

IN THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT, IN AND
FOR MIAMI-DADE COUNTY, FLORIDA

JACLYN CASSIDY individually and on
behalf of all others similarly situated

Plaintiff,

v.

REAL GOOD FOODS, LLC.,

Defendant.

Case No. 2024-006078-CA-01

ANSWER AND AFFIRMATIVE DEFENSES TO CLASS ACTION COMPLAINT

Defendant REAL GOOD FOODS, LLC (“Defendant”), by its attorneys WILSON ELSER MOSKOWITZ EDEMAN & DICKER, LLP, hereby answers Plaintiff’s Class Action Complaint (the “Complaint”) upon information and belief as follows:

AS TO NATURE OF THE ACTION

1. Paragraph “1” sets forth a legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.
2. Defendant denies each and every allegation set forth in paragraph “2” of the Complaint.
3. Paragraph “3” sets forth a legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.

AS TO PARTIES

4. Defendant denies having knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “4” of the Complaint.

5. Defendant denies each and every allegation set forth in paragraph “5” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

AS TO JURISDICTION AND VENUE

6. Paragraph “6” sets forth a legal conclusion that does not require a response legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.

7. Defendant denies each and every allegation set forth in paragraph “7” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

8. Defendant denies having knowledge and information sufficient to form a belief as to the truth of the allegations set forth in paragraph “8” of the Complaint.

AS TO FACTS

9. Defendant denies each and every allegation set forth in paragraph “9” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

10. Defendant denies each and every allegation set forth in paragraph “10” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

11. Defendant denies each and every allegation set forth in paragraph “11” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

12. Defendant denies each and every allegation set forth in paragraph “12” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

13. Defendant denies each and every allegation set forth in paragraph “13” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

14. Defendant denies each and every allegation set forth in paragraph “14” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

15. Defendant denies each and every allegation set forth in paragraph “15” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

16. Defendant denies each and every allegation set forth in paragraph “16” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

17. Defendant denies each and every allegation set forth in paragraph “17” of the Complaint and refers all questions of law and act to the Court and/or factfinder.

18. Defendant denies the allegations set forth in paragraph “18” of the Complaint.

19. Defendant denies the allegations set forth in paragraph “19” of the Complaint.

20. Defendant denies the allegations set forth in paragraph “20” of the Complaint.

21. Defendant denies the allegations set forth in paragraph “21” of the Complaint.

AS TO CLASS ALLEGATIONS

22. Paragraph “22” sets forth a legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.

23. Paragraph “23” sets forth a legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.

24. Paragraph “24” sets forth a legal conclusion that does not require a response. To the extent a response is required, Defendant denies each and every allegation.

25. Defendant denies each and every allegation set forth in paragraph “25” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

26. Defendant denies the allegations set forth in paragraph “26” of the Complaint.

27. Defendant denies each and every allegation set forth in paragraph “27” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

28. Defendant denies each and every allegation set forth in paragraph “28” of the

Complaint and refers all questions of law and fact to the Court and/or factfinder.

29. Defendant denies each and every allegation set forth in paragraph “29” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

30. Defendant denies each and every allegation set forth in paragraph “30” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

31. Defendant denies each and every allegation set forth in paragraph “31” of the Complaint and refers all questions of law to the Court and/or factfinder.

32. Defendant denies each and every allegation set forth in paragraph “32” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

33. Defendant denies each and every allegation set forth in paragraph “33” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

AS TO COUNT I
VIOLATION OF 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200 (d)
(On Behalf of Plaintiff and the Internal Do Not Call Class)

34. Defendant repeats and reiterates its answers to the preceding paragraphs of the Complaint as if set forth at length herein in response to paragraph “34” of the Complaint.

35. As to the allegations in Paragraph “35” of the Complaint, the document referenced therein speaks for itself.

36. As to the allegations in Paragraph “36” of the Complaint, the document referenced therein speaks for itself.

37. Defendant denies each and every allegation set forth in paragraph “37” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

38. Defendant denies each and every allegation set forth in paragraph “38” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

39. Defendant denies each and every allegation set forth in paragraph “39” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

40. Defendant denies each and every allegation set forth in paragraph “40” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

41. Defendant denies each and every allegation set forth in paragraph “41” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

42. Defendant denies each and every allegation set forth in paragraph “42” of the Complaint and refers all questions of law and fact to the Court and/or factfinder.

43. Defendant denies each and every allegation set forth in paragraph “43” of the Complaint.

44. Defendant denies each and every allegation set forth in paragraph “44” of the Complaint.

45. Defendant denies each and every allegation set forth in paragraph “45” of the Complaint.

46. Defendant denies each and every allegation set forth in paragraph “46” of the Complaint.

47. Defendant denies each and every allegation set forth in paragraph “47” of the Complaint.

48. Defendant denies each and every allegation set forth in paragraph “43” of the Complaint.

49. Defendant denies each and every allegation set forth in paragraph “43” of the Complaint.

FIRST AFFIRMATIVE DEFENSE

1. The Complaint fails to state a claim upon which relief can be granted against Defendant.

SECOND AFFIRMATIVE DEFENSE

2. Plaintiff's claims are barred by the applicable statute of limitations.

THIRD AFFIRMATIVE DEFENSE

3. Plaintiff has unreasonably delayed the commencement of this action to the substantial prejudice of Defendant, and by reason thereof, has been guilty of laches, and Plaintiff is thereby precluded from recovery in the within action.

FOURTH AFFIRMATIVE DEFENSE

4. Plaintiff's damages if any, were proximately caused and contributed to, in whole or in part, by the acts or omissions of others not named in this lawsuit; wherefore any recovery obtained by Plaintiff from Defendant should be reduced by an amount equal to the percentage of the fault of those unnamed persons.

FIFTH AFFIRMATIVE DEFENSE

5. Defendant established and implemented, with due care, reasonable practices and procedures to prevent telephone solicitations in violation of 47 U.S.C. § 227.

DEMAND FOR JURY TRIAL

The Defendant demands trial by jury in this action of all issues so triable.

WHEREFORE, Defendant respectfully prays that the Court enter judgment as follows:

1. Dismissing Plaintiff's Complaint in its entirety as against Defendant; and,
2. Granting the Defendant such other and further relief as this may be just and proper.

Dated: April 25, 2024

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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