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13 **UNITED STATES DISTRICT COURT**
 14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15 MICHELLE GARZA, individually,
 16 and on behalf of all others similarly
 17 situated,

18 Plaintiff,

19 v.

20 POSITIVE BEVERAGE, LLC,

21 Defendant.

Case No.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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INTRODUCTION

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2 1. Plaintiff Michelle Garza (“Plaintiff”) on behalf of herself, all others
3 similarly situated, and the general public, by and through her undersigned counsel,
4 hereby brings this action against Positive Beverage LLC (“Defendant”), and upon
5 information and belief and investigation of counsel, alleges as follows:

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

10 3. Defendant manufactures, distributes, advertises, markets, and sells
11 Positive Hydration beverage products. The packaging prominently displays on the
12 front of the label the claim that these Products¹ contain “**No Sucralose,**
13 **Aspartame, Artificial Preservatives, or Colors**” (the “No
14 Artificial...Preservatives” claim).

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

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

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

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27 ¹ “Products” means all Positive Hydration brand products labeled as containing
28 “No Artificial... Preservatives” that include citric acid as an ingredient.

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JURISDICTION AND VENUE

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2 7. This Court has original jurisdiction over this action pursuant to 28
3 U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100
4 members in the proposed class; (2) members of the proposed class have a different
5 citizenship from Defendant; and (3) the claims of the proposed class members
6 exceed \$5,000,000 in the aggregate, exclusive of interest and costs.

7 8. This Court has personal jurisdiction over Defendant because
8 Defendant conducts and transacts business in the State of California, contracts to
9 supply goods within the State of California, and supplies goods within the State of
10 California. Defendant, on its own and through its agents, is responsible for the
11 distribution, marketing, labeling, and sale of the Products in California,
12 specifically in this judicial district. The marketing of the Products, including the
13 decision of what to include and not include on the labels, emanates from
14 Defendant. Thus, Defendant has intentionally availed itself of the markets within
15 California through its advertising, marketing, and sale of the Products to
16 consumers in California, including Plaintiff. The Court also has specific
17 jurisdiction over Defendant as it has purposefully directed activities towards the
18 forum state, Plaintiff’s claims arise out of those activities, and it is reasonable for
19 Defendant to defend this lawsuit because it has sold deceptively advertised
20 Products to Plaintiff and members of the Class in California. By distributing and
21 selling the Products in California, Defendant has intentionally and expressly aimed
22 conduct at California which caused harm to Plaintiff and the Class that Defendant
23 knows is likely to be suffered by Californians.

24 9. Venue is proper pursuant to 28 U.S.C. § 1391(b) because a substantial
25 part of the events or omissions giving rise to the claim occurred in this District.
26 Plaintiff purchased the Products within this District.
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PARTIES

10. Defendant Positive Beverage, LLC is a Delaware limited liability company that maintains its principal place of business in Newport Beach, California. At all times during the class period, Defendant was the manufacturer, distributor, marketer, and seller of the Products.

11. Plaintiff Michelle Garza is a resident of California. Plaintiff purchased the Products during the class period in California. Plaintiff relied on Defendant’s deceptive advertising and labeling claims as set forth below.

FACTUAL ALLEGATIONS

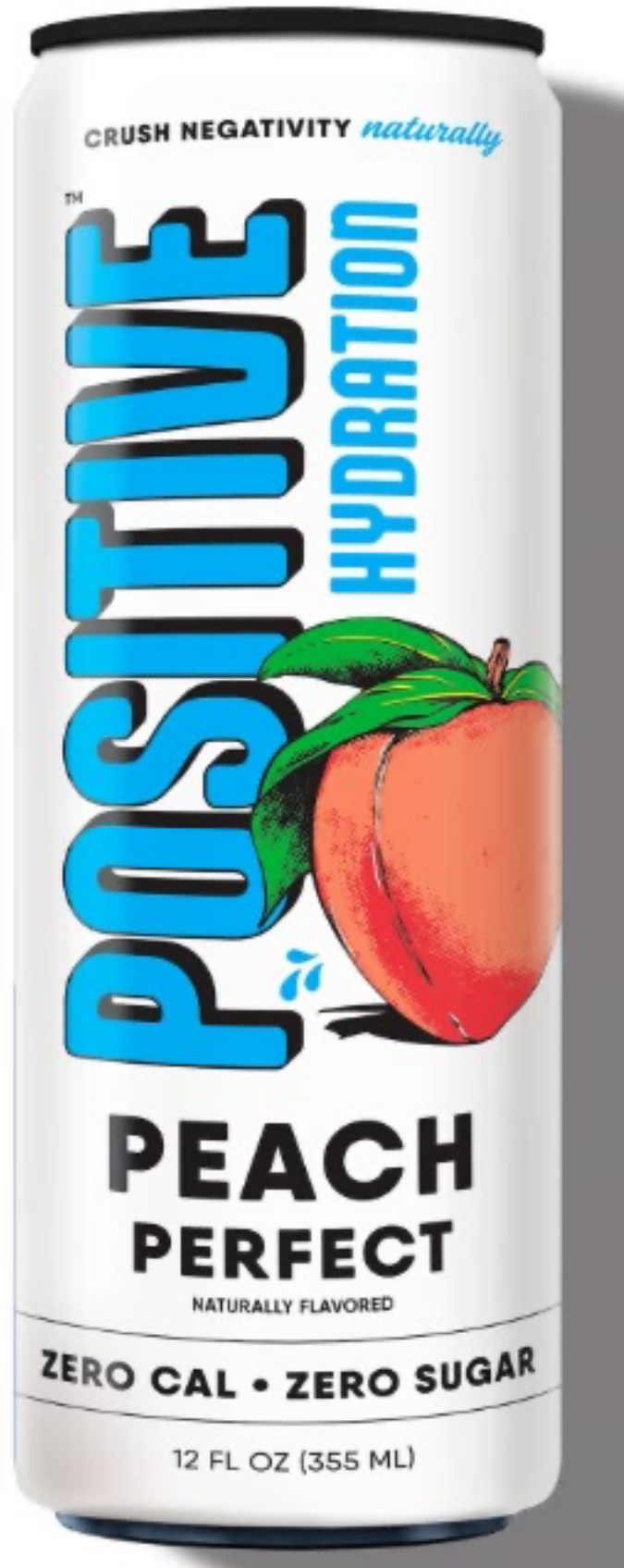
“NO ARTIFICIAL...PRESERVATIVES” IS PROMINENTLY DISPLAYED ON THE FRONT LABELS OF THE PRODUCTS

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

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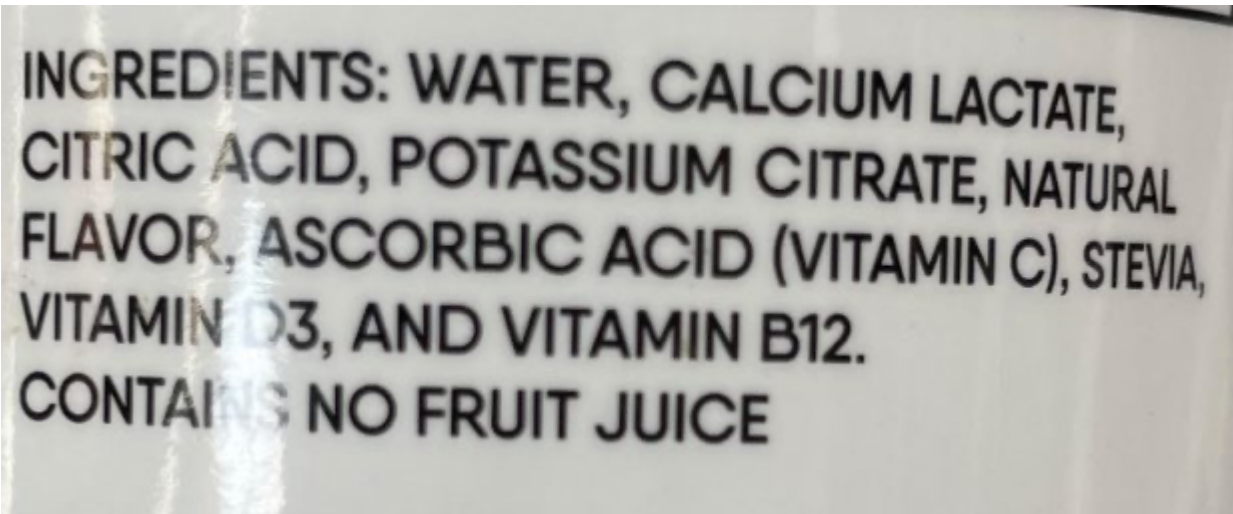
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1 **THE MANUFACTURED CITRIC ACID IN THE PRODUCTS IS ARTIFICIAL**

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

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

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

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

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

26 ⁵ Sweis, et al., **Exhibit A**.

27 ⁶ *Id.*

28 ⁷ *Id.*

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

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

12 15. As one of the USDA AMS reviewers commented:

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

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

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

24 Given the thermotolerance of *A. niger*, there is great potential that
25 byproducts of *A. niger* remain in the final [manufactured citric acid]
26 product. Furthermore, given the pro-inflammatory nature of *A. niger*

27 ⁸ **Exhibit B** at page 6.
28 ⁹ **Exhibit B** at page 5 (emphasis added)
¹⁰ **Exhibit B** at pages 4-5.
¹¹ Sweis, *et al.*, **Exhibit A**.

1 even when heat-killed, repetitive ingestion of [manufactured citric acid]
 2 may trigger sensitivity or allergic reactions in susceptible individuals.
 3 Over the last two decades, there has been a significant rise in the
 4 incidence of food allergies.¹²

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

18 19. The FDA has determined that manufactured citric acid is not natural;
 19 it is artificial. The FDA has sent warning letters to companies stating that certain
 20 products labeled as “natural” are misbranded because they contain citric acid as an
 21 ingredient. For example, on August 29, 2001, the FDA sent Hirzel Canning
 22 Company (“Hirzel”) a warning letter regarding its canned tomato products.¹³ With
 23 respect to Hirzel’s Chopped Tomatoes Onions & Garlic and Chopped Mexican
 24 Tomatoes & Jalapenos, the FDA stated that these products could not bear the “All
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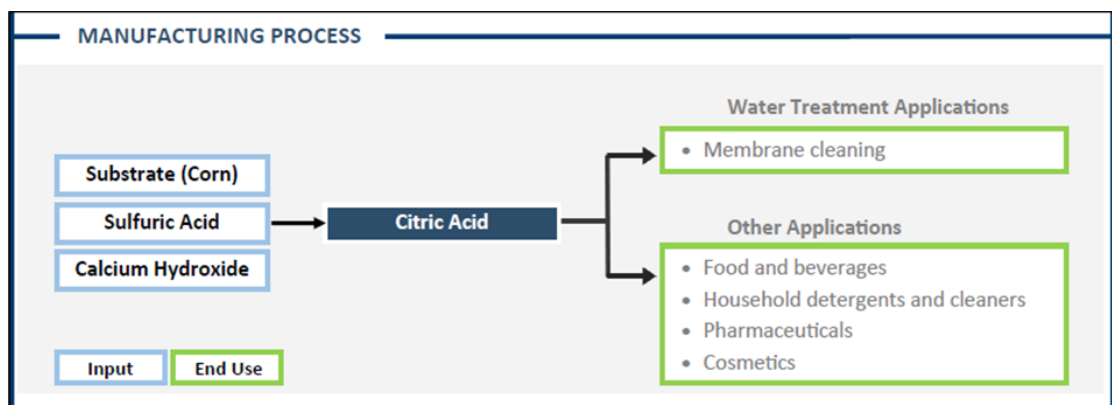
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 27 ¹² *Id.*

28 ¹³ See **Exhibit C** attached hereto.

1 Natural” claim on the label because the products contained a synthetic ingredient,
2 citric acid.¹⁴

3 20. Similarly, on August 16, 2001, the FDA sent Oak Tree Dairy Farm,
4 Inc. (“Oak Tree”) a warning letter regarding its “Oaktree Real Brewed Iced Tea,”
5 “Oaktree Fruit Punch,” and “Oaktree All Natural Lemonade” products.¹⁵ With
6 respect to Oak Tree’s “Oaktree Real Brewed Iced Tea,” the FDA stated that this
7 product could not bear the “100% Natural” and “All Natural” claims on the label
8 because the product contained a synthetic ingredient, citric acid.¹⁶

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



19 22. Dr. Ryan Monahan, a prominent functional medicine practitioner,
20 notes that the “[p]resent day process of creating manufactured citric acid involves
21 feeding sugars derived from GMO corn to black mold, which then ferments to
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25 ¹⁴ *Id.*

26 ¹⁵ See **Exhibit D** attached hereto.

27 ¹⁶ *Id.*

28 ¹⁷ See **Exhibit E** attached hereto.

1 form manufactured citric acid.”¹⁸ Dr. Monahan also notes that “*Aspergillus niger*
 2 is associated with systemic inflammatory issues, including respiratory,
 3 gastrointestinal, neurological and musculoskeletal. Due to the potential for
 4 fragments of *Aspergillus niger* to make their way into the finished product of
 5 manufactured citric acid, this toxic inflammatory substance is likely being ingested
 6 by consumers of products containing citric acid. Even with high-heat processing
 7 to kill it, research has shown *Aspergillus niger* can still elicit an inflammatory
 8 response.”¹⁹

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

17 24. Below is a schematic representation of the metabolic reactions
 18 involved in citric acid production, the enzymes (*italics*), the known feedback loops
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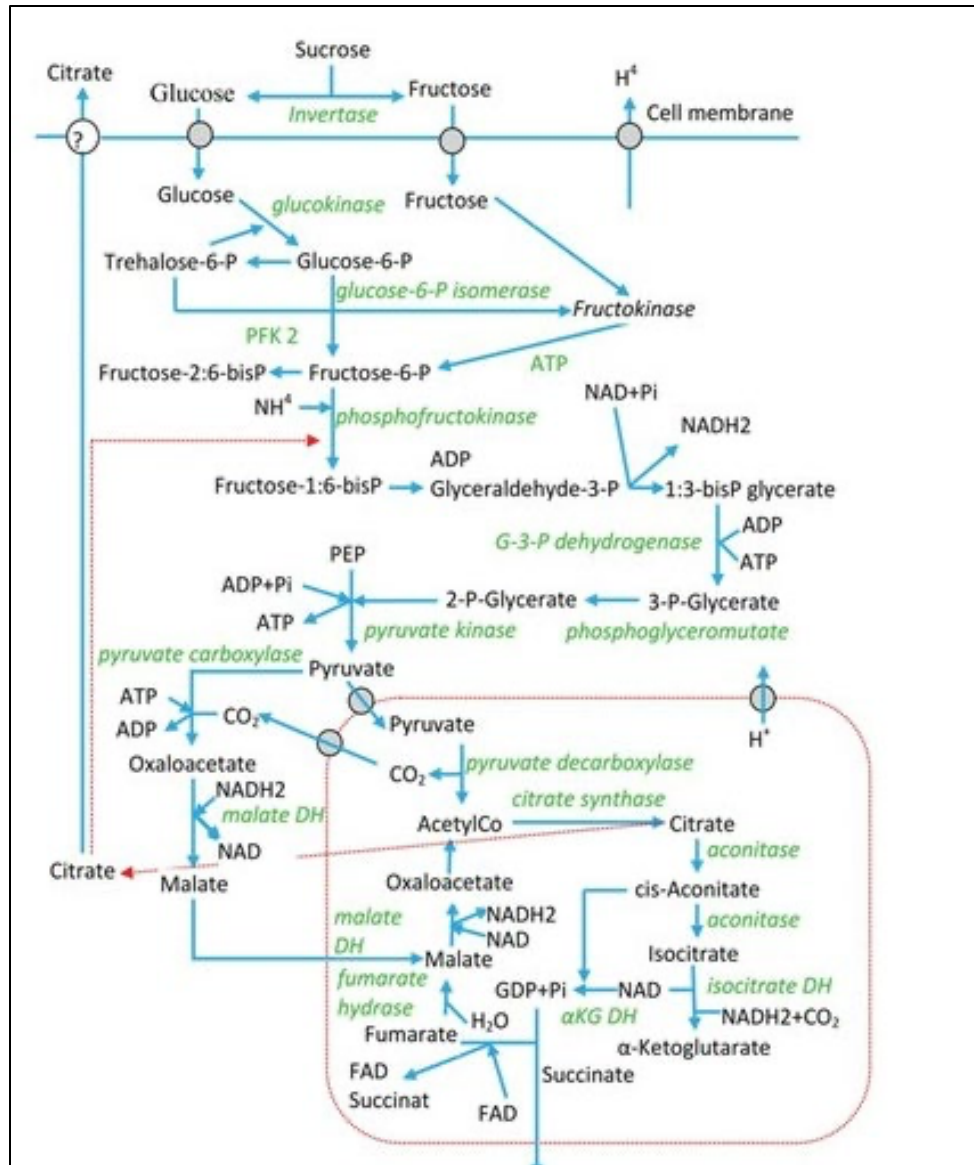
22 _____
 23 ¹⁸ Dr. Ryan Monahan, *Citric Acid: A Common Food Additive With An*
 24 *Uncommon Source* (2024) available at
 25 [https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-](https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-additive-with-an-uncommon-source)
 26 [additive-with-an-uncommon-source](https://www.peacefulmountainmedicine.com/post/citric-acid-a-common-food-additive-with-an-uncommon-source)

27 ¹⁹ *Id.*

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

²¹ *Id.*

(dashed lines) and their locations within the cellular structure of *Aspergillus niger*:²²



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

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

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



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

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

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

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THE CITRIC ACID IN THE PRODUCTS FUNCTIONS AS A PRESERVATIVE

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

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

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

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

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

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Preservatives

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

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

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

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

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

²⁹ FSIS Guideline for Label Approval, UNITED STATES DEPARTMENT OF AGRICULTURE, available at

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

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

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 16 https://www.fsis.usda.gov/sites/default/files/media_file/documents/FSIS-GD-2023-0001.pdf

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

23 ³¹ *What is citric acid, and what is it used for?*, MEDICAL NEWS TODAY (July 23,
 24 2021), *available at* <https://www.medicalnewstoday.com/articles/citric-acid>

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

27 ³³ *Preservative*, MERRIAM-WEBSTER’S DICTIONARY, *available at*
 28 [https://www.merriam-](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)
[webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)
[m_source=jsonld](https://www.merriam-webster.com/dictionary/preservative?utm_campaign=sd&utm_medium=serp&utm_source=jsonld)

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

3 34. Consumers, like Plaintiff, relied on Defendant’s “No
 4 Artificial...Preservatives” labeling statement when purchasing the Products. The
 5 “No Artificial...Preservatives” statement on the labels of the Products is material
 6 to reasonable consumers. “[F]oods bearing ‘free-from’ claims are increasingly
 7 relevant to Americans, as they perceive the products as closely tied to health ... 84
 8 percent of American consumers buy free-from foods because they are seeking out
 9 more natural or less processed foods. In fact, 43 percent of consumers agree that
 10 free-from foods are healthier than foods without a free-from claim, while another
 11 three in five believe the fewer ingredients a product has, the healthier it is (59
 12 percent). Among the top claims free-from consumers deem most important are
 13 trans-fat-free (78 percent) and preservative-free (71 percent).”³⁴

14 35. Plaintiff and the putative class members suffered economic injury as
 15 a result of Defendant’s actions. Plaintiff and putative class members spent money
 16 that, absent Defendant’s actions, they would not have spent. Plaintiff and putative
 17 class members are entitled to damages and restitution for the purchase price of the
 18 Products that were falsely labeled and advertised. Consumers, including Plaintiff,
 19 would not have purchased Defendant’s Products, or would have paid less for the
 20 Products, if they had known the Products actually contain an artificial preservative
 21 ingredient.

22 **PLAINTIFF’S PURCHASE OF THE PRODUCTS**

23 36. Plaintiff Michelle Garza purchased the Peach and Berry Bliss flavors
 24 of the Products in approximately the Summer of 2025 from a Walmart retail store

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

1 located in Los Angeles County, California. Plaintiff saw and relied on the “No
2 Artificial...Preservatives” claim on the labels of the Product. Plaintiff would not
3 have purchased the Product, or would have paid less for the Product, had she
4 known that the product actually contains an artificial preservative ingredient. As a
5 result, Plaintiff suffered injury in fact when she spent money to purchase the
6 Product she would not have purchased, or would have paid less for, absent
7 Defendant’s misconduct. Plaintiff desires to purchase the Product again if the
8 labels of the products were accurate and if the products actually contained “No
9 Artificial...Preservatives.” However, as a result of Defendant’s ongoing
10 misrepresentations, Plaintiff is unable to rely on the Products’ advertising and
11 labeling when deciding in the future whether to purchase the Products.

12 **NO ADEQUATE REMEDY AT LAW**

13 37. Plaintiff and members of the class are entitled to equitable relief as
14 no adequate remedy at law exists. The statutes of limitations for the causes of
15 action pled herein vary. Class members who purchased the Products more than
16 three years prior to the filing of the complaint will be barred from recovery if
17 equitable relief were not permitted under the UCL.

18 38. The scope of actionable misconduct under the unfair prong of the
19 UCL is broader than the other causes of action asserted herein. It includes
20 Defendant’s overall unfair marketing scheme to promote and brand the Products,
21 across a multitude of media platforms, including the product labels, packaging,
22 and online advertisements, over a long period of time, in order to gain an unfair
23 advantage over competitor products. Plaintiff and class members may also be
24 entitled to restitution under the UCL, while not entitled to damages under other
25 causes of action asserted herein (e.g., the CLRA is limited to certain types of
26 plaintiffs (an individual who seeks or acquires, by purchase or lease, any goods or
27 services for personal, family, or household purposes) and other statutorily
28 enumerated conduct).

1 39. A primary litigation objective in this litigation is to obtain injunctive
2 relief. Injunctive relief is appropriate on behalf of Plaintiff and members of the
3 class because Defendant continues to misrepresent the Products as containing “No
4 Artificial...Preservatives” when the Products actually contain an artificial
5 preservative ingredient. Injunctive relief is necessary to prevent Defendant from
6 continuing to engage in the unfair, fraudulent, and/or unlawful conduct described
7 herein and to prevent future harm—none of which can be achieved through
8 available legal remedies (such as monetary damages to compensate past harm).
9 Injunctive relief, in the form of affirmative disclosures or halting the sale of
10 unlawfully sold products is necessary to dispel the public misperception about the
11 Products that has resulted from years of Defendant’s unfair, fraudulent, and
12 unlawful marketing efforts. Such disclosures would include, but are not limited to,
13 publicly disseminated statements stating that the Products actually contain an
14 artificial preservative ingredient. An injunction requiring affirmative disclosures
15 to dispel the public’s misperception, and prevent the ongoing deception and repeat
16 purchases, is also not available through a legal remedy (such as monetary
17 damages). In addition, Plaintiff is currently unable to accurately quantify the
18 damages caused by Defendant’s future harm, because discovery and Plaintiff’s
19 investigation has not yet completed, rendering injunctive relief necessary. Further,
20 because a public injunction is available under the UCL, and damages will not
21 adequately benefit the general public in a manner equivalent to an injunction.

22 40. It is premature to determine whether an adequate remedy at law
23 exists. This is an initial pleading and discovery has not yet commenced and/or is
24 at its initial stages. No class has been certified yet. No expert discovery has
25 commenced and/or completed. The completion of fact/non-expert and expert
26 discovery, as well as the certification of this case as a class action, are necessary
27 to finalize and determine the adequacy and availability of all remedies, including
28 legal and equitable, for Plaintiff’s individual claims and any certified class or

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1 subclass. Plaintiff therefore reserves her right to amend this complaint and/or
2 assert additional facts that demonstrate this Court’s jurisdiction to order equitable
3 remedies where no adequate legal remedies are available for either Plaintiff and/or
4 any certified class or subclass. Such proof, to the extent necessary, will be
5 presented prior to the trial of any equitable claims for relief and/or the entry of an
6 order granting equitable relief.

7 **CLASS ACTION ALLEGATIONS**

8 41. Plaintiff brings this action as a class action pursuant to Federal Rules
9 of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of the following Classes:

10 **The Nationwide Class**

11 All persons who purchased the Products for personal use in the United
12 States within the applicable statute of limitations until the date class
13 notice is disseminated.

14
15 **The California Class**

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

19
20 42. The Nationwide Class and California Class are collectively referred
21 to as “the Class.”

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

27 44. Plaintiff reserves the right to amend or otherwise alter the class
28 definition presented to the Court at the appropriate time, or to propose or eliminate

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1 subclasses, in response to facts learned through discovery, legal arguments
2 advanced by Defendant, or otherwise.

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

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

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

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

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

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

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

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

24 48. Typicality: Plaintiff is a member of the Class that Plaintiff seeks to
25 represent. Plaintiff’s claims are typical of the claims of each Class Member in that
26 every member of the Class was susceptible to the same deceptive, misleading
27 conduct and purchased the Products. Plaintiff is entitled to relief under the same
28 causes of action as the other Class Members.

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

13 50. The Class is properly brought and should be maintained as a class
14 action because a class action is superior to traditional litigation of this controversy.
15 A class action is superior to the other available methods for the fair and efficient
16 adjudication of this controversy because:

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

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

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

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

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

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

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

7 h. Class Members’ interests in individually controlling the prosecution
8 of separate actions is outweighed by their interest in efficient resolution by single
9 class action;

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

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

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

23 **FIRST CLAIM FOR RELIEF**

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

25 **Cal. Civ. Code § 1750 *et seq.***

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

28

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

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

5 57. At all relevant times, Defendant was a “person,” as defined in
6 California Civil Code section 1761(c).

7 58. At all relevant times, the Products manufactured, marketed,
8 advertised, and sold by Defendant constituted “goods,” as defined in California
9 Civil Code section 1761(a).

10 59. The purchases of the Products by Plaintiff and the members of the
11 Class were and are “transactions” within the meaning of California Civil Code
12 section 1761(e).

13 60. Defendant disseminated, or caused to be disseminated, through its
14 advertising, false and misleading representations, including the Products’ labeling
15 that the Products contain “No Artificial...Preservatives.” Defendant failed to
16 disclose that the Products contain an artificial preservative ingredient called citric
17 acid. This is a material misrepresentation and omission as reasonable consumer
18 would find the fact that the Products contain an artificial preservative ingredient
19 to be important to their decision in purchasing the Products. Defendant’s
20 representations violate the CLRA in the following ways:

21 a) Defendant represented that the Products have characteristics,
22 ingredients, uses, and benefits which they do not have (Cal. Civ. Code §
23 1770(a)(5));

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

26 c) Defendant advertised the Products with an intent not to sell the
27 Products as advertised (Cal. Civ. Code § 1770(a)(9)); and
28

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

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

9 62. Defendant’s actions as described herein were done with conscious
10 disregard of Plaintiff’s and the Class members’ rights and were wanton and
11 malicious.

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

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

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

26 66. Pursuant to section 1780(d) of the CLRA, attached hereto is an
27 affidavit showing that this action was commenced in a proper forum.
28

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SECOND CLAIM FOR RELIEF

Violation of California’s Unfair Competition Law

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

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

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

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

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

71. Defendant committed “unfair” business acts or practices by: (1) engaging in conduct where the utility of such conduct is outweighed by the harm to Plaintiff and the members of the Class; (2) engaging in conduct that is immoral, unethical, oppressive, unscrupulous, or substantially injurious to Plaintiff and the members of the Class; and (3) engaging in conduct that undermines or violates the intent of the consumer protection laws alleged herein. There is no societal benefit from deceptive advertising. Plaintiff and the other Class members paid for a Product that is not as advertised by Defendant. Further, Defendant failed to disclose a material fact (that the Products contain an artificial ingredient) of which

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1 they had exclusive knowledge. While Plaintiff and the other Class members were
2 harmed, Defendant was unjustly enriched by its false misrepresentations and
3 material omissions. As a result, Defendant’s conduct is “unfair,” as it offended an
4 established public policy. There were reasonably available alternatives to further
5 Defendant’s legitimate business interests, other than the conduct described herein.

6 72. Defendant committed “fraudulent” business acts or practices by
7 making the representations of material fact regarding the Products set forth herein.
8 Defendant’s business practices as alleged are “fraudulent” under the UCL because
9 they are likely to deceive customers into believing the Products actually contain
10 no preservatives.

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

17 74. Defendant’s wrongful business practices and violations of the UCL
18 are ongoing.

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

24 76. Unless restrained and enjoined, Defendant will continue to engage in
25 the above-described conduct. Accordingly, injunctive relief is appropriate.
26 Pursuant to California Business & Professions Code section 17203, Plaintiff,
27 individually and on behalf of the Class, seeks (1) restitution from Defendant of all
28 money obtained from Plaintiff and the other Class members as a result of unfair

1 competition; (2) an injunction prohibiting Defendant from continuing such
2 practices in the State of California that do not comply with California law; and (3)
3 all other relief this Court deems appropriate, consistent with California Business
4 & Professions Code section 17203.

5 **THIRD CLAIM FOR RELIEF**

6 **Breach of Express Warranty**

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

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

11 79. As the manufacturer, marketer, distributor, and seller of the Products,
12 Defendant issued an express warranty by representing to consumers at the point of
13 purchase that the Products contain “No Artificial...Preservatives.”

14 80. Plaintiff and the Class reasonably relied on Defendant’s
15 misrepresentations, descriptions and specifications regarding the Products,
16 including the representation that the Products contain “No
17 Artificial...Preservatives.”

18 81. Defendant’s representations were part of the description of the goods
19 and the bargain upon which the goods were offered for sale and purchased by
20 Plaintiff and Members of the Class.

21 82. In fact, the Products do not conform to Defendant’s representations
22 because the Products contain an artificial ingredient called citric acid. By falsely
23 representing the Products in this way, Defendant breached express warranties.

24 83. Plaintiff relied on Defendant’s (the manufacturer) representations on
25 the Products’ labels and advertising materials which provide the basis for an
26 express warranty under California law.

27 84. As a direct and proximate result of Defendant’s breach, Plaintiff and
28 Members of the Class were injured because they: (1) paid money for the Products

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1 that were not what Defendant represented; (2) were deprived of the benefit of the
2 bargain because the Products they purchased were different than Defendant
3 advertised; and (3) were deprived of the benefit of the bargain because the
4 Products they purchased had less value than if Defendant's representations about
5 the characteristics of the Products were truthful. Had Defendant not breached the
6 express warranty by making the false representations alleged herein, Plaintiff and
7 Class Members would not have purchased the Products or would not have paid as
8 much as they did for them.

9 **REQUEST FOR RELIEF**

10 Plaintiff, individually, and on behalf of all others similarly situated, request
11 for relief pursuant to each claim set forth in this complaint, as follows:

- 12 a. Declaring that this action is a proper class action, certifying the Class
13 as requested herein, designating Plaintiff as the Class Representative and
14 appointing the undersigned counsel as Class Counsel;
- 15 b. Ordering restitution and disgorgement of all profits and unjust
16 enrichment that Defendant obtained from Plaintiff and the Class members as a
17 result of Defendant's unlawful, unfair, and fraudulent business practices;
- 18 c. Ordering injunctive relief as permitted by law or equity, including
19 enjoining Defendant from continuing the unlawful practices as set forth herein,
20 and ordering Defendant to engage in a corrective advertising campaign;
- 21 d. Ordering damages in amount which is different than that calculated
22 for restitution for Plaintiff and the Class;
- 23 e. Ordering Defendant to pay attorneys' fees and litigation costs to
24 Plaintiff and the other members of the Class;
- 25 f. Ordering Defendant to pay both pre- and post-judgment interest on
26 any amounts awarded; and
- 27 g. Ordering such other and further relief as may be just and proper.
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JURY DEMAND

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

Dated: March 25, 2026

CROSNER LEGAL, P.C.

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

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Attorneys for Plaintiff and the Proposed Class

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Affidavit Pursuant to Civil Code Section 1780(d)

I, MICHAEL T. HOUCHIN, declare as follows: