

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
MANHATTAN COURTHOUSE**

Charlene Vazquez, individually and on behalf
of all others similarly situated,

Plaintiff,

- against -

Walmart, Inc.,

Defendant,

1:22-cv-06215

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. Walmart, Inc. (“Defendant”) manufactures, labels, markets, and sells granola bars represented as containing oats and honey under the Great Value brand (“Product”).



2. Relevant label statements include “Oats & Honey – Crunchy Granola Bars,” “Crunchy Oats ...Sweet Honey,” “Made With Whole Grains,” “19g Whole Grain Per Serving” and pictures of freshly harvested oats next to a dripping block of a honeycomb on what appears to be a wooden picnic table.

3. The representations tell consumers the Product will contain a non-de minimis amount of honey, is primarily sweetened with honey and contains limited ingredients based on the references to only oats and honey.

4. The representations are false and misleading because the Product contains ingredients other than oats and honey and contains a *de minimis* amount of honey relative to conventional sugars.

I. SUGAR IS INCREASINGLY DISFAVORED AS SWEETENER

5. According to the National Institutes of Health (“NIH”), there is a direct link between excess sugar consumption and obesity.

6. Doctors and nutritionists agree that excess sugar intake leads to as weight gain, Type 2 diabetes, dental caries, metabolic syndrome, heart disease, cancer, and even dementia.

7. One food industry insider stated that “[consumer] demand for sugar reduction [cuts] across food and beverage categories.”

8. Speakers at the International Sweetener conference affirmed that “sugar avoidance was a macro trend ‘that is here to stay and will only increase.’”

9. Surveys by Information Resources, Inc. (“IRI”) show that 58% of consumers are avoiding sugar, and over 80% are doing so for reasons related to health and weight issues.

10. In place of sugar, consumers are increasingly seeking foods sweetened with honey.

11. This is confirmed by data obtained from the USDA, showing that the volume of

honey has almost doubled in the past 35 years, from 339 million to 603 million pounds.¹

12. For the first time in history in 2020, honey surpassed white sugar as America's number one sweetener.

13. At least 50% of consumers are willing to pay more for foods primarily sweetened with honey.

14. Roughly 60% of consumers look for references to honey on a food's front label when deciding what to buy.

15. There are several reasons why consumers seek foods sweetened with honey instead of sugar.

16. First, almost three-quarters of consumers rate honey as "better-for-you" than sugar.

17. Second, 93% of consumers recognize that honey is a natural sweetener, because unlike sugar, it is not heavily refined through harsh unnatural processes.

18. According to the director of the National Honey Board, "Honey fits perfectly with consumers' desire to know where their food comes from and their preference for foods that are unprocessed," because it "is made by bees from the nectar of flowers."

19. Third, honey has a lower glycemic index than sugar, causing slower fluctuations in blood sugar and insulin levels.

20. Refined sugars lead to rapid spikes of blood sugar, with quick spurts of energy followed by sharp declines, characterized by tiredness, headaches, and difficulties in concentrating.

21. Fourth, honey is sweeter than sugar, so less of it is needed to achieve the same level of sweetness.

¹ USDA/ERS.

22. Fifth, unlike sugar, honey has small but significant amounts of nutrients such as vitamins, minerals, enzymes, phytonutrients and antioxidants.

23. These benefits promote immunity and aid digestion.

II. PRODUCT CONTAINS *DE MINIMIS* AMOUNT OF HONEY

24. The front label promotes honey as the main ingredient in the Product after oats, shown through the name, “Oats & Honey,” “Sweet Honey,” and a block of honeycomb in a pool of honey.

25. The representations are false and misleading because the amount of honey is negligible and *de minimis*, shown through the ingredient list.

INGREDIENTS: WHOLE GRAIN ROLLED OATS, SUGAR, HIGH OLEIC CANOLA OIL, WHOLE GRAIN BROWN RICE FLOUR, CONTAINS LESS THAN 2% OF HONEY, SALT, BROWN SUGAR SYRUP, BAKING SODA, SOY LECITHIN, NATURAL FLAVORS, PEANUT FLOUR.

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26. The primary sweetening ingredient is “sugar,” listed second after “whole grain rolled oats.”

27. The Product “Contains Less Than 2% of Honey,” the fifth ingredient, after canola oil and rice flour, but before salt.

28. Consumers relying on the front label will be satisfied that whole grain oats are the main ingredient but will be dissatisfied honey is a minor ingredient, especially compared to the amount of sugar.

29. The front label promotion of only oats and honey dovetails with increased consumer demand for foods with limited, fewer ingredients.

30. Packaged Facts' proprietary National Consumer Survey revealed that "two-thirds of consumers prefer foods and beverages with fewer ingredients."

31. Consumer research company Mintel concluded that 59% of consumers believe that the fewer ingredients a product has, the healthier it is.

32. The representations are misleading because the Product is not made with only oats and honey and contains numerous other ingredients.

33. There is no commercial or technological barrier to formulating a granola or snack bar which only contains oats and honey.

34. There is no functional barrier to producing a granola or snack bar which contains honey as the primary, significant or exclusive sweetening ingredient.

35. This is shown through the snack bars made by HoneyBar, which state, "Ingredients Held Together Only With Honey" and list honey in the ingredients without other sweeteners.



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