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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

ELIZABETH PARK and CAROLYN OTTO, individually and on behalf of all others similarly situated,

Plaintiffs,

v.

WELCH FOODS INC.,A COOPERATIVE,

Defendant.

Case No. C12-06449 PSG

CLASS ACTION AND REPRESENTATIVE ACTION

THIRD AMENDED COMPLAINT FOR DAMAGES, EQUITABLE AND INJUNCTIVE RELIEF

JURY TRIAL DEMANDED

Plaintiffs Elizabeth Park and Carolyn Otto ("Plaintiffs"), through their undersigned attorneys, bring this lawsuit against Welch Foods Inc. (hereinafter "Welch's" or "Defendant") as to her own acts upon personal knowledge, and as to all other matters upon information and belief. In order to remedy the harm arising from Defendant's illegal conduct, which has resulted in unjust profits, Plaintiffs bring this action on behalf of California consumers specifically defined herein, who purchased either:

a) Defendant's 100% Juice line unlawfully or misleadingly labeled "No Sugar Added" after December 20. 2008. (the "Class Period"), or

b) Defendant's "Natural" Spread line consisting of Strawberry, Grape and Raspberry flavors.

CASE SUMMARY

1. Plaintiffs' case has two facets. The first is the UCL "unlawful" part. Plaintiffs' first cause of action is brought pursuant to the unlawful prong of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200 ("UCL"). *See,* First Cause of Action below. Plaintiffs allege that Defendant packages and labels the Purchased Products in violation of California's Sherman Law which adopts, incorporates – and is identical – to the federal Food Drug & Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA"). These violations (which do not require a finding that the labels are misleading) render the Defendant's 100% Juice line and its three flavors of "Natural Spreads" —misbranded. Under California law, a food product that is misbranded cannot legally be manufactured, advertised, distributed, held or sold. Misbranded products cannot be legally sold, possessed, have no economic value, and are legally worthless. Indeed, the sale, purchase or possession of misbranded food is a criminal act in California and the FDA even threatens food companies with seizure of misbranded products. This misbranding standing alone without any allegations of deception by Defendant other than the failure to disclose as per its duty, the material fact that the product was illegal, or review of or reliance on the labels by Plaintiffs – gives rise to Plaintiffs' first cause of action under the UCL unlawful prong for which Welch Foods is strictly liable.

2. The second aspect to this case is the "deceptive" part. Plaintiffs allege that the labels on Welch's entire line of 100% Juices and its entire line of "Natural Spreads" -- aside from being unlawful under the Sherman Law – are also misleading, deceptive, unfair and fraudulent. Plaintiffs describe these labels and the ways in which they are misleading below. Each Plaintiff alleges that she reviewed the labels on the respective products that she purchased, reasonably relied in substantial part on the labels, and was thereby deceived, in deciding to purchase these products.

3. In this respect, Defendant's No Sugar Added ("NSA") claim on its 100% juice line was misleading to Plaintiffs in that each believed that the NSA claim meant that the 100% juices were a healthier and lower caloric choice than other drink options.

4. Likewise, Defendant's "Natural" Spreads were misleading to Plaintiff Otto because

on the label-in large print on both the front and back of the label in a manner intended to stand out from the background-that the product was "**All Natural**" and contained "**No** preservatives" (emphasis in original) which, upon information and belief, was and is untrue because the product contains unnatural, manufactured chemicals used for preservatives. The label also states in larger print and in a manner that stands out from the background that the "Natural" spreads contained "**No** artificial flavors" (emphasis in original) that, upon information and belief, is untrue because the product contains unnatural, manufactured chemicals for flavoring.

5. A separate facet of the deceptive claims are that Welch's 100% juice line and "Natural" spread line are equally deceptive by the very fact that Defendant sold such illegal products and did not disclose this fact to consumers. Plaintiffs would not have purchased a product that is illegal and a crime to own or possess. Had Defendant informed Plaintiffs of this fact there would have been no purchases. Plaintiffs relied upon the Defendant's implied representation that Defendant's products were legal that arose from Defendant's material omission of the fact that the products in its 100% Juice line and its Natural Spread line were illegal.

6. Plaintiffs did not know, and had no reason to know, that Defendant's products were misbranded under the Sherman Law and bore food labeling claims despite failing to meet the requirements to make such claims thus making the purchased products illegal.

7. Separately, Plaintiffs did not know, and had no reason to know, that Defendant's products were false and misleading as to the NSA claim, the "Natural" claim, and the legality of the product claim.

8. Identical California and federal laws require truthful, accurate information on the labels of packaged foods. The law is clear: misbranded food cannot legally be sold, possessed, has no economic value and is legally worthless. Purchasers of misbranded food are entitled to a refund of their purchase price.

9. Identical California and federal laws regulate the content of labels on packaged food. The FDCA requirements were adopted into California Sherman Law. Under both the Sherman Law and FDCA section 403(a), food is "misbranded" if "its labeling is false or misleading in any particular," or if it does not contain certain information on its label or its labeling. 21 U.S.C. §

343(a).

10. Under the FDCA, the term "false" has its usual meaning of "untruthful," while the term "misleading" is a term of art. Misbranding reaches not only false claims, but also those claims that might be technically true, but still misleading. If any one representation in the labeling is misleading, the entire food is misbranded, nor can any other statement in the labeling cure a misleading statement.

11. Under California Law, a misbranded food cannot be legally manufactured, advertised, distributed, held or sold. Misbranded products cannot be legally sold, possessed, have no economic value, and are legally worthless. Plaintiffs and members of the Class who purchased these products paid an unwarranted premium for these products.

12. If Welch Foods is going to make a claim on a food label, the label must meet certain legal requirements that help consumers make informed choices and ensure that they are not misled and that label claims are truthful, accurate, and backed by scientific evidence. As described more fully herein, Defendant has sold products that are misbranded and are worthless because (i) the labels violate the Sherman Law and, separately, (ii) Defendant made, and continues to make, false, misleading and deceptive claims on its labels.

PARTIES

13. Plaintiff Elizabeth Park is a resident of Los Gatos, California, who purchased Defendant's misbranded food products in California during the four (4) years prior to the filing of this Complaint (the "Class Period") in an excess of $25.00. Specifically, Plaintiff purchased the following of Defendant's misbranded juice products: 100% Grape Juice, 100% White Grape Juice, 100% White Grape Cherry Juice. Each of these products carried the same NSA claim.

14. Plaintiff Carolyn Otto is a resident of San Jose, California, who purchased Defendant's misbranded food products in California during the Class Period, in an excess of $25.00. Specifically, Carolyn Otto purchased Defendant's misbranded 100% Grape Juice and Defendant's Natural Strawberry Spread.

15. Defendant Welch Foods Inc. is a foreign corporation with its headquarters in Concord, Massachusetts. Welch's is the food processing and marketing arm of the National Grape Cooperative Association.

16. Defendant is a leading producer of foods and beverages, including the products described herein.

17. Defendant sells its 100% Juices and Natural Spreads to consumers through grocery stores and other retail stores throughout the United States and California.

18. California law applies to all claims set forth in this Complaint because Plaintiffs live in California and purchased Defendant's products here. Also, Defendant sells products in California. The misconduct alleged herein was implemented in California and has a shared nexus with California. The formulation and execution of the unlawful practices alleged herein occurred in, or emanated from, California. Accordingly, California has significant contacts and/or a significant aggregation of contacts with the claims asserted by Plaintiffs and all Class members.

JURISDICTION AND VENUE

19. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100 members in the proposed class; (2) members of the proposed class have a different citizenship from Defendant; and (3) the claims of the proposed class members exceed $5,000,000 in the aggregate.

20. The Court has jurisdiction over the federal claim alleged herein pursuant to 28 U.S.C. § 1331, because it arises under the laws of the United States.

21. The Court has jurisdiction over the California claims alleged herein pursuant to 28 U.S.C. § 1367, because they form part of the same case or controversy under Article III of the United States Constitution.

22. Alternatively, the Court has jurisdiction over all claims alleged herein pursuant to 28 U.S.C. § 1332, because the matter in controversy exceeds the sum or value of $75,000, and is between citizens of different states.

23. The Court has personal jurisdiction over Defendant because a substantial portion of the wrongdoing alleged in this Complaint occurred in California, Defendant is authorized to do business in California, has sufficient minimum contacts with California, and otherwise intentionally avails itself of the markets in California through the promotion, marketing and sale of merchandise, sufficient to render the exercise of jurisdiction by this Court permissible under traditional notions of

fair play and substantial justice.

24. Because a substantial part of the events or omissions giving rise to these claims occurred in this District and because the Court has personal jurisdiction over Defendant, venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) and (b).

FACTUAL ALLEGATIONS

Identical California and Federal Laws Regulate Food Labeling

25. Food manufacturers are required to comply with identical federal and state laws and regulations that govern the labeling of food products. First and foremost among these is the FDCA and its labeling regulations, including those set forth in 21 C.F.R. § 101.

26. Pursuant to the Sherman Law, California has expressly adopted the federal labeling requirements as its own and indicated that "[a]ll food labeling regulations and any amendments to those regulations adopted pursuant to the federal act, in effect on January 1, 1993, or adopted on or after that date shall be the food regulations of this state." California Health & Safety Code § 110100.

27. In addition to its blanket adoption of federal labeling requirements, California has also enacted a number of laws and regulations that adopt and incorporate specific enumerated federal food laws and regulations. Food products are misbranded under California Health & Safety Code § 110660 if their labeling is false and misleading in one or more particulars; they are misbranded under California Health & Safety Code § 110665 if their labeling fails to conform to the requirements for nutrient labeling set forth in 21 U.S.C. § 343(f), (k) (q) and (r) and regulations adopted thereto; they are misbranded under California Health & Safety Code§ 110670 if their labeling fails to conform to the requirements for nutrient content and health claims set forth in 21 U.S.C. § 343(r) and regulations adopted thereto; they are misbranded under California Health & Safety Code § 110705 if words, statements, and other information required by the Sherman Law to appear on their labeling are either missing or not sufficiently conspicuous; they are misbranded under California Health & Safety Code § 110735 if they are represented as having special dietary uses but fail to bear labeling that adequately informs consumers of their value for that use; and they are misbranded under California Health & Safety Code § 110740 if they contain artificial

flavoring, artificial coloring, and chemical preservatives but fail to adequately disclose that fact on their labeling.

Defendant's Knowledge of FDA Enforcement

28. In recent years, the FDA has become increasingly concerned that food manufacturers were disregarding food-labeling regulations. To address this concern, the FDA elected to take steps to inform the food industry of its concerns and to place the industry on notice that food labeling compliance was an area of enforcement priority.

29. In October 2009, the FDA issued a "Guidance For Industry: Letter Regarding Point Of Purchase Food Labeling ("2009 FOP Guidance") to address its concerns about front-of-package labels.

30. The 2009 FOP Guidance recommended that "manufacturers and distributors of food products that include FOP labeling ensure that the label statements are consistent with FDA law and regulations" and specifically advised the food industry that it would "proceed with enforcement action where such FOP labeling or labeling systems are used in a manner that is false or misleading."

31. Defendant had actual knowledge of the 2009 FOP Guidance.

32. Despite the issuance of the 2009 FOP Guidance, Defendant did not remove the unlawful and misleading food labeling claims from its Misbranded Food Products.

33. On March 3, 2010, the FDA issued an "Open Letter to Industry from [FDA Commissioner] Dr. Hamburg" ("Open Letter"). The Open Letter reiterated the FDA's concern regarding false and misleading labeling by food manufacturers. In pertinent part, the letter stated:

> In the early 1990s, the Food and Drug Administration (FDA) and the food industry worked together to create a uniform national system of nutrition labeling, which includes the now-iconic Nutrition Facts panel on most food packages. Our citizens appreciate that effort, and many use this nutrition information to make food choices. Today, ready access to reliable information about the calorie and nutrient content of food is even more important, given the prevalence of obesity and diet-related diseases in the United States. This need is highlighted by the announcement recently by the First Lady of a coordinated national campaign to reduce the incidence of obesity among our citizens, particularly our children.

With that in mind, I have made improving the scientific accuracy and usefulness of food labeling one of my priorities as Commissioner of Food and Drugs. The latest focus in this area, of course, is on information provided on the principal display panel of food packages and commonly referred to as "front-of-pack" labeling. The use of front-of-pack nutrition symbols and other claims has grown tremendously in recent years, and it is clear to me as a working mother that such information can be helpful to busy shoppers who are often pressed for time in making their food selections. …

As we move forward in those areas, I must note, however, that there is one area in which more progress is needed. As you will recall, we recently expressed concern, in a "Dear Industry" letter, about the number and variety of label claims that may not help consumers distinguish healthy food choices from less healthy ones and, indeed, may be false or misleading.

At that time, we urged food manufacturers to examine their product labels in the context of the provisions of the Federal Food, Drug, and Cosmetic Act that prohibit false or misleading claims and restrict nutrient content claims to those defined in FDA regulations. As a result, some manufacturers have revised their labels to bring them into line with the goals of the Nutrition Labeling and Education Act of 1990. Unfortunately, however, we continue to see products marketed with labeling that violates established labeling standards.

To address these concerns, FDA is notifying a number of manufacturers that their labels are in violation of the law and subject to legal proceedings to remove misbranded products from the marketplace. While the warning letters that convey our regulatory intentions do not attempt to cover all products with violative labels, they do cover a range of concerns about how false or misleading labels can undermine the intention of Congress to provide consumers with labeling information that enables consumers to make informed and healthy food choices. For example:

***

- Juice products that mislead consumers into believing they consist entirely of a single juice are still on the market. Despite numerous admonitions from FDA over the years, we continue to see juice blends being inaccurately labeled as single-juice products.

***

I will close with the hope that these warning letters will give food manufacturers further clarification about what is expected of them as they review their current labeling. I am confident that our past cooperative efforts on nutrition information and claims in food labeling will continue as we jointly develop a practical, science-based front-of-pack regime that we can all use to help consumers choose healthier foods and healthier diets.

34. Defendant was or reasonably should have been aware of this guidance yet continued to utilize unlawful food labeling claims despite the express guidance of the FDA in the Open Letter.

35. Defendant also ignored the FDA's Guidance for Industry, A Food Labeling Guide, which details the FDA's guidance on how to make food labeling claims.

36. Despite the FDA's numerous warnings to industry, Defendant continued to sell products bearing unlawful food labeling claims without meeting the requirements to make them. Defendant's Misbranded Food Products continue to run afoul of FDA guidance as well as federal and California law, as Defendant continues to utilize unlawful claims on the labels of its Misbranded Food Products.

37. Pursuant to Section 403 of the FDCA, a claim that characterizes the level of a nutrient in a food is a "nutrient content claim" that must be made in accordance with the regulations that authorize the use of such claims. 21 U.S.C. § 343(r)(1)(A). California expressly adopted the requirements of 21 U.S.C. § 343(r) in § 110670 of the Sherman Law.

Defendant Makes Unlawful "No Sugar Added" Nutrient Content Claims

38. Federal and California law regulates "no sugar added" claims as a particular type of nutrient content claim. Specifically, 21 C.F.R. § 101.60 contains special requirements for nutrient claims that use the phrase "no sugar added." Pursuant to the Sherman Law, California has expressly adopted the federal labeling requirements of 21 C.F.R. § 101.60 as its own. California Health & Safety Code § 110100.

39. Defendant claimed from the beginning of the class period to today that its 100% Juice products have "No Sugar Added" in an intentionally noticeable manner on the front of the juice packaging.

40. Labels of Defendant's "100% Juice" products, including Grape, White Grape, White Grape Cherry, and Black Cherry Concord Grape juices, all of which Plaintiffs purchased as set out in Paragraphs****, *supra,* prominently state "No Sugar Added" on the front of the labels.

41. All other of Defendant 100% Juice flavors in the 64 and 46 ounce sizes as well as Defendant's 10 ounce multi-pack carry identical presentations of the same language on the front labels.

42. 21 C.F.R. § 101.60(c)(2) provides in pertinent part, with emphasis added:

> (2) The terms "no added sugar," "without added sugar," or "***no sugar added***" may be used **only if**:
>
> (i) No amount of sugars, as defined in §101.9(c)(6)(ii), or any other ingredient that contains sugars that functionally substitute for added sugars is added during processing or packaging; and
>
> (ii) The product does not contain an ingredient containing added sugars such as jam, jelly, or ***concentrated fruit juice***; and
>
> (iii) The sugars content has not been increased above the amount present in the ingredients by some means such as the use of enzymes, except where the intended functional effect of the process is not to increase the sugars content of a food, and a functionally insignificant increase in sugars results; and
>
> (iv) The food that it resembles and for which it substitutes normally contains added sugars; and
>
> (v) ***The product bears a statement that the food is not "low calorie" or "calorie reduced"*** (unless the food meets the requirements for a "low" or "reduced calorie" food) ***and that directs consumers' attention to the nutrition panel for further information on sugar and calorie content*** (emphasis added).

43. 21 C.F.R. § 101.60(b)(2) provides that:

> The terms "low-calorie," "few calories," "contains a small amount of calories," "low source of calories," or "low in calories" may be used on the label or in labeling of foods, except meal products as defined in § 101.13(l) and main dish products as defined in § 101.13(m), provided that: (i)(A) The food has a reference amount customarily consumed greater than 30 grams (g) or greater than 2 tablespoons and does not provide more than 40 calories per reference amount customarily consumed; or (B) The food has a reference amount customarily consumed of 30 g or less or 2 tablespoons or less and does not provide more than 40 calories per reference amount customarily consumed and, except for sugar substitutes, per 50 g ….(ii) If a food meets these conditions without the benefit of special processing, alteration, formulation, or reformulation to vary the caloric content, it is labeled to clearly refer to all foods of its type and not merely to the particular brand to which the label attaches (e.g., "celery, a low-calorie food").

44. The principal display panel of each Defendant's Misbranded 100% Juices identically states that the products contain "no sugar added." Defendant's Misbranded Food Products do not satisfy elements (ii), and (v) of 21 C.F.R. § 101.60(c)(2) and are therefore misbranded under

California and identical Federal law.

45. Defendant's 100% Juices do not meet any regulation for being low or reduced calorie food.

46. Notwithstanding the fact that 21 C.F.R. § 101.60(c)(2)(ii) bars the use of the term "no sugar added" on products containing "concentrated fruit juice," Defendant has touted its Misbranded 100% Juice products as having "no sugar added" despite the addition of those ingredients.

47. Notwithstanding the fact that 21 C.F.R. § 101.60(c)(2)(v) bars the use of the term "no sugar added" on foods that are not low-calorie unless they bear an express warning immediately adjacent to each use of the terms that discloses that the food is not "low calorie" or "calorie reduced," Defendant has touted its non-low calorie products as having "no sugar added" and chosen to omit the mandated disclosure statements.

48. Consumers of Defendant's 100% Juices reasonably regard terms that represent that food contains "no sugar added" as indicating a product which is low in calories or significantly reduced in calories. Consumers including Plaintiffs of Defendant's 100% Juices were thus misled when foods that are not low-calorie as a matter of law are falsely represented to be low-calorie through the unlawful use of phrases like "no sugar added."

49. Defendant's 100% Juices containing the NSA claim actually contain as much as or more sugar per ounce than many sugary soft drinks.

50. The labeling for Defendant's product violates California law and federal law making the products illegal to purchase, sell, own or hold. For these reasons, Defendant's "no sugar added" claims at issue in this Complaint are misleading and in violation of 21 C.F.R. §§ 1.21 and 101.60(c)(2) and California law, and the products at issue are misbranded as a matter of law. Misbranded products cannot be legally sold and have no economic value and are legally worthless.

51. During the entire class period, Defendant knew or should have known that its 100% Juices were misleading as to sugar content.

52. During the entire class period, Defendant knew or should have known that its 100% Juices sold in California were unlawful to sale, hold or purchase.

53. Plaintiffs did not know, and had no reason to know, that Defendant's Misbranded Food Products were misbranded, and bore nutrient content claims despite failing to meet the requirements to make those nutrient content claims.

54. Further, Defendant 100% Juices sold in California to Plaintiffs and the Class during the class period with "No Sugar Added" contain disqualifying levels of calories that prohibit the claim from being made absent a mandated disclosure statement warning of the higher caloric level of the products and thus violate 21 CFR §1.21 which requires revealing of all material facts.

55. Defendant placed no such required disclosure on its 100% Juices.

56. Because of these improper nutrient content claims, Plaintiffs purchased these products and paid a premium for them.

57. Plaintiff and class members were thus misled into purchasing Defendant's products with No Sugar Added Claims because they believed them to be lower caloric and healthier choices than other beverages.

58. Separately, Plaintiff and class members were misled into purchasing Defendant's 100% Juices because Defendant represented the products as being lawful to purchase.

Defendant Makes Unlawful All Natural Claims

59. Federal law provides that a food may be deemed to be misbranded if its labeling is false or misleading in any particular. 21 U.S.C. §§ 343(a)(1).

60. California law has an identical provision (California Health & Safety Code § 110660).

61. Defendant's Misbranded Food Products purchased by plaintiffs as well as violate these provisions by bearing labels that claim that the products are free from artificial flavors, colors or preservatives despite containing artificial flavors, colors or preservatives. The label of Defendant's "Natural" Strawberry Spread (and identically its Concord Grape and Raspberry Spreads) state the product is free from artificial flavors, colors or preservatives despite containing artificial flavors and/or preservatives such as citric acid and sodium citrate.

62. Citric acid and sodium citrate are chemicals used to preserve food and/or impart tart flavor to Defendant's Natural Spreads.

63. The FDA has repeatedly targeted products that made claims that they were natural despite containing artificial ingredients such as citric acid and other chemical preservatives.

64. Section 403(a) of the FDCA and California's Sherman Law prohibit food manufacturers from using labels that claim to be natural or non-artificial when they contain artificial ingredients and flavorings, added coloring and chemical preservatives.

65. The term "natural" on a food label is considered truthful and non-misleading only when "nothing artificial or synthetic…has been included in, or has been added to, a food that would not normally be expected to be in the food." *See* 58 FR 2302, 2407, January 6, 1993.

66. Defendant knew or should have known that, as early as 2001, the FDA has sent food manufactures publically available letters warning them that the representation of a product being "all natural" or without preservatives or flavorings was a serious violation of law. *See e.g.,* http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2001/ucm178712.htm; http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/ucm281118.htm.

67. Despite FDA's numerous warnings to industry, Defendant has continued to sell products represented as being natural or non-artificial which contain artificial and synthetic ingredients and added coloring. Seeking to profit from consumers' desire for natural food products, Defendant has falsely misrepresented 'Natural" Spreads purchased by Plaintiffs and similar products in its product line as being all natural or non-artificial.

68. A reasonable consumer would expect that when Defendant labels its products as being all natural, free from artificial colors, flavors or preservatives, the products are all actually 100% natural or free from artificial colors, flavors or preservatives according to the common use of that word.

69. Plaintiffs did not know, and had no reason to know, that Defendant's Misbranded Food Products were misbranded, and bore claims of being, all natural, free from artificial colors, flavors or preservatives despite their failure to meet the requirements necessary to make these claims.

70. Plaintiff and class members were thus misled into purchasing Defendant's products with synthetic and artificial ingredients that falsely represented on their labeling to be natural.

71. Separately, Plaintiff and class members were misled into purchasing Defendant's Natural Spreads because Defendant represented the products as being lawful to purchase.

72. Defendant's products are in this respect misbranded under federal and California law. Misbranded products cannot be legally sold and have no economic value and are legally worthless. Plaintiffs and members of the Class who purchased these products paid an unwarranted premium for these products.

Defendant's 100% Juice and Natural Spread Lines are Unlawful

73. Defendant has manufactured, advertised, distributed, and sold products that are misbranded under California law. Misbranded products cannot be legally manufactured, advertised, distributed, sold or held, and have no economic value and are legally worthless as a matter of law.

74. For both the 100% Juice and Natural Spread lines, Defendant has violated California Health & Safety Code §§ 109885 and 110390 which make it unlawful to disseminate false or misleading food advertisements that include statements on products and product packaging or labeling or any other medium used to directly or indirectly induce the purchase of a food product.

75. For both the 100% Juice and Natural Spread lines, Defendant has violated California Health & Safety Code § 110395 which makes it unlawful to manufacture, sell, deliver, hold, or offer to sell any falsely advertised food.

76. For both the 100% Juice and Natural Spread lines, Defendant has violated California Health & Safety Code §§ 110398 and 110400 which make it unlawful to advertise misbranded food or to deliver or proffer for delivery any food that has been falsely advertised.

77. For both the 100% Juice and Natural Spread lines, Defendant's food products are misbranded under California Health & Safety Code § 110660 because the labeling is false and misleading in one or more ways as described herein.

78. For the Natural Spread lines, Defendant's Misbranded Food Products are misbranded under California Health & Safety Code § 110670 because their labeling fails to conform with the requirements for nutrient content claims set forth in 21 U.S.C. § 343(k) and the regulations adopted thereto because the labels do not bear statements of the food containing artificial flavoring and

preservatives.

79. For both the 100% Juice and Natural Spread lines, Defendant's Misbranded Food Products are misbranded under California Health & Safety Code § 110705 and 21 U.S.C 343(f) because words, statements, and other information required by the Sherman Law to appear on their labeling either are missing or not sufficiently conspicuous. For the 100% Juice lines, the labels lack the required reference to the ingredients panel next to the NSA claim and lack the required disclosure that the foods are not low calorie or calorie reduced. For the Natural Spreads line, the ingredient list is insufficiently conspicuous as compared to the all natural, no preservatives and no artificial flavors claims.

80. For the Natural Spread line, Defendant's Misbranded Food Products are misbranded under California Health & Safety Code § 110740 because they contain artificial flavoring, artificial coloring, and chemical preservatives but fail to adequately disclose that fact on its labeling.

81. Defendant has violated California Health & Safety Code § 110760 which makes it unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded.

82. For both the 100% Juice and Natural Spread lines, Defendant has violated California Health & Safety Code § 110765 that makes it unlawful for any person to misbrand any food. Defendant is a person for application of the Sherman Law.

83. Defendant has violated California Health & Safety Code § 110770 which makes it unlawful for any person to receive in commerce any food that is misbranded or to deliver or proffer for delivery any such food.

84. Defendant has violated the standards set by 21 CFR §§ 101.13(b)(2), 101.54, 101.60, 101.65, and 104.20 which have been adopted by reference in the Sherman Law, by including unauthorized nutrient content claims on its products.

85. Defendant's labeling as alleged herein is false and misleading and designed to increase sales of the products at issue.

86. A reasonable person would and Plaintiffs did attach importance to whether Defendant's products were legally salable and capable of legal possession and to Defendant's

representations about these issues in determining whether to purchase the products at issue. Plaintiffs would not have purchased Defendant's Misbranded Food Products had they known they were not capable of being legally sold or held.

87. Further, the purchase or possession of Defendant's 100% Juice line with illegal NSA claims and illegal Natural claims subjected Plaintiffs and the class to criminal prosecution under Cal. Health and Safety Code § 111825.

Plaintiffs' Purchase of Defendant's Products and Reliance Upon Defendant's Misleading and Unlawful Statements

88. Plaintiffs read and reasonably relied on the labels on Defendant's products labels stating "No Sugar Added," and representations of being natural or non-artificial before purchasing them.

89. Plaintiff Elizabeth Park during the class period purchased Welch's 100% Juices listed in Paragraph 13 containing the unlawful and misleading NSA claim almost weekly. She purchased Defendant's 100% Juices either at the Nob Hill Foods in Mt. Herman and Los Gatos, California as well as at Safeway in Los Gatos, California.

90. Plaintiff Elizabeth Park and her family actively seek to reduce overall sugar in their diets and purchase foods accordingly. Plaintiff Park specifically read, believed and relied on Welch's NSA claim to mean it had less sugar and calories than other drink choices and purchased Defendant 100% Juices because of the claims.

91. Plaintiff Elizabeth Park relied upon Defendant's implied representation that the 100% Juices products were legal to purchase.

92. Plaintiff Elizabeth Park frequently saw and believed Defendant's NSA claims on its 100% Juices even when she was not purchasing drinks.

93. Plaintiff Carolyn Otto during the class period purchased 1-2 bottles a month of Defendant's 100% Grape Juice with the unlawful and misleading NSA claim during the warmer months from late spring to early autumn. She made most of her purchases at Lunardi's Market on Meridian Avenue in San Jose, and at Safeway stores in San Jose, California.

94. Plaintiff Carolyn Otto during the class period purchased Welch's Natural Strawberry

Spread 3-4 times a year at Lunardi's Market on Meridian Avenue in San Jose, and at Safeway stores in San Jose, California.

95. Plaintiff Carolyn Otto and her family actively seek to reduce overall sugar in their diets and purchase foods accordingly. Plaintiff Park specifically read, believed and relied on Welch's NSA claim to mean it had less sugar and calories than other drink choices.

96. Plaintiff Carolyn Otto relied upon Defendant's implied representation that the 100% Juices products and its Natural Spreads were legal to purchase.

97. Plaintiff Carolyn Otto frequently saw and believed Defendant NSA and All Natural claims even when she was not purchasing the 100% Juices or Natural Spreads.

98. Defendant's labeling claims of "No Sugar Added" for its 100% Juices and its All Natural, No Preservative and No Artificial Flavors on its Natural Spreads were a substantial factor in Plaintiffs' decisions to purchase Defendant's products. Based on Defendant's claims, Plaintiffs believed that the products were a better and healthier choice than other available products and purchased Defendant's unlawful products because the subject claims.

99. A reasonable purchaser would believe that Defendant's NSA claims meant that Defendant's products were a healthier, lower caloric choice of beverages.

100. A reasonable purchaser would believe that Defendant's statement of All Natural, No Preservatives and No Artificial flavors meant that nothing artificial would be in the food.

101. A reasonable purchaser would believe that if a food product was labeled and sold by a manufacturer at a grocery store or other retail outlet, the product would be legal to sell, purchase or hold.

102. A reasonable purchaser would not purchase a food item that is illegal to sell, purchase or hold.

103. Plaintiffs reasonably relied on Defendant's package labeling.

104. At point of sale, Plaintiffs did not know, and had no reason to know, that Defendant's products were misbranded as set forth herein, and would not have bought the products had they known the truth about the truth about the sugar content, the artificial flavors and preservatives, and the fact that each was illegal to purchase, own or hold.

105. At point of sale, Plaintiffs did not know, and had no reason to know, that Defendant's no sugar added, and representations of being wholly natural on the products' labels describe on the products herein discussed were unlawful as set forth herein, and would not have bought the products had they known the truth about them.

106. As a result of Defendant's misrepresentations of content and legality of purchase, Plaintiffs and thousands of others in California purchased the products at issue.

107. Defendant's labeling as alleged herein is false and misleading and designed to increase sales of the products at issue.

CLASS ACTION ALLEGATIONS

108. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of the following classes:

> **California Class**: All persons in the state of California who, within the last four years, purchased any of Defendant's:
>
> (1) 100% Juice products labeled "No Sugar Added" but which (a) contained concentrated fruit juice and/or (b) provided more than 40 calories per reference amount customarily consumed but which failed to bear a statement (i) disclosing that the product was not "low calorie" or "calorie reduced" and (ii) directing consumers' attention to the nutrition panel for further information on sugar and calorie content;
>
> (2) Natural Spreads represented to contain no artificial colors, flavors or preservatives but which contained artificial colors, flavors or preservatives; or
>
> (3) Natural Spreads represented to be "All Natural" but containing artificial colors, flavors or preservatives.

109. The following persons are expressly excluded from the Class: (1) Defendant and its subsidiaries and affiliates; (2) all persons who make a timely election to be excluded from the proposed Class; (3) governmental entities; and (4) the Court to which this case is assigned and its staff.

110. This action can be maintained as a class action because there is a well-defined community of interest in the litigation and the proposed Class is easily ascertainable.

111. Numerosity: Based upon Defendant's publicly available sales data with respect to the misbranded products at issue, it is estimated that the Class numbers in the thousands, and that joinder of all Class members is impracticable.

112. Common Questions Predominate: This action involves common questions of law and fact applicable to each Class member that predominate over questions that affect only individual Class members. Thus, proof of a common set of facts will establish the right of each Class member to recover. Questions of law and fact common to each Class member include, for example:

a. Whether Defendant engaged in unlawful, unfair or deceptive business practices by failing to properly package and label its 100% Juices and Natural Spreads sold to consumers;

b. Whether the food products at issue were misbranded or unlawfully packaged and labeled as a matter of law;

c. Whether Defendant made unlawful and/or misleading "no sugar added" claims with respect to its 100% Juice products sold to consumers;

d. Whether Defendant made unlawful and misleading representations that its Natural Spread products in Grape, Strawberry or Raspberry flavors were free from artificial colors, flavors or preservatives

e. Whether Defendant failed to adequately disclose the calorie or sugar content of its100% Juice food products sold to consumers;

f. Whether Defendant violated California Bus. & Prof. Code § 17200 *et seq.*, California Bus. & Prof. Code § 17500 *et seq.*, the California Consumers Legal Remedies Act, Cal. Civ. Code. § 1750 *et seq.*, and the Sherman Law;

g. Whether Plaintiffs and the Class are entitled to equitable and/or injunctive relief;

h. Whether Defendant's unlawful, unfair and/or deceptive practices harmed Plaintiffs and the Class; and

i. Whether Defendant was unjustly enriched by its deceptive practices.

113. Typicality: Plaintiffs' claims are typical of the claims of the Class because Plaintiffs bought Defendant's Misbranded Food Products during the Class Period. Defendant's unlawful, unfair, and/or fraudulent actions concern the same business practices described herein irrespective of where they occurred or were experienced. Plaintiffs and the Class sustained similar injuries arising out of Defendant's conduct in violation of California law. The injuries of each member of

the Class were caused directly by Defendant's wrongful conduct. In addition, the factual underpinning of Defendant's misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all members of the Class. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of the Class members and are based on the same legal theories.

114. Adequacy: Plaintiffs will fairly and adequately protect the interests of the Class. Neither Plaintiffs nor Plaintiffs' counsel have any interests that conflict with or are antagonistic to the interests of the Class members. Plaintiffs have retained highly competent and experienced class action attorneys to represent their interests and those of the members of the Class. Plaintiffs and Plaintiffs' counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiffs and counsel are aware of their fiduciary responsibilities to the Class members and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the Class.

115. Superiority: There is no plain, speedy, or adequate remedy other than by maintenance of this class action. The prosecution of individual remedies by members of the Class will tend to establish inconsistent standards of conduct for Defendant and result in the impairment of Class members' rights and the disposition of their interests through actions to which they were not parties. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would engender. Further, as the damages suffered by individual members of the Class may be relatively small, the expense and burden of individual litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Class treatment of common questions of law and fact would also be superior to multiple individual actions or piecemeal litigation in that class treatment will conserve the resources of the Court and the litigants, and will promote consistency and efficiency of adjudication.

116. The prerequisites to maintaining a class action for injunctive or equitable relief pursuant to FED. R. CIV. P. 23(b)(2) are met as Defendant has acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

117. The prerequisites to maintaining a class action pursuant to FED. R. CIV. P. 23(b)(3) are met as questions of law or fact common to class members predominate over any questions affecting only individual members, and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

118. Plaintiffs and Plaintiffs counsel are unaware of any difficulties that are likely to be encountered in the management of this action that would preclude its maintenance as a class action.

119. For each of the seven cause of actions herein alleged *infra*, Plaintiffs hereby reallege and incorporate the foregoing paragraphs.

FIRST CAUSE OF ACTION
Business and Professions Code § 17200, *et seq.*
Unlawful Business Acts and Practices

120. Defendant's conduct constitutes unlawful business acts and practices.

121. Defendant sold 100% Juices with a NSA claim in California during the Class Period.

122. Defendant sold "Natural" Spreads with an All Natural, No Preservatives, No Artificial Flavors or Colors claim.

123. Defendant is a corporation and, therefore, is a "person" within the meaning of the Sherman Law.

124. Defendant's business practices as described herein are unlawful under § 17200, *et seq*. by virtue of Defendant's violations of the advertising provisions of Article 3 of the Sherman Law and the misbranded food provisions of Article 6 of the Sherman Law.

125. Defendant's business practices are unlawful as described herein under § 17200, *et seq*. by virtue of Defendant's violations of § 17500, *et seq.*, which forbids untrue and misleading advertising.

126. Defendant's business practices as described herein are unlawful under § 17200, *et seq*. by virtue of Defendant's violations of the Consumers Legal Remedies Act, Cal. Civ. Code § 1750, *et seq*.

127. Plaintiffs and the Class were injured as a result of Defendant's unlawful acts and practices.

128. Defendant sold to Plaintiffs and the Class products that were not capable of being sold legally, and which have no economic value.

129. Plaintiffs and the Class paid a premium price for these products.

130. As a result of Defendant's unlawful business practices, Plaintiffs and the Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future conduct and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and to restore to any Class member any money paid for 100% Juice products and Natural Spreads.

SECOND CAUSE OF ACTION
Business and Professions Code § 17200, *et seq.*
Unfair Business Acts and Practices

131. Defendant's conduct as set forth herein constitutes unfair business acts and practices.

132. As described herein *supra* Defendant engaged in deceptive marketing, advertising, packaging and labeling of 100% Juice products and Natural Spread products.

133. Plaintiffs and the Class were injured as a result of Defendant's unfair acts and practices.

134. Defendant sold to Plaintiffs and the Class products that were not capable of being legally sold and that have no economic value.

135. Plaintiffs and the Class paid a premium price for 100% Juice and Natural Spreads.

136. Plaintiffs and the Class who purchased 100% Juice and Natural Spreads had no way of reasonably knowing that the products were misbranded and were not properly labeled, and thus could not have reasonably avoided injury.

137. A reasonable consumer would have relied on Defendant's representations.

138. The consequences of Defendant's conduct outweigh any justification, motive or reason therefor.

139. As a result of Defendant's conduct, Plaintiffs and the Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future conduct by Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore any money paid for 100% Juice products and Natural Spreads by Plaintiffs and the Class.

THIRD CAUSE OF ACTION
Business and Professions Code § 17200, *et seq.*
Fraudulent Business Acts and Practices

140. Defendant's conduct as set forth herein constitutes fraudulent business practices under California Business and Professions Code § 17200, *et seq.*

141. Defendant's misleading packaging and labeling of 100% Juices and Natural Spreads were likely to deceive reasonable consumers.

142. As described herein *supra* Plaintiffs and members of the Class were deceived.

143. As described herein *supra* Defendant engaged in fraudulent business acts and practices.

144. Plaintiffs and the Class were injured by Defendant's fraudulent acts and practices.

145. Defendant's fraud and deception caused Plaintiffs and the Class to purchase 100% Juice and Natural Spreads that they would otherwise not have purchased had they known the true nature of these products.

146. As a result of Defendant's conduct as set forth herein, Plaintiffs and the Class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such future conduct by Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore any money paid for 100% Juice products and Natural Spreads by Plaintiffs and the Class.

FOURTH CAUSE OF ACTION
Business and Professions Code § 17500, *et seq.*
Misleading and Deceptive Advertising

147. Plaintiffs asserts this cause of action for violations of California Business and Professions Code § 17500, *et seq*. for misleading and deceptive advertising against Defendant.

148. As described herein *supra* Defendant engaged in a scheme of offering 100% Juice and Natural Spreads for sale to Plaintiffs and members of the Class by way of product labeling.

149. As described herein *supra* , these materials misrepresented and/or omitted the true contents and nature of 100% Juice and Natural Spreads.

150. Defendant's labeling inducements were made within California and come within the definition of advertising as contained in Business and Professions Code §17500, *et seq.* in that such product labeling was intended as inducements to purchase 100% Juice products and Natural Spreads and are statements disseminated by Defendant to Plaintiffs and the Class that were intended to reach members of the Class.

151. As described herein *supra,* Defendant knew, or in the exercise of reasonable care, should have known, that these statements were misleading and deceptive as set forth herein.

152. Defendant prepared and distributed within California via product labeling statements that misleadingly and deceptively represented the composition and nature of 100% Juice products and Natural Spreads.

153. Plaintiffs and the Class were the intended targets of such representations.

154. Plaintiffs and the Class reasonably relied on Defendant's representations.

155. Defendant's conduct in disseminating misleading and deceptive statements in California Plaintiffs and the Class was and is likely to deceive reasonable consumers by obscuring the true composition and nature of 100% Juice and Natural Spreads in violation of the "misleading prong" of California Business and Professions Code § 17500, *et seq*.

156. Plaintiffs and the Class were injured as a result of Defendant's acts and practices.

157. As a result of Defendant's violations of the "misleading prong" of California Business and Professions Code § 17500, *et seq.*, Defendant have been unjustly enriched at the expense of Plaintiffs and the Class.

158. Plaintiffs and the Class, pursuant to Business and Professions Code § 17535, are entitled to an order enjoining such future conduct by Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore any money paid for 100% Juice and Natural Spreads by Plaintiffs and the Class.

FIFTH CAUSE OF ACTION
Business and Professions Code § 17500, *et seq.*
Untrue Advertising

159. Plaintiffs assert this cause of action against Defendant for violations of California Business and Professions Code § 17500, *et seq.*, regarding untrue advertising.

160. Defendant offered 100% Juice products and Natural Spreads for sale to Plaintiffs and the Class by way of labeling.

161. As described herein *supra,* these materials misrepresented or omitted the true contents and nature of 100% Juice and Natural Spreads.

162. Defendant's labeling inducements were made in California and come within the definition of advertising contained in Business and Professions Code §17500, *et seq*. where the product labels are intended as inducements to purchase 100% Juice and Natural Spreads, and are statements disseminated by Defendant to Plaintiffs and the Class.

163. Defendant knew, or in the exercise of reasonable care, should have known, that these statements were untrue and/or misleading.

164. As described herein *supra,* Defendant prepared and distributed in California via product packaging and labeling, statements that falsely advertise the composition of 100% Juice products and Natural Spreads, and falsely misrepresented the nature of 100% Juice products and Natural Spreads.

165. Plaintiffs and the Class were the intended targets of such representations.

166. As described herein *supra,* Defendant's conduct in disseminating untrue label advertising throughout California deceived Plaintiffs and members of the Class by obfuscating the contents, nature and quality of 100% Juice products and Natural Spreads in violation of the "untrue prong" of California Business and Professions Code § 17500.

167. Plaintiffs and the Class reasonably relied on Defendant's representations.

168. As set forth herein, a reasonable consumer would have relied on Defendant's representations.

169. Plaintiffs and the Class were injured as a result of Defendant's acts and practices.

170. As a result of Defendant's violations of the "untrue prong" of California Business and Professions Code § 17500, *et seq.*, Defendant has been unjustly enriched at the expense of Plaintiffs and the Class.

171. Plaintiffs and the Class, pursuant to Business and Professions Code § 17535, are entitled to an order enjoining such future conduct by Defendant, and such other orders and judgments which may be necessary to disgorge Defendant's ill-gotten gains and restore any money paid for 100% Juice and Natural Spreads by Plaintiffs and the Class.

SIXTH CAUSE OF ACTION
Consumer Legal Remedies Act, Cal. Civ. Code §1750, *et seq.*

172. On December 21, 2012, Plaintiffs' counsel served Defendant with notice of Defendant's violations of the CLRA.

173. Defendant failed to provide appropriate relief for its violations of the CLRA within 30 days of its receipt of the CLRA demand notice.

174. The violations of the CLRA by Defendant were and are willful, oppressive and fraudulent, thus supporting an award of punitive damages.

175. Consequently, Plaintiffs and the Class are entitled to actual and punitive damages against Defendant for its violations of the CLRA.

176. In addition, pursuant to Cal. Civ. Code § 1782(a)(2), Plaintiffs and the Class are entitled to an order enjoining the above-described acts and practices, providing restitution to Plaintiffs and the Class, ordering payment of costs and attorneys' fees, and any other relief deemed appropriate and proper by the Court pursuant to Cal. Civ. Code § 1780.

177. Defendant's actions, representations, and conduct have violated, and continue to violate the CLRA, because they extend to transactions that are intended to result, or which have resulted, in the sale of goods or services to consumers.

178. Defendant sold 100% Juice and Natural Spreads in California during the Class Period.

179. Plaintiffs and members of the Class are "consumers" as that term is defined by the CLRA in Cal. Civ. Code §1761(d).

180. 100% Juice products and Natural Spreads products are "goods" within the meaning of Cal. Civ. Code §1761(a).

181. By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(5), of the CLRA, because Defendant's conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices in that they misrepresent the particular ingredients, characteristics, uses, benefits and quantities of the goods.

182. By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(7) of the CLRA, because Defendant's conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices in that it misrepresents the particular standard, quality or grade of the goods.

183. By engaging in the conduct set forth herein, Defendant violated and continues to violate Section 1770(a)(9) of the CLRA, because Defendant's conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices in that it advertises goods with the intent not to sell the goods as advertised.

184. By engaging in the conduct set forth herein, Defendant have violated and continue to violate Section 1770(a)(16) of the CLRA, because Defendant's conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices in that it represents that a subject of a transaction has been supplied in accordance with a previous representation when they have not.

185. Plaintiffs and the Class were injured as a result of Defendant's acts and practices.

186. Plaintiffs request that the Court enjoin Defendant from continuing to employ the unlawful methods, acts and practices alleged herein pursuant to Cal. Civ. Code § 1780(a)(2).

187. If Defendant are not restrained from engaging in these practices in the future, Plaintiffs and the Class will continue to suffer harm.

SEVENTH CAUSE OF ACTION
Breach of Implied Warranty of Merchantability

188. Implied in the purchase of 100% Juice products and Natural Spreads by Plaintiffs and the Class is the warranty that the purchased products are legal and can be lawfully resold.

189. Defendant knowingly and intentionally misbranded 100% Juice products and Natural Spreads products.

190. Defendant knew or should have known that those 100% Juice products and Natural Spreads products were illegal.

191. When Defendant sold those products they impliedly warranted that the products were legal and could be lawfully resold.

192. Plaintiffs would not have knowingly purchased products that were illegal and unsellable and which subjected Plaintiffs to criminal prosecution.

193. No reasonable consumer would knowingly purchase products that are illegal and unsellable and subject a consumer to criminal prosecution.

194. The purchased 100% Juice products and Natural Spreads products were unfit for the ordinary purpose for which Plaintiffs and the Class purchased them.

195. In fact, these 100% Juice products and Natural Spreads products were economically worthless.

196. As a result, Plaintiffs and the Class were injured through their purchase of an unsuitable, useless, illegal, and unsellable product.

197. By reason of the foregoing, Plaintiffs and the Class were damaged in the amount they paid for 100% Juice and Natural Spreads products.

JURY DEMAND

Plaintiffs hereby demand a trial by jury of their claims.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs, individually and on behalf of all others similarly situated, and on behalf of the general public, pray for judgment against Defendant as follows:

A. For an order certifying this case as a class action and appointing Plaintiffs and their counsel to represent the Class;

B. For an order awarding, as appropriate, damages, restitution or disgorgement to Plaintiffs and the Class for all causes of action;

C. For an order requiring Defendant to immediately cease and desist from selling its Misbranded Food Products in violation of law; enjoining Defendant from continuing to manufacture, label, market, advertise, distribute, and sell these products in the unlawful manner described herein; and ordering Defendant to engage in corrective action;

D. For all equitable remedies available pursuant to Cal. Civ. Code § 1780;

E. For an order awarding attorneys' fees and costs;

F. For an order awarding punitive damages;

G. For an order awarding pre-and post-judgment interest; and

H. For an order providing such further relief as this Court deems proper.

Dated: October 30, 2013

Respectfully submitted,

By: /s/ Pierce Gore

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