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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF VENTURA COUNTY

KIM SIFLINGER, Individually and on Behalf
of All Others Similarly Situated,

Plaintiff,

v.

**KEURIG DR PEPPER, INC. and MOTT'S
LLP**, dba ReaLemon and ReaLime,

Defendants.

Case No:

CLASS ACTION COMPLAINT FOR:

- (1) **Untrue, Misleading, and Deceptive Advertising** (Cal. Bus. & Prof. Code §17500, *et seq.*)
- (2) **Violation of the Consumer Legal Remedies Act**, Cal. Civ. Code §§1750. *et seq.*
- (3) **Unlawful Business Practices and Acts** (Cal. Bus. & Prof. Code §§17200, *et seq.*)
- (4) **Unfair Business Practices and Acts** (Cal. Bus. & Prof. Code §17200, *et seq.*)
- (5) **Fraudulent Business Practices and Acts** (Cal. Bus. & Prof. Code §17200, *et seq.*)

By FAX

DEMAND FOR JURY TRIAL

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EXHIBIT 1

1 Plaintiff Kim Siflinger, on behalf of **herself and all others** similarly situated, files this **class**
 2 action against Keurig Dr Pepper, Inc. and Mott's LLP, dba ReaLemon and ReaLime, (collectively
 3 referred to herein as "**Defendants**"), and alleges as follows:

4 **I. INTRODUCTION**

5 1. Defendant Keurig Dr Pepper, Inc. owns, controls, and operates a family of companies
 6 that bottle and package a number of **fruit juices** and other beverages, including Defendant Mott's LLP.
 7 Defendant Mott's LLP markets itself as a leading manufacturer and distributor of healthy juice
 8 products.

9 2. Defendant Mott's LLP manufactures, labels, and distributes a number of juices under
 10 its own brand name ("Mott's") as well as other brands. Mott's is best known for its 100% apple juice
 11 blends, including its 100% Original Apple Juice, 100% **Apple White Grape Juice**, 100% Apple Cherry
 12 Juice, 100% Apple Mango Juice, and 100% Fruit Punch (referred to herein as the "Mott's Juice
 13 Products"). Defendant Mott's LLP also manufactures the "Real" branded shelf-stable citrus juices,
 14 including ReaLemon 100% Lemon Juice and ReaLime 100% Lime Juice (referred to herein as the
 15 "Real Juice Products"). The Mott's Original Apple Juice, Mott's 100% Apple White Grape Juice,
 16 Mott's 100% Apple Cherry Juice, Mott's 100% Apple Mango Juice, Mott's 100% Fruit Punch,
 17 ReaLemon 100% Lemon Juice, and ReaLime 100% Lime Juice will be collectively referred to herein
 18 as the "100% Juice Products."

19 3. Collectively, Defendants' 100% Juice Products are sold in a number of different sizes.
 20 However, each of these Products make the same label claim: they are each advertised and warranted
 21 as containing 100% Juice. Yet, this is simply not true. Defendant's 100% Juice Products are fortified
 22 with chemical preservatives and/or flavors, including ascorbic acid, sodium benzoate, and sodium
 23 metabisulfite. Accordingly, the 100% Juice Products are demonstrably not "100% Juice" as advertised
 24 on the 100% Juice Products' labels. Such false representations are unlawful for the reasons alleged
 25 herein and injuring unsuspecting consumers who purchase Defendants' 100% Juice Products based on
 26 the truth of their labeling claims.

27 4. Plaintiff, individually and on behalf of all others similarly situated, **seeks to recover**
 28 **damages and restitution for Defendants' unlawful and deceptive labeling under: (1) the California**

1 Consumer Remedies Act, Cal. Civ. Code § 1750, *et seq.*, (2) California Business and Professions
 2 Code, Unfair or Unlawful Business Practices, Cal. Bus. & Prof. Code, § 17200, *et seq.*; and (3)
 3 California's False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.* Plaintiff also seeks
 4 public injunctive relief to ensure that Defendants remove any and all false or misleading labels and to
 5 prevent them from making similar representations in the future.

6 **II. JURISDICTION**

7 5. This Court has jurisdiction over this action pursuant to Article 6, § 10 of the California
 8 Constitution, California Business & Professions Code § 17203, Civil Code § 1780(d) and Code of
 9 Civil Procedure §§ 382 and 410.10.

10 6. This Court has jurisdiction over Defendants because they are registered to conduct, and
 11 do conduct, substantial business within California.

12 7. Venue is proper in this Court pursuant to Code of Civil Procedure § 395 because
 13 Plaintiff contracted with the Defendant and a substantial or significant portion of the conduct
 14 complained of herein occurred and continues to occur within this County.

15 **III. PARTIES**

16 8. Plaintiff Kim Siflinger is a resident of Simi Valley, California, and a citizen of
 17 California. Plaintiff Siflinger has purchased several of Defendant's 100% Juice Products in the past
 18 four years, including Defendants' 100% Original Apple Juice, 100% Lemon Juice, and ReaLime 100%
 19 Lime Juice at various grocery stores located in Ventura County, California.

20 9. Defendant Keurig Dr Pepper, Inc. is a Delaware Corporation with its headquarters in
 21 Plano, Texas. Keurig Dr Pepper Inc. is a leading beverage company in North America, with a diverse
 22 portfolio of beverage-based business, including Defendant Mott's LLP. Defendant Keurig Dr Pepper,
 23 Inc. conducts a unified business, to take advantage of economies of scale. Keurig Dr Pepper Inc.
 24 manufactures and distribute these non-carbonated beverages through its own distribution network,
 25 including each of the 100% Juice Products.

26 10. Defendant Mott's LLP manufactures, markets, advertises, distributes and sells the
 27 Mott's branded juice products throughout the United States, including the Mott's Original Apple Juice,
 28 Mott's 100% Apple White Grape Juice, Mott's 100% Apple Cherry Juice, Mott's 100% Apple Mango

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1 Juice, Mott's 100% Fruit Punch, ReaLemon 100% Lemon Juice, and ReaLime 100% Lime Juice
2 products.

3 **IV. SUBSTANTIVE ALLEGATIONS**

4 11. Defendants prominently displayed, on the front of its products, that its 100% Juice
5 Products contain "100% Juice." This "100% Juice" representation was made on the principle panel
6 of the 100% Juice Products and is the largest representation that Defendants made on its Products,
7 other than the name of the product itself.

8 12. For example, Defendants' Motts Juice Products each have the phrase "100% Juice"
9 displayed on the front of each of the different types of packaging:



19 13. Similarly, Defendants also displayed the same "100% Juice" on the ReaLemon 100%
20 Lemon Juice Products during the relevant time period:



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1 14. The importance of the “100% Juice” representation is plain. Real estate on a product’s
 2 label is **limited**, therefore beverage manufacturers are unlikely to devote sufficient and prominent
 3 labeling space to ineffective marketing claims. Defendants use labeling claims in the same role as any
 4 other manufacturer of consumer products, to **differentiate their 100% Juice Products** from the
 5 competition. Thus, the importance of labeling claims cannot be disputed. The California Supreme
 6 Court summarized what many years of marketing research have **demonstrated**: “**Simply** stated: labels
 7 matter.” *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 328.

8 15. Consumers, on the whole, prefer food and beverage products that lack fillers, preserves,
 9 and unnecessary chemicals. Thus, the ingredients within a food and beverage product (or the lack of
 10 ingredients therein) is material to the average consumer. For example, the National Research Center
 11 found in its 2014 Consumer Reports that 69% of consumers reported that “avoiding artificial
 12 ingredients such as preservatives, colors or flavors” was “crucial.”

13 16. Thus, the representation that a juice product is “100% Juice” is material to the
 14 reasonable consumer, factoring into the consumers decision to purchase the product and the amount
 15 he or she is willing to pay. Indeed, Plaintiff would not have purchased the 100% Juice Products had
 16 she known that such products contained non-juice ingredients—particularly chemical preservatives—or,
 17 alternatively, would have paid less.

18 17. A reasonable consumer would also comprehend that “100% Juice” in accordance with
 19 the terms ordinary, common understanding: the product contains nothing but Juice. Despite
 20 representing that the Products are “100% Juice,” Defendants’ 100% Juice Products contain a number
 21 of non-juice ingredients. These ingredients include synthetic preservatives, such as sodium benzoate,
 22 sodium bisulfite, and ascorbic acid.

23 18. Sodium benzoate is an odorless, crystalline preservative, with the E number E211.
 24 Sodium benzoate does not occur naturally, instead it is created synthetically. While sodium **benzoate**
 25 is generally recognized as a safe food additive, there is a concern that sodium benzoate can convert to
 26 benzene (particularly in the presence of ascorbic acid which is found in citrus juice), a known
 27 carcinogen. Additionally, some studies have linked sodium benzoate to hyperactivity in children.
 28

1 19. Similarly, sodium metasilfite is a disinfectant, antioxidant, and preservative agent,
2 which is also known by the E number E223. Sodium metasilfite may cause allergic reactions in those
3 who are sensitive to sulfites, including respiratory reactions in asthmatics, anaphylaxis, and other
4 allergic reactions in sensitive individuals.

5 20. Ascorbic acid is a vitamin, but when used in foods, it is often used as a preservative,
6 antioxidant or color stabilizer. While generally found in natural foods, most ascorbic acid used in
7 beverages is created by fermenting corn steep liquid (source of glucose), sorbitol, sodium carbonate,
8 yeast extract and a defoaming agent together to produce sorbose in the a fermentation broth.
9 Additional corn steep liquid, magnesium sulfate, urea, potassium dihydrogen sulfate, defoaming agent
10 and sodium carbonate are added to the fermentation broth and it undergoes a second fermentation.
11 Sodium 2-keto-gluconate is purified out of the filtered broth using ion-exchange chromatography. The
12 resulting 2-KLGA is concentrated under vacuum, crystalized, and washed with the solvent methanol
13 to remove organic impurities and is treated with concentrated sulfuric acid and sodium bicarbonate,
14 then hydrochloric acid and sodium hydroxide to promote two chemical reactions (esterification and
15 lacontization) that convert the 2-keto-l-gluconic acid into the final product ascorbic acid. This is a far
16 cry from naturally occurring ascorbic acid, rendering it a chemical preservative.

17 21. Regardless of their safety, sodium benzoate, sodium metasilfite, ascorbic acid are food
18 additives that should not be in a "100% Juice" product. Marketing the 100% Juice Products as "100%
19 Juice" when they contain chemical preserves is unfair, unethical, and illegal. The Federal Food, Drug,
20 and Cosmetic Act ("FDCA"), as amended by the Nutrition Labeling and Education Act ("NLEA"), is
21 the principle source of law governing the propriety of food and beverage labels. The FDCA requires
22 that beverage labels are not "false or misleading in any particular." 21 U.S.C. § 343(a)(1). California
23 law contains the same prohibition. Compare HEALTH & SAFETY CODE § 110660 ("Any food is
24 misbranded if its labeling is false or misleading in any particular.") with 21 U.S.C. § 343(a)(1).

25 22. Defendant should have known that such advertisements were false and misleading and,
26 therefore, prohibited by law. It is the common understanding that that a product is only "100% Juice"
27 if it is a juice that does not contain non-juice ingredients. This common belief has been long reflected
28 in FDA guidance, which was incorporated into the federal regulations on May 8, 1993:

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1 FDA agrees that it is necessary to clarify the issue of a 100 percent juice declaration on
 2 a product that includes non-juice ingredients because it may be interpreted by some to
 3 mean the beverage contains juice and no other ingredients. The agency has advised
 4 repeatedly for a number of years that an unqualified 100 percent juice declaration on
 the principal display panel is misleading when the juice also contains non-juice
 ingredients...

5 * * *

6 Accordingly, FDA is requiring in § 101.30(b)(3) that for those products that do not
 7 declare the presence of the non-juice ingredient in the statement of identity, when a
 8 "100% juice" declaration appears on a panel of a juice beverage that does not also bear
 the ingredient statement, and the product contains a non-juice ingredient, the 100
 percent juice declaration shall be accompanied by the qualifying phrase "with added
 _____," the blank filled in with the generic term "ingredient" or a term such as
 "preservative" or "sweetener."

9 58 Fed. Reg. 2897-01 (1993); *see also* 21 C.F.R. § 101.30(b)(3).

10 23. Still, ignoring good judgment and the federal regulations, Defendants adopted an
 11 indefensible definition of "100% Juice" to rationalize its clearly deceptive labeling claims.

12 24. Defendants know, and knew, that its "100% Juice" representations are completely
 13 false. Defendants later changed the Lemon Juice Products' "100% Juice" representation to "100%
 14 Juice... with added ingredients." Defendants, however, resisted this change until its position became
 15 completely untenable. This is because Defendants chose to false advertise its products, gaining an
 16 unfair advantage over competitors who accurately advertise their juice products.

17 25. Defendants' motivation in misrepresenting the 100% Juice Products is transparent.
 18 Wholesome food and beverage products are valued by consumers, and priced at a premium, because
 19 it is associated with healthier, better quality products. Had the 100% Juice Products been properly
 20 labeled, Plaintiff and other putative Class Members would not have purchased them or, alternatively,
 21 paid less. Accordingly, Plaintiff seek damages and restitution stemming from Defendants' false
 22 labeling, and public injunctive relief to prevent future harm.

23 **V. CLASS ACTION ALLEGATIONS**

24 26. Plaintiff brings this action as a class action pursuant to Cal. Civ. Proc. Code section
 25 382 and 1781 for the following Classes of persons:

26 All persons who, within four (4) years of the filing of this Complaint, purchased
 27 Defendants' 100% Juice Products in California for personal, family or household
 28 use, which did not disclose on the Product's front label that the Product contained
 "added ingredients."

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1 Excluded from the Class are all legal entities (any purchasers whom, according to Defendants' records,
 2 identified themselves as affiliated with a company or other legal entity), Defendants herein and any
 3 person, firm, trust, corporation, or other entity related to or affiliated with Defendants, any entities that
 4 purchased the 100% Juice Products for resale, as well as any judge, justice or judicial officer presiding
 5 over this matter and members of their immediate families and judicial staff.

6 27. Plaintiff reserves the right to amend the Class definition if further investigation and
 7 discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified.

8 28. While the exact number of Class members is unknown to Plaintiff at this time, and will
 9 be ascertained through appropriate discovery, Plaintiff is informed and believes that there are tens of
 10 thousands of members in the proposed Class. The number of individuals who comprise the Class are
 11 is so numerous that joinder of all such persons is impracticable and the disposition of their claims in a
 12 class action, rather than in individual actions, will benefit both the parties and the courts.

13 29. Plaintiff's claims are typical of the claims of the other members of the Class. All
 14 members of the Class have been and/or continue to be similarly affected by Defendants' wrongful
 15 conduct as complained of herein, in violation of federal and state law. Plaintiff is unaware of any
 16 interests that conflict with or are antagonistic to the interests of the Class.

17 30. Plaintiff will fairly and adequately protect the Class members' interests and have
 18 retained counsel competent and experienced in consumer class action lawsuits and complex litigation.
 19 Plaintiff and their counsel have the necessary financial resources to adequately and vigorously litigate
 20 this class action, and Plaintiff is aware of their duties and responsibilities to the Class.

21 31. Defendants have acted with respect to the Class in a manner generally applicable to
 22 each Class member, making class-wide injunctive and declaratory relief proper.

23 32. Common questions of law and fact exist as to all Class members and predominate over
 24 any questions wholly affecting individual Class members. There is a well-defined community of
 25 interest in the questions of law and fact involved in the action, which affect all Class members. Among
 26 the questions of law and fact common to the Class are, *inter alia*:

27 (a) Whether Defendants' 100% Juice Products contain 100% juice that would
 28 support the Products' label;

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1 (b) **Whether** Defendants label, market and otherwise advertise its 100% Juice
2 Products in a deceptive, false, or misleading manner by labeling the juice as “100% juice”
3 when it is not;

4 (c) **Whether** Defendants’ 100% Juice Products are misbranded for including the
5 term “100% juice” on each of the Products’ label;

6 (d) **Whether** Defendants’ sale of their 100% Juice Products products constitutes
7 unfair methods of competition and unfair or deceptive acts or practices in violation of, *inter*
8 *alia*, Cal. Bus. & Prof. Code §§ 1770 *et seq.*, including:

9 (i) **Whether** Defendants misrepresent the source, sponsorship,
10 approval, or certification of their 100% Juice Products;

11 (ii) **Whether** Defendants misrepresent that their 100% Juice
12 Products have benefits which they do not have;

13 (iii) **Whether** Defendants **represent that their 100% Juice Products**
14 **are of a particular standard or quality if it is of another; and**

15 (iv) **Whether** Defendants advertise their 100% Juice Products with
16 intent not to sell them as advertised.

17 (e) **Whether** Defendants’ business practices, alleged herein, constitute misleading
18 and deceptive advertising under, *inter alia*, CAL. BUS. & PROF. CODE §§ 17500-01.

19 (f) **Whether** Defendants’ business practices, **alleged herein, constitute “unlawful,”**
20 **“unfair,” or “fraudulent” business acts or practices under, *inter alia*, CAL. BUS. & PROF. CODE**
21 **§§ 17200, including:**

22 (i) **Whether** Defendants’ sale of their 100% Juice Products constitute
23 “unlawful” or “unfair” business practices by violating the public policies set out in CAL.
24 CIV. CODE §§ 1770 *et seq.*, CAL. BUS. & PROF. CODE § 17500 and other California and
25 federal statutes and regulations;

26 (ii) **Whether** Defendants’ **sale of their 100% Juice Products** is immoral,
27 unethical, oppressive, unscrupulous or substantially injurious to consumers;

28 (iii) **Whether** Defendants’ sale of their 100% Juice Products constitutes an

“unfair” business practice because consumer injury outweighs any countervailing benefits to consumers or competition, and because such injury could not be reasonably avoided by consumers; and

(iv) Whether Defendants' sale of their 100% Juice Products constitutes a "fraudulent" business practice because members of the public are likely to be deceived

(g) **The nature and extent of remedies, including restitution, damages, and declaratory and injunctive relief to which Plaintiff and the Class are entitled; and**

(h) **Whether Plaintiff and the Class should be awarded attorneys' fees and the costs of suit for Defendants' violations of the UCL, FAL, and CLRA.**

33. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the damages suffered by individual Class members may be relatively small, the expense and burden of individual litigation make it virtually impossible for Class members to individually redress the wrongs done to them. There will be no difficulty in managing this action as a class action.

34. Defendants have acted on grounds generally applicable to the entire Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

FIRST COUNT

**Violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.* -
Untrue, Misleading and Deceptive Advertising
(On Behalf of the Class)**

35. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

36. At all material times, Defendants engaged in a scheme of offering its 100% Juice Products for sale to Plaintiff, and other members of the Class by way of, *inter alia*, commercial marketing, and advertising, internet content, product packaging and labeling, and other promotional materials.

37. These materials, advertisements and other inducements misrepresented and/or omitted the true contents and benefits of Defendants' 100% Juice Products products as alleged herein. Such

1 advertisements and inducements appear on the labels of Defendants' 100% Juice Products which are
2 designed and controlled by Defendants.

3 38. Defendants' advertisements and other inducements come within the definition of
4 advertising as contained in Cal. Bus. Prof. Code § 17500, *et seq.*, in that such promotional materials
5 were intended as inducements to purchase Defendants' 100% Juice Products and are statements
6 disseminated by Defendants to Plaintiff and other members of the Class.

7 39. Defendants knew, or in the exercise of reasonable care should have known, that the
8 statements regarding its 100% Juice Products were false, misleading and/or deceptive.

9 40. Consumers, including Plaintiff and members of the Class, necessarily and reasonably
10 relied on Defendants' statements regarding the contents of its products. Consumers, including
11 Plaintiffs and members of the Class, were among the intended targets of such representations.

12 41. The above acts of Defendants, in disseminating said misleading and deceptive
13 statements throughout the State of California and nationwide to consumers, including Plaintiff and
14 members of the Class, were and are likely to deceive reasonable consumers by obfuscating the true
15 nature and amount of the ingredients in Defendants' 100% Juice Products, and thus were in violations
16 of Cal. Bus. Prof. Code § 17500, *et seq.*

17 42. Plaintiff and Class members were harmed and suffered injury as a result of Defendants'
18 violations of the Cal. Bus. Prof. Code § 17500, *et seq.* Defendants have been unjustly enriched at the
19 expense of Plaintiff and the members of the Class.

20 43. Accordingly, Plaintiff and members of the Class seek injunctive relief prohibiting
21 Defendants from continuing these wrongful practices, and such other equitable relief, including full
22 restitution of all improper revenues profits derived from Defendants' wrongful conduct to the fullest
23 extent permitted by law.

24
25 **SECOND COUNT**

26 **Violation of Cal. Civ. Code §§ 1750, *et seq.*-**
27 **Misrepresentation of a Product's standard, quality,**
28 **sponsorship, approval, and/or certification**
(On Behalf of the Class)

1 44. Plaintiff hereby incorporates by reference the allegations contained in the preceding
2 paragraphs of this Complaint.

3 45. Defendants' 100% Juice Products are a "good" as defined by California Civil Code
4 §1761(a).

5 46. Defendants are each a "person" as defined by California Civil Code §1761(c).

6 47. Plaintiff and Class members are "consumers" within the meaning of California Civil
7 Code §1761(d) because they purchased their 100% Juice Products for personal, family or household
8 use.

9 48. The sale of Defendants' 100% Juice Products products to Plaintiff and Class members
10 is a "transaction" as defined by California Civil Code §1761(c).

11 49. By labeling its 100% Juice Products as containing "100% Juice" when in fact these
12 Products contained non-juice ingredients, Defendants violated California Civil Code §§ 1770(a)(2),
13 (5), (7) and (9), as it misrepresented the standard, quality, sponsorship, approval, and/or certification
14 of their 100% Juice Products.

15 50. As a result of Defendants' conduct, Plaintiff and Class members were harmed and
16 suffered actual damages as a result of Defendants' unfair competition and deceptive acts and practices.
17 Had Defendants disclosed the true nature and/or not falsely represented its 100% Juice Products'
18 contents, Plaintiff and the Class would not have been misled into purchasing Defendants' 100% Juice
19 Products, or, alternatively, pay significantly less for them.

20 51. Plaintiff, on behalf of herself and all other similarly situated California consumers, and
21 as appropriate, on behalf of the general public of the state of California, seeks injunctive relief
22 prohibiting Defendants continuing these unlawful practices pursuant to California Civil Code §
23 1782(a)(2).

24 52. Plaintiff provided Defendants with notice of its alleged violations of the CLRA
25 pursuant to California Civil Code § 1782(a) via certified mail, demanding that Defendants correct such
26 violations.

27 53. If Defendants fail to respond to Plaintiff's CLRA notice within 30 days, Plaintiff may
28 amend this Complaint to seek all available damages under the CLRA for all violations complained of

herein, including, but not limited to, statutory damages, punitive damages, attorney's fees and cost and any other relief that the Court deems proper.

THIRD COUNT

Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* - Unlawful Business Acts and Practices (On Behalf of the Class)

54. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

55. The Sherman Law, Health & Saf. Code §§ 109875 *et seq.*, broadly prohibits the misbranding of any food products. The Sherman Law provides that food is misbranded "if its labeling is false or misleading in any particular." Health & Saf. Code § 110660.

56. Defendants are a person within the meaning of Health & Saf. Code § 109995.

57. Additionally, California has adopted as its own regulations, and as the Sherman Law expressly incorporates, "[a]ll food labeling regulations and any amendments to those regulations adopted pursuant to the federal act, in effect on January 1, 1993, or adopted on or after that date" as "the food labeling regulations of this state." Federal statutes and regulations, including, but not limited to, 21 U.S.C. §§ 321, 343 and 21 C.F.R. § 21 C.F.R. § 101.30, prohibit the mislabeling and misbranding of food products.

58. Federal statutes and regulations, and the corresponding state statutes and regulations, prohibit misleading consumers by misrepresenting a product's ingredients. The FDA has long held that Defendants' actions are unlawful, and enacted regulations to combat such false product labeling. 58 Fed. Reg. 2897-01 (1993); *see also* 21 C.F.R. § 101.30(b)(3).

59. The California Civil Code § 1770(a)(2), (5), (7) and (9) also prohibits mislabeling food misrepresenting the standard, quality, sponsorship, approval, and/or certification of food products, as noted in above.

60. The business practices alleged above are unlawful under Business and Professional Code §§ 17500, *et seq.*, California Civil Code §§ 1770(a)(2), (5), (7) and (9) and the Sherman Law, each of which forbids the untrue, fraudulent, deceptive, and/or misleading marketing, advertisement, packaging and labelling of food and beverage products.

61. As a result of Defendants' above unlawful, unfair and fraudulent acts and practices, Plaintiff, on behalf of herself and all others similarly situated, and as appropriate, on behalf of the general public, seeks injunctive relief prohibiting Defendants from continuing these wrongful practices, and such other equitable relief, including **full** restitution of all improper revenues derived from Defendants' wrongful conduct to the fullest extent permitted by law.

FOURTH COUNT

Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* - Unfair Business Acts and Practices (On Behalf of the Class)

62. Plaintiff hereby incorporates by reference the allegations contained in the preceding paragraphs of this Complaint.

63. Plaintiff and other members of the Class who purchased Defendants' 100% Juice Products suffered a substantial injury by virtue of buying a product that misrepresented and/or omitted the **true contents** and benefits of its juice contents. Had Plaintiff and members of the Class known that Defendants' materials, advertisement and other inducements misrepresented and/or omitted the true contents and benefits of its 100% Juice Products they would not have purchased said products or would have paid less.

64. Defendants' actions alleged herein violate the laws and public policies of California and the federal government, as set out in the preceding paragraphs of this Complaint.

65. There is no benefit to consumers or competition by allowing Defendants to deceptively market, advertise, package and label its 100% Juice Products.

66. The **gravity** of the harm suffered by Plaintiffs and Class members who purchased Defendants' 100% Juice Products outweighs any legitimate justification, motive or reason for marketing, advertising, packaging and labeling the 100% Juice Products in a deceptive and misleading manner. Accordingly, Defendants' actions are immoral, unethical, unscrupulous and offend the established public policies as set out in federal regulations and is substantially injurious to Plaintiff and members of the Class.

67. The above acts of Defendants, in disseminating said misleading and **deceptive** statements throughout the State of California to consumers, including Plaintiff and members of the

1 Class, were and are likely to deceive reasonable consumers by obfuscating the true nature of the
 2 ingredients in Defendants' 100% Juice Products, and thus were violations of Cal. Bus. Prof. Code §§
 3 17200, *et seq.*

4 68. As a result of Defendants' above unlawful, unfair and fraudulent acts and practices,
 5 Plaintiff, on behalf of themselves and all others similarly situated, and as appropriate, on behalf of the
 6 general public, seek injunctive relief prohibiting Defendants from continuing these wrongful practices,
 7 and such other equitable relief, including full restitution of all improper revenues derived from
 8 Defendants' wrongful conduct to the fullest extent permitted by law.

9 **FIFTH COUNT**

10 **Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* - 11 **Fraudulent Business Acts and Practices (On Behalf of the Class)****

12 69. Plaintiff hereby incorporates by reference the allegations contained in the preceding
 13 paragraphs of this Complaint.

14 70. Such acts of Defendants, as described above constitute, a fraudulent business practice
 15 under Cal. Bus. & Prof. Code §§ 17200, *et seq.*

16 71. As more fully described above, Defendants mislabel the contents in the 100% Juice
 17 Products. Defendants' misleading marketing, advertising, packaging, and labeling are likely to, and
 18 do, deceive reasonable consumers. Indeed, Plaintiff was deceived about the ingredients in Defendants'
 19 100% Juice Products, as Defendants' marketing, advertising, packaging, and labeling of its 100% Juice
 20 Products misrepresents and/or omits the true nature of the Products' contents and benefits. Said acts
 21 are fraudulent business practices and acts.

22 72. Defendant's misleading and deceptive practices caused Plaintiff to purchase
 23 Defendants' 100% Juice Products and/or pay more than they would have otherwise had they know the
 24 true nature of the contents of the Lemon Juice Products.

25 73. As a result of Defendants' above unlawful, unfair and fraudulent acts and practices,
 26 Plaintiff, on behalf of themselves and all others similarly situated, and as appropriate, on behalf of the
 27 general public, seeks injunctive relief prohibiting Defendants from continuing these wrongful
 28 practices, and such other equitable relief, including full restitution of all improper revenues derived

1 from Defendants' wrongful conduct to the fullest extent permitted by law.

2 **VI. PRAY FOR RELIEF**

3 WHEREFORE, Plaintiff and the Class pray for relief and judgment as follows:

4 A. For an order declaring that this action is properly maintained as a class action and
5 appointing Plaintiff as representative for the Class, and appointing Plaintiff's counsel as Class counsel;

6 B. For an order enjoining Defendants from continuing to engage in the unlawful and unfair
7 business acts and practices as alleged herein;

8 C. For an order directing Defendants to make corrective notices on its website and in other
9 appropriate publications.

10 D. For an award of restitution and damages, including punitive damages, resulting from
11 Defendants' unlawful advertising;

12 E. For an order awarding attorneys' fees and costs of suit, including expert witness fees,
13 as permitted by law; and

14 F. Such other and further relief as this Court may deem just and proper.

15 **VII. JURY TRIAL**

16 Plaintiff demands a trial by jury for all of the claims asserted in this Complaint so triable.

17 Respectfully submitted,

18 SOMMERS SCHWARTZ P.C.

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22 Dated: June 3, 2020

By: 

23 Trenton R. Kashima, Esq.

24 *Attorneys for Plaintiff*
25 *and the Class*
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CLASS ACTION COMPLAINT
- 16 -

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9 Attorneys for Plaintiff
10 and the Putative Class

VENTURA
SUPERIOR COURT
FILED

JUN 11 2020

MICHAEL D. PLANET
Executive Officer and Clerk

BY: _____, Deputy

CRISTAL V. ALVAREZ

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
12 **COUNTY OF VENTURA COUNTY**

13 **KIM SIFLINGER**, Individually and on Behalf
14 of All Others Similarly Situated,

15 Plaintiff,

16 v.

17 **KEURIG DR PEPPER, INC. and MOTT'S**
18 **LLP**, dba ReaLemon and ReaLime.

19 Defendants.

Case No: 56-2020-00542502-CU-BT-VTA

DECLARATION OF KIM SIFLINGER

By *FAS*

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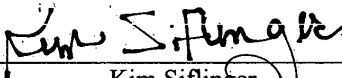
DECLARATION OF KIM SIFLINGER

1 I, Kim Siflinger, declare as follows:

2 1. I have personal knowledge of the facts stated herein and, if called upon to do so, could
3 competently testify thereto. I am a Plaintiff in the above-captioned action. I submit this declaration
4 in support of the Second Consolidated Amended Class Action Complaint, which is based in part on
5 violations of the Consumers Legal Remedies Act, California Civil Code section 1750 et seq.

6 2. The Second Consolidated Amended Class Action Complaint has been filed in the
7 proper place for trial of this action. I purchased Defendants' 100% Original Apple Juice, 100% Lemon
8 Juice, and ReaLime 100% Lime Juice at various grocery stores located in Ventura County, California
9 in the past four years. Accordingly, the Superior Court for the County of Ventura is the proper venue
10 of this action.

11 I declare under penalty of perjury under the laws of California and the United States that the
12 foregoing affidavit is true and correct to the best of my knowledge, and was executed by me in the city
13 of Simi Valley, California on 31 day of March, 2020.

14 
15 _____
16 Kim Siflinger
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DECLARATION OF SIFLINGER

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