

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS**

JOHN WERTYMER, Individually,)	
and on behalf of all others similarly)	
situated,)	
)	
Plaintiffs,)	
)	
v.)	No.: 23-cv-14700
)	
WALMART, INC.)	
)	
Defendant.)	JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

INTRODUCTION

1. Plaintiff, John Wertymer (“Plaintiff”), on behalf of himself and all other consumers who purchased Great Value brand “Organic Raw Honey” or “Raw Honey” bring this action against Defendant, Walmart, Inc. (“Defendant” or “Walmart”), as a Class Action for: Count I, violating the Illinois Consumer Fraud Act (“ICFA”); Count II, Fraudulent Misrepresentation; and Count III, Declaratory Judgement, to recover damages against Defendant for knowingly and improperly labeling its honey products as “raw” and/or “organic.” Plaintiff seeks to represent a nationwide class and a sub-class of Illinois consumers.

2. These claims are based on Walmart misleading consumers nationwide by labeling its Great Value brand honey products as “raw” and/or “organic” when, in reality, Walmart’s honey is not “raw” or “organic” because Defendant adds foreign sugars to its “Organic Raw Honey” and excessively heats its “Raw Honey” during processing.

PARTIES

3. Plaintiff, John Wertymer, is a citizen and resident of Evanston, Illinois. Plaintiff Wertymer purchased Defendant’s Great Value brand “Organic Raw Honey” and “Raw Honey”

products on June 13, 2022.

4. Defendant, Walmart, Inc., is a corporation organized under the laws of Delaware and has its chief executive offices and principal place of business at 702 S.W. 8th Street Bentonville, Arkansas 72716.

JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. § 1332(d)(2) and the Class Action Fairness Act because: (i) Plaintiff Wertymer is a citizen of Illinois and Defendant is a citizen of Delaware and Arkansas; (ii) the amount in controversy exceeds \$5,000,000 exclusive of interests and costs; and (iii) there are more than 100 members of the proposed class.

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391 because: (i) Walmart, Inc. is subject to personal jurisdiction in this Judicial District because it transacts business here and caused tortious injuries by and act or omission here; and (ii) a substantial part of the events or omissions giving rise to Plaintiff Wertymer's and the Class's claims occurred in this Judicial District.

FACTUAL ALLEGATIONS

7. **Walmart labeled, advertised, and distributed "Organic" and/or "Raw" honey products nationwide.** Defendant, Walmart, Inc., distributes a variety of honey products under its Great Value brand including "Organic Raw Honey" that is a "Product of Brazil" and "Raw Honey" that is a "Product of United States."

8. "Organic Raw Honey" from Brazil is available in several sizes including 12-oz, and 16-oz bottles, and is sold nationally through Walmart's website and retail locations.

9. The only ingredient listed on the back of the "Organic Raw Honey's" label is

“organic raw honey.”

10. “Raw Honey” from the United States is available in several sizes including 16-oz, 32-oz, and 2-pack of 32-oz bottles, and is sold nationally through Walmart’s website and store locations.

11. The only ingredient listed on the back of the “Raw Honey’s” label is “raw honey.”

12. Upon information and belief, Walmart directly sold – through Defendant’s retail locations and website – thousands of bottles of “Organic Raw Honey” and “Raw Honey” in Illinois and across the United States to thousands of consumers.

13. **The benefits of organic or raw honey.** Raw honey is a natural product produced by honeybees composed of various sugars, minerals, proteins, enzymes, amino acids, and organic acids.

14. Due to the presence of these compounds, raw honey is valued by consumers for its nutritional and medicinal benefits.

15. Honey that is excessively heated during processing is not considered raw; because when raw honey is overheated, to a temperature more than 105 degrees, the enzymes in the honey that are prized by consumers who purchase raw honey begin to break down and are lost.

16. Additionally, honey is a single ingredient-food, thus, a product consisting of honey and an additional sweetener, such as a foreign sugar or corn syrup, is not organic or raw, thus, FDA regulations prevent honey mixed with an additional sweetener from being labeled with the common or usual name “honey” because labeling a mixture of honey and another sweetener as “honey” does not properly identify the basic nature of the food.¹

¹ See Proper Guidance for Industry: Proper Labeling of Honey and Honey Products (February 2018), *available at* <https://www.fda.gov/files/food/published/PDF---Guidance-for-Industry--Proper-Labeling-of-Honey-and-Honey->

17. **Walmart’s “Raw Honey” is not raw because Defendant overheats the honey during processing.** The scientific community and honey industry employ a simple test – reviewing the 5-hydroxymethylfurfural (HMF) value – to determine when honey has been overheated and the enzymes destroyed.

18. Raw honey typically comes out of the beehive with an absence of any HMF, or with an HMF value of 1 mg/kg to 9 mg/kg.

19. The Codex Alimentarius (“Codex”) – recognized by the World Trade Organization as an international reference standard for the resolution of disputes concerning food safety and consumer protection – for honey sets a maximum HMF value of 40 mg/kg.²

20. The bottle of “Raw Honey” purchased by Plaintiff has a HMF value of 22 mg/kg, which is 2.4 times higher than the highest HMF values typical of raw honey.

21. Upon information and belief, Walmart’s “Raw Honey” is not raw because Defendant heats its “Raw Honey” during processing above 105 degrees Fahrenheit which destroys the beneficial enzymes.

22. **Walmart’s “Organic Raw Honey” is not organic or raw because Defendant adds foreign sugars during processing.** The scientific community and honey industry employ a simple test – reviewing the Mannose value – to determine if the processor added foreign sugars not suitable for honey.

23. Mannose is a mono saccharide not found in honey with a pH value lower than 5, but is regularly found in industrial sugars.

[Products.pdf](https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXS%2B12-1981%252FCXS_012e.pdf); see also Codex Alimentarius (1981), Codex Standard for Honey, available at https://www.fao.org/fao-who-codexalimentarius/sh-proxy/en/?lnk=1&url=https%253A%252F%252Fworkspace.fao.org%252Fsites%252Fcodex%252FStandards%252FCXS%2B12-1981%252FCXS_012e.pdf

² The maximum HMF value for honey from tropical regions is 80 mg/kg.

24. Under the Codex a concentration of mannose exceeding 0.02 g/100g in honey indicates the presence of foreign sugars.

25. The bottle of “Organic Raw Honey” purchased by Plaintiff has a Mannose value of 0.06 g/100g which is 3 times higher than the mannose limit set by the Codex.

26. Upon information and belief, Walmart’s “Organic Raw Honey” is not raw, or organic because Defendant adds foreign sugars during processing.

27. **Walmart had actual or constructive knowledge that its honey products were not organic or raw.** Despite the fact that its “Organic Raw Honey” and “Raw Honey” are not, in fact, organic or raw, Walmart advertises on the internet and labels some of its products as “Organic” and/or “Raw.”

28. At all relevant times, Walmart had actual or constructive knowledge that its “Organic Raw Honey” and “Raw Honey”: (i) was not raw and/or organic; (ii) would not have the benefits of raw honey; and (iii) would not have been sold at the premium price charged for organic and/or raw honey.

29. Walmart either had actual or constructive knowledge that its Great Value “Organic Raw Honey” had added foreign sugars.

30. Walmart either had actual or constructive knowledge that its Great Value “Raw Honey” was not raw because it was excessively heated.

31. **Walmart mislead Plaintiff and consumers nationwide into paying premium prices for Great Value brand honey that is not organic or raw.** On or about June 13, 2022, Plaintiff Wertymer purchased a bottle of Great Value “Organic Raw Honey” from the Walmart located at 5630 West Touhy Avenue in Niles, Illinois.

32. On or about June 13, 2022, Plaintiff purchased a bottle of Great Value “Raw

Honey” from the Walmart located at 5630 West Touhy Avenue in Niles, Illinois.

33. Unknown to Plaintiff Wertymer and all other consumers and in violation of 21 C.F.R. 102.5(a), Walmart mislabeled the “Organic Raw Honey” as “Organic”, “Raw”, and “Honey” because Walmart, Inc. added foreign sugars during processing.

34. Unknown to Plaintiff Wertymer and all other consumers, Walmart mislabeled the “Raw Honey” as “Raw” because Walmart, Inc. heated the honey above 105 degrees Fahrenheit during processing.

35. Consumers, like Plaintiff, have reasonable expectations that:

- a. Honey processors’ products or marketing would accurately describe their product on their label so that consumers could make honey purchases based upon accurate information; and/or
- b. Honey company processing, producing, or marketing would only sell honey described as raw if it had the perceived properties that are associated with raw honey.

36. Plaintiff and consumers nationwide relied on the efficacy of Walmart’s labeling information and have no way of knowing that Defendant mislabeled its Great Value “Organic Raw Honey” and “Raw Honey.”

37. Walmart charges a premium for its Great Value brand “Organic Raw Honey” and “Raw Honey” that is substantially more than Defendant charges for its filtered honey products, that is honey that is not “Organic” and/or “Raw” because Defendant excessively heats or adds foreign sugars during processing.

38. For example, a 12-oz bottle of Great Value brand “Honey”³ costs \$3.94 or \$0.33/oz while a 12-oz bottle of “Organic Raw Honey” costs \$4.84 or \$0.40/oz and a 16-oz

³ Plaintiffs tested Great Value brand “Honey” that Walmart labels “filtered” thus indicating Defendant heated the honey during processing that had HMF values at 39 mg/kg, only slightly elevated from Great Value brand “Raw Honey” with HMF values at 22 mg/kg.

bottle of “Raw Honey” costs \$6.34 or \$0.40/oz.⁴

39. Plaintiff and the proposed class members have not received the value for which they bargained when they purchased Great Value brand “Organic Raw Honey” or “Raw Honey” because there is a difference in the value between the honey as labeled and the honey that actually exists.

Class Action Allegations

40. Plaintiff for himself and the class, repeat and reallege the facts and allegations contained in paragraphs 1 through 39 above, as if fully set forth herein.

41. It is believed that Walmart sold similarly mislabeled bottles of Great Value brand “Organic Raw Honey” and “Raw Honey” to thousands of other consumers, just like Plaintiff, that were in fact not organic and/or raw.

42. Plaintiff brings this class action pursuant to Rule 23 of the Federal Rules of Civil Procedure for the following nationwide class and Illinois sub-class.

Nationwide Class:

All persons and entities that purchased Great Value honey labeled “Organic Raw Honey” or “Raw Honey” during the applicable limitations period.

Illinois Class:

All persons and entities that purchased Great Value honey within the state of Illinois labeled “Organic Raw Honey” or “Raw Honey” during the applicable limitations period.

43. The class (“Class”), as defined above, meets the prerequisite requirements of Rule 23(a), (b)(2), and (b)(3):

44. *Numerosity:* The Class is composed of over one hundred (100) and likely thousands of geographically dispersed persons, the joinder of whom in one action is impractical.

45. *Commonality:* Questions of law and fact common to the Class exist as to all

⁴ See Great Value Honey in Sugars & Sweeteners available at https://www.walmart.com/browse/976759_976780_9959366_3087979_5459197 (accessed June 26, 2023).

proposed members and predominate over any questions affecting only individual members of the Class. These common legal and factual issues include, but are not limited to the following:

- a. Whether Great Value “Organic Raw Honey” is organic;
- b. Whether Great Value “Organic Raw Honey” is raw;
- c. Whether Great Value “Raw Honey” is raw;
- d. Whether Walmart’s conduct as alleged is misleading, deceptive, and/or unconscionable; and
- e. Whether Plaintiff and the Class are entitled to compensatory damages.

46. *Typicality*: Plaintiff’s claims are typical of the claims of the proposed members of the Class, as all such claims arise out of Walmart’s conduct in misleading consumers by mislabeling honey that Defendant overheated and added foreign sugars as “Organic” and/or “Raw.”

47. *Adequate Representation*: Plaintiffs will fairly and adequately protect the interests of the members of the Class and have no interests antagonistic to those of the proposed Class. Plaintiff has retained counsel experienced in the prosecution of complex class actions, including consumer class actions.

48. *Predominance and Superiority*: This class action is appropriate for certification because questions of law and fact common to the members of the Class predominate over questions affecting only individual members. Additionally, a class action is superior to other available methods for the fair and efficient adjudication of this controversy since individual joinder of all members of the Class is impracticable and individual damages relatively small. Should Class members be required to bring separate actions, this Court and courts throughout Illinois and the United States would be confronted with a multiplicity of lawsuits burdening the

court system while also creating the risk of inconsistent rulings and contradictory judgments. In contrast to proceeding on a case-by-case basis, in which inconsistent results will magnify the delay and expense to all parties and the court system, this class action presents far fewer management difficulties while providing unitary adjudication of common issues, economies of scale and comprehensive supervision by this Court.

COUNT I
Violation of the Consumer Fraud Act 815 ILCS 505/2

49. Plaintiff for himself and the class, repeat and reallege the facts and allegations contained in paragraphs 1 through 48 above, as if fully set forth herein.

50. At all relevant times, there was in full force and effect in Illinois the Consumer Fraud Act, 815 ILCS 505/1, *et seq.* (“Consumer Fraud Act”).

51. Under the Illinois Consumer Fraud and Deceptive Business Practices Act, any unfair or deceptive act or practice in the conduct of trade or commerce is actionable. (815 ILCS 505/1, *et seq.*). The statute expressly prohibits unfair or deceptive acts including concealment of any material fact.

52. Section 2 of the Consumer Fraud Act, 815 ILCS 505/2 provides in pertinent part:

Unfair methods of competition and unfair or deceptive acts or practices, including but not limited to the use or employment of any deception, fraud, false pretense, false promise, misrepresentation or the concealment, suppression or omission of any material fact, with intent that others rely upon the concealment, suppression or omission of such material fact, or the use or employment of any practice described in Section 2 of the “Uniform Deceptive Trade Practices Act”, approved August 5, 1965, in the conduct of any trade or commerce are hereby declared unlawful whether any person has in fact been misled, deceived or damaged thereby. In construing this section consideration shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a) of the Federal Trade Commission Act.

53. The Act expressly incorporates violations of the Uniform Deceptive Trade Practices Act, 815 ILCS 510/1, *et seq.*, (“Uniform Act”), and the Uniform Act provides at

Section 2, 815 ILCS 510/2, in pertinent part:

Section 2. A person engages in a deceptive trade practice when, in the course of his business, vocation or occupation, he: ...

(12) engages in any other conduct which similarly creates a likelihood of confusion or of misunderstanding.

54. In order to prevail in an action under the Consumer Fraud Act, a plaintiff need not prove competition between the parties or actual confusion or misunderstanding.

55. This Section does not affect unfair trade practices otherwise actionable at common law or under other statutes of this State.

56. Section 10(a) of the Consumer Fraud Act, states, in pertinent part:

(a) Any person who suffers damage as a result of a violation of this Act committed by any other person may bring an action against such person. The court, in its discretion may award actual damages or any other relief which the court deems proper. Proof of public injury, a pattern, or an effect on consumers generally shall not be required...

(c) Except as provided in subsection (f), (g), and (h) of this Section, in any action brought by a person under this Section, *the Court may grant injunctive relief* provided in this Section, reasonable attorney's fees and costs to the prevailing party. (Emphasis added).

57. Plaintiff is a consumer under the Consumer Fraud Act, and the Defendant is a business under the Consumer Fraud Act.

A Deceptive Act or Practice.

58. Walmart's conduct to (i) deceptively label its Great Value honey products as "Organic" and/or "Raw"; (ii) misrepresent the nature and quality of the Great Value honey products; and (iii) charge premium prices for a product it knew or should have known was inferior, violates the Consumer Fraud Act as a material deceptive act or practice.

Intent on the Defendants' Part that the Plaintiffs Rely on the Deception.

59. Walmart concealed material information from the Plaintiff and the Class.

60. Walmart is in the best position to accurately label and advertise its honey products and Defendant mislabeled its honey as “Organic” and/or “Raw” in order to charge consumers premium prices.

Occurred in Trade and Commerce.

61. Walmart’s wrongful conduct, as alleged herein, occurred in trade and commerce and caused actual damages to Plaintiff and members of the class.

An Unfair Practice.

62. Mislabeling products as raw or organic to induce consumers into paying premium prices is an deceptive practice.

63. Defendant’s scheme is also unfair.

64. Defendant’s policy is unethical and is oppressive and unscrupulous because it was done for its own profit at the expense of the Plaintiff and class members, causing substantial injury.

**COUNT II
Fraudulent Misrepresentation**

65. Plaintiff for himself and the class, repeat and reallege the facts and allegations contained in paragraphs 1 through 64 above, as if fully set forth herein.

66. Walmart falsely and fraudulently represented to Plaintiff and the Class, that Defendant’s products were raw and organic because that Walmart did not alter, compromise, or destroy the physical properties of its “Organic Raw Honey” and “Raw Honey” products.

67. Walmart’s honey products were not raw or organic because Defendant either excessively heated the honey or added foreign sugars to the honey during processing.

68. Walmart knew or recklessly disregarded the truth regarding the representations that its honey was organic or raw.

69. Walmart made these representations with the intent of defrauding or deceiving Plaintiff and the Class into purchasing honey at premium prices.

70. At the time Walmart made its representations, Plaintiff and the Class were unaware of the falsity of said representations and reasonably believed them.

71. In reliance of Walmart's representations on its products' labels that the honey is organic and/or raw, Plaintiff and the Class purchased Walmart's honey products at premium prices, thereby sustaining damages.

COUNT III Declaratory Judgment

72. Plaintiff for himself and the class, repeat and reallege the facts and allegations contained in paragraphs 1 through 71 above, as if fully set forth herein.

73. A justiciable controversy of fact – whether Walmart mislabeled its honey as raw and/or organic – exists such that the court may provide declaratory relief.

74. Walmart acted or refused to act on grounds that apply generally to Plaintiff and the Class by deceptively labeling its processed honey as raw and/or organic so that it may charge premium prices.

75. Plaintiff is seeking a declaratory ruling that Great Value brand “Organic Raw Honey” and “Raw Honey” is not raw or organic because Walmart either heats the honey so that it loses the physical properties that people seek in raw honey and/or adds foreign sugars during processing.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for judgment against the Defendant as follows:

76. For an order:

- a. Certifying the case to proceed on a class basis, pursuant to Rule 23 of the Federal Rules of Civil Procedure;
- b. For the following Classes:
 - Nationwide Class:
All persons and entities that purchased Great Value honey labeled “Organic Raw Honey” or “Raw Honey” during the applicable limitations period.
 - Illinois Class:
All persons and entities that purchased Great Value honey within the state of Illinois labeled “Organic Raw Honey” or “Raw Honey” during the applicable limitations period.
- c. Appointing Plaintiff Wertymer as Class Representative; and
- d. Appointing Plaintiff’s counsel, Krislov & Associates, Ltd., Kent Heitzinger & Associates, and Sheehan & Associates, P.C., as Class Counsel.

77. As to all Counts:

- a. Award Plaintiffs and Class injunctive relief – notice and ability to claim their funds;
- b. Award Plaintiffs and class members their actual and compensatory damages, restitution and interest;
- c. Award reasonable attorney’s fees;
- d. Award costs; and
- e. Grant such further relief as the Court may deem just and proper

JURY DEMAND

The plaintiffs by and through legal counsel hereby demand a jury in this case.

Respectfully submitted,

Plaintiff: John Wertymer

/s/ Clinton A. Krislov

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ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Alleges Great Value Honey Products Falsely Advertised as Raw, Organic](#)
