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10 UNITED STATES DISTRICT COURT FOR THE
11 NORTHERN DISTRICT OF CALIFORNIA

12 MOLLY BROWN, PARSA MILLER, and
13 LAUREN MORGAN as individuals, on
14 behalf of themselves, the general public and
15 those similarly situated,

16 Plaintiffs,

17 v.

18 NATURE'S PATH FOODS, INC.,

19 Defendant.

CASE NO.

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

JURY TRIAL DEMANDED

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INTRODUCTION

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2 1. Plaintiffs Molly Brown, Parsa Miller, and Lauren Morgan, by and through their
3 counsel, bring this class action against Defendant Nature’s Path Foods, Inc. to seek redress for
4 Defendant’s deceptive practices in labeling and marketing its Nature’s Path products.

5 2. Consumers are increasingly health conscious and, as a result, many consumers
6 seek foods high in protein. To capitalize on this trend, Defendant prominently labels its Nature’s
7 Path products as providing specific amounts of protein per serving depending on the product,
8 such as “**10g PROTEIN**” on the label of its Hemp Hearts Granola. Consumers, in turn,
9 reasonably expect that each product will provide the actual amount of protein per serving that the
10 front of the product package claims it will.

11 3. In truth, however, Defendant’s products do not deliver the amount of protein that
12 the labels claim. For example, Defendant labels its Hemp Hearts Granola as providing “10g
13 PROTEIN,” but amino acid content testing establishes that Defendant’s Hemp Hearts Granola, at
14 best, has 7.87 grams of protein.

15 4. To compound the deception, below, in a small font that is barely legible to
16 consumers, the Hemp Hearts Granola packaging provides that the “10g PROTEIN” is “per serving
17 with milk.”¹ The Nutrition Facts panel for the Hemp Hearts Granola includes the grams of protein
18 for the product with milk, which is represented to be 10 grams of protein, and without milk,
19 which is represented to be 6 grams of protein. Based on amino acid content testing, Defendant’s
20 products contain less protein than claimed, meaning, for example, rather than having 6 grams of
21 protein per serving without milk, Defendant’s Hemp Hearts Granola product actually has only
22 3.87 grams (i.e., an overstatement by approximately 57%). The Nutrition Facts panel also makes
23 clear that the addition of milk introduces an extra 4 grams of protein. Because the Hemp Hearts
24 Granola only has 3.87 grams of protein, Defendant’s representation on the front of the Hemp
25 Hearts Granola that the product has “10g PROTEIN” overstates the amount of protein the
26 product, even factoring in the additional protein that comes with adding milk to it, which would

27
28 ¹ Not all of Defendant’s Products include, on the front label, an amount of protein that is inclusive
of milk. Most of Defendant’s Products, in fact, do not.

1 amount to a total of 7.87 grams of protein.

2 5. Further, Defendant uses proteins of low biological value to humans in its products,
3 such as oats. Accordingly, when the amino acid content is adjusted for protein digestibility (the
4 “Protein Digestibility Corrected Amino Acid” score, or “PDCAAS”), Defendant’s products
5 provide even less protein per serving than amino acid content testing alone reveals. Oats typically
6 have PDCAAS scores of between 0.5 and 0.6.

7 6. Defendant’s products are also misbranded. Parallel state and federal regulations
8 require any product that makes a protein claim to include in the nutrition facts panel the
9 percentage of the daily value of the protein in the product based on its amino acid content and
10 PDCAAS. Defendant’s products prominently make protein content claims but they fail to provide
11 the required percent daily value of protein in the nutrition facts panel.

12 7. Defendant’s misrepresentations and misbranding caused Plaintiffs and members of
13 the class to pay a price premium for the products.

14 **PARTIES**

15 8. Molly Brown is, and at all times alleged in this Class Action Complaint was, an
16 individual and a resident of Novato, California.

17 9. Parsa Miller is, and at all times alleged in this Class Action Complaint was, an
18 individual and a resident of Loomis, California.

19 10. Lauren Morgan is, and at all times alleged in this Class Action Complaint was, an
20 individual and a resident of Huntington Beach, California.

21 11. Molly Brown, Parsa Miller, and Lauren Morgan are collectively referred to
22 hereafter as “Plaintiffs.”

23 12. Defendant Nature’s Path Foods, Inc. (“Defendant”) is a corporation existing under
24 the laws of Canada with its principal place of business in Richmond, British Columbia, Canada,
25 and is registered to do business in California.

26 **JURISDICTION AND VENUE**

27 13. This Court has jurisdiction over the subject matter of this action pursuant to 28
28 U.S.C. § 1332(d)(2). The aggregate amount in controversy exceeds \$5,000,000, exclusive of

1 interest and costs; and Plaintiffs and Defendant are citizens of different states.

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

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

11 16. In accordance with California Civil Code Section 1780(d), Plaintiff Molly Brown
12 concurrently files herewith a declaration establishing that, at various times throughout the class
13 period, she purchased Nature’s Path Hemp Hearts Granola, Gorilla Munch Cereal (23 oz),
14 Pumpkin Seed + Flax Granola in grocery stores in Novato, Petaluma and San Rafael, California.
15 (Plaintiff Molly Brown’s declaration is attached hereto as Exhibit A.)

16 17. Plaintiffs accordingly allege that jurisdiction and venue are proper in this Court.

17 **SUBSTANTIVE ALLEGATIONS**

18 18. Defendant manufactures, distributes, markets, advertises, and sells a variety of
19 breakfast and snack products in the United States under the brand name “Nature’s Path.” Many of
20 these products have packaging that predominately, uniformly, and consistently states on the prin-
21 cipal display panel of the product labels that they contain and provide a certain amount of protein
22 per serving. Plaintiffs have attached, as Exhibit B, a non-exhaustive list of the Nature’s Path
23 products that make protein claims on the front of the product packages. The products listed in Ex-
24 hibit B, and any other Nature’s Path brand product that claims a specific amount of protein on the
25 front of its label, will hereinafter be referred to as the “Products.”

26 19. The representation that the Products contain and provide a specific amount of pro-
27 tein per serving was uniformly communicated to Plaintiffs and every other person who purchased
28 any of the Products in California and the United States. The same or substantially similar product

1 label has appeared on each Product during the entirety of the Class Period in the general form of
 2 the following example:



18 20. The nutrition facts panel on the side of the Products likewise repeats the protein
 19 content claims, although the Products fail to provide any referenced percent daily value of its pro-
 20 tein content as state and federal regulations require. The side panel of the Products has appeared
 21 consistently throughout the Class Period in the general form of the following example (from the
 22 Hemp Hearts Granola):

Nutrition Facts			
About 6 servings per container			
Serving size 3/4 cup cereal (55g)			
	Per 3/4 cup cereal		Per 3/4 cup cereal with 1/2 cup skim milk
Calories	260		300
	% DV*		% DV*
Total Fat	10g 13%		10g 13%
Saturated Fat	1.5g 8%		1.5g 8%
Trans Fat	0g		0g
Polyunsaturated Fat	6g		6g
Monounsaturated Fat	2.5g		2.5g

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