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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

DAVID DIDENKO, individually, and
on behalf of those similarly situated,

Plaintiff,

v.

UNITED PULSE TRADING INC.,

Defendant.

CASE NO. 2:26-cv-11104

CLASS ACTION COMPLAINT

Demand for Jury Trial

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

NATURE OF THE ACTION

1. This case arises out of Defendant's deceptive, misleading, and unlawful practices with respect to its marketing and sale of its Veggipasta food products (the "Product" or "Products").¹

2. Defendant manufactures and sells its Products throughout the United States in a variety of physical and e-commerce stores.

3. Defendant's marketing stresses the importance of protein consumption, the health benefits of its Products, and the protein content in its Products.



¹ At the time of this filing, the following products that are included in this definition are shown in Section A of the Substantive Allegations.

4. Notably, all Products are labeled as containing “24G PROTEIN PER 100G SERVING.”

5. Additionally, in the Nutrition Facts Panel (“NFP”), Defendant artfully omits the Percent Daily Value (“%DV” or “DRV”) for protein.



6. These representations and omissions lead reasonable consumers, like Plaintiff, to believe that the Products are snacks that contain complete quality protein in the amounts represented on the Product’s packaging.

7. Instead of providing protein in the amounts represented, Defendant provides a product containing approximately half of the true protein quality when properly adjusted.

8. Consumers are increasingly health conscious and, as a result, many consumers seek foods that contain protein. To capitalize on this trend, Defendant prominently labels its Products as providing identified amounts of protein per

1 serving, such as containing “24g Protein.” Consumers, in turn, reasonably expect that
2 each product will actually provide the amounts of protein claimed on the front of the
3 product package in a form the body can use.

4 9. The Food and Drug Administration (“FDA”) prohibits such prominent
5 label claims about the amount of protein unless manufacturers also provide
6 additional information in the NFP about how much of the recommended daily value
7 for protein that the product will *actually* provide. 21 C.F.R. §§ 101.9(c)(7)(i),
8 101.13(b), (n). That is because the FDA recognizes that (1) when manufacturers tout
9 an amount of protein on the front of the label, that amount is likely to be material to
10 purchasing decisions, even though reasonable consumers may not know the total
11 amount of protein they need to ingest on a daily basis, and (2) not all proteins are the
12 same in their ability to meet human nutritional requirements, so a simple statement
13 about the number of grams does not actually inform consumers about how much
14 usable protein they are receiving. Some proteins are deficient in one or more of the
15 nine amino acids essential to human protein synthesis and/or are not fully digestible
16 within the human gut. When a human body uses up the least prevalent essential
17 amino acid from a food product, protein synthesis shuts down and all of the
18 remaining amino acids from that protein source degrade mostly into waste. Likewise,
19 whatever portion of a protein source is not digestible is similarly unavailable for
20 protein synthesis. A protein’s ability to support human nutritional requirements is
21 known as its “quality.”

22 10. The FDA required method for measuring protein quality is called the
23 “Protein Digestibility Corrected Amino Acid Score”—known by its acronym PDCAAS.
24 It combines a protein source’s amino acid profile and its percent digestibility into a
25

1 discount factor ranging from 0.0 to 1.0 that, when multiplied by the total protein
2 quantity, shows how much protein in a product is actually available to support
3 human nutritional requirements. The regulations term this the “corrected amount of
4 protein per serving.” 21 C.F.R. § 101.9(c)(7)(ii). For example, a PDCAAS of .5 means
5 that only half of the protein in that product is actually available to support human
6 protein needs. If the product contained 13 grams total protein per serving, the
7 corrected amount of protein would be only 6.5 grams per serving. As a result, protein
8 products can vary widely in their ability to support human protein needs—even
9 between two comparator products with the same total protein quantity.

11 11. Because consumers are generally unaware about the usability of various
12 proteins, and may even be unaware of the total amount of usable protein they should
13 ingest each day, the FDA prohibits manufacturers from advertising or promoting
14 their products with a protein claim unless they have satisfied two requirements.
15 First, the manufacturer must calculate the “corrected amount of protein per serving”
16 based on the quality of the product’s protein using the PDCAAS method. Second, the
17 manufacturer must use the PDCAAS computation to provide “a statement of the
18 corrected amount of protein per serving” in the NFP “expressed as” a percent daily
19 value (“%DV”) and placed immediately adjacent to the statement of protein quantity.
20 21 C.F.R. § 101.9(c)(7)(i)-(iii). The %DV is the corrected amount of protein per serving
21 divided by the daily reference value for protein of 50 grams. *Id.* Using the same
22 example of a product containing 12 grams total protein per serving with a PDCAAS of
23 .5, the %DV is 12% (6g/50g). Had all of the protein in the product been useful in
24 human nutrition, the %DV would be 24% (12g/50g). The FDA regulations that govern
25 nutrient content claims are also clear that a manufacturer may not make any claims
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1 on the packaging about the amount of protein in the product unless it complies with
2 these two requirements. *See* 21 C.F.R. § 101.13(b) (“A nutrient content claim[] may
3 not be made on the label...unless the claim is made in accordance with this regulation
4 [i.e., § 101.13]...” and (n) (“[n]utrition labeling in accordance with § 101.8...shall be
5 provided for any food for which a nutrient content claim is made”); *accord* 58 Fed.
6 Reg. 2302, 23310 (manufacturer can only make a “nutrient content claim...on the
7 label or in labeling of a food, provided that the food bears nutrition labeling that
8 complies with the requirements in proposed § 101.9.”).

10 12. The primary protein source in the Products is lentils. The PDCAAS
11 scores for lentils fall between approximately .5 and .6, which means Defendant’s
12 products will provide nutritionally less than 40-50% of the protein quantity claimed.
13 Nevertheless, Defendant failed to provide in the NFP an accurate statement of the
14 corrected amount of protein per serving calculated according to the PDCAAS
15 methodology and expressed as a %DV. Accordingly, the protein claims on the front of
16 the package, such as “24g Protein” are unlawful in violation of parallel state and
17 federal laws because Defendant did not comply with the regulatory requirements for
18 making a protein claim. 21 C.F.R. § 101.9(c)(7)(i), 101.13(b), (n). The failure to include
19 an accurate statement of the corrected amount of protein inside the NFP also
20 rendered the NFP itself unlawful. *Id.* § 101.9(c)(7)(i).

23 13. In addition to being unlawful under 21 CFR §§ 101.9 and 101.13,
24 Defendant’s prominent protein claims on the front of the package while presenting a
25 false statement of the corrected amount of protein per serving expressed as a %DV in
26 the NFP, is also likely to mislead reasonable consumers. Consumers reasonably
27 expect that Defendant’s products will actually provide nutritionally the amount of
28

1 protein claimed on the front of the package and stated in the protein quantity section
2 of the NFP, *i.e.*, that the products contain high quality proteins. But Defendant's
3 products do not do so and instead contain low quality proteins far below the
4 represented %DV. Had Defendant included an accurate statement of the corrected
5 amount of protein per serving in the NFP, as it was required to do under the law, it
6 would have revealed that the Product contains low quality proteins. That information
7 was material to reasonable consumers.
8

9 14. Plaintiff and other reasonable consumers purchased the Products
10 believing that they were accurately represented. Specifically, Plaintiff and reasonable
11 consumers believed that the Products contained accurate label information and
12 representations. Plaintiff and other reasonable consumers would not have purchased
13 the Products if they had known about the misrepresentations and omissions, or would
14 have purchased them on different terms.
15

16 15. Plaintiff brings this action individually and on behalf of those similarly
17 situated and seeks to represent a class of California consumers. Plaintiff seeks
18 damages, interest thereon, reasonable attorneys' fees and costs, restitution, other
19 equitable relief, and disgorgement of all benefits Defendant has enjoyed from its
20 unlawful and/or deceptive business practices, as detailed herein. In addition, Plaintiff
21 seeks injunctive relief to stop Defendant's unlawful conduct in the labeling and
22 marketing of the Products and conduct a corrective advertising campaign.
23
24

25 **JURISDICTION AND VENUE**

26 16. This Court has personal jurisdiction over Defendant. Defendant
27 purposefully avails itself of the California consumer market and distributes the
28 Products to many locations within this District and hundreds of retail locations

1 throughout the State of California, where the Products are purchased by thousands of
2 consumers every day.

3 17. This Court has original subject-matter jurisdiction over this proposed
4 class action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class
5 Action Fairness Act (“CAFA”), explicitly provides for the original jurisdiction of the
6 federal courts in any class action in which at least 100 members are in the proposed
7 plaintiffs class, any member of the plaintiffs class is a citizen of a State different from
8 any defendant, and the matter in controversy exceeds the sum of \$5,000,000.00,
9 exclusive of interest and costs. Plaintiff alleges that the total claims of individual
10 members of the proposed Class (as defined herein) are well in excess of \$5,000,000.00
11 in the aggregate, exclusive of interest and costs.
12

13
14 18. Venue is proper in this District under 28 U.S.C. § 1391(a). Plaintiff’s
15 purchases of Defendant’s Products, substantial acts in furtherance of the alleged
16 improper conduct, including the dissemination of false and misleading information
17 regarding the nature, quality, and/or ingredients of the Products, occurred within this
18 District.
19

20 **PARTIES**

21 19. Plaintiff is a citizen of California, who purchased the Products during
22 the class period, as described herein. The advertising and labeling on the package of
23 the Products purchased by Plaintiff, including the protein representations, is typical
24 of the advertising and labeling of the Products purchased by members of the Class.
25

- 26 a. During the Class Period, Plaintiff purchased the Product from retail
27 stores located in California and within this District.
28

- 1 b. Plaintiff made each of his purchases after reading and relying on the
2 truthfulness of Defendant's front labels that promised the Products
3 provided a specific number of grams of protein. For example, he
4 purchased the Product relying on the representation of "24G PROTEIN
5 per 100g serving" on the front label. He believed the truth of each
6 representation, i.e., that the product would actually provide the full
7 amount of protein claimed on the front labels in a form human bodies
8 could utilize. He relied on the Products to meet his protein dietary
9 needs. Had Defendant complied with the law and not made the protein
10 claims on the front of its packages, he would not have been drawn to the
11 Products and would not have purchased them. At a minimum, Plaintiff
12 would have paid less for each Product.
13
14 c. Moreover, had Defendant adequately disclosed the corrected amount of
15 protein per serving for each Product expressed as a %DV, as FDA
16 regulations require, Plaintiff would not have purchased the Products or
17 would have, at minimum, paid less for them. Plaintiff regularly checks
18 the NFP before purchasing any product for the first time, including the
19 %DV column for protein when manufacturers provide it, and he uses
20 that information as a basis of comparison between similar products. He
21 looked at and read the NFP on the Product before purchasing them for
22 the first time. Manufacturers do not always disclose a %DV for protein,
23 but when they do, he prefers products that provide more of the
24 recommend daily amount of protein (i.e., the one with a higher %DV).
25
26 When a manufacturer does not provide a %DV for protein, he can only go
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1 off of the stated grams of protein, and he assumes that all of those
2 disclosed grams are in a form his body can use as protein.

3 d. For example, with the Product, Plaintiff was looking for a product that
4 would provide 24 grams of useable, i.e., high quality, protein per 100g
5 serving. Had Defendant disclosed that the product provided
6 nutritionally deficient amounts of protein representing less than 16% of
7 the DRV, Plaintiff would have used that information as a basis to
8 compare similar products and would have preferred, instead, to
9 purchase a different product with a higher %DV. At a minimum he
10 would have paid less for Defendant's product. Without the statement of
11 the corrected amount of protein per serving in the form of a %DV, the
12 only information Plaintiff had about the Products was the 24 gram
13 protein quantity, and he did in fact believe he was receiving 24 grams of
14 high-quality protein per 100g serving when he purchased the Products.

15
16
17 e. Plaintiff continues to desire to purchase protein products, including
18 those marketed and sold by Defendant, and would like to purchase
19 products that provide 24 grams of protein per 100g serving. If the
20 Products that currently make unlawful protein claims are reformulated
21 to ensure they provide, in a usable form, the grams of protein that are
22 represented on the labels, or their labels are changed to provide non-
23 misleading information, Plaintiff would likely purchase those Products
24 again in the future but will not do so until then. Plaintiff regularly visits
25 stores where the Products and other protein products are sold. Because
26 Plaintiff does not know the formula for Defendant's products, which can
27
28

1 change over time, and cannot test whether the Products provide the
2 amount of digestible protein that is represented on the label without
3 first purchasing the Product, Plaintiff will be unable to rely on
4 Defendant's labels when shopping for protein products in the future
5 absent an injunction that prohibits Defendant from mislabeling its
6 Products. Plaintiff would also be forced to retest and/or reanalyze each
7 Product that makes a protein claim but fails to include the %DV at each
8 time of purchase because such Products' ingredient list and labeling
9 would not reveal any changes in the amount of digestible protein, even if
10 such changes took place. In addition, at present Plaintiff cannot rely on
11 the accuracy of Defendant's labels for the entire line of Products, which
12 Plaintiff is also interested in purchasing with labeling that comports
13 with regulations. Should Defendant begin to market and sell a new line
14 of products, Plaintiff could also be at risk for buying another one of
15 Defendant's products in reliance on the same or similar
16 misrepresentation and omissions. And because of Defendant's unlawful
17 and misleading labels on its Products, Plaintiff cannot make informed
18 choices between protein products offered by Defendant and protein
19 products offered by other manufacturers, such as choices based on price
20 and relative nutritional content.

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25 20. Plaintiff and members of the Class have been economically damaged by
26 their purchase of the Products because the advertising for the Products was and is
27 untrue and/or misleading under state law and the products are misbranded;
28 therefore, the Products are worth less than what Plaintiff and members of the Class

1 paid for them and/or Plaintiff and members of the Class did not receive what they
2 reasonably intended to receive.

3 21. Defendant is a North Dakota corporation with its principal place of
4 business in Bismarck, North Dakota.

5 a. From its headquarters in North Dakota, Defendant produces, markets
6 and distributes the Products in retail stores across the United States
7 including stores physically located in the California.
8

9 22. Whenever reference is made in this Complaint to any representation,
10 act, omission, or transaction of a defendant, that allegation shall mean that the
11 defendant did the act, omission, or transaction through its officers, directors,
12 employees, agents, and/or representatives while they were acting within the actual or
13 ostensible scope of their authority.
14

15 23. Plaintiff reserves the right to amend this Complaint to add different or
16 additional defendants, including without limitation any officer, director, employee,
17 supplier, or distributor of Defendant who have knowingly and willfully aided,
18 abetted, or conspired in the false and deceptive conduct alleged herein.
19

20 **SUBSTANTIVE ALLEGATIONS**

21 **A. Defendant Manufactures, Labels, and Advertises the Product**

22 24. Defendant manufactures, labels, and advertises the Product.

23 25. Defendant markets and labels the Product with the representations as
24 described herein. Specifically, the Product contains: (1) the claim that each product is
25 contains “24g protein” and (2) the omission of the DRV for protein in the NFP.
26

27 26. The following images display the front label and the NFP:
28



27. On the front label, as shown above, the Defendant prominently represents that the product contains “24G PROTEIN per 100g serving.”

28. The nutrition facts panel on the side of the Products uniformly and consistently failed to provide any statement of the corrected amount of protein per serving, expressed as a %DV throughout the Class Period.

29. The front label and the NFP of the Products has appeared consistently throughout the Class Period in the general form of the above shown examples.

30. The protein in the Products is derived from lentils which are incomplete proteins and only have PDCAAS ranging from 0.54 to 0.63.²

31. Thus, the Products provide approximately 40%-50% less protein than represented by Defendant on the front label of the Products.

² Nosworthy, Matthew, *Determination of the protein quality of cooked Canadian pulses*, FOOD SCIENCE & NUTRITION vol. 5, 4 896-903. 20 Jun. 2017, available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5521049/>.

B. Consumer Demand for Protein

32. Consumers are focused on increasing the amount of protein in their diets. This increased demand indicates that consumers are willing to pay a premium for products labeled and marketed as containing high quality protein.³

33. Many American consumers are health conscious and seek wholesome, natural foods to keep a healthy diet, so they routinely rely upon nutrition information when selecting and purchasing food items. As noted by FDA Commissioner Margaret Hamburg during an October 2009 media briefing, “[s]tudies show that consumers trust and believe the nutrition facts information and that many consumers use it to help them build a healthy diet.” Indeed, the FDA recommends relying on Nutrition Facts Labels as the primary tool to monitor the consumption of protein.⁴

34. Protein is found throughout the body—in muscle, bone, skin, hair, and virtually every other body part or tissue. The health benefits of protein are well studied and wide ranging. Scientific studies have confirmed that protein can assist in weight loss, reduce blood pressure, reduce cholesterol, and control for risk factors for cardiovascular diseases. The National Academy of Medicine recommends that adults get a minimum of .8 grams of protein for every kilogram of body weight per day, or just over 7 grams for every 20 pounds of body weight.⁵ For a 140-pound person, that

³ See Brooks, Robert & Simpson, S.J. & Raubenheimer, David. (2010). *The price of protein: Combining evolutionary and economic analysis to understand excessive energy consumption*. Obesity Reviews : an official journal of the International Association for the Study of Obesity. 11. 887-94. 10.1111/j.1467-789X.2010.00733.x.

⁴ FDA Protein Fact Sheet, <https://www.accessdata.fda.gov/scripts/InteractiveNutritionFactsLabel/factsheets/Protein.pdf>.

⁵ National Academies of Medicine. Dietary Reference Intakes for Energy, Carbohydrate, Fiber, Fat, Fatty Acids, Cholesterol, Protein, and Amino Acids (Macronutrients).

1 means about 50 grams of protein each day. For a 200-pound person, that means about
2 70 grams of protein each day.

3 35. The health benefits of protein are just as important, if not more
4 important, for children. Children are in a relative state of constant growth and rely
5 on protein as the building block of muscle, bone, skin, hair, and virtually every other
6 body part or tissue. The National Academies of Science recommends the following
7 amounts of daily intake of protein based on age group: 1-3 years old: 13g of protein
8 per day; 4-8 years old: 19g of protein per day; 9-13 16 years old: 34g of protein per
9 day.⁶
10

11 36. Protein quantity by itself does not tell the full story of protein from a
12 human nutritional standpoint. A protein's quality is also critical because humans
13 cannot fully digest or utilize some proteins. Proteins are not monolithic. They are
14 simply chains of amino acids, and different types of amino acids chained together in
15 different ways will make different types of proteins. Further, the makeup of the
16 protein changes the function of that protein in the body, and certain types of proteins
17 are more easily digested and used by humans than others.
18
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20 37. All of a human's proteins are formed through the process of protein
21 synthesis within their own bodies. That is, although humans consume dietary
22 proteins, they digest those proteins, break them down into their constituent amino
23 acids, and then use those amino acids as building blocks to synthesize the human
24 proteins necessary for life, tissue repair, and other functions. Of the twenty total
25 amino acids, humans can produce only eleven of them on their own. Humans cannot
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⁶ *Id.*

1 produce, under any circumstances, nine of the amino acids required for protein
2 synthesis. These nine amino acids are called the “essential amino acids” and they
3 must be supplied through the diet.

4 38. All nine essential amino acids are necessary for protein synthesis to take
5 place. Lacking even one essential amino acid will prevent protein synthesis from
6 occurring, and the rest of the proteins will degrade into waste. Accordingly, once the
7 body uses up the limiting essential amino acid from a protein source, the remainder
8 of that protein becomes useless to human protein synthesis and has little nutritional
9 value. As the FDA has explicitly recognized, “[b]ecause excess amino acids are not
10 stored in the body, humans need a constant supply of good quality dietary proteins to
11 support growth and development.” 58 Fed. Reg. 2079 at 2101. High-quality proteins,
12 therefore, are those that contain all nine essential amino acids because they have a
13 greater effect on protein synthesis and are fully digestible. A dietary protein
14 containing all of the essential amino acids in the correct proportions is typically called
15 a “complete protein.”
16

17 39. A protein source’s digestibility also affects the amount of useable protein
18 a person receives from consuming it. Plant-based proteins like oats are approximately
19 80% digestible, meaning 20% of the protein from that source will simply pass through
20 the body without ever being absorbed at all.
21

22 40. As the FDA has stated in official guidance, “Accurate methods for
23 determining protein quality are necessary because different food protein sources are
24 not equivalent in their ability to support growth and body protein maintenance.” 56
25 Fed. Reg. 60366, § B. The Protein Digestibility Corrected Amino Acid Score
26 (“PDCAAS”), is the FDA mandated measure of protein quality, and it accounts for
27
28

1 both the amino acid profile and the digestibility of the protein. 21 C.F.R. §
2 101.9(c)(7)(ii).

3 41. The PDCAAS method requires the manufacturer to determine the
4 amount of essential amino acids that the food contains and then combine that with
5 the proteins' digestibility into an overall discount factor (i.e., a "score" from 0.0-1.0)
6 that represents the actual amount of protein the food provides nutritionally when
7 multiplied by raw protein quantity. The regulations term this the "corrected amount
8 of protein per serving." 21 C.F.R. § 101.9(c)(7)(i).

9
10 42. Defendant uses plant-based proteins in its products. Because of the
11 differences in benefits depending on the amino acid composition of a protein, the
12 source of protein is important. Although some plants can be high quality protein
13 sources, most plant-based proteins do not contain all nine essential amino acids and
14 are low quality to humans. The primary sources of the Product's protein comes from
15 lentils which have PDCAAS scores of approximately .5 and .6, meaning
16 approximately 40-50% of the protein from those sources will be useless to humans
17 nutritionally speaking.
18

19
20 43. Accordingly, Defendant's use of low-quality proteins in the Products
21 means that they actually provide far less protein to humans than the Product labels
22 claim.

23 **C. Defendant Violates Identical Federal and State Regulations**

24 **a. Federal and State Regulations are Identical**

25
26 44. The FDA oversees the regulation and labeling of food pursuant to the
27 Federal Food, Drug and Cosmetic Act ("FDCA").
28

1 45. California’s Sherman Food, Drug and Cosmetic Law, Cal. Heath & Saf.
2 Code § 110765 *et seq.* (the “Sherman Law”), incorporates all food labeling regulations
3 promulgated by the FDA under the FDCA. *See e.g.*, Cal. Heath & Saf. Code §
4 110100(a) (“All food labeling regulations and any amendments to those regulations
5 adopted pursuant to the federal act, in effect on January 1, 1993, or adopted on or
6 after that date shall be the food labeling regulations of this state.”), § 110380 and §
7 110505.
8

9 46. The federal laws and regulations discussed below are applicable
10 nationwide to all sales of packaged food products. Additionally, none of the California
11 laws sought to be enforced here imposes different requirements on the labeling of
12 packaged food for sale in the United States.
13

14 47. To be clear, Plaintiff does not allege any claims pursuant to the FDCA
15 and Sherman Law and relies on these regulations only to the extent they provide a
16 predicate basis for liability under state and common law, as set forth herein.
17

18 **b. Regulations Governing the Labeling of Food Products**

19 48. 21 U.S.C. § 343 addresses misbranded food and states that a “food shall
20 be deemed to be misbranded – (a) If (1) its labeling is false or misleading in any
21 particular, or (2) in the case of a food to which section 350 of this title applies, its
22 advertising is false or misleading in a material respect or its labeling is in violation of
23 section 350(b)(2) of this title.” *See* 21 U.S.C. § 343(a).
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49. Generally, a manufacturer is not required to include the DRV for protein. However, when a product's label makes a nutrient content claim related to protein content, the manufacturer is required to include the DRV.⁷

c. The Front Label Protein Claims Were Unlawful Due to the Omission of the %DV Inside the NFP as was the NFP Itself.

50. A nutrient content claim is a claim that “expressly or implicitly characterizes the level of a nutrient.” 21 C.F.R. § 101.13(b). “Express” nutrient content claims include any statement outside the Nutrition Facts Panel, about the level of a nutrient. 21 C.F.R. 101.13(b)(1). Moreover, stating information from the nutrition facts panel (such as grams protein per serving) elsewhere on the package necessarily constitutes a nutrient content claim. 21 C.F.R. § 101.13(c).

51. The FDA has always considered nutrient content claims to be “a marketing activity,” the purpose of which is to advertise a specific product as a “significant source” of the relevant nutrient. 56 Fed. Reg. 60366, 60372, 60375. The FDA has long been suspicious of nutrient content claims and has repeatedly stated that such claims can be misleading, so the rules that govern them are far more restrictive. Indeed, “the general rule is that ‘nutrient content claims’ are not permitted on food labels” and must instead satisfy all of the requirements of § 101.13 before being authorized to appear at all.

52. FDA regulations specifically condition the ability to make a nutrient content claim on compliance with the rules governing the NFP. Section 101.9(c)(7)(i),

⁷ 21 C.F.R. § 101.9(c)(7) and *see Guidance for Industry: A Food Labeling Guide*, U.S. FOOD & DRUG ADMINISTRATION, <https://www.fda.gov/files/food/published/Food-Labeling-Guide-%28PDF%29.pdf> at N22 (“The percent of the DRV is required if a protein claim is made for the product or if the product is represented or purported to be for use by infants or children under 4 years of age.”).

1 in particular, sets forth special rules for the NFP when manufacturers make a
 2 protein claim outside the NFP. It provides that “[a] statement of the corrected
 3 amount of protein per serving, as determined in paragraph (c)(7)(ii) of this section,
 4 calculated as a percentage of the RDI or DRV for protein, as appropriate, and
 5 expressed as a Percent of Daily Value . . . shall be given if a protein claim is made for
 6 the product . . .” 21 C.F.R. 101.9(c)(7)(i) (emphasis added). If a manufacturer does not
 7 want to perform PDCAAS and provide a statement of the corrected amount of protein
 8 per serving in the NFP, then it shall not make any protein claims.

10 53. The regulation governing nutrient content claims, section 101.13, also
 11 makes this plain. Section 101.13(n) provides that “[n]utrition labeling in accordance
 12 with § 101.9 . . . shall be provided for any food for which a nutrient content claim is
 13 made” and § 101.13(b) states “a nutrient content claim[] may not be made on the label
 14 . . . unless the claim is made in accordance with this regulation [i.e., § 101.13]” In
 15 other words, a manufacturer may not make any protein nutrient content claims on
 16 the front labels of their products unless they have complied with the requirements for
 17 protein labeling in the nutrition facts panel pursuant to section 101.9(c)(7). Indeed,
 18 the FDA made clear when promulgating § 101.13(n) that it means that a
 19 manufacturer can only make “a nutrient content claim . . . on the label or in labeling
 20 of a food, provided that the food bears nutrition labeling that complies with the
 21 requirements in proposed § 101.9.” 58 Fed. Reg. 2302, 23310.

25 54. Further, FDA regulations require the %DV for protein to be calculated
 26 using PDCAAS, a method that accounts for both protein quantity and protein quality.
 27 21 C.F.R. § 101.9(c)(7)(i)-(iii); FDA Food Labeling Guide, p. 29, Question N.22.4 The
 28 first step is to calculate the “corrected amount of protein per serving” by multiplying

1 protein quantity by the PDCAAS quality value, and then dividing that “corrected
2 amount” by 50 grams (the “recommended daily value” for protein) to come up with the
3 %DV. *Id.*

4 55. The Products, currently or during the Class Period, all made protein
5 claims on 14 the front label but failed to provide a statement of the corrected amount
6 of protein per serving in the NFP calculated according to the PDCAAS method. The
7 protein claims on the front are, therefore, unlawful, and were never permitted to be
8 on the labels in the first instance under §§ 17101.9(c)(7)(i), 101.13(n), and 101.13(b).
9

10 56. Defendant’s failure to include a statement of the corrected amount of
11 protein per serving expressed as a %DV in the NFP also renders the NFP itself
12 unlawful under §§ 101.9(c)(7)(i)-(iii).
13

14 57. Defendant’s Products are, therefore, unlawful, misbranded, and violate
15 the Sherman Law, California Health & Safety Code § 110660, *et seq.* Defendant,
16 currently and during the Class Period, made protein content claims on the front of its
17 Product packages even though it uniformly failed to provide a statement of the
18 corrected amount of protein per serving in the NFP calculated according to the
19 PDCAAS method and expressed as a %DV as required by 21 C.F.R. § 101.9(c)(7)(i).
20 Defendant’s failure to comply with this requirement render these front label protein
21 claims unlawful per se and the product misbranded pursuant to § 101.13(n) and (b),
22 as well as under § 101.9(c)(7)(i) itself. Defendant’s NFPs are also unlawful and in
23 violation of § 101.9(c)(7)(i)-(iii).
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d. The Products' Labeling Violates Federal and State Regulations.

58. Defendant's marketing, advertising, and sale of the Products violates the misbranding provisions of the Sherman Law (California Health & Safety Code § 110660, *et. seq.*), including but not limited to:

- i. Section 110665 (a food is misbranded if its labeling does not conform with the requirements for nutrition labeling as set forth in 21 U.S.C. Sec. 11 343(q));
- ii. Section 110705 (a food is misbranded if words, statements and other information required by the Sherman Law to appear on food labeling is either missing or not sufficiently conspicuous);
- iii. Section 110760, which makes it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded;
- iv. Section 110765, which makes it unlawful for any person to misbrand any food; and
- v. Section 110770, which makes it unlawful for any person to receive in commerce any food that is misbranded or to deliver or proffer for delivery any such food.

59. Defendant's marketing, advertising, and sale of the Products also violates the false advertising provisions of the Sherman Law (California Health & Safety Code § 110390, *et. seq.*), including, but not limited to:

- i. Section 110390, which makes it unlawful to disseminate false or misleading food advertisements that include statements on

1 products and product packaging or labeling or any other medium
2 used to directly or indirectly induce the purchase of a food
3 product;

4 ii. Section 110395, which makes it unlawful to manufacture, sell,
5 deliver, hold or offer to sell any falsely or misleadingly advertised
6 food; and
7

8 iii. Sections 110398 and 110400, which make it unlawful to advertise
9 misbranded food or to deliver or proffer for delivery any food that
10 has been falsely or misleadingly advertised.
11

12 60. By failing to include on the Product labels the nutritional information
13 required by law, Defendant has violated the Act and the standards set by FDA
14 regulations, including but not limited to 21 C.F.R. § 101.9 (c)(7) and 21 C.F.R. §§
15 101.13(i)(3), (b), (n), which have been incorporated by reference into the Sherman
16 Law.
17

18 61. The aforementioned Sherman Law provisions stem from California's
19 traditional, historic police power to regulate food labels, which long predates the
20 FDCA. *See Plumley v. Massachusetts*, 155 U.S. 461, 472 (1894) ("If there be any
21 subject over which it would seem the states ought to have plenary control, and the
22 power to legislate in respect to which . . . it is the protection of the people against
23 fraud and deception in the sale of food products"); *see also Brown v. Van's Int'l Foods,*
24 *Inc.*, No. 3:22-cv-00001-WHO, 2022 WL 1471454, at *7 (N.D. Cal. May 10, 2022)
25 ("[s]tates have traditionally possessed the power to protect their citizens from fraud
26 and deception in the sale of food, and therefore there is a strong presumption against
27
28

1 federal preemption in the area of marketing food”), quoting *Clancy v. Bromley Tea*
 2 *Co.*, 308 F.R.D. 564, 573 (N.D. Cal. 2013).

3 62. Moreover, while the Sherman Law directly incorporates the FDA food
 4 labeling regulations in Section 110665, Plaintiff bases his claims on other Sherman
 5 Law provisions that independently prohibit the dissemination of “false or misleading
 6 food advertisements” (which include food labels) and the misbranding of food,
 7 including Sections 110705, 110760, 110765, 110390, 11039, 110398. These provisions,
 8 in particular, would exist even if the FDCA did not.
 9

10 **e. The Omission of the %DV Was Misleading Under Traditional**
 11 **State Law Prohibitions Against Fraudulent and Deceptive**
 12 **Advertising.**

13 63. In addition to violating the aforementioned statutes, Defendant has
 14 violated the traditional common law duty not to commit fraud and mislead consumers
 15 about the characteristics and qualities of its Products, as well as traditional state law
 16 prohibitions on false and misleading advertising that long predate the FDCA or
 17 Sherman Law.
 18

19 64. Defendant’s use of a front-label protein claim, while failing to include
 20 the required statement of the corrected amount of protein per serving in the NFP
 21 calculated using the PDCAAS method and expressed as a %DV, is misleading.
 22 Reasonable consumers are unaware of the nutritional value of various protein sources
 23 and upon seeing a front-label quantitative protein claim reasonably believe that all of
 24 the advertised protein will be nutritionally available—i.e., that the product contains
 25 high quality proteins. Had Defendant complied with the law, the statement of the
 26 corrected amount of protein expressed as a %DV would have revealed that the
 27 Products provide significantly less of the daily value of protein than high quality
 28

1 protein products with comparable protein quantities. Had reasonable consumers been
2 informed of the %DV for protein, as required by FDA regulations, they would not
3 have purchased or would have paid less for the Products.

4 65. Consumers lack the meaningful ability to test or independently
5 ascertain the truthfulness of Defendant's food labeling claims, especially at the point
6 of sale. They would not know the quality of protein in the Products or how much of
7 the daily recommended value of protein they provide merely by looking elsewhere on
8 the product package given Defendant's omissions. Its discovery requires investigation
9 well beyond the grocery store aisle and knowledge of food chemistry beyond that of
10 the average consumer. An average consumer does not have the specialized knowledge
11 necessary to ascertain the nutritional value of the protein in the Products. The
12 average reasonable consumer had no reason to suspect that Defendant's
13 representations and omissions on the packages were misleading.

14 66. Defendant intends and knows that consumers will and do rely upon food
15 labeling statements in making their purchasing decisions. Label claims and other
16 forms of advertising and marketing drive product sales, particularly if placed
17 prominently on the front of product packaging, as Defendant has done with its
18 protein claims.

19 67. Defendant's duty not to mislead consumers about the quality or
20 nutritional value of the protein in its products does not stem from either the FDCA or
21 California's Sherman Law. Instead, that duty stems from traditional California
22 prohibitions on misleading and deceptive advertising (including prohibitions on
23 fraudulent omissions) that long predate the FDCA or Sherman Law, including the
24 UCL's fraud prong, the CLRA, the FAL, and the common law tort of fraud.
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f. Defendant Misleadingly Markets the Products to Increase Profits and Gain a Competitive Edge.

68. In making unlawful, false, misleading, and deceptive representations, Defendant distinguishes the Products from its competitors' products. Defendant knew and intended that consumers would purchase, and pay a premium for, products labeled with protein claims and that failed to reveal they provide less of the daily value of protein than comparable products with high quality proteins. By using this branding and marketing strategy, Defendant is stating that the Products are superior to, better than, and more nutritious and healthful than other products that do not make protein claims, or that do not make protein claims based on poorly-disclosed added ingredients, or that properly provide the required statement of the corrected amount of protein in the product as determined by the PDCAAS method and expressed as a %DV and otherwise do not mislead consumers about the quality or nutritional value of the protein in their products.

69. For example, this competing product makes protein representations throughout its product, is composed of plant-based proteins that are incomplete. In contrast with Defendant's Products, the competing product presents an accurate DRV for protein.



1 **g. Defendant Intends to Continue to Market the Products with**
2 **Protein Claims.**

3 70. Because consumers pay a price premium for products that make protein
4 claims, and also pay a premium for products that provide more protein, by labeling its
5 Products with protein claims and/or omitting the required statement of the corrected
6 amount of protein per serving, Defendant is able to both increase its sales and retain
7 more profits.

8
9 71. Defendant engaged in the practices complained of herein to further its
10 private interests of: (i) increasing sales of the Products while decreasing the sales of
11 competitors that do not misrepresent the number of grams of protein contained in its
12 products, and/or (ii) commanding a higher price for its Products because consumers
13 will pay more for the Products due to consumers' demand for products with protein
14 claims.

15
16 72. The market for protein products is continuing to grow and expand, and
17 because Defendant knows consumers rely on representations about the number of
18 grams of protein in food products, Defendant has an incentive to continue to make
19 such unlawful and misleading representations. In addition, other trends suggest that
20 Defendant has no incentive to change its labeling practices.

21
22 73. For example, one market analysis revealed that between 2013-2017,
23 product launches with a protein claim grew 31%.⁸

24 74. To capitalize on the growing market, Defendant continues to launch new
25 product lines and flavors to diversify its portfolio to maintain its competitive edge.
26

27
28 ⁸ Gil Hyslop, *10 Key Snack Trends to Watch*, BAKERYANDSNACKS.COM (Sep. 28, 2021),
<https://www.bakeryandsnacks.com/Article/2018/11/26/10-key-snack-trends-to-watch>.

Moreover, Defendant has continued to replicate its misrepresentations on new products. It is therefore likely that Defendant will continue to unlawfully and/or misleadingly advertise the Products and perpetuate the misrepresentations regarding the protein in the Products.

C. Plaintiff and Consumers Purchased the Products to Their Detriment

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

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

77. In making unlawful, false, misleading, and deceptive representations, Defendant distinguishes the Products from its competitors' products. Defendant knew and intended that consumers would purchase, and pay a premium for, products labeled with protein claims and that failed to reveal they provide less of the daily value of protein than comparable products with high quality proteins. By using this branding and marketing strategy, Defendant is stating that the Products are superior to, better than, and more nutritious and healthful than other products that do not make protein claims, or that do not make protein claims based on poorly-disclosed added ingredients, or that properly provide the required statement of the corrected amount of protein in the product as determined by the PDCAAS method and expressed as a %DV and otherwise do not mislead consumers about the quality or nutritional value of the protein in their Products.

1 78. As an immediate, direct, and proximate result of Defendant's false,
2 misleading, and deceptive representations and omissions, Defendant injured the
3 Plaintiff and the Class Members in that they:

- 4 a. Paid a sum of money for Products that were not what Defendant
5 represented;
6
7 b. Paid a premium price for Products that were not what Defendant
8 represented;
9
10 c. Were deprived of the benefit of the bargain because the Products they
11 purchased were different from what Defendant warranted; and
12
13 d. Were deprived of the benefit of the bargain because the Products they
14 purchased had less value than what Defendant represented.

15 79. Had Defendant not made the false, misleading, and deceptive
16 representations and omissions, Plaintiff and the Class Members would not have been
17 willing to pay the same amount for the Products they purchased, and, consequently,
18 Plaintiff and the Class Members would not have been willing to purchase the
19 Products.

20 80. Plaintiff and the Class Members paid for Products that were represented
21 to have certain levels of protein but received Products that were deficient. The
22 products Plaintiff and the Class Members received were worth less than the Products
23 for which they paid.

24 81. Based on Defendant's misleading and deceptive representations,
25 Defendant was able to, and did, charge a premium price for the Products over the cost
26 of competitive products that do not misrepresent the protein levels and are compliant
27 with the law.
28

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

9 **CLASS DEFINITIONS AND ALLEGATIONS**

10 83. Plaintiff, pursuant to Federal Rule of Civil Procedure 23, brings this
11 action on behalf of the following class:

- 12 a. All persons who purchased Defendant's Products within the State of
13 California and within the applicable statute of limitations (the "Class,"
14 "Classes," and "Class Members").

15 84. Excluded from the Classes are Defendant, its parents, subsidiaries,
16 affiliates, officers, and directors, those who purchased the Products for resale, all
17 persons who make a timely election to be excluded from the Classes, the judge to
18 whom the case is assigned and any immediate family members thereof, and those
19 who assert claims for personal injury.

20 85. The members of the Classes are so numerous that joinder of all Class
21 Members is impracticable. Defendant has sold, at a minimum, hundreds of thousands
22 of units of the Products to Class Members.

23 86. There is a well-defined community of interest in the questions of law and
24 fact involved in this case. Questions of law and fact common to the members of the
25

1 putative Classes that predominate over questions that may affect individual Class
2 Members include, but are not limited to the following:

- 3 a. whether Defendant misrepresented material facts concerning the
4 Products on the packaging of every product;
- 5 b. whether Defendant misrepresented material facts concerning the
6 Products in print and digital marketing of every product;
- 7 c. whether Defendant's conduct was unfair and/or deceptive;
- 8 d. whether Defendant has been unjustly enriched as a result of the
9 unlawful, fraudulent, and unfair conduct alleged in this Complaint such
10 that it would be inequitable for Defendant to retain the benefits
11 conferred upon it by Plaintiff and the Class;
- 12 e. whether Plaintiff and the Class are entitled to equitable and/or
13 injunctive relief; and
- 14 f. whether Plaintiff and the Class have sustained damages with respect to
15 the claims asserted, and if so, the proper measure of their damages.

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19 87. Plaintiff's claims are typical of those of other Class Members because
20 Plaintiff, like all members of the Classes, purchased Defendant's Products bearing
21 nutrient content claims and Plaintiff sustained damages from Defendant's wrongful
22 conduct.

23
24 88. Plaintiff will fairly and adequately protect the interests of the Classes
25 and has retained counsel that is experienced in litigating complex class actions.

26 89. Plaintiff has no interests which conflict with those of the Classes.

27 90. A class action is superior to any other available means for the fair and
28 efficient adjudication of this controversy, and no unusual difficulties are likely to be

1 encountered in the management of this class action. The damages or other financial
2 detriment suffered by Plaintiff and the other Class Members are relatively small
3 compared to the burden and expense that would be required to individually litigate
4 their claims against Defendant, making it impracticable for Class Members to
5 individually seek redress for Defendant's wrongful conduct. Even if Class Members
6 could afford individual litigation, the court system could not. Individualized litigation
7 creates a potential for inconsistent or contradictory judgments, and increases the
8 delay and expense to all parties and the court system. By contrast, the class action
9 device presents far fewer management difficulties, and provides the benefits of single
10 adjudication, economies of scale, and comprehensive supervision by a single court.
11

12
13 91. The prerequisites to maintaining a class action for equitable relief are
14 met as Defendant has acted or refused to act on grounds generally applicable to the
15 Classes, thereby making appropriate equitable relief with respect to the Classes as a
16 whole.

17
18 92. The prosecution of separate actions by members of the Classes would
19 create a risk of establishing inconsistent rulings and/or incompatible standards of
20 conduct for Defendant. For example, one court might enjoin Defendant from
21 performing the challenged acts, whereas another might not. Additionally, individual
22 actions could be dispositive of the interests of the Classes even where certain Class
23 Members are not parties to such actions.
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CAUSES OF ACTION

COUNT I

**Violations of the Unfair Competition Law (“UCL”),
Cal. Bus. & Prof. Code §§ 17200 *et seq.***

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

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

95. Within four (4) years preceding the filing of this lawsuit, and at all times mentioned herein, Defendant has engaged, and continue to engage, in unlawful, unfair, and fraudulent trade practices in California by engaging in the unlawful, unfair, and fraudulent business practices outlined in this complaint.

96. In particular, Defendant has engaged, and continues to engage, in unlawful practices by, without limitation, violating the following state and federal laws: (i) the CLRA as described herein; (ii) the FAL as described herein; (iii) the advertising provisions of the Sherman Law (Article 3), including without limitation, California Health & Safety Code §§ 110390, 110395, 110398 and 110400; (iv) the misbranded food provisions of the Sherman Law (Article 6), including without limitation, California Health & Safety Code §§ 110660, 110665, 110705, 110760, 110765, and 110770; and (v) and federal laws regulating the advertising and branding of food in 21 U.S.C. § 343(a), *et seq.* and FDA regulations, including but not limited to 21 C.F.R. § 101.9 (c)(7), which are incorporated into the Sherman Law (California Health & Safety Code §§ 110100(a), 110380, and 110505).

97. In particular, Defendant has engaged, and continues to engage, in unfair and fraudulent practices by, without limitation, the following: (i) unlawfully making a

1 protein claim on the front of the package without complying with the regulatory
2 requirements for making a protein claim set forth in 21 C.F.R. § 101.9(c)(7)(i)-(iii) and
3 incorporated by reference by California's Sherman law; (ii) failing to provide a
4 statement of the corrected amount of protein per serving in the NFP, calculated
5 according to the PDCAAS method and expressed as a %DV, as required by FDA
6 regulations; and (iii) misleading reasonable consumers regarding the quality of
7 protein in their products and its contribution to consumers' daily protein needs by
8 omitting the %DV for protein.
9

10 98. Plaintiff and those similarly situated relied to their detriment on
11 Defendant's unlawful, unfair, and fraudulent business practices. Had Plaintiff and
12 those similarly situated been adequately informed and not deceived by Defendant,
13 they would have acted differently by, without limitation: (i) declining to purchase the
14 Products, (ii) purchasing less of the Products, or (iii) paying less for the Products.
15

16 99. Defendant's acts and omissions are likely to deceive the general public.
17

18 100. Defendant engaged in these deceptive and unlawful practices to increase
19 its profits. Accordingly, Defendant has engaged in unlawful and fraudulent trade
20 practices, as defined and prohibited by section 17200, *et seq.* of the California
21 Business and Professions Code.
22

23 101. The aforementioned practices, which Defendant has used to its
24 significant financial gain, also constitute unlawful competition and provide an
25 unlawful advantage over Defendant's competitors as well as injury to the general
26 public.
27

28 102. As a direct and proximate result of such actions, Plaintiff and the other
Class Members have suffered and continue to suffer injury in fact and have lost

1 money and/or property as a result of such deceptive and/or unlawful trade practices
2 and unfair competition in an amount which will be proven at trial, but which is in
3 excess of the jurisdictional minimum of this Court. Among other things, Plaintiff and
4 the Class members lost the amount they paid for the Products.

5 103. As a direct and proximate result of such actions, Defendant has enjoyed,
6 and continues to enjoy, significant financial gain in an amount which will be proven
7 at trial, but which is in excess of the jurisdictional minimum of this Court.

8 104. Plaintiff seeks, on behalf of himself and those similarly situated,
9 equitable relief, including the restitution for the premium and/or full price that they
10 or others paid to Defendant as a result of Defendant's conduct. Plaintiff and the Class
11 lack an adequate remedy at law to obtain such relief with respect to their
12 "unlawfulness" claims in this UCL cause of action because the California Sherman
13 Law does not provide a direct cause of action, so Plaintiff and the Class must allege
14 those violations as predicate acts under the UCL to obtain relief.

15 105. Plaintiff also seeks equitable relief, including restitution, with respect to
16 his UCL "fraudulent" prong claims. Pursuant to Federal Rule of Civil Procedure
17 8(e)(2), Plaintiff makes the following allegations in this paragraph only hypothetically
18 and as an alternative to any contrary allegations in their other causes of action, in
19 the event that such causes of action do not succeed. Plaintiff and the Class may be
20 unable to obtain monetary, declaratory and/or injunctive relief directly under other
21 causes of action and will lack an adequate remedy of law, if the Court requires them
22 to show class-wide reliance and materiality beyond the objective reasonable consumer
23 standard applied under the UCL, because Plaintiff may not be able to establish each
24 Class Member's individualized understanding of Defendant's misleading
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1 representations as described in this Complaint, but the UCL does not require
2 individualized proof of deception or injury by absent class members. *See, e.g., Stearns*
3 *v Ticketmaster*, 655 F.3d 1013, 1020, 1023-25 (distinguishing, for purposes of CLRA
4 claim, among class members for whom website representations may have been
5 materially deficient, but requiring certification of UCL claim for entire class). In
6 addition, Plaintiff and the Class may be unable to obtain such relief under other
7 causes of action and will lack an adequate remedy at law, if Plaintiff is unable to
8 demonstrate the requisite *mens rea* (intent, reckless, and/or negligence), because the
9 UCL imposes no such *mens rea* requirement and liability exists even if Defendant
10 acted in good faith.
11

12
13 106. Plaintiff seeks, on behalf of those similarly situated, a declaration that
14 the above-described trade practices are fraudulent, unfair, and/or unlawful.

15 107. Plaintiff seeks, on behalf of those similarly situated, an injunction to
16 prohibit Defendant from continuing to engage in the deceptive and/or unlawful trade
17 practices complained of herein. Such misconduct by Defendant, unless and until
18 enjoined and restrained by order of this Court, will continue to cause injury in fact to
19 the general public and the loss of money and property in that Defendant will continue
20 to violate the laws of California, unless specifically ordered to comply with the same.
21 This expectation of future violations will require current and future consumers to
22 repeatedly and continuously seek legal redress in order to recover monies paid to
23 Defendant to which they were not entitled. Plaintiff and those similarly situated have
24 no other adequate remedy at law to ensure future compliance with the California
25 Business and Professions Code alleged to have been violated herein.
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1 108. Defendant’s conduct constitutes an unfair business act and practice
2 pursuant to California Business & Professions Code §§ 17200, *et seq.* (the “UCL”). The
3 UCL provides, in pertinent part: “Unfair competition shall mean and include
4 unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or
5 misleading advertising”

6
7 109. Defendant’s knowing conduct, as alleged herein, constitutes an “unfair”
8 and/or “fraudulent” business practice, as set forth in California Business &
9 Professions Code §§ 17200-17208.

10 110. Defendant’s conduct was and continues to be unfair and fraudulent
11 because, directly or through its agents and employees, Defendant made materially
12 false representations and omissions.

13
14 111. Defendant is aware that the representations and omissions they have
15 made about the Products were and continue to be false and misleading.

16 112. Defendant had an improper motive—to derive financial gain at the
17 expense of accuracy or truthfulness—in its practices related to the labeling and
18 advertising of the Products.

19
20 113. There were reasonable alternatives available to Defendant to further its
21 legitimate business interests, other than the conduct described herein.

22 114. Defendant’s misrepresentations of material facts, as set forth herein,
23 also constitute an “unlawful” practice because they violate California Civil Code §§
24 1572, 1573, 1709, 1710, 1711, and 1770 and the laws and regulations cited herein, as
25 well as the common law.

26
27 115. Defendant’s conduct in making the representations and omissions
28 described herein constitutes a knowing failure to adopt policies in accordance with

1 and adherence to applicable laws, as set forth herein, all of which are binding upon
 2 and burdensome to their competitors. This conduct creates an unfair competitive
 3 advantage for Defendant, thereby constituting an unfair business practice under
 4 California Business & Professions Code §§ 17200-17208.

5 116. In addition, Defendant's conduct was, and continues to be, unfair in that
 6 its injury to countless purchasers of the Products is substantial, and is not
 7 outweighed by any countervailing benefits to consumers or to competitors.
 8

9 117. Moreover, Plaintiff and members of the Class could not have reasonably
 10 avoided such injury. Defendant's material misrepresentations and omissions
 11 regarding the Products were likely to deceive, and Defendant knew or should have
 12 known that its misrepresentations and omissions were untrue and misleading.
 13 Plaintiff purchased the Products in reliance on the representations made by
 14 Defendant, including that the Products' labeling was accurate as alleged herein, and
 15 without knowledge of Defendant's misrepresentations and omissions.
 16

17 **COUNT II**

18 **Violations of the False Advertising Law ("FAL"),** 19 **Cal. Bus. & Prof. Code §§ 17500 *et seq.***

20 118. Plaintiff repeats and realleges each and every factual allegation
 21 contained in the foregoing paragraphs as if fully set forth herein.

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

24 120. Beginning at an exact date unknown to Plaintiff, but within four (4)
 25 years preceding the filing of the Class Action Complaint, Defendant made untrue,
 26 false, deceptive and/or misleading statements in connection with the advertising and
 27 marketing of the Products.
 28

1 121. Defendant made representations and statements (by omission and
2 commission) that led reasonable customers to believe that the Products that they
3 were purchasing contained high quality proteins that provided nutritionally more
4 grams of protein per serving than the Products actually provided, and that the
5 Products were appropriate for meeting protein dietary needs. Defendant had a duty
6 to disclose the corrected amount of protein per serving in the NFP, as calculated
7 according to the PDCAAS method, which Defendant failed to do.

9 122. Plaintiff and those similarly situated relied to their detriment on
10 Defendant's false, misleading and deceptive advertising and marketing practices,
11 including each of the misrepresentations and omissions set forth above. Had Plaintiff
12 and those similarly situated been adequately informed and not intentionally deceived
13 by Defendant, they would have acted differently by, without limitation, refraining
14 from purchasing Defendant's Products or paying less for them.

16 123. Defendant's acts and omissions are likely to deceive the general public.

18 124. Defendant engaged in these false, misleading and deceptive advertising
19 and marketing practices to increase its profits. Accordingly, Defendant has engaged
20 in false advertising, as defined and prohibited by section 17500, *et seq.* of the
21 California Business and Professions Code.

22 125. The aforementioned practices, which Defendant used, and continues to
23 use, to its significant financial gain, also constitute unlawful competition and provide
24 an unlawful advantage over Defendant's competitors as well as injury to the general
25 public.

27 126. As a direct and proximate result of such actions, Plaintiff and the other
28 members have suffered, and continue to suffer, injury in fact and have lost money

1 and/or property as a result of such false, deceptive and misleading advertising in an
2 amount which will be proven at trial, but which is in excess of the jurisdictional
3 minimum of this Court.

4 127. Plaintiff seeks, on behalf of himself and those similarly situated, full
5 restitution of monies, as necessary and according to proof, to restore any and all
6 monies acquired by Defendant from Plaintiff, the general public, or those similarly
7 situated by means of the false, misleading and deceptive advertising and marketing
8 practices complained of herein, plus interest thereon. Pursuant to Federal Rule of
9 Civil Procedure 8(e)(2), Plaintiff makes the following allegations in this paragraph
10 only hypothetically and as an alternative to any contrary allegations in his other
11 causes of action, in the event that such causes of action will not succeed. Plaintiff and
12 the Class may be unable to obtain monetary, declaratory and/or injunctive relief
13 directly under other causes of action and will lack an adequate remedy at law, if the
14 Court requires them to show class-wide reliance and materiality beyond the objective
15 reasonable consumer standard applied under the FAL, because Plaintiff may not be
16 able to establish each Class member's individualized understanding of Defendant's
17 misleading representations as described in this Complaint, but the FAL does not
18 require individualize proof of deception or injury by absent Class members. *See, e.g.,*
19 *Ries v. Ariz. Bevs. USA LLC*, 26 287 F.R.D. 523, 537 (N.D. Cal. 2012) ("restitutionary
20 relief under the UCL and FAL 'is available without individualized proof of deception,
21 reliance, and injury.'"). In addition, Plaintiff and the Class may be unable to obtain
22 such relief under other causes of action and will lack an adequate remedy at law, if
23 Plaintiff is unable to demonstrate the requisite *mens rea* (intent, reckless, and/or
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1 negligence), because the FAL imposes no such *mens rea* requirement and liability
2 exists even if Defendant acted in good faith.

3 128. Plaintiff seeks, on behalf of himself and those similarly situated, a
4 declaration that the above-described practices constitute false, misleading and
5 deceptive advertising.

6
7 129. Plaintiff seeks, on behalf of himself and those similarly situated, an
8 injunction to prohibit Defendant from continuing to engage in the false, misleading
9 and deceptive advertising and marketing practices complained of herein. Such
10 misconduct by Defendant, unless and until enjoined and restrained by order of this
11 Court, will continue to cause injury in fact to the general public and the loss of money
12 and property in that Defendant will continue to violate the laws of California, unless
13 specifically ordered to comply with the same. This expectation of future violations will
14 require current and future consumers to repeatedly and continuously seek legal
15 redress in order to recover monies paid to Defendant to which it is not entitled.
16 Plaintiff, those similarly situated, and/or other consumers nationwide have no other
17 adequate remedy at law to ensure future compliance with the California Business
18 and Professions Code alleged to have been violated herein.

19
20
21 **COUNT III**

22 **Violations of the Consumer Legal Remedies Act (“CLRA”),**
23 **Cal. Civ. Code §§ 1750 *et seq.***

24 130. Plaintiff repeats and realleges each and every factual allegation
25 contained in the foregoing paragraphs as if fully set forth herein.

26 131. Plaintiff brings this claim individually and on behalf of the members of
27 the proposed Class against the Defendant.
28

1 132. At all times relevant hereto, Plaintiff and members of the Class were
2 “consumer[s],” as defined in Civil Code section 1761(d).

3 133. At all times relevant hereto, Defendant constituted a “person,” as
4 defined in Civil Code section 1761(c).

5 134. At all times relevant hereto, the Products manufactured, marketed,
6 advertised, and sold by Defendant constituted “goods,” as defined in Civil Code
7 section 1761(a).

8 135. The purchases of the Products by Plaintiff and members of the Class are
9 “transactions” within the meaning of Civil Code section 1761(e).

10 136. Defendant’s acts, practices, and omissions, set forth in this Complaint,
11 led customers to falsely believe that the Products contained high quality proteins that
12 provided nutritionally the full amount of protein advertised on the product package.
13 By engaging in the actions, representations and conduct set forth in this Complaint,
14 Defendant has violated, and continues to violate, § 1770(a)(2), § 1770(a)(5), §
15 1770(a)(7), § 1770(a)(8), and § 1770(a)(9) of the CLRA. In violation of California Civil
16 Code §1770(a)(2), Defendant’s acts and practices constitute improper representations
17 regarding the source, sponsorship, approval, or certification of the goods they sold. In
18 violation of California Civil Code §1770(a)(5), Defendant’s acts and practices
19 constitute improper representations that the goods it sells have sponsorship,
20 approval, characteristics, ingredients, uses, benefits, or quantities, which they do not
21 have. In violation of California Civil Code § 1770(a)(7), Defendant’s acts, practices,
22 and omissions constitute improper representations that the goods it sells are of a
23 particular standard, quality, or grade, when they are of another. In violation of
24 California Civil Code §1770(a)(8),
25
26
27
28

1 137. Defendant deceptively markets and advertises that, unlike other protein
2 product manufacturers, it sells Products that provide nutritionally more grams of
3 protein than the Products actually do. In violation of California Civil Code
4 §1770(a)(9), Defendant has advertised goods or services with intent not to sell them
5 as advertised.

6
7 138. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff provided
8 notice to Defendant of its alleged violations of the CLRA, demanding that Defendant
9 correct such violations, and providing it with the opportunity to correct its business
10 practices. Notice was sent via certified mail, return receipt requested on September
11 25, 2026. As of the date of filing this complaint, Defendant has not responded.
12 Accordingly, if after 30 days no satisfactory response to resolve this litigation on a
13 class-wide basis has been received, Plaintiff will seek leave to amend this request to
14 seek restitution and actual damages as provided by the CLRA.

15
16 139. Pursuant to California Civil Code § 1780, Plaintiff seeks injunctive
17 relief, reasonable attorneys' fees and costs, and any other relief that the Court deems
18 proper.

19
20 140. Defendant knew or should have known that its Products did not contain
21 the claimed characteristics because Defendant manufactured, marketed and sold its
22 Products without those characteristics that it claimed. Defendant knew or should
23 have known that its representations about its products as described herein violated
24 consumer protection laws, and that these statements would be relied upon by
25 Plaintiff and members of the Class.

26
27 141. Defendant's actions as described herein were done with conscious
28 disregard of Plaintiff's and Class Members' rights and was wanton and malicious.

1 142. Defendant's wrongful business practices constituted, and constitute, a
2 continuing course of conduct in violation of the CLRA because Defendant still
3 represents that its Products have characteristics which they do not have.

4 **RELIEF DEMANDED**

5 WHEREFORE, Plaintiff, individually and on behalf the Class Members, seeks
6 judgment and relief against Defendant, as follows:
7

- 8 a) For an order declaring: (i) this is a class action pursuant to Rule 23 of
9 the Federal Rules of Civil Procedure on behalf of the proposed Classes
10 described herein; and (ii) appointing Plaintiff to serve as representative
11 for the Classes and Plaintiff's counsel to serve as Class Counsel;
12
- 13 b) For an order enjoining Defendant from continuing to engage in the
14 unlawful conduct set forth herein including the marketing and selling
15 products with the unlawful and deceptive labeling;
16
- 17 c) For an order awarding restitution of the monies Defendant wrongfully
18 acquired by its illegal and deceptive conduct;
19
- 20 d) For an order requiring disgorgement of the monies Defendant
21 wrongfully acquired by its illegal and deceptive conduct;
22
- 23 e) For compensatory and punitive damages, including actual and statutory
24 damages, arising from Defendant's wrongful conduct and illegal conduct;
25
- 26 f) For an award of reasonable attorneys' fees and costs and expenses
27 incurred in the course of prosecuting this action; and
28
- g) For such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

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

1
2 Dated: September 25, 2026

3 **REICH & BINSTOCK LLP**

4 /s/ Dennis C. Reich

5 Dennis C. Reich (Cal. Bar No. 69631)

6 dreich@reichandbinstock.com

7 4265 San Felipe, Suite 1000

8 Houston, TX 77024

9 4265 San Felipe, Suite 1000

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11 Phone: (281) 768-4693

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Counsel for Plaintiff and the Proposed Class

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐) DAVID DIDENKO, individually, and on behalf of those similarly situated	DEFENDANTS (Check box if you are representing yourself ☐) UNITED PULSE TRADING INC.
(b) County of Residence of First Listed Plaintiff <u>Los Angeles (CA)</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i>	County of Residence of First Listed Defendant <u>Burleigh (ND)</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i>
(c) Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information. REICH & BINSTOCK LLP 4265 San Felipe, Suite 1000 Houston, TX 77024 (281) 768-4693	Attorneys (Firm Name, Address and Telephone Number) If you are representing yourself, provide the same information.

II. BASIS OF JURISDICTION (Place an X in one box only.) ☐ 1. U.S. Government Plaintiff ☐ 2. U.S. Government Defendant ☐ 3. Federal Question (U.S. Government Not a Party) ☒ 4. Diversity (Indicate Citizenship of Parties in Item III)	III. CITIZENSHIP OF PRINCIPAL PARTIES -For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant) <table border="1" style="width:100%"><tr><td>Citizen of This State</td><td>PTF ☒ 1</td><td>DEF ☐ 1</td><td>Incorporated or Principal Place of Business in this State</td><td>PTF ☐ 4</td><td>DEF ☐ 4</td></tr><tr><td>Citizen of Another State</td><td>☐ 2</td><td>☐ 2</td><td>Incorporated and Principal Place of Business in Another State</td><td>☐ 5</td><td>☒ 5</td></tr><tr><td>Citizen or Subject of a Foreign Country</td><td>☐ 3</td><td>☐ 3</td><td>Foreign Nation</td><td>☐ 6</td><td>☐ 6</td></tr></table>	Citizen of This State	PTF ☒ 1	DEF ☐ 1	Incorporated or Principal Place of Business in this State	PTF ☐ 4	DEF ☐ 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
Citizen of This State	PTF ☒ 1	DEF ☐ 1	Incorporated or Principal Place of Business in this State	PTF ☐ 4	DEF ☐ 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. 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
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V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)**CLASS ACTION under F.R.Cv.P. 23:** ☒ Yes ☐ No **MONEY DEMANDED IN COMPLAINT:** \$ 5,000,000.01**VI. CAUSE OF ACTION** (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
28 U.S.C. Section 1332(d)(2) (Diversity Jurisdiction)**Does this case involve claimed Lemon Law violations of the federal Magnuson-Moss Warranty Act and/or the California Song-Beverly Consumer Warranty Act?** YES NO ☒**VII. NATURE OF SUIT** (Place an X in one box only.)

OTHER STATUTES	CONTRACT	REAL PROPERTY CONT.	IMMIGRATION	PRISONER PETITIONS	PROPERTY RIGHTS
☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce/ICC Rates/Etc. ☐ 460 Deportation ☐ 470 Racketeer Influenced & Corrupt Org. ☐ 480 Consumer Credit 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 Info. Act ☐ 896 Arbitration ☐ 899 Admin. Procedures Act/Review of Appeal of Agency Decision ☐ 950 Constitutionality of State 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 Loan (Excl. Vet.) ☐ 153 Recovery of Overpayment of Vet. Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment	☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property TORTS PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Fed. Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury-Med Malpractice ☐ 365 Personal Injury-Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability	☐ 462 Naturalization Application ☐ 465 Other Immigration Actions TORTS PERSONAL PROPERTY ☒ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability BANKRUPTCY ☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 American with Disabilities-Employment ☐ 446 American with Disabilities-Other ☐ 448 Education	Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus/Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee Conditions of Confinement FORFEITURE/PENALTY ☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Mgmt. Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Ret. Inc. Security Act	☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark ☐ 880 Defend Trade Secrets Act of 2016 (DTSA) 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

FOR OFFICE USE ONLY: Case Number: _____

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

QUESTION A: Was this case removed from state court? ☐ Yes ☒ No If "no," skip to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question E, below, and continue from there.	STATE CASE WAS PENDING IN THE COUNTY OF:		INITIAL DIVISION IN CACD IS:
	☐ Los Angeles, Ventura, Santa Barbara, or San Luis Obispo		Western
	☐ Orange		Southern
	☐ Riverside or San Bernardino		Eastern

QUESTION B: Is the United States, or one of its agencies or employees, a PLAINTIFF in this action? ☐ Yes ☒ No If "no," skip to Question C. If "yes," answer Question B.1, at right.	B.1. Do 50% or more of the defendants who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> ➔	☐ YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. ☐ NO. Continue to Question B.2.
B.2. Do 50% or more of the defendants who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> ➔	☐ YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. ☐ NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	

QUESTION C: Is the United States, or one of its agencies or employees, a DEFENDANT in this action? ☐ Yes ☒ No If "no," skip to Question D. If "yes," answer Question C.1, at right.	C.1. Do 50% or more of the plaintiffs who reside in the district reside in Orange Co.? <i>check one of the boxes to the right</i> ➔	☐ YES. Your case will initially be assigned to the Southern Division. Enter "Southern" in response to Question E, below, and continue from there. ☐ NO. Continue to Question C.2.
C.2. Do 50% or more of the plaintiffs who reside in the district reside in Riverside and/or San Bernardino Counties? (Consider the two counties together.) <i>check one of the boxes to the right</i> ➔	☐ YES. Your case will initially be assigned to the Eastern Division. Enter "Eastern" in response to Question E, below, and continue from there. ☐ NO. Your case will initially be assigned to the Western Division. Enter "Western" in response to Question E, below, and continue from there.	

QUESTION D: Location of plaintiffs and defendants?	A. Orange County	B. Riverside or San Bernardino County	C. Los Angeles, Ventura, Santa Barbara, or San Luis Obispo County
Indicate the location(s) in which 50% or more of <i>plaintiffs who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	☐	☐	☒
Indicate the location(s) in which 50% or more of <i>defendants who reside in this district</i> reside. (Check up to two boxes, or leave blank if none of these choices apply.)	☐	☐	☐

D.1. Is there at least one answer in Column A? ☐ Yes ☒ No If "yes," your case will initially be assigned to the SOUTHERN DIVISION. Enter "Southern" in response to Question E, below, and continue from there. If "no," go to question D2 to the right. ➔	D.2. Is there at least one answer in Column B? ☐ Yes ☒ No If "yes," your case will initially be assigned to the EASTERN DIVISION. Enter "Eastern" in response to Question E, below. If "no," your case will be assigned to the WESTERN DIVISION. Enter "Western" in response to Question E, below. ↓
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QUESTION E: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, C, or D above: ➔	Western

QUESTION F: Northern Counties?
Do 50% or more of plaintiffs or defendants in this district reside in Ventura, Santa Barbara, or San Luis Obispo counties? ☐ Yes ☒ No

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**IX(a). IDENTICAL CASES:** Has this action been previously filed in this court?☒ NO☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Is this case related (as defined below) to any civil or criminal case(s) previously filed in this court?☒ NO☐ YES

If yes, list case number(s): _____

If yes, you must file a Notice of Related Cases. See Local Rule 83-1.3.**Civil cases** are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges.

Note: That cases may involve the same patent, trademark, or copyright is not, in itself, sufficient to deem cases related.

A civil forfeiture case and a criminal case are related when they (check all that apply):

- ☐ A. Arise from the same or a closely related transaction, happening, or event;
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. Involve one or more defendants from the criminal case in common and would entail substantial duplication of labor if heard by different judges.

X. STATEWIDE OR NATIONWIDE RELIEF: Does this case seek to bar or mandate enforcement of a state or federal law and seek declaratory or injunctive relief on a statewide or nationwide basis?☐ NO☒ YES**If yes, see Local Rule 83-11 for additional requirements.****XI. SIGNATURE OF ATTORNEY
(OR SELF-REPRESENTED LITIGANT):**

/s/ Dennis C. Reich

DATE: 9/25/26

Notice to Counsel/Parties: The submission of this Civil Cover Sheet is required by Local Rule 3-1. This Form CV-71 and the information contained herein neither replaces nor supplements the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. For more detailed instructions, see separate instruction sheet (CV-071A).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))