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11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION
14

15 SARAH SAMET and ROBERT FIGY,
16 individually and on behalf of all others
similarly situated,

17 Plaintiffs,

18 v.

19 PROCTER & GAMBLE COMPANY,
20 KELLOGG COMPANY and KELLOGG
SALES COMPANY

21 Defendants.

Case No. 5:12-CV-01891-PSG

**THIRD AMENDED CLASS ACTION
AND REPRESENTATIVE ACTION
COMPLAINT FOR DAMAGES,
EQUITABLE AND INJUNCTIVE RELIEF**

JURY TRIAL DEMANDED

22
23 Plaintiffs, Sarah Samet and Robert Figy, (“Plaintiffs”) through their undersigned
24 attorneys, bring this lawsuit against Defendants Procter & Gamble Company and Kellogg Sales
25 Company (“P&G” and “Kellogg” or “Defendants”) as to their own acts upon personal knowledge
26 and as to all other matters upon information and belief.

- 27 1. “Class Period” is April 16, 2008 to the present.
28 2. “Purchased Products” are those products that were purchased by Plaintiffs during

1 the Class Period. Plaintiff Sarah Samet purchased Pringles Original snack chips (6.41 oz
2 cylinder); Pringles 18 Variety Pack (original, cheddar cheese and sour cream and onion .74 oz.
3 tubs); and Pringles 8 Pack (sour cream and onion .74 oz. tubs). Pictures of Plaintiff Samet's
4 purchased products are attached as Exhibits 1-3. Plaintiff Robert Figy purchased Kellogg's
5 MorningStar Farm Hickory BBQ Riblets (10 oz. box).

6 3. "Class Products" are the Purchased Products and Defendants' other products that
7 bear the identical unlawful and/or misleading label statement(s).

8 SUMMARY OF THE CASE

9 A. Unlawful Prong of the UCL

10 4. Plaintiffs' case has two distinct facets. First, the "UCL unlawful" part. Plaintiffs'
11 first cause of action is brought pursuant to the unlawful prong of California's Unfair Competition
12 Law, Cal. Bus. & Prof. Code § 17200 ("UCL"). Plaintiffs allege that Defendants package and
13 label the Purchased Products in violation of California's Sherman Law which adopts,
14 incorporates, and is in all relevant aspects, identical to the federal Food Drug & Cosmetic Act, 21
15 U.S.C. § 301 *et seq.* ("FDCA"). These violations do not require a finding that the labels are
16 "misleading" and render the Purchased Products "misbranded."

17 5. Under California law, a food product that is misbranded cannot legally be
18 manufactured, advertised, distributed, held or sold. Misbranded products cannot be legally sold
19 or possessed, have no economic value and are legally worthless. Indeed, the sale or possession of
20 misbranded food is a criminal act in California. The sale of misbranded products is illegal under
21 federal law and can result in the seizure of misbranded products and the imprisonment of those
22 involved.

23 6. California law is clear that reliance by Plaintiffs or the class members is not a
24 necessary element for a UCL plaintiff to prevail. *See Stearns v. Ticketmaster Corp.*, 655 F.3d
25 1013, 1020 (9th Cir. 2011)(explaining that a California state law claim under the UCL focuses on
26 "defendant's conduct," rather than any reliance by plaintiff or individualized proof of deception
27 or injury); *see also Ries v. Arizona Beverages USA, LLC*, 287 F.R.D. 523, 537-38 (N.D. Cal.
28 2012)(stating liability is imposed and relief available under the unlawful prong "without

1 individualized proof of deception, reliance, and injury.”); *In re Tobacco II Cases*, 46 Cal. 4th 298,
2 325, fn 17 (Cal. 2009)) (“We emphasize that our discussion of causation in this case is limited to
3 such cases where, as here, a UCL action is based on a fraud theory involving false advertising and
4 misrepresentations to consumers. The UCL defines “unfair competition” as “includ[ing] any
5 unlawful, unfair or fraudulent business act or practice . . .” (§ 17200) There are doubtless many
6 types of unfair business practices in which the concept of reliance, as discussed here, has no
7 application.”); *Medrazo v. Honda of North Hollywood*, 2012 Cal. App. LEXIS 2316 at *21 (Cal.
8 App. March 21, 2012) (“the Supreme Court also explained that an actual reliance requirement
9 does not apply to UCL actions that are not based upon a fraud theory”); *Steroid Hormone*
10 *Product Cases*, 181 Cal. App. 4th 145, 159 (Cal. App. 2d Dist. 2010)(holding that
11 ‘California courts have repeatedly held that relief under the UCL is available without
12 individualized proof of deception, reliance and injury.’); *Frezza v. Google Inc.*, 2013 U.S. Dist.
13 LEXIS 57462 (N.D. Cal. Apr. 22, 2013)(“. . . no reliance is required to prove violations of the
14 UCL based on "unlawful" or "unfair" conduct.”); *Olivera v. Am. Home Mortg. Servicing, Inc.*,
15 689 F. Supp. 2d 1218, 2010 U.S. Dist. LEXIS 5129 (N.D. Cal. 2010) (“For claims based on the
16 "unfair" or "unlawful" prong of the UCL claim, courts have held that the plaintiff need not allege
17 reliance on misrepresentations, and may allege ‘causation more generally.’”); *Rand v. Am. Nat'l*
18 *Ins. Co.*, 2010 U.S. Dist. LEXIS 82584 (N.D. Cal. June 22, 2010)(“Moreover, reliance is only
19 required under the fraud prong of the UCL, and is not an element under the "unfair" or "unlawful"
20 prongs of that statute’); *In re Ditropan XL Antitrust Litig.*, 529 F. Supp. 2d 1098, 2007 U.S. Dist.
21 LEXIS 38068 (N.D. Cal., May 11, 2007)(“Plaintiffs need not allege reliance....However, where,
22 as here, plaintiffs allege that they were harmed by other types of misconduct actionable under the
23 UCL the Court finds no basis for requiring reliance on misrepresentations.”); “[t]here are a
24 number of theories that have been litigated and rejected as defenses to claims alleging ‘unlawful’
25 business practices Lack of Deception No Defense: That no one was actually deceived by the
26 practice is not a defense to a section 17200 “unlawful” business practice claim. Stern, § 5.166,
27 BUS. & PROF. C. § 17200 PRACTICE (The Rutter Group 2012).

28 7. Thus “misbranding” – standing alone without any allegations of deception by

1 Defendants, or review of or reliance on the labels by Plaintiffs – gives rise to Plaintiffs’ first
 2 cause of action under the UCL. In short, Defendants’ unlawful conduct is the only necessary
 3 element needed for UCL liability. All Plaintiffs need to show is that they bought an unlawful
 4 product. This claim does not sound in fraud.

5 8. Under California law, which is identical to federal law, Defendants’ products listed
 6 below are unlawful because they are misbranded due to violations of the Sherman Law, as alleged
 7 herein:

Purchased Product	Unlawful Label Statements	Sherman Law Violation (directly or through incorporation of FDCA)
8 Pringles Original (6.41 oz 9 cylinder); 10 Pringles 18 Variety Pack 11 (original, cheddar cheese 12 and sour cream and onion 13 .74 oz tubs); Pringles 8 14 Pack (sour cream and 15 onion .74 oz tubs)	“Og Trans Fat”/Omitted Disclosure	21 C.F.R. § 1.21 21 C.F.R. § 101.13 21 C.F.R. § 101.65 Cal. Health & Safety Code § 110100 Cal. Health & Safety Code § 110660 Cal. Health & Safety Code § 110670 Cal. Health & Safety Code § 110705 Cal. Health & Safety Code § 110760
16 Kellogg’s Morning Star 17 Farms Hickory BBQ 18 Riblets (10 oz. box)	“Evaporated Cane Juice”	21 C.F.R. § 1.21 21 C.F.R. § 101.4 21 C.F.R. § 102.5 Cal. Health & Safety Code § 110100 Cal. Health & Safety Code § 110660 Cal. Health & Safety Code § 110725 Cal. Health & Safety Code § 110760

22 9. Defendants’ products which are substantially similar and have the identical
 23 unlawful label statements as the Purchased Products are also unlawful under California and
 24 federal law. The misbranding of those labels is uniform with the unlawful statements of Plaintiffs’
 25 Purchased Products, and they likewise violate the Sherman Law. In other words, a product
 26 labeled with the term “evaporated cane juice,” for example, is unlawful regardless of on what
 27 product it is shown. The Sherman Law does not differentiate between products; it governs labels.
 28 Thus, an unlawful labeling statement is unlawful regardless of whether it is on cereal or BBQ

1 riblets. Because such unlawful labeling statements result in products being misbranded and illegal
2 to sell or possess, a separate, independent violation of the unlawful prong is possible and has
3 occurred in this case.

4 10. Defendants also violated the Sherman Law provisions listed in paragraphs 49-113
5 by manufacturing, offering to sell, selling, delivering, etc. misbranded food. As discussed below,
6 the illegal sale of a misbranded product to a consumer results in an independent violation of the
7 unlawful prong that is separate and apart from the underlying unlawful labeling practice that
8 resulted in the product being misbranded.

9 **B. Misleading Prong of the UCL**

10 11. Second, the “misleading” part. In addition to being unlawfully misbranded under
11 the Sherman Law, the illegal statements contained on the labels of the Purchased Products and the
12 Class Products are also misleading, deceptive and fraudulent. Prior to purchase, Plaintiffs
13 reviewed the illegal statements on the labels of the Purchased Products, reasonably relied in
14 substantial part on the unlawful label statements, and were thereby misled in deciding to buy the
15 Purchased Products. Plaintiffs were deceived into purchasing the products because of
16 Defendants’ unlawful statements of the healthy qualities and sugar content of those products.
17 Defendants also misled Plaintiffs into believing that the products were legal to purchase and
18 possess. Had Plaintiffs known that these food products were misbranded they would not have
19 bought them. Plaintiffs relied on the Defendants’ implicit representations that their products were
20 legal to sell and possess. Because this was not true, Plaintiffs were misled.

21 12. All of the Purchased Products and the Class Products had labels that were unlawful
22 during the class period.¹ Plaintiffs did not know, and had no reason to know, that Defendants’
23 Purchased Products were misbranded under the Sherman Law and bore food labeling claims that
24 failed to meet food labeling requirements. In addition, Plaintiffs were misled by the label
25 statements on Defendants’ Purchased Products.

26 **BACKGROUND**

27
28 ¹ Since the filing of this lawsuit, Defendants have removed the challenged label claims from the
Purchased Products and Class Products.

1 13. Every day, millions of Americans purchase and consume packaged foods.
2 Identical federal and California laws require not only that label statements not mislead consumers
3 but also require that the labeling statements be lawful. This case is about food companies that
4 flout those laws. The law is clear: misbranded food cannot legally be manufactured, held,
5 advertised, distributed or sold. Misbranded food has no economic value and is worthless as a
6 matter of law, and purchasers of misbranded food are entitled to a refund of their purchase price.

7 14. Defendants manufacture, market and sell a variety of foods, including the
8 Purchased Products and the Class Products.

9 15. Defendants have implemented a campaign to label their products as healthy and
10 associated with wellness.

11 16. Defendants recognize that health and wellness claims drive food sales, and
12 actively promote the purported health benefits of their products, notwithstanding the fact that
13 these promotions violate California and federal law.

14 17. If a manufacturer is going to make a claim on a food label, it must not violate
15 certain California laws. Manufacturers must ensure that consumers are not misled by food labels.
16 Defendants have made unlawful labeling claims in violation of federal and California laws that
17 govern the types of representations that can be made on food labels. Defendants' product labels
18 violate California law and therefore are misbranded.

19 18. These California food labeling laws recognize that reasonable consumers are likely
20 to choose products claiming to have a health or nutritional benefit over otherwise similar food
21 products that do not claim such benefits. More importantly, these laws recognize that it is
22 deceptive to fail to disclose the presence of risk increasing nutrients, because it conveys a
23 message to consumers that a food makes only positive contributions to a diet, or does not contain
24 any nutrients at levels that raise the risk of diet-related disease or health-related condition.
25 Plaintiffs were deceived by Defendants' unlawfully conveyed statements.

26 19. Plaintiffs' claims are brought under California statutes and for violations of the
27 Sherman Law. Under California law, which is identical to federal law, the labels and labeling of
28 Defendants' products included in the class are unlawful and misleading due to the following

1 conduct:

2 A. Making unlawful and misleading “0 grams Trans Fat” claims and
3 failing to utilize the mandatory disclosure statement required to inform
4 consumers the products contained deleterious ingredients at levels
deemed to pose a danger of diet related disease or condition; and

5 B. Making unlawful and misleading “Evaporated Cane Juice” claims.

6 20. Defendants’ products, referenced in paragraphs 51 and 90 (the Class Products)
7 contain the same unlawful label statements as the Purchased Products and therefore are
8 identically unlawful and misleading. Whether products have the same identical unlawful
9 statement is the most important consideration in determining whether or not a plaintiff has
10 standing for products she did not purchase.

11 21. Defendants’ practices are unlawful and mislead consumers and deprive them of the
12 information required to make informed purchasing decisions.

13 22. Similarly, California and federal laws have placed numerous requirements on food
14 companies that are designed to ensure that the claims that companies make about their products to
15 consumers are truthful, accurate and backed by acceptable forms of scientific proof. When
16 Defendants make false and unlawful nutrient content and health-related and other labeling claims
17 that are prohibited by regulation, consumers such as Plaintiffs are misled.

18 23. Identical California and federal laws regulate the content of labels on packaged
19 food. The requirements of the federal FDCA were adopted by the California legislature in the
20 Sherman Law. Under both the Sherman Law and FDCA section 403(a), food is “misbranded” if
21 “its labeling is false or misleading in any particular,” or if it does not contain certain information
22 on its label or its labeling. Cal. Health & Safety Law 110660; 21 U.S.C. § 343(a).

23 24. Under the FDCA, the term “false” has its usual meaning of “untruthful,” while the
24 term “misleading” is a term of art. Misbranding reaches not only false claims, but also those
25 claims that might be technically true, but which are still misleading. If any representation in the
26 labeling is misleading, the entire food is misbranded, and no other statement in the labeling can
27 cure a misleading statement.

28 25. In promoting the nutritional and health benefits of the Purchased Products and the

1 Class Products, Defendants claim to understand the importance of communicating responsibly
2 about their products. Nevertheless, Defendants have knowingly made, and continue to make,
3 false and deceptive claims about their Purchased Products and the Class Products in violation of
4 identical federal and California laws that govern the types of representations that can be made on
5 food labels.

6 26. Defendants have also made, and continue to make, unlawful claims on food labels
7 of their Purchased Products and the Class Products that are prohibited by federal and California
8 law and which render these products misbranded. Under federal and California law, Defendants'
9 Purchased Products and the Class Products cannot legally be manufactured, advertised,
10 distributed, held or sold. Defendants' conduct of misbranding its product is actionable
11 irrespective of any reliance, or not, by product purchasers like Plaintiffs. (*See* ¶ 6 *supra*).

12 27. Defendants' violations of law are their illegal labeling practices which misbrand
13 their products and the illegal advertising, marketing, distribution, delivery and sale of Defendants'
14 misbranded Purchased Products and the Class Products to consumers in California and
15 throughout the United States.

16 **PARTIES**

17 28. Plaintiff Sarah Samet is a resident of San Jose, California who purchased the
18 following: Pringles Original snack chips (6.41 oz. cylinder) (Exhibit 1); Pringles 18 Variety Pack
19 (original, cheddar cheese and sour cream and onion .74 oz tubs) (Exhibit 2); and Pringles 8 Pack
20 (sour cream and onion .74 oz tubs) (Exhibit 3) in California during the Class Period. Plaintiff
21 Samet purchased more than \$25.00 of Pringles snack chips during the Class Period. Exhibits 1-3
22 are copies of photographs of product labels on the products purchased by Plaintiff Samet.

23 29. Plaintiff Robert Figy is a resident of San Jose, California who purchased the
24 following: Kellogg's MorningStar Farms BBQ Riblets (10oz.) in California during the Class
25 Period. Plaintiff Figy purchased more than \$25.00 of these products during the Class Period.

26 30. Exhibits 1 through 3 are true, correct and accurate copies and depictions of those
27 product labels as labeled by Defendants.

28 31. Defendant Procter & Gamble Company is an Ohio company with its principal

1 place of business in Cincinnati, Ohio.

2 32. Defendant Kellogg Company is a Delaware corporation with its principal place of
3 business in Michigan.

4 33. Defendant Kellogg Sales Company is a Delaware corporation with its principal
5 place of business in Michigan.

6 **JURISDICTION AND VENUE**

7 34. This Court has original jurisdiction over this action pursuant to 28 U.S.C.
8 § 1332(d) because this is a class action in which: (1) there are over 100 members in the proposed
9 class; (2) members of the proposed class have a different citizenship from Defendants; and (3) the
10 claims of the proposed class members exceed \$5,000,000 in the aggregate.

11 35. Alternatively, the Court has jurisdiction over all claims alleged herein pursuant to
12 28 U.S.C. § 1332, because the matter in controversy exceeds the sum or value of \$75,000, and is
13 between citizens of different states.

14 36. The Court has personal jurisdiction over Defendants because a substantial portion
15 of the wrongdoing alleged in this Third Amended Complaint occurred in California, Defendants
16 are authorized to do business in California, Defendants have sufficient minimum contacts with
17 California, and Defendants otherwise intentionally avail themselves of the markets in California
18 through the promotion, marketing and sale of merchandise, sufficient to render the exercise of
19 jurisdiction by this Court permissible under traditional notions of fair play and substantial justice.

20 37. Because a substantial part of the events or omissions giving rise to these claims
21 occurred in this District and because the Court has personal jurisdiction over Defendants, venue is
22 proper in this Court pursuant to 28 U.S.C. § 1391(a) and (b).

23 **FACTUAL ALLEGATIONS**

24 **A. Identical California and Federal Laws Regulate Food Labeling**

25 38. Food manufacturers are required to comply with identical federal and state laws
26 and regulations that govern the labeling of food products. First and foremost among these is the
27 FDCA and its labeling regulations, including those set forth in 21 C.F.R. § 101.

28 39. Pursuant to the Sherman Law, California has expressly adopted the federal

1 labeling requirements as its own and indicated that “[a]ll food labeling regulations and any
2 amendments to those regulations adopted pursuant to the federal act, in effect on January 1, 1993,
3 or adopted on or after that date shall be the food regulations of this state.” California Health &
4 Safety Code § 110100.

5 40. In addition to its blanket adoption of federal labeling requirements, California has
6 also enacted a number of laws and regulations that adopt and incorporate specific enumerated
7 federal food laws and regulations. These specific regulations include, *inter alia*, that food
8 products: (i) are misbranded under California Health & Safety Code § 110660 if their labeling is
9 false and misleading in one or more particulars; (ii) are misbranded under California Health &
10 Safety Code § 110665 if their labeling fails to conform to the requirements for nutrient labeling
11 set forth in 21 U.S.C. § 343(q) and regulations adopted thereto; (iii) are misbranded under
12 California Health & Safety Code § 110670 if their labeling fails to conform with the requirements
13 for nutrient content and health claims set forth in 21 U.S.C. § 343(r) and regulations adopted
14 thereto; (iv) are misbranded under California Health & Safety Code § 110705 if words,
15 statements and other information required by the Sherman Law to appear on their labeling are
16 either missing or not sufficiently conspicuous; and (v) are misbranded under California Health &
17 Safety Code § 110725 if they list any ingredient by something other than the ingredient’s
18 common or usual name..

19 **B. FDA Enforcement History**

20 41. In recent years the FDA has become increasingly concerned that food
21 manufacturers have been disregarding food labeling regulations. To address this concern, the
22 FDA informed the food industry of its concerns and placed the industry on notice that food
23 labeling compliance was an area of enforcement priority.

24 42. In October 2009, the FDA issued its *2009 Guidance for Industry: Letter*
25 *Regarding Point of Purchase Food Labeling* (“2009 FOP Guidance”) to the food industry that
26 stated in relevant part:

- 27 - “It is ...essential that both the criteria and symbols used in front-of-
28 package and shelf-labeling systems be nutritionally sound, well-designed

1 to help consumers make informed and healthy food choices, and not be
2 false or misleading;”

- 3 - “FOP and shelf labeling that is used in a manner that is false or misleading
4 misbrands the products it accompanies. Similarly, a food that bears FOP
5 or shelf labeling with a nutrient content claim that does not comply with
6 the regulatory criteria for the claim as defined in Title 21 Code of Federal
7 Regulations (CFR) 101.13 and Subpart D of Part 101 is misbranded;” and
8 - Food information is material to consumers, and the FDA intends to
9 enforce regulations where the labeling statements are “not consistent with
10 current nutrient claim requirements.”

11 43. A true and correct copy of the 2009 FOP Guidance is attached hereto as Exhibit 4.

12 44. Defendants had actual knowledge of the 2009 FOP Guidance.

13 45. After learning of the 2009 FOP Guidance, Defendants did not remove the (i)
14 unlawful and (ii) misleading labels from its Purchased Products or the Class Products.

15 46. On March 3, 2010, the FDA issued an “*Open Letter to Industry from [FDA
16 Commissioner] Dr. Hamburg*” (“Open Letter”). The Open Letter reiterated the FDA’s concern
17 regarding false and misleading labeling by food manufacturers. In pertinent part, the letter
18 provided:

- 19 - Nutrition information on labeling is material to consumers because of the
20 prevalence of obesity and diet-related diseases, and those labels must be
21 reliable;
- 22 - Given that materiality, the FDA seeks to improve the accuracy of labeling,
23 specifically including the “front-of-pack” labeling, such that mothers and
24 other citizens are able to make educated choices; and
- 25 - The FDA continues to see food manufacturers mislabel their products and
26 give false and misleading statements that inhibit the ability of consumers
27 to make good choices. The FDA expressed those concerns in a “Dear
28 Industry” letter, notifying manufacturers to: bring their products into
compliance; allow customers to make informed decisions; differentiate
labels for products aimed at adults versus children; ensure that “trans fat”
representations are accurate and not disqualified by high fat content or
other factors; and avoid misleading “healthy” claims.

47. Defendants continued to mislabel the Purchased Products and the Class Products
after learning of the Open Letter.

48. A true and correct copy of that *Open Letter to Industry from [FDA
Commissioner] Dr. Hamburg* is attached hereto as Exhibit 5.

SHERMAN LAW VIOLATIONS

A. Defendants Make Unlawful “0g Trans Fat” Claims

49. As to their unlawful claim, Plaintiffs allege pursuant to Federal Rule of Civil Procedure 8 as follows:

50. During the class period identified herein, Plaintiffs Samet purchased Defendants’ Pringles snack chips labeled with the unlawful statement “0g Trans Fat.” The Pringles products purchased by Plaintiff Samet all fail to bear the mandatory disclosure statement required to inform consumers that the products contained deleterious ingredients at levels deemed by regulators to pose a risk of a “diet related” “disease or health condition.”

51. Defendants also manufactured and sold other Pringles potato snack products which contain the same identical “0g Trans Fat” label statement, including the following Pringles snack chips: Lightly Salted Original, Bacon Ranch, BBQ , Cheeseburger, Cheez Ummms - Four Cheese, Cheez Ummms - Mild Jalapeno Cheddar, Cheez Umms - Cheddar & Sour Cream, Family Favs - BBQ Cheddar, Family Favs - Taco Night, Family Favs - White Cheddar, Honey Mustard, Jalapeno, Loaded Baked Potato, Mexican Layered Dip, Mozzarella Sticks & Marinara, Onion Blossom, Pizza, Ranch, Salt & Vinegar, Spicy Guacamole, Xtreme Blastin' Buffalo Wing, Xtreme Kickin Cheddar, Xtreme Screamin Dill, and Xtreme Smokin Hot Ranch. None of these products bore the mandatory disclosure statement required to inform consumers that the products contained deleterious ingredients at levels deemed by regulators to pose a risk of a “diet related” “disease or health condition.”

52. All of these products are labeled with the same identical unlawful and misleading statement “0 grams Trans Fat” and all omit the required disclosure statement. Exhibit 6 is a compilation of the labels of the above referenced substantially similar products which contain the same or similar “0g Trans Fat” label statement as the Pringles snack chips Plaintiff Samet purchased and which omit the required disclosure statement.

53. The labels in Exhibit 6 are true, correct and accurate copies of those labels.

1 54. The unlawful and misleading “0g Trans Fat” label statement appears on the labels
2 of all of Defendants’ Pringles snack chips Class Products listed in paragraph 51 and all of these
3 products omit the mandatory disclosure statement.

4 55. Plaintiff Samet reasonably relied on the fact that Pringles snack chips were not
5 misbranded under the Sherman Law and were therefore legal to buy and possess. Plaintiff Samet
6 would not have purchased Pringle snack chips had she known they were illegal to purchase and
7 possess the products.

8 56. To appeal to consumer preferences, Defendants repeatedly made improper nutrient
9 content claims on the Purchased Products and the Class Products listed in paragraph 51 by using
10 the “0 grams Trans Fat” statement which contained disqualifying levels of fat, saturated fat,
11 cholesterol or sodium. These nutrient content claims were improper because Defendants failed to
12 include disclosure statements required by law that are designed to inform consumers of the
13 inherently unhealthy aspects of those products in violation of 21 C.F.R. § 101.13(h), which has
14 been incorporated in California’s Sherman Law.

15 57. Defendants’ unlawful statements on products of “0g Trans Fat” result in two
16 separate and independent unlawful violations, bringing into effect four separate law violations:
17 one a specific labeling violation and one a violation for the sale of a misbranded product. When a
18 manufacturer such as Defendants make an unlawful “0g Trans Fat” nutrient content claim it
19 violates 21 CFR § 101.13 (and Sherman Law § 110100), Sherman Law § 110670 and Sherman
20 Law § 110705. Thus, it violates the unlawful prong. Such products are misbranded under
21 Sherman Law § 110660, Sherman Law § 110670 and Sherman Law § 110705. Defendants’ act of
22 selling a misbranded product violates Sherman Law § 110760.

23 58. The sale of a misbranded product results in an independent violation of the
24 unlawful prong that is separate from the labeling violation. (*See* ¶6 supra). The only necessary
25 element of that claim is Defendants’ unlawful label, and injury arises from the unlawful sale of an
26 illegal product that is unlawful to sell and unlawful to possess. No reliance by the consumer is
27 necessary. Plaintiff Samet has been deprived of money in an illegal sale and given a worthless
28 illegal product in return. In addition, due to the law’s prohibition of possession of such a product,

1 Plaintiffs have been unwittingly placed by the Defendants' conduct in a legal position that no
2 reasonable consumer would agree to be placed.

3 59. 21 C.F.R. § 101.13 (h)(l) provides that:

4 If a food ... contains more than 13.0 g of fat, 4.0 g of saturated fat, 60 milligrams
5 (mg) of cholesterol, or 480 mg of sodium per reference amount customarily
6 consumed, per labeled serving, or, for a food with a reference amount customarily
7 consumed of 30 g or less ... per 50 g ... then that food must bear a statement
8 disclosing that the nutrient exceeding the specified level is present in the food as
9 follows: "See nutrition information for ___ content" with the blank filled in with
10 the identity of the nutrient exceeding the specified level, e.g., "See nutrition
11 information for fat content."

9 60. 21 C.F.R. § 1.21 establishes that failure to disclose material facts is a violation of
10 the disclosure rules and is *per se* "misleading." The fat which Defendants failed to disclose is
11 material.

12 61. Defendants repeatedly violated these provisions when they prominently stated "0g
13 Trans Fat" claim on their label without the mandatory disclosure statement.

14 62. The "0g Trans Fat" claim on these products contain disqualifying levels of fat
15 exceed the 13 gram disclosure threshold.

16 63. Pursuant to 21 C.F.R. § 101.13(h), Defendants are prohibited from making the
17 unqualified nutrient claims of "0 grams Trans Fat" or "No Trans Fat" claim on its food products if
18 their products contain fat in excess of 13 grams, saturated fat in excess of 4 grams, cholesterol in
19 excess of 60 milligrams, or sodium in excess of 480mg per 50 grams, unless the product also
20 displays a disclosure statement that informs consumers of the product's fat, saturated fat and
21 sodium levels.

22 64. These regulations are intended to ensure that consumers are not misled into the
23 erroneous belief that a product that claims, for instance, to be low in trans fat, but actually has
24 other unhealthy fat levels, is a healthy or healthier choice, because of the lack of trans fats.

25 65. Nevertheless, Defendants' products label stated that their product contained "0g
26 Trans Fat" without such a disclosure even though all the Pringles snack products in the Class, and
27 listed in paragraph 51, contain fat in excess of 13 grams.

1 66. Based on the fat content in Defendants' Pringles snack chips and the identically
2 labeled products identified in paragraph 51, pursuant to federal and California law, Defendants
3 must include a warning statement adjacent to the trans fat nutrient claim that informs consumers
4 of the high levels of fat. No such disclosure statement was on these products. Therefore,
5 Defendants' Pringles snack chips and all the identically labeled products reflecting the "0 grams
6 Trans Fat" claim identified in paragraph 51 (labels depicted in Exhibit 6) are misbranded as a
7 matter of federal and California law and cannot be sold. Accordingly, they have no economic
8 value and are legally worthless.

9 67. In October 2009, the FDA issued its FOP Guidance, to address its concerns about
10 front of package labels. Despite the issuance of the 2009 FOP Guidance (Exhibit 4), Defendants
11 did not remove the improper and misleading "0g Trans Fat" nutrient content claims from its
12 Pringle snack chips and the similarly labeled products identified in paragraph 51.

13 68. Notwithstanding the Open Letter (Exhibit 5), Defendants continued to use this
14 improper trans fat nutrient content claim, despite the express guidance of the FDA in the Open
15 Letter that "claims that a product is free of trans fats, which imply that the product is a better
16 choice than products without the claim, can be misleading when a product is high in saturated fat
17 [or sodium, cholesterol or total fat], and especially so when the claim is not accompanied by the
18 required statement referring consumers to the more complete information on the Nutrition Facts
19 panel." *Id.*

20 69. Defendants also ignored the FDA's Guidance for Industry, A Food Labeling
21 Guide, which detailed the FDA's guidance on how to make nutrient content claims about food
22 products that contain "one or more nutrients [like total fat at levels] in the food that may increase
23 the risk of disease or health related condition that is diet related." Defendants utilized improper
24 trans fat nutrient claims on the labels of its Defendants' Pringles snack chips and identically
25 labeled products identified in paragraph 51. As such, these products ran afoul of FDA guidance as
26 well as California and federal law.

27 70. In addition to its guidance to industry, the FDA has sent warning letters to the
28 industry, including many of Defendants' peer food manufacturers, for the same identical types of

1 improper “0 grams Trans Fat” and “No Trans Fat” nutrient content claims described above. In
2 these letters the FDA indicated that as a result of the same identical type of 0 gram trans fat
3 claims utilized by Defendants, products were in “violation of the Federal Food, Drug, and
4 Cosmetic Act ... and the applicable regulations in Title 21, Code of Federal Regulations, Part 101
5 (21 CFR 101)” and “misbranded within the meaning of section 403 because the product label
6 bears a nutrient content claim but does not meet the requirements to make the claim.”

7 71. The warning letters were hardly isolated, as the FDA has issued at least nine other
8 warning letters to other companies for the same identical type of improper “0g Trans Fat” nutrient
9 content claims at issue in this case.

10 72. This Court has found this exact kind of label representation to be misleading.

11 73. “A disqualifying level of, say, saturated fat is four grams per ‘reference amount
12 customarily consumed.’” 21 C.F.R. § 101.13(h)(1); *Chacanaca v. Quaker Oats Co.*, 752 F. Supp.
13 2d 1111 (N.D. Cal. 2010).

14 74. If this level is exceeded, a food purveyor is prohibited from making an unqualified
15 claim touting the health benefits of another nutrient in the food. *Id.*

16 75. This is because the Agency has reasoned that the beneficent claim, standing alone,
17 would be misleading.” *Id.*

18 76. Other courts in this district have similarly held that a disqualifying claim such as
19 Defendants’ “0 grams Trans Fat,” even if accurate, may be unlawful and misleading. *Wilson v.*
20 *Frito-Lay North America, Inc.*, 2013 WL 1320468 (N.D. April 1, 2013)(Plaintiffs sufficiently
21 alleged claim that the “0 Grams Trans Fat” statement on bags of potato chips was deceptive
22 because, accompanied by a disclosure of at least one of the ingredients that 21 C.F.R. §
23 101.13(h)(1) requires to be disclosed, they and other reasonable consumers would think that the
24 statements on the labels make accurate claims about the labeled products’ nutritional content
25 when, in fact, they do not; disqualifying claim such as; “0 grams Trans Fat,” even if accurate,
26 may be unlawful and misleading).

27 77. In *Chacanaca*, Judge Seeborg explained:
28

1 The federal regulatory statute provides for this precise scenario: that is, it
2 categorizes as misleading and therefore prohibited even true nutrient content
3 claims if the presence of another “disqualifying” nutrient exceeds and amount
4 established by regulation. The Agency has by regulation imposed “disqualifying”
5 levels for only four nutrients: total fat, saturated fat, cholesterol, and sodium.
6 21C.F.R. §§ 101.13(h)(1), 101.14(a)(4). It is important to note how disqualifying
7 claims work. A disqualifying level of say, saturated fat is four grams per
8 “reference amount customarily consumed.” 21C.F.R. § 101.13 (h)(1). If this level
9 is exceeded, a food purveyor is prohibited from making an unqualified claim
10 touting the health benefits of another nutrient in the food. This is because the
11 Agency has reasoned that the beneficent claim, standing alone, would be
12 misleading.

13 *Chacanaca*, 752 F. Supp. 2d at 1122 (emphasis in original).

14 78. Despite the FDA’s numerous warnings to industry, Defendants continued to sell
15 Pringles snack chips and the Class Products identified in paragraph 51 bearing improper “0g
16 Trans Fat” nutrient content claims without meeting the requirements to make this claim.

17 79. Due to Defendants misbranding of the Pringles snack chips, Plaintiff Samet lost
18 money by purchasing unlawful products.

19 80. Thus, in this case, where Defendants unlawfully sold products containing an
20 unlawful 0g Trans Fat statement and omitting the mandatory disclosure statement, there is: 1) a
21 violation of specific labeling regulations; 2) a violation the UCL’s misleading prong due to
22 Plaintiff Samet’s reliance; and 3) an independent violation of the UCL’s unlawful prong due to
23 Defendants’ sale of an illegal product that is unlawful to possess.

24 **B. Defendants Make Misleading “0g Trans Fat” Claims**

25 81. As to their misleading claim, Plaintiffs allege pursuant to Federal Rule of Civil
26 Procedure 9(b) as follows:

27 82. Plaintiff Samet did not know, and had no reason to know, that Defendants’
28 Pringles snack chips were misbranded, by the “0g Trans Fat” nutrient claims despite failing to
meet the requirements to make those nutrient claims. Plaintiff Samet read and relied upon
Defendants’ front of package “0g Trans Fat” statement, and Plaintiff Samet was thus deceived.
Plaintiff Samet was further unaware that Defendants’ Pringles snack chips contained total fat at
levels in the food that, according to the FDA, “may increase the risk of disease or health related
condition that is diet related.” Because of Defendants’ unlawful and misleading “0g Trans Fat”

1 claim and omitted disclosure statement, Plaintiff Samet was misled to believe that the product
2 only made positive contributions to her diet by containing no appreciable levels of trans fats.
3 Plaintiff Samet was misled to believe the products did not contain fat, cholesterol, sodium, and
4 other negative food attributes at levels that may increase the risk of disease or health related
5 conditions. Defendants' "0g Trans Fat" label claim and omitted disclosure statement led Plaintiff
6 Samet to believe that Pringles were a better and healthier choice than other potato snack products.

7 83. Defendants' conduct misled Plaintiff Samet because, with Defendants failing to
8 disclose the high fat and other deleterious attributes of its food, Plaintiff Samet was misled into
9 believing Defendants' product to be a healthy choice. Plaintiff Samet is conscious of the
10 healthiness of the products she purchases, and Defendants' unlawful statements and omitted
11 mandatory disclosures deprived Plaintiff Samet of her ability to take into account those foods'
12 contributions, or not, to Plaintiff Samet's total dietary composition. Defendants' concealed the
13 deleterious attributes of their food, and Plaintiff Samet was misled and deceived, both by
14 Defendants' statements of the healthy attribute ("0g Trans Fat") and failure to disclose the
15 deleterious food attributes (fat content over 13g). This health conscious Plaintiff was misled by
16 the Defendants' unlawfully prominent display of the ostensible good traits of its product, and
17 unlawful failure to disclose the bad.

18 84. Plaintiff Samet reasonably relied on this label representation when making her
19 purchase decision and was misled by the "0g Trans Fat" representation as described below.
20 Plaintiff Samet would not have purchased Pringles snack chips had she known the truth about
21 these products, i.e. that the products failed to only make positive contributions to Plaintiff's diet
22 and that the products contain one or more nutrients like total fat at levels in the food that
23 increased the risk of disease and/or dietary health related conditions. Plaintiff Samet had other
24 food alternatives that satisfied such standards and Plaintiff Samet also had cheaper alternatives.
25 Reasonable consumers would have been misled in the same identical manner as Plaintiff Samet.

26 85. Defendants' unlawful failure to use the mandatory disclosure is actionable.
27 Plaintiff Samet was unlawfully misled to believe that the products were low in fat, and heart and
28 overall healthy, etc... by the "0g Trans Fat" statement, and, as a result, she purchased these

1 products. Plaintiff Samet was misled and deceived through the very means and methods the FDA
2 sought to regulate.

3 86. Plaintiff Samet and the Class would not have purchased Pringles snack chips and
4 the Class products identified in paragraph 51 had they not been misled by Defendants' unlawful
5 "0 grams Trans Fat" claim and been properly informed by Defendants' of the deleterious
6 attributes of those products, and had they otherwise not have been improperly misled and
7 deceived as stated herein.

8 **C. Defendant Kellogg Makes Unlawful Evaporated Cane Juice Claims**

9 87. As to their unlawful claims, Plaintiffs allege pursuant to Federal Rule of Civil
10 Procedure 8 as follows:

11 88. As discussed herein, evaporated cane juice is an unlawful term because it is not the
12 common or usual name for the ingredient in question.

13 89. Defendant Kellogg's unlawful product descriptions and ingredient listings on its
14 MorningStar Farms Hickory BBQ Riblets and identically and/or substantially similarly labeled
15 Class Products render the products misbranded under California law. Misbranded products
16 cannot be legally sold and are legally worthless.

17 90. During the Class Period, Plaintiff Robert Figy purchased Defendant Kellogg's
18 MorningStar Farm Hickory BBQ Riblets labeled with the unlawful statement "Evaporated Cane
19 Juice." The same identical unlawful "Evaporated Cane Juice" statement is shown on the
20 following MorningStar Farms Products: MorningStar Vegan Chik'n Strips, MorningStar Chik'n
21 Strips, MorningStar Grillers' Recipe Crumbles, MorningStar Three-Bean Chili with Grillers'
22 Crumbles, MorningStar Grillers' Turkey Burger, MorningStar Breakfast Patties, MorningStar
23 Farms Chik'n Enchilada, MorningStar Farms Sesame Chik'n, MorningStar Farms Sweet & Sour
24 Chik'n, and MorningStar Farms Steak Strips.

25 91. Exhibit 7 is a compilation of the labels of the above referenced products which are
26 substantially similar and which contain the same identical unlawful "Evaporated Cane Juice"
27 statement.

28 92. Exhibit 7 is a true, correct and accurate copy and depiction of those product labels

1 as labeled by Defendant Kellogg.

2 93. Defendant Kellogg also manufactured and sold other MorningStar Farms products
3 which contain the same identical unlawful statement “Evaporated Cane Juice.”

4 94. 21 C.F.R. §§ 101.3 and 102.5, which have been adopted by California, prohibit
5 manufacturers from referring to foods by anything other than their common and usual names.

6 95. 21 C.F.R. § 101.4, which has been adopted by California, prohibits manufacturers
7 from referring to ingredients by anything other than their common and usual names.

8 96. Defendant Kellogg has violated these provisions by failing to use the common or
9 usual name for ingredients mandated by law. In particular, Defendant Kellogg used the unlawful
10 term evaporated cane juice on its products in violation of numerous labeling regulations designed
11 to protect consumers from misleading labeling practices. Defendant Kellogg’s practices also
12 violated express FDA policies.

13 97. In October of 2009, the FDA issued *Guidance for Industry: Ingredients Declared*
14 *as Evaporated Cane Juice*, which advised industry and that:

15 [T]he term “evaporated cane juice” has started to appear as an ingredient on food
16 labels, most commonly to declare the presence of sweeteners derived from sugar
17 cane syrup. However, FDA’s current policy is that sweeteners derived from sugar
18 cane syrup should not be declared as “evaporated cane juice” because that term
19 falsely suggests that the sweeteners are juice...

20 “Juice” is defined by 21 CFR 120.1(a) as “the aqueous liquid expressed or extracted
21 from one or more fruits or vegetables, purees of the edible portions of one or more
22 fruits or vegetables, or any concentrates of such liquid or puree.” ...

23 As provided in 21 CFR 101.4(a)(1), “Ingredients required to be declared on the
24 label or labeling of a food . . . shall be listed by common or usual name . . .” The
25 common or usual name for an ingredient is the name established by common usage
26 or by regulation (21 CFR 102.5(d)). The common or usual name must accurately
27 describe the basic nature of the food or its characterizing properties or ingredients,
28 and may not be “confusingly similar to the name of any other food that is not
reasonably encompassed within the same name” (21 CFR 102.5(a))...

Sugar cane products with common or usual names defined by regulation are sugar
(21 CFR 101.4(b)(20)) and cane sirup (alternatively spelled “syrup”) (21 CFR
168.130). Other sugar cane products have common or usual names established by
common usage (e.g., molasses, raw sugar, brown sugar, turbinado sugar,
muscovado sugar, and demerara sugar)...

1 The intent of this draft guidance is to advise the regulated industry of FDA's view
2 that the term "evaporated cane juice" is not the common or usual name of any type
3 of sweetener, including dried cane syrup. Because cane syrup has a standard of
4 identity defined by regulation in 21 CFR 168.130, the common or usual name for
5 the solid or dried form of cane syrup is "dried cane syrup."...

6 Sweeteners derived from sugar cane syrup should not be listed in the ingredient
7 declaration by names which suggest that the ingredients are juice, such as
8 "evaporated cane juice." FDA considers such representations to be false and
9 misleading under section 403(a)(1) of the Act (21 U.S.C. 343(a)(1)) because they
10 fail to reveal the basic nature of the food and its characterizing properties (i.e., that
11 the ingredients are sugars or syrups) as required by 21 CFR 102.5. Furthermore,
12 sweeteners derived from sugar cane syrup are not juice and should not be included
13 in the percentage juice declaration on the labels of beverages that are represented to
14 contain fruit or vegetable juice (see 21 CFR 101.30).

15 <http://www.fda.gov/Food/GuidanceComplianceRegulatoryInformation/GuidanceDocuments/FoodLabelingNutrition/ucm181491.htm>.

16 98. Despite the issuance of this 2009 FDA Guidance, Defendant Kellogg did not
17 remove the unlawful food labeling ingredients from the Class Products.

18 99. The Nutrition Facts label of the Purchased Product and the Class Products list
19 "Evaporated Cane Juice" as an ingredient. According to the FDA, "'evaporated cane juice' is not
20 the common or usual name of any type of sweetener, including dried cane syrup" or sugar. The
21 FDA provides that "cane syrup has a standard of identity defined by regulation in 21 C.F.R. §
22 168.130, the common or usual name for the solid or dried form of cane syrup is 'dried cane
23 syrup.'" Sugar also has a standard of identity and is defined in 21 C.F.R. §§ 101.4(b)(20) and
24 184.1854, which encompasses sucrose "obtained by crystallization from sugar cane or sugar beet
25 juice that has been extracted by pressing or diffusion, than clarified and evaporated."

26 100. Defendant Kellogg violated 21 C.F.R. § 101.4 (adopted and incorporated by
27 reference by Sherman Law § 110100) and Sherman Law § 110725 (mandating common and usual
28 ingredient names) and thus violated the unlawful prong.

101. Any product of Kellogg's labeled with the term "evaporated cane juice" is
misbranded under Sherman Law § 110660 (false or misleading labeling misbrands product) and
Sherman Law § 110725 (failure to use common and usual ingredient names misbrand product).

102. Kellogg's act of selling a misbranded product violates Sherman Law § 110760

1 (unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is
2 misbranded). The sale of a misbranded product results in an independent violation of the unlawful
3 prong that is separate from the labeling violation. When Plaintiff Figy purchased a misbranded
4 product there is causation and injury even absent reliance on the misrepresentation/omission that
5 misbranded the product. This injury arises from the unlawful sale of an illegal product that is
6 crime to sell and crime to possess. Plaintiff Figy has been deprived of money in an illegal sale and
7 given a worthless illegal product in return. In addition, due to the law's prohibition of possession
8 of such a product, consumers have been unwittingly placed by Kellogg's conduct in a legal
9 position that no reasonable consumer would choose.

10 103. Various FDA warning letters have made it clear that the use of the term evaporated
11 cane juice is unlawful because the term does not represent the common or usual name of a food or
12 ingredient. These warning letters indicate that foods that bear labels that contain the term
13 evaporated cane juice are misbranded. Such unlawful conduct by Defendant Kellogg is actionable
14 under California law irrespective of any reliance, or not, by product purchasers such as Plaintiff.
15 (See ¶ 6 *supra*).

16 **D. Defendant Kellogg Makes Misleading Evaporated Cane Juice Claims**

17 104. As to their misleading claim, Plaintiffs allege pursuant to Federal Rule of Civil
18 Procedure 9(b) as follows:

19 105. Defendant Kellogg's unlawful label statements products mislead consumers into
20 paying a premium price for inferior or undesirable ingredients or for products that contain
21 ingredients not listed on the label.

22 106. Defendant Kellogg's false, unlawful, and misleading ingredient listings render the
23 products misbranded under California law. Misbranded products cannot be legally sold and are
24 legally worthless. Plaintiff Robert Figy and the class paid a premium price for the misbranded
25 Purchased Product and Class Products.

26 107. Plaintiff Robert Figy bought Defendant Kellogg's MorningStar Farm Hickory
27 BBQ Riblets.

28 108. Plaintiff Figy bought the MorningStar Farm Hickory BBQ Riblets because he was

1 misled by Defendant Kellogg's "Evaporated Cane Juice" statement into believing that ingredient
2 was other than what it actually is, "sugar" or "dried cane syrup." Plaintiff Figy was also misled
3 and deceived into believing the ingredient to be "juice" rather than "sugar." Defendant Kellogg's
4 unlawful use of "Evaporated Cane Juice" improperly led Plaintiff Figy to believe that the
5 ingredient had redeeming health qualities, and was something other than "sugar." The amount of
6 "sugar" in a diet is material to reasonable consumers, since the quantity of that ingredient affects
7 numerous dietary health conditions (e.g., obesity, insulin sensitivity, blood pressure, heart health,
8 etc...), and can negatively impact one's health. Defendant Kellogg purposefully used the
9 unlawful and misleading term "Evaporated Cane Juice," instead of calling "sugars," "sugar," to
10 mislead Plaintiff Figy and other consumers to avoid being deterred by that product characteristic.
11 Plaintiff Figy was deceived by that misrepresentation into purchasing the MorningStar Farm
12 Hickory BBQ Riblets.

13 109. Defendant Kellogg's use of the term evaporated cane juice falsely suggests that the
14 sweetener is juice, not sugar or syrup. Plaintiff Figy was deceived and misled by that statement.
15 Plaintiff Figy is health conscious and, because added sugars pose known risk to the public health
16 and cause dietary conditions, Plaintiff Figy attempts to be aware of and seeks to limit his added
17 sugar intake. Defendant Kellogg's misbranding deprived him of the knowledge to make a choice
18 to limit his added sugar. Defendant Kellogg's use of evaporated cane juice allowed it to conceal
19 the source of its sweetener, and concealed from Plaintiff that Defendant Kellogg was simply
20 adding sugar. Defendant Kellogg did such without informing Plaintiff Figy, as required by law,
21 that the added sugar was the second most prevalent ingredient by weight.

22 110. Plaintiff Figy would not have brought Defendant Kellogg's MorningStar Farms
23 products absent Defendant Kellogg's misstatements about "Evaporated Cane Juice" and
24 Defendant Kellogg's concealment of the added sugar and relative amounts of added sugar in their
25 products. Plaintiff Figy also would not have paid the premium price for those products, and
26 Plaintiff Figy would not have purchased those products knowing they were illegal to sell or
27 possess because of the unlawful "Evaporated Cane Juice" statement. Defendants' use of the term
28 evaporated cane juice misled Plaintiff Figy because that term does not accurately describe the

1 basic nature of the food or its characterizing properties or ingredients, and it is “confusingly
2 similar to the name of any other food that is not reasonably encompassed within the same name;
3 in short, it concealed the sugar added to the product. Here the true nature of the ingredient is a type
4 of added sugar added to sweeten food. The characterizing properties of this ingredient were
5 falsely misrepresented as a juice when in fact they were a sugar or syrup. Kellogg hid this fact
6 from Plaintiff Figy by unlawfully using a confusing name (a type of juice) that is not reasonably
7 encompassed within the same name. In doing so Kellogg deceived Plaintiff Figy about the
8 presence of added sugars that Plaintiff Figy sought to avoid.

9 111. Plaintiff Figy was also misled by the Defendants’ use of the term evaporated
10 cane juice because that term does not accurately describe the basic nature of the food or its
11 characterizing properties or ingredients, and may not be “confusingly similar to the name of any
12 other food that is not reasonably encompassed within the same name. The common or usual name
13 must accurately describe the basic nature of the food or its characterizing properties or
14 ingredients, and may not be “confusingly similar to the name of any other food that is not
15 reasonably encompassed within the same name” (21 CFR 102.5(a)). Here the true nature of the
16 ingredient is a type of added sugar added to sweeten food. The characterizing properties of this
17 ingredient were falsely misrepresented as a juice when in fact they were a sugar or syrup. Kellogg
18 hid this fact from Plaintiff Figy by unlawfully using a confusing name (a type of juice) that is not
19 reasonably encompassed within the same name. In doing so Kellogg deceived Plaintiff Figy about
20 the presence of added sugars that Plaintiff Figy sought to avoid.

21 112. Added sugars pose a known risk to public health. Thus, many people (such as
22 Plaintiff Figy) seek to avoid added sugars. It is impossible to determine from the listing of total
23 sugar how much of the sugar in a product is added sugar. Lack of the term sugar in the ingredient
24 list misleads consumers like Plaintiff Figy to believe that the product has no added sugar and only
25 contains sugars naturally found in the core ingredients comprising the product. Added sugar can
26 only be identified from the ingredient list. For this, among other reasons, the FDA and the State
27 of California mandate that ingredient lists utilize the common and usual names for ingredients
28 and that sugar cane products be identified by the names mandated by the FDA. Plaintiff Figy

1 would not have bought the Kellogg's products absent Kellogg's misrepresentations about
2 "evaporated cane juice" and Kellogg's concealment of the added sugar and relative amounts of
3 added sugar in their products labeled with the unlawful term evaporated cane juice.

4 113. Plaintiff Figy was also misled by Kellogg's implicit representation that its
5 products listing evaporated cane juice as an ingredient were legal to sell and possess. Had
6 Plaintiff Figy known that due to the products misbranding they were in fact illegal to sell or
7 possess pursuant to California Sherman Law § 110760, Plaintiff Figy would not have purchased
8 these products and parted with money for a product that was worthless and posed possibly
9 negative legal ramifications to consumers. It should be noted that Plaintiff Figy was injured by
10 Kellogg's sale of an illegal product and Kellogg's violation of the unlawful prong of the UCL
11 even absent any reliance on Kellogg's implicit representations about their misbranded products,
12 due to the Kellogg's mere sale of a product that was illegal to sell or possess and which had no
13 value as a matter of law.

14 **DEFENDANTS HAVE VIOLATED CALIFORNIA LAW**

15 114. Defendants have violated California Health & Safety Code § 110390 which makes
16 it unlawful to disseminate false or misleading food advertisements that include statements on
17 products and product packaging or labeling or any other medium used to directly or indirectly
18 induce the purchase of a food product.

19 115. Defendants have violated California Health & Safety Code § 110395 which makes
20 it unlawful to manufacture, sell, deliver, hold or offer to sell any falsely advertised food.

21 116. Defendants have violated California Health & Safety Code §§ 110398 and 110400
22 which make it unlawful to advertise misbranded food or to deliver or proffer for delivery any food
23 that has been falsely advertised.

24 117. Defendants have violated California Health & Safety Code § 110660 because their
25 Purchased Product and Class Product labels are false and misleading in one or more ways.

26 118. Defendants' Purchased Products and Class Products are misbranded under
27 California Health & Safety Code § 110665 because their labeling fails to conform to the
28

1 requirements for nutrient labeling set forth in 21 U.S.C. § 343(q) and the regulations adopted
2 thereto.

3 119. Defendants' Purchased Products and Class Products are misbranded under
4 California Health & Safety Code § 110670 because their labeling fails to conform with the
5 requirements for nutrient content and health claims set forth in 21 U.S.C. § 343(r) and the
6 regulations adopted thereto.

7 120. Defendants' Purchased Products and Class Products are misbranded under
8 California Health & Safety Code § 110705 because words, statements and other information
9 required by the Sherman Law to appear on their labeling either are missing or not sufficiently
10 conspicuous.

11 121. Defendants' Purchased Products and Class Products are misbranded under
12 California Health & Safety Code § 110725 because they fail to use the common or usual name for
13 ingredients.

14 122. Defendants have violated California Health & Safety Code § 110760 which makes
15 it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is
16 misbranded.

17 123. Defendants have violated California Health & Safety Code § 110765 which makes
18 it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is
19 misbranded.

20 124. Defendants have violated California Health & Safety Code § 110765 which makes
21 it unlawful for any person to misbrand any food.

22 125. Defendants have violated California Health & Safety Code § 110770 which makes
23 it unlawful for any person to receive in commerce any food that is misbranded or to deliver or
24 proffer for deliver any such food.

25 **PLAINTIFFS PURCHASED DEFENDANTS' PRODUCTS WITH UNLAWFUL AND**
26 **MISLEADING LABELS**

27 126. Plaintiffs care about the nutritional content of food and seek to maintain a healthy
28 diet.

1 127. Plaintiffs purchased Defendants' Purchased Products as described above on
2 numerous occasions during the Class Period. Because of Defendants' unlawful conduct, those
3 products were unlawful to sell, and should not have been on the store shelves. As such, the labels
4 are unlawful, and Defendants' conduct actionable. (See ¶ 6 *supra*).

5 128. Plaintiffs read the particular label statements identified above on Defendants'
6 Purchased Products before purchasing them. Defendants' labels falsely conveyed to the Plaintiffs
7 the net impression that the Purchased Products they bought made only positive contributions to a
8 diet, and did not contain any nutrients at levels that raised the risk of diet-related disease or
9 health-related condition.

10 129. Plaintiffs read the unlawful and misleading statements referenced above on the
11 labels of Defendants' Purchased Products before purchasing them. If Plaintiffs had known that
12 the unlawful and misleading statements that they read on Defendants' labels misbranded the
13 Purchased Products rendering them unlawful to possess or sell Plaintiffs would not have
14 purchased such products. In addition, Defendants' unlawful statements falsely conveyed to the
15 Plaintiffs the net impression that the Purchased Products they bought made only positive
16 contributions to a diet, and did not contain any nutrients at levels that raised the risk of diet-
17 related disease or health-related conditions. Plaintiffs relied on Defendants' label statements
18 identified above and based and justified the decision to purchase Defendants' Purchased Products,
19 in substantial part, on Defendants' label statements identified above.

20 130. At point of sale, Plaintiffs did not know, and had no reason to know, that
21 Defendants' Purchased Products were misbranded as set forth herein, and would not have bought
22 the products had they known the truth about them.

23 131. At point of sale, Plaintiffs did not know, and had no reason to know, that claims on
24 the Purchased Products were improper and unauthorized as set forth herein, and would not have
25 bought the products absent the claims.

26 132. At point of sale, Plaintiffs did not know and had no reason to know that
27 Defendants' Purchased Products were misbranded, or that Defendants' claims were improper and
28 unauthorized, and Plaintiffs would not have purchased those products at the premium price paid.

133. As a result of Defendants' unlawful and misleading label statements contained on the Purchased Products, Plaintiffs and thousands of others in California bought the Purchased Products. Defendants' label statements on the Purchased Products as alleged herein are false and misleading and were material and were designed to increase sales of the Purchased Products. A reasonable person would attach importance to Defendants' label statements as described herein in determining whether to purchase the Purchased Products.

134. A reasonable person would also attach importance to whether Defendants' products were legally salable, and capable of legal possession, and to Defendants' representations about these issues in determining whether to purchase the Purchased Products. Plaintiffs would not have purchased Defendants' Purchased Products had they known they were not capable of being legally sold or held.

CLASS ACTION ALLEGATIONS

135. Plaintiffs bring this action as a class action pursuant to Federal Rule of Procedure 23(b)(2) and 23(b)(3) on behalf of the following classes:

(a) All persons in California who, from December 2008 through July 2012 purchased the following Pringles snack chips:

6-Can Super Stack Carton 182/181g (3-Original/2-Sour Cream & Onion/1-Cheddar Cheese)	Lightly Salted 182g Original 182g
Bacon Ranch 181g	BBQ 181g
Cheddar Cheese 181g	Cheeseburger 181g
Cheez Ummms - Four Cheese 181g	Cheez Ummms - Mild Jalapeno Cheddar 181g
Cheez Umms - Cheddar & Sour Cream 181g	Family Favs - BBQ Cheddar 181g
Family Favs - Taco Night 181g	Family Favs - White Cheddar 181g
Honey Mustard 181g	Jalapeno 181g
Loaded Baked Potato 181g	Mexican Layered Dip 181g
Mozzarella Sticks & Marinara 181g	Onion Blossom 181g
Pizza - 181g	Ranch 181g
Salt & Vinegar 181g	Sour Cream & Onion 181g
Spicy Guacamole 181g	Xtreme Blastin' Buffalo Wing 181g
Xtreme Kickin Cheddar 181g	Xtreme Screamin Dill 181g
Xtreme Smokin Hot Ranch 181g	Sour Cream & Onion - 139g
Original - 140g	Fun Stack BBQ 98g
Fun Stack Original 100g	Fun Stack Sour Cream & Onion 98g
Fun Stack Cheddar Cheese 98g	BBQ - 74g Tray
BBQ - 74g	Cheddar Cheese - 74g Tray

1	Cheddar Cheese - 74g	Original - 74g
2	Original - 74 Tray	Sour Cream & Onion - 74g Tray
3	Sour Cream & Onion - 74g	Pizza - 40g
4	Cheddar Cheese - 40g	Sour Cream & Onion - 40g Tray
5	Sour Cream & Onion 40g	12 Pack 21g - Original
6	12 Pack 21g - Cheddar Cheese	18ct Variety Pack - 21g (6-BBQ/6-Cheddar Cheese/6-Pizza)
7	12 Pack 21g – Sour Cream & Onion	32ct - 21g Original
8	18ct Variety Pack - 21g (9-Original/6-Sour Cream & Onion/3-Cheddar Cheese)	8 Pack 21g - Original 8 PK 21g – Sour Cream & Onion
9	36ct-21g Variety Pack (18-Original; 12-Sour Cream & Onion; 6-Cheese)	8 Pack 18g – Sour Cream & Onion
10	8 Pack 18g - Original	

and

(b) All persons in California from April 16, 2008 through December 2013 who purchased Kellogg's MorningStar Farms products listing "Evaporated Cane Juice" as an ingredient.

136. The following persons are expressly excluded from the Class: (1) Defendants and their subsidiaries and affiliates; (2) all persons who make a timely election to be excluded from the proposed Class; (3) governmental entities; and (4) the Court to which this case is assigned and its staff.

137. This action can be maintained as a class action because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

138. Numerosity: Based upon Defendants' publicly available sales data with respect to the misbranded products at issue, it is estimated that the Class numbers in the thousands, and that joinder of all Class members is impracticable.

139. Common Questions Predominate: This action involves common questions of law and fact applicable to each Class member that predominate over questions that affect only individual Class members. Thus, proof of a common set of facts will establish the right of each Class member to recover. Questions of law and fact common to each Class member include, for example:

- a. Whether Defendants engaged in unlawful, unfair or deceptive business practices by failing to properly package and label its Purchased Products sold to consumers;

- 1 b. Whether the Purchased Products were misbranded as a matter of
2 law;
- 3 c. Whether Defendants made unlawful and misleading “Evaporated
4 Cane Juice” claims;
- 5 f. Whether Defendants violated California Bus. & Prof. Code §
6 17200 *et seq.*, California Bus. & Prof. Code § 17500 *et seq.*, the
7 Consumers Legal Remedies Act, Cal. Civ. Code §1750 *et seq.*, and
8 the Sherman Law;
- 9 g. Whether Plaintiffs and the Class are entitled to damages/restitution
10 and/or injunctive relief; and
- 11 h. Whether Defendants’ unlawful, unfair and/or deceptive practices
12 harmed Plaintiffs and the Class.

13 140. Typicality: Plaintiffs’ claims are typical of the claims of the Class because
14 Plaintiffs bought Defendants’ Purchased Products during the Class Period. Defendants’ unlawful,
15 unfair and/or fraudulent actions concern the same business practices described herein irrespective
16 of where they occurred or were experienced. Plaintiffs and the Class sustained similar injuries
17 arising out of Defendants’ conduct in violation of California law. The injuries of each member of
18 the Class were caused directly by Defendants’ wrongful conduct. In addition, the factual
19 underpinning of Defendants’ misconduct is common to all Class members and represents a
20 common thread of misconduct resulting in injury to all members of the Class. Plaintiffs’ claims
21 arise from the same practices and course of conduct that give rise to the claims of the Class
22 members and are based on the same legal theories.

23 141. Adequacy: Plaintiffs will fairly and adequately protect the interests of the Class.
24 Neither Plaintiffs nor Plaintiffs’ counsel have any interests that conflict with or are antagonistic to
25 the interests of the Class members. Plaintiffs have retained highly competent and experienced
26 class action attorneys to represent their interests and those of the members of the Class. Plaintiffs
27 and Plaintiffs’ counsel have the necessary financial resources to adequately and vigorously
28 litigate this class action, and Plaintiffs and counsel are aware of their fiduciary responsibilities to
29 the Class members and will diligently discharge those duties by vigorously seeking the maximum
30 possible recovery for the Class.

1 142. Superiority: There is no plain, speedy or adequate remedy other than by
2 maintenance of this class action. The prosecution of individual remedies by members of the Class
3 will tend to establish inconsistent standards of conduct for Defendants and result in the
4 impairment of Class members' rights and the disposition of their interests through actions to
5 which they were not parties. Class action treatment will permit a large number of similarly
6 situated persons to prosecute their common claims in a single forum simultaneously, efficiently
7 and without the unnecessary duplication of effort and expense that numerous individual actions
8 would engender. Further, as the damages suffered by individual members of the Class may be
9 relatively small, the expense and burden of individual litigation would make it difficult or
10 impossible for individual members of the Class to redress the wrongs done to them, while an
11 important public interest will be served by addressing the matter as a class action. Class treatment
12 of common questions of law and fact would also be superior to multiple individual actions or
13 piecemeal litigation in that class treatment will conserve the resources of the Court and the
14 litigants, and will promote consistency and efficiency of adjudication.

15 143. The prerequisites to maintaining a class action for injunctive or equitable relief
16 pursuant to Fed. R. Civ. P. 23(b)(2) are met as Defendants have acted or refused to act on grounds
17 generally applicable to the Class, thereby making appropriate final injunctive or equitable relief
18 with respect to the Class as a whole.

19 144. The prerequisites to maintaining a class action pursuant to Fed. R. Civ. P. 23(b)(3)
20 are met as questions of law or fact common to class members predominate over any questions
21 affecting only individual members, and a class action is superior to other available methods for
22 fairly and efficiently adjudicating the controversy.

23 145. Plaintiffs and Plaintiffs' counsel are unaware of any difficulties that are likely to be
24 encountered in the management of this action that would preclude its maintenance as a class
25 action.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF **Business and Professions Code § 17200, *et seq.*** **Unlawful Business Acts and Practices**

1 146. Plaintiffs incorporate by reference each allegation set forth above.

2 147. Defendants' conduct constitutes unlawful business acts and practices.

3 148. Under California law, unlawful conduct, such as Defendants, is the only element
4 necessary for the UCL claim. (*See* ¶ 6). No reliance is necessary.

5 149. Defendants sold Purchased Products and Class Products in California during the
6 Class Period.

7 150. Each Defendant is a corporation and, therefore, is a "person" within the meaning
8 of the Sherman Law.

9 151. Defendants' business practices are unlawful under § 17200, *et seq.* by virtue of
10 Defendants' violations of the advertising provisions of Article 3 of the Sherman Law and the
11 misbranded food provisions of Article 6 of the Sherman Law.

12 152. Defendants' business practices are unlawful under § 17200, *et seq.* by virtue of
13 Defendants' violations of § 17500, *et seq.*, which forbids untrue and misleading advertising.

14 153. Defendants' business practices are unlawful under § 17200, *et seq.* by virtue of
15 Defendants' violations of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*

16 154. Defendants sold Plaintiffs and the Class Purchased Products and Class Products
17 that were not capable of being sold, or held legally and have no economic value and which were
18 legally worthless. Plaintiffs and the Class lost money as a direct result of Defendants' unlawful
19 conduct.

20 155. As a result of Defendants' illegal business practices, Plaintiffs and the Class,
21 pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future
22 conduct and such other orders and judgments which may be necessary to disgorge Defendants'
23 ill-gotten gains and to restore to any Class Member any money paid for the Purchased Products
24 and Class Products.

25 156. Defendants' unlawful business acts present a threat and reasonable continued
26 likelihood of injury to Plaintiffs and the Class.

27 157. As a result of Defendants' conduct, Plaintiffs and the Class, pursuant to Business
28 and Professions Code § 17203, are entitled to an order enjoining such future conduct by

1 Defendants, and such other orders and judgments which may be necessary to disgorge
2 Defendants' ill-gotten gains and restore any money paid for Defendants' Purchased Products by
3 Plaintiffs and any money paid for Defendants' Class Products purchased by the Class.

4 **SECOND CLAIM FOR RELIEF**
5 **Business and Professions Code § 17200, et seq.**
6 **Unfair Business Acts and Practices**

7 158. Plaintiffs incorporate by reference each allegation set forth above.

8 159. Defendants' conduct as set forth herein constitutes unfair business acts and
9 practices.

10 160. Defendants sold Purchased Products and Class Products in California during the
11 Class Period.

12 161. Plaintiffs and members of the Class suffered a substantial injury by virtue of
13 buying Defendants' Purchased Products and Class Products that they would not have purchased
14 absent Defendants' illegal conduct.

15 162. Defendants' deceptive marketing, advertising, packaging and labeling of their
16 Purchased Products and Class Products and their sale of unsalable misbranded products that were
17 illegal to possess was of no benefit to consumers, and the harm to consumers and competition is
18 substantial.

19 163. Defendants sold Plaintiffs and the Class Purchased Products and Class Products
20 that were not capable of being legally sold or held and that have no economic value and were
21 legally worthless. Plaintiffs and the Class paid a premium price for the Purchased Products and
22 Class Products.

23 164. Plaintiffs and the Class who purchased Defendants' Purchased Products and Class
24 Products had no way of reasonably knowing that the products were misbranded and were not
25 properly marketed, advertised, packaged and labeled, and thus could not have reasonably avoided
26 the injury each of them suffered.

27 165. The consequences of Defendants' conduct as set forth herein outweigh any
28 justification, motive or reason therefor. Defendants' conduct is and continues to be immoral,

1 unethical, unscrupulous, contrary to public policy, and is substantially injurious to Plaintiffs and
2 the Class.

3 166. As a result of Defendants' conduct, Plaintiffs and the Class, pursuant to Business
4 and Professions Code § 17203, are entitled to an order enjoining such future conduct by
5 Defendants, and such other orders and judgments which may be necessary to disgorge
6 Defendants' ill-gotten gains and restore any money paid for Defendants' Purchased Products by
7 Plaintiffs and any money paid for Defendants' Class Products purchased the Class.

8 **THIRD CLAIM FOR RELIEF**
9 **Business and Professions Code § 17200, *et seq.***
10 **Fraudulent Business Acts and Practices**

11 167. Plaintiffs incorporate by reference each allegation set forth above.

12 168. Defendants' conduct as set forth herein constitutes fraudulent business practices
13 under California Business and Professions Code sections § 17200, *et seq.*

14 169. Defendants sold Purchased Products and Class Products in California during the
15 Class Period.

16 170. Defendants' misleading marketing, advertising, packaging and labeling of the
17 Purchased Products and Class Products and misrepresentation that the products were salable,
18 capable of possession and not misbranded were likely to deceive reasonable consumers, and in
19 fact, Plaintiffs and members of the Class were deceived. Defendants have engaged in fraudulent
20 business acts and practices.

21 171. Defendants' fraud and deception caused Plaintiffs and the Class to purchase
22 Defendants' Purchased Products and Class Products that they would otherwise not have
23 purchased had they known the true nature of those products.

24 172. Defendants sold Plaintiffs and the Class Purchased Products that were not capable
25 of being sold or held legally and that have no economic value and were legally worthless.
26 Plaintiffs and the Class paid a premium price for the Purchased Products and the Class Products.

27 173. As a result of Defendants' conduct as set forth herein, Plaintiffs and the Class,
28 pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future
conduct by Defendants, and such other orders and judgments which may be necessary to disgorge

1 Defendants' ill-gotten gains and restore any money paid for Defendants' Purchased Products by
2 Plaintiffs and any money paid for the Class Products by the Class.

3 **FOURTH CLAIM FOR RELIEF**
4 **Business and Professions Code § 17500, *et seq.***
5 **Misleading and Deceptive Advertising**

6 174. Plaintiffs incorporate by reference each allegation set forth above.

7 175. Plaintiffs assert this cause of action for violations of California Business and
8 Professions Code § 17500, *et seq.* for misleading and deceptive advertising against Defendants.

9 176. Defendants sold Purchased Products and Class Products in California during the
10 Class Period.

11 177. Defendants engaged in a scheme of offering Defendants' Purchased Products and
12 Class Products for sale to Plaintiffs and members of the Class by way of product labeling. These
13 labels misrepresented and/or omitted the true contents and nature of Defendants' Purchased
14 Products and Class Products. Defendants' advertisements and inducements were made within
15 California and come within the definition of advertising as contained in Business and Professions
16 Code §17500, *et seq.* in that such labels were intended as inducements to purchase Defendants'
17 Purchased Products and Class Products and are statements disseminated by Defendants to
18 Plaintiffs and the Class that were intended to reach members of the Class. Defendants knew, or in
19 the exercise of reasonable care should have known, that these statements were misleading and
20 deceptive as set forth herein.

21 178. In furtherance of its plan and scheme, Defendants prepared and distributed within
22 California and nationwide via product labels, statements that misleadingly and deceptively
23 represented the composition and the nature of Defendants' Purchased Products and Class
24 Products. Plaintiffs and the Class necessarily and reasonably relied on Defendants' materials, and
25 were the intended targets of such representations.

26 179. Defendants' conduct in disseminating misleading and deceptive statements in
27 California and nationwide to Plaintiffs and the Class was and is likely to deceive reasonable
28 consumers by obfuscating the true composition and nature of Defendants' Purchased Products

1 and Class Products in violation of the “misleading prong” of California Business and Professions
2 Code § 17500, *et seq.*

3 180. As a result of Defendants’ violations of the “misleading prong” of California
4 Business and Professions Code § 17500, *et seq.*, Defendants have been unjustly enriched at the
5 expense of Plaintiffs and the Class. Misbranded products cannot be legally sold or held and have
6 no economic value and are legally worthless. Plaintiffs and the Class paid a premium price for the
7 Purchased Products and Class Products.

8 181. Plaintiffs and the Class, pursuant to Business and Professions Code § 17535, are
9 entitled to an order enjoining such future conduct by Defendants, and such other orders and
10 judgments which may be necessary to disgorge Defendants’ ill-gotten gains and restore any
11 money paid for Defendants’ Purchased Products or Class Products by Plaintiffs and the Class.

12 **FIFTH CLAIM FOR RELIEF**
13 **Business and Professions Code § 17500, *et seq.***
14 **Untrue Advertising**

15 182. Plaintiffs incorporate by reference each allegation set forth above.

16 183. Plaintiffs assert this cause of action against Defendants for violations of California
17 Business and Professions Code § 17500, *et seq.*, regarding untrue advertising.

18 184. Defendants sold Purchased Products and Class Products in California during the
19 Class Period.

20 185. Defendants engaged in a scheme of offering Defendants’ Purchased Products and
21 Class Products for sale to Plaintiffs and the Class by way of product labels. These materials
22 misrepresented and/or omitted the true contents and nature of Defendants’ Purchased Products
23 and Class Products. Defendants’ labels were made in California and come within the definition
24 of advertising as contained in Business and Professions Code §17500, *et seq.* in that the labels
25 were intended as inducements to purchase Defendants’ Purchased Products and Class Products,
26 and are statements disseminated by Defendants to Plaintiffs and the Class. Defendants knew, or
27 in the exercise of reasonable care should have known, that these statements were untrue.

28 186. In furtherance of its plan and scheme, Defendants prepared and distributed in
California and nationwide via product labels, statements that falsely advertise the composition of

1 Defendants' Purchased Products and Class Products, and falsely misrepresented the nature of
2 those products. Plaintiffs and the Class were the intended targets of such representations and
3 would reasonably be deceived by Defendants' materials.

4 187. Defendants' conduct in disseminating untrue labels throughout California deceived
5 Plaintiffs and members of the Class by obfuscating the contents, nature and quality of
6 Defendants' Purchased Products and Class Products in violation of the "untrue prong" of
7 California Business and Professions Code § 17500.

8 188. As a result of Defendants' violations of the "untrue prong" of California Business
9 and Professions Code § 17500, *et seq.*, Defendants have been unjustly enriched at the expense of
10 Plaintiffs and the Class. Misbranded products cannot be legally sold or held and have no
11 economic value and are legally worthless. Plaintiffs and the Class paid a premium price for the
12 Purchased Products and Class Products.

13 189. Plaintiffs and the Class, pursuant to Business and Professions Code § 17535, are
14 entitled to an order enjoining such future conduct by Defendants, and such other orders and
15 judgments which may be necessary to disgorge Defendants' ill-gotten gains and restore any
16 money paid for Defendants' Purchased Products or Class Products by Plaintiffs and the Class.

17 **SIXTH CLAIM FOR RELIEF**
18 **Consumers Legal Remedies Act, Cal. Civ. Code §1750, et seq.**

19 190. Plaintiffs incorporate by reference each allegation set forth above.

20 191. This cause of action is brought pursuant to the CLRA. Defendants' violations of
21 the CLRA are willful, oppressive and fraudulent, thus supporting an award of punitive damages.

22 192. On June 1, 2012, Plaintiffs sent their Notice and Demand Letter pursuant to the
23 CLRA, Cal. Civ. Code §§ 1782(a)(1) and (2), via certified mail to counsel for Defendant Procter
24 & Gamble at their office in Palo Alto, California. To date, Procter & Gamble has not responded
25 to Plaintiffs' Notice and Demand Letter.

26 193. Over thirty days have passed since Plaintiffs sent Defendant Procter & Gamble
27 their Notice and Demand Letter. Plaintiffs now seek damages under the CLRA.

28 194. Plaintiffs and the Class, having given proper notice to Defendant Procter &

1 Gamble, are entitled to actual and punitive damages against Defendant Procter & Gamble for
2 their violations of the CLRA. In addition, pursuant to Cal. Civ. Code § 1782(a)(2), Plaintiffs and
3 the Class are entitled to an order enjoining the above-described acts and practices, providing
4 restitution to Plaintiffs and the Class, ordering payment of costs and attorneys' fees, and any other
5 relief deemed appropriate and proper by the Court pursuant to Cal. Civ. Code § 1780.

6 195. Plaintiffs intend to amend this Complaint to seek damages in accordance with the
7 CLRA after providing Defendant Kellogg's with notice pursuant to Cal. Civ. Code § 1782.

8 196. At the time of any amendment seeking damages under the CLRA, Plaintiffs will
9 demonstrate that the violations of the CLRA by Defendant Kellogg was willful, oppressive and
10 fraudulent, thus supporting an award of punitive damages.

11 197. Consequently, Plaintiffs and the Class will be entitled to actual and punitive
12 damages against Defendant Kellogg for its violations of the CLRA. In addition, pursuant to Cal.
13 Civ. Code § 1782(a)(2), Plaintiffs and the Class will be entitled to an order enjoining the above-
14 described acts and practices, providing restitution to Plaintiffs and the Class, ordering payment of
15 costs and attorneys' fees, and any other relief deemed appropriate and proper by the Court
16 pursuant to Cal. Civ. Code § 1780.

17 198. Defendants' actions, representations and conduct have violated, and continue to
18 violate the CLRA, because they extend to transactions that are intended to result, or which have
19 resulted, in the sale of goods to consumers.

20 199. Defendants sold Purchased Products and Class Products in California and
21 throughout the United States during the Class Period.

22 200. Plaintiffs and members of the Class are "consumers" as that term is defined by the
23 CLRA in Cal. Civ. Code §1761(d).

24 201. Defendants' Purchased Products and Class Products were and are "goods" within
25 the meaning of Cal. Civ. Code §1761(a).

26 202. By engaging in the conduct set forth herein, Defendants violated and continues to
27 violate Sections 1770(a)(5) of the CLRA, because Defendants' conduct constitutes unfair
28

1 methods of competition and unfair or fraudulent acts or practices in that they misrepresent the
2 particular ingredients, characteristics, uses, benefits and quantities of the goods.

3 203. By engaging in the conduct set forth herein, Defendants violated and continue to
4 violate Section 1770(a)(7) of the CLRA, because Defendants' conduct constitutes unfair methods
5 of competition and unfair or fraudulent acts or practices in that they misrepresent the particular
6 standard, quality or grade of the goods.

7 204. By engaging in the conduct set forth herein, Defendants violated and continue to
8 violate Section 1770(a)(9) of the CLRA, because Defendants' conduct constitute unfair methods
9 of competition and unfair or fraudulent acts or practices in that they advertise goods with the
10 intent not to sell the goods as advertised.

11 205. By engaging in the conduct set forth herein, Defendants have violated and
12 continue to violate Section 1770(a)(16) of the CLRA, because Defendants' conduct constitute
13 unfair methods of competition and unfair or fraudulent acts or practices in that they represent that
14 a subject of a transaction has been supplied in accordance with a previous representation when it
15 has not.

16 206. Plaintiffs requests that the Court enjoin Defendants from continuing to employ the
17 unlawful methods, acts and practices alleged herein pursuant to Cal. Civ. Code § 1780(a)(2) and
18 award Plaintiffs actual and punitive damages. If Defendants are not restrained from engaging in
19 these practices in the future, Plaintiffs and the Class will continue to suffer harm.

20 **SEVENTH CLAIM FOR RELIEF**
21 **Unjust Enrichment/Quasi-Contract**

22 207. Plaintiffs incorporate by reference each allegation set forth above.

23 208. As a result of Defendants' fraudulent and misleading labeling, advertising,
24 marketing and sales of Defendants' Purchased Products and Class Products, Defendants were
25 enriched at the expense of Plaintiffs and the Class.

26 209. Defendants sold the Purchased Products and the Class Products to Plaintiffs and
27 the Class that were not capable of being sold or held legally and which were legally worthless. It
28 would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits

1 they received from Plaintiffs and the Class, in light of the fact that the products were not what
2 Defendants purported them to be. Thus, it would be unjust and inequitable for Defendants to
3 retain the benefit without restitution to Plaintiffs and the Class of all monies paid to Defendant for
4 the products at issue.

5 210. As a direct and proximate result of Defendants' actions, Plaintiffs and the Class
6 have suffered damages in an amount to be proven at trial.

7 **JURY DEMAND**

8 Plaintiffs hereby demand a trial by jury of their claims.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, and
11 on behalf of the general public, pray for judgment against Defendants as follows:

12 A. For an order certifying this case as a class action and appointing Plaintiffs and
13 their counsel to represent the Class;

14 B. For an order awarding, as appropriate, damages, restitution or disgorgement to
15 Plaintiffs and the Class;

16 C. For an order requiring Defendants to immediately cease and desist from selling
17 their Purchased Products and Class Products listed in violation of law; enjoining Defendants from
18 continuing to market, advertise, distribute, and sell these products in the unlawful manner
19 described herein; and ordering Defendants to engage in corrective action;

20 D. For remedies, as appropriate, pursuant to Cal. Civ. Code § 1780;

21 E. For an order awarding attorneys' fees and costs;

22 F. For an order awarding punitive damages;

23 G. For an order awarding pre-and post-judgment interest; and

24 H. For an order providing such further relief as this Court deems proper.

25 Dated: September 9, 2015

Respectfully submitted,

26
27 /s/David McMullan, Jr.
David McMullan, Jr. (admitted *pro hac vice*)
Sterling Starns (admitted *pro hac vice*)
28 Don Barrett, P.A.

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Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I, David McMullan, Jr., hereby certify that a true and correct copy of the forgoing was filed and served via the Court's ECF filing system this the 9th day of September, 2015.

/s/ David McMullan, Jr.
David McMullan, Jr.

Exhibit 1



Super
Stack

Og
trans fat

NUTRITION FACTS
INFORMACIÓN NUTRICIONAL

Serving Size 1 Ounce
 Tamaño de la porción 1 oz
 (28 g. approx./aprox. 16 crisps/unidades)
 Servings Per Container approx. 6
 Porciones por envase aprox. 6

Amount Per Serving/Cantidad por porción

Calories/Calorías 150

Calories from Fat/Calorías de grasa 90

% Daily Value*/% del valor diario*

Total Fat/Grasa total 9 g 15%

Saturated Fat/Grasa saturada 2.5 g 13%

Trans Fat/Grasa trans 0 g

Cholesterol/Colesterol 0 mg 0%

Sodium/Sodio 150 mg 6%

Total Carbohydrate

Carbohidratos totales 15 g 5%

Dietary Fiber/Fibra dietética 1 g 3%

Sugars/Azúcares 0 g

Protein/Proteína 1 g

Vitamin A/Vitamina A 0% • Vitamin C/Vitamina C 6%

Calcium/Calcio 0% • Iron/Hierro 0%

Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.
 Los porcentajes de valores diarios están basados en una dieta de 2,000 calorías. Sus valores diarios pueden ser mayores o menores, dependiendo de las calorías que usted necesite:

	Calories/Calorías:	2,000	2,500
Total Fat/Grasa total	Less than/Menos de	65 g	80 g
Sat Fat/Grasa saturada	Less than/Menos de	20 g	25 g
Cholesterol/Colesterol	Less than/Menos de	300 mg	300 mg
Sodium/Sodio	Less than/Menos de	2,400 mg	2,400 mg
Total Carbohydrate			375 g
Carbohidratos totales		300 g	30 g
Dietary Fiber/Fibra dietética		25 g	

... POTATOES, VEGETABLE OIL (CONTAINS ONE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL, ... MALTODEXTRIN

Exhibit 2

BURSTING WITH FLAVOR!

9

the
Original

Potato
Crisps

6

**SOUR
& CREAM
& ONION**
Flavored

3

**CHEDDAR
CHEESE**

18 - .74 OZ TUBS NET WT 13.3 OZ (378 g)



NUTRITION FACTS

Serving Size 1 Tub
Servings Per Container

Amount Per Serving

Calories

Calories from Fat

Total Fat

Saturated Fat

Trans Fat

Cholesterol

Sodium

Total Carbohydrate

Dietary Fiber

Sugars

Protein

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

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

the ORIGINAL®

SOUR CREAM & ONION
Flavored®

CHEDDAR CHEESE
Artificially Flavored®

9

6

3

110

110

110

60

60

60

% Daily Value*

% Daily Value*

% Daily Value*

7 g 11%

7 g 11%

7 g 11%

2 g 10%

2 g 10%

2 g 10%

0 g

0 g

0 g

0 mg 0%

0 mg 0%

0 mg 0%

115 mg 5%

140 mg 6%

120 mg 5%

11 g 4%

11 g 4%

11 g 4%

1 g 3%

1 g 4%

1 g 3%

0 g

1 g

1 g

1 g

1 g

1 g

Vitamin A 0%

Vitamin A 0%

Vitamin A 0%

Vitamin C 4%

Vitamin C 4%

Vitamin C 4%

Calcium 0%

Calcium 0%

Calcium 0%

Iron 0%

Iron 0%

Iron 0%

the ORIGINAL®

CHEDDAR CHEESE Artificially Flavored®

Exhibit 3

“BURSTING WITH MORE FLAVOR”

8
PACK

Pringles

Potato
Crisps®

snack
stacks!®



**SOUR CREAM
& ONION**
Flavored

0g
trans fat



NUTRITION FACTS

Serving Size 1 Tub

Servings Per Container 8

Amount Per Serving

Calories 110 Calories from Fat 60

	% Daily Value*
Total Fat 7 g	11%
Saturated Fat 2 g	10%
Trans Fat 0 g	
Cholesterol 0 mg	0%
Sodium 140 mg	6%
Total Carbohydrate 11 g	4%
Dietary Fiber 1 g	4%
Sugars 1 g	

Protein 1 g

Vitamin A 0% • Vitamin C 4%

Calcium 0% • Iron 0%

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

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

INGREDIENTS: DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL,

Protein 1 g

Vitamin A 0% • Vitamin C 4%
Calcium 0% • Iron 0%

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

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

INGREDIENTS: DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL, AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, WHEY, DEXTROSE, COCONUT OIL, MONOSODIUM GLUTAMATE, ONION POWDER, SUGAR, NONFAT MILK, SOUR CREAM (CREAM, NONFAT MILK, CULTURES), CULTURED NONFAT MILK, NATURAL FLAVORS, BUTTERMILK, SWEET CREAM, CITRIC ACID, LACTIC ACID, DISODIUM INOSINATE, DISODIUM GUANYLATE, SODIUM CASEINATE, INVERT SUGAR, MALIC ACID AND YEAST EXTRACT.

CONTAINS WHEAT AND MILK INGREDIENTS.

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Exhibit 4

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Food

Guidance for Industry: Letter Regarding Point of Purchase Food Labeling

Contains Nonbinding Recommendations

October 2009

*Additional copies are available from:
Office of Nutrition, Labeling and Dietary Supplements
Food Labeling and Standards Staff, HFS-820
Center for Food Safety and Applied Nutrition
Food and Drug Administration
5100 Paint Branch Parkway
College Park, MD 20740
(Tel) 301-436-2375 (Updated phone: 240-402-2375)
<http://www.fda.gov/FoodGuidances>*

You may submit written comments regarding this guidance at any time. Submit written comments on the guidance to the Division of Dockets Management (HFA-305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the title of the guidance document.

**U.S. Department of Health and Human Services
Food and Drug Administration
Center for Food Safety and Applied Nutrition
October 2009**

Contains Nonbinding Recommendations

Guidance for Industry^[1] Letter Regarding Point of Purchase Food Labeling

This guidance represents the Food and Drug Administration's (FDA's) current thinking on this topic. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. You can use an alternative approach if the approach satisfies the requirements of the applicable statutes and regulations. If you want to discuss an alternative approach, contact the FDA staff responsible for implementing this guidance. If you cannot identify the appropriate FDA staff, call the telephone number listed on the title page of this document.

Dear Industry:

Point of purchase labeling including Front of Package (FOP) labeling is voluntary information that is intended to convey to consumers the nutritional attributes of a food. Point of purchase labeling often includes symbols that are typically linked to a set of nutritional criteria developed by food manufacturers, grocery stores, trade organizations, and health organizations. Two major categories of FOP symbol systems are "summary" and "nutrient-specific" systems. The summary symbols use logos, numerical scores, or graphic schemes to communicate the overall nutritional quality of a food product to consumers and facilitate comparisons between products based on the food's nutritional quality. Nutrient-specific symbols provide quantitative, evaluative, or both kinds of information on selected nutrients in a product without comparing the product's overall nutritional quality to that of its counterparts.

Although all symbol programs intend to indicate that the food products with their symbol are healthful choices, each symbol program has different nutritional criteria. The selected nutrients and the nutrient levels required for eligibility vary among the different symbol programs in use. FDA recognizes that point of purchase labeling can be a way of promoting informed food choices and helping consumers construct healthier diets in accordance with the Dietary Guidelines for Americans. FOP or shelf labeling that provides consumers with readily accessible information about a product's nutritional profile, in a manner that is consistent with and linked to the required Nutrition Facts panel, responds to today's marketplace realities and can be part of the education and outreach consumers need to understand and act on nutrition information at the point of purchase.

However, FDA's research has found that with FOP labeling, people are less likely to check the Nutrition Facts label on the information panel of foods (usually, the back or side of the package). It is thus essential that both the criteria and symbols used in front-of-package and shelf-labeling systems be nutritionally sound, well-designed to help consumers make informed and healthy food choices, and not be false or misleading. The agency is currently analyzing FOP labels that appear to be misleading. The agency is also looking for symbols that either expressly or by implication are nutrient content claims. We are assessing the criteria established by food manufacturers for such symbols and comparing them to our regulatory criteria.

It is important to note that nutrition-related FOP and shelf labeling, while currently voluntary, is subject to the provisions of the Federal Food, Drug, and Cosmetic Act that prohibit false or misleading claims and restrict nutrient content claims to those defined in FDA regulations. Therefore, FOP and shelf labeling that is used in a manner that is false or misleading misbrands the products it accompanies. Similarly, a food that bears FOP or shelf labeling with a nutrient content claim that does not comply with the regulatory criteria for the claim as defined in [Title 21 Code of Federal Regulations \(CFR\) 101.13¹](#) and [Subpart D of Part 101²](#) is misbranded. We will consider enforcement actions against clear violations of these established labeling requirements.

FDA is also developing a proposed regulation that would define the nutritional criteria that would have to be met by manufacturers making broad FOP or shelf label claims concerning the nutritional quality of a food, whether the claim is made in text or in symbols. FDA's intent is to provide standardized, science-based criteria on which FOP nutrition labeling must be based.

We also intend to continue to improve our understanding of how consumers view and use such labels. Research suggests that the proliferation of divergent FOP approaches is likely to be confusing to consumers and ultimately counter-productive. We want to work with the food industry - retailers and manufacturers alike - as well as nutrition and design experts and the Institute of Medicine, to develop an optimal, common approach to nutrition-related FOP and shelf labeling that all Americans can trust and use to build better diets and improve their health.

The recent experience with FOP labeling in the United Kingdom demonstrates the potential of voluntary initiatives to provide consumers helpful FOP labeling. In that instance, the government set certain criteria for the use of such labeling, and retailers took the initiative to implement FOP labeling in their stores. The agency wants to explore the potential of that approach. If voluntary action by the food industry does not result in a common, credible approach to FOP and shelf labeling, we will consider using our regulatory tools toward that end. This effort will include research to assess through consumer studies the likely effects of FOP symbols on information search behavior related to the Nutrition Facts label, which in turn can affect consumer understanding of the full nutrition profile of a product. The foundation of that approach should be a common set of mandatory nutritional criteria that consumers can rely on when they view FOP labels, even if no one symbol is ultimately selected as superior.

Accurate food labeling information can assist consumers in making healthy nutritional choices. FDA intends to monitor and evaluate the various FOP labeling systems and their effect on consumers' food choices and perceptions. FDA recommends that manufacturers and distributors of food products that include FOP labeling ensure that the label statements are consistent with FDA laws and regulations. FDA will proceed with enforcement action against products that bear FOP labeling that are explicit or implied nutrient content claims and that are not consistent with current nutrient content claim requirements. FDA will also proceed with enforcement action where such FOP labeling or labeling systems are used in a manner that is false or misleading.

FDA intends to work in collaboration with our sister public health agencies and the Department of Agriculture, which has authority over the labeling of meat and poultry, to pursue these efforts on FOP labeling. We will base our initiative on sound consumer research to ensure that we move toward an approach that will help consumers in selecting a healthy diet.

Sincerely,

Barbara O. Schneeman, Ph.D.
Director
Office of Nutrition, Labeling and Dietary Supplements
Center for Food Safety and Applied Nutrition
Food and Drug Administration

¹This guidance has been prepared by the Office of Nutrition, Labeling and Dietary Supplements in the Center for Food Safety and Applied Nutrition at the U.S. Food and Drug Administration.

For more information:

- [Background Information on Point of Purchase Labeling](#)³ October 2009
- [FDA Response to Representative DeLauro](#)⁴ October 19, 2009

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3. </Food/IngredientsPackagingLabeling/LabelingNutrition/ucm187320.htm>
4. </Food/IngredientsPackagingLabeling/LabelingNutrition/ucm187369.htm>

Exhibit 5

[Home](#) [Food](#) [Ingredients, Packaging & Labeling](#) [Labeling & Nutrition](#)

Food

Open Letter to Industry from Dr. Hamburg

[New Front-of-Package Labeling Initiative Main Page](#)¹

March 3, 2010

Dear Industry:

In the early 1990s, the Food and Drug Administration (FDA) and the food industry worked together to create a uniform national system of nutrition labeling, which includes the now-iconic Nutrition Facts panel on most food packages. Our citizens appreciate that effort, and many use this nutrition information to make food choices. Today, ready access to reliable information about the calorie and nutrient content of food is even more important, given the prevalence of obesity and diet-related diseases in the United States. This need is highlighted by the announcement recently by the First Lady of a coordinated national campaign to reduce the incidence of obesity among our citizens, particularly our children.

With that in mind, I have made improving the scientific accuracy and usefulness of food labeling one of my priorities as Commissioner of Food and Drugs. The latest focus in this area, of course, is on information provided on the principal display panel of food packages and commonly referred to as "front-of-pack" labeling.^[1] The use of front-of-pack nutrition symbols and other claims has grown tremendously in recent years, and it is clear to me as a working mother that such information can be helpful to busy shoppers who are often pressed for time in making their food selections.

I believe we now have a wonderful opportunity to make a significant advancement in public health if we can devise a front-of-pack labeling system that consumers can understand and use. We intend to work closely with food manufacturers, retailers, and others in the design process, and I hope that every food processor will contribute its views on how we can do this in the best way possible. In the meantime, FDA will soon issue new draft guidance relating to front-of-pack calorie and nutrient labeling. The agency is also planning to issue a draft guidance that would recommend nutritional criteria for foods that make "dietary guidance" statements (such as "Eat 2 cups of fruit a day for good health") in their labeling.

As we move forward in those areas, I must note, however, that there is one area in which more progress is needed. As you will recall, we recently expressed concern, in a "Dear Industry" letter, about the number and variety of label claims that may not help consumers distinguish healthy food choices from less healthy ones and, indeed, may be false or misleading.

At that time, we urged food manufacturers to examine their product labels in the context of the provisions of the Federal Food, Drug, and Cosmetic Act that prohibit false or misleading claims and restrict nutrient content claims to those defined in FDA regulations. As a result, some manufacturers have revised their labels to bring them into line with the goals of the Nutrition Labeling and Education Act of 1990. Unfortunately, however, we continue to see products marketed with labeling that violates established labeling standards.

To address these concerns, FDA is notifying a number of manufacturers that their labels are in violation of the law and subject to legal proceedings to remove misbranded products from the marketplace. While the warning letters that convey our regulatory intentions do not attempt to cover all products with violative labels, they do cover a range of concerns about how false or

misleading labels can undermine the intention of Congress to provide consumers with labeling information that enables consumers to make informed and healthy food choices. For example:

- Nutrient content claims that FDA has authorized for use on foods for adults are not permitted on foods for children under two. Such claims are highly inappropriate when they appear on food for infants and toddlers because it is well known that the nutritional needs of the very young are different than those of adults.
- Claims that a product is free of trans fats, which imply that the product is a better choice than products without the claim, can be misleading when a product is high in saturated fat, and especially so when the claim is not accompanied by the required statement referring consumers to the more complete information on the Nutrition Facts panel.
- Products that claim to treat or mitigate disease are considered to be drugs and must meet the regulatory requirements for drugs, including the requirement to prove that the product is safe and effective for its intended use.
- Misleading “healthy” claims continue to appear on foods that do not meet the long- and well-established definition for use of that term.
- Juice products that mislead consumers into believing they consist entirely of a single juice are still on the market. Despite numerous admonitions from FDA over the years, we continue to see juice blends being inaccurately labeled as single-juice products.

These examples and others that are cited in our warning letters are not indicative of the labeling practices of the food industry as a whole. In my conversations with industry leaders, I sense a strong desire within the industry for a level playing field and a commitment to producing safe, healthy products. That reinforces my belief that FDA should provide as clear and consistent guidance as possible about food labeling claims and nutrition information in general, and specifically about how the growing use of front-of-pack calorie and nutrient information can best help consumers construct healthy diets.

I will close with the hope that these warning letters will give food manufacturers further clarification about what is expected of them as they review their current labeling. I am confident that our past cooperative efforts on nutrition information and claims in food labeling will continue as we jointly develop a practical, science-based front-of-pack regime that we can all use to help consumers choose healthier foods and healthier diets.

Sincerely,

Margaret A. Hamburg, M.D.
Commissioner of Food and Drugs

[1] Although the principal display panel is not always on the front of a food package, in this letter we use “front-of-pack” as a synonym for principal display panel; i.e., the part of the package label that is most likely to be examined under customary conditions of display for retail sale. See 21 C.F.R. 101.1.

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Links on this page:

1. </Food/IngredientsPackagingLabeling/LabelingNutrition/ucm202726.htm>

Exhibit 6



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150 Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	135 mg	6%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	2g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 0% • Iron 2%		

INGREDIENTS:
 DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL, AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH, MALTODEXTRIN AND SUGAR. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, TOMATO POWDER, MONOSODIUM GLUTAMATE, ONION POWDER, GARLIC POWDER, SPICE, HYDROLYZED CORN PROTEIN, YEAST EXTRACT, MALTED BARLEY FLOUR, NATURAL SMOKE FLAVOR, CITRIC ACID, MALIC ACID, DISODIUM INOSINATE, DISODIUM GUANYLATE, NATURAL FLAVOR AND PAPRIKA EXTRACT (COLOR).

CONTAINS WHEAT INGREDIENTS



Nutrition Information

Serving Size 1 Ounce

Servings Per Container approx. 6

Amount Per Serving

Calories 150 Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	14%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	140 mg	6%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	0%
Sugars	1g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 0% • Iron 0%		

INGREDIENTS:

DRIED POTATOTES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SUGAR, SALT, DEXTROSE, MUSTARD (DISTILLED VINEGAR, MUSTARD SEED, SALT, TURMERIC), MODIFIED CORN STARCH, SODIUM DIACETATE, MONOSODIUM GLUTAMATE, ONION POWDER, GARLIC POWDER, HONEY, CITRIC ACID, NATURAL FLAVOR, MEDIUM CHAIN TRIGLYCERIDES, DISODIUM GUANYLATE, DISODIUM INOSINATE, ROSEMARY EXTRACT AND TURMERIC (COLOR).

CONTAINS WHEAT INGREDIENTS.



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150 Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	160 mg	7%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 0% • Iron 2%		

INGREDIENTS:

"DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, MONOSODIUM GLUTAMATE, ONION POWDER, WHEY, SPICES, SUGAR, NATURAL AND ARTIFICIAL FLAVORS, TORULA YEAST, TOMATO POWDER, AUTOLYZED YEAST EXTRACT, GARLIC POWDER, SODIUM DIACETATE, CITRIC ACID, PAPRIKA EXTRACT, DISODIUM INOSINATE, DISODIUM GUANYLATE AND LACTIC ACID.

CONTAINS WHEAT AND MILK INGREDIENTS."



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150 Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	160 mg	7%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	3%
Sugars	1g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 2% • Iron 0%		

INGREDIENTS:
 DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, WHEY POWDER, SALT, PARTIALLY HYDROGENATED SUNFLOWER OIL, CREAM POWDER, DEXTROSE, MONOSODIUM GLUTAMATE, BUTTERMILK POWDER, GUM ARABIC, NATURAL AND ARTIFICIAL FLAVOR, GARLIC POWDER, NONFAT DRY MILK, ONION POWDER, SPICE, SODIUM CASEINATE, YELLOW 6 LAKE, SMOKE FLAVORING, MEDIUM CHAIN TRIGLYCERIDES, DISODIUM GUANYLATE, DISODIUM INOSINATE, YELLOW 5 LAKE, MONO AND DIGLYCERIDES, AUTOLYZED YEAST EXTRACT, SAFFLOWER OIL, TORULA YEAST, BUTTERFAT, CHEDDAR CHEESE (MILK, CULTURES, SALT, ENZYMES), DEHYDRATED BUTTER (CREAM, SALT), AND ONION JUICE CONCENTRATE.

CONTAINS WHEAT AND MILK INGREDIENTS



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150 Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	14%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	180 mg	7%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 2% • Iron 0%		

INGREDIENTS:

DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL, AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, WHEY, MONOSODIUM GLUTAMATE, SALT, BUTTERMILK, PARTIALLY HYDROGENATED COCONUT OIL, GARLIC POWDER, NATURAL AND ARTIFICIAL FLAVORS, DEXTROSE, ONION POWDER, SOUR CREAM (CREAM, NONFAT MILK, CULTURES), CULTURED NONFAT MILK, ACETIC ACID, SODIUM ACETATE, CITRIC ACID, SPICES, SUGAR, LACTIC ACID, MALIC ACID, APPLE CIDER VINEGAR, MODIFIED FOOD STARCH, DISODIUM INOSINATE AND DISODIUM GUANYLATE.

CONTAINS WHEAT AND MILK INGREDIENTS



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150

Calories from Fat 80

% Daily Value*

Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	180 mg	7%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	

Vitamin A 0% • Vitamin C 6%

Calcium 2% • Iron 0%

INGREDIENTS:

DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, LACTOSE, MALIC ACID, VINEGAR, SODIUM DIACETATE AND TURMERIC (COLOR).

CONTAINS WHEAT AND MILK INGREDIENTS.



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container approx. 6

Amount Per Serving

Calories 150

Calories from Fat 80

		% Daily Value*
Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	160 mg	7%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	
Vitamin A	0%	Vitamin C 6%
Calcium	0%	Iron 2%

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

INGREDIENTS:

DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, WHEY, BUTTERMILK SOLIDS, LACTOSE, CHEDDAR CHEESE POWDER [CHEDDAR CHEESE (MILK, SALT, CHEESE CULTURES, ENZYMES), NONFAT DRY MILK, WHEY, SALT, DISODIUM PHOSPHATE, YELLOW 5, YELLOW 6], SUGAR, MONOSODIUM GLUTAMATE, ONION POWDER, YEAST, PARMESAN CHEESE (MILK, SALT, CULTURES), DISODIUM PHOSPHATE, ROMANO CHEESE (PASTEURIZED MILK, CHEESE CULTURES, SALT, ENZYMES), SWISS CHEESE (MILK, SALT, CULTURES, ENZYMES), CREAM POWDER (MALTODEXTRIN, LIPOLYZED CREAM), CITRIC ACID, DISODIUM INOSINATE, DISODIUM GUANYLATE, YELLOW 5, YELLOW 6, NATURAL AND ARTIFICIAL FLAVORS, WHEY SOLIDS, LACTIC ACID AND YELLOW 6 LAKE.

CONTAINS WHEAT AND MILK INGREDIENTS



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container approx. 6

Amount Per Serving

Calories 150	Calories from Fat 80	
	% Daily Value*	
Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	190 mg	8%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	
Vitamin A 0% o Vitamin C 6%		
Calcium 2% o Iron 0%		

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

INGREDIENTS:
 DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, WHEY, CHEDDAR CHEESE (PASTEURIZED MILK, CHEESE CULTURES, SALT, ENZYMES), MONOSODIUM GLUTAMATE, SUGAR, LACTOSE, NATURAL AND ARTIFICIAL FLAVORS, WHEY PROTEIN CONCENTRATE, CREAM, ONION POWDER, BUTTERMILK, JALAPENO PEPPER, SODIUM CASEINATE, LACTIC ACID, CITRIC ACID, DISODIUM PHOSPHATE, YELLOW 5 LAKE, NONFAT MILK, YELLOW 6 LAKE, AUTOLYZED YEAST EXTRACT, YELLOW 5, TURMERIC EXTRACT (COLOR), DISODIUM INOSINATE, DISODIUM GUANYLATE, YELLOW 6 AND SPICE EXTRACT.

CONTAINS WHEAT AND MILK INGREDIENTS.



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container approx. 6

Amount Per Serving

Calories 150

Calories from Fat 80

% Daily Value*

Total Fat 9g 14%

Saturated Fat 2.5g 14%

Trans Fat 0g

Polyunsaturated Fat 4.5g

Monounsaturated Fat 2g

Cholesterol 0mg 0%

Sodium 170 mg 7%

Total Carbohydrate 15g 15%

Dietary Fiber 1g 4%

Sugars 1g

Protein 1g

Vitamin A 0% o Vitamin C 6%

Calcium 2% o Iron 0%

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

INGREDIENTS:

DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH AND MALTODEXTRIN. CONTAINS 2% OR LESS OF: RICE FLOUR, SALT, DEXTROSE, WHEY, COCONUT OIL, MONOSODIUM GLUTAMATE, SUGAR, ONION POWDER, NONFAT MILK, CHEDDAR CHEESE (MILK, CHEESE CULTURES, SALT, ENZYMES), LACTIC ACID, SOUR CREAM (CREAM, NONFAT MILK, CULTURES), NATURAL AND ARTIFICIAL FLAVORS, REDUCED LACTOSE WHEY, CULTURED NONFAT MILK, CITRIC ACID, SODIUM CASEINATE, DISODIUM INOSINATE, DISODIUM GUANYLATE, YELLOW 5, YELLOW 6, AUTOLYZED YEAST EXTRACT, BLUE CHEESE (MILK, CHEESE CULTURES, SALT, ENZYMES), INVERT SUGAR AND MALIC ACID.

CONTAINS WHEAT AND MILK INGREDIENTS.



Nutrition Information

Serving Size 1 Ounce (28 g, approx. 16 crisps)

Servings Per Container 6

Amount Per Serving

Calories 150

Calories from Fat 90

% Daily Value*

Total Fat	9g	14%
Saturated Fat	2.5g	13%
Trans Fat	0g	
Polyunsaturated Fat	4.5g	
Monounsaturated Fat	2g	
Cholesterol	0mg	0%
Sodium	75 mg	3%
Total Carbohydrate	15g	5%
Dietary Fiber	1g	4%
Sugars	1g	
Protein	1g	
Vitamin A 0% • Vitamin C 6%		
Calcium 0% • Iron 0%		

INGREDIENTS:

DRIED POTATOES, VEGETABLE OIL (CONTAINS ONE OR MORE OF THE FOLLOWING: CORN OIL, COTTONSEED OIL, SOYBEAN OIL, AND/OR SUNFLOWER OIL), CORN FLOUR, WHEAT STARCH, MALTODEXTRIN, RICE FLOUR, SALT AND DEXTROSE.

CONTAINS WHEAT INGREDIENTS

Exhibit 7

MorningStar Farms®

Meal Starters™

Chik'n Strips

Nutrition Facts	
Serving Size 12 Average Strips (85g)	
Amount Per Serving	
Calories 140	Calories from Fat 30
% Daily Value*	
Total Fat 3.5g	5%
Saturated Fat 0.5g	3%
<i>Trans</i> Fat 0g	
Polyunsaturated Fat 1.5g	
Monounsaturated Fat 1.5g	
Cholesterol 0mg	0%
Sodium 510mg	21%
Potassium 110mg	3%
Total Carbohydrate 6g	2%
Dietary Fiber 1g	4%
Sugars 1g	
Protein 23g	27%
Vitamin A 0% • Vitamin C 0%	
Calcium 4% • Iron 30%	
Thiamin 30% • Riboflavin 15%	
Niacin 35% • Vitamin B ₆ 20%	
Vitamin B ₁₂ 30% • Pantothenic Acid 8%	
Magnesium 6% • Zinc 30%	
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:	
	Calories 2,000 2,500
Total Fat	Less than 65g 80g
Sat. Fat	Less than 20g 25g
Cholesterol	Less than 300mg 300mg
Sodium	Less than 2,400mg 2,400mg
Potassium	3,500mg 3,500mg
Total Carbohydrate	300g 375g
Dietary Fiber	25g 30g
Protein	50g 65g
Calories per gram:	
Fat 9 • Carbohydrate 4 • Protein 4	

INGREDIENTS: VEGGIE CHIK'N (WATER, SOY PROTEIN ISOLATE, WHEAT GLUTEN, NATURAL FLAVOR, AUTOLYZED YEAST EXTRACT, EVAPORATED CANE JUICE, SALT, PEA PROTEIN, CARROT FIBER, VITAMIN B₁ [THIAMIN HYDROCHLORIDE], VITAMIN B₂ [RIBOFLAVIN], NIACINAMIDE, VITAMIN B₆ [PYRIDOXINE HYDROCHLORIDE], VITAMIN B₁₂, CALCIUM PANTOTHENATE, IRON [FERRIC ORTHOPHOSPHATE], ZINC OXIDE, MAGNESIUM OXIDE, DIPOTASSIUM PHOSPHATE), SEASONING (DEHYDRATED GARLIC AND ONION, SALT, MALTODEXTRIN, BLACK PEPPER, DEHYDRATED GREEN AND RED BELL PEPPER, EVAPORATED CANE JUICE, NATURAL FLAVOR), EXPELLER PRESSED CANOLA OIL.

CONTAINS SOY AND WHEAT INGREDIENTS.

Exchange: 3 Very Lean Meat
 The dietary exchanges are based on the *Choose Your Foods: Exchange Lists for Diabetes*, ©2008 by American Dietetic Association and American Diabetes Association.

NLI#07212



MorningStar Farms®

Meal Starters™

Chik'n Strips

Nutrition Facts	
Serving Size 12 Average Strips (85g)	
Amount Per Serving	
Calories 140	Calories from Fat 30
% Daily Value*	
Total Fat 3.5g	5%
Saturated Fat 0.5g	3%
<i>Trans</i> Fat 0g	
Polyunsaturated Fat 1.5g	
Monounsaturated Fat 1.5g	
Cholesterol 0mg	0%
Sodium 500mg	21%
Potassium 110mg	3%
Total Carbohydrate 6g	2%
Dietary Fiber 1g	4%
Sugars 1g	
Protein 23g	27%
Vitamin A 0%	Vitamin C 0%
Calcium 4%	Iron 30%
Thiamin 30%	Riboflavin 15%
Niacin 35%	Vitamin B ₆ 20%
Vitamin B ₁₂ 30%	Pantothenic Acid 8%
Magnesium 6%	Zinc 30%

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

	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium		3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Protein		50g	65g

Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4

INGREDIENTS: VEGGIE CHIK'N (WATER, SOY PROTEIN ISOLATE, WHEAT GLUTEN, NATURAL FLAVOR, AUTOLYZED YEAST EXTRACT, EVAPORATED CANE JUICE, SALT, COLOR ADDED, PEA PROTEIN, CARROT FIBER, VITAMIN B₁ [THIAMIN HYDROCHLORIDE], VITAMIN B₂ [RIBOFLAVIN], NIACINAMIDE, VITAMIN B₆ [PYRIDOXINE HYDROCHLORIDE], VITAMIN B₁₂, CALCIUM PANTOTHENATE, IRON [FERRIC ORTHOPHOSPHATE], ZINC OXIDE, MAGNESIUM OXIDE, DIPOTASSIUM PHOSPHATE), SEASONING (DEHYDRATED GARLIC AND ONION, SALT, MALTODEXTRIN, BLACK PEPPER, DEHYDRATED GREEN AND RED BELL PEPPER, EVAPORATED CANE JUICE, NATURAL FLAVOR), EXPELLER PRESSED CANOLA OIL.

CONTAINS SOY AND WHEAT INGREDIENTS.

Exchange: 3 Very Lean Meat
The dietary exchanges are based on the *Choose Your Foods: Exchange Lists for Diabetes*, ©2008 by American Dietetic Association and American Diabetes Association.

NLI#07141



MorningStar Farms®
Meal Starters®
Grillers® Recipe Crumbles

Nutrition Facts		*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:	
Serving Size 1/2 Cup (55g)		Calories	2,000 2,500
Amount Per Serving			
Calories 80		Calories from Fat 20	
% Daily Value*			
Total Fat 2.5g			4%
Saturated Fat 0g			0%
<i>Trans Fat</i> 0g			
Polyunsaturated Fat 1.5g			
Monounsaturated Fat 0.5g			
Cholesterol 0mg			0%
Sodium 230mg			10%
Potassium 100mg			3%
Total Carbohydrate 5g			2%
Dietary Fiber 3g			10%
Sugars less than 1g			
Protein 10g			
Vitamin A 0%	Vitamin C 0%		
Calcium 0%	Iron 10%		
Thiamin 20%	Riboflavin 6%		
Niacin 20%	Vitamin B ₆ 15%		
Vitamin B ₁₂ 50%			
Total Fat Less than 65g 80g Sat. Fat Less than 20g 25g Cholesterol Less than 300mg 300mg Sodium Less than 2,400mg 2,400mg Potassium 3,500mg 3,500mg Total Carbohydrate 300g 375g Dietary Fiber 25g 30g			
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4			
INGREDIENTS: TEXTURED VEGETABLE PROTEIN (SOY PROTEIN CONCENTRATE, WHEAT GLUTEN, WATER FOR HYDRATION), WATER, CORN OIL, CONTAINS TWO PERCENT OR LESS OF CHICORY ROOT FIBER (INULIN), YEAST EXTRACT, NATURAL FLAVORS, BLACK MALT POWDER, SALT, SOY SAUCE (WATER, SOYBEANS, SALT, WHEAT), EVAPORATED CANE JUICE CRYSTALS, GARLIC POWDER, ONION POWDER, ONION JUICE CONCENTRATE, SPICES, TOMATO POWDER, CITRIC ACID, NIACINAMIDE, IRON (FERROUS SULFATE), SKIM MILK, EGG WHITES, THIAMIN MONONITRATE (VITAMIN B ₁), PYRIDOXINE HYDROCHLORIDE (VITAMIN B ₆), RIBOFLAVIN (VITAMIN B ₂), VITAMIN B ₁₂ .			
CONTAINS SOY, WHEAT, MILK AND EGG INGREDIENTS.			

NLI#09273



MorningStar Farms®

Three-Bean Chili

with Grillers® Crumbles

Nutrition Facts			
Serving Size		1 Cup (254g)	
Amount Per Serving	Per Serving	Per Package	
Calories	170	270	
Calories from Fat	20	35	
	%DV*	%DV*	
Total Fat	2.5g 4%	4g	6%
Saturated Fat	0g 0%	0g	0%
Trans Fat	0g	0g	
Polyunsaturated Fat	0.5g	1g	
Monounsaturated Fat	1g	1.5g	
Cholesterol	0mg 0%	0mg	0%
Sodium	490mg 20%	800mg	33%
Potassium	850mg 24%	1380mg	39%
Total Carbohydrate	32g 11%	52g	17%
Dietary Fiber	10g 40%	16g	64%
Sugars	4g	6g	
Protein	12g 19%	20g	31%
Vitamin A	0%	0%	
Vitamin C	0%	0%	
Calcium	10%	20%	
Iron	20%	30%	
* Percent Daily Values (DV) are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:			
	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium		3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Protein		50g	65g
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4			

INGREDIENTS: WATER, DICED TOMATOES (DICED TOMATOES, TOMATO JUICE, CITRIC ACID, CALCIUM CHLORIDE), TOMATO PASTE (TOMATOES), COOKED BLACK BEANS (BLACK BEANS, WATER), CANNELLINI BEANS, DARK RED KIDNEY BEANS, GREEN PEPPERS, RED BELL PEPPERS, VEGGIE BURGER CRUMBLES (TEXTURED VEGETABLE PROTEIN [SOY PROTEIN CONCENTRATE, WHEAT GLUTEN, WATER FOR HYDRATION], WATER, CORN OIL, CHICORY ROOT FIBER [INULIN], YEAST EXTRACT, NATURAL FLAVORS, BLACK MALT POWDER, SALT, SOY SAUCE [WATER, SOYBEANS, SALT, WHEAT], EVAPORATED CANE JUICE CRYSTALS, GARLIC POWDER, ONION POWDER, ONION JUICE CONCENTRATE, SPICES, TOMATO POWDER, CITRIC ACID, NIACINAMIDE, IRON [FERROUS SULFATE], SKIM MILK, EGG WHITES, THIAMIN MONONITRATE [VITAMIN B₁], PYRIDOXINE HYDROCHLORIDE [VITAMIN B₆], RIBOFLAVIN [VITAMIN B₂], VITAMIN B₁₂), ONIONS, SOY PROTEIN CONCENTRATE, RICE STARCH, SPICE, CHILI PEPPER, EXPELLER PRESSED CANOLA OIL, SALT, XANTHAN GUM, CARAMEL COLOR.

CONTAINS SOY, WHEAT, MILK AND EGG INGREDIENTS.

Exchange: 2 Carbohydrates, 1/2 Fat, 2 Proteins
The dietary exchanges are based on the Choose Your Foods: Exchange Lists for Diabetes, ©2008 by American Dietetic Association and American Diabetes Association.

NLI#07260



MorningStar Farms® Grillers® Turk'y Burger

Nutrition Facts	
Serving Size 1 Burger (64g)	
Amount Per Serving	
Calories 90	Calories from Fat 45
% Daily Value*	
Total Fat 5g	8%
Saturated Fat 0.5g	3%
<i>Trans Fat</i> 0g	
Polyunsaturated Fat 2g	
Monounsaturated Fat 1.5g	
Cholesterol 0mg	0%
Sodium 390mg	17%
Potassium 270mg	8%
Total Carbohydrate 7g	2%
Dietary Fiber 5g 22%	
Sugars less than 1g	
Protein 9g	14%
Vitamin A 0%	Vitamin C 0%
Calcium 4%	Iron 15%
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:	
	Calories 2,000 2,500
Total Fat	Less than 65g 80g
Sat. Fat	Less than 20g 25g
Cholesterol	Less than 300mg 300mg
Sodium	Less than 2,400mg 2,400mg
Potassium	3,500mg 3,500mg
Total Carbohydrate	300g 375g
Dietary Fiber	25g 30g
Protein	50g 65g
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4	
INGREDIENTS: TEXTURED VEGETABLE PROTEIN (SOY PROTEIN CONCENTRATE, TEXTURED WHEAT PROTEIN [WHEAT GLUTEN, WHEAT STARCH, PHOSPHATE, COLOR ADDED], WATER FOR HYDRATION), AVOCADOS (AVOCADOS, WATER, ASCORBIC ACID, SUGAR, CITRIC ACID, XANTHAN GUM, SODIUM METABISULFITE), DICED TOMATOES (TOMATOES, CALCIUM CHLORIDE), CORN OIL, EGG WHITES, SOY PROTEIN ISOLATE, WHEAT FIBER, CONTAINS TWO PERCENT OR LESS OF SALT, METHYLCELLULOSE, AUTOLYZED YEAST EXTRACT, TOMATO POWDER, SPICES, YEAST EXTRACT, NATURAL FLAVORS, MALTODEXTRIN, FRUCTOSE, GARLIC POWDER, HYDROLYZED SOY PROTEIN, WHEY*, HYDROLYZED CORN GLUTEN, EVAPORATED CANE JUICE, ONION POWDER, TORULA YEAST, HYDROLYZED CORN PROTEIN, JALAPENO PEPPERS, MEDIUM CHAIN TRIGLYCERIDES, XANTHAN GUM, SESAME SEED OIL, CITRIC ACID, DISODIUM INOSINATE, DISODIUM GUANYLATE. *ADDS A TRIVIAL AMOUNT OF CHOLESTEROL.	
CONTAINS SOY, WHEAT, EGG AND MILK INGREDIENTS.	

NLI#08513



MorningStar Farms® Hickory BBQ Riblets

Nutrition Facts	
Serving Size 1 Riblet with Sauce (142g)	
Amount Per Serving	
Calories 210	Calories from Fat 30
% Daily Value*	
Total Fat 3.5g	5%
Saturated Fat 0g	0%
<i>Trans</i> Fat 0g	
Polyunsaturated Fat 1g	
Monounsaturated Fat 2g	
Cholesterol 0mg	0%
Sodium 620mg	26%
Potassium 580mg	17%
Total Carbohydrate 35g	12%
Dietary Fiber 6g	24%
Sugars 24g	
Protein 16g	26%
Vitamin A 0% • Vitamin C 4%	
Calcium 10% • Iron 15%	
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:	
	Calories 2,000 2,500
Total Fat	Less than 65g 80g
Sat. Fat	Less than 20g 25g
Cholesterol	Less than 300mg 300mg
Sodium	Less than 2,400mg 2,400mg
Potassium	3,500mg 3,500mg
Total Carbohydrate	300g 375g
Dietary Fiber	25g 30g
Protein	50g 65g
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4	
INGREDIENTS: WATER, EVAPORATED CANE JUICE, SOY PROTEIN CONCENTRATE, MOLASSES, TOMATO PASTE (TOMATOES), VINEGAR, TEXTURED WHEAT PROTEIN (WHEAT GLUTEN, WHEAT STARCH, PHOSPHATE, CARAMEL COLOR), CANOLA OIL, CONTAINS TWO PERCENT OR LESS OF SALT, NATURAL FLAVORS, YEAST EXTRACT, SOY PROTEIN ISOLATE, METHYLCELLULOSE, EXTRACT OF MALTED BARLEY AND CORN, WHEAT GLUTEN, CARAMEL COLOR, SUNFLOWER OIL, XANTHAN GUM, ONION POWDER, GARLIC POWDER, SPICES.	
CONTAINS SOY AND WHEAT INGREDIENTS.	

Exchange: 2 Carbohydrates, 1/2 Fat, 2 Proteins
The dietary exchanges are based on the *Choose Your Foods: Exchange Lists for Diabetes*, ©2008 by American Dietetic Association and American Diabetes Association.

NLI#07853



MorningStar Farms® Breakfast Patties

Nutrition Facts			
Serving Size	1 Patty (38g)		
Amount Per Serving			
Calories 80	Calories from Fat 25		
% Daily Value*			
Total Fat 3g	5%		
Saturated Fat 0.5g	3%		
<i>Trans Fat</i> 0g			
Polyunsaturated Fat 1.5g			
Monounsaturated Fat 1g			
Cholesterol 0mg	0%		
Sodium 240mg	10%		
Potassium 170mg	5%		
Total Carbohydrate 4g	1%		
Dietary Fiber 1g	6%		
Sugars less than 1g			
Protein 8g			
Vitamin A 0%	Vitamin C 0%		
Calcium 0%	Iron 6%		
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:			
	Calories	2,000	2,500
Total Fat	Less than	65g	80g
Sat. Fat	Less than	20g	25g
Cholesterol	Less than	300mg	300mg
Sodium	Less than	2,400mg	2,400mg
Potassium		3,500mg	3,500mg
Total Carbohydrate		300g	375g
Dietary Fiber		25g	30g
Calories per gram: Fat 9 • Carbohydrate 4 • Protein 4			

INGREDIENTS: ORGANIC TEXTURED SOY PROTEIN WITH WATER, ORGANIC WHEAT GLUTEN WITH WATER, EXPELLER PRESSED SUNFLOWER OIL, EGG WHITES, CORNSTARCH, CONTAINS TWO PERCENT OR LESS OF TORULA YEAST, NATURAL NON-MEAT FLAVOR, SEA SALT, MALT POWDER, SPICES, EXPELLER PRESSED CANOLA OIL, KONJAC FLOUR, EVAPORATED CANE JUICE, ONION POWDER, MILK, CITRIC ACID, EXPELLER PRESSED SESAME SEED OIL.

CONTAINS SOY, WHEAT, EGG AND MILK INGREDIENTS.

NLI#08889



Morning Star Farms Chik'n Enchilada

9.5 oz

Nutrition Facts

Serving Size 1.0 entree (269 g)

Servings Per Container 1

Amount Per Serving	
Calories 280	Calories from Fat 60
% Daily Value*	
Total Fat 7 g	11%
Saturated Fat 2.5 g	13%
Trans Fat 0 g	
Cholesterol 10 mg	3%
Sodium 520 mg	22%
Potassium 510 mg	15%
Total Carbohydrate 47 g	16%
Dietary Fiber 6 g	23%
Sugars 6 g	
Protein 12 g	
Vitamin A	0%
Vitamin C	0%
Calcium	15%
Iron	15%
Copper	—
Folic Acid	—
Iodine	—
Magnesium	—
Niacin	—
Phosphorus	—
Riboflavin	—
Thiamin	—
Vitamin B12	—
Vitamin B6	—
Vitamin D	—
Vitamin E	—
Zinc	—

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

Ingredients:

Water, Cooked Brown Rice (Water, Long Grain Brown Rice), Whole Kernel Corn, Cooked Black Beans (Black Beans, Water), Tortilla (Enriched Bleached Flour [Wheat Flour, Niacin, Reduced Iron, Thiamin Mononitrate (Vitamin B1), Riboflavin (Vitamin B2), Folic Acid], Water, Ground Corn Treated with Lime, Vegetable Shortening [Soybean Oil, Hydrogenated Soybean Oil and/or Palm Oil], Salt, Leavening [Sodium Bicarbonate, Cornstarch, Sodium Aluminum Sulfate, Calcium Sulfate, Monocalcium Phosphate], Calcium Propionate, Sorbic Acid, Fumaric Acid, Cellulose Gum, DATEM, Enzyme Blend, Sodium Metabisulfite), Veggie Chik'n (Water, Isolated Soy Protein, Vital Wheat Gluten, Natural Flavors, Pea Protein, Carrot Fiber, Organic Beet Root Fiber, Organic Evaporated Cane Juice, Yeast Extract, Sea Salt), Onions, Tomato Paste (Tomatoes), Mozzarella Cheese (Pasteurized Part-Skim Milk, Cheese Cultures, Salt, Enzymes), Red Bell Peppers, Green Peppers, Contains Two Percent or Less of Cheddar Cheese (Pasteurized Milk, Cheese Cultures, Salt, Enzymes, Calcium Chloride, Annatto Color), Green Onions, Spices, Green Chiles (Green Chile Peppers, Water, Salt, Citric Acid, Calcium Chloride), Expeller Pressed Canola Oil, Rice Starch, Chili Pepper, Roasted Garlic, Modified Corn Starch, Salt, Lime Juice Concentrate.

Contains wheat, soy and milk ingredients.



Morning Star Farms Sesame Chik'n

9.5 oz

Nutrition Facts

Serving Size 1.0 entree (269 g)

Servings Per Container 1

Amount Per Serving		
Calories	310	Calories from Fat 80
		% Daily Value*
Total Fat	9 g	14%
Saturated Fat	1 g	5%
Trans Fat	0 g	
Cholesterol	0 mg	0%
Sodium	530 mg	22%
Potassium	290 mg	8%
Total Carbohydrate	46 g	15%
Dietary Fiber	4 g	14%
Sugars	16 g	
Protein	14 g	
Vitamin A		0%
Vitamin C		0%
Calcium		8%
Iron		15%
Copper		—
Folic Acid		—
Iodine		—
Magnesium		—
Niacin		—
Phosphorus		—
Riboflavin		—
Thiamin		—
Vitamin B12		—
Vitamin B6		—
Vitamin D		—
Vitamin E		—
Zinc		—

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

Ingredients:

Cooked Noodles (Water, Enriched Flour [Wheat Flour, Niacin, Iron (Ferrous Sulfate), Thiamin Mononitrate (Vitamin B1), Riboflavin (Vitamin B2), Folic Acid], Multigrain Legume Mix (Yellow Peas, Garbanzo Beans, Pearled Barley, Oats, Flax Seed, Kamut, Wheat Fiber], Wheat Gluten, Expeller Pressed Canola Oil), Tempura Veggie Chik'n Nuggets (Chik'n [Water, Soy Protein, Wheat Gluten, Natural Flavors, Potato Starch, Expeller Pressed Canola Oil and/or Safflower Oil, Pea Protein, Modified Vegetable Gum, Carrot Fiber, Organic Beet Root Fiber, Organic Evaporated Cane Juice, Yeast Extract, Sea Salt], Batter [Wheat Flour, Modified Corn Starch, Salt, Corn Flour, Yellow Corn Meal, Sugar, Sodium Acid Pyrophosphate, Sodium Bicarbonate, Guar Gum, Spice, High Oleic Sunflower Oil, Calcium Silicate], Breader [Oat Bran, Wheat Flour, Corn Flour, Salt, Sugar, High Oleic Sunflower Seed Oil, Calcium Silicate]), Water, Sugar Snap Peas, Carrots, Sugar, Edamame (Soybeans), Low Sodium Soy Sauce (Water, Wheat, Soybeans, Salt, Vinegar, Lactic Acid), Red Bell Peppers, Onions, Contains Two Percent or Less of Distilled White Vinegar (White Vinegar and Water), Roasted Garlic, Ginger Puree (Ginger, Water), Rice Starch, Toasted Sesame Oil, Sesame Seeds, Dried Onion, Orange Juice Concentrate, Caramel Color, Spice.

Contains wheat and soy ingredients.



MorningStar Farms Sweet & Sour Chik'n

10 oz

Nutrition Facts

Serving Size 1.0 entree (284 g)

Servings Per Container 1

Amount Per Serving	
Calories 340	Calories from Fat 60
% Daily Value*	
Total Fat 6 g	9%
Saturated Fat 0.5 g	3%
Trans Fat 0 g	
Cholesterol 0 mg	0%
Sodium 550 mg	23%
Potassium 350 mg	10%
Total Carbohydrate 56 g	19%
Dietary Fiber 4 g	15%
Sugars 12 g	
Protein 14 g	
Vitamin A	25%
Vitamin C	30%
Calcium	4%
Iron	10%
Copper	—
Folic Acid	—
Iodine	—
Magnesium	—
Niacin	—
Phosphorus	—
Riboflavin	—
Thiamin	—
Vitamin B12	—
Vitamin B6	—
Vitamin D	—
Vitamin E	—
Zinc	—

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

Ingredients:

Water, Tempura Veggie Chik'n Nuggets (Chik'n [Water, Soy Protein, Wheat Gluten, Natural Flavors, Potato Starch, Canola Oil and/or Safflower Oil, Pea Protein, Modified Vegetable Gum, Carrot Fiber, Beet Root Fiber, Evaporated Cane Juice, Yeast Extract, Sea Salt], Batter (Wheat Flour, Modified Corn Starch, Salt, Corn Flour, Yellow Corn Meal, Sugar, Sodium Acid Pyrophosphate, Sodium Bicarbonate, Guar Gum, Spice, Sunflower Oil, Calcium Silicate), Breading [Oat Bran, Wheat Flour, Corn Flour, Salt, Sugar, Sunflower Seed Oil, Calcium Silicate]), Brown Rice, Red Bell Peppers, Green Bell Peppers, White Vinegar [White Vinegar and Water), Pineapple (Pineapple, Pineapple Juice), Carrots, Sugar, Tomato Ketchup [Water, Tomato Paste, Sugar, Contains Two Percent or Less of Vinegar, Sea Salt, Onion Powder, Garlic Powder, Spices), Tomato Paste (Tomatoes), Pineapple Juice Concentrate, Rice Starch, Ginger Puree (Ginger, Water), Soy Sauce (Water, Soybeans, Salt, Wheat), Canola Oil, Orange Juice Concentrate, Toasted Sesame Oil, Roasted Garlic, Salt, Garlic.

Contains soy and wheat ingredients.



MorningStar Farms Steak Strips

Veggie Style 8 oz

Nutrition Facts

Serving Size 12 strips

Servings Per Container 2.5

Amount Per Serving

Calories 140 Calories from Fat 25

% Daily Value*

Total Fat 3 g 5%

Saturated Fat 0.5 g 3%

Trans Fat 0 g

Cholesterol 0 mg 0%

Sodium 720 mg 30%

Potassium 460 mg 13%

Total Carbohydrate 5 g 2%

Dietary Fiber 1 g 6%

Sugars 1 g

Protein 23 g

Vitamin A 0%

Vitamin C 0%

Calcium 4%

Iron 30%

Copper —

Folic Acid —

Iodine —

Magnesium 8%

Niacin 35%

Phosphorus —

Riboflavin 15%

Thiamin 30%

Vitamin B12 30%

Vitamin B6 15%

Vitamin D —

Vitamin E —

Zinc 30%

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

Ingredients:

Veggie Steak (Water, Wheat Gluten, Soy Protein Isolate, Natural Flavor, Malt Extract, Autolyzed Yeast Extract, Onion Powder, Garlic Powder, Evaporated Cane Juice, Salt, Pea Protein, Carrot Fiber, Molasses, Vitamin B1 [Thiamine Hydrochloride], Vitamin B2 [Riboflavin], Niacinamide, Vitamin B6 [Pyridoxine Hydrochloride], Vitamin B12, Calcium Pantothenate, Iron [Ferric Orthophosphate], Zinc Oxide, Magnesium Oxide, Dipotassium Phosphate), Seasoning (Dehydrated Garlic and Onion, Salt, Maltodextrin, Black Pepper, Dehydrated Green and Red Bell Peppers, Evaporated Cane Juice, Natural Flavor), Expeller Pressed Canola Oil.

Allergic Consumers: This product contains wheat and soy ingredients.

