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

LEAH TESTONE, on behalf of herself, all
others similarly situated, and the general
public,

Plaintiff,

v.

GO MACRO, LLC,

Defendant.

Case No: **'25CV1743 RSH KSC**

CLASS ACTION

**COMPLAINT FOR CONSUMER
FRAUD, BREACH OF EXPRESS &
IMPLIED WARRANTIES,
NEGLIGENT AND INTENTIONAL
MISREPRESENTATION, AND
UNJUST ENRICHMENT**

DEMAND FOR JURY TRIAL

Plaintiff Leah Testone, on behalf of herself, all others similarly situated, and the general public, by and through her undersigned counsel, brings this action against Defendant Go Macro, LLC (“Go Macro”), and alleges the following upon her own knowledge, or where she lacks personal knowledge, upon information and belief, including the investigation of her counsel.

INTRODUCTION

1. Go Macro manufactures and sells a variety of snack bars under the “GoMacro” brand, broadly divided into Protein Bars, Snack Bars, and Kids MacroBars (the “Products”¹).

2. Go Macro labels the Products with claims intended to appeal to health-conscious consumers. For example, the Products’ labeling says, “Finally – a bar that’s both delicious and good for you!” It claims the Products promote a “healthy body.” Through the use of both words and vignettes, the labels claim, “Live Long,” “Eat Positive,” and “Be Well,” along with a heart vignette, implying the bars are heart-healthy.

3. This misleading labeling message is reinforced by non-label advertising, including on Go Marco’s website, testimonials, and Go Macro health blog.

4. Despite representing that the Products are healthy, the Protein Bars actually contain 7-13 grams of added sugar, representing 11-19% of the calories in the Products. The Snack Bars contain 9-10 grams of added sugar, representing 14-20% of calories. And the Kids Bar—which Defendant knows are consumed by children as young as one-year old—contain 4-6 grams of added sugar, representing 14-24% of those bars’ calories.

¹ The Products include at least the following varieties and flavors: **(1) Protein Bars:** White Chocolate + Macadamia Nuts, Oatmeal Chocolate Chip, Peanut Butter Chocolate Chip, Coconut + Almond Butter + Chocolate Chips, Double Chocolate + Peanut Butter Chips, Salted Caramel + Chocolate Chip, Dark Chocolate + Almonds, Mint Chocolate Chip, Peanut Butter, Mocha Chocolate Chip, Blueberry + Cashew Butter, Banana + Almond Butter, Maple Sea Salt, Sunflower Butter + Chocolate, and Lemon + Lemon; **(2) Snack Bars:** Cherries + Berries, and Granola + Coconut; and **(3) GoMacro Kids MacroBars:** Cinnamon Roll, Chocolate Chip Cookie Dough, Double Chocolate Brownie, Oatmeal Chocolate Chip, and Peanut Butter Cup. To the extent Go Macro sold other varieties with high levels of added sugar, including seasonal varieties, and their labels contained a misleading claim alleged herein, this Complaint should be read to be inclusive, rather than exclusive, of those varieties.

1 5. Contrary to the health-focused marketing of the Products, a vast body of reliable
2 scientific evidence establishes that excessive consumption of added sugar—any amount
3 above approximately 5% of daily caloric intake—is toxic to the human body and greatly
4 increases the risk of cardiovascular disease, diabetes, liver disease, and a wide variety of other
5 chronic diseases. Based on this scientific evidence, the FDA recently promulgated a
6 regulation that prevents most foods from using “healthy” as a nutrient content claim if they
7 contain more than 2 grams of added sugar in a serving.

8 6. Because loading the Products with added sugar and marketing them as “good
9 for you” is contrary to the science, Go Macro’s claims are false and highly misleading.

10 7. Plaintiff brings this action against Go Macro on behalf of herself, similarly-
11 situated Class Members, and the general public, to enjoin Go Macro from deceptively
12 marketing the Products, and to recover compensation for injured Class Members.

13 **JURISDICTION & VENUE**

14 8. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d)(2)
15 (The Class Action Fairness Act) because the matter in controversy exceeds the sum or value
16 of \$5,000,000, exclusive of interest and costs, and at least one member of the class of Plaintiff
17 is a citizen of a State different from Go Macro. In addition, more than two-thirds of the
18 members of the class reside in states other than the state in which Go Macro is a citizen and
19 in which this case is filed, and therefore any exceptions to jurisdiction under 28 U.S.C. §
20 1332(d) do not apply.

21 9. The Court has personal jurisdiction over Go Macro because it has purposely
22 availed itself of the benefits and privileges of conducting business activities within California,
23 including by distributing and selling the Products in California.

24 10. Venue is proper in this Southern District of California pursuant to 28 U.S.C. §
25 1391(b) and (c), because Go Macro resides (*i.e.*, is subject to personal jurisdiction) in this
26 district, and because a substantial part of the events or omissions giving rise to the claims
27 occurred in this district.

PARTIES

11. Plaintiff Leah Testone is a citizen and resident of San Diego County, California and intends to remain there.

12. Defendant Go Macro, LLC is a Wisconsin Limited Liability Company with its principal place of business in Viola, Wisconsin.

FACTS

I. GO MACRO MARKETS THE PRODUCTS AS HEALTHY FOOD CHOICES

13. During at least the four years preceding the filing of this Complaint and continuing today, Go Macro has sold and marketed the Products to consumers in California and throughout the United States.

A. To Maximize Profits, Go Macro Markets the Products to Convince Consumers They are Healthy

14. Go Macro is well aware consumers are willing to buy and to pay more for foods they perceive as healthy. For example, on its website, Go Macro links to a Forbes article titled “Who Runs the Better-For-You-Food World? These 6 Women” (which includes the CEO & Cofounder of Go Macro), stating, “[c]onsumers are growing increasingly savvy about what goes into the food they eat” and that “they’re voting with their dollars for organic, natural products without chemicals and additives.”

15. As Nielsen’s 2015 Global Health & Wellness Survey found, “88% of those polled are willing to pay more for healthier foods.”

16. And as a recent systematic review found, in 88.5% of studies considered, consumers were willing to pay more, up to 91.5% more (with a mean of ~30.7% price premium), for “healthier” food products.²

² Alsubhi, M, et al., *Consumer willingness to pay for healthier food products: A systematic review*, *Obes. Rev.* (2023), available at <https://pubmed.ncbi.nlm.nih.gov/36342169>.

17. Accordingly, Go Macro employs a strategic marketing campaign designed to convince consumers its Products are healthier than they actually are. This includes labeling the Products with the following claims:

- “Finally – a bar that’s both delicious and good for you!”;
- “Live Long,”;
- “Eat Positive,”;
- “Be Well”;
- “have a healthy body”;
- a heart vignette.

18. The Products’ packaging and labeling is depicted below:

Nutrition Facts
4 servings per container
Serving size 1 bar (69g)
Amount per serving
Calories 290
% Daily Value*

Total Fat 11g	14%
Saturated Fat 2g	10%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 10mg	0%
Total Carbohydrate 39g	14%
Dietary Fiber 2g	7%
Total Sugars 14g	
Includes 12g Added Sugars	24%
Protein 11g	11%
Vit. D 0mcg 0%	Calcium 14mg 2%
Iron 1mg 6%	Potas. 161mg 4%

*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: ORGANIC BROWN RICE SYRUP, ORGANIC PEANUT BUTTER, ORGANIC PROTEIN BLEND (ORGANIC SPROUTED BROWN RICE PROTEIN, ORGANIC PEA PROTEIN), ORGANIC CHOCOLATE CHIPS (ORGANIC COCONUT SUGAR, ORGANIC COCOA, ORGANIC COCOA BUTTER), ORGANIC PUFFED BROWN RICE, ORGANIC PEANUTS.

CONTAINS: PEANUTS.

MANUFACTURED IN A FACILITY THAT PROCESSES PEANUTS AND TREE NUTS. MAY CONTAIN NUTSHELL FRAGMENTS.

gomacro®
MACROBAR®

Finally—a bar that’s both delicious and good for you!

Thoughtfully created, GoMacro MacroBars® are Certified Organic, Vegan, Gluten-Free, Kosher, Non-GMO, C.L.E.A.N., and Soy-Free.

Live Long **Eat Positive** **Give Back** **Tread Lightly** **Be Well**

Mother-daughter owned and based in a small rural community, our mission is to spread awareness for a balanced, plant-based lifestyle with products that make a positive impact on the planet. Our GoMacro® facility is powered by 100% renewable energy, and our bars are made with high-quality, sustainably sourced, plant-based ingredients to help you have a healthy body, sharp mind, and bold spirit.

- Jila & Amelia

DISTRIBUTED BY: GOMACRO, LLC.
100 GOMACRO WAY, VIOLA, WI 54664, USA
1-833-GOMACRO (1-833-466-2276)
GOMACRO.COM CERTIFIED ORGANIC BY QAI

USDA ORGANIC, NON-GMO PROJECT VERIFIED, CERTIFIED CLEAN, PAREVE 408, GLUTEN FREE, VEGAN, KOSHER, CLEA.N.

19. Further bolstering the health message, Go Macro’s website claims it “believe[s] in the power of a balanced, plant-based lifestyle that is good for you,” and that “all of [its] products provide a nutritional benefit[.]”

20. Through the use of consumer testimonials, Go Macro further advertises its Products as “healthy snacks” for adults and kids.



21. The testimonials demonstrate consumers further believe, for example, they are purchasing “[d]elicious bars that are healthy[,]” and “[r]eplac[ing] . . . unhealthy lunch habits” by consuming the Products.



II. CONSUMING FOODS HIGH IN ADDED SUGAR IS DETRIMENTAL TO HEALTH

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

22. Cardiovascular diseases affect nearly half of American adults.³

23. Cardiovascular Heart Disease (CHD) is the leading cause of death for men and women in the United States.⁴ Approximately 20 million adults in the United States age twenty and older have coronary artery disease (CAD), which is the most common type of CHD.⁵ In 2020, CAD killed more than 380,000 people.⁶ Every year, more than 800,000 people in the United States have a heart attack.⁷

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

³ American Heart Association News, “Cardiovascular diseases affect nearly half of American adults, statistics show” (Jan. 31, 2019), available at <https://www.heart.org/en/news/2019/01/31/cardiovascular-diseases-affect-nearly-half-of-american-adults-statistics-show>.

⁴ Centers for Disease Controls and Prevention, “Heart Disease Facts,” <https://www.cdc.gov/heartdisease/facts.htm> (citing National Center for Health Statistics, *Multiple Cause of Death 2018–2021 on CDC WONDER Database*, <https://wonder.cdc.gov/mcd.html>).

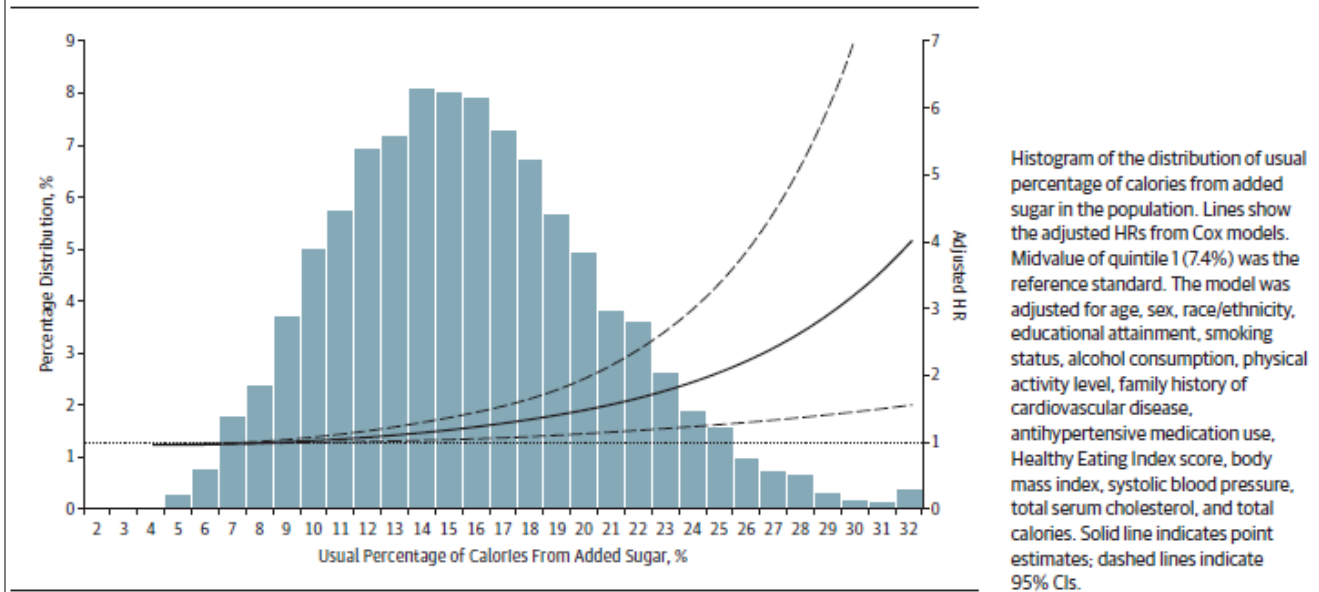
⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Quanhe Yang et al., *Added Sugar Intake and Cardiovascular Diseases Mortality Among US Adults*, JAMA INTERN. MED., at E4-5 (Feb. 3, 2014).

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



25. In a study of preschool children published in January 2020, researchers found that higher consumption of added sugar was significantly associated with elevated CMR (cardiometabolic risk) scores. The researchers stated that their “findings support recommendations to limit overall intake of SCB [sugar-containing beverages] in early childhood, in [an] effort to reduce the potential long-term burden of CMR.”⁹

26. In another prospective cohort study, consumption of added sugar was significantly shown to increase risk of CHD, as well as adverse changes in some blood lipids, inflammatory factors, and leptin.¹⁰

⁹ Karen M. Eny et al., *Sugar-containing beverage consumption and cardiometabolic risk in preschool children*, PREV. MED. REPORTS 17 (Jan. 14, 2020).

¹⁰ Lawrence de Koning et al., *Sweetened beverage consumption, incident coronary heart disease, and biomarkers of risk in men*, CIRCULATION, Vol. 125, pp. 1735-41 (2012).

27. Added sugar consumption is also associated with several CHD risk factors, such as dyslipidemia,¹¹ obesity,¹² and increased blood pressure.¹³

B. Added Sugar Consumption Increases Risk of Type 2 Diabetes

28. Diabetes affects 37.3 million Americans (approximately 1 in 10), and 96 million American adults (more than 1 in 3) have prediabetes.¹⁴ It can cause kidney failure, lower-limb amputation, and blindness. In addition, diabetes doubles the risk of colon and pancreatic cancers and is strongly associated with coronary artery disease and Alzheimer's disease.¹⁵

29. Globally, countries where sugar consumption is highest have the highest rates of type 2 diabetes, while those with the lowest consumption have the lowest rates.¹⁶ An econometric analysis of repeated cross-sectional data published in 2013, for example, established a causal relationship between sugar availability and type 2 diabetes. After

¹¹ Sharon S. Elliott et al., *Fructose, weight gain, and the insulin resistance syndrome*, AM. J. CLIN. NUTR., Vol. 76, No. 5, pp. 911-22 (2002).

¹² Myles S. Faith et al., *Fruit juice intake predicts increased adiposity gain in children from low-income families: weight status-by-environment interaction*, PEDIATRICS, Vol. 118 (2006) ("Among children who were initially either at risk for overweight or overweight, increased fruit juice intake was associated with excess adiposity gain, whereas parental offerings of whole fruits were associated with reduced adiposity gain."); Matthias B. Schulze et al., *Sugar-sweetened beverages, weight gain, and incidence of type 2 diabetes in young and middle-aged women*, JAMA, Vol. 292, No. 8, pp. 927-34 (2004) [hereinafter "Schulze, diabetes in young and middle-aged women"]; DS Ludwig et al., *Relation between consumption of sugar-sweetened drinks and childhood obesity: a prospective, observational analysis*, LANCET, Vol. 257, pp. 505-508 (2001); B A Dennison et al., *Excess fruit juice consumption by preschool-aged children is associated with short stature and obesity*, PEDIATRICS, Vol. 99, pp. 15-22 (1997).

¹³ Erin Hoare et al., *Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review on Cardiometabolic Risk*, NUTRIENTS, Vol. 9, No. 10 (2017).

¹⁴ See <https://www.cdc.gov/diabetes/library/spotlights/diabetes-facts-stats.html>.

¹⁵ Javier Aranceta Bartrina & Carmen Pérez Rodrigo, *Association between sucrose intake and cancer: a review of the evidence*, NUTR. HOSP., Vol. 28 (Suppl. 4), 95-105 (2013); Custodia García-Jiménez et al., *A new link between diabetes and cancer: enhanced WNT/beta-catenin signaling by high glucose*, J. MOL. ENDOCRINOL., Vol. 52, No. 1 (2014); Gerard J. Linden et al., *All-cause mortality and periodontitis in 60-70-year-old men: a prospective cohort study*, J. CLIN. PERIODONTAL., Vol. 39, No. 1, 940-46 (Oct. 2012).

¹⁶ Praveen Weeratunga et al., *Per capita sugar consumption and prevalence of diabetes mellitus--global and regional associations*, BMC PUB. HEALTH, 2014 (Feb. 20, 2014).

1 adjusting for a wide range of confounding factors, researchers found that an increase of 150
2 calories per day related to an insignificant 0.1% rise in diabetes prevalence by country, while
3 an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes prevalence by
4 country, a statistically significant 11-fold difference.¹⁷

5 30. An analysis of data for more than 50,000 women from the Nurses' Health
6 Study,¹⁸ during two 4-year periods (1991-1995 and 1995-1999), showed, after adjusting for
7 confounding factors, that women who consumed 1 or more sugar-sweetened soft drink per
8 day—equivalent to 140-150 calories and 35-37.5 grams of added sugar—had an 83% greater
9 relative risk of type 2 diabetes compared with those who consumed less than 1 such beverage
10 per month.¹⁹

11 31. The link between sugar intake and diabetes still holds even after controlling for
12 total calorie intake, body weight, alcohol consumption and exercise.²⁰

13 **C. Added Sugar Consumption Increases Risk of Metabolic Disease**

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

18
19
20
21 ¹⁷ Sanjay Basu et al., *The Relationship of Sugar to Population-Level Diabetes Prevalence: An Econometric Analysis of Repeated Cross-Sectional Data*, PLOS ONLINE, Vol. 8, Issue 2
22 (Feb. 27, 2013) [hereinafter "Basu, *The Relationship*"].

23 ¹⁸ The Nurses' Health Study was established at Harvard in 1976, and the Nurses' Health
24 Study II, in 1989. Both are long-term epidemiological studies conducted on women's health.
25 The study followed 121,700 female registered nurses since 1976, and 116,000 female nurses
26 since 1989, to assess risk factors for cancer, diabetes, and cardiovascular disease. The
27 Nurses' Health Studies are among the largest investigations into risk factors for major
28 chronic disease in women ever conducted. See generally "The Nurses' Health Study," at
<http://www.channing.harvard.edu/nhs>.

¹⁹ Schulze, *diabetes in young & middle-aged women*, *supra* n.12.

²⁰ Basu, *The Relationship*, *supra* n.17.

- a. Large waist size (35" or more for women, 40" or more for men);
- b. High triglycerides (150mg/dL or higher, or use of cholesterol medication);
- c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40 mg for men;
- d. High blood pressure (135/85 mm or higher); or
- e. High blood sugar (100mg/dL or higher).

33. More generally, "metabolic abnormalities that are typical of the so-called metabolic syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high concentrations of circulating triacylglycerols, low concentrations of HDLs, and high concentrations of small, dense LDLs."²¹

34. About 1 in 3 adults in the United States have metabolic syndrome, placing them at higher risk for chronic disease.²²

35. Defining "metabolic health" as having optimal levels of waist circumference (WC <102/88 cm for men/women), glucose (fasting glucose <100 mg/dL and hemoglobin A1c <5.7%), blood pressure (systolic <120 and diastolic <80 mmHg), triglycerides (<150 mg/dL), and high-density lipoprotein cholesterol (\geq 40/50 mg/dL for men/women), and not taking any related medication, data from the NHANES Survey 2009-2016 showed prevalence of "metabolic health" in American adults is alarmingly low, even in normal weight individuals.²³

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

²¹ Susan K. Fried & Salome P. Rao, *Sugars, hypertriglyceridemia, and cardiovascular disease*, AM. J. CLIN. NUTR., Vol. 78 (suppl.), 873S-80S, at 873S (2003).

²² See <https://www.nhlbi.nih.gov/health/metabolic-syndrome> (last updated May 18, 2022).

²³ Joana Araújo et al., *Prevalence of Optimal Metabolic Health in American Adults: National Health and Nutrition Examination Survey 2009-2016*, METAB. SYNDR. RELAT. DISORD. (2019).

1 doses of added sugar can overwhelm the liver, which metabolizes the fructose in the sugar.
2 In the process, the liver will convert excess fructose to fat, which is stored in the liver and
3 released into the bloodstream. This process contributes to key elements of metabolic
4 syndrome, including high blood fats and triglycerides, high cholesterol, high blood pressure,
5 and extra body fat, especially in the belly.²⁴

6 37. In 2016, researchers conducted a study to determine whether the detrimental
7 effects of dietary sugar were due to extremely high dosing, excess calories, or because of its
8 effects on weight gain, rather than caused by sugar consumption directly.²⁵ In other words,
9 the researchers dissociated the metabolic effects of dietary sugar from its calories and effects
10 on weight gain.

11 38. Because the researchers did not want to *give* subjects sugar to see if they got
12 sick, they instead took sugar away from people who were already sick to see if they got well.
13 But if subjects lost weight, critics would argue that the drop in calories or weight loss was the
14 reason for the clinical improvement. Therefore, the researchers designed the study to be
15 isocaloric, by giving back to subjects the same number of calories in starch that were taken
16 away in sugar. The study involved 43 children, ages 8 to 19, each obese with at least one
17 other co-morbidity demonstrating metabolic problems. All were high consumers of added
18 sugar in their diets.²⁶

19 39. To perform the study, researchers assessed subjects' home diets by two
20 questionnaires to determine how many calories, and how much fat, protein, and carbohydrate
21 they were eating. Subjects were then tested at a hospital based on their home diets. Then, for
22 the next 9 days, researchers catered the subjects' meals. The macronutrient percentages of
23 fat, protein, and carbohydrate were not changed. Subjects were fed the same calories and
24

25 ²⁴ Lisa Te Morenga et al., *Dietary sugars and body weight: systematic review and meta-*
analyses of randomized controlled trials and cohort studies, BJM (2012).

26 ²⁵ Robert H Lustig et al., *Isocaloric fructose restriction and metabolic improvement in*
children with obesity and metabolic syndrome, OBESITY (SILVER SPRING), Vol. 24, No. 2,
27 453-60 (Feb. 2016).

28 ²⁶ *See id.* at 453-54.

percent of each macronutrient as their home diet; but within the carbohydrate fraction, researchers took the added sugar out, and substituted starch. For example, researchers took pastries out, and put bagels in; took yogurt out, and put baked potato chips in; took chicken teriyaki out, and put turkey hot dogs in (although subjects were still given whole fruit). Researchers reduced subjects' dietary sugar consumption from 28% to 10% of calories. Researchers also gave subjects a scale to take home, and each day they would weigh themselves. If they were losing weight, they were instructed to eat more. The goal was for subjects to remain weight-stable over the 10 days of study. On the final day, subjects came back to the hospital for testing on their experimental low-added sugar diet. The study team analyzed the pre- and post-data in a blinded fashion so as not to introduce bias.²⁷

40. Researchers analyzed three types of data. First, diastolic blood pressure decreased by 5 points. Second, baseline blood levels of analytes associated with metabolic disease, such as lipids, liver function tests, and lactate (a measure of metabolic performance) all improved significantly. Third, fasting glucose decreased by 5 points. Glucose tolerance improved markedly, and fasting insulin levels fell by 50%. Each of these results was highly-statistically-significant.²⁸

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

D. Added Sugar Consumption Increases Risk of Liver Disease

42. Added sugar consumption causes serious liver disease, including non-alcoholic fatty liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of these cases develop into non-alcoholic steatohepatitis (NASH), scarring as the liver tries to heal its injuries, which gradually cuts off vital blood flow to the liver. About 25% of NASH

²⁷ See *id.* at 454-55.

²⁸ See *id.* at 455-56.

patients progress to non-alcoholic liver cirrhosis, which requires a liver transplant or can lead to death.²⁹

43. Since 1980, the incidence of NAFLD and NASH has doubled, along with the rise of fructose consumption, with approximately 6 million Americans estimated to have progressed to NASH and 600,000 to Nash-related cirrhosis. Most people with NASH also have type 2 diabetes. NASH is now the third-leading reason for liver transplant in America.³⁰

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

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

45. The 2020-2025 Dietary Guidelines for Americans “(DGA)” states that a healthy dietary pattern limits added sugars to less than 10 percent of daily calories, adding that “[w]hen added sugars in foods and beverages exceed 10 percent of calories, a healthy dietary pattern within calories limits is very difficult to achieve.”³²

²⁹ Geoffrey C. Farrell & Claire Z. Larter, *Nonalcoholic fatty liver disease: from steatosis to cirrhosis*, HEPATOLOGY, Vol. 433, No. 2 (Suppl. 1), S99-S112 (Feb. 2006); EE Powell 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).

³⁰ Michael C. Charlton et al., *Frequency and outcomes of liver transplantation for nonalcoholic steatohepatitis in the United States*, GASTROENTEROLOGY, Vol. 141, No. 4, 1249-53 (Oct. 2011).

³¹ Sarah M. Lindbäck et al., *Pediatric nonalcoholic fatty liver disease: a comprehensive review*, ADV. PEDIATR., Vol. 57, No. 1, 85-140 (2010); Mariana Lazo & Jeanna M Clark, *The epidemiology of nonalcoholic fatty liver disease: a global perspective*, SEMIN. LIVER DIS., Vol. 28, No. 4, 339-50 (2008); Jeffrey B Schwimmer et al., *Prevalence of Fatty Liver in Children and Adolescents*, PEDIATRICS, Vol. 118, No. 4, 1388-93 (2006); Jeffrey D Browning 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).

³² See 2020-2025 DGA, at 41, available at https://www.dietaryguidelines.gov/sites/default/files/2020-12/Dietary_Guidelines_for_Americans_2020-2025.pdf

1 46. The Scientific Report of the 2020 Dietary Guidelines Advisory Committee was
2 even stricter than what the USDA and HHS ultimately adopted, “suggest[ing] that **less than**
3 **6 percent** of energy from added sugars is more consistent with a dietary pattern that is
4 nutritionally adequate . . . than is a pattern with less than 10 percent energy from added
5 sugars.”³³

6 47. The FDA, which previously did not set limits on added sugar for foods labeled
7 “healthy,” recently proposed a limit of ≤ 5 percent of the daily value (and thus $\leq 2 \frac{1}{2}$ grams of
8 added sugar for adults and children ages 4 and older) for making such claims.³⁴ The proposal
9 passed in fall 2023, was finalized and published in December 2024,³⁵ and went into effect in
10 April 2025.³⁶

11 48. FDA describes the update as “a step towards providing the public with
12 information that can help them identify food choices that can help lead to reducing diet-
13 related chronic diseases.”³⁷

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

17 ³³ USDA, “Scientific Report of the 2020 Dietary Guidelines Advisory Committee” (2020),
18 Part A, p. 11 (emphasis added); *see also* Hope Warshaw & Steven V. Edelman, Practical
19 Strategies to Help Reduce Added Sugars Consumption to Support Glycemic and Weight
20 Management Goals, CLIN. DIABETES, Vol. 39,1 at 45-56 (Jan. 2021).

21 ³⁴ Food Labeling: Nutrient Content Claims; Definition of Term “Healthy,” 87 Fed. Reg.
22 59168, 59180 (Sept. 29, 2022) (to be codified at 10 C.F.R. § 101.65), *available at*
<https://www.govinfo.gov/content/pkg/FR-2022-09-29/pdf/2022-20975.pdf>; *see also* Food
Labeling: Nutrient Content Claims; Definition of Term “Healthy,” Extension of Comment
Period, 87 Fed. Reg. 73267 (Nov. 29, 2022).

23 ³⁵ 89 Fed. Reg. 106064 (Dec. 27, 2024) (to be codified at 21 C.F.R. pt. 101), *available at*
24 [https://www.federalregister.gov/documents/2024/12/27/2024-29957/food-labeling-nutrient-](https://www.federalregister.gov/documents/2024/12/27/2024-29957/food-labeling-nutrient-content-claims-definition-of-term-healthy)
content-claims-definition-of-term-healthy.

25 ³⁶ *See* [https://www.fda.gov/food/hfp-constituent-updates/fda-finalizes-updated-healthy-](https://www.fda.gov/food/hfp-constituent-updates/fda-finalizes-updated-healthy-nutrient-content-claim)
nutrient-content-claim.

26 ³⁷ *See* [https://www.fda.gov/consumers/consumer-updates/fresh-take-what-healthy-means-](https://www.fda.gov/consumers/consumer-updates/fresh-take-what-healthy-means-food-packages)
27 food-packages.

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

1 50. The American Heart Association (AHA) recommends restricting added sugar to
2 5% of calories.³⁹

3 51. The Centers for Disease Control and Prevention (CDC) warns that “[t]on much
4 sugar in your diet can lead to health problems such as weight gain and obesity, type 2 diabetes,
5 and heart disease.”⁴⁰

6 52. The National Kidney Foundation explains “added sugars don’t add anything but
7 empty calories, so . . . there’s no extra nutritional benefit to consuming these sugars.” Sugar
8 “may be a key factor contributing to our national obesity epidemic” because “the average
9 American consumes almost 152 pounds of sugar each year, which breaks down to almost 3
10 pounds . . . of sugar each week.”⁴¹

11 53. The American Diabetes Association says “no matter what eating plan you
12 follow, there are some basic guidelines that apply across the board,” including “healthy eating
13 plans” that contain “less added sugar.”⁴² It clarifies fruit can “help you satisfy your sweet
14 tooth **without the added sugar.**”⁴³

15 54. The National Cancer Institute, reflecting on the scientific evidence, explains
16 “dietary patterns that included higher intake of added sugars were associated with an
17 increased risk of cardiovascular disease, cancers, and other negative health outcomes.”⁴⁴

19 ³⁹ Rachel K. Johnson et al., *Dietary sugars intake and cardiovascular health: a scientific*
20 *statement from the American Heart Association*, CIRCULATION, Vol. 120, 1011-20, at 1016-
17 (2009).

21 ⁴⁰ Centers for Disease Control and Prevention, “Know Your Limit for Added Sugars,”
22 https://www.cdc.gov/healthyweight/healthy_eating/sugar.html.

23 ⁴¹ National Kidney Foundation, “5 Sneaky Sources of Sugar,” *Kidney.org*,
24 https://www.kidney.org/atoz/content/5_Sneaky_Sources_of_Sugar (last accessed Mar. 7,
2024).

25 ⁴² American Diabetes Association, “Tips for Eating Well,” *Diabetes.org*,
<https://diabetes.org/food-nutrition/eating-healthy> (last accessed June 11, 2025).

26 ⁴³ *Id.* (emphasis added).

27 ⁴⁴ National Cancer Institute, “Updated Nutrition Facts Label Reflects Science on Diet and
28 Health, Including Cancer,” *cancer.gov* (May 19, 2020), <https://www.cancer.gov/news-events/cancer-currents-blog/2020/nutrition-facts-label-updated-fda-nci>.

55. The Harvard School of Public Health points out that “the Healthy Eating Plate does not include foods with added sugars.”⁴⁵

III. THE PRODUCTS’ HEALTH AND WELLNESS REPRESENTATIONS ARE LIKELY TO MISLEAD REASONABLE CONSUMERS

56. The Products contain between 4g at the low end (for the Kids Bars) and up to 13g of added sugar. These added sugar amounts account for at least ~11% of the total calories of each bar, and up to 24%, nearly *five times* the limit under the 2020-2025 DGA recommendation for a healthy dietary pattern. The specific amounts of added sugar in each of the Products is as follows:

Flavor	Added Sugar (g)	Calories	Proportion Calories From Added Sugar
<u>Protein Bars</u>			
Salted Caramel + Chocolate Chip	13	270	19.3%
Oatmeal Chocolate Chip	12	270	17.8%
Peanut Butter Chocolate Chip	12	290	16.6%
Coconut + Almond Butter + Chocolate Chips	11	280	15.7%
Double Chocolate + Peanut Butter Chips	13	280	18.6%
White Chocolate + Macadamia Nuts	7	270	10.4%
Dark Chocolate + Almonds	13	270	19.3%
Mint Chocolate Chip	11	280	15.8%
Peanut Butter	10	280	14.3%
Mocha Chocolate Chip	12	270	17.8%
Blueberry + Cashew Butter	11	280	15.8%
Banana + Almond Butter	9	280	12.9%
Maple Sea Salt	11	280	15.7%

⁴⁵ Harvard T.H. Chan School of Public Health, “Added Sugar,” *The Nutrition Source*, available at <https://www.hsph.harvard.edu/nutritionsource/carbohydrates/added-sugar-in-the-diet> (last reviewed Apr. 2022).

Sunflower Butter + Chocolate	11	270	16.3%
Lemon + Lemon	12	270	17.8%

Snack Bars

Cherries + Berries	10	200	20%
Granola + Coconut	9	250	14.4%

Kids Bars

Cinnamons Roll	4	110	14.5%
Chocolate Chip Cookie Dough	6	100	24%
Double Chocolate Brownie	6	100	24%
Oatmeal Chocolate Chip	6	100	24%
Peanut Butter Cup	5	110	18.2%

57. Because the scientific evidence establishes that consuming these amounts of added sugar is likely to increase the risk of cardiovascular disease, type 2 diabetes, metabolic disease, and liver disease, Go Macro's health and wellness representations concerning the Products are false and misleading.

58. Go Macro is under a duty to disclose the harms associated with consuming the amount of added sugar in the Products to consumers because it is revealing some information about the Products—enough to suggest they are healthy—without revealing material information regarding the harmful effects of added sugar described herein.

59. Go Macro is further under a duty to disclose this information because its deceptive omissions concern human health, specifically the detrimental health effects of consuming the Products.

60. Go Macro is further under a duty to disclose this information because it was in a superior position to know of the dangers presented by the added sugars in the Products, as it is a large, sophisticated company that holds itself out as having expert knowledge regarding

1 the health impact of consuming the Products. By its own account, it is one of just six
2 companies that “Runs the Better-For-You-World.”⁴⁶

3 61. Finally, Go Macro is under a duty to disclose this information because, including
4 through the acts alleged herein, it actively concealed material facts not known to Plaintiff and
5 the Class concerning the detrimental effects of regularly consuming the Products.

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

11 63. In fact, Go Macro advises consumers pay little heed to the nutrition facts panel,
12 and instead focus on the ingredient list, saying, “It is more important to know where your
13 calories, carbohydrates, fat, etc. are coming from than just the numbers.”⁴⁷

14 64. Research shows most consumers do not actually review the sugar content of
15 products, and even those who do are often unable to accurately determine a products’
16 healthfulness. The University of Minnesota’s Epidemiology Clinical Research Center
17 simulated a grocery shopping exercise on a computer equipped with an eye-tracking camera
18 and found that, even for the relatively small subset of consumers that claim to “almost
19 always” look at a product’s sugar content (24%), ***only about 1% actually look beyond the***
20 ***calorie count to other components of the Nutrition Facts panel, such as sugar.***⁴⁸ Data from
21 the survey suggests the average consumer reads only the top five lines on a Nutrition Facts
22 label (serving size, calories, total fat, saturated fat, trans fat). Total and added sugar—listed
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25 ⁴⁶ See <https://www.gomacro.com/press/who-runs-better-you-food-world-these-6-women>.

26 ⁴⁷ See <https://www.gomacro.com/nutrition-facts>.

27 ⁴⁸ Dan J. Graham & Robert W. Jeffery, *Location, location, location: eye-tracking evidence*
28 *that consumers preferentially view prominently positioned nutrition information*, J. AM. DIET.
ASSOC. (2011) (emphasis added).

eleventh and twelfth on the Product labels—follows total fat, saturated fat, cholesterol, sodium, total carbohydrate, and dietary fiber, among other things.

65. A survey of more than one hundred college students examined how those with differing levels of nutrition knowledge interpreted “intrinsic” cues (ingredient list) and “extrinsic” cues, such as an “all natural” labeling claim.⁴⁹ The survey found that while those who had completed an upper-division nutrition course “used central route processing to scrutinize intrinsic cues and make judgments about food products,” those who had not completed an upper-division nutrition course “did the opposite,” relying on extrinsic cues.⁵⁰ The average consumer will thus more likely rely on labeling claims than the ingredient list or Nutrition Facts Box, to make a judgment about whether a food is healthy.

66. Moreover, “mandated nutrition labels have been criticized for being too complex for many consumers to understand and use.”⁵¹ “Using NFP labels requires not only being able to read and perform arithmetic but also—just as importantly—the ability to reason with words and numbers. According[ly], a substantial proportion of consumers clearly struggle to effectively use the information contained in a nutrition label.”⁵²

67. One survey found “[s]ubjects were not very good at using the [nutrition] label to make mathematical calculations, evaluate false claims, or draw dietary implications about a product,” and “[r]esearch has consistently found that consumers have difficulty using label information if the task requires math.”⁵³ Accordingly, the authors concluded the nutrition

⁴⁹ Amber Walters et al., *The effect of food label cues on perceptions of quality and purchase intentions among high-involvement consumers with varying levels of nutrition knowledge*, J. NUTR. EDUC. BEHAV. 44(4): 350-54 (2012).

⁵⁰ *Id.*

⁵¹ Alexander Persoskie et al., *US Consumers’ Understanding of Nutrition Labels in 2013: The Importance of Health Literacy*, PREV. CHRONIC DIS. 14;170066 (2017) [hereinafter “Persoskie et al., US Consumers’ Understanding”].

⁵² *Id.* (“Some studies have found that even high school graduates and college students lack the basic health literacy skills to effectively apply nutrition label information[].”).

⁵³ Alan S. Levy & Sara B. Fein, *Consumers’ Ability to Perform Tasks Using Nutrition Labels*, J. NUTR. EDUC. & BEHAV. (1998).

1 label is “an inadequate tool for helping people to plan diets” and “unlikely to contribute by
2 itself to a better or more critical understanding of nutrition principles.”⁵⁴ In sum, the
3 “mathematical skills of the American population present a significant barrier to following
4 dietary recommendations based on quantitative tasks.”⁵⁵

5 68. Consumers’ inability to effectively use the nutrition label is particularly
6 problematic in light of their tendency to rely heavily on symbolic cues of healthfulness. For
7 example, in a survey of 164 consumers, participants were asked to evaluate the healthiness
8 of two breakfast cereals based on the information provided in a nutrition table. For one group,
9 “the label ‘fruit sugar’ was used; for the other, the label ‘sugar’ was used. Results suggest[ed]
10 that the phrase ‘fruit sugar’ listed as an ingredient of the breakfast cereal resulted in a more
11 positive perception of the healthiness of the cereal compared with the ingredient labeled
12 ‘sugar.’”⁵⁶

13 69. A recent survey of 2,000 U.S. participants demonstrated that “[t]he American
14 population fails very clearly to identify healthy products”⁵⁷ In the survey, each
15 participant was shown a collection of cereal bars and asked to rank them from healthiest to
16 least healthy. The products’ health “rankings were based off of the A through E Nutri-score
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18 ⁵⁴ *Id.*

19 ⁵⁵ *Id.*

20 ⁵⁶ Bernadette Sutterlin & Michael Siegrist, *Simply adding the word ‘fruit’ makes sugar*
21 *healthier: The misleading effect of symbolic information on the perceived healthiness of food*,
22 *APPETITE* (Dec. 2015) (“The labeling of the ingredients by making use of symbolic
23 information may, consequently, exert a misleading effect on a consumer’s assessment of the
24 product’s healthiness. The findings suggest that the effect is quite robust. A more profound
25 and comprehensive evaluation of the provided information (as occurs with people with
26 pronounced health consciousness) does not protect against the misleading effect of symbolic
27 information and does not add to judgment accuracy. This indicates that relying and drawing
28 on the symbolic meaning of information is, to a certain extent, an automatic and implicit
process that cannot easily be corrected by increasing people’s health consciousness.”).

⁵⁷ Mansur Shaheen, “Only 9% of Americans can properly read a nutrition label with many
falling for misleading labels like ‘whole grain’ or ‘fat free’ on the front of packaging,” *Daily*
Mail (Apr. 15, 2022) [hereinafter “Shaheen, *nutrition label*”], available at
[https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-](https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-nutrition-label.html)
[nutrition-label.html](https://www.dailymail.co.uk/health/article-10722517/Only-9-Americans-properly-read-nutrition-label.html).

1 used to grade some food products in the UK,” and ultimately, “only 9% of participants were
2 able to correctly identify which product was the healthiest[.]”⁵⁸

3 70. “Even more worrying, 13 percent identified the least nutritious food option as
4 the healthiest—more than the amount who properly identified the healthiest.”⁵⁹ This was
5 despite that “60% actively are seeking food and beverage products to support their overall
6 health,” demonstrating “widespread confusion when it comes to determining what is and isn’t
7 healthy.”⁶⁰

8 71. Thus, although “Americans are often advised to eat healthier, more nutritious
9 foods in an effort to stifle the diabetes and the obesity epidemic striking the nation[,]
10 [r]esearchers find that many cannot identify healthy foods in the grocery store aisle”⁶¹
11 Instead, Americans were found to misidentify claims such as “whole grain” or “naturally
12 flavored” as “markers that a food [is] healthy.” These claims often “mislead people on what
13 products are actually healthy for them,” and “Americans’ failure to identify healthy products
14 is likely playing a role in the nation’s budding obesity and diabetes epidemics.”⁶²

15 72. The survey also looked at the impact of “call[ing] out the amount of different
16 nutrients in their products . . . on the front of their packages” while **not** “also call[ing] out the
17 amount of potentially less desirable ingredients, like sugars, sweeteners, sodium or saturated
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23 ⁵⁸ *Id.*

24 ⁵⁹ *Id.*

25 ⁶⁰ Sam Danley, “Study finds few consumers understand healthy food labels,” *Supermarket*
26 *Perimeter* (Mar. 16, 2022), *available at*
[https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-](https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels)
27 [understand-healthy-food-labels](https://www.supermarketperimeter.com/articles/7888-study-finds-few-consumers-understand-healthy-food-labels).

27 ⁶¹ Shaheen, *nutrition label*, *supra* n.57.

28 ⁶² *Id.*

1 fats.”⁶³ It found “this kind of potentially selective attribute labeling . . . had the biggest sway
2 in leading consumers to make incorrect health-related choices.”⁶⁴

3 73. Additionally, reading the Products’ nutrition information is unlikely to
4 sufficiently correct consumers’ understanding of the healthfulness of the Products because
5 the vast majority of consumers do not have the nutrition knowledge to accurately interpret
6 the nutrition facts. In other words, “frequent use of nutrition labels does not promote
7 understanding of [nutrient] levels.”⁶⁵

8 74. A 2017 Shopper Trends Study by Label Insights found that “67% of consumers
9 say it is challenging to determine whether a food product meets their [dietary] needs simply
10 by looking at the package label[.]”⁶⁶

11 75. A 2021 survey found that “[c]onsumers perceive health differences even when
12 two products have the same Nutrition Facts label” if there are packaging claims suggesting
13 healthfulness.⁶⁷

14 76. In one survey, more than 3,000 U.S. adults viewed an ice cream nutrition label
15 and then answered four questions that tested their ability to apply, understand, and interpret
16 the nutrition information. Approximately 24% could not determine the calorie content of the
17 full ice-cream container; 21% could not estimate the number of servings equal to 60g of
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19 ⁶³ Megan Poinski, “Fewer than 1 in 10 consumers can make healthy choices from front-of-
20 pack labeling, study finds,” *Food Dive* (Mar. 15, 2022), available at
[https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-](https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-from-front-of-pack-la/620293)
21 [from-front-of-pack-la/620293](https://www.fooddive.com/news/fewer-than-1-in-10-consumers-can-make-healthy-choices-from-front-of-pack-la/620293).

22 ⁶⁴ *Id.*

23 ⁶⁵ Lisa M. Soederberg Miller & Diana L. Cassady, *The effects of nutrition knowledge on food*
24 *label use: A review of the literature*, APPETITE (2015) (citing Elizabeth Howlett et al., *How*
modification of the nutrition facts panel influences consumers at risk for heart disease: The
case of trans fat, J. PUB. POL. & MARKET. (2008)).

25 ⁶⁶ “Study Shows Labeling Often Confuses Consumers,” *Packaging Strategies* (Mar. 30,
26 2017) available at [https://www.packagingstrategies.com/articles/94081-study-shows-](https://www.packagingstrategies.com/articles/94081-study-shows-labeling-often-confuses-consumers)
labeling-often-confuses-consumers (citing Label Insight 2017 Shopper Trends Study).

27 ⁶⁷ International Food Information Council, “2021 Food & Health Survey,” at 31 (2021),
28 available at [https://foodinsight.org/wp-content/uploads/2021/05/IFIC-2021-Food-and-](https://foodinsight.org/wp-content/uploads/2021/05/IFIC-2021-Food-and-Health-Survey.May-2021-1.pdf)
Health-Survey.May-2021-1.pdf.

1 carbohydrates; 42% could not estimate the effect on daily calorie intake of foregoing 1
2 serving; and 41% could not calculate the percentage daily value of calories in a single
3 serving.⁶⁸ Only 53.9% of respondents who had earned a 4-year college degree could correctly
4 answer all four nutrition label questions.⁶⁹

5 77. Recently, the FDA recognized that “many consumers would like to know how
6 to use th[e] [Nutrition Facts] information more effectively and easily,” and so published a
7 guide on “How to Understand and Use the Nutrition Facts Label.”⁷⁰ It took the FDA nearly
8 twelve pages to explain how to “make it easier for you to use the Nutrition Facts labels to
9 make quick, informed food decisions to help you choose a healthy diet.”

10 78. The problem is so severe that the FDA created an entire “education campaign”
11 designed to “help consumers, health care professionals, and educators learn how to use [the
12 Nutrition Facts Label] as a tool for maintaining healthy dietary practice,” recognizing the
13 current widespread confusion, even among “health care professionals,” in how to properly
14 use the Nutrition Facts to make healthy choices.⁷¹

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23 ⁶⁸ Persoskie et al., *US Consumers’ Understanding*, *supra* n.51.

24 ⁶⁹ *Id.*

25 ⁷⁰ FDA, “How to Understand and Use the Nutrition Facts Label” (last updated Feb. 25, 2022),
26 *available at* <https://www.fda.gov/food/new-nutrition-facts-label/how-understand-and-use-nutrition-facts-label#top>.

27 ⁷¹ *See* FDA, “The New Nutrition Facts Label—What’s in it for you?” (last updated Apr. 13,
28 2022), *available at* <https://www.fda.gov/food/nutrition-education-resources-materials/new-nutrition-facts-label>.

IV. THE PRODUCTS' LABELING VIOLATES STATE AND FEDERAL REGULATIONS

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

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

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

82. Third, Go Macro failed to reveal facts that were “[m]aterial with respect to the consequences which may result from use of the article under” both “[t]he conditions prescribed in such labeling,” and “such conditions of use as are customary or usual,” in violation of 21 C.F.R. § 1.21(a)(2)(ii). Namely, Go Macro failed to disclose the increased risk of serious chronic disease and death that is likely to result from consumption of the Products in the customary and prescribed manners.

V. PLAINTIFF’S PURCHASE, RELIANCE, AND INJURY

83. Plaintiff Leah Testone has regularly purchased the Products throughout at least the past four years, with her last purchases in approximately 2024. During the last four years, up until approximately 2024, Plaintiff would purchase the Products, on average, about 10-15

1 times per year. Plaintiff would make her purchases from various brick-and-mortar stores,
2 including Whole Foods, CVS, Walgreens, and, as best she can recall, Target stores located in
3 San Diego and Los Angeles counties. Plaintiff would purchase single Protein Bars in Salted
4 Caramel Chocolate Chip, Peanut Butter, and Coconut + Almond + Chocolate Chip flavors.
5 She also occasionally purchased the Products from online retailers such as Amazon. As best
6 she can recall, her last online purchase of the Products was in 2020 or 2021.

7 84. When purchasing the Products, Ms. Testone was seeking a nutritious, healthy
8 food, that is, the type of food whose regular consumption would not likely increase the risk
9 of disease. In particular, the labeling of the Products, including the label statement that Go
10 Macro Products are “a bar that’s . . . good for you” led her to believe the Go Macro bars were
11 a healthy choice for a snack or meal replacement. In purchasing the Products, Ms. Testone
12 was exposed to, read, and relied on Go Macro’s health and wellness representations described
13 herein.

14 85. The health and wellness representations, however, were and are deceptive
15 because the Products are not healthy, and instead contain such high levels of added sugar that
16 their regular consumption is likely to increase the risk of chronic disease.

17 86. Plaintiff is not a nutritionist, food expert, or food scientist. Rather, she is a lay
18 consumer, like other average consumers, who did not have the specialized knowledge that
19 Go Macro had regarding the nutritional composition of the Products. At the time of purchase,
20 Plaintiff was unaware of the extent to which consuming the amounts of added sugar found in
21 the Products adversely affects health, or what amount of added sugar might have such an
22 effect.

23 87. Plaintiff acted reasonably in relying on the challenged labeling claims, which
24 Go Macro intentionally placed on the Products’ labeling with the intent to induce average
25 consumers into purchasing the Products. Plaintiff was likewise induced to purchase the
26 Products based on Go Macro’s omissions and would have acted differently had Go Macro
27 disclosed all material information.
28

1 88. Plaintiff would not have purchased the Products if she knew that the challenged
2 labeling claims were false and misleading in that the Products are detrimental rather than
3 beneficial to health.

4 89. The Products cost more than similar products without misleading labeling and
5 would have cost less absent Go Macro's false and misleading statements and omissions.

6 90. Through the misleading labeling claims and omissions, Go Macro was able to
7 gain a greater share of the market than it would have otherwise, and was able to increase the
8 size of the market.

9 91. Plaintiff paid more for the Products, and would only have been willing to pay
10 less, or unwilling to purchase them at all, absent the false and misleading labeling complained
11 of herein.

12 92. Plaintiff would not have purchased the Products if she had known they were
13 misbranded pursuant to California and FDA regulations, or that the challenged claims were
14 false or misleading.

15 93. For these reasons, the Products were worth less than what Plaintiff and the Class
16 paid for them.

17 94. Instead of receiving products that were healthy, Plaintiff and the Class received
18 products likely to increase risk of disease when consumed regularly.

19 95. Plaintiff and the Class lost money as a result of Go Macro's deceptive claims,
20 omissions, and practices in that they did not receive what they paid for when purchasing the
21 Products.

22 96. Plaintiff still wishes to purchase healthy foods and continue to see the Products
23 at stores when she shops. She would purchase the Products in the future if the Products were
24 labeled truthfully, but unless Go Macro is enjoined in the manner Plaintiff seeks, she may not
25 be able to rely on Go Macro's health and wellness claims in the future.
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1 97. Plaintiff's substantive right to a marketplace free of fraud, where she is entitled
2 to rely with confidence on representations made by Go Macro, continues to be violated every
3 time Plaintiff is exposed to the Products' misleading labeling claims.

4 98. Plaintiff's legal remedies are inadequate to prevent these future injuries.

5 **CLASS ACTION ALLEGATIONS**

6 99. While reserving the right to redefine or amend the class definition prior to or as
7 part of a motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23,
8 Plaintiff seek to represent a class of all persons the in United States, and a subclass of all
9 persons in California, who, at any time from four years prior to the date of filing of this
10 Complaint to the time a class is notified (the "Class Period"), purchased, for personal or
11 household use, and not for resale or distribution, any of the Products (the "Class").

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

15 101. Questions of law and fact common to Plaintiff and the Class include:

16 a. whether Go Macro communicated a message regarding the healthfulness
17 of the Products through their packaging and advertising;

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

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

22 d. whether Go Macro's conduct is unfair or violates public policy;

23 e. whether Go Macro's conduct violates state or federal food statutes or
24 regulations;

25 f. whether Go Macro made and breached warranties;

26 g. the proper amount of damages, including punitive damages;

27 h. the proper amount of restitution;

- i. the proper scope of injunctive relief; and
- j. the proper amount of attorneys' fees.

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

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

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

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

106. Go Macro has acted on grounds applicable to the Class, thereby making appropriate final injunctive and declaratory relief concerning the Class as a whole.

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

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CAUSES OF ACTION

FIRST CAUSE OF ACTION

(on behalf of the California Subclass)

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

108. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if set forth fully herein.

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

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

Fraudulent

111. 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.

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

Unlawful

113. 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.*

114. Because Plaintiff’s claims under the UCL’s “unlawful” prong include only one element—the violation of some predicate law or regulation—and do not require the public be likely to be deceived so that the reasonable consumer test is not an element of those claims, Plaintiff’s legal remedies, which have additional elements including likelihood of deception

1 under the reasonable consumer standard, are inadequate to fully compensate Plaintiff for all
2 of Go Macro's unlawful acts. Because Plaintiff's losses may not be fully compensated by her
3 legal damages, her legal remedies are inadequate.

4 **Unfair**

5 115. Go Macro's conduct with respect to the labeling, advertising, and sale of the
6 Products was unfair because Go Macro's conduct was immoral, unethical, unscrupulous, or
7 substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh
8 the gravity of the harm to its victims.

9 116. Go Macro's conduct with respect to the labeling, advertising, and sale of the
10 Products also was and is unfair because it violates public policy as declared by specific
11 constitutional, statutory or regulatory provisions, including but not necessarily limited to the
12 False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions
13 of the California Sherman Food, Drug, and Cosmetic Law.

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

21 118. Go Macro profited from the sale of the falsely, deceptively, and unlawfully
22 advertised Products to unwary consumers.

23 119. Plaintiff and Class Members are likely to continue to be damaged by Go Macro's
24 deceptive trade practices, because Go Macro continues to disseminate misleading
25 information. Thus, injunctive relief enjoining Go Macro's deceptive practices is proper.
26
27
28

120. Go Macro's conduct caused and continues to cause substantial injury to Plaintiff and other Class Members. Plaintiff has suffered injury in fact as a result of Go Macro's unlawful conduct.

121. In accordance with Cal. Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining Go Macro from continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices, and to commence a corrective advertising campaign.

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

123. Because Plaintiff's claims under the "unfair" prong of the UCL sweep more broadly than their claims under the FAL, CLRA, or UCL's "fraudulent" prong, Plaintiff's legal remedies are inadequate to fully compensate Plaintiff and the Class for all of Go Macro's challenged behavior.

SECOND CAUSE OF ACTION

(on behalf of the California Subclass)

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

124. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if set forth fully herein.

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

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

1 127. As alleged herein, the advertisements, labeling, policies, acts, and practices of
2 Go Macro relating to the Products were likely to mislead consumers acting reasonably, as to
3 the healthfulness of the Products.

4 128. Plaintiff suffered injury in fact as a result of Go Macro's actions as set forth
5 herein because Plaintiff purchased the Products in reliance on Go Macro's false and
6 misleading marketing claims and omissions stating or suggesting that the Products are
7 healthful and nutritious.

8 129. Go Macro's business practices as alleged herein constitute unfair, deceptive,
9 untrue, and misleading advertising pursuant to the FAL because Go Macro has advertised
10 the Products in a manner that is untrue and misleading, which Go Macro knew or reasonably
11 should have known, and omitted material information from the Products' labeling.

12 130. Go Macro profited from the sale of the falsely and deceptively advertised
13 Products to unwary consumers.

14 131. As a result, Plaintiff, the Class, and the general public are entitled to injunctive
15 and equitable relief, restitution, and an order for the disgorgement of the funds by which Go
16 Macro was unjustly enriched.

17 132. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and
18 the Class, seeks an order enjoining Go Macro from continuing to engage in deceptive
19 business practices, false advertising, and any other act prohibited by law, including those set
20 forth in this Complaint.

21 133. Because the Court has broad discretion to award restitution under the FAL and
22 could, when assessing restitution under the FAL, apply a standard different than that applied
23 to assessing damages under the CLRA or commercial code (for Plaintiff's breach of warranty
24 claims), and restitution is not limited to returning to Plaintiff and class members monies in
25 which they have an interest, but more broadly serves to deter the offender and others from
26 future violations, the legal remedies available under the CLRA and commercial code are more
27 limited than the equitable remedies available under the FAL, and are therefore inadequate.
28

THIRD CAUSE OF ACTION
(on behalf of the California Subclass)

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

134. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if set forth fully herein.

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

136. Go Macro's false and misleading labeling and other policies, acts, and practices were designed to, and did, induce the purchase of the Products for personal, family, or household use by Plaintiff and Class Members, and violated and continue to violate the following sections of the CLRA:

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

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

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

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

137. Go Macro profited from the sale of the falsely, deceptively, and unlawfully advertised Products to unwary consumers.

138. Go Macro's wrongful business practices constituted, and constitute, a continuing course of conduct in violation of the CLRA.

139. Pursuant to California Civil Code § 1782, more than 30 days before filing this lawsuit, Plaintiff sent to Go Macro by certified mail, return receipt requested, written notice

1 of his claims and Go Macro's particular violations of the Act, but Go Macro has failed to
2 implement remedial measures.

3 140. As a result, Plaintiff and the Class have suffered harm, and therefore seek actual
4 damages resulting from purchases of the Products sold throughout the Class Period to all
5 Class Members; punitive damages; injunctive relief in the form of modified advertising and
6 a corrective advertising plan; restitution; and attorneys' fees and costs. *See* Cal. Civ. Code §
7 1782(d).

8 141. In compliance with Cal. Civ. Code § 1780(d), an affidavit of venue is filed
9 concurrently herewith.

10 **FOURTH CAUSE OF ACTION**
11 **(on behalf of the California Subclass)**

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

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

15 143. Through the Products' labeling, Go Macro made affirmations of fact or
16 promises, or description of goods, that, *inter alia*, Products are healthy. These affirmations
17 and descriptions include:

- 18 • "Finally – a bar that's both delicious and good for you!";
- 19 • "Live Long";
- 20 • "Eat Positive";
- 21 • "Be Well";
- 22 • "have a healthy body"; and
- 23 • A heart vignette.

24 144. These representations were part of the basis of the bargain in that Plaintiff and
25 the Class purchased the Products in reasonable reliance on those statements. Cal. Com. Code
26 § 2313(1).

1 145. Go Macro breached its express warranties by selling products that, for the
2 reasons described herein, do not meet the above affirmations, promises, and product
3 descriptions.

4 146. That breach actually and proximately caused injury in the form of the lost
5 purchase price that Plaintiff and Class Members paid for the Products.

6 147. As a result, Plaintiff seeks on behalf of herself and other Class Members, actual
7 damages arising as a result of Go Macro's breaches of express warranties, including, without
8 limitation, expectation damages.

9 **FIFTH CAUSE OF ACTION**
10 **(on behalf of the California Subclass)**

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

12 148. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
13 as if set forth fully herein.

14 149. Go Macro, through its acts set forth herein, in the sale, marketing, and promotion
15 of the Products, Go Macro made representations, that, *inter alia*, the Products are healthy.

16 150. A "warranty that the goods shall be merchantable is implied in a contract for
17 their sale if the seller is a merchant with respect to goods of that kind." Cal. Com. Code §
18 2314(1). Go Macro is a merchant with respect to the goods of this kind which were sold to
19 Plaintiff and the Class, and there were, in the sale to Plaintiff and the Class, implied warranties
20 that those goods were merchantable.

21 151. But in order for goods to be "merchantable," they must "[c]onform to the
22 promises or affirmations of fact made on the container or label." Cal. Com. Code § 2314(2)(f).

23 152. Go Macro breached that warranty of merchantability because, for the reasons
24 discussed herein, the Products are not healthy, but rather their regular consumption detracts
25 health. Thus, the Products are not merchantable in that they do not conform to the promises
26 and/or affirmations of fact made on the labels.

153. As an actual and proximate result of Go Macro's conduct, Plaintiff and the Class did not receive goods as impliedly warranted by Go Macro to be merchantable in that they did not conform to promises and affirmations made on the container or label of the goods.

154. As a result, Plaintiff seeks actual damages, including, without limitation, expectation damages.

SIXTH CAUSE OF ACTION

Negligent Misrepresentation

155. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if fully set forth herein.

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

157. Go Macro's misrepresentations and omissions were made in the course of business transactions (the marketing, advertisement, sale, and purchase of the Products) in which both Plaintiff and Go Macro have a pecuniary interest.

158. Go Macro knew or should have known that these representations and omissions were false or misleading, and it failed to exercise reasonable care in disseminating its labels and in its marketing and advertising.

159. Go Macro possesses superior knowledge regarding the detrimental health effects of consuming the Products. Such knowledge is not readily available to consumers like Plaintiff and Class Members.

160. Go Macro has a duty to consumers, like Plaintiff and Class Members, not to provide them with false information when they make purchasing decisions regarding the Products.

1 161. Go Macro holds itself out as an expert in nutrition and health science.

2 162. Consumers lack nutritional science expertise that Go Macro possesses, and when
3 Go Macro makes representations as to the healthfulness of its Products on its labels,
4 consumers rely on Go Macro to provide truthful and complete information.

5 163. Go Macro knew or should have known that Plaintiff and other consumers rely
6 on Go Macro's labeling and health representations, and that its representations and omissions
7 induce consumers like Plaintiff and Class Members into purchasing the Products.

8 164. Plaintiff's injuries were proximately caused by Go Macro's misrepresentations
9 and omissions. Plaintiff viewed Go Macro's labels prior to purchasing the Products, and the
10 representations and omissions prompted her to purchase the Products. Had Plaintiff been
11 aware of Go Macro's misrepresentations and omissions, she would have been unwilling to
12 purchase the Products, or to purchase them at the price that she paid.

13 165. Go Macro's misrepresentations regarding the Products are material to a
14 reasonable consumer because they relate to bodily health, and reasonable consumers would
15 attach importance to such representations and omissions, which would influence their
16 purchasing decision.

17 166. Therefore, as a direct and proximate result of Go Macro's negligent
18 misrepresentations, Plaintiff and Class Members have suffered economic losses and other
19 general and specific damages, in the amount of the Products' purchase price, or some portion
20 thereof, and any interest that would have accrued on those monies, all in an amount to be
21 proven at trial.

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SEVENTH CAUSE OF ACTION

Intentional Misrepresentation

167. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if set forth in full herein.

168. Go Macro marketed the Products in a manner conveying to reasonable consumers that the Products are wholesome and healthy. Therefore, Go Macro has made misrepresentations about the healthfulness of the Products.

169. Go Macro's misrepresentations regarding the Products are material to a reasonable consumer because they relate to bodily health. A reasonable consumer would attach importance to such representations and would be induced to act thereon in making purchasing decisions.

170. At all relevant times, Go Macro knew that the misrepresentations were misleading, or has acted recklessly in making the misrepresentations, without regard to their truth.

171. Go Macro intended that Plaintiff and other consumers rely on these misrepresentations on the Products' packaging.

172. Plaintiff and the Class have reasonably and justifiably relied on Go Macro's intentional misrepresentations when purchasing the Products; had the correct facts been known, they would not have purchased the Products, or at least not at the prices at which the Products were offered.

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

EIGHTH CAUSE OF ACTION

Unjust Enrichment

174. Plaintiff realleges and incorporate the allegations elsewhere in the Complaint as if fully set forth herein.

175. Plaintiff and Class Members conferred upon Go Macro an economic benefit, in the form of profits resulting from the purchase and sale of the Products.

176. Go Macro's financial benefits resulting from its unlawful and inequitable conduct are economically traceable to Plaintiff's and Class Members' purchases of the Products, and the economic benefits conferred on Go Macro are a direct and proximate result of its unlawful and inequitable conduct.

177. It would be inequitable, unconscionable, and unjust for Go Macro to be permitted to retain these economic benefits because the benefits were procured as a direct and proximate result of its wrongful conduct.

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

PRAYER FOR RELIEF

179. Wherefore, Plaintiff, on behalf of themselves, all others similarly situated, and the general public, pray for judgment against Go Macro 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 Plaintiff as Class Representatives, and appointing Plaintiff's undersigned counsel as Class Counsel;

b. An Order requiring Go Macro to bear the cost of Class Notice;

c. An Order compelling Go Macro to conduct a corrective advertising campaign;

d. An Order compelling Go Macro to destroy all misleading and deceptive advertising materials and product labels, and to recall all offending products;

e. An Order requiring Go Macro to disgorge all monies, revenues, and profits obtained by means of any wrongful act or practice;

f. An Order requiring Go Macro 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;

g. An Order requiring Go Macro to pay compensatory damages and punitive damages as permitted by law;

h. An award of attorneys' fees and costs; and

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

JURY DEMAND

180. Plaintiff hereby demand a trial by jury on all issues so triable.

Dated: July 8, 2025

/s/ Trevor Flynn

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Phone: (619) 215-1741

Counsel for Plaintiff

CIVIL COVER SHEET
of 1

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

Leah Testone on behalf of herself, all others similarly situated, and the general public.

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

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

Fitzgerald Monroe Flynn PC
2341 Jefferson St., Ste. 200
San Diego, CA 92110

DEFENDANTS

Go Macro, LLC

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

'25CV1743 RSH KSC

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

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

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

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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 (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332
Brief description of cause:
Diversity Action; Class Action Fairness Act

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____ **CHECK YES only if demanded in complaint:**
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

7/8/2025

SIGNATURE OF ATTORNEY OF RECORD

/s/ Trevor Flynn

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____