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 12 **UNITED STATES DISTRICT COURT**  
 13 **NORTHERN DISTRICT OF CALIFORNIA**  
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15  
 16 KYLE BANTA YOSHIDA, ANTHONY  
 MANCUSO, and ASHLEY MISTLER, on behalf  
 17 of themselves, those similarly situated and the  
 18 general public,

19 Plaintiffs,

20 v.

21 CAMPBELL SOUP COMPANY,

22 Defendant.  
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Case No: 3:21-cv-09458-JD

CLASS ACTION

**SECOND AMENDED 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 WARRANTIES**

Judge: Hon. James Donato

DEMAND FOR JURY TRIAL

1 Plaintiffs Kyle Banta Yoshida, Anthony Mancuso, and Ashley Mistler, on behalf of themselves, all  
2 others similarly situated, and the general public, by and through their undersigned counsel, hereby sue  
3 Defendant Campbell Soup Company (“Campbell”), and allege the following upon their own knowledge, or  
4 where they lack personal knowledge, upon information and belief, including the investigation of their  
5 counsel.

### 6 **INTRODUCTION**

7 1. For several years, Campbell has sold a line of V8 brand juices called “Fruit and Vegetable  
8 Blends” (the “Products” or “Juice Blends”).<sup>1</sup>

9 2. Campbell represents on their labels that the Juice Blends are both (1) healthy and (2) healthy  
10 substitutes for whole fruit and vegetables. These and other representations and omissions of material facts  
11 identified herein, however, are false and misleading because while consuming whole fruit and vegetables  
12 protects against disease, consuming fruit juices like the V8 Juice Blends increases the risk of type 2 diabetes,  
13 obesity, cardiovascular disease, and all-cause mortality.

14 3. Plaintiffs bring this action against Campbell on behalf of themselves, similarly situated Class  
15 Members, and the general public, to enjoin Campbell from deceptively marketing the Juice Blends with  
16 false and misleading labeling claims and to recover compensation for injured Class Members.

### 17 **JURISDICTION & VENUE**

18 4. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A), the Class  
19 Action Fairness Act, because the matter in controversy exceeds the sum or value of \$5,000,000 exclusive  
20 of interest and costs, and at least one member of the class of plaintiffs is a citizen of a State different from  
21 Defendant. In addition, more than two-thirds of the members of the class reside in states other than the state  
22 in which Defendant is a citizen and in which this case is filed, and therefore any exceptions to jurisdiction  
23 under 28 U.S.C. § 1332(d) do not apply.

24 5. The Court has personal jurisdiction over Defendant pursuant to Cal. Code Civ. P. § 410.10  
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26 <sup>1</sup> Through their prefiling investigation, Plaintiffs were able to identify at least seventeen flavors of the Fruit  
27 and Vegetable Blends that were sold during the four years preceding the filing of this Complaint (the “Class  
28 Period”). See Appendix 1 & 2. To the extent that Plaintiffs were unable to identify all flavors sold during the  
Class Period, this Complaint should be read to include rather than exclude any such flavors of the Fruit and  
Vegetable Blends.

1 because Campbell has purposely availed itself of the benefits and privileges of conducting business activities  
2 within the State of California through the intentional promotion, marketing, distribution, and sale of the  
3 Juice Blends in California.

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

7 **DIVISIONAL ASSIGNMENT**

8 7. This civil action arises substantially out of acts and omissions of Defendant’s that occurred in  
9 San Francisco County. Accordingly, pursuant to Civil Local Rule 3-2(c) & (d), this action is correctly  
10 assigned to the San Francisco or Oakland Division.

11 **THE PARTIES**

12 8. Plaintiff Kyle Banta Yoshida is a resident of Oakland, California.

13 9. Plaintiff Anthony Mancuso is a resident of Los Angeles, California.

14 10. Plaintiff Ashley Mistler is a resident of West Sacramento, California.

15 11. Defendant Campbell Soup Company is a Delaware Corporation with its principal place of  
16 business at 1 Campbell Place in Camden, New Jersey.

17 **FACTS**

18 **I. CAMPBELL MISLEADINGLY MARKETS THE JUICE BLENDS AS A HEALTHFUL**  
19 **SUBSTITUTE TO WHOLE FRUIT AND VEGETABLES**

20 12. Consumers prefer healthful foods and are willing to pay more for, and purchase more often,  
21 products marketed and labeled as being healthy.<sup>2</sup>

22 13. Campbell describes having “Healthy Products,” as a “[p]riorit[y] issue[.]” for its consumers.<sup>3</sup>

23 14. Campbell accordingly employs a strategic marketing campaign that positions the Juice  
24 Blends as not only a healthful Product, but also a healthful substitute to eating whole fruit and vegetables.

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26 <sup>2</sup> See, e.g., Nancy Gagliardi, “Consumers Want Healthy Foods—And Will Pay More For Them,” *Forbes*  
27 (Feb. 18, 2015) (“88% of those polled are willing to pay more for healthier foods” (citing Neilson, “2015  
Global Health & Wellness Survey,” at 11 (Jan. 2015))).

28 <sup>3</sup> Campbell, “2015 Update of the Corporate Social Responsibility Report,” at 24, *available at*  
[https://www.campbellsoupcompany.com/wp-content/uploads/2022/03/Campbells\\_2015\\_CSR\\_Report.pdf](https://www.campbellsoupcompany.com/wp-content/uploads/2022/03/Campbells_2015_CSR_Report.pdf).

1 15. Directly on the labeling of the Juice Blends, Campbell expressly represents the Juice Blends  
2 are “A Healthy & Delicious Plant-Powered Blend of Vegetables & Fruit.”<sup>4</sup> The “healthy” statement appears  
3 prominently above images of whole fruit and vegetables and the statement “Made with the Juices of 3 Lbs  
4 of Vegetables and Fruit Per Bottle.” The label also prominently states the purported number servings of fruit  
5 and vegetables.



<sup>4</sup> During the course of the litigation, Campbell updated the Juice Blends’ labeling to expressly claim that they are healthy. Compare Appendix 1 (previous labels) with Appendix 2 (current labels).

1           16.     The label also states “Antioxidant Vitamins A & C” on the front panel above images of fresh  
2 fruit and vegetables, implying such nutrients come from the fruit and vegetables from which the Juice Blends  
3 are derived despite that the Products’ vitamin content comes largely from fortification with Beta Carotene  
4 and Ascorbic Acid, in contravention of the policies underlying the FDA’s fortification policy. As shown  
5 above, the Nutrition Facts panel is not visible to consumers while reading these claims.

6           17.     The Juice Blends labeling also states that “8 fl. oz. juice has [1/2 or 1] cup of vegetables and  
7 [1/2 or 1] cup of fruit. Dietary guidelines recommend 2 1/2 cups of a variety of vegetables and 2 cups of fruit  
8 per day for a 2,000 calorie diet.”

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18     † 8 FL. OZ. JUICE HAS 1/2 CUP VEGETABLES AND  
19     1/2 CUP FRUIT. DIETARY GUIDELINES  
20     RECOMMEND 2 1/2 CUPS OF A VARIETY OF  
21     VEGETABLES AND 2 CUPS FRUIT PER DAY FOR  
22     A 2,000 CALORIE DIET.



1 18. As seen below, these labeling representations convey the same overall health and wellness  
2 messages as the Juice Blends' previous labels.

3 19. Although not using the exact word healthy, Campbell previously communicated the same  
4 message through the phrase "Boost Your Morning Nutrition," as well as other images and phrases indicating  
5 the Juice Blends are a healthy alternative to whole fruit and vegetables.



1           20. On these Juice Blend labels, Campbell represented the Products contain “1 serving of  
2 veggies,” and “1 serving of fruit.”<sup>5</sup> Campbell also stated, “Dietary guidelines recommend 2½ cups of a  
3 variety of vegetables and 2 cups of fruit per day for a 2,000 calorie diet.” Campbell also intentionally used  
4 pictures of fresh whole fruit and vegetables on the labeling to reinforce the idea that the Juice Blends are a  
5 healthy alternative to whole fruits and vegetables.

6           21. Finally, Campbell touted the Juice Blends as containing “Antioxidants Vitamins A & C,”  
7 implying such nutrients come from the fruits and vegetables from which the Juice Blends are derived despite  
8 that the Products’ vitamin content comes largely from fortification with Beta Carotene and Ascorbic Acid,  
9 in contravention of the policies underlying the FDA’s fortification policy.

10           22. These statements and images individually, and especially in combination, conveyed the  
11 misleading message that the Juice Blends are healthy and that consumers may healthfully substitute drinking  
12 the Juice Blends for eating whole fruits and vegetables.<sup>6</sup>

13           23. These images and statements, however, are false or at least highly misleading because  
14 regularly consuming the Juice Blends increases risk of disease.

15           24. According to Susan Jebb, a government advisor and head of the diet and obesity research  
16 group at the Medical Research Council’s Human Nutrition Research unit at Cambridge University, ‘Fruit  
17 juice isn’t the same as intact fruit and it has as much sugar as many classical sugar drinks. It is also absorbed  
18 very fast, so by the time it gets to your stomach your body doesn’t know whether it’s Coca-Cola or orange  
19 juice[.]’” Ms. Jebb accordingly cautioned consumers, “don’t fall for the fruit juice trap and don’t believe  
20 the hype that it’s a good addition to a balanced meal.” “The logic is pretty simple: people believe fruit juices  
21 are equivalent to the serving sizes of a few piece of fruit, . . . and have about the same effects as eating fruit.  
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24 <sup>5</sup> Each flavor of the Juice Blends contains a similar representation of the number of servings of vegetables  
25 and fruit, including: “[1, 1½, or 2] combined servings of veggies and fruit,” “8 fl. oz. has 1 serving of  
26 vegetables (1/2 cup),” and “8 fl. oz. has [½ or 1] serving of vegetables (¼ or ½ cup) and [½, 1] serving of  
fruit ([¼ or ½] cup).”

27 <sup>6</sup> The V8 website also unabashedly conveys the message that the Juice Blends are healthy. For example,  
28 Campbell claims that its V8 Fruit & Vegetable Blends are “a healthy beverage option for those looking for  
a perfect blend of vegetables with a touch of fruit . . . .” Campbell, “V8® Fruit & Vegetable Blends – Healthy  
Greens,” available at <https://www.campbells.com/v8/products/v8-blends/healthy-greens/>.

1 Unfortunately, this is wrong . . . .”<sup>7</sup>

2 25. “[F]ruit juice increases the risk for type 2 diabetes and obesity . . . , in contrast to the lowered  
3 risk with whole fruit” and “research concurs that eating whole fruit is beneficial to health and prevents a  
4 broad category of disease, while fruit juice may be counterproductive to overall health in some categories.”<sup>8</sup>

5 26. As Dr. Robert Lustig, a professor emeritus of Pediatrics, Division of Endocrinology at the  
6 University of California, San Francisco, explains, when you drink juice instead of whole produce, you no  
7 longer get the suppression of the insulin response, making juice “as egregious a delivery vehicle for sugar  
8 as is soda. Studies of juice consumption show increased risk of diabetes and heart disease even after  
9 controlling for calories, while whole fruit demonstrates protection.”<sup>9</sup>

10 27. Barry M. Popkin, PhD, a W. R. Kenan Jr. Distinguished Professor in the Department of  
11 Nutrition at University of North Carolina, Gillings School of Global Public Health, has said that “as people  
12 change their drinking habits to avoid carbonated soft drinks, the potential damage from naturally occurring  
13 fructose in fruit juices and smoothies is being overlooked.” “[P]ulped-up smoothies do nothing good for us  
14 but do give us the same amount of sugar as four to six oranges or a large coke. It is deceiving.”<sup>10</sup>

15 28. For example, “studies show that eating whole fruit gives you the most of this food group’s  
16 potential benefits, like helping to prevent heart disease, stroke and some types of cancer” and “may  
17 significantly lower your risk of type 2 diabetes . . . . Conversely, drinking fruit juice every day had the  
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19 <sup>7</sup> “Don’t Fall for the Juice Trap,” *Apartments For Us* (Oct. 15, 2018), available at  
20 <https://www.apartmentsforus.com/dont-fall-for-the-fruit-juice-trap/>. An article in *The Guardian* confirms  
21 this blog post accurately quotes Ms. Jebb. See Saner, Emine, “How fruit juice went from health food to junk  
22 food,” *The Guardian* (Jan. 17, 2014) (quoting Ms. Jebb). That this was published in 2018 also supports the  
23 notion that reasonable consumers are unaware of how juice consumption will negatively impact their health,  
24 particularly in comparison to the consumption of whole fruits.

25 <sup>8</sup> Thomas, Liji, MD, “Differences Between Natural Whole Fruit and Natural Fruit Juice,” *News Medical*  
26 (Feb. 27, 2019).

27 <sup>9</sup> Lustig, Robert H., MD, MSL, *Metabolical: The Lure and the Lies of Processed Food, Nutrition, and Modern*  
28 *Medicine*, 259-60 (Harper Wave 2021).

<sup>10</sup> Boseley, Sarah, “Smoothies and fruit juices are a new risk to health, US scientists warn,” *The Guardian*  
(Sept. 7, 2013) (noting that “researchers from the UK, USA and Singapore found that in large-scale studies  
involving nurses, people who ate whole fruit, especially blueberries, grapes and apples, were less likely to  
get type 2 diabetes . . . but those who drank fruit juice were at increased risk. People who swapped their fruit  
juice for whole fruits three times a week cut their risk by 7%”).

1 opposite effect, increasing the chances of diabetes by 21 percent.”<sup>11</sup>

2 29. Numerous studies have similarly found that whole fruits and vegetables have a protective  
3 effect regarding diabetes whereas juice consumption not only has no protective effect, but actually increases  
4 risk of diabetes.<sup>12</sup>

5 30. Likewise, while consuming whole fruits and vegetables is protective and decreases risk of  
6 cardiovascular diseases, consuming juice increases risk of cardiovascular diseases<sup>13</sup> and all-cause

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10 <sup>11</sup> McClusky, Joan, “The Whole Truth About Whole Fruits,” *WebMD* (May 31, 2017). *See also* Dreher, Mark  
11 L., “Whole Fruits and Fruit Fiber Emerging Health Effects,” *Nutrients* (Nov. 2018) (emphasis added)  
12 (“health benefits [of consuming whole fruits] include: . . . reducing risk of cardiovascular disease, type 2  
13 diabetes and metabolic syndrome; defending against colorectal and lung cancers”); Muraki, I., et al., “Fruit  
consumption and risk of type 2 diabetes: results from three prospective longitudinal cohort studies,” *BMJ*  
(Aug. 2013) (“[g]reater consumption of specific whole fruits . . . is significantly associated with a lower risk  
of type 2 diabetes, whereas greater consumption of fruit juice is associated with a higher risk.”).

14 <sup>12</sup> Bazzano, L.A., et al., “Intake of fruit, vegetables, and fruit juices and risk of diabetes in women,” *Diabetes*  
15 *Care*, Vol. 31, 1311-17 (2008) (“cohort study of 71,346 women from the Nurses’ Health Study followed  
16 for 18 years showed that those who consumed 2 to 3 apple, grapefruit, and orange juices per day (280-450  
17 calories and 75-112.5 grams of sugar) had an 18% greater risk of type 2 diabetes than women who consumed  
18 less than 1 sugar-sweetened beverage per month”); Drouin-Chatier, J., et al., “Changes in Consumption of  
19 Sugary Beverages and Artificially Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results  
20 From Three Large Prospective U.S. Cohorts of Women and Men,” *Diabetes Care*, Vol. 42, pp. 2181-89  
21 (Dec. 2019) (finding that increasing sugary beverage intake—which included both sugar-sweetened  
22 beverages and fruit juice—by half-a-serving per day over a 4-year period was associated with a 16% greater  
23 risk of type 2 diabetes); Imamura, F., et al., “Consumption of sugar sweetened beverages, artificially  
24 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) (meta-analysis of 17 prospective  
cohort studies showed higher consumption of fruit juice was associated with a 7% greater incidence of type  
2 diabetes); World Health Organization, “WHO urges global action to curtail consumption and health  
impacts of sugary drinks” (Oct. 11, 2016), *available at* <https://www.who.int/news/item/11-10-2016-who-urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks> (“Consumption of free  
sugars, including products like sugary drinks, is a major factor in the global increase of people suffering  
from obesity and diabetes[.]”).

25 <sup>13</sup> Hansen, L., et al., “Fruit and vegetable intake and risk of acute coronary syndrome,” *British J. of Nutr.*,  
26 Vol. 104, p. 248-55 (2010) (finding “a tendency towards a lower risk of ACS [acute coronary syndrome] . .  
27 . for both men and women with higher fruit and vegetable consumption,” but “a higher risk . . . among women  
28 with higher fruit juice intake[.]”); Pase, M.P., et al., “Habitual intake of fruit juice predicts central blood  
pressure,” *Appetite*, Vol. 84, p. 658-72 (2015) (people who consumed juice daily, rather than rarely or  
occasionally, had significantly higher central systolic blood pressure, a risk factor for cardiovascular  
disease”).

1 mortality.<sup>14</sup>

2 31. Scientific evidence thus demonstrates that the free sugars in the Juice Blends act  
3 physiologically identically to added sugars, such as those in sugar-sweetened beverages.

4 32. “Added sugars” include sugars added to foods during processing or preparation, such as  
5 brown sugar, sucrose, honey, invert sugar, molasses, and fruit juice concentrates, but under some definitions  
6 (like the FDA’s), do not include naturally-occurring sugars present in intact fruits, vegetables, and dairy  
7 products and—as relevant here—in juiced or pureed fruits and vegetables.

8 33. “Free sugars,” on the other hand (for example, as used by the World Health Organization  
9 (WHO)), definitionally excludes only sugars naturally occurring in *intact* fruits, vegetables, or dairy  
10 products, and so includes sugars from juice. Thus, the definitional “distinction between added and free  
11 sugars is that the latter includes all naturally occurring sugars in nonintact (i.e., juiced or pureed) fruit and  
12 vegetables.”<sup>15</sup>

13 34. This is, however, merely semantical. “The existence of these different ways of classifying  
14 sugars in foods and beverages in authoritative dietary guidance and nutrition communication implies that  
15 the distinctions are deemed to be physiologically relevant. But physiologic differentiation between these  
16 classes [of sugars] arise[s] mainly from effects of the [food] matrix in which the sugars are found. For  
17 example, it has often been shown that the acute metabolic impact is lower and satiety effects greater for  
18 intact fruit than for the comparable fruit juices, the latter having effects more similar to other sugar-  
19 sweetened beverages (SSBs).”<sup>16</sup>

20 35. The food matrix, as defined by the USDA, is “the nutrient and non-nutrient components of  
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22 <sup>14</sup> Collin, L.J., et al., “Association of Sugary Beverage Consumption With Mortality Risk in US Adults: A  
23 Secondary Analysis of Data From the REGARDS Study,” *JAMA Network Open*, Vol. 2, No. 5 (May 2019)  
24 (cohort study of 13,440 black and white adults 45 years and older, observed for a mean of 6 years, each  
25 additional 12-oz serving per day of fruit juice was associated with a 24% higher all-cause mortality risk). *See*  
26 *also* Thomas, Liji, MD, “Differences Between Natural Whole Fruit and Natural Fruit Juice,” *supra* n.8 (“In  
one study, increased fruit juice consumption in early life led to a higher risk of obesity and shorter adult  
height.”).

27 <sup>15</sup> Mela, Daid J. et al., “Perspective: Total, Added, or Free? What Kind of Sugars Should We Be Talking  
28 About?” *Adv. Nutr.* 2018 Mar.; 9(2): 63-69 (Apr. 7, 2018) [“Sugar Perspective”].

<sup>16</sup> *Id.*

1 foods and their molecular relationships, i.e., chemical bonds, to each other.”<sup>17</sup> The food matrix may be  
2 viewed as a physical domain that contains and/or interacts with specific constituents of a food (e.g., a  
3 nutrient) providing functionalities and behaviors which are different from those exhibited by the components  
4 in isolation or a free state. It is, quite literally, the physical geometry of the food. The effect of the food  
5 matrix (FM-effect) has profound implications in food processing, oral processing, satiation, and satiety, and,  
6 most relevant here, digestion in the gastrointestinal tract.<sup>18</sup> In short, the FM-effect means that two foods of  
7 identical chemical composition, but with different structures, may have significantly different outcomes for  
8 health.

9 36. When fruit and vegetables are liquified into juice like the Juice Blends, that processing  
10 destroys the food matrix. And because of the negative health effects of consuming added or free sugars, a  
11 piece of fruit, while perhaps a healthy food choice when it is whole, is transformed into a decidedly  
12 *unhealthy* food once processed into juice.<sup>19</sup> Thus, “the term ‘free sugars’ best conveys the nature and sources  
13 of dietary sugars that are most consistently related to risks of positive energy balance, and that are also  
14 associated with diabetes and dental caries.”<sup>20</sup>

15 37. Campbell, in a letter to FDA agreed that “[s]ugar is sugar, regardless of the source[,]” and  
16 “sugars that are added to a food are ‘not chemically different from naturally occurring sugars.’”<sup>21</sup>  
17 Campbell’s letter was in response to FDA’s proposed Nutrition Facts panel revision to disclose “added  
18 sugars” in addition to “total sugars.” According to Campbell, “[a]ny breakdown of ‘sugar’ by source” “could  
19 confuse consumers . . . and caus[e] them to mistake one food,” such as one of the Juice Blends, which  
20 contain no added sugar, “as being a better food choice when in reality it is equivalent” to those containing  
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23 <sup>17</sup> <https://agclass.nal.usda.gov/mtwdk.exe?k=default&l=60&s=5&t=2&w=17240>.

24 <sup>18</sup> Aguilera, J, “The food matrix: implications in processing, nutrition and health,” *Crit. Rev. Food Sci. Nutr.*  
25 2019; 59(22) 3612-3629 (September 10, 2018).

26 <sup>19</sup> See Mela, Sugar Perspective, *supra* n.15.

27 <sup>20</sup> *Id.*

28 <sup>21</sup> Letter from Campbell Soup Company to FDA Re: Docket No. FDA-2012-N-1210, at p.8 (July 31, 2014)  
[hereinafter “Campbell’s Letter to FDA”], *available at* <https://www.regulations.gov/comment/FDA-2012-N-1210-0322.8>.

1 added sugars in equal amounts.<sup>22</sup> Campbell thus believed a separate disclosure of added sugars in addition  
 2 to total sugars—as is now the case on the Juice Blends labeling—“[i]mpl[ies] superiority of one source of  
 3 a nutrient versus another” and “is inherently misleading.”<sup>23</sup>

4 38. Because consuming juice damages health, the Juice Blends are not a healthy substitute for  
 5 consuming whole fruits and vegetables as Campbell suggests. Campbell’s marketing contradicts  
 6 organizations like the World Health Organization, which recommend “limiting the consumption of . . . all  
 7 types of beverages containing free sugars,” including “*fruit or vegetable juices and drinks . . . and [] eating*  
 8 *fresh fruit and raw vegetables as snacks instead of sugary snacks.*”<sup>24</sup>

9 39. Further, Campbell leverages the fact that vegetables and “fresh fruits are loaded with . . .  
 10 antioxidants and other great nutrients,”<sup>25</sup> to tout the Products as containing “Antioxidant Vitamins A & C,”  
 11 and even places the statement adjacent to photos of fresh produce, reinforcing the consumer belief that the  
 12 vitamins are from the fruit and vegetables themselves.

13 40. Because the Juice Blends get much of their vitamin A and vitamin C not from the juice  
 14 concentrate itself, but rather from the additives Beta Carotene and Ascorbic Acid, however, Campbell’s use  
 15 of the “Antioxidant Vitamins A & C” statement on the Juice Blends is unfair and deceptive.

16 41. The FDA’s fortification policy is intended to prevent the “indiscriminate addition of nutrients  
 17 to foods” that “could [ ] result in deceptive or misleading claims for certain foods.” 21 C.F.R. § 104.20(a).  
 18 To that end, the policy recommends fortification in only four circumstances: (1) “to correct a dietary  
 19 insufficiency recognized by the scientific community,” (2) “to restore such nutrient(s) to a level(s)  
 20 representative of the food prior to storage, handling and processing,” (3) “to avoid nutritional inferiority”  
 21 when replacing a traditional food, and (4) “in proportion to the total caloric content . . . to balance the  
 22 vitamin, mineral, and protein content . . .” 21 C.F.R. §§ 104.20(b)-(e). None of these four circumstances  
 23 apply to the Juice Blends.

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 25 <sup>22</sup> *See id.* at 9.

26 <sup>23</sup> *Id.* at 3.

27 <sup>24</sup> World Health Organization, “Healthy diet,” (Apr. 29, 2020), *available at* <https://www.who.int/news-room/fact-sheets/detail/healthy-diet> (emphasis added).

28 <sup>25</sup> McClusky, “The Whole Truth About Whole Fruits,” *supra* n.11.

1           42.     The first basis for fortification does not apply because there is no “dietary insufficiency  
2 recognized by the scientific community” relating to vitamin A or vitamin C. *See* 21 C.F.R. § 104.20(b).  
3 Instead, the Scientific Report of the 2020 Dietary Guidelines Advisory Committee concluded that the  
4 underconsumption of vitamins A and C “do[es] not appear to pose a public health concern, given the present  
5 lack of adverse clinical and health outcome data . . . .”<sup>26</sup> The Centers for Disease Control and Prevention  
6 has also reported that both vitamin A and vitamin C deficiency are “rare in the United States.”<sup>27</sup>

7           43.     The second basis for fortification is not available to Campbell because it would require “[a]ll  
8 nutrients . . . that are lost in a measurable amount [be] restored,” 21 C.F.R. § 104.20(c), yet the Juice Blends  
9 do not have the same fiber content as whole fruit or vegetables.

10          44.     The third basis for fortification relates to foods that are fortified to contain 21 specific  
11 nutrients, *see* 21 C.F.R. § 104.20(d)(3)), and so does not apply to the Juice Blends.

12          45.     Finally, Campbell cannot rely on the fourth basis for fortification—avoiding nutritional  
13 inferiority when replacing a traditional food, 21 C.F.R. § 104.20(e)—because its Juice Blends’ fiber content  
14 remains inferior to that of whole fruit and vegetables.

15          46.     The FDA has recognized that “claims of healthfulness on products that violate the FDA’s  
16 fortification policy . . . . could be damaging” where, as here, “consumers are encouraged to replace  
17 wholesome and nutritious foods . . . with these foods.” 60 Fed. Reg. 66061, 66212 (Dec. 21, 1995). That is  
18 precisely what Campbell does in labeling and marketing the Juice Blends.

19          47.     That Campbell misleadingly encourages consumers to replace nutritious whole fruit and  
20 vegetables with the Juice Blends is evident from the labeling statements and imagery challenged herein, and  
21 further underscored by Campbell’s off-label advertising of the Juice Blends. For example, in a commercial  
22 for the Juice Blends, a woman hits a man in the forehead every time he makes a dietary choice she perceives  
23 to be unhealthy, including ordering a taco salad and eating a skewer of meat at a barbeque. When the man  
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25 <sup>26</sup> Scientific Report of the 2020 Dietary Guidelines Advisory Committee, United States Department of  
26 Agriculture (July 2020), *available at* <https://www.dietaryguidelines.gov/2020-advisory-committee-report>.

27 <sup>27</sup> *See* Second National Report on Biochemical Indicators of Diet and Nutrition in the U.S. Population, The  
28 Centers for Disease Control and Prevention, Division of Laboratory Sciences at the National Center for  
Environmental Health (2012) at p.74 (“manifest vitamin C deficiency is rare in the United States”); *id.* at  
89 (“vitamin A deficiency . . . is a rare condition in the United States”).

1 comes home with groceries the woman disapproves of, she once again hits him in the forehead, to which he  
2 responds, “you can do that all you want, I don’t like V8 Juice.” A narrator then introduces “V8 V-Fusion,”  
3 touting it as a full serving of vegetables, [and] a full serving of fruit.”<sup>28</sup>

4 48. In a press release for its juices, Campbell claimed it had “made it even more convenient for  
5 people to get their vegetables on the go by expanding the distribution of several of its V8 juices to vending  
6 machines for the first time,” so “[f]or the seventy percent of Americans who don’t get enough vegetables  
7 every day, there are now fewer excuses.”<sup>29</sup> Campbell claims this is an “important step” toward “help[ing]  
8 people get more vegetables into their diets every day . . . .”<sup>30</sup> According to Campbell, “Providing nutritious,  
9 functional juices like . . . V8 V-Fusion® in more places like schools is especially important given that  
10 healthy habits begin early in life.”<sup>31</sup>

11 ///

12 ///

13 ///

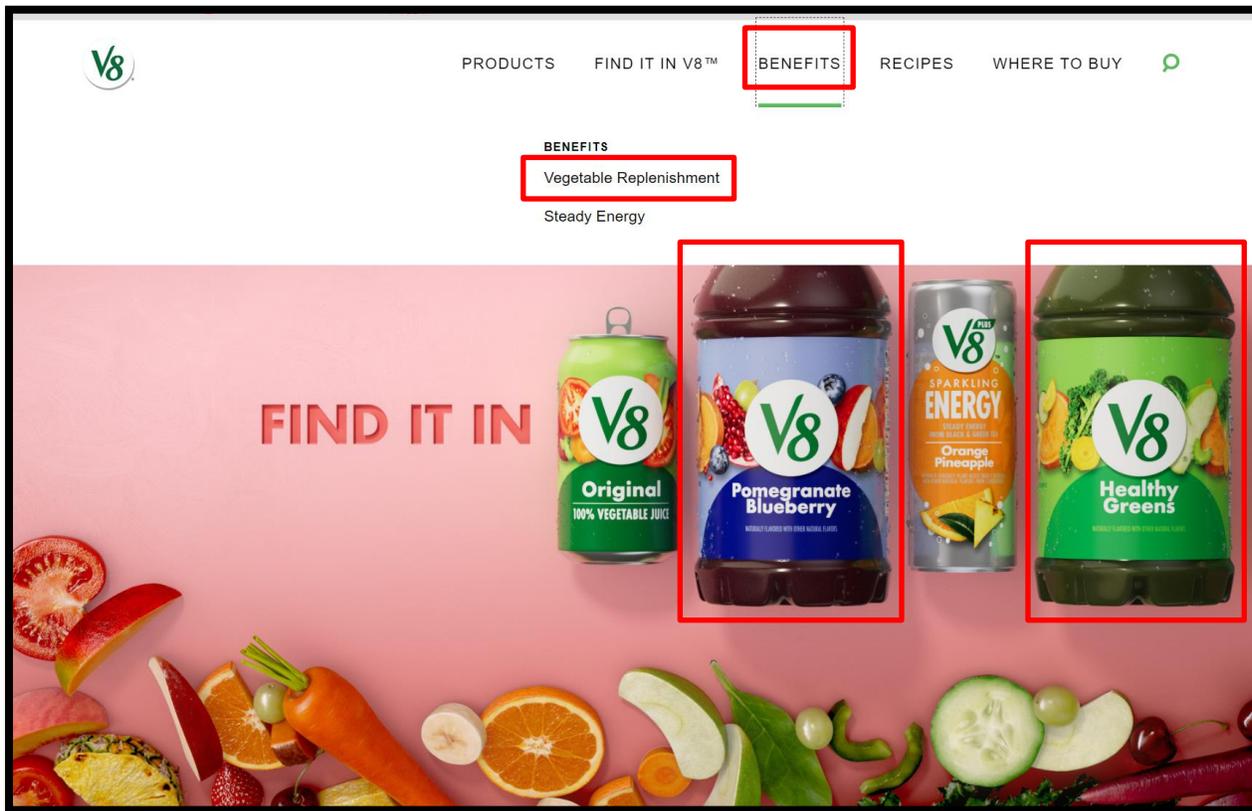
24 \_\_\_\_\_  
<sup>28</sup> <https://www.ispot.tv/ad/7wjV/v8-v-fusion-juice-ehead-bonk>.

25 <sup>29</sup> See “Campbell Soup Company Expands V8 Juice Distribution to Vending Machines,” (Dec. 3, 2008),  
26 <https://www.campbellsoupcompany.com/newsroom/press-releases/campbell-soup-company-expands-v8-juice-distribution-to-vending-machines/>.

27 <sup>30</sup> *Id.*

28 <sup>31</sup> *Id.*

1 49. On its website, above a picture of fresh produce, Campbell claims the “Benefits” of its Juice  
 2 Blends include “Vegetable Replenishment”:



17  
 18 50. Clicking on “Vegetable Replenishment” brings users to a page titled “The Original Plant-  
 19 Powered Drink,” where Campbell encourages viewers to “Give your body what it really needs- vegetables,  
 20 vitamins, minerals and antioxidants.”<sup>32</sup>

21 51. In commercials for the Juice Blends, Campbell “pitch[ed] the health benefits of its V8  
 22 juices[] [to] senior citizens” through a “campaign dubbed ‘Long Live Vegetables,’ and a refreshed tagline:  
 23 ‘Could’ve had a V8, she/he just did,’” communicating that you do not need to eat the whole fruits and  
 24 vegetables because you “could’ve had a V8” instead.<sup>33</sup>

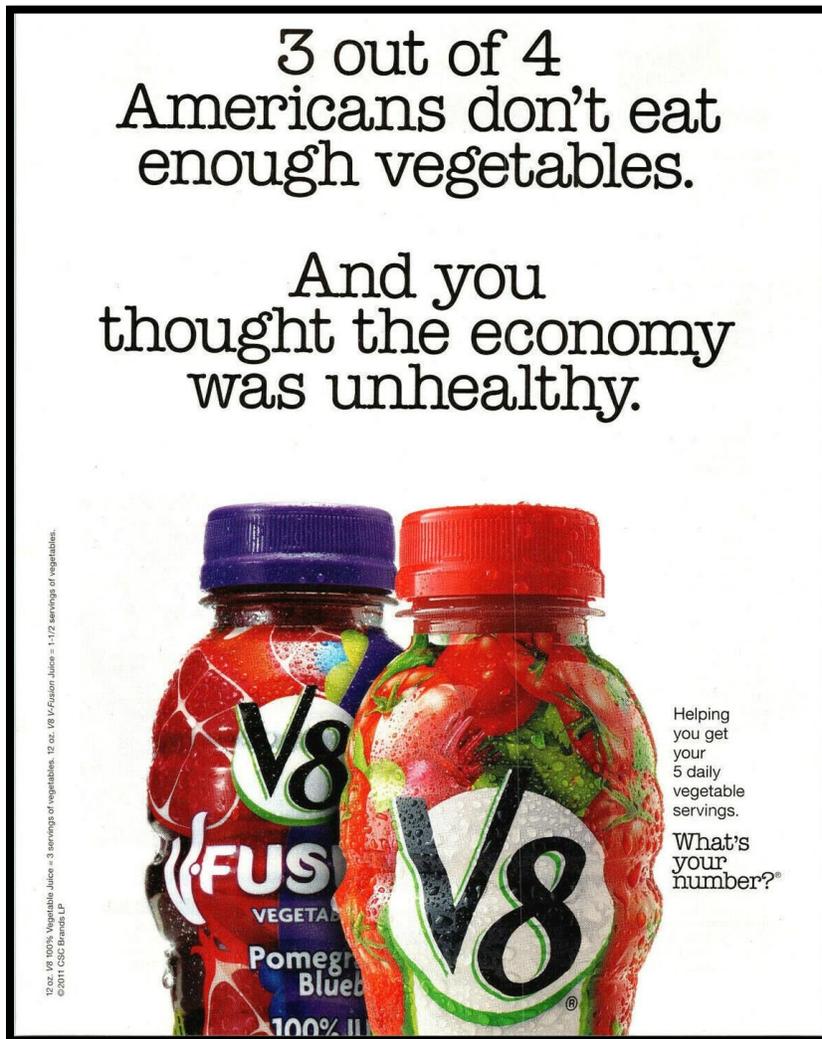
25 52. When Campbell introduced “V8 V-Fusion juice drink boxes,” Campbell claimed to be

26  
 27 <sup>32</sup> See <https://www.campbells.com/v8/vegetable-replenishment-benefits/>.

28 <sup>33</sup> Wong, Elaine, “Campbell Pitches V8 Juice to Seniors,” *Adweek* (Nov. 21, 2008) available at <https://www.adweek.com/brand-marketing/campbell-pitches-v8-juice-seniors-104849/>.

1 “equip[ping] moms with another way to help their kids enjoy their vegetables” and “help[ing] people get  
2 more vegetables in their diet.”<sup>34</sup>

3 53. As shown below, in an advertisement for the Juice Blends, Campbell states that “3 out of 4  
4 Americans don’t eat enough vegetables,” which it calls “unhealthy,” and then, next to one of the Products,  
5 states “Helping you get your 5 daily vegetable servings.”



23 54. Another print advertisement tells “vegetable haters [to] rejoice” because although it is “tough  
24 to reach your 5 daily servings of vegetables when you don’t like the taste” the Juice Blends “give[] you a  
25 serving of vegetables hidden by the sweet taste of a serving of fruit.”

26  
27  
28 <sup>34</sup> “V8 V-Fusion® Offers Moms and Kids Great-Tasting Juice Drink Boxes Packed with Fruits and Veggies,”  
(Sept. 18, 2012), <https://www.campbellsoupcompany.com/newsroom/press-releases/v8-v-fusion-offers-moms-and-kids-great-tasting-juice-drink-boxes-packed-with-fruits-and-veggies/>.

1           55. Another print advertisement claims that “[w]ith a full serving of fruits and vegetables, you  
2 can get the body you always wanted.”

3           56. Labeling the Juice Blends as “Healthy” and a way to “Boost Your Morning Nutrition” (and  
4 naming one Juice Blend flavor “healthy greens”)—especially in combination with Campbell’s other  
5 representations, images of whole fruit and vegetables, and its omission of materially qualifying  
6 information—is false or at least highly misleading because the Products are harmful to health.

7           57. Because the Juice Blends are not healthy and they are not a healthful substitute for consuming  
8 whole fruits and vegetables, Campbell’s Serving Statements—especially in combination with Campbell’s  
9 other representations images of whole fruit and vegetables, and its omission of materially qualifying  
10 information—are false or at least highly misleading.

11           58. While making these representations and using these images, Campbell regularly and  
12 intentionally omits material information regarding the dangers of consuming the Juice Blends and that they  
13 are not a healthy substitute for whole fruit and vegetables. Campbell is under a duty to disclose this  
14 information to consumers because (a) Campbell is revealing some information about its Juice Blends—  
15 enough to suggest they are a healthy substitute for whole fruit and vegetables and are healthy or beneficial  
16 to health—without revealing additional material information, (b) Campbell’s deceptive omissions concern  
17 human health, and specifically the detrimental health consequences of consuming its Juice Blends, (c)  
18 Campbell was in a superior position to know of the dangers presented by the sugars in its Juice Blends, as  
19 it is a food company whose business depends upon food science and policy, and (d) Campbell actively  
20 concealed material facts not known to Plaintiffs and the Class.

21           59. Campbell also misleadingly omits from the Juice Blends’ labeling the material qualifications  
22 to its Servings Statements that the Dietary Guidelines recommend “[a]t least half of the recommended  
23 amount of fruit should come from whole fruit, rather than 100% juice,”<sup>35</sup> “that fruit should mostly be  
24 consumed in whole forms,”<sup>36</sup> “100% fruit or vegetable juices should not be given to infants,” and “[i]n the  
25 second year of life, fruit juice is not necessary, and most fruit intake should come from eating whole fruit[,]”

26  
27 \_\_\_\_\_  
<sup>35</sup> USDA, Dietary Guidelines for Americans 2020-2025, at 32.

28 <sup>36</sup> *Id.* at 88.

1 [but] [i]f 100% fruit juice is provided,” it should be limited to at most “up to 4 ounces per day . . . .”<sup>37</sup>

2 60. Campbell is under a duty to disclose this information regarding the Dietary Guidelines to  
3 consumers because (a) Campbell is revealing some information about its Juice Blends—enough to suggest  
4 the dietary guidelines’ recommended amounts of fruit and vegetables can healthfully be obtained through  
5 consumption of the Juice Blends—without revealing additional material information, (b) Campbell’s  
6 deceptive omissions concern human health, and specifically the detrimental health consequences of  
7 consuming its Juice Blends regularly, (c) Campbell was in a superior position to know of the dangers  
8 presented by regularly consuming its Juice Blends, and (d) Campbell actively concealed material facts not  
9 known to Plaintiffs and the Class.

10 **II. CAMPBELL’S CONDUCT IS LIKELY TO MISLEAD THE REASONABLE CONSUMER**

11 61. Campbell’s practice of labeling the Products with health and wellness messages is likely to  
12 mislead consumers to believe that the Products are in fact healthy for numerous reasons.

13 62. First, Campbell’s marketing takes advantage of the misconception that many Americans hold  
14 that that juice is healthy. In one survey of 173 parents of children ages 1 to 5 years old, “[o]ne-third of all  
15 of the parents . . . reported that they believed that juice was at least as healthy as fresh fruit.”

16 63. An April 2017 article in The Washington Post by three physicians and researchers at the  
17 Joslin Diabetes Center<sup>38</sup>—titled “People think juice is good for them. They’re wrong,” noted “it is  
18 reasonable to think that juice has health benefits. Whole fruit is healthy, and juice comes from fruit, so it  
19 must be healthy, too.”<sup>39</sup> “The truth is that fruit juice, even if it is freshly pressed, 100 percent juice, is little

20 \_\_\_\_\_  
21 <sup>37</sup> *Id.* at 62.

22 <sup>38</sup> See <https://www.joslin.org/find-an-expert/elvira-iskanaitis> (listing Elvira Isganaitis, MD, MPH, as  
23 “Assistant Investigator and Staff Physician” and “Assistant Professor of Pediatrics, Harvard Medical  
24 School”); <https://www.joslin.org/find-an-expert/florence-brown> (listing Florence Brown, MD, as “Staff  
25 Physician, “Co-Director Joslin and BIDMC Diabetes in Pregnancy Program,” and “Assistant Professor of  
26 Medicine, Harvard Medical School”); [https://www.joslin.org/about/news-media/cholesterol-good-brain-  
27 bad-heart](https://www.joslin.org/about/news-media/cholesterol-good-brain-bad-heart) (identifying “Heather Ferris, M.D., Ph.D.,” as “a Joslin research associate”);  
28 [https://med.virginia.edu/endocrinology-metabolism/research/endocrine-investigators/heather-ferris-md-  
phd/](https://med.virginia.edu/endocrinology-metabolism/research/endocrine-investigators/heather-ferris-md-phd/) (listing Heather Ferris, MD, PhD, as “Assistant Professor of Medicine” at the University of Virginia  
Division of Endocrinology & Metabolism).

<sup>39</sup> Ferris, Heather, et al., “People think juice is good for them. They’re wrong.” *The Washington Post* (Apr.  
26, 2017), available at [https://www.washingtonpost.com/posteverything/wp/2017/04/26/people-think-juice-  
is-good-for-them-theyre-wrong/](https://www.washingtonpost.com/posteverything/wp/2017/04/26/people-think-juice-is-good-for-them-theyre-wrong/).

1 more than sugar water.”<sup>40</sup> The article was written after the authors had a patient, “Mrs. G.,” who had just  
 2 been diagnosed with diabetes, but was “shocked,” because “she believed she lived a healthy lifestyle. One  
 3 of the habits that she identified as healthy was drinking freshly squeezed juice . . . every day.”<sup>41</sup> The doctors  
 4 asked her to stop drinking juice entirely, and “after three months of cutting out the juice and making some  
 5 changes to her diet, her diabetes was under control without the need for insulin.”<sup>42</sup> The doctors noted “Mrs.  
 6 G. is not an uncommon patient. As diabetes specialists, [they] see patients like her all the time, who for one  
 7 reason or another believe that juice is a health food.”<sup>43</sup> The specialists opined that “to start fixing the  
 8 problem” we must “[f]irst[] recognize juice for what it is: a treat. ***It doesn’t belong at your breakfast table***  
 9 ***or in your post-workout routine.***”<sup>44</sup>

10 64. As doctors specializing in diabetes who frequently see patients that believe juice is a health  
 11 food, the authors conclude that “[w]hile we can’t solve the diabetes and obesity epidemics with any one  
 12 move, ***rebranding juice from a health food to a treat would be a major step in the right direction.***”<sup>45</sup>

13 65. Second, when Campbell touts the Juice Blends as “Healthy” and a “Boost [to] Your Morning  
 14 Nutrition,” for example, based on their fruit and vegetable content, it creates a “health halo.”

15 66. The “health halo” effect is a well-known cognitive phenomenon that occurs “when one aspect  
 16 of the food is portrayed as healthy, [leading] consumers [] to categorize the entire food item as healthy.”<sup>46</sup>  
 17 Thus, it is well understood that “marketing actions that emphasize one aspect of the food as being healthy  
 18 lead to the creation of a ‘health halo,’ which makes the food appear healthier than it is.”<sup>47</sup>

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19  
 20 <sup>40</sup> *Id.*

21 <sup>41</sup> *Id.*

22 <sup>42</sup> *Id.*

23 <sup>43</sup> *Id.*

24 <sup>44</sup> *Id.* (emphasis added).

25 <sup>45</sup> *Id.* (emphasis added).

26 <sup>46</sup> Chandon, Pierre, et al., “Does food marketing need to make us fat? A review and solutions,” *Nutrition*  
*Reviews*, Vol. 70(10) (Oct. 2012) [hereinafter “Pierre Review”].

27 <sup>47</sup> Chandon, Pierre, “How Package Design and Packaged-based Marketing Claims Lead to Overeating,”  
 28 *Applied Economic Perspective and Policy*, Vol. 35 (2012) (“consumers tend to consider packaging-based

1 67. Researchers have found this specifically applies to advertising of fruit juice, because  
2 consumers “may often fall victim to a health halo surrounding fruit products.”<sup>48</sup>

3 68. Marketing companies, like Campbell, know that people have a “natural tendency to  
4 categorize food as intrinsically good or bad, healthy or unhealthy.”<sup>49</sup> Campbell exploits this tendency  
5 through its use of the challenged statements and images of fresh fruit, knowing consumers are likely to think  
6 of the Juice Blends as being a healthy alternative to whole fruit and vegetables.

7 69. Marketing companies, like Campbell, also know that nutrition science is complex and that  
8 most consumers must therefore resort to making inferences to fill in the gaps in their knowledge. Campbell  
9 also knows that the inferences made by consumers will be consistent with the statements and images that  
10 are presented on a label.<sup>50</sup>

11 70. In the words of Dr. Patricia Crawford, former director of research at the Nutrition Policy  
12 Institute, co-founder and former director of the Center for Weight and Health at the University of California  
13 at Berkeley, and an adjunct professor at the UC Berkeley School of Public Health, “By focusing on vitamin  
14 and mineral additives, beverage manufacturers distract consumers from the health risks associated with  
15 some of the other common ingredients in their beverages: sugar, salt and caffeine, often delivered at levels  
16 that may have serious negative consequences.”<sup>51</sup>

17 71. As recognized by the Center for Science in the Public Interest (CSPI), “Campbell’s  
18  
19 marketing claims and design cues, especially for new foods (e.g., energy drinks) that they are unfamiliar  
20 with. This occurs primarily via one of two processes: the categorization of food into a pre-existing natural or  
21 goal-derived category (e.g., ‘a snack’ or ‘healthy’ food), or inferences made about what is missing from the  
22 existing attribute information (e.g., inferring calories from ‘reduced nutrient’”).

23 <sup>48</sup> Sah, Anumeha, et al., “Visible sugar: Salient sugar information impacts health perception of fruit juices  
24 but only when motivated to be responsible and not when motivated to enjoy,” *Appetite*, Vol. 164 (Apr. 2021)  
25 [hereinafter “Anumeha, Salient sugar information”].

26 <sup>49</sup> Pierre Review, *supra* n.45 (“the finding that people expect that they can eat more, and do, when marketing  
27 actions lead the food to be categorized as healthy is robust and is replicated independently of people’s BMI,  
28 gender, or restrained eating”).

<sup>50</sup> See Chandon, “How Package Design and Packaged-based Marketing Claims Lead to Overeating,” *supra*  
n.46.

<sup>51</sup> Crawford, P., Goldstein, H., “Hiding Under a Health Halo: Examining the Data Behind Health Claims on  
Sugary Beverages,” Atkins Center for Weight and Health, University of California, Berkeley (Aug. 2014)  
[hereinafter “Crawford, Hiding Under a Health Halo”].

1 marketing campaign encourages consumers to drink its Products in lieu of fresh fruit or vegetables, implying  
 2 that these Products are equal or superior to fresh fruits or vegetables. . . . In fact, the negative effects of the  
 3 high sugar and liquid calorie content of Campbell’s Products on consumers’ health outweigh any potential  
 4 health benefits from Vitamin A and C.”<sup>52</sup> “Misled by Campbell’s claims, consumers may attempt to meet  
 5 the recommended servings of fruit and vegetables by drinking Campbell’s high-sugar Products instead of  
 6 consuming fresh fruit, vegetables, or other lower-calories, lower-sugar *whole foods*.”<sup>53</sup> “Campbell misleads  
 7 consumers by creating the erroneous impression that the vitamins contained in its Products are sourced from  
 8 the fruits and vegetables depicted on its labels and that all of its Products are wholesome, healthful  
 9 alternatives to consuming fresh fruits and vegetables.”<sup>54</sup> While CSPI was particularly concerned that some  
 10 of Campbell’s products contain “as little as 5%” juice,” it noted “[e]ven 100% fruit or vegetable juices<sup>[55]</sup>  
 11 are less healthful than whole fruits or vegetables,” and that the “2010 Dietary Guidelines recommends *limits*  
 12 on fruit juice intake[.]”<sup>56</sup>

13 72. As explained by 3 Degrees, a digital marketing company, regarding Campbell’s parallel  
 14 marketing in Australia, Campbell “leverage[s] the government’s 5 Veg + 2 Fruit campaign to position V8  
 15 as the easy way to achieve your daily serves of fruit and vegetables.” Campbell’s practice is both unfair and  
 16 deceptive, however, because getting your daily servings of fruits and vegetables from the Juice Blends leads  
 17 to an increased risk of metabolic disease, cardiovascular disease, type 2 diabetes, liver disease, obesity, high  
 18 blood triglycerides and cholesterol, hypertension, and death.

19 73. “Health halos can have surprisingly strong effects”<sup>57</sup> that can be hard to dispel, even for

20  
 21 <sup>52</sup> Letter from the Center for Science in the Public Interest to Campbell Soup Company Re: Campbell Soup  
 22 Company’s misleading marketing of V8 V-Fusion Refreshers and V8 Splash Juice Drinks (July 12, 2014)  
 23 [hereinafter “CSPI Letter to Campbell”], *available at*  
 24 <https://www.cspinet.org/sites/default/files/media/documents/resource/v8demand1.pdf>.

25 <sup>53</sup> *Id.* (emphasis in original).

26 <sup>54</sup> *Id.*

27 <sup>55</sup> The Juice Blends challenged herein are all either 75% or 100% juice, *see* Appendix 1 & 2, with the possible  
 28 exception of Peach Mango Light, Pomegranate Blueberry Light, and Strawberry Banana Light, which do not  
 specify a juice content percentage, *see* Appendix 1 at pp. 9, 12, 15.

<sup>56</sup> CSPI Letter to Campbell, *supra* n.51.

<sup>57</sup> Chandon, “How Package Design and Packaged-based Marketing Claims Lead to Overeating,” *supra* n.46.

1 proactive individuals that are concerned with health and nutrition. For example, “Chandon and Wansink . . .  
2 . . . found that consumers’ nutritional involvement . . . did not reduce the halo effect.”<sup>58</sup>

3 74. Health halos like those created by Campbell’s affirmative representations that the Juice  
4 Blends are “Healthy,” will “Boost Your Morning Nutrition,” and contain “Healthy Greens,” among others,  
5 are thus not reduced simply by “pay[ing] more attention to nutrition when making food choices . . . .”<sup>59</sup>

6 75. Further, research shows that most ordinary consumers do not actually review the sugar  
7 content of products, and even those that do are often unable to accurately determine a products’  
8 healthfulness.

9 76. Research by the University of Minnesota’s Epidemiology Clinical Research Center  
10 involving a simulated grocery shopping exercise on a computer equipped with an eye-tracking camera  
11 shows that, even for the relatively small subset of consumers that claim to “almost always” look at a  
12 product’s sugar content (24%), ***only about 1% actually look beyond the calorie count to other components***  
13 ***of the Nutrition Facts panel, such as sugar.***<sup>60</sup> Data from the survey suggests the average consumer reads  
14 only the top five lines on a Nutrition Facts label (serving size, calories, total fat, saturated fat, trans fat).  
15 Total sugar—listed tenth—follows cholesterol, sodium, total carbohydrate, and dietary fiber.

16 77. A survey of more than one hundred college students examined how those with differing  
17 levels of nutrition knowledge “interpreted intrinsic cues (ingredient list) and extrinsic cues,” such as an “all  
18 natural” labeling claim.<sup>61</sup> The survey found that while those who had completed an upper division nutrition  
19 course “used central route processing to scrutinize intrinsic cues and make judgments about food products,”  
20 those who had not completed an upper division nutrition course “did the opposite,” relying on extrinsic  
21 cues.<sup>62</sup> The average consumer—who likely has not completed an upper division nutrition course—will thus  
22

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23 <sup>58</sup> *Id.*

24 <sup>59</sup> *Id.*

25 <sup>60</sup> Graham & Jeffery, “Location, location, location: Eye-tracking evidence that consumers preferentially view  
26 prominently positioned nutrition information,” *J Am Diet Assoc.* (2011) (emphasis added).

27 <sup>61</sup> Walters, Amber, et al., “The effect of food label cues on perceptions of quality and purchase intentions  
28 among high-involvement consumers with varying levels of nutrition knowledge,” *J. Nutr. Educ. Behav.*  
44(4): 350-54 (2012).

<sup>62</sup> *Id.*

1 rely on labeling claims, and not the ingredient list, to help them determine whether a food is healthy.

2 78. Moreover, “mandated nutrition labels have been criticized for being too complex for many  
3 consumers to understand and use.”<sup>63</sup> “Using NFP labels requires not only being able to read and perform  
4 arithmetic but also — just as importantly — the ability to reason with words and numbers. According to our  
5 results, a substantial proportion of consumers clearly struggle to effectively use the information contained  
6 in a nutrition label.”<sup>64</sup>

7 79. One survey found “[s]ubjects were not very good at using the [nutrition] label to make  
8 mathematical calculations, evaluate false claims, or draw dietary implications about a product,” and  
9 “[r]esearch has consistently found that consumers have difficulty using label information if the task requires  
10 math.”<sup>65</sup> Accordingly, the authors concluded the nutrition label is “an inadequate tool for helping people to  
11 plan diets” and “unlikely to contribute by itself to a better or more critical understanding of nutrition  
12 principles.”<sup>66</sup> Put bluntly, the “mathematical skills of the American population present a significant barrier  
13 to following dietary recommendations based on quantitative tasks.”<sup>67</sup>

14 80. Consumers’ inability to effectively use the nutrition label is particularly problematic in light  
15 of their tendency to rely heavily on symbolic cues of healthfulness. For example, in a survey of 164  
16 consumers, participants were asked to evaluate the healthiness of two breakfast cereals based on the  
17 information provided in a nutrition table. For one group, the label ‘fruit sugar’ was used; for the other, the  
18 label ‘sugar’ was used. Results suggest[ed] that the phrase ‘fruit sugar’ listed as an ingredient of the breakfast  
19 cereal resulted in a more positive perception of the healthiness of the cereal compared with the ingredient  
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21  
22

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23 <sup>63</sup> Persoskie A, Hennessy E, Nelson WL, “US Consumers’ Understanding of Nutrition Labels in 2013: The  
24 Importance of Health Literacy,” *Prev. Chronic Dis.* 14;170066 (2017) [hereinafter “Persoskie, US  
25 Consumers’ Understanding”].

26 <sup>64</sup> *Id.* (“Some studies have found that even high school graduates and college students lack the basic health  
27 literacy skills to effectively apply nutrition label information[ ].”).

28 <sup>65</sup> Levy & Fein, “Consumers’ ability to perform tasks using nutrition labels,” *J Nutr. Educ. & Behav.* (1998).

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

1 labeled ‘sugar.’”<sup>68</sup> Thus, even where sugar content is disclosed in nutrition labeling, consumers mistakenly  
 2 believe the product to be healthier if that sugar comes from fruit.

3 81. A recent survey of 2,000 U.S. participants demonstrated that “[t]he American population  
 4 fails very clearly to identify healthy products . . . .”<sup>69</sup> In the survey, each participant was shown a collection  
 5 of cereal bars and asked to rank them from healthiest to least healthiest. The products’ health rankings were  
 6 based off of the A through E Nutri-score used to grade some food products in the UK. Ultimately, “only 9%  
 7 of participants were able to correctly identify which product was the healthiest[.]”<sup>70</sup> “Even more worrying,  
 8 13 percent identified the least nutritious food option as the healthiest—more than the amount who properly  
 9 identified the healthiest.”<sup>71</sup> This was despite that “60% actively are seeking food and beverage products to  
 10 support their overall health,” demonstrating “widespread confusion when it comes to determining what is  
 11 and isn’t healthy.”<sup>72</sup>

12 82. Thus, although “Americans are often advised to eat healthier, more nutritious foods in an  
 13 effort to stifle the diabetes and the obesity epidemic striking the nation[,] [r]esearchers find that many can  
 14 not identify healthy foods in the grocery store aisle . . . .”<sup>73</sup> Instead, Americans were found to misidentify

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15  
 16 <sup>68</sup> Sutterlin, Bernadette, et al., “Simply adding the word ‘fruit’ makes sugar healthier: The misleading effect  
 17 of symbolic information on the perceived healthiness of food,” *Appetite* (July 2015) (“The labeling of the  
 18 ingredients by making use of symbolic information may, consequently, exert a misleading effect on a  
 19 consumer’s assessment of the product’s healthiness. The findings suggest that the effect is quite robust. A  
 20 more profound and comprehensive evaluation of the provided information (as occurs with people with  
 pronounced health consciousness) does not protect against the misleading effect of symbolic information and  
 does not add to judgment accuracy. This indicates that relying and drawing on the symbolic meaning of  
 information is, to a certain extent, an automatic and implicit process that cannot easily be corrected by  
 increasing people’s health consciousness.”).

21 <sup>69</sup> Shaheen, Mansur, “Only 9% of Americans can properly read a nutrition label with many falling for  
 22 misleading labels like ‘whole grain’ or ‘fat free’ on the front of packaging,” *Daily Mail* (Apr. 15, 2022)  
 23 [hereinafter “Shaheen, Only 9% of Americans can properly read a nutrition label”], *available at*  
[https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-nutrition-label.html?ns\\_mchannel=rss&ns\\_campaign=1490&ito=1490](https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-nutrition-label.html?ns_mchannel=rss&ns_campaign=1490&ito=1490).

24 <sup>70</sup> *Id.*

25 <sup>71</sup> *Id.*

26 <sup>72</sup> Danley, Sam, “Study finds few consumers understand healthy food labels,” *Supermarket Perimeter* (Mar.  
 27 16, 2022), *available at* <https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels>.

28 <sup>73</sup> Shaheen, Only 9% of Americans can properly read a nutrition label, *supra* n.68.

1 claims such as “whole grain” or “naturally flavored” as “markers that a food [is] healthy.” These claims,  
 2 however, often “mislead people on what products are actually healthy for them,” and “Americans[’] failure  
 3 to identify healthy products is likely playing a role in the nation’s budding obesity and diabetes epidemics.”<sup>74</sup>

4 83. The survey also looked at the impact of “call[ing] out the amount of different nutrients in  
 5 their products . . . on the front of their packages” while *not* “also call[ing] out the amount of potentially less  
 6 desirable ingredients, like sugars, sweeteners, sodium or saturated fats.”<sup>75</sup> It “found that this kind of  
 7 potentially selective attribute labeling . . . had the biggest sway in leading consumers to make incorrect  
 8 health-related choices.”<sup>76</sup>

9 84. Additionally, review of the Juice Blends’ nutrition information is unlikely to sufficiently  
 10 correct consumers’ understanding of the healthfulness of the Products because the vast majority of  
 11 consumers do not have the nutrition knowledge to accurately determine healthfulness from a review of the  
 12 nutrition facts. In other words, “frequent use of nutrition labels does not promote understanding of [nutrient]  
 13 levels.”<sup>77</sup>

14 85. A 2017 Shopper Trends Study by Label Insights found that “67% of consumers say it is  
 15 challenging to determine whether a food product meets their [dietary] needs simply by looking at the  
 16 package label[.]”<sup>78</sup>

17 86. A 2021 survey found that “[c]onsumers perceive health differences even when two products  
 18  
 19

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20 <sup>74</sup> *Id.*

21 <sup>75</sup> Poinski, Megan, “Fewer than 1 in 10 consumers can make healthy choices from front-of-pack labeling,  
 22 study finds,” *Food Dive* (Mar. 15, 2022), available at <https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-from-front-of-pack-la/620293/>.

23 <sup>76</sup> *Id.*

24 <sup>77</sup> Soederberg et al., “The Effects of Nutrition Knowledge on Food Label Use: A Review of the Literature,”  
 25 *Appetite* (2015) (citing Howlett et al., “How modification of the nutrition facts panel influences consumers  
 at risk for heart disease: The case of trans fat,” *J Public Policy & Marketing* (2008)).

26 <sup>78</sup> “Study Shows Labeling Often Confuses Consumers,” *Packaging Strategies* (Mar. 30, 2017) available at  
 27 <https://www.packagingstrategies.com/articles/94081-study-shows-labeling-often-confuses-consumers>  
 28 (citing Label Insight 2017 Shopper Trends Study, available at <https://cdn2.hubspot.net/hubfs/642447/Downloadable%20Content/2017%20Shopper%20Trends%20Survey%20Results%20Label%20Insight.pdf>).

1 have the same Nutrition Facts label” where there are other packaging claims that suggest healthfulness.<sup>79</sup>

2 87. In one survey, more than 3,000 U.S. adults viewed an ice cream nutrition label and then  
 3 answered four questions that tested their ability to apply, understand, and interpret the nutrition information.  
 4 Approximately 24% of people could not determine the calorie content of the full ice-cream container, 21%  
 5 could not estimate the number of servings equal to 60g of carbohydrates, 42% could not estimate the effect  
 6 on daily calorie intake of foregoing 1 serving, and 41% could not calculate the percentage daily value of  
 7 calories in a single serving.<sup>80</sup> Only 53.9% of respondents who had earned a 4-year college degree could  
 8 correctly answer all four nutrition label questions.<sup>81</sup>

9 88. Indeed, Campbell knows the problem of consumers’ nutrition illiteracy. In July 2014,  
 10 Campbell, through its Director of Regulatory Affairs & Nutrition, wrote to FDA to “offer . . . comments on  
 11 the agency’s proposal to amend labeling regulations so as to enhance the nutrition information available to  
 12 consumers . . . .”<sup>82</sup> Campbell recognized consumers need “help mak[ing] healthy and informed food  
 13 choices[,]” and “fully agree[d] with FDA that” there is “a pressing need to enhance consumers’  
 14 understanding of the Nutrition Facts panel . . . .”<sup>83</sup>

15 89. Recently, FDA recognized “many consumers would like to know how to use th[e] [Nutrition  
 16 Facts] information more effectively and easily,” and so published a guide on “How to Understand and Use  
 17 the Nutrition Facts Label.”<sup>84</sup> It took the FDA nearly twelve pages to explain how to “make it easier for you  
 18 to use the Nutrition Facts labels to make quick, informed food decisions to help you choose a healthy diet.”

19 90. The problem is so severe, FDA created an entire “education campaign” designed to “help  
 20 consumers, health care professionals, and educators learn how to use [the Nutrition Facts Label] as a tool  
 21 for maintaining healthy dietary practices”—thus recognizing the current widespread confusion, even among

22 \_\_\_\_\_  
 23 <sup>79</sup> International Food Information Council, “2021 Food & Health Survey,” at 31 (2021), *available at*  
<https://foodinsight.org/wp-content/uploads/2021/05/IFIC-2021-Food-and-Health-Survey.May-2021-1.pdf>.

24 <sup>80</sup> Persoskie, US Consumers’ Understanding, *supra* n.62.

25 <sup>81</sup> *Id.* (Persoskie, US Consumers’ Understanding)

26 <sup>82</sup> Campbell’s Letter to FDA, *supra* n.21, at p.2.

27 <sup>83</sup> *Id.*

28 <sup>84</sup> FDA, “How to Understand and Use the Nutrition Facts Label,” (last updated Feb. 25, 2022) *available at*  
<https://www.fda.gov/food/new-nutrition-facts-label/how-understand-and-use-nutrition-facts-label#top>.

1 “health care professionals,” in how to properly use the Nutrition Facts to make healthy choices.<sup>85</sup>

2 91. Another major problem is that “sugar interests have, in fact, intentionally and actively  
3 worked for more than 40 years to suppress the scientific evidence linking sugar consumption to negative  
4 health consequences.”<sup>86</sup>

5 92. As one article described it, “[i]nternal US sugar industry documents recently revealed the  
6 part that the industry conspiracy with scientists, and by lobbying public institutions, played in the 1960s and  
7 1970s in determining that public health policy to reduce mortality from coronary heart disease should focus  
8 on saturated fats as the main cause of such disease whilst ignoring the impact of sugar consumption.”<sup>87</sup>

9 93. Documents that became public during the course of a lawsuit between rival sugar industry  
10 groups revealed that the sugar industry has engaged in “unscrupulous strategies reminiscent of the tobacco  
11 and fossil fuel industries, including manufacturing doubt about the science and engaging in deliberate and  
12 elaborate misinformation campaigns.”<sup>88</sup>

13 94. The Union of Concerned Scientists identified five main tactics used by the sugar industry.  
14 These include:

15 Tactic 1: Attacking the Science

- 16 • Planning to “bury the data” if the science is inconvenient
- 17 • Threatening to suspend funding to the World Health Organization
- 18 • Seeking to discredit scientific findings by intimidating the study authors...

19 Tactic 2: Spreading Misinformation

- 20 • Emphasizing unknowns while ignoring what is known

21 <sup>85</sup> See FDA, “The New Nutrition Facts Label—What’s in it for you?” (last updated Apr. 13, 2022) *available*  
22 *at* <https://www.fda.gov/food/nutrition-education-resources-materials/new-nutrition-facts-label>.

23 <sup>86</sup> Gretchen Goldman et al., Union of Concerned Scientists, “Industry Tactics to Obscure the Science: How  
24 Industry Obscures Science and Undermines Public Health Policy on Sugar” (2014). *See also* Kearns CE, et  
25 al., “Sugar Industry and Coronary Heart Disease Research: A Historical Analysis of Internal Industry  
Documents,” *JAMA Intern Med.* 176(11):1680–1685(2016).

26 <sup>87</sup> Alejandro Calvillo, NCD Alliance, Public health sequestered for 50 years by sugar industry, (Sept. 29,  
27 2016), *available at* [https://ncdalliance.org/news-events/blog/new-blog-public-health-sequestered-for-50-](https://ncdalliance.org/news-events/blog/new-blog-public-health-sequestered-for-50-years)  
years.

28 <sup>88</sup> Goldman, “Industry Tactics to Obscure the Science: How Industry Obscures Science and Undermines  
Public Health Policy on Sugar,” *supra* n.86.

- 1 • Repeating untruthful claims
- 2 • Manufacturing bogus scientific claims
- 3 • Widely publishing claims that have not been subjected to scientific scrutiny

4 Tactic 3: Deploying industry scientists

- 5 • Exploiting science communication and blogging communities
- 6 • Failing to disclose scientists' conflicts of interest
- 7 • Hijacking scientific language for product promotion

8 Tactic 4: Influencing academia

- 9 • Buying credibility through academic scientists
- 10 • Funding research to support their preconceived positions
- 11 • Paying academic scientists to persuade other scientists of sugar interests' positions

12 Tactic 5: Undermining policy

- 13 • Pouring lobbying dollars into sugar policy debates at the federal, state, and local levels
- 14 • Supporting political candidates in influential positions
- 15 • Influencing rule making at federal agencies

16 95. As we now know, sugar interests secretly created an immense amount of disinformation  
17 making it hard for ordinary consumers to understand the harms of sugar such that simply knowing the  
18 amount of sugar is not sufficient for most consumers to understand the negative impact that sugar will have  
19 and thus assess the healthfulness of food and beverages.

20 96. One of the main goals of such disinformation campaigns is to “manufacture doubt”<sup>89</sup> so that  
21 consumers do not know what to believe. Survey evidence demonstrates this problem is prevalent regarding  
22 nutrition. For example, among the “Key Findings” of the 2018 Food & Health Survey from the International  
23 Food Information Council (IFIC), which surveyed approximately 1,000 American consumers to understand  
24 their perceptions, beliefs and behaviors around food and food purchasing decisions, found that 80% of the

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25 <sup>89</sup> See Goldberg RF and Vandenberg LN, “The science of spin: targeted strategies to manufacture doubt with  
26 detrimental effects on environmental and public health,” *Environ Health*. 26;20(1):33 (Mar. 2021)  
27 (describing how “[n]umerous groups, such as the tobacco industry, have deliberately altered and  
28 misrepresented knowable facts and empirical evidence to promote an agenda, often for monetary benefit,”  
including the sugar industry”); Goldberg RF and Vandenberg LN, “Distract, display, disrupt: examples of  
manufactured doubt from five industries,” *Rev Environ Health*. 34(4):349–363 (2019).

1 surveyed consumers encountered contradictory information about food and nutrition in their search for  
 2 nutritious foods, making “consumer confusion . . . a prevalent issue.”<sup>90</sup> Another key finding was that  
 3 “Context can influence the consumer’s judgement of healthfulness, even when the nutritional facts are the  
 4 same[.]”<sup>91</sup>

5 97. In sum, because “beverages like fruit juice are marketed as a healthy and natural source of  
 6 vitamins,” “consumers may thus often assume that juice has health benefits and may be reluctant to associate  
 7 fruit juice with other sugary beverages.”<sup>92</sup> Not surprisingly, when the Rudd Center for Food Policy and  
 8 Obesity surveyed 982 parents of children ages 2 to 17, asking “about the healthfulness of different drink  
 9 categories for their child, [79 percent] of parents rated 100 % juice . . . as somewhat or very healthy.”<sup>93</sup>

### 10 **III. THE JUICE BLENDS’ LABELING VIOLATES STATE AND FEDERAL REGULATIONS**

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

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

20 100. Second, despite making the challenged claims, Campbell “fail[ed] to reveal facts that are  
 21 material in light of other representations made or suggested by the statement[s], word[s], design[s],  
 22 device[s], or any combination thereof,” in violation of 21 C.F.R. § 1.21(a)(1). Such facts include the  
 23 detrimental health consequences of consuming the Juice Blends at typical levels, including increased risk

24 <sup>90</sup> IFIC, “2018 Food & Health Survey,” at pp. 3, 5, *available at* [https://foodinsight.org/wp-](https://foodinsight.org/wp-content/uploads/2018/05/2018-FHS-Report-FINAL.pdf)  
 25 [content/uploads/2018/05/2018-FHS-Report-FINAL.pdf](https://foodinsight.org/wp-content/uploads/2018/05/2018-FHS-Report-FINAL.pdf).

26 <sup>91</sup> *Id.*

27 <sup>92</sup> Anumeha, Salient sugar information, *supra* n.47.

28 <sup>93</sup> Munsell, C., et al., “Parents’ beliefs about the healthfulness of sugary drink options: Opportunities to  
 address misperceptions,” *Public Health Nutr*, Vol. 19(1):46-54 (Jan. 2016).

1 of metabolic disease, cardiovascular disease, type 2 diabetes, liver disease, obesity, high blood triglycerides  
2 and cholesterol, hypertension, and death.

3 101. Third, Campbell failed to reveal facts that were “[m]aterial with respect to the consequences  
4 which may result from use of the article under” both “[t]he conditions prescribed in such labeling,” and  
5 “such conditions of use as are customary or usual,” in violation of § 1.21(a)(2). Namely, Campbell failed to  
6 disclose the increased risk of serious chronic disease that is likely to result from the usual consumption of  
7 the Juice Blends in the customary and prescribed manners.

#### 8 **IV. PLAINTIFFS’ PURCHASE, RELIANCE, AND INJURY**

9 102. As best he can recall, Mr. Banta Yoshida purchased the Juice Blends, including at least the  
10 Healthy Greens, Caribbean Greens, Carrot Mango, and Orange Carrot flavors, at various times during the  
11 Class Period. Mr. Banta Yoshida recalls making his purchases at local stores in the Oakland, Berkeley, and  
12 San Francisco areas, including at his local Safeway, Whole Foods, and Co-op, each of which he regularly  
13 shops at. He most frequently shopped at and purchased the Juice Blends from the Safeway on College  
14 Avenue in Oakland, and from the Whole Foods on Telegraph Avenue in Berkeley.

15 103. In purchasing the Juice Blends, Mr. Banta Yoshida was exposed to, read, and relied upon  
16 Campbell’s labeling claims and images that were intended to appeal to consumers interested in healthy  
17 products. To the best of his recollection, Mr. Banta Yoshida read and relied on Campbell’s labeling  
18 representations including “Boost Your Morning Nutrition” and “Healthy Greens,” images of whole fruits  
19 and vegetables, and statements regarding the number of servings of vegetables and fruit that the Juice Blends  
20 provide. Such serving statements include: “1 serving of veggies,” “1 serving of fruit,” “[1, 1½, or 2]  
21 combined servings of veggies and fruit,” “8 fl. oz. has 1 serving of vegetables (1/2 cup),” “8 fl. oz. has [½  
22 or 1] serving of vegetables ([¼ or ½] cup) and [½, 1] serving of fruit ([¼ or ½] cup),” and “Dietary guidelines  
23 recommend 2½ cups of a variety of vegetables and 2 cups of fruit per day for a 2,000 calorie diet.”

24 104. These statements and images led Mr. Banta Yoshida to believe that drinking the Juice Blends  
25 would be beneficial rather than detrimental to health, and that he could healthfully substitute the Juice  
26 Blends for whole fruit and vegetables. These representations and images expressly stating or implying that  
27 the Juice Blends can healthfully be substituted for whole fruit and vegetables and characterizing the  
28 healthfulness of the Juice Blends, were and are deceptive. This is because scientific evidence demonstrates

1 that, in contrast to consuming whole fruits and vegetables, consuming fruit juice is detrimental to health.

2 105. As best he can recall, Mr. Mancuso purchased the Juice Blends, including at least the  
3 Strawberry Banana and Pomegranate Blueberry flavors, at various times during the Class Period. Mr.  
4 Mancuso recalls making his purchases at local stores like the Ralph's and Target in Woodland Hills on  
5 Ventura Boulevard, both of which he regularly shops at.

6 106. In purchasing the Juice Blends, Mr. Mancuso was exposed to, read, and relied upon  
7 Campbell's labeling claims and images that were intended to appeal to consumers interested in healthy  
8 products. To the best of his recollection, Mr. Mancuso read and relied on Campbell's labeling  
9 representations including "Boost Your Morning Nutrition" and "Healthy Greens," images of whole fruits  
10 and vegetables, and statements regarding the number of servings of vegetables and fruit that the Juice Blends  
11 provide. Such serving statements include: "1 serving of veggies," "1 serving of fruit," "[1, 1½, or 2]  
12 combined servings of veggies and fruit," "8 fl. oz. has 1 serving of vegetables (1/2 cup)," "8 fl. oz. has [½  
13 or 1] serving of vegetables ([¼ or ½] cup) and [½, 1] serving of fruit ([¼ or ½] cup)," and "Dietary guidelines  
14 recommend 2½ cups of a variety of vegetables and 2 cups of fruit per day for a 2,000 calorie diet."

15 107. These statements and images led Mr. Mancuso to believe that drinking the Juice Blends  
16 would be beneficial rather than detrimental to health, and that he could healthfully substitute the Juice  
17 Blends for whole fruit and vegetables. These representations and images expressly stating or implying that  
18 the Juice Blends can healthfully be substituted for whole fruit and vegetables and characterizing the  
19 healthfulness of the Juice Blends, were and are deceptive. This is because scientific evidence demonstrates  
20 that, in contrast to consuming whole fruits and vegetables, consuming fruit juice is detrimental to health.

21 108. As best she can recall, Ms. Mistler purchased the Juice Blends, in at least Berry Bliss and  
22 Healthy Greens flavors, during the Class Period. Ms. Mistler believes she purchased Campbell's Juice  
23 Blends from local stores including the Target located at 2005 Town Center Plaza in West Sacramento,  
24 California 95691, and the Walmart located at 755 Riverpoint Court in West Sacramento, California 95605.

25 109. In purchasing the Juice Blends, Ms. Mistler was exposed to, read, and relied upon Campbell's  
26 labeling claims and images that were intended to appeal to consumers interested in healthy products. To the  
27 best of her recollection, Ms. Mistler read and relied on Campbell's labeling representations including "Boost  
28 Your Morning Nutrition" and "Healthy Greens," images of whole fruits and vegetables, and statements

1 regarding the number of servings of vegetables and fruit that the Juice Blends provide. Such serving  
2 statements include: “1 serving of veggies,” “1 serving of fruit,” “[1, 1½, or 2] combined servings of veggies  
3 and fruit,” “8 fl. oz. has 1 serving of vegetables (1/2 cup),” “8 fl. oz. has [½ or 1] serving of vegetables ([¼  
4 or ½] cup) and [½, 1] serving of fruit ([¼ or ½] cup),” and “Dietary guidelines recommend 2½ cups of a  
5 variety of vegetables and 2 cups of fruit per day for a 2,000 calorie diet.”

6 110. These statements and images led Ms. Mistler to believe that drinking the Juice Blends would  
7 be beneficial rather than detrimental to health, and that she could healthfully substitute the Juice Blends for  
8 whole fruit and vegetables. These representations and images expressly stating or implying that the Juice  
9 Blends can healthfully be substituted for whole fruit and vegetables and characterizing the healthfulness of  
10 the Juice Blends, were and are deceptive. This is because scientific evidence demonstrates that, in contrast  
11 to consuming whole fruits and vegetables, consuming fruit juice is detrimental to health.

12 111. When purchasing the Juice Blends, Plaintiffs were seeking beverages that were healthy to  
13 consume and that could healthfully be substituted for whole fruit and vegetable, or at least not detriment  
14 their health when substituted for whole fruit and vegetable.

15 112. Because scientific evidence demonstrates that, unlike eating whole fruits and vegetables,  
16 which protects against disease, drinking juice increases risk of type 2 diabetes, obesity, cardiovascular  
17 disease and all-cause mortality (among other diseases), Campbell’s representations regarding the number of  
18 servings of vegetables and fruit that the Juice Blends provide, use of pictures of fresh fruits and vegetables,  
19 and characterization of the Juice Blends as providing a “Boost to Your Morning Nutrition,” are false, or at  
20 least highly misleading.

21 113. Plaintiffs are not nutritionists, food experts, or food scientists, but rather lay consumers who  
22 did not have the specialized knowledge that Campbell had regarding the processing of the Juice Blends and  
23 how that processing resulted in products that cannot be healthfully substituted for whole fruit and vegetables.  
24 At the time of purchase, Plaintiffs were unaware of the extent to which the health impact of consuming juice  
25 differed from that of consuming whole fruits and vegetables, or that the consumption of juice adversely  
26 affects blood cholesterol levels and increases risk of heart disease, diabetes, and other morbidity.

27 114. The average and reasonable consumer is unaware of the extent to which the health impact of  
28 consuming juice differs from that of consuming whole fruits and vegetables, or that the consumption of

1 juice adversely affects blood cholesterol levels and increases risk of heart disease, diabetes, and other  
2 morbidity.

3 115. Plaintiffs acted reasonably in relying on Campbell's wellness labeling claims and Serving  
4 Statements and fruit and vegetable images, which Campbell intentionally placed on the Juice Blends'  
5 labeling with the intent to induce average consumers into purchasing the Juice Blends.

6 116. Plaintiffs would not have purchased the Juice Blends or would not have been willing to pay  
7 as much if they knew that the challenged labeling claims and images were false and misleading in that the  
8 Juice Blends are not healthy and cannot be healthfully substituted for consuming whole fruit and vegetables.

9 117. The Juice Blends would have cost less absent the false and misleading statements and  
10 omissions.

11 118. Plaintiffs paid more for the Juice Blends, and would only have been willing to pay less, or  
12 unwilling to purchase the Juice Blends at all, absent the false and misleading labeling complained of herein.

13 119. Plaintiffs would not have purchased the Juice Blends if they had known that the Juice Blends  
14 are misbranded pursuant to California and FDA regulations or that their claims were false or misleading.

15 120. Plaintiffs and the Class lost money as a result of Campbell's deceptive claims, omissions,  
16 and practices in that they did not receive what they paid for when purchasing the Juice Blends.

17 121. Plaintiffs continue to desire to purchase healthy beverages and continue to see the Juice  
18 Blends at stores when they shop.

19 122. Plaintiffs would purchase the Juice Blends in the future if they were in fact healthy and could  
20 be healthfully substituted for whole fruit and vegetable as represented, but unless Campbell is enjoined in  
21 the manner Plaintiffs request, they may not be able to reasonably determine whether the Juice Blends have  
22 been reformulated to conform to the misleading claims or whether Campbell has continued to misrepresent  
23 the healthfulness of the Juice Blends.

24 123. Plaintiffs would likely purchase the Juice Blends if they could trust that the challenged  
25 representations and images were not false or misleading, but absent an injunction, Plaintiffs will be unable  
26 to trust the representations on the Juice Blends when they encounter them in the marketplace.

27 124. Plaintiffs' substantive right to a marketplace free of fraud, where they are entitled to rely on  
28 representations such as those made by Campbell with confidence, continues to be violated every time

1 Plaintiffs are exposed to the misleading labeling claims.

2 125. Accordingly, Plaintiffs' legal remedies are inadequate to prevent these future injuries.

3 **CLASS ACTION ALLEGATIONS**

4 126. While reserving the right to redefine or amend the class definition prior to or as part of a  
5 motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23, Plaintiffs seek to  
6 represent a class of all persons in California who, at any time from four years preceding the date of the filing  
7 of this Complaint to the time a class is notified (the "Class Period"), purchased, for personal or household  
8 use, and not for resale or distribution, any of the Juice Blends (the "Class").

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

12 128. Questions of law and fact common to Plaintiffs and the Class include:

13 a. whether Defendant communicated a message through the challenged labeling of the  
14 Juice Blends regarding their healthfulness, particularly as to whether the Juice Blends can healthfully  
15 be substituted for whole fruits and vegetables;

16 b. whether that message was material;

17 c. whether the challenged claims and images identified herein are false, misleading, or  
18 likely to deceive a reasonable consumer;

19 d. whether Defendant's conduct violates public policy;

20 e. whether Defendant's conduct constitutes violations of the laws asserted herein;

21 f. whether Defendant engaged in false or misleading advertising;

22 g. whether Defendant breached warranties;

23 h. whether Plaintiffs and Class Members are entitled to declaratory and injunctive relief;

24 and

25 i. whether Plaintiffs and Class Members are entitled to actual damages, restitution,  
26 punitive damages, attorneys' fees and costs, injunctive, and the amount of each or any other relief.

27 129. These common questions of law and fact predominate over questions that affect only  
28 individual Class Members.

1 130. Plaintiffs' claims are typical of Class Members' claims because they are based on the same  
2 underlying conduct by Defendant. Specifically, all Class Members, including Plaintiffs, were subjected to  
3 the same misleading and deceptive conduct when they purchased the challenged Juice Blends and suffered  
4 economic injury because the Juice Blends are misrepresented. Absent Defendant's business practice of  
5 deceptively and unlawfully labeling its Juice Blends, Plaintiffs and Class Members would not have  
6 purchased the Juice Blends or only would have been willing to pay less.

7 131. Plaintiffs will fairly and adequately represent and protect the interests of the Class, have no  
8 interests incompatible with the interests of the Class, and have retained counsel competent and experienced  
9 in class action litigation.

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

13 133. Questions of law and fact common to the Class predominate over any questions affecting  
14 only individual Class Members.

15 134. Defendant has acted on grounds applicable to the Class, thereby making appropriate final  
16 injunctive and declaratory relief concerning the Class as a whole.

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

19 **CAUSES OF ACTION**

20 **FIRST CAUSE OF ACTION**

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

22 136. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth  
23 in full herein.

24 137. The UCL prohibits any "unlawful, unfair or fraudulent business act or practice." Cal. Bus. &  
25 Prof. Code §17200.

26 138. The acts, omissions, misrepresentations, practices, and non-disclosures of Campbell as  
27 alleged herein constitute business acts and practices.  
28

**Fraudulent**

139. A statement or practice is fraudulent under the UCL if it is likely to deceive the public, applying an objective reasonable consumer test.

140. As set forth herein, Campbell’s claims and omissions relating to the Juice Blends are likely to deceive reasonable consumers and the public.

**Unlawful**

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

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

**Unfair**

142. Campbell’s conduct with respect to the labeling, advertising, and sale of the Juice Blends was unfair because Campbell’s conduct was immoral, unethical, unscrupulous, or substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh the gravity of the harm to its victims.

143. Campbell’s conduct with respect to the labeling, advertising, and sale of the Juice Blends was and is also unfair because it violates public policy as declared by specific constitutional, statutory or regulatory provisions, including but not necessarily limited to the False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions of the California Sherman Food, Drug, and Cosmetic Law.

144. Campbell’s conduct with respect to the labeling, advertising, and sale of the Juice Blends was and is also unfair because the consumer injury was substantial, not outweighed by benefits to consumers or competition, and not one consumers themselves could reasonably have avoided. Specifically, the increase in profits obtained by Campbell’s through the misleading labeling does not outweigh the harm to Class Members who were deceived into purchasing the Juice Blends believing they were healthy when in fact they are of the type that is likely to detriment health.

1 145. Campbell profited from the sale of the falsely, deceptively, and unlawfully advertised Juice  
2 Blends to unwary consumers.

3 146. Plaintiffs and Class Members are likely to continue to be damaged by Campbell’s deceptive  
4 trade practices, because Campbell continues to disseminate misleading information. Thus, injunctive relief  
5 enjoining Campbell’s deceptive practices is proper.

6 147. Campbell’s conduct caused and continues to cause substantial injury to Plaintiffs and other  
7 Class Members. Plaintiffs have suffered injury in fact as a result of Campbell’s unlawful conduct.

8 148. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining Campbell  
9 from continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices, and to  
10 commence a corrective advertising campaign.

11 149. Plaintiffs and the Class also seek an order for the restitution of all monies from the sale of  
12 the Juice Blends, which were unjustly acquired through acts of unlawful competition.

13 150. Because Plaintiffs’ claims under the “unfair” prong of the UCL sweep more broadly than  
14 their claims under the FAL, CLRA, or UCL’s “fraudulent” prong, Plaintiffs’ legal remedies are inadequate  
15 to fully compensate Plaintiffs for all of Campbell’s challenged behavior.

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

23 **SECOND CAUSE OF ACTION**

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

25 152. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth  
26 in full herein.

27 153. The FAL provides that “[i]t is unlawful for any person, firm, corporation or association, or  
28 any employee thereof with intent directly or indirectly to dispose of real or personal property or to perform

1 services” to disseminate any statement “which is untrue or misleading, and which is known, or which by  
2 the exercise of reasonable care should be known, to be untrue or misleading.” Cal. Bus. & Prof. Code §  
3 17500.

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

7 155. As alleged herein, the advertisements, labeling, policies, acts, and practices of Campbell  
8 relating to the Juice Blends misled consumers acting reasonably as to the healthfulness of the Juice Blends  
9 and whether they are healthful substitutes for whole fruit and vegetables.

10 156. Plaintiffs suffered injury in fact as a result of Campbell’ actions as set forth herein because  
11 Plaintiffs purchased the Juice Blends in reliance on Campbell’ false and misleading marketing claims  
12 stating or suggesting that the Juice Blends, among other things, are healthful and can healthfully be  
13 substituted for whole fruit and vegetables.

14 157. Campbell’s business practices as alleged herein constitute unfair, deceptive, untrue, and  
15 misleading advertising pursuant to the FAL because Campbell has advertised the Juice Blends in a manner  
16 that is untrue and misleading, which Campbell knew or reasonably should have known, and omitted  
17 material information from the Juice Blends’ labeling.

18 158. Campbell profited from the sale of the falsely and deceptively advertised Juice Blends to  
19 unwary consumers.

20 159. As a result, Plaintiffs, the Class, and the general public are entitled to injunctive and equitable  
21 relief, restitution, and an order for the disgorgement of the funds by which Campbell was unjustly enriched.

22 160. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiffs, on behalf of themselves and the  
23 Class, seek an order enjoining Campbell from continuing to engage in deceptive business practices,  
24 false advertising, and any other act prohibited by law, including those set forth in this Complaint.

25 161. Because the Court has broad discretion to award restitution under the FAL and could, when  
26 assessing restitution under the FAL, apply a standard different than that applied to assessing damages under  
27 the CLRA or commercial code (for Plaintiffs’ breach of warranty claims), and restitution is not limited to  
28 returning to Plaintiffs and class members monies in which they have an interest, but more broadly serves to

1 deter the offender and others from future violations, the legal remedies available under the CLRA and  
2 commercial code are more limited than the equitable remedies available under the FAL, and are therefore  
3 inadequate.

4 **THIRD CAUSE OF ACTION**

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

6 162. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth  
7 in full herein.

8 163. The CLRA prohibits deceptive practices in connection with the conduct of a business that  
9 provides goods, property, or services primarily for personal, family, or household purposes.

10 164. Campbell's false and misleading labeling and other policies, acts, and practices were  
11 designed to, and did, induce the purchase and use of the Juice Blends for personal, family, or household  
12 purposes by Plaintiffs and Class Members, and violated and continue to violate the following sections of  
13 the CLRA:

- 14 a. § 1770(a)(5): representing that goods have characteristics, uses, or benefits which  
15 they do not have;
- 16 b. § 1770(a)(7): representing that goods are of a particular standard, quality, or grade if  
17 they are of another;
- 18 c. § 1770(a)(9): advertising goods with intent not to sell them as advertised; and  
19 d. § 1770(a)(16): representing the subject of a transaction has been supplied in  
20 accordance with a previous representation when it has not.

21 165. Campbell profited from the sale of the falsely, deceptively, and unlawfully advertised Juice  
22 Blends to unwary consumers.

23 166. Campbell's wrongful business practices constituted, and constitute, a continuing course of  
24 conduct in violation of the CLRA.

25 167. Pursuant to California Civil Code § 1782, more than 30 days before filing this lawsuit,  
26 Plaintiffs sent written notice of their claims and Campbell's particular violations of the Act to Campbell by  
27 certified mail, return receipt requested, but Campbell has failed to implement remedial measures.

28 168. As a result, Plaintiffs and the Class have suffered harm, and therefore seek (a) actual damages

1 resulting from purchases of the Juice Blends sold throughout the Class Period to all Class Members, (b)  
2 punitive damages, (c) injunctive relief in the form of modified advertising and a corrective advertising plan,  
3 (d) restitution, and (e) attorneys' fees and costs. *See* Cal. Civ. Code § 1782(d).

4 169. In compliance with Cal. Civ. Code § 1780(d), an affidavit of venue is filed concurrently  
5 herewith.

#### 6 **FOURTH CAUSE OF ACTION**

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

8 170. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as if set forth  
9 in full herein.

10 171. Through the Juice Blends' labeling, Campbell made affirmations of fact or promises, or  
11 description of goods, that, *inter alia*, the Juice Blends are beneficial to health and can healthfully be  
12 substituted for whole fruit and vegetables, through the statements "Healthy," "Boost Your Morning  
13 Nutrition," "Healthy Greens," "1 serving of veggies," "1 serving of fruit," "[1, 1½, or 2] combined servings  
14 of veggies and fruit," "8 fl. oz. has 1 serving of vegetables (1/2 cup)," "8 fl. oz. has [½ or 1] serving of  
15 vegetables ([¼ or ½] cup) and [½, 1] serving of fruit ([¼ or ½] cup)," "8 fl. oz. juice has [½ or 1] cup of  
16 vegetables and [½, 1] cup of fruit," and "Dietary guidelines recommend 2½ cups of a variety of vegetables  
17 and 2 cups of fruit per day for a 2,000 calorie diet."

18 172. These representations were "part of the basis of the bargain," in that Plaintiffs and the Class  
19 purchased the Juice Blends in reasonable reliance on those statements. Cal. Com. Code § 2313(1).

20 173. Campbell breached its express warranties by selling Juice Blends that are not healthful and  
21 are not healthful substitutes for whole fruits and vegetables.

22 174. That breach actually and proximately caused injury in the form of the lost purchase price that  
23 Plaintiffs and Class Members paid for the Juice Blends.

24 175. As a result, Plaintiffs seek, on behalf of themselves and other Class Members, their actual  
25 damages arising as a result of Campbell's breaches of express warranty, including, without limitation,  
26 expectation damages.

#### 27 **PRAYER FOR RELIEF**

28 176. Wherefore, Plaintiffs, on behalf of themselves, all others similarly situated, and the general

1 public, pray for judgment against Campbell as to each and every cause of action, and the following remedies:

- 2 a. An Order declaring this action to be a proper class action, appointing Plaintiffs as  
3 Class Representatives, and appointing Plaintiffs' undersigned counsel as Class Counsel;
- 4 b. An Order requiring Campbell to bear the cost of Class Notice;
- 5 c. An Order compelling Campbell to conduct a corrective advertising campaign;
- 6 d. An Order compelling Campbell to destroy all misleading and deceptive advertising  
7 materials and product labels, and to recall all offending Juice Blends;
- 8 e. An Order requiring Campbell to disgorge all monies, revenues, and profits obtained  
9 by means of any wrongful act or practice;
- 10 f. An Order requiring Campbell to pay restitution to restore all funds acquired by means  
11 of any act or practice declared by this Court to be an unlawful, unfair, or fraudulent business act or  
12 practice, or untrue or misleading advertising, plus pre-and post-judgment interest thereon;
- 13 g. An Order requiring Campbell to pay compensatory damages and punitive damages  
14 as permitted by law;
- 15 h. An award of attorneys' fees and costs; and
- 16 i. Any other and further relief that Court deems necessary, just, or proper.

17 **JURY DEMAND**

18 177. Plaintiffs hereby demand a trial by jury on all issues so triable.

19 Dated: January 3, 2023

/s/ Melanie Persinger  
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