IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALESSANDRA VITTORINI, individually and on behalf of all others similarly situated, Plaintiff, vs. WHOLESOME YUM BRANDS, LLC, Defendant.	Civil Action No.: CLASS ACTION COMPLAINT JURY TRIAL DEMANDED

Plaintiff Alessandra Vittorini ("Plaintiff") brings this action on behalf of herself and all others similarly situated against Wholesome Yum Brands, LLC ("Wholesome Yum" or "Defendant") based on personal knowledge as to herself, the investigation of her counsel, and on information and belief as to all other matters.

NATURE OF ACTION

1. This is a putative class action lawsuit on behalf of purchasers of Wholesome Yum "Zero Sugar" syrups, honey substitutes, and liquid sweeteners that are sweetened with allulose (the "Products"),[1] as shown below:

[1] The Products include all Wholesome Yum products that are sweetened with allulose and bear a "Zero Sugar" representation on their front labels, including, but not limited to, Wholesome Yum Zero Sugar Maple Syrup (also marketed as "Keto Sugar Free Maple Syrup Substitute"); Zero Sugar Honey Substitute in Original, Orange, Jalapeño, Cinnamon, and Turmeric Ginger flavors; Zero Sugar Simple Syrup; Zero Sugar Coffee Syrup (Vanilla); Zero Sugar Strawberry Syrup; Zero Sugar Blueberry Syrup; Zero Sugar Raspberry Syrup; and Liquid Allulose Zero Sugar Sweetener, in all sizes and container types, including plastic and glass bottles and multi-packs. Other than varying flavors and sizes, the Products are substantially identical in their labeling and advertising, and each bears the Zero Sugar Representation on its front label in substantially the same size, placement, and manner.



2. Defendant manufactures, markets, and/or sells the Products through its own website, online retailers such as Walmart.com and Vitacost.com, and brick-and-mortar grocery retailers throughout the United States, including in the State of New York.

3. Defendant prominently advertises, markets, and sells the Products as "ZERO SUGAR" syrups and sweeteners. The words "ZERO SUGAR" appear prominently on the front label of every Product (the "Zero Sugar Representation"). Reasonable consumers understand the Zero Sugar Representation as a promise that the Products contain no sugar at all.

4. Defendant intentionally misleads consumers into believing that the Products contain no sugar. It does this because consumers want foods with little or no sugar, which they believe are healthier and will help them manage their weight and blood sugar and reduce their overall sugar and calorie intake. Defendant markets the Products specifically to that audience,

labeling each of them "Keto Friendly" and touting their "net carbs" on the front label.

5. However, unbeknownst to consumers, every serving of the Products contains many grams of the sugar allulose, up to twenty-six grams per serving. For example, each two-tablespoon serving of Defendant's Zero Sugar Maple Syrup contains 26 grams of allulose—more sugar than the approximately 24 grams of sugar in the same two-tablespoon serving of pure maple syrup.[2] The Products therefore contain far more sugar than the Zero Sugar Representation promises.

6. Defendant has thus engaged in widespread false and deceptive conduct by designing, marketing, manufacturing, distributing, and/or selling the Products with the Zero Sugar Representation. Every package of the Products misleads consumers into believing each Product contains no sugar.

7. Plaintiff and Class Members purchased the Products, which are designed, marketed, manufactured, distributed, and/or sold by Defendant. Plaintiff and Class Members relied to their detriment on Defendant's Zero Sugar Representation, when the Products in fact contain many grams of the sugar allulose in every serving. Plaintiff and Class Members would not have purchased the Products—or would not have paid as much as they did to purchase them—had they known the Zero Sugar Representation was false. Plaintiff and Class Members thus suffered monetary damages as a result of Defendant's deceptive and false representation.

8. Plaintiff brings this action individually, and on behalf of similarly situated individuals who purchased the falsely and deceptively labeled Products, for violations of New

[2] *See* U.S. Dep't of Agric., *FoodData Central: Syrups, maple* (FDC ID 169661) (reporting 60.5 grams of total sugars per 100 grams and a weight of 20 grams per tablespoon), https://fdc.nal.usda.gov/food-details/169661/nutrients (last visited Oct. 9, 2026). Defendant markets the Zero Sugar Maple Syrup as replacing pure maple syrup "tablespoon-for-tablespoon." Wholesome Yum, *Wholesome Yum Keto Sugar Free Maple Syrup Substitute*, https://www.wholesomeyumfoods.com/shop/syrups/maple-syrup/ (last visited Oct. 9, 2026).

York General Business Law §§ 349 and 350, fraud, and unjust enrichment.

PARTIES

9. Plaintiff Alessandra Vittorini is a citizen and resident of West Harrison, New York, who has an intent to remain there, and is therefore domiciliary of New York. In or about September 2025, Plaintiff purchased a bottle of Wholesome Yum Zero Sugar Maple Syrup from a ShopRite store in Pleasantville, New York, for approximately $15.00 Plaintiff was looking for a healthier alternative to conventional maple syrup to use on pancakes and in other recipes. Prior to her purchase of the Product, Plaintiff reviewed the Product's labeling and packaging and saw that it was labeled and marketed as "ZERO SUGAR." Based on the Zero Sugar Representation, Plaintiff believed she was purchasing a maple syrup that contained no sugar. Plaintiff relied on Defendant's Zero Sugar Representation in deciding to purchase the Product. Accordingly, the Zero Sugar Representation was part of the basis of the bargain, in that she would not have purchased the Product on the same terms had she known the Zero Sugar Representation was not true. Plaintiff paid more for the Product, and would only have been willing to pay less, or unwilling to purchase it at all, absent the false and misleading labeling complained of herein. In making her purchase, Plaintiff paid a price premium for a product that claimed to contain zero sugar. Plaintiff has retained the bottle of the Product that she purchased.

10. Defendant Wholesome Yum Brands, LLC is a Florida limited liability company with its principal place of business in Miami, Florida. Wholesome Yum formulates, manufactures or has manufactured on its behalf, labels, markets, distributes, and/or sells the Products nationwide under its Wholesome Yum brand, including in this District. The Products' labels state that each Product was "[d]eveloped by & manufactured for" Wholesome Yum Brands, LLC.

JURISDICTION AND VENUE

11. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A), the Class Action Fairness Act, because the matter in controversy exceeds $5,000,000 exclusive of interest and costs, there are more than 100 members of the proposed classes, and at least one member of the proposed classes is a citizen of a State different from Defendant.

12. Wholesome Yum is an "unincorporated association" that "shall be deemed to be a citizen of the State where it has its principal place of business and the State under whose laws it is organized," 28 U.S.C. § 1332(d)(10), and is therefore a citizen of Florida. Plaintiff is a citizen of New York. Minimal diversity is therefore satisfied. And because Defendant is not a citizen of New York, the exceptions set forth in 28 U.S.C. § 1332(d)(3) and (d)(4) do not apply.

13. This Court has personal jurisdiction over Defendant because Defendant purposefully directs the marketing, distribution, and sale of the Products into New York, including to retailers in this District; because Defendant transacts business and contracts to supply goods in New York; and because Plaintiff's claims arise out of her purchase in New York of a Product that Defendant labeled, marketed, and sold here.

14. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. Plaintiff resides in this District and purchased the Product in this District, and Defendant distributes, markets, and sells the Products in this District.

FACTUAL ALLEGATIONS

A. Sugar Reduction Claims

15. Sugar is considered a contributor or cause of many different medical conditions, including weight gain, obesity, diabetes, cavities, and other diseases in adults.

16. A growing trend toward living healthier lives has led consumers to invest in their health by choosing foods that contain less, or no, sugar.

17. In particular, consumers on low-carbohydrate diets, like the ketogenic diet, and consumers seeking to manage their blood sugar look for "zero sugar," "sugar free," and similar claims. Defendant targets these consumers directly: the front label of each Product bears a "Keto Friendly" badge and a statement of the Product's "net carbs," and Defendant promotes allulose, the Products' principal ingredient, as an ingredient that "tastes and acts like sugar without spiking our blood sugar."[3] Representative close-ups of the "Keto Friendly" badge as it appears on the Products' front labels are shown below:



Maple Syrup



Honey Substitute



Strawberry Syrup



Liquid Allulose

18. In response to this consumer demand, food manufacturers—including Defendant—increasingly place sugar-content claims on the front of their packaging, including "zero sugar," "sugar free," "no added sugar," and "low sugar."

19. As a result, consumers seek out, and are willing to pay more for, products that contain little or no sugar.

[3] Wholesome Yum, *Wholesome Yum Liquid Allulose Sweetener*, https://www.wholesomeyumfoods.com/shop/syrups/liquid-allulose/ (last visited Oct. 9, 2026).

B. Defendant's Zero Sugar Representation is False and Misleading

20. Defendant prominently and unambiguously represents on the front label of every Product that the Product contains "ZERO SUGAR." On each of the syrups and on the honey substitute, the words "ZERO SUGAR" are the largest text on the principal display panel and sit directly above the name of the food, so that each Product is presented as "ZERO SUGAR MAPLE SYRUP," "ZERO SUGAR HONEY SUBSTITUTE," "ZERO SUGAR SIMPLE SYRUP," and so on. The front label of the Zero Sugar Honey Substitute also bears a separate "SUGAR FREE" badge, and the front label of the Liquid Allulose describes that Product as a "ZERO SUGAR SWEETENER." The side or back labels of several of the Products repeat the claim, advertising "0 sugar" or "0g sugar" per serving.

21. Defendant's own labeling confirms that each of the Products contains many grams of allulose. The Products' labels are substantially similar in all material respects: every Product bears the Zero Sugar Representation on its front label, lists allulose (either alone or as part of Defendant's "Besti Monk Fruit Allulose Blend") as its first ingredient, and discloses the grams of allulose in each serving on a line of the Nutrition Facts panel beneath a declaration of "0g" "Total Sugars" and "0g" "Added Sugars," as shown below.

22. The front label of the Zero Sugar Maple Syrup represents that the Product contains "ZERO SUGAR." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Liquid Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 26 grams of allulose, which accounts for 26 of the 28 grams of carbohydrates in each serving ("2G NET CARBS = 28G TOTAL CARBS - 26G ALLULOSE"):





Nutrition Facts

About 12 servings per container
Serving size 2 tbsp (30 mL)

Amount per serving
Calories 20

	% Daily Value*
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 0mg	0%
Total Carbohydrate 28g	10%
Dietary Fiber 0g	0%
Total Sugars 0g	
Includes 0g Added Sugars	0%
Allulose 26g	
Protein 0g	

* Percent Daily Values (DV) are based on a 2,000 calorie diet.

2G NET CARBS = 28G TOTAL CARBS - 26G ALLULOSE

INGREDIENTS: Besti Monk Fruit Allulose Blend (Liquid Allulose, Monk Fruit Extract), Vegetable Glycerin, Natural Flavors

23. The front label of the Zero Sugar Honey Substitute (Original) represents that the Product contains "ZERO SUGAR" and is "SUGAR FREE," and the back label promises "0 sugar + 0 net carbs." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each one-tablespoon (19.5 g) serving contains 10 grams of allulose—more than half the weight of each serving:





Nutrition Facts

About 15 servings per container
Serving size 1 tbsp (19.5g)

Amount per serving
Calories 15

	% Daily Value*
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 0mg	0%
Total Carbohydrate 16g	12%
Dietary Fiber 6g	57%
Total Sugars 0g	
Includes 0g Added Sugars	0%
Allulose 10g	
Protein 0g	

INGREDIENTS: Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract), Soluble Tapioca Fiber (non-GMO), Water, Natural Honey Flavor.

Developed by & manufactured for: Wholesome Yum Brands, LLC Maple Grove, MN 55311

24. The front label of the Zero Sugar Honey Substitute (Jalapeño) represents that the Product contains "ZERO SUGAR" and is "SUGAR FREE," and the back label promises "0 sugar + 0 net carbs." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each one-tablespoon (19.5 g) serving contains 10 grams of allulose—more than half the weight of each serving:



25. The front label of the Zero Sugar Honey Substitute (Orange) represents that the Product contains "ZERO SUGAR" and is "SUGAR FREE," and the back label promises "0 sugar + 0 net carbs." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each one-tablespoon (19.5 g) serving contains 10 grams of allulose—more than half the weight of each serving:



26. The front label of the Zero Sugar Honey Substitute (Cinnamon) represents that the Product contains "ZERO SUGAR" and is "SUGAR FREE," and the back label promises "0 sugar + 0 net carbs." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each one-tablespoon (19.5 g) serving contains 10 grams of allulose—more than half the weight of each serving:



27. The front label of the Zero Sugar Honey Substitute (Turmeric Ginger) represents that the Product contains "ZERO SUGAR" and is "SUGAR FREE," and the back label promises "0 sugar + 0 net carbs." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each one-tablespoon (19.5 g) serving contains 10 grams of allulose—more than half the weight of each serving:



28. The front label of the Zero Sugar Simple Syrup represents that the Product contains "ZERO SUGAR." The Product's only ingredient is "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)," and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 24 grams of allulose—all 24 grams of carbohydrates in each serving ("24G TOTAL CARBS - 24G ALLULOSE = 0G NET CARBS"):



29. The front label of the Zero Sugar Coffee Syrup (Vanilla) represents that the Product contains "ZERO SUGAR." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Allulose, Monk Fruit Extract)" as the first ingredient, followed only by natural vanilla flavor, and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 24 grams of allulose—all 24 grams of carbohydrates in each serving ("24G TOTAL CARBS - 24G ALLULOSE = 0G NET CARBS"):



30. The front label of the Zero Sugar Strawberry Syrup represents that the Product contains "ZERO SUGAR," and the back label promises "0g sugar + 1g net carbs per serving." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Liquid Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 26 grams of allulose ("27G TOTAL CARBS - 26G ALLULOSE = 1G NET CARBS"):





31. The front label of the Zero Sugar Blueberry Syrup represents that the Product contains "ZERO SUGAR," and the back label promises "0g sugar + 1g net carbs per serving." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Liquid Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 26 grams of allulose ("27G TOTAL CARBS - 26G ALLULOSE = 1G NET CARBS"):



32. The front label of the Zero Sugar Raspberry Syrup represents that the Product contains "ZERO SUGAR," and the back label promises "0g sugar + 1g net carbs per serving." The ingredient statement lists "Besti Monk Fruit Allulose Blend (Liquid Allulose, Monk Fruit Extract)" as the first ingredient, and the Nutrition Facts panel discloses that each two-tablespoon (30 mL) serving contains 26 grams of allulose ("27G TOTAL CARBS - 26G ALLULOSE = 1G NET CARBS"):



33. The front label of the Liquid Allulose represents that the Product is a "ZERO SUGAR SWEETENER," and its side label promises "0 sugar." The Product's only ingredient is allulose, and the Nutrition Facts panel discloses that each one-tablespoon (15 mL) serving contains 10 grams of allulose ("10G TOTAL CARBS - 10G ALLULOSE = 0G NET CARBS"):



34. Consumers reasonably believe that Products labeled "ZERO SUGAR" contain no sugar.

35. However, the Products all contain the sugar allulose, which Defendant adds during manufacturing and lists as the first ingredient on each Product's ingredient statement. Allulose, also known as D-allulose or D-psicose, is a monosaccharide that is structurally similar to fructose and is a sugar under 21 C.F.R. § 101.9(c)(6)(ii). *See Franco v. Chobani, LLC*, No. 25-2087, slip op. at 7 (7th Cir. July 27, 2026) ("There's no dispute that allulose is a monosaccharide. Because the definition includes every monosaccharide and the following parenthetical is merely a list of examples, allulose is a sugar under § 101.9(c)(6)(ii)."). Because allulose tastes like conventional sugar but contributes fewer calories, it is often used in place of table sugar as a bulk sweetener.

36. The U.S. Food and Drug Administration ("FDA") agrees. FDA's regulations provide that "[t]otal sugars shall be defined as the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose)." 21 C.F.R. § 101.9(c)(6)(ii). When FDA adopted that definition, it stated that, pending any future rulemaking, allulose, as a monosaccharide, must be included in the declaration of sugars. 81 Fed. Reg. 33,742, 33,795–96 (May 27, 2016). FDA has never conducted that rulemaking, "which means its original definition of sugar remains in force." *Franco*, slip op. at 10. And in *Franco*, the United States filed an amicus brief at the Seventh Circuit's invitation setting out FDA's position that the regulatory definition of total sugars is unambiguous and includes allulose. Br. for the United States as Amicus Curiae at 11–12, *Franco*, No. 25-2087 (7th Cir. June 29, 2026), Dkt. No. 44.

37. The FDA's 2020 guidance stating that it would exercise enforcement discretion as to the declaration of allulose in the Nutrition Facts panel does not change the analysis. As the Seventh Circuit held, that guidance is not an interpretation of the regulatory definition of sugars but merely "an announcement of a change in enforcement policy," and a manufacturer should know that FDA's enforcement priorities do not immunize it from suits under state law. *Franco*, slip op. at 9–10.

38. The following table summarizes the allulose content of each Product, all of which bear the Zero Sugar Representation:[4]

Product	Serving Size	Allulose per Serving	Servings per Container	Approx. Allulose per Container
Zero Sugar Maple Syrup (12 fl oz)	2 tbsp (30 mL)	26g	About 12	312g

[4] The approximate allulose per container is calculated by multiplying the grams of allulose declared per serving by the approximate number of servings per container declared on each Product's Nutrition Facts panel.

Product	Serving Size	Allulose per Serving	Servings per Container	Approx. Allulose per Container
Zero Sugar Honey Substitute, all flavors (11 oz)	1 tbsp (19.5 g)	10g	About 16	160g
Zero Sugar Simple Syrup (12 fl oz)	2 tbsp (30 mL)	24g	About 12	288g
Zero Sugar Coffee Syrup, Vanilla (12 fl oz)	2 tbsp (30 mL)	24g	About 12	288g
Zero Sugar Strawberry Syrup (12 fl oz)	2 tbsp (30 mL)	26g	About 12	312g
Zero Sugar Blueberry Syrup (12 fl oz)	2 tbsp (30 mL)	26g	About 12	312g
Zero Sugar Raspberry Syrup (12 fl oz)	2 tbsp (30 mL)	26g	About 12	312g
Liquid Allulose Zero Sugar Sweetener (16.7 oz)	1 tbsp (15 mL)	10g	About 24	240g

39. The Zero Sugar Representation is a direct statement about the amount of sugar in the Products and is therefore an expressed nutrient content claim. 21 C.F.R. § 101.13(b)(1). A nutrient content claim may not be made on a food's label unless it is made in accordance with FDA's nutrient content claim regulations. *Id.* § 101.13(b). FDA permits a food to be labeled "zero sugar," "sugar free," or with a similar term only if, among other things, "[t]he 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 "[t]he food contains no ingredient that is a sugar" (absent a qualifying asterisked disclosure that the ingredient "adds a trivial amount of sugar"). *Id.* § 101.60(c)(1)(i)–(ii). As the Seventh Circuit put it, "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*, slip op. at 10. Compliance with these requirements is determined using "the analytical methodology prescribed for determining compliance with nutrition labeling in § 101.9," 21 C.F.R. § 101.13(o)—under which allulose is a sugar. Each Product contains between 10 and 26 grams of

sugar per labeled serving—twenty to fifty-two times the regulatory ceiling—and each lists a sugar, allulose, as its first ingredient without any such disclosure. The Zero Sugar Representation is therefore false and misleading, and the Products are misbranded. *See* 21 U.S.C. § 343(a)(1), (r)(1)(A); N.Y. Agric. & Mkts. Law § 201(1).

40. Plaintiff does not seek to enforce the Federal Food, Drug, and Cosmetic Act. Plaintiff's claims arise under New York law and seek to impose no requirements beyond those federal law already imposes. *See* 21 U.S.C. § 343-1(a).

41. Accordingly, because the Products contain many grams of the sugar allulose in every serving, the Zero Sugar Representation is false and misleading.

42. Defendant's conduct thus deceived and/or was likely to deceive the public.

43. Plaintiff and Class Members were deceived into believing the Products contained no sugar, when in fact each serving contains many grams of allulose, as shown above.

44. Plaintiff and Class Members would not know the true nature of the Products by looking at the front labels of the Products. There is nothing on the front label (like an asterisk) disclaiming or modifying the Zero Sugar Representation. To the contrary, where a front label mentions allulose at all—as on the Zero Sugar Simple Syrup ("WITH MONK FRUIT & ALLULOSE") and the Liquid Allulose ("LIQUID ALLULOSE … ZERO SUGAR SWEETENER")—it presents allulose as a non-sugar ingredient. And every syrup and the Zero Sugar Honey Substitute (Original) bears a front-label badge stating that it is "NATURALLY SWEETENED WITH NATURE'S besti SUGAR REPLACEMENT." The Zero Sugar Representation is not ambiguous or vague to reasonable consumers such that they would reasonably think or be expected to investigate the Zero Sugar Representation further before purchasing the Products.

45. Moreover, the back panel does not remedy consumer deception. As the Second Circuit has held, "a reasonable consumer should not be expected to consult the Nutrition Facts panel on the side of the box to correct misleading information set forth in large bold type on the front of the box." *Mantikas v. Kellogg Co.*, 910 F.3d 633, 637 (2d Cir. 2018).

46. Here, the back panel does not correct the Zero Sugar Representation—it repeats it. The Nutrition Facts panel on each Product declares "0g" of "Total Sugars" and "0g" of "Added Sugars." Allulose appears only on a separate line below those declarations and in a "net carbs" calculation that subtracts allulose from total carbohydrates, reinforcing the impression that allulose is something other than sugar. And the back or side labels of several Products expressly restate that the Product contains "0 sugar" or "0g sugar" per serving.

47. Furthermore, since average consumers do not know that allulose is, in fact, a sugar, relying on the ingredient list is insufficient to inform consumers that the Products contain sugar and that the Zero Sugar Representation is therefore false.

48. Plaintiff and Class Members purchased the Products in reliance on the Zero Sugar Representation, reasonably believing the Products contained no sugar.

49. Plaintiff's and Class Members' reasonable belief that the Products contained no sugar was a significant factor in their decisions to purchase the Products.

50. Plaintiff and Class Members did not know, and had no reason to know, that the Products contained many grams of sugar per serving because of how the Products are deceptively labeled and advertised to create the impression that they contain no sugar. Nothing on the front packaging of the Products indicates that the Products contain any sugar.

51. Defendant knew that Plaintiff and Class Members would rely on the Zero Sugar Representation and would therefore reasonably believe the Products contained no sugar. Further,

as the formulator of the Products, Defendant knows that allulose is a sugar and knows how much of it each Product contains. Indeed, Defendant tells consumers on its own website that "[a]llulose is a natural rare sugar," that "[t]he name 'allulose' sounds like glucose, fructose, lactose, sucrose, and other simple sugar names, because it's in the same family," and that the allulose in its Besti blend is "a natural sugar that we can't metabolize."[5] Defendant even calls the ingredient "allulose sugar," and explains its omission of allulose from the Products' "Total Sugars" declarations by asserting that "the FDA has determined that allulose sugar should not be listed as sugar on nutrition labels."[6] As explained above, FDA has made no such determination: its regulations define allulose as a sugar, and its guidance merely announced a policy of enforcement discretion. Accordingly, Defendant knew that the Zero Sugar Representation was false and misleading when it made it, as allulose was added intentionally. Defendant intentionally and knowingly induced consumers to purchase the Products based on the Zero Sugar Representation.

52. Because the Products contain allulose in amounts contrary to the Zero Sugar Representation, Defendant's uniform practice regarding the marketing and sale of the Products was and continues to be misleading and deceptive.

53. Each Class Member has been exposed to the same or substantially similar deceptive practices, as the Products are uniformly marketed with the Zero Sugar Representation even though each Product contains many grams of the sugar allulose per serving.

54. Consumers are willing to pay a price premium for products that contain little or no sugar, and Defendant charges a premium for the Products because of the Zero Sugar Representation.

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[5] Wholesome Yum, *Wholesome Yum Liquid Allulose Sweetener*, *supra* note 3; Wholesome Yum, *Wholesome Yum Keto Sugar Free Maple Syrup Substitute*, *supra* note 2.

[6] Wholesome Yum, *Wholesome Yum Liquid Allulose Sweetener*, *supra* note 3.

55. Consumers are also induced to make purchases that they otherwise would not have, but for the belief that the Products contained no sugar. Plaintiff and Class Members would not have purchased the Products had they known the Products contained many grams of sugar in the form of allulose. Further, Plaintiff and Class Members paid a price premium for the Products because of the Zero Sugar Representation. Therefore, Plaintiff and Class Members suffered an injury in fact and lost money as a result of Defendant's false and misleading Zero Sugar Representation.

CLASS ALLEGATIONS

56. ***Class Definition*:** Plaintiff brings this action on behalf of all people in the following classes and subclasses (collectively referred to as "Class Members"):

> **Nationwide Class:** all people in the United States who purchased the Products for personal or household use.
>
> **New York Subclass:** all people who purchased the Products in the State of New York for personal or household use during the last three years.

57. Each of the above class definitions is a placeholder that "may be altered or amended before final judgment." Fed. R. Civ. P. 23(c)(1)(C). Subject to additional information obtained through further investigation and discovery, the foregoing class definitions may be expanded or narrowed by amendment or in the motion for class certification, including through the use of multi-state subclasses to account for material differences in state law, if any.

58. Excluded from the putative classes are Defendant and any entities in which Defendant has a controlling interest, Defendant's agents and employees, the judge to whom this action is assigned, members of the judge's staff, and the judge's immediate family. Also excluded are any claims for personal injury.

59. ***Numerosity*:** Members of the Classes are so numerous that their individual joinder herein is impracticable. On information and belief, each Class or Subclass includes thousands of

consumers. The precise number of Class Members and their identities are unknown to Plaintiff at this time but may be determined through discovery. Class Members may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant, its retailers, its agents, or other means.

60. ***Commonality and Predominance*:** Common questions of law and fact exist as to all Class Members and predominate over questions affecting only individual Class Members. Common legal and factual questions include, but are not limited to:

- Whether Defendant misrepresented and/or failed to disclose material facts concerning the Products;
- Whether allulose is a sugar;
- Whether the Zero Sugar Representation is false, misleading, and/or deceptive;
- Whether Defendant's conduct in advertising and selling the Products amounted to deceptive business practices;
- Whether Plaintiff and the Class Members have sustained damage as a result of Defendant's deceptive conduct;
- The proper measure of damages sustained by Plaintiff and the Class Members; and
- Whether Defendant was unjustly enriched by its unlawful practices.

61. ***Typicality*:** Plaintiff's claims are typical of the claims of the Classes in that Plaintiff and the Classes sustained damages as a result of Defendant's uniform wrongful conduct, based upon Defendant's sale of the Products using false and misleading labeling.

62. ***Adequacy*:** Plaintiff will fairly and adequately protect the interests of Class Members. Plaintiff has retained counsel that is highly experienced in complex consumer class action litigation, and Plaintiff intends to vigorously prosecute this action on behalf of the Classes. Plaintiff has no interests that are antagonistic to those of the Classes. Plaintiff has no past or present

financial, employment, familial, or other relationship with any of the attorneys in this case that would create a conflict of interest with the proposed class members.

63. ***Superiority*:** A class action is superior to all other available methods for the fair and efficient adjudication of this controversy for, *inter alia*, the following reasons: prosecutions of individual actions are economically impractical for members of the Classes; the Classes are readily definable; prosecution as a class action avoids repetitious litigation and duplicative litigation costs, conserves judicial resources, and ensures uniformity of decisions; and prosecution as a class action permits claims to be handled in an orderly and expeditious manner.

64. Without a class action, Defendant will continue a course of action that will result in further damages to Plaintiff and Members of the Classes and will likely retain the benefits of its wrongdoing.

CAUSES OF ACTION

COUNT I
Violation of New York General Business Law § 349
(On Behalf of the New York Subclass)

65. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

66. Plaintiff brings this cause of action individually and on behalf of the New York Subclass.

67. New York's General Business Law § 349 prohibits deceptive acts or practices in the conduct of any business, trade, or commerce.

68. In its sale of goods throughout the State of New York, Defendant conducts business and trade within the meaning and intendment of New York's General Business Law § 349.

69. Plaintiff and Class Members are consumers who purchased the Products for their personal use.

70. By the acts and conduct alleged herein, Defendant engaged in deceptive, unfair, and misleading acts and practices, as alleged above.

71. The foregoing deceptive acts and practices were directed at consumers.

72. The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the characteristics and quality of the Products to induce consumers to purchase the same.

73. By reason of this conduct, Defendant engaged in deceptive conduct in violation of New York's General Business Law.

74. Defendant's actions are the direct, foreseeable, and proximate cause of the damages Plaintiff and Class Members have sustained from having paid for and used the Products.

75. As a result of Defendant's violations, Plaintiff and Class Members have suffered damages because: (a) they would not have purchased the Products on the same terms if they knew about Defendant's misrepresentation; (b) they paid a price premium for the Products due to the misrepresentation; and (c) the Products do not have the characteristics, uses, benefits, or qualities as promised.

76. Plaintiff seeks all available relief under this cause of action, including actual damages or fifty dollars, whichever is greater; increased damages of up to three times actual damages, not to exceed one thousand dollars, for Defendant's willful or knowing violations; injunctive relief; and reasonable attorneys' fees. N.Y. Gen. Bus. Law § 349(h).

COUNT II
Violation of New York General Business Law § 350
(On Behalf of the New York Subclass)

77. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

78. Plaintiff brings this cause of action individually and on behalf of the New York Subclass.

79. New York's General Business Law § 350 prohibits false advertising in the conduct of any business, trade, or commerce or in the furnishing of any service.

80. Pursuant to said statute, false advertising is defined as "advertising, including labeling, of a commodity . . . if such advertising is misleading in a material respect." N.Y. Gen. Bus. Law § 350-a(1).

81. Based on the foregoing, Defendant engaged in consumer-oriented conduct that is deceptive or misleading in a material way which constitutes false advertising in violation of New York's General Business Law § 350.

82. Defendant's false, misleading, and deceptive statements and representations of fact were and are directed toward consumers. Defendant also actively concealed and knowingly omitted material facts regarding the true nature of the Products.

83. Defendant's false, misleading, and deceptive statements and representations of fact were and are likely to mislead a reasonable consumer acting reasonably under the circumstances.

84. Defendant's false, misleading, and deceptive statements and representations of fact have resulted in consumer injury or harm to the public interest.

85. As a result of Defendant's false, misleading, and deceptive statements and representations of fact, Plaintiff and Class Members have suffered and continue to suffer economic injury.

86. As a result of Defendant's violations, Plaintiff and Class Members have suffered damages because: (a) they would not have purchased the Products on the same terms if they knew about Defendant's misrepresentation; (b) they paid a price premium for the Products due to the

misrepresentation; and (c) the Products do not have the characteristics, uses, benefits, or qualities as promised.

87. Plaintiff seeks all available relief under this cause of action, including actual damages or five hundred dollars, whichever is greater; increased damages of up to three times actual damages, not to exceed ten thousand dollars, for Defendant's willful or knowing violations; injunctive relief; and reasonable attorneys' fees. N.Y. Gen. Bus. Law § 350-e(3).

COUNT III
Fraud
(On Behalf of the Nationwide Class and New York Subclass)

88. Plaintiff repeats the prior allegations of this Complaint and incorporates them by reference herein.

89. Plaintiff brings this cause of action individually and on behalf of the Class and Subclass members.

90. As discussed above, Defendant provided Plaintiff and Class Members with false or misleading material information about the Products, including but not limited to the Zero Sugar Representation.

91. This misrepresentation was made with knowledge of its falsehood.

92. The misrepresentation made by Defendant, upon which Plaintiff and Class Members reasonably and justifiably relied, was intended to induce, and actually induced, Plaintiff and Class Members to purchase the Products.

93. The fraudulent actions of Defendant caused damage to Plaintiff and Class Members, who are entitled to damages and other legal and equitable relief as a result.

COUNT IV
Unjust Enrichment
(On Behalf of the Nationwide Class and New York Subclass)

94. Plaintiff repeats the prior allegations of this Complaint and incorporates them by

reference herein.

95. Plaintiff brings this cause of action individually and on behalf of the Class and Subclass members.

96. Defendant, through the Zero Sugar Representation and its other misleading representations and omissions, enticed Plaintiff and Class Members to purchase the Products.

97. Plaintiff and Class Members conferred a benefit on Defendant by purchasing the Products.

98. By its wrongful acts, Defendant has been unjustly enriched at the expense of, and to the detriment of, Plaintiff and Class Members.

99. Defendant benefitted financially from the revenues and other compensation tied to the sale of the Products, which was unjust in light of Defendant's wrongful conduct.

100. Under the circumstances, it would be against equity and good conscience to permit Defendant to retain the ill-gotten benefits it received from Plaintiff and Class Members as the result of its deceptive marketing and advertising practices.

101. Because Defendant's retention of the non-gratuitous benefit conferred on it by Plaintiff and Class Members is unjust and inequitable, Plaintiff seeks restitution from, and an order from the Court disgorging, all profits, benefits, and other compensation obtained by Defendant due to its wrongful conduct.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the proposed classes, prays for the following relief:

A. Certification of the proposed classes;

B. Appointment of Plaintiff as representative of the classes;

C. Appointment of undersigned counsel as counsel for the classes;

D. A declaration that Defendant's actions complained of herein violated the statutes referenced herein;

E. For an order finding in favor of Plaintiff and Class Members on all counts asserted herein;

F. For actual, compensatory, statutory, nominal, and/or punitive damages in amounts to be determined by the Court and/or jury;

G. For prejudgment interest on all amounts awarded;

H. For an order of restitution and all other forms of equitable monetary relief;

I. For an order awarding Plaintiff and Class Members their reasonable attorneys' fees, expenses, and costs of suit; and

J. Orders granting such other and further relief as the Court deems necessary, just, and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: November 4, 2026

Respectfully submitted,

KAMBERLAW, LLC

By: */s/ Frederick J. Klorczyk III*
Frederick J. Klorczyk III

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the Proposed Classes