

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Lakita Smith, individually and on behalf of all
others similarly situated,

Plaintiff,

- against -

General Mills Sales, Inc.,

Defendant

1:22-cv-01529

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. General Mills Sales, Inc. (“Defendant”) manufactures, labels, markets, and sells frozen cheese pizza rolls under the Totino’s brand (“Product”).



2. The representations include “Cheese,” “Totino’s Pizza Rolls Brand Pizza Snacks,” “Pizza In A Golden Crust,” “Naturally Flavored,” pictures of the pizza rolls, with the visible contents of what appears to be red tomato sauce and white cheese, in yellow, red and orange packaging.

3. The representations cause consumers to expect the Product contains a non-de minimis amount of ingredients associated with pizza, such as cheese.

4. However, the representations are false, deceptive, and misleading, because the cheese used is almost entirely imitation cheese instead of traditional cheese.

I. PIZZA

5. All definitions of pizza include bread, tomato sauce, and cheese.

6. Macmillan Dictionary defines pizza as a “a food that consists of flat round bread with tomato, cheese, vegetables, meat etc.”

7. Collins Dictionary defines pizza as “dough covered with tomatoes, cheese, and other toppings, and then baked in an oven.

8. Cambridge Dictionary defines pizza as a “a large circle of flat bread baked with cheese, tomatoes, and sometimes meat and vegetables spread on top:

9. Merriam-Webster defines pizza as a “a dish made typically of flattened bread dough spread with a savory mixture usually including tomatoes and cheese and often other toppings and baked.”

10. The Product is identified as “Pizza In A Golden Crust,” which means that instead of having the pizza components on top of bread, it is enclosed within the bread.

11. Government agencies define pizza as the class of products that have been traditionally formulated with tomato sauce and cheese on a bread-based crust.

12. A food like pizza, without a “standard of identity,” is required by federal and identical state regulations to be labeled with a “common or usual name.” 21 C.F.R. § 102.5(a).

13. A common or usual name must “identify or describe, in as simple and direct terms as possible, the basic nature of the food or its characterizing properties or ingredients.” 21 C.F.R. § 102.5(a).

14. Where the characterizing ingredient (1) has a material bearing on the food’s price or its acceptance by consumers or (2) creates an erroneous impression it is present in a greater amount than it is, the common or usual name is required to include its percentage. 21 C.F.R. § 102.5(b).

15. Cheese is valued by consumers because it is a natural food, made from milk.

16. In contrast, imitation or analog cheese is made by combining vegetable oils, corn starch and casein, instead of milk solids.

17. These ingredients are highly processed with added chemicals and preservatives.

18. Since ancient times, milk has been an essential part of the human diet and nutrition.

19. Milk and dairy products are reservoirs of energy, because they contain a range of proteins, carbohydrates, lipids, minerals, and vitamins.

20. Imitation cheese has unhealthy fats and lacks the nutrients found in real cheese.

21. In contrast to the supple texture of real cheese, imitation cheese has a rubbery texture.

22. Real cheese gets its taste from hundreds of lactones, or flavor compounds, compared to the bland taste of imitation cheese.

II. REPRESENTATIONS ARE MISLEADING

23. The representations, including “Cheese,” “Pizza Rolls,” and “Pizza In A Golden Crust,” are misleading because the characterizing cheese ingredient is replaced with imitation cheese.

Ingredients: **Enriched Flour** (wheat flour, niacin, ferrous sulfate, thiamin mononitrate, riboflavin, folic acid), **Tomato Puree** (water, tomato paste), **Imitation Mozzarella Cheese** (water, palm oil, modified corn starch, vegetable oil [soybean, high oleic soybean and/or canola oil], rennet casein, salt, sodium aluminum phosphate, potassium chloride, citric acid, guar gum, potassium sorbate [preservative], sodium citrate, sodium phosphate, titanium dioxide [artificial color]), **Water**, **Vegetable Oil** (soybean, high oleic soybean and/or canola oil). **Contains less than 2% of:** Rehydrated Fat Free Mozzarella Cheese (water, skim milk, cheese cultures, salt, enzymes, citric acid), Sugar, Modified Corn Starch, Salt, Modified Whey, Defatted Soy Flour, Spice, Methylcellulose, Modified Tapioca Starch, Onion Powder, Dextrose, Rehydrated Enzyme Modified Cheese (water, milk, cheese cultures, salt, enzymes), Maltodextrin, TBHQ (preservative), Natural Flavor.

Ingredients: **Enriched Flour** (wheat flour, niacin, ferrous sulfate, thiamin mononitrate, riboflavin, folic acid), **Tomato Puree** (water, tomato paste), **Imitation Mozzarella Cheese** (water, palm oil, modified corn starch, vegetable oil [soybean, high oleic soybean and/or canola oil], rennet casein, salt, sodium aluminum phosphate, potassium chloride, citric acid, guar gum, potassium sorbate [preservative], sodium citrate, sodium phosphate, titanium dioxide [artificial color]), **Vegetable Oil** (soybean, high oleic soybean and/or canola oil). **Contains less than 2% of:** **Rehydrated Fat Free Mozzarella Cheese** (water, skim milk, cheese cultures, salt, enzymes, citric acid), Sugar, Modified Corn Starch, Salt, Modified Whey, Defatted Soy Flour, Spice, Methylcellulose, Onion Powder, Dextrose, **Rehydrated Enzyme Modified Cheese** (water, milk, cheese cultures, salt, enzymes), Maltodextrin, TBHQ (preservative), Natural Flavor.

24. This is shown through the ingredients, listing “Imitation Mozzarella Cheese” as the third most predominant ingredient after flour and tomato paste.

25. Instead of being made from milk, the components of this ingredient are:

water, palm oil, modified corn starch, vegetable oil [soybean, high oleic soybean and/or canola oil], rennet casein, salt, sodium aluminum phosphate, potassium chloride, citric acid, guar gum, potassium sorbate [preservative], sodium citrate, sodium phosphate, titanium dioxide [artificial color].

26. The Product “[C]ontains less than 2% [of:] Rehydrated Fat Free Mozzarella Cheese [and]...Rehydrated Enzyme Modified Cheese,” or cheese made from dairy ingredients.

27. The representations are misleading because the Product’s common or usual name, “Pizza In A Golden Crust,” does not include the percentage of the characterizing cheese ingredient. 21 C.F.R. § 102.5(b).

28. Federal and identical state regulations require that beneath “Pizza In A Golden Crust,” the percentage of the characterizing cheese ingredient is disclosed in the following manner: “Contains ____ % Cheese.” 21 C.F.R. § 102.5(b)(2).

29. The blank is required to be filled in with the percentage expressed as a whole number not greater than the actual percentage of the ingredient.

30. For example, if the combined amount of rehydrated fat free mozzarella cheese and rehydrated enzyme modified cheese is two percent, the label would state “Contains 2 % Cheese.”

31. The small relative and absolute amount of cheese and its replacement with imitation cheese is misleading in light of the Product’s name and cheese representations.

32. Though Defendant attempts to disclaim the presence of cheese through the statement, “Naturally Flavored,” this is insufficient to overcome the misleading common or usual name.

33. The amount of actual cheese is more significant than whether the Product contains “natural flavor,” the last ingredient listed.

34. The Product’s “natural flavor” is used to simulate the flavor of cheese, even though the relevant regulations prohibit the use of flavors to simulate the flavor of any variety of cheese.

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