

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

TIFFANY GRIFFIN, *individually and on behalf  
of all others similarly situated,*

Plaintiff,

v.

GSK CONSUMER HEALTH, INC.

Defendant.

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT  
JURY TRIAL DEMANDED**

**CLASS ACTION COMPLAINT**

Plaintiff Tiffany Griffin (hereinafter, “Plaintiff”), individually and on behalf of all other persons similarly situated, by her undersigned attorneys, alleges the following based upon personal knowledge as to herself and her own actions, and, as to all other matters, alleges, upon information and belief and investigation of her counsel, as follows:

**NATURE OF THE ACTION**

1. This is a consumer class action brought individually by Plaintiff and on behalf of all persons in the below-defined proposed Classes, all of whom purchased GSK Consumer Health, Inc.’s (“Defendant”) Benefiber Original Prebiotic Powder and Benefiber Healthy Shape Prebiotic Powder (hereinafter, the “Product” or “Products”).

2. Defendant manufactures, sells, and distributes these Products through a marketing and advertising strategy that emphasizes that these Products are “100% Natural,” which is a claim that appeals to health-conscious consumers.

3. Defendant’s advertising and marketing campaign, however, is false, fraudulent, deceptive, and misleading. Unbeknownst, to Plaintiff and members of the Classes at the time of their purchase, and contrary to the express representations on the labels, these Products contain wheat

dextrin, which is a non-natural synthetic ingredient.

4. As a result of Defendant's unlawful and highly deceptive conduct, Plaintiff and Members of the Classes have been and continue to be harmed by purchasing a product under false pretenses. Furthermore, Plaintiff and Members of the Classes paid a premium for the Products based on the misrepresentation made by Defendant that the Products were "100% Natural." Accordingly, Plaintiff and Members of the Classes paid more for the Products than they otherwise would have, if at all, and suffered an injury in the amount of the premium paid.

5. Plaintiffs and the Classes thus bring claims for consumer fraud, common law fraud, and unjust enrichment and seek damages, injunctive and declaratory relief, interest, costs, and reasonable attorneys' fees.

### **PARTIES**

6. Plaintiff Tiffany Griffin is a citizen of the State of Texas residing in the City of Desoto and is a member of the Class defined herein. Her current residence is 812 Princeton Drive, Desoto, Texas. She purchased the Products for her own use many times preceding the filing of this Complaint. She most recently made a purchase on May 3, 2020. Plaintiff and members of the Classes suffered an injury in fact caused by the false, fraudulent, unfair, deceptive, and misleading practices of Defendant set forth in this Complaint. Plaintiff and members of the Classes would not have purchased the Products had they been accurately labeled.

7. Defendant, GSK Consumer Health, Inc., is a corporation with its principal place of business in Warren, New Jersey. Defendant's corporate headquarters is located at 184 Liberty Corner Road, Warren, New Jersey. Defendant manufactures, markets, distributes, and advertises the Products throughout the United States. Defendant developed and/or authorized the false, fraudulent, misleading, and deceptive advertisements and labeling of the Products from its New Jersey headquarters.

## **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act of 2005 (hereinafter referred to as “CAFA”) codified as 28 U.S.C. § 1332(d)(2) because the claims of the proposed Class members exceed \$5,000,000 and because Defendant is a citizen of a different state than most Class members.

9. The Court has personal jurisdiction over Defendant because it is headquartered in this District, regularly conducts business in this District, and/or under the stream of commerce doctrine by causing its products to be disseminated in this District.

10. Venue is proper in this District under 28 U.S.C. § 1391 because Defendant is headquartered here and conducts substantial business in this District.

## **FACTUAL ALLEGATIONS**

### *A “100% Natural” Representation is Material to Consumers*

11. The use of the term “natural,” let alone “100% Natural,” is a powerful statement that is important to consumers.

12. A study conducted by Consumer Reports<sup>1</sup> in 2014 found that about two-thirds of consumers believe that Products that are “natural” do not contain any “artificial ingredients, pesticides, or genetically modified organisms” and that 80% of consumers believe it should mean that.<sup>2</sup>

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<sup>1</sup> Consumer Reports (CR), founded in 1936, is “an independent, nonprofit member organization that works side by side with consumers for truth, transparency, and fairness in the marketplace.” <https://www.consumerreports.org/cro/about-us/what-we-do/index.html> (last visited Nov. 20, 2020). It has six million members and tests tens of thousands of products annually to provide consumers with product reviews. *See id.* CR has a Survey Research department that conducts more than one hundred surveys per year. Its surveys are not commissioned or financed by industry. *See* <https://www.consumerreports.org/cro/about-us/what-we-do/research-and-testing/index.html> (last visited Nov. 20, 2020).

<sup>2</sup> Deborah Pike Olsen, *Say No to ‘Natural’ on Food Labels*, Consumer Reports (June 16, 2014, 6:00 AM), <https://www.consumerreports.org/cro/news/2014/06/say-no-to-natural-on-food-labels/index.htm>.

13. According to one study, nearly three-quarters (73 percent) of global consumers believe it is important their groceries are one hundred percent natural.<sup>3</sup>

14. The shift in consumers actively looking for more natural products is associated with consumer preferences regarding health.<sup>4</sup>

15. A 2015 Consumer Reports survey found that 62% of consumers purchase “natural” products, and that 87% of those purchasers are willing to pay more for products called “natural” that meet their expectations regarding what “natural” means.<sup>5</sup>

16. A 2016 survey found the number of consumers who purchase “natural” products to be as high as 73%.<sup>6</sup>

17. Reflecting this trend, in 2011, the natural products industry was valued at approximately \$91 billion.<sup>7</sup>

18. Merely four years later the natural products industry had almost doubled in value to \$180 billion.<sup>8</sup>

19. Thus, seeking to capitalize on the booming natural products industry, Defendant

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<sup>3</sup> Will Cowling, *Consumers Continue to Seek Products with Natural Ingredients*, Candy Industry (Jan. 22, 2020), [https://www.candyindustry.com/articles/88953-consumers-continue-to-seek-products-with-natural-ingredients#:~:text=The%20research%20firm%20found%2036,of%20artificial%20and%20synthetic%20ingredients.&text=Nearly%20three%2Dquarters%20\(73%20percent,groceries%20are%20100%20percent%20natural.](https://www.candyindustry.com/articles/88953-consumers-continue-to-seek-products-with-natural-ingredients#:~:text=The%20research%20firm%20found%2036,of%20artificial%20and%20synthetic%20ingredients.&text=Nearly%20three%2Dquarters%20(73%20percent,groceries%20are%20100%20percent%20natural.)

<sup>4</sup> *Id.*

<sup>5</sup> Andrea Rock, *Peeling Back the ‘Natural’ Food Label*, Consumer Reports (last updated: Jan. 27, 2016), <https://www.consumerreports.org/food-safety/peeling-back-the-natural-food-label/>.

<sup>6</sup> *Consumer Reports Survey Show 73 Percent of Consumers Look for ‘Natural’ Labels at Grocery Stores- and Many are Unwittingly Misled*, Consumer Reports, (May 10, 2016) <https://www.consumerreports.org/media-room/press-releases/2016/05/consumer-reports-survey-show-73-percent-of-consumers-misled-by-natural-labels-at-the-grocery-store/>.

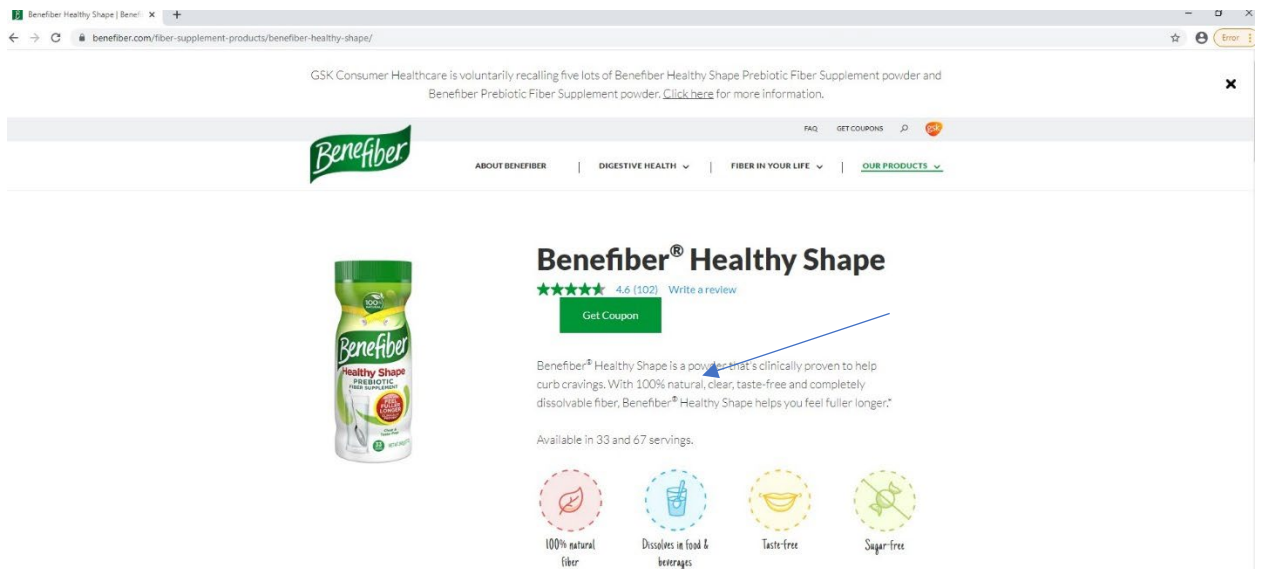
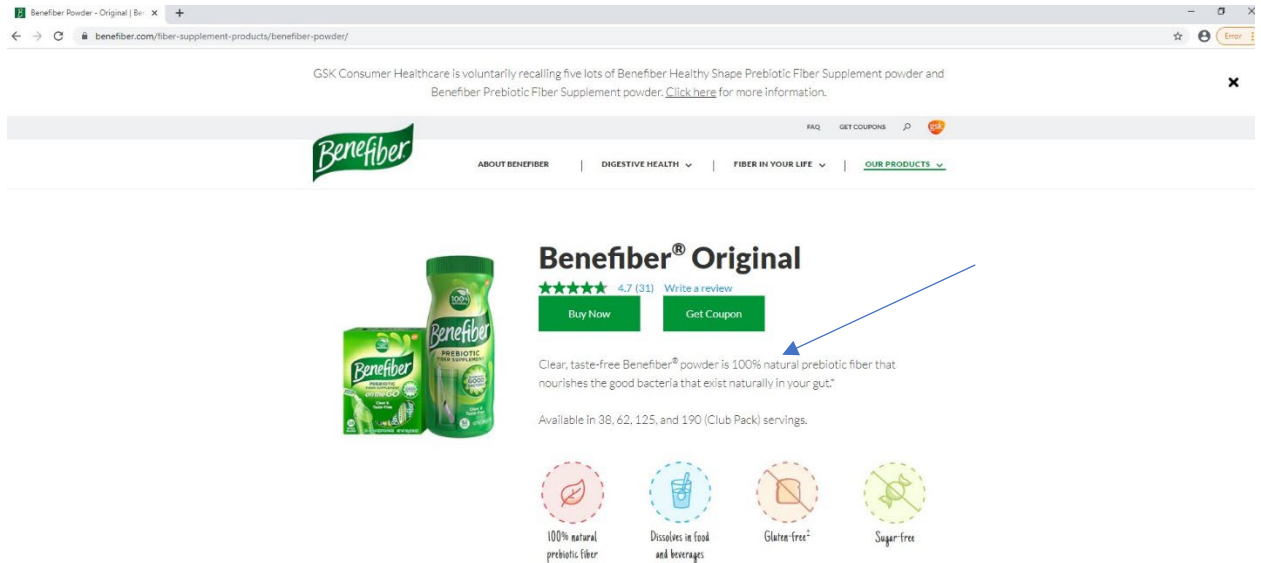
<sup>7</sup> Nancy Wagner, *Size of the Natural Products Industry*, Chron, <https://smallbusiness.chron.com/size-natural-products-industry-71266.html> (last visited Nov. 19, 2020).

<sup>8</sup> *Natural Products Industry Sales up 9.5% to \$180bn Says NBJ*, FOOD NAVIGATOR, [http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/\(page\)/6](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6)

marketed, advertised and labeled its Products as “100% Natural”.

***GSK Falsely Markets the Products as 100% Natural***

20. As shown below, Defendant prominently marketed and labeled the Products as “100% Natural[.]”



21. Defendant directs the “100% Natural” representation to consumers, like Plaintiff

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