

**LAW OFFICES OF RONALD A.
MARRON**

RONALD A. MARRON (SBN 175650)

ron@consumersadvocates.com

MICHAEL T. HOUCHIN (SBN 305541)

mike@consumersadvocates.com

651 Arroyo Drive

San Diego, California 92103

Telephone: (619) 696-9006

Facsimile: (619) 564-6665

[additional counsel listed on signature
page]

Attorneys for Plaintiff and the Proposed Class

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

WILLIAM ALBION, on behalf of
himself, all others similarly situated,
and the general public,

Plaintiff,

v.

THE KRAFT HEINZ COMPANY, a
Delaware Corporation,

Defendant.

Case No:

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

TABLE OF CONTENTS

I.	JURISDICTION AND VENUE	1
II.	NATURE OF THE ACTION	2
III.	PARTIES	3
IV.	FACTUAL ALLEGATIONS	3
A.	Defendant sells artificially-flavored sugar-liquid labeled as if it were natural.	3
B.	The Products are not “Pure.”	4
C.	Defendant conceals that the Products are artificially flavored.	5
D.	Defendant’s competitors label their products lawfully.	12
E.	Plaintiff’s and Class Purchases of the Products.....	12
V.	DELAYED DISCOVERY.....	14
VI.	CLASS ACTION ALLEGATIONS	15
VII.	CAUSES OF ACTION.....	18
	FRAUD BY OMISSION	18
	NEGLIGENT MISREPRESENTATION.....	19
	VIOLATION OF CALIFORNIA’S CONSUMERS LEGAL REMEDIES ACT	20
	VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW (UNLAWFUL PRONG)	21
	VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW	22
	(UNFAIR PRONG)	22
	VIOLATION OF THE FALSE ADVERTISING LAW	25
	BREACH OF EXPRESS WARRANTIES.....	26
	BREACH OF IMPLIED WARRANTIES	27
VIII.	PRAYER FOR RELIEF	28
IX.	JURY DEMAND	29

William Albion (“Plaintiff”), on behalf of himself and all others similarly situated, by and through his undersigned counsel, hereby brings this action against The Kraft Heinz Company (“Kraft”), alleging that certain products manufactured, packaged, labeled, advertised, distributed and sold by Defendant are misbranded, falsely advertised, and violate consumer protection laws, and upon information and belief and investigation of counsel alleges as follows:

I. JURISDICTION AND VENUE

1. This Court has original jurisdiction over this action under the Class Action Fairness Act of 2005 (“CAFA”), 28 U.S.C. § 1332(d). The Defendant is a citizen of a state different from that of the Plaintiff, the putative class size is greater than 100 persons, and the amount in controversy in the aggregate for the putative Class exceeds the sum or value of \$5 million exclusive of interest and costs.

2. The Court has jurisdiction over the state law claims because they form part of the same case or controversy under Article III of the United States Constitution.

3. This Court has both general and specific personal jurisdiction over the Defendant.

4. The Court has personal jurisdiction over Defendant because its Crystal Light products are advertised, marketed, distributed and sold through the State of California; Defendant engaged in the wrongdoing alleged in this Complaint throughout the United States, including in the State of California; Defendant is authorized to do business in the State of California; and Defendant has sufficient minimum contacts with the State of California, rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Moreover, Defendant engaged in substantial activity with the State of California.

5. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred within this judicial district, Defendant has marketed and sold the Crystal Light products at issue in this action in this judicial district, and it conducts business within this judicial district. Plaintiff also purchased the Product within this District.

II. NATURE OF THE ACTION

6. This is a consumer class action for violations of warranty, negligent and intentional misrepresentations/omissions and consumer protection laws, with a California class for violation of California consumer protection laws.

7. Defendant manufactures, packages, distributes, advertises, markets, and sells fruit-flavored beverage products under the trade name “Crystal Light” (the “Products”).

8. These Products are falsely advertised in California.

9. First, the Products’ labels convey to the consumer that these are healthy, natural beverages, brimming with healthful fruit juices.

10. This is simply false.

11. The Products consist of water and malic acid and contains none of the juice of the fruit the Products are named for.

12. For example, Defendant’s Crystal Light Liquid “Berry Sangria” does not contain the juice of any oranges, strawberries, blueberries, raspberries, or the apples that are pictured on the front label.

13. Instead, Defendant covers up the lack of actual fruit juice in the Products by instead adding artificial flavoring but conceals this fact from consumers.

14. The Products are labeled as if they are flavored only with natural ingredients when in fact the Products are artificially flavored.

15. Defendant’s packaging, labeling, and advertising scheme is intended to give consumers the impression that they are buying a premium, ‘all natural’ product with natural flavoring ingredients instead of a product that is artificially flavored.

16. For example, Defendant’s front label states that it contains “Natural Flavor with Other Natural Flavor” but this is false.

17. Plaintiff, who was deceived by Defendant’s unlawful conduct and purchased one or more of the Products multiple times in California during the proposed Class Period, brings this action, on her own behalf and on behalf of California and nationwide consumers similarly situated, to remedy Defendant’s unlawful acts.

18. On behalf of the Class as defined herein, Plaintiff seeks an order compelling Defendant to, *inter alia*: (1) cease packaging, distributing, advertising and selling the Products in violation of California law; (2) re-label or recall all existing deceptively packaged Products; (3) conduct a corrective advertising campaign to fully inform California consumers; (4) award Plaintiff and other Class-members restitution, actual damages, and punitive damages; and (5) pay all costs of suit, expenses, and attorney fees.

7 **III. PARTIES**

19. Defendant The Kraft Heinz Company (“Kraft” or “Defendant”) manufactures, packages, labels, advertises, markets, distributes, and sells the Products in California and throughout the United States.

20. The Kraft Heinz Company is a Delaware corporation with its headquarters and principal place of business in Pittsburgh, Pennsylvania.

21. Plaintiff William Albion (“Plaintiff”) is a resident and citizen of Bermuda Dunes, California who purchased the Products periodically during the Class Period since 2011 in California for personal and household consumption.

16 **IV. FACTUAL ALLEGATIONS**

17 **A. Defendant sells artificially-flavored sugar-liquid labeled as if it were** 18 **natural.**

22. The Products’ labels convey to California consumers that they are purchasing a healthful, natural product made from fresh fruits.

23. The Products, however, are almost entirely malic acid water, with no fruit juice or a small amount of fruit juice added for color and texture.

24. Some of the Products consist primarily of water and malic acid and do not contain any juice from the fruit for which the Products are named.

25. Crystal Light’s “Berry Sangria” for example, does not contain any fruit or actual juice from each of the berries, oranges, blueberries, apples, or strawberries featured on the Product’s front label.

26. The Products are instead artificially flavored to resemble the fruit juices they

are labeled to represent.

27. Instead of healthful fruit juice, the Products instead contain massive amounts of refined sugar. The “Grape” Product, for example, is primarily comprised of sugar.

28. The Products’ labels mislead consumers into thinking they are buying a healthful blend of fruit instead of artificially-flavored sugar-liquid.

B. The Products are not “Pure.”

29. When describing their Crystal Light “Pure” products, Defendant states on their website, “Shouldn't Everything You Drink Be Pure? Imagine a drink that's sweetened naturally. That's the beauty of Crystal Light Pure. No artificial flavors.”¹

30. The Products are not “pure” and natural and are primarily made from malic acid and sugar.

31. In fact, the amount of refined sugar in the Products depletes the body of antioxidants and blocks vitamin and mineral absorption and healthful benefits.

32. Excess sugar consumption damages cells and promotes nutrient deficiency.²

33. Excess sugar consumption depletes vitamins and minerals, including those necessary for beneficial antioxidant health effects. Excess sugar consumption prevents antioxidant vitamins and minerals from working effectively in the body.

34. Excess sugar consumption interferes with the body’s metabolism of vitamins including vitamin C.

35. Excess sugar consumption also depletes and blocks the absorption of vitamin D, calcium, magnesium, potassium, and chromium.

¹ <http://www.kraftrecipes.com/products/crystal-light-pure-grape-1997.aspx> (last visited: September 28, 2018).

² J. DiNicolantonio, A. Berger; “Added sugars drive nutrient and energy deficit in obesity.” <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4975866/>; (last visited March 22, 2018).

36. Excess sugar consumption depletes thiamine, riboflavin, niacin, and cellular phosphate necessary for energy metabolism.

37. Far from being healthy, pure, or natural, the Products, instead, contribute to the depletion of all these nutrients from the human body.

38. Defendant misleadingly label the Products as if they contain healthful fruit and supply healthful vitamins, when in fact they consist largely of sugar-liquid, the excess consumption of which interferes with the proper metabolism of those vitamins.

C. Defendant conceals that the Products are artificially flavored.

39. Defendant not only misleadingly label the Products as if they were healthful fruit juice instead of sugar-water, Defendant also unlawfully conceals from California consumers that the Products are artificially flavored.

40. To disguise the fact that the Products consist largely of sugar-water, Defendant adds artificial flavoring that mimics the sensory impression of fruit juice.

41. California consumers, like American consumers nationwide, seek out natural food products and are willing to pay significantly more for such products when compared to food products with artificial ingredients.³

42. Products that contain only natural ingredients thus command a price premium compared to similar products that contain synthetic ingredients such as artificial flavors.

43. To appeal to consumers who seek out natural food products and are willing to pay more for them, Defendant labels and advertises the Products as if they were exclusively naturally-flavored.

44. Defendant's "Berry Sangria" Product label, for example, shows life-like pictorial representations of ripe, juicy berries.

45. Below is a true and accurate representation of Crystal Light's Liquid "Berry

³ "Consumers Want Healthy Foods - And Will Pay More For Them"; Forbes Magazine, February 15, 2015. <https://www.forbes.com/sites/nancygagliardi/2015/02/18/consumers-want-healthy-foods-and-will-pay-more-for-them/#4b8a6b4b75c5>; (last visited March 22, 2018).

Sangria” Product label.



46. The Product’s name, “Crystal Light Berry Sangria”, along with the pictorial representations of life-like ripe berries, oranges, and apples by operation of California law communicates and warrants to the consumer that the Product is flavored only with natural fruit juices or flavors.

47. Below is a true and accurate representation of Crystal Light’s Pure “Tropical Blend” Product label.



48. The Product's name, "Pure Tropical Blend", along with the pictorial representations of life-like ripe mangoes, oranges, and blackberries by operation of California law communicates and warrants to the consumer that the Product is flavored only with natural fruit juices or flavors.

49. This is false. The Products are artificially flavored.

50. Each of the Products contain an ingredient identified as "malic acid."

51. The malic acid that Defendant uses in these Products is d-l malic acid, a synthetic petrochemical added to the Products to simulate the flavor of real fruit.

52. Defendant adds synthetic d-l malic acid to the Products to simulate the "tart taste" of fresh fruit and conceal the fact that the Products are primarily water, malic acid, and does not contain fruit juice.

53. All of the Products contain the same undisclosed artificial flavoring.

54. All of the Products' labels violate California law in multiple ways.

55. First, because the Products contain artificial flavoring ingredients that simulate and reinforce the Products' characterizing flavors, the front labels are required by law to prominently disclose that artificial flavoring. Failing to do so falsely informs the consumer that the Products are flavored only with natural juices or flavors. Cal. Health & Saf. Code § 109875, *et seq.*, (Sherman Law), incorporating 21 C.F.R. § 101.22.⁴

56. Second, the Products violate California and federal law because the labels incorrectly identify the artificial flavoring ingredient only as a generic "malic acid" instead of using the specific, non-generic name of the ingredient, d-l malic acid. *See* 21 C.F.R. § 101.4(a)(1).

57. There is a different, naturally-occurring form of malic acid found in some fruits and vegetables.

58. Defendant does not use this type of malic acid; they instead add an industrial chemical called d-l malic acid⁵ in the form of a racemic mixture of d- and l-isomers.

59. This type of 'malic acid' is not naturally-occurring but is in fact manufactured in petrochemical plants from benzene or butane—components of gasoline and lighter fluid, respectively—through a series of chemical reactions, some of which involve highly toxic chemical precursors and byproducts.

60. Both the natural and unnatural forms of malic acid are considered "GRAS"

⁴ California's Sherman Food, Drug, and Cosmetic Act, Cal. Health & Saf. Code § 109875, *et seq.*, incorporates into California law all regulations enacted pursuant to the U.S. Food Drug and Cosmetic Act. An act or omission that would violate FDCA regulations necessarily therefore violates California's Sherman Law. *Id.* at § 110100. Regulatory citations in the text are to California's Sherman Law and reference the corresponding federal regulation for convenience.

⁵ D-malic acid is also called d-hydroxybutanedioic acid or (R)-(+)-2-Hydroxysuccinic acid.

(generally recognized as safe) for use as flavorings in foods marketed to adults⁶; the d-malic acid form, however, has never been extensively studied for its health effects in human beings.

61. Defendant uses the artificial petrochemical d-l malic acid in its Products but pretend otherwise, conflating the natural and the artificial flavorings, misbranding the Products and deceiving consumers.

62. Because the Products contain artificial flavoring, California law requires the Products to display both front- and back-label disclosures to inform consumers that the Products are artificially flavored.

63. The Products have neither of the required disclosures.

64. California law, incorporating U.S. Food, Drug, and Cosmetic Act regulations by reference, requires that a food's label accurately describe the nature of the food product and its characterizing flavors. 21 C.F.R. § 102.5(a).

65. Any recognizable primary flavor identified directly or indirectly on the front label of a food Product, whether by word, vignette, depiction of a fruit, or other means is referred to as a "characterizing flavor".

66. Each of the fruits and berries represented on the Products' front labels, either in text or in recognizable pictures, are considered primary recognizable flavors and are therefore characterizing flavors for each Product.

67. If a food product's characterizing flavor is not created exclusively by the named flavor ingredient, the product's front label must state that the product's flavor was simulated or reinforced with either natural or artificial flavorings or both. If any artificial flavor is present which "simulates, resembles or reinforces" the characterizing flavor, the front label must prominently inform consumers that the product is "Artificially

⁶ The d-l form of malic acid, the one used by Defendant, is forbidden for use in baby foods out of health concerns if consumed by infants.

1 Flavored.”⁷

2 68. A food product’s label also must include a statement of the “presence or
3 absence of any characterizing ingredient(s) or component(s) . . . when the presence or
4 absence of such ingredient(s) or component(s) in the food has a material bearing on price
5 or consumer acceptance . . . and consumers may otherwise be misled about the presence
6 or absence of the ingredient(s) or component(s) in the food.”⁸

7 69. Such statement must be in boldface print on the front display panel and of
8 sufficient size for an average consumer to notice. *Id.*

9 70. The synthetic d-l malic acid in the Products simulates, resembles, and
10 reinforces the characterizing fruit flavors for all of the listed Products.

11 71. Under California statutory labeling requirements as well, Defendant was
12 required to place prominently on the Products’ front labels notice sufficient to allow
13 California consumers to understand that the Products contained artificial flavorings.

14 72. Defendant failed to do so, deceiving consumers and violating California law.

15 73. Plaintiff and the Class were unaware that the Products contained artificial
16 flavoring when they purchased them.

17 74. When purchasing the Products, Plaintiff and the Class were seeking products
18 of particular qualities, ones that were flavored only with the natural ingredients claimed on
19 the label and which did not contain artificial flavoring.

20 75. Plaintiff is not alone in these purchasing preferences. As reported in Forbes
21 Magazine, eighty-eight percent (88%) of consumers polled recently indicated they would
22 pay more for foods perceived as natural or healthy. “All demographics [of consumers]—
23 from Generation Z to Baby Boomers—say they would pay more” for such products,
24 specifically including foods with no artificial flavors.⁹ Forty-one percent (41%) of
25

26 ⁷ California’s Sherman Law, incorporating 21 C.F.R. § 101.22(i) (3), (4).

27 ⁸ California’s Sherman Law, incorporating 21 C.F.R. § 102.5(c).

28 ⁹ “*Consumers Want Healthy Foods - And Will Pay More For Them*”; Forbes Magazine,
February 15, 2015. <https://www.forbes.com/sites/nancygagliardi/2015/02/18/consumers->

1 consumers rated the absence of artificial flavors in food products as “Very Important,” and
 2 eighty percent (80%) of North American consumers are willing to pay a premium for foods
 3 with no artificial ingredients.¹⁰

4 76. John Compton, a Fortune 50 food and beverage industry CEO, spoke to
 5 investors at the Morgan Stanley Consumer & Retail Conference, stating, “We have talked
 6 extensively to consumers about this idea, and they come back and tell us the number one
 7 motivation for purchase is products that claim to be all natural.”

8 77. Defendant’s labeling and advertising reflects these consumer preferences —
 9 not by making the Products with only natural ingredients, but instead by concealing the
 10 fact that the Products contain artificial flavors.

11 78. Table1, below, lists the Products included in this Action.

Table 1: The Products

13 Crystal Light Pure Tropical Blend	Crystal Light Pure Grape
14 Crystal Light Liquid Berry Sangria	Crystal Light Peach Mango Green Tea

16 79. Each of these Product’s labels deceived consumers into paying a price
 17 premium for an artificially-flavored product that was worth less than the naturally-flavored
 18 product promised by the labels.

19 80. California’s Health & Safety Code states that “[a]ny food is misbranded if it
 20 bears or contains any artificial flavoring, artificial coloring, or chemical preservative,
 21 unless its labeling states that fact.” Cal. Health & Saf. Code § 110740.

22 81. California law therefore required Defendant to include on the Products’
 23 labels a notice alerting California consumers that the Products are artificially flavored.

24 _____
 25 want-healthy-foods-and-will-pay-more-for-them/#4b8a6b4b75c5; (last visited March 22,
 26 2018).

27 ¹⁰ The Nielsen Company, Global Health and Wellness Survey, “Healthy Eating Habits
 28 Around the World,” 2015; <https://www.nielsen.com/content/dam/nielsenglobal/eu/nielseninsights/pdfs/Nielsen%20Global%20Health%20and%20Wellness%20Report%20-%20January%202015.pdf>; (last visited March 22, 2018)

1 82. Defendant failed to do so.

2 83. Because the Products violated California law, they were misbranded and
3 illegal to advertise, transport, distribute, or to sell in California. Cal. Health & Saf. Code §
4 110740; § 110760; § 110765.

5 84. Plaintiff lost money as a result of Defendant's conduct because he paid a price
6 premium for a product that contained undisclosed artificial flavors when he sought to
7 purchase a naturally-flavored product.

8 **D. Defendant's competitors label their products lawfully.**

9 85. Kraft not only deceives consumers but also gains an unfair commercial
10 advantage in the marketplace by labeling the Products deceptively.

11 86. Manufacturers of competing beverage products label their products lawfully.

12 87. Competing manufacturers correctly label their artificially-flavored beverage
13 products as "Artificially Flavored."

14 88. Other competing manufacturers, offering products whose labels suggest just
15 as Defendant's do that their products are naturally flavored, truly are flavored only with
16 natural ingredients.

17 89. Defendant, however, conceals their use of artificial flavoring, deceiving
18 consumers, illegally cutting costs and increasing profits, and competing unfairly and
19 unlawfully in the marketplace, hurting competitors as well as consumers.

20 90. Defendant's conduct injures competing manufacturers that do not engage in
21 the same illegal behavior. These manufacturers compete for market share and limited shelf
22 space, as well as for consumers' buying preferences and dollars. Defendant's competitors
23 do so lawfully. Defendant does not.

24 **E. Plaintiff's and Class Purchases of the Products.**

25 91. Plaintiff purchased the Products in California during the Class Period as
26 defined herein.

1 92. Plaintiff purchased Crystal Light Products periodically since 2011. Plaintiff's
2 most recent purchase was in August 2018 at Walmart located on 44100 Jefferson, Indio,
3 CA 92201.

4 93. The Products were purchased at the marked retail prices, typically between
5 \$3.52 for a single package and \$29.80 for a pack of six.

6 94. Plaintiff first discovered Defendant's unlawful acts described herein in
7 September 2018, when he learned the Products' characterizing flavors were deceptively
8 created or reinforced using artificial flavoring even though Defendant failed to disclose
9 that fact on the Products' labels.

10 95. Plaintiff was deceived by and relied upon the Products' deceptive labeling,
11 and specifically the omission of the fact that these Products contain artificial flavoring.
12 Plaintiff purchased these Products believing they were naturally-flavored, based on the
13 Product's deceptive labeling and failure to disclose that it was artificially flavored.

14 96. Neither Plaintiff nor any of the Class members, as reasonable consumers, are
15 required to subject consumer food products to laboratory analysis, to scrutinize the back
16 of the label to discover that a product's front label is false and misleading, or to search the
17 label for information that federal and state regulations require be displayed prominently
18 on the front – and, in fact, under state law are entitled to rely on statements that Defendant
19 deliberately place on the Products' labeling.

20 97. Defendant, but not Plaintiff or the Class, knew that this labeling was in
21 violation of state law.

22 98. Because Plaintiff reasonably assumed the Products to be free of artificial
23 flavoring, based on the Product labels, when they were not, he did not receive the benefit
24 of his purchases. Instead of receiving the benefit of products free of artificial flavoring, he
25 received Products that were unlawfully labeled so as to deceive the consumer into
26 believing that they were exclusively naturally flavored and contain no artificial flavoring,
27 in violation of federal and state labeling regulations.
28

1 99. Plaintiff would not have purchased the Product in the absence of Defendant's
2 misrepresentations and omissions. Had Defendant not violated California law, Plaintiff
3 would not have been injured.

4 100. The Product was worth less than what Plaintiff paid for it and Class members
5 would not have paid as much as they have for the Products absent Defendant's false and
6 misleading statements and omissions.

7 101. Plaintiff and the Class members paid a price premium for each of the Products
8 that they purchased. That price premium will be determined by the fact finder at trial based
9 on evidence adduced then. The anticipated price premium is significantly less than the full
10 retail price of the Products.

11 102. Plaintiff and the Class therefore lost money in the amount of the price-
12 premium paid as a result of Defendant's unlawful behavior. Plaintiff and Class members
13 altered their position to their detriment and suffered loss in an amount equal to the amount
14 of the price premium when they paid for the Product.

15 103. Plaintiff intends to, desires to, and will purchase the Products again when he
16 can do so with the assurance that Products' labels, which indicate that the Products are
17 naturally-flavored, are lawful and consistent with each Product's ingredients.

18 V. DELAYED DISCOVERY

19 104. Plaintiff did not discover that Defendant's labeling of the Products was false
20 and misleading until September 2018 when he learned the Products contained undisclosed
21 artificial flavoring.

22 105. Plaintiff is a reasonably diligent consumer who exercised reasonable diligence
23 in her purchase and consumption of the Products. Nevertheless, he would not have been
24 able to discover Defendant's deceptive practices and lacked the means to discover them
25 given that, like nearly all consumers, he relies on and is entitled to rely on the
26 manufacturer's obligation to label its products in compliance with state law. Furthermore,
27 Defendant's labeling practices and non-disclosures—in particular, failing to identify the
28 artificial flavor in the ingredient list, or to disclose that the Products contained artificial

1 flavoring, or to accurately identify the kind of malic acid that Defendant puts in the
2 Products—impeded Plaintiff’s and Class members’ abilities to discover the deceptive and
3 unlawful labeling of the Product throughout the Class Period.

4 106. Because Defendant actively concealed their illegal conduct by mislabeling the
5 malic acid ingredient in the Products, preventing Plaintiff and the Class from discovering
6 their violations of state law, the Class is entitled to delayed discovery and an extended
7 Class Period tolling the applicable statute of limitations.

8 **VI. CLASS ACTION ALLEGATIONS**

9 107. Plaintiff brings this action on behalf of himself and all others similarly
10 situated pursuant to Federal Rules of Civil Procedure 23(a), 23(b)(2), and 23(b)(3).

11 108. The nationwide Class is defined as follows:

12 All U.S. citizens who purchased the Product in their respective state of
13 citizenship on or after January 1, 2012 and until the Class is certified, for
14 personal use and not for resale, excluding Defendants and Defendants’
15 officers, directors, employees, agents and affiliates, and the Court and its
16 staff.

17 109. The California Class is defined as follows:

18 All California citizens who made retail purchases of the Products in
19 California on or after January 1, 2012 and until the Class is certified, for
20 personal use and not for resale, excluding Defendants and Defendants’
21 officers, directors, employees, agents and affiliates, and the Court and its
22 staff.

23 110. During the Class Period, the Products unlawfully contained the undisclosed
24 artificial flavors d-malic acid or d-l malic acid and were otherwise improperly labeled.
25 Defendant failed to label the Products as required by California law.

26 111. During the Class Period, Class members purchased the misbranded Products,
27 paying a price premium for those Products compared to similar products lawfully labeled.

28 112. The proposed Class meets all criteria for a class action, including numerosity,

1 commonality, typicality, predominance, superiority, and adequacy of representation.

2 113. This action has been brought and may properly be maintained as a class
3 action against Defendant. While the exact number and identities of other Class Members
4 are unknown to Plaintiff at this time, Plaintiff is informed and believe that there are
5 hundreds of thousands of Members in the Class. The Members of the Class are so
6 numerous that joinder of all Members is impracticable and the disposition of their claims
7 in a class action rather than in individual actions will benefit the parties and the courts.

8 114. The proposed Class satisfies typicality. Plaintiff's claims are typical of and
9 are not antagonistic to the claims of other Class members. Plaintiff and the Class members
10 all purchased the Products, were deceived by the false and deceptive labeling, and lost
11 money as a result, purchasing Products that were illegal to sell in California.

12 115. The proposed Class satisfies superiority. A class action is superior to any
13 other means for adjudication of the Class members' claims because each Class member's
14 claim is modest, based on the Products' retail purchase prices which are generally under
15 \$5.00 per unit. It would be impractical for individual Class members to bring individual
16 lawsuits to vindicate their claims.

17 116. Because Defendant's misrepresentations were made on the label of the
18 Products, all Class members including Plaintiff were exposed to and continue to be
19 exposed to the omissions and affirmative misrepresentations. If this action is not brought
20 as a class action, Defendant can continue to deceive consumers and violate California law
21 with impunity.

22 117. The proposed Class representative satisfies adequacy of representation.
23 Plaintiff is an adequate representative of the Class as he seeks relief for the Class, her
24 interests do not conflict with the interests of the Class members, and he has no interests
25 antagonistic to those of other Class members. Plaintiff has retained counsel competent in
26 the prosecution of consumer fraud and class action litigation.

118. There is a well-defined community of interest in questions of law and fact common to the Class, and these predominate over any individual questions affecting individual Class members in this action.

119. Questions of law and fact common to Plaintiff and the Class include:

- a. Whether Defendant failed to disclose the presence of the artificial flavoring ingredient d-l malic acid in the Product;
- b. Whether Defendant's labeling omissions and representations constituted false advertising under California law;
- c. Whether Defendant's conduct constituted a violation of California's Unfair Competition Law;
- d. Whether Defendant's conduct constituted a violation of California's Consumer Legal Remedies Act;
- e. Whether Defendant's label statements claiming solely natural flavorings was an affirmative representation of the Product's composition and conveyed an express warranty;
- f. Whether Defendant's conduct constitutes a breach of implied warranties under California's Commercial Code;
- g. Whether the statute of limitations should be tolled on behalf of the Class;
- h. Whether the Class is entitled to restitution, rescission, actual damages, punitive damages, attorney fees and costs of suit, and injunctive relief; and
- i. Whether members of the Class are entitled to any such further relief as the Court deems appropriate.

120. Plaintiff will fairly and adequately protect the interests of the Class, has no interests that are incompatible with the interests of the Class, and has retained counsel competent and experienced in class litigation.

121. Defendant has acted on grounds applicable to the entire Class, making final

injunctive relief or declaratory relief appropriate for the Class as a whole.

122. Class treatment is therefore appropriate under Federal Rule of Civil Procedure 23.

123. Class damages will be adduced at trial through expert testimony and other competent evidence.

124. California law holds that the price-premium consumers paid for the falsely-advertised Products, as a percentage of the Products' retail prices, is a proper measure of Class damages.

125. Food-industry consumer research is consistent and readily supports such estimates of that price-premium, as consumers quantitatively report that they seek out, value, and are willing to pay a premium for food products with no artificial flavors.

126. On information and belief, based on publicly-available information, Plaintiff alleges that the total amount in controversy exclusive of fees, costs, and interest, based on the estimated price premium and Product revenues for sales to the Class in California during the proposed Class Period, exceeds \$5 million.

VII. CAUSES OF ACTION

FIRST CAUSE OF ACTION

FRAUD BY OMISSION

Cal. Civ. Code §§ 1709-1710

and the common law of all states

(on behalf of the Nationwide Class and the California Class)

127. Plaintiff re-alleges and incorporates by reference the allegations made elsewhere in the Complaint as if set forth in full herein.

128. Plaintiff brings this claim for fraud by omission pursuant to California Civil Code §§ 1709-1710, *et seq.* and the common law of all states. The elements of fraud are substantially similar from state to state, thus making nationwide class certification appropriate.

129. Defendant actively concealed material facts, in whole or in part, with the

1 intent to induce Plaintiff and the members of the Class to purchase the Products.
2 Specifically, Defendant actively concealed the truth about the Products by not disclosing
3 the existence of artificial flavoring ingredients on the front label of the Products as is
4 required by California and federal law.

5 130. Plaintiff and the Class were unaware of these omitted material facts and
6 would not have purchased the Products, or would have paid less for the Products, if they
7 had known of the concealed facts.

8 131. Plaintiff and the Class suffered injuries that were proximately caused by
9 Defendant's active concealments and omissions of material facts.

10 132. Defendant's fraudulent concealments and omissions were a substantial factor
11 in causing the harm suffered by Plaintiff and the Class members as they would not have
12 purchased the products at all if all material facts were properly disclosed.

13 **SECOND CAUSE OF ACTION**

14 **NEGLIGENT MISREPRESENTATION**

15 **Cal. Civ. Code §§ 1709-1710**

16 **and the common law of all states**

17 **(on behalf of the Nationwide Class and the California Class)**

18 133. Plaintiff re-alleges and incorporates by reference the allegations made
19 elsewhere in the Complaint as if set forth in full herein.

20 134. Plaintiff brings this claim for negligent misrepresentation pursuant to
21 California Civil Code §§ 1709-1710, et seq. and the common law of all states. The
22 elements of negligent misrepresentation are substantially similar from state to state, thus
23 making nationwide class certification appropriate.

24 135. Defendant had a duty to disclose to Plaintiff and the Class members the
25 existence of artificial flavoring ingredients on the front labels of the Products pursuant to
26 California and federal law. Defendant was in a superior position than Plaintiff and the
27 Class members such that reliance by Plaintiff and the Class members was justified.
28 Defendant possessed the skills and expertise to know the type of information that would
influence a consumer's purchasing decision.

136. During the applicable Class period, Defendant negligently or carelessly misrepresented, omitted, and concealed from consumers material facts regarding the products, including the existence of artificial flavoring ingredients.

137. Defendant was careless in ascertaining the truth of their representations in that they knew or should have known that Plaintiff and the Class members would not have realized the true existence of artificial flavoring ingredients in the Products.

138. Plaintiff and the Class members were unaware of the falsity of Defendant's misrepresentations and omissions and, as a result, justifiably relied on them when making the decision to purchase the Products.

139. Plaintiff and the Class members would not have purchased the Products, or would have paid less for the Products, if the true facts had been known.

THIRD CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT

CAL. CIV. CODE §§ 1750, *et seq.*

(on behalf of the California Class)

140. Plaintiff re-alleges and incorporates by reference the allegations made elsewhere in the Complaint as if set forth in full herein.

141. The California Consumers Legal Remedies Act, Cal. Civ. Code § 1750 *et seq.* ("CLRA") prohibits any unfair, deceptive and unlawful practices, and unconscionable commercial practices in connection with the sale of any goods or services to consumers.

142. Plaintiff and the Class are "consumers" as defined by Cal. Civ. Code § 1761(d). The Products are a "good" as defined by Cal. Civ. Code § 1761.

143. Defendant's failure to label the Products in compliance with federal and state labeling regulations, was an unfair, deceptive, unlawful, and unconscionable commercial practice.

144. Defendant's conduct violates the CLRA, including but not limited to, the following provisions:

§ 1770(a)(5): representing that goods have characteristics, uses, or benefits which they do not have.

§ 1770(a)(7): representing that goods are of a particular standard, quality, or grade if they are of another.

§ 1770(a)(9): advertising goods with intent not to sell them as advertised.

§ 1770(a)(16): representing the subject of a transaction has been supplied in accordance with a previous representation when it has not.

145. As a result of Defendant's violations, Plaintiff and the Class suffered ascertainable losses in the form of the price premiums they paid for the deceptively labeled and marketed Products, which they would not have paid had these Products been labeled truthfully, and in the form of the reduced value of the Products purchased compared to the Products as labeled and advertised.

146. On or about September 21, 2018, prior to filing this action, Plaintiff sent a CLRA notice letter to Defendant which complies with California Civil Code § 1782(a). Plaintiff sent Defendant, individually and on behalf of the proposed Class, a letter via Certified Mail, advising Defendant that it is in violation of the CLRA and demanding that they cease and desist from such violations and make full restitution by refunding the monies received therefrom.

147. Wherefore, Plaintiff seeks injunctive relief for Defendant's violations of the CLRA. If Defendant fails to take the corrective action detailed in Plaintiff's CLRA letter within thirty days of the date of the letter, then Plaintiff will seek leave to amend their complaint to add a claim for damages under the CLRA.

FOURTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW

(UNLAWFUL PRONG)

CAL. BUS. & PROF. CODE §§ 17200, *et seq.*

(on behalf of the California Class)

148. Plaintiff re-alleges and incorporates by reference each and every allegation contained elsewhere in this Complaint as if fully set forth herein.

149. Section 17200 of the California Business & Professions Code ("Unfair Competition Law" or "UCL") prohibits any "unlawful," "unfair" and "fraudulent"

business practice. Section 17200 specifically prohibits any “unlawful . . . business act or practice.”

150. The UCL borrows violations of other laws and statutes and considers those violations also to constitute violations of California law.

151. Defendant’s practices as described herein were at all times during the Class Period and continue to be unlawful under, *inter alia*, FDA regulations and California’s Sherman Law.

152. Among other violations, Defendant’s conduct in unlawfully packaging and labeling and distributing the Product in commerce in California violated U.S. FDA and California packaging and labeling regulations.

153. The Products’ front labels fail to disclose that they contain synthetic artificial flavoring and are not flavored with and do not contain any or all of the natural fruits shown on the labels, in violation of 21 C.F.R. § 101.22 and California’s Sherman Law.

154. The Products contain d-l-malic acid. The d-l-malic acid is a flavoring material that creates, simulates, and reinforces the Products’ characterizing fruit flavors.

155. The d-l-malic acid in the Products is not derived from a natural material as defined in 21 C.F.R. § 101.22 and is therefore by law artificial flavors.

156. Defendant fails to inform consumers of the presence of the artificial flavor in the Products, on either the front or back-label as required by law.

157. Defendant’s practices are therefore unlawful as defined in Section 17200 of the California Business & Professions Code.

FIFTH CAUSE OF ACTION

VIOLATION OF CALIFORNIA’S UNFAIR COMPETITION LAW

(UNFAIR PRONG)

CAL. BUS. & PROF. CODE §§ 17200, *et seq.*

(on behalf of the California Class)

158. Plaintiff re-alleges and incorporates by reference each and every allegation contained elsewhere in this Complaint as if fully set forth herein.

159. Section 17200 of the California Business & Professions Code (“Unfair

1 Competition Law” or “UCL”) prohibits any “unfair . . . business act or practice.”
2 Defendant’s practices violate the Unfair Competition Law “unfair” prong as well.

3 160. Defendant’s practices as described herein are “unfair” within the meaning of
4 the California Unfair Competition Law because the conduct is unethical and injurious to
5 California residents and the utility of the conduct to Defendant does not outweigh the
6 gravity of the harm to consumers.

7 161. While Defendant’s decision to label the Products deceptively and in violation
8 of California law may have some utility to Defendant in that it allows Defendant to sell
9 the Products to consumers who otherwise would not purchase an artificially-flavored food
10 product at the premium retail price, or at all, if it were labeled correctly, and to realize
11 higher profit margins than if they formulated or labeled the Products lawfully, this utility
12 is small and far outweighed by the gravity of the harm inflicted on California consumers.

13 162. Defendant’s conduct with respect to the labeling, advertising, and sale of
14 Defendant’s high-sugar juice beverages was also unfair to consumers because it allows
15 Defendant to sell the Products to consumers who otherwise would not purchase a product
16 high in added sugars that contributes to excessive sugar consumption. The consumer
17 injury was substantial, not outweighed by benefits to consumers or competition, and not
18 one that consumers themselves could reasonably have avoided.

19 163. Defendant’s conduct also injures competing food product manufacturers,
20 distributors, and sellers, that do not engage in the same unfair and unethical behavior.

21 164. Moreover, Defendant’s practices violate public policy expressed by specific
22 constitutional, statutory, or regulatory provisions, including the Sherman Law, the False
23 Advertising Law, and the FDA regulations cited herein.

24 165. Plaintiff’s purchases and all Class members’ purchases of the Products all
25 took place in California.

26 166. Defendant labeled the Products in violation of federal regulations and
27 California law requiring truth in labeling.

28 167. Defendant consciously failed to disclose material facts to Plaintiff and the
Class in Defendant’s advertising and marketing of the Products.

1 168. Defendant's conduct is unconscionable because, among other reasons, it
2 violates 21 C.F.R. § 101.22(c), which requires all foods containing artificial flavoring to
3 include:

4 A statement of artificial flavoring . . . [which] shall be placed on the food or
5 on its container or wrapper, or on any two or all three of these, as may be
6 necessary to render such a statement likely to be read by the ordinary person
7 under customary conditions of purchase and use of such food.

8 169. Defendant's conduct is also "unconscionable" because it violates, *inter alia*,
9 21 C.F.R. § 101.22, which requires all food products for which artificial flavoring provides
10 a characterizing flavor to disclose this fact prominently on the product's front label.

11 170. Defendant intended that Plaintiff and the Class rely on Defendant's acts and
12 omissions to induce them to purchase the Products.

13 171. Had Defendant disclosed all material information regarding the Products,
14 Plaintiff and the Class would not have purchased the Products or would only have been
15 willing to pay less for the Products than they did.

16 172. Plaintiff suffered injury in fact and lost money or property as a result of
17 Defendant's deceptive advertising: they were denied the benefit of the bargain when they
18 purchased the Products based on Defendant's violation of the applicable laws and
19 regulations, and purchased the Products in favor of competitors' products, which are less
20 expensive, contain no artificial flavoring, or are lawfully labeled.

21 173. The acts, omissions, and practices of Defendant detailed herein proximately
22 caused Plaintiff and other members of the Class to suffer an ascertainable loss in the form
23 of, *inter alia*, the price premium of monies spent to purchase the Products they otherwise
24 would not have, and they are entitled to recover such damages, together with appropriate
25 penalties, including restitution, damages, attorneys' fees and costs of suit.

26 174. Section 17200 also prohibits any "unfair, deceptive, untrue or misleading
27 advertising." For the reasons set forth above, Defendant engaged in unfair, deceptive,
28 untrue and misleading advertising in violation of California Business & Professions Code
§ 17200.

175. Pursuant to California Business & Professions Code § 17203, Plaintiff seeks an order requiring Defendant to immediately cease such acts of unlawful, unfair, and fraudulent business practices and requiring Defendant to return to the Class the amount of money improperly collected.

SIXTH CAUSE OF ACTION

VIOLATION OF THE FALSE ADVERTISING LAW

CAL. BUS. & PROF. CODE §§ 17500, *et seq.*

(on behalf of the California Class)

176. Plaintiff re-alleges and incorporates by reference each and every allegation contained elsewhere in this Complaint as if fully set forth herein.

177. Defendant made and distributed, in California and in interstate commerce, Products that unlawfully fail to disclose the presence of artificial flavoring as required by federal and state food labeling regulations.

178. The Products' labeling and advertising in California presents the Products as if they were solely naturally-flavored and contain the natural fruit(s) shown on the labels.

179. Under California's False Advertising Law ("FAL"), Business and Professions Code § 17500 *et seq.*,

"It is unlawful for any person, firm, corporation or association, or any employee thereof with intent directly or indirectly to dispose of real or personal property . . . to make or disseminate or cause to be made or disseminated before the public in this state, or to make or disseminate or cause to be made or disseminated from this state before the public in any state, in any newspaper or other publication, or any advertising device . . . any statement, concerning that real or personal property . . . which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading. . . ." Cal. Bus. & Prof. Code § 17500.

180. Defendant's labeling and advertising statements on the Products' labels and in advertising and marketing materials are "advertising device[s]" under the FAL.

181. Defendant's labeling and advertising statements, which communicated to

1 consumers that the Products contain the identified natural fruit(s) and concealed the fact
 2 that they contain synthetic artificial flavor, were untrue and misleading, and Defendant at
 3 a minimum by the exercise of reasonable care should have known those actions were false
 4 or misleading.

5 182. Defendant's labeling and advertising for Products as natural fruit juice
 6 beverages which actually contain substantial amounts of added sugar is deceptive in light
 7 of the strong evidence that excessive sugar consumption greatly increases risk of chronic
 8 disease. Defendant's conduct violated California's False Advertising Law.

9 **SEVENTH CAUSE OF ACTION**

10 **BREACH OF EXPRESS WARRANTIES**

11 **CAL. COMM. CODE § 2313**

12 **(on behalf of the California Class and all states with substantially similar laws)**

13 182. Plaintiff realleges and incorporates herein by reference the allegations
 14 contained in all preceding paragraphs, and further alleges as follows:

15 183. The Products labels' warrant that the products have "natural flavors." The
 16 Products' front labels also misleadingly advertise by operation of law that the products are
 17 flavored only with the listed fruits.

18 184. These promises became part of the basis of the bargain between the parties
 19 and thus constituted an express warranty, which Defendant breached; the Products are
 20 artificially flavored.

21 185. Defendant sold the goods to Plaintiff and other consumers who bought the
 22 goods from Defendant.

23 186. As a result, Plaintiff and other consumers did not receive goods as warranted
 24 by Defendant.

25 187. Within a reasonable amount of time after Plaintiff discovered that the Products
 26 contained synthetic ingredients, Plaintiff notified Defendant of such breach.

27 188. As a proximate result of this breach, Plaintiff and other consumers have been
 28 damaged in an amount to be determined at trial.

EIGHT CAUSE OF ACTION

BREACH OF IMPLIED WARRANTIES

CAL. COMM. CODE § 2314

(on behalf of the California Class and all states with substantially similar laws)

189. Plaintiff re-alleges and incorporates the allegations made elsewhere in the Complaint as if set forth in full herein.

190. Defendant's label representations also created implied warranties that the product was suitable for a particular purpose, specifically as an exclusively naturally-flavored food product containing the advertised fruit juice(s). Defendant breached this warranty.

191. The Products' front labels misleadingly imply that they are flavored only with the natural ingredients comprising the characterizing flavors. As alleged in detail above, at the time of purchase Defendant had reason to know that Plaintiff, as well as all members of the Class, intended to use the Products as naturally-flavored food products. This became part of the basis of the bargain between the parties.

192. As alleged in detail above, at the time of purchase Defendant had reason to know that Plaintiff, as well as all members of the Class, intended to use the Products as naturally-flavored food products.

193. This became part of the basis of the bargain between the parties.

194. Based on the implied warranty, Defendant sold the goods to Plaintiff and other Class members who bought the goods from Defendant.

195. At the time of purchase, Defendant knew or had reason to know that Plaintiff and the Class members were relying on Defendant's skill and judgment to select or furnish a product that was suitable for this particular purpose, and Plaintiff justifiably relied on Defendant's skill and judgment.

196. The Products were not suitable for this purpose.

197. Plaintiff purchased the Products believing they had the qualities Plaintiff sought, based on the deceptive advertising and labelling, but the Products were actually unsatisfactory to Plaintiff for the reasons described herein.

1 198. The Products were not merchantable in California, as they were not of the
2 same quality as other products in the natural food category generally acceptable in the trade.

3 199. The Products would not pass without objection in the trade when packaged
4 with their existing label, because the Products were misbranded and illegal to sell in
5 California. (Cal. Commercial Code, §2314(2)(a).)

6 200. The Products also were not acceptable commercially and breached their
7 implied warranty because they were not adequately packaged and labelled as required.
8 (Cal. Commercial Code, §2314(2)(e).)

9 201. The Products also were not acceptable commercially and breached their
10 implied warranty because they did not conform to the promises or affirmations of fact made
11 on the container or label. (Cal. Commercial Code, §2314(2)(f), and other grounds set forth
12 in Commercial Code, §2314.)

13 202. By offering the Products for sale and distributing those products in California,
14 Defendant also warranted that the Products were not misbranded and were legal to purchase
15 in California. Because the Products were misbranded in several respects and were therefore
16 illegal to sell or offer for sale in California, Defendant breached this warranty as well.

17 203. As a result of this breach, Plaintiff and other consumers did not receive goods
18 as impliedly warranted by Defendant.

19 204. Within a reasonable amount of time after Plaintiff discovered that the Products
20 contained synthetic flavoring ingredients, Plaintiff notified Defendant of such breach.

21 205. As a proximate result of this breach of warranty, Plaintiff and other consumers
22 have been damaged in an amount to be determined at trial.

23 206. As a result, Plaintiff and the Class, and the general public, are entitled to
24 injunctive and equitable relief, restitution, and an order for the disgorgement of funds by
25 which Defendant was unjustly enriched.

26 **VIII. PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff, on behalf of herself, all others similarly situated in
28 California, and the general public, pray for judgment against Defendant as follows:

- A. An order confirming that this action is properly maintainable as a class action as defined above;
- B. An order appointing Plaintiff as class representative and The Law Office of Ronald A. Marron as counsel for the Class;
- C. An order requiring Defendant to bear the cost of Class notice;
- D. An order declaring that the conduct complained of herein violates the CLRA;
- E. An order declaring that the conduct complained of herein violates the UCL;
- F. An order declaring that the conduct complained of herein violates the FAL;
- G. An order declaring that the conduct complained of herein breached express warranties, implied warranties, or both;
- H. An order requiring Defendant to disgorge any benefits received from Plaintiff and any unjust enrichment realized as a result of the improper and misleading labeling, advertising, and marketing of the Products;
- I. An order requiring Defendant to pay restitution and damages to Plaintiff and Class members so that they may be restored any money which was acquired by means of any unfair, deceptive, unconscionable or negligent acts;
- J. An award of punitive damages in an amount to be proven at trial;
- K. An order enjoining Defendant's deceptive and unfair practices;
- L. An order requiring Defendant to conduct corrective advertising;
- M. An award of pre-judgment and post-judgment interest;
- N. An award of attorney fees and costs; and
- O. Such other and further relief as this Court may deem just, equitable, or proper.

IX. JURY DEMAND

Plaintiff demands a trial by jury on all claims for damages. Plaintiff does not seek a jury trial for claims sounding in equity.

DATED: October 2, 2018

Respectfully Submitted,

/s/ Ronald A. Marron

Ronald A. Marron

LAW OFFICES OF RONALD A. MARRON

Ronald A. Marron

ron@consumersadvocates.com

Michael T. Houchin

mike@consumersadvocates.com

651 Arroyo Drive

San Diego, CA 92103

Telephone: (619) 696-9006

Fax: (619) 564-6665

PACIFIC TRIAL ATTORNEYS

A Professional Corporation

SCOTT J. FERRELL (SBN 202091)

sferrell@pacifictrialattorneys.com

4100 Newport Place Drive, Ste. 800

Newport Beach, CA 92660

Tel: (949) 706-6464

Fax: (949) 706-6469

*Counsel for Plaintiff and the
Proposed Class*

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

William Albion

DEFENDANTS (Check box if you are representing yourself ☐)

The Kraft Heinz Company

(b) County of Residence of First Listed Plaintiff Riverside

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Allegheny, PA

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

Ronald A. Marron
651 Arroyo Drive
San Diego, CA 92103
619-696-9006

Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff ☐ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant ☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. ORIGIN (Place an X in one box only.)

- ☒ 1. Original Proceeding ☐ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multidistrict Litigation - Transfer ☐ 8. Multidistrict Litigation - Direct File

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ 5,000,000.00**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Diversity case brought under the Class Action Fairness Act 28 U.S.C. 1332(d).

VII. NATURE OF SUIT (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	Habeas Corpus:	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	TORTS	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	TORTS	PERSONAL PROPERTY	<input type="checkbox"/> 530 General	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	PERSONAL INJURY	<input checked="" type="checkbox"/> 370 Other Fraud	Other:	SOCIAL SECURITY
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 540 Mandamus/Other	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	BANKRUPTCY	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	FORFEITURE/PENALTY	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	FEDERAL TAX SUITS
<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	CIVIL RIGHTS	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	REAL PROPERTY	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	LABOR	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 710 Fair Labor Standards Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 720 Labor/Mgmt. Relations	
<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 790 Other Labor Litigation	
			<input type="checkbox"/> 448 Education	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	

FOR OFFICE USE ONLY:

Case Number:

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">STATE CASE WAS PENDING IN THE COUNTY OF:</th> <th style="text-align: center;">INITIAL DIVISION IN CACD IS:</th> </tr> <tr> <td><input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo</td> <td style="text-align: center;">Western</td> </tr> <tr> <td><input type="checkbox"/> Orange</td> <td style="text-align: center;">Southern</td> </tr> <tr> <td><input type="checkbox"/> Riverside or San Bernardino</td> <td style="text-align: center;">Eastern</td> </tr> </table>	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:	<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo	Western	<input type="checkbox"/> Orange	Southern	<input type="checkbox"/> Riverside or San Bernardino	Eastern	
STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:									
<input type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo	Western									
<input type="checkbox"/> Orange	Southern									
<input type="checkbox"/> Riverside or San Bernardino	Eastern									
QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question B.2.								
	B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.								
QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Continue to Question C.2.								
	C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> →	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.								
QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County							
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>							
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>							
D.1. Is there at least one answer in Column A? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. →	D.2. Is there at least one answer in Column B? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓									
QUESTION E: Initial Division?	INITIAL DIVISION IN CACD									
Enter the initial division determined by Question A, B, C, or D above: →	EASTERN									
QUESTION F: Northern Counties?										
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No										

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

IX(a). IDENTICAL CASES: Has this action been previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?

☒ NO

☐ YES

If yes, list case number(s): _____

Civil cases are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. SIGNATURE OF ATTORNEY

(OR SELF-REPRESENTED LITIGANT): /s/ Ronald A. Marron

DATE: 10/02/2018

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))

