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9 OSIE MARSHALL, YASNA CUEVAS, JOHN VAN ES,  
10 on behalf of themselves and others similarly situated

**FILED**  
San Francisco County Superior Court

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CLERK OF THE COURT

By: [Signature] Deputy Clerk

**SUMMONS ISSUED**

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF SAN FRANCISCO**

**CGC - 14 - 538447**

12 OSIE MARSHALL, YASNA CUEVAS,  
13 JOHN VAN ES, on behalf of themselves and  
14 others similarly situated,

15 Plaintiffs,

16 v.

17 MONSTER BEVERAGE CORPORATION,  
18 a Delaware corporation, dba HANSEN  
19 BEVERAGE COMPANY, and DOES 1  
20 through 50, inclusive,

21 Defendants.

Case No.

**CLASS ACTION COMPLAINT FOR:**

- (1) **Unlawful Business Practices (Cal. Bus. & Prof. Code § 17200 et seq.)**
- (2) **Unfair Business Practices (Cal. Bus. & Prof. Code § 17200 et seq.)**
- (3) **Fraudulent Business Practices (Cal. Bus. & Prof. Code § 17200 et seq.)**
- (4) **Misleading Advertising (Cal. Bus. & Prof. Code § 17500 et seq.)**
- (5) **Untrue Advertising (Cal. Bus. & Prof. Code § 17500 et seq.)**
- (6) **Violation of the Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750 et seq.**
- (7) **Restitution Based on Quasi-Contract / Unjust Enrichment**

**DEMAND FOR JURY TRIAL**

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**CLASS ACTION COMPLAINT**

1 Plaintiffs OSIE MARSHALL, YASNA CUEVAS, JOHN VAN ES (hereinafter  
2 "Plaintiffs"), on behalf of themselves and all others similarly situated, complain of MONSTER  
3 BEVERAGE CORPORATION, a Delaware corporation, dba HANSEN BEVERAGE  
4 COMPANY, and DOES 1 through 50, inclusive, as follows:

### 5 INTRODUCTION

6 1. Plaintiffs bring this action pursuant to Code of Civil Procedure § 382 against  
7 Defendants Monster Beverage Corporation dba Hansen Beverage Company ("Hansen"), and Does  
8 1 through 50, inclusive (collectively with Hansen, "Defendants"), on behalf of all consumers in  
9 the United States within four years of the filing of this lawsuit who within the last four years have  
10 purchased any of the "Misbranded Products," which include all Hansen's Juices or Juice Box  
11 products, all Hansen's Smoothie Nectar products, all Hubert's Lemonade products, all Aguas  
12 Frescas products, all Hansen's Natural Fruit and Tea Stix products, all Vibration products, all  
13 Hansen's sodas, all Blue Sky sodas, Energy Pro, Diet Red, and all Blue Energy products (energy,  
14 juice, coffee). The labels for each of these products carry representations about the ingredients or  
15 alleged healthful properties of the products that are intended to induce, and have induced,  
16 consumers to purchase the products. These representations, however, are false, misleading, and  
17 unlawful for the reasons alleged below.

18 2. Plaintiffs allege that Defendants' conduct violates California's Business and  
19 Professions Code sections 17200, et seq. (the Unfair Competition Law, or "UCL"), California's  
20 Business and Professions Code sections 17500, et seq. (the False Advertising Law, or "FAL"), and  
21 the Consumers Legal Remedies Act of the California Civil Code sections 1750, et seq. (the  
22 "CLRA"). Plaintiffs also allege that Defendants' conduct is grounds for restitution on the basis of  
23 quasi-contract/unjust enrichment.

24 3. Plaintiffs seek damages and restitution stemming from Defendants' false labeling  
25 and advertising. Plaintiffs also seek declaratory and injunctive relief to ensure that Defendants  
26 remove any and all false or misleading labels and advertisements relating to the Misbranded  
27 Products and to prevent them from making similar representations in the future.

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1 **PARTIES**

2 4. Hansen has its headquarters in Corona, California, and upon information and belief  
3 operates, manages and directs its nationwide sales and business operations from its offices in  
4 California. Hansen also maintains manufacturing, storage, and distribution centers in California,  
5 from which Hansen operates and directs the majority, or at least a substantial proportion, of its  
6 nationwide sales and business operations. It is therefore believed and averred that a substantial  
7 portion of the misleading labeling and related misconduct at issue in this Complaint occurred, was  
8 conducted, and/or was directed in and emanated from California, including, but not limited to: (a)  
9 the design of the Defendants' packaging; (b) the review, approval and revision of Defendants'  
10 products and labeling; (c) the selection and integration of ingredients into the Defendants'  
11 products; (d) the distribution of the Defendants' products; and (e) the management and supervision  
12 of sales operations to Plaintiffs and the putative classes (as defined herein).

13 5. The true names and capacities, whether individual, corporate, associate, or  
14 whatever else, of the defendants sued herein as Does 1 to 50, inclusive, are currently unknown to  
15 Plaintiffs, who therefore sue these defendants by such fictitious names under Code of Civil  
16 Procedure § 474. Plaintiffs are informed and believe and thereon allege that each of the  
17 defendants designated herein as Does is legally responsible in some manner for the unlawful acts  
18 referred to herein. Plaintiffs will seek leave of court to amend this Complaint to reflect the true  
19 names and capacities of the defendants designated herein as Does when their identities become  
20 known. (As used herein, "Defendants" refers to Hansen and Does 1 to 50, inclusive.)

21 6. Plaintiffs are informed and believe and thereon allege that each defendant acted in  
22 all respects pertinent to this action as the agent of the other Defendants, that Defendants carried  
23 out a joint scheme, business plan, or policy in all respects pertinent hereto, and that the acts of  
24 each defendant are legally attributable to the other Defendants.

25 7. Venue is proper in this judicial district pursuant to Code of Civil Procedure § 395.5  
26 because the obligations giving rise to liability occurred in part in the County of San Francisco,  
27 State of California.

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## BACKGROUND

8. Hansen deceptively labels and advertises the Misbranded Products in the following ways—all of which create the impression that the Misbranded Products are natural, healthy beverages.

### *Hansen Unlawfully Claims That the Misbranded Products Are Natural.*

9. Hansen advertises, labels, and represents the Misbranded Products as being “Natural,” “100% Natural,” or “All Natural.” These claims appear on the product labels and even in the product names of the Misbranded Products. This claim is reinforced on Hansen’s website, which depicts a verdant field, trees, a blue sky, and butterflies. Some of the Misbranded Products labeled as natural also state that they are “naturally sweetened with Truvia.” (See sample product labels, attached as Exh. A.)

10. These representations are false or, at best, deceptive and misleading. Webster’s New World Dictionary defines “natural” as “produced or existing in nature; not artificial or manufactured.”<sup>1</sup> Moreover, “all” is defined as “the whole extent or quantity of.”<sup>2</sup> Thus the combined use of “all natural” on the labels of the Mislabeled Products indicates to the average reasonable person that “the whole extent or quantity of” the ingredients contained in the food products are “produced or existing in nature; not artificial or manufactured.”

11. Although the Food and Drug Administration (“FDA”) does not directly regulate the term “natural,” the FDA has established a policy defining the outer boundaries of the use of that term by clarifying that a product is not natural if it contains color additives, artificial flavors, or synthetic substances.<sup>3</sup> Specifically, the FDA states: “[T]he agency will maintain its policy (Ref. 32) regarding the use of ‘natural,’ as meaning that nothing artificial or synthetic (including all color additives regardless of source) has been included in, or has been added to, a food that would not normally be expected to be in the food.” 58 Fed. Reg. 2302, 2407 (Jan. 6, 2003). The FDA

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<sup>1</sup> Webster’s New World Dictionary of the American Language, 2nd College Ed. (Simon & Schuster, 1984), “natural,” definition no. 2 at p.947.

<sup>2</sup> Id., “all,” definition no. 1 at p. 36.

<sup>3</sup> See <http://www.fda.gov/ForConsumers/ConsumerUpdates/ucm094536.htm> and <http://www.fda.gov/AboutFDA/Transparency/Basics/ucm214868.htm>.

1 has issued numerous warning letters owing to the presence of synthetic ingredients such as  
2 ascorbic and citric acid in so-called “natural” products without proper identification.

3       12. This policy is consistent with consumers’ understanding of the word “natural.”  
4 Consumers understand “natural” to exclude synthetic ingredients, food additives, or chemical  
5 preservatives. In a 2007 survey conducted by the Natural Marketing Institute, the majority of  
6 respondents believed that the term “natural” in a product label meant that the product contained  
7 100 percent natural ingredients, no artificial flavors, no artificial colors, no preservatives, no  
8 chemicals, and a substantial percentage thought that it meant that the product was not highly  
9 processed. Moreover, 81 percent of respondents found products claiming to be “natural”  
10 very/somewhat important when purchasing food or beverage products. And large majorities also  
11 found that products containing no preservatives, no artificial ingredients, no artificial flavors, and  
12 no artificial colors to be very/somewhat important when purchasing food and beverage products.  
13 These percentages are even larger among the health-conscious segments of the US population,  
14 which are large—approximately 40 percent. What is more, the survey found that these trends  
15 have increased from previous years, and consequently the subject labeling statements are probably  
16 far more important to consumers today. Significantly, the survey also found that package labeling  
17 was by far the most important source of information influencing consumers’ purchasing decisions,  
18 especially among the health-conscious segment of the population.

19       13. The labeling of products as “natural” or “all natural” (or words of similar import)  
20 carries implicit health benefits important to consumers—benefits for which consumers are willing  
21 to pay a premium over comparable products that are not so labeled and marketed. Defendants  
22 have cultivated and reinforced a corporate image based on this theme, which they have  
23 emblazoned on almost all of the Misbranded Products and even use the word “natural” in the trade  
24 name of certain products (e.g., sodas and juices), despite the use of synthetic ingredients in these  
25 products. The presence of synthetic ingredients in the Misbranded Products renders Defendants’  
26 product labels and advertising false and misleading.

27       14. Moreover, like the FDA, the United States Department of Agriculture (“USDA”),  
28 which regulates the labeling of meat and poultry, has also set limits on the use of the term

1 “natural.” The USDA’s Food Safety and Inspection Service states that the term “natural” may be  
2 used on labeling of meat and poultry products so long as “(1) the product does not contain any  
3 artificial flavor or flavorings, color ingredient, or chemical preservative ... or any other artificial  
4 or synthetic ingredient, and (2) the product and its ingredients are not more than minimally  
5 processed.”

6 15. According to the USDA, “[m]inimal processing may include: (a) those traditional  
7 processes used to make food edible or to preserve it or to make it safe for human consumption,  
8 e.g., smoking, roasting, freezing, drying, and fermenting, or (b) those physical processes which do  
9 not fundamentally alter the raw product and/or which only separate a whole, intact food into  
10 component parts, e.g., grinding meat, separating eggs into albumen and yolk, and pressing fruits to  
11 produce juices.”<sup>4</sup> However, “[r]elatively severe processes, e.g., solvent extraction, acid  
12 hydrolysis, and chemical bleaching would clearly be considered more than minimal processing.”<sup>5</sup>

13 16. Under USDA policy, a product cannot be labeled as being “natural” if an ingredient  
14 would significantly change the character of the product to the point that it could no longer be  
15 considered a natural product. Moreover, any product purporting to be “natural” must  
16 conspicuously identify any synthetic ingredients used on the label (e.g., “all natural ingredients  
17 except dextrose, modified food starch, etc.”). For example, a “turkey roast” cannot be called a  
18 “natural” product if it contains beet coloring but can still bear the statement “all natural ingredients  
19 modified by beet coloring.” Defendants do not, however, include any such limiting language on  
20 the Misbranded Products.<sup>6</sup>

21 17. The terms “synthetic” and “artificial” closely resemble each other and in common  
22 parlance are taken as synonymous. The scientific community defines “artificial” as something not  
23 found in nature, whereas “synthetic” is defined as something man-made, whether it merely mimics  
24 nature or is not found in nature.<sup>7</sup> In the scientific community, “synthetic” includes substances that

25 <sup>4</sup> See the United States Department of Agriculture Food Standards and Labeling Policy book available at  
26 [http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling\\_Policy\\_Book\\_082005.pdf](http://www.fsis.usda.gov/OPPDE/larc/Policies/Labeling_Policy_Book_082005.pdf) (last visited December  
18, 2013).

27 <sup>5</sup> *Ibid.*

28 <sup>6</sup> *Ibid.*

<sup>7</sup> Peter E. Nielsen, *Natural-synthetic-artificial!*, Artificial DNA: PNA & XNA, Volume 1, Issue 1  
(July/August/September 2010), available at <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC3109441/> (last  
visited December 18, 2013).

1 are also “artificial,” but a synthetic substance also can be artificial or non-artificial.<sup>8</sup> However, the  
2 common understanding of “artificial” resembles the scientific community’s definition of  
3 “synthetic.” Indeed Webster’s New World Dictionary defines “artificial” as “anything made by  
4 human work, especially if in intimation of something natural,” whereas “synthetic” is defined as  
5 “a substance that is produced by chemical synthesis and is used as a substitute for a natural  
6 substance which it resembles.”<sup>9</sup>

7 18. Congress has defined “synthetic” to mean “a substance that is formulated or  
8 manufactured by a chemical process or by a process that chemically changes a substance extracted  
9 from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to  
10 substances created by naturally occurring biological processes.” 7 U.S.C. § 6502(21). *See also* 7  
11 C.F.R. § 205.2 (defining, in USDA’s National Organic Program regulations, a “nonsynthetic” as  
12 “a substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic  
13 process as defined in section 6502(21) of the Act (7 U.S.C. § 6502(21))”).

14 19. The Misbranded Products are not natural because they actually contain synthetic  
15 ingredients (e.g., citric acid, ascorbic acid, phosphoric acid, tartaric acid, calcium lactate, calcium  
16 gluconate) and color additives (e.g., grape skin extract, fruit and vegetable juice). *See* 21 C.F.R. §  
17 101.9(c)(8)(v), 101.36(d), 101.36(e)(11)(i).

18 20. Although these substances may occur naturally, the ingredients Hansen uses are  
19 chemically manufactured and highly processed—thus rendering them not natural.

20 21. Moreover, Truvia is not natural because its primary ingredient is erythritol, a sugar  
21 alcohol usually made by processing genetically modified corn. In fact, Truvia uses only a small  
22 amount of the stevia extract Rebiana A (“Reb A”), which is itself a chemically processed form of  
23 stevia and hence not natural. However, the ingredient statement on the Misbranded Products  
24 claiming to be “sweetened with Truvia” does not even disclose the existence of erythritol, only  
25 Reb A, even though Reb A constitutes only one percent of Truvia.

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27 <sup>8</sup> *Ibid.*

28 <sup>9</sup> *See* Webster’s New World Dictionary of the American Language, 2nd College Ed. (Simon & Schuster, 1984), “artificial,” definition SYN at p.79.

1           22.       The Misbranded Products also boast that they contain a substantial percentage of  
2 vitamins and antioxidants such as vitamins C and E. These claims appear both on product labels  
3 and in advertising material. For example, Hansen's webpage for Apple Grape Juice states,  
4 "Besides great taste, there's the added benefit of naturally occurring antioxidants, as well as 120%  
5 Vitamin C. Not a drop of sugar or a speck of preservatives added."

6           23.       Hansen misrepresents the provenance of the vitamin C and leads consumers to  
7 believe that both it and the claimed antioxidant activity in the Misbranded Products are derived  
8 from fruit and not chemical sources.

9           24.       Further, Hansen's Diet Sodas are misbranded because although they purport to be  
10 "naturally flavored," they contain artificial flavors such as citric acid and phosphoric acid, which  
11 impart a tangy or sour taste to the sodas. These artificial flavors appear in the ingredient statement  
12 of the sodas before the natural flavor extracts. (See diet soda label, attached hereto as Exh. B.)  
13 Indeed the natural flavor extract almost always appears last in the ingredient statement.

14           25.       Because the Misbranded Products contain artificial flavoring and chemical  
15 preservatives without stating this fact on the product labels, Defendants violated the California's  
16 Sherman Food, Drug, and Cosmetic Law, including California Health & Safety Code § 110740.  
17 In this way, Defendants have also violated California Health & Safety Code § 110705 because  
18 words, statements, or other information required pursuant to the Sherman Law to appear on the  
19 label or labeling are not prominently placed upon the label or labeling with conspicuousness, as  
20 compared with other words, statements, designs, or devices in the labeling and in terms as to  
21 render them likely to be read and understood by the ordinary individual under customary  
22 conditions of purchase and use.

23           ***Hansen Unlawfully Claims the Misbranded Products Contain "No Preservatives."***

24           26.       Rather than disclose the presence of chemical preservatives as required by law,  
25 Defendants state the opposite through labeling statements claiming the Misbranded Products  
26 contain "no preservatives." (See example product labels, attached as Exh. C.)

27           27.       The Federal Regulations require food and beverage manufacturers to disclose the  
28 presence of chemical preservatives "on the food or on its container or wrapper, or on any two or



1 all three of these, as may be necessary to render such statement likely to be read by the ordinary  
2 person under customary conditions of purchase and use of such food.” 21 CFR § 101.22(c).

3 28. “The term chemical preservative means any chemical that, when added to food,  
4 tends to prevent or retard deterioration thereof, but does not include common salt, sugars,  
5 vinegars, spices, or oils extracted from spices, substances added to food by direct exposure thereof  
6 to wood smoke, or chemicals applied for their insecticidal or herbicidal properties.” 21 CFR §  
7 101.22(a)(5).

8 29. Pursuant to 21 C.F.R. § 101.22(j), a food to which a chemical preservative(s) is  
9 added shall, except when exempt pursuant to 21 C.F.R. § 101.100 bear a label declaration stating  
10 both the common or usual name of the ingredient(s) and a separate description of its function, e.g.,  
11 “preservative,” “to retard spoilage,” “a mold inhibitor,” “to help protect flavor,” or “to promote  
12 color retention.”

13 30. The Misbranded Products fail to comply with the requirements of 21 C.F.R. §  
14 101.22. Because many of the Misbranded Products have lengthy shelf-lives, they contain a  
15 number of chemical preservatives such as ascorbic acid, citric acid, and vitamin E; however, the  
16 labels of these products fail to describe the function of these chemical preservatives, thus violating  
17 the law and concealing their presence.

18 31. Ascorbic acid, citric acid, and vitamin E are not types of common salt, sugar,  
19 vinegar, spice, or oil extracted from spices, nor are they substances added to food by direct  
20 exposure thereof to wood smoke, or chemicals applied for their insecticidal or herbicidal  
21 properties. As used by Defendants in their products, these chemicals prevent or retard  
22 deterioration of the products. Therefore these chemicals are “chemical preservatives” in Hansen’s  
23 products, as defined in 21 C.F.R. § 101.22(a)(5), and must be disclosed and identified as such.

24 ***Hansen Unlawfully Claims That the Misbranded Products Contain “100% Juice.”***

25 32. Hansen’s juice products claim to be made with 100 percent juice. (See example  
26 product labels, attached as Exh. D.)

27 33. However, this is false owing to the addition of numerous synthetic, non-juice  
28 ingredients. A beverage purporting to be juice must contain a percentage juice declaration. See

1 21 C.F.R. § 101.30(a). Where non-juice ingredients result in a diminution of the juice soluble  
2 solids or a change in the volume of the product, then the 100 percent juice declaration is  
3 inappropriate. *Id.* at subdiv. (b)(3). Moreover, even where there is no diminution of juice soluble  
4 solids or change in volume, a 100 percent juice declaration is unlawful unless it is accompanied by  
5 the phrase “with added \_\_\_\_\_,” the blank being filled in with a term such as “ingredient(s),”  
6 “preservative,” or “sweetener,” as appropriate (e.g., “100% juice with added sweetener”). *Ibid.*

7 34. Because the Misbranded Products do not contain this additional language, they are  
8 mislabeled, and a reasonable consumer would be misled into believing that he or she is purchasing  
9 a product that contains 100 percent juice and nothing else.

10 ***Hansen Unlawfully Claims That the Misbranded Products Contain No Added Sugar.***

11 35. Hansen’s juice products are intended to appeal to consumers who are concerned  
12 with their sugar and caloric intake. In order to target sales to this demographic Hansen claims that  
13 the misbranded juice products contain “No Sugar Added.” (See example product labels, attached  
14 as Exh. E.) This claim is reinforced on Hansen’s website, which states that certain products, such  
15 as Apple Raspberry Juice, are “naturally sweetened” with Truvia.

16 36. The Misbranded Products are mislabeled because they make the nutrient content  
17 claim “No Sugar Added” but are made from concentrated fruit juices. A manufacturer is  
18 prohibited from using the term “No Added Sugar” where the product contains concentrated fruit  
19 juice. *See* 21 C.F.R. § 101.60(c)(2)(ii). A product purporting to have “No Added Sugar” must  
20 also bear a statement that the food is not “low calorie” or “calorie reduced” unless the product  
21 meets the requirements for making such claims. *Id.* at subdiv. *Id.* at subdiv. (c)(2)(v). These  
22 products do not qualify as low-calorie foods because they provide more than 40 calories per  
23 reference amount customarily consumed. *See* 21 C.F.R. § 101.60(b)(2). However, the  
24 Misbranded Products do not carry the required disclaimer, nor do they, as required “direct[]  
25 consumers’ attention to the nutrition panel for further information on sugar and calorie content.”  
26 21 C.F.R. § 101.60(c)(2)(v).

27 37. Because consumers may reasonably be expected to regard terms that represent that  
28 a product contains “no sugar added” as indicating a product which is low in calories or

1 significantly reduced in calories, consumers are misled when foods that are not low-calorie as a  
2 matter of law are falsely represented through the use of phrases like “no sugar added” which they  
3 are not allowed to bear owing to high calorie levels and absence of mandated disclaimer or  
4 disclosure requirements.

5 ***Hansen Unlawfully Misbrands the Products Made from Concentrate.***

6 38. Hansen’s juice products are misbranded because they do not comply with  
7 regulations governing juices made from concentrate. See 21 C.F.R. § 102.33(g)(1). These  
8 regulations require the name of a beverage that is made from concentrate to include a term  
9 indicating that fact, such as “from concentrate” or “reconstituted.” *Ibid.* The regulations further  
10 provide that “such terms must be included in the name of each individual juice or . . . once  
11 adjacent to the product name so that it applies to all the juices.” *Ibid.* Further, “[t]he term shall be  
12 in a type size no less than one-half the height of the letters in the name of the juice.”

13 39. Hansen’s juice products are misbranded because although the labels include a  
14 statement that the juice is from concentrate, in many instances this statement is small, less than  
15 one-half the height of the letters in the name of the juice, and purposely positioned to mislead the  
16 average consumer, which again violates California law. See California Health & Safety Code §  
17 110705. (See example product labels, attached as Exh. F.)

18 ***Hansen Unlawfully Claims the Misbranded Products Are “Sweetened with Splenda.”***

19 40. Hansen’s Diet Sodas claim to be sweetened with Splenda, an artificial sweetener  
20 purportedly derived from sugar, and the front labels often show a Splenda logo. (See example  
21 product labels, attached as Exh. G.)

22 41. This claim is deceptive because these products lead consumers to believe they are  
23 sweetened only or primarily with Splenda when in fact they are also sweetened with acesulfame  
24 potassium, a different artificial sweetener that has been linked to medical conditions such as  
25 impaired cognitive function and is therefore avoided by many consumers.<sup>10</sup>

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27 <sup>10</sup> See Cong, et al. “Long-Term Artificial Sweetener Acesulfame Potassium Treatment Alters  
28 Neurometabolic Functions in C57BL/6J Mice,” *PLoS ONE*, Aug. 7, 2013, available at  
<http://www.plosone.org/article/info%3Adoi%2F10.1371%2Fjournal.pone.0070257> Center for Science in  
the Public Interest, <http://www.cspinet.org/reports/asekquot.html>

1           42.       The statement "Sweetened with Splenda" is rendered additionally deceptive  
2 because the ingredient statements disclose that acesulfame potassium is often the *primary*  
3 sweetener in these products, with Splenda being secondary.

4                           ***Hansen Unlawfully Fortifies the Misbranded Products.***

5           43.       Hansen claims that many of the Misbranded Products such as its Blue Sky sodas  
6 contain vitamins and antioxidants including ascorbic acid (synthetic vitamin C), beta carotene  
7 (synthetic vitamin A), and tocopherols (synthetic vitamin E). However, these vitamins and  
8 antioxidants are not naturally occurring; rather, Hansen fortifies these products with synthetic  
9 vitamins and antioxidants. (See example product labels, attached as Exh. H.)

10          44.       This is improper. "The Food and Drug Administration does not encourage  
11 indiscriminate addition of nutrients to foods, nor does it consider it appropriate to fortify ... snack  
12 foods such as candies and carbonated beverages." 21 CFR § 104.20(a). A nutrient cannot be  
13 added to a food or beverage unless it is physiologically available from the food. *Id.* at subdiv. (g).  
14 A manufacturer may not make false or misleading statements regarding the addition of vitamins or  
15 minerals. *Id.* at subdiv. (h).

16          45.       Hansen violates federal labeling law by fortifying snack foods and carbonated  
17 beverages with vitamins and antioxidants. What is more, vitamins such as vitamins A and E are  
18 not physiologically available when added to beverages because they are fat soluble, meaning that  
19 they cannot be absorbed by the body in the absence of fat, which the Misbranded Products do not  
20 contain.

21          46.       Moreover, Hansen deceptively represents that these sodas contain naturally  
22 occurring vitamins and antioxidants through the depiction on product labels of images of fruits  
23 such as raspberries and grapes with well-known antioxidant activity and vitamin content when in  
24 fact the Misbranded Products contain *added* vitamins and antioxidants.

25                           ***Allegations as to the Named Plaintiffs***

26          47.       Plaintiffs are and, throughout the entire class period, were residents of the State of  
27 California. Plaintiffs are concerned about and try to avoid consuming foods that are not natural,  
28 such as products containing synthetic, artificial or chemical ingredients, as well as products that

1 are high in sugar. For this reason, Plaintiffs are willing to pay and have paid a premium for foods  
2 that are natural and have endeavored to refrain from buying equivalent foods which are not natural  
3 and which do contain synthetic, artificial, or chemical ingredients and are high in sugar.

4 48. During the class period Plaintiff OSIE MARSHALL purchased, among other  
5 products, multiple Hansen's Soda and Diet Sodas, Hansen's Blue Sky Soda, Hansen's juice,  
6 Hansen's and Junior Juice and Juice Boxes, and Hubert's Lemonade from various markets  
7 throughout California.

8 49. Plaintiff YASNA CUEVAS purchased, among other products, Hansen's Soda, Diet  
9 Soda, and Blue Sky Soda products, Angeleno Aguas Frescas, Hansen's Peace Tea, Hansen's  
10 Smoothie Nectar drinks, Hansen's Vidration, and Hansen's energy drinks from stores throughout  
11 California during the class period.

12 50. Plaintiff JOHN VAN ES purchased, among other products, Hansen's juice and  
13 Juice Box Products, Hansen's Sodas and Diet Sodas, Hubert's Lemonade products, and Hansen's  
14 tea and fruit stix from stores throughout California during the class period.

15 51. Before buying Hansen's products, Plaintiffs saw pictures of fruit on the product  
16 labels and read statements that these products were "Natural," "100% Natural," "All Natural,"  
17 "naturally flavored," "naturally sweetened with Truvia," "GMO Free," and contained "No  
18 Preservatives," "100% juice," and specified antioxidants and vitamins, and Plaintiffs relied on  
19 these representations in deciding to buy the products. Plaintiffs understood these representations  
20 as meaning there was nothing artificial, synthetic, or chemically fabricated in the products, that  
21 they did not contain preservatives, and that the antioxidants were derived from natural sources  
22 (such as fruits) and were physiologically available when ingested.

23 52. Consistent with this understanding, Plaintiffs did not see the small statements on  
24 some of the product labels that the juices came from concentrate. Plaintiffs also read the "no sugar  
25 added" statement on the products and believed that these were lower calorie or reduced-calorie  
26 drinks and/or were not sweetened using concentrated fruit juice (or other sweeteners) and/or were  
27 drawn to the products because of this label. Plaintiffs relied on this front-of-the-package

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1 representation and did not scrutinize the nutrition panel for information on sugar and caloric  
2 content.

3 53. Moreover, Plaintiffs believed that sodas fortified with antioxidants and vitamins  
4 were healthier for themselves and their families because the vitamins and antioxidants were  
5 naturally occurring and could represent a source of the specified vitamins and antioxidants needed  
6 in their diets.

7 54. Finally, Plaintiffs relied on label representations that Hansen's Diet Soda was  
8 sweetened with Splenda, which they preferred to other sweeteners because they believed that it  
9 was derived from sugar.

10 55. Plaintiffs not only purchased these products because of the identified  
11 representations but also paid more money than they would have had to pay for other similar  
12 products that did not make similar representations. Indeed, had Plaintiffs known that Defendants'  
13 representations were false or deceptive, they would not have purchased these products but would  
14 have purchased brands that accurately represented the product or, if these were not available,  
15 would have purchased less expensive products that did not make such representations. In this  
16 way, Plaintiffs did not receive the products they had bargained for and have lost money as a result  
17 in the form of paying money to Defendants and paying a premium for Defendants' products owing  
18 to the misrepresentations.

19 56. On or around September 13, 2013, Plaintiffs sent a letter to Hansen informing it  
20 that it has engaged in unfair methods of competition and/or deceptive acts or practices, including  
21 but not limited to violation of California Civil Code § 1770, in connection with the sale of the  
22 Misbranded Products, and requested that it correct, repair, replace, or otherwise rectify its  
23 unlawful conduct. Hansen ultimately declined to correct, repair, replace, or otherwise rectify its  
24 unlawful conduct. Because more than 30 days have elapsed since the receipt of Plaintiffs' letter,  
25 Plaintiffs herein seek actual, punitive, and statutory damages as appropriate on behalf of  
26 themselves and similarly situated consumers, as well as equitable including injunctive relief.

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## CLASS ALLEGATIONS

57. Plaintiffs bring this action on behalf of themselves and those similarly situated as a class action pursuant to Code of Civil Procedure § 382. Plaintiffs seek to represent the following classes: All persons in the United States or, alternatively, California who purchased one or more of the Misbranded Products from four years prior to the filing of the Complaint and continuing to the present.

58. The class excludes counsel representing the class, governmental entities, Defendants, any entity in which Defendants have a controlling interest, Defendants' officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns, any judicial officer presiding over this matter, the members of their immediate families and judicial staff, and any individual whose interests are antagonistic to other putative class members.

59. Plaintiffs reserve the right under California Rule of Court 3.765 to amend or modify the class description with greater particularity or further division into subclasses or limitation to particular issues.

60. This action has been brought and may properly be maintained as a class action under the provisions of Code of Civil Procedure § 382 because there is a well-defined community of interest in the litigation and the class is easily ascertainable.

### **A. Numerosity**

61. The potential members of the class as defined are so numerous that joinder of all members of the class is impracticable. Although the precise number of putative class members has not been determined at this time, Plaintiffs are informed and believe that the proposed classes include thousands of members.

### **B. Commonality**

62. There are questions of law and fact common to the class that predominate over any questions affecting only individual putative class members. These common questions of law and fact include:

- a. Whether Defendants' conduct was a "fraudulent practice" within the meaning of the Unfair Competition Law ("UCL"), Business & Professions Code § 17200, in that it was likely to mislead consumers;
- b. Whether Defendants' conduct was an "unfair practice" within the meaning of the UCL in that it offended established public policy and is immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers;
- c. Whether Defendants' conduct was an "unlawful" practice within the meaning of the UCL;
- d. Whether Defendants' conduct was likely to deceive a consumer acting reasonably in the same circumstances;
- e. Whether Defendants advertise or market the Misbranded Products in a way that is false or misleading;
- f. Whether Defendants violated California Business and Professions Code § 17500 et seq.;
- g. Whether Defendants violated California Civil Code § 1750 et seq.;
- h. Whether Plaintiffs and members of the putative class are entitled to restitution, injunctive, declaratory and/or other equitable relief;
- i. Whether Defendants have been unjustly enriched through the misrepresentations alleged herein; and
- j. Whether Plaintiffs and the members of the class sustained monetary loss.

**C. Adequacy of Representation**

63. Plaintiffs will fairly and adequately represent and protect the interests of the class. Counsel who represent Plaintiffs and putative class members are experienced and competent in litigating class actions.

**D. Superiority of Class Action**

64. A class action is superior to other available means for the fair and efficient adjudication of this controversy. Individual joinder of putative class members is not practicable, and questions of law and fact common to putative class members predominate over any questions



1 affecting only individual putative class members. Each putative class member has been damaged  
2 and is entitled to recovery by reason of Defendants' illegal policies or practices of failing to  
3 compensate putative class members properly.

4 65. Class action treatment will allow those persons similarly situated to litigate their  
5 claims in the manner that is most efficient and economical for the parties and the judicial system.  
6 Plaintiffs are unaware of any difficulties in managing this case that should preclude class action.

#### 7 **FIRST CAUSE OF ACTION**

##### 8 **Unlawful Business Practices in Violation of** 9 **Business and Professions Code § 17200, et seq.**

10 66. Plaintiffs incorporate by reference each allegation set forth above.

11 67. Defendants' conduct constitutes unlawful business acts and practices under  
12 Business & Professions Code § 17200, et seq.

13 68. Defendants sold Misbranded Products in California and throughout the United  
14 States during the class period.

15 69. Defendant Hansen is a corporation and, therefore, is a "person" within the meaning  
16 of the Sherman Food Drug & Cosmetic Law, California Health & Safety Code § 109875, et seq.  
17 (the "Sherman Law"). The Sherman Law adopts, incorporates and is identical to the federal Food,  
18 Drug & Cosmetic Act, 21 U.S.C. § 301 *et seq.* ("FDCA").

19 70. Defendants' business practices are unlawful under § 17200, et seq., by virtue of  
20 Defendants' violations of the advertising provisions of Article 3 of the Sherman Law and the  
21 misbranded food provisions of Article 6 of the Sherman Law.

22 71. Defendants' business practices are unlawful under Business & Professions Code §  
23 17200, et seq. by virtue of Defendants' violations of § 17500, et seq., which forbids untrue and  
24 misleading advertising.

25 72. Defendants' business practices are unlawful under Business & Professions Code §  
26 17200, et seq. by virtue of Defendants' violations of the Consumers Legal Remedies Act, Cal.  
27 Civ. Code § 1750, et seq.

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73. 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.

74. Defendants sold Plaintiffs and members of the putative class Misbranded Products that were not capable of being sold or legally held and which had no economic value and were legally worthless. Plaintiffs and each putative class member paid a premium price for the Misbranded Products.

75. As a result of Defendants' illegal business practices, Plaintiffs and the members of the putative class are entitled to an order enjoining such future conduct and such other orders and judgments which may be necessary to disgorge Defendants' ill-gotten gains and to restore to any putative class member any money paid for the Misbranded Products.

76. Defendants' unlawful business acts present a threat and reasonable continued likelihood of injury to Plaintiffs and each member of the putative class.

## SECOND CAUSE OF ACTION

## Unfair Business Practices in Violation of

**Business & Professions Code § 17200, et seq.**

77. Plaintiffs incorporate by reference each allegation set forth above.

78. The UCL defines unfair business competition to include any “unlawful, unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal. Bus. & Prof. Code § 17200.

79. A business act or practice is “unfair” under the UCL if the reasons, justifications, and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims.

80. Defendants' conduct as set forth herein constitutes unfair business acts and practices.

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1           81.     Defendants sold Misbranded Products in California and throughout the United  
2 States during the class period.

3           82.     Plaintiffs and the members of the putative class suffered a substantial injury by  
4 virtue of buying Defendants' Misbranded Products, which they would not have purchased absent  
5 Defendants' illegal conduct.

6           83.     Defendants' deceptive marketing, advertising, packaging and labeling of their  
7 Misbranded Products and their sale of unsalable misbranded products that were illegal to possess  
8 were of no benefit to consumers, and the harm to consumers and competition is substantial.

9           84.     Defendants sold Plaintiffs and the members of the putative class Misbranded  
10 Products that were not capable of being legally sold or held and that had no economic value and  
11 were legally worthless. Plaintiffs and the members of the putative class paid a premium price for  
12 the Misbranded Products.

13          85.     Plaintiffs and the members of the putative class who purchased Defendants'  
14 Misbranded Products had no way of reasonably knowing that the products were misbranded and  
15 were not properly marketed, advertised, packaged and labeled, and thus could not have reasonably  
16 avoided the injury each of them suffered.

17          86.     The consequences of Defendants' conduct as set forth herein outweigh any  
18 justification, motive or reason therefor. Defendants' conduct is and continues to be unlawful,  
19 unscrupulous and contrary to public policy, and is substantially injurious to Plaintiffs and the  
20 members of the putative class.

21          87.     As a result of Defendants' conduct, Plaintiffs and the members of the putative  
22 class, pursuant to Business and Professions Code § 17203, are entitled to an order enjoining such  
23 future conduct by Defendants, and such other orders and judgments which may be necessary to  
24 disgorge Defendants' ill-gotten gains and restore any money paid for Defendants' Misbranded  
25 Products by Plaintiffs and the members of the putative class.

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1 **THIRD CAUSE OF ACTION**

2 **Fraudulent Business Practices in Violation of**  
3 **Business and Professions Code § 17200, *et seq.***

4 88. Plaintiffs incorporate by reference each allegation set forth above.

5 89. Defendants' conduct as set forth herein constitutes fraudulent business practices  
6 under California Business and Professions Code sections § 17200, *et seq.*

7 90. Defendants sold Misbranded Products in California and throughout the United  
8 States during the class period.

9 91. Defendants' misleading marketing, advertising, packaging, and labeling of the  
10 Misbranded Products and misrepresentation that the products were capable of sale, capable of  
11 possession, and not misbranded were likely to deceive reasonable consumers, and in fact Plaintiffs  
12 and the members of the putative class were deceived.

13 92. Defendants' fraud and deception caused Plaintiffs and the members of the putative  
14 class to purchase Misbranded Products that they would otherwise not have purchased had they  
15 known the true nature of those products.

16 93. Defendants sold Plaintiffs and the members of the putative class Misbranded  
17 Products that were not capable of being sold or legally held and that had no economic value and  
18 were legally worthless. Plaintiffs and the members of the putative class paid a premium price for  
19 the Misbranded Products.

20 94. As a result of Defendants' conduct as set forth herein, Plaintiffs and each member  
21 of the putative class, pursuant to Business and Professions Code § 17203, are entitled to an order  
22 enjoining such future conduct by Defendants, and such other orders and judgments which may be  
23 necessary to disgorge Defendants' ill-gotten gains and restore any money paid for Defendants'  
24 Misbranded Products by Plaintiffs and the members of the putative class.

25 **FOURTH CAUSE OF ACTION**

26 **Misleading Advertising in Violation of**  
27 **Business and Professions Code § 17500, *et seq.***

28 95. Plaintiffs incorporate by reference each allegation set forth above.

1           96.     Plaintiffs assert this cause of action for violations of California Business and  
2 Professions Code § 17500, *et seq.*, for misleading and deceptive advertising against Defendants.

3           97.     Defendants sold Misbranded Products in California and throughout the United  
4 States during the class period. Defendants engaged in a scheme of offering the Misbranded  
5 Products for sale to Plaintiffs and the members of the putative class by way of, *inter alia*, product  
6 packaging and labeling, and other promotional materials. These materials misrepresented and/or  
7 omitted the true contents and nature of Defendants' Misbranded Products.

8           98.     Defendants' advertisements and inducements were made within California and  
9 throughout the United States and come within the definition of advertising as contained in  
10 Business and Professions Code §17500, *et seq.*, in that such product packaging and labeling, and  
11 promotional materials were intended as inducements to purchase Defendants' Misbranded Food  
12 Products and are statements disseminated by Defendants to Plaintiffs and the members of the  
13 putative class that were intended to reach the members of the putative class. Defendants knew, or  
14 in the exercise of reasonable care should have known, that these statements were misleading and  
15 deceptive as set forth herein.

16           99.     In furtherance of its plan and scheme, Defendants prepared and distributed within  
17 California and nationwide via product packaging and labeling, and other promotional materials,  
18 statements that misleadingly and deceptively represented the composition and the nature of  
19 Defendants' Misbranded Products. Plaintiffs and members of the putative class necessarily and  
20 reasonably relied on Defendants' material and were the intended targets of such representations.

21           100.    Defendants' conduct in disseminating misleading and deceptive statements in  
22 California and nationwide to Plaintiffs and the members of the putative class was and is likely to  
23 deceive reasonable consumers by obfuscating the true composition and nature of Defendants'  
24 Misbranded Products, in violation of the "misleading prong" of California Business and  
25 Professions Code § 17500, *et seq.*

26           101.    As a result of Defendants' violations of the "misleading prong" of California  
27 Business and Professions Code § 17500, *et seq.*, Defendants have been unjustly enriched at the  
28 expense of Plaintiffs and the members of the putative class. Misbranded products cannot be

1 legally sold or held and have no economic value and are legally worthless. Plaintiffs and the  
2 members of each Class paid a premium price for the Misbranded Products.

3 102. Plaintiffs and the members of the putative class, pursuant to Business and  
4 Professions Code § 17535, are entitled to an order enjoining such future conduct by Defendants,  
5 and such other orders and judgments which may be necessary to disgorge Defendants' ill-gotten  
6 gains and restore any money paid for Defendants' Misbranded Food Products by Plaintiffs and the  
7 members of the putative class.

## 8 **FIFTH CAUSE OF ACTION**

### 9 **Untrue Advertising in Violation of**

#### 10 **Business and Professions Code § 17500, *et seq.***

11 103. Plaintiffs incorporate by reference each allegation set forth above.

12 104. Plaintiffs assert this cause of action against Defendant for violations of California  
13 Business and Professions Code § 17500, *et seq.*, regarding untrue advertising. Defendants sold  
14 Misbranded Products in California and throughout the United States during the class period.

15 105. Defendants engaged in a scheme of offering Defendants' Misbranded Products for  
16 sale to Plaintiffs and the members of the putative class by way of product packaging and labeling,  
17 and other promotional materials. These materials misrepresented and/or omitted the true contents  
18 and nature of Defendants' Misbranded Products. Defendants' advertisements and inducements  
19 were made in California and throughout the United States and come within the definition of  
20 advertising as contained in Business and Professions Code § 17500, *et seq.*, in that the product  
21 packaging, labeling, and promotional materials were intended as inducements to purchase  
22 Defendants' Misbranded Product and are statements disseminated by Defendants to Plaintiffs and  
23 the members of the putative class. Defendants knew, or in the exercise of reasonable care should  
24 have known, that these statements were untrue.

25 106. In furtherance of its plan and scheme, Defendants prepared and distributed in  
26 California and nationwide via product packaging and labeling, and other promotional materials,  
27 statements that falsely advertise the composition of Defendants' Misbranded Products, and falsely  
28 misrepresented the nature of those products. Plaintiffs and the members of the putative class were

1 the intended targets of such representations and would reasonably be deceived by Defendants'  
2 materials.

3 107. Defendants' conduct in disseminating untrue advertising throughout California  
4 deceived Plaintiffs and the members of the putative class by obfuscating the contents, nature, and  
5 quality of Defendants' Misbranded Products, in violation of the "untrue prong" of California  
6 Business and Professions Code § 17500.

7 108. As a result of Defendants' violations of the "untrue prong" of California Business  
8 and Professions Code § 17500, *et seq.*, Defendants have been unjustly enriched at the expense of  
9 Plaintiffs and the members of the putative class. Misbranded products cannot be legally sold or  
10 held and have no economic value and are legally worthless. Plaintiffs and the members of the  
11 putative class paid a premium price for the Misbranded Products.

12 109. Plaintiffs and the members of the putative class, pursuant to Business and  
13 Professions Code § 17535, are entitled to an order enjoining such future conduct by Defendants,  
14 and such other orders and judgments which may be necessary to disgorge Defendants' ill-gotten  
15 gains and restore any money paid for Defendants' Misbranded Food Products by Plaintiffs and the  
16 members of the putative class.

## 17 **SIXTH CAUSE OF ACTION**

### 18 **Violation of the Consumers Legal Remedies Act,**

#### 19 **California Civil Code §§ 1750, *et seq.***

20 110. Plaintiffs incorporate by reference each allegation set forth above.

21 111. This cause of action is brought pursuant to the Consumers Legal Remedies Act,  
22 California Civil Code §§ 1750, *et seq.* (the "CLRA").

23 112. Plaintiffs and each member of the putative class are "consumers" within the  
24 meaning of Civil Code § 1761(d).

25 113. The purchases of the Defendants' Misbranded Products by consumers constitute  
26 "transactions" within the meaning of Civil Code § 1761(e), and the Misbranded Products offered  
27 by Defendants constitute "goods" within the meaning of Civil Code § 1761(a).

28 ///

1 114. Defendants have violated, and continue to violate, the CLRA in at least the  
2 following respects:

- 3 a. In violation of Civil Code § 1770(a)(5), Defendants represented that the  
4 Misbranded Products had characteristics which they did not have;  
5 b. In violation of Civil Code § 1770(a)(7), Defendants represented that the  
6 Misbranded Products were of a particular standard, quality, or grade, of which  
7 they were not; and  
8 c. In violation of Civil Code § 1770(a)(9), Defendants advertised the Misbranded  
9 Products with the intent not to provide what it advertised.

10 115. As a direct and proximate cause of Defendants' violation of the CLRA as alleged  
11 hereinabove, Plaintiffs and members of the putative class have suffered damages, including but  
12 not limited to inducing them to purchase the Misbranded Products and pay a premium therefor  
13 where such products did not conform to Defendants' representations, thereby causing Plaintiffs  
14 and putative class members to incur a pecuniary loss.

15 116. Pursuant to California Civil Code § 1780, Plaintiffs, on behalf of themselves and  
16 the putative class, seek damages, restitution, injunctive relief, punitive damages, attorneys' fees,  
17 and the costs of litigation.

## 18 SEVENTH CAUSE OF ACTION

### 19 Restitution Based on Quasi-Contract/Unjust Enrichment

20 117. Plaintiffs incorporate by reference each allegation set forth above.

21 118. Defendants' conduct in enticing Plaintiffs and putative class members to purchase  
22 the Misbranded Products through their false and misleading advertising and packaging as  
23 described throughout this Complaint is unlawful because the statements contained on Defendants'  
24 product labels are untrue.

25 119. Defendants' took monies from Plaintiffs and members of the putative class for  
26 products that purported to comply with the representations set forth above, even though the  
27 Misbranded Products did not conform to these representations.

28 ///



120. Defendants have been unjustly enriched at the expense of Plaintiffs and the putative class as result of Defendants' unlawful conduct alleged herein, thereby creating a quasi-contractual obligation on Defendants to restore these ill-gotten gains to Plaintiffs and putative class members.

121. As a direct and proximate result of Defendants' unjust enrichment, Plaintiffs and putative class members are entitled to restitution or restitutionary disgorgement, in an amount to be proved at trial.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the other members of the putative class, pray as follows:

A. For an order certifying that this action is properly brought and may be maintained as a class action, that Plaintiffs be appointed the Class Representatives, and that Plaintiffs' counsel be appointed counsel for the class;

B. For restitution in such amount that Plaintiffs and all putative class members paid to purchase the Misbranded Products, or the premiums paid therefor on account of the misrepresentation as alleged above, or restitutionary disgorgement of the profits Defendants have obtained from those transactions;

C. For compensatory damages for causes of action for which they are available;

D. For statutory damages allowable under Civil Code § 1780;

E. For punitive damages for causes of action for which they are available;

F. For a declaration and order enjoining Defendants from advertising their products misleadingly in violation of California's Sherman Food, Drug, and Cosmetic Law, and other applicable laws and regulations as specified in this Complaint;

G. For an order awarding reasonable attorneys' fees and the costs of suit herein;

H. For an award of pre- and post-judgment interest;

I. For an order requiring an accounting for, and imposition of, a constructive trust upon all monies received by Defendants' as a result of the unfair, misleading, fraudulent and unlawful conduct alleged herein; and

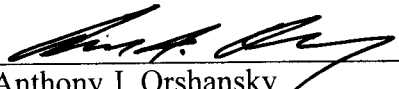
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J. Such other and further relief as may be deemed necessary or appropriate.

Respectfully submitted,

DATED: April 1, 2014

COUNSELONE, PC

By   
Anthony J. Orshansky  
Attorneys for Plaintiffs and the Putative Class

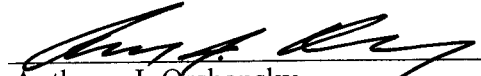
**JURY DEMAND**

Plaintiffs hereby demand a jury trial on all issues so triable.

DATED: April 1, 2014

COUNSELONE, PC

By



Anthony J. Orshansky  
Attorneys for Plaintiffs and the Putative  
Class