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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

TYLER MAGHONEY, individually and on behalf of all others similarly situated, Plaintiff, vs. PROMOTION IN MOTION, INC. and WELCH FOODS INC., A COOPERATIVE, Defendants.	Case No.: '26CV5235 GPC AHG <u>CLASS ACTION COMPLAINT</u> CONSUMERS LEGAL REMEDIES ACT, CAL. CIV. CODE § 1750 ET SEQ.; UNFAIR COMPETITION LAW, CAL. BUS. & PROF. CODE §17200 ET SEQ.: FALSE ADVERTISING LAW, CAL. BUS. & PROF. CODE § 17500 ET SEQ.; BREACH OF EXPRESS WARRANTY; UNJUST ENRICHMENT Jury trial demanded

INTRODUCTION

1. Plaintiff Tyler Maghoney ("Plaintiff") brings this action on behalf of himself, and all others similarly situated against Promotion In Motion, Inc. and Welch Foods Inc., A Cooperative (collectively, "Defendants"). Plaintiff makes the following allegations pursuant to the investigation of his counsel and based upon information and belief, except as to the allegations specifically pertaining to himself, which are based on his personal knowledge.

NATURE OF THE ACTION

2. Plaintiff brings this class action on behalf of himself, and all similarly situated consumers who purchased Welch's® Zero Sugar Fruity Bites (collectively, the "Products").[1]

3. Defendants market and advertise the Products as "ZERO SUGAR," "Sugar Free," and "100% sugar-free" (collectively, the "Representations"). Unbeknownst to reasonable consumers, however, the Products contain sugar in the form of allulose. Allulose is a monosaccharide and therefore a sugar under the applicable federal and California labeling standards. It is not present in trace amounts. It is the second-listed ingredient by weight, ahead of every other ingredient in the Products except the sugar alcohol maltitol.

4. Defendants' own labeling establishes that each serving of the Products contains several grams of allulose. The Nutrition Facts panel declares 22 grams of total carbohydrate and 13 grams of sugar alcohol per 30-gram serving, leaving approximately 9 grams of carbohydrate per serving to be accounted for by the Products' remaining carbohydrate ingredients—allulose, maltodextrin, and modified corn starch—of which allulose is the most predominant by weight. Because allulose is a sugar under the applicable standards, each Product contains

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[1] The Products include all flavors, sizes, and pack configurations of Welch's® Zero Sugar Fruity Bites, including the Mixed Fruit, Berries 'n Cherries, and Island Fruits varieties, sold in 3-ounce peg bags, multi-count snack boxes, and variety packs, and all substantially similar formulations sold under the Welch's® Zero Sugar brand.

many multiples of the 0.5-gram cutoff for a food labeled "sugar free." 21 C.F.R. §§ 101.9(c)(6)(ii), 101.60(c)(1)(i). Defendants' Representations are therefore false.

5. Federal law permits a "sugar free" or "zero sugar" claim on a food that contains a sugar ingredient only where the listing of that ingredient in the ingredient statement is followed by an asterisk keyed to a footnote stating that the ingredient "adds a dietarily insignificant amount of sugar" or the equivalent. 21 C.F.R. § 101.60(c)(1)(ii). The Products' labels bear no such asterisk and no such footnote. Consumers are given no disclosure of any kind.

6. Defendants compound the deception with a second false quantitative claim. The Products' principal display panel proclaims, "25% Fewer Calories Than Our Original Fruit Snacks." That claim is false on the label's own arithmetic: the same package states that "[c]alorie content has been reduced from 90 Calories to 70 Calories per 30g serving"—a reduction of approximately 22.2 percent, not 25 percent.

7. Accordingly, Plaintiff brings claims against Defendants for violations of: (1) California's Consumers Legal Remedies Act, Cal. Civ. Code § 1750 et seq.; (2) California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.; (3) California's False Advertising Law, Cal. Bus. & Prof. Code § 17500 et seq.; (4) breach of express warranty; and (5) unjust enrichment.

PARTIES

8. Plaintiff Tyler Maghoney is a citizen of California residing in Oceanside, San Diego County, California. On or about September 4, 2026, Plaintiff purchased Defendants' Welch's® Zero Sugar Fruity Bites in the Mixed Fruit variety—a six-pack of three-ounce bags—for his personal use through Amazon.com, for $26.94, or approximately $1.50 per ounce, which he paid by credit card and by applying a portion of his Amazon gift card balance, and which was shipped to his residence in Oceanside, California. Prior to making his purchase, Plaintiff saw and relied

on Defendants' representations—appearing in the title and product description of the Amazon.com listing and on the Product packaging depicted in that listing—that the Products were "ZERO SUGAR" and "Sugar Free."

9. Based on these representations, Plaintiff reasonably believed that the Products contained no sugar. Plaintiff relied on these representations when he decided to purchase the Products. Accordingly, these representations were part of the basis of his bargain, in that Plaintiff would not have purchased the Products on the same terms had he known that the representations were untrue. Furthermore, in making his purchase, Plaintiff paid a price premium due to Defendants' false and misleading "Zero Sugar" and "Sugar Free" claims. Plaintiff, however, did not receive the benefit of the bargain because the Products were not, in fact, free of sugar. Instead, they are sweetened with maltitol and allulose—a sugar—present at several grams per serving, many multiples of the 0.5-gram cutoff for a product labeled "sugar free." Had Plaintiff known that Defendants' representations were false and misleading, he would not have purchased the Products or would have paid substantially less for them.

10. Plaintiff remains interested in purchasing fruit snacks and confections that are truly sugar free. However, he cannot know for certain whether the false labeling and marketing of the Products have been or will be corrected, and the Products' composition may change over time. If Defendants continue to make the Representations, Plaintiff will be unable to make informed purchasing decisions and is likely to be misled again unless Defendants are required to ensure that the Products' marketing is accurate. Plaintiff is an average consumer who is not sophisticated in the chemistry, manufacturing, or formulation of food products. Neither Plaintiff nor reasonable consumers have the specialized knowledge needed to determine independently whether allulose is a sugar.

11. Defendant Promotion In Motion, Inc. ("PIM") is a Delaware corporation in good standing, incorporated on October 3, 1985 (Delaware File No. 2072539), with its

principal place of business at One PIM Plaza, Park Ridge, New Jersey 07656. PIM has done business as PIM Brands, Inc. since 2021 and has represented in federal court that it is incorporated as Promotion In Motion, Inc. and does business as PIM Brands, Inc. See Perkins v. PIM Brands USA, Inc., No. 25-CV-2280 (E.D.N.Y.), Dkt. No. 1 at 1. A related Delaware corporation, P.I.M. Brands USA, Inc. (Delaware File No. 3449152), incorporated on October 18, 2001, filed a short-form certificate of dissolution on April 14, 2026. Upon information and belief, Promotion In Motion, Inc. is the successor in interest to P.I.M. Brands USA, Inc. and assumed its assets, liabilities, and obligations, including any obligations arising from the labeling, marketing, distribution, and sale of the Products during the Class Period. PIM formulates, manufactures, packages, labels, markets, advertises, distributes, and sells the Products throughout California and the United States, including in this District, under license from Defendant Welch Foods.

12. Defendant Welch Foods Inc., A Cooperative is a cooperative corporation organized under the laws of Michigan with its principal place of business at 1601 Trapelo Road, Waltham, Massachusetts. Welch Foods owns the Welch's trademarks and trade dress under which the Products are labeled, marketed, and sold. Upon information and belief, Welch Foods licenses those marks to PIM and retains the contractual right to review, approve, and control the labeling, packaging, and advertising that bears its marks, including the Representations, and derives royalty and other revenue from every sale of the Products.

13. Each Defendant participated in, controlled, authorized, ratified, directed, or knowingly benefited from the creation and dissemination of the Representations, and each is therefore responsible for the conduct alleged herein.

JURISDICTION AND VENUE

14. This Court has subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A) because this is a class action in which the aggregate claims of

the proposed Class exceed $5,000,000, exclusive of interest and costs, there are more than 100 members of the proposed Class, and at least one member of the proposed Class is a citizen of a state different from Defendants.

15. This Court has personal jurisdiction over Defendants because Defendants purposefully avail themselves of the California market by manufacturing, marketing, distributing, and selling the Products to California consumers on a continuous and systematic basis, including in this District, and because Plaintiff's claims arise out of and relate to those California contacts.

16. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Plaintiff's and the class members' claims took place in this District. Defendants conduct substantial business in this District, the Products are advertised and sold throughout this District, and Plaintiff purchased the Products and was deceived in this District.

FACTUAL ALLEGATIONS

A. Consumers Seek Out and Pay More for Products That Contain No Sugar

17. Consumer demand for products without sugar is well documented. A 2022 nationwide survey found that 73% of Americans ages 18 to 80 reported trying to limit or avoid sugars.[2]

18. That demand accords with widespread public-health guidance. The 2025–2030 Dietary Guidelines for Americans state that no amount of added sugars is recommended or considered part of a healthy or nutritious diet. The World Health Organization recommends limiting free sugars to less than 10 percent of total daily energy intake and states that limiting them further to 5 percent or less may

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[2] International Food Information Council, 2022 Food & Health Survey 57 (May 18, 2022), https://ific.org/wp-content/uploads/2025/04/IFIC-2022-Food-and-Health-Survey-Report-May-2022.pdf.

provide additional health benefits. The American Heart Association recommends limiting added sugars to no more than 6 percent of daily calories.[3]

19. Food manufacturers are acutely aware of this demand and of the premium consumers will pay to satisfy it. Products labeled "sugar free" and "zero sugar" command higher prices than comparable products that do not bear those claims, and manufacturers reserve the front principal display panel of their packaging for the claims they believe will most motivate a purchase.

20. Defendants have capitalized on that demand. Defendants market a candy product whose second-listed ingredient by weight is allulose, a sugar, while labeling and advertising it as "ZERO SUGAR" and "Sugar Free." Defendants thereby obtained an unfair competitive advantage over competitors whose sugar-free claims are true, at the expense of unwitting consumers.

21. The premium is not theoretical. Defendants sell a 3-ounce bag of the Products at a substantially higher price per ounce than the original Welch's® Fruit Snacks against which Defendants expressly compare the Products on the package itself. Plaintiff paid approximately $1.50 per ounce for the Products.

B. Defendants' Representations and Warranties

22. Defendants prominently state on the front principal display panel of each Product's package that the Product is "ZERO SUGAR." The words "ZERO SUGAR" appear in the largest type on the panel, in a contrasting color, directly beneath the WELCH'S house mark, and are the dominant visual element of the package. Immediately beneath that claim, the panel states "25% Fewer Calories Than Our Original Fruit Snacks."

23. Below is an illustrative image of the Products' principal display panel and the Representations:

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[3] U.S. Department of Health and Human Services & U.S. Department of Agriculture, Dietary Guidelines for Americans, 2025–2030; World Health Organization, Healthy Diet, https://www.who.int/news-room/fact-sheets/detail/healthy-diet; American Heart Association, Added Sugars, https://www.heart.org/en/healthy-living/healthy-eating/eat-smart/sugar/added-sugars.

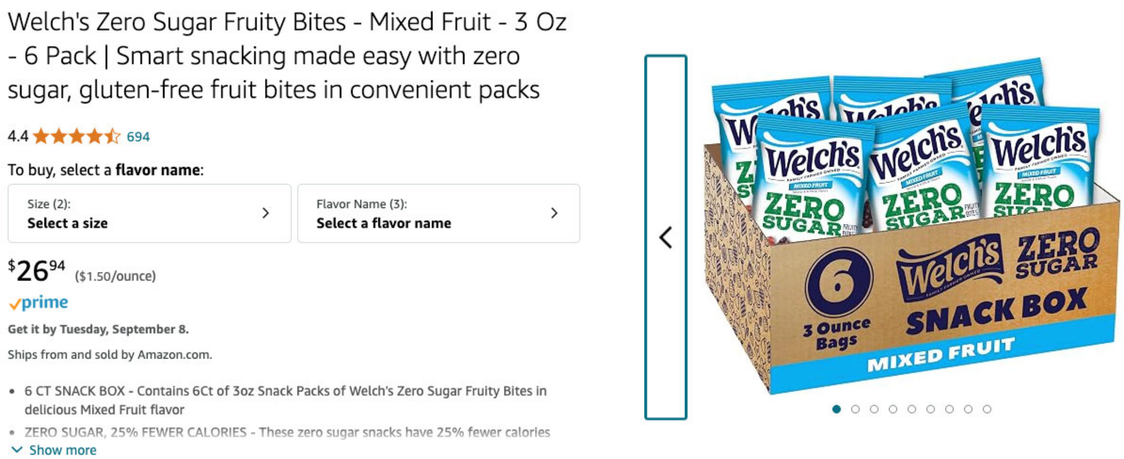
24. Defendants reinforce the same message on their website. Defendants' Zero Sugar Fruity Bites page is headed "Zero Sugar, 100% Taste!"[4] Defendants' product page describes the Products as "a new kind of snack delivering the delicious taste and texture you have grown to expect from Welch's® with absolutely No Sugar!" and lists "Sugar Free" as the first product attribute.[5]

25. Defendants likewise disseminate the Representations through their official retail listings. Defendants' Amazon.com listings for the Products are titled "Gluten Free & Sugar Free Snacks" and "Zero sugar, 25% fewer calories than original fruit snacks, sugar free & fat free, for wellness-minded snackers," and the listings' bullet points state "ZERO SUGAR, 25% FEWER CALORIES."[6] Below is an illustrative image of one such listing:

[4] Welch's® Fruit Snacks, Zero Sugar Fruity Bites, https://welchsfruitsnacks.com/product-categories/welchs-zero-sugar-fruity-bites/ (last visited Sept. 3, 2026).

[5] Welch's® Fruit Snacks, Zero Sugar Fruity Bites — Mixed Fruit, https://welchsfruitsnacks.com/products/mixed-fruit-3/ (last visited Sept. 3, 2026).

[6] Welch's Zero Sugar Fruity Bites, Mixed Fruit — 3 Oz — 6 Pack, Amazon.com, https://www.amazon.com/Welchs-Sugar-Fruity-Gluten-Snacks/dp/B0DW5ZTYMB (last visited Sept. 3, 2026); Welch's Zero Sugar Fruity Bites, Mixed Fruit, 3 oz Snack Pack, Amazon.com, https://www.amazon.com/Welchs-Snacks-Fruity-Perfect-Lunches/dp/B0BT7MFKJL (last visited Sept. 3, 2026).



26. Defendants announced the Products to the trade in the same terms, describing them on launch as “100% sugar-free” and as having “25% fewer calories than the original Welch’s® Fruit Snacks.”[7] Defendants have made the Representations continuously from the Products’ launch in or about May 2023 through the present.

27. Defendants’ advertising repeats the identical message. Below is an illustrative image of Defendants’ marketing of the Products:

[7] PIM Brands, Inc., NEW Welch’s® ZERO SUGAR Fruity Bites Brings 100% Deliciousness to Treat Lovers without the Sugar (May 22, 2023), https://www.businesswire.com/news/home/20230522005042/en/.

28. The Representations are uniform. Every purchaser of every Product was exposed to a materially identical zero-sugar claim, whether on the package, on Defendants' website, or in Defendants' retail listings.

29. The Representations communicate to reasonable consumers that the Products contain no sugar. That is the plain and ordinary meaning of "Zero Sugar," "Sugar Free," and "100% sugar-free," and federal and California law prescribe an objective standard governing when those terms may be used.

30. The Representations are not ambiguous. "Zero Sugar" is an absolute, objective, and quantitative claim concerning a measurable physical attribute of the Products. It is a statement of fact—not puffery, not opinion, and not subject to competing reasonable interpretations. Federal law permits that claim only when a product contains less than 0.5 grams of sugars per reference amount customarily consumed and per labeled serving, together with the regulation's other requirements.

C. Allulose Is a Sugar

31. Allulose is a sugar. Chemically, allulose (also called D-psicose) is a monosaccharide—a simple sugar. It is the C-3 epimer of D-fructose, meaning that allulose and fructose share the same molecular formula ($C_6H_{12}O_6$) and the same connectivity of bonded atoms, and differ only in the spatial orientation of a single hydroxyl group at the third carbon. "D-allulose, a C-3 epimer of D-fructose, is a rare monosaccharide used as a food ingredient or a sweetener."[8]

32. The Food and Drug Administration ("FDA") describes allulose the same way: "Allulose or D-psicose (D-ribo-2-hexulose) is a monosaccharide with a molecular formula of C6H12O6 and is an epimer of D-fructose."[9] As a monosaccharide, allulose falls squarely within the FDA's codified definition of

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[8] Han-Joo Maeng et al., Metabolic Stability of D-Allulose in Biorelevant Media and Hepatocytes: Comparison with Fructose and Erythritol, 8 Foods art. 448 (2019), https://doi.org/10.3390/foods8100448.

[9] FDA, The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels: Guidance for Industry 2 (Oct. 2020), https://www.fda.gov/media/123342/download.

sugars. 21 C.F.R. § 101.9(c)(6)(ii) (defining total sugars as "the sum of all free mono- and disaccharides").

33. Allulose is accordingly described in the scientific literature as "a rare sugar" and "a monosaccharide that is low in calories and that maintains approximately 70% of sweetness relative to sugar."[10]

34. Allulose is not merely a sugar as a matter of chemical classification. It is used as one. Because allulose is less sweet than table sugar, it cannot do its job in the trace quantities typical of high-intensity sweeteners such as sucralose, aspartame, saccharin, and acesulfame potassium, which are 200 to 20,000 times as sweet as sucrose. Allulose must instead be used in gram-scale quantities as a bulk sweetener, which is precisely why manufacturers add multiple grams of it to each serving.[11]

35. Allulose also behaves like sugar in food. Its solubility, water activity, and viscosity are similar to those of fructose, and it is "widely regarded as a promising substitute for sucrose"—that is, a substitute for table sugar that is itself a sugar.[12]

36. The sweetener industry's own trade association agrees. The Calorie Control Council states that "[a] monosaccharide, or simple sugar, allulose is absorbed by the body, but not metabolized, so it is nearly calorie-free."[13]

37. The FDA has recognized that allulose is a sugar since it first adopted the definition. When the agency adopted the codified definition of "sugars" in 1993, it defined the term by saccharide structure rather than by how a substance is digested or metabolized, explaining that it was defining "sugars" "to be consistent

[10] Youngji Han et al., Gastrointestinal Tolerance of D-Allulose in Healthy and Young Adults. A Non-Randomized Controlled Trial, 10 Nutrients art. 2010 (2018), https://doi.org/10.3390/nu10122010.

[11] Mengting Tao, Wenli Zhang & Wanmeng Mu, d-Allulose: A New Generation of Potential Bulk Sweeteners in the Food Industry, 73 J. Agric. & Food Chem. 27,833, 27,833–35 (2025), https://doi.org/10.1021/acs.jafc.5c13620.

[12] Wenli Zhang et al., D-Allulose, a Versatile Rare Sugar: Recent Biotechnological Advances and Challenges, 63 Critical Revs. Food Sci. & Nutrition 5661, 5661–79 (2023), https://doi.org/10.1080/10408398.2021.2023091.

[13] Calorie Control Council, Allulose, https://caloriecontrol.org/ingredients/sweeteners/allulose/ (last visited Sept. 3, 2026).

with standard analytical methodologies and in conformity with the traditional usage of the term." 58 Fed. Reg. 2,079, 2,098 (Jan. 6, 1993). And in its 2016 Nutrition Facts rulemaking, the FDA stated that allulose, "as a monosaccharide, must be included in the amount of the declaration of 'Total Carbohydrate,' 'Total Sugars,' and 'Added Sugars' pending any future rulemaking that would otherwise consider excluding allulose from the declarations."[14] No such rulemaking has occurred. The current regulation continues to define Total Sugars as "the sum of all free mono- and disaccharides" and contains no allulose exclusion. 21 C.F.R. § 101.9(c)(6)(ii).

38. Most recently, the Seventh Circuit resolved the question. In *Franco v. Chobani, LLC*—a class action challenging "zero sugar" yogurt sweetened with allulose—the court invited the FDA to address "whether allulose is a 'sugar' as that term is defined at 21 C.F.R. § 101.9(c)(6)(ii)." The FDA's answer was yes.[15] The Seventh Circuit agreed: "The federal requirements at issue are plain—food products cannot be labeled sugar free unless they have less than half a gram of sugar, and sugars include every monosaccharide, including allulose." *Franco v. Chobani, LLC*, No. 25-2087, 2026 WL 2150193 (7th Cir. July 27, 2026). The court further held that the FDA's 2020 allulose guidance "isn't an interpretation of § 101.9(c)(6)(ii)—it's an announcement of a change in enforcement policy," and therefore commands no deference. *Id.* And because the consumers there sought "to hold Chobani liable under state law for violating identical standards," their claims were not preempted. *Id.*

39. In short, the Products are candies sweetened with sugar concealed behind a sugar name consumers do not recognize - allulose.

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[14] Food Labeling: Revision of the Nutrition and Supplement Facts Labels, 81 Fed. Reg. 33,742, 33,796 (May 27, 2016).

[15] Brief for the United States as Amicus Curiae, Franco v. Chobani, LLC, No. 25-2087 (7th Cir. June 29, 2026).

D. Each Product Contains Several Grams of Allulose Per Serving

40. Allulose appears in the ingredient statement of every Product. The Mixed Fruit variety is representative: "INGREDIENTS: MALTITOL, ALLULOSE, MALTODEXTRIN, MODIFIED CORN STARCH, GELATIN, CITRIC ACID, NATURAL AND ARTIFICIAL FLAVORS, COCONUT OIL, CARNAUBA WAX, RED 40 AND BLUE 1."

41. Defendants' own website publishes a differently colored formulation of the same Mixed Fruit Product: "Maltitol, allulose, maltodextrin, modified corn starch, gelatin, citric acid (acidulant), natural and artificial flavors, carnauba wax, annatto (color), turmeric (color), and fruit and vegetable juice (color)." Whatever the coloring system, every formulation Defendants have sold lists maltitol first and allulose second, and every formulation bears the same "Zero Sugar" and "Sugar Free" Representations.

42. Under federal labeling law, ingredients must be listed in descending order of predominance by weight. 21 C.F.R. § 101.4(a)(1). By Defendants' own ordering, therefore, the Products contain more allulose, by weight, than maltodextrin, modified corn starch, gelatin, citric acid, flavors, coconut oil, wax, and colors—every ingredient in the Products other than maltitol. Allulose is the Products' predominant sugar and, after maltitol, their predominant ingredient of any kind.

43. Defendants' own Nutrition Facts panel confirms that the quantity is substantial. Per 30-gram serving of fifteen (15) pieces, the panel declares twenty-two (22) grams of Total Carbohydrate and thirteen (13) grams of Sugar Alcohol. Sugar alcohols are a separate carbohydrate subclass from sugars. Subtracting the declared sugar alcohol from the declared total carbohydrate leaves approximately nine (9) grams of other carbohydrate per serving, which must be accounted for by the Products' only other carbohydrate ingredients—allulose, maltodextrin, and modified corn starch. Because allulose outranks both maltodextrin and modified corn starch in the ingredient statement, allulose necessarily accounts for

the largest share of that residual carbohydrate. And because allulose is the most predominant of those three ingredients by weight, it necessarily accounts for at least one-third of the residual—at least approximately three (3) grams per serving. Each serving of the Products therefore contains at least approximately three (3) grams of allulose, and likely more—at least six times the 0.5-gram threshold that federal and California law impose on any food bearing a "sugar free" or "zero sugar" claim.

44. Below is an illustrative image of the Products' Nutrition Facts panel and ingredient statement:

45. Defendants nowhere disclose how many grams of allulose the Products contain. Nor do Defendants anywhere disclose that allulose is a sugar. To the contrary, the Nutrition Facts panel declares "Total Sugars 0g" and "Includes 0g Added Sugars," and the front of the same package declares "ZERO SUGAR." The label does not merely fail to reveal that the Products' sweetener is a sugar—it affirmatively teaches consumers that it is not.

46. Critically, the Products' ingredient statement bears no asterisk after "ALLULOSE," and the Products' labels contain no statement below the ingredient list that allulose "adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar."

E. The Products Violate the FDA Nutrient Content Regulations

47. Congress empowered the FDA to oversee and regulate food labeling by enacting the Federal Food, Drug, and Cosmetic Act ("FDCA"), as amended by the Nutrition Labeling and Education Act, 21 U.S.C. § 301 et seq. The FDA promulgated the relevant food-labeling regulations in 21 C.F.R. part 101.

48. Those regulations draw a sharp distinction between two types of food label statements: (i) declarations made within the Nutrition Facts panel, see 21 C.F.R. § 101.9; and (ii) "nutrient content claims" —statements that "expressly or implicitly characterize[] the level of a nutrient" such as sugar—made anywhere else on the label or in labeling, 21 C.F.R. § 101.13(b). Information appearing as part of the Nutrition Facts panel is not itself a nutrient content claim. Id. § 101.13(c).

49. None of Plaintiff's claims relates to, or depends on, any declaration made within the Nutrition Facts panel of the Products. At issue in this case are the separate, deceptive nutrient content claims that Defendants have placed on the front of their packaging and repeated throughout their marketing.

50. Defendants' "ZERO SUGAR" and "Sugar Free" statements are "expressed nutrient content claims," defined as "any direct statement about the level (or range) of a nutrient in the food, e.g., 'low sodium' or 'contains 100 calories.'" 21 C.F.R. § 101.13(b)(1).

51. Nutrient content claims are strictly forbidden unless specifically allowed under FDA regulations. 21 C.F.R. § 101.13(b) ("A claim that expressly or implicitly characterizes the level of a nutrient of the type required to be in nutrition labeling under § 101.9 or under § 101.36 (that is, a nutrient content claim) may not be

made on the label or in labeling of foods unless the claim is made in accordance with this regulation and with the applicable regulations in subpart D . . . ."). Such claims are permitted outside the Nutrition Facts panel only if, among other things, they are "not false or misleading in any respect." Id. § 101.13(i)(3). And compliance with the nutrient-content-claim requirements "will be determined using the analytical methodology prescribed for determining compliance with nutrition labeling in § 101.9." Id. § 101.13(o).

52. Subpart D, section 101.60(c)(1) specifically governs the use of the "sugar free" and "zero sugar" nutrient content claims at issue in this case. That regulation provides that terms such as "sugar free," "free of sugar," "no sugar," "zero sugar," "without sugar," "sugarless," and "trivial source of sugar" may not be used on the label or in labeling of a food unless, among other requirements:

> (i) The food contains less than 0.5 g of sugars, as defined in § 101.9(c)(6)(ii), per reference amount customarily consumed and per labeled serving . . . ; and
>
> (ii) The food contains no ingredient that is a sugar or that is generally understood by consumers to contain sugars unless the listing of the ingredient in the ingredient statement is followed by an asterisk that refers to the statement below the list of ingredients, which states "adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar" and (iii) [The food] is labeled "low calorie" or "reduced calorie" or bears a relative claim of special dietary usefulness labeled in compliance with [§ 101.60(b)(2)–(b)(5)], or, if a food is not so labeled, states immediately after the sugars claim, "not a reduced calorie food," "not a low calorie food," or "not for weight control." 21 C.F.R. § 101.60(c)(1)(i)–(iii).

53. These requirements are conjunctive and each must be satisfied.

54. The Products do not comply with these regulations. To determine the amount of sugar in a food, section 101.60(c)(1)(i) cross-references 21 C.F.R. § 101.9(c)(6)(ii), which provides that "[t]otal sugars shall be defined as the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose)." Allulose, as a monosaccharide epimer of fructose, falls squarely within that definition. The allulose in the Products must therefore be included when calculating the amount of sugars for purposes of the 0.5-gram threshold in section 101.60(c)(1)(i).

55. Measured that way, the amount of sugars in each serving of the Products is not zero grams and is not less than 0.5 grams. Section 101.60(c)(1)(i) is violated.

56. Section 101.60(c)(1)(ii) is independently violated. Allulose is "an ingredient that is a sugar." The Products' ingredient statement is not followed by any asterisk, and the Products' labels bear none of the three disclaimers the regulation requires. Unlike other manufacturers who at least attempt the disclosure, Defendants supply no qualifying statement at all.

57. Because the Products' labels bear deceptive and impermissible nutrient-content claims, the Products are "misbranded" under federal law. 21 U.S.C. § 343(a)(1) (food is misbranded if its "labeling is false or misleading in any particular"); id. § 343(r)(1)(A) (food is misbranded if its label bears a nutrient content claim not made in accordance with the governing regulations). Misbranded food may not lawfully be introduced or delivered for introduction into interstate commerce. Id. § 331(a).

58. Plaintiff does not seek to enforce the FDCA directly. Plaintiff seeks relief under independently enforceable state consumer-protection and warranty laws, including Sherman Law provisions that adopt food-labeling requirements identical to federal requirements. The federal provisions identify the standards California has adopted and the conduct that renders the Products misbranded under California law. Because Plaintiff's state-law claims are based on the exact

same deceptive nutrient content claims that render the Products misbranded under federal law, there is no conflict between the two regimes and no FDCA preemption of any kind. 21 U.S.C. § 343-1(a)(5).

59. The Ninth Circuit applies the same identical-requirements analysis. State law claims that seek to enforce labeling requirements identical to those imposed by the FDCA and its implementing regulations are not preempted, and informal statements of FDA enforcement policy that have not been adopted through rulemaking carry no preemptive force. See Reid v. Johnson & Johnson, 780 F.3d 952 (9th Cir. 2015). The FDA's 2020 allulose guidance is such a statement. By its own terms it creates no rights and binds neither the agency nor the public; it announces only that the FDA intends to exercise enforcement discretion pending a rulemaking that has never occurred; and the FDA has since confirmed, in its amicus brief in Franco, that 21 C.F.R. § 101.9(c)(6)(ii) unambiguously includes allulose. An agency's decision not to enforce its own regulation is not a federal "requirement" within the meaning of 21 U.S.C. § 343-1(a), and it does not authorize a nutrient content claim that the regulation forbids.

60. Nor does any product-specific federal determination shield the Products. Unlike pesticide labels registered under the Federal Insecticide, Fungicide, and Rodenticide Act ("FIFRA"), 7 U.S.C. §§ 136 et seq, see *Monsanto Co. v. Durnell*, No. 24-1068 (U.S. June 25, 2026), or medical devices subject to premarket approval, the labels of conventional foods are not reviewed or approved by the FDA before sale. No federal agency has reviewed the Products' labels, approved the Representations, or determined that the Products may be labeled "Zero Sugar" or "Sugar Free." The only federal requirements applicable to the Representations are the generally applicable regulations in 21 C.F.R. §§ 101.13 and 101.60, and Plaintiff seeks to enforce those requirements exactly as written.

F. The "25% Fewer Calories" Claim Is False on the Label's Own Arithmetic

61. Defendants' second quantitative front-panel claim fails for an independent reason. The principal display panel of each Product states "25% Fewer Calories Than Our Original Fruit Snacks." That is a relative calorie nutrient content claim governed by 21 C.F.R. §§ 101.13(j) and 101.60(b)(4).

62. A relative calorie claim of that kind may be used only where "[t]he food contains at least 25 percent fewer calories per reference amount customarily consumed than an appropriate reference food as described in § 101.13(j)(1)." 21 C.F.R. § 101.60(b)(4)(i)(A).

63. The Products do not. Defendants' own label discloses the underlying figures; "Calorie content has been reduced from 90 Calories to 70 Calories per 30g serving." A reduction from ninety (90) calories to seventy (70) calories is a reduction of approximately 22.2 percent—not 25 percent. Defendants' own numbers refute Defendants' claim.

64. The "25% Fewer Calories" claim is therefore false and misleading in its own right, in violation of 21 C.F.R. §§ 101.13(i) and 101.60(b)(4), and independently deceptive under California law.

65. That failure also defeats the third prong of the sugar-free regulation. Section 101.60(c)(1)(iii) permits a "sugar free" or "zero sugar" claim without an accompanying calorie disclaimer only where the food is labeled "low calorie" or "reduced calorie" or bears a relative calorie claim "labeled in compliance with" the calorie-claim regulations. Because Defendants' relative calorie claim is not compliant, the Products were required to state immediately after the sugar claim "not a reduced calorie food," "not a low calorie food," or "not for weight control." They do not. Section 101.60(c)(1)(iii) is violated as well.

G. Defendants' Conduct Violates California's Food Labeling Laws

66. Defendants' manufacturing, marketing, advertising, distribution, and sale of the Products violate the misbranding provisions of California's Sherman Food, Drug,

and Cosmetic Law, Cal. Health & Safety Code § 109875 et seq. (the "Sherman Law"), which adopts the federal food-labeling regulations as California regulations; "All food labeling regulations and any amendments to those regulations adopted pursuant to the federal act, in effect on January 1, 1993, or adopted on or after that date shall be the food labeling regulations of this state." Cal. Health & Safety Code § 110100(a); see also id. § 110670. Every requirement of sections 101.13 and 101.60 described above—measured, as those provisions require, by the definition of "sugars" in section 101.9(c)(6)(ii)—is therefore California law.

67. Defendants' marketing, advertising, distribution, and sale of the Products violate the Sherman Law's misbranding provisions, including:

(a) Section 110660 (a food is misbranded if its labeling is false or misleading in any particular);

(b) Section 110670 (a food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims set forth in 21 U.S.C. § 343(r));

(c) Section 110760 (making it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded);

(d) Section 110765 (making it unlawful for any person to misbrand any food); and

(e) Section 110770 (making it unlawful for any person to receive in commerce any food that is misbranded or to deliver or proffer for delivery any such food).

68. Defendants' marketing, advertising, distribution, and sale of the Products also violate the Sherman Law's false-advertising provisions, including:

(a) Section 109885, which defines "advertisement" to include representations on products and their packages, and Section 110390, which prohibits dissemination of food advertisements that are false or misleading in any particular;

(b) Section 110395 (making it unlawful to manufacture, sell, deliver, hold, or offer to sell any falsely or misleadingly advertised food);

(c) Sections 110398 and 110400 (making it unlawful to advertise misbranded food or to deliver or proffer for delivery any food that has been falsely or misleadingly advertised).

69. Because the Products bear "Zero Sugar" and "Sugar Free" nutrient content claims despite containing several grams of allulose per serving—many multiples of the 0.5-gram cutoff in 21 C.F.R. § 101.60(c)(1)—and because the Products bear a false relative calorie claim, the Products are misbranded under California law, and Defendants' advertising, distribution, and sale of the Products are unlawful. These Sherman Law violations are independently unlawful under California law and serve as predicate violations under California's Unfair Competition Law, as further alleged below.

H. Reasonable Consumers Cannot Detect Defendants' Deception

70. Reasonable consumers have no reason to look at the back label of the Products when presented with the conspicuous representation on the front of the package that the Products are "ZERO SUGAR." Consumers are not expected to look beyond misleading representations on the front of the package to discover that those representations are false.

71. In an in-store observational study of 11,781 grocery shoppers in six European countries—the United Kingdom, Sweden, France, Germany, Poland, and Hungary—62.6% of shoppers were observed looking at the front of the product they bought, while only 7.7% were observed looking at that product elsewhere.[16]

[16] Klaus G. Grunert et al., Use and Understanding of Nutrition Information on Food Labels in Six European Countries, 18 J. Pub. Health 261, 266 (2010), https://doi.org/10.1007/s10389-009-0307-0.

72. In one observational study of 802 supermarket shoppers, the mean time between arriving at and departing from a product-category display was less than twelve seconds.[17]

73. Allulose is not a common household name. In a 2021 marketing survey, only 15% of respondents had even heard of allulose—let alone knew that it is a sugar.[18] Reasonable consumers, including Plaintiff, are unlikely to recognize the term or to infer from the ingredient list alone that it is a sugar.

74. Defendants' deception is especially misleading because a consumer who reviews the Nutrition Facts table would encounter a "Total Sugars 0g" and "Includes 0g Added Sugars" disclosure, even though the same label discloses allulose as the second-listed ingredient by weight. The practical consequence of Defendants' labeling choices is that a consumer at the point of sale—whether standing in a store reading the front of the pack, the back of the pack, and the ingredient statement, or shopping online and reading Defendants' product listing, the packaging images in that listing, and Defendants' own website—encounters nothing, anywhere, revealing that the Products contain sugar. The deception cannot be discovered at the point of sale.

75. Consumers are not required to conduct independent scientific testing or research into the chemical classification of listed ingredients to verify express label claims. Reasonable consumers do not possess specialized knowledge of carbohydrate chemistry. Defendants are responsible for ensuring that their express labeling and marketing claims are truthful and not misleading.

76. The Seventh Circuit has rejected the argument that reasonable consumers cannot be deceived by a "sugar free" claim on a product sweetened with allulose. Whether consumers care about the presence of a monosaccharide in their food is

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[17] Peter R. Dickson & Alan G. Sawyer, The Price Knowledge and Search of Supermarket Shoppers, 54 J. Marketing 42, 47 (1990), https://doi.org/10.1177/002224299005400304.

[18] International Food Information Council, IFIC Spotlight Survey: Perceptions & Use of Dietary Sweeteners 2 (May 5, 2021), https://ific.org/wp-content/uploads/2025/04/IFIC-Sweeteners-Survey.May-2021.pdf.

not the same question as whether they would be deceived by an absolute promise that the food contains no sugar; consumers who were told that a product is sugar free plausibly believed it, and how reasonable consumers perceive such a label is a question of fact that cannot be resolved on the pleadings. Franco v. Chobani, LLC, No. 25-2087, slip op. at 12–13 (7th Cir. July 27, 2026). The same is true here, where the front label says, "ZERO SUGAR" and "Sugar Free," the Nutrition Facts panel says, "Total Sugars 0g," and nothing on the package says otherwise.

77. The presence and amount of sugar in a food is material to reasonable consumers. It is information a reasonable person would attach importance to in deciding whether, and at what price, to purchase the Products. Consumption of allulose can also have gastrointestinal effects such as nausea, bloating, diarrhea, and abdominal pain, and a clinical trial on the gastrointestinal tolerance of allulose determined that, compared to traditional cane sugar, consumption of allulose resulted in "significantly higher frequencies of symptoms of diarrhea, abdominal distention, and abdominal pain."[19] A consumer deciding whether to eat the Products is therefore deciding something with direct physical consequences, while being denied information necessary to make an informed decision.

I. Defendants Knew the Representations Were False

78. Defendants knew, or should have known, that the Representations were false, misleading, deceptive, and unlawful when they marketed, advertised, labeled, distributed, and sold the Products. Specifically, Defendants knew that: (a) the Products contain allulose; (b) allulose is a sugar—a fact repeatedly confirmed by the FDA; (c) their labels represented that the Products contained no sugar; (d) reasonable consumers would rely on those labels when purchasing; (e)

[19] Comments of the Center for Science in the Public Interest, Docket No. FDA-2019-D-0725 (June 17, 2019), https://www.cspi.org/sites/default/files/2022-03/allulose%20final%20from%20CSPI.pdf.

consumers would not receive the represented benefit of the bargain; and (f) the Representations enabled Defendants to charge a premium.

79. Defendants are sophisticated actors. PIM describes itself as the world's largest maker of fruit snacks and has manufactured and marketed the Welch's® Fruit Snacks line for more than two (2) decades. Welch Foods is a national food company established in 1869. Sophisticated food companies are charged with knowledge of the labeling rules that govern the products they sell and the ingredients they select.

80. Every source of that knowledge predated the Products' launch. The FDA's definition of sugars has included all monosaccharides since 1993, and the FDA expressly stated in 2016 that allulose "must be included" in the Total Sugars declaration as a monosaccharide.

81. Defendants, as the manufacturers, licensors, marketers, and distributors of the Products, controlled, or participated in, making the Representations on the Products' labels and advertisements. Defendants could have stopped using the Representations or ensured that they were true. Despite their knowledge that consumers reasonably rely on the Representations, Defendants chose to continue using them, thereby causing consumers to buy or overpay for the Products.

82. As of the filing of this Complaint, Defendants continue to manufacture, market, and sell the Products bearing the same Representations on their packaging, their website, and their retail listings. Defendants' conduct is knowing, willful, and continuing.

J. Defendants' Sugar-Free Claims Injured Plaintiff and the Class

83. Defendants concealed or failed to disclose material facts about the Products, including: (a) the true nature of the Products' ingredients; (b) the fact that the Products' predominant sweetening ingredient after maltitol is a sugar; (c) the fact that each serving contains several grams of allulose—many multiples of the 0.5-gram cutoff; (d) the fact that the Products are not sugar free; (e) the fact that the

Products do not in fact contain 25% fewer calories than the reference food identified on the label; and (f) the fact that the Products are misbranded under federal and California law when sold bearing the Representations.

84. As an immediate, direct, and proximate result of Defendants' false, misleading, and deceptive representations and omissions, Defendants injured Plaintiff and the Class Members in that they: (a) paid money for products that were not as represented; (b) paid a premium price for products that were not as represented; (c) were deprived of the benefit of the bargain because the Products they purchased differed from what Defendants warranted; (d) purchased Products worth less than represented; (e) did not receive products that met the expectations Defendants created; (f) purchased Products that Plaintiff and members of the Class did not expect or consent to receive; (g) purchased Products containing sugar despite intending to buy only products represented to contain none; and (h) purchased misbranded Products that could not lawfully have been sold in California.

85. Accordingly, Plaintiff and the Class Members suffered injury in fact and lost money or property because of Defendants' wrongful conduct.

K. Plaintiff Lacks an Adequate Remedy at Law

86. Plaintiff lacks an adequate remedy at law for the future harm described above. Damages cannot remedy Plaintiff's inability to rely on Defendants' Representations when deciding whether to purchase the Products in the future. Only injunctive relief requiring Defendants to cease or correct the misleading Representations can address that prospective harm.

87. Equitable relief is also necessary because legal remedies may prove inadequate to provide complete relief, including restitution measured by the difference between the prices Plaintiff and Class Members paid and the value of the Products as received, and disgorgement of revenues Defendants unfairly

obtained, which are equitable remedies not necessarily coextensive with damages.

88. Equitable relief is additionally appropriate because the statutes of limitations for the asserted causes of action vary. The UCL and FAL carry four-year limitations periods, which may reach purchases not fully remediable under other causes of action.

89. The scope of actionable misconduct under the FAL and UCL is also broader than under the other causes of action asserted herein. The FAL and UCL prohibit Defendants' fraudulent marketing scheme. Plaintiff's warranty and common-law claims are more limited, focusing on duties arising from Defendants' Representations at the point of purchase. The UCL may also borrow statutory prohibitions—including the Sherman Law—that do not themselves create a private cause of action.

CLASS ALLEGATIONS

90. Plaintiff brings this action on behalf of himself, and all others similarly situated pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and (b)(3). As used herein, the "Class Period" means the period from May 1, 2023, through the date of class notice. The proposed class is defined below (the "Class"):

> All persons who, during the Class Period, purchased one or more of the Products in California for their personal use and not for resale, while the Product(s) purchased contained allulose and bore the Representations. For purposes of this definition, a purchase made online and delivered to an address in California is a purchase in California.

91. The Class does not include: (1) Defendants or their officers or directors; (2) the Judge or Magistrate Judge assigned to this action; (3) the assigned Judge's or Magistrate Judge's staff and family; (4) Plaintiff's counsel or Defendants' counsel; (5) any person who purchased the Products for resale; (6) Defendants' parents, subsidiaries, affiliates, officers, directors, employees, and agents, and

any entity in which Defendants have a controlling interest; (7) the legal representatives, heirs, successors, and assigns of any excluded person; (8) any person who timely elects to be excluded; and (9) any claim for personal injury, wrongful death, or emotional distress.

92. Plaintiff reserves the right to amend the class definitions and add classes or subclasses as appropriate based on investigation, discovery, and the specific theories of liability.

93. **Ascertainability:** The Class is ascertainable because membership is determined by objective criteria — the purchase of an identified Product, in California, during the Class Period, while the Product contained allulose and bore the Representations. Class Members may be identified through Defendants' records, the records of third-party retailers and online marketplaces including Amazon.com, loyalty and rewards program data, and self-identification by affidavit.

94. **Numerosity:** While the exact number of members of the Class is unknown to Plaintiff at this time and can only be determined by appropriate discovery, upon information and belief, members of the Class number at least in the thousands. Members of the Class may be notified of the pendency of this action by published and digital notice and, where available, by direct notice using the sales and customer records of Defendants, third-party retailers, and online marketplaces including Amazon.com.

95. **Existence and Predominance of Common Questions of Law and Fact:** Common questions of law and fact exist as to all members of the Class and predominate over any questions affecting only individual members. These common legal and factual questions include, but are not limited to:

(a) Whether allulose is a sugar;

(b) Whether the Products contained less than 0.5 grams of sugars per serving, as required by 21 C.F.R. § 101.60(c)(1)(i);

(c) Whether the Products contain at least 25% fewer calories than the reference food identified on the label, and whether that claim complies with 21 C.F.R. §§ 101.13(j) and 101.60(b)(4);

(d) Whether reasonable consumers would understand Defendants' representations and warranties concerning the Products to be untrue and misleading;

(e) Whether Defendants' representations and warranties were material;

(f) Whether the Products are misbranded under federal and California law;

(g) Whether Defendants were unjustly enriched as a result of the unlawful conduct alleged in this Complaint;

(h) Whether Plaintiff and the members of the Class have suffered damages as a result of Defendants' actions and the amount of those damages;

(i) Whether Plaintiff and the members of the Class are entitled to statutory damages;

(j) Whether Plaintiff and the members of the Class are entitled to attorney fees and costs;

(k) Whether the Representations are nutrient content claims within the meaning of 21 C.F.R. § 101.13(b);

(l) Whether the Products' labels bear the disclosure required by 21 C.F.R. § 101.60(c)(1)(ii) for a "sugar free" claim on a food containing a sugar ingredient; and

(m) Whether the Representations caused Plaintiff and Class Members to pay a price premium, and whether that premium is measurable on a classwide basis through a common methodology.

96. Additional questions of law and fact common to the members of the Class include whether Defendants violated California's Consumers Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1750 et seq., California's False Advertising Law ("FAL"), Cal. Bus. & Prof. Code § 17500 et seq., and California's Unfair

Competition Law ("UCL"), Cal. Bus. & Prof. Code § 17200 et seq., the Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety Code §§ 110660 and 110760, and Cal. Com. Code § 2313.

97. **Typicality:** The claims of the named Plaintiff are typical of the claims of other members of the Class because the named Plaintiff was exposed to Defendants' Representations, purchased the Products in reliance on those Representations, and suffered the same economic injury as a result of the same course of conduct — Defendants' uniform labeling and marketing of the Products. Each variety of the Products bears materially identical Representations, is sweetened with allulose, and is subject to the same federal and California labeling standards. The differences among the varieties are limited to flavor and packaging and are immaterial to the claims alleged. Plaintiff's claims as to the variety he purchased are therefore substantially similar to the claims of Class Members who purchased the other varieties.

98. Plaintiff has Article III standing to pursue each claim asserted herein: he purchased the Products in reliance on the Representations, paid a price premium, and lost money as a result.

99. **Adequacy:** Plaintiff will fairly and adequately represent and protect the interests of the Class as required by Federal Rule of Civil Procedure 23(a)(4). Plaintiff is an adequate representative because he has no interests adverse to those of the Class, is committed to the vigorous prosecution of this action, understands the duties of a class representative, and has retained counsel competent and experienced in complex class action and consumer false-advertising litigation.

100. **Superiority:** A class action is superior to all other available methods for the fair and efficient adjudication of the claims asserted in this action under Federal Rule of Civil Procedure 23(b)(3) because the expense and burden of individual litigation make it economically unfeasible for members of the Class to seek redress outside a class action. Plaintiff paid approximately $26.94 for the

Products, and the price premium attributable to the Representations is a fraction of that amount. No Class Member has an interest in individually controlling the prosecution of a separate action. Plaintiff is aware of two (2) putative class actions concerning the Products pending in the Eastern District of New York, each brought by a New York purchaser: *Feliciano v. Promotion In Motion, Inc.*, No. 1:26-cv-05405 (E.D.N.Y. filed Sept. 1, 2026), and *Ross v. PIM Brands, Inc.*, No. 2:26-cv-05551 (E.D.N.Y. filed Sept. 8, 2026). Neither asserts any claim under the CLRA, the UCL, the FAL, or the Sherman Law; neither proposes a California class and neither names Welch Foods. Plaintiff is aware of no litigation commenced by any member of the Class concerning this controversy. Concentrating the claims in this forum is desirable because Plaintiff and every member of the Class purchased the Products in California, a substantial number of them in this District, and because the claims of the Class arise under California law. Even if Class Members could afford individual litigation, the resulting burden on the courts would be substantial. Individualized litigation would also create a risk of varying, inconsistent, or contradictory judgments and would magnify delay and expense by requiring multiple trials of the same factual issues. By contrast, maintaining this action as a class action with respect to some or all issues presents fewer management difficulties, conserves the resources of the parties and courts, and protects each Class Member's rights. Plaintiff anticipates no difficulty in managing this action as a class action. Classwide relief is essential to compel compliance with applicable consumer-protection laws. Separate actions could also subject Defendants to inconsistent obligations.

101. Defendants have acted and refused to act on grounds generally applicable to the Class by uniformly labeling, marketing, and selling the Products bearing the Representations. Final injunctive and corresponding declaratory relief is therefore appropriate respecting the Class as a whole under Federal Rule of Civil Procedure 23(b)(2).

CAUSES OF ACTION
COUNT I
VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT ("CLRA") CAL. CIV. CODE § 1750 ET SEQ.

102. Plaintiff incorporates by reference each of the allegations contained in the foregoing paragraphs of this Complaint as if fully set forth herein.

103. Plaintiff brings this claim on behalf of himself and the Class against Defendants.

104. The Products are "goods" within the meaning of Cal. Civ. Code § 1761(a), Defendants are "persons" within the meaning of § 1761(c), Plaintiff and the Class Members are "consumers" within the meaning of § 1761(d), and Defendants' sale of the Products to them constitutes "transactions" within the meaning of § 1761(e).

105. Civil Code § 1770(a)(5) prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have."

106. Civil Code § 1770(a)(7) prohibits "[r]epresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another."

107. Civil Code § 1770(a)(9) prohibits "advertising goods or services with intent not to sell them as advertised."

108. Civil Code § 1770(a)(16) prohibits "[r]epresenting that the subject of a transaction has been supplied in accordance with a previous representation when it has not."

109. Defendants violated each of these provisions by representing that the Products are "Zero Sugar" and "Sugar Free" when they contain several grams of allulose—a sugar—per serving; by failing to disclose that allulose is a sugar or to provide the disclosure required by 21 C.F.R. § 101.60(c)(1)(ii) for a "sugar free" claim on a food containing a sugar ingredient; by selling the Products in a condition in

which they are misbranded under 21 U.S.C. § 343 and Cal. Health & Safety Code §§ 110660 and 110760 and therefore could not lawfully be sold; and by representing that the Products contain "25% Fewer Calories" than the identified reference food when, by Defendants' own disclosed figures, they do not.

110. Defendants' Representations were material. A reasonable consumer would attach importance to whether a food contains sugar in deciding whether to purchase it, and Defendants placed the Representations on the principal display panel and in the title and description of the Products' online listings precisely because they drive purchases. The Representations enabled Defendants to charge, and Plaintiff and the Class Members to pay a price premium over comparable products that do not bear them.

111. Plaintiff and the Class Members saw, relied on, and reasonably understood the Representations to mean that the Products contained no sugar. Had they known that Defendants add allulose—a sugar—to the Products, they would not have purchased the Products or would have paid substantially less for them. Plaintiff and the Class Members therefore suffered damage as a result of Defendants' violations within the meaning of Cal. Civ. Code § 1780(a).

112. Defendants' wrongful business practices constituted, and still constitute, a continuing course of conduct in violation of the CLRA.

113. Defendants knew or should have known that the Representations were false and misleading. Defendants formulate the Products, control their labels, and list allulose as the second ingredient by weight while representing on the front panel that the Products contain no sugar. Defendants made the Representations willfully, wantonly, and with reckless disregard for the truth.

114. Concurrently with the filing of this Complaint, counsel for Plaintiff is mailing a pre-suit notice letter pursuant to Cal. Civ. Code § 1782(a) via certified mail, return receipt requested, to Defendants at their principal places of business and to their respective agents for service of process in California. The letter identifies

the particular CLRA violations alleged, is sent on behalf of Plaintiff and all similarly situated consumers, and demands that Defendants correct, repair, replace, or otherwise rectify the unlawful, unfair, false, and deceptive practices alleged herein. If Defendants fail to do so within thirty days, Plaintiff will amend this Complaint to seek actual, statutory, and punitive damages under Cal. Civ. Code § 1780(a).

115. Plaintiff and the Class Members currently seek injunctive relief under the CLRA and an award of attorney fees and costs under Cal. Civ. Code § 1780(e) and reserve the right to amend the Complaint to seek any additional relief authorized after expiration of the statutory notice period. Cal. Civ. Code §§ 1780, 1782(d).

COUNT II
VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL")
CAL. BUS. & PROF. CODE § 17200 ET SEQ.

116. Plaintiff hereby incorporates by reference and re-alleges the allegations contained in all preceding paragraphs of this Complaint.

117. Plaintiff brings this claim individually and on behalf of the Class against Defendants.

118. Defendants violated California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200–17210, by engaging in unfair, fraudulent, and unlawful business practices.

119. Plaintiff has standing to pursue this claim because he suffered an injury in fact and lost money or property as a result of Defendants' conduct. Cal. Bus. & Prof. Code § 17204. Plaintiff purchased the Products for personal use, relied on Defendants' representations that they were "Zero Sugar," "Sugar Free," and contained "25% Fewer Calories" than the reference food, and paid a price premium and spent money he otherwise would not have spent had he known that the Products contained several grams of allulose per serving.

120. The UCL defines unfair competition to "mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of Part 3 of Division 7 of the Business and Professions Code." Cal. Bus. & Prof. Code § 17200. A business act or practice is "unlawful" if it violates any established state or federal law. A practice is unfair if it (1) offends public policy; (2) is immoral, unethical, oppressive, or unscrupulous; or (3) causes substantial injury to consumers. California courts apply three tests to the unfair prong in consumer cases: whether the conduct is tethered to a legislatively declared policy; whether the gravity of the harm outweighs the utility of the conduct; and whether the injury is substantial, not outweighed by countervailing benefits to consumers or competition, and not reasonably avoidable. Plaintiff pleads that Defendants' conduct is unfair under each test. The UCL allows "a person who has suffered injury in fact and has lost money or property" to prosecute a civil action for violation of the UCL. Cal. Bus. & Prof. Code § 17204.

121. Defendants violated the UCL's proscription against engaging in Unlawful Business Practices through their violations of the FAL, Cal. Bus. & Prof. Code § 17500 et seq.; the CLRA, Cal. Civ. Code § 1770 et seq.; the Sherman Law, including, without limitation, Cal. Health & Safety Code §§ 110100, 110390, 110395, 110398, 110400, 110660, 110670, 110760, 110765, and 110770; and the federal food-labeling requirements adopted by the Sherman Law, including 21 U.S.C. § 343(a)(1) and (r)(1)(A) and 21 C.F.R. §§ 101.13, 101.13(j), 101.60(b)(4), 101.60(c)(1), and 101.60(c)(1)(ii). Moreover, a "fewer calories" claim may be made only where the food contains at least 25 percent fewer calories per reference amount than the reference food. 21 C.F.R. § 101.60(b)(4)(i)(A). By Defendants' own declared figures, ninety (90) calories reduced to seventy (70) calories per 30-gram serving—the Products contain

approximately 22.2 percent fewer calories than the reference food. The claim is therefore not merely false; it is an unauthorized nutrient content claim.

122. Defendants have also violated the UCL's proscription against engaging in Unfair Business Practices. Defendants' acts, omissions, misrepresentations, practices, and nondisclosures as alleged herein also constitute unfair business acts and practices within the meaning of Business & Professions Code § 17200 et seq. Defendants' conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous. The gravity of Defendants' conduct outweighs any alleged benefits attributable to it. There is no utility in representing that a product sweetened with a sugar contains no sugar. Furthermore, Defendants' false and misleading representations are detrimental to competitors offering sugar-free confections that either do not make similar claims or do not contradict those claims by sweetening their products with sugar. Defendants' misrepresentations and omissions therefore harm consumers and the market as a whole.

123. Defendants have further violated the UCL's proscription against Fraudulent Business Practices. Defendants' Representations are likely to deceive, and did deceive, reasonable consumers, including Plaintiff.

124. Plaintiff and the Class Members suffered substantial injury by virtue of buying the Products that they would not have purchased absent Defendants' unlawful, fraudulent, and unfair marketing, advertising, packaging, and omissions about the presence and amount of sugar in the Products.

125. The gravity of the consequences of Defendants' conduct as described above outweighs any justification, motive, or reason therefor, particularly considering the available legal alternatives in the marketplace. Such conduct is immoral, unethical, or unscrupulous; it offends established public policy and is substantially injurious to Plaintiff and the Class Members.

126. Plaintiff and the Class Members could not have reasonably avoided their injury or known that the Products' prominent labeling and marketing were inaccurate. Consumers lack the specialized knowledge to determine whether an ingredient such as allulose is a sugar, and Defendants' labels affirmatively assured them that the Products contained none. As such, they could not have reasonably avoided the injury they suffered. That injury is substantial and is not outweighed by any countervailing benefit to consumers or to competition.

127. Plaintiff lacks an adequate remedy at law for the equitable relief sought under this Count, for the reasons alleged in the paragraphs titled "Plaintiff Lacks an Adequate Remedy at Law" above. Restitution measured by Defendants' revenues from sales of the Products reaches amounts that damages measured by Plaintiff's price premium would not reach and reaches purchases falling outside the limitations periods governing Plaintiff's other claims. Plaintiff further seeks prospective injunctive relief, which no legal remedy can supply. To the extent the Court determines that Plaintiff has an adequate remedy at law as to any claim for equitable relief, Plaintiff pleads that claim in the alternative pursuant to Federal Rule of Civil Procedure 8(a)(3).

128. Pursuant to California Business and Professions Code § 17203, Plaintiff and the Class Members seek restitution, injunctive relief, and all other relief that the Court deems proper, together with attorney fees and costs pursuant to Cal. Code Civ. Proc. § 1021.5.

COUNT III
VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW ("FAL")
CAL. BUS. & PROF. CODE § 17500 ET SEQ.

129. Plaintiff hereby incorporates the foregoing allegations as if fully set forth herein.

130. Plaintiff brings this claim on behalf of himself and the Class against Defendants.

131. Defendants' acts and practices, as described herein, have deceived or are likely to deceive members of the Class and the public. Defendants represent that the

Products are "Zero Sugar" and "Sugar Free" even though they contain several grams of allulose per serving—many multiples of the 0.5-gram cutoff—and fail to disclose that allulose is a sugar or to provide the disclosure that 21 C.F.R. § 101.60(c)(1)(ii) requires when a "sugar free" claim appears on a food containing a sugar ingredient, and represent that the Products contain "25% Fewer Calories" than the identified reference food when Defendants' own disclosed figures show a reduction of approximately 22.2 percent.

132. Defendants have disseminated uniform advertising regarding the Products throughout California and the United States. The advertising was unfair, deceptive, untrue, or misleading within the meaning of Cal. Bus. & Prof. Code § 17500 and was intended and likely to deceive consumers.

133. Section 17500 reaches any statement concerning personal property disseminated "in any newspaper or other publication, or any advertising device, or by public outcry or proclamation, or in any other manner or means whatever, including over the Internet." The Products' labels and packaging, Defendants' product pages, and the title, description, and package images appearing in the Products' Amazon.com listing are each advertising within the meaning of § 17500.

134. In making and disseminating these statements, Defendants knew, or should have known, that their advertising was untrue or misleading. Plaintiff and the Class based their purchasing decisions on Defendants' materially false Representations and were injured in fact and lost money or property as a result.

135. Plaintiff and the Class Members suffered injury in fact and lost money or property as a result of Defendants' false advertising within the meaning of Cal. Bus. & Prof. Code § 17535. They paid a price premium for Products that were not as advertised and would not have purchased the Products, or would have paid substantially less, had the truth been disclosed.

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136. Defendants' misrepresentations concerning the material facts described above constitute false and misleading advertising and therefore violate Cal. Bus. & Prof. Code § 17500 et seq.

137. Plaintiff lacks an adequate remedy at law for the equitable relief sought under this Count, for the reasons alleged in the paragraphs titled "Plaintiff Lacks an Adequate Remedy at Law" above. Restitution measured by Defendants' revenues from sales of the Products reaches amounts that damages measured by Plaintiff's price premium would not reach and reaches purchases falling outside the limitations periods governing Plaintiff's other claims. Plaintiff further seeks prospective injunctive relief, which no legal remedy can supply. To the extent the Court determines that Plaintiff has an adequate remedy at law as to any claim for equitable relief, Plaintiff pleads that claim in the alternative pursuant to Federal Rule of Civil Procedure 8(a)(3).

138. Plaintiff and the Class Members seek restitution, injunctive relief, and all other relief that the Court deems proper, together with attorney fees and costs pursuant to Cal. Code Civ. Proc. § 1021.5.

COUNT IV
BREACH OF EXPRESS WARRANTY

139. Plaintiff hereby incorporates the foregoing paragraphs as if fully set forth herein.

140. Plaintiff brings this claim individually and on behalf of the Class against Defendants.[20]

141. Defendants are merchants and sellers of the Products within the meaning of Cal. Com. Code §§ 2104 and 2103(1)(d). Under Cal. Com. Code § 2313, any affirmation of fact or promise made by a seller which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the affirmation or promise, and any description of the

[20] This Count is asserted on behalf of the Class under Cal. Com. Code § 2313.

goods which is made part of the basis of the bargain creates an express warranty that the goods shall conform to the description.

142. Defendants' express warranties include the promises, affirmations of fact, and descriptions Defendants made on the Products' packaging and in their marketing that the Products are "Zero Sugar" and "Sugar Free" and contain "25% Fewer Calories Than Our Original Fruit Snacks."

143. This labeling and advertising constitute express warranties and became part of the basis of the bargain between Plaintiff and members of the Class, on the one hand, and Defendants, on the other.

144. To the extent vertical privity is required, it is satisfied or excused here. Defendants' express warranties were made directly to consumers through the Products' labels, packaging, and online listings, and Plaintiff and the Class Members purchased the Products in reliance on those written representations. Defendants intended that the Representations reach and be relied upon by retail purchasers, and Plaintiff and the Class Members are the intended beneficiaries of Defendants' warranties.

145. As set forth above, Defendants purport through their labeling, marketing, and packaging to warrant that the Products are "Zero Sugar" and "Sugar Free." Defendants breached their express warranties by selling Products containing several grams of allulose—a sugar—per serving. The Products do not conform to Defendants' Representations and warranties.

146. Plaintiff provided or is providing Defendants with notice of their breach. Concurrently with the filing of this Complaint, counsel for Plaintiff is mailing notice by certified mail, return receipt requested, advising Defendants of the breach of express warranty alleged herein on behalf of Plaintiff and all similarly situated purchasers. Notice is also excused because Defendants had actual knowledge that the Products did not conform to the Representations, and because Plaintiff did not purchase the Products directly from Defendants.

147. Plaintiff and members of the Class performed all conditions precedent to Defendants' liability under those warranties when they purchased the Products.

148. Plaintiff and the members of the Class would not have purchased the Products had they known the Products' true nature.

149. As a result, Defendants breached the express warranties made to the Class. Plaintiff and all members of the Class suffered financial injury and are entitled to damages under Cal. Com. Code § 2714, measured by the difference at the time and place of acceptance between the value of the Products as accepted and the value they would have had if they had conformed to the Representations, together with incidental and consequential damages under Cal. Com. Code § 2715.

COUNT V
UNJUST ENRICHMENT

150. Plaintiff hereby incorporates the foregoing paragraphs as if fully set forth herein.

151. Plaintiff brings this claim individually and on behalf of the Class against Defendants under California law.

152. To the extent required, Plaintiff asserts this cause of action in the alternative to his legal claims, as permitted by Federal Rule of Civil Procedure 8, and pleads it as a claim for restitution based on quasi-contract.

153. Plaintiff and the Class Members conferred a benefit on Defendants in the form of revenues Defendants derived from their purchases of the Products.

154. Defendants knew of the benefit Plaintiff and the Class Members conferred on them.

155. Defendants have been unjustly enriched by retaining revenues from Plaintiff's and Class Members' purchases. That retention is unjust because Defendants misrepresented that the Products were sugar free, causing purchases that otherwise would not have occurred or would have occurred only at lower prices.

156. Defendants accepted and retained the benefit of revenues derived from sales of the Products to Plaintiff and Class Members.

157. Defendants have thereby profited under circumstances that make it unjust for Defendants to retain the benefit.

158. Plaintiff and Class Members are therefore entitled to restitution in the form of revenues derived from Defendants' sale of the Products.

159. Plaintiff and the Class Members have suffered injury in fact and lost money as a result of Defendants' conduct.

160. Plaintiff and the Class Members lack an adequate remedy at law with respect to this claim and seek equitable relief as allowed by law.

161. Legal remedies available to Plaintiff and the Class Members are inadequate because they are not as prompt, certain, or efficient as equitable relief. Damages are not as certain as restitution because the standard that governs restitution is different from the standard that governs damages. Hence, the Court may award restitution even if it determines that Plaintiff has failed to adduce sufficient evidence to support an award of damages. Damages and restitution are not the same amount. Unlike damages, restitution is not limited to the amount of money a defendant wrongfully acquired plus the legal rate of interest. Equitable relief, including restitution, entitles a plaintiff to recover all profits from the wrongdoing, even where the original funds taken have grown far greater than the legal rate of interest would recognize. Legal claims for damages are not as certain as restitution because such claims require different elements. In short, significant differences in proof and certainty establish that any potential legal claim cannot serve as an adequate remedy at law. Here specifically, restitution measured by Defendants' revenues from sales of the Products reaches amounts that damages measured by Plaintiff's price premium would not, and it reaches purchases falling outside the limitations periods governing Plaintiff's legal claims. Plaintiff further seeks prospective injunctive relief, which no legal remedy can supply.

162. Equitable relief is appropriate because Plaintiff may lack an adequate remedy at law if, for instance, damages resulting from his purchases of the Products are

determined to be less than the price premiums he paid. Without compensation for the full price premiums, Plaintiff and the Class Members would be left without the parity in purchasing power to which they are entitled.

PRAYER FOR RELIEF

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

a) For an order certifying the Class under Fed. R. Civ. P. 23 and naming Plaintiff as representative of the Class, and Plaintiff's Counsel as Class Counsel;

b) For an order declaring that Defendants' conduct violates each of the statutes referenced herein;

c) For an order finding in favor of Plaintiff and the Class on all counts asserted herein;

d) For compensatory, statutory, and punitive damages in amounts to be determined by the Court and/or jury, consistent with applicable law and only under causes of action that permit such relief, including such damages as Plaintiff may seek by amendment under Cal. Civ. Code § 1780(a) upon expiration of the notice period provided by Cal. Civ. Code § 1782;

e) For pre- and post-judgment interest on all amounts awarded, including under Cal. Civ. Code §§ 3287 and 3288;

f) For an order of restitution, disgorgement, and all other forms of equitable monetary relief;

g) For injunctive relief as pleaded or as the Court may deem proper, including an order requiring Defendants to cease labeling, marketing, and selling the Products with the Representations and to make affirmative disclosures sufficient to dispel the public misperception created by Defendants' conduct; and

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h) For an order awarding Plaintiff's and the Class's reasonable attorney fees, expenses, and costs of suit, pursuant to Cal. Code Civ. Proc. § 1021.5, Cal. Civ. Code § 1780(e), and Cal. Com. Code § 2715.

JURY TRIAL DEMANDED

Plaintiff demands a trial by jury on all claims so triable.

Date: September 11, 2026

SWIGART LAW GROUP, APC

By: *s/ Spencer L. Pfeiff*
Spencer L. Pfeiff, Esq.
Spencer@SwigartLawGroup.com
Joshua B. Swigart, Esq.
Josh@SwigartLawGroup.com

Attorneys for Plaintiff and the Proposed Class

Date: September 11, 2026

SHAY LEGAL, APC

By: *s/ Daniel G. Shay*
Daniel G. Shay, Esq.
Dan@ShayLegal.com

Attorneys for Plaintiff and the Proposed Class

CLRA VENUE DECLARATION

(CAL. CIV. CODE § 1780(D))

I, Spencer L. Pfeiff, declare as follows:

1.I am an attorney at law licensed to practice in the State of California and a member of the bar of this Court. I am an attorney at Swigart Law Group, APC, counsel of record for Plaintiff in this action. I have personal knowledge of the facts set forth in this declaration and, if called as a witness, I could and would competently testify thereto under oath.

2.The Complaint filed in this action is filed in the proper place for trial under Civil Code Section 1780(d) in that a substantial portion of the transaction alleged in the Complaint occurred in this District. Plaintiff Tyler Maghoney purchased the Products through Amazon.com for delivery to his residence in Oceanside, San Diego County, California, and was deceived in this District.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct, and that this declaration was executed at San Diego, California, on September 11, 2026

By: *<u>/s/ Spencer L. Pfeiff</u>*
Spencer L. Pfeiff, Esq.

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS
TYLER MAGHONEY

DEFENDANTS
PROMOTION IN MOTION, INC. and WELCH FOODS INC., A COOPERATIVE

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

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Shay Legal, APC, 2221 Camino del Rio S, Ste 308
San Diego, CA 92108 - 619-222-7429

Attorneys *(If Known)*

'26CV5235 GPC AHG

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	[X] 1	[ ] 1	Incorporated *or* Principal Place of Business In This State	[ ] 4	[ ] 4
Citizen of Another State	[ ] 2	[ ] 2	Incorporated *and* Principal Place of Business In Another State	[ ] 5	[X] 5
Citizen or Subject of a Foreign Country	[ ] 3	[ ] 3	Foreign Nation	[ ] 6	[ ] 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- [ ] 110 Insurance
- [ ] 120 Marine
- [ ] 130 Miller Act
- [ ] 140 Negotiable Instrument
- [ ] 150 Recovery of Overpayment & Enforcement of Judgment
- [ ] 151 Medicare Act
- [ ] 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- [ ] 153 Recovery of Overpayment of Veteran's Benefits
- [ ] 160 Stockholders' Suits
- [ ] 190 Other Contract
- [ ] 195 Contract Product Liability
- [ ] 196 Franchise

REAL PROPERTY
- [ ] 210 Land Condemnation
- [ ] 220 Foreclosure
- [ ] 230 Rent Lease & Ejectment
- [ ] 240 Torts to Land
- [ ] 245 Tort Product Liability
- [ ] 290 All Other Real Property

TORTS

PERSONAL INJURY
- [ ] 310 Airplane
- [ ] 315 Airplane Product Liability
- [ ] 320 Assault, Libel & Slander
- [ ] 330 Federal Employers' Liability
- [ ] 340 Marine
- [ ] 345 Marine Product Liability
- [ ] 350 Motor Vehicle
- [ ] 355 Motor Vehicle Product Liability
- [ ] 360 Other Personal Injury
- [ ] 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- [ ] 365 Personal Injury - Product Liability
- [ ] 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- [ ] 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- [ ] 370 Other Fraud
- [ ] 371 Truth in Lending
- [ ] 380 Other Personal Property Damage
- [ ] 385 Property Damage Product Liability

CIVIL RIGHTS
- [ ] 440 Other Civil Rights
- [ ] 441 Voting
- [ ] 442 Employment
- [ ] 443 Housing/ Accommodations
- [ ] 445 Amer. w/Disabilities - Employment
- [ ] 446 Amer. w/Disabilities - Other
- [ ] 448 Education

PRISONER PETITIONS

Habeas Corpus:
- [ ] 463 Alien Detainee
- [ ] 510 Motions to Vacate Sentence
- [ ] 530 General
- [ ] 535 Death Penalty

Other:
- [ ] 540 Mandamus & Other
- [ ] 550 Civil Rights
- [ ] 555 Prison Condition
- [ ] 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- [ ] 625 Drug Related Seizure of Property 21 USC 881
- [ ] 690 Other

LABOR
- [ ] 710 Fair Labor Standards Act
- [ ] 720 Labor/Management Relations
- [ ] 740 Railway Labor Act
- [ ] 751 Family and Medical Leave Act
- [ ] 790 Other Labor Litigation
- [ ] 791 Employee Retirement Income Security Act

IMMIGRATION
- [ ] 462 Naturalization Application
- [ ] 465 Other Immigration Actions

BANKRUPTCY
- [ ] 422 Appeal 28 USC 158
- [ ] 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- [ ] 820 Copyrights
- [ ] 830 Patent
- [ ] 835 Patent - Abbreviated New Drug Application
- [ ] 840 Trademark
- [ ] 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- [ ] 861 HIA (1395ff)
- [ ] 862 Black Lung (923)
- [ ] 863 DIWC/DIWW (405(g))
- [ ] 864 SSID Title XVI
- [ ] 865 RSI (405(g))

FEDERAL TAX SUITS
- [ ] 870 Taxes (U.S. Plaintiff or Defendant)
- [ ] 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- [ ] 375 False Claims Act
- [ ] 376 Qui Tam (31 USC 3729(a))
- [ ] 400 State Reapportionment
- [ ] 410 Antitrust
- [ ] 430 Banks and Banking
- [ ] 450 Commerce
- [ ] 460 Deportation
- [ ] 470 Racketeer Influenced and Corrupt Organizations
- [ ] 480 Consumer Credit (15 USC 1681 or 1692)
- [ ] 485 Telephone Consumer Protection Act
- [ ] 490 Cable/Sat TV
- [ ] 850 Securities/Commodities/ Exchange
- [X] 890 Other Statutory Actions
- [ ] 891 Agricultural Acts
- [ ] 893 Environmental Matters
- [ ] 895 Freedom of Information Act
- [ ] 896 Arbitration
- [ ] 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- [ ] 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

- [X] 1 Original Proceeding
- [ ] 2 Removed from State Court
- [ ] 3 Remanded from Appellate Court
- [ ] 4 Reinstated or Reopened
- [ ] 5 Transferred from Another District *(specify)*
- [ ] 6 Multidistrict Litigation - Transfer
- [ ] 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing ***(Do not cite jurisdictional statutes unless diversity)***:
Class Action Fairness Act (CAFA), 28 U.S.C. § 1332(d)

Brief description of cause:
False advertising

VII. REQUESTED IN COMPLAINT:

[X] CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: [X] Yes [ ] No

VIII. RELATED CASE(S) IF ANY

(See instructions):
JUDGE DOCKET NUMBER

DATE
September 11, 2026

SIGNATURE OF ATTORNEY OF RECORD
s/ Daniel Shay

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE