

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS
URBANA DIVISION**

Conrad Raczkowski, individually and on
behalf of all others similarly situated,

Plaintiff,

- against -

Pinnacle Foods Inc.,

Defendant

2:22-cv-02061

Class Action Complaint

Jury Trial Demanded

Plaintiff alleges upon information and belief, except for allegations pertaining to Plaintiff, which are based on personal knowledge:

1. Pinnacle Foods Inc. (“Defendant”) manufactures, labels, markets, and sells vegetable oil spread promoted as “Made With Olive Oil,” with green-themed packaging under its Earth Balance brand (“Product”).



2. The representations include “Soy Free,” “Non-GMO,” “Vegan,” “Made With Olive Oil,” “Buttery Spread,” “Earth Balance,” and “78% Vegetable Oils.”

I. VEGETABLE OIL SPREADS

3. Since the dawn of recorded history, humans have enjoyed butter, made from cream and salt, on a farm.

4. For the past 150 years, imitators of butter have sold yellow-colored blends of beef tallow and vegetable oil to consumers, through the product known as margarine, required to have 80% or more fat.

5. Where these non-dairy blends are less than 80% fat, they are referred to as “spreads.”

6. Vegetable oil traditionally refers to oils such as corn oil, canola oil, cottonseed oil, palm oil, safflower oil, sesame oil, soybean oil and sunflower oil.

7. According to the USDA, annual consumption of margarine and spreads recently reached its lowest level since the 1940s, at roughly three pounds per person.

8. In contrast, the average person now consumes almost six pounds of butter per year, the highest level in close to 50 years.

9. There are several reasons for these changes.

10. First, as confirmed by research firm Mintel, “consumers [are] increasingly turn[ing] to butter over margarine/spreads for its natural appeal,” and a “preference for less processed foods.”

11. Butter is made with simple, natural ingredients like cream and salt.

12. Butter is made by churning cow’s milk, without chemicals or additives.

13. In contrast, vegetable oils are heavily refined in the presence of chemical catalysts such as nickel and cadmium.

14. Second, consumers are more aware of the healthier profile of butter compared to vegetable oil alternatives.

15. Butter contains heart health(ier) fats, while vegetable oils contain harmful trans fats, a result of hydrogenation and interesterification.

16. Butter also contains calcium, and vitamins A and D.

17. Vegetable oils have no comparable nutritional value as a result of the intense processing needed to render them palatable.

18. Third, vegetable oil spreads are considered ultraprocessed foods (“UPF”), frowned upon by nutrition authorities and public health bodies.

19. To counter this decline of vegetable oil spreads, companies are increasingly incorporating alternative oils like olive oil to meet consumer demand.

II. CONSUMER DEMAND FOR OLIVE OIL

20. Olive oil is the juice of crushed olives without additives or harsh processing.

21. Whereas vegetable oils have no flavor or aroma, olive oil is known for its peppery and grassy taste.

22. Over the past several decades, olive oil has increased in popularity and its sales exceed all other vegetable oils combined.

23. The popularity of olive oil has been helped by its association with the Mediterranean Diet, confirmed by scientific studies showing it reduces health risks.

24. Olive oil has high levels of heart-healthy fats, such as polyunsaturated and monounsaturated fat, which help control cholesterol

25. Olive oil contains antioxidants, which promote immunity, and fight free radical damage to help slow down the aging process.

26. Olive oil promotes brain function, bone strength, and balanced blood sugar.

27. The oleic acid and phenols in olive oil are linked to prevention of skin, breast and colon cancer.

III. REPRESENTATION OF “MADE WITH OLIVE OIL” IS MISLEADING

28. Defendant markets the Product to the increasing numbers of Americans seeking to consume staple foods with ingredients known for providing health benefits, like olive oil.

29. By representing the Product as “Made With Olive Oil,” with green label statements and packaging, and promoted as “Non-GMO” and “Vegan,” consumers expect it contains a significant, non-de minimis amount of olive oil, in relative and absolute amounts to all oils used.

30. However, the ingredient list reveals a smaller than expected amount of olive oil, in absolute and relative terms.

INGREDIENTS: VEGETABLE OIL BLEND (PALM FRUIT, CANOLA, SAFFLOWER, EXTRA VIRGIN OLIVE, AND FLAX OILS), WATER, CONTAINS LESS THAN 2% OF SALT, NATURAL FLAVOR, PEA PROTEIN, SUNFLOWER LECITHIN, LACTIC ACID (TO PROTECT FRESHNESS), ANNATTO EXTRACT (COLOR).

INGREDIENTS: VEGETABLE OIL BLEND (PALM FRUIT, CANOLA, SAFFLOWER, EXTRA VIRGIN OLIVE, AND FLAX OILS), WATER, CONTAINS LESS THAN 2% OF SALT, NATURAL FLAVOR, PEA PROTEIN, SUNFLOWER LECITHIN, LACTIC ACID (TO PROTECT FRESHNESS), ANNATTO EXTRACT (COLOR)

31. That the Product contains a *de minimis* amount of olive oil is revealed from the ingredient list, with the first ingredient identified as a “Vegetable Oil Blend.”

32. The components of this ingredient are listed in order of predominance by weight, which shows more “palm fruit, canola, [and] safflower” oils than “extra virgin olive [oil].”

33. The amount of olive oil only exceeds the flax oils.

34. The small relative and absolute amount of olive oil is misleading in light of the front label claim the Product is “Made With Olive Oil.

35. The amount of olive oil is insufficient to confer any of the health benefits associated with olive oil or deliver the taste of olive oil.

36. The non-olive oil components of the vegetable oil blend – palm, canola, safflower and flax oils – lack the health and nutritional attributes of olive oil.

IV. CONCLUSION

37. Defendant makes other representations and omissions with respect to the Product which are false and misleading.

38. Reasonable consumers must and do rely on a company to honestly and lawfully market and describe the components, attributes, and features of a product, relative to itself and other comparable products or alternatives.

39. The value of the Product that Plaintiff purchased was materially less than its value as represented by Defendant.

40. Defendant sold more of the Product and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers.

41. Had Plaintiff and proposed class members known the truth, they would not have bought the Product or would have paid less for it.

42. As a result of the false and misleading representations, the Product is sold at a premium price, approximately no less than no less than \$3.49 per 13 OZ, excluding tax and sales, higher than similar products, represented in a non-misleading way, and higher than it would be sold for absent the misleading representations and omissions.

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