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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
SAN FRANCISCO

BY

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11 UNITED STATES DISTRICT COURT
12 CENTRAL DISTRICT OF CALIFORNIA
13

14 BARBARA ANDERSON, on behalf
of herself and all others similarly
15 situated,

16 Plaintiffs,

17 v.

18 THE HAIN CELESTIAL GROUP,
INC., and DOES 1 through 10,
19 inclusive,

20 Defendants.
21

Case No.: **SACV13-01747 DOC (ANx)**

COMPLAINT
CLASS ACTION

[Violations of California's Unfair
Competition Law, California Business &
Professions Code § 17200 *et seq.*,
California's False Advertising Law,
California Business & Professions Code
§ 17500 *et seq.*, and California's
Consumers Legal Remedies Act,
California Civil Code § 1750 *et seq.*]

DEMAND FOR JURY TRIAL

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25 Plaintiff, by her counsel of record, brings this action on her own behalf and
26 on behalf of all others similarly situated, and alleges the following upon personal
27 knowledge, or where there is not personal knowledge, upon information and belief:
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ORIGINAL

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INTRODUCTION

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2 1. Food and beverage manufacturers have sought to capitalize on the fast-
3 growing market for natural products, which is now a multi-billion dollar industry.

4 2. Unfortunately, not all manufacturers truthfully represent their products.

5 3. Instead, some manufactures seek to capture a share of the market by
6 touting their products as "All Natural" when in fact that is not true.

7 4. Defendant THE HAIN CELESTIAL GROUP, INC. ("Hain Celestial")
8 is an example of a manufacturer who has sought to exploit the market for natural
9 products by representing that its products are "All Natural."

10 5. Hain Celestial manufactures several food products, including a line of
11 "Dream" drink products which include the Sunflower Dream Sunflower Drink
12 Unsweetened (Original) product. Hain Celestial prominently labels these products
13 as "All Natural" when in fact they contain artificial ingredients. Moreover, Hain
14 Celestial claims that some of its products contain "Evaporated Cane Juice" when in
15 fact its products do not contain any such juice and instead contain sugars or syrups.

16 6. This lawsuit seeks redress on behalf of a nationwide class of consumers
17 who purchased Hain Celestial Products which claimed to be "All Natural" and/or
18 claimed to contain "Evaporated Cane Juice."

JURISDICTION AND VENUE

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21 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §
22 1332(d)(2), because the proposed class has more than 100 class members, the
23 proposed class contains at least one class member who is a citizen of a State
24 different from any defendant, and the matter in controversy exceeds the sum of
25 \$5,000,000.

26 8. This Court has personal jurisdiction over Defendants because each
27 conducts business in California, intentionally avails itself of the markets and
28 benefits of California through its marketing and sales of the products at issue in

1 California so as to render the exercise of jurisdiction by this Court consistent with
2 traditional notions of fair play and substantial justice, and a substantial part of the
3 acts and omissions giving rise to the claims occurred within California.

4 9. Venue in this judicial district is proper under 28 U.S.C. § 1391(b) and
5 (c) in that Defendants reside in this judicial district, Defendants have done and
6 continue to do business, and intentionally avail themselves of the markets within
7 this district, and this is a class action case in which a substantial part of the acts and
8 omissions giving rise to the claims occurred within this judicial district, in Orange
9 County, California.

11 PARTIES

12 10. Plaintiff, BARBARA ANDERSON, is and at all times relevant hereto
13 was a resident and citizen of the State of California.

14 11. Defendant THE HAIN CELESTIAL GROUP, INC. is a corporation
15 organized and existing under the laws of the State of Delaware. Defendant
16 manufactures, markets, and sells its products throughout California and the United
17 States. Defendant is a leading producer of retail food products, including the
18 products at issue herein. Defendant sells its food products to consumers through
19 grocery and other retail stores throughout the United States.

20 12. At all times mentioned in this Complaint, Defendants and each of them
21 were the agents, employees, joint venturer, and or partners of each other and were
22 acting within the course and scope of such agency, employment, joint venturer and
23 or partnership relationship and or each of the Defendants ratified and or authorized
24 the conduct of each of the other Defendants.

25 13. Plaintiff does not know the true names and capacities of defendants
26 sued herein as DOES 1 through 10, inclusive, and therefore sues these defendants by
27 such fictitious names. Plaintiff is informed and believes that each of the DOE
28 defendants was in some manner legally responsible for the wrongful and unlawful

1 conduct and harm alleged herein. Plaintiff will amend this Complaint to set forth
2 the true names and capacities of these defendants when they have been ascertained,
3 along with appropriate charging allegations.

4 14. Defendant THE HAIN CELESTIAL GROUP, INC. and DOES 1
5 through 10 are collectively referred to as Defendants.

6
7 **FACTUAL ALLEGATIONS CONCERNING**
8 **HAIN CELESTIAL PRODUCTS**

9 15. Within the last four years, Plaintiff purchased some of Defendants'
10 Hain Celestial Products¹, including specifically the Sunflower Dream Sunflower
11 Drink Unsweetened (Original) product.

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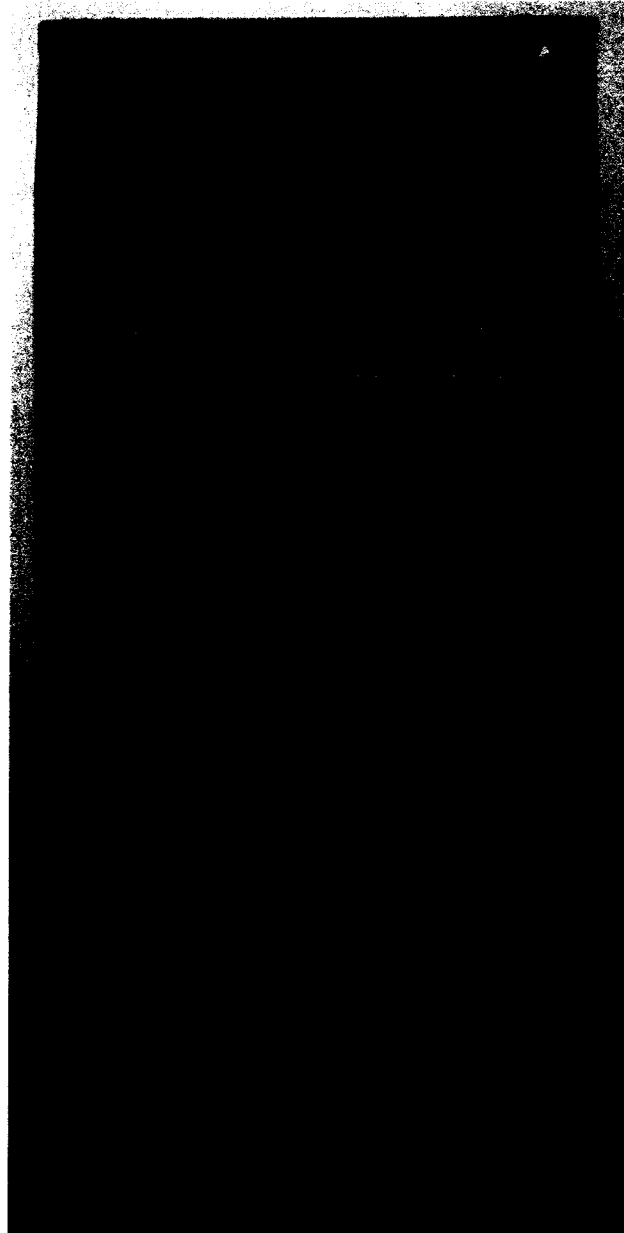
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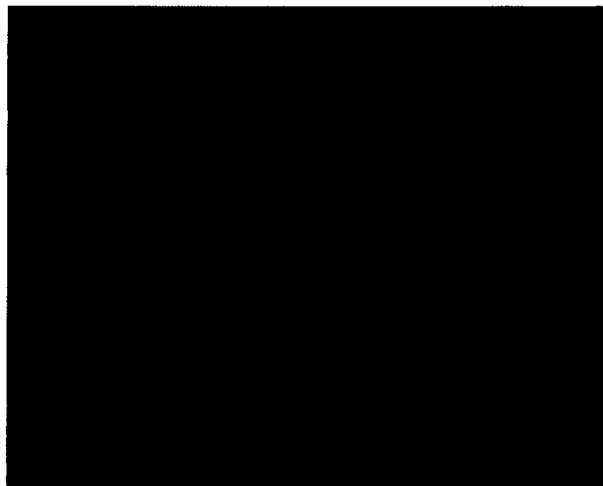
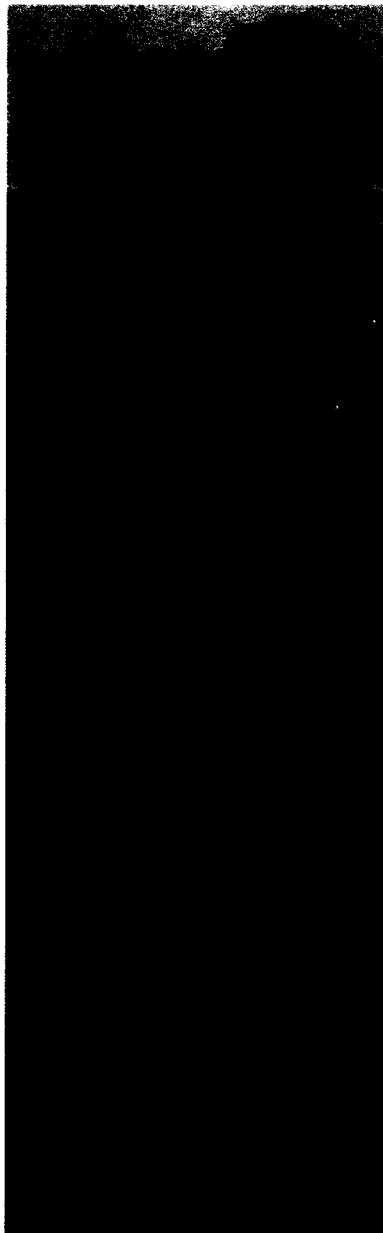
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27 _____
28 ¹ The phrase "Hain Celestial Products" as used in this Complaint includes the
Sunflower Dream Sunflower Drink Unsweetened (Original) product and the
Substantially Similar Products described in paragraphs 44 through 46, below.

1 16. The Sunflower Dream Sunflower Drink Unsweetened (Original)
2 product purchased by Plaintiff has the following labels:



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1 17. The label of the Sunflower Dream Sunflower Drink Unsweetened
2 (Original) product includes the following representations on the front of the
3 product's package:

4 **"All Natural"**

5 18. The ingredients on the side label of the Sunflower Dream Sunflower
6 Drink Unsweetened (Original) product's package states as follows:

7 **"INGREDIENTS:** SUNFLOWER BASE (FILTERED WATER,
8 SUNFLOWER KERNELS, SUNFLOWER LECITHIN, CITRIC
9 ACID), TRICALCIUM PHOSPHATE, TAPIOCA STARCH, SEA
10 SALT, XANTHAN GUM, NATURAL FLAVORS, GUAR GUM,
11 CARRAGEENAN, VITAMIN E (D-ALPHA TOCOPHERYL
12 ACETATE), VITAMIN A PALMITATE, FOLIC ACID, VITAMIN
13 D2."

14 19. Defendants unlawfully misbranded and falsely, misleadingly and
15 deceptively represented the Sunflower Dream Sunflower Drink Unsweetened
16 (Original) product as "All Natural" despite that it contains non-natural ingredients,
17 including the following artificial or synthetic ingredients: Tricalcium Phosphate,
18 Xanthan Gum, Vitamin A Palmitate, Folic Acid, and Vitamin D2."²

19 20. The size and placement of ingredients, which appear in smaller print
20 and on the side of each of the Hain Celestial Products' packaging, are in stark
21 contrast to the conspicuous "All Natural" representations, which appear in larger
22 print and in more prominent locations on the packaging.

23 21. Reasonable consumers, including Plaintiff, do not have the specialized
24 knowledge necessary to identify ingredients in Hain Celestial Products as being
25 inconsistent with the "All Natural" and "Juice" claims.

26 22. A claim that a product is "all natural" is material to a reasonable
27 consumer.

28 ² Plaintiff reserves the right to amend these allegations if additional
investigation or discovery reveals other non-natural ingredients.

1 23. A reasonable consumer would expect that a product labeled as "All
2 Natural" does not contain any artificial, synthetic or extensively processed
3 ingredients.

4 24. This expectation of a reasonable consumer is consistent with the
5 common use of the word "natural" as well as with the views of the federal
6 government and its agencies.

7 25. The Food and Drug Administration ("FDA") has repeatedly stated its
8 policy to restrict the use of the term "natural" in connection with added color,
9 synthetic substances and flavors addressed in 21 C.F.R. § 101.22.

10 26. 21 C.F.R. § 101.22 distinguishes between artificial versus natural
11 foods, spices, flavorings, colorings, and preservatives on food labels. Any coloring
12 or preservative can preclude the use of the term "natural" even if the coloring or
13 preservative is derived from natural sources.

14 27. The Food and Drug Administration ("FDA") has repeatedly affirmed its
15 policy through guidelines that define the appropriate boundaries for using the term
16 "natural." According to the FDA:

17 "The agency will maintain its current policy ... not to restrict the use
18 of the term 'natural' except for added color, synthetic substances, and
19 flavors as provided in § 101.22. Additionally, the agency will
20 maintain its policy ... regarding the use of 'natural' as meaning that
21 nothing artificial or synthetic (including all color additives regardless
22 of source) has been included in, or has been added to, a food that
23 would not normally be expected to be in the food. Further ... the
24 agency will continue to distinguish between natural and artificial
25 flavors as outlined in § 101.22." 58 Federal Register 2302, 2407 (Jan.
26 6, 1993).

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1 28. The FDA Compliance Policy Guide Sec. 587.100 further provides that:
2 "The use of the words 'food color added,' 'natural color,' or similar
3 words containing the term 'food' or 'natural' may be erroneously
4 interpreted to mean the color is a naturally occurring constituent in the
5 food. Since all added colors result in an artificially colored food, we
6 would object to the declaration of any added color as 'food' or
7 'natural.'"

8 29. Additionally, some of Defendants' Hain Celestial Products contain
9 ingredients from otherwise natural sources that have been extensively processed. As
10 an example, "Evaporated Cane Juice" is the end product of sugar cane being
11 extensively processed. Some manufacturers of so-called "Evaporated Cane Juice"
12 add synthetic substances such as Phosphoric Acid and/or Calcium Hydroxide to
13 extract cane syrup prior to evaporation. Phosphoric Acid and Calcium Hydroxide
14 are both synthetic ingredients.

15 30. Moreover, Defendants' Hain Celestial Products which claim to contain
16 "Evaporated Cane Juice" are misbranded, as well as false and misleading, because
17 they do not actually contain "Juice" but instead contain sugar or syrup derived from
18 sugar.

19 31. 21 C.F.R. § 120.1 defines "juice" as "the aqueous liquid expressed or
20 extracted from one or more fruits or vegetables...."

21 32. 21 C.F.R. § 168.130, requires that "the liquid food derived ... of the
22 juice of sugarcane ... or by solution in water of sugarcane concentrate made from
23 such juice" shall go by the name "cane sirup" or "sugar cane sirup." Alternatively,
24 the word "sirup" may be spelled "syrup." *Ibid.*

25 33. Federal regulations instruct that ingredients must be described by their
26 common or usual names, 21 C.F.R. § 101.4(a)(1), and not by a name that is
27 "confusingly similar to the name of any other food that is not reasonably
28 encompassed within the same name," 21 C.F.R. § 102.5(a), (d).

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1 34. The FDA has indicated that the use of the term "cane juice" is false and
2 misleading, since it is not actually "juice" but sugar or syrup derived from sugar.
3 See FDA Guidance for Industry: Ingredients Declared as Evaporated Cane Juice;
4 Draft Guidance, October 2009.

5 35. In its guidance to the food industry, the FDA explained, among other
6 things, as follows:

7 "[T]he term 'evaporated cane juice' has started to appear as an
8 ingredient on food labels, most commonly to declare the presence of
9 sweeteners derived from sugar cane syrup. However, FDA's current
10 policy is that sweeteners derived from sugar cane syrup should not be
11 declared as 'evaporated cane juice' because that term falsely suggests
12 that the sweeteners are juice [].

13 'Juice' is defined by 21 CFR 120.1(a) as 'the aqueous liquid
14 expressed or extracted from one or more fruits or vegetables, purees
15 of the edible portions of one or more fruits or vegetables, or any
16 concentrates of such liquid or puree....'

17 As provided in 21 CFR 101.4(a)(1), 'Ingredients required to be
18 declared on the label or labeling of a food ... shall be listed by
19 common or usual name....' The common or usual name for an
20 ingredient is the name established by common usage or by regulation
21 (21 CFR 102.5(d)). The common or usual name must accurately
22 describe the basic nature of the food or its characterizing properties or
23 ingredients, and may not be 'confusingly similar to the name of any
24 other food that is not reasonably encompassed within the same name'
25 (21 CFR 102.5(a)).

26 Sugar cane products exist in many different forms, ranging from
27 raw sugars and syrups to refined sugar and molasses. These products
28 are differentiated by their moisture, molasses, and sucrose content as
well as by crystal size and any special treatments (e.g., treatment with
sulfur). Sugar cane products with common or usual names defined by
regulation are sugar (21 CFR 101.4(b)(20)) and cane sirup
(alternatively spelled 'syrup') (21 CFR 168.130). Other sugar cane
products have common or usual names established by common usage
(e.g., molasses, raw sugar, brown sugar, turbinado sugar, muscovado
sugar, and demerara sugar)....

1 The intent of this draft guidance is to advise the regulated
2 industry of FDA's view that the term 'evaporated cane juice' is not the
3 common or usual name of any type of sweetener, including dried cane
4 syrup. Because cane syrup has a standard of identity defined by
5 regulation in 21 CFR 168.130, the common or usual name for the
solid or dried form of cane syrup is 'dried cane syrup.'

6 Sweeteners derived from sugar cane syrup should not be listed
7 in the ingredient declaration by names which suggest that the
8 ingredients are juice, such as 'evaporated cane juice.' FDA considers
9 such representations to be false and misleading under section
10 403(a)(1) of the Act (21 U.S.C. 343(a)(1)) because they fail to reveal
11 the basic nature of the food and its characterizing properties (i.e., that
the ingredients are sugars or syrups) as required by 21 CFR 102.5."
See FDA Guidance for Industry: Ingredients Declared as Evaporated
Cane Juice; Draft Guidance, October 2009.

12 36. Because Defendants' Hain Celestial Products, which claim to contain
13 "Evaporated Cane Juice" are false and misleading, and misbranded, they have no
14 value as a matter of law.

15 37. Defendants engaged in an extensive and long-term advertising
16 campaign labeling and otherwise marketing their Hain Celestial Products, including
17 the Sunflower Dream Sunflower Drink Unsweetened (Original) product, as "All
18 Natural" when, in fact, they are not "All Natural."

19 38. Plaintiff purchased certain Hain Celestial Products, including
20 specifically the Sunflower Dream Sunflower Drink Unsweetened (Original) product,
21 in reliance on Defendants' representations and omissions on the products' labels that
22 the products were "All Natural."

23 39. Plaintiff reasonably and justifiably relied on the "All Natural"
24 representations on Hain Celestial Products, including specifically the Sunflower
25 Dream Sunflower Drink Unsweetened (Original) product, and based her decision to
26 purchase such product in substantial part on such representations.

27 40. Plaintiff also reasonably assumed that the Hain Celestial Products were
28 not misbranded and were legal to offer for sale and to purchase.

1 41. Plaintiff was misled and deceived by Defendants' misbranded products
2 and label representations and would not have purchased the Sunflower Dream
3 Sunflower Drink Unsweetened (Original) product, in the absence of the foregoing
4 "All Natural" representations and omissions.

5 42. Plaintiff relied on Defendants' misbranded labels and false, misleading
6 and deceptive labeling claims and omissions and suffered injury in fact and a loss of
7 money with each purchase of Defendants' Hain Celestial Products.

8 43. As a result of Defendants' misbranding and false, misleading and
9 deceptive labeling claims and omissions, consumers such as Plaintiff did not receive
10 the benefit of their bargain when they purchased Hain Celestial Products. They each
11 paid money for a product(s) that is misbranded (and therefore has no value as a
12 matter of law), and is not what it claims to be or what they bargained for. They also
13 paid a premium for the Hain Celestial Products and lost the opportunity to purchase
14 and consume other, truly all natural foods.

15 44. In addition to the Sunflower Dream Sunflower Drink Unsweetened
16 (Original) product, Defendants also misbranded and misrepresented other
17 substantially similar Hain Celestial products ("Substantially Similar Products").
18 Each of the Substantially Similar Products makes the same label misrepresentations
19 and violates the same California Sherman Food, Drug, And Cosmetic Law,
20 California Health & Safety Code § 109875 *et seq.*, laws as the Sunflower Dream
21 Sunflower Drink Unsweetened (Original) product.

22 45. The Substantially Similar Products include the following Hain Celestial
23 products labeled as "All Natural:"

- 24 • Sunflower Dream Sunflower Drink (Original);
- 25 • Almond Dream Almond Drink (Vanilla);
- 26 • Almond Dream Almond Drink Unsweetened (Vanilla);
- 27 • Almond Dream Almond Drink (Original);
- 28 • Almond Dream Almond Drink Unsweetened (Original);

- 1 • Coconut Dream Coconut Drink (Vanilla);
- 2 • Coconut Dream Coconut Drink (Original); and
- 3 • Coconut Dream Coconut Drink Unsweetened (Original).

4 46. The Substantially Similar Products include the following Hain Celestial
5 products labeled as containing "Evaporated Cane Juice":

- 6 • Coconut Dream Coconut Drink (Vanilla)
- 7 • Coconut Dream Coconut Drink (Original)

8 47. Plaintiff reserves the right to add additional products to the lists of
9 Substantially Similar Products set forth in paragraphs 45 and 46, above, based upon
10 additional investigation or discovery.

11 48. Defendants know that consumers are willing to pay for all natural
12 products. Defendants advertise the Hain Celestial Products with the intention that
13 consumers rely on the affirmative misrepresentations of fact on their labeling that
14 the products are "All Natural." Further, Defendants' omissions of the material fact
15 that the products include ingredients that are not "All Natural," but instead contain
16 artificial, synthetic or extensively processed ingredients, are likely to deceive
17 reasonable consumers.

18 49. Defendants know that the Hain Celestial Products, including the
19 Sunflower Dream Sunflower Drink Unsweetened (Original) product, are
20 misbranded and that their labeling claims and omissions are false, misleading,
21 deceptive, and likely to deceive reasonable consumers.

22 50. Yet, Defendants have engaged and continue to engage in their
23 misbranding and with their misrepresentations of fact and omissions of fact in
24 furtherance of their motive to sell and profit from the Hain Celestial Products on the
25 backs and at the expense of consumers and the consuming public.

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1 **CLASS ACTION ALLEGATIONS**

2 51. Plaintiff brings this class action on behalf of herself and all other
3 persons similarly situated pursuant to Rules 23(a) and 23(b)(2) and 23(b)(3) of the
4 Federal Rules of Civil Procedure.

5 52. The class ("Class") which Plaintiff seeks to represent is defined as:

6 All persons in the United States who, within four years from the
7 date of filing this action, purchased any of the Hain Celestial Products
8 which: (1) was labeled "All Natural" but contains artificial or synthetic
9 ingredients and/or (2) contains the ingredient labeled as "Evaporated
10 Cane Juice."³

11 53. Excluded from the Class are Defendants and their directors, officers
12 and employees.

13 54. Numerosity (Fed. R. Civ. P. 23(a)(1)): The Class is so numerous that
14 joinder of all individual members in one action would be impracticable. The
15 disposition of their claims through this class action will benefit both the parties and
16 this Court.

17 55. Plaintiff is informed and believes and thereon alleges that there are, at a
18 minimum, many thousands, or millions, of members that comprise the Class.

19 56. Members of the Class may be notified of the pendency of this action by
20 techniques and forms commonly used in class actions, such as by published notice,
21 e-mail notice, website notice, first-class mail, or combinations thereof, or by other
22 methods suitable to this class and deemed necessary and or appropriate by the Court.

23 57. Common Questions of Fact and Law (Fed. R. Civ. P. 23(a)(2) and
24 (b)(3)): There are a well-defined community of interest and common questions of
25 fact and law affecting the members of the Class.

26
27
28 ³ Plaintiff reserves the right to amend or otherwise modify the Class definition
and/or add subclasses.

1 58. The questions of fact and law common to the Class predominate over
2 questions which may affect individual members and include the following:

3 (a) Whether Defendants' "All Natural" representations are unlawful,
4 unfair, deceptive, untrue or misleading;

5 (b) Whether Defendants' "Evaporated Cane Juice" representations
6 are unlawful, unfair, deceptive, untrue or misleading;

7 (c) Whether Defendants violated California Business and
8 Professions Code § 17200 *et seq.*;

9 (d) Whether Defendants violated California Business and
10 Professions Code § 17500 *et seq.*;

11 (e) Whether Defendants violated California Civil Code § 1750 *et*
12 *seq.*; and

13 (f) The relief, including injunctive and other equitable relief, to
14 which Plaintiff and the Class are entitled.

15 59. Typicality (Fed. R. Civ. P. 23(a)(3)): Plaintiff's claims are typical of the
16 claims of the entire Class. Plaintiff and all Class members each bought one or more
17 of Defendants' products which are at issue in this case. The claims of Plaintiff and
18 members of the CLASS are based on the same legal and remedial theories and arise
19 from the same unlawful conduct.

20 60. Adequacy of Representation (Fed. R. Civ. P. 23(a)(4)): Plaintiff is an
21 adequate representative of the Class because her interests do not conflict with the
22 interests of the Class which Plaintiff seeks to represent. Plaintiff will fairly,
23 adequately, and vigorously represent and protect the interests of the Class and has
24 no interests antagonistic to the Class. Plaintiff has retained counsel who is
25 competent and experienced in the prosecution of class action litigation.

26 61. Superiority (Fed. R. Civ. P. 23(b)(3)): A class action is superior to
27 other available means for the fair and efficient adjudication of the claims of the
28 Class. While the aggregate damages which may be and if awarded to the Class are

1 likely to be substantial, the actual economic damages suffered by individual
2 members of the Class are likely relatively small. As a result, the expense and
3 burden of individual litigation makes it economically infeasible and procedurally
4 impracticable for each member of the Class to individually seek redress for the
5 wrongs done to them. The likelihood of individual Class members prosecuting
6 separate claims is remote. Plaintiff does not know of any other litigation already
7 commenced by or against any member of the Class concerning Defendants' conduct
8 at issue in this case. Individualized litigation would also present the potential for
9 varying, inconsistent or contradictory judgments, and would increase the delay and
10 expense to all parties and the court system resulting from multiple trials of the same
11 factual issues. In contrast, the conduct of this matter as a class action presents fewer
12 management difficulties, conserves the resources of the parties and the court system,
13 and would protect the rights of each member of the Class. Plaintiff knows of no
14 difficulty to be encountered in the management of this action that would preclude its
15 maintenance as a class action.

16 62. Injunctive or Declaratory Relief (Fed. R. Civ. P. 23(b)(2)): A class
17 action is also appropriate because Defendants have acted or refused to act on
18 grounds that apply generally to the Class, so that final injunctive relief or
19 corresponding declaratory relief is appropriate respecting the Class as a whole.

20

21

FIRST CAUSE OF ACTION

22

For Violation of California's Unfair Competition Law,

23

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

24

(On Behalf of Plaintiff and the Class as against

25

all Defendants including DOES 1 through 10)

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27

63. Plaintiff hereby incorporates by reference the allegations contained in
this Complaint.

28

1 64. Plaintiff asserts this claim on behalf of herself and the Class as against
2 Defendants and each of them.

3 65. "California's unfair competition law (UCL) (§ 17200 *et seq.*) defines
4 'unfair competition' to mean and include 'any unlawful, unfair or fraudulent business
5 act or practice and unfair, deceptive, untrue or misleading advertising and any act
6 prohibited by [the false advertising law (§ 17500 *et seq.*)].'" *Kasky v. Nike, Inc.*, 27
7 Cal.4th 939, 949 (2002).

8 66. "The UCL's purpose is to protect both consumers and competitors by
9 promoting fair competition in commercial markets for goods and services." *Kasky*,
10 27 Cal.4th at 949.

11 67. Defendants have violated the UCL in several of the following ways,
12 each of which are independently actionable:

13 **Unlawful (Sherman Law Misbranding Violations)**

14 68. Defendants' conduct of labeling, advertising and otherwise representing
15 its products as "All Natural" and/or containing "Evaporated Cane Juice" is unlawful
16 and constitutes misbranding under the Sherman Food, Drug, And Cosmetic Law,
17 California Health & Safety Code § 109875 *et seq.* (the "Sherman Law").

18 69. California's Sherman Law adopts, incorporates – and is identical – to
19 the relevant provisions of the federal Food Drug and Cosmetic Act, 21 U.S.C. § 301
20 *et seq.* ("FDCA").⁴

21 70. The Sherman Law expressly states that "Any food is misbranded if its
22 labeling is false or misleading in any particular." California Health & Safety Code §
23 110660.⁵

24
25 ⁴ Through the Sherman Law, California has also adopted all federal food
26 labeling regulations as its own: "All food labeling regulations and any amendments
27 to those regulations adopted pursuant to the federal act ... shall be the food labeling
28 regulations of this state." California Health & Safety Code § 110100. "Federal act"
means the federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. Sec. 301
et seq.). California Health & Safety Code § 109930.

⁵ Identical to FDCA 21 U.S.C. § 343(a).

1 71. The Sherman Law also provides that "Any food is misbranded if any
2 word, statement, or other information required pursuant to this part to appear on the
3 label or labeling is not prominently placed upon the label or labeling with
4 conspicuousness, as compared with other words, statements, designs, or devices in
5 the labeling and in terms as to render it likely to be read and understood by the
6 ordinary individual under customary conditions of purchase and use." California
7 Health & Safety Code § 110705.⁶

8 72. The Sherman Law expressly states that "Any food is misbranded if it
9 bears or contains any artificial flavoring, artificial coloring, or chemical
10 preservative, unless its labeling states that fact." California Health & Safety Code §
11 110740.⁷

12 73. The Sherman Law also provides that a food is misbranded if its label
13 does not clearly state "the common or usual name of the food" or "the common or
14 usual name of each ingredient." California Health & Safety Code §§ 110720.
15 110725.⁸

16 74. Misbranded food is unlawful and has no value as it may not be
17 manufactured, delivered, held, offered for sale, or otherwise received in commerce.

18 75. "It is unlawful for any person to misbrand any food." California Health
19 & Safety Code § 110765.

20 76. "It is unlawful for any person to manufacture, sell, deliver, hold, or
21 offer for sale any food that is misbranded." California Health & Safety Code §
22 110760.

23 77. "It is unlawful for any person to receive in commerce any food that is
24 misbranded or to deliver or proffer for delivery any such food." California Health &
25 Safety Code § 110770.

26 ⁶ Identical to FDCA 21 U.S.C. § 343(f).

27 ⁷ Identical to FDCA 21 U.S.C. § 343(k).

28 ⁸ Identical to FDCA 21 U.S.C. § 343(g); and 21 C.F.R. § 101.4(a)(1), 21
C.F.R. § 102.5(a), (d).

1 78. Defendants manufactured, delivered, held, offered for sale, sold and/or
2 otherwise received into commerce their misbranded products.

3 79. Defendants sold their misbranded products within California and
4 throughout the United States.

5 80. As a result of Defendants' conduct, Plaintiff and Class members
6 purchased misbranded products which have no value and are not saleable, as a
7 matter of law, and Plaintiff and Class members suffered injury in fact and lost
8 money or property as a result of Defendants' conduct.

9 **Unlawful (Other Violations)**

10 81. In addition to Defendants' misbranding violations set forth above,
11 Defendants have also violated the UCL by violating other laws including, but not
12 limited to, the following:

13 82. Defendants' conduct violates the advertising prohibitions under the
14 Sherman Law, California Health & Safety Code §§ 110390, 110395, 110398 and
15 110400.

16 83. Defendants' conduct violates California's False Advertising Law,
17 California Business & Professions Code § 17500 *et seq.*

18 84. Defendants' conduct violates California's Consumers Legal Remedies
19 Act., California Civil Code § 1750 *et seq.*

20 **Unfair**

21 85. Defendants' conduct is unfair under the UCL because it offends
22 established public policy and/or is immoral, unethical, oppressive, unscrupulous
23 and/or substantially injurious to Plaintiff and the Class. Defendants' conduct
24 undermines and violates the spirit and policies underlying the Sherman Law, the
25 False Advertising Law, and the Consumers Legal Remedies Act. There is no
26 legitimate utility of Defendants' conduct, let alone any that would outweigh the
27 harm to Plaintiff and the Class.

1 86. Plaintiff and Class members did not know and, as reasonable
2 consumers had no way of reasonably knowing that the products were misbranded
3 and were not properly marketed, advertised, packaged and labeled, and thus could
4 not have reasonably avoided the injury each of them suffered.

5 **Fraudulent**

6 87. Defendants' conduct is also fraudulent under the UCL because it is
7 likely to deceive reasonable consumers.

8 **Unfair, Deceptive, Untrue or Misleading Advertising**

9 88. As described herein, Defendants' conduct also violates the UCL
10 because the conduct constitutes unfair, deceptive, untrue and/or misleading
11 advertising.

12 **Relief Sought**

13 89. As a result of Defendants' conduct and violations of the UCL, Plaintiff
14 and Class members suffered injury in fact and lost money or property.

15 90. Defendants' conduct is ongoing and, unless restrained, likely to recur.

16 91. Plaintiff, on behalf of herself and Class members, seeks equitable relief
17 requiring Defendants to refund and restore to Plaintiff and all Class members all
18 monies they paid for the Hain Celestial Products, and injunctive relief prohibiting
19 Defendants from engaging in the misconduct described herein.

20
21 **SECOND CAUSE OF ACTION**

22 **For Violation of California's False Advertising Law,**
23 **California Business & Professions Code § 17500 *et seq.***

24 **(On Behalf of Plaintiff and the Class as against**
25 **all Defendants including DOES 1 through 10)**

26 92. Plaintiff hereby incorporates by reference the allegations contained in
27 this Complaint.
28

1 93. Plaintiff asserts this claim on behalf of herself and the Class as against
2 Defendants and each of them.

3 94. Both the UCL and California's False Advertising Law prohibit "not
4 only advertising which is false, but also advertising which[,] although true, is either
5 actually misleading or which has a capacity, likelihood or tendency to deceive or
6 confuse the public.' [Citation.] Thus, to state a claim under either the UCL or the
7 false advertising law, based on false advertising or promotional practices, 'it is
8 necessary only to show that 'members of the public are likely to be deceived.'"'
9 *Kasky v. Nike, Inc.*, 27 Cal.4th 939, 951 (2002).

10 95. As stated in this Complaint, Defendants publicly disseminated untrue
11 or misleading advertising or intended not to sell Hain Celestial Products as
12 advertised in violation of California Business & Professional Code § 17500 *et seq.*,
13 by, *inter alia*:

14 (a) Representing that Hain Celestial Products are "All Natural,"
15 when they are not; and

16 (b) Misrepresenting that Hain Celestial products contain
17 "Evaporated Cane Juice."

18 96. Defendants committed such violations of the False Advertising Law
19 with actual knowledge or in the exercise of reasonable care should have known the
20 representations were untrue or misleading.

21 97. As a result of Defendants' conduct and violations of the UCL, Plaintiff
22 and Class members suffered injury in fact and lost money or property.

23 98. Defendants' conduct is ongoing and, unless restrained, likely to recur.

24 99. Plaintiff, on behalf of herself and Class members, seeks equitable relief
25 requiring Defendants to refund and restore to Plaintiff and all Class members all
26 monies they paid for the Hain Celestial Products, and injunctive relief prohibiting
27 Defendants from engaging in the misconduct described herein.
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1 109. Each purchase of Defendants' Hain Celestial Products by Plaintiff and
2 each Class member constitutes a "transaction" within the meaning of Civil Code §§
3 1761(e) and 1770.

4 110. Defendants' conduct is ongoing and, unless restrained, likely to recur.

5 111. Plaintiff, on behalf of herself and Class members, seeks injunctive
6 relief prohibiting Defendants from engaging in the misconduct described herein.

7 112. No relief of any kind, other than injunctive relief, is currently sought
8 pursuant to this CLRA cause of action.

9 113. No damages of any kind are currently sought pursuant to this CLRA
10 cause of action.

11 114. The CLRA Civil Code § 1782(d) states in pertinent part as follows:

12 "An action for injunctive relief brought under the specific provisions
13 of Section 1770 may be commenced without compliance with
14 subdivision (a) [notice requirement]. Not less than 30 days after the
15 commencement of an action for injunctive relief, and after compliance
16 with subdivision (a) [notice requirement], the consumer may amend
17 his or her complaint without leave of court to include a request for
18 damages."

19 115. The CLRA, Civil Code § 1782(a), states as follows:

20 "(a) Thirty days or more prior to the commencement of an
21 action for damages pursuant to this title, the consumer shall do the
22 following:

23 (1) Notify the person alleged to have employed or
24 committed methods, acts, or practices declared unlawful by Section
25 1770 of the particular alleged violations of Section 1770.

26 (2) Demand that the person correct, repair, replace, or
27 otherwise rectify the goods or services alleged to be in violation of
28 Section 1770.

 The notice shall be in writing and shall be sent by certified or
registered mail, return receipt requested, to the place where the

1 transaction occurred or to the person's principal place of business
2 within California."

3 116. Pursuant to Civil Code § 1782(a), Plaintiff will provide THE HAIN
4 CELESTIAL GROUP, INC. with notice of its CLRA violations by certified mail
5 return receipt requested. If Defendant THE HAIN CELESTIAL GROUP, INC. fails
6 to provide appropriate relief for the CLRA violations, Plaintiff will amend this
7 Complaint to seek monetary damages (compensatory, punitive, etc.) and other relief
8 under the CLRA on behalf of Plaintiff and the Class.

9 117. Defendant THE HAIN CELESTIAL GROUP, INC. may be provided
10 the notice specified in Civil Code § 1782(a) by sending such notice to THE HAIN
11 CELESTIAL GROUP, INC., c/o Corporation Service Company Which Will Do
12 Business In California As CSC - Lawyers Incorporating Service, 2710 Gateway
13 Oaks Dr., Ste. 150N, Sacramento CA 95833.

14 118. Attached hereto is the venue declaration required by CLRA, Civil Code
15 § 1780(d).⁹

16
17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for:

19 1. An order certifying the Class and appointing Plaintiff as the
20 representative of the Class, and appointing counsel of record for Plaintiff as counsel
21 for the Class;

22 2. Equitable relief requiring Defendants to refund and restore to Plaintiff
23 and all Class members all monies they paid for the Hain Celestial Products;

24 3. Injunctive relief prohibiting Defendants from engaging in the
25 misconduct described herein;

26 4. An award of attorney's fees;

27 5. An award of costs;

28 ⁹ A declaration may be used in lieu of an affidavit. California Code of Civil
Procedure § 2015.5.

- 1 6. An award of interest, including prejudgment interest; and
2 7. For such other and further relief as the Court may deem proper.

3
4 DATED: October 25, 2013 CHANT & COMPANY
5 A Professional Law Corporation

6 By 
7 Chant Yedalian
8 Counsel For Plaintiff

9
10 **DEMAND FOR JURY TRIAL**

11 Plaintiff demands a trial by jury on all claims so triable.


12 DATED: October 25, 2013 CHANT & COMPANY
13 A Professional Law Corporation

14 By 
15 Chant Yedalian
16 Counsel For Plaintiff

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1. I have personal knowledge of the following facts stated in this Declaration and could competently testify thereto if called upon to do so.
2. I am a named Plaintiff in this case.
3. I purchased the Sunflower Dream Sunflower Drink Unsweetened (Original) product, which is shown in paragraph 16 of the attached Complaint, in Orange County, California.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing Declaration is true and correct, and was executed by me in the City of Huntington Beach, Orange County, California, on October 25, 2013.


BARBARA ANDERSON
Declarant