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14 **UNITED STATES DISTRICT COURT**
 15 **SOUTHERN DISTRICT OF CALIFORNIA**

16 EVLYN ANDRADE-HEYMSFIELD, on
 17 behalf of herself, all others similarly situated,
 18 and the general public,

19 Plaintiff,

20 v.

21 NEXTFOODS, INC.,

22 Defendant.

Case No: '21CV1446 BTM MSB

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF
 CAL. BUS. & PROF. CODE §§17200 *et*
 seq.; CAL. BUS. & PROF. CODE
 §§17500 *et seq.*; CAL. CIV. CODE §§
 1750 *et seq.*; and BREACH OF
 EXPRESS & IMPLIED
 WARRANTIES**

DEMAND FOR JURY TRIAL

1 Plaintiff Evlyn Andrade-Heymsfield, on behalf of herself, all others similarly situated,
2 and the general public, by and through her undersigned counsel, hereby sues Defendant
3 NextFoods, Inc. (“NextFoods”), and alleges the following upon her own knowledge, or where
4 she lacks personal knowledge, upon information and belief, including the investigation of her
5 counsel.

6 **INTRODUCTION**

7 1. For several years, NextFoods has sold a line of fruit juice beverages branded
8 GoodBelly Probiotic JuiceDrinks (the “JuiceDrinks”).¹ NextFoods represents on their labels
9 that the JuiceDrinks promote “overall health,” “overall wellness,” and “digestive health.”
10 These and the other representations and omissions of material facts are, however, false and
11 misleading in light of the JuiceDrinks’ high sugar content, since consuming fruit juices like
12 the JuiceDrinks increases the risk of metabolic disease, cardiovascular disease, type 2
13 diabetes, and liver disease, and is further associated with increased all-cause mortality.

14 2. Plaintiff brings this action against NextFoods on behalf of herself, similarly-
15 situated Class Members, and the general public to enjoin NextFoods from deceptively
16 marketing the JuiceDrinks, and to recover compensation for injured Class Members.

17 **JURISDICTION & VENUE**

18 3. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d)(2)
19 (The Class Action Fairness Act) because the matter in controversy exceeds the sum or value
20 of \$5,000,000, exclusive of interest and costs, and at least one member of the class of
21 plaintiffs is a citizen of a State different from NextFoods.

22 4. The Court has personal jurisdiction over NextFoods because it has purposely
23 availed itself of the benefits and privileges of conducting business activities within California,
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26 ¹ This includes at least the following varieties: Tropical Green, Blueberry Acai, Pomegranate
27 Blackberry, Mango, Cranberry Watermelon, Strawberry Banana, Raspberry Blackberry,
28 Orange, and Peach Mango Orange. For exemplars of the JuiceDrinks’ labeling available at
the time of filing, *see* Appendix 1.

1 specifically through distributing and selling the JuiceDrinks at issue in California and
2 transactions giving rise to this action occurred in California.

3 5. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c), because NextFoods
4 resides (*i.e.*, is subject to personal jurisdiction) in this district, and a substantial part of the
5 events or omissions giving rise to the claims occurred in this district.

6 PARTIES

7 6. Plaintiff Evlyn Andrade-Heymsfield is a resident and citizen of San Diego
8 County, California.

9 7. Defendant NextFoods, Inc. is a Colorado corporation with its principal place of
10 business in Boulder, Colorado.

11 FACTS

12 **I. NEXTFOODS MARKETS THE JUICEDRINKS AS HEALTHY**

13 8. NextFoods was founded by two food industry veterans who helped popularize
14 products consumers perceive as healthy, like Silk Soymilk. Their self-described mission “was
15 born out of the age-old mantra that food is the best medicine.”² According to one founder’s
16 “epiphany,” the Baby Boomer generation needs “some help having long, happy, healthy and
17 active lives . . . but they need a means to do it and [sic] that means is better food.”³ The
18 company was started in late 2006, with the promise that its products would have
19 “scientifically substantiated health benefits combined with the goodness and responsibility of
20 healthy, natural foods.”⁴ NextFoods communicates to consumers that the JuiceDrinks are
21 “just the thing to give us that extra boost we need as we’re trekking along on our own personal
22 journeys toward GoodHealth and nutrition.”⁵

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25 ² NextFoods Inc., “About” Page, <https://goodbelly.com/about> (last visited July 7, 2021).

26 ³ *Id.*

27 ⁴ *See id.*

28 ⁵ *Id.*

1 9. As NextFoods is well aware, consumers prefer healthful foods and are willing
2 to pay more for, or purchase more often, products marketed and labeled as healthy. For
3 instance, a Nielsen 2015 Global Health & Wellness Survey found that “88% of those polled
4 are willing to pay more for healthier foods.”⁶

5 10. Accordingly, NextFoods markets the JuiceDrinks as promoting digestive health,
6 as well as “overall” health and wellness, by placing on the JuiceDrinks’ labels, statements
7 that expressly or implicitly convey the message that the JuiceDrinks are healthy.

8 11. During the Class Period, the JuiceDrinks’ labels bore at least the following
9 statements conveying a message that the JuiceDrinks are healthy or promote good bodily
10 health:

11 a. “START YOUR GOODHEALTH GAME PLAN . . . Drink one 8 oz.
12 glass of delicious GoodBelly a day for 12 days.”;

13 b. “Reboot your belly, then make GoodBelly your daily drink to keep your
14 GoodHealth going. Because when your belly smiles the rest of you does too.”

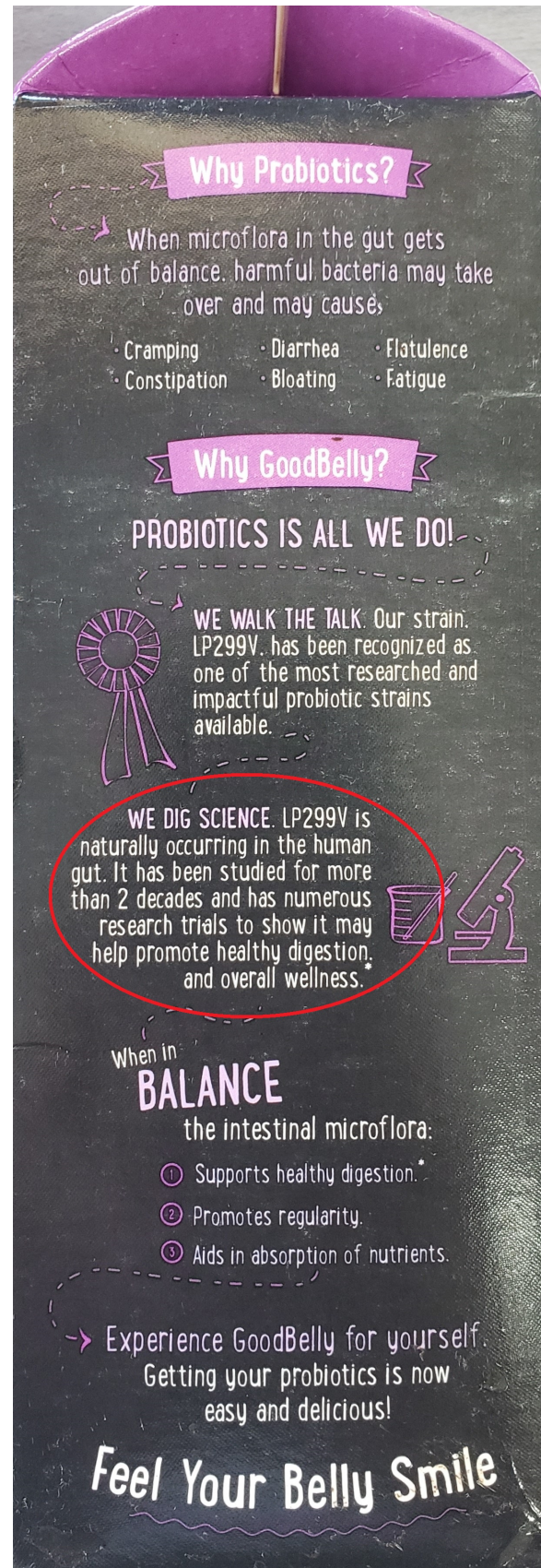
15 c. “WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It
16 has been studied more than 2 decades and has numerous research trials to show that it
17 may help promote healthy digestion and overall wellness”; and

18 d. “GoodBelly Probiotics is a delicious blend of fruit juices and a daily dose
19 of probiotic cultures created to naturally renew your digestive health, right where your
20 overall health gets started – in your belly”;⁷

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25 ⁶ Nancy Gagliardi, “Consumers Want Healthy Foods--And Will Pay More For Them,”
26 *Forbes* (Feb. 18, 2015) (citing Neilson, Global Health & Wellness Survey, at 11 (Jan. 2015)).

27 ⁷ According to NextFoods, “Probiotics are living microorganisms, which, when taken in
28 adequate amounts, have a beneficial effect on the body.” See NextFoods Inc., “The Science”
Page, <https://goodbelly.com/goodhealth> (last visited July 7, 2021).

12. An exemplar of the JuiceDrinks' health and wellness labeling is shown below.



1 **II. SCIENTIFIC EVIDENCE DEMONSTRATES THAT CONSUMING JUICE,**
2 **LIKE NEXTFOOD’S JUICEDRINKS, IS UNHEALTHY**

3 **A. Juice Consumption is Associated with Increased Risk of Metabolic Disease**

4 13. Excess sugar consumption leads to metabolic syndrome by stressing and
5 damaging crucial organs, including the pancreas and liver. When the pancreas, which
6 produces insulin, becomes overworked, it can fail to regulate blood sugar properly. Large
7 doses of fructose can overwhelm the liver, which metabolizes fructose. In the process, the
8 liver will convert excess fructose to fat, which is stored in the liver and released into the
9 bloodstream. This process contributes to key elements of metabolic syndrome, including high
10 blood fats and triglycerides, high cholesterol, high blood pressure, and extra body fat,
11 especially in the belly.⁸

12 14. Metabolic disease has been linked to type 2 diabetes, cardiovascular disease,
13 obesity, polycystic ovary syndrome, nonalcoholic fatty liver disease, and chronic kidney
14 disease, and is defined as the presence of any three of the following:

- 15 a. Large Waist Size (35” or more for women, 40” or more for men);
- 16 b. High triglycerides (150mg/dL or higher, or use of cholesterol
17 medication);
- 18 c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40
19 mg for men;
- 20 d. High blood pressure (135/85 mm or higher); or
- 21 e. High blood sugar (100mg/dL or higher).

22 15. More generally, “metabolic abnormalities that are typical of the so-called
23 metabolic syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high
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27 ⁸ Te Morenga, L., et al., “Dietary sugars and body weight: systematic review and meta-
28 analyses of randomized controlled trials and cohort studies,” *BJM* (January 2013)
[hereinafter, “Te Morenga, Dietary Sugars & Body Weight”].

1 concentrations of circulating triacylglycerols, low concentrations of HDLs, and high
2 concentrations of small, dense LDLs.”⁹

3 16. Fifty-six million Americans have metabolic syndrome, or about 22.9% over the
4 age of 20, placing them at higher risk for chronic disease.

5 17. In 2010, Harvard researchers published a meta-analysis of three studies,
6 involving 19,431 participants, concerning the effect of consuming sugar-sweetened
7 beverages on risk for metabolic syndrome. They found participants in the highest quantile of
8 1-2 servings per day¹⁰ had an average 20% greater risk of developing metabolic syndrome
9 than did those in the lowest quantile of less than 1 serving per day, showing “a clear link
10 between SSB consumption and risk of metabolic syndrome”¹¹

11 18. Researchers who studied the incidence of metabolic syndrome and its
12 components in relation to soft drink consumption in more than 6,000 participants in the
13 Framingham Heart Study found that individuals who consumed 1 or more soft drinks per day
14 (i.e., 140-150 calories and 35-37.5 grams of sugar or more) had a 48% higher prevalence of
15 metabolic syndrome than infrequent consumers, those who drank less than 1 soft drink per
16 day. In addition, the frequent-consumer group had a 44% higher risk of developing metabolic
17 syndrome.¹²

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20 ⁹ Fried, S.K., “Sugars, hypertriglyceridemia, and cardiovascular disease,” *American Journal*
21 *of Clinical Nutrition*, Vol. 78 (suppl.), 873S-80S, at 873S (2003) [hereinafter, “Fried,
Hypertriglyceridemia”].

22 ¹⁰ Because 1 sugar-sweetened beverage typically has 140-150 calories and 35-37.5 grams of
23 sugar per 12-ounce serving, this is equivalent to between 140 and 300 calories per day, and
24 35 to 75 grams of sugar per day.

25 ¹¹ Malik, Vasanti S., et al., “Sugar-Sweetened Beverages and Risk of Metabolic Syndrome
26 and Type 2 Diabetes,” *Diabetes Care*, Vol. 33, No. 11, 2477-83, at 2477, 2480-81 (November
2010) [hereinafter “Malik, 2010 Meta-Analysis”].

27 ¹² Dhingra, R., et al., “Soft Drink Consumption and Risk of Developing Cardiometabolic Risk
28 Factors and the Metabolic Syndrome in Middle-Aged Adults in the Community,”
Circulation, Vol. 116, 480-88 (2007) [hereinafter “Dhingra, Cardiometabolic Risk”].

1 **B. Juice Consumption is Associated with Increased Risk of Cardiovascular**
2 **Heart Disease**

3 19. Heart disease is the number one killer in the United States. The scientific
4 literature demonstrates that consumption of sugar-containing beverages (SCB), including
5 juices, at amounts typically consumed, has deleterious effects on heart health.

6 20. In a study published in January 2020, researchers set out to determine whether
7 consumption of SCBs, including juice, is associated with cardiometabolic risk (CMR) in
8 preschool children, using 2007-2018 data from TARGet Kids!, a primary-care, practice-based
9 research network in Canada. After adjusting for sociodemographic, familial, and child-related
10 covariates, higher consumption of SCB was significantly associated with elevated CMR
11 scores, including lower HDL “good” cholesterol, and higher triglycerides. In addition, when
12 examined separately, juice specifically was significantly associated with lower HDL
13 cholesterol. The researchers stated that their “findings support recommendations to limit
14 overall intake of SCB in early childhood, in [an] effort to reduce the potential long-term
15 burden of CMR.”¹³

16 21. But juice consumption does not just detrimentally affect children. Analyzing
17 data from the Danish Diet, Cancer and Health cohort study, representing 57,053 men and
18 women aged 50 to 64 years old, researchers found “a tendency towards a lower risk of ACS
19 [acute coronary syndrome] . . . for both men and women with higher [whole] fruit and
20 vegetable consumption,” but “a higher risk . . . among women with higher fruit juice
21 intake[.]”¹⁴

22 22. In one study, those who consumed juice daily, rather than rarely or occasionally,
23 had significantly higher central systolic blood pressure, a risk factor for cardiovascular
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26 ¹³ Eny, KM, et al., “Sugar-containing beverage consumption and cardiometabolic risk in
27 preschool children.” *Prev. Med. Reports* 17 (Jan. 14, 2020).

28 ¹⁴ Hansen, L., et al., “Fruit and vegetable intake and risk of acute coronary syndrome.” *British
J. of Nutr.*, Vol. 104, p. 248-55 (2010).

1 disease, even after adjusting for age, height, weight, mean arterial pressure, heart rate, and
2 treatment for lipids and hypertension.¹⁵

3 23. Studies of the cardiovascular effects of added sugar consumption further suggest
4 juice consumption causes increased risk for and contraction of cardiovascular disease, since
5 the free sugars in juice act physiologically identically to added sugars, such as those in sugar-
6 sweetened beverages.

7 24. For example, data obtained from NHANES surveys during the periods of 1988-
8 1994, 1999-2004, and 2005-2010—after adjusting for a wide variety of other factors—
9 demonstrate that those who consumed 10% - 24.9% of their calories from added sugar had a
10 30% greater risk of cardiovascular disease (CVD) mortality than those who consumed 5% or
11 less of their calories from added sugar. In addition, those who consumed 25% or more of their
12 calories from added sugar had an average 275% greater risk of CVD mortality than those who
13 consumed less than 5% of calories from added sugar. Similarly, when compared to those who
14 consumed approximately 8% of calories from added sugar, participants who consumed
15 approximately 17% - 21% (the 4th quintile) of calories from added sugar had a 38% higher
16 risk of CVD mortality, while the relative risk was more than double for those who consumed
17 21% or more of calories from added sugar (the 5th quintile). Thus, “[t]he risk of CVD
18 mortality increased exponentially with increasing usual percentage of calories from added
19 sugar,” as demonstrated in the chart below.¹⁶

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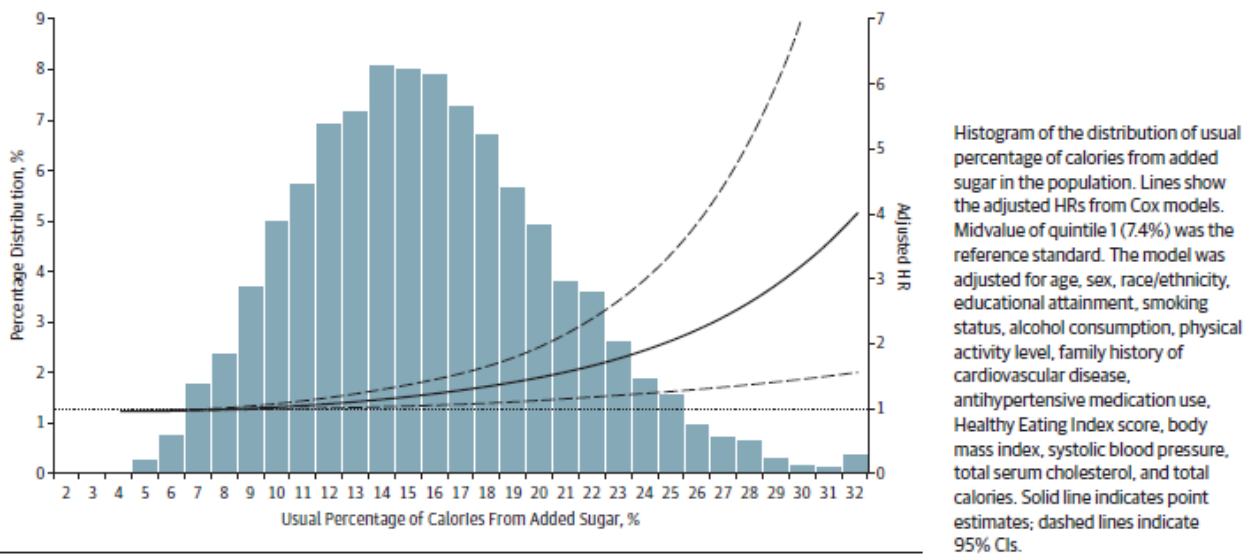
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26 ¹⁵ Pase, M.P., et al., “Habitual intake of fruit juice predicts central blood pressure.” *Appetite*,
Vol. 84, p. 658-72 (2015).

27 ¹⁶ Yang, Quanhe, et al., “Added Sugar Intake and Cardiovascular Diseases Mortality Among
28 US Adults,” *JAMA*, at E4-5 (pub. online, Feb. 3, 2014).

Figure 1. Adjusted Hazard Ratio (HR) of the Usual Percentage of Calories From Added Sugar for Cardiovascular Disease Mortality Among US Adults 20 Years or Older: National Health and Nutrition Examination Survey Linked Mortality Files, 1988-2006



25. The NHANES analysis also found “a significant association between sugar-sweetened beverage consumption and risk of CVD mortality,” with an average 29% greater risk of CVD mortality “when comparing participants who consumed 7 or more servings/wk (360 mL per serving) with those who consumed 1 serving/wk or less”¹⁷ The study concluded that “most US adults consume more added sugar than is recommended for a healthy diet. A higher percentage of calories from added sugar is associated with significantly increased risk of CVD mortality. In addition, regular consumption of sugar-sweetened beverages is associated with elevated CVD mortality.”¹⁸

26. Data from the Nurses’ Health Study consistently showed that, after adjusting for other unhealthy lifestyle factors, those who consumed two or more sugar-sweetened beverages per day (280 calories, or 70 grams of sugar or more) had a 35% greater risk of coronary heart disease compared with infrequent consumers.¹⁹

¹⁷ *Id.* at E6.

¹⁸ *Id.* at E8.

¹⁹ Fung, T.T., et al., “Sweetened beverage consumption and risk of coronary heart disease in women.” *Am. J. of Clin. Nutr.*, Vol. 89, pp. 1037-42 (Feb. 2009).

1 27. In another prospective cohort study, it was suggested that reducing sugar
2 consumption in liquids is highly recommended to prevent CHD. Consumption of sugary
3 beverages was significantly shown to increase risk of CHD, as well as adverse changes in
4 some blood lipids, inflammatory factors, and leptin.²⁰

5 28. Juice consumption is also associated with several CHD risk factors. For
6 example, consumption of sugary beverages like juice has been associated with
7 dyslipidemia,²¹ obesity,²² and increased blood pressure.²³

8 **C. Juice Consumption is Associated with Increased Risk of Type 2 Diabetes**

9 29. Diabetes affects 25.8 million Americans, and can cause kidney failure, lower-
10 limb amputation, and blindness. In addition, diabetes doubles the risk of colon and pancreatic
11 cancers and is strongly associated with coronary artery disease and Alzheimer's disease.²⁴
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13 ²⁰ Koning, L.D., et al., "Sweetened Beverage Consumption, Incident Coronary Heart Disease,
14 and Biomarkers of Risk in Men." *Circulation*, Vol. 125, pp. 1735-41 (2012).

15 ²¹ Elliott S.S., et al., "Fructose, weight gain, and the insulin resistance syndrome." *Am. J. Clin.*
16 *Nutr.*, Vol. 76, No. 5, pp. 911-22 (2002).

17 ²² Faith, M.S., et al., "Fruit Juice Intake Predicts Increased Adiposity Gain in Children From
18 Low-Income Families: Weight Status-by-Environment Interaction." *Pediatrics*, Vol. 118
19 (2006) ("Among children who were initially either at risk for overweight or overweight,
20 increased fruit juice intake was associated with excess adiposity gain, whereas parental
21 offerings of whole fruits were associated with reduced adiposity gain."); Schulze, M.B, et al.,
22 "Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type 2 Diabetes in Young and
23 Middle-Aged Women." *JAMA*, Vol. 292, No. 8, pp. 927-34 (2004); Ludwig, D.S., et al.,
24 "Relation between consumption of sugar-sweetened drinks and childhood obesity: a
25 prospective, observational analysis." *Lancet*, Vol. 257, pp. 505-508 (2001); Dennison, B.A.,
26 et al., "Excess fruit juice consumption by preschool-aged children is associated with short
27 stature and obesity." *Pediatrics*, Vol. 99, pp. 15-22 (1997).

28 ²³ Hoare, E., et al., "Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review
on Cardiometabolic Risk." *Nutrients*, Vol. 9, No. 10 (2017).

²⁴ Aranceta Bartrina, J. et al., "Association between sucrose intake and cancer: a review of
the evidence," *Nutrición Hospitalaria*, Vol. 28 (Suppl. 4), 95-105 (2013); Garcia-Jimenez,
C., "A new link between diabetes and cancer: enhanced WNT/beta-catenin signaling by high

1 30. In 2010, Harvard researchers also performed a meta-analysis of 8 studies
2 concerning sugar-sweetened beverage consumption and risk of type 2 diabetes, involving a
3 total of 310,819 participants. They concluded that individuals in the highest quantile of SSB
4 intake had an average 26% greater risk of developing type 2 diabetes than those in the lowest
5 quantile.²⁵ Moreover, “larger studies with longer durations of follow-up tended to show
6 stronger associations.”²⁶ Thus, the meta-analysis showed “a clear link between SSB
7 consumption and risk of . . . type 2 diabetes.”²⁷

8 31. An analysis of data for more than 50,000 women from the Nurses’ Health
9 Study,²⁸ during two 4-year periods (1991-1995, and 1995-1999), showed, after adjusting for
10 confounding factors, that women who consumed 1 or more sugar-sweetened soft drink per
11 day (*i.e.*, 140-150 calories and 35-37.5 grams of sugar), had an 83% greater relative risk of
12 type 2 diabetes compared with those who consumed less than 1 such beverage per month, and
13 women who consumed 1 or more fruit punch drinks per day had a 100% greater relative risk
14 of type 2 diabetes.²⁹

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17 glucose,” *Journal of Molecular Endocrinology*, Vol. 52, No. 1 (2014); Linden, G.J., “All-
18 cause mortality and periodontitis in 60-70-year-old men: a prospective cohort study,” *Journal*
19 *of Clinical Periodontal*, Vol. 39, No. 1, 940-46 (October 2012).

20 ²⁵ Malik, 2010 Meta-Analysis, *supra* n.11 at 2477, 2480.

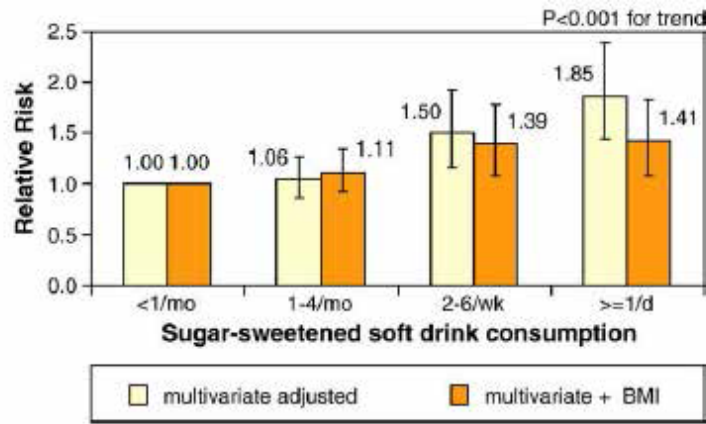
21 ²⁶ *Id.* at 2481.

22 ²⁷ *Id.*

23 ²⁸ The Nurses’ Health Study was established at Harvard in 1976, and the Nurses’ Health Study
24 II, in 1989. Both are long-term epidemiological studies conducted on women’s health. The
25 study followed 121,700 women registered nurses since 1976, and 116,000 female nurses
26 since 1989, to assess risk factors for cancer, diabetes, and cardiovascular disease. The Nurses’
27 Health Studies are among the largest investigations into risk factors for major chronic disease
28 in women ever conducted. *See generally* “The Nurses’ Health Study,” at
<http://www.channing.harvard.edu/nhs>.

²⁹ Schulze, M.B., et al., “Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type
2 Diabetes in Young and Middle-Aged Women,” *Journal of the American Medical*

1 32. The result of this analysis shows a statistically significant linear trend with
2 increasing sugar consumption.³⁰



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Fig. 4. Multivariate relative risks (RRs) of type 2 diabetes according to sugar-sweetened soft drink consumption in the Nurses' Health Study II 1991-1999 (Multivariate RRs were adjusted for age, alcohol (0, 0.1-4.9, 5.0-9.9, 10+ g/d), physical activity (quintiles), family history of diabetes, smoking (never, past, current), postmenopausal hormone use (never, ever), oral contraceptive use (never, past, current), intake (quintiles) of cereal fiber, magnesium, trans fat, polyunsaturated:saturated fat, and consumption of sugar-sweetened soft drinks, diet soft drinks, fruit juice, and fruit punch (other than the main exposure, depending on model). The data were based on Ref. [50]).

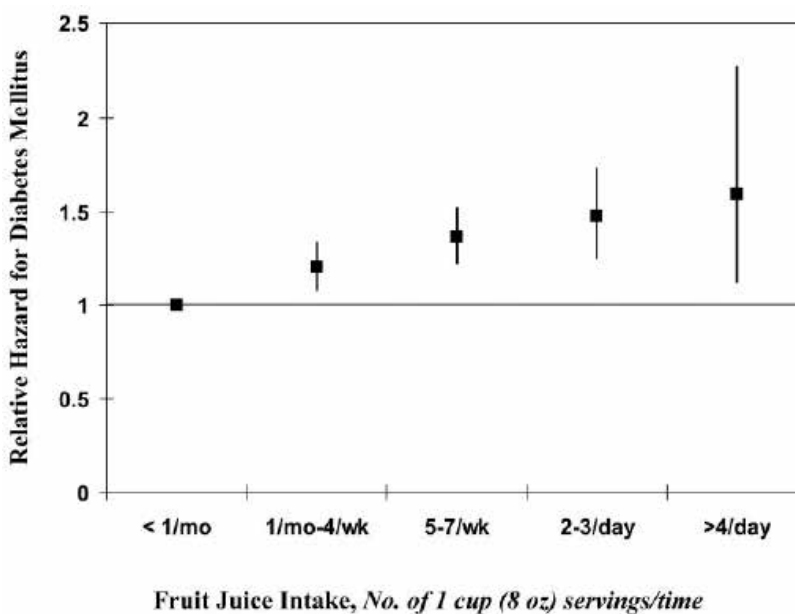
33. A prospective cohort study of more than 43,000 African American women between 1995 and 2001 showed that the incidence of type 2 diabetes was higher with higher intake of both sugar-sweetened soft drinks and fruit drinks. After adjusting for confounding variables, those who drank 2 or more soft drinks per day (*i.e.*, 140-300 calories and 35-75 grams of sugar) showed a 24% greater risk of type 2 diabetes, and those who drank 2 or more fruit drinks per day showed a 31% greater risk of type 2 diabetes, than those who drank 1 or less such drinks per month.³¹

Association, Vol. 292, No. 8, 927-34 (Aug. 25, 2004) [hereinafter "Schulze, Diabetes in Young & Middle-Aged Women"].

³⁰ Hu, F.B., et al., "Sugar-sweetened beverages and risk of obesity and type 2 diabetes: Epidemiologic evidence," *Physiology & Behavior*, Vol. 100, 47-54 (2010).

³¹ Palmer, J.R., et al., "Sugar-Sweetened Beverages and Incidence of Type 2 Diabetes Mellitus in African American Women," *Archive of internal Medicine*, Vol. 168, No. 14, 1487-82 (July 28, 2008) [hereinafter "Palmer, Diabetes in African American Women"].

1 34. A large cohort study of 71,346 women from the Nurses' Health Study followed
 2 for 18 years showed that those who consumed 2 to 3 apple, grapefruit, and orange juices per
 3 day (280-450 calories and 75-112.5 grams of sugar) had an 18% greater risk of type 2 diabetes
 4 than women who consumed less than 1 sugar-sweetened beverage per month. The data also
 5 showed a linear trend with increased consumption, as demonstrated below.³²



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Figure 1—Multivariate-adjusted relative hazard of diabetes by category of cumulatively updated fruit juice intake. Values were adjusted for cumulatively updated BMI, physical activity, family history of diabetes, postmenopausal hormone use, alcohol use, smoking, and total energy intake. For an increase of 1 serving/day of fruit juice, the multivariate-adjusted relative risk was 1.18 (95% CI 1.10–1.26; $P < 0.0001$).

35. An analysis of more than 40,000 men from the Health Professionals Follow-Up
 Study, a prospective cohort study conducted over a 20-year period, found that, after adjusting
 for age and a wide variety of other confounders, those in the top quartile of sugar-sweetened
 beverage intake had a 24% greater risk of type 2 diabetes than those in the bottom quartile,
 while consumption of artificially-sweetened beverages, after adjustment, showed no
 association.³³

³² Bazzano, L.A., et al., "Intake of fruit, vegetables, and fruit juices and risk of diabetes in women," *Diabetes Care*, Vol. 31, 1311-17 (2008).

³³ de Konig, L., et al., "Sugar-sweetened and artificially sweetened beverage consumption and risk of type 2 diabetes in men," *American Journal of Clinical Nutrition*, Vol. 93, 1321-27 (2011).

1 36. In an analysis of tens of thousands of subjects from three prospective
2 longitudinal cohort studies (the Nurses' Health Study, Nurses' Health Study II, and Health
3 Professionals Follow-up Study), researchers found, after adjusting for BMI, initial diet,
4 changes in diet, and lifestyle covariates, that increasing sugary beverage intake—which
5 included both sugar-sweetened beverages and fruit juice—by half-a-serving per day over a
6 4-year period was associated with a 16% greater risk of type 2 diabetes.³⁴

7 37. In another study of subjects from the Nurses' Health Study, Nurses' Health
8 Study II, and Health Professionals Follow-up Study, researchers set out to “determine
9 whether individual fruits are differentially associated with risk of type 2 diabetes,” looking at
10 the associated risk with eating three servings per week of blueberries, grapes and raisins,
11 prunes, apples and pears, bananas, grapefruit, oranges, strawberries, cantaloupe, and peaches,
12 plums and apricots, as well as “the same increment” in fruit juice consumption. They found
13 that “[g]reater consumption of specific whole fruits” was “significantly associated with a
14 lower risk of type 2 diabetes, whereas greater consumption of fruit juice is associated with a
15 higher risk.” The increased risk was approximately 8% based on three fruit juice servings per
16 week.³⁵ Similarly, a meta-analysis of 17 prospective cohort studies showed higher
17 consumption of fruit juice was associated with a 7% greater incidence of type 2 diabetes after
18 adjusting for adiposity.³⁶

19 38. An econometric analysis of repeated cross-sectional data published in 2013
20 established a causal relationship between sugar availability and type 2 diabetes. After
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22 ³⁴ Drouin-Chatier, J., et al., “Changes in Consumption of Sugary Beverages and Artificially
23 Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From Three Large
24 Prospective U.S. Cohorts of Women and Men.” *Diabetes Care*, Vol. 42, pp. 2181-89 (Dec.
25 2019).

26 ³⁵ Muraki, I., et al., “Fruit consumption and risk of type 2 diabetes: results from three
27 prospective longitudinal cohort studies.” *BMJ* (Aug. 28, 2013).

28 ³⁶ Imamura, F., et al., “Consumption of sugar sweetened beverages, artificially sweetened
beverages, and fruit juice and incidence of type 2 diabetes: systematic review, meta-analysis,
and estimation of population attributable fraction.” *BMJ*, Vol. 351 (2015).

1 adjusting for a wide range of confounding factors, researchers found that an increase of 150
2 calories per day related to an insignificant 0.1% rise in diabetes prevalence by country, while
3 an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes prevalence by
4 country, a statically-significant 11-fold difference.³⁷

5 **D. Juice Consumption is Associated with Increased Risk of Liver Disease**

6 39. Sugar consumption causes serious liver disease, including non-alcoholic fatty
7 liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of these
8 cases develop into non-alcoholic steatohepatitis (NASH), scarring as the liver tries to heal its
9 injuries, which gradually cuts off vital blood flow to the liver. About 25% of NASH patients
10 progress to non-alcoholic liver cirrhosis, which requires a liver transplant or can lead to
11 death.³⁸

12 40. Since 1980, the incidence of NAFLD and NASH has doubled, along with the
13 rise of fructose consumption, with approximately 6 million Americans estimated to have
14 progressed to NASH and 600,000 to Nash-related cirrhosis. Most people with NASH also
15 have type 2 diabetes. NASH is now the third-leading reason for liver transplant in America.³⁹

16 41. Moreover, because the liver metabolizes sugar virtually identically to alcohol,
17 the U.S. is now seeing for the first time alcohol-related diseases in children. Conservative
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21 ³⁷ Basu, S., et al., “The Relationship of Sugar to Population-Level Diabetes Prevalence: An
22 Econometric Analysis of Repeated Cross-Sectional Data,” *PLOS Online*, Vol. 8, Issue 2
23 (February 27, 2013).

24 ³⁸ Farrell, G.C., et al., “Nonalcoholic fatty liver disease: from steatosis to cirrhosis,”
25 *Hepatology*, Vol. 433, No. 2 (Suppl. 1), S99-S112 (February 2006); Powell, E.E., et al., “The
26 Natural History of Nonalcoholic Steatohepatitis: A Follow-up Study of Forty-two Patients
for Up to 21 Years,” *Hepatology*, Vol. 11, No. 1 (1990).

27 ³⁹ Charlton, M.R., et al., “Frequency and outcomes of liver transplantation for nonalcoholic
28 steatohepatitis in the United States,” *Gastroenterology*, Vol. 141, No. 4, 1249-53 (October
2011).

1 estimates are that 31% of American adults, and 13% of American children suffer from
2 NAFLD.⁴⁰

3 **E. Juice Consumption is Associated with Increased Risk of Obesity**

4 42. Excess sugar consumption also leads to weight gain and obesity because insulin
5 secreted in response to sugar intake instructs the cells to store excess energy as fat. This
6 excess weight can then exacerbate the problems of excess sugar consumption, because excess
7 fat, particularly around the waist, is in itself a primary cause of insulin resistance, another
8 vicious cycle. Studies have shown that belly fat produces hormones and other substances that
9 can cause insulin resistance, high blood pressure, abnormal cholesterol levels, and
10 cardiovascular disease. And belly fat plays a part in the development of chronic inflammation
11 in the body, which can cause damage over time without any signs or symptoms. Complex
12 interactions in fat tissue draw immune cells to the area, which triggers low-level chronic
13 inflammation. This in turn contributes even more to insulin resistance, type 2 diabetes, and
14 cardiovascular disease.

15 43. Based on a meta-analysis of 30 studies between 1966 and 2005, Harvard
16 researchers found “strong evidence for the independent role of the intake of sugar-sweetened
17 beverages, particularly soda, in the promotion of weight gain and obesity in children and
18 adolescents. Findings from prospective cohort studies conducted in adults, taken in
19 conjunction with results from short-term feeding trials, also support a positive association
20 between soda consumption and weight gain, obesity, or both.”⁴¹

22 ⁴⁰ Lindback, S.M., et al., “Pediatric Nonalcoholic Fatty Liver Disease: A Comprehensive
23 Review,” *Advances in Pediatrics*, Vol. 57, No. 1, 85-140 (2010); Lazo, M. et al., “The
24 Epidemiology of Nonalcoholic Fatty Liver Disease: A Global Perspective,” *Seminars in Liver
25 Disease*, Vol. 28, No. 4, 339-50 (2008); Schwimmer, J.B., et al., “Prevalence of Fatty Liver
26 in Children and Adolescents,” *Pediatrics*, Vol. 118, No. 4, 1388-93 (2006); Browning, J.D.,
27 et al., “Prevalence of hepatic steatosis in an urban population in the United States: Impact of
28 ethnicity,” *Hepatology*, Vol. 40, No. 6, 1387-95 (2004).

⁴¹ Malik, V.S., et al., “Intake of sugar-sweetened beverages and weight gain: a systematic
review,” *American Journal of Clinical Nutrition*, Vol. 84, 274-88 (2006).

1 44. A recent meta-analysis by Harvard researchers evaluating change in Body Mass
2 Index per increase in 1 serving of sugar-sweetened beverages per day found a significant
3 positive association between beverage intake and weight gain.⁴²

4 45. One study of more than 2,000 2.5-year-old children followed for 3 years found
5 that those who regularly consumed sugar-sweetened beverages between meals had a 240%
6 better chance of being overweight than non-consumers.⁴³

7 46. An analysis of data for more than 50,000 women from the Nurses' Health Study
8 during two 4-year periods showed that weight gain over a 4-year period was highest among
9 women who increased their sugar-sweetened beverage consumption from 1 or fewer drinks
10 per week, to 1 or more drinks per day (8.0 kg gain during the 2 periods), and smallest among
11 women who decreased their consumption or maintained a low intake level (2.8 kg gain).⁴⁴

12 47. A study of more than 40,000 African American women over 10 years had similar
13 results. After adjusting for confounding factors, those who increased sugar-sweetened
14 beverage intake from less than 1 serving per week, to more than 1 serving per day, gained the
15 most weight (6.8 kg), while women who decreased their intake gained the least (4.1 kg).⁴⁵

16 48. Experimental short-term feeding studies comparing sugar-sweetened beverages
17 to artificially-sweetened beverages have illustrated that consumption of the former leads to
18 greater weight gain. As demonstrated in the chart below, one 10-week trial involving more
19 than 40 men and women demonstrated that the group that consumed daily supplements of
20 sucrose (for 28% of total energy) increased body weight and fat mass, by 1.6 kg for men and
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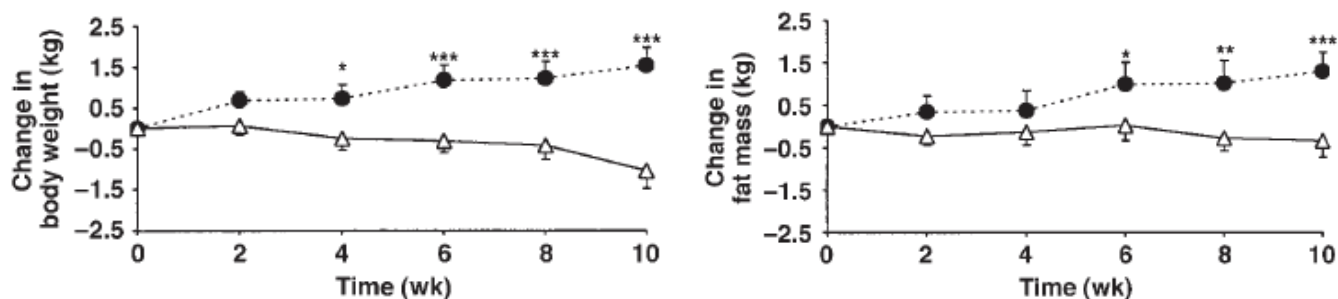
22 ⁴² Malik, V.S., et al., "Sugar-sweetened beverages and BMI in children and adolescents:
23 reanalyses of a meta-analysis," *American Journal of Clinical Nutrition*, Vol. 29, 438-39
24 (2009).

25 ⁴³ Dubois, L., et al., "Regular sugar-sweetened beverage consumption between meals
26 increases risk of overweight among preschool-aged children," *Journal of the American
Dietetic Association*, Vol. 107, Issue 6, 924-34 (2007).

27 ⁴⁴ Schulze, Diabetes in Young & Middle-Aged Women, *supra* n.29.

28 ⁴⁵ Palmer, Diabetes in African American Women, *supra* n.31.

1 1.3 kg for women, while the group that was supplemented with artificial sweeteners lost
2 weight—1.0 kg for men and 0.3 kg for women.⁴⁶



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FIGURE 2. Mean (\pm SEM) changes in body weight, fat mass, and fat-free mass during an intervention in which overweight subjects consumed supplements containing either sucrose (\bullet ; $n = 21$) or artificial sweeteners (Δ ; $n = 20$) daily for 10 wk. The diet \times time interactions were significant for changes in body weight ($P < 0.0001$) and fat mass ($P < 0.05$) by analysis of variance with Tukey's post hoc tests. At specific time points for changes in body weight and fat mass, there were significant differences between the sucrose and sweetener groups: * $P < 0.05$, ** $P < 0.001$, and *** $P < 0.0001$ (general linear model with least squares means and adjustment for multiple comparisons).

15 F. Juice Consumption is Associated with Increased Risk of High Blood 16 Triglycerides and Abnormal Cholesterol Levels

17 49. Cholesterol is a waxy, fat-like substance found in the body's cells, used to make
18 hormones, bile acids, vitamin D, and other substances. The human body manufactures all the
19 cholesterol it requires, which circulates in the bloodstream in packages called lipoproteins.
20 Excess cholesterol in the bloodstream can become trapped in artery walls, building into
21 plaque and narrowing blood vessels, making them less flexible, a condition called
22 atherosclerosis. When this happens in the coronary arteries, it restricts oxygen and nutrients
23 to the heart, causing chest pain or angina. When cholesterol-rich plaques in these arteries
24 burst, a clot can form, blocking blood flow and causing a heart attack.

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⁴⁶ Raben, A., et al., "Sucrose compared with artificial sweeteners: different effects on ad libitum food intake and body weight after 10 wk of supplementation in overweight subjects," *American Journal of Clinical Nutrition*, Vol. 76, 721-29 (2002) [hereinafter, "Raben, Sucrose vs. Artificial Sweeteners"].

1 50. Most blood cholesterol is low-density lipoprotein, or LDL cholesterol, which is
2 sometimes called “bad” cholesterol because it carries cholesterol to the body’s tissues and
3 arteries, increasing the risk of heart disease. High-density lipoprotein, or HDL cholesterol, is
4 sometimes called “good” cholesterol because it removes excess cholesterol from the
5 cardiovascular system, bringing it to the liver for removal. Thus, a low level of HDL
6 cholesterol increases the risk of heart disease.

7 51. Diet affects blood cholesterol. For example, the body reacts to saturated fat by
8 producing LDL cholesterol.

9 52. When the liver is overwhelmed by large doses of fructose, it will convert excess
10 to fat, which is stored in the liver and then released into the bloodstream, contributing to key
11 elements of metabolic syndrome, like high blood fat and triglycerides, high total cholesterol,
12 and low HDL “good” cholesterol.⁴⁷

13 53. A study of more than 6,000 participants in the Framingham Heart Study found
14 those who consumed more than 1 soft drink per day had a 25% greater risk of
15 hypertriglyceridemia, and 32% greater risk of low HDL cholesterol than those who consumed
16 less than 1 soft drink per day.⁴⁸

17 54. A systematic review and meta-analysis of 37 randomized controlled trials
18 concerning the link between sugar intake and blood pressure and lipids found that higher
19 sugar intakes, compared to lower sugar intakes, significantly raised triglyceride
20 concentrations, total cholesterol, and low density lipoprotein cholesterol.⁴⁹

21 55. A cross-sectional study among more than 6,100 U.S. adults from the NHANES
22 1999-2006 data were grouped into quintiles for sugar intake as follows: (1) less than 5% of
23 calories consumed from sugar, (2) 5% to less than 10%, (3) 10% to less than 17.5%, (4) 17.5%

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25 ⁴⁷ Te Morenga, Dietary Sugars & Body Weight, *supra* n.8.

26 ⁴⁸ Dhingra, Cardiometabolic Risk, *supra* n.12.

27 ⁴⁹ Te Morenga, L., et al., “Dietary sugars and cardiometabolic risk: systematic review and
28 meta-analyses of randomized controlled trials on the effects on blood pressure and lipids,”
American Journal of Clinical Nutrition, Vol. 100, No. 1, 65-79 (May 7, 2014).

1 to less than 25%, and (5) 25% or more. These groups had the following adjusted mean HDL
 2 levels (because HDL is the “good” cholesterol, higher levels are better): 58.7 mg/dL, 57.5,
 3 53.7, 51.0, and 47.7. Mean triglyceride levels were 105 mg/dL, 102, 111, 113, and 114. Mean
 4 LDL levels were 116 mg/dL, 115, 118, 121, and 123 among women, with no significant trend
 5 among men. Consumers whose sugar intake accounted for more than 10% of calories had a
 6 50% - 300% higher risk of low HDL levels compared to those who consumed less than 5%
 7 of calories from sugar. Likewise, high-sugar consumers had greater risk of high triglycerides.
 8 All relationships were linear as demonstrated in the charts below.⁵⁰

Figure 1. Multivariable-Adjusted Mean HDL-C Levels by Level of Added Sugar Intake Among US Adults, NHANES 1999-2006

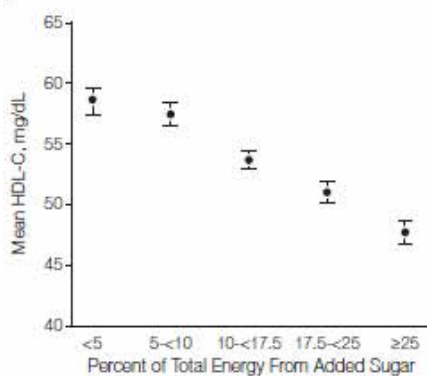


Figure 2. Multivariable-Adjusted Geometric Mean Triglyceride Levels by Level of Added Sugar Intake Among US Adults, NHANES 1999-2006

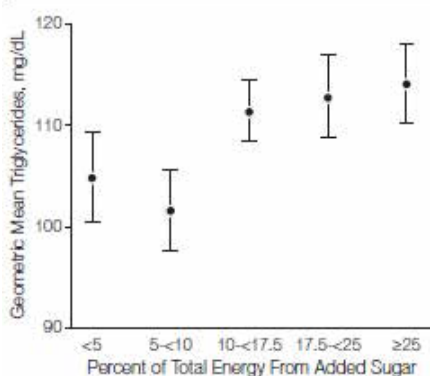
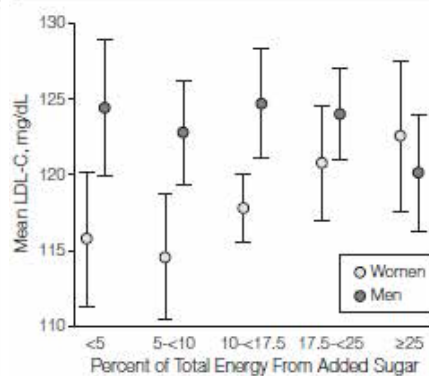


Figure 3. Multivariable-Adjusted Mean LDL-C Levels by Level of Added Sugar Intake Among US Men and Women, NHANES 1999-2006



18 56. One experimental study showed that, when a 17% fructose diet was provided to
 19 healthy men, they showed an increase in plasma triacylglycerol concentrations of 32%.⁵¹

20 57. Another 10-week experimental feeding study showed that those who were fed
 21 25% of their energy requirements as fructose experienced increases in LDL cholesterol, small
 22 dense LDL cholesterol, and oxidized LDL cholesterol, as well as increased concentrations of

26 ⁵⁰ Welsh, J.A., et al., “Caloric Sweetener Consumption and Dyslipidemia Among US Adults,”
 27 *Journal of the American Medical Association*, Vol. 303, No. 15, 1490-97 (April 21, 2010).

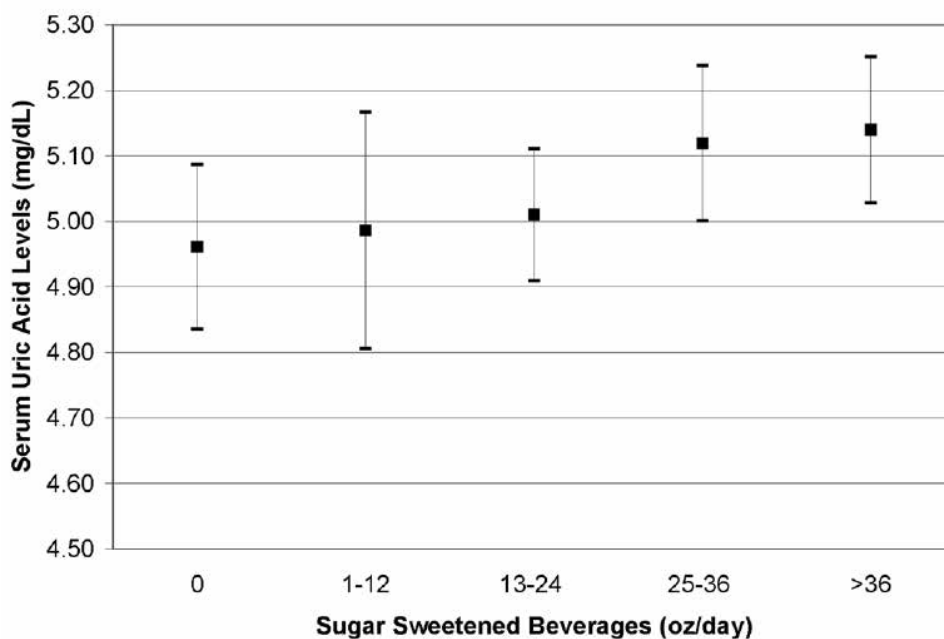
28 ⁵¹ Bantle, J.P., et al., “Effects of dietary fructose on plasma lipids in healthy subjects,”
American Journal of Clinical Nutrition, Vol. 72, 1128-34 (2000).

1 triglycerides and total cholesterol, while those fed a 25% diet of glucose did not experience
2 the same adverse effects.⁵²

3 58. In a cross-sectional study of normal weight and overweight children aged 6-14,
4 researchers found that “the only dietary factor that was a significant predictor of LDL particle
5 size was total fructose intake.”⁵³

6 **G. Juice Consumption is Associated with Increased Risk of Hypertension**

7 59. An analysis of the NHANES data for more than 4,800 adolescents also showed
8 a positive, linear association between sugar-sweetened beverages and higher systolic blood
9 pressure, as well as corresponding increases in serum uric acid levels.⁵⁴



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Figure 1.
Sample mean of serum uric acid with 95% confidence intervals by categories of sugar
sweetened beverage consumption adjusted for age, race/ethnicity, sex, total calories, BMI z-
score, alcohol, smoking, dietary fiber intake, diet beverage consumption, and milk
consumption. P for trend = 0.01

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⁵² Stanhope, K.L., et al., “Consuming fructose-sweetened, not glucose-sweetened, beverages
increases visceral adiposity and lipids and decreases insulin sensitivity in overweight/obese
humans,” *The Journal of Clinical Investigation*, Vol. 119, No. 5, 1322-34 (May 2009).

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⁵³ Aeberli, I., et al., “Fructose intake is a predictor of LDL particle size in overweight
schoolchildren,” *American Journal of Clinical Nutrition*, Vol. 86, 1174-78 (2007).

28
⁵⁴ Nguyen, S., et al., “Sugar Sweetened Beverages, Serum Uric Acid, and Blood Pressure in
Adolescents,” *Journal of Pediatrics*, Vol. 154, No. 6, 807-13 (June 2009).

1 60. In one study, 15 healthy men drank 500 ml water containing either no sugar, 60
 2 grams of fructose, or 60 grams of glucose. Blood pressure, metabolic rate, and autonomic
 3 nervous system activity were measured for 2 hours. While the administration of fructose was
 4 associated with an increase in both systolic and diastolic blood pressure, blood pressure did
 5 not rise in response to either water or glucose ingestion, as demonstrated in the chart below.⁵⁵

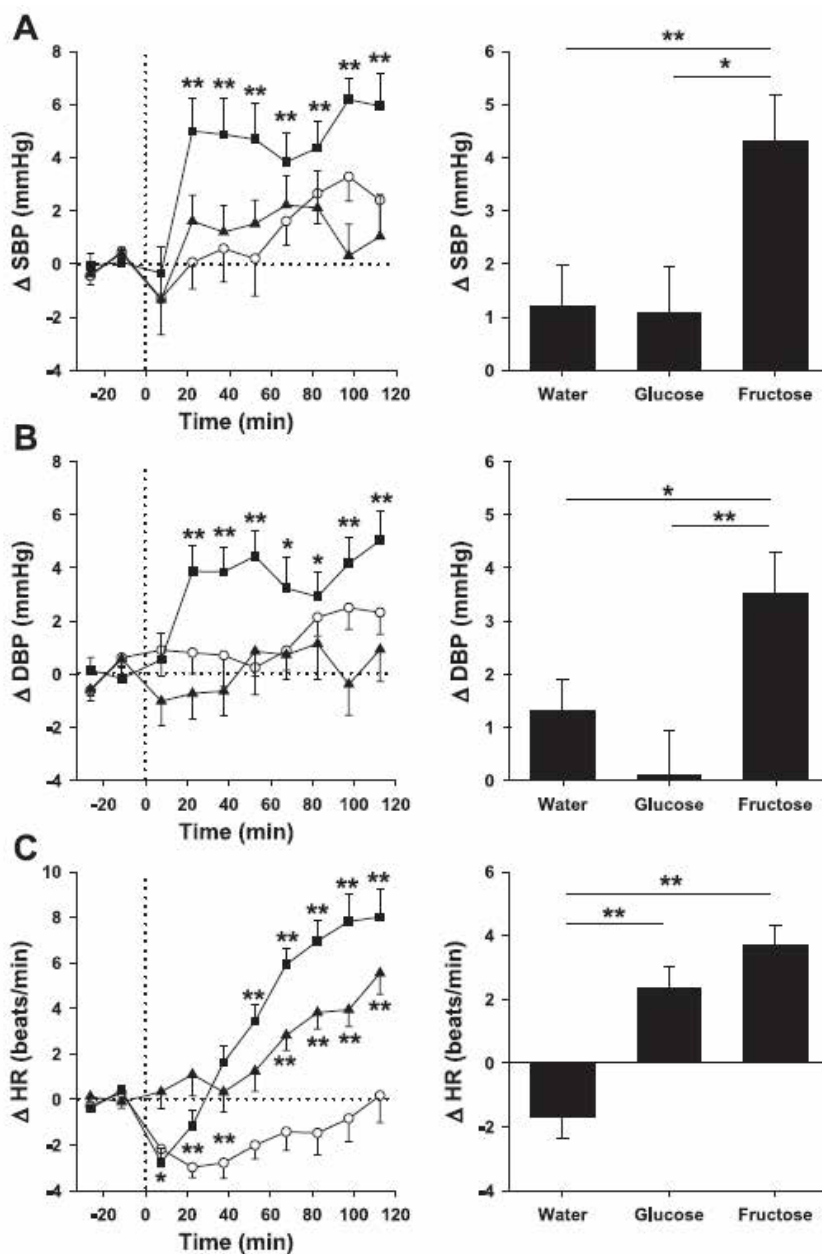


Fig. 1. Time course of the systolic blood pressure (SBP; A), diastolic blood pressure (DBP; B), and heart rate (HR; C) changes (left) and mean responses (right) to drinking water (○), glucose (▲), and fructose (■). **P* < 0.05 and ***P* < 0.01, statistically significant differences over time from baseline values (left) and differences between responses to the drinks (right).

⁵⁵ Brown, C.M., et al., “Fructose ingestion acutely elevates blood pressure in healthy young humans,” *Am. J. Physiol. Regul. Integr. Compl. Physiol.*, Vol. 294, R730-37 (2008).

1 61. In another study, more than 40 overweight men and women were supplemented
2 for 10 weeks with either sucrose or artificial sweeteners. The sucrose group saw an increase
3 in systolic and diastolic blood pressure, of 3.8 and 4.1 mm Hg, respectively, while the
4 artificial sweetener group saw a decrease in systolic and diastolic blood pressure, of 3.1 and
5 1.2 mm Hg, respectively.⁵⁶

6 62. Another study took a variety of approaches to measuring the association between
7 sugar intake and blood pressure, concluding that an increase of 1 serving of sugar-sweetened
8 beverages per day (*i.e.*, 140-150 calories, and 35-37.5 grams of sugar) was associated with
9 systolic/diastolic blood pressure differences of +1.6 and +0.8 mm Hg (and +1.1/+0.4 mm Hg
10 with adjustment for height and weight), while an increase of 2 servings results in
11 systolic/diastolic blood pressure differences of +3.4/+2.2, demonstrating that the relationship
12 is direct and linear.⁵⁷

13 **H. Juice Consumption is Associated with Increased All-Cause Mortality**

14 63. In a cohort study of 13,440 black and white adults 45 years and older, observed
15 for a mean of 6 years, each additional 12-oz serving per day of fruit juice was associated with
16 a 24% higher all-cause mortality risk. This was significantly higher than the increased risk
17 associated with *all* sugary beverages, including sugar-sweetened beverages like soda, which
18 was 11% for each additional 12-oz serving per day. The researchers from Emory University,
19 University of Alabama, and the Weill Cornell Medical College concluded their findings
20 “suggest that consumption of sugary beverages, including fruit juices, is associated with all-
21 cause mortality.”⁵⁸

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23 ⁵⁶ Raben, Sucrose vs. Artificial Sweeteners, *supra* n.46.

24 ⁵⁷ Brown, I.J., et al., “Sugar-Sweetened Beverage, Sugar Intake of Individuals, and Their
25 Blood Pressure: International Study of Macro/Micronutrients and Blood Pressure,”
26 *Hypertension*, Vol. 57, 695-701 (2011).

27 ⁵⁸ Collin, L.J., et al., “Association of Sugary Beverage Consumption With Mortality Risk in
28 US Adults: A Secondary Analysis of Data From the REGARDS Study,” *JAMA Network Open*
Vol. 2, No. 5 (May 2019).

1 **I. Because of the Compelling Evidence that Consuming Juice is Unhealthy,**
2 **Authoritative Bodies Recommend Limiting its Consumption**

3 64. The American Academy of Pediatrics (AAP) suggests limiting juice
4 consumption to no more than 4 to 6 ounces for young children aged 1 to 6,⁵⁹ and no more
5 than 8 fluid ounces for children 7 to 18 years of age, as well as adults.⁶⁰ In addition, both the
6 AAP and Dietary Guidelines for Americans recommend that children consume whole fruit in
7 place of juice.⁶¹

8 65. The most recent Dietary Guidelines for Americans states that “[t]he amounts of
9 fruit juice allowed in the USDA Food Patterns for young children align with the
10 recommendation from the American Academy of Pediatrics that young children consume no
11 more than 4 to 6 fluid ounces of 100% fruit juice per day.”⁶²

12 66. The World Health Organization recommends that no more than 10% of an
13 adult’s calories, and ideally less than 5%, come from free or added sugar, or from natural
14 sugars in honey, syrups, and fruit juice.

15 **III. NEXTFOODS’ REPRESENTATIONS AND OMISSIONS SUGGESTING THE**
16 **JUICEDRINKS ARE HEALTHY ARE FALSE AND MISLEADING**

17 67. For more than four years preceding the filing of this Complaint and continuing
18 today, NextFoods has sold and continues to sell the JuiceDrinks on a nationwide basis,
19 including in California, in at least 32 ounce and 15.2 ounce sizes, and in various flavors.

20 _____
21 ⁵⁹ Am. Academy of Pediatrics, “Healthy Children, Fit Children: Answers to Common
22 Questions From Parents About Nutrition and Fitness.” (2011).

23 ⁶⁰ Heyman, M.B., et al., “Fruit Juice in Infants, Children, and Adolescents: Current
24 Recommendations.” *Pediatrics* Vol. 139, No. 6 (June 2017).

25 ⁶¹ *Id.*; see also Auerbach, B.J., et al., “Review of 100% Fruit Juice and Chronic Health
26 Conditions: Implications for Sugar-Sweetened Beverage Policy.” *Adv. Nutr.*, Vol. 9, pp. 78-
85 (2018).

27 ⁶² U.S. Dep’t of Health & Human Servs. and U.S. Dept. of Agric., “Dietary Guidelines for
28 Americans 2015 – 2020,” at 22 (8th ed.), available at
https://health.gov/sites/default/files/2019-09/2015-2020_Dietary_Guidelines.pdf.

1 68. The JuiceDrinks’ standard serving size is 8 fl. oz (1 cup).⁶³ Each serving,
2 depending on flavor, contains between 9g and 21g of free sugar, contributing 60% to 88% of
3 its calories.

4 69. Because scientific evidence demonstrates that, due to its high free sugar content,
5 juice consumption is associated with increased risk of metabolic disease, cardiovascular
6 disease, type 2 diabetes, liver disease, obesity, high blood triglycerides and cholesterol,
7 hypertension, and all-cause mortality, NextFoods’ representations that the JuiceDrinks
8 promote “overall health” and “GoodHealth,” are healthy, are false, or at least highly
9 misleading.

10 70. To the extent the JuiceDrinks provide some benefits to “digestive health”—like
11 the mitigation of “Flatulence,” “Diarrhea,” and “Constipation,” as set out on the JuiceDrinks’
12 labels, it is nevertheless deceptive for NextFoods to promote the products as promoting
13 overall health, since regular consumption of the JuiceDrinks is likely to detriment overall
14 health given their high free sugar content.

15 71. While representing that the JuiceDrinks promote “overall health” and
16 “GoodHealth,” NextFoods regularly and intentionally omits material information regarding
17 the dangers of the free sugars in the JuiceDrinks. NextFoods is under a duty to disclose this
18 information to consumers because (a) NextFoods is revealing some information about its
19 Products—enough to suggest they are healthy or beneficial to health—without revealing
20 additional material information, (b) NextFoods deceptive omissions concern human health,
21 and specifically the detrimental health consequences of consuming its Products, (c)
22 NextFoods was in a superior position to know of the dangers presented by the sugars in its
23 juices, as it is a food company whose business depends upon food science and policy, and (d)
24 NextFoods actively concealed material facts not known to Plaintiff and the Class.

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27 ⁶³ This is also the FDA-promulgated Reference Amount Customarily Consumed (RACC) for
28 juice. 81 Fed. Reg. 34,000 (May 27, 2016). RACCs reflect amounts of food customarily
consumed per eating occasion and are derived from NHANES data.

1 **IV. THE JUICEDRINKS’ LABELING VIOLATES CALIFORNIA AND FEDERAL**
2 **LAW**

3 72. The JuiceDrinks and their challenged labeling statements violate California
4 Health and Safety Code §§109875, *et. seq.* (the “Sherman Law”), which has expressly
5 adopted the federal food labeling requirements as its own. *See e.g., id.* § 110100, *id.* § 110670
6 (“Any food is misbranded if its labeling does not conform with the requirements for nutrition
7 labeling as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the
8 regulation adopted pursuant thereto.”).

9 73. First, the challenged claims are false and misleading for the reasons described
10 herein, in violation of 21 U.S.C. § 343(a), which deems misbranded any food whose “label is
11 false or misleading in any particular.” NextFoods accordingly also violated California’s
12 parallel provision of the Sherman Law. *See* Cal. Health & Safety Code § 110670.

13 74. Second, despite making the challenged claims, NextFoods “fail[ed] to reveal
14 facts that are material in light of other representations made or suggested by the statement[s],
15 word[s], design[s], device[s], or any combination thereof,” in violation of 21 C.F.R. §
16 1.21(a)(1). Such facts include the detrimental health consequences of consuming the
17 JuiceDrinks at typical levels, including increased risk of metabolic disease, cardiovascular
18 disease, type 2 diabetes, liver disease, obesity, high blood triglycerides and cholesterol,
19 hypertension, and death.

20 75. Third, NextFoods failed to reveal facts that were “[m]aterial with respect to the
21 consequences which may result from use of the article under” both “[t]he conditions
22 prescribed in such labeling,” and “such conditions of use as are customary or usual,” in
23 violation of § 1.21(a)(2). Namely, NextFoods failed to disclose the increased risk of serious
24 chronic disease and death that is likely to result from the usual consumption of the
25 JuiceDrinks in the customary and prescribed manners.

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1 **V. PLAINTIFF’S PURCHASE, RELIANCE, AND INJURY**

2 76. As best she can recall, Plaintiff started purchasing 32 oz. cartons of the
3 JuiceDrinks in 2018, and continued to purchase the products until around the middle of 2019.
4 She recalls making her purchases at local stores including the Sprouts Farmers Market, at
5 9361 Mission Gorge Road, Santee, California 92071, for approximately \$3 to \$5 per carton.

6 77. In purchasing the JuiceDrinks, Plaintiff was exposed to, read, and relied upon
7 NextFoods’ labeling claims that were intended to appeal to consumers, like her, interested in
8 health and nutrition. Specifically, to the best of her recollection, when deciding to purchase
9 the JuiceDrinks, Plaintiff at various times read and relied on at least the following statements
10 on the products’ packaging:

11 a. “START YOUR GOODHEALTH GAME PLAN . . . Drink one 8 oz.
12 glass of delicious GoodBelly a day for 12 days.”;

13 b. “Reboot your belly, then make GoodBelly your daily drink to keep your
14 GoodHealth going. Because when your belly smiles the rest of you does too”;

15 c. “WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It
16 has been studied more than 2 decades and has numerous research trials to show that it
17 may help promote healthy digestion and overall wellness”;

18 d. “GoodBelly Probiotics is a delicious blend of fruit juices and a daily dose
19 of probiotic cultures created to naturally renew your digestive health, right where your
20 overall health gets started – in your belly.”

21 78. Plaintiff believed these claims regarding the healthfulness of the JuiceDrinks,
22 which were and are deceptive because they convey that the products are healthy and will not
23 detriment health, despite that they contain excessive amounts of free sugar, rendering them
24 unhealthy and likely to increase risk of disease when consumed regularly.

25 79. When purchasing the JuiceDrinks, Plaintiff was seeking beverages that were
26 healthy to consume, that is, whose regular consumption would not increase risk of disease.

27 80. The health and wellness representations on the JuiceDrinks’ packaging,
28 however, were misleading, and had the capacity, tendency, and likelihood to confuse or

1 confound Plaintiff and other consumers acting reasonably because, as described in detail
2 herein, the Products are not healthy but instead are of a type that increases the risk of disease
3 when regularly consumed.

4 81. Plaintiff is not a nutritionist, food expert, or food scientist, but rather a lay
5 consumer who did not have the specialized knowledge that NextFoods had regarding the
6 nutrients present in its JuiceDrinks. At the time of purchase, Plaintiff was unaware of the
7 extent to which consuming high amounts of free sugar adversely affects blood cholesterol
8 levels and increases risk of metabolic disease, liver disease, heart disease, diabetes, and other
9 morbidity, or what amount of free sugar might have such an effect.

10 82. The average and reasonable consumer is unaware of the extent to which
11 consuming high amounts of free sugar adversely affects blood cholesterol levels and increases
12 risk of disease, or what amount of free sugar might have such an effect.

13 83. Plaintiff acted reasonably in relying on the challenged labeling claims, which
14 NextFoods intentionally placed on the JuiceDrinks' labeling with the intent to induce average
15 consumers into purchasing the products.

16 84. Plaintiff would not have purchased the JuiceDrinks if she knew that the labeling
17 claims were false and misleading in that the products were not as healthy as represented.

18 85. The JuiceDrinks cost more than similar products without misleading labeling,
19 and s would have cost less absent NextFoods' false and misleading statements and omissions.

20 86. Through the misleading labeling claims and omissions, NextFoods was able to
21 gain a greater share of the juice market than it would have otherwise and also increased the
22 size of the market.

23 87. Plaintiff paid more for the JuiceDrinks, and would only have been willing to pay
24 less, or unwilling to purchase the JuiceDrinks at all, absent the false and misleading labeling
25 complained of herein.

26 88. Plaintiff would not have purchased the JuiceDrinks if she had known that the
27 Products were misbranded pursuant to California and FDA regulations or that the challenged
28 claims were false or misleading.

1 89. For these reasons, the JuiceDrinks were worth less than what Plaintiff and the
2 Class paid for them.

3 90. Instead of receiving products that had actual healthful qualities, the JuiceDrinks
4 Plaintiff and the Class received were of the type that is likely to lead to increased risk of
5 disease when consumed regularly.

6 91. Plaintiff and the Class lost money as a result of NextFoods' deceptive claims,
7 omissions, and practices in that they did not receive what they paid for when purchasing the
8 JuiceDrinks.

9 92. Plaintiff continues to desire to purchase healthy beverages, and continues to see
10 the JuiceDrinks at stores when she shops. She would purchase the JuiceDrinks in the future
11 if they were in fact healthy as represented, but unless NextFoods is enjoined in the manner
12 Plaintiff requests, she may not be able to reasonably determine whether the products have
13 been reformulated to conform to the misleading claims or whether NextFoods has continued
14 to misrepresent the JuiceDrinks.

15 93. Plaintiff would purchase the JuiceDrinks if she could trust that the health and
16 wellness claims were true and not false or misleading, but absent an injunction, Plaintiff will
17 be unable to trust the representations on the JuiceDrinks when she encounters them in the
18 marketplace.

19 94. Plaintiff's substantive right to a marketplace free of fraud, where she is entitled
20 to rely on representations such as those made by NextFoods with confidence continues to be
21 violated every time Plaintiff is exposed to the misleading labeling claims.

22 95. Plaintiff's legal remedies are inadequate to prevent these future injuries.

23 **CLASS ACTION ALLEGATIONS**

24 96. While reserving the right to redefine or amend the class definition prior to or as
25 part of a motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23,
26 Plaintiff seeks to represent a class of all persons in California who, at any time from four
27 years preceding the date of the filing of this Complaint to the time a class is notified (the
28

1 “Class Period”), purchased, for personal or household use, and not for resale or distribution,
2 any of the JuiceDrinks (the “Class”).

3 97. The members in the proposed Class are so numerous that individual joinder of
4 all members is impracticable, and the disposition of the claims of all Class Members in a
5 single action will provide substantial benefits to the parties and Court.

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

7 a. whether NextFoods communicated a message regarding healthfulness of
8 the Products through its packaging and advertising;

9 b. whether that message was material, or likely to be material, to a
10 reasonable consumer;

11 c. whether the challenged claims are false, misleading, or reasonably likely
12 to deceive a reasonable consumer;

13 d. whether NextFoods’ conduct violates public policy;

14 e. whether NextFoods’ conduct violates state or federal food statutes or
15 regulations;

16 f. the proper amount of damages, including punitive damages;

17 g. the proper amount of restitution;

18 h. the proper scope of injunctive relief; and

19 i. the proper amount of attorneys’ fees.

20 99. These common questions of law and fact predominate over questions that affect
21 only individual Class Members.

22 100. Plaintiff’s claims are typical of Class Members’ claims because they are based
23 on the same underlying facts, events, and circumstances relating to NextFoods’ conduct.
24 Specifically, all Class Members, including Plaintiff, were subjected to the same misleading
25 and deceptive conduct when they purchased the JuiceDrinks and suffered economic injury
26 because the products are misrepresented. Absent NextFoods’ business practice of deceptively
27 and unlawfully labeling the JuiceDrinks, Plaintiff and Class Members would not have
28 purchased the products.

1 101. Plaintiff will fairly and adequately represent and protect the interests of the
2 Class, has no interests incompatible with the interests of the Class, and has retained counsel
3 competent and experienced in class action litigation, and specifically in litigation involving
4 the false and misleading advertising of foods.

5 102. Class treatment is superior to other options for resolution of the controversy
6 because the relief sought for each Class Member is small, such that, absent representative
7 litigation, it would be infeasible for Class Members to redress the wrongs done to them.

8 103. NextFoods has acted on grounds applicable to the Class, thereby making
9 appropriate final injunctive and declaratory relief concerning the Class as a whole.

10 104. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P.
11 23(a), 23(b)(2), and 23(b)(3).

12 **CAUSES OF ACTION**

13 **FIRST CAUSE OF ACTION**

14 **Violations of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.***

15 105. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
16 as if set forth in full herein.

17 106. The UCL prohibits any “unlawful, unfair or fraudulent business act or practice.”
18 Cal. Bus. & Prof. Code § 17200.

19 107. The acts, omissions, misrepresentations, practices, and non-disclosures of
20 NextFoods as alleged herein constitute business acts and practices.

21 **Fraudulent**

22 108. A statement or practice is fraudulent under the UCL if it is likely to deceive a
23 significant portion of the public, applying an objective reasonable consumer test.

24 109. As set forth herein, NextFoods’ claims relating to the JuiceDrinks are likely to
25 deceive reasonable consumers and the public.

26 **Unlawful**

27 110. The acts alleged herein are “unlawful” under the UCL in that they violate at least
28 the following laws:

- 1 • The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*;
- 2 • The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*;
- 3 • The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*; and
- 4 • The California Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety
5 Code §§ 110100 *et seq.*

6 **Unfair**

7 111. NextFoods' conduct with respect to the labeling, advertising, and sale of the
8 JuiceDrinks was unfair because NextFoods' conduct was immoral, unethical, unscrupulous,
9 or substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh
10 the gravity of the harm to its victims.

11 112. NextFoods' conduct with respect to the labeling, advertising, and sale of the
12 JuiceDrinks was and is also unfair because it violates public policy as declared by specific
13 constitutional, statutory or regulatory provisions, including but not necessarily limited to the
14 False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions
15 of the California Sherman Food, Drug, and Cosmetic Law.

16 113. NextFoods' conduct with respect to the labeling, advertising, and sale of the
17 JuiceDrinks was and is also unfair because the consumer injury was substantial, not
18 outweighed by benefits to consumers or competition, and not one consumers themselves
19 could reasonably have avoided. Specifically, the increase in profits obtained by NextFoods
20 through the misleading labeling does not outweigh the harm to Class Members who were
21 deceived into purchasing the JuiceDrinks believing they were healthy when in fact they are
22 of the type that is likely to detriment health.

23 114. NextFoods profited from the sale of the falsely, deceptively, and unlawfully
24 advertised JuiceDrinks to unwary consumers.

25 115. Plaintiff and Class Members are likely to continue to be damaged by NextFoods'
26 deceptive trade practices, because NextFoods continues to disseminate misleading
27 information. Thus, injunctive relief enjoining NextFoods' deceptive practices is proper.
28

1 116. NextFoods’ conduct caused and continues to cause substantial injury to Plaintiff
2 and other Class Members. Plaintiff has suffered injury in fact as a result of NextFoods’
3 unlawful conduct.

4 117. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining
5 NextFoods from continuing to conduct business through unlawful, unfair, and/or fraudulent
6 acts and practices, and to commence a corrective advertising campaign.

7 118. Plaintiff and the Class also seek an order for the restitution of all monies from
8 the sale of the JuiceDrinks, which were unjustly acquired through acts of unlawful
9 competition.

10 119. Because Plaintiff’s claims under the “unfair” prong of the UCL sweep more
11 broadly than their claims under the FAL, CLRA, or UCL’s “fraudulent” prong, Plaintiff’s
12 legal remedies are inadequate to fully compensate Plaintiff for all of NextFoods’ challenged
13 behavior.

14 **SECOND CAUSE OF ACTION**

15 **Violations of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.***

16 120. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
17 as if set forth in full herein.

18 121. The FAL provides that “[i]t is unlawful for any person, firm, corporation or
19 association, or any employee thereof with intent directly or indirectly to dispose of real or
20 personal property or to perform services” to disseminate any statement “which is untrue or
21 misleading, and which is known, or which by the exercise of reasonable care should be
22 known, to be untrue or misleading.” Cal. Bus. & Prof. Code § 17500.

23 122. It is also unlawful under the FAL to disseminate statements concerning property
24 or services that are “untrue or misleading, and which is known, or which by the exercise of
25 reasonable care should be known, to be untrue or misleading.” *Id.*

26 123. As alleged herein, the advertisements, labeling, policies, acts, and practices of
27 NextFoods relating to the JuiceDrinks misled consumers acting reasonably as to the
28 healthfulness of the products.

1 124. Plaintiff suffered injury in fact as a result of NextFoods' actions as set forth
2 herein because Plaintiff purchased the JuiceDrinks in reliance on NextFoods' false and
3 misleading marketing claims stating or suggesting that the products, among other things, are
4 healthful.

5 125. NextFoods' business practices as alleged herein constitute unfair, deceptive,
6 untrue, and misleading advertising pursuant to the FAL because NextFoods has advertised
7 the JuiceDrinks in a manner that is untrue and misleading, which NextFoods knew or
8 reasonably should have known, and omitted material information from the JuiceDrinks'
9 labeling.

10 126. NextFoods profited from the sale of the falsely and deceptively advertised
11 JuiceDrinks to unwary consumers.

12 127. As a result, Plaintiff, the Class, and the general public are entitled to injunctive
13 and equitable relief, restitution, and an order for the disgorgement of the funds by which
14 NextFoods was unjustly enriched.

15 128. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and
16 the Class, seeks an order enjoining NextFoods from continuing to engage in deceptive
17 business practices, false advertising, and any other act prohibited by law, including those set
18 forth in this Complaint.

19 129. Because the Court has broad discretion to award restitution under the FAL and
20 could, when assessing restitution under the FAL, apply a standard different than that applied
21 to assessing damages under the CLRA or commercial code (for Plaintiff's breach of warranty
22 claims), and restitution is not limited to returning to Plaintiff and class members monies in
23 which they have an interest, but more broadly serves to deter the offender and others from
24 future violations, the legal remedies available under the CLRA and commercial code are more
25 limited than the equitable remedies available under the FAL, and are therefore inadequate.

26 ///

27 ///

28 ///

1 **THIRD CAUSE OF ACTION**

2 **Violations of the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 et seq.**

3 130. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
4 as if set forth in full herein.

5 131. The CLRA prohibits deceptive practices in connection with the conduct of a
6 business that provides goods, property, or services primarily for personal, family, or
7 household purposes.

8 132. NextFoods’ false and misleading labeling and other policies, acts, and practices
9 were designed to, and did, induce the purchase and use of the JuiceDrinks for personal,
10 family, or household purposes by Plaintiff and Class Members, and violated and continue to
11 violate the following sections of the CLRA:

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

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

16 c. § 1770(a)(9): advertising goods with intent not to sell them as advertised;
17 and

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

20 133. NextFoods profited from the sale of the falsely, deceptively, and unlawfully
21 advertised JuiceDrinks to unwary consumers.

22 134. NextFoods’ wrongful business practices constituted, and constitute, a continuing
23 course of conduct in violation of the CLRA.

24 135. Pursuant to California Civil Code § 1782, more than 30 days before filing this
25 lawsuit, Plaintiff sent written notice of her claims and NextFoods’ particular violations of the
26 Act to NextFoods by certified mail, return receipt requested, but NextFoods has failed to
27 implement remedial measures.

28

1 136. As a result, Plaintiff and the Class have suffered harm, and therefore seek (a)
2 actual damages resulting from purchases of the JuiceDrinks sold throughout the Class Period
3 to all Class Members, (b) punitive damages, (c) injunctive relief in the form of modified
4 advertising and a corrective advertising plan, (d) restitution, and (e) attorneys' fees and costs.
5 *See* Cal. Civ. Code § 1782(d).

6 137. In compliance with Cal. Civ. Code § 1780(d), Plaintiff's affidavit of venue is
7 filed concurrently herewith.

8 **FOURTH CAUSE OF ACTION**

9 **Breaches of Express Warranties, Cal. Com. Code § 2313(1)**

10 138. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
11 as if set forth in full herein.

12 139. Through the JuiceDrinks' labeling, NextFoods made affirmations of fact or
13 promises, or description of goods, that, *inter alia*, the JuiceDrinks are beneficial to health.

14 140. These representations were "part of the basis of the bargain," in that Plaintiff
15 and the Class purchased the JuiceDrinks in reasonable reliance on those statements. Cal. Com.
16 Code § 2313(1).

17 141. NextFoods breached its express warranties by selling JuiceDrinks that are not
18 healthful, but rather contain high levels of free sugar that are likely to increase the risk of
19 chronic diseases, and harm rather than promote bodily health.

20 142. That breach actually and proximately caused injury in the form of the lost
21 purchase price that Plaintiff and Class Members paid for the JuiceDrinks.

22 143. As a result, Plaintiff seeks, on behalf of herself and other Class Members, their
23 actual damages arising as a result of NextFoods' breaches of express warranty, including,
24 without limitation, expectation damages.

25 **FIFTH CAUSE OF ACTION**

26 **Breach of Implied Warranty of Merchantability, Cal. Com. Code § 2314**

27 144. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
28 as if set forth in full herein.

1 145. NextFoods, through its acts set forth herein, in the sale, marketing, and
2 promotion of the Products, made representations to Plaintiff and the Class that, among other
3 things, the JuiceDrinks promote overall health and wellness.

4 146. NextFoods is a merchant with respect to the goods of this kind which were sold
5 to Plaintiff and the Class, and there was, in the sale to Plaintiff and other consumers, an
6 implied warranty that those goods were merchantable.

7 147. However, NextFoods breached that implied warranty in that the JuiceDrinks are
8 not healthful, but are generally harmful to health, as set forth in detail herein.

9 148. As an actual and proximate result of NextFoods' conduct, Plaintiff and the Class
10 did not receive goods as impliedly warranted by NextFoods to be merchantable in that they
11 did not conform to promises and affirmations made on the container or label of the goods.

12 149. As a result, Plaintiff seeks actual damages, including, without limitation,
13 expectation damages.

14 **PRAYER FOR RELIEF**

15 150. Wherefore, Plaintiff, on behalf of herself, all others similarly situated, and the
16 general public, prays for judgment against NextFoods as to each and every cause of action,
17 and the following remedies:

18 a. An Order declaring this action to be a proper class action, appointing
19 Plaintiff as Class Representative, and appointing Plaintiff's undersigned counsel as
20 Class Counsel;

21 b. An Order requiring NextFoods to bear the cost of Class Notice;

22 c. An Order compelling NextFoods to conduct a corrective advertising
23 campaign;

24 d. An Order compelling NextFoods to destroy all misleading and deceptive
25 advertising materials and product labels, and to recall all offending JuiceDrinks;

26 e. An Order requiring NextFoods to disgorge all monies, revenues, and
27 profits obtained by means of any wrongful act or practice;

28

1 f. An Order requiring NextFoods to pay restitution to restore all funds
2 acquired by means of any act or practice declared by this Court to be an unlawful,
3 unfair, or fraudulent business act or practice, or untrue or misleading advertising, plus
4 pre-and post-judgment interest thereon;

5 g. An Order requiring NextFoods to pay compensatory damages and
6 punitive damages as permitted by law;

7 h. An award of attorneys' fees and costs; and

8 i. Any other and further relief that Court deems necessary, just, or proper.

9 **JURY DEMAND**

10 151. Plaintiff hereby demands a trial by jury on all issues so triable.

11
12 Dated: August 13, 2021

/s/ Paul K. Joseph

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18 2341 Jefferson Street, Suite 200

19 San Diego, California 92110

20 Phone: (619) 215-1741

21 ***Counsel for Plaintiff***

Appendix 1

Tropical Green



Contains 30% Juice

Nutrition Facts
Serving Size 8 oz. (240 mL)
Servings Per Package about 4

Amount Per Serving	% Daily Value**
Calories 100	
Calories from Fat 0	
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Potassium 140mg	4%
Total Carb. 21g	7%
Dietary Fiber 0g	0%
Sugars 16g	
Protein 1g	

Vitamin A 20% • Vitamin C 0%
Calcium 0% • Iron 4%
Vitamin B12 15% • Iodine 15%

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

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC MANGO PUREE, ORGANIC BANANA PUREE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC OAT FLOUR, CONTAINS 2% OR LESS OF NATURAL FLAVORS, ORGANIC FLAVORS, CITRIC ACID, ORGANIC SPIRULINA, ORGANIC CHLORELLA, ORGANIC KALE, ORGANIC SPINACH, ORGANIC ALFALFA GRASS, ORGANIC GUAR GUM, ORGANIC BARLEY MALT, ORGANIC REBA STEVIA LEAF EXTRACT, LACTOBACILLUS PLANTARIUM 299V.

This product contains some gluten from organic oat flour and barley malt. Try our gluten-free options!

* *Lactobacillus plantarum* 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Keep Refrigerated
Use within 14 days of opening

Manufactured for:
NextFoods
Boulder, Colorado 80301



Got Questions?
Contact us at:
info@goodbelly.com
www.goodbelly.com

Made in USA.



Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Constipation
- Diarrhea
- Bloating
- Flatulence
- Fatigue

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE WALK THE TALK. Our strain, LP299V, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied for more than 2 decades and has numerous research trials to show it may help promote healthy digestion and overall wellness.

- When in **BALANCE** the intestinal microflora:
- ① Supports healthy digestion.*
 - ② Promotes regularity.
 - ③ Aids in absorption of nutrients.

→ Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.*



12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

- ① Sign up at 12Day.GoodBelly.com.
Check your email for coupons and print 'em out.
- ②
- ③ Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- ④ We guarantee you'll love it — or your money back!†

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.
† Some restrictions apply.

Blueberry Acai



Contains 30% Juice

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	110	% Daily Value*
Calories		
Total Fat 0g	0%	
Saturated Fat 0g	0%	
Trans Fat 0g		
Cholesterol 0mg	0%	
Sodium 20mg	1%	
Total Carb. 26g	9%	
Dietary Fiber 0g	0%	
Total Sugars 21g		
Includes 14g Added Sugars	26%	
Protein <1g		
Vitamin D 0mg	0%	
Calcium 200mg	15%	
Iron 0.3mg	2%	
Potassium 120mg	3%	

*The Daily Value tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC BLUEBERRY JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF ORGANIC OAT FLOUR, ORGANIC ACAI PUREE, ORGANIC FLAVOR, NATURAL FLAVOR, CALCIUM CITRATE, CITRIC ACID, ORGANIC CARROT JUICE (FOR COLOR), ORGANIC BARLEY MALT, LACTOBACILLUS PLANTARUM 299V.

CONTAINS: GLUTEN from organic oat flour and barley malt.

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NextFoods
Boulder, Colorado 80301

Certified Organic by QAI

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www.goodbelly.com

Manufactured in USA

GoodBelly

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*Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

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- ③ Aids in absorption of nutrients.

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Feel Your Belly Smile

Give It a GoodShake!

NON-GMO SOY-FREE DAIRY-FREE VEGAN

GoodBelly
PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.

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- ② Check your email for coupons and print 'em out.
- ③ Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- ④ We guarantee you'll love it — or your money back!

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Pomegranate Blackberry



Contains 30% Juice

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	Calories	% Daily Value*
	90	
Total Fat 0g		0%
Saturated Fat 0g		0%
Trans Fat 0g		0%
Cholesterol 0mg		0%
Sodium 15mg		1%
Total Carb. 22g		8%
Dietary Fiber 0g		0%
Total Sugars 18g		
Includes 10g Added Sugars		20%
Protein <1g		
Vitamin D 0mcg		0%
Calcium 15mg		1%
Iron 0.3mg		2%
Potassium 120mg		3%

*The Daily Value tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC BLACKBERRY JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC POMEGRANATE JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF ORGANIC OAT FLOUR, NATURAL FLAVORS, ORGANIC CARROT JUICE (FOR COLOR), CITRIC ACID, ORGANIC BARLEY MALT, LACTOBACILLUS PLANTARIUM 299V.

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Manufactured in USA

GoodBelly

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- 4 We guarantee you'll love it — or your money back!†

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† Some restrictions apply.

Mango



Contains 25% Juice

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	% Daily Value*
Calories	100
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 10mg	1%
Total Carb. 23g	8%
Dietary Fiber 0g	0%
Total Sugars 19g	
Includes 12g Added Sugars	24%
Protein <1g	
Vitamin D 0mg	0%
Calcium 10mg	1%
Iron 0.3mg	2%
Potassium 120mg	3%

*The Daily Value tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

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CONTAINS: GLUTEN from organic oat flour and barley malt.

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Use within 14 days of opening

Manufactured for:
NextFoods
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When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Constipation
- Diarrhea
- Bloating
- Flatulence
- Fatigue

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE WALK THE TALK. Our strain, LP299V, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied for more than 2 decades and has numerous research trials to show it may help promote healthy digestion, and overall wellness.

When in **BALANCE** the intestinal microflora:

- Supports healthy digestion.*
- Promotes regularity.
- Aids in absorption of nutrients.

Experience GoodBelly for yourself.
Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

GIVE IT A GoodShake!

NON-DAG FIBER PALETTE VEGAN

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.

Probiotic Support
goodbelly.com

12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

- 1 Sign up at: goodbelly.com/12-day-reboot
- 2 Check your email for coupons and print 'em out.
- 3 Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- 4 We guarantee you'll love it — or your money back!†

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Cranberry Watermelon



Contains 30% Juice

Nutrition Facts
Serving Size 8 oz. (240mL)
Servings Per Package about 4

Amount Per Serving	% Daily Value**
Calories 100	
Calories from Fat 0	
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Potassium 100mg	3%
Total Carb. 24g	8%
Dietary Fiber 1g	2%
Sugars 22g	
Protein 1g	
Vitamin A 0%	Vitamin C 0%
Calcium 2%	Iron 2%

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

INGREDIENTS: FILTERED WATER, ORGANIC GRAPE JUICE FROM CONCENTRATE, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC CRANBERRY JUICE FROM CONCENTRATE, ORGANIC STRAWBERRY JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF: ORGANIC OAT FLOUR, ORGANIC WATERMELON JUICE FROM CONCENTRATE, CITRIC ACID, NATURAL FLAVOR, ORGANIC GUAR GUM, ORGANIC BARLEY MALT, ORGANIC VEGETABLE JUICE (FOR COLOR), LACTOBACILLUS PLANTARUM 299V.

This product contains some gluten from organic oat flour and barley malt. Try our gluten-free option!

* Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Keep Refrigerated
Use within 14 days of opening

Manufactured for:
NextFoods
Boulder, Colorado 80301

Certified Organic by QAI

Got Questions?
Contact us at:
info@goodbelly.com
www.goodbelly.com

Made in USA.

917701002062

Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

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- Flatulence
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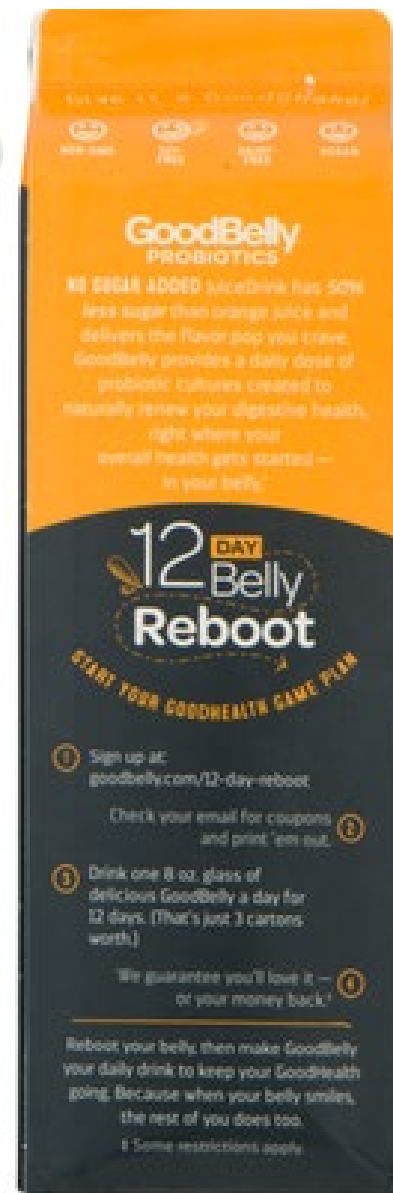
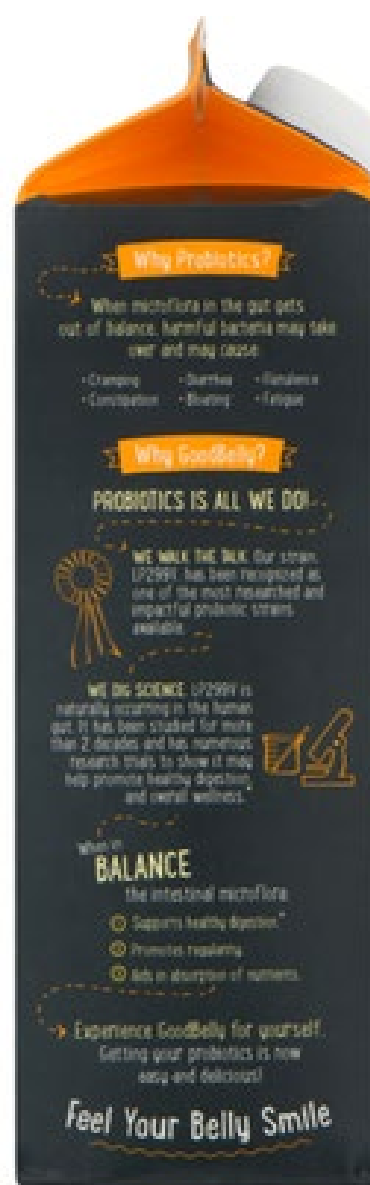
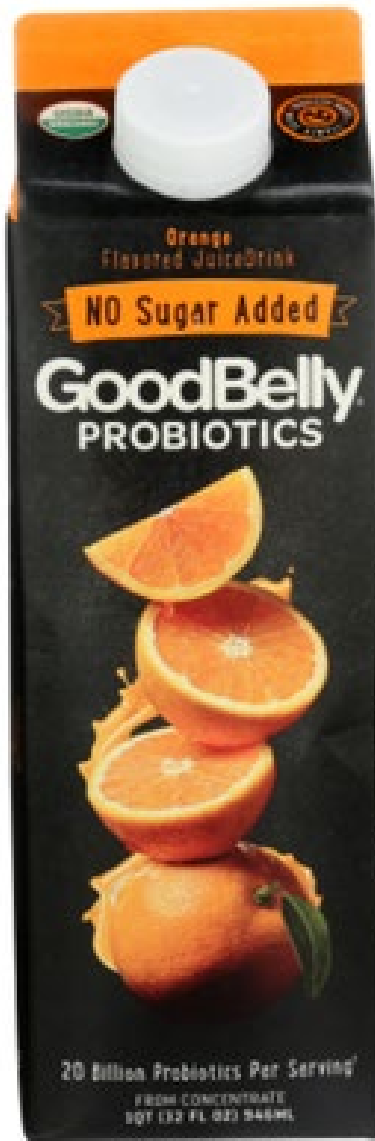
Raspberry Blackberry



Raspberry Blackberry



Orange



Peach Mango Orange



Nutrition Facts

Serving Size 8 oz. (240 mL)
Servings Per Package about 4

Amount Per Serving	
Calories 90	
Calories from Fat	0
% Daily Value**	
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Potassium 140mg	4%
Total Carb. 21g	7%
Dietary Fiber 0g	0%
Sugars 19g	
Protein 0g	

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

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

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC PEACH JUICE FROM CONCENTRATE, ORGANIC MANGO PUREE, ORGANIC ORANGE JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, CONTAINS 2% OR LESS OF NATURAL FLAVORS, CALCIUM CITRATE, CITRIC ACID, ORGANIC GUAR GUM, LACTOBACILLUS PLANTARUM 299V.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

EVLYN ANDRADE-HEYMSFIELD, on behalf of herself, all others similarly situated, and the general public

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Fitzgerald Joseph LLP, 2341 Jefferson St., Suite 200, San Diego, CA 92110; 619-215-1741

DEFENDANTS

NEXTFOODS, INC.

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'21CV1446 BTM MSB

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes codes like 110 Insurance, 310 Airplane, 365 Personal Injury, etc.

V. 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, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332(d)(2) (the Class Action Fairness Act)

Brief description of cause: False Advertising (Violation of California's UCL, FAL, CLRA); Breach of Warranties

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE Aug 13, 2021 SIGNATURE OF ATTORNEY OF RECORD /s/ Paul K. Joseph

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

1 **FITZGERALD JOSEPH LLP**
 2 JACK FITZGERALD (SBN 257370)
 3 *jack@fitzgeraldjoseph.com*
 4 PAUL K. JOSEPH (SBN 287057)
 5 *paul@fitzgeraldjoseph.com*
 6 MELANIE PERSINGER (SBN 275423)
 7 *melanie@fitzgeraldjoseph.com*
 8 TREVOR M. FLYNN (SBN 253362)
 9 *trevor@fitzgeraldjoseph.com*
 10 2341 Jefferson Street, Suite 200
 11 San Diego, California 92110
 12 Phone: (619) 215-1741
 13 ***Counsel for Plaintiff***

11 **UNITED STATES DISTRICT COURT**
 12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 EVLYN ANDRADE-HEYMSFIELD, on
 14 behalf of herself, all others similarly
 15 situated, and the general public,

16 Plaintiff,

17 v.

18 NEXTFOODS, INC.,
 19 Defendant.

'21CV1446 BTM MSB

**CONSUMERS LEGAL REMEDIES
 ACT VENUE AFFIDAVIT [Cal. Civ.
 Code § 1780(d)]**

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I, Evlyn Andrade-Heymsfield, declare as follows:

1. I am a plaintiff in this action. I make this affidavit as required by California Civil Code § 1780(d).

2. The Complaint in this action is filed in a proper place for the trial of this action because defendant is doing business in this county and because the transactions that are the subject of the action occurred in this county.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Executed this 13th day of August, 2021, in Lemon Grove, California
(city)



Evlyn Andrade-Heymsfield