

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

ELIZA DECKER, individually and on behalf of all
others similarly situated,

Plaintiff,

v.

SMARTSWEETS INC.,

Defendant.

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

Case No. 1:26-cv-06009

Plaintiff Eliza Decker, individually and on behalf of all others similarly situated, brings this class action suit for damages and equitable relief against SmartSweets Inc. (“Defendant”). Plaintiff alleges the following based upon personal information as to allegations regarding themselves, and the investigation of their counsel, and on information and belief as to all other allegations:

NATURE OF THE ACTION

1. Defendant manufactures, markets, and sells “better-for-you” candy. These candy products include Candy Salad, Dream Puffs, Fruit Flavored Snacks (Berry Medley), Fruit Flavored Snacks (Mixed Fruit), Gummy Worms, Lollipops, Mini Sourmelon Bites, Mini Sweet Fish, Peach Rings, Sour Blast Buddies (Pink Lemonade), Sour Gummy Worms, Sweet Fish, Tropical Sours, and Wild Berries (collectively, “the Products”).

2. Defendant prominently markets the Products as “Naturally Flavored” and containing “No Artificial Flavors.” The “Naturally Flavored” claim appears on the Products’ front, side, and back labels, and Defendant repeats both claims across channels through which Defendant sells and markets them. In other words, the “Naturally Flavored” and “No Artificial Flavors” marketing campaign is widespread, consistent, and aggressive and appears at multiple points in consumers’ interactions with the Products.

3. Each Product, as presented on Defendant’s website, is shown below.









4. These representations are both false and misleading. Today, ninety percent or more of all commercial citric acid is not naturally produced from citrus fruits but, instead, is artificial citric acid that is synthetically derived from a form of black mold, *Aspergillus niger*. Upon information and belief, given the volume of Products sold by Defendant, it is not possible that the

Products are made without artificial citric acid. Defendant's false and misleading statements conceal this fact.

5. Defendant's false and misleading statements caused Plaintiff and members of the proposed class to pay a price premium for the Products. Had they known the truth, Plaintiff and members of the proposed class would not have purchased the Products or would have paid less.

6. Plaintiff seeks monetary and injunctive relief against Defendant for common-law fraud and for violations of the New York General Business Law ("GBL") §§ 349–50.

THE PARTIES

7. Plaintiff Eliza Decker is a resident of Queens, New York. They purchased Defendant's Sweet Fish from Amazon.com in approximately February 2026. They have also purchased other Products, including Defendant's Variety Candy Pack (containing Sweet Fish, Peach Rings, Tropical Sours, and Pink Lemonade Dream Products¹) from Amazon.com in approximately December 2025. Plaintiff relied on Defendant's representations that the Products were "Naturally Flavored" and would not have purchased the Products, or would have paid less, had they known the truth.

8. Defendant SmartSweets Inc. is a Canadian corporation headquartered in Vancouver, British Columbia. Branding itself as "the original better-for-you candy brand,"² Defendant touts its mission to source "the highest quality, cutting-edge ingredients that are non-GMO, always real, and **never artificial** while never compromising on the delicious taste you know

¹ The Pink Lemonade Dream Product is not listed on Defendant's website. However, it is included in some variety packs sold through third-party retailers, including Amazon.

² *SmartSweets Enters the Fruit Snack Category with Low-Sugar Fruit Flavored Snacks*, PR NEWswire (June 25, 2026), <https://www.prnewswire.com/news-releases/smartsweets-enters-the-fruit-snack-category-with-low-sugar-fruit-flavored-snacks-302810080.html>.

and love in traditional candy”³ (emphasis added). It is “one of the fastest-growing candy brands” and, according to Forbes, has sold the Products in 130,000 stores.⁴ CBC called Defendant the “#1 low-sugar candy brand in North America[.]”⁵

JURISDICTION AND VENUE

9. This Court has subject matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d)(2), because the aggregate amount in controversy exceeds \$5 million, exclusive of interests and costs; more than 100 Class members are involved; and many members of the proposed Class are citizens of different states than Defendant.

10. This Court has personal jurisdiction over Defendant because Defendant committed the tortious acts alleged herein in New York, regularly conducts business in this District, and has extensive contacts with this forum.

11. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because Plaintiff resides in this District, Plaintiff purchased the Products while in this District, a substantial part of the events or omissions giving rise to the claims occurred in this District, and Defendant transacts substantial business in this District.

³ *SmartSweets Unwraps First Innovation Outside Gummy Category with Launch of Sweet Chews*, PR NEWswire (Apr. 7, 2020), <https://www.prnewswire.com/news-releases/smartsweets-unwraps-first-innovation-outside-gummy-category-with-launch-of-sweet-chews-301036122.html>.

⁴ MeiMei Fox, *Trendy SmartSweets Candies Are Low In Sugar And Free Of Toxic Chemicals*, FORBES (Mar. 28, 2023), <https://www.forbes.com/sites/meimeifox/2023/03/28/trendy-smartsweets-candies-are-low-in-sugar-and-free-of-toxic-chemicals/>.

⁵ *Full Circle Dragon: Tara Bosch*, CBC DRAGONS’ DEN, available at <https://www.cbc.ca/dragonsden/fullcircle/full-circle-dragon-tara-bosch> (last accessed Sept. 28, 2026).

FACTUAL ALLEGATIONS

A. Defendant Markets the Products as Naturally Flavored

12. Reasonable consumers understand the phrases “natural flavor” and “artificial flavor” in their ordinary, everyday senses: natural, meaning “existing in or produced by nature: not artificial,” “true to nature,” or “having a form or appearance found in nature;”⁶ artificial, meaning something created by humans but “made . . . to seem like something natural;”⁷ and flavor meaning “affect[ing] the sense of taste.”⁸

13. Defendant prominently markets the Products as “Naturally Flavored,” including on their front and side labels, as shown on Defendant’s website and third-party retail websites:



⁶ *Natural*, MERRIAM-WEBSTER, available at <https://www.merriam-webster.com/dictionary/natural> (last accessed Sept. 28, 2026).

⁷ *Artificial*, MERRIAM-WEBSTER, available at <https://www.merriam-webster.com/dictionary/artificial> (last accessed Sept. 28, 2026).

⁸ *Flavor*, MERRIAM-WEBSTER, available at <https://www.merriam-webster.com/dictionary/flavor> (last accessed Sept. 28, 2026).



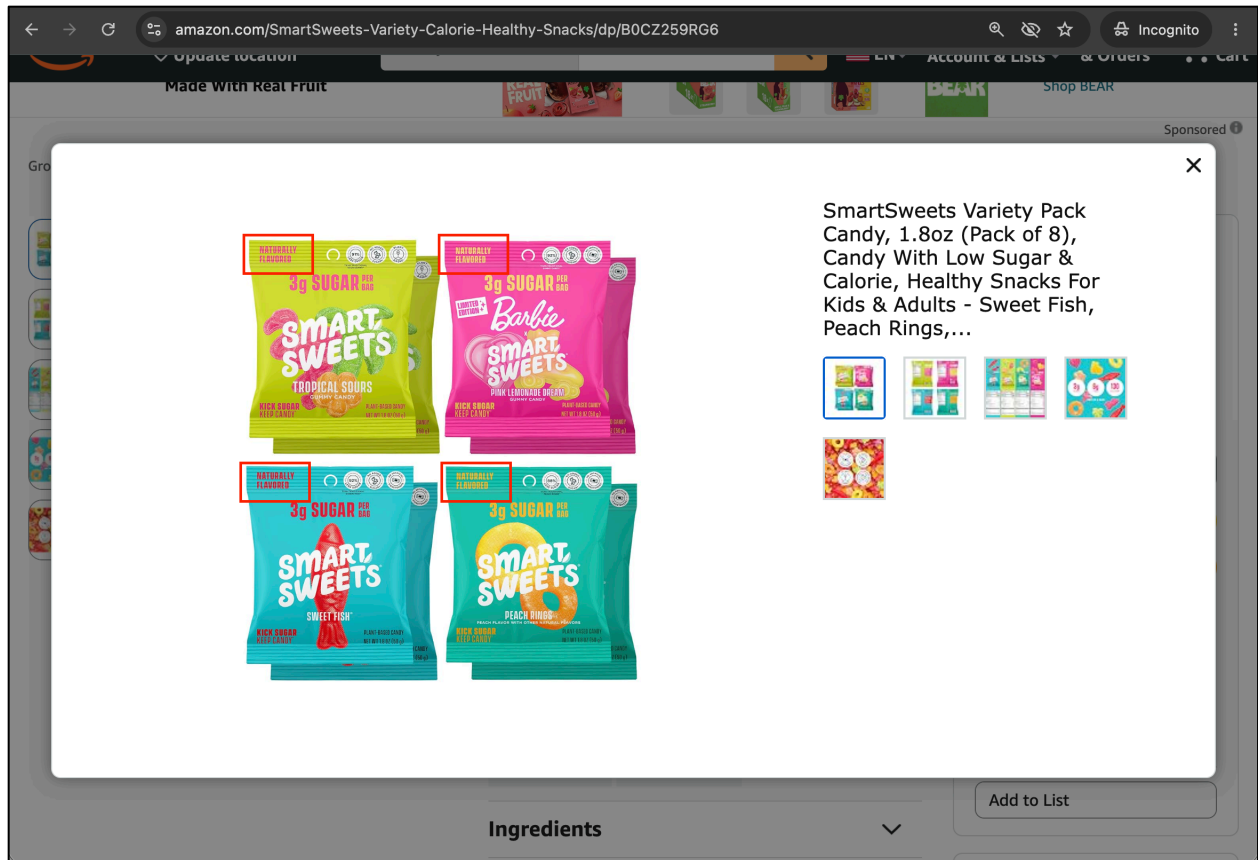


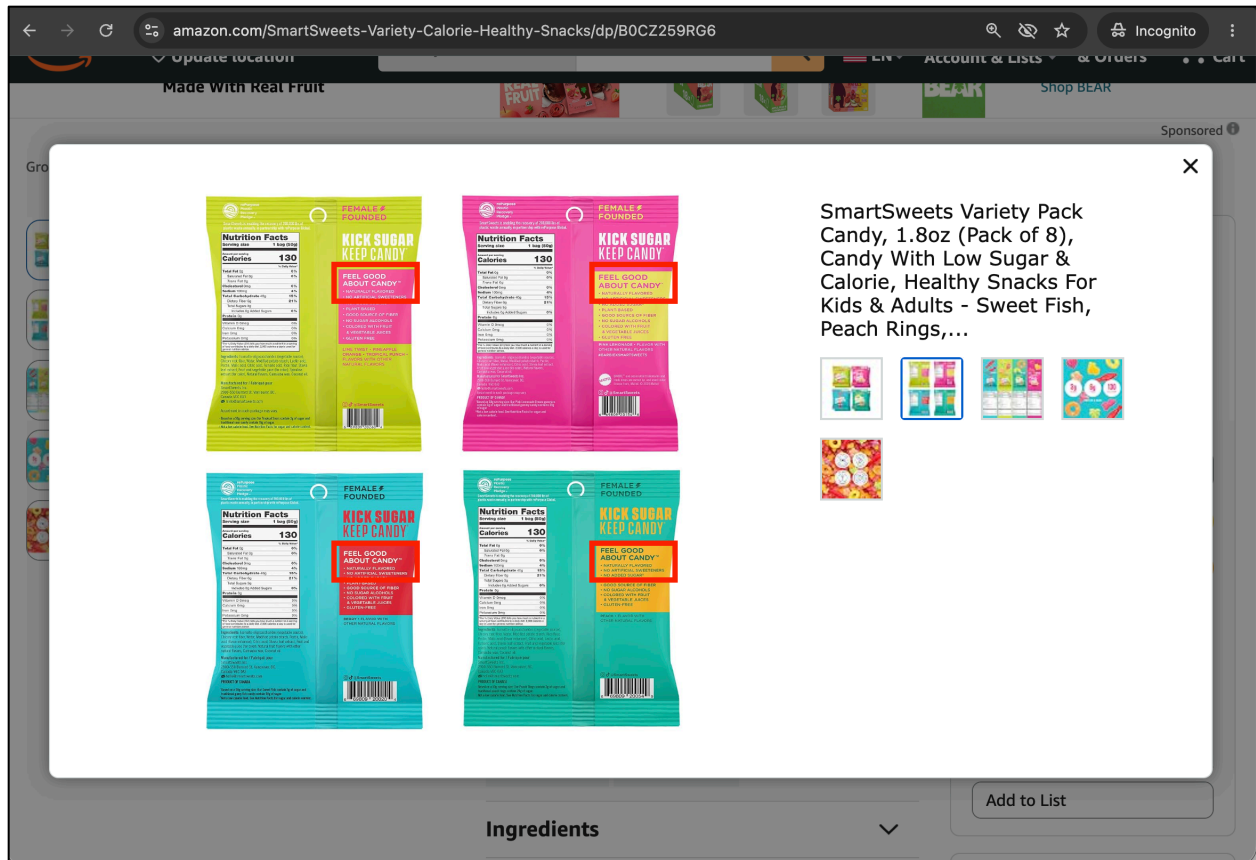




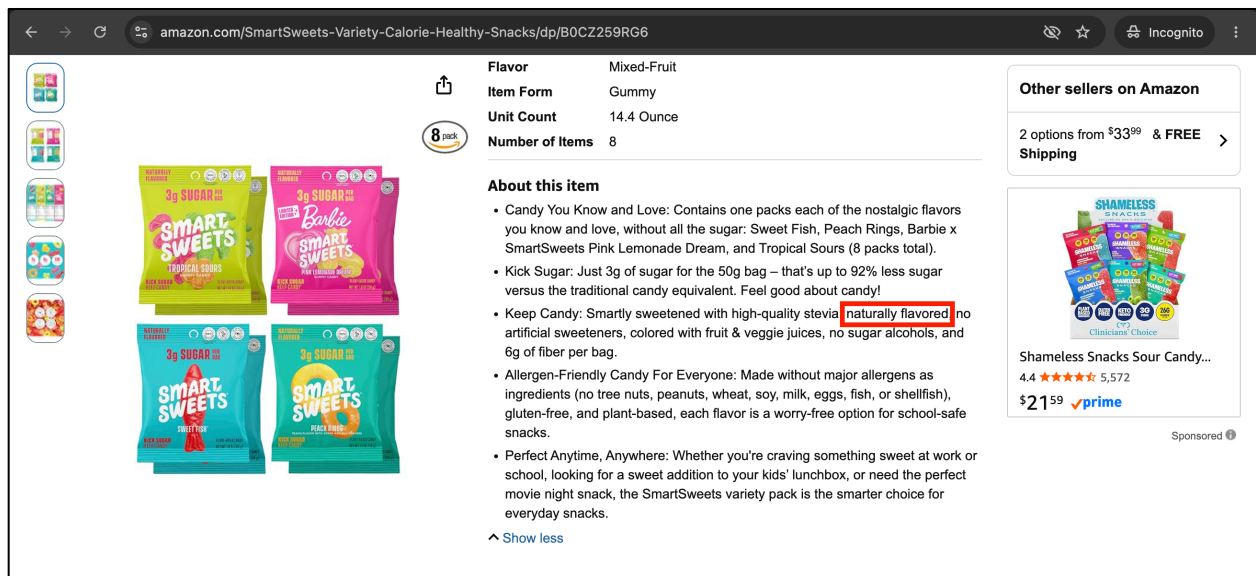
14. Defendant carries this “Naturally Flavored” campaign onto the third-party retail platforms it uses to sell the Products. For instance, on Amazon.com, Defendant prominently shows the packaging for Products included in one of its variety packs, all of which are labeled “Naturally Flavored” on both front and back packaging:⁹

⁹ *SmartSweets Variety Pack Product Listing*, AMAZON, available at <https://www.amazon.com/SmartSweets-Variety-Calorie-Healthy-Snacks/dp/B0CZ259RG6> (last accessed Sept. 28, 2026).

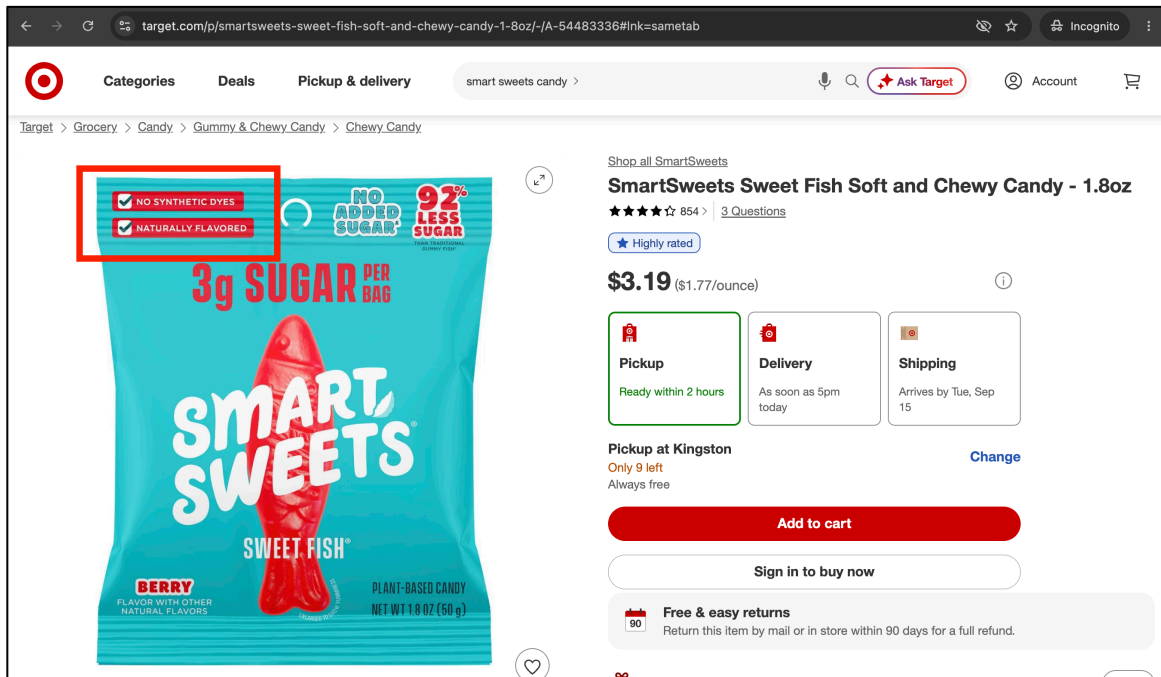




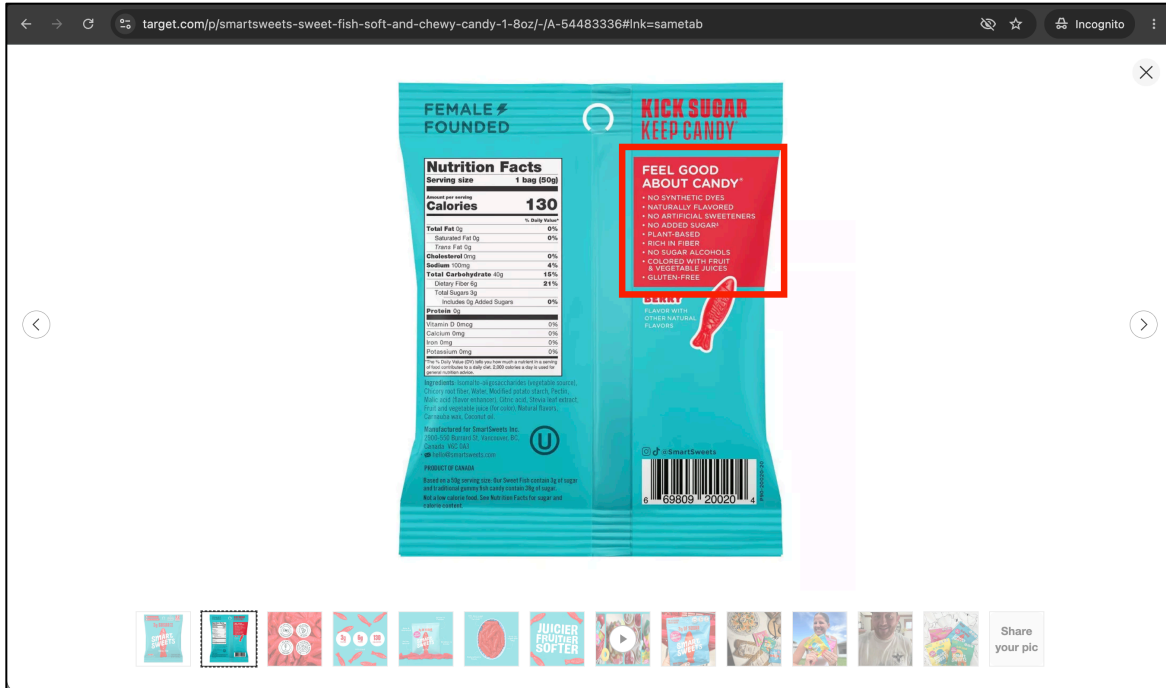
15. And under “Top Highlights,” Defendant emphasizes that the Product is “naturally flavored”:



16. On Target.com, Defendant prominently displays the front and back packaging of the Products, which are labeled with “Naturally Flavored”:¹⁰

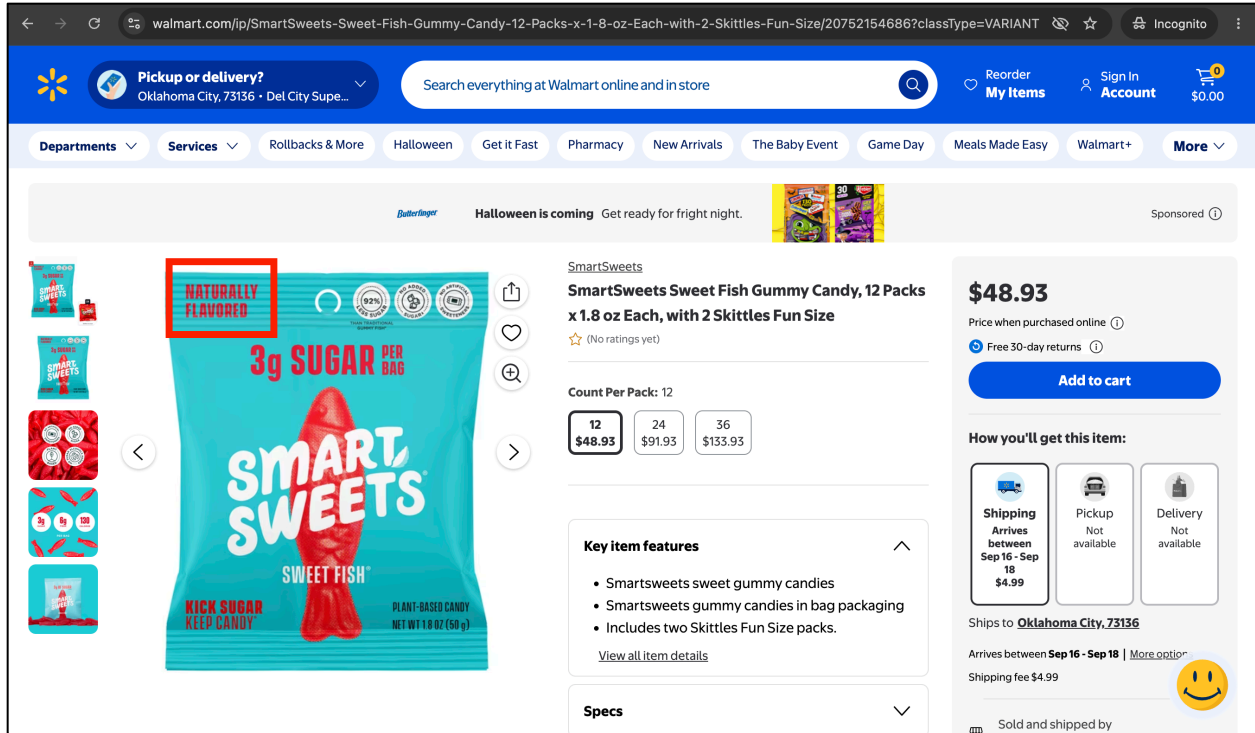


¹⁰ *SmartSweets Sweet Fish Soft and Chewy Candy – 1.8oz*, TARGET, available at <https://www.target.com/p/smartsweets-sweet-fish-soft-and-chewy-candy-1-8oz/-/A-54483336> (last accessed Sept. 28, 2026).



17. On Walmart.com, Defendant uses graphics and language that express the “Naturally Flavored” promise:¹¹

¹¹ *SmartSweets Sweet Fish Gummy Candy, 12 Packs x 1.8 oz Each with 2 Skittles Fun Size*, WALMART, available at <https://business.walmart.com/ip/SmartSweets-Sweet-Fish-Gummy-Candy-12-Packs-x-1-8-oz-Each-with-2-Skittles-Fun-Size/20752154686> (last accessed Sept. 28, 2026).



18. Defendant’s “Naturally Flavored” marketing extends beyond the label or retail contexts and into its digital advertising campaign, and includes the promise of “No Artificial Flavors.”

19. Defendant’s paid social media advertisements routinely market the Products’ so-called lack of artificial flavors. Meta advertisements are captioned “Fruit snacks, but better ✨ 63% less sugar, real fruit juice, and **no artificial flavors**. They’re kid-loved and parent-approved!”¹² (emphasis added). Others are tagged “Lunchbox-ready snacks made with real fruit juice and **no**

¹² See, e.g., *SmartSweets Advertisements*, META AD LIBRARY, available at <https://www.facebook.com/ads/library/?id=1617175956439696>; <https://www.facebook.com/ads/library/?id=1042511915483908>; <https://www.facebook.com/ads/library/?id=1655838562886016>; <https://www.facebook.com/ads/library/?id=1573020967937068>; <https://www.facebook.com/ads/library/?id=1055544027291280> (last accessed Sept. 28, 2026).

artificial flavors”¹³ (emphasis added). And another advertisement uses a graphic that reads “Free From Artificial Flavors,” in comparison to other candy products which have “Artificial Flavors”:¹⁴

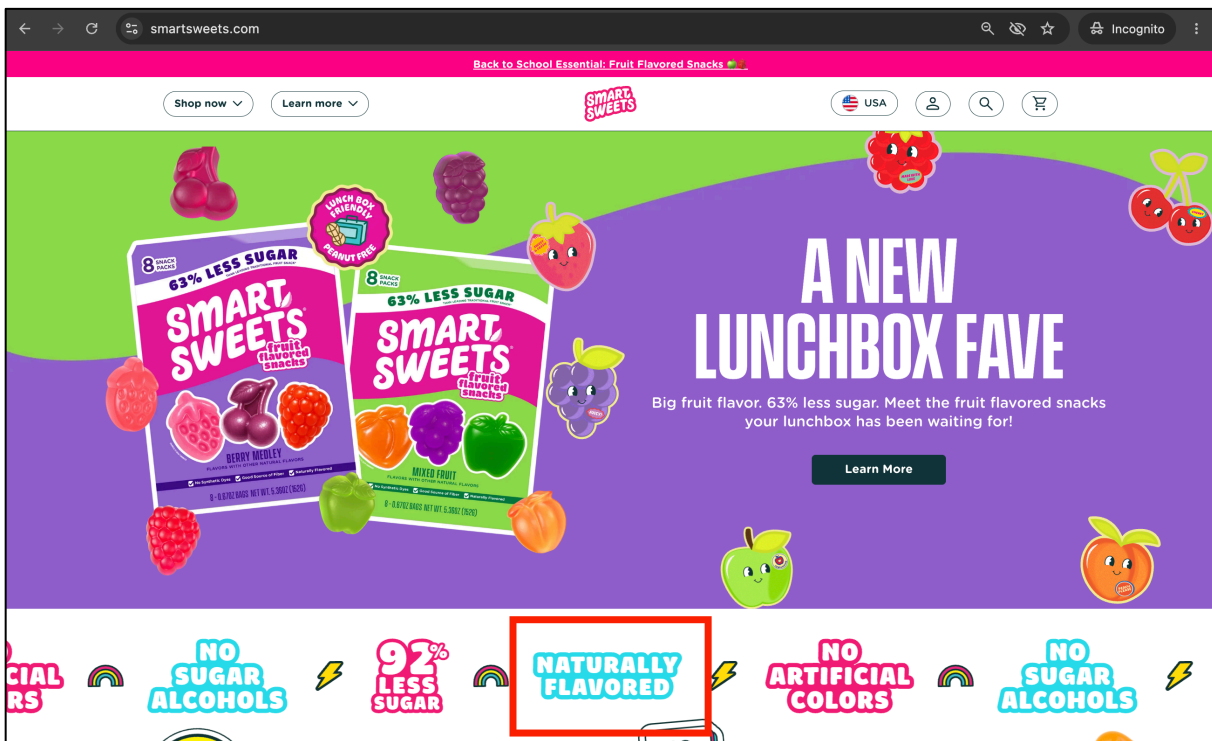


20. Defendant’s website, which consumers use to further investigate and inform their decision to purchase the Products, compounds the promise that the Products are naturally flavored.

¹³ See, e.g., *SmartSweets Advertisements*, META AD LIBRARY, available at <https://www.facebook.com/ads/library/?id=1697155438044482>; <https://www.facebook.com/ads/library/?id=27409122065431433> (last accessed Sept. 28, 2026).

¹⁴ *SmartSweets Advertisement*, META AD LIBRARY, available at <https://www.facebook.com/ads/library/?id=1055544027291280> (last accessed Sept. 28, 2026).

Defendant's homepage maintains a continuously running belt of slogans, one of which is "Naturally Flavored":



21. Across its website's product pages, Defendant tells consumers that they should purchase the Products because they are "Naturally Flavored" and contain "No Artificial Flavors," unlike other candy products which have "Artificial Flavors":

smartweets.com/products/sweet-fish

Back to School Essential: Fruit Flavored Snacks 🍎🍌

Shop now Learn more

USA

Sweet Fish™

Packed with delicious berry flavor, Sweet Fish are a fan-favorite #KickSugar candy.

Find our 100g bag of Sweet Fish exclusively at Walmart!

3g of sugar per bag | 6g of fiber per bag
No Artificial Sweeteners

Buy on:

Amazon Target Instacart Walmart

Find in Store

smartweets.com/products/dream-puffs

Back to School Essential: Fruit Flavored Snacks 🍎🍌

Shop now Learn more

USA

Dream Puffs

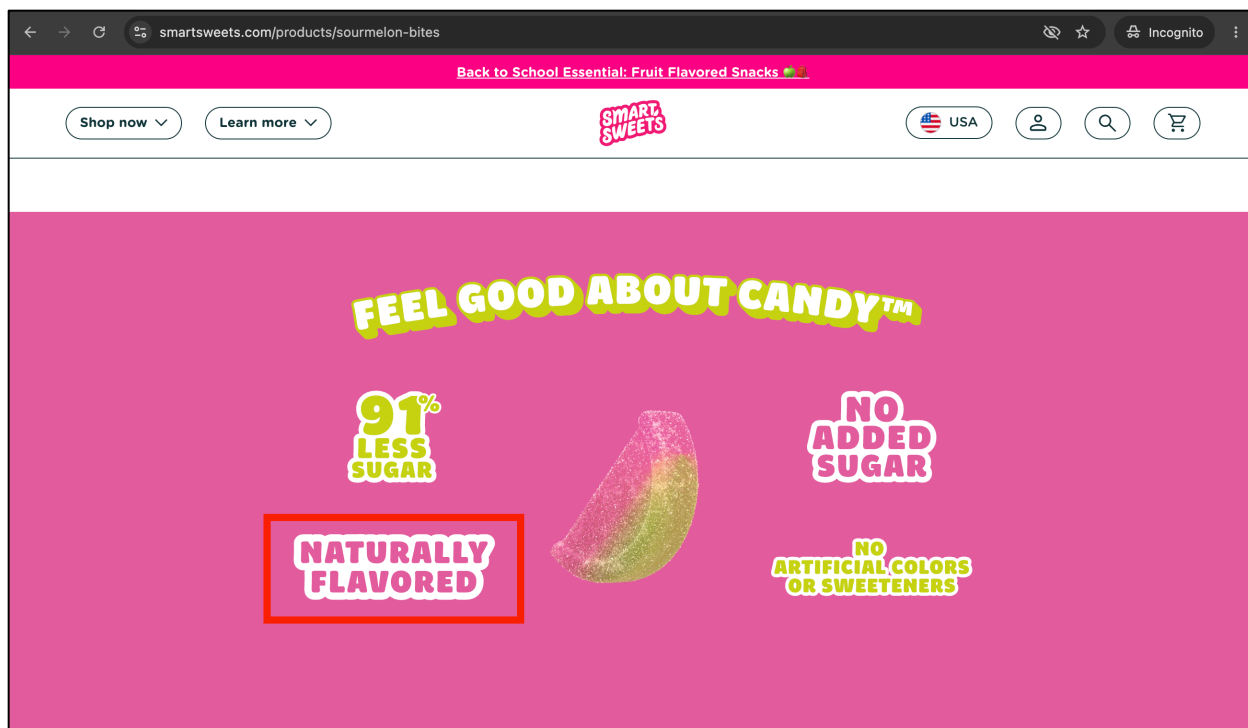
Soft and squishy, foam-like Dream Puffs come in dreamy cloud and rainbow shapes, featuring both Strawberry Foam and Peach Foam flavors in every bag.

3g of sugar per bag | 7g of fiber per bag
No Artificial Sweeteners

Buy on:

Amazon

Find in Store



22. The “Naturally Flavored” and “No Artificial Flavors” marketing campaign is widespread, consistent, and aggressive and appears at multiple points in consumers’ interactions with the Products.

23. All of these claims are false and misleading, as demonstrated below.

B. The Citric Acid in the Products Is Manufactured, Not Naturally Derived

24. “Citric acid as a food additive”—like that in the Products—“is not natural citric acid; it is manufactured through fermentation using *Aspergillus niger*.”¹⁵

25. Citric acid was first isolated in 1784, when Swedish chemist Carl Scheele derived it from lemon juice. Commercial production began in England around 1826 using Italian lemons and continued in that form until the early 20th century, “when the first industrial process using

¹⁵ Iliana E. Sweis & Bryan C. Cressey, *Potential role of the common food additive manufactured citric acid in eliciting significant inflammatory reactions contributing to serious disease states: A series of four case reports*, 5 TOXICOLOGY REPORTS 808 (2018), <https://pmc.ncbi.nlm.nih.gov/articles/PMC6097542/>.

Aspergillus niger began in Belgium.”¹⁶ Production from lemon juice peaked in 1915–1916 at approximately 17,500 tons.¹⁷ Today, global production of artificial citric acid exceeds 2 million tons each year.¹⁸

26. Food scientist Mary Mulry, PhD, states, “We would all love to think that citric acid comes from an orange, but it does not. It comes from a chemical process.”¹⁹

27. Although citric acid occurs naturally in citrus fruits, commercial extraction from fruit is not feasible at scale. Natural sources such as lime, lemon, and orange cannot produce the quantities demanded by the modern food and beverage industry, rendering extraction from such sources economically inefficient.²⁰ In 1995, the USDA wrote that citric acid in its natural form, *i.e.*, as obtained “[t]raditionally by extraction from citrus juice [is] **no longer commercially available**”²¹ (emphasis added). In 2015, the USDA reiterated that “[c]itric acid purified from citrus fruits is technically feasible, but whether it is economically possible is unknown.”²²

¹⁶ Maria Papagianni, *Advances in citric acid fermentation by Aspergillus niger: Biochemical aspects, membrane transport and modeling*, 25 BIOTECHNOLOGY ADVANCES (2007), <https://www.sciencedirect.com/science/article/abs/pii/S0734975007000183>.

¹⁷ Rosaria Ciriminna et al., *Citric acid: emerging applications of key biotechnology industrial product*, 11 CHEMISTRY CENTRAL JOURNAL 1 (2017), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5342991/>.

¹⁸ Catherine Tubb, *The fermentation-led disruption of citric acid*, RETHINKX (2026), <https://www.rethinkx.com/blog/citric-acid>.

¹⁹ Lisa Marshall, *Is citric acid natural?*, NEW HOPE NETWORK (Dec. 19, 2014), <https://www.newhope.com/food-and-beverage/is-citric-acid-natural->.

²⁰ Ambreen Latif et al., *An overview of key industrial product citric acid production by Aspergillus niger and its application*, 52 JOURNAL OF INDUSTRIAL MICROBIOLOGY AND BIOTECHNOLOGY 2 (2025), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11956825/>.

²¹ *Citric Acid Technical Report*, USDA AMS (1995), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%201995.pdf>.

²² *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

28. Microbial fermentation is the only commercially viable method of producing artificial citric acid at scale for the food and beverage industry, and it is now the dominant method of citric acid production. “About 99% of world production of citric acid occurs via microbial processes[.]”²³ As a result, today’s “citric acid is a bulk, low-value product,”²⁴ and to meet the “huge demand for citric acid worldwide,” manufacturers are building “[m]ore and more industrial factories.”²⁵

29. “Industrially citric acid is currently produced by fermentation,”²⁶ predominantly using “a mutant strain of the black mold *Aspergillus niger*,”²⁷ which “account[s] for approximately 90%”²⁸ or “99% of the world’s production of MCA.”²⁹ (MCA, an acronym for Manufactured Citric Acid, is a term commonly used to describe artificial citric acid.) This mutant mold strain is “superior” to other microorganisms because of its high yield and easy handling.³⁰

²³ Belén Max et al., *Biotechnological production of citric acid*, 41 BRAZILIAN JOURNAL OF MICROBIOLOGY 867 (2010), <https://pmc.ncbi.nlm.nih.gov/articles/PMC3769771/>.

²⁴ *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

²⁵ Tong et al., *Whole Maize Flour and Isolated Maize Starch For Production of Citric Acid by Aspergillus niger: A Review*, 75 STARCH – STÄRKE 1 (2021), <https://onlinelibrary.wiley.com/doi/abs/10.1002/star.202000014>.

²⁶ *Id.* at 9.

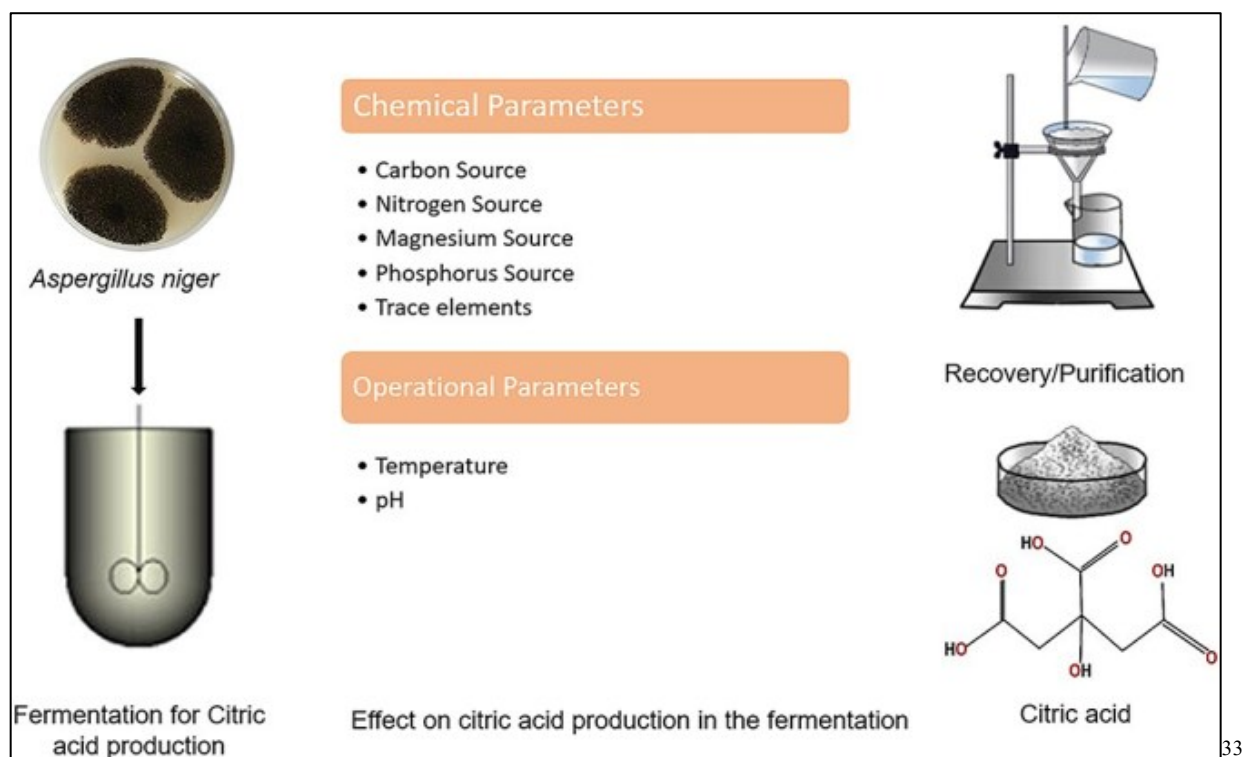
²⁷ Sweis & Cressey at 808.

²⁸ Khurshid et al., *Enhanced Citric Acid Production through Aspergillus niger: Insights from Fermentation Studies Using Sugarcane Molasses*, 14 LIFE 2 (2024), <https://pmc.ncbi.nlm.nih.gov/articles/PMC11204724/>.

²⁹ Sweis & Cressey at 808.

³⁰ Lende et al., *Review on production of citric acid by fermentation technology*, 17 GSC BIOLOGICAL AND PHARMACEUTICAL SCIENCES 86 (2021), <https://gsconlinepress.com/journals/gscbps/sites/default/files/GSCBPS-2021-0313.pdf>.

30. In this process, cheap raw materials³¹ are fermented using the mutant mold *Aspergillus niger*, which biosynthesizes citric acid through microbial metabolism under tightly controlled industrial conditions.³² This artificial citric acid is not extracted from citrus fruit or any other naturally occurring source, but is created during industrial fermentation as a metabolic product of the microorganism. A graphical abstract of artificial citric acid production by *Aspergillus niger* is below.



³¹ *Id.*

³² A.R. Angumeenal & D. Venkappayya, *An overview of citric acid production*, 50 LWT - FOOD SCIENCE AND TECHNOLOGY 367 (2013), <https://www.sciencedirect.com/science/article/pii/S0023643812002332>.

³³ Latif et al. at 1.

31. Industrial fermentation using *Aspergillus niger* is carried out through two production methods: surface and submerged processes, which “exclusively” account for citric acid production.³⁴

32. In the surface process for creating artificial citric acid, sterile sugar-containing media (i.e., a nutrient mixture of sugars dissolved in water) are placed in controlled chambers and inoculated with *Aspergillus niger*, where temperature, humidity, airflow, and pH are continuously regulated. The organism forms a mycelial layer (a dense mat of fungal growth) across the surface and converts sugars into artificial citric acid over several days.³⁵ This process requires sterilization, environmental control, and continuous monitoring and adjustment of reaction conditions to drive production.

33. In the submerged (or deep fermentation) process for creating artificial citric acid, the product is produced in large, aerated fermentors (industrial tanks) containing liquid broth. Inputs are sterilized and chemically adjusted, including the controlled addition and balancing of micronutrients and metals to optimize yield.³⁶ The system operates under carefully regulated temperature, aeration, and, at times, elevated pressure to increase oxygen transfer. Production depends on maintaining precise control over the chemical environment throughout fermentation. Submerged fermentation is the predominant commercial method used to produce artificial citric acid.³⁷

³⁴ *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

³⁵ *Id.*

³⁶ *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

³⁷ Max et al. at 869.

34. The below image depicts *Aspergillus niger* in “different growth durations.”³⁸



35. Artificial citric acid—whether produced through surface or submerged fermentation—is generated through a tightly controlled industrial process involving sterilization, chemical manipulation of inputs, and engineered reaction conditions; *i.e.*, it is manufactured and not naturally derived.

36. Further, “[a]t the end of fermentation, the medium contains citric acid and various undesirable by-products such as mycelium, other organic acids, mineral salts, proteins, etc.”³⁹

37. The product therefore must undergo further industrial processing known as “recovery and purification.”⁴⁰ The recovery and purification of artificial citric acid refers to the set

³⁸ Sarah Peterson, U.S. Naval Research Laboratory, Image Gallery, <https://www.nrl.navy.mil/News-Media/Images/igphoto/2003066168/>.

³⁹ *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

⁴⁰ *How Citric Acid is Produced: The Process Behind This Common Food Additive?*, ELCHEMY (Dec. 24, 2024), <https://elchemy.com/blogs/food-nutrition/how-citric-acid-is-produced-the-process-behind-this-common-food-additive>.

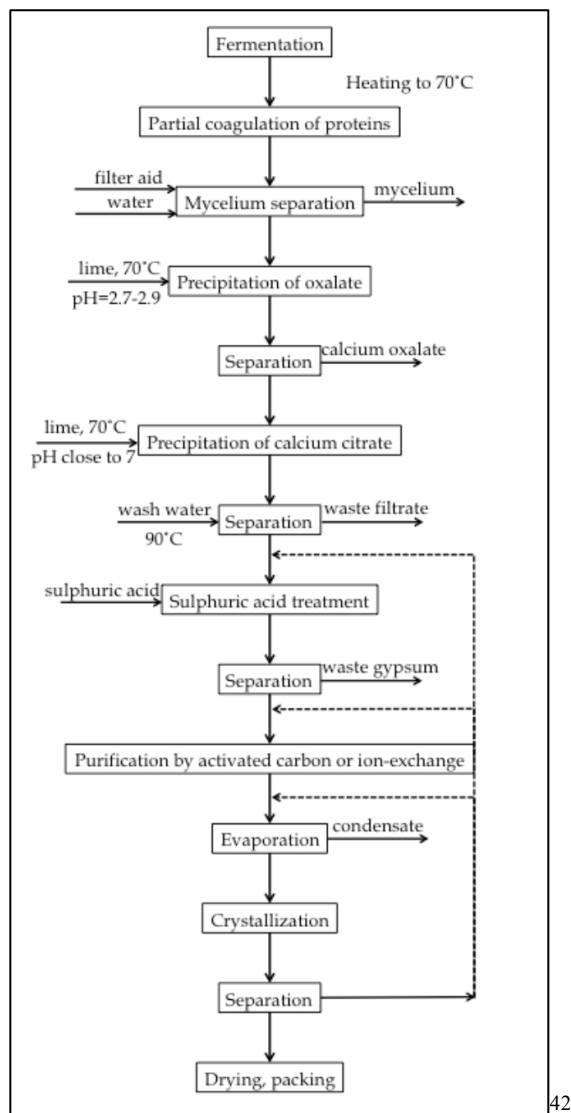
of industrial steps used after fermentation in an attempt to separate, purify, and isolate the artificial citric acid from the fermentation mixture so that it can be used as a commercial food ingredient.

Describing recovery as part of the “[b]iotechnological production of citric acid,” scientists explain:

The first step of citric acid recovery involves the precipitation of oxalic acid, possibly in the form of calcium oxalate at low pH, and subsequent separation from the medium containing the mycelium through rotating filters or centrifuges. Citric acid is then precipitated at pH 7.2 and 70–90 °C and recovered by filtration and drying. If a purer product were desired, it is dissolved with sulfuric acid, treated with charcoal or ion exchange resins, and again crystallized as anhydrous citric acid (above 40 °C) or as a monohydrate (below 36.5 °C).⁴¹

⁴¹ Max et al. at 871.

38. A flow chart demonstrating precipitation is below:



39. While precipitation is the most common recovery method at commercial scale due to its cost-effectiveness,⁴³ manufacturers of artificial citric acid also recover it through solvent extraction, which separates the artificial citric acid from fermentation liquor by transferring it into a chemical solvent phase and re-isolating it through further processing. As the FDA explains, this

⁴² *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>.

⁴³ Latif et al. at 10–11.

process employs a solvent mixture of n-octyl alcohol, synthetic isoparaffinic petroleum hydrocarbons, and tridodecyl amine. 21 C.F.R. § 173.280(a).

40. Manufacturers may also recover artificial citric acid through adsorption, a process in which citric acid binds to the surface of a solid material and is later released through chemical treatment. In this method, manufacturers use ion-exchange resins and synthetic adsorbents—such as Amberlite, Diaion, and Dowex—to capture artificial citric acid and subsequently desorb it using solvents.⁴⁴

41. None of these processes result in any “natural” flavoring products. On the contrary, each of these recovery and purification methods—precipitation, solvent extraction, and adsorption—is an industrial chemical process that converts fermentation broth into a manufactured artificial citric acid ingredient, “a colorless, transparent or translucent crystal, or particle powder that is readily soluble in water and ethanol.”⁴⁵

42. The manufacture of artificial citric acid involves multi-step industrial fermentation, chemical processing, and purification, rather than extraction from a naturally occurring food source. Artificial citric acid is “not derived from a spice, fruit or fruit juice, vegetable or vegetable juice, edible yeast, herb, bark, bud, root, leaf or similar plant material, meat, fish, poultry, eggs, dairy products, or fermentation products thereof.” 21 C.F.R. § 101.22(a)(1). Rather, it is produced by a mutant mold and treated with a series of chemicals in a process that no reasonable consumer would ever conclude resulted in a “natural” flavoring additive.

⁴⁴ Latif et al. at 11.

⁴⁵ Tong et al. at 1.

43. Seventy percent of all citric acid produced in this way is used as a food or beverage additive,⁴⁶ making artificial citric acid “one of the most common additives in food and beverage products across the world.”⁴⁷

44. The FDA has, through warning letters, expressly identified the presence of artificial citric acid as incompatible with “natural” labeling claims. For example, in a warning letter to Hirzel Canning Company, the FDA stated that products labeled “All Natural” were misbranded because they contained added citric acid and calcium chloride, explaining that FDA policy requires that “nothing artificial or synthetic . . . has been added to, a food that would not normally be expected to be in the food.”

45. Similarly, in a warning letter to Oak Tree Farm Dairy, Inc., the FDA advised that use of the terms “100% NATURAL” and “ALL NATURAL” was inappropriate where the product “contains citric acid.” In another warning letter to Chiquita, the FDA characterized artificial citric acid as a “chemical” ingredient.

46. Regulatory commentary likewise reflects ongoing recognition that artificial citric acid is distinct from the citric acid naturally occurring in citrus fruits. As a reviewer for the USDA wrote, in 1995:

It is a natural occurring substance that commercially goes through numerous chemical processes to get to it's [sic] final usable form Unless it is actually derived from a natural source the labeling must not indicate that it is a natural compound.⁴⁸

⁴⁶ Sweis & Cressey at 808.

⁴⁷ *Citric Acid Supply Chain – Full Profile*, EPA 1 (2022), <https://www.epa.gov/system/files/documents/2023-03/Citric+Acid+Supply+Chain+Profile.pdf>.

⁴⁸ *Citric Acid Technical Report*, USDA AMS (1995), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%201995.pdf>.

47. The reviewer further distinguished artificial citric acid from “natural citric acid,” or citric acid isolated from “citrus juices.”⁴⁹

48. “According to 2019 spring public comment . . . [t]wo commenters wrote that citric acid should be classified as synthetic unless it is possible to define non-synthetic citric acid by annotation.”⁵⁰

49. Further, a 2018 study suggests that unlike natural citric acid, artificial citric acid may be associated with recurrent inflammatory or allergy-like reactions, including respiratory, gastrointestinal, and musculoskeletal symptoms in some individuals.⁵¹ As Sweis and Cressey note, “The molecular formula of the natural citric acid obtained from lemons and limes and that of [artificial citric acid] is the same, $C_6H_8O_7$. However, the potential presence of impurities or fragments from the *Aspergillus niger* in MCA is a significant difference that may trigger deleterious effects when ingested.”⁵²

50. Therefore, upon information and belief, artificial citric acid contains impurities that natural citric acid does not, providing further evidence that artificial citric acid is unnatural.

51. Defendant sells its Products nationwide through some of the largest American retailers, including Walmart, Kroger, Costco, and Albertsons Companies—the four largest U.S.

⁴⁹ *Id.*

⁵⁰ *Sunset 2021*, NATIONAL ORGANIC PROGRAM 4 (2019), <https://www.ams.usda.gov/sites/default/files/media/HS2021SunsetRvwFall2019.pdf>.

⁵¹ Sweis & Cressey at 808–809.

⁵² *Id.* at 809.

supermarket operators—and other large retailers such as Amazon, Target, CVS, and Whole Foods.⁵³

52. As the “#1 low-sugar candy brand in North America” whose products have been sold in 130,000 stores, it would be commercially infeasible for Defendant to source citric acid through any method other than microbial fermentation. Defendant therefore necessarily uses artificial citric acid to flavor the Products.

53. Defendant manufactures and distributes the Products using uniform formulations. Maintaining consistency in taste, acidity, and shelf stability at this scale requires standardized ingredient sourcing.

54. Moreover, Defendant does not disclose any specialty sourcing production method or other premium or atypical citric acid process for the Products. Defendant knows how to make such disclosures: on Amazon, it utilized a “Speciality” field and chose to populate it with “Artificial Flavor Free.”⁵⁴ If Defendant chose to deviate from industry practice, presumably, it would have disclosed that fact. That is, if the Products actually contain natural citric acid derived from citrus fruits—unlike virtually every other commercial food product, which contains artificial citric acid (because traditional extraction of natural citric acid is “no longer commercially available”)—one would expect Defendant to highlight that distinction.

55. In short, given that 99% of citric acid is chemically and artificially produced through microbial fermentation, that extraction of natural citric acid from citrus fruit is no longer

⁵³ Ranjana Sundaresan, *Largest US Grocery Chains: Sales, Stores & Supplier Guide*, GOURMETPRO (July 7, 2026, updated Sept. 9, 2026), <https://www.gourmetpro.co/blog/largest-grocery-chains-usa/> (last accessed Sept. 28, 2026).

⁵⁴ *SmartSweets Sweet Fish Gummy Candy Product Listing*, AMAZON, available at <https://www.amazon.com/SmartSweets-Sweet-Sugar-Gummy-Candy/dp/B0GL4H33DQ> (last accessed Sept. 28, 2026).

commercially viable, and the scale of Defendant's operations, the only plausible inference is that the citric acid used in the Products is artificial citric acid that is industrially manufactured through fermentation.

C. The Products Contain Artificial Flavors Contrary to Defendant's Claims

56. Contrary to Defendant's claims of "Naturally Flavored" and "No Artificial Flavors," the Products contain an artificial flavoring ingredient. Specifically, they incorporate artificial citric acid, a synthetically produced compound that materially shapes the flavor profile of the Products.

57. Citric acid is widely used in the food and beverage industry, including as a flavoring agent. It imparts tartness, tanginess, and sourness—sensory attributes that constitute "flavor" under 21 C.F.R. § 101.22(a)(1) because they directly affect the taste of a finished food.

58. "Major attractions of citric acid as a food and beverage acidulant are high solubility, extremely low toxicity, and **pleasant sour taste**"⁵⁵ (emphasis added). In the food and beverage industry, "citric acid [] provides a fruity flavor," and is otherwise used to "add sour flavor[.]"⁵⁶

⁵⁵ *Citric Acid Technical Evaluation Report*, USDA AMS (2015), <https://www.ams.usda.gov/sites/default/files/media/Citric%20Acid%20TR%202015.pdf>, citing Karaffa & Kubicek 2003 and Kristiansen et al. 1999.

⁵⁶ Tong et al. at 1.

59. “Citric acid can only be detected via sour taste,”⁵⁷ and scientific literature demonstrates that citric acid actively shapes overall flavor perception by interacting with sugars to balance sweetness and sourness.⁵⁸

60. Citric acid is commonly used in candy products, such as Defendant’s Products, “[d]ue to its acidic, sour-tasting nature[.]”⁵⁹ In candy products, citric acid is used in conjunction with sweet flavors to create a flavor profile that sweetness alone cannot produce. As explained by a Florida candy maker: “When we incorporate [citric acid] into our candy-making process, it undergoes a fascinating chemical dance with the sugar and other ingredients. This interaction creates a more complex flavor profile that stimulates your sensory nerves far more intensely than sweetness alone ever could.”⁶⁰

61. Owing to its distinct and potent taste, citric acid is routinely used to create or enhance tart, tangy, and sour flavors in food and beverage products, and therefore functions to impart flavor.

⁵⁷ Hannah E. R. Frank et al., *The evolution of sour taste*, 289 PROC. R. SOC. B 3 (2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8826303/>.

⁵⁸ See, e.g., Junge et al., *Suppression of sweetness: evidence for central mechanism for suppression of sweetness from sucrose by citric acid*, 48 CHEMICAL SENSES (2023), <https://academic.oup.com/chemse/article/doi/10.1093/chemse/bjad036/7260297>; Mao et al., *Dynamic interaction of sweet and sour taste perceptions based on sucrose and citric acid*, 9 SCIENCE OF FOOD (2025), <https://www.nature.com/articles/s41538-025-00507-7>; Veldhuizen et al., *Interactions of Lemon, Sucrose and Citric Acid in Enhancing Citrus, Sweet and Sour Flavors*, 43 CHEMICAL SENSES (2017), <https://pmc.ncbi.nlm.nih.gov/articles/PMC5863559/>.

⁵⁹ Agi Kaja, *What is Citric Acid: How is Citric Acid Made?*, WHOLE FOOD EARTH, available at <https://wholefoodearth.com/wholesome/what-is-citric-acid-how-is-citric-acid-made> (last accessed Sept. 28, 2026).

⁶⁰ *How We Make Hard Candy Sour: The Sweet Science Behind the Tartness*, YOU MAKE CANDY (Oct. 31, 2025), <https://youmakecandy.com/how-we-make-hard-candy-sour-the-sweet-science-behind-the-tartness/>.

62. Citric acid is a prominent ingredient in the Products, as shown in the below ingredient lists, taken from Defendant's website:

63. Candy Salad:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Lactic acid, Pectin, Malic acid (flavor enhancer), Citric acid, Fumaric acid, Rice flour, Stevia leaf extract, Fruit and vegetable juice (for color), Spirulina extract (for colour), Natural flavour, Carnauba wax, Coconut oil.

64. Dream Puffs:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Pectin, Potato protein, Natural flavors, Malic acid (flavor enhancer), Citric acid, Fruit and vegetable juice (for color), Annatto (for color), Stevia leaf extract, Carnauba wax, Coconut oil.

65. Fruit Flavored Snacks (Berry Medley):

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, White grape juice (water, white grape juice concentrate), Pectin, Natural flavors, Citric acid, Malic acid (flavor enhancer), Spirulina extract (for color), Carnauba wax, Coconut oil, Fruit and vegetable juice (for color), Stevia leaf extract.

66. Fruit Flavored Snacks (Mixed Fruit):

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, White grape juice (water, white grape juice concentrate), Pectin, Citric acid, Natural flavors, Fruit and vegetable juice (for color), Malic acid (flavor enhancer), Spirulina extract (for color), Carnauba wax, Coconut oil, Stevia leaf extract.

67. Gummy Worms:

Ingredients: Isomalto-oligosaccharides (vegetable source), Water, Chicory root fiber, Gelatin, Natural flavors, Malic acid (flavor enhancer), Fruit and vegetable juice (for color), Spirulina extract (for color), Citric acid, Modified coconut oil, Carnauba wax, Stevia leaf extract.

68. Lollipops:

Ingredients: Isomalto-oligosaccharides (vegetable source), Natural flavors, Citric acid, Malic acid (flavor enhancer), Spirulina extract (for color), Stevia leaf extract, Vegetable juice (for color), Turmeric (for color).

69. Mini Sourmelon Bites:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Lactic acid, Pectin, Malic acid (flavor enhancer), Citric acid, Fumaric acid, Rice flour, Stevia leaf extract, Fruit and vegetable juice (for color), Spirulina extract (for color), Natural flavor.

70. Mini Sweet Fish:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Pectin, Malic acid (flavor enhancer), Citric acid, Stevia leaf extract, Fruit and vegetable juice (for color), Natural fruit flavors with other natural flavors, Carnauba wax, Coconut oil.

71. Peach Rings:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Rice flour, Pectin, Malic acid (flavor enhancer), Citric acid, Lactic acid, Fumaric acid, Stevia leaf extract, Fruit and vegetable juice (for color), Natural flavors.

72. Sour Blast Buddies (Pink Lemonade):

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fibre, Water, Modified potato starch, Lactic acid, Pectin, Malic acid (flavor enhancer), Citric acid, Fumaric acid, Rice flour, Stevia leaf extract, Fruit and vegetable juice (for colour), Natural flavours.

73. Sour Gummy Worms:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Gelatin, Fumaric acid, Rice flour, Malic acid (flavor enhancer), Lactic acid, Citric acid, Natural flavors, Fruit and vegetable juice (for color), Spirulina extract (for color), Stevia leaf extract.

74. Sweet Fish:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Lactic acid, Pectin, Malic acid (flavor enhancer), Citric acid, Fumaric acid, Rice flour, Stevia leaf extract, Fruit and vegetable juice (for color), Spirulina extract (for color), Natural flavors.

75. Tropical Sours:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Lactic acid, Pectin, Malic acid (flavor enhancer), Citric acid, Fumaric acid, Rice flour, Stevia leaf extract, Fruit and vegetable juice (for color), Spirulina extract (for color), Natural flavors.

76. Wild Berries:

Ingredients: Isomalto-oligosaccharides (vegetable source), Chicory root fiber, Water, Modified potato starch, Pectin, Malic acid (flavor enhancer), Citric acid, Stevia leaf extract, Fruit and vegetable juice (for color), Spirulina extract (for color), Natural flavors, Carnauba wax, Coconut oil.

77. In all but three of the Products listed above, citric acid precedes “Natural Flavors.” Its repeated prominence across the Products demonstrates that citric acid contributes materially to their taste and flavor system.

78. Moreover, each flavor depends on the interplay of sweetness and tartness. Each Product is fruit flavored, and citric acid supplies the tartness that makes each fruit flavor recognizable as the fruit it purports to be. Below is each Product and its purported fruit flavors.

a) Candy Salad: Berry, Lime, Sour Peach, Sour Grape, and Sour Watermelon.⁶¹

b) Dream Puffs: Strawberry and Peach.⁶²

⁶¹ *Candy Salad*, SMARTSWEETS, available at <https://smartsweets.com/products/candy-salad> (last accessed Sept. 28, 2026).

⁶² *Dream Puffs*, SMARTSWEETS, available at <https://smartsweets.com/products/dream-puffs> (last accessed Sept. 28, 2026).

- c) Fruit Flavored Snacks (Berry Medley): Strawberry, Cherry, and Raspberry.⁶³
- d) Fruit Flavored Snacks (Mixed Fruit): Apple, Peach, and Grape.⁶⁴
- e) Gummy Worms: Cherry, Blue Raspberry, Peach, Pink Lemonade, Pineapple, and Strawberry.⁶⁵
- f) Lollipops: Watermelon and Blue Raspberry.⁶⁶
- g) Mini Sourmelon Bites: Watermelon.⁶⁷
- h) Mini Sweet Fish: Berry.⁶⁸
- i) Peach Rings: Peach.⁶⁹
- j) Sour Blast Buddies (Pink Lemonade): Pink Lemonade.⁷⁰

⁶³ *Fruit Flavored Snacks: Berry Medley*, SMARTSWEETS, available at <https://smartsweets.com/products/fruit-flavored-snacks-berry-medley> (last accessed Sept. 28, 2026).

⁶⁴ *Fruit Flavored Snacks: Mixed Fruit*, SMARTSWEETS, available at <https://smartsweets.com/products/fruit-flavored-snacks-mixed-fruit> (last accessed Sept. 28, 2026).

⁶⁵ *Gummy Worms*, SMARTSWEETS, available at <https://smartsweets.com/products/gummy-worms> (last accessed Sept. 28, 2026).

⁶⁶ *Lollipops*, SMARTSWEETS, available at <https://smartsweets.com/products/lollipops> (last accessed Sept. 28, 2026).

⁶⁷ *Minis: Sourmelon Bites*, SMARTSWEETS, available at <https://smartsweets.com/products/minis-sourmelon-bites> (last accessed Sept. 28, 2026).

⁶⁸ *Minis: Sweet Fish*, SMARTSWEETS, available at <https://smartsweets.com/products/sweet-fish-mini> (last accessed Sept. 28, 2026).

⁶⁹ *Peach Rings*, SMARTSWEETS, available at <https://smartsweets.com/products/peach-rings> (last accessed Sept. 28, 2026).

⁷⁰ *Pink Lemonade Sour Blast Buddies*, SMARTSWEETS, available at <https://smartsweets.com/products/pink-lemonade-sour-blast-buddies> (last accessed Sept. 28, 2026).

k) Sour Gummy Worms: Cherry, Blue Raspberry, Peach, Pink Lemonade, Pineapple, and Strawberry.⁷¹

l) Sweet Fish: Berry.⁷²

m) Tropical Sours: Lime, Pineapple Orange, and Tropical Punch.⁷³

n) Wild Berries: Raspberry, Strawberry, and Mixed Berry.⁷⁴

79. If citric acid were removed or substantially reduced, the taste of the Products would be materially altered. Citric acid supplies the tart and sour flavor central to the Products and necessarily functions “to impart flavor” to the Products.

80. Labeling the Products as free from artificial flavors, or implying that their taste is naturally derived, is false and misleading.

D. These Misrepresentations Are Material to Consumers

81. “The significance of naturalness has crucial meaning for consumers nowadays. They prefer food free from preservatives, additives or artificial ingredients for perceived naturalness of foods.”⁷⁵

82. Consumers increasingly seek out products marketed as natural. A 2024 consumer study found that 81 percent of shoppers consider it important to purchase “clean label” products—

⁷¹ *Sour Gummy Worms*, SMARTSWEETS, available at <https://smartsweets.com/products/sour-gummy-worms> (last accessed Sept. 28, 2026).

⁷² *Sweet Fish*, SMARTSWEETS, available at <https://smartsweets.com/products/sweet-fish> (last accessed Sept. 28, 2026).

⁷³ *Tropical Sours*, SMARTSWEETS, available at <https://smartsweets.com/products/tropical-sours> (last accessed Sept. 28, 2026).

⁷⁴ *Wild Berries*, SMARTSWEETS, available at <https://smartsweets.com/products/wild-berries> (last accessed Sept. 28, 2026).

⁷⁵ Guzik et al., *Consumer Attitudes towards Food Preservation Methods*, 11 FOODS 7 (2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC9099755/pdf/foods-11-01349.pdf>.

those with as “few ingredients as possible, easy-to-recognize ingredients, and no artificial ingredients or synthetic chemicals.”⁷⁶

83. And “54% of US consumers . . . say the most important aspects of clean label products are no artificial ingredients, clear and understandable labels, and honest information with no misleading claims.”⁷⁷

84. Another survey in 2026 found that consumers “are worried about health risks from artificial ingredients, chemicals, and/or preservatives in foods[.]”⁷⁸

85. Consumers commonly understand “citric acid” to be derived from citrus fruits, and express surprise and concern upon learning that commercially used citric acid is instead produced through microbial fermentation. Public commentary reflects this widespread misunderstanding. For example, in response to a Reddit post from a consumer who just “found out” that citric acid is produced using *Aspergillus niger*, users commented:

“No. Way. How did I not ever know about this?!?! This explains so much. Wow.”

“I had no idea. That explains so much for me. Wow.”

“This explains a lot. I guess I better start reading labels more.”⁷⁹

⁷⁶ *Clean Label Products Driving Retail Sales as They Gain Preference Among Consumers*, ACOSTA GROUP (2024), <https://www.acosta.group/clean-label-products-driving-retail-sales-as-they-gain-preference-among-consumers/>.

⁷⁷ *Demonized Ingredients: Discovering Hidden Opportunities in the US*, INNOVA MARKET INSIGHTS (2025), <https://www.innovamarketinsights.com/trends/demonized-ingredients-in-the-us/>.

⁷⁸ *Half of U.S. Shoppers Worried About Artificial Ingredients*, ACOSTA GROUP (2026), <https://www.acosta.group/half-of-u-s-shoppers-worried-about-artificial-ingredients/>.

⁷⁹ *Today I found out manufactured citric acid is made out of mold*, Reddit, available at https://www.reddit.com/r/MCAS/comments/1hq5205/today_i_found_out_manufactured_citric_acid_is/ (last accessed Sept. 28, 2026).

86. Another consumer, in response to a YouTube video, distinguished “[n]atural citric acid like the ones in citrus fruits” from the citric acid produced with *Aspergillus niger*.⁸⁰

87. Public commentary further reflects that, when informed of how citric acid is manufactured, consumers recognize it as artificial and understand that such disclosure would affect their perception of the product. For example, one consumer stated that “even calling it artificial citric acid would make a huge difference.”⁸¹

88. Statements like “Naturally Flavored” and “No Artificial Flavors” strongly influence purchasing decisions, steering these consumers to choose and pay more for products that prominently make clean label claims over those that do not.

89. Defendant’s “Naturally Flavored” and “No Artificial Flavors” statements are part of a deliberate marketing strategy designed to capitalize on this demand. Defendant knows that consumers place a premium on products free of artificial flavors and that such claims materially increase marketability and sales. But those statements are false and misleading.

90. As alleged above, Defendant flavors the Products with artificial citric acid. This chemical is not derived from any natural source and does not comport with reasonable consumers’ expectations for a product labeled as having no artificial flavors.

91. Consumers who sought to avoid artificial flavors reasonably relied on Defendant’s representations and did not receive the natural, wholesome product they believed they were

⁸⁰ Dr. Reid Kaminski, *The Source of Citric Acid May Shock You-It's Black Mold! What Health Problems Could This Cause?*, YouTube (Jan. 27, 2023), https://www.youtube.com/shorts/X-ygQFf_2qg (last accessed Sept. 28, 2026).

⁸¹ *Manufactured citric acid*, REDDIT, available at https://www.reddit.com/r/migraine/comments/1pqsp8k/manufactured_citric_acid/ (last accessed Sept. 28, 2026).

purchasing. Defendant, meanwhile, obtained an unfair competitive advantage and extracted a price premium based on these deceptive and material misrepresentations.

92. Defendant charges a premium for the Products, and that premium is tied directly to its “Naturally Flavored” and “No Artificial Flavors” marketing. By falsely presenting the Products as free of artificial flavors, Defendant positioned them as superior to any competing products that truthfully disclose artificiality.

93. Defendant’s conduct misleads reasonable consumers, distorts competition, and, ultimately, results in economic harm. Consumers paid more than they otherwise would have for a product that was not what it claimed to be. This widespread deception has not only caused financial harm to consumers but also erodes trust in the truth of product labeling and marketing.

CLASS ACTION ALLEGATIONS

94. Plaintiff brings this action on behalf of themselves and on behalf of the following proposed Nationwide Class, initially defined as follows:

All individuals in the United States who purchased a Product within the relevant limitations period, and/or such subclasses as the Court may deem appropriate.

95. Plaintiff also brings this action on behalf of themselves and on behalf of the following proposed New York Subclass, initially defined as follows:

All individuals in New York who purchased a Product within the relevant limitations period, and/or such subclasses as the Court may deem appropriate.

96. Excluded from the proposed Class are Defendant and its parents, subsidiaries, affiliates, officers, and directors, and any entity in which Defendant has a controlling interest.

97. Plaintiff reserves the right to redefine any of the class definitions prior to class certification and after having the opportunity to conduct discovery.

98. The claims of all Class members derive directly from a single course of conduct by Defendant. Defendant has engaged and continues to engage in uniform and standardized conduct toward the putative Class members. Defendant does not differentiate, in degree of care or candor, in its actions or inactions, or the content of its statements or omissions, among individual Class members.

99. Certification of Plaintiff's claims is appropriate because Plaintiff can prove the elements of Plaintiff's claims on a class-wide basis using the same evidence as would be used to prove those elements in individual actions alleging the same claim.

100. Accordingly, Plaintiff brings this lawsuit as a class action on Plaintiff's own behalf and on behalf of all other individuals similarly situated pursuant to Rule 23 of the Federal Rules of Civil Procedure. This action satisfies the numerosity, commonality, typicality, adequacy, predominance, and superiority requirements of Rule 23.

101. Specifically, this action has been properly brought and may properly be maintained as a class action under Rule 23(a)(1)–(4), Rule 23(b)(1), (2), or (3), and/or Rule 23(c)(4) of the Federal Rules of Civil Procedure.

102. **Numerosity** (Fed. R. Civ. P. 23(a)(1)). The members of the proposed Class are each so numerous that their individual joinder would be impracticable. While the exact number is not known at this time, it is generally ascertainable by appropriate discovery, and it is believed each Class includes many tens of thousands of members. The precise number of Class members, and their addresses, are unknown to Plaintiff at this time but can be ascertained from Defendant's records.

103. **Ascertainability**. The Class is ascertainable because its members can be readily identified using business records and other information kept by Defendant in the usual course of

business and within its control. Plaintiff anticipates providing appropriate notice to the Class to be approved by the Court after class certification, or pursuant to court order.

104. **Commonality and Predominance** (Fed. R. Civ. P. 23(a)(2); 23(b)(3)). Common questions of law and fact exist as to all Class members. These questions predominate over the questions affecting only individual Class members. The common legal and factual questions include, without limitation:

- (a) Whether Defendant's marketing claims about the Products are misleading to a reasonable consumer;
- (b) Whether Defendant engaged in the conduct alleged in this Complaint;
- (c) Whether Defendant violated the applicable statutes alleged herein;
- (d) Whether Plaintiff and the Class members are injured and harmed directly by Defendant's conduct;
- (e) Whether Plaintiff and the Class members are entitled to damages due to Defendant's conduct as alleged in this Complaint, and if so, in what amounts;
- (f) Whether Plaintiff and the Class members are entitled to equitable relief, including, but not limited to, restitution or injunctive relief as requested in this Complaint;
- (g) Whether Plaintiff and the Class are entitled to actual, compensatory, nominal, statutory, enhanced, and/or punitive damages;
- (h) Whether Plaintiff and the Class are entitled to injunctive, declaratory, or other equitable relief;
- (i) Whether Plaintiff and the Class are entitled to civil penalties; and
- (j) Whether Plaintiff and the Class are entitled to reasonable attorneys' fees and costs.

105. **Typicality of Claims** (Fed. R. Civ. P. 23(a)(3)). The claims of Plaintiff and the putative Class members are based on the same legal theories and arise from the same unlawful and willful conduct of Defendant, resulting in the same injury to Plaintiff and the putative Class members. Plaintiff and all Class members are similarly affected by Defendant's wrongful conduct, were damaged in the same way, and seek the same relief. Plaintiff's interests coincide with, and are not antagonistic to, those of the other Class members. Plaintiff has been damaged by the same wrongdoing set forth in this Complaint.

106. **Adequacy of Representation** (Fed. R. Civ. P. 23(a)(4)). Plaintiff is an adequate representative of the Class because their interests do not conflict with the interests of the Class members, and they have retained competent and experienced class counsel. Plaintiff and their counsel will fairly and adequately protect the interests of the Class members.

107. **Superiority of a Class Action** (Fed. R. Civ. P. 23(b)(3)). A class action is superior to other available means for the fair and efficient adjudication of the claims of Plaintiff and Class members. There is no special interest in Class members individually controlling the prosecution of separate actions. The damages suffered by individual Class members, while significant, are small given the burden and expense of individual prosecution of the complex and extensive litigation necessitated by Defendant's conduct. Further, it would be virtually impossible for the Class members individually to redress effectively the wrongs done to them. And, even if Class members themselves could afford such individual litigation, the court system could not, given the tens or even hundreds of thousands of cases that would need to be filed. Individualized litigation would also present a potential for inconsistent or contradictory judgments. Individualized litigation would increase the delay and expense to all parties and the court system, given the complex legal and factual issues involved. By contrast, the class action device presents far fewer management

difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court.

108. **Risk of Inconsistent or Dispositive Adjudications and the Appropriateness of Final Injunctive or Declaratory Relief** (Fed. R. Civ. P. 23(b)(1) and (2)). In the alternative, this action may properly be maintained as a class action, because:

- (a) the prosecution of separate actions by individual Class members would create a risk of inconsistent or varying adjudication with respect to individual Class members, which would establish incompatible standards of conduct for Defendant; or
- (b) the prosecution of separate actions by individual Class members would create a risk of adjudications with respect to individual Class members which would, as a practical matter, be dispositive of the interests of other Class members not parties to the adjudications, or substantially impair or impede their ability to protect their interests; or
- (c) Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or corresponding declaratory relief with respect to the Class as a whole.

FIRST CAUSE OF ACTION

Fraud (On Behalf of Plaintiff and the Nationwide Class)

109. Plaintiff incorporates by reference each of the foregoing allegations as though fully set forth herein.

110. Defendant represented that the Products were “Naturally Flavored” and contained “No Artificial Flavors.”

111. Defendant made these representations on the front, side, and back labels and packaging of the Products, including variety packs; on smartsweets.com, including in the “Naturally Flavored” slogan that runs continuously across the homepage and on the Products’ pages, which contrast the Products with other candy containing “Artificial Flavors”; in paid Meta advertisements stating that the Products contain “no artificial flavors” and are made with “No Artificial Colors, Flavors, or Sweeteners”; and on the Amazon, Target, and Walmart platforms, including in Amazon’s “Top Highlights” field and its “Speciality” field, which Defendant populated with “Artificial Flavor Free.”

112. Defendant, acting through its officers, directors, employees, and agents, made these representations throughout the relevant limitations period, continuing through the present.

113. The representations were false when made. The Products are flavored with artificial citric acid derived from *Aspergillus niger* fermentation and industrial chemical recovery and purification. That citric acid is artificial, and it imparts flavor to the Products by supplying the tartness and sourness that make each Product’s fruit flavor recognizable.

114. Defendant knew the representations were false when it made them, or made them recklessly without regard for their truth. Defendant formulates the Products and selects its suppliers, and it touts its mission to source “the highest quality, cutting-edge ingredients that are non-GMO, always real, and never artificial.” Defendant knew that approximately 99% of commercial citric acid is manufactured from black mold, and that citric acid extracted from citrus fruit is no longer commercially available. Defendant also had before it FDA warning letters identifying added citric acid as incompatible with “natural” labeling claims, and USDA technical reports distinguishing manufactured citric acid from natural citric acid.

115. Defendant made the representations with the intent that Plaintiff and Class members rely on them in deciding to purchase the Products. That intent is evidenced by Defendant's placement of the claims on the front, side, and back of the Products' packaging; by its repetition of them in a continuously running homepage slogan, on its product pages, and in paid Meta advertisements; by its product pages' express contrast between the Products and other candy containing "Artificial Flavors"; by its choice to populate Amazon's "Speciality" field with "Artificial Flavor Free"; and by its deliberate strategy of capitalizing on consumer demand for products free of artificial flavors.

116. Plaintiff and the Class justifiably relied on the representations. Plaintiff saw and relied on the "Naturally Flavored" representation when they purchased the Gummy Sweet Fish in approximately February 2026 and the Variety Candy Pack in approximately December 2025. Reliance was justified because the representations were unambiguous, appeared on the package itself, were repeated across every channel through which the Products were sold, and concerned facts within Defendant's exclusive knowledge.

117. As a direct and proximate result, Plaintiff and Class members suffered injury in fact and lost money in the amount of the price premium attributable to the false representations, to be proven at trial. Defendant's conduct will continue to mislead consumers unless enjoined by this Court.

SECOND CAUSE OF ACTION

Violations of New York Gen. Bus. Law § 349 (On Behalf of Plaintiff and the New York Subclass)

118. Plaintiff incorporates by reference all allegations in this Complaint and restates them as if fully set forth herein.

119. NY GBL § 349 declares unlawful “[u]nfair, deceptive, or abusive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state.”

120. NY GBL § 349 applies to Plaintiff and the New York Subclass because the State of New York has a strong interest in protecting its residents from false advertising and deceptive business practices by companies marketing consumer goods within the state.

121. Any person who has been injured by reason of any violation of NY GBL § 349 may bring an action in his or her own name to enjoin such unlawful acts or practices, an action to recover their actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not exceeding three times the actual damages, up to one thousand dollars per violation, if the court finds that the defendant willfully or knowingly violated this section. The court may award reasonable attorneys’ fees to a prevailing plaintiff.

122. The practices employed by Defendant, by which it labels and markets the Products, are materially misleading and deceptive within the meaning of NY GBL § 349.

123. Defendant’s acts and practices deceived Plaintiff and the New York Subclass. Plaintiff and the New York Subclass reasonably relied on these representations and believed they were purchasing products free from artificial flavors.

124. Plaintiff and the New York Subclass did not receive the benefit of their bargain. They paid a price premium for products that were falsely marketed.

125. Defendant disseminated these false and misleading statements throughout New York, which were known, or should have been known through reasonable care, to be untrue and misleading to consumers, including Plaintiff and the New York Subclass.

126. Plaintiff and the New York Subclass have been injured by Defendant's deceptive acts or practices, suffering an ascertainable loss by paying more for a product than they otherwise would have but for the false advertising.

127. Plaintiff and the New York Subclass have no adequate remedy at law.

128. Defendant's conduct has caused and continues to cause immediate and irreparable injury to Plaintiff and the New York Subclass and will continue to mislead consumers unless enjoined by this Court.

THIRD CAUSE OF ACTION

Violations of New York Gen. Bus. Law § 350 (On Behalf of Plaintiff and the New York Subclass)

129. Plaintiff incorporates by reference all allegations in this Complaint and restates them as if fully set forth herein.

130. By reason of the acts set forth above, Defendant has been and is engaged in consumer-oriented advertising and marketing against Plaintiff and members of the New York Subclass, engaging in business conduct that is false and misleading in material respects, in violation of NY GBL § 350, which provides, in part, that "[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful."

131. Defendant caused statements that were untrue or misleading, and which it knew to be untrue or misleading, to be disseminated throughout New York State and elsewhere, through labeling, marketing, or other publications.

132. Defendant's misrepresentations were material and substantially uniform in content, presentation, and impact upon consumers at large. Consumers were and continue to be exposed to Defendant's material misrepresentations.

133. Plaintiff and the New York Subclass have been injured by Defendant's deceptive acts or practices.

134. Plaintiff and the New York Subclass have no adequate remedy at law.

135. Defendant's conduct has caused and is causing immediate and irreparable injury to Plaintiff and the New York Subclass and will continue to damage both Plaintiff and the New York Subclass and deceive the public unless enjoined by this Court.

136. Pursuant to NY GBL § 350-e, Plaintiff and the New York Subclass seek monetary damages (including actual damages or \$500, whichever is greater, and minimum, punitive, or treble and/or statutory damages pursuant to NY GBL § 350-e(3)), injunctive relief, restitution, and disgorgement of all monies obtained by means of Defendant's unlawful conduct, interest, and attorneys' fees and costs.

137. Defendant's conduct has also substantially injured the public, as consumers across New York were exposed to and relied upon Defendant's false labeling and marketing in deciding to purchase the Products.

138. Defendant's conduct thus caused real-world harm and poses an ongoing risk of further injury if not enjoined.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, on behalf of themselves and the proposed Class, prays for relief and judgment against Defendant as follows:

- A. certifying the Class pursuant to Rule 23 of the Federal Rules of Civil Procedure, appointing Plaintiff as representative of the Class, and designating Plaintiff's counsel as Class Counsel;
- B. awarding Plaintiff and the Class compensatory damages and actual damages, trebled, in an amount exceeding \$5,000,000, to be determined by proof;

- C. awarding Plaintiff and the Class appropriate relief, including actual and statutory damages;
- D. awarding Plaintiff and the Class exemplary and punitive damages;
- E. awarding Plaintiff and the Class civil penalties;
- F. granting Plaintiff and the Class declaratory and equitable relief, including restitution and disgorgement;
- G. enjoining Defendant from continuing to engage in the wrongful acts and practices alleged herein;
- H. awarding Plaintiff and the Class the costs of prosecuting this action, including expert witness fees;
- I. awarding Plaintiff and the Class reasonable attorneys' fees and costs as allowable by law;
- J. awarding pre-judgment and post-judgment interest; and
- K. granting any other relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury on all issues so triable.

Dated: September 28, 2026

Respectfully submitted,

/s/ Raphael Janove

Raphael Janove

JANOVE PLLC

115 Broadway, 5th Fl.

New York, NY 10006

(646) 347-3940

raphael@janove.law

Counsel for Plaintiff & the Proposed Classes

CIVIL COVER SHEET

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

I. (a) PLAINTIFFS

Decker, Eliza

(b) County of Residence of First Listed Plaintiff Queens County, NY
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Raphael Janove, Janove PLLC
115 Broadway, 5th Floor, New York, NY 10006; (646) 347-3943

DEFENDANTS

SmartSweets Inc.

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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

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

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | ☒ 1 | ☐ 1 | Incorporated or Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated and Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☒ 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☒ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS—Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit (15 USC 1681 or 1692) ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities/Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS Habeas Corpus: ☐ 463 Alien Detainee * ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(a)(1)
Brief description of cause:
Diversity class action bringing New York statutory claims

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PART A - CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.7 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

Case is Eligible for Arbitration

I, **Raphael Janove**, counsel for **Plaintiff Eliza Decker**, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☒ monetary damages sought are in excess of \$150,000.00 exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief, or
- ☐ the matter is otherwise ineligible for the following reason:

PART B - DISCLOSURE STATEMENT - FEDERAL RULES of CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks. Add an additional page if needed.

PART C - RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 3 in Section VIII on the front of this form. Rule 3(a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 3(a) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case involves identical legal issues, or the same parties." Rule 3 further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (b), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

PART D - NEW YORK EASTERN DISTRICT DIVISION OF BUSINESS RULE 1(d)(3)

If you answer "Yes" to any of the questions below, this case will be designated as a Central Islip case and you **must select Office Code 2**.

1. Is the action being removed from a state court that is located in Nassau or Suffolk County?
2. In actions not involving real property, is the action being brought against United States, its officers or its employees AND the majority of the plaintiffs reside in Nassau or Suffolk County?
3. If you answered "No" to all parts of Questions 1 and 2:
 - a. Did a substantial part of the events or omissions giving rise to claim or claims occur in Nassau or Suffolk County?
 - b. Do the majority of defendants reside in Nassau or Suffolk County?
 - c. Is a substantial amount of any property at issue located in Nassau or Suffolk County?
4. If this is a Fair Debt Collection Practice Act case, was the offending communication received in either Nassau or Suffolk County?
 (Note, a natural person is considered to reside in the county in which that person is domiciled; an entity is considered a resident of the county that is either its principal place of business or headquarters, or if there is no such county in the Eastern District, the county within the District with which it has the most significant contacts).

PART E - BAR ADMISSION

1. I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

If you answered No to E(1), please see instructions and Local Civ. R. 1.3.

2. Are you currently the subject of any disciplinary action (s) in this or any other state or federal court? If yes, please explain:

PART F - IMMIGRATION HABEAS

1. Is this petition based on an immigration detention?

Check Form to Validate Before Signing

I certify the accuracy of all information provided above.

2. Does this case require immediate attention of a judge?

If you answered Yes in Part F, and are filing this action after business hours, please see instructions here: <https://www.nyed.uscourts.gov/emergency-applications-filed-after-business-hours>.

Signature: /s/ Raphael Janove

Date: September 28, 2026

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

ELIZA DECKER, individually and on behalf of all
others similarly situated,

Plaintiff(s)

V.

SMARTSWEETS INC.,

Defendant(s)

Civil Action No. 1:26-cv-06009

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)* SmartSweets Inc.
#200 - 75 West Broadway
Vancouver, BC
Canada V5Y 1P1

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

Raphael Janove
115 Broadway
5th Floor
New York, NY 10006

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

BRENNA B. MAHONEY
CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 1:26-cv-06009

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____ .

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____ ; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____ , a person of suitable age and discretion who resides there,
 on *(date)* _____ , and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____ , who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____ ; or

☐ I returned the summons unexecuted because _____ ; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: