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

15 REBECCA LEE, on behalf of herself, all
 16 others similarly situated, and the general
 17 public,

18 Plaintiff,

19 v.

20 NATURE'S PATH FOODS, INC.,

21 Defendant.

Case No: '23CV0751 H MSB

CLASS ACTION

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

DEMAND FOR JURY TRIAL

1 Plaintiff Rebecca Lee, on behalf of herself, all others similarly situated, and the general
2 public, by and through her undersigned counsel, brings this action against Nature’s Path
3 Foods, Inc. (“Nature’s Path”), and alleges the following upon her own knowledge, or where
4 she lacks personal knowledge, upon information and belief, including the investigation of her
5 counsel.

6 **INTRODUCTION**

7 1. Nature’s Path sells granola cereals (the “Products”) whose packaging claims
8 their consumption comprises a “wholesome breakfast to nourish your day,” and will “put you
9 on a better path to a healthier lifestyle.” Those representations, however, are false and
10 misleading because the Products are high in added sugar, the excessive consumption of which
11 harms bodily health.

12 2. Scientific evidence demonstrates that consuming high levels of added sugar, like
13 that found in the Products, increases the risk of, *inter alia*, cardiovascular heart disease, type
14 2 diabetes, metabolic disease, and liver disease.

15 3. Because the Products are not healthy, Plaintiff brings this action on behalf of
16 herself, similarly-situated Class Members, and the general public, to enjoin Nature’s Path
17 from deceptively marketing the Products in this manner and to recover compensation for
18 injured Class Members.

19 **JURISDICTION & VENUE**

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

12. An image of the “Coconut Chia” flavor of the Products appears below.²



Fill your bowl with Coconut Chia Granola for a wholesome organic breakfast to nourish your day. With deliciously crunchy clusters of organic oats, nutrient-dense coconut and fiber-rich chia seeds, it'll put you on a better path to a healthier lifestyle.

13. Food companies with marketing departments, like Nature's Path, know that nutrition science is complex and that most consumers resort to making inferences to fill in

² During the relevant time period, the Products were sold in at least five flavors: Pumpkin Seed + Flax, Vanilla Almond + Flax, Peanut Butter, Coconut Chia, and Hemp Hearts. They have also been sold in at least the following sizes: 350g, 750g, and 1000g. This Complaint, however, should be read to include any additional sizes and flavors not yet identified. See Appendix 1 (providing exemplars of labeling).

1 the gaps in their knowledge. Nature’s Path also knows that the inferences consumers make
2 will be consistent with the statements and images that are presented on a label.³

3 14. Nature’s Path conveys this health message through the use of the words
4 “wholesome,” “nourish,” and “healthier” in the challenged phrases.

5 15. In several cases, Nature’s Path further bolsters the “healthy” message by
6 highlighting the more healthful ingredients in the Products, while ignoring or downplaying
7 their added sugars. These statements include, for the various flavors:

Flavor	Bolstering Phrases
Coconut Chia	<ul style="list-style-type: none"> • “Fiber-rich coconut flakes” • “nutrient-dense coconut and fiber-rich chia seeds”
Pumpkin Seed + Flax	<ul style="list-style-type: none"> • “ALA Omega-3-rich flax seeds” • “Pumpkin seeds for added . . . nutrition” • “a sprinkle of . . . sweetness”
Vanilla Almond + Flax	<ul style="list-style-type: none"> • “ALA Omega-3-rich flax seeds” • “nutrient-dense almonds and flax seeds”
Hemp Hearts	<ul style="list-style-type: none"> • “ALA Omega-3-rich flax seeds” • “Fiber-dense hemp hearts” • “nutrient-dense hemp and flax seeds” • “a touch of sweetness”

16. This health and wellness messaging for the Products is false and misleading
because the Products’ added sugar, between 7g and 9g per serving, contributes between 10%
to 14% of their calories.

17. Moreover, people tend to overeat granola. A Consumer Reports’ food testing
team asked 124 consumers to pour their “typical” amounts of a low-density cereal (Cheerios),

³ See, e.g., Chandon, Pierre, “How Package Design and Packaged-based Marketing Claims Lead to Overeating,” *Applied Economic Perspective and Policy*, Vol. 35 (2012).

1 medium-density cereal (Quaker Oatmeal Squares), and high-density granola (Quaker Simply
2 Oats, Honey, Raisins & Almonds), ninety-two percent of participants poured more than the
3 recommended serving size of all the cereal types.⁴ “The denser the cereal, the more the
4 participants exceeded the serving size. For granola, the average ‘overpour’ was 282 percent.
5 A serving that big means consuming two to four times the calories, fat and sugars listed on
6 the Nutrition Facts label.”⁵

7 18. Contrary to Nature’s Path’s health and wellness messaging for the Products, the
8 scientific evidence demonstrates that consuming that amount of added sugar is decidedly *not*
9 healthy.

10 **II. CONSUMING ADDED SUGAR IS DETRIMENTAL TO HEALTH**

11 **A. Added Sugar Consumption Increases Risk of Cardiovascular Heart** 12 **Disease and Mortality**

13 19. Cardiovascular diseases affect nearly half of American adults.⁶

14 20. Cardiovascular Heart Disease (CHD) is the leading cause of death for men,
15 women, and people of most racial and ethnic groups in the United States.⁷ Approximately 20
16 million adults in the United States age 20 and older have coronary artery disease (CAD),
17
18
19
20

21 ⁴ Wadyka, Sally, “Is Granola Good for You?” *Consumer Reports* (Feb. 22, 2019), *available*
22 *at* <https://www.consumerreports.org/granola/is-granola-good-for-you>.

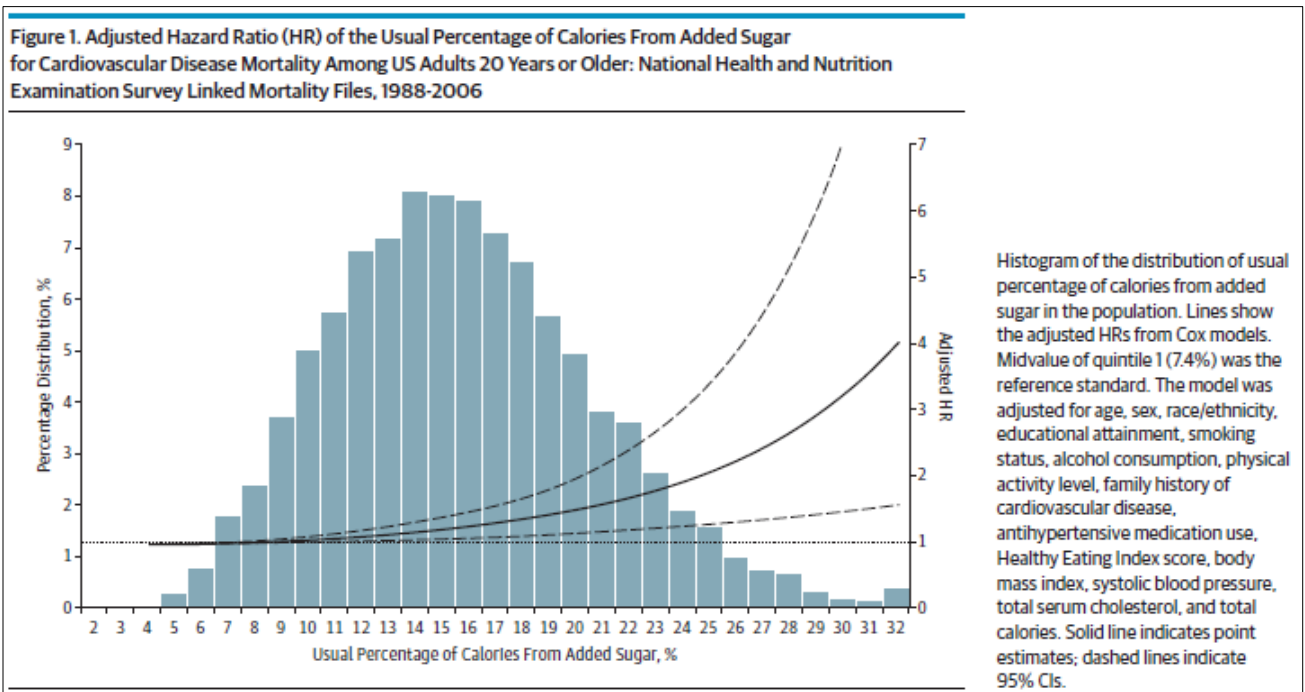
23 ⁵ *Id.*

24 ⁶ American Heart Association News, “Cardiovascular diseases affect nearly half of American
25 adults, statistics show” (Jan. 31, 2019), *available at*
26 <https://www.heart.org/en/news/2019/01/31/cardiovascular-diseases-affect-nearly-half-of-american-adults-statistics-show>.

27 ⁷ Centers for Disease Controls and Prevention, “Heart Disease Facts,” (last view February 3,
28 2023) (*available online at* <https://www.cdc.gov/heartdisease/facts.htm>).

1 which is the most common type of CHD.⁸ In 2020, CAD killed more than 380,000 people.⁹
 2 Every year, more than 800,000 people in the United States have a heart attack.¹⁰

3 21. Data obtained from National Health and Nutrition Examination surveys
 4 (NHANES) demonstrate that adults who consumed 10% - 24.9% of their calories from added
 5 sugar had a 30% greater risk of cardiovascular disease (CVD) mortality than those who
 6 consumed 5% or less of their calories from added sugar. In addition, those who consumed
 7 25% or more of their calories from added sugar had an average 275% greater risk of CVD
 8 mortality than those who consumed less than 5% of calories from added sugar. Thus, “[t]he
 9 risk of CVD mortality increased exponentially with increasing usual percentage of calories
 10 from added sugar[.]”¹¹



24 ⁸ *Id.*

25 ⁹ *Id.*

26 ¹⁰ *Id.*

27 ¹¹ Yang, Quanhe, et al., “Added Sugar Intake and Cardiovascular Diseases Mortality Among
 28 US Adults,” *JAMA*, at E4-5 (pub. online, Feb. 3, 2014).

1 22. In a study of preschool children published in January 2020, researchers found
2 that higher consumption of added sugar was significantly associated with elevated CMR
3 (cardiometabolic risk) scores. The researchers stated that their “findings support
4 recommendations to limit overall intake of SCB in early childhood, in [an] effort to reduce
5 the potential long-term burden of CMR.”¹²

6 23. In another prospective cohort study, consumption of added sugar was
7 significantly shown to increase risk of CHD, as well as adverse changes in some blood lipids,
8 inflammatory factors, and leptin.¹³

9 24. Added sugar consumption is also associated with several CHD risk factors, for
10 example, dyslipidemia,¹⁴ obesity,¹⁵ and increased blood pressure.¹⁶

13
14 ¹² Eny, KM, et al., “Sugar-containing beverage consumption and cardiometabolic risk in
preschool children.” *Prev. Med. Reports* 17 (Jan. 14, 2020).

15 ¹³ Koning, L.D., et al., “Sweetened Beverage Consumption, Incident Coronary Heart
16 Disease, and Biomarkers of Risk in Men.” *Circulation*, Vol. 125, pp. 1735-41 (2012).

17 ¹⁴ Elliott S.S., et al., “Fructose, weight gain, and the insulin resistance syndrome.” *Am. J.*
18 *Clin. Nutr.*, Vol. 76, No. 5, pp. 911-22 (2002).

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

27 ¹⁶ Hoare, E., et al., “Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review
28 on Cardiometabolic Risk.” *Nutrients*, Vol. 9, No. 10 (2017).

1 **B. Added Sugar Consumption Results in Increased Risk of Type 2 Diabetes**

2 25. Diabetes affects 37.3 million Americans (approximately 1 in 10); 96 million
3 American adults (more than 1 in 3) have prediabetes.¹⁷ It can cause kidney failure, lower-
4 limb amputation, and blindness. In addition, diabetes doubles the risk of colon and pancreatic
5 cancers and is strongly associated with coronary artery disease and Alzheimer’s disease.¹⁸

6 26. Globally, countries where sugar consumption is highest have the highest rates
7 of type 2 diabetes, while those with the lowest consumption have the lowest rates.¹⁹ An
8 econometric analysis of repeated cross-sectional data published in 2013, for example,
9 established a causal relationship between sugar availability and type 2 diabetes. After
10 adjusting for a wide range of confounding factors, researchers found that an increase of 150
11 calories per day related to an insignificant 0.1% rise in diabetes prevalence by country, while
12 an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes prevalence by
13 country, a statistically significant 11-fold difference.²⁰

14 27. An analysis of data for more than 50,000 women from the Nurses’ Health
15 Study,²¹ during two 4-year periods (1991-1995 and 1995-1999), showed, after adjusting for
16

17 ¹⁷ See <https://www.cdc.gov/diabetes/library/spotlights/diabetes-facts-stats.html>.

18 ¹⁸ Aranceta Bartrina, J. et al., “Association between sucrose intake and cancer: a review of
19 the evidence,” *Nutrición Hospitalaria*, Vol. 28 (Suppl. 4), 95-105 (2013); Garcia-Jimenez,
20 C., “A new link between diabetes and cancer: enhanced WNT/beta-catenin signaling by high
21 glucose,” *Journal of Molecular Endocrinology*, Vol. 52, No. 1 (2014); Linden, G.J., “All-
22 cause mortality and periodontitis in 60-70-year-old men: a prospective cohort study,” *J. Clin.*
Periodontal, Vol. 39, No. 1, 940-46 (Oct. 2012).

23 ¹⁹ Weeratunga, et al., “Per capita sugar consumption and prevalence of diabetes mellitus--
24 global and regional associations,” *BMC Public Health*, 2014 (February 20, 2014).

25 ²⁰ Basu, S., et al., “The Relationship of Sugar to Population-Level Diabetes Prevalence: An
26 Econometric Analysis of Repeated Cross-Sectional Data,” *PLOS Online*, Vol. 8, Issue 2
(Feb. 27, 2013).

27 ²¹ The Nurses’ Health Study was established at Harvard in 1976, and the Nurses’ Health
28 Study II, in 1989. Both are long-term epidemiological studies conducted on women’s health.

1 confounding factors, that women who consumed 1 or more sugar-sweetened soft drink per
 2 day—equivalent to 140-150 calories and 35-37.5 grams of added sugar—had an 83% greater
 3 relative risk of type 2 diabetes compared with those who consumed less than 1 such beverage
 4 per month.²²

5 28. The link between sugar intake and diabetes still holds even after controlling for
 6 total calorie intake, body weight, alcohol consumption and exercise.²³

7 29. Most convincingly, an econometric analysis of repeated cross-sectional data
 8 published in 2013 established a causal relationship between sugar availability and type 2
 9 diabetes. After adjusting for a wide range of confounding factors, researchers found that an
 10 increase of 150 calories per day related to an insignificant 0.1% rise in diabetes prevalence
 11 by country, while an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes
 12 prevalence by country, a statically-significant 11-fold difference.²⁴

13 C. Added Sugar Consumption Increases Risk of Metabolic Disease

14 30. Metabolic syndrome is a group of conditions that together raise the risk of type
 15 2 diabetes, cardiovascular disease, obesity, polycystic ovary syndrome, nonalcoholic fatty
 16 liver disease, and chronic kidney disease, and is defined as the presence of any three of the
 17 following:

- 18 a. Large waist size (35” or more for women, 40” or more for men);

19
 20 The study followed 121,700 female registered nurses since 1976, and 116,000 female nurses
 21 since 1989, to assess risk factors for cancer, diabetes, and cardiovascular disease. The
 22 Nurses’ Health Studies are among the largest investigations into risk factors for major
 23 chronic disease in women ever conducted. *See generally* “The Nurses’ Health Study,” at
<http://www.channing.harvard.edu/nhs>.

24 ²² Schulze, M.B., et al., “Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type
 25 2 Diabetes in Young and Middle-Aged Women,” *JAMA*, Vol. 292, No. 8, 927-34 (Aug. 25,
 2004) [hereinafter “Schulze, Diabetes in Young & Middle-Aged Women”].

26 ²³ Basu, S., et al., “The Relationship of Sugar to Population-Level Diabetes Prevalence: An
 27 Econometric Analysis of Repeated Cross-Sectional Data,” *supra*, n. 23.

28 ²⁴ *Id.*

- 1 b. High triglycerides (150mg/dL or higher, or use of cholesterol
- 2 medication);
- 3 c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40
- 4 mg for men;
- 5 d. High blood pressure (135/85 mm or higher); or
- 6 e. High blood sugar (100mg/dL or higher).

7 31. More generally, “metabolic abnormalities that are typical of the so-called
8 metabolic syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high
9 concentrations of circulating triacylglycerols, low concentrations of HDLs, and high
10 concentrations of small, dense LDLs.”²⁵

11 32. About 1 in 3 adults in the United States have metabolic syndrome, placing them
12 at higher risk for chronic disease.²⁶

13 33. Defining “metabolic health” as having optimal levels of waist circumference
14 (WC <102/88 cm for men/women), glucose (fasting glucose <100 mg/dL and hemoglobin
15 A1c <5.7%), blood pressure (systolic <120 and diastolic <80 mmHg), triglycerides
16 (<150 mg/dL), and high-density lipoprotein cholesterol (\geq 40/50 mg/dL for men/women), and
17 not taking any related medication, data from the NHANES Survey 2009–2016 showed
18 prevalence of “metabolic health” in American adults is alarmingly low, even in normal weight
19 individuals.²⁷

20 34. Excess consumption of added sugar leads to metabolic syndrome by stressing
21 and damaging crucial organs, including the pancreas and liver. When the pancreas, which
22 produces insulin, becomes overworked, it can fail to regulate blood sugar properly. Large

24 ²⁵ Fried, S.K., “Sugars, hypertriglyceridemia, and cardiovascular disease,” *Am. J. Clin. Nutr.*,
Vol. 78 (suppl.), 873S-80S, at 873S (2003) [hereinafter, “Fried, Hypertriglyceridemia”].

25 ²⁶ See <https://www.nhlbi.nih.gov/health/metabolic-syndrome> (last updated May 18, 2022).

26 ²⁷ Araujo et al., “Prevalence of Optimal Metabolic Health in American Adults: National
27 Health and Nutrition Examination Survey 2009-2016,” *Metabolic Syndrome Related
28 Disorders* (2019).

1 doses of added sugar can overwhelm the liver, which metabolizes the fructose in the sugar.
2 In the process, the liver will convert excess fructose to fat, which is stored in the liver and
3 released into the bloodstream. This process contributes to key elements of metabolic
4 syndrome, including high blood fats and triglycerides, high cholesterol, high blood pressure,
5 and extra body fat, especially in the belly.²⁸

6 35. In 2016, researchers conducted a study to determine whether the detrimental
7 effects of dietary sugar were due to extremely high dosing, excess calories, or because of its
8 effects on weight gain, rather than caused by sugar consumption directly.²⁹ In other words,
9 the researchers dissociated the metabolic effects of dietary sugar from its calories and effects
10 on weight gain.

11 36. Because the researchers did not want to *give* subjects sugar to see if they got
12 sick, they instead took sugar away from people who were already sick to see if they got well.
13 But if subjects lost weight, critics would argue that the drop in calories or weight loss was the
14 reason for the clinical improvement. Therefore, the researchers designed the study to be
15 isocaloric, by giving back to subjects the same number of calories in starch that were taken
16 away in sugar. The study involved 43 children, ages 8 to 19, each obese with at least one
17 other co-morbidity demonstrating metabolic problems. All were high consumers of added
18 sugar in their diets.³⁰

19 37. To perform the study, researchers assessed subjects' home diets by two
20 questionnaires to determine how many calories, and how much fat, protein, and carbohydrate
21 they were eating. Subjects were then tested at a hospital based on their home diets. Then, for
22

23 ²⁸ Te Morenga, L., et al., "Dietary sugars and body weight: systematic review and meta-
24 analyses of randomized controlled trials and cohort studies," *BJM* (January 2013)
[hereinafter, "Te Morenga, Dietary Sugars & Body Weight"].

25 ²⁹ Robert H. Lustig, et al., "Isocaloric Fructose Restriction and Metabolic Improvement in
26 Children with Obesity and Metabolic Syndrome," *Pediatric Obesity*, Vol. 24, No. 2, 453-60
27 (Feb. 2016).

28 ³⁰ *See id.* at 453-54.

1 the next 9 days, researchers catered the subjects' meals. The macronutrient percentages of
2 fat, protein, and carbohydrate were not changed. Subjects were fed them the same calories
3 and percent of each macronutrient as their home diet; but within the carbohydrate fraction,
4 researchers took the added sugar out, and substituted starch. For example, researchers took
5 pastries out, and put bagels in; took yogurt out, and put baked potato chips in; took chicken
6 teriyaki out, and put turkey hot dogs in (although subjects were still given whole fruit).
7 Researchers reduced subjects' dietary sugar consumption from 28% to 10% of calories.
8 Researchers also gave subjects a scale to take home, and each day they would weigh
9 themselves. If they were losing weight, they were instructed to eat more. The goal was for
10 subjects to remain weight-stable over the 10 days of study. On the final day, subjects came
11 back to the hospital for testing on their experimental low-added sugar diet. The study team
12 analyzed the pre- and post-data in a blinded fashion so as not to introduce bias.³¹

13 38. Researchers analyzed three types of data. First, diastolic blood pressure
14 decreased by 5 points. Second, baseline blood levels of analytes associated with metabolic
15 disease, such as lipids, liver function tests, and lactate (a measure of metabolic performance)
16 all improved significantly. Third, fasting glucose decreased by 5 points. Glucose tolerance
17 improved markedly, and fasting insulin levels fell by 50%. Each of these results was highly-
18 statistically-significant.³²

19 39. In sum, the study indicated that subjects improved their metabolic status in just
20 10 days, even while eating processed food, by just removing added sugar and substituting
21 starch. The metabolic improvement, moreover, was unrelated to changes in weight or body
22 fat.

23 **D. Added Sugar Consumption Results in Increased Risk of Liver Disease**

24 40. Added sugar consumption causes serious liver disease, including non-alcoholic
25 fatty liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of
26

27 ³¹ See *id.* at 454-55.

28 ³² See *id.* at 455-56.

1 these cases develop into non-alcoholic steatohepatitis (NASH), scarring as the liver tries to
2 heal its injuries, which gradually cuts off vital blood flow to the liver. About 25% of NASH
3 patients progress to non-alcoholic liver cirrhosis, which requires a liver transplant or can lead
4 to death.³³

5 41. Since 1980, the incidence of NAFLD and NASH has doubled, along with the
6 rise of fructose consumption, with approximately 6 million Americans estimated to have
7 progressed to NASH and 600,000 to Nash-related cirrhosis. Most people with NASH also
8 have type 2 diabetes. NASH is now the third-leading reason for liver transplant in America.³⁴

9 42. Moreover, because the liver metabolizes sugar virtually identically to alcohol,
10 the U.S. is now seeing for the first time alcohol-related diseases in children. Conservative
11 estimates are that 31% of American adults, and 13% of American children suffer from
12 NAFLD.³⁵

13 **E. Authoritative Bodies Recommend, for Good Health, Excluding or**
14 **Minimizing Added Sugar Consumption**

15 43. The 2020-2025 Dietary Guidelines for Americans (“2020 DGAs”) state that a
16 healthy dietary pattern limits added sugars to less than 10 percent of daily calories, adding
17

18 ³³ Farrell, G.C., et al., “Nonalcoholic fatty liver disease: from steatosis to cirrhosis,”
19 *Hepatology*, Vol. 433, No. 2 (Suppl. 1), S99-S112 (February 2006); Powell, E.E., et al., “The
20 Natural History of Nonalcoholic Steatohepatitis: A Follow-up Study of Forty-two Patients
21 for Up to 21 Years,” *Hepatology*, Vol. 11, No. 1 (1990).

22 ³⁴ Charlton, M.R., et al., “Frequency and outcomes of liver transplantation for nonalcoholic
23 steatohepatitis in the United States,” *Gastroenterology*, Vol. 141, No. 4, 1249-53 (Oct.
24 2011).

25 ³⁵ Lindback, S.M., et al., “Pediatric Nonalcoholic Fatty Liver Disease: A Comprehensive
26 Review,” *Advances Pediatrics*, Vol. 57, No. 1, 85-140 (2010); Lazo, M. et al., “The
27 Epidemiology of Nonalcoholic Fatty Liver Disease: A Global Perspective,” *Seminars Liver
28 Dis.*, Vol. 28, No. 4, 339-50 (2008); Schwimmer, J.B., et al., “Prevalence of Fatty Liver in
Children and Adolescents,” *Pediatrics*, Vol. 118, No. 4, 1388-93 (2006); Browning, J.D., et
al., “Prevalence of hepatic steatosis in an urban population in the United States: Impact of
ethnicity,” *Hepatology*, Vol. 40, No. 6, 1387-95 (2004).

1 that “[w]hen added sugars in foods and beverages exceed 10 percent of calories, a healthy
2 dietary pattern within calories limits is very difficult to achieve.”³⁶

3 44. The Scientific Report of the 2020 Dietary Guidelines Advisory Committee was
4 even stricter than what the USDA and HHS ultimately adopted, “suggest[ing] that less than
5 6 percent of energy from added sugars is more consistent with a dietary pattern that is
6 nutritionally adequate . . . than is a pattern with less than 10 percent energy from added
7 sugars.”³⁷

8 45. The World Health Organization (WHO) recommends that no more than 10% of
9 an adult’s calories, and ideally less than 5%, come from free or added sugar.³⁸

10 46. The American Heart Association recommends restricting added sugar to 5% of
11 calories.³⁹ Based on the average caloric needs, this equates to 12 grams daily for children 4
12 to 8 years old, up to 25 grams for older children and women, and 38 grams for men. Thus, a
13 single serving of the Nature’s Path Granola, depending on the flavor (7g to 9g added sugar),
14 contains 58-75% of the daily limit for children 4 to 8 years old, 28-36% of the daily limit for
15 older children and adult women, and 18-23% of the daily limit for adult men.

18
19 ³⁶ U.S. Dep’t of Health & Human Servs. and U.S. Dept. of Agric., “Dietary Guidelines for
20 Americans 2020 –2025,” at 41 (8th ed.), *available at*
21 [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) [hereinafter “2020 DGA”].

22 ³⁷ U.S. Department of Agriculture, “Scientific Report of the 2020 Dietary Guidelines
23 Advisory Committee” (2020), Part A, p. 11.

24 ³⁸ World Health Organization, “Healthy Diet,” *available at* [https://www.who.int/news-
room/fact-sheets/detail/healthy-diet](https://www.who.int/news-room/fact-sheets/detail/healthy-diet).

25 ³⁹ Johnson, R.K., et al., on behalf of the American Heart Association Nutrition Committee
26 of the Council on Nutrition, Physical Activity, and Metabolism and Council on
27 Epidemiology and Prevention, “Dietary Sugars Intake and Cardiovascular Health: A
28 Scientific Statement From the American Heart Association,” *Circulation*, Vol. 120, 1011-
20, at 1016-17 (2009).

1 47. The Centers for Disease Control and Prevention warns that “[t]oo much sugar in
2 your diet can lead to health problems such as weight gain and obesity, type 2 diabetes, and
3 heart disease.”⁴⁰

4 48. The Harvard School of Public Health points out that “the Healthy Eating Plate
5 does not include foods with added sugars.”⁴¹

6 **III. THE PRODUCTS’ HEALTH AND WELLNESS REPRESENTATIONS AND**
7 **OMISSIONS ARE LIKELY TO MISLEAD REASONABLE CONSUMERS**

8 **A. Defendant’s Health and Wellness Claims Leverage Consumer Confusion**
9 **Regarding the Healthfulness of Granola**

10 49. Even though granola is usually considered a healthy breakfast cereal, “its
11 nutritional profile varies widely depending on the specific ingredients used.”⁴² Accordingly,
12 “the contribution of your bowl of granola to delivering [] nutritional and other health benefits
13 will be dependent on the type and amounts of ingredients used.”⁴³

14 50. In the words of Dariush Mozaffarian, dean of the Tufts Friedman School of
15 Nutrition Science and Policy, “[o]nce you get beyond ‘eat your veggies, avoid soda,’ the
16 public is pretty confused about how to identify healthier choices in the grocery store,
17 cafeteria, and restaurant.”⁴⁴

18 _____
19 ⁴⁰ Centers for Disease Control and Prevention, Know Your Limit for Added Sugars,
20 https://www.cdc.gov/healthyweight/healthy_eating/sugar.html.

21 ⁴¹ Harvard T.H. Chan School of Public Health, “Added Sugar,” The Nutrition Source (2022),
22 *available at* <https://www.hsph.harvard.edu/nutritionsource/carbohydrates/added-sugar-in-the-diet>.

23 ⁴² Mandl, Elise, “Is Granola Healthy? Benefits and Downsides,” *Healthline* (Sept. 25, 2019)
24 *available at* <https://www.healthline.com/nutrition/is-granola-healthy>.

25 ⁴³ Shubrook, Nicola, “Is granola healthy?” *BBC* (March 2, 2022) *available at*
26 <https://www.bbcgoodfood.com/howto/guide/granola-healthy>.

27 ⁴⁴ Collins and LaPoint, “Ranking Healthfulness of Foods from First to Worst,” *Tufts Now*
28 (Oct. 14, 2021) *available at* <https://now.tufts.edu/2021/10/14/ranking-healthfulness-foods-first-worst>.

1 51. Nature’s Path’s health and wellness representations for the Products challenged
2 herein work in part because they leverage a misconception most consumers have that all
3 granola is healthy.

4 52. In a 2016 survey of 2,000 Americans and 672 professional nutritionists, 80%
5 percent of Americans surveyed believed granola was healthy, while only 47% of nutritionists
6 said the same.⁴⁵

7 53. In a related article titled “Americans Still Believe Granola is Good for Them,”
8 the author wrote, “[g]ranola . . . is still getting the better of the American masses” who, unlike
9 nutritionists, consider it “to be a healthy thing to eat.”⁴⁶ “What could be behind that
10 divergence? Sugar, of course.”⁴⁷

11 54. One month after publishing its article on the survey, New York Times published
12 an article titled “Why Your Granola Is Really a Dessert,” writing:

13 In 1863, Dr. James Caleb Jackson, a staunch nutrition advocate, created the
14 world’s first recipe for what would become granola. The dish (he called it
15 granola) consisted of dense, unsweetened bran nuggets, soaked in milk.

16 But if Dr. Jackson were alive today, it’s unlikely he would recognize the
17 modern incarnation of his creation. Despite its reputation as a breakfast health
18 food, granola has become nothing less than a sweet dessert.⁴⁸

19 55. At the time of the article, “[s]ales data suggest[ed] that the popularity of granola
20 is at its peak, with Americans spending nearly \$2 billion annually on granola products. In

21 ⁴⁵ Quealy, K. and Sanger-Katz, M., “Is Sushi ‘Healthy’? What About Granola? Americans
22 and Nutritionists Disagree,” *New York Times* (July 5, 2016) available at
23 <https://tinyurl.com/55brskmc>.

24 ⁴⁶ Evans, Dayna, “Americans Still Believe Granola is Good for Them,” *The Cut* (July 5, 2016)
25 available at <https://www.thecut.com/2016/07/granola-is-bad-for-you.html>.

26 ⁴⁷ *Id.*

27 ⁴⁸ O’Connor, Anahad, “Why Your Granola Is Really a Dessert,” *New York Times* (Aug. 30,
28 2016), available at <https://www.nytimes.com/2016/08/30/well/eat/why-your-granola-is-really-a-dessert.html>.

1 2014, the market for private-label granola and related cereals in the United States exceeded
2 \$750 million, according to Statista, a market research firm.”⁴⁹

3 56. In 2018, Time magazine published an article titled “Is granola healthy?” writing,
4 “It absolutely can be. But products vary greatly, and knowing whether or not the nutty snack
5 lives up to its nutritional claims can take a little bit of digging.”⁵⁰

6 57. In 2019, Consumer Reports published an article titled “Is Granola Good for
7 You?” writing, “Granola is one of those foods that comes with a giant health halo,” and
8 quoting Lauri Wright, Ph.D., chair of the department of nutrition and dietetics at the
9 University of North Florida in Jacksonville, as saying “there are a lot of land mines when it
10 comes to choosing granola,” and “[y]ou have to be a very savvy consumer to find the
11 healthiest one.”⁵¹

12 58. In 2020, Health Digest published an article titled “Granola Isn’t As Healthy As
13 You Think It Is. Here’s Why,” citing Consumer Reports testing demonstrating people overeat
14 granola, and quoting registered dietitian Andy DeSantis as saying, “Granola is a food that we
15 have been led to believe is quite good for us but could be a real problem food for those trying
16 to manage their weight. Granola is, in most cases, simply oatmeal that has significant amounts
17 of oil and sugar added such that it tastes amazing, but will cost you far more calories.”⁵²

18 59. “One reason why people think of granola as ‘healthy’ is because it’s traditionally
19 been eaten by epically healthy people [such as] [h]ikers, runners, and other outdoor
20
21

22 ⁴⁹ *Id.*

23
24 ⁵⁰ Shortsleeve, Cassie, “Is Granola Healthy? Here’s What Experts Say,” *Time* (Oct. 29, 2018)
25 *available at* <https://time.com/5435934/is-granola-healthy/>.

26 ⁵¹ Wadyka, *supra* n.4.

27 ⁵² Mark, Jorie, “Granola Isn’t As Healthy As You Think It Is. Here’s Why,” *Health Digest*
28 (July 27, 2020) *available at* <https://www.healthdigest.com/230738/granola-isnt-as-healthy-as-you-think-it-is-heres-why/>.

1 enthusiasts[.]”⁵³ But “[g]ranola is good for fueling a long workout—not your everyday
2 morning hustle.”⁵⁴

3 **B. The Disclosure of Added Sugar in the Nutrition Facts Panel Does Not**
4 **Correct the Misrepresentation**

5 60. The disclosure of the gram amount of added sugar in the Products’ Nutrition
6 Facts Panels is insufficient to dispel Nature’s Path’s misleading health and wellness claims.
7 Not only are reasonable consumers not expected to inspect that information, but numerous
8 studies demonstrate most consumers cannot make accurate assessments of a food’s
9 healthfulness based on the Nutrition Facts Panel, even when they do review it.

10 61. Research shows most consumers do not actually review the sugar content of
11 products, and even those who do are often unable to accurately determine a products’
12 healthfulness. The University of Minnesota’s Epidemiology Clinical Research Center
13 simulated a grocery shopping exercise on a computer equipped with an eye-tracking camera
14 and found that, even for the relatively small subset of consumers that claim to “almost
15 always” look at a product’s sugar content (24%), *only about 1% actually look beyond the*
16 *calorie count to other components of the Nutrition Facts panel, such as sugar.*⁵⁵ Data from
17 the survey suggests the average consumer reads only the top five lines on a Nutrition Facts
18 label (serving size, calories, total fat, saturated fat, trans fat). Total and added sugar—listed
19 twelfth and thirteenth—follows cholesterol, sodium, total carbohydrate, and dietary fiber,
20 among other things.

21 62. A survey of more than one hundred college students examined how those with
22 differing levels of nutrition knowledge “interpreted intrinsic cues (ingredient list) and
23

24 ⁵³ *Id.*

25 ⁵⁴ *Id.*

26 ⁵⁵ Graham & Jeffery, “Location, location, location: Eye-tracking evidence that consumers
27 preferentially view prominently positioned nutrition information,” *J. Am. Diet. Assoc.* (2011)
28 (emphasis added).

1 extrinsic cues,” such as an “all natural” labeling claim.⁵⁶ The survey found that while those
2 who had completed an upper-division nutrition course “used central route processing to
3 scrutinize intrinsic cues and make judgments about food products,” those that had not
4 completed an upper-division nutrition course “did the opposite,” relying on extrinsic cues.⁵⁷
5 The average consumer will thus more likely rely on labeling claims than the ingredient list or
6 Nutrition Facts Box, to make a judgment about whether a food is healthy.

7 63. Moreover, “mandated nutrition labels have been criticized for being too complex
8 for many consumers to understand and use.”⁵⁸ “Using NFP labels requires not only being
9 able to read and perform arithmetic but also — just as importantly — the ability to reason
10 with words and numbers. According[ly], a substantial proportion of consumers clearly
11 struggle to effectively use the information contained in a nutrition label.”⁵⁹

12 64. One survey found “[s]ubjects were not very good at using the [nutrition] label
13 to make mathematical calculations, evaluate false claims, or draw dietary implications about
14 a product,” and “[r]esearch has consistently found that consumers have difficulty using label
15 information if the task requires math.”⁶⁰ Accordingly, the authors concluded the nutrition
16 label is “an inadequate tool for helping people to plan diets” and “unlikely to contribute by
17
18

19
20 ⁵⁶ Walters, Amber, et al., “The effect of food label cues on perceptions of quality and purchase
21 intentions among high-involvement consumers with varying levels of nutrition knowledge,”
J. Nutr. Educ. Behav. 44(4): 350-54 (2012).

22 ⁵⁷ *Id.*

23 ⁵⁸ Persoskie A, Hennessy E, Nelson WL, “US Consumers’ Understanding of Nutrition Labels
24 in 2013: The Importance of Health Literacy,” *Prev. Chronic Dis.* 14;170066 (2017)
[hereinafter “Persoskie, US Consumers’ Understanding”].

25 ⁵⁹ *Id.* (“Some studies have found that even high school graduates and college students lack
26 the basic health literacy skills to effectively apply nutrition label information[].”).

27 ⁶⁰ Levy & Fein, “Consumers’ ability to perform tasks using nutrition labels,” *J. Nutr. Educ.*
28 *& Behav.* (1998).

1 itself to a better or more critical understanding of nutrition principles.”⁶¹ In sum, the
2 “mathematical skills of the American population present a significant barrier to following
3 dietary recommendations based on quantitative tasks.”⁶²

4 65. Consumers’ inability to effectively use the nutrition label is particularly
5 problematic in light of their tendency to rely heavily on symbolic cues of healthfulness. For
6 example, in a survey of 164 consumers, participants were asked to evaluate the healthiness
7 of two breakfast cereals based on the information provided in a nutrition table. For one group,
8 “the label ‘fruit sugar’ was used; for the other, the label ‘sugar’ was used. Results suggest[ed]
9 that the phrase ‘fruit sugar’ listed as an ingredient of the breakfast cereal resulted in a more
10 positive perception of the healthiness of the cereal compared with the ingredient labeled
11 ‘sugar.’”⁶³

12 66. A recent survey of 2,000 U.S. participants demonstrated that “[t]he American
13 population fails very clearly to identify healthy products”⁶⁴ In the survey, each
14 participant was shown a collection of cereal bars and asked to rank them from healthiest to
15

16 ⁶¹ *Id.*

17 ⁶² *Id.*

18 ⁶³ Sutterlin, Bernadette, et al., “Simply adding the word ‘fruit’ makes sugar healthier: The
19 misleading effect of symbolic information on the perceived healthiness of food,” *Appetite*
20 (July 2015) (“The labeling of the ingredients by making use of symbolic information may,
21 consequently, exert a misleading effect on a consumer’s assessment of the product’s
22 healthiness. The findings suggest that the effect is quite robust. A more profound and
23 comprehensive evaluation of the provided information (as occurs with people with
24 pronounced health consciousness) does not protect against the misleading effect of symbolic
information and does not add to judgment accuracy. This indicates that relying and drawing
on the symbolic meaning of information is, to a certain extent, an automatic and implicit
process that cannot easily be corrected by increasing people’s health consciousness.”).

25 ⁶⁴ Shaheen, Mansur, “Only 9% of Americans can properly read a nutrition label with many
26 falling for misleading labels like ‘whole grain’ or ‘fat free’ on the front of packaging,” *Daily*
27 *Mail* (Apr. 15, 2022) [hereinafter “Shaheen, nutrition label”], *available at*
28 https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-nutrition-label.html?ns_mchannel=rss&ns_campaign=1490&ito=1490.

1 least healthy. The products’ health “rankings were based off of the A through E Nutri-score
2 used to grade some food products in the UK,” and ultimately, “only 9% of participants were
3 able to correctly identify which product was the healthiest[.]”⁶⁵

4 67. “Even more worrying, 13 percent identified the least nutritious food option as
5 the healthiest—more than the amount who properly identified the healthiest.”⁶⁶ This was
6 despite that “60% actively are seeking food and beverage products to support their overall
7 health,” demonstrating “widespread confusion when it comes to determining what is and isn’t
8 healthy.”⁶⁷

9 68. Thus, although “Americans are often advised to eat healthier, more nutritious
10 foods in an effort to stifle the diabetes and the obesity epidemic striking the nation[,]
11 [r]esearchers find that many cannot identify healthy foods in the grocery store aisle”⁶⁸
12 Instead, Americans were found to misidentify claims such as “whole grain” or “naturally
13 flavored” as “markers that a food [is] healthy.” These claims, however, often “mislead people
14 on what products are actually healthy for them,” and “Americans failure to identify healthy
15 products is likely playing a role in the nation’s budding obesity and diabetes epidemics.”⁶⁹

16 69. The survey also looked at the impact of “call[ing] out the amount of different
17 nutrients in their products . . . on the front of their packages” while *not* “also call[ing] out the
18 amount of potentially less desirable ingredients, like sugars, sweeteners, sodium or saturated
19
20

21 ⁶⁵ *Id.*

22 ⁶⁶ *Id.*

23 ⁶⁷ Danley, Sam, “Study finds few consumers understand healthy food labels,” *Supermarket*
24 *Perimeter* (Mar. 16, 2022), *available* at
25 [https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-](https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels)
26 [understand-healthy-food-labels](https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels).

27 ⁶⁸ Shaheen, nutrition label, *supra* n. 64.

28 ⁶⁹ *Id.*

1 fats.”⁷⁰ It “found that this kind of potentially selective attribute labeling . . . had the biggest
2 sway in leading consumers to make incorrect health-related choices.”⁷¹

3 70. Additionally, reading the Products’ nutrition information is unlikely to
4 sufficiently correct consumers’ understanding of the healthfulness of the Products because
5 the vast majority of consumers do not have the nutrition knowledge to accurately interpret
6 the nutrition facts. In other words, “frequent use of nutrition labels does not promote
7 understanding of [nutrient] levels.”⁷²

8 71. A 2017 Shopper Trends Study by Label Insights found that “67% of consumers
9 say it is challenging to determine whether a food product meets their [dietary] needs simply
10 by looking at the package label[.]”⁷³

11 72. A 2021 survey found that “[c]onsumers perceive health differences even when
12 two products have the same Nutrition Facts label” if there are packaging claims suggesting
13 healthfulness.⁷⁴

14 73. In one survey, more than 3,000 U.S. adults viewed an ice cream nutrition label
15 and then answered four questions that tested their ability to apply, understand, and interpret
16

17 ⁷⁰ Poiniski, Megan, “Fewer than 1 in 10 consumers can make healthy choices from front-of-
18 pack labeling, study finds,” *Food Dive* (Mar. 15, 2022), *available at* [https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-
19 from-front-of-pack-la/620293/](https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-from-front-of-pack-la/620293/).

20 ⁷¹ *Id.*

21 ⁷² Soederberg et al., “The Effects of Nutrition Knowledge on Food Label Use: A Review of
22 the Literature,” *Appetite* (2015) (citing Howlett et al., “How modification of the nutrition
23 facts panel influences consumers at risk for heart disease: The case of trans fat,” *J. Pub. Pol. & Market.* (2008)).

24 ⁷³ “Study Shows Labeling Often Confuses Consumers,” *Packaging Strategies* (Mar. 30,
25 2017) *available at* [https://www.packagingstrategies.com/articles/94081-study-shows-
26 labeling-often-confuses-consumers](https://www.packagingstrategies.com/articles/94081-study-shows-labeling-often-confuses-consumers) (citing Label Insight 2017 Shopper Trends Study).

27 ⁷⁴ International Food Information Council, “2021 Food & Health Survey,” at 31 (2021),
28 *available at* [https://foodinsight.org/wp-content/uploads/2021/05/IFIC-2021-Food-and-
Health-Survey.May-2021-1.pdf](https://foodinsight.org/wp-content/uploads/2021/05/IFIC-2021-Food-and-Health-Survey.May-2021-1.pdf).

1 the nutrition information. Approximately 24% could not determine the calorie content of the
2 full ice-cream container; 21% could not estimate the number of servings equal to 60g of
3 carbohydrates; 42% could not estimate the effect on daily calorie intake of foregoing 1
4 serving; and 41% could not calculate the percentage daily value of calories in a single
5 serving.⁷⁵ Only 53.9% of respondents who had earned a 4-year college degree could correctly
6 answer all four nutrition label questions.⁷⁶

7 74. Recently, the FDA recognized that “many consumers would like to know how
8 to use th[e] [Nutrition Facts] information more effectively and easily,” and so published a
9 guide on “How to Understand and Use the Nutrition Facts Label.”⁷⁷ It took the FDA nearly
10 twelve pages to explain how to “make it easier for you to use the Nutrition Facts labels to
11 make quick, informed food decisions to help you choose a healthy diet.”

12 75. The problem is so severe, the FDA created an entire “education campaign”
13 designed to “help consumers, health care professionals, and educators learn how to use [the
14 Nutrition Facts Label] as a tool for maintaining healthy dietary practice,” recognizing the
15 current widespread confusion, even among “health care professionals,” in how to properly
16 use the Nutrition Facts to make healthy choices.⁷⁸

17 C. Nature’s Path Deceptively Omits Material Information

18 76. While representing that the Products are healthy, Nature’s Path regularly and
19 intentionally omits material information regarding the countervailing detrimental effects of
20 the added sugars in the Products on bodily health.

21
22 ⁷⁵ Persoskie, US Consumers’ Understanding, *supra* n.62.

23 ⁷⁶ *Id.*

24 ⁷⁷ FDA, “How to Understand and Use the Nutrition Facts Label,” (last updated Feb. 25, 2022)
25 *available at* <https://www.fda.gov/food/new-nutrition-facts-label/how-understand-and-use-nutrition-facts-label#top>.

26 ⁷⁸ *See* FDA, “The New Nutrition Facts Label—What’s in it for you?” (last updated Apr. 13,
27 2022) *available at* <https://www.fda.gov/food/nutrition-education-resources-materials/new-nutrition-facts-label>.
28

1 77. Nature’s Path is under a duty to disclose this information to consumers because
2 it is revealing some information about the Products—enough to suggest they are healthy—
3 without revealing material information regarding the harmful effects of added sugar described
4 herein.

5 78. Nature’s Path is further under a duty to disclose this information because its
6 deceptive omissions concern human health and safety, specifically the detrimental health
7 consequences of consuming the Products.

8 79. Nature’s Path is further under a duty to disclose this information because it was
9 in a superior position to know of the dangers presented by the added sugars in the Products,
10 as it is a large, sophisticated company that holds itself out as have expert knowledge regarding
11 the health impact of consuming the Products.

12 80. Moreover, Nature’s Path is under a duty to disclose this information because,
13 including through the acts alleged herein, it actively concealed material facts not known to
14 Plaintiff and the Class concerning the detrimental effects of regularly consuming the
15 Products.

16 **IV. THE PRODUCTS’ LABELING VIOLATES STATE AND FEDERAL** 17 **REGULATIONS**

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

24 82. First, the challenged claims are false and misleading for the reasons described
25 herein, in violation of 21 U.S.C. § 343(a), which deems misbranded any food whose “label is
26 false or misleading in any particular.” Nature’s Path accordingly also violated California’s
27 parallel provision of the Sherman Law. *See* Cal. Health & Safety Code § 110670.
28

1 83. Second, despite making the challenged claims, Nature’s Path “fail[ed] to reveal
2 facts that are material in light of other representations made or suggested by the statement[s],
3 word[s], design[s], device[s], or any combination thereof,” in violation of 21 C.F.R. §
4 1.21(a)(1). Such facts include the detrimental health consequences of consuming the
5 Products.

6 84. Third, Nature’s Path failed to reveal facts that were “[m]aterial with respect to
7 the consequences which may result from use of the article under” both “[t]he conditions
8 prescribed in such labeling,” and “such conditions of use as are customary or usual,” in
9 violation of § 1.21(a)(2). Namely, Nature’s Path failed to disclose the increased risk of serious
10 chronic disease and death that is likely to result from the usual consumption of the Products
11 in the customary and prescribed manners, including based on the tendency of consumers to
12 eat more than one serving in a sitting.

13 85. Fourth, the Products are misbranded (and also misleading), because the labels
14 claim that the Products are healthy based on their nutrient content, but the Products do not
15 meet the requirements for making such implied nutrient content claims as set forth in 21
16 C.F.R. § 101.65(d) because they exceed the limits on total and saturated fat.

17 86. Specifically, on the Products’ labeling, Nature’s Path claims that the Products
18 will “put you on a better path to a healthier lifestyle.” These statements are made in
19 association with the nutrient content claims regarding fiber and fatty acids.

20 87. To “use the term ‘healthy’ or related terms (e.g., ‘health,’ ‘healthful,’
21 ‘healthfully,’ ‘healthfulness,’ ‘healthier,’ ‘healthiest,’ ‘healthily,’ and ‘healthiness’)” as an
22 implied nutrient content claim, a food must satisfy specific “conditions for fat, saturated fat,
23 cholesterol, and other nutrients.” 21 C.F.R. § 101.65(d)(2).

24 88. The Products are “not specifically listed” in the table contained in 21 C.F.R. §
25 101.65(d)(2)(i), and therefore are governed by section (F) of the table. *See* 101.65(d)(2)(i)(F).

26 89. Under 21 C.F.R. § 101.65(d)(2)(i)(F), to use a “healthy” term, a food must, *inter*
27 *alia*, (1) be “Low fat as defined in § 101.62(b)(2),” and (2) be “Low saturated fat as defined
28 in § 101.62(c)(2).”

1 90. Section 101.62(b)(2)(i)(A) provides the applicable definition of “low fat” for the
2 Products because they have RACCs (reference amounts customarily consumed) and labeled
3 servings of greater than 30 grams. Under this section, a food is low fat if it contains 3 grams
4 or less of total fat.

5 91. The Products contain between 9 and 11 grams of total fat per serving and thus
6 violate the limit on total fat. As a result, their use of a “healthy” term renders the Products
7 misbranded.

8 92. Under section 101.62(c)(2), a food is “low saturated fat” only if it “contains 1 g
9 or less of saturated fatty acids per reference amount customarily consumed and not more than
10 15 percent of calories from saturated fatty acids.”

11 93. The Products all contain 1.5 to 4 grams of saturated fat per serving. The Products
12 therefore do not meet the saturated fat requirement in section 101.65(d)(2)(i)(F), and as a
13 result, their use of a “healthy” term renders the Products misbranded.

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

15 94. Plaintiff Rebecca Lee purchased Nature’s Path Granola, usually in the “Pumpkin
16 Seed & Flax” flavor, several times over the course of a few months starting in January 2020.
17 She typically purchased the Granola from Walmart and Vons stores in San Diego, California.

18 95. When purchasing the Nature’s Path Granola, Ms. Lee was seeking a nutritious,
19 healthy food, that is, the type of food whose regular consumption would not likely increase
20 the risk of disease. In purchasing the Nature’s Path Granola, Ms. Lee was exposed to, read,
21 and relied on Nature’s Path’s health and wellness representations described herein, including
22 that consuming the Product is a “wholesome breakfast to nourish your day,” and “it’ll put
23 you on a better path to a healthier lifestyle.”

24 96. These claims, however, were and are deceptive because the Products are not
25 healthy, but instead contain such high levels of added sugar that their regular consumption
26 contributes to an increased risk of disease.

27 97. Ms. Lee is not a nutritionist, food expert, or food scientist, but rather a lay
28 consumer, like other average consumers, who did not have the specialized knowledge that

1 Nature's Path had regarding the nutritional composition of the Nature's Path Granola. At the
2 time of purchase, Ms. Lee was unaware of the extent to which consuming high amounts of
3 added sugar adversely affects health or what amount of added sugar might have such an
4 effect.

5 98. Ms. Lee acted reasonably in relying on the challenged labeling claims, which
6 Nature's Path intentionally placed on the Products' labeling with the intent to induce average
7 consumers into purchasing the Products.

8 99. Ms. Lee would not have purchased the Nature's Path Granola if she knew that
9 the challenged labeling claims were false and misleading in that the Nature's Path Granola
10 does not provide the health benefits promised, and is detrimental rather than beneficial to
11 health.

12 100. The Products cost more than similar products without misleading labeling and
13 would have cost less absent Nature's Path's false and misleading statements and omissions.

14 101. Through the misleading labeling claims and omissions, Nature's Path was able
15 to gain a greater share of the market than it would have otherwise and was able to increase
16 the size of the market.

17 102. Ms. Lee paid more for the Nature's Path Granola, and would only have been
18 willing to pay less, or unwilling to purchase it at all, absent the false and misleading labeling
19 complained of herein.

20 103. Ms. Lee would not have purchased the Nature's Path Granola if she had known
21 it was misbranded pursuant to California and FDA regulations, or that the challenged claims
22 were false or misleading.

23 104. For these reasons, the Products were worth less than what Ms. Lee and the Class
24 paid for them.

25 105. Instead of receiving products that had actual healthful qualities, the Products Ms.
26 Lee and the Class received were likely to lead to increased risk of disease when consumed
27 regularly.

1 106. Ms. Lee and the Class lost money as a result of Nature’s Path’s deceptive claims,
2 omissions, and practices in that they did not receive what they paid for when purchasing the
3 Products.

4 107. Ms. Lee still wishes to purchase healthy foods with nutritional benefits and
5 continues to see the Products at stores when she shops. She would purchase the Products in
6 the future if they were healthy as represented, but unless Nature’s Path is enjoined in the
7 manner Ms. Lee seeks, she may not be able to rely on Nature’s Path’s health and wellness
8 claims in the future.

9 108. Ms. Lee’s substantive right to a marketplace free of fraud, where she is entitled
10 to rely with confidence on representations such as those made by Nature’s Path, continues to
11 be violated every time Ms. Lee is exposed to the misleading labeling claims.

12 109. Ms. Lee’s legal remedies are inadequate to prevent these future injuries.

13 **CLASS ACTION ALLEGATIONS**

14 110. While reserving the right to redefine or amend the class definition prior to or as
15 part of a motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23,
16 Plaintiff seeks to represent a class of all persons the in United States, and separately a Subclass
17 of all persons in California, who, at any time from March 22, 2019⁷⁹ to the time a class is
18 notified (the “Class Period”), purchased, for personal or household use, and not for resale or
19 distribution, any of the Nature’s Path Granola (the “Class” and “California Subclass,” which
20 is subsumed and included therein).

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

24 112. Questions of law and fact common to Plaintiff and the Class include:

25 113. whether Nature’s Path communicated a message regarding the healthfulness of
26 the Products through their packaging and advertising;

27
28 ⁷⁹ As of March 22, 2023, the parties agreed to toll applicable statutes of limitations.

1 a. whether that message was material, or likely to be material, to a
2 reasonable consumer;

3 b. whether the challenged claims are false, misleading, or reasonably likely
4 to deceive a reasonable consumer;

5 c. whether Nature's Path's conduct is unfair or violates public policy;

6 d. whether Nature's Path's conduct violates state or federal food statutes or
7 regulations;

8 e. whether Nature's Path made and breached warranties

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

10 g. the proper amount of restitution;

11 h. the proper scope of injunctive relief; and

12 i. the proper amount of attorneys' fees.

13 114. These common questions of law and fact predominate over questions that affect
14 only individual Class Members.

15 115. Plaintiff's claims are typical of Class Members' claims because they are based
16 on the same underlying facts, events, and circumstances relating to Nature's Path's conduct.
17 Specifically, all Class Members, including Plaintiff, were subjected to the same misleading
18 and deceptive conduct when they purchased the Products and suffered economic injury
19 because the Products are misrepresented. Absent Nature's Path's business practice of
20 deceptively and unlawfully labeling the Products, Plaintiff and other Class Members would
21 not have purchased them or would have paid less for them.

22 116. Plaintiff will fairly and adequately represent and protect the interests of the
23 Class, has no interests incompatible with the interests of the Class, and has retained counsel
24 competent and experienced in class action litigation, and specifically in litigation involving
25 the false and misleading advertising of foods and beverages.

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

1 118. Nature’s Path has acted on grounds applicable to the Class, thereby making
2 appropriate final injunctive and declaratory relief concerning the Class as a whole.

3 119. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P.
4 23(a), 23(b)(2), and 23(b)(3).

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

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

8 120. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
9 as if set forth fully herein.

10 121. The UCL prohibits any “unlawful, unfair or fraudulent business act or practice.”
11 Cal. Bus. & Prof. Code § 17200.

12 122. The acts, omissions, misrepresentations, practices, and non-disclosures of as
13 alleged herein constitute business acts and practices.

14 **Fraudulent**

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

17 124. As set forth herein, the challenged labeling claims and omissions relating to the
18 Products are likely to deceive reasonable consumers and the public.

19 **Unlawful**

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

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

27 **Unfair**

1 126. Nature's Path's conduct with respect to the labeling, advertising, and sale of the
2 Products was unfair because Nature's Path's conduct was immoral, unethical, unscrupulous,
3 or substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh
4 the gravity of the harm to its victims.

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

10 128. Nature's Path's conduct with respect to the labeling, advertising, and sale of the
11 Products was and is also unfair because the consumer injury was substantial, not outweighed
12 by benefits to consumers or competition, and not one that consumers themselves could
13 reasonably have avoided. Specifically, the increase in profits obtained by Nature's Path
14 through the misleading labeling does not outweigh the harm to Class Members who were
15 deceived into purchasing the Products, believing they were healthy, when in fact they are the
16 types of food likely to detriment health.

17 129. Nature's Path profited from the sale of the falsely, deceptively, and unlawfully
18 advertised the Products to unwary consumers.

19 130. Plaintiff and Class Members are likely to continue to be damaged by Nature's
20 Path's deceptive trade practices, because Nature's Path continues to disseminate misleading
21 information. Thus, injunctive relief enjoining Nature's Path's deceptive practices is proper.

22 131. Nature's Path's conduct caused and continues to cause substantial injury to
23 Plaintiff and other Class Members. Plaintiff has suffered injury in fact as a result of Nature's
24 Path's unlawful conduct.

25 132. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining
26 Nature's Path from continuing to conduct business through unlawful, unfair, and/or
27 fraudulent acts and practices, and to commence a corrective advertising campaign.
28

1 133. Plaintiff and the Class also seek an order for the restitution of all monies from
2 the sale of the Nature’s Path Products, which were unjustly acquired through acts of unlawful
3 competition.

4 134. Because Plaintiff’s claims under the “unfair” prong of the UCL sweep more
5 broadly than her claims under the FAL, CLRA, or UCL’s “fraudulent” prong, Plaintiff’s legal
6 remedies are inadequate to fully compensate Plaintiff for all of Nature’s Path’s challenged
7 behavior.

8 **SECOND CAUSE OF ACTION**

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

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

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

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

20 138. As alleged herein, the advertisements, labeling, policies, acts, and practices of
21 Nature’s Path relating to the Products were likely to mislead consumers acting reasonably, as
22 to the healthfulness of the products.

23 139. Plaintiff suffered injury in fact as a result of Nature’s Path’s actions as set forth
24 herein because Plaintiff purchased the Products in reliance on Nature’s Path’s false and
25 misleading marketing claims and omissions stating or suggesting that the Products are
26 healthful and nutritious.

27 140. Nature’s Path’s business practices as alleged herein constitute unfair, deceptive,
28 untrue, and misleading advertising pursuant to the FAL because Nature’s Path has advertised

1 the Products in a manner that is untrue and misleading, which Nature's Path knew or
2 reasonably should have known, and omitted material information from the Products' labeling.

3 141. Nature's Path profited from the sale of the falsely and deceptively advertised the
4 Products to unwary consumers.

5 142. As a result, Plaintiff, the Class, and the general public are entitled to injunctive
6 and equitable relief, restitution, and an order for the disgorgement of the funds by which
7 Nature's Path was unjustly enriched.

8 143. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and
9 the Class, seek an order enjoining Nature's Path from continuing to engage in deceptive
10 business practices, false advertising, and any other act prohibited by law, including those set
11 forth in this Complaint.

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

19 **THIRD CAUSE OF ACTION**

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

21 145. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
22 as if set forth fully herein.

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

26 147. Nature's Path's false and misleading labeling and other policies, acts, and
27 practices were designed to, and did, induce the purchase and use of the Products for personal,
28

1 family, or household purposes by Plaintiff and Class Members, and violated and continue to
2 violate the following sections of the CLRA:

3 148. § 1770(a)(5): representing that goods have characteristics, uses, or benefits
4 which they do not have;

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

7 b. § 1770(a)(9): advertising goods with intent not to sell them as advertised;
8 and

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

11 149. Nature's Path profited from the sale of the falsely, deceptively, and unlawfully
12 advertised the Products to unwary consumers.

13 150. Nature's Path's wrongful business practices constituted, and constitute, a
14 continuing course of conduct in violation of the CLRA.

15 151. Pursuant to California Civil Code § 1782, more than 30 days before filing this
16 lawsuit, Plaintiff sent to Nature's Path by certified mail, return receipt requested, written
17 notice of her claims and Nature's Path's particular violations of the Act, but Nature's Path
18 has failed to implement remedial measures.

19 152. As a result, Plaintiff and the Class have suffered harm, and therefore seek actual
20 damages resulting from purchases of the Products sold throughout the Class Period to all
21 Class Members, punitive damages, injunctive relief in the form of modified advertising and
22 a corrective advertising plan, restitution, and attorneys' fees and costs. *See* Cal. Civ. Code §
23 1782(d).

24 153. In compliance with Cal. Civ. Code § 1780(d), an affidavit of venue is filed
25 concurrently herewith.

1 **FOURTH CAUSE OF ACTION**

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

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

5 155. Through the Products’ labeling, Nature’s Path made affirmations of fact or
6 promises, or description of goods, that, *inter alia*, the products are beneficial to health and
7 provide health benefits. These affirmations and descriptions include “wholesome breakfast
8 to nourish your day,” and “[it’]ll put you on a better path to a healthier lifestyle.”

9 156. These representations were part of the basis of the bargain in that Plaintiff and
10 the Class purchased the Products in reasonable reliance on those statements. Cal. Com. Code
11 § 2313(1).

12 157. Nature’s Path breached its express warranties by selling Products that, for the
13 reasons described herein, do not meet the above affirmations, promises, and product
14 descriptions.

15 158. That breach actually and proximately caused injury in the form of the lost
16 purchase price that Plaintiff and Class Members paid for the Products.

17 159. As a result, Plaintiff seeks on behalf of herself and other Class Members, actual
18 damages arising as a result of Nature’s Path’s breaches of express warranties, including,
19 without limitation, expectation damages.

20 **FIFTH CAUSE OF ACTION**

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

22 160. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
23 as if set forth fully herein.

24 161. Nature’s Path, through its acts set forth herein, in the sale, marketing, and
25 promotion of the Products bearing the statements “wholesome breakfast to nourish your day”
26 and “[it’]ll put you on a better path to a healthier lifestyle,” made representations, that, *inter*
27 *alia*, the Products are healthy.
28

1 162. Nature's Path is a merchant with respect to the goods of this kind which were
2 sold to Plaintiff and the Class, and there were, in the sale to Plaintiff and the Class, implied
3 warranties that those goods were merchantable.

4 163. Nature's Path breached that implied warranty because, for the reasons discussed
5 herein, the Products were and are not wholesome, nourishing, and healthy.

6 164. As an actual and proximate result of Nature's Path's conduct, Plaintiff and the
7 Class did not receive goods as impliedly warranted by Nature's Path to be merchantable in
8 that they did not conform to promises and affirmations made on the container or label of the
9 goods.

10 165. As a result, Plaintiff seeks actual damages, including, without limitation,
11 expectation damages.

12 **SIXTH CAUSE OF ACTION**

13 **Negligent Misrepresentation**

14 166. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
15 as if fully set forth herein.

16 167. As alleged above, Defendant misrepresented the healthfulness of its Products
17 and omitted that consuming the Products increases the risk of metabolic disease,
18 cardiovascular disease, type 2 diabetes, and liver disease, and is further associated with
19 increased all-cause mortality. These misrepresentations and omissions constituted a material
20 fact in that a consumer's decision to purchase the Products would be influenced by the
21 healthfulness of the Products.

22 168. Defendant's misrepresentations and omissions were made in the course of
23 business transactions (the marketing, advertisement, sale, and purchase of the Products) in
24 which both Plaintiff and Defendant have a pecuniary interest.

25 169. Defendant knew or should have known that these representations and omissions
26 were false or misleading and it failed to exercise reasonable care in dissemination of its labels
27 and in its marketing and advertising.

1 170. Defendant possesses superior knowledge regarding the detrimental health
2 effects of consuming the Products. Such knowledge is not readily available to consumers like
3 Plaintiff and Class Members.

4 171. Defendant has a duty to provide consumers, like Plaintiff and Class Members,
5 not to provide them with false information when they were making their purchasing decisions
6 regarding the Products.

7 172. Defendant holds itself out as an expert in nutrition and health science.

8 173. Consumers lack nutritional science expertise that Defendant possesses, and
9 therefore when Defendant makes representations as the healthfulness of its Products on its
10 labels, consumers rely on Defendant to provide truthful and complete information.

11 174. Defendant knew or should have known that Plaintiff and other consumers rely
12 on its labeling and health representations and its representations and omissions to induce
13 consumers like Plaintiff and Class Members into purchasing the Products.

14 175. Plaintiff's injuries were proximately caused by Defendant's misrepresentations
15 and omissions. Plaintiff viewed Defendant's labels prior to purchasing the Products, and the
16 representations and omissions prompted him to purchase the Products. Had Plaintiff been
17 aware of Defendant's misrepresentations and omissions, she would have been unwilling to
18 purchase the Products, or to purchase them at the price that she paid.

19 176. Defendant's misrepresentations regarding the Products are material to a
20 reasonable consumer because they relate to bodily health, and reasonable consumers would
21 attach importance to such representations and omissions which would influence their
22 purchasing decision.

23 177. In selling the Products, Defendant acted in the ordinary course of its business
24 and had a pecuniary interest in Plaintiff and Class Members purchasing the Products.

25 178. Defendant owed a duty of care to Plaintiff, not to provide her false or incomplete
26 information when she was making her purchase decisions regarding the Products.
27
28

1 179. Plaintiff and Class Members have reasonably and justifiably relied on
2 Defendant's misrepresentations when purchasing the Products, and had the correct facts been
3 known, would not have purchased them or at least not at the prices at which they were offered.

4 180. Therefore, as a direct and proximate result of Defendant's negligent
5 misrepresentations, Plaintiff and Class Members have suffered economic losses and other
6 general and specific damages, in the amount of the Products' purchase price, or some portion
7 thereof, and any interest that would have accrued on those monies, all in an amount to be
8 proven at trial.

9 SEVENTH CAUSE OF ACTION

10 Intentional Misrepresentation

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

13 182. Defendant marketed the Products in a manner conveying to reasonable
14 consumers that the Products are healthy. Therefore, Defendant has made misrepresentations
15 about the healthfulness of the Products.

16 183. Defendant's misrepresentations regarding the Products are material to a
17 reasonable consumer because they relate to bodily health. A reasonable consumer would
18 attach importance to such representations and would be induced to act thereon in making
19 purchasing decisions.

20 184. At all relevant times, Defendant knew that the misrepresentations were
21 misleading, or has acted recklessly in making the misrepresentations, without regard to their
22 truth.

23 185. Defendant intended that Plaintiff and other consumers rely on these
24 misrepresentations on the Products' packaging.

25 186. Plaintiff and the Class have reasonably and justifiably relied on Defendant's
26 intentional misrepresentations when purchasing the Products; had the correct facts been
27 known, they would not have purchased the Products, or at least not at the prices at which the
28 Products were offered.

1 187. Therefore, as a direct and proximate result of Defendant's intentional
2 misrepresentations, Plaintiff and Class Members have suffered economic losses and other
3 general and specific damages, in the amount of the Products' purchase price, or some portion
4 thereof, and any interest that would have accrued on those monies, all in an amount to be
5 proven at trial.

6 **EIGHTH CAUSE OF ACTION**

7 **Unjust Enrichment**

8 188. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
9 as if fully set forth herein.

10 189. Plaintiff and Class Members conferred upon Defendant an economic benefit, in
11 the form of profits resulting from the purchase and sale of the Products.

12 190. Defendant's financial benefits resulting from its unlawful and inequitable
13 conduct are economically traceable to Plaintiff's and Class Members' purchases of the
14 Products, and the economic benefits conferred on Defendant are a direct and proximate result
15 of its unlawful and inequitable conduct.

16 191. It would be inequitable, unconscionable, and unjust for Defendant to be
17 permitted to retain these economic benefits because the benefits were procured as a direct and
18 proximate result of its wrongful conduct.

19 192. As a result, Plaintiff and Class Members are entitled to equitable relief including
20 restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits
21 which may have been obtained by Defendant as a result of such business practices.

22 **PRAYER FOR RELIEF**

23 193. Wherefore, Plaintiff, on behalf of herself, all others similarly situated, and the
24 general public, prays for judgment against Nature's Path as to each and every cause of action,
25 and the following remedies:

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

28 a. An Order requiring Nature's Path to bear the cost of Class Notice;

- b. An Order compelling Nature's Path to conduct a corrective advertising campaign;
- c. An Order compelling Nature's Path to destroy all misleading and deceptive advertising materials and product labels, and to recall all offending products;
- d. An Order requiring Nature's Path to disgorge all monies, revenues, and profits obtained by means of any wrongful act or practice;
- e. An Order requiring Nature's Path to pay restitution to restore all funds acquired by means of any act or practice declared by this Court to be an unlawful, unfair, or fraudulent business act or practice, or untrue or misleading advertising, plus pre-and post-judgment interest thereon;
- f. An Order requiring Nature's Path to pay compensatory damages and punitive damages as permitted by law;
- g. An award of attorneys' fees and costs; and
- h. Any other and further relief that Court deems necessary, just, or proper.

JURY DEMAND

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

Dated: April 24, 2023

/s/ Paul K. Joseph

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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
REBECCA LEE on behalf of herself and all others
similarly situated
(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
NATURE'S PATH FOODS, INC.
County of Residence of First Listed Defendant
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question
4 Diversity

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
PTF DEF
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country

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)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from Another District
6 Multidistrict Litigation - Transfer
7 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:
CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$
JURY DEMAND: Yes No

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

DATE 04/20/2023 SIGNATURE OF ATTORNEY OF RECORD /s/ Paul K. Joseph

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