IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ROSEANN VENTURA, individually and on behalf of herself and all others similarly situated, Plaintiff, v. CVS PHARMACY, INC., Defendant.	Case No. 1:26-cv-12669 **CLASS ACTION COMPLAINT** Jury Trial Demanded

CLASS ACTION COMPLAINT

Plaintiff Roseann Ventura ("Plaintiff"), by her undersigned attorneys, individually and on behalf of all others similarly situated, upon personal knowledge as to herself and her own acts, and upon information and belief as to all other matters, brings this Class Action Complaint against Defendant CVS Pharmacy, Inc. ("CVS" or "Defendant") for violations of state statutes and common-law doctrines, seeking actual damages, statutory damages, restitution, injunctive relief, pre- and post-judgment interest, and reasonable attorneys' fees and costs. Plaintiff alleges the following upon personal knowledge as to herself and her own actions, and upon information and belief, including the investigation of her counsel, as to all other matters.

NATURE OF THE ACTION

1. This class action challenges Defendant's false and misleading marketing of its CVS-brand Well Market Replenish Drink Mix products (the "Products"), which Defendant sells

through its more than 9,000 CVS Pharmacy retail locations throughout Illinois and the United States and online at CVS.com.[1]

2. Plaintiff and members of the proposed class purchased the Products because of Defendant's material representation, displayed prominently on the front of the Products' packaging, that the Products contain "ZERO SUGAR" (the "Representation"). Defendant reinforces the Representation online, where it markets the Products as "Sugar Free," touts their "Zero sugar formula," and describes them as a "zero-sugar blend."

3. Unbeknownst to reasonable consumers, however, the Products are not free of sugar. Each serving contains sugars, including allulose, in an amount far exceeding the 0.5-gram ceiling that federal law imposes on any "Zero Sugar" claim. Allulose is a monosaccharide and therefore a sugar under the federal labeling standard that Illinois law enforces. Defendant deliberately adds allulose to the Products as a sweetening ingredient.

4. The presence of sugar in the Products is confirmed by Defendant's own labels. The ingredient lists for the Products disclose that allulose is the first—and therefore the predominant—ingredient by weight. Defendant's label goes further still: it flags allulose with a double asterisk keyed to the statement "ADDS A DIETARILY INSIGNIFICANT AMOUNT OF SUGAR." Defendant thus concedes on its own packaging that allulose adds sugar to the Products, while misrepresenting how much. Because allulose is a sugar, and because each serving of the Products contains far more than 0.5 grams of it, the Products cannot truthfully or lawfully be labeled "Zero Sugar."

[1] CVS Health, *CVS Pharmacy Introduces Well Market, a Crave-Worthy Consumables Brand* (May 16, 2024), https://www.cvshealth.com/news/health-wellness-products/cvs-pharmacy-introduces-well-market-a-crave-worthy-consumables-brand.html.

5. Defendant made the Representation to induce consumers, including Plaintiff, to purchase the Products. The Representation is false and misleading: the Products are not free of sugar, and Defendant's own labels say otherwise.

6. This is a classic occurrence of "healthwashing," where companies like Defendant seek to induce the sale of a consumer product by making it appear healthier than it is, leading consumers like Plaintiff to buy products that do not deliver the represented benefit. Defendant markets the Products as wellness-oriented hydration drink mixes with "Zero Sugar"; this representation commands a price premium that Plaintiff and class members would not have paid had they known the Products contain sugar.

7. As a result of Defendant's conduct, Plaintiff and the class members were harmed by paying a price premium for the Products that they otherwise would not have paid, or would not have purchased the Products at all.

8. Accordingly, Plaintiff, on behalf of herself and all others similarly situated, brings this action seeking actual damages, statutory damages, restitution, injunctive relief, pre- and post-judgment interest, and reasonable costs and attorneys' fees under state statutes and common-law doctrines.

JURISDICTION AND VENUE

9. This Court has subject-matter jurisdiction pursuant to the Class Action Fairness Act, 28 U.S.C. § 1332(d), because (1) the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs; (2) the action is a class action; (3) there are members of the Classes, including Plaintiff, who are citizens of states different from Defendant; and (4) there are more than 100 Class members. Plaintiff is a citizen of Illinois, and Defendant is a citizen of Rhode Island.

10. This Court has specific personal jurisdiction over Defendant because Defendant purposefully directed its conduct at Illinois and Plaintiff's claims arise out of and relate to Defendant's contacts with this State. Defendant operates numerous CVS Pharmacy retail locations in Illinois, including in this District, through which it markets, distributes, and sells the Products bearing the challenged Representation to Illinois consumers. At all times relevant to this matter, Defendant, 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 Products, committed a statutory violation within Illinois related to the allegations made herein, and caused injuries to Plaintiff and the putative class members that arose out of acts and omissions occurring in the State of Illinois during the relevant period.

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: Plaintiff resides in this District, viewed and relied upon the challenged Representation in this District, and purchased the Products at a CVS Pharmacy store in this District. Venue is also proper pursuant to 28 U.S.C. § 1391(b)(1), (c)(2), and (d) because Defendant is subject to personal jurisdiction in this District with respect to this action and therefore resides here for venue purposes.

PARTIES

12. Plaintiff Roseann Ventura is a citizen of the United States and the State of Illinois residing in Chicago, Illinois. Beginning in or around June 2026, Plaintiff purchased the Products for personal use approximately once per month from a CVS Pharmacy retail store located in Chicago, Illinois, most recently in or around September 2026. Plaintiff purchased the Well Market Replenish Drink Mix and paid approximately $8.69 for each six-count box.

13. Plaintiff lives with Type 2 diabetes and monitors her blood glucose levels several times each day. Avoiding sugar is therefore particularly important to her purchasing decisions. Before purchasing the Products, Plaintiff saw and relied upon the prominent "ZERO SUGAR" Representation on the packaging. Plaintiff understood that representation to mean that the Products contained no sugar, and the representation was part of the basis of her bargain. Had Plaintiff known that the Products contain sugar, she would not have purchased them or would have paid substantially less for them.

14. Plaintiff remains interested in purchasing drink mixes and hydration products that truly contain no sugar. However, she cannot know with certainty whether the false labeling and marketing of the Products will be corrected, and the Products' composition may change over time. If Defendant continues to make the Representation, Plaintiff will be unable to make informed purchasing decisions and is likely to be misled again unless Defendant is required to ensure that the Products' marketing is accurate. Plaintiff is an average consumer who is not sophisticated in the chemistry, manufacturing, or formulation of food products, and neither Plaintiff nor reasonable consumers have the specialized knowledge needed to determine independently whether a listed ingredient, such as allulose, is or contains a sugar. Nor can Plaintiff determine from the Products' labels which sugars the Products contain or in what amounts, because Defendant declares "Total Sugars 0g" on the Products' Supplement Facts panel notwithstanding the sugars the Products contain.

15. Defendant CVS Pharmacy, Inc. is a Rhode Island corporation with its principal place of business at One CVS Drive, Woonsocket, Rhode Island 02895. Defendant is a subsidiary of CVS Health Corporation and operates the CVS Pharmacy retail chain. Defendant markets its

Well Market private-label brand, including the Products challenged in this Complaint, and is identified on the Products' packaging as their distributor.

16. Defendant formulated or caused the formulation of, manufactured or caused the manufacture of, labeled, marketed, distributed, and sold the Products. Defendant sells the Products throughout the United States, including in Illinois and this District, through its CVS Pharmacy retail stores, online through its own website, CVS.com, and through third-party delivery platforms. Defendant authorized the false, misleading, and deceptive marketing, advertising, distribution, and sale of the "Zero Sugar" Products to consumers nationwide, including in Illinois.

FACTUAL BACKGROUND

Consumers Pay a Premium for Products That Contain No Sugar

17. Consumer demand for products containing no added sugars has grown substantially in light of the variety of dangerous health conditions associated with the consumption of sugar, with recent surveys reporting that a substantial majority of U.S. consumers are limiting or avoiding sugar in their diets.[2]

18. Food manufacturers and retailers are acutely aware of this demand and of the premium consumers will pay to satisfy it. Products labeled "zero sugar," "0g sugar," or "sugar free" command higher prices than comparable products that do not bear those claims, and manufacturers reserve the front principal display panel of their packaging for the claims they

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

believe will most motivate a purchase. That is especially true for the millions of consumers who, like Plaintiff, manage diabetes or otherwise must closely monitor their sugar intake.

19. Defendant has capitalized on that demand. It markets drink mixes sweetened with allulose, a sugar, while labeling and advertising them as "Zero Sugar." Defendant thereby obtained an unfair competitive advantage over competitors whose no-sugar claims are true, at the expense of unwitting consumers.

Defendant's False and Misleading Representation

20. Defendant manufactures or causes to be manufactured, markets, and sells the Products under Well Market, a private-label food and beverage brand that Defendant launched in May 2024 and that it promotes as a brand its customers "can feel great about consuming . . . as part of their individual wellness goals."[3] The Products are sold at CVS Pharmacy stores throughout Illinois and the United States, online through CVS.com, and through third-party delivery services.

21. The full list of the Products at issue in this case is as follows: (1) Well Market Replenish Drink Mix, Watermelon (marketed on CVS.com as "Well Market Sugar Free Watermelon Replenish Drink, 6 ct"); (2) Well Market Replenish Drink Mix, Lemon Lime; and (3) all other Well Market products that contain allulose or any other sugar and bear the "Zero Sugar" Representation or a representation of the same meaning (collectively, the "Products").

22. On the front label of the Products, Defendant prominently represents that the Products contain "ZERO SUGAR," set off in bold capital letters and underscored in the upper left

[3] *See supra* note 1.

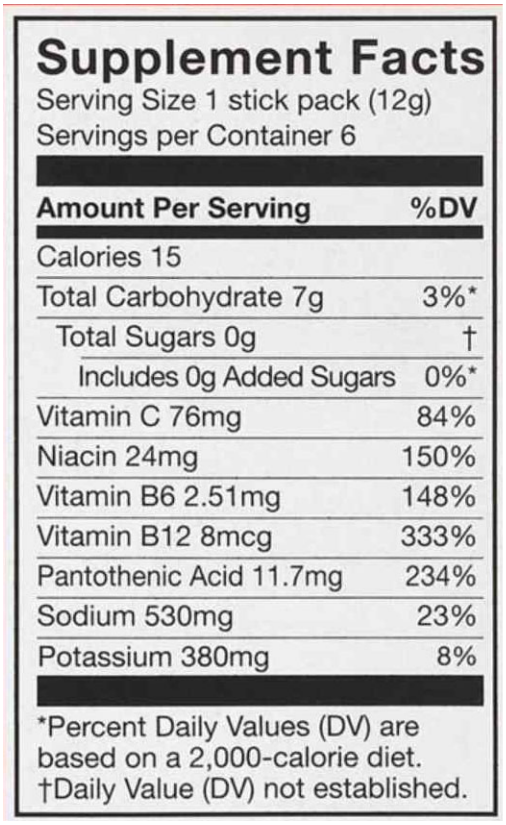
corner of the principal display panel. Below are illustrative samplings of the Products and the Representation:



23. Defendant disseminates the Representation through the Products' packaging and its online product listings on CVS.com, where Defendant names the Watermelon Product "Well Market Sugar Free Watermelon Replenish Drink," lists "Zero sugar formula" among the Products' features, and describes the Products as a "zero-sugar blend [that] delivers bold . . . flavor with

electrolytes and essential vitamins to support smarter sipping."[4] Defendant positions the Products as a wellness-oriented hydration drink that delivers flavor without sugar.

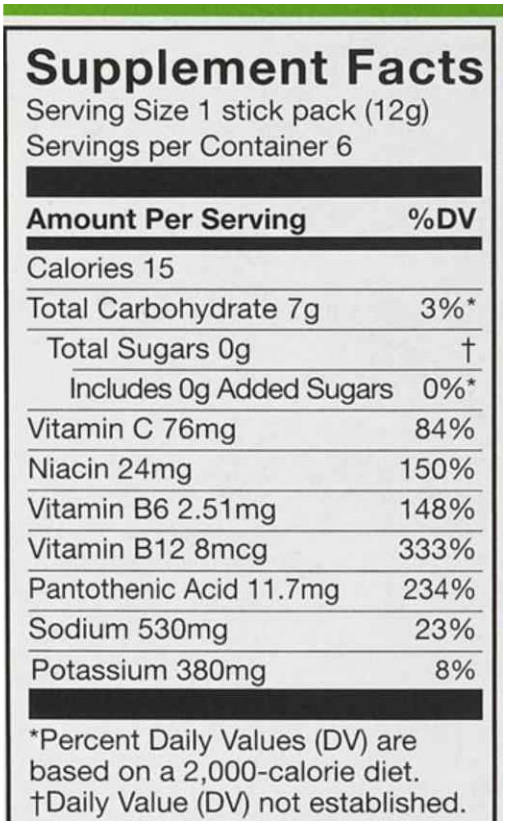
24. The same label that bears the "Zero Sugar" Representation discloses, in the ingredient statement, that the Products contain allulose. For each of the Products, allulose is the first ingredient listed—meaning it is present in a greater amount by weight than any other ingredient. *See* 21 C.F.R. § 101.4(a)(1). Allulose is therefore not present in a trace amount; Defendant deliberately adds it to the Products as their principal ingredient and a functional sweetener. The Products' Supplement Facts panel likewise declares 7 grams of total carbohydrate in each 12-gram stick pack, even as it declares "Total Sugars 0g."



Supplement Facts
Serving Size 1 stick pack (12g)
Servings per Container 6

Amount Per Serving	%DV
Calories 15	
Total Carbohydrate 7g	3%*
Total Sugars 0g	†
Includes 0g Added Sugars	0%*
Vitamin C 76mg	84%
Niacin 24mg	150%
Vitamin B6 2.51mg	148%
Vitamin B12 8mcg	333%
Pantothenic Acid 11.7mg	234%
Sodium 530mg	23%
Potassium 380mg	8%

*Percent Daily Values (DV) are based on a 2,000-calorie diet.
†Daily Value (DV) not established.

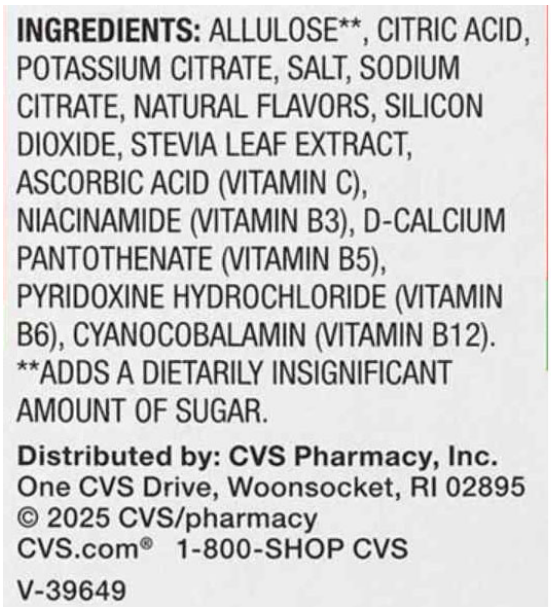


Supplement Facts
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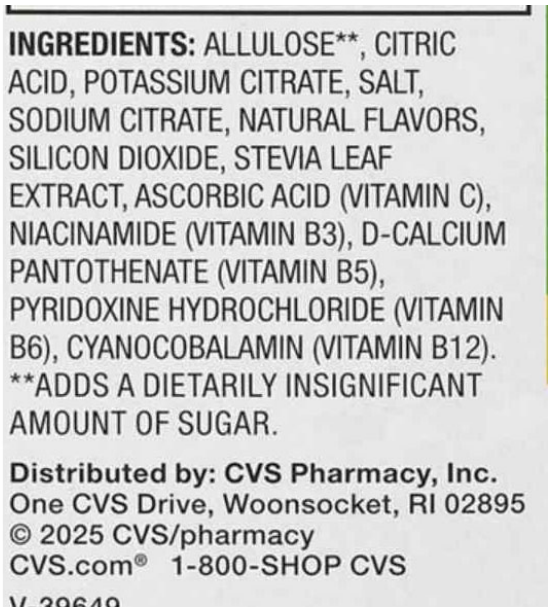
Amount Per Serving	%DV
Calories 15	
Total Carbohydrate 7g	3%*
Total Sugars 0g	†
Includes 0g Added Sugars	0%*
Vitamin C 76mg	84%
Niacin 24mg	150%
Vitamin B6 2.51mg	148%
Vitamin B12 8mcg	333%
Pantothenic Acid 11.7mg	234%
Sodium 530mg	23%
Potassium 380mg	8%

*Percent Daily Values (DV) are based on a 2,000-calorie diet.
†Daily Value (DV) not established.

[4] *See, e.g.*, https://www.cvs.com/shop/well-market-sugar-free-watermelon-replenish-drink-6-ct-prodid-632756; https://www.cvs.com/shop/well-market-lemon-lime-replenish-drink-mix-6-ct-0-24-oz-prodid-632755 (last visited Oct. 5, 2026).


INGREDIENTS: ALLULOSE**, CITRIC ACID, POTASSIUM CITRATE, SALT, SODIUM CITRATE, NATURAL FLAVORS, SILICON DIOXIDE, STEVIA LEAF EXTRACT, ASCORBIC ACID (VITAMIN C), NIACINAMIDE (VITAMIN B3), D-CALCIUM PANTOTHENATE (VITAMIN B5), PYRIDOXINE HYDROCHLORIDE (VITAMIN B6), CYANOCOBALAMIN (VITAMIN B12).
**ADDS A DIETARILY INSIGNIFICANT AMOUNT OF SUGAR.

Distributed by: CVS Pharmacy, Inc.
One CVS Drive, Woonsocket, RI 02895
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CVS.com® 1-800-SHOP CVS
V-39649


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25. Defendant's label also marks allulose with a double asterisk keyed to the statement "**ADDS A DIETARILY INSIGNIFICANT AMOUNT OF SUGAR." That statement is an express acknowledgment by Defendant that allulose is a sugar ingredient that adds sugar to the Products. It is also false. By describing the sugar that allulose adds as "dietarily insignificant," Defendant represents that allulose contributes an amount of sugar small enough to be declared as zero, that is, less than 0.5 grams per serving. *See* 21 C.F.R. §§ 101.9(c)(6)(ii), (f)(1). But because ingredients must be listed in descending order of predominance by weight, 21 C.F.R. § 101.4(a)(1), and the Products list thirteen ingredients in a 12-gram serving, allulose necessarily constitutes no less than approximately 0.92 grams of each serving—nearly double the 0.5-gram ceiling that federal law imposes on any "zero sugar" claim. The label establishes a still-higher floor. The Products declare 380 milligrams of potassium per serving and potassium citrate is the only listed ingredient that supplies potassium. Delivering that much potassium requires approximately one gram of potassium citrate, and allulose, which is listed ahead of both citric acid and potassium citrate, must be present in at least that amount. In reality, the allulose content is far higher: allulose

precedes citric acid, three mineral salts, natural flavors, an anti-caking agent, a sweetener extract, and five vitamins present in milligram or microgram quantities, and, upon information and belief, allulose accounts for most of the 7 grams of carbohydrate Defendant declares in each serving

26. The Representation communicates to reasonable consumers that the Products contain no sugar. That is the plain and ordinary meaning of "Zero Sugar," and federal law prescribes an objective standard, which Illinois law enforces, governing when that term may be used.

27. "Zero Sugar" is an absolute, objective, and quantitative claim concerning a measurable physical attribute of the Products. It is one of the terms expressly governed by federal regulation, along with "sugar free," "no sugar," and "free of sugar," and federal law permits such a claim only when a product contains less than 0.5 grams of sugar per labeled serving and contains no ingredient that is a sugar, unless the latter is accompanied by a specific qualifying statement. See 21 C.F.R. § 101.60(c)(1). The Products fail the first of these independent conditions—which no asterisked disclaimer can cure—because each serving contains well over 0.5 grams of sugars, including allulose.

28. Plaintiff does not seek to hold Defendant to any standard stricter than, or different from, federal law. Plaintiff's claims rest on the federal standard itself: a product may not be labeled "Zero Sugar" if it contains 0.5 grams or more of sugars, as defined in 21 C.F.R. § 101.9(c)(6)(ii), per serving. That standard measures the total of all free mono- and disaccharides in the food, from whatever ingredient or source derived. The Products fail it.

Allulose Is a Sugar

29. As a monosaccharide, allulose falls squarely within the Food and Drug Administration's ("FDA") codified definition of sugar. *See* 21 C.F.R. § 101.9(c)(6)(ii) (defining

"Total sugars" as "the sum of all free mono- and disaccharides (such as glucose, fructose, lactose, and sucrose)"). Consistent with that definition, the FDA has stated that allulose, "as a monosaccharide, must be included" in the Total Sugars declaration pending any future rulemaking that would otherwise exclude the substance.[5] No such rulemaking has occurred. In 2026, at the Seventh Circuit's invitation, the FDA filed an amicus brief taking the position that § 101.9(c)(6)(ii) is unambiguous, that "Total Sugars" as defined in that regulation includes all monosaccharides, including allulose, and that the agency's 2020 guidance concerning allulose (the "Allulose Guidance") is not an interpretation of the regulation but an announcement of an enforcement position. *See Franco v. Chobani, LLC*, 184 F.4th 599, 604 (7th Cir. 2026) (describing Brief for the United States as Amicus Curiae at 11–22).

30. In *Franco*, the Seventh Circuit held that allulose is a sugar under federal labeling regulations. The court held that 21 C.F.R. § 101.9(c)(6)(ii) unambiguously defines "Total Sugars" to include every free monosaccharide, that the parenthetical "(such as glucose, fructose, lactose, and sucrose)" is a non-exhaustive list of illustrative examples rather than a limitation on the definition, and that allulose—an undisputed monosaccharide—is therefore a sugar. *Id.* at 604–05. The court further held that the Allulose Guidance was not entitled to deference because the regulation is unambiguous and the guidance merely announced a change in the agency's enforcement policy rather than interpreting the regulation. Because the plaintiffs sought to enforce standards identical to the federal requirements, the court held that their state-law claims were not preempted. *Id.* at 606. And the court held that the plaintiffs plausibly alleged that an absolute "Zero Sugar" promise on a product containing allulose was likely to deceive reasonable consumers,

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

explaining that how reasonable consumers understand such a label is a question of fact. *Id.* at 607–08.

31. The industry also recognizes that allulose is a sugar. One of the largest manufacturers of commercial-grade allulose has acknowledged that "[a]llulose is a monosaccharide, or simple sugar" and has stated in FDA filings that "[a]llulose is a monosaccharide and is classified as a sugar."[6]

32. Allulose is not merely classified as a sugar; it is used as one. Defendant adds allulose to the Products as their predominant ingredient, listing it first by weight, demonstrating that it is deliberately used as a functional sweetener rather than being present merely in a trace quantity. Defendant itself acknowledges on the Products' labels that allulose "adds" sugar.

33. Commercial allulose is manufactured from other sugar precursors, typically by enzymatically converting fructose into allulose and then separating, purifying, and concentrating or crystallizing the result.

34. Not only is allulose a sugar, but its use as an additive can cause gastrointestinal effects such as nausea, bloating, diarrhea, and abdominal pain. A large clinical trial on the gastrointestinal tolerance of allulose determined that, compared to traditional cane sugar, consumption of allulose resulted in significantly higher frequencies of symptoms of diarrhea, abdominal distention, and abdominal pain, and that increasing the level of ingested allulose

[6] *Tate & Lyle Study*, Aug. 13, 2018, at p. 6, https://www.regulations.gov/document/FDA-2015-P-1201-0014 ("Allulose is a monosaccharide, or simple sugar, that naturally presents in small quantities in fruits like figs and raisins and a variety of sweet foods like caramel sauce, maple syrup and brown sugar."); Citizen Petition Submitted by Tate & Lyle Ingredients Americas LLC requesting that Allulose be Exempt From Being Included As a Carbohydrate, Sugar, or Added Sugar in the Nutrition Facts Label on Foods and Beverages, April 10, 2015, Docket Number FDA-2015-P-1201.

resulted in incidences of severe nausea, abdominal pain, headache, anorexia, and diarrheal symptoms.[7]

The Products Violate the FDA Nutrient Content Regulations

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

36. FDA regulations distinguish mandatory or permitted declarations within the Nutrition Facts or Supplement Facts panel from nutrient-content claims appearing elsewhere on a label or in labeling. Information appearing as part of the Nutrition Facts or Supplement Facts panel is not itself a nutrient-content claim. 21 C.F.R. § 101.13(c). By contrast, Defendant's separate front-of-package "Zero Sugar" Representation expressly characterizes the level of sugar in the Products and is a nutrient-content claim governed by 21 C.F.R. §§ 101.13(b) and 101.60(c)(1). These requirements apply equally to products, like the Products, that are labeled as dietary supplements. See 21 C.F.R. § 101.13(b) (governing claims about nutrients required in labeling under § 101.9 "or under § 101.36"); 21 U.S.C. § 343(r)(1)(A).

37. Nutrient-content claims are strictly forbidden unless specifically allowed under FDA regulations. 21 C.F.R. § 101.13(b) ("A claim that expressly or implicitly characterizes the level of a nutrient of the type required to be in nutrition labeling under § 101.9 or under § 101.36 (that is, a nutrient content claim) may not be made on the label or in labeling of foods unless the

[7] *Memorandum from Center for Science in the Public Interest to Food and Drug Administration* (June 17, 2019), https://cspinet.org/sites/default/files/attachment/allulose%20final%20from%20CSPI.pdf; Han Y, Choi BR, Kim SY, Kim SB, Kim YH, Kwon EY, & Choi M.S., *Gastrointestinal Tolerance of D-Allulose in Healthy and Young Adults. A Non-Randomized Controlled Trial.* Nutrients, 2018 Dec 19;10(12):2010, doi: 10.3390/nu10122010

claim is made in accordance with this regulation and with the applicable regulations in subpart D …").

38. Within Subpart D, section 101.60(c)(1) specifically governs the "sugar free" and "zero sugar" nutrient-content claims at issue in this case; indeed, "zero sugar" is one of the terms the regulation lists by name. That regulation provides that such terms may not be used on the label or in the labeling of a food unless, among other requirements, both of the following conjunctive conditions are met:

> (i) The food contains less than 0.5 g of sugars, as defined in § 101.9(c)(6)(ii), per reference amount customarily consumed and per labeled serving; and
>
> (ii) The food contains no ingredient that is a sugar or that is generally understood by consumers to contain sugars unless the listing of the ingredient in the ingredient statement is followed by an asterisk that refers to a statement below the list of ingredients stating that the ingredient "adds a trivial amount of sugar," "adds a negligible amount of sugar," or "adds a dietarily insignificant amount of sugar."

21 C.F.R. § 101.60(c)(1)(i)–(ii). These requirements are conjunctive; each must be satisfied independently.

39. The Products do not comply with these regulations. *First*, the Products fail section 101.60(c)(1)(i). Allulose, as a monosaccharide, is a sugar within the meaning of § 101.9(c)(6)(ii), which section 101.60(c)(1)(i) incorporates by cross-reference. Because allulose is the predominant ingredient in each 12-gram serving of the Products, each serving contains well over 0.5 grams of sugars as defined in § 101.9(c)(6)(ii). The Products therefore cannot bear a "zero sugar" claim, regardless of any asterisked statement in the ingredient list. *Second*, Defendant's reliance on the qualifying statement described in section 101.60(c)(1)(ii) does not cure the violation. That qualifying statement is available only to a food that independently satisfies section 101.60(c)(1)(i)—that is, a food in which the asterisked ingredient in fact contributes less than 0.5

grams of sugar per serving. The Products do not. Defendant's asterisked statement that allulose adds a "dietarily insignificant amount of sugar" is therefore itself inaccurate, and it confirms that Defendant knows allulose is a sugar ingredient. And because allulose is a sugar, the "Zero Sugar" Representation is literally false.

40. The FDA's nonbinding Allulose Guidance does not authorize the challenged Representation. That guidance announces enforcement discretion, pending rulemaking, for excluding allulose from the gram amounts of "Total Sugars" and "Added Sugars" declared within the Nutrition Facts or Supplement Facts panel. It does not amend § 101.9(c)(6)(ii), address the requirements governing "zero sugar" claims under § 101.60(c)(1), or authorize a separate outside-panel representation that a product containing allulose is "Zero Sugar." As the Seventh Circuit explained, the guidance is an enforcement-policy statement, not an interpretation of the regulation, and the FDA's original definition of sugar remains in force. *Franco*, 184 F.4th at 604–07.

41. Neither the FDA's enforcement discretion under the Allulose Guidance nor any other FDA action immunizes Defendant from liability under state consumer-protection law. The FDA does not review or approve the labels of dietary supplements, or the nutrient-content claims made on them, before they are marketed. Upon information and belief, the FDA has never reviewed, approved, or required the Products' labels or the Representation. No federal law requires Defendant to make the Representation or prohibits Defendant from removing or correcting it. The Representation is a voluntary marketing claim that Defendant chose to make and could abandon at any time without FDA approval. A decision by the federal sovereign not to enforce its own labeling requirements with respect to allulose does not change the governing regulatory definition of sugar and says nothing about the requirements of state law. *Franco*, 184 F.4th at 606.

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

43. Plaintiff does not seek to enforce the FDCA directly. Rather, Plaintiff seeks relief under independently enforceable state consumer-protection laws, including Illinois law, which prohibits food labeling that is false or misleading in any particular and, as applied here, imposes requirements identical to the federal requirements described above. The federal provisions supply the objective standard against which the Representation is measured. Congress has further directed that the Nutrition Labeling and Education Act "shall not be construed to preempt any provision of State law, unless such provision is expressly preempted under section 403A" of the FDCA, 21 U.S.C. § 343-1. Pub. L. No. 101-535, § 6(c)(1), 104 Stat. 2353, 2364 (1990).

Defendant's Conduct Violates Illinois' Food Labeling Laws

44. 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."

45. 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 whether the labeling or advertising fails to disclose material facts in light of the representations made. 410 ILCS 620/2.11.

46. The IFDCA's misbranding standard is identical to the federal one: under both, a food is misbranded if its labeling is "false or misleading in any particular." *Compare* 410 ILCS 620/11(a), *with* 21 U.S.C. § 343(a)(1). The IFDCA further directs that Illinois food regulations conform, so far as practicable, to those promulgated under the federal Act. 410 ILCS 620/21(a).

Federal regulations provide that "sugars" include "all free mono- and disaccharides." 21 C.F.R. § 101.9(c)(6)(ii). Allulose is a monosaccharide and therefore constitutes a sugar under this regulatory definition. Federal regulations further prohibit the use of the terms "sugar free," "zero sugar," or other terms having the same meaning unless the food satisfies the conjunctive conditions of 21 C.F.R. § 101.60(c)(1).

47. Defendant prominently represents on the Products' labeling and packaging that the Products contain "Zero Sugar." That representation is false and misleading because the Products contain sugars, including allulose, as confirmed by Defendant's own ingredient statement and its own acknowledgment that allulose "adds" sugar. Because the Products bear a "Zero Sugar" nutrient-content claim despite containing well over 0.5 grams of sugars per serving, the Products are misbranded under Illinois law, and Defendant's advertising, distribution, and sale of the misbranded Products violate the IFDCA and the food-labeling requirements incorporated into Illinois law.

Reasonable Consumers Would Be Misled by Defendant's Deception

48. There is a probability that a significant portion of the general consuming public, and the consumers Defendant targets, acting reasonably in the circumstances, was and is likely to be misled by the "Zero Sugar" Representation into believing the Products contain no sugar. Consumers were in fact deceived: across Illinois and the United States, consumers purchased the Products based on the reasonable belief, induced by Defendant's absolute "Zero Sugar" promise, that they contained no sugar. This can be seen through online reviews from consumers who purchased the Products and praised them as "sugar-free."[8]

[8] *See* https://www.cvs.com/shop/well-market-sugar-free-watermelon-replenish-drink-6-ct-prodid-632756 (customer review by "Skye," titled "Tastes like a Watermelon Jolly Rancher!") (last visited Oct. 5, 2026).



49. Defendant's "Zero Sugar" claim is an absolute promise. Reasonable consumers have no reason to look beyond that conspicuous front-of-package promise, and are not expected to parse the ingredient statement or decipher an asterisked footnote to discover that the promise is false, or to determine, through independent knowledge of carbohydrate chemistry, that a listed ingredient is, or contains, a sugar. *See Bell v. Publix Super Mkts., Inc.*, 982 F.3d 468, 476 (7th Cir. 2020) (an accurate ingredient list does not, as a matter of law, cure a misleading front label).

50. The asterisked footnote on the back label does not dispel the deception; it repeats it. FDA's nutrition-labeling regulations define an "insignificant amount" of sugar to mean less than 0.5 grams per serving. 21 C.F.R. §§ 101.60(c)(1), 101.9(f)(1), 101.9(c)(6)(ii). The footnote thus tells consumers that allulose contributes a negligible amount of sugar to the Products. That is false: allulose contributes well over 0.5 grams of sugar to each serving. Even the rare consumer who reads every word of the Products' packaging including the ingredient footnote therefore receives the same message: that the Products contain no meaningful amount of sugar. No part of the Products' labeling discloses the truth.

51. Whether reasonable consumers care about the presence of allulose in particular is not the same question as whether they are deceived by an absolute promise that the Products contain "Zero Sugar." Defendant's Representation is deceptive because it tells consumers the Products contain no sugar despite the presence of sugars, including allulose. Consumers are entitled to receive the benefit of the bargain they were promised—a product free of sugar—regardless of the metabolic characteristics of any particular sugar. *See Franco*, 184 F.4th at 607–08.

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.

53. Nor should consumers be required to assess the quality of a product's manufacturing process for converting and purifying allulose from fructose.

54. The Representation is especially material to consumers who, like Plaintiff, live with diabetes or otherwise must monitor their sugar intake, and who rely on front-of-package sugar claims to make purchasing decisions quickly at the point of sale.

Defendant Knew the Representation Was False

55. Defendant knew, or should have known, that the Representation was false, misleading, deceptive, and unlawful when it formulated, labeled, marketed, advertised, distributed, and sold the Products. Specifically, Defendant knew that: (a) the Products contain sugars, including allulose, their predominant ingredient; (b) allulose is a sugar, as Defendant's own label acknowledges by stating that allulose "adds" sugar; (c) the Products' labels nevertheless represent

that they contain "Zero Sugar"; (d) reasonable consumers would rely on that label when purchasing; (e) consumers would not receive the represented benefit of the bargain; and (f) the Representation enabled Defendant to charge a premium for Products containing sugar.

56. Upon information and belief, Defendant, as the owner of the Well Market brand that formulated or approved the formulation of the Products, possesses or has access to specifications, certificates of analysis, or other data concerning the composition of the Products and their ingredients, including their sugar content.

57. Defendant, as the owner, marketer, and distributor of the Well Market brand and the Products, controlled or participated in making the Representation on the Products' labels and in advertisements. Defendant could have stopped using the Representation, accurately qualified it, or reformulated the Products to ensure that the Representation was true. Despite its knowledge that consumers reasonably rely on the Representation, Defendant chose to continue using it, thereby causing consumers to buy or overpay for the Products.

Defendant's "Zero Sugar" Representation Injured Plaintiff and the Class

58. Defendant concealed or failed to disclose material facts about the Products, including: (a) that the Products contain sugars, including allulose, which is a monosaccharide and a sugar; (b) that Defendant deliberately adds allulose to the Products as their predominant sweetening ingredient; (c) that the Products are not free of sugar; and (d) that the Products are misbranded under federal and Illinois law when sold bearing the Representation.

59. As an immediate, direct, and proximate result of Defendant's false, misleading, and deceptive representations and omissions, Defendant injured Plaintiff and class members in that they: (a) paid money for Products that were not as represented; (b) paid a premium for Products that were not as represented; (c) were deprived of the benefit of the bargain; (d) purchased Products

worth less than represented; and (e) with respect to Plaintiff and members of the Illinois Subclass, purchased misbranded Products that could not lawfully have been sold in Illinois.

60. Had Plaintiff and class members known that the Products contain sugar, they would not have purchased the Products or would have paid substantially less for them. Accordingly, Plaintiff and the Class Members suffered injury in fact and lost money or property because of Defendant's wrongful conduct.

CLASS ACTION ALLEGATIONS

61. **Proposed Class Definition**: Plaintiff brings this action pursuant to Federal Rules of Civil Procedure 23(a), (b)(2), and (b)(3), on behalf of herself and the following classes (collectively, the "**Classes**") of similarly situated individuals, defined as follows:

> **Nationwide Class:** All persons in the United States who, during the maximum period of time permitted by law, purchased Defendant's Products for their personal use.
>
> **Multi-State Subclass:** All persons who, during the maximum period of time permitted by law, purchased Defendant's Products for their personal use in Arizona, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Dakota, Vermont, Virginia, Washington, or Wisconsin (the "Multi-State Subclass States").
>
> **Illinois Subclass:** All persons who, during the maximum period of time permitted by law, purchased Defendant's Products in Illinois for their personal use.
>
> The Nationwide Class, the Multi-State Subclass, and the Illinois Subclass are referred to collectively as the "Classes," and their members as the "Class Members."

62. Excluded from the Classes are the following individuals and/or entities: Defendant and its parents, subsidiaries, affiliates, officers and directors, current or former employees, 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; and all judges assigned to hear any aspect of this litigation, as well as their immediate family members.

63. Plaintiff reserves the right to modify these class definitions, including by adding or removing states from the Multi-State Subclass, dividing the Multi-State Subclass into further subclasses by state or by groups of states with materially similar law, and adding class representatives, as she obtains relevant information through discovery.

64. **Numerosity:** Members of each Class are so numerous and geographically dispersed that individual joinder of all Class Members is impracticable. The precise number of Class Members is unknown to Plaintiff but is likely to be ascertained from Defendant's records, including its point-of-sale, online-order, and ExtraCare loyalty-program data, or through sales data obtained via third parties. At a minimum, there likely are tens of thousands of Class Members.

65. **Common Questions:** There are several questions of law and fact common to the claims of Plaintiff and the proposed Class Members, and those questions predominate over any questions that may affect individual proposed Class Members. Common questions include, but are not limited to, the following:

a. whether the Products contain sugars, as defined in 21 C.F.R. § 101.9(c)(6)(ii), including allulose, and in what amount per serving;

b. whether the Products truthfully could be labeled "Zero Sugar";

c. whether Defendant's conduct violated the State Consumer Protection Statutes;

d. whether reasonable consumers would rely upon Defendant's representation about the Products and reasonably believe the Products are free of sugar;

e. whether Defendant knew or should have known its representation was false or misleading;

f. whether Defendant was unjustly enriched as a result of the unlawful conduct alleged in this Complaint; and

g. whether Plaintiff and the Class Members are entitled to declaratory, equitable, or injunctive relief, and/or other relief, and the scope of such relief.

66. **Typicality**: Plaintiff's claims are typical of the claims of the proposed Class Members. In addition, Plaintiff is entitled to relief under the same causes of action and upon the same facts as the other Class Members.

67. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Classes and has retained competent counsel experienced in complex litigation and class action litigation. Plaintiff has no interests antagonistic to those of the Classes, and Defendant has no defenses unique to Plaintiff.

68. **Superiority:** Class proceedings are also superior to all other available methods for the fair and efficient adjudication of this controversy because joinder of all parties is impracticable. Even if proposed Class Members were able or willing to pursue such individual litigation, a class action would still be preferable due to the fact that a multiplicity of individual actions would likely increase the expense and time of litigation given the complex legal and factual controversies presented in this Class Action Complaint. A class action, on the other hand, provides the benefits of fewer management difficulties, single adjudication, economy of scale, and comprehensive supervision before a single court, and would result in reduced time, effort and expense for all parties and the Court, and ultimately, the uniformity of decisions.

69. **Declaratory and Injunctive Relief:** Pursuant to Rule 23(b)(2), declaratory and injunctive relief is appropriate in this matter. Defendant has acted or refused to act on grounds generally applicable to Plaintiff and the other Class members, thereby making appropriate final injunctive relief and declaratory relief, as described below, with respect to the Class Members as a whole. Unless a class-wide injunction is issued, Defendant will continue to advertise, market,

promote, and sell the Products in an unlawful and misleading manner, as described throughout this Complaint, and Class Members will continue to be misled, harmed, and denied their rights under the law.

COUNT I
VIOLATION OF STATE CONSUMER PROTECTION STATUTES
(ON BEHALF OF THE MULTI-STATE SUBCLASS)

70. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

71. Plaintiff brings this claim on behalf of herself and the members of the Multi-State Subclass against Defendant.

72. Each of the Multi-State Subclass States has enacted a statute that prohibits unfair, deceptive, or unconscionable acts or practices, or false advertising, in the conduct of trade or commerce (collectively, the "State Consumer Protection Statutes"): Arizona (Ariz. Rev. Stat. § 44-1521, *et seq.*); California (Cal. Bus. & Prof. Code § 17200, *et seq.*; Cal. Bus. & Prof. Code § 17500, *et seq.*; Cal. Civ. Code § 1750, *et seq.*); Colorado (Colo. Rev. Stat. § 6-1-101, *et seq.*); Connecticut (Conn. Gen. Stat. § 42-110a, *et seq.*); Delaware (Del. Code Ann. tit. 6, § 2511, *et seq.*); Florida (Fla. Stat. § 501.201, *et seq.*); Hawaii (Haw. Rev. Stat. § 480-1, *et seq.*); Idaho (Idaho Code § 48-601, *et seq.*); Illinois (815 ILCS 505/1, *et seq.*); Indiana (Ind. Code § 24-5-0.5-1, *et seq.*); Kentucky (Ky. Rev. Stat. Ann. § 367.110, *et seq.*); Maryland (Md. Code Ann., Com. Law § 13-101, *et seq.*); Massachusetts (Mass. Gen. Laws ch. 93A § 1, *et seq.*); Michigan (Mich. Comp. Laws § 445.901, *et seq.*); Minnesota (Minn. Stat. §§ 325F.67, 325F.68–.70, and 8.31, subd. 3a); Missouri (Mo. Rev. Stat. § 407.010, *et seq.*); Nebraska (Neb. Rev. Stat. § 59-1601, *et seq.*); Nevada (Nev. Rev. Stat. §§ 41.600 and 598.0903, *et seq.*); New Hampshire (N.H. Rev. Stat. Ann. § 358-A:1, *et seq.*); New Jersey (N.J. Stat. Ann. § 56:8-1, *et seq.*); New Mexico (N.M. Stat. Ann. § 57-12-1, *et seq.*); New York (N.Y. Gen. Bus. Law §§ 349 and 350); North Carolina (N.C. Gen. Stat.

§ 75-1.1, *et seq.*); North Dakota (N.D. Cent. Code § 51-15-01, *et seq.*); Oklahoma (Okla. Stat. tit. 15, § 751, *et seq.*); Oregon (Or. Rev. Stat. § 646.605, *et seq.*); Pennsylvania (73 Pa. Stat. Ann. § 201-1, *et seq.*); Rhode Island (R.I. Gen. Laws § 6-13.1-1, *et seq.*); South Dakota (S.D. Codified Laws § 37-24-1, *et seq.*); Vermont (Vt. Stat. Ann. tit. 9, § 2451, *et seq.*); Virginia (Va. Code Ann. § 59.1-196, *et seq.*); Washington (Wash. Rev. Code § 19.86.010, *et seq.*); and Wisconsin (Wis. Stat. § 100.18).

73. Defendant made the same "Zero Sugar" Representation on the label of every Product sold in every Multi-State Subclass State. For the reasons alleged above, the Representation was false, deceptive, and misleading, and Defendant's labeling, marketing, and sale of the Products bearing the Representation therefore violated each of the State Consumer Protection Statutes.

74. The State Consumer Protection Statutes are materially similar in the respects relevant here: each prohibits deceptive representations in the sale of consumer goods, and each affords a private remedy to consumers injured by such representations. To the extent the Court finds material differences among them, the claims may be adjudicated by state or by groups of states with materially similar law.

75. As alleged above, Defendant made the Representation knowingly, or with reckless disregard for its truth, and with the intent to mislead consumers.

76. The Representation was material and was likely to mislead reasonable consumers acting reasonably under the circumstances. Defendant intended that Plaintiff and the members of the Multi-State Subclass rely on the Representation in purchasing the Products.

77. As a direct and proximate result of Defendant's violations of the State Consumer Protection Statutes, Plaintiff and the members of the Multi-State Subclass suffered injury in fact,

ascertainable loss, and actual damages. Had they known that the Products contain sugar, they would not have purchased the Products or would have paid less for them.

78. Plaintiff and the members of the Multi-State Subclass seek all relief available under the State Consumer Protection Statutes, including actual damages; statutory, enhanced, or punitive damages; restitution; injunctive relief; and attorneys' fees and costs, in each case to the extent the applicable statute permits.

79. To the extent any State Consumer Protection Statute requires pre-suit notice or demand as a condition of recovering damages, Plaintiff does not presently seek damages under that statute and will amend this Complaint to seek such damages after providing the required notice.

COUNT II
VIOLATION OF ILLINOIS CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT
(ON BEHALF OF THE ILLINOIS SUBCLASS)

80. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

81. Plaintiff brings this claim on behalf of herself and the members of the Illinois Subclass against Defendant, in addition to and in the alternative to Count I.

82. The Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 505/1, *et seq.* (the "ICFA"), prohibits unfair or deceptive business practices in trade or commerce.

83. Plaintiff, the other Illinois Subclass members, and Defendant are "persons" within the meaning of the ICFA, 815 ILCS 505/1(c).

84. At all relevant times, Defendant was engaged in "trade" or "commerce" as defined under the ICFA, 815 ILCS 505/1(f). Plaintiff and the proposed Illinois Subclass are "consumers"

who purchased the Products for personal, family, or household use within the meaning of the ICFA, 815 ILCS 505/1(e).

85. The ICFA prohibits "unfair or deceptive acts or practices … in the conduct of any trade or commerce," including the use of deception, fraud, false pretenses, false promises, false advertising, misrepresentation, or the concealment, suppression, or omission of any material fact. 815 ILCS 505/2.

86. Defendant's conduct as alleged constitutes unfair and deceptive acts and practices in violation of the ICFA. Defendant engaged in deceptive marketing by misrepresenting and omitting material facts regarding the sugar content of the Products. The Representation was likely to mislead a reasonable consumer. Defendant's conduct is also unfair: it offends the public policy embodied in the federal and Illinois food-labeling laws described above, which prohibit a "Zero Sugar" claim on any product containing 0.5 grams or more of sugars per serving, and it caused substantial injury to consumers that they could not reasonably have avoided.

87. Defendant intended that Plaintiff and the other Illinois Subclass members rely on the Representation, and Plaintiff was actually deceived by it.

88. Defendant's misconduct took place within the State of Illinois and constitutes unfair or deceptive acts or practices in the course of trade and commerce in violation of 815 ILCS 505/2, by representing that the Products have characteristics or benefits that they do not have, within the meaning of Section 2 of the Uniform Deceptive Trade Practices Act, 815 ILCS 510/2(a)(5), which 815 ILCS 505/2 incorporates.

89. As a direct and proximate result of Defendant's violations of the ICFA, Plaintiff and the Illinois Subclass members have suffered actual damage. Had they been aware of the true

nature of the Products, Plaintiff and the Illinois Subclass members would have paid less for them or would not have purchased them.

90. Plaintiff and the other members of the Illinois Subclass have standing to pursue a cause of action for violations of the ICFA because they have suffered an injury in fact and lost money because of Defendant's actions set forth herein.

91. Based on Defendant's unfair and/or deceptive acts or practices, Plaintiff and the Illinois Subclass 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 THE NATIONWIDE CLASS)

92. Plaintiff incorporates the foregoing allegations as if fully set forth herein.

93. Plaintiff brings this claim on behalf of herself and the members of the Nationwide Class, in the alternative to Counts I and II.

94. Plaintiff brings this claim under the law of the State in which each member of the Nationwide Class purchased the Products. The elements of unjust enrichment are materially similar across the States, and any variations may be addressed through subclasses. In the alternative, Plaintiff brings this claim under the law of Rhode Island, where Defendant maintains its principal place of business and where, upon information and belief, the Representation was conceived, reviewed, approved, and disseminated, and Defendant received and retained the revenues from its sales of the Products.

95. Defendant's conduct violated state and federal law by manufacturing, advertising, labeling, marketing, distributing, and selling the Products while misrepresenting and omitting material facts, including by making the labeling Representation alleged herein.

96. As a direct result of Defendant's deceptive conduct, Defendant obtained unjust and inequitable benefits at the expense of Plaintiff and the members of the Nationwide Class. It would be inequitable for Defendant to retain the revenues derived from sales induced by its misleading Representation.

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

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

PRAYER FOR RELIEF

Wherefore, Plaintiff, individually and on behalf of the proposed Classes of similarly situated individuals, prays for an Order as follows:

A. Finding this action satisfies the prerequisites for maintenance as a class action set forth in Federal Rule of Civil Procedure 23 and certifying the proposed classes as defined herein;

B. Designating and appointing Plaintiff as class representative and Plaintiff's undersigned counsel as Class Counsel;

C. Declaring that Defendant's conduct, as set forth above, constitutes (i) a violation of the Illinois Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/1, et seq.); (ii) violations of the State Consumer Protection Statutes; and (iii) unjust enrichment;

D. Enjoining Defendant from continued use of the Representation;

E. Awarding all actual, compensatory, statutory, enhanced, and punitive damages to which Plaintiff and Class Members are entitled;

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

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

H. Awarding Plaintiff and the proposed class pre- and post-judgment interest, to the extent allowable; and

I. Granting all such other and further relief as the Court deems just and appropriate.

DEMAND FOR JURY TRIAL

Plaintiff hereby requests a jury trial on all issues so triable.

Dated: October 15, 2026

Respectfully submitted,

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