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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 YVETTE READ, on behalf of
10 herself and all others similarly
situated,

11 Plaintiff,

12 vs.

13 NATURE’S WAY PRODUCTS,
14 LLC

15 Defendant.
16

Case No.:

COMPLAINT

17
18 Plaintiff, Yvette Read (“Plaintiff”), individually and on behalf of the Class
19 defined below of similarly situated persons, allege the following against Nature’s Way
20 Products, LLC (“Defendant” or “Nature’s Way”), based upon personal knowledge with
21 respect to herself and on information and belief derived from, among other things,
22 investigation by counsel as to all other matters:

23 **SUMMARY OF THE CASE**

24 1. Plaintiff brings this class action on behalf of herself, and all similarly
25 situated consumers who purchased “Nature’s Way Alive! Zero Sugar Women’s
26 Multivitamin Gummy” (collectively, the “Products”).¹

27
28 ¹ Products include all flavors, sizes, and pack configurations of “Nature’s Way Alive! Zero Sugar Women’s Multivitamin Gummy.”

1 2. Defendant markets and advertises the Products as “Sugar Free,”
2 (collectively, the “Representations”). Unbeknownst to reasonable consumers, however,
3 the Products contain sugar in the form of allulose. Allulose is a monosaccharide and
4 therefore a sugar under the applicable federal and California labeling standards. It is not
5 present in trace amounts. It is the second-listed ingredient by weight.

6 3. Defendant’s own labeling establishes that each serving of the Products
7 contains several grams of allulose. The Nutrition Facts panel declares 4 grams of total
8 carbohydrate and 0 grams of sugar per serving—allulose being the most predominant
9 by weight. Because allulose is a sugar under the applicable standards, each Product
10 contains many multiples of the 0.5-gram cutoff for a food labeled “sugar free.” 21
11 C.F.R. §§ 101.9(c)(6)(ii), 101.60(c)(1)(i). Defendant’s Representations are therefore
12 false.

13 4. Federal law permits a “sugar free” or “zero sugar” claim on a food that
14 contains a sugar ingredient only where the listing of that ingredient in the ingredient
15 statement is followed by an asterisk keyed to a footnote stating that the ingredient “adds
16 a dietarily insignificant amount of sugar” or the equivalent. 21 C.F.R. § 101.60(c)(1)(ii).
17 The Products’ labels bear no such asterisk and no such footnote. Consumers are given
18 no disclosure of any kind.

19 5. Defendant compounds the deception with a second false quantitative
20 claim. The Products’ principal display panel proclaims, Sugar Free. That claim is false
21 by the label’s own arithmetic.

22 6. Accordingly, Plaintiff brings claims against Defendant for violations of:
23 (1) California’s Consumers Legal Remedies Act, Cal. Civ. Code § 1750 et seq.; (2)
24 California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 et seq.; (3)
25 California’s False Advertising Law, Cal. Bus. & Prof. Code § 17500 et seq.; (4) breach
26 of express warranty; and (5) unjust enrichment.

27 //

1 her bargain, in that Plaintiff would not have purchased the Products on the same terms
2 had she known that the representations were untrue. Furthermore, in making her
3 purchase, Plaintiff paid a price premium due to Defendant's false and misleading "Sugar
4 Free" claims. Plaintiff, however, did not receive the benefit of the bargain because the
5 Products were not, in fact, free of sugar. Instead, they are sweetened with allulose—a
6 sugar—present at several grams per serving, many multiples of the 0.5-gram cutoff for
7 a product labeled "sugar free." Had Plaintiff known that Defendant's representations
8 were false and misleading, she would not have purchased the Products or would have
9 paid substantially less for them.

10 12. Plaintiff remains interested in purchasing products that are truly sugar free.
11 However, she cannot know for certain whether the false labeling and marketing of the
12 Products have been or will be corrected, and the Products' composition may change
13 over time. If Defendant continues to make the Representations, Plaintiff will be unable
14 to make informed purchasing decisions and is likely to be misled again unless
15 Defendant is required to ensure that the Products' marketing is accurate. Plaintiff is an
16 average consumer who is not sophisticated in the chemistry, manufacturing, or
17 formulation of food products. Neither Plaintiff nor reasonable consumers have the
18 specialized knowledge needed to determine independently whether allulose is a sugar.

19 13. Defendant Nature's Way Products, LLC is a corporation with its
20 headquarters and principal place of business located at 825 Challenger Drive, Green
21 Bay, Wisconsin 54311.

22 14. Defendant participated in, controlled, authorized, ratified, directed, or
23 knowingly benefited from the creation and dissemination of the Representations, and is
24 therefore responsible for the conduct alleged herein.

25 **FACTUAL ALLEGATIONS**

26 **A. Consumers Seek Out and Pay More for Products that Contain No Sugar**

27 15. Consumer demand for products without sugar is well documented. A 2022
28

1 nationwide survey found that 73% of Americans ages 18 to 80 reported trying to limit
2 or avoid sugars.²

3 16. That demand accords with widespread public-health guidance. The 2025–
4 2030 Dietary Guidelines for Americans state that no amount of added sugars is
5 recommended or considered part of a healthy or nutritious diet. The World Health
6 Organization recommends limiting free sugars to less than 10 percent of total daily
7 energy intake and states that limiting them further to 5 percent or less may provide
8 additional health benefits. The American Heart Association recommends limiting added
9 sugars to no more than 6 percent of daily calories.³

10 17. Food manufacturers are acutely aware of this demand and of the premium
11 consumers will pay to satisfy it. Products labeled “sugar free” and “zero sugar”
12 command higher prices than comparable products that do not bear those claims, and
13 manufacturers reserve the front principal display panel of their packaging for the claims
14 they believe will most motivate a purchase.

15 18. Defendant has capitalized on that demand. Defendant markets a
16 multivitamin product whose second-listed ingredient by weight is allulose, a sugar,
17 while labeling and advertising it as “Sugar Free.” Defendant thereby obtained an unfair
18 competitive advantage over competitors whose sugar-free claims are true, at the
19 expense of unwitting consumers.

20 19. The premium is not theoretical. Defendant sells Products at a substantially
21 higher prices.

22 **B. Defendant’s Representations and Warranties**

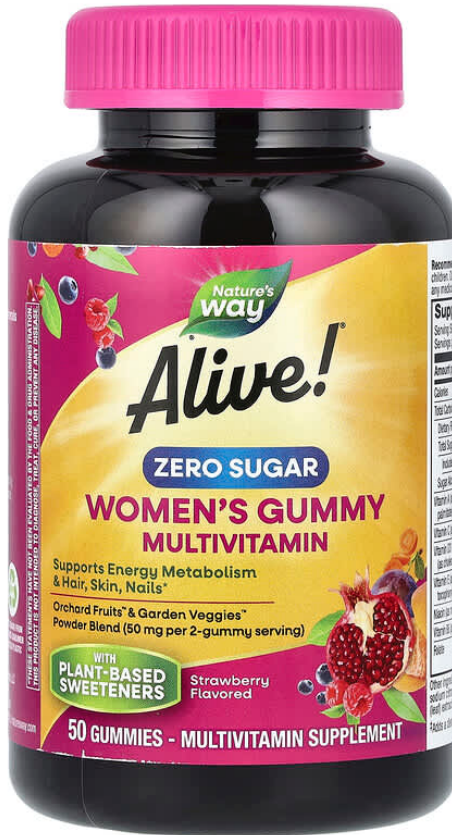
23 20. Defendant prominently states on the front principal display panel of each
24

25 ² International Food Information Council, 2022 Food & Health Survey 57 (May 18, 2022), <https://ific.org/wpcontent/uploads/2025/04/IFIC-2022-Food-and-Health-Survey-Report-May-2022.pdf>.

26 ³ U.S. Department of Health and Human Services & U.S. Department of Agriculture, Dietary Guidelines for Americans, 2025–2030; World Health Organization, Healthy Diet, <https://www.who.int/news-room/fact-sheets/detail/healthy-diet>;
27 American Heart Association, Added Sugars, <https://www.heart.org/en/healthy-living/healthy-eating/eatsmart/sugar/added-sugars>.
28

Product's package that the Product is "SUGAR FREE." The words "SUGAR FREE" appear on the panel, directly beneath Defendant's house mark, and are a visual element of the package.

21. Below is an illustrative image of the Products' principal display panel and the Representations:



22. Defendant likewise disseminates the Representations through their official retail listings. Defendant's online retail listings for the Products are titled "Zero Sugar."

23. Defendant announced the Products to the trade in the same terms, describing them on launch as "sugar-free". Defendant has made the Representations continuously from the Products' launch through the present.

24. The Representations are uniform. Every purchaser of every Product was

1 exposed to a materially identical zero-sugar claim, whether on the package, on
2 Defendant's website, or in Defendant's retail listings.

3 25. The Representations communicate to reasonable consumers that the
4 Products contain no sugar. That is the plain and ordinary meaning of "Sugar Free," and
5 federal and California law prescribe an objective standard governing when those terms
6 may be used.

7 26. The Representations are not ambiguous. "Sugar Free" is an absolute,
8 objective, and quantitative claim concerning a measurable physical attribute of the
9 Products. It is a statement of fact—not puffery, not opinion, and not subject to
10 competing reasonable interpretations. Federal law permits that claim only when a
11 product contains less than 0.5 grams of sugars per reference amount customarily
12 consumed and per labeled serving, together with the regulation's other requirements.

13 **C. Allulose Is a Sugar.**

14 27. Allulose is a sugar. Chemically, allulose (also called D-psicose) is a
15 monosaccharide—a simple sugar. It is the C-3 epimer of D-fructose, meaning that
16 allulose and fructose share the same molecular formula ($C_6H_{12}O_6$) and the same
17 connectivity of bonded atoms, and differ only in the spatial orientation of a single
18 hydroxyl group at the third carbon. "D-allulose, a C-3 epimer of D- fructose, is a rare
19 monosaccharide used as a food ingredient or a sweetener."⁴

20 28. The Food and Drug Administration ("FDA") describes allulose the same
21 way: "Allulose or D-psicose (D-ribo-2-hexulose) is a monosaccharide with a molecular
22 formula of $C_6H_{12}O_6$ and is an epimer of D-fructose."⁵ As a monosaccharide, allulose
23 falls squarely within the FDA's codified definition of sugars. 21 C.F.R. § 101.9(c)(6)(ii)
24

25
26 ⁴ Han-Joo Maeng et al., Metabolic Stability of D-Allulose in Biorelevant Media and Hepatocytes: Comparison with Fructose and Erythritol, 8 Foods art. 448 (2019), <https://doi.org/10.3390/foods8100448>

27 ⁵ FDA, The Declaration of Allulose and Calories from Allulose on Nutrition and Supplement Facts Labels: Guidance for
28 Industry 2 (Oct. 2020), <https://www.fda.gov/media/123342/download>.

1 (defining total sugars as “the sum of all free mono- and disaccharides”).

2 29. Allulose is accordingly described in the scientific literature as “a rare
3 sugar” and “a monosaccharide that is low in calories and that maintains approximately
4 70% of sweetness relative to sugar.”⁶

5 30. Allulose is not merely a sugar as a matter of chemical classification. It is
6 used as one. Because allulose is less sweet than table sugar, it cannot do its job in the
7 trace quantities typical of high-intensity sweeteners such as sucralose, aspartame,
8 saccharin, and acesulfame potassium, which are 200 to 20,000 times as sweet as
9 sucrose. Allulose must instead be used in gram-scale quantities as a bulk sweetener,
10 which is precisely why manufacturers add multiple grams of it to each serving.⁷

11 31. Allulose also behaves like sugar in food. Its solubility, water activity, and
12 viscosity are similar to those of fructose, and it is “widely regarded as a promising
13 substitute for sucrose”—that is, a substitute for table sugar that is itself a sugar.⁸

14 32. The sweetener industry’s own trade association agrees. The Calorie
15 Control Council states that “[a] monosaccharide, or simple sugar, allulose is absorbed
16 by the body, but not metabolized, so it is nearly calorie-free.”⁹

17 33. The FDA has recognized that allulose is a sugar since it first adopted the
18 definition. When the agency adopted the codified definition of “sugars” in 1993, it
19 defined the term by saccharide structure rather than by how a substance is digested or
20 metabolized, explaining that it was defining “sugars” “to be consistent with standard
21 analytical methodologies and in conformity with the traditional usage of the term.” 58

22
23 ⁶ Youngji Han et al., *Gastrointestinal Tolerance of D-Allulose in Healthy and Young Adults. A Non-Randomized Controlled Trial*, 10 *Nutrients* art. 2010 (2018), <https://doi.org/10.3390/nu10122010>.

24 ⁷ 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>.

25 ⁸ Wenli Zhang et al., *D-Allulose, a Versatile Rare Sugar: Recent Biotechnological Advances and Challenges*, 63 *Critical Revs. Food Sci. & Nutrition* 5661, 5661–79 (2023), <https://doi.org/10.1080/10408398.2021.2023091>.

26 ⁹ Calorie Control Council, *Allulose*, <https://caloriecontrol.org/ingredients/sweeteners/allulose/> (last visited Sept. 3, 2026).

1 Fed. Reg. 2,079, 2,098 (Jan. 6, 1993). And in its 2016 Nutrition Facts rulemaking, the
 2 FDA stated that allulose, “as a monosaccharide, must be included in the amount of the
 3 declaration of ‘Total Carbohydrate,’ ‘Total Sugars,’ and ‘Added Sugars’ pending any
 4 future rulemaking that would otherwise consider excluding allulose from the
 5 declarations.”¹⁰ No such rulemaking has occurred. The current regulation continues to
 6 define Total Sugars as “the sum of all free mono- and disaccharides” and contains no
 7 allulose exclusion. 21 C.F.R. § 101.9(c)(6)(ii).

8 34. Most recently, the Seventh Circuit resolved the question. In *Franco v.*
 9 *Chobani, LLC*—a class action challenging “zero sugar” yogurt sweetened with
 10 allulose—the court invited the FDA to address “whether allulose is a ‘sugar’ as that
 11 term is defined at 21 C.F.R. § 101.9(c)(6)(ii).” The FDA’s answer was yes.¹¹ The
 12 Seventh Circuit agreed: “The federal requirements at issue are plain—food products
 13 cannot be labeled sugar free unless they have less than half a gram of sugar, and sugars
 14 include every monosaccharide, including allulose.” *Franco v. Chobani, LLC*, No. 25-
 15 2087, 2026 WL 2150193 (7th Cir. July 27, 2026). The court further held that the FDA’s
 16 2020 allulose guidance “isn’t an interpretation of § 101.9(c)(6)(ii)—it’s an
 17 announcement of a change in enforcement policy,” and therefore commands no
 18 deference. *Id.* And because the consumers there sought “to hold Chobani liable under
 19 state law for violating identical standards,” their claims were not preempted. *Id.*

20 35. In short, the Products are multivitamin supplements sweetened with sugar concealed
 21 behind a sugar name consumers do not recognize - allulose.

22 **D. Each Product Contains Several Grams of Allulose Per Serving**

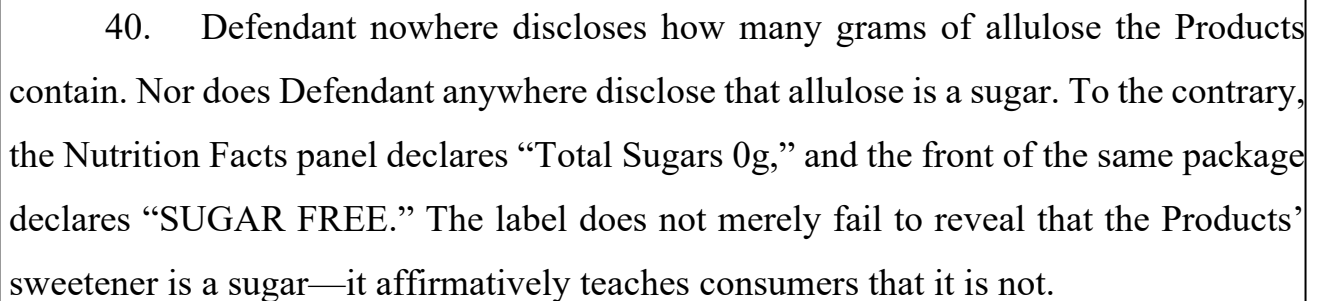
23 36. Allulose appears in the ingredient statement of every Product.

24 37. Under federal labeling law, ingredients must be listed in descending order
 25 of predominance by weight. 21 C.F.R. § 101.4(a)(1). By Defendant’s own ordering,

26 ¹⁰ Food Labeling: Revision of the Nutrition and Supplement Facts Labels, 81 Fed. Reg. 33,742, 33,796 (May 27, 2016).

27 ¹¹ Brief for the United States as Amicus Curiae, *Franco v. Chobani, LLC*, No. 25-2087 (7th Cir. June 29, 2026).

39. Below is an illustrative image of the Products' Nutrition Facts panel and ingredient statement:



41. Congress empowered the FDA to oversee and regulate food labeling by

1 enacting the Federal Food, Drug, and Cosmetic Act (“FDCA”), as amended by the
2 Nutrition Labeling and Education Act, 21 U.S.C. § 301 et seq. The FDA promulgated
3 the relevant food-labeling regulations in 21 C.F.R. part 101.

4 42. Those regulations draw a sharp distinction between two types of food label
5 statements: (i) declarations made within the Nutrition Facts panel, see 21 C.F.R. §
6 101.9; and (ii) “nutrient content claims” —statements that “expressly or implicitly
7 characterize[] the level of a nutrient” such as sugar—made anywhere else on the label
8 or in labeling, 21 C.F.R. § 101.13(b). Information appearing as part of the Nutrition
9 Facts panel is not itself a nutrient content claim. Id. § 101.13(c).

10 43. None of Plaintiff’s claims relates to, or depends on, any declaration made
11 within the Nutrition Facts panel of the Products. At issue in this case are the separate,
12 deceptive nutrient content claims that Defendant has placed on the front of its packaging
13 and repeated throughout their marketing.

14 44. Defendant’s “Sugar Free” statements are “expressed nutrient content
15 claims,” defined as “any direct statement about the level (or range) of a nutrient in the
16 food, e.g., ‘low sodium’ or ‘contains 100 calories.’” 21 C.F.R. § 101.13(b)(1).

17 45. Nutrient content claims are strictly forbidden unless specifically allowed
18 under FDA regulations. 21 C.F.R. § 101.13(b) (“A claim that expressly or implicitly
19 characterizes the level of a nutrient of the type required to be in nutrition labeling under
20 § 101.9 or under § 101.36 (that is, a nutrient content claim) may not be made on the
21 label or in labeling of foods unless the claim is made in accordance with this regulation
22 and with the applicable regulations in subpart D”). Such claims are permitted
23 outside the Nutrition Facts panel only if, among other things, they are “not false or
24 misleading in any respect.” Id. § 101.13(i)(3). And compliance with the nutrient-
25 content-claim requirements “will be determined using the analytical methodology
26 prescribed for determining compliance with nutrition labeling in § 101.9.” Id. §
27 101.13(o).

1 46. Subpart D, section 101.60(c)(1) specifically governs the use of the “sugar
2 free” and “zero sugar” nutrient content claims at issue in this case. That regulation
3 provides that terms such as “sugar free,” “free of sugar,” “no sugar,” “zero sugar,”
4 “without sugar,” “sugarless,” and “trivial source of sugar” may not be used on the label
5 or in labeling of a food unless, among other requirements:

6
7 (i) The food contains less than 0.5 g of sugars, as defined in §
8 101.9(c)(6)(ii), per reference amount customarily consumed and per
labeled serving . . . ; and

9
10 (ii) The food contains no ingredient that is a sugar or that is generally
11 understood by consumers to contain sugars unless the listing of the
12 ingredient in the ingredient statement is followed by an asterisk that
13 refers to the statement below the list of ingredients, which states
“adds a trivial amount of sugar,” “adds a negligible amount of
sugar,” or “adds a dietarily insignificant amount of sugar” and

14 (iii) [The food] is bears a relative claim of special dietary usefulness labeled in
15 compliance with [§ 101.60(b)(2)–(b)(5)].

16 21 C.F.R. § 101.60(c)(1)(i)–(iii).

17 47. These requirements are conjunctive and each must be satisfied.

18 48. The Products do not comply with these regulations. To determine the
19 amount of sugar in a food, section 101.60(c)(1)(i) cross-references 21 C.F.R. §
20 101.9(c)(6)(ii), which provides that “[t]otal sugars shall be defined as the sum of all free
21 mono- and disaccharides (such as glucose, fructose, lactose, and sucrose).” Allulose, as
22 a monosaccharide epimer of fructose, falls squarely within that definition. The allulose
23 in the Products must therefore be included when calculating the amount of sugars for
24 purposes of the 0.5-gram threshold in section 101.60(c)(1)(i).

25 49. Measured that way, the amount of sugars in each serving of the Products
26 is not zero grams and is not less than 0.5 grams. Section 101.60(c)(1)(i) is violated.
27 Section 101.60(c)(1)(ii) is independently violated. Allulose is “an ingredient that is a
28

1 sugar.”

2 50. Because the Products’ labels bear deceptive and impermissible nutrient-
3 content claims, the Products are “misbranded” under federal law. 21 U.S.C. § 343(a)(1)
4 (food is misbranded if its “labeling is false or misleading in any particular”); *id.* §
5 343(r)(1)(A) (food is misbranded if its label bears a nutrient content claim not made in
6 accordance with the governing regulations). Misbranded food may not lawfully be
7 introduced or delivered for introduction into interstate commerce. *Id.* § 331(a).

8 51. Plaintiff does not seek to enforce the FDCA directly. Plaintiff seeks relief
9 under independently enforceable state consumer-protection and warranty laws,
10 including Sherman Law provisions that adopt food-labeling requirements identical to
11 federal requirements. The federal provisions identify the standards California has
12 adopted and the conduct that renders the Products misbranded under California law.
13 Because Plaintiff’s state-law claims are based on the exact same deceptive nutrient
14 content claims that render the Products misbranded under federal law, there is no
15 conflict between the two regimes and no FDCA preemption of any kind. 21 U.S.C. §
16 343-1(a)(5).

17 52. The Ninth Circuit applies the same identical-requirements analysis. State
18 law claims that seek to enforce labeling requirements identical to those imposed by the
19 FDCA and its implementing regulations are not preempted, and informal statements of
20 FDA enforcement policy that have not been adopted through rulemaking carry no
21 preemptive force. *See Reid v. Johnson & Johnson*, 780 F.3d952 (9th Cir. 2015). The
22 FDA’s 2020 allulose guidance is such a statement. By its own terms it creates no rights
23 and binds neither the agency nor the public; it announces only that the FDA intends to
24 exercise enforcement discretion pending a rulemaking that has never occurred; and the
25 FDA has since confirmed, in its amicus brief in *Franco*, that 21 C.F.R. § 101.9(c)(6)(ii)
26 unambiguously includes allulose. An agency’s decision not to enforce its own
27 regulation is not a federal “requirement” within the meaning of 21 U.S.C. § 343-1(a),
28

1 and it does not authorize a nutrient content claim that the regulation forbids.

2 53. Nor does any product-specific federal determination shield the Products.
 3 Unlike pesticide labels registered under the Federal Insecticide, Fungicide, and
 4 Rodenticide Act (“FIFRA”), 7 U.S.C. §§ 136 et seq, see *Monsanto Co. v. Durnell*, No.
 5 24-1068 (U.S. June 25, 2026), or medical devices subject to premarket approval, the
 6 labels of conventional foods are not reviewed or approved by the FDA before sale. No
 7 federal agency has reviewed the Products’ labels, approved the Representations, or
 8 determined that the Products may be labeled “Zero Sugar” or “Sugar Free.” The only
 9 federal requirements applicable to the Representations are the generally applicable
 10 regulations in 21 C.F.R. §§ 101.13 and 101.60, and Plaintiff seeks to enforce those
 11 requirements exactly as written.

12 **F. Defendant’s Conduct Violates California’s Food Labeling Laws**

13 54. Defendant’s manufacturing, marketing, advertising, distribution, and sale
 14 of the Products violate the misbranding provisions of California’s Sherman Food, Drug
 15 and Cosmetic Law, Cal. Health & Safety Code § 109875 et seq. (the “Sherman Law”),
 16 which adopts the federal food-labeling regulations as California regulations; “All food
 17 labeling regulations and any amendments to those regulations adopted pursuant to the
 18 federal act, in effect on January 1, 1993, or adopted on or after that date shall be the
 19 food labeling regulations of this state.” Cal. Health & Safety Code § 110100(a); see also
 20 id. § 110670. Every requirement of sections 101.13 and 101.60 described above—
 21 measured, as those provisions require, by the definition of “sugars” in section
 22 101.9(c)(6)(ii)—is therefore California law.

23 55. Defendant’s marketing, advertising, distribution, and sale of the Products
 24 violate the Sherman Law’s misbranding provisions, including:

25
 26 (a) Section 110660 (a food is misbranded if its labeling is false or misleading in
 27 any particular);

28 (b) Section 110670 (a food is misbranded if its labeling does not conform with

1 the requirements for nutrient content or health claims set forth in 21 U.S.C.
2 § 343(r));

3 (c) Section 110760 (making it unlawful for any person to manufacture, sell,
4 deliver, hold, or offer for sale any food that is misbranded);

5 (d) Section 110765 (making it unlawful for any person to misbrand any food);
6 and

7 (e) Section 110770 (making it unlawful for any person to receive in commerce
8 any food that is misbranded or to deliver or proffer for delivery any such
9 food).

10 56. Defendant's marketing, advertising, distribution, and sale of the Products
11 also violate the Sherman Law's false-advertising provisions, including:

12 (a) Section 109885, which defines "advertisement" to include representations on
13 products and their packages, and Section 110390, which prohibits dissemination
14 of food advertisements that are false or misleading in any
15 particular;

16 (b) Section 110395 (making it unlawful to manufacture, sell, deliver, hold, or
17 offer to sell any falsely or misleadingly advertised food);

18 (c) Sections 110398 and 110400 (making it unlawful to advertise misbranded
19 food or to deliver or proffer for delivery any food that has been falsely or
20 misleadingly advertised).

21 57. Because the Products bear "Sugar Free" nutrient content claims despite
22 containing several grams of allulose per serving—many multiples of the 0.5-gram
23 cutoff in 21 C.F.R. § 101.60(c)(1)—the Products are misbranded under California law,
24 and Defendant's advertising, distribution, and sale of the Products are unlawful. These
25 Sherman Law violations are independently unlawful under California law and serve as
26 predicate violations under California's Unfair Competition Law, as further alleged
27 below.

28 **G. Reasonable Consumers Cannot Detect Defendant's Deception**

58. Reasonable consumers have no reason to look at the back label of the

1 Products when presented with the conspicuous representation on the front of the
2 package that the Products are “SUGAR FREE.” Consumers are not expected to look
3 beyond misleading representations on the front of the package to discover that those
4 representations are false.

5 59. In an in-store observational study of 11,781 grocery shoppers in six
6 European countries—the United Kingdom, Sweden, France, Germany, Poland, and
7 Hungary—62.6% of shoppers were observed looking at the front of the product they
8 bought, while only 7.7% were observed looking at that product elsewhere.¹²

9 60. In one observational study of 802 supermarket shoppers, the mean time
10 between arriving at and departing from a product-category display was less than twelve
11 seconds.¹³

12 61. Allulose is not a common household name. In a 2021 marketing survey,
13 only 15% of respondents had even heard of allulose—let alone knew that it is a sugar.
14 Reasonable consumers, including Plaintiff, are unlikely to recognize the term or to infer
15 from the ingredient list alone that it is a sugar.

16 62. Defendant’s deception is especially misleading because a consumer who
17 reviews the Nutrition Facts table would encounter a “Total Sugars 0g” and “Includes
18 0g Added Sugars” disclosure, even though the same label discloses allulose as the
19 second-listed ingredient by weight. The practical consequence of Defendant’s labeling
20 choices is that a consumer at the point of sale—whether standing in a store reading the
21 front of the pack, the back of the pack, and the ingredient statement, or shopping online
22 and reading Defendant’s product listing, the packaging images in that listing, and
23 Defendant’s own website—encounters nothing, anywhere, revealing that the Products
24 contain sugar. The deception cannot be discovered at the point of sale.

25 _____
26 ¹² Klaus G. Grunert et al., Use and Understanding of Nutrition Information on Food Labels in Six European Countries,
18 J. Pub. Health 261, 266 (2010), <https://doi.org/10.1007/s10389-009-0307-0>.

27 ¹³ Peter R. Dickson & Alan G. Sawyer, The Price Knowledge and Search of Supermarket Shoppers, 54 J. Marketing 42,
28 47 (1990), <https://doi.org/10.1177/002224299005400304>.

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

6 64. The Seventh Circuit has rejected the argument that reasonable consumers
7 cannot be deceived by a “sugar free” claim on a product sweetened with allulose.
8 Whether consumers care about the presence of a monosaccharide in their food is not the
9 same question as whether they would be deceived by an absolute promise that the food
10 contains no sugar; consumers who were told that a product is sugar free plausibly
11 believed it, and how reasonable consumers perceive such a label is a question of fact
12 that cannot be resolved on the pleadings. *Franco v. Chobani, LLC*, No. 25-2087, slip
13 op. at 12–13 (7th Cir. July 27, 2026). The same is true here, where the front label says,
14 “Sugar Free,” the Nutrition Facts panel says, “Total Sugars 0g,” and nothing on the
15 package says otherwise.

16 65. The presence and amount of sugar in a food is material to reasonable
17 consumers. It is information a reasonable person would attach importance to in deciding
18 whether, and at what price, to purchase the Products. Consumption of allulose can also
19 have gastrointestinal effects such as nausea, bloating, diarrhea, and abdominal pain, and
20 a clinical trial on the gastrointestinal tolerance of allulose determined that, compared to
21 traditional cane sugar, consumption of allulose resulted in “significantly higher
22 frequencies of symptoms of diarrhea, abdominal distention, and abdominal pain.”¹⁴ A
23 consumer deciding whether to eat the Products is therefore deciding something with
24 direct physical consequences, while being denied information necessary to make an
25 informed decision.

26 **H. Defendant Knew the Representations Were False**

27 ¹⁴ Comments of the Center for Science in the Public Interest, Docket No. FDA-2019-D-0725 (June 17, 2019),
28 <https://www.cspi.org/sites/default/files/2022-03/allulose%20final%20from%20CSPI.pdf>.

1 66. Defendant knew, or should have known, that the Representations were
2 false, misleading, deceptive, and unlawful when they marketed, advertised, labeled,
3 distributed, and sold the Products. Specifically, Defendant knew that: (a) the Products
4 contain allulose; (b) allulose is a sugar—a fact repeatedly confirmed by the FDA; (c)
5 their labels represented that the Products contained no sugar; (d) reasonable consumers
6 would rely on those labels when purchasing; (e) consumers would not receive the
7 represented benefit of the bargain; and (f) the Representations enabled Defendant to
8 charge a premium.

9 67. Defendant is a sophisticated actor. Sophisticated food companies are
10 charged with knowledge of the labeling rules that govern the products they sell and the
11 ingredients they select.

12 68. Every source of that knowledge predated the Products’ launch. The FDA’s
13 definition of sugars has included all monosaccharides since 1993, and the FDA
14 expressly stated in 2016 that allulose “must be included” in the Total Sugars declaration
15 as a monosaccharide.

16 69. Defendant, as the manufacturer, licensor, marketer, and distributor of the
17 Products, controlled, or participated in, making the Representations on the Products’
18 labels and advertisements. Defendant could have stopped using the Representations or
19 ensured that they were true. Despite its knowledge that consumers reasonably rely on
20 the Representations, Defendant chose to continue using them, thereby causing
21 consumers to buy or overpay for the Products.

22 70. As of the filing of this Complaint, Defendant continues to manufacture,
23 market, and sell the Products bearing the same Representations on its packaging, its
24 website, and its retail listings. Defendant’s conduct is knowing, willful, and continuing.

25 **I. Defendant’s Sugar-Free Claims Injured Plaintiff and the Class**

26 71. Defendant concealed or failed to disclose material facts about the Products,
27 including: (a) the true nature of the Products’ ingredients; (b) the fact that the Products’
28

1 predominant sweetening ingredient is a sugar; (c) the fact that each serving contains
2 several grams of allulose—many multiples of the 0.5- gram cutoff; (d) the fact that the
3 Products are not sugar free; and (e) the fact that the Products are misbranded under
4 federal and California law when sold bearing the Representations.

5 72. As an immediate, direct, and proximate result of Defendant's false,
6 misleading, and deceptive representations and omissions, Defendant injured Plaintiff
7 and the Class Members in that they: (a) paid money for products that were not as
8 represented; (b) paid a premium price for products that were not as represented; (c) were
9 deprived of the benefit of the bargain because the Products they purchased differed from
10 what Defendant warranted; (d) purchased Products worth less than represented; (e) did
11 not receive products that met the expectations Defendant created; (f) purchased
12 Products that Plaintiff and members of the Class did not expect or consent to receive;
13 (g) purchased Products containing sugar despite intending to buy only products
14 represented to contain none; and (h) purchased misbranded Products that could not
15 lawfully have been sold in California.

16 **J. Plaintiff Lacks an Adequate Remedy at Law**

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

22 74. Equitable relief is also necessary because legal remedies may prove
23 inadequate to provide complete relief, including restitution measured by the difference
24 between the prices Plaintiff and Class Members paid and the value of the Products as
25 received, and disgorgement of revenues Defendant unfairly obtained, which are
26 equitable remedies not necessarily coextensive with damages.

27 75. Equitable relief is additionally appropriate because the statutes of
28

1 limitations for the asserted causes of action vary. The UCL and FAL carry four-year
 2 limitations periods, which may reach purchases not fully remediable under other causes
 3 of action.

4 76. The scope of actionable misconduct under the FAL and UCL is also
 5 broader than under the other causes of action asserted herein. The FAL and UCL
 6 prohibit Defendant's fraudulent marketing scheme. Plaintiff's warranty and common-
 7 law claims are more limited, focusing on duties arising from Defendant's
 8 Representations at the point of purchase. The UCL may also borrow statutory
 9 prohibitions—including the Sherman Law—that do not themselves create a private
 10 cause of action.

11 CLASS ALLEGATIONS

12 77. Plaintiff brings this action on behalf of herself, and all others similarly
 13 situated pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and (b)(3). As used
 14 herein, the "Class Period" means the period during which the Products were sold with
 15 the false and misleading representations challenged in this action. The proposed class
 16 is defined below (the "Class"):

17
 18 "All persons who, during the Class Period, purchased one or more of the
 19 Products in California for their personal use and not for resale, while the
 20 Product(s) purchased contained allulose and bore the Representations. For
 21 purposes of this definition, a purchase made online and delivered to an
 address in California is a purchase in California."

22 78. The Class does not include: (1) Defendant or their officers or directors; (2)
 the Judge or Magistrate Judge assigned to this action; (3) the assigned Judge's or
 23 Magistrate Judge's staff and family; (4) Plaintiff's counsel or Defendant's counsel; (5)
 24 any person who purchased the Products for resale; (6) Defendant's parents,
 25 subsidiaries, affiliates, officers, directors, employees, and agents, and any entity in
 26 which Defendant have a controlling interest; (7) the legal representatives, heirs,
 27 successors, and assigns of any excluded person; (8) any person who timely elects to be
 28

1 excluded; and (9) any claim for personal injury, wrongful death, or emotional distress.

2 79. Plaintiff reserves the right to amend the class definitions and add classes
3 or subclasses as appropriate based on investigation, discovery, and the specific theories
4 of liability.

5 80. **Ascertainability:** The Class is ascertainable because membership is
6 determined by objective criteria — the purchase of an identified Product, in California,
7 during the Class Period, while the Product contained allulose and bore the
8 Representations. Class Members may be identified through Defendant's records, the
9 records of third-party retailers and online marketplaces including Amazon.com, loyalty
10 and rewards program data, and self-identification by affidavit.

11 81. **Numerosity:** While the exact number of members of the Class is unknown
12 to Plaintiff at this time and can only be determined by appropriate discovery, upon
13 information and belief, members of the Class number at least in the thousands. Members
14 of the Class may be notified of the pendency of this action by published and digital
15 notice and, where available, by direct notice using the sales and customer records of
16 Defendant, third-party retailers, and online marketplaces including Amazon.com.

17 82. **Existence and Predominance of Common Questions of Law and Fact:**
18 Common questions of law and fact exist as to all members of the Class and predominate
19 over any questions affecting only individual members. These common legal and factual
20 questions include, but are not limited to:

- 21 (a) Whether allulose is a sugar;
- 22 (b) Whether the Products contained less than 0.5 grams of sugars per serving, as
23 required by 21 C.F.R. § 101.60(c)(1)(i);
- 24 (c) Whether reasonable consumers would understand Defendant's
25 representations and warranties concerning the Products to be untrue and
26 misleading;
- 27 (d) Whether Defendant's representations and warranties were material;
- 28

- 1 (e) Whether the Products are misbranded under federal and California law;
- 2 (f) Whether Defendant was unjustly enriched as a result of the unlawful
- 3 conduct alleged in this Complaint;
- 4 (g) Whether Plaintiff and the members of the Class have suffered damages as a
- 5 result of Defendant's actions and the amount of those damages;
- 6 (h) Whether Plaintiff and the members of the Class are entitled to statutory
- 7 damages;
- 8 (i) Whether Plaintiff and the members of the Class are entitled to attorney fees
- 9 and costs;
- 10 (j) Whether the Representations are nutrient content claims within the meaning
- 11 of 21 C.F.R. § 101.13(b);
- 12 (k) Whether the Products' labels bear the disclosure required by 21 C.F.R. §
- 13 101.60(c)(1)(ii) for a "sugar free" claim on a food containing a sugar
- 14 ingredient; and
- 15 (l) Whether the Representations caused Plaintiff and Class Members to pay a
- 16 price premium, and whether that premium is measurable on a classwide
- 17 basis through a common methodology.

18 83. Additional questions of law and fact common to the members of the Class
 19 include whether Defendant violated California's Consumers Legal Remedies Act
 20 ("CLRA"), Cal. Civ. Code § 1750 et seq., California's False Advertising Law ("FAL"),
 21 Cal. Bus. & Prof. Code § 17500 et seq., and California's Unfair Competition Law
 22 ("UCL"), Cal. Bus. & Prof. Code § 17200 et seq., the Sherman Food, Drug, and
 23 Cosmetic Law, Cal. Health & Safety Code §§ 110660 and 110760, and Cal. Com. Code
 24 § 2313.

25 84. Typicality: The claims of the named Plaintiff are typical of the claims of
 26 other members of the Class because the named Plaintiff was exposed to Defendant's
 27 Representations, purchased the Products in reliance on those Representations, and
 28 suffered the same economic injury as a result of the same course of conduct —

1 Defendant's uniform labeling and marketing of the Products. Each variety of the
2 Products bears materially identical Representations, is sweetened with allulose, and is
3 subject to the same federal and California labeling standards. The differences among
4 the varieties are limited to flavor and packaging and are immaterial to the claims
5 alleged. Plaintiff's claims as to the variety she purchased are therefore substantially
6 similar to the claims of Class Members who purchased the other varieties.

7 85. Plaintiff has Article III standing to pursue each claim asserted herein: she
8 purchased the Products in reliance on the Representations, paid a price premium, and
9 lost money as a result.

10 86. Adequacy: Plaintiff will fairly and adequately represent and protect the
11 interests of the Class as required by Federal Rule of Civil Procedure 23(a)(4). Plaintiff
12 is an adequate representative because she has no interests adverse to those of the Class,
13 is committed to the vigorous prosecution of this action, understands the duties of a class
14 representative, and has retained counsel competent and experienced in complex class
15 action and consumer false-advertising litigation.

16 87. Superiority: A class action is superior to all other available methods for the
17 fair and efficient adjudication of the claims asserted in this action under Federal Rule
18 of Civil Procedure 23(b)(3) because the expense and burden of individual litigation
19 make it economically unfeasible for members of the Class to seek redress outside a class
20 action. Plaintiff paid for the Products, and the price premium attributable to the
21 Representations is a fraction of that amount. No Class Member has an interest in
22 individually controlling the prosecution of a separate action. Plaintiff is aware of no
23 litigation commenced by any member of the Class concerning this controversy.
24 Concentrating the claims in this forum is desirable because Plaintiff and every member
25 of the Class purchased the Products in California, a substantial number of them in this
26 District, and because the claims of the Class arise under California law. Even if Class
27 Members could afford individual litigation, the resulting burden on the courts would be
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1 substantial. Individualized litigation would also create a risk of varying, inconsistent,
 2 or contradictory judgments and would magnify delay and expense by requiring multiple
 3 trials of the same factual issues. By contrast, maintaining this action as a class action
 4 with respect to some or all issues presents fewer management difficulties, conserves the
 5 resources of the parties and courts, and protects each Class Member's rights. Plaintiff
 6 anticipates no difficulty in managing this action as a class action. Classwide relief is
 7 essential to compel compliance with applicable consumer-protection laws. Separate
 8 actions could also subject Defendant to inconsistent obligations.

9 88. Defendant has acted and refused to act on grounds generally applicable to
 10 the Class by uniformly labeling, marketing, and selling the Products bearing the
 11 Representations. Final injunctive and corresponding declaratory relief is therefore
 12 appropriate respecting the Class as a whole under Federal Rule of Civil Procedure
 13 23(b)(2).

14 **CAUSES OF ACTION**
 15 **COUNT I**
 16 **VIOLATION OF CALIFORNIA'S CONSUMERS LEGAL REMEDIES ACT**
("CLRA") CAL. CIV. CODE § 1750 ET SEQ.

17 89. Plaintiff incorporates by reference each of the allegations contained in the
 18 foregoing paragraphs of this Complaint as if fully set forth herein.

19 90. Plaintiff brings this claim on behalf of herself and the Class against
 20 Defendant.

21 91. The Products are "goods" within the meaning of Cal. Civ. Code § 1761(a),
 22 Defendant is a "person" within the meaning of § 1761(c), Plaintiff and the Class
 23 Members are "consumers" within the meaning of § 1761(d), and Defendant's sale of
 24 the Products to them constitutes "transactions" within the meaning of § 1761(e).

25 92. Civil Code § 1770(a)(5) prohibits "[r]epresenting that goods or services
 26 have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that
 27 they do not have or that a person has a sponsorship, approval, status, affiliation, or
 28

1 connection that the person does not have.”

2 93. Civil Code § 1770(a)(7) prohibits “[r]epresenting that goods or services
3 are of a particular standard, quality, or grade, or that goods are of a particular style or
4 model, if they are of another.”

5 94. Civil Code § 1770(a)(9) prohibits “advertising goods or services with
6 intent not to sell them as advertised.”

7 95. Civil Code § 1770(a)(16) prohibits “[r]epresenting that the subject of a
8 transaction has been supplied in accordance with a previous representation when it has
9 not.”

10 96. Defendant violated each of these provisions by representing that the
11 Products are “Sugar Free” when they contain several grams of allulose— a sugar—per
12 serving; by failing to disclose that allulose is a sugar or to provide the disclosure
13 required by 21 C.F.R. § 101.60(c)(1)(ii) for a “sugar free” claim on a food containing a
14 sugar ingredient; by selling the Products in a condition in which they are misbranded
15 under 21 U.S.C. § 343 and Cal. Health & Safety Code §§ 110660 and 110760 and
16 therefore could not lawfully be sold.

17 97. Defendant’s Representations were material. A reasonable consumer would
18 attach importance to whether a food contains sugar in deciding whether to purchase it,
19 and Defendant placed the Representations on the principal display panel and in the title
20 and description of the Products’ online listings precisely because they drive purchases.
21 The Representations enabled Defendant to charge, and Plaintiff and the Class Members
22 to pay a price premium over comparable products that do not bear them.

23 98. Plaintiff and the Class Members saw, relied on, and reasonably understood
24 the Representations to mean that the Products contained no sugar. Had they known that
25 Defendant adds allulose—a sugar—to the Products, they would not have purchased the
26 Products or would have paid substantially less for them. Plaintiff and the Class
27
28

1 Members therefore suffered damage as a result of Defendant's violations within the
2 meaning of Cal. Civ. Code § 1780(a).

3 99. Defendant's wrongful business practices constituted, and still constitute, a
4 continuing course of conduct in violation of the CLRA.

5 100. Defendant knew or should have known that the Representations were false
6 and misleading. Defendant formulates the Products, controls their labels, and list
7 allulose as the second ingredient by weight while representing on the front panel that
8 the Products contain no sugar. Defendant made the Representations willfully, wantonly,
9 and with reckless disregard for the truth.

10 101. Concurrently with the filing of this Complaint, counsel for Plaintiff is
11 mailing a pre-suit notice letter pursuant to Cal. Civ. Code § 1782(a) via certified mail,
12 return receipt requested, to Defendant at its principal places of business and to their
13 respective agents for service of process in California. The letter identifies the particular
14 CLRA violations alleged, is sent on behalf of Plaintiff and all similarly situated
15 consumers, and demands that Defendant correct, repair, replace, or otherwise rectify the
16 unlawful, unfair, false, and deceptive practices alleged herein. If Defendant fails to do
17 so within thirty days, Plaintiff will amend this Complaint to seek actual, statutory, and
18 punitive damages under Cal. Civ. Code § 1780(a).

19 102. Plaintiff and the Class Members currently seek injunctive relief under the
20 CLRA and an award of attorney fees and costs under Cal. Civ. Code § 1780(e) and
21 reserve the right to amend the Complaint to seek any additional relief authorized after
22 expiration of the statutory notice period. Cal. Civ. Code §§ 1780, 1782(d).

23 **COUNT II**

24 **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW ("UCL")** 25 **CAL. BUS. & PROF. CODE § 17200 ET SEQ.**

26 103. Plaintiff hereby incorporates by reference and re-alleges the allegations
27 contained in all preceding paragraphs of this Complaint.

28 104. Plaintiff brings this claim individually and on behalf of the Class against

1 Defendant.

2 105. Defendant violated California’s Unfair Competition Law, Cal. Bus. &
3 Prof. Code §§ 17200–17210, by engaging in unfair, fraudulent, and unlawful business
4 practices.

5 106. Plaintiff has standing to pursue this claim because she suffered an injury
6 in fact and lost money or property as a result of Defendant’s conduct. Cal. Bus. & Prof.
7 Code § 17204. Plaintiff purchased the Products for personal use, relied on Defendant’s
8 representations that they were “Sugar Free,” and paid a price premium and spent money
9 she otherwise would not have spent had she known that the Products contained several
10 grams of allulose per serving.

11 107. The UCL defines unfair competition to “mean and include any unlawful,
12 unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading
13 advertising and any act prohibited by Chapter 1 (commencing with Section 17500) of
14 Part 3 of Division 7 of the Business and Professions Code.” Cal. Bus. & Prof. Code §
15 17200. A business act or practice is “unlawful” if it violates any established state or
16 federal law. A practice is unfair if it (1) offends public policy; (2) is immoral, unethical,
17 oppressive, or unscrupulous; or (3) causes substantial injury to consumers. California
18 courts apply three tests to the unfair prong in consumer cases: whether the conduct is
19 tethered to a legislatively declared policy; whether the gravity of the harm outweighs
20 the utility of the conduct; and whether the injury is substantial, not outweighed by
21 countervailing benefits to consumers or competition, and not reasonably avoidable.
22 Plaintiff pleads that Defendant’s conduct is unfair under each test. The UCL allows “a
23 person who has suffered injury in fact and has lost money or property” to prosecute a
24 civil action for violation of the UCL. Cal. Bus. & Prof. Code § 17204.

25 108. Defendant violated the UCL’s proscription against engaging in Unlawful
26 Business Practices through their violations of the FAL, Cal. Bus. & Prof. Code §17500
27 et seq.; the CLRA, Cal. Civ. Code § 1770 et seq.; the Sherman Law, including, without
28

1 limitation, Cal. Health & Safety Code §§ 110100, 110390, 110395, 110398, 110400,
2 110660, 110670, 110760, 110765, and 110770; and the federal food-labeling
3 requirements adopted by the Sherman Law, including 21 U.S.C. § 343(a)(1) and
4 (r)(1)(A) and 21 C.F.R. §§ 101.13, 101.60(c)(1), and 101.60(c)(1)(ii). The claim is
5 therefore not merely false; it is an unauthorized nutrient content claim.

6 109. Defendant has also violated the UCL's proscription against engaging in
7 Unfair Business Practices. Defendant's acts, omissions, misrepresentations, practices,
8 and nondisclosures as alleged herein also constitute unfair business acts and practices
9 within the meaning of Business & Professions Code § 17200 et seq. Defendant's
10 conduct is substantially injurious to consumers, offends public policy, and is immoral,
11 unethical, oppressive, and unscrupulous. The gravity of Defendant's conduct outweighs
12 any alleged benefits attributable to it. There is no utility in representing that a product
13 sweetened with a sugar contains no sugar. Furthermore, Defendant's false and
14 misleading representations are detrimental to competitors offering sugar-free
15 confections that either do not make similar claims or do not contradict those claims by
16 sweetening their products with sugar. Defendant's misrepresentations and omissions
17 therefore harm consumers and the market as a whole.

18 110. Defendant has further violated the UCL's proscription against Fraudulent
19 Business Practices. Defendant's Representations are likely to deceive, and did deceive,
20 reasonable consumers, including Plaintiff.

21 111. Plaintiff and the Class Members suffered substantial injury by virtue of
22 buying the Products that they would not have purchased absent Defendant's unlawful,
23 fraudulent, and unfair marketing, advertising, packaging, and omissions about the
24 presence and amount of sugar in the Products.

25 112. The gravity of the consequences of Defendant's conduct as described
26 above outweighs any justification, motive, or reason therefor, particularly considering
27 the available legal alternatives in the marketplace. Such conduct is immoral, unethical,
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1 or unscrupulous; it offends established public policy and is substantially injurious to
2 Plaintiff and the Class Members.

3 113. Plaintiff and the Class Members could not have reasonably avoided their
4 injury or known that the Products' prominent labeling and marketing were inaccurate.
5 Consumers lack the specialized knowledge to determine whether an ingredient such as
6 allulose is a sugar, and Defendant's labels affirmatively assured them that the Products
7 contained none. As such, they could not have reasonably avoided the injury they
8 suffered. That injury is substantial and is not outweighed by any countervailing benefit
9 to consumers or to competition.

10 114. Plaintiff lacks an adequate remedy at law for the equitable relief sought
11 under this Count, for the reasons alleged in the paragraphs titled "Plaintiff Lacks an
12 Adequate Remedy at Law" above. Restitution measured by Defendant's revenues from
13 sales of the Products reaches amounts that damages measured by Plaintiff's price
14 premium would not reach and reaches purchases falling outside the limitations periods
15 governing Plaintiff's other claims. Plaintiff further seeks prospective injunctive relief,
16 which no legal remedy can supply. To the extent the Court determines that Plaintiff has
17 an adequate remedy at law as to any claim for equitable relief, Plaintiff pleads that claim
18 in the alternative pursuant to Federal Rule of Civil Procedure 8(a)(3).

19 115. Pursuant to California Business and Professions Code § 17203, Plaintiff
20 and the Class Members seek restitution, injunctive relief, and all other relief that the
21 Court deems proper, together with attorney fees and costs pursuant to Cal. Code Civ.
22 Proc. § 1021.5.

23 **COUNT III**

24 **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW ("FAL") CAL. BUS. & PROF. CODE § 17500 ET SEQ.**

25 116. Plaintiff hereby incorporates the foregoing allegations as if fully set forth
26 herein.

27 117. Plaintiff brings this claim on behalf of herself and the Class against
28

1 Defendant.

2 118. Defendant's acts and practices, as described herein, have deceived or are
3 likely to deceive members of the Class and the public. Defendant represents that the
4 Products are "Sugar Free" even though they contain several grams of allulose per
5 serving—many multiples of the 0.5-gram cutoff—and fail to disclose that allulose is a
6 sugar or to provide the disclosure that 21 C.F.R. § 101.60(c)(1)(ii) requires when a
7 "sugar free" claim appears on a food containing a sugar ingredient.

8 119. Defendant has disseminated uniform advertising regarding the Products
9 throughout California and the United States. The advertising was unfair, deceptive,
10 untrue, or misleading within the meaning of Cal. Bus. & Prof. Code § 17500 and was
11 intended and likely to deceive consumers.

12 120. Section 17500 reaches any statement concerning personal property
13 disseminated "in any newspaper or other publication, or any advertising device, or by
14 public outcry or proclamation, or in any other manner or means whatever, including
15 over the Internet." The Products' labels and packaging, Defendant's product pages, and
16 the title, description, and package images appearing in the Products' listing are each
17 advertising within the meaning of § 17500.

18 121. In making and disseminating these statements, Defendant knew, or should
19 have known, that its advertising was untrue or misleading. Plaintiff and the Class based
20 their purchasing decisions on Defendant's materially false Representations and were
21 injured in fact and lost money or property as a result.

22 122. Plaintiff and the Class Members suffered injury in fact and lost money or
23 property as a result of Defendant's false advertising within the meaning of Cal. Bus. &
24 Prof. Code § 17535. They paid a price premium for Products that were not as advertised
25 and would not have purchased the Products, or would have paid substantially less, had
26 the truth been disclosed.

27 123. Defendant's misrepresentations concerning the material facts described
28

1 above constitute false and misleading advertising and therefore violate Cal. Bus. & Prof.
2 Code § 17500 et seq.

3 124. Plaintiff lacks an adequate remedy at law for the equitable relief sought
4 under this Count, for the reasons alleged in the paragraphs titled “Plaintiff Lacks an
5 Adequate Remedy at Law” above. Restitution measured by Defendant’s revenues from
6 sales of the Products reaches amounts that damages measured by Plaintiff’s price
7 premium would not reach and reaches purchases falling outside the limitations periods
8 governing Plaintiff’s other claims. Plaintiff further seeks prospective injunctive relief,
9 which no legal remedy can supply. To the extent the Court determines that Plaintiff has
10 an adequate remedy at law as to any claim for equitable relief, Plaintiff pleads that claim
11 in the alternative pursuant to Federal Rule of Civil Procedure 8(a)(3).

12 125. Plaintiff and the Class Members seek restitution, injunctive relief, and all
13 other relief that the Court deems proper, together with attorney fees and costs pursuant
14 to Cal. Code Civ. Proc. § 1021.5.

15 **COUNT IV**

16 **BREACH OF EXPRESS WARRANTY**

17 126. Plaintiff hereby incorporates the foregoing paragraphs as if fully set forth
18 herein.

19 127. Plaintiff brings this claim individually and on behalf of the Class against
20 Defendant.¹⁵

21 128. Defendant is a merchant and seller of the Products within the meaning of
22 Cal. Com. Code §§ 2104 and 2103(1)(d). Under Cal. Com. Code § 2313, any
23 affirmation of fact or promise made by a seller which relates to the goods and becomes
24 part of the basis of the bargain creates an express warranty that the goods shall conform
25 to the affirmation or promise, and any description of the goods which is made part of
26 the basis of the bargain creates an express warranty that the goods shall conform to the

27 _____
28 ¹⁵ This Count is asserted on behalf of the Class under Cal. Com. Code § 2313

1 description.

2 129. Defendant's express warranties include the promises, affirmations of fact,
3 and descriptions Defendant made on the Products' packaging and in their marketing
4 that the Products are "Sugar Free".

5 130. This labeling and advertising constitute express warranties and became
6 part of the basis of the bargain between Plaintiff and members of the Class, on the one
7 hand, and Defendant, on the other.

8 131. To the extent vertical privity is required, it is satisfied or excused here.
9 Defendant's express warranties were made directly to consumers through the Products'
10 labels, packaging, and online listings, and Plaintiff and the Class Members purchased
11 the Products in reliance on those written representations. Defendant intended that the
12 Representations reach and be relied upon by retail purchasers, and Plaintiff and the
13 Class Members are the intended beneficiaries of Defendant's warranties.

14 132. As set forth above, Defendant purports through its labeling, marketing, and
15 packaging to warrant that the Products are "Sugar Free." Defendant breached its express
16 warranties by selling Products containing several grams of allulose—a sugar—per
17 serving. The Products do not conform to Defendant's Representations and warranties.

18 133. Plaintiff provided or is providing Defendant with notice of their breach.
19 Concurrently with the filing of this Complaint, counsel for Plaintiff is mailing notice by
20 certified mail, return receipt requested, advising Defendant of the breach of express
21 warranty alleged herein on behalf of Plaintiff and all similarly situated purchasers.
22 Notice is also excused because Defendant had actual knowledge that the Products did
23 not conform to the Representations, and because Plaintiff did not purchase the Products
24 directly from Defendant.

25 134. Plaintiff and members of the Class performed all conditions precedent to
26 Defendant's liability under those warranties when they purchased the Products.

27 135. Plaintiff and the members of the Class would not have purchased the
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1 Products had they known the Products' true nature.

2 136. As a result, Defendant breached the express warranties made to the Class.
3 Plaintiff and all members of the Class suffered financial injury and are entitled to
4 damages under Cal. Com. Code § 2714, measured by the difference at the time and
5 place of acceptance between the value of the Products as accepted and the value they
6 would have had if they had conformed to the Representations, together with incidental
7 and consequential damages under Cal. Com. Code § 2715.

8 **COUNT V**

9 **UNJUST ENRICHMENT**

10 137. Plaintiff hereby incorporates the foregoing paragraphs as if fully set forth
11 herein.

12 138. Plaintiff brings this claim individually and on behalf of the Class against
13 Defendant under California law.

14 139. To the extent required, Plaintiff asserts this cause of action in the
15 alternative to her legal claims, as permitted by Federal Rule of Civil Procedure 8, and
16 pleads it as a claim for restitution based on quasi-contract.

17 140. Plaintiff and the Class Members conferred a benefit on Defendant in the
18 form of revenues Defendant derived from their purchases of the Products.

19 141. Defendant knew of the benefit Plaintiff and the Class Members conferred
20 on them.

21 142. Defendant have been unjustly enriched by retaining revenues from
22 Plaintiff's and Class Members' purchases. That retention is unjust because Defendant
23 misrepresented that the Products were sugar free, causing purchases that otherwise
24 would not have occurred or would have occurred only at lower prices.

25 143. Defendant accepted and retained the benefit of revenues derived from sales
26 of the Products to Plaintiff and Class Members.

27 144. Defendant have thereby profited under circumstances that make it unjust
28 for Defendant to retain the benefit.

1 145. Plaintiff and Class Members are therefore entitled to restitution in the form
2 of revenues derived from Defendant's sale of the Products.

3 146. Plaintiff and the Class Members have suffered injury in fact and lost
4 money as a result of Defendant's conduct.

5 147. Plaintiff and the Class Members lack an adequate remedy at law with
6 respect to this claim and seek equitable relief as allowed by law.

7 148. Legal remedies available to Plaintiff and the Class Members are
8 inadequate because they are not as prompt, certain, or efficient as equitable relief.
9 Damages are not as certain as restitution because the standard that governs restitution
10 is different from the standard that governs damages. Hence, the Court may award
11 restitution even if it determines that Plaintiff has failed to adduce sufficient evidence to
12 support an award of damages. Damages and restitution are not the same amount. Unlike
13 damages, restitution is not limited to the amount of money a defendant wrongfully
14 acquired plus the legal rate of interest. Equitable relief, including restitution, entitles a
15 plaintiff to recover all profits from the wrongdoing, even where the original funds taken
16 have grown far greater than the legal rate of interest would recognize. Legal claims for
17 damages are not as certain as restitution because such claims require different elements.
18 In short, significant differences in proof and certainty establish that any potential legal
19 claim cannot serve as an adequate remedy at law. Here specifically, restitution measured
20 by Defendant's revenues from sales of the Products reaches amounts that damages
21 measured by Plaintiff's price premium would not, and it reaches purchases falling
22 outside the limitations periods governing Plaintiff's legal claims. Plaintiff further seeks
23 prospective injunctive relief, which no legal remedy can supply.

24 149. Equitable relief is appropriate because Plaintiff may lack an adequate
25 remedy at law if, for instance, damages resulting from her purchases of the Products are
26 determined to be less than the price premiums she paid. Without compensation for the
27 full price premiums, Plaintiff and the Class Members would be left without the parity
28

1 in purchasing power to which they are entitled.

2
3 **PRAYER FOR RELIEF**

4 WHEREFORE, Plaintiff, individually and on behalf of all others similarly
5 situated, seeks judgment against Defendant as follows:

6 a) For an order certifying the Class under Fed. R. Civ. P. 23 and naming Plaintiff
7 as representative of the Class, and Plaintiff's Counsel as Class Counsel;

8 b) For an order declaring that Defendant's conduct violates each of the statutes
9 referenced herein;

10 c) For an order finding in favor of Plaintiff and the Class on all counts asserted
11 herein;

12 d) For compensatory, statutory, and punitive damages in amounts to be
13 determined by the Court and/or jury, consistent with applicable law and only under
14 causes of action that permit such relief, including such damages as Plaintiff may seek
15 by amendment under Cal. Civ. Code § 1780(a) upon expiration of the notice period
16 provided by Cal. Civ. Code § 1782;

17 e) For pre- and post-judgment interest on all amounts awarded, including under
18 Cal. Civ. Code §§ 3287 and 3288;

19 f) For an order of restitution, disgorgement, and all other forms of equitable
20 monetary relief;

21 g) For injunctive relief as pleaded or as the Court may deem proper, including an
22 order requiring Defendant to cease labeling, marketing, and selling the Products with
23 the Representations and to make affirmative disclosures sufficient to dispel the public
24 misperception created by Defendant's conduct; and

25 h) For an order awarding Plaintiff's and the Class's reasonable attorney fees,
26 expenses, and costs of suit, pursuant to Cal. Code Civ. Proc. § 1021.5, Cal. Civ. Code
27 § 1780(e), and Cal. Com. Code § 2715.

JURY TRIAL DEMAND

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

Dated: September 17, 2026

Respectfully submitted,

/s/ Daniel Srourian

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Class*