RETURN DATE: OCTOBER 6, 2009

SUPERIOR COURT

**Kathy Cardinale**, individually and on behalf of others similarly situated

JUDICIAL DISTRICT OF STAMFORD-NORWALK

v.

Quorn Foods Inc.

**SEPTEMBER 15, 2009** 

### Complaint - Class Action

**Kathy Cardinale** ("Plaintiff" or "Cardinale") individually and on behalf of others similarly situated, brings this class action against **Quorn Foods Inc.** ("Quorn").

- 1. Cardinale is an individual residing in Gilbert, Arizona who sues both for herself, individually, and on behalf of all persons in the United States who purchased any Quorn product in the three years preceding the date this lawsuit is commenced to the date of certification.
- 2. Quorn Foods, Inc. ("Quorn") is a Delaware corporation whose principal place of business is 12 Avery Place, Westport, Connecticut 06880.
- 3. Quorn's principal place of business is within this District. Quorn has systematically done business in this District, through its relationships with retailers and through other actions.

- 4. Whenever in this Complaint it is alleged that Quorn did any act, it is meant that Quorn performed or participated in the act, or the officers, agents, or employees of Quorn performed or participated in the act, with the actual, vicarious, or imputed authority of Quorn.
- 5. All conditions precedent to the commencement of this case have been performed, have occurred, or have been satisfied. Specifically, Cardinale gave notice to counsel for Quorn that detailed her illness after consuming Quorn, that she would not have purchased or consumed Quorn if there had been a warning on the product label, and that asked Quorn to place a warning on its product label.
- 6. Quorn is the trade name for a variety of frozen meatless food products made by Quorn Foods' parent company Marlow Foods Ltd., a British entity.
- 7. Quorn is not a traditional or natural food product. Instead, Quorn is a proprietary processed, vat-grown, soil fungus, combined with flavorings, binders, and other substances.
- 8. Some people can consume Quorn products safely, but some people have dangerous allergic reactions to Quorn products and suffer nausea, vomiting, diarrhea, and occasionally hives, difficulty breathing, or anaphylactic reactions. Some people

react the first time they eat Quorn, while some react after eating several meals of Quorn because their bodies develop sensitivities to it.

- 9. It is typically difficult to identify the cause of an allergic reaction. Many consumers become sick several times before linking Quorn to the reaction.
- 10. Medical studies have proven that Quorn's processed fungal ingredient is an allergen, though the fungal ingredient conceivably also could have a toxic effect in some people. The first evidence that Quorn causes nausea, vomiting, and stomachache came in 1977 from a clinical study conducted by the developer of Quorn. That research was never published. In subsequent years, more research has demonstrated that Quorn causes gastrointestinal and other adverse reactions, including hives and breathing difficulties.
- 11. Quorn markets its products as being similar to mushrooms, truffles, and morels. In fact, although also a member of the fungus kingdom, Quorn is not made from a normal edible mushroom or fungus, but from a soil mold called Fusarium venenatum (the word derives from the Latin word for venomous). Thus, Quorn markets its products in a deceptive manner, in addition to its failure to disclose the allergenicity of its products.

- 12. The website for Quorn advises people that there is potential for anyone with an allergy or sensitivity to any type of fungi (e.g., mushrooms, molds, and penicillin) to experience a reaction to the fungus in Quorn products. However, many people who did not have an allergy or sensitivity to any type of fungus or fungal product experienced reactions to Quorn products, and Quorn's website fails to warn all people of the potential risks of consuming its products.
- 13. Although labels for Quorn contain warnings about well-know allergens (including egg, milk, and wheat), the labels are silent about the Quorn-specific fungus risk.
- 14. Adverse reactions to Quorn are as common as, or more common than, allergic reactions to eggs, milk, nuts, fish, and other common food allergens. However, Quorn chooses not to warn consumers of the unique risks of eating its products.
- 15. Cardinale was unaware of these risks when she bought Quorn Chik'n Patties at the Harvest Food Coop in Jamaica Plain, Massachusetts in April 2008.

<sup>&</sup>lt;sup>1</sup> Quorn, Allergy Information, http://www.quorn.us/cmpage.aspx?pageid=490 (last visited Aug. 25, 2009).

- 16. On three separate occasions (April 11, 2008, April 25, 2008, and May 7, 2008), Cardinale ate Quorn Chik'n Patties. Each time, within two hours, she became violently ill. The pain was so bad that it felt like the soles of Cardinale's feet were going to come out of her mouth.<sup>2</sup> The last time she ate Quorn, Cardinale vomited seven to eight times within two hours. Dizziness made it difficult for Cardinale to get to and from the bathroom without falling.
- 17. The first two times Cardinale became sick, she thought she had contracted a stomach virus. After the third and final time Cardinale ate Quorn and became sick, she realized that Quorn was the cause of her sickness.
- 18. Cardinale sought medical attention on May 7, 2008, to find out why she had been experiencing flu-like symptoms over a one-month period. The doctor thought Cardinale had a virus and told Cardinale to return if the symptoms persisted.
- 19. When Cardinale arrived home the evening of May 7, 2008, she ate one of the Quorn Chik'n Patties for dinner. Cardinale became ill again. It was then that Cardinale realized that she was reacting to the Quorn patties and that she did not have the flu or a stomach virus.

<sup>&</sup>lt;sup>2</sup> CSPI Online Quorn Adverse Reaction Report Form for Kathy Cardinale, May 5, 2008.

- 20. If Quorn had warned of the risks of developing the kind of problems she experienced, Cardinale would not have purchased or consumed the product.
- 21. Cardinale went online to find the Quorn website, intending to file a complaint and to inform Quorn that one of its product batches was tainted. She found CSPI's online Quorn adverse reporting report site first.
- 22. From CSPI's website, Cardinale learned that Quorn products are gastrotoxic and can cause severe illness. She realized that this was a pervasive and consistent problem that was not unique to the particular batch of Quorn product that she consumed.
- 23. In the face of refusal by Quorn to warn consumers of the risk of its product, Cardinale must bring this lawsuit.

### **Class Action Allegations**

24. Cardinale sues on her own behalf and, as class representative, sues on behalf of all persons in the United States who purchased any Quorn product in the period from three years preceding the date this lawsuit is commenced to the date of certification. This action does not seek relief for any claims for economic or personal

injury that any member of the class asserted, or could assert, against Quorn for any reason.

- 25. Cardinale brings this lawsuit as a class action because, on information and belief: (1) the class is so numerous that joinder of all members is impracticable; (2) there are questions of law and fact common to the class; (3) Cardinale's claims are typical of the claims of the class; and (4) Cardinale can and will fairly and adequately protect the interests of the class.
- 26. Questions of whether, and to what extent, Quorn engaged in the practices described herein, whether they did so intentionally or knowingly, and whether they thereby violated the law, will be common to all members of the class.
- 27. It is appropriate to maintain this lawsuit as a class action because Quorn acted on grounds generally applicable to the class, thereby making both preliminary and final injunctive and declaratory relief appropriate with respect to Cardinale and to the class as a whole.
- 28. Cardinale's claims are typical of the claims of the class as a whole. She can and will fairly and adequately protect the interests of the class. Cardinale has retained experienced counsel to represent the class; she has no conflict of interest with the class;

and she brings this lawsuit specifically for the protection of other consumers who have been and will be damaged by these practices, and not simply to recover personal damages.

- 29. Cardinale may sue as a representative party on behalf of all members of the class because: (1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) Cardinale's claims are typical of the claims of the class, and (4) Cardinale will fairly and adequately protect the interests of the class.
- 30. In the alternative to maintaining this action as a class action for all purposes, this action may be maintained as a partial class action, with respect to the particular and common issue of determining liability.

# COUNT ONE - VIOLATION OF THE CONNECTICUT UNFAIR TRADE PRACTICES ACT

1-30. Plaintiff hereby incorporates Paragraphs 1 through 30 as if more fully set forth herein.

- 31. Quorn engaged in false, misleading, and deceptive practices in violation of the Connecticut Unfair Trade Practices Act ("CUTPA"),<sup>3</sup> on which Cardinale and other class members relied to their detriment.
- 32. Pursuant to CUTPA § 42-110g(a), Cardinale, a person who suffered an ascertainable loss of money as a result of Quorn's acts or practices prohibited by section 42-110b, brings this action to recover actual damages.
- 33. Pursuant to CUTPA § 42-110g(d), Cardinale seeks an order, in addition to damages for herself, for injunctive relief from Quorn's acts or practices prohibited by section 42-110b.
- 34. Pursuant to CUTPA § 42-110g(a), Cardinale seeks all other relief that the Court deems necessary or proper.
- 35. Cardinale does not seek economic, mental, or personal injury damages for her or other class members.

### COUNT TWO - Money Had and Received

1-30. Plaintiff hereby incorporates Paragraphs 1 through 30 as if more fully set forth herein.

<sup>&</sup>lt;sup>3</sup> Conn. Gen. Stat. §§ 42-110a-42-110q.

- 31. Quorn received money belonging to Cardinale. Quorn benefited from the receipt of the money. Quorn is thereby obligated to make restitution to Cardinale, for which Cardinale hereby prays.
- 32. Quorn received money belonging to other class members and benefited from receipt of the money, and therefore is obligated to make restitution to other class members whose identities Quorn knows or can ascertain, for which Cardinale hereby prays.

## WHEREFORE, Plaintiff seeks:

- 1. A declaratory judgment pursuant to Conn. Gen. Stat. § 52-29, declaring that (1) Quorn engaged in the practices described herein, (2) these practices violate CUTPA and the CUCC, and (3) Quorn is obligated to make restitution for money had and received.
- 2. A permanent injunction preventing Quorn from engaging in the illegal practices described herein and directing the equitable restitution sought herein.
- 3. Money damages for her ascertainable loss of money as a result of Quorn's acts or practices. The amount in demand is less than \$2,500, exclusive of interest and costs.
- 4. Reasonable and necessary attorney fees as provided in CUTPA § 42-110g(d).
  - 5. Upon notice and hearing, certification of this action as a class action.
- 6. Upon final trial of this cause, a Declaratory Judgment declaring that the practices complained of herein are illegal and a Permanent Injunction enjoining Quorn from engaging in the illegal practices set forth herein and directing the restitution sought herein.

- 7. Upon final trial of this cause, an award of the class judgment as sought herein.
  - 8. Class attorneys' fees and costs of court.
- 9. Pre-judgment and post-judgment interest on the restitution at the maximum rate permitted at law or at equity.
- 10. All other relief to which they may show themselves entitled, or which the Court deems proper.

PLAINTIFF, Kathy Cardinale, individually and on behalf of others similarly situated,

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Daniel S. Blinf

Matthew W. Graeber

Consumer Law Group, LLC

35 Cold Spring Road, Suite 512

Rocky Hill, CT 06067-9997

Tel. (860) 571-0408; Fax (860) 571-7457

Juris No. 414047

Stephen Gardner, Director of Litigation Center for Science in the Public Interest 5646 Milton Street, Ste. 211 Dallas, Texas 75206 Tel (214) 827-2774; Fax (214) 827-2787