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***Counsel for Plaintiffs***

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

15 DAVID SPITTAL, JR., REBECCA  
 16 CRAMPTON, and METE KARABAS, on  
 17 behalf of themselves, all others similarly  
 18 situated, and the general public,

Plaintiffs,

v.

21 THE COCA-COLA COMPANY,  
 22 Defendant.

Case No: '23CV0218 TWR AGS

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF  
 CAL. BUS. & PROF. CODE §§ 17200  
 et seq.; CAL. BUS. & PROF. CODE §§  
 17500 et seq.; CAL. CIV. CODE §§  
 1750 et seq.; BREACH OF EXPRESS  
 AND IMPLIED WARRANTIES;  
 NEGLIGENCE AND INTENTIONAL  
 MISREPRESENTATION; AND  
 UNJUST ENRICHMENT**

DEMAND FOR JURY TRIAL

1 Plaintiffs David Spittal Jr., Rebecca Crampton, and Mete Karabas, on behalf of  
2 themselves, all others similarly situated, and the general public, by and through their  
3 undersigned counsel, hereby sue Defendant, The Coca-Cola Company (“Coca-Cola”), and  
4 allege the following upon their own knowledge, or where they lack personal knowledge, upon  
5 information and belief, including the investigation of their counsel.

## 6 INTRODUCTION

7 1. Many of us grew up believing that drinking fruit juice was healthy, and many  
8 parents still believe it is healthy. Because whole fruit is healthy it seems sensible that fruit  
9 juice, which is derived from fruit, would also be healthy.

10 2. But compelling scientific evidence establishes that fruit juice is actually  
11 unhealthy because drinking it increases the risk of heart disease, type 2 diabetes, metabolic  
12 syndrome, and all-cause mortality.

13 3. Knowing that parents are looking for healthy beverages for their children, the  
14 Coca-Cola Company exploits and deceptively perpetuates the misperception that juice is  
15 healthy by marketing and labeling its Minute Maid Juice Boxes (the “Juice Boxes” or  
16 “Products”)<sup>1</sup> as being “Good for You!” and “Part of a Healthy, Balanced Diet.”

17 4. These and other representations and omissions of material facts are, however,  
18 false and misleading, because consuming fruit juices like the Juice Boxes actually increases  
19 the risk of chronic diseases.

20 5. Accordingly, Plaintiffs bring this action against Coca-Cola on behalf of  
21 themselves and similarly-situated Class Members to enjoin Coca-Cola from deceptively  
22 marketing the Juice Boxes, and to recover compensation for injured Class Members.

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<sup>1</sup> The Products consist of Minute Maid Juice Boxes in at least Apple, Apple White Grape, Mixed Berry, Fruit Punch, and Lemonade flavors. *See* Appendix A. To the extent that Minute Maid sold additional flavors during the Class Period that Plaintiffs’ pre-filing investigation was unable to identify, this Complaint should be read to include rather than exclude any such flavors of Juice Boxes.

**JURISDICTION & VENUE**

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

7. The Court has personal jurisdiction over Coca-Cola because it has purposely availed itself of the benefits and privileges of conducting business activities within California, specifically through distributing and selling the Juice Boxes in California and transactions giving rise to this action occurred in California.

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

**PARTIES**

9. Plaintiff David Spittal Jr. purchased the Products in California and is a citizen of the state of California.

10. Plaintiff Rebecca Crampton purchased the Products in California and is currently a citizen of the state of Utah.

11. Plaintiff Mete Karabas purchased the Products in New York and is currently a citizen of the state of New Jersey.

12. Defendant, Coca-Cola, is a Delaware corporation with its principal place of business in Atlanta, Georgia.

**FACTS**

**I. COCA-COLA MARKETS THE JUICE BOXES AS HEALTHY**

13. Coca-Cola is an international conglomerate with a net operating revenue of over \$38 billion in 2021.

14. Coca-Cola sells the Minute Maid Juice Boxes on a nationwide basis, including in California and New York.

1 15. Each Juice Box is 6 fluid ounces, and they are typically sold in packs of eight.  
2 Depending on flavor, a 6-fluid-ounce serving of the Juice Boxes contains between 19g and  
3 21g of free sugar, constituting 80% to nearly 100% of each Juice Box’s calories.

4 16. Coca-Cola is well aware that consumers prefer healthful foods and are willing  
5 to pay more for, or purchase more often, products marketed and labeled as healthy. For  
6 instance, a Nielsen Global Health & Wellness Survey found that “88% of those polled are  
7 willing to pay more for healthier foods.”<sup>2</sup>

8 17. Coca-Cola has taken advantage of this by marketing the Juice Boxes as healthy  
9 options, including by promoting them with health and wellness messages directly on their  
10 labeling and packaging.

11 18. During the Class Period, Coca-Cola labeled the Juice Boxes as both “Good for  
12 You!” and “Part of a Healthy, Balanced Diet.”

13 19. Coca-Cola also uses images of fresh fruit on the Juice Boxes to further reinforce  
14 the perception that the Juice Boxes are healthy.

15 20. Below is a representative example of the Juice Boxes’ packaging that were sold  
16 during the Class Period.



27 <sup>2</sup> Gagliardi, N., *Consumers Want Healthy Foods—And Will Pay More For Them*, FORBES  
28 (Feb. 18, 2015) (citing *Global Health & Wellness Survey*, NIELSEN (Jan. 2015)).

1 21. These images and statements, however, are false or at least highly misleading  
 2 because they convey that the Juice Boxes are healthy (beneficial to health) when in reality  
 3 regularly consuming them is unhealthy since it increases risk of disease.

4 **II. SCIENTIFIC EVIDENCE DEMONSTRATES THAT CONSUMING JUICE,**  
 5 **LIKE COCA-COLA'S JUICE BOXES, IS UNHEALTHY**

6 **A. While Consuming Whole Fruit is Beneficial to Health, Processing it into**  
 7 **Juice Renders it Harmful to Health**

8 22. Susan Jebb, Professor of Diet and Population at Cambridge University, has  
 9 explained that many “people believe fruit juices . . . have about the same effects as eating  
 10 fruit. Unfortunately, this is wrong . . . .”<sup>3</sup> This is because processing intact fruit destroys the  
 11 fruits’ natural food matrix thereby concentrating and releasing the fruit’s sugar, which “is  
 12 absorbed very fast, so by the time it gets to your stomach your body doesn’t know whether  
 13 it’s Coca-Cola or orange juice[.]” Ms. Jebb has accordingly cautioned consumers, “don’t fall  
 14 for the fruit juice trap and don’t believe the hype that it’s a good addition to a balanced meal.”<sup>4</sup>

15 23. The food matrix is “the nutrient and non-nutrient components of foods and their  
 16 molecular relationships, i.e., chemical bonds, to each other.”<sup>5</sup> The food matrix may be viewed  
 17 as a physical domain that contains and/or interacts with specific constituents of a food (e.g.,  
 18 a nutrient) providing functionalities and behaviors which are different from those exhibited  
 19 by the components in isolation or a free state. It is, quite literally, the physical geometry of  
 20 the food.<sup>6</sup>

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 23 <sup>3</sup> *Don’t Fall for the Juice Trap*, Apartments For Us (Oct. 15, 2018), at  
<https://www.apartmentsforus.com/dont-fall-for-the-fruit-juice-trap/>.

24 <sup>4</sup> *Id.*

25  
 26 <sup>5</sup> United States Department of Agriculture, NAL Agricultural Thesaurus, at  
<https://lod.nal.usda.gov/nalt/17238>.

27  
 28 <sup>6</sup> See Aguilera, J., *The food matrix: implications in processing, nutrition and health*, 59(22)  
 CRIT. REV. FOOD SCI. NUTR. 3612 (2019).

1 24. The effect of the food matrix (FM-effect) has profound implications in food  
2 processing, oral processing, satiation, and satiety, and digestion in the gastrointestinal tract.<sup>7</sup>

3 25. The effect of the food matrix also explains the counterintuitive reality that  
4 consuming two foods with the same chemical composition may lead to significantly different  
5 outcomes for health based on their chemical structures.

6 26. When fruit is processed into fruit juice, the fruits' natural food matrix is  
7 destroyed. This both concentrates and releases the sugar from its natural fiber encasing so  
8 that it becomes "free sugar."<sup>8</sup> And because of the negative health effects of consuming free  
9 sugars, a piece of fruit, while perhaps a healthy food choice when it is whole, is transformed  
10 into a decidedly *unhealthy* food once processed into juice.<sup>9</sup>

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12 <sup>7</sup> *See id.*

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14 <sup>8</sup> "Added sugars" include sugars added to foods during processing or preparation, such as  
15 brown sugar, sucrose, honey, invert sugar, molasses, and fruit juice concentrates, but under  
16 some definitions (like the FDA's), do not include naturally-occurring sugars present in intact  
17 fruits, vegetables, and dairy products and—as relevant here—in juiced or pureed fruits and  
18 vegetables. "Free sugars," on the other hand (for example, as used by the World Health  
19 Organization (WHO)), definitionally excludes only sugars naturally occurring in intact fruits,  
20 vegetables, or dairy products, and so includes sugars from juice. Thus, the definitional  
21 "distinction between added and free sugars is that the latter includes all naturally occurring  
22 sugars in nonintact (i.e., juiced or pureed) fruit and vegetables." *See* Mela, D.J. et al.,  
23 *Perspective: Total, Added, or Free? What Kind of Sugars Should We Be Talking About?*, 9(2)  
24 *ADV. NUTR.* 63, 63-64 (Mar. 2018) ["Mela, *Sugar Perspective*"]. This is, however, merely  
25 semantical. "The existence of these different ways of classifying sugars in foods and  
26 beverages in authoritative dietary guidance and nutrition communication implies that the  
27 distinctions are deemed to be physiologically relevant. But physiologic differentiation  
28 between these classes [of sugars] arise[s] mainly from effects of the [food] matrix in which  
the sugars are found. For example, it has often been shown that the acute metabolic impact is  
lower and satiety effects greater for intact fruit than for the comparable fruit juices, the latter  
having effects more similar to other sugar-sweetened beverages (SSBs)." *Id.* at 64. Thus, "the  
term 'free sugars' best conveys the nature and sources of dietary sugars that are most  
consistently related to risks of positive energy balance, and that are also associated with  
diabetes and dental caries." *Id.* at 67.

<sup>9</sup> *See* Mela, *Sugar Perspective*, *supra* n.8.

1 27. For example, “studies show that eating whole fruit gives you the most of this  
2 food group’s potential benefits, like helping to prevent heart disease, stroke and some types  
3 of cancer” and “may significantly lower your risk of type 2 diabetes . . . . Conversely, drinking  
4 fruit juice every day had the opposite effect, increasing the chances of diabetes by 21  
5 percent.”<sup>10</sup>

6 28. Numerous studies have similarly found that whole fruits have a protective effect  
7 regarding diabetes whereas juice consumption not only has no protective effect, but actually  
8 increases risk of diabetes.<sup>11</sup>

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10 <sup>10</sup> McClusky, J., *The Whole Truth About Whole Fruits*, WEBMD (May 31, 2017),  
11 <https://www.webmd.com/food-recipes/news/20170531/the-whole-truth-about-whole-fruits>.  
12 See also Dreher, M.L., *Whole Fruits and Fruit Fiber Emerging Health Effects*, 12(10)  
13 NUTRIENTS 1833, 1833 (Nov. 2018) (emphasis added) (“health benefits [of consuming whole  
14 fruits] include: . . . reducing risk of cardiovascular disease, type 2 diabetes and metabolic  
15 syndrome; defending against colorectal and lung cancers”); Muraki, I., et al., *Fruit  
16 consumption and risk of type 2 diabetes: results from three prospective longitudinal cohort  
17 studies*, 347 BRIT. MED. J. f5001 (Aug. 2013) (“Greater consumption of specific whole fruits  
18 . . . is significantly associated with a lower risk of type 2 diabetes, whereas greater  
19 consumption of fruit juice is associated with a higher risk.”).

20 <sup>11</sup> Bazzano, L.A., et al., *Intake of fruit, vegetables, and fruit juices and risk of diabetes in  
21 women*, 31 DIABETES CARE 1311 (2008) (cohort study of 71,346 women from the Nurses’  
22 Health Study followed for 18 years showed that those who consumed 2 to 3 apple, grapefruit,  
23 and orange juices per day (280-450 calories and 75-112.5 grams of sugar) had an 18% greater  
24 risk of type 2 diabetes than women who consumed less than 1 sugar-sweetened beverage per  
25 month); Drouin-Chatier, J., et al., *Changes in Consumption of Sugary Beverages and  
26 Artificially Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From  
27 Three Large Prospective U.S. Cohorts of Women and Men*, 42 DIABETES CARE 2181 (Dec.  
28 2019) (finding that increasing sugary beverage intake—which included both sugar-sweetened  
beverages and fruit juice—by half-a-serving per day over a 4-year period was associated with  
a 16% greater risk of type 2 diabetes); Imamura, F., et al., *Consumption of sugar sweetened  
beverages, artificially sweetened beverages, and fruit juice and incidence of type 2 diabetes:  
systematic review, meta-analysis, and estimation of population attributable fraction*, 351  
BRIT. MED. J. 3576 (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);  
*WHO urges global action to curtail consumption and health impacts of sugary drinks*, World

1 29. Likewise, while consuming whole fruits is protective and decreases risk of  
2 cardiovascular diseases, consuming juice increases risk of cardiovascular diseases<sup>12</sup> and all-  
3 cause mortality.<sup>13</sup>

4 30. In addition, “fruit juice increases the risk for type 2 diabetes and obesity . . . , in  
5 contrast to the lowered risk with whole fruit” and “research concurs that eating whole fruit is  
6 beneficial to health and prevents a broad category of disease, while fruit juice may be  
7 counterproductive to overall health in some categories.”<sup>14</sup>

8 31. As Dr. Robert Lustig, a professor emeritus of Pediatrics, Division of  
9 Endocrinology at the University of California, San Francisco, explains, when you drink juice  
10 instead of eating whole fruit, you no longer get the suppression of the insulin response,  
11 making juice “as egregious a delivery vehicle for sugar as is soda. Studies of juice  
12 consumption show increased risk of diabetes and heart disease even after controlling for  
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14 Health Organization (Oct. 11, 2016), <https://www.who.int/news/item/11-10-2016-who-urges-global-action-to-curtailed-consumption-and-health-impacts-of-sugary-drinks>  
15 (“Consumption of free sugars, including products like sugary drinks, is a major factor in the  
16 global increase of people suffering from obesity and diabetes[.]”).

17 <sup>12</sup> Hansen, L., et al., *Fruit and vegetable intake and risk of acute coronary syndrome*, 104  
18 BRIT. J. NUTR. 248 (2010) (finding “a tendency towards a lower risk of ACS [acute coronary  
19 syndrome] . . . for both men and women with higher fruit and vegetable consumption,” but  
20 “a higher risk . . . among women with higher fruit juice intake”); Pase, M.P., et al., *Habitual  
21 intake of fruit juice predicts central blood pressure*, 84 APPETITE 658 (2015) (people who  
22 consumed juice daily, rather than rarely or occasionally, had significantly higher central  
23 systolic blood pressure, a risk factor for cardiovascular disease”).

24 <sup>13</sup> Collin, L.J., et al., *Association of Sugary Beverage Consumption With Mortality Risk in US  
25 Adults: A Secondary Analysis of Data From the REGARDS Study*, 2(5) JAMA NETWORK  
26 OPEN e193121 (May 2019) (cohort study of 13,440 black and white adults 45 years and older,  
27 observed for a mean of 6 years, found each additional 12-oz serving per day of fruit juice was  
28 associated with a 24% higher all-cause mortality risk). See also Thomas, L., *Differences  
Between Natural Whole Fruit and Natural Fruit Juice*, NEWS MEDICAL (Feb. 27, 2019) (“In  
one study, increased fruit juice consumption in early life led to a higher risk of obesity and  
shorter adult height.”).

<sup>14</sup> Thomas, *Differences Between Natural Whole Fruit and Natural Fruit Juice*, *supra* n.13.

1 calories, while whole fruit demonstrates protection.”<sup>15</sup>

2 32. Barry M. Popkin, PhD, a W. R. Kenan Jr. Distinguished Professor in the  
3 Department of Nutrition at University of North Carolina, Gillings School of Global Public  
4 Health, explains that “as people change their drinking habits to avoid carbonated soft drinks,  
5 the potential damage from naturally occurring fructose in fruit juices and smoothies is being  
6 overlooked.” “[P]ulped-up smoothies do nothing good for us but do give us the same amount  
7 of sugar as four to six oranges or a large coke. It is deceiving.”<sup>16</sup>

8 33. As demonstrated in more detail below, the scientific evidence demonstrates that  
9 consuming fruit juice, like the Juice Boxes, increases risk of numerous diseases.

10 **B. Juice Consumption Increases Risk of Cardiovascular Heart Disease**

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

14 35. In a study published in January 2020, researchers set out to determine whether  
15 consumption of SCBs, including juice, is associated with cardiometabolic risk (CMR) in  
16 preschool children. They did so using 2007-2018 data from TARGeT Kids!, a primary-care,  
17 practice-based research network in Canada. After controlling for sociodemographic, familial,  
18 and child-related covariates, they found higher consumption of SCB was significantly  
19 associated with elevated CMR scores, including lower HDL “good” cholesterol, and higher  
20 triglycerides. In addition, when examined separately, juice specifically was significantly  
21 associated with lower HDL cholesterol. The researchers stated that their “findings support  
22

23 <sup>15</sup> Lustig, R.H., MD, MSL, *METABOLICAL: THE LURE AND THE LIES OF PROCESSED FOOD,*  
24 *NUTRITION, AND MODERN MEDICINE* 259-60 (Harper Wave 2021).

25 <sup>16</sup> Boseley, S., *Smoothies and fruit juices are a new risk to health, US scientists warn,* THE  
26 *GUARDIAN* (Sept. 7, 2013) (noting that “researchers from the UK, USA and Singapore found  
27 that in large-scale studies involving nurses, people who ate whole fruit, especially blueberries,  
28 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 recommendations to limit overall intake of SCB in early childhood, in [an] effort to reduce  
2 the potential long-term burden of CMR.”<sup>17</sup>

3 36. But juice consumption does not just detrimentally affect children. Analyzing  
4 data from the Danish Diet, Cancer and Health cohort study, representing 57,053 men and  
5 women aged 50 to 64 years old, researchers found “a tendency towards a lower risk of ACS  
6 [acute coronary syndrome] . . . for both men and women with higher [whole] fruit and  
7 vegetable consumption,” but “a higher risk . . . among women with higher fruit juice  
8 intake[.]”<sup>18</sup>

9 37. In one study, those who consumed juice daily, rather than rarely or occasionally,  
10 had significantly higher central systolic blood pressure, a risk factor for cardiovascular  
11 disease, even after adjusting for age, height, weight, mean arterial pressure, heart rate, and  
12 treatment for lipids and hypertension.<sup>19</sup>

13 38. Studies of the cardiovascular effects of added sugar consumption further suggest  
14 juice consumption causes increased risk for and contraction of cardiovascular disease, since  
15 the free sugars in juice act physiologically identically to added sugars, such as those in sugar-  
16 sweetened beverages.

17 39. For example, data obtained from NHANES surveys during the periods of 1988-  
18 1994, 1999-2004, and 2005-2010—after adjusting for a wide variety of other factors—  
19 demonstrate that those who consumed 10% - 24.9% of their calories from added sugar had a  
20 30% greater risk of cardiovascular disease (CVD) mortality than those who consumed 5% or  
21 less of their calories from added sugar. In addition, those who consumed 25% or more of their  
22 calories from added sugar had an average 275% greater risk of CVD mortality than those who  
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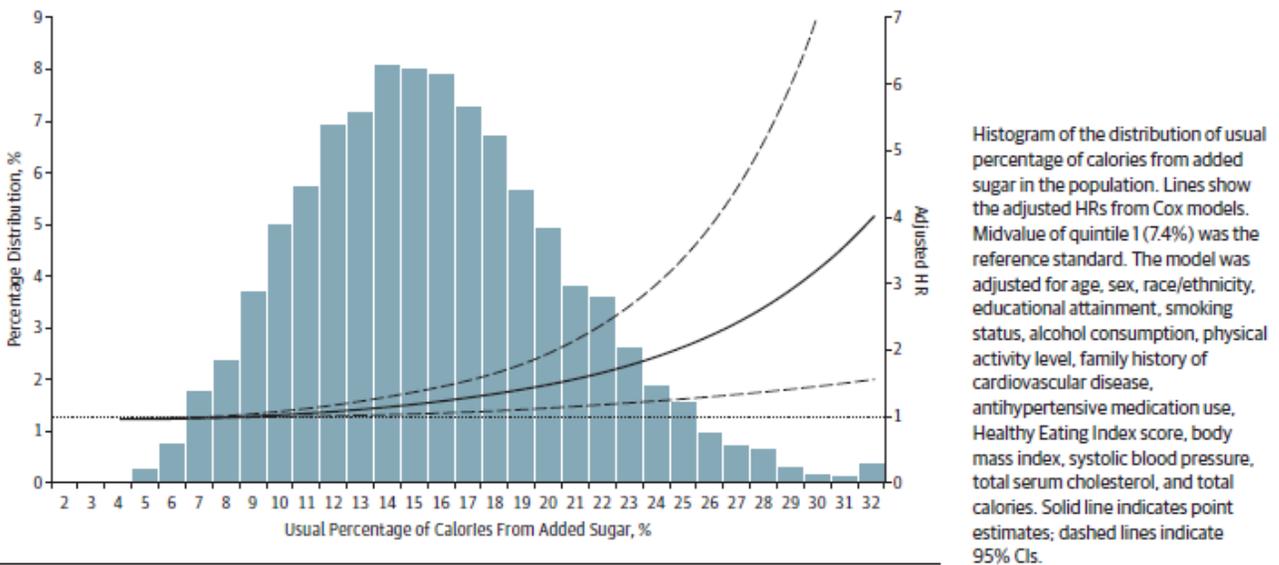
24 <sup>17</sup> Eny, K.M., et al., *Sugar-containing beverage consumption and cardiometabolic risk in*  
25 *preschool children*, 17 PREV. MED. REP. 101054, 101054 (Jan. 14, 2020).

26 <sup>18</sup> Hansen, L., et al., *Fruit and vegetable intake and risk of acute coronary syndrome*, 104  
27 BRITISH J. NUTR. 248, 248 (2010).

28 <sup>19</sup> Pase, M.P., et al., *Habitual intake of fruit juice predicts central blood pressure*, 84 APPETITE  
658 (2015).

1 consumed less than 5% of calories from added sugar. Similarly, when compared to those who  
 2 consumed approximately 8% of calories from added sugar, participants who consumed  
 3 approximately 17% - 21% (the 4th quintile) of calories from added sugar had a 38% higher  
 4 risk of CVD mortality, while the relative risk was more than double for those who consumed  
 5 21% or more of calories from added sugar (the 5th quintile). Thus, “[t]he risk of CVD  
 6 mortality increased exponentially with increasing usual percentage of calories from added  
 7 sugar,” as demonstrated in the chart below.<sup>20</sup>

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



40. The NHANES analysis also found “a significant association between sugar-  
 20 sweetened beverage consumption and risk of CVD mortality,” with an average 29% greater  
 21 risk of CVD mortality “when comparing participants who consumed 7 or more servings/wk  
 22 (360 mL per serving) with those who consumed 1 serving/wk or less . . . .”<sup>21</sup> The study  
 23 concluded that “most US adults consume more added sugar than is recommended for a  
 24 healthy diet. A higher percentage of calories from added sugar is associated with significantly  
 25

26 <sup>20</sup> Yang, Q., et al., *Added Sugar Intake and Cardiovascular Diseases Mortality Among US*  
 27 *Adults*, 174(4) JAMA INTERN. MED. 516, 519-20 (2014).

28 <sup>21</sup> *Id.* at 521.

1 increased risk of CVD mortality. In addition, regular consumption of sugar-sweetened  
2 beverages is associated with elevated CVD mortality.”<sup>22</sup>

3 41. Data from the Nurses’ Health Study consistently showed that, after adjusting for  
4 other unhealthy lifestyle factors, those who consumed two or more sugar-sweetened  
5 beverages per day (280 calories, or 70 grams of sugar or more) had a 35% greater risk of  
6 coronary heart disease compared with infrequent consumers.<sup>23</sup>

7 42. In another prospective cohort study, it was suggested that reducing sugar  
8 consumption in liquids is highly recommended to prevent CHD. Consumption of sugary  
9 beverages was significantly shown to increase risk of CHD, as well as adverse changes in  
10 some blood lipids, inflammatory factors, and leptin.<sup>24</sup>

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24 <sup>22</sup> *Id.* at 522.

25 <sup>23</sup> Fung, T.T., et al., *Sweetened beverage consumption and risk of coronary heart disease in*  
26 *women*, 89 AM. J. CLIN. NUTR. 1037 (Feb. 2009).

27 <sup>24</sup> Koning, L.D., et al., *Sweetened Beverage Consumption, Incident Coronary Heart Disease,*  
28 *and Biomarkers of Risk in Men*, 125 CIRCULATION 1735 (2012).

1 43. Juice consumption is also associated with several key risk factors for heart  
 2 disease. For example, consumption of sugary beverages like juice has been associated with  
 3 dyslipidemia,<sup>25</sup> obesity,<sup>26</sup> and increased blood pressure.<sup>27</sup>

4 **C. Juice Consumption Increases Risk of Type 2 Diabetes**

5 44. Diabetes affects 34.2 million Americans—just over 1 in 10. From 2001 to 2017,  
 6 the number of people under age 20 living with type 1 diabetes increased by 45%, and the  
 7 number living with type 2 diabetes grew by 95%.<sup>28</sup>

8 45. “Increases in diabetes are always troubling – especially in youth. Rising rates of  
 9 diabetes, particularly type 2 diabetes, which is preventable, has the potential to create a  
 10 cascade of poor health outcomes,” says Giuseppina Imperatore, MD, PhD, chief of the  
 11 Surveillance, Epidemiology, Economics, and Statistics Branch in the Centers for Disease  
 12 Control (CDC)’s Division of Diabetes Translation. “Compared to people who develop  
 13

14  
 15 <sup>25</sup> Elliott, S.S., et al., *Fructose, weight gain, and the insulin resistance syndrome*, 76(5) AM.  
 16 J. CLIN. NUTR. 911 (2002).

17 <sup>26</sup> Faith, M.S., et al., *Fruit Juice Intake Predicts Increased Adiposity Gain in Children From*  
 18 *Low-Income Families: Weight Status-by-Environment Interaction*, 118 PEDIATRICS 2066  
 19 (2006) (“Among children who were initially either at risk for overweight or overweight,  
 20 increased fruit juice intake was associated with excess adiposity gain, whereas parental  
 21 offerings of whole fruits were associated with reduced adiposity gain.”); Schulze, M.B., et  
 22 al., *Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type 2 Diabetes in Young*  
 23 *and Middle-Aged Women*, 292(8) JAMA 927 (2004) [“Schulze, *Diabetes in Young & Middle-*  
 24 *Aged Women*”]; Ludwig, D.S., et al., *Relation between consumption of sugar-sweetened*  
 25 *drinks and childhood obesity: a prospective, observational analysis*, 257 LANCET 505 (2001);  
 26 Dennison, B.A., et al., *Excess fruit juice consumption by preschool-aged children is*  
 27 *associated with short stature and obesity*, 99 PEDIATRICS 15 (1997).

28 <sup>27</sup> Hoare, E., et al., *Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review*  
 on *Cardiometabolic Risk*, 9(10) NUTRIENTS 1075 (2017).

<sup>28</sup> Centers for Disease Control and Prevention, *New Research Uncovers Concerning*  
*Increases in Youth Living with Diabetes in the U.S.*, (Aug. 24, 2021) available at  
<https://www.cdc.gov/media/releases/2021/p0824-youth-diabetes.html> (last visited December  
 5, 2022).

1 diabetes in adulthood, youth are more likely to develop diabetes complications at an earlier  
2 age and are at higher risk of premature death.”<sup>29</sup>

3 46. Diabetes can cause kidney failure, lower-limb amputation, and blindness;  
4 doubles the risk of colon and pancreatic cancers; and is strongly associated with coronary  
5 artery disease and Alzheimer’s disease.<sup>30</sup>

6 47. In 2010, Harvard researchers performed a meta-analysis of 8 studies concerning  
7 sugar-sweetened beverage consumption and risk of type 2 diabetes, involving a total of  
8 310,819 participants. They concluded that individuals in the highest quantile of SSB intake  
9 had an average 26% greater risk of developing type 2 diabetes than those in the lowest  
10 quantile.<sup>31</sup> Moreover, “larger studies with longer durations of follow-up tended to show  
11 stronger associations.”<sup>32</sup> Thus, the meta-analysis showed “a clear link between SSB  
12 consumption and risk of . . . type 2 diabetes.”<sup>33</sup>

13 48. An analysis of data for more than 50,000 women from the Nurses’ Health  
14 Study,<sup>34</sup> during two 4-year periods (1991-1995, and 1995-1999), showed, after adjusting for  
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16 <sup>29</sup> *Id.*

17 <sup>30</sup> Aranceta Bartrina, J., et al., *Association between sucrose intake and cancer: a review of*  
18 *the evidence*, 28 NUTRICIÓN HOSPITALARIA 95 (2013); Garcia-Jimenez, C., *A new link*  
19 *between diabetes and cancer: enhanced WNT/beta-catenin signaling by high glucose*, 52(1)  
20 J. MOLECULAR ENDOCRINOLOGY R51 (2014); Linden, G.J., *All-cause mortality and*  
21 *periodontitis in 60-70-year-old men: a prospective cohort study*, 39(1) J. CLINICAL  
PERIODONTAL 940 (October 2012).

22 <sup>31</sup> Malik, V.S., et al., *Sugar-Sweetened Beverages and Risk of Metabolic Syndrome and Type*  
23 *2 Diabetes*, 33(11) DIABETES CARE 2477, 2480 (November 2010) [“Malik, 2010 *Meta-*  
*Analysis*”].

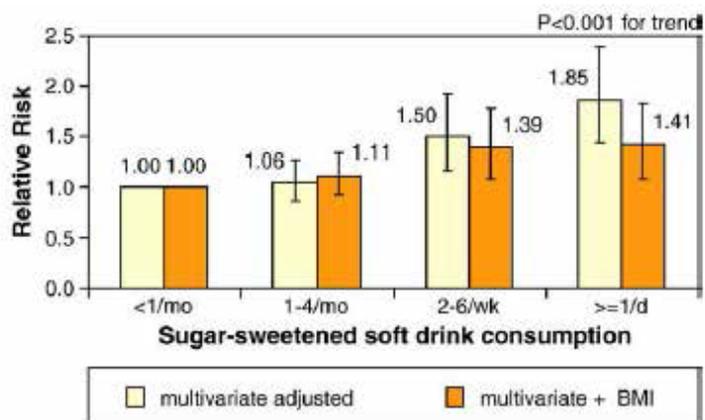
24 <sup>32</sup> *Id.* at 2481.

25 <sup>33</sup> *Id.*

26 <sup>34</sup> The Nurses’ Health Study was established at Harvard in 1976, and the Nurses’ Health Study  
27 II, in 1989. Both are long-term epidemiological studies conducted on women’s health. The  
28

1 confounding factors, that women who consumed 1 or more sugar-sweetened soft drink per  
 2 day (*i.e.*, 140-150 calories and 35-37.5 grams of sugar), had an 83% greater relative risk of  
 3 type 2 diabetes compared with those who consumed less than 1 such beverage per month, and  
 4 women who consumed 1 or more fruit punch drinks per day had a 100% greater relative risk  
 5 of type 2 diabetes.<sup>35</sup>

6 49. The result of this analysis shows a statistically significant linear trend with  
 7 increasing sugar consumption.<sup>36</sup>



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

50. A prospective cohort study of more than 43,000 African American women  
 between 1995 and 2001 showed that the incidence of type 2 diabetes was higher with higher

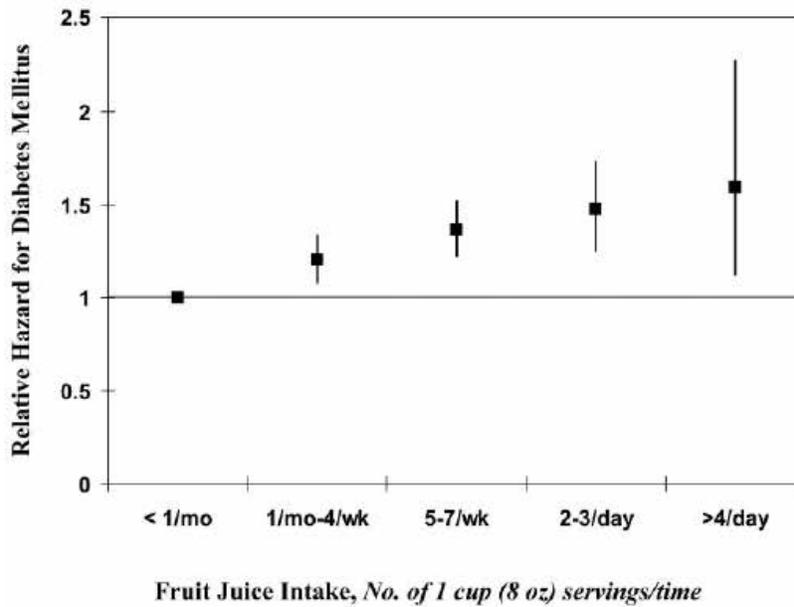
study followed 121,700 women registered nurses since 1976, and 116,000 female nurses since 1989, to assess risk factors for cancer, diabetes, and cardiovascular disease. The Nurses' Health Studies are among the largest investigations into risk factors for major chronic disease in women ever conducted. See generally *The Nurses' Health Study*, available at <http://www.channing.harvard.edu/nhs>.

<sup>35</sup> Schulze, *Diabetes in Young & Middle-Aged Women*, *supra* n.26.

<sup>36</sup> Hu, F.B., et al., *Sugar-sweetened beverages and risk of obesity and type 2 diabetes: Epidemiologic evidence*, 100 *PHYSIOLOGY & BEHAVIOR* 47 (2010).

1 intake of both sugar-sweetened soft drinks and fruit drinks. After adjusting for confounding  
 2 variables, those who drank 2 or more soft drinks per day (*i.e.*, 140-300 calories and 35-75  
 3 grams of sugar) showed a 24% greater risk of type 2 diabetes, and those who drank 2 or more  
 4 fruit drinks per day showed a 31% greater risk of type 2 diabetes than those who drank 1 or  
 5 less such drinks per month.<sup>37</sup>

6 51. A large cohort study of 71,346 women from the Nurses’ Health Study followed  
 7 for 18 years showed that those who consumed 2 to 3 apple, grapefruit, and orange juices per  
 8 day (280-450 calories and 75-112.5 grams of sugar) had an 18% greater risk of type 2 diabetes  
 9 than women who consumed less than 1 sugar-sweetened beverage per month. The data also  
 10 showed a linear trend with increased consumption, as demonstrated below.<sup>38</sup>



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

25 <sup>37</sup> Palmer, J.R., et al., *Sugar-Sweetened Beverages and Incidence of Type 2 Diabetes Mellitus*  
 26 *in African American Women*, 168(14) ARCHIVE INTERNAL MED. 1487 (July 28, 2008)  
 27 [“Palmer, *Diabetes in African American Women*”].

28 <sup>38</sup> Bazzano, L.A., et al., *Intake of fruit, vegetables, and fruit juices and risk of diabetes in women*, 31 DIABETES CARE 1311, 1316 (2008).

1           52. An analysis of more than 40,000 men from the Health Professionals Follow-Up  
2 Study, a prospective cohort study conducted over a 20-year period, found that, after adjusting  
3 for age and a wide variety of other confounders, those in the top quartile of sugar-sweetened  
4 beverage intake had a 24% greater risk of type 2 diabetes than those in the bottom quartile,  
5 while consumption of artificially-sweetened beverages, after adjustment, showed no  
6 association.<sup>39</sup>

7           53. In an analysis of tens of thousands of subjects from three prospective  
8 longitudinal cohort studies (the Nurses' Health Study, Nurses' Health Study II, and Health  
9 Professionals Follow-up Study), researchers found, after adjusting for BMI, initial diet,  
10 changes in diet, and lifestyle covariates, that increasing sugary beverage intake—which  
11 included both sugar-sweetened beverages and fruit juice—by half-a-serving per day over a  
12 4-year period was associated with a 16% greater risk of type 2 diabetes.<sup>40</sup>

13           54. In another study of subjects from the Nurses' Health Study, Nurses' Health  
14 Study II, and Health Professionals Follow-up Study, researchers set out to “determine  
15 whether individual fruits are differentially associated with risk of type 2 diabetes,” looking at  
16 the associated risk with eating three servings per week of blueberries, grapes and raisins,  
17 prunes, apples and pears, bananas, grapefruit, oranges, strawberries, cantaloupe, and peaches,  
18 plums and apricots, as well as “the same increment” in fruit juice consumption. They found  
19 that “[g]reater consumption of specific whole fruits” was “significantly associated with a  
20 lower risk of type 2 diabetes, whereas greater consumption of fruit juice is associated with a  
21 higher risk.” The increased risk was approximately 8% based on three fruit juice servings per  
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25 <sup>39</sup> De Konig, L., et al., *Sugar-sweetened and artificially sweetened beverage consumption and*  
26 *risk of type 2 diabetes in men*, 93 AM. J. CLIN. NUTR. 1321 (2011).

27 <sup>40</sup> Drouin-Chatier, J., et al., *Changes in Consumption of Sugary Beverages and Artificially*  
28 *Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From Three Large*  
*Prospective U.S. Cohorts of Women and Men*, 42 DIABETES CARE 2181 (Dec. 2019).

1 week.<sup>41</sup> Similarly, a meta-analysis of 17 prospective cohort studies showed higher  
2 consumption of fruit juice was associated with a 7% greater incidence of type 2 diabetes after  
3 adjusting for adiposity.<sup>42</sup>

4 55. An econometric analysis of repeated cross-sectional data published in 2013  
5 established a causal relationship between sugar availability and type 2 diabetes. After  
6 adjusting for a wide range of confounding factors, researchers found that an increase of 150  
7 calories per day related to an insignificant 0.1% rise in diabetes prevalence by country, while  
8 an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes prevalence by  
9 country, a statically-significant 11-fold difference.<sup>43</sup>

#### 10 **D. Juice Consumption Increases Risk of Metabolic Disease**

11 56. Excess sugar consumption leads to metabolic syndrome by stressing and  
12 damaging crucial organs, including the pancreas and liver. When the pancreas, which  
13 produces insulin, becomes overworked, it can fail to regulate blood sugar properly. Large  
14 doses of fructose can overwhelm the liver, which metabolizes fructose. In the process, the  
15 liver will convert excess fructose to fat, which is stored in the liver and released into the  
16 bloodstream. This process contributes to key elements of metabolic syndrome, including high  
17 blood fats and triglycerides, high cholesterol, high blood pressure, and extra body fat,  
18 especially in the belly.<sup>44</sup>

19  
20 <sup>41</sup> Muraki, I., et al., *Fruit consumption and risk of type 2 diabetes: results from three*  
21 *prospective longitudinal cohort studies*, 347 BRIT MED. J. 5001 (Aug. 28, 2013).

22 <sup>42</sup> Imamura, F., et al., *Consumption of sugar sweetened beverages, artificially sweetened*  
23 *beverages, and fruit juice and incidence of type 2 diabetes: systematic review, meta-analysis,*  
*and estimation of population attributable fraction*, 351 BRIT MED. J. 3576 (2015).

24 <sup>43</sup> Basu, S., et al., *The Relationship of Sugar to Population-Level Diabetes Prevalence: An*  
25 *Econometric Analysis of Repeated Cross-Sectional Data*, 8(2) PLOS ONLINE 57873  
26 (February 27, 2013).

27 <sup>44</sup> Te Morenga, L., et al., *Dietary sugars and body weight: systematic review and meta-*  
28 *analyses of randomized controlled trials and cohort studies*, 346 BRIT MED. J. e7492 (Jan.  
2013) [“Te Morenga, *Dietary Sugars & Body Weight*”].

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

- 4 a. Large Waist Size (35” or more for women, 40” or more for men);
- 5 b. High triglycerides (150mg/dL or higher, or use of cholesterol  
6 medication);
- 7 c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40  
8 mg for men;
- 9 d. High blood pressure (135/85 mm or higher); or
- 10 e. High blood sugar (100mg/dL or higher).

11 58. More generally, “metabolic abnormalities that are typical of the so-called  
12 metabolic syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high  
13 concentrations of circulating triacylglycerols, low concentrations of HDLs, and high  
14 concentrations of small, dense LDLs.”<sup>45</sup>

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

17 60. In 2010, Harvard researchers published a meta-analysis of three studies,  
18 involving 19,431 participants, concerning the effect of consuming sugar-sweetened  
19 beverages on risk for metabolic syndrome. They found participants in the highest quantile of  
20 1-2 servings per day had an average 20% greater risk of developing metabolic syndrome than  
21 did those in the lowest quantile of less than 1 serving per day, showing “a clear link between  
22 SSB consumption and risk of metabolic syndrome . . . .”<sup>46</sup>

23 61. Researchers who studied the incidence of metabolic syndrome and its  
24 components in relation to soft drink consumption in more than 6,000 participants in the  
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26 <sup>45</sup> Fried, S.K., *Sugars, hypertriglyceridemia, and cardiovascular disease*, 78 AM. J. CLIN.  
27 NUTR. 873S, 873S (2003).

28 <sup>46</sup> Malik, *2010 Meta-Analysis*, *supra* n.31.

1 Framingham Heart Study found that individuals who consumed 1 or more soft drinks per day  
 2 (i.e., 140-150 calories and 35-37.5 grams of sugar or more) had a 48% higher prevalence of  
 3 metabolic syndrome than infrequent consumers, those who drank less than 1 soft drink per  
 4 day. In addition, the frequent-consumer group had a 44% higher risk of developing metabolic  
 5 syndrome.<sup>47</sup>

6 **E. Juice Consumption Increases Risk of Liver Disease**

7 62. Sugar consumption causes serious liver disease, including non-alcoholic fatty  
 8 liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of these  
 9 cases develop into non-alcoholic steatohepatitis (NASH), causing scarring as the liver tries  
 10 to heal its injuries, which gradually cuts off vital blood flow to the liver. About 25% of NASH  
 11 patients progress to non-alcoholic liver cirrhosis, which requires a liver transplant or can lead  
 12 to death.<sup>48</sup>

13 63. Since 1980, the incidence of NAFLD and NASH has doubled, along with the  
 14 rise of fructose consumption, with approximately 6 million Americans estimated to have  
 15 progressed to NASH and 600,000 to Nash-related cirrhosis. Most people with NASH also  
 16 have type 2 diabetes. NASH is now the third-leading reason for liver transplant in America.<sup>49</sup>

17 64. Moreover, because the liver metabolizes sugar virtually identically to alcohol,  
 18 the U.S. is now seeing for the first time alcohol-related diseases in children. Conservative  
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22 <sup>47</sup> Dhingra, R., et al., *Soft Drink Consumption and Risk of Developing Cardiometabolic Risk*  
 23 *Factors and the Metabolic Syndrome in Middle-Aged Adults in the Community*, 116  
 CIRCULATION 480 (2007) [“Dhingra, *Cardiometabolic Risk*”].

24 <sup>48</sup> Farrell, G.C., et al., *Nonalcoholic fatty liver disease: from steatosis to cirrhosis*, 433(2)  
 25 HEPATOLOGY S99 (February 2006); Powell, E.E., et al., *The Natural History of Nonalcoholic*  
 26 *Steatohepatitis: A Follow-up Study of Forty-two Patients for Up to 21 Years*, 11(1)  
 HEPATOLOGY 74 (1990).

27 <sup>49</sup> Charlton, M.R., et al., *Frequency and outcomes of liver transplantation for nonalcoholic*  
 28 *steatohepatitis in the United States*, 141(4) GASTROENTEROLOGY 1249 (October 2011).

1 estimates are that 31% of American adults, and 13% of American children suffer from  
2 NAFLD.<sup>50</sup>

### 3 **F. Juice Consumption Increases Risk of Obesity**

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

15 66. Based on a meta-analysis of 30 studies between 1966 and 2005, Harvard  
16 researchers found “strong evidence for the independent role of the intake of sugar-sweetened  
17 beverages, particularly soda, in the promotion of weight gain and obesity in children and  
18 adolescents. Findings from prospective cohort studies conducted in adults, taken in  
19 conjunction with results from short-term feeding trials, also support a positive association  
20 between soda consumption and weight gain, obesity, or both.”<sup>51</sup>

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23 <sup>50</sup> Lindback, S.M., et al., *Pediatric Nonalcoholic Fatty Liver Disease: A Comprehensive*  
24 *Review*, 57(1) ADVANCES PEDIATRICS 85 (2010); Lazo, M. et al., *The Epidemiology of*  
25 *Nonalcoholic Fatty Liver Disease: A Global Perspective*, 28(4) SEMINARS LIVER DISEASE,  
26 339 (2008); Schwimmer, J.B., et al., *Prevalence of Fatty Liver in Children and Adolescents*,  
27 118(4) PEDIATRICS 1388 (2006); Browning, J.D., et al., *Prevalence of hepatic steatosis in an*  
28 *urban population in the United States: Impact of ethnicity*, 40(6) HEPATOLOGY 1387 (2004).

<sup>51</sup> Malik, V.S., et al., *Intake of sugar-sweetened beverages and weight gain: a systematic*  
*review*, 84 AM. J. CLINICAL NUTRITION 274 (2006).

1 67. A recent meta-analysis by Harvard researchers evaluating change in Body Mass  
2 Index per increase in 1 serving of sugar-sweetened beverages per day found a significant  
3 positive association between beverage intake and weight gain.<sup>52</sup>

4 68. One study of more than 2,000 2.5-year-old children followed for 3 years found  
5 that those who regularly consumed sugar-sweetened beverages between meals had a 240%  
6 better chance of being overweight than non-consumers.<sup>53</sup>

7 69. An analysis of data for more than 50,000 women from the Nurses' Health Study  
8 during two 4-year periods showed that weight gain over a 4-year period was highest among  
9 women who increased their sugar-sweetened beverage consumption from 1 or fewer drinks  
10 per week, to 1 or more drinks per day (8.0 kg gain during the 2 periods), and smallest among  
11 women who decreased their consumption or maintained a low intake level (2.8 kg gain).<sup>54</sup>

12 70. A study of more than 40,000 African American women over 10 years had similar  
13 results. After adjusting for confounding factors, those who increased sugar-sweetened  
14 beverage intake from less than 1 serving per week, to more than 1 serving per day, gained the  
15 most weight (6.8 kg), while women who decreased their intake gained the least (4.1 kg).<sup>55</sup>

16 71. Experimental short-term feeding studies comparing sugar-sweetened beverages  
17 to artificially-sweetened beverages have illustrated that consumption of the former leads to  
18 greater weight gain. As demonstrated in the chart below, one 10-week trial involving more  
19 than 40 men and women demonstrated that the group that consumed daily supplements of  
20 sucrose (for 28% of total energy) increased body weight and fat mass, by 1.6 kg for men and  
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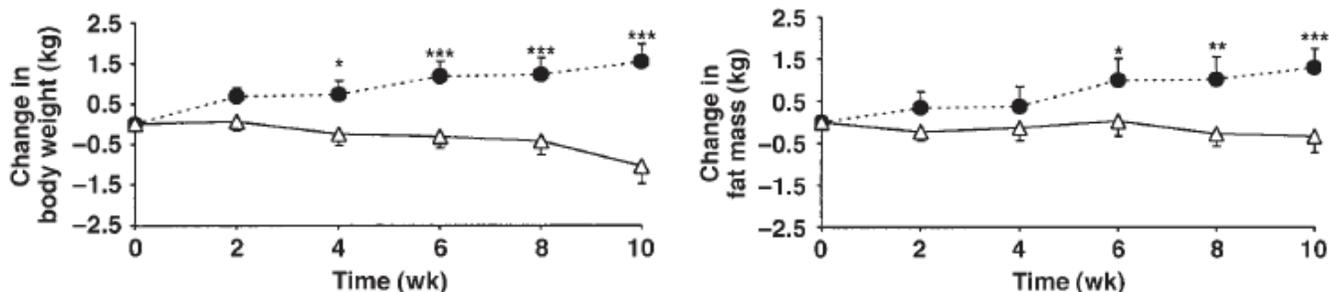
22  
23 <sup>52</sup> Malik, V.S., et al., *Sugar-sweetened beverages and BMI in children and adolescents: reanalyses of a meta-analysis*, 29 AM. J. CLINICAL NUTRITION 438, 438-39 (2009).

24 <sup>53</sup> Dubois, L., et al., *Regular sugar-sweetened beverage consumption between meals increases risk of overweight among preschool-aged children*, 107(6) J. AM. DIETETIC ASSOC'N 924 (2007).

25 <sup>54</sup> Schulze, *Diabetes in Young & Middle-Aged Women*, *supra* n.26.

26 <sup>55</sup> Palmer, *Diabetes in African American Women*, *supra* n.37.

1 1.3 kg for women, while the group that was supplemented with artificial sweeteners lost  
2 weight, 1.0 kg for men and 0.3 kg for women.<sup>56</sup>



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

### 16 G. Juice Consumption Increases Risk of High Blood Triglycerides and 17 Abnormal Cholesterol Levels

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

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<sup>56</sup> Raben, A., et al., *Sucrose compared with artificial sweeteners: different effects on ad libitum food intake and body weight after 10 wk of supplementation in overweight subjects*, 76 AM. J. CLIN. NUTR. 721 (2002) ["Raben, *Sucrose vs. Artificial Sweeteners*"].

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

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

9 75. When the liver is overwhelmed by large doses of fructose, it will convert the  
10 excess to fat, which is stored in the liver and then released into the bloodstream, contributing  
11 to key elements of metabolic syndrome, like high blood fat and triglycerides, high total  
12 cholesterol, and low HDL “good” cholesterol.<sup>57</sup>

13 76. A study of more than 6,000 participants in the Framingham Heart Study found  
14 those who consumed more than 1 soft drink per day had a 25% greater risk of  
15 hypertriglyceridemia and 32% greater risk of low HDL cholesterol than those who consumed  
16 less than 1 soft drink per day.<sup>58</sup>

17 77. A systematic review and meta-analysis of 37 randomized controlled trials  
18 concerning the link between sugar intake and blood pressure and lipids found that higher  
19 sugar intakes, compared to lower sugar intakes, significantly raised triglyceride  
20 concentrations, total cholesterol, and low density lipoprotein cholesterol.<sup>59</sup>

21 78. A cross-sectional study among more than 6,100 U.S. adults from the NHANES  
22 1999-2006 data were grouped into quintiles for sugar intake as follows: (1) less than 5% of  
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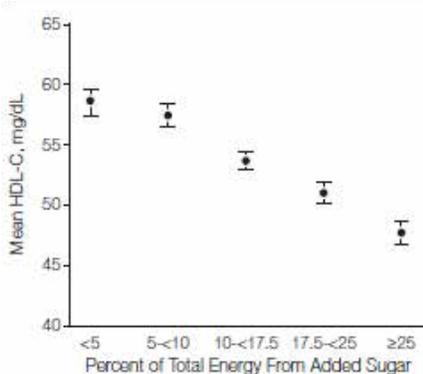
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25 <sup>57</sup> Te Morenga, *Dietary Sugars & Body Weight*, *supra* n.44.

26 <sup>58</sup> Dhingra, *Cardiometabolic Risk*, *supra* n.47.

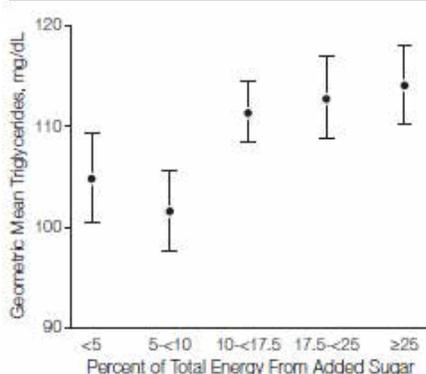
27 <sup>59</sup> Te Morenga, L., et al., *Dietary sugars and cardiometabolic risk: systematic review and*  
28 *meta-analyses of randomized controlled trials on the effects on blood pressure and lipids*,  
100(1) AM. J. CLIN. NUTR. 65 (May 7, 2014).

1 calories consumed from sugar, (2) 5% to less than 10%, (3) 10% to less than 17.5%, (4) 17.5%  
 2 to less than 25%, and (5) 25% or more. These groups had the following adjusted mean HDL  
 3 levels (because HDL is the “good” cholesterol, higher levels are better): 58.7, 57.5, 53.7,  
 4 51.0, and 47.7 mg/dL. Mean triglyceride levels were 105, 102, 111, 113, and 114 mg/dL.  
 5 Mean LDL levels were 116, 115, 118, 121, and 123 mg/dL among women, with no significant  
 6 trend among men. Consumers whose sugar intake accounted for more than 10% of their  
 7 calories had a 50% - 300% higher risk of low HDL levels compared to those who consumed  
 8 less than 5% of calories from sugar. Likewise, high-sugar consumers had greater risk of high  
 9 triglycerides. All relationships were linear, as demonstrated in the charts below.<sup>60</sup>

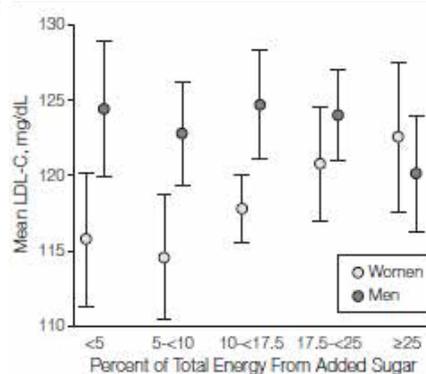
**Figure 1.** Multivariable-Adjusted Mean HDL-C Levels by Level of Added Sugar Intake Among US Adults, NHANES 1999-2006



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



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



19 79. One experimental study showed that, when a 17% fructose diet was provided to  
 20 healthy men, they showed an increase in plasma triacylglycerol concentrations of 32%.<sup>61</sup>

21 80. Another 10-week experimental feeding study showed that those who were fed  
 22 25% of their energy requirements as fructose experienced increases in LDL cholesterol, small  
 23 dense LDL cholesterol, and oxidized LDL cholesterol, as well as increased concentrations of  
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 26 <sup>60</sup> Welsh, J.A., et al., *Caloric Sweetener Consumption and Dyslipidemia Among US Adults*, 303(15) J. AMER. MEDICAL ASSOC’N 1490 (April 21, 2010).

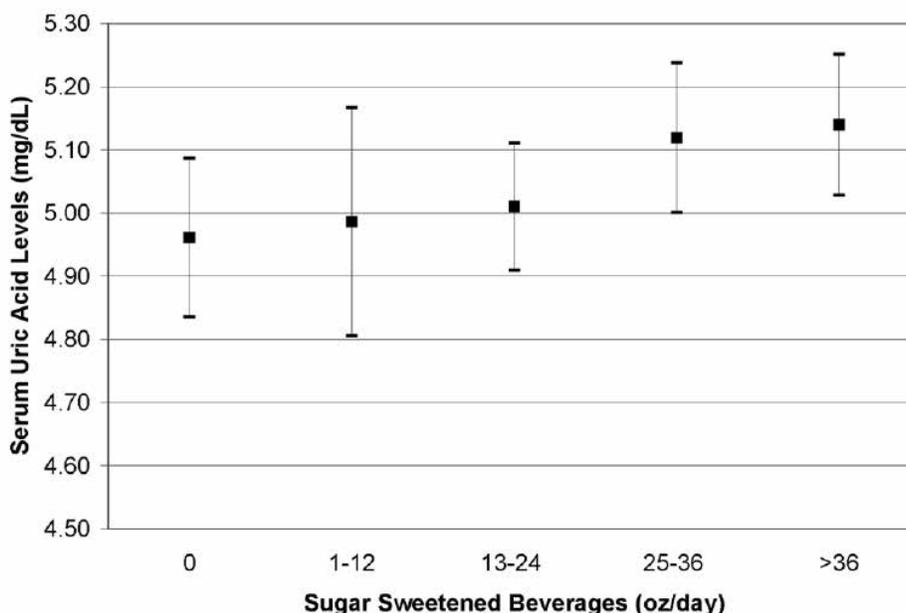
27  
 28 <sup>61</sup> Bantle, J.P., et al., *Effects of dietary fructose on plasma lipids in healthy subjects*, 72 AM. J. CLIN. NUTR. 1128 (2000).

1 triglycerides and total cholesterol, while those fed a 25% diet of glucose did not experience  
2 the same adverse effects.<sup>62</sup>

3 81. In a cross-sectional study of normal weight and overweight children aged 6-14,  
4 researchers found that “the only dietary factor that was a significant predictor of LDL particle  
5 size was total fructose intake.”<sup>63</sup>

#### 6 **H. Juice Consumption Increases Risk of Hypertension**

7 82. An analysis of the NHANES data for more than 4,800 adolescents showed a  
8 positive, linear association between sugar-sweetened beverages and higher systolic blood  
9 pressure, as well as corresponding increases in serum uric acid levels.<sup>64</sup>



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

23 <sup>62</sup> Stanhope, K.L., et al., *Consuming fructose-sweetened, not glucose-sweetened, beverages*  
24 *increases visceral adiposity and lipids and decreases insulin sensitivity in overweight/obese*  
25 *humans*, 119(5) J. CLIN. INVESTIG. 1322 (May 2009).

26 <sup>63</sup> Aeberli, I., et al., *Fructose intake is a predictor of LDL particle size in overweight*  
27 *schoolchildren*, 86 AM. J. CLIN. NUTR. 1174 (2007).

28 <sup>64</sup> Nguyen, S., et al., *Sugar Sweetened Beverages, Serum Uric Acid, and Blood Pressure in*  
*Adolescents*, 154(6) J. PEDIATRICS 807 (June 2009).

1 83. In one study, 15 healthy men drank 500 ml of water containing either no sugar,  
 2 60 grams of fructose, or 60 grams of glucose. Blood pressure, metabolic rate, and autonomic  
 3 nervous system activity were measured for 2 hours. While the administration of fructose was  
 4 associated with an increase in both systolic and diastolic blood pressure, blood pressure did  
 5 not rise in response to either water or glucose ingestion, as demonstrated in the chart below.<sup>65</sup>

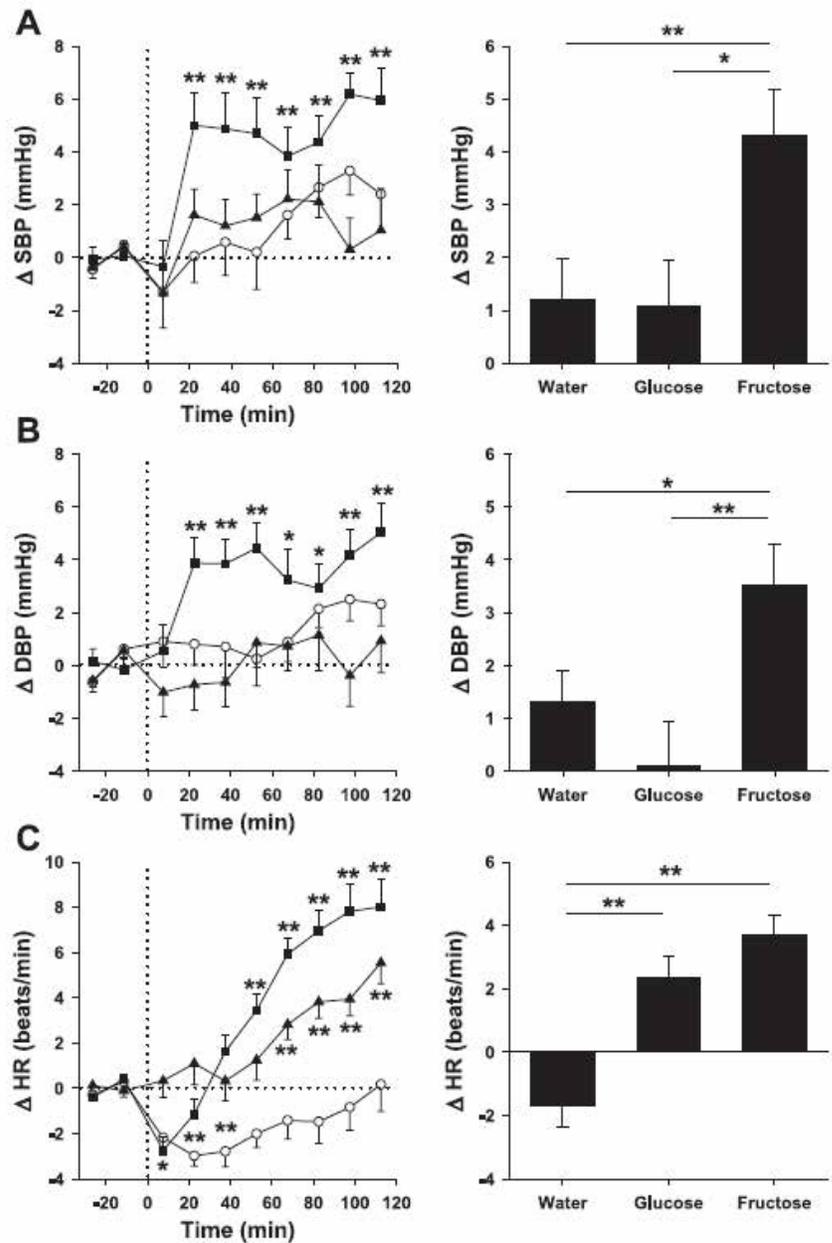


Fig. 1. Time course of the systolic blood pressure (SBP; A), diastolic blood pressure (DBP; B), and heart rate (HR; C) changes (left) and mean responses (right) to drinking water (○), glucose (▲), and fructose (■). \* $P < 0.05$  and \*\* $P < 0.01$ , statistically significant differences over time from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

<sup>65</sup> Brown, C.M., et al., *Fructose ingestion acutely elevates blood pressure in healthy young humans*, 294 AM. J. PHYSIOL. REGUL. INTEGR. COMPL. PHYSIOL. 730 (2008).

1 84. In another study, more than 40 overweight men and women were supplemented  
 2 for 10 weeks with either sucrose or artificial sweeteners. The sucrose group saw an increase  
 3 in systolic and diastolic blood pressure, of 3.8 and 4.1 mm Hg, respectively, while the  
 4 artificial sweetener group saw a decrease in systolic and diastolic blood pressure, of 3.1 and  
 5 1.2 mm Hg, respectively.<sup>66</sup>

6 85. Another study took a variety of approaches to measuring the association between  
 7 sugar intake and blood pressure, concluding that an increase of 1 serving of sugar-sweetened  
 8 beverages per day (*i.e.*, 140-150 calories, and 35-37.5 grams of sugar) was associated with  
 9 systolic/diastolic blood pressure differences of +1.6 and +0.8 mm Hg (and +1.1/+0.4 mm Hg  
 10 with adjustment for height and weight), while an increase of 2 servings results in  
 11 systolic/diastolic blood pressure differences of +3.4/+2.2, demonstrating that the relationship  
 12 is direct and linear.<sup>67</sup>

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

14 86. In a cohort study of 13,440 black and white adults 45 years and older, observed  
 15 for a mean of 6 years, each additional 12-oz serving per day of fruit juice was associated with  
 16 a 24% higher all-cause mortality risk. This was significantly higher than the increased risk  
 17 associated with *all* sugary beverages, including sugar-sweetened beverages like soda, which  
 18 was 11% for each additional 12-oz serving per day. The researchers from Emory University,  
 19 University of Alabama, and the Weill Cornell Medical College concluded their findings  
 20 “suggest that consumption of sugary beverages, including fruit juices, is associated with all-  
 21 cause mortality.”<sup>68</sup>

22  
 23 <sup>66</sup> Raben, *Sucrose vs. Artificial Sweeteners*, *supra* n.56.

24 <sup>67</sup> Brown, I.J., et al., *Sugar-Sweetened Beverage, Sugar Intake of Individuals, and Their Blood*  
 25 *Pressure: International Study of Macro/Micronutrients and Blood Pressure*, 57  
 26 HYPERTENSION 695 (2011).

27 <sup>68</sup> Collin, L.J., et al., *Association of Sugary Beverage Consumption With Mortality Risk in US*  
 28 *Adults: A Secondary Analysis of Data From the REGARDS Study*, 2(5) JAMA NETW. OPEN  
 193121 (May 2019).

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

87. The 2015-2020 Dietary Guidelines for Americans (DGA) warned parents to limit giving fruit juice to children, noting that “[t]he amounts of fruit juice allowed in the USDA Food Patterns for young children align with the recommendation from the American Academy of Pediatrics that young children consume no more than 4 to 6 fluid ounces of 100% fruit juice per day.”<sup>69</sup>

88. In September 2019, the American Academy of Pediatrics, the American Heart Association, the Academy of Nutrition and Dietetics and the American Academy of Pediatric Dentistry published a consensus statement on young children’s consumption of drinks, recommending no 100% fruit juice for ages 0-12 months, no more than 4 ounces per day for ages 1-3 years, and no more than 4 to 6 ounces per day for ages 4-5 years.<sup>70</sup>

89. Adopting many of the views from the American Academy of Pediatrics, the American Heart Association, the Academy of Nutrition and Dietetics, and the American Academy of Pediatric Dentistry’s 2019 consensus statement, the 2020-2025 DGA narrowed the 2015-2020 DGA’s recommended 4 to 6 fluid ounces range: “[i]f 100% fruit juice is provided, up to 4 ounces per day can fit in a healthy dietary pattern.”<sup>71</sup>

<sup>69</sup> U.S. Dep’t of Health & Human Servs. and U.S. Dept. of Agric., *Dietary Guidelines for Americans 2015–2020*, at 22 (8th ed.), available at [https://health.gov/sites/default/files/2019-09/2015-2020\\_Dietary\\_Guidelines.pdf](https://health.gov/sites/default/files/2019-09/2015-2020_Dietary_Guidelines.pdf).

<sup>70</sup> Lott, et al., *Consensus Statement. Healthy Beverage Consumption in Early Childhood: Recommendations from Key National Health and Nutrition Organizations*, HEALTHY EATING RESEARCH (Sept. 2019), <https://healthyeatingresearch.org/research/consensus-statement-healthy-beverage-consumption-in-early-childhood-recommendations-from-key-national-health-and-nutrition-organizations/>.

<sup>71</sup> U.S. Dep’t of Health & Human Servs. and U.S. Dept. of Agric., *Dietary Guidelines for Americans 2020–2025*, at 62, available at [https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary\\_Guidelines\\_for\\_Americans\\_2020-2025.pdf](https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf).

1 90. However, the 2020-2025 DGA clarified that “[a]lthough 100% fruit juice  
2 without added sugars can be part of a healthy dietary pattern, it is lower in dietary fiber than  
3 whole fruit,” and because “[d]ietary fiber is a dietary component of public health concern[,]”  
4 “fruit should mostly be consumed in whole forms.”<sup>72</sup> Specifically, “[a]t least half of the  
5 recommended amount of fruit should come from whole fruit, rather than 100% juice.”<sup>73</sup>

6 91. The World Health Organization (WHO) recommends for “both adults and  
7 children, the intake of free sugars should be reduced to less than 10% of total energy intake,”  
8 adding, “[a] reduction to less than 5% of total energy intake would provide additional health  
9 benefits”.<sup>74</sup>

10 92. It also recommends “limiting the consumption of foods and drinks containing  
11 high amounts of sugars . . . (i.e. all types of beverages containing free sugars – these include  
12 . . . fruit or vegetable juices and drinks . . .).”<sup>75</sup>

13 **III. COCA-COLA’S REPRESENTATIONS AND OMISSIONS ON THE JUICE**  
14 **BOXES ARE FALSE AND MISLEADING**

15 **A. Coca-Cola’s Health & Wellness Messages and Images on the Juice Boxes**  
16 **are Likely to Deceive Reasonable Consumers**

17 93. Defendant’s unqualified labeling representations that the Juice Boxes are “Good  
18 for You!” and “Part of a Healthy, Balanced Diet,” among other things, are false, or at least  
19 highly misleading because the scientific evidence demonstrates, that juice, like the Juice  
20 Boxes, increases risk of serious chronic diseases—such that authoritative bodies recommend  
21 avoiding or limiting its consumption.

22  
23  
24 <sup>72</sup> *Id.* at 88.

25 <sup>73</sup> *Id.* at 32.

26 <sup>74</sup> World Health Organization, *Healthy Diet* (April 2020), <https://www.who.int/news-room/fact-sheets/detail/healthy-diet>.

27  
28 <sup>75</sup> *Id.*

1 94. Not only is the challenged labeling false from a scientific perspective, it is  
2 especially likely to mislead consumers because (1) Coca-Cola preys on preexisting  
3 misconceptions that juice is healthy, (2) Coca-Cola and other sugar industry players have  
4 waged a longstanding disinformation campaign regarding the health effects of sugar leading  
5 to more consumer confusion, and (3) nothing on the labeling would dispel the express claims  
6 that the Juice Boxes are good for you and consumers would have to perform their own  
7 research to try to find the truth.

8 95. For decades Coca-Cola and juice marketers have perpetuated the idea that juice  
9 is healthy, and the challenged labeling exploits this misconception by deceptively claiming  
10 that the Juice Boxes are beneficial to health.

11 96. As one researcher explained, “beverages like fruit juice are marketed as a healthy  
12 and natural source of vitamins,” and “[b]ased on the marketing information, consumers may  
13 thus often assume that juice has health benefits and may be reluctant to associate fruit juice  
14 with other sugary beverages.”<sup>76</sup>

15 97. In addition to express statements that send the message that juice is healthy,  
16 using images of whole fruit also exploit consumers tendency to believe that juice has similar  
17 health attributes as whole fruit. In fact, in one survey of parents of young children, 1 in 3  
18 believed that juice was at least as healthy as fruit.<sup>77</sup>

19 98. In other words, by using wellness marketing “beverage manufacturers distract  
20 consumers from the health risks associated with some of the other common ingredients in  
21  
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23  
24

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25 <sup>76</sup> Sah, A., et al., *Visible sugar: Salient sugar information impacts health perception of fruit*  
26 *juices but only when motivated to be responsible and not when motivated to enjoy*, 164  
APPETITE 105262 (Apr. 2021).

27 <sup>77</sup> Ferris, H., et al., *People think juice is good for them. They’re wrong*, THE WASHINGTON  
28 POST (Apr. 26, 2017).

1 their beverages [such as] sugar . . . often delivered at levels that may have serious negative  
2 consequences.”<sup>78</sup>

3 99. Not surprisingly, when the Rudd Center for Food Policy and Obesity surveyed  
4 982 parents of children ages 2 to 17, asking “about the healthfulness of different drink  
5 categories for their child, [79 percent] of parents rated 100 % juice . . . as somewhat or very  
6 healthy.”<sup>79</sup>

7 100. When a marketer, like Coca-Cola, exploits this misperception it is hard to correct  
8 since, “[a]t first glance, it is reasonable to think that juice has health benefits. Whole fruit is  
9 healthy, and juice comes from fruit, so it must be healthy, too.” In other words, ordinary  
10 consumers would have no reason to question or scrutinize wellness statements on 100% juice  
11 products since such claims are likely to be congruent with “common knowledge.” But “[t]he  
12 truth is that fruit juice, even if it is freshly pressed, 100 percent juice, is little more than sugar  
13 water.”<sup>80</sup>

14 101. Another reason it is hard for consumers to shake the misperception that juice is  
15 “Good For You!” is that “Coca-Cola, like other sugar interests, also pours money into  
16 misinformation campaigns aimed at casting doubt on the growing body of scientific evidence  
17 showing that excessive sugar consumption is harmful to our health.”<sup>81</sup>

18 102. In fact, documents that became public during a lawsuit between rival industry  
19 groups show that “sugar interests have, in fact, intentionally and actively worked for more  
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21 <sup>78</sup> Crawford, P., et al., *Hiding Under a Health Halo: Examining the Data Behind Health*  
22 *Claims on Sugary Beverages*, CALIFORNIA CENTER FOR PUBLIC HEALTH ADVOCACY (Aug.  
23 2014).

24 <sup>79</sup> Harris et al., *Children’s Drink FACTS 2019: Sales, Nutrition, and Marketing of Children’s*  
25 *Drinks*, UNIVERSITY OF CONNECTICUT RUDD CENTER OF FOOD POLICY & OBESITY, at 7, 13  
(Oct. 2019).

26 <sup>80</sup> Ferris, *People think juice is good for them. They’re wrong*, *supra* n.80

27 <sup>81</sup> “*The Coke Side of Life*”—*More Sugar, Less Science*, Union of Concerned Scientists (Aug.  
28 14, 2015).

1 than 40 years to suppress the scientific evidence linking sugar consumption to negative health  
2 consequences.”<sup>82</sup>

3 103. As one article described it, “[i]nternal US sugar industry documents recently  
4 revealed the part that the industry conspiracy with scientists, and by lobbying public  
5 institutions, played in the 1960s and 1970s in determining that public health policy to reduce  
6 mortality from coronary heart disease should focus on saturated fats as the main cause of such  
7 disease whilst ignoring the impact of sugar consumption.”<sup>83</sup>

8 104. Documents that became public during the course of a lawsuit between rival sugar  
9 industry groups revealed that the sugar industry has engaged in “unscrupulous strategies  
10 reminiscent of the tobacco and fossil fuel industries, including manufacturing doubt about the  
11 science and engaging in deliberate and elaborate misinformation campaigns.”<sup>84</sup>

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

14 Tactic 1: Attacking the Science

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

18 Tactic 2: Spreading Misinformation

- 19 • Emphasizing unknowns while ignoring what is known

21 <sup>82</sup> Goldman, G., et al., *Industry Tactics to Obscure the Science: How Industry Obscures*  
22 *Science and Undermines Public Health Policy on Sugar*, Union of Concerned Scientists  
23 (2014). See also Kearns CE, et al., *Sugar Industry and Coronary Heart Disease Research: A*  
24 *Historical Analysis of Internal Industry Documents*, 176(11) JAMA INTERN MED. 1680  
(2016).

25 <sup>83</sup> Calvillo, A., *Public health sequestered for 50 years by sugar industry*, NCD ALLIANCE  
26 (Sept. 29, 2016), available at <https://ncdalliance.org/news-events/blog/new-blog-public-health-sequestered-for-50-years>.

27 <sup>84</sup> Goldman, *Industry Tactics to Obscure the Science: How Industry Obscures Science and*  
28 *Undermines Public Health Policy on Sugar*, *supra* n.82.

- 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’
- 12 positions

13 Tactic 5: Undermining policy

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

18 106. One of the main goals of such disinformation campaigns is to “manufacture  
19 doubt”<sup>85</sup> so that consumers do not know what to believe.

20 107. Survey evidence demonstrates this problem is prevalent regarding nutrition. For  
21 example, among the “Key Findings” of the 2018 Food & Health Survey from the International  
22 Food Information Council (IFIC), which surveyed approximately 1,000 American consumers  
23

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24 <sup>85</sup> See Goldberg, R.F. and Vandenberg L.N., *The science of spin: targeted strategies to*  
25 *manufacture doubt with detrimental effects on environmental and public health*, 20(1)  
26 ENVIRON. HEALTH 33 (Mar. 2021) (describing how “[n]umerous groups, such as the tobacco  
27 industry, have deliberately altered and misrepresented knowable facts and empirical evidence  
28 to promote an agenda, often for monetary benefit,” including the sugar industry”); Goldberg  
R.F. and Vandenberg L.N., *Distract, display, disrupt: examples of manufactured doubt from*  
*five industries*, 34(4) REV. ENVIRON. HEALTH 349 (2019).

1 to understand their perceptions, beliefs and behaviors around food and food purchasing  
 2 decisions, found that 80% of the surveyed consumers encountered contradictory information  
 3 about food and nutrition in their search for nutritious foods, making “consumer confusion . .  
 4 . a prevalent issue.”<sup>86</sup>

5 108. “And Coca-Cola has a history of pouring money into misinformation campaigns  
 6 aimed at casting doubt on [scientific evidence showing that too much sugar is bad for our  
 7 health]. One of the company’s tactics has been to fund its own scientific research through in-  
 8 house research institutes such as the ‘Beverage Institute for Health and Wellness’ established  
 9 in 2004.”<sup>87</sup>

10 109. But scientists have noted that “Coca-Cola’s Beverage Institute for Health and  
 11 Wellness features misleading content on its website. The site confuses the science around  
 12 sugar consumption and ill-health by focusing on the role of sugar-sweetened beverages in  
 13 ‘hydration’ and ‘energy balance’ while ignoring the negative impacts of sugar-sweetened  
 14 beverages, including their role in obesity and metabolic diseases.”<sup>88</sup>

15 110. More recently, “Coca-Cola quietly funded a research institute out of the  
 16 University of Colorado designed to persuade people to focus on exercise, not calorie intake,  
 17 for weight loss strategies.” Of course, “when the institute’s motives and funding stream were  
 18 exposed, Coca-Cola announced it would halt operations due to ‘resource limitations.’”<sup>89</sup>

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21 <sup>86</sup> *2018 Food & Health Survey*, International Food Information Council at 3, 5,  
<https://foodinsight.org/wp-content/uploads/2018/05/2018-FHS-Report-FINAL.pdf>.

22 <sup>87</sup> *How Coca-Cola Disguised Its Influence on Science about Sugar and Health*, Union of  
 23 Concerned Scientists (Oct 11, 2017), [https://www.ucsusa.org/resources/how-coca-cola-](https://www.ucsusa.org/resources/how-coca-cola-disguised-its-influence-science-about-sugar-and-health)  
 24 [disguised-its-influence-science-about-sugar-and-health](https://www.ucsusa.org/resources/how-coca-cola-disguised-its-influence-science-about-sugar-and-health).

25 <sup>88</sup> *The Coke Side of Life*—*More Sugar, Less Science*, Union of Concerned Scientists (Aug.  
 26 14, 2015), [https://blog.ucsusa.org/deborah-bailin/the-coke-side-of-life-more-sugar-less-](https://blog.ucsusa.org/deborah-bailin/the-coke-side-of-life-more-sugar-less-science-847/)  
 27 [science-847/](https://blog.ucsusa.org/deborah-bailin/the-coke-side-of-life-more-sugar-less-science-847/).

28 <sup>89</sup> *How Coca-Cola Disguised Its Influence on Science about Sugar and Health*, Union of  
 Concerned Scientists, *supra* n.87.

1 111. As we now know, sugar interests including Coca-Cola specifically, have secretly  
2 created an immense amount of disinformation making it hard for ordinary consumers to  
3 understand the harms of sugar such that simply knowing the amount of sugar is not sufficient  
4 for most consumers to understand the negative impact that sugar will have and thus assess  
5 the healthfulness of food and beverages.

6 112. Finally, nothing on the labeling dispels the expressly intended message that the  
7 Juice Boxes are “Good For You!” Looking at the nutrition facts, for example, would not  
8 necessarily lead consumers to believe that the Juice Boxes are not good for them since they  
9 would see there is no added sugar and therefore consider the sugar content to be less of an  
10 issue when, in fact, the free sugar in the Juice Boxes has the identical physiological effect as  
11 added sugar. Thus, to discover the truth, consumers would have to look beyond the label and  
12 perform their own research to try to find the truth, which Coca-Cola has made all the harder  
13 through its disinformation campaigns.

14 **B. Coca-Cola Deceptively Omits Material Information**

15 113. While representing that the Juice Boxes are healthy, Defendant regularly and  
16 intentionally omits material information regarding the detrimental effects of juice  
17 consumption on overall health.

18 114. Defendant is under a duty to disclose this information to consumers because it  
19 is revealing some information about the Juice Boxes—enough to suggest they are healthy—  
20 without revealing directly relevant information regarding the harmful effects of juice  
21 consumption described herein.

22 115. Defendant is further under a duty to disclose this information because its  
23 deceptive omissions concern bodily health, specifically the detrimental health consequences  
24 of regularly consuming the Juice Boxes.

25 116. Defendant is further under a duty to disclose this information because it was in  
26 a superior position to know of the dangers presented by juice consumption, as it is a large,  
27 sophisticated company that holds itself out as having expert knowledge regarding the health  
28 impact of consuming the sugar in the Juice Boxes.

1 117. Moreover, Defendant is under a duty to disclose this information because,  
2 including through the acts alleged herein, it actively concealed material facts not known to  
3 Plaintiffs and the Class concerning the detrimental effects of regularly consuming the Juice  
4 Boxes.

5 118. Rather than correct the misconception created by its labeling—that the Juice  
6 Boxes are healthy—Defendant continues to leverage consumer confusion to increase its  
7 profits, at the expense of consumers’ health.

#### 8 **IV. THE JUICE BOXES’ LABELING VIOLATES CALIFORNIA AND FEDERAL** 9 **LAW**

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

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

20 121. Second, despite making the challenged claims, Defendant “fail[ed] to reveal  
21 facts that are material in light of other representations made or suggested by the statement[s],  
22 word[s], design[s], device[s], or any combination thereof,” in violation of 21 C.F.R. §  
23 1.21(a)(1). Such facts include the detrimental health consequences of consuming the Juice  
24 Boxes at typical levels, including increased risk of metabolic disease, cardiovascular disease,  
25 type 2 diabetes, liver disease, obesity, high blood triglycerides and cholesterol, hypertension,  
26 and death.

27 122. Third, Defendant failed to reveal facts that were “[m]aterial with respect to the  
28 consequences which may result from use of the article under” both “[t]he conditions

1 prescribed in such labeling,” and “such conditions of use as are customary or usual,” in  
2 violation of § 1.21(a)(2). Namely, Defendant failed to disclose the increased risk of serious  
3 chronic disease that is likely to result from the usual consumption of the Juice Boxes in the  
4 customary and prescribed manners.

5 123. Forth, Coca-Cola fortifies the Juice Boxes in violation of the FDA’s fortification  
6 policy.

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

16 125. Coca-Cola fortifies the Juice Boxes with, for example, Vitamin C (Ascorbic  
17 Acid).

18 126. The first basis for fortification does not apply because there is no “dietary  
19 insufficiency recognized by the scientific community” relating to vitamin C. *See* 21 C.F.R. §  
20 104.20(b). Instead, the Scientific Report of the 2020 Dietary Guidelines Advisory Committee  
21 concluded that the underconsumption of vitamin C “do[es] not appear to pose a public health  
22 concern, given the present lack of adverse clinical and health outcome data . . . .”<sup>90</sup> The  
23  
24  
25

26 \_\_\_\_\_  
27 <sup>90</sup> Scientific Report of the 2020 Dietary Guidelines Advisory Committee, United States  
28 Department of Agriculture (July 2020), *available at*  
<https://www.dietaryguidelines.gov/2020-advisory-committee-report>.

1 Centers for Disease Control and Prevention has also reported that a vitamin C deficiency is  
2 “rare in the United States.”<sup>91</sup>

3 127. The second basis for fortification is not available to Coca-Cola because it would  
4 require “[a]ll nutrients . . . that are lost in a measurable amount [be] restored,” 21 C.F.R. §  
5 104.20(c), yet the Juice Boxes do not have all of their nutrients restored, for example, their  
6 fiber content has not been restored so that it is equal to that of whole fruit.

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

9 129. Finally, Coca-Cola cannot rely on the fourth basis for fortification—avoiding  
10 nutritional inferiority when replacing a traditional food, 21 C.F.R. § 104.20(e)—because its  
11 Juice Boxes’ fiber content remains inferior to that of whole fruit.

## 12 **V. PLAINTIFFS’ PURCHASE, RELIANCE, AND INJURY**

13 130. Plaintiff David Spittal Jr. has purchased the challenged Juice Boxes during the  
14 Class Period. As best he can recall, Plaintiff David Spittal Jr. purchased Juice Boxes in at  
15 least the Apple and Lemonade flavors for his children about twice a month. He believes his  
16 most recent purchase was approximately two years ago. He recalls making his purchases at  
17 local stores such as Vons, Albertsons, Ralphs, and Walmart in Oceanside or Carlsbad,  
18 California.

19 131. Plaintiff Rebecca Crampton purchased the challenged Juice Boxes for her  
20 children during the Class Period. As best she can recall, Ms. Crampton purchased the Juice  
21 Boxes most recently in fall of 2022. She purchased the Juice Boxes about once or twice per  
22 month. She recalls making her purchases at local stores including Vons located at 7544 Girard  
23 Avenue, San Diego, CA 92037, and the Target located at 5680 Balboa Avenue, San Diego,  
24 CA 92111.

25  
26  
27 <sup>91</sup> *See* Second National Report on Biochemical Indicators of Diet and Nutrition in the U.S.  
28 Population, The Centers for Disease Control and Prevention, Division of Laboratory Sciences  
at the National Center for Environmental Health (2012) at p.74.

1 132. Plaintiff Mete Karabas purchased Juice Boxes for his family during the Class  
2 Period. He believes his most recent purchase was in 2022 and that he most often purchased  
3 the Juice Boxes at local stores such as the Shop Rite in Brooklyn, New York.

4 133. When purchasing the Juice Boxes, Plaintiffs were exposed to, read, and relied  
5 upon Coca-Cola's labeling claims that were intended to appeal to consumers, like them, who  
6 are interested in health and nutrition. More, specifically, they relied upon the statements  
7 "Minute Maid Juice Boxes Are Good For You!" and "Enjoy Minute Maid Juice Boxes as  
8 Part of a Healthy, Balanced Diet," as well as the images of whole fruit.

9 134. Plaintiffs believed these claims and images regarding the healthfulness of the  
10 Juice Boxes, which were and are deceptive because they convey that consuming the Juice  
11 Boxes promotes good bodily health.

12 135. The health and wellness representations on the Juice Boxes' packaging,  
13 however, were misleading, and had the capacity, tendency, and likelihood to confuse or  
14 confound Plaintiffs and other consumers acting reasonably because, as described in detail  
15 herein, the Juice Boxes are not healthy and are of the type that increases risk of disease.

16 136. Plaintiffs are not nutritionists, food experts, or food scientists, but rather lay  
17 consumers who did not have the specialized knowledge that Coca-Cola had regarding the  
18 health effects of consuming the Juice Boxes. At the time of purchase, Plaintiffs were unaware  
19 that consuming juice, such as the Juice Boxes, is unhealthy and the extent to which consuming  
20 high amounts of free sugar in juices increases risk of metabolic disease, liver disease, heart  
21 disease, diabetes, and other morbidity, or what amount of sugar might have such an effect.

22 137. The average and reasonable consumer is unaware that consuming juice, such as  
23 the Juice Boxes, is unhealthy and the extent to which consuming high amounts of free sugar  
24 in juices increases risk of metabolic disease, liver disease, heart disease, diabetes, and other  
25 morbidity, or what amount of sugar might have such an effect.

26 138. Plaintiffs acted reasonably in relying on the challenged labeling claims, which  
27 Defendant intentionally placed on the Juice Boxes' labeling with the intent to induce average  
28 consumers into purchasing the Juice Boxes.

1 139. Plaintiffs would not have purchased the Juice Boxes if they knew that the  
2 labeling claims were false and misleading in that the products were not as healthy as  
3 represented.

4 140. The Juice Boxes cost more than similar products without misleading labeling,  
5 and would have cost less absent Defendant's false and misleading statements and omissions.

6 141. Through the misleading labeling claims and omissions, Defendant was able to  
7 gain a greater share of the juice market than it would have otherwise and also increased the  
8 size of the market.

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

12 143. Plaintiffs would not have purchased the Juice Boxes if they had known that the  
13 Products were misbranded pursuant to California and FDA regulations or that the challenged  
14 claims were false or misleading.

15 144. For these reasons, the Juice Boxes were worth less than what Plaintiffs and the  
16 Class paid for them.

17 145. Instead of receiving products that were actual healthy, the Juice Boxes that  
18 Plaintiffs and the Class received were of the type whose consumption is likely to lead to  
19 increased risk of disease when consumed regularly.

20 146. Plaintiffs and the Class lost money as a result of Defendant's deceptive claims,  
21 omissions, and practices in that they did not receive what they paid for when purchasing the  
22 Juice Boxes.

23 147. Plaintiffs continue to desire to purchase healthy beverages and continue to see  
24 the Juice Boxes at stores when they shop. They would purchase the Juice Boxes in the future  
25 if they were in fact healthy as represented, but unless Defendant is enjoined in the manner  
26 Plaintiffs request, they may not be able to reasonably determine whether the Juice Boxes have  
27 been reformulated to conform to the misleading claims, or whether Defendant has continued  
28 to misrepresent the Juice Boxes.

1 148. Plaintiffs would purchase the Juice Boxes if they could trust that the health and  
2 wellness claims were true and not false or misleading, but absent an injunction, Plaintiffs will  
3 be unable to trust the representations on the Juice Boxes when they encounter the Juice Boxes  
4 in the marketplace.

5 149. Plaintiffs’ substantive right to a marketplace free of fraud, where they are  
6 entitled to rely on representations such as those made by Defendant with confidence continues  
7 to be violated every time Plaintiffs are exposed to the misleading labeling claims.

8 150. Plaintiffs’ legal remedies are inadequate to prevent these future injuries.

9 **CLASS ACTION ALLEGATIONS**

10 151. While reserving the right to redefine or amend the class definition prior to or as  
11 part of a motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23,  
12 Plaintiffs seek to represent a class of all persons in the United States, and subclasses of all  
13 persons in California and New York, who, at any time from four years preceding the date of  
14 the filing of this Complaint to the time a class is notified (the “Class Period”), purchased, for  
15 personal or household use, and not for resale or distribution, any of the Juice Boxes (the  
16 “Class”).

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

20 153. Questions of law and fact common to Plaintiffs and the Class include:

21 a. whether Defendant communicated a message regarding healthfulness of  
22 the Juice Boxes through its packaging and advertising;

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

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

27 d. whether Defendant’s conduct violates public policy;  
28

- 1 e. whether Defendant's conduct violates state or federal food statutes or
- 2 regulations;
- 3 f. the proper amount of damages, including punitive damages;
- 4 g. the proper amount of restitution;
- 5 h. the proper scope of injunctive relief; and
- 6 i. the proper amount of attorneys' fees.

7 154. These common questions of law and fact predominate over questions that affect  
8 only individual Class Members.

9 155. Plaintiffs' claims are typical of Class Members' claims because they are based  
10 on the same underlying facts, events, and circumstances relating to Defendant's conduct.  
11 Specifically, all Class Members, including Plaintiffs, were subjected to the same misleading  
12 and deceptive conduct when they purchased the Juice Boxes and suffered economic injury  
13 because the Juice Boxes are misrepresented. Absent Defendant's business practice of  
14 deceptively and unlawfully labeling the Juice Boxes, Plaintiffs and Class Members would not  
15 have purchased the Juice Boxes.

16 156. Plaintiffs will fairly and adequately represent and protect the interests of the  
17 Class, have no interests incompatible with the interests of the Class, and have retained counsel  
18 competent and experienced in class action litigation, and specifically in litigation involving  
19 the false and misleading advertising of foods.

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

23 158. Defendant has acted on grounds applicable to the Class, thereby making  
24 appropriate final injunctive and declaratory relief concerning the Class as a whole.

25 159. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P.  
26 23(a), 23(b)(2), and 23(b)(3).

1 **CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

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

4 160. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
5 if set forth in full herein.

6 161. The UCL prohibits any “unlawful, unfair or fraudulent business act or practice.”  
7 Cal. Bus. & Prof. Code § 17200.

8 162. The acts, omissions, misrepresentations, practices, and non-disclosures of  
9 Defendant as alleged herein constitute business acts and practices.

10 **Fraudulent**

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

13 164. As set forth herein, Defendant’s claims relating to the Juice Boxes are likely to  
14 deceive reasonable consumers and the public.

15 **Unlawful**

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

- 18 • The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*;
- 19 • The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*;
- 20 • The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*;
- 21 • The Code of Federal Regulations, 21 C.F.R. § 1.21; *id.* §§ 101 *et seq.*; *id.* §§ 104  
22 *et seq.*; and
- 23 • The California Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety  
24 Code §§ 110100 *et seq.*

25 **Unfair**

26 166. Defendant’s conduct with respect to the labeling, advertising, and sale of the  
27 Juice Boxes was unfair because Defendant’s conduct was immoral, unethical, unscrupulous,  
28

1 or substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh  
2 the gravity of the harm to its victims.

3 167. Defendant's conduct with respect to the labeling, advertising, and sale of the  
4 Juice Boxes was and is also unfair because it violates public policy as declared by specific  
5 constitutional, statutory or regulatory provisions, including but not necessarily limited to the  
6 False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions  
7 of the California Sherman Food, Drug, and Cosmetic Law.

8 168. Defendant's conduct with respect to the labeling, advertising, and sale of the  
9 Juice Boxes was and is also unfair because the consumer injury was substantial, not  
10 outweighed by benefits to consumers or competition, and not one consumers themselves  
11 could reasonably have avoided. Specifically, the increase in profits obtained by Defendant  
12 through the misleading labeling does not outweigh the harm to Class Members who were  
13 deceived into purchasing the Juice Boxes believing they were healthy.

14 169. Defendant profited from the sale of the falsely, deceptively, and unlawfully  
15 advertised Juice Boxes to unwary consumers.

16 170. Plaintiffs and Class Members are likely to continue to be damaged by  
17 Defendant's deceptive trade practices because Defendant continues to disseminate misleading  
18 information. Thus, injunctive relief enjoining Defendant's deceptive practices is proper.

19 171. Defendant's conduct caused and continues to cause substantial injury to  
20 Plaintiffs and other Class Members. Plaintiffs have suffered injury in fact as a result of  
21 Defendant's unlawful conduct.

22 172. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining  
23 Defendant from continuing to conduct business through unlawful, unfair, and/or fraudulent  
24 acts and practices.

25 173. Plaintiffs and the Class also seek an order for the restitution of all monies from  
26 the sale of the Juice Boxes, which were unjustly acquired through acts of unlawful  
27 competition.

1 174. Because Plaintiffs’ claims under the “unfair” prong of the UCL sweep more  
2 broadly than their claims under the FAL, CLRA, or UCL’s “fraudulent” prong, Plaintiffs’  
3 legal remedies are inadequate to fully compensate Plaintiffs for all of Defendant’s challenged  
4 behavior.

5 **SECOND CAUSE OF ACTION**

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

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

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

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

17 178. As alleged herein, the advertisements, labeling, policies, acts, and practices of  
18 Defendant relating to the Juice Boxes misled consumers acting reasonably as to the  
19 healthfulness of the Products.

20 179. Plaintiffs suffered injury in fact as a result of Defendant’s actions as set forth  
21 herein because Plaintiffs purchased the Juice Boxes in reliance on Defendant’s false and  
22 misleading marketing claims stating or suggesting that the products, among other things, are  
23 healthy.

24 180. Defendant’s business practices as alleged herein constitute unfair, deceptive,  
25 untrue, and misleading advertising pursuant to the FAL because Defendant has advertised  
26 the Juice Boxes in a manner that is untrue and misleading, which Defendant knew or  
27 reasonably should have known, and omitted material information from the Juice Boxes’  
28 labeling.

1 181. Defendant profited from the sale of the falsely and deceptively advertised Juice  
2 Boxes to unwary consumers.

3 182. As a result, Plaintiffs, the Class, and the general public are entitled to injunctive  
4 and equitable relief, restitution, and an order for the disgorgement of the funds by which  
5 Defendant was unjustly enriched.

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

10 184. Because the Court has broad discretion to award restitution under the FAL and  
11 could, when assessing restitution under the FAL, apply a standard different than that applied  
12 to assessing damages under the CLRA or commercial code (for Plaintiffs' breach of warranty  
13 claims), and restitution is not limited to returning to Plaintiffs and Class Members monies in  
14 which they have an interest, but more broadly serves to deter the offender and others from  
15 future violations, the legal remedies available under the CLRA and commercial code are more  
16 limited than the equitable remedies available under the FAL, and are therefore inadequate.

17 **THIRD CAUSE OF ACTION**

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

19 185. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
20 if set forth in full herein.

21 186. The CLRA prohibits deceptive practices in connection with the conduct of a  
22 business that provides goods, property, or services primarily for personal, family, or  
23 household purposes.

24 187. Defendant's false and misleading labeling and other policies, acts, and practices  
25 were designed to, and did, induce the purchase and use of the Juice Boxes for personal,  
26 family, or household purposes by Plaintiffs and Class Members, and violated and continue to  
27 violate the following sections of the CLRA:  
28

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

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

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

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

9 188. Defendant profited from the sale of the falsely, deceptively, and unlawfully  
10 advertised Juice Boxes to unwary consumers.

11 189. Defendant's wrongful business practices constituted, and constitute, a  
12 continuing course of conduct in violation of the CLRA.

13 190. Pursuant to California Civil Code § 1782, more than 30 days before filing this  
14 lawsuit, Plaintiffs sent written notice of their claims and Defendant's particular violations of  
15 the Act to Defendant by certified mail, return receipt requested, but Defendant has failed to  
16 implement remedial measures.

17 191. As a result, Plaintiffs and the Class have suffered harm, and therefore seek (a)  
18 actual damages resulting from purchases of the Juice Boxes sold throughout the Class Period  
19 to all Class Members, (b) punitive damages, (c) injunctive relief, (d) restitution, and (e)  
20 attorneys' fees and costs. *See* Cal. Civ. Code § 1782(d).

21 192. In compliance with Cal. Civ. Code § 1780(d), Plaintiffs' affidavit of venue is  
22 filed concurrently herewith.

23 **FOURTH CAUSE OF ACTION**

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

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

27 194. Through the Juice Boxes' labeling, Defendant made affirmations of fact or  
28 promises, or description of goods, that, *inter alia*, the Juice Boxes are healthy.

1 195. These representations were “part of the basis of the bargain,” in that Plaintiffs  
2 and the Class purchased the Juice Boxes in reasonable reliance on those statements. Cal. Com.  
3 Code § 2313(1).

4 196. Defendant breached its express warranties by selling Juice Boxes that are not  
5 healthy, but rather are likely to increase the risk of chronic diseases.

6 197. That breach actually and proximately caused injury in the form of the lost  
7 purchase price that Plaintiffs and Class Members paid for the Juice Boxes.

8 198. As a result, Plaintiffs seek, on behalf of themselves and other Class Members,  
9 their actual damages arising as a result of Defendant’s breaches of express warranty,  
10 including, without limitation, expectation damages.

11 **FIFTH CAUSE OF ACTION**

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

13 199. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
14 if set forth in full herein.

15 200. Defendant, through its acts set forth herein, in the sale, marketing, and promotion  
16 of the Juice Boxes, made representations to Plaintiffs and the Class that, among other things,  
17 the Juice Boxes are healthy.

18 201. Defendant is a merchant with respect to the goods of this kind which were sold  
19 to Plaintiffs and the Class, and there was, in the sale to Plaintiffs and other consumers, an  
20 implied warranty that those goods were merchantable.

21 202. However, Defendant breached that implied warranty in that the Juice Boxes are  
22 not healthy, as set forth in detail herein.

23 203. As an actual and proximate result of Defendant’s conduct, Plaintiffs and the  
24 Class did not receive goods as impliedly warranted by Defendant to be merchantable in that  
25 they did not conform to promises and affirmations made on the container or label of the goods.

26 204. As a result, Plaintiffs seek actual damages, including, without limitation,  
27 expectation damages.

28

1 **SIXTH CAUSE OF ACTION**

2 **Negligent Misrepresentation**

3 205. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
4 if fully set forth herein.

5 206. As alleged above, Defendant misrepresented the healthfulness of its Products  
6 and omitted that consuming the Products increases the risk of metabolic disease,  
7 cardiovascular disease, type 2 diabetes, and liver disease, and is further associated with  
8 increased all-cause mortality. These misrepresentations and omissions constituted a material  
9 fact in that a consumer's decision to purchase the Products would be influenced by the  
10 healthfulness of the Products.

11 207. Defendant's misrepresentations and omissions were made in the course of  
12 business transactions (the marketing, advertisement, sale, and purchase of the Products) in  
13 which both Plaintiffs and Defendant have a pecuniary interest.

14 208. Defendant knew or should have known that these representations and omissions  
15 were false or misleading and it failed to exercise reasonable care in dissemination of its labels  
16 and in its marketing and advertising.

17 209. Defendant possesses superior knowledge regarding the detrimental health  
18 effects of consuming the Juice Boxes. Such knowledge is not readily available to consumers  
19 like Plaintiff and Class Members.

20 210. Defendant has a duty to provide consumers, like Plaintiffs and Class Members,  
21 not to provide them with false information when they were making their purchasing decisions  
22 regarding the Juice Boxes.

23 211. Defendant holds itself out as an expert in nutrition and health science.

24 212. Consumers lack nutritional science expertise that Defendant possesses, and  
25 therefore when Defendant makes representations as the healthfulness of its Products on its  
26 labels, consumers rely on it to provide truthful and complete information.

1           213. Defendant knew or should have known that Plaintiffs and other consumers rely  
2 on its labeling and health representations and its representations and omissions to induce  
3 consumers like Plaintiffs and Class Members into purchasing the Products.

4           214. Plaintiffs' injuries were proximately caused by Defendant's misrepresentations  
5 and omissions. Plaintiffs viewed Defendant's labels prior to purchasing the Products, and the  
6 representations and omissions prompted them to purchase the Products. Had Plaintiffs been  
7 aware of Defendant's misrepresentations and omissions, they would have been unwilling to  
8 purchase the Products, or to purchase them at the price that they paid.

9           215. Defendant's misrepresentations regarding the Products are material to a  
10 reasonable consumer because they relate to bodily health, and reasonable consumers would  
11 attach importance to such representations and omissions which would influence their  
12 purchasing decision.

13           216. In selling the Products, Defendant acted in the ordinary course of its business  
14 and had a pecuniary interest in Plaintiffs and Class Members purchasing the Products.

15           217. Defendant owed a duty of care to Plaintiffs, not to provide them false or  
16 incomplete information when they were making their purchase decisions regarding the  
17 Products.

18           218. Plaintiffs and Class Members have reasonably and justifiably relied on  
19 Defendant's misrepresentations when purchasing the Products, and had the correct facts been  
20 known, would not have purchased them or at least not at the prices at which they were offered.

21           219. Therefore, as a direct and proximate result of Defendant's negligent  
22 misrepresentations, Plaintiffs and Class Members have suffered economic losses and other  
23 general and specific damages, in the amount of the Products' purchase prices, or some portion  
24 thereof, and any interest that would have accrued on those monies, all in an amount to be  
25 proven at trial.

1 **SEVENTH CAUSE OF ACTION**

2 **Intentional Misrepresentation**

3 49. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
4 if set forth in full herein.

5 220. Defendant marketed the Products in a manner conveying to reasonable  
6 consumers that the Products are healthy. Therefore, Defendant has made misrepresentations  
7 about the healthfulness of the Products.

8 221. Defendant’s misrepresentations regarding the Products are material to a  
9 reasonable consumer because they relate to bodily health. A reasonable consumer would  
10 attach importance to such representations and would be induced to act thereon in making  
11 purchasing decisions.

12 222. At all relevant times, Defendant knew that the misrepresentations were  
13 misleading, or has acted recklessly in making the misrepresentations, without regard to their  
14 truth.

15 223. Defendant intended that Plaintiffs and other consumers rely on these  
16 misrepresentations on the Products’ packaging.

17 224. Plaintiffs and the Class have reasonably and justifiably relied on Defendant’s  
18 intentional misrepresentations when purchasing the Products; had the correct facts been  
19 known, they would not have purchased the Products, or at least not at the prices at which the  
20 Products were offered.

21 225. Therefore, as a direct and proximate result of Defendant’s intentional  
22 misrepresentations, Plaintiffs and Class Members have suffered economic losses and other  
23 general and specific damages, in the amount of the Products’ purchase prices, or some portion  
24 thereof, and any interest that would have accrued on those monies, all in an amount to be  
25 proven at trial.

1 **EIGHTH CAUSE OF ACTION**

2 **Unjust Enrichment**

3 226. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint as  
4 if fully set forth herein.

5 227. Plaintiffs and Class Members conferred upon Defendant an economic benefit, in  
6 the form of profits resulting from the purchase and sale of the Products.

7 228. Defendant’s financial benefits resulting from its unlawful and inequitable  
8 conduct are economically traceable to Plaintiffs’ and Class Members’ purchases of the  
9 Products, and the economic benefits conferred on Defendant are a direct and proximate result  
10 of its unlawful and inequitable conduct.

11 229. It would be inequitable, unconscionable, and unjust for Defendant to be  
12 permitted to retain these economic benefits because the benefits were procured as a direct and  
13 proximate result of its wrongful conduct.

14 230. As a result, Plaintiffs and Class Members are entitled to equitable relief  
15 including restitution and/or disgorgement of all revenues, earnings, profits, compensation and  
16 benefits which may have been obtained by Defendant as a result of such business practices.

17 **PRAYER FOR RELIEF**

18 231. Wherefore, Plaintiffs, on behalf of themselves, all others similarly situated, and  
19 the general public, pray for judgment against Defendant as to each and every cause of action,  
20 and the following remedies:

21 a. An Order declaring this action to be a proper class action, appointing  
22 Plaintiffs as Class Representatives, and appointing Plaintiffs’ undersigned counsel as  
23 Class Counsel;

24 b. An Order requiring Defendant to bear the cost of Class Notice;

25 c. An Order compelling Defendant to destroy all misleading and deceptive  
26 advertising materials and product labels, and to recall all offending Products;

27 d. An Order requiring Defendant to disgorge all monies, revenues, and  
28 profits obtained by means of any wrongful act or practice;

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

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

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

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

9 **JURY DEMAND**

10 232. Plaintiffs hereby demand a trial by jury on all issues so triable.

11  
12 Dated: February 6, 2023

/s/ Paul K. Joseph

13 **FITZGERALD JOSEPH LLP**

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20 San Diego, California 92110

21 Phone: (619) 215-1741

22 ***Counsel for Plaintiffs***

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS
DAVID SPITTAL JR., REBECCA CRAMPTON, and
METE KARABAS, on behalf of themselves and all others
(b) County of Residence of First Listed Plaintiff San Diego
(c) Attorneys (Firm Name, Address, and Telephone Number)
Fitzgerald Joseph LLP; 2341 Jefferson Street, Suite 200,
San Diego, California 92110; (619) 215-1741

DEFENDANTS
THE COCA-COLA COMPANY
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.
Attorneys (If Known)
'23CV0218 TWR AGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State [X] 1 [ ] 1
Citizen of Another State [ ] 2 [ ] 2
Citizen or Subject of a Foreign Country [ ] 3 [ ] 3
Incorporated or Principal Place of Business In This State [ ] 4 [ ] 4
Incorporated and Principal Place of Business In Another State [ ] 5 [X] 5
Foreign Nation [ ] 6 [ ] 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)
Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)
[X] 1 Original Proceeding
[ ] 2 Removed from State Court
[ ] 3 Remanded from Appellate Court
[ ] 4 Reinstated or Reopened
[ ] 5 Transferred from Another District (specify)
[ ] 6 Multidistrict Litigation - Transfer
[ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. s. 1332(d)(2) (the Class Action Fairness Act)
Brief description of cause:
False Advertising (Violation of California's UCL, FAL, CLRA); Breach of Warranties; Unjust Enrichment

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

VIII. RELATED CASE(S) IF ANY (See instructions):
JUDGE DOCKET NUMBER

DATE 02/06/2023 SIGNATURE OF ATTORNEY OF RECORD /s Paul K. Joseph

FOR OFFICE USE ONLY
RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

## Authority For Civil Cover Sheet

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

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

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

# Appendix A



**11% LEMON JUICE**

**Nutrition Facts**  
8 servings per container  
Serving Size 1 Drink Box (177 mL)

Amount Per Serving	% Daily Value
<b>Calories</b> 80	
Total Fat 0g	0%
Sodium 10mg	1%
Total Carbohydrate 22g	8%
Total Sugars 21g	
Includes 21g Added Sugars	42%
Protein 0g	
Calcium 100mg	8%
Vitamin C 70%	

INGREDIENTS: PURE FILTERED WATER, HIGH FRUCTOSE CORN SYRUP, LEMON JUICE FROM CONCENTRATE, LESS THAN 2% OF: NATURAL FLAVORS, CALCIUM CITRATE (CALCIUM SOURCE), VITAMIN C (ASCORBIC ACID), SUGAR.  
PRODUCED FOR THE COCA-COLA COMPANY  
ATLANTA, GA 30313 U.S.A.

SCAN HERE FOR MORE FOOD INFORMATION OR CALL 1-800-888-6488  
OUR QUALITY PROMISE ASSURES YOUR SATISFACTION. WE GUARANTEE IT.  
www.minutemaiddrink.com

smartlabel

PLASTIC WRAP PAPER INSERT COATED PAPER CARTON

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**PASTEURIZED**

0 25000 10152 6 101528  
2021-01121



**Minute Maid.**  
100% Natural Flavors and No Added Colors

**No Sugar Added.**  
\*Not a reduced calorie food. See nutrition facts for sugar and calorie content.

**Contains an Excellent Source of Vitamin C.**  
Vitamin C plays an important part in supporting the body's immune system and is also an antioxidant, which helps maintain healthy skin.

**Enjoy Minute Maid Juice Boxes as Part of a Healthy, Balanced Diet.**



**Minute Maid.**  
APPLE JUICE  
FROM CONCENTRATE WITH ADDED INGREDIENTS

**100% JUICE**  
NO SUGAR ADDED\*

6 FL OZ (177 mL) CALORIES PER BOX

**Nutrition Facts**

8 servings per container  
Serving Size 1 Juice Box

Amount Per Serving	% Daily Value
<b>Calories</b> 80	
Total Fat 0g	0%
Sodium 15mg	1%
Total Carbohydrate 21g	8%
Total Sugars 19g	
Includes 0g Added Sugars	0%
Protein 0g	
Calcium 100mg 8%	Potassium 350mg 8%
Vitamin C 70%	Magnesium 2%

Not a significant source of saturated fat, trans fat, cholesterol, dietary fiber, vitamin D and iron.

**CONSUMER INFORMATION**  
CALL 1-800-888-6488.  
SE HABLE ESPAÑOL.  
www.minutemaids.com  
©2019 THE COCA-COLA COMPANY.  
PASTEURIZED

**100% APPLE JUICE**

**INGREDIENTS:** PURE FILTERED WATER, CONCENTRATED APPLE JUICE, LESS THAN 0.5% OF: CALCIUM CITRATE (CALCIUM SOURCE), VITAMIN C (ASCORBIC ACID), POTASSIUM PHOSPHATE.

PRODUCED FOR THE COCA-COLA COMPANY  
ATLANTA, GA 30313 U.S.A.

CONTAINS APPLE JUICE CONCENTRATE FROM THE U.S.A., ARGENTINA, CHILE, CHINA, TURKEY, HUNGARY, AUSTRIA, POLAND AND ITALY.

OUR QUALITY PROMISE ASSURES YOUR SATISFACTION. WE GUARANTEE IT.



PLEASE RECYCLE



101488  
2018-01215







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

14 DAVID SPITTAL JR., REBECCA  
 15 CRAMPTON, and METE KARABAS, on  
 16 behalf of themselves, all others similarly  
 17 situated, and the general public,  
 18 Plaintiffs,  
 19 v.  
 20 THE COCA-COLA COMPANY,  
 Defendant.

**'23CV0218 TWR AGS**

**CONSUMERS LEGAL REMEDIES  
 ACT VENUE AFFIDAVIT [CAL. CIV.  
 CODE § 1780(d)]**

1 I, David Spittal Jr., declare as follows:

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

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

7  
8 I declare under penalty of perjury under the laws of the United States that the foregoing  
9 is true and correct to the best of my knowledge.

10  
11 Executed on 1/25/2023, in Oceanside, California  
12 (city)

13  
14 DocuSigned by:  
David Spittal Jr.  
15 EF42B1C8E0694D1...  
David Spittal Jr.