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8 Attorney for Plaintiff Mark Trammell

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

12 MARK TRAMMELL, *individually and on*)
13 *behalf of all those similarly situated,*)
14)
15 *Plaintiff,*)
16)
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No. **'24CV0862 AJB AHG**

v.

CLASS ACTION COMPLAINT

ALBERTSONS COMPANIES, INC., *a*)
Delaware corporation,)
Defendant.)

JURY TRIAL DEMANDED

Mark Trammell (“Plaintiff”), individually and on behalf of all others similarly situated in the state of California, by and through undersigned counsel, hereby brings this action against Albertsons Companies, Inc. (“Albertsons”), alleging that its Signature Select Fruit & Grain cereal bars, Blueberry and Strawberry flavors (together, “the Products”), which are manufactured, packaged, labeled, advertised, distributed, and sold by Defendant, are misbranded and falsely advertised because they contain artificial flavoring, and upon information and belief and investigation of counsel alleges as follows:

PARTIES

1. Plaintiff Mark Trammell is and at all times relevant was a citizen of the state of California, domiciled in San Diego, California.

1 2. Defendant Albertsons Companies is a Delaware corporation with its principal
2 place of business in Boise, Idaho. On information and belief all decisions regarding formulation
3 and labelling of the Products are made at this principal place of business.
4

5 **JURISDICTION AND VENUE**

6 3. This Court has subject matter jurisdiction over this action pursuant to the Class
7 Action Fairness Act, Pub. L. 109-2, 119 Stat. 4 (codified in scattered sections of Title 28 of the
8 United States Code); specifically, under 28 U.S.C. § 1332(d), which provides for the original
9 jurisdiction of the federal district courts over “any civil action in which the matter in controversy
10 exceeds the sum or value of \$5,000,000, exclusive of interest and costs, and [that] is a class
11 action in which . . . any member of a class of plaintiffs is a citizen of a State different from any
12 defendant.” 28 U.S.C. § 1332(d)(2)(A).

13 4. Plaintiff seeks to represent Class members who are citizens of states different from
14 the Defendant.
15

16 5. The matter in controversy in this case exceeds \$5,000,000 in the aggregate,
17 exclusive of interests and costs.

18 6. In addition, “the number of members of all proposed plaintiff classes in the
19 aggregate” is greater than 100. *See* 28 U.S.C. § 1332(d)(5)(B).

20 7. In the alternative, the Court has jurisdiction over this matter pursuant to 28 U.S.C.
21 § 1332(a). The amount in controversy exceeds \$75,000, exclusive of interests and costs.
22

23 8. This Court has personal jurisdiction over Defendant because this action arises out
24 of and relates to Defendant’s contacts with this forum.

25 9. Those contacts include but are not limited to sales of the Products directly to
26 commercial and individual consumers located in this district, including Plaintiff; shipping the
27 Products to commercial and individual consumers in this district, including Plaintiff; knowingly
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1 directing advertising and marketing materials concerning the Products into this district through
2 wires and mails, both directly and through electronic and print publications that are directed to
3 commercial and individual consumers in this district; and operating an e-commerce web site
4 that offers the Products for sale to commercial and individual consumers in this district, as well
5 as offering the Products for sale through third-party e-commerce websites, through both of
6 which commercial and individual consumers residing in this district have purchased the
7 Products.
8

9 10. Defendant knowingly directs electronic activity and ships the Products into this
10 district with the intent to engage in business interactions for profit, and it has in fact engaged in
11 such interactions, including the sale of the Products to Plaintiff.
12

13 11. Defendant also sells the Products to retailers and wholesalers in this district for
14 the purpose of making the Products available for purchase by individual consumers in this
15 district.
16

17 12. Plaintiff's losses and those of other Class members were sustained in this district.

18 13. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of
19 the events or omissions giving rise to Plaintiff's claims occurred within this district.
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21 14. Venue is also proper pursuant to 28 U.S.C. § 1391(c)(2) because this Court
22 maintains personal jurisdiction over Defendant.

23 **FACTUAL ALLEGATIONS**

24 **A. Consumers Pay A Premium for "Clean Labels."**

25 15. Across the globe, consumers are increasingly attuned to claims that foods are "all-
26 natural," minimally processed, or otherwise free of artificial flavors and preservatives.

27 16. For example, a 2018 survey by L.E.K. Consulting found that overwhelming
28 numbers of consumers were committed or casual adherents to so-called "clean label" food
attributes: "No artificial ingredients" (69 percent); "No preservatives" (67 percent); or "All-

1 natural” (66 percent). These were the three most attractive attributes in the consumer survey.
2 Roughly 60 to 70 percent of consumers reported a willingness to pay a price premium for “clean
3 label” foods. See <https://www.lek.com/insights/ei/next-generation-mindful-food-consumption>.

4 17. This consumer preference has led to an explosion in the category of “clean label”
5 foods and beverages. Leading analyst Allied Market Research estimated that the “natural foods
6 and drinks” category would grow by an estimated compound annual growth rate of 13.7 percent
7 from 2016 to 2023, reaching \$191 billion in annual sales by 2023. See
8 <https://www.alliedmarketresearch.com/natural-food-and-drinks-market>.

9
10 18. Mr. Trammell viewed and purchased the Products on or about June 10, 2023 from
11 a Vons Market in Carlsbad, California. Vons Market is, on information and belief, a subsidiary
12 of Defendant.

13
14 19. Mr. Trammell is a student who attempts to eat “clean.” He prefers to consume
15 only products that contain all-natural flavorings.

16 **B. Defendant’s Use of Synthetic Flavorings and Deceptive Labels.**

17 20. Defendant Albertsons formulates, manufactures, and sells *inter alia* fruit and grain
18 breakfast cereal bars under its in-house generic brand, Signature Selects.

19 21. The front label (or “principal display panel”) of the Products state that the Products
20 are “Naturally Flavored,” as shown in these examples below:
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22. These labelling claims are false. The Products are flavored using an artificial flavoring, DL malic acid, that is derived from petrochemicals.

23. The word “malic” in malic acid derives from the Latin *malum*, for apple. Malic acid derived from natural fruit sources (usually apples) is commonly known as “L malic acid”

1 instead of its scientific name, 2-Hydroxybutanedioic acid. L malic acid is quite expensive and
2 is generally cost-prohibitive to use in mass-produced foods and beverages,

3 24. There is a synthetic or artificial version of malic acid derived from a petroleum
4 substrate and other synthetic components. It is commonly referred to as DL malic acid, instead
5 of its scientific name of d-hydroxybutanedioic acid. DL malic acid is manufactured in
6 petrochemical plants from benzene or butane—components of gasoline and lighter fluid,
7 respectively—through a series of chemical reactions, some of which involve highly toxic
8 chemical precursors and byproducts.
9

10 25. Federal regulations note explicitly that “DL-malic acid does not occur naturally.”
11 21 C.F.R. § 184.1069(a).
12

13 26. When testing malic acid to determine whether it is artificial (DL) or natural (L)
14 malic acid, the industry standard is to test for the presence of the “D isomer” of malic acid. This
15 isomer is not present in any amount in L malic acid. Therefore, the presence of the D isomer of
16 malic acid in any amount in a food or beverage indicates the use of artificial DL malic acid
17 instead of natural L malic acid.

18 27. Counsel for Plaintiff commissioned testing of the specific items that were
19 purchased by Plaintiff. That testing was conducted on or about June 28, 2023 by Krueger Food
20 Laboratories, Inc. of Chelmsford, Massachusetts, a reputable independent food testing and
21 analysis laboratory that has conducted testing for the food and beverage industry since 1984.
22

23 28. This testing by Krueger Food Laboratories revealed that the D isomer was present
24 in every Product purchased by Plaintiff. As a result, this testing establishes that the malic acid
25 used in these Products is artificial DL malic acid, and not natural L malic acid.
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1 **C. Malic Acid Is Used In the Products As A Flavor.**

2 29. Fruit flavors in a food are imparted by the interactions between sugars, acids,
3 lipids, and various volatile compounds. The sweetness, tartness, and overall profile of a fruit
4 flavor in a food is determined by the ratio between the sugars (mainly glucose and fructose) and
5 acids, such as citric and malic acid. Fruits such as blueberries and strawberries have their own
6 natural ratio of sugars and acids.

7
8 30. That is, as a matter of food chemistry, there is no such flavor as “strawberry” or
9 the like. Rather, there is a ratio between acids and sugars that is consistent with what the human
10 tongue senses and understands as the flavor “strawberry,” and that is naturally found in
11 strawberries.

12 31. By adjusting the ratio between sugars and acids through the use of malic acid in
13 foods and beverages, a manufacturer is enabled to create or simulate from scratch a “flavor”
14 such as strawberry, through replication of the sugar/acid ratio present in strawberries in nature.

15
16 32. In addition, by adding malic acid to a food or beverage, the manufacturer is
17 enabled to reinforce the characterizing fruit flavor of the food product. That is, food
18 manufacturers are enabled to adjust the sweetness or tartness of a fruit flavor such as strawberry,
19 adjusting the flavor notes to increase the food product’s commercial acceptability.

20
21 33. Federal regulations promulgated pursuant to the Food, Drug, and Cosmetic Act
22 (“FDCA”) require that a food’s label accurately describe the nature of the food product and its
23 characterizing flavors. 21 C.F.R. § 102.5(a).

24 34. Artificial flavor is defined as “any substance, the function of which is to impart
25 flavor, which is not derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible
26 yeast, herb, bark, bud, root, leaf or similar plant material, meat, fish, poultry, eggs, dairy
27 products, or fermentation products thereof.” 21 C.F.R § 101.22(a)(1).

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1 35. Natural flavor is defined as “essential oil, oleoresin, essence or extractive, protein
2 hydrolysate, distillate, or any product of roasting, heating or enzymolysis, which contains the
3 flavoring constituents” from fruits or vegetables, “whose significant function in food is flavoring
4 rather than nutritional.” 21 C.F.R § 101.22(a)(3).
5

6 36. Any recognizable primary flavor identified directly or indirectly on the front label
7 of a food product, whether by word, vignette, depiction of a fruit, or other means is referred to
8 as a “characterizing flavor.” 21 C.F.R. § 101.22.

9 37. If a food product’s characterizing flavor is not created exclusively by the named
10 flavor ingredient, the product’s front label must state that the product’s flavor was simulated or
11 reinforced with either natural or artificial flavorings or both. Specifically, if any component is
12 present used that “simulates, resembles or reinforces” the characterizing flavor, the front label
13 must prominently inform consumers that the product is “Artificially Flavored.” 21 C.F.R. §
14 101.22(i)(2).
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16 38. That is, even if a food or beverage is flavored with strawberries, its label must
17 state that it is “Artificially Flavored” if an artificial substance is used to reinforce or adjust the
18 flavor profile of the food product.

19 39. A food product’s label also must include a statement of the “presence or absence
20 of any characterizing ingredient(s) or component(s) . . . when the presence or absence of such
21 ingredient(s) or component(s) in the food has a material bearing on price or consumer
22 acceptance . . . and consumers may otherwise be misled about the presence or absence of the
23 ingredient(s) or component(s) in the food.” 21 C.F.R. § 102.5.
24

25 40. Such statement must be in boldface print on the front display panel and of
26 sufficient size for an average consumer to notice.
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1 41. That is, whenever a food manufacturer uses malic acid to simulate or reinforce the
2 characterizing flavor of a food or beverage, it is required under federal regulations to state that
3 the food or beverage is “Artificially Flavored” if the malic acid used to simulate or reinforce the
4 characterizing flavor is DL malic acid.

5 42. By changing the ratio between sugars and acids that is naturally found in fruits,
6 the DL malic acid used in the Products by Defendant reinforces, simulates, or creates the
7 characterizing flavors, regardless of any other effect it may have or purpose for which it was
8 included.

9 43. DL malic acid is not a “natural flavor” as this term is defined by federal and state
10 regulations because it is not derived from a fruit or vegetable or any other natural source, but
11 rather from a petroleum substrate. The Products therefore contain artificial flavorings.
12

13 44. Further, the presence of artificial malic acid in the Products has a material bearing
14 on price or consumer acceptance of the Products, and consumers may be and have been misled
15 about the presence or absence of the artificial DL malic acid that is a component in the Product.
16

17 45. Because the Products contain artificial flavoring, federal regulations and
18 corresponding state law incorporating and enacting those regulations require the Products to
19 display both front- and back-label disclosures to inform consumers that the Products are
20 artificially flavored.
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22 46. The Products have none of the required disclosures regarding the use of artificial
23 flavors.

24 47. Plaintiffs reserve the right to amend this Complaint to add further products that
25 contain similar label misrepresentations as testing continues.
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1 **D. Plaintiff Reasonably Relied on Defendant’s Labelling Statements.**

2 49. Labels are the chief means by which food product manufacturers convey critical
3 information to consumers, and consumers have been conditioned to rely on the accuracy of the
4 claims made on these labels.

5 50. Further, federal law and corresponding state law and regulations both reflect and
6 create reasonable consumer expectations concerning the contents of foods and beverages. That
7 is, consumers have been conditioned to expect that a food product that states that it is “Naturally
8 Flavored” does not have its flavor created, simulated, or reinforced by flavoring agents derived
9 from petroleum substrates.
10

11 51. Plaintiff reviewed the labels on the Products prior to her purchase, and reviewed
12 the flavoring claims being made on those labels. Consumers such as Plaintiff who viewed the
13 Products’ labels reasonably understood Defendant’s “Naturally Flavored” statements, as well as
14 its failure to disclose the use of artificially derived malic acid, to mean that the Products contain
15 only natural flavorings. These representations were false.
16

17 52. Consumers including Plaintiff reasonably relied on these label statements such
18 that they would not have purchased the Products from Defendant if the truth about the Products
19 was known, or would have only been willing to pay a substantially reduced price for the Products
20 had they known that Defendant’s representations were false and misleading.
21

22 53. In the alternative, because of its deceptive and false labelling statements,
23 Defendant was enabled to charge a premium for the Products relative to key competitors’
24 products, or relative to the average price charged in the marketplace.

25 54. Consumers including Plaintiffs especially rely on label claims made by food
26 product manufacturers such as Defendant, as they cannot confirm or disprove those claims
27 simply by viewing or even consuming the Products.
28

1 55. Plaintiff suffered economic injury by Defendant’s fraudulent and deceptive
2 conduct as stated herein, and there is a causal nexus between Defendant’s deceptive conduct and
3 Plaintiff’s injury.

4
5 **CLASS ACTION ALLEGATIONS**

6 56. Plaintiff brings this action individually and as representative of all those similarly
7 situated pursuant to Federal Rule of Civil Procedure 23 on behalf of all consumers in the state
8 of California who purchased the Products within four years prior to the filing of this Complaint.

9 57. Excluded from the Class are Defendant and its affiliates, parents, subsidiaries,
10 employees, officers, agents, and directors. Also excluded are any judicial officers presiding over
11 this matter and the members of their immediate families and judicial staff.

12 58. Plaintiff reserves the right to alter the Class definition, and to amend this
13 Complaint to add additional Subclasses, as necessary to the full extent permitted by applicable
14 law.

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16 59. Certification of Plaintiff’s claims for class-wide treatment is appropriate because
17 Plaintiff can prove the elements of the claims on a class-wide basis using the same evidence as
18 individual Class members would use to prove those elements in individual actions alleging the
19 same claims.

20 60. **Numerosity – Rule 23(a)(1):** The size of the Class is so large that joinder of all
21 Class members is impracticable. Plaintiff believes and avers there are thousands of Class
22 members geographically dispersed throughout the state of California.

23
24 61. **Existence and Predominance of Common Questions of Law and Fact – Rule**
25 **23(a)(2), (b)(3):** There are questions of law and fact common to the Class. These questions
26 predominate over any questions that affect only individual Class members. Common legal and
27 factual questions and issues include but are not limited to:
28

- 1 a. Whether the marketing, advertising, packaging, labeling, and other promotional
- 2 materials for Defendant’s Products is misleading and deceptive;
- 3 b. Whether a reasonable consumer would understand Defendant’s “Naturally
- 4 Flavored” claim to indicate that the Products contained only natural flavorings,
- 5 and reasonably relied upon that representation;
- 6 c. Whether Defendant was unjustly enriched at the expense of the Plaintiff and Class
- 7 members;
- 8 d. Whether Defendant breached an express warranty;
- 9 e. the proper amount of damages;
- 10 f. the proper scope of injunctive relief; and
- 11 g. the proper amount of attorneys’ fees.
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14 62. Defendant engaged in a common course of conduct in contravention of the laws
15 Plaintiff seeks to enforce individually and on behalf of the Class. Similar or identical violations
16 of law, business practices, and injuries are involved. Individual questions, if any, pale by
17 comparison, in both quality and quantity, to the numerous common questions that predominate
18 this action. The common questions will yield common answers that will substantially advance
19 the resolution of the case.

20 63. In short, these common questions of fact and law predominate over questions that
21 affect only individual Class members.

22 64. **Typicality – Rule 23(a)(3):** Plaintiff’s claims are typical of the claims of the Class
23 members because they are based on the same underlying facts, events, and circumstances
24 relating to Defendant’s conduct.

25 65. Specifically, all Class members, including Plaintiff, were harmed in the same way
26 due to Defendant’s uniform misconduct described herein; all Class members suffered similar
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1 economic injury due to Defendant’s misrepresentations; and Plaintiff seeks the same relief as
2 the Class members.

3 66. There are no defenses available to Defendant that are unique to the named
4 Plaintiff.

5 67. **Adequacy of Representation – Rule 23(a)(4):** Plaintiff is a fair and adequate
6 representative of the Class because Plaintiff’s interests do not conflict with the Class members’
7 interests. Plaintiff will prosecute this action vigorously and is highly motivated to seek redress
8 against Defendant.
9

10 68. Furthermore, Plaintiff has selected competent counsel who are experienced in
11 class action and other complex litigation. Plaintiff and Plaintiff’s counsel are committed to
12 prosecuting this action vigorously on behalf of the Class and have the resources to do so.
13

14 69. **Superiority – Rule 23(b)(3):** The class action mechanism is superior to other
15 available means for the fair and efficient adjudication of this controversy for at least the
16 following reasons:

- 17 a. the damages individual Class members suffered are small compared to the burden
18 and expense of individual prosecution of the complex and extensive litigation
19 needed to address Defendant’s conduct such that it would be virtually impossible
20 for the Class members individually to redress the wrongs done to them. In fact,
21 they would have little incentive to do so given the amount of damage each member
22 has suffered when weighed against the costs and burdens of litigation;
23
24 b. the class procedure presents fewer management difficulties than individual
25 litigation and provides the benefits of single adjudication, economies of scale, and
26 supervision by a single Court;
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- 1 c. the prosecution of separate actions by individual Class members would create a
- 2 risk of inconsistent or varying adjudications, which would establish incompatible
- 3 standards of conduct for Defendant; and
- 4
- 5 d. the prosecution of separate actions by individual Class members would create a
- 6 risk of adjudications with respect to them that would be dispositive of the interests
- 7 of other Class members or would substantively impair or impede their ability to
- 8 protect their interests.

9 70. Unless the Class is certified, Defendant will retain monies received as a result of
10 its unlawful and deceptive conduct alleged herein.

11 71. Unless a class-wide injunction is issued, Defendant will likely continue to
12 advertise, market, promote, and sell its Products in an unlawful and misleading manner, as
13 described throughout this Complaint, and members of the Class will continue to be misled,
14 harmed, and denied their rights under the law. Defendant would like to purchase the Products
15 and other products in the “Signature Select” line of food products in the future, but cannot
16 currently do so because he cannot rely on the Products’ labelling, given the deceptions regarding
17 flavoring found there. An injunction prohibiting future deceptive labelling is therefore warranted
18 and would provide Plaintiff and the Class relief.

19 72. Furthermore, Plaintiff has not merely alleged an “informational” injury, but has
20 also alleged that Defendant has been enabled to charge a price premium for the Products.
21 Plaintiff has therefore alleged that compliance with federal and state regulations regarding the
22 presence of artificial flavors in the Products would cause a decrease in the price of the Products
23 at which Plaintiff and members of the Class would be willing to buy the Products. As a result,
24 Plaintiff has alleged more than simply an interest in Defendant telling the truth on its labels, but
25 an economic injury that further supports prospective injunctive relief.
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- 1 c. Defendant's acts and practices constitute the advertisement of goods, without the
- 2 intent to sell them as advertised;
- 3 d. Defendant's acts and practices fail to represent that transactions involving its
- 4 Products involve actions that are prohibited by law, particularly the use of
- 5 misleading nutritional labelling; and
- 6
- 7 e. Defendant's acts and practices constitute representations that its Products have
- 8 been supplied in accordance with previous representations when they were not.

9 77. By reason of the foregoing, Plaintiff and the Class have been irreparably harmed,
10 entitling them to injunctive relief.

11 78. Pursuant to Cal. Civ. Code § 1782, Plaintiff notified Defendant in writing of the
12 particular violations of the CLRA described herein and demanded Defendant rectify the actions
13 described above by providing complete monetary relief, agreeing to be bound by their legal
14 obligations and to give notice to all affected customers of their intent to do so. Plaintiff sent this
15 notice by certified mail to Defendant, at least 30 days before the filing of this Complaint.
16

17 79. Pursuant to Cal. Civ. Code §§ 1770 and 1780, Plaintiff and the Class are entitled
18 to recover actual damages sustained as a result of Defendant's violations of the CLRA. Such
19 damages include, without limitation, monetary losses and actual, punitive, and consequential
20 damages, in an amount to be proven at trial.
21

22 80. Pursuant to Cal. Civ. Code §§ 1770 and 1780, Plaintiff is entitled to enjoin
23 publication of misleading and deceptive nutritional labels on Defendant's Products and to
24 recover reasonable attorneys' fees and costs.

25 **COUNT 2**
26 **UNJUST ENRICHMENT**

27 81. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
28 extent necessary, pleads this cause of action in the alternative.

1 82. Defendant, through its marketing and labeling of the Products, misrepresented and
2 deceived consumers regarding the flavoring in the Products.

3 83. Defendant did so for the purpose of enriching itself and it in fact enriched itself
4 by doing so.

5 84. Consumers conferred a benefit on Defendant by purchasing the Products,
6 including an effective premium above their true value. Defendant appreciated, accepted, and
7 retained the benefit to the detriment of consumers.

8 85. Defendant continues to possess monies paid by consumers to which Defendant is
9 not entitled.

10 86. Under the circumstances it would be inequitable for Defendant to retain the benefit
11 conferred upon it and Defendant's retention of the benefit violates fundamental principles of
12 justice, equity, and good conscience.

13 87. Plaintiff seeks disgorgement of Defendant's ill-gotten gains and restitution of
14 Defendant's wrongful profits, revenue, and benefits, to the extent, and in the amount, deemed
15 appropriate by the Court, and such other relief as the Court deems just and proper to remedy
16 Defendant's unjust enrichment.

17 88. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury in fact as
18 a result of Defendant's actions as set forth above.

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22 **COUNT 3**
 BREACH OF EXPRESS WARRANTY

23 89. Plaintiff realleges the preceding paragraphs as if fully set forth herein and, to the
24 extent necessary, pleads this cause of action in the alternative.

25 90. Defendant, as the designer, manufacturer, marketer, distributor, and/or seller,
26 expressly warranted that the Products were "Naturally Flavored."
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f. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded; and

g. Such other relief as the Court may deem just and proper.

TRIAL BY JURY IS DEMANDED ON ANY COUNTS SO TRIABLE.

Respectfully submitted,

/s/ Charles C. Weller
Charles C. Weller (Cal. SBN: 207034)
Attorney for Plaintiff

CHARLES C. WELLER, APC
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May 15, 2024

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

Mark Trammell, individually and on behalf of those similarly situated

(b) County of Residence of First Listed Plaintiff San Diego (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Charles C. Weller APC, 11412 Corley Ct., San Diego CA 92126, 858.414.7465

DEFENDANTS

Albertsons Companies, Inc.

County of Residence of First Listed Defendant Boise, ID (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'24CV0862 AJB AHG

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, PTF DEF, 1 1, 2 2, 3 3, 4 4, 5 5, 6 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Table with columns: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, PERSONAL INJURY, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Insurance, Real Estate, Personal Injury, etc.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. 1332

Brief description of cause: Consumer fraud action regarding mislabelled food products

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE SIGNATURE OF ATTORNEY OF RECORD

5/15/2024 /s/ Charles C. Weller

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

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

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

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