

what they are claimed to be.¹ Products labeled by Defendant as red snapper and sockeye salmon in fact are substituted with cheaper, less environmentally sustainable, or less healthy fish.²

3. The OAG Seafood Fraud and Mislabeling Report concluded as follows:

Something fishy is going on at supermarket seafood counters. Consumers think they are buying lemon sole, red snapper, or wild salmon, or any one of dozens of seafood options. But too often, they get something else entirely. They unknowingly take home a cheaper, less environmentally sustainable, or less healthy fish. It's a bait-and-switch, which cheats consumers and violates consumer protection laws.³

4. Plaintiff and those similarly situated (“Class Members”) relied on Defendant’s labeling when purchasing the Products. Plaintiff and Class Members paid a premium for the Products over and above other fish Products because they believed that they were red snapper, and not a different snapper fish of an inferior grade and quality. Plaintiff and Class Members paid a premium for the Products over and above other fish Products because they believed that they were sockeye salmon, and not Coho salmon, a fish of inferior grade and quality. Given that Plaintiff and Class Members paid a premium for the Products based on Defendant’s misrepresentations that they were red snapper and sockeye salmon, Plaintiff and Class Members suffered an injury in the amount of the premium paid.

5. Defendant’s conduct violated and continues to violate, *inter alia*, New York General Business Law §§ 349 and 350. Defendant has been and continues to be unjustly enriched. Defendant also violated the implied warranty of fitness for a particular purpose.

¹ “Fishy Business: Seafood Fraud and Mislabeling in New York State Supermarkets” Report from the Office of the New York State Attorney General, December 2018, annexed hereto as Exhibit A (“the “OAG Seafood Fraud and Mislabeling Report”).

² *Id.* at p. 1; *see also id.* at p. B9.

³ *Id.* at p. 1.

Accordingly, Plaintiff brings this action against Defendant on behalf of herself and Class Members who purchased the Products in New York during the applicable statute of limitations period (the “Class Period”).

FACTUAL BACKGROUND

6. In 2015, the average American ate approximately 15.5 pounds of fish and other seafood.⁴ Because such foods are high in protein, low in dietary fat, and rich in omega-three fatty acids, the Food and Drug Administration (“FDA”) recommends that eating 8 to 12 ounces each week.⁵

7. As explained by the OAG Seafood Fraud and Mislabeling Report, some varieties of fish are in greater demand by consumers and consumers will pay a premium price for certain species of fish.⁶ According to the Report, “Factors beyond flavor and texture play a role in consumer choice, and consumers may favor certain species that they could not easily distinguish by appearance or taste alone.”⁷ Other seafood characteristics are also important to consumers, including: market reputation (consumers will pay a premium “for seafood that is in high demand and seen as a premium product”); nutritional and health differences (“[c]onsumers will select particular seafood species over others because of differences they perceive in their safety, nutrition, and wholesomeness”); and environmental sustainability concerns (“[e]co-conscious consumers will select seafood species based on their environmental sustainability”).⁸

⁴ *Id.* at p. 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at p. 2-3.

8. From late 2017 through 2018, the OAG undertook a major government investigation in New York to look into seafood fraud at retail supermarket chains. The OAG called the results “disturbing.”⁹ The OAG purchased seafood at 155 locations across 29 supermarket brands, falling into nine categories. An academic laboratory then identified the species using DNA testing approved by the FDA.¹⁰ Five supermarket brands were responsible for a large share of the mislabeling, one of which was Stew Leonard’s.¹¹

9. The OAG Seafood Fraud and Mislabeling Report described the mislabeling of certain species in New York supermarkets as “*rampant*,” particularly red snapper.¹² Consumers who purchased this variety of fish were more likely to receive an entirely different fish.¹³ More than one in four (26.92%) seafood purchases was mislabeled, and about two-thirds of the supermarket brands reviewed had at least one instance of suspected mislabeling.¹⁴ Mislabeling in Long Island supermarkets was particularly high (40.63%).

10. The OAG Seafood Fraud and Mislabeling Report also found that consumers were paying more for the mislabeled fish than they would have if they had known the truth, and were receiving an inferior product.¹⁵ Indeed, the mislabeled fish was substituted with fish that were typically cheaper, less desirable species than the desired species.¹⁶

⁹ *Id.* at p. 1.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.* (emphasis in original).

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

11. Indeed, the Report noted that “[t]he wide price disparities between different fish species mean that substituting a cheaper or more obscure species for a more expensive or better known one can allow the seller to sell at a higher price – or to price the fish lower than a competitor selling the authentic product. In cases of mislabeling, the tendency of the substitute fish to be a cheaper species suggests that intentional misconduct in the supply chain may play a role.”¹⁷

12. In addition, consumers who purchased mislabeled fish products were exposed to the potential for greater chemical residue, a different nutritional profile, a less environmentally friendly species of fish, a less healthy species of fish, and fish with higher mercury levels when compared to the species of fish that they believed they were purchasing.¹⁸

13. Defendant owns and operates a chain of six supermarkets (three in New York and three in Connecticut) which sell a wide variety of fish Products.¹⁹

14. The OAG Seafood Fraud and Mislabeling Report found that Defendant’s mislabeling of its fish Products was particularly prevalent and egregious. In fact, 53.85% of Defendant’s fish Product samples tested by the OAG were mislabeled.²⁰ This mislabeling rate was high enough to trigger further investigation by the OAG into Defendant’s fish labeling practices.²¹

¹⁷ *Id.* at p. 5.

¹⁸ *Id.* at p. 1-3.

¹⁹ <http://www.stewleonards.com/>

²⁰ *Id.* at p. 12.

²¹ *Id.*

15. In particular, Defendant sold snapper fish as the more desirable and expensive red snapper and Coho salmon as the more desirable and expensive sockeye salmon.²²

16. In fact, Defendant's President and CEO admitted that Defendant had been importing snapper fish and labeling it as "red snapper" for the past two years.²³

17. The OAG Seafood Fraud and Mislabeling Report noted that snapper fish sold as red snapper often sells for half as much when properly labeled as another type of snapper and that some of these substitute snappers (e.g., lane snapper) had higher mercury levels or came from less sustainable fisheries than red snapper, leading to consumer safety and environmental sustainability issues.²⁴

18. In other words, Defendant routinely took advantage of consumers' preferences for certain fish species and characteristics by labeling and passing off low-demand, less healthy, and less environmentally friendly fish as more desirable, healthier, and more sustainable varieties of fish.

19. Whether Defendant's labeling of the Products is deceptive is judged by whether it would deceive or mislead a reasonable person.

20. Reasonable consumers expect fish labeled as red snapper or sockeye salmon to actually be that species of fish, as opposed to a less desirable and less healthy species of fish.

²² *Id.* at p. B9.

²³ <https://www.newsday.com/business/fish-in-ny-supermarkets-often-mislabeled-ag-s-investigation-finds-1.24575143>

²⁴ OAG Seafood Fraud and Mislabeling Report, at p. 1. *See also id.* at 20-22.

21. Defendant's labeling of its fish Products is false, misleading, and deceptive because the Products are labeled as red snapper and sockeye salmon when, in fact, they are low-demand, less healthy, and less environmentally friendly species of fish.

22. Consumers rely on label representations and information in making purchasing decisions.

23. Indeed, as the OAG Seafood Fraud and Mislabeling Report noted, "Most consumers are not seafood experts. They interact with the global seafood chain exclusively at its final step: their neighborhood seafood counter or restaurant. To a far greater degree than for many other food products, consumers depend on the representations retailers make about the seafood for sale."²⁵

24. Defendant's deceptive representations and omissions are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions.

25. Plaintiff and the Class Members reasonably relied to their detriment on Defendant's misleading representations and omissions.

26. Defendant's false, misleading, and deceptive misrepresentations and omissions are likely to continue to deceive and mislead reasonable consumers and the general public, as they have already deceived and misled Plaintiff and the Class Members.

²⁵ *Id.* at 6.

27. In making the false, misleading, and deceptive representations and omissions described herein, Defendant knew and intended that consumers would pay a premium for Products labeled as red snapper and sockeye salmon over other, less desirable, fish Products.

28. As an immediate, direct, and proximate result of Defendant's false, misleading, and deceptive representations and omissions, Defendant injured Plaintiff and the Class Members in that they:

- a. Paid a sum of money for Products that were not what Defendant represented;
- b. Paid a premium price for Products that were not what Defendant represented;
- c. Were deprived of the benefit of the bargain because the Products they purchased were different from what Defendant impliedly warranted;
- d. Were deprived of the benefit of the bargain because the Products they purchased had less value than what Defendant represented; and
- e. Ingested a substance that was of a different quality than what Defendant promised.

29. Had Defendant not made the false, misleading, and deceptive representations and omissions, Plaintiff and the Class Members would not have been willing to pay the same amount for the Products they purchased, or would not have been willing to purchase the Products.

30. Plaintiff and the Class Members paid for Products that were red snapper and sockeye salmon but received Products that were different, less desirable species of fish. The Products Plaintiff and the Class Members received were worth less than the Products for which they paid.

31. Based on Defendant's misleading and deceptive representations, Defendant was able to, and did, charge a premium price for the Products over the cost of the varieties of fish that were accurately labeled.

32. Plaintiff and the Class Members all paid money for the Products. However, Plaintiff and the Class Members did not obtain the full value of the labeled Products due to Defendant's misrepresentations and omissions. Plaintiff and the Class Members purchased, purchased more of, and/or paid more for, the Products than they would have had they known the truth about the Products. Consequently, Plaintiff and the Class Members have suffered injury in fact and lost money as a result of Defendant's wrongful conduct.

JURISDICTION AND VENUE

33. This Court has subject matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. section 1332(d) in that: (1) this is a class action involving more than 100 class members; (2) Plaintiff is a citizen of the State of New York, Defendant Stew Leonard's Inc. is a citizen of the State of Connecticut; and (3) the amount in controversy is in excess of \$5,000,000, exclusive of interests and costs.

34. This Court has personal jurisdiction over Defendant because Defendant conducts and transacts business in the State of New York, contracts to supply goods within the State of New York, and supplies goods within the State of New York.

35. Venue is proper because Plaintiff and many Class Members reside in the Eastern District of New York, and throughout the State of New York. A substantial part of the events or omissions giving rise to the Plaintiff's and Class Members' claims occurred in this District.

PARTIES

Plaintiff

36. Plaintiff is an individual consumer who, at all times material hereto, was a resident of Nassau County, New York and a citizen of the State of New York. Over the past several years, including multiple times in 2018, Plaintiff routinely purchased fish Products labeled as red snapper and sockeye salmon from the Stew Leonard's supermarkets in Farmingdale and East Meadow, New York.

33. Plaintiff was willing to purchase and pay the amount that she did for the Products because she believed that they were accurately labeled. Plaintiff would not have been willing to purchase or pay as much as she did for the Products if she had known that they were actually a different, lower quality and less desirable species of fish.

34. Plaintiff would purchase the Products again if the labeling were changed so that the Product labels accurately reflected the species of fish being sold.

Defendant

35. Defendant Stew Leonard's Inc. is a corporation with its principal place of business in Norwalk, Connecticut. It was founded in 1969 and has grown into a more than \$400 million business with six store locations in two states (New York and Connecticut) and over 2,000 employees. In 2014, the Yonkers location alone produced over \$100 million in revenue.²⁶

²⁶ <http://www.vault.com/company-profiles/retail/stew-leonards-llc/company-overview.aspx>

36. Defendant labels and sells the Products in three locations in New York (East Meadow, Yonkers, and Farmingdale). Defendant created and/or authorized the false, misleading and deceptive labeling for the Products.

CLASS ALLEGATIONS

37. Plaintiff brings this matter on behalf of herself and those similarly situated. As detailed at length in this Complaint, Defendant orchestrated deceptive labeling practices. Defendant's customers were routinely impacted by and exposed to this misconduct. Accordingly, this Complaint is uniquely situated for class-wide resolution, including injunctive relief.

38. Plaintiff seeks certification of a class of individuals who purchased the Products in the State of New York at any time during the Class Period (the "Class").

39. The Class is properly brought and should be maintained as a class action under Rule 23(a), satisfying the class action prerequisites of numerosity, commonality, typicality, and adequacy because:

40. Numerosity: Class Members are so numerous that joinder of all members is impracticable. Plaintiff believes that there are thousands of consumers who are Class Members described above who have been damaged by Defendant's deceptive and misleading practices.

41. Commonality: The questions of law and fact common to the Class Members which predominate over any questions which may affect individual Class Members include, but are not limited to:

- a. Whether Defendant is responsible for the conduct alleged herein which was routinely directed at consumers who purchased the Products;
- b. Whether Defendant's misconduct set forth in this Complaint demonstrates that Defendant has engaged in deceptive business practices with respect to the labeling of its Products;
- c. Whether Defendant made false and/or misleading statements and omissions to the Class and the public concerning its Products;
- d. Whether Defendant's false and misleading statements and omissions concerning its Products were likely to deceive the public;
- e. Whether Plaintiff and the Class are entitled to injunctive relief; and
- f. Whether Plaintiff and the Class are entitled to money damages, and if so what is the proper measure.

42. Typicality: Plaintiff is a member of the Class. Plaintiff's claims are typical of the claims of each Class Member in that Plaintiff's claims are based upon the same legal theories as those of the members of the Class, and because Plaintiff's grievances, like those of the members of the Class, all arise out of the same deceptive business practices and course of conduct of Defendant. Further, Plaintiff's damages arise out of a pattern of nearly identical and repetitive business practices conducted by Defendant.

43. Adequacy: Plaintiff is an adequate Class representative because her interests do not conflict with the interests of the Class Members she seeks to represent; her claims are common to all members of the Class and she has a strong interest in vindicating her rights; and

she has retained counsel competent and experienced in complex class action litigation and they intend to vigorously prosecute this action. Plaintiff has no interests which conflict with those of the Class. The Class Members' interests will be fairly and adequately protected by Plaintiff and her counsel. Defendant has acted in a manner generally applicable to the Class, making relief appropriate with respect to Plaintiff and the Class Members. The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications.

44. Predominance: Pursuant to Rule 23(b)(3), common issues of law and fact identified above predominate over any other questions affecting only individual members of the Class. The Class issues fully predominate over any individual issue because no inquiry into individual conduct is necessary; all that is required is a narrow focus on Defendant's deceptive and misleading labeling practices.

45. Superiority: A class action is superior to the other available methods for the fair and efficient adjudication of this controversy because:

- a. The joinder of thousands of individual Class Members is impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or litigation resources;
- b. The individual claims of the Class Members may be relatively modest compared with the expense of litigating the claim, thereby making it impracticable, unduly burdensome, and expensive—if not totally impossible—to justify individual actions;

- c. When Defendant's liability has been adjudicated, all Class Members' claims can be determined by the Court and administered efficiently in a manner far less burdensome and expensive than if it were attempted through filing, discovery, and trial of all individual cases;
- d. This class action will promote orderly, efficient, expeditious, and appropriate adjudication and administration of Class claims;
- e. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action;
- f. This class action will assure uniformity of decisions among Class Members;
- g. The Class is readily definable and prosecution of this action as a class action will eliminate the possibility of repetitious litigation;
- h. Class Members' interests in individually controlling the prosecution of separate actions is outweighed by their interest in efficient resolution by single class action; and
- i. It would be desirable to concentrate in this single venue the litigation of all consumers who were induced by Defendant's pervasive false advertising to purchase their Products.

46. Accordingly, this Class is properly brought and should be maintained as a class action under Rule 23(b)(3) because questions of law or fact common to Class Members predominate over any questions affecting only individual members, and because a class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

INJUNCTIVE RELIEF

47. Relief under Rule 23(b)(2) is also appropriate because Defendant's misleading conduct has been directed at all consumers in New York, and the conduct continues presently. Plaintiff seeks injunctive relief on behalf of the Class Members on grounds generally applicable to the entire Class. Certification under Rule 23(b)(2) is appropriate because Defendant has acted or refused to act in a manner that applies generally to the Class (i.e. Defendant has marketed its Products using the same misleading and deceptive labeling to all of the Class Members). Any final injunctive relief or declaratory relief would benefit the entire Class as Defendant would be prevented from continuing its misleading and deceptive labeling practices and would be required to honestly disclose to consumers the nature of the contents of its Products. Plaintiff would purchase the Products again if the labeling were changed so that the Product labels accurately reflected the species of fish being sold.

FIRST CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 349
(On Behalf of Plaintiff and All Class Members)

48. Plaintiff repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

49. New York General Business Law Section 349 ("GBL § 349") declares unlawful "[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state . . ."

50. The conduct of Defendant alleged herein constitutes recurring, unlawful deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff and the Class Members seek

monetary damages and the entry of preliminary and permanent injunctive relief against Defendant, enjoining it from inaccurately describing, labeling, marketing, and promoting the Products.

51. Defendant misleadingly, inaccurately, and deceptively presents its Products to consumers.

52. Defendant's improper consumer-oriented conduct—including labeling and advertising the Products as being species of fish which they are not — is misleading in a material way in that it, *inter alia*, induced Plaintiff and the Class Members to purchase and pay a premium for Defendant's Products when they otherwise would not have. Defendant made its untrue and/or misleading statements and omissions willfully, wantonly, and with reckless disregard for the truth.

53. Plaintiff and the Class Members have been injured inasmuch as they paid a premium for Products that were—contrary to Defendant's representations— of an inferior grade, quality, or type. Accordingly, Plaintiff and the Class Members received less than what they bargained and/or paid for.

54. Defendant's Products' labeling induced the Plaintiff and Class Members to buy Defendant's Products and to pay a premium price for them.

55. Defendant's deceptive and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(a) and Plaintiff and the Class Members have been damaged thereby.

58. As a result of Defendant's recurring, unlawful deceptive acts and practices, Plaintiff and the Class Members are entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant's unlawful conduct, interest, and attorneys' fees and costs.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 350
(On Behalf of Plaintiff and All Class Members)

59. Plaintiff repeats and realleges each and every allegation contained in all the foregoing paragraphs as if fully set forth herein.

60. N.Y. Gen. Bus. Law § 350 provides, in part, as follows:

False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.

61. N.Y. Gen. Bus. Law § 350-a(1) provides, in part, as follows:

The term "false advertising" means advertising including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual . . .

62. Defendant's labeling contains untrue and materially misleading statements and omissions concerning Defendant's Products inasmuch as they misrepresent that the Products are of a certain grade, quality, or type when they are of an inferior grade, quality, or type.

63. Plaintiff and the Class Members have been injured inasmuch as they relied upon the labeling, packaging and advertising and paid a premium for the Products which were—contrary to Defendant’s representations— of an inferior grade, quality, or type.

64. Accordingly, Plaintiff and the Class Members received less than what they bargained and/or paid for.

65. Defendant’s advertising, packaging and Products’ labeling induced Plaintiff and the Class Members to buy Defendant’s Products.

65. Defendant made its untrue and/or misleading statements and omissions willfully, wantonly, and with reckless disregard for the truth.

66. Defendant’s conduct constitutes multiple, separate violations of N.Y. Gen. Bus. Law § 350.

67. Defendant made the material misrepresentations and omissions described in this Complaint on the Products’ labeling.

68. Defendant’s material misrepresentations and omissions were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, all consumers purchasing the Products were and continue to be exposed to Defendant’s material misrepresentations and omissions.

69. As a result of Defendant’s recurring, unlawful deceptive acts and practices, Plaintiff and Class Members are entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant’s unlawful conduct, interest, and attorneys’ fees and costs.

THIRD CAUSE OF ACTION
UNJUST ENRICHMENT
(On Behalf of Plaintiff and All Class Members)

70. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

71. Defendant, through misleading representations and omissions, enticed Plaintiff and Class Members to purchase the Products.

72. Plaintiff and the Class Members conferred a benefit on Defendant by purchasing the Products.

73. By its wrongful acts, Defendant has been unjustly enriched at the expense of, and to the detriment of, Plaintiff and members of the Class.

74. Defendant benefitted financially from the revenues and other compensation tied to the sale of the Products, which was unjust in light of Defendant's wrongful conduct as described in this Complaint.

75. Under the circumstances, it would be against equity and good conscience to permit Defendant to retain the ill-gotten benefits it received from Plaintiff and the Class as the result of its deceptive marketing and advertising practices.

76. Because Defendant's retention of the non-gratuitous benefit conferred on it by Plaintiff and the Class Members is unjust and inequitable, Plaintiff seeks restitution from, and an order from the Court disgorging all profits, benefits and other compensation obtained by, Defendant due to its wrongful conduct.

FOURTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE
(On Behalf of Plaintiff and All Class Members)

77. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

78. Defendant knew or had reason to know that Plaintiff and the other Class Members were buying their Products with the specific purpose of buying red snapper and sockeye salmon.

79. Plaintiff and the other Class Members relied on the Defendant in selecting their Products to fit their specific intended use.

80. Defendant held themselves out as having particular knowledge of the Products.

81. Plaintiff's and Class Members' reliance on Defendant in selecting Defendant's Products to fit their particular purpose was reasonable given Defendant's claims and representations in its labeling concerning the species of the fish in the Products.

82. Plaintiff and the other Class Members' reliance on Defendant in selecting Defendant's Products to fit their particular use was reasonable given Defendant's particular knowledge of the Products it sells.

83. As a result of the foregoing, Plaintiff and Class Members have been damaged in the amount paid for the Defendant's Products, together with interest thereon from the date of purchase.

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for judgment as follows:

- (a) Declaring this action to be a proper class action and certifying Plaintiff as the representative of the Class under Rule 23 of the FRCP;
- (b) Entering preliminary and permanent injunctive relief against Defendant, directing Defendant to correct its practices and to comply with applicable consumer protection statutes and all other applicable laws and statutes;
- (c) Awarding monetary damages, including treble damages;
- (d) Awarding punitive damages;
- (e) Awarding Plaintiff and Class Members their costs and expenses incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys and experts, and reimbursement of Plaintiff's expenses; and
- (f) Granting such other and further relief as the Court may deem just and proper.

Dated: December 19, 2018

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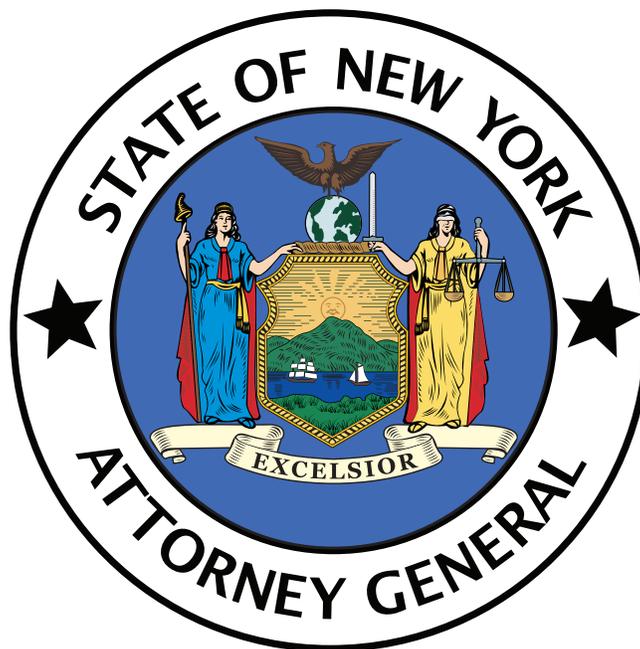
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FISHY BUSINESS

SEAFOOD FRAUD AND MISLABELING IN NEW YORK STATE SUPERMARKETS

REPORT



**Office of the New York State
Attorney General**

**Barbara D. Underwood
Attorney General**

December 2018

Executive Summary

Something fishy is going on at supermarket seafood counters. Consumers think they are buying lemon sole, red snapper, or wild salmon, or any one of dozens of seafood options. But too often, they get something else entirely. They unknowingly take home a cheaper, less environmentally sustainable, or less healthy fish. It's a bait-and-switch, which cheats consumers and violates consumer protection laws.

From late 2017 through 2018, the New York State Office of the Attorney General (“OAG”) undertook the first major government investigation in the U.S. to target seafood fraud at retail supermarket chains. OAG purchased seafood based on availability at 155 locations across 29 supermarket brands, targeting seafood falling into nine distinct categories. An academic laboratory then identified the species using DNA testing.

The results were disturbing. Key findings include:

- More than one in four (26.92%) seafood purchases with an identifiable barcode was mislabeled.¹ About two-thirds of the supermarket brands reviewed had at least one instance of suspected mislabeling.
- A small subset of supermarket brands was responsible for a vastly disproportionate share of suspected mislabeling. Of the 12 chains with 10 or more samples tested, five had rates of suspected mislabeling that exceeded 50%. These five are subject to an ongoing OAG consumer fraud investigation.
- While mislabeling affected virtually every tested seafood category, there was *rampant* mislabeling of certain species. The results suggest that consumers who buy lemon sole, red snapper, and grouper are *more* likely to receive an entirely different fish. Similarly, consumers who bought what was advertised as “wild” salmon often actually received farm-raised salmon instead. Such consumers had often paid more money—on average 34% more—to avoid farm raised fish.
- The substitutes were typically cheaper, less desirable species than the desired species. Snappers sold as red snapper, for example, tended to sell for half as much when properly labeled as another type of snapper. Some substitutes (e.g., lane snapper), had higher mercury levels or came from less sustainable fisheries than the desired species, raising consumer safety and environmental sustainability issues.
- Seafood mislabeling occurred across most regions of New York, but was most widespread downstate. New York City had a staggering mislabeling rate (42.65%), with similarly high rates of mislabeling on Long Island (40.63%) and only slightly lower in Westchester and Rockland Counties (32.43%).

¹ The sections below provide key details on the methods OAG used to test seafood purchases and identify mislabeling, and certain limitations associated with the results.

Solving the seafood fraud problem requires industry-wide reforms, at all stages of the supply chain. The report concludes with a description of some of the best practices already in effect at certain supermarkets.

I. Why Do Consumers Choose Seafood?

Every day in homes, schools, hospitals, restaurants, and institutions across New York State and around the country, seafood is on the menu. In 2015, the average American consumed an estimated 15.5 pounds of fish and other seafood.² High in protein, low in dietary fat, and rich in omega-three fatty acids, the Food and Drug Administration (“FDA”) recommends that the average American eat 8 to 12 ounces of a variety of seafood each week.³

To satisfy consumer demand, supermarkets and other seafood purveyors in New York offer consumers a diverse array of seafood options. These run the gamut from locally sourced oysters, summer flounder, and mackerel landed in Montauk and other Long Island ports, to tuna, catfish, and king crabs flown in from other parts of the country or from across the globe.

But not all seafood is equally coveted. Consumers will pay a premium price for certain species, while deliberately avoiding others. Factors beyond flavor and texture play a role in consumer choice, and consumers may favor certain species that they could not easily distinguish by appearance or taste alone. The following seafood characteristics also matter to consumers:

1. **Market Reputation.**⁴ As with other retail purchases, consumers will pay more for seafood that is in high demand and seen as a premium product. Certain types of seafood are household names, carrying positive market associations and featuring more frequently in recipes. Consumers seek out these highly prized species and will pay higher prices for them than for lesser known, less sought-after varieties. For example, consumers may select “red snapper” over other types of snapper or “king salmon” over other types of salmon.

² National Marine Fisheries Service Office of Science and Technology, “Fisheries of the United States 2015,” (September 2016), available at https://www.st.nmfs.noaa.gov/Assets/commercial/fus/fus15/documents/09_PerCapita2015.pdf at 106.

³ The recommendation differs for certain populations. For more information, please consult: <https://www.fda.gov/Food/ResourcesForYou/Consumers/ucm534873.htm>.

⁴ See, e.g., Scientific American, “Marketplace Red Snapper Is Case of Bait and Switch,” available at <https://www.scientificamerican.com/article/marketplace-red-snapper-i/> (noting consumer preference for red snapper over other snappers).

2. **Nutritional and Health Differences.**⁵ Consumers will select particular seafood species over others because of differences they perceive in their safety, nutrition, and wholesomeness. For example, certain consumers will avoid seafood known to contain high levels of methylmercury, lead, or other heavy metals. Indeed, the FDA advises pregnant and nursing women, and children, to limit consumption of such species. To assist consumers seeking to reduce their exposure to mercury and other contaminants, the FDA and advocacy organizations, such as the Environmental Defense Fund (“EDF”), classify seafood types based on their heavy metal content. Similarly, some consumers agree to pay higher prices for wild-caught fish to avoid farm-raised varieties that may be treated with antibiotics, disinfectants, or pesticides. Consumers may also select wild species due to differences in the levels of protein, fat, minerals, and other nutrients. Indeed, wild seafood varieties may be an entirely different species than farmed, as is often the case with salmon.

3. **Environmental Sustainability Concerns.**⁶ Eco-conscious consumers will select seafood species based on their environmental sustainability. Certain fish species are overfished, endangered, or known to result from environmentally harmful fishing or aquaculture practices. Environmental organizations have developed seafood guides and rankings to direct consumers to the most sustainable seafood options. The Seafood Watch program (“SWP”) of the Monterey Bay Aquarium publishes one popular guide; the program has distributed more than 51 million pocket guides and smartphone apps. Depending where and how a fish species is caught, the SWP will identify seafood as the “Best Choice” for sustainability, as a “Good Alternative,” or as a species to “Avoid.”⁷ Other groups, including the EDF and the Safina Center, put out similar eco-ratings.

⁵ Consumer Reports, “Choose the Right Fish To Lower Mercury Risk Exposure,” available at <https://www.consumerreports.org/cro/magazine/2014/10/can-eating-the-wrong-fish-put-you-at-higher-risk-for-mercury-exposure/index.htm>.

⁶ See, e.g., University of Connecticut Food Marketing Policy Center, “Consumer Preferences for Ecolabeled Seafood: Results of a Connecticut Survey,” available at <http://www.fmfc.uconn.edu/research/other/Connecticut%20Final%20Ecolabel%20Report%2012%2020%2004.pdf>.

⁷ See Marketing News, “Will Seafood Industry Marketing Win Over Consumers?” (January 2015), available at <https://www.ama.org/publications/MarketingNews/Pages/swimming-upstream.aspx>.

II. How Did Seafood Mislabeling First Come to Public Attention?

Seafood substitution and mislabeling is not a new phenomenon. Academics, non-governmental organizations, and regulators throughout the world have identified high levels of seafood mislabeling at the wholesale and retail levels worldwide.

Of particular note, beginning in 2012, the marine conservation organization Oceana began conducting a series of investigations throughout the United States and Canada. The group used DNA barcode technology to test seafood purchased from grocery stores and restaurants in a geographic area, comparing the species, as labeled, to the species as confirmed by DNA.⁸ In this way, Oceana identified widespread mislabeling.

In 2012, for example, Oceana analyzed samples from 81 grocery stores, sushi bars, and other restaurants in New York City.⁹ Testing results indicated that close to two out of every five seafood samples were misidentified (39%). The study found a staggering rate of substitution at sushi restaurants (76%), and high rates of substitution at other restaurants (39%) and grocery stores (29%). Mislabeling affected various fish varieties, including “white” tuna, red snapper, other specific snapper species, wild salmon species, cod, lemon sole, and grouper. A half-dozen lesser-known species were mislabeled “red snapper,” including crimson snapper, spotted rose snapper, and yellowtail snapper.

The FDA has likewise used DNA barcoding to uncover seafood mislabeling in the supply chain. During the 2012-2013 fiscal year, for example, the FDA investigated the mislabeling of certain historically misidentified species at the wholesale level.¹⁰ The FDA’s study identified a mislabeling rate of 15%, primarily affecting grouper and snapper species.

OAG identified no previous study focusing broadly on supermarket chains in New York State. Nor has prior action by U.S. enforcement agencies and regulators surveyed potential seafood fraud at the retail level.

⁸ The testing described in this report also relied on DNA barcode technology, as described in greater detail in section VI below.

⁹ See Oceana Reports, “Widespread Seafood Fraud Found in New York City,” (December 2012), available at <https://oceana.org/reports/widespread-seafood-fraud-found-new-york-city>.

¹⁰ See U.S. Food & Drug Administration, “Summary of FDA’s sampling efforts for seafood species labeling in FY12-13,” available at <https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Seafood/UCM419983.pdf>.

III. What Leads to Mislabeling?

Mislabeling has a variety of causes, including intentional fraud, negligence, and simple error.¹¹ While scientific identification methods, like DNA barcoding, can confirm the identity of the species, they do not shed light on the *reason* for a substitution.

Intentional Fraud. The wide price disparities between different fish species mean that substituting a cheaper or more obscure species for a more expensive or better known one can allow the seller to sell at a higher price – or to price the fish lower than a competitor selling the authentic product. In cases of mislabeling, the tendency of the substitute fish to be a cheaper species suggests that intentional misconduct in the supply chain may play a role.

Negligence. Sellers at the wholesale or retail level may lack effective protocols for identifying the fish they are selling, for differentiating between distinct species coming within a single broader category (e.g., for distinguishing “red” snapper from other snapper species), for adequately training staff, for labeling signage and packaging, or for vetting the fish source before marketing seafood to consumers. Without reasonable procedures, some mislabeling is inevitable.

Mistake/Error. Misidentification is sometimes possible where reasonable procedures are in place, especially where species have a similar appearance and are indigenous to the same waters. Such errors can initially occur at any point in the supply chain, including on the boat, by the distributor, or at the fish counter (e.g., packing the wrong fish).

For both the consumer and the retailer, distinguishing between similar-appearing species accurately can be especially challenging if the seafood is sold in parts (e.g., fillets), rather than as whole fish. Intentional fraud, negligence, or errors earlier in the supply chain—at the dock or by a distributor—can result in mislabeling at the point of sale to the ultimate consumer.

¹¹ See, e.g., Oceana Reports, “Oceana Study Reveals Seafood Fraud Nationwide,” (February 2013), available at <https://oceana.org/reports/oceana-study-reveals-seafood-fraud-nationwide>; Ocean and Coastal Law Journal, “Not Just Floundering Around: A Post-Regulatory Framework to Address Seafood Substitution,” (May 2017) available at <https://digitalcommons.maine.law.maine.edu/cgi/viewcontent.cgi?article=1355&context=oclj>.

IV. What Are the Legal Duties of Supermarkets and Other Retailers?

Most consumers are not seafood experts. They interact with the global seafood chain exclusively at its final step: their neighborhood seafood counter or restaurant. To a far greater degree than for many other food products, consumers depend on the representations retailers make about the seafood for sale. One study found that more than half (55%) of seafood buyers rely directly on their retailer's explanation of their seafood purchases.¹²

Supermarkets and other retail outlets in New York are legally required to market the seafood they are selling accurately, most notably by the Federal Food, Drug and Cosmetic Act and the New York State Agriculture and Markets Law.¹³ The sale of mislabeled seafood may also violate federal and state consumer protection laws, which prohibit fraudulent and deceptive business practices or advertising.¹⁴ These laws hold sellers of seafood and other retail products strictly liable for the accuracy of their marketing representations. Ultimately, retailers are responsible for establishing the measures reasonably needed to ensure that the seafood they sell is labeled accurately – and are subject to civil liability or even criminal penalties when they fail to do so.

Consumers select seafood for a range of characteristics, including the geographic origin of the seafood and the method of capture or farming. But the most fundamental characteristic of seafood is its species. The FDA administers a comprehensive “Guide to Acceptable Market Names for Seafood Sold in Interstate Commerce,” commonly known as the “Seafood List.” This list sets out “what FDA considers to be acceptable market names for seafood sold in interstate commerce.”

“Market names” refer to the names that supermarkets and other retailers can legally use to market seafood species in interstate commerce. The Seafood List also provides the “common name” that scientists use as shorthand for the species – and which can also be used in commerce – its formal scientific name, and the names that a species may be known by in a given locality, also called the “vernacular” names. Given the “exceptional number and variety of species,” the FDA advises that using acceptable market names to identify seafood is essential.¹⁵

The FDA has also issued further Compliance Policy Guides to assist in evaluating whether particular seafood is mislabeled (or “misbranded”).¹⁶ Under these Compliance Policy Guides, labeling a fish using names “other than those listed as common or usual names in the ‘market’ or ‘common’ columns of the Seafood List may misbrand the product.”¹⁷ For example, the FDA has a specific Compliance Policy Guide related to “red snapper,” which provides that “[t]he labeling or sale of any fish other than *Lutjanus campechanus* as ‘red snapper’ constitutes a misbranding

¹² See Alaska Seafood Marketing Institute, “The Power of the Alaska Seafood Brand,” (2017), available at <https://www.alaskaseafood.org/wp-content/uploads/2015/10/1-030-Power-of-the-Brand-2017.pdf>.

¹³ See New York State Agriculture and Markets Law § 201.

¹⁴ See New York General Business Law §§ 349, 350; New York Executive Law §63(12).

¹⁵ <https://www.fda.gov/Food/GuidanceRegulation/ucm113260.htm>.

¹⁶ See FDA CPG §§ 540.750, 540.475.

¹⁷ See FDA CPG § 540.750.

in violation of the Federal Food, Drug and Cosmetic Act.”¹⁸ The FDA enacted this guidance in response to the value consumers placed on red snapper, its limited availability, and the numerous attempts to substitute it with a less valuable fish.¹⁹

This report relies on the FDA’s Seafood List, along with the judgment of the National Oceanic and Atmospheric Administration (“NOAA”), for what constitutes an acceptable market name for a given species.²⁰ For purposes of this report, fish sold under a name not recognized by these federal authorities as a common name or acceptable market name for that species is deemed “mislabeled.”

V. How Did OAG Determine If Seafood Was Mislabeled?

No major regulatory or enforcement action in the United States has centered on the seafood offerings at chain supermarkets. Reviewing prior research, OAG identified seafood species for purchase that had a history of substitution. On that basis, the investigation targeted the following categories:

1. Red snapper
2. Snapper (varieties other than “red”)
3. Grouper
4. Cod
5. Wild salmon (inclusive of chum, Coho, sockeye, and king)
6. Halibut
7. Lemon sole
8. Sole (varieties other than “lemon”)
9. Striped bass
10. White tuna²¹

¹⁸ See FDA CPG § 540.475.

¹⁹ *Id.*

²⁰ There may be exceptions where a seller may legally sell the species under a different name, as long as it is not inaccurate or misleading.

²¹ Although past studies found that sushi restaurants dubbed certain seafood “white” tuna, no supermarket in the OAG’s investigation sold seafood under that name. In any event, the FDA’s Seafood List does not recognize “white” tuna as an acceptable market name for *any* species.

During the second half of 2017 and the first half of 2018, OAG investigators purchased the identified categories of fish, based on availability, from 155 individual supermarket locations across New York State, representing 29 supermarket brands. These brands (which are listed in Appendix A)²² spanned six broad geographic regions:

1. Albany through Mid-Hudson Valley;
2. Buffalo;
3. Nassau & Suffolk Counties;
4. New York City;
5. Syracuse & Utica; and
6. Westchester & Rockland Counties.

OAG surveyed a broad and diverse cross-section of supermarkets in New York. Where practical, OAG purchased samples of fish (the “Samples”) from multiple supermarkets operating under the same name,²³ often across several days. Because OAG made purchases based on availability, however, there was significant variability in the number of purchases made in particular regions and from particular brands. The mix of purchases therefore was not a statistically representative samples of seafood available statewide.

Investigators recorded how the supermarkets identified and priced the fish for sale and photographed the relevant store signage, packaging, and receipts. To prepare the Samples for testing and prevent cross-contamination, OAG developed a sample preparation protocol in consultation with the Ocean Genome Legacy Center (“OGLC”), a nonprofit marine research laboratory. Under the protocol, investigators cut a small specimen of the flesh of each Sample and used tweezers to place it into a pre-numbered test tube. Investigators then sealed the test tube, which was pre-filled with a fixative. After sealing the Sample in the test tube, investigators discarded disposable supplies (gloves, razors, plates) and completely cleaned their workspace and any non-disposable tools.

Upon accumulating a sufficient number of prepared Samples, OAG sent a batch of test tubes to the OGLC lab for species identification. OAG gave the laboratory no advance indication of how the fish was labeled in the supermarket.

²² The brands on Appendix A represent a sample of supermarkets operating in New York State. The absence of a supermarket from the list is no indication of whether or not it accurately markets its seafood. Certain chains that sell a selection of fresh seafood were nonetheless omitted because they did not stock the particular seafood categories targeted when purchases were planned or attempted.

²³ Notably, certain supermarkets that operate under a given brand name are centrally-owned, while others operate as franchises or through alternative ownership structures.

VI. What Method Was Used to Identify the Species?

DNA testing has been reliably used to identify fish species by comparing samples to a set of validated barcodes. This method has been widely used and accepted as a means of authenticating seafood species by regulators and the scientific community. The FDA maintains a repository of FDA-validated open-source DNA barcodes for various seafood species called the Reference Standard Sequence Library for Seafood Identification (“RSSL”).²⁴ For commercial species not catalogued in the RSSL, there are libraries of scientifically reliable barcodes available from other regulators and peer-reviewed scientific sources.

OGLC, a part of Northeastern University, collaborates with the Smithsonian, NOAA, and other major marine research institutions. OGLC served as OAG’s scientific advisor and carried out all laboratory testing of the Samples. Using a scientifically validated DNA barcoding protocol, OGLC tested the samples against available reference standards. In the first instance, OGLC relied on available FDA reference standards. For the subset of commercial species with no FDA reference standard (e.g., Nile perch), OGLC relied on other scientifically reliable public references.²⁵ Consistent with FDA standards, OGLC required a 500 DNA base-pair match before confirming the species. OGLC further excluded Samples with “low sequence quality,” i.e., where no reliable species barcode could be identified.

OAG applied the FDA approach, which treats Samples with up to 2% divergence from the reference standard to be a match.²⁶ Under this approach, certain distinct, genetically similar species cannot be distinguished from each other. For example, “red snapper” samples are considered correctly labeled even where test results are more suggestive of the close genetic relative Pacific snapper. With the foregoing qualifications, this report finds Samples to be “misabeled” where OGLC testing identified a definitive barcode associated with a different species than the seafood as marketed.

²⁴ See Reference Standard Sequence Library for Seafood Identification (RSSL), available at <https://www.fda.gov/Food/FoodScienceResearch/DNASeafoodIdentification/ucm238880.htm>.

²⁵ To identify scientifically reliable public references, OGLC relied on the Barcode of Life Data Systems (also known as BOLD) and GenBank, the genetic sequence database administered by the National Institutes of Health.

²⁶ See DNA-based Seafood Identification, available at <https://www.fda.gov/Food/FoodScienceResearch/DNASeafoodIdentification/ucm237391.htm>.

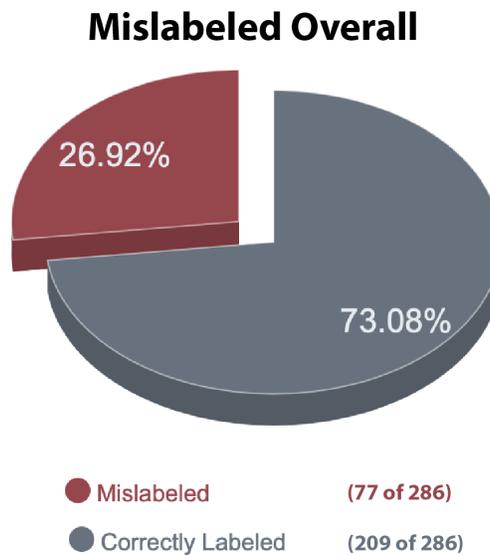
VII. What Were the Overall Testing Results?

Testing revealed a troublingly high rate of suspected mislabeling overall that affected a broad cross-section of supermarkets in New York. As reflected below, the problem was particularly acute for certain seafood species and categories, in certain areas, and at certain supermarket chains.

Testing revealed:

1. *A Sky-High Mislabeling Rate.* More than one in every four Samples (26.92%, or 77 out of 286 total Samples) with an identifiable barcode failed to come back as a match for the market name of the species as labeled.

Chart 1.

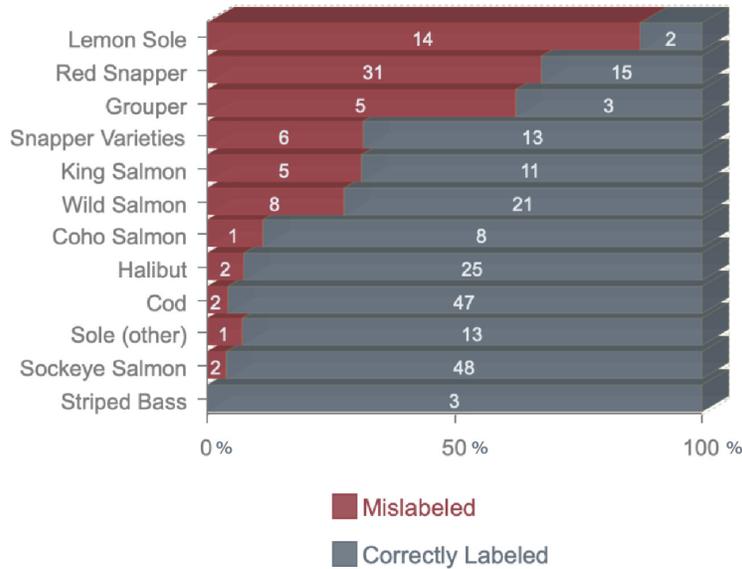


2. *Suspected Mislabeling Involving Virtually Every Type of Seafood Investigated.* Testing found substitutions for nearly every target species or category purchased in the investigation. The lone exception was striped bass.²⁷
3. *An Especially High Rate of Suspected Mislabeling for Certain Seafood Species.* The investigation found rampant mislabeling in certain species, including lemon sole (14 out of 16 or 87.5%), red snapper (31 out of 46 or 67%), grouper (5 out of 8 or 62.5%), chinook/king salmon (5 out of 16 or 31.25%), and “wild” salmon (8 out of 29 or 27.59%), which can legally refer to several species. A few species were rarely mislabeled, including cod (2 out of 49 or 4.08%), sockeye salmon (2 out of 50 or 4%), and striped bass (0 out of 3 or 0%).

²⁷ Due to limited availability, only three Samples of striped bass were purchased. Testing confirmed that all three were correctly labeled.

Chart 2.

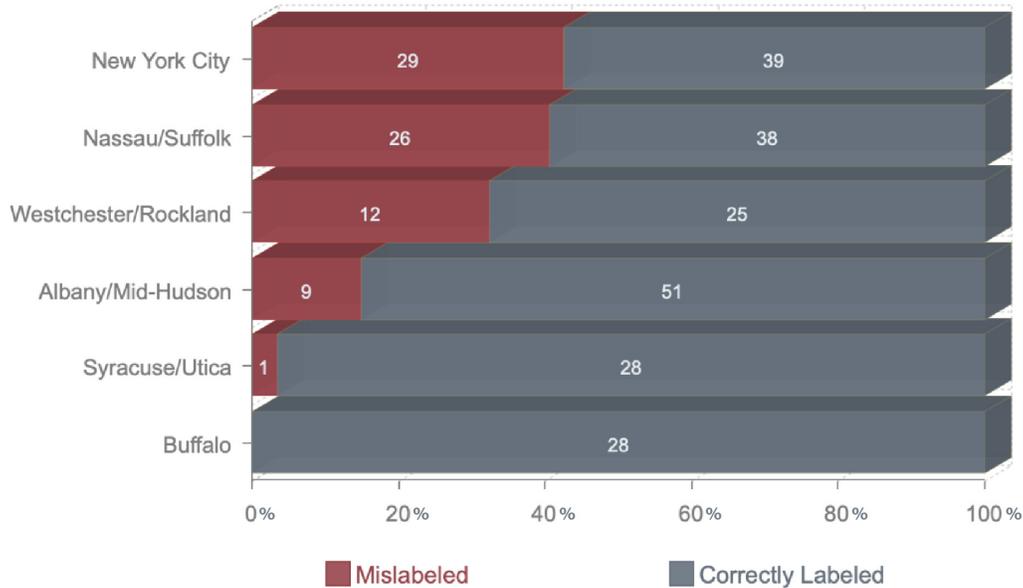
Mislabeled by Category



4. *Rates of Mislabeling Vary Across Different Regions of New York State.* New York City supermarkets had the highest rate of suspected mislabeling (42.65%), followed by Nassau/Suffolk (40.63%), and Westchester/Rockland (32.43%). The 42.65% rate of mislabeling in New York City area supermarkets for 2017-2018 exceeds the 29% rate identified in Oceana’s 2012 study. No mislabeling was found in Buffalo supermarkets. Notably, the mislabeling rates reflect averages, and a relatively small number of supermarkets (discussed in Item 6 below) are disproportionately responsible for the higher mislabeling rates downstate.

Chart 3.

Mislabeled By Region



5. *Certain Supermarket Brands Had Especially High Levels of Suspected Mislabeling.* Nearly two-thirds (19 out of 29 or 65.52%) of supermarket brands in the study sold at least one Sample suspected of mislabeling. But thirteen out of the 29 supermarket brands in the investigation had rates of suspected mislabeling of 25% or higher. Five of the 12 supermarket brands from which OAG purchased 10 or more Samples had rates of suspected mislabeling exceeding 50%. These included Food Bazaar (52.63%), Foodtown (55.17%), Stew Leonard's (53.85%), Uncle Giuseppe's (55.56%), and Western Beef (66.67%). OAG directed enforcement letters to these five chains, which are subject to further investigation.

The mislabeling of seafood species has serious consequences for consumers, the seafood marketplace, and the environment. As more fully detailed in the next section, the investigation reached the following broad findings:

1. *Cheaper Species Were Often Mislabeled as More Expensive Species.* In most instances where OAG had pricing data for the substitute species, the substitute sold for more when mislabeled as a more coveted species than when properly labeled. This included, for example, farmed salmon sold as wild, and yellowtail flounder sold as lemon sole.
2. *Mislabeled Substitutes Often Undersold Competitors Selling the Real Thing.* While overcharging customers, supermarkets tended to offer the mislabeled fish for less than the average price for the desired species. This undercuts responsible competitors selling the

genuine product, and undermines the market as a whole.

3. *Species Shunned for Health Reasons Were Sold as Preferred Species.* In certain instances, the substitute species was known to have higher levels of mercury and other heavy metals than the labeled species, including lane snapper sold as red snapper and Atlantic salmon sold as king salmon. Similarly, many select wild seafood to avoid the antibiotics and other chemicals sometimes used on farmed seafood. Yet in many cases, “wild” seafood Samples tested as farmed species.
4. *Environmentally Harmful Seafood Options Were Passed Off as More Sustainable Species.* Many consumers desire to buy species that are less environmentally harmful. Yet in many instances, the substitutes are considered less eco-friendly than the intended species. This included snowy grouper sold as red grouper, lane snapper sold as red snapper, and yellowtail flounder sold as lemon sole.

VIII. What Types of Seafood Were Most Commonly Mislabeled?

As more fully explored below, three of the most frequently mislabeled seafood categories were (1) wild salmon; (2) lemon sole; and (3) red snapper.²⁸ Each section provides comparison points between the intended species and the substitute species across various dimensions, focusing on attributes where certain substitute species would be *less preferable* to consumers. Notably, OAG did not conduct a robust market pricing survey; conclusions related to pricing are *illustrative* and derived from the limited number of purchases OAG made in the course of its investigation.

1. Wild Salmon

Salmon is the second-most popular type of seafood sold in the United States.²⁹ While the percentage of wild-caught salmon fluctuates year-to-year, in 2011, it constituted about one-third of total salmon sold in the United States.³⁰ Wild salmon properly encompasses several distinct wild-caught species, including chinook/king (*Oncorhynchus tshawytscha*), sockeye (*Oncorhynchus nerka*), Coho (*Oncorhynchus kisutch*), and chum (*Oncorhynchus keta*). Atlantic salmon (*Salmo salar*)—one of the world’s most popular farmed fish species—is endangered in the wild and is not commercially sold in the United States. Therefore, Samples of Atlantic salmon sold as “wild” are mislabeled.

²⁸ Although other types of snapper and grouper also had high mislabeling rates, the report does not delve as deeply into those categories due to the more limited availability of the relevant species when making purchases.

²⁹ Science of Food (Nature Partner Journal) “Safely meeting global salmon demand,” Available at <https://www.nature.com/articles/s41538-018-0025-5>.

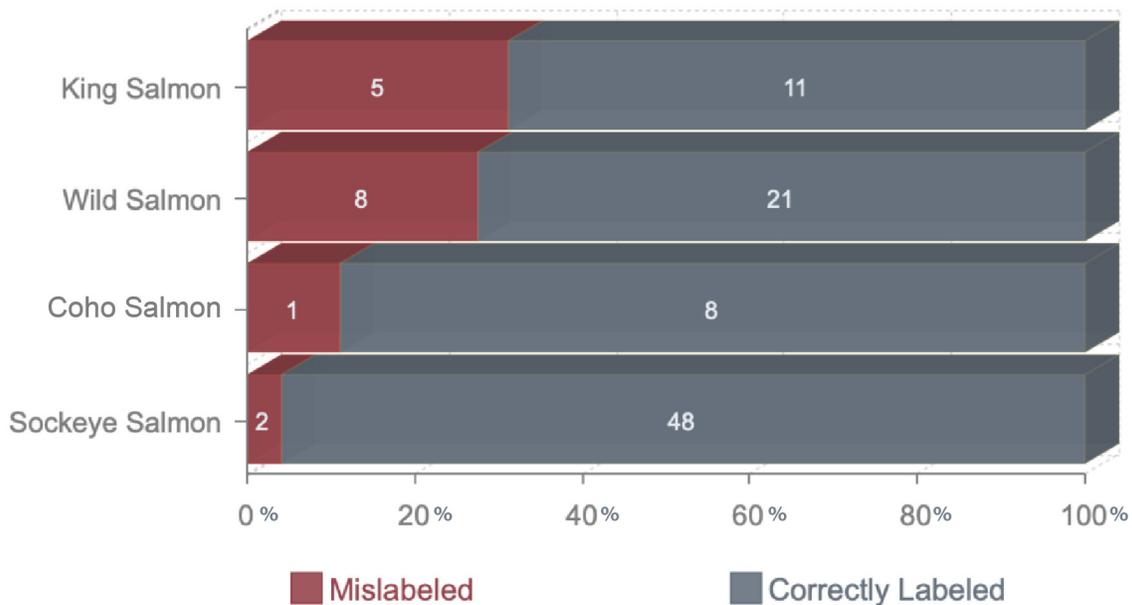
³⁰ NOAA, “2011 Top 10 Favorite Seafoods in the United States,” Available at <https://www.fisheries.noaa.gov/2011-top-10-favorite-seafoods-united-states>.

Testing showed that eight of the 29 Samples labeled simply as “wild” salmon without identifying a particular wild species (27.59%) were mislabeled. The substitute species included Atlantic salmon (*Salmo salar*) and rainbow trout (*Oncorhynchus mykiss*), which is not a type of salmon at all. The remaining 21 Samples (72.41%) were salmon species commercially fished in the wild. This analysis treats those species as correctly labeled “wild.”³¹

Seafood specifically labeled as chinook/king salmon had an even higher mislabeling rate (31.25%). Other specified salmon species, Coho and sockeye, had lower mislabeling rates.

Chart 4.

Mislabeled Wild Salmon



Nearly all mislabeled salmon Samples tested as farmed Atlantic salmon or rainbow trout. In two instances, however, Coho salmon was mislabeled as sockeye.

Table 1.

Species of Fish Substituted for Wild Species of Salmon			
	Scientific Name	Common Name	FDA Acceptable Market Name
1	<i>Oncorhynchus kisutch</i>	Coho Salmon	Salmon, Coho or Silver or Medium Red (Mislabeled as Sockeye Salmon)
2	<i>Oncorhynchus mykiss</i>	Rainbow Trout	Trout, Rainbow or Steelhead
3	<i>Salmo salar</i>	Atlantic Salmon	Salmon

³¹ DNA barcoding cannot distinguish between wild-caught and farmed fish of the same species. Because certain wild caught varieties are also farm-raised, including chinook/king (*Oncorhynchus tshawytscha*) and Coho salmon (*Oncorhynchus kisutch*), the total mislabeling figures likely underestimate the degree of mislabeling of “wild” salmon.

PRICING: WHEN FARMED ATLANTIC SALMON IS MISLABELED AS WILD SALMON, CONSUMERS PAY INFLATED PRICES.

Fish sold as “wild” salmon (without identifying a particular wild species) command a higher price than farmed salmon. OAG investigators bought seafood labeled as Atlantic salmon, farmed salmon, or simply as salmon for an average price **\$11.34** per pound.³² When farmed salmon was mislabeled as wild salmon, however, the average price spiked by 34%, to **\$15.24** per pound. It spiked even higher for Samples sold as specific, highly coveted varieties of wild salmon. For example, Samples mislabeled as chinook/king salmon sold for an average price per pound of **\$20.99**. That price, however, still undercut competitors, who charged **\$24.71** per pound on average for authentic chinook/king salmon. Such mislabeling harms consumers – who overpay for cheaper species – and competitors – who cannot compete legitimately at those prices.

Chart 5.

**Wild Salmon vs. Farmed Salmon:
Price Per Pound**



³² Although Atlantic salmon was not a targeted species, OAG investigators purchased 15 samples of correctly labeled Atlantic salmon in the course of the investigation, and which serve as a comparison.

HEALTH: WHEN ATLANTIC SALMON IS MISLABELED AS WILD SALMON, CONSUMERS MAY RECEIVE A FARMED SPECIES WITH A POTENTIAL FOR CHEMICAL RESIDUE AND WITH A DIFFERENT NUTRITIONAL PROFILE.

Certain consumers will avoid Atlantic salmon and farmed rainbow trout based exclusively on concerns about the antibiotics or other chemicals sometimes used in industrial aquaculture. Wild and farmed salmon also have different nutritional characteristics that may be relevant to consumers. They have different levels of heavy metals, and wild salmon tends to be leaner and may contain lower levels of the omega-3 fatty acid docosahexaenoic acid (DHA).³³

SUSTAINABILITY: WHEN RAINBOW TROUT AND FARMED SALMON ARE MISLABELED AS WILD SALMON, CONSUMERS MAY GET LESS ECO-FRIENDLY SPECIES.

Farming of both salmon and rainbow trout, the common substitutes for wild salmon, raise concerns about effluent pollution and chemical use. Seafood Watch designates specific species of wild salmon—sockeye and chum—as either a “Good Alternative” or “Best Choice,” while urging consumers to “Avoid” certain farmed varieties.

2. Lemon Sole

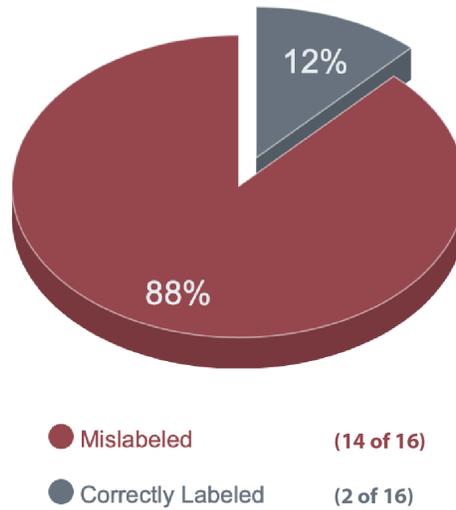
Lemon sole is an acceptable market name for *Microstomus kitt*, a popular European flatfish. In the United States, lemon sole is also an acceptable market name for blackback flounder (*Pseudopleuronectes americanus*), a fish found on the Atlantic seaboard of the United States.³⁴ Two Samples (12.5%) out of the 16 labeled as lemon sole tested as this species. The remaining 14 (87.5%) were mislabeled, failing to test as either of the species properly sold as lemon sole in the U.S.

³³ <https://www.sciencedirect.com/science/article/pii/S0013935116311811?via%3Dihub>.

³⁴ See NOAA Northeast Multispecies Species List for Winter Flounder, available at <https://www.greateratlantic.fisheries.noaa.gov/nero/fishermen/images/multispecies/pages/winter%20flounder.html>.

Chart 6.

Mislabeled Lemon Sole



In general, supermarkets sold a range of white-fleshed fish species – flounders, flukes, and soles – as lemon sole. One Sample labeled as lemon sole tested as swai (*Pangasius hypophthalmus*), a cheap, typically farmed fish species formerly known in the United States as “Vietnamese catfish.”³⁵

Table 2.

Species of Fish Substituted for Lemon Sole (<i>Microstomus kitt</i> or <i>Pseudopleuronectes americanus</i>)			
	Scientific Name	Common Name	FDA Acceptable Market Name
1	<i>Glyptocephalus cynoglossus</i>	Witch Flounder	Gray Sole or Sole or Flounder
2	<i>Hippoglossoides platessoides</i>	American Plaice	Plaice or Flounder
3	<i>Hippoglossoides robustus</i>	Bering Flounder	Flounder
4	<i>Limanda aspera</i>	Yellowfin Sole	Sole or Flounder
5	<i>Limanda ferruginea</i>	Yellowtail Flounder	Flounder or Sole
6	<i>Pangasius hypophthalmus</i>	Swai	Swai or Sutchi or Striped Pangasius or Tra
7	<i>Paralichthys dentatus</i>	Summer Flounder	Flounder or Fluke
8	<i>Paralichthys lethostigma</i>	Southern Flounder	Flounder or Fluke
9	<i>Pleuronectes platessus</i>	European Plaice	Plaice or Flounder

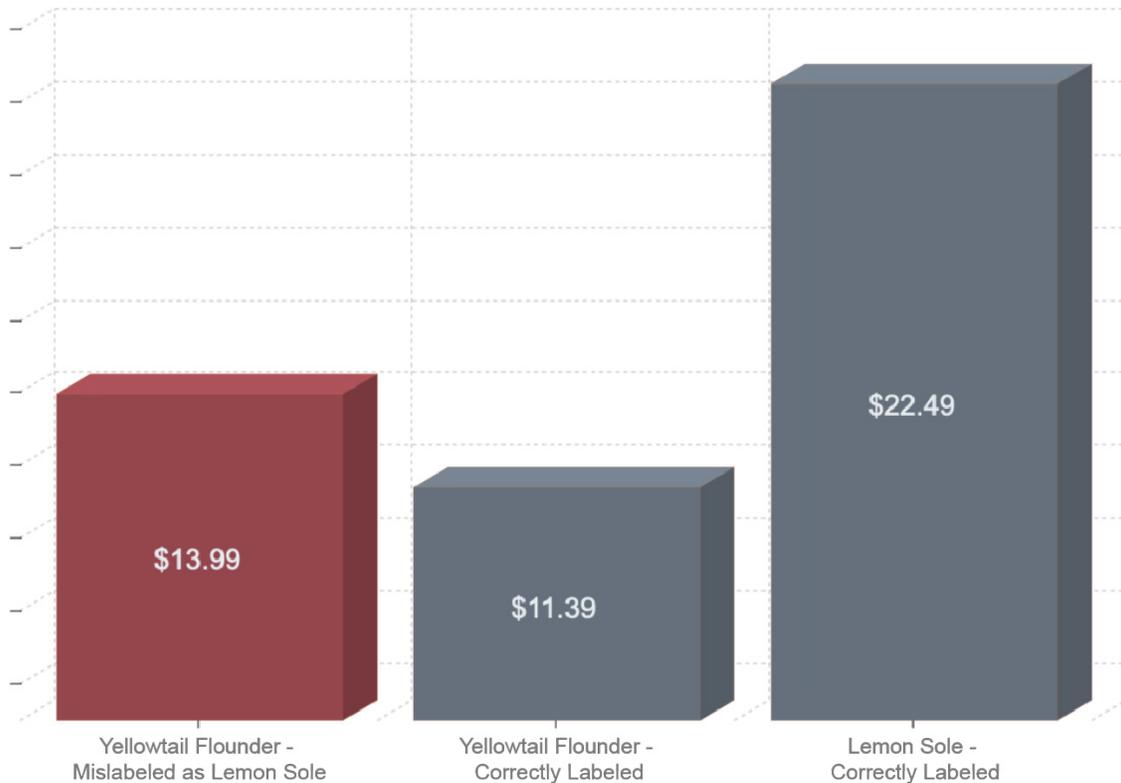
³⁵ Cf. 21 U.S.C. § 321d (restricting the name catfish to fish classified within the family Ictaluridae).

PRICING: MISLABELING CHEAPER FISH AS LEMON SOLE HARMS CONSUMERS AND LEGITIMATE COMPETITORS.

Fish sold as lemon sole command a higher price than substitutes like flounder or sole when sold under acceptable market names. For example, the five Samples properly labeled as yellowtail flounder sold for an average price of **\$11.39** per pound. The three Samples of yellowtail flounder mislabeled as lemon sole, however, had an average price of **\$13.99** per pound. By contrast, the sales price of the two correctly labeled Samples of lemon sole averaged **\$22.49** per pound. The apparent result is that mislabeling lemon sole simultaneously harms consumers – who overpay for a cheaper species – and legitimate competitors – who are undercut by fraudulent business practices.

Chart 7.

**Lemon Sole vs. Yellowtail Flounder:
Price Per Pound**

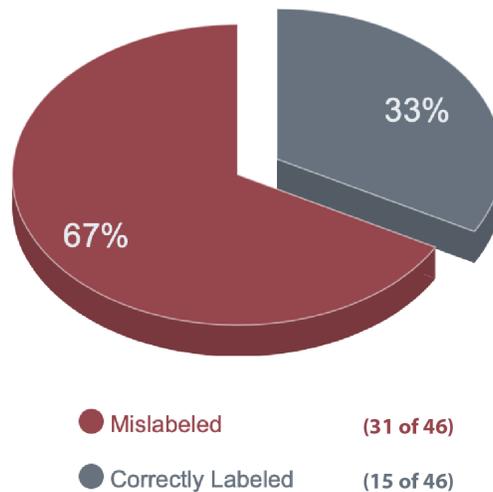


HEALTH: WHEN FARMED FISH IS MISLABELED AS LEMON SOLE, CONSUMERS MAY RECEIVE LESS HEALTHY SUBSTITUTES.

Certain consumers intentionally select wild, rather than farm-raised species for various reasons, including due to nutritional differences or to avoid eating seafood treated with antibiotics, pesticides, or other chemicals. While lemon sole is wild caught, one Sample labeled as lemon sole turned out to be swai, a fish typically farmed in Vietnam and associated with high levels of aquacultural chemical use.³⁶

Chart 8.

Mislabeled Red Snapper



SUSTAINABILITY: WHEN OTHER FISH ARE MISLABELED AS LEMON SOLE, CONSUMERS MAY RECEIVE SPECIES THAT ARE LESS ENVIRONMENTALLY SUSTAINABLE.

Environmental organizations give the more common American lemon sole species, also known as blackback flounder, middling-to-poor sustainability ratings, including due to suspected overfishing and the potential to catch endangered species at the same time.³⁷ Certain species mislabeled as lemon sole, however, do even worse. For example, the Monterey Bay Aquarium’s Seafood Watch Program designated blackback flounder a “Good Alternative” when caught in the Northwest Atlantic, specifically in the Gulf of Maine. Meanwhile, Seafood Watch urged consumers to “Avoid” the common substitute of yellowtail flounder when caught in the very same waters. Seafood Watch likewise urged eco-conscious consumers to “avoid” swai due to the chemicals used in farming and associated effluent pollution.

³⁶ Monterey Bay Aquarium Seafood Watch, “Pangasius,” Available at https://www.seafoodwatch.org/-/m/sfw/pdf/reports/c/mba_seafoodwatch_catfish_vietnam_report.pdf.

³⁷ Monterey Bay Aquarium Seafood Watch, “Flounder: Blackback,” Available at <http://www.seafoodwatch.org/seafood-recommendations/groups/flounder?type=blackback&o=471592711>.

3. Red Snapper

Red Snapper is the common name of *Lutjanus campechanus*, a highly-prized fish indigenous to the North Atlantic. As spelled out in an FDA Compliance Policy Guide, the only fish species that can carry the name red snapper is *Lutjanus campechanus*. Because of historic overfishing, the fish is subject to a fisheries management plan and is often relatively expensive. Yet out of 46 Samples labeled “red snapper,” 31 (67%) purchases from 10 supermarket chains failed to test as *Lutjanus campechanus*. DNA barcoding confirmed the correct species in only 15 out of 46 red snapper Samples (33%).

Testing suggests that supermarkets mislabeled at least 12 other species as red snapper. These substitutes were often other snapper types, including some not indigenous to the Atlantic Ocean, e.g., the Pacific caught Twinspot Snapper (*Lutjanus bohar*).³⁸ Golden redfish (*Sebastes norvegicus*), which may be sold as ocean perch, was another substitute.

Table 3.

Species of Fish Substituted for Red Snapper (<i>Lutjanus campechanus</i>)			
	Scientific Name	Common Name	FDA Acceptable Market Name
1	<i>Lutjanus bohar</i>	Twinspot Snapper	Snapper
2	<i>Lutjanus erythropterus</i>	Crimson Snapper	Snapper
3	<i>Lutjanus guttatus</i>	Spotted Rose Snapper	Snapper
4	<i>Lutjanus malabaricus</i>	Malabar Snapper	Snapper
5	<i>Lutjanus synagris</i>	Lane Snapper	Snapper
6	<i>Lutjanus vivanus</i>	Silk Snapper	Snapper
7	<i>Ocyurus chrysurus</i>	Yellowtail Snapper	Snapper
8	<i>Pinjalo pinjalo</i>	Pinjalo	Snapper
9	<i>Pristipomoides multidens</i>	Goldbanded Jobfish	Jobfish or Snapper
10	<i>Pristipomoides typus</i>	Sharptooth Jobfish	Jobfish or Snapper
11	<i>Rhomboplites aurorubens</i>	Vermillion Snapper	Snapper
12	<i>Sebastes norvegicus</i>	Golden Redfish	Ocean Perch

³⁸ See Russell, B., Smith-Vaniz, W.F., Lawrence, A., Carpenter, K.E. & Myers, R., “*Lutjanus bohar*. The IUCN Red List of Threatened Species,” (2016), available at <http://www.iucnredlist.org/details/194363/0>.

WHEN OTHER SNAPPERS ARE MISLABELED AS RED SNAPPER, CONSUMERS PAY INFLATED PRICES.

Testing revealed that other snappers were passed off as red snapper. The average market price for those other snappers, when correctly labeled, was significantly lower than red snapper. As illustrated in the chart below, the fifteen correctly labeled *red* snapper Samples averaged **\$17.59** per pound.³⁹ By contrast, the 13 correctly labeled Samples of other snappers averaged **\$8.29** per pound.⁴⁰ Snapper Samples when mislabeled as red snapper averaged **\$10.38** per pound – with customers paying more than for when the same species was correctly labeled.

Chart 9.

**Red Snapper vs. Other Snappers:
Price Per Pound**



³⁹ Pricing numbers reflect the particular Samples available and purchased in the course of OAG’s investigation. OAG did not conduct a market pricing survey.

⁴⁰ The nine Samples accurately sold as a “snapper,” not “red snapper,” represent five distinct snapper variants: *Lutjanus guttatus*/Spotted Rose Snapper, *Lutjanus malabaricus*/Malabar Snapper, *Lutjanus synagris*/Lane Snapper, *Ocyurus chrysurus*/Yellowtail Snapper, and *Pinjalo pinjalo*/Pinjalo. As reflected on the chart above, each of these species has at times also been used as a substitute.

HEALTH: WHEN OTHER SNAPPERS ARE MISLABELED AS RED SNAPPER, CONSUMERS MAY RECEIVE FISH WITH HIGHER MERCURY LEVELS.

EDF rates red snapper as having a “moderate” level of mercury contamination, which is similar to most of the substitutes identified. EDF found, however, that one substitute, lane snapper has “elevated” mercury levels.

SUSTAINABILITY: WHEN OTHER SNAPPERS ARE MISLABELED AS RED SNAPPER, CONSUMERS MAY RECEIVE LESS ECO-FRIENDLY SPECIES.

Eco-conscious consumers would select red snapper over many of the identified substitutes. The EDF rated red snapper as “OK.” Two of the identified substitutes – silk snapper and pinjalo – received EDF’s “Worst” eco-Rating. The Monterey Aquarium Seafood Watch program identifies red snapper from the Gulf of Mexico as a “Good Alternative.” By contrast, the Seafood Watch program urges buyers to “Avoid” one of the substitutes – lane snapper – when caught in the Gulf of Mexico.

IX. How Can Supermarkets Combat the Seafood Fraud Epidemic?

As with all purchases, consumers should recognize: if the price of seafood seems too good to be true, that may be a sign that they are not getting what they paid for. They should also expect their supermarkets to provide precise labeling of the seafood they sell and describe their seafood quality and sustainability practices. The ultimate responsibility for accurately marketing seafood, however, falls squarely on the retailers themselves.

While there are other broken links in the seafood supply chain, supermarkets (and restaurants) represent the final line of defense before a phony fish ends up as family dinner. Fortunately, there are basic steps retailers can take to guarantee that they are being straight with seafood consumers. Many already are. OAG reviewed the best seafood practices across the supermarket industry, including the protocols in effect at responsible supermarkets, most notably the Hannaford chain (which has a large number of stores in Upstate New York, a large seafood selection, and no instances of suspected mislabeling), or recommended by the Food Marketing Institute, an industry association.⁴¹

The success of a seafood quality control program depends on a multi-step program that incorporates suppliers, supermarket management, and seafood department employees. Seafood department best practices include:

1. Supplier Validation.

- a. Vet the history and accreditations of all seafood suppliers. This should include independently confirming third-party accreditation, contacting other customers, and, where possible, visiting the supplier's facilities.
- b. Require seafood suppliers to sign a pledge committing to clear, accurate, and precise product labeling and outside auditing (see item 4). The agreement should set out explicit consequences, including termination, for failing to deliver products meeting the required specifications.
- c. For each product, prepare a detailed specification sheet and submit it to the supplier. In addition to other requirements, this specification sheet should incorporate the scientific and common name of the species as well as its acceptable market name.
- d. Require consistent labeling across all product documentation, including purchase orders, shipping labels, and invoices.

2. Training and Store Policies.

- a. Educate employees involved in the seafood program of their responsibility to follow procedures designed to ensure customer receive the product marketed.
- b. Train staff and furnish manuals on standard seafood identification and labeling

⁴¹ Food Marketing Institute, "Best Practices on How to Mitigate the Risk of Seafood Fraud,"(2017), available at https://www.fmi.org/docs/default-source/industry-topics-doc/seafood-fraud-final.pdf?sfvrsn=23527b6e_2.

procedures (e.g., ensure that store signage is consistent with invoices and shipping labels).

- c. Require familiarity with the FDA's Seafood List and the distinguishing characteristics of the seafood species commonly sold in the store.
- d. Verify that the seafood delivered exactly matches the detailed specification sheet furnished to the supplier.

3. Seafood Labeling and Signage.

- a. Use a consistent format for all seafood signs and labels, using the naming guidelines on the FDA Seafood List.
- b. Ensure that the species as labeled in the store matches the species as represented by the supplier, and fully resolve any discrepancies.
- c. In addition to species name, describe the capture method (e.g., line-caught), origin (e.g., Gulf of Maine), and whether the seafood was previously frozen.
- d. Post signage such that it is fully visible next to the relevant product.
- e. Check and update signage and labeling regularly.

4. Traceability and Auditing.

- a. Establish a traceability protocol in concert with suppliers to enable the tracking of seafood back to its source.
- b. Conduct direct and/or third-party auditing of supplier facilities, and, where possible, the ultimate seafood source, including through the use of DNA testing.
- c. Audit supermarket locations periodically to monitor adherence to seafood-related procedures, including spot testing to confirm seafood identity.

5. Customer Education.

- a. Describe the attributes of different types of seafood in store, including the significance of origin and method of capture.
- b. Provide consumers with accurate information about other aspects of seafood, including sustainability and perceived health differences.
- c. Make information relating to the supermarket's seafood authenticity and traceability program available to customers, including in store and on the web.

This Report was prepared by Senior Advisor and Special Counsel to the Attorney General Simon Brandler of the Executive Division, Special Counsel Mary Alestra of the Consumer Frauds & Protection Bureau, and paralegal Christine Reynolds also of the Consumer Frauds & Protection Bureau. Its preparation was supervised by Bureau Chief Jane Azia, Executive Deputy Attorney General Manisha M. Sheth, Chief of Staff & Deputy Attorney General Brian Mahanna, and Chief Deputy Attorney General Janet Sabel.

Appendix - A

1. Adams Fairacre Farms
2. Best Market
3. Brooklyn Harvest
4. C-Town
5. Dash's
6. DeCicco's
7. Fairway
8. Food Bazaar
9. Food Emporium
10. Foodtown
11. Gourmet Garage
12. Hannaford
13. Key Food
14. King Kullen
15. Met Food
16. Morton Williams
17. Price Chopper
18. Price Chopper (Market 32)
19. Price Rite
20. ShopRite
21. Stew Leonard's
22. Stop & Shop
23. The Fresh Market
24. Tops
25. Uncle Giuseppe's
26. Walmart
27. Wegmans
28. Western Beef
29. Whole Foods

Appendix - B

Seafood Purchases and Testing Results
June 29, 2017 - May 30, 2018

SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Adams Fairacre Farms	10/25/2017	1240 Route 300 Newburgh, NY 12550	Packaging - Fresh Whole Red Snapper, Product of USA	Snapper	Rhomboplites aurorbens	Vermillion Snapper
Adams Fairacre Farms	10/25/2017	160 Old Post Rd Wappinger, NY 12590	Packaging - Fresh Cod Fillet	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Adams Fairacre Farms	10/25/2017	160 Old Post Rd Wappinger, NY 12590	Packaging - Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Adams Fairacre Farms	10/25/2017	160 Old Post Rd Wappinger, NY 12590	Packaging - Fresh Grey Sole Fillet	Gray Sole or Sole or Flounder	Glyptocephalus cynoglossus	Witch Flounder
Adams Fairacre Farms	10/25/2017	Poughkeepsie, NY 12603	Packaging - Fresh Whole Grouper	Grouper	Epinephelus morio	Red Grouper
Adams Fairacre Farms	10/25/2017	765 Dutchess Tpk Poughkeepsie, NY 12603	Packaging - Fresh Whole Red Snapper, Fished from Atlantic and Mediterranean waters	Snapper	Lutjanus malabaricus	Malabar Snapper
Best Market	7/11/2017	19-30 37th St Astoria, NY 11105	Packaging - Whole Red Snapper	Plaice or Flounder	Pleuronectes platessus, P. flesus or P. quadricarculatus	European Plaice
Best Market	7/11/2017	19-30 37th St Astoria, NY 11105	Sign - Whole Red Snapper Product of Panama	Snapper	Ocyurus chrysurus	Yellowtail Snapper
Best Market	7/11/2017	19-30 37th St Astoria, NY 11105	Packaging - Wild Alaskan Salmon Fillet, Born, Raised, Harvested in the USA	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
Best Market	7/11/2017	40 Great Neck Rd Great Neck, NY 11021	Packaging - Fresh Cod Fillet	Cod	Gadus morhua	Atlantic Cod
Best Market	7/11/2017	40 Great Neck Rd Great Neck, NY 11021	Packaging - King Salmon Fillet, Born, Raised, Harvested in the USA	Salmon, Chinook or King or Spring Snapper	Oncorhynchus tshawytscha Lutjanus guttatus	Chinook Salmon Rose Snapper
Best Market	7/11/2017	40 Great Neck Rd Great Neck, NY 11021	Packaging - Wild Caught Fresh Alaskan Sockeye Salmon, Born, Raised, Harvested in the USA	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Best Market	7/11/2017	40 Great Neck Rd Great Neck, NY 11021	Packaging - Farm Raised Whole Striped Bass, Born, Raised, Harvested in the USA	Bass or Bass, Hybrid White or Striped	Morone chrysops or Morone saxatilis x Morone chrysops (hybrid)	White Bass or Sunshine Bass
Best Market	7/11/2017	40 Great Neck Rd Great Neck, NY 11021	Packaging - Wild Alaskan Salmon Fillet, Born, Raised, Harvested in the USA	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
Best Market	7/19/2017	1980 Hempstead Tpk East Meadow, NY 11554	Packaging - Fresh Whole Red Snapper	Snapper	Lutjanus guttatus	Rose Snapper
Best Market	7/19/2017	1980 Hempstead Tpk East Meadow, NY 11554	Packaging - Wild Alaskan Salmon Fillet, Born, Raised, Harvested in the USA	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
Best Market	7/26/2017	2330 Hillside Ave New Hyde Park, NY 11040	Packaging - Cod Fillet Prev Frozen	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Best Market	7/26/2017	2330 Hillside Ave New Hyde Park, NY 11040	Packaging - Fresh Whole Red Snapper	Snapper	Ocyurus chrysurus	Yellowtail Snapper
Best Market	7/26/2017	2330 Hillside Ave New Hyde Park, NY 11040	Packaging - Wild Alaskan Salmon Fillet, Born, Raised, Harvested in the USA	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon

Appendix - B - Continued

Seafood Purchases and Testing Results
June 29, 2017 - May 30, 2018

SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Dash's Market	9/20/2017	499 West Klein Rd Buffalo, NY 14221	Packaging - Wild Alaskan Copper River Salmon Fillet Previously Frozen	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Dash's Market	9/20/2017	8845 Main St Clarence, NY 14221	Packaging - Fresh Wild Fillet of Sole	Flounder or Sole	Limanda ferruginea	Yellowtail Flounder
DeCicco's	8/2/2017	17 Maple Ave Armonk, NY 10504	Packaging - King Salmon Fillets, Wild Caught in Alaska	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
DeCicco's	8/2/2017	17 Maple Ave Armonk, NY 10504	Packaging - Salmon-Wild Sockeye	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
DeCicco's	8/2/2017	230 Saw Mill River Rd Millwood, NY 10546	Packaging - Halibut Fillet	Halibut	Hippoglossus stenolepis	Pacific Halibut
DeCicco's	8/2/2017	230 Saw Mill River Rd Millwood, NY 10546	Packaging - King Salmon Fillets, Wild Caught in Alaska	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
DeCicco's	8/2/2017	230 Saw Mill River Rd Millwood, NY 10546	Packaging - Salmon-Wild Sockeye	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
DeCicco's	10/25/2017	15 Quaker Rd Cornwall, NY 12518	Packaging - Lemon Sole Fillet	Flounder	Hippoglossoides robustus	Bering flounder
DeCicco's	10/25/2017	15 Quaker Rd Cornwall, NY 12518	Packaging - Victoria Snapper Fillet	Nile Perch or Lake Victoria Perch	Lates niloticus	Nile Perch
Fairway	8/29/2017	1258 Corporate Dr Westbury, NY 11590	Packaging - Cod Fillet Previously Frozen	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Fairway	8/29/2017	1258 Corporate Dr Westbury, NY 11590	Packaging - Wild Coho Salmon Fillet	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
Fairway	8/29/2017	1258 Corporate Dr Westbury, NY 11590	Packaging - Fresh Wild Halibut Steaks	Halibut	Hippoglossus stenolepis	Pacific Halibut
Fairway	8/29/2017	1258 Corporate Dr Westbury, NY 11590	Packaging - Red Snapper Fillets	Snapper	Lutjanus purpurus	Caribbean Red Snapper
Fairway	8/29/2017	1258 Corporate Dr Westbury, NY 11590	Packaging - Wild Salmon Fillet	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Fairway	8/29/2017	542-580 2nd Ave New York, NY 10016	Packaging - Red Snapper Fillets	Snapper or Red Snapper	Lutjanus campechanus	Red Snapper
Fairway	9/26/2017	101 Market St Nanuet, 10554	Packaging - Cod Fillet Previously Frozen	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Fairway	9/26/2017	101 Market St Nanuet, 10554	Packaging - Lemon Sole	Flounder or Sole	Pseudopleuronectes americanus	Blackback
Fairway	9/26/2017	101 Market St Nanuet, NY 10554	Packaging - Wild Salmon Fillet	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Fairway	9/26/2017	2328 12th Ave New York, NY 10027	Packaging - Red Snapper Fillets	Snapper	Lutjanus purpurus	Caribbean Red Snapper
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Steak of Grouper	Grouper	Epinephelus morio	Red Grouper
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Snapper Red Large	Snapper or Red Snapper	Lutjanus campechanus	Red Snapper
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Steak Blue Snapper	Pollock	Pollachius virens	Pollock
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Snapper Lane	Snapper	Lutjanus synagris	Lane Snapper

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Seafood Purchases and Testing Results
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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELLED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED	
					SCIENTIFIC NAME	COMMON NAME
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Snapper Yellow Tail	Snapper	Ocyurus chrysurus	Yellowtail Snapper
Food Bazaar	7/11/2017	238 E 161st St Bronx, NY 10451	Packaging - Fillet of Wild Salmon	Salmon, Chinook or King or Spring Nile Perch or Lake Victoria Perch	Oncorhynchus tshawytscha Lates niloticus	Chinook Salmon Nile Perch
Food Bazaar	7/19/2017	42-02 Northern Blvd Long Island City, NY 11101	Packaging - Fillet of Red Snapper Small	Perch, Ocean	Sebastes norvegicus	Golden Redfish
Food Bazaar	7/19/2017	42-02 Northern Blvd Long Island City, NY 11101	Packaging - Steak Blue Snapper	Pollock	Pollachius virens	Pollock
Food Bazaar	7/19/2017	42-02 Northern Blvd Long Island City, NY 11101	Packaging - Fillet of Wild Salmon	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Food Bazaar	7/26/2017	1 Bogopa Plaza Mt Vernon, NY 10550	Packaging - Fillet of Red Snapper Small USA	Perch, Ocean	Sebastes norvegicus	Golden Redfish
Food Bazaar	7/26/2017	1 Bogopa Plaza Mt Vernon, NY 10550	Packaging - Steak Blue Snapper	Pollock	Pollachius virens	Pollock
Food Bazaar	7/26/2017	1 Bogopa Plaza Mt Vernon, NY 10550	Packaging - Snapper Yellow Tail	Snapper	Ocyurus chrysurus	Yellowtail Snapper
Food Bazaar	8/2/2017	454 Wyckoff Ave Brooklyn, NY 11237	Packaging - Wild Salmon Sockeye	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Food Bazaar	5/2/2018	1 Bogopa Plaza Mt Vernon, NY 10550	Packaging - Fillet King Salmon	Salmon, Atlantic	Salmo salar	Atlantic Salmon
Food Bazaar	5/2/2018	Mt Vernon, NY 10550	Packaging - Snapper-B Liner	Snapper	Rhomboplites aurorbans	Vermilion Snapper
Food Bazaar	5/3/2018	42-02 Northern Blvd Long Island City, NY 11101	Sign - Red Snapper Wild Caught Product of USA	Nile Perch or Lake Victoria Perch	Lates niloticus	Nile Perch
Food Bazaar	5/3/2018	42-02 Northern Blvd Long Island City, NY 11101	Packaging - Steak_Snapper-Red Large	Snapper	Lutjanus malabaricus	Malabar Snapper
Food Bazaar	5/3/2018	42-02 Northern Blvd Long Island City, NY 11101	Packaging - Steak_Snapper-Blue Sign - Blue Snapper Steak, Pollock, Product of USA/Fresh Wild Caught	Pollock	Pollachius virens	Pollock
Food Emporium	8/29/2017	10 Union Square East New York, NY 10003	Packaging - Cod Fillet Wild Caught	Cod	Gadus morhua	Atlantic Cod
Foodtown	6/29/2017	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Wild Cod Fillet Caught USA	Snapper or Red Snapper	Lutjanus campechanus	Red Snapper
Foodtown	6/29/2017	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Fresh Red Snapper Fillet Wild Caught USA	Snapper	Lutjanus peru	Pacific Snapper
Foodtown	6/29/2017	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Wild Salmon Fillet Wild USA	Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout
Foodtown	7/19/2017	600 W 160th St New York, NY 10032	Packaging - Arctic Char Salmon Fillet Wild Caught USA	Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout
Foodtown	7/26/2017	1420 Fulton St Brooklyn, NY 11216	Packaging - Fresh Cod Fillet Wild Caught USA	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Foodtown	7/26/2017	1420 Fulton St Brooklyn, NY 11216	Packaging - Fresh Red Snapper Fillet Wild Caught USA	Perch, Ocean	Sebastes norvegicus	Golden Redfish

Appendix - B - Continued

Seafood Purchases and Testing Results
June 29, 2017 - May 30, 2018

SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	Where packaging and signage differ multiple descriptions are offered	FISH AS LABELED		FDA ACCEPTABLE MARKET NAME	FISH AS TESTED	
							SCIENTIFIC NAME	COMMON NAME
Foottown	7/26/2017	1420 Fulton St Brooklyn, NY 11216	Packaging - Blue Snapper Steak Wild Caught USA		Pollock	Pollock	Pollock	Pollock
Foottown	7/26/2017	1420 Fulton St Brooklyn, NY 11216	Packaging - Wild Salmon Fillet Wild Caught USA		Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout	Rainbow Trout
Foottown	7/26/2017	159 N 3rd St Brooklyn, NY 11211	Packaging - Cod Fillet Wild Caught/Atlantic USA		Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod	Pacific Cod
Foottown	7/26/2017	159 N 3rd St Brooklyn, NY 11211	Packaging - Red Snapper Whole Wild Caught/Florida		Snapper	Lutjanus purpuratus	Caribbean Red Snapper	Caribbean Red Snapper
Foottown	10/2/5/2017	49 Chestnut St Cold Spring, NY 10516	Packaging - Cod Wild Caught USA		Cod	Gadus morhua	Atlantic Cod	Atlantic Cod
Foottown	10/2/5/2017	49 Chestnut St Cold Spring, NY 10516	Packaging - Halibut Wild Caught USA		Greenland Turbot	Reinhardtius hippoglossoides	Greenland Turbot	Greenland Turbot
Foottown	10/2/5/2017	49 Chestnut St Cold Spring, NY 10516	Packaging - Lemon Sole Wild Caught USA		Swai or Sutchi or Striped Pangasius or Tra	Pangasius hypophthalmus	Swai	Swai
Foottown	10/2/5/2017	49 Chestnut St Cold Spring, NY 10516	Packaging - Salmon Fillet Wild Caught USA		Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon	Coho Salmon
Foottown	12/5/2017	520 S Broadway Hicksville, NY 11801	Sign - From Brazil Wild Caught Whole Red Snapper		Snapper	Lutjanus synagris	Lane Snapper	Lane Snapper
Foottown	12/5/2017	520 S Broadway Hicksville, NY 11801	Sign - Product of Faroe Islands Raised in the Wild Organic Salmon Fillet		Salmon, Atlantic	Salmo salar	Atlantic Salmon	Atlantic Salmon
Foottown	5/3/2018	76-10 37th Ave Jackson Heights, NY 11372	Packaging - Red Snapper Fillet Wild Indonesia		Snapper	Lutjanus erythropterus	Crimson Snapper	Crimson Snapper
Foottown	5/30/2018	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Grouper Wild Caught USA		Mile Perch or Lake Victoria Perch	Lates niloticus	Mile Perch	Mile Perch
Foottown	5/30/2018	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Halibut Wild Caught Greenland		Greenland Turbot	Reinhardtius hippoglossoides	Greenland Turbot	Greenland Turbot
Foottown	5/30/2018	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Fresh Red Snapper Fillet Wild Caught USA		Snapper	Lutjanus peru	Pacific Snapper	Pacific Snapper
Foottown	5/30/2018	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Sockeye Salmon Wild Caught USA		Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon	Sockeye Salmon
Foottown	5/30/2018	2005 Albany Post Rd Croton on Hudson, NY 10520	Packaging - Gray Sole Fillet Wild Caught USA		Sole or Flounder	Glyptocephalus zachirus	Rex Sole	Rex Sole
Foottown	5/30/2018	2945 Bruckner Blvd Bronx, NY 10460	Packaging - Fresh King Wild Salmon Fillet/Produced/Norway		Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout	Rainbow Trout
Foottown	5/30/2018	2945 Bruckner Blvd Bronx, NY 10460	Packaging - Fresh Lemon Sole Fillet Wild Caught/USA		Flounder or Sole	Pseudopleuronectes americanus	Blackback	Blackback
Foottown	5/30/2018	2945 Bruckner Blvd Bronx, NY 10460	Packaging - Red Snapper Fillet Prev Frozen Wild Indonesia		Snapper	Lutjanus malabaricus	Malabar Snapper	Malabar Snapper
Foottown	5/30/2018	2945 Bruckner Blvd Bronx, NY 10460	Packaging - Sockeye Salmon Fillet Prev/Frozen Wild/USA		Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon	Sockeye Salmon
Foottown	5/30/2018	300 W 145th St New York, NY 10039	Packaging - Sockeye Salmon Fillets		Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon	Sockeye Salmon
Foottown	5/30/2018	300 W 145th St New York, NY 10039	Packaging - Salmon Fillet Wild Caught USA		Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout	Rainbow Trout
Foottown	5/30/2018	87 Main St Hastings on Hudson, NY 10706	Packaging - Sockeye Salmon Fillet Wild		Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon	Sockeye Salmon

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	Where packaging and signage differ multiple descriptions are offered	FISH AS LABELED		FISH AS TESTED		
				FDA ACCEPTABLE MARKET NAME	SCIENTIFIC NAME	COMMON NAME		
Gourmet Garage	9/26/2017	366 Broadway New York, NY 10014	Packaging - Wild Icelandic Cod Fillet	Cod	Gadus morhua	Atlantic Cod		
Gourmet Garage	9/26/2017	366 Broadway New York, NY 10014	Packaging - Wild Sockeye Salmon Fillet	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon		
Hannaford	8/22/2017	180 Delaware Plaza Delmar, NY 12054	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	8/22/2017	5239 Western Tpke Altamont, NY 12009	Packaging - FAS Cod Fillets Wild Caught	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod		
Hannaford	8/22/2017	5239 Western Tpke Altamont, 12009	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	8/22/2017	95 Weibel Ave Saratoga Springs, NY 12866	Packaging - Fresh Captains Cut Cod Loins	Cod	Gadus morhua	Atlantic Cod		
Hannaford	8/22/2017	95 Weibel Ave Saratoga Springs, NY 12866	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	8/22/2017	96 Wolf Rd Colonie, NY 12205	Packaging - Fresh Cod Fillet Wild Caught	Cod	Gadus morhua	Atlantic Cod		
Hannaford	8/22/2017	96 Wolf Rd Colonie, NY 12205	Packaging - Previously Frozen Snapper Wild Caught	Snapper	Lutjanus malabaricus	Malabar Snapper		
Hannaford	8/22/2017	96 Wolf Rd Colonie, NY 12205	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	10/25/2017	1490 Rt 9 Wappingers Falls, NY 12590	Packaging - Fresh Captains Cut Cod Loins	Cod	Gadus morhua	Atlantic Cod		
Hannaford	10/25/2017	1490 Rt 9 Wappingers Falls, NY 12590	Packaging - Whole Grouper	Grouper	Epinephelus areolatus	Persian Grouper		
Hannaford	10/25/2017	2066 Rt 32 Modena, NY 12548	Packaging - Previously Frozen Snapper Wild Caught	Snapper	Pinjalo pinjalo	Pinjalo		
Hannaford	10/25/2017	2066 Rt 32 Modena, NY 12548	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	10/25/2017	2636 NY 32 New Windsor, NY 12553	Packaging - Whole Snapper	Snapper	Lutjanus malabaricus	Malabar Snapper		
Hannaford	10/25/2017	2636 NY 32 New Windsor, NY 12553	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	10/25/2017	3650 US 9W Highland, NY 12528	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	11/14/2017	1112 Commercial Dr New Hartford, NY 13413	Packaging - FAS Cod Fillets Wild Caught	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod		
Hannaford	11/14/2017	1112 Commercial Dr New Hartford, NY 13413	Packaging - FAS Sockeye Salmon Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Hannaford	11/14/2017	50 Kellogg Rd New Hartford, NY 13413	Packaging - FAS Cod Fillets Wild Caught	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod		
Key Food Supermarket	7/19/2017	530 Amsterdam Ave New York, NY 10024	Packaging - Cod Fillet Wild Caught Previously Frozen	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod		
Key Food Supermarket	7/19/2017	530 Amsterdam Ave New York, NY 10024	Packaging - Salmon Fillet Sockeye Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon		
Key Food Supermarket	5/2/2018	55 Fulton St New York, NY 10038	Packaging - Grouper Fillet Wild	Nile Perch or Lake Victoria Perch	Lates niloticus	Nile Perch		

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELLED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Key Food	5/2/2018	55 Fulton St New York, NY 10038	Packaging - King Salmon Fillet Wild	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Supermarket	7/11/2017	231 W Merrick Rd Valley Stream, NY 11580	Packaging - Silverbrite Salmon USA Wild Caught Fresh Cut	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
King Kullen	7/19/2017	127 Sunrise Hwy Rockville Centre, NY 11570	Packaging - Halibut Steak Fresh Cut Wild Canada	Halibut	Hippoglossus hippoglossus	Atlantic Halibut
King Kullen	7/19/2017	127 Sunrise Hwy Rockville Centre, NY 11570	Packaging - Silverbrite Salmon Steaks	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
King Kullen	7/26/2017	2305 Jericho Tpke Garden City Park, NY 11040	Packaging - Lemon Sole Fillet Fresh Cut	Flounder or Sole	Limanda ferruginea	Yellowtail Flounder
King Kullen	7/26/2017	2305 Jericho Tpke Garden City Park, NY 11040	Packaging - Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
King Kullen	12/5/2017	133 Ronkonkoma Ave Lake Ronkonkoma, NY 11779	Packaging - Sockeye Salmon Fillet Product of USA Wild Caught	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
King Kullen	12/5/2017	5507 Nesconset Hwy Mt. Sinai, NY 11766	Packaging - Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
MET Food	7/19/2017	79-15 Elliot Ave Middle Village, NY 11379	Packaging - (S) Sign - Wild King Salmon	Salmon, Chinook or King or Spring Plaice or Flounder	Oncorhynchus tshawytscha	Chinook Salmon
MET Food	7/19/2017	79-15 Elliot Ave Middle Village, NY 11379	Packaging - (L) Sign - Lemon Sole Wild USA	Salmon, Chinook or King or Spring Plaice or Flounder	Hippoglossoides platessoides	American Plaice
MET Food	7/19/2017	79-15 Elliot Ave Middle Village, NY 11379	Packaging - (R) Sign - Fillet Red Snapper Wild Product of USA	Snapper	Lutjanus purpuraceus	Caribbean Red Snapper
Morton Williams	8/29/2017	908 2nd Ave New York, NY 10017	Receipt - Salmon Wild	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Price Chopper	8/22/2017	1395 New Scotland Rd Slingerlands, NY 12159	Packaging - Snapper Fillet Frozen Wild	Snapper	Lutjanus malabaricus	Malabar Snapper
Price Chopper	8/22/2017	1395 New Scotland Rd Slingerlands, NY 12159	Sign - Wild Red Snapper Fillet Product of Indonesia	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Price Chopper	8/22/2017	1892 Central Ave Albany, NY 12205	Packaging - Pre-Froz Cod	Cod	Gadus morhua	Atlantic Cod
Price Chopper	8/22/2017	1892 Central Ave Albany, NY 12205	Packaging - Halibut	Halibut	Hippoglossus stenolepis	Pacific Halibut
Price Chopper	8/22/2017	1892 Central Ave Albany, NY 12205	Packaging - Frozen Sockeye Salmon Fillet USA Wild	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Price Chopper	8/22/2017	1892 Central Ave Albany, NY 12205	Packaging - Petrale Sole	Sole or Flounder	Eopsetta jordani	Petrале Sole
Price Chopper	11/14/2017	1917 Genesee St Utica, NY 13501	Packaging - Frozen Sockeye Salmon Fillet USA Wild	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Price Chopper	11/14/2017	1917 Genesee St Utica, NY 13501	Packaging - Petrale Sole	Sole or Flounder	Eopsetta jordani	Petrале Sole
Price Chopper	11/14/2017	2515 Erie Blvd East Syracuse, NY 13224	Packaging - Pre-Froz Cod	Cod	Gadus morhua	Atlantic Cod
Price Chopper	11/14/2017	2515 Erie Blvd East Syracuse, NY 13224	Packaging - Pre-Froz Cod	Cod	Gadus morhua	Atlantic Cod
Price Chopper	11/14/2017	2515 Erie Blvd East Syracuse, NY 13224	Packaging - Halibut Portions 6 Oz. Each	Halibut	Hippoglossus stenolepis	Pacific Halibut

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	Where packaging and signage differ multiple descriptions are offered	FISH AS LABELED		FISH AS TESTED	
				FDA ACCEPTABLE MARKET NAME	SCIENTIFIC NAME	COMMON NAME	
Price Chopper	11/14/2017	2515 Erie Blvd East Syracuse, NY 13224	Packaging - Petrale Sole	Sole or Flounder	<i>Eopsetta jordani</i>	Petrале Sole	
Price Chopper	11/14/2017	3863 State Rt 31 Clay, NY 13090	Packaging - Frozen Sockeye Salmon Fillet USA Wild	Salmon, Sockeye or Red or Blueback	<i>Oncorhynchus nerka</i>	Sockeye Salmon	
Price Chopper	11/14/2017	3863 State Rt 31 Clay, NY 13090	Packaging - Petrale Sole	Sole or Flounder	<i>Eopsetta jordani</i>	Petrале Sole	
Price Chopper	11/14/2017	4535 Commercial Dr New Hartford, NY 13413	Packaging - Halibut Portions 6 Oz. Each	Halibut	<i>Hippoglossus stenolepis</i>	Pacific Halibut	
Price Chopper	11/14/2017	4535 Commercial Dr New Hartford, NY 13413	Packaging - Dressed Snapper	Snapper	<i>Lutjanus purpurus</i>	Caribbean Red Snapper	
Price Chopper	11/14/2017	4535 Commercial Dr New Hartford, NY 13413	Sign - Frozen Wild Dressed Red Snapper Product of Sri Lanka	Snapper	<i>Lutjanus purpurus</i>	Caribbean Red Snapper	
Price Chopper	11/14/2017	4535 Commercial Dr New Hartford, NY 13413	Packaging - Frozen Sockeye Salmon Fillet USA Wild	Salmon, Sockeye or Red or Blueback	<i>Oncorhynchus nerka</i>	Sockeye Salmon	
Price Chopper	11/14/2017	4535 Commercial Dr New Hartford, NY 13413	Packaging - Petrale Sole	Sole or Flounder	<i>Eopsetta jordani</i>	Petrале Sole	
Price Chopper	11/14/2017	50 Auer Ave Utica, NY 13501	Packaging - Frozen Sockeye Salmon Fillet USA Wild	Salmon, Sockeye or Red or Blueback	<i>Oncorhynchus nerka</i>	Sockeye Salmon	
Price Chopper	8/22/2017	79 Vandenburg Pl Troy, NY 12180	Packaging - Halibut Portions 6 Oz. Each	Halibut	<i>Hippoglossus stenolepis</i>	Pacific Halibut	
Price Chopper	8/22/2017	79 Vandenburg Pl Troy, NY 12180	Packaging - Ora King Salmon Fillet Fr	Salmon, Chinook or King or Spring	<i>Oncorhynchus tshawytscha</i>	Chinook Salmon	
Price Chopper	8/22/2017	Route 146 Plank Rd Clifton Park, NY 12065	Packaging - Frozen Coho Salmon Fillet	Salmon, Coho or Silver or Medium Red	<i>Oncorhynchus kisutch</i>	Coho Salmon	
Price Chopper	8/22/2017	Route 146 Plank Rd Clifton Park, NY 12065	Packaging - Halibut	Halibut	<i>Hippoglossus stenolepis</i>	Pacific Halibut	
Price Chopper	8/23/2017	Hamilton Square Albany, NY 12203	Packaging - Snapper Fillet Frozen Wild	Snapper	<i>Lutjanus malabaricus</i>	Malabar Snapper	
Price Chopper	10/25/2017	2585 South Rd Poughkeepsie, NY 12601	Sign - Frozen Wild Red Snapper Fillet Product of Surinam	Salmon, Coho or Silver or Medium Red	<i>Oncorhynchus kisutch</i>	Coho Salmon	
Price Chopper	10/25/2017	39 N Plank Rd Newburgh, NY 12550	Packaging - Frozen Coho Salmon Fillet	Halibut	<i>Hippoglossus stenolepis</i>	Pacific Halibut	
Price Chopper	10/25/2017	39 N Plank Rd Newburgh, NY 12550	Packaging - Ora King Salmon Fillet Fr	Salmon, Chinook or King or Spring	<i>Oncorhynchus tshawytscha</i>	Chinook Salmon	
Price Chopper	10/25/2017	39 N Plank Rd Newburgh, NY 12550	Packaging - Snapper Fillet Frozen Wild	Snapper	<i>Lutjanus malabaricus</i>	Malabar Snapper	
Price Chopper	8/22/2017	2330 Watt St Schenectady, NY 12304	Sign - Frozen Wild Red Snapper Fillet Product of Surinam	Cod or Alaska Cod	<i>Gadus macrocephalus</i>	Pacific Cod	
Price Rite	8/22/2017	2330 Watt St Schenectady, NY 12304	Packaging - Fresh Whole Clean Snapper Farm Raised Costa Rica	Snapper	<i>Lutjanus guttatus</i>	Rose Snapper	
Price Rite	9/20/2017	1700 Walden Ave Cheektowaga, NY 14225	Packaging - Fresh Never Frozen	Cod or Alaska Cod	<i>Gadus macrocephalus</i>	Pacific Cod	
Price Rite	9/20/2017	250 Elmwood Ave Buffalo, NY 14209	Packaging - Salted Cod PR	Cod or Alaska Cod	<i>Gadus macrocephalus</i>	Pacific Cod	
ShopRite	7/11/2017	133-11 20th Ave College Point, NY 11356	Packaging - Halibut Fillet Wild Caught	Halibut	<i>Hippoglossus stenolepis</i>	Pacific Halibut	
ShopRite	7/11/2017	133-11 20th Ave College Point, NY 11356	Packaging - SilverTrite Salmon Fillet	Salmon, Chum or Keta	<i>Oncorhynchus keta</i>	Chum Salmon	

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELLED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
ShopRite	7/19/2017	13 City Pl White Plains, NY 10601	Packaging - Wild Caught Fresh Halibut Fillet	Halibut	Hippoglossus hippoglossus	Atlantic Halibut
ShopRite	7/19/2017	13 City Pl White Plains, NY 10601	Packaging - Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
ShopRite	7/19/2017	2424 Hylan Blvd Staten Island, NY 10306	Packaging - Copper River Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
ShopRite	7/19/2017	2424 Hylan Blvd Staten Island, NY 10306	Packaging - Wild Caught CR Silvertrite Salmon Fillet	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
ShopRite	8/22/2017	41 Vista Blvd Slingerlands, NY 12159	Packaging - Wild Caught Fresh Halibut Fillet	Halibut	Hippoglossus stenolepis	Pacific Halibut
ShopRite	8/22/2017	41 Vista Blvd Slingerlands, NY 12159	Packaging - Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
ShopRite	8/22/2017	709 Central Ave Albany, NY 12206	Packaging - Wild Atlantic Scrod Cod	Cod	Gadus morhua	Atlantic Cod
ShopRite	8/22/2017	709 Central Ave Albany, NY 12206	Packaging - Wild Coho Salmon Fillet	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
ShopRite	10/25/2017	1895 South St Poughkeepsie, NY 12601	Packaging - PF Sockeye Salmon Fillet Wild Caught Russia	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stew Leonard's	9/26/2017	1 Stew Leonard Dr Yonkers, NY 10710	Packaging - Frozen at Sea Red Snapper Fillet	Snapper	Pinjalo pinjalo	Pinjalo
Stew Leonard's	9/26/2017	1 Stew Leonard Dr Yonkers, NY 10710	Packaging - Always Wild Caught Grey Sole	Gray Sole or Sole or Flounder	Glyptocephalus cynoglossus	Witch Flounder
Stew Leonard's	9/26/2017	1897 Front St East Meadow, NY 11554	Packaging - Fresh Halibut	Halibut	Hippoglossus stenolepis	Pacific Halibut
Stew Leonard's	9/26/2017	1897 Front St East Meadow, NY 11554	Packaging - Frozen at Sea Red Snapper Fillet	Snapper	Pinjalo pinjalo	Pinjalo
Stew Leonard's	9/26/2017	1897 Front St East Meadow, NY 11554	Packaging - Frozen Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stew Leonard's	12/5/2017	261 Airport Plaza Blvd Farmingdale, NY 11735	Packaging - Frozen at Sea Red Snapper Fillet	Snapper	Lutjanus bohar	Twinspot Snapper
Stew Leonard's	12/5/2017	261 Airport Plaza Blvd Farmingdale, NY 11735	Packaging - Wild Salmon Sign - Wild Caught Sockeye Salmon Fillets Direct from Alaska, U.S.A. Boat Frozen at Sea	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
Stew Leonard's	5/2/2018	1 Stew Leonard Dr Yonkers, NY 10710	Packaging - Wild Salmon	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stew Leonard's	5/2/2018	1 Stew Leonard Dr Yonkers, NY 10710	Packaging - Frozen at Sea Red Snapper Fillet	Jobfish or Snapper	Pristipomoides multidentis	Goldbanded Jobfish
Stew Leonard's	5/2/2018	1 Stew Leonard Dr Yonkers, NY 10710	Packaging - Frozen at Sea Rex Sole	Sole or Flounder	Glyptocephalus zachirus	Rex Sole
Stew Leonard's	5/2/2018	1897 Front St East Meadow, NY 11554	Packaging - Frozen at Sea Red Snapper Fillet	Jobfish or Snapper	Pristipomoides typus	Sharptooth Jobfish
Stew Leonard's	5/30/2018	261 Airport Plaza Blvd Farmingdale, NY 11735	Packaging - Frozen at Sea Red Snapper Fillet	Jobfish or Snapper	Pristipomoides multidentis	Goldbanded Jobfish
Stew Leonard's	5/30/2018	261 Airport Plaza Blvd Farmingdale, NY 11735	Packaging - Frozen Sockeye Salmon Fillet	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELLED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Stop & Shop	6/29/2017	154 Westchester Ave White Plains, NY 10601	Packaging - Sockeye Salmon Fillet Prev Frozen Wild	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stop & Shop	7/11/2017	132 Fulton Ave Hempstead, NY 11550	Packaging - Sockeye Salmon Fillet Wild Fresh	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stop & Shop	7/11/2017	691 Co Op City Blvd Bronx, NY 10475	Packaging - Sockeye Salmon Fillet Prev Frozen Wild TP	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stop & Shop	8/2/2017	460 Franklin Ave Franklin Square, NY 11010	Packaging - Sockeye Salmon Fillet Wild Fresh	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Stop & Shop	10/2/2017	2340 South Rd Roughkeepsie, NY 12601	Packaging - Sockeye Salmon Fillet Prev Frozen Wild	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
The Fresh Market	7/11/2017	723 White Plains Rd Scarsdale, NY 10583	Packaging - Sockeye Salmon Fillets	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
The Fresh Market	8/22/2017	52 Marion Ave Saratoga Springs, NY 12866	Packaging - Cod	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
The Fresh Market	8/22/2017	52 Marion Ave Saratoga Springs, NY 12866	Packaging - Halibut Fillet Skin On	Halibut	Hippoglossus stenolepis	Pacific Halibut
The Fresh Market	8/22/2017	52 Marion Ave Saratoga Springs, NY 12866	Packaging - Sockeye Salmon Fillets	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
The Fresh Market	8/22/2017	664 New Loudon Rd Latham, NY 12110	Packaging - Halibut Portions	Halibut	Hippoglossus stenolepis	Pacific Halibut
The Fresh Market	8/22/2017	664 New Loudon Rd Latham, NY 12110	Packaging - Sockeye Salmon Fillets	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Tops	9/20/2017	1740 Sheridan Dr Buffalo, NY 14223	Packaging - Alaska Cod Fillet Wild TP	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Tops	9/20/2017	2101 Elmwood Ave Buffalo, NY 14217	Packaging - Alaska Cod Fillet Wild TP	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Tops	9/20/2017	3035 Niagara Falls Blvd Amherst, NY 14228	Packaging - Wild Alaskan Sockeye Smoked Salmon	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Tops	9/20/2017	425 Niagara St Buffalo, NY 14201	Packaging - Alaska Cod Fillet Wild TP	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Tops	10/2/2017	1357 Rt 9 Wappingers Falls, NY 12590	Packaging - Boneless Yellowtail Sole Fillet Wild TP	Sole or Flounder	Limanda aspera	Yellowfin Sole
Tops	10/2/2017	16 John Wagner Way Lagrangeville, NY 12540	Packaging - Alaska Cod Fillet Wild	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Tops	10/2/2017	16 John Wagner Way Lagrangeville, NY 12540	Packaging - Boneless Yellowtail Sole Fillet Wild	Flounder or Sole	Limanda ferruginea	Yellowtail Flounder
Tops	11/14/2017	5551 North Burdick St Fayetteville, NY 13066	Packaging - Boneless Yellowtail Sole Fillet Wild	Flounder or Sole	Limanda ferruginea	Yellowtail Flounder
Tops	11/14/2017	620 Nottingham Rd Syracuse, NY 13210	Packaging - Alaska Cod Fillet Wild	Cod or Alaska Cod	Gadus macrocephalus	Pacific Cod
Uncle Giuseppe's	9/26/2017	37 Hicksville Rd Massapequa, NY 11758	Packaging - Organic King Salmon Fillet Product of Alaska	Salmon, Atlantic	Salmo salar	Atlantic Salmon
Uncle Giuseppe's	9/26/2017	37 Hicksville Rd Massapequa, NY 11758	Packaging - Fresh Lemon Sole Fillet Wild Product of USA	Flounder or Fluke	Paralichthys lethostigma	Southern Flounder
Uncle Giuseppe's	9/26/2017	37 Hicksville Rd Massapequa, NY 11758	Packaging - Red Snapper Wild Product of USA	Snapper	Lutjanus vivanus	Silk Snapper

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SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELLED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Uncle Giuseppe's	9/26/2017	95 Route 11 Smithtown, NY 11787	Packaging - Organic King Salmon Fillet Product of Alaska	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Uncle Giuseppe's	9/26/2017	95 Route 11 Smithtown, NY 11787	Packaging - Fresh Lemon Sole Fillet Wild Product of USA	Flounder or Fluke	Paralichthys lethostigma	Southern Flounder
Uncle Giuseppe's	9/26/2017	95 Route 11 Smithtown, NY 11787	Sign - Wild Red Snapper Fillet Product of USA	Snapper	Lutjanus vivanus	Silk Snapper
Uncle Giuseppe's	12/5/2017	1108 NY-112 Port Jefferson Station, NY 11776	Label - Fresh Halibut Fillet Wild Product of Canada	Halibut	Hippoglossus stenolepis	Pacific Halibut
Uncle Giuseppe's	12/5/2017	1108 NY-112 Port Jefferson Station, NY 11776	Sign - Fresh Wild Salmon Product of Alaska	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Uncle Giuseppe's	12/5/2017	1108 NY-112 Port Jefferson Station, NY 11776	Packaging - Fresh Fillet Flounder Wild Product of USA	Flounder or Fluke	Paralichthys lethostigma	Southern Flounder
Uncle Giuseppe's	12/5/2017	1108 NY-112 Port Jefferson Station, NY 11776	Sign - Fresh Lemon Sole Fillet Wild Product of USA	Flounder or Fluke	Paralichthys lethostigma	Southern Flounder
Uncle Giuseppe's	12/5/2017	1108 NY-112 Port Jefferson Station, NY 11776	Packaging - Striped Bass Wild Fillet Wild Product of USA	Bass	Morone saxatilis	Striped Bass
Uncle Giuseppe's	12/5/2017	890 Walt Whitman Rd Melville, NY 11747	Packaging - Fresh Halibut Fillet Wild Product of Canada	Halibut	Hippoglossus stenolepis	Pacific Halibut
Uncle Giuseppe's	12/5/2017	890 Walt Whitman Rd Melville, NY 11747	Packaging - Fresh Lemon Sole Fillet Wild Product of USA	Gray Sole or Sole or Flounder	Glyptocephalus cynoglossus	Witch Flounder
Uncle Giuseppe's	12/5/2017	890 Walt Whitman Rd Melville, NY 11747	Packaging - Fresh Wild Salmon Wild Product from USA	Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Uncle Giuseppe's	5/2/2018	364 Port Washington Blvd Port Washington, NY 11050	Packaging - Fresh Halibut Fillet Wild Product of Canada	Halibut	Hippoglossus stenolepis	Pacific Halibut
Uncle Giuseppe's	5/2/2018	364 Port Washington Blvd Port Washington, NY 11050	Packaging - Fresh Ora King Salmon Fillet Product of New Zealand	Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout
Uncle Giuseppe's	5/2/2018	364 Port Washington Blvd Port Washington, NY 11050	Sign - Organic King Salmon Fillet Product of Alaska	Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout
Uncle Giuseppe's	5/2/2018	364 Port Washington Blvd Port Washington, NY 11050	Packaging - Whole Red Snapper Wild Product of USA	Snapper	Lutjanus purpurus	Caribbean Red Snapper
Uncle Giuseppe's	5/3/2018	37 Hicksville Rd Massapequa, NY 11758	Packaging - Fresh Lemon Sole Fillet Wild Product of USA	Flounder or Fluke	Paralichthys dentatus	Summer Flounder
Uncle Giuseppe's	5/30/2018	37 Hicksville Rd Massapequa, NY 11758	Packaging - Ora King Salmon Fillet Fresh Product of New Zealand	Trout, Rainbow or Steelhead	Oncorhynchus mykiss	Rainbow Trout
Walmart	8/23/2017	1 Crossgates Mall Rd Albany, NY 12203	Packaging - Fresh Keta Salmon Product of USA Wild Caught	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
Walmart	8/23/2017	311 Route 9W Glenmont, NY 12077	Packaging - Fresh Keta Salmon Product of USA Wild Caught	Salmon, Chum or Keta	Oncorhynchus keta	Chum Salmon
Walmart	9/20/2017	2500 Walden Ave Cheektowaga, NY 14225	Packaging - Fresh Cod Product of Iceland Wild Caught	Cod	Gadus morhua	Atlantic Cod
Walmart	9/20/2017	5360 South Western Blvd Hamburg, NY 14075	Packaging - Fresh Cod Product of Iceland Wild Caught	Cod	Gadus morhua	Atlantic Cod
Wegmans	9/20/2017	3135 Niagara Falls Blvd Amherst, NY 14228	Packaging - Fresh Cod Loin Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	9/20/2017	3135 Niagara Falls Blvd Amherst, NY 14228	Packaging - Fresh Pacific Coho Salmon Fillet Wild Caught USA	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon

Appendix - B - Continued

Seafood Purchases and Testing Results
June 29, 2017 - May 30, 2018

SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	FISH AS LABELED Where packaging and signage differ multiple descriptions are offered	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED SCIENTIFIC NAME	COMMON NAME
Wegmans	9/20/2017	3135 Niagara Falls Blvd Amherst, NY 14228	Packaging - Whole Lane Snapper	Snapper	Lutjanus guttatus	Rose Snapper
Wegmans	9/20/2017	3740 McKinley Pkwy Buffalo, NY 14219	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	9/20/2017	3740 McKinley Pkwy Buffalo, NY 14219	Packaging - Fresh Pacific Coho Salmon Fillet Wild Caught USA	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
Wegmans	9/20/2017	601 Amherst St Buffalo, NY 14207	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	9/20/2017	601 Amherst St Buffalo, NY 14207	Packaging - Fresh Pacific Coho Salmon Fillet Wild Caught USA	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
Wegmans	9/20/2017	8270 Transit Rd Buffalo, NY 14221	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	9/20/2017	8270 Transit Rd Buffalo, NY 14221	Packaging - Fresh Pacific Coho Salmon Fillet Wild Caught USA	Salmon, Coho or Silver or Medium Red	Oncorhynchus kisutch	Coho Salmon
Wegmans	11/14/2017	3325 W Genesee St Syracuse, NY 13219	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	3789 E Genesee St Dewitt, NY 13066	Packaging - Atlantic Cod Fillet Family Pack Fresh Wild-Caught Product of Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	3789 E Genesee St Dewitt, NY 13066	Packaging - Red Grouper Fillet	Grouper	Hyporhynchus niveatus	Snowy Grouper
Wegmans	11/14/2017	3789 E Genesee St Dewitt, NY 13066	Packaging - Atlantic Halibut Fillet	Halibut	Hippoglossus stenolepis	Pacific Halibut
Wegmans	11/14/2017	3789 E Genesee St Dewitt, NY 13066	Packaging - Wild Sockeye Salmon Previously Frozen USA	Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon
Wegmans	11/14/2017	3955 Rt 31 Liverpool, NY 13090	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	4256 James St East Syracuse, NY 13210	Packaging - Atlantic Cod Fillet Wild Caught	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	4722 Onondaga Blvd Syracuse, NY 13219	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	4979 West Taft Rd Liverpool, NY 13088	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	7519 Oswego Rd Liverpool, NY 13090	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Wegmans	11/14/2017	7952 Brewerton Rd Cicero, NY 13039	Packaging - Fresh Cod Fillet Wild Caught Iceland	Cod	Gadus morhua	Atlantic Cod
Western Beef	8/2/2017	2050 Webster Ave Bronx, NY 10457	Packaging - Snapper Red Buller	Snapper	Rhomboplites altorubens	Vermillion Snapper
Western Beef	9/26/2017	301 Morris Ave Bronx, NY 10451	Sign - Red Snapper Wild Florida Fresh Packaging - Red Snapper 2-4	Snapper	Lutjanus synagris	Lane Snapper
Western Beef	9/26/2017	301 Morris Ave Bronx, NY 10451	Packaging - Wild Salmon Fillets	Salmon, Atlantic	Salmo salar	Atlantic Salmon
Western Beef	9/26/2017	47-05 Metropolitan Ave Ridgewood, NY 11385	Packaging - Wild Salmon Fillets	Salmon, Atlantic	Salmo salar	Atlantic Salmon
Western Beef	5/2/2018	1851 Bruckner Blvd Bronx, NY 10473	Packaging - Snapper Med Red Fillet USA	Perch, Ocean	Sebastes norvegicus	Golden Redfish

Appendix - B - Continued

Seafood Purchases and Testing Results
June 29, 2017 - May 30, 2018

SUPERMARKET BRAND	DATE PURCHASED	ADDRESS	Where packaging and signage differ multiple descriptions are offered	FISH AS LABELLED	FDA ACCEPTABLE MARKET NAME	FISH AS TESTED	COMMON NAME
						SCIENTIFIC NAME	
Western Beef	5/2/2018	831 Rosedale Ave Bronx, NY 10473	Packaging - Red Snapper 1-2		Snapper	Lutjanus campechanus	Red Snapper
Western Beef	5/2/2018	831 Rosedale Ave Bronx, NY 10473	Packaging - Blue Snapper Steaks Pollack Sign - Fresh Blue Snapper Steaks		Pollock	Pollachius virens	Pollock
Western Beef	5/3/2018	301 Morris Ave Bronx, NY 10451	Packaging - Blue Snapper Steaks Pollack Sign - Fresh Blue Snapper		Pollock	Pollachius virens	Pollock
Western Beef	5/3/2018	301 Morris Ave Bronx, NY 10451	Packaging - Wild Salmon Fillets		Salmon, Atlantic	Salmo salar	Atlantic Salmon
Western Beef	5/30/2018	2050 Webster Ave Bronx, NY 10457	Packaging - Snapper Med Red Fillet USA		Perch, Ocean	Sebastes norvegicus	Golden Redfish
Western Beef	5/30/2018	2050 Webster Ave Bronx, NY 10457	Packaging - White Snapper Steaks		Hake	Urophycis tenuis	White Hake
Western Beef	5/30/2018	2050 Webster Ave Bronx, NY 10457	Packaging - Blue Snapper Steaks Pollack Sign - Blue Snapper Wild USA Fresh		Snapper	Lutjanus peru	Pacific Snapper
Whole Foods	9/20/2017	3139 Sheridan Drive Amherst, NY 14226	Packaging - MSC Certified Cod Fillet		Cod	Gadus morhua	Atlantic Cod
Whole Foods	9/20/2017	3139 Sheridan Drive Amherst, NY 14226	Packaging - Halibut Fillet MSC		Halibut	Hippoglossus stenolepis	Pacific Halibut
Whole Foods	9/20/2017	3139 Sheridan Drive Amherst, NY 14226	Packaging - Fresh Salmon King Fillet		Salmon, Chinook or King or Spring	Oncorhynchus tshawytscha	Chinook Salmon
Whole Foods	9/20/2017	3139 Sheridan Drive Amherst, NY 14226	Packaging - Snapper Lane Fillet		Snapper or Red Snapper	Lutjanus campechanus	Red Snapper
Whole Foods	9/26/2017	1 Ridge Hill Blvd Yonkers, NY 10710	Packaging - MSC Certified Cod Fillet		Halibut	Hippoglossus stenolepis	Pacific Halibut
Whole Foods	9/26/2017	1 Ridge Hill Blvd Yonkers, NY 10710	Packaging - Halibut Fillet MSC		Halibut	Hippoglossus stenolepis	Pacific Halibut
Whole Foods	9/26/2017	100 W 125 St New York, NY 10027	Packaging - Red Snapper Fillet		Snapper	Lutjanus purpurus	Caribbean Red Snapper
Whole Foods	9/26/2017	2101 Northern Blvd Munsey Park, NY 11030	Packaging - Halibut Fillet MSC		Halibut	Hippoglossus stenolepis	Pacific Halibut
Whole Foods	12/5/2017	120 New Moriches Rd Lake Grove, NY 11755	Packaging - Certified Wild Halibut Fillet Prev Frozen		Halibut	Hippoglossus stenolepis	Pacific Halibut
Whole Foods	12/5/2017	120 New Moriches Rd Lake Grove, NY 11755	Packaging - MSC Sockeye Salmon Fillet Previously Frozen		Salmon, Sockeye or Red or Blueback	Oncorhynchus nerka	Sockeye Salmon



JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS</p> <p>Shelby Franklin, individually on behalf of herself and all others similarly situated,</p> <p>(b) County of Residence of First Listed Plaintiff <u>Nassau County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) The Sultzter Law Group Jason P. Sultzter, Esq. 85 Civic Center Plaza, Suite 200 (845) 483-7100 Poughkeepsie, NY 12601</p>	<p>DEFENDANTS</p> <p>Stew Leonard's Inc.</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION (Place an "X" in One Box Only)</p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)</p> <p><input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)</p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)</p> <table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:25%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:45%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input checked="" type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input checked="" type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<p>Habeas Corpus:</p> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <p>Other:</p> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
			IMMIGRATION	FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d)

Brief description of cause:
Unjust Enrichment, Breach of Implied Warranty

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 12/19/2018 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, Jason P. Sultzer, counsel for Plaintiff and the Class, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? Yes No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes No
 - b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes No
 - c) If this is a Fair Debt Collection Practice Act case, specify the County in which the offending communication was received:

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? Yes No

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

Yes No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

Yes (If yes, please explain) No

I certify the accuracy of all information provided above.

Signature: _____

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____.

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____, who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____; or

I returned the summons unexecuted because _____; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: