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9 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**  
10 **FOR THE COUNTY OF SAN DIEGO**

11  
12 LORETTA SCHWEINSBURG, on behalf  
13 of herself and all others similarly situated,

14 Plaintiff,

15 v.

16 GENERAL MILLS, INC. and GENERAL  
17 MILLS SALES, INC.,

18 Defendants.

Case No: 37-2022-00006951-CU-BT-CTL

**CLASS ACTION COMPLAINT VIOLATIONS OF THE  
UNFAIR COMPETITION LAW AND FOR BREACH OF  
IMPLIED WARRANTY**

**No Jury Demand**

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1 Plaintiff Loretta Schweinsburg, on behalf of herself, all others similarly situated, and the general  
2 public, by and through her undersigned counsel, hereby sues Defendants General Mills, Inc. and General  
3 Mills Sales, Inc. (collectively "General Mills" or "Defendants") and upon information and belief and  
4 investigation of counsel, alleges as follows:

5 **I. JURISDICTION AND VENUE**

6 1. Jurisdiction is proper because Plaintiff is a citizen of California and because all claims are  
7 asserted under the laws of California and relate to a product that is sold in California and was purchased  
8 by Plaintiff in California.

9 2. Venue is proper under Bus. & Prof. Code § 17203 because General Mills conducts  
10 continuous business in San Diego County and sold thousands of the product at issue in this county, and  
11 because thousands of class members reside in this county, who were harmed by the conduct of Defendants.

12 **II. NATURE OF THE ACTION**

13 3. General Mills manufactures, distributes, and sells Hamburger Helper, Tuna Helper, and  
14 Chicken Helper (collectively "Hamburger Helper"), a line of packaged food products which contained  
15 partially hydrogenated oil ("PHO").

16 4. Artificial trans fat is a toxin and carcinogen for which there are many safe and  
17 commercially viable substitutes. During the Class Period, Defendants added artificial trans fat to  
18 Hamburger Helper in the form of partially hydrogenated oil ("PHO").

19 5. In orders dated November 8, 2013 and June 17, 2015, the FDA determined that PHO is  
20 unsafe for use in food. Tentative Determination Regarding Partially Hydrogenated Oils, 78 Fed. Reg.  
21 67169 (Nov. 8, 2013) and Final Determination Regarding Partially Hydrogenated Oils, 80 Fed. Reg.  
22 34650 (June 17, 2015). Yet Defendants continued to incorporate this illegal, dangerous additive into  
23 Hamburger Helper, even after the FDA declared it unsafe for use in food.

24 6. Even before the FDA's two orders, however, PHO was an unlawful food additive under  
25 both California and federal law.

26 7. Although safe, low-cost, and commercially acceptable alternatives to PHO existed  
27 throughout the Class Period, Defendants unfairly elected *not* to use these safe alternatives in Hamburger  
28 Helper in order to increase profit at the expense of the health of consumers.

8. Plaintiff Loretta Schweinsburg repeatedly purchased Hamburger Helper from California grocery stores during the Class Period defined herein, for her personal and household consumption.

9. This action is brought to remedy Defendants' unfair and unlawful conduct. On behalf of the class defined herein, Plaintiff seeks an order compelling Defendants to, *inter alia*: (1) award Plaintiff and the Class members restitution and (2) pay costs, expenses, and reasonable attorneys' fees.

### III. PARTIES

10. Defendants General Mills, Inc. and General Mills Sales, Inc. ("General Mills") are both Delaware corporations headquartered in Minnesota. Hamburger Helper is sold in stores throughout California.

11. During the class period, General Mills owned, manufactured, distributed, and sold Hamburger Helper.

12. Plaintiff Loretta Schweinsburg is a citizen of California who repeatedly purchased Hamburger Helper from California grocery stores during the class period for personal and household consumption.

### IV. NATURE OF TRANS FAT

13. Artificial trans fat is manufactured via an industrial process called partial hydrogenation, in which hydrogen atoms are added to normal vegetable oil by heating the oil to temperatures above 400°F in the presence of ion donor catalyst metals such as rhodium, ruthenium, and nickel.<sup>1</sup> The resulting product is known as partially hydrogenated oil, or PHO.

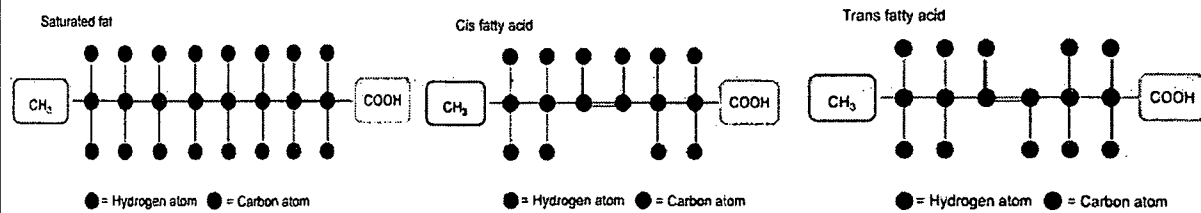
14. PHO was invented in 1901 and patented in 1902 by German chemist Wilhelm Normann. PHO molecules chemically differ from the natural fat molecules in other food products.<sup>2</sup>

15. Natural fat, except the trace amounts of natural trans fat from ruminant animal sources like beef, milk, and mutton, comes in two varieties: (1) fats that lack carbon double bonds ("saturated fat"); and

<sup>1</sup> See Alice H. Lichtenstein, *Trans Fatty Acids, Plasma Lipid Levels, and Risk of Developing Cardiovascular Disease*, 95 CIRCULATION 2588, 2588-90 (1997).

<sup>2</sup> See Alberto Ascherio et al., *Trans Fatty Acids & Coronary Heart Disease*, 340 NEW ENG. J. MED. 94, 94-8 (1999). See also Walter Willett, *The Scientific Case for Banning Trans Fats*, SCIENTIFIC AMERICAN, available at [www.scientificamerican.com/article/the-scientific-case-for-banning-trans-fats/](http://www.scientificamerican.com/article/the-scientific-case-for-banning-trans-fats/) (last visited February 18, 2022).

(2) fats that have carbon double bonds. Trans fat, in contrast to cis fat, has carbon double bonds with hydrogen atoms on opposite sides of the carbon chain.



16. PHO was initially a “wonder product” attractive to the processed food industry because it combined the low cost of unsaturated *cis* fat with the flexibility and long shelf life of saturated fat. Like processed *cis* fat, PHO is manufactured from low-cost legumes,<sup>3</sup> while saturated fat is derived from relatively expensive animal and tropical plant sources.<sup>4</sup>

17. As detailed herein, PHO causes cardiovascular disease, diabetes, cancer, and Alzheimer’s disease, and accelerates memory damage and cognitive decline. These risks were well known during the entire Class Period, and at no point during the Class Period was there ever a consensus that PHO was safe to use, neither in general nor as an ingredient in packaged food products.

18. In using PHO in Hamburger Helper, Defendants failed to submit a food additive petition and failed to undertake a GRAS self-determination.

**A. There Is a Well-Established Scientific Consensus That Trans Fat Is Extremely Harmful.**

19. The National Academies of Science were chartered by an act of Congress, signed by President Lincoln in 1863. Under that charter, in 1970, the National Academy of Medicine was created. In a 2005 report, under its former name of the Institute of Medicine, it concluded there was “no safe level” of PHO or artificial trans fat intake.<sup>5</sup> Therefore, in 2005, there was no consensus that PHO was a safe ingredient to use in food. To the contrary, the consensus was that it is unsafe.

20. In addition, “trans fatty acids are not essential and provide no known benefit to human

<sup>3</sup> e.g., corn oil, cottonseed oil, soybean oil, peanut oil

<sup>4</sup> e.g., butter, cream, tallow, palm oil, coconut oil

<sup>5</sup> Food & Nutrition Bd., Inst. of Med., *Dietary Reference Intakes For Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids* (2005).

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