

1 DOGRA LAW GROUP PC  
2 SHALINI DOGRA, SBN 309024  
3 *shalini@dogralawgroup.com*  
4 2219 Main Street, Unit 239  
5 Santa Monica, CA 90405  
6 Telephone: (747) 234-6673  
7 Facsimile: (310) 868-0170  
8 *Attorneys for Named Plaintiffs and Proposed Class*

9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA-WESTERN DIVISION**

Case No:

ALAIN MICHAEL, an individual on  
behalf of himself all others similarly  
situated; LYNETTA HUFFMAN,  
individually and on behalf of all others  
similarly situated; KAREN ASHER, on  
behalf of herself and all other similarly  
situated

Plaintiffs,

v.

NUTRISHUS BRANDS, INC., a  
Georgia Corporation; and DOES 1  
through 50, Inclusive,

Defendants.

**PLAINTIFFS' CLASS ACTION  
COMPLAINT**

1. COMMON LAW FRAUD
2. INTENTIONAL  
MISREPRESENTATION
3. NEGLIGENT  
MISREPRESENTATION
4. UNJUST ENRICHMENT
5. CONSUMERS LEGAL REMEDIES  
ACT, CAL. CIV. CODE §§ 1750, *et*  
*seq.*
6. VIOLATION OF THE FALSE  
ADVERTISING LAW ("FAL"),  
CALIFORNIA BUSINESS AND  
PROFESSIONS CODE § 17500, *et*  
*seq.*
7. VIOLATION OF THE UNFAIR  
COMPETITION LAW ("UCL"),  
CALIFORNIA BUSINESS AND  
PROFESSIONS CODE § 17200 *et*  
*seq.*

**DEMAND FOR JURY TRIAL**

Plaintiff Alain Michael (Plaintiff Michael"), Plaintiff Lynetta Huffman ("Plaintiff  
Huffman") and Plaintiff Karen Asher ("Plaintiff Asher" and collectively hereinafter

1 “Plaintiffs”) , by and through their attorneys, brings this action on behalf of themselves  
2 and all other similarly situated against Nutrishus, Inc. (“Defendant Nutrishus”), and Does  
3 1 through 50. Plaintiffs hereby allege, on information and belief, except as those  
4 allegations which pertain to the named Plaintiffs, which allegations are based on personal  
5 knowledge, as follows:

6 **NATURE OF THE ACTION**

7 1. To capitalize on the premium price consumers are willing to pay for forms  
8 of sweeteners and syrups that purportedly lack the harmful side effects of traditional  
9 sugar, Defendant Nutrishus intentionally makes false and misleading representations  
10 about its “RxSugar®” product line, which includes three types/flavors of syrups and  
11 liquids: (i) “organic liquid sugar”; (ii) “organic maple syrup”; and (iii) “organic chocolate  
12 syrup.” (hereinafter collective referred to as “the Products.”).

13 2. Defendant Nutrishus deceive consumers about their sugar substitutes to take  
14 advantage of diabetics, as well as individuals who are seeking out healthier forms of  
15 desserts and sweet foods. Aware that consumers place a higher value on alternatives to  
16 sugar that can sweeten food without the negative impact that is typically associated with  
17 sugar, including weight gain and exacerbation of diabetes, Defendants deliberately make  
18 false and misleading statements about the nutritional value and health benefits of their  
19 Products

20 3. In reality, none of these claims about the Products are true because  
21 Defendants’ have based them on a manipulated and incorrect serving sizes. Specifically,  
22 Defendants have predicated their marketing scheme for the Products on a serving size  
23 that is lower than the reference amount that is customarily consumed”(RACC) required  
24 by federal and state law. If Defendants calculated the Products’ nutritional value on the  
25 actual serving size that was mandated by law, then none of the claims on the Products’  
26 front label and packaging would be true. By using a serving size that is lower than the  
27 required RACC, Defendants purposely mislead consumers into thinking that the  
28 Products lack the harmful side effects of sugar, and thereby increase profits at the

1 expense of unsuspecting individuals. Additionally, Defendants further misbrand the  
2 Products and deceive consumers by consistently perpetuating misleading and false health  
3 and structure/function claims about the Products.

4 4. At all relevant times, Defendants packaged, advertised, marketed,  
5 distributed and sold the Products to consumers at retail store locations throughout  
6 California and the United States based on the misrepresentation that the Products were  
7 “0 calories,” “0 net carbs,” or “0 glycemic.” In reality, the Products do not confer any of  
8 these purported nutritional and health benefits to consumers. The Products actually are  
9 not zero calorie, zero net carbs or zero glycemic.

10 5. Reasonable consumers rely on product labelling in making their purchasing  
11 decisions. When a consumer sees a substitute sweetener or syrup labelled as “ “zero  
12 glycemic,” “zero calories,” “zero net carbs,” s/he reasonably expects the food item to be  
13 harmless and lack the health dangers typically associated with sugar. In reliance on  
14 Defendants’ misleading marketing and deceptive advertising practices for the Products,  
15 Plaintiffs and similarly situated class members reasonably thought they were purchasing  
16 a substitute sweetener alternative to sugar and syrup that provided benefits and value for  
17 the human body. In fact, neither Plaintiffs nor any of the member of the putative class  
18 received any of the health benefits, nutritional value or food composition they  
19 reasonably thought they were buying.

20 6. Plaintiffs and other consumers purchased the Products because they  
21 reasonable believed, based on Defendants’ packaging and advertising that the Products  
22 provided certain health benefits and helped avoid particular physiological harms. Had  
23 Plaintiffs and other consumers known that the Products actually lacked the nutritional  
24 value and health benefits that were advertised on the front labels and packages, they  
25 would not have purchased the Products or would have paid significantly less for them.  
26 As a result, Plaintiffs and other similarly situated class members have been deceived and  
27 suffered economic injury.  
28



1     availed itself to the benefits and privileges of conducting business activities within the  
2     State.

3             12. Pursuant to 28 U.S.C. §1391, this Court is the proper venue for this action  
4     because a substantial part of the events, omissions and acts giving rise to the claims  
5     herein occurred in this District. Moreover, Defendant Nutrishus distributed, advertised  
6     and sold the Products, which are the subject of the present Complaint, in this District.

7                             **PARTIES**

8             13. Plaintiff Michael is a resident of California, and lives in Los Angeles  
9     County. Plaintiff Asher is a resident of Merced County. Plaintiff Huffman is a resident  
10    of Los Angeles County.

11            14. Defendant Nutrishus is a corporation headquartered in the State of Georgia,  
12    with its principal place of business at 1450 West Peachtree Street NW #200, PMB 14642,  
13    Atlanta, Georgia, 30309-2955. Defendant Nutrishus manufactures, mass markets, and  
14    distributes the Products throughout California and the United States.

15            15. Plaintiffs are informed and believe, and based thereon allege that at all times  
16    relevant herein each of these individuals and/or entities was the agent, servant, employee,  
17    subsidiary, affiliate, partner, assignee, successor-in-interest, alter ego, or other  
18    representative of each of the remaining Defendants and was acting in such capacity in  
19    doing the things herein complained of and alleged.

20            16. Plaintiffs reserve their right to amend this Complaint to add different or  
21    additional defendants, including without limitation any officer, director, employee,  
22    supplier, or distributor of Defendants Nutrishus who has knowingly and willfully aided,  
23    abetted, or conspired in the false and deceptive conduct alleged herein.

24                             **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

25            17. Consumers often purchase sugar and syrup substitutes to avoid the harmful  
26    side effects of traditional granulated white table sugar. The trend towards sugar  
27    replacements and alternative forms of sweeteners has grown as more studies continue to  
28    emerge about the dangers of sugar. Additionally, especially as diabetes rates increase

1 throughout the nation, the demand for sugar replacements is swelling, so that diabetics  
 2 can eat sweet foods without worsening their condition. Defendants knew or had reason  
 3 to know that consumers would find the challenged attributes important in their decision  
 4 to purchase the Products, as indicated by the fact that Defendants repeatedly emphasize  
 5 the advertised claims prominently on the front labels of the Products' packaging in  
 6 capital letters and an eye-catching font that quickly garners a consumer's attention.  
 7 Defendants consistently advertise the Products as "0 Calories," "0 Net Carbs" and "0  
 8 Glycemic." These misrepresentations are further enforced by the fact that the Products'  
 9 front packaging bears a "keto certified" seal and displays statements about the Products  
 10 being "safe for diabetics." However, Defendants' labelling and marketing scheme for  
 11 the Products is blatantly false. The Products are not actually zero calories, zero net carbs,  
 12 nor zero glycemic.





18. 21 U.S.C. § 343 states that a food product is misbranded if “its labelling is false or misleading in any manner, with “labelling” defined as “all labels and other written, printed, or graphic matter (1) upon any article or any of its containers or wrappers or (2) accompanying such article<sup>1</sup>.” Similarly, under California’s Sherman Food, Drug and Cosmetic Law (“Sherman Law”), Article 6, §110660, “Any food is misbranded if its labelling is false or misleading in any particular.” Additionally, pursuant to the Nutrition Labelling and Education Act (“NLEA”), the FDA deems a food product misbranded if it lacks appropriate nutritional labelling. *See* 21 U.S.C. § 403(q).

19. As part of the FDA’s labelling requirements, a food’s nutritional facts and content disclosures must be based on a serving size that reflects an amount that is “customarily consumed.” *See* 21 U.S.C. § 343(q)(1)(A)(i). The FDA has established distinct “reference amount customarily consumed (RACC)” for certain foods, whereby a food producer must use a minimum serving size equal to the FDA’s determined RACC to calculate its corresponding food item’s nutritional values. *See* 21 C.F.R. §§101.9(b)(2) and 101.9(b)(6). A food manufacturer’s failure to adhere to the FDA’s regulated RACC constitutes unlawful misbranding. *See* 21 U.S.C. § 403(q). Furthermore, Chapter 4 of California’s Sherman Law, §§ 110290 incorporates the NLEA and the FDA’s prohibition on false or misleading nutritional content and RACC statements.

20. The FDA has determined an explicit RACC level for the Products. The agency has also expressed a preference to base serving sizes on actual consumption habits. *See* “Dietary Guidelines for Americans: U.S. Department of Agric. And U.S. Dep’t of Health and Human Services (7th ed. 2010) at 27-9. Likewise, the NLEA requires that serving sizes reflect the amounts people actually eat. Fortin, Neal, “*Food Regulation Law, Science, Policy and Practice*”, p.68 (2017). Under 21 C.F.R. §101.12, the RACC for syrup replacements such as the Products is two tablespoons. Hence, Defendant Nutrishus must base the Products’ nutritional content values on a minimum serving size of two tablespoons. Yet, as made clear by the Products’ back panel, Defendant Nutrishus

---

<sup>1</sup> *See* 21 U.S.C. § 321 (m)

1 has relied on a serving size of one tablespoon, one-half of the minimum amount required  
2 by the FDA. By using an amount that is one-half of the legally required serving size  
3 minimum, Defendant Nutrishus cements the foundation for the false and misleading  
4 claims it systematically advertises on the Products' front labels. If Defendant Nutrishus  
5 followed the FDA's parameters for the RACC of syrups and used the agency's  
6 mandatory minimum serving size to ascertain the Products' nutritional values, then the  
7 Products would not actually be "0 calories," "0 net carbs," or "0 glycemic," as boldly  
8 advertised on the Products' front panel. For example, the FDA limits "zero calorie"  
9 claims to food items that contain less than five calories per serving. *See* 21 C.F.R. §  
10 101.9(c)(1). Here, two tablespoons of the Products would have more than five calories  
11 and not meet the FDA's qualifications for the "zero calorie" labels. Hence, by  
12 manipulating the Products' serving size, Defendant Nutrishus has deceived consumers  
13 about their health benefits and risks.

14 21. Indeed, the very labelling and packaging changes that Defendants  
15 implemented after being apprised of their CLRA violations, as detailed in this Complaint,  
16 demonstrate the Products' inaccurate labelling scheme. As indicated by comparison  
17 between Products' pre-September 2021 and post-September 2021 packaging, somehow  
18 one tablespoon of the Products has zero calories and ten grams of carbohydrates. Yet,  
19 two tablespoons of the same formulation has ten calories and twenty-grams of  
20 carbohydrates. Hence, when Defendants used the incorrect serving size and manipulated  
21 the RACC, they falsely represented and underreported the Products' calorie count and  
22 carbohydrate levels.

23 22. Notably, the Ninth Circuit has affirmed that "technically correct labels can  
24 be misleading." *Bruton v. Gerber Prods. Co.*, No. 15-15174, 2017 WL 1396221 (9th Cir.  
25 Apr. 19, 2017). Thus, even if the Products' front labels make technically true statements  
26 about one tablespoon of the Products, Defendants are still liable for deceptive  
27 advertising. Furthermore, Defendants know that consumers will foreseeably devour  
28 more than one tablespoon of the Products and end up digesting a volume that lacks all



1 the advertised claims, especially when the Products' packaging touts statements like  
 2 "clean," "safe for diabetics" and "plant-based." Aside from the fact that the FDA has set  
 3 the RACC for food items like the Products at twice as much as Defendants' serving size  
 4 for the Products, Defendants themselves encourage consumers to use more than one table  
 5 spoon of the Products with tactics such as covering the Products' front label and bottlecap  
 6 design with eye-catching all cap bold claims like "REAL. HEALTHY." Therefore,  
 7 Defendants have sufficient notice that individuals will consume multiple servings of the  
 8 Products, and foreseeably eat amounts of the sugar substitute syrups that are not "zero  
 9 calories, "zero glycemic," or "zero net carbs."

10 23. Under the NLEA, the FDA deems a food product misbranded if it advertises  
 11 nutrient content claims<sup>2</sup> that have not been defined by the FDA, or fall outside the FDA's  
 12 established definitions. *See* 21 U.S.C. §§ 343(Q) and (R); and *See* 21 C.F.R. § 101.13.  
 13 Similarly, Article 6 of California's Sherman Law, §§ 110665 and 110670 adopt the  
 14 NLEA and the FDA's prohibition on false or misleading nutrient content claims. Here,  
 15 the Products' front labels exhibit at least two nutrient content claims: "zero calorie," and  
 16 "zero net carbs." Both of these claims are false because they are based on an incorrect  
 17 serving size and illegitimate RACC.

18 24. Structure or function claims are claims that refer to a structure or function  
 19 of the body (hereinafter referred to as "structure/function claims"). Structure/function  
 20 claims describe a food ingredient's role in affecting or maintaining normal human  
 21 structure or body functions. Under the FDCA, food is misbranded if its labelling contains  
 22 false or misleading structure or function claims. California's Sherman Law, Article 6,  
 23 §110670, imposes the same prohibition on false and misleading structure/function  
 24 claims. The Products' front labels clearly advertise "0 Glycemic" in discrete, visible bold  
 25 letters. This claim, which reflects glycemic index, constitutes a structure/function claim  
 26 because it refers to the structure and function of blood sugar levels. The "zero glycemic"

27 <sup>2</sup> *See* FDCA §403(r)(2)(C), which defines nutrient content claims as "any direct statement about the level or range of a  
 28 nutrient in the food," or "describes a food or an ingredient in a manner that suggests that a nutrient is absent or  
 present in a certain amount."

1 claim tells a consumer that eating the Products will not raise blood sugar levels, thereby  
2 providing information about the Products' impact on a structure and function of the  
3 human body. However, in reality, the Products' structure/function claims are false and  
4 misleading because the syrup replacements' composition does not result in a zero  
5 glycemic index. Here, despite diligent investigation and research efforts, no evidence  
6 was found that any of the Products' ingredients result in zero glycemic levels or have a  
7 relationship to any of the health benefits represented on the Products' front labels.  
8 Accordingly, it is reasonable to conclude that Defendants do not possess any  
9 substantiation for the structure/function claims it has advertised on the Products.  
10 Defendants' "Zero Glycemic" health claim is unlawfully deceptive because it misleads  
11 consumers to conclude that the Products are healthy, especially for diabetics Here,  
12 Defendant Nutrishus advertises and emphasizes a collection of front label claims on the  
13 Products that altogether lead a reasonable consumer to think that the Products are good  
14 for individuals and that the Products confer particular benefits for diabetics. When a  
15 person, especially one who has diabetes and who must monitor her sugar levels, sees the  
16 claims "0 glycemic," "0 calories," and "0 net carbs" in conglomeration, especially when  
17 presented with statements about "safe for diabetics," she will reasonably think that the  
18 food product is good for her and a liquid sugar or syrup that diabetics can safely use.  
19 Moreover, she will reasonably believe that she can consume the substitute syrup without  
20 side effects of weight gain, diabetes, or diabetes aggravation. In reality, the Products are  
21 not free from any of these dangers. As clarified in the discussion above, the Products  
22 contain carbohydrates, and likely have an abundance of calories as well. Furthermore,  
23 the Products likely cause increases in blood sugar levels and are not genuinely "zero  
24 glycemic," thereby carrying serious risks for diabetics. In reality, there is no scientific  
25 evidence that proves that the Products have a zero glycemic value, or prevent blood sugar  
26 spikes. Notably, some studies have indicated that sugar substitutes like the Products can  
27 have the same effect as sugar on the human body, especially in terms of triggering  
28 increases in appetite. Lustig, Robert, "*Effects of Sweeteners on Glucose, Insulin, and*

1 *Energy Intake.*” Int’l J. of Obesity (2005). Additionally, these studies have concluded  
2 that sweetening and sugar substitutes like allulose do not have any unique or special  
3 benefits over sugar. In other words, these studies demonstrate that the purported health  
4 benefits that Defendants advertise on the Products’ front labels are unsubstantiated, false  
5 and deceptive. Furthermore, these studies show that Plaintiffs are not relying on “lack of  
6 substantiation” legal theories here. On the contrary, Plaintiffs here can survive a “lack of  
7 substantiation” “challenged because they have cited studies that show the deceptive nature  
8 of each of Defendants’ advertised claims. *Bronson v. Johnson & Johnson, Inc.*, 2013  
9 U.S. Dist. LEXIS 54029, at \*22 (N.D. Cal. Apr. 16, 2013).

10 25. Defendants’ labelling and advertising of the Products violate the mandates  
11 of the Federal Food, Drug and Cosmetics Act, the correlative mandates of the Sherman  
12 Law, and are unfair and deceptive in violation of the California Civil Code § 1770.

13 26. Plaintiffs purchased units of the Products in reliance upon the labelling and  
14 advertising of the Products’ above-detailed nutrient content and nutritional value claims,  
15 without knowledge of the fact that all the statements about the Products’ purported  
16 advantages were actually false. Defendants knows or has reason to know that consumers  
17 would find the challenged attributes important in their decision to purchase the Products,  
18 as indicated by the fact that Defendants repeatedly emphasizes the advertised claims  
19 prominently on the front labels of the Products’ packaging in capital letters and an eye-  
20 catching font that quickly garners a consumer’s attention. Consequently, because the  
21 Products have deceptive serving sizes, misleading nutritional content reporting and fail  
22 to provide the advertised health benefits, consumers are not receiving the benefit of their  
23 bargain.

24 27. Plaintiffs consumed units of the Products as intended and would not have  
25 purchased them if they had known that the advertising as described herein was false,  
26 misleading and deceptive. Plaintiffs suffered injury in fact and are entitled to restitution  
27 damages in an amount to be determined at trial. It is beyond reproach that the Products  
28 advertise blatantly inaccurate nutritional panels, as well as false and misleading nutrient

1 content claims to prey on diabetics and trick consumers. Yet, Defendants have  
2 systematically and consistently continued to make false allegations about the nutritional  
3 components and health benefits of the Products on the sugar and syrup replacements'  
4 front labels. Reasonable consumers rely on product labelling in making their purchasing  
5 decisions. When a consumer sees a substitute sweetener labelled as " "0 glycemic," "0  
6 calories," "0 net carbs," especially in combination with statements that emphasize safety  
7 for diabetics, she reasonably expects the sugar replacement to be harmless and lack many  
8 of the health dangers typically associated with sugar. In reliance on Defendants'  
9 misleading marketing and deceptive advertising practices of the Products, Plaintiffs and  
10 similarly situated class members reasonably thought they were purchasing a food product  
11 that provided benefits and value for the human body. In fact, neither Plaintiffs nor any  
12 of the member of the putative class received any of the health benefits, nutritional value  
13 or food composition they reasonably thought they were buying. Defendants have no  
14 reasonable basis for labelling, advertising, marketing and packaging the Products as  
15 being beneficial to health or an innocuous liquid sugar and syrup substitute that is  
16 especially safe for diabetics. As a result, consumers are consistently misled into  
17 purchasing the Products for the commonly known and/or advertised benefits and  
18 characteristics when in fact no such benefits could be conferred by the Products.

19 28. Defendants' marketing, labelling, and packaging of the Products are  
20 designed to, and do in fact, deceive, mislead and defraud consumers. Defendants have  
21 no reasonable basis for labelling, advertising, marketing and packaging the Products as  
22 being beneficial to health or an innocuous sugar and syrup substitutes that are especially  
23 safe for diabetics. As a result, consumers are consistently misled into purchasing the  
24 Products for the commonly known and/or advertised benefits and characteristics when  
25 in fact no such benefits could be conferred by the Products. The malicious actions taken  
26 by Defendants caused significant harm to consumers. Plaintiffs and similarly situated  
27 class members who purchased the Products because they reasonably believed, based on  
28 Defendants' marketing, packaging, labelling and advertising schemes, that the Products

1 were in fact zero net carbs, zero glycemic, zero calorie, and safe for diabetics. Thus,  
2 Plaintiffs were economically harmed by Defendants' misbranding, false labelling,  
3 deceptive marketing and misleading packaging of the Products. The value of the  
4 Products that Plaintiffs actually purchased and consumed was materially less than its  
5 value as misrepresented by Defendants.

6 29. Plaintiff Michael purchased at least one unit of the Products' "maple Syrup"  
7 flavor from a Los Angeles-based supermarket in late 2020 or early 2021, before  
8 Defendants modified the Products' deceptive labelling scheme. Plaintiff Huffman  
9 bought at least one unit of the Products' "chocolate syrup" flavor from a Los Angeles-  
10 based "Walgreens" store location in 2019 or 2020, when the Products still displayed the  
11 false advertisements detailed herein. Plaintiff Asher bought units of the Products' "maple  
12 syrup" and chocolate flavors throughout the time period of 2020 to 2022. Plaintiff Asher  
13 made her purchases of the Products online, as well as at retail supermarket locations in  
14 Merced County, and bought units of the Products that advertising Defendants' deceptive  
15 marketing scheme and representations as described in this Complaint.

16 30. Plaintiffs purchased units the Products throughout California during the  
17 relevant time period. Plaintiffs bought and consumed the Products because, based on  
18 Defendants' marketing and labelling scheme, they believed that the Products were in fact  
19 zero net carbs, zero glycemic, zero calorie, and safe for diabetics. Plaintiffs purchased  
20 the Products in reliance upon the nutritional and health benefits that Defendants  
21 advertised and marketed throughout the Products' labelling, and packaging, without  
22 knowledge of the fact that the Products perpetuated a misbranded RACC, and that they  
23 were not actually zero net carbs, zero glycemic, zero calorie, or safe for diabetics.  
24 Plaintiffs consumed the Products as intended and would not have purchased units the  
25 Products if they had known that the advertising as described herein was false, misleading  
26 and deceptive. During the time when they were purchasing and consuming the Products,  
27 Plaintiffs did not take steps to verify the Products' components or nutrient levels.  
28 Reasonable consumers such as Plaintiffs would not have considered it necessary to verify

the clear message conveyed by Defendants' labelling, advertising, marketing and packaging of the Products. Plaintiffs would consider purchasing the Products again if the labelling were accurate.

### **RULE 9(B) ALLEGATIONS**

31. Federal Rule of Civil Procedure 9(b) provides that "[i]n alleging fraud or mistake, a party must state with particularity the circumstances constituting fraud or mistake." Fed. R. Civ. P. 9(b). To the extent necessary, as detailed in the paragraphs above and below, Plaintiffs have satisfied the requirement of Rule 9(b) by establishing the following elements with sufficient particularity:

32. WHO: Defendants made material misrepresentations and omissions of fact in the labelling, packaging and marketing of the Products.

33. WHAT: Defendants made material misrepresentations and omissions of fact by labelling, packaging and marketing the Products as "zero carb," "zero glycemic," and "zero net carbs" and by misbranding the Products with a prohibited serving size. Defendants made these claims with respect to the Products even though the Products were not in fact zero calories, zero glycemic, zero net carbs, nor meet the requirements to make such claims. Defendants' misrepresentations and omissions were material because a reasonable consumer would not have purchased or paid as much for the Products if he or she knew that they contained false representations.

34. WHEN: Defendants made the material misrepresentations and omissions detailed herein continuously throughout the Class Period.

35. WHERE: Defendants' material misrepresentations and omissions were made, *inter alia*, on the labelling of the Products, on Defendants' website, and throughout Defendants' various other marketing and advertising scheme for the Products.

36. HOW: Defendants made written misrepresentations and failed to disclose material facts on the labelling and packaging of the Products and on their website and other advertising.



37. WHY: Defendants engaged in the material misrepresentations and omissions detailed herein for the express purpose of inducing Plaintiffs and other reasonable consumers to purchase and/or pay a premium for the Products based on the belief that they actually were zero net carbs, zero calories and zero glycemic. Defendants profited by selling the Products to millions of unsuspecting consumers statewide in California, as well as nationwide.

### **CLASS ACTION ALLEGATIONS**

38. Plaintiffs bring this class action on behalf of themselves individually and all others similarly situated, pursuant to Fed. R. Civ. P. 23(a) and (b)(2) and/or (b)(3). Pursuant to Fed. R. Civ. P. 23, Plaintiffs bring this class action on behalf of themselves individually and all others similarly situated statewide in California. Plaintiffs seek to represent a class comprised of all persons in California who, on or after September 10, 2017 in California, (the “Class Period”) purchased the Products for household use and not for resale or distribution.

39. The proposed class consists of all consumers who purchased the Products in the State of California for personal use and not for resale, during the time period September 10, 2017, through the present. Excluded from the Class are Defendants, their affiliates, employees, officers and directors, any individual who received remuneration from Defendants in connection with that individual’s use or endorsement of the Products, the Judge(s) assigned to this case, and the attorneys of record in this case. Plaintiffs reserve the right to amend the Class definitions if discovery and further investigation reveal that the Class should be expanded or otherwise modified.

40. This action is properly brought as a class action for the following reasons:

(a) The members in the proposed class are so numerous that individual joinder of all members is impracticable and disposition of the class members’ claims in a single class action will provide substantial benefits to the parties and Court, and is in the best interests of the parties and judicial economy.

(b) Plaintiffs stand on equal footing with and can fairly and adequately protect the

1 interests of all members of the proposed class. All units of the Products bear the  
2 misbranded RACC and the “0 Carbs,” “0 glycemic,” and “0 calorie” labelling.  
3 Defendants’ misbranded serving size, as well as their untrue statements and “0  
4 Carbs,” “0 glycemic,” and “0 calorie” deceptive marketing occur on the  
5 packaging of the units of Products themselves. Thus, every individual consumer  
6 who purchases the Products is exposed to the false advertising. Defendants have,  
7 or have access to, address information for the Class Members, which may be used  
8 for the purpose of providing notice of the pendency of this class action. Further,  
9 the class definition itself describes a set of common characteristics sufficient to  
10 allow a prospective plaintiff or class member to identify himself or herself as  
11 having a right to recover based on the description.

12 (c) Plaintiffs will fairly and adequately represent and protect the interests of the  
13 class, have no interest incompatible with the interests of the class, and have  
14 retained counsel competent and experienced in class actions, consumer  
15 protection, and false advertising litigation, including within the context of food  
16 and the food industry. Plaintiffs’ attorneys have the experience, knowledge, and  
17 resources to adequately and properly represent the interests of the proposed class.  
18 Plaintiffs have no interests antagonistic to those of other proposed class members,  
19 and they have retained attorneys experienced in consumer class actions and  
20 complex litigation as counsel.;

21 (d) Class treatment is superior to other options for resolution of the controversy  
22 because the relief sought for each class member is so small, that, absent  
23 representative litigation, it would be infeasible for class members to redress the  
24 wrongs done to them. Prosecution of separate actions by individual members of  
25 the proposed class would create a risk of inconsistent or varying adjudications  
26 with respect to individual members of the class and thus establish incompatible  
27 standards of conduct for the party or parties opposing the class. Further,  
28 individual cases would be so numerous as to inefficiently exhaust judicial

1 resources. Plaintiffs seek damages and equitable relief on behalf of the proposed  
2 class on grounds generally applicable to the entire proposed class.;

3 (e) Questions of law and fact common to the class predominate over any questions  
4 affecting only individual class members. There are questions of law and fact  
5 common to the proposed class which predominate over any questions that may  
6 affect particular class members. Such questions of law and fact common to  
7 Plaintiffs and the class include, without limitation:

- 8 i. Whether Defendants were unjustly enriched by their conduct;
- 9 ii. Whether Class Members suffered an ascertainable loss as a result  
10 of Defendants' misrepresentations;
- 11 iii. Whether, as a result of Defendants' misconduct as alleged herein,  
12 Plaintiffs and the Class Members are entitled to restitution,  
13 injunctive relieve and/or monetary relief, and if so, the amount and  
14 natural of such relief;
- 15 iv. Whether Defendants made any statement they knew or should have  
16 known were false or misleading;
- 17 v. Whether Defendants maintained a longstanding marketing policy,  
18 practice and strategy of labelling, advertising and selling the  
19 Products with the misbranded RACC and serving size, and "0  
20 Carbs," "0 glycemic," and "0 calorie" claims, even though the  
21 Products failed to confer any of these purported nutritional contents  
22 or health benefits.
- 23 vi. Whether the utility of Defendants' practices, if any, outweighed the  
24 gravity of the harm to their victims;
- 25 vii. Whether Defendants' conduct violated public policy, included as  
26 declared by specific constitutional, statutory, or regulatory  
27 provisions;
- 28

- viii. Whether Defendants' conduct or any of their practices violated the California False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*, the California Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*, The Federal Food, Drug and Cosmetics Act, 28 U.S.C. §§ 301 *et seq.* and its implementing regulations, 21 C.F.R. §§ 101 *et seq.*, the Cal. Health & Safety Code §§ 109875 *et seq.*, or any other regulation, statute or law;
- ix. Whether Defendants represented that the Products have characteristics, uses, or benefits which they do not have, within the meaning of Cal. Civ. Code § 1770(a)(5);
- x. Whether Defendants represented that the Products are of a particular standard, quality, or grade, when they were really of another, within the meaning of Cal. Civ. Code § 1770(a)(7);
- xi. Whether Defendants advertised the Products with the intent not to sell them as advertised, within the meaning of Cal. Civ. Code § 1770(a)(9);
- xii. Whether Defendants represented that the Products have been supplied in accordance with a previous representation when they have not, within the meaning of Cal. Civ. Code § 1770(a)(16);
- xiii. The proper equitable and injunctive relief;
- xiv. The proper amount of restitution or disgorgement;
- xv. The proper amount of reasonable litigation expenses and attorneys' fees;

(f) Plaintiffs' claims are typical of the claims of the members of the proposed class. Plaintiffs and all class members have been injured by the same practices of Defendants. Plaintiffs' claims arise from the same practices and conduct that give rise to the claims of all class members and are based on the same legal theories. Plaintiffs' claims are typical of class members' claims, as they are based

on the same underlying facts, events and circumstances relating to Defendants' conduct.;

(g) As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P. 23(a), (b)(1), (b)(2) and (b)(3), and may be appropriate for certification "with respect to particular issues" under Rule 23(b)(4).

## **FIRST CAUSE OF ACTION**

### **Common Law Fraud**

41. Plaintiffs re-allege and incorporate by reference the allegations contained in the paragraphs above as if fully set forth herein.

42. Plaintiffs bring this claim individually and on behalf of the members of their proposed Class.

43. As discussed above, Defendants provided Plaintiffs and the Class Members with false or misleading material information and failed to disclose material facts about the Products, including but not limited to the fact that they were based on an intentionally lowered serving size and unlawful RACC, and that the Products were not actually zero net carbs, zero glycemic, or zero calorie.

44. The misrepresentations and omissions made by Defendants, upon which Plaintiffs the Class Members reasonably and justifiably relied, were intended to induce and actually induced Plaintiffs and Class Members to purchase the Products.

45. The fraudulent actions of Defendants caused damage to Plaintiffs and Class Members, who are entitled to damages and other legal and equitable relief as a result.

## **SECOND CAUSE OF ACTION**

### **Intentional Misrepresentation**

46. Plaintiffs re-allege and incorporate herein by reference each and every allegation set forth above.

47. Plaintiffs bring this claim individually and on behalf of the members of their proposed Class.

1           48. Defendants represented to Plaintiffs and other class members that important  
2 facts were true. More specifically, Defendants represented to Plaintiffs and the other  
3 class members through their advertising and labelling scheme for the Products, including  
4 that the Products were zero calories, zero glycemic, and zero net carbs.

5           49. Defendants' representations were false. Defendants knew that the  
6 misrepresentations were false when they made them, or Defendants made the  
7 representations recklessly and without regard for their truth. Defendants intended that  
8 Plaintiffs and other class members rely on the representations.

9           50. Plaintiffs and the other class members reasonably relied on Defendants'  
10 representations.

11           51. Plaintiffs and the other class members were financially harmed and suffered  
12 other damages, including but not limited to, emotional distress. Defendants'  
13 misrepresentations and/or nondisclosure were the immediate cause of Plaintiffs and the  
14 other class members purchasing the Products. Plaintiffs' and the other class members'  
15 reliance on Defendants' representations was the immediate cause of the financial loss  
16 and emotional distress (of the type that would naturally result from being led to believe  
17 that the food product you are purchasing and consuming is safe for diabetics when in fact  
18 it does not) sustained by Plaintiffs and the other class members.

19           52. In absence of Defendants' misrepresentations and/or nondisclosure, as  
20 described above, Plaintiffs and the other class members, in all reasonable probability,  
21 would not have purchased the Products.

### 22                                   **THIRD CAUSE OF ACTION**

#### 23                                   **Negligent Misrepresentation**

24           53. Plaintiffs re-allege and incorporate by reference the allegations contained in  
25 the paragraphs above as if fully set forth herein.

26           54. Plaintiffs bring this claim individually and on behalf of the members of their  
27 proposed Class.  
28





1 net carbs, zero glycemic, and zero calorie. Defendants' false advertising and deceptive  
 2 advertising scheme for the Products resulted in purchasers being denied the full benefit  
 3 of their purchase because they did not purchase a product that was actually zero net carbs,  
 4 zero glycemic, or zero calorie.

5 63. Because Defendants' retention of the non-gratuitous benefits conferred on  
 6 them by Plaintiffs and Class Members is unjust and inequitable, Defendants must pay  
 7 restitution to Plaintiffs and Class Members for their unjust enrichment, as ordered by the  
 8 Court.

### 9 **FIFTH CAUSE OF ACTION**

#### 10 **Violation of Cal. Civ. Code §§1750, *et seq.***

11 64. Plaintiffs re-allege and incorporate by reference the allegations contained in  
 12 the paragraphs above as if fully set forth herein.

13 65. Plaintiffs bring this claim individually and on behalf of the members of their  
 14 proposed Class.

15 66. This cause of action is brought pursuant to the Consumers Legal Remedies  
 16 Act, California Civil Code §§ 1750, *et seq.* ("CLRA"). The CLRA prohibits any unfair,  
 17 deceptive, and/or unlawful practices, as well as unconscionable commercial practices in  
 18 connection with the sales of any goods or services to consumers. *See* Cal. Civ. Code  
 19 §1770.

20 67. The CLRA "shall be liberally construed and applied to promote its  
 21 underlying purposes, which are to protect consumers against unfair and deceptive  
 22 business practices and to provide efficient economical procedures to secure such  
 23 protection." Cal. Civ. Code § 1760.

24 68. Defendants are each a "person" under the CLRA. Cal. Civ. Code §1761 (c).

25 69. Plaintiffs and the putative Class Members are "consumers" under the CLRA.  
 26 Cal. Civ. Code §1761 (d).

27 70. The Products constitute a "good" under the CLRA. Cal. Civ. Code §1761  
 28 (a).

1           71. Plaintiffs and the putative Class Members' purchases of the Products within  
2 the Class Period constitute "transactions" under the CLRA. Cal. Civ. Code §1761 (e).

3           72. Defendants' actions and conduct described herein reflect transactions that  
4 have resulted in the sale of goods to consumers.

5           73. Defendants' failure to label the Products in accordance with California  
6 labelling requirements constitutes an unfair, deceptive, unlawful and unconscionable  
7 commercial practice.

8           74. Defendants' actions have violated at least seven provisions of the CLRA,  
9 including §§ 1770(a)(1), 1770 (a)(2), 1770 (a)(3) 1770(a)(5), 1770(a)(7), 1770 (a)(9) and  
10 1770(a)(16).

11           75. As a result of Defendants' violations, Plaintiffs and the Class suffered, and  
12 continue to suffer, ascertainable losses in the form of the purchase price they paid for the  
13 unlawfully labelled and marketed Products, which they would not have paid had the  
14 Products been labelled correctly, or in the form of the reduced value of the Products  
15 relative to the Products as advertised and the retail price they paid.

16           76. Pursuant to § 1782 of the CLRA Plaintiffs apprised Defendants in writing  
17 of the particular violations of § 1770 of the CLRA, and demanded Defendants rectify the  
18 actions described above by providing monetary relief, agreeing to be bound by their legal  
19 obligations, and to give notice to all affected consumers of their intent to do so. On or  
20 about September 10, 2021, a notice and demand letter was sent to Defendants, notifying  
21 Defendants of their violations of the CLRA and demanding that within 30 days,  
22 Defendants remedy the unlawful, unfair, false, and/or deceptive practices complained of  
23 herein. Plaintiffs advised Defendants that if they refused the demand, Plaintiffs would  
24 seek monetary damages for themselves and all others similarly situated, as well as  
25 injunctive relief, restitution, and any other relief the Court may deem just and proper.  
26 Defendants have failed to comply with the letter. Consequently, pursuant to California  
27 Civil Code §1782, Plaintiffs, on behalf of themselves and all other members of the Class,  
28

1 seeks compensatory damages and restitution of any ill-gotten gains due to Defendants'  
2 acts and practices that violate the CLRA.

3 77. Defendants have failed to rectify or agree to rectify at least some of the  
4 violations associated with actions detailed above and give notice to all affected  
5 consumers within 30 days of receipt of the Cal. Civ. Code § 1782 notice. Thus, Plaintiffs  
6 seeks actual damages and punitive damages for violations of the Act.

7 78. In addition, pursuant to Cal. Civ. Code §1780(a)(2), Plaintiffs are entitled  
8 to, and therefore seek, a Court order enjoining the above-described wrongful acts and  
9 practices that violate Cal. Civ. Code §1770.

10 79. Plaintiffs and Class Members are also entitled to recover attorneys' fees,  
11 costs, expenses, disbursements, and punitive damages pursuant to Cal. Civ. Code §§  
12 1780 and 1781.

13 80. Notably, shortly after being notified about its CLRA violations described  
14 herein, and apprised of potential litigation, Defendant Nutrishus changed the Products'  
15 labelling and packaging scheme. These modifications included the fact that Products'  
16 nutritional panel was amended to reflect a serving size of two tablespoons, the RACC  
17 established by the FDA, in place of Defendant Nutrishus' deceptive RACC amount.  
18 Moreover, Defendant Nutrishus conspicuously omitted the Products "safe for diabetics"  
19 claims after September 2021. Clearly, Defendant Nutrishus changed its  
20 misrepresentations because of Plaintiffs' instant litigation. Plaintiffs' lawsuit motivated  
21 Defendant Nutrishus to voluntarily provide one of the forms injunctive relief sought in  
22 this litigation. Furthermore, as affirmed by the California Supreme Court, Plaintiffs here  
23 are already "successful" within the meaning of Cal. Code of Civ. Proc. Section 1021.5  
24 because their lawsuit was a catalyst motivating Defendant Nutrishus to provide the  
25 "primary relief" sought, Plaintiffs' lawsuit had "merit" and achieved its catalytic effect  
26 by "threat of victory, not by dint of nuisance and threat of expense," and since Plaintiffs  
27 reasonable attempted to settle the litigation prior to filing the suit. See *Graham v.*  
28 *DaimlerChrysler Corp.* (2004) 34 Cal. 4th 553; see also *Tipton-Whittingham v. City of*

1 *Los Angeles* (2004) 34 Cal. 4th 604. Likewise, Plaintiffs are already entitled to attorneys’  
 2 fees here because “[Defendant Nutrishus] change[d] [its] behavior substantially because  
 3 of, and in the sought by [Plaintiffs].” *Skinner v. Ken’s Foods, Inc.* (2020) 53 Cal. App.  
 4 5th 938, 946 (citing *Folsom v. Butte County Assn. of Governments* (1982) 32. Cal. 3d  
 5 668, 685).

## 6 **SIXTH CAUSE OF ACTION**

### 7 **Violation of California Business & Professions Code §§ 17500, *et seq.***

8 81. Plaintiffs re-allege and incorporate by reference the allegations contained in  
 9 the paragraphs above as if fully set forth herein.

10 82. Plaintiffs bring this claim individually and on behalf of the members of their  
 11 proposed Class.

12 83. Defendants engaged in unfair and deceptive acts and practices, in violation  
 13 of the California Business and Professions Code § 17500 *et seq.*, by marketing and/or  
 14 selling the Products without disclosure of material fact about the Products. These acts  
 15 and practices, as described above, have deceived Plaintiffs and other class members,  
 16 causing them to lose money as herein alleged and have deceived and are likely to deceive  
 17 the consuming public, in violation of those sections. Accordingly, Defendants’ business  
 18 acts and practices, as alleged herein, have caused injury to Plaintiffs and the other class  
 19 members.

20 84. As detailed above, Defendants had a duty to disclose the Products’  
 21 misbranded serving size value, as well as the fact that the Products’ actually were not  
 22 zero net carbs, zero glycemic, or zero calorie, because this information reflected material  
 23 facts of which Defendants had exclusive knowledge. Defendants actively concealed  
 24 these material facts and Defendants made partial representations about the Products but  
 25 suppressed some material facts. Defendants’ misrepresentation and/or nondisclosure of  
 26 the material fact was the immediate cause of Plaintiffs and the other class members  
 27 purchasing the Products. In the absence of Defendants’ misrepresentation and/or  
 28 nondisclosure of facts, as described above, Plaintiffs and other class members would not

1 have purchased the Products.

2 85. Plaintiffs and the other class members are entitled to relief, including full  
3 restitution and/or disgorgement of all revenues, earnings, profits, compensation, and  
4 benefits which may have been obtained by Defendants as a result of such business acts  
5 or practices, and enjoining Defendants to cease and desist from engaging in the practices  
6 described herein.

## 7 **SEVENTH CAUSE OF ACTION**

### 8 **Violation of Business & Professions Code § 17200, *et seq.***

9 86. Plaintiffs re-allege and incorporate by reference the allegations contained in  
10 the paragraphs above as if fully set forth herein.

11 87. Plaintiffs seek to represent a Class consisting of “All persons who purchased  
12 the Products in the State of California for personal use and not for resale during the time  
13 period September 10, 2017, through the present. Excluded from the Class are  
14 Defendants’ officers, directors, and employees, and any individual who received  
15 remuneration from Defendants in connection with that individual’s use or endorsement  
16 of the Products.”

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

#### 19 **A. “Unfair” Prong**

20 89. Pursuant to California’s Unfair Competition Law, Cal. Bus. & Prof. Code §  
21 17200, *et seq.*, a challenged activity is “unfair” when “any injury it causes outweighs any  
22 benefits provided to consumers and the injury is one that the consumers themselves could  
23 not reasonably avoid,” *or* “the utility of the defendant’s conduct is outweighed by the  
24 gravity of the harm to the alleged victim.

25 90. Defendants’ actions of engaging in false and deceptive advertising,  
26 marketing, labelling, and of the Products do not confer any benefit to consumers.

27 91. Defendants’ actions of advertising, marketing, labelling, and the Products in  
28 a false, deceptive and misleading manner cause injuries to consumers because the



1 consumers do not receive a syrup alternative commensurate with their reasonable  
2 expectation.

3 92. Defendants' actions of advertising, marketing, labelling, and the Products in  
4 a false, deceptive and misleading manner cause injuries to consumers because the  
5 consumers do not receive the benefits they reasonably expect from the Products.

6 93. Defendants' actions of advertising, marketing, and labelling the Products in  
7 a false, deceptive and misleading manner cause injuries to consumers because the  
8 consumers end up consuming a syrup alternative that is of a lower quality than what they  
9 reasonably were expecting and sought.

10 94. Defendants' actions of advertising, marketing, and labelling the Products in  
11 a false, deceptive and misleading manner cause injuries to consumers because the  
12 consumers end up overpaying for the Products and receiving a syrup alternative that is  
13 less than what they expected to receive.

14 95. Consumers cannot avoid any of the injuries caused by Defendants' false,  
15 misleading and deceptive labelling, advertising, and marketing of the Products.

16 96. Accordingly, the injuries caused by Defendants' activity of advertising,  
17 marketing, and labelling the Products in a false, deceptive and misleading manner  
18 outweigh any benefits.

19 97. Here, Defendants' conduct of advertising, labelling and marketing the  
20 Products in a false, deceptive, and misleading manner has no utility and financially harms  
21 purchasers. Thus, the utility of Defendants' conduct is vastly outweighed by the gravity  
22 of harm.

23 98. Defendants' labelling, marketing, and advertising of the Products, as alleged  
24 in the preceding paragraphs, is false, deceptive, misleading, and unreasonable, and  
25 constitutes unfair conduct.

26 99. Defendants knew or should have known of their unfair conduct.

27 100. As alleged in the preceding paragraphs, the misrepresentations by  
28 Defendants detailed above constitute an unfair business practice within the meaning of

1 California Business and Professions Code § 17200.

2 101. There were reasonable available alternatives to further Defendants'  
3 legitimate business interests, other than the conduct described herein. Defendants could  
4 have marketed, labelled, advertised and packaged the Products truthfully, without any  
5 dishonest claims about the Products' nutrient levels and health benefits.

6 102. All of the conduct alleged herein occurs and continues to occur in  
7 Defendants' business. Defendants' wrongful conduct is part of a pattern or generalized  
8 course of conduct repeated on thousands of occasions daily.

9 103. Pursuant to Business and Professions Code §§ 17203 and 17535, Plaintiffs  
10 and the Class seek an order of this Court enjoining Defendants from continuing to  
11 engage, use, or employ their practice of advertising, labelling and marketing the Products  
12 in an untruthful manner. Likewise, Plaintiffs and the Class seek an order requiring  
13 Defendants to disclose such misrepresentations, and additionally request an order  
14 awarding Plaintiffs restitution of the money wrongfully acquired by Defendants by  
15 means of responsibility attached to Defendants' failure to disclose the existence and  
16 significance of said misrepresentations in an amount to be determined at trial. Plaintiffs  
17 and the Class Members also seek full restitution of all monies paid to Defendants as a  
18 result of their deceptive practices, interest at the highest rate allowable by law and the  
19 payment of Plaintiffs' attorneys' fees and costs pursuant to, *inter alia*, California Civil  
20 Code Procedure §1021.5.

21 104. As a direct and proximate result of these acts, consumers have been and  
22 continue to be harmed. Plaintiffs and the Class Members have suffered injury and actual  
23 out-of-pocket losses as a result of Defendants' violation of the unfair prong of the UCL  
24 because Plaintiffs and the Class would not have bought the Products if they had known  
25 the truth regarding the manipulated serving size and actual nutritional values of the  
26 Products. Plaintiffs and the Class paid an increased price due to the misrepresentations  
27 about the Products and the Products did not have the promised quality, effective, or value.

28 ///

**B. “Fraudulent” Prong**

105. California Business and Professions Code § 17200, *et seq.*, considers conduct fraudulent and therefore prohibits said conduct if it is likely to deceive members of the public.

106. Defendants’ marketing, labelling, and advertising of the Products, as alleged in the preceding paragraphs, is false, deceptive, misleading, and unreasonable, and constitutes fraudulent conduct. As alleged in the preceding paragraphs, the misrepresentations by Defendants detailed above constitute a fraudulent business practice in violation of California Business & Professions Code § 17200 because they are likely to, and did indeed, deceive members of the public.

107. Defendants knew or should have known of their fraudulent conduct.

108. There were reasonable available alternatives to further Defendants’ legitimate business interests, other than the conduct described herein. Defendants could have labelled, advertised, marketed and packaged the Products accurately.

109. All of the conduct alleged herein occurs and continues to occur in Defendants’ business. Defendants’ wrongful conduct is part of a pattern or generalized course of conduct repeated on thousands of occasions daily.

110. Pursuant to Business and Professions Code §§ 17203 and 17535, Plaintiffs and the Class seek an order of this Court requiring Defendants to cease the acts of fraudulent competition alleged herein. Likewise, Plaintiffs and the Class seek an order requiring Defendants to disclose such misrepresentations, and additionally request an order awarding Plaintiffs restitution of the money wrongfully acquired by Defendants by means of responsibility attached to Defendants’ failure to disclose the existence and significance of said misrepresentations in an amount to be determined at trial. Plaintiffs and the Class Members also seek full restitution of all monies paid to Defendants as a result of their deceptive practices, interest at the highest rate allowable by law and the payment of Plaintiffs’ attorneys’ fees and costs pursuant to, *inter alia*, California Civil Code Procedure §1021.5.

111. As a direct and proximate result of these acts, consumers have been and continue to be harmed. Plaintiffs and the Class Members have suffered injury and actual out-of-pocket losses as a result of Defendants' violation of the fraudulent prong of the UCL because Plaintiffs and the Class would not have bought the Products if they had known the truth regarding the nutritional content and physiological side effects the Products. Plaintiffs and the Class paid an increased price due to the misrepresentations about the Products and the Products did not have the promised quality, effectiveness, or value.

### C. "Unlawful" Prong

112. California Business and Professions Code § 17200, *et seq.*, identifies violations of other laws as "unlawful practices that the unfair competition law makes independently actionable."

113. Defendants' labelling and marketing of the Products, as alleged in the preceding paragraphs, violates California Civil Code § 1750, *et. seq.*, California Business and Professions Code § 17500, *et. seq.*, California's Sherman Law, and the FDCA.

114. Defendants' labelling and marketing of the Products, as alleged in the preceding paragraphs, is false, deceptive, misleading, and unreasonable, and constitutes unlawful conduct. Defendants have violated the "unlawful prong" by violating, the FDCA, California's Sherman Law, as well as the State's FAL (Cal. Bus. & Prof. Code § 17500 *et seq.*) and CLRA (Cal. Civ. Code §1770 *et. seq.*).

115. Defendants knew or should have known of their unlawful conduct.

116. As alleged in the preceding paragraphs, the misrepresentations by Defendants detailed above constitute an unlawful business practice within the meaning of California Business and Professions Code § 17200.

117. There were reasonable available alternatives to further Defendants' legitimate business interests, other than the conduct described herein.

118. All of the conduct alleged herein occurred and continues to occur in Defendants' business. Defendants' wrongful conduct is part of a pattern or generalized

1 course of conduct repeated on thousands of occasions daily.

2 119. As a direct and proximate result of these acts, consumers have been and  
3 continue to be harmed. Plaintiffs and the Class Members have suffered injury and actual  
4 out-of-pocket losses as a result of Defendants' violation of the unlawful prong of the  
5 UCL because Plaintiffs and the Class would not have bought the Products if they had  
6 known the truth regarding nutritional components and potential harms of the Products.  
7 Plaintiffs and the Class paid an increased price due to the misrepresentations about the  
8 Products and the Products did not have the promised quality, effectiveness, or value.

9 120. Pursuant to Bus. & Prof. Code §§ 17203 and 17535, Plaintiffs and the Class  
10 are therefore entitled to an order requiring Defendants to cease the acts of unfair  
11 competition alleged herein, full restitution of all monies paid to Defendants as a result of  
12 their deceptive practices, interest at the highest rate allowable by law and the payment of  
13 Plaintiffs' attorneys' fees and costs pursuant to, *inter alia*, California Civil Code  
14 Procedure §1021.5.

### 15 PRAYER FOR RELIEF

16 WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the Class  
17 defined herein, prays for judgment and relief on all Causes of Action as follows:

- 18 A. This action be certified and maintained as a class action and certify the  
19 proposed class as defined, appointing Plaintiffs representatives of the Class,  
20 and appointing the attorneys and law firms representing Plaintiffs as counsel  
21 for the Class;
- 22 B. For an order declaring the Defendants' conduct violates the statutes  
23 referenced herein;
- 24 C. That the Court awards compensatory, statutory and/or punitive damages as  
25 to all Causes of Action where such relief is permitted;
- 26 D. That the Court awards Plaintiffs and proposed class members the costs of  
27 this action, including reasonable attorneys' fees and expenses;

- 1 E. For an order enjoining Defendants from continuing to engage in the unlawful  
2 conduct and practices described herein;
- 3 F. That the Court awards equitable monetary relief, including restitution and  
4 disgorgement of all ill-gotten gains, and the imposition of a constructive  
5 trust upon, or otherwise restricting the proceeds of Defendants' ill-gotten  
6 gains, to ensure that Plaintiffs and proposed class members have an effective  
7 remedy;
- 8 G. That the Court awards pre-judgment and post-judgment interest at the legal  
9 rate;
- 10 H. That the Court orders appropriate declaratory relief; and
- 11 I. That the Court grants such other and further as may be just and proper.

12 **JURY DEMAND**

13 Plaintiffs demand a trial by jury on all issues so triable.  
14  
15  
16

17 Dated: December 2, 2022

**DOGRA LAW GROUP PC**

18  
19  
20  
21 By:



22 SHALINI DOGRA, ESQ.

23 Attorneys for Plaintiffs  
24  
25  
26  
27  
28

Signature of Clerk or Deputy Clerk



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

NAME, ADDRESS, AND TELEPHONE NUMBER OF ATTORNEY(S)  
OR OF PARTY APPEARING IN PRO PER

Shalini Dogra  
Dogra Law Group PC  
2219 Main Street, Unit 239  
Santa Monica, CA 90405

ATTORNEY(S) FOR: Plaintiffs Michael, Huffman and Asher

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

Alain Michael, an Individual; Lynetta Huffman, an  
Individual; and Karen Asher, an Individual

Plaintiff(s),

v.

Nutrishus Brands, Inc., a Georgia Corporation;  
and DOES 1 through 50, inclusive

Defendant(s)

CASE NUMBER:

**CERTIFICATION AND NOTICE  
OF INTERESTED PARTIES  
(Local Rule 7.1-1)**

TO: THE COURT AND ALL PARTIES OF RECORD:

The undersigned, counsel of record for Plaintiffs Michael, Huffman and Asher  
or party appearing in pro per, certifies that the following listed party (or parties) may have a pecuniary interest in  
the outcome of this case. These representations are made to enable the Court to evaluate possible disqualification  
or recusal.

(List the names of all such parties and identify their connection and interest. Use additional sheet if necessary.)

**PARTY**

**CONNECTION / INTEREST**

Alain Michael

Plaintiff

Lynetta Huffman

Plaintiff

Karen Asher

Plaintiff

Shalini Dogra

Plaintiffs' Counsel

Nutrishus Brands, Inc.

Defendant

December 2, 2022

Date

Signature

Attorney of record for (or name of party appearing in pro per):

Plaintiffs Michael, Huffman and Asher

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

<b>I. (a) PLAINTIFFS</b> ( Check box if you are representing yourself <input type="checkbox"/> ) A a n M chae , an Ind v dua ; Lynetta Huffman, an Ind v dua ; and Karen Asher, an Ind v dua	<b>DEFENDANTS</b> ( Check box if you are representing yourself <input type="checkbox"/> ) Nutr shus Brands, Inc.
(b) County of Residence of First Listed Plaintiff <u>Los Angeles</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>	County of Residence of First Listed Defendant <u>Atlanta</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. Sha n Dogra 2219 Ma n Street, Un t 239 Santa Mon ca, CA 90405	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

<b>II. BASIS OF JURISDICTION</b> (Place an X in one box only.)  <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="checkbox"/> 1. U.S. Government Plaintiff         </div> <div style="width:48%;"> <input type="checkbox"/> 3. Federal Question (U.S. Government Not a Party)         </div> </div> <div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="checkbox"/> 2. U.S. Government Defendant         </div> <div style="width:48%;"> <input checked="" type="checkbox"/> 4. Diversity (Indicate Citizenship of Parties in Item III)         </div> </div>	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table style="width:100%; border: none;"> <tr> <td style="width:35%;">Citizen of This State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">1</td> <td style="width:5%;">DEF</td> <td style="width:5%;">1</td> <td style="width:40%;">Incorporated or Principal Place of Business in this State</td> <td style="width:5%;">PTF</td> <td style="width:5%;">4</td> <td style="width:5%;">DEF</td> <td style="width:5%;">4</td> </tr> <tr> <td>Citizen of Another State</td> <td></td> <td>2</td> <td></td> <td>2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td></td> <td>5</td> <td></td> <td>5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td></td> <td>3</td> <td></td> <td>3</td> <td>Foreign Nation</td> <td></td> <td>6</td> <td></td> <td>6</td> </tr> </table>	Citizen of This State	PTF	1	DEF	1	Incorporated or Principal Place of Business in this State	PTF	4	DEF	4	Citizen of Another State		2		2	Incorporated and Principal Place of Business in Another State		5		5	Citizen or Subject of a Foreign Country		3		3	Foreign Nation		6		6
Citizen of This State	PTF	1	DEF	1	Incorporated or Principal Place of Business in this State	PTF	4	DEF	4																						
Citizen of Another State		2		2	Incorporated and Principal Place of Business in Another State		5		5																						
Citizen or Subject of a Foreign Country		3		3	Foreign Nation		6		6																						

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

<input checked="" type="checkbox"/> 1. Original Proceeding	<input type="checkbox"/> 2. Removed from State Court	<input type="checkbox"/> 3. Remanded from Appellate Court	<input type="checkbox"/> 4. Reinstated or Reopened	<input type="checkbox"/> 5. Transferred from Another District (Specify)	<input type="checkbox"/> 6. Multidistrict Litigation - Transfer	<input type="checkbox"/> 8. Multidistrict Litigation - Direct File
--	--	---	--	---	---	--

**V. REQUESTED IN COMPLAINT: JURY DEMAND:** ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT: \$** \_\_\_\_\_

**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)  
 Consumer Lega Remed es Act of Ca for n a; Unfa r Compet t on Law, Ca for n a Bus ness & Profess ons Code Sect on 17500; Ca for n a Bus ness & Profess ons

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

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> <b>Habeas Corpus:</b> 463 Alien Detainee	<input type="checkbox"/> 820 Copyrights
<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 830 Patent
<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> <b>TORTS</b>	<input type="checkbox"/> 530 General	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application
<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> <b>TORTS</b>	<input type="checkbox"/> <b>PERSONAL PROPERTY</b>	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 840 Trademark
<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> <b>PERSONAL INJURY</b>	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> <b>Other:</b> 540 Mandamus/Other	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 (DTSA)
<input type="checkbox"/> 450 Commerce/ICC Rates/Etc.	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 550 Civil Rights	<b>SOCIAL SECURITY</b>
<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Vet.)	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 861 HIA (1395ff)
<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Org.	<input type="checkbox"/> 153 Recovery of Overpayment of Vet. Benefits	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 560 Civil Detainee Conditions of Confinement	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 330 Fed. Employers' Liability	<input type="checkbox"/> <b>BANKRUPTCY</b>	<input type="checkbox"/> <b>FORFEITURE/PENALTY</b>	<input type="checkbox"/> 863 DIWC/DIWW (405 (g))
<input type="checkbox"/> 485 Telephone Consumer Protection Act	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 865 RSI (405 (g))
<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> <b>CIVIL RIGHTS</b>	<input type="checkbox"/> <b>LABOR</b>	<b>FEDERAL TAX SUITS</b>
<input type="checkbox"/> 890 Other Statutory Actions	<b>REAL PROPERTY</b>	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 710 Fair Labor Standards Act	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 720 Labor/Mgmt. Relations	<input type="checkbox"/> 871 IRS-Third Party 26 USC 7609
<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 362 Personal Injury-Med Malpractice	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 740 Railway Labor Act	
<input type="checkbox"/> 895 Freedom of Info. Act	<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 365 Personal Injury-Product Liability	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 751 Family and Medical Leave Act	
<input type="checkbox"/> 896 Arbitration		<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 445 American with Disabilities-Employment	<input type="checkbox"/> 790 Other Labor Litigation	
<input type="checkbox"/> 899 Admin. Procedures Act/Review of Appeal of Agency Decision		<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 446 American with Disabilities-Other	<input type="checkbox"/> 791 Employee Ret. Inc. Security Act	
<input type="checkbox"/> 950 Constitutionality of State Statutes			<input type="checkbox"/> 448 Education		

**FOR OFFICE USE ONLY:**

Case Number: \_\_\_\_\_

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

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

<b>QUESTION A: Was this case removed from state court?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	<input checked="" type="checkbox"/> Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western
	<input type="checkbox"/> Orange		Southern
	<input type="checkbox"/> Riverside or San Bernardino		Eastern

  

<b>QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question C. If "yes," answer Question B.1, at right.	<b>B.1.</b> Do 50% or more of the defendants who reside in the district reside in Orange Co.?  <i>check one of the boxes to the right</i> ➡	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question B.2.
	<b>B.2.</b> Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> ➡	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.

  

<b>QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "no," skip to Question D. If "yes," answer Question C.1, at right.	<b>C.1.</b> Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.?  <i>check one of the boxes to the right</i> ➡	<input type="checkbox"/> YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Continue to Question C.2.
	<b>C.2.</b> Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.)  <i>check one of the boxes to the right</i> ➡	<input type="checkbox"/> YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there.  <input type="checkbox"/> NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.

  

QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

  

<b>D.1. Is there at least one answer in Column A?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right.      ➡	<b>D.2. Is there at least one answer in Column B?</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below.      ↓
--	--

  

QUESTION E: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, C, or D above: ➡	WESTERN

  

<b>QUESTION F: Northern Counties?</b> Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
---	---

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA  
CIVIL COVER SHEET**IX(a). IDENTICAL CASES:** Has this action been previously filed in this court?☒ NO☐ YES

If yes, list case number(s): \_\_\_\_\_

**IX(b). RELATED CASES:** Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?☒ NO☐ YES

If yes, list case number(s): \_\_\_\_\_

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

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

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

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

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

**X. SIGNATURE OF ATTORNEY  
(OR SELF-REPRESENTED LITIGANT):**DATE: **December 2, 2022**

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

Key to Statistical codes relating to Social Security Cases:

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