

**SUPERIOR COURT OF THE DISTRICT OF COLUMBIA
CIVIL DIVISION**

<p>ORGANIC CONSUMERS ASSOCIATION, 6771 South Silver Hill Drive, Finland, MN 55603, and BEYOND PESTICIDES, 701 E Street, SE, Suite 200, Washington, DC 20003, on behalf of the general public,</p> <p style="text-align: center;">Plaintiffs,</p> <p>v.</p> <p>SIOUX HONEY ASSOCIATION, COOPERATIVE, 301 Lewis Blvd, Sioux City, IA, 51101,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. _____</p> <p style="text-align: center;"><u>DEMAND FOR JURY TRIAL</u></p>
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COMPLAINT

On behalf of the general public, Plaintiffs and Organic Consumers Association (“OCA”) and Beyond Pesticides, by and through their counsel, brings this action against Sioux Honey Association, Cooperative (“Defendant”) regarding the deceptive labeling, marketing, and sale of Defendant’s Sue Bee and Aunt Sue’s honey products (collectively, “Sue Bee Products”), and alleges the following based upon information, belief, and the investigation of its counsel:

INTRODUCTION

1. Glyphosate, the active ingredient in Monsanto’s Roundup®, is regarded as the most commonly used herbicide in the world. Its presence has been detected in many common food products, and in upwards of 90% of examined populations of humans.

2. Considering the prevalence of glyphosate use in agriculture, it is perhaps unsurprising that tests conducted by the Food and Drug Administration (“FDA”) have revealed the presence of glyphosate in Defendant’s Sue Bee Products. *See* Exhibit 1, FDA email dated January 8, 2016 (revealing the presence of glyphosate in Sue Bee honey at levels of 41 parts per

billion).

3. Although the presence of glyphosate in Sue Bee Products may be due to the application of glyphosate on crops by neighboring farms and unrelated to beekeeping activities, the fact is that Defendant's labeling and advertising of Sue Bee Products as "Pure," "100% Pure," "Natural," and "All-natural" is false, misleading, and deceptive.

4. Beekeepers are often the victims of, and have little recourse against, contamination of their hives caused by pesticide applications in the fields where bees forage. Given the failure of current law to protect beekeepers, retailers like Sioux Honey, can and should use their market power to promote practices that protect beekeepers from contamination to ensure that consumers are provided products free of glyphosate and other pesticide residues.

5. Unless the paradigm of modern agriculture is shifted, however, synthetic chemicals will continue to contaminate everyday consumer products, and until that time, producers, distributors, and retailers of food products, must be mindful of the fact that products containing such contaminants and are not "natural" or "pure," as a reasonable consumer would define the terms, and it is unlawful to label or advertise them as such.

6. Aware of the health risks and environmental damage caused by chemical-laden foods, especially packaged foods, consumers increasingly demand foods that are natural and whole, and that are chemical free.

7. With the knowledge of such consumer preferences and intending to capitalize on them, Defendant labels its Sue Bee Products as "Pure," "100% Pure," and "natural." It further promotes and advertises Sue Bee Products as "100% pure, all-natural American honey."

8. These claims are false, deceptive, and misleading. The Sue Bee Products at issue are not "Pure," "100% Pure," "Natural," or "All-natural" and instead contain the chemical

glyphosate, a potent biocide and human endocrine disruptor, with detrimental health effects that are still becoming known.

9. No reasonable consumer, seeing the “Pure,” “100% Pure,” or “Natural” representations, would expect Sue Bee Products to contain something other than honey.

10. Specifically, the products at issue¹ include, but are not limited to:

- a. Sue Bee Clover Honey, labeled “Pure”;
- b. Aunt Sue’s Farmers Market Clover Honey, labeled “100% Pure”; and
- c. Aunt Sue’s Raw Honey, labeled “100% Pure” and “Natural.”



¹ Discovery may demonstrate that additional products are within the scope of this Complaint, and Plaintiffs reserve the right to add those products.



SUEBEE® Honey Is America's Honey!

Enjoy 100% pure American honey every day in your cooking and baking, for health and beauty, and as a healthy energy boost. By choosing Sue Bee Honey, you're supporting the American honey bee, an important part of our ecosystem and agriculture, as well as the American farmer. Sue Bee Honey is produced by a cooperative of American beekeepers, the largest honey marketing cooperative in the world.



100% Natural

Sue Bee Honey is 100% pure honey plus its nature's perfect quick energy boost. It is fat free and filled with healthy antioxidants. Browse our recipes and tips and see how much honey has to offer you!



A Natural Pairing

The Henningsens are a farm family, and Sue Bee Honey is produced by a cooperative of family farmers. We love the Henningsens' music, and they love Sue Bee Honey.



Promotions

Sue Bee Honey offers exciting giveaways, contests and sweepstakes throughout the year. Don't miss your chance to win. Plus, see who's won our previous promotions.



11. Defendant does not disclose that glyphosate is present in the Sue Bee Products; instead, it falsely claims that the products are “Pure,” “100% Pure,” or “Natural.”

12. By deceiving consumers about the nature, quality, and/or ingredients of Sue Bee Products, Defendant is able to sell a greater volume of the products, to charge higher prices for the products, and to take away market share from competing products, thereby increasing its own sales and profits.

13. Consumers lack the scientific knowledge and means necessary to determine whether Sue Bee Products are in fact “Pure,” “100% Pure,” or “Natural”; to know or to ascertain the true ingredients and quality of the products; or to assess the safety of ingesting glyphosate.

14. Reasonable consumers must and do rely on Defendant to report honestly what Sue Bee Products contain, and whether they are “Pure,” “100% Pure,” or “Natural.”

15. Across all Sue Bee Products, Defendant conceals the presence of glyphosate, fails to disclose to consumers the presence of glyphosate, and fails to disclose to consumers the effects of ingesting glyphosate.

16. Defendant intended for consumers to rely on its representations, and reasonable consumers did in fact so rely. As a result of its false and misleading labeling and omissions of fact, Defendant was and is able to sell Sue Bee Products to the general public of the District of Columbia and to realize sizeable profits.

17. Defendant’s false and misleading representations and omissions violate the District of Columbia Consumer Protection Procedures Act (“DC CPPA”), D.C. Code §§ 28-3901, *et seq.*

18. Because Defendant’s labeling and advertising of Sue Bee Products tends to mislead and is materially deceptive about the true nature, quality, and ingredients of the products, Plaintiffs bring this deceptive advertising case on behalf of the general public, and seeks relief including an injunction to halt Defendant’s false marketing and sale of Sue Bee Products, and a court-ordered corrective advertising campaign to inform the public of the true nature of the products.

JURISDICTION AND VENUE

19. This Court has personal jurisdiction over the parties in this case. Plaintiffs, by filing this Complaint, consent to this Court having personal jurisdiction over them.

20. The OCA maintains a presence in the District of Columbia.

21. This Court has personal jurisdiction over Defendant pursuant to D.C. Code § 13-

423. Defendant has sufficient minimum contacts with the District of Columbia to establish personal jurisdiction of this Court over it because, *inter alia*, Defendant is engaged in deceptive schemes and acts directed at persons residing in, located in, or doing business in the District of Columbia, or otherwise purposefully avails itself of the laws of this District through its marketing and sales of the Products in this District.

22. This Court has subject matter jurisdiction over this action pursuant to D.C. Code §§ 28-3905(k)(1)(B), (k)(1)(C), (k)(1)(D), and (k)(2).

23. Venue is proper in this District under 28 U.S.C. § 1391(b). Substantial acts in furtherance of the alleged improper conduct, including the dissemination of false and misleading information regarding the nature and quality of the Products, occurred within this District. The Products are available for purchase at retail stores in the District of Columbia.

PARTIES

24. The OCA is a 501(c)(3) non-profit public-interest organization that proactively addresses crucial issues of truth in advertising, accurate food labeling, food safety, genetic engineering, children's health, corporate accountability, environmental sustainability, and related topics.

25. The OCA performs its work throughout the United States, including in the District of Columbia. Some of the OCA's staff resides in or near the District of Columbia, including its political director. The OCA has members who reside in the District of Columbia.

26. The OCA was formed in 1998 in the wake of backlash by consumers against the U.S. Department of Agriculture's controversial proposed national regulations for organic food. In its public education, network building, and mobilization activities, the OCA works with a broad range of public interest organizations to challenge industrial agriculture, corporate globalization, and to inspire consumers to "Buy Local, Organic, and Fair Made." The OCA's website, publications, research, and campaign staff provide an important service for hundreds of thousands of consumers and community activists every month. Its media team provides

background information, interviews, and story ideas to television and radio producers and journalists on a daily basis.

27. Thus, the OCA represents the views and interests of consumers by educating consumers on food safety, industrial agriculture, genetic engineering, corporate accountability, and environmental sustainability issues. The OCA educates consumers, increasing their awareness and knowledge of the agricultural production, and protects the environment by regenerating organic and/or sustainable agriculture. The OCA also uses its member base to pressure food companies to adopt honest labeling practices, to the benefit of consumers.

28. Defendant's actions have caused OCA to devote significant resources to identify and counteract Defendant's unlawful practices.

29. On September 20, 2016, OCA purchased, at a Harris Teeter store located at 1631 Kalorama Road NW in Washington D.C., Sue Bee Clover Honey in order to evaluate its purported qualities as “100% pure, all-natural” honey.

30. Beyond Pesticides is a 501(c)(3) non-profit public-interest organization headquartered in the District of Columbia, founded in 1981, that works with allies in protecting public health and the environment to lead the transition to a world free of toxic pesticides. The organization’s primary goal is to effect change through local action, assisting individuals and community-based organizations to stimulate discussion on the hazards of toxic pesticides, while providing information regarding safe alternatives.

31. Beyond Pesticides promotes safe air, water, land, and food, and works to protect public health and the environment by encouraging a transition away from the use of toxic pesticides, including glyphosate, the main chemical at issue in this lawsuit. With the resources of Beyond Pesticides made available to the public on a national scale, Beyond Pesticides contributes to a significant reduction in unnecessary pesticide use, thus improving protection of public health and the environment.

32. Beyond Pesticides has historically taken a two-pronged approach to the pesticide

problem by identifying the risks of conventional pest management practices and promoting non-chemical and least toxic management alternatives. For example, Beyond Pesticides produces the quarterly newsletter “Pesticides and You,” which provides in-depth articles and a voice for pesticide safety and alternatives. In 2015, they published an article in Pesticides and You, titled Glyphosate Causes Cancer, and urged members and supporters to take action and let elected officials know they oppose glyphosate use on lawns and in food. Additionally, its “Daily News Blog” provides the most current information on pesticide issues, and has featured articles on glyphosate 321 times since 2007, with 42 articles written in 2014, 61 in 2015 and 48 articles on glyphosate so far in 2016. Beyond Pesticides also disseminates information regarding glyphosate through the creation of fact sheets made available to the public through their website, which tracks the regulatory status of scientific journal articles on its “Gateway on Pesticide Hazards and Safe Pest Management.”

33. Beyond Pesticides submitted comments to EPA in 2009 during the glyphosate registration review period, asking them to cancel glyphosate’s registration due to the human and environmental risks, as well as the availability of alternatives. In July 2013, Beyond Pesticides, along with twenty-two other organizations, called on the EPA not to increase the allowable residue limits for glyphosate on certain food commodities, asserting that an increase in glyphosate tolerances and associated increases in glyphosate use puts the public at additional, unreasonable risk. In 2016 Beyond Pesticides once again sent a letter to and met with EPA officials requesting the routine testing of glyphosate.

34. Beyond Pesticides also holds an annual national conference that draws the attendance of around 200-250 people. It is in a different location each year, and in 2016 took place in Portland, Maine. One of the keynote speakers was Aaron Blair, Ph.D., a National Cancer Institute researcher and the overall chair of the International Agency for Research on Cancer’s (IARC) evaluation panel that found glyphosate to be a “probable carcinogen.” He spoke about the research process that evaluated this chemical’s harmful effects on human health.

35. In addition, Beyond Pesticides regularly engages its members to take action regarding glyphosate. Not only does Beyond Pesticides have 1,427 members, their list serve reaches 43,524 people who have signed up to receive emails. In 2013, Beyond Pesticides sent an alert requesting members and people on the list serve to take action to stop the proposed increase of glyphosate food tolerance levels; in 2014 they sent Connecticut members an action alert to ban the allowance of glyphosate-tolerant Kentucky Bluegrass, and sent three alerts urging EPA to reject a new herbicide formulated with glyphosate and 2,4-D. In 2015 Beyond Pesticides sent another action alert regarding the International Agency for Research on Cancer's determination that glyphosate is a "probable carcinogen," asking supporters to urge the EPA and USDA to put a stop glyphosate use.

36. Beyond Pesticides' Executive Director, Jay Feldman, served on the National Organic Standards Board (NOSB) from January 2010 to January 2015.

37. Finally, Beyond Pesticides has worked for over thirty years to develop and uphold the standard associated with organic production, including raising consumer awareness as to what organic is, and why it is preferable to conventionally grown foods. The rampant use of the term "natural" over the past decade by companies has undermined the organic system, prompting Beyond Pesticides and its allies to call on FDA to ban the word "natural" on labeling, or to define via an official rule. These concerns stem from consumer confusion over the difference between the terms organic and natural.

38. Defendant's actions have caused Beyond Pesticides to devote significant resources to identify and counteract Defendant's' unlawful practices.

39. On October 28, 2016, Beyond Pesticides purchased, at a Harris Teeter store located at 401 M Street SE in Washington, D.C., Sue Bee Clover Spun Honey in order to evaluate its purported qualities as "100% pure, all-natural" honey.

40. At all times mentioned herein, Defendant, Inc. was an Iowa cooperative association headquartered in Sioux City, Iowa, and a leading marketer of honey sold through

retail stores nationwide. Defendant was and is, at all relevant times, engaged in commercial transactions throughout the District of Columbia, including this judicial District, as well as internet sales.

41. Defendant manufactures and/or causes the manufacture of honey products, and markets and distributes the products in retail stores in the District of Columbia and throughout the United States. Defendant makes, markets, sells, and distributes food products under various trademarks, including Sue Bee and Aunt Sue's.

42. Upon information and belief, Defendant has caused harm to the general public of the District of Columbia.

43. The OCA and Beyond Pesticides are acting for the benefit of the general public as private attorneys general pursuant to D.C. Code § 28-3905(k)(1). The OCA and Beyond Pesticides are non-profit organizations pursuant to D.C. Code § 28-3901(a)(14). The OCA is a public-interest organization pursuant to D.C. Code § 28-3901(a)(15).

FACTUAL ALLEGATIONS

44. Plaintiffs bring this suit for injunctive and equitable relief under the DC CPPA, D.C. Code § 28-3901 *et seq.*, against Defendant based on misrepresentations and omissions committed by Defendant regarding Sue Bee Products, which Defendant falsely and deceptively labels and markets as "Pure," "100% Pure," and "Natural," when in fact, the products contain glyphosate, an unnatural and harmful biocide.

45. American consumers increasingly and consciously seek out natural and healthful food products.

46. Once a small niche market, natural and healthful foods are now sold by conventional retailers, and their sales continue to soar.

47. Consumers value natural foods, including honey, for myriad health, environmental, and political reasons, including avoiding chemicals and additives, attaining health and wellness, helping the environment, and financially supporting companies that share

these values.

A. Defendant Cultivates a “Natural” Brand Image for Sue Bee Products.

48. Defendant knows that consumers seek out and wish to purchase whole, natural foods that do not contain artificial chemicals, and that consumers will pay more for foods that they believe to be natural than they will pay for foods that they do not believe to be natural.

49. A recent nationally representative Consumer Reports survey of 1,005 adults found that more than half of consumers usually seek out products with a “natural” food label, often in the belief that they are produced without genetically modified organisms, hormones, pesticides, or artificial ingredients. *See* Consumer Reports National Research Center, *Natural Food Labels Survey* (2015).²

50. To capture this market, Defendant markets Sue Bee as a natural brand with products that are “Pure,” “100% Pure,” and “Natural.”

51. Defendant does not disclose the presence of glyphosate in Sue Bee Products.

52. Nowhere on its website does Defendant mention the presence of glyphosate in Sue Bee Products.

53. Nowhere on its website does Defendant disclose the health effects of ingesting glyphosate.

54. Nowhere on its website does Defendant explain the environmental risks presented by glyphosate.

B. Defendant Represents Sue Bee Products as “Pure,” “100% Pure,” or “Natural.”

55. Defendant prominently labels Sue Bee Products as “Pure” or “100% Pure.” These representations appear on the front label of the products.

56. Defendant prominently labels Sue Bee Products as “Natural.” These

² Available at http://www.consumerreports.org/content/dam/cro/magazine-articles/2016/March/Consumer_Reports_Natural_Food_Labels_Survey_2015.pdf (last visited September 20, 2016).

representations appear on the front label of the products.

57. Should any consumer seek further information, Defendant's Sue Bee website represents Sue Bee Products as "100% pure, all-natural American honey," "100% Natural" and "100% Pure." See <http://suebee.com/>, last visited September 20, 2016.

58. Upon information and belief, Defendant has profited enormously from its falsely marketed products and its carefully orchestrated label and image.

59. Representing that a product is "Pure," "100% Pure," "Natural," and "All-Natural" is a statement of fact.

60. Failing to disclose that a product contains glyphosate and the effects of ingesting glyphosate are omissions of relevant fact.

61. Consumers reasonably believe that a product or ingredient represented as "Pure" or "100% Pure" does not contain any synthetic ingredients or contaminants.

62. Consumers reasonably believe that a product or ingredient represented as "Natural" or "All-Natural" does not contain synthetic ingredients.

63. Consumers reasonably believe that a product or ingredient represented as "Pure" or "100% Pure" does not contain a potent biocide and endocrine disruptor.

64. Consumers reasonably believe that a product or ingredient represented as "Natural" or "All-Natural" does not contain a potent biocide and endocrine disruptor.

65. Sixty-six percent of all respondents in the Consumer Reports survey said that a "natural" label on packaged and processed foods means that "no toxic pesticides were used." See Consumer Reports National Research Center, *Natural Food Labels Survey* (2015).

66. Defendant knows and intends that when consumers see the product labels or advertisements promising the product is "Pure," "100% Pure," "Natural," and "All-Natural," consumers will understand that to mean that, at the very least, the product do not contain synthetic ingredients or harmful chemicals.

67. Consumers reasonably expect that if a product contains a harmful substance, the

presence of that substance will be disclosed, and they will be informed of the dangers associated with the substance.

68. Defendant's representations that Sue Bee Products are "Pure," "100% Pure," "Natural," and "All-Natural" are false. In fact, quantitative testing revealed that the Products contain glyphosate.

69. Sue Bee Products thus are not "Pure," "100% Pure," "Natural," or "All-Natural" and labeling or advertising the products as such is misleading and deceptive.

70. Defendant has a duty not to misrepresent Sue Bee Products, which means a duty to disclose the presence of glyphosate and the dangers associated with glyphosate.

C. Glyphosate Is Not Natural.

71. On information and belief, glyphosate is, by volume, the world's most widely produced herbicide.

72. Glyphosate was engineered by the agrochemical and agricultural biotechnology corporation Monsanto, which began marketing the herbicide in 1974 under the trade name Roundup, after DDT was banned.³

73. By the late 1990s, use of Roundup had surged as a result of Monsanto's strategy of genetically engineering seeds to grow food crops that could tolerate high doses of the herbicide. The introduction of these genetically engineered seeds enabled farmers more easily to control weeds on their crops.⁴

74. Between 1996 and 2011, herbicide use in the United States *increased* by 527 million pounds, despite Monsanto's claims that genetically modified crop would *reduce* pesticide and herbicide use.⁵ Additionally, evidence continues to support the fact that genetic modification

³ See <https://www.organicconsumers.org/news/monsantos-roundup-enough-make-you-sick> (last visited Sept. 20, 2016).

⁴ See *id.*

⁵ See *id.*

has not accelerated crop yields in the United States and Canada.⁶

75. Glyphosate is a suspected human endocrine disruptor, with estrogenic effects even at extremely low concentrations.⁷

76. In November 2015, the European Food Safety Agency published conclusions suggesting that the combined use of glyphosate with other chemicals posed greater potential health risks than when glyphosate is used alone.

77. In light of those conclusions, in April 2016, following a review of products containing glyphosate and tallowamine, a synthetic substance that enhances the activity of glyphosate, France's health and safety agency announced its intention to ban weed-killers that combine the two chemicals.⁸

78. Glyphosate, as a biocide, functions by disrupting the shikimate pathway.⁹

79. Although humans themselves do not have a shikimate pathway, the shikimate pathway is present in bacteria, including bacteria that inhabit the human gut and are essential to proper immune functioning.

80. Glyphosate thus is suspected to disrupt human immune function as well.

81. Studies examining low doses of glyphosate-based herbicides at levels that are generally considered "safe" for humans show that these compounds can nevertheless cause liver

⁶ See "Doubts About the Promised Bounty of Genetically Modified Crops" New York Times, October 29, 2016, available at http://www.nytimes.com/2016/10/30/business/gmo-promise-falls-short.html?_r=0 (last visited October 31, 2016).

⁷ See Thongprakaisang, S. *et al.*, "Glyphosate induces human breast cancer cells growth via estrogen receptors," 59 *Food & Chem. Toxicol.* 129 (June 2013), abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/23756170> (last visited Sept. 20, 2016); see also, e.g., Gasnier, C. *et al.*, "Glyphosate-based herbicides are toxic and endocrine disruptors in human cell lines," 262(3) *Toxicology* 184 (Aug. 21, 2009), abstract available at <http://www.ncbi.nlm.nih.gov/pubmed/19539684> (last visited Sept. 20, 2016).

⁸ See "France to Ban Some Glyphosate Weedkillers Amid Health Concerns," Reuters, Apr. 8, 2016, available at <http://www.reuters.com/article/us-france-glyphosate-idUSKCN0X512S> (last visited Sept. 20, 2016).

⁹ See, e.g., Heike, H. & N. Amrhein, "The Site of the Inhibition of the Shikimate Pathway by Glyphosate," *Plant Physiol.* 66:823 (1980), available at <http://www.plantphysiol.org/content/66/5/823.full.pdf> (last visited Sept. 20, 2016); see also <http://www.glyphosate.eu/glyphosate-mechanism-action> (last visited Sept. 20, 2016).

and kidney damage.¹⁰

82. Glyphosate is derived from the amino acid glycine.

83. To create glyphosate, one of the hydrogen atoms in glycine is artificially replaced with a phosphonomethyl group.

84. Glyphosate is not “Natural.”

85. Glyphosate is not present in “Pure,” “100% Pure,” “Natural,” or “All-Natural” honey.

86. Glyphosate is a dangerous substance, the presence and effects of which should be disclosed.

D. Sue Bee Product Labels Are Misleading and Omit Material Facts.

87. Defendant’s conduct in labeling or representing the Products “Pure,” “100% Pure,” and “Natural” deceived or was likely to deceive the public.

88. Consumers were deceived into believing that Sue Bee Products are “Pure” or “100% Pure” and that there is nothing in the products other than honey.

89. Consumers were deceived into believing that Sue Bee Products are “Natural” and that nothing in the products was not natural.

90. Instead, the Sue Bee Products contain glyphosate, an *unnatural* biocide and

¹⁰ Myers, J., *et al.*, “Concerns over use of glyphosate-based herbicides and risks associated with exposures: a consensus statement,” *Environ. Health* 2016 15:9, *available at* <https://ehjournal.biomedcentral.com/articles/10.1186/s12940-016-0117-0> (last visited Sept. 20, 2016); *see also* Seralini, G.E., *et al.*, “Republished study: long-term toxicity of a Roundup herbicide and a Roundup-tolerant genetically modified maize,” *Environ. Sci. Europe* 2014;26:14, *available at* <http://enveurope.springeropen.com/articles/10.1186/s12302-014-0014-5> (last visited Sept. 20, 2016); Benedetti, A.L., “The effects of sub-chronic exposure of Wistar rats to the herbicide Glyphosate-Biocarb,” *Toxicol. Lett.* 2004;153(2):227–232, *available at* <http://www.ncbi.nlm.nih.gov/pubmed/15451553> (last visited Sept. 20, 2016); Larsen, K., *et al.*, “Effects of Sublethal Exposure to a Glyphosate-Based Herbicide Formulation on Metabolic Activities of Different Xenobiotic-Metabolizing Enzymes in Rats,” *Int. J. Toxicol.* 2014, *available at* <http://www.ncbi.nlm.nih.gov/pubmed/24985121> (last visited Sept. 20, 2016); Mesnage R., *et al.*, “Transcriptome profile analysis reflects rat liver and kidney damage following chronic ultra-low dose Roundup exposure,” *Environ. Health* 2015;14:70, *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4549093/> (last visited Sept. 20, 2016).

human endocrine disruptor with myriad other potential health effects.

91. Consumers cannot discover the true nature of Sue Bee Products from reading the label. Consumers could not discover the true nature of the products even by visiting the Sue Bee website, which makes no mention of glyphosate.

92. Discovery of the true nature of the ingredients requires knowledge of chemistry and access to laboratory testing that is not available to the average reasonable consumer.

93. Defendant deceptively and misleadingly misrepresents and conceals material facts about Sue Bee Products, namely, that the Products are not “Pure” or “100% Pure,” because, in fact, the products contain glyphosate; and Sue Bee Products are not what a reasonable consumer would consider “Pure” or “100% Pure,” because, in fact, they contain glyphosate.

94. Defendant deceptively and misleadingly misrepresents and conceals material facts about Sue Bee Products, namely, that the Products are not “Natural” or “All-Natural” because, in fact, the products contain glyphosate; and Sue Bee Products are not what a reasonable consumer would consider “Natural,” or “All-Natural” because, in fact, they contain glyphosate.

95. Defendant fails to disclose to consumers the dangers of consuming glyphosate.

96. The production process Defendant uses for Sue Bee Products is known only to Defendant and its suppliers.

97. Defendant has not disclosed such information to Plaintiffs.

98. Testing reveals the presence of glyphosate in Sue Bee Products, but only Defendant knows the methods by which its honey is produced and processed, or what would account for the presence of glyphosate in Sue Bee Products.

99. Defendant’s concealment tolls the applicable statute of limitations.

100. To this day, Defendant continues to conceal and suppress the true nature, identity, source, and method of production of Sue Bee Products.

E. Consumers Relied on Defendant’s False and Misleading Representations.

101. Consumers frequently rely on label representations and information in making

purchase decisions, especially in purchasing food.

102. Although reliance is not an element of the DC CPPA, Defendant made the false, misleading, and deceptive representations and omissions intending for consumers to rely upon these representations and omissions in purchasing Sue Bee Products.

103. In making the false, misleading, and deceptive representations and omissions at issue, Defendant knew and intended that consumers would purchase Sue Bee Products when consumers would otherwise purchase a competing product or not purchase at all.

104. Consumers are willing to pay more for a product with ingredients that purport to be “Pure” or “100% Pure,” and they expect that product to be free of any other ingredients or contaminants.

105. Consumers are willing to pay more for a product with ingredients that purport to be “Natural” or “All-Natural,” and they expect that product to be free of any synthetic chemicals, including pesticides.

106. In making the false, misleading, and deceptive representations and omissions at issue, Defendant also knew and intended that consumers would pay more for “Pure” or “100% Pure” products that are free of additional ingredients or contaminants than consumers would pay for products that are not “Pure” or “100% Pure,” furthering Defendant’s private interest of increasing sales of its products and decreasing the sales of the pure and/or glyphosate-free products that are truthfully marketed by its competitors.

107. In making the false, misleading, and deceptive representations and omissions at issue, Defendant also knew and intended that consumers would pay more for “Natural” or “All-natural” products that are free of unnatural agents than consumers would pay for products that are not “Pure” or “100% Pure,” furthering Defendant’s private interest of increasing sales of its products and decreasing the sales of the all-natural and/or glyphosate-free products that are truthfully marketed by its competitors.

108. Defendant knows that consumers prefer “Pure” or “100% pure” products and

foods that do not contain other ingredients or contaminants. Defendant knows that consumers will pay more for “Pure” or “100% pure” foods or would not purchase the foods at all unless they were “Pure” or “100% pure” and free from other ingredients or contaminants, including unnatural and dangerous chemicals, like glyphosate.

109. Defendant knows that consumers prefer “Natural” or “All-natural” products and foods that do not contain dangerous or potentially dangerous chemicals. Defendant knows that consumers will pay more for “Natural” or “All-natural” foods or would not purchase the foods at all unless they were “Natural” or “All-natural” and free from unnatural and dangerous chemicals, like glyphosate.

110. Similarly, independent surveys confirm that consumers will purchase more “Natural” products than conventional products, and will pay more for “Natural” products.

111. Upon information and belief, Defendant has failed to remedy the problem with Sue Bee Products, thus causing future harm to consumers.

112. Consumers are at risk of real, immediate, and continuing harm if Sue Bee Products continue to be sold as is, and without adequate disclosure of the presence of glyphosate and of the health effects of ingesting glyphosate.

113. Defendant has failed to provide adequate relief to members of the consuming public as of the date of filing this Complaint.

114. Plaintiffs contend that Sue Bee Products were sold pursuant to unfair and unconscionable trade practices because the sale of the products offends public policy and is immoral, unethical, oppressive, unscrupulous, and caused substantial economic injuries to consumers.

115. Reasonable consumers do not expect Sue Bee Products, represented and advertised as “Pure,” “100% Pure,” “Natural,” and “All-Natural,” to contain unnatural chemicals or ingredients such as glyphosate.

116. Defendant’s statements and other representations convey a series of express and

implied claims and/or omissions which Defendant knows are material to the reasonable consumer in making a purchasing decision, and which Defendant intended for consumers to rely upon when choosing to purchase Sue Bee Products.

117. Defendant misrepresented the nature, quality, and/or ingredients of Sue Bee Products and/or failed to adequately disclose the health risks of ingesting the glyphosate contained in the products, which was and is false, misleading, and/or likely to deceive reasonable consumers.

118. Accordingly, Plaintiffs OCA and Beyond Pesticides seek declaratory relief in the form of an order declaring Defendant's conduct to be unlawful, as well as injunctive and equitable relief putting an end to Defendant's misleading and unfair business practices, including clear and full disclosure of the presence of glyphosate in Sue Bee Products and of the health effects of ingesting glyphosate, and/or a reformulation of Sue Bee Products so that the products no longer contain glyphosate.

CAUSE OF ACTION

VIOLATION OF THE DISTRICT OF COLUMBIA CONSUMER PROTECTION PROCEDURES ACT

119. Pursuant to D.C. Code §§ 28-3905(k)(1) and 28-3905(k)(2), the OCA brings this Count against Defendant on behalf of the general public of the District of Columbia, for Defendant's violation of DC CPPA, D.C. Code § 28-3901, *et seq.*

120. Plaintiffs incorporate by reference all the allegations of the preceding paragraphs of this Complaint.

121. Defendant has labeled and advertised Sue Bee Products as "Pure" or "100% Pure" and has otherwise presented an image and marketing materials suggesting that the products are pure, when in fact the products contain an unnatural chemical biocide.

122. Defendant has labeled and advertised Sue Bee Products as "Natural" or "All-Natural" and has otherwise presented an image and marketing materials suggesting that the products are natural, when in fact the products contain an unnatural chemical biocide.

123. Defendant's labeling and advertising of Sue Bee Products misrepresents, tends to mislead, and omits facts regarding the source, characteristics, standard, quality, and grade of the products.

124. Defendant's misleading labeling and advertising include statements that Sue Bee Products are "Pure," "100% Pure," "Natural," and "All-Natural."

125. Defendant's labeling and marketing materials make representations that tend to mislead reasonable consumers into believing that Sue Bee Products are "Pure" or "100% Pure" and do not contain anything other than honey.

126. Defendant's labeling and marketing materials make representations that tend to mislead reasonable consumers into believing that Sue Bee Products are "Natural" or "All-Natural" and do not contain any unnatural chemicals.

127. The representations omit the truth about Sue Bee Products, namely, that the products contain glyphosate.

128. Sue Bee Products lack the characteristics, ingredients, benefits, standards, qualities, or grades that Defendant states and implies in its labeling and advertisements.

129. These misstatements, innuendo, and omissions are material and have the tendency to mislead.

130. Defendant did not sell Sue Bee Products as advertised.

131. The facts as alleged above demonstrate that Defendant has violated the DC CPPA, D.C. Code § 28-3901 *et seq.* Specifically, Defendant has violated D.C. Code § 28-3904, which makes it an unlawful trade practice to:

- (a) represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have; . . .
- (d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;
- (e) misrepresent as to a material fact which has a tendency to mislead;

- (f) fail to state a material fact if such failure tends to mislead;
- (f-1) [u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead; ... [or]
- (h) advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered.

132. The DC CPPA makes such conduct an unlawful trade practice “whether or not any consumer is in fact misled, deceived or damaged thereby.” D.C. Code § 28-3904.

133. Though Plaintiffs need not show proof of deception to succeed on their DC CPPA claim, consumers were in fact deceived. Defendant knew or should have known that reasonable consumers would believe that Sue Bee Products were “Pure,” “100% Pure,” “Natural,” and/or “All-Natural,” as labeled and advertised.

134. Plaintiffs have a sufficient nexus to consumers of Sue Bee Products to adequately represent those interests.

135. Because Defendant misrepresents the characteristics, ingredients, and benefits of the Products; misrepresents the standard, quality, and grade of Sue Bee Products; misrepresents and fails to state in ways which tend to mislead reasonable consumers with regard to material facts about the products; and advertises Sue Bee Products without selling the Products as advertised, Defendant’s labeling and marketing of Sue Bee Products as “Pure” and “100% Pure” violates D.C. Code §§ 28-3904(a), (d), (e), (f), (f-1), and (h).

136. Because Defendant misrepresents the characteristics, ingredients, and benefits of the Products; misrepresents the standard, quality, and grade of Sue Bee Products; misrepresents and fails to state in ways which tend to mislead reasonable consumers with regard to material facts about the products; and advertises Sue Bee Products without selling the products as advertised, Defendant’s labeling and marketing of Sue Bee Products as “Natural” and “All-Natural” violates D.C. Code §§ 28-3904(a), (d), (e), (f), (f-1), and (h).

137. Defendant is a “person” within the meaning of D.C. Code § 28-3901(a)(1), and is a merchant under § 28-3901(a)(3), and provides “goods” within the meaning of § 28-3901(a)(7).

138. Pursuant to D.C. Code § 28-3905(k)(1)(C), “[a] nonprofit organization may, on behalf of itself or any of its members, or on any such behalf and on behalf of the general public, bring an action seeking relief from the use of a trade practice in violation of a law of the District, including a violation involving consumer goods or services that the organization purchased or received in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.”

139. Pursuant to D.C. Code § 28-3905(k)(1)(D)(i), “a public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.”

140. Via §§ 28-3905(k)(1)(C) and (k)(1)(D)(i), the DC CPPA allows for non-profit organizational standing and public interest organizational standing to the fullest extent recognized by the D.C. Court of Appeals in its past and future decisions addressing the limits of constitutional standing under Article III.

141. Plaintiffs OCA and Beyond Pesticides are “person[s]” within the meaning of D.C. Code § 28-3901(a)(1) and “non-profit organization[s]” within the meaning of D.C. Code § 28-3901(a)(14). Plaintiff OCA is a “public interest organization” within the meaning of D.C. Code § 28-3901(a)(15).

142. Plaintiffs bring this Count against Defendant for Defendant’s violation of the DC CPPA, D.C. Code § 28-3901 *et seq.*

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs OCA and Beyond Pesticides pray for judgment against Defendant and request the following relief:

- A. a declaration that Defendant’s conduct is in violation of the DC CPPA;
- B. an order enjoining Defendant’s conduct found to be in violation of the DC CPPA,

as well as corrective advertising;

C. an order granting Plaintiffs' costs and disbursements, including reasonable attorneys' fees and expert fees, and prejudgment interest at the maximum rate allowable by law; and

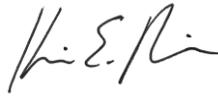
D. such further relief, including equitable relief, as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a trial by jury.

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