITES:
HNEL: 295 MG/KG BW/DAY
COMMENTS: ADMINISTERED DAY 6-15 OF GESTATION

STUDY: 9
TYPE: TERATOGENICITY
SPECIES: MOUSE
DURATION: 10 DAYS
EFFECTS: NO EFFECTS
SITES:
COMPLETENESS: SOURCE: GRP 7T0195 3
YEAR: 1973
LEL: > MG/KG BW/DAY
HNEL: 241 MG/KG BW/DAY
COMMENTS: ADMINISTERED DAY 6-15 OF GESTATION

STUDY: 11
TYPE: TERATOGENICITY
SPECIES: HAMSTER
DURATION: 5 DAYS
EFFECTS: NO EFFECTS
SITES:
COMPLETENESS: SOURCE: GRP 7T0195 3
YEAR: 1973
LEL: > MG/KG BW/DAY
HNEL: 272 MG/KG BW/DAY
COMMENTS: ADMINISTERED DAY 6-10 OF GESTATION

STUDY: 12
TYPE: TERATOGENICITY
SPECIES: RABBIT
DURATION: 13 DAYS
EFFECTS: NO EFFECTS
SITES:
COMPLETENESS: SOURCE: GRP 7T0195 3
YEAR: 1973
LEL: > MG/KG BW/DAY
HNEL: 425 MG/KG BW/DAY
COMMENTS: ADMINISTERED DAY 6-18 OF GESTATION

STUDY: 8
TYPE: RAT ONCOGENICITY
SPECIES: RAT
DURATION: 728 DAYS
EFFECTS: NO EFFECTS
SITES:
COMPLETENESS: SOURCE: J AGRIC FOOD CHEM 5:759-760
YEAR: 1957
LEL: > MG/KG BW/DAY
HNEL: 2000 MG/KG BW/DAY
COMMENTS: MALES ONLY

STUDY: 7
TYPE: REPRODUCTION (3-GENERATION)
SPECIES: RAT
DURATION:
EFFECTS: NO EFFECTS
SITES:
COMPLETENESS: SOURCE: VOEDING 17:137-148
YEAR: 1956
LEL: > MG/KG BW/DAY
HNEL: 800 MG/KG BW/DAY
COMMENTS:

BOX 3: GENETIC TOXICITY STUDIES

STUDY: 15
TYPE:
SPECIES:
DURATION:
EFFECTS:
CELLS:
COMMENTS:
COMPLETENESS: SOURCE:
YEAR:
LEL: MG/KG BW/DAY
HNEL:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

HEUNG MAN WONG and JOHN DOES 1-100

Plaintiff(s)

v.

NEWMAN'S OWN, INC.

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* NEWMAN'S OWN, INC.
C/O ROBINSON & COLE LLP
Attn: Jacqueline P. Scheib
280 Trumbull Street
Hartford, CT 06103

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: C.K. Lee, Esq.
Lee Litigation Group, PLLC
30 East 39th Street, Second Floor
New York, NY 10016

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk