UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: GLACEAU VITAMINWATER MAREKTING AND SALES PRACTICE LITIGATION (NO. II)	Case No. 1:11-md-02215-DLI-RML
BATSHEVA ACKERMAN, et al., Plaintiffs, vs. COCA-COCA COMPANY and ENGERGY BRANDS INC. (d/b/a GLACEAU), Defendants.	Case. No. 1:09-cv-00395-DLI-RML **MOTION OF TRUTH IN ADVERTISING, INC. TO FILE BRIEF AS *AMICUS CURIAE* IN OPPOSITION TO PROPOSED SETTLEMENT**
JULIANA FORD, Plaintiff, vs. THE COCA-COLA COMPANY and ENERGY BRANDS INC., Defendants.	Case No. 1:11-cv-02355-DLI-RML January 13, 2015

MOTION OF TRUTH IN ADVERTISING, INC. FOR LEAVE TO FILE BRIEF AS *AMICUS CURIAE* IN OPPOSITION TO PROPOSED SETTLEMENT

Truth in Advertising, Inc. (TINA.org) respectfully requests leave of the Court to file the attached *amicus curiae* brief in the above-captioned case in opposition to the proposed settlement. Truth in Advertising, Inc. (TINA.org) is a 501(c)(3) nonprofit, nonpartisan organization whose mission is to protect consumers nationwide through the prevention and eradication of false and deceptive marketing. To further its mission, TINA.org investigates deceptive marketing practices and advocates before federal and state government agencies, as well as courts.

With respect to the instant case, TINA.org seeks permission to file the attached brief because the proposed settlement is fundamentally unfair to class members. As a consumer advocacy organization working to eradicate false and deceptive advertising, TINA.org has an important interest and a valuable perspective on the issues presented in this case, and thus should be granted *amicus curiae* status. *See, e.g., C&A Carbone, Inc. v. County of Rockland,* 2014 U.S. Dist. LEXIS 38658 (S.D.N.Y. Mar. 24, 2014)[1]; *Automobile Club of New York, Inc. v. The Port Authority of New York and New Jersey,* 2011 U.S. Dist. LEXIS 135391 (S.D.N.Y. Nov. 23, 2011); *Andersen v. Leavitt*, 2007 U.S. Dist. LEXIS 59108 (E.D.N.Y. Aug. 13, 2007). S*ee also Neonatology Assocs., P.A. v. Comm'r of Internal Revenue, et al.*, 293 F.3d 128, 132 (3d Cir. 2002) (Alito, J.) ("Even when a party is very well represented, an amicus may provide important assistance to the court. . . . Some friends of the court are entities with particular expertise not possessed by any party to the case. . ."); *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997) (Posner, J.) ("An amicus brief should normally be allowed when . . . the amicus has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide."); Managing Class Action Litigation: A Pocket Guide for Judges, 3d ed., Federal Judicial Ctr. 2010, at 17 ("Institutional 'public interest' objectors may bring a different perspective . . . Generally, government bodies such as the FTC and state attorneys general, as well as nonprofit entities, have the classoriented goal of ensuring that class members receive fair, reasonable, and adequate compensation for any injuries suffered. They tend to pursue that objective by policing abuses in class action litigation. Consider allowing such entities to participate actively in the fairness hearing.")[2]

[1] All unpublished decisions are collectively attached in alphabetical order as Exhibit 1.
[2] Neither party nor their counsel played any part in the drafting of this Motion or contributed in any other way.

In addition, now that the parties to this lawsuit have reached an agreement, they no longer have an adversarial relationship, and thus this Court can look only to objectors to illuminate any potential issues with the settlement. *See In re Metlife Demutualization Litig.*, 689 F. Supp. 2d 297, 366 (E.D.N.Y. Feb. 12, 2010) ("[O]bjectors have a valuable and important role to perform in preventing collusive or otherwise unfavorable settlements…[S]ome courts have…rewarded objectors' counsel for advancing non-frivolous arguments and transforming the settlement hearing into a truly adversarial proceeding." (internal quotation marks omitted)); *Park v. The Thomson Corp.*, 633 F. Supp. 2d 8, 11 (S.D.N.Y. Apr. 2, 2009) ("The Court is mindful that it is desirable to have as broad a range of participants in the class action fairness hearing as possible because of the risk of collusion over attorneys' fees and the terms of settlement generally … Objectors have a valuable and important role to perform in policing class action settlements." (internal citations and quotations omitted)); *In re AOL Time Warner ERISA Litig.*, 2007 U.S. Dist. LEXIS 99769, at *6 (S.D.N.Y. Nov. 28, 2007) ("[O]bjectors have a valuable and important role to perform in policing class action settlements.")

Further, because the class members in this case will not receive any monetary compensation from this settlement, there is no economic incentive for any of them to object to the proposed agreement, regardless of whether or not they think the terms are unfair. *See Wal-Mart Stores, Inc. v. Visa U.S.A. Inc.*, 396 F. 3d 96, 118 (2d Cir. 2005) ("Lack of objection by the great majority of claimants means little when the point of objection is limited to a few whose interests are being sacrificed for the benefit of the majority.") (quoting *Nat'l Super Spuds, Inc. v. NY Mercantile Exch.*, 660 F. 2d 9, 18 (2d Cir. 1981); *Fundamental Principles For Class Action Governance*, 37 Ind. L. Rev. 65, 86, A. Lahav (2003-2004) ("[O]bjections may be limited because even though a settlement is unfair, class members have made the cost-benefit calculation

that their potential individual recovery is too small to merit involvement…the costs of objecting will exceed the value of any individual claim…")

The attached *amicus* brief explains in detail why TINA.org opposes the proposed settlement. In short, the terms of the settlement are unfair because the temporary injunctive relief does not eradicate the deception or benefit class members, and the notice used to inform class members about the settlement is fatally flawed in that it omits the material fact that the proposed relief is temporary.

For these reasons, TINA.org moves for leave to appear as *amicus curiae* and submit the attached brief in opposition to the proposed settlement, as well as the attached notice of intent to appear at the Final Fairness Hearing (attached hereto as Exhibits 2 & 3).

By: /s/*Sean M. Fisher*

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CERTIFICATE OF SERVICE

I hereby certify that on January 13, 2016, a copy of foregoing was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

/s/*Sean M. Fisher*
Sean M. Fisher (SF0251)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE: GLACEAU VITAMINWATER MAREKTING AND SALES PRACTICE LITIGATION (NO. II)	Case No. 1:11-md-02215-DLI-RML
BATSHEVA ACKERMAN, et al., Plaintiffs, vs. COCA-COCA COMPANY and ENGERGY BRANDS INC. (d/b/a GLACEAU), Defendants.	Case. No. 1:09-cv-00395-DLI-RML [PROPOSED] **BRIEF OF *AMICUS CURIAE* TRUTH IN ADVERTISING, INC. IN OPPOSITION TO PROPOSED SETTLEMENT**
JULIANA FORD, Plaintiff, vs. THE COCA-COLA COMPANY and ENERGY BRANDS INC., Defendants.	Case No. 1:11-cv-02355-DLI-RML DATE: February 3, 2016 TIME: 2:00 p.m. LOCATION: Brooklyn Magistrate Judge Robert M. Levy

The proposed settlement agreement in this case allows defendants to continue with their deceptive marketing practices as alleged in the operative complaint. The only change in defendants' current marketing of Vitaminwater that will temporarily occur if this settlement agreement is approved will be the addition of two words on the label – "with sweeteners." But pursuant to the terms of the agreement, these two words are only required to appear on the label for 365 days and then they may disappear from the label forever – a material fact that was not disclosed in the notice to the millions of consumers that will be forever bound by this agreement. As for the rest of the forward-going "relief," it is easily thwarted. This is so because the proposed

agreement only bans the use of ten specific phrases; everything else – including phrases that convey the exact same meaning – may still be used, which means that defendants will be free to continue deceptively marketing their flavored sugar water as Vitaminwater – a healthy beverage alternative to soft drinks. For these reasons, Truth in Advertising, Inc., a national consumer advocacy organization dedicated to protecting consumers from false and deceptive advertising, respectfully opposes the proposed settlement as being unfair, and urges the Court to deny approval of it.

INTEREST OF *AMICUS CURIAE*

Truth in Advertising, Inc. (TINA.org) is a 501(c)(3) nonprofit, nonpartisan organization whose mission is to protect consumers nationwide through the prevention of false and deceptive marketing. To further its mission, TINA.org investigates deceptive marketing practices and advocates before federal and state government agencies, as well as courts.

As explained in detail in the attached Motion for Leave to File Brief as *Amicus Curiae* in Opposition to Proposed Settlement, TINA.org has an important interest and a valuable perspective on the issues presented in this case.[1]

ARGUMENT

The essence of plaintiffs' complaint is that defendants use deceptive marketing tactics to sell, at a premium price, a sugary snack beverage as Vitaminwater, "a nutrient-enhanced water beverage" and a healthy alternative to soft drinks. Second Amended Class Action Compl. ¶¶ 1-6, 23-29. The proposed settlement will not materially alter any of defendants' deceptive marketing tactics as alleged in plaintiffs' complaint. If this settlement is approved, defendants will be able to advertise as follows with impunity:

[1] Neither party nor their counsel played any part in the drafting of this brief or contributed in any other way.

- Brand their beverage as **Vitamin**water even though the primary ingredient (aside from water) is sugar in the form of fructose and cane sugar;[2]

- State on their labels that it is a "nutrient-enhanced water beverage" even though nutrients consist of less than 0.5% of the content;[3]

- Use health-conscious names such as "Defense," "Power-C," "Energy," and "Revive" for their drinks;

- Use slogans such as "stacked with vitamins – includes antioxidants to help fight free radicals and help support your body," "Has 120% of your Daily Value of vitamin C per serving to support your immune system," and "With vitamin A, an important nutrient for your eyes."

All this despite the fact that each 20-ounce bottle of Vitaminwater contains more than 30 grams (i.e., more than six teaspoons) of sugar – more sugar than a standard size (1.55 oz) Hershey's chocolate bar. *See* HERSHEY'S Milk Chocolate Bar Nutrition Facts, http://www.hersheys.com/pure-products/details.aspx?id=3480 (attached hereto as Exhibit A).

Given these facts, there is no basis upon which defendants can honestly market Vitaminwater as a healthy beverage. And unfortunately, the proposed settlement in this case will not remedy defendants' deceptive marketing as the four alleged concessions that defendants will agree to for injunctive relief are ineffective. In addition to the inadequate injunctive relief, the notice used to inform class members of the pending settlement is fatally flawed because it does not contain the critical piece of information that all of the proposed relief in this case is temporary.

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[2] *See* Vitaminwater Nutrition Facts, http://vitaminwater.com/files/vitaminwater-base_rev_nut_facts_2015.pdf.

[3] *Id.*

The Injunctive Relief in the Proposed Settlement Is Only Temporary While Class Members Are Forever Banned From Suing Defendants

It is readily apparent that there is only one provision in the proposed agreement that may help inform consumers that there is more to Vitaminwater than just water and nutrients: the addition of the words "with sweeteners" to the front of the label. But this single labeling change is only binding for 12 months, while class members are required to give up litigation rights forever.[4] *See* Settlement Agreement and Release ¶ 34 ("Defendants shall…complete the implementation of the Injunctive Relief within twenty-four (24) months from the Effective Date."); ¶ 35(f)(i) ("The terms and requirements of the Injunctive Relief shall expire the earliest of the following dates: … For the "with sweeteners" language…, three years following the Effective Date."); ¶ 36 ("Upon the Effective Date, the Releasing Parties forever release and discharge all injunctive, declaratory, or non-monetary equitable Claims that have been brought by any Settlement Class Member against Released Parties, in any forum in the United States…"); ¶ 37 ("[T]he Releasing Parties expressly waive and fully, finally, and forever settle and release any known or unknown, suspected or unsuspected, contingent or noncontingent injunctive, declaratory, or equitable Claim, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such other, different, or additional facts.")[5]

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[4] Tellingly, the rest of the injunctive relief in the proposed agreement – which has no meaningful effect on defendants' marketing, as will be explained in detail below – is binding for ten years from the Effective Date. *Id.* at ¶ 35(f)(ii).

[5] In addition to giving up their right to sue defendants for false marketing of Vitaminwater, class members are also waiving clear statutory rights they have under state laws, such as Section 1542 of the Civil Code of the State of California, which prohibits general releases such as this one from being extended to claims unknown at the time of executing the release, even if they would have materially affected the settlement. *See* Settlement Agreement and Release ¶ 37.

It should also be noted that while the agreement states that "[n]othing in this Settlement Agreement shall prevent Defendants from implementing the Injunctive Relief prior to the

As a practical matter, this short duration of this labeling change could actually be more harmful to consumers than doing nothing at all as consumers may mistakenly assume, once the "with sweeteners" language disappears from the label in a year, that the formulation of the drink has changed to eliminate the sweeters when, in reality, all that has happened is that the injunctive relief expired.

Further, allowing defendants to resume use of the current label in just one year, while class members are permanently prohibited from suing defendants over their false marketing of the products amounts to reversible error. *See Pearson v. NBTY, Inc.*, 772 F.3d 778, 787 (7th Cir. 2014) (reversing a district court's approval of a settlement agreement in a false advertising class action that included temporary injunctive relief finding, among other things, that "for a limited period the labels will be changed, in trivial respects unlikely to influence or inform consumers."); *see also, Vassalle v. Midland Funding LLC,* 708 F.3d 747,756 (6th Cir. 2013) (reversing a district court's approval of a settlement agreement in a false advertising class action finding, among other things, that the one-year injunction was of little value, stating "the injunction only lasts one year, after which [the defendant] is free to resume its predatory practices should it choose to do so.") Finding such a bargain patently unfair to consumers, the *Pearson* Court advocated for a perpetual injunction, stating:

> The 30-month…cutoff means that after 30 months [defendant] can restore the product claims that form the foundation of this suit. It says it will be reluctant to do that because then fresh class actions will be brought against it. But if so, why would it prefer a 30-month injunction to a perpetual injunction? Were the injunction perpetual, [defendant] could ask the district court to modify it should new research reveal that its allegedly false claims were true after all.

Effective Date," there is nothing in the agreement that *requires* Defendants to *complete* the implementation of the injunctive relief prior to two years from the Effective Date. *Id.* at ¶ 34.

Pearson at 785. In short, the temporary relief proposed in this settlement functions merely as a band aid, temporarily aiding to cover-up deception but may soon be pealed off to re-expose the injurious marketing. Accordingly, the proposed agreement is unfair to class members and this Court should not grant approval.

The Injunctive Relief in the Proposed Settlement Does Not Eradicate the Deception

With respect to the rest of the temporary injunctive relief, the proposed settlement gives the false impression that defendants are making substantive changes to their marketing of Vitaminwater when, in reality, the injunctive relief is illusory and only benefits defendants.

With respect to the requirement that defendants stop using ten specific phrases on their packaging and marketing (*see* Settlement Agreement and Release ¶ 35(d)), it has no meaningful impact. Not only can defendants still market Vitaminwater as being a healthy "nutrient-enhanced water beverage" – the very claims at issue in this case – but defendants can also use numerous other synonyms to convey the same misleading marketing claims. In fact, defendants can use any language – except for the direct quotations that were blacklisted in the agreement – that suggests that Vitaminwater provides health benefits. For example, if the proposed settlement is approved, defendants will be free to make the following health statements about Vitaminwater: "Stacked with vitamins – includes antioxidants to help fight free radicals and help support your body," "Has 120% of your Daily Value of vitamin C per serving to support your immune system," and "With vitamin A, an important nutrient for your eyes."[6]

[6] In fact, Vitaminwater is currently marketed this way on third-party websites, such as Walgreens.com. *See* http://healthcare.walgreens.com/store/c/glaceau-vitaminwater-nutrient-enhanced-beverage-20-oz-bottle-acai-blueberry-pomegranate/ID=prod6020383-product#VPD_tabsUl; http://www.walgreens.com/store/c/glaceau-vitaminwater-nutrient-enhanced-beverage-20-oz-bottle-dragonfruit/ID=prod6020424-product;

Put simply, defendants' agreement to stop using ten phrases on their labeling is worthless, confers absolutely no benefit to the class, and, ironically, would give defendants added protection by providing them with a court-sanctioned order to continue to deceptively market their drink using the very same claims that formed the basis of this lawsuit.

Similar injunctive relief was flatly rejected by the Seventh Circuit. *Pearson v. NBTY, Inc.*, 772 F.3d 778 (7th Cir. 2014). In *Pearson*, Judge Posner pointed out that because the injunctive relief only required cosmetic word edits to the labels of the supplement bottles, the benefits inured solely to defendants, not the consumers who were, and will continue to be, deceived:

> A larger objection to the injunction is that it's superfluous—or even adverse to consumers. Given the emphasis that class counsel place on the fraudulent character of [defendant]'s claims, [defendant] might have an incentive even without an injunction to change them. The injunction actually gives it protection by allowing it, with a judicial imprimatur (because it's part of a settlement approved by the district court), to preserve the substance of the claims by making—as we're about to see—purely cosmetic changes in wording, which [defendant] in effect is seeking judicial approval of. For the injunction seems substantively empty. In place of "support[s] renewal of cartilage" [defendant] is to substitute "contains a key building block of cartilage." We see no substantive change.

Id. at 785. The same criticism is appropriately levied at the proposed settlement in this case, which is to say that the injunctive relief is substantively empty. Specifically, the failure to include catch-all language in the agreement that would prohibit defendants from suggesting or implying in any manner that Vitaminwater can provide health benefits and contains little more than water and vitamins means that changes to their labeling as a result of this settlement

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http://www.walgreens.com/store/c/glaceau-vitaminwater-nutrient-enhanced-beverage-20-oz-bottle-kiwi-strawberry/ID=prod6020220-product (collectively attached as Exhibit B).

agreement will not affect their ability to continue with their deceptive marketing message.[7] For these reasons, the agreement is unfair to class members and should be rejected.[8]

Notice to Class Members is Fatally Flawed Because it Omits Material Information

The settlement should be rejected for the separate and independent reason that notice to the class is defective because it does not notify class members that all of the injunctive relief is

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[7] Moreover, the other two provisions in the proposed settlement agreement are merely reiterations of statements that are already on Vitaminwater labels: the requirement that defendants state the amount of calories per bottle on the front label, as well as state "see nutrition facts for more detail" if the label says it is an "excellent source" of any nutrients. *See* Settlement Agreement and Release ¶ 35(b) and (c); current Vitaminwater label, photographs available at http://vitaminwater.com/products/. Defendants' reliance on past modifications to its marketing materials as a basis for class members giving up their litigation rights is problematic. *See, e.g., In re Katrina Canal Breaches Litig.*, 628 F.3d 185, 195 (5th Cir. 2010) (quoting 4 Newberg § 11:46 at 133) ("The court must be assured that the settlement secures an adequate advantage for the class in return for the surrender of litigation rights against the defendants*."); see also In re Dry Max Pampers Litigation*, 724 F.3d 713, 719 (6th Cir. 2013) (putting the burden of proving the fairness of the settlement on the proponents, and determining that a reinstated refund program would provide unnamed class members little value because "most of them have already had access to it.")

[8] In November 2014, TINA.org filed an *amicus curiae* brief opposing the terms of a similar proposed settlement agreement in a case regarding the alleged false advertising of glucosamine supplements. *Quinn, et al. v. Walgreen, Co., et al.*, Case No. 12-cv-8187, S.D.N.Y. Subsequently, the parties renegotiated the settlement agreement and revised the injunctive relief (which previously banned only six words from the product labels for a two-year period) to include broader catch-all language that will prohibit the glucosamine marketers in that case from conveying the message that its supplements can repair, strengthen, or rebuild cartilage. The duration of the injunctive relief was also amended: instead of expiring after two years, the proposed injunction now continues in perpetuity (until and unless the marketers become aware of scientific evidence to substantiate the preexisting cartilage claims and the Court allows them to reinstate the banned language). *See Quinn, et al. v. Walgreen, Co., et al.*, Case No. 12-cv-8187, S.D.N.Y., Amendment to Settlement Agreement and General Release, dated Jan. 30, 2015 (Dkt. 141-1).

TINA.org also filed an *amicus curiae* brief opposing the terms of the settlement agreement reached in the consolidated class-action against Coca-Cola regarding the marketing of Vitaminwater in the Southern District of Ohio. *Volz, et al. v. The Coca-Cola Co., et al.*, Case No. 10-cv-00879, S.D. Oh.), raising similar issues, among others, though the agreement was ultimately approved by the district court.

but temporary. *See* Settlement Agreement and Release, Exs. C and D. This leads to the misleading impression that the proposed marketing changes will be permanent.

The duration of the injunctive relief is a material term of the settlement that must be included in the notice to inform class members' consideration of whether or not to object to the settlement. *See Mullane v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950) (holding due process requires that absent class members receive notice of material terms of class settlements); *Nat'l Super Spuds, Inc.,* 660 F.2d 9 (2d Cir. 1981) (finding notice of settlement to be deficient due to misleading statements and omissions concerning certain provisions of the agreement, and reversing the district court's approval of the notice). *See also Consolidated Edison, Inc. v. Northeast Utilities*, 332 F.Supp. 2d 639 (S.D.N.Y. 2004) ("Due process requires that the notice to class members 'fairly apprise the…members of the class of the terms of the proposed settlement…'")(quoting *Maywalt v. Parker & Parsley Petroleum Co.*, 67 F.3d 1072, 1079 (2d Cir. 1995)); *O'Brien v. Nat'l Prop. Analysts Partners,* 739 F. Supp. 896, 901 (S.D.N.Y. 1990) ("The Court interprets the relevant caselaw as requiring that a notice of settlement fairly and completely state the manner in which the class claims are being settled…the notice must provide sufficient guidance as to the major terms and areas of agreement to allow class members to make further inquiry…").[9] Such notice is particularly important where, as here, the temporary injunctive relief is the *only* relief being obtained. In short, without making it clear that class members are trading a permanent right to sue for a temporary benefit, the notice is fatally flawed and the proposed agreement cannot be approved.[10]

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[9] As the parties state in the proposed settlement agreement itself, the settlement terms regarding injunctive relief in Section V of the agreement are "material terms of the Settlement." *See* Settlement Agreement and Release ¶ 16.

[10] Of course, the parties could easily remedy this flaw by making the injunctive relief permanent.

CONCLUSION

In sum, the proposed settlement is unfair because it lacks any real benefit to the class members, does not remedy the deceptive marketing of Vitaminwater as alleged by plaintiffs, and the notice used fails to inform class members of material terms of the proposed agreement. For these reasons, we respectfully urge this Court to deny approval of the proposed settlement.

Dated: January __, 2015

Respectfully,

By: /s/*Sean M. Fisher*

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CERTIFICATE OF SERVICE

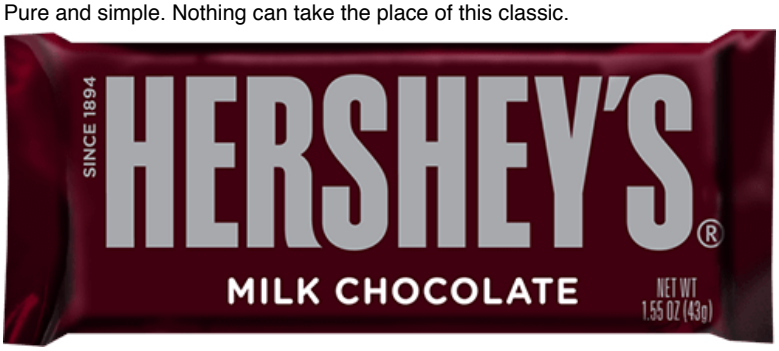
I hereby certify that on January __, 2016, a copy of foregoing was filed electronically [and served by mail on anyone unable to accept electronic filing]. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

/s/*Sean M. Fisher*
Sean M. Fisher (SF0251)

Exhibit A

HERSHEY'S Milk Chocolate Bar

Pure and simple. Nothing can take the place of this classic.



May We Suggest …

Nutrition Information

Kosher Status: OU-D

Serving Size: 1 Bar	
Total Calories	220
Calories from Fat	110

Amount Per Serving	**%DV ***
Total Fat 13g	20%
Saturated Fat 8g	40%
Trans Fat 0g	
Cholesterol 10mg	3%
Sodium 35mg	1%
Total Carbohydrate 25g	8%
Dietary Fiber 1g	4%
Sugars 24g	
Protein 3g	
Vitamin A	0%
Vitamin C	0%
Calcium	8%
Iron	8%

*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:

	Calories:	2,000	2,500
Total Fat	Less than	65g	80g
Sat Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g

Hershey's goal is to keep each product's nutrition information up-to-date and accurate but please consult the label on the product's packaging before using. If you notice that something is different on a product's label than appears on our website, please call us for more information at (800) 468-1714.

EXHIBIT A - 1

EXHIBIT A - 2

Exhibit B

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Acai-Blueberry-Pomegranate 20.0 oz.

4.0 (1)

Priced Per Store

- Excellent source of C and B vitamins
- Fights free radicals, supports your body
- 120 calories per bottle more

Not available Find at a store Add to List ›

Description | Shipping | Ingredients | Reviews

Stacked with vitamins - includes antioxidants to help fight free radicals and help support your body.

Has 100% vitamin C
Excellent source of C and B vitamins
120 calories per bottle
With other natural flavors

For best results, stick it in the fridge.© 2011 Glaceau

Shop more Grocery

Shop all Refrigerated Foods products

Shop all Glaceau products

Recently Viewed Items

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle
20.0 oz.
Priced Per Store
Remove ×

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Dragonfruit 20.0 oz.

★★★★★ 5.0 (1)

Priced Per Store

- Excellent source of C and B vitamins
- Supports your immune system
- 10 mg taurine + zinc + chromium more

Not available Find at a store Add to List ›

Description | Shipping | Ingredients | Reviews

Has 120% of your Daily Value of vitamin C per serving to support your immune system.

10 mg taurine + zinc + chromium
Excellent source C and B vitamins
With other natural flavors

For best results, stick it in the fridge.© 2013 Glaceau

Shop more Grocery

Shop all Refrigerated Foods products

Shop all Glaceau products

Recently Viewed Items

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Kiwi-Strawberry
20.0 oz.
Priced Per Store
Remove ✕

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Dragonfruit
20.0 oz.
Priced Per Store
Remove ✕

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Kiwi-Strawberry 20.0 oz.

Priced Per Store

- Excellent source of C and B vitamins
- Contains an important nutrient for eyes
- 50 mcg lutein more

Not available Find at a store Add to List ›

Description | Shipping | Ingredients | Reviews

With vitamin A, an important nutrient for your eyes.

Has 100% vitamin C
50 mcg lutein
Excellent source C and B vitamins
With other natural flavors

For best results, stick it in the fridge.© 2013 Glaceau

Shop more Grocery

Shop all Refrigerated Foods products

Shop all Glaceau products

Recently Viewed Items

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Dragonfruit
20.0 oz.
Priced Per Store
Remove ✕

Glaceau Vitaminwater Nutrient Enhanced Beverage Bottle Kiwi-Strawberry
20.0 oz.
Priced Per Store
Remove ✕