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UNITED STATES DISTRICT COURT FOR THE

NORTHERN DISTRICT OF CALIFORNIA

MOLLY BROWN, ADINA RINGLER, and  
CHRISTIAN LEMUS, as individuals, on behalf  
of themselves, the general public and those simi-  
larly situated,

Plaintiffs,

v.

KELLOGG COMPANY,

Defendant.

CASE NO.

CLASS ACTION COMPLAINT FOR  
VIOLATION OF THE CALIFORNIA  
CONSUMERS LEGAL REMEDIES ACT;  
FALSE ADVERTISING; FRAUD, DE-  
CEIT, AND/OR MISREPRESENTATION;  
UNFAIR BUSINESS PRACTICES; AND  
UNJUST ENRICHMENT

JURY TRIAL DEMANDED

## **INTRODUCTION**

1  
2 1. Plaintiffs Molly Brown, Adina Ringler, and Christian Lemus, by and through their  
3 counsel, bring this class action against Defendant Kellogg Company to seek redress for  
4 Defendant's deceptive practices in labeling and marketing its products under the MorningStar  
5 Farms, Special K, RX, and Bear Naked brands.

6 2. Consumers are increasingly health conscious and, as a result, many consumers  
7 seek foods high in protein. To capitalize on this trend, Defendant prominently labels the front of  
8 its products as providing specific amounts of protein per serving depending on the product, such  
9 as "16G PROTEIN" on the label of the MorningStar Farms Veggie Burger Grillers Original  
10 product. Consumers, in turn, reasonably expect that each product will provide the actual amount  
11 of protein per serving that the front of the product package claims it will.

12 3. In truth, however, Defendant's products do not deliver the amount of protein that  
13 the labels claim. Based on amino acid content testing, Defendant's products contain less protein  
14 than claimed, meaning, for example, rather than containing 16 grams of protein per serving, the  
15 MorningStar Farms Veggie Burger Grillers Original product actually contain only 10.58 grams  
16 (i.e., an overstatement by approximately 51%).

17 4. Further, Defendant uses proteins of low biological value to humans in their  
18 products, such as wheat and oat proteins. Accordingly, when the protein content is adjusted for  
19 poor quality based the FDA mandated "Protein Digestibility Corrected Amino Acid" score  
20 ("PDCAAS"), Defendant's products provide even less protein per serving than amino acid  
21 content testing alone reveals. Wheat protein typically has a PDCAAS score of between 0.3 and  
22 0.4, meaning only 30-40% of the protein from those sources will be digested and available to  
23 humans. Oat protein typically has a PDCASS score of between .45 and .51.

24 5. Defendant's misrepresentations and misbranding caused Plaintiffs and members of  
25 the class to pay a price premium for the products.

26  
27  
28

**PARTIES**

6. Molly Brown is, and at all times alleged in this Class Action Complaint was, an individual and a resident of Novato, California (Marin County).

7. Adina Ringler is, and at all times alleged in this Class Action Complaint was, an individual and a resident of Northridge, California.

8. Christian Lemus is, and at all times alleged in this Class Action Complaint was, an individual and a resident of Santa Ana, California.

9. Molly Brown, Adina Ringler, and Christian Lemus are referred to hereafter as “Plaintiffs.”

10. Defendant Kellogg Company (“Defendant”) is a corporation existing under the laws of the State of Delaware, having its principal place of business in Michigan.

**JURISDICTION AND VENUE**

11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d)(2). The aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs; and Plaintiffs and Defendant are citizens of different states.

12. The injuries, damages and/or harm upon which this action is based, occurred or arose out of activities engaged in by Defendant within, affecting, and emanating from, the State of California. Defendant regularly conducts and/or solicits business in, engages in other persistent courses of conduct in, and/or derives substantial revenue from products provided to persons in the State of California. Defendant has engaged, and continues to engage, in substantial and continuous business practices in the State of California.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to the claims occurred in the state of California, including within this District.

14. In accordance with California Civil Code Section 1780(d), Molly Brown concurrently files herewith a declaration establishing that, at various times throughout the class period, she purchased the following products: MorningStar Veggie Burger Grillers Original, MorningStar Popcorn Chik’n, MorningStar Chorizo Crumbles, MorningStar Grillers Prime

1 Veggie Burgers, MorningStar Garden Veggie Burger, MorningStar Grillers Veggie Crumbles,  
2 MorningStar Buffalo Chik'n Patties, MorningStar Chik'n Strips, MorningStar Veggie Meatballs,  
3 MorningStar Breakfast Veggie Sausage Links, MorningStar Veggie Classics Frozen Buffalo  
4 Wings, MorningStar Incogmeato 100% Plant Protein Plant-Based Ground, RX Protein Bars,  
5 Special K Protein Original Cereal, and Bear Naked Honey Almond Granola in Marin County,  
6 California. (Plaintiffs Molly Brown's declaration is attached hereto as Exhibit A.)

7 15. Plaintiffs accordingly alleges that jurisdiction and venue are proper in this Court.

8 **SUBSTANTIVE ALLEGATIONS**

9 16. Defendant manufactures, distributes, markets, advertises, and sells a variety of  
10 meat substitutes, cereals, bars, shakes, and granola in the United States under its brand names  
11 "MorningStar Farms," "Special K," "Rx," and "Bear Naked" (collectively referred to herein as  
12 "Kellogg brand"). Many of these products have packaging that predominately, uniformly, and  
13 consistently states on the principal display panel of the product labels that the products contain  
14 and provide a certain amount of protein per serving. Plaintiffs have attached as Exhibit B a non-  
15 exhaustive list of the Kellogg brand products that make protein claims on the front of the product  
16 packages. The products listed in Exhibit B, and any other Kellogg brand product that claims a  
17 specific amount of protein on the front of its label, will hereinafter be referred to as the "Prod-  
18 ucts."

1           17.     The representation that the Products contain and provide a specific amount of pro-  
2     tein per serving was uniformly communicated to Plaintiffs and every other person who purchased  
3     any of the Products in California and the United States. The same or substantially similar product  
4     label has appeared on each Product during the entirety of the Class Period in the general form of  
5     the following examples:





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