

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

BRENDA POOLE, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

DIVA FAM, INC.,

Defendant.

Case No. _____

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

Plaintiff Brenda Poole (“Plaintiff”), individually and on behalf of all others similarly situated, by and through her attorneys, bring this Class Action Complaint against Defendant Diva Fam, Inc. (“Defendant”) for violations of Illinois statutes and common law. Plaintiff seeks actual damages, restitution, injunctive relief, pre- and post-judgment interest, reasonable attorneys’ fees and costs, and all other relief available by law. Plaintiff alleges the following upon personal knowledge as to themselves and their own actions and upon information and belief, including the investigation of counsel, as to all other matters.

NATURE OF THE ACTION

1. This class action challenges Defendant’s false and misleading marketing of TrueSeaMoss Electrolytes Powder Packets, sold in Banana & Strawberry flavor¹ (the “Product”). Defendant markets and sells the Products throughout Illinois and the United States, including through retail stores, its website, and third-party online retailers.

¹ The TrueSeaMoss Electrolytes Powder Packets are sold in three distinct flavor variants: Banana & Strawberry, Lime & Lemon, and Mango & Pineapple (collectively, the “Products”), although only Banana & Strawberry is the subject of the present controversy. Plaintiff reserves the right to amend or supplement the list of Products as additional information becomes available through discovery.

2. Plaintiff and members of the proposed class purchased the Product because of Defendant's material representations that the Product contains "NO SUGAR," "0 GRAMS SUGAR," and "0 GRAMS ADDED SUGAR" (the "Zero Sugar Representations" or "Representations"). Contrary to those representations, Defendant formulates the Product with allulose, a monosaccharide chemically classified as a sugar, as well as monk fruit sweeteners. Defendant expressly advertises the Product as being sweetened with "Allulose and Monk Fruit," while simultaneously representing that it contains "No Sugar" and "0g Sugar" per serving, conveying to reasonable consumers that the Product is free of sugar. These Zero Sugar Representations are categorically false and misleading.

3. Defendant markets the Product using prominent Zero Sugar Representations. Specifically, Defendant advertises the Product as containing "1 Calorie & 0g Sugar" per serving and describes it as "Zero sugar electrolytes sweetened with Allulose and Monk Fruit." These representations emphasize the Product's purported absence of sugar despite its formulation with allulose, a monosaccharide which the FDA classifies as a sugar. These statements expressly characterize the level of sugar in the Products and therefore constitute nutrient-content claims governed by 21 C.F.R. §§ 101.13(b) and 101.60(c)(1).

4. "0 GRAMS SUGAR" is a reasonable variation or synonym of "zero sugar," "sugar free," and "no sugar" and therefore must comply with 21 C.F.R. § 101.60(c)(1). *See* 21 C.F.R. § 101.13(b)(4). Section 101.60(c)(1)(i) permits such a claim only if the food contains less than 0.5 grams of sugars, as defined in § 101.9(c)(6)(ii), per reference amount customarily consumed and per labeled serving. Section 101.60(c)(1)(ii) further requires that any ingredient that is a sugar be followed by an asterisk referring to a statement that it adds only a trivial, negligible, or dietarily insignificant amount of sugar. Nevertheless, the product does not

disclose the quantity of allulose per electrolyte packet, despite identifying allulose, a monosaccharide and sugar, as the first ingredient on its ingredient list. Under FDA labeling regulations, 21 C.F.R. § 101.4(a)(1), ingredients generally must be listed in descending order of predominance by weight, indicating that allulose, as the first-listed ingredient, constitutes the largest individual ingredient by weight in the formulation. Although the FDA does not generally require manufacturers to separately disclose the quantity of allulose, its omission may raise concerns about material omissions under 21 U.S.C. § 321(n), particularly in light of the product's nutritional representations and the potential gastrointestinal effects associated with higher levels of allulose consumption. Furthermore, 21 U.S.C. § 343(a)(1) prohibits false or misleading labeling, while 21 C.F.R. § 101.9(c)(6) requires accurate declarations of total carbohydrates, including allulose, consistent with the FDA's October 2020 guidance. And the Product's label bears none of the sugar disclosures that § 101.60(c)(1)(ii) requires.

5. Defendant made the Zero Sugar Representations to induce health-conscious consumers, including Plaintiff, to purchase the Product. These representations allowed Defendant to charge a price premium that Plaintiff and members of the proposed class would not have paid had they known that consuming allulose could potentially cause gastrointestinal discomfort, including bloating, gas, and other digestive issues.

6. As a result, Plaintiff and members of the class paid for a Product that was not as represented, paid more than they otherwise would have paid, and did not receive the benefit of their bargains.

7. The practice commonly referred to as "healthwashing," whereby manufacturers market consumer products in a manner that falsely or misleadingly portrays them as healthier than they actually are, has long been employed to induce consumers into purchasing products

that provide little to no actual health benefits or, in certain instances, may pose potential health risks. The instant case is a classic occurrence of healthwashing. Here, Defendant uses false advertising and deceptive conduct which promises health-related benefits. To compound matters, the misrepresentations made on the Product are not only potentially harmful but command a price premium consistent with these misrepresentations that Plaintiff and Class Members would not have paid had they known that Defendant's representations are false and misleading. The Product also intentionally contains no warning whatsoever about potential risks and the tendency to cause health risks.

8. In light of the foregoing, Plaintiff and Class Members, on behalf of herself and all others similarly situated, bring this Action seeking actual damages, statutory damages, restitution, pre- and post-judgment interest, and reasonable costs and attorneys' fees under state statutes and common-law doctrines due to Defendant's intentional failure to ensure that the Product was distributed, produced, and sold in a manner consistent with advertising. Because of the foregoing, Plaintiff and Class Members (defined below) were harmed by paying a price premium for the Product which they otherwise would not have paid due to the misrepresentations made on the Product's packaging and in advertising or would not have purchased the Product at all.

JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction under the Class Action Fairness Act, 28 U.S.C. § 1332(d), because: (1) this is a proposed class action involving more than 100 members; (2) at least one proposed Class member is a citizen of a state different from Defendant; and (3) the aggregate amount in controversy exceeds \$5,000,000, exclusive of interest and costs. Plaintiff is a citizen of Illinois. Defendant is a California stock corporation

and is therefore a citizen of California, the state under whose laws it is incorporated and where it maintains its principal place of business. 28 U.S.C. § 1332(c)(1). This Court has supplemental jurisdiction over Plaintiff's state-law claims under 28 U.S.C. § 1367(a) because those claims form part of the same case or controversy.

10. This Court has personal jurisdiction over Defendant because the claims asserted in this complaint arise from Defendant's contacts with this District. Defendant has been afforded due process because it has, at all times relevant to this matter, individually or through its agents, subsidiaries, officers, and/or representatives, operated, conducted, engaged in, and carried on a business venture in Illinois, and/or marketed, advertised, distributed and/or sold the Product, including through the Target stores in this District where Plaintiff purchased them, committed a statutory violation within Illinois related to the allegations made herein, and caused injuries to Plaintiff and the putative class members, which arose out of the acts and omissions that occurred in the state of Illinois, during the relevant period. At that time, Defendant was engaged in business activities in Illinois.

11. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)(2) because a substantial part of the events or omissions giving rise to Plaintiff's claims occurred in this District. Venue is also proper pursuant to 28 U.S.C. § 1391(c) because Defendant conducts substantial business in this District, has sufficient minimum contacts with this District, and otherwise purposely avails itself of the markets in this District through the promotion, sale, and marketing of the Products in this District. Venue is also proper because Plaintiff reside in this District.

THE PARTIES

Plaintiff Brenda Poole

12. Plaintiff Brenda Poole is a citizen of Illinois residing in Des Plaines, Illinois. In December of 2025, Plaintiff Poole purchased TrueSeaMoss Electrolytes Powder Packets in Banana & Strawberry, for personal use, at a Target store located in Rosemont, Illinois. Before purchasing the Product, Plaintiff Poole saw and relied on the prominent “NO SUGAR,” “ZERO SUGAR,” and “0 GRAMS SUGAR” representations on its packaging. Plaintiff Poole understood those representations to mean that the Product contained no sugar. The representations were part of the basis of her bargain. Had Plaintiff known that the Product contained allulose, a type of sugar, she would not have purchased the Product or would have paid less for it.

Defendant Diva Fam Inc.

13. Defendant Diva Fam Inc. is a stock corporation organized under the laws of California and maintains its principal place of business at 325 E Arrow Hwy, Suite 503, San Dimas, CA 91773.

14. Upon information and belief, Defendant controls the entire line of the Product, presiding over its recipe, labeling, and marketing.

15. Defendant sells the Product throughout the United States, including Illinois. The Diva Fam Inc. labeled “ZERO SUGAR” products, including those purchased by Plaintiff and the proposed class members, are available at various retail and grocery stores throughout the United States, including Illinois. Defendant authorized the false, misleading, and deceptive marketing, advertising, distribution, and sale of the “ZERO SUGAR” Product to consumers

nationwide, including Illinois.

16. During the relevant period, Defendant formulated, manufactured or caused the manufacture of, labeled, marketed, distributed, and sold the Product. Defendant currently markets and sells the Product throughout the United States, including in the State of Illinois and within this District.

FACTUAL BACKGROUND

17. Excessive consumption of added sugars has long been associated with serious health risks, including obesity, diabetes, and cardiovascular disease.² Limiting added sugar intake is therefore an important component of a healthy diet, particularly given that sugar-sweetened beverages constitute the leading source of added sugars in the American diet.³

18. For decades, federal public health authorities have encouraged Americans to limit their consumption of added sugars.⁴ As awareness of the health consequences associated with excessive sugar intake has increased, consumers have increasingly sought products containing little or no sugar. Recent consumer surveys demonstrate the extent of this preference, reporting that approximately 75% of American consumers and 83% of consumers worldwide are taking steps to limit or avoid sugar consumption.⁵

19. Food manufacturers have capitalized on consumers' growing interest in reducing

² *The Sweet Danger of Sugar*, Harv. Health Publ'g (Apr. 6, 2026), <https://www.health.harvard.edu/diabetes-and-metabolic-health/the-sweet-danger-of-sugar> (reviewed by Mallika Marshall, M.D.).

³ U.S. Dep't of Agric. & U.S. Dep't of Health & Hum. Servs., Dietary Guidelines for Americans, 2020–2025, at 43 fig. 1-10 (9th ed. Dec. 2020), https://www.dietaryguidelines.gov/sites/default/files/2021-03/Dietary_Guidelines_for_Americans-2020-2025.pdf#page=56.

⁴ See, e.g., U.S. Dep't of Health & Hum. Servs., *The Surgeon General's Call to Action to Prevent and Decrease Overweight and Obesity* 35 (2001), https://stacks.cdc.gov/view/cdc/28023/cdc_28023_DS1.pdf; U.S. Dep't of Health & Hum. Servs., Office of the Surgeon General, *The Surgeon General's Vision for a Healthy and Fit Nation: Background on Obesity* (Jan. 2010), <https://www.ncbi.nlm.nih.gov/books/NBK44656/>.

⁵ See Int'l Food Info. Council, *2025 IFIC Food & Health Survey: A Focus on Sugars & Sweeteners* 5, 9 (Dec. 2025), <https://ific.org/wp-content/uploads/2025-IFIC-Food-Health-Survey-Sugars-Sweeteners.pdf>; ADM, *ADM Launches Sweet Insights Tool for Navigating Sugar Reduction Trends Worldwide*, <https://www.adm.com/en-us/news/adm-stories/adm-launches-sweet-insights-tool-for-navigating-sugar-reduction-trends-worldwide> (last accessed October 14, 2026).

sugar intake by prominently featuring sugar-related representations on product packaging. Claims such as “sugar free,” “zero sugar,” and “0g sugar” communicate nutritional characteristics that consumers consider important when evaluating food and beverage products.⁶ By placing these representations on the principal display panels of their packaging, manufacturers seek to distinguish their products from competing alternatives and influence purchasing decisions.⁷

20. Defendant has sought to benefit from consumers’ growing demand for sugar-free products by marketing the Product as “ZERO SUGAR,” “NO SUGAR” or “0 GRAMS SUGAR,” despite using allulose, a type of sugar, as its primary sweetener. Through this representation, Defendant has gained an unfair competitive advantage over manufacturers offering products that genuinely contain no sugar, while misleading consumers about the Product’s true composition.

DEFENDANT’S FALSE AND MISLEADING ZERO SUGAR REPRESENTATIONS

21. Defendant manufactures, markets, distributes, and sells its Electrolytes Powder Packets labeled as “ZERO SUGAR” and “NO SUGAR” products.⁸ In addition, Defendant, which was founded in the state of California, in 2020, markets its electrolyte packets to consumers following ketogenic or low-carbohydrate diets, as well as those practicing intermittent fasting, highlighting their purported absence of sugar and added sugar as a means

⁶ See U.S. Food & Drug Admin., Guidance for Industry and FDA: Dear Manufacturer Letter Regarding Sugar Free Claims (Sept. 2007), <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-and-fda-dear-manufacturer-letter-regarding-sugar-free-claims>

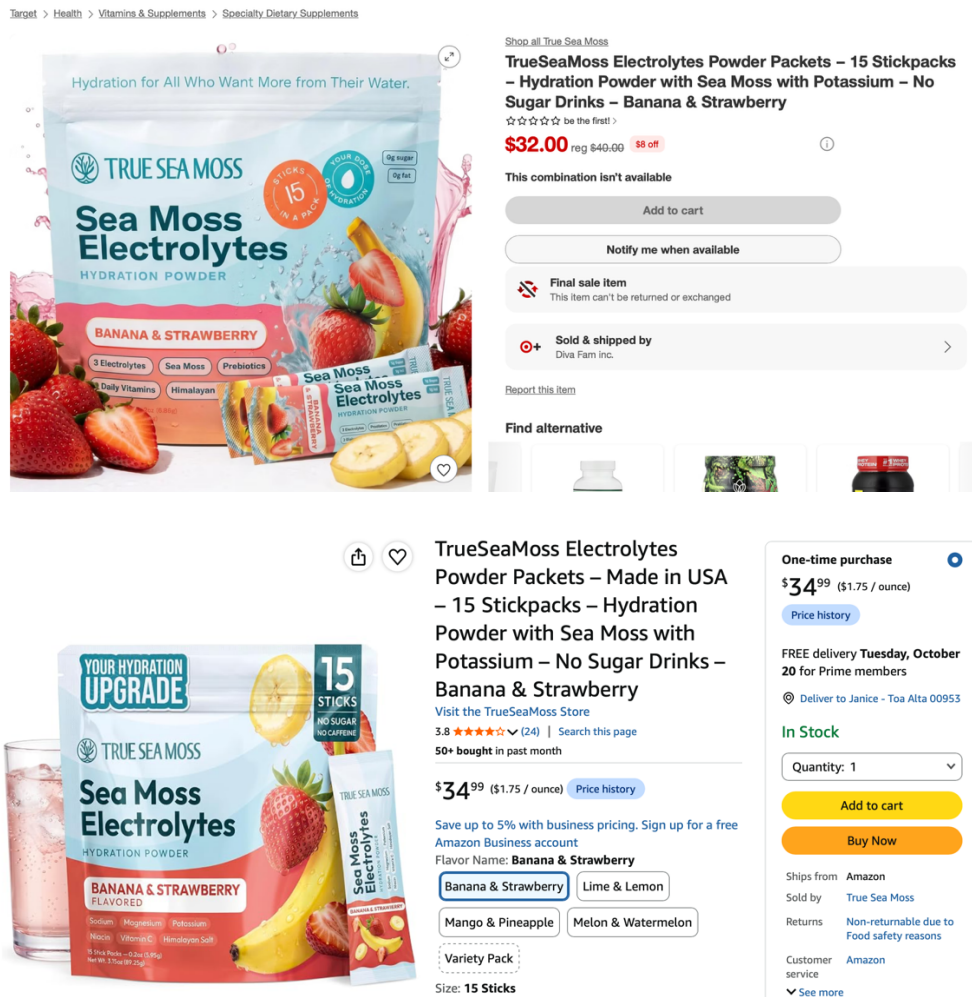
⁷ See U.S. Food & Drug Admin., Guidance for Industry: Dear Manufacturer Letter Regarding Front-of-Package Symbols (Dec. 2008), <https://www.fda.gov/regulatory-information/search-fda-guidance-documents/guidance-industry-dear-manufacturer-letter-regarding-front-package-symbols>; see also U.S. Food & Drug Admin., Front-of-Package Nutrition Labeling, <https://www.fda.gov/food/nutrition-food-labeling-and-critical-foods/front-package-nutrition-labeling> (last visited Oct. 14, 2026).

⁸ As mentioned above in paragraph 1 of the Complaint, the Product is the TrueSeaMoss Electrolytes Powder Packets Banana & Strawberry, although it’s sold in other distinct flavor variants: Lime & Lemon, and Mango & Pineapple.

of supporting hydration and maintaining stable blood sugar levels without disrupting fasting.⁹

22. The Product is sold at major retailers throughout Illinois and the United States, including Target and grocery stores, as well as on third-party online marketplaces and Defendant's own website.

23. Below are illustrative examples of the Product and Representations on Target's and Amazon's website:



24. On the principal display panels of the Product's packaging, Defendant

⁹ TrueSeaMoss Electrolytes Powder Packets – 15 Stickpacks – Hydration Powder with Sea Moss with Potassium – No Sugar Drinks – Banana & Strawberry, Target, <https://www.target.com/p/-/A-1011546923> (last accessed Oct. 14, 2026).

prominently represents that the Product contain “NO SUGAR” and “0 GRAMS SUGAR.” Defendant repeats those representations elsewhere in its Product’s labeling and marketing, including on its own website, where it tells consumers that each Electrolytes Powder Packet contains “0g total sugars and 0g added sugar.”¹⁰

25. Unlike the front of the Product’s packaging, which prominently displays the No Sugar Representations, the quantity of allulose in the Products is not disclosed anywhere on the packaging. Although the Products’ ingredient statement lists “Allulose” as the first ingredient, the Nutrition Facts panel declares 0 grams of Total Sugars and 0 grams of Added Sugars.



¹⁰ *Sea Moss Electrolytes*, True Sea Moss, <https://trueseamoss.com/products/sea-moss-electrolytes> (last accessed Oct. 14, 2026).

NET WT. 0.2oz (5.95g)

TRUE SEA MOSS

0g Sugar
0g Fat

Sea Moss Electrolytes

HYDRATION POWDER

3 Electrolytes
Sea Moss
1 Daily Vitamin C

Contains
Himalayan Salt
Certified With Monks
Color

BANANA
& STRAWBERRY

Nutrition Facts

15 servings per container

Serving size 1 stickpack (5.95g)

Amount Per Serving

%DV

Calories

1

**

Total Fat

0g

0%

Saturated Fat

0g

0%

Trans Fat

0g

**

Cholesterol

0g

**

Sodium

450mg

20%

Total Carbohydrate

2g

1%

Dietary Fiber

0g

0%

Total Sugars

0g

**

Includes 0g Added Sugars

0g

0%

Protein

0g

**

Potassium

282mg

6%

Vitamin C

80mg

90%

Niacin

15mg

90%

Magnesium

38mg

10%

Zinc

1mg

10%

* The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.

Ingredients: Allulose, Sea Moss Powder, Himalayan Salt, Potassium Citrate, Magnesium Malate, Citric Acid, Malic Acid, Natural Flavors, Sodium Citrate, L-Carnitine, L-Theanine, Sodium Ascorbate, Silicon Dioxide, Monk Fruit Extract, Beta Carotene (Color), Zinc Gluconate, Niacinamide.

26. Defendant’s product information for the TrueSeaMoss Electrolytes Powder Packets Banana & Strawberry confirms that the Product is sweetened with allulose yet nowhere discloses how many grams of allulose each can contains. True and correct copies of the relevant Product information are reproduced below:

target.com

Categories Deals Pickup & delivery What can we help you find? Ask Target Account

Shop all True Sea Moss

TrueSeaMoss Electrolytes Powder Packets – 15 Stickpacks – Hydration Powder with Sea Moss with Potassium – No Sugar Drinks –... Out of stock Find alternative

Highlights

- Clean Sea Moss & Electrolytes: Fuel up with 450mg Sodium, 282mg Potassium, and 38mg Magnesium. Only 1 calorie and 0g sugar. This superior electrolytes powder with Himalayan salt supports hydration hydration and post-workout recovery for active lifestyles
- Keto & Fasting Friendly: Designed for those following keto and fasting lifestyles. With 0g total sugars and 0g added sugar, these electrolytes powder packets sugar free fit your routine and help maintain consistent sugar levels during your daily fasting windows
- Focus & Energy Support: Infused with L-Theanine and L-Carnitine, these sugar free electrolytes support mental focus. Ideal for high-stress days, travel, or needed electrolytes during long periods of screen time to maintain energy and fluid balance
- Mix with Water, Juice, or Smoothies: Dissolves completely in cold water or your favorite juice and smoothies. These versatile hydration packets mix easily with any drink for a refreshing taste. Clean, sugar-free electrolytes for everyday use
- USA Quality & Trust: Made in a GMP-certified USA facility. Our sea moss electrolytes packets use wild-harvested moss for natural mineral support. High potassium electrolytes with 90% DV Vitamin C to support your daily wellness ritual

Description

True Sea Moss Electrolytes: Clean Banana & Strawberry Hydration Upgrade your daily routine with a mineral-rich blend of wild-harvested sea moss and natural electrolytes. This pack features 15 convenient stickpacks in a refreshing Banana & Strawberry taste, perfect for flavoring your water or favorite recipes. Quantified Nutrition (Per Serving): 450mg Sodium & 282mg Potassium: Supports fluid balance and muscle support. 38mg Magnesium & 1mg Zinc: Essential minerals for your daily wellness ritual. 80mg Vitamin C (90% DV) & 15mg Niacin: Supports energy levels and focus. 1 Calorie & 0g Sugar: Zero sugar electrolytes sweetened with Allulose and Monk Fruit. Versatile & Easy to Use Our powder is designed to dissolve completely in cold water without leaving heavy sediment. For a refreshing taste, we recommend mixing 1 stick with 20 oz of water or adding it to your favorite smoothies and shakes. Designed for Your Lifestyle Keto & Fasting: Contains 0g added sugar, making it a perfect choice for keto and fasting lifestyles. Anytime, Anywhere: Use it during your morning ritual, at the gym, or in the office to stay refreshed during long screen time and travel.

27. The Representations communicate to reasonable consumers that the Products contain no sugar. That is the plain and ordinary meaning of “ZERO SUGAR” and “0 GRAMS

11

SUGAR,” and federal and Illinois law prescribe an objective standard governing when those terms may be used.

28. The “ZERO SUGAR” and “0 GRAMS SUGAR” representations are explicit, objective, and quantifiable claims concerning the Product’s sugar content. Under 21 C.F.R. § 101.60(c)(1), such claims are subject to a threshold of less than 0.5 grams of sugars per reference amount customarily consumed and per labeled serving, along with additional regulatory requirements. Despite containing allulose, a sugar under the applicable federal definition, the Product’s Nutrition Facts panel declares “0g Total Sugars” and “0g Added Sugars” without separately disclosing the amount of allulose present. These declarations reinforce Defendant’s misleading zero-sugar message and prevent consumers from determining the actual quantity of allulose contained in the Product.

Allulose Is A Sugar

29. As a monosaccharide, allulose meets the FDA’s regulatory definition of sugar under 21 C.F.R. § 101.9(c)(6)(ii), which defines “Total Sugars” to include all free monosaccharides and disaccharides, including glucose, fructose, lactose, and sucrose. The FDA has expressly acknowledged that allulose must be included in the declaration of Total Sugars unless and until subsequent rulemaking provides otherwise.¹¹ No such rulemaking has been finalized, and the FDA’s regulatory definition remains unchanged.

30. The food industry itself acknowledges that allulose is a sugar. A leading commercial manufacturer of allulose has expressly identified it as a “monosaccharide, or simple sugar”¹² and repeatedly represented to the FDA that “Allulose is a monosaccharide and

¹¹ Food Labeling: Revision of the Nutrition and Supplement Facts Labels, 81 Fed. Reg. 33,742, 33,795–96 (May 27, 2016).

¹² Tate & Lyle Ingredients Americas LLC, *A Clinical Study on the Effect of Allulose, a Low-Calorie Sugar, on in vivo Dental Plaque pH* (Aug. 13, 2018), <https://www.regulations.gov/document/FDA-2015-P-1201-0014>.

is classified as a sugar.”¹³ Medical authorities likewise recognize allulose as a naturally occurring sugar.¹⁴

31. Allulose is not merely classified as a sugar; it is used as one. With approximately 70% of the sweetness of conventional sugar, allulose is widely used as a substitute for sucrose and is used as a bulk sweetener and substitute for conventional sugar.¹⁵ Its chemical properties are similar to those of fructose in terms of solubility, water activity, and viscosity.¹⁶ Despite its use as a sweetening ingredient, Defendant fails to disclose the precise amount of allulose contained in the Product, leaving consumers unaware of how much of this sugar they are actually consuming.

32. The amount of allulose consumed matters. Clinical research has demonstrated that gastrointestinal tolerance to allulose is dose-dependent, with higher intake levels associated with increased incidences of diarrhea, abdominal discomfort, and other adverse gastrointestinal symptoms.¹⁷ Despite the significance of dosage, Defendant fails to disclose the quantity of allulose contained in the Product, depriving consumers of information necessary to assess their potential exposure and make informed purchasing decisions.

33. The Product violates the FDA Nutrient Content Regulations. Congress

¹³ See Tate & Lyle Ingredients Americas LLC, Petition Requesting That Allulose Be Exempt from Being Included as a Carbohydrate, Sugar, or Added Sugar in the Nutrition Facts Label on Foods and Beverages (Apr. 10, 2015), FDA Docket No. FDA-2015-P-1201, <https://www.regulations.gov/docket/FDA-2015-P-1201>.

¹⁴ See, e.g., Cleveland Clinic, *What You Need To Know About Allulose* (Nov. 4, 2024), <https://health.clevelandclinic.org/what-is-allulose>.

¹⁵ Mengting Tao, Wenli Zhang & Wanmeng Mu, *D-Allulose: A New Generation of Potential Bulk Sweeteners in the Food Industry*, 73 J. Agric. & Food Chem. 27,833, 27,833–35 (2025), <https://doi.org/10.1021/acs.jafc.5c13620>; Han-Joo Maeng et al., *Metabolic Stability of D-Allulose in Biorelevant Media and Hepatocytes: Comparison with Fructose and Erythritol*, 8 Foods art. 448, at 1–2 (2019), <https://doi.org/10.3390/foods8100448>.

¹⁶ Mengting Tao, Wenli Zhang & Wanmeng Mu, *D-Allulose: A New Generation of Potential Bulk Sweeteners in the Food Industry*, 73 J. Agric. & Food Chem. 27,833, 27,833–35 (2025), <https://doi.org/10.1021/acs.jafc.5c13620>; Han-Joo Maeng et al., *Metabolic Stability of D-Allulose in Biorelevant Media and Hepatocytes: Comparison with Fructose and Erythritol*, 8 Foods art. 448, at 1–2 (2019), <https://doi.org/10.3390/foods8100448>.

¹⁷ See Youngji Han et al., *Gastrointestinal Tolerance of D-Allulose in Healthy and Young Adults: A Non-Randomized Controlled Trial*, 10 Nutrients art. 2010, at 6–10 (2018), <https://doi.org/10.3390/nu10122010>.

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

34. FDA regulations distinguish mandatory or permitted declarations within the Nutrition Facts panel from nutrient-content claims appearing elsewhere on a label or in labeling. Information appearing as part of the Nutrition Facts panel is not itself a nutrient-content claim. 21 C.F.R. § 101.13(c). By contrast, Defendant’s separate “NO SUGAR,” “ZERO SUGAR,” and “0 GRAMS SUGAR” representations expressly characterize the level of sugar in the Products and are nutrient-content claims governed by 21 C.F.R. §§ 101.13(b) and 101.60(c)(1).

35. The representations “NO SUGAR,” “ZERO SUGAR,” and “0 GRAMS SUGAR” appearing on the Product’s packaging and labeling constitute nutrient-content claims under 21 C.F.R. § 101.13(b), as they directly describe the Product’s sugar content. Defendant reinforces these allegedly misleading representations through its advertising, which likewise forms the basis of Plaintiff’s claims under applicable state law.

36. FDA regulations prohibit manufacturers from making nutrient-content claims on food labels or labeling unless such claims are expressly authorized and comply with the requirements established under 21 C.F.R. § 101.13 and the applicable provisions of Subpart D. See 21 C.F.R. § 101.13(b).

37. Section 101.60(c)(1) strictly regulates nutrient-content claims such as “sugar free,” “zero sugar,” and “no sugar.” The representation “0 GRAMS SUGAR” communicates the same message and is subject to these requirements. *See* 21 C.F.R. § 101.13(b)(4). Under § 101.60(c)(1), such claims are permitted only when the Product satisfies the regulation’s

specific conditions concerning sugar content and sugar-containing ingredients. Despite prominently advertising the Product as containing “ZERO SUGAR,” Defendant uses allulose as a primary sweetener while failing to disclose the amount present. By withholding this material information while emphasizing the absence of sugar, Defendant creates a misleading impression of the Product’s composition and deprives consumers of the information necessary to make informed purchasing decisions.

38. As stated, Defendant prominently markets the Product as containing “ZERO SUGAR” while using allulose as a principal sweetening ingredient without disclosing the amount present. Rather than appearing merely as an incidental component, allulose is intentionally incorporated into the Product to provide sweetness. Yet Defendant fails to disclose its quantity, leaving consumers unable to determine how much allulose they are actually consuming. Plaintiff alleges that Defendant’s unqualified Zero Sugar Representations, coupled with its failure to disclose the amount of allulose present, create a materially misleading impression regarding the Product’s true composition.

39. The FDA’s guidance on allulose does not grant Defendant unrestricted authority to market the Product as “ZERO SUGAR,” nor does it immunize Defendant from liability for misleading consumers. Although the guidance permits the exclusion of allulose from the Total Sugars and Added Sugars declarations under the FDA’s enforcement discretion policy, it does not categorically establish that every “ZERO SUGAR” representation is truthful or not misleading. Defendant nevertheless prominently promotes the Product as containing no sugar while using allulose as a principal sweetener and withholding its quantity from consumers, thereby creating an allegedly misleading impression of the Product’s actual composition.

40. The Seventh Circuit’s decision in *Franco v. Chobani, LLC*¹⁸ confirms that manufacturers cannot invoke the FDA’s nonbinding allulose guidance to evade liability for allegedly deceptive sugar-content claims. The court recognized that allulose qualifies as a sugar under 21 C.F.R. § 101.9(c)(6)(ii) and that the FDA’s enforcement-discretion policy neither changes that regulatory definition nor bars state-law claims challenging misleading “sugar free” representations. Accordingly, Defendant cannot use the FDA’s guidance as a shield against liability for its challenged “ZERO SUGAR” claims merely because the agency permits allulose to be excluded from certain nutritional declarations.

41. Defendant’s use of misleading “ZERO SUGAR” representations on the Product’s labeling renders the Product misbranded under federal law because these claims misrepresent its sugar content and fail to comply with the requirements governing nutrient-content claims. 21 U.S.C. § 343(a)(1), (r)(1)(A).

42. Plaintiff does not seek to enforce the FDCA directly. She seeks relief under independently enforceable Illinois consumer-protection law, including the Illinois Consumer Fraud and Deceptive Business Practices Act. The federal provisions identify the applicable labeling standards and the conduct that renders the Products misbranded. Plaintiff’s claims do not seek to impose any labeling requirement different from or additional to federal law. *See Franco*, 184 F.4th at 606–07.

Defendant’s Conduct Violates Illinois’s Food Labeling Laws.

43. The Illinois Food, Drug and Cosmetic Act (“IFDCA”), 410 ILCS 620/1 et seq., prohibits the misbranding of food sold in Illinois. Under 410 ILCS 620/11(a), “[a] food is misbranded” if “its labeling is false or misleading in any particular.”

¹⁸ *See Franco v. Chobani, LLC*, 184 F.4th 599, 605–08 (7th Cir. 2026).

44. In determining whether labeling or advertising is misleading, Illinois law requires consideration of “not only representations made or suggested by statement, word, design, device, sound or any combination thereof,” but also the extent to which the labeling or advertising “fails to reveal material facts in the light of such representations.” 410 ILCS 620/2.11.

45. The IFDCA provides for the adoption of certain federal food-labeling regulations into Illinois law. 410 ILCS 620/21(a), (j). Under federal food-labeling regulations, “Total Sugars” is defined as “the sum of all free mono- and disaccharides.” 21 C.F.R. § 101.9(c)(6)(ii). Because allulose is a monosaccharide, it falls within the federal regulatory definition of sugars.

46. Federal regulations further prohibit the use of terms such as “sugar free,” “zero sugar,” and “no sugar” unless the food contains less than 0.5 grams of sugars per reference amount customarily consumed and per labeled serving. 21 C.F.R. § 101.60(c)(1).

47. Defendant prominently markets the Product as “ZERO SUGAR,” “NO SUGAR,” and “0 GRAMS SUGAR,” despite using allulose as a principal sweetening ingredient. Under 21 C.F.R. § 101.60(c)(1), such claims are subject to a strict threshold of less than 0.5 grams of sugars per reference amount customarily consumed and per labeled serving. Although allulose falls within the regulatory definition of sugars under 21 C.F.R. § 101.9(c)(6)(ii), Defendant fails to disclose the amount of allulose present in the Product, obscuring whether its sugar content satisfies the regulatory threshold. Plaintiff alleges that Defendant’s unqualified “ZERO SUGAR” and “NO SUGAR” representations are materially misleading because they convey the impression that the Product contains no sugar while withholding information necessary to assess compliance with the applicable 0.5-gram limit.

48. Defendant’s “ZERO SUGAR” and “NO SUGAR” representations are materially

misleading because they convey to reasonable consumers that the Product contains no sugar, despite the intentional use of allulose, a sugar under the applicable regulatory definition, as a principal sweetening ingredient. Although 21 C.F.R. § 101.60(c)(1) establishes a threshold of less than 0.5 grams of sugars per serving for such claims, Defendant does not disclose the amount of allulose present in the Product. By prominently emphasizing the absence of sugar while withholding this information, Defendant misrepresents the Product's composition and prevents consumers from assessing whether its sugar content is consistent with the challenged representations. See 410 ILCS 620/2.11.

49. Accordingly, Plaintiff alleges that the Product is misbranded under Illinois law because Defendant markets it as “ZERO SUGAR” and “NO SUGAR” despite containing allulose, without disclosing the amount present. Defendant's marketing, distribution, and sale of the allegedly misbranded Product therefore violate the Illinois Food, Drug and Cosmetic Act (“IFDCA”).

Reasonable Consumers Would Be Misled by Defendant's Deception.

50. Reasonable consumers should not be required to scrutinize the Product's back label to verify the accuracy of Defendant's prominent “ZERO SUGAR,” “NO SUGAR,” and “0 GRAMS SUGAR” representations. Consumers are entitled to rely on the claims displayed on the front of the packaging without having to search elsewhere for information that contradicts or qualifies those representations.

51. Defendant's representations and conduct are particularly misleading because even consumers who examine the Nutrition Facts panel encounter declarations of “0g Total Sugars” and “0g Added Sugars” without any qualification, despite the Product containing allulose, a monosaccharide that falls within the federal regulatory definition of sugars. By

failing to disclose the amount of allulose present, Defendant reinforces the misleading impression that the Product contains no sugar, leaving consumers without material information necessary to evaluate its actual composition.

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

Defendant Knew the Representations Were False.

53. Defendant knew, or should have known, that the Representations were false, misleading, deceptive, and unlawful when it formulated, labeled, marketed, advertised, distributed, and sold the Product. Specifically, Defendant knew that: (a) the Product's principal ingredient is allulose; (b) allulose is a free monosaccharide that falls within the federal regulatory definition of sugars; (c) despite containing allulose, the Product is prominently marketed as "ZERO SUGAR" and "0 GRAMS SUGAR"; (d) Defendant's official website does not provide a complete ingredient disclosure, leaving consumers without readily accessible information regarding the Product's composition; (e) reasonable consumers are likely to rely on these sugar-content representations when making purchasing decisions; (f) consumers who purchase the Product based on these representations do not receive the benefit of the bargain as represented; and (g) Defendant's misleading representations enable it to market the Product as a sugar-free alternative and command a price premium that consumers would not otherwise pay.

54. Defendant, as the formulator, manufacturer, marketer, and distributor of the

Product, controlled, or participated in, making the Representations on the Product's labels and advertisements. Defendant controls the Product's formulation, ingredient statements, Nutrition Facts panels, packaging, and marketing.

55. Defendant could have removed or appropriately qualified the challenged representations or reformulated the Product to ensure their accuracy. Instead, despite knowing that consumers rely on these claims when making purchasing decisions, Defendant continued to use them, inducing consumers to purchase the Product or pay more than they otherwise would have.

Defendant's Zero Sugar Representations Injured Plaintiff and the Class.

56. Defendant concealed or failed to disclose material facts concerning the Product, including: (a) that allulose is a free monosaccharide and sugar; (b) that allulose is used as a principal sweetening ingredient without disclosure of the amount present; (c) that the Product's compliance with the requirements governing "sugar free" and "zero sugar" claims under 21 C.F.R. § 101.60(c)(1) cannot be verified from the disclosed labeling; (d) that the Product's actual composition is inconsistent with the impression conveyed by the challenged "ZERO SUGAR" representations; and (e) that Plaintiff alleges the Product is misbranded under federal and Illinois law because of these misleading representations.

57. As a direct and proximate result of Defendant's allegedly false and misleading representations and omissions, Plaintiff and Class Members suffered economic injury by: (a) purchasing a Product that was not as represented; (b) paying more than they otherwise would have paid had its composition been accurately disclosed; and (c) failing to receive the benefit of their bargain.

58. Had Plaintiff and Class Members known that the Product contained allulose as a

principal sweetening ingredient and that Defendant did not disclose the amount present, they would not have purchased the Product or would have paid substantially less for it.

59. Accordingly, Plaintiff and the Class Members (as defined below) suffered injury in fact and lost money or property because of Defendant's wrongful conduct.

CLASS ACTION ALLEGATIONS

60. Plaintiff brings this action pursuant to the provisions of Rules 23(a), (b)(2), and (b)(3) of the Federal Rules of Civil Procedure, on behalf of herself and the following Class:

Illinois Class:

All persons in Illinois who, during the maximum period of time permitted by law, purchased Defendant's Products for their personal use.

Multi-State Consumer Protection Class:

All persons in the States of Illinois, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, and Washington who, during the maximum period of time permitted by law, purchased Defendant's Products for their personal use ("Multi-State Class" and jointly with Illinois Class, the "Class Members" or "Members of the Class(es)").¹⁹

61. Excluded from the Class Members are the following individuals and/or entities: Defendant and Defendant's parents, subsidiaries, affiliates, officers and directors, and any entity in which Defendant has a controlling interest; all individuals who make a timely election to be excluded from this proceeding using the correct protocol for opting out; any and all

¹⁹ Although discovery may warrant modifications, the proposed Consumer Fraud Multi-State Class is limited to states with substantially similar consumer protection laws under the facts alleged herein: Massachusetts (Mass. Gen. Laws ch. 93A, et seq.); Michigan (Mich. Comp. Laws § 445.901, et seq.); Minnesota (Minn. Stat. § 325F.67, et seq.); Missouri (Mo. Rev. Stat. § 407.010, et seq.); New Jersey (N.J. Stat. § 56:8-1, et seq.); New York (N.Y. Gen. Bus. Law §§ 349–350); and Washington (Wash. Rev. Code § 19.86.010, et seq.). Plaintiff maintains that she has standing to represent the proposed Multi-State Class and that any challenge to her ability to represent its members should be addressed at the class certification stage under Rule 23 of the Federal Rules of Civil Procedure.

federal, state or local governments, including, but not limited to, its departments, agencies, divisions, bureaus, boards, sections, groups, counsels and/or subdivisions; and all judges assigned to hear any aspect of this litigation, as well as its immediate family members.

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

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

64. Numerosity: A class action is the only available method for the fair and efficient adjudication of this controversy, as the Members of the Class are so numerous that joinder of all members is impractical, if not impossible. Members of the Classes may be notified of the pendency of this action by mail and/or publication through the distribution records of Defendant and third-party retailers and vendors.

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

- a. Whether allulose is a sugar;
- b. Whether the Product is “ZERO SUGAR”;
- c. Whether reasonable consumers would understand Defendant’s representations and warranties concerning the Products to be untrue and misleading;
- d. Whether Defendant’s representations and warranties were material;

- e. Whether the Products are misbranded under federal law and, with respect to the Illinois Class, Illinois law;
- f. Whether Defendant was unjustly enriched as a result of the unlawful conduct alleged in this Complaint;
- g. Whether Plaintiff and the Members of the Classes have suffered damages as a result of Defendant's actions and the amount of those damages;
- h. Whether Plaintiff and the Members of the Classes are entitled to statutory damages; and
- i. Whether Plaintiff and the Members of the Classes are entitled to attorneys' fees and costs.

66. Typicality: Plaintiff's claims are typical of the claims of the Class Members. Plaintiff and all Members of the Class sustained damages arising out of and caused by Defendant's common course of conduct in violation of law, as alleged herein.

67. Adequacy of Representation: Plaintiff in this class action is an adequate representative of the Class Members because she shares their interests in this litigation, is committed to vigorously prosecuting this action, and has retained competent counsel experienced in handling litigation of this nature.

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

69. Superiority of Class Action: Since the damages suffered by individual Class Members, while not inconsequential, may be relatively small, the expense and burden of individual litigation by each member make or may make it impractical for Members of the

Class to seek redress individually for the wrongful conduct alleged herein. Should separate actions be brought or be required to be brought, by each individual Member of the Class, the resulting multiplicity of lawsuits would cause undue hardship and expense for the Court and the litigants.

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

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

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

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

74. Further, Defendant has acted or failed to act on grounds generally applicable to the Class, making final injunctive or corresponding declaratory relief appropriate for the Class as a whole under Federal Rule of Civil Procedure 23(b)(2).

CLAIMS FOR RELIEF

COUNT I
VIOLATIONS OF STATE CONSUMER FRAUD ACTS
(On behalf of Plaintiff and the Multi-State Consumer Protection Class²⁰)

75. Plaintiff realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

76. Plaintiff brings this Count on behalf of herself and the Multi-State Class against Defendant.

77. The Consumer Fraud Acts of the States in the Multi-State Class prohibit unfair or deceptive business practices in trade or commerce. The specific laws at issue are:

- a. Illinois (815 ILCS 505/1, et seq.);
- b. Massachusetts (Mass. Gen. Laws Ch. 93A, et seq.);
- c. Michigan (Mich. Comp. Laws § 445.901, et seq.);
- d. Minnesota (Minn. Stat. § 325F.67, et seq.);
- e. Missouri (Mo. Rev. Stat. § 407.010, et seq.);
- f. New Jersey (N.J. Stat. § 56:8-1, et seq.);
- g. New York (N.Y. Gen. Bus. Law §§ 349 and 350); and
- h. Washington (Wash. Rev. Code § 19.86.010, et seq.).

78. These statutes are substantially similar in that they prohibit unfair or deceptive acts or practices in the conduct of business.

79. Defendant's uniform labeling and marketing Representations of the Product were deceptive and materially misleading.

80. Given Defendant's position as an established, trusted health and wellness brand, Plaintiff and reasonable consumers trusted and relied on Defendant's Representations,

²⁰ Plaintiff reserves the right to amend this list of states after discovery.

sustaining damages in an amount to be proven at trial.

81. In addition, Defendant's conduct showed malice, motive, and/or reckless disregard for the truth, so an award of punitive damages is appropriate.

82. Plaintiff and the other Members of the Multi-State Class have standing to pursue a cause of action for violations of the Consumer Fraud Acts of the states in the Multi-State Consumer Protection Class because Plaintiff and members of the Multi-State Class have suffered an injury in fact and lost money because of Defendant's actions set forth herein.

COUNT II
VIOLATIONS OF THE ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS
PRACTICES ACT, 815 ILCS 505/1, et seq. ("ICFA")
(On behalf of Plaintiff and the Illinois Class)

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

84. Plaintiff brings this cause of action on behalf of herself and the Illinois Class members against Defendant.

85. Plaintiff and other Illinois Class members are persons within the context of the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA"), 815 ILCS 505/1(c).

86. Defendant is a person within the context of the ICFA, 815 ILCS 505/1(c).

87. At all times relevant to this action, Defendant engaged in trade or commerce within the meaning of the Illinois Consumer Fraud and Deceptive Business Practices Act ("ICFA"), 815 ILCS 505/1(f).

88. Plaintiff and the proposed Class Members are consumers within the meaning of the ICFA, 815 ILCS 505/1(e), having purchased the Product primarily for personal, family, or household purposes.

89. The ICFA prohibits unfair or deceptive acts or practices in the conduct of trade or

commerce, including false advertising, misrepresentations, and the concealment, suppression, or omission of material facts. 815 ILCS 505/2.

90. The ICFA further prohibits deceptive business practices, including conduct described in Section 2 of the Uniform Deceptive Trade Practices Act, as incorporated by 815 ILCS 505/2.

91. Defendant engaged in unfair and deceptive practices by prominently marketing the Product as “ZERO SUGAR” and “NO SUGAR” while using allulose as a principal sweetening ingredient without disclosing the amount present. Plaintiff alleges that these representations and omissions mislead reasonable consumers regarding the Product’s actual composition and sugar content, in violation of the ICFA.

92. Plaintiff and the other Illinois Class members reasonably relied upon Defendant’s Representations, labeling, and omissions alleged herein regarding the Product’s Zero Sugar claims.

93. Defendant’s misconduct, as described herein, took place within the State of Illinois and constitutes unfair or deceptive acts or practices in the course of trade and commerce, violating 815 ILCS 505/1, *et seq.*, and 815 ILCS 510/2(a)(5), by representing that the Product has characteristics or benefits that they do not have. Defendant also did not intend to sell the Products as advertised, in violation of 815 ILCS 505/2 and 815 ILCS 510/2(a)(9).

94. Defendant engaged in fraudulent and/or deceptive conduct, which creates a likelihood of confusion or misunderstanding in violation of 815 ILCS 505/2 and 815 ILCS 510/2(a)(12).

95. Defendant’s uniform marketing claims were deceptive and materially misleading. Defendant named and labeled the Product in a way that would most impact consumer choices

and gain market share. Defendant knew that consumers purchasing the Product would reasonably understand the “Zero Sugar” and “No Sugar” representations to mean that the Product contained no sugar.

96. As a direct and proximate result of Defendant’s violations of the ICFA, Plaintiff and Illinois Class Members suffered actual economic damages by purchasing the Product in reliance on Defendant’s misleading Zero Sugar representations. Had Plaintiff and Illinois Class Members known that the Product contained allulose as a principal sweetening ingredient and that its quantity was not disclosed, they would not have purchased the Product or would have paid substantially less for it.

97. Based on Defendant’s unfair and/or deceptive acts or practices, Plaintiff and the Illinois Class members are entitled to relief, including restitution, actual damages, punitive damages, costs, and attorneys’ fees, under 815 ILCS 505/10a.

COUNT III
UNJUST ENRICHMENT
(On Behalf of Plaintiff and the Illinois Class)

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

99. Plaintiff brings this Count on behalf of herself and the Illinois Class.

100. This claim is brought under the law of the State of Illinois.

101. This claim is brought in the alternative to the other Counts. Illinois law and the Federal Rules of Civil Procedure allow Plaintiff to plead alternative theories.

102. Defendant’s conduct violated, inter alia, state and federal law by manufacturing, advertising, labeling, marketing, distributing, and selling the Product while misrepresenting and omitting material facts, including by making the labeling Representations alleged herein.

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

104. Plaintiff and the Illinois Class members conferred substantial financial benefits upon Defendant, through retail purchases of the Products, which materially differed from the representations made by Defendant.

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

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of the proposed Classes, respectfully requests that the Court enter judgment in their favor and against Defendant, as follows:

- a. Certifying the Illinois and Multi-State Classes pursuant to Federal Rule 23, and appointing Plaintiff and their counsel to represent the Classes;
- b. Declaring that Defendant's conduct constitutes:
 - i. A violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1 et seq.);
 - ii. Violations of substantially similar consumer protection statutes of other states;
 - iii. Unjust enrichment;

- c. Awarding all actual, compensatory, statutory, and punitive damages to which Plaintiff and Class Members are entitled;
- d. Awarding equitable relief, including restitution and/or disgorgement of Defendant's revenues obtained by means of any wrongful act or practice;
- e. Awarding reasonable attorneys' fees and costs, including expert witness fees and expenses as permitted by law;
- f. Awarding pre- and post-judgment interest at the maximum rate permitted by applicable law;
- g. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Plaintiff hereby demands a trial by jury of all claims so triable.

Dated: October 19, 2026

Respectfully submitted,

By: /s/ Kevin Laukaitis

LAUKAITIS LAW LLC
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Attorneys for Plaintiffs and the Class

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

BRENDA POOLE, individually and on behalf
of all others similarly situated

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

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

Kevin Laukaitis
Laukaitis Law
954 Avenida Ponce De Leon Suite 205, #10518, San Juan, PR 00907
T: (215) 599-6072

DEFENDANTS

DIVA FAM, INC.

County of Residence of First Listed Defendant Los Angeles County, California
(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(d)(2)(A)

Brief description of cause: Deceptive advertising and sales practices

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
\$5,000,000

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

October 19, 2026

SIGNATURE OF ATTORNEY OF RECORD

/s/ Kevin Laukaitis

FOR OFFICE USE ONLY

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

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.