David T. Biderman, Bar No. 101577
DBiderman@perkinscoie.com
Oliver M. Gold, Bar No. 279033
OGold@perkinscoie.com
PERKINS COIE LLP
1888 Century Park E., Suite 1700
Los Angeles, CA 90067-1721
Telephone: 310.788.9900
Facsimile: 310.843.1284

Charles Sipos, *pro hac vice* forthcoming
Elvira Castillo, *pro hac vice* forthcoming
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Defendants
DR PEPPER SNAPPLE GROUP, INC., MOTT'S LLP, and GENERAL MILLS, INC.,

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JONATHAN CHUANG, on behalf of himself and all others similarly situated,

Plaintiff,

v.

DR PEPPER SNAPPLE GROUP, INC., MOTT'S LLP, and GENERAL MILLS, INC.,

Defendants.

Case No. 2:17-cv-01875

DEFENDANT'S NOTICE OF REMOVAL

[Complaint filed February 6, 2017 and removed from the Superior Court of the State of California for the County of Los Angeles, Case No. BC649291

[Declaration of Brandon McKay in support thereof filed concurrently with this notice]

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332(d), 1441(a), and 1446, defendants DR PEPPER SNAPPLE GROUP, INC., MOTT'S LLP, and GENERAL MILLS, INC. (collectively, "Defendants") hereby remove to this Federal Court the state court action described below.

I. THE STATE COURT ACTION

On February 6, 2017, Plaintiff Jonathan Chuang commenced this case in the Superior Court of California for the County of Los Angeles, tilted *Johnathan Chuang, on behalf of himself and all others similarly situated v. Dr Pepper Snapple Group, Inc., Mott's, LLP, and General Mills, Inc.*, Case No. BC649291. Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint filed in that action is attached hereto as Exhibit 1. Plaintiff served General Mills, by hand, with a copy of the Complaint and Summons from the Superior Court on February 8, 2017. A copy of the Summons is attached hereto as Exhibit 2.

The Complaint alleges six causes of action against Defendants: (1) breach of express warranty; (2) unjust enrichment; (3) violation of California Consumer Legal Remedies Act, Civil Code § 1750, *et seq.*; (4) unlawful business acts and practices in violation of California Business and Professions Code § 17200, *et seq.*; (5) fraudulent business acts and practices in violation of California Business and Professions Code § 17200, *et seq.*; and (6) violation of California Business and Professions Code § 17500, *et seq.* Compl. ¶¶ 68–107. Each cause of action derives from Defendants' advertising (product labeling) and sale of several products Plaintiff groups under the label "Mott's Fruit Snacks."[1]

Plaintiff brings this action as a putative class action. He seeks to represent a class of "all persons in California who purchased [Mott's Fruit Snacks] during the Class Period (the 'Class')." Compl. ¶ 59. Plaintiff alleges that the members of the putative class "are so numerous that joinder of all members of the Class is impracticable." Compl. ¶ 60.

Plaintiff seeks, among other things, the following forms of relief: (1) "compensatory, treble, and punitive damages"; (2) "[f]or an order of restitution and

[1] Per the Complaint, "the Products at issue include (but are not limited to) Mott's Fruity Rolls; Mott's Medleys Fruit Flavored Snacks—Assorted Fruit, Assorted Fruit Plus Fiber, Berry and Strawberry Apple." Compl. ¶ 1 n.2.

all other forms of equitable monetary relief"; and (3) injunctive relief. Compl. at 24.

II. GROUNDS FOR REMOVAL

A. This Action Is Removable Under the Class Action Fairness Act of 2005, 28 U.S.C. §§ 1332(d) and 1453.

"[A]ny civil action brought in State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant . . . ." 28 U.S.C. § 1441(a). This action is removable under § 1441 because the District Courts of the United States have original jurisdiction over it pursuant to the Class Action Fairness Act of 2005 ("CAFA"). *See* 28 U.S.C. § 1332(d); *see also* 28 U.S.C. § 1453(b) (setting procedure for removing class actions).

CAFA gives federal courts original jurisdiction over putative class actions in which: (1) the aggregate number of members in the proposed class is 100 or more; (2) the amount in controversy "exceeds the sum or value of $5,000,000, exclusive of interests and costs"; and (3) the parties are minimally diverse, meaning, "any member of a class of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2), (d)(5)(B). For the following reasons, and as shown in the accompanying declaration of Brandon McKay, these requirements are met, and this matter is removable.

1. This Is a Putative Class Action in Which the Aggregate Number of Members Is 100 or More

This action is a putative class action within the meaning of CAFA. CAFA defines "class action" as "any civil action filed under rule 23 of the Federal Rules of Civil Procedure or similar State statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action." 28 U.S.C. § 1332(d)(1)(B). Plaintiff filed this action under section 382 of the California Code of Civil Procedure, Compl. at ¶ 59, which authorizes "one or more [to] sue . . . for the benefit of all" when "the question is one of common or general interest, of many persons, or when the parties are numerous, and it is impracticable to bring them all before the court," Cal. Civ. Pro. § 382. *See also Vigil v. Naturals*,

2016 WL 6806206, at *3 (C.D. Cal. Nov. 17, 2016) (noting that the requirements of class certification under § 382 "parallel those of Fed. R. Civ. P. 23").

Plaintiff's putative class action likewise contains 100 or more members. Plaintiff seeks to represent a class "of all persons in California who purchased [Mott's Fruit Snacks] during the Class Period." Compl. at ¶ 59. Plaintiff alleges that "Class members are so numerous that joinder of all members of the class is impracticable" given "the nature of the claims and the number of retail stores selling Defendant's Products." Compl. ¶ 60.

Defendants sold at least $9,011,106 worth of Motts Fruit Snacks in California in calendar years 2014, 2015, 2015, and part of 2017. *See* Declaration of Brandon McKay ("McKay Decl.") at ¶ 5; *Hunter v. Nature's Way Prods., LLC*, 2016 WL 4262188, at *11 (S.D. Cal. Aug. 12, 2016) (explaining that the "statute of limitations for actions under FAL or CLRA is three years" and "[t]he statute of limitations for UCL or breach of warranty claims is four years"). It is reasonable to assume from more than $9 million in California sales that the number of unique purchasers is 100 or greater. *See Blevins v. Republic Refrigeration, Inc.*, 2015 WL 12516693, at *6 (C.D. Cal. Sept. 28, 2015) (defendants may "'rel[y] on a reasonable chain of logic' based on the allegations of the complaint" to show that CAFA's requirements are met).

2. The Amount in Controversy Exceeds $5,000,000

CAFA permits courts to aggregate the claims of the individual class members "to determine whether the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interests and costs." 28 U.S.C. § 1332(d)(6). In determining the amount in controversy, "a court must 'assum[e] that the allegations of the complaint are true and assum[e that] a jury [will] return[] a verdict for the plaintiff on all claims made in the complaint." *Kenneth Rothschild Trust v. Morgan Stanley Dean Witter*, 199 F. Supp. 2d 993, 1001 (C.D. Cal. 2002). Where, as here, the plaintiff does not allege an amount in controversy in the complaint, "a

defendant can establish the amount in controversy by an unchallenged, plausible assertion of the amount in controversy in its notice of removal." *Ibarra v. Manheim Invs.*, 775 F.3d 1193, 1197–98 (9th Cir. 2015). "A 'defendant's . . . allegations should be accepted when not contested by the plaintiff or questioned by the court.'" *Argyropoulous v. Ocwen Loan Servs., LLC*, 2016 WL 1703255, at *4 (C.D. Cal. Apr. 27, 2016) (citation omitted). If defendant's assertions are challenged, it bears the burden of establishing the amount in controversy by a preponderance of the evidence. *See Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 553–54 (2014). "This burden is not 'daunting' and only requires that the defendant 'provide evidence establishing that it is more likely than not that the amount in controversy exceeds [$5,000,000].'" *Blevins*, 2015 WL 12516693, at *6 (citation omitted) (alterations in original). Defendant may submit this evidence in opposition to plaintiff's motion to remand. *Dart Cherokee*, 135 S. Ct. at 554 ("Evidence establishing the amount is required . . . only when the plaintiff contests, or the court questions, the defendant's allegations.").

Here, the relief requested by Plaintiff on behalf of himself and the Class demonstrates that far more than $5 million is at issue.[2] Plaintiff's request for compensatory damages alone places more than $5,000,000 in controversy. *See* Compl. at 24 (requesting "compensatory, treble, and punitive damages"). Plaintiff alleges that he "and the Class were injured as a direct and proximate result of Defendants' [actions] and deserve to be compensated for the damages they suffered. If Plaintiff and the Class had known the true facts concerning the fruit content of the Fruit Snacks, *they would not have purchased the Fruit Snacks*." Compl ¶ 71 (emphasis added). Thus, Plaintiff seeks for himself and the Class compensatory damages corresponding to the amount California consumers spent on Fruit Snacks during the Class Period. *Id.* As detailed in the declaration of Brandon McKay filed in support of this Notice of Removal, Defendants sold more than $9

[2] Defendants dispute that Plaintiff is entitled to any relief.

million worth of Mott's Fruit Snacks in California in calendar years 2014, 2015, 2016 and part of 2017. McKay Decl. ¶ 5–6. Given the breadth of Plaintiff's compensatory damages request and his allegation that he "would not have purchased the Fruit Snacks" absent the allegedly misleading advertising, Defendants could be on the hook for actual damages equal to the total sales figure.

Plaintiff's remaining requests for relief substantially increase Defendants' potential damages exposure. Plaintiff seeks disgorgement and restitution equal to Defendants' "revenue[] derived from Plaintiff's and Class members' purchase of the Fruit Snacks," Compl. ¶ 75, which, as detailed in the McKay Declaration, could far exceed $5 million, McKay Decl. ¶ 5. Plaintiff likewise requests injunctive relief in the form of "an order of this Court that includes, but is not limited to, an order requiring Defendants to remove language and graphics on Defendants' marketing and labeling representing the Fruit Snacks as made with fruit and being healthful and nutritious." Compl. ¶ 83. Such an order would require Defendants to retrieve, redesign, and replace Mott's Fruit Snacks labeling at substantial cost. *See, e.g.*, *Harris v. CVS Pharmacy*, 2015 WL 4694047, at *6 (C.D. Cal. Aug. 6, 2015) ("'The test for determining the amount in controversy is the pecuniary result to either party that the judgment would directly produce.' . . . [T]his 'pecuniary result' rule means that courts also consider 'the potential cost to the defendant of complying with [an] injunction.'" (citation omitted)).

Thus, the amount in controversy here far exceeds $5,000,000, and CAFA jurisdiction is appropriate.

3. The Parties Are Minimally Diverse

The parties are minimally diverse because "any member of [the class] of plaintiffs is a citizen of a State different from any defendant." 28 U.S.C. § 1332(d)(2)(A).

Plaintiff Jonathan Chuang is a citizen of California who resides—and on information and belief is domiciled—in Los Angeles County, California. Compl.

¶ 18 (alleging that Mr. Chuang resides in Los Angeles County with his family); *see Rice v. Thomas*, 64 F. App'x 628, 628–29 (9th Cir. 2003) (explaining that an individual is domiciled in a place if she resides and has an intent to stay there); *Gonzalez v. First NLC Fin. Servs.*, 2009 WL 2513670, at *2 (C.D. Cal. Aug. 12, 2009) (the state of residence is "*prima facie* the domicile"). Plaintiff also seeks to represent a class of California consumers. Compl. at ¶ 59. It is reasonable to assume that at least one of these consumers is domiciled in California.

Defendants are not citizens of California. Defendant General Mills is incorporated under the laws of Delaware, and its principal place of business is in Minneapolis, Minnesota. *See* Compl. ¶ 23; *see Albino v. Standard Ins. Co.*, 349 F. Supp. 2d 1334, 1337 (C.D. Cal. 2004) (for purposes of diversity jurisdiction, "[a] corporation is a citizen both of the state where it was incorporated and the state where it has its primary place of business"). Defendant Dr Pepper Snapple Group, Inc., is a corporation organized under the laws of Delaware with its principal place of business in Texas. Compl. ¶ 21. Defendant Mott's, LLP, is a corporation organized under the laws of Delaware with its principal place of business in New York. Compl ¶ 22. Thus, at least one (and in fact each) Defendant is a citizen of different states from at least one Plaintiff, and CAFA's minimal diversity requirements are met. *See* 28 U.S.C. § 1332(d)(2).

B. None of CAFA's Exceptions Bar Removal in this Case.

This action does not fall within the exclusions to removal jurisdiction described in 28 U.S.C. §§ 1332(d)(4), (d)(9), or 28 U.S.C. § 1453(d).[3]

Section 1332(d)(4) requires a federal court to decline jurisdiction over a class action when, among other things, "greater than two-thirds of the members of all proposed plaintiff classes in the aggregate are citizens of the State in which the action was originally filed," and at least one defendant whose "alleged conduct

[3] General Mills, Inc., Dr Pepper Snapple Group, Inc., and Mott's LLP—the only defendants in this action—are not "States, State officials, or other governmental entities against whom the district court may be foreclosed from ordering relief." 28 U.S.C. § 1332(d)(5)(A) therefore does not preclude this Court's jurisdiction.

forms a significant basis for the claims asserted by the proposed class . . . is a citizen of the State in which the action was originally filed." 28 U.S.C. § 1332(d)(4)(A); *see also* 28 U.S.C. § 1332(d)(4)(B) (similarly excluding cases where "two thirds or more of" the class members and "the primary defendants, are citizens of the State in which the action was originally filed"). Section 1332(d)(4) does not apply here because none of the Defendants are citizens of California, the state in which the action was originally filed. Compl. ¶ 21–23 (alleging that the Defendants are citizens of Delaware, New York, Minnesota, and Texas).[4]

Sections 1332(d)(9) and 1453(d) exempt certain securities and corporate governance cases from CAFA's broad jurisdictional grant. *See* 28 U.S.C. § 1332(d)(9) (explaining that § 1332(d)(2) does not apply to cases arising under several sections of the Securities Act of 1933, several sections of the Securities Exchange Act of 1934, and certain state corporate governance laws); *id.* § 1453(d) (same). Those provisions do not bar jurisdiction here because Plaintiff's claims do not arise under the Securities Act of 1933 or the Securities Exchange Act of 1934, nor do they involve state-centric corporate governance issues. *See* Compl. ¶¶ 68–107 (making claims that arise under California common law and consumer protection statutes).

C. Venue and Intra-district Assignment Are Proper.

The Central District of California, Western Division is the proper venue and intra-district assignment for this action upon removal because this "district and division embrace" the California Superior Court, County of Los Angeles, where the Complaint was filed and is currently pending. *See* 28 U.S.C. § 1441(a).

[4] For the same reason, this Court may not decline to assert jurisdiction over this case under 28 U.S.C. § 1332(d)(3) (permitting a district court to decline jurisdiction over "a class action in which greater than one-third but less than two-thirds of the members of all proposed plaintiff classes in the aggregate *and the primary defendants are citizens of the State in which the action was originally filed* . . . .").

D. Defendants Have Satisfied All Other Requirements of the Removal Procedure

This Notice of Removal is timely filed. Defendants were served with a copy of the Complaint and Summons on February 8, 2017. Defendants filed and served this Notice of Removal within 30 days of service of the Complaint in compliance with 28 U.S.C. § 1446(b).

As required by 28 U.S.C. § 1446(a), true and correct copies of all process, pleadings, and orders served upon the Defendants are being filed herewith. Copies of the Complaint (including the Civil Case Cover Sheet and Civil Case Cover Sheet Addendum and Statement of Location); Summons; Proof of Service of Summons re: Dr Pepper Snapple Group, Inc., Proof of Service of Summons re: General Mills, Inc.; Order and Notice of Reassignment; and docket entry reflecting filing of Proof of Service of Summons on February 14, 2017 are attached hereto as Exhibits 1–6. No other pleadings have been filed to date in this matter in the Los Angeles County Superior Court. A true and correct copy of the state court's docket is attached hereto as Exhibit 6.

Pursuant to 28 U.S.C. § 1446(d), Defendants will promptly serve on Plaintiff and file with the Superior Court a "Notice to Adverse Party of Removal to Federal Court." Pursuant to Federal Rule of Civil Procedure 5(d), Defendants will also file with this Court a "Certificate of Service of Notice to Adverse Party of Removal to Federal Court."

III. RESERVATION OF RIGHTS AND DEFENSES

Defendants expressly reserve all of their defenses and rights, and none of the foregoing shall be construed as in any way conceding the truth of any of Plaintiff's allegations or waiving any of Defendants' defenses. *See, e.g.*, *Key v. DSW, Inc.*, 454 F. Supp. 2d 684, 691 (S.D. Ohio 2006) ("[T]he fact that Defendant removed the case does not mean that Defendant concedes that Plaintiff has adequately alleged appropriate damages.").

IV. CONCLUSION

WHEREFORE, Defendants request that this Court consider this Notice of Removal as provided by law governing the removal of cases to this Court, that this Court take such steps as are necessary to achieve the removal of this matter to this Court from Los Angeles County Superior Court, and that this Court will make such other orders as may be appropriate to effect the preparation and filing of a true record in this cause of all proceedings that may have been had in the state court action.

DATED: March 8, 2017

PERKINS COIE LLP

By: /s/ Oliver M. Gold

David T. Biderman, Bar No. 101577
DBiderman@perkinscoie.com
Oliver M. Gold, Bar No. 279033
OGold@perkinscoie.com
Charles Sipos, *pro hac vice* forthcoming
CSipos@perkinscoie.com
Elvira Castillo, *pro hac vice* forthcoming
ECastillo@perkinscoie.com

Attorneys for Defendants
DR PEPPER SNAPPLE GROUP, INC., MOTT'S LLP, and GENERAL MILLS, INC.

PROOF OF SERVICE BY OVERNIGHT DELIVERY

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1888 Century Park E., Suite 1700, Los Angeles, California 90067-1721. On March 8, 2017, I deposited with Federal Express, a true and correct copy of the within documents:

NOTICE OF REMOVAL

in a sealed envelope, addressed as follows:

RICHMAN LAW GROUP
Kim E. Richman
Jaimie Mak
535 Mission Street
San Francisco, CA 94105

STANLEY LAW GROUP
Stephen Gardner
Amanda Howell
6116 N. Central Expressway
Suite 1500
Dallas, TX 75206

Attorneys for Plaintiff and Proposed Class

Following ordinary business practices, the envelope was sealed and placed for collection by Federal Express on this date, and would, in the ordinary course of business, be retrieved by Federal Express for overnight delivery on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 8, 2017, at Los Angeles, California.

Jenna DeRosier

EXHIBIT 1

60006 9

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
FEB 06 2017
Sherri R. Carter, Executive Officer/Clerk
By Shaunya Bolden, Deputy

SUPERIOR COURT OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

JONATHAN CHUANG, on behalf of himself and all others similarly situated, Plaintiff, v. DR PEPPER SNAPPLE GROUP, INC., MOTT'S, LLP, and GENERAL MILLS, INC. Defendants.	Case No. BC649291 **UNLIMITED JURISDICTION** **CLASS ACTION COMPLAINT** **DEMAND FOR JURY TRIAL** 308 Jones

Jonathan Chuang ("Plaintiff"), individually and on behalf of all others similarly situated, brings this action against Dr Pepper Snapple Group Inc. ("Dr Pepper"); Mott's, LLP, a wholly owned subsidiary of Dr Pepper; and General Mills, Inc. ("General Mills"), a licensing partner, (collectively, "Mott's" or "Defendants") demanding a trial by jury, and alleges as follows:

By Fax

NATURE OF THE CASE

1. This is a proposed class action seeking redress for Defendants' deceptive[1] practices in misrepresenting the fruit content and the nutritional and health qualities of Mott's fruit snacks (the "Fruit Snacks" or "Products").[2]

2. During the relevant time period (the "Class Period"), Defendants engaged in a deceptive marketing campaign to convince consumers that Mott's Fruit

[1] The terms "deceptive," "deceive," "deceptively," and "deception" encompass other descriptive terms, including various forms of the words "mislead," "misrepresent," "untrue," "unfair," "false," "disparage," and "unlawful."

[2] The Products at issue include (but are not limited to) Mott's Fruity Rolls; Mott's Medleys Fruit Flavored Snacks—Assorted Fruit, Assorted Fruit Plus Fiber, Berry, and Strawberry Apple. Because Defendants may change the product names or contents, there could be other Products during the Class Period.

RECEIPT #: CCH465980107 BC649291
DATE PAID: 02/06/17 03:32 PM
PAYMENT: $1,000.00
RECEIVED: CHECK $1,000.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00
CIT/CASE: BC649291
LEA/DEF#:

RECEIPT #: CCH465980106 BC649291
DATE PAID: 02/06/17 03:32 PM
PAYMENT: $435.00
RECEIVED: CHECK $435.00
CASH: $0.00
CHANGE: $0.00
CARD: $0.00
CIT/CASE: BC649291
LEA/DEF#:

02/06/2017

Snacks contained significant amounts of the actual fruits and vegetables shown in the marketing[3] and on the labeling[4] of the Fruit Snacks, were nutritious and healthful to consume, and were more healthful than other children's snacks.

3. For example, Defendants' website markets the Fruit Snacks as a healthy fruit-based snack for parents to give to their children—highlighting the "real fruit and vegetable juice" content:

- "This tasty treat combines ***real fruit and vegetable juice*** with the fruit flavors kids love. You've finally found the ***perfect after-school snack that's a win for you and your kids***,"[5] and
- "Mott's Medleys Assorted Fruit Flavored Snacks are a tasty treat ***you can feel good about!***"[6]

4. Defendants' marketing campaign leads parents to believe that the Fruit Snacks are healthful fruit-based snacks suitable to give to their children.

5. The amount of actual fruits and vegetables purported to be in the Products matters to parents.

6. Despite the health halo fabricated by the Defendants, the Fruit Snacks are mostly a combination of corn syrup, sugar, and modified corn starch. They contain only minimal amounts of cheap, sugary juices, such as sugary pear and apple juice from concentrate. These Products are no more healthful than candy.

7. Two of the first three ingredients in the Fruits Snacks are added

---

[3] Variants of the words "marketing" and "market" refer to all forms of advertising in all forms of media, including but not limited to print advertisements, television and radio commercials, Product labels, online and viral marketing, incentives, and websites.

[4] The term "labeling" encompasses other descriptive terms, including various forms of the words "labels," "labeling," "packages," and "packaging."

[5] Mott's website, Products, Fruit Snacks, Mott's Medleys Assorted Fruit, http://www.motts.com/products/39/medleys-assorted-fruit-fruit-flavored-snacks (last visited Jan. 4, 2017) (emphasis added).

[6] Mott's website, Products, Fruit Snacks, Medleys Assorted Fruit Plus Fiber, http://www.motts.com/products/41/original-assorted-fruit-fruit-flavored-snacks (last visited Jan. 4, 2017) (emphasis added).

sweeteners. And nearly half of each serving of the Fruit Snacks consists of nothing but sugar.

8. Although Defendants market the Fruit Snacks as healthful and nutritious, these Fruit Snacks are devoid of any health benefits Plaintiff and other reasonable consumers associate with consuming fruits, vegetables, or juice from fruits and vegetables.

9. The amount of fruits and vegetables in the Fruit Snacks has a material bearing on whether parents buy the Fruit Snacks, and how much they are willing to pay for them.

10. In addition, through the marketing, labeling, and overall appearance of the Fruit Snacks, Defendants create the impression that the fruits and vegetables named and depicted on the labeling are present in an amount greater than is actually the case.

11. FDA regulations require Defendants to display the true percentage of fruits and vegetables in the Products' name on the front label, or to include a statement of the presence or absence of any characterizing ingredient, but Defendants neglect to do so. *See* 21 C.F.R. § 102.5(b), (c).

12. Because Defendants deceive consumers about the basic nature and amount of fruits and vegetables in the Fruit Snacks, Defendants' Fruit Snacks are misbranded under Sections 403(a) and 403(q) of the Food, Drug & Cosmetic Act ("FDCA"), 21 U.S.C. §§ 343(a) and (q). Defendants cannot legally manufacture, advertise, distribute, or sell the Fruit Snacks in the U.S. as they are currently labeled. *See* 21 U.S.C. § 331.

13. Defendants' Fruit Snacks are similarly misbranded under California's Sherman Food, Drug, and Cosmetic Law (the "Sherman Law"), Cal. Health & Safety Code §§ 109875-111915. The Sherman Law expressly incorporates the food labeling requirements set forth in the FDCA, *see* Cal. Health & Safety Code § 110100(a), and provides that any food is misbranded if its labels do not conform to

FDCA requirements. *See id.* § 110665; *see also* § 110670.

14. The Sherman Law further provides that a product is misbranded if its labeling is "false or misleading." *Id.* § 110660. It is a violation of the Sherman Law to advertise any misbranded food, *id.* § 110398; to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded, *id.* § 110760; to misbrand any food, *id.* § 110765; or to receive in commerce any food that is misbranded or deliver or proffer it for delivery, *id.* § 110770.

15. Defendants have been able to sell the Fruit Snacks by deceiving Plaintiff and other reasonable consumers. Defendants represent that the Fruit Snacks: (1) contain significant amounts of the named and depicted fruits and vegetables; (2) are nutritious and healthful to consume; and (3) are more healthful than other children's snacks.

16. Defendants' deceptions played a substantial part in influencing Plaintiff's decisions to purchase the Fruit Snacks. Plaintiff relied upon Defendants' "Made with Real FRUIT" and "Made with Real FRUIT & VEGETABLE [or "VEGGIE"] Juice" claims prominently displayed on the front and back of the Fruit Snacks' packages. If Plaintiff had known the true fruit and vegetable content, as well as the true nutritional and health qualities of the Fruit Snacks, he would not have purchased the Fruit Snacks.

17. Defendants' deceptive statements regarding the Fruit Snacks violate state and federal law. Plaintiff asserts claims on behalf of himself and on behalf of all purchasers of the Fruit Snacks for Defendants' breach of express warranty; unjust enrichment; and under California's Consumers Legal Remedies Act ("CLRA"), Civil Code §§ 1750, *et seq.*; California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200 *et seq.*; and California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code §§ 17500 *et seq.*

PARTIES

Plaintiff

18. Plaintiff Jonathan Chuang ("Plaintiff," "Plaintiff Chuang," or "Mr. Chuang") is a citizen of California. He resides in Los Angeles County, California, and bought Defendants' products in Los Angeles County. During the Class Period, Plaintiff Chuang purchased Defendants' Fruit Snacks for himself and his family.

19. Plaintiff Chuang wished to purchase healthful snacks for himself and his family. When Plaintiff Chuang saw Defendants' misrepresentations prior to and at the time of purchase, he relied on Defendants' representations and claims that the Fruit Snacks contained significant amounts of the actual fruits and vegetables. Mr. Chuang also relied upon the marketing and labeling of the Products, which Defendants emphasized to be more nutritious and healthful than other children's health snacks.

20. Plaintiff Chuang typically purchased Mott's Medleys Assorted Fruit Snacks every few months from the Ralph's Grocery located at 160 North Lake Avenue, Pasadena, CA 91101. Plaintiff Chuang suffered injury because he relied on Defendants' misrepresentations and would not have purchased the Fruit Snacks had Defendants not made misrepresentations in the Products' marketing and labeling. In the future, if Mr. Chuang knew that the Products had been changed to conform to the representations on their labels, e.g., that the Products actually were as depicted and represented, he would continue to purchase the Fruit Snacks. At present, however, Mr. Chuang cannot be confident that the marketing and labeling of the Products is, and will be, truthful and non-deceptive.

Defendants

21. Defendant Dr Pepper Snapple Group, Inc. ("Dr Pepper") is a corporation organized under the laws of Delaware, with its principal place of business at 5301 Legacy Drive, Plano, Texas, 75024. Dr Pepper is in the business of developing, manufacturing, distributing, and selling beverages and snack products under

various brands, including Mott's. Dr Pepper has done and continues to do business in this county.

22. Defendant Mott's, LLP operates as a subsidiary of Dr Pepper. Mott's, LLP is organized under the laws of Delaware, with its principal place of business in Rye Brook, New York. Mott's, LLP is a nationally and internationally prominent maker of fruit snacks, applesauce, juices, fruit rolls, and fruit snacks with juicy centers. Mott's is a registered trademark of Mott's, LLP, used under license.

23. Defendant General Mills, Inc. ("General Mills") is organized under the laws of Delaware, with its principal place of business in Minneapolis, Minnesota. General Mills produces, manufactures, markets, and distributes various food products under numerous well-known brands. General Mills produces, markets, distributes, and licenses the Fruit Snacks under the authority of Dr Pepper and Mott's, LLP.

24. At all relevant times, Defendants acted in concert and marketed, packaged, and sold the Fruit Snacks to consumers throughout the United States.

JURISDICTION AND VENUE

25. This Court has jurisdiction over all causes of action Plaintiff asserts pursuant to California Constitution, Article VI, Sec. 10, because this case involves causes of action not given by statute to other trial courts.

26. Venue is proper in this county pursuant to California Code of Civil Procedure Section 395 because Defendants do business throughout this county, Plaintiff Chuang purchased the Fruit Snacks in this county, and Plaintiff Chuang resides in this county.

GENERAL ALLEGATIONS

27. Consumers increasingly and consciously seek out healthful foods and snacks—placing value on healthful fruit- and vegetable-based snacks that contain less added sugar. Consumers seek these types of snacks for various reasons, including perceived benefits of avoiding disease and improving health and wellness

for themselves and their families.

28. Scientific data show that it is difficult to meet nutritional needs while staying within calorie requirements if a person consumes more than 10 percent of his or her daily calories from added sugar.[7] Scientific evidence indicates that excess sugar contributes to numerous chronic health problems such as heart disease and type 2 diabetes.[8] Parents who want more healthful options seek to purchase snack products for their children that contain less added sugar.

29. Defendants employ deceptive practices in order to capitalize on consumers' desire to purchase more healthful snacks and snacks that contain more fruit and vegetables and less added sugar.

30. Defendants boast that Mott's is the "#1 branded apple juice and #1 apple sauce brand in the U.S."[9] In Dr Pepper's 2013 Annual Report, Defendants acknowledge that consumers rely on Defendants' reputation as a leader in the industry: "We love our brands like a mom loves her kids, so we understand wanting the best for them. That's why we're pleased that we can provide mom with Mott's, the No. 1 branded juice and sauce trademark, and plenty of packaging options to accommodate her family's lifestyle."[10]

31. The trademarked name "Mott's" is one of the most respected and well-known names in the world when it comes to 100% fruit juice and apples. Plaintiff and other reasonable consumers trust the Mott's name when it comes to expecting healthful, fruit-based food for their children.

32. Indeed, Defendants emphasize this reputation on the labeling of their

---

[7] Susan Mayne, "Putting Added Sugars Into Context for Consumers," *FDA Voice*, Food and Drug Admin, http://blogs.fda.gov/fdavoice/index.php/2015/07/putting-added-sugars-into-context-for-consumers/ (last visited Jan. 4, 2017).

[8] American Heart Ass'n, "Understanding Childhood Obesity," *available at* http://bit.ly/2aAbXLj.

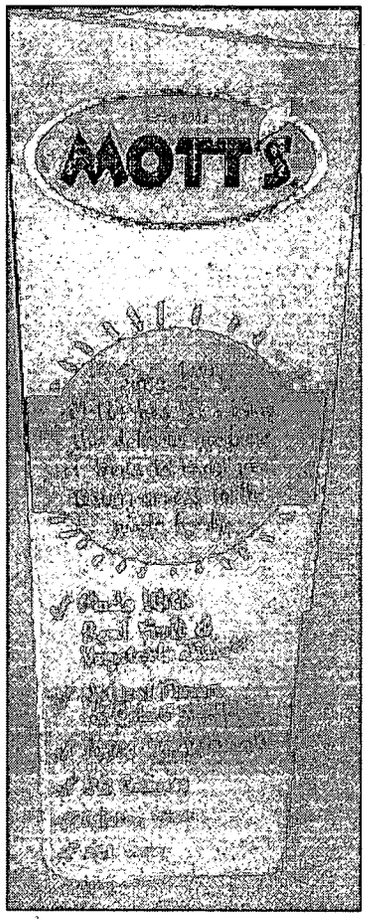
[9] Dr Pepper Snapple Group 2013 Annual Report, *available at* http://investor.drpeppersnapplegroup.com/download/Download+2013+Annual+Report.pdf.

[10] *Id.*

Fruit Snacks, stating "Since 1842, Mott's has been using the delicious goodness of fruits to bring great tasting snacks to the whole family." See Illustration 1 below.

Illustration 1

Mott's Medleys Fruit Snacks, Mixed Fruit



33. Because of Mott's trusted reputation, Defendants are able to deceive Plaintiff and other reasonable consumers about the nutritional and health qualities of the Fruit Snacks.

Defendants Deceptively Market the Fruit Snacks.

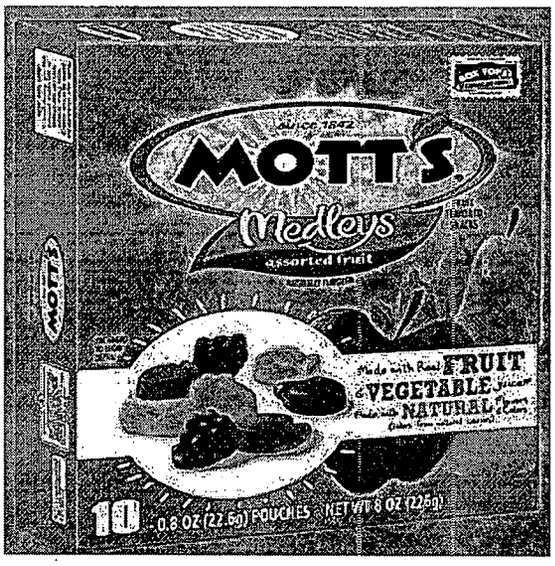
34. Defendants market the Fruit Snacks as healthful and nutritious, claiming the Fruit Snacks are "the perfect after-school snack that's a win for you and

your kids,"[11] and "Mott's Medleys are made with real fruit and vegetable juice and provide 100% of the daily value of vitamin C."[12]

35. Defendants emphasize their claim that the Fruit Snacks are "Made with Real FRUIT and VEGETABLE juice" and pair this claim with images of the characterizing fruit and vegetables. Defendants also represent the Fruit Snacks are healthful and contain 100% daily value of vitamin C. See Illustration 2 below.

Illustration 2

Mott's Medleys Fruit Snacks, Strawberry Apple



Ingredients:

Fruit and Vegetable Juice Blend from Concentrate (**pear, apple, carrot**), **Corn Syrup, Sugar, Modified Corn Starch**. Contains 2% or less of: Fruit Pectin, Citric Acid, Vitamin C (**ascorbic acid**), Dextrose, Sodium Citrate, Vegetable and Fruit Juice Added for Color, Malic Acid, Sunflower Oil*, Potassium Citrate, Natural Flavor, Carnauba

[11] Mott's website, Products, Fruit Snacks, Medley Assorted Fruit, http://www.motts.com/products/39/medleys-assorted-fruit-fruit-flavored-snacks (last visited Jan. 4, 2017).

[12] General Mills Mott's Medleys Press Release, http://bit.ly/2aeeoyU (last visited Jan. 4, 2017).

Wax. *Adds A Trivial Amount Of Fat

36. The labeling of Defendants' Strawberry Apple Fruit Snacks, for example, prominently displays pictures of whole apples, ripe pears, and fresh carrots next to the large "Made with real FRUIT and VEGETABLE juice" claim.

37. But Defendants' Strawberry Apple Fruit Snacks contain mostly sugar and absolutely no strawberries at all. And the Fruit Snacks contain 100% daily value of vitamin C only thanks to the improper addition of ascorbic acid.

38. Defendants employ these same deceptive claims throughout their marketing campaign and emphasize the vitamin C content throughout the marketing and labeling of the Fruit Snacks.

Illustration 4

Mott's Fruit Snacks, Assorted Fruit

39. Plaintiff and other reasonable consumers rely on Defendants' material representations when they purchase the Fruit Snacks—believing that the Fruit

Snacks are healthful and made with significant amounts of the fruits and vegetables depicted in the marketing and labeling of the Fruit Snacks.

40. Defendants violated the trust of Plaintiff and class members because the Fruit Snacks are not the fruit/vegetable-packed healthful snacks that their marketing and labeling represent them to be.

The Fruit Snacks Are Not Healthful and Do Not Contain Significant Amounts of the Fruits and Vegetables Depicted.

41. Defendants' claims about the fruit and vegetable content and the nutritional qualities and healthfulness of the Fruit Snacks deceive Plaintiff and other reasonable consumers. Throughout Defendants' marketing and labeling of the Fruit Snacks, Defendants emphasize the Products' fruits and vegetable content and vitamin C content. But these Fruit Snacks are not healthful, do not contain significant amounts of fruits or vegetables, and only contain any notable vitamins thanks to improper fortification (not thanks to the fruit or vegetable content, as reasonable consumers may assume). Some of the fruits highlighted in Defendants' marketing and labeling—like strawberries—do not even appear in the Fruit Snacks at all. Instead, the Fruit Snacks contain mostly added sweeteners and highly processed fillers.

42. To illustrate, the marketing and labeling for the Berries Fruit Snacks prominently feature depictions of berries, but the Product mostly contains apple juice from concentrate, pear juice from concentrate, and carrot juice from concentrate. The marketing and labeling for the Strawberry Apple Fruit Snacks prominently feature depictions of strawberries, but the Products mostly contain apple juice from concentrate, pear juice from concentrate, and carrot juice from concentrate.

43. The Berries Fruit Snacks and the Strawberry Apple Fruit Snacks, like the other Fruit Snacks, contain far more added sugar than fruits or vegetables. The fruit- and vegetable-type ingredients—on which Defendants base their marketing

and labeling—are nothing more than a small amounts of pear, apple, and sometimes carrot juice from concentrate.

44. The Fruit Snacks lack any naturally occurring vitamins that would come from significant amounts of fruit or vegetable ingredients.

45. All but one variety of the Fruit Snacks do not provide any dietary fiber, a key substance found in fruits and vegetables that is essential for good health. And the Fruit Snacks Plus Fiber variety contains soluble corn fiber—not fiber from the fruit or vegetable content of the Fruit Snacks, as consumers expect.

46. Defendants' addition of vitamin C to the Fruit Snacks in order to market the Snacks as containing "100% DV Vitamin C" violates the Food and Drug Administration's ("FDA") Fortification Policy.[13] The FDA prohibits fortification of "sugars[] or snack foods" that "could result in deceptive or misleading claims for certain foods."[14]

47. Defendants are able to make their misleading representations that these sugary snacks are nutritious, vitamin-rich foods only because they fortify the Fruit Snacks with vitamin C in contravention of FDA policy.[15]

48. Defendants' marketing and labeling deceived Plaintiff and other reasonable consumers into believing that the Fruit Snacks contain vitamin C due to the Products' fruit and vegetable content. Unfortunately for consumers, the synthetic vitamin C that Defendants add to the Fruit Snacks does not provide the same health benefits as vitamins obtained by eating fruits and vegetables.[16] This is one of

---

[13] "The Food and Drug Administration does not encourage indiscriminate addition of nutrients to foods, nor does it consider it appropriate to fortify . . . sugars; or snack foods such as candies . . . ." 21 C.F.R. § 104.20(a).

[14] *Id.*

[15] The Assorted Fruit Snacks ingredients list includes "Vitamin C (ascorbic acid)."

[16] *See, e.g.*, Rui Hai Liu, "Health Benefits of Fruits and Vegetables are from Additive and Synergistic Combinations of Phytochemicals," 78 Am. J. Clin. Nutr. 517S, 517S–520S, at 518S (2003); Inst. of Medicine, Food and Nutrition Board, Dietary Reference Intakes for Vitamin C, Vitamin E, Selenium, and Carotenoids, Nat'l Academy Press (2000).

the reasons the 2015 Dietary Guidelines recommend obtaining nutrients from food and not added vitamins, and advocate "achieving healthy dietary patterns through healthy food and beverage choices rather than with nutrient or dietary supplements except as needed."[17]

49. In short, Defendants' Fruit Snacks contain very little of the fruits or vegetables Defendants highlight in order to sell the Fruit Snacks to consumers. Yet Defendants represent to Plaintiff and other reasonable consumers that the Fruit Snacks are healthful despite the fact that the Fruits Snacks are made in large part with apple, pear, and carrot juices, which are similar to empty-calorie sugar syrup, along with corn syrup, sugar, and modified cornstarch. Despite the limited ingredients derived from actual fruit, Defendants market the Fruit Snacks as though they do contain the named and depicted fruit in substantial amounts.

50. This deceptive practice is well-recognized, and the Center for Science in the Public Interest has been outspoken in its criticism of fruit snacks:

> By shaping sugar, wax or gelatin, artificial colorings and flavorings, and sometimes a bit of fruit juice or fruit puree into the form of a cartoon character, companies created a new category of food that they market to busy parents as a healthy snack. Thus, candy is marketed as a fruit substitute and has become a regular addition to many lunchboxes.[18]

51. Defendants are able to sell the Fruit Snacks to consumers by deceiving consumers about the healthfulness and nutrient content of the Fruit Snacks—thus distinguishing the Fruit Snacks from competitors' products. Defendants are motivated to deceive consumers for no other reason than to make a profit and to take away market share from competing companies.

52. Defendants convey to parents that their Fruit Snacks are a healthful

---

[17] *Available at* http://www.health.gov/dietaryguidelines/2015-scientific-report/PDFs/04-Integration.pdf.

[18] CSPI website, https://cspinet.org/temptation-checkout (last visited Jan. 4, 2017).

snack for their children, when in fact the Fruit Snacks are essentially candy—containing added sugars and no significant amount of real fruit or dietary fiber, and containing vitamin C only due to improper fortification. Thus, stating that the Fruit Snacks are made with "Real FRUIT and VEGETABLE juice," and representing that they are beneficial to consumers' health, is misleading and deceptive.

The Fruit Snacks Are Misbranded.

53. Under FDCA section 403, a food is "misbranded" if "its labeling is false or misleading." 21 U.S.C. §§ 343(a).

54. The amount of fruit in the Fruit Snacks has a material bearing on price and consumer acceptance. Moreover, Defendants' marketing and labeling of the Fruit Snacks—including the imagery of certain fruits—creates the erroneous impression that the fruit depicted in the Products' marketing and labeling is present in an amount greater than is actually the case. Thus, Defendants are required to display the true percentage of fruits in the product name on the front label, pursuant to 21 C.F.R. § 102.5. Defendants violate this requirement.

55. Because Defendants fail to reveal the basic nature and characterizing properties of the Fruit Snacks (specifically, the true fruit and vegetable content), Defendants' Fruit Snacks are not only sold with misleading labeling but also misbranded under Section 403(a) of the FDCA, 21 U.S.C. § 343(a), and cannot be legally manufactured, advertised, distributed, or sold in the United States as they are currently labeled. *See* 21 U.S.C. § 331.

56. Similarly, the Fruit Snacks are misbranded under California's Sherman Law, Cal. Health & Safety Code §§ 109875-111915. The Sherman Law expressly incorporates the food labeling requirements set forth in the FDCA, *see* Cal. Health & Safety Code § 110100(a), and provides that any food is misbranded if its nutritional labeling does not conform to FDCA requirements. *See id.* § 110665; *see also id.* § 110670.

57. The Sherman Law further provides that a product is misbranded if its

labeling is "false or misleading." *Id.* § 110660. It is a violation of the Sherman Law to advertise any misbranded food, *id.* § 110398; to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded, *id.* § 110760; to misbrand any food, *id.* § 110765; or to receive in commerce any food that is misbranded, or deliver or proffer it for delivery, *id.* § 110770.

58. By misrepresenting the basic nature and characterizing properties of the Fruit Snacks, Defendants violate these federal and state regulations and mislead Plaintiff and consumers alike.

CLASS ALLEGATIONS

59. Plaintiff brings this action as a statewide class action pursuant to section 382 of the California Code of Civil Procedure on behalf of all persons in California who purchased Defendants' Products during the Class Period (the "Class"). Excluded from the Class are officers and directors of Defendants, members of the immediate families of the officers and directors of Defendants, and their legal representatives, heirs, successors, or assigns, and any entity in which they have or have had a controlling interest.

60. At this time, Plaintiff does not know the exact number of Class members, but—given the nature of the claims and the number of retail stores selling Defendants' Products—Plaintiff believes that Class members are so numerous that joinder of all members of the Class is impracticable.

61. There is a well-defined community of interest in the questions of law and fact involved in this case. Questions of law and fact common to the members of the Class that predominate over questions that may affect individual Class members include:

a. Whether Defendants marketed, packaged, or sold the Products to Plaintiff and those similarly situated using false, misleading, or decep-

tive statements or representations, including statements or representations concerning the nutritional and health qualities of its Products;

b. Whether Defendants omitted or misrepresented material facts in connection with the sales of its Products;

c. Whether Defendants participated in and pursued the common course of conduct complained of herein;

d. Whether Defendants' marketing, labeling, or selling of the Products as healthful and nutritious constitutes an unfair or deceptive consumer sales practice;

e. Whether Defendants have been unjustly enriched as a result of their unlawful business practices;

f. Whether Defendants' actions as described above violate the California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

g. Whether Defendants' actions as described above violate the California False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.*;

h. Whether Defendants' actions as described above violate the California Consumers Legal Remedies Act, Cal. Civil Code §§ 1750, *et seq.*;

i. Whether Defendants should be enjoined from continuing the above-described practices;

j. Whether Plaintiff and members of the Class are entitled to declaratory relief; and

k. Whether Defendants should be required to make restitution, disgorge profits, reimburse losses, pay damages, and pay treble damages as a result of the above-described practices.

62. Plaintiff's claims are typical of those of the Class because Plaintiff, like all members of the Class, purchased Defendants' Products in a typical consumer setting and sustained damages from Defendants' wrongful conduct.

63. Plaintiff will adequately protect the interests of the Class and has retained counsel who are experienced in litigating class actions. Plaintiff has no interests that conflict with those of the Class.

64. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

65. The prerequisites to maintaining a class action for injunctive or equitable relief are met because Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

66. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings or incompatible standards of conduct for Defendants. For example, one court might enjoin Defendants from performing the challenged acts, whereas another might not. Additionally, individual actions could be dispositive of the interests of the Class even though certain Class members might not be parties to such actions.

67. Defendants' conduct is generally applicable to the Class as a whole and Plaintiff seeks, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendants' systematic policies and practices make declaratory relief with respect to the Class as a whole appropriate.

CAUSES OF ACTION

FIRST CAUSE OF ACTION

Breach of Express Warranty

68. Plaintiff brings this Cause of Action individually and on behalf of the members of the Class.

69. Defendants expressly warrant in their marketing, labeling, and promotion of the Fruit Snacks that the Fruit Snacks are made with "Real FRUIT and VEGETABLE juice," nutritious, and healthful to consume. These statements are untrue as detailed above. These promises of fruit and vegetable content specifically

relate to the goods being purchased and became the basis of the bargain.

70. Plaintiff and members of the Class purchased the Fruit Snacks based upon the above-described express warranties made in Defendants' marketing and labeling of the Fruit Snacks. Defendants breached their express warranty by selling Fruit Snacks that did not conform to the warranties they made.

71. Plaintiff and the Class were injured as a direct and proximate result of Defendants' breach and deserve to be compensated for the damages they suffered. If Plaintiff and the Class had known the true facts concerning the fruit content of the Fruit Snacks, they would not have purchased the Fruit Snacks.

SECOND CAUSE OF ACTION

Unjust Enrichment

72. Plaintiff brings this cause of action individually and on behalf of members of the Class.

73. Plaintiff and members of the Class conferred benefits on Defendants by purchasing the Fruit Snacks.

74. Defendants have knowledge of such benefits.

75. Defendants have been unjustly enriched in retaining the revenues derived from Plaintiff's and Class members' purchases of the Fruit Snacks. Retention of those moneys under these circumstances is unjust and inequitable because Defendants falsely and misleadingly represent that the Fruit Snacks contain significant amounts of the actual fruits shown in the marketing and on the labeling of the Products, are nutritious and healthful to consume, and are more healthful than similar products when, in fact, the Fruit Snacks contain added sugars, lack significant amounts of real fruit, contain virtually no dietary fiber, and only contain a significant amount of vitamins due to improper fortification.

76. Because Defendants' retention of the non-gratuitous benefits conferred on them by Plaintiff and members of the Class is unjust and inequitable, Defendants must pay restitution to Plaintiff and members of the Class for their unjust

enrichment, as ordered by the Court.

THIRD CAUSE OF ACTION

Unfair and Deceptive Acts and Practices, In Violation of the California Consumers Legal Remedies Act § 1750, *et seq.*

77. Plaintiff Chuang brings this cause of action individually and on behalf of the Class pursuant to the California Consumers Legal Remedies Act, Cal. Civ. Code § 1750, et seq. (the "CLRA"). Plaintiff has provided Defendants with notice pursuant to California Civil Code § 1782 and Defendants have refused to remedy the matter per Plaintiff's notice. Plaintiff seeks damages in accordance with the CLRA.

78. Plaintiff Chuang and members of the Class are "consumers," as the term is defined by California Civil Code § 1761(d), because they bought the Products for personal, family, or household purposes.

79. Plaintiff Chuang, members of the Class, and Defendants have engaged in "transactions," as that term is defined by California Civil Code § 1761(e).

80. The conduct alleged in this Complaint constitutes unfair methods of competition and unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was undertaken by Defendants in transactions intended to result in, and which did result in, the sale of goods to consumers.

81. As alleged more fully above, Defendants have violated the CLRA by falsely representing to Plaintiff Chuang and the Class certain qualities of its Products.

82. As a result of engaging in such conduct, Defendants have violated California Civil Code §§ 1770(a)(5), (a)(7), and (a)(9).

83. Pursuant to California Civil Code §§ 1780(a)(2) and (a)(5), Plaintiff Chuang seeks an order of this Court that includes, but is not limited to, an order requiring Defendants to remove language and graphics on Defendants' marketing and labeling representing the Fruit Snacks as made with fruit and being healthful

and nutritious.

84. Plaintiff Chuang and members of the Class may be irreparably harmed or denied an effective and complete remedy if such an order is not granted.

85. The unfair and deceptive acts and practices of Defendants, as described above, present a serious threat to Plaintiff Chuang and members of the Class.

FOURTH CAUSE OF ACTION

Unlawful Business Acts and Practices, In Violation of California Business and Professions Code, § 17200, *et seq.*

86. Plaintiff Chuang brings this cause of action individually and on behalf of the Class.

87. Such acts of Defendants, as described above, constitute unlawful business acts and practices.

88. In this regard, Defendants' manufacturing, marketing, advertising, labeling, distributing, and selling of the Products violate California's Sherman Law, Cal. Health & Saf. Code § 109875, *et seq.*

89. In relevant part, the Sherman Law declares that food is misbranded if its labeling is false or misleading in any particular way and further provides that it is unlawful for any person to misbrand any food. Cal. Health & Saf. Code §§ 110660, 110765.

90. The Sherman Law defines a "person" as "any individual, firm, partnership, trust, corporation, limited liability company, company, estate, public or private institution, association, organization, group, city, county, city and county, political subdivision of this state, other governmental agency within the state, and any representative, agent, or agency of any of the foregoing." Cal. Health & Saf. Code § 109995. Defendants are corporations and, therefore, are "persons" within the meaning of the Sherman Law.

91. The business practices alleged above are unlawful under the CLRA,

Cal. Civ. Code § 1750, *et seq.*, which forbids deceptive advertising.

92. The business practices alleged above are unlawful under California Business and Professions Code § 17200, *et seq.* by virtue of violating § 17500, *et seq.*, which forbids untrue advertising and misleading advertising.

93. As a result of the business practices described above, Plaintiff Chuang and the Class, pursuant to California Business and Professions Code § 17203, are entitled to an order enjoining such future conduct on the part of Defendants and such other orders and judgments that may be necessary to disgorge Defendants' ill-gotten gains and to restore to any person in interest any money paid for the Products as a result of the wrongful conduct of Defendants.

94. The above-described unlawful business acts and practices of Defendants present a threat and reasonable likelihood of deception to Plaintiff Chuang and members of the Class in that Defendants have systematically perpetrated and continue to perpetrate such acts or practices upon members of the Class by means of misleading manufacturing, marketing, advertising, labeling, distributing, and selling of the Products.

FIFTH CAUSE OF ACTION

Fraudulent Business Acts and Practices, In Violation of California Business and Professions Code § 17200, *et seq.*

95. Plaintiff Chuang brings this cause of action individually and on behalf of the Class.

96. Such acts of Defendants as described above constitute fraudulent business practices under California Business and Professions Code § 17200, *et seq.*

97. As more fully described above, Defendants' misleading marketing, advertising, and labeling of the Products is likely to deceive reasonable California consumers. Indeed, Plaintiff Chuang and other members of the Class were unquestionably deceived regarding the characteristics of Defendants' Prod-

ucts, as Defendants' marketing, advertising, and labeling of the Products misrepresents or omits the true ingredients and nutritional content of the Products. Defendants' portrayal of the Products as made with fruit and being healthful and nutritious is misleading and deceptive because the Products contain added sugars, lack significant amounts of real fruit, and contain no dietary fiber.

98. This fraud and deception caused Plaintiff Chuang and members of the Class to purchase more of Defendants' Products than they would have or to pay more than they would have for Defendants' Products had they known that the statements on Defendants' Products conveying that they were made from fruit and were healthful are contrary to the actual ingredients of the Products.

99. As a result of the business acts and practices described above, Plaintiff Chuang and the Class, pursuant to California Business and Professions Code § 17203, are entitled to an order enjoining such future conduct on the part of Defendants and such other orders and judgments that may be necessary to disgorge Defendants' ill-gotten gains and to restore to any person in interest any money paid for Defendants' Products as a result of the wrongful conduct of Defendants.

SIXTH CAUSE OF ACTION

Misleading and Deceptive Advertising In Violation of California Business and Professions Code, § 17500, *et seq.*

100. Plaintiff Chuang brings this cause of action individually and on behalf of the Class for violations of California Business and Professions Code § 17500, *et seq.* for misleading and deceptive advertising by Defendants.

101. At all material times, Defendants engaged in a scheme of offering the Products for sale to Plaintiff Chuang and other members of the Class by way of, *inter alia*, commercial marketing and advertising, the Internet, product labeling, and other promotional materials.

102. Defendants' portrayal of its Products as being made from fruit and

vegetables and as being healthful and nutritious is misleading and deceptive because the Products contain high amounts of sugars and calories, and lack significant amounts of real fruit.

103. Said advertisements were made within the State of California and come within the definition of advertising as contained in Business and Professions Code § 17500, *et seq.* in that such promotional materials were intended as inducements to purchase Defendants' Products and are statements disseminated by Defendants to Plaintiff Chuang and the Class and were intended to reach members of the Class.

104. Defendants knew, or in the exercise of reasonable care should have known, that these statements were misleading and deceptive.

105. In furtherance of said plan and scheme, Defendants have prepared and distributed within the State of California—via commercial marketing and advertising, the Internet, Product labeling, and other promotional materials—statements that misleadingly and deceptively represent the Products as being made all or mostly of the fruit and vegetables represented, and being healthful and nutritious. Consumers, including Plaintiff Chuang, necessarily and reasonably relied on these materials concerning Defendants' Products. Consumers, including Plaintiff Chuang and the Class Members, were among the intended targets of such representations.

106. The above acts of Defendants, in disseminating said misleading and deceptive statements throughout the State of California to consumers, including Plaintiff Chuang and members of the Class, were and are likely to deceive reasonable consumers, including Plaintiff and other members of the Class, by obfuscating the real ingredients of the Products, and making misleading claims about the Products, all in violation of the "misleading" prong of California Business and Professions Code § 17500, *et seq.*

107. As a result of the above violations of the "misleading" prong of California Business and Professions Code § 17500, *et seq.*, Defendants have been unjustly enriched at the expense of Plaintiff Chuang and the other members of the Class. Plaintiff Chuang and the Class, pursuant to California Business and Professions Code § 17535, are entitled to an order of this Court enjoining such future conduct on the part of Defendants, and such other orders and judgments that may be necessary to disgorge Defendants' ill-gotten gains and restore to any person in interest any money paid for the Products as a result of the wrongful conduct of Defendants.

PRAYER FOR RELIEF

Plaintiff, on his own behalf and on behalf of the Class, prays for the following relief:

A. For an order certifying the proposed Class and naming Plaintiff as Class Representative and his attorneys as Class Counsel;

B. For an order declaring that Defendants' conduct violates the statutes referenced herein;

C. For an order finding in favor of Plaintiff and the Class on all counts asserted herein;

D. For an order awarding compensatory, treble, and punitive damages in amounts to be determined by the Court or jury;

E. For prejudgment interest on all amounts awarded;

F. For an order of restitution and all other forms of equitable monetary relief;

G. For injunctive relief as pleaded or as the Court may deem proper; and

H. For an order awarding Plaintiff and the Class their reasonable attorneys' fees and expenses and costs.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: February 2, 2017

Respectfully submitted,

RICHMAN LAW GROUP

Kim E. Richman (*Pro Hac Vice* forthcoming)
krichman@richmanlawgroup.com
Jaimie Mak (SBN 236505)
jmak@richmanlawgroup.com
535 Mission Street
San Francisco, CA 94105
(415) 259-5688 (t)
(718) 228-8522 (f)

STANLEY LAW GROUP
Stephen Gardner (*Pro Hac Vice* forthcoming)
steve@consumerhelper.com
Amanda Howell (*Pro Hac Vice* forthcoming)
ahowell@stanleylawgroup.com
6116 N. Central Expressway
Suite 1500
Dallas, TX 75206
(214) 443-4300 (t)
(214) 443-0358 (f)

Attorneys for Plaintiff and the Proposed Class

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Jaimie Mak
SBN 236505
535 Mission Street
San Francisco, CA 94105
TELEPHONE NO.: (415) 259-5688 FAX NO.: (718) 228-8522
ATTORNEY FOR (Name): Jonathan Chuang

FOR COURT USE ONLY

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES
FEB 06 2017
Sherri R. Carter, Executive Officer/Clerk
By Deputy
Shaunya Bolder

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS: 111 North Hill Street
CITY AND ZIP CODE: Los Angeles, CA 90012
BRANCH NAME: Stanley Mosk Courthouse, Central District

CASE NAME:
Chuang v. Dr Pepper Snapple Group, Inc., et al.

CASE NUMBER: BC649291
JUDGE:
DEPT:

CIVIL CASE COVER SHEET

☑ Unlimited (Amount demanded exceeds $25,000) ☐ Limited (Amount demanded is $25,000 or less)

Complex Case Designation

☐ Counter ☐ Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
- ☐ Auto (22)
- ☐ Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- ☐ Asbestos (04)
- ☐ Product liability (24)
- ☐ Medical malpractice (45)
- ☐ Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- ☐ Business tort/unfair business practice (07)
- ☐ Civil rights (08)
- ☐ Defamation (13)
- ☐ Fraud (16)
- ☐ Intellectual property (19)
- ☐ Professional negligence (25)
- ☐ Other non-PI/PD/WD tort (35)

Employment
- ☐ Wrongful termination (36)
- ☐ Other employment (15)

Contract
- ☐ Breach of contract/warranty (06)
- ☐ Rule 3.740 collections (09)
- ☐ Other collections (09)
- ☐ Insurance coverage (18)
- ☐ Other contract (37)

Real Property
- ☐ Eminent domain/Inverse condemnation (14)
- ☐ Wrongful eviction (33)
- ☐ Other real property (26)

Unlawful Detainer
- ☐ Commercial (31)
- ☐ Residential (32)
- ☐ Drugs (38)

Judicial Review
- ☐ Asset forfeiture (05)
- ☐ Petition re: arbitration award (11)
- ☐ Writ of mandate (02)
- ☐ Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- ☐ Antitrust/Trade regulation (03)
- ☐ Construction defect (10)
- ☑ Mass tort (40)
- ☐ Securities litigation (28)
- ☐ Environmental/Toxic tort (30)
- ☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- ☐ Enforcement of judgment (20)

Miscellaneous Civil Complaint
- ☐ RICO (27)
- ☐ Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
- ☐ Partnership and corporate governance (21)
- ☐ Other petition *(not specified above)* (43)

2. This case ☑ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. ☐ Large number of separately represented parties
   b. ☑ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. ☑ Substantial amount of documentary evidence
   d. ☐ Large number of witnesses
   e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. ☑ Substantial postjudgment judicial supervision
3. Remedies sought *(check all that apply)*: a. ☑ monetary b. ☑ nonmonetary; declaratory or injunctive relief c. ☑ punitive
4. Number of causes of action *(specify)*: Six
5. This case ☑ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

By Fax

Date: 2/2/2017
Jaimie Mak
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

SHORT TITLE: Chuang v. Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER BC649291

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

By Fax

Applicable Reasons for Choosing Court Filing Location (Column C)

1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
2. Permissive filing in central district.
3. Location where cause of action arose.
4. Mandatory personal injury filing in North District.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.
11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury).

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	☐ A6070 Asbestos Property Damage ☐ A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	☐ A7210 Medical Malpractice - Physicians & Surgeons ☐ A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	☐ A7250 Premises Liability (e.g., slip and fall) ☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) ☐ A7270 Intentional Infliction of Emotional Distress ☐ A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

SHORT TITLE: Chuang v. Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER

	A Civil Case Cover Sheet Category No	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	☐ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	☐ A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	☐ A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
	Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Employment	Wrongful Termination (36)	☐ A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	☐ A6024 Other Employment Complaint Case ☐ A6109 Labor Commissioner Appeals	1, 2, 3 10
Contract	Breach of Contract/ Warranty (06) (not insurance)	☐ A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) ☐ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) ☐ A6019 Negligent Breach of Contract/Warranty (no fraud) ☐ A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5
	Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case ☐ A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11 5, 11 5, 6, 11
	Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1, 2, 5, 8
	Other Contract (37)	☐ A6009 Contractual Fraud ☐ A6031 Tortious Interference ☐ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9
Real Property	Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels_____	2, 6
	Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6
Unlawful Detainer	Unlawful Detainer-Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Post-Foreclosure (34)	☐ A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2, 6, 11

SHORT TITLE: Chuang v. Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	☐ A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	☐ A6151 Writ - Administrative Mandamus	2, 8
		☐ A6152 Writ - Mandamus on Limited Court Case Matter	2
		☐ A6153 Writ - Other Limited Court Case Review	2
	Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	☐ A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	☑ A6006 Claims Involving Mass Tort	(1) 2, 8
	Securities Litigation (28)	☐ A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	☐ A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	☐ A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	☐ A6141 Sister State Judgment	2, 5, 11
		☐ A6160 Abstract of Judgment	2, 6
		☐ A6107 Confession of Judgment (non-domestic relations)	2, 9
		☐ A6140 Administrative Agency Award (not unpaid taxes)	2, 8
		☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax	2, 8
		☐ A6112 Other Enforcement of Judgment Case	2, 8, 9
Miscellaneous Civil Complaints	RICO (27)	☐ A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	☐ A6030 Declaratory Relief Only	1, 2, 8
		☐ A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		☐ A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
		☐ A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	☐ A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	☐ A6121 Civil Harassment	2, 3, 9
		☐ A6123 Workplace Harassment	2, 3, 9
		☐ A6124 Elder/Dependent Adult Abuse Case	2, 3, 9
		☐ A6190 Election Contest	2
		☐ A6110 Petition for Change of Name/Change of Gender	2, 7
		☐ A6170 Petition for Relief from Late Claim Law	2, 3, 8
		☐ A6100 Other Civil Petition	2, 9

SHORT TITLE: Chuang v. Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER

Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON:	ADDRESS:		
☒ 1. ☐ 2. ☐ 3. ☐ 4. ☐ 5. ☐ 6. ☐ 7. ☐ 8. ☐ 9. ☐ 10. ☐ 11.			
CITY:	STATE:	ZIP CODE:	

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: 2/2/2017

(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

LACIV 109 (Rev 2/16)
LASC Approved 03-04

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION

Local Rule 2.3
Page 4 of 4

EXHIBIT 1
Page 41

EXHIBIT 2

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):
DR PEPPER SNAPPLE GROUP, INC., MOTT'S, LLP, and GENERAL MILLS, INC.

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
JONATHAN CHUANG, on behalf of himself and all others similarly situated,

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES

FEB 06 2017

Sherri R. Carter, Executive Officer/Clerk
By _____, Deputy
Shaunya Bolden

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.
*¡**AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:
(El nombre y dirección de la corte es): Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):
BC649291

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Jaimie Mak, 535 Mission Street, San Francisco, CA 64105, (415) 259-5688

DATE: 2/2/2017 *(Fecha)* FEB 06 2017 Clerk, by SHERRI R. CARTER *(Secretario)* _____, Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citatión use el formulario Proof of Service of Summons, *(POS-010).)*

SHAUNYA BOLDEN

SEAL

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☐ on behalf of *(specify):*
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify):*
4. ☐ by personal delivery on *(date):*

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

EXHIBIT 3

208

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Jaimie Mak , 236505 535 Mission St. San Francisco, CA 94105 TELEPHONE NO.: (718) 705-4579 ATTORNEY FOR (Name): Plaintiff	CC FILED Superior Court of California County of Los Angeles FEB 10 2017 Sherri R. Carter, Executive Officer/Clerk By Brittny Smith, Deputy Brittny Smith
SUPERIOR COURT OF CALIFORNIA, COUNTY OF 600 S. Commonwealth Ave. Los Angeles, CA. 90005	
PLAINTIFF/PETITIONER: Jonathan Chuang, et al DEFENDANT/RESPONDENT: Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER: BC649291
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: None

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action. BY FAX
2. I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Notice of Case Assignment, ADR Packet
3. a. Party served: Dr Pepper Snapple Group, Inc.
   b. Person Served: Gabriela Sanchez - CT Corporation System - Person Authorized to Accept Service of Process
4. Address where the party was served: 818 West Seventh Street, Suite 930
Los Angeles, CA 90017
5. I served the party
   a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 02/08/2017 (2) at (time): 3:00PM
6. The "Notice to the Person Served" (on the summons) was completed as follows:

   d. on behalf of:

Dr Pepper Snapple Group, Inc.
under: CCP 416.10 (corporation)

7. **Person who served papers**
   a. Name: Jimmy Lizama
   b. Address: One Legal - 194-Marin
504 Redwood Blvd #223
Novato, CA 94947
   c. Telephone 415-491-0606
   d. The fee for service was: $ 37.95
   e I am:
      (3) registered California process server.
         (i) Employee or independent contractor.
         (ii) Registration No.: 4553
         (iii) County: Los Angeles
8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Date: 02/09/2017

Jimmy Lizama
(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

EXHIBIT 4

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Jaimie Mak , 236505 535 Mission St. San Francisco, CA 94105 TELEPHONE NO.: (718) 705-4579 ATTORNEY FOR (Name): Plaintiff	FILED Superior Court of California County of Los Angeles FEB 14 2017 Sherri R. Carter, Executive Officer/Clerk By Isabel Arellanes, Deputy Isabel Arellanes
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Superior Court of California, Los Angeles County 600 S. Commonwealth Ave Los Angeles, CA 90005	
PLAINTIFF/PETITIONER: Jonathan Chuang, et al DEFENDANT/RESPONDENT: Dr Pepper Snapple Group, Inc., et al.	CASE NUMBER: BC649291 Dept 308
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.: None

1. At the time of service I was a citizen of the United States, at least 18 years of age and not a party to this action. BY FAX
2. I served copies of: Summons, Complaint, Civil Case Cover Sheet, Civil Case Cover Sheet Addendum, Notice of Case Assignment, ADR Packet
3. a. Party served: General Mills, Inc.
   b. Person Served: Gabriela Sanchez - CT Corporation System - Person Authorized to Accept Service of Process
4. Address where the party was served: 818 W SEVENTH ST, Suite 930
Los Angeles, CA 90017
5. I served the party
   a. **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): 02/08/2017 (2) at (time): 3:00PM
6. The "Notice to the Person Served" (on the summons) was completed as follows:

   d. on behalf of:

General Mills, Inc.
under: CCP 416.10 (corporation)

7. **Person who served papers**
   a. Name: Jimmy Lizama
   b. Address: One Legal - 194-Marin
504 Redwood Blvd #223
Novato, CA 94947
   c. Telephone 415-491-0606
   d. The fee for service was: $ 37.95
   e I am:
      (3) registered California process server.
         (i) Employee or independent contractor.
         (ii) Registration No.: 4553
         (iii) County: Los Angeles
8. I declare under penalty of perjury under the laws of the United States of America and the State of California that the foregoing is true and correct.

Date: 02/09/2017

Jimmy Lizama
(NAME OF PERSON WHO SERVED PAPERS)

(SIGNATURE)

EXHIBIT 5

FILED
Superior Court of California
County of Los Angeles
FILE STAMP
FEB 28 2017
SHERRI R. CARTER, EXECUTIVE OFFICER/CLERK
BY _____ Deputy
BENIGNO DEL BARRIO

NOTICE SENT TO:

Mak, Jaimie
535 Mission Street
San Francisco CA 94105

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

JONATHAN CHUANG
Plaintiff(s),
VS.
DR PEPPER SNAPPLE GROUP INC ET AL
Defendant(s).

CASE NUMBER
BC649291

Order and Notice of Reassignment

TO ALL PARTIES AND PARTIES' ATTORNEY OF RECORD OR PARTY(S) IN PROPRIA PERSONA:

YOU ARE HEREBY NOTIFIED that effective February 28, 2017, the above entitled action, including all related and underlying cases, previously assigned to Ann I. Jones, shall be reassigned to Carolyn B. Kuhl, in Department 309 for all purposes, including trial. This reassignment is an "all purpose" assignment within the provisions of Code of Civil Procedure Section 170.6, and the parties that have not previously exercised a peremptory challenge may exercise such a challenge within the 15 day period specified in Government Code Section 68616, with extensions of time authorized by Code of Civil Procedure Section 1013. All matters on calendar in this case will remain set on the dates previously noticed in the department indicated above, unless otherwise ordered by the Court.

NOTICE IS FURTHER GIVEN that Plaintiff(s) in propria persona or Plaintiff(s)' counsel is hereby ordered to give notice of this all purpose case reassignment by serving a copy of this Order on all parties to this action, including all parties in all related and underlying cases, within 10 days of service of this Order by the court, and to file proof of service thereof within 12 days of this Order. Failure to timely give notice and file proof of service may lead to the imposition of sanctions pursuant to Code of Civil Procedure Section 177.5

It is so ordered.

ASST. Supervising Judge ANN I. JONES

CERTIFICATE OF MAILING

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Order and Notice of Reassignment upon each party or counsel named above by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthoouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown above with the postage thereon fully prepaid in accordance with standard court practices.

Date: February 28, 2017

Sherri R. Carter, EXECUTIVE OFFICER/CLERK

By _____, Deputy Clerk

EXHIBIT 6

Case Summary

Please make a note of the Case Number.

Click here to access document images for this case.
If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page.

Case Number: BC649291
JONATHAN CHUANG VS DR PEPPER SNAPPLE GROUP INC ET AL

Filing Date: 02/06/2017
Case Type: Claims Involving Mass Tort (General Jurisdiction)
Status: Pending

Future Hearings

None

Documents Filed | Proceeding Information

Parties

CHUANG JONATHAN - Plaintiff/Petitioner

DR PEPPER SNAPPLE GROUP INC - Defendant/Respondent

GENERAL MILLS INC - Defendant/Respondent

MAK JAIMIE - Attorney for Plaintiff/Petitioner

MOTT'S LLP - Defendant/Respondent

Case Information | Party Information | Proceeding Information

Documents Filed (Filing dates listed in descending order)

02/28/2017 Notice of Reassignment and Order
Filed by Clerk

02/14/2017 Proof-Service/Summons
Filed by Attorney for Plaintiff/Petitioner

02/10/2017 Proof-Service/Summons (DR. PEPPER SNAPPLE GROUP, INC.)
Filed by Attorney for Plaintiff/Petitioner

02/06/2017 Complaint

Case Information | Party Information | Documents Filed

Proceedings Held (Proceeding dates listed in descending order)

02/28/2017 at 09:00 am in Department 309, Carolyn B. Kuhl, Presiding
Order Re: Reassignment of Case - **Case is reassigned**

Case Information | Party Information | Documents Filed | Proceeding Information

David T. Biderman, Bar No. 101577
DBiderman@perkinscoie.com
Oliver M. Gold, Bar No. 279033
OGold@perkinscoie.com
PERKINS COIE LLP
1888 Century Park E., Suite 1700
Los Angeles, CA 90067-1721
Telephone: 310.788.9900
Facsimile: 310.843.1284

Charles Sipos, *pro hac vice* forthcoming
Elvira Castillo, *pro hac vice* forthcoming
PERKINS COIE LLP
1201 Third Avenue, Suite 4900
Seattle, WA 98101
Telephone: 206.359.8000
Facsimile: 206.359.9000

Attorneys for Defendant
GENERAL MILLS, INC.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

JONATHAN CHUANG, on behalf of himself and all others similarly situated,

Plaintiff,

v.

DR PEPPER SNAPPLE GROUP, INC., MOTT'S LLP, and GENERAL MILLS, INC.,

Defendants.

Case No. 2:17-cv-01875

DECLARATION OF BRANDON MCKAY IN SUPPORT OF GENERAL MILLS, INC.'S REMOVAL

[Complaint filed February 6, 2017 and removed from the Superior Court of the State of California for the County of Los Angeles, Case No. BC649291

I, Brandon McKay, declare as follows:

1. I am a Senior Financial Manager in the Snacks Division at General Mills, Inc. ("General Mills"). I have worked at General Mills since August 2003, when I started as a Financial Analyst. In my capacity as a Senior Financial Manager, I work closely with General Mills product sales data, including data for the Mott's Fruit Snacks and related products at issue in this litigation ("Mott's Fruit Snacks").[1] I make this declaration in support of Defendants Dr Pepper Snapple Group's, General Mills', and Mott's, LLP's (collectively, "Defendants") Notice of Removal.

2. I have personal knowledge of the accounting processes and practices for General Mills, which includes those for Mott's Fruit Snacks. I also have personal knowledge of General Mills' sales information on a state-by-state basis.

3. I understand that Plaintiff seeks compensatory damages, restitution, and/or disgorgement equal to the entire purchase price of all Fruit Snacks units sold in California between February 6, 2014 and February 6, 2017 (the "Class Period"). Alternatively, Plaintiff seeks damages equal to an unspecified premium he paid for Mott's Fruit Snacks over comparable products during the Class Period. Defendants dispute that Plaintiff is entitled to any recovery or any relief for his claims. However, I understand that the Court will accept as true Plaintiff's theories of recovery for the purposes of analyzing the amount Plaintiff's claims put in controversy.

4. General Mills sells the Mott's Fruit Snacks to grocery stores, distributors, and other third parties. General Mills does not sell these products directly to consumers. As a result, General Mills does not possess sales information for Mott's Fruit Snacks as the retail level. General Mills does, however, maintain financial information regarding its own sales of Mott's Fruit Snacks to California

[1] Per the Complaint, "the Products at issue include (but are not limited to) Mott's Fruity Rolls; Mott's Medleys Fruit Flavored Snacks—Assorted Fruit, Assorted Fruit Plus Fiber, Berry and Strawberry Apple." Compl. ¶ 1 n.2. I refer to these products collectively as "Fruit Snacks."

retailers, such as grocery stores, distributors, and third parties who, in turn, sell to consumers. General Mills allocates purchases to a state if it ships the product to an address in that state. Although some California retailers may sell Mott's Fruit Snacks to non-California consumers, this practice will likely produce small and offsetting effects on state-specific sales numbers. The total sales figure reflected by this data is less than the total retail sales number because retailers sell Mott's Fruit Snacks to consumers at a markup.

5. General Mills' total California sales of Mott's Fruit Snacks in calendar years 2014, 2015, 2016, and part of 2017 was $9,011,106. Again, this figure is less than retail sales number in California over the relevant time period because retailers sell Mott's Fruit Snacks to consumers at a markup.

6. It is my understanding that in the Class Action Complaint filed in this action, Plaintiff alleges he would not have purchased the Fruit Snacks absent Defendants' allegedly misleading statements. Taking Plaintiff's allegation as true, and given the sales information available for Mott's Fruit Snacks, the retail sales of the Fruit Snacks in California during the Class Period exceeds $5,000,000.

I declare under penalty of perjury under the laws of the United States of America and California that the foregoing is true and correct.

Executed this 8 day of March 2017, at Minneapolis, Minnesota.

Brandon McKay

PROOF OF SERVICE BY OVERNIGHT DELIVERY

I am a citizen of the United States and employed in Los Angeles County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1888 Century Park E., Suite 1700, Los Angeles, California 90067-1721. On March 8, 2017, I deposited with Federal Express, a true and correct copy of the within documents:

DECLARATION OF BRANDON MCKAY

in a sealed envelope, addressed as follows:

RICHMAN LAW GROUP
Kim E. Richman
Jaimie Mak
535 Mission Street
San Francisco, CA 94105

STANLEY LAW GROUP
Stephen Gardner
Amanda Howell
6116 N. Central Expressway
Suite 1500
Dallas, TX 75206

Attorneys for Plaintiff and Proposed Class

Following ordinary business practices, the envelope was sealed and placed for collection by Federal Express on this date, and would, in the ordinary course of business, be retrieved by Federal Express for overnight delivery on this date.

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on March 8, 2017, at Los Angeles, California.

Jenna DeRosier