UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SUSAN COLBY, individually and on behalf of all others similarly situated, Plaintiff, v. WHOLE EARTH BRANDS, INC. and WHOLE EARTH SWEETENER COMPANY, LLC, Defendant.	Case No. CLASS ACTION COMPLAINT JURY DEMAND

CLASS ACTION COMPLAINT

Plaintiff Susan Colby ("Plaintiff"), on behalf of herself and all others similarly situated, alleges the following class action complaint (the "Action") against Defendants Whole Earth Brands, Inc. and Whole Earth Sweetener Company, LLC (collectively, "Whole Earth" or "Defendant") for violations of state statutes and common law doctrines upon personal knowledge as to herself and her own actions, and upon information and belief, including the investigation of her counsel, as follows:

INTRODUCTION

1. Plaintiff brings this class action on behalf of herself and all similarly situated consumers who purchased Whole Earth's allulose-based sweeteners, which Whole Earth labels,

markets, and sells as containing "0g Sugar" and "zero sugar" (collectively, the "Products" or "Sweeteners").[1]

2. Plaintiff and Class members, who have purchased these Products, bring this Action because of material representations which are false and misleading: Defendant markets and advertises the Products as "0g Sugar" and "Zero Sugar" (collectively, the "Representations"). However, unbeknownst to reasonable consumers, the Products do in fact contain sugar—in the form of allulose. Allulose is a monosaccharide, and it is therefore indisputably a sugar under the applicable federal labeling standards. *See Franco v. Chobani, LLC*, 184, F.4th 599, 602-604 (7th Cir. 2026). The Products' respective ingredient statements list allulose without an asterisk referring to a statement below the ingredient list that it "adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar."

3. Whole Earth made its Representations about "0g Sugar" Products in order to induce health-conscious consumers, like Plaintiff, to purchase the Products. But these representations are categorically misleading and false. The Products prominently represent that they are "0g Sugar" on their front labels. Those outside-panel statements expressly characterize the level of sugar in the Products and are nutrient-content claims under 21 C.F.R. § 101.13(b) and (b)(1). "0g Sugar" claims must comply with § 101.60(c)(1). As explained below, Plaintiff also alleges that the statements do not qualify for the quantitative-statement provision in § 101.13(i)(3). Section 101.60(c)(1)(ii) prohibits a sugar ingredient unless its listing is followed by an asterisk referring to the prescribed trivial, negligible, or dietarily insignificant sugar statement below the

[1] The Products are comprised of every Whole Earth sweetener sweetened with allulose and bearing the Zero Sugar Representations, including: (i) Whole Earth Stevia Leaf, Monk Fruit & Allulose (sold as "Allulose Blend – Bag," in 12 oz. and 3 lb. sizes); (ii) Whole Earth Stevia Leaf, Monk Fruit & Allulose packets (sold as "Allulose Blend – Packets," in 40-, 80-, and 400-count sizes); (iii) Whole Earth Allulose & Monk Fruit Blend (28 oz.); (iv) Whole Earth Brown Stevia Leaf, Monk Fruit & Allulose (12 oz.); (v) Whole Earth Granulated Allulose (12 oz.); and (vi) Whole Earth Liquid Allulose (11.5 fl. oz.). See Whole Earth Sweetener Co., Allulose Blend Sweeteners, https://wholeearthsweetener.com/collections/allulose-blend-sweeteners (last visited November 5, 2026).

ingredient list. That ingredient-disclosure condition is separate from § 101.60(c)(1)(i), which requires less than 0.5 gram of sugars per reference amount customarily consumed and per labeled serving for these Products. Adding an asterisk does not excuse failure to satisfy that threshold or the other applicable requirements. The Products contain allulose but omit that asterisk and statement. The governing federal standards are 21 U.S.C. § 343(a)(1), (r)(1)(A); 21 C.F.R. §§ 101.9(c)(6)(ii), 101.13(b), (b)(1), (b)(4), and (c), and 101.60(a)(1)–(3), (c)(1).[2]

4. For as long as consumable goods have been sold, "health-washing," which is the instigation of a sale of a consumer product by making it appear healthier than it is, has led consumers to buy products that either do not actually have any health benefits or are, in some cases, harmful. This case is a blatant example of health-washing. Here, Whole Earth uses false advertising and deceptive conduct which promises health-related benefits. To compound matters, the misrepresentations made on the Products are not only potentially harmful but command a price premium consistent with these misrepresentations that Plaintiff and Class members would not have paid had they known that Defendant's representations are false and misleading.

5. Against this backdrop, Plaintiff, on behalf of herself and all others similarly situated, brings this Action seeking actual and punitive damages, restitution, injunctive relief, and and reasonable attorneys' under state statutes and common law doctrines due to Defendant's intentional failure to ensure that the Products were distributed, produced, and sold in a manner consistent with advertising. As a result of the foregoing, Plaintiff and Class members (defined below) were harmed by paying a price premium for the Products which they otherwise would not

[2] Whole Earth, Granulated Allulose, https://wholeearthsweetener.com/products/granulated-allulose; Whole Earth, Stevia Leaf, Monk Fruit & Allulose, https://wholeearthsweetener.com/products/allulose-blend-bag; Whole Earth, Brown Stevia Leaf, Monk Fruit & Allulose, https://wholeearthsweetener.com/products/brown-stevia-leaf-monk-fruit-allulose; Whole Earth, Allulose & Monk Fruit, https://wholeearthsweetener.com/products/allulose-monk-fruit ; Whole Earth, Liquid Allulose, https://wholeearthsweetener.com/products/liquid-allulose (label images reviewed October 14, 2026).

have paid due to the misrepresentations made on packaging and in advertising or would not have purchased the Products at all.

JURISDICTION AND VENUE

6. This Court has original subject-matter jurisdiction over this action pursuant to the Class Action Fairness Act ("CAFA"), 28 U.S.C. § 1332(d), because: (1) this is a proposed class action involving more than 100 Class members; (2) Plaintiff is a citizen and resident of a State different from each Defendant; and (3) the aggregate amount in controversy exceeds $5,000,000, exclusive of interest and costs. Plaintiff is a citizen and resident of California. Defendant Whole Earth Brands, Inc. is a Delaware corporation with its principal place of business in Chicago, Illinois, and is therefore a citizen of Delaware and Illinois. Defendant Whole Earth Sweetener Co. LLC is a Delaware limited liability company with its principal place of business in Chicago, Illinois and is therefore deemed a citizen of Delaware, the State under whose laws it is organized, and Illinois, the State where it maintains its principal place of business. Accordingly, minimal diversity exists because Plaintiff is a citizen and resident of California, while Defendant is a citizen of Delaware and Illinois.

7. This Court has general personal jurisdiction over Defendants because each Defendant maintains its principal place of business and corporate headquarters within the Northern District of Illinois. Each Defendant is therefore at home in Illinois and subject to this Court's general personal jurisdiction. Whole Earth conducts, directs, manages, and oversees its business operations from its headquarters within this District, including activities relating to the marketing, advertising, distribution, and sale of its Products. Accordingly, Whole Earth has continuous and substantial connections with Illinois sufficient to support the exercise of personal jurisdiction consistent with constitutional due process requirements.

8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(1) because all Defendants reside in the Northern District of Illinois for venue purposes. Each Defendant maintains its principal place of business and corporate headquarters within this District and is subject to this Court's personal jurisdiction. Accordingly, each Defendant is deemed to reside in this District pursuant to 28 U.S.C. § 1391(c)(2). Venue is therefore proper regardless of Plaintiff's state of residence or the location where Plaintiff purchased the Products.

THE PARTIES

Plaintiff Susan Colby

9. Plaintiff Susan Colby is a citizen and resident of California residing in Clovis, California.

10. Plaintiff is an ordinary consumer without specialized knowledge concerning the chemistry or formulation of sweeteners. At the time of her purchase, she did not know that allulose is a sugar.

Defendants

11. Defendant Whole Earth Brands, Inc. is a Delaware corporation with its principal place of business at 125 S. Wacker Drive, Chicago, Illinois 60606. Whole Earth Brands, Inc. markets the Whole Earth® brand and, directly and through its subsidiaries, develops, formulates, packages, labels, markets, distributes, and sells the Products throughout the United States. Whole Earth Brands, Inc. announced the launch of the Whole Earth allulose line from Chicago, Illinois, and the Products' packaging identifies each Product as "part of Whole Earth Brands."

12. Defendant Whole Earth Sweetener Co. LLC is a Delaware limited liability company with its principal place of business in Chicago, Illinois 60606. Whole Earth Sweetener Co. LLC is a subsidiary of, and is owned and controlled by, Whole Earth Brands, Inc. Whole Earth

Sweetener Co. LLC is the entity identified on the Products' labels as the company for which the Products are distributed, holds the Whole Earth® trademark, and operates the wholeearthsweetener.com website on which the Zero Sugar Representations appear. For purposes of 28 U.S.C. § 1332(d)(10), Whole Earth Sweetener Co. LLC is a citizen of Delaware, the State under whose laws it is organized, and of Illinois, where it has its principal place of business.

13. At all relevant times, Defendants manufactured, distributed, marketed, and sold the Products.

FACTUAL BACKGROUND

Plaintiff Colby's experience

14. On or around October 5, 2025, Plaintiff Colby purchased a 28-ounce bag of Whole Earth Zero Calorie Sweetener, Allulose & Monk Fruit from a Costco in Fresno, California, for personal use during the statutory period.

15. Plaintiff monitors her health and makes purchasing decisions about food products based on their labels and ingredients. Plaintiff seeks to limit her sugar intake and, for that reason, purchases sweeteners that are marketed as containing no sugar.

16. Before purchasing the Product, Plaintiff Colby saw and relied on Whole Earth's representations on the front of the package that the Product was "0g Sugar."

17. Based on these representations, Plaintiff Colby reasonably believed that the Product contained no sugar. That understanding was material to her purchasing decision because she sought a sweetener without sugar.

18. Accordingly, Plaintiff relied on the Representation in deciding to purchase the Product and pay the price charged. Had she known that the allulose in the Product is a sugar, she would not have purchased it or would have paid less.

19. The Product contains allulose. Allulose is a monosaccharide and falls within the definition of sugars in 21 C.F.R. § 101.9(c)(6)(ii). Although the Product identified allulose as an ingredient, Plaintiff did not understand that ingredient to be a sugar when she purchased the Product.

20. The Product contained approximately eight grams of allulose per two-teaspoon serving.[3] Its allulose content therefore exceeded by sixteen times the less than 0.5 gram limit applicable to "sugar free" and "0g Sugar" claims under 21 C.F.R. § 101.60(c)(6)(ii).

21. The ingredient statement on the Product Plaintiff purchased did not identify allulose with an asterisk referring to any of the sugar disclosures specified in 21 C.F.R. § 101.60(c)(6)(ii).

22. Because the Product contained sugar despite the Representation, Plaintiff did not receive the sugar-free product she understood she was purchasing. She suffered economic injury by paying more for the Product than she would have paid had its sugar content been accurately represented.

23. It is well known that consuming added sugar can present a variety of dangerous health conditions, such as obesity, diabetes, and cardiovascular disease—indeed, the "right amount of added sugar" is "[a]s little as possible."[4]

24. For decades, federal health authorities have recommended limiting added sugar intake.[5] In light of this clear, long-standing guidance from medical authorities, consumer demand for low- and no-sugar products has grown substantially. Recent surveys report that 75% of U.S.

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[3] https://wholeearthsweetener.com/products/allulose-monk-fruit

[4] *The Sweet Danger of Sugar*, Harv. Health Publ'g (Apr. 6, 2026), https://www.health.harvard.edu/diabetes-and-metabolic-health/the-sweet-danger-of-sugar (reviewed by Mallika Marshall, M.D.); *Added Sugar*, The Nutrition Source, Harvard T.H. Chan School of Public Health (last reviewed Apr. 2022), https://nutritionsource.hsph.harvard.edu/carbohydrates/added-sugar-in-the-diet/

[5] See, e.g., U.S. Dep't of Health & Hum. Servs., *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity* 35 (2001), https://stacks.cdc.gov/view/cdc/28023/cdc_28023_DS1.pdf; U.S. Dep't of Health & Hum. Servs., Office of the Surgeon General, *The Surgeon General's Vision for a Healthy and Fit Nation: Background on Obesity* (Jan. 2010), https://www.ncbi.nlm.nih.gov/books/NBK44656/

consumers and 83% of consumers globally are limiting or avoiding sugar in their diets.[6] Sweetener manufacturers are acutely aware of this demand and of the premium consumers will pay to satisfy it. Products labeled "sugar free" 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.

25. Whole Earth has capitalized on that demand. It markets Products containing allulose, a sugar, while labeling and advertising them as "0g Sugar." The challenged labels omit the asterisk and corresponding ingredient disclosure required by 21 C.F.R. § 101.60(c)(1)(ii). Whole Earth thereby obtained an unfair competitive advantage over competitors whose sugar-free claims are true, at the expense of unwitting consumers.

Whole Earth's False and Misleading Representations

26. Whole Earth manufactures, markets, and sells its "0g Sugar" Sweeteners. The Products are sold at major retailers throughout the United States, including in California, through retailers such as Costco and Amazon.

[6] *See Int'l Food Info. Council*, 2025 IFIC Food & Health Survey: A Focus on Sugars & Sweeteners 5, 9 (Dec. 2025) (reporting that 75% of surveyed Americans were trying to limit or avoid sugar), https://ific.org/wp-content/uploads/2025-IFIC-Food-Health-Survey-Sugars-Sweeteners.pdf; ADM, ADM Launches Sweet Insights Tool for Navigating Sugar Reduction Trends, Worldwide (reporting that 83% of 13,900 surveyed consumers across 15 countries were limiting or avoiding sugar), https://www.adm.com/en-us/news/adm-stories/adm-launches-sweet-insights-tool-for-navigating-sugar-reduction-trends-worldwide.

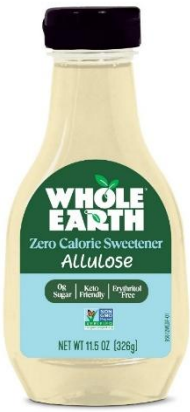
27. On the front labels of the Products, Whole Earth prominently states that the Products are "0g Sugar." Examples of these front-label claims are illustrated below. Whole Earth continues to reinforce this message consistently in its labeling.











28. Whole Earth disseminated the Representations through the Products' packaging, its own website and other online marketing. The Representations also appear in listings on Amazon.com and other online platforms. The labels declare 0g Total Sugars on the Nutrition Facts panels and identify allulose in the ingredient statements. The Granulated Allulose panel reproduced below is one example. It lists allulose without an asterisk referring to a statement below the ingredient list that the ingredient adds a trivial, negligible, or dietarily insignificant amount of sugar. The Stevia Leaf, Monk Fruit & Allulose, Brown Stevia Leaf, Monk Fruit & Allulose, Allulose & Monk Fruit, and Liquid Allulose labels likewise list allulose without that disclosure.[7]



[7] Whole Earth, Granulated Allulose, https://wholeearthsweetener.com/products/granulated-allulose; Whole Earth, Stevia Leaf, Monk Fruit & Allulose, https://wholeearthsweetener.com/products/allulose-blend-bag; Whole Earth, Brown Stevia Leaf, Monk Fruit & Allulose, https://wholeearthsweetener.com/products/brown-stevia-leaf-monk-fruit-allulose; Whole Earth, Allulose & Monk Fruit, https://wholeearthsweetener.com/products/allulose-monk-fruit; Whole Earth, Liquid Allulose, https://wholeearthsweetener.com/products/liquid-allulose (label images reviewed October 14, 2026).

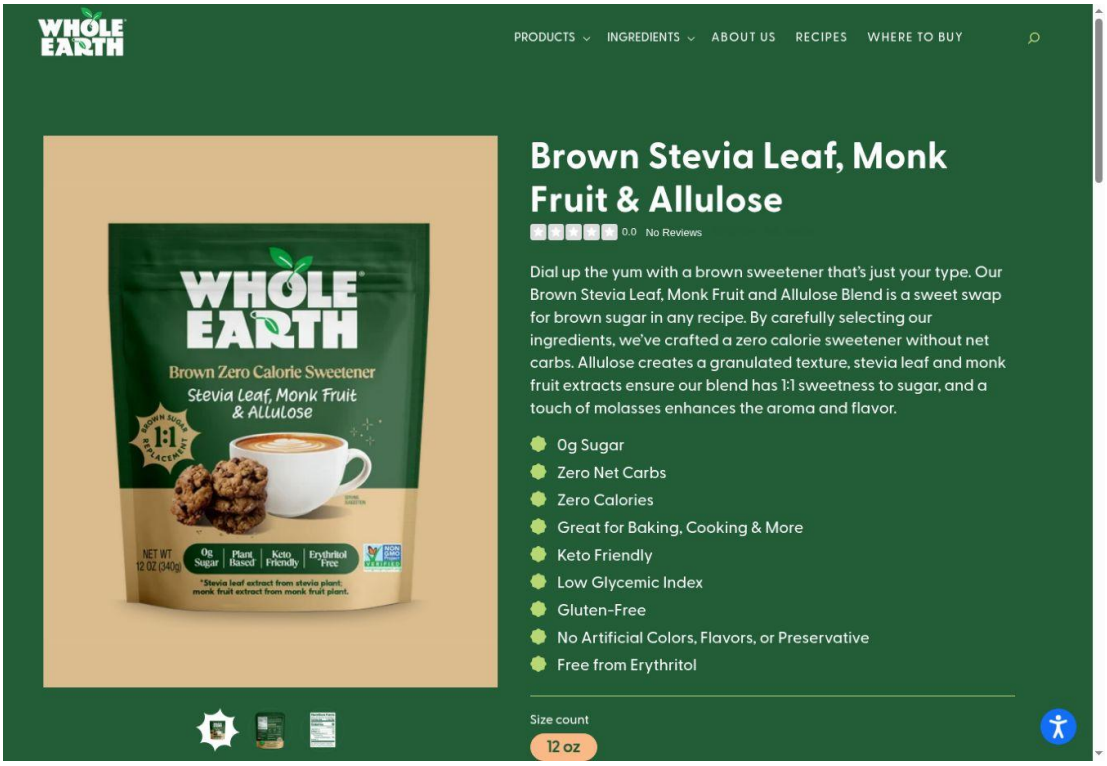
29. The Representations communicate to reasonable consumers that the Products contain no sugar. That is the plain and ordinary meaning of "0g Sugar," and federal and California law prescribe an objective standard governing when that term may be used.

30. "0g Sugar" is an absolute, objective, and quantitative claim concerning a measurable physical attribute of the Products. Plaintiff does not challenge the Nutrition Facts declarations themselves; she challenges the "0g Sugar" and "zero sugar" claims made outside the Nutrition Facts panel, which nutrient content claims. 21 C.F.R. § 101.13(c).The ingredient statements list allulose without the asterisk and explanatory statement required by 21 C.F.R. § 101.60(c)(1)(ii).

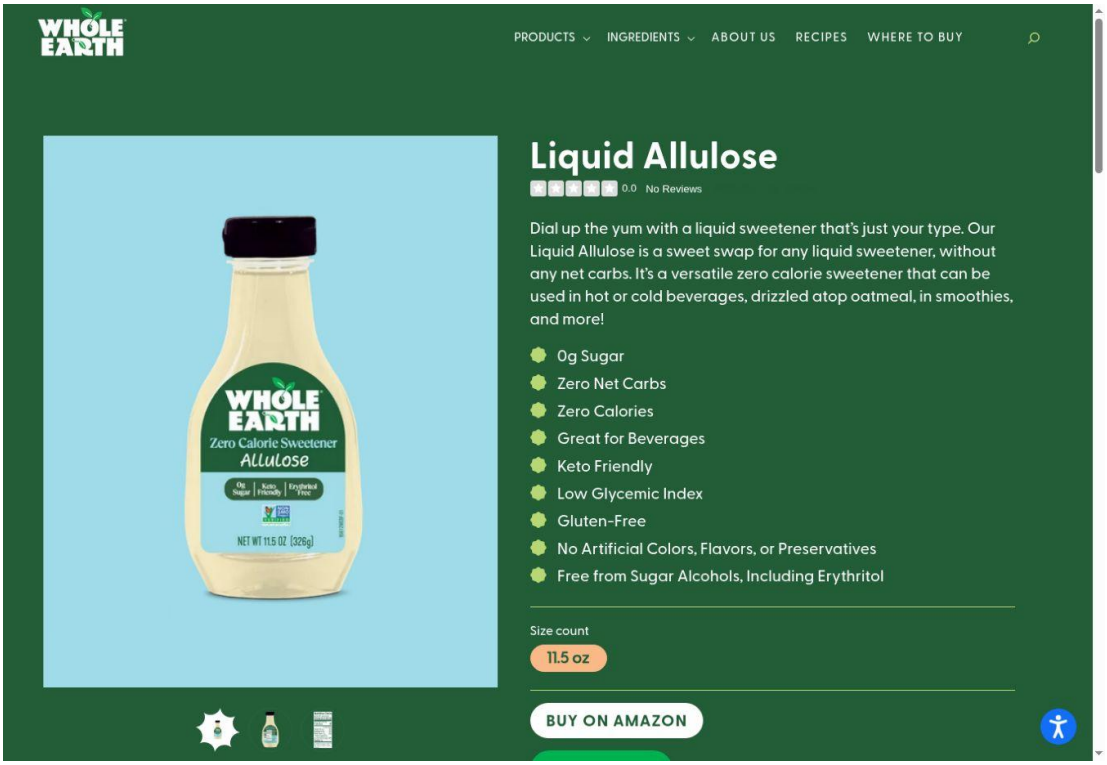
31. The screenshots below show the Granulated Allulose, Stevia Leaf, Monk Fruit & Allulose, Brown Stevia Leaf, Monk Fruit & Allulose, Allulose & Monk Fruit, and Liquid Allulose on Whole Earth's website, each bearing a front-label "0g Sugar" claim, with Allulose & Monk Fruit also promoted as "Zero Sugar."


WHOLE EARTH
PRODUCTS
INGREDIENTS
ABOUT US
RECIPES
WHERE TO BUY
Granulated Allulose
0.0 No Reviews
Dial up the yum with a sweetener that's just your type. Our Granulated Allulose is a sweet swap for any granulated sweetener, without any net carbs. It's a versatile zero calorie sweetener that can be used in hot or cold beverages, sprinkled atop oatmeal or yogurt, in baking, and more!
0g Sugar
Zero Net Carbs
Zero Calories
Great for Beverages, Baking & Tabletop Use
Keto Friendly
Low Glycemic Index
Gluten-Free
No Artificial Colors, Flavors, or Preservatives
Free from Sugar Alcohols, Including Erythritol
Size count
12 oz
BUY ON AMAZON
WHOLE EARTH
Zero Calorie Sweetener
Allulose
CANE SUGAR REPLACEMENT
NET WT 12 OZ (340g)
0g Sugar
Keto Friendly
Erythritol Free


WHOLE EARTH
PRODUCTS
INGREDIENTS
ABOUT US
RECIPES
WHERE TO BUY
Allulose Blend - Bag
4.5
Dial up the yum with a sweetener that's just your type. Our Stevia Leaf, Monk Fruit and Allulose Blend is a sweet swap for sugar in any recipe. By carefully selecting our ingredients, we've crafted a simple sweetener without any calories or net carbs. Allulose creates a granulated texture, while stevia and Monk Fruit ensure our blend has 1:1 sweetness to sugar.
0g Sugar
Zero Net Carbs
Zero Calories
Great for Baking, Cooking & More
Keto Friendly
Low Glycemic Index
Gluten-Free
No Artificial Colors, Flavors, or Preservative
Free from Sugar Alcohols, Including Erythritol
Size count
12 oz
3 lb
BUY ON AMAZON
BUY AT WALMART
WHOLE EARTH
Zero Calorie Sweetener
Stevia Leaf, Monk Fruit & Allulose
SUGAR 1:1 REPLACEMENT
NET WT 12 OZ (340g)
0g Sugar
Plant Based
Keto Friendly
Erythritol Free


WHOLE EARTH
PRODUCTS
INGREDIENTS
ABOUT US
RECIPES
WHERE TO BUY
Brown Stevia Leaf, Monk Fruit & Allulose
0.0 No Reviews
Dial up the yum with a brown sweetener that's just your type. Our Brown Stevia Leaf, Monk Fruit and Allulose Blend is a sweet swap for brown sugar in any recipe. By carefully selecting our ingredients, we've crafted a zero calorie sweetener without net carbs. Allulose creates a granulated texture, stevia leaf and monk fruit extracts ensure our blend has 1:1 sweetness to sugar, and a touch of molasses enhances the aroma and flavor.
0g Sugar
Zero Net Carbs
Zero Calories
Great for Baking, Cooking & More
Keto Friendly
Low Glycemic Index
Gluten-Free
No Artificial Colors, Flavors, or Preservative
Free from Erythritol
Size count
12 oz
WHOLE EARTH
Brown Zero Calorie Sweetener
Stevia Leaf, Monk Fruit & Allulose
1:1
NET WT 12 OZ (340g)
0g Sugar
Plant Based
Keto Friendly
Erythritol Free


WHOLE EARTH
PRODUCTS
INGREDIENTS
ABOUT US
RECIPES
WHERE TO BUY
Allulose & Monk Fruit Blend - Bag
3.0
Sweeten your wellness journey with our Monk Fruit sweetener that can replace sugar wherever you like. A mix of monk fruit and allulose, this zero calorie sweetener can be used as a 1-to-1 swap for sugar, which means you can keep digging into foods that light you up—like baked goods, hot drinks, and even cocktails—while also ticking off wellness wins.
Zero Sugar
Zero Net Carbs
Zero Calories
1-to-1 Sugar Substitute
Sugar-like Texture
Keto Friendly
Zero Glycemic Index
Gluten-Free
No Artificial Colors, Flavors, or Preservatives
Erythritol Free
Size count
28 oz
WHOLE EARTH
Zero Calorie Sweetener
Allulose & Monk Fruit
1:1



Allulose Is A Sugar

32. As a monosaccharide, allulose falls squarely within the Food and Drug Administration ("FDA")'s codified definition of sugar. 21 C.F.R. § 101.9(c)(6)(ii) (defining "Total sugars" as "the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose)"). Consistent with that definition, the FDA stated that allulose, "as a monosaccharide, must be included" in the Total Sugars declaration pending any future rulemaking that would otherwise exclude the substance.[8] No such rulemaking ever occurred.

33. The United States Court of Appeals for the Seventh Circuit recently confirmed the point in *Franco v. Chobani, LLC*, a case arising in this District that challenged "sugar free" claims on yogurt sweetened with allulose. *Franco v. Chobani, LLC*, 184 F.4th 599 (7th Cir. 2026), rev'g 789 F. Supp. 3d 584 (N.D. Ill. 2025). Holding that allulose "is a sugar under the relevant federal

[8] Food Labeling: Revision of the Nutrition and Supplement Facts Labels, 81 Fed. Reg. 33,742, 33,795-96 (May 27, 2016)

regulation," the court explained that "[t]here's no dispute that allulose is a monosaccharide," and "[b]ecause 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)." *Id*. at 602, 604. The FDA itself, appearing as amicus curiae, agreed that the regulation is unambiguous and that total sugars include all monosaccharides, including allulose. *Id*. at 604.

34. The industry also recognizes that allulose is a sugar.[9] Indeed, one of the most predominant manufacturers of commercial-grade allulose has acknowledged that "[a]llulose is a monosaccharide, or simple sugar"[10] and has noted in multiple FDA filings that "Allulose is a monosaccharide and is classified as a sugar."[11] Numerous medical and health-focused websites consistently refer to allulose as a "naturally occurring sugar."[12]

35. Not only is allulose a sugar, but its use as an additive can cause gastrointestinal effects such as nausea, bloating, diarrhea, and abdominal pain.[13] A large 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, and that increasing the level of ingested allulose

[9] Wenli Zhang et al., D-Allulose, a Versatile Rare Sugar: Recent Biotechnological Advances and Challenges, 63 CRITICAL REVS. FOOD SCI. & NUTRITION 5661, 5661 (2023) (published online Dec. 29, 2021), https://doi.org/10.1080/10408398.2021.2023091.

[10] Tate & Lyle Study, Aug. 13, 2018, at p. 6, https://www.regulations.gov/document/FDA-2015-P-1201-0014 ("Allulose is a monosaccharide, or simple sugar, that naturally presents in small quantities in fruits like figs and raisins and a variety of sweet foods like caramel sauce, maple syrup and brown sugar.")

[11] Citizen Petition Submitted by Tate & Lyle Ingredients Americas LLC requesting that Allulose be Exempt From Being Included As a Carbohydrate, Sugar, or Added Sugar in the Nutrition Facts Label on Foods and Beverages, April 10, 2015, Docket Number FDA-2015-P-1201.

[12] See, e.g., *Cleveland Clinic, What You Need To Know About Allulose* (Nov. 4, 2024), https://health.clevelandclinic.org/what-is-allulose (last visited Aug. 28, 2026).

[13] Memorandum from Center for Science in the Public Interest to Food and Drug Administration (June 17, 2019), https://cspinet.org/sites/default/files/attachment/allulose%20final%20from%20CSPI.pdf

resulted in incidences of severe nausea, abdominal pain, headache, anorexia, and diarrheal symptoms.[14]

The Products Violate the FDA Nutrient Content Regulations

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

37. FDA regulations distinguish mandatory or permitted declarations within the Nutrition Facts panel from nutrient-content claims appearing elsewhere on a label or in labeling. Information appearing as part of the Nutrition Facts panel is not itself a nutrient-content claim. 21 C.F.R. § 101.13(c).

38. 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 . . . .").

39. The "0g Sugar" statements on the Products' packages and other labeling are nutrient-content claims because they expressly characterize the level of sugar. 21 C.F.R. § 101.13(b)(1), (c). Whole Earth's advertisements repeat the same challenged message and are also alleged as misleading under applicable state law. Section 101.13(i)(3) permits a statement of a

[14] Han Y, Choi BR, Kim SY, Kim SB, Kim YH, Kwon EY, & Choi M.S., Gastrointestinal Tolerance of D-Allulose in Healthy and Young Adults. A Non-Randomized Controlled Trial. Nutrients, 2018 Dec 19;10(12):2010, doi: 10.3390/nu10122010.

nutrient amount that does not implicitly characterize its level and is not false or misleading in any respect. Plaintiff alleges that the prominent front-label "0g Sugar" statements communicate the absence of sugar, rather than merely reporting an amount without characterizing its level. The separate "Zero Sugar" website statement for Allulose & Monk Fruit, reproduced above, expressly communicates that absence. Alternatively, even if a "0g Sugar" statement is treated as a numerical amount statement, Plaintiff alleges that it fails § 101.13(i)(3)'s truthfulness condition because it conveys no sugar while the Product contains allulose, a sugar under the definition alleged herein.

40. Because the challenged representations characterize sugar as absent in the context alleged above, Plaintiff alleges that they must satisfy § 101.60(c)(1). Plaintiff alternatively challenges the numerical statements as false or misleading under § 101.13(i)(3). The governing federal standards are 21 U.S.C. § 343(a)(1), (r)(1)(A); 21 C.F.R. §§ 101.9(c)(6)(ii), 101.13(b), (b)(1), (b)(4), and (c), and 101.60(a)(1)– (3), (c)(1).

41. For the reasons alleged above, Plaintiff contends that the "0g Sugar" Representations are governed by § 101.60(c)(1). 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 gram of sugars, as defined in § 101.9(c)(6)(ii), per reference amount customarily consumed and per labeled serving;

ii) The food contains no ingredient that is a sugar or is generally understood by consumers to contain sugars unless the ingredient listing is followed by an asterisk referring to a statement below the ingredient list that the ingredient "adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar"; and

iii) The food satisfies one of the calorie-labeling alternatives in § 101.60(c)(1)(iii):

(A) It is labeled "low calorie" or "reduced calorie," or bears a relative claim of special dietary usefulness, in compliance with the provisions identified in § 101.60(c)(1)(iii)(A); or

(B) Each use of the sugar-free term is immediately accompanied by "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).

42. The Products do not satisfy § 101.60(c)(1)(ii). Allulose is a sugar ingredient and appears in the ingredient statements, but its listing is not followed by an asterisk linked to any of the three prescribed statements below the ingredient list. Footnotes concerning Daily Values in the Nutrition Facts panels do not identify allulose as adding sugar and do not provide the required ingredient disclosure. Plaintiff therefore alleges that the Products cannot lawfully bear the challenged "0g Sugar" claims in their present form, even if the separate threshold in § 101.60(c)(1)(i) were otherwise satisfied. Plaintiff does not allege that adding an asterisk would cure a failure to meet that threshold. For example, the Granulated Allulose panel reproduced above lists an 8-gram serving and allulose as its sole ingredient; because allulose is a sugar, that Product contains sixteen times the 0.5-gram threshold under Plaintiff's pleaded interpretation that allulose counts as sugar, that Product also exceeds the threshold. The prescribed disclosure cannot truthfully describe a nontrivial amount as trivial.

43. Because the Products' labels include deceptive and impermissible nutrient-content claims, the Products are "misbranded" under federal law. 21 U.S.C. § 343(a)(1), (r)(1)(A).

44. Plaintiff does not seek to enforce the FDCA directly. She seeks relief under independently enforceable state consumer-protection laws, including California's Sherman Food,

Drug, and Cosmetic Law, Cal. Health & Safety Code § 109875 et seq. (the "Sherman Law"), which adopts 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.

Defendants' Conduct Violates California's Food Labeling Laws

45. Whole Earth's 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 federal food-labeling regulations as California regulations. Cal. Health & Safety Code § 110100(a); see also id. § 110670.

46. Whole Earth's 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).

47. Whole Earth's 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).

48. Federal regulations further prohibit the use of the terms "sugar free," "zero sugar," "no sugar," or other terms having the same meaning unless the food contains less than 0.5 grams of sugars per reference amount customarily consumed and per labeled serving. 21 C.F.R. § 101.60(c)(1).

49. Whole Earth prominently represent on the Product's labeling and packaging that the Product is "0g Sugar." That representation is false and misleading because the Product contains approximately twenty two grams of allulose per serving, an amount many times higher than the threshold established by 21 C.F.R. § 101.60(c)(1).

50. Defendant's representations are particularly misleading because they expressly communicate to consumers that the Product contains no sugar, when, in fact, it contains multiple grams of allulose, a sugar under the applicable regulatory definition. The Product's labeling therefore misrepresents the nature and sugar content of the Product and fails to disclose material facts necessary to prevent Defendants' "0g Sugar" representations from misleading consumers.

51. Because the Products bear "0g Sugar" nutrient-content claims without the prescribed disclosures, the Products are misbranded under California law, regardless of whether

the 0.5g threshold is met. Defendant's advertising, distribution, and sale of the Products is, therefore, unlawful.

Reasonable Consumers Would Be Misled By Whole Earth's Deception

52. 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 "0g Sugar." Consumers are not expected to look beyond misleading representations on the front of the package to discover that those representations are false.

53. Whole Earth's deception is especially misleading because a consumer who reviews the Nutrition Facts panels would encounter a 0g Total Sugars declaration, while the ingredient statements list allulose without the required asterisk and statement that the ingredient adds a trivial, negligible, or dietarily insignificant amount of sugar.

54. 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. Whole Earth is responsible for ensuring that its express labeling and marketing claims are truthful and not misleading.

Whole Earth Knew the Representations Were False

55. Whole Earth knew, or should have known, that the Representations were false, misleading, deceptive, and unlawful when it marketed, advertised, labeled, distributed, and sold the Products. Specifically, Whole Earth knew that: (a) the Products contain allulose; (b) allulose is a sugar; (c) its labels represented that the Products contained no sugar; (d) reasonable consumers would rely on those labels when purchasing; (e) consumers would not receive the represented

benefit of the bargain; and (f) the Representations enabled Whole Earth to charge a premium for Products containing sugar.

56. Whole Earth, as the marketer and distributor of the Products, controlled, or participated in, making the Representations on the Products' labels and advertisements. Whole Earth could have stopped using the Representations or ensured that they were true. Despite its knowledge that consumers reasonably rely on the Representations, Whole Earth chose to continue using them, thereby causing consumers to buy or overpay for the Products.

Whole Earth's "0g Sugar" Claims Injured Plaintiff and the Classes

57. Whole Earth 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 contain allulose, a sugar; (c) the fact that the Products contain more than 0.5 grams of sugar per serving and lack the ingredient disclosure prescribed by § 101.60(c)(1)(ii), which does not excuse noncompliance with the separate sugar-content threshold; (d) the fact that the Products do not satisfy the ingredient-disclosure condition for a "0g Sugar" claim; and (e) the fact that the Products are misbranded under federal and California law when sold bearing the Representations.

58. As an immediate, direct, and proximate result of Whole Earth's false, misleading, and deceptive representations and omissions, Whole Earth 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 Whole Earth warranted; (d) purchased Products worth less than represented; (e) did not receive products that met the expectations Whole Earth created; (f) purchased Products that Plaintiff and members of the Classes did not expect or consent to receive; (g) purchased Products containing sugar despite intending to buy only products

represented to contain none; and (h) with respect to Plaintiff Colby and members of the California Subclass, purchased misbranded Products that could not lawfully have been sold in California.

59. Accordingly, Plaintiff and the Class Members suffered injury in fact and lost money or property because of Whole Earth's wrongful conduct.

Plaintiff Lacks an Adequate Remedy at Law

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

61. 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 Whole Earth unfairly obtained, which are equitable remedies not necessarily coextensive with damages.

62. Equitable relief is additionally appropriate because the statutes of limitations for the asserted causes of action vary. The UCL generally carries a four-year limitations period, Cal. Bus. & Prof. Code § 17208, while the FAL generally carries a three-year limitations period, Cal. Civ. Proc. Code § 338(a), subject to applicable accrual and tolling principles.

63. 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 Whole Earth's fraudulent marketing scheme. Plaintiff's common-law claim is more limited, focusing on duties arising from Whole Earth's Representations at the point of purchase. The UCL may also borrow statutory prohibitions that do not themselves create a private cause of action.

CLASS ACTION ALLEGATIONS

64. Plaintiff, individually and on behalf of all others similarly situated, brings this class action pursuant to Fed. R. Civ. P. 23 on behalf of the following classes.

California Subclass:

All persons who, during the maximum period of time permitted by law, purchased one or more of Defendants' Products in California for personal, family, or household use ("California Subclass").

Nationwide Class:

All persons in the United States who, during the maximum period of time permitted by law, purchased one or more of Defendants' Products for personal, family, or household use ("Nationwide Class").

65. Excluded from the Classes are the following individuals and/or entities: Whole Earth and Whole Earth's parents, subsidiaries, affiliates, officers and directors, and any entity in which Whole Earth has a controlling interest; all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; any and all federal, state or local governments, including but not limited to their departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

66. Plaintiff reserves the right to amend the above definitions or to propose subclasses in subsequent pleadings and motions for class certification.

67. This action has been brought and may properly be maintained as a class action under Federal Rule of Civil Procedure Rule 23 because there is a well-defined community of interest in the litigation, and membership in the proposed classes is easily ascertainable.

68. **Numerosity:** A class action is the only available method for the fair and efficient adjudication of this controversy, as the members of the Class are so numerous that joinder of all

members is impractical, if not impossible. Members of the Classes may be notified of the pendency of this action by mail and/or publication through the distribution records of Whole Earth and third-party retailers and vendors.

69. **Commonality:** Plaintiff and the Class Members share a community of interests in that there are numerous common questions and issues of fact and law which predominate over any questions and issues solely affecting individual members, including, but not necessarily limited to:

a. Whether allulose is a sugar;

b. Whether the Products were in fact "0g Sugar";

c. Whether reasonable consumers would understand Whole Earth's representations and warranties concerning the Products to be untrue and misleading;

d. Whether Whole Earth's representations and warranties were material;

e. Whether the Products are misbranded under federal and California law

f. Whether Whole Earth was unjustly enriched as a result of the unlawful conduct alleged in this Complaint;

g. Whether Plaintiff and the members of the Classes have suffered damages as a result of Whole Earth's actions and the amount of those damages;

h. Whether Plaintiff and the members of the Classes are entitled to injunctive relief; and

i. Whether Plaintiff and the members of the Classes are entitled to attorneys' fees and costs.

70. With respect to the California Subclass, additional questions of law and fact common to the members include whether Whole Earth 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.

71. **Typicality**: Plaintiff's claims are typical of the claims of the Class. Plaintiff and all members of the Class sustained damages arising out of and caused by Whole Earth's common course of conduct in violation of law, as alleged herein.

72. **Adequacy of Representation**: Plaintiff in this class action is an adequate representative of the Class in that the Plaintiff has the same interest in the litigation of this case as the Class Members, is committed to the vigorous prosecution of this case and has retained competent counsel who are experienced in conducting litigation of this nature.

73. Plaintiff is not subject to any individual defenses unique from those conceivably applicable to other Class Members or the class in its entirety. Plaintiff anticipates no management difficulties in this litigation.

74. **Superiority of Class Action**: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member make or may make it impractical for members of the Class to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought, by each individual member of the Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants.

75. The prosecution of separate actions would also create a risk of inconsistent rulings, which might be dispositive of the interests of the Class Members who are not parties to the adjudications and/or may substantially impede their ability to protect their interests adequately.

76. This class action is also appropriate for certification because Whole Earth has acted or refused to act on grounds generally applicable to Class Members, thereby requiring the Court's imposition of uniform relief to ensure compatible standards of conduct toward the Class Members and making final injunctive relief appropriate with respect to the Class in its entirety.

77. Whole Earth policies and practices challenged herein apply to and affect Class Members uniformly and Plaintiff's challenge of these policies and practices hinges on Whole Earth conduct with respect to the Class in its entirety, not on facts or law applicable only to Plaintiff.

78. Unless a Class-wide injunction is issued, Whole Earth may continue to act unlawfully as set forth in this Complaint.

79. Further, Whole Earth has acted or refused to act on grounds generally applicable to the Class and, accordingly, final injunctive or corresponding declaratory relief with regard to the Class Members as a whole is appropriate under Federal Rule of Civil Procedure 23.

CAUSES OF ACTION

COUNT ONE
VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT ("CLRA")
Cal. Civ. Code § 1750 et seq.
(On behalf of Plaintiff and the California Subclass)

80. Plaintiff realleges and reincorporates every allegation set forth in the preceding paragraphs as though fully set forth herein.

81. California Plaintiff brings this claim on behalf of herself and the California Subclass against Whole Earth.

82. 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."

83. 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."

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

85. Whole Earth profited from sales of the falsely and deceptively advertised Products by representing that the Products contain "0g Sugar" and "zero sugar" even though they contain allulose.

86. Whole Earth's wrongful business practices constituted, and still constitute, a continuing course of conduct in violation of the CLRA.

87. Pursuant to Cal. Civ. Code § 1782(d), the Plaintiff seeks injunctive relief under this CLRA count. She does not presently seek damages, restitution, or other monetary relief under the CLRA, apart from any recoverable attorneys' fees and costs.

88. The Plaintiff reserves the right to amend this complaint to seek CLRA damages after satisfying the notice and timing requirements of Cal. Civ. Code § 1782. The Plaintiff's declaration under Cal. Civ. Code § 1780(d), stating facts showing that this action has been commenced in a proper place for trial, is filed concurrently with this Complaint as Exhibit A.

89. The Plaintiff seeks an order enjoining Whole Earth from continuing the misleading Representations, to the extent the requirements for injunctive relief are satisfied, and reasonable attorneys' fees and costs under Cal. Civ. Code § 1780(e).

90. Plaintiff requests for monetary relief under other counts do not seek monetary relief under this CLRA count.

COUNT TWO
VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL")
Cal. Bus. & Prof. Code § 17200 et seq.
(On behalf of Plaintiff and the California Subclass)

91. Plaintiff realleges and reincorporates every allegation set forth in the preceding paragraphs as though fully set forth herein.

92. Plaintiff brings this claim individually and on behalf of the California Subclass against Whole Earth.

93. Whole Earth violated California's Unfair Competition Law ("UCL"), Cal. Bus. & Prof. Code §§ 17200–17210, by engaging in unfair, fraudulent, and unlawful business practices.

94. Plaintiff has standing to pursue this claim because she suffered an injury in fact and lost money or property as a result of Defendant's conduct. Plaintiff purchased the Product for personal use, relied on Whole Earth's representation that it contained "0g Sugar" and spent money they otherwise would not have spent had they known it contained significant amounts of allulose per serving.

95. 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. 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. Such a person may bring such an action on behalf of themself or others similarly situated who are affected by the unlawful or unfair business practice or act.

96. Whole Earth's acts, as described above, constitute unlawful, unfair, and fraudulent business practices pursuant to California Business & Professions Code § 17200 et seq.

97. Whole Earth violated the UCL's proscription against engaging in Unlawful Business Practices through its 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 and 101.60(c)(1).

98. Whole Earth has also violated the UCL's proscription against engaging in Unfair Business Practices. Whole Earth's 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. Whole Earth's conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous. The gravity of Whole Earth's conduct outweighs any alleged benefits attributable to it. There is no utility in representing that a product sweetened predominantly with sugar contains no sugar. Furthermore, Whole Earth's false and misleading representations are detrimental to competitors offering similar products that either do not make similar claims or do not contradict those claims by sweetening their products with sugar. Whole Earth's misrepresentations and omissions therefore harm consumers and the market as a whole.

99. Plaintiff and the California Subclass Members suffered substantial injury by virtue of buying the Products that they would not have purchased absent Whole Earth's unlawful, fraudulent, and unfair marketing, advertising, packaging, and omissions about the presence and amount of sugar in the Products. The gravity of the consequences of Whole Earth's conduct as

described above outweighs any justification, motive, or reason; therefore, 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 California Subclass Members.

100. Plaintiff and the California Subclass Members could not have reasonably avoided their injury or known that the Products' prominent labeling and marketing were inaccurate. Furthermore, consumers lack the specialized knowledge to determine whether an ingredient such as allulose is a sugar. As such, they could not have reasonably avoided the injury they suffered.

101. Under Cal. Bus. & Prof. Code § 17203, Plaintiff and California Class seek restitution and appropriate injunctive relief. They seek attorneys' fees and costs under Cal. Code Civ. Proc. § 1021.5 and other applicable law to the extent its requirements are satisfied.

COUNT THREE
VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW ("FAL")
Cal. Bus. & Prof. Code § 17500
(On behalf of Plaintiff and the California Subclass)

102. Plaintiff realleges and reincorporates every allegation set forth in the preceding paragraphs as though fully set forth herein.

103. Plaintiff brings this claim on behalf of herself and the California Subclass against Whole Earth.

104. Whole Earth's acts and practices, as described herein, have deceived or are likely to deceive members of the California Subclass and the public. Whole Earth represents that the Products contain "0g Sugar" and "zero sugar" even though they contain allulose, and its place on the ingredients listing is not followed by an asterisk linked to any of the three prescribed statements below the ingredient list.

105. Whole Earth has 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. Whole Earth's above-described advertising is likely to deceive because Whole Earth affirmatively represents that the Products contain "0g Sugar" and "zero sugar."

106. In making and disseminating these statements, Whole Earth knew, or should have known, that its advertising was untrue or misleading. Plaintiffs and the California Subclass based their purchasing decisions on Whole Earth's materially false Representations and were injured in fact and lost money or property as a result.

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

108. Under Cal. Bus. & Prof. Code § 17535, the California Plaintiff and California Class seek restitution and appropriate injunctive relief. They seek attorneys' fees and costs under Cal. Code Civ. Proc. § 1021.5 and other applicable law to the extent its requirements are satisfied.

COUNT FOUR
UNJUST ENRICHMENT
(On Behalf of Plaintiff and the Nationwide Class or, alternatively, the California Subclass)

109. Plaintiff realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

110. Plaintiff brings this Count on behalf of herself and the Nationwide Class or, alternatively, the California Subclass.

111. This claim is brought under the law of the State of California and the substantively identical law of the other states and the District of Columbia.

112. This claim is brought in the alternative to the other Counts. California law and the Federal Rules of Civil Procedure 8(d)(2)–(3) allows Plaintiff to plead alternative theories.

113. Whole Earth's conduct violated, *inter alia*, state and federal law by manufacturing, advertising, labeling, marketing, distributing, and selling the Product while misrepresenting and omitting material facts, including by making the labeling Representation alleged herein.

114. As a direct result of Whole Earth's deceptive conduct, it obtained unjust and inequitable benefits at the expense of Plaintiff and the Class members. Whole Earth's conduct violated fundamental principles of justice, equity, and good conscience. Accordingly, it would be inequitable for Whole Earth to retain the revenues derived from sales induced by its misleading Representations.

115. Plaintiff and the Class members conferred substantial financial benefits upon Whole Earth through retail purchases of the Product, which materially differed from the representations made by Whole Earth.

116. Plaintiff and the Class members seek the imposition of a constructive trust over the profits improperly obtained by Whole Earth, from which Plaintiff and the Class may obtain restitution and disgorgement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of herself and each member of the proposed Classes, respectfully requests that the Court enter judgment in their favor and for the following specific relief against Whole Earth as follows:

a. Certifying the California Subclass and Nationwide Class pursuant to Federal Rule of Civil Procedure 23, and appointing Plaintiff and her counsel to represent the Classes;

b. Declaring that Whole Earth's conduct constitutes:

1) A violation of California's Consumers Legal Remedies Act ("CLRA") (Cal. Civ. Code § 1750 et seq.);
2) A violation of California's Unfair Competition Law ("UCL") (Cal. Bus. & Prof. Code § 17200 et seq.);
3) A violation of California's False Advertising Law ("FAL") (Cal. Bus. & Prof. Code § 17500);
4) Unjust enrichment;

c. Awarding all actual, compensatory, statutory, and punitive damages to which Plaintiff and Class members are entitled;

d. Awarding equitable relief, including restitution and/or disgorgement of Whole Earth's revenues obtained by means of any wrongful act or practice;

e. Enjoining Whole Earth from labeling, marketing, and selling the Products with the Zero Sugar Representations, and ordering appropriate corrective advertising;

f. Awarding reasonable attorneys' fees and costs, including expert witness fees and expenses as permitted by law;

g. Awarding pre- and post-judgment interest at the maximum rate permitted by applicable law;

h. Granting such other and further relief as this Court deems just and proper.

JURY TRIAL DEMANDED

Plaintiff, individually and on behalf of the Classes, hereby demands a trial by jury for all issues triable by jury.

Dated: November 9, 2026

Respectfully submitted,

/s/ Kevin Laukaitis
LAUKAITIS LAW, LLC
Kevin Laukaitis*
954 Avenida Ponce De Leon
Suite 205, #10518
San Juan, PR 00907
T: (215) 789-4462
klaukaitis@laukaitislaw.com

Attorneys for Plaintiff and the Putative Class

** Pro Hac Vice admission forthcoming*