

**FILED UNDER SEAL – HIGHLY CONFIDENTIAL INFORMATION
SUBJECT TO PROTECTIVE ORDER OF THE COURT**

BETSY C. MANIFOLD (182450)

manifold@whafh.com

RACHELE R. BYRD (190634)

byrd@whafh.com

WOLF HALDENSTEIN ADLER

FREEMAN & HERZ LLP

750 B Street, Suite 2770

San Diego, CA 92101

Telephone: 619/239-4599

Facsimile: 619/234-4599

Interim Lead Counsel for the End Payer Plaintiffs

[Additional Counsel Listed on Signature Page]

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

IN RE: PACKAGED SEAFOOD
PRODUCTS ANTITRUST LITIGATION

This Document Relates To:

The Indirect Purchaser End Payer Actions

Case No. 15-MD-2670 JLS (MDD)

**[REDACTED] SIXTH
AMENDED CONSOLIDATED
CLASS ACTION COMPLAINT
OF THE INDIRECT
PURCHASER END PAYER
PLAINTIFFS**

(FILED UNDER SEAL)

DEMAND FOR JURY TRIAL

JUDGE: Hon. Janis L. Sammartino

CTRM: 4D (4th Fl.—Schwartz)

TABLE OF CONTENTS

Page No.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

NATURE OF ACTION.....	1
PARTIES	3
Bumble Bee Defendants	11
AGENTS AND CO-CONSPIRATORS.....	39
JURISDICTION AND VENUE.....	39
CLASS ACTION ALLEGATIONS.....	40
RELEVANT MARKETS	48
INTERSTATE COMMERCE	49
Dongwon And StarKist Act As A Single Entity	56
ADDITIONAL FACTUAL ALLEGATIONS	67
FRAUDULENT CONCEALMENT AND THE TOLLING OF THE STATUTE OF LIMITATIONS	113
TOLLING OF THE STATUTE OF LIMITATIONS	113
CAUSES OF ACTION.....	127
<u>VIOLATIONS OF STATE ANTITRUST LAW</u>	127
<u>VIOLATIONS OF STATE CONSUMER PROTECTION LAW</u>	161
PRAYER FOR RELIEF	222
JURY DEMAND.....	223

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1 Plaintiffs Louise Adams, Nay Alidad, Jessica Bartling, Gay Birnbaum,
2 Barbara Blumstein, Melissa Bowman, Sally Bredberg, Barbara Buening, Michael
3 Buff, Scott Caldwell, Jade Canterbury, Laura Childs, Casey Christensen, Jody
4 Cooper, Kim Craig, Sundé Daniels, Elizabeth Davis-Berg, Brian Depperschmidt
5 Vivek Dravid, Gloria Emery, Robert Etten, Ana Gabriela Felix Garcia, John Frick,
6 Kathleen Garner, Stephanie Gipson, Kathy Durand (formerly Gore), Andrew
7 Gorman, Tina Grant, Edgardo Gutierrez, Lisa Hall, Mary Hudson, Tya Hughes,
8 Amy Jackson, Marissa Jacobus, Danielle Johnson, Zenda Johnston, Amy Joseph,
9 Michael Juetten, Steven Kratky, Kathy Lingnofski, Carla Lown, Katherine
10 McMahon, Diana Mey, Liza Milliner, Laura Montoya, Rick Musgrave, Jennifer A.
11 Nelson, Corey Norris, Barbara Olson, Kirsten Peck, John Pels, Elizabeth Perron,
12 Valerie Peters, John Peychal, Audra Rickman, Erica Rodriguez, Joelyna A. San
13 Agustin, Amber Sartori, Rebecca Lee Simoens, Robert Skaff, Greg Stearns, Nancy
14 Stiller, Christopher Todd, John Trent, Elizabeth Twitchell, Bonnie Vander Laan,
15 Nigel Warren, Julie Wiese, Thomas E. Willoughby III, and Daniel Zwirlein
16 (collectively “Plaintiffs”), for their consolidated complaint, allege upon personal
17 knowledge as to themselves and their own actions, and upon information and
18 belief, including the investigation of counsel, as follows:

NATURE OF ACTION

19
20 1. This is a class action concerning anticompetitive activity by the
21 Defendants Bumble Bee Foods LLC (“Bumble Bee”); Lion Capital LLP (“Lion
22 Capital”); Lion Capital (Americas), Inc. (“Lion Americas”); Lion/Big Catch
23 Cayman LP (“Big Catch”); Dongwon Industries Co., Ltd. (“Dongwon”); StarKist
24 Company (“StarKist”); Del Monte Corporation (“Del Monte”); Thai Union Group
25 Public Company Limited; and Tri-Union Seafoods LLC d/b/a Chicken of the Sea
26 International (“Tri-Union” or “COSI”), collectively referred to herein as
27 “Defendants.” The claims alleged herein are brought pursuant to various state
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1 antitrust, consumer protection, and equitable laws as alleged. This action is
2 brought by Plaintiffs, on behalf of themselves and Classes of persons and entities
3 who indirectly purchased shelf-stable packaged tuna (“Packaged Tuna”) produced
4 by any Defendant or current or former subsidiary or affiliate of any Defendant,
5 during the period from, and including, at least June 1, 2011 through such time as
6 the anticompetitive effects of Defendants’ conduct ceases.

7 2. The exact date of the conspiracy is uncertain, but it began no later
8 than November 2011 and continued in force through at least July 2015 (the
9 “Relevant Period”). The class period for purposes of this Complaint extends from
10 at least June 1, 2011 to July 31, 2015 (the “Class Period”). The effects of the
11 conspiracy continue to the date of the filing of this Complaint, as evidenced by the
12 Class Period.¹

13 3. Defendants have conspired to raise, fix, stabilize or maintain prices of
14 and restrict capacity within the market for the sale of Packaged Tuna during the
15 Class Period.

16 4. With slowing and stagnating growth and margins in the United
17 States Packaged Tuna industry, Defendants directly coordinated the following
18 business matters: (1) can and pouch sizes for tuna; (2) pricing of packaged tuna;
19 (3) promotional activity for packaged tuna; and (4) the offering of “FAD” (or
20 “Fish Aggregating Device”) Free labeling for tuna under the major brands.
21 Defendants’ coordination, among other things, caused the prices for Packaged

22 ¹ Plaintiffs’ Fifth Consolidated Indirect Purchaser End Payer Plaintiffs Class
23 Action Complaint, filed on June 5, 2018, included a class period extending back
24 until 2004. The Court permitted Plaintiffs to amend their complaints in a recent
25 order on the Lion Capital Entities’ Motion to Dismiss. *See* ECF No. 1358. This
26 Sixth Amended Consolidated Complaint modifies the Class Period based on
27 evidence collected in discovery and as reflected in Plaintiffs’ Motion for Class
28 Certification.

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1 Tuna to be supracompetitive during the Class Period. As part of this
2 coordination, Defendants agreed and conspired to artificially increase prices for
3 Packaged Tuna to record highs in spite of reduced consumer interest and falling
4 demand. The impacts of Defendants' unlawful and anticompetitive conduct are
5 ongoing and continue to this day.

6 **PARTIES**

7 **Plaintiffs**

8 5. Plaintiff Louise Adams is domiciled in Chippewa County, Michigan,
9 and purchased Packaged Tuna indirectly from one or more Defendants in the State
10 of Michigan during the Class Period.

11 6. Plaintiff Nay Alidad is domiciled in Clark County, Nevada, and
12 purchased Packaged Tuna indirectly from one or more Defendants in the State of
13 Nevada during the Class Period.

14 7. Plaintiff Jessica Bartling is domiciled in Hillsborough County, New
15 Hampshire, and purchased Packaged Tuna indirectly from one or more Defendants
16 in the State of New Hampshire during the Class Period.

17 8. Plaintiff Gay Birnbaum is domiciled in Beaufort County, South
18 Carolina, and purchased Packaged Tuna indirectly from one or more Defendants in
19 the State of South Carolina during the Class Period.

20 9. Plaintiff Barbara Blumstein is domiciled in Palm Beach County,
21 Florida, and purchased Packaged Tuna indirectly from one or more Defendants in
22 the State of Florida during the Class Period.

23 10. Plaintiff Melissa Bowman is domiciled in Douglas County, Nebraska,
24 and purchased Packaged Tuna indirectly from one or more Defendants in the State
25 of Nebraska during the Class Period.

26 11. Plaintiff Sally Bredberg is domiciled in Cook County, Illinois, and
27 purchased Packaged Tuna indirectly from one or more Defendants in the State of
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1 Illinois during the Class Period.

2 12. Plaintiff Barbara Buenning is domiciled in Dodge County, Nebraska,
3 and purchased Packaged Tuna indirectly from one or more Defendants in the State
4 of Nebraska during the Class Period.

5 13. Plaintiff Michael Buff is domiciled in Albany County, New York, and
6 purchased Packaged Tuna indirectly from one or more Defendants in the State of
7 New York during the Class Period.

8 14. Plaintiff Scott Caldwell is domiciled in Essex County, Massachusetts,
9 and purchased Packaged Tuna indirectly from one or more Defendants in the State
10 of Massachusetts during the Class Period.

11 15. Plaintiff Jade Canterbury is domiciled in Monroe County, West
12 Virginia, and purchased Packaged Tuna indirectly from one or more Defendants in
13 the State of West Virginia during the Class Period.

14 16. Plaintiff Laura Childs is domiciled in Washington County, Minnesota,
15 and purchased Packaged Tuna indirectly from one or more Defendants in the State
16 of Minnesota during the Class Period.

17 17. Plaintiff Casey Christensen is domiciled in Lincoln County, South
18 Dakota, and purchased Packaged Tuna indirectly from one or more Defendants in
19 the State of South Dakota during the Class Period.

20 18. Plaintiff Jody Cooper is domiciled in Merrimack County, New
21 Hampshire and purchased Packaged Tuna, indirectly from one or more Defendants
22 in the State of New Hampshire.

23 19. Plaintiff Kim Craig is domiciled in Garland County, Arkansas, and
24 purchased Packaged Tuna indirectly from one or more Defendants in the State of
25 Arkansas during the Class Period.

26 20. Plaintiff Sundé Daniels is domiciled in Norfolk County,
27 Massachusetts and purchased Packaged Tuna indirectly from one or more
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Defendants in the State of Massachusetts during the Class Period.

21. Plaintiff Elizabeth Davis-Berg is domiciled in Cook County, Illinois, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Illinois during the Class Period.

22. Plaintiff Brian Depperschmidt is domiciled in Sedgwick County, Kansas, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Kansas during the Class Period.

23. Plaintiff Vivek Dravid is domiciled in Cuyahoga County, Ohio, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Utah during the Class Period. Vivek Dravid was formerly domiciled during the Class Period in Salt Lake County, Utah, during which time he made all relevant purchases in the State of Utah.

24. Plaintiff Kathy Durand (formerly Gore) is domiciled in Portales County, New Mexico, and purchased Packaged Tuna indirectly from one or more Defendants in the State of New Mexico during the Class Period.

25. Plaintiff Gloria Emery is domiciled in Hawaii County, Hawaii, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Hawaii during the Class Period.

26. Plaintiff Robert Etten is domiciled in Ramsey County, Minnesota, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Minnesota during the Class Period.

27. Plaintiff Ana Gabriela Felix Garcia is domiciled in the District of Columbia and purchased Packaged Tuna indirectly from one or more Defendants in the State of Arizona and the District of Columbia during the Class Period.

28. Plaintiff John Frick is domiciled in Jackson County, Missouri, and purchased Packaged Tuna indirectly from one or more Defendants in the State of Missouri during the Class Period.

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1 29. Plaintiff Kathleen Garner is domiciled in Clark County, Arkansas, and
2 purchased Packaged Tuna indirectly from one or more Defendants in the State of
3 Arkansas during the Class Period.

4 30. Plaintiff Stephanie Gipson is domiciled in Chittenden County,
5 Vermont, and purchased Packaged Tuna indirectly from one or more Defendants in
6 the State of Vermont during the Class Period.

7 31. Plaintiff Andrew Gorman is domiciled in the District of Columbia,
8 and purchased Packaged Tuna indirectly from one or more Defendants in the
9 District of Columbia and the State of Virginia during the Class Period.

10 32. Plaintiff Tina Grant is domiciled in Salt Lake County, Utah, and
11 purchased Packaged Tuna indirectly from one or more Defendants in the States of
12 Arizona and Utah during the Class Period.

13 33. Plaintiff Edgardo Gutierrez is domiciled in Broward County, Florida,
14 and purchased Packaged Tuna indirectly from one or more Defendants in the State
15 of Florida during the Class Period.

16 34. Plaintiff Lisa Hall is domiciled in Saline County, Kansas, and
17 purchased Packaged Tuna indirectly from one or more Defendants in the State of
18 Kansas during the Class Period.

19 35. Plaintiff Mary Hudson is domiciled in San Diego County, California,
20 and purchased Packaged Tuna indirectly from one or more Defendants in the State
21 of California during the Class Period.

22 36. Plaintiff Tya Hughes is domiciled in Ward County, North Dakota, and
23 purchased Packaged Tuna indirectly from one or more Defendants in the States of
24 Arizona, California, and North Dakota during the Class Period.

25 37. Plaintiff Amy Jackson is domiciled in the Territory of Guam and
26 purchased Packaged Tuna indirectly from one or more Defendants in the Territory
27 of Guam and the State of California during the Class Period.

28

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1 38. Plaintiff Marissa Jacobus is currently domiciled in Calaveras County,
2 California, and purchased Packaged Tuna indirectly from one or more Defendants
3 in the State of Virginia during the Class Period. Marissa Jacobus was formerly
4 domiciled during the Class Period in Arlington, Virginia, during which time she
5 made all relevant purchases in the State of Virginia.

6 39. Plaintiff Danielle Johnson is domiciled in Multnomah County,
7 Oregon, and purchased Packaged Tuna indirectly from one or more Defendants in
8 the State of Oregon during the Class Period.

9 40. Plaintiff Zenda Johnston is domiciled in Orange County, Florida, and
10 purchased Packaged Tuna indirectly from one or more Defendants in the State of
11 Florida during the Class Period.

12 41. Plaintiff Amy Joseph is domiciled in DuPage County, Illinois, and
13 purchased Packaged Tuna indirectly from one or more Defendants in the State of
14 Illinois during the Class Period.

15 42. Plaintiff Michael Juetten is domiciled in Los Angeles County,
16 California, and purchased Packaged Tuna indirectly from one or more Defendants
17 in the States of California and Wisconsin during the Class Period.

18 43. Plaintiff Steven Kratky is domiciled in the independent city of St.
19 Louis, Missouri, and purchased Packaged Tuna indirectly from one or more
20 Defendants in the State of Missouri during the Class Period.

21 44. Plaintiff Kathy Lingnofski is domiciled in Outagamie County,
22 Wisconsin, and purchased Packaged Tuna indirectly from one or more Defendants
23 in the State of Wisconsin during the Class Period.

24 45. Plaintiff Carla Lown is domiciled in Blackhawk County, Iowa, and
25 purchased Packaged Tuna indirectly from one or more Defendants in the State of
26 Iowa during the Class Period.

27 46. Plaintiff Katherine McMahon is domiciled in Washington County,
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1 Rhode Island, and purchased Packaged Tuna indirectly from one or more
2 Defendants in the State of Rhode Island during the Class Period.

3 47. Plaintiff Diana Mey is domiciled in Ohio County, West Virginia, and
4 purchased Packaged Tuna indirectly from one or more Defendants in the State of
5 West Virginia during the Class Period.

6 48. Plaintiff Liza Milliner is domiciled in Washington County, Oregon,
7 and purchased Packaged Tuna indirectly from one or more Defendants in the State
8 of Oregon during the Class Period.

9 49. Plaintiff Laura Montoya is domiciled in Rio Arriba County, New
10 Mexico, and purchased Packaged Tuna indirectly from one or more Defendants in
11 the State of New Mexico during the Class Period.

12 50. Plaintiff Rick Musgrave is domiciled in Contra Costa County,
13 California, and purchased Packaged Tuna indirectly from one or more Defendants
14 in the State of California during the Class Period.

15 51. Plaintiff Jennifer A. Nelson domiciled in Bennington County,
16 Vermont, and purchased Packaged Tuna indirectly from one or more Defendants in
17 the States of Iowa, New York, and Vermont during the Class Period.

18 52. Plaintiff Corey Norris is currently domiciled in the independent city of
19 Alexandria, Virginia, and purchased Packaged Tuna indirectly from one or more
20 Defendants in the State of North Carolina during the Class Period. Corey Norris
21 was formerly domiciled during the Class Period in Johnston County, North
22 Carolina, during which time he made all relevant purchases in the State of North
23 Carolina.

24 53. Plaintiff Barbara Olson is domiciled in Washtenaw County, Michigan,
25 and purchased Packaged Tuna indirectly from one or more Defendants in the State
26 of Michigan during the Class Period.

27 54. Plaintiff Kirsten Peck is domiciled in Williamson County, Tennessee,
28

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1 and purchased Packaged Tuna indirectly from one or more Defendants in the State
2 of Tennessee during the Class Period.

3 55. Plaintiff John Pels is domiciled in Sonoma County, California, and
4 purchased Packaged Tuna indirectly from one or more Defendants in the States of
5 Arizona and California during the Class Period.

6 56. Plaintiff Elizabeth Perron is domiciled in Worcester County,
7 Massachusetts and purchased Packaged Tuna, indirectly from one or more
8 Defendants in the States of Massachusetts and Rhode Island during the Class
9 Period.

10 57. Plaintiff Valerie Peters is domiciled in Broward County, Florida, and
11 purchased Packaged Tuna indirectly from one or more Defendants in the State of
12 Florida during the Class Period.

13 58. Plaintiff John Peychal is domiciled in Sevier County, Tennessee, and
14 purchased Packaged Tuna indirectly from one or more Defendants in the State of
15 Tennessee during the Class Period.

16 59. Plaintiff Audra Rickman is domiciled in Brunswick County, North
17 Carolina, and purchased Packaged Tuna indirectly from one or more Defendants in
18 the State of North Carolina during the Class Period.

19 60. Plaintiff Erica Rodriguez is domiciled in Maricopa County, Arizona,
20 and purchased Packaged Tuna indirectly from one or more Defendants in the State
21 of Arizona during the Class Period.

22 61. Plaintiff Joelyna A. San Agustin is domiciled in the Territory of Guam
23 and purchased Packaged Tuna indirectly from one or more Defendants in the
24 Territory of Guam during the Class Period.

25 62. Plaintiff Amber Sartori is domiciled in Mecklenburg County, North
26 Carolina, and purchased Packaged Tuna indirectly from one or more Defendants in
27 the States of Missouri and North Carolina during the Class Period.

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1 63. Plaintiff Rebecca Lee Simoens is domiciled in St. Charles County,
2 Missouri, and purchased Packaged Tuna indirectly from one or more Defendants in
3 the State of Missouri during the Class Period.

4 64. Plaintiff Robert Skaff is domiciled in Rockingham County, New
5 Hampshire, and purchased Packaged Tuna indirectly from one or more Defendants
6 in the State of New Hampshire during the Class Period.

7 65. Plaintiff Greg Stearns is domiciled in Waldo County, Maine, and
8 purchased Packaged Tuna indirectly from one or more Defendants in the State of
9 Maine during the Class Period.

10 66. Plaintiff Nancy Stiller is domiciled in Washoe County, Nevada, and
11 purchased Packaged Tuna indirectly from one or more Defendants in the State of
12 Nevada during the Class Period.

13 67. Plaintiff Christopher Todd is domiciled in New Orleans Parish,
14 Louisiana, and purchased Packaged Tuna indirectly from one or more Defendants
15 in the State of Mississippi during the Class Period.

16 68. Plaintiff John Trent is domiciled in Shelby County, Tennessee, and
17 purchased Packaged Tuna indirectly from one or more Defendants in the State of
18 Tennessee during the Class Period.

19 69. Plaintiff Elizabeth Twitchell is domiciled in the independent city of
20 Alexandria, Virginia and purchased Packaged Tuna, indirectly from one or more
21 Defendants in the State of Virginia during the Class Period.

22 70. Plaintiff Bonnie Vander Laan is domiciled in Emmons County, North
23 Dakota and purchased Packaged Tuna, indirectly from one or more Defendants in
24 the State of North Dakota during the Class Period.

25 71. Plaintiff Nigel Warren is currently domiciled in Hong Kong in the
26 Special Administrative Region of China, though was previously domiciled in
27 Kings County, New York, and purchased Packaged Tuna indirectly from one or
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1 more Defendants in the State of New York during the Class Period.

2 72. Plaintiff Julie Wiese is domiciled in Milwaukee County, Wisconsin,
3 and purchased Packaged Tuna indirectly from one or more Defendants in the State
4 of Wisconsin during the Class Period.

5 73. Plaintiff Thomas E. Willoughby III is domiciled in Cumberland
6 County, Maine, and purchased Packaged Tuna indirectly from one or more
7 Defendants in the State of Maine during the Class Period.

8 74. Plaintiff Daniel Zwirlein is domiciled in Waukesha County,
9 Wisconsin, and purchased Packaged Tuna indirectly from one or more Defendants
10 in the State of Wisconsin during the Class Period.

11 **Defendants**

12 **Chicken of the Sea Defendants**

13 75. Defendant Tri-Union Seafoods, LLC d/b/a Chicken of the Sea
14 International (“Tri-Union” or “COSI”) is a Delaware corporation with its
15 principal place of business at 9330 Scranton Rd. #500, San Diego, CA 92121

16 76. Defendant Tri-Union is a wholly-owned subsidiary of Defendant Thai
17 Union Group Public Company Limited, a publicly held company headquartered in
18 Thailand.

19 77. Defendant Thai Union Group Public Company Limited (“Thai Union”
20 or “TUG”) is a corporation organized and doing business under the laws of
21 Thailand. Its head office is located at 72/1 Moo 7, Sethakit 1 Road, Tambon
22 Tarsai, Mueang Samut Sakhon District, Amphur Muangsamutsakorn, Samutsakorn
23 74000, Thailand. TUG is the world’s largest canned tuna producer, processing
24 18% of the world’s production. It is the largest canned tuna producer in Thailand.

25 78. Unless otherwise stated, below, Tri-Union and TUG are collectively
26 referred to as “Chicken of the Sea” or “COSI”.

27 **Bumble Bee Defendants**

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1 79. Defendant Bumble Bee Foods LLC, f/k/a Bumble Bee Seafoods LLC
2 (“Bumble Bee”) is a domestic Delaware corporation with its principal place of
3 business at 280 10th Avenue, San Diego, CA 92101. Bumble Bee’s annual revenue
4 in 2014 exceeded \$1 billion. Bumble Bee produces and sells Packaged Tuna
5 throughout the United States (including in this District), its territories, and the
6 District of Columbia. Christopher D. Lischewski (“Lischewski”) was Bumble
7 Bee’s CEO and President during the entirety of the relevant conspiracy period. As
8 noted herein, Bumble Bee has pled guilty to its role in a conspiracy to fix prices of
9 packaged seafood products in the United States.

10 80. Defendant Lion Capital LLP (“Lion Capital”) is a British private
11 equity firm founded in June 2004 by Lyndon Lea (“Lea”) and two others, which
12 specializes in buying out and controlling investments in the consumer products
13 sector. Lion Capital forms private equity funds, such as Lion Capital Fund I, which
14 included capital commitments with investments in entities like Kettle Foods
15 (potato chips) and Jimmy Choo (designer shoes and accessories). In 2010, Lion
16 Capital formed its third private equity fund, Lion Capital Fund III, which included
17 capital commitments of €1.5 billion with investments in Bumble Bee, among
18 others.

19 81. Lion Capital is based in the United Kingdom. According to Lion
20 Capital’s website, it has operated offices in the United States during the relevant
21 period, including in New York at 888 7th Ave #4302, New York, NY 10106 and
22 Los Angeles at 100 Wilshire Blvd, Santa Monica, CA 90401.³ The Lion Capital
23 executives who managed and were involved in decision-making for Bumble Bee

24
25 ³ Lion Capital’s website states that in October of 2012, it “[r]elocated [its]
26 North American office from New York to Los Angeles.”
27 <http://www.lioncapital.com/about/#!overview>. Its current United States address is
28 the Los Angeles address indicated above.

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1 were based in Los Angeles County, California, [REDACTED]

2 [REDACTED] During the
3 relevant period and continuing to the present, Lion Capital purposefully directs its
4 activities to the United States by operating offices in the United States and through
5 its ownership and control of companies doing business in the United States,
6 including Bumble Bee. North American institutions commit approximately 75% of
7 the capital to the Lion Capital Funds.⁴ As members of a limited liability partnership
8 incorporated under the laws of the United Kingdom, the conduct of Lindberg,
9 Chang, and Capps are imputed to Lion Capital as a matter of both U.S. and British
10 law.

11 82. Lion Capital is named as a Defendant in this case as a result of its
12 direct participation in the conspiracy alleged herein and as the alter ego for Bumble
13 Bee. Both Bumble Bee and Lion Capital are privately-held business entities, and
14 Plaintiffs only learned about the details of their internal structure and ownership
15 relationship, as well as the conspiratorial facts alleged herein, through document
16 productions made in this litigation.⁵ Defendant Lion Capital (Americas), Inc.

17
18 ⁴ On April 24, 2017, Plaintiffs served Lion Capital with a subpoena at its Los
19 Angeles address for information about its sale of Bumble Bee to TUG. Following
20 Bumble Bee's guilty plea, Plaintiffs served another subpoena on Lion Capital on
21 June 13, 2017, requesting information related to Bumble Bee's guilty plea. Lion
22 Capital made two productions of documents totaling 1,333 documents (7,342
23 documents (6,715 pages) on October 4, 2017. [REDACTED]

24 [REDACTED]
25 ⁵ Lion Capital was not previously named as a Defendant. Only after [REDACTED]
26 [REDACTED]
27 [REDACTED]

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1 (“Lion Americas”) is another parent company of Bumble Bee, according to
2 Bumble Bee’s plea agreement. Lion Americas is headquartered at Lion Capital’s
3 Los Angeles office referenced above; it is the subsidiary by which Lion Capital
4 elects to operate in the United States. For example, Lion Capital once publicly
5 represented that it is a “fully integrated business across two offices. One in
6 London, one in New York.” As Lion Capital also stated on its website, its “team is
7 co-located in single offices in each of its core markets”—i.e., the United Kingdom
8 (London) *and* the United States (Los Angeles). In a court filing, Lion Capital
9 wrote that “Because Lion Capital is so U.S.-focused, in 2007, it formed its
10 subsidiary Lion Capital (Americas), Inc. in New York City (which has since
11 moved operations to Los Angeles, California).”⁶ Lion Capital has also represented
12 that its core business—the “management of investment activities”—took place
13 from its U.S. office in addition to its London office.

14 83. Lion Capital itself did not distinguish between it and Lion Americas
15 during the relevant period – either publicly or in its internal activities.

16
17
18 Lion’s management of its investment activities from a single office in each of Europe
19 (London) and North America (New York) is a critical component of the Firm’s strategy.
20 From a single office on each continent, Lion is better able to harness and share critical
21 knowledge and learning across its team through real-time, informal communication on
22 matters such as new investment ideas, industry developments, active transactions and
23 portfolio company strategies.

24
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[REDACTED] and both Lion Capital and Lion Americas use

⁶ See *Stone Lion Capital Partners, L.P. v. Lion Capital LLP*, No. 2013-1353, 2013 WL 6006296 (Fed. Cir. Nov. 1, 2013) (“Corrected Non-Confidential Brief of Appellee”).

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1 the same website without distinguishing between the two entities. Even in the
2 biographies on the individual employees, Lion Capital makes no distinction
3 between those who work for it or Lion Americas. Further, [REDACTED]

4 [REDACTED]
5 [REDACTED]
6 [REDACTED]. During the relevant period, Lion Capital and Lion Americas acted
7 as one unit and shared work and responsibilities.

8 84. Lion Americas was a mere instrumentality of Lion Capital. It would
9 not exist but for Lion Capital; it exist solely to manage Lion Capital investment
10 vehicles. In fact, during the relevant time period, Lion Capital was Lion Americas
11 only “client.” Lion Capital wholly owns Lion Americas and acts as a single
12 enterprise; anything Lion Americas does to increase the profitability of Lion
13 Capital’s investment companies is designed to serve and increase the investments
14 of Lion Capital. They thus have a complete unity to interests and common design
15 to serve Lion Capital’s business and increase the profitability and returns of Lion
16 Capital’s investment vehicles. Put another way, Lion Capital and Lion Americas
17 have no distinct economic interests; they function as a single economic unit.

18 85. At all times relevant to this Sixth Amended Complaint, Lion
19 Americas acted as the agent of Lion Capital. In fact, in filing its Form ADV, the
20 uniform form used by investment advisers to register with the SEC and state
21 securities authorities, Lion Americas answered yes to the question “Do you control
22 or are you controlled by the related person [Lion Capital LLP]?” (emphasis in
23 original). Also, Lion Capital has asserted that Lion Americas exists to provide
24 investment advice to Lion Capital about its U.S.-based portfolio companies
25 (Bumble Bee included). Accordingly, but for Lion Americas’ existence, Lion
26 Capital would have performed this function itself.
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1 86. During the relevant period, Lion Americas also had a substantial
2 overlap in personnel with Lion Capital. For example, during the relevant period,
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]. During the relevant period,
8 there is no indication that Lindberg, Capps, and Chang ever made any attempt to
9 distinguish their work for Lion Capital versus Lion Americas, such as by
10 identifying that they were appearing at a Bumble Bee Board of Director Meeting as
11 a Lion Capital partner checking on its investment as opposed to as a director of
12 Lion Americas in its management capacity (or vice versa). During the relevant
13 time period, Lindberg, Capps, and Chang never made any distinction between acts
14 they took as Lion Capital partners or as Lion Americas executives.

15 87. Although Lindberg, Chang, and Capps held titles at Lion America,
16 each was unequivocally an employee of Lion Capital. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
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1 [REDACTED]
2 [REDACTED]
3 [REDACTED] Accordingly, although Lindberg, Chang, and Capps received
4 financial compensation from both Lion Capital and Lion Americas, they had a
5 contractual right to payment from Lion Capital.

6 88. [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 [REDACTED] Accordingly, all the conduct detailed in this Sixth Amended Complaint
13 undertaken by Lindberg, Chang, and Capps was performed at the direction and
14 under the close supervision of Lea, as part of Lindberg's Chang's, and Capps'
15 duties and responsibilities to Lion Capital. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 89. Lion Capital and Lion Americas participated in the conspiracy alleged
21 in this Sixth Amended Complaint principally through Lindberg, Chang, and Capps
22 (as well as Lea and other employees of both entities), and the actions taken by
23 these individuals in furtherance of the conspiracy (as alleged below) were taken on
24 behalf of both Lion Capital and Lion Americas in their official capacities as senior
25 executives of both entities.

26 90. Lion Americas also performed functions that Lion Capital would have
27 had to perform, but for Lion Americas. [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 91. Due to Lea's ability to dictate the day-to-day responsibilities of Lion
11 Capital's members, Lion Capital has complete control and discretion over the day-
12 to-day operations of Lion Americas. For example, Capps—nominally the President
13 of Lion Americas—was subject to the contractual provision that authorized Lea to
14 determine Capps' duties and responsibilities. Lea had the same degree of control
15 over Lindberg and Chang.

16 92. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED] The primary individuals who provided
25 those management and advisory services to Bumble Bee were Lindberg, Chang,
26 [REDACTED]

27 ⁷ [REDACTED]
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1 Capps, and Lea. This is another example of Lion Capital and Lion Americas
2 employees not clearly distinguishing between their functions on behalf of Lion
3 Capital versus Lion Americas. Even though it was Lion Capital which had the
4 agreement to provide “advisory services,” Lindberg, Capps, Chang, and Lea all
5 provided these advisory and management services, without distinguishing whether
6 they were working for Lion Capital or Lion Americas as they did so.

7 93. Furthermore, Lion Americas was wholly dependent on Lion Capital
8 for funding. Upon information and belief, Lion Americas had no source of revenue
9 independent of Lion Capital, nor did Lion Americas have any independent
10 affiliation with Lion Capital’s investment funds. Thus, Lion Americas acted
11 entirely at the discretion of Lion Capital and was entirely dependent on Lion
12 Capital for funding. When Plaintiffs refer in this Sixth Amended Complaint to acts
13 done by Lion Americas by a single name in their allegations of participation in the
14 conspiracy, it is to be understood that the Plaintiffs are alleging that one or more
15 employee or agent of entities within the corporate family engaged in conspiratorial
16 acts or meetings on behalf of all of the Defendant companies within that family. In
17 fact, the individual participants in the conspiratorial meetings and discussions did
18 not always know the corporate affiliation of their counterparts, nor did they
19 distinguish among the entities within a corporate family. The individual
20 participants entered into agreements on behalf of, and reported these meetings and
21 discussions to, their respective corporate families. As a result, the entire corporate
22 family was represented in meetings and discussions by their agents and were
23 parties to the agreements reached by them. Thus, all Defendant entities within the
24 corporate families were active, knowing participants in the alleged conspiracy.
25 Hereafter, “Lion” shall refer to both Lion Capital and Lion Americas.

26
27 94. Defendant Lion/Big Catch Cayman LP (“Big Catch”) is a holding
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1 company that [REDACTED] owns Bumble Bee. Big Catch [REDACTED]
2 [REDACTED], and its principal place of business was formerly “c/o Lion Capital
3 (Americas) Inc., 888 7th Avenue, 43rd Floor, New York, NY 10019”—Lion’s
4 former office address in New York. Big Catch is the entity referenced in Bumble
5 Bee’s criminal plea agreement as the entity that would receive the proceeds from
6 the sale of Bumble Bee. Based on this fact, the DOJ required that Big Catch must
7 pay up to \$81.5 million in criminal fines in the event that Bumble Bee is sold, in
8 order to prevent Big Catch and its investors (including Lion Capital) from being
9 unjustly enriched from the unlawful conduct committed by Bumble Bee.

10 95. Big Catch is a shell company and does not engage in any operations
11 separate from [REDACTED]

12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]. Thus, Big Catch is controlled

21 _____
22 ⁸ Lischewski is and has been Bumble Bee’s CEO and President during the entirety
23 of the relevant conspiracy period. The DOJ’s sentencing memorandum for Bumble
24 Bee and [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
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1 entirely by Lion and Lion's executives who make any and all decisions for Big
2 Catch. Big Catch's business is Lion Capital's business, and as a result, there is a
3 unity of interest between Big Catch and Lion Capital.

4 96. Additionally, the corporate veil between Big Catch and Lion must be
5 pierced and disregarded in order to prevent fraud and injustice. Lion created Big
6 Catch as a vehicle both to funnel conspiracy proceeds from Bumble Bee to the
7 Lion funds, and also to attempt to insulate Lion from its involvement in the price-
8 fixing conspiracy alleged in this Sixth Amended Complaint. [REDACTED]

9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 97. Lion Capital also stripped Bumble Bee (the entity that Big Catch was
16 designed to hold) of its assets in order to minimize the financial risk to Lion and its
17 investors if the conspiracy alleged in this Sixth Amended Complaint were
18 uncovered. [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED] Lion took this step so that, if the
2 conspiracy proved successful and Bumble Bee realized Lion's profit targets, Lion
3 would result in a substantial windfall, but that if the conspiracy came to light,
4 Lion's risk of loss would be further minimized. Thus, Lion structured Big Catch to
5 shift the risk of the conspiracy's detection to the victims of the price-fixing
6 conspiracy, while seeking to guarantee Lion and its investors with the conspiracy's
7 financial upside.

8 98. Despite annual revenues of over \$900 million—[REDACTED]
9 [REDACTED]—Bumble Bee carries over [REDACTED] of debt. Following
10 its guilty plea, and as a result of this debt, the DOJ allowed Bumble Bee to pay a
11 reduced criminal fine of only \$25 million, to be paid on an installment schedule
12 over a five-year period, in connection with its involvement in the antitrust
13 conspiracy alleged herein. Bumble Bee and the DOJ acknowledged that under the
14 United States Sentencing Guidelines ("Guidelines") the appropriate fine range was
15 between \$136.2 million and \$272.4 million—an amount predicated on a volume of
16 impacted commerce for only 2011 to 2013. The ultimate fine of \$25 million is
17 therefore approximately 80% to 90% less than the Guidelines' recommended
18 range. The primary explanation for this tremendous fine reduction is due to a
19 downward departure under §8C3.3 of the Guidelines, which was applied for
20 Bumble Bee's purported inability to pay a full criminal fine without substantially
21 jeopardizing the continued viability of the organization. Bumble Bee's fine may
22 increase up to \$81.5 million, an amount to be paid by Big Catch if Bumble Bee is
23 sold, subject to certain terms and conditions. Those terms and conditions, the plea
24 agreement, and the declarations supporting Bumble Bee's poverty defense remain
25 under seal. Even with Big Catch's potential payment of up to \$81.5 million, that
26 amount is still approximately 40% less than the minimum fine contemplated by the
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1 Guidelines and approximately 70% less than the maximum fine.¹⁰ Big Catch is the
2 mechanism by which Lion Capital protected itself from Bumble Bee's liabilities.
3 Big Catch is the mechanism by which Lion Capital protected itself from Bumble
4 Bee's liabilities.

5 99.

6 100. Accordingly, Big Catch is liable for its role in the conspiracy because
7 it is the alter ego of Lion.

8 101. Lion Capital, Lion Americas, and Big Catch are all defined as "parent
9 companies" in Bumble Bee's Plea Agreement with the DOJ. (Lion Capital,
10 through its control of Bumble Bee's board of directors, expressly approved this
11 agreement). Additionally, Bumble Bee is a wholly-owned subsidiary of Big Catch,
12 and Lion Capital maintains equitable ownership of both Bumble Bee and Big
13 Catch. For example, Lion Capital had the ability to award carried interest in the
14 funds that it managed to both itself and to its members. Thus, Lion Capital had the
15 ability to transfer the ownership interest held by its funds in Bumble Bee from the
16 fund to either Lion Capital itself, or to a separate company – Lion Capital Carry LP
17 – that held carried interests for the benefit of Lion Capital's members. [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 102. Lion Capital and Lion Americas directly participated in the
23 conspiracy alleged in this Sixth Amended Complaint and purposefully directed this
24 conduct at the United States (including California). Lion was aware of the
25

26 ¹⁰ The DOJ left restitution for Bumble Bee's criminal conduct to the civil cases
27 filed before this Court.
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1 conspiracy, took acts in furtherance of the conspiracy, and knowingly stand to
2 accept the proceeds of Bumble Bee's unlawful conduct. Due to the unlawful
3 conduct alleged herein—to part of which Bumble Bee has expressly pled guilty—
4 Lion Capital, Lion Americas, and Big Catch earned profits and other earnings in
5 excess of what they would have in a competitive market. Starting by November of
6 2010, Lion became involved in Bumble Bee's business. Lion's website states that
7 it "ensure[s] that [its] companies have the best management talent to execute the
8 vision that we develop in a collaborative partnership" while never forgetting "the
9 responsibility for successful outcomes in our companies rests with us." [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 103. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] that a "key message is to ensure Dongwon that Lion will
23 support rationale [sic] market behavior by Bumble Bee." There is no reasonable
24 explanation for Lion, which was going to buy Bumble Bee and become
25 Dongwon's competitor, [REDACTED]
26 [REDACTED]
27 [REDACTED]
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1 of Lion Capital and an officer of both Lion Capital and Lion Americas)¹² gave a
2 statement about Lion's role in Bumble Bee's operations from 2010 to 2014: "We
3 are proud to have played a significant role in the evolution of Bumble Bee over the
4 last 4 years and would like to thank our partners, Chris [Lischewski] and the
5 management team, for helping us achieve such a successful return on our
6 investment." Lion Capital's operation of Bumble Bee is consistent with how it
7 advertises its business strategy. As Lea said in an interview on the Lion Capital
8 website: "If all they [companies Lion acquires] want is a check, there are plenty of
9 private equity firms that are delighted to write you a check and let you get on with
10 your business. That's not us...We're not good at that. What we're good at doing
11 is being your partner." Further, a video on the Lion website states that: "We [Lion
12 Capital] built a team with an intimate knowledge of the way consumers and brands
13 interact, allowing us to work with companies in a very different way to the average
14 private equity firm...We work closely with management to see exactly what a
15 brand is capable of achieving, and then take it to new heights.... We focus solely
16 on retail and consumer businesses so our team is uniquely positioned to work with
17 management to identify the right strategies for revitalizing operations."

18 106. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 ¹² Although Lea is an officer of Lion Americas, Lion Americas has taken the
26 position in this litigation that Lea is exclusively a Lion Capital employee, and as
27 such, Lion Americas does not have custody or control over Lea's custodial files.
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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

107. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

108. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

109. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

110. [REDACTED]

111. Upon information and belief, Lyndon Lea also learned of the conspiracy during his close supervision of Bumble Bee's business, and during his supervision of Lindberg, Chang, and Capps. [REDACTED]

[REDACTED]

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1 [REDACTED] Accordingly, in directing the responsibilities and duties of his
2 employees, Lea ratified their participation in the conspiracy by continuing to
3 assign Lindberg, Chang, and Capps responsibilities related to Bumble Bee.

4 112. Similarly, Lea was actively involved in tracking Lion's valuations of
5 Bumble Bee, so that he could provide investors with details about the value of his
6 funds, and received briefings that reflected his knowledge of the conspiracy. [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 113. [REDACTED]
17 thereof. First, as referenced above, the meetings Lindberg attended on behalf of
18 Lion Capital and Bumble Bee [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED] These ownership-level discussions [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED] Following the meeting between [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 114. Following those meetings, the U.S. subsidiaries [REDACTED]
2 [REDACTED]
3 [REDACTED] To ensure adherence to
4 the conspiracy, [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 asking rhetorically, [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 115. Lion Capital and Lion Americas took an active role in ensuring that
14 the conspiracy agreements were enforced as well. To help ensure that the
15 conspiracy pricing was followed, [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 [REDACTED] Upon information and belief, the purpose of this meeting was
22 for Lindberg to convey, and he did convey, [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 116. Lischewski routinely kept Lion Capital and Lion Americas informed
2 about conspiratorial activities. For example, and without limitation, [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED] Unbeknownst to Lischewski, StarKist [REDACTED]
7 [REDACTED] [REDACTED] At the time, Lischewski was aware
8 [REDACTED]

9 [REDACTED] Accordingly, Lischewski [REDACTED]
10 [REDACTED]
11 along with Bumble Bee's [REDACTED]
12 [REDACTED]

13 [REDACTED]
14 117. [REDACTED]
15 [REDACTED]
16 [REDACTED] One week later, on January 26, 2012,
17 Lischewski [REDACTED]
18 [REDACTED]
19 [REDACTED]

20 [REDACTED] In Lischewski's e-mail to Capps and Lindberg, he commented that
21 [REDACTED]
22 [REDACTED]

23 13 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED] Through the end of January 2012, Lischewski [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 118. [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] to help “improve” the industry. In essence, Chansiri was asking
10 Lindberg how their companies could collectively improve pricing of canned tuna.
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED] Indeed, as reflected above, by the time of
19 Lindberg’s e-mail to T. Chansiri, Lion Capital and Lion Americas were already
20 aware of and condoned the U.S. subsidiaries agreements to fix prices, and
21 Lindberg and others were actively policing the conspiracy to prevent “cheating”
22 and keep the companies adhering to their unlawful conspiracy. Lindberg ended the
23 e-mail [REDACTED]
24 [REDACTED]
25 119. Lindberg [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED] Lischewski told Lindberg
4 that [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED] For example,
16 following his meeting with Chansiri in Boston on March 13, 2012, Lindberg
17 [REDACTED]
18 [REDACTED], but also noted that he could
19 only cover additional details verbally or individually (i.e., in person). By meeting
20 in person, Lion Capital and Lion Americas employees could conceal their
21 communications and knowledge of the price-fixing conspiracy.

22 121. Lion Capital and Lion Americas also pushed Lischewski to take steps
23 intended to confirm to StarKist and Dongwon that Bumble Bee was committed to
24 the conspiracy pricing. For example, [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED] Lindberg

4 nevertheless encouraged Lischewski to make a “symbolic” public statement:

5
6 I know we think that they understand that they have been crazy and
7 we have been entirely rational and fair but I bet it isn’t quite that clear
8 on their side. Just a thought, it occurred to me that it might be a good
9 opportunity to start banging a consistent public drum for everyone’s
10 consumption that pricing needs to become reasonable. (Emphasis
added.)

11 Lindberg’s comments viewed in the context of other facts alleged in this pleading
12 reflect Lion’s knowledge of and continued support for the conspiracy, including
13 the Lion Capital and Lion Americas’ efforts to police the conspiracy pricing.

14 122. Lion Capital, through Lindberg and other Lion Americas executives,
15 ensured that Bumble Bee kept prices up and did not cheat or undercut the
16 conspiracy through lower pricing, which people in the tuna industry referred to as
17 “irrational pricing”. It was considered “irrational” to lower prices, because once
18 one company dropped prices, the others would follow to avoid losing market share
19 (i.e., sales volume). Lion Capital and its Lion Americas executives ensured that
20 Bumble Bee did not drop prices to steal market share, and through assurances at
21 the ownership level and otherwise, none of the other companies engaged in
22 “irrational pricing” either. In mid-2010, before Lion Capital purchased Bumble
23 Bee, [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28

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1 [REDACTED] In purchasing Bumble Bee, Lion Capital decided to use
2 that strategy to its advantage. It could generate additional profitability to meet its
3 investment-level profit expectations for itself and its funds was to ensure that when
4 prices of fish went up, [REDACTED]

5 [REDACTED]
6 [REDACTED] Lion Capital, through its own executives,
7 including Lindberg, and Lion Americas executives, through Capps and Chang,
8 ensured that Bumble Bee and its competitors were in sync and aligned with the
9 foregoing strategy to not compete and increase prices and thus profitability.

10 123. This goal was shared with competitors as well. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 Lischewski, with Lion
19 Capital's support, continued to meet with Dongwon executives and StarKist Board
20 of Directors members throughout 2013 and 2014, and [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 During the same
26 industry meeting, Park also met with Lischewski to discuss [REDACTED]
27 [REDACTED]

28 Lischewski and Park

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met again, [REDACTED]

124. Based on the conspiracy, TUG reported in its 2014 annual report, issued in February 2015, that “[d]espite minimal sales growth in the U.S., competitive inventory cost and reasonable market conditions helped lift the margin of our US brand.” Similarly, in December 2014, Lion was able to report that Bumble Bee’s EBITDA was a record-breaking \$150 Million, on revenue of \$1 Billion. Lion’s Kelly Mayer attributed Bumble Bee’s record year to the growth of “gross margins through disciplined pricing actions.” These financial results were due to the conspiracy. For its part, Lion Capital knowingly accepted the proceeds of the conspiracy. For example, in at least some of the years between 2011 and 2014, Lion Capital received payments from Bumble Bee of 1.25% of targeted EBITDA.

125. In summary, Lion Capital and Lion Americas knowingly entered a price-fixing conspiracy and affirmatively participated in the conspiracy through 2015 by facilitating coordination and communications with competitors to raise prices and to limit competition as well as by actively concealing the conspiracy.

126. Additionally, Lion Capital continues to own its equity stake in Bumble Bee, which has appreciated substantially since it purchased the company for \$980 million in 2010. As alleged above, TUG had agreed to pay \$1.51 billion for the company in a deal that was ultimately scuttled due to DOJ’s investigation of Defendants. Accordingly, Lion Capital’s equity stake in Bumble Bee has increased by [REDACTED] as a result of the conspiracy and Lion Americas management of and involvement in Bumble Bee during the conspiracy, [REDACTED]

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1 127. And although DOJ scuttled this merger, Lion Capital and Lion
2 Americas have already profited from the conspiracy. In March 2011, when Lion
3 Capital borrowed an additional \$150 million against Bumble Bee's assets and
4 distributed the proceeds of this loan to its investors, this allowed Lion Capital to
5 award carried interest in its funds to itself and to its members, including Lion
6 Americas employees. Furthermore, upon information and belief, Lion Capital has
7 reported to its investors the inflated value of Bumble Bee based on the valuation
8 given to it by TUG, which reflects a profit of more than \$530 million, and a return
9 on Lion's investment of more than 350%. Profits from Bumble Bee since late
10 2010 are rolled up to Lion Capital, and Lion Capital is able to report and utilize
11 those profits for its investment fund.

12 128. Lion Capital and Lion Americas also encouraged Bumble Bee to
13 engage in the conspiracy while (as alleged above) simultaneously loading it up
14 with debt and siphoning off its profits, causing Bumble Bee to become severely
15 overleveraged.

16 129. As used hereafter, the term "Bumble Bee" will refer to Bumble Bee
17 Foods LLC, Lion, and Big Catch for the time period after Lion's acquisition of
18 Bumble Bee Foods LLC. Lion and Big Catch are only being sued for participation
19 in the alleged conspiracy for the time period after Lion's acquisition of Bumble
20 Bee Foods LLC.

21 130. In light of the preceding allegations, as well as others contained in this
22 Sixth Amended Complaint, Plaintiffs refer to the acts done in furtherance of the
23 alleged conspiracy by Lion Americas, Lindberg, Chang, and/or Capps, those acts
24 were undertaken on behalf of Lion Capital and Lea. When Lion Americas,
25 Lindberg, Chang, and/or Capps acted in furtherance of the alleged conspiracy, they
26 did so on behalf of Lion Capital and Lea.
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StarKist Defendants

131. Defendant StarKist Company is a Delaware corporation with its principal place of business at 225 North Shore Drive, Suite 400, Pittsburgh, PA 15212. StarKist Company is a wholly-owned subsidiary of Dongwon Industries Co. Ltd. (“Dongwon”), which is headquartered in the Republic of Korea.

132. Defendant Dongwon is a corporation organized and doing business under the laws of South Korea, with its headquarters located at Dongwon Industries Building 7th floor, Mabang-ro 68 (Yangjae-dong), Seocho-gu, Seoul, Korea. Dongwon is a publicly traded company listed on the Korean Stock Exchange. It is the largest producer of canned tuna in South Korea.

Del Monte Defendants

133. Defendant Del Monte Corporation (“Del Monte”), now known as Big Heart Pet Brands, Inc., is a Delaware corporation with its principal place of business at 1 Strawberry Lane, Orrville, Ohio, 44667.

134. In 2014, Del Monte Pacific Limited acquired the canned and processed foods portfolio of the Del Monte Corporation. As a result, the remainder of the Del Monte business not acquired in the transaction was renamed Big Heart Pet Brands, Inc., which now largely focuses on the remaining pet foods portfolio.

135. Del Monte acquired StarKist Company in 2002. Through StarKist Company, Del Monte Produced and sold Packaged Tuna throughout the United States (including in this District), its territories and the District of Columbia. On June 6, 2008, Del Monte sold StarKist Company to Dongwon; the divestiture was completed on October 6, 2008. According to a filing by Del Monte with the Securities & Exchange Commission (“SEC”), “[a]t the time of sale, Del Monte entered into a two-year Operating Services Agreement (which was completed in September 2010) pursuant to which the Company provided operational services to StarKist Company such as warehousing, distribution, transportation, sales,

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information technology and administration.”

AGENTS AND CO-CONSPIRATORS

136. On information and belief, other corporations, partnerships, or business entities, currently unknown to Plaintiffs, are co-conspirators with Defendants in their unlawful restraints of trade. Various persons that are not named as Defendants have participated as co-conspirators in the violations alleged herein and have performed acts and made statements in furtherance thereof.

137. These other persons or entities have facilitated, adhered to, participated in, and/or communicated with others regarding the alleged conspiracy to raise and maintain prices of Packaged Tuna and restrict offerings alleged. Plaintiffs reserve the right to name some or all of these entities as Defendants at a later date.

JURISDICTION AND VENUE

138. Plaintiffs seek consideration paid, damages, restitution, treble damages or three times consideration paid by consumers of Packaged Tuna, disgorgement, other monetary relief, and other equitable relief under various state antitrust, consumer protection and unfair trade practices laws, and state unjust enrichment laws, as alleged specifically herein, as well as costs of suit, including reasonable attorneys’ fees, for the injuries that Plaintiffs and all others similarly situated sustained as a result of Defendants’ violations of those laws.

139. This Court has jurisdiction under 28 U.S.C. §§ 1331, 1337. The Court has jurisdiction over the state law claims under 28 U.S.C. § 1367 because those claims are so related to the federal claim brought by Plaintiffs at the time the matter was originally brought that they form part of the same case or controversy, and the Court may continue to exercise jurisdiction even if no federal claim remains. This Court also has subject matter jurisdiction over the state law claims under 28 U.S.C. § 1332 because the amount in controversy for each of the Classes

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1 exceeds \$5,000,000, there are more than 100 members in each of the Classes, and
2 there are members of some of the Classes who are citizens of different states than
3 Defendants.

4 140. Venue is proper in this Judicial District because (1) Defendants COSI
5 and Bumble Bee each have their principal places of business within this District;
6 (2) each Defendant transacts a substantial amount of business in this District, and
7 (3) each Defendant and the conduct alleged has affected, and continues to affect, a
8 substantial amount of trade and commerce in this District.

9 **CLASS ACTION ALLEGATIONS**

10 141. Plaintiffs as specifically identified herein also bring claims asserted in
11 this action on behalf of themselves and as a class claims under Federal Rules of
12 Civil Procedure, Rule 23(a) and (b)(3), seeking damages pursuant to various the
13 state antitrust, unfair competition, and consumer protection laws of the states
14 listed below on behalf of the following classes (the Cartwright Act Class and the
15 State Classes, each of which is individually described and further defined):

16 (a) **Cartwright Act class:** All persons and entities who resided in one
17 of the States described in paragraphs 110(b) to 110(gg),
18 specifically Arizona, Arkansas, California, the District of
19 Columbia, Florida, Guam, Hawaii, Iowa, Kansas, Maine,
20 Massachusetts, Michigan, Minnesota, Mississippi, Missouri,
21 Nebraska, Nevada, New Hampshire, New Mexico, New York,
22 North Carolina, North Dakota, Oregon, Rhode Island, South
23 Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia,
24 West Virginia, and Wisconsin, who indirectly purchased
25 Packaged Tuna for end consumption and not for resale, produced
26 by any Defendant or any current or former subsidiary or affiliate
27 thereof, or any co-conspirator, during the Class Period.

28 (b) **Arizona class:** All persons and entities who resided in the State of
Arizona who indirectly purchased Packaged Tuna for end
consumption and not for resale, produced by any Defendant or

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any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(c) **Arkansas class**: All persons and entities who resided in the State of Arkansas who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(d) **California class**: All persons and entities who resided in the State of California who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(e) **District of Columbia class**: All persons and entities who resided in the District of Columbia who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(f) **Florida class**: All persons and entities who resided in the State of Florida who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(g) **Guam class**: All persons and entities who resided in the Territory of Guam who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(h) **Hawaii class**: All persons and entities who resided in the State of Hawaii who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

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- 1 (i) **Iowa class**: All persons and entities who resided in the State of
2 Iowa who indirectly purchased Packaged Tuna for end
3 consumption and not for resale, produced by any Defendant or
4 any current or former subsidiary or affiliate thereof, or any co-
5 conspirator, during the Class Period, or from August 25, 2011 to
6 the present for antitrust claims.
- 7 (j) **Kansas class**: All persons and entities who resided in the State of
8 Kansas who indirectly purchased Packaged Tuna for end
9 consumption and not for resale, produced by any Defendant or
10 any current or former subsidiary or affiliate thereof, or any co-
11 conspirator, from August 25, 2012 to the present.
- 12 (k) **Maine class**: All persons and entities who resided in the State of
13 Maine who indirectly purchased Packaged Tuna for end
14 consumption and not for resale, produced by any Defendant or
15 any current or former subsidiary or affiliate thereof, or any co-
16 conspirator, from August 25, 2009 to the present for statutory
17 claims.
- 18 (l) **Massachusetts class**: All persons and entities who resided in the
19 State of Massachusetts who indirectly purchased Packaged Tuna
20 for end consumption and not for resale, produced by any
21 Defendant or any current or former subsidiary or affiliate thereof,
22 or any co-conspirator, during the Class Period.
- 23 (m) **Michigan class**: All persons and entities who resided in the State
24 of Michigan who indirectly purchased Packaged Tuna for end
25 consumption and not for resale, produced by any Defendant or
26 any current or former subsidiary or affiliate thereof, or any co-
27 conspirator, during the Class Period.
- 28 (n) **Minnesota class**: All persons and entities who resided in the State
of Minnesota who indirectly purchased Packaged Tuna for end
consumption and not for resale, produced by any Defendant or
any current or former subsidiary or affiliate thereof, or any co-
conspirator, during the Class Period.

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- 1 (o) **Mississippi class**: All persons and entities who resided in the
2 State of Mississippi who indirectly purchased Packaged Tuna for
3 end consumption and not for resale, produced by any Defendant
4 or any current or former subsidiary or affiliate thereof, or any co-
5 conspirator, during the Class Period.
- 6 (p) **Missouri class**: All persons and entities who resided in the State
7 of Missouri who indirectly purchased Packaged Tuna for end
8 consumption and not for resale, produced by any Defendant or
9 any current or former subsidiary or affiliate thereof, or any co-
10 conspirator, during the Class Period.
- 11 (q) **Nebraska class**: All persons and entities who resided in the State
12 of Nebraska who indirectly purchased Packaged Tuna for end
13 consumption and not for resale, produced by any Defendant or
14 any current or former subsidiary or affiliate thereof, or any co-
15 conspirator, during the Class Period.
- 16 (r) **Nevada class**: All persons and entities who resided in the State of
17 Nevada who indirectly purchased Packaged Tuna for end
18 consumption and not for resale, produced by any Defendant or
19 any current or former subsidiary or affiliate thereof, or any co-
20 conspirator, during the Class Period.
- 21 (s) **New Hampshire class**: All persons and entities who resided in
22 the State of New Hampshire who indirectly purchased Packaged
23 Tuna for end consumption and not for resale, produced by any
24 Defendant or any current or former subsidiary or affiliate thereof,
25 or any co-conspirator, during the Class Period.
- 26 (t) **New Mexico class**: All persons and entities who resided in the
27 State of New Mexico who indirectly purchased Packaged Tuna
28 for end consumption and not for resale, produced by any
Defendant or any current or former subsidiary or affiliate thereof,
or any co-conspirator, during the Class Period.
- (u) **New York class**: All persons and entities who resided in the State
of New York who indirectly purchased Packaged Tuna for end

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1 consumption and not for resale, produced by any Defendant or
2 any current or former subsidiary or affiliate thereof, during the
3 Class Period, or from August 25, 2012 to the present for consumer
4 protection claims.

5 (v) **North Carolina class**: All persons and entities who resided in the
6 State of North Carolina who indirectly purchased Packaged Tuna
7 for end consumption and not for resale, produced by any
8 Defendant or any current or former subsidiary or affiliate thereof,
9 or any co-conspirator, during the Class Period.

10 (w) **North Dakota class**: All persons and entities who resided in the
11 State of North Dakota who indirectly purchased Packaged Tuna
12 for end consumption and not for resale, produced by any
13 Defendant or any current or former subsidiary or affiliate thereof,
14 or any co-conspirator, during the Class Period.

15 (x) **Oregon class**: All persons and entities who resided in the State of
16 Oregon who indirectly purchased Packaged Tuna for end
17 consumption and not for resale, produced by any Defendant or
18 any current or former subsidiary or affiliate thereof, or any co-
19 conspirator, during the Class Period.

20 (y) **Rhode Island class**: All persons and entities who resided in the
21 State of Rhode Island who indirectly purchased Packaged Tuna
22 for end consumption and not for resale, produced by any
23 Defendant or any current or former subsidiary or affiliate thereof,
24 or any co-conspirator, between July 15, 2013 and the present.

25 (z) **South Carolina class**: All persons and entities who resided in the
26 State of South Carolina who indirectly purchased Packaged Tuna
27 for end consumption and not for resale, produced by any
28 Defendant or any current or former subsidiary or affiliate thereof,
or any co-conspirator, during the Class Period.

(aa) **South Dakota class**: All persons and entities who resided in the
State of South Dakota who indirectly purchased Packaged Tuna
for end consumption and not for resale, produced by any

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Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(bb) **Tennessee class:** All persons and entities who resided in the State of Tennessee who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(cc) **Utah class:** All persons and entities who resided in the State of Utah who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(dd) **Vermont class:** All persons and entities who resided in the State of Vermont who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(ee) **Virginia class:** All persons and entities who resided in the State of Virginia who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(ff) **West Virginia class:** All persons and entities who resided in the State of West Virginia who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(gg) **Wisconsin class:** All persons and entities who resided in the State of Wisconsin who indirectly purchased Packaged Tuna for end consumption and not for resale, produced by any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

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1 142. The Cartwright Act Class and the State Classes are collectively
2 referred to herein as the “Classes” unless otherwise indicated.

3 143. Excluded from each of the Classes are Defendants, their parent
4 companies, subsidiaries and affiliates, any co-conspirators, federal governmental
5 entities and instrumentalities of the federal government, states and their
6 subdivisions, agencies and instrumentalities, all judges assigned to this matter, all
7 jurors in this matter, and all persons and entities who only purchased Packaged
8 Tuna directly or for resale.

9 144. Each of the Classes is so numerous that joinder of all members would
10 be impracticable. While Plaintiffs do not know the exact number of members of
11 each of the Classes, Plaintiffs believe there are at least hundreds of thousands of
12 members in each of the Classes.

13 145. Common questions of law and fact exist as to all members of each of
14 the Classes. This is particularly true given the nature of Defendants’ conspiracy,
15 which was generally applicable to all members of each of the Classes, thereby
16 making appropriate relief with respect to each Class as a whole. Such questions of
17 law and fact common to the Classes include, but are not limited to:

- 18 (a) Whether the Defendants and their co-conspirators engaged in a
19 combination and conspiracy to fix, raise, maintain or stabilize the
20 prices of Packaged Tuna sold in the United States and in each of
21 the States alleged herein;
- 22 (b) The identity of the participants of the alleged conspiracy;
- 23 (c) The duration of the alleged conspiracy and the acts carried out by
24 Defendants and their co-conspirators in furtherance of the
25 conspiracy;
- 26 (d) Whether Defendants’ alleged conduct violated various state
27 antitrust and restraint of trade laws;
- 28

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- 1 (e) Whether Defendants' alleged conduct violated various state
2 consumer protection and unfair competition laws;
3 (f) Whether the conduct of Defendants and co-conspirators, as alleged
4 in this Complaint, caused injury to the business or property of
5 Plaintiffs and the members of the Classes;
6 (g) The effect of Defendants' alleged conduct on the prices of
7 Packaged Tuna sold in the United States during the Class Period;
8 and
9 (h) The appropriate relief for the Classes, including injunctive and
10 equitable relief.

11 146. Each Plaintiff's claims are typical of the claims of the members of the
12 respective Classes each Plaintiff seeks to represent, and each Plaintiff will fairly
13 and adequately protect the interests of the respective classes such Plaintiff seeks to
14 represent. Each of the Plaintiffs and all members of the Classes that Plaintiffs
15 seek to represent were similarly affected by Defendants' wrongful conduct in that
16 they paid artificially inflated prices for Packaged Tuna purchased indirectly from
17 the Defendants and/or their co-conspirators.

18 147. Each Plaintiff's claims arise out of the same common course of
19 conduct giving rise to the claims of the other members of each of the Classes that
20 each Plaintiff seeks to represent. Each Plaintiff's interests are coincident with, and
21 not antagonistic to, those of the other members of the respective Classes that
22 plaintiff seeks to represent. Plaintiffs are represented by counsel who are
23 competent and experienced in the prosecution of antitrust and class action
24 litigation.

25 148. The questions of law and fact common to the members of each of the
26 Classes predominate over any questions affecting only individual members,
27 including legal and factual issues relating to liability and damages.

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1 149. Class action treatment is a superior method for the fair and efficient
2 adjudication of the controversy, in that, among other things, such treatment will
3 permit a large number of similarly situated persons to prosecute their common
4 claims in a single forum simultaneously, efficiently and without the unnecessary
5 duplication of evidence, effort and expense that numerous individual actions
6 would engender. The benefits of proceeding through the class mechanism,
7 including providing injured persons or entities with a method for obtaining redress
8 for claims that it might not be practicable to pursue individually, substantially
9 outweigh any difficulties that may arise in management of this class action.

10 150. The prosecution of separate actions by individual members of the
11 Classes would create a risk of inconsistent or varying adjudications, establishing
12 incompatible standards of conduct for Defendants.

RELEVANT MARKETS

13
14 151. The relevant geographic market is the United States. Defendants
15 operate Packaged Tuna in the United States and, collectively, control the U.S.
16 market of Packaged Tuna. Collectively, Defendants account for approximately
17 80% of Packaged Tuna sales in the United States. Unlike Packaged Tuna
18 manufacturers and sellers located outside of the United States, Defendants have
19 U.S. facilities, relationships and distribution assets in the United States that enable
20 Defendants to avoid foreign product import tariffs and to effectively constrain
21 prices for Packaged Tuna packaged and sold in the United States.

22 152. The relevant product market is Packaged Tuna.

23 153. The market in the United States for Packaged Tuna is approximately
24 \$1.8 billion annually. As shelf-stable food products, Packaged Tuna may be
25 transported across state lines in the final packaging and without cold-chain or
26 further processing.

27 154. Packaged Tuna is sold nationwide to consumers in a few standard
28

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1 sizes and predominantly in standard grades. Each brand's offerings compete with
2 each other brand's comparable offerings.

3 155. Packaged Tuna is sold as "white meat", which consists of Albacore,
4 and "light meat", which is primarily Skipjack tuna. The market is dominated by a
5 few common sizes of packages: cans in 5oz and 12oz size, sold by all Defendants,
6 and pouches, sold by StarKist and Bumble Bee. The tuna in the cans or pouches
7 falls into a few grades (chunk, solid, flake). Accordingly, product offerings are
8 readily described by these brief categories – for example "5oz chunk light."

9
10 **INTERSTATE COMMERCE**

11 156. Defendants manufactured and/or sold Packaged Tuna in the United
12 States in a continuous and uninterrupted flow of interstate commerce, including
13 through and into this judicial district.

14 157. Defendants' business activities substantially affected interstate
15 commerce in the United States and caused antitrust injury throughout the United
16 States.

17 158. Defendants' business activities also affected the intrastate (or intra-
18 District, or intra-Territorial) commerce of every jurisdiction for which a claim is
19 asserted herein, as further specifically alleged in Claims for Relief Two through
20 Seventy-Seven herein where required. Packaged Tuna is a staple food. American
21 consumers, on average, currently purchase more than two pounds of this product
22 per capita annually, and thousands of consumers buy it each year in every single
23 state, District and territory.

24 159. Together, Defendants control approximately 80% of the United
25 States Packaged Tuna market. StarKist controls approximately 40-44% of the
26 market, Bumble Bee approximately 24-25% and Tri-Union approximately 15-17%.

27 **PARENT ENTITY LIABILITY**
28

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160. TUG, through its wholly-owned subsidiary Tri-Union, produces and sells Packaged Tuna throughout the United States (including this District), its territories and the District of Columbia. In recent years, 40% or more of its sales have originated in the United States, which is its largest market.

161. TUG purposefully directs its activities to the United States by exporting Packaged Tuna, including canned tuna, from Thailand to this country. TUG further purposefully directs its activities to the United States through its method of conducting business. It currently has three strategic business units, one of which is the “Ambient Seafood” unit, which includes its global canned tuna business; Tri-Union is part of that business unit and is viewed by TUG as part of its footprint in the United States. Indeed, TUG has its own fishing fleet and is thus vertically integrated with Tri-Union. TUG also purposefully directs its activities into the United States by operating Thai Union North America, Inc. (“TUNAI”) (a company formerly known as Thai Union International, Inc.), that was founded in 1996. TUNAI is a wholly-owned instrumentality of TUG and has its address at 9330 Scranton Road, Sorrento South Corporate Center, Suite 500, San Diego CA 92121 (the same address as Tri-Union). TUNAI’s President is Thiraphong Chansiri (President and CEO of TUG). The Chansiri family is the largest single shareholder in TUG, owning 20.4% of its stock.¹⁵

162. TUG directly participated in the conspiracy alleged herein and used its dominance and control over Tri-Union’s Packaged Tuna business to conspire with the other Defendants and their co-conspirators. Among the members of the Board

¹⁵ TUG sponsors the issuance of American Depository receipts traded on NASDAQ that allow United States investors to trade its equities in the domestic securities market. In that connection, it regularly files reports with the United States Securities & Exchange Commission.

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1 of Directors of Tri-Union are Kraisorn Chansiri (Chairman of TUG), Cheng
2 Niruttinanon (Executive Chairman of TUG),¹⁶ and the aforementioned Thiraphong
3 Chansiri. Chan Tin King, a former Director of Tri-Union, now serves as Executive
4 Director and Chief Financial Officer (“CFO”) of TUG. Shue Wing Chan (“Chan”),
5 the President and CEO of Tri-Union since 2007, is a member of the Chansiri
6 family, and is a member of TUG’s self-styled “Global Leadership Team.” Prior to
7 joining Tri-Union, he served as the CFO of TUG.¹⁷ [REDACTED]

8 [REDACTED]
9 [REDACTED]. His dual role and his membership in the
10 founding family made his participation inextricable from TUG.

11 163. TUG exercises control and dominance over Tri-Union through these
12 individuals. And, according to his own LinkedIn webpage, David Roszmann
13 (“Roszmann”), the former Chief Operating Officer (“COO”) of Tri-Union, who
14 joined the company in March of 2013, served as the “only direct report to CEO
15 [Chan] (relative of majority owning family of this foreign public company [TUG])
16 with all functions direct-reporting to COO including sales, marketing,
17 procurement, supply chain, operations, finance, HR, legal and IT.” Roszmann left
18 Tri-Union in December of 2015, soon after Tri-Union’s attempt to acquire Bumble
19 Bee was assailed by the DOJ, as further described below.

20
21
22 ¹⁶ The Niruttinanon family is the third largest shareholder in TUG, owning
23 7.0% of its stock.

24 ¹⁷ [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28

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164. TUG publicly acknowledges its dominance over Tri-Union. The following pertinent excerpt of an organizational chart that appears on TUG’s website demonstrates that TUG views Tri-Union as part of its overall “Global Tuna Business” and “US Ambient Operations” that are controlled directly by TUG’s Board of Directors and executives:



165. TUG and Tri-Union Seafoods LLC d/b/a Chicken of the Sea International (“Tri-Union” or “COSI”) acted as a single business enterprise and TUG’s control and dominance over COSI and the integration of their collective human and capital resources and operations were intended to and did achieve a common business purpose. Ultimately, COSI is but a mere shell and conduit for

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1 the affairs of TUG, which stripped it of assets. For the reasons that follow, it
2 would be an unjust and inequitable result to permit TUG to escape liability for the
3 conduct alleged herein.

4 166. COSI earned profits in excess of what it would have earned in a
5 competitive market. It transferred this ill-gotten gain to TUG by paying out the
6 unlawfully-obtained profits and other conspiracy proceeds to TUG in the form of
7 dividends and other transfer payments. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED] Accordingly, TUG knowingly
18 profited from COSI's participation in the conspiracy and knowingly accepted the
19 proceeds of the conspiracy and has been unjustly enriched. [REDACTED]

20 [REDACTED]
21 [REDACTED] As a result of these facts,
22 considered alone or in combination with one or more of the foregoing other facts,

23 _____
24 ¹⁸ [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28

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1 adherence to the fiction of the separate existence of TUG and COSI would sanction
2 a fraud or promote an injustice, and an inequitable result or an injustice would
3 occur if the corporate form were elevated over substance.

4 167. [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 168. COSI and TUG also engaged in joint marketing and branding of
11 COSI. [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 169. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 170. In further recognition of the fact that TUG and COSI were at all
23 relevant times a single business enterprise, [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 171. Further COSI, which has its corporate headquarters in San Diego,
6 California, [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 172. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 173. [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 174. Thus, TUG and Tri-Union operated as a single business enterprise and
24 Tri-Union is the *alter ego* and agent of TUG. Moreover, TUG directly participated
25 in the conspiracy described herein through personnel who had duties at TUG, such
26 as Chan and Wipada Termlertmanuswong, both of whom were stationed in San
27
28

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Diego. In addition, TUG, by its own acknowledgement, profited from the conspiracy.

175. TUG withdrew the substantial profits from the conspiracy, from COSI. [REDACTED]

176. As a result of COSI's transfers to TUG, TUG left COSI unable to satisfy a substantial judgment. For example, COSI's stated equity as of December 31, 2012 was just \$62 million. Approximately \$22 million of the equity was COSI's plant facilities and equipment. In addition, in 2012 COSI had over \$63 million in "related party" payables. Given the breadth and scope of the alleged conspiracy, an award of damages even before statutory trebling cannot reasonably be met by COSI alone. Because TUG reaped the rewards and COSI alone cannot make the victims whole, it would be inequitable to exclude the single business enterprise composed of TUG and COSI from joint and several liability.

Dongwon And StarKist Act As A Single Entity

177. Dongwon itself has repeatedly availed itself of the jurisdiction of United States federal courts.¹⁹

¹⁹ *Dongwon Indus. Co., Ltd. v. Yoshida*, No. 90-cv-00282 (D. Alaska); *Yu Sheng Fishery Co. v. Dongwon Indus. Co., Ltd.*, No. 91-00018, 1991 WL 126138, at *1 (D. Guam May 20, 1991) (denial of motion by Dongwon for *vacatur* of writ of maritime attachment, dismissal of *in rem* claims and release of security; court noted that "[t]here is no dispute of the fact that Dongwon has sufficient minimum contacts with Guam to subject it to general *in personam* jurisdiction and suit in this district"); *Matter of Yu Sheng Fishery Co., Ltd.*, 1993 A.M.C. 116 (D. Guam July 12, 1991); *Dongwon Indus. Co., Ltd. v. Ships Gear & Transit, Inc.*, No. 93-cv-01691 (S.D. Cal.) (suit alleging contract and tort claims against seller of a purse seine skiff); *Perez v. Dongwon Indus. Co.*, No. 1:02-cv-00025 (D. Guam Aug. 9, 2002) (admiralty suit against Dongwon that was settled); *United States ex rel. Moore & Co., P.A. v. Majestic Blue Fisheries, LLC*, 69 F.Supp. 3d 416 (D. Del. 2014), *rev'd*, 812 F.3d 294 (3d Cir. 2016) ("*Moore*") (proceedings involving (continued...))

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(...continued)

defendants' (including Dongwon) motion to dismiss claims under the False Claims Act relating to the sinking a United States-flagged vessel operated by Dongwon); *Hill v. Majestic Blue Fisheries, LLC*, Civ. No. 11-00034, 2013 WL 1499155 (D. Guam April 12, 2013) ("*Hill*") (denying Dongwon's motion to dismiss for failure to state a claim) and 2015 WL 3961421 (D. Guam June 30, 2015) (involving various motions dealing with pretrial settlement by Dongwon); *Yang v. Majestic Blue Fisheries, LLC*, Civ. No. 13-00015, 2015 WL 5001190 (D. Guam Jan. 14, 2015), *adopted in part and rejected in part*, 2015 WL 5003606 (D. Guam Aug. 24, 2015), *recon. denied*, 2016 WL 1411335 (D. Guam April 11, 2016) (all dealing with Dongwon's participation in a scheme with relatives of corporate insiders to acquire two United States flagged vessels). The *Hill*, *Yang* and *Moore* cases are of significance here. The underlying facts are laid out in *Majestic Blue*, 2014 WL 3728556, at *10-35 and the *qui tam* complaint filed in the *Moore* case in November of 2012. Dongwon owned the F/V *Majestic Blue*, a tuna fishing vessel. Jae-woong Kim, the brother of Dongwon Chairman Jae-chul Kim, was the General Manager of Dongwon's office in Guam and had two daughters who were American citizens born on Guam. In 2008, those women became the figureheads for Majestic Blue Fisheries LLC ("MBFLLC"), a United States limited liability company. The F/V *Majestic Blue* was sold to that entity for \$10. MBFLLC thereupon entered into maintenance and ship manning contracts with Dongwon whereby the latter essentially ran the vessel, which, because it was owned by American citizens, could fly the American flag. A series of American captains was hired to lead the vessel, but they were figureheads; largely Korean personnel selected by Dongwon really held the reins of control. The crew on the vessel engaged in repeated violations of, *inter alia*, MARPOL (the International Convention on the Prevention of Pollution from Ships) and certain laws relating to fishing practices. In June of 2010, the vessel sank after a series of poor repairs by Dongwon. MBFLLC sued for a limitation of its liability. Chief Engineer Chang Cheol Yang and Captain David Hill both died in the incident and their next of kin sued both MBFLLC and Dongwon. Dismissal of the *Moore* case was recently reversed, and the findings of fact made by the Magistrate Judge in *Majestic Blue* are being appealed to the Ninth Circuit. Adam Baske, a tuna expert formerly with the Pew Charitable Trusts, has, in an article on the F/V *Majestic Blue*, called Dongwon "one of the international bad boys in terms of illegal fishing activity." <https://medium.com/matter/mutiny-on-the-majestic-blue-80e3d2fbb345#.4wrwj94gy>.

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178. According to StarKist Company's website:

Founded in 1969, Dongwon Group began as a fisheries business and branched out into various sectors including a strong food & beverage manufacturing arm, Dongwon F&B. Dongwon F&B now owns 75% of the canned tuna market share in Korea. Dongwon Industries is one of the world's largest tuna catching companies with a fleet of 36 boats. Dongwon's world class fish procurement and processing capacity builds on StarKist's national brand recognition and distribution networks in the United States to bring world-class seafood to consumers worldwide.²⁰

179. Dongwon's own website has this to say about its control over StarKist Company:

StarKist is the world's best tuna brand with 65 years of history, and holds the No.1 position in the US tuna market. Like Dongwon Group in Korea, StarKist is an iconic tuna brand in the United States, and has been controlled by Dongwon Group since 2008, accompanying Dongwon Group on its journey to globalization. Dongwon Group, which has already become the dominant player in Korea's tuna market, has focused on the steady growth of the world's tuna market and determined that tuna can be one of core resources that will lead future industries. Through the acquisition of StarKist, Dongwon Group has secured an opportunity to take off as the world's biggest tuna company, and will become de facto a globalized enterprise. (Emphases added).²¹

180. For the reasons that follow, it would be an unjust and inequitable result to permit Dongwon to escape liability for the conduct alleged herein.

²⁰ <http://starkist.com/about-starkist>

²¹ <http://www.dongwon.com/eng/content/subsidiary/04020113>.

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1 181. Before describing the interrelationship between StarKist Company
2 and Dongwon Industries, it is first necessary to explain briefly the concept of the
3 Korean *chaebol*, which is a recognized concept in the academic business literature
4 focused on South Korean companies. *See, e.g.*, the general discussions in David
5 Hundt, *Korea's Developmental Alliance: State, Capital and the Politics of Rapid*
6 *Development* (2009); R. M. Steers, K.S. Yoo, & G. Ungson, *The Chaebol: Korea's*
7 *New Industrial Might* (1989).

8 182. The term “*chaebol*” is made up of the words “*chae*” (wealth or
9 property and “*bol*” (clan or group). Chaebols are closely-knit business groups in
10 South Korea under the control of a single family or extended family, with key
11 flagship firms which are used as the instruments of control of other firms within
12 the group . They have four key features: (1) the governance structure of the group
13 involves family or extended family control; (2) the formal organizational structure
14 of the group involves a group headquarters, located in an actual or *de facto* holding
15 company, sometimes known as a “flagship” company, which controls a network of
16 subsidiaries, which fall under the control of the family, the group as a whole, and
17 of flagship firms within the group; (3) the business structure of the firm
18 encompasses a number of discrete products and services, some of which are wholly
19 unrelated and others that are effectively vertically integrated; and (4) these groups
20 are characterized by strong internal cultures of hierarchy, familism and loyalty,
21 with family members of the founder or his cohorts also occupying key managerial
22 positions within the group.

23 183. The Dongwon family of companies fits this definition. The company
24 started in 1969 and is dominated by Chairman Jae-chul Kim (“J.C. Kim”) and
25 members of his family or extended family, as described in more detail below. The
26 group headquarters is in Seoul, South Korea, where its holding company,
27 Dongwon Enterprise, is located. Through its subsidiaries, it operates in a number
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1 of business sectors including, *inter alia*, marine products, other food products, feed
2 products and pet food, packing materials, and aluminum foil products. As
3 explained below, the Dongwon family of companies has an internal culture of
4 hierarchy, familism and loyalty. Defendants Dongwon Industries and StarKist
5 Company exhibit that culture with members of J.C. Kim's family being put in key
6 positions in both companies and executives at Dongwon Enterprise, Dongwon
7 Industries and various other Dongwon subsidiaries being routinely seconded to
8 StarKist Company to fill managerial roles. Dongwon Industries, run by J.C. Kim,
9 is the parent entity for StarKist Company. [REDACTED]

10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]

15 184. Dongwon purposefully directs its activities in the United States
16 through its controlled and wholly-owned subsidiary StarKist Company, through
17 which it produces and sells Packaged Tuna throughout the United States (including
18 in this District), its territories and the District of Columbia. Dongwon also has an
19 ownership interest in other United States businesses. It has a 12.5% stake in Silver
20 Bay Seafoods, LLC (a fishery located in Sitka, Alaska) and a 50% majority interest
21 in D.W. Global, Inc. (a shipping and import/export company located in Commerce,
22 California). According to its quarterly and annual reports, Dongwon typically
23 derives more than 50% of its global revenue from the United States. Indeed,
24 Dongwon has its own fishing fleet and is vertically integrated with StarKist.
25 Dongwon also purposefully directs its activities to the United States by exporting
26 Packaged Tuna to this country. Dongwon directly participated in the conspiracy
27 alleged herein, as described herein, as well as using its control over StarKist's
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1 Packaged Tuna business to conspire with the other Defendants and their co-
2 conspirators.

3 185. Dongwon dominates StarKist, and has done so since June 6, 2008
4 when it contracted to purchase StarKist from Del Monte (a sale completed in
5 October 2008).

6 186. Once it acquired StarKist in June of 2008, Dongwon participated
7 directly in the alleged conspiracy. For example, it permitted the collusive can
8 resizing initiated by its predecessor to go forward and it supported and benefitted
9 from the succession of collusive price increases that commenced in 2008 that are
10 described herein.

11 187. Ingu Park ("Park"), the Chairman of the Board of StarKist, served as
12 its Acting President from November of 2010 to March of 2011, and also serves as
13 CEO of Dongwon Precision Machinery Company. During the Class Period,
14 including in 2008, Park also served as Vice-Chairman of Dongwon Enterprise Co.,
15 Ltd. [REDACTED]

16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 [REDACTED]

23 188. [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 189. Choe first took a title at StarKist in March of 2012, but formalities
7 notwithstanding, he was closely involved in the management of StarKist. For
8 example, [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 190. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 191. Choe maintained a Dongwon employee status with a Dongwon title
20 and a Dongwon email address until March 26, 2012. StarKist's own website,
21 however, describes the reality: that Choe (StarKist's current CEO and President)
22 joined StarKist in 2010. This is for practical purposes true, and it demonstrates the
23 absence of meaningful distinction between StarKist and Dongwon management
24 after Dongwon's purchase of StarKist.

25 192. Nam-Jung Kim (son of Dongwon Chairman Jae-chul Kim), who
26 served as the COO of StarKist from 2012 until October of 2014, was Vice-
27 President of Dongwon F&B and of Dongwon Enterprise Co. He now serves as a
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1 Director of both StarKist and Dongwon.²² [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED]

8 [REDACTED]

9 193. Similarly, Hyung-Joo Kim, Chief Financial Officer (“CFO”) of
10 Dongwon F&B, became the CFO of the StarKist in 2012. Likewise, Park serves as
11 CEO of Dongwon Precision Machinery Company. Nam-Jung Kim, Hyung-Joo
12 Kim, and Ingu Park all served as officers of StarKist during the period of the
13 conspiratorial activities described herein, would have known of those activities,
14 and would have relayed that information to executives at Dongwon, as reflected in
15 Dongwon’s own statements described below.

16 194. After the acquisition, American executives at StarKist began to
17 leave—voluntarily and involuntarily. [REDACTED]

18 [REDACTED]

19 [REDACTED]

20

21

22 ²² According to one article, “Kim Nam-Jung is the younger son of Dongwon
23 chairman Kim Jae-Chul, who founded the business in 1969 to fish for tuna and
24 established his first overseas base in the Republic of Ghana in 1973.... In
25 preparation for succession, the founder has been transferring ownership of the
26 private family holding company, Dongwon Enterprise Co., which owns stakes in
27 various listed affiliates, to Nam-Jung. Jae-Chul holds a 24.5% stake and Nam-
28 Jung, 68%. <https://www.forbes.com/profile/kim-nam-jung/>.

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195.

²³ Dongwon is no stranger to antitrust violations in the food industry. In June of 2011, one of its subsidiaries, Dongwon Dairy Foods, was fined 1.31 billion Korean won by the Korean Fair Trade Commission (“KFTC”) for conspiring with three other firms to rig prices in the South Korean cheese market. According to the KFTC, employees of the Dongwon subsidiary were found to have participated in “a covert organization established for the purpose of such price-fixing”; they had multiple meetings with competitors in 2007-08, in which they agreed to raise cheese prices by 15-20%. <http://www.koreaherald.com/view.php?ud=20110626000297>.

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1 [REDACTED]
2 [REDACTED]
3 196. Dongwon also participated directly in managing other facets of
4 StarKist's operations, [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED] StarKist became

10 Dongwon's instrument—its marketing conduit for Dongwon's tuna—under the
11 control of Dongwon (and Dongwon executives). And, as discussed below, given
12 Dongwon's control and the unity of interests between StarKist and its parent in
13 carrying out the conspiracy alleged here, it would be unjust and lead to an
14 inequitable result to allow Dongwon to escape liability for StarKist's acts.
15 Dongwon purchased and controlled StarKist to its benefit in becoming a "*de facto*
16 globalized enterprise" and extending its operations to the United States using an
17 already well-known national brand.
18

19 197. Due to the unlawful conduct alleged herein, StarKist earned profits in
20 excess of what it would have earned in a competitive market. StarKist transferred
21 its ill-gotten gain obtained through the alleged conspiracy to Dongwon, by paying
22 out the unlawfully obtained profits and other conspiracy proceeds to Dongwon in
23 the form of dividends and other transfer payments. [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED] Accordingly, Dongwon
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1 knowingly profited from StarKist's participation in the conspiracy and knowingly
2 accepted the proceeds of the conspiracy and has been unjustly enriched. As a
3 result of these facts, considered alone or in combination with one or more of the
4 foregoing other facts, adherence to the fiction of the separate existence of
5 Dongwon and StarKist would sanction a fraud or promote an injustice, and an
6 inequitable result or an injustice would occur if the corporate form were elevated
7 over substance.

8 198. From July 2008 when Dongwon took the reins of StarKist, to October
9 of 2014, StarKist had a total of five CEOs: Donald Binotto ("Binotto"), Ingu Park,
10 In-Soo Cho, interim CEO Sam Hwi Lee, and current CEO Choe.

11 199. As set forth herein, Dongwon participated in the conduct as alleged; in
12 addition to its complete control and domination of StarKist, its disregard of
13 corporate forms [REDACTED]
14 [REDACTED], and its descriptions of Dongwon
15 personnel as working for Starkist, which was true in fact even when not
16 acknowledged in titles, demonstrates that StarKist is the agent, instrumentality and
17 *alter ego* of Dongwon.

18 **Del Monte And StarKist Acted As Single Entities**

19 200. In its 2008 Form 10-K filed with the Securities and Exchange
20 Commission ("SEC") and in preceding Form 10-Ks, Del Monte referred to the
21 "StarKist Seafood operating segment," which indicates that StarKist did not
22 function as an autonomous entity during the period of its ownership by Del Monte.

23 201. Del Monte owned StarKist until October 2008, and remained involved
24 in the operations by contract until September 2010. As set forth below, Del Monte
25 participated directly in various acts in furtherance of the continuing conspiracy
26 alleged herein. Certain individuals acting on behalf of Starkist that are mentioned
27 herein came to StarKist from Del Monte. Examples are Melissa Murphy
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1 (“Murphy”), StarKist’s Senior Vice-President of Corporate Affairs and Human
2 Resources, who served as Del Monte’s Vice-President of Corporate
3 Communications from 2003 to 2008; Steve Hodge (“Hodge”), a former Senior
4 Vice-President of Sales for StarKist from May of 2010 to December of 2013 who
5 was employed by Del Monte as a Director of Field Sales for StarKist from 2008-
6 10, and who pled guilty to price-fixing in this case; and Joe Tuza (“Tuza”), who
7 served as the Vice-President of Marketing for Del Monte before joining StarKist.

8 202. [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 203. [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]

16 204. Defendants and their co-conspirators directly and through their
17 affiliates sold Packaged Tuna in the United States and in this district at artificially
18 inflated prices during the Class Period. Defendants are direct, horizontal
19 competitors in the United States Packaged Tuna market.

20 **ADDITIONAL FACTUAL ALLEGATIONS**

21 **A. Overview of the Packaged Tuna Industry.**

22 205. In addition to the facts alleged above, which are incorporated by
23 reference, the following facts are also alleged:

24 206. Packaged Tuna starts as raw fish that is processed, cooked and canned
25 for flavor, safety, and to increase shelf life. Because the tuna are generally caught
26 far out at sea, raw tuna is usually delivered to canneries or processing facilities in a
27 frozen or refrigerated state. Upon delivery to a processing plant, an initial quality
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1 control inspection is performed.

2 207. Tuna of acceptable quality is transferred to large ovens for
3 “precooking.” Following pre-cooking and cleaning, tuna is transmitted into a
4 filling machine which processes the tuna into cans or pouches in pre-set amounts.
5 The containers are then closed and sealed in sealing machines.

6 208. Each package has a code that identifies the plant, product, date, batch,
7 and other identifying information. Filled and sealed packages are then cooked
8 under pressure to make the products commercially sterile and so that they will have
9 a long shelf life.

10 209. Packaged Tuna is largely sold, in the original packaging, directly to
11 wholesale distributors, who, in turn, re-sell, also in their original packaging, to
12 grocery stores, restaurants, school districts and other outlets. Additionally,
13 Packaged Tuna is sold both directly and indirectly, in their original packaging, to
14 club warehouses, retail groceries, grocery cooperatives, mass merchandisers, and
15 drug stores, among others, who resell Packaged Tuna to end-user consumers in
16 their original packaging.

17 210. Defendants all currently sell or during the class period sold Packaged
18 Tuna in the United States. Defendants collectively dominate the United States’
19 highly-concentrated Packaged Tuna industry and have done so for decades.
20 StarKist, Bumble Bee, and COSI for about 80% of the tuna market, and the
21 remaining share is divided among private label brands, typically associated with
22 and distributed by a single retailer. Beginning in or about 2000, national demand
23 for Packaged Tuna, began to decline for numerous reasons. Between 2000 and
24 2014, the average per person annual tuna consumption decreased by more than
25 31% from approximately 3.5 pounds per person per year to 2.4 pounds per person
26 per year

27 211. In a competitive environment, a decline in demand for a given
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1 commodity product should (other factors being equal) lead to a decline in that
2 product's price. However, as Defendants control the market and have agreed to
3 restrict capacity, allocate customers, and fix prices for Packaged Tuna, the prices
4 were set at artificially high levels beginning not later than July 21, 2008. Further,
5 while the raw material is the largest cost input, the price of canned tuna since 2007
6 has outpaced the price of the major component fish, namely skipjack tuna, and
7 significant oversupply and falling raw material prices during periods since the
8 conspiracy began have not resulted in price reductions as would be expected in a
9 competitive industry. Growth of prices that outstrips rises in raw product costs
10 and/or persists when material costs fall, and in markets where demand is softening,
11 suggests suspension of ordinary market functions. Prices for Packaged Tuna since
12 at least June 1, 2011, were a direct result of Defendants' conspiracy to diminish
13 can size and collusively set and raise prices, to police discounts and refrain from
14 offering products labeled to indicate sustainability features. As a result, Plaintiffs
15 and the Classes paid artificially-inflated prices for Packaged Tuna purchased
16 indirectly from Defendants.

17 **B. Defendants Engaged in an Anticompetitive Conspiracy**

18 212. At least as early as June 1, 2011 Defendants COSI, Bumble Bee and
19 StarKist participated in an anticompetitive horizontal cartel, perpetuated through
20 organizations the Defendants themselves created, and which conspiracy included
21 communications in person and by telephone and email, and in in-person meetings
22 at senior levels of the Defendant brands, and sharing sensitive business information
23 directly and through intermediaries. Defendants (1) coordinated a reduction in
24 tuna can sizes; (2) coordinated increases to list and net prices of Packaged Tuna;
25 (3) shared information about and policed discounting on Packaged Tuna; and (4)
26 collectively agreed to forbear from introducing products under brand names that
27 were labeled FAD Free, indicating forbearance from a fishing method that has
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1 been criticized for its impact on the sustainability of global fisheries. The
2 Defendants' horizontal collusion was intended to, and did, fix, raise, stabilize,
3 and/or maintain the prices of Packaged Tuna sold to customers in the United
4 States.

5 213. The Defendants among others, in their present or past parent corporate
6 forms, were founding members of the U.S. Tuna Foundation, which became The
7 Tuna Council. In 2007, the Tuna Council merged with the National Fisheries
8 Institute ("NFI"). The NFI was founded at least as early as 1945, and serves as the
9 seafood industry's primary trade group and lobby.

10 214. The NFI includes several subgroups, including the Tuna Council,
11 which consists of the Defendant brands. Additionally, in 2007 NFI members
12 created the Better Seafood Board ("BSB"), an organization which, while
13 "governed separately from NFI," "provides the mechanism for [the] industry's
14 partners in the supply chain. . .to report suppliers committing economic fraud."²⁴
15 BSB's code of conduct includes requirements of "never mislabeling a fish" or
16 "short-weighting product".²⁵ During the Class Period NFI and the BSB have served
17 as loci for collusive communication between Defendants and as a source of
18 anticompetitive agreement.

19 215. NFI had frequent meetings during the Relevant Period, including
20 meetings during the times that the collusive agreement on FAD-free tuna was
21 discussed. In fact, [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 ²⁴ See <http://www.aboutseafood.com/about/better-seafood-board-3/>, last
26 accessed May 6, 2016.

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216.

Defendants formed another organization, the International Sustainable Seafood Foundation (“ISSF”), in 2009. The ISSF and/or its affiliated trade group ISSA also serve as an additional forum for in-person and telephonic meetings between the Defendants, who are direct horizontal competitors.

C. Defendants’ Collusive Price Increases During 2004-2006

217. From 2001 and 2003, canned tuna prices declined, as did profit margins.

218. Accordingly,

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1 [REDACTED]

2 219. During [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 [REDACTED]

6 [REDACTED]

7 [REDACTED] These communications offered
8 the three CEOs an opportunity to discuss increasing prices of Packaged Tuna in the
9 United States.

10 220. As a result of the discussions among the COSI, Bumble Bee and Del
11 Monte/StarKist executives and employees [REDACTED]
12 Defendants made, a conscious commitment to an unlawful common scheme to
13 increase prices of Packaged Tuna in the U.S. by coordinating price increases,
14 secretly and collusively exchanging advanced pricing intentions and pricing
15 announcements and explanations, and policing discounting.

16 221. [REDACTED]

17 [REDACTED]

18 [REDACTED]

19 [REDACTED]

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

25 [REDACTED]

26 [REDACTED]

27 222. The following day, on June 1, 2004, in accordance with their unlawful
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1 agreement, Del Monte announced a price increase of 10% on StarKist's Packaged
2 Tuna, [REDACTED]

3 223. To confirm its conformance with the price increase and so the other
4 brands could conform their pricing accordingly, [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 224. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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1 225. [REDACTED]

2 [REDACTED]

3 [REDACTED]

4 [REDACTED]

5 226. On June 11, 2004, COSI put out a net price increase on multiple

6 Packaged Tuna on June 11, 2004, effective in July 2004. Within days thereafter,

7 Bumble Bee increased Packaged Tuna prices as well, also effective in July 2004.

8 All three brands immediately followed the net increase with a list price increase in

9 late August or early September of 2004. By September 2, 2004, Bumble Bee,

10 StarKist, and Chicken of the Sea had announced new, higher, collusive list prices

11 on their chunk light products, \$2.00 per case higher than previous pricing. [REDACTED]

12 [REDACTED]

13 [REDACTED] These price increases

14 together established uniform pricing on both light meat and white meat tuna, [REDACTED]

15 [REDACTED]

16 [REDACTED]

17 227. [REDACTED]

18 [REDACTED]

19 By July 2004, COSI, Bumble Bee and Del Monte/StarKist had executed the first

20 collusive price increase. In September, they executed the second.

21 228. Between August 20, 2004 and August 30, 2004, Bumble Bee,

22 StarKist, and COSI collusively raised prices on light meat tuna by an additional

23 \$2.00 per case.

24 229. Defendants' 2004 collusive price increases were intended to and did

25 increase U.S. Packaged Tuna prices, and these prices remained at supracompetitive

26 levels throughout the Class Period.

27 230. In or about January 2006, Defendants decided to execute another

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1 round of collusive price increases when rising albacore costs threatened to erode
2 their supracompetitive profit margins. StarKist moved first, notifying the trade
3 (that is, brokers and purchasers) on or about January 30, 2006 that it would
4 increase prices on white meat (albacore) tuna products by about 6% effective May
5 1, 2006. However, StarKist needed Bumble Bee and COSI to go along with the
6 price increase for it to hold.

7 231. [REDACTED]

12 232. [REDACTED]

13 s.

14 233. [REDACTED]

15 06.

16 234. [REDACTED]

24 26 [REDACTED]

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[REDACTED]

235. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

236. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

237. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] onte.²⁷

238. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

²⁷ [REDACTED]

[REDACTED]

[REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]

6 239. Consequently, on March 6, 2006, COSI announced a price increase of
7 approximately 6% on white meat tuna products, which followed the prices
8 announced by StarKist. For example, COSI raised prices on cases of solid white
9 tuna in water to \$58.08 and on 24-packs of solid white tuna in oil to \$29.04, which
10 exactly matched the prices announced by StarKist.

11 240. Thereafter, Bumble Bee announced a price increase on white meat
12 tuna products that matched the conspiratorial prices. Bumble Bee made its
13 announcement on April 17, 2006. Both the Bumble Bee and the COSI price
14 increases went into effect in the first week of July 2006.

15 241. As a result of the conspiracy, six ounce chunk light tuna (one of the
16 most popular Packaged Tuna products, which had gone as low as \$0.54 per can in
17 the beginning of 2004, rose to \$0.58 by late 2004 and \$0.62 by August 2005. The
18 2004 and 2006 increases set a template for exchange on non-public information
19 and collusive, coordinated increases.

20 **D. Defendants' Collusive Package Size Reduction and Price**
21 **Increases in 2007-2008**

22 242. The conspiracy among Defendants and co-conspirators continued in
23 2007 and 2008.

24 243. [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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[REDACTED]

Collusive Alignment of Can Sizes in 2008

244. Between roughly 2000 and 2007, leading tuna companies, including Defendants, followed each other in a series of gradual moves to change the size of the standard tuna can, first from seven ounces to six and a half ounces, then to six and one-eighth ounces, and then to six ounces. These changes occurred gradually over at least an eight-year period.

245. In 2007, StarKist and its can maker, Impress, decided to abruptly change the size of its standard six-ounce tuna can to five ounces, marking a major departure from the gradual changes of the previous decade.

246. Rather than keep this competitive information to itself, [REDACTED]

[REDACTED]

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1 247. Further, the downsizing necessarily involved a price change, and
2 therefore virtually required cooperation on pricing to be adopted by all three
3 competitors. A size reduction with a proportional cost reduction would present
4 consumers a lower out-of-pocket price for a smaller package at the same net price,
5 likely effectively operating as a discount and undercutting the competitors for
6 market share. If the three brands made the same size adjustment without also
7 making the same pricing decision (an effective increase), [REDACTED]
8 [REDACTED]

9 248. Months later, in August of 2008 when the move had been
10 implemented, StarKist stated that it did this primarily for environmental reasons,
11 including the purpose of “sav[ing] two million gallons of water a year, while only
12 taking out two teaspoons of tuna from each can.”²⁸ This was not actually StarKist’s
13 motive. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]

17 249. [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25
26 ²⁸ See [http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-](http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/)
27 [downsizes-tuna/](http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/), last accessed May 13, 2016.
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251. [REDACTED]

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[REDACTED]

252. Thai Union participated directly in, and approved of, the collusive decision to resize cans. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

253. [REDACTED]

[REDACTED]

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254. [REDACTED]

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256. [REDACTED]

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257. [REDACTED]

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266. [REDACTED]

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1 268. The new five ounce can was implemented in or about July 21, 2008,
2 and StarKist made public statements about the new can size in August 2008. The
3 pricing for all three brands reflected a 20% increase in the per-ounce price.

4 ***Collusive List Price Increase in 2008***

5 269. After the can downsizing had been decided but before it had been
6 fully implemented, [REDACTED]

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]

14 270. [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
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23 271. [REDACTED]
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280. StarKist announced its price increase on June 17, 2008, effective July

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1 21, 2008. COSI and Bumble Bee announced their price increases between June
2 27, 2008, and June 30, 2008, both effective October 2008. [REDACTED]

3 [REDACTED]
4 [REDACTED]
5 281. [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 282. [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 283. [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
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23 [REDACTED]

24 **E. Collusive Conduct 2010 And Later**

25 ***Collusive Q3 2010 Net Price Increase***

26 284. [REDACTED]
27 [REDACTED]
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[REDACTED]

[REDACTED]

[REDACTED]

285. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

286. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

287. Defendants' executives responsible for the May 2010 net price increases were well-acquainted with each other, because at least some had been employed by each other's companies. For example, COSI's, Clancy had been Vice President of Sales and Marketing at StarKist until 2002. Bumble Bee's George was COSI's Senior Vice President of Trade Marketing and Innovation at Chicken of the Sea from June 1979 until May 2006, when he became Vice President of Trade Marketing at Bumble Bee.

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288. [REDACTED]

289. Net price increases were unusual in the industry. The net price is not the list price, but is a price provided to brokers, and not typically released directly to customers.

290. [REDACTED]

291. [REDACTED]

292. [REDACTED]

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[REDACTED]

[REDACTED]

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299. [REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

300. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

301. [REDACTED]

[REDACTED]

[REDACTED]

29 [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

302. [REDACTED], each of the Defendants announced net price increases on chunk lite tuna products in May 2010, with the same effective date, August 1, 2010. Their price increases were essentially identical on a per unit basis.

Collusive Q2 and Q3 2011 Price Increase

303. [REDACTED]

304. [REDACTED]

305. [REDACTED]

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[REDACTED]

Collusive Price Increase of 2012

311. In late 2011 and early 2012, Defendants began considering and discussing another coordinated list price increase for Q2 2012.

[REDACTED]

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[REDACTED]

312. As a result of their collective decision, the three brands each announced new price lists to their customers within just a few days of one another. StarKist announced its price increases on January 13, effective March 26, 2012. Bumble Bee announced its increases on 17, 2012, effective on April 1, 2012. COSI announced its increases on January 18, 2012, effective on April 1, 2012. The price increases were substantially identical for the cartel participants' corresponding products.

313. Defendants' contemporaneous announcements of list price increases for Packaged Tuna occurred at a time when consumer demand continued to weaken in the U.S., a practice lacking any legitimate independent business reasons in an otherwise competitive market. In order to conceal their price agreement, Defendants gave pretextual justifications in their price announcement letters to customers, pointing to the rising input costs for fish, packaging, and transportation.

314. The series of price increases planned, executed and collusively set a benchmark which caused the prices to consumers to be artificially high long after the last overt acts of conspiracy.

Collusive Monitoring of Promotions

315. To preserve the prices that they had decided and implemented together, the Defendants engaged in monitoring of discounts and promotions.

[REDACTED]

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[REDACTED]

316. [REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

317. [REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 ***Collusive Refusal to Offer FAD-Free Products***

5 318. During 2011, the industry experienced increasing pressure to provide
6 consumers the option to purchase more sustainably fished product in their product
7 lines. A particular focus was the use of FADs in conjunction with the purse-seine
8 method of fishing. A FAD is a man-made device that floats on the ocean (typically
9 using a buoy tethered to the ocean floor) used to attract schools of fish that orbit
10 around the FAD.

11 319. Much of the world's tuna is caught by purse-seine netting, in which a
12 large net is deployed under an entire school of fish and hoisted upwards. This
13 technique is distinct from methods involving towed nets, or pole-and-line fishing,
14 where fish are hooked. The most cost-effective method of catching skipjack tuna
15 is to use a FAD to draw schools of tuna into a small area, and a purse-seine net to
16 capture them. The practice has drawn criticism on environmental sustainability
17 grounds.

18 320. In the latter half of 2011, partially in response to efforts by
19 environmental sustainability advocates, the Defendants began receiving inquiries
20 about providing light tuna (largely skipjack) caught without the use of a FAD.
21 Rather than respond to these inquiries as an opportunity for competitive
22 differentiation, the Defendants decided to formulate a coordinated response.
23 [REDACTED]

24 321. [REDACTED]
25 [REDACTED]
26 [REDACTED]

27 322. [REDACTED]
28 [REDACTED]

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[REDACTED]

[REDACTED]

323. [REDACTED]

[REDACTED]

324. On February 10, 2012, Safeway announced its decision to eliminate FAD-caught tuna in favor of tuna caught using “free-school purse-seine methods.”

[REDACTED]

[REDACTED]

325. [REDACTED]

[REDACTED]

[REDACTED]

326. [REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

327. [REDACTED]

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[REDACTED]

328. Each brand had an individual interest in offering consumers FAD-Free tuna, [REDACTED]

329. When Bumble Bee introduced an entirely separate label that was FAD-Free (under the name Wild Selections) on or about April 26, 2013, (more than a year after the agreement), [REDACTED]

[REDACTED]

330. The FAD-free agreement assisted Defendants in maintaining their price-fixing conspiracy, and in staving off inter-brand competition in offering FAD-free tuna to consumers as a more environmentally sustainable and desirable alternative.

Defendants Have Additional Opportunities to Collude

331. Defendants BumbleBee, StarKist, and COSI or their precedent corporate parents all helped found NFI's Tuna Council and BSB, which became loci of a conspiracy among these competitors not to compete, and to share

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1 competitive information and coordinated business strategies. As explained on that
2 organization's website:

3
4 "The National Fisheries Institute's Tuna Council
5 represents the largest processors and household names
6 for canned and pouch tuna in the U.S. including *Bumble Bee*®,
7 *Chicken of the Sea*® and *StarKist*®. The Tuna Council s
8 peaks for the tuna industry on numerous issues including food
9 safety, labeling, sustainability, nutrition education and product
10 marketing."

11 NFI and specifically Tuna Council meetings were typically attended by the CEOs,
12 and/or by other members of the senior management team. They met or spoke at
13 least quarterly, providing a regular opportunity for the exchange of competitive
14 information.

15 332. The industry provides other opportunities for the Defendants to
16 collude and exchange sensitive business information necessary to forming and
17 monitoring a cartel.

18 333. For example, all three Defendants participate in regional fisheries
19 management organizations. These include the Mid-Atlantic Fisheries Council; and
20 the Fishery Counsel of Canada. All three Defendants regularly send representatives
21 to major trade conferences including the Infofish World Tuna Trade Conference
22 and Exchange, an Asia-Pacific region conference sponsored each year by an
23 intergovernmental arm of the United Nations and drawing key players in the
24 industry. The conference is in its fourteenth year.

25 334. The ISSF was founded in 2009. The ISSF states that its mission is to
26 "to undertake science-based initiatives for the long-term conservation and
27 sustainable use of tuna stocks, reducing by and promoting ecosystem health."

28 335. The ISSF Board of Directors includes individuals associated with the

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1 tuna industry, many of whom work or have worked for Defendants. For example,
2 the current President of the ISSF is Susan Jackson (“Jackson”). Prior to joining
3 ISSF, Jackson was the vice president for government/industry relations and
4 seafood sourcing for Defendant Del Monte Foods, former parent of StarKist. The
5 Board of Directors of the ISSF also currently includes John Connelly, who is the
6 President of the NFI.

7 336. The ISSA is a tuna industry trade association. Full membership in the
8 ISSA is limited to “processors,” “traders” and “marketers” in the tuna industry.

9 337. All three Brand Defendants are founding members of the ISSF. Each
10 of the three Brand Defendants has played, and/or continues to play an active role in
11 the ISSF and the ISSA. Chris Lischewski, President and CEO of Bumble Bee, In-
12 Soo Cho, former president and CEO of Starkist and Shue Wing Chan, of Thai
13 Union, parent of COSI, have served as ISSA Board Members.

14 338. The ISSF and the ISSA provided the three Brand Defendants
15 numerous and ongoing opportunities to interact at meetings, conferences, and to
16 participate in conference calls. ISSF bylaws provide for meetings of the ISSF
17 Board of Directors be held three times each year. [REDACTED]

18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 339. [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]

26 340. Defendants also collaborated on projects at trade and other not-for-
27 profit associations during the relevant period, such as the “Tuna the Wonderfish”
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1 campaign of 2011-2012.

2 341. The “Tuna the Wonderfish” campaign was designed to combat
3 declining sales of Packaged Tuna from early 2011 to early 2012. It was
4 unsuccessful, but it gave Defendants ample opportunity to collude to raise and fix
5 Packaged Tuna prices. This campaign was bankrolled by the Defendants and
6 carried out under the auspices of the Tuna Council with the support of Thai
7 processors. In it, the Defendants teamed up for marketing purposes. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]

12 342. Defendants Bumble Bee and COSI also cooperate on seafood
13 processing and packaging through bilateral co-packing agreements. Bumble Bee
14 co-packs for the West Coast of the United States for COSI in Bumble Bee’s Santa
15 Fe Springs, California plant while COSI does the same for the East Coast in Lyons,
16 Georgia. TUG approved this arrangement. Thus, even before the proposed
17 merger, described below, of these two companies, they were cooperating closely.
18 These interlocking relationships provided an excellent opportunity to collude on
19 pricing. Collaborating at their U.S. processing facilities allowed each of these two
20 Defendants an organic and in-house opportunity to monitor production, a key
21 component of information exchange necessary to sustaining a long-term cartel.

22 **F. The Packaged Tuna Market Is Conducive to Collusion**

23 343. The Packaged Tuna market is structured and characterized in such a
24 way as to be highly conducive to conspiracy.

25 344. Packaged Tuna is sold to wholesale and retail stores which in turn sell
26 to customers such as the Plaintiffs. A very small percentage of sales are made
27 directly to consumers. There are numerous barriers to entry into the Packaged Tuna
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1 market. Start-up costs are very high. Dongwon and TUG each are to some degree
2 vertically integrated, Dongwon claiming at times to have the world's largest
3 fishing fleet. The cost of processing plants is high. Merely modernizing the
4 processing plant in American Samoa (owned by COSI at the start of the Class
5 Period, purchased and refitted by a nonparty and reopened in 2015) cost \$70
6 million. Access to manufacturing materials, distribution channels and raw
7 materials are all highly restricted. Defendants are able to raise prices without fear
8 of being undercut by new entrants into the market.

9 345. Additionally, StarKist, COSI and Bumble Bee, as brands, have all
10 existed for a very long time. StarKist was founded in 1917. COSI was founded in
11 1914 as the Van Camp Seafood Company, and was once a part of Ralston Purina.
12 Bumble Bee actually predates the First World War and was previously part of
13 Pillsbury and later ConAgra. StarKist, the most recent of the brand names to
14 appear on American store shelves, began using that name in 1942, though the
15 company itself predates even that. These three brands have had not decades but
16 generations to build brand identities and relationships. They are known by
17 virtually every American consumer. Any company seeking to start anew faces
18 difficulties in lack of background, industry ties, and brand awareness.

19 346. Even an industry player with decades of experience faces formidable
20 obstacles in establishing a consumer brand. Tri-Marine, a company that has sold
21 fish to each brand for decades, now cans the Kirkland Signature brand for Costco,
22 one of the more successful private labels. It now owns the packing plant in
23 American Samoa previously operated by COSI. However, even with this massive
24 investment and experience, Tri-Marine's entry has been limited to private label
25 production, where one of the largest retail outlets lends its muscle to bring the
26 product to market. Tri-Marine has a brand of its own, Ocean Naturals, but Ocean
27 Naturals has struggled to find shelf space and exists as a niche environmental
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1 sustainability product with small areas of shelf space at Walmart, and is otherwise
2 dependent upon Amazon as a retail conduit.

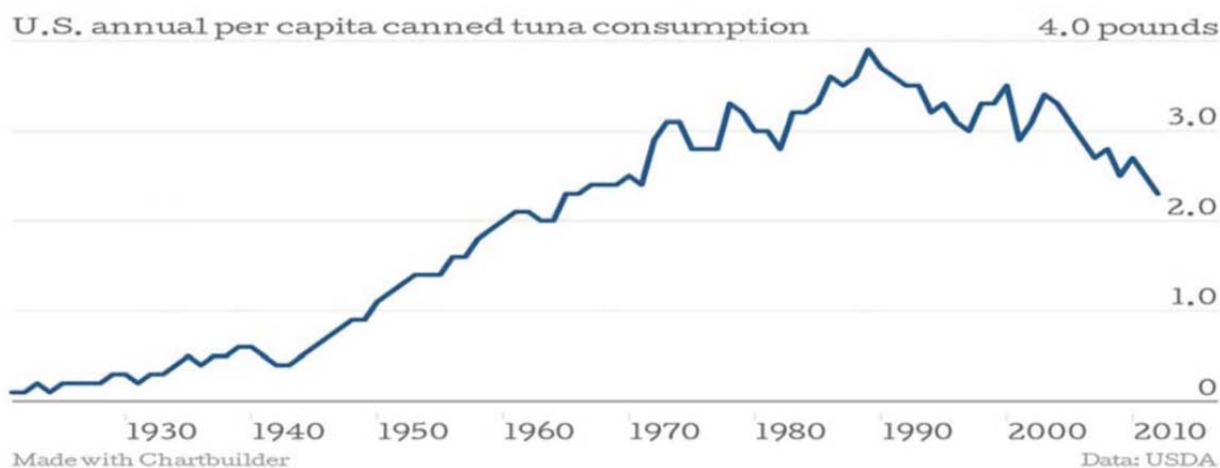
3 347. Purchasers routinely source their Packaged Tuna from one of the
4 Defendants. As a result, Defendants dominate the United States Packaged Tuna
5 market.

6 348. As stated above, Defendants control roughly 80% of the tuna market
7 share for the United States, so almost all wholesale or retail purchasers do business
8 with Defendants. Defendants possess significant market power to raise prices for
9 Packaged Tuna to supra-competitive price levels in the United States.

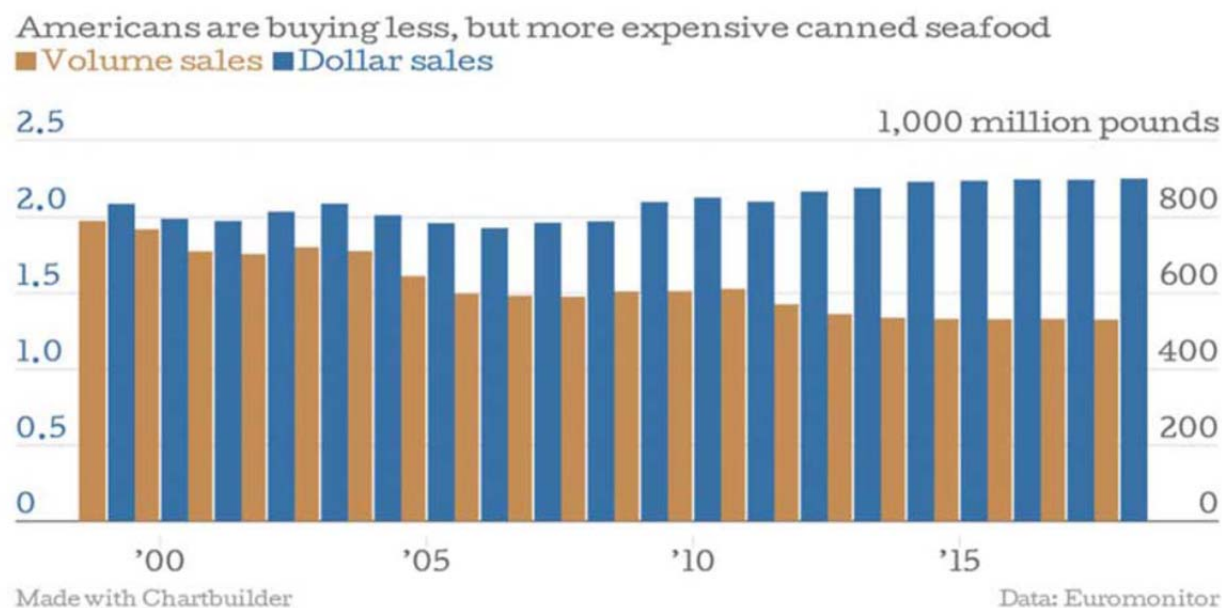
10 349. Packaged Tuna has a number of characteristics that combine to reduce
11 customers' willingness to purchase substitute products in the face of rising
12 prices. Packaged Tuna are convenient high protein, low fat, shelf-stable food that
13 has a particular taste and historical usage. Because of these characteristics, there
14 are no reasonable substitutes for Packaged Tuna. Therefore, control of the
15 Relevant Markets by a theoretical a hypothetical monopolist would allow that
16 monopolist to profitably increase the prices to supra-competitive or monopoly
17 levels.

18 350. There are economic indications that support the conclusion that there
19 was collusive pricing within the domestic Packaged Tuna industry. As noted
20 above, consumption of Packaged Tuna, has declined over the past ten years in the
21 United States. The annual consumption per person of canned tuna was 3.1 lbs. in
22 2005, but fell to 2.3 lbs. in 2013. An article in the Washington Post graphically
23 represented this decline by measuring United States annual per capita consumption
24 from 1930 to 2010:

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351. But while Americans are buying less Packaged Tuna, they are paying more for what they do buy. The same article presented this graph, illustrating the increased prices paid for lower quantities of canned seafood (expanding the analysis beyond tuna) by American purchasers:

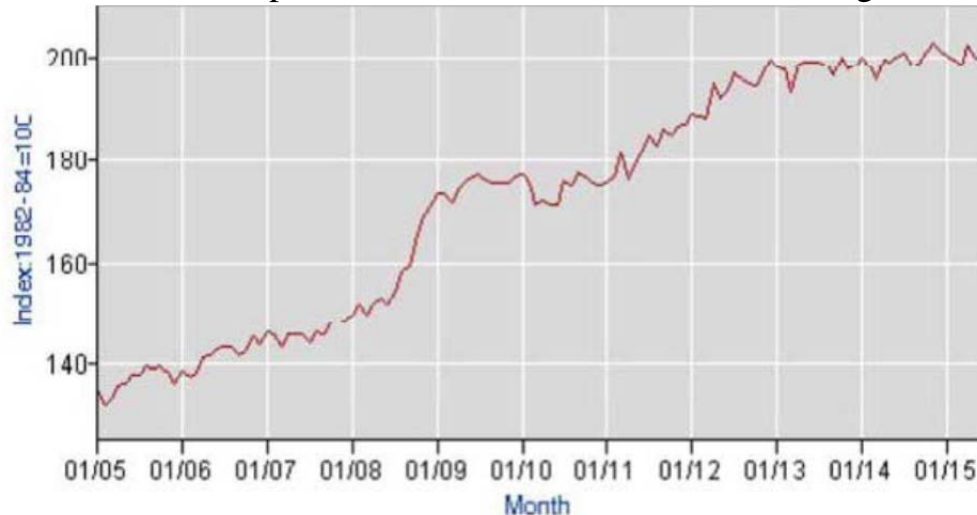


352. Given this decline in consumption of Packaged Tuna and other packaged seafood products, one would expect rational businesses to reduce the prices for packaged seafood products, but that did not happen. The following chart, taken from data available at the Bureau of Labor Statistics, depicts seasonally

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adjusted U.S. city average prices for shelf stable fish and seafood from January 2005 through the first part of 2015, with the period 1982-84 used as a baseline.

353. As shown below, the average U.S. price for Packaged Tuna increased dramatically from 2008 to the early part of 2015 – and did so even though annual consumer demand for the products in the United States was falling.



354. Changes in overall tuna catch do not explain the price increase. Supply of tuna has expanded steadily worldwide since the early 1960s. The use of purse-seine netting, in which a net is extended under an entire school and hauled upwards, as described above, has increased the availability of skipjack tuna since the 1970s, so that Skipjack has come to represent more than 70% of the Defendants' tuna products on U.S. store shelves. The global tuna catch, which was less than a million metric tons per year in 1961, is now over 4.5 million tons annually. Catch per vessel has roughly doubled since the mid-1980s, and the global tuna fishing fleet is larger today than it was in the mid-1980s. No constriction in global tuna catch explains the rising prices charged by Defendants.

355. Nor do raw material costs adequately explain these price increases. While the cost per metric ton of skipjack tuna rose in 2012 and early 2013, it declined precipitously thereafter. According to the April 19, 2015 issue of Tuna

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1 Market Intelligence, “[a]s recently as June last year, skipjack was selling at
2 US\$1,800 in Bangkok. But the price has since plummeted to US\$1,000 since the
3 beginning of the year, with industry officials anticipating further reductions in
4 price this year.” Tuna exporters in Ecuador noted in January of 2015 that the price
5 per metric ton had declined from \$1,400 to \$800. And the United Nations Food &
6 Agriculture Organization noted in its May 2015 “Food Outlook” biannual report
7 that tuna prices had dropped considerably in 2014: “tuna prices declined
8 significantly due to excess supply, with frozen skipjack prices hitting a 6-year
9 low.” Despite these drastically declining raw material costs, Defendants did not
10 decrease prices and try to obtain more market share.

11 356. In fact, while there have been periodic increases in fish cost, from
12 2000 to 2015, fish cost as a proportion of retail price of canned tuna has actually
13 decreased. In 2000, the price of tuna accounted for 37% of the retail price of the
14 canned product. By 2015, tuna price was only 31% of the canned tuna price.

15 357. TUG’s Frozen Products’ Annual Report discusses this situation. In its
16 2013 Annual Report, TUG Frozen Products stated that “our branded tuna business
17 showed resilient growth from 2012 thanks to the price adjustments in Europe and
18 more rational market competition in the US.” It stated in the same report that its
19 future profit margins would depend upon “[r]easonable US canned tuna
20 competition without unnecessary price.”

21 358. In 2014, TUG attributed its own US profits to reduced price
22 competition and competitors eschewing the quest for market share through
23 discounting. It would have been against the individual self-interest of each
24 Defendant to eschew increasing market share during this period by lowering
25 prices.

26 **G. The Department of Justice Investigates Defendants**

27 359. The San Francisco office of the Antitrust Division of the United States
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1 Department of Justice (“DOJ”) is currently investigating anticompetitive practices
2 in the PSP industry. A grand jury has been convened, two individuals previously
3 employed by Bumble Bee, and one previously employed by StarKist, have entered
4 guilty pleas, and on May 8, 2017, the investigation further resulted in the first
5 corporate guilty plea. It was publicly reported that Bumble Bee would plead guilty
6 to conspiring to restrain trade in connection with Packaged Tuna, and pay a fine.

7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 360. The criminal investigation first surfaced on July 23, 2015, when TUG
11 confirmed that “Tri-Union Seafoods LLC, operating in the United States under the
12 brand Chicken of the Sea ha[d] received a subpoena requiring the production of
13 relevant information to the DOJ” and that “Chicken of the Sea is cooperating fully
14 with the investigation.”

15 361. On July 17, 2015, TUG announced it suspended a planned public
16 stock offering that it had planned to use to finance acquisition of Bumble Bee.
17 TUG stated that it wanted “additional clarity” on the investigation before
18 proceeding with the offering. Thai Union has notified the United States Securities
19 and Exchange Commission (“SEC”) of the suspension. Thai Union has since also
20 announced that the planned acquisition of Bumble Bee will not proceed given the
21 merger investigation that is part of the DOJ investigation of anticompetitive
22 practices in the PSP industry.

23 362. The publication Global Competition Review has reported that it “is
24 highly likely that something produced in the [Tri-Union and Bumble Bee] merger
25 investigation sparked this investigation touching the industry as a whole rather than
26 just the parties to the deal,” and “early information indicates the demand for
27 information came from a separate section of the antitrust division, not one tasked
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1 with analyzing deals.”

2 363. On July 23, 2015, Bumble Bee acknowledged receipt of a grand jury
3 subpoena. Bumble Bee stated, “The Company did receive a grand jury subpoena
4 relating to a US Department of Justice investigation into potential antitrust
5 violations in the packaged seafood industry. The Company is cooperating fully
6 with the investigation.”

7 364. StarKist received a subpoena as well, but did not say so publicly.

8 365. The fact that these companies received subpoenas from a federal
9 grand jury is alone significant, as is reflected in Chapter 3 of the 2014 edition of
10 the DOJ’s Antitrust Division Manual, available at
11 <http://www.justice.gov/atr/public/divisionmanual/chapter3.pdf>. Section F.1 of that
12 chapter notes that “staff should consider carefully the likelihood that, if a grand
13 jury investigation developed evidence confirming the alleged anticompetitive
14 conduct, the Division would proceed with a criminal prosecution.” *Id.* at 111-82.

15 366. Early in this litigation, the DOJ made a formal motion for intervention
16 in this action, and the Government negotiated and filed a partial stay agreement
17 that expressly provides for certain discovery while preventing discovery that would
18 infringe upon the Grand Jury’s investigation; which was later modified to
19 accommodate the timeline of the investigation. That investigation has now borne
20 demonstrable fruit.

21 367. On December 7, 2016, it filed a criminal information against
22 Cameron, a Senior Vice-President of Sales for Bumble Bee, alleging a conspiracy
23 to fix prices of PSPs. “Information” (Dec. 7, 2016) (ECF No. 1) in *United States v.*
24 *Cameron*, No. 3:16-cr-00501-EMC (N.D. Cal.). Cameron pled guilty to the offense
25 charged at a hearing on January 25, 2017.

26 368. On December 21, 2016, the DOJ filed a criminal information against
27 Ken Worsham, a Senior Vice-President of Trade Marketing for Bumble Bee, again
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1 alleging his participation in a conspiracy to fix the prices of PSPs. "Information"
2 (Dec. 21, 2016) (ECF No. 1) in *United States v. Worsham*, No. 3:16-cr-00535-
3 EMC-1 (N.D. Cal.). Ken Worsham pled guilty to the charge against him on March
4 15, 2017.

5 369. Both plea agreements state that:
6 the defendant participated in a conspiracy with other
7 persons and entities engaged in the manufacture and sale
8 of packaged seafood, the primary purpose of which was
9 to fix, raise and maintain the prices of packaged seafood
10 sold in the United States, In furtherance of the
11 conspiracy, the defendant engaged in conversations and
12 discussions and attended meetings with representatives
13 of other major packaged-seafood-producing firms.
14 ***During these conversations, discussions and meetings,
agreements and mutual understandings were reached
to fix, raise and maintain the prices of packaged
seafood sold in the United States.***

15 Worsham Plea Agreement, ¶ 4(b); Cameron Plea Agreement, ¶ 4(b).

16 370. Pursuant to his guilty plea, Ken Worsham admitted to collusive
17 discussions with competitors about Defendants' price increases. Ken Worsham
18 also stated that during his conversations, discussions, and meetings, "agreements
19 and mutual understandings were reached to fix, raise, and maintain the prices of
20 packaged seafood sold in the United States."³⁰ Ken Worsham and the government
21 agreed on his sentencing guidelines calculations "based on a total amount of
22 volume of commerce attributable to the defendant of over \$300 million."³¹ A

23 ³⁰ Plea Agreement ¶ 4 (b) *United States v. Kenneth Worsham*, No. 16 CR 535
24 (N.D. Cal. Dec. 21, 2016) (ECF No. 14).

25 ³¹ *Id.* ¶ 9. (emphasis added). Worsham admitted his employer's sales of
26 packaged seafood affecting U.S. customers totaled *at least* \$300 million. *Id.* ¶
27 4(a).

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1 reasonable inference from this admission is that Ken Worsham, Bumble Bee,
2 StarKist and COSI reached and implemented illegal collusive agreements affecting
3 over \$300 million worth of Bumble Bee's sales of packaged seafood in U.S.
4 interstate commerce, in addition to the packaged seafood sales of StarKist and
5 COSI that the agreement affected.

6 371. The DOJ's May 8, 2017 announcement of Bumble Bee's guilty plea
7 and information filed in that docket accuses Bumble Bee of conspiring to fix the
8 prices of PSPs and notes that, inter alia, it (a) "engaged in conversations and
9 discussions and attended meetings with representatives of other major packaged-
10 seafood producing firms"; (b) "agreed and reached mutual understandings during
11 these conversation, discussions and meetings, to fix, raise and maintain the prices
12 of packaged seafood sold in the United States"; and (c) "negotiated prices with
13 customers and issued price announcements for packaged seafood in accordance
14 with the agreements and mutual understandings reached." *United States v. Bumble*
15 *Bee Foods, LLC*, No. 17 -CR-249 (N.D. Cal.) "Information" ¶ 9 (May 8, 2017)
16 (ECF No. 1) (emphases added).

17 372. With the filing of that Information, the DOJ issued a press release,
18 available at [https://www.justice.gov/opa/pr/bumble-bee-agrees-plead-guilty-price-](https://www.justice.gov/opa/pr/bumble-bee-agrees-plead-guilty-price-fixing)
19 [fixing](https://www.justice.gov/opa/pr/bumble-bee-agrees-plead-guilty-price-fixing). The press release stated (emphases added):

20 In addition to agreeing to plead guilty, Bumble Bee has agreed to pay
21 a \$25 million criminal fine, which will increase to a maximum
22 criminal fine of \$81.5 million, payable by a related entity, in the event
23 of a sale of Bumble Bee subject to certain terms and conditions.
24 Bumble Bee has also agreed to cooperate with the Antitrust Division's
25 ongoing investigation. The plea agreement is subject to court
approval.

26 "Today's charge is the third to be filed – and the first to be filed
27 against a corporate defendant – in the Antitrust Division's ongoing
28 investigation into price fixing among some of the largest suppliers of

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1 packaged seafood,” said Acting Assistant Attorney General Andrew
2 Finch of the Justice Department’s Antitrust Division. “The division,
3 along with our law enforcement colleagues, will continue to hold
4 these companies and their executives accountable for conduct that
5 targeted a staple in American households.”

6 373. On May 30, 2017, the DOJ filed an Information against Steve Hodge
7 (“Hodge”), a former Senior Vice-President of Sales for StarKist from May of 2010
8 to December of 2013, who was employed by Del Monte as a Director of Field
9 Sales for StarKist from 2008-10. *See United States v. Hodge*, No. 17-CR-0297-
10 EMC (N.D. Cal.). Hodge pled guilty to the charge on June 28, 2017, admitting that
11 “from at least 2011 through at least 2013” he “participated in a conspiracy . . . to
12 fix, raise, and maintain the prices of packaged seafood sold in the United States”
13 by, among other things, “engag[ing] in conversations and discussions and
14 attend[ing] meetings with representatives of other major packaged-seafood-
15 producing-firms.” *Id.*, ECF No. 13 (plea agreement).

16 374. On May 15, 2018, the federal grand jury filed an Indictment against
17 Bumble Bee’s CEO Chris Lischewski in the U.S. District Court of the Northern
18 District of California. The Indictment asserts that Lischewski participated in
19 meetings and communications with competitors and, among other things, agreed
20 during those meetings and communications to restrain competition and fix and
21 maintain prices of packaged tuna. According to the Indictment, Lischewski
22 knowingly joined in and participated in the conspiracy from at least November of
23 2010 to in or around December 2013.

24 375. It has been publicly reported that another Defendant has applied for
25 and been accepted into the DOJ’s corporate leniency program under the Antitrust
26 Criminal Penalty Enhancement and Reform Act of 2004, Pub. L. No. 108-237,
27 §213(b), 118 Stat. 665, 666 (codified as amended at 15 U.S.C. § 1 note)
28 (“ACPERA”). [REDACTED] the ACPERA

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leniency program is specifically related to Defendants' price-fixing activities and other anticompetitive conduct in violation of Section 1 of The Sherman Act in the United States Packaged Tuna market. ACPERA protection requires that the amnesty applicant admit the commission of a criminal act. Therefore, [REDACTED] Bumble Bee personnel admit committing a crime in connection with the antitrust investigation.

H. Plaintiffs Suffered Antitrust Injury

376. Defendants' anticompetitive conduct had the following effects, among others:

- a. Price competition has been restrained or eliminated with respect to Packaged Tuna sold in the United States;
- b. The prices of Packaged Tuna sold in the United States have been fixed, raised, maintained, or stabilized at artificially inflated levels;
- c. Indirect purchasers of Packaged Tuna have been deprived of free and open competition; and
- d. Indirect purchasers of Packaged Tuna paid artificially inflated prices.

377. By reason of the alleged violations of the antitrust laws and other laws alleged herein, Plaintiffs and the members of the Classes have sustained injury to their businesses or property, having paid higher prices for Packaged Tuna than they would have paid in the absence of Defendants' illegal conduct, and, as a result, have suffered damages in an amount presently undetermined. This is an antitrust injury of the type that the antitrust laws were meant to punish and prevent.

FRAUDULENT CONCEALMENT AND THE TOLLING OF THE STATUTE OF LIMITATIONS

I. TOLLING OF THE STATUTE OF LIMITATIONS

378. Plaintiffs had neither actual nor constructive knowledge of the facts

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1 constituting its claim for relief.

2 379. Plaintiffs and members of the Class did not discover, and could not
3 have discovered through the exercise of reasonable diligence, the existence of the
4 conspiracy alleged herein until at least July of 2015. Indeed, the conspiracy was
5 apparently only uncovered by DOJ in the process of reviewing internal company
6 documents relating to the proposed merger between COSI and Bumble Bee.

7 380. Defendants engaged in a secret conspiracy and did not reveal facts
8 that would put Plaintiffs or the Class on inquiry notice that there was an agreement
9 to fix prices for Packaged Tuna. By their very nature, price-fixing conspiracies are
10 inherently self-concealing. Plaintiffs allege that Defendants agreed among
11 themselves to conceal their unlawful conspiracy, including by agreeing not to
12 discuss the conspiracy publicly and by other means of avoiding detection and
13 maintaining secrecy, such as the use of nonpublic e-mails and private telephone
14 calls, as described above. Accordingly, Plaintiffs could not have had either actual
15 or constructive knowledge of the price fixing scheme until the public disclosure of
16 the DOJ's criminal investigation on July 23, 2015.

17 **2004-2006 Price Increases**

18 381. Defendants fraudulently concealed the 2004 and 2006 increases. [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
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(i)

2008 Package Downsizing

382. Defendants fraudulently concealed their 2007-08 package size reduction and list price increase agreements by several means

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[REDACTED]

383. Defendants also sometimes concealed their package downsizing conduct by using coded references to describe their co-conspirators. For example,

[REDACTED]

384. [REDACTED]

[REDACTED]

[REDACTED]

385. [REDACTED]

[REDACTED]

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 386. The guilty plea of Ken Worsham of Bumble Bee further raises the
5 inference that the conspiracy was affirmatively concealed. Ken Worsham is the son
6 of Bob Worsham, who was a consultant for StarK2ist and, as alleged above,
7 [REDACTED] The
8 involvement of both father and son in the collusive activity allowed Defendants an
9 avenue to pass competitive information in private with no need to present an
10 explanation for why they should be meeting and communicating. [REDACTED]
11 [REDACTED]
12 [REDACTED]

13 387. Defendants gave pretextual reasons for the package downsizing and
14 price increase to conceal their unlawful conduct.

15 388. [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]

24 389. Similarly, a published article at the time of the announcement of the
25 can resizing and price increase stated that “a customer service representative for
26 StarKist . . . explained that tuna prices have reached an all-time high.” And in
27 August 2008, StarKist added an environmental sustainability justification, by
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1 touting the can downsizing as “saving two million gallons of water.”

2 390. When instituting the 2008 list price increase, StarKist stated in August
3 that it was raising prices effective November 3, 2008 because of the “continued
4 escalation of global Tuna fish prices.” [REDACTED]

5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED] Internally, Bumble Bee stated that the
9 environmental reasons for the can downsizing were pretextual and designed to
10 mask what was in effect a disguised price increase.

11 **Later Coordinated Price Increases**

12 391. Defendants again used multiple means to conceal their 2008, 2010,
13 2011, and 2012 agreements to increase prices, [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED].

17 392. Defendants sought to limit inculpatory written communications with
18 one another. Thus, for example, [REDACTED]

19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 393. Similarly, in connection with the 2011-12 price increases, COSI,
24 StarKist, and Bumble Bee interacted mostly through telephonic communications or
25 face-to-face meetings. [REDACTED]

26 [REDACTED]
27 [REDACTED]
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1 [REDACTED] By communicating with customers individually rather than releasing a
2 public price announcement, Defendants sought to minimize any public discussion
3 of the fact that multiple Packaged Tuna producers were increasing prices at the
4 same time.

5 394. [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]
10 [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]

18 395. When Defendants met in person, they took steps to ensure that their
19 meetings were secret. [REDACTED]
20 [REDACTED]
21 [REDACTED]

22 396. Further, all three Defendants attended NFI Tuna Council meetings
23 several times a year in various locations around the world. These conferences
24 provided Defendants with regular opportunities to arrange off-agenda meetings
25 without raising suspicions. [REDACTED]
26 [REDACTED]
27 [REDACTED]
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1 [REDACTED]
2 [REDACTED] By
3 arranging their meetings to coincide with industry shows and conferences,
4 Defendants attempted to reduce the chance that their presence in the same location
5 would betray their illegal enterprise.

6 397. As explained above, familial connections sometimes provided
7 Defendants with seemingly innocuous channels for passing confidential
8 information. [REDACTED]

9 [REDACTED] Additionally, Laurel Cameron
10 neé Edwards, the wife of Bumble Bee Senior Vice President Scott Cameron, began
11 working at ISSF in early 2012. Prior to her employment at ISSF, she had worked
12 as a Vice President of Sales with Scott Cameron at Bumble Bee. [REDACTED]

13 [REDACTED]
14 [REDACTED]. Given her role at ISSF, she was ideally positioned to facilitate
15 communications between Defendants.

16 398. Further, Defendants consistently gave pretextual public justifications
17 to support their price increases.

18 399. With respect to the 2010 net price increase, [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]

23 400. With regard to the 2011 price increase, [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]

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[REDACTED]

401. Other examples of pretextual statements regarding price increases include:

402. A June 2011 letter from COSI attributing price increases to “persistent global inflationary trends” and “increased raw material costs and a weak U.S. dollar.”

403. A July 2011 StarKist letter announcing prices increases for canned tuna that were attributed to “continuously rising fish costs.”

404. A January 2012 COSI letter saying that “[h]igh fish prices have made it necessary to increase the list price of both light and white [tuna]. All indicators are that these higher raw material costs will not return to levels that were seen as recently as a year ago.”

405. A January 17, 2012 list price announcement from Bumble Bee attributing increases to general inflationary trends in fish, transportation and packaging costs.

406. A January 17, 2012 letter from Cameron of Bumble Bee to customers saying that “[o]ver the recent past, global inflation, economic uncertainty, transportation consolidation, fuel prices, and record high resource (fish) costs, have compounded to create unprecedented pricing volatility in our industry. As we

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1 forecast these factors moving into the first half of 2012, we see no relenting on
2 these cost pressures. The factors that were outlined above will increase, which has
3 led Bumble Bee Foods to announce list pricing actions on a number of canned and
4 pouch tuna items (ranging from +4% to +9%), beginning in April, 2012.”

5 407. A March 2012 letter from Cameron of Bumble Bee telling customers
6 that “unforecasted elements,” some of which would occur in the latter part of 2012,
7 necessitated canned tuna price increases.

8 408. An August 2012 Intrafish article in which Senior Vice President
9 David Melbourne of Bumble Bee says that “[t]he leading brands took pricing
10 action due to escalating fish costs.”

11 409. None of these communications ever mentioned Defendants’ collusion
12 or the fact that, as DOJ’s Baer has stated, their industry was “not functioning
13 competitively.”

14 410. Defendants actively sought to mislead their customers about the price-
15 fixing scheme. Their various justifications for price increases did not disclose that
16 they had agreed among themselves to fix, raise and/or stabilize the price of
17 Packaged Tuna. Defendants’ justifications for their price increases were also
18 misleading, to the extent they were true even in part, because of their failure to
19 disclose that the price increases in fact resulted from their illegal agreement and
20 conspiracy.

21 411. Defendants’ fraudulent concealment was even more effective against
22 Plaintiffs because they were and are consumers. Indirect purchases, at retail prices,
23 interposed an additional layer of opacity as to the prices charged by the Defendants
24 and the timing of changes.

25 412. Because Defendants’ agreement, understanding and conspiracy was
26 kept secret, Plaintiffs and members of the Class were unaware of Defendants’
27 unlawful conduct alleged herein and did not know that they were paying artificially
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1 high prices for Packaged Tuna during the Class Period.

2 413. The guilty plea of Ken Worsham of Bumble Bee further raises the
3 inference of using means of communication that affirmatively concealed the
4 conspiracy from detection. Ken Worsham, as alleged *supra*, is the son of Bob
5 Worsham, a longtime Del Monte employee and StarKist consultant. [REDACTED]

6 [REDACTED] The
7 involvement of both father and son in the collusion allowed Defendants an avenue
8 to pass competitive information where personnel from competing companies could
9 meet as frequently as necessary with no need to present an explanation.

10 414. None of these communications ever mentioned Defendants' collusion
11 or the fact that, as DOJ's Baer has stated, their industry was "not functioning
12 competitively."

13 415. Defendants thus actively misled their customers about the price-fixing
14 scheme. Their various justifications for price increases did not disclose that they
15 had agreed among themselves to fix, raise and/or stabilize the price of Packaged
16 Tuna. Defendants' justifications for their price increases were also misleading, to
17 the extent they were true even in part, because of their failure to disclose that the
18 price increases in fact resulted from their illegal agreement and conspiracy.

19 416. Because Defendants' agreement, understanding and conspiracy was
20 kept secret, Plaintiffs and members of the Class were unaware of Defendants'
21 unlawful conduct alleged herein and did not know that they were paying artificially
22 high prices for Packaged Tuna during the Class Period.

23 ***Defendants' Conspiratorial Acts Overwhelmingly Took Place in California***

24 417. Defendants' acts in furtherance of their conspiracy to raise the prices
25 of Packaged Tuna overwhelmingly occurred in the State of California.

26 418. As alleged above, Defendants COSI and Bumble Bee each maintain
27 their principal places of business in San Diego, California. Defendants used and
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1 availed themselves of these and other California-based locales to engage in and
2 implement their conspiracy.

3 419. [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 420. [REDACTED]
11 [REDACTED]
12 [REDACTED]
13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]

19 421. [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
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[REDACTED]

422. Defendants' acts of collusion in the State of California continued. [REDACTED]

[REDACTED]

As a result of these efforts, all three Defendants issued May 2010 price increase announcements for Packaged Tuna and other PSP products. Defendants' proposed Q3 2010 net price increases were all similar in magnitude, and had the same effective date of August 1, 2010.

423. COSI executives in San Diego, California played a core role in coordinating subsequent price increases for Packaged Tuna and other PSPs, as well. [REDACTED]

[REDACTED]

[REDACTED]

424. [REDACTED]

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[REDACTED]

425. Defendants' actions to collude on limiting promotional activity also had a California focus. [REDACTED]

[REDACTED]

426. In sum, all aspects of Defendants' collusive and conspiratorial acts, as herein alleged, involved executive and management-level personnel employed by, among others, Defendants COSI and Bumble Bee at their principle places of business in San Diego, California. Additionally, Defendants' actions in furtherance of the alleged Packaged Tuna price-fixing conspiracy overwhelming occurred in California. Indeed, in allocutions made at the time they entered guilty pleas to criminal antitrust charges for engaging in conspiratorial conduct with other companies to fix the prices of PSPs in the United States, Bumble Bee executives Ken Worsham and Cameron quite candidly admitted that their wrongful and collusive actions in violation of the nation's antitrust laws occurred largely, if not

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entirely, in California.³²

427. Because the conspiratorial conduct overwhelmingly took place in California, and the massive economic harm visited on consumers throughout the United States emanated from California through the conduct of predominantly California actors acting in California, therefore California has a superior interest in having its laws applied to all injured consumers which exceeds the interests of those states which while allowing recovery by their consumers have chosen a different or more limited procedural mechanism with respect to cases brought in their respective jurisdictions under their respective laws.

CAUSES OF ACTION

VIOLATIONS OF STATE ANTITRUST LAW

428. The following First through Twenty-Seventh Claims for Relief are pleaded under the antitrust laws of each State or jurisdiction identified below, on behalf of the indicated Class.

FIRST CLAIM FOR RELIEF

**Violation of Section 16720 of the
California Business and Professions Code (“The Cartwright Act”)
(By All Plaintiffs On Behalf of
The Cartwright Act Class)³³**

429. Plaintiffs repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

430. The violations of federal antitrust law set forth above also constitute

³² See, e.g., Rprt’s Transc. Of Proceedings, January 25, 2017, *U.S. v. Cameron*, 3:16-cr-00501-EMC, at pp.13-15; Rprt’s Transc. Of Proceedings, March 15, 2016, *U.S. v. Worsham*, 3:16-cr-00535-EMC, at page 13, lines 15-17.

³³ Plaintiffs reserve the right to seek amendment to apply the Cartwright Act to consumers in all US States and territories.

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1 violations of section 16720 of California Business and Professions Code.

2 431. The states and jurisdictions included in the Cartwright Class (as
3 defined in ¶ 110(a), *supra*) each allow indirect purchasers to recover on a similar
4 theory applicable to the facts alleged in this Complaint, which overwhelmingly
5 took place within the State of California.

6 432. Because the conspiratorial conduct overwhelmingly took place in
7 California, and the massive economic harm visited on consumers throughout the
8 United States emanated from California through the conduct of predominantly
9 California actors acting in California, therefore California has a superior interest in
10 having its laws applied to all injured consumers which exceeds the interests of
11 those states which while allowing recovery by their consumers have chosen a
12 different or more limited procedural mechanism with respect to cases brought in
13 their respective jurisdictions under their respective laws.

14 433. During the Class Period, Defendants and their co-conspirators
15 engaged in a continuing contract, combination or conspiracy in unreasonable
16 restraint of trade and commerce and other anticompetitive conduct alleged above in
17 violation of California Business and Professions Code section 16700, *et seq.*

18 434. Defendants' anticompetitive acts described above were knowing and
19 willful and constitute violations or flagrant violations of California Business and
20 Professions Code section 16700, *et seq.*

21 435. As a direct and proximate result of Defendants' unlawful conduct,
22 Plaintiffs and members of the Cartwright Act Class have been injured in their
23 business and property in that they paid more for Packaged Tuna than they
24 otherwise would have paid in the absence of Defendants' unlawful conduct. As a
25 result of Defendants' violation of section 16720 of California Business and
26 Professions Code, Plaintiffs and members of the Cartwright Act Class seek treble
27 damages and their cost of suit, including reasonable attorneys' fees, pursuant to
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section 16750(a) of California Business and Professions Code.

SECOND CLAIM FOR RELIEF

Violation of Arizona's Uniform State Antitrust Act,

Ariz. Rev. Stat. § 44-1401, *et seq.*

**(By Plaintiffs Ana Gabriela Felix Garcia, Tina Grant, Tya Hughes,
John Pels, and Erica Rodriguez On Behalf of the Arizona Class)**

436. Plaintiffs Ana Gabriela Felix Garcia, Tina Grant, Tya Hughes, John Pels, and Erica Rodriguez, on behalf of themselves and the Arizona Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

437. By reason of the conduct alleged herein, Defendants have violated Arizona Rev. Stat. § 44-1401, *et seq.*

438. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the Packaged Tuna market, a substantial part of which occurred within Arizona.

439. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Arizona, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the Packaged Tuna Market.

440. Defendants' violations of Arizona law were flagrant.

441. Defendants' unlawful conduct substantially affected Arizona's trade and commerce.

442. As a direct and proximate cause of Defendants' unlawful conduct, the Plaintiffs and members of the Arizona Class have been injured in their business or property and are threatened with further injury.

443. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct preventing Arizona plaintiffs from reasonably

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1 discovering the claim during the limitations period. This cause of action did not
2 accrue until July 23, 2015 when the plaintiffs knew or in the exercise of reasonable
3 diligence should have known about the Defendants' unlawful conduct.

4 444. By reason of the foregoing, Plaintiffs and members of the Arizona
5 Class are entitled to seek all forms of relief available under Arizona Revised Stat. §
6 44-1401, *et seq.*

7 **THIRD CLAIM FOR RELIEF**
8 **Violation of California's Cartwright Act,**
9 **Cal. Bus. & Prof. Code § 16700, *et seq.***

10 **(By Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten,**
11 **Rick Musgrave, and John Pels On Behalf of the California Class)**

12 445. Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten,
13 Rick Musgrave, and John Pels, for themselves and on behalf of the California
14 Class, repeat and reallege each of the allegations contained in paragraphs 1 to 401
15 as if fully set forth herein.

16 446. The California Business & Professions Code generally governs
17 conduct of corporate entities. The Cartwright Act, Cal. Bus. & Prof. Code §§
18 16700-16770, governs antitrust violations in California.

19 447. California policy is that "vigorous representation and protection of
20 consumer interests are essential to the fair and efficient functioning of a free
21 enterprise market economy," including by fostering competition in the
22 marketplace. Cal. Bus. & Prof. Code § 301.

23 448. Under the Cartwright Act, indirect purchasers have standing to
24 maintain an action based on the facts alleged in this Complaint. Cal. Bus. & Prof.
25 Code § 16750(a).

26 449. A trust in California is any combination intended for various
27 purposes, including but not limited to creating or carrying out restrictions in trade
28 or commerce, limiting or reducing the production or increasing the price of
merchandise, or preventing competition in the market for a commodity. Cal. Bus.

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1 & Prof. Code § 16720. Every trust in California is unlawful except as provided by
2 the Code. *Id.* at § 16726.

3 450. Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten,
4 John Pels, and Rick Musgrave purchased Packaged Tuna within the State of
5 California during the Class Period. But for Defendants' conduct set forth herein,
6 the price per unit of Packaged Tuna would have been lower, in an amount to be
7 determined at trial.

8 451. Defendants enacted a combination of capital, skill or acts for the
9 purpose of creating and carrying out restrictions in trade or commerce, in violation
10 of Cal. Bus. & Prof. Code § 16700, *et seq.*

11 452. Defendants wrongfully concealed the facts alleged herein giving rise
12 to their unlawful conduct preventing California plaintiffs in the exercise of due
13 diligence from uncovering the unlawful conduct. The applicable statute of
14 limitations is tolled until July 23, 2015 until the plaintiffs by the exercise of
15 reasonable diligence should have discovered it.

16 453. Plaintiffs and members of the Class were injured in their business or
17 property, with respect to purchases of Packaged Tuna in California and are entitled
18 to all forms of relief, including recovery of treble damages, interest, and injunctive
19 relief, plus reasonable attorneys' fees and costs.

20 **FOURTH CLAIM FOR RELIEF**

21 **Violation of the District of Columbia Antitrust Act,**

22 **D.C. Code § 28-4501, *et seq.***

23 **(By Plaintiffs Ana Gabriela Felix Garcia,**

24 **and Andrew Gorman On Behalf of the District of Columbia Class)**

25 454. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman on behalf
26 of themselves and on behalf of the District of Columbia Class, repeat and reallege
27 each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

28 455. The policy of District of Columbia Code, Title 28, Chapter 45

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1 (Restraints of Trade) is to “promote the unhampered freedom of commerce and
2 industry throughout the District of Columbia by prohibiting restraints of trade and
3 monopolistic practices.”

4 456. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman purchased
5 Packaged Tuna within the District of Columbia during the Class Period. But for
6 Defendants’ conduct set forth herein, the price per unit of Packaged Tuna would
7 have been lower, in an amount to be determined at trial.

8 457. Under District of Columbia law, indirect purchasers have standing to
9 maintain an action under the antitrust provisions of the D.C. Code based on the
10 facts alleged in this Complaint, because “any indirect purchaser in the chain of
11 manufacture, production or distribution of goods...shall be deemed to be injured
12 within the meaning of this chapter.” D.C. Code 28-4509(a).

13 458. Defendants contracted, combined or conspired to act in restraint of
14 trade within the District of Columbia, and monopolized or attempted to
15 monopolize the market for Packaged Tuna within the District of Columbia, in
16 violation of D.C. Code § 28-4501, *et seq.*

17 459. Defendants wrongfully concealed the facts alleged herein giving rise
18 to the unlawful conduct by the affirmative actions described herein which were
19 designed to prevent the discovery of such unlawful conduct and the Plaintiffs in the
20 District of Columbia did not discover and could not discover the unlawful conduct
21 prior to July 23, 2015.

22 460. Plaintiff and members of the Class were injured with respect to
23 purchases of Packaged Tuna in the District of Columbia and are entitled to all
24 forms of relief, including actual damages, treble damages, and interest, reasonable
25 attorneys’ fees and costs.

26 **FIFTH CLAIM FOR RELIEF**
27 **Violation of the Guam Antitrust Law,**
28 **Guam Code Ann. tit. 9 § 69.10, *et seq.***

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**(By Plaintiffs Amy Jackson and Joelyna A. San Agustin
On Behalf of the Guam Class)**

461. Plaintiffs Amy Jackson and Joelyna San Agustin, on behalf of themselves and the Guam Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

462. By reason of the conduct alleged herein, Defendants have violated Guam Code Ann. tit. 9 § 69.10, *et seq.*

463. Plaintiffs Amy Jackson and Joelyna San Agustin purchased Packaged Tuna within the Territory of Guam during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

464. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the Packaged Tuna market, a substantial part of which occurred within Guam.

465. Defendant established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within Guam, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the Packaged Tuna Market.

466. Defendants' conduct was an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the Territory of Guam.

467. Defendants' unlawful conduct substantially affected Guam's trade and commerce.

468. As a direct and proximate cause of Defendants' unlawful conduct, the Plaintiffs and the members of the Guam Class have been injured in their business or property and are threatened with further injury.

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1 469. Defendants wrongfully concealed the facts alleged herein giving rise
2 to the unlawful conduct. Having acted in secret, the statute of limitation for the
3 Guam Plaintiffs' claim did not begin running until July 23, 2015, when the
4 Plaintiffs acting reasonably could have discovered Defendants' unlawful conduct.
5 Plaintiffs could not and should not have suspected Defendants' wrongful conduct
6 until July 23, 2015.

7 470. By reason of the foregoing, the Plaintiffs and members of the Guam
8 Class is entitled to seek all forms of relief, including treble damages and
9 reasonable attorney's fees and costs under Guam.

SIXTH CLAIM FOR RELIEF

Violation of the Hawaii Antitrust Statute,

Haw. Rev. Stat. § 480-1, *et seq.*

(By Plaintiff Gloria Emery on Behalf of the Hawaii Class)

13 471. Plaintiff Gloria Emery, for herself and on behalf of the Hawaii Class,
14 repeats and realleges each of the allegations contained in paragraphs 1 to 401 as if
15 fully set forth herein.

16 472. The Hawaii Antitrust Act prohibits "every contract, combination in
17 the form of trust or otherwise, or conspiracy, in restraint of trade or commerce in
18 the State," including acts to (i) "fix, control, or maintain, the price of any
19 commodity;" (ii) "limit, control, or discontinue, the production, manufacture, or
20 sale of any commodity for the purpose or with the result of fixing, controlling or
21 maintaining its price"; and (iii) "fix, control, or maintain, any standard of quality of
22 any commodity for the purpose or with the result of fixing, controlling, or
23 maintaining its price." Haw. Rev. Stat. § 480-4(a) and 4(b).

24 473. Plaintiff Gloria Emery purchased Packaged Tuna within the State of
25 Hawaii during the Class Period. But for Defendants' conduct set forth herein, the
26 price per unit of Packaged Tuna would have been lower, in an amount to be
27 determined at trial.

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1 474. Defendants contracted, combined, or conspired to restrain the trade or
2 commerce in the market for Packaged Tuna and their conduct substantially
3 affected Hawaii commerce, in violation of Haw. Rev. Stat. §§ 480-1, *et seq.*

4 475. Plaintiff and members of the Class were injured with respect to
5 purchases of Packaged Tuna in that at least thousands of sales of Defendants'
6 Packaged Tuna took place in Hawaii, purchased by Hawaii consumers at supra-
7 competitive prices caused by Defendants' conduct.

8 476. Under Hawaii law, an indirect purchaser may bring an action under
9 the Hawaii Antitrust Act based on the facts alleged in this Complaint.³⁴

10 477. Defendants' continued violations of the law comprise a repeated
11 pattern and course of conduct that provide an exception to the applicable statute of
12 limitations. Defendants also affirmatively misled Plaintiff and members of the
13 Hawaii class by wrongfully concealing the facts alleged herein giving rise to the
14 unlawful conduct. Plaintiff had neither actual nor constructive knowledge of the
15 facts giving rise to her claims until July 23, 2015, and exercised due diligence in
16 attempting to discover such facts.

17 478. By reason of the foregoing, Plaintiff and members of the Hawaii Class
18 are entitled to all forms of relief available under Haw. Rev. Stat. §§ 480, *et seq.*,
19 including treble damages, costs and disbursements, reasonable attorneys' fees, and
20 injunctive relief necessary to prevent and restrain violations thereof.

21 479. Concurrent with the filing of this complaint, Plaintiff and her counsel
22 have served required materials upon the Hawaii Attorney General pursuant to
23 Haw. Rev. Stat. § 480-13.3.

24 **SEVENTH CLAIM FOR RELIEF**

25 _____
26 ³⁴ In compliance with Haw. Rev. Stat. § 480-13.3, Plaintiff has
27 contemporaneously served a copy of this Complaint on the Hawaii Attorney
28 General.

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**Violation of the Illinois Antitrust Act,
740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.*
(By Plaintiffs Sally Bredberg, Elizabeth Davis-Berg, and Amy Joseph)**

480. Plaintiffs Sally Bredberg, Elizabeth Davis-Berg, and Amy Joseph repeat each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

481. The Illinois Antitrust Act, 740 ILCS 10/1, *et seq.*, aims “to promote the unhampered growth of commerce and industry throughout the State by prohibiting restraints of trade which are secured through monopolistic or oligarchic practices and which act or tend to act to decrease competition between and among persons engaged in commerce and trade” 740 Ill. Comp. Stat. 10/2.

482. Plaintiffs Sally Bredberg and Elizabeth Davis-Berg, and Amy Joseph purchased Packaged Tuna within the State of Illinois during the Class Period. But for Defendants’ conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

483. Under the Illinois Antitrust Act, indirect purchasers have standing to maintain an action for damages based on the facts alleged in this Complaint. 740 Ill. Comp. Stat. 10/7(2).

484. Defendants made contracts or engaged in a combination or conspiracy with each other, though they would have been competitors but for their prior agreement, for the purpose of fixing, controlling or maintaining prices for Packaged Tuna sold, and/or for allocating customers or markets for Packaged Tuna within the intrastate commerce of Illinois.

485. Defendants further unreasonably restrained trade or commerce and established, maintained or attempted to acquire monopoly power over the market for Packaged Tuna in Illinois for the purpose of excluding competition, in violation of 740 Ill. Comp. Stat. 10/1, *et seq.*

486. Defendants wrongfully concealed the facts alleged herein giving rise

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1 to the unlawful conduct by the affirmative acts described herein with the intent to
2 deceive the Plaintiffs. Plaintiffs did not know and could not have known about
3 Defendants' unlawful conduct until July 23, 2015.

4 487. Plaintiffs were injured with respect to purchases of Packaged Tuna in
5 Illinois and are entitled to all forms of relief, including actual damages, treble
6 damages, reasonable attorneys' fees and costs.

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9 **EIGHTH CLAIM FOR RELIEF**

10 **Violation of the Iowa Competition Law**

11 **Iowa Code § 553.1, *et seq.***

12 **(By Plaintiffs Carla Lown and Jennifer A. Nelson**

13 **On Behalf of the Iowa Class)**

14 488. Plaintiffs Carla Lown and Jennifer A. Nelson, on behalf of themselves
15 and the Iowa Class, repeat and reassert each of the allegations contained in
16 paragraphs 1 to 401 as if fully set forth herein.

17 489. The Iowa Competition Law aims to “prohibit[] restraint of economic
18 activity and monopolistic practices.” Iowa Code § 553.2.

19 490. Plaintiffs Carla Lown and Jennifer A. Nelson purchased Packaged
20 Tuna within the State of Iowa during the Class Period. But for Defendants'
21 conduct set forth herein, the price per unit of Packaged Tuna would have been
22 lower, in an amount to be determined at trial.

23 491. Defendants contracted, combined or conspired to restrain or
24 monopolize trade in the market for Packaged Tuna, and attempted to establish or
25 did in fact establish a monopoly for the purpose of excluding competition or
26 controlling, fixing or maintaining prices for Packaged Tuna, in violation of Iowa
27 Code § 553.1, *et seq.*

28 492. Defendants wrongfully concealed the facts alleged herein giving rise

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1 to the unlawful conduct. Defendants' unlawful conduct was not reasonably
2 discovered until July 23, 2015.

3 493. Plaintiffs and members of the Iowa Class were injured with respect to
4 purchases of Packaged Tuna in Iowa, and are entitled to all forms of relief,
5 including actual damages, exemplary damages for willful conduct, reasonable
6 attorneys' fees and costs, and injunctive relief.

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9 **NINTH CLAIM FOR RELIEF**
10 **Violation of the Kansas Restraint of Trade Act**
11 **Kan. Stat. Ann. § 50-101, *et seq.***
12 **(By Plaintiffs Brian Depperschmidt and Lisa Hall**
13 **On Behalf of the Kansas Class)**

14 494. Plaintiffs Brian Depperschmidt and Lisa Hall, on behalf of themselves
15 and the Kansas Class, repeat and reassert each of the allegations contained in
16 paragraphs 1 to 401 as if fully set forth herein.

17 495. The Kansas Restraint of Trade Act aims to prohibit practices which,
18 inter alia, "tend to prevent full and free competition in the importation,
19 transportation or sale of articles imported into this state." Kan. Stat. Ann. § 50-112.

20 496. Plaintiffs Brian Depperschmidt and Lisa Hall purchased Packaged
21 Tuna within the State of Kansas during the Class Period. But for Defendants'
22 conduct set forth herein, the price per unit of Packaged Tuna would have been
23 lower, in an amount to be determined at trial.

24 497. Under the Kansas Restraint of Trade Act, indirect purchasers have
25 standing to maintain an action based on the facts alleged in this Complaint. Kan.
26 Stat. Ann § 50-161(b).

27 498. Defendants combined capital, skill or acts for the purposes of creating
28 restrictions in trade or commerce of Packaged Tuna, increasing the price of

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1 Packaged Tuna, preventing competition in the sale of Packaged Tuna, or binding
2 themselves not to sell Packaged Tuna, in a manner that established the price of
3 Packaged Tuna and precluded free and unrestricted competition among themselves
4 in the sale of Packaged Tuna, in violation of Kan. Stat. Ann. § 50-101, *et seq.*

5 499. Plaintiffs and members of the Class were injured with respect to
6 purchases of Packaged Tuna in Kansas and are entitled to all forms of relief,
7 including actual damages, reasonable attorneys' fees and costs, and injunctive
8 relief.

9 **TENTH CLAIM FOR RELIEF**

10 **Violation of the Maine's Antitrust Statute,**

11 **Me. Rev. Stat. Ann. tit. 10 § 1101, *et seq.***

12 **(By Plaintiffs Greg Stearns and Thomas E. Willoughby III**

13 **On Behalf of the Maine Class)**

14 500. Plaintiffs Greg Stearns and Thomas E. Willoughby III, on behalf of
15 themselves and the Maine Class, repeat and reassert each of the allegations
16 contained in paragraphs 1 to 401 as if fully set forth herein.

17 501. Part 3 of Title 10 the Maine Revised Statutes generally governs
18 regulation of trade in Maine. Chapter 201 thereof governs monopolies and
19 profiteering, generally prohibiting contracts in restraint of trade and conspiracies to
20 monopolize trade. Me. Rev. Stat. Ann. Tit. 10, §§ 1101-02.

21 502. Plaintiffs Greg Stearns and Thomas E. Willoughby III purchased
22 Packaged Tuna within the State of Maine during the Class Period. But for
23 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
24 have been lower, in an amount to be determined at trial.

25 503. Under Maine law, indirect purchasers have standing to maintain an
26 action based on the facts alleged in this Complaint. Me. Rev. Stat. Ann. Tit. 10, §
27 1104(1).

28 504. Defendants contracted, combined or conspired in restraint of trade or

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1 commerce of Packaged Tuna within the intrastate commerce of Maine, and
2 monopolized or attempted to monopolize the trade or commerce of Packaged Tuna
3 within the intrastate commerce of Maine, in violation of Me. Rev. Stat. Ann. Tit.
4 10, § 1101, *et seq.*

5 505. Plaintiffs and members of the Class were injured with respect to
6 purchases of Packaged Tuna in Maine and are entitled to all forms of relief,
7 including actual damages, treble damages, reasonable attorneys' and experts' fees
8 and costs.

9 **ELEVENTH CLAIM FOR RELIEF**
10 **Violation of the Michigan Antitrust Reform Act**
11 **Mich. Comp. Laws § 445.771, *et seq.***
12 **(By Plaintiffs Louise Adams, and Barbara Olson**
13 **On Behalf of the Michigan Class)**

14 506. Plaintiffs Louise Adams, and Barbara Olson, on behalf of themselves
15 and the Michigan Class, repeat and reassert each of the allegations contained in
16 paragraphs 1 to 401 as if fully set forth herein.

17 507. The Michigan Antitrust Reform Act aims "to prohibit contracts,
18 combinations, and conspiracies in restraint of trade or commerce...to prohibit
19 monopolies and attempts to monopolize trade or commerce...[and] to provide
20 remedies, fines, and penalties for violations of this act." Mich. Act 274 of 1984.

21 508. Plaintiffs Louise Adams, and Barbara Olson purchased Packaged
22 Tuna within the State of Michigan during the Class Period. But for Defendants'
23 conduct set forth herein, the price per unit of Packaged Tuna would have been
24 lower, in an amount to be determined at trial.

25 509. Under the Michigan Antitrust Reform Act, indirect purchasers have
26 standing to maintain an action based on the facts alleged in this Complaint. Mich.
27 Comp. Laws. § 452.778(2).

28 510. Defendants contracted, combined or conspired to restrain or

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1 monopolize trade or commerce in the market for Packaged Tuna, in violation of
2 Mich. Comp. Laws § 445.772, *et seq.*

3 511. Defendants wrongfully concealed the facts alleged herein giving rise
4 to the unlawful conduct and through their affirmative arrangements and
5 contrivances preventing discovery of such unlawful conduct until July 23, 2015.

6 512. Plaintiffs and members of the Class were injured with respect to
7 purchases of Packaged Tuna in Michigan and are entitled to all forms of relief,
8 including actual damages, treble damages for flagrant violations, interest, costs,
9 reasonable attorneys' fees, and injunctive or other appropriate equitable relief.

10 **TWELFTH CLAIM FOR RELIEF**

11 **Violation of the Minnesota Antitrust Law,**

12 **Minn. Stat. § 325D.49, *et seq.***

13 **(By Plaintiffs Laura Childs and Robert Etten On Behalf of the Minnesota**
14 **Class)**

15 513. Plaintiffs Laura Childs and Robert Etten, on behalf of themselves and
16 the Minnesota Class, repeat and reassert each of the allegations contained in
17 paragraphs 1 to 401 as if fully set forth herein.

18 514. The Minnesota Antitrust Law of 1971 aims to prohibit any contract,
19 combination or conspiracy when any part thereof was created, formed, or entered
20 into in Minnesota; any contract, combination or conspiracy, wherever created,
21 formed or entered into; any establishment, maintenance or use of monopoly power;
22 and any attempt to establish, maintain or use monopoly power, whenever any of
23 these affect Minnesota trade or commerce.

24 515. Plaintiffs Laura Childs and Robert Etten purchased Packaged Tuna
25 within the State of Minnesota during the Class Period. But for Defendants' conduct
26 set forth herein, the price per unit of Packaged Tuna would have been lower, in an
27 amount to be determined at trial.

28 516. Under the Minnesota Antitrust Act of 1971, indirect purchasers have

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1 standing to maintain an action based on the facts alleged in this Complaint. Minn.
2 Stat. § 325D.56.

3 517. Defendants contracted, combined or conspired in unreasonable
4 restraint of trade or commerce in the market for Packaged Tuna within the
5 intrastate commerce of and outside of Minnesota; established, maintained, used or
6 attempted to establish, maintain or use monopoly power over the trade or
7 commerce in the market for Packaged Tuna within the intrastate commerce of and
8 outside of Minnesota; and fixed prices and allocated markets for Packaged Tuna
9 within the intrastate commerce of and outside of Minnesota, in violation of Minn.
10 Stat. § 325D.49, *et seq.*

11 518. Defendants wrongfully concealed the facts alleged herein giving rise
12 to the unlawful conduct through the fraudulent and intentional acts described
13 herein and Minnesota Plaintiffs could not have reasonably discovered the
14 concealment of Defendants' unlawful conduct until July 23, 2015.

15 519. Plaintiffs and members of the Class were injured with respect to
16 purchases of Packaged Tuna in Minnesota and are entitled to all forms of relief,
17 including actual damages, treble damages, costs and disbursements, reasonable
18 attorneys' fees, and injunctive relief necessary to prevent and restrain violations
19 hereof.

20 **THIRTEENTH CLAIM FOR RELIEF**

21 **Violation of the Mississippi Antitrust Statute,**

22 **Miss. Code Ann. § 75-21-1, *et seq.***

23 **(By Plaintiff Christopher Todd On Behalf of the Mississippi Class)**

24 520. Plaintiff Christopher Todd, on behalf of himself and the Mississippi
25 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
26 401 as if fully set forth herein.

27 521. Title 75 of the Mississippi Code regulates trade, commerce and
28 investments. Chapter 21 thereof generally prohibits trusts and combines in restraint

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1 or hindrance of trade, with the aim that “trusts and combines may be suppressed,
2 and the benefits arising from competition in business [are] preserved” to
3 Mississippians. Miss. Code Ann. § 75-21-39.

4 522. Trusts are combinations, contracts, understandings or agreements,
5 express or implied, when inimical to the public welfare and with the effect of, inter
6 alia, restraining trade, increasing the price or output of a commodity, or hindering
7 competition in the production or sale of a commodity. Miss. Code Ann. § 75-21-1.

8 523. Plaintiff Christopher Todd purchased Packaged Tuna within the State
9 of Mississippi during the Class Period. But for Defendants’ conduct set forth
10 herein, the price per unit of Packaged Tuna would have been lower, in an amount
11 to be determined at trial.

12 524. Under Mississippi law, indirect purchasers have standing to maintain
13 an action under the antitrust provisions of the Mississippi Code based on the facts
14 alleged in this Complaint. Miss. Code Ann. § 75-21-9.

15 525. Defendants combined, contracted, understood and agreed in the
16 market for Packaged Tuna, in a manner inimical to public welfare, with the effect
17 of restraining trade, increasing the price of Packaged Tuna and hindering
18 competition in the sale of Packaged Tuna, in violation of Miss. Code Ann. § 75-21-
19 1(a), *et seq.*

20 526. Defendants monopolized or attempted to monopolize the production,
21 control or sale of Packaged Tuna, in violation of Miss. Code Ann. § 75-21-3, *et*
22 *seq.*

23 527. Defendants’ Packaged Tuna products are sold in hundreds of grocery
24 stores, markets, and warehouse clubs throughout the State of Mississippi. During
25 the Class Period, Defendants’ illegal conduct substantially affected Mississippi
26 commerce.

27 528. Defendants wrongfully concealed the facts alleged herein giving rise
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1 to their unlawful conduct. As alleged herein, the Defendants actively concealed
2 their unlawful conduct which prevented Mississippi Plaintiffs from reasonably
3 discovering the claim during the limitations period. This cause of action did not
4 accrue until July 23, 2015 when the Plaintiffs knew, or in the exercise of
5 reasonable diligence, should have known about the Defendants' unlawful conduct.

6 529. Plaintiff and members of the Class were injured with respect to
7 purchases of Packaged Tuna in Mississippi and are entitled to all forms of relief,
8 including actual damages and a penalty of \$500 per instance of injury.

9 **FOURTEENTH CLAIM FOR RELIEF**

10 **Violation of the Nebraska Junkin Act,**

11 **Neb. Rev. Stat. § 59-801, *et seq.*,**

12 **(By Plaintiffs Melissa Bowman and Barbara Buenning On Behalf of the**
13 **Nebraska Class)**

14 530. Plaintiff Melissa Bowman and Barbara Buenning, on behalf of
15 themselves and the Nebraska Class, repeat and reassert each of the allegations
16 contained in paragraphs 1 to 401 as if fully set forth herein.

17 531. Chapter 59 of the Nebraska Revised Statute generally governs
18 business and trade practices. Sections 801 through 831 thereof, known as the
19 Junkin Act, prohibit antitrust violations such as restraints of trade and
20 monopolization.

21 532. Plaintiffs Melissa Bowman and Barbara Buenning purchased
22 Packaged Tuna within the State of Nebraska during the Class Period. But for
23 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
24 have been lower, in an amount to be determined at trial.

25 533. Under Nebraska law, indirect purchasers have standing to maintain an
26 action under the Junkin Act based on the facts alleged in this Complaint. Neb. Rev.
27 Stat. § 59-821.

28 534. Defendants contracted, combined or conspired in restraint of trade or

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1 commerce of Packaged Tuna within the intrastate commerce of Nebraska, and
2 monopolized or attempted to monopolize the market for Packaged Tuna within the
3 intrastate commerce of Nebraska by possessing monopoly power in the market and
4 willfully maintaining that power through agreements to fix prices, allocate markets
5 and otherwise control trade, in violation of Neb. Rev. Stat. § 59-801, *et seq.*

6 535. Defendants wrongfully concealed the facts alleged herein giving rise
7 to their unlawful conduct. As alleged herein, the Defendants affirmatively
8 concealed their unlawful conduct which prevented Nebraska Plaintiffs from
9 reasonably discovering the claim before the statute of limitations expired. As a
10 result, Defendants' unlawful conduct was neither obvious nor discoverable during
11 the limitations period. This cause of action did not accrue until July 23, 2015 when
12 the Plaintiffs knew, or in the exercise of reasonable diligence, should have known
13 about the Defendants' unlawful conduct.

14 536. Plaintiff and members of the Class were injured with respect to
15 purchases of Packaged Tuna in Nebraska and are entitled to all forms of relief,
16 including actual damages or liquidated damages in an amount which bears a
17 reasonable relation to the actual damages which have been sustained, as well as
18 reasonable attorneys' fees, costs, and injunctive relief.

19 **FIFTEENTH CLAIM FOR RELIEF**

20 **Violation of the Nevada Unfair Trade Practices Act,**

21 **Nev. Rev. Stat. § 598A.010, *et seq.***

22 **(By Plaintiffs Nay Alidad and Nancy Stiller**

23 **On Behalf of the Nevada Class)**

24 537. Plaintiffs Nay Alidad and Nancy Stiller, on behalf of themselves and
25 the Nevada Class, repeat and reassert each of the allegations contained in
26 paragraphs 1 to 401 as if fully set forth herein.

27 538. The Nevada Unfair Trade Practice Act ("NUTPA") states that "free,
28 open and competitive production and sale of commodities...is necessary to the

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1 economic well-being of the citizens of the State of Nevada.” Nev. Rev. Stat. Ann.
2 § 598A.030(1).

3 539. The policy of NUTPA is to prohibit acts in restraint of trade or
4 commerce, to preserve and protect the free, open and competitive market, and to
5 penalize all persons engaged in anticompetitive practices. Nev. Rev. Stat. Ann. §
6 598A.030(2). Such acts include, inter alia, price fixing, division of markets,
7 allocation of customers, and monopolization of trade. Nev. Rev. Stat. Ann. §
8 598A.060.

9 540. Plaintiffs Nay Alidad and Nancy Stiller purchased Packaged Tuna
10 within the State of Nevada during the Class Period. But for Defendants’ conduct
11 set forth herein, the price per unit of Packaged Tuna would have been lower, in an
12 amount to be determined at trial.

13 541. Under Nevada law, indirect purchasers have standing to maintain an
14 action under NUTPA based on the facts alleged in this Complaint. Nev. Rev. Stat.
15 Ann. §598A.210(2).

16 542. Defendants fixed prices by agreeing to establish prices for Packaged
17 Tuna in Nevada, divided Nevada markets, allocated Nevada customers, and
18 monopolized or attempted monopolize trade or commerce of Packaged Tuna
19 within the intrastate commerce of Nevada, constituting a contract, combination or
20 conspiracy in restraint of trade in violation of Nev. Rev. Stat. Ann. § 598A, *et seq.*

21 543. Plaintiffs and members of the Class were injured with respect to
22 purchases of Packaged Tuna in Nevada in that at least thousands of sales of
23 Defendants’ Packaged Tuna took place in Nevada, purchased by Nevada
24 consumers at supra-competitive prices caused by Defendants’ conduct.

25 544. Defendants wrongfully concealed the facts alleged herein giving rise
26 to their unlawful conduct. Until July 23, 2015, the Nevada Plaintiffs did not
27 discover and could not have discovered by the exercise of reasonable diligence
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1 Defendants' unlawful conduct. Accordingly, Plaintiffs and members of the
2 Nevada Class are entitled to all forms of relief, including actual damages, treble
3 damages, reasonable attorneys' fees, costs, and injunctive relief.

4 545. In accordance with the requirements of § 598A.210(3), simultaneous
5 notice of this action was mailed to the Nevada Attorney General by Plaintiffs Nay
6 Alidad and Nancy Stiller.

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9 **SIXTEENTH CLAIM FOR RELIEF**

10 **Violation of New Hampshire's Antitrust Statute,**
11 **N.H. Rev. Stat. Ann. tit. XXXI, § 356, *et seq.***
12 **(By Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff,**
13 **On Behalf of the New Hampshire Class)**

14 546. Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff, on behalf of
15 themselves and the New Hampshire Class, repeats and reasserts each of the
16 allegations contained in paragraphs 1 to 401 as if fully set forth herein

17 547. Title XXXI of the New Hampshire Statutes generally governs trade
18 and commerce. Chapter 356 thereof governs combinations and monopolies and
19 prohibits restraints of trade. N.H. Rev. Stat. Ann. §§ 356:2, 3.

20 548. Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff purchased
21 Packaged Tuna within the State of New Hampshire during the Class Period. But
22 for Defendants' conduct set forth herein, the price per unit of Packaged Tuna
23 would have been lower, in an amount to be determined at trial.

24 549. Under New Hampshire law, indirect purchasers have standing to
25 maintain an action based on the facts alleged in this Complaint. N.H. Rev. Stat.
26 Ann. § 356:11(II).

27 550. Defendants fixed, controlled or maintained prices for Packaged Tuna,
28 allocated customers or markets for Packaged Tuna, and established, maintained or

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1 used monopoly power, or attempted to, constituting a contract, combination or
2 conspiracy in restraint of trade in violation of N.H. Rev. Stat. Ann. § 356:1, *et seq.*

3 551. Defendants fraudulently concealed the essential facts alleged here
4 giving rise to their unlawful conduct. Until July 23, 2015, New Hampshire
5 Plaintiffs did not discover and could not have discovered in the exercise of
6 reasonable diligence either Defendants' unlawful conduct or the facts giving rise to
7 such conduct.

8 552. Plaintiffs and members of the Class were injured with respect to
9 purchases of Packaged Tuna in New Hampshire and are entitled to all forms of
10 relief, including actual damages sustained, treble damages for willful or flagrant
11 violations, reasonable attorneys' fees, costs, and injunctive relief.

12 **SEVENTEENTH CLAIM FOR RELIEF**

13 **Violation of the New Mexico Antitrust Act,**

14 **N.M. Stat. Ann. §§ 57-1-1, *et seq.***

15 **(By Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya On Behalf**
16 **of the New Mexico Class)**

17 553. Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya, on
18 behalf of themselves and the New Mexico Class, repeat and reassert each of the
19 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

20 554. The New Mexico Antitrust Act aims to prohibit restraints of trade and
21 monopolistic practices. N.M. Stat. Ann. 57-1-15.

22 555. Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya
23 purchased Packaged Tuna within the State of New Mexico during the Class Period.
24 But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna
25 would have been lower, in an amount to be determined at trial.

26 556. Under New Mexico law, indirect purchasers have standing to maintain
27 an action based on the facts alleged in this Complaint. N.M. Stat. Ann. § 57-1-3.

28 557. Defendants contracted, agreed, combined or conspired, and

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1 monopolized or attempted to monopolize trade for Packaged Tuna within the
2 intrastate commerce of New Mexico, in violation of N.M. Stat. Ann. § 57-1-1, *et*
3 *seq.*

4 558. Defendants knew that their conduct was unlawful and wrongfully
5 concealed the facts alleged here giving rise to their unlawful conduct. Until July
6 23, 2015, New Mexico Plaintiffs did not know and could not have known in the
7 exercise of reasonable diligence either Defendants' unlawful conduct or the facts
8 giving rise to such conduct.

9 559. Plaintiffs and members of the Class were injured with respect to
10 purchases of Packaged Tuna in New Mexico and are entitled to all forms of relief,
11 including actual damages, treble damages, reasonable attorneys' fees, costs, and
12 injunctive relief.

13 **EIGHTEENTH CLAIM FOR RELIEF**

14 **Violation of Section 340 of the New York General Business Law**
15 **(By Plaintiffs Michael Buff, Jennifer A. Nelson, and**
16 **Nigel Warren On Behalf of the New York Class)**

17 560. Plaintiffs Michael Buff, Jennifer A. Nelson, and Nigel Warren, on
18 behalf of themselves and the New York Class, repeat and reassert each of the
19 allegations contained in paragraphs 1 to 401 as if fully set forth herein

20 561. Article 22 of the New York General Business Law general prohibits
21 monopolies and contracts or agreements in restraint of trade, with the policy of
22 encouraging competition or the free exercise of any activity in the conduct of any
23 business, trade or commerce in New York. N.Y. Gen. Bus. Law § 340(1).

24 562. Plaintiffs Michael Buff, Jennifer A. Nelson, and Nigel Warren
25 purchased Packaged Tuna within the State of New York during the Class Period.
26 But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna
27 would have been lower, in an amount to be determined at trial.

28 563. Under New York law, indirect purchasers have standing to maintain

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1 an action based on the facts alleged in this Complaint. N.Y. Gen. Bus. Law §
2 340(6).

3 564. Defendants established or maintained a monopoly within the intrastate
4 commerce of New York for the trade or commerce of Packaged Tuna and
5 restrained competition in the free exercise of the conduct of the business of
6 Packaged Tuna within the intrastate commerce of New York, in violation of N.Y.
7 Gen. Bus. Law § 340, *et seq.*

8 565. Defendants wrongfully concealed the facts alleged here giving rise to
9 their unlawful conduct and the New York Plaintiffs remained ignorant of such
10 unlawful conduct until July 23, 2015. Until July 23, 2015, the New York
11 Plaintiffs did not know, and could not have known, in the exercise of reasonable
12 diligence about Defendants' wrongful conduct.

13 566. Plaintiffs and members of the Class were injured with respect to
14 purchases of Packaged Tuna in New York and are entitled to all forms of relief,
15 including actual damages, treble damages, costs not exceeding \$10,000, and
16 reasonable attorneys' fees.

17 **NINETEENTH CLAIM FOR RELIEF**

18 **Violation of the North Carolina General Statutes,**
19 **N.C. Gen. Stat. § 75-1, *et seq.***

20 **(By Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori**
21 **On Behalf of the North Carolina Class)**

22 567. Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori, on behalf
23 of themselves and the North Carolina Class, repeat and reassert each of the
24 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

25 568. Defendants entered into a contract or combination in the form of trust
26 or otherwise, or conspiracy in restraint of trade or commerce in the Packaged Tuna
27 Market, a substantial part of which occurred within North Carolina.

28 569. Defendants established, maintained, or used a monopoly, or attempted

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1 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, for
2 the purpose of affecting competition or controlling, fixing, or maintaining prices, a
3 substantial part of which occurred within North Carolina.

4 570. Defendants' unlawful conduct substantially affected North Carolina's
5 trade and commerce.

6 571. As a direct and proximate cause of Defendants' unlawful conduct,
7 Plaintiffs and the members of the North Carolina Class have been injured in their
8 business or property and are threatened with further injury.

9 572. Defendants wrongfully concealed the facts alleged herein giving rise
10 to their unlawful conduct. Until July 23, 2015, the North Carolina Plaintiffs did
11 not know and could not have learned or discovered by the exercise of due care
12 about Defendants' unlawful conduct.

13 573. By reason of the foregoing, Plaintiffs and members of the North
14 Carolina Class are entitled to seek all forms of relief available, including treble
15 damages, under N.C. Gen. Stat. § 75-1, *et seq.*

16 **TWENTIETH CLAIM FOR RELIEF**

17 **Violation of the North Dakota Uniform State Antitrust Act,**
18 **N.D. Cent. Code § 51-08.1, *et seq.***

19 **(By Plaintiffs Tya Hughes and Bonnie Vander Laan**
20 **On Behalf of the North Dakota Class)**

21 574. Plaintiffs Tya Hughes and Bonnie Vander Laan, on behalf of
22 themselves and the North Dakota Class, repeat and reassert each of the allegations
23 contained in paragraphs 1 to 401 as if fully set forth herein.

24 575. The North Dakota Uniform State Antitrust Act generally prohibits
25 restraints on or monopolization of trade. N.D. Cent. Code § 51-08.1, *et seq.*

26 576. Plaintiffs Tya Hughes and Bonnie Vander Laan purchased Packaged
27 Tuna within the State of North Dakota during the Class Period. But for
28 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would

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1 have been lower, in an amount to be determined at trial.

2 577. Under the North Dakota Uniform State Antitrust Act, indirect
3 purchasers have standing to maintain an action based on the facts alleged in this
4 Complaint. N.D. Cent. Code § 51-08.1-08.

5 578. Defendants contracted, combined or conspired in restraint of, or to
6 monopolize trade or commerce in the market for Packaged Tuna, and established,
7 maintained, or used a monopoly, or attempted to do so, for the purposes of
8 excluding competition or controlling, fixing or maintaining prices for Packaged
9 Tuna, in violation of N.D. Cent. Code §§ 51-08.1-02, 03.

10 579. Defendants wrongfully concealed the facts alleged herein giving rise
11 to their unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs did not
12 discover and could not have discovered by exercise of reasonable diligence
13 Defendants' unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs had
14 neither actual nor constructive notice of the facts alleged herein giving rise to
15 Defendants' unlawful conduct.

16 580. Plaintiffs and members of the Class were injured with respect to
17 purchases in North Dakota and are entitled to all forms of relief, including actual
18 damages, treble damages for flagrant violations, costs, reasonable attorneys' fees,
19 and injunctive or other equitable relief.

20 **TWENTY-FIRST CLAIM FOR RELIEF**

21 **Violation of the Oregon Antitrust Law,**

22 **Or. Rev. Stat. § 646.705, *et seq.***

23 **(By Plaintiffs Danielle Johnson and Liza Milliner**

24 **On Behalf of the Oregon Class)**

25 581. Plaintiffs Danielle Johnson and Liza Milliner, on behalf of themselves
26 and the Oregon Class, repeat and reassert each of the allegations contained in
27 paragraphs 1 to 401 as if fully set forth herein.

28 582. Chapter 646 of the Oregon Revised Statutes generally governs

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1 business and trade practices within Oregon. Sections 705 through 899 thereof
2 govern antitrust violations, with the policy to “encourage free and open
3 competition in the interest of the general welfare and economy of the state.” Or.
4 Rev. Stat. § 646.715.

5 583. Plaintiffs Danielle Johnson and Liza Milliner purchased Packaged
6 Tuna within the State of Oregon during the Class Period. But for Defendants’
7 conduct set forth herein, the price per unit of Packaged Tuna would have been
8 lower, in an amount to be determined at trial.

9 584. Under Oregon law, indirect purchasers have standing under the
10 antitrust provisions of the Oregon Revised Statutes to maintain an action based on
11 the facts alleged in this Complaint. Or. Rev. Stat. § 646.780(1)(a).

12 585. Defendants contracted, combined, or conspired in restraint of trade or
13 commerce of Packaged Tuna, and monopolized or attempted to monopolize the
14 trade or commerce of Packaged Tuna, in violation of Or. Rev. Stat. § 646.705, *et*
15 *seq.*

16 586. Defendants wrongfully concealed the facts alleged herein giving rise
17 to their unlawful conduct. Until July 23, 2015, Oregon Plaintiffs did not discover
18 and could not have discovered with reasonable diligence either the facts alleged or
19 Defendants’ unlawful conduct.

20 587. Plaintiffs and members of the Class were injured with respect to
21 purchases of Packaged Tuna within the intrastate commerce of Oregon, or
22 alternatively to interstate commerce involving actual or threatened injury to
23 persons located in Oregon, and are entitled to all forms of relief, including actual
24 damages, treble damages, reasonable attorneys’ fees, expert witness fees and
25 investigative costs, and injunctive relief.

26 **TWENTY-SECOND CLAIM FOR RELIEF**

27 **Violation of the Rhode Island Antitrust Act**

28 **R.I. Gen. Laws § 6-36-1, *et seq.***

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(By Plaintiff Katherine McMahon and Elizabeth Perron On Behalf of the Rhode Island Class)

588. Plaintiffs Katherine McMahon and Elizabeth Perron, on behalf of themselves and the Rhode Island Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

589. The Rhode Island Antitrust Act aims to promote the unhampered growth of commerce and industry throughout Rhode Island by prohibiting unreasonable restraints of trade and monopolistic practices that hamper, prevent or decrease competition. R.I. Gen. Laws § 6-36-2(a)(2).

590. Plaintiffs Katherine McMahon and Elizabeth Perron purchased Packaged Tuna within the State of Rhode Island during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

591. Under the Rhode Island Antitrust Act, as of July 15, 2013, indirect purchasers have standing to maintain an action based on the facts alleged in this Complaint. R.I. Gen. Laws § 6-36-11(a). In Rhode Island, the claims of the Plaintiff and the Class alleged herein run from July 15, 2013, through the date that the effects of Defendants' anticompetitive conduct cease.

592. Defendants contracted, combined and conspired in restraint of trade of Packaged Tuna within the intrastate commerce of Rhode Island, and established, maintained or used, or attempted to establish, maintain or use, a monopoly in the trade of Packaged Tuna for the purpose of excluding competition or controlling, fixing or maintaining prices within the intrastate commerce of Rhode Island, in violation of R.I. Gen. Laws § 6-36-1, *et seq.*

593. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct. Until July 23, 2015, Rhode Island Plaintiffs could not, in the exercise of reasonable diligence, have discovered the alleged facts or

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Defendants' wrongful conduct.

594. Plaintiff and members of the Class were injured with respect to purchases of Packaged Tuna in Rhode Island and are entitled to all forms of relief, including actual damages, treble damages, reasonable costs, reasonable attorneys' fees, and injunctive relief.

TWENTY-THIRD CLAIM FOR RELIEF

**Violation of the South Dakota Antitrust Statute,
S.D. Codified Laws § 37-1-3.1, *et seq.***

(By Plaintiff Casey Christensen On Behalf of the South Dakota Class)

595. Plaintiff Casey Christensen, on behalf of herself and the South Dakota Class, repeats and reasserts each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

596. Chapter 37-1 of the South Dakota Codified Laws prohibits restraint of trade, monopolies and discriminatory trade practices. S.D. Codified Laws §§ 37-1-3.1, 3.2.

597. Plaintiff Casey Christensen purchased Packaged Tuna within the State of South Dakota during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

598. Under South Dakota law, indirect purchasers have standing under the antitrust provisions of the South Dakota Codified Laws to maintain an action based on the facts alleged in this Complaint. S.D. Codified Laws § 37-1-33.

599. Defendants contracted, combined or conspired in restraint of trade or commerce of Packaged Tuna within the intrastate commerce of South Dakota, and

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1 monopolized or attempted to monopolize trade or commerce of Packaged Tuna
2 within the intrastate commerce of South Dakota, in violation of S.D. Codified
3 Laws § 37-1, *et seq.*

4 600. Defendants acted affirmatively to wrongfully conceal facts alleged
5 herein giving rise to their unlawful conduct. Until July 23, 2015, South Dakota
6 Plaintiffs had no actual or constructive notice of these concealed facts and did not
7 discover and could not have discovered with reasonable diligence Defendants'
8 unlawful conduct.

9 601. Plaintiff and members of the Class were injured with respect to
10 purchases of Packaged Tuna in South Dakota and are entitled to all forms of relief,
11 including actual damages, treble damages, taxable costs, reasonable attorneys'
12 fees, and injunctive or other equitable relief.

13 **TWENTY-FOURTH CLAIM FOR RELIEF**

14 **Violation of the Tennessee Trade Practices Act,**
15 **Tenn. Code Ann. § 47-25-101, *et seq.***

16 **(By Plaintiffs Kirsten Peck, John Peychal, and John Trent**
17 **On Behalf of the Tennessee Class)**

18 602. Plaintiffs Kirsten Peck, John Peychal, and John Trent, for themselves
19 and on behalf of the Tennessee Class, repeat and realleged each of the allegations
20 contained in paragraphs 1 to 401 as if fully set forth herein.

21 603. The Tennessee Trade Practices Act ("TTPA") prohibits all
22 arrangements, contracts, agreements, trusts, or combinations that tend to advance,
23 reduce, or control the price or the cost of products to producers or consumers. The
24 TTPA prohibits arrangements that decrease competition or affect the prices of
25 goods even if those goods arrived in Tennessee through interstate commerce.

26 604. Plaintiffs Kirsten Peck, John Peychal, and John Trent purchased
27 Packaged Tuna within the State of Tennessee during the Class Period. But for
28 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would

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1 have been lower, in an amount to be determined at trial.

2 605. Defendants contracted, combined, or conspired to restrain the trade or
3 commerce in the market for Packaged Tuna and their conduct substantially
4 affected commerce within the State of Tennessee, in violation of Tenn. Code Ann.
5 §§ 47-25-101, *et seq.*

6 606. Plaintiffs and members of the Class were injured with respect to
7 purchases of Packaged Tuna in that at least thousands of sales of Defendants'
8 Packaged Tuna took place in Tennessee, purchased by Tennessee consumers at
9 supra-competitive prices caused by Defendants' conduct.

10 607. Under Tennessee law, indirect purchaser may bring an action under
11 the TTPA based on the facts alleged in this Complaint.

12 608. Defendants wrongfully and affirmatively concealed the facts alleged
13 herein giving rise to their unlawful conduct. Despite exercising due diligence,
14 Plaintiffs did not have information sufficient to alert a reasonable person of the
15 need to investigate the injury, and were not able to discover evidence of their
16 claims of Defendants' unlawful conduct until July 23, 2015.

17 609. By reason of the foregoing, Plaintiffs and members of the Class are
18 entitled to all forms of relief available under Tenn. Code Ann. §§ 47-25-101, *et*
19 *seq.*, including the full consideration or sum paid for the Packaged Tuna, costs and
20 disbursements, reasonable attorneys' fees, and injunctive relief necessary to
21 prevent and restrain violations thereof.

22 **TWENTY-FIFTH CLAIM FOR RELIEF**

23 **Violation of the Utah Antitrust Act,**

24 **Utah Code Ann. §§ 76-10-911, *et seq.***

25 **(By Plaintiffs Vivek Dravid and Tina Grant On Behalf of the Utah Class)**

26 610. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
27 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
28 1 to 401 as if fully set forth herein.

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1 611. The Utah Antitrust Act aims to “encourage free and open competition
2 in the interest of the general welfare and economy of this state by prohibiting
3 monopolistic and unfair trade practices, combinations and conspiracies in restraint
4 of trade or commerce” Utah Code Ann. § 76-10-3102.

5 612. Plaintiffs Vivek Dravid and Tina Grant purchased Packaged Tuna
6 within the State of Utah during the Class Period. But for Defendants’ conduct set
7 forth herein, the price per unit of Packaged Tuna would have been lower, in an
8 amount to be determined at trial.

9 613. Under the Utah Antitrust Act, indirect purchasers who are either Utah
10 residents or Utah citizens have standing to maintain an action based on the facts
11 alleged in this Complaint. Utah Code Ann. § 76-10-3109(1)(a).

12 614. Defendants contracted, combined or conspired in restraint of trade or
13 commerce of Packaged Tuna, and monopolized or attempted to monopolize trade
14 or commerce of Packaged Tuna, in violation of Utah Code Ann. § 76-10-3101, *et*
15 *seq.*

16 615. Defendants wrongfully concealed the facts alleged herein giving rise
17 to their unlawful conduct. Until July 23, 2015, Utah Plaintiffs did not discover and
18 could not have reasonably discovered their claim.

19 616. Plaintiffs and members of the Class who are either Utah residents or
20 Utah citizens were injured with respect to purchases of Packaged Tuna in Utah and
21 are entitled to all forms of relief, including actual damages, treble damages, costs
22 of suit, reasonable attorneys’ fees, and injunctive relief.

23 **TWENTY-SIXTH CLAIM FOR RELIEF**
24 **Violation of the West Virginia Antitrust Act,**
25 **W. Va. Code § 47-18-1, *et seq.***
26 **(By Plaintiffs Diana Mey and Jade Canterbury**
27 **On Behalf of the West Virginia Class)**

28 617. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves

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1 and the West Virginia Class, repeat and reassert each of the allegations contained
2 in paragraphs 1 to 401 as if fully set forth herein.

3 618. The violations of federal antitrust law set forth above also constitute
4 violations of section 47-18-1 of the West Virginia Code.

5 619. During the Class Period, Defendants and their co-conspirators
6 engaged in a continuing contract, combination or conspiracy in unreasonable
7 restraint of trade and commerce and other anticompetitive conduct alleged above in
8 violation of W. Va. Code § 47-18-1, *et seq.*

9 620. Defendants' anticompetitive acts described above were knowing,
10 willful and constitute violations or flagrant violations of the West Virginia
11 Antitrust Act.

12 621. Defendants wrongfully concealed the facts alleged herein giving rise
13 to their unlawful conduct. Until July 23, 2015, West Virginia Plaintiffs did not
14 discover and could not in the exercise of reasonable diligence have discovered the
15 alleged concealed facts or Defendants' wrongful conduct.

16 622. As a direct and proximate result of Defendants' unlawful conduct,
17 Plaintiffs and members of the West Virginia Class have been injured in their
18 business and property in that they paid more for Packaged Tuna than they
19 otherwise would have paid in the absence of Defendants' unlawful conduct. As a
20 result of Defendants' violation of Section 47-18-3 of the West Virginia Antitrust
21 Act, Plaintiff and members of the West Virginia Class seek treble damages and
22 their cost of suit, including reasonable attorneys' fees, pursuant to section 47-18-9
23 of the West Virginia Code.

24 **TWENTY-SEVENTH CLAIM FOR RELIEF**

25 **Violation of the Wisconsin Antitrust Act,**

26 **Wis. Stat. Ann. § 133.01(1), *et seq.***

27 **(By Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese,**
28 **and Daniel Zwirlein On Behalf of the Wisconsin Class)**

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1 623. Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese, and Daniel
2 Zwirlein, on behalf of themselves and the Wisconsin Class, repeat and reassert
3 each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

4 624. Chapter 133 of the Wisconsin Statutes governs trust and monopolies,
5 with the intent “to safeguard the public against the creation or perpetuation of
6 monopolies and to foster and encourage competition by prohibiting unfair and
7 discriminatory business practices which destroy or hamper competition.” Wis. Stat.
8 § 133.01.

9 625. Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese, and Daniel
10 Zwirlein purchased Packaged Tuna within the State of Wisconsin during the Class
11 Period. But for Defendants’ conduct set forth herein, the price per unit of Packaged
12 Tuna would have been lower, in an amount to be determined at trial.

13 626. Under Wisconsin law, indirect purchasers have standing under the
14 antitrust provisions of the Wisconsin Statutes to maintain an action based on the
15 facts alleged in this Complaint. Wis. Stat. 133.18(a).

16 627. Defendants contracted, combined or conspired in restraint of trade or
17 commerce of Packaged Tuna, and monopolized or attempted to monopolize the
18 trade or commerce of Packaged Tuna, with the intention of injuring or destroying
19 competition therein, in violation of Wis. Stat. § 133.01, *et seq.*

20 628. Plaintiffs and members of the Class were injured with respect to
21 purchases of Packaged Tuna in Wisconsin in that the actions alleged herein
22 substantially affected the people of Wisconsin, with at least thousands of
23 consumers in Wisconsin paying substantially higher prices for Defendants’
24 Packaged Tuna in Wisconsin.

25 629. Defendants wrongfully concealed the facts alleged herein giving rise
26 to their unlawful conduct. Until July 23, 2015, Wisconsin Plaintiffs did not
27 discover and could not in the exercise of reasonable diligence have discovered
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1 their injury or that Defendants' unlawful conduct likely caused such injury.

2 630. Accordingly, Plaintiffs and members of the Class are entitled to all
3 forms of relief, including actual damages, treble damages, costs and reasonable
4 attorneys' fees, and injunctive relief.

5 631. Defendants' and their co-conspirators' anticompetitive activities have
6 directly, foreseeably and proximately caused injury to Plaintiffs and members of
7 the Classes in the United States. Their injuries consist of: (1) being denied the
8 opportunity to purchase lower-priced Packaged Tuna from Defendants, and (2)
9 paying higher prices for Defendants' Packaged Tuna than they would have in the
10 absence of Defendants' conduct. These injuries are of the type of the laws of the
11 above States were designed to prevent, and flow from that which makes
12 Defendants' conduct unlawful.

13 632. Defendants are jointly and severally liable for all damages suffered by
14 Plaintiffs and Class members.

15 **VIOLATIONS OF STATE CONSUMER PROTECTION LAW**

16 **(Against All Defendants)**

17 633. The following Twenty-eighth through Fifty-first Claims for Relief are
18 pleaded under the consumer protection or similar laws of each State or jurisdiction
19 identified below, on behalf of the indicated Class.

20 **TWENTY-EIGHTH CLAIM FOR RELIEF**

21 **Violation of the Arkansas Deceptive Trade Practices Act,**

22 **Ark. Code Ann. § 4-88-101, *et seq.***

23 **(By Plaintiffs Kim Craig, and Kathleen Garner**

24 **On Behalf of the Arkansas Class)**

25 634. Plaintiffs Kim Craig, and Kathleen Garner, on behalf of themselves
26 and the Arkansas Class, repeat and reassert each of the allegations contained in
27 paragraphs 1 to 401 as if fully set forth herein.

28 635. By reason of the conduct alleged herein, Defendants have violated

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1 Ark. Code Ann. § 4-88-101, *et seq.*

2 636. Defendants entered into a contract, combination, or conspiracy
3 between two or more persons in restraint of, or to monopolize, trade or commerce
4 in the Packaged Tuna market, a substantial part of which occurred within
5 Arkansas.

6 637. Defendants established, maintained, or used a monopoly, or attempted
7 to establish a monopoly, of trade or commerce in the Relevant Markets, a
8 substantial part of which occurred within Arkansas, for the purpose of excluding
9 competition or controlling, fixing, or maintaining prices in the Packaged Tuna
10 Market.

11 638. Defendants' conduct was unfair, unconscionable, or deceptive within
12 the conduct of commerce within the State of Arkansas.

13 639. Defendants' conduct misled consumers, withheld material facts, and
14 resulted in material misrepresentations to Plaintiff and members of the Class.

15 640. Defendants' unlawful conduct substantially affected Arkansas's trade
16 and commerce.

17 641. Defendants' conduct was willful.

18 642. As a direct and proximate cause of Defendants' unlawful conduct, the
19 Plaintiffs and the members of the Arkansas Class have been injured in their
20 business or property and are threatened with further injury.

21 643. Defendants wrongfully concealed the facts alleged herein giving rise
22 to their unlawful conduct. Until July 23, 2015, Arkansas Plaintiffs did not
23 discover, and could not in the exercise of reasonable diligence have discovered,
24 their injury or that Defendants' unlawful conduct likely caused such injury.

25 644. By reason of the foregoing, Plaintiffs and members of the Arkansas
26 Class are entitled to seek all forms of relief, including actual damages plus
27 reasonable attorney's fees under Ark. Code Ann. § 4-88-113.

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TWENTY-NINTH CLAIM FOR RELIEF

Violations of California's Unfair Competition Law

Cal. Bus. & Prof. Code § 17200, *et seq.* (the "UCL")

(By Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten, Rick Musgrave, and John Pels On Behalf of the California Class)

645. Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten, Rick Musgrave, and John Pels, for themselves and on behalf of the California Class, repeat and reallege each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

646. The violations of federal antitrust law set forth above also constitute violations of section 17200, *et seq.* of California Business and Professions Code.

647. Defendants have engaged in unfair competition or unfair, unconscionable, deceptive or fraudulent acts or practices in violation of the UCL by engaging in the acts and practices specified above.

648. This claim is instituted pursuant to sections 17203 and 17204 of California Business and Professions Code, to obtain restitution from these Defendants for acts, as alleged herein, that violated the UCL.

649. The Defendants' conduct as alleged herein violated the UCL. The acts, omissions, misrepresentations, practices and non-disclosures of Defendants, as alleged herein, constituted a common, continuous, and continuing course of conduct of unfair competition by means of unfair, unlawful, and/or fraudulent business acts or practices within the meaning of the UCL, including, but not limited to, the following: (1) the violations of Section 1 of the Sherman Act, as set forth above; and (2) the violations of section 16720, *et seq.*, of California Business and Professions Code, set forth above.

650. Defendants' acts, omissions, misrepresentations, practices, and non-disclosures, as described above, whether or not in violation of section 16720, *et seq.*, of California Business and Professions Code, and whether or not concerted or

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independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent.

651. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct preventing California Plaintiffs in the exercise of due diligence from uncovering the unlawful conduct. The applicable statute of limitations is tolled until July 23, 2015 until the Plaintiffs, by the exercise of reasonable diligence, should have discovered it.

652. Plaintiffs and members of the California Class are entitled to full restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits that may have been obtained by Defendants as a result of such business acts or practices.

653. The illegal conduct alleged herein is continuing and there is no indication that Defendants will not continue such activity into the future.

654. The unlawful and unfair business practices of Defendants, and each of them, as described above, have caused and continue to cause Plaintiffs and the members of the California Class to pay supra-competitive and artificially-inflated prices for Packaged Tuna sold in the State of California. Plaintiffs and the members of the California Class suffered injury in fact and lost money or property as a result of such unfair competition.

655. As alleged in this Complaint, Defendants and their co-conspirators have been unjustly enriched as a result of their wrongful conduct and by Defendants' unfair competition. Plaintiffs and the members of the California Class are accordingly entitled to equitable relief including restitution and/or disgorgement of all revenues, earnings, profits, compensation, and benefits that may have been obtained by Defendants as a result of such business practices, pursuant to California Business and Professions Code sections 17203 and 17204.

THIRTIETH CLAIM FOR RELIEF

**Violation of the District of Columbia Consumer Protection Procedures Act,
D.C. Code § 28-3901, *et seq.***

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**(By Plaintiffs Ana Gabriela Felix Garcia,
and Andrew Gorman On Behalf of the District of Columbia Class)**

656. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman, on behalf of themselves and the District of Columbia Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

657. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman and members of the District of Columbia Class purchased Packaged Tuna for personal, family, or household purposes.

658. By reason of the conduct alleged herein, Defendants have violated D.C. Code § 28-3901, *et seq.*

659. Defendants are “merchants” within the meaning of D.C. Code § 28-3901(a)(3).

660. Defendants entered into a contract, combination, or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce in the Packaged Tuna market, a substantial part of which occurred within the District of Columbia.

661. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Relevant Markets, a substantial part of which occurred within the District of Columbia, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the Packaged Tuna Market.

662. Defendants’ conduct was an unfair method of competition, and an unfair or deceptive act or practice within the conduct of commerce within the District of Columbia.

663. Defendants’ unlawful conduct substantially affected the District of Columbia’s trade and commerce.

664. As a direct and proximate cause of Defendants’ unlawful conduct, the

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1 Plaintiffs and members of the District of Columbia Class have been injured in their
2 business or property and are threatened with further injury.

3 665. Defendants wrongfully concealed the facts alleged herein giving rise
4 to the unlawful conduct by the affirmative actions described herein which were
5 designed to prevent the discovery of such unlawful conduct and the Plaintiffs in the
6 District of Columbia did not discover and could not discover the unlawful conduct
7 prior to July 23, 2015.

8 666. By reason of the foregoing, the Plaintiffs and members of the District
9 of Columbia Class are entitled to seek all forms of relief, including treble damages
10 or \$1500 per violation (whichever is greater) plus punitive damages, reasonable
11 attorney's fees and costs under D.C. Code § 28-3901, *et seq.*

12 **THIRTY-FIRST CLAIM FOR RELIEF**

13 **Violation of the Florida Deceptive and Unfair Trade Practices Act,**

14 **Fla. Stat. § 501.201(2), *et seq.***

15 **(By Plaintiffs Barbara Blumstein, Edgardo Gutierrez, Zenda Johnston,**
16 **and Valerie Peters On Behalf of the Florida Class)**

17 667. Plaintiffs Barbara Blumstein, Edgardo Gutierrez, Zenda Johnston, and
18 Valerie Peters, for themselves and on behalf of the Florida Class, repeat and
19 reallege each of the allegations contained in paragraphs 1 to 401 as if fully set forth
20 herein.

21 668. The Florida Deceptive & Unfair Trade Practices Act, Florida Stat. §§
22 501.201, *et seq.* (the "FDUTPA"), generally prohibits "unfair methods of
23 competition, unconscionable acts or practices, and unfair or deceptive acts or
24 practices in the conduct of any trade or commerce," including practices in restraint
25 of trade. Florida Stat. § 501.204(1).

26 669. The primary policy of the FDUTPA is "[t]o protect the consuming
27 public and legitimate business enterprises from those who engage in unfair
28 methods of competition, or unconscionable, deceptive, or unfair acts or practices in

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1 the conduct of any trade or commerce.” Florida Stat. § 501.202(2).

2 670. A claim for damages under the FDUTPA has three elements: (1) a
3 prohibited practice; (2) causation; and (3) actual damages.

4 671. Under Florida law, indirect purchasers have standing to maintain an
5 action under the FDUTPA based on the facts alleged in this Complaint. Fla. Stat. §
6 501.211(a) (“...anyone aggrieved by a violation of this [statute] may bring an
7 action...”).

8 672. Plaintiffs Barbara Blumstein, Edgardo Gutierrez, Zenda Johnston, and
9 Valerie Peters purchased Packaged Tuna within the State of Florida during the
10 Class Period. But for Defendants’ conduct set forth herein, the price per unit of
11 Packaged Tuna would have been lower, in an amount to be determined at trial.

12 673. Defendants entered into a contract, combination or conspiracy
13 between two or more persons in restraint of, or to monopolize, trade or commerce
14 in the Packaged Tuna market, a substantial part of which occurred within Florida.

15 674. Defendants established, maintained or used a monopoly, or attempted
16 to establish a monopoly, of trade or commerce in the market for Packaged Tuna,
17 for the purpose of excluding competition or controlling, fixing or maintaining
18 prices in Florida at a level higher than the competitive market level, beginning at
19 least as early as 2000 and continuing through the date of this filing.

20 675. Accordingly, Defendants’ conduct was an unfair method of
21 competition, and an unfair or deceptive act or practice within the conduct of
22 commerce within the State of Florida.

23 676. Defendants’ unlawful conduct substantially affected Florida’s trade
24 and commerce.

25 677. As a direct and proximate cause of Defendants’ unlawful conduct,
26 Plaintiffs and the members of the Florida Class have been injured in their business
27 or property by virtue of overcharges for Packaged Tuna and are threatened with
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1 further injury.

2 678. Defendants wrongfully concealed the facts alleged herein giving rise
3 to their unlawful conduct. As alleged herein, until July 23, 2015, Defendants were
4 both successful in the concealment of their unlawful conduct and used fraudulent
5 means to achieve such concealment such that the Florida Plaintiffs could not
6 reasonably discover the claim under the circumstances to protect their interests
7 during the limitations period. As a result, this cause of action did not accrue until
8 July 23, 2015.

9 679. By reason of the foregoing, Plaintiffs and the members of the Florida
10 Class are entitled to seek all forms of relief, including injunctive relief pursuant to
11 Florida Stat. §501.208 and declaratory judgment, actual damages, reasonable
12 attorneys' fees and costs pursuant to Florida Stat. § 501.211.

13 **THIRTY-SECOND CLAIM FOR RELIEF**

14 **Violation of Hawaii Unfair and Deceptive Trade Practices Act**

15 **Haw. Rev. Stat. § 480-2**

16 **(By Plaintiff Gloria Emery On Behalf of the Hawaii Class)**

17 680. Plaintiff Gloria Emery, for herself and on behalf of the Hawaii Class,
18 repeats and realleges each of the allegations contained in paragraphs 1 to 401 as if
19 fully set forth herein.

20 681. Plaintiff Gloria Emery and members of the Hawaii Class purchased
21 Packaged Tuna for personal, family, or household purposes.

22 682. By reason of the conduct alleged herein, Defendants have violated in
23 violation of Haw. Rev. Stat. § 480-2.

24 683. Defendants have engaged in "unfair competition or unfair or
25 deceptive acts or practices" within the meaning of Haw. Rev. Stat. § 480-2, with
26 the intent to injure competitors and consumers through supra-competitive profits.

27 684. During the Class Period, Defendants' unlawful conduct substantially
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1 affected Hawaii commerce and consumers.

2 685. Defendants fraudulently concealed their price-fixing conspiracy and
3 withheld material facts regarding the true cause of price increases. Defendants'
4 conduct had the capacity to deceive consumers and misled consumers into
5 believing that increased prices were caused by non-conspiratorial circumstances.

6 686. Defendants' unlawful conduct substantially affected Hawaii's trade
7 and commerce.

8 687. As a direct and proximate cause of Defendants' unlawful conduct,
9 Plaintiff and members of the Hawaii Class have been injured and are threatened
10 with further injury.

11 688. Defendants' continued violations of the law comprise a repeated
12 pattern and course of conduct that provide an exception to the applicable statute of
13 limitations. Defendants also affirmatively misled Plaintiff by wrongfully
14 concealing the facts alleged herein giving rise to the unlawful conduct. Plaintiff
15 had neither actual nor constructive knowledge of the facts giving rise to her claims
16 until July 23, 2015, and exercised due diligence in attempting to discover such
17 facts.

18 689. By reason of the foregoing, Plaintiff and members of the Hawaii Class
19 are entitled to seek all forms of relief available under Haw. Rev. Stat. §§ 480, *et*
20 *seq.*

21 690. Concurrent with the filing of this complaint, Plaintiff and her counsel
22 have served required materials upon the Hawaii Attorney General pursuant to
23 H.R.S. § 480-13.3.

24 **THIRTY-THIRD CLAIM FOR RELIEF**

25 **Violation of the Massachusetts Consumer Protection Act,**

26 **Mass. Gen. Laws ch. 93A § 1, *et seq.***

27 **(By Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron**

28 **On Behalf of the Massachusetts Class)**

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1 691. Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron, on
2 behalf of themselves and the Massachusetts Class, repeat and reassert each of the
3 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

4 692. By reason of the conduct alleged herein, Defendants have violated the
5 Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A § 2, *et seq.*

6 693. Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron
7 purchased Packaged Tuna within the State of Massachusetts during the Class
8 Period. But for Defendants' conduct set forth herein, the price per unit of Packaged
9 Tuna would have been lower, in an amount to be determined at trial.

10 694. Defendants entered into a contract, combination, or conspiracy
11 between two or more persons in restraint of, or to monopolize, trade or commerce
12 in the Packaged Tuna market, a substantial part of which occurred within
13 Massachusetts.

14 695. Defendant established, maintained, or used a monopoly, or attempted
15 to establish a monopoly, of trade or commerce in the market for Packaged Tuna, a
16 substantial part of which occurred within Massachusetts, for the purpose of
17 excluding competition or controlling, fixing, or maintaining prices in the Packaged
18 Tuna market.

19 696. Defendants' conduct was an unfair method of competition, and an
20 unfair or deceptive act or practice within the conduct of commerce within the State
21 of Massachusetts.

22 697. Defendants' unlawful conduct substantially affected Massachusetts'
23 trade and commerce.

24 698. As a direct and proximate cause of Defendants' unlawful conduct, the
25 Plaintiffs and the members of the Massachusetts Class have been injured in their
26 business or property and are threatened with further injury.

27 699. By reason of the foregoing, the Plaintiffs and the Massachusetts Class
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1 are entitled to seek all forms of relief, including up to treble damages and
2 reasonable attorney's fees and costs under Mass. Gen. Laws ch. 93A § 9.

3 700. Pursuant to Mass. Gen. Laws ch. 93A § 9, Plaintiff Caldwell mailed to
4 all Defendants on August 31, 2015, via certified mail, return receipt requested,
5 Demand for Payment Letters which explained the unfair acts, the injury suffered,
6 and requested relief from the Defendants. Plaintiff Caldwell has received a
7 response to these letters from Defendant StarKist, but was unable to come to any
8 agreement with StarKist. Plaintiff Caldwell has received no response from the
9 other Defendants.

10 701. Defendants wrongfully concealed the facts alleged herein giving rise
11 to their unlawful conduct. Until July 23, 2015, Defendants concealed the existence
12 of their unlawful conduct through the affirmative actions alleged herein with an
13 intent to deceive the Massachusetts Plaintiffs and Class as to the nature of their
14 actions. Plaintiffs did not know and reasonably could not have known the facts
15 alleged giving rise to Defendants' unlawful conduct. As a result, this cause of
16 action did not accrue until July 23, 2015.

17 702. Pursuant to Mass. Gen. Laws ch. 93A § 9, Plaintiff Daniels mailed to
18 all Defendants on September 3, 2015, and again on October 2, 2015, via certified
19 mail, return receipt requested, Demand for Payment Letters which explained the
20 unfair acts, the injury suffered, and requested relief from the Defendants. Plaintiff
21 Daniels has received a response to these letters from Defendant StarKist, but was
22 unable to come to any agreement with StarKist. Plaintiff Daniels has received no
23 response from the other Defendants.

24 **THIRTY-FOURTH CLAIM FOR RELIEF**

25 **Violation of the Michigan Consumer Protection Act**

26 **Mich. Comp. Laws Ann. § 445.901, *et seq.***

27 **(By Plaintiffs Louise Adams, and Barbara Olson**

28 **On Behalf of the Michigan Class)**

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1 703. Plaintiffs Louise Adams, and Barbara Olson, on behalf of themselves
2 and the Michigan Class, repeat and reassert each of the allegations contained in
3 paragraphs 1 to 401 as if fully set forth herein.

4 704. By reason of the conduct alleged herein, Defendants have violated
5 Mich. Comp. Laws Ann. § 445.901, *et seq.*

6 705. Defendants have entered into a contract, combination, or conspiracy
7 between two or more persons in restraint of, or to monopolize, trade or commerce
8 in the Packaged Tuna Market, a substantial part of which occurred within
9 Michigan.

10 706. Defendants established, maintained, or used a monopoly, or attempted
11 to establish a monopoly, of trade or commerce in the Packaged Market, for the
12 purpose of excluding or limiting competition or controlling or maintaining prices, a
13 substantial part of which occurred within Michigan.

14 707. Defendants' conduct was conducted with the intent to deceive
15 Michigan consumers regarding the nature of Defendants' actions within the stream
16 of Michigan commerce.

17 708. Defendants' conduct was unfair, unconscionable, or deceptive within
18 the conduct of commerce within the State of Michigan.

19 709. Defendants' conduct misled consumers, withheld material facts, and
20 took advantage of Plaintiffs and Class members' inability to protect themselves.

21 710. Defendants' unlawful conduct substantially affected Michigan's trade
22 and commerce.

23 711. As a direct and proximate cause of Defendants' unlawful conduct, the
24 Plaintiffs and members of the Michigan Class have been injured in their business
25 or property and are threatened with further injury.

26 712. Defendants wrongfully concealed the facts alleged herein giving rise
27 to the unlawful conduct and through their affirmative arrangements and
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contrivances preventing discovery of such unlawful conduct until July 23, 2015.

713. By reason of the foregoing, the Plaintiffs and the Michigan Class are entitled to seek all forms of relief available under Mich. Comp. Laws Ann. § 445.911.

THIRTY-FIFTH CLAIM FOR RELIEF
Violation of the Minnesota Consumer Fraud Act,
Minn. Stat. § 325F.68, *et seq.*
(By Plaintiffs Laura Childs and Robert Etten
On Behalf of the Minnesota Class)

714. Plaintiffs Laura Childs and Robert Etten, on behalf of themselves and the Minnesota Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

715. By reason of the conduct alleged herein, Defendants have violated Minn. Stat. § 325F.68, *et seq.*

716. Defendants engaged in a deceptive trade practice with the intent to injure competitors and consumers through supra-competitive profits.

717. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a substantial part of which occurred within Minnesota, for the purpose of controlling, fixing, or maintaining prices in the Packaged Seafood Market.

718. Defendants' conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of Minnesota.

719. Defendants' conduct, specifically in the form of fraudulent concealment of their horizontal agreement, created a fraudulent or deceptive act or practice committed by a supplier in connection with a consumer transaction.

720. Defendants' unlawful conduct substantially affected Minnesota's trade and commerce.

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1 721. Defendants' conduct was willful.

2 722. As a direct and proximate cause of Defendants' unlawful conduct, the
3 Plaintiffs and the members of the Minnesota Class have been injured in their
4 business or property and are threatened with further injury.

5 723. Defendants wrongfully concealed the facts alleged herein giving rise
6 to the unlawful conduct through the fraudulent and intentional acts described
7 herein and Minnesota Plaintiffs could not have reasonably discovered the
8 concealment of Defendants' unlawful conduct until July 23, 2015.

9 724. By reason of the foregoing, the Plaintiffs and the members of the
10 Minnesota Class are entitled to seek all forms of relief, including damages,
11 reasonable attorneys' fees and costs under Minn. Stat. § 325F.68, *et seq.* and
12 applicable case law.

13 **THIRTY-SIXTH CLAIM FOR RELIEF**

14 **Violation of the Missouri Merchandising Practices Act,**
15 **Mo. Ann. Stat. § 407.010, *et seq.***

16 **(By Plaintiffs John Frick, Steven Kratky, Amber Sartori, and**
17 **Rebecca Lee Simoens On Behalf of the Missouri Class)**

18 725. Plaintiffs John Frick, Steven Kratky, Amber Sartori, and Rebecca Lee
19 Simoens on behalf of themselves and the Missouri Class, repeat and reassert each
20 of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

21 726. Plaintiffs and members of the Missouri Class purchased Packaged
22 Tuna during the Class Period for personal, family, or household purposes.

23 727. By reason of the conduct alleged herein, Defendants have violated
24 Missouri's Merchandising Practices Act (the "MMPA"), specifically Mo. Rev.
25 Stat. § 407.020, which prohibits "the act, use or employment by any person of any
26 deception, fraud, false pretense, false promise, misrepresentation, unfair practice or
27 the concealment, suppression, or omission of any material fact in connection with
28 the sale or advertisement of any merchandise in trade or commerce"

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1 728. Defendants have entered into a contract, combination, or conspiracy
2 between two or more persons in restraint of, or to monopolize, trade or commerce
3 in the Packaged Tuna Market, a part of which occurred within Missouri.

4 729. Defendants established, maintained, or used a monopoly, or attempted
5 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, for
6 the purpose of excluding or limiting competition or controlling or maintaining
7 prices, a part of which occurred within Missouri.

8 730. Defendants engaged in a deceptive trade practice with the intent to
9 injure competitors and consumers through supra-competitive profits.

10 731. Defendants concealed, suppressed, and omitted to disclose material
11 facts to Plaintiff and the members of the Missouri Class concerning Defendants'
12 unlawful activities. The concealed, suppressed, and omitted facts would have been
13 important to Plaintiffs and the members of the Missouri Class as they relate to the
14 cost of Packaged Tuna they purchased.

15 732. Defendants misrepresented the real cause of prices increases and/or
16 the absence of price reductions in Packaged Tuna by making public statements that
17 were not in accord with the facts.

18 733. Defendants' statements and conduct concerning the price of Packaged
19 Tuna were deceptive as they had the tendency or capacity to mislead Plaintiff and
20 the members of the Missouri Class to believe that they were purchasing Packaged
21 Tuna at prices established by a free and fair market.

22 734. Defendants' unlawful conduct substantially affected Missouri
23 commerce.

24 735. As a direct and proximate cause of Defendants' unlawful conduct,
25 Plaintiffs and members of the Missouri Class suffered ascertainable loss of money
26 or property.

27 736. Defendants wrongfully concealed the facts alleged herein giving rise
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1 to their unlawful conduct. As alleged herein, until July 23, 2015, Defendants
2 affirmatively and successfully concealed their unlawful conduct which prevented
3 the Missouri Plaintiffs and the Class from discovering Defendants' unlawful
4 conduct. As a result of this fraudulent concealment, this cause of action did not
5 accrue until July 23, 2015.

6 737. Accordingly, Plaintiffs and members of the Missouri Class seek all
7 relief available under the MMPA, specifically Mo. Rev. Stat. § 407.020, as further
8 interpreted by Title 15 of the Missouri Code of State Regulations, 15 CSR 60-
9 7.010, *et seq.*, 15 CSR 60-8.010, *et seq.*, and 15 CSR 60-9.010, *et seq.*, and Mo.
10 Rev. Stat. § 407.025 which provides for the relief sought in this count.

THIRTY-SEVENTH CLAIM FOR RELIEF

**Violation of the Nebraska Consumer Protection Act,
Neb. Rev. Stat. § 59-1602, *et seq.***

**(By Plaintiffs Melissa Bowman and Barbara Buenning
On Behalf of the Nebraska Class)**

15 738. Plaintiffs Melissa Bowman and Barbara Buenning, on behalf of
16 themselves and the Nebraska Class, repeat and reassert each of the allegations
17 contained in paragraphs 1 to 401 as if fully set forth herein.

18 739. By reason of the conduct alleged herein, Defendants have violated
19 Neb. Rev. Stat. § 59-1602, *et seq.*

20 740. Defendants have entered into a contract, combination, or conspiracy
21 between two or more persons in restraint of, or to monopolize, trade or commerce
22 in the Packaged Tuna Market, a substantial part of which occurred within
23 Nebraska.

24 741. Defendants established, maintained, or used a monopoly, or attempted
25 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, for
26 the purpose of excluding or limiting competition or controlling or maintaining
27 prices, a substantial part of which occurred within Nebraska.

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1 742. Defendants' conduct was conducted with the intent to deceive
2 Nebraska consumers regarding the nature of Defendants' actions within the stream
3 of Nebraska commerce.

4 743. Defendants' conduct was unfair, unconscionable, or deceptive within
5 the conduct of commerce within the State of Nebraska.

6 744. Defendants' conduct misled consumers, withheld material facts, and
7 had a direct or indirect impact upon Plaintiffs and Class members' ability to protect
8 themselves.

9 745. Defendants' unlawful conduct substantially affected Nebraska's trade
10 and commerce.

11 746. As a direct and proximate cause of Defendants' unlawful conduct, the
12 Plaintiff and the members of the Nebraska Class have been injured in their
13 business or property and are threatened with further injury.

14 747. Defendants wrongfully concealed the facts alleged herein giving rise
15 to their unlawful conduct. As alleged herein, the Defendants affirmatively
16 concealed their unlawful conduct which prevented Nebraska Plaintiffs from
17 reasonably discovering the claim before the statute of limitations expired. As a
18 result, Defendants' unlawful conduct was neither obvious nor discoverable during
19 the limitations period. This cause of action did not accrue until July 23, 2015 when
20 the Plaintiffs knew, or in the exercise of reasonable diligence, should have known
21 about the Defendants' unlawful conduct.

22 748. By reason of the foregoing, Plaintiff and members of the Nebraska
23 Class are entitled to seek all forms of relief available under Neb. Rev. Stat. § 59-
24 1614.

THIRTY-EIGHTH CLAIM FOR RELIEF

Violation of the Nevada Deceptive Trade Practices Act,

Nev. Rev. Stat. § 598.0903, *et seq.*

(By Plaintiffs Nay Alidad and Nancy Stiller)

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On Behalf of the Nevada Class)

749. Plaintiffs Nay Alidad and Nancy Stiller, on behalf of themselves and the Nevada Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

750. By reason of the conduct alleged herein, Defendants have violated Nev. Rev. Stat. § 598.0903, *et seq.*

751. Defendants engaged in a deceptive trade practice with the intent to injure competitors and to substantially lessen competition.

752. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a substantial part of which occurred within Nevada, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the Packaged Tuna Market.

753. Defendants' conduct was unfair, unconscionable, or deceptive within the conduct of commerce within the State of Nevada.

754. Defendants' conduct amounted to a fraudulent act or practice committed by a supplier in connection with a consumer transaction.

755. Defendants' unlawful conduct substantially affected Nevada's trade and commerce.

756. Defendants' conduct was willful.

757. As a direct and proximate cause of Defendants' unlawful conduct, the members of the Nevada Class have been injured in their business or property and are threatened with further injury.

758. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct. Until July 23, 2015, the Nevada Plaintiffs did not discover and could not have discovered by the exercise of reasonable diligence Defendants' unlawful conduct.

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1 759. By reason of the foregoing, the Nevada Class is entitled to seek all
2 forms of relief, including damages, reasonable attorneys' fees and costs, and a civil
3 penalty of up to \$5,000 per violation under Nev. Rev. Stat. § 598.0993.

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6 **THIRTY-NINTH CLAIM FOR RELIEF**
7 **Violation of the New Hampshire Consumer Protection Act,**
8 **N.H. Rev. Stat. Ann. tit. XXXI, § 358-A, *et seq.*,**
9 **(By Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff**
 On Behalf of the New Hampshire Class)

10 760. Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff, on behalf of
11 themselves and the New Hampshire Class, repeat and reassert each of the
12 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

13 761. By reason of the conduct alleged herein, Defendants have violated
14 N.H. Rev. Stat. Ann. tit. XXXI, § 358-A, *et seq.*

15 762. Defendants have entered into a contract, combination, or conspiracy
16 between two or more persons in restraint of, or to monopolize, trade or commerce
17 in the Packaged Tuna Market, a substantial part of which occurred within New
18 Hampshire.

19 763. Defendants established, maintained, or used a monopoly, or attempted
20 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, for
21 the purpose of excluding or limiting competition or controlling or maintaining
22 prices, a substantial part of which occurred within New Hampshire.

23 764. Defendants' conduct was conducted with the intent to deceive New
24 Hampshire consumers regarding the nature of Defendants' actions within the
25 stream of New Hampshire commerce.

26 765. Defendants' conduct was unfair or deceptive within the conduct of
27 commerce within the State of New Hampshire.

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1 766. Defendants' conduct was willful and knowing.

2 767. Defendants' conduct misled consumers, withheld material facts, and
3 had a direct or indirect impact upon Plaintiff and Class members' ability to protect
4 themselves.

5 768. Defendants' unlawful conduct substantially affected New
6 Hampshire's trade and commerce.

7 769. As a direct and proximate cause of Defendants' unlawful conduct, the
8 Plaintiffs and the members of the New Hampshire Class have been injured in their
9 business or property and are threatened with further injury.

10 770. Defendants fraudulently concealed the essential facts alleged here
11 giving rise to their unlawful conduct. Until July 23, 2015, New Hampshire
12 Plaintiffs did not discover and could not have discovered in the exercise of
13 reasonable diligence either Defendants' unlawful conduct or the facts giving rise to
14 such conduct.

15 771. By reason of the foregoing, the Plaintiffs and the members of the New
16 Hampshire Class are entitled to seek all forms of relief available under N.H. Rev.
17 Stat. Ann. tit. XXXI, §§ 358-A:10 and 358-A:10-a.

18 **FORTIETH CLAIM FOR RELIEF**

19 **Violation of the New Mexico Unfair Practices Act,**

20 **N.M. Stat. Ann. §§ 57-12-3, *et seq.***

21 **(By Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya**

22 **On Behalf of the New Mexico Class)**

23 772. Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya, by
24 themselves and on behalf of the New Mexico Class, repeat and reassert each of the
25 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

26 773. By reason of the conduct alleged herein, Defendants have violated
27 N.M. Stat. Ann. §§ 57-12-3, *et seq.*

28 774. Defendants entered into a contract, combination, or conspiracy

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1 between two or more persons in restraint of, or to monopolize, trade or commerce
2 in the Packaged Tuna market, a substantial part of which occurred within New
3 Mexico.

4 775. Defendants established, maintained, or used a monopoly, or attempted
5 to establish a monopoly, of trade or commerce in the Relevant Markets, a
6 substantial part of which occurred within New Mexico, for the purpose of
7 excluding competition or controlling, fixing, or maintaining prices in the Packaged
8 Tuna Market.

9 776. Defendants' conduct was unfair, unconscionable, or deceptive within
10 the conduct of commerce within the State of New Mexico.

11 777. Defendants' conduct misled consumers, withheld material facts, and
12 resulted in material misrepresentations to Plaintiff and members of the Class.

13 778. Defendants' unlawful conduct substantially affected New Mexico's
14 trade and commerce.

15 779. Defendants' conduct constituted "unconscionable trade practices" in
16 that such conduct, inter alia, resulted in a gross disparity between the value
17 received by the New Mexico class members and the price paid by them for
18 Packaged Tuna as set forth in N.M. Stat. Ann. § 57-12-2E.

19 780. Defendants' conduct was willful.

20 781. As a direct and proximate cause of Defendants' unlawful conduct, the
21 Plaintiffs and the members of the New Mexico Class have been injured in their
22 business or property and are threatened with further injury.

23 782. Defendants knew that their conduct was unlawful and wrongfully
24 concealed the facts alleged here giving rise to their unlawful conduct. Until July
25 23, 2015, New Mexico Plaintiffs did not know and could not have known in the
26 exercise of reasonable diligence either Defendants' unlawful conduct or the facts
27 giving rise to such conduct.

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1 783. By reason of the foregoing, Plaintiffs and members of the New
2 Mexico Class are entitled to seek all forms of relief, including actual damages or
3 up to \$300 per violation, whichever is greater, plus reasonable attorney's fees
4 under N.M. Stat. Ann. §§ 57-12-10.

5
6 **FORTY-FIRST CLAIM FOR RELIEF**

7 **Violation of the North Carolina Unfair Trade and Business Practices Act,**
8 **N.C. Gen. Stat. § 75-1.1, *et seq.***

9 **(By Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori**
10 **On Behalf of the North Carolina Class)**

11 784. Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori, on behalf
12 of themselves and the North Carolina Class, repeat and reassert each of the
13 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

14 785. By reason of the conduct alleged herein, Defendants have violated
15 N.C. Gen. Stat. § 75-1.1, *et seq.*

16 786. Defendants entered into a contract, combination, or conspiracy in
17 restraint of, or to monopolize, trade or commerce in the Packaged Tuna Market, a
18 substantial part of which occurred within North Carolina.

19 787. Defendants' conduct was unfair, unconscionable, or deceptive within
20 the conduct of commerce within the State of North Carolina.

21 788. Defendants' trade practices are and have been immoral, unethical,
22 unscrupulous, and substantially injurious to consumers.

23 789. Defendants' conduct misled consumers, withheld material facts, and
24 resulted in material misrepresentations to Plaintiff and members of the Class.

25 790. Defendants' unlawful conduct substantially affected North Carolina's
26 trade and commerce.

27 791. Defendants' conduct constitutes consumer-oriented deceptive acts or
28 practices within the meaning of North Carolina law, which resulted in consumer

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1 injury and broad adverse impact on the public at large, and harmed the public
2 interest of North Carolina consumers in an honest marketplace in which economic
3 activity is conducted in a competitive manner.

4 792. As a direct and proximate cause of Defendants' unlawful conduct, the
5 Plaintiffs and the members of the North Carolina Class have been injured in their
6 business or property and are threatened with further injury.

7 793. Defendants wrongfully concealed the facts alleged herein giving rise
8 to their unlawful conduct. Until July 23, 2015, the North Carolina Plaintiffs did
9 not know and could not have learned or discovered by the exercise of due care
10 about Defendants' unlawful conduct.

11 794. By reason of the foregoing, the Plaintiffs and the members of the
12 North Carolina Class are entitled to seek all forms of relief, including treble
13 damages under N.C. Gen. Stat. § 75-16.

14 **FORTY-SECOND CLAIM FOR RELIEF**

15 **Violation of the North Dakota Unfair Trade Practices Law,**

16 **N.D. Cent. Code § 51-10, *et seq.***

17 **(By Plaintiffs Tya Hughes and Bonnie Vander Laan**

18 **On Behalf of the North Dakota Class)**

19 795. Plaintiffs Tya Hughes and Bonnie Vander Laan, on behalf of
20 themselves and the North Dakota Class, repeat and reassert each of the allegations
21 contained in paragraphs 1 to 401 as if fully set forth herein.

22 796. By reason of the conduct alleged herein, Defendants have violated
23 N.D. Cent. Code § 51-10-01, *et seq.*

24 797. Defendants engaged in a deceptive trade practice with the intent to
25 injure competitors and consumers through supra-competitive profits.

26 798. Defendants established, maintained, or used a monopoly, or attempted
27 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a
28 substantial part of which occurred within North Dakota, for the purpose of

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1 controlling, fixing, or maintaining prices in the Packaged Tuna Market.

2 799. Defendants' conduct was unfair, unconscionable, or deceptive within
3 the conduct of commerce within the State of North Dakota.

4 800. Defendants' conduct amounted to a fraudulent or deceptive act or
5 practice committed by a supplier in connection with a consumer transaction.

6 801. Defendants' unlawful conduct substantially affected North Dakota's
7 trade and commerce.

8 802. Defendants' conduct was willful.

9 803. Defendants wrongfully concealed the facts alleged herein giving rise
10 to their unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs did not
11 discover and could not have discovered by exercise of reasonable diligence
12 Defendants' unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs had
13 neither actual nor constructive notice of the facts alleged herein giving rise to
14 Defendants' unlawful conduct.

15 804. As a direct and proximate cause of Defendants' unlawful conduct, the
16 Plaintiff and the members of the North Dakota Class have been injured in their
17 business or property and are threatened with further injury.

18 805. By reason of the foregoing, the Plaintiffs and the members of the
19 North Dakota Class are entitled to seek all forms of relief, including damages and
20 injunctive relief under N.D. Cent. Code § 51-10-06.

21 **FORTY-THIRD CLAIM FOR RELIEF**

22 **Violation of the Oregon Unlawful Trade Practices Act,**

23 **Or. Rev. Stat. § 646.605, *et seq.***

24 **(By Plaintiffs Danielle Johnson and Liza Milliner**

25 **On Behalf of the Oregon Class)**

26 806. Plaintiffs Danielle Johnson and Liza Milliner, on behalf of themselves
27 and the Oregon Class, repeat and reassert each of the allegations contained in
28 paragraphs 1 to 401 as if fully set forth herein.

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1 807. By reason of the conduct alleged herein, Defendants have violated Or.
2 Rev. Stat. § 646.608, *et seq.*

3 808. Defendants have entered into a contract, combination, or conspiracy
4 between two or more persons in restraint of, or to monopolize, trade or commerce
5 in the Packaged Tuna Market, a substantial part of which occurred within Oregon.

6 809. Defendants established, maintained, or used a monopoly, or attempted
7 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, for
8 the purpose of excluding or limiting competition or controlling or maintaining
9 prices, a substantial part of which occurred within Oregon.

10 810. Defendants' conduct was conducted with the intent to deceive Oregon
11 consumers regarding the nature of Defendants' actions within the stream of Oregon
12 commerce.

13 811. Defendants' conduct was unfair or deceptive within the conduct of
14 commerce within the State of Oregon.

15 812. Defendants' conduct misled consumers, withheld material facts, and
16 had a direct or indirect impact upon Plaintiff and class members' ability to protect
17 themselves.

18 813. Defendants' unlawful conduct substantially affected Oregon's trade
19 and commerce.

20 814. As a direct and proximate cause of Defendants' unlawful conduct, the
21 Plaintiffs and the members of the Oregon Class have been injured in their business
22 or property and are threatened with further injury.

23 815. By reason of the foregoing, the Plaintiffs and the members of the
24 Oregon Class are entitled to seek all forms of relief available under Or. Rev. Stat. §
25 646.638.

26 816. Defendants wrongfully concealed the facts alleged herein giving rise
27 to their unlawful conduct. Until July 23, 2015, Oregon Plaintiffs did not discover
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1 and could not have discovered with reasonable diligence either the facts alleged or
2 Defendants' unlawful conduct.

3 817. Pursuant to section 646.638 of the Oregon Unlawful Trade Practices
4 Act, contemporaneously with the filing of this action, a copy of this Complaint is
5 being served upon the Attorney General of Oregon.

6 **FORTY-FOURTH CLAIM FOR RELIEF**

7 **Violation of Rhode Island Deceptive Trade Practices Act,**

8 **R.I. Gen Laws § 6-13.1-1, *et seq.***

9 **(By Plaintiffs Katherine McMahon and Elizabeth Perron**

10 **On Behalf of the Rhode Island Class)**

11 818. Plaintiffs Katherine McMahon and Elizabeth Perron, on behalf of
12 themselves and the Rhode Island Class, repeat and reassert each of the allegations
13 contained in paragraphs 1 to 401 as if fully set forth herein.

14 819. By reason of the conduct alleged herein, Defendants have violated
15 R.I. Gen Laws § 6-13.1-1, *et seq.*

16 820. Defendants engaged in an unfair or deceptive act or practice with the
17 intent to injure competitors and consumers through supra-competitive profits.

18 821. Defendants established, maintained, or used a monopoly, or attempted
19 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a
20 substantial part of which occurred within Rhode Island, for the purpose of
21 controlling, fixing, or maintaining prices in the Packaged Tuna Market.

22 822. Defendants' conduct was unfair or deceptive within the conduct of
23 commerce within the State of Rhode Island.

24 823. Defendants' conduct amounted to an unfair or deceptive act or
25 practice committed by a supplier in connection with a consumer transaction.

26 824. Defendants' unlawful conduct substantially affected Rhode Island's
27 trade and commerce.

28 825. Defendants' conduct was willful.

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1 826. Defendants deliberately failed to disclose material facts to Plaintiffs
2 and members of the Rhode Island Class concerning Defendants' unlawful
3 activities, including the horizontal conspiracy and artificially-inflated prices for
4 Packaged Tuna.

5 827. Defendants' deception, including its affirmative misrepresentations
6 and/or omissions concerning the price of Packaged Tuna, constitutes information
7 necessary to Plaintiffs and members of the Rhode Island Class relating to the cost
8 of Packaged Tuna purchased.

9 828. Plaintiffs and members of the Rhode Island class purchased goods,
10 namely Packaged Tuna, primarily for personal, family, or household purposes.

11 829. As a direct and proximate cause of Defendants' unlawful conduct, the
12 Plaintiffs and the members of the Rhode Island Class have been injured in their
13 business or property and are threatened with further injury.

14 830. Defendants wrongfully concealed the facts alleged herein giving rise
15 to their unlawful conduct. Until July 23, 2015, Rhode Island Plaintiffs could not,
16 in the exercise of reasonable diligence, have discovered the alleged facts or
17 Defendants' wrongful conduct.

18 831. By reason of the foregoing, Plaintiffs and the members of the Rhode
19 Island Class are entitled to seek all forms of relief, including actual damages or
20 \$200 per violation, whichever is greater, and injunctive relief and punitive
21 damages under R.I. Gen Laws § 6-13.1-5.2.

22 **FORTY-FIFTH CLAIM FOR RELIEF**

23 **Violation of the South Carolina Unfair Trade Practices Act,**

24 **S.C. Code Ann. § 39-5-10 *et seq.***

25 **(By Plaintiff Gay Birnbaum on Behalf of the South Carolina Class)**

26 832. Plaintiff Gay Birnbaum, on behalf of herself and the South Carolina
27 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
28 401 as if fully set forth herein.

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1 833. Section 39-5-10 of the South Caroline Code prohibits “unfair methods
2 of competition and unfair or deceptive acts or practices in the conduct of any trade
3 or commerce.”

4 834. Plaintiff Gay Birnbaum purchased Packaged Tuna from Defendants
5 within the State of South Carolina during the Class Period.

6 835. Defendants engaged in an unfair or deceptive act or practice with the
7 intent to injure competitors and consumers through supra-competitive profits.

8 836. Defendants established, maintained, or used a monopoly, or attempted
9 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a
10 substantial part of which occurred within South Carolina, for the purpose of
11 controlling, fixing, or maintaining prices in the Packaged Tuna Market.

12 837. Defendants’ conduct was unfair or deceptive within the conduct of
13 commerce within the State of South Carolina.

14 838. Defendants’ unlawful conduct substantially affected South Carolina’s
15 trade and commerce.

16 839. Defendants’ conduct was willful.

17 840. Defendants deliberately failed to disclose material facts to Plaintiff
18 and members of the South Carolina Class concerning Defendants’ unlawful
19 activities, including the horizontal conspiracy and artificially-inflated prices for
20 Packaged Tuna. Defendants’ wrongful concealment of the facts alleged herein
21 giving rise to the unlawful conduct meant that such facts were not and could not
22 have been reasonably discovered by the diligence of Plaintiffs until July 23, 2015.

23 841. Defendants’ deception, including its affirmative misrepresentations
24 and/or omissions concerning the price of Packaged Tuna, constitutes information
25 necessary to Plaintiff and members of the South Carolina Class relating to the cost
26 of Packaged Tuna purchased.

27 842. As a direct and proximate cause of Defendants’ unlawful conduct, the
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1 Plaintiffs and the members of the South Carolina Class have been ascertainably
2 injured in their business or property and are threatened with further injury.

3 843. By reason of the foregoing, Plaintiff and the members of the South
4 Carolina Class are entitled to seek all forms of relief, including treble damages or
5 and reasonable attorneys' fees and costs under S.C. Code Ann. § 39-5-140

6 844. Pursuant to S.C. Code Ann. § 39-5-140(b), a copy of this complaint is
7 being mailed to the South Carolina Attorney General in conjunction with its filing.

8 **FORTY-SIXTH CLAIM FOR RELIEF**

9 **Violation of the South Dakota Deceptive Trade Practices**
10 **and Consumer Protection Law, S.D. Codified Laws § 37-24, *et seq.***
11 **(By Plaintiff Casey Christensen On Behalf of the South Dakota Class)**

12 845. Plaintiff Casey Christensen, on behalf of herself and the South Dakota
13 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
14 401 as if fully set forth herein.

15 846. By reason of the conduct alleged herein, Defendants have violated
16 S.D. Codified Laws § 37-24-6.

17 847. Defendants engaged in a deceptive trade practice with the intent to
18 injure competitors and consumers through supra-competitive profits.

19 848. Defendants established, maintained, or used a monopoly, or attempted
20 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a
21 substantial part of which occurred within South Dakota, for the purpose of
22 controlling, fixing, or maintaining prices in the Packaged Tuna Market.

23 849. Defendants' conduct was unfair, unconscionable, or deceptive within
24 the conduct of commerce within the State of South Dakota.

25 850. Defendants' conduct amounted to a fraudulent or deceptive act or
26 practice committed by a supplier in connection with a consumer transaction.

27 851. Defendants' unlawful conduct substantially affected South Dakota's
28 trade and commerce.

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1 852. Defendants' conduct was willful.

2 853. As a direct and proximate cause of Defendants' unlawful conduct, the
3 Plaintiff and the members of the South Dakota Class have been injured in their
4 business or property and are threatened with further injury.

5 854. Defendants acted affirmatively to wrongfully conceal facts alleged
6 herein giving rise to their unlawful conduct. Until July 23, 2015, South Dakota
7 Plaintiffs had no actual or constructive notice of these concealed facts and did not
8 discover and could not have discovered with reasonable diligence Defendants'
9 unlawful conduct.

10 855. By reason of the foregoing, Plaintiff and the members of the South
11 Dakota Class are entitled to seek all forms of relief, including actual damages and
12 injunctive relief under S.D. Codified Laws § 37-24-31.

13 **FORTY-SEVENTH CLAIM FOR RELIEF**

14 **Violation of the Utah Consumer Sales Practices Act,**

15 **Utah Code Ann. §§ 13-11-1, *et seq.***

16 **(By Plaintiffs Vivek Dravid and Tina Grant On Behalf of the Utah Class)**

17 856. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
18 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
19 1 to 401 as if fully set forth herein.

20 857. By reason of the conduct alleged herein, Defendants have violated
21 Utah Code Ann. §§ 13-11-1, *et seq.*

22 858. Defendants entered into a contract, combination, or conspiracy
23 between two or more persons in restraint of, or to monopolize, trade or commerce
24 in the Packaged Tuna market, a substantial part of which occurred within Utah.

25 859. Defendants are suppliers within the meaning of Utah Code Ann. §§
26 13-11-3.

27 860. Defendants established, maintained, or used a monopoly, or attempted
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1 to establish a monopoly, of trade or commerce in the Relevant Markets, a
2 substantial part of which occurred within Utah, for the purpose of excluding
3 competition or controlling, fixing, or maintaining prices in the Packaged Tuna
4 Market.

5 861. Defendants' conduct was unfair, unconscionable, or deceptive within
6 the conduct of commerce within the State of Utah.

7 862. Defendants' conduct and/or practices were unconscionable and were
8 undertaken in connection with consumer transactions.

9 863. Defendants knew or had reason to know that their conduct was
10 unconscionable.

11 864. Defendants' conduct misled consumers, withheld material facts, and
12 resulted in material misrepresentations to Plaintiff and members of the Class.

13 865. Defendants' unlawful conduct substantially affected Utah's trade and
14 commerce.

15 866. As a direct and proximate cause of Defendants' unlawful conduct, the
16 Plaintiffs and the members of the Utah Class have been injured in their business or
17 property and are threatened with further injury.

18 867. Defendants wrongfully concealed the facts alleged herein giving rise
19 to the their unlawful conduct. Until July 23, 2015, Utah Plaintiffs did not discover
20 and could not have reasonably discovered their claim.

21 868. By reason of the foregoing, the Plaintiffs and the members of the Utah
22 Class is entitled to seek all forms of relief, including declaratory judgment,
23 injunctive relief, and ancillary relief, pursuant to Utah Code Ann. §§ 13-11-19(5)
24 and 13-11-20.

FORTY-EIGHTH CLAIM FOR RELIEF

Violation of the Utah Unfair Practices Act,

Utah Code All. §§ 13-5-1, *et seq.*

(By Plaintiffs Vivek Dravid and Tina Grant On Behalf of the Utah Class)

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1 869. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
2 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
3 1 to 401 as if fully set forth herein.

4 870. By reason of the conduct alleged herein, Defendants have violated
5 Utah Code Ann. §§ 13-5-1, *et seq.*

6 871. Defendants entered into a contract, combination, or conspiracy
7 between two or more persons in restraint of, or to monopolize, trade or commerce
8 in the Packaged Tuna market, a substantial part of which occurred within Utah.

9 872. Defendants established, maintained, or used a monopoly, or attempted
10 to establish a monopoly, of trade or commerce in the Relevant Markets, a
11 substantial part of which occurred within Utah, for the purpose of excluding
12 competition or controlling, fixing, or maintaining prices in the Packaged Tuna
13 Market.

14 873. Defendants' conduct caused or was intended to cause unfair methods
15 of competition within the State of Utah.

16 874. Defendants' unlawful conduct substantially affected Utah's trade and
17 commerce.

18 875. As a direct and proximate cause of Defendants' unlawful conduct, the
19 Plaintiffs and the members of the Utah Class have been injured in their business or
20 property and are threatened with further injury.

21 876. Defendants wrongfully concealed the facts alleged herein giving rise
22 to the their unlawful conduct. Until July 23, 2015, Utah Plaintiffs did not discover
23 and could not have reasonably discovered their claim.

24 877. By reason of the foregoing, the Plaintiffs and the members of the Utah
25 Class is entitled to seek all forms of relief, including actual damages or \$2000 per
26 Utah Class member, whichever is greater, plus reasonable attorney's fees under
27 Utah Code Ann. §§ 13-5-14, *et seq.*

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FORTY-NINTH CLAIM FOR RELIEF

Violation of the Vermont Consumer Fraud Act,

Vt. Stat. Ann. tit. 9, §§ 2453, *et seq.*

(By Plaintiffs Stephanie Gipson and Jennifer A. Nelson

On Behalf of the Vermont Class)

878. Plaintiffs Stephanie Gipson and Jennifer A. Nelson, on behalf of themselves and the Vermont Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

879. Title 9 of the Vermont Statutes generally governs commerce and trade in Vermont. Chapter 63 thereof governs consumer protection and prohibits, inter alia, unfair methods competition, unfair and deceptive acts and practices, and antitrust violations such as restraints of trade and monopolization. Vt. Stat. Ann. Tit. 9 § 2453(a).

880. One such unfair method of competition is through collusion, defined as agreeing, contracting, combining or conspiring to engage in price fixing, market division and/or allocation of goods, constituting unfair competition in the commerce of Packaged Tuna. Vt. Stat. Ann. Tit. 9, § 2451a(h).

881. Plaintiffs Stephanie Gipson and Jennifer A. Nelson purchased Packaged Tuna within the State of Vermont during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

882. Under Vermont law, indirect purchasers have standing under the antitrust provisions of the Vermont Statutes to maintain an action based on the facts alleged in this Complaint. Vt. Stat. Ann. Tit. 9, § 2465(b).

883. Defendants competed unfairly and colluded by meeting to fix prices, divide markets, and otherwise restrain trade as set forth herein, in violation of Vt. Stat. Ann. Tit. 9, § 2453, *et seq.*

884. Defendants wrongfully concealed the facts alleged herein giving rise

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1 to their unlawful conduct. As a result, the objective facts necessary to put the
2 Vermont Plaintiffs and the Class on notice of such facts was not available until
3 July 23, 2015. As a result, the period prior to the discovery of this unlawful
4 conduct should be excluded in determining the time limited for the commencement
5 of this action.

6 885. Plaintiffs and members of the Class were injured with respect to
7 purchases of Packaged Tuna in Vermont and are entitled to all forms of relief,
8 including actual damages, treble damages, and reasonable attorneys' fees.

9 **FIFTIETH CLAIM FOR RELIEF**

10 **Violation of the Virginia Consumer Protection Act,**

11 **Va. Code Ann. § 59.1-196, *et seq.***

12 **(By Plaintiffs Andrew Gorman, Marissa Jacobus, and Elizabeth Twitchell**

13 **On Behalf of the Virginia Class)**

14 886. Plaintiff Andrew Gorman, Marissa Jacobus, and Elizabeth Twitchell,
15 on behalf of themselves and the Virginia Class, repeat and reassert each of the
16 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

17 887. By reason of the conduct alleged herein, Defendants have violated Va.
18 Code Ann. § 59.1-196, *et seq.*

19 888. Defendants entered into a contract, combination, or conspiracy
20 between two or more persons in restraint of, or to monopolize, trade or commerce
21 in the Packaged Tuna market, a substantial part of which occurred within Virginia.

22 889. Defendants established, maintained, or used a monopoly, or attempted
23 to establish a monopoly, of trade or commerce in the Packaged Tuna Market, a
24 substantial part of which occurred within Virginia, for the purpose of excluding
25 competition or controlling, fixing, or maintaining prices in the Packaged Tuna
26 Market.

27 890. Defendants' conduct was unfair, unconscionable, or deceptive within
28 the conduct of commerce within the State of Virginia.

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1 891. Defendants' conduct amounted to a fraudulent act or practice
2 committed by a supplier in connection with a consumer transaction.

3 892. Defendants' unlawful conduct substantially affected Virginia's trade
4 and commerce.

5 893. Defendants' conduct was willful.

6 894. As a direct and proximate cause of Defendants' unlawful conduct, the
7 Plaintiffs and the members of the Virginia Class have been injured in their business
8 or property and are threatened with further injury.

9 895. Defendants wrongfully concealed the facts alleged herein giving rise
10 to their unlawful conduct. Until July 23, 2015, Defendants concealed the existence
11 of their unlawful conduct through their affirmative acts of misrepresentation with
12 the intent to debar and deter the Virginia Plaintiffs and Class from discovering the
13 facts alleged giving rise to Defendants' unlawful conduct. The unlawful nature of
14 Defendants' conduct is of character which involved moral turpitude. As a result,
15 the time of Defendants' obstruction should not be counted as any part of the period
16 within which the action must brought.

17 896. By reason of the foregoing, the Plaintiff and the members of the
18 Virginia Class is entitled to seek all forms of relief, including treble damages or
19 \$1000 per violation, whichever is greater, plus reasonable attorneys' fees and costs
20 under Va. Code Ann. § 59.1-204(A), *et seq.*

21 **FIFTY-FIRST CLAIM FOR RELIEF**

22 **Violation of the West Virginia Consumer Credit and Protection Act,**

23 **W. Va. Code § 46A-6-101, *et seq.***

24 **(By Plaintiffs Diana Mey and Jade Canterbury**

25 **On Behalf of the West Virginia Class)**

26 897. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves
27 and the West Virginia Class, repeat and reassert each of the allegations contained
28 in paragraphs 1 to 401 as if fully set forth herein.

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1 898. The violations of federal antitrust law set forth above also constitute
2 violations of Sections 46A-6-101, *et seq.* of the West Virginia Code.

3 899. During the Class Period, Defendants and their co-conspirators
4 engaged in a continuing contract, combination or conspiracy in unreasonable
5 restraint of trade and commerce and other anticompetitive conduct alleged above in
6 violation of W. Va. Code § 46A-6-101, *et seq.*

7 900. Defendants' anticompetitive acts described above were knowing,
8 willful and constitute violations or flagrant violations of the West Virginia
9 Antitrust Act and the West Virginia Consumer Credit and Protection Act.

10 901. As a direct and proximate result of Defendants' unlawful conduct,
11 Plaintiff and members of the West Virginia Class have been injured in their
12 business and property in that they paid more for Packaged Tuna than they
13 otherwise would have paid in the absence of Defendants' unlawful conduct. As a
14 result of Defendants' violation of Sections 46A-6-104 of the West Virginia
15 Consumer Credit and Protection Act, Plaintiffs and members of the West Virginia
16 Class seek actual damages or \$200 per violation, whichever is greater, pursuant to
17 Section 46A-6-106 of the West Virginia Code.

18 902. Pursuant to Section 46A-6-106(c) of the West Virginia Code, Plaintiff
19 Jade Canterbury provided notice to Defendants in the manner specified under the
20 Code on September 25, 2015, which was twenty (20) days or more prior to the
21 addition of this claim. Plaintiff has not received an offer to cure as of the date of
22 this filing.

23 903. Defendants wrongfully concealed the facts alleged herein giving rise
24 to their unlawful conduct. Until July 23, 2015, West Virginia Plaintiffs did not
25 discover and could not in the exercise of reasonable diligence have discovered the
26 alleged concealed facts or Defendants' wrongful conduct.

27 **UNJUST ENRICHMENT**

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1 904. The following Fifty-second through Seventy-seventh Claims for
2 Relief are pleaded in the alternative to each of the other claims in this Complaint
3 save the Sherman Act claim and the Cartwright Act claim.

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6 **FIFTY-SECOND CLAIM FOR RELIEF**

7 **(By Plaintiffs Ana Gabriela Felix Garcia, Tina Grant, Tya Hughes,**
8 **John Pels, and Erica Rodriguez On Behalf of the Arizona Class)**

9 905. Plaintiffs Ana Gabriela Felix Garcia, Tina Grant, Tya Hughes, John
10 Pels, and Erica Rodriguez, on behalf of themselves and the Arizona Class, repeat
11 and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set
12 forth herein.

13 906. Plaintiffs Ana Gabriela Felix Garcia, Tina Grant, Tya Hughes, John
14 Pels, and Erica Rodriguez purchased Packaged Tuna within the State of Arizona
15 during the Class Period. But for Defendants' conduct set forth herein, the price per
16 unit of Packaged Tuna would have been lower, in an amount to be determined at
17 trial.

18 907. Defendants unlawfully overcharged end payers, who made purchases
19 of Defendants' Packaged Tuna in Arizona at prices that were more than they would
20 have been but for Defendants' actions.

21 908. Defendants have been enriched by revenue resulting from unlawful
22 overcharges for Defendants' Packaged Tuna.

23 909. Plaintiffs and Class members have been impoverished by the
24 overcharges for Defendants' Packaged Tuna resulting from Defendants' unlawful
25 conduct.

26 910. Defendants wrongfully concealed the facts alleged herein giving rise
27 to their unlawful conduct preventing Arizona plaintiffs from reasonably
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1 discovering the claim during the limitations period. This cause of action did not
2 accrue until July 23, 2015 when the plaintiffs knew or in the exercise of reasonable
3 diligence should have known about the Defendants' unlawful conduct.

4 911. Defendants' enrichment and Plaintiffs' impoverishment are
5 connected. Defendants have paid no consideration to any other person for any
6 benefits they received from Plaintiffs and Class Members.

7 912. There is no justification for Defendants' receipt of the benefits
8 causing their enrichment and Plaintiffs' and Class members' impoverishment,
9 because Plaintiffs and Class members paid anticompetitive prices that inured to
10 Defendants' benefit, and it would be inequitable for Defendants to retain any
11 revenue gained from their unlawful overcharges.

12 913. Plaintiffs and Class members have no remedy at law.

13 **FIFTY-THIRD CLAIM FOR RELIEF**

14 **(In the Alternative, By Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson,**
15 **Michael Juetten, Rick Musgrave, and John Pels**
16 **On Behalf of the California Class)**

17 914. Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten,
18 Rick Musgrave, and John Pels for themselves and on behalf of the California
19 Class, repeat and reallege each of the allegations contained in paragraphs 1 to 401
20 as if fully set forth herein.

21 915. Plaintiffs Mary Hudson, Tya Hughes, Amy Jackson, Michael Juetten,
22 Rick Musgrave, and John Pels purchased Packaged Tuna within the State of
23 California during the Class Period. But for Defendants' conduct set forth herein,
24 the price per unit of Packaged Tuna would have been lower, in an amount to be
25 determined at trial.

26 916. Defendants unlawfully overcharged end payers, who made purchases
27 of Defendants' Packaged Tuna in California at prices that were more than they
28 would have been but for Defendants' actions.

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1 917. Defendants wrongfully concealed the facts alleged herein giving rise
2 to their unlawful conduct preventing California Plaintiffs in the exercise of due
3 diligence from uncovering the unlawful conduct. The applicable statute of
4 limitations is tolled until July 23, 2015 until the Plaintiffs, by the exercise of
5 reasonable diligence, should have discovered it.

6 918. Plaintiffs and Class members have conferred an economic benefit
7 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
8 the economic detriment of Plaintiffs and Class members.

9 **FIFTY-FOURTH CLAIM FOR RELIEF**

10 **(By Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman On Behalf of**
11 **the District of Columbia Class)**

12 919. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman for
13 themselves and on behalf of the District of Columbia Class, repeat and reallege
14 each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

15 920. Plaintiffs Ana Gabriela Felix Garcia, and Andrew Gorman purchased
16 Packaged Tuna within the District of Columbia during the Class Period. But for
17 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
18 have been lower, in an amount to be determined at trial.

19 921. Defendants retained the benefits bestowed upon them under
20 inequitable and unjust circumstances at the expense of Plaintiffs and Class
21 Members.

22 922. Defendants unlawfully overcharged end payers, who made purchases
23 of Defendants' Packaged Tuna in the District of Columbia at prices that were more
24 than they would have been but for Defendants' actions.

25 923. Plaintiffs and Class members have conferred an economic benefit
26 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
27 the economic detriment of Plaintiffs and Class members.

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1 924. Defendants accepted and retained the benefit bestowed upon them
2 under inequitable and unjust circumstances arising from unlawful overcharges to
3 Plaintiffs and Class Members.

4 925. Defendants wrongfully concealed the facts alleged herein giving rise
5 to the unlawful conduct by the affirmative actions described herein which were
6 designed to prevent the discovery of such unlawful conduct and the Plaintiffs in the
7 District of Columbia did not discover and could not discover the unlawful conduct
8 prior to July 23, 2015.

9 926. Under the circumstances, it would be inequitable and unjust for
10 Defendants to retain such benefits.

11 **FIFTY-FIFTH CLAIM FOR RELIEF**

12 **(In the Alternative, By Plaintiff Gloria Emery on Behalf of the Hawaii Class)**

13 927. Plaintiff Gloria Emery for herself and on behalf of the Hawaii Class,
14 repeats and realleges each of the allegations contained in paragraphs 1 to 401 as if
15 fully set forth herein.

16 928. Plaintiff Gloria Emery purchased Packaged Tuna within the State of
17 Hawaii during the Class Period. But for Defendants' conduct set forth herein, the
18 price per unit of Packaged Tuna would have been lower, in an amount to be
19 determined at trial.

20 929. Defendants retained the benefits bestowed upon them under
21 inequitable and unjust circumstances at the expense of Plaintiff and Class
22 Members.

23 930. Defendants unlawfully overcharged end payers, who made purchases
24 of Defendants' Packaged Tuna in the State of Hawaii at prices that were more than
25 they would have been but for Defendants' actions.

26 931. Plaintiff and Class members have conferred an economic benefit upon
27 Defendants, in the nature of revenue resulting from unlawful overcharges to the
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1 economic detriment of Plaintiffs and Class members.

2 932. Defendants accepted and retained the benefit bestowed upon them
3 under inequitable and unjust circumstances arising from unlawful overcharges to
4 Plaintiff and Class Members.

5 933. Defendants wrongfully and continually concealed the facts alleged
6 herein giving rise to their unlawful conduct with the intent to deceive Plaintiff.
7 Plaintiff did not know and could not have known about Defendants' unlawful
8 conduct until July 23, 2015.

9 934. Under the circumstances, it would be inequitable and unjust for
10 Defendants to retain such benefits.

11 935. In the absence of other applicable claims for relief, Plaintiff Gloria
12 Emery and the Hawaii Class have no adequate remedy at law against Defendants.

13 **FIFTY-SIXTH CLAIM FOR RELIEF**

14 **(By Plaintiffs Carla Lown and Jennifer A. Nelson**

15 **On Behalf of the Iowa Class)**

16 936. Plaintiffs Carla Lown and Jennifer A. Nelson, on behalf of themselves
17 and the Iowa Class, repeat and reassert each of the allegations contained in
18 paragraphs 1 to 401 as if fully set forth herein.

19 937. Plaintiffs Carla Lown and Jennifer A. Nelson purchased Packaged
20 Tuna within the State of Iowa during the Class Period. But for Defendants'
21 conduct set forth herein, the price per unit of Packaged Tuna would have been
22 lower, in an amount to be determined at trial.

23 938. Defendants unlawfully overcharged end payers, who made purchases
24 of Defendants' Packaged Tuna in Iowa at prices that were more than they would
25 have been but for Defendants' actions.

26 939. Defendants have been enriched by revenue resulting from unlawful
27 overcharges for Defendants' Packaged Tuna, which revenue resulted from
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1 anticompetitive prices paid by Plaintiffs, which inured to Defendants' benefit.

2 940. Defendants' enrichment has occurred at the expense of Plaintiffs and
3 Class members.

4 941. Defendants wrongfully concealed the facts alleged herein giving rise
5 to the unlawful conduct. Defendants' unlawful conduct was not reasonably
6 discovered until July 23, 2015.

7 942. It is against equity and good conscience for Defendants to be
8 permitted to retain the revenue resulting from their unlawful overcharges.

9 **FIFTY-SEVENTH CLAIM FOR RELIEF**
10 **(By Plaintiffs Brian Depperschmidt and Lisa Hall**
11 **On Behalf of the Kansas Class)**

12 943. Plaintiffs Brian Depperschmidt and Lisa Hall, on behalf of themselves
13 and the Kansas Class, repeat and reassert each of the allegations contained in
14 paragraphs 1 to 401 as if fully set forth herein.

15 944. Plaintiffs Brian Depperschmidt and Lisa Hall purchased Packaged
16 Tuna within the State of Kansas during the Class Period. But for Defendants'
17 conduct set forth herein, the price per unit of Packaged Tuna would have been
18 lower, in an amount to be determined at trial.

19 945. Defendants unlawfully overcharged end payers, who made of
20 Defendants' Packaged Tuna in Kansas at prices that were more than they would
21 have been but for Defendants' actions.

22 946. Plaintiffs and Class members have conferred an economic benefit
23 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
24 the economic detriment of Plaintiffs and Class members.

25 947. Defendants retained the benefits bestowed upon them under unjust
26 circumstances arising from unlawful overcharges to Plaintiffs and Class Members.

27 948. Defendants were unjustly enriched at the expense of Plaintiffs and
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Class members.

FIFTY-EIGHTH CLAIM FOR RELIEF

**(By Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron
On Behalf of the Massachusetts Class)**

949. Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron, on behalf of themselves and the Massachusetts Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

950. Plaintiffs Scott Caldwell, Sundé Daniels, and Elizabeth Perron purchased Packaged Tuna within the State of Massachusetts during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

951. Defendants unlawfully overcharged end payers, who made purchases of Defendants' Packaged Tuna in Massachusetts at prices that were more than they would have been but for Defendants' actions.

952. Plaintiffs and Class members have conferred an economic benefit upon Defendants, in the nature of revenue resulting from unlawful overcharges to the economic detriment of Plaintiffs and Class members.

953. Defendants were aware of or appreciated the benefit conferred upon them by Plaintiffs and Class members.

954. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct. Until July 23, 2015, Defendants concealed the existence of their unlawful conduct through the affirmative actions alleged herein with an intent to deceive the Massachusetts Plaintiffs and Class as to the nature of their actions. Plaintiffs did not know and reasonably could not have known the facts alleged giving rise to Defendants' unlawful conduct. As a result, this cause of action did not accrue until July 23, 2015.

955. Under the circumstances, it would be inequitable for Defendants to retain such benefits without compensating Plaintiffs and Class members. Fairness

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1 and good conscience require that Defendants not be permitted to retain the revenue
2 resulting from their unlawful overcharges at the expense of Plaintiffs and Class
3 members.

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6 **FIFTY-NINTH CLAIM FOR RELIEF**
7 **(By Plaintiffs Louise Adams, and Barbara Olson**
8 **On Behalf of the Michigan Class)**

9 956. Plaintiffs Louise Adams, and Barbara Olson, on behalf of themselves
10 and the Michigan Class, repeat and reassert each of the allegations contained in
11 paragraphs 1 to 401 as if fully set forth herein.

12 957. Plaintiffs Louise Adams, and Barbara Olson purchased Packaged
13 Tuna within the State of Michigan during the Class Period. But for Defendants'
14 conduct set forth herein, the price per unit of Packaged Tuna would have been
15 lower, in an amount to be determined at trial.

16 958. Defendants unlawfully overcharged end payers, who made purchases
17 of Defendants' Packaged Tuna in Michigan at prices that were more than they
18 would have been but for Defendants' actions.

19 959. Plaintiffs and Class members have conferred a direct economic
20 benefit upon Defendants, in the nature of revenue resulting from unlawful
21 overcharges paid by Plaintiffs and the Class members and accepted and retained by
22 Defendants, to the economic detriment of Plaintiffs and Class members.

23 960. Defendants retained the benefits bestowed upon them under unjust
24 circumstances arising from unlawful overcharges to Plaintiffs and Class members.

25 961. Defendants wrongfully concealed the facts alleged herein giving rise
26 to the unlawful conduct and through their affirmative arrangements and
27 contrivances preventing discovery of such unlawful conduct until July 23, 2015.

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1 962. Defendants were unjustly enriched at the expense of Plaintiffs and
2 Class members.

3 **SIXTIETH CLAIM FOR RELIEF**
4 **(By Plaintiffs Laura Childs and Robert Etten**
5 **On Behalf of the Minnesota Class)**

6 963. Plaintiffs Laura Childs and Robert Etten, on behalf of themselves and
7 the Minnesota Class, repeat and reassert each of the allegations contained in
8 paragraphs 1 to 401 as if fully set forth herein.

9 964. Plaintiffs Laura Childs and Robert Etten purchased Packaged Tuna
10 within the State of Minnesota during the Class Period. But for Defendants' conduct
11 set forth herein, the price per unit of Packaged Tuna would have been lower, in an
12 amount to be determined at trial.

13 965. Defendants unlawfully overcharged end payers, who made purchases
14 of Defendants' Packaged Tuna in Minnesota at prices that were more than they
15 would have been but for Defendants' actions.

16 966. Defendants appreciated and knowingly accepted the benefits
17 bestowed upon them by Plaintiff and Class members. Defendants have paid no
18 consideration to any other person for any of the benefits they have received from
19 Plaintiffs and Class members.

20 967. Defendants wrongfully concealed the facts alleged herein giving rise
21 to the unlawful conduct through the fraudulent and intentional acts described
22 herein and Minnesota Plaintiffs could not have reasonably discovered the
23 concealment of Defendants' unlawful conduct until July 23, 2015.

24 968. It is inequitable for Defendants to accept and retain the benefits
25 received without compensating Plaintiff and Class members.

26 **SIXTY-FIRST CLAIM FOR RELIEF**
27 **(By Plaintiff Christopher Todd On Behalf of the Mississippi Class)**
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1 969. Plaintiff Christopher Todd, on behalf of himself and the Mississippi
2 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
3 401 as if fully set forth herein.

4 970. Plaintiff Christopher Todd purchased Packaged Tuna within the State
5 of Mississippi during the Class Period. But for Defendants' conduct set forth
6 herein, the price per unit of Packaged Tuna would have been lower, in an amount
7 to be determined at trial.

8 971. Defendants unlawfully overcharged end payers, who made purchases
9 of Defendants' Packaged Tuna in Mississippi at prices that were more than they
10 would have been but for Defendants' actions.

11 972. Defendants wrongfully concealed the facts alleged herein giving rise
12 to their unlawful conduct. As alleged herein, the Defendants actively concealed
13 their unlawful conduct which prevented Mississippi plaintiffs from reasonably
14 discovering the claim during the limitations period. This cause of action did not
15 accrue until July 23, 2015 when the Plaintiffs knew, or in the exercise of
16 reasonable diligence, should have known about the Defendants' unlawful conduct.

17 973. Defendants retained the benefit of overcharges received on the sales
18 of Defendants' Packaged Tuna, which in equity and good conscience belong to
19 Plaintiffs and Class members on account of Defendants' anticompetitive conduct.

20 **SIXTY-SECOND CLAIM FOR RELIEF**

21 **(By Plaintiffs John Frick, Steven Kratky, Amber Sartori, and Rebecca Lee**
22 **Simoens On Behalf of the Missouri Class)**

23 974. Plaintiffs John Frick, Steven Kratky, Amber Sartori, and Rebecca Lee
24 Simoens, on behalf of themselves and the Missouri Class, repeat and reassert each
25 of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

26 975. Plaintiffs John Frick, Steven Kratky, Amber Sartori, and Rebecca Lee
27 Simoens purchased Packaged Tuna within the State of Missouri during the Class
28 Period. But for Defendants' conduct set forth herein, the price per unit of

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1 Packaged Tuna would have been lower, in an amount to be determined at trial.

2 976. Defendants unlawfully overcharged end payers, who made purchases
3 of Defendants' Packaged Tuna in Missouri at prices that were more than they
4 would have been but for Defendants' actions.

5 977. Plaintiffs and Missouri Class members have conferred an economic
6 benefit upon Defendants, in the nature of revenue resulting from unlawful
7 overcharges to the economic detriment of Plaintiffs and Missouri Class Members.

8 978. Defendants appreciated the benefit bestowed upon them by Plaintiff
9 and Missouri Class members.

10 979. Defendants wrongfully concealed the facts alleged herein giving rise
11 to their unlawful conduct. As alleged herein, until July 23, 2015, Defendants
12 affirmatively and successfully concealed their unlawful conduct which prevented
13 the Missouri Plaintiffs and the Class from discovering Defendants' unlawful
14 conduct. As a result of this fraudulent concealment, this cause of action did not
15 accrue until July 23, 2015.

16 980. Defendants accepted and retained the benefit bestowed upon them
17 under inequitable and unjust circumstances arising from unlawful overcharges to
18 Plaintiffs and Missouri Class members.

19 **SIXTY-THIRD CLAIM FOR RELIEF**

20 **(By Plaintiffs Melissa Bowman and Barbara Buenning**
21 **On Behalf of the Nebraska Class)**

22 981. Plaintiffs Melissa Bowman and Barbara Buenning, on behalf of
23 themselves and the Nebraska Class, repeat and reassert each of the allegations
24 contained in paragraphs 1 to 401 as if fully set forth herein.

25 982. Plaintiff Melissa Bowman and Barbara Buenning purchased Packaged
26 Tuna within the State of Nebraska during the Class Period. But for Defendants'
27 conduct set forth herein, the price per unit of Packaged Tuna would have been
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1 lower, in an amount to be determined at trial.

2 983. Defendants unlawfully overcharged end payers, who made purchases
3 of Defendants' Packaged Tuna in Nebraska at prices that were more than they
4 would have been but for Defendants' actions.

5 984. Defendants received money from Plaintiffs and Class members as a
6 direct result of the unlawful overcharges, and have retained this money.
7 Defendants have paid no consideration to any other person in exchange for this
8 money.

9 985. Defendants wrongfully concealed the facts alleged herein giving rise
10 to their unlawful conduct. As alleged herein, the Defendants affirmatively
11 concealed their unlawful conduct which prevented Nebraska Plaintiffs from
12 reasonably discovering the claim before the statute of limitations expired. As a
13 result, Defendants' unlawful conduct was neither obvious nor discoverable during
14 the limitations period. This cause of action did not accrue until July 23, 2015 when
15 the Plaintiffs knew, or in the exercise of reasonable diligence, should have known
16 about the Defendants' unlawful conduct.

17 986. In justice and fairness, Defendants should disgorge such money and
18 remit the overcharged payments back to Plaintiffs and Class members.

19 **SIXTY-FOURTH CLAIM FOR RELIEF**
20 **(By Plaintiffs Nay Alidad and Nancy Stiller**
21 **On Behalf of the Nevada Class)**

22 987. Plaintiffs Nay Alidad and Nancy Stiller, on behalf of themselves and
23 the Nevada Class, repeat and reassert each of the allegations contained in
24 paragraphs 1 to 401 as if fully set forth herein.

25 988. Plaintiffs Nay Alidad and Nancy Stiller purchased Packaged Tuna
26 within the State of Nevada during the Class Period. But for Defendants' conduct
27 set forth herein, the price per unit of Packaged Tuna would have been lower, in an
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1 amount to be determined at trial.

2 989. Defendants unlawfully overcharged end payers, who made purchases
3 Defendants' Packaged Tuna in Nevada at prices that were more than they would
4 have been but for Defendants' actions.

5 990. Plaintiffs and Class members have conferred an economic benefit
6 upon Defendants in the nature of revenue resulting from unlawful overcharges for
7 Defendants' Packaged Tuna.

8 991. Defendants appreciated the benefits bestowed upon them by Plaintiffs
9 and Class members, for which they have paid no consideration to any other person.

10 992. Defendants have knowingly accepted and retained the benefits
11 bestowed upon them by Plaintiffs and Class members.

12 993. Defendants wrongfully concealed the facts alleged herein giving rise
13 to their unlawful conduct. Until July 23, 2015, the Nevada Plaintiffs did not
14 discover and could not have discovered by the exercise of reasonable diligence
15 Defendants' unlawful conduct.

16 994. The circumstances under which Defendants have accepted and
17 retained the benefits bestowed upon them by Plaintiffs and Class members are
18 inequitable in that they result from Defendants' unlawful overcharges for
19 Defendants' Packaged Tuna.

20 **SIXTY-FIFTH CLAIM FOR RELIEF**

21 **(By Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff**
22 **On Behalf of the New Hampshire Class)**

23 995. Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff, on behalf of
24 themselves and the New Hampshire Class, repeat and reassert each of the
25 allegations contained in paragraphs 1 to 401 as if fully set forth herein

26 996. Plaintiffs Jessica Bartling, Jody Cooper, and Rob Skaff purchased
27 Packaged Tuna within the State of New Hampshire during the Class Period. But
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1 for Defendants' conduct set forth herein, the price per unit of Packaged Tuna
2 would have been lower, in an amount to be determined at trial.

3 997. Defendants unlawfully overcharged end payers, who made purchases
4 of Defendants' Packaged Tuna in New Hampshire at prices that were more than
5 they would have been but for Defendants' actions.

6 998. Defendants have received a benefit from Plaintiffs and Class members
7 in the nature of revenue resulting from the unlawful overcharges, which revenue
8 resulted from anticompetitive prices that inured to the benefit of Defendants.

9 999. Defendants fraudulently concealed the essential facts alleged here
10 giving rise to their unlawful conduct. Until July 23, 2015, New Hampshire
11 Plaintiffs did not discover and could not have discovered in the exercise of
12 reasonable diligence either Defendants' unlawful conduct or the facts giving rise to
13 such conduct.

14 1000. Under the circumstances, it would be unconscionable for Defendants
15 to retain such benefits.

16 **SIXTY-SIXTH CLAIM FOR RELIEF**

17 **(By Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya On Behalf of**
18 **the New Mexico Class)**

19 1001. Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya, on
20 behalf of themselves and the New Mexico Class, repeat and reassert each of the
21 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

22 1002. Plaintiffs Kathy Durand (formerly Gore) and Laura Montoya
23 purchased Packaged Tuna within the State of New Mexico during the Class Period.
24 But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna
25 would have been lower, in an amount to be determined at trial.

26 1003. Defendants unlawfully overcharged end payers, who made purchases
27 of Defendants' Packaged Tuna in New Mexico at prices that were more than they
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1 would have been but for Defendants' actions.

2 1004. Defendants have knowingly benefitted at the expense of Plaintiffs and
3 Class members from revenue resulting from unlawful overcharges for Defendants'
4 Packaged Tuna.

5 1005. Defendants knew that their conduct was unlawful and wrongfully
6 concealed the facts alleged here giving rise to their unlawful conduct. Until July
7 23, 2015, New Mexico Plaintiffs did not know and could not have known in the
8 exercise of reasonable diligence either Defendants' unlawful conduct or the facts
9 giving rise to such conduct.

10 1006. To allow Defendants to retain the benefits would be unjust because
11 the benefits resulted from anticompetitive pricing that inured to Defendants'
12 benefit and because Defendants have paid no consideration to any other person for
13 any of the benefits they received.

14 **SIXTY-SEVENTH CLAIM FOR RELIEF**

15 **(By Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori**
16 **On Behalf of the North Carolina Class)**

17 1007. Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori, on behalf
18 of themselves and the North Carolina Class, repeat and reassert each of the
19 allegations contained in paragraphs 1 to 401 as if fully set forth herein.

20 1008. Plaintiffs Corey Norris, Audra Rickman, and Amber Sartori purchased
21 Packaged Tuna within the State of North Carolina during the Class Period. But for
22 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
23 have been lower, in an amount to be determined at trial.

24 1009. Defendants unlawfully overcharged end payers, who made purchases
25 of Defendants' Packaged Tuna in North Carolina at prices that were more than
26 they would have been but for Defendants' actions.

27 1010. Plaintiffs and Class members have conferred an economic benefit
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1 upon Defendants in the nature of revenue resulting from unlawful overcharges to
2 the economic detriment of Plaintiffs and Class members.

3 1011. Plaintiffs and Class members did not interfere with Defendants'
4 affairs in any manner that conferred these benefits upon Defendants.

5 1012. Defendants wrongfully concealed the facts alleged herein giving rise
6 to their unlawful conduct. Until July 23, 2015, the North Carolina Plaintiffs did
7 not know and could not have learned or discovered by the exercise of due care
8 about Defendants' unlawful conduct.

9 1013. The benefits conferred upon Defendants were not gratuitous, in that
10 they comprised revenue created by unlawful overcharges arising from Defendants'
11 actions to fix, maintain and stabilize artificially high prices for Packaged Tuna on
12 the market.

13 1014. The benefits conferred upon Defendants are measurable, in that the
14 revenue Defendants have earned due to unlawful overcharges are ascertainable by
15 review of sales and other business records.

16 1015. Defendants consciously accepted the benefits and continue to do so as
17 of the date of this filing.

18 **SIXTY-EIGHTH CLAIM FOR RELIEF**

19 **(By Plaintiffs Tya Hughes and Bonnie Vander Laan**
20 **On Behalf of the North Dakota Class)**

21 1016. Plaintiffs Tya Hughes and Bonnie Vander Laan, on behalf of
22 themselves and the North Dakota Class, repeat and reassert each of the allegations
23 contained in paragraphs 1 to 401 as if fully set forth herein.

24 1017. Plaintiffs Tya Hughes and Bonnie Vander Laan purchased Packaged
25 Tuna within the State of North Dakota during the Class Period. But for
26 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
27 have been lower, in an amount to be determined at trial.

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1 1018. Defendants unlawfully overcharged end payers, who made purchases
2 of Defendants' Packaged Tuna in North Dakota at prices that were more than they
3 would have been but for Defendants' actions.

4 1019. Defendants, without justification, have been enriched at the direct
5 impoverishment of Plaintiffs and Class members, in that Defendants have been
6 enriched by revenue resulting from unlawful overcharges for Defendants'
7 Packaged Tuna.

8 1020. Plaintiffs and Class members have been impoverished by the
9 overcharges for Defendants' Packaged Tuna resulting from Defendants' unlawful
10 conduct, and they have no legal means of retrieving the value of their
11 impoverishment.

12 1021. Defendants' enrichment and Plaintiffs' and Class members'
13 impoverishment are connected. Defendants have paid no consideration to any other
14 person for any benefits they received directly or indirectly from Plaintiffs and
15 Class Members.

16 1022. There is no justification for Defendants' receipt of the benefits
17 causing their enrichment, because Plaintiffs and Class members paid
18 anticompetitive prices that inured to Defendants' benefit, and it would be
19 inequitable for Defendants to retain any revenue gained from their unlawful
20 overcharges.

21 1023. Defendants wrongfully concealed the facts alleged herein giving rise
22 to their unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs did not
23 discover and could not have discovered by exercise of reasonable diligence
24 Defendants' unlawful conduct. Until July 23, 2015, North Dakota Plaintiffs had
25 neither actual nor constructive notice of the facts alleged herein giving rise to
26 Defendants' unlawful conduct.

27 1024. Plaintiffs and Class members have no remedy at law.
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SIXTY-NINTH CLAIM FOR RELIEF
(By Plaintiffs Danielle Johnson and Liza Milliner
On Behalf of the Oregon Class)

1025. Plaintiffs Danielle Johnson and Liza Milliner, on behalf of themselves and the Oregon Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

1026. Plaintiffs Danielle Johnson and Liza Milliner purchased Packaged Tuna within the State of Oregon during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

1027. Defendants unlawfully overcharged end payers, who made purchases of Defendants' Packaged Tuna in Oregon at prices that were more than they would have been but for Defendants' actions.

1028. Plaintiffs and Class members have conferred an economic benefit upon Defendants, in the nature of revenue resulting from unlawful overcharges to the economic detriment of Plaintiffs and Class members.

1029. Defendants were aware of the benefit bestowed upon them by Plaintiffs and Class members.

1030. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct. Until July 23, 2015, Oregon Plaintiffs did not discover and could not discovered with reasonable diligence either the facts alleged or Defendants' unlawful conduct.

1031. It would be inequitable and unjust for Defendants to retain any of the overcharges for Packaged Tuna derived from Defendants' unfair conduct without compensating Plaintiffs and Class members.

SEVENTIETH CLAIM FOR RELIEF
(By Plaintiffs Katherine McMahon and Elizabeth Perron

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On Behalf of the Rhode Island Class)

1032. Plaintiffs Katherine McMahon and Elizabeth Perron, on behalf of themselves and the Rhode Island Class, repeat and reassert each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

1033. Plaintiffs Katherine McMahon and Elizabeth Perron purchased Packaged Tuna within the State of Rhode Island during the Class Period. But for Defendants' conduct set forth herein, the price per unit of Packaged Tuna would have been lower, in an amount to be determined at trial.

1034. Defendants unlawfully overcharged end payers, who made purchases of Defendants' Packaged Tuna in Rhode Island at prices that were more than they would have been but for Defendants' actions.

1035. Plaintiffs and Class members have conferred an economic benefit upon Defendants, in the nature of revenue resulting from unlawful overcharges to the economic detriment of Plaintiff and Class members.

1036. Defendants were aware of and/or recognized the benefit bestowed upon them by Plaintiffs and the Class members.

1037. Defendants wrongfully concealed the facts alleged herein giving rise to their unlawful conduct. Until July 23, 2015, Rhode Island Plaintiffs could not, in the exercise of reasonable diligence, have discovered the alleged facts or Defendants' wrongful conduct.

1038. Under the circumstances, it would be inequitable for Defendants to retain such benefits without compensating Plaintiffs and Class members.

SEVENTY-FIRST CLAIM FOR RELIEF

(By Plaintiff Gay Birnbaum on Behalf of the South Carolina Class)

1039. Plaintiff Gay Birnbaum for herself and on behalf of the South Carolina Class, repeats and realleges each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

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1 1040. Plaintiff Gay Birnbaum purchased Packaged Tuna with the State of
2 South Carolina during the Class Period. But for Defendants' conduct set forth
3 herein, the price per unit of Packaged Tuna would have been lower, in an amount
4 to be determined at trial.

5 1041. Defendants unlawfully overcharged end payers, who made purchases
6 of Defendants' Packaged Tuna in the State of South Carolina at prices that were
7 more than they would have been but for Defendants' actions.

8 1042. Plaintiff and Class members have conferred a non-gratuitous,
9 economic benefit upon Defendants, in the nature of revenue resulting from
10 unlawful overcharges to the economic detriment of Plaintiff and Class members.

11 1043. Defendants appreciated the benefits bestowed upon them by Plaintiff
12 and Class Members, for which they have paid no consideration to any other person.

13 1044. Defendants deliberately failed to disclose material facts to Plaintiff
14 and members of the South Carolina Class concerning Defendants' unlawful
15 activities, including the horizontal conspiracy and artificially-inflated prices for
16 Packaged Tuna. Defendants' wrongful concealment of the facts alleged herein
17 giving rise to the unlawful conduct meant that such facts were not and could not
18 have been reasonably discovered by the diligence of Plaintiffs until July 23, 2015.

19 1045. It is inequitable for Defendants to accept and retain such benefits
20 without compensating Plaintiff and Class Members.

21 **SEVENTY-SECOND CLAIM FOR RELIEF**

22 **(By Plaintiff Casey Christensen On Behalf of the South Dakota Class)**

23 1046. Plaintiff Casey Christensen, on behalf of herself and the South Dakota
24 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
25 401 as if fully set forth herein.

26 1047. Plaintiff Casey Christensen purchased Packaged Tuna within the State
27 of South Dakota during the Class Period. But for Defendants' conduct set forth
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1 herein, the price per unit of Packaged Tuna would have been lower, in an amount
2 to be determined at trial.

3 1048. Defendants unlawfully overcharged end payers, who made purchases
4 of Defendants' Packaged Tuna in South Dakota at prices that were more than they
5 would have been but for Defendants' actions.

6 1049. Plaintiff and Class members have conferred an economic benefit upon
7 Defendants, in the nature of revenue resulting from unlawful overcharges to the
8 economic detriment of Plaintiffs and Class Members.

9 1050. Defendants were aware of the benefit bestowed upon them by Plaintiff
10 and Class members.

11 1051. Defendants acted affirmatively to wrongfully conceal facts alleged
12 herein giving rise to their unlawful conduct. Until July 23, 2015, South Dakota
13 Plaintiffs had no actual or constructive notice of these concealed facts and did not
14 discover and could not have discovered with reasonable diligence Defendants'
15 unlawful conduct.

16 1052. Under the circumstances, it would be inequitable and unjust for
17 Defendants to retain such benefits without reimbursing Plaintiffs and Class
18 members.

19 **SEVENTY-THIRD CLAIM FOR RELIEF**

20 **(By Plaintiffs Kirsten Peck, John Peychal, and John Trent**
21 **On Behalf of the Tennessee Class)**

22 1053. Plaintiffs Kirsten Peck, John Peychal, and John Trent, on behalf of
23 himself and the Tennessee Class, repeats and reasserts each of the allegations
24 contained in paragraphs 1 to 401 as if fully set forth herein.

25 1054. Plaintiffs Kirsten Peck, John Peychal, and John Trent purchased
26 Packaged Tuna within the State of Tennessee during the Class Period. But for
27 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
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1 have been lower, in an amount to be determined at trial.

2 1055. Defendants unlawfully overcharged end payers, who purchased
3 Defendants' Packaged Tuna in Tennessee at prices that were more than they would
4 have been but for Defendants' actions.

5 1056. Plaintiffs and Class members have conferred an economic benefit
6 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
7 the economic detriment of Plaintiff and Class Members.

8 1057. Defendants appreciated the benefits bestowed upon them by Plaintiffs
9 and Class Members, for which they have paid no consideration to any other person.

10 1058. It is inequitable for Defendants to accept and retain such benefits
11 without compensating Plaintiffs and Class Members.

12 1059. Defendants wrongfully and affirmatively concealed the facts alleged
13 herein giving rise to their unlawful conduct. Despite exercising due diligence,
14 Plaintiffs did not have information sufficient to alert a reasonable person of the
15 need to investigate the injury, and were not able to discover evidence of their
16 claims of Defendants' unlawful conduct until July 23, 2015.

17 1060. The resellers from whom Plaintiffs and Class Members purchased
18 Defendants' Packaged Tuna were not involved in the conspiracy. Plaintiff and
19 Class Members have no remedy against the innocent resellers under the theory of
20 unjust enrichment.

21 **SEVENTY-FOURTH CLAIM FOR RELIEF**

22 **(By Plaintiffs Vivek Dravid and Tina Grant**

23 **On Behalf of the Utah Class)**

24 1061. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
25 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
26 1 to 401 as if fully set forth herein.

27 1062. Plaintiffs Vivek Dravid and Tina Grant purchased Packaged Tuna
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1 within the State of Utah during the Class Period. But for Defendants' conduct set
2 forth herein, the price per unit of Packaged Tuna would have been lower, in an
3 amount to be determined at trial.

4 1063. Defendants unlawfully overcharged end payers, who made purchases
5 of Defendants' Packaged Tuna in Utah at prices that were more than they would
6 have been but for Defendants' actions.

7 1064. Plaintiffs and Class members have conferred a direct economic
8 benefit upon Defendants, in the nature of revenue resulting from unlawful
9 overcharges paid by Plaintiffs and the Class members and accepted and retained by
10 Defendants, to the economic detriment of Plaintiffs and Class members.

11 1065. Defendants were aware of or appreciated the benefit bestowed upon
12 them by Plaintiffs and Class members.

13 1066. Defendants wrongfully concealed the facts alleged herein giving rise
14 to the their unlawful conduct. Until July 23, 2015, Utah Plaintiffs did not discover
15 and could not have reasonably discovered their claim.

16 1067. Under the circumstances, it would be inequitable for Defendants to
17 retain such benefits without compensating Plaintiffs and Class Members.

18 **SEVENTY-FIFTH CLAIM FOR RELIEF**

19 **(By Plaintiffs Stephanie Gipson and Jennifer A. Nelson**
20 **On Behalf of the Vermont Class)**

21 1068. Plaintiffs Stephanie Gipson and Jennifer A. Nelson, on behalf of
22 themselves and the Vermont Class, repeat and reassert each of the allegations
23 contained in paragraphs 1 to 401 as if fully set forth herein.

24 1069. Plaintiffs Stephanie Gipson and Jennifer A. Nelson purchased
25 Packaged Tuna within the State of Vermont during the Class Period. But for
26 Defendants' conduct set forth herein, the price per unit of Packaged Tuna would
27 have been lower, in an amount to be determined at trial.

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1 1070. Defendants unlawfully overcharged end payers, who made purchases
2 of Defendants' Packaged Tuna in Vermont at prices that were more than they
3 would have been but for Defendants' actions.

4 1071. Plaintiffs and Class members have conferred an economic benefit
5 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
6 the economic detriment of Plaintiffs and Class Members.

7 1072. Defendants accepted the benefit bestowed upon them by Plaintiffs and
8 Class members.

9 1073. Defendants wrongfully concealed the facts alleged herein giving rise
10 to their unlawful conduct. As a result, the objective facts necessary to put the
11 Vermont Plaintiffs and the Class on notice of such facts was not available until
12 July 23, 2015. As a result, the period prior to the discovery of this unlawful
13 conduct should be excluded in determining the time limited for the commencement
14 of this action.

15 1074. Under the circumstances, it would be inequitable for Defendants to
16 retain such benefits without compensating Plaintiffs and Class members.

17 **SEVENTY-SIXTH CLAIM FOR RELIEF**
18 **(By Plaintiffs Diana Mey and Jade Canterbury**
19 **On Behalf of the West Virginia Class)**

20 1075. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves
21 and the West Virginia Class, repeat and reassert each of the allegations contained
22 in paragraphs 1 to 401 as if fully set forth herein.

23 1076. Plaintiffs Diana Mey and Jade Canterbury purchased Packaged Tuna
24 within the State of West Virginia during the Class Period. But for Defendants'
25 conduct set forth herein, the price per unit of Packaged Tuna would have been
26 lower, in an amount to be determined at trial.

27 1077. Defendants unlawfully overcharged end payers, who made purchases
28

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1 of Defendants' Packaged Tuna in West Virginia at prices that were more than they
2 would have been but for Defendants' actions.

3 1078. Plaintiffs and Class members have conferred an economic benefit
4 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
5 the economic detriment of Plaintiffs and Class members.

6 1079. Defendants were aware of or appreciated the benefit bestowed upon
7 them by Plaintiffs and Class members.

8 1080. Defendants wrongfully concealed the facts alleged herein giving rise
9 to their unlawful conduct. Until July 23, 2015, West Virginia Plaintiffs did not
10 discover and could not in the exercise of reasonable diligence have discovered the
11 alleged concealed facts or Defendants' wrongful conduct.

12 1081. Under the circumstances, it would be inequitable for Defendants to
13 retain such benefits without compensating Plaintiffs and Class members.

14 **SEVENTY-SEVENTH CLAIM FOR RELIEF**

15 **(By Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese,**
16 **and Daniel Zwirlein On Behalf of the Wisconsin Class)**

17 1082. Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese, and Daniel
18 Zwirlein, on behalf of themselves and the Wisconsin Class, repeat and reassert
19 each of the allegations contained in paragraphs 1 to 401 as if fully set forth herein.

20 1083. Plaintiffs Michael Juetten, Kathy Lingnofski, Julie Wiese, and Daniel
21 Zwirlein purchased Packaged Tuna within the State of Wisconsin during the Class
22 Period. But for Defendants' conduct set forth herein, the price per unit of Packaged
23 Tuna would have been lower, in an amount to be determined at trial.

24 1084. Defendants unlawfully overcharged end payers, who made purchases
25 of Defendants' Packaged Tuna in Wisconsin at prices that were more than they
26 would have been but for Defendants' actions.

27 1085. Plaintiffs and Class members have conferred an economic benefit
28

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1 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
2 the economic detriment of Plaintiffs and Class members.

3 1086. Defendants appreciated the benefit bestowed upon them by Plaintiffs
4 and Class Members.

5 1087. Defendants wrongfully concealed the facts alleged herein giving rise
6 to their unlawful conduct. Until July 23, 2015, Wisconsin Plaintiffs did not
7 discover and could not in the exercise of reasonable diligence have discovered
8 their injury or that Defendants' unlawful conduct likely caused such injury.

9 1088. Under the circumstances, it would be inequitable for Defendants to
10 retain such benefits without compensating Plaintiffs and Class members.

11 **PRAYER FOR RELIEF**

12 Accordingly, Plaintiffs, on behalf of themselves and the Classes of all others
13 so similarly situated, respectfully requests that:

14 a) The Court determine that each of the claims alleged in this Complaint
15 may be maintained as a class action claims under Rule 23(a), (b)(2), and (b)(3) of
16 the Federal Rules of Civil Procedure, and direct that reasonable notice of this
17 action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be
18 given to each and every member of the Classes once certified;

19 b) The unlawful conduct alleged herein be adjudged and decreed in
20 violation of the listed state antitrust laws, state consumer protection laws, and
21 common law;

22 c) Plaintiffs and the members of the Classes recover damages, to the
23 maximum extent allowed under applicable state law, and that a joint and several
24 judgment in favor of Plaintiffs and the members of such Classes be entered against
25 Defendants in an amount to be trebled to the extent such laws permit;

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1 d) Plaintiffs and the members of the Classes recover damages, to the
2 maximum extent allowed by applicable state law , in the form of restitution and/or
3 disgorgement of profits unlawfully gained from them;

4 e) Defendants, their affiliates, successors, transferees, assignees and
5 other officers, directors, partners, agents and employees thereof, and all other
6 persons acting or claiming to act on their behalf or in concert with them, be
7 permanently enjoined and restrained from in any manner continuing, maintaining
8 or renewing the conduct, contract, conspiracy, or combination alleged herein, or
9 from entering into any other contract, conspiracy, or combination having a similar
10 purpose or effect, and from adopting or following any practice, plan, program, or
11 device having a similar purpose or effect;

12 f) Plaintiffs and the members of the Classes be awarded pre- and post-
13 judgment interest as provided by law, and that such interest be awarded at the
14 highest legal rate from and after the date of service of this Complaint;

15 g) Plaintiffs and the members of the Classes recover their costs of suit,
16 including reasonable attorneys' fees, as provided by law;

17 h) Plaintiffs and members of the Classes have such other and further
18 relief as the case may require and the Court may deem just and proper.

19 **JURY DEMAND**

20 Plaintiffs, on behalf of themselves and the Classes of all others similarly
21 situated, hereby demand a trial by jury on all issues so triable pursuant to Rule 38
22 of the Federal Rules of Civil Procedure.

23 DATED: October 5, 2018

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

24
25 By: s/ Betsy C. Manifold
BETSY C. MANIFOLD

26 BETSY C. MANIFOLD
27 RACHELE R. BYRD
28 750 B Street, Suite 2770

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San Diego, CA 92101
Telephone: 619/239-4599
Facsimile: 619/234-4599
manifold@whafh.com
byrd@whafh.com

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLP**

FRED TAYLOR ISQUITH
THOMAS H. BURT
RANDALL S. NEWMAN
270 Madison Avenue
New York, New York 10016
Telephone: 212/545-4600
Facsimile: 212/545-4653
isquith@whafh.com
burt@whafh.com
newman@whafh.com

**WOLF HALDENSTEIN ADLER
FREEMAN & HERZ LLC**

CARL MALMSTROM
One South Dearborn St., Suite 2122
Chicago, IL 60603
Telephone: 312/984-0000
Facsimile: 312/212-4401
malmstrom@whafh.com

*Interim Lead Counsel for the End Payer
Plaintiffs*

LOCKRIDGE GRINDAL NAUEN PLLP

HEIDI M. SILTON
KAREN H. RIEBEL
100 Washington Ave. South
Minneapolis, MN 55401
Telephone: 612/339-6900
Facsimile: 612/339-0981
hmsilton@locklaw.com
khriebel@locklaw.com

**SHEPHERD FINKELMAN MILLER &
SHAH LLP**

JAYNE GOLDSTEIN
1625 N. Commerce Pkwy, Suite 320
Telephone: 866/849-7545
Facsimile: 866/300-7367
jgoldstein@sfmslaw.com

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**CASEY GERRY
SCHENK FRANCAVILLA
BLATT & PENFIELD LLP**

DAVID S. CASEY, JR.
GAYLE M. BLATT
JEREMY ROBINSON
CAMILLE GUERRA
110 Laurel Street
San Diego, CA 92101
Telephone: 619/238-1811
Facsimile: 619/544-9232
dcasey@cglaw.com
gmb@cglaw.com
jrobinson@cglaw.com
camille@cglaw.com

PRITZKER LEVINE LLP
ELIZABETH PRITZKER
BETHANY CARACUZZO
180 Grand Ave., Suite 1390
Oakland, CA 94612
Telephone: 415/692-0772
Facsimile: 415/366-6110
ecp@pritzkerlevine.com
sy@pritzkerlevine.com

LEVI & KORSINSKY LLP
NANCY KULESA
30 Broad St., 24th Floor
New York, NY 1004
Telephone: 212/363-7500
Facsimile: 212/363-7171
nkulesa@zlk.com

ZOLL & KRANZ LLC
MICHELLE KRANZ
6620 West Central Ave.
Suite 100
Toledo, OH 43617
Telephone: 419/841-9623
Facsimile: 419/841-9719
michelle@toledolaw.com

GAINEY, McKENNA & EGLESTON
THOMAS J. McKENNA
440 Park Avenue South
New York, NY 10016
Telephone: 212/983-1300
Facsimile: 212/983-0383
tjmckenna@gme-law.com

THE OLIVER LAW GROUP PC

FILED UNDER SEAL

1 ALYSON OLIVER
2 363 W. Big Beaver Rd., Suite 200
3 Troy, MI 48084
4 Telephone: 248/327-6556
5 Facsimile: 248/436-3385
6 aoliver@oliverlg.com

7 **BOTTINI & BOTTINI, INC.**
8 FRANCIS A. BOTTINI, JR.
9 7817 Ivanhoe Ave., Suite 102
10 La Jolla, CA 92037
11 Telephone: 858/914.2001
12 Facsimile: 858/914.2002
13 fbottini@bottinilaw.com

14 **ZIMMERMAN LAW OFFICES PC**
15 THOMAS A. ZIMMERMAN, JR.
16 MATTHEW C. DE RE
17 77 West Washington Street, Suite 1220
18 Chicago, IL 60602
19 Telephone: 312/440-0020
20 Facsimile: 312/440-4180
21 tom@attorneyzim.com
22 matt@attorneyzim.com

23 **LAURENCE D. PASKOWITZ, ESQ.**
24 208 East 51st St., Suite 380
25 New York, NY 10022
26 Telephone: 212/685.0969
27 Facsimile: 212/685.2306
28 lpaskowitz@pasklaw.com

SUSAN A. BERNSTEIN
200 Highland Avenue, Suite 306
Needham, MA 02494-3035
Telephone: 781/290-5858
Facsimile: 781/247-4266
susan@sabernlaw.com

BAILEY GLASSER LLP
ERIC B. SNYDER
KATHERINE E. CHARONKO
209 Capitol St.
Charleston, WV 25301
Telephone: 304/345-6555
Facsimile: 304/342-1110
esnyder@baileyglasser.com
kcharonko@baileyglasser.com

STRAUS & BOIES, LLP
TIMOTHY D. BATTIN
NATHAN M. CIHLAR

FILED UNDER SEAL

1 CHRISTOPHER V. LE
2 CARLA M. VOIGT
3 4041 Fairfax Drive, Fifth Floor
4 Fairfax, VA 22201
5 Telephone: 703/764-8700
6 Facsimile: 703/764-8704
7 tbattin@strauss-boies.com
8 ncihlar@strauss-boies.com
9 cle@strauss-boies.com
10 cvoigt@strauss-boies.com
11

**TRUMP, ALIOTO, TRUMP &
PRESCOTT, LLP**

12 MARIO N. ALIOTO
13 LAUREN C. CAPURRO
14 2280 Union Street
15 San Francisco, CA 94123
16 Telephone: 415/563-7200
17 Facsimile: 415/346-0679
18 lauren russell@tarp.com
19

**SANDIA CASCADE LEGAL GROUP,
PLLC**

20 ROBERT TAYLOR-MANNING
21 1107 N. 60th Ave.
22 West Richland, WA 99353
23 Telephone: 206/310-3333
24 Facsimile: 206/206-299-4010
25 rtm@sandiacascadelaw.com
26

**STOLL BERNE LOKTING
& SHLACHTER P.C.**

27 KEITH S. DUBANEVICH
28 STEVE D. LARSON
MARK A. FRIEL
209 SW Oak Street, Suite 500
Portland, OR 97204
Telephone: 503/227-1600
Facsimile: 503/227-6840
kdubanevich@stollberne.com
slarson@stollberne.com
mfriel@stollberne.com

LAW OFFICE OF JERALD M. STEIN

JERALD M. STEIN
PO Box 1011
835 Main Street
Margaretville, NY 12455-1011
Telephone: 845/586-6111
Facsimile: 845/586-2815
jmsteinlaw@gmail.com

FILED UNDER SEAL

SULLIVAN HILL
DONALD G. REZ
550 West C Street, 15th Floor
San Diego, CA 92101
Telephone: 619/233-4100
Facsimile: 619/231-4372
rez@sullivanhill.com

ZELLE LLP
CHRISTOPHER T. MICHELETTI
JUDITH A. ZAHID
QIANWEI FU
44 Montgomery Street, Suite 3400
San Francisco, CA 94104
Telephone: 415/693-0700
Facsimile: 415/693-0770
cmicheletti@zelle.com
jzahid@zelle.com
qfu@zelle.com

THE KRALOWEC LAW GROUP
KIMBERLY A. KRALOWEC
KATHLEEN STYLES ROGERS
CHAD A. SAUNDERS
44 Montgomery Street, Suite 1210
San Francisco, CA 94104
Telephone: 415/546-6800
Facsimile: 415/546-6801
kkralowec@kraloweclaw.com
krogers@kraloweclaw.com
csaunders@kraloweclaw.com

HULETT HARPER STEWART LLP
KIRK B. HULETT
DENNIS STEWART
550 West C St., Suite 1500
San Diego, CA
Telephone: 619/338-1133
Facsimile: 619/338-1139
kbh@huletttharper.com
dstewart@huletttharper.com

KIRBY MCINERNEY LLP
ROBERT J. GRALEWSKI, JR.
600 B Street, Suite 1900
San Diego, CA 92101
Telephone: 619/398-6255
bgralewski@kmlp.com

NICHOLAS AND TOMASEVIC
CRAIG MCKENZIE NICHOLAS
ALEX M. TOMASEVIC

FILED UNDER SEAL

225 Broadway Suite 1900
San Diego , CA 92101
Telephon: 619/325-0492
Facsimile: 619/325-0496
cnicholas@nicholaslaw.org
atomasevic@nicholaslaw.org

ADEMI & O'REILLY, LLP
SHPETIM ADEMI
MARK ELDRIDGE
3620 East Layton Avenue
Cudahy , WI 53110
Telephone: 414/482-8000
sademi@ademilaw.com
meldridge@ademilaw.com

FINKELSTEIN THOMPSON, LLP
DOUGLAS G. THOMPSON, JR.
MICHAEL G. McLELLAN
James Place
1077 30th St, NW, Suite 150
Washington, DC 20007
Telephone: 202/337-8000
Facsimile: 202/337-8090
dthompson@finkelsteinthompson.com
mmclellan@finkelsteinthompson.com

WILSON TURNER KOSMO LLP
FREDERICK WILLIAM KOSMO, JR.
550 West C Street Suite 1050
San Diego , CA 92101-3532
Telephone: 619/236-9600
Facsimile: 619/236-9669
fkosmo@wilsonturnerkosmo.com

BLOOD HURST & O'REARDON LLP
TIMOTHY GORDON BLOOD
PAULA R. BROWN
THOMAS J. O'REARDON
701 B Street, Suite 1700
San Diego, CA 92101
Telephone: 619/338-1100
Facsimile: 619/338-1101
tblood@bholaw.com
pbrown@bholaw.com
toreardon@bholaw.com

GUSTAFSON GLUEK PLLC
DANIEL E. GUSTAFSON
DANIEL C. HEDLUND
Canadian Pacific Plaza
120 So. 6th St., Ste. 2600

FILED UNDER SEAL

Minneapolis, MN 55402
Telephone: 612/333-8844
Facsimile: 612/339-6622
dgustafson@gustafsongluek.com
dhedlund@gustafsongluek.com

GROSS & KLEIN, LLP
STUART GEORGE GROSS
The Embarcadero Pier 9, Suite 100
San Francisco, CA 94111
Telephone: 415/671-4628
Facsimile: 415/480-6688
sgross@grosskleinlaw.com

SAFIRSTEIN METCALF LLP
PETER G. SAFIRSTEIN
1250 Broadway, 27th Floor
New York, NY 10001
Telephone: 212/201-2855
psafirstein@safirsteinmetcalf.com

*Additional Counsel for the End Payer
Plaintiffs*

SHELF.STABLE.SEAFOOD: 25070