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Attorneys for Plaintiff Jonathan Saghian

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

JONATHAN SAGHIAN, individually and on behalf of all others similarly situated,

Plaintiff,

v.

SUN-MAID GROWERS OF CALIFORNIA,

Defendant.

Case No.: 2:17-cv-05013

CLASS ACTION COMPLAINT

1. **Violation of California Civil Code §1750, *et seq.***
2. **Violation of California Business and Professions Code § 17200, *et seq.***
3. **Violation of California Business and Professions Code § 17500, *et seq.***
4. **Common Law Fraud**
5. **Intentional Misrepresentation**
6. **Negligent Misrepresentation**
7. **Quasi-Contract/Unjust Enrichment/Restitution**

JURY TRIAL DEMANDED

Plaintiff Jonathan Saghian ("Plaintiff") by and through his counsel, brings this Class Action Complaint against Sun-Maid Growers of California ("Defendant"), on behalf of himself and all others similarly situated, and alleges upon personal knowledge as to his own actions, and upon information and belief as to counsel's investigations and all other matters, as follows:

NATURE OF THE ACTION

1. Plaintiff brings this consumer protection and deceptive advertising class action lawsuit against Defendant, based on Defendant's unlawful and misleading business practices with respect to the marketing and sale of its Sun-Maid® Natural California Raisins and Sun-Maid® California Golden Raisins (collectively referred to as the "Products").

2. At all relevant times, Defendant has manufactured, labeled, packaged, marketed, and sold the Products as having "No Sugar Added."

3. For a labeled food product, federal regulation requires, *inter alia*, that "[t]he term[]… 'no sugar added'… may be used only if: (iv) [t]he food that it resembles and for which it substitutes normally contains added sugars." 21 C.F.R. § 101.60(c)(2).

4. Each of the Products do not resemble or substitute for foods that normally contain added sugar. Accordingly, the "No Sugar Added" claim made on the Products fails to comply with federal regulation.

5. Plaintiff purchased the Product, reasonably relying on Defendant's improper and deceptive representation about the Products, and believing that comparable products offered by competitors not bearing the representation or a similar representation did contain added sugar, and that the Products were less sugary than the comparable products. If Defendant had not included the unlawful and deceptive "No Sugar Added" representation on the Products, Plaintiff and other consumers would not have purchased the Products, would have purchased less of the Products, or would have paid significantly less for the Products. Therefore, Plaintiff and consumers have

suffered injury in fact as a result of Defendant's unlawful and deceptive practices.

6. Plaintiff brings this class action lawsuit on behalf of himself and all others similarly situated. Plaintiff seeks to represent a California Subclass, a California Consumer Subclass, and a Nationwide Class (defined *infra* in ¶¶ 38-40) (together referred to as "Classes").

7. Plaintiff, on behalf of himself and other consumers, is seeking damages, restitution, declaratory and injunctive relief, and all other remedies the court deems appropriate.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all members of the proposed Classes are in excess of the monetary statutory minimum, exclusive of interests and costs, and many members of the proposed Classes, which total more than 100 class members, are citizens of states different from the state of Defendant.

9. This Court has personal jurisdiction over Defendant because Defendant has sufficient minimum contacts in California or otherwise intentionally did avail itself of the markets within California. Defendant maintains its principal place in business in Kingsburg, California and conducts regular and substantial business in California and with California consumers.

10. Venue is proper in this District pursuant to 28 U.S.C. 1391(a)(1) because Defendant regularly conducts business throughout this District, and a substantial part of the events and/or omissions giving rise to this action occurred in this District.

PARTIES

11. Plaintiff Jonathan Saghian is a citizen of California, residing in Los Angeles County. In 2016 and 2017, Mr. Saghian purchased Sun-Maid® Natural California Raisins many times from stores in Los Angeles, California, including

Ralph's and Target. Mr. Saghian purchased the Product, reasonably relying on the Defendant's representation that the Product has "No Sugar Added" and reasonably believing that the Product was less sugared in comparison to comparable competitor products not bearing the same representation. Specifically, before purchasing the Product, Mr. Saghian also saw that competitor brand(s) of raisins at each store did not contain a "No Sugar Added" representation of the labeling, causing him to believe that those products did in fact contain added sugar and that Sun-Maid® Natural California Raisins were less sugary than comparable competitor products. Mr. Saghian would not have purchased the Product, would not have purchased the Product as often, or would have paid significantly less for the Product had he known that the "No Sugar Added" representation on the Product was unlawful and deceptive. Mr. Saghian therefore suffered injury in fact and lost money as a result of Defendant's improper, misleading, unfair, and fraudulent practices, as described herein. Despite being deceived, Mr. Saghian would likely purchase the Products in the future if the unlawful and misleading representation was removed.

12. Defendant Sun-Maid Growers of California is a corporation incorporated in California, with its principal place of business in Kingsburg, California. Defendant directly and/or through its agents, produces, manufactures, labels, packages, markets, distributes, and sells the Products nationwide, including in California and in this District.

FACTUAL ALLEGATIONS

A. The Federal Regulation of "No Sugar Added" Labeling

13. Pursuant to 21 U.S. Code § 343(a)(1), a food shall be deemed to be misbranded if "its labeling is false or misleading in any particular [way.]"

14. The Food and Drug Administration ("FDA") regulations promulgated pursuant to the Food, Drug, and Cosmetics Act of 1938 ("FDCA") specify the precise nutrient content claims concerning sugar that may be made on a food label.

15. Specifically, 21 C.F.R. § 101.60(c)(2) only permits labeling a food product as having "no sugar added" 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.

21 C.F.R. § 101.60(c)(2) (emphasis added).

16. In implementing the federal regulations, the FDA has stated that:

> "[T]he purpose of the 'no added sugar' claim is to present consumers with information that allows them to differentiate between similar foods that would normally be expected to contain added sugars, with respect to the presence or absence of added sugars. Therefore, the 'no added sugar' claim is not appropriate to describe foods that do not normally contain added sugars."

58 Fed. Reg. 2302, 2327 (Jan. 6, 1993).

B. American Sugar Consumption

17. Americans are consuming more and more added sugar. So much so that research shows that consumption of added sugars by adults has increased by more than 30% over the last three decades.[1]

18. Added sugar in foods has substantially contributed to ballooning rates of type-2 diabetes, obesity, and other diseases, leading the American Heart Association, World Health Organization, and the U.S. Department of Agriculture to call for a large reduction in the amount of sugar consumed by most Americans.[2]

19. For these reasons, among others, Americans have become increasingly concerned with their sugar intake. In a recent survey of over 3,000 people conducted by Healthline, a consumer health information website, 62% of respondents reported being concerned about the impact of sugar consumption, and two-thirds of respondents admitted that they needed to consume less sugar.[3]

C. Defendant's Unlawful and Deceptive "No Sugar Added" Representation

20. All relevant times, Defendant directly and/or through its agents, produces, manufactures, labels, packages, markets, distributes, and sells the Products at various grocery store locations across the country, as well as through various online retailers such as Walmart, Target, and Amazon.com.

21. To profit from consumers' growing concern with minimizing sugar consumption, Defendant has conspicuously represented on the labeling of the Products that the Products have "No Sugar Added:"[4]

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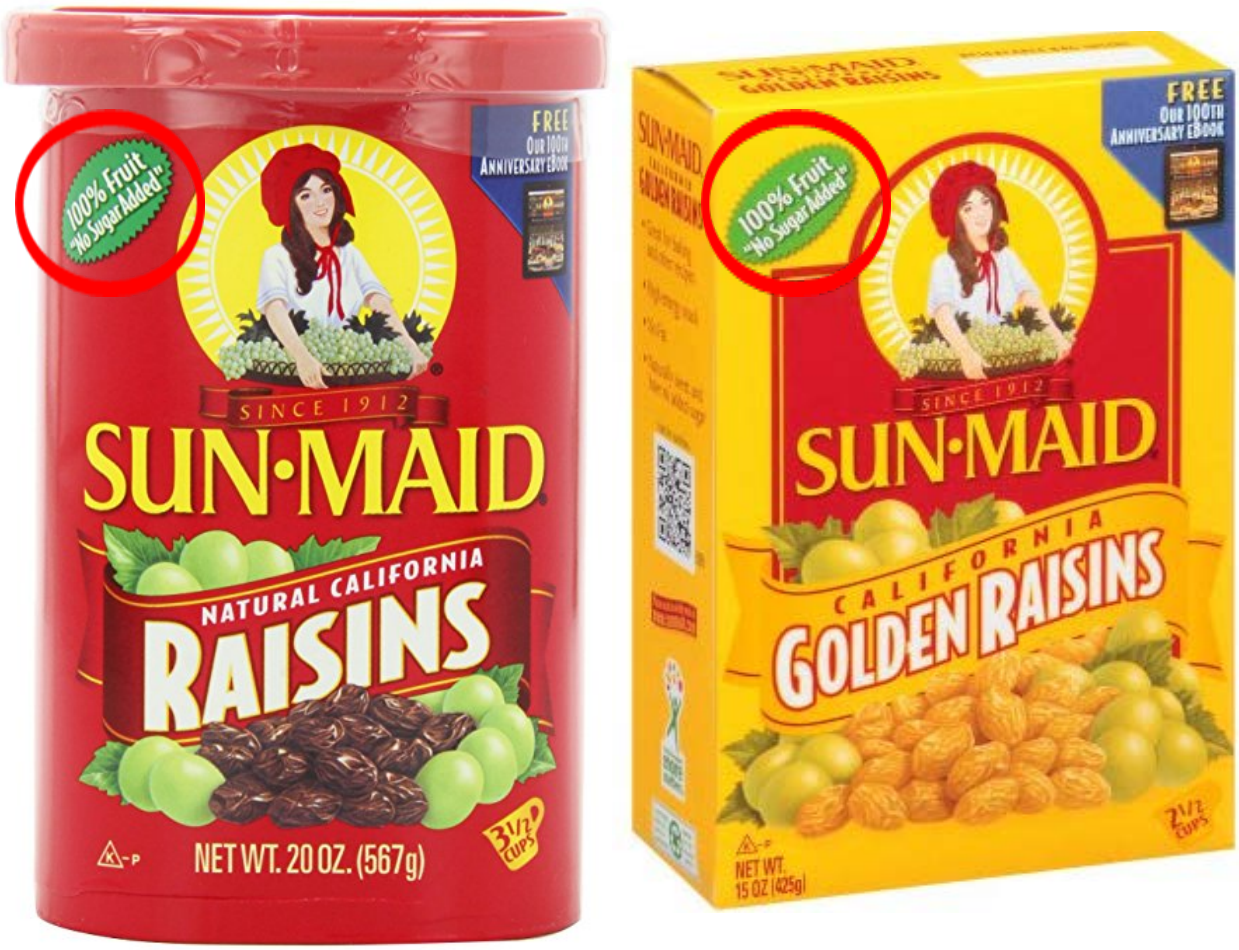
[1] http://www.obesity.org/news/press-releases/us-adult (last visited on 7/07/2017).

[2] http://www.heart.org/HEARTORG/HealthyLiving/HealthyEating/Nutrition/Added-Sugars_UCM_305858_Article.jsp#.WV_6-ojyuUk ((last visited on 7/07/2017); http://www.who.int/mediacentre/news/releases/2015/sugar-guideline/en/ (last visited on 7/07/2017); https://www.fns.usda.gov/pressrelease/2016/000516 (last visited on 7/07/2017).

[3] http://www.healthline.com/health/sugar/healthline-survey-results (last visited on 7/07/2017).

[4] https://www.amazon.com/Sun-Maid-Natural-California-20-Ounce/dp/B007B9I8NY?th=1 (last visited on 7/07/2017); https://www.walmart.com/ip/Sun-Maid-California-Golden-Raisins-15-oz/10307652 (last visited on 7/07/2017).

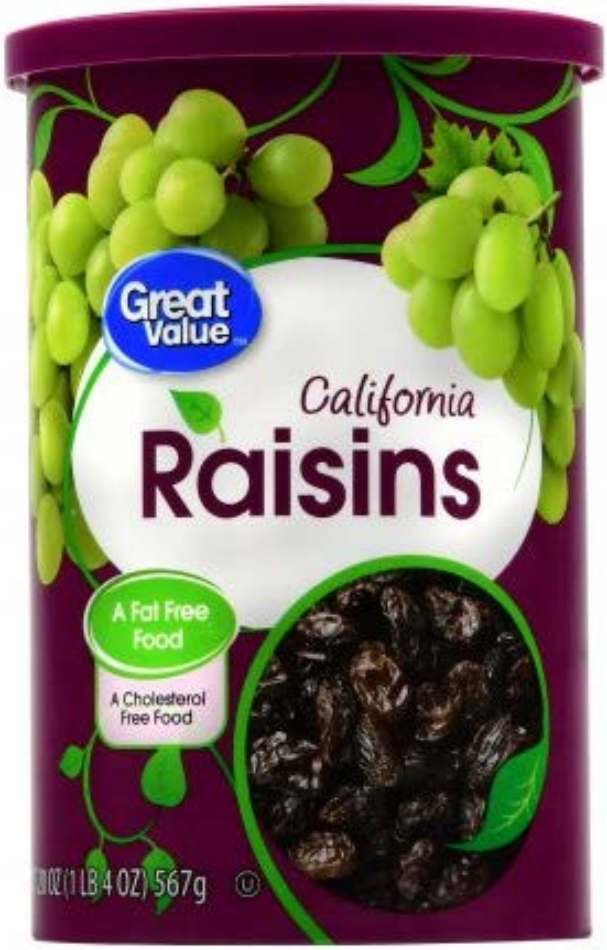


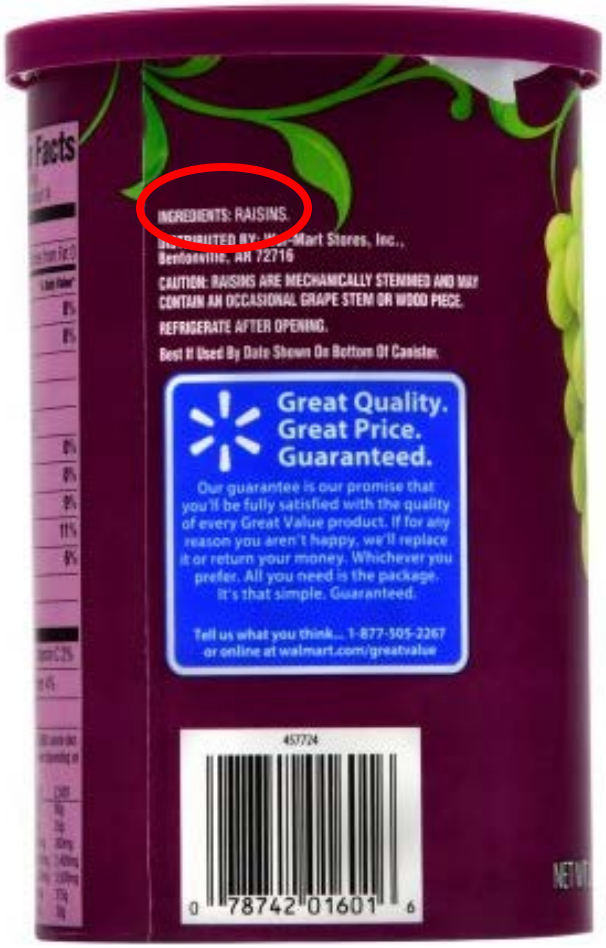
22. However, the foods that the Products "resemble[] and for which [they] substitute[]" do not contain any added sugars. 21 C.F.R. § 101.60(c)(2).

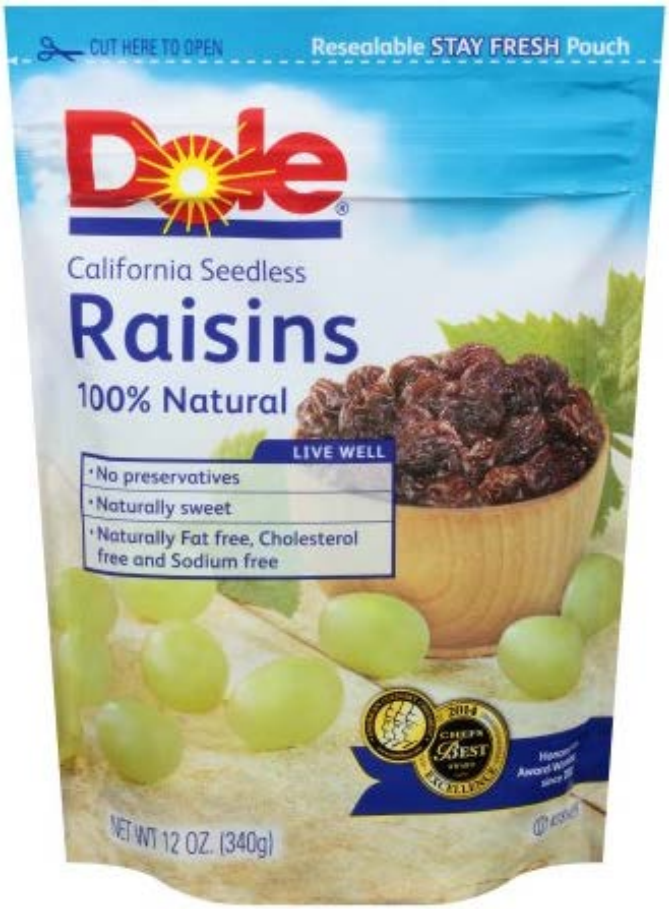
1. Sun-Maid Natural California Raisins

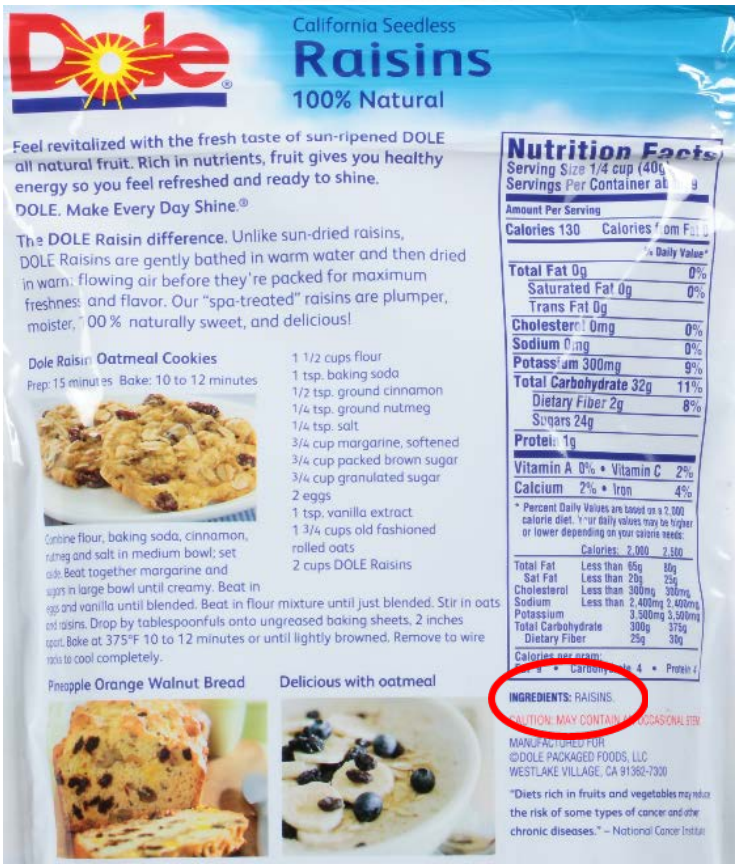
23. As demonstrated in the images below, competitor brands of Sun-Maid Natural California Raisins do not contain added sugar as an ingredient:[5]

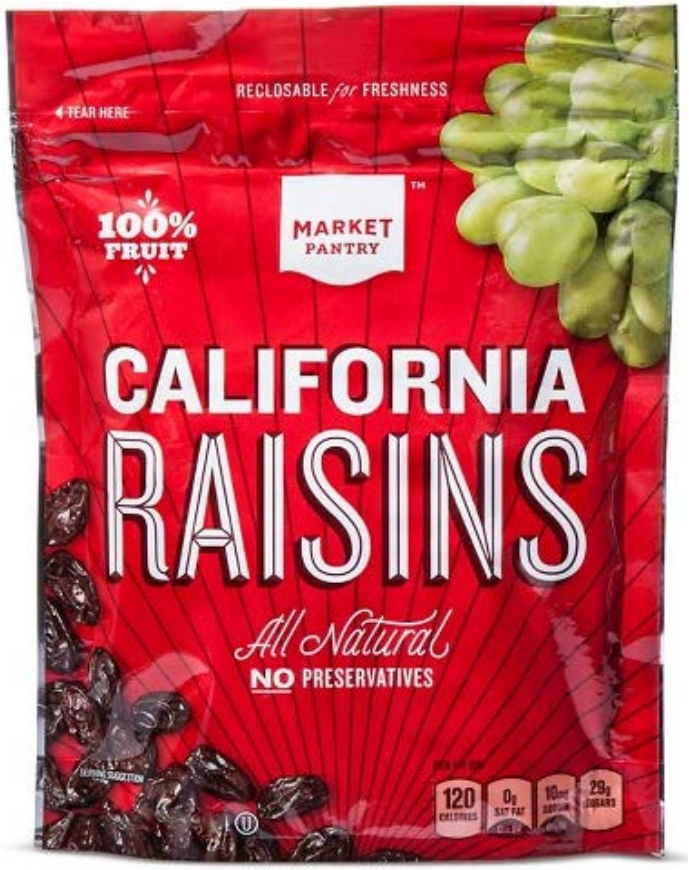
[5] https://www.walmart.com/ip/Great-Value-California-Raisins-20-oz/20896168 (last visited on 7/07/2017); https://www.walmart.com/ip/Dole-California-Seedless-Raisins-12-oz/55317045 (last sited on 7/07/2017); http://www.target.com/p/california-raisins-10oz-market-pantry-153/-/A-12936311 (last visited on 7/07/2017).

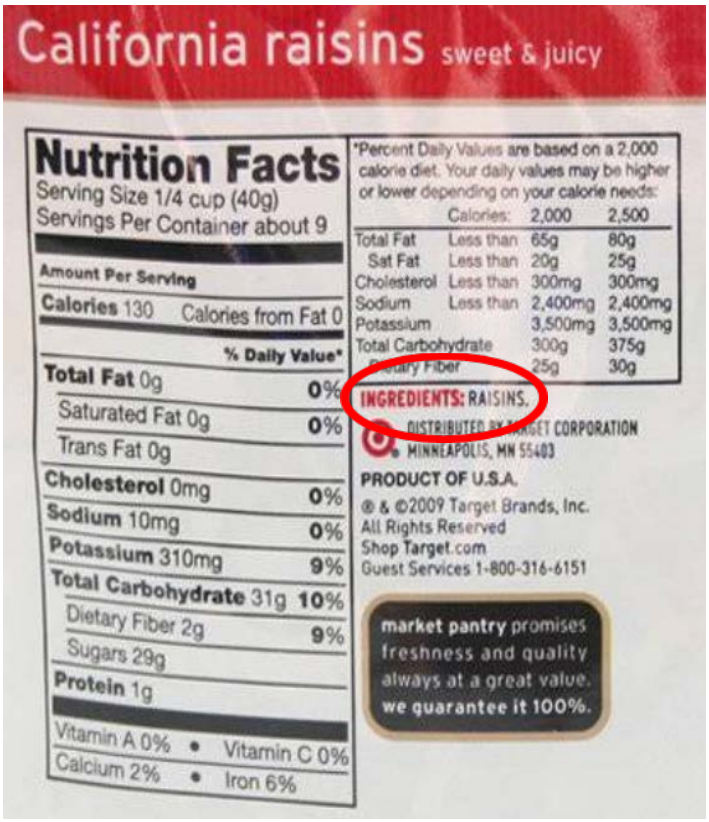

Great Value
California
Raisins
A Fat Free Food
A Cholesterol Free Food
(1 LB 4 OZ) 567g


INGREDIENTS: RAISINS.
CAUTION: RAISINS ARE MECHANICALLY STEMMED AND MAY CONTAIN AN OCCASIONAL GRAPE STEM OR WOOD PIECE.
REFRIGERATE AFTER OPENING.
Best If Used By Date Shown On Bottom Of Canister.
Great Quality. Great Price. Guaranteed.
Our guarantee is our promise that you'll be fully satisfied with the quality of every Great Value product. If for any reason you aren't happy, we'll replace it or return your money. Whichever you prefer. All you need is the package. It's that simple. Guaranteed.
Tell us what you think... 1-877-505-2267 or online at walmart.com/greatvalue
457724
0 78742 01601 6


CUT HERE TO OPEN
Resealable STAY FRESH Pouch
Dole
California Seedless
Raisins
100% Natural
LIVE WELL
• No preservatives
• Naturally sweet
• Naturally Fat free, Cholesterol free and Sodium free
NET WT 12 OZ. (340g)


Dole
California Seedless
Raisins
100% Natural
Feel revitalized with the fresh taste of sun-ripened DOLE all natural fruit. Rich in nutrients, fruit gives you healthy energy so you feel refreshed and ready to shine.
DOLE. Make Every Day Shine.®
The DOLE Raisin difference. Unlike sun-dried raisins, DOLE Raisins are gently bathed in warm water and then dried in warm, flowing air before they're packed for maximum freshness and flavor. Our "spa-treated" raisins are plumper, moister, 100% naturally sweet, and delicious!
Dole Raisin Oatmeal Cookies
Prep: 15 minutes Bake: 10 to 12 minutes
1 1/2 cups flour
1 tsp. baking soda
1/2 tsp. ground cinnamon
1/4 tsp. ground nutmeg
1/4 tsp. salt
3/4 cup margarine, softened
3/4 cup packed brown sugar
3/4 cup granulated sugar
2 eggs
1 tsp. vanilla extract
1 3/4 cups old fashioned rolled oats
2 cups DOLE Raisins
Combine flour, baking soda, cinnamon, nutmeg and salt in medium bowl; set aside. Beat together margarine and sugars in large bowl until creamy. Beat in eggs and vanilla until blended. Beat in flour mixture until just blended. Stir in oats and raisins. Drop by tablespoonfuls onto ungreased baking sheets, 2 inches apart. Bake at 375°F 10 to 12 minutes or until lightly browned. Remove to wire racks to cool completely.
Pineapple Orange Walnut Bread
Delicious with oatmeal
Nutrition Facts
Serving Size 1/4 cup (40g)
Servings Per Container about 9
Amount Per Serving
Calories 130 Calories from Fat 0
% Daily Value*
Total Fat 0g 0%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 0mg 0%
Potassium 300mg 9%
Total Carbohydrate 32g 11%
Dietary Fiber 2g 8%
Sugars 24g
Protein 1g
Vitamin A 0% • Vitamin C 2%
Calcium 2% • Iron 4%
* Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:
Calories: 2,000 2,500
Total Fat Less than 65g 80g
Sat Fat Less than 20g 25g
Cholesterol Less than 300mg 300mg
Sodium Less than 2,400mg 2,400mg
Potassium 3,500mg 3,500mg
Total Carbohydrate 300g 375g
Dietary Fiber 25g 30g
Calories per gram:
Fat 9 • Carbohydrate 4 • Protein 4
INGREDIENTS: RAISINS.
CAUTION: MAY CONTAIN OCCASIONAL STEM
MANUFACTURED FOR
©DOLE PACKAGED FOODS, LLC
WESTLAKE VILLAGE, CA 91362-7300
"Diets rich in fruits and vegetables may reduce the risk of some types of cancer and other chronic diseases." – National Cancer Institute


TEAR HERE
RECLOSABLE for FRESHNESS
100% FRUIT
MARKET PANTRY
CALIFORNIA
RAISINS
All Natural
NO PRESERVATIVES
120


California raisins sweet & juicy
Nutrition Facts
Serving Size 1/4 cup (40g)
Servings Per Container about 9
Amount Per Serving
Calories 130 Calories from Fat 0
% Daily Value*
Total Fat 0g 0%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 10mg 0%
Potassium 310mg 9%
Total Carbohydrate 31g 10%
Dietary Fiber 2g 9%
Sugars 29g
Protein 1g
Vitamin A 0% • Vitamin C 0%
Calcium 2% • Iron 6%
*Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs:
Calories: 2,000 2,500
Total Fat Less than 65g 80g
Sat Fat Less than 20g 25g
Cholesterol Less than 300mg 300mg
Sodium Less than 2,400mg 2,400mg
Potassium 3,500mg 3,500mg
Total Carbohydrate 300g 375g
Dietary Fiber 25g 30g
INGREDIENTS: RAISINS.
MINNEAPOLIS, MN 55403
PRODUCT OF U.S.A.
® & ©2009 Target Brands, Inc.
All Rights Reserved
Shop Target.com
Guest Services 1-800-316-6151
market pantry promises freshness and quality always at a great value. we guarantee it 100%.

24. However, Sun-Maid Natural California Raisins contain as much, and often more, sugar than comparable competitor California raisin products:

i. Sun-Maid Natural California Raisins: 29g of sugar / 40g serving size.

ii. Great Value California Raisins: 24g of sugar / 40g service size.

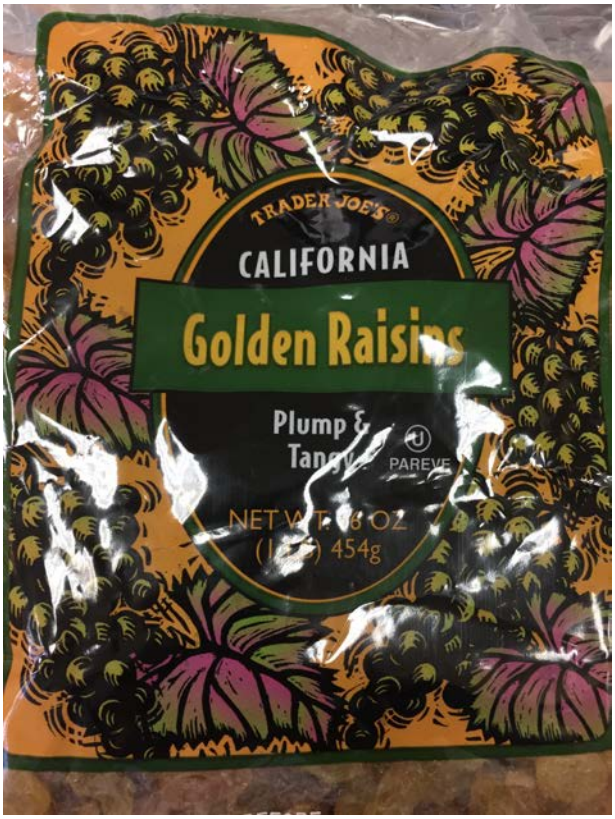
iii. Dole California Seedless Raisins: 24g of sugar / 40g serving size.

iv. Market Pantry California Raisins: 29g of sugar / 40g serving size.

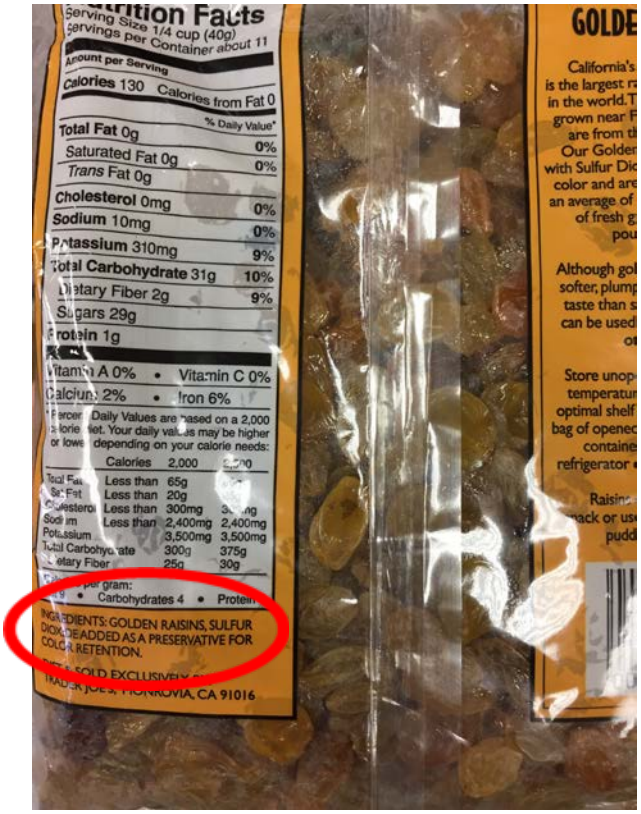
25. Furthermore, competitor raisin products do not contain a "No Sugar Added" representation on their labels.

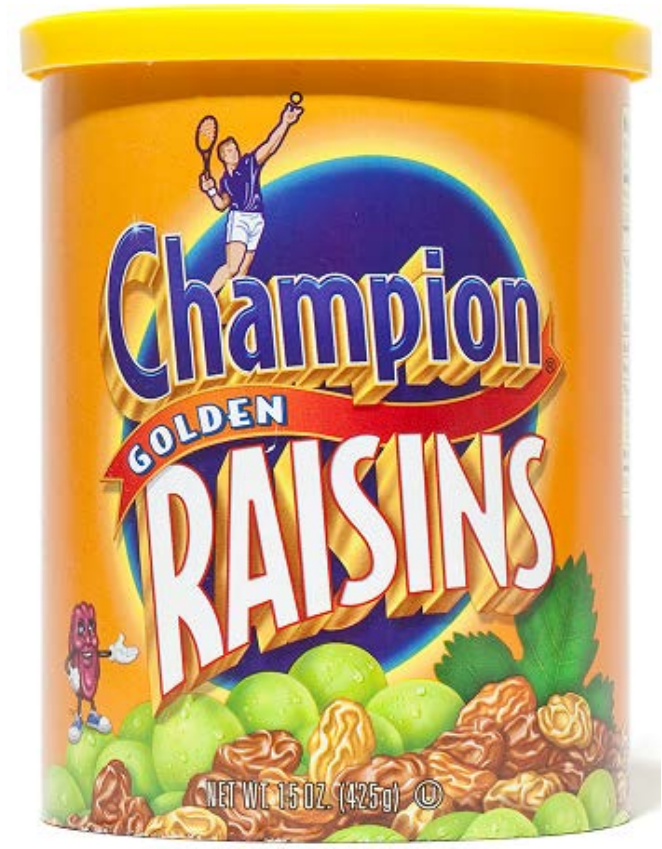
2. Sun-Maid California Golden Raisins

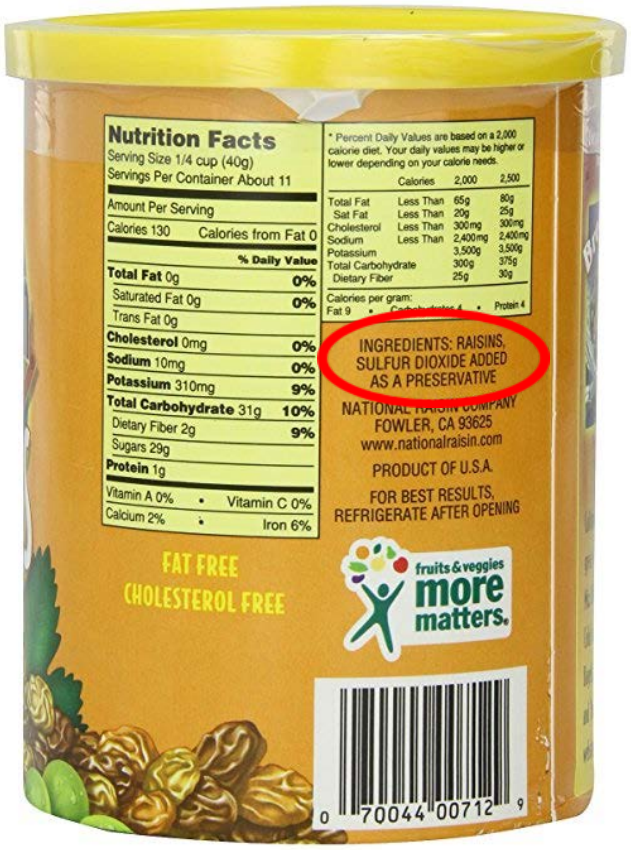
26. As demonstrated in the images below, competitor brands of Sun-Maid California Golden Raisins do not contain added sugar as an ingredient:[6]



[6] https://www.cooksillustrated.com/taste_tests/530-golden-raisins (last visited on 7/07/2017); https://www.amazon.com/Champion-Golden-Raisins-15-Ounce-Canisters/dp/B000E8WJQQ (last visited on 7/07/2017).


Serving Size 1/4 cup (40g)
Servings per Container about 11
Amount per Serving
Calories 130 Calories from Fat 0
% Daily Value*
Total Fat 0g 0%
Saturated Fat 0g 0%
Trans Fat 0g
Cholesterol 0mg 0%
Sodium 10mg 0%
Potassium 310mg 9%
Total Carbohydrate 31g 10%
Dietary Fiber 2g 9%
Sugars 29g
Protein 1g
Vitamin A 0% • Vitamin C 0%
Calcium 2% • Iron 6%
Calories 2,000
Less than 65g
Less than 20g
Less than 300mg
Less than 2,400mg 2,400mg
3,500mg 3,500mg
300g 375g
25g 30g
Carbohydrates 4 • Protein
INGREDIENTS: GOLDEN RAISINS, SULFUR DIOXIDE ADDED AS A PRESERVATIVE FOR COLOR RETENTION.
TRADER JOE'S, MONROVIA, CA 91016
GOLDE
California's
Our Golden
Although gol
softer, plump
taste than s
Store unop
optimal shelf
bag of opened
container
refrigerator
Raisin
pudd


Champion
GOLDEN
RAISINS
NET WT. 1.5 OZ. (425g)



27. However, Sun-Maid California Golden Raisins contain at least as much sugar as comparable competitor golden raisin products:

i. Sun-Maid California Golden Raisins: 29g of sugar / 40g serving size.

ii. Champion Golden Raisins: 29g of sugar / 40g serving size.

iii. Trader Joes California Golden Raisins: 29g of sugar / 40g serving size.

28. Furthermore, competitor golden raisin products do not contain a "No Sugar Added" representation on their labels.

29. According to the California Raisin Marketing Board, which Defendant is a member of, "California Raisins are naturally sweet…. Ordinarily, no sugar is ever added to Raisins when they are packed…."[7] Furthermore, the Board noted that "Our ingredients statement say it all – RAISINS!"[8]

[7] http://calraisins.org/raisin-nutrition/faqs/ (last visited on 7/07/2017).
[8] http://calraisins.org/about/the-raisin-industry/ (last visited on 7/07/2017).

30. Accordingly, because products comparable to the Products do not contain added sugar, Defendant's "No Sugar Added" claim made on the Products is improper, non-compliant with federal and state regulations, and therefore deems that the Products are misbranded under federal law.

D. Plaintiff And Other Consumers Have Been Deceived And Harmed

31. In reasonable reliance on Defendant's representations, Plaintiff and members of the Classes purchase the Products, believing that comparable products offered by competitors not bearing the representation or a similar representation contain added sugar, and that the Products are less sugary than comparable products.

32. Plaintiff and members of the Classes did not know, and had no reason to know, that Defendant's Products were improperly labeled, and had they known the fact that the Products are no less sugary than competitors' comparable products, they would not have purchased the Products, would have purchased less of them, or would have paid significantly less for them. Therefore, Plaintiff and members of the Classes have been deceived and have suffered injury in fact as a result of Defendant's improper and deceptive practices.

33. Defendant knew or should have known that each of the Products was illegally labeled because Defendant and/or its agents manufactured, labeled, packaged, marketed, and sold each of the Products.

34. Defendant knew or should have known that Plaintiff and other members of the Classes, in purchasing the Products, would rely on Defendant's "No Sugar Added" representation on the Products and that they would reasonably believe the Products are less sugary than competitors' comparable products and/or that comparable products contain added sugar.

35. Each consumer has been exposed to the same or substantially similar deceptive practice, as (1) each of the Products bears the "No Sugar Added" representation on its labeling; and (2) the Products are uniformly unlawfully labeled.

36. As a result of its illegal and misleading business practice, and the harm caused to Plaintiff and other consumers, Defendant should be required to pay for all damages caused to consumers, including Plaintiff. Further, Defendant should be enjoined from engaging in these deceptive practices.

37. Despite being misled by Defendant, Plaintiff would likely purchase the Products in the future if the unlawful and misleading representation was removed.

CLASS ACTION ALLEGATIONS

38. Plaintiff brings this case as a class action that may be properly maintained under Federal Rule of Civil Procedure 23 on behalf of himself and all persons in the United States, who within the relevant statute of limitations periods, purchased any of the Products ("Nationwide Class").

39. Plaintiff also seeks to represent a subclass defined as all California residents, who within the relevant statute of limitations periods, purchased any of the Products ("California Subclass").

40. Plaintiff also seeks to represent a subclass defined as all California residents, who within the relevant statute of limitations periods, purchased the Products for personal, family, or household purposes ("California Consumer Subclass").

41. Excluded from the Classes are Defendant, the officers and directors of the Defendant at all relevant times, members of their immediate families and their legal representatives, heirs, successors or assigns and any entity in which Defendant has or had a controlling interest. Any judge and/or magistrate judge to whom this action is assigned and any members of such judges' staffs and immediate families are also excluded from the Classes. Also excluded from the Classes are persons or entities that purchased the Products for the sole purpose of resale.

42. Plaintiff hereby reserves the right to amend or modify the class definitions with greater specificity or division after having had an opportunity to conduct discovery.

43. Plaintiff is a member of all Classes.

44. Numerosity: Based on information and belief, Defendant has sold millions of units of the Products during the Class Period. The Products are sold at various grocery stores locations across the country, as well as through various online retailers such as Walmart, Target, and Amazon.com. Accordingly, members of the Classes are so numerous that their individual joinder herein is impractical. While the precise number of class members and their identities are unknown to Plaintiff at this time, the number may be determined through discovery.

45. Common Questions Predominate: Common questions of law and fact exist as to all members of the Classes and predominate over questions affecting only individual class members. Common legal and factual questions include, but are not limited to: (1) Whether the Products are misbranded under federal and state law, and (2) Whether the Products are deceptively labeled.

46. Typicality: Plaintiff's claims are typical of the claims of the Classes he seeks to represent in that Plaintiff and members of the Classes were all exposed to the same or substantially similar improper and misleading representation, purchased the Products relying on the uniform improper and misleading representation, and suffered losses as a result of such purchases.

47. Adequacy: Plaintiff is an adequate representative of the Classes because his interests do not conflict with the interests of the members of the Classes he seeks to represent, he has retained competent counsel experienced in prosecuting class actions, and he intends to prosecute this action vigorously. The interests of the members of the Classes will be fairly and adequately protected by the Plaintiff and his counsel.

48. Superiority: A class action is superior to other available means for the fair and efficient adjudication of the claims of the members of the Classes. The size of each claim is too small to pursue individually and each individual Class member will

lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. The class action mechanism is designed to remedy harms like this one that are too small in value, although not insignificant, to file individual lawsuits for.

49. This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure 23(b)(2) because Defendant has acted or refused to act on grounds that are generally applicable to the members of the Classes, thereby making final injunctive relief appropriate with respect to all Classes.

50. This lawsuit is maintainable as a class action under Federal Rule of Civil Procedure 23(b)(3) because the questions of law and fact common to the members of the Classes predominate over any questions that affect only individual members, and because the class action mechanism is superior to other available methods for the fair and efficient adjudication of the controversy.

FIRST CLAIM FOR RELIEF
Violation of California's Consumers Legal Remedies Act ("CLRA"), California Civil Code §§ 1750, *et seq.*
(*for the California Consumer Subclass*)

51. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

52. Plaintiff brings this claim individually and on behalf of the members of the proposed California Consumer Subclass against Defendant.

53. The Products are "goods" within the meaning of Cal. Civ. Code § 1761(a), and the purchases of such products by Plaintiff and members of the California Consumer Subclass constitute "transactions" within the meaning of Cal. Civ. Code §

1761(e).

54. Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have . . . ." By labeling the Products as having "No Sugar Added," Defendant has characterized the Products as less sugary than comparable products sold by competitor brands, when they are not. Therefore, Defendant has violated section 1770(a)(5) of the CLRA.

55. Cal. Civ. Code § 1770(a)(7) prohibits "[r]epresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another." By labeling the Products as having "No Sugar Added," Defendant has represented that the Products are of superior quality in comparison to comparable products sold by competitor brands when they are not. Therefore, Defendant has violated section 1770(a)(7) of the CLRA.

56. Cal. Civ. Code § 1770(a)(8) prohibits "[d]isparaging the goods, services, or business of another by false or misleading representation of fact." By labeling the Products as having "No Sugar Added," Defendant has represented that similar raisin products sold by competitor brands do have sugar added and/or that the Products are less sugary than those competitor products, when this is not true. Therefore, Defendant has violated section 1770(a)(8) of the CLRA.

57. Cal. Civ. Code § 1770(a)(9) prohibits "[a]dvertising goods or services with intent not to sell them as advertised." By labeling the Products as having "No Sugar Added," and then intentionally not selling the Products to meet the expectation that they are less sugary than comparable products sold by competitor brands, Defendant has violated section 1770(a)(9) of the CLRA.

58. Furthermore, Defendant has violated the CLRA by failing to disclose that sugar is not added to comparable products offered by competitor brands.

59. At all relevant times, Defendant knew or reasonably should have known

that each of the Products was improperly labeled, and that Plaintiff and other members of the California Consumer Subclass would reasonably and justifiably rely on the representation and believe that the Products are less sugary than comparable products from competitor brands and/or that those comparable products do contain added sugars.

60. Plaintiff and members of the California Consumer Subclass reasonably and justifiably relied on Defendant's improper and fraudulent representations about the Products when purchasing them. Moreover, based on the very materiality of Defendant's improper and misleading conduct, reliance on such conduct as a material reason for the decision to purchase the Products may be presumed or inferred for Plaintiff and members of California Consumer Subclass.

61. Plaintiff and members of the California Consumer Subclass suffered injuries caused by Defendant because they would not have purchased the Products, would have purchased less of them, or would have paid significantly less for the them had they known that Defendant's conduct was misleading and improper.

62. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the California Consumer Subclass seek damages, restitution, declaratory and injunctive relief, and all other remedies the court deems appropriate for Defendant's violations of the CLRA.

63. Pursuant to Cal. Civ. Code § 1782, on April 26, 2017, counsel for Plaintiff mailed a notice and demand letter by certified mail, with return receipt requested, to Defendant.[9] Defendant received the notice and demand letter on April 28, 2017. Because Defendant has failed to fully rectify or remedy the damages caused within 30 days after receipt of the notice and demand letter, Plaintiff is timely filing this Class Action Complaint.

[9] S*ee* Exhibit "A."

SECOND CLAIM FOR RELIEF
Violation of California's Unfair Competition Law ("UCL"),
California Business & Professions Code §§ 17200, *et seq.*
(for the California Subclass and California Consumer Subclass)

64. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

65. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

66. UCL §17200 provides, in pertinent part, that "unfair competition shall mean and include any unlawful, unfair or fraudulent business act or practice and unfair, deceptive, untrue or misleading advertising . . . ."

67. Under the UCL, a business act or practice is "unlawful" if it violates any established state or federal law.

68. Defendant's false and misleading advertising of the Products therefore was and continues to be "unlawful" because it violates 21 U.S.C. § 343, 21 C.F.R § 101.60(c)(2), the CLRA, California's False Advertising Law ("FAL"), and other applicable laws as described herein.

69. As a result of Defendant's unlawful business acts and practices, Defendant has unlawfully obtained money from Plaintiff, and members of both the California Subclass and California Consumer Subclass.

70. Under the UCL, a business act or practice is "unfair" if the Defendant's conduct is substantially injurious to consumers, offends public policy, or is immoral, unethical, oppressive, or unscrupulous, as the benefits for committing such acts or practices are outweighed by the gravity of the harm to the alleged victims.

71. Defendant's conduct was and continues to be of no benefit to purchasers of the Products, as it is improper, misleading, unfair, unlawful, and is injurious to consumers who rely on the representation about the Products. Creating customer

confusion regarding the superiority of the Products is of no benefit to the consumers, especially when they are paying a premium for the Products. Therefore, Defendant's conduct was and continues to be "unfair."

72. As a result of Defendant's unfair business acts and practices, Defendant has and continues to unfairly obtain money from Plaintiff, and members of both the California Subclass and California Consumer Subclass.

73. Under the UCL, a business act or practice is "fraudulent" if it actually deceives or is likely to deceive members of the consuming public.

74. Defendant's conduct here was and continues to be fraudulent because it has and will continue to likely deceive consumers into believing that the Products are less sugary than comparable products made by competitor brands, when they are not. Defendant's conduct here is also fraudulent because it has and will continue to likely deceive consumers into believing that those competitors' comparable products contain added sugar when they do not. Because Defendant misled and will likely continue to mislead Plaintiff and members of both the California Subclass and California Consumer Subclass, Defendant's conduct is "fraudulent."

75. As a result of Defendant's fraudulent business acts and practices, Defendant has and continues to fraudulently obtain money from Plaintiff, and members of both the California Subclass and California Consumer Subclass.

76. Plaintiff requests that this Court cause Defendant to restore this unlawfully, unfairly, and fraudulently obtained money to Plaintiff, and members of both the California Subclass and California Consumer Subclass, to disgorge the profits Defendant has made on these transactions, and to enjoin Defendant from violating the UCL or violating it in the same fashion in the future as discussed herein. Otherwise, Plaintiff, and members of both the California Subclass and California Consumer Subclass may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

THIRD CLAIM FOR RELIEF
Violation of California's False Advertising Law ("FAL"),
California Business & Professions Code §§ 17500, *et seq.*
(for the California Subclass and California Consumer Subclass)

77. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

78. Plaintiff brings this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

79. California's FAL makes it "unlawful for any person . . . to make or disseminate or cause to be made or disseminated before the public . . . any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or those services, professional or otherwise, or . . . performance or disposition thereof, which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading…." Cal. Bus. & Prof. Code § 17500.

80. Defendant has represented and continues to represent to the public, including Plaintiff and members of both the California Subclass and California Consumer Subclass, that the Products have "No Sugar Added." Defendant's representation is misleading because the foods that the Products "resemble[] and for which [they] substitute[]" normally do not contain any added sugars. 21 C.F.R. § 101.60(c)(2)(iv). Consumers are misled into believing that that the Products are less sugary than comparable products made by competitor brands, when they are not, or that the comparable products contain added sugar when they do not. Because Defendant has disseminated misleading information regarding its Products, and Defendant knew, or should have known through the exercise of reasonable care, that the information was and continues to be misleading, Defendant has violated the FAL and continues to do so.

81. As a result of Defendant's false advertising, Defendant has and continues to fraudulently obtain money from Plaintiff and members of both the California Subclass and California Consumer Subclass.

82. Plaintiff requests that this Court cause Defendant to restore this fraudulently obtained money to Plaintiff and members of both the California Subclass and California Consumer Subclass, to disgorge the profits Defendant made on these transactions, and to enjoin Defendant from violating the FAL or violating it in the same fashion in the future as discussed herein. Otherwise, Plaintiff and members of both the California Subclass and California Consumer Subclass may be irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

FOURTH CLAIM FOR RELIEF
Common Law Fraud
(*for the Classes*)

83. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

84. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendant.

85. Defendant has willfully, falsely, and knowingly labeled the Products as "No Sugar Added" when it knew that comparable products from competitor brands normally do not contain added sugar. Therefore, Defendant has made a misrepresentation as to the Products.

86. Defendant's representation regarding the Products is material to a reasonable consumer because it relates to the nutrition of the Products purchased by the consumers. A reasonable consumer would attach importance to such representation and would be induced to act thereon in making purchase decisions.

87. Defendant intended that Plaintiff and other consumers rely on these misrepresentation, as evidenced by the representation appearing conspicuously on the

labeling of the Products.

88. Plaintiff and members of the Classes have reasonably and justifiably relied on Defendant's misrepresentation when purchasing the Products and had the correct facts been known, would not have purchased the Products, would have purchased less of them, or would not have purchased them at the prices at which they were offered.

89. Therefore, as a direct and proximate result of Defendant's fraud, Plaintiff and members of the Classes have suffered economic losses and other general and specific damages, including but not limited to the amounts paid for the Products, and any interest that would have accrued on those monies, all in an amount to be proven at trial.

FIFTH CLAIM FOR RELIEF
Intentional Misrepresentation
(*for the Classes*)

90. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

91. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendant.

92. Defendant has labeled the Products as "No Sugar Added" when it knew that comparable products from competitor brands normally do not contain added sugar. Therefore, Defendant has made a misrepresentation as to the Products.

93. Defendant's representation regarding the Products is material to a reasonable consumer because it relates to the nutrition of the Products purchased by the consumers. A reasonable consumer would attach importance to such representation and would be induced to act thereon in making purchase decisions.

94. At all relevant times when such misrepresentation was made, Defendant knew that the representation was misleading, or has acted recklessly in making the representation and without regard to the truth.

95. Defendant intends that Plaintiff and other consumers rely on the representation made about the Products, as evidenced by representation appearing conspicuously on the labeling of the Products.

96. Plaintiff and members of the Classes have reasonably and justifiably relied on Defendant's intentional misrepresentation when purchasing the Products, and had the correct facts been known, would not have purchased the Products, would have purchased less of them, or would not have purchased them at the prices at which they were offered.

97. Therefore, as a direct and proximate result of Defendant's intentional misrepresentation, Plaintiff and members of the Classes have suffered economic losses and other general and specific damages, including but not limited to the amounts paid for the Products, and any interest that would have accrued on those monies, all in an amount to be proven at trial.

SIXTH CLAIM FOR RELIEF
Negligent Misrepresentation
(*for the Classes*)

98. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

99. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendant.

100. Defendant has labeled the Products as "No Sugar Added" when it knew or reasonably should have known that comparable products from competitor brands normally do not contain added sugar. Therefore, Defendant has made a misrepresentation as to the Products.

101. Defendant's representation regarding the Products is material to a reasonable consumer because it relates to the nutrition of the Products purchased by the consumers. A reasonable consumer would attach importance to such representation

and would be induced to act thereon in making purchase decisions.

102. At all relevant times when such misrepresentation was made, Defendant knew or has been negligent in not knowing that that the representation was misleading. Defendant had no reasonable grounds for believing its representation was not misleading.

103. Defendant intends that Plaintiff and other consumers rely on the representation made about the Products, as evidenced by representation appearing conspicuously on the labeling of the Products.

104. Plaintiff and members of the Classes have reasonably and justifiably relied on Defendant's intentional misrepresentation when purchasing the Products, and had the correct facts been known, would not have purchased the Products, would have purchased less of them, or would not have purchased them at the prices at which they were offered.

105. Therefore, as a direct and proximate result of Defendant's negligent misrepresentation, Plaintiff and members of the Classes have suffered economic losses and other general and specific damages, including but not limited to the amounts paid for the Products, and any interest that would have accrued on those monies, all in an amount to be proven at trial.

SEVENTH CLAIM FOR RELIEF
Quasi Contract/Unjust Enrichment/Restitution
(*for the Classes*)

106. Plaintiff repeats the allegations contained in paragraphs 1-50 above as if fully set forth herein.

107. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendant.

108. As alleged herein, Defendant intentionally and recklessly made a misleading representation about the Products to Plaintiff and members of the Classes

to induce them to purchase the Products. Plaintiff and members of the Classes therefore have been induced by Defendant's misleading representation about the Products, and paid for them when they would and/or should not have, purchased more than they would have, or paid more money to Defendant for the Products than they otherwise would and/or should have paid.

109. Plaintiff and members of the Classes have conferred a benefit upon Defendant as Defendant has retained monies paid to it by Plaintiff and members of the Classes.

110. Therefore, it is inequitable and unjust for Defendant to retain the profit, benefit, or compensation conferred upon it without paying Plaintiff and the members of the Classes back for the difference of the full value of the benefit unjustly received.

111. As a direct and proximate result of Defendant's unjust enrichment, Plaintiff and members of the Classes are entitled to restitution, disgorgement, and/or the imposition of a constructive trust upon all profits, benefits, and other compensation obtained by Defendant from its deceptive, misleading, and unlawful conduct as alleged herein.

PRAYER FOR RELIEF

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

a) For an order certifying the Nationwide Class, the California Subclass, and the California Consumer Subclass, under Rule 23 of the Federal Rules of Civil Procedure; naming Plaintiff as representative of all Classes; and naming Plaintiff's attorneys as Class Counsel to represent all Classes.

b) For an order declaring that Defendant's conduct violates the statutes and laws referenced herein;

c) For an order finding in favor of Plaintiff, and all Classes, on all counts

asserted herein;

d) For an order awarding all damages, including under the California Consumers Legal Remedies Act on behalf of the California Consumer Subclass, in amounts to be determined by the Court and/or jury;

e) For prejudgment interest on all amounts awarded;

f) For interest on the amount of any and all economic losses, at the prevailing legal rate;

g) For an order of restitution and all other forms of equitable monetary relief;

h) For injunctive relief as pleaded or as the Court may deem proper;

i) For an order awarding Plaintiff and all Classes their reasonable attorneys' fees, expenses and costs of suit, including as provided by statute such as under California Code of Civil Procedure section 1021.5; and

j) For any other such relief as the Court deems just and proper.

DEMAND FOR TRIAL BY JURY

Plaintiff demands a trial by jury on all issues so triable.

Dated: July 7, 2017

FARUQI & FARUQI, LLP

By: */s/ Barbara A. Rohr*
Barbara A. Rohr, Bar No. 273353
Benjamin Heikali, Bar No. 307466
10866 Wilshire Blvd., Suite 1470
Los Angeles, CA 90024
Telephone: 424.256.2884
Fax: 424.256.2885
E-mail: brohr@faruqilaw.com
bheikali@faruqilaw.com

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Jonathan Saghian, declare as follows:

1. I am the Plaintiff in this action and a citizen of the State of California. To extent the allegations in the complaint are based on my personal knowledge, they are true and, if called as a witness, I could testify competently thereto.

2. This Class Action Complaint is filed in the proper place for trial because I purchased Sun-Maid Natural California Raisins in this District, and Defendant conducts a substantial amount of business in this District.

3. In 2016 and 2017, I purchased Sun-Maid Natural California Raisins from stores in this District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on June 7, 2017 at Los Angeles, California.

Jonathan Saghian

EXHIBIT A

FARUQI & FARUQI LLP
ATTORNEYS AT LAW

NEW YORK CALIFORNIA DELAWARE PENNSYLVANIA

BARBARA A. ROHR
brohr@faruqilaw.com

April 26, 2017

Via Certified U.S. Mail
Return Receipt Requested

Sun-Maid Growers of California
13525 S. Bethel Avenue
Kingsburg, CA 93631

Re: *Class Action Notification and Pre-Lawsuit Demand Pursuant to California Civil Code Section 1782 and All Other Applicable Laws Requiring Pre-Suit Notice Concerning Sun-Maid Products*

To Whom It May Concern:

Please be advised that Faruqi & Faruqi, LLP represents Jonathan Saghian ("Client"), purchaser of Sun-Maid® Natural California Raisins. Our Client seeks to represent a class of consumers ("Class") who, within the relevant time period,[1] purchased any Sun-Maid® brand product that contains a "No Sugar Added" representation on its label or packaging (the "Products"). This letter provides Sun-Maid Growers of California ("Defendant") with notice and demand for corrective action. All further communications intended for our Client must be directed through this office. Furthermore, this demand and notice letter is meant to comply with the requirements of *California Civil Code* §1782, and all other laws requiring a pre-suit demand and notice prior to litigation, on behalf of our Client and all others similarly situated should this matter proceed to litigation.

During the relevant time period, Defendant has marketed, advertised, labeled, and packaged the Products as having "No Sugar Added." This representation is improper and illegal because the Products do not qualify to be branded with the statement "No Sugar Added," pursuant to 21 C.F.R. § 101.60(c). According to 21 C.F.R. § 101.60(c)(2): "The terms… 'no sugar added'… may be used only if: (vi) [t]he food that it resembles and for which it substitutes normally contains added sugars." Here, the Products do not resemble or substitute for foods that normally contain added sugar. For example, competitor brands of California raisins almost never contain added sugar as an ingredient. According to the California Raisin Marketing Board, "California Raisins are naturally sweet…. Ordinarily, no sugar is ever added to Raisins when they are packed…."[2] Therefore, the Products are in violation of 21 C.F.R. § 101.60(c) and are therefore misbranded under 21 U.S.C. § 343.

[1] From four years prior to the date of a prospective complaint filed by our Client.
[2] http://calraisins.org/professionals/healthy-benefits-of-raisins/nutrition-faqs/ (last visited on April 26, 2017).

Mr. Saghian, a consumer residing in California, has purchased Sun-Maid® Natural California Raisins numerous times in Los Angeles, California, based on the representation that this product has "No Sugar Added." At the point of sale, Mr. Saghian did not know, and had no reason to know, that the product was misbranded and bore a food labeling claim that Defendant was not permitted to make. Had Mr. Saghian known that the product was misbranded and was not authorized to be labeled as "No Sugar Added," he would not have purchased the product, would have purchased less of them, or would have paid less for them.

These business practices violate several California consumer protection statutes and laws. Pursuant to *California Civil Code* §1782(a)(1), our Client and the Class further provide notice that they believe Defendant has violated, and continues to violate the California Consumers Legal Remedies Act ("CLRA"), and specifically *California Civil Code* §1770, in at least the following manner:

1. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have (Section 1770(a)(5));

2. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Section 1770(a)(7)); and

3. Advertising goods or services with intent not to sell them as advertised (Section 1770(a)(9)).

It is our opinion that Defendant has also violated and continues to violate California Business and Professions Code Sections 17200 and 17500, California Health and Safety Code Section 109875, *et seq.*, in addition to common law and other statutory violations.

This letter not only serves as notification of Defendant's alleged violations of *California Civil Code* §1770 as outlined above, but also as our Client's demand, and all others similarly situated, that Defendant immediately corrects, repairs, refunds and otherwise rectifies the violations of § 1770 and the other statutes and causes of action referenced above, on a class-wide basis.

To cure the harmful conduct noted herein, we demand that Defendant: (1) cease and desist from advertising and selling of the Products in a false and misleading manner; (2) issue an immediate recall of the Products; and (3) make full restitution to the Class of all money obtained from the sales thereof.

We further demand that Defendant preserve all documents, emails, other electronically stored information and other evidence which refer or relate to any of the above-described practices, including, but not limited to:

1. All documents concerning the development and/or testing of the Products;
2. All documents concerning the manufacturing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
3. All documents concerning communications with any individual involved in the development, testing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
4. All documents concerning communications with purchasers of the Products;
5. All documents concerning the sales volume of the Products (in units and/or dollars), and the revenues derived therefrom; and
6. All documents concerning the identities and location of potential class members who purchased the Products.

Further, this letter serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should Defendant fail to rectify the unfair and deceptive scheme within thirty (30) days of receipt of this letter, our Client will file a class action complaint for actual damages, punitive damages, and all other damages permitted under the CLRA and the other statutes and causes of action available to him, along with interest, attorneys' fees and costs for Defendant's violations.

We are willing to discuss an appropriate way to remedy the demands asserted in this letter. If Defendant wishes to enter into such a discussion, please contact our firm immediately. If we do not hear from Defendant promptly, we will conclude that Defendant is not interested in resolving this dispute short of litigation in the form of a class action lawsuit. If Defendant contends that any statement in this letter is inaccurate in any respect, please provide our firm with Defendant's contentions and supporting documents promptly.

Please contact the undersigned if there are any questions or concerns.

Sincerely,

Barbara A. Rohr

Barbara A. Rohr

cc: Timothy J. Peter
Ben Heikali

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