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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ROBERT BRISEÑO, individually and on
behalf of all others similarly situated,

Plaintiff,

v.

CONAGRA FOODS, INC.,

Defendant.

Case No.

CV11-05379 MMM(AGP)

CLASS ACTION

COMPLAINT FOR:

- (1) Violation of California Business & Professions Code § 17500 *et seq.*;
- (2) Violation of California Business & Professions Code § 17200 *et seq.*;
- (3) Violation of California Civil Code §1750 *et seq.*; and
- (4) Breach of Express Warranty

DEMAND FOR JURY TRIAL

BY: _____

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1 Plaintiff Robert Briseño (“Plaintiff”), individually and on behalf of all others
2 similarly situated, alleges the following upon personal knowledge as to his own
3 acts and, as to all other allegations, upon information and belief, and investigation
4 by counsel.

5 **NATURE OF ACTION AND SUMMARY OF ALLEGATIONS**

6 1. Plaintiff brings this class action on behalf of himself and a class of
7 persons who purchased any of the following cooking oils sold under the Wesson
8 brand name: Canola Oil, Vegetable Oil, Corn Oil, and Best Blend (collectively
9 referred to herein as “Wesson Oils”). Wesson is a brand owned, developed,
10 marketed, and sold by defendant ConAgra Foods, Inc. (“ConAgra” or
11 “Defendant”).

12 2. ConAgra labels its Wesson Oils as “100% Natural.” This
13 representation is central to ConAgra’s marketing of Wesson Oils, and is displayed
14 prominently on the product label itself, the Wesson website, and all Wesson Oils’
15 advertisements.

16 3. But Wesson Oils are not “100% natural.” The oils are made from
17 genetically modified plants (“GM”) or genetically modified organisms (“GMO”).

18 4. Monsanto Company, a global agricultural company that pioneered
19 GM seeds, defines GMO on its website as food with “*genetic makeup altered to*
20 *exhibit traits that are not naturally theirs*. In general, genes are taken (copied)
21 from one organism that shows a desired trait and transferred into the genetic code
22 of another organism.” Monsanto, [http://www.monsanto.com/newsviews/Pages/](http://www.monsanto.com/newsviews/Pages/glossary.aspx#g)
23 [glossary.aspx#g](http://www.monsanto.com/newsviews/Pages/glossary.aspx#g) (last visited June 24, 2011) (emphasis added). As more fully
24 alleged below, “unnatural” is a recognized defining characteristic of genetically
25 modified foods.
26
27
28

1 5. The reasonable consumer assumes that “seeds created by swapping
2 genetic material across species to exhibit traits not naturally theirs” are not “100%
3 natural.” Wesson Oils’ advertising is very likely to deceive consumers.

4 6. Plaintiff was damaged, in an amount to be determined at trial, because
5 he did not get the “100% natural” oil that was advertised and that he paid for.

6 7. Defendant’s violations of California law and wrongful conduct
7 designed to mislead and deceive consumers into purchasing its product by labeling
8 it as natural when it is made up of GM ingredients, violate California false
9 advertising and unfair competition laws, California Business & Professions Code
10 § 17500 and § 17200, and the Consumers Legal Remedies Act (the “CLRA”),
11 California Civil Code § 1750, and constitute a breach of express warranty.

12 **JURISDICTION AND VENUE**

13 8. The Court has jurisdiction over the state law claims pursuant to 28
14 U.S.C. § 1332(d), because there are at least 100 Class Members in the proposed
15 Class, the combined claims of proposed Class Members exceed \$5,000,000
16 exclusive of interest and costs, and at least one Class Member is a citizen of a state
17 other than Defendant’s state of citizenship.

18 9. ConAgra purposefully avails itself of the California consumer market
19 and sells Wesson Oils in at least hundreds of locations within this District.
20 ConAgra’s Wesson Oils are sold at thousands of retail locations throughout
21 California and purchased by thousands of consumers in California every day,
22 including many in this District.

23 10. Venue is proper pursuant to 28 U.S.C. § 1391(a) because a substantial
24 part of the events giving rise to the claims asserted occurred in this District, and
25 Plaintiff dealt with Defendant, who is located in and/or does business in this
26 District. Venue is proper pursuant to 28 U.S.C. § 1391(c) because Defendant
27 conducts substantial business in this District, has sufficient minimum contacts with
28

1 this District, and otherwise purposely avails itself of the markets in this District,
2 through the promotion, sale, and marketing of its products in this District.

3 **THE PARTIES**

4 11. Plaintiff Robert Briseño (“Plaintiff”), is a consumer residing in
5 Vallejo, California. Briseño regularly purchased Wesson Canola Oil for his own
6 and his family’s consumption, most recently in May 2011. Plaintiff believed
7 Defendant’s representation that Wesson Canola Oil was 100% natural. Plaintiff
8 would not have purchased Wesson Canola Oil, but for Defendant’s misleading
9 statements about the product being 100% natural. Plaintiff was injured in fact and
10 lost money as a result of Defendant’s conduct of improperly describing Wesson
11 Oils as “natural.” Plaintiff paid for a 100% natural product, but did not receive a
12 product that was 100% natural. Plaintiff received a product that was genetically
13 engineered in a laboratory, and had its genetic code artificially altered to exhibit
14 not “natural” qualities.

15 12. Defendant ConAgra is a Delaware corporation located in Omaha,
16 Nebraska. It markets and distributes Wesson Oils.

17 **FACTUAL ALLEGATIONS**

18 **ConAgra Advertises Wesson Oils As “100% Natural”**

19 13. ConAgra sells four types of widely used cooking and food preparation
20 oils under the Wesson brand. All Wesson Oils are sold with a label on the front of
21 the bottle that states prominently “100% Natural.”

22 14. In addition to appearing on the product label, “100% Natural” appears
23 on Wesson Oils online and print advertisements. For example, the Wesson website
24 describes the four oils as follows:

25 (a) “Pure Wesson 100% Natural Canola Oil is the most versatile
26 type of vegetable oil and it provides the best nutritional balance of all popular
27 cooking oils.” See Exhibit A.

28

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