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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

9 **COUNTY OF LOS ANGELES**

10 _____) **Case No :**
11 **ELVIS MIRZAIE, an individual,)**
12 **EDISON MIRZAIE, an individual,)** CLASS ACTION
13 **ROMI MIRZAIE, an individual,)** COMPLAINT FOR DAMAGES,
14 **on behalf of themselves and all)** PRELIMINARY INJUNCTION,
15 **others similarly situated,)** AND PERMANENT INJUNCTION;
16 ***Plaintiffs,*)** FALSE AND MISLEADING
17 **vs.)** ADVERTISING [B&P Code §17500].
18 **MONSANTO COMPANY,)**
19 **a Delaware corporation;)**
20 **DOES 1 – 99, inclusive,)**
21 ***Defendants.*)**
22 _____) *PLAINTIFFS DEMAND JURY TRIAL.*

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☞ JURISDICTIONAL ALLEGATIONS ☞

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2 (1) Plaintiffs, ELVIS MIRZAIE, EDISON MIRZAIE, and ROMI MIRZAIE,
3 are natural persons and residents of Los Angeles County. Plaintiffs bring this
4 lawsuit on behalf of themselves, as individuals, and on behalf of all other similarly
5 situated persons in California. Plaintiffs demand jury trial.

6 (2) Defendant, MONSANTO COMPANY, (“MONSANTO”), is a Delaware
7 corporation, Calif. Secretary of State Entity No. C2362863, in “active” status,
8 with a principal place of business in St. Louis, Mo. Defendant advertises and sells
9 goods in Los Angeles County.

10 (3) DOES 1 – 10 are herein sued under fictitious names; when their true names
11 are known, Plaintiff will amend. Along with the named Defendant, each DOE
12 Defendant is a proximate cause of Plaintiffs’ harm.

13 (4) The Stanley Mosk Branch of the Los Angeles Superior Court has proper
14 jurisdiction to hear this complaint because (a) Plaintiffs reside in Los Angeles
15 County, (b) Defendants advertise and sell goods in Los Angeles County, and
16 (c) this is a class action complaint.

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❧ CLASS ACTION ALLEGATIONS ❧

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2 (5) The Controversy: Defendant makes the claim that Roundup, the world’s
3 most popular weedkiller, works by targeting an enzyme supposedly found only
4 in plants, *but not in people*. And this is blatantly false. Contrary to Defendant’s
5 claim, Roundup targets an enzyme found in both plants and people. Therefore,
6 where Defendant advertises that Roundup targets an enzyme “not found in people,”
7 such claim is objectively false and inherently misleading. Plaintiffs seek a court
8 order that strikes the offending slogan from all Roundup labels.

9 (6) Statutory Basis: Plaintiffs bring this class action lawsuit, under CCP §382,
10 on behalf of themselves and all other similarly situated persons who purchased
11 Roundup, in California, during the last four years.

12 (7) Plaintiff Class Defined: Plaintiffs propose this straightforward definition for
13 class certification: “*All persons who purchased Roundup, or Roundup-related*
14 *products, in California, at any time during the last four years.*”

15 (8) Common Questions of Law & Fact: Common questions of law and fact
16 affect all class members and predominate over questions involving individuals.
17 Plaintiffs present the following questions, which resolve all material issues in
18 this lawsuit--

19 (a) Which enzyme does Roundup target?

20 → Roundup targets the enzyme, *EPSP synthase*.

21 (b) Which organisms produce the enzyme that Roundup targets?

22 → The targeted enzyme, *EPSP synthase*, is produced by
23 weeds, plants, bacteria, fungi, algae, and other microbes.

24 (c) Are these organisms—which produce the enzyme that Roundup
25 targets—found in people?

26 → Yes, over one hundred trillion bacteria that produce the
27 targeted enzyme, *EPSP synthase*, can be found in people—
28 and this is indisputable.

1 (9) Numerosity: The number of prospective Plaintiff Class members is so
2 large that it is impractical to bring them all before the Court. Plaintiffs anticipate
3 thousands and thousands of class members.

4 (10) Community of Interest: There are no affirmative defenses that Defendants
5 may assert against some, but not all members. Class action treatment in no way
6 impairs Defendant’s ability to defend any given class member claim.

7 (11) Superiority Requirement: Class action treatment is the superior method for
8 adjudicating this controversy. In order to benefit, protect, and advance consumer
9 rights, Plaintiffs urge the Court to certify this lawsuit as a class action.

10 (12) Typicality Requirement: Plaintiffs’ claims include all claims that any given
11 consumer might reasonably assert under like circumstances.

12 (13) Finite and Ascertainable Class: Plaintiff Class consists of a finite and
13 ascertainable group of consumers whom the Court can easily contact for purposes
14 of class certification.

15 (14) Fair & Adequate Representation: As advocates for consumer rights,
16 Plaintiffs will protect and safeguard the interests of all. Plaintiffs anticipate no
17 difficulties in maintaining this litigation as a class action.

18 (15) Substantial Benefits: To certify this litigation as a class action brings
19 “substantial benefits” to the general public and to California; Plaintiffs are thus
20 entitled to an attorney’s fees award under CCP §1021.5.

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☞ CAUSE of ACTION No. 1 ☞

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2 (16) Plaintiff brings Cause of Action No. 1, for violation of Bus. & Prof. §17500,
3 false and misleading advertising, as against all Defendants.

4 (17) Bus. & Prof. §17500 prohibits businesses from making false or misleading
5 claims concerning goods sold in California.

6 (18) Defendant manufactures Roundup, the world’s most popular weedkiller.
7 Roundup’s active ingredient is a potent “biocide” called glyphosate, which inhibits
8 weeds from producing a certain enzyme they need in order to live.

9 (19) Glyphosate inhibits production of the enzyme, *EPSP synthase*, which is
10 produced by weeds, plants, bacteria, fungi, algae, and billions of various microbes.
11 Glyphosate works by inhibiting weeds from producing *EPSP synthase*—and once
12 rendered unable to produce this enzyme—weeds cannot uptake minerals, nor can
13 they make proteins from amino acids, and weeds then starve to death.

14 (20) This lawsuit challenges a specific claim that appears on all Roundup labels,
15 [See Exhibit No. 1], which reads...

16 “GLYPHOSATE TARGETS AN ENZYME FOUND IN PLANTS
17 BUT NOT IN PEOPLE OR PETS.”

18 ...and this claim is absolutely, positively false because glyphosate does indeed
19 target an enzyme “found in people.” Produced within our bodies, the targeted
20 enzyme is in fact “found in people”—in our gut bacteria. Defendant’s claim is
21 plainly false because the targeted enzyme, factually speaking, is “found in people,”
22 specifically, in our stomachs and intestines.

23 (21) Because the enzyme that glyphosate targets is indeed *found in people*—
24 in our gut bacteria—it is therefore objectively false (and inherently misleading)
25 for Defendant to claim that glyphosate targets an enzyme *not* found in people.
26 The truth is, glyphosate targets an enzyme that is indisputably *found in people*—
27 and based on this material fact, which Defendant cannot deny, Plaintiffs’ lawsuit
28 here prevails at this juncture.

1 (22) Defendant cannot deny that Roundup targets an enzyme that is physically
2 located inside of people and this fact lay beyond dispute. The precise falsehood
3 comes with Defendant’s choice of words, “found in,” because the targeted enzyme
4 is indeed “found in” people, specifically, in our gut bacteria, a.k.a. “microbiota.”

5 (23) Commonly called gut bacteria, or gut flora, the proper term “microbiota”
6 refers to the innumerable microbial colonies—over one hundred trillion—that dwell
7 inside our stomachs and intestines. The total microbiota “found in” humans can
8 weigh up to 5 lbs.—with fully one-third of our microbiota common to all humans—
9 and many consider it an organ (just like the heart or lungs). Our microbiota are
10 responsible for digestion, metabolism, and healthy immune system function.

11 (24) Glyphosate is a “non-selective” weedkiller, meaning it kills indiscriminately
12 based only on whether a given organism produces the enzyme, *EPSP synthase*.
13 Most significantly, because our gut bacteria produce *EPSP synthase*, this means
14 that our gut bacteria are vulnerable to being killed-off by glyphosate.

15 (25) Just like it inhibits backyard weeds from producing *EPSP synthase*—
16 glyphosate also inhibits our gut bacteria from producing it, and in both cases,
17 the end result is the same; inability to produce the enzyme spells death for both
18 backyard weeds and gut bacteria. The same chemistry that kills backyard weeds
19 likewise kills gut bacteria, and this bacteria kill-off compromises our digestion,
20 metabolism, and vital immune system functions.

21 (26) Sprayed as a liquid, (not a “dust”), plants absorb glyphosate directly through
22 their leaves, stems, and roots and detectable quantities accumulate in plant tissues.
23 When we eat crops sprayed with glyphosate, we ingest glyphosate, and detectable
24 quantities accumulate in our tissues. The industry pretends that only a tad of
25 glyphosate lingers on the *outside* of the food, as “topical residue,” while ignoring
26 “systemic residue” *inside* the food. Glyphosate “bio-accumulates”—our bodies
27 store it up—and there is no safe threshold for its accumulation. Glyphosate has
28 been detected in urine, blood, even breast milk—and 75% of rainwater samples.

1 (27) In addition to its use as weedkiller, glyphosate also has an “off-label” use—
2 to prematurely “ripen” crops. Ever anxious to get crops to market, farmers now
3 accelerate the “ripening” process by using a smidgeon of glyphosate, just before
4 harvest time, to partially starve the crops, which mimics the “ripening” process.

5 (28) In 2013, EPA raised minimum glyphosate levels for crops and this opened
6 the floodgates for glyphosate. Despite industry rhetoric about *less* pesticide use,
7 our world today is saturated with *more* glyphosate than ever before.

8 (29) Today, glyphosate is ubiquitous. Each year, approx. 250 millions pounds
9 are sprayed on crops, suburban lawns, parks, and golf courses. Driven mainly by
10 proliferation of genetically engineered crops, glyphosate use now skyrockets.

11 (30) Defendant genetically engineers crops to make them glyphosate tolerant,
12 *i.e.*, “Roundup Ready.” And while these genetically engineered crops may be
13 glyphosate tolerant, our gut bacteria most certainly are not.

14 (31) Glyphosate is a “biocide,” essentially an “antibiotic,” which means that most
15 Americans eat “antibiotics” at every meal. Some believe that glyphosate causes
16 “antibiotic-resistant” bacterial infections, and many folks take dietary supplements,
17 “*probiotics*,” to replenish the beneficial gut bacteria that glyphosate kills.

18 (32) As farmers spray ever more glyphosate, season after season, some weeds
19 become resistant and fields are then overgrown with “superweeds.” This same
20 phenomenon also occurs in our stomachs and intestines; as we ingest ever more
21 glyphosate, meal after meal, some gut bacteria become resistant and our bodies
22 are then overgrown with these heartier microbes—essentially “superweeds.”
23 And when this happens, the resulting imbalance allows opportunistic pathogens
24 to rise-up and spread disease throughout our bodies.

25 (33) Because glyphosate kills-off gut bacteria that regulate *digestive functions*,
26 many believe it is responsible for America’s chronic indigestion, and because it
27 kills-off gut bacteria that regulate *immune system functions*, many believe
28 glyphosate is responsible for America’s chronic auto-immunity disorders.

1 (34) Because it kills-off our gut bacteria, glyphosate is linked to stomach and
2 bowel problems, indigestion, ulcers, colitis, gluten intolerance, insomnia, lethargy,
3 depression, Crohn’s Disease, Celiac Disease, allergies, obesity, diabetes, infertility,
4 liver disease, renal failure, autism, Alzheimer’s, endocrine disruption, and the
5 W.H.O. recently announced it is “probably carcinogenic.” (Many believe that the
6 EPA has known, for at least 30 years, of glyphosate’s cancer-causing potential.)

7 (35) Defendant also conceals the fact that *EPSP synthase* is “found in” our pets,
8 *e.g.*, dogs and cats, in their gut bacteria, which of course regulate canine and feline
9 digestion, metabolism, and vital immune system function.

10 (36) In addition to being *objectively false*, Defendant’s advertising claim is also
11 *inherently misleading* because it creates the misimpression that glyphosate has no
12 affect on people or pets, when in reality, it directly affects both people and pets—
13 by killing-off beneficial gut bacteria.

14 (37) The fact that all Roundup labels bear the same false and misleading slogan,
15 [See Exhibit No. 1], demonstrates Defendant’s intent to misinform the public.
16 Plaintiffs detrimentally relied on Defendant’s false claims.

17 (38) When they purchased Roundup, Plaintiffs believed that glyphosate targets
18 and kills only the weeds in our backyards, but Plaintiffs now know the real world
19 truth, *i.e.*, that glyphosate also targets and kills the “weeds” in our digestive systems,
20 which contain beneficial gut bacteria that our bodies require for proper digestion,
21 metabolism, and healthy immune system function.

22 (39) Plaintiffs are entitled to judgment because Defendant cannot deny that our
23 digestive systems contain bacteria that produce *EPSP synthase*, which glyphosate
24 inhibits, and Plaintiffs must therefore prevail. As a direct result of Defendant’s
25 false claims, Plaintiffs were led to believe that Roundup would not affect them,
26 but their beliefs were based on Defendant’s falsehoods. Plaintiffs accrue harm for
27 which they seek money damages in an amount to be determined at trial, plus costs,
28 expenses, and attorney’s fees under Bus. & Prof. §17500 and CCP §1021.5.

1 (40) Defendant continues to sell Roundup with false and misleading labeling;
2 therefore, Plaintiffs seek a court order to prohibit Defendant from ever again
3 falsely claiming that glyphosate targets an enzyme, “*not found in people or pets.*”
4 Unless restrained by court order, Defendant will continue to mislead others.

5 (41) Plaintiffs will now reveal the multi-layered deception that underpins the
6 claim, “Glyphosate targets an enzyme found in plants, but not in people or pets.”
7 [See Exhibit No. 1] Remarkably, this 13-word sentence contains a grand total of
8 three material falsehoods--

9 (i) “found in” – Defendant’s claim that glyphosate targets an enzyme
10 not “found in” people is of course plainly false; as above stated,
11 *EPSP synthase* is indeed “found in” people.

12 (ii) “an enzyme” – Defendant’s claim that glyphosate targets “an”
13 enzyme is false; the truth is, glyphosate also inhibits production of
14 *other* plant and animal “enzymes”—plural, not singular.

15 (iii) “targets” – Defendant’s claim that glyphosate “targets” is false;
16 glyphosate is a “non-selective” weedkiller that kills indiscriminately;
17 in other words, it “targets” nothing.

18 (42) Glyphosate is a patented “biocide”—*i.e.*, it “kills life.” Defendant misleads
19 the general public by concealing the truth about (a) glyphosate, and (b) the enzyme,
20 *EPSP synthase*, namely, (i) that *EPSP synthase* is “found in” people and pets;
21 (ii) that glyphosate inhibits production of many *other* plant and animal enzymes;
22 and (iii) that glyphosate lacks the ability to target with specificity. Glyphosate is
23 an indiscriminate killer that broadly kills—and the individual glyphosate molecules
24 have no way of knowing whether they’re killing weeds in our backyards or weeds
25 in our digestive systems. Defendant conceals these important facts, and therefore,
26 C.C. §3294 requires “punitive damages” to encourage honest labeling.

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☞ PRAYER for RELIEF ☞

WHEREFORE, Plaintiffs prays for judgment against Defendant, and each of them, in the following manner:

- (i) for certification of this lawsuit as a class action;
- (ii) for an award of judgment on all causes of action;
- (iii) for a preliminary and permanent injunction prohibiting Defendant, MONSANTO, from advertising that Roundup, and/or glyphosate, targets and/or inhibits enzymes “*not found in people or pets.*”
- (iv) for an award of money damages as compensation to Plaintiffs;
- (v) for costs and expenses of this lawsuit, and for reasonable attorney’s fees as per Bus. & Prof. §17500 and CCP §1021.5;
- (vi) for punitive and exemplary damages, as per C.C. §3294;
- (vii) for such other and further relief as the Court, in its discretion, may deem just and proper.

Dated: **April 20, 2015**

LAW OFFICES OF T. MATTHEW PHILLIPS

J. Matthew Phillips

T. Matthew Phillips, Esq.
Plaintiff Class Counsel.

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☞ VERIFICATION ☞

(1) My name is ELVIS MIRZAIE and I am a Plaintiff herein. I have read this lawsuit and I am familiar with the allegations, which are true of my own personal knowledge, except as to those matters alleged on information and belief, and as to those matters, I reasonably believe them to be true.

(2) Attached hereto as Exhibit No. 1 is a true and correct photograph of the challenged advertising statement, which appears on Plaintiffs' Roundup label, and on all Roundup labels in California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is both true and correct.

Dated: **April 20, 2015**



Elvis Mirzaie, *Plaintiff*

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