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Superior Court of California,
County of Alameda

07/09/2025 at 01:47:08 PM

By: Andrel Gospel,
Deputy Clerk

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

11 CRISTIAN LUIS, individually, and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 v.

15 CVS PHARMACY, INC.,

16 Defendant.
17
18
19
20

Case No. **25CV130566**

CLASS ACTION COMPLAINT FOR:

1. **Violations of the Consumers
Legal Remedies Act, Cal. Civ.
Code §§ 1750, et seq.;**
2. **Violations of the Unfair
Competition Law, Cal. Bus. &
Prof. Code §§17200, et seq., and;**
3. **Breach of Express Warranty.**

DEMAND FOR JURY TRIAL

INTRODUCTION

1. Plaintiff Cristian Luis (“Plaintiff”) on behalf of himself, all others similarly situated, and the general public, by and through his undersigned counsel, hereby brings this action against CVS Pharmacy, Inc. (“Defendant” or “CVS”), and upon information and belief and investigation of counsel, alleges as follows:

2. This is a California consumer class action for violations of the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* (“CLRA”), Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (“UCL”), and for breach of express warranty.

3. Defendant manufactures, distributes, advertises, markets, and sells Gold Emblem Abound breakfast bar products. The packaging prominently displays on the front of the label the claim that these Products¹ contain “**No Artificial Preservatives.**”

4. This statement is false. Each of the Products are made with manufactured citric acid— an artificial preservative ingredient used in food and beverage products.

5. Defendant’s packaging, labeling, and advertising scheme is intended to give consumers the impression that they are buying a premium product that contains “No Artificial Preservatives.”

6. Plaintiff, who purchased the Products in California, was deceived by Defendant’s unlawful conduct and brings this action on his own behalf and on behalf of California consumers to remedy Defendant’s unlawful acts.

JURISDICTION AND VENUE

7. This Court has jurisdiction pursuant to Article VI, Section 10 of the California Constitution and California Code of Civil Procedure § 410.10.

8. This Court has personal jurisdiction over Defendant because Defendant conducts and transacts business in the State of California, contracts to supply goods within the State of California, and supplies goods within the State of California. Defendant, on its own and through

¹ “Products” means all Gold Emblem Abound breakfast bar products labeled as containing “No Artificial Preservatives” that include citric acid as an ingredient.

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1 its agents, is responsible for the distribution, marketing, labeling, and sale of the Products in
2 California, specifically in this county. The marketing of the Products, including the decision of
3 what to include and not include on the labels, emanates from Defendant. Thus, Defendant has
4 intentionally availed itself of the markets within California through its advertising, marketing,
5 and sale of the Products to consumers in California, including Plaintiff. The Court also has
6 specific jurisdiction over Defendant as it has purposefully directed activities towards the forum
7 state, Plaintiff's claims arise out of those activities, and it is reasonable for Defendant to defend
8 this lawsuit because it has sold deceptively advertised Products to Plaintiff and members of the
9 Class in California. By distributing and selling the Products in California, Defendant has
10 intentionally and expressly aimed conduct at California which caused harm to Plaintiff and the
11 Class that Defendant knows is likely to be suffered by Californians.

12 9. Venue is proper in this county pursuant to Cal. Civ Code. § 1780(c) because
13 Defendant is doing business in this county as the Products are offered for sale in this county.

14 PARTIES

15 10. Defendant CVS Pharmacy, Inc. is a Rhode Island corporation that maintains its
16 principal place of business in Woonsocket, Rhode Island. At all times during the class period,
17 Defendant was the manufacturer, distributor, marketer, and seller of the Products.

18 11. Plaintiff Cristian Luis is a resident of California. Plaintiff purchased the Products
19 during the class period in California. Plaintiff relied on Defendant's deceptive advertising and
20 labeling claims as set forth below.

FACTUAL ALLEGATIONS

**“NO ARTIFICIAL PRESERVATIVES” IS PROMINENTLY DISPLAYED ON THE FRONT LABELS OF
THE PRODUCTS**

12. The front labels for each of the Products prominently state that the Products contain “No Artificial Preservatives,” thereby misleading reasonable consumers into believing that the Products are free from artificial preservative ingredients. However, each of the Products contain an artificial preservative called manufactured citric acid. Below is an example of a label for one of the Products:



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INGREDIENTS: ORGANIC STRAWBERRY FLAVORED FILLING (ORGANIC GLUCOSE SYRUP, ORGANIC CANE SUGAR, ORGANIC STRAWBERRY PUREE, ORGANIC APPLE PUREE, PECTIN, CITRIC ACID, ORGANIC COLOR [ORGANIC CONCENTRATED ELDERBERRY JUICE], NATURAL FLAVOR, TRICALCIUM CITRATE, POTASSIUM CARBONATE), ORGANIC WHOLE OAT FLOUR, ORGANIC ENRICHED FLOUR (ORGANIC WHEAT FLOUR, ORGANIC MALTED BARLEY FLOUR, NIACIN, REDUCED IRON, THIAMINE MONONITRATE, RIBOFLAVIN, FOLIC ACID), ORGANIC SOYBEAN AND/OR SUNFLOWER OIL, ORGANIC ISOMALTO-OLIGOSACCHARIDES, ORGANIC WHOLE WHEAT FLOUR (ORGANIC WHOLE WHEAT FLOUR, ORGANIC MALTED BARLEY FLOUR), ORGANIC CANE SUGAR, ORGANIC WHOLE ROLLED OATS, ORGANIC GLYCERIN, ORGANIC MOLASSES, ORGANIC INVERT SUGAR, VITAMINS AND MINERALS (CALCIUM CARBONATE, NIACINAMIDE [VITAMIN B3], REDUCED IRON, ZINC OXIDE, PYRIDOXINE HYDROCHLORIDE [VITAMIN B6], THIAMINE HYDROCHLORIDE [VITAMIN B1], PALMITATE [VITAMIN A], FOLIC ACID), LEAVENING (SODIUM ACID PYROPHOSPHATE, SODIUM BICARBONATE, CORN STARCH, MONOCALCIUM PHOSPHATE), ORGANIC GUAR GUM, ORGANIC NATURAL FLAVOR, SODIUM BICARBONATE, ORGANIC HONEY, ORGANIC SOY LECITHIN, SALT, XANTHAN GUM.

ALLERGY INFORMATION: CONTAINS WHEAT AND SOY.

Distributed by: CVS Pharmacy, Inc.
One CVS Drive, Woonsocket, RI 02895
© 2023 CVS/pharmacy
CVS.com® 1-800-SHOP CVS

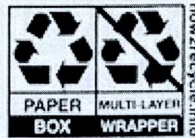
CERTIFIED ORGANIC BY QUALITY ASSURANCE INTERNATIONAL.

Product of Canada V-14412

MAY CONTAIN EGGS, MILK,
PEANUTS, AND TREE NUTS.



**100% money back
guaranteed.**
CVS.com/returnpolicy



#376224



1 **THE MANUFACTURED CITRIC ACID IN THE PRODUCTS IS ARTIFICIAL**

2 13. Defendant uses artificial manufactured citric acid in the Products.² Commercial
3 food manufactures, including Defendant, use a synthetic form of citric acid that is derived from
4 heavy chemical processing.³ Commercially produced citric acid is manufactured using a type of
5 black mold called *Aspergillus niger* which is modified to increase citric acid production.⁴
6 Consumption of manufactured citric acid has been associated with adverse health events like
7 joint pain with swelling and stiffness, muscular and stomach pain, as well as shortness of breath.⁵
8 Defendant does not use natural citric acid extracted from fruit in the Products. This is because
9 “[a]proximately 99% of the world’s production of [citric acid] is carried out using the fungus
10 *Aspergillus niger* since 1919.”⁶ As explained by a study published in the *Toxicology Reports*
11 *Journal*:

12 Citric acid naturally exists in fruits and vegetables. However, **it is not the**
13 **naturally occurring citric acid, but the manufactured citric acid (MCA)**
14 **that is used extensively as a food and beverage additive.** Approximately
15 99% of the world’s production of MCA is carried out using the fungus
16 *Aspergillus niger* since 1919. *Aspergillus niger* is a known allergen.⁷

19 ² Iliana E. Sweis, et al., *Potential role of the common food additive manufactured citric acid in*
20 *eliciting significant inflammatory reactions contributing to serious disease states: A series of*
21 *four case reports*, TOXICOL REP. 5:808-812 (2018), available at
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6097542/> and attached as **Exhibit A**.

22 ³ A. Hesham, Y. Mostafa & L. Al-Sharqi, *Optimization of Citric Acid Production by Immobilized*
23 *Cells of Novel Yeast Isolates*, 48 MYCOBIOLOGY 122, 123 (2020), available at
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7178817/>

24 ⁴ *Id*; Pau Loke Show, et al., *Overview of citric acid production from Aspergillus niger*,
25 FRONTIERS IN LIFE SCIENCE, 8:3, 271-283 (2015), available at
<https://www.tandfonline.com/doi/full/10.1080/21553769.2015.1033653>

26 ⁵ Sweis, et al., **Exhibit A**.

27 ⁶ *Id*.

28 ⁷ *Id*.

14. A technical evaluation report for citric acid, compiled by the United States Department of Agriculture Marketing Services (“USDA AMS”) further explains that it is not commercially feasible to use natural citric acid extracted from fruits:

“Traditionally by extraction from citrus juice, [is] no longer commercially available. It is now extracted by fermentation of a carbohydrate substance (often molasses) by citric acid bacteria, *Aspergillus niger* (a mold) or *Candida guilliermondii* (a yeast). Citric acid is recovered from the fermentation broth by a lime and sulfuric acid process in which the citric acid is first precipitated as a calcium salt and then reacidulated with sulfuric acid.”⁸

15. As one of the USDA AMS reviewers commented:

“[Citric acid] is a natural[ly] occurring substance that commercially goes through numerous chemical processes to get to [its] final usable form. This processing would suggest that it be *classified as synthetic*.”⁹

16. When asked “Is this substance Natural or Synthetic?” USDA AMS reviewers state: “synthetic.”¹⁰

17. Manufactured citric acid contains residues of synthetic chemicals. The *Toxicology Reports Journal* article explains that “the potential presence of impurities or fragments from the *Aspergillus niger* in [manufactured citric acid] is a significant difference that may trigger deleterious effects when ingested.”¹¹ The article further explains:

Given the thermotolerance of *A. niger*, there is great potential that byproducts of *A. niger* remain in the final [manufactured citric acid] product. Furthermore, given the pro-inflammatory nature of *A. niger* even when heat-killed, repetitive ingestion of [manufactured citric acid] may trigger sensitivity or allergic reactions in susceptible individuals. Over the last two decades, there has been a significant rise in the incidence of food allergies.¹²

⁸ Exhibit B at page 6.

⁹ Exhibit B at page 5 (emphasis added)

¹⁰ Exhibit B at pages 4-5.

¹¹ Sweis, *et al.*, Exhibit A.

¹² *Id.*

18. The Food and Drug Administration (“FDA”) explains that the “Solvent extraction process for citric acid” is accomplished via “recovery of citric acid from conventional *Aspergillus niger* fermentation liquor may be safely used to produce food-grade citric acid in accordance with the following conditions: (a) The solvent used in the process consists of a mixture of n- octyl alcohol meeting the requirements of § 172.864 of this chapter, *synthetic* isoparaffinic petroleum hydrocarbons meeting the requirements of § 172.882 of this chapter, and tridodecyl amine. 12 C.F.R. § 173.280 (emphasis added). Chemical solvents such as n-octyl alcohol and synthetic isoparaffinic petroleum hydrocarbons are used to extract the citric acid that Defendant uses in the Products from *aspergillus niger* fermentation liquor. See 21 C.F.R § 173.280. The citric acid that Defendant uses in the Products is produced through chemical solvent extraction and contains residues of those chemical solvents.

19. The FDA has determined that manufactured citric acid is not natural; it is artificial. The FDA has sent warning letters to companies stating that certain products labeled as “natural” are misbranded because they contain citric acid as an ingredient. For example, on August 29, 2001, the FDA sent Hirzel Canning Company (“Hirzel”) a warning letter regarding its canned tomato products.¹³ With respect to Hirzel’s Chopped Tomatoes Onions & Garlic and Chopped Mexican Tomatoes & Jalapenos, the FDA stated that these products could not bear the “All Natural” claim on the label because the products contained a synthetic ingredient, citric acid.¹⁴

20. Similarly, on August 16, 2001, the FDA sent Oak Tree Dairy Farm, Inc. (“Oak Tree”) a warning letter regarding its “Oaktree Real Brewed Iced Tea,” “Oaktree Fruit Punch,” and “Oaktree All Natural Lemonade” products.¹⁵ With respect to Oak Tree’s “Oaktree Real

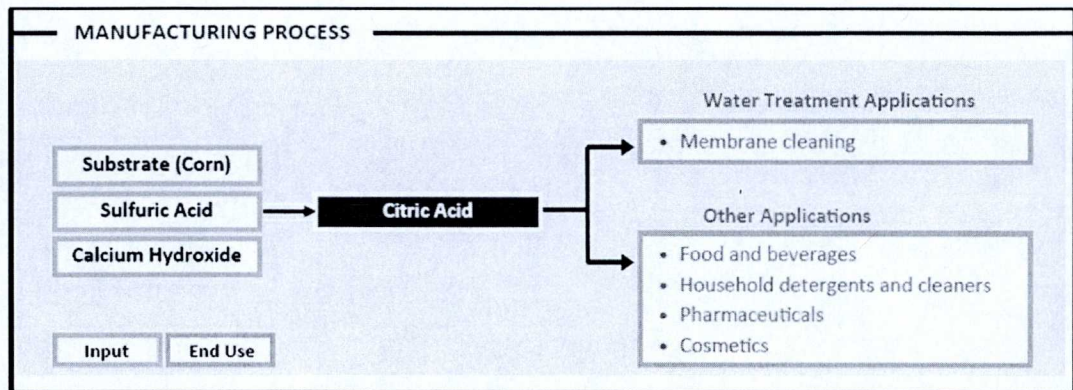
¹³ See Exhibit C attached hereto.

¹⁴ *Id.*

¹⁵ See Exhibit D attached hereto.

Brewed Iced Tea,” the FDA stated that this product could not bear the “100% Natural” and “All Natural” claims on the label because the product contained a synthetic ingredient, citric acid.¹⁶

21. The Environmental Protection Agency (“EPA”) provides the following simple schematic of the manufacturing process for citric acid which includes the use of synthetic solvents like sulfuric acid:¹⁷



22. Dr. Ryan Monahan, a prominent functional medicine practitioner, notes that the “[p]resent day process of creating manufactured citric acid involves feeding sugars derived from GMO corn to black mold, which then ferments to form manufactured citric acid.”¹⁸ Dr. Monahan also notes that “*Aspergillus niger* is associated with systemic inflammatory issues, including respiratory, gastrointestinal, neurological and musculoskeletal. Due to the potential for fragments of *Aspergillus niger* to make their way into the finished product of manufactured citric acid, this toxic inflammatory substance is likely being ingested by consumers of products containing citric acid. Even with high-heat processing to kill it, research has shown *Aspergillus niger* can still elicit an inflammatory response.”¹⁹

¹⁶ *Id.*

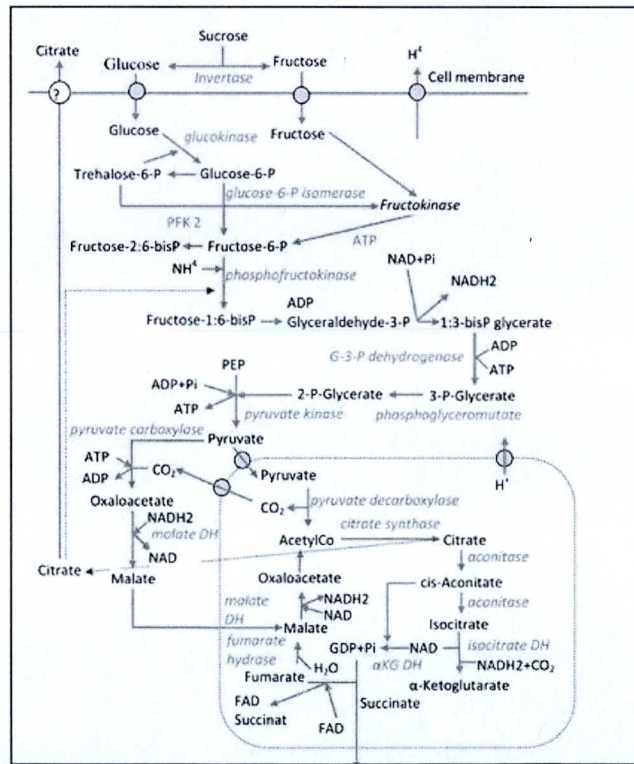
¹⁷ See **Exhibit E** attached hereto.

¹⁸ Dr. Ryan Monahan, *Citric Acid: A Common Food Additive With An Uncommon Source* (2024) available at <https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-additive-with-an-uncommon-source>

¹⁹ *Id.*

23. Clinical Nutritionist Serge Gregoire, notes that [f]ood manufacturers leave out that citric acid is derived from genetically modified black mold grown on GMO corn syrup” and that “[c]ompanies continuously capitalize on an ignorance-based market.”²⁰ Gregoire states, “Citric acid production has become a refined and highly prized industrial process.” Gregoire note that the *Aspergillus niger* used to produce citric acid is engineered to increase production of citric acid which has “resulted in countless generations of genetically modified mutant variants, now specialized for industrial-scale economics.”²¹

24. Below is a schematic representation of the metabolic reactions involved in citric acid production, the enzymes (*italics*), the known feedback loops (dashed lines) and their locations within the cellular structure of *Aspergillus niger*:²²



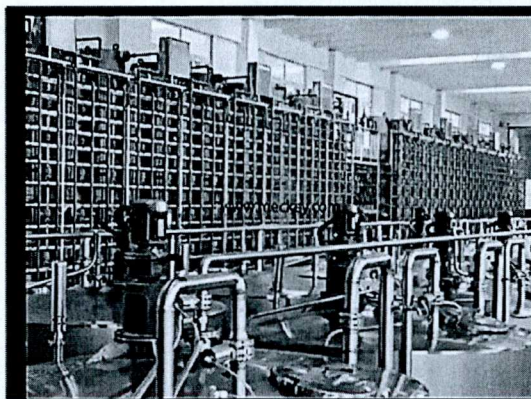
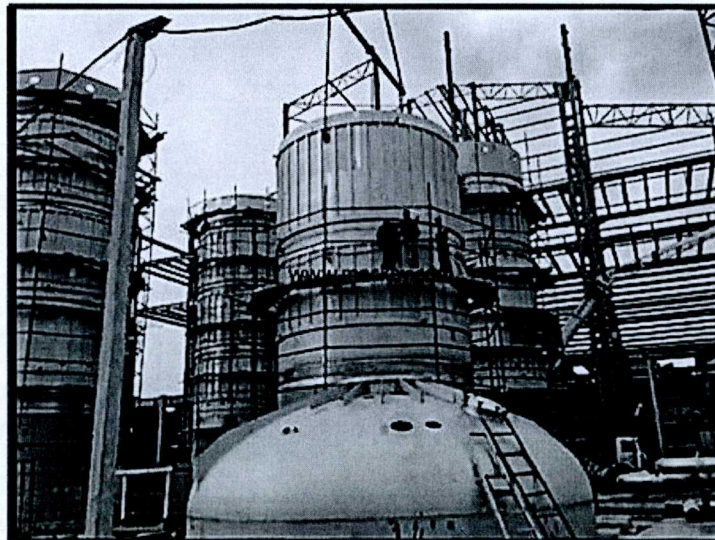
²⁰ Serge Gregoire, Avoid citric acid: a mold byproduct! (July 13, 2021) *available at* <https://www.linkedin.com/pulse/avoid-citric-acid-mold-byproduct-serge-gregoire/>

²¹ *Id.*

²² Show, P. L., Oladele, K. O., Siew, Q. Y., Aziz Zakry, F. A., Lan, J. C. W., & Ling, T. C. (2015). Overview of citric acid production from *Aspergillus niger*. FRONTIERS IN LIFE SCIENCE, 8(3), 271–283, *available at* <https://doi.org/10.1080/21553769.2015.1033653>

25. Dictionary definitions define “artificial” as something made by man. For example, “artificial” is defined as “made by human skill; produced by humans ...”²³ Merriam-Webster’s online dictionary states that “artificial” means “humanly contrived ...”²⁴ Cambridge Dictionary states that “artificial” means “made by people, often as a copy of something natural.”²⁵

26. Below are images of the chemical process used to create manufactured citric acid for use in food and beverage products – a process that is visibly artificial:



²³ *Artificial*, DICTIONARY.COM, available at <https://www.dictionary.com/browse/artificial>

²⁴ *Artificial*, MERRIAM-WEBSTER’S DICTIONARY, available at <https://www.merriam-webster.com/dictionary/artificial>

²⁵ *Artificial*, CAMBRIDGE DICTIONARY, available at <https://dictionary.cambridge.org/us/dictionary/english/artificial>

THE CITRIC ACID IN THE PRODUCTS FUNCTIONS AS A PRESERVATIVE

27. The FDA defines a preservative as “any chemical that, when added to food, tends to prevent or retard deterioration thereof, but does not include common salt, sugars, vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.” 21 C.F.R. §101.22(a)(5). The FDA has listed citric acid as a preservative in its “Overview of Food Ingredients, Additives and Colors” as shown below:²⁶

Types of Ingredients	What They Do	Examples of Uses	Names Found on Product Labels
Preservatives	Prevent food spoilage from bacteria, molds, fungi, or yeast (antimicrobials); slow or prevent changes in color, flavor, or texture and delay rancidity (antioxidants); maintain freshness	Fruit sauces and jellies, beverages, baked goods, cured meats, oils and margarines, cereals, dressings, snack foods, fruits and vegetables	Ascorbic acid, citric acid , sodium benzoate, calcium propionate, sodium erythorbate, sodium nitrite, calcium sorbate, potassium sorbate, BHA, BHT, EDTA, tocopherols (Vitamin E)

28. The Encyclopedia Britannica also classifies citric acid as a preservative because it has antioxidant properties, as shown below:²⁷

²⁶ *Overview of Food Ingredients, Additives & Colors*, FOOD AND DRUG ADMINISTRATION, available at <https://web.archive.org/web/20220901032454/http://www.fda.gov/food/food-ingredients-packaging/overview-food-ingredients-additives-colors>

²⁷ *Preservatives*, BRITANICA, available at <https://www.britannica.com/topic/food-additive/Preservatives#ref502211>

Preservatives

Food preservatives are classified into two main groups: antioxidants and antimicrobials. Antioxidants are compounds that delay or prevent the deterioration of foods by oxidative mechanisms. Antimicrobial agents inhibit the growth of spoilage and pathogenic microorganisms in food.

Food preservatives	
chemical agent	mechanism of action
Antioxidants	
ascorbic acid	oxygen scavenger
butylated hydroxyanisole (BHA)	free radical scavenger
butylated hydroxytoluene (BHT)	free radical scavenger
citric acid	enzyme inhibitor/metal chelator
sulfites	enzyme inhibitor/oxygen scavenger
tertiary butylhydroquinone (TBHQ)	free radical scavenger
tocopherols	free radical scavenger

29. The Agricultural Marketing Service of the United States Department of Agriculture (“USDA”) has also recognized the use of citric acid as a preservative stating that “Citric acid has a wide variety of uses, some of which can provide preservative functions, primarily though lowering the pH of the food.”²⁸

30. The USDA’s Food Safety Inspection Service’s “Guideline for Label Approval” states that “[s]ome common chemical preservatives include BHA, BHT, calcium propionate, citric acid, natamycin and sodium propionate.”²⁹

²⁸ *Citric Acid and Salts*, UNITED STATES DEPARTMENT OF AGRICULTURE, available at <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

²⁹ FSIS Guideline for Label Approval, UNITED STATES DEPARTMENT OF AGRICULTURE, available at https://www.fsis.usda.gov/sites/default/files/media_file/documents/FSIS-GD-2023-0001.pdf

31. Several academic journals also note the use of citric acid as a preservative.³⁰ Indeed, “Citric acid acts as a preservative in many processed foods, keeping them fresh. It does this by slowing or helping prevent the formation of bacteria, mold, yeast, and fungus.”³¹ “Today, citric acid is one of the most common and widely-used preservatives in the world[.]”³²

32. Citric acid functions as a preservative in the Products regardless of whether Defendant intended to use citric acid as a preservative. Citric acid functions as a preservative even if it is also added to the Products for some other use. *See* 21 C.F.R. §101.22(a)(5) (defining preservatives as “any chemical that, when added to food, *tends to* prevent or retard deterioration”) (emphasis added); *see also* Merriam-Webster’s Dictionary (defining “preservative” as “something that preserves or *has the power of preserving.*”) (emphasis added).³³

**REASONABLE CONSUMERS ARE DECEIVED BY DEFENDANT’S FALSE LABELING STATEMENT
AND SUFFERED ECONOMIC INJURY**

33. Consumers, like Plaintiff, relied on Defendant’s “No Artificial Preservatives” labeling statement when purchasing the Products. The “No Artificial Preservatives” statement on the labels of the Products is material to reasonable consumers. “[F]oods bearing ‘free-from’ claims are increasingly relevant to Americans, as they perceive the products as closely tied to

³⁰ K. Kirimura, et al., *Citric Acid*, COMPREHENSIVE BIOTECHNOLOGY (SECOND EDITION) (2011), *available at* <https://www.sciencedirect.com/science/article/abs/pii/B9780080885049001690?via%3Dihub>; K.M.S. Islam, *Use of citric acid in broiler diets*, WORLD’S POULTRY SCIENCE JOURNAL VOL. 68, ISSUE 1 (Feb. 21, 2012), *available at* <https://www.cambridge.org/core/journals/world-s-poultry-science-journal/article/abs/use-of-citric-acid-in-broiler-diets/DA15C2C1F90667525BF2414DF3BFF646> (“Citric Acid (CA) is a weak organic acid which is a natural preservative and can add an acidic or sour taste to foods and soft drinks.”).

³¹ *What is citric acid, and what is it used for?*, MEDICAL NEWS TODAY (July 23, 2021), *available at* <https://www.medicalnewstoday.com/articles/citric-acid>

³² *Citric Acid: One of the Most Important Preservatives in The World*, FBC INDUSTRIES, INC. (Feb. 5, 2019), *available at* <https://fbcindustries.com/citric-acid-one-of-the-most-important-preservatives-in-the-world/>

³³ *Preservative*, MERRIAM-WEBSTER’S DICTIONARY, *available at* https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jso nld

1 health ... 84 percent of American consumers buy free-from foods because they are seeking out
 2 more natural or less processed foods. In fact, 43 percent of consumers agree that free-from foods
 3 are healthier than foods without a free-from claim, while another three in five believe the fewer
 4 ingredients a product has, the healthier it is (59 percent). Among the top claims free-from
 5 consumers deem most important are trans-fat-free (78 percent) and preservative-free (71
 6 percent).”³⁴

7 34. Plaintiff and the putative class members suffered economic injury as a result of
 8 Defendant’s actions. Plaintiff and putative class members spent money that, absent Defendant’s
 9 actions, they would not have spent. Plaintiff and putative class members are entitled to damages
 10 and restitution for the purchase price of the Products that were falsely labeled and advertised.
 11 Consumers, including Plaintiff, would not have purchased Defendant’s Products, or would have
 12 paid less for the Products, if they had known the Products actually contain an artificial
 13 preservative ingredient.

14 PLAINTIFF’S PURCHASE OF THE PRODUCTS

15 35. Plaintiff Cristian Luis purchased one of the Products from a CVS store located
 16 in California. Plaintiff saw and relied on the “No Artificial Preservatives” claim on the labels
 17 of the Product. Plaintiff would not have purchased the Product, or would have paid less for the
 18 Product, had he known that the product actually contains an artificial preservative ingredient.
 19 As a result, Plaintiff suffered injury in fact when he spent money to purchase the Product he
 20 would not have purchased, or would have paid less for, absent Defendant’s misconduct. Plaintiff
 21 desires to purchase the Product again if the labels of the products were accurate and if the
 22 products actually contained “No Artificial Preservatives.” However, as a result of Defendant’s
 23 ongoing misrepresentations, Plaintiff is unable to rely on the Products’ advertising and labeling
 24 when deciding in the future whether to purchase the Products.

25
 26
 27 ³⁴ 84% of Americans buy “free-from” foods because they believe them to be more natural or
 28 less processed, Mintel (Sept. 3, 2015), available at [https://www.mintel.com/press-centre/84-](https://www.mintel.com/press-centre/84-of-americans-buy-free-from-foods-because-they-believe-them-to-be-more-natural-or-less-processed/)
of-americans-buy-free-from-foods-because-they-believe-them-to-be-more-natural-or-less-
processed/

CLASS ACTION ALLEGATIONS

36. Plaintiff brings this action as a class action pursuant to Cal. Code. Civ. Proc. § 382 on behalf of the following Class:

All persons who purchased the Products for personal use in California within the applicable statute of limitations until the date class notice is disseminated.

37. Excluded from the class are: (i) Defendant and its officers, directors, and employees; (ii) any person who files a valid and timely request for exclusion; (iii) judicial officers and their immediate family members and associated court staff assigned to the case; (iv) individuals who received a full refund of the Products from Defendant.

38. Plaintiff reserves the right to amend or otherwise alter the class definition presented to the Court at the appropriate time, or to propose or eliminate subclasses, in response to facts learned through discovery, legal arguments advanced by Defendant, or otherwise.

39. The Class is appropriate for certification because Plaintiff can prove the elements of the claims on a classwide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claims.

40. Numerosity: Class Members are so numerous that joinder of all members is impracticable. Plaintiff believes that there are thousands of consumers who are Class Members described above who have been damaged by Defendant's deceptive and misleading practices.

41. Commonality: There is a well-defined community of interest in the common questions of law and fact affecting all Class Members. The questions of law and fact common to the Class Members which predominate over any questions which may affect individual Class Members include, but are not limited to:

a. Whether Defendant is responsible for the conduct alleged herein which was uniformly directed at all consumers who purchased the Products;

b. Whether Defendant's misconduct set forth in this Complaint demonstrates that Defendant engaged in unfair, fraudulent, or unlawful business practices with respect to the advertising, marketing, and sale of the Products;

1 c. Whether Defendant made misrepresentations concerning the Products that were
2 likely to deceive the public;

3 d. Whether Plaintiff and the Class are entitled to injunctive relief;

4 e. Whether Plaintiff and the Class are entitled to money damages and/or restitution
5 under the same causes of action as the other Class Members.

6 42. Typicality: Plaintiff is a member of the Class that Plaintiff seeks to represent.
7 Plaintiff's claims are typical of the claims of each Class Member in that every member of the
8 Class was susceptible to the same deceptive, misleading conduct and purchased the Products.
9 Plaintiff is entitled to relief under the same causes of action as the other Class Members.

10 43. Adequacy: Plaintiff is an adequate Class representative because Plaintiff's
11 interests do not conflict with the interests of the Class Members Plaintiff seeks to represent; the
12 consumer fraud claims are common to all other members of the Class, and Plaintiff has a strong
13 interest in vindicating the rights of the class; Plaintiff has retained counsel competent and
14 experienced in complex class action litigation and Plaintiff intends to vigorously prosecute this
15 action. Plaintiff has no interests which conflict with those of the Class. The Class Members'
16 interests will be fairly and adequately protected by Plaintiff and proposed Class Counsel.
17 Defendant has acted in a manner generally applicable to the Class, making relief appropriate
18 with respect to Plaintiff and the Class Members. The prosecution of separate actions by
19 individual Class Members would create a risk of inconsistent and varying adjudications.

20 44. The Class is properly brought and should be maintained as a class action because
21 a class action is superior to traditional litigation of this controversy. A class action is superior to
22 the other available methods for the fair and efficient adjudication of this controversy because:

23 a. The joinder of hundreds of individual Class Members is impracticable,
24 cumbersome, unduly burdensome, and a waste of judicial and/or litigation resources;

25 b. The individual claims of the Class Members may be relatively modest compared
26 with the expense of litigating the claim, thereby making it impracticable, unduly burdensome,
27 and expensive to justify individual actions;

28

1 c. When Defendant's liability has been adjudicated, all Class Members' claims can
2 be determined by the Court and administered efficiently in a manner far less burdensome and
3 expensive than if it were attempted through filing, discovery, and trial of all individual cases;

4 d. This class action will promote orderly, efficient, expeditious, and appropriate
5 adjudication and administration of Class claims;

6 e. Plaintiff knows of no difficulty to be encountered in the management of this
7 action that would preclude its maintenance as a class action;

8 f. This class action will assure uniformity of decisions among Class Members;

9 g. The Class is readily definable and prosecution of this action as a class action will
10 eliminate the possibility of repetitious litigation; and

11 h. Class Members' interests in individually controlling the prosecution of separate
12 actions is outweighed by their interest in efficient resolution by single class action;

13 45. Additionally or in the alternative, the Class also may be certified because
14 Defendant has acted or refused to act on grounds generally applicable to the Class thereby
15 making final declaratory and/or injunctive relief with respect to the members of the Class as a
16 whole, appropriate.

17 46. Plaintiff seeks preliminary and permanent injunctive and equitable relief on
18 behalf of the Class, on grounds generally applicable to the Class, to enjoin and prevent
19 Defendant from engaging in the acts described, and to require Defendant to provide full
20 restitution to Plaintiff and the Class members.

21 47. Unless the Class is certified, Defendant will retain monies that were taken from
22 Plaintiff and Class members as a result of Defendant's wrongful conduct. Unless a classwide
23 injunction is issued, Defendant will continue to commit the violations alleged and the members
24 of the Class and the general public will continue to be misled.

FIRST CLAIM FOR RELIEF**Violation of California's Consumers Legal Remedies Act****Cal. Civ. Code § 1750 *et seq.***

48. Plaintiff realleges and incorporates by reference all allegations contained in this complaint, as though fully set forth herein.

49. Plaintiff brings this claim under the CLRA individually and on behalf of the Class against Defendant.

50. At all times relevant hereto, Plaintiff and the members of the Class were "consumer[s]," as defined in California Civil Code section 1761(d).

51. At all relevant times, Defendant was a "person," as defined in California Civil Code section 1761(c).

52. At all relevant times, the Products manufactured, marketed, advertised, and sold by Defendant constituted "goods," as defined in California Civil Code section 1761(a).

53. The purchases of the Products by Plaintiff and the members of the Class were and are "transactions" within the meaning of California Civil Code section 1761(e).

54. Defendant disseminated, or caused to be disseminated, through its advertising, false and misleading representations, including the Products' labeling that the Products contain "No Artificial Preservatives." Defendant failed to disclose that the Products contain an artificial preservative ingredient called citric acid. This is a material misrepresentation and omission as reasonable consumer would find the fact that the Products contain an artificial preservative ingredient to be important to their decision in purchasing the Products. Defendant's representations violate the CLRA in the following ways:

a) Defendant represented that the Products have characteristics, ingredients, uses, and benefits which they do not have (Cal. Civ. Code § 1770(a)(5));

b) Defendant represented that the Products are of a particular standard, quality, or grade, which they are not (Cal. Civ. Code § 1770(a)(7));

c) Defendant advertised the Products with an intent not to sell the Products as advertised (Cal. Civ. Code § 1770(a)(9)); and

1 d) Defendant represented that the subject of a transaction has been supplied in
2 accordance with a previous representation when it has not (Cal. Civ. Code § 1770(a)(16)).

3 55. Defendant violated the CLRA because the Products were prominently advertised
4 as containing “No Artificial Preservatives,” but, in reality, the Products contain an artificial
5 ingredient called citric acid. Defendant knew or should have known that consumers would want
6 to know that the Products contain an artificial ingredient.

7 56. Defendant’s actions as described herein were done with conscious disregard of
8 Plaintiff’s and the Class members’ rights and were wanton and malicious.

9 57. Defendant’s wrongful business practices constituted, and constitute, a continuing
10 course of conduct in violation of the CLRA, since Defendant is still representing that the
11 Products have characteristics which they do not have.

12 58. Pursuant to California Civil Code section 1782(d), Plaintiff and the members of
13 the Class seek an order enjoining Defendant from engaging in the methods, acts, and practices
14 alleged herein. Plaintiff also seeks actual damages, punitive damages, and attorneys’ fees and
15 costs for Defendant’s violations of the CLRA.

16 59. Pursuant to California Civil Code section 1782, Plaintiff sent a written demand
17 letter to Defendant requesting that Defendant remedy the violations alleged herein. More than
18 thirty days have passed since Defendant received Plaintiff’s demand letter and Defendant has
19 failed to take any corrective action. Accordingly, Plaintiff seeks actual damages, punitive
20 damages, injunctive relief, and attorneys’ fees and costs for Defendant’s violations of the CLRA.

21 60. Pursuant to section 1780(d) of the CLRA, attached hereto is an affidavit showing
22 that this action was commenced in a proper forum.

23 **SECOND CLAIM FOR RELIEF**

24 **Violation of California’s Unfair Competition Law**

25 **Cal. Bus. & Prof. Code § 17200 *et seq.***

26 61. Plaintiff realleges and incorporates by reference all allegations contained in this
27 complaint, as though fully set forth herein.

62. Plaintiff brings this claim under the UCL individually and on behalf of the Class against Defendant.

63. The UCL prohibits any “unlawful,” “fraudulent,” or “unfair” business act or practice and any false or misleading advertising.

64. Defendant committed unlawful business acts or practices by making the representations and omitted material facts (which constitutes advertising within the meaning of California Business & Professions Code section 17200), as set forth more fully herein, and by violating California’s Consumers Legal Remedies Act, Cal. Civ. Code §§17500, *et seq.*, California’s False Advertising Law, Cal. Bus. & Prof. § 17500, *et seq.*, 15 U.S.C. § 45, and by breaching express and implied warranties. Plaintiff, individually and on behalf of the other Class members, reserves the right to allege other violations of law, which constitute other unlawful business acts or practices. Such conduct is ongoing and continues to this date.

65. Defendant committed “unfair” business acts or practices by: (1) engaging in conduct where the utility of such conduct is outweighed by the harm to Plaintiff and the members of the a Class; (2) engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and the members of the Class; and (3) engaging in conduct that undermines or violates the intent of the consumer protection laws alleged herein. There is no societal benefit from deceptive advertising. Plaintiff and the other Class members paid for a Product that is not as advertised by Defendant. Further, Defendant failed to disclose a material fact (that the Products contain an artificial preservative ingredient) of which they had exclusive knowledge. While Plaintiff and the other Class members were harmed, Defendant was unjustly enriched by its false misrepresentations and material omissions. As a result, Defendant’s conduct is “unfair,” as it offended an established public policy. There were reasonably available alternatives to further Defendant’s legitimate business interests, other than the conduct described herein.

66. Defendant committed “fraudulent” business acts or practices by making the representations of material fact regarding the Products set forth herein. Defendant’s business

practices as alleged are “fraudulent” under the UCL because they are likely to deceive customers into believing the Products actually contain no preservatives.

67. Plaintiff and the other members of the Class have in fact been deceived as a result of their reliance on Defendant’s material representations and omissions. This reliance has caused harm to Plaintiff and the other members of the Class, each of whom purchased Defendant’s Products. Plaintiff and the other Class members have suffered injury in fact and lost money as a result of purchasing the Products and Defendant’s unlawful, unfair, and fraudulent practices.

68. Defendant’s wrongful business practices and violations of the UCL are ongoing.

69. Plaintiff and the Class seek pre-judgment interest as a direct and proximate result of Defendant’s unfair and fraudulent business conduct. The amount on which interest is to be calculated is a sum certain and capable of calculation, and Plaintiff and the Class seek interest in an amount according to proof.

70. Unless restrained and enjoined, Defendant will continue to engage in the above-described conduct. Accordingly, injunctive relief is appropriate. Pursuant to California Business & Professions Code section 17203, Plaintiff, individually and on behalf of the Class, seeks (1) restitution from Defendant of all money obtained from Plaintiff and the other Class members as a result of unfair competition; (2) an injunction prohibiting Defendant from continuing such practices in the State of California that do not comply with California law; and (3) all other relief this Court deems appropriate, consistent with California Business & Professions Code section 17203.

THIRD CLAIM FOR RELIEF

Breach of Express Warranty

71. Plaintiff realleges and incorporates by reference all allegations contained in this complaint, as though fully set forth herein.

72. Plaintiff brings this claim for breach of express warranty individually and on behalf of the Class against Defendant.

CROSNER LEGAL, P.C.

a. Declaring that this action is a proper class action, certifying the Class as requested herein, designating Plaintiff as the Class Representative and appointing the undersigned counsel as Class Counsel;

b. Ordering restitution and disgorgement of all profits and unjust enrichment that Defendant obtained from Plaintiff and the Class members as a result of Defendant's unlawful, unfair, and fraudulent business practices;

c. Ordering injunctive relief as permitted by law or equity, including enjoining Defendant from continuing the unlawful practices as set forth herein, and ordering Defendant to engage in a corrective advertising campaign;

d. Ordering damages in amount which is different than that calculated for restitution for Plaintiff and the Class;

e. Ordering Defendant to pay attorneys' fees and litigation costs to Plaintiff and the other members of the Class;

f. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded; and

g. Ordering such other and further relief as may be just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all claims in this Complaint so triable.

Dated: July 9, 2025

CROSNER LEGAL, P.C.

By: 

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