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9
 10 **UNITED STATES DISTRICT COURT**
 11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**
 12

<p>13 IN RE: PACKAGED SEAFOOD PRODUCTS ANTITRUST LITIGATION</p>	<p>Case No. 15-MD-2670 JLS (MDD)</p>
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<p>15 This Document Relates To: 16 The Indirect Purchaser End Payer Actions</p>	<p>CONSOLIDATED CLASS ACTION COMPLAINT OF THE INDIRECT PURCHASER END PAYER PLAINTIFFS</p>
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17 DEMAND FOR JURY TRIAL

18
 19 JUDGE: Hon. Janis L. Sammartino
 20 CTRM: 4A (4th Fl.—Schwartz)

TABLE OF CONTENTS

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

Page No.

NATURE OF ACTION..... 1

PARTIES 2

AGENTS AND CO-CONSPIRATORS..... 8

JURISDICTION AND VENUE..... 9

CLASS ACTION ALLEGATIONS..... 10

RELEVANT MARKETS 18

INTERSTATE COMMERCE 19

ADDITIONAL FACTUAL ALLEGATIONS..... 19

FRAUDULENT CONCEALMENT AND THE TOLLING OF THE STATUTE
OF LIMITATIONS 38

CAUSES OF ACTION..... 40

 VIOLATIONS OF STATE ANTITRUST LAW..... 43

 VIOLATIONS OF STATE CONSUMER PROTECTION LAW..... 70

 UNJUST ENRICHMENT 98

PRAYER FOR RELIEF..... 1188

JURY DEMAND..... 119

1 Plaintiffs Louise Adams, Nay Alidad, Paul Berger, Barbara Blumstein,
2 Jessica Breitbach, Melissa Bowman, Barbara Buenning, Michael Buff, Scott
3 Caldwell, Jade Canterbury, Laura Childs, Casey Christensen, Jody Cooper, Sally
4 Crnkovich, Sundé Daniels, Elizabeth Davis-Berg, Jessica Decker, Vivek Dravid,
5 Kenneth Dunlap, Brian Depperschmidt, Stephanie Gipson, Kathy Gore, Tina
6 Grant, Lisa Hall, Mary Hudson, Tya Hughes, Amy Jackson, Marissa Jacobus,
7 Danielle Johnson, Amy Joseph, Michael Juetten, Dwayne Kennedy, Joseph A.
8 Langston, Carla Lown, Katherine McMahon, Diana Mey, Beth and Liza Milliner,
9 Rick Musgrave, Corey Norris, Barbara Olson, Jennifer A. Nelson, Jonathan Rizzo,
10 Joelyna A. San Agustin, Rebecca Lee Simoens, Greg Stearns, Nancy Stiller,
11 Christopher Todd, David Ton, John Trent, Elizabeth Twitchell, Bonnie
12 VanderLaan, Nigel Warren, Thomas E. Willoughby III, (collectively “Plaintiffs”),
13 for their consolidated complaint, allege upon personal knowledge as to themselves
14 and their own actions, and upon information and belief, including the investigation
15 of counsel, as follows:

16 **NATURE OF ACTION**

17 1. This is a class action concerning anticompetitive activity by the
18 Defendants Bumble Bee Foods LLC, StarKist Company, and Tri-Union Seafoods
19 LLC (collectively “Defendants”). The claims alleged herein are brought pursuant
20 to Section 1 of the Sherman Act, 15 U.S.C. § 1, and Section 3 of the Clayton Act,
21 15 U.S.C. § 14, as well as various state laws as alleged. This action is brought by
22 Plaintiffs, on behalf of themselves and Classes of persons and entities who
23 indirectly purchased from any Defendant or current or former subsidiary or
24 affiliate of any Defendant, shelf-stable packaged seafood products (“PSPs”),
25 including tuna, crab, mackerel, oyster, salmon, sardines and shrimp, during the
26 period from, and including, at least August 1, 2008 through such time as the
27 anticompetitive effects of Defendants’ conduct ceases (the “Class Period”).
28

1 2. Defendants have conspired to raise, fix, stabilize or maintain prices of
2 and restrict capacity within the market for the sale of PSPs during the Class
3 Period.

4 3. With slowing and stagnating growth in the United States PSP
5 industry, beginning in or about August 1, 2008, Defendants directly coordinated
6 the pricing and market allocation for PSPs throughout the United States. As
7 part of this coordination, Defendants agreed and conspired to artificially
8 increase prices for PSPs to record highs in spite of reduced consumer interest
9 and falling demand. The impacts of Defendants' unlawful and anticompetitive
10 conduct are ongoing and continue to this day.

11 **PARTIES**

12 **Plaintiffs**

13 4. Plaintiff Louise Adams is domiciled in Chippewa County, Michigan,
14 and purchased PSPs, primarily canned tuna, indirectly from one or more
15 Defendants in the State of Michigan during the Class Period.

16 5. Plaintiff Nay Alidad is domiciled in Clark County, Nevada, and
17 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
18 the State of Nevada during the Class Period.

19 6. Plaintiff Paul Berger is domiciled in the District of Columbia and
20 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
21 the District of Columbia during the Class Period.

22 7. Plaintiff Barbara Blumstein is domiciled in Palm Beach County,
23 Florida, and purchased PSPs, primarily canned tuna, indirectly from one or more
24 Defendants in the State of Florida during the Class Period.

25 8. Plaintiff Jessica Breitbart is domiciled in Milwaukee County,
26 Wisconsin, and purchased PSPs, primarily canned tuna, indirectly from one or
27 more Defendants in the States of Illinois and Wisconsin during the Class Period.

28 9. Plaintiff Melissa Bowman is domiciled in Douglas County, Nebraska,

1 and purchased PSPs, primarily canned tuna, indirectly from one or more
2 Defendants in the State of Nebraska during the Class Period.

3 10. Plaintiff Barbara Buenning is domiciled in Dodge County, Nebraska,
4 and purchased PSPs, primarily canned tuna, indirectly from one or more
5 Defendants in the State of Nebraska during the Class Period.

6 11. Plaintiff Michael Buff is domiciled in Albany County, New York, an
7 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
8 the State of New York during the Class Period.

9 12. Plaintiff Scott Caldwell is domiciled in Essex County, Massachusetts,
10 and purchased PSPs, primarily canned tuna, indirectly from one or more
11 Defendants in the States of California and Massachusetts during the Class Period.

12 13. Plaintiff Jade Canterbury is domiciled in Monroe County, West
13 Virginia, and purchased PSPs, primarily canned tuna, indirectly from one or more
14 Defendants in the State of West Virginia during the Class Period.

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

18 15. Plaintiff Casey Christensen is domiciled in Lincoln County, South
19 Dakota, and purchased PSPs, primarily canned tuna, indirectly from one or more
20 Defendants in the State of South Dakota during the Class Period.

21 16. Plaintiff Jody Cooper is domiciled in Merrimack County, New
22 Hampshire, and purchased PSPs, primarily canned tuna, indirectly from one or
23 more Defendants in the State of New Hampshire.

24 17. Plaintiff Sally Crnkovich is domiciled in Cook County, Illinois, and
25 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
26 the State of Illinois during the Class Period.

27 18. Plaintiff Sundé Daniels is domiciled in Norfolk County,
28 Massachusetts and purchased PSPs, primarily canned tuna, indirectly from one or

1 more Defendants in the State of Massachusetts during the Class Period.

2 19. Plaintiff Elizabeth Davis-Berg is domiciled in Cook County, Illinois,
3 and purchased PSPs, primarily packaged tuna, indirectly from one or more
4 Defendants in the State of Illinois during the Class Period.

5 20. Plaintiff Jessica Decker is domiciled in Ingham County, Michigan,
6 and purchased PSPs, primarily canned tuna, indirectly from one or more
7 Defendants in the State of Michigan during the Class Period.

8 21. Plaintiff Vivek Dravid is domiciled in Salt Lake County, Utah, and
9 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
10 the States of New Mexico, Illinois, and Utah during the Class Period.

11 22. Plaintiff Kenneth Dunlap is domiciled in Milwaukee County,
12 Wisconsin, and purchased PSPs, primarily canned tuna, indirectly from one or
13 more Defendants in the State of Wisconsin during the Class Period.

14 23. Plaintiff Brian Depperschmidt is domiciled in Sedgwick County,
15 Kansas, and purchased PSPs, primarily canned tuna, indirectly from one or more
16 Defendants in the State of Kansas during the Class Period.

17 24. Plaintiff Stephanie Gipson is domiciled in Chittenden County,
18 Vermont, and purchased PSPs, primarily canned tuna, indirectly from one or more
19 Defendants in the States of New York and Vermont during the Class Period.

20 25. Plaintiff Kathy Gore is domiciled in Portales County, New Mexico,
21 and purchased PSPs, primarily canned tuna, indirectly from one or more
22 Defendants in the State of New Mexico during the Class Period.

23 26. Plaintiff Tina Grant is domiciled in Salt Lake County, Utah, and
24 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
25 the States of Arizona and Utah during the Class Period.

26 27. Plaintiff Lisa Hall is domiciled in Saline County, Kansas, and
27 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
28 the State of Kansas during the Class Period.

1 28. Plaintiff Mary Hudson is domiciled in San Diego County, California,
2 and purchased PSPs, primarily canned tuna, indirectly from one or more
3 Defendants in the State of California during the Class Period.

4 29. Plaintiff Tya Hughes is domiciled in Ward County, North Dakota, and
5 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
6 the State of North Dakota during the Class Period.

7 30. Plaintiff Amy Jackson is domiciled in the Territory of Guam and
8 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
9 the Territory of Guam and the State of California during the Class Period.

10 31. Plaintiff Marissa Jacobus is domiciled in Calaveras County,
11 California, and purchased PSPs, primarily canned tuna, indirectly from one or
12 more Defendants in the State of California during the Class Period.

13 32. Plaintiff Danielle Johnson is domiciled in Multnomah County,
14 Oregon, and purchased PSPs, primarily canned tuna, indirectly from one or more
15 Defendants in the State of Oregon during the Class Period.

16 33. Plaintiff Amy Joseph is domiciled in DuPage County, Illinois, and
17 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
18 the State of Illinois during the Class Period.

19 34. Plaintiff Michael Juetten is domiciled in Los Angeles County,
20 California, and purchased PSPs, primarily canned tuna, indirectly from one or
21 more Defendants in the State of California during the Class Period.

22 35. Plaintiff Dwayne Kennedy is domiciled in Clark County, Nevada, and
23 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
24 the State of Nevada during the Class Period.

25 36. Plaintiff Joseph A. Langston is domiciled in Benton County,
26 Arkansas, and purchased PSPs, primarily canned tuna, indirectly from one or more
27 Defendants in the State of Arkansas during the Class Period.

28 37. Plaintiff Carla Lown is domiciled in Blackhawk County, Iowa, and

1 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
2 the State of Iowa during the Class Period.

3 38. Plaintiff Katherine McMahon is domiciled in Washington County,
4 Rhode Island, and purchased PSPs, primarily canned tuna, indirectly from one or
5 more Defendants in the State of Rhode Island during the Class Period.

6 39. Plaintiff Diana Mey is domiciled in Ohio County, West Virginia, and
7 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
8 the State of West Virginia during the Class Period.

9 40. Plaintiffs Beth and Liza Milliner are domiciled in Washington
10 County, Oregon, and purchased PSPs, primarily canned tuna, indirectly from one
11 or more Defendants in the State of Oregon during the Class Period.

12 41. Plaintiff Rick Musgrave is domiciled in Contra Costa County,
13 California, and purchased PSPs, primarily canned tuna, indirectly from one or
14 more Defendants in the State of California during the Class Period.

15 42. Plaintiff Corey Norris is domiciled in Johnston County, North
16 Carolina, and purchased PSPs, primarily canned tuna, indirectly from one or more
17 Defendants in the State of North Carolina during the Class Period.

18 43. Plaintiff Barbara Olson is domiciled in Washtenaw County, Michigan,
19 and purchased PSPs, primarily canned tuna, indirectly from one or more
20 Defendants in the State of Michigan during the Class Period.

21 44. Plaintiff Jennifer A. Nelson domiciled in Bennington County,
22 Vermont, and purchased PSPs, primarily canned tuna, indirectly from one or more
23 Defendants in the States of Iowa, New York, and Vermont during the Class Period.

24 45. Plaintiff Jonathan Rizzo is domiciled in Maricopa County, Arizona,
25 and purchased PSPs, primarily canned tuna, indirectly from one or more
26 Defendants in the State of Arizona during the Class Period.

27 46. Plaintiff Joelyna A. San Agustin is domiciled in the Territory of Guam
28 and purchased PSPs, primarily canned tuna, indirectly from one or more

1 Defendants in the Territory of Guam during the Class Period.

2 47. Plaintiff Rebecca Lee Simoens is domiciled in St. Charles County,
3 Missouri, and purchased PSPs, primarily canned tuna, indirectly from one or more
4 Defendants in the State of Missouri during the Class Period.

5 48. Plaintiff Greg Stearns is domiciled in Waldo County, Maine, and
6 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
7 the State of Maine during the Class Period.

8 49. Plaintiff Nancy Stiller is domiciled in Washoe County, Nevada, and
9 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
10 the State of Nevada during the Class Period.

11 50. Plaintiff Christopher Todd is domiciled in New Orleans Parish,
12 Louisiana, and purchased PSPs, primarily canned tuna, indirectly from one or more
13 Defendants in the State of Mississippi during the Class Period.

14 51. Plaintiff David Ton is domiciled in San Diego County, California, and
15 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
16 the State of California during the Class Period.

17 52. Plaintiff John Trent is domiciled in Shelby County, Tennessee, and
18 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
19 the State of Florida during the Class Period.

20 53. Plaintiff Elizabeth Twitchell is domiciled in the independent city of
21 Alexandria, Virginia, and purchased PSPs, primarily canned tuna, indirectly from
22 one or more Defendants in the States of Illinois, North Carolina, and Virginia
23 during the Class Period.

24 54. Plaintiff Bonnie VanderLaan is domiciled in Emmons County, North
25 Dakota, and purchased PSPs, primarily canned tuna, indirectly from one or more
26 Defendants in the States of North Dakota and South Dakota during the Class
27 Period.

28 55. Plaintiff Nigel Warren is domiciled in Kings County, New York, and

1 purchased PSPs, primarily canned tuna, indirectly from one or more Defendants in
2 the State of New York during the Class Period.

3 56. Plaintiff Thomas E. Willoughby III is domiciled in Cumberland
4 County, Maine, and purchased PSPs, primarily canned tuna, indirectly from one or
5 more Defendants in the State of Maine during the Class Period.

6 **Defendants**

7 57. Defendant Tri-Union Seafoods, LLC d/b/a Chicken of the Sea
8 International (“Tri-Union” or “COSI”) is a Delaware corporation with its
9 principal place of business at 4510 Executive Drive, No. 3, San Diego, CA
10 92121.

11 58. Defendant COSI and sister company King Oscar, Inc. are wholly-
12 owned subsidiaries of Thai Union Frozen Products Public Company, Ltd. (“Thai
13 Union”), a publicly held company headquartered in Thailand.

14 59. Defendant Bumble Bee Foods LLC, f/k/a Bumble Bee Seafoods LLC
15 (“Bumble Bee”) is a Delaware corporation with its principal place of business at
16 9655 Granite Ridge Drive, Suite 100, San Diego, CA 92123. Bumble Bee is a
17 wholly-owned subsidiary of Lion Capital, a private investment firm headquartered
18 in the United Kingdom.

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

23 61. Defendants and their co-conspirators directly and through their
24 affiliates sold PSPs in the United States and in this district at artificially inflated
25 prices during the Class Period. Defendants are direct, horizontal competitors in the
26 United States PSP market.

27 **AGENTS AND CO-CONSPIRATORS**

28 62. On information and belief, other corporations, partnerships, or business

1 entities, currently unknown to Plaintiffs, are co-conspirators with Defendants in
2 their unlawful restraints of trade. Various persons that are not named as
3 Defendants have participated as co-conspirators in the violations alleged herein
4 and have performed acts and made statements in furtherance thereof.

5 63. These other persons or entities have facilitated, adhered to,
6 participated in, and/or communicated with others regarding the alleged
7 conspiracy to raise prices of PSPs and the anticompetitive and unduly restrictive
8 exclusive dealing agreements addressed in this lawsuit. Plaintiffs reserve the right
9 to name some or all of these entities as Defendants at a later date.

10 **JURISDICTION AND VENUE**

11 64. Plaintiffs seek consideration paid, damages, restitution, treble
12 damages or three times consideration paid by consumers of PSPs, disgorgement,
13 other monetary relief, injunctive and other equitable relief under various state
14 antitrust, consumer protection and unfair trade practices laws, and state unjust
15 enrichment laws, as alleged specifically herein, as well as costs of suit, including
16 reasonable attorneys' fees, for the injuries that Plaintiffs and all others similarly
17 situated sustained as a result of Defendants' violations of those laws. This
18 Consolidated Class Action Complaint of the Indirect Purchaser End Payer
19 Plaintiffs ("CAC") is also filed under Section 16 of the Clayton Act, 15 U.S.C. §
20 26, to obtain injunctive relief and to recover the costs of suit, including reasonable
21 attorneys' fees, for the injuries sustained by Plaintiffs and all others similarly
22 situated as a result of Defendants' violations of Section 1 of the Sherman Act, 15
23 U.S.C. § 1.

24 65. This Court has jurisdiction over the federal claim under Section 16 of
25 the Clayton At, 15 U.S.C. § 26, as well as under 28 U.S.C. §§ 1331, 1337. The
26 Court has jurisdiction over the state law claims under 28 U.S.C. § 1367 because
27 those claims are so related to the federal claim that they form part of the same case
28 or controversy. Independently, this Court also has subject matter jurisdiction over

1 the state law claims under 28 U.S.C. § 1332 because the amount in controversy for
2 each of the Classes exceeds \$5,000,000, there are more than 100 members in each
3 of the Classes, and there are members of some of the Classes who are citizens of
4 different states than Defendants.

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

10 **CLASS ACTION ALLEGATIONS**

11 67. Plaintiffs bring the claims asserted in this action on behalf of
12 themselves and as class claims under Federal Rules of Civil Procedure, Rule
13 23(a) and (b)(2), seeking equitable and injunctive relief on behalf of the following
14 classes (defined for use in this CAC as the “Nationwide Sherman Act Class”, the
15 “Nationwide Cartwright Act Class” and the “State Classes” each of which is
16 individually described and further defined):

17 68. The Nationwide Sherman Act Class consists of:

18 All persons and entities who resided in the United States who indirectly
19 purchased PSPs for end consumption and not for resale, from any
20 Defendants or any current or former subsidiary or affiliate thereof, or any
21 co-conspirator, during the Class Period for equitable and injunctive relief
22 under the Sherman Act.

23 69. The Nationwide Cartwright Act Class consists of:

24 All persons and entities who resided in the United States who indirectly
25 purchased PSPs for end consumption and not for resale, from any
26 Defendants or any current or former subsidiary or affiliate thereof, or any
27 co-conspirator, during the Class Period for equitable and injunctive relief
28 and appropriate damages under California’s Cartwright Act.

70. Plaintiffs as specifically identified herein also bring claims asserted in

1 this action on behalf of themselves and as a class claims under Federal Rules of
2 Civil Procedure, Rule 23(a) and (b)(3), seeking damages pursuant to various the
3 state antitrust, unfair competition, and consumer protection laws of the states
4 listed below on behalf of the following classes (collectively, the “State Classes”):

- 5
- 6 (a) **Arizona class**: All persons and entities who resided in the State of
7 Arizona who indirectly purchased PSPs for end consumption and
8 not for resale, from any Defendant or any current or former
9 subsidiary or affiliate thereof, or any co-conspirator, during the
10 Class Period.
- 11 (b) **Arkansas class**: All persons and entities who resided in the State
12 of Arkansas who indirectly purchased PSPs for end consumption
13 and not for resale, from any Defendant or any current or former
14 subsidiary or affiliate thereof, or any co-conspirator, during the
15 Class Period.
- 16 (c) **California class**: All persons and entities who resided in the State
17 of California who indirectly purchased PSPs for end consumption
18 and not for resale, from any Defendant or any current or former
19 subsidiary or affiliate thereof, or any co-conspirator, during the
20 Class Period.
- 21 (d) **District of Columbia class**: All persons and entities who resided
22 in the District of Columbia who indirectly purchased PSPs for end
23 consumption and not for resale, from any Defendant or any
24 current or former subsidiary or affiliate thereof, or any co-
25 conspirator, during the Class Period.
- 26 (e) **Florida class**: All persons and entities who resided in the State of
27 Florida who indirectly purchased PSPs for end consumption and
28 not for resale, from any Defendant or any current or former
not for resale, from any Defendant or any current or former

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

(g) **Illinois class**: All persons and entities who resided in State of Illinois who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

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

(i) **Kansas class**: All persons and entities who resided in the State of Kansas who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(j) **Maine class**: All persons and entities who resided in the State of Maine who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(k) **Massachusetts class**: All persons and entities who resided in the State of Massachusetts who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(l) **Michigan class**: All persons and entities who resided in the State of Michigan who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

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- (m) **Minnesota class**: All persons and entities who resided in the State of Minnesota who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (n) **Mississippi class**: All persons and entities who resided in the State of Mississippi who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (o) **Missouri class**: All persons and entities who resided in the State of Missouri who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (p) **Nebraska class**: All persons and entities who resided in the State of Nebraska who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (q) **Nevada class**: All persons and entities who resided in the State of Nevada who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (r) **New Hampshire class**: All persons and entities who resided in the State of New Hampshire who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.
- (s) **New Mexico class**: All persons and entities who resided in the State of New Mexico who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any

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

(t) **New York class**: All persons and entities who resided in the State of New York who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(u) **North Carolina class**: All persons and entities who resided in the State of North Carolina who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(v) **North Dakota class**: All persons and entities who resided in the State of North Dakota who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(w) **Oregon class**: All persons and entities who resided in the State of Oregon who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(x) **Rhode Island class**: All persons and entities who resided in the State of Rhode Island who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

(y) **South Dakota class**: All persons and entities who resided in the State of South Dakota who indirectly purchased PSPs for end consumption and not for resale, from any Defendant or any current or former subsidiary or affiliate thereof, or any co-conspirator, during the Class Period.

- 1 (z) **Utah class:** All persons and entities who resided in the State of
2 Utah who indirectly purchased PSPs for end consumption and not
3 for resale, from any Defendant or any current or former subsidiary
4 or affiliate thereof, or any co-conspirator, during the Class Period.
- 5 (aa) **Vermont class:** All persons and entities who resided in the State
6 of Vermont who indirectly purchased PSPs for end consumption
7 and not for resale, from any Defendant or any current or former
8 subsidiary or affiliate thereof, or any co-conspirator, during the
9 Class Period.
- 10 (bb) **Virginia class:** All persons and entities who resided in the State
11 of Virginia who indirectly purchased PSPs for end consumption
12 and not for resale, from any Defendant or any current or former
13 subsidiary or affiliate thereof, or any co-conspirator, during the
14 Class Period.
- 15 (cc) **West Virginia class:** All persons and entities who resided in the
16 State of West Virginia who indirectly purchased PSPs for end
17 consumption and not for resale, from any Defendant or any
18 current or former subsidiary or affiliate thereof, or any co-
19 conspirator, during the Class Period.
- 20 (dd) **Wisconsin class:** All persons and entities who resided in the State
21 of Wisconsin who indirectly purchased PSPs for end consumption
22 and not for resale, from any Defendant or any current or former
23 subsidiary or affiliate thereof, or any co-conspirator, during the
24 Class Period.

25 71. The Nationwide Classes and the State Classes are collectively
26 referred to herein as the “Classes” unless otherwise indicated.

27 72. Excluded from each of the Classes are Defendants, their parent
28 companies, subsidiaries and affiliates, any co-conspirators, federal governmental
entities and instrumentalities of the federal government, states and their
subdivisions, agencies and instrumentalities, all judges assigned to this matter, all
jurors in this matter, and all persons and entities who only purchased PSPs directly
or for resale.

1 73. Each of the Classes is so numerous that joinder of all members
2 impracticable. While Plaintiffs do not know the exact number members of each of
3 the Classes, Plaintiffs believe there are at least hundreds of thousands of members
4 in each of the Classes.

5 74. Common questions of law and fact exist as to all members of each of
6 the Classes. This is particularly true given the nature of Defendants' conspiracy,
7 which was generally applicable to all members of each of the Classes, thereby
8 making appropriate relief with respect to each Class as a whole. Such questions of
9 law and fact common to the Classes include, but are not limited to:

- 10 (a) Whether the Defendants and their co-conspirators engaged in a
11 combination and conspiracy to fix, raise, maintain or stabilize the
12 prices of PSPs sold in the United States and in each of the States
13 alleged herein;
- 14 (b) The identity of the participants of the alleged conspiracy;
- 15 (c) The duration of the alleged conspiracy and the acts carried out by
16 Defendants and their co-conspirators in furtherance of the
17 conspiracy;
- 18 (d) Whether Defendants' alleged conduct violated the Sherman and
19 Clayton Acts;
- 20 (e) Whether Defendants' alleged conduct violated various state
21 antitrust and restraint of trade laws;
- 22 (f) Whether Defendants' alleged conduct violated various state
23 consumer protection and unfair competition laws;
- 24 (g) Whether the conduct of Defendants and co-conspirators, as alleged
25 in this Complaint, caused injury to the business or property of
26 Plaintiffs and the members of the Classes;
- 27 (h) The effect of Defendants' alleged conduct on the prices of PSPs
28 sold in the United States during the Class Period; and

1 (i) The appropriate relief for the Classes, including injunctive and
2 equitable relief.

3 75. Each Plaintiff's claims are typical of the claims of the members of the
4 respective Classes each Plaintiff seeks to represent, and each Plaintiff will fairly
5 and adequately protect the interests of the respective classes such plaintiff seeks to
6 represent. Each of the Plaintiffs and all members of the Classes that Plaintiffs
7 seek to represent were similarly affected by Defendants' wrongful conduct in that
8 they paid artificially inflated prices for PSPs purchased indirectly from the
9 Defendants and/or their co-conspirators.

10 76. Each Plaintiff's claims arise out of the same common course of
11 conduct giving rise to the claims of the other members of each of the Classes that
12 each Plaintiff seeks to represent. Each Plaintiff's interests are coincident with, and
13 not antagonistic to, those of the other members of the respective Classes that
14 plaintiff seeks to represent. Plaintiffs are represented by counsel who are
15 competent and experienced in the prosecution of antitrust and class action
16 litigation.

17 77. The questions of law and fact common to the members of each of the
18 Classes predominate over any questions affecting only individual members,
19 including legal and factual issues relating to liability and damages.

20 78. Class action treatment is a superior method for the fair and efficient
21 adjudication of the controversy, in that, among other things, such treatment will
22 permit a large number of similarly situated persons to prosecute their common
23 claims in a single forum simultaneously, efficiently and without the unnecessary
24 duplication of evidence, effort and expense that numerous individual actions
25 would engender. The benefits of proceeding through the class mechanism,
26 including providing injured persons or entities with a method for obtaining redress
27 for claims that it might not be practicable to pursue individually, substantially
28 outweigh any difficulties that may arise in management of this class action.

1 79. The prosecution of separate actions by individual members of the
2 Classes would create a risk of inconsistent or varying adjudications, establishing
3 incompatible standards of conduct for Defendants.

4 **RELEVANT MARKETS**

5 80. The relevant geographic market is the United States. Defendants
6 operate and sell PSPs in the United States and, collectively, control the U.S.
7 market of PSPs including, specifically, the largest category of PSP sales in the
8 United States – canned or packaged tuna. Collectively, Defendants account for
9 nearly 80% of PSP tuna sales in the United States, and a slightly lower percentage
10 of the nation’s overall PSP market. Unlike PSP manufacturers and sellers located
11 outside of the United States, Defendants have U.S. facilities, relationships and
12 distribution assets in the United States that enable Defendants to avoid foreign
13 product import tariffs and to effectively constrain prices for PSPs packaged and
14 sold in the United States.

15 81. The relevant product market is shelf-stable packaged seafood
16 products, or PSPs. These are tuna, crab, mackerel, oyster, salmon, sardines and
17 shrimp, packaged such that they may be transported and stored at room
18 temperature.

19 82. The market in the United States for PSPs is approximately \$2.6
20 billion annually. There are four generally recognized categories of PSPs: (1) tuna,
21 the largest, accounting for approximately 71% of U.S. sales of PSPs; (2) salmon;
22 (3) sardines; and (4) “specialty” PSPs which are largely invertebrates, and include
23 crab, shrimp and bivalves. Defendants account for nearly 80% of PSP tuna sales
24 in the United States and a slightly lower proportion of the overall PSP market. As
25 shelf-stable food products, PSPs may be transported across state lines in the final
26 packaging and without cold-chain or further processing.

27 83. PSPs are sold nationwide to consumers in a few standard sizes and
28 predominantly in standard grades. Each brand’s offerings compete with each

1 other brand's comparable offerings, and PSPs have many characteristics of
2 commodity products.

3 84. PSPs, including canned tuna, are regulated by the United States
4 Department of Agriculture, at 21 CFR 161.190. The regulations govern the
5 species, parts, packaging, packing media, additives and flavoring, and labeling of
6 canned tuna. The regulations for tuna contemplate four can sizes and four
7 ingredient types (solid, chunks, flakes, and grated) of canned tuna.

8 INTERSTATE COMMERCE

9 85. Defendants manufactured and/or sold PSPs in the United States in a
10 continuous and uninterrupted flow of interstate commerce, including through and
11 into this judicial district.

12 86. Defendants' business activities substantially affected interstate
13 commerce in the United States and caused antitrust injury throughout the United
14 States.

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

22 88. Together, Defendants control just under 80% of the United States
23 tuna PSP market. StarKist controls roughly 35-40% of the market, Bumble Bee
24 roughly 25% and Tri-Union roughly 20%.

25 ADDITIONAL FACTUAL ALLEGATIONS

26 A. Overview of the Packaged Seafood Products ("PSPs") Industry.

27 89. PSPs start as raw seafood that is processed, cooked and canned for
28 flavor, safety, and to increase shelf life. Because the animals that comprise PSPs

1 are generally caught far out at sea, raw seafood is usually delivered to canneries or
2 processing facilities in a frozen or refrigerated state. Upon delivery to a processing
3 plant, an initial quality control inspection is performed.

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

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

12 92. PSPs are largely sold, in their original packaging, directly to
13 wholesale distributors, who, in turn, re-sell, also in their original packaging, to
14 grocery stores, restaurants, school districts and other outlets. Additionally, PSPs
15 are sold both directly and indirectly, in their original packaging, to club
16 warehouses, retail groceries, grocery cooperatives, mass merchandisers, and drug
17 stores, among others, who resell PSPs to end-user consumers in their original
18 individual packaging.

19 93. Defendants all sell PSPs in the United States. StarKist, Bumble Bee
20 and COSI sell packaged tuna, clams, salmon, and sardines. Bumble Bee and Tri-
21 Union also sell packaged crab, mackerel, oysters and shrimp.

22 94. Defendants collectively dominate the United States’ highly-
23 concentrated industry for PSPs and have done so for decades. StarKist, Bumble
24 Bee, and COSI for about 80% of the tuna market, and the remaining share is
25 divided among private label brands, typically associated with and distributed by a
26 single retailer.

27 95. Beginning in or about 2000, national demand for PSPs, particularly
28 canned tuna, began to decline for numerous reasons. Between 2000 and 2014, the

1 average per person annual tuna consumption decreased by more than 31% from
2 approximately 3.5 pounds per person per year to 2.4 pounds per person per year

3 96. In a competitive environment, a decline in demand for a given
4 commodity product should (other factors being equal) lead to a decline in that
5 product's price. However, as Defendants control the market and have agreed to
6 restrict capacity, allocate customers, and fix prices for PSPs, the prices were set at
7 artificially high levels beginning not later than August 1, 2008. Further, while the
8 raw material is the largest cost input to PSPs, the price of canned tuna since 2007
9 has outpaced the price of the major component fish, namely skipjack tuna. Growth
10 of prices of a commodity product, unexplained by rising raw product costs, and in
11 markets where demand is softening, suggests suspension of ordinary market
12 functions.

13 97. Prices for PSPs since at least August, 2008 were a direct result of
14 Defendants' conspiracy to restrict capacity, allocate customers, and fix the prices
15 of PSPs in the United States. As a result, Plaintiffs and the Classes paid artificially-
16 inflated prices for PSPs purchased indirectly from Defendants.

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

18 98. At least as early as August 2008 Defendants Tri-Union, Bumble Bee
19 and StarKist participated in an anticompetitive horizontal cartel, perpetuated
20 through organizations the Defendants themselves created, and which conspiracy
21 included communications in person and by telephone and email, sharing sensitive
22 business information. While it is possible that Defendants' anticompetitive
23 conduct in the United States ceased when the United States Department of Justice
24 ("DOJ") opened its investigation of the anti-competitive conduct of the Defendants
25 in 2015, the effects of that anticompetitive conduct persist to the present. In the
26 course of this cartel, Defendants (1) coordinated increases to list prices of PSPs;
27 (2) shared information about and policed discounting from list prices; and (3)
28 collectively agreed to forbear from introducing certain higher cost PSP products in

1 their brand lines. The Defendants' horizontal collusion was intended to, and did,
2 fix, raise, stabilize, and/or maintain the prices of PSPs sold to customers in the
3 United States.

4 99. The Defendants among others, in their present or past parent corporate
5 forms, were founding members of the National Fisheries Institute ("NFI"). The
6 NFI was founded at least as early as 1945, and continues to serve as the seafood
7 industry's primary trade group and lobby.

8 100. The NFI includes several subgroups, including the Tuna Council,
9 which consists of at least all of the Defendants and possibly others. Additionally,
10 in 2007 NFI members created the Better Seafood Board ("BSB"), an organization
11 which, while "governed separately from NFI," "provides the mechanism for [the]
12 industry's partners in the supply chain. . .to report suppliers committing economic
13 fraud."¹ BSB's code of conduct includes requirements of "never mislabeling a fish"
14 or "short-weighting product".² During the Class Period NFI and the BSB have
15 served as loci for collusive communication between Defendants and as a source of
16 anticompetitive agreement.

17 101. Defendants formed another organization, the International Sustainable
18 Seafood Foundation ("ISSF"), in 2009. The ISSF also serves as a forum for in-
19 person and telephonic meetings between the Defendants, who are direct horizontal
20 competitors.

21 ***Alignment of Can Sizes in 2008***

22 102. Between roughly 2000 and 2008, leading tuna companies, including
23 Defendants, followed each other in a series of gradual moves to change the size of
24

25 ¹ See <http://www.aboutseafood.com/about/better-seafood-board-3/>, last
26 accessed May 6, 2016.

27 ² See [http://blogs.wsj.com/corruption-currents/2013/01/28/seafood-](http://blogs.wsj.com/corruption-currents/2013/01/28/seafood-companies-fight-fraud-with-traceability/)
28 [companies-fight-fraud-with-traceability/](http://blogs.wsj.com/corruption-currents/2013/01/28/seafood-companies-fight-fraud-with-traceability/), last accessed May 6, 2016

1 the standard tuna can, first from seven ounces to six and a half ounces, then to six
2 and one-eighth ounces, and then to six ounces.³ These changes occurred gradually
3 over at least an eight-year period.

4 103. In or about August 2008, StarKist abruptly changed the size of its
5 standard six-ounce tuna can to five ounces, marking a major departure from the
6 gradual changes of the previous decade. At the time, StarKist stated that it did this
7 primarily for environmental reasons, including the purpose of “sav[ing] two
8 million gallons of water a year, while only taking out two teaspoons of tuna from
9 each can.”⁴

10 104. COSI and Bumble Bee swiftly reduced their can sizes to match
11 StarKist’s can size, reducing their standard can size from six to five ounces as well.

12 105. In early 2009, in the face of this move, smaller competitor Tri-Marine,
13 tuna producer for Costco’s in-house brand Kirkland Signature, distinguished itself
14 from Defendants by selling a larger size of its most popular tuna can, and in fact
15 increased its standard package size to seven ounces. In early 2009, Tri-Marine
16 advertised the return to a once industry-standard seven-ounce can size as a selling
17 point for its tuna product.⁵

18 106. The uniform move by the three leading brands to sharply drop the
19 most common can size, even in the face of a competitive move by a private label to
20 differentiate their product selling a larger seven ounce size canned tuna product is
21

22 ³ See [http://www.thedailybeast.com/articles/2010/07/29/tuna-shrinkage-cans-](http://www.thedailybeast.com/articles/2010/07/29/tuna-shrinkage-cans-now-five-ounces-more-expensive.html)
23 [now-five-ounces-more-expensive.html](http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/);
24 <http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/>,
last accessed May 13, 2016.

25 ⁴ See [http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-](http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/)
26 [downsizes-tuna/](http://www.mouseprint.org/2008/08/11/holy-mackerel-starkist-downsizes-tuna/), last accessed May 13, 2016.

27 ⁵ See [http://www.mouseprint.org/2009/07/06/some-tuna-cans-just-got-](http://www.mouseprint.org/2009/07/06/some-tuna-cans-just-got-upsized/)
28 [upsized/](http://www.mouseprint.org/2009/07/06/some-tuna-cans-just-got-upsized/), last accessed May 13, 2016.

1 suggestive of collusion.

2 ***Collusive Price Increase of 2012***

3 107. Further in December 2011, senior sales and management personnel of
4 COSI, Bumble Bee and StarKist engaged in a series of communications about
5 price. These communications took the form of email and telephone conversations,
6 all or substantially all of which were bilateral between two of the three
7 competitors, but which in aggregate constituted communications among all three
8 brands' personnel with pricing responsibilities.

9 108. Through these communications, the three companies reached an
10 agreement for a near simultaneous increase in list prices for the products sold at
11 retail in the United States, and by the same amount. The Defendants' agreement
12 covered at least all the consumer tuna PSPs sold in the United States under the
13 Defendants' flagship brands.

14 109. The series of communications among and between Defendants
15 continued from 2011 into approximately the first 18 days of January 2012.

16 110. Within the six days from January 13, 2012, to January 18, 2012, the
17 three brands each announced new price lists to their customers. StarKist announced
18 its price increases on January 13, effective March 26, 2012. Bumble Bee
19 announced its increases on January 17, 2012, effective on April 1, 2012. COSI
20 announced its increases on January 18, 2012, effective on April 1, 2012. The price
21 increases were substantially identical for the cartel participants' corresponding
22 products.

23 ***Collusive Monitoring of Promotions***

24 111. Following the decision to impose a coordinated price increase, the
25 cartel members engaged in monitoring of discounts. In bilateral communications
26 that were intended to be, and in fact were, communicated among all three of the
27 Defendants via telephone and email, beginning not later than May 2012, the sales
28 and management personnel of the three brands announced to each other their

1 awareness of particularly aggressive discounts from list price, and in turn the
2 personnel of the brand subject to the discount or promotion provided assurances
3 that the discount or promotion was not intended to spark price competition
4 between the cartel members but reflected particular circumstances and would not
5 set a precedent.

6 112. This pattern of policing communications between the cartel members
7 continued, through communications of this kind continued until at least June 2013.

8 ***Collusive Refusal to Offer FAD-Free Products***

9 113. During 2011 the industry experienced increasing pressure to provide
10 consumers the option to purchase more sustainably fished product in their product
11 lines. A particular focus was the use of Fish Aggregation Devices (“FADs”) in
12 conjunction with the purse-seine method of fishing. A FAD is a man-made device
13 that floats on the ocean (typically using a buoy tethered to the ocean floor) used to
14 attract schools of fish that orbit around the FAD.

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

21 115. The Defendants, among others in the industry have been pressed by
22 sustainability advocates to end the use of FADs. But the Defendants’ customers
23 have also sought to prompt the Defendants to introduce FAD-free tuna into the
24 United States PSP market, asserting that they perceive an unmet consumer demand
25 for a more sustainable, FAD-free tuna product in the U.S. market.

26 116. Bumble Bee, StarKist and COSI began in 2011 to discuss a response
27 to the pressure to offer FAD-free tuna in the United States.

28 117. These discussions between the competitors occurred through the

1 industry organizations concerned with sustainability, and specifically at least
2 through the mechanism of NFI.

3 118. The discussions of the pressure to offer FAD-free tuna that began in
4 2011 during one or more conference calls under the aegis of sustainability
5 organizations. At least once in the week of February 6, 2012, each of Bumble Bee,
6 StarKist and COSI participated in a call under the aegis of NFI. On that call, the
7 participants reached an agreement. This call was memorialized in email on or
8 about February 17, 2012.

9 119. The agreement between the participants to the call on or about
10 February 6, 2012 was to prevent the launch of a FAD-free tuna product under the
11 brand name of any of the major brands for the US market. This agreement enabled
12 Defendants to maintain their price-fixing conspiracy, and to further effectuate their
13 agreement not to compete on the basis of price or distinguishing product choice,
14 such as FAD-free tuna.

15 ***Defendants Have Ample Opportunities to Collude***

16 120. Defendants BumbleBee, StarKist and Tri-Union or their precedent
17 corporate parents all helped found NFI and BSB, which became loci of a
18 conspiracy among these competitors not to compete, and to share competitive
19 information and coordinated business strategies. NFI itself includes a subgroup,
20 the Tuna Council. As explained on that organization's website: "The National
21 Fisheries Institute's Tuna Council represents the largest processors and household
22 names for canned and pouch tuna in the U.S. including *Bumble Bee*®, *Chicken of*
23 *the Sea*® and *StarKist*®. The Tuna Council speaks for the tuna industry on
24 numerous issues including food safety, labeling, sustainability, nutrition education
25 and product marketing."

26 121. The industry provides other opportunities for the Defendants to
27 collude and exchange sensitive business information necessary to forming and
28 monitoring a cartel. For example:

- 1 a. All three Defendants participate in regional fisheries management
2 organizations. These include the Mid-Atlantic Fisheries Council; and
3 the Fishery Counsel of Canada.
- 4 b. All three Defendants regularly send representatives to major trade
5 conferences including the Infofish World Tuna Trade Conference and
6 Exchange, an Asia-Pacific region conference sponsored each year by
7 an intergovernmental arm of the United Nations and drawing key
8 players in the industry. The conference is in its fourteenth year.
- 9 c. Since 2009, all Defendants have participated in the ISSF, of which all
10 three were founding members.
- 11 d. Defendants also collaborated on projects at trade and other not-for-
12 profit associations during the relevant period, such as the “Tuna the
13 Wonderfish” campaign of 2011-2012.

14 122. The “Tuna the Wonderfish” campaign was designed to combat
15 declining sales of PSPs from early 2011 to early 2012. It was unsuccessful, but it
16 gave Defendants ample opportunity to collude to raise and fix PSP prices. This
17 campaign was bankrolled by the Defendants and carried out under the auspices of
18 the Tuna Council with the support of Thai processors. In it, the Defendants teamed
19 up for marketing purposes. Joe Tuza, Senior Vice-President of Marketing for
20 StarKist, reportedly said that “[w]e worked together surprisingly well.” He said
21 further that the campaign, intended to increase consumption of tuna, was based on
22 the hope that “as the water level rises . . . all boats rise with the tide,” referring to
23 the three Defendant companies. This was evidenced in a 2012 price increase in the
24 face of falling demand.

25 123. Defendants Bumble Bee and Tri-Union also cooperate on seafood
26 processing and packaging through bilateral co-packing agreements. Bumble Bee
27 co-packs for the West Coast of the United States for Tri-Union in Bumble Bee’s
28 Santa Fe Springs, California plant while Tri-Union does the same for the East

1 Coast in Lyons, Georgia. Thus, even before the proposed merger, described
2 below, of these two companies, they were cooperating closely. These interlocking
3 relationships provided an excellent opportunity to collude on pricing.
4 Collaborating at their U.S. processing facilities allowed each of these two
5 Defendants an organic and in-house opportunity to monitor production, a key
6 component of information exchange necessary to sustaining a long-term cartel.

7 124. Defendants' representatives were in regular communication with each
8 other during 2011 and 2012 regarding coordinating pricing and responses to their
9 customer and consumer pressure for sustainable and environmentally improved
10 fishing operations. These communications strongly suggest that these individuals
11 were in communications on a regular basis prior to the communications in 2011
12 and 2012 and thereafter.

13 **C. The PSP Market Is Conducive to Collusion**

14 125. The PSP market is structured and characterized in such a way as to be
15 highly conducive to conspiracy.

16 126. PSPs are commodity products which are sold to wholesale and retail
17 stores which in turn sell to customers such as the Plaintiffs. A very small
18 percentage of sales are made directly to consumers. There are different varieties of
19 PSPs, but within each type of seafood, each variety is sold in similar amounts in
20 similar sizes with similar shelf life and in similar types of packaging. As a result,
21 consumers such as the Plaintiffs are more likely to be influenced by price when
22 making a purchasing decision.

23 127. There are numerous barriers to entry into the PSP market. Start-up
24 costs are very high. Dongwon and Thai Union each are to some degree vertically
25 integrated, Dongwon claiming at times to have the world's largest fishing fleet.
26 The cost of processing plants is high. Merely modernizing the processing plant in
27 American Samoa (owned by COSI at the start of the Class Period, purchased and
28 refitted by a nonparty and reopened in 2015) cost \$70 million. Access to

1 manufacturing materials, distribution channels and raw materials are all highly
2 restricted. Defendants are able to raise prices without fear of being undercut by
3 new entrants into the market.

4 128. Additionally, StarKist, COSI and Bumble Bee, as brands, have all
5 existed for around a century. StarKist was founded in 1917. COSI was founded in
6 1914 as the Van Camp Seafood Company, and was once a part of Ralston Purina.
7 Bumble Bee was founded in 1899 and was previously part of Pillsbury and later
8 ConAgra. These three brands have had not decades but generations to build brand
9 identities and relationships. They are known by virtually every American
10 consumer. Any company seeking to start anew faces difficulties in lack of
11 background, industry ties, and brand awareness.

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

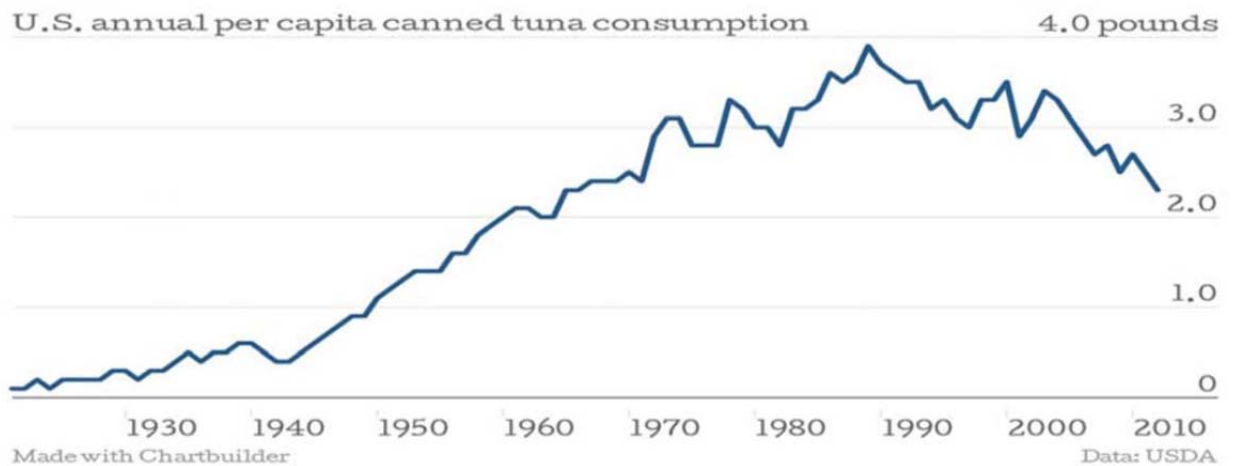
23 130. Purchasers routinely source their PSPs from one of the Defendants.
24 As a result, Defendants dominate the United States PSPs market.

25 131. As stated above, Defendants control roughly 80% of the tuna market
26 share for the United States, so almost all wholesale or retail purchasers do business
27 with Defendants. Defendants possess significant market power to raise prices for
28 PSPs to supra-competitive price levels in the United States.

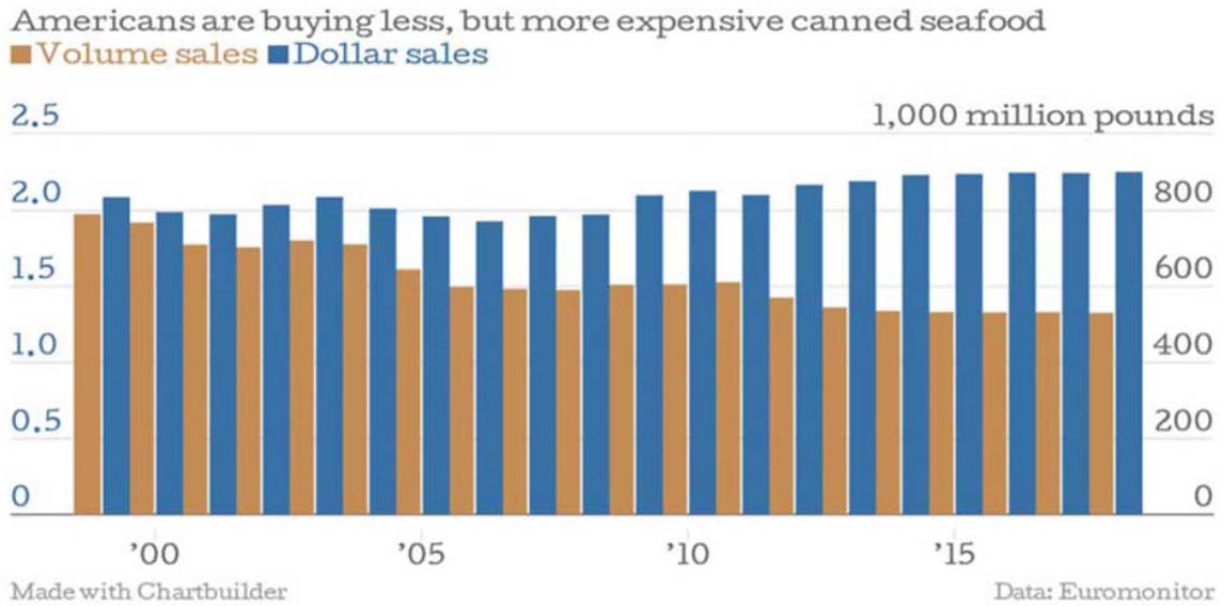
1 132. PSPs have a number of characteristics that uniquely combine to
 2 reduce customers' willingness to purchase substitute products in the face of rising
 3 prices. PSPs are convenient high protein, low fat, shelf-stable foods that have a
 4 particular taste and historical usage. Because of these characteristics, there are no
 5 reasonable substitutes for PSPs. Therefore, control of the Relevant Markets by a
 6 theoretical a hypothetical monopolist would allow that monopolist to profitably
 7 increase the prices of PSPs to supra-competitive or monopoly levels

8 133. A paper by Ronald A. Babula and Roger L. Corey, Jr. in the *Journal*
 9 *of International Fishery and Agribusiness Marketing* measured the demand
 10 coefficient of canned tuna at -0.3, a highly inelastic figure that indicates tuna is a
 11 staple food item for U.S. consumers. This figure implies that if the makers were
 12 able to constrain supply by just 3%, they could sustainably raise prices by 10%.

13 134. There are economic indications that support the conclusion that there
 14 was collusive pricing within the domestic PSPs industry. As noted above,
 15 consumption of PSPs, both canned tuna and other PSP products, has declined over
 16 the past ten years in the United States. The annual consumption per person of
 17 canned tuna was 3.1 lbs. in 2005, but fell to 2.3 lbs. in 2013. An article in the
 18 *Washington Post* graphically represented this decline by measuring United States
 19 annual per capita consumption from 1930 to 2010:

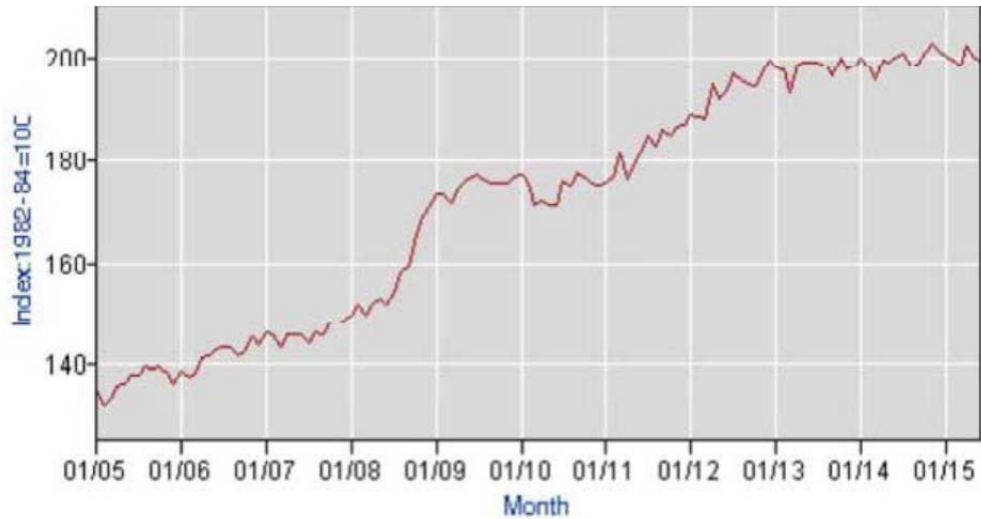


1 135. But while Americans are buying less canned seafood, they are paying
 2 more for what they do buy. The same article presented this graph, illustrating the
 3 increased prices paid for lower quantities of canned seafood (expanding the
 4 analysis beyond tuna) by American purchasers:



15
 16 136. Given this decline in consumption of PSPs, one would expect rational
 17 businesses to reduce the prices for packaged seafood products, but that did not
 18 happen. The following chart, taken from data available at the Bureau of Labor
 19 Statistics, depicts seasonally adjusted U.S. city average prices for shelf stable fish
 20 and seafood from January 2005 through the first part of 2015, with the period
 21 1982-84 used as a baseline.

22 137. As shown below, the average U.S. price for PSPs increased
 23 dramatically from 2008 to the early part of 2015 – and did so even though annual
 24 consumer demand for PSPs in the United States was falling.

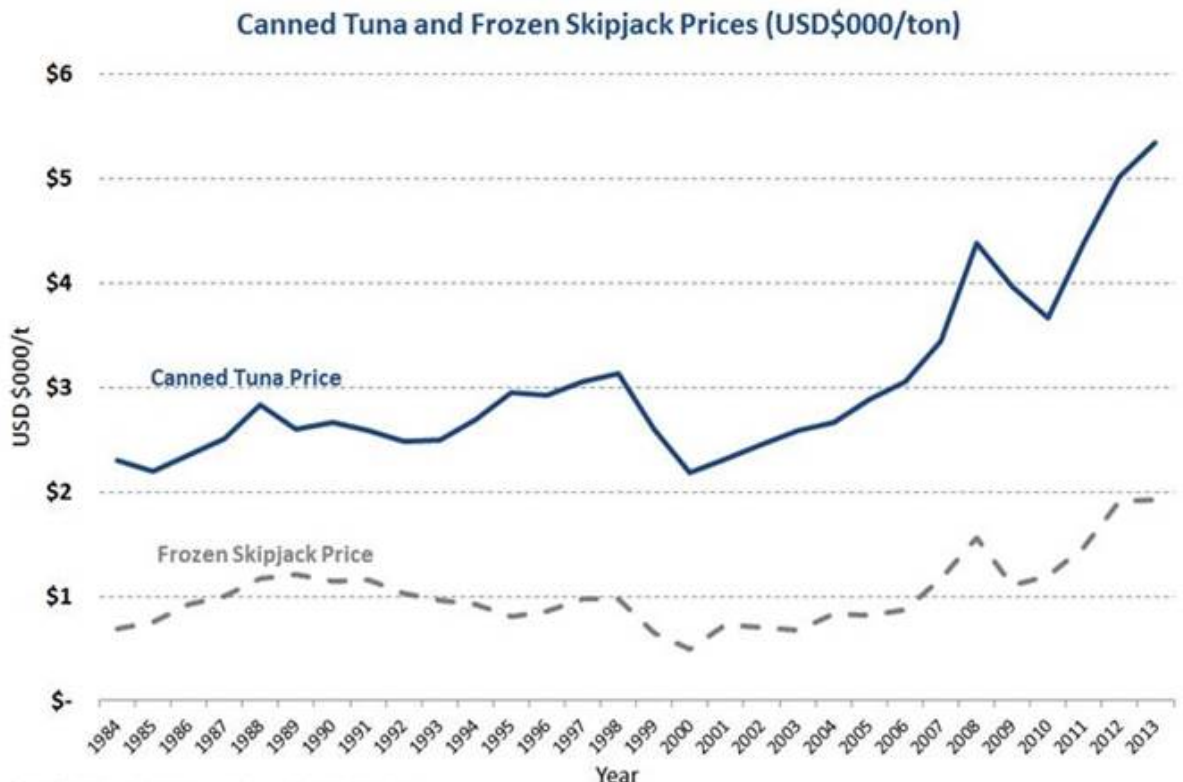


138. Changes in overall tuna catch do not explain the price increase. Supply of tuna has expanded steadily worldwide since the early 1960s. The use of purse-seine netting, in which a net is extended under an entire school and hauled upwards, as described above, has increased the availability of skipjack 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.

139. 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 Market Intelligence*, “[a]s recently as June last year, skipjack was selling at US\$1,800 in Bangkok. But the price has since plummeted to US\$1,000 since the beginning of the year, with industry officials anticipating further reductions in price this year.” Tuna exporters in Ecuador noted in January of 2015 that the price per metric ton had declined from \$1,400 to \$800. And the United Nations Food &

1 Agriculture Organization noted in its May 2015 “Food Outlook” biannual report
 2 that tuna prices had dropped considerably in 2014: “tuna prices declined
 3 significantly due to excess supply, with frozen skipjack prices hitting a 6-year
 4 low.” Despite these drastically declining raw material costs, Defendants did not
 5 decrease prices and try to obtain more market share.

6 140. In fact, while there have been periodic increases in fish cost, from
 7 2000 to 2015, fish cost as a proportion of retail price of canned tuna has actually
 8 decreased. In 2000, the price of tuna accounted for 37% of the retail price of the
 9 canned product. By 2015, tuna price was only 31% of the canned tuna price –
 10 meaning that while the price of skipjack tuna has increased, the price of retail
 11 canned tuna in the U.S. has risen even faster, and at a time when U.S. consumption
 12 is falling due to changing consumer preferences.



25 Source: Fisheries and Aquaculture Department of the United Nations.
 26 Note: Canned Tuna Price includes imports and exports of 3) Price of “Skipjack, prepared or preserved, whole or in pieces, not minced, in oil”, “Skipjack prepared or preserved, not minced, nei”, “Tunas prepared or preserved, not minced, nei Tuna loins, prepared or preserved”, “Tunas prepared or preserved, not minced, in airtight containers”, “Tunas prepared or preserved, not minced, in oil”, “Tunas, bonitos, billfishes, nei, minced, prepared or preserved”, “Tunas nei, minced, prepared or preserved”, and “Tunas, bonitos, billfishes etc., prepared or preserved, not minced, nei”. Frozen Skipjack Price includes imports and exports of “Skipjack tuna, frozen”.

28 141. The spread between the price of frozen skipjack tuna and the price of

1 canned tuna visibly widens, particularly from 2008 forward.

2 142. Thai Union Frozen Products' Annual Reports discuss this situation. In
3 its 2013 Annual Report, Thai Union Frozen Products stated that "our branded tuna
4 business showed resilient growth from 2012 thanks to the price adjustments in
5 Europe and *more rational market competition in the US.*" (Emphasis added). It
6 stated in the same report that its future profit margins would depend upon
7 "[r]easonable US canned tuna competition without unnecessary price." (Emphasis
8 added). In its 2014 Annual Report, Thai Union Frozen Products explicitly noted
9 that this goal had been achieved. It stated: "*Thanks to reduced price competition*
10 *(absence of cut throat pricing)* and generally lower fish cost Chicken of the Sea,
11 *our own tuna brands marked a great year of increased profitability.* Despite
12 minimal sales growth in the U.S., competitive inventory cost and reasonable
13 market conditions helped lift the margin of our U.S. brand." (Emphases added).

14 143. The same report went on to note that "sensible market competition,
15 supported by lower raw material costs, made it possible for our own tuna brands to
16 expand their margins through the year despite limited volume growth." (Emphasis
17 added). It indicated that future revenue growth would again be dependent upon
18 "[r]easonable US canned tuna market competition that focuses more on
19 *consumption creation than market share alone.*" (Emphasis added). The
20 "reasonable market conditions," "more rational market competition," "sensible
21 market competition," avoidance of battles for market share and "absence of cut
22 throat pricing" that the reports note could only have come about through collusion.
23 It would have been against the individual self-interest of each Defendant to eschew
24 increasing market share during this period by lowering prices.

25 **D. Pretextual Explanations**

26 144. Each of the Defendants has offered explanations for price increases
27 that are pretextual.

28 145. During the period December 2011 through January 2012, for example,

1 as described above, the three Defendants executed price increases to their U.S.
2 customers. In June, 2011, COSI explained these increases to its customers –
3 wholesalers and grocery chains – as arising from persistent global increases in fish
4 prices. StarKist, in July 2011, attributed increases to “continuously rising fish
5 costs.” In January, 2012, COSI again attributed rising prices to “high fish prices”.
6 Bumble Bee’s Scott Cameron publicly stated on March 30, 2012 that
7 “unforecasted elements” would drive price increases for the second half of 2012,
8 and in April, 2013, Bumble Bee projected an increase of \$120 to \$200 per metric
9 ton of skipjack tuna to explain rising prices. Though they offered facially
10 innocuous explanations, the price increases were in fact coordinated between three
11 competing brands.

12 **E. The Department of Justice Investigates Defendants**

13 146. The San Francisco office of the Antitrust Division of the United States
14 Department of Justice (“DOJ”) is currently investigating anticompetitive practices
15 in the PSP industry. A grand jury has been convened. Two Defendants, Tri-Union
16 and Bumble Bee, have publicly confirmed receipt of grand jury subpoenas.

17 147. On July 23, 2015, Thai Union confirmed that “Tri-Union Seafoods
18 LLC, operating in the United States under the brand Chicken of the Sea ha[d]
19 received a subpoena requiring the production of relevant information to the DOJ”
20 and that “Chicken of the Sea is cooperating fully with the investigation.”

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

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

7 150. On July 23, 2015, Bumble Bee acknowledged receipt of a grand jury
8 subpoena. Bumble Bee stated, “The Company did receive a grand jury subpoena
9 relating to a US Department of Justice investigation into potential antitrust
10 violations in the packaged seafood industry. The Company is cooperating fully
11 with the investigation.”

12 151. Based on the public statements about the currently pending DOJ
13 investigation, it appears that StarKist received a subpoena as well, and that the
14 DOJ’s investigation extends to the entire domestic PSP sector. StarKist has not
15 announced whether or not it has received a grand jury subpoena.

16 152. The fact that these companies received subpoenas from a federal
17 grand jury is significant, as is reflected in Chapter 3 of the 2014 edition of the
18 DOJ’s Antitrust Division Manual, *available at*
19 <http://www.justice.gov/atr/public/divisionmanual/chapter3.pdf>. Section F.1 of that
20 chapter notes that “staff should consider carefully the likelihood that, if a grand
21 jury investigation developed evidence confirming the alleged anticompetitive
22 conduct, the Division would proceed with a criminal prosecution.” *Id.* at 111-82.
23 The staff request needs to be approved by the relevant field chief and is then sent
24 to the Antitrust Criminal Enforcement Division. *Id.* “The DAAG [Deputy Assistant
25 Attorney General] for Operations, the Criminal DAAG, and the Director of
26 Criminal Enforcement will make a recommendation to the Assistant Attorney
27 General. If approved by the Assistant Attorney General, letters of authority are
28 issued for all attorneys who will participate in the grand jury investigation.” *Id.* at

1 111-83. “The investigation should be conducted by a grand jury in a judicial
2 district where venue lies for the offense, such as a district from or to which price-
3 fixed sales were made or where conspiratorial communications occurred.” *Id.*

4 153. In this case, the seriousness of the ongoing Grand Jury investigation is
5 no secret. The DOJ made a formal motion for intervention in this action, which
6 was not opposed and has since been granted by this Court. The DOJ is now an
7 intervenor in this action. The DOJ had three attorneys in attendance at the first
8 status conference on January 20, 2016. Since then, the parties and the Government
9 have negotiated and filed a partial stay agreement that expressly provides for
10 certain discovery while preventing discovery that would infringe upon the Grand
11 Jury’s investigation.

12 154. It has been publicly reported that one Defendant has applied for and
13 been accepted into the DOJ’s corporate leniency program under the Antitrust
14 Criminal Penalty Enhancement and Reform Act of 2004, Pub. L. No. 108-237,
15 §213(b), 118 Stat. 665, 666 (codified as amended at 15 U.S.C. § 1 note)
16 (“ACPERA”). This Defendant’s admittance into the ACPERA leniency program is
17 specifically related to Defendants’ price-fixing activities and other anticompetitive
18 conduct in violation of Section 1 of The Sherman Act in the United States PSP
19 market. At least one news service has identified a single brand as the leniency
20 applicant. The news service MLex Market Insight has reported that the amnesty
21 applicant has applied for protection the Antitrust Criminal Penalty Enhancement
22 and Reform Act of 2004, Pub. L. No. 108-237, tit. II, 118 Stat. 661 (2004)
23 (“ACPERA”), Part B. Such protection requires that the amnesty applicant admit
24 the commission of a criminal act.

25 **F. Plaintiffs Suffered Antitrust Injury**

26 155. Defendants’ anticompetitive conduct had the following effects, among
27 others:

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

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

14 **FRAUDULENT CONCEALMENT AND THE TOLLING OF THE**
15 **STATUTE OF LIMITATIONS**

16 157. Throughout the Class Period, Defendants affirmatively and
17 fraudulently concealed their unlawful conduct from discovery by Plaintiffs.

18 158. Plaintiffs did not discover, nor could have discovered through the
19 exercise of due diligence, the existence of the conspiracy and Defendants' and their
20 co-conspirators' involvement in the conspiracy before July 23, 2015, when the
21 DOJ's investigation became public.

22 159. Because the conspiracy was actively concealed until July 23, 2015,
23 Plaintiffs were unaware of Defendants' and their co-conspirators' unlawful
24 conduct. Until that time, Plaintiffs were unaware that they were paying artificially
25 inflated prices for PSPs.

26 160. The affirmative acts of Defendants and their co-conspirators,
27 including acts in furtherance of the conspiracy, were wrongfully concealed and
28 conducted in a manner that precluded detection.

1 161. Defendants and their co-conspirators agreed among themselves not to
2 discuss publicly or otherwise reveal the nature and substance of the acts and
3 communications in furtherance of their illegal conspiracy.

4 162. Defendants and their co-conspirators met and communicated secretly
5 concerning the pricing and marketing of PSPs so as to avoid detection.

6 163. Plaintiffs could not have discovered the alleged conspiracy at an
7 earlier date by the exercise of reasonable diligence because of the deceptive
8 practices and techniques employed by Defendants and their co-conspirators to
9 avoid the detection of, and fraudulently conceal, their contract, conspiracy, or
10 combination. Defendants' conspiracy was fraudulently concealed by various means
11 and methods, including, but not limited to, secret meetings, misrepresentations to
12 customers, and surreptitious communications among Defendants and their co-
13 conspirators via telephone or in in-person meetings.

14 164. Because the alleged conspiracy was affirmatively concealed by
15 Defendants and their co-conspirators until July 23, 2015, Plaintiffs had no
16 knowledge of the alleged conspiracy or any facts or information that would have
17 caused a reasonably diligent person to investigate whether a conspiracy existed.

18 165. None of the facts or information available to Plaintiffs prior to July
19 23, 2015, if investigated with reasonable diligence, could or would have led to the
20 discovery of the conspiracy prior to July 23, 2015.

21 166. As a result of Defendants' and their co-conspirators' fraudulent
22 concealment of the conspiracy, the running of any statutes of limitations has been
23 tolled with respect to Plaintiffs' claims of anticompetitive or unfair business
24 practice conduct alleged in this Complaint.

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1 **CAUSES OF ACTION**

2 **FIRST CLAIM FOR RELIEF**

3 **Violation of Section 1 of the Sherman Act, 15 U.S.C. § 1**
4 **(By All Plaintiffs On Behalf of The Nationwide Sherman Act Class)**

5 167. Plaintiffs repeat and reassert each of the allegations contained in
6 paragraphs 1 to 166 as if fully set forth herein.

7 168. Defendants and their co-conspirators engaged in a continuing contract,
8 combination, or conspiracy to artificially fix, raise, maintain and/or stabilize the prices
9 of PSPs within the United States, its territories, and the District of Columbia in
10 violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

11 169. Defendants' anticompetitive acts were intentionally directed at the
12 United States market for PSPs and had a substantial and foreseeable effect on
13 interstate commerce by raising and fixing PSP prices throughout the United States.

14 170. The contract, combination or conspiracy had the following direct,
15 substantial, and reasonably foreseeable effects upon commerce in the United
16 States and upon import commerce:

- 17 a. prices charged to, and paid by, Plaintiffs and members of the
18 Classes were artificially raised, fixed, maintained, or stabilized
19 at supra-competitive levels;
- 20 b. Plaintiffs and members of the Nationwide Sherman Act Class
21 have been deprived of the benefits of free, open and
22 unrestricted competition in the PSP market in the United States;
23 and
- 24 c. competition in establishing prices paid for PSPs has been
25 unlawfully restrained, suppressed, or eliminated.

26 171. Defendants and their co-conspirators' anticompetitive activities
27 have directly and proximately caused injury to Plaintiffs and members of the
28 Nationwide Sherman Act Class in the United States.

1 **THIRD CLAIM FOR RELIEF**

2 **Violations of California Business and Professions Code § 17200, *et seq.***
3 **(the “UCL”)**

4 **(By All Plaintiffs On Behalf of The Nationwide Cartwright Act Class)**

5 178. Plaintiffs repeat and reassert each of the allegations contained in
6 paragraphs 1 to 166 as if fully set forth herein.

7 179. The violations of federal antitrust law set forth above also constitute
8 violations of section 17200, *et seq.* of California Business and Professions Code,
9 also known as the Unfair Competition Law (the “UCL”).

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

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

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

24 183. Defendants’ acts, omissions, misrepresentations, practices, and non-
25 disclosures, as described above, whether or not in violation of section 16720, *et*
26 *seq.*, of California Business and Professions Code, and whether or not concerted or
27 independent acts, are otherwise unfair, unconscionable, unlawful or fraudulent.

28 184. Plaintiffs and members of the Nationwide Cartwright Act Class are

1 entitled to full restitution and/or disgorgement of all revenues, earnings, profits,
2 compensation, and benefits that may have been obtained by Defendants as a result
3 of such business acts or practices.

4 185. The effects of the illegal conduct alleged herein are continuing and
5 while the conspiracy has ended, the effects of the conspiracy continue to harm
6 Plaintiffs and members of The Nationwide Cartwright Act Class.

7 186. The unlawful and unfair business practices of Defendants, and each of
8 them, as described above, have caused and continue to cause Plaintiffs and the
9 members of the Nationwide Cartwright Act Class to pay supra-competitive and
10 artificially-inflated prices for PSPs sold in the United States. Plaintiffs and the
11 members of the Nationwide Cartwright Act Class suffered injury in fact and lost
12 money or property as a result of such unfair competition.

13 187. As alleged in this Complaint, Defendants and their co-conspirators
14 have been unjustly enriched as a result of their wrongful conduct and by
15 Defendants' unfair competition. Plaintiffs and the members of the Nationwide
16 Cartwright Act Class are accordingly entitled to equitable relief including
17 restitution and/or disgorgement of all revenues, earnings, profits, compensation,
18 and benefits that may have been obtained by Defendants as a result of such
19 business practices, pursuant to California Business and Professions Code sections
20 17203 and 17204.

21 VIOLATIONS OF STATE ANTITRUST LAW

22 **(Against All Defendants)**

23 188. The following Fourth through Twenty-ninth Claims for Relief are
24 pleaded under the antitrust laws of each State or jurisdiction identified below, on
25 behalf of the indicated Class.

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FOURTH CLAIM FOR RELIEF

**Violation of Arizona’s Uniform State Antitrust Act,
Ariz. Rev. Stat. § 44-1401, *et seq.***

**(By Plaintiffs Jonathan Rizzo and Tina Grant
On Behalf of the Arizona Class)**

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189. Plaintiffs Jonathan Rizzo and Tina Grant, on behalf of themselves and the Arizona Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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

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

192. 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 PSP Market.

193. Defendants’ violations of Arizona law were flagrant.

194. Defendants’ unlawful conduct substantially affected Arizona’s trade and commerce.

195. 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.

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

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FIFTH CLAIM FOR RELIEF
Violation of the Arkansas Unfair Practices Act,
Ark. Code Ann. § 4-75-201, *et seq.* and § 4-75-301, *et seq.*
(By Plaintiff Joseph A. Langston On Behalf of the Arkansas Class)

197. Plaintiff Joseph A. Langston, on behalf of himself and the Arkansas Class, repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

198. By reason of the conduct alleged herein, Defendants have violated Ark. Code Ann. § 4-75-201, *et seq.* and § 4-75-301, *et seq.*

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

200. 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 Arkansas, for the purpose of excluding competition or controlling, fixing, or maintaining prices in the PSP Market.

201. Defendants' violations of Arkansas law were flagrant.

202. Defendants' unlawful conduct substantially affected Arkansas's trade and commerce.

203. Defendants' unlawful conduct caused injury, and as a result, Plaintiff and the members of the Arkansas Class have been damaged in their business or property and are threatened with further damages.

204. By reason of the foregoing, Plaintiff and members of the Arkansas Class is entitled to seek all forms of relief, including treble damages, reasonable attorney's fees and costs, and injunctive relief available under Ark. Code Ann. § 4-75-211.

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SIXTH CLAIM FOR RELIEF

**Violation of California’s Cartwright Act,
Cal. Bus. & Prof. Code § 16700, *et seq.*
(By Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick
Musgrave, and David Ton On Behalf of the California Class)**

205. Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick Musgrave, and David Ton, for themselves and on behalf of the California Class, repeat and reallege each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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

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

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

209. A trust in California is any combination intended for various purposes, including but not limited to creating or carrying out restrictions in trade or commerce, limiting or reducing the production or increasing the price of merchandise, or preventing competition in the market for a commodity. Cal. Bus. & Prof. Code § 16720. Every trust in California is unlawful except as provided by the Code. *Id.* at § 16726.

210. Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick Musgrave, and David Ton purchased PSPs within the State of California during the Class Period. But for Defendants’ conduct set forth herein, the price per unit of

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

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

5 212. Plaintiffs and members of the Class were injured in their business or
6 property, with respect to purchases of PSPs in California and are entitled to all
7 forms of relief, including recovery of treble damages, interest, and injunctive relief,
8 plus reasonable attorneys' fees and costs.

9 **SEVENTH CLAIM FOR RELIEF**

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

11 **D.C. Code § 28-4501, *et seq.***

12 **(By Plaintiff Paul Berger On Behalf of the District of Columbia Class)**

13 213. Plaintiff Paul Berger, on behalf of himself and on behalf of the
14 District of Columbia Class, repeats and realleges each of the allegations contained
15 in paragraphs 1 to 166 as if fully set forth herein.

16 214. The policy of District of Columbia Code, Title 28, Chapter 45
17 (Restraints of Trade) is to “promote the unhampered freedom of commerce and
18 industry throughout the District of Columbia by prohibiting restraints of trade and
19 monopolistic practices.”

20 215. Plaintiff Paul Berger purchased PSPs within the District of Columbia
21 during the Class Period. But for Defendants' conduct set forth herein, the price per
22 unit of PSPs would have been lower, in an amount to be determined at trial.

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

28 217. Defendants contracted, combined or conspired to act in restraint of

1 trade within the District of Columbia, and monopolized or attempted to
2 monopolize the market for PSPs within the District of Columbia, in violation of
3 D.C. Code § 28-4501, *et seq.*

4 218. Plaintiff and members of the Class were injured with respect to
5 purchases of PSPs in the District of Columbia and are entitled to all forms of relief,
6 including actual damages, treble damages, and interest, reasonable attorneys' fees
7 and costs.

8 **EIGHTH CLAIM FOR RELIEF**

9 **Violation of the Guam Antitrust Law,
10 Guam Code Ann. tit. 9 § 69.10, *et seq.***

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

13 219. Plaintiffs Amy Jackson and Joelyna San Agustin, on behalf of
14 themselves and the Guam Class, repeat and reassert each of the allegations
15 contained in paragraphs 1 to 166 as if fully set forth herein.

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

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

22 222. 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 PSP market, a substantial part of which occurred within Guam.

25 223. Defendant established, maintained, or used a monopoly, or attempted
26 to establish a monopoly, of trade or commerce in the Relevant Markets, a
27 substantial part of which occurred within Guam, for the purpose of excluding
28 competition or controlling, fixing, or maintaining prices in the PSP Market.

224. Defendants' conduct was an unfair method of competition, and an

1 unfair or deceptive act or practice within the conduct of commerce within the State
2 of Guam.

3 225. Defendants' unlawful conduct substantially affected Guam's trade and
4 commerce.

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

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

11 **NINTH CLAIM FOR RELIEF**

12 **Violation of the Illinois Antitrust Act,
13 740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.***

14 **(By Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg, Amy
15 Joseph, and Elizabeth Twitchell On Behalf of the Illinois Class)**

16 228. Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg,
17 Amy Joseph, and Elizabeth Twitchell, on behalf of themselves and the Illinois
18 Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166
19 as if fully set forth herein.

20 229. The Illinois Antitrust Act, 740 ILCS 10/1, *et seq.*, aims "to promote
21 the unhampered growth of commerce and industry throughout the State by
22 prohibiting restraints of trade which are secured through monopolistic or oligarchic
23 practices and which act or tend to act to decrease competition between and among
24 persons engaged in commerce and trade" 740 ILCS 10/2.

25 230. Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg,
26 Amy Joseph, and Elizabeth Twitchell purchased PSPs within the State of Illinois
27 during the Class Period. But for Defendants' conduct set forth herein, the price per
28 unit of PSPs would have been lower, in an amount to be determined at trial.

231. Under the Illinois Antitrust Act, indirect purchasers have standing to

1 maintain an action for damages based on the facts alleged in this Complaint. 740
2 ILCS 10/7(2).

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

8 233. Defendants further unreasonably restrained trade or commerce and
9 established, maintained or attempted to acquire monopoly power over the market
10 for PSPs in Illinois for the purpose of excluding competition, in violation of 740
11 ILCS 10/1, *et seq.*

12 234. Plaintiffs and members of the Class were injured with respect to
13 purchases of PSPs in Illinois and are entitled to all forms of relief, including actual
14 damages, treble damages, reasonable attorneys' fees and costs.

15 **TENTH CLAIM FOR RELIEF**

16 **Violation of the Iowa Competition Law**

17 **Iowa Code § 553.1, *et seq.***

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

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

20 235. Plaintiffs Carla Lown and Jennifer A. Nelson, on behalf of themselves
21 and the Iowa Class, repeat and reassert each of the allegations contained in
22 paragraphs 1 to 166 as if fully set forth herein.

23 236. The Iowa Competition Law aims to “prohibit[] restraint of economic
24 activity and monopolistic practices.” Iowa Code § 553.2.

25 237. Plaintiffs Carla Lown and Jennifer A. Nelson purchased PSPs within
26 the State of Iowa during the Class Period. But for Defendants' conduct set forth
27 herein, the price per unit of PSPs would have been lower, in an amount to be
28 determined at trial.

1 238. Defendants contracted, combined or conspired to restrain or
2 monopolize trade in the market for PSPs, and attempted to establish or did in fact
3 establish a monopoly for the purpose of excluding competition or controlling,
4 fixing or maintaining prices for PSPs, in violation of Iowa Code § 553.1, *et seq.*

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

9 **ELEVENTH 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)**

14 240. 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 166 as if fully set forth herein.

17 241. 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.

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

24 243. 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).

27 244. Defendants combined capital, skill or acts for the purposes of creating
28 restrictions in trade or commerce of PSPs, increasing the price of PSPs, preventing

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

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

8 **TWELFTH CLAIM FOR RELIEF**

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

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

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

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

13 246. Plaintiffs Greg Stearns and Thomas E. Willoughby III, on behalf of
14 themselves and the Maine Class, repeat and reassert each of the allegations
15 contained in paragraphs 1 to 166 as if fully set forth herein.

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

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

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

27 250. Defendants contracted, combined or conspired in restraint of trade or
28 commerce of PSPs within the intrastate commerce of Maine, and monopolized or
attempted to monopolize the trade or commerce of PSPs within the intrastate

1 commerce of Maine, in violation of Me. Rev. Stat. Ann. Tit. 10, § 1101, *et seq.*

2 251. Plaintiffs and members of the Class were injured with respect to
3 purchases of PSPs in Maine and are entitled to all forms of relief, including actual
4 damages, treble damages, reasonable attorneys' and experts' fees and costs.

5 **THIRTEENTH CLAIM FOR RELIEF**

6 **Violation of the Michigan Antitrust Reform Act**

7 **Mich. Comp. Laws § 445.771, *et seq.***

8 **(By Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson**

9 **On Behalf of the Michigan Class)**

10 252. Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson, on
11 behalf of themselves and the Michigan Class, repeat and reassert each of the
12 allegations contained in paragraphs 1 to 166 as if fully set forth herein.

13 253. The Michigan Antitrust Reform Act aims "to prohibit contracts,
14 combinations, and conspiracies in restraint of trade or commerce...to prohibit
15 monopolies and attempts to monopolize trade or commerce...[and] to provide
16 remedies, fines, and penalties for violations of this act." Mich. Act 274 of 1984.

17 254. Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson
18 purchased PSPs within the State of Michigan during the Class Period. But for
19 Defendants' conduct set forth herein, the price per unit of PSPs would have been
20 lower, in an amount to be determined at trial.

21 255. Under the Michigan Antitrust Reform Act, indirect purchasers have
22 standing to maintain an action based on the facts alleged in this Complaint. Mich.
23 Comp. Laws. § 452.778(2).

24 256. Defendants contracted, combined or conspired to restrain or
25 monopolize trade or commerce in the market for PSPs, in violation of Mich.
26 Comp. Laws § 445.772, *et seq.*

27 257. Plaintiffs and members of the Class were injured with respect to
28 purchases of PSPs in Michigan and are entitled to all forms of relief, including

1 actual damages, treble damages for flagrant violations, interest, costs, reasonable
2 attorneys' fees, and injunctive or other appropriate equitable relief.

3 **FOURTEENTH CLAIM FOR RELIEF**

4 **Violation of the Minnesota Antitrust Law,**
5 **Minn. Stat. § 325D.49, *et seq.***

6 **(By Plaintiff Laura Childs On Behalf of the Minnesota Class)**

7 258. Plaintiff Laura Childs, on behalf of herself and the Minnesota Class,
8 repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if
9 fully set forth herein.

10 259. The Minnesota Antitrust Law of 1971 aims to prohibit any contract,
11 combination or conspiracy when any part thereof was created, formed, or entered
12 into in Minnesota; any contract, combination or conspiracy, wherever created,
13 formed or entered into; any establishment, maintenance or use of monopoly power;
14 and any attempt to establish, maintain or use monopoly power, whenever any of
15 these affect Minnesota trade or commerce.

16 260. Plaintiff Laura Childs purchased PSPs within the State of Minnesota
17 during the Class Period. But for Defendants' conduct set forth herein, the price per
18 unit of PSPs would have been lower, in an amount to be determined at trial.

19 261. Under the Minnesota Antitrust Act of 1971, indirect purchasers have
20 standing to maintain an action based on the facts alleged in this Complaint. Minn.
21 Stat. § 325D.56.

22 262. Defendants contracted, combined or conspired in unreasonable
23 restraint of trade or commerce in the market for PSPs within the intrastate
24 commerce of and outside of Minnesota; established, maintained, used or attempted
25 to establish, maintain or use monopoly power over the trade or commerce in the
26 market for PSPs within the intrastate commerce of and outside of Minnesota; and
27 fixed prices and allocated markets for PSPs within the intrastate commerce of and
28 outside of Minnesota, in violation of Minn. Stat. § 325D.49, *et seq.*

1 263. Plaintiff and members of the Class were injured with respect to
2 purchases of PSPs in Minnesota and are entitled to all forms of relief, including
3 actual damages, treble damages, costs and disbursements, reasonable attorneys’
4 fees, and injunctive relief necessary to prevent and restrain violations hereof.

5 **FIFTEENTH CLAIM FOR RELIEF**

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

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

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

9 264. Plaintiff Christopher Todd, on behalf of himself and the Mississippi
10 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
11 166 as if fully set forth herein.

12 265. Title 75 of the Mississippi Code regulates trade, commerce and
13 investments. Chapter 21 thereof generally prohibits trusts and combines in restraint
14 or hindrance of trade, with the aim that “trusts and combines may be suppressed,
15 and the benefits arising from competition in business [are] preserved” to
16 Mississippians. Miss. Code Ann. § 75-21-39.

17 266. Trusts are combinations, contracts, understandings or agreements,
18 express or implied, when inimical to the public welfare and with the effect of, *inter*
19 *alia*, restraining trade, increasing the price or output of a commodity, or hindering
20 competition in the production or sale of a commodity. Miss. Code Ann. § 75-21-1.

21 267. Plaintiff Christopher Todd purchased PSPs within the State of
22 Mississippi during the Class Period. But for Defendants’ conduct set forth herein,
23 the price per unit of PSPs would have been lower, in an amount to be determined at
24 trial.

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

28 269. Defendants combined, contracted, understood and agreed in the

1 market for PSPs, in a manner inimical to public welfare, with the effect of
2 restraining trade, increasing the price of PSPs and hindering competition in the sale
3 of PSPs, in violation of Miss. Code Ann. § 75-21-1(a), *et seq.*

4 270. Defendants monopolized or attempted to monopolize the production,
5 control or sale of PSPs, in violation of Miss. Code Ann. § 75-21-3, *et seq.*

6 271. Defendants' PSPs are sold in hundreds of grocery stores, markets, and
7 warehouse clubs throughout the State of Mississippi. During the Class Period,
8 Defendants' illegal conduct substantially affected Mississippi commerce.

9 272. Plaintiff and members of the Class were injured with respect to
10 purchases of PSPs in Mississippi and are entitled to all forms of relief, including
11 actual damages and a penalty of \$500 per instance of injury.

12 **SIXTEENTH CLAIM FOR RELIEF**

13 **Violation of the Missouri Merchandising Practices Act,**
14 **Mo. Ann. Stat. § 407.010, *et seq.***

15 **(By Plaintiff Rebecca Lee Simoens On Behalf of the Missouri Class)**

16 273. Plaintiff Rebecca Lee Simoens on behalf of herself and the Missouri
17 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
18 166 as if fully set forth herein.

19 274. Chapter 407 of the Missouri Merchandising Practices Act (the
20 "MMPA") generally governs unlawful business practices, including antitrust
21 violations such as restraints of trade and monopolization.

22 275. Plaintiff purchased PSPs within the State of Missouri during the Class
23 Period. But for Defendants' conduct set forth herein, the price per unit of PSPs
24 would have been lower, in an amount to be determined at trial.

25 276. Under Missouri law, indirect purchasers have standing to maintain an
26 action under the MMPA based on the facts alleged in this Complaint. *Gibbons v.*
27 *J. Nuckolls, Inc.*, 216 S.W.3d 667, 669 (Mo. 2007).

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

1 commerce of PSPs within the intrastate commerce of Missouri, and monopolized
2 or attempted to monopolize the market for PSPs within the intrastate commerce of
3 Missouri by possessing monopoly power in the market and willfully maintaining
4 that power through agreements to fix prices, allocate markets and otherwise control
5 trade, in violation of Mo. Ann. Stat. § 407.010, *et seq.*

6 278. Plaintiff and members of the Missouri Class were injured with respect
7 to purchases of PSPs in Missouri and are entitled to all forms of relief, including
8 actual damages or liquidated damages in an amount which bears a reasonable
9 relation to the actual damages which have been sustained, as well as reasonable
10 attorneys' fees, costs, and injunctive relief.

11 **SEVENTEENTH CLAIM FOR RELIEF**

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

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

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

16 279. Plaintiff Melissa Bowman and Barbara Buenning, on behalf of
17 themselves and the Nebraska Class, repeat and reassert each of the allegations
18 contained in paragraphs 1 to 166 as if fully set forth herein.

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

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

27 282. Under Nebraska law, indirect purchasers have standing to maintain an
28 action under the Junkin Act based on the facts alleged in this Complaint. Neb. Rev.

1 Stat. § 59-821.

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

8 284. Plaintiff and members of the Class were injured with respect to
9 purchases of PSPs in Nebraska and are entitled to all forms of relief, including
10 actual damages or liquidated damages in an amount which bears a reasonable
11 relation to the actual damages which have been sustained, as well as reasonable
12 attorneys' fees, costs, and injunctive relief.

13 **EIGHTEENTH CLAIM FOR RELIEF**

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

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

16 **(By Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller**

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

18 285. Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller, on behalf
19 of themselves and the Nevada Class, repeat and reassert each of the allegations
20 contained in paragraphs 1 to 166 as if fully set forth herein.

21 286. The Nevada Unfair Trade Practice Act (“NUTPA”) states that “free,
22 open and competitive production and sale of commodities...is necessary to the
23 economic well-being of the citizens of the State of Nevada.” Nev. Rev. Stat. Ann.
24 § 598A.030(1).

25 287. The policy of NUTPA is to prohibit acts in restraint of trade or
26 commerce, to preserve and protect the free, open and competitive market, and to
27 penalize all persons engaged in anticompetitive practices. Nev. Rev. Stat. Ann. §
28 598A.030(2). Such acts include, *inter alia*, price fixing, division of markets,

1 allocation of customers, and monopolization of trade. Nev. Rev. Stat. Ann. §
2 598A.060.

3 288. Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller purchased
4 PSPs within the State of Nevada during the Class Period. But for Defendants'
5 conduct set forth herein, the price per unit of PSPs would have been lower, in an
6 amount to be determined at trial.

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

10 290. Defendants fixed prices by agreeing to establish prices for PSPs in
11 Nevada, divided Nevada markets, allocated Nevada customers, and monopolized
12 or attempted monopolize trade or commerce of PSPs within the intrastate
13 commerce of Nevada, constituting a contract, combination or conspiracy in
14 restraint of trade in violation of Nev. Rev. Stat. Ann. § 598A, *et seq.*

15 291. Plaintiffs and members of the Class were injured with respect to
16 purchases of PSPs in Nevada in that at least thousands of sales of Defendants'
17 PSPs took place in Nevada, purchased by Nevada consumers at supra-competitive
18 prices caused by Defendants' conduct.

19 292. Accordingly, Plaintiffs and members of the Nevada Class are entitled
20 to all forms of relief, including actual damages, treble damages, reasonable
21 attorneys' fees, costs, and injunctive relief.

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

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NINETEENTH CLAIM FOR RELIEF

Violation of New Hampshire's Antitrust Statute,

N.H. Rev. Stat. Ann. tit. XXXI, § 356, *et seq.*

(By Plaintiff Jody Cooper On Behalf of the New Hampshire Class)

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4 294. Plaintiff Jody Cooper, on behalf of herself and the New Hampshire
5 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
6 166 as if fully set forth herein

7 295. Title XXXI of the New Hampshire Statutes generally governs trade
8 and commerce. Chapter 356 thereof governs combinations and monopolies and
9 prohibits restraints of trade. N.H. Rev. Stat. Ann. §§ 356:2, 3.

10 296. Plaintiff Jody Cooper purchased PSPs within the State of New
11 Hampshire during the Class Period. But for Defendants' conduct set forth herein,
12 the price per unit of PSPs would have been lower, in an amount to be determined at
13 trial.

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

17 298. Defendants fixed, controlled or maintained prices for PSPs, allocated
18 customers or markets for PSPs, and established, maintained or used monopoly
19 power, or attempted to, constituting a contract, combination or conspiracy in
20 restraint of trade in violation of N.H. Rev. Stat. Ann. § 356:1, *et seq.*

21 299. Plaintiffs and members of the Class were injured with respect to
22 purchases of PSPs in New Hampshire and are entitled to all forms of relief,
23 including actual damages sustained, treble damages for willful or flagrant
24 violations, reasonable attorneys' fees, costs, and injunctive relief.

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TWENTIETH CLAIM FOR RELIEF
Violation of the New Mexico Antitrust Act,
N.M. Stat. Ann. §§ 57-1-1, *et seq.*

(By Plaintiff Vivek Dravid On Behalf of the New Mexico Class)

300. Plaintiff Vivek Dravid, on behalf of himself and the New Mexico Class, repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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

302. Plaintiff Vivek Dravid purchased PSPs within the State of New Mexico during the Class Period. But for Defendants' conduct set forth herein, the price per unit of PSPs would have been lower, in an amount to be determined at trial.

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

304. Defendants contracted, agreed, combined or conspired, and monopolized or attempted to monopolize trade for PSPs within the intrastate commerce of New Mexico, in violation of N.M. Stat. Ann. § 57-1-1, *et seq.*

305. Plaintiff and members of the Class were injured with respect to purchases of PSPs in New Mexico and are entitled to all forms of relief, including actual damages, treble damages, reasonable attorneys' fees, costs, and injunctive relief.

TWENTY-FIRST CLAIM FOR RELIEF
Violation of Section 340 of the New York General Business Law
(By Plaintiffs Michael Buff, Stephanie Gipson, Jennifer A. Nelson, and Nigel Warren On Behalf of the New York Class)

306. Plaintiffs Michael Buff, Stephanie Gipson, Jennifer A. Nelson, and Nigel Warren, on behalf of themselves and the New York Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth

1 herein

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

6 308. Plaintiffs Michael Buff, Stephanie Gipson, Jennifer A. Nelson, and
7 Nigel Warren purchased PSPs within the State of New York during the Class
8 Period. But for Defendants' conduct set forth herein, the price per unit of PSPs
9 would have been lower, in an amount to be determined at trial.

10 309. Under New York law, indirect purchasers have standing to maintain
11 an action based on the facts alleged in this Complaint. N.Y. Gen. Bus. Law §
12 340(6).

13 310. Defendants established or maintained a monopoly within the intrastate
14 commerce of New York for the trade or commerce of PSPs and restrained
15 competition in the free exercise of the conduct of the business of PSPs within the
16 intrastate commerce of New York, in violation of N.Y. Gen. Bus. Law § 340, *et*
17 *seq.*

18 311. Plaintiffs and members of the Class were injured with respect to
19 purchases of PSPs in New York and are entitled to all forms of relief, including
20 actual damages, treble damages, costs not exceeding \$10,000, and reasonable
21 attorneys' fees.

22 **TWENTY-SECOND CLAIM FOR RELIEF**

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

25 **(By Plaintiffs Corey Norris and Elizabeth Twitchell**
26 **On Behalf of the North Carolina Class)**

27 312. Plaintiffs Corey Norris and Elizabeth Twitchell, on behalf of
28 themselves and the North Carolina Class, repeat and reassert each of the
allegations contained in paragraphs 1 to 166 as if fully set forth herein.

1 313. Defendants entered into a contract or combination in the form of trust
2 or otherwise, or conspiracy in restraint of trade or commerce in the PSP Market, a
3 substantial part of which occurred within North Carolina.

4 314. Defendants established, maintained, or used a monopoly, or attempted
5 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose
6 of affecting competition or controlling, fixing, or maintaining prices, a substantial
7 part of which occurred within North Carolina.

8 315. Defendants' unlawful conduct substantially affected North Carolina's
9 trade and commerce.

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

13 317. 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 **TWENTY-THIRD 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 VanderLaan**

20 **On Behalf of the North Dakota Class)**

21 318. Plaintiffs Tya Hughes and Bonnie VanderLaan, on behalf of
22 themselves and the North Dakota Class, repeat and reassert each of the allegations
23 contained in paragraphs 1 to 166 as if fully set forth herein.

24 319. 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.*

26 320. Plaintiffs Tya Hughes and Bonnie VanderLaan purchased PSPs within
27 the State of North Dakota during the Class Period. But for Defendants' conduct set
28 forth herein, the price per unit of PSPs would have been lower, in an amount to be
determined at trial.

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

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

9 323. Plaintiffs and members of the Class were injured with respect to
10 purchases in North Dakota and are entitled to all forms of relief, including actual
11 damages, treble damages for flagrant violations, costs, reasonable attorneys' fees,
12 and injunctive or other equitable relief.

13 **TWENTY-FOURTH CLAIM FOR RELIEF**

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

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

16 **(By Plaintiffs Danielle Johnson and Beth and Liza Milliner**

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

18 324. Plaintiffs Danielle Johnson and Beth and Liza Milliner, on behalf of
19 themselves and the Oregon Class, repeat and reassert each of the allegations
20 contained in paragraphs 1 to 166 as if fully set forth herein.

21 325. Chapter 646 of the Oregon Revised Statutes generally governs
22 business and trade practices within Oregon. Sections 705 through 899 thereof
23 govern antitrust violations, with the policy to “encourage free and open
24 competition in the interest of the general welfare and economy of the state.” Or.
25 Rev. Stat. § 646.715.

26 326. Plaintiffs Danielle Johnson and Beth and Liza Milliner purchased
27 PSPs within the State of Oregon during the Class Period. But for Defendants'
28 conduct set forth herein, the price per unit of PSPs would have been lower, in an
amount to be determined at trial.

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

4 328. Defendants contracted, combined, or conspired in restraint of trade or
5 commerce of PSPs, and monopolized or attempted to monopolize the trade or
6 commerce of PSPs, in violation of Or. Rev. Stat. § 646.705, *et seq.*

7 329. Plaintiffs and members of the Class were injured with respect to
8 purchases of PSPs within the intrastate commerce of Oregon, or alternatively to
9 interstate commerce involving actual or threatened injury to persons located in
10 Oregon, and are entitled to all forms of relief, including actual damages, treble
11 damages, reasonable attorneys' fees, expert witness fees and investigative costs,
12 and injunctive relief.

13 **TWENTY-FIFTH CLAIM FOR RELIEF**

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

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

16 **(By Plaintiff Katherine McMahon On Behalf of the Rhode Island Class)**

17 330. Plaintiff Katherine McMahon, on behalf of herself and the Rhode
18 Island Class, repeats and reasserts each of the allegations contained in paragraphs 1
19 to 166 as if fully set forth herein.

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

24 332. Plaintiff Katherine McMahon purchased PSPs within the State of
25 Rhode Island during the Class Period. But for Defendants' conduct set forth herein,
26 the price per unit of PSPs would have been lower, in an amount to be determined at
27 trial.

28 333. Under the Rhode Island Antitrust Act, as of July 15, 2013, indirect

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

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

11 335. Plaintiff and members of the Class were injured with respect to
12 purchases of PSPs in Rhode Island and are entitled to all forms of relief, including
13 actual damages, treble damages, reasonable costs, reasonable attorneys' fees, and
14 injunctive relief.

15 **TWENTY-SIXTH CLAIM FOR RELIEF**

16 **Violation of the South Dakota Antitrust Statute,**

17 **S.D. Codified Laws § 37-1-3.1, *et seq.***

18 **(By Plaintiffs Casey Christensen and Bonnie VanderLaan**

19 **On Behalf of the South Dakota Class)**

20 336. Plaintiffs Casey Christensen and Bonnie VanderLaan, on behalf of
21 themselves and the South Dakota Class, repeat and reassert each of the allegations
22 contained in paragraphs 1 to 166 as if fully set forth herein.

23 337. Chapter 37-1 of the South Dakota Codified Laws prohibits restraint of
24 trade, monopolies and discriminatory trade practices. S.D. Codified Laws §§ 37-1-
25 3.1, 3.2.

26 338. Plaintiffs Casey Christensen and Bonnie VanderLaan purchased PSPs
27 within the State of South Dakota during the Class Period. But for Defendants'
28 conduct set forth herein, the price per unit of PSPs would have been lower, in an

1 amount to be determined at trial.

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

5 340. Defendants contracted, combined or conspired in restraint of trade or
6 commerce of PSPs within the intrastate commerce of South Dakota, and
7 monopolized or attempted to monopolize trade or commerce of PSPs within the
8 intrastate commerce of South Dakota, in violation of S.D. Codified Laws § 37-1, *et*
9 *seq.*

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

14 **TWENTY-SEVENTH CLAIM FOR RELIEF**

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

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

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

18 342. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
19 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
20 1 to 166 as if fully set forth herein.

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

25 344. Plaintiffs Vivek Dravid and Tina Grant purchased PSPs within the
26 State of Utah during the Class Period. But for Defendants' conduct set forth herein,
27 the price per unit of PSPs would have been lower, in an amount to be determined at
28 trial.

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

4 346. Defendants contracted, combined or conspired in restraint of trade or
5 commerce of PSPs, and monopolized or attempted to monopolize trade or
6 commerce of PSPs, in violation of Utah Code Ann. § 76-10-3101, *et seq.*

7 347. Plaintiffs and members of the Class who are either Utah residents or
8 Utah citizens were injured with respect to purchases of PSPs in Utah and are
9 entitled to all forms of relief, including actual damages, treble damages, costs of
10 suit, reasonable attorneys' fees, and injunctive relief.

11 **TWENTY-EIGHTH CLAIM FOR RELIEF**
12 **Violation of the West Virginia Antitrust Act,**
13 **W. Va. Code § 47-18-1, *et seq.***
14 **(By Plaintiffs Diana Mey and Jade Canterbury**
15 **On Behalf of the West Virginia Class)**

16 348. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves
17 and the West Virginia Class, repeat and reassert each of the allegations contained
18 in paragraphs 1 to 166 as if fully set forth herein.

19 349. The violations of federal antitrust law set forth above also constitute
20 violations of section 47-18-1 of the West Virginia Code.

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

25 351. Defendants' anticompetitive acts described above were knowing,
26 willful and constitute violations or flagrant violations of the West Virginia
27 Antitrust Act.

28 352. As a direct and proximate result of Defendants' unlawful conduct,

1 Plaintiffs and members of the West Virginia Class have been injured in their
2 business and property in that they paid more for PSPs than they otherwise would
3 have paid in the absence of Defendants' unlawful conduct. As a result of
4 Defendants' violation of Section 47-18-3 of the West Virginia Antitrust Act,
5 Plaintiff and members of the West Virginia Class seek treble damages and their
6 cost of suit, including reasonable attorneys' fees, pursuant to section 47-18-9 of the
7 West Virginia Code.

8 **TWENTY-NINTH CLAIM FOR RELIEF**

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

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

11 **(By Plaintiffs Jessica Breitbach and Kenneth Dunlap**

12 **On Behalf of the Wisconsin Class)**

13 353. Plaintiffs Jessica Breitbach and Kenneth Dunlap, on behalf of
14 themselves and the Wisconsin Class, repeat and reassert each of the allegations
15 contained in paragraphs 1 to 166 as if fully set forth herein.

16 354. Chapter 133 of the Wisconsin Statutes governs trust and monopolies,
17 with the intent "to safeguard the public against the creation or perpetuation of
18 monopolies and to foster and encourage competition by prohibiting unfair and
19 discriminatory business practices which destroy or hamper competition." Wis. Stat.
20 § 133.01.

21 355. Plaintiffs Kenneth Dunlap and Jessica Breitbach purchased PSPs
22 within the State of Wisconsin during the Class Period. But for Defendants' conduct
23 set forth herein, the price per unit of PSPs would have been lower, in an amount to
24 be determined at trial.

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

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

1 commerce of PSPs, and monopolized or attempted to monopolize the trade or
2 commerce of PSPs, with the intention of injuring or destroying competition
3 therein, in violation of Wis. Stat. § 133.01, *et seq.*

4 358. Plaintiffs and members of the Class were injured with respect to
5 purchases of PSPs in Wisconsin in that the actions alleged herein substantially
6 affected the people of Wisconsin, with at least thousands of consumers in
7 Wisconsin paying substantially higher prices for Defendants' PSPs in Wisconsin.

8 359. Accordingly, Plaintiffs and members of the Class are entitled to all
9 forms of relief, including actual damages, treble damages, costs and reasonable
10 attorneys' fees, and injunctive relief.

11 360. Defendants' and their co-conspirators' anticompetitive activities have
12 directly, foreseeably and proximately caused injury to Plaintiffs and members of
13 the Classes in the United States. Their injuries consist of: (1) being denied the
14 opportunity to purchase lower-priced PSPs from Defendants, and (2) paying higher
15 prices for Defendants' PSPs than they would have in the absence of Defendants'
16 conduct. These injuries are of the type of the laws of the above States were
17 designed to prevent, and flow from that which makes Defendants' conduct
18 unlawful.

19 361. Defendants are jointly and severally liable for all damages suffered by
20 Plaintiffs and Class members.

21 VIOLATIONS OF STATE CONSUMER PROTECTION LAW

22 **(Against All Defendants)**

23 362. The following Thirtieth through Fifty-second Claims for Relief are
24 pleaded under the consumer protection or similar laws of each State or jurisdiction
25 identified below, on behalf of the indicated Class.

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THIRTIETH CLAIM FOR RELIEF

Violation of the Arkansas Deceptive Trade Practices Act,

Ark. Code Ann. § 4-88-101, *et seq.*

(By Plaintiff Joseph A. Langston On Behalf of the Arkansas Class)

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4 363. Plaintiff Joseph A. Langston, on behalf of himself and the Arkansas
5 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
6 166 as if fully set forth herein.

7 364. By reason of the conduct alleged herein, Defendants have violated
8 Ark. Code Ann. § 4-88-101, *et seq.*

9 365. Defendants entered into a contract, combination, or conspiracy
10 between two or more persons in restraint of, or to monopolize, trade or commerce
11 in the PSP market, a substantial part of which occurred within Arkansas.

12 366. Defendants established, maintained, or used a monopoly, or attempted
13 to establish a monopoly, of trade or commerce in the Relevant Markets, a
14 substantial part of which occurred within Arkansas, for the purpose of excluding
15 competition or controlling, fixing, or maintaining prices in the PSP Market.

16 367. Defendants' conduct was unfair, unconscionable, or deceptive within
17 the conduct of commerce within the State of Arkansas.

18 368. Defendants' conduct misled consumers, withheld material facts, and
19 resulted in material misrepresentations to Plaintiff and members of the Class.

20 369. Defendants' unlawful conduct substantially affected Arkansas's trade
21 and commerce.

22 370. Defendants' conduct was willful.

23 371. As a direct and proximate cause of Defendants' unlawful conduct, the
24 Plaintiff and the members of the Arkansas Class have been injured in their business
25 or property and are threatened with further injury.

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

THIRTY-FIRST CLAIM FOR RELIEF

Violations of California’s Unfair Competition Law

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

**(By Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten,
Rick Musgrave, and David Ton On Behalf of the California Class)**

373. Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick Musgrave, and David Ton, for themselves and on behalf of the California Class, repeat and reallege each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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

375. 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.

376. 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.

377. 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.

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

1 379. Plaintiffs and members of the California Class are entitled to full
2 restitution and/or disgorgement of all revenues, earnings, profits, compensation,
3 and benefits that may have been obtained by Defendants as a result of such
4 business acts or practices.

5 380. The illegal conduct alleged herein is continuing and there is no
6 indication that Defendants will not continue such activity into the future.

7 381. The unlawful and unfair business practices of Defendants, and each of
8 them, as described above, have caused and continue to cause Plaintiffs and the
9 members of the California Class to pay supra-competitive and artificially-inflated
10 prices for PSPs sold in the State of California. Plaintiffs and the members of the
11 California Class suffered injury in fact and lost money or property as a result of
12 such unfair competition.

13 382. As alleged in this Complaint, Defendants and their co-conspirators
14 have been unjustly enriched as a result of their wrongful conduct and by
15 Defendants' unfair competition. Plaintiffs and the members of the California Class
16 are accordingly entitled to equitable relief including restitution and/or
17 disgorgement of all revenues, earnings, profits, compensation, and benefits that
18 may have been obtained by Defendants as a result of such business practices,
19 pursuant to California Business and Professions Code sections 17203 and 17204.

20 **THIRTY-SECOND CLAIM FOR RELIEF**

21 **Violation of the District of Columbia Consumer Protection Procedures Act,
22 D.C. Code § 28-3901, *et seq.***

23 **(By Plaintiff Paul Berger On Behalf of the District of Columbia Class)**

24 383. Plaintiff Paul Berger, on behalf of himself and the District of
25 Columbia Class, repeats and reasserts each of the allegations contained in
26 paragraphs 1 to 166 as if fully set forth herein.

27 384. Plaintiff Paul Berger and members of the District of Columbia Class
28 purchased PSPs for personal, family, or household purposes.

1 385. By reason of the conduct alleged herein, Defendants have violated
2 D.C. Code § 28-3901, *et seq.*

3 386. Defendants are “merchants” within the meaning of D.C. Code § 28-
4 3901(a)(3).

5 387. Defendants entered into a contract, combination, or conspiracy
6 between two or more persons in restraint of, or to monopolize, trade or commerce
7 in the PSP market, a substantial part of which occurred within the District of
8 Columbia.

9 388. Defendant 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 the District of Columbia, for the purpose
12 of excluding competition or controlling, fixing, or maintaining prices in the PSP
13 Market.

14 389. Defendants’ conduct was an unfair method of competition, and an
15 unfair or deceptive act or practice within the conduct of commerce within the
16 District of Columbia.

17 390. Defendants’ unlawful conduct substantially affected the District of
18 Columbia’s trade and commerce.

19 391. As a direct and proximate cause of Defendants’ unlawful conduct, the
20 Plaintiff and members of the District of Columbia Class have been injured in their
21 business or property and are threatened with further injury.

22 392. By reason of the foregoing, the Plaintiff and members of the District
23 of Columbia Class are entitled to seek all forms of relief, including treble damages
24 or \$1500 per violation (whichever is greater) plus punitive damages, reasonable
25 attorney’s fees and costs under D.C. Code § 28-3901, *et seq.*

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THIRTY-THIRD CLAIM FOR RELIEF

**Violation of the Florida Deceptive and Unfair Trade Practices Act,
Fla. Stat. § 501.201(2), *et seq.***

**(By Plaintiffs Barbara Blumstein and John Trent
On Behalf of the Florida Class)**

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393. Plaintiffs Barbara Blumstein and John Trent, for themselves and on behalf of the Florida Class, repeat and reallege each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

394. The Florida Deceptive & Unfair Trade Practices Act, Florida Stat. §§ 501.201, *et seq.* (the “FDUTPA”), generally prohibits “unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce,” including practices in restraint of trade. Florida Stat. § 501.204(1).

395. The primary policy of the FDUTPA is “[t]o protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” Florida Stat. § 501.202(2).

396. A claim for damages under the FDUTPA has three elements: (1) a prohibited practice; (2) causation; and (3) actual damages.

397. Under Florida law, indirect purchasers have standing to maintain an action under the FDUTPA based on the facts alleged in this Complaint. Fla. Stat. § 501.211(a) (“...anyone aggrieved by a violation of this [statute] may bring an action...”).

398. Plaintiffs Barbara Blumstein and John Trent purchased PSPs within the State of Florida during the Class Period. But for Defendants’ conduct set forth herein, the price per unit of PSPs would have been lower, in an amount to be determined at trial.

399. Defendants entered into a contract, combination or conspiracy between two or more persons in restraint of, or to monopolize, trade or commerce

1 in the PSP market, a substantial part of which occurred within Florida.

2 400. Defendants established, maintained or used a monopoly, or attempted
3 to establish a monopoly, of trade or commerce in the market for PSPs, for the
4 purpose of excluding competition or controlling, fixing or maintaining prices in
5 Florida at a level higher than the competitive market level, beginning at least as
6 early as 2000 and continuing through the date of this filing.

7 401. Accordingly, Defendants' conduct was an unfair method of
8 competition, and an unfair or deceptive act or practice within the conduct of
9 commerce within the State of Florida.

10 402. Defendants' unlawful conduct substantially affected Florida's trade
11 and commerce.

12 403. As a direct and proximate cause of Defendants' unlawful conduct,
13 Plaintiffs and the members of the Florida Class have been injured in their business
14 or property by virtue of overcharges for PSPs and are threatened with further
15 injury.

16 404. By reason of the foregoing, Plaintiffs and the members of the Florida
17 Class is entitled to seek all forms of relief, including injunctive relief pursuant to
18 Florida Stat. §501.208 and declaratory judgment, actual damages, reasonable
19 attorneys' fees and costs pursuant to Florida Stat. § 501.211.

20 **THIRTY-FOURTH CLAIM FOR RELIEF**

21 **Violation of the Illinois Consumer Fraud and**

22 **Deceptive Business Practices Act,**

23 **815 Ill. Comp. Stat. Ann. 505/10a, et seq.**

24 **(By Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg, Amy
25 Joseph, and Elizabeth Twitchell On Behalf of the Illinois Class)**

26 405. Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg,
27 Amy Joseph, and Elizabeth Twitchell, on behalf of themselves and the Illinois
28 Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166

1 as if fully set forth herein

2 406. By reason of the conduct alleged herein, Defendants have violated
3 740 Ill. Comp. Stat. Ann. 10/3(1), *et seq.*

4 407. Defendants entered into a contract, combination, or conspiracy
5 between two or more persons in restraint of, or to monopolize, trade or commerce
6 in the PSP market, a substantial part of which occurred within Illinois.

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

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

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

15 411. Defendants' unlawful conduct substantially affected Illinois's trade
16 and commerce.

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

20 413. By reason of the foregoing, Plaintiffs and members of the Illinois
21 Class are entitled to seek all forms of relief, including actual damages or any other
22 relief the Court deems proper under 815 Ill. Comp. Stat. Ann. 505/10a, *et seq.*

23 **THIRTY-FIFTH CLAIM FOR RELIEF**

24 **Violation of the Maine Unfair Trade Practices Act,**

25 **Me. Rev. Stat. Ann. tit. 5 § 205-A, *et seq.***

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

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

28 414. Plaintiffs Greg Stearns and Thomas E. Willoughby III, on behalf of

1 themselves and the Maine Class, repeat and reassert each of the allegations
2 contained in paragraphs 1 to 166 as if fully set forth herein.

3 415. By reason of the conduct alleged herein, Defendants have violated
4 Me. Rev. Stat. Ann. tit. 5 § 205-A, *et seq.*

5 416. Defendants entered into a contract, combination, or conspiracy
6 between two or more persons in restraint of, or to monopolize, trade or commerce
7 in the PSP market, a substantial part of which occurred within Maine.

8 417. Defendants established, maintained, or used a monopoly, or attempted
9 to establish a monopoly, of trade or commerce in the Relevant Markets, a
10 substantial part of which occurred within Maine, for the purpose of unfairly
11 excluding competition or controlling, fixing, or maintaining prices in the PSP
12 Market.

13 418. Defendants' violations of Maine law were flagrant.

14 419. Defendants' unlawful conduct substantially affected Maine's trade
15 and commerce.

16 420. Plaintiffs and members of the Maine class purchased goods, namely
17 PSPs, primarily for personal, family, or household purposes.

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

21 422. By reason of the foregoing, the Plaintiffs and the members of the
22 Maine Class are entitled to seek all forms of relief, including treble damages,
23 reasonable attorneys' fees and costs, and injunctive relief available under Me. Rev.
24 Stat. Ann. tit. 5 § 213.

25 423. Pursuant to Me. Rev. Stat. Ann. tit. 5 § 213, a written demand for
26 relief was sent to all Defendants at least 30 days prior to the filing of this claim.

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1 424. Further, pursuant to Me. Rev. Stat. Ann. tit. 5 § 213, the Attorney
2 General of Maine is being served by mail with a copy of this Complaint upon its
3 filing.

4 **THIRTY-SIXTH CLAIM FOR RELIEF**

5 **Violation of the Massachusetts Consumer Protection Act,**
6 **Mass. Gen. Laws ch. 93A § 1, *et seq.***

7 **(By Plaintiffs Scott Caldwell and Sundé Daniels**
8 **On Behalf of the Massachusetts Class)**

9 425. Plaintiffs Scott Caldwell and Sundé Daniels, on behalf of themselves
10 and the Massachusetts Class, repeat and reassert each of the allegations contained
11 in paragraphs 1 to 166 as if fully set forth herein.

12 426. By reason of the conduct alleged herein, Defendants have violated the
13 Massachusetts Consumer Protection Act, Mass. Gen. Laws ch. 93A § 2, *et seq.*

14 427. Plaintiffs Scott Caldwell and Sundé Daniels purchased PSPs within
15 the State of Massachusetts during the Class Period. But for Defendants' conduct
16 set forth herein, the price per unit of PSPs would have been lower, in an amount to
17 be determined at trial.

18 428. Defendants entered into a contract, combination, or conspiracy
19 between two or more persons in restraint of, or to monopolize, trade or commerce
20 in the PSP market, a substantial part of which occurred within Massachusetts.

21 429. Defendant established, maintained, or used a monopoly, or attempted
22 to establish a monopoly, of trade or commerce in the market for PSPs, a substantial
23 part of which occurred within Massachusetts, for the purpose of excluding
24 competition or controlling, fixing, or maintaining prices in the PSP market.

25 430. Defendants' conduct was an unfair method of competition, and an
26 unfair or deceptive act or practice within the conduct of commerce within the State
27 of Massachusetts

28 431. Defendants' unlawful conduct substantially affected Massachusetts'

1 trade and commerce.

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

5 433. By reason of the foregoing, the Plaintiffs and the Massachusetts Class
6 are entitled to seek all forms of relief, including up to treble damages and
7 reasonable attorney's fees and costs under Mass. Gen. Laws ch. 93A § 9.

8 434. Pursuant to Mass. Gen. Laws ch. 93A § 9, Plaintiff Caldwell mailed to
9 all Defendants on August 31, 2015, via certified mail, return receipt requested,
10 Demand for Payment Letters which explained the unfair acts, the injury suffered,
11 and requested relief from the Defendants. Plaintiff Caldwell has received a
12 response to these letters from Defendant StarKist, but was unable to come to any
13 agreement with StarKist. Plaintiff Caldwell has received no response from other
14 Defendants.

15 435. Pursuant to Mass. Gen. Laws ch. 93A § 9, Plaintiff Daniels mailed to
16 all Defendants on September 3, 2015, and again on October 2, 2015, via certified
17 mail, return receipt requested, Demand for Payment Letters which explained the
18 unfair acts, the injury suffered, and requested relief from the Defendants. Plaintiff
19 Daniels has received a response to these letters from Defendant StarKist, but was
20 unable to come to any agreement with StarKist. Plaintiff Daniels has received no
21 response from other Defendants.

22 **THIRTY-SEVENTH CLAIM FOR RELIEF**

23 **Violation of the Michigan Consumer Protection Act**

24 **Mich. Comp. Laws Ann. § 445.901, *et seq.***

25 **(By Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson**
26 **On Behalf of the Michigan Class)**

27 436. Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson, on
28 behalf of themselves and the Michigan Class, repeat and reassert each of the

1 allegations contained in paragraphs 1 to 166 as if fully set forth herein.

2 437. By reason of the conduct alleged herein, Defendants have violated
3 Mich. Comp. Laws Ann. § 445.901, *et seq.*

4 438. Defendants have entered into a contract, combination, or conspiracy
5 between two or more persons in restraint of, or to monopolize, trade or commerce
6 in the PSP Market, a substantial part of which occurred within Michigan.

7 439. Defendants established, maintained, or used a monopoly, or attempted
8 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose
9 of excluding or limiting competition or controlling or maintaining prices, a
10 substantial part of which occurred within Michigan.

11 440. Defendants' conduct was conducted with the intent to deceive
12 Michigan consumers regarding the nature of Defendants' actions within the stream
13 of Michigan commerce.

14 441. Defendants' conduct was unfair, unconscionable, or deceptive within
15 the conduct of commerce within the State of Michigan.

16 442. Defendants' conduct misled consumers, withheld material facts, and
17 took advantage of Plaintiffs and Class members' inability to protect themselves.

18 443. Defendants' unlawful conduct substantially affected Michigan's trade
19 and commerce.

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

23 445. By reason of the foregoing, the Plaintiffs and the Michigan Class are
24 entitled to seek all forms of relief available under Mich. Comp. Laws Ann. §
25 445.911.

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THIRTY-EIGHTH CLAIM FOR RELIEF
Violation of the Minnesota Consumer Fraud Act,
Minn. Stat. § 325F.68, *et seq.*

(By Plaintiff Laura Childs On Behalf of the Minnesota Class)

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4 446. Plaintiff Laura Childs, on behalf of herself and the Minnesota Class,
5 repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if
6 fully set forth herein.

7 447. By reason of the conduct alleged herein, Defendants have violated
8 Minn. Stat. § 325F.68, *et seq.*

9 448. Defendants engaged in a deceptive trade practice with the intent to
10 injure competitors and consumers through supra-competitive profits.

11 449. Defendants established, maintained, or used a monopoly, or attempted
12 to establish a monopoly, of trade or commerce in the PSP Market, a substantial
13 part of which occurred within Minnesota, for the purpose of controlling, fixing, or
14 maintaining prices in the PSP Market.

15 450. Defendants' conduct was unfair, unconscionable, or deceptive within
16 the conduct of commerce within the State of Minnesota.

17 451. Defendants' conduct, specifically in the form of fraudulent
18 concealment of their horizontal agreement, created a fraudulent or deceptive act or
19 practice committed by a supplier in connection with a consumer transaction.

20 452. Defendants' unlawful conduct substantially affected Minnesota's
21 trade and commerce.

22 453. Defendants' conduct was willful.

23 454. As a direct and proximate cause of Defendants' unlawful conduct, the
24 Plaintiff and the members of the Minnesota Class have been injured in their
25 business or property and are threatened with further injury.

26 455. By reason of the foregoing, the Plaintiff and the members of the
27 Minnesota Class are entitled to seek all forms of relief, including damages,
28 reasonable attorneys' fees and costs under Minn. Stat. § 325F.68, *et seq.* and

1 applicable case law.

2 **THIRTY-NINTH CLAIM FOR RELIEF**
3 **Violation of the Nebraska Consumer Protection Act,**
4 **Neb. Rev. Stat. § 59-1602, *et seq.***

5 **(By Plaintiff Melissa Bowman On Behalf of the Nebraska Class)**

6 456. Plaintiffs Melissa Bowman and Barbara Buening, on behalf of
7 themselves and the Nebraska Class, repeat and reassert each of the allegations
8 contained in paragraphs 1 to 166 as if fully set forth herein.

9 457. By reason of the conduct alleged herein, Defendants have violated
10 Neb. Rev. Stat. § 59-1602, *et seq.*

11 458. Defendants have entered into a contract, combination, or conspiracy
12 between two or more persons in restraint of, or to monopolize, trade or commerce
13 in the PSP Market, a substantial part of which occurred within Nebraska.

14 459. Defendants established, maintained, or used a monopoly, or attempted
15 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose
16 of excluding or limiting competition or controlling or maintaining prices, a
17 substantial part of which occurred within Nebraska.

18 460. Defendants' conduct was conducted with the intent to deceive
19 Nebraska consumers regarding the nature of Defendants' actions within the stream
20 of Nebraska commerce.

21 461. Defendants' conduct was unfair, unconscionable, or deceptive within
22 the conduct of commerce within the State of Nebraska.

23 462. Defendants' conduct misled consumers, withheld material facts, and
24 had a direct or indirect impact upon Plaintiff and Class members' ability to protect
25 themselves.

26 463. Defendants' unlawful conduct substantially affected Nebraska's trade
27 and commerce.

28 464. As a direct and proximate cause of Defendants' unlawful conduct, the
Plaintiff and the members of the Nebraska Class have been injured in their

1 business or property and are threatened with further injury.

2 465. By reason of the foregoing, Plaintiff and members of the Nebraska
3 Class are entitled to seek all forms of relief available under Neb. Rev. Stat. § 59-
4 1614.

5 **FORTIETH CLAIM FOR RELIEF**

6 **Violation of the Nevada Deceptive Trade Practices Act,**

7 **Nev. Rev. Stat. § 598.0903, *et seq.***

8 **(By Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller**

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

10 466. Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller, on behalf
11 of themselves and the Nevada Class, repeat and reassert each of the allegations
12 contained in paragraphs 1 to 166 as if fully set forth herein.

13 467. By reason of the conduct alleged herein, Defendants have violated
14 Nev. Rev. Stat. § 598.0903, *et seq.*

15 468. Defendants engaged in a deceptive trade practice with the intent to
16 injure competitors and to substantially lessen competition.

17 469. Defendants established, maintained, or used a monopoly, or attempted
18 to establish a monopoly, of trade or commerce in the PSP Market, a substantial
19 part of which occurred within Nevada, for the purpose of excluding competition or
20 controlling, fixing, or maintaining prices in the PSP Market.

21 470. Defendants' conduct was unfair, unconscionable, or deceptive within
22 the conduct of commerce within the State of Nevada.

23 471. Defendants' conduct amounted to a fraudulent act or practice
24 committed by a supplier in connection with a consumer transaction.

25 472. Defendants' unlawful conduct substantially affected Nevada's trade
26 and commerce.

27 473. Defendants' conduct was willful.

28 474. As a direct and proximate cause of Defendants' unlawful conduct, the

1 members of the Nevada Class have been injured in their business or property and
2 are threatened with further injury.

3 475. By reason of the foregoing, the Nevada Class is entitled to seek all
4 forms of relief, including damages, reasonable attorneys' fees and costs, and a civil
5 penalty of up to \$5,000 per violation under Nev. Rev. Stat. § 598.0993.

6 **FORTY-FIRST 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 Plaintiff Jody Cooper On Behalf of the New Hampshire Class)**

10 476. Plaintiff Jody Cooper, on behalf of herself and the New Hampshire
11 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
12 166 as if fully set forth herein.

13 477. By reason of the conduct alleged herein, Defendants have violated
14 N.H. Rev. Stat. Ann. tit. XXXI, § 358-A, *et seq.*

15 478. 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 PSP Market, a substantial part of which occurred within New Hampshire.

18 479. Defendants established, maintained, or used a monopoly, or attempted
19 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose
20 of excluding or limiting competition or controlling or maintaining prices, a
21 substantial part of which occurred within New Hampshire.

22 480. Defendants' conduct was conducted with the intent to deceive New
23 Hampshire consumers regarding the nature of Defendants' actions within the
24 stream of New Hampshire commerce.

25 481. Defendants' conduct was unfair or deceptive within the conduct of
26 commerce within the State of New Hampshire.

27 482. Defendants' conduct was willful and knowing.

28 483. Defendants' conduct misled consumers, withheld material facts, and

1 had a direct or indirect impact upon Plaintiff and Class members' ability to protect
2 themselves.

3 484. Defendants' unlawful conduct substantially affected New
4 Hampshire's trade and commerce.

5 485. As a direct and proximate cause of Defendants' unlawful conduct, the
6 Plaintiff and the members of the New Hampshire Class have been injured in their
7 business or property and are threatened with further injury.

8 486. By reason of the foregoing, the Plaintiff and the members of the New
9 Hampshire Class are entitled to seek all forms of relief available under N.H. Rev.
10 Stat. Ann. tit. XXXI, §§ 358-A:10 and 358-A:10-a.

11 **FORTY-SECOND CLAIM FOR RELIEF**
12 **Violation of the New Mexico Unfair Practices Act,**
13 **N.M. Stat. Ann. §§ 57-12-3, *et seq.***

14 **(By Plaintiff Vivek Dravid On Behalf of the New Mexico Class)**

15 487. Plaintiff Vivek Dravid, by himself and on behalf of the New Mexico
16 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
17 166 as if fully set forth herein.

18 488. By reason of the conduct alleged herein, Defendants have violated
19 N.M. Stat. Ann. §§ 57-12-3, *et seq.*

20 489. Defendants 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 PSP market, a substantial part of which occurred within New Mexico.

23 490. Defendants established, maintained, or used a monopoly, or attempted
24 to establish a monopoly, of trade or commerce in the Relevant Markets, a
25 substantial part of which occurred within New Mexico, for the purpose of
26 excluding competition or controlling, fixing, or maintaining prices in the PSP
27 Market.

28 491. Defendants' conduct was unfair, unconscionable, or deceptive within

1 the conduct of commerce within the State of New Mexico.

2 492. Defendants' conduct misled consumers, withheld material facts, and
3 resulted in material misrepresentations to Plaintiff and members of the Class.

4 493. Defendants' unlawful conduct substantially affected New Mexico's
5 trade and commerce.

6 494. Defendants' conduct constituted "unconscionable trade practices" in
7 that such conduct, *inter alia*, resulted in a gross disparity between the value
8 received by the New Mexico class members and the price paid by them for PSPs as
9 set forth in N.M. Stat. Ann. § 57-12-2E.

10 495. Defendants' conduct was willful.

11 496. As a direct and proximate cause of Defendants' unlawful conduct, the
12 Plaintiff and the members of the New Mexico Class have been injured in their
13 business or property and are threatened with further injury.

14 497. By reason of the foregoing, Plaintiff and members of the New Mexico
15 Class are entitled to seek all forms of relief, including actual damages or up to
16 \$300 per violation, whichever is greater, plus reasonable attorney's fees under
17 N.M. Stat. Ann. §§ 57-12-10.

18 **FORTY-THIRD CLAIM FOR RELIEF**

19 **Violation of the North Carolina Unfair Trade and Business Practices Act,**

20 **N.C. Gen. Stat. § 75-1.1, *et seq.***

21 **(By Plaintiffs Corey Norris and Elizabeth Twitchell**

22 **On Behalf of the North Carolina Class)**

23 498. Plaintiffs Corey Norris and Elizabeth Twitchell, on behalf of
24 themselves and the North Carolina Class, repeat and reassert each of the
25 allegations contained in paragraphs 1 to 166 as if fully set forth herein.

26 499. By reason of the conduct alleged herein, Defendants have violated
27 N.C. Gen. Stat. § 75-1.1, *et seq.*

28 500. Defendants entered into a contract, combination, or conspiracy in

1 restraint of, or to monopolize, trade or commerce in the PSP Market, a substantial
2 part of which occurred within North Carolina.

3 501. Defendants' conduct was unfair, unconscionable, or deceptive within
4 the conduct of commerce within the State of North Carolina.

5 502. Defendants' trade practices are and have been immoral, unethical,
6 unscrupulous, and substantially injurious to consumers.

7 503. Defendants' conduct misled consumers, withheld material facts, and
8 resulted in material misrepresentations to Plaintiff and members of the Class.

9 504. Defendants' unlawful conduct substantially affected North Carolina's
10 trade and commerce.

11 505. Defendants' conduct constitutes consumer-oriented deceptive acts or
12 practices within the meaning of North Carolina law, which resulted in consumer
13 injury and broad adverse impact on the public at large, and harmed the public
14 interest of North Carolina consumers in an honest marketplace in which economic
15 activity is conducted in a competitive manner.

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

19 507. By reason of the foregoing, the Plaintiffs and the members of the
20 North Carolina Class are entitled to seek all forms of relief, including treble
21 damages under N.C. Gen. Stat. § 75-16.

22 **FORTY-FOURTH CLAIM FOR RELIEF**

23 **Violation of the North Dakota Unfair Trade Practices Law,**

24 **N.D. Cent. Code § 51-10, *et seq.***

25 **(By Plaintiffs Tya Hughes and Bonnie VanderLaan**

26 **On Behalf of the North Dakota Class)**

27 508. Plaintiffs Tya Hughes and Bonnie VanderLaan, on behalf of
28 themselves and the North Dakota Class, repeat and reassert each of the allegations
contained in paragraphs 1 to 166 as if fully set forth herein.

1 509. By reason of the conduct alleged herein, Defendants have violated
2 N.D. Cent. Code § 51-10-01, *et seq.*

3 510. Defendants engaged in a deceptive trade practice with the intent to
4 injure competitors and consumers through supra-competitive profits.

5 511. Defendants established, maintained, or used a monopoly, or attempted
6 to establish a monopoly, of trade or commerce in the PSP Market, a substantial
7 part of which occurred within North Dakota, for the purpose of controlling, fixing,
8 or maintaining prices in the PSP Market.

9 512. Defendants' conduct was unfair, unconscionable, or deceptive within
10 the conduct of commerce within the State of North Dakota.

11 513. Defendants' conduct amounted to a fraudulent or deceptive act or
12 practice committed by a supplier in connection with a consumer transaction.

13 514. Defendants' unlawful conduct substantially affected North Dakota's
14 trade and commerce.

15 515. Defendants' conduct was willful.

16 516. As a direct and proximate cause of Defendants' unlawful conduct, the
17 Plaintiff and the members of the North Dakota Class have been injured in their
18 business or property and are threatened with further injury.

19 517. By reason of the foregoing, the Plaintiffs and the members of the
20 North Dakota Class are entitled to seek all forms of relief, including damages and
21 injunctive relief under N.D. Cent. Code § 51-10-06.

22 **FORTY-FIFTH CLAIM FOR RELIEF**

23 **Violation of the Oregon Unlawful Trade Practices Act,**

24 **Or. Rev. Stat. § 646.605, *et seq.***

25 **(By Plaintiffs Danielle Johnson and Beth and Liza Milliner**

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

27 518. Plaintiffs Danielle Johnson and Beth and Liza Milliner, on behalf of
28 themselves and the Oregon Class, repeat and reassert each of the allegations
contained in paragraphs 1 to 166 as if fully set forth herein.

1 519. By reason of the conduct alleged herein, Defendants have violated Or.
2 Rev. Stat. § 646.608, *et seq.*

3 520. 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 PSP Market, a substantial part of which occurred within Oregon.

6 521. Defendants established, maintained, or used a monopoly, or attempted
7 to establish a monopoly, of trade or commerce in the PSP Market, for the purpose
8 of excluding or limiting competition or controlling or maintaining prices, a
9 substantial part of which occurred within Oregon.

10 522. 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.

13 523. Defendants' conduct was unfair or deceptive within the conduct of
14 commerce within the State of Oregon.

15 524. 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.

18 525. Defendants' unlawful conduct substantially affected Oregon's trade
19 and commerce.

20 526. 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.

23 527. 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.

26 528. Pursuant to section 646.638 of the Oregon Unlawful Trade Practices
27 Act, contemporaneously with the filing of this action, a copy of this Complaint is
28 being served upon the Attorney General of Oregon.

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FORTY-SIXTH CLAIM FOR RELIEF
Violation of Rhode Island Deceptive Trade Practices Act,
R.I. Gen Laws § 6-13.1-1, *et seq.*
(By Plaintiff Katherine McMahon On Behalf of the Rhode Island Class)

529. Plaintiff Katherine McMahon, on behalf of herself and the Rhode Island Class, repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

530. By reason of the conduct alleged herein, Defendants have violated R.I. Gen Laws § 6-13.1-1, *et seq.*

531. Defendants engaged in an unfair or deceptive act or practice with the intent to injure competitors and consumers through supra-competitive profits.

532. Defendants established, maintained, or used a monopoly, or attempted to establish a monopoly, of trade or commerce in the PSP Market, a substantial part of which occurred within Rhode Island, for the purpose of controlling, fixing, or maintaining prices in the PSP Market.

533. Defendants' conduct was unfair or deceptive within the conduct of commerce within the State of Rhode Island.

534. Defendants' conduct amounted to an unfair or deceptive act or practice committed by a supplier in connection with a consumer transaction.

535. Defendants' unlawful conduct substantially affected Rhode Island's trade and commerce.

536. Defendants' conduct was willful.

537. Defendants deliberately failed to disclose material facts to Plaintiff and members of the Rhode Island Class concerning Defendants' unlawful activities, including the horizontal conspiracy and artificially-inflated prices for PSPs.

538. Defendants' deception, including its affirmative misrepresentations and/or omissions concerning the price of PSPs, constitutes information necessary

1 to Plaintiff and members of the Rhode Island Class relating to the cost of PSPs
2 purchased.

3 539. Plaintiff and members of the Rhode Island class purchased goods,
4 namely PSPs, primarily for personal, family, or household purposes.

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

8 541. By reason of the foregoing, Plaintiff and the members of the Rhode
9 Island Class are entitled to seek all forms of relief, including actual damages or
10 \$200 per violation, whichever is greater, and injunctive relief and punitive
11 damages under R.I. Gen Laws § 6-13.1-5.2.

12 **FORTY-SEVENTH CLAIM FOR RELIEF**

13 **Violation of the South Dakota Deceptive Trade Practices**
14 **and Consumer Protection Law, S.D. Codified Laws § 37-24, *et seq.***
15 **(By Plaintiffs Casey Christensen and Bonnie VanderLaan**
16 **On Behalf of the South Dakota Class)**

17 542. Plaintiffs Casey Christensen and Bonnie VanderLaan, on behalf of
18 themselves and the South Dakota Class, repeat and reassert each of the allegations
19 contained in paragraphs 1 to 166 as if fully set forth herein.

20 543. By reason of the conduct alleged herein, Defendants have violated
21 S.D. Codified Laws § 37-24-6.

22 544. Defendants engaged in a deceptive trade practice with the intent to
23 injure competitors and consumers through supra-competitive profits.

24 545. Defendants established, maintained, or used a monopoly, or attempted
25 to establish a monopoly, of trade or commerce in the PSP Market, a substantial
26 part of which occurred within South Dakota, for the purpose of controlling, fixing,
27 or maintaining prices in the PSP Market.

28 546. Defendants' conduct was unfair, unconscionable, or deceptive within
the conduct of commerce within the State of South Dakota.

1 547. Defendants' conduct amounted to a fraudulent or deceptive act or
2 practice committed by a supplier in connection with a consumer transaction.

3 548. Defendants' unlawful conduct substantially affected South Dakota's
4 trade and commerce.

5 549. Defendants' conduct was willful.

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

9 551. By reason of the foregoing, Plaintiffs and the members of the South
10 Dakota Class are entitled to seek all forms of relief, including actual damages and
11 injunctive relief under S.D. Codified Laws § 37-24-31.

12 **FORTY-EIGHTH CLAIM FOR RELIEF**

13 **Violation of the Utah Consumer Sales Practices Act,**

14 **Utah Code Ann. §§ 13-11-1, *et seq.***

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

16 552. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
17 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
18 1 to 166 as if fully set forth herein.

19 553. By reason of the conduct alleged herein, Defendants have violated
20 Utah Code Ann. §§ 13-11-1, *et seq.*

21 554. Defendants entered into a contract, combination, or conspiracy
22 between two or more persons in restraint of, or to monopolize, trade or commerce
23 in the PSP market, a substantial part of which occurred within Utah.

24 555. Defendants are suppliers within the meaning of Utah Code Ann. §§
25 13-11-3.

26 556. Defendants established, maintained, or used a monopoly, or attempted
27 to establish a monopoly, of trade or commerce in the Relevant Markets, a
28 substantial part of which occurred within Utah, for the purpose of excluding

1 competition or controlling, fixing, or maintaining prices in the PSP Market.

2 557. Defendants' conduct was unfair, unconscionable, or deceptive within
3 the conduct of commerce within the State of Utah.

4 558. Defendants' conduct and/or practices were unconscionable and were
5 undertaken in connection with consumer transactions.

6 559. Defendants knew or had reason to know that their conduct was
7 unconscionable.

8 560. Defendants' conduct misled consumers, withheld material facts, and
9 resulted in material misrepresentations to Plaintiff and members of the Class.

10 561. Defendants' unlawful conduct substantially affected Utah's trade and
11 commerce.

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

15 563. By reason of the foregoing, the Plaintiffs and the members of the Utah
16 Class is entitled to seek all forms of relief, including declaratory judgment,
17 injunctive relief, and ancillary relief, pursuant to Utah Code Ann. §§ 13-11-19(5)
18 and 13-11-20.

19 **FORTY-NINTH CLAIM FOR RELIEF**

20 **Violation of the Utah Unfair Practices Act,**

21 **Utah Code All. §§ 13-5-1, *et seq.***

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

23 564. Plaintiffs Vivek Dravid and Tina Grant, on behalf of themselves and
24 the Utah Class, repeat and reassert each of the allegations contained in paragraphs
25 1 to 166 as if fully set forth herein.

26 565. By reason of the conduct alleged herein, Defendants have violated
27 Utah Code Ann. §§ 13-5-1, *et seq.*

28 566. Defendants entered into a contract, combination, or conspiracy
between two or more persons in restraint of, or to monopolize, trade or commerce

1 in the PSP market, a substantial part of which occurred within Utah.

2 567. Defendants established, maintained, or used a monopoly, or attempted
3 to establish a monopoly, of trade or commerce in the Relevant Markets, a
4 substantial part of which occurred within Utah, for the purpose of excluding
5 competition or controlling, fixing, or maintaining prices in the PSP Market.

6 568. Defendants' conduct caused or was intended to cause unfair methods
7 of competition within the State of Utah.

8 569. Defendants' unlawful conduct substantially affected Utah's trade and
9 commerce.

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

13 571. By reason of the foregoing, the Plaintiffs and the members of the Utah
14 Class is entitled to seek all forms of relief, including actual damages or \$2000 per
15 Utah Class member, whichever is greater, plus reasonable attorney's fees under
16 Utah Code Ann. §§ 13-5-14, *et seq.*

17 **FIFTIETH CLAIM FOR RELIEF**

18 **Violation of the Vermont Consumer Fraud Act,**

19 **Vt. Stat. Ann. tit. 9, §§ 2453, *et seq.***

20 **(By Plaintiffs Stephanie Gipson and Jennifer A. Nelson**

21 **On Behalf of the Vermont Class)**

22 572. Plaintiffs Stephanie Gipson and Jennifer A. Nelson, on behalf of
23 themselves and the Vermont Class, repeat and reassert each of the allegations
24 contained in paragraphs 1 to 166 as if fully set forth herein.

25 573. Title 9 of the Vermont Statutes generally governs commerce and trade
26 in Vermont. Chapter 63 thereof governs consumer protection and prohibits, *inter*
27 *alia*, unfair methods competition, unfair and deceptive acts and practices, and
28 antitrust violations such as restraints of trade and monopolization. Vt. Stat. Ann.
Tit. 9 § 2453(a).

1 574. One such unfair method of competition is through collusion, defined
2 as agreeing, contracting, combining or conspiring to engage in price fixing, market
3 division and/or allocation of goods, constituting unfair competition in the
4 commerce of PSPs. Vt. Stat. Ann. Tit. 9, § 2451a(h).

5 575. Plaintiffs Stephanie Gipson and Jennifer A. Nelson purchased PSPs
6 within the State of Vermont during the Class Period. But for Defendants’ conduct
7 set forth herein, the price per unit of PSPs would have been lower, in an amount to
8 be determined at trial.

9 576. Under Vermont law, indirect purchasers have standing under the
10 antitrust provisions of the Vermont Statutes to maintain an action based on the
11 facts alleged in this Complaint. Vt. Stat. Ann. Tit. 9, § 2465(b).

12 577. Defendants competed unfairly and colluded by meeting to fix prices,
13 divide markets, and otherwise restrain trade as set forth herein, in violation of Vt.
14 Stat. Ann. Tit. 9, § 2453, *et seq.*

15 578. Plaintiffs and members of the Class were injured with respect to
16 purchases of PSPs in Vermont and are entitled to all forms of relief, including
17 actual damages, treble damages, and reasonable attorneys’ fees.

18 **FIFTY-FIRST CLAIM FOR RELIEF**
19 **Violation of the Virginia Consumer Protection Act,**
20 **Va. Code Ann. § 59.1-196, *et seq.***

21 **(By Plaintiff Elizabeth Twitchell On Behalf of the Virginia Class)**

22 579. Plaintiff Elizabeth Twitchell, on behalf of herself and the Virginia
23 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
24 166 as if fully set forth herein.

25 580. By reason of the conduct alleged herein, Defendants have violated Va.
26 Code Ann. § 59.1-196, *et seq.*

27 581. Defendants entered into a contract, combination, or conspiracy
28 between two or more persons in restraint of, or to monopolize, trade or commerce

1 in the PSP market, a substantial part of which occurred within Virginia.

2 582. Defendants established, maintained, or used a monopoly, or attempted
3 to establish a monopoly, of trade or commerce in the PSP Market, a substantial
4 part of which occurred within Virginia, for the purpose of excluding competition or
5 controlling, fixing, or maintaining prices in the PSP Market.

6 583. Defendants' conduct was unfair, unconscionable, or deceptive within
7 the conduct of commerce within the State of Virginia.

8 584. Defendants' conduct amounted to a fraudulent act or practice
9 committed by a supplier in connection with a consumer transaction.

10 585. Defendants' unlawful conduct substantially affected Virginia's trade
11 and commerce.

12 586. Defendants' conduct was willful.

13 587. As a direct and proximate cause of Defendants' unlawful conduct, the
14 Plaintiff and the members of the Virginia Class have been injured in their business
15 or property and are threatened with further injury.

16 588. By reason of the foregoing, the Plaintiff and the members of the
17 Virginia Class is entitled to seek all forms of relief, including treble damages or
18 \$1000 per violation, whichever is greater, plus reasonable attorneys' fees and costs
19 under Va. Code Ann. § 59.1-204(A), *et seq.*

20 **FIFTY-SECOND CLAIM FOR RELIEF**

21 **Violation of the West Virginia Consumer Credit and Protection Act,**

22 **W. Va. Code § 46A-6-101, *et seq.***

23 **(By Plaintiffs Diana Mey and Jade Canterbury**

24 **On Behalf of the West Virginia Class)**

25 589. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves
26 and the West Virginia Class, repeat and reassert each of the allegations contained
27 in paragraphs 1 to 166 as if fully set forth herein.

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

1 violations of Sections 46A-6-101, *et seq.* of the West Virginia Code.

2 591. During the Class Period, Defendants and their co-conspirators
3 engaged in a continuing contract, combination or conspiracy in unreasonable
4 restraint of trade and commerce and other anticompetitive conduct alleged above in
5 violation of W. Va. Code § 46A-6-101, *et seq.*

6 592. Defendants' anticompetitive acts described above were knowing,
7 willful and constitute violations or flagrant violations of the West Virginia
8 Antitrust Act and the West Virginia Consumer Credit and Protection Act.

9 593. As a direct and proximate result of Defendants' unlawful conduct,
10 Plaintiff and members of the West Virginia Class have been injured in their
11 business and property in that they paid more for PSPs than they otherwise would
12 have paid in the absence of Defendants' unlawful conduct. As a result of
13 Defendants' violation of Sections 46A-6-104 of the West Virginia Consumer
14 Credit and Protection Act, Plaintiffs and members of the West Virginia Class seek
15 actual damages or \$200 per violation, whichever is greater, pursuant to Section
16 46A-6-106 of the West Virginia Code.

17 594. Pursuant to Section 46A-6-106(c) of the West Virginia Code, Plaintiff
18 Jade Canterbury provided notice to Defendants in the manner specified under the
19 Code on September 25, 2015, which was twenty (20) days or more prior to the
20 addition of this claim. Plaintiff has not received an offer to cure as of the date of
21 this filing.

22 UNJUST ENRICHMENT

23 595. The following Fifty-third through Seventy-eighth Claims for Relief
24 are pleaded in the alternative to each of the other claims in this Complaint save the
25 Sherman Act claim and the Cartwright Act claim.

26 **FIFTY-THIRD CLAIM FOR RELIEF**

27 **(By Plaintiffs Jonathan Rizzo and Tina Grant On Behalf of the Arizona Class)**

28 596. Plaintiffs Jonathan Rizzo and Tina Grant, on behalf of themselves and

1 the Arizona Class, repeat and reassert each of the allegations contained in
2 paragraphs 1 to 166 as if fully set forth herein.

3 597. Plaintiffs Jonathan Rizzo and Tina Grant purchased PSPs within the
4 State of Arizona during the Class Period. But for Defendants' conduct set forth
5 herein, the price per unit of PSPs would have been lower, in an amount to be
6 determined at trial.

7 598. Defendants unlawfully overcharged end payers, who made purchases
8 of Defendants' PSPs in Arizona at prices that were more than they would have
9 been but for Defendants' actions.

10 599. Defendants have been enriched by revenue resulting from unlawful
11 overcharges for Defendants' PSPs.

12 600. Plaintiffs and Class members have been impoverished by the
13 overcharges for Defendants' PSPs resulting from Defendants' unlawful conduct.

14 601. Defendants' enrichment and Plaintiffs' impoverishment are
15 connected. Defendants have paid no consideration to any other person for any
16 benefits they received from Plaintiffs and Class Members.

17 602. There is no justification for Defendants' receipt of the benefits
18 causing their enrichment and Plaintiffs' and Class members' impoverishment,
19 because Plaintiffs and Class members paid anticompetitive prices that inured to
20 Defendants' benefit, and it would be inequitable for Defendants to retain any
21 revenue gained from their unlawful overcharges.

22 603. Plaintiffs and Class members have no remedy at law.

23 **FIFTY-FOURTH CLAIM FOR RELIEF**

24 **(By Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick**
25 **Musgrave, and David Ton On Behalf of the California Class)**

26 604. Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick
27 Musgrave, and David Ton, for themselves and on behalf of the California Class,
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1 repeat and reallege each of the allegations contained in paragraphs 1 to 166 as if
2 fully set forth herein.

3 605. Plaintiffs Mary Hudson, Marissa Jacobus, Michael Juetten, Rick
4 Musgrave, and David Ton purchased PSPs within the State of California during the
5 Class Period. But for Defendants' conduct set forth herein, the price per unit of
6 PSPs would have been lower, in an amount to be determined at trial.

7 606. Defendants unlawfully overcharged end payers, who made purchases
8 of Defendants' PSPs in California at prices that were more than they would have
9 been but for Defendants' actions.

10 607. Plaintiffs and Class members have conferred an economic benefit
11 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
12 the economic detriment of Plaintiffs and Class members.

13 **FIFTY-FIFTH CLAIM FOR RELIEF**

14 **(By Plaintiff Paul Berger On Behalf of the District of Columbia Class)**

15 608. Plaintiff Paul Berger for himself and on behalf of the District of
16 Columbia Class, repeats and realleges each of the allegations contained in
17 paragraphs 1 to 166 as if fully set forth herein.

18 609. Plaintiff Paul Berger purchased PSPs within the District of Columbia
19 during the Class Period. But for Defendants' conduct set forth herein, the price per
20 unit of PSPs would have been lower, in an amount to be determined at trial.

21 610. Defendants retained the benefits bestowed upon them under
22 inequitable and unjust circumstances at the expense of Plaintiffs and Class
23 Members.

24 611. Defendants unlawfully overcharged end payers, who made purchases
25 of Defendants' PSPs in the District of Columbia at prices that were more than they
26 would have been but for Defendants' actions.

27 612. Plaintiffs and Class members have conferred an economic benefit
28 upon Defendants, in the nature of revenue resulting from unlawful overcharges to

1 the economic detriment of Plaintiffs and Class members.

2 613. Defendants accepted and retained the benefit bestowed upon them
3 under inequitable and unjust circumstances arising from unlawful overcharges to
4 Plaintiffs and Class Members.

5 614. Under the circumstances, it would be inequitable and unjust for
6 Defendants to retain such benefits.

7 **FIFTY-SIXTH CLAIM FOR RELIEF**
8 **(By Plaintiffs Barbara Blumstein and John Trent**
9 **On Behalf of the Florida Class)**

10 615. Plaintiffs Barbara Blumstein and John Trent, for themselves and on
11 behalf of the Florida Class, repeat and reallege each of the allegations contained in
12 paragraphs 1 to 166 as if fully set forth herein.

13 616. Plaintiffs Barbara Blumstein and John Trent purchased PSPs within
14 the State of Florida during the Class Period. But for Defendants' conduct set forth
15 herein, the price per unit of PSPs would have been lower, in an amount to be
16 determined at trial.

17 617. Defendants unlawfully overcharged end payers, who made purchases
18 of Defendants' PSPs in Florida at prices that were more than they would have been
19 but for Defendants' actions.

20 618. Plaintiffs and the Class members have conferred a direct economic
21 benefit upon Defendants, in the nature of revenue resulting from unlawful
22 overcharges paid by Plaintiffs and the Class members and accepted and retained by
23 Defendants, to the economic detriment of Plaintiffs and the Class members.

24 619. Defendants appreciated the benefits bestowed upon them by Plaintiffs
25 and the Class Members.

26 620. It is inequitable for Defendants to accept and retain the benefits
27 received without compensating Plaintiffs and the Class members.

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FIFTY-SEVENTH CLAIM FOR RELIEF

(By Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg, Amy Joseph, and Elizabeth Twitchell On Behalf of the Illinois Class)

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621. Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg, Amy Joseph, and Elizabeth Twitchell, on behalf of themselves and the Illinois Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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622. Plaintiffs Jessica Breitbach, Sally Crnkovich, Elizabeth Davis-Berg, Amy Joseph, and Elizabeth Twitchell purchased PSPs within the State of Illinois during the Class Period. But for Defendants' conduct set forth herein, the price per unit of PSPs would have been lower, in an amount to be determined at trial.

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623. Defendants unlawfully overcharged end payers, who made purchases of Defendants' PSPs in Illinois at prices that were more than they would have been but for Defendants' actions.

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624. 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.

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625. Defendants retained the benefits bestowed upon them under unjust circumstances arising from unlawful overcharges to Plaintiffs and Class members.

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626. It is unjust and inequitable for Defendants to retain the benefits received without compensating Plaintiffs and Class members.

FIFTY-EIGHTH CLAIM FOR RELIEF

**(By Plaintiffs Carla Lown and Jennifer A. Nelson
On Behalf of the Iowa Class)**

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627. Plaintiffs Carla Lown and Jennifer A. Nelson, on behalf of themselves and the Iowa Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

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628. Plaintiffs Carla Lown and Jennifer A. Nelson purchased PSPs within the State of Iowa during the Class Period. But for Defendants' conduct set forth

1 herein, the price per unit of PSPs would have been lower, in an amount to be
2 determined at trial.

3 629. Defendants unlawfully overcharged end payers, who made purchases
4 of Defendants' PSPs in Iowa at prices that were more than they would have been
5 but for Defendants' actions.

6 630. Defendants have been enriched by revenue resulting from unlawful
7 overcharges for Defendants' PSPs, which revenue resulted from anticompetitive
8 prices paid by Plaintiffs, which inured to Defendants' benefit.

9 631. Defendants' enrichment has occurred at the expense of Plaintiffs and
10 Class members.

11 632. It is against equity and good conscience for Defendants to be
12 permitted to retain the revenue resulting from their unlawful overcharges.
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14 **FIFTY-NINTH CLAIM FOR RELIEF**

15 **(By Plaintiffs Brian Depperschmidt and Lisa Hall**

16 **On Behalf of the Kansas Class)**

17 633. Plaintiffs Brian Depperschmidt and Lisa Hall, on behalf of themselves
18 and the Kansas Class, repeat and reassert each of the allegations contained in
19 paragraphs 1 to 166 as if fully set forth herein.

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

24 635. Defendants unlawfully overcharged end payers, who made of
25 Defendants' PSPs in Kansas at prices that were more than they would have been
26 but for Defendants' actions.

27 636. Plaintiffs and Class members have conferred an economic benefit
28 upon Defendants, in the nature of revenue resulting from unlawful overcharges to

1 the economic detriment of Plaintiffs and Class members.

2 637. Defendants retained the benefits bestowed upon them under unjust
3 circumstances arising from unlawful overcharges to Plaintiffs and Class Members.

4 638. Defendants were unjustly enriched at the expense of Plaintiffs and
5 Class members.

6 **SIXTIETH CLAIM FOR RELIEF**

7 **(By Plaintiffs Greg Stearns and Thomas E. Willoughby III**
8 **On Behalf of the Maine Class)**

9 639. Plaintiffs Greg Stearns and Thomas E. Willoughby III, on behalf of
10 themselves and the Maine Class, repeat and reassert each of the allegations
11 contained in paragraphs 1 to 166 as if fully set forth herein.

12 640. Plaintiffs Greg Stearns and Thomas E. Willoughby III purchased PSPs
13 within the State of Maine during the Class Period.. But for Defendants' conduct set
14 forth herein, the price per unit of PSPs would have been lower, in an amount to be
15 determined at trial.

16 641. Defendants unlawfully overcharged end payers, who made purchases
17 of Defendants' PSPs in Maine at prices that were more than they would have been
18 but for Defendants' actions.

19 642. 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.

23 643. Defendants retained the benefits bestowed upon them under unjust
24 circumstances arising from unlawful overcharges to Plaintiffs and Class members.

25 644. Defendants were aware of and appreciated the benefit bestowed upon
26 them by Plaintiffs and Class members.

27 645. Defendants were unjustly enriched at the expense of Plaintiffs and
28 Class members.

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SIXTY-FIRST CLAIM FOR RELIEF
(By Plaintiffs Scott Caldwell and Sundé Daniels
On Behalf of the Massachusetts Class)

646. Plaintiffs Scott Caldwell and Sundé Daniels, on behalf of themselves and the Massachusetts Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

647. Plaintiffs Scott Caldwell and Sundé Daniels purchased PSPs within the State of Massachusetts during the Class Period.. But for Defendants' conduct set forth herein, the price per unit of PSPs would have been lower, in an amount to be determined at trial.

648. Defendants unlawfully overcharged end payers, who made purchases of Defendants' PSPs in Massachusetts at prices that were more than they would have been but for Defendants' actions.

649. 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.

650. Defendants were aware of or appreciated the benefit conferred upon them by Plaintiffs and Class members.

651. Under the circumstances, it would be inequitable for Defendants to retain such benefits without compensating Plaintiffs and Class members. Fairness and good conscience require that Defendants not be permitted to retain the revenue resulting from their unlawful overcharges at the expense of Plaintiffs and Class members.

SIXTY-SECOND CLAIM FOR RELIEF
(By Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson
On Behalf of the Michigan Class)

652. Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson, on behalf of themselves and the Michigan Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

1 653. Plaintiffs Louise Adams, Jessica Decker, and Barbara Olson
2 purchased PSPs within the State of Michigan during the Class Period. But for
3 Defendants' conduct set forth herein, the price per unit of PSPs would have been
4 lower, in an amount to be determined at trial.

5 654. Defendants unlawfully overcharged end payers, who made purchases
6 of Defendants' PSPs in Michigan at prices that were more than they would have
7 been but for Defendants' actions.

8 655. Plaintiffs and Class members have conferred a direct economic
9 benefit upon Defendants, in the nature of revenue resulting from unlawful
10 overcharges paid by Plaintiffs and the Class members and accepted and retained by
11 Defendants, to the economic detriment of Plaintiffs and Class members.

12 656. Defendants retained the benefits bestowed upon them under unjust
13 circumstances arising from unlawful overcharges to Plaintiffs and Class members.

14 657. Defendants were unjustly enriched at the expense of Plaintiffs and
15 Class members.

16 **SIXTY-THIRD CLAIM FOR RELIEF**

17 **(By Plaintiff Laura Childs On Behalf of the Minnesota Class)**

18 658. Plaintiff Laura Childs, on behalf of herself and the Minnesota Class,
19 repeats and reasserts each of the allegations contained in paragraphs 1 to 166 as if
20 fully set forth herein.

21 659. Plaintiff Laura Childs purchased PSPs within the State of Minnesota
22 during the Class Period. But for Defendants' conduct set forth herein, the price per
23 unit of PSPs would have been lower, in an amount to be determined at trial.

24 660. Defendants unlawfully overcharged end payers, who made purchases
25 of Defendants' PSPs in Minnesota at prices that were more than they would have
26 been but for Defendants' actions.

27 661. Defendants appreciated and knowingly accepted the benefits
28 bestowed upon them by Plaintiff and Class members. Defendants have paid no

1 consideration to any other person for any of the benefits they have received from
2 Plaintiff and Class members.

3 662. It is inequitable for Defendants to accept and retain the benefits
4 received without compensating Plaintiff and Class members.

5 **SIXTY-FOURTH CLAIM FOR RELIEF**

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

7 663. Plaintiff Christopher Todd, on behalf of himself and the Mississippi
8 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
9 166 as if fully set forth herein.

10 664. Plaintiff Christopher Todd purchased PSPs within the State of
11 Mississippi during the Class Period. But for Defendants' conduct set forth herein,
12 the price per unit of PSPs would have been lower, in an amount to be determined at
13 trial.

14 665. Defendants unlawfully overcharged end payers, who made purchases
15 of Defendants' PSPs in Mississippi at prices that were more than they would have
16 been but for Defendants' actions.

17 666. Defendants retained the benefit of overcharges received on the sales
18 of Defendants' PSPs, which in equity and good conscience belong to Plaintiffs and
19 Class members on account of Defendants' anticompetitive conduct.

20 **SIXTY-FIFTH CLAIM FOR RELIEF**

21 **(By Plaintiff Rebecca Lee Simoens On Behalf of the Missouri Class)**

22 667. Plaintiff Rebecca Lee Simoens, on behalf of herself and the Missouri
23 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
24 166 as if fully set forth herein.

25 668. Plaintiff Rebecca Lee Simoens purchased PSPs within the State of
26 Missouri during the Class Period. But for Defendants' conduct set forth herein, the
27 price per unit of PSPs would have been lower, in an amount to be determined at
28 trial.

1 669. Defendants unlawfully overcharged end payers, who made purchases
2 of Defendants' PSPs in Missouri at prices that were more than they would have
3 been but for Defendants' actions.

4 670. Plaintiff and Missouri Class members have conferred an economic
5 benefit upon Defendants, in the nature of revenue resulting from unlawful
6 overcharges to the economic detriment of Plaintiff and Missouri Class Members.

7 671. Defendants appreciated the benefit bestowed upon them by Plaintiff
8 and Missouri Class members.

9 672. Defendants accepted and retained the benefit bestowed upon them
10 under inequitable and unjust circumstances arising from unlawful overcharges to
11 Plaintiff and Missouri Class members.

12 **SIXTY-SIXTH CLAIM FOR RELIEF**

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

15 673. 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 166 as if fully set forth herein.

18 674. Plaintiff Melissa Bowman and Barbara Buenning purchased PSPs
19 within the State of Nebraska during the Class Period. But for Defendants' conduct
20 set forth herein, the price per unit of PSPs would have been lower, in an amount to
21 be determined at trial.

22 675. Defendants unlawfully overcharged end payers, who made purchases
23 of Defendants' PSPs in Nebraska at prices that were more than they would have
24 been but for Defendants' actions.

25 676. Defendants received money from Plaintiffs and Class members as a
26 direct result of the unlawful overcharges, and have retained this money.
27 Defendants have paid no consideration to any other person in exchange for this
28 money.

1 677. In justice and fairness, Defendants should disgorge such money and
2 remit the overcharged payments back to Plaintiffs and Class members.

3 **SIXTY-SEVENTH CLAIM FOR RELIEF**

4 **(By Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller**
5 **On Behalf of the Nevada Class)**

6 678. Plaintiffs Nay Alidad, Dwayne Kennedy, and Nancy Stiller, on behalf
7 of themselves and the Nevada Class, repeat and reassert each of the allegations
8 contained in paragraphs 1 to 166 as if fully set forth herein.

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

13 680. Defendants unlawfully overcharged end payers, who made purchases
14 Defendants' PSPs in Nevada at prices that were more than they would have been
15 but for Defendants' actions.

16 681. Plaintiffs and Class members have conferred an economic benefit
17 upon Defendants in the nature of revenue resulting from unlawful overcharges for
18 Defendants' PSPs.

19 682. Defendants appreciated the benefits bestowed upon them by Plaintiffs
20 and Class members, for which they have paid no consideration to any other person.

21 683. Defendants have knowingly accepted and retained the benefits
22 bestowed upon them by Plaintiffs and Class members.

23 684. The circumstances under which Defendants have accepted and
24 retained the benefits bestowed upon them by Plaintiffs and Class members are
25 inequitable in that they result from Defendants' unlawful overcharges for
26 Defendants' PSPs.

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SIXTY-EIGHTH CLAIM FOR RELIEF

(By Plaintiff Jody Cooper On Behalf of the New Hampshire Class)

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3 685. Plaintiff Jody Cooper, on behalf of herself and the New Hampshire
4 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
5 166 as if fully set forth herein

6 686. Plaintiff Jody Cooper purchased PSPs within the State of New
7 Hampshire during the Class Period. But for Defendants' conduct set forth herein,
8 the price per unit of PSPs would have been lower, in an amount to be determined at
9 trial.

10 687. Defendants unlawfully overcharged end payers, who made purchases
11 of Defendants' PSPs in New Hampshire at prices that were more than they would
12 have been but for Defendants' actions.

13 688. Defendants have received a benefit from Plaintiff and Class members
14 in the nature of revenue resulting from the unlawful overcharges, which revenue
15 resulted from anticompetitive prices that inured to the benefit of Defendants.

16 689. Under the circumstances, it would be unconscionable for Defendants
17 to retain such benefits.

SIXTY-NINTH CLAIM FOR RELIEF

(By Plaintiff Vivek Dravid On Behalf of the New Mexico Class)

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20 690. Plaintiff Vivek Dravid, on behalf of himself and the New Mexico
21 Class, repeats and reasserts each of the allegations contained in paragraphs 1 to
22 166 as if fully set forth herein.

23 691. Plaintiff Vivek Dravid purchased PSPs within the State of New
24 Mexico during the Class Period. But for Defendants' conduct set forth herein, the
25 price per unit of PSPs would have been lower, in an amount to be determined at
26 trial.

27 692. Defendants unlawfully overcharged end payers, who made purchases
28 of Defendants' PSPs in New Mexico at prices that were more than they would

1 have been but for Defendants' actions.

2 693. Defendants have knowingly benefitted at the expense of Plaintiff and
3 Class members from revenue resulting from unlawful overcharges for Defendants'
4 PSPs.

5 694. To allow Defendants to retain the benefits would be unjust because
6 the benefits resulted from anticompetitive pricing that inured to Defendants'
7 benefit and because Defendants have paid no consideration to any other person for
8 any of the benefits they received.

9 **SEVENTIETH CLAIM FOR RELIEF**

10 **(By Plaintiffs Corey Norris and Elizabeth Twitchell**
11 **On Behalf of the North Carolina Class)**

12 695. Plaintiffs Corey Norris and Elizabeth Twitchell, on behalf of
13 themselves and the North Carolina Class, repeat and reassert each of the
14 allegations contained in paragraphs 1 to 166 as if fully set forth herein.

15 696. Plaintiffs Corey Norris and Elizabeth Twitchell purchased PSPs
16 within the State of North Carolina during the Class Period. But for Defendants'
17 conduct set forth herein, the price per unit of PSPs would have been lower, in an
18 amount to be determined at trial.

19 697. Defendants unlawfully overcharged end payers, who made purchases
20 of Defendants' PSPs in North Carolina at prices that were more than they would
21 have been but for Defendants' actions.

22 698. 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.

25 699. Plaintiffs and Class members did not interfere with Defendants'
26 affairs in any manner that conferred these benefits upon Defendants.

27 700. The benefits conferred upon Defendants were not gratuitous, in that
28 they comprised revenue created by unlawful overcharges arising from Defendants'

1 actions to fix, maintain and stabilize artificially high prices for PSPs on the market.

2 701. The benefits conferred upon Defendants are measurable, in that the
3 revenue Defendants have earned due to unlawful overcharges are ascertainable by
4 review of sales and other business records.

5 702. Defendants consciously accepted the benefits and continue to do so as
6 of the date of this filing.

7 **SEVENTY-FIRST CLAIM FOR RELIEF**
8 **(By Plaintiffs Tya Hughes and Bonnie VanderLaan**
9 **On Behalf of the North Dakota Class)**

10 703. Plaintiffs Tya Hughes and Bonnie VanderLaan, on behalf of
11 themselves and the North Dakota Class, repeat and reassert each of the allegations
12 contained in paragraphs 1 to 166 as if fully set forth herein.

13 704. Plaintiffs Tya Hughes and Bonnie VanderLaan purchased PSPs within
14 the State of North Dakota during the Class Period. But for Defendants' conduct set
15 forth herein, the price per unit of PSPs would have been lower, in an amount to be
16 determined at trial.

17 705. Defendants unlawfully overcharged end payers, who made purchases
18 of Defendants' PSPs in North Dakota at prices that were more than they would
19 have been but for Defendants' actions.

20 706. Defendants, without justification, have been enriched at the direct
21 impoverishment of Plaintiffs and Class members, in that Defendants have been
22 enriched by revenue resulting from unlawful overcharges for Defendants' PSPs.

23 707. Plaintiffs and Class members have been impoverished by the
24 overcharges for Defendants' PSPs resulting from Defendants' unlawful conduct,
25 and they have no legal means of retrieving the value of their impoverishment.

26 708. Defendants' enrichment and Plaintiffs' and Class members'
27 impoverishment are connected. Defendants have paid no consideration to any other
28 person for any benefits they received directly or indirectly from Plaintiffs and

1 Class Members.

2 709. There is no justification for Defendants' receipt of the benefits
3 causing their enrichment, because Plaintiffs and Class members paid
4 anticompetitive prices that inured to Defendants' benefit, and it would be
5 inequitable for Defendants to retain any revenue gained from their unlawful
6 overcharges.

7 710. Plaintiffs and Class members have no remedy at law.

8 **SEVENTY-SECOND CLAIM FOR RELIEF**

9 **(By Plaintiffs Danielle Johnson and Beth and Liza Milliner**
10 **On Behalf of the Oregon Class)**

11 711. Plaintiffs Danielle Johnson and Beth and Liza Milliner, on behalf of
12 themselves and the Oregon Class, repeat and reassert each of the allegations
13 contained in paragraphs 1 to 166 as if fully set forth herein.

14 712. Plaintiffs Danielle Johnson and Beth and Liza Milliner purchased
15 PSPs within the State of Oregon during the Class Period. But for Defendants'
16 conduct set forth herein, the price per unit of PSPs would have been lower, in an
17 amount to be determined at trial.

18 713. Defendants unlawfully overcharged end payers, who made purchases
19 of Defendants' PSPs in Oregon at prices that were more than they would have been
20 but for Defendants' actions.

21 714. Plaintiffs and Class members have conferred an economic benefit
22 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
23 the economic detriment of Plaintiffs and Class members.

24 715. Defendants were aware of the benefit bestowed upon them by
25 Plaintiffs and Class members.

26 716. It would be inequitable and unjust for Defendants to retain any of the
27 overcharges for PSPs derived from Defendants' unfair conduct without
28 compensating Plaintiffs and Class members.

1 conduct set forth herein, the price per unit of PSPs would have been lower, in an
2 amount to be determined at trial.

3 725. Defendants unlawfully overcharged end payers, who made purchases
4 of Defendants' PSPs in South Dakota at prices that were more than they would
5 have been but for Defendants' actions.

6 726. 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.

9 727. Defendants were aware of the benefit bestowed upon them by
10 Plaintiffs and Class members.

11 728. Under the circumstances, it would be inequitable and unjust for
12 Defendants to retain such benefits without reimbursing Plaintiffs and Class
13 members.

14 **SEVENTY-FIFTH CLAIM FOR RELIEF**
15 **(By Plaintiffs Vivek Dravid and Tina Grant**
16 **On Behalf of the Utah Class)**

17 729. 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 166 as if fully set forth herein.

20 730. Plaintiffs Vivek Dravid and Tina Grant purchased PSPs within the
21 State of Utah during the Class Period. But for Defendants' conduct set forth herein,
22 the price per unit of PSPs would have been lower, in an amount to be determined at
23 trial.

24 731. Defendants unlawfully overcharged end payers, who made purchases
25 of Defendants' PSPs in Utah at prices that were more than they would have been
26 but for Defendants' actions.

27 732. Plaintiffs and Class members have conferred a direct economic
28 benefit upon Defendants, in the nature of revenue resulting from unlawful

1 overcharges paid by Plaintiffs and the Class members and accepted and retained by
2 Defendants, to the economic detriment of Plaintiffs and Class members.

3 733. Defendants were aware of or appreciated the benefit bestowed upon
4 them by Plaintiffs and Class members.

5 734. Under the circumstances, it would be inequitable for Defendants to
6 retain such benefits without compensating Plaintiffs and Class Members.

7 **SEVENTY-SIXTH CLAIM FOR RELIEF**

8 **(By Plaintiffs Stephanie Gipson and Jennifer A. Nelson**
9 **On Behalf of the Vermont Class)**

10 735. Plaintiffs Stephanie Gipson and Jennifer A. Nelson, on behalf of
11 themselves and the Vermont Class, repeat and reassert each of the allegations
12 contained in paragraphs 1 to 166 as if fully set forth herein

13 736. Plaintiffs Stephanie Gipson and Jennifer A. Nelson purchased PSPs
14 within the State of Vermont during the Class Period. But for Defendants' conduct
15 set forth herein, the price per unit of PSPs would have been lower, in an amount to
16 be determined at trial.

17 737. Defendants unlawfully overcharged end payers, who made purchases
18 of Defendants' PSPs in Vermont at prices that were more than they would have
19 been but for Defendants' actions.

20 738. Plaintiffs and Class members have conferred an economic benefit
21 upon Defendants, in the nature of revenue resulting from unlawful overcharges to
22 the economic detriment of Plaintiffs and Class Members.

23 739. Defendants accepted the benefit bestowed upon them by Plaintiffs and
24 Class members.

25 740. Under the circumstances, it would be inequitable for Defendants to
26 retain such benefits without compensating Plaintiffs and Class members.

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SEVENTY-SEVENTH CLAIM FOR RELIEF
(By Plaintiffs Diana Mey and Jade Canterbury
On Behalf of the West Virginia Class)

741. Plaintiffs Diana Mey and Jade Canterbury, on behalf of themselves and the West Virginia Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

742. Plaintiffs Diana Mey and Jade Canterbury purchased PSPs within the State of West Virginia during the Class Period. But for Defendants’ conduct set forth herein, the price per unit of PSPs would have been lower, in an amount to be determined at trial.

743. Defendants unlawfully overcharged end payers, who made purchases of Defendants’ PSPs in West Virginia at prices that were more than they would have been but for Defendants’ actions.

744. 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.

745. Defendants were aware of or appreciated the benefit bestowed upon them by Plaintiffs and Class members.

746. Under the circumstances, it would be inequitable for Defendants to retain such benefits without compensating Plaintiffs and Class members.

SEVENTY-EIGHTH CLAIM FOR RELIEF
(By Plaintiffs Jessica Breitbach and Kenneth Dunlap
On Behalf of the Wisconsin Class)

747. Plaintiffs Jessica Breitbach and Kenneth Dunlap, on behalf of themselves and the Wisconsin Class, repeat and reassert each of the allegations contained in paragraphs 1 to 166 as if fully set forth herein.

748. Plaintiffs Jessica Breitbach and Kenneth Dunlap purchased PSPs within the State of Wisconsin during the Class Period. But for Defendants’ conduct

1 set forth herein, the price per unit of PSPs would have been lower, in an amount to
2 be determined at trial.

3 749. Defendants unlawfully overcharged end payers, who made purchases
4 of Defendants' PSPs in Wisconsin at prices that were more than they would have
5 been but for Defendants' actions.

6 750. 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.

9 751. Defendants appreciated the benefit bestowed upon them by Plaintiffs
10 and Class Members.

11 752. Under the circumstances, it would be inequitable for Defendants to
12 retain such benefits without compensating Plaintiffs and Class members.

13 **PRAYER FOR RELIEF**

14 Accordingly, Plaintiffs, on behalf of themselves and the Classes of all others
15 so similarly situated, respectfully requests that:

16 a) The Court determine that each of the claims alleged in this Complaint
17 may be maintained as a class action claims under Rule 23(a), (b)(2), and (b)(3) of
18 the Federal Rules of Civil Procedure, and direct that reasonable notice of this
19 action, as provided by Rule 23(c)(2) of the Federal Rules of Civil Procedure, be
20 given to each and every member of the Classes once certified;

21 b) The unlawful conduct alleged herein be adjudged and decreed in
22 violation of Section 1 of the Sherman Act, Section 3 of the Clayton Act, the listed
23 state antitrust laws, state consumer protection laws, and common law;

24 c) Plaintiffs and the members of the Classes recover damages, to the
25 maximum extent allowed under applicable state law, and that a joint and several
26 judgment in favor of Plaintiffs and the members of such Classes be entered against
27 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: May 23, 2016

**WOLF HALDENSTEIN ADLER
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9 **UNITED STATES DISTRICT COURT**
 10
 11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12
 13 **IN RE: PACKAGED SEAFOOD**
 14 **PRODUCTS ANTITRUST LITIGATION**

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

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15 This Document Relates To:
 16 The Indirect Purchaser End Payer Actions

JUDGE: Hon. Janis L. Sammartino
 CTRM: 4A (4th Fl.—Schwartz)

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I certify that on May 23, 2016, I filed the following documents with the Clerk of the United States District Court for the Southern District of California by using the Court’s CM/ECF system, which will send notifications of such filings to all counsel of record:

**CONSOLIDATED CLASS ACTION COMPLAINT OF THE
INDIRECT PURCHASER END PAYER PLAINTIFFS**

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 23rd day of May 2016, at San Diego, California.


KATHRYN CABRERA

TUNA:22699