

**COURT OF COMMON PLEAS OF PENNSYLVANIA,
ERIE COUNTY**

JOSEPH HAUSER, on behalf of himself and
all others similarly situated,

Plaintiffs,

v.

CELESTIAL SEASONINGS, INC.,

Defendant.

CIVIL DIVISION

Case No. _____

Judge _____

COMPLAINT

CLASS ACTION

JURY TRIAL DEMANDED

Counsel of Record for Plaintiffs:

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NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and Notice are served by entering a written appearance personally, or by attorney, and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you, and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint, or for any other claim or relief requested by the Plaintiff(s). You may lose money, or property, or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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Erie, PA 16507
Telephone: (814) 459-4411
Hours: Mon. – Fri. 8:30 a.m. to 3:00 p.m.**

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Plaintiff Joseph Hauser brings this action on behalf of himself and all others similarly situated against Defendant CELESTIAL SEASONINGS, INC. Plaintiff makes the following allegations pursuant to the investigation of counsel and based upon information and belief, except as to the allegations specifically pertaining to himself, which are based on personal knowledge.

INTRODUCTION

1. This case arises from Defendant's deceptive and misleading practices with respect to its marketing and sale of its Fruit Tea Sampler Herbal Tea (the "Products" or "Product").



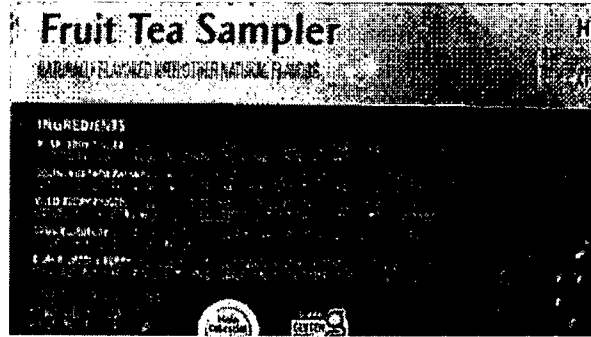
2. Defendant manufactures, distributes, markets, labels and sells the Product.

3. Defendant deceptively represents that the Product is solely flavored by natural ingredients.

4. The Product states that the fruit flavors present in each of the teas is “NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS.”

5. Plaintiff relied upon this representation when he purchased the Product.

6. The deception lies in the fact that the Product is not solely flavored by natural ingredients because the peach and blackberry flavored teas are flavored in part by the synthetic flavoring ingredient Citric Acid.



7. Defendant’s use of Citric Acid as a flavoring ingredient while also representing to consumers that the Product is “naturally flavored” is not only unlawful under Pennsylvania and federal law, but also, it is deceptive to reasonable consumers.

8. Plaintiff and Class Members relied on these representations and omissions and were injured both in the price paid for the Product as well as the premium paid for the Product over a similar product not bearing this deceptive representation.

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9. Reasonable consumers would not have purchased the Products if they had known about the misrepresentations and omissions, or would have purchased them on different terms.

10. Plaintiff brings this action individually and on behalf of those similarly situated and seeks to represent a Class of consumers. Plaintiff seeks damages, interest thereon, reasonable attorneys' fees and costs, restitution, other equitable relief, and disgorgement of all benefits Defendant has enjoyed from its unlawful and deceptive business practices, as detailed herein. In addition, Plaintiff seeks injunctive relief to stop Defendant's unlawful conduct in the labeling and marketing of the Products and conduct a corrective advertising campaign.

JURISDICTION AND VENUE

11. Jurisdiction is proper in this Court pursuant to 42 Pa.C.S. § 931(a) which imbues the courts of common pleas with unlimited original jurisdiction over all actions cognizable by law.

12. Venue is proper in the Court of Common Pleas of Erie County pursuant to Pa. R.C.P. 2179(a)(3) because Erie County, Pennsylvania is the geographic jurisdiction wherein the causes of action alleged herein transpired and arose.

13. Jurisdiction and venue in this Court are proper because, *inter alia*, the Defendant regularly conducts business in this County, and transactions or occurrences giving rise to the causes of action occurred in this County.

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PARTIES

14. Plaintiff is an adult citizen of Pennsylvania residing in Erie County.
 - a. In the preceding year, Plaintiff has purchased Defendant's Product from a variety of retailers located in Erie County, and purchased the Product from retailers located outside of Erie County that shipped the Product to his home in Erie County.
 - b. Prior to her purchase, Plaintiff saw and relied on Defendant's marketing and labeling representing that the Product's flavor was provided solely by natural ingredients and did not rely upon artificial flavoring.
 - c. Plaintiff wished to purchase the Product for personal consumption. When Plaintiff saw Defendant's misrepresentations prior to and at the time of purchase, she relied on Defendant's prominent representations and claims about the Products. Specifically, that the Product's peach and blackberry flavor was provided solely by natural ingredients and not provided by artificial ingredients.
 - d. Plaintiff relied on the Defendant's representations, including but not limited to, that the Product was a "Fruit Tea Sampler" as well as the images of peaches and blackberries and the repeated "peach" and "berry" words on the front label, the "NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS," and the omission that the Products are artificially flavored.

- e. Plaintiff understood these representations to mean the Product's flavoring was provided solely by natural ingredients and did not rely upon artificial ingredients. Had Plaintiff known the truth, he would not have purchased the Products at a premium price.
- f. Plaintiff brings the claims below seeking damages, actual and statutory, as well as injunctive relief.

15. Defendant CELESTIAL SEASONINGS, INC. is a corporation organized under the laws of Delaware with its principal place of business located in Boulder, Colorado.

- a. Defendant produces, markets, distributes, and sells its consumer food products in retail stores throughout the Commonwealth of Pennsylvania.
- b. At all relevant times, Defendant was engaged in manufacturing, marketing, distributing, and advertising its Product throughout Pennsylvania.

16. Plaintiff reserves the right to amend this Complaint to add different or additional defendants, including without limitation any officer, director, employee, supplier, or distributor of Defendant who has knowingly and willfully aided, abetted, or conspired in the false and deceptive conduct alleged herein.

17. Whenever reference is made in this Complaint to any representation, act, omission, or transaction of a defendant, that allegation shall mean that the

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defendant did the act, omission, or transaction through its officers, directors, employees, agents, and/or representatives while they were acting within the actual or ostensible scope of their authority.

FACTS

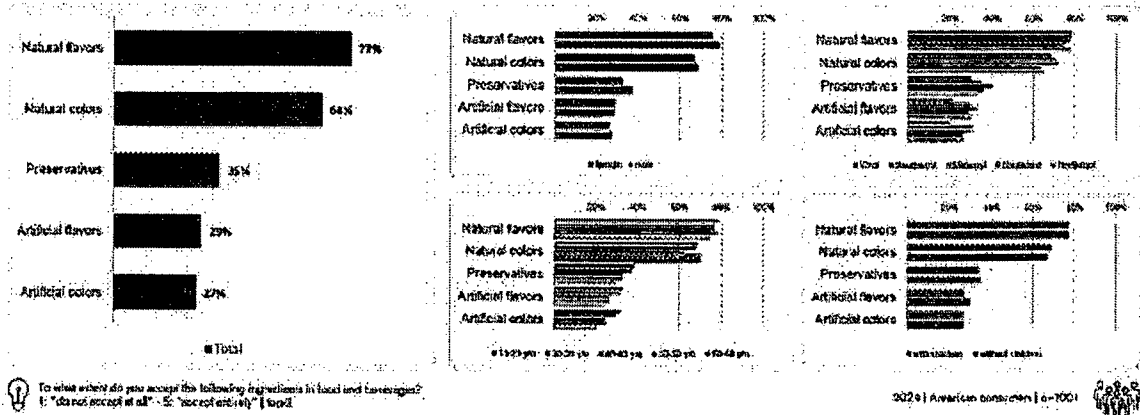
A. Defendant deceives consumers by misrepresenting that the Products are not artificially flavored.

18. Consumers increasingly and consciously seek out healthier foods and snacks— placing value on products that do not rely upon artificial flavoring. Consumers seek these types of products for various reasons, including perceived benefits of attaining health and wellness for themselves and their families.

19. Consumers across all demographics have a strong preference for products that rely upon natural flavors rather than artificial flavors.

Acceptance of additives

Consumers show a clear preference for natural over artificial ingredients in foods and beverages, with natural flavors and colors receiving the highest positive acceptance scores. It also shows that natural colors are significantly preferred by consumers over artificial colors. This preference does not differ by gender or whether or not consumers have children. There are slight differences by region and age, showing that artificial colors are less accepted in the Western region and by older consumers.



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20. As a result, consumers are willing to pay, and have paid, a premium for products that do not rely on artificial flavors.

21. Companies such as the Defendant capitalize on the consumer's demand for authentic flavoring and generate increased unit sales, revenue, and profit by misrepresenting the sole use of flavor from natural ingredients while hiding the Product's reliance on artificial flavoring.

22. Further, consumers rely on label representations and information in making purchasing decisions.

23. Knowing this, Defendant prominently feature fruit representations displayed in words and images throughout its packaging.

24. Notably, the Product's principal display panel displays images of peaches, blackberries, raspberries, blueberries, and cherries. Additionally, the words "Raspberry," "Peach," "Berry," "Blueberry, and "Cherry" are prominently featured directly below the images of each fruit.



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25. The Product additionally includes “NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS.”

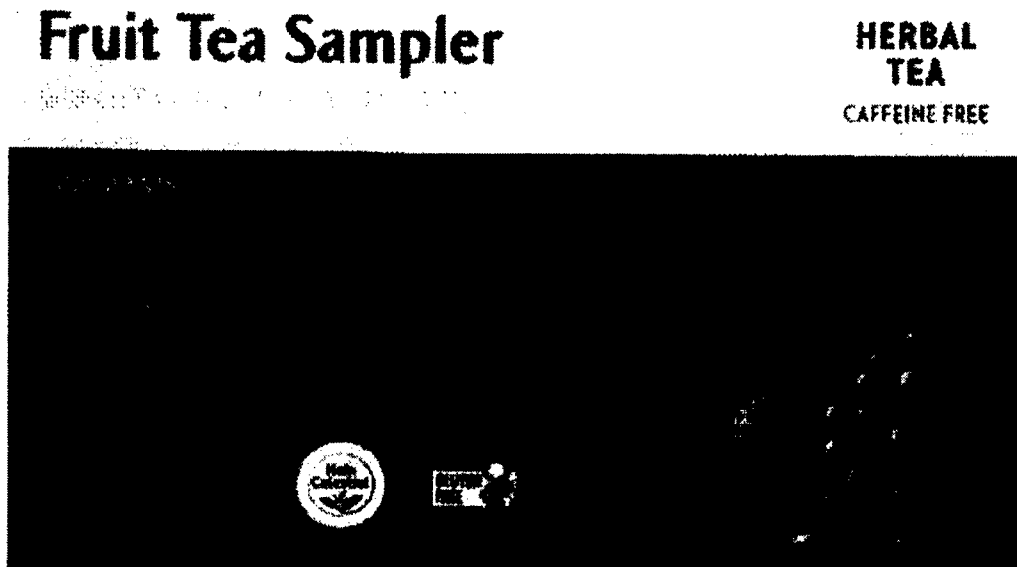
26. There is no indication that the Product is artificially flavored.

27. This leads consumers to believe that the Product’s peach and blackberry flavor is not sourced from artificial flavoring.

28. This leads consumers to believe that the Product’s peach and blackberry flavor is provided by only natural ingredients.

29. Reasonable consumers – accustomed to companies complying with FDA regulations and declaring the use of artificial flavoring – accept this representation to mean that the flavor does not rely upon artificial flavors.

30. In contrast to these representations, the peach and blackberry flavors are artificially flavored in part by Citric Acid.



31. The Citric Acid in the Product is synthetic.
 - a. Naturally occurring citric acid exists in many fruits and vegetables.
 - b. Synthetically-produced citric acid, known as manufactured citric acid (“MCA”), as opposed to the naturally occurring kind that exists in fruits and vegetables, is utilized extensively in food manufacturing. MCA is subject to significant chemical processing.¹
 - c. The vast majority of MCA (estimated 99%) is synthesized using mutant strain of a black mold *Aspergillus niger*.²
 - d. The “Solvent extraction process for citric acid” requires the “recovery of citric acid from conventional *Aspergillus niger* fermentation liquor” which allows the production of “food-grade citric acid in accordance with” specified conditions, including that “[t]he solvent used in the process consists of a mixture of n- octyl alcohol meeting the requirements of §172.864 of this chapter, synthetic isoparaffinic petroleum hydrocarbons meeting the requirements of §172.882 of this chapter, and tridoecyl amine.” 12 C.F.R. §173.280.

¹ Hesham, Abd El-Latif, *Optimization of Citric Acid Production by Immobilized Cells of Novel Yeast Isolates*, MYCOBIOLOGY (Feb. 21 2020), vol. 48,2 122-132.

² Sweis, I. E., & Cressey, B. C., *Potential role of the common food additive manufactured citric acid in eliciting significant inflammatory reactions contributing to serious disease states: A series of four case reports*, TOXICOLOGY REPORTS (2018), 5, 808–812.

- e. The solvent extraction process for citric acid uses chemical solvents (noctyl alcohol and synthetic isoparaffinic petroleum hydrocarbons) to extract the citric acid from the *Aspergillus niger* fermentation liquor and residue of the chemical solvents remains in “finished” MCA.
- f. MCA is an unnatural substance. Nearly all MCA begins with highly processed glucose from corn syrup derived from corn, with less from beet sugar, cane molasses, and fruit waste.³
- g. The FDA has stated that citric acid is an artificial and synthetic additive in multiple warning letters to the food industry. *See, e.g.*, Warning Letter to Oak Tree Farm Dairy, Food & Drug Admin. (Aug. 16, 2001) (use of the phrase “Nothing Artificial” on a label was misleading to consumers “because [the food] contains citric acid”); Warning Letter to Hirzel Canning Co., Food & Drug Admin. (Aug. 29, 2001) (“[T]he addition of ... citric acid to these products preclude the use of the term ‘natural’ to describe the product.”); Warning Letter to Fresh Express Inc., Food & Drug Admin. (Aug. 6, 2010) (citric acid on nutrition label without description of function is misbranding).⁴

³ *Id.*

⁴ FDA Warning Letters sent on August 16, 2001, August 29, 2001, and October 6, 2010 letters, *available at* <https://www.fda.gov/inspections-compliance-enforcement-and-criminal-investigations/warning-letters/>.

- h. Over 99 percent of the world's output of citric acid is produced through artificial means.⁵
32. Defendant voluntarily uses MCA as an ingredient in the Product.
- a. All of the citric acid that Defendant adds as an ingredient in the Product is synthetically produced.
 - b. Defendant does not add natural citric acid as an ingredient in the Product.
 - c. If the citric acid added by Defendant as an ingredient in the Product were wholly natural, Defendant would not have listed it as a separate item on the Product's ingredient lists because it would have fallen within the ambit of "other natural flavors" that appears on the Product's ingredient list.
 - d. Because the citric acid that Defendant adds to the Product is MCA, and not natural citric acid (or an "other natural flavor"), the ingredient panels include citric acid as a separate ingredient presumably to comply with federal law requiring the identification of all ingredients in a product.

⁵ Behera, B. C., *Citric acid from Aspergillus niger: a comprehensive overview*, CRITICAL REVIEWS IN MICROBIOLOGY (2020), 46(6), 727–749.

- e. Defendant's separate listing for citric acid on its ingredient list confirms the fact that the citric acid added by Defendant to the Product is MCA, and not natural citric acid.
 - f. Unfortunately, reasonable consumers are unaware, because of Defendant's misrepresentations, that the citric acid in the Product is synthetically-made, and not natural.
 - g. Instead, reasonable consumers believe and rely upon what they are explicitly told by product makers on product labels, and in this case, consumers were unambiguously told by Defendant, and therefore reasonably believed, that the Product is "NATURALLY FLAVORED WITH OTHER NATURAL FLAVORS."
33. Defendant adds MCA in order to flavor the Product.
- a. Defendant knowingly and purposefully adds MCA as an ingredient in the Product in order to flavor the peach and "wild berry" teas included in the Product.
 - b. The Product therefore contains artificial flavor.
 - c. Defendant does not add MCA to the Product for the purpose of using MCA as a preservative. That is evident from the fact that Defendant does not add citric acid as an ingredient in every flavor of the tea contained in the Product.

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d. Rather, the reason Defendant adds MCA as an ingredient in the Product is for the MCA to flavor specifically the peach and “wild berry” teas.

34. To offset the use of artificial flavoring, Defendant overcompensates by overloading fruit representations throughout its’ Products’ packaging in combination with the representation that the flavor is provided solely by natural ingredients.

35. For example, on multiple locations throughout the Product’s packaging, Defendant includes images of peaches and blackberries and numerous references to these fruits.

36. Based on the representations that appear in the marketing and on the packaging of the Products, Plaintiff reasonably believed that the Products were solely flavored by natural ingredients and not artificially flavored.

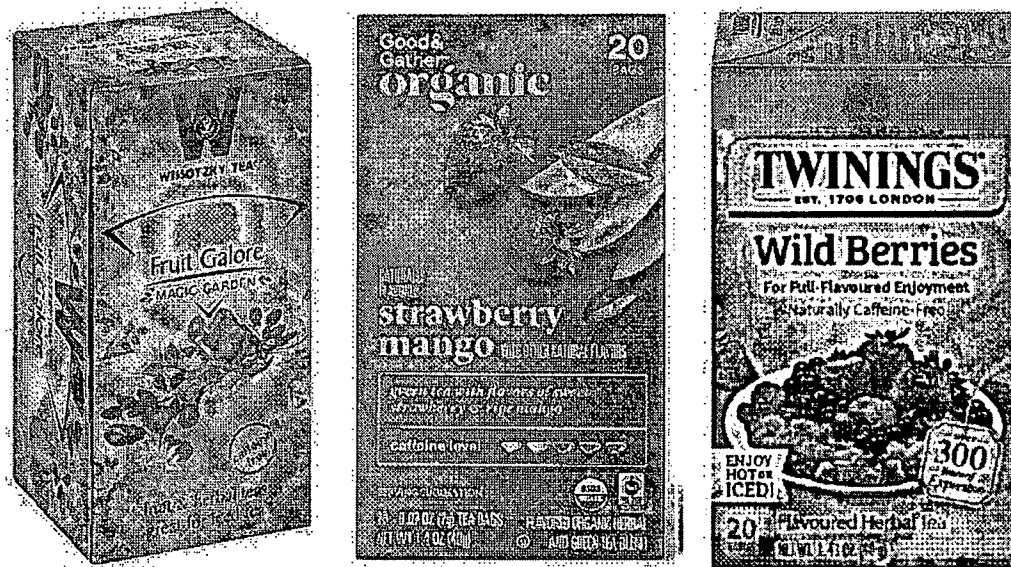
37. Taken as a whole, the words and images used on Defendant’s packaging leads consumers to believe that the Products are solely flavored by natural ingredients and not artificially flavored.

38. Rather, Defendant’s Products are artificially flavored.

39. Not only are consumers misled but also competing products sharing the same shelves as Defendant’s Products are placed at a competitive disadvantage.

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40. For example, these competing products are sold in the same stores as Defendant's Products yet—unlike the Products—these items accurately represent that they are not artificially flavored:



41. Defendant's deceptions harm not only consumers but also companies that accurately represent its products by diverting attention and dollars away from competitors that are good faith market participants.

B. The Products are misbranded.

42. Because the Products contain artificial flavors, federal and state laws require the Products to display disclosures to inform consumers that they are artificially flavored.

43. The Products' labeling shows none of the required disclosures alerting consumers that the Products are artificially flavored.

44. Because the peach and blackberry flavors are derived by artificial ingredients, the “Naturally Flavored” representation is false and deceptive.

45. The Products therefore violate federal and state consumer protection laws.

46. The U.S. Food, Drug, and Cosmetic Act regulations require that a food’s label accurately describe the food product, its characterizing flavors, and all ingredients. *See*, 21 C.F.R. 102.5(a).

47. Pennsylvania’s Food Safety Act has adopted the entirety of the FDCA.

48. Under federal and state law, any recognizable primary flavor identified on the front label of a food Product is referred to as a “characterizing flavor.”

49. Federal regulations hold that if “the label, labeling, or advertising of a food makes any direct or indirect representations with respect to the primary recognizable flavor(s), by word, vignette, *e.g.*, depiction of a fruit, or other means” then “such flavor shall be considered the characterizing flavor”. *See* 21 C.F.R. 101.22(i).

50. The peaches and blackberries displayed on the Product’s front-label and numerous “peach” and “blackberry” references are primary recognizable flavors and are therefore considered characterizing flavors.

51. If a product’s characterizing flavor is not created exclusively by the named flavor ingredient, the product’s front label must state that the product contains either natural or artificial flavorings or both.

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52. If any artificial flavor “simulates, resembles or reinforces” the characterizing flavor in the product, the food must be prominently labeled as “Artificially Flavored.” 21 C.F.R. 101.22(i) (3), (4).

53. Under FDCA section 403, a food is “misbranded” if “its labeling is false or misleading in any particular.” *See* 21 U.S.C. §§ 343(a).

54. The composition of the flavoring of the Products has a material bearing on price and consumer acceptance. Moreover, Defendant’s marketing and labeling of the Product—including imagery and references of peaches and berries with the representation that the product is flavored solely by natural ingredients and the omission of language identifying that it is artificially flavored—creates the erroneous impression that the Products are not artificially flavored.

55. The Products are artificially flavored.

56. Because the Defendant fail to reveal the basic nature and characterizing properties of the Products (specifically, the source of the flavoring), Defendant’s Products are not only sold with misleading labeling but also misbranded under Sections 403(a) of the Food Drug & Cosmetic Act (“FDCA”), 21 U.S.C. §§ 343(a), and cannot be legally manufactured, advertised, distributed, or sold in the U.S. as it is currently labeled. *See* 21 U.S.C. § 331.

57. Moreover, Pennsylvania law forbids the misbranding of food in language identical to that found in the FDCA.

58. The Products are misbranded under Pennsylvania’s Food Safety Act.

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59. The Food Safety Act states: “All regulations and supplements thereto or revisions thereof adopted under the Federal acts which relate to food on, before or after the effective date of this subchapter are adopted as regulations in this Commonwealth.” 3 Pa. Stat. and Cons. Stat. Ann. § 5733. Also, the Food Safety Act mandates that all regulations thereunder, must “be construed in a manner that is consistent with the Federal acts and regulations promulgated under those acts.” 3 Pa. Stat. and Cons. Stat. Ann. § 5736. Specifically, “food standards and labeling requirements” must be consistent with Federal regulations. *Id.*

60. By misrepresenting the basic nature and characterizing properties of the Products, Defendant violates these federal and state regulations and misleads Plaintiff and other reasonable consumers

C. Reasonable consumers relied on Defendant’s misrepresentations to their detriment.

61. Defendant’s deceptive representations and omissions are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions.

62. Plaintiff and the Class Members reasonably relied to their detriment on Defendant’s misleading representations and omissions.

63. Defendant’s false, misleading, and deceptive misrepresentations and omissions are likely to continue to deceive and mislead reasonable consumers and the general public, as they have already deceived and misled the Plaintiff and the Class Members.

D. Defendant's wrongful conduct caused Plaintiff's and the Class Members' injuries.

64. Defendant knows that consumers are willing to pay more for food and beverage products that are represented as being flavored solely by natural ingredients.

65. Defendant knows that consumers are willing to pay more for food and beverage products that are not represented as being artificially flavored.

66. As a result of these unfair and deceptive practices, Defendant has likely collected millions of dollars from the sale of the Products that they would not have otherwise earned. Plaintiff and Class Members paid money for food items that are not what they purported to be or what they bargained for. They paid a premium for the Products when they could have instead bought other, less expensive products that do not purport to be flavored solely by natural ingredients or include the mandatory disclosure language which notifies consumers that the product is artificially flavored.

67. In making the false and misleading representations described herein, Defendant knew and intended that consumers would pay for, and/or pay a premium for, a product labeled and advertised as being flavored solely by natural ingredients.

68. As an immediate, direct, and proximate result of Defendant's false and misleading representations, Defendant injured the Plaintiff and the Class Members in that they:

- a. Paid a sum of money for Products that were not what Defendant represented;
- b. Paid a premium price for Products that were not what Defendant represented;
- c. Were deprived of the benefit of the bargain because the Products they purchased were different from what Defendant warranted;
- d. Were deprived of the benefit of the bargain because the Products they purchased had less value than what Defendant represented;
- e. Could not be used for the purpose for which they were purchased; and
- f. Were of a different quality than what Defendant promised.

69. Had Defendant not made the false, misleading, and deceptive representations, Plaintiff and the Class Members would not have been willing to pay the same amount for the Products they purchased, and, consequently, Plaintiff and the Class Members would not have been willing to purchase the Products.

70. Plaintiff and the Class Members paid for Products that were purported to not be artificially flavored. The products Plaintiff and the Class Members received were worth less than the products for which they paid.

71. Based on Defendant's misleading and deceptive representations, Defendant was able to, and did, charge a premium price for the Products over the cost of competitive products not bearing the representations.

72. Plaintiff and the Class Members all paid money for the Products. However, Plaintiff and the Class Members did not obtain the full value of the advertised Products due to Defendant's misrepresentations and omissions. Plaintiff and the Class Members purchased, purchased more of, and/or paid more for, the Products than they would have had they known the truth about the Products. Consequently, Plaintiff and the Class Members have suffered injury in fact and lost money as a result of Defendant's wrongful conduct.

CLASS DEFINITIONS AND ALLEGATIONS

73. The Class consists of all individuals who, on or after April 6, 2020 purchased the Product from a store located within Pennsylvania or an online store and shipped to a Pennsylvania address.

74. The questions of law and fact relating to Defendant's conduct, and the inequity and impropriety of that conduct, as more fully set forth above, are questions which are common to and affect the entire Class. These common questions predominate over and are a necessary precedent to any questions affecting only individual Class Members.

75. The claims of the named Class Representative are typical of the claims of the Class.

76. While the exact number of Class Members is not yet known, subject to discovery, it is believed and therefore averred that the Class contains more than 100 people. While the Class is numerous, it is believed that Defendant maintains

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extensive records relating to the mislabeled Products sold in Pennsylvania as described in this Complaint, along with the identity of Class Members.

77. Individual actions by members of the Class would, as a practical matter, be dispositive of the interest of members who are not parties, and may substantially impede his or her ability to protect his or her interest and/or create or lead to inconsistent adjudications.

78. In view of the potential expenses of litigation, the separate claims of individual Class Members are insufficient to support the hundreds of separate actions. A Class Action is the most expeditious and cost-effective method of addressing Defendant's improper conduct in Pennsylvania.

79. Defendant, as more fully set above, has acted and/or refused to act on grounds generally applicable to the Class by engaging in conduct which is contrary to Pennsylvania law, which constitutes unfair and/or deceptive conduct under Pennsylvania law, breaches express and implied warranties, and unjustly enriches Defendant.

80. It is believed and therefore averred that counsel for the Class Representative will diligently and adequately represent the interests of the Class.

81. The Class Representative, after reasonable inquiry, has determined that she has no conflict of interest in the maintenance of the Class Action, and has or can acquire adequate financial resources to ensure that the interests of the Class will not be harmed.

CAUSES OF ACTION

COUNT I

**Violation of Pennsylvania Unfair Trade Practices and Consumer Protection Law,
73 Pa. Cons. Stat. §§ 201-1 et seq.**

82. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

83. Plaintiff brings this Count individually and on behalf of the members of the Class.

84. Pennsylvania's Unfair Trade Practices and Consumer Protection Law, 73 Pa. Stat. Ann. §§ 201-1 et seq. (the "UTPCPL") makes unlawful "[u]nfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce. . . ."

85. The UTPCPL specifically defines what constitutes unfair methods of competition and unfair or deceptive acts or practices. Defendant engaged in unfair methods of competition and unfair or deceptive acts or practices in the conduct of its trade and commerce in violation of the UTPCPL, including the following:

- (a) representing that its goods and services have characteristics, uses, benefits, and qualities they do not have (73 Pa. Cons. Stat. § 201-2(4)(v));
- (b) representing that its goods and services are of a particular standard or quality if they are another (73 Pa. Cons. Stat. § 201-2(v)(vii));
- (c) advertising its goods and services with intent not to sell them as advertised (73 Pa. Cons. Stat. § 201-2(4)(ix)); and

(d) engaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or of misunderstanding (73 Pa. Cons. Stat. § 201-2(v)(xxi)).

86. Defendant is a “person,” as meant by 73 Pa. Cons. Stat. § 201-2(2).

87. Plaintiff and the Class Members purchased goods and services in “trade” and “commerce,” as meant by 73 Pa. Cons. Stat. § 201-2(3), primarily for personal, family, and/or household purposes.

88. As alleged more fully above, Defendant has violated the Unfair Trade Practices and Consumer Protection Law by misleadingly, deceptively, and falsely representing to Plaintiff and the other members of the Class that the Products are not artificially flavored when in fact they are artificially flavored.

89. Defendant additionally violates the Unfair Trade Practices and Consumer Protection Law by artfully omitting the required disclosure statements informing consumers that the Products are artificially flavored.

90. Defendant’s omissions and misrepresentations included lying about the quality of its Products because they are artificially flavored. Defendant additionally engaged in deceptive conduct which created the likelihood that Plaintiff would misunderstand the nature of the Products when Defendant represented that its Products were not artificially flavored. Defendant’s Products do not conform as they are warranted and represented.

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91. Defendant knew or should have known that when the Products left its control, that they were not in conformity or consistent with representations on the labels. Accordingly, Defendant's Products did not provide the represented and warranted benefits.

92. Defendant's representations and omissions were material because they were likely to deceive reasonable consumers.

93. Defendant intended that Plaintiff and other Class Members rely on its omissions and misrepresentations, and this reliance was crucial to Defendant commanding a premium price for the Products.

94. As a direct and proximate result of Defendant's deceptive acts and practices, Plaintiff and the Class have suffered and will continue to suffer injury, ascertainable losses of money or property, and monetary and non-monetary damages, including from not receiving the benefit of their bargain in purchasing the Products.

95. Plaintiff and other members of the Class lost money or property as a result of Defendant's violations because: (a) they would not have purchased the Products on the same terms if they knew that the Products were artificially flavored; (b) they paid a price premium compared to other consumer products due to Defendant's misrepresentations; and (c) the Products do not have the characteristics, uses, or benefits as promised.

Case# 2026-1149-0 Received at Erie County Prothonotary on 04/14/2026 12:40 PM. Fee = 144.75. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

96. Defendant deceived and continues to deceive consumers about the quality and ingredients of the Products. This conduct constitutes unfair or deceptive acts or practices within the meaning of the UTPCPL. This illegal conduct by Defendant is continuing, with no indication that it will cease.

97. Accordingly, Defendant's deceptive, false and misleading statements deceived Plaintiff and Class Members and a substantial segment of the target consumer audience and improperly influenced consumers' purchasing decisions, as Plaintiff and Class Members relied on such misrepresentations in violation of the UTPCPL.

98. Plaintiff and the Class seek all monetary and non-monetary relief allowed by law, including actual damages or statutory damages of \$100 (whichever is greater), treble damages, attorneys' fees and costs, and any additional relief this Court deems necessary or proper.

COUNT II Unjust Enrichment

99. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

100. Plaintiff brings this claim individually and on behalf of the members of the proposed Class against the Defendant.

101. At all times relevant hereto, Defendant deceptively marketed, advertised, and sold merchandise to Plaintiff and the Class.

102. Plaintiff and Class Members conferred upon Defendant nongratuitous payments for the Products that they would not have if not for Defendant's deceptive advertising and marketing.

103. Defendant accepted or retained the nongratuitous benefits conferred by Plaintiff and Class Members, with full knowledge and awareness that, as a result of Defendant's deception, Plaintiff and Class members were not receiving a product of the quality, nature, fitness, or value that had been represented by Defendant and reasonable consumers would have expected.

104. At the time of Plaintiff and Class Members' purchases, Defendant knew of the synthetic ingredients used in its Products. Knowing that their representations were false, Defendant sold the Products to Plaintiff and Class Members at a premium price. Accordingly, Defendant continues to retain a benefit improperly obtained to the detriment of Plaintiff and Class Members.

105. Defendant has been unjustly enriched in retaining the revenues derived from Plaintiff's and Class Members' purchases of the Products. Retention of those monies under these circumstances is unjust and inequitable because of Defendant's misrepresentations about the Products, which caused injuries to Plaintiff and Class Members because they would not have purchased the Products if the true facts had been known.

106. Because Defendant's retention of the non-gratuitous benefits conferred on it by Plaintiff and Class Members is unjust and inequitable, Defendant must pay

restitution to Plaintiff and Class Members for their unjust enrichment, as ordered by the Court.

RELIEF DEMANDED

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks judgment against Defendant, as follows:

- a. For an order certifying the Class and naming Plaintiff as representatives of the Class and Plaintiff's attorneys as Class Counsel to represent the members of the Class;
- b. For an order declaring the Defendant's conduct violates the statutes and laws referenced herein;
- c. For an order awarding, as appropriate, statutory damages, compensatory and monetary damages, restitution or disgorgement to Plaintiff and the Class for all causes of action;
- d. For an order requiring Defendant to immediately cease and desist from selling its misbranded Products in violation of law; enjoining Defendant from continuing to label, market, advertise, distribute, and sell the Products in the unlawful manner described herein; and ordering Defendant to engage in corrective action;
- e. For prejudgment and postjudgment interest on all amounts awarded;
- f. For an order awarding punitive damages;

- g. For an order awarding attorneys' fees and expenses and costs of suit;
- and
- h. Granting such other relief as the Court deems just and appropriate.

JURY DEMAND

Plaintiff demands a trial by jury on all causes of action and issues so triable.

Dated: March 27, 2026

Respectfully submitted,

/s/ Steffan T. Keeton
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