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15 **UNITED STATES DISTRICT COURT**  
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 SHAMEA BROUSSARD and MICHAEL  
18 SCHIRANO, on behalf of themselves, all others  
19 similarly situated, and the general public,

20 Plaintiffs,

21 v.

22 DOLE PACKAGED FOODS, LLC,

23 Defendant.

Case No: 4:23-CV-03320-HSG

CLASS ACTION

**FIRST AMENDED COMPLAINT**

DEMAND FOR JURY TRIAL

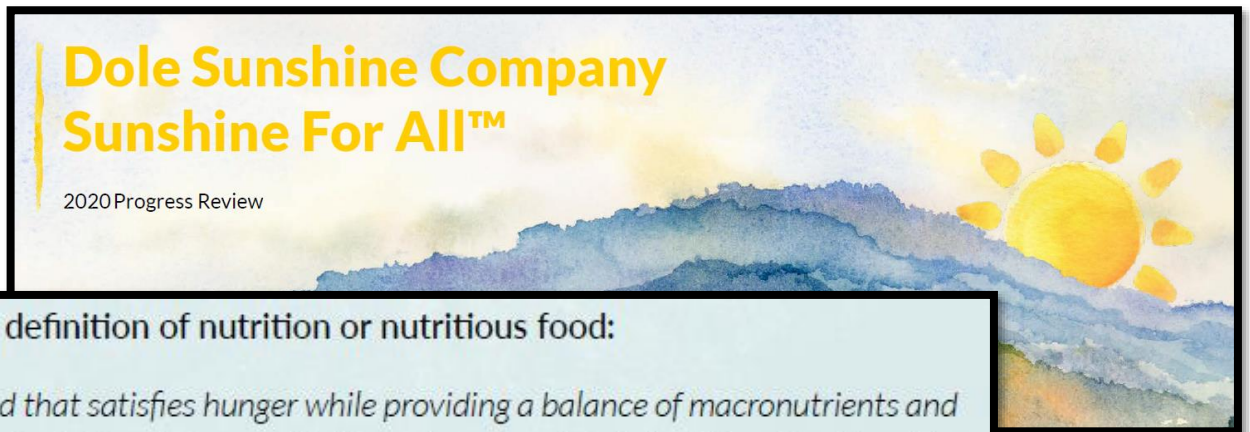
1 Plaintiffs Shamea Broussard and Michael Schirano, on behalf of themselves, all others similarly  
2 situated, and the general public, by and through their undersigned counsel, bring this action against Dole  
3 Packaged Foods, LLC (“Dole”), and allege the following upon their own knowledge, or where they lack  
4 personal knowledge, upon information and belief, including the investigation of their counsel.

5 **INTRODUCTION**

6 1. Dole manufactures certain packaged snacks,  
7 including parfaits, gels, and juice products. *See infra* ¶ 13  
8 (list of “Products”). As part of its “Sunshine for All”  
9 advertising campaign, Dole labels the Products with the  
10 “promise” that they provide “good nutrition.” Dole uses sun  
11 imagery and statements, including “Sunshine for All” and  
12 FULL OF SUNSHINE,” to tie together and reinforce its  
13 “good nutrition” promise.



14 2. In its “Sunshine For All 2020 Progress Review,” Dole defines “nutrition or nutritious food”  
15 as “Food that satisfies hunger while providing a balance of macronutrients and vitamins/minerals to  
16 nourish the body *and maintain health and wellness.*”<sup>1</sup>



21 Our definition of nutrition or nutritious food:  
22 “Food that satisfies hunger while providing a balance of macronutrients and  
23 vitamins/minerals to nourish the body and maintain health and wellness.”  
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27 <sup>1</sup> Dole Sunshine Company, “Sunshine For All™ 2020 Progress Review” at 1, 4 (emphasis added),  
28 available at <https://dolesunshine.com/wp-content/uploads/2022/03/Dole-Sunshine-for-All-Progress-Review-2020-Full-Report-1.pdf> [hereinafter “2020 Sunshine For All Review”].

1 3. Dole’s promise of good nutrition is false, or at least highly misleading, however, because  
2 the Products provide, on balance, *poor* nutrition, since at least 29% and up to 96% of their calories come  
3 from added or free sugar.<sup>2</sup>

4 4. A vast body of reliable scientific evidence establishes that excessive consumption of FA  
5 Sugar—any amount above approximately 5% of daily caloric intake—is toxic to the human body and  
6 greatly increases the risk of cardiovascular disease, diabetes, liver disease, and a wide variety of other  
7 chronic diseases.

8 5. Because the Products are the type of foods and beverages that detriment bodily health, they  
9 are not “good nutrition,” as Dole promises. Plaintiffs thus bring this action against Dole on behalf of  
10 themselves, similarly-situated Class Members, and the general public, to enjoin Dole from deceptively  
11 marketing the Products, and to recover compensation for injured Class Members.

12 **JURISDICTION & VENUE**

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

19 7. The Court has personal jurisdiction over Dole because it has purposely availed itself of the  
20 benefits and privileges of conducting business activities within California, including by distributing and  
21 selling the Dole Products in California.

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

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26 \_\_\_\_\_  
27 <sup>2</sup> Because the free sugars in juice act physiologically identically to added sugars, *see infra* Part II.A, and  
28 the Products include both, the term “FA Sugar” is used to refer to free and added sugars throughout this  
Complaint.

**DIVISIONAL ASSIGNMENT**

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

**PARTIES**

10. Plaintiff Shamea Broussard is a California citizen because she lives in Pleasant Hill, California and intends to remain there.

11. Plaintiff Michael Schirano is a New York citizen because he lives in West Islip, New York and intends to remain there.

12. Defendant Dole Packaged Foods, LLC, is a California limited liability company owned by Dole Food Company, Inc., which has its principal place of business in Westlake Village, California.

**FACTS**

**I. TO APPEAL TO CONSUMERS, DOLE PROMISES THE PRODUCTS WILL PROVIDE GOOD NUTRITION**

13. Since at least April 5, 2019, and continuing today, Dole has sold and marketed certain packaged food and beverage products (collectively, the “Products”), including:

- (a) Fruit Bowls in Gel;
- (b) Fruit Bowl Parfaits;
- (c) Fruit Bowls in Juice;
- (d) Fridge Packs;
- (e) Canned Fruit in Heavy Syrup;
- (f) Canned Fruit in Light Syrup;
- (g) Canned Juices; and
- (h) “Fruitify” Beverages.<sup>3</sup>

Dole has sold and sells the Products on a nationwide basis, including in California and New York.

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<sup>3</sup> During the relevant time period, the Products were sold in at least fifty-one (51) flavors or varieties, identified herein, but this Complaint should be read to include any additional varieties not yet identified.

1           **A. “Good Nutrition” Means Eating a Healthy, Balanced Diet That Helps Prevent Disease**

2           14. “Good nutrition” is generally accepted among health organizations, medical professionals,  
3 consumers, and industry members—including Dole—to refer to healthy, balanced foods that will help  
4 prevent disease, including because they are low in sugar.

5           15. The Centers for Disease Control and Prevention (“CDC”) explains that “good nutrition is  
6 really about consistently choosing healthy foods and beverages.”<sup>4</sup> “Research has shown that . . . good  
7 nutrition can:

- 8                     • Promote weight management and reduce the risk of obesity
- 9                     • Reduce the risk of developing high cholesterol, or reduce cholesterol in those who  
10 already have high cholesterol
- 11                    • Reduce the risk of developing Type 2 diabetes, and
- 12                    • Reduce the risk of developing high blood pressure or reduce blood pressure in those who  
13 already have high blood pressure[.]”<sup>5</sup>

14           16. According to the National Kidney Foundation, “Good nutrition is the key to good mental  
15 and physical health. Eating a balanced diet is an important part of good health for everyone,” and that  
16 includes “[c]hoos[ing] foods that are low in fat and sugar.”<sup>6</sup>

17           17. The Global Alliance for Improved Nutrition states that “the foundation of good nutrition is  
18 consuming a healthy diet.”<sup>7</sup>

19 \_\_\_\_\_

20 <sup>4</sup> Centers for Disease Control and Prevention “Healthy Eating Tips,” *CDC.gov* (last reviewed July 11,  
21 2022), <https://www.cdc.gov/nccdphp/dnpao/features/healthy-eating-tips/index.html>. *See also* “Nutrition,”  
22 *Medline Plus* (last updated Feb. 10, 2023), <https://medlineplus.gov/nutrition.html> (“Good nutrition is about  
23 healthy eating. This means regularly choosing healthy foods and beverages.”); The Ohio State University  
24 Health Sciences Library, “Tips for Adding Good Nutrition to Your Lifestyle” (Mar. 2024), *available at*  
25 <https://hsl.osu.edu/dept/library-for-health-information/tips-for-adding-good-nutrition-to-your-lifestyle>  
26 (“Good nutrition means regularly choosing healthy foods and beverages.”).

24 <sup>5</sup> Centers for Disease Control and Prevention “Nutrition,” *CDC.gov* (last reviewed Mar. 1, 2016),  
25 <https://www.cdc.gov/workplacehealthpromotion/health-strategies/nutrition>.

26 <sup>6</sup> National Kidney Foundation, “What You Should Know About Good Nutrition,” *Kidney.org* (2024)  
27 <https://www.kidney.org/atoz/content/nutritionwyska>.

27 <sup>7</sup>Stella Nordhagen, “Reaching lower-income consumers with nutritious foods: the allure and the  
28 challenge,” *gainhealth.org* (July 25, 2022), <https://www.gainhealth.org/media/news/reaching-lower->

1 18. Medical professionals agree “[g]ood nutrition means eating a balanced and healthy diet,”  
 2 including “reduc[ing] your intake of saturated and trans fats, sugars, and salt.”<sup>8</sup> Additionally, foods should  
 3 be “nutrient-dense” and “are the most nutrient-dense when they are fresh . . . .”<sup>9</sup> “Good nutrition can help:

- 4 • Reduce the risk of heart disease, diabetes, stroke, osteoporosis, and some types of cancer
- 5 • Lower high blood pressure
- 6 • Lower high cholesterol levels
- 7 • Improve your mental well-being
- 8 • Improve your ability to fight infection[]
- 9 • Improve your ability to recover from illness or injury [and]
- 10 • Increase your energy levels[.]”<sup>10</sup>

11 19. The Harvard Medical School explained that, “[a]t the most basic level, nutrition is about  
 12 eating a regular, balanced diet. Good nutrition helps fuel your body,” and “helps protect you from illness  
 13 and disease, such as heart disease, diabetes, cancer, and osteoporosis.”<sup>11</sup> “[A]ll healthy eating plans” “limit[  
 14 ] saturated fats, added sugars, and sodium,” and include only “minimally processed foods,” since “[f]ood  
 15 processing often strips away nutrients while adding extra fats, sugars, sodium, . . . and preservatives.”<sup>12</sup>

16 20. MenuSano, a nutrition technology company that provides nutrition analysis to companies  
 17 for regulatory compliance purposes, states that “good nutrition . . . refers to the quality of the food itself.

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18 income-consumers-nutritious-foods-allure-and-challenge.

19 <sup>8</sup> See, e.g., Dr. Sruthi M., MBBS, “What Is Good Nutrition and a Healthy Diet?” *MedicineNet*,  
 20 [https://www.medicinenet.com/what\\_is\\_good\\_nutrition\\_and\\_a\\_healthy\\_diet/article.htm](https://www.medicinenet.com/what_is_good_nutrition_and_a_healthy_diet/article.htm).

21 <sup>9</sup> *Id.*

22 <sup>10</sup> *Id.* See also The Wellness Coalition, “Eat Up for National Nutrition Month,” *thewellnesscoalition.org*  
 23 (Mar. 11, 2022), <https://www.thewellnesscoalition.org/eat-up-for-national-nutrition-month/> (“Good  
 24 nutrition means eating a balanced and healthy diet. . . . Good nutrition also helps reduce the risk of chronic  
 25 diseases, including:

Heart disease[,] [d]iabetes[,] . . . [a]nd more[.] . . . Eating a balanced variety of foods and consuming less  
 salt, sugars, and saturated and industrially-produced trans-fats are essential for a healthy diet.”).

26 <sup>11</sup> Harvard Medical School, “Nutrition,” *Harvard Health Publishing* (2024),  
 27 <https://www.health.harvard.edu/topics/nutrition>.

28 <sup>12</sup> *Id.*

1 Nutrition is food that our bodies need to consume daily for our bodies to function optimally. This includes  
 2 complex carbohydrates, protein, healthy fats, and fibre. We need these foods in balanced quantity and  
 3 ideally, from the cleanest sources possible.”<sup>13</sup>

4 21. In writing about “2023 Nutrition Trends,” Senior Director of Worldwide Nutrition  
 5 Education and Training at Herbalife Nutrition, Susan Bowerman, explains that consumers are showing a  
 6 “focus on the pivotal role that good nutrition has to play” in “extending consumers’ healthy years.”<sup>14</sup>

7 22. Mintel, a market research agency, identified three big consumer trends in its 2024 Global  
 8 Food and Drink Trends report. “Mintel’s second big trend is Age Reframed, where there is a new emphasis  
 9 on extending consumers’ healthy years and a sharper focus on the pivotal role that good nutrition has to  
 10 play in achieving this.”<sup>15</sup>

11 23. In consumer research, labeling claims such as “provides good nutrition to children” are thus  
 12 categorized as “health claims.”<sup>16</sup>

13 24. Dole agrees with and has adopted this well-accepted definition of “good nutrition.” In its  
 14 2020 Sunshine For All 2020 Review, in explaining its good nutrition “Promise in detail,” Dole expressly  
 15 defines “nutrition or nutritious food” as “Food that satisfies hunger while providing a balance of  
 16 macronutrients and vitamins/minerals to nourish the body and *maintain health and wellness.*”<sup>17</sup>

17 **Our definition of nutrition or nutritious food:**

18 “Food that satisfies hunger while providing a balance of macronutrients and  
 19 vitamins/minerals to nourish the body and maintain health and wellness.”

20 <sup>13</sup> MenuSano Team, “The Difference between Diet and Nutrition,” *menusano.com* (Sept. 18, 2019),  
 21 <https://www.menusano.com/the-difference-between-diet-and-nutrition/>.

22 <sup>14</sup> Susan Bowerman, “2023 Nutrition Trends,” *Nutritional Outlook* (Jan. 9, 2023),  
 23 <https://www.nutritionaloutlook.com/view/2023-nutrition-trends>.

24 <sup>15</sup> Jim Manson, “Big in 2024: Health and nutrition trends to look out for next year,” *Natural Newsdesk*  
 25 (Oct. 31, 2023), <https://naturalnewsdesk.co.uk/2023/10/31/big-in-2024-health-and-nutrition-trends-to-look-out-for-next-year/>.

26 <sup>16</sup> See, e.g., Yu-Chin Koo et al., *Food claims and nutrition facts of commercial infant foods*, PLOS ONE  
 27 2018;13(2):e0191982, at 1, 4, available online at  
 28 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5830294/pdf/pone.0191982.pdf>.

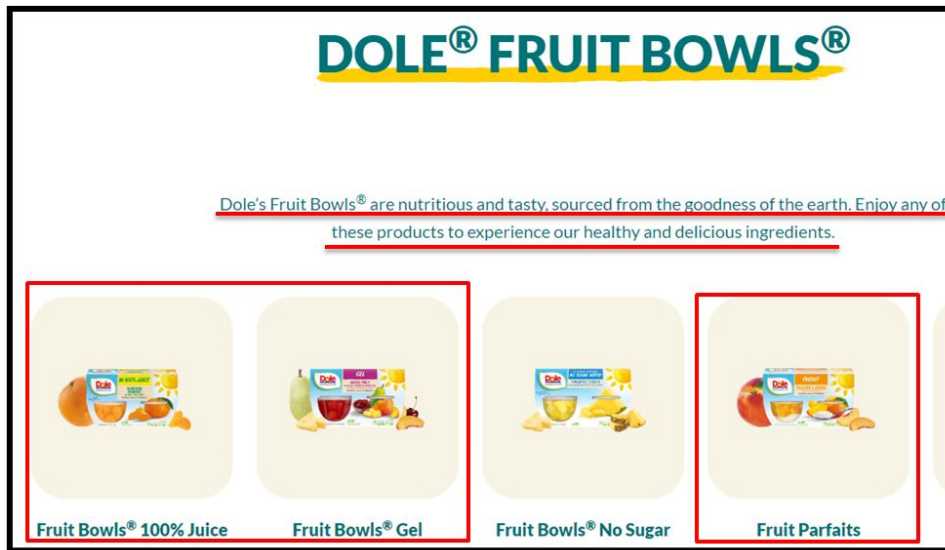
<sup>17</sup> 2020 Sunshine For All Review, *supra* n.1 at 1, 4 (emphasis added).

1 25. In its 2023 “Sunshine For All™ Dole Promise Progress Report,” Dole again discusses its  
 2 good nutrition promise, including “helping consumers to learn about good nutrition and make healthy food  
 3 choices.”<sup>18</sup> According to Dole, “Obesity, heart failure, high blood pressure, high cholesterol, diabetes, and  
 4 other noncommunicable diseases are all being linked to unhealthy diets,” but “[l]imiting the amount of  
 5 sugars, especially processed sugars, is one way to make a difference.”<sup>19</sup>

6 26. Thus, “[a]s part of [its] goal to care for more people by contributing to good nutrition for 1  
 7 billion people,” Dole acknowledges it must “work[] to eliminate processed sugar<sup>20</sup> in all [its] products[.]”<sup>21</sup>

8 27. That Dole equates good nutrition with foods that maintain health and wellness is further  
 9 demonstrated by Dole, throughout its website, [www.dolesunshine.com](http://www.dolesunshine.com)—which it directs consumers to via  
 10 the Products’ labeling—expressly referring to the Products as healthy.

11 28. For example, Dole encourages consumers to “experience [the] healthy and delicious  
 12 ingredients” in its “nutritious” Fruit Gels, Bowls, and Parfaits.<sup>22</sup>



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22 <sup>18</sup> Dole Sunshine Company, “Sunshine For All™ Dole Promise Progress Report FY 2022-2023” at 1, 7,  
 23 available at [https://dolesunshine.com/wp-content/uploads/sites/2/2023/12/Dole\\_Promise-Progress-Report\\_231208.pdf](https://dolesunshine.com/wp-content/uploads/sites/2/2023/12/Dole_Promise-Progress-Report_231208.pdf) [hereinafter “2023 Sunshine For All Report”].

24 <sup>19</sup> *Id.* at 7.

25 <sup>20</sup> FA Sugar impacts the body in the same manner as other common processed sugars, like table sugar,  
 26 because it has been released from the food matrix and any naturally-occurring fiber it may be encased in.

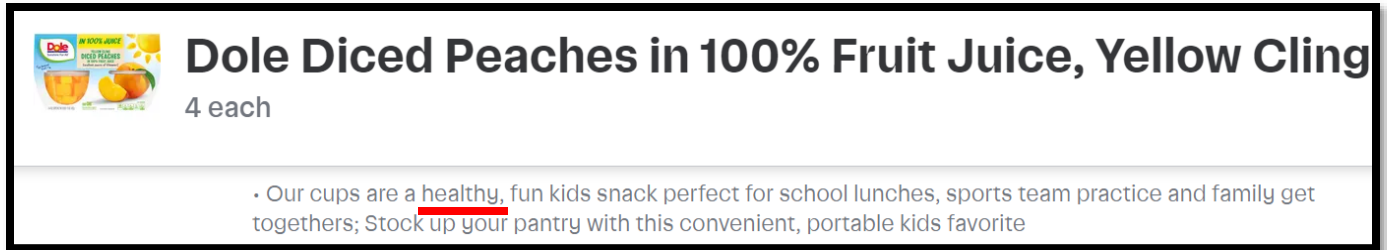
27 <sup>21</sup> <https://dolesunshine.com/us/en/promises/working-towards-zero-processed-sugar/>.

28 <sup>22</sup> <https://dolesunshine.com/us/en/products/fruit-bowls/>.



1 29. Other off-label marketing similarly refers to the Products as “healthy.” For example, “[a]  
2 three-month integrated marketing campaign” in early 2022, titled “Hold My Fruit Bowl,” was designed to  
3 “reinforce[] the functional benefits of Fruit Bowls® so parents can feel confident they’re feeding their kids  
4 **healthy, nutritious snacks.**”<sup>23</sup>

5 30. Dole claims in product descriptions provided to online retailers that “Our cups are a healthy,  
6 fun kids snack perfect for school lunches, sports team practice and family get togethers[.]”<sup>24</sup>



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25 <sup>23</sup> “Dole Packaged Foods, LLC Unveils New ‘Hold My Fruit Bowl’ Campaign,” *PR Newswire* (Jan. 5,  
26 2022), <https://www.prnewswire.com/news-releases/dole-packaged-foods-llc-unveils-new-hold-my-fruit-bowl-campaign-301454385.html> (emphasis added).

27 <sup>24</sup> [https://www.instacart.com/products/43454-dole-yellow-cling-diced-peaches-in-100-fruit-juice-cups-4-](https://www.instacart.com/products/43454-dole-yellow-cling-diced-peaches-in-100-fruit-juice-cups-4-oz.)  
28 [oz.](https://www.instacart.com/products/43454-dole-yellow-cling-diced-peaches-in-100-fruit-juice-cups-4-oz.)

1 31. Dole’s Fruitify Beverages are similarly marketed as “A perfect healthy juice for both kids  
2 and adults[.]”<sup>25</sup>

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**Product Details**

A delicious tropical juice drink made with ingredients known for their nutritional benefits. Replenish with this hydrating Pineapple Juice Drink with Coconut Water to refresh and renew.

- With just 70 calories per serving, Dole® Fruitify Replenish is a delicious, hydrating juice to enjoy anytime of day; A perfect healthy juice for both kids and adults

27 <sup>25</sup> [https://www.kroger.com/p/dole-fruitify-replenish-pineapple-juice-and-coconut-water-](https://www.kroger.com/p/dole-fruitify-replenish-pineapple-juice-and-coconut-water-blend/0003890007201)  
28 [blend/0003890007201](https://www.kroger.com/p/dole-fruitify-replenish-pineapple-juice-and-coconut-water-blend/0003890007201).

1           **B. There is High Consumer Demand for Good Nutrition**

2           32. Even as early as 1979, the “heightened public awareness of the importance of good  
3 nutrition” led “advertisers [to] recogniz[e] the potential benefits from an emphasis on the nutritional value  
4 of foods.”<sup>26</sup> Consumer demand for good nutrition continues today. “Modern consumers are looking to  
5 maximize health benefits through good nutrition,”<sup>27</sup> and “appreciate the necessity of good nutrition . . . to  
6 create a healthy, balanced lifestyle.”<sup>28</sup>

7           33. That “shoppers will continue to turn to good nutrition . . . to help them stay healthy,” was  
8 recently confirmed in “two new consumer trend reports.”<sup>29</sup>

9           34. Particularly since the COVID-19 pandemic, “[t]he focus on immunity and good health,  
10 especially coming from food and good nutrition is a priority for consumers.”<sup>30</sup>

11           35. It is thus well known in the food industry that because “[c]onsumers want . . . immunity and  
12 long term health, but struggle to address the deficiency[,] [b]rands can capitalise [sic] on this opportunity  
13 gap to develop products that both engage[] consumers and fulfil[] their need for good nutrition.”<sup>31</sup>

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15 <sup>26</sup> Joyce A. Vermeersch and Helene Swenerton, *Consumer responses to nutrition claims in food*  
16 *advertisements*, J. NUTR. EDU. Vol. 11 Iss. 1 (Apr. 1979).

17 <sup>27</sup> Sean Moloughney, “Demand for Protein Propels Market Diversity & Product Innovation,”  
18 *Nutraceuticals World* (Apr. 2, 2018), [https://www.nutraceuticalsworld.com/issues/2018-04/view\\_features/demand-for-protein-propels-market-diversity-product-innovation](https://www.nutraceuticalsworld.com/issues/2018-04/view_features/demand-for-protein-propels-market-diversity-product-innovation) (quoting Heather Arment, North America marketing coordinator for Gelita, a supplier of collagen proteins).

19 <sup>28</sup> SoBol, “Health-Conscious Consumers: What Do They Want?” *mysobol.com* (2024),  
20 <https://mysobol.com/health-conscious-consumers-what-do-they-want/>.

21 <sup>29</sup> Jennifer Grebow, “2022 Consumer Trends: People will still turn to dietary supplements, nutrition for  
22 preventative health in 2022,” *Nutritional Outlook* (Feb. 8, 2022),  
23 <https://www.nutritionaloutlook.com/view/2022-consumer-trends-people-will-still-turn-to-dietary-supplements-nutrition-for-preventative-health-in-2022>; *see also* Glion Institute of Higher Education, “The Food and Beverage Trends Shaping Our World,” *The Insider* (Feb. 21, 2024),  
24 <https://www.glion.edu/magazine/food-beverage-trends/> (One “Healthy Eating Trend[]” is that “Consumers are becoming more mindful of their well-being and the effect of good nutrition on their health, leading to significant changes in the market.”).

25 <sup>30</sup>FoLSol, “Why Is It So Critical To Read A Food Label?” *Food Label Solutions Information Center* (July  
26 20, 2022), <https://www.foodlabelsolutions.com/info-centre/Packaged-Foods/why-is-it-so-critical-to-read-a-food-label>.

27 <sup>31</sup> *See* Tim Opie, “Four consumer trends to watch in 2024” *nzmp.com* (Feb. 13, 2024),  
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1           **C.     Their Labeling Promises the Products Provide Good Nutrition**

2           36.     As a sophisticated food marketing company, Dole is well aware of the consumer demand for  
3 good nutrition. Accordingly, Dole employs a strategic marketing campaign that expressly promises the  
4 Products provide the good nutrition consumers desire.

5           37.     As part of Dole’s “Sunshine For All” campaign, each Product’s labeling bears claims and  
6 imagery designed to convey and reinforce Dole’s promise that the Products provide good nutrition.

7           38.     An exemplar of each Product’s packaging appears in Appendix 1 hereto.

8           39.     As shown, the packaging or labeling of every Product states, **“We believe in Sunshine for  
9 All. It’s our promise to provide everyone, everywhere, with good nutrition!”**

10          40.     The packaging of every Dole Fuit Bowl also states, **“Bring sunshine with you wherever  
11 you go – Dole Fruit Bowls® seal in goodness and nutrition.”**

12          41.     While these statements may seem aspirational or fanciful when considered in the abstract,  
13 when considered in the context in which they are presented to consumers—on a food’s label, surrounded  
14 by reinforcing statements and imagery—the statements convey a measurable promise that the Products  
15 provide good nutrition, *i.e.* are healthy foods that will help prevent—and certainly not cause—disease. At  
16 minimum, when buying a food from a company that “promise[s] to provide everyone, everywhere with  
17 good nutrition,” consumers do not expect products providing *poor nutrition, i.e.*, which contribute to  
18 disease when regularly consumed.

19          42.     That Dole intends consumers view its “good nutrition” promise as applicable to the Products  
20 themselves is confirmed in Dole’s off-label discussions of its promise.

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28 <https://www.nzmp.com/global/en/news/consumer-trends-2024.html>.

43. Every year, Dole publishes a “Sunshine For All” “Progress Review” or “Report.” In these progress reports, Dole reiterates its promise to provide good nutrition and “details [its] performance in . . . working to achieve [that promise].”<sup>32</sup> Dole measures its progress by counting the “[n]umber of consumers reached with Dole Sunshine Company’s nutritious products.”<sup>33</sup> “[I]ncluded in [Dole’s] measurement” are “[a]ll the nutritious products [it] sells in [its] core markets.”<sup>34</sup> Dole thus considers each Product to be “good nutrition” and counts the sale of each one as progress toward providing everyone, everywhere with “good nutrition.”

**The road ahead**

Our journey to provide good nutrition for one billion people by 2025 has begun. As we continue to make our nutritious food accessible to all by expanding into new markets and online, we will measure our reach and impact through consumer research and metrics on the number of consumers who eat our nutritious products.

**Defining and measuring access to nutrition**

Our definition of nutrition or nutritious food:

*“Food that satisfies hunger while providing a balance of macronutrients and vitamins/minerals to nourish the body and maintain health and wellness.”*

How we will measure our success (key metric)	What we will include in our measurement
Number of consumers reached with Dole Sunshine Company’s nutritious products.	All the nutritious products we sell in our core markets. All the Dole brand and other branded products we distribute direct to consumers in our core markets.

<sup>32</sup> 2020 Sunshine For All Review, *supra* n.1 at 4.

<sup>33</sup> *Id.* at 15.

<sup>34</sup> *Id.* (“we will measure our reach and impact through consumer research and metrics on the number of consumers who eat our nutritious products”); *see also id.* at 14 (“534 million people consumed our products in the last 12 months” prior to July 2021).

1 44. In its 2023 Sunshine for All Progress Report, Dole likewise measured its success in  
 2 providing good nutrition by the number of people who had consumed Dole foods, including the Products.  
 3 As depicted below, underneath the statement, “We aim to promote good nutrition via affordable, and  
 4 acceptable products,” Dole indicated “640 million people consumed our products in the last 12 months”  
 5 prior to July 2022.<sup>35</sup> Notably, adjacent to Dole’s discussion of providing good nutrition through the sale of  
 6 its own products is a “GOOD HEALTH AND WELLNESS” graphic green in color and portraying a heart  
 7 with an electrocardiogram wave.<sup>36</sup>



21 45. Dole’s label promise of “good nutrition” always appears directly below an image of the  
 22 sun—a symbol used liberally in the Products’ marketing.

23 46. A sun image is also used on each label in connection with the phrase “FULL OF  
 24 SUNSHINE,” below which are listed purported Product benefits, including that “Vitamin C is an  
 25

26 \_\_\_\_\_  
 27 <sup>35</sup> 2023 Sunshine For All Report, *supra* n.18 at 3.

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

1 antioxidant that helps promote [or support] a healthy immune system.”<sup>37</sup> A red arrow points from the  
2 “FULL OF SUNSHINE” phrase and imagery to a picture of fresh fruit.

3 47. Dole knows that the combination of these statements and imagery reinforces its promise that  
4 the Products provide good nutrition, *i.e.*, that they are healthy foods that will help prevent disease.

5 48. According to Bruce Bradley—“a former food company marketing executive” that “work[ed]  
6 over fifteen years for companies like Nabisco, The Pillsbury Company, and General Mills”<sup>38</sup>—“[i]magery  
7 has always been a very powerful tool in marketing processed foods.”<sup>39</sup>

8 49. Marketers know that “[o]ne of the most compelling symbols in existence is the sun. Since  
9 the dawn of mankind, it has been associated with a life-giving force. In many ways the sun is the very  
10 essence of nature. So it shouldn’t be surprising to see this symbol crop up frequently in packaging and  
11 advertising for processed foods.”<sup>40</sup>

12 50. “Sun Chips is a prime example of a brand that taps into the power of the sun. Launched in  
13 1991 as a *healthier* snacking choice, Frito-Lay has continued to build Sun Chips’ better for you,  
14 wholesome brand image.”<sup>41</sup> “Visuals of sunlight, fields of wholesome grain, and picturesque landscapes  
15 provide compelling imagery that works subconsciously and lays the foundation for beliefs that Sun Chips  
16 are a healthier, more natural snack.”<sup>42</sup>

17 51. Another example of a food manufacturer’s association of a sun with healthfulness is the  
18 graphic for Kraft’s “Sensible Solutions” program that it once used to indicate foods it considered part of its

19 \_\_\_\_\_  
20 <sup>37</sup> Plaintiff no longer challenges Dole’s use of the statement “Vitamin C is an antioxidant that helps  
21 promote [or support] a healthy immune system,” in accordance with the Court’s Order finding it to be an  
22 implied nutrient content claim as defined by 21 C.F.R. § 101.13(b)(2)(ii). *See* Dkt. No. 41 at 12-15.  
23 Plaintiff, however, reserves the right to appeal dismissal of this claim.

24 <sup>38</sup> Bruce Bradley, “My Journey from Processed Food Marketer to REAL FOOD Fan,” *brucebradley.com*  
25 (Oct. 10, 2020), <https://www.brucebradley.com/my-story>.

26 <sup>39</sup> Bruce Bradley, “Sun Chips: Creating the Aura of REAL Food,” *brucebradley.com* (Jan. 14, 2016),  
27 <https://www.brucebradley.com/food/sun-chips-creating-the-aura-of-real-food> [hereinafter “Bradley,  
28 Creating the Aura of REAL Food”].

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

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

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

1 “Healthy Living Initiative.” Like Dole’s “FULL OF SUNSHINE,” it was used as a headline for listing a  
2 product’s beneficial attributes, while omitting the negative attributes in such foods, like artificial trans fat.



8 52. The European Union also chose sun imagery to represent its “Healthy Choice” program,  
9 highlighting foods that meet the World Health Organization’s guidelines for saturated and trans fats,  
10 sodium, sugars, and other dietary guidelines.



16 53. The USDA’s Summer Nutrition Program chose the name “SUN” and incorporated sun  
17 imagery into its logo.<sup>43</sup> While “[t]he SUN name [is] derived from the words Summer and Nutrition,” it also  
18 “reflects the broader, brighter impact USDA’s Summer Nutrition Programs will have on kids across the  
19 nation, helping them thrive during summer and beyond.”<sup>44</sup>



26 <sup>43</sup> See U.S. Department of Agriculture, Food & Nutrition Service, “SUN Programs Style Guide” (Feb.  
27 2024), available at <https://www.fns.usda.gov/sun/style-guide>.

28 <sup>44</sup> *Id.* at 3.



1           54. According to the USDA, “[t]he brand is designed to embody the energy and tone of the  
2 [summer nutrition] programs.”<sup>45</sup> The “Brand Personality” of “SUN” is thus “Energetic” and “Healthful,”  
3 among other attributes.<sup>46</sup>

4           55. Additionally, “FDA is exploring options to standardize the presentation of ‘healthy’ claims  
5 for voluntary use on the food label. To support that effort, FDA conducted a literature review to summarize  
6 what is currently known and understood about the effects of nutrition labeling schemes – referred to as  
7 front-of-pack (FOP) labels displaying a summary of the product’s healthfulness or nutrient content.”<sup>47</sup> After  
8 reviewing a wide variety of global nutrition labeling schemes, including some with sun imagery, the FDA  
9 proposed a group of labeling symbols it believes “can help consumers identify and select healthy  
10 foods[.]”<sup>48</sup> One such “‘healthy’ symbol” includes the following sun imagery.<sup>49</sup>



11  
12  
13  
14  
15  
16           56. The association between sun imagery and healthfulness is for good reason. “[T]he health  
17 benefits of sunlight” are widely known.<sup>50</sup> “From promoting the growth of plants and crops to keeping  
18

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19 <sup>45</sup> *Id.* at 5.

20 <sup>46</sup> *Id.*

21 <sup>47</sup> U.S. Food & Drug Administration, “Healthy Symbol Literature Review,” at 4 (Feb. 26, 2021), *available*  
22 *at* <https://www.fda.gov/media/175617/download>.

23 <sup>48</sup> *Id.*

24 <sup>49</sup> U.S. Food & Drug Administration, “Appendix G Healthy Symbols Figure” at 2 (May 6, 2021), *available*  
25 *at* <https://www.regulations.gov/document/FDA-2021-N-0336-0003>; *see also* Sarah L. Brew, “FDA  
26 Proposes Consumer Research on ‘Healthy’ Symbol for Packaged Foods,” *available at*  
27 <https://www.faegredrinker.com/en/insights/publications/2021/5/fda-proposes-consumer-research-on-healthy-symbol-for-packaged-foods> (May 11, 2021) (identifying the healthy symbol using sun imagery among “[s]ome of the symbols currently being considered as a graphic representation of the implied nutrient content claim ‘healthy’”).

28 <sup>50</sup> *See* Danielle Dresden, “What to know about the health benefits of sunlight,” *Medical News Today* (Nov.

1 people warm, sunlight is essential for life.”<sup>51</sup> People know sunlight “can help [them] maintain optimal  
 2 levels of vitamin D,” which is “necessary for key biological processes[.]”<sup>52</sup> “Researchers have noted a link  
 3 between exposure to the sun and lower blood pressure levels, with reduced death rates from cardiovascular  
 4 issues. They suggest that exposure to sunlight triggers the skin to release stores of nitrogen oxides, which  
 5 cause arteries to dilate, lowering blood pressure, and may reduce the impact of metabolic syndrome.”<sup>53</sup> In  
 6 short, “[s]unlight is essential for human health and well-being.”<sup>54</sup>

7 57. Dole is aware of and intentionally leverages the health associations consumers make with  
 8 sunshine imagery and statements. On its website, for example, Dole expressly associates “Dole Sunshine”  
 9 with “All Natural” and “Low in Fructose”—sugar—among other attributes.<sup>55</sup>



15 58. Dole stated in its 2020 Sunshine For All Progress Review that “When Dole Sunshine  
 16 Company thinks of good nutrition, we think of sunshine. . . . We believe it’s possible to put Dole’s  
 17 sunshine on every plate, and to ensure healthy food is within reach of everyone. . . . [T]his means . . . .  
 18 making sure our nutritious products are affordable and well-stocked.”<sup>56</sup>

19 59. In its 2023 Progress Review, Dole reiterated, “We have always believed that good nutrition  
 20 should be more like sunshine – available for all. For Dole, this sentiment is at the heart of our Sunshine for  
 21

22 4, 2020), <https://www.medicalnewstoday.com/articles/benefits-of-sunlight>.

23 <sup>51</sup> *Id.*

24 <sup>52</sup> *Id.*

25 <sup>53</sup> *Id.*

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

27 <sup>55</sup> <https://dolesunshine.com/us/en/products>.

28 <sup>56</sup> 2020 Sunshine For All Review, *supra* n.1 at 11.

1 All™ rallying cry – and why we are deeply committed to delivering high-quality and healthy fresh and  
2 packaged fruit that has a positive impact on people, planet, and prosperity.”<sup>57</sup>

3 60. On food service website, Dole states, underneath a prominent “Sunshine For All” headline,  
4 that it “believe[s] good, *healthy*, affordable, and delicious foods should be more like sunshine everywhere,  
5 and for all.”<sup>58</sup>



11 61. Dole’s marketing of the Products as good nutrition is particularly effective not only because  
12 of the sun-health association consumers make, but also because the good nutrition promise and sun  
13 imagery always appear next to nutrient content statements that, while not challenged herein, contribute to  
14 the perceived healthfulness of the Products. These statements include “Vitamin C is an antioxidant that  
15 helps promote [or support] a healthy immune system” and “Excellent Source of Vitamin C.”

16 62. In sum, Dole promises the Products provide good nutrition in that they are healthy foods  
17 that will help prevent disease. Dole then reinforces its good nutrition promise through the combination of  
18 labeling statements and elements discussed herein.

19 **II. CONSUMING EXCESSIVE FA SUGAR IS ANTITHETICAL TO GOOD NUTRITION**

20 63. Notwithstanding its marketing of the Products as good nutrition, Dole knows that  
21 consuming FA Sugar contributes to increased risk of disease and is therefore antithetical to good nutrition.

22 **A. Free and Added Sugar Act in an Identical Manner Physiologically**

23 64. Scientific evidence demonstrates that free sugars act in a physiologically identical manner  
24 to added sugars.

25  
26 <sup>57</sup> 2023 Sunshine For All Report, *supra* n.18 at 2; *see also*  
27 <https://dolesunshine.com/us/en/promises/working-towards-zero-processed-sugar> (“We want our consumers  
28 to enjoy the goodness of the earth without processed sugar.”).

<sup>58</sup> <https://www.dolefoodservice.com> (emphasis added).

1           65.     A “free sugar” is any sugar added to a food or drink or that is already in honey, syrup, and  
2 fruit juice.<sup>59</sup> These sugars are “free” because they are not encased in the cells (food matrix) of the food  
3 that we eat. Free sugar excludes only sugars naturally occurring in *intact* fruits, vegetables, or dairy  
4 products.

5           66.     The harmful effect of free sugar comes in large part from the fact that it is not encased in  
6 the food matrix (including being bound in fiber), and therefore can hit the bloodstream very quickly when  
7 consumed. Accordingly, organizations like the WHO, strongly recommend “limiting the consumption of  
8 foods and drinks containing high amounts of sugars and sugar-sweetened beverages (i.e. all types of  
9 beverages containing free sugars – these include carbonated or non-carbonated soft drinks, fruit or  
10 vegetable juices and drinks).”<sup>60</sup>

11           67.     “Added sugar” is a subset of free sugar that includes sugar added to foods during  
12 processing or preparation, such as brown sugar, sucrose, honey, invert sugar, molasses, and fruit juice  
13 concentrates. But under some definitions (as relevant here) it does not include sugar in fruit juice.

14           68.     Thus, added sugars are a subset of free sugars, meaning all added sugars are free sugars,  
15 though not all free sugars are added sugars.

16           69.     This definitional distinction, however, is merely semantical. “The existence of these  
17 different ways of classifying sugars in foods and beverages in authoritative dietary guidance and nutrition  
18 communication implies that the distinctions are deemed to be physiologically relevant. But physiologic  
19 differentiation between these classes [of sugars] arise[s] mainly from effects of the [food] matrix in which  
20 the sugars are found. For example, it has often been shown that the acute metabolic impact is lower . . . for  
21 intact fruit than for the comparable fruit juices, the latter having effects more similar to other sugar-  
22 sweetened beverages (SSBs).”<sup>61</sup>

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23 <sup>59</sup> Dole cites to this definition of Free Sugars in its 2020 Sunshine For All Review. *See id.* at 25 n.2 (“Free  
24 sugars are defined by WHO as monosaccharides and disaccharides added to foods and beverages by the  
25 manufacturer, as well as sugars naturally present in honey, syrups, fruit juices and fruit juice  
concentrates”).

26 <sup>60</sup> <https://www.who.int/news-room/fact-sheets/detail/healthy-diet>.

27 <sup>61</sup> Mela, David J. et al., *Perspective: Total, Added, or Free? What Kind of Sugars Should We Be Talking*  
28 *About?*, ADV. NUTR. 9(2): 63-69 (Apr. 7, 2018) [hereinafter “Mela, Sugar Perspective”].

1           70.     The food matrix is “the nutrient and non-nutrient components of foods and their molecular  
2 relationships, i.e., chemical bonds, to each other.”<sup>62</sup> The food matrix may be viewed as a physical domain  
3 that contains and/or interacts with specific constituents of a food (e.g., a nutrient) providing functionalities  
4 and behaviors which are different from those exhibited by the components in isolation or a free state. It is,  
5 quite literally, the physical geometry of the food.<sup>63</sup> The effect of the food matrix (“FM-effect”) has  
6 profound implications in food processing, oral processing, satiation, and satiety, and, most relevant here,  
7 digestion in the gastrointestinal tract.<sup>64</sup> The effect of the food matrix also explains the counterintuitive  
8 reality that consuming two foods with the same chemical composition may lead to significantly different  
9 outcomes for health based on their chemical structures.

10           71.     When fruit is processed into juice like those used in Dole’s Fruit Bowls in Juice, Fridge  
11 Packs, and Fruitify Beverages, that processing destroys the food matrix. And because of the negative  
12 health effects of consuming FA Sugar, a piece of fruit, while perhaps a healthy food choice when it is  
13 whole, is transformed into a decidedly *unhealthy* food once processed into juice.<sup>65</sup> Thus, “the term ‘free  
14 sugars’ best conveys the nature and sources of dietary sugars that are most consistently related to risks of  
15 positive energy balance, and that are also associated with diabetes and dental caries.”<sup>66</sup>

16           72.     Susan Jebb, Professor of Diet and Population at Cambridge University, has explained that  
17 many “people believe fruit juices . . . have about the same effects as eating fruit. Unfortunately, this is  
18 wrong . . . .” This is because processing intact fruit destroys the fruits’ natural food matrix thereby  
19 concentrating and releasing the fruit’s sugar, which “‘is absorbed very fast, so by the time it gets to your  
20 stomach your body doesn’t know whether it’s Coca-Cola or orange juice[.]’”<sup>67</sup>

21 \_\_\_\_\_  
22 <sup>62</sup> United States Department of Agriculture, NAL Agricultural Thesaurus, *available at*  
<https://lod.nal.usda.gov/nalt/17238>.

23 <sup>63</sup> Aguilera, J., *The food matrix: implications in processing, nutrition and health*, CRIT. REV. FOOD SCI.  
24 NUTR. 2019; 59(22) 3612-3629 (Sept. 10, 2018).

25 <sup>64</sup> *Id.*

26 <sup>65</sup> See Mela, Sugar Perspective, *supra* n.61.

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

28 <sup>67</sup> “Don’t Fall for the Juice Trap,” *Apartments For Us* (Oct. 15, 2018),

1           73. Likewise, Dr. Robert Lustig, a professor emeritus of Pediatrics, Division of Endocrinology  
2 at the University of California, San Francisco, explains, juice is “as egregious a delivery vehicle for sugar  
3 as is soda. Studies of juice consumption show increased risk of diabetes and heart disease even after  
4 controlling for calories . . . .”<sup>68</sup>

5           74. Because the free sugar in juice acts physiologically identically to the added sugars in  
6 beverages, studies have found, for example, “drinking fruit juice every day . . . increase[es] the chances of  
7 diabetes by 21 percent.”<sup>69</sup>

8  
9  
10  
11 <https://www.apartmentsforus.com/dont-fall-for-the-fruit-juice-trap/> (Ms. Jebb accordingly cautioned  
12 consumers, “don’t fall for the fruit juice trap and don’t believe the hype that it’s a good addition to a  
13 balanced meal.”). *See also* Saner, Emine, “How fruit juice went from health food to junk food,” *The*  
*Guardian* (Jan. 17, 2014), available at [https://www.theguardian.com/lifeandstyle/2014/jan/17/how-fruit-](https://www.theguardian.com/lifeandstyle/2014/jan/17/how-fruit-juice-health-food-junk-food)  
[juice-health-food-junk-food](https://www.theguardian.com/lifeandstyle/2014/jan/17/how-fruit-juice-health-food-junk-food) (quoting Ms. Jebb).

14 <sup>68</sup> Lustig, Robert H., MD, MSL, *Metabolical: The Lure and the Lies of Processed Food, Nutrition, and*  
15 *Modern Medicine*, 259-60 (Harper Wave 2021).

16 <sup>69</sup> McClusky, Joan, “The Whole Truth About Whole Fruits,” *Medical Xpress* (May 31, 2017),  
17 <https://medicalxpress.com/news/2017-05-truth-fruits.html>. *See also* Muraki, I., et al., *Fruit consumption*  
*and risk of type 2 diabetes: results from three prospective longitudinal cohort studies*, *BMJ* (Aug. 2013)  
18 (“greater consumption of fruit juice is associated with a higher risk [of type 2 diabetes]”); Bazzano, L.A., et  
19 al., *Intake of fruit, vegetables, and fruit juices and risk of diabetes in women*, *DIABETES CARE*, Vol. 31,  
20 1311-17 (2008) (“cohort study of 71,346 women from the Nurses’ Health Study followed for 18 years  
21 showed that those who consumed 2 to 3 apple, grapefruit, or orange juices per day (280-450 calories and  
22 75-112.5 grams of sugar) had an 18% greater risk of type 2 diabetes than women who consumed less than 1  
23 sugar-sweetened beverage per month”); Drouin-Chatier, J., et al., *Changes in Consumption of Sugary*  
*Beverages and Artificially Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From*  
*Three Large Prospective U.S. Cohorts of Women and Men*, *DIABETES CARE*, Vol. 42, pp. 2181-89 (Dec.  
24 2019) (finding that increasing sugary beverage intake—which included both sugar-sweetened beverages  
25 and fruit juice—by half-a-serving per day over a 4-year period was associated with a 16% greater risk of  
26 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*, *BMJ*, Vol. 351 (2015) (meta-analysis of 17 prospective  
27 cohort studies showed higher consumption of fruit juice was associated with a 7% greater incidence of type  
28 2 diabetes); World Health Organization, “WHO urges global action to curtail consumption and health  
impacts of sugary drinks,” (Oct. 11, 2016), available at [https://www.who.int/news/item/11-10-2016-who-](https://www.who.int/news/item/11-10-2016-who-urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks)  
[urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks](https://www.who.int/news/item/11-10-2016-who-urges-global-action-to-curtail-consumption-and-health-impacts-of-sugary-drinks) (“Consumption of free  
sugars, including products like sugary drinks, is a major factor in the global increase of people suffering  
from obesity and diabetes[.]”)

1 75. Likewise, consuming juice increases risk of cardiovascular diseases<sup>70</sup> and all-cause  
2 mortality.<sup>71</sup>

3 **B. FA Sugar Consumption is Associated with Increased Risk of Cardiovascular Heart**  
4 **Disease and Mortality**

5 76. Data obtained from NHANES surveys demonstrate that adults who consumed 10% - 24.9%  
6 of their calories from added sugar had a 30% greater risk of cardiovascular disease (CVD) mortality than  
7 those who consumed 5% or less of their calories from added sugar. In addition, those who consumed 25%  
8 or more of their calories from added sugar had an average 275% greater risk of CVD mortality than those  
9 who consumed less than 5% of calories from added sugar. Thus, “[t]he risk of CVD mortality increased  
10 exponentially with increasing usual percentage of calories from added sugar[.]”<sup>72</sup>

11 77. The NHANES analysis also found “a significant association between sugar-sweetened  
12 beverage consumption and risk of CVD mortality,” with an average 29% greater risk of CVD mortality  
13 “when comparing participants who consumed 7 or more servings/wk . . . with those who consumed 1  
14 serving/wk or less . . . .”<sup>73</sup>

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17 <sup>70</sup> Hansen, L., et al., *Fruit and vegetable intake and risk of acute coronary syndrome*, BRITISH J. OF NUTR.,  
18 Vol. 104, p. 248-55 (2010) (finding “a tendency towards a lower risk of ACS [acute coronary syndrome] . .  
19 . for both men and women with higher fruit and vegetable consumption,” but “a higher risk . . . among  
20 women with higher fruit juice intake[.]”); Pase, M.P., et al., *Habitual intake of fruit juice predicts central  
21 blood pressure*, APPETITE, Vol. 84, p. 658-72 (2015) (people who consumed juice daily, rather than rarely  
22 or occasionally, had significantly higher central systolic blood pressure, a risk factor for cardiovascular  
23 disease”).

24 <sup>71</sup> Collin, L.J., et al., *Association of Sugary Beverage Consumption With Mortality Risk in US Adults: A  
25 Secondary Analysis of Data From the REGARDS Study*, JAMA NETWORK OPEN, Vol. 2, No. 5 (May 2019)  
26 (cohort study of 13,440 black and white adults 45 years and older, observed for a mean of 6 years, each  
27 additional 12-oz serving per day of fruit juice was associated with a 24% higher all-cause mortality risk).  
28 See also Thomas, Liji, MD, “Differences Between Natural Whole Fruit and Natural Fruit Juice,” *News  
Medical Life Sciences* (last updated Feb. 27, 2019), [https://www.news-medical.net/health/Differences-  
Between-Natural-Whole-Fruit-and-Natural-Fruit-Juice.aspx](https://www.news-medical.net/health/Differences-Between-Natural-Whole-Fruit-and-Natural-Fruit-Juice.aspx) (“In one study, increased fruit juice  
consumption in early life led to a higher risk of obesity and shorter adult height.”).

<sup>72</sup> Yang, Quanhe, et al., *Added Sugar Intake and Cardiovascular Diseases Mortality Among US Adults*,  
JAMA, at E4-5 (pub. online, Feb. 3, 2014).

<sup>73</sup> *Id.* at E6.

1 78. In a study of preschool children published in January 2020, researchers found that higher  
 2 consumption of sugar-containing beverages was significantly associated with elevated CMR  
 3 (cardiometabolic risk) scores. The researchers stated that their “findings support recommendations to limit  
 4 overall intake of SCB in early childhood, in [an] effort to reduce the potential long-term burden of  
 5 CMR.”<sup>74</sup>

6 79. In another prospective cohort study, consumption of sugary beverages was significantly  
 7 shown to increase risk of CHD, as well as adverse changes in some blood lipids, inflammatory factors, and  
 8 leptin.<sup>75</sup>

9 80. Sugar-sweetened beverage consumption is also associated with several CHD risk factors.  
 10 For example, consumption of sugary beverages has been associated with dyslipidemia,<sup>76</sup> obesity,<sup>77</sup> and  
 11 increased blood pressure.<sup>78</sup>

12 **C. FA Sugar Consumption is Associated with Increased Risk of Type 2 Diabetes**

13 81. Diabetes affects 25.8 million Americans, and can cause kidney failure, lower-limb  
 14

15 <sup>74</sup> Eny, KM, et al., *Sugar-containing beverage consumption and cardiometabolic risk in preschool*  
 16 *children*, PREV. MED. REPORTS 17 (Jan. 14, 2020).

17 <sup>75</sup> Koning, L.D., et al., *Sweetened Beverage Consumption, Incident Coronary Heart Disease, and*  
 18 *Biomarkers of Risk in Men*, CIRCULATION, Vol. 125, pp. 1735-41 (2012).

19 <sup>76</sup> Elliott S.S., et al., *Fructose, weight gain, and the insulin resistance syndrome*, AM. J. CLIN. NUTR., Vol.  
 20 76, No. 5, pp. 911-22 (2002).

21 <sup>77</sup> Faith, M.S., et al., *Fruit Juice Intake Predicts Increased Adiposity Gain in Children From Low-Income*  
 22 *Families: Weight Status-by-Environment Interaction*, PEDIATRICS, Vol. 118 (2006) (“Among children who  
 23 were initially either at risk for overweight or overweight, increased fruit juice intake was associated with  
 24 excess adiposity gain, whereas parental offerings of whole fruits were associated with reduced adiposity  
 25 gain.”); Schulze, M.B, et al., *Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type 2 Diabetes*  
 26 *in Young and Middle-Aged Women*, JAMA, Vol. 292, No. 8, pp. 927-34 (2004) [hereinafter “Schulze,  
 27 Diabetes in Young & Middle-Aged Women”]; Ludwig, D.S., et al., *Relation between consumption of*  
 28 *sugar-sweetened drinks and childhood obesity: a prospective, observational analysis*, LANCET, Vol. 257,  
 pp. 505-508 (2001); Dennison, B.A., et al., *Excess fruit juice consumption by preschool-aged children is*  
*associated with short stature and obesity*, PEDIATRICS, Vol. 99, pp. 15-22 (1997).

<sup>78</sup> See Hoare, E., et al., *Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review on*  
*Cardiometabolic Risk*, NUTR., Vol. 9, No. 10 (2017); Pase, M.P., et al., *Habitual intake of fruit juice*  
*predicts central blood pressure*, 84 APPETITE 658 (2015) (finding those who consumed juice daily, rather  
 than rarely or occasionally, had significantly higher central systolic blood pressure).



1 amputation, and blindness. In addition, diabetes doubles the risk of colon and pancreatic cancers and is  
2 strongly associated with coronary artery disease and Alzheimer’s disease.<sup>79</sup>

3 82. In 2010, Harvard researchers performed a meta-analysis of 8 studies concerning sugar-  
4 sweetened beverage consumption and risk of type 2 diabetes, involving a total of 310,819 participants.  
5 They concluded that individuals in the highest quantile of SSB intake had an average 26% greater risk of  
6 developing type 2 diabetes than those in the lowest quantile.<sup>80</sup> Moreover, “larger studies with longer  
7 durations of follow-up tended to show stronger associations.”<sup>81</sup> Thus, the meta-analysis showed “a clear  
8 link between SSB consumption and risk of . . . type 2 diabetes.”<sup>82</sup>

9 83. An analysis of data for more than 50,000 women from the Nurses’ Health Study,<sup>83</sup> during  
10 two 4-year periods (1991-1995 and 1995-1999), showed, after adjusting for confounding factors, that  
11 women who consumed 1 or more sugar-sweetened soft drink per day (equivalent to 140-150 calories and  
12 35-37.5 grams of added sugar), had an 83% greater relative risk of type 2 diabetes compared with those  
13 who consumed less than 1 such beverage per month, and women who consumed 1 or more fruit punch  
14  
15  
16  
17

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18 <sup>79</sup> Aranceta Bartrina, J. et al., *Association between sucrose intake and cancer: a review of the evidence*,  
19 NUTRICIÓN HOSPITALARIA, Vol. 28 (Suppl. 4), 95-105 (2013); Garcia-Jimenez, C., *A new link between*  
20 *diabetes and cancer: enhanced WNT/beta-catenin signaling by high glucose*, J. OF MOLECULAR  
21 ENDOCRINOLOGY, Vol. 52, No. 1 (2014); Linden, G.J., *All-cause mortality and periodontitis in 60-70-year-*  
22 *old men: a prospective cohort study*, J. OF CLIN. PERIODONTAL, Vol. 39, No. 1, 940-46 (Oct. 2012).

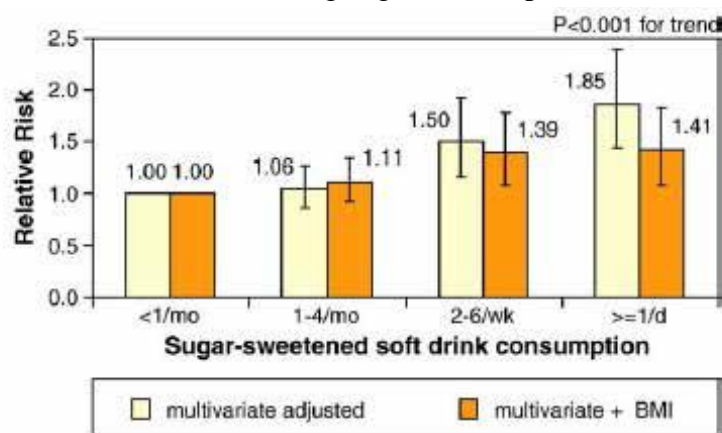
23 <sup>80</sup> Malik, Vasanti S., et al., *Sugar-Sweetened Beverages and Risk of Metabolic Syndrome and Type 2*  
24 *Diabetes*, DIABETES CARE, Vol. 33, No. 11, 2477-83, at 2477, 2480 (Nov. 2010) [hereinafter “Malik, 2010  
25 Meta-Analysis”].

26 <sup>81</sup> *Id.* at 2481.

27 <sup>82</sup> *Id.*

28 <sup>83</sup> The Nurses’ Health Study was established at Harvard in 1976, and the Nurses’ Health Study II, in 1989.  
Both are long-term epidemiological studies conducted on women’s health. The study followed 121,700  
female 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>.

1 drinks per day had a 100% greater relative risk of type 2 diabetes.<sup>84</sup> The result of this analysis shows a  
 2 statistically significant linear trend with increasing sugar consumption.<sup>85</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]).

84. A prospective cohort study of more than 43,000 African American women between 1995 and 2001 showed that the incidence of type 2 diabetes was higher with higher intake of both sugar-sweetened soft drinks and fruit drinks. After adjusting for confounding variables, those who drank 2 or more soft drinks per day (*i.e.*, 140-300 calories and 35-75 grams of added sugar) showed a 24% greater risk of type 2 diabetes, and those who drank 2 or more fruit drinks per day showed a 31% greater risk of type 2 diabetes, than those who drank 1 or less such drinks per month.<sup>86</sup>

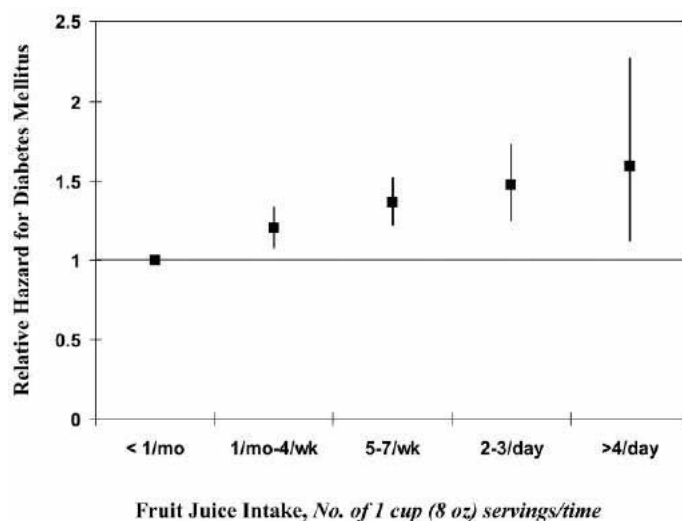
85. A large cohort study of 71,346 women from the Nurses' Health Study followed for 18 years showed that those who consumed 2 to 3 apple, grapefruit, and orange juices per day (280-450 calories and 75-112.5 grams of added sugar) had an 18% greater risk of type 2 diabetes than women who consumed less

<sup>84</sup> Schulze, Diabetes in Young & Middle-Aged Women, *supra* n.77.

<sup>85</sup> Hu, F.B., et al., *Sugar-sweetened beverages and risk of obesity and type 2 diabetes: Epidemiologic evidence*, PHYSIO. & BEHAV., Vol. 100, 47-54 (2010).

<sup>86</sup> Palmer, J.R., et al., *Sugar-Sweetened Beverages and Incidence of Type 2 Diabetes Mellitus in African American Women*, ARCH INTERN MED., Vol. 168, No. 14, 1487-82 (July 28, 2008) [hereinafter "Palmer, Diabetes in African American Women"].

1 than 1 sugar-sweetened beverage per month. The data also showed a linear trend with increased  
2 consumption, as demonstrated below.<sup>87</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).

13 86. An analysis of more than 40,000 men from the Health Professionals Follow-Up Study, a  
14 prospective cohort study conducted over a 20-year period, found that, after adjusting for age and a wide  
15 variety of other confounders, those in the top quartile of sugar-sweetened beverage intake had a 24%  
16 greater risk of type 2 diabetes than those in the bottom quartile, while consumption of artificially-  
17 sweetened beverages, after adjustment, showed no association.<sup>88</sup>

18 87. In an analysis of tens of thousands of subjects from three prospective longitudinal cohort  
19 studies (the Nurses' Health Study, Nurses' Health Study II, and Health Professionals Follow-up Study),  
20 researchers found, after adjusting for BMI, initial diet, changes in diet, and lifestyle covariates, that  
21 increasing sugary beverage intake—which included both sugar-sweetened beverages and fruit juice—by  
22 half-a-serving per day over a 4-year period was associated with a 16% greater risk of type 2 diabetes.<sup>89</sup>

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24 <sup>87</sup> Bazzano, L.A., et al., *Intake of fruit, vegetables, and fruit juices and risk of diabetes in women*, DIABETES CARE, Vol. 31, 1311-17 (2008).

25 <sup>88</sup> de Konig, L., et al., *Sugar-sweetened and artificially sweetened beverage consumption and risk of type 2 diabetes in men*, AM. J. OF CLIN. NUTR., Vol. 93, 1321-27 (2011).

26  
27 <sup>89</sup> Drouin-Chatier, J., et al., *Changes in Consumption of Sugary Beverages and Artificially Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From Three Large Prospective U.S. Cohorts of Women and Men*, DIABETES CARE, Vol. 42, pp. 2181-89 (Dec. 2019).

1           88. An econometric analysis of repeated cross-sectional data published in 2013 established a  
2 causal relationship between sugar availability and type 2 diabetes. After adjusting for a wide range of  
3 confounding factors, researchers found that an increase of 150 calories per day related to an insignificant  
4 0.1% rise in diabetes prevalence by country, while an increase of 150 calories per day in sugar related to a  
5 1.1% rise in diabetes prevalence by country, a statistically-significant 11-fold difference.<sup>90</sup>

6           89. There are many other scientific studies, of which the average consumer is unaware, that  
7 demonstrate consuming drinks with added sugar directly harms blood sugar levels. One large meta-analysis  
8 that included data from 34,748 adults, for example, found that “after adjustment for age, sex, energy intake,  
9 BMI and other dietary covariates, each additional serving of [sugar sweetened beverage] intake was  
10 associated with higher *fasting* glucose”<sup>91</sup> blood levels, which is unhealthy. This in turn leads to “higher  
11 fasting insulin”<sup>92</sup> levels, which can cause insulin resistance. In fact, studies have shown that “Regular SSB  
12 [sugar-sweetened beverage] intake . . . is associated with a greater increase in insulin resistance and a  
13 higher risk of developing prediabetes in a group of middle-aged adults.”<sup>93</sup>

14           90. Another study “aimed to evaluate the relationship between the consumption of selected food  
15 groups and insulin resistance, with an emphasis on sugar-sweetened beverages (SSB)” it found that “daily  
16 consumption of SSB was related with increased [homeostasis model assessment-insulin resistance] in  
17 adolescents.”<sup>94</sup>

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21 <sup>90</sup> Basu, S., et al., *The Relationship of Sugar to Population-Level Diabetes Prevalence: An Econometric*  
22 *Analysis of Repeated Cross-Sectional Data*, PLOS ONE, Vol. 8, Issue 2 (Feb. 27, 2013).

23 <sup>91</sup> McKeown, N.M. et al., *Sugar-Sweetened Beverage Intake Associations with Fasting Glucose and Insulin*  
24 *Concentrations Are Not Modified by Selected Genetic Variants in a ChREBP-FGF21 Pathway: A Meta-*  
25 *Analysis*, 61 DIABETOLOGIA 317–330 (2018) (emphasis added).

26 <sup>92</sup> *Id.*

27 <sup>93</sup> Ma, J. et al., *Sugar-Sweetened Beverage but Not Diet Soda Consumption Is Positively Associated with*  
28 *Progression of Insulin Resistance and Prediabetes*, 146 J. NUTR. 2544–2550 (2016).

<sup>94</sup> Kondaki, K. et al., *Daily Sugar-Sweetened Beverage Consumption and Insulin Resistance in European*  
*Adolescents*, 16 PUB. HEALTH NUTR. 479–486 (2013).

1 91. Yet another study examining “the association between sugar-sweetened beverage (SSB)  
2 consumption with biomarkers of insulin resistance (IR)” found that “[a]dolescents who consumed a greater  
3 amount of SSBs were more likely to have elevated fasting serum insulin[.]”<sup>95</sup>

4 92. Another study found that “SSB supplementation led to a significant increase in fasting  
5 plasma glucose and a strong trend towards a reduction in insulin sensitivity in healthy lean individuals with  
6 low physical activity, who otherwise consumed less than 500 mL SSB per week.”<sup>96</sup>

7 93. In short, there is “a clear link between [sugar sweetened beverage] consumption,” like many  
8 of the Products challenged here, “and risk of . . . type 2 diabetes.”<sup>97</sup>

9 **D. FA Sugar Consumption is Associated with Metabolic Disease**

10 94. Excess added sugar consumption leads to metabolic syndrome by stressing and damaging  
11 crucial organs, including the pancreas and liver. When the pancreas, which produces insulin, becomes  
12 overworked, it can fail to regulate blood sugar properly. Large doses of added sugar can overwhelm the  
13 liver, which metabolizes the fructose in the sugar. In the process, the liver will convert excess fructose to  
14 fat, which is stored in the liver and released into the bloodstream. This process contributes to key elements  
15 of metabolic syndrome, including high blood fats and triglycerides, high cholesterol, high blood pressure,  
16 and extra body fat, especially in the belly.<sup>98</sup>

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20 <sup>95</sup> Lin, W.-T. et al., *Fructose-Rich Beverage Intake and Central Adiposity, Uric Acid, and Pediatric Insulin*  
21 *Resistance*, 171 J. PED. 90–96 (2016).

22 <sup>96</sup> Sartor F et al., *Adaptive metabolic response to 4 weeks of sugar-sweetened beverage consumption in*  
23 *healthy, lightly active individuals and chronic high glucose availability in primary human myotubes*, 52(3)  
24 EURO. J. NUTR. 937-48 (Apr. 2013). *See also* Teshima N et al., *Effects of sugar-sweetened beverage intake*  
25 *on the development of type 2 diabetes mellitus in subjects with impaired glucose tolerance: the Mihama*  
26 *diabetes prevention study*, 61(1) J. NUTR. SCI. VITAMINOL. 14-9 (2015) (“SSB intake correlated with the  
27 predisposition for developing T2DM, possibly by influencing body weight, insulin resistance, and the  
28 ability of the pancreatic beta cells to effectively compensate for the insulin resistance”).

<sup>97</sup> Malik, 2010 Meta-Analysis, *supra* n.80, at 2477, 2480-81.

<sup>98</sup> Te Morenga, L., et al., *Dietary sugars and body weight: systematic review and meta-analyses of*  
*randomized controlled trials and cohort studies*, BJM (Jan. 2013).

1 95. Metabolic disease has been linked to type 2 diabetes, cardiovascular disease, obesity,  
2 polycystic ovary syndrome, nonalcoholic fatty liver disease, and chronic kidney disease, and is defined as  
3 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 medication);
- 6 c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40 mg for  
7 men;
- 8 d. High blood pressure (135/85 mm or higher); or
- 9 e. High blood sugar (100mg/dL or higher).

10 96. More generally, “metabolic abnormalities that are typical of the so-called metabolic  
11 syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high concentrations of circulating  
12 triacylglycerols, low concentrations of HDLs, and high concentrations of small, dense LDLs.”<sup>99</sup>

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

15 98. In 2010, Harvard researchers published a meta-analysis of three studies, involving 19,431  
16 participants, concerning the effect of consuming sugar-sweetened beverages on risk for metabolic  
17 syndrome. They found participants in the highest quantile of 1-2 servings per day had an average 20%  
18 greater risk of developing metabolic syndrome than did those in the lowest quantile of less than 1 serving  
19 per day, showing “a clear link between SSB consumption and risk of metabolic syndrome . . . .”<sup>100</sup>

20 99. Researchers who studied the incidence of metabolic syndrome and its components in  
21 relation to soft drink consumption in more than 6,000 participants in the Framingham Heart Study found  
22 that individuals who consumed 1 or more soft drinks per day had a 48% higher prevalence of metabolic  
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26 <sup>99</sup> Fried, S.K., *Sugars, hypertriglyceridemia, and cardiovascular disease*, AM. J. OF CLIN. NUTR., Vol. 78  
(suppl.), 873S-80S, at 873S (2003).

27 <sup>100</sup> Malik, 2010 Meta-Analysis, *supra* n.80, at 2477, 2480-81.  
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1 syndrome than infrequent consumers, those who drank less than 1 soft drink per day. In addition, the  
2 frequent-consumer group had a 44% higher risk of developing metabolic syndrome.<sup>101</sup>

3 **E. FA Sugar Consumption is Associated with Liver Disease**

4 100. Sugar-sweetened beverage consumption causes serious liver disease, including non-  
5 alcoholic fatty liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of  
6 these cases develop into non-alcoholic steatohepatitis (NASH), scarring as the liver tries to heal its injuries,  
7 which gradually cuts off vital blood flow to the liver. About 25% of NASH patients progress to non-  
8 alcoholic liver cirrhosis, which requires a liver transplant or can lead to death.<sup>102</sup>

9 101. Since 1980, the incidence of NAFLD and NASH has doubled, along with the rise of  
10 fructose consumption, with approximately 6 million Americans estimated to have progressed to NASH and  
11 600,000 to NASH-related cirrhosis. Most people with NASH also have type 2 diabetes. NASH is now the  
12 third-leading reason for liver transplant in America.<sup>103</sup>

13 102. Moreover, because the liver metabolizes sugar virtually identically to alcohol, the U.S. is  
14 now seeing for the first time alcohol-related diseases in children. Conservative estimates are that 31% of  
15 American adults, and 13% of American children, suffer from NAFLD.<sup>104</sup>

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19 <sup>101</sup> Dhingra, R., et al., *Soft Drink Consumption and Risk of Developing Cardiometabolic Risk Factors and*  
20 *the Metabolic Syndrome in Middle-Aged Adults in the Community*, CIRCULATION, Vol. 116, 480-88 (2007).

21 <sup>102</sup> Farrell, G.C., et al., *Nonalcoholic fatty liver disease: from steatosis to cirrhosis*, HEPATOLOGY, Vol.  
22 433, No. 2 (Suppl. 1), S99-S112 (Feb. 2006); Powell, E.E., et al., *The Natural History of Nonalcoholic*  
*Steatohepatitis: A Follow-up Study of Forty-two Patients for Up to 21 Years*, HEPATOLOGY, Vol. 11, No. 1  
(1990).

23 <sup>103</sup> Charlton, M.R., et al., *Frequency and outcomes of liver transplantation for nonalcoholic steatohepatitis*  
24 *in the United States*, GASTROENTEROLOGY, Vol. 141, No. 4, 1249-53 (Oct. 2011).

25 <sup>104</sup> Lindback, S.M., et al., *Pediatric Nonalcoholic Fatty Liver Disease: A Comprehensive Review*,  
26 *ADVANCES IN PEDIATRICS*, Vol. 57, No. 1, 85-140 (2010); Lazo, M. et al., *The Epidemiology of*  
*Nonalcoholic Fatty Liver Disease: A Global Perspective*, SEMINARS IN LIVER DISEASE, Vol. 28, No. 4,  
27 339-50 (2008); Schwimmer, J.B., et al., *Prevalence of Fatty Liver in Children and Adolescents*,  
28 *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           **F.     FA Sugar Consumption is Associated with Increased Risk of Obesity**

2           103.   Excess FA Sugar consumption leads to weight gain and obesity because insulin secreted in  
3 response to sugar intake instructs the cells to store excess energy as fat. This excess weight can then  
4 exacerbate the problems of excess FA Sugar consumption, because excess fat, particularly around the  
5 waist, is in itself a primary cause of insulin resistance, creating a vicious cycle. Studies have shown that  
6 belly fat produces hormones and other substances that can cause insulin resistance, high blood pressure,  
7 abnormal cholesterol levels, and cardiovascular disease. And belly fat plays a part in the development of  
8 chronic inflammation in the body, which can cause damage over time, and without any signs or symptoms.

9           104.   A recent meta-analysis by Harvard researchers evaluating change in Body Mass Index per  
10 increase in 1 serving of sugar-sweetened beverages per day found a significant positive association  
11 between beverage intake and weight gain.<sup>105</sup>

12           105.   One study of more than 2,000 2.5-year-old children followed for 3 years found that those  
13 who regularly consumed sugar-sweetened beverages between meals had a 240% better chance of being  
14 overweight than non-consumers.<sup>106</sup>

15           106.   An analysis of data for more than 50,000 women from the Nurses' Health Study during two  
16 4-year periods showed that weight gain over a 4-year period was highest among women who increased  
17 their sugar-sweetened beverage consumption from 1 or fewer drinks per week, to 1 or more drinks per day  
18 (8.0 kg gain during the 2 periods), and smallest among women who decreased their consumption or  
19 maintained a low intake level (2.8 kg gain).<sup>107</sup>

20           107.   A study of more than 40,000 African American women over 10 years had similar results.  
21 After adjusting for confounding factors, those who increased sugar-sweetened beverage intake from less  
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25 <sup>105</sup> Malik, V.S., et al., *Sugar-sweetened beverages and BMI in children and adolescents: reanalyses of a meta-analysis*, AM. J. CLIN. NUTR., Vol. 29, 438-39 (2009).

26 <sup>106</sup> Dubois, L., et al., *Regular sugar-sweetened beverage consumption between meals increases risk of*  
27 *overweight among preschool-aged children*, J. AM. DIET ASSOC., Vol. 107, Issue 6, 924-34 (2007).

28 <sup>107</sup> Schulze, *Diabetes in Young & Middle-Aged Women*, *supra* n.77.



1 than 1 serving per week, to more than 1 serving per day, gained the most weight (6.8 kg), while women  
2 who decreased their intake gained the least (4.1 kg).<sup>108</sup>

3 108. Experimental short-term feeding studies comparing sugar-sweetened beverages to  
4 artificially-sweetened beverages have shown that consumption of the former leads to greater weight gain.  
5 In one 10-week trial involving more than 40 men and women, the group that consumed daily supplements  
6 of sucrose (for 28% of total energy) increased body weight and fat mass—by 1.6 kg for men and 1.3 kg for  
7 women—while the group that was supplemented with artificial sweeteners lost weight—1.0 kg for men  
8 and 0.3 kg for women.<sup>109</sup>

9 **G. FA Sugar Consumption is Associated with Increased All-Cause Mortality**

10 109. In a cohort study of 13,440 adults 45 years and older, observed for a mean of 6 years, each  
11 additional 12-oz serving per day of a sugary beverage was associated with a 11% higher all-cause mortality  
12 risk. The researchers from Emory University, University of Alabama, and the Weill Cornell Medical  
13 College concluded their findings “suggest that consumption of sugary beverages, including fruit juices, is  
14 associated with all-cause mortality.”<sup>110</sup>

15 **H. Because of the Scientific Evidence of FA Sugar’s Health Harms, Authoritative Bodies**  
16 **Recommend Excluding or Substantially Minimizing FA Sugar Consumption**

17 110. The World Health Organization (WHO) recommends that no more than 10% of calories,  
18 and ideally less than 5%, come from FA Sugar.<sup>111</sup> Additionally, WHO expressly advises “limiting the  
19 consumption of . . . sugar-sweetened beverages (i.e. all types of beverages containing free sugars – these  
20 include carbonated or non-carbonated soft drinks, fruit or vegetable juices and drinks . . . )”<sup>112</sup>

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22 <sup>108</sup> Palmer, Diabetes in African American Women, *supra* n.86.

23 <sup>109</sup> Raben, A., et al., *Sucrose compared with artificial sweeteners: different effects on ad libitum food intake*  
24 *and body weight after 10 wk of supplementation in overweight subjects*, 76 AM. J. CLIN. NUTR. 721 (2002).

25 <sup>110</sup> Collin, L.J., et al., *Association of Sugary Beverage Consumption With Mortality Risk in US Adults: A*  
26 *Secondary Analysis of Data From the REGARDs Study*, JAMA NETWORK OPEN, Vol. 2, No. 5 (May 2019).

27 <sup>111</sup> World Health Organization, “Healthy Diet,” available at <https://www.who.int/news-room/fact-sheets/detail/healthy-diet> (reduction of FA Sugar “to below 5% . . . per day would provide additional health benefits).

28 <sup>112</sup> *Id.*

1 111. The American Heart Association (AHA) recommends restricting added sugar to 5% of  
 2 calories consumed per day.<sup>113</sup> Based on the average caloric needs, this equates to 12 grams daily for  
 3 children 4 to 8 years old, 25 grams daily for children 9 to 18 years old, 25 grams for women, and 38 grams  
 4 for men.

5 112. The Food and Drug Administration (FDA) has adopted the United States Department of  
 6 Agriculture’s daily reference value (DRV) of 50 grams of added sugar, or 10% of calories based on a  
 7 2,000-calorie diet. 81 Fed. Reg. 33742, 33820 (May 27, 2016). While the FDA acknowledged the AHA  
 8 and WHO recommendations to keep added sugars below 5% of calories, it set the DRV at 50 grams or 10%  
 9 because this was “more realistic considering current consumption of added sugars in the United States as  
 10 well as added sugars in the food supply.” *Id.* at 33,849. Nevertheless, the FDA’s rulemaking was based, in  
 11 part, on the 2015 Dietary Guidelines Advisory Committee’s “food pattern analysis,” which—consistent  
 12 with the AHA and WHO recommendations—“demonstrate[d] that when added sugars in foods and  
 13 beverages exceeds 3% to 9% of total calories . . . a healthful food pattern may be difficult to achieve . . .  
 14 .”<sup>114</sup>

15 113. The Scientific Report of the 2020 Dietary Guidelines Advisory Committee was even stricter  
 16 than what the USDA and Department of Health and Human Services ultimately adopted, “suggest[ing] that  
 17 less than 6 percent of energy from added sugars is more consistent with a dietary pattern that is  
 18 nutritionally adequate . . . than is a pattern with less than 10 percent energy from added sugars.”<sup>115</sup>

19 114. The Heart and Stroke Foundation, in explaining “healthy eating basics,” recommends  
 20 “avoid[ing] sugary drinks.”<sup>116</sup>

21 <sup>113</sup> Johnson, R.K., et al., on behalf of the American Heart Association Nutrition Committee of the Council  
 22 on Nutrition, Physical Activity, and Metabolism and Council on Epidemiology and Prevention, *Dietary*  
 23 *Sugars Intake and Cardiovascular Health: A Scientific Statement From the American Heart Association*,  
 CIRCULATION, Vol. 120, 1011-20, at 1016-17 (2009).

24 <sup>114</sup> U.S. Department of Agriculture, “Scientific Report of the 2015 Dietary Guidelines Advisory  
 25 Committee,” Ch. 6 p.26 (February 2015).

26 <sup>115</sup> U.S. Department of Agriculture, “Scientific Report of the 2020 Dietary Guidelines Advisory  
 Committee” (2020), Part A, p. 11.

27 <sup>116</sup> Heart and Stroke Foundation, “Healthy eating basics,” <https://www.heartandstroke.ca/healthy-living/healthy-eating/healthy-eating-basics>.  
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1 115. The Centers for Disease Control and Prevention warns that “[t]oo much sugar in your diet  
2 can lead to health problems such as weight gain and obesity, type 2 diabetes, and heart disease” and that  
3 “[s]ugary drinks are the leading source of added sugars in the American diet.”<sup>117</sup>

4 116. The Harvard School of Public Health points out that “the Healthy Eating Pyramid says  
5 sugary drinks and sweets should be used sparingly, if at all, and the Healthy Eating Plate does not include  
6 foods with added sugars.”<sup>118</sup>

7 117. In September 2019, the American Academy of Pediatrics, the American Heart Association,  
8 the Academy of Nutrition and Dietetics, and the American Academy of Pediatric Dentistry published a  
9 consensus statement on young children’s consumption of drinks, recommending no 100% fruit juice for  
10 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  
11 day for ages 4-5 years.<sup>119</sup>

12 118. Overall, “[l]imiting SSBs has been widely promulgated by public health policy and  
13 scientific documents as a prudent strategy for promoting optimal nutrition and health.”<sup>120</sup>

### 14 **III. DOLE’S REPRESENTATIONS AND OMISSIONS ARE FALSE AND MISLEADING**

#### 15 **A. Dole’s Good Nutrition Promise is Likely to Deceive the Public**

16 119. Dole’s labeling representations conveying that the Products provide good nutrition are  
17 directly contrary to the scientific evidence and therefore are false, or at least highly misleading.

18 120. Because “good nutrition” promotes health and reduces risk of disease, Dole’s “promise to  
19 provide everyone, everywhere with good nutrition” is false and misleading as to the Products because  
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22 <sup>117</sup> Centers for Disease Control and Prevention, “Know Your Limit for Added Sugars,” *CDC.gov* (last  
23 reviewed Jan. 13, 2022), [https://www.cdc.gov/healthyweight/healthy\\_eating/sugar.html](https://www.cdc.gov/healthyweight/healthy_eating/sugar.html).

24 <sup>118</sup> Harvard T.H. Chan School of Public Health, “Added Sugar,” *The Nutrition Source* (last reviewed Apr.  
25 2022), <https://www.hsph.harvard.edu/nutritionsource/carbohydrates/added-sugar-in-the-diet/>.

26 <sup>119</sup> Lott, M., et al., “Healthy Beverage Consumption in Early Childhood: Recommendations from Key  
27 National Health and Nutrition Organizations. Consensus Statement,” *Healthy Eating Research* (Sept.  
28 2019), <https://healthyeatingresearch.org/research/consensus-statement-healthy-beverage-consumption-in-early-childhood-recommendations-from-key-national-health-and-nutrition-organizations/>.

<sup>120</sup> Zheng, M., et al., *Substitution of SSB with other beverage alternatives: a review of long-term health  
outcomes*, J. ACAD. NUTR. DIET. vol. 115,5 (2015).

1 regularly consuming them is likely to *increase* risk of diseases like Type 2 diabetes and heart disease, and  
2 detrimentally impacts blood pressure and cholesterol levels, among other harms.

3 121. Put another way, a food that provides good nutrition is one that both provides beneficial  
4 nutrients (e.g. vitamins) *and minimizes harmful elements* (e.g. sugars). Because the Products are high in  
5 FA Sugars, rather than minimizing harmful elements, the Products do not provide good nutrition.

6 122. In addition, authoritative bodies like the American Heart Association, FDA, WHO, and  
7 DGAs recommend limiting FA Sugar consumption to less than 5% or 10% of daily calories for a healthy  
8 diet and good nutrition, and less than 5% of calories for a healthy food. Therefore, it is misleading for Dole  
9 to represent that its Products are healthy or good nutrition, when between 29% and 96% of the Products'  
10 calories come from FA Sugar.

11 123. Because the Products contain such high levels of FA Sugar, consuming the products actually  
12 makes it harder or even impossible to stay below the maximum recommended level of FA Sugar  
13 consumption. For example, a **single** Fruit Bowl in Gel contains 18g to 20g FA Sugar which is 150% to  
14 166.7% of the daily limit for children 4 to 8 years old, and 72% to 80% of the daily limit for children up to  
15 18 years old. Because consuming the Products makes it harder to maintain a healthy diet (and in some  
16 instances impossible), the Products do not constitute good nutrition.

17 124. Dole's labeling is also likely to mislead reasonable consumers because most are not in need  
18 of additional Vitamin C in their diet,<sup>121</sup> but *are* in need of reducing their FA Sugar consumption.

19 125. As Dole knows, Americans overconsume FA sugar—17 teaspoons per day (approx. 71  
20 grams) as of 2020—and “[e]xcessive consumption of processed sugar is linked to numerous health issues.  
21 Worrying consumption trends around the world are a threat to public health, and are linked to increased  
22 rates of obesity, type 2 diabetes, fatty liver disease and tooth decay.”<sup>122</sup>

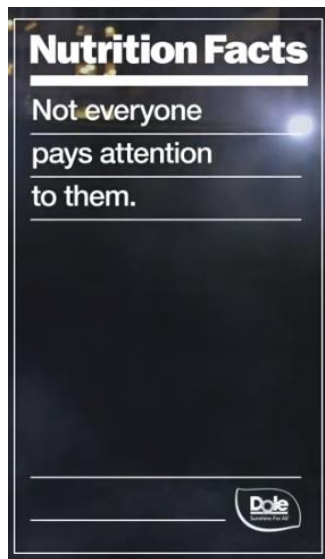
23  
24  
25 <sup>121</sup> See The Centers for Disease Control and Prevention, Division of Laboratory Sciences at the National  
26 Center for Environmental Health, “Second National Report on Biochemical Indicators of Diet and  
27 Nutrition in the U.S. Population,” *CDC.gov* (2012) at p.74 (vitamin C deficiency is “rare in the United  
28 States”).

<sup>122</sup> 2020 Sunshine For All Review, *supra* n.1 at 25.

1 126. Thus, although the Products provide some Vitamin C, in light of their high FA sugar content  
2 and the realities of the average consumer’s diet, their consumption does more harm to health than good.

3 127. Not only is the challenged labeling false from a scientific perspective, it is especially likely  
4 to mislead consumers because (1) as Dole knows, many consumers do not read the Nutrition Facts Panel,  
5 (2) even for those that do, the average consumer does not have sufficient nutrition and health literacy to  
6 weigh the impact of various nutrients in a food to assess its overall healthfulness, and (3) Dole uses nothing  
7 on the labeling that would dispel the express representations that the Products provide good nutrition.

8 128. Dole knows “[n]ot everyone pays attention” to Nutrition Facts.<sup>123</sup>



18 129. This is particularly true when a food’s packaging carries a nutrient content claim, as the  
19 Products’ packaging does.<sup>124</sup>

20 130. Further, survey data indicates that, even for those consumers who do try to read the  
21 Nutrition Facts Panel, the average consumer reads only the top five lines on a Nutrition Facts label (serving  
22

23  
24 <sup>123</sup> Dole Sunshine Company, “Dole – Malnutrition Labels,” (Feb. 4, 2021)  
<https://www.youtube.com/watch?v=-ZSBEyblzw0> (shown at 0:10).

25 <sup>124</sup> See U.S. Food & Drug Administration, “Consumer Research on Labeling, Nutrition, Diet, and Health,”  
26 [fda.gov](https://www.fda.gov/food/social-and-behavioral-science-research-food/consumer-research-labeling-nutrition-diet-and-health) (last updated Mar. 5, 2018), [https://www.fda.gov/food/social-and-behavioral-science-research-](https://www.fda.gov/food/social-and-behavioral-science-research-food/consumer-research-labeling-nutrition-diet-and-health)  
27 [food/consumer-research-labeling-nutrition-diet-and-health](https://www.fda.gov/food/social-and-behavioral-science-research-food/consumer-research-labeling-nutrition-diet-and-health) (discussing Linda Verrill PhD et al., *Vitamin-*  
28 *Fortified Snack Food May Lead Consumers to Make Poor Dietary Decisions*, 117(3) J. ACAD. OF NUTR. AND DIET. 376-85 (Mar. 2017)).

1 size, calories, total fat, saturated fat, trans fat).<sup>125</sup> Sugar, however, is listed tenth—following cholesterol,  
 2 sodium, total carbohydrate, and dietary fiber—meaning relatively few consumers consider it in their  
 3 evaluations, or do so while already trying to weigh the impact of many other nutrients.

4 131. Research by the University of Minnesota’s Epidemiology Clinical Research Center  
 5 involving a simulated grocery shopping exercise on a computer equipped with an eye-tracking camera  
 6 shows that, even for the relatively small subset of consumers that *claim* to “almost always” look at a  
 7 product’s sugar content (24%), ***only about 1% actually look beyond the calorie count to other***  
 8 ***components of the Nutrition Facts panel, such as sugar.***<sup>126</sup>

9 132. It is not surprising many consumers do not use the Nutrition Facts Panel since “mandated  
 10 nutrition labels have been criticized for being too complex for many consumers to understand and use,”<sup>127</sup>  
 11 and research shows “a substantial proportion of consumers clearly struggle to effectively use the  
 12 information contained in a nutrition label.”<sup>128</sup>

13 133. Dole knows that despite understanding more broadly that good nutrition is critical to good  
 14 health, consumers struggle to interpret nutrition information and use it to choose healthy foods. According  
 15 to Dole, “[w]hen it comes to healthy eating, knowledge is key[.]”<sup>129</sup> Dole acknowledges that although “[i]t  
 16 is mandatory for food manufacturers to include nutrition information on all packaging. . . . ***this is not***  
 17 ***enough.***”<sup>130</sup> It thus believes it must “educate consumers on what good nutrition means.”<sup>131</sup> In fact,

18 \_\_\_\_\_  
 19 <sup>125</sup> Graham & Jeffery, *Location, location, location: Eye-tracking evidence that consumers preferentially*  
 20 *view prominently positioned nutrition information*, J. AM. DIET ASSOC. (2011) (emphasis added)  
 [hereinafter “Graham, location, location, location”].

21 <sup>126</sup> *Id.*

22 <sup>127</sup> *Id.*

23 <sup>128</sup> *Id.* (“Some studies have found that even high school graduates and college students lack the basic health  
 24 literacy skills to effectively apply nutrition label information[.]”); *see also* Persoskie et al., *US Consumers’*  
 25 *Understanding of Nutrition Labels in 2013: The Importance of Health Literacy*, PREV. CHRONIC DIS.  
 14;170066 (2017) (“[m]any consumers have difficulty interpreting nutrition labels”).

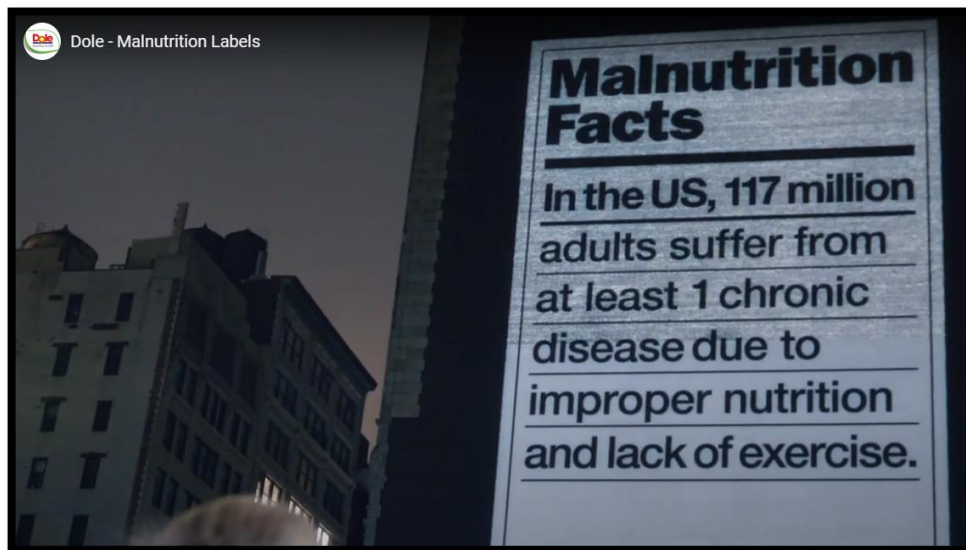
26 <sup>129</sup> 2020 Sunshine For All Review, *supra* n.1 at 29.

27 <sup>130</sup> *Id.* (emphasis added).

28 <sup>131</sup> *Id.*

1 “[h]elping consumers to improve their health and nutrition choices is why [Dole] go[es] beyond mandatory  
2 on-pack communication.”<sup>132</sup> It believes consumers need “easy-to-understand information. . . [to] enable  
3 them to buy food that is good for them.”<sup>133</sup>

4 134. Dole also acknowledges that assessing the healthfulness of food is difficult for the average  
5 consumer in its “Malnutrition Facts” marketing campaign. That campaign was aimed at “consumer  
6 education” regarding “the necessary nutrients for a healthy and sustainable lifestyle,”<sup>134</sup> and included  
7 projecting images like the one shown below onto buildings throughout New York City.<sup>135</sup>



17 135. “The rise in overweight and obese adults has led to devastating increases in rates of heart  
18 disease, stroke, and cancer. These worrying statistics are the source of much anguish for public health  
19 professionals who worry about nutrition literacy remaining low in the United States.”<sup>136</sup>

20

21 \_\_\_\_\_

22 <sup>132</sup> 2023 Sunshine For All Report, *supra* n.18 at 7.

23 <sup>133</sup> *Id.*

24 <sup>134</sup> “Dole Sunshine Company Takes Poor Snacking To Task with ‘Malnutrition Labels’ Printed with  
25 Nutritional Fruit Ink,” *Dolesunshine.com* (Oct. 3, 2022), <https://dolesunshine.com/us/en/news/dole-sunshine-company-takes-poor-snacking-habits-to-task-with-malnutrition-labels-printed-with-nutritional-fruit-ink>.

26 <sup>135</sup> See <https://malnutritionfacts.com/projections>.

27 <sup>136</sup> Christian Maino Vieytes, “Nutrition Literacy in America,” *OneOp* (Sept. 21, 2020),  
28 <https://oneop.org/2020/09/21/nutrition-literacy-in-america>.

1 136. “Nutrition literacy is defined as ‘the degree to which people have the capacity to obtain,  
2 process and understand basic nutrition information’ [ ].”<sup>137</sup> “Given that nutrition literacy is an integral part  
3 of overall health, the need to educate Americans on nutrition-related issues has become an authoritative  
4 goal to combat the rise in chronic disease and minimize adverse effects on our health care system.”<sup>138</sup>

5 137. Survey evidence confirms “US consumers ‘sorely lack’ nutrition literacy[.]”<sup>139</sup> For  
6 example, among the “Key Findings” of the 2018 Food & Health Survey from the International Food  
7 Information Council (IFIC), which surveyed approximately 1,000 American consumers to understand  
8 their perceptions, beliefs and behaviors around food and food purchasing decisions, was that 80% of the  
9 surveyed consumers encountered contradictory information about food and nutrition in their search for  
10 nutritious foods, making “consumer confusion . . . a prevalent issue.”<sup>140</sup>

11 138. A “National Assessment of Adult Literacy found that more than one-third of the US  
12 population had only basic or below-basic health literacy.”<sup>141</sup> And other “studies have found that even high  
13 school graduates and college students lack the basic health literacy skills to effectively apply nutrition label  
14 information.”<sup>142</sup> Thus, “[a] substantial proportion of consumers in this country, including those with a  
15 college education, have difficulty understanding NFP labels, which is likely a function of limited health  
16 literacy.”<sup>143</sup>

17  
18  
19 <sup>137</sup> *Id.* (quoting Zoellner J. et al. *Nutrition literacy status and preferred nutrition communication channels*  
20 *among adults in the Lower Mississippi Delta*, PREV CHRONIC DIS. 2009 Oct;6(4):A128).

21 <sup>138</sup> *Id.*

22 <sup>139</sup> Adi Menayang, “US consumers ‘sorely lack’ nutritional literacy, according to IFIC survey,” *Food*  
23 *Navigator USA* (May 17, 2017), <https://www.foodnavigator-usa.com/Article/2017/05/18/US-consumers-sorely-lack-nutritional-literacy-IFIC-survey-reveals>.

24 <sup>140</sup> International Food Information Council “2018 Food & Health Survey” at 3, 5,  
25 <https://foodinsight.org/wp-content/uploads/2018/05/2018-FHS-Report-FINAL.pdf>.

26 <sup>141</sup> *Id.*

27 <sup>142</sup> *Id.*

28 <sup>143</sup> *Id.*



1 139. A 2017 Shopper Trends Study by Label Insights found that “67% of consumers say it is  
2 challenging to determine whether a food product meets their [dietary] needs simply by looking at the  
3 package label[.]”<sup>144</sup>

4 140. In another survey, each participant was shown a collection of cereal bars and asked to rank  
5 them from healthiest to least healthiest. “[O]nly 9% of participants were able to correctly identify which  
6 product was the healthiest[.]”<sup>145</sup> “Even more worrying, 13 percent identified the least nutritious food  
7 option as the healthiest—more than the amount who properly identified the healthiest.”<sup>146</sup> In short, there is  
8 “widespread confusion when it comes to determining what is and isn’t healthy.”<sup>147</sup>

9 141. Even the FDA recognizes there are many issues with the Nutrition Facts panel and that  
10 consumers need to be educated on “how to use th[e] [Nutrition Facts] information more effectively and  
11 easily.” To help consumers, the FDA published a 12-page guide on “How to Understand and Use the  
12 Nutrition Facts Label.”<sup>148</sup>

13 142. Notwithstanding, “[d]espite the measures taken by the federal government to modify  
14 nutrition policy in the United States . . . nutrition literacy has remained low.” Critically, the United States  
15 “lack[s] . . . diet and lifestyle education in public school curricula and . . . [sufficient] nutrition education  
16 for medical doctors,” which contributes to the problem of nutrition illiteracy.<sup>149</sup>

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18  
19 <sup>144</sup> “Study Shows Labeling Often Confuses Consumers,” *Packaging Strategies* (Mar. 30, 2017)  
20 <https://www.packagingstrategies.com/articles/94081-study-shows-labeling-often-confuses-consumers>  
21 (citing Label Insight 2017 Shopper Trends Study, available at  
22 [https://smallbusiness.report/Resources/Whitepapers/5018ac3d-4075-445b-bc15-  
23 bf114ebd97e1\\_labelinsight.pdf](https://smallbusiness.report/Resources/Whitepapers/5018ac3d-4075-445b-bc15-bf114ebd97e1_labelinsight.pdf)).

24 <sup>145</sup> *Id.*

25 <sup>146</sup> *Id.*

26 <sup>147</sup> Sam Danley, “Study finds few consumers understand healthy food labels,” *Supermarket Perimeter*  
27 (Mar. 16, 2022), [https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-  
28 understand-healthy-food-labels](https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels).

<sup>148</sup> FDA, “How to Understand and Use the Nutrition Facts Label,” *fda.gov* (last updated Mar. 5, 2024)  
<https://www.fda.gov/food/new-nutrition-facts-label/how-understand-and-use-nutrition-facts-label>.

<sup>149</sup> Vieytes, “Nutrition Literacy in America,” *supra* n.136.

1 143. And even for those who try to use the Nutrition Facts panel, it simply does not provide all  
2 the information one needs to assess the healthfulness of a food or beverage. It provides no information on  
3 the level of processing of a food or how that processing affects the healthfulness of the food.

4 144. Here, that means that for Products that include both chunks of fruit and reconstituted fruit  
5 juice, the Total Sugars listed in the Nutrition Facts Panel include both the nonproblematic, encased-in-fiber  
6 sugars in the fruit and the problematic free sugar in the juice, making it impossible to determine the amount  
7 of FA Sugar in the Product.

8 145. Nor does looking at the Nutrition Facts inform consumers about the health consequences of  
9 consuming a food. To discover the truth, consumers would have to look beyond the label and perform their  
10 own research. Consumers would then need to apply that research to the precise nutrition profile of the food,  
11 weighing its potential benefits and harms. However, as discussed at length, research shows most consumers  
12 do not possess sufficient nutrition and health literacy to engage in that exercise and arrive at the correct  
13 answer regarding a product's overall healthfulness. Instead, as Dole knows, consumers look to marketing  
14 claims and other labeling elements to provide them with cues as to a product's healthfulness.

15 146. Consumer reliance on labeling elements outside of the complicated Nutrition Facts Panel  
16 also makes sense in light of the reality that consumers simply do not have time to analyze the nutrient  
17 profile of every food they purchase and consume. That is why the FDA and the California and New York  
18 legislatures put the burden on food manufacturers to—if they choose to make voluntary marketing claims  
19 on food labeling—ensure they are not false or misleading.

20 147. In sum, the nutrition label is “an inadequate tool for helping people to plan diets” and  
21 “unlikely to contribute by itself to a better or more critical understanding of nutrition principles.”<sup>150</sup> As  
22 such, it does not dispel Dole's misleading messaging.

23 **B. Dole Deceptively Omits Material Information**

24 148. While representing that the Products provide good nutrition and are therefore beneficial to  
25 overall health, Dole regularly and intentionally omits material information regarding the countervailing  
26 detrimental effects of the FA Sugars on overall health.

27 \_\_\_\_\_  
28 <sup>150</sup> Graham, location, location, location, *supra* n.125.

1 149. Dole is under a duty to disclose this information to consumers because it is revealing some  
2 information about the Products—enough to suggest they are beneficial—without revealing directly relevant  
3 information regarding the harmful effects of FA Sugar described herein.

4 150. Dole is further under a duty to disclose this information because its deceptive omissions  
5 concern human health and safety, specifically the detrimental health consequences of consuming the  
6 Products.

7 151. Dole is further under a duty to disclose this information because it was in a superior position  
8 to know of the dangers presented by the FA Sugars in the Products, as it is a large, sophisticated company  
9 that holds itself out as having expert knowledge regarding the health impact of consuming the Products.

10 152. Moreover, Dole is under a duty to disclose this information because, including through the  
11 acts alleged herein, it actively concealed material facts not known to Plaintiffs and the Class concerning the  
12 detrimental effects of regularly consuming the Products.

#### 13 **IV. THE PRODUCTS' LABELING VIOLATES STATE AND FEDERAL REGULATIONS**

14 153. “California, [and] New York . . . broadly prohibit the misbranding of food in language  
15 largely identical to that found in the FDCA.” *Ackerman v. Coca-Cola Co.*, 2010 WL 2925955, at \*4  
16 (E.D.N.Y. July 21, 2010). California Health and Safety Code §§109875, *et. seq.* (the “Sherman Law”) has  
17 expressly adopted the federal food labeling requirements as its own. *See, e.g., id.* § 110100; *id.* § 110670  
18 (“Any food is misbranded if its labeling does not conform with the requirements for nutrition labeling as  
19 set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulation adopted pursuant  
20 thereto.”). Similarly, “New York’s Agriculture and Marketing law similarly . . . incorporates the FDCA’s  
21 labeling provisions found in 21 C.F.R. part 101.” *Ackerman*, 2010 WL 2925955, at \*4 (citing N.Y. Comp.  
22 Codes R. & Regs. tit. 1, § 259.1).

23 154. The Products and their challenged labeling statements violate the FDCA and its California  
24 and New York state law equivalents.

25 155. First, the challenged claims are false and misleading for the reasons described herein, in  
26 violation of 21 U.S.C. § 343(a), which deems misbranded any food whose “label is false or misleading in  
27 any particular.” Dole accordingly also violated California’s and New York’s parallel provisions. *See Cal.*  
28 *Health & Safety Code § 110670; N.Y. Agric. Mkts. Law § 201.*

1 156. Second, Dole “fail[ed] to reveal facts that are material in light of other representations made  
2 or suggested by the statement[s] [and] word[s]” challenged herein, in violation of 21 C.F.R. § 1.21(a)(1).  
3 Such facts include the detrimental health consequences of consuming the Products.

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

9 **V. PLAINTIFFS’ PURCHASE, RELIANCE, AND INJURY**

10 158. Plaintiff Shamea Broussard purchased Fruit Bowls in Gel, Fruit Bowls in Juice, Canned  
11 Fruit in Juice, Canned Fruit in Heavy Syrup, Canned Fruit in Light Syrup, and Canned Fruit Juice  
12 throughout the Class Period, with her most recent purchase being approximately November 2022. She  
13 typically purchased the Products from Safeway, Lucky’s, Food Max, and other stores in Pleasant Hill,  
14 California.

15 159. When purchasing the Products, Ms. Broussard was seeking products that provide good  
16 nutrition, that is, those whose regular consumption would not likely increase the risk of disease. In  
17 purchasing the Products, Ms. Broussard was exposed to, read, and relied on Dole’s good nutrition  
18 representations described herein, including that the products provide “good nutrition,” and that “Dole Fruit  
19 Bowls® seal in goodness and nutrition.” These claims, however, were and are deceptive because the  
20 Products do not provide good nutrition, but instead contain such high levels of FA Sugar that their regular  
21 consumption would likely contribute to an increased risk of disease.

22 160. Plaintiff Michael Schirano purchased Fruit Bowls in Gel, Fruit Bowls in Juice, Canned Fruit  
23 in Juice, Canned Fruit in Heavy Syrup, Canned Fruit in Light Syrup, and Canned Fruit Juice throughout the  
24 Class Period, with his most recent purchase being in approximately early to mid-2023. He typically  
25 purchased the Products from Stop ‘n Shop in West Islip, New York, Costco in either Commack or  
26 Melville, New York, and Target in either Commack or Bayshore, New York.

27 161. When purchasing the Products, Mr. Schirano was seeking products that provide good  
28 nutrition, that is, those whose regular consumption would not likely increase the risk of disease. In

1 purchasing the Products, Mr. Schirano was exposed to, read, and relied on Dole's good nutrition  
2 representations described herein, including that the Products provide "good nutrition" and that "Dole Fruit  
3 Bowls® seal in goodness and nutrition." These claims, however, were and are deceptive because the  
4 Products do not provide good nutrition, but instead contain such high levels of FA Sugar that their regular  
5 consumption would likely contribute to an increased risk of disease.

6 162. Plaintiffs are not nutritionists, food experts, or food scientists, but rather lay consumers who  
7 did not have the specialized knowledge that Dole had about the scientific literature regarding the likely  
8 health effects of consuming the Products given their FA Sugar content. At the time of their purchases,  
9 Plaintiffs were unaware of the extent to which consuming high amounts of FA Sugar adversely affects  
10 health or what amount of FA Sugar might have such an effect.

11 163. Plaintiffs acted reasonably in relying on the challenged labeling claims, which Dole  
12 intentionally placed on the Products' labeling with the intent to induce average consumers into purchasing  
13 the Products.

14 164. Plaintiffs would not have purchased the Products if they knew that the challenged labeling  
15 claims were false and misleading in that the Products do not provide good nutrition, do not provide the  
16 health benefits promised, and are detrimental rather than beneficial to health.

17 165. The Products cost more than similar products without misleading labeling and would have  
18 cost less absent Dole's false and misleading statements and omissions.

19 166. Through the misleading labeling claims and omissions, Dole was able to gain a greater share  
20 of the packaged fruit and juice markets than it would have otherwise and was able to increase the size of  
21 those markets.

22 167. Plaintiffs paid more for the Products, and would only have been willing to pay less, or  
23 unwilling to purchase them at all, absent the false and misleading labeling complained of herein.

24 168. Plaintiffs would not have purchased the Products if they had known that the Products were  
25 misbranded pursuant to California and FDA regulations, or that the challenged claims were false or  
26 misleading.

27 169. For these reasons, the Products were worth less than what Plaintiffs and the Class paid for  
28 them.

1 170. Instead of receiving products that had good nutrition, the Products that Plaintiffs and the  
2 Class received provide poor nutrition because their consumption was likely to lead to increased risk of  
3 disease when consumed regularly.

4 171. Plaintiffs and the Class lost money as a result of Dole’s deceptive claims, omissions, and  
5 practices in that they did not receive what they paid for when purchasing the Products.

6 172. Plaintiffs still wish to purchase healthy packaged fruits and juices that provide good  
7 nutrition and continue to see the Products at stores when they shop. They would purchase the Products in  
8 the future if the Products were as represented, but unless Dole is enjoined in the manner Plaintiffs request,  
9 they will not be able to rely on Dole’s health and wellness claims in the future.

10 173. Plaintiffs may also purchase the Products in the future, reasonably, but incorrectly,  
11 assuming the product was improved. For example, a Product could be reformulated to include more whole  
12 fruits and less fruit juice, thereby lowering the amount of FA Sugar in the Product, without necessarily  
13 changing the amount of “Total Sugar” in the Product or affecting the order in which the ingredients are  
14 listed.<sup>151</sup>

15 174. Juice products could be reformulated to include more water or, in the case of some of the  
16 Fruitify beverages, more green tea or coconut water, thus lowering their FA Sugar content. Plaintiffs and  
17 other consumers in the marketplace will not have the prior Product labels for comparison and have no way  
18 to assess what changes have occurred, if any, much less how they impact the overall healthfulness of the  
19 Products.

20 175. Technology also exists to filter out parts of the sugar molecule—removing disaccharides  
21 and leaving in the monosaccharides—resulting in a 30% FA Sugar reduction in juice.<sup>152</sup> In fact, a larger  
22  
23

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24 <sup>151</sup> This is because both the sugar in the fruit and the sugar in the juice are included in the amount of “Total  
25 Sugar,” but only the sugar in the juice is harmful FA Sugar.

26 <sup>152</sup> See Flora Southey, “Dole experiments with BlueTree tech to cut sugar in juice: ‘Pineapple sets a higher  
27 bar than orange,’” *Food Navigator* (Feb. 24, 2023),  
28 <https://www.foodnavigator.com/Article/2023/02/24/Dole-experiments-with-BlueTree-tech-to-cut-sugar-in-juice-Pineapple-sets-a-higher-bar-than-orange>.

1 reduction is possible, but companies “usually stop at a 30% reduction” because “at above 30% reduction,  
2 consumers would start to notice.”<sup>153</sup>

3 176. Plaintiffs’ substantive right to a marketplace free of fraud, where they are entitled to rely  
4 with confidence on representations such as those made by Dole, continues to be violated every time  
5 Plaintiffs are exposed to the misleading labeling claims and omissions.

6 177. Plaintiffs’ legal remedies are inadequate to prevent these future injuries.

### 7 **CLASS ACTION ALLEGATIONS**

8 178. While reserving the right to redefine or amend the class definition prior to or as part of a  
9 motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23, Plaintiffs seek to  
10 represent a class of all persons the in United States, and separately Subclasses of all persons in California  
11 and New York, who, at any time from April 5, 2019, to the time a class is notified (the “Class Period”),  
12 purchased, for personal or household use, and not for resale or distribution, any of the Dole Products (the  
13 “Class,” and the “California Subclass” and “New York Subclass,” which are subsumed and included  
14 therein).

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

18 180. Questions of law and fact common to Plaintiffs and the Class (or Subclasses) include:

- 19 a. whether Dole communicated a message regarding the healthfulness of the Products  
20 through its packaging and advertising;
- 21 b. whether that message was material, or likely to be material, to a reasonable  
22 consumer;
- 23 c. whether the challenged claims are false, misleading, or reasonably likely to deceive a  
24 reasonable consumer;
- 25 d. whether Dole’s conduct violates public policy;
- 26 e. whether Dole’s conduct violates state or federal food statutes or regulations;

27 \_\_\_\_\_  
28 <sup>153</sup> *See id.*

- 1 f. the proper amount of damages, including statutory and punitive damages;
- 2 g. the proper amount of restitution;
- 3 h. the proper scope of injunctive relief; and
- 4 i. the proper amount of attorneys' fees.

5 181. These common questions of law and fact predominate over questions that affect only  
6 individual Class Members.

7 182. Plaintiffs' claims are typical of Class Members' claims because they are based on the same  
8 underlying facts, events, and circumstances relating to Dole's conduct. Specifically, all Class Members,  
9 including Plaintiffs, were subjected to the same misleading and deceptive conduct when they purchased the  
10 Products and suffered economic injury because the Products are misrepresented. Absent Dole's business  
11 practice of deceptively and unlawfully labeling the Products, Plaintiffs and Class Members would not have  
12 purchased them or would have paid less for them.

13 183. Plaintiffs will fairly and adequately represent and protect the interests of the Class, have no  
14 interests incompatible with the interests of the Class, and have retained counsel competent and experienced  
15 in class action litigation, and specifically in litigation involving the false and misleading advertising of  
16 foods and beverages.

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

20 185. Dole has acted on grounds applicable to the Class, thereby making appropriate final  
21 injunctive and declaratory relief concerning the Class as a whole.

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



**CAUSES OF ACTION**

**FIRST CAUSE OF ACTION**

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

**(On Behalf of the Nationwide and California Subclass)**

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

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

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

**Fraudulent**

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

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

**Unlawful**

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

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

§§ 110100 *et seq.*

**Unfair**

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

1 194. Dole’s conduct with respect to the labeling, advertising, and sale of the Products was and is  
2 also unfair because it violates public policy as declared by specific constitutional, statutory or regulatory  
3 provisions, including but not necessarily limited to the False Advertising Law, portions of the Federal  
4 Food, Drug, and Cosmetic Act, and portions of the California Sherman Food, Drug, and Cosmetic Law and  
5 the New York Agriculture and Marketing Law.

6 195. Dole’s conduct with respect to the labeling, advertising, and sale of the Products was and is  
7 also unfair because the consumer injury was substantial, not outweighed by benefits to consumers or  
8 competition, and not one that consumers themselves could reasonably have avoided. Specifically, the  
9 increase in profits obtained by Dole through the misleading labeling does not outweigh the harm to Class  
10 Members who were deceived into purchasing the Products, believing they were healthy, when in fact they  
11 are the types of food and beverage likely to detriment health.

12 196. Dole profited from the sale of the falsely, deceptively, and unlawfully advertised Products to  
13 unwary consumers.

14 197. Plaintiffs and Class Members are likely to continue to be damaged by Dole’s deceptive trade  
15 practices, because Dole continues to disseminate misleading information. Thus, injunctive relief enjoining  
16 Dole’s deceptive practices is proper.

17 198. Dole’s conduct caused and continues to cause substantial injury to Plaintiffs and other Class  
18 Members. Plaintiffs have suffered injury in fact as a result of Dole’s unlawful conduct.

19 199. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining Dole from  
20 continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices.

21 200. Plaintiffs and the Class also seek an order for the restitution of all monies from the sale of  
22 the Products, which were unjustly acquired through acts of unlawful competition.

23 201. Because Plaintiffs’ claims under the “unfair” prong of the UCL sweep more broadly than  
24 their claims under the FAL, CLRA, or UCL’s “fraudulent” prong, Plaintiffs’ legal remedies are inadequate  
25 to fully compensate Plaintiffs for all of Dole’s challenged behavior.

1 **SECOND CAUSE OF ACTION**

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

3 **(On Behalf of the Nationwide and California Subclass)**

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

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

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

14 205. As alleged herein, the advertisements, labeling, policies, acts, and practices of Dole relating  
15 to the Products were likely to mislead consumers acting reasonably, as to the healthfulness of the Products.

16 206. Plaintiffs suffered injury in fact as a result of Dole’s actions as set forth herein because they  
17 purchased the Products in reliance on Dole’s false and misleading marketing claims stating or suggesting  
18 that the Products provide good nutrition, *i.e.* are healthy foods that will help prevent disease.

19 207. Dole’s business practices as alleged herein constitute unfair, deceptive, untrue, and  
20 misleading advertising pursuant to the FAL because Dole has advertised the Products in a manner that is  
21 untrue and misleading, which Dole knew or reasonably should have known, and omitted material  
22 information from the Products’ labeling.

23 208. Dole profited from the sale of the falsely and deceptively advertised Products to unwary  
24 consumers.

25 209. As a result, Plaintiffs, the Class, and the general public are entitled to injunctive and  
26 equitable relief, restitution, and an order for the disgorgement of the funds by which Dole was unjustly  
27 enriched.



1 216. Dole’s wrongful business practices constituted, and constitute, a continuing course of  
2 conduct in violation of the CLRA.

3 217. Pursuant to California Civil Code § 1782, more than 30 days before filing this lawsuit,  
4 Plaintiff Broussard sent written notice of her claims and Dole’s particular violations of the Act to Dole by  
5 certified mail, return receipt requested, but Dole has failed to implement remedial measures.

6 218. As a result, Plaintiffs and the Class have suffered harm, and therefore seek (a) actual  
7 damages resulting from purchases of the Products sold throughout the Class Period to all Class Members,  
8 (b) punitive damages, (c) injunctive relief in the form of modified advertising, (d) restitution, and (e)  
9 attorneys’ fees and costs. *See* Cal. Civ. Code § 1782(d).

10 219. In compliance with Cal. Civ. Code § 1780(d), an affidavit of venue is filed concurrently  
11 herewith.

12 **FOURTH CAUSE OF ACTION**

13 **Unfair and Deceptive Business Practices, N.Y. Gen. Bus. L. § 349**

14 **(On behalf of the New York Subclass)**

15 220. Plaintiff Schirano realleges and incorporates the allegations elsewhere in the Complaint as if  
16 fully set forth herein.

17 221. Dole’s conduct constitutes deceptive acts or practices or false advertising in the conduct of  
18 business, trade, or commerce or in the furnishing of services in New York which affects the public interest  
19 under N.Y. Gen. Bus. L. § 349.

20 222. As alleged herein, Dole engaged in, and continues to engage in, deceptive acts and practices  
21 by advertising, marketing, distributing, and selling the Products with false or misleading claims and  
22 representations, and deceptive omissions.

23 223. As alleged herein, by misbranding the Products, Dole engaged in, and continues to engage  
24 in, unlawful and deceptive acts and practices.

25 224. Dole’s conduct was materially misleading to Plaintiff Schirano and the New York Subclass.  
26 During the Class Period, Dole carried out a plan, scheme and course of conduct which was consumer  
27 oriented.

1 225. As a direct and proximate result of Dole's violation of N.Y. Gen. Bus. L. § 349, Plaintiff  
2 Schirano and the New York Class were injured and suffered damages.

3 226. The injuries to Plaintiff Schirano and the New York Subclass were foreseeable to Dole and,  
4 thus Dole's actions were unconscionable and unreasonable.

5 227. Dole is liable for damages sustained by Plaintiff Schirano and the New York Subclass to the  
6 maximum extent allowable under N.Y. Gen. Bus. L. § 349, actual damages or \$50 per unit, whichever is  
7 greater.

8 228. Pursuant to N.Y. Gen. Bus. L. § 349(h), Plaintiff Schirano and the New York Subclass seek  
9 an Order enjoining Dole from continuing to engage in unlawful acts or practices, false advertising, and any  
10 other acts prohibited by law, including those set forth in this Complaint.

11 **FIFTH CAUSE OF ACTION**

12 **False Advertising, N.Y. Gen. Bus. L. § 350**

13 **(On behalf of the New York Subclass)**

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

16 230. Dole has engaged and is engaging in consumer-oriented conduct which is deceptive or  
17 misleading in a material way (both by affirmative misrepresentations and by material omissions),  
18 constituting false advertising in the conduct of any business, trade, or commerce, in violation of N.Y. Gen.  
19 Bus. L. § 350.

20 231. As a result of Dole's false advertising, Plaintiff Schirano and the New York Subclass  
21 Members have suffered and continue to suffer substantial injury, including damages, which would not have  
22 occurred but for the false and deceptive advertising, and which will continue to occur unless Dole is  
23 permanently enjoined by this Court.

24 232. Plaintiff Schirano and the New York Subclass seek to enjoin the unlawful acts and practices  
25 described herein, and to recover their actual damages or \$500 per unit, whichever is greater, and reasonable  
26 attorney fees.

**PRAYER FOR RELIEF**

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

- a. An Order declaring this action to be a proper class action, appointing Plaintiffs as Class Representatives, and appointing Plaintiffs’ undersigned counsel as Class Counsel;
- b. An Order requiring Dole to bear the cost of Class Notice;
- c. An Order requiring Dole to disgorge all monies, revenues, and profits obtained by means of any wrongful act or practice;
- d. An Order requiring Dole 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;
- e. An Order requiring Dole to pay compensatory, statutory, and punitive damages as permitted by law;
- f. An award of attorneys’ fees and costs; and
- g. Any other and further relief that Court deems necessary, just, or proper.

**JURY DEMAND**

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

Dated: April 29, 2024

/s/ Melanie R. Monroe

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***Counsel for Plaintiffs***

# Appendix 1



**Fruit Bowls in Gel**

**Varieties:**<sup>1</sup> Mandarin Oranges in Orange Flavored Gel, Mango in Mango Flavored Gel, Mixed Fruit in Black Cherry Flavored Gel, Mixed Fruit in Peach Flavored Gel, Diced Peaches in Strawberry Flavored Gel, Diced Peaches in Watermelon Flavored Gel, and Pineapple in Lime Flavored Gel



*Front*



*Back*

<sup>1</sup> While Plaintiffs identify all Product varieties known to them at the time of this filing, this Appendix should be read to include any additional varieties not yet identified.

**Fruit Bowl Parfaits**

Varieties: Apples & Crème and Peaches & Crème



Front

We believe in **☺ Sunshine for All.™ ☺**  
It's our promise to provide everyone, everywhere with **good nutrition!**

**FULL OF SUNSHINE**

- ☑ Bring sunshine with you wherever you go – Dole Fruit Bowls® seal in goodness and nutrition.
- ☑ Vitamin C is an antioxidant that helps support a healthy immune system. Who knew vitamins were so delicious?

For more than 100 years, Dole has been committed to our environment, our associates and the communities in which we operate. To learn how, please visit [dolesunshine.com/sustainability](http://dolesunshine.com/sustainability)

Nutrition Facts		Amount/serving	% Daily Value*	Amount/serving	% Daily Value*
4 servings per container Serving size 1 cup (123g) Calories per serving <b>100</b>	<b>Total Fat</b>	2g	3%	<b>Total Carbohydrate</b>	20g 7%
	Saturated Fat	1.5g	8%	Dietary Fiber	<1g 3%
	Trans Fat	0g		Total Sugars	15g
	Cholesterol	0mg	0%	Includes 11g Added Sugars	22%
	Sodium	10mg	0%	<b>Protein</b>	0g
	Vitamin D 0mcg 0% • Calcium 0mg 0% • Iron 0mg 0% • Potassium 0mg 0%			*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.	

**INGREDIENTS:** PEACHES, WATER, SUGAR, COCONUT POWDER, MODIFIED FOOD STARCH, GLUCOSE SYRUP, NATURAL FLAVORS, PHOSPHORIC ACID, CITRIC ACID, ASCORBIC ACID (VITAMIN C) TO PROMOTE COLOR RETENTION, CARRAGEENAN, CASEIN (A MILK DERIVATIVE), LOCUST BEAN GUM, AND BETA CAROTENE (COLOR).  
**CONTAINS COCONUT AND MILK**

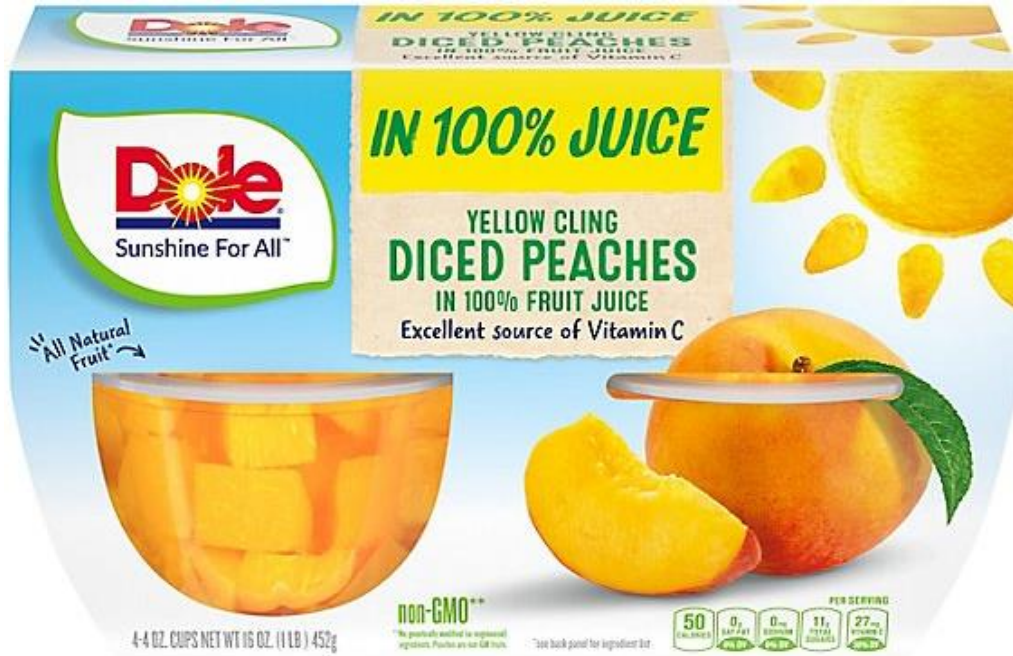
MANUFACTURED FOR ©DOLE PACKAGED FOODS, LLC, WESTLAKE VILLAGE, CA 91361 PRODUCT OF THAILAND  
CAUTION: MAY CONTAIN PITS OR PIT FRAGMENTS

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Back

**Fruit Bowls in Juice**

**Varieties:** Diced Apples in 100% Fruit Juice, Mixed Fruit in 100% Fruit Juice, Cherry Mixed Fruit in 100% Fruit Juice, Yellow Cling Diced Peaches in 100% Fruit Juice, Pineapple Paradise Pineapple Tidbits in a Blend of 100% Fruit Juices, Tropical Fruit in 100% Fruit Juice, Red Grapefruit Sunrise in a Blend of 100% Fruit Juices, Diced Pears in 100% Fruit Juice, and Mandarin Oranges in 100% Fruit Juice



Front

We believe in **☀️ Sunshine for All.™**  
It's our promise to provide everyone, everywhere with **good nutrition!**

**FULL OF SUNSHINE**

- ☑️ Bring sunshine with you wherever you go - Dole Fruit Bowls® seal in goodness and nutrition.
- ☑️ Vitamin C is an antioxidant that helps support a healthy immune system. Who knew vitamins were so delicious?

For more than 100 years, Dole has been committed to our environment, our associates and the communities in which we operate. To learn how, please visit [dolesunshine.com/sustainability](http://dolesunshine.com/sustainability)

Nutrition Facts		Amount/serving	% Daily Value*	Amount/serving	% Daily Value*
4 servings per container Serving size 1 cup (113g)	<b>Total Fat</b>	0g	0%	<b>Total Carbohydrate</b>	12g 4%
	Saturated Fat	0g	0%	Dietary Fiber	1g 4%
	Trans Fat	0g		Total Sugars	11g
	<b>Cholesterol</b>	0mg	0%	Includes 0g Added Sugars	0%
<b>Calories per serving</b>	<b>50</b>	<b>Sodium</b> 0mg	0%	<b>Protein</b> less than 1g	
		Vitamin D 0mcg 0% • Calcium 0mg 0% • Iron 0mg 0% • Potassium 140mg 2% Vitamin C 27mg 30%			

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

INGREDIENTS: PEACHES, WHITE GRAPE JUICE FROM CONCENTRATE (WATER, WHITE GRAPE JUICE CONCENTRATE), ACEROLA JUICE FROM CONCENTRATE (WATER, ACEROLA JUICE CONCENTRATE), NATURAL FLAVORS, AND LEMON JUICE FROM CONCENTRATE (WATER, LEMON JUICE CONCENTRATE).  
MANUFACTURED FOR DODOLE PACKAGED FOODS, LLC, WESTLAKE VILLAGE, CA 91361 PRODUCT OF GREECE  
CAUTION: MAY CONTAIN PITS OR PIT FRAGMENTS

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Back

### Fridge Packs

**Varieties:** Mixed Fruit in 100% Fruit Juice, Yellow Cling Peach Slices in 100% Fruit Juice, Pineapple Chunks in 100% Pineapple Juice, and Mandarin Oranges in Fruit Juice



*Front*



*Side*

**Canned Fruit in Heavy Syrup**

**Varieties:** Pineapple Slices (20 oz. and 8.25 oz.), Pineapple Chunks (20 oz. and 8.25 oz.), Crushed Pineapple (20 oz. and 8.25 oz.), and Mango Slices (15.5 oz.)



*20 oz. can*

**Canned Fruit in Heavy Syrup (Continued)**



15.5 oz. can



8.25 oz. can

**Canned Fruit in Light Syrup**

**Varieties:** Mandarin Oranges in Light Syrup (15 oz.) and Tropical Fruit in Light Syrup and Passion Fruit Juice (15.25 oz.)



15 oz. can



15.25 oz. can

**Canned Fruit Juices**

**Varieties:** Pineapple, Pineapple Mango, Pineapple Orange, and Pineapple Orange Banana



*Multipack (front)*



*Multipack (back)*



**Canned Fruit Juices (Continued)**



*Individual (front & side)*

### Fruitify Beverages

**Varieties:** Replenish Pineapple Juice and Coconut Water, Energize Pineapple Juice With Green Tea Extract, and Glow Pineapple and Mango Juice with Turmeric



*Side*



*Front*