

1 **CROSNER LEGAL, P.C.**
 2 Michael T. Houchin (SBN 305541)
 3 *mhouchin@crosnerlegal.com*
 4 Lilach H. Klein (SBN 323202)
 5 *lilach@crosnerlegal.com*
 6 Zachary M. Crosner (SBN 272295)
 7 *zach@crosnerlegal.com*
 8 9440 Santa Monica Blvd. Suite 301
 Beverly Hills, CA 90210
 Tel: (866) 276-7637
 Fax: (310) 510-6429

9 *Attorneys for Plaintiff and the Proposed Class*

10
 11 **UNITED STATES DISTRICT COURT**
 12 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

13
 14 GOPAL CHAKRAVARTHY,
 15 individually and on behalf of all others
 16 similarly situated,

17 Plaintiff,

18 v.

19 PYURE BRANDS, LLC,

20 Defendant.
21

Case No.

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

1 Plaintiff Gopal Chakravarthy (“Plaintiff”), on behalf of himself, all others
2 similarly situated, and the general public, by and through his undersigned counsel,
3 hereby sues Defendant Pyure Brands, LLC (“Defendant”) and, upon information and
4 belief and investigation of counsel, alleges as follows:

5 **I. INTRODUCTION**

6 1. Defendant makes, distributes, sells, and markets Pyure Organic Monk
7 Fruit Sweetener and Pyure Organic Monk Fruit Sweetener Packets (collectively, the
8 “Product” or “Products”).

9 2. Defendant misleadingly labels the Product as a “monk fruit” sweetener
10 “free from artificial sweeteners,” when in fact the Product is primarily sweetened
11 with the artificial sweetener erythritol.

12 3. Despite being labeled as a “monk fruit” sweetener, the Product’s rear
13 label ingredient list reveals that erythritol is the most prominent ingredient in the
14 Product.

15 4. Reasonable consumers purchase the Product because they want a
16 premium sweetener that is derived from natural monk fruit and is “free from artificial
17 sweeteners.” The truth, however, is that the Product is almost completely comprised
18 of the artificial sweetener erythritol, a chemically processed sugar alcohol with
19 known health risks, including heart attack, stroke and digestive issues. Consumers
20 are being deceived and overcharged.

21 5. Plaintiff read and relied upon Defendant’s advertising when purchasing
22 the Product and was damaged as a result.

23 6. Plaintiff brings this action on behalf of himself and all other similarly
24 situated consumers in the United States, alleging violations of the California
25 Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.* (“CLRA”), Unfair
26 Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.* (“UCL”), and False
27 Advertising Law, §§ 17500 *et seq.* (“FAL”). Plaintiff brings further causes of action
28 for breach of express and implied warranties, negligent misrepresentation,

1 intentional misrepresentation/fraud, and quasi-contract/unjust enrichment.

2 7. Plaintiff seeks an order compelling Defendant to (a) cease marketing
3 the Product using the misleading and unlawful tactics complained of herein, (b)
4 destroy all misleading deceptive, and unlawful materials, (c) conduct a corrective
5 advertising campaign, (d) restore the amounts by which it has been unjustly
6 enriched, and (e) pay restitution damages and punitive damages, as allowed by law.

7 **II. JURISDICTION AND VENUE**

8 8. This Court has original jurisdiction under 28 U.S.C. § 1332(d)(2) (The
9 Class Action Fairness Act) because the matter in controversy exceeds the sum or
10 value of \$5,000,000 exclusive of interest and costs and because more than two-thirds
11 of the members of the Class reside in states other than the state of which Defendant
12 is a citizen.

13 9. The court has personal jurisdiction over Defendant. Defendant
14 purposely availed itself to California because Defendant does business within this
15 judicial district (entity no. 201733510120), sells the Product in this judicial district,
16 and is committing the acts complained of below within this judicial district.

17 10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the
18 injury in this case substantially occurred in this District. Defendant has intentionally
19 availed itself of the laws and markets of this District through the promotion,
20 marketing, distribution, and sale of the Product in this District, and is subject to
21 personal jurisdiction in this District.

22 **III. PARTIES**

23 11. Defendant Pyure Brands, LLC is a Florida limited liability company
24 with a principal place of business located at 5405 Taylor Road, Suite 10, Naples, Fl.
25 34109. Defendant makes, labels, distributes, sells, and markets the Product
26 throughout the United States and in California. Defendant is responsible for the
27 making, labelling, distribution, selling, and marketing of the Product throughout the
28 applicable statute of limitations period.

1 12. Plaintiff Gopal Chakravarthy (“Plaintiff”) is a resident of California
2 and purchased the Pyure Organic Monk Fruit Sweetener Product at a Walmart retail
3 store in Camarillo, California during the class period. Plaintiff saw the
4 misrepresentations made on the Product label prior to and at the time of purchase
5 and understood them as representations and warranties that the Product was a monk
6 fruit sweetener free from artificial sweeteners. Plaintiff relied on the representations
7 made on the Product label in deciding to purchase the Product. These representations
8 and warranties were part of his basis of the bargain, in that he would not have
9 purchased the Product, or would only have been willing to purchase the Product at
10 a lower price, had he known the representations were false. Plaintiff would consider
11 purchasing the Product again if the advertising statements made on the Product label
12 were, in fact, truthful and represented in a manner as not to deceive consumers.

13 **IV. NATURE OF THE ACTION**

14 13. Images of the Products’ front and rear labels are reproduced below:





14. The Products’ front labels prominently represent in bold, capital letters that the Products are “ORGANIC MONK FRUIT SWEETENER” products that are “FREE from artificial sweeteners.”

15. Defendant’s advertising misleads reasonable consumers into believing that the Product contains a substantial amount of monk fruit and contains no artificial sweeteners.

16. However, contrary to the labeling, the Product contains almost no monk fruit and instead primarily contains an artificial sweetener ingredient called erythritol.

17. The Product’s front label advertises the Product as “2x as sweet as sugar.” However, monk fruit extract is 100-250 times sweeter than sugar, while erythritol is only 60-70% as sweet as sugar. Defendant therefore uses erythritol as a bulk filler and adds a very small amount of monk fruit to the Product to boost sweetness – yet markets the Product as an organic “monk fruit” sweetener.

1 18. As a result, Defendant has charges consumers a premium for the
2 Product, while cutting costs and reaping the financial benefits of selling a Product
3 with almost no monk fruit and instead with an artificial sweetener.

4 19. The National Institute of Health (NIH) reports that erythritol and
5 several related artificial sweeteners were associated with the risk for cardiovascular
6 events, consuming erythritol can increase blood clot formation, and could increase
7 the risk of heart attack or stroke.¹

8 20. The label misrepresentations are material to reasonable consumers,
9 including Plaintiff.

10 **ERYTHRITOL IS AN ARTIFICIAL SWEETENER**

11 21. Erythritol is a type of sugar alcohol that is primarily produced through
12 fermentation. While erythritol occurs naturally in small quantities in fruits and
13 vegetables, extraction of erythritol from these sources is not economically feasible.
14 The levels of erythritol found in nature are far too low to allow it to be extracted
15 economically. Indeed, “when used as a sweetener, erythritol levels are typically
16 more than 1,000-fold greater than levels found naturally in foods.”² Due to the low
17 erythritol content in natural foods, it is not practical to extract erythritol from natural
18 sources for commercial purposes. Because of this, commercial production of
19 erythritol relies on synthetic manufacturing.

20 22. Erythritol is commercially produced by chemically extracting starch,
21 usually from corn. The starch is then broken down and converted to glucose through
22 enzymatic hydrolysis.

23 23. The glucose is then fermented through specific yeasts, usually a

24 ¹ [https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)
25 [events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)
26 [ors.%E2%80%9D](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)

27 ² [https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)
28 [events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)
[ors.%E2%80%9D](https://www.nih.gov/news-events/nih-research-matters/erythritol-cardiovascular-events#:~:text=For%20at%20least%20two%20days,aren't%20hidden%20contribut)

1 genetically modified strain of *Moniliella pollinis* or *Trichosporonoides*
2 *megachliensis*.

3 24. After the fermentation is complete, the resulting fermentation broth
4 containing erythritol, along with other byproducts and impurities, is sterilized,
5 filtered, and purified to isolate and produce erythritol crystals. The purification
6 process could include filtration, decolorization, ion-exchange chromatography,
7 concentration through evaporation, and crystallization to form pure erythritol
8 crystals. This sequence of physical and chemical processes removes byproducts and
9 other soluble impurities from the fermentation broth. This industrial process is not
10 the same as the natural formation of erythritol in foods.

11 25. The erythritol used in the Product as a sweetener is synthetically
12 manufactured and not natural.

13 **PLAINTIFF’S PURCHASES, RELIANCE, AND INJURY**

14 26. Plaintiff Gopal Chakravarthy purchased the Pyure Organic Monk Fruit
15 Sweetener Product at a Walmart retail store in Camarillo, California during the class
16 period in reliance on the Product’s front label advertising.

17 27. In deciding to purchase the Product, Plaintiff read and relied on the
18 Product’s front label representations, which led Plaintiff to believe that the Product
19 was primarily a monk fruit sweetener and was free from artificial sweeteners. At the
20 time of purchase, Plaintiff did not know that Defendant’s representations were false
21 and misleading, and that the Product was primarily sweetened by the artificial
22 ingredient erythritol.

23 28. Plaintiff would not have purchased the Product, or would not have paid
24 as much as he did, had he known that the Product contained only a negligible amount
25 of monk fruit and primarily contained an artificial ingredient. Plaintiff paid a
26 premium for the Product due to the misleading labelling on the Product’s packaging.

27 29. The representations on the Product’s label were and are false and
28 misleading, and had the capacity, tendency, and likelihood to confuse or confound

1 Plaintiff and other consumers acting reasonably (including the putative Class).

2 30. Plaintiff acted reasonably in relying on the challenged claims that
3 Defendant intentionally, prominently, and uniformly placed on the Product's label
4 and packaging with the intent to induce average consumers into purchasing it.

5 31. Plaintiff, in the exercise of reasonable diligence, could not have
6 discovered earlier Defendant's unlawful acts described herein because the violations
7 were known to Defendant, and not to him throughout the Class Period herein.

8 32. Plaintiff paid more for the Product, and would only have been willing
9 to pay less or unwilling to purchase it at all, absent the false and misleading labeling
10 statements complained of herein.

11 33. For these reasons, the Product was worth less than what Plaintiff paid
12 for it.

13 34. Plaintiff would like to, and would consider, purchasing the Product
14 again when he can do so with the assurance that the Product's labels are truthful and
15 consistent with the Product's ingredients.

16 35. Plaintiff will be unable to rely on the Product's advertising or labeling
17 in the future, and so will not purchase the Product again although he would like to.

18 36. Plaintiff lost money as a result of Defendant's deceptive claims and
19 practices in that he did not receive what he paid for when purchasing the Product.

20 37. Plaintiff detrimentally altered his position and suffered damages in an
21 amount equal to the premium he paid for the Product.

22 38. The senior officers and directors of Defendant allowed the Product to
23 be sold with full knowledge or reckless disregard that the challenged claims are
24 fraudulent, unlawful, and misleading.

25 **NO ADEQUATE REMEDY AT LAW**

26 39. Plaintiff seeks damages and, in the alternative, equitable restitution.
27 Plaintiff and members of the class are entitled to equitable relief as no adequate
28 remedy at law exists.

1 40. The statutes of limitations for the causes of action pled herein vary.
2 Class members who purchased the Product more than three years prior to the filing
3 of the complaint will be barred from recovery if equitable relief were not permitted
4 under the UCL.

5 41. The scope of actionable misconduct under the unfair prong of the UCL
6 is also broader than the other causes of action asserted herein. It includes
7 Defendant's overall unfair marketing scheme to promote and brand the Product over
8 a long period of time in order to gain an unfair advantage over competitor products.
9 The UCL also creates a cause of action for violations of law (such as statutory or
10 regulatory requirements and court orders related to similar representations and
11 omissions made on the type of Product at issue). This is especially important here
12 because Plaintiff alleges Defendant has committed "unlawful" acts and brings a
13 claim for violation of the UCL's "unlawful prong." Plaintiff's UCL unlawful prong
14 claim does not rest on the same conduct as his other causes of action, and there is no
15 adequate remedy at law for this specific unlawful claim. Plaintiff and class members
16 may also be entitled to restitution under the UCL, while not entitled to damages
17 under other causes of action asserted herein (e.g., the FAL requires actual or
18 constructive knowledge of the falsity; the CLRA is limited to certain types of
19 Plaintiff (an individual who seeks or acquires, by purchase or lease, any goods or
20 services for personal, family, or household purposes) and other statutorily
21 enumerated conduct).

22 42. Injunctive relief is appropriate on behalf of Plaintiff and members of
23 the class because Defendant continues to omit material facts about the Product.
24 Injunctive relief is necessary to prevent Defendant from continuing to engage in the
25 unfair, fraudulent, and/or unlawful conduct described herein and to prevent future
26 harm—none of which can be achieved through available legal remedies (such as
27 monetary damages to compensate past harm). Injunctive relief, in the form of
28 affirmative disclosures is necessary to dispel the public misperception about the

1 Product that has resulted from years of Defendant's unfair, fraudulent, and unlawful
2 marketing efforts. Such disclosures would include, but are not limited to, publicly
3 disseminated statements that the Product's labeling misrepresentations are untrue
4 and providing accurate information about the Product's true nature; and/or requiring
5 prominent disclaimers on the Product's front labels concerning the Product's true
6 nature. An injunction requiring affirmative disclosures to dispel the public's
7 misperception, and prevent the ongoing deception, is also not available through a
8 legal remedy (such as monetary damages). In addition, Plaintiff is currently unable
9 to accurately quantify the damages caused by Defendant's future harm, because
10 discovery and Plaintiff's investigation have not yet completed, rendering injunctive
11 relief necessary. Further, because a public injunction is available under the UCL,
12 damages will not adequately benefit the general public in a manner equivalent to an
13 injunction.

14 43. Moreover, a legal remedy is not adequate if it is not as certain as an
15 equitable remedy. Here, Plaintiff may lack an adequate remedy at law if, for instance,
16 damages resulting from his purchases of the Product are determined to be an amount
17 less than the premium price of the Product. Without compensation for the full
18 premium price of the Product, Plaintiff and class members would be left without the
19 parity in purchasing power to which they are entitled.

20 44. By the same token, Plaintiff's common law claims require additional
21 showings, compared to the UCL, FAL, or unjust enrichment claims. For example,
22 to prevail on a breach of warranty claim, Plaintiff must show that the challenged
23 statements constitute a warranty and that the warranty was part of the basis of the
24 bargain. No such showings are required by the UCL or FAL, or for an unjust
25 enrichment theory. In fact, the UCL and the FAL were enacted specifically to create
26 new claims and remedies not available at common law. And unjust enrichment exists
27 in part because contractual claims are often more difficult to establish. In this way,
28 Plaintiff's UCL and FAL claims, and Plaintiff's unjust enrichment claims, are more

1 certain than their legal claims.

2 45. It is premature to determine whether an adequate remedy at law exists.
3 This is an initial pleading and discovery has not yet commenced and/or is at its initial
4 stages. No class has been certified yet. No expert discovery has commenced and/or
5 completed. The completion of fact/non-expert and expert discovery, as well as the
6 certification of this case as a class action, are necessary to finalize and determine the
7 adequacy and availability of all remedies, including legal and equitable, for
8 Plaintiff's individual claims and any certified class or subclass. Plaintiff therefore
9 reserves his right to amend this complaint and/or assert additional facts that
10 demonstrate this Court's jurisdiction to order equitable remedies where no adequate
11 legal remedies are available for either Plaintiff and/or any certified class or subclass.
12 Such proof, to the extent necessary, will be presented prior to the trial of any
13 equitable claims for relief and/or the entry of an order granting equitable relief.

14 **V. CLASS ACTION ALLEGATIONS**

15 46. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff seeks
16 certification of the following Classes (or alternative Classes or Subclasses):

17 **The Nationwide Class**

18 All U.S. citizens who purchased the Products in their respective state of
19 citizenship for personal and household use and not for resale within the
20 applicable statute of limitations and until the date class notice is disseminated.

21 **The California Subclass**

22 All California citizens who purchased the Products in California for personal
23 and household use and not for resale within the applicable statute of
24 limitations and until the date class notice is disseminated.

25 47. The Classes and Subclasses described in this complaint will jointly be
26 referred to the "Class" or the "Classes" unless otherwise stated, and the proposed
27 members of the Classes and Subclasses will jointly be referred to as "Class
28 Members."

1 48. Plaintiff and the Class reserve their right to amend or modify the Class
2 definitions with greater specificity or further division into subclasses or limitation to
3 particular issues as discovery and the orders of this Court warrant.

4 49. Excluded from the Class are governmental entities, Defendant, any
5 entity in which Defendant has a controlling interest, Defendant's employees,
6 officers, directors, legal representatives, heirs, successors and wholly or partly
7 owned subsidiaries or affiliated companies, including all parent companies, and their
8 employees; and the judicial officers, their immediate family members and court staff
9 assigned to this case.

10 50. The members in the proposed Class are so numerous that individual
11 joinder of all members is impracticable. Due to the nature of the trade and commerce
12 involved, however, Plaintiff believes the total number of Class members is at least
13 in the hundreds and members of the Classes are numerous. While the exact number
14 and identities of the Class members are unknown at this time, such information can
15 be ascertained through appropriate investigation and discovery. The disposition of
16 the claims of the Class members in a single class action will provide substantial
17 benefits to all parties and to the Court.

18 51. Pursuant to Rule 23(b)(2), Defendant has acted or refused to act on
19 grounds generally applicable to the Classes, thereby making final injunctive relief
20 or corresponding declaratory relief and damages as to the Product appropriate with
21 respect to the Classes as a whole. In particular, Defendant has failed to disclose the
22 true nature of the Product being marketed as described herein.

23 52. There is a well-defined community of interest in the questions of law
24 and fact involved, affecting the Plaintiff and the Classes and these common
25 questions of fact and law include, but are not limited to, the following:

- 26 • Whether Defendant breached any express warranties made to Plaintiff
27 and the Class;
- 28 • Whether Defendant breached any implied warranties made to Plaintiff

1 and the Class;

- 2 • Whether Defendant violated consumer protection statutes, false
- 3 advertising statutes, or state deceptive business practices statutes;
- 4 • Whether Defendant engaged, and continues to engage, in unfair or
- 5 deceptive acts and practices in connection with the marketing,
- 6 advertising, and sales of the Product;
- 7 • Whether reasonable consumers are likely to be misled by Defendant's
- 8 advertising and labeling of the Product;
- 9 • Whether the Product's challenged representations are material
- 10 representations made to reasonable consumers;
- 11 • Whether the proposed class is suitable for class certification;
- 12 • The proper amount of restitution, damages, and punitive damages;
- 13 • The proper injunctive relief, including a corrective advertising
- 14 campaign;
- 15 • The proper amount of attorneys' fees.

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

18 54. Plaintiff's claims are typical of Class Members' claims because they
19 are based on the same underlying facts, events, and circumstances relating to
20 Defendant's conduct. Specifically, all Class Members, including Plaintiff, were
21 subjected to the same misleading and deceptive conduct when they purchased the
22 Product, and suffered economic injury because the Product was and still is
23 misrepresented. Absent Defendant's business practice of deceptively and unlawfully
24 labeling the Product, Plaintiff and Class Members would not have purchased the
25 Product, or would have paid less for them.

26 55. Plaintiff will fairly and adequately represent and protect the interests of
27 the Classes, has no interests incompatible with the interests of the Classes, and has
28 retained counsel with substantial experience in handling complex consumer class

1 action litigation. Plaintiff and his counsel are committed to vigorously prosecuting
2 this action on behalf of the Classes and have the financial resources to do so.

3 56. Plaintiff and the members of the Classes suffered, and will continue to
4 suffer harm as a result of Defendant's unlawful and wrongful conduct. A class action
5 is superior to other available methods for the fair and efficient adjudication of the
6 present controversy. Individual joinder of all members of the Classes is
7 impracticable. Even if individual Class members had the resources to pursue
8 individual litigation, it would be unduly burdensome to the courts in which the
9 individual litigation would proceed. Individual litigation magnifies the delay and
10 expense to all parties in the court system of resolving the controversies engendered
11 by Defendant's common course of conduct. The class action device allows a single
12 court to provide the benefits of unitary adjudication, judicial economy, and the fair
13 and efficient handling of all Class members' claims in a single forum. The conduct
14 of this action as a class action conserves the resources of the parties and of the
15 judicial system and protects the rights of the class members. Furthermore, for many,
16 if not most, a class action is the only feasible mechanism that allows an opportunity
17 for legal redress and justice.

18 57. Adjudication of individual Class members' claims with respect to
19 Defendant would, as a practical matter, be dispositive of the interests of other
20 members not parties to the adjudication, and could substantially impair or impede
21 the ability of other class members to protect their interests.

22 58. Defendant has acted on grounds applicable to the Class, thereby making
23 appropriate final public injunctive and declaratory relief concerning the Class as a
24 whole.

25 59. As a result of the foregoing, class treatment is appropriate.
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27
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1 **VI. CAUSES OF ACTION**

2 **FIRST CLAIM FOR RELIEF**

3 **Violation of California’s Consumers Legal Remedies Act**

4 **Cal. Civ. Code §§ 1750, *et seq.***

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

7 61. Plaintiff brings this claim under the CLRA individually and on behalf
8 of the California Class against Defendant.

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

11 63. At all relevant times, Defendant was a “person,” as defined in
12 California Civil Code section 1761(c).

13 64. At all relevant times, the Product manufactured, distributed, marketed,
14 advertised, and sold by Defendant constituted “goods,” as defined in California Civil
15 Code section 1761(a).

16 65. The purchases of the Product by Plaintiff and the members of the Class
17 were and are “transactions” within the meaning of California Civil Code section
18 1761(e).

19 66. Defendant disseminated, or caused to be disseminated, through its
20 advertising, false and misleading representations, including the Product’s labeling
21 that the Product was a “monk fruit” sweetener “free from artificial sweeteners.”
22 Defendant failed to disclose that the Product primarily contains the artificial
23 sweetener erythritol. This is a material misrepresentation and omission as reasonable
24 consumer would find the fact that the Product contains an artificial sweetener and a
25 negligible amount of monk fruit extract to be important to their decision in
26 purchasing the Product. Defendant’s representations violate the CLRA in the
27 following ways:

28 a. Defendant represented that the Product has characteristics, ingredients,

1 uses, and benefits which it does not have (Cal. Civ. Code § 1770(a)(5));

2 b. Defendant represented that the Product is of a particular standard, quality,
3 or grade, which it is not (Cal. Civ. Code § 1770(a)(7));

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

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

9 67. Defendant violated the CLRA because the Product was prominently
10 advertised as being a “monk fruit” sweetener “free from artificial sweeteners,” but
11 the Product contains a negligible amount of monk fruit extract and primarily contains
12 the artificial sweetener erythritol. Defendant knew or should have known that
13 consumers would want to know that the Product contains almost no monk fruit and
14 an artificial sweetener.

15 68. Defendant’s actions as described herein were done with conscious
16 disregard of Plaintiff’ and the Class members’ rights and were wanton and
17 malicious.

18 69. Defendant’s wrongful business practices constituted, and constitute, a
19 continuing course of conduct in violation of the CLRA, since Defendant is still
20 representing that the Product has characteristics which it does not have.

21 70. Pursuant to California Civil Code section 1782(d), Plaintiff and the
22 members of the Class seek an order enjoining Defendant from engaging in the
23 methods, acts, and practices alleged herein.

24 71. Pursuant to California Civil Code section 1782, Plaintiff notified
25 Defendant in writing by certified mail of the alleged violations of the CLRA and
26 demanded that Defendant rectify the problems associated with the actions detailed
27 above and give notice to all affected consumers of their intent to so act. Defendant
28 failed to rectify or agree to rectify the problems associated with the actions detailed

1 herein. More than 30 days have passed since Defendant received Plaintiff's written
2 notice pursuant to section 1782 of the CLRA. Therefore, Plaintiff seeks damages,
3 punitive damages, and attorneys' fees and costs pursuant to the CLRA.

4 72. Pursuant to section 1780(d) of the CLRA, below is an affidavit showing
5 that this action was commenced in a proper forum.

6 **SECOND CLAIM FOR RELIEF**

7 **Violation of California's Unfair Competition Law**

8 **Cal. Bus. & Prof. Code §§ 17200, *et seq.***

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

11 74. Plaintiff brings this claim under the UCL individually and on behalf of
12 the California Class against Defendant.

13 75. The UCL prohibits any "unlawful," "fraudulent," or "unfair" business
14 act or practice and any false or misleading advertising.

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

24 77. Defendant committed "unfair" business acts or practices by: (1)
25 engaging in conduct where the utility of such conduct is outweighed by the harm to
26 Plaintiff and the members of the Class; (2) engaging in conduct that is immoral,
27 unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and the
28 members of the Class; and (3) engaging in conduct that undermines or violates the

1 intent of the consumer protection laws alleged herein. There is no societal benefit
2 from deceptive advertising. Plaintiff and the other Class members paid for a Product
3 that is not as advertised by Defendant. Further, Defendant failed to disclose a
4 material fact (that the Product contains almost no monk fruit and the artificial
5 sweetener erythritol) of which it had exclusive knowledge. While Plaintiff and the
6 other Class members were harmed, Defendant was unjustly enriched by its false
7 misrepresentations and material omissions. As a result, Defendant's conduct is
8 "unfair," as it offended an established public policy. There were reasonably available
9 alternatives to further Defendant's legitimate business interests, other than the
10 conduct described herein.

11 78. Defendant committed "fraudulent" business acts or practices by making
12 the representations of material fact regarding the Product set forth herein.
13 Defendant's business practices as alleged are "fraudulent" under the UCL because
14 they are likely to deceive customers into believing the Product primarily contains
15 monk fruit and no artificial sweeteners.

16 79. Plaintiff and the other members of the Class have in fact been deceived
17 as a result of their reliance on Defendant's material representations and omissions.
18 This reliance has caused harm to Plaintiff and the other members of the Class, each
19 of whom purchased Defendant's Product. Plaintiff and the other Class members have
20 suffered injury in fact and lost money as a result of purchasing the Product and
21 Defendant's unlawful, unfair, and fraudulent practices.

22 80. Defendant's wrongful business practices and violations of the UCL are
23 ongoing.

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

28 82. Unless restrained and enjoined, Defendant will continue to engage in

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

9 **THIRD CLAIM FOR RELIEF**

10 **Violation of California’s False Advertising Law**

11 **Cal. Bus. & Prof. Code §§ 17500, *et seq.***

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

14 84. Plaintiff brings this claim under the FAL individually and on behalf of
15 the California Class against Defendant.

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

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

25 87. As alleged herein, Defendant falsely advertised the Product by falsely
26 representing that the Product primarily contained monk fruit and no artificial
27 sweeteners, when in fact, the Product contains almost no monk fruit and the artificial
28 sweetener erythritol.

1 88. Plaintiff has standing to pursue this claim as Plaintiff has suffered injury
2 in fact as a result of Defendant’s actions as set forth herein. Specifically, prior to the
3 filing of this action, Plaintiff purchased the Product in reliance on Defendant’s false
4 and misleading labeling claim that the Product was a “monk fruit” sweetener and
5 “free from artificial sweeteners.”

6 89. Defendant’s business practices as alleged herein constitute deceptive,
7 untrue, and misleading advertising pursuant to the FAL because Defendant has
8 advertised the Product in a manner that is untrue and misleading, which Defendant
9 knew or reasonably should have known, and omitted material information from its
10 advertising.

11 90. Defendant profited from its sale of the falsely and deceptively
12 advertised Product to unwary consumers.

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

16 92. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of
17 themselves and the Classes, seek an order enjoining Defendant from continuing to
18 engage in deceptive business practices, false advertising, and any other act
19 prohibited by law, including those set forth herein.

20 **FOURTH CLAIM FOR RELIEF**

21 **Breach of Express Warranty**

22 **Cal. Com. Code § 2313(1)**

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

25 94. Plaintiff brings this claim for breach of express warranty individually
26 and on behalf of all Classes against Defendant.

27 95. As the manufacturer, marketer, distributor, and seller of the Product,
28 Defendant issued an express warranty by representing to consumers at the point of

1 purchase that the Product was a “monk fruit” sweetener “free from artificial
2 sweeteners.”

3 96. Plaintiff and the Class reasonably relied on Defendant’s
4 misrepresentations, descriptions and specifications regarding the Product, including
5 the representation that the Product was a “monk fruit” sweetener “free from artificial
6 sweeteners.”

7 97. Defendant’s representations were part of the description of the goods
8 and the bargain upon which the goods were offered for sale and purchased by
9 Plaintiff and Members of the Class.

10 98. In fact, the Product does not conform to Defendant’s representations
11 because the Product contains almost no monk fruit and contains the artificial
12 sweetener erythritol. By falsely representing the Product in this way, Defendant
13 breached express warranties.

14 99. Plaintiff relied on Defendant’s representations on the Product’s label
15 and advertising materials which provide the basis for an express warranty under
16 California law.

17 100. As a direct and proximate result of Defendant’s breach, Plaintiff and
18 Members of the Class were injured because they: (1) paid money for the Product
19 that was not as Defendant represented; (2) were deprived of the benefit of the bargain
20 because the Product they purchased was different than Defendant advertised; and (3)
21 were deprived of the benefit of the bargain because the Product they purchased had
22 less value than if Defendant’s representations about the characteristics of the Product
23 were truthful.

24 101. Had Defendant not breached the express warranty by making the false
25 representations alleged herein, Plaintiff and Class Members would not have
26 purchased the Product or would not have paid as much as they did for it.

1 **FIFTH CLAIM FOR RELIEF**

2 **Breach of Implied Warranty**

3 **Cal. Com. Code § 2314**

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

6 103. Plaintiff brings this claim for breach of implied warranty individually
7 and on behalf of all Classes against Defendant.

8 104. Plaintiff and the Class purchased the Product manufactured, advertised,
9 and sold by Defendant, as described herein.

10 105. Defendant, through its acts and omissions set forth herein, in the sale,
11 marketing, and promotion of the Product, misrepresented the characteristics of the
12 Product to Plaintiff and the Class.

13 106. Defendant is a merchant with respect to the goods of this kind which
14 were sold to Plaintiff and the Class, and there was, in the sale to Plaintiff and other
15 consumers, an implied warranty that those goods were merchantable.

16 107. However, Defendant breached that implied warranty in that the Product
17 was a “monk fruit” sweetener containing primarily monk fruit and was free from
18 artificial sweeteners. Instead, the Product contains almost no monk fruit and contains
19 the artificial sweetener erythritol.

20 108. As an actual and proximate result of Defendant’s conduct, Plaintiff and
21 the Class did not receive goods as impliedly warranted by Defendant to be
22 merchantable in that the Product did not conform to promises and affirmations made
23 on the label of the Product.

24 109. Plaintiff and the Class have sustained damages as a proximate result of
25 the foregoing breach of implied warranty in the amount of the Product’s price
26 premium.

1 **SIXTH CLAIM FOR RELIEF**

2 **Negligent Misrepresentation**

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

5 111. Plaintiff brings this claim for negligent misrepresentation individually
6 and on behalf of all Classes against Defendant.

7 112. Defendant had a duty to disclose to Plaintiff and Class Members correct
8 information as to the quality and characteristics of the Product because Defendant
9 was in a superior position than Plaintiff and Class Members such that reliance by
10 Plaintiff and Class Members was justified. Defendant possessed the skills and
11 expertise to know the type of information that would influence a consumer's
12 purchasing decision.

13 113. During the applicable class period, Defendant negligently or carelessly
14 misrepresented, omitted, and concealed from consumers material facts regarding the
15 quality and characteristics of the Product, including the fact that the Product is
16 primarily sweetened with the artificial sweetener erythritol, despite being advertised
17 as a "monk fruit" sweetener containing no artificial sweeteners.

18 114. Defendant made such false and misleading statements and omissions
19 with the intent to induce Plaintiff and Class Members to purchase the Product at a
20 premium price.

21 115. Defendant was careless in ascertaining the truth of its representations
22 in that it knew or should have known that Plaintiff and Class Members would be
23 overpaying for the Product.

24 116. Plaintiff and Class Members were unaware of the falsity in Defendant's
25 misrepresentations and omissions and, as a result, justifiably relied on them when
26 making the decision to purchase the Product.

27 117. Plaintiff and Class Members would not have purchased the Product or
28 paid as much for the Product if the true facts had been known.

1 **SEVENTH CLAIM FOR RELIEF**

2 **Intentional Misrepresentation/Fraud**

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

5 119. Plaintiff brings this claim for intentional misrepresentation individually
6 and on behalf of all Classes against Defendant.

7 120. Defendant had a duty to disclose to Plaintiff and Class Members correct
8 information as to the quality and characteristics of the Product because Defendant
9 was in a superior position than Plaintiff and Class Members such that reliance by
10 Plaintiff and Class Members was justified. Defendant possessed the skills and
11 expertise to know the type of information that would influence a consumer's
12 purchasing decision.

13 121. During the applicable class period, Defendant intentionally
14 misrepresented, omitted, and concealed from consumers material facts regarding the
15 quality and characteristics of the Product, including that the Product contains almost
16 no monk fruit and contains the artificial sweetener erythritol, despite the Product's
17 "monk fruit" sweetener and "free from artificial sweeteners" representations. These
18 representations were material and were uniformly made.

19 122. As noted in detail above, these representations were false and
20 misleading, as the Product contains almost no monk fruit and the artificial sweetener
21 erythritol. Defendant made these misrepresentations with actual knowledge of their
22 falsity and/or made them with fraudulent intent.

23 123. Defendant made such false and misleading statements and omissions
24 with the intent to induce Plaintiff and Class Members to purchase the Product at a
25 premium price, deprive Plaintiff and Class Members of property or otherwise
26 causing injury, and thus, Defendant has committed fraud.

27 124. Defendant's deceptive or fraudulent intent is evidenced by motive and
28 opportunity. Defendant knew that consumers would pay more for a product if they

1 believed it was primarily a monk fruit sweetener with no artificial sweeteners. For
2 that reason, Defendant misrepresented the Product so that Defendant could realize
3 greater profits. Defendant knew that consumers would place trust and confidence in
4 its Product's claims and rely thereon in their purchases of the Product.

5 125. Plaintiff and the Class Members were unaware of the falsity in
6 Defendant's misrepresentations and omissions and, as a result, justifiably relied on
7 them when making the decision to purchase the Product.

8 126. As a proximate result of Defendant's intentional misrepresentations,
9 Plaintiff and the Class were induced to purchase the Product at a premium.

10 127. Plaintiff and the Class Members would not have purchased the Product
11 or paid as much for the Product if the true facts had been known.

12 128. As a result of their reliance, Plaintiff and Class Members were injured
13 in an amount to be proven at trial, including, but not limited to, their lost benefit of
14 the bargain and overpayment at the time of purchase.

15 129. Defendant's conduct was knowing, intentional, with malice,
16 demonstrated a complete lack of care, and was in reckless disregard for the rights of
17 Plaintiff and Class Members Plaintiff and Class Members are therefore entitled to
18 an award of punitive damages.

19 **EIGHTH CLAIM FOR RELIEF**

20 **Quasi-Contract/ Unjust Enrichment**

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

23 131. Plaintiff brings this claim for quasi contract/unjust enrichment
24 individually and on behalf of all Classes against Defendant.

25 132. As alleged in detail above, Defendant's false and misleading labelling
26 caused Plaintiff and the Class to purchase the Product at a premium.

27 133. In this way, Defendant received a direct and unjust benefit, at Plaintiff
28 and the Class's expense.

1 134. It would be unjust and inequitable for Defendant to retain the above-
2 mentioned benefits. For example, Defendant was only able to charge a premium for
3 the Product by intentionally withholding information from Plaintiff, or otherwise
4 misrepresenting the Product's qualities.

5 135. Plaintiff and the Class seek restitution.

6 **VII. PRAYER FOR RELIEF**

7 136. Wherefore, Plaintiff, on behalf of herself, all others similarly situated,
8 and the general public, prays for judgment against Defendant as follows:

- 9
- 10 • For an order certifying this action as a class action, appointing Plaintiff
11 as the Class Representative, and appointing Plaintiff's Counsel as Class
Counsel;
 - 12 • For an order declaring that Defendant's conduct violates the statutes
13 and laws referenced herein, consistent with applicable law and pursuant
14 to only those causes of action so permitted;
 - 15 • For an order awarding monetary compensation in the form of damages,
16 restitution, and/or disgorgement to Plaintiff and the Class, consistent
17 with permissible law and pursuant to only those causes of action so
18 permitted;
 - 19 • For an order awarding punitive damages, statutory penalties, and/or
20 monetary fines, consistent with permissible law and pursuant to only
21 those causes of action so permitted;
 - 22 • For an order awarding attorneys' fees and costs, consistent with
23 permissible law and pursuant to only those causes of action so
24 permitted;
 - 25 • For an order awarding pre-judgment and post-judgment interest,
26 consistent with permissible law and pursuant to only those causes of
27 action so permitted; and
 - 28 • For such other and further relief as the Court deems just and proper.

JURY DEMAND

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

Dated: February 12, 2026

CROSNER LEGAL, P.C.

By: /s/ Michael T. Houchin
Michael T. Houchin

9440 Santa Monica Blvd. Suite 301
Beverly Hills, CA 90210
Tel: (866) 276-7637
Fax: (310) 510-6429
mhouchin@crosnerlegal.com

Attorneys for Plaintiff and the Proposed Class