

1 Tarek H. Zohdy (SBN 247775)  
Tarek.Zohdy@capstonelawyers.com  
2 Cody R. Padgett (SBN 275553)  
Cody.Padgett@capstonelawyers.com  
3 Laura E. Goolsby (SBN 321721)  
Laura.Goolsby@capstonelawyers.com  
4 Nathan N. Kiyam (SBN 317677)  
Nate.Kiyam@capstonelawyers.com  
5 CAPSTONE LAW APC  
1875 Century Park East, Suite 1000  
6 Los Angeles, California 90067  
Telephone: (310) 556-4811  
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiff

9  
10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA

12 ALANA GUTIERREZ, individually,  
13 and on behalf of a class of similarly  
14 situated individuals,

15 Plaintiff,

16 v.

17 ABBOTT LABORATORIES, an  
Illinois corporation,

18 Defendants.  
19  
20  
21

Case No.:

**CLASS ACTION COMPLAINT  
FOR:**

- (1) Violation of California's Consumer Legal Remedies Act ("CLRA")
- (2) Violation of California's Unfair Competition Law
- (3) Violation of California's False Advertising Law
- (4) Common Law Fraud, Deceit, and/or Misrepresentation
- (5) Unjust Enrichment
- (6) Injunctive Relief

**DEMAND FOR JURY TRIAL**

**INTRODUCTION**

1  
2 1. Plaintiff Alana Gutierrez (“Plaintiff”) brings this Complaint  
3 individually and on behalf of all persons similarly situated against Abbott  
4 Laboratories (“Abbott” or “Defendants”) to seek redress for Defendants’  
5 deceptive and unlawful practices in labeling and marketing Go & Grow 360 Total  
6 Care by Similac Toddler Drink (“Go & Grow” or “the Product”).

7 2. Intending to profit from parents’ increasing desire to purchase food  
8 for their young children that provides physical health benefits, Defendants  
9 misbrand the Product by making nutrient content claims on the product  
10 packages that are strictly prohibited by the Food and Drug Administration  
11 (“FDA”). Moreover, the nutrient content claims on the Product misleads  
12 purchasers into believing that the products provide physical health benefits for  
13 children under two years of age in order to induce parents into purchasing  
14 Defendants’ products. In fact, the Product is harmful both nutritionally and  
15 developmentally for children under two.

16 3. Defendants’ misleading labeling caused Plaintiff and members of  
17 the class to pay a price premium for the Product.

**THE PARTIES**

18  
19 4. Plaintiff is a California citizen residing in Shingle Springs, California.

20 5. In or around July 2021, and for about five (5) to six (6) months  
21 thereafter, Plaintiff purchased the Product for her child when he was one (1) year  
22 old from Target, Walmart, and/or WinCo Foods. Plaintiff purchased the Product  
23 in reliance on the representations on the packaging that the Product provides  
24 physical health benefits for children under two years of age. But for these  
25 representations, Plaintiff would not have purchased the Product.

26 6. Defendant Abbott Laboratories is a corporation organized and in  
27 existence under the laws of the State of Illinois and registered to do business in the  
28 state of California. Abbott Laboratories is headquartered in Abbott Park, Illinois.

**JURISDICTION**

7. This is a class action.

8. Members of the proposed Class number more than 100 and at least one plaintiff and one defendant are citizens of different states.

9. There are at least 100 members in the proposed class, and the aggregate claims of individual Class Members exceed \$5,000,000.00 in value, exclusive of interest and costs.

10. Jurisdiction is proper in this Court pursuant to 28 U.S.C. § 1332(d).

11. This Court has personal jurisdiction over Plaintiff because Plaintiff submits to this Court’s jurisdiction. This Court has personal jurisdiction over Defendants because they conduct substantial business in this District and discovery will show that significant conduct involving Defendants giving rise to the Complaint took place in this District.

**VENUE**

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because the conduct giving rise to this lawsuit occurred here and Defendants are subject to personal jurisdiction here by conducting business within the State of California. Plaintiff’s counsel’s Declaration of Venue, to the extent required under California Civil Code section 1780(d), is attached hereto as **Exhibit 1**.

**FACTUAL ALLEGATIONS**

13. Defendants manufacture, distribute, market, advertise, and sell toddler drink products under the brand name “Go & Grow.” These products have packaging that predominately, uniformly, and consistently makes nutrient content claims on the principal display panel of the product labels. A non-exhaustive demonstrative of Go & Grow’s labeling, which contain nutrient content claims, is attached hereto as **Exhibit 2**.

14. The Product is intended for children under the age of two. The Product is labeled with the intended age for the Product on the front label, “12-

1 36 MONTHS.”

2 15. FDA regulations explicitly prohibit certain nutrient content claims  
3 on foods intended for children under the age of two. 21 C.F.R. § 101.13(b)(3).

4 16. Defendants nevertheless make nutrient content claims on the Product  
5 label.

6 17. For example, the Product states on the label, “✓ IMMUNE  
7 SUPPORT;” “✓ BRAIN DEVELOPMENT;” “✓ DIGESTIVE HEALTH;”  
8 “DHA, LUTEIN, VITAMIN E;” “5 HMO PREBIOTICS;” “**2 servings have: 28**  
9 **IMPORTANT NUTRIENTS for GROWTH and DEVELOPMENT** (emphasis  
10 in original);” and “At least 40% of the Daily Value: Iron • Calcium • Vitamins C,  
11 D & E.”

12 18. As described in detail below, Defendants’ advertising and  
13 labeling of the Product with nutrient content claims is unlawful, misleading,  
14 deceptive, and intended to induce consumers to purchase the Product at a  
15 premium price. These claims deceive and mislead reasonable consumers into  
16 believing that the Product provide physical health benefits for their child when in  
17 fact, the Product is harmful for children under two both nutritionally and  
18 developmentally.

19 **Federal and State Regulations Governing Food Labeling**

20 19. The Food and Drug Administration regulates nutrition content  
21 labeling. According to these regulations, “no nutrient content claims may be  
22 made on food intended specifically for use by infants and children less than  
23 2 years of age,” subject to certain exceptions not applicable here. 21 C.F.R. §  
24 101.13(b)(3).

25 20. According to the regulations, nutrient content claims can be expressed  
26 or implied. 21 C.F.R. § 101.13(b)(1), 21 C.F.R. § 101.13(b)(2).

27 21. An express nutrient content claim is “any direct statement about  
28 the level (or range) of a nutrient in the food.” 21 C.F.R. § 101.13(b)(1). Further,

1 where information that is required or permitted to be “declared in nutrition  
2 labeling, and that appears as part of the nutrition label . . . is declared elsewhere  
3 on the label or in labeling, it is a nutrient content claim and is subject to the  
4 requirements for nutrient content claims.” 21 C.F.R. § 101.13(b)(1).

5 22. An implied nutrient content claim is any claim that: “(i) Describes the  
6 food or an ingredient therein in a manner that suggests that a nutrient is absent  
7 or present in a certain amount (e.g., “high in oat bran”); or (ii) Suggests that the  
8 food, because of its nutrient content, may be useful in maintaining healthy dietary  
9 practices and is made in association with an explicit claim or statement about a  
10 nutrient (e.g., “healthy, contains 3 grams (g) of fat”).” 21 C.F.R. § 101.13(b)(2).

11 23. The FDA explicitly regulates certain nutrient content claims such  
12 as “more” claims. “More” claims use terms such as “more,” “added,” “plus,” or  
13 synonyms to describe the level of a nutrient in a food. 21 C.F.R. § 101.54(e).  
14 Where the claim is based on a nutrient that has been added to the food, the food  
15 must comply with the FDA’s Fortification Policy, as stated in 21 C.F.R. § 104.20.  
16 *See* 21 C.F.R. § 101.54(e)(ii).

17 24. The Fortification Policy only allows for fortification under  
18 specific circumstances. The Fortification Policy goes on to list four circumstances  
19 where fortification is appropriate:

- 20 a. “[T]o correct a dietary insufficiency recognized by  
21 the scientific community. . .”
- 22 b. “[T]o restore such nutrient(s) to a level(s) representative of the food  
23 prior to storage, handling and processing. . .”
- 24 c. “[I]n proportion to the total caloric content. . . to balance the vitamin,  
25 mineral, and protein content. . .”
- 26 d. “to avoid nutritional inferiority” when replacing a traditional food.

27 21 C.F.R. § 104.20(b)-(e).

28 25. Identical federal and California laws regulate the content of labels

1 on packaged food and require truthful, accurate information on the labels  
2 of packaged foods. The requirements of the federal Food, Drug & Cosmetic Act  
3 (“FDCA”), and its labeling regulations, including those set forth in 21 C.F.R. §  
4 101, were adopted by the California legislature in the Sherman Food Drug &  
5 Cosmetic Law (the “Sherman Law”). California Health & Safety Code § 110100  
6 (“All food labeling regulations and any amendments to those regulations  
7 adopted pursuant to the federal act, in effect on January 1, 1993, or adopted on or  
8 after that date shall be the food labeling regulations of this state.”). The federal  
9 laws and regulations discussed herein are applicable nationwide to all sales of  
10 packaged food products. Additionally, no state imposes different requirements on  
11 labeling of packaged food for sale in the United States.

12 26. California’s adoption of food regulations that are identical to  
13 the federal regulations stems from the state’s “historic police powers” to regulate  
14 food labeling, which long-predates the enactment of the FDCA. *See Plumley v.*  
15 *Massachusetts*, 155 U.S. 461, 472 (1894) (“if there be any subject over which it  
16 would seem the states ought to have plenary control, and the power to legislate  
17 in respect to which ... it is the protection of the people against fraud and  
18 deception in the sale of food products.”); *see also Florida Lime & Avocado*  
19 *Growers v. Paul*, 373 U.S. 132, 144 (1963) (“States have always possessed a  
20 legitimate interest in ‘the protection of (their) people against fraud and deception  
21 in the sale of food products’ at retail markets within their borders.”) (citation  
22 omitted)

23 27. Although California amended its food labeling laws in 1995 in  
24 response to the federal implementation of the 1993 Nutrition Labeling and  
25 Education Act, California’s regulations of food labels predate the enactment of  
26 the Sherman Law. For example, the current Cal. Health & Safety Code § 110660  
27 invoked herein states “[a]ny food is misbranded if its labeling is false or  
28 misleading in any particular.” California originally enacted this regulation in 1939,

1 previously found at Cal. Health & Safety Code § 26490. *See People v. 748 Cases*  
2 *of Life Saver Candy Drops*, 94 Cal. App. 2d 599, 607 (1949) (applying section  
3 26490 prohibition on “labeling is false or misleading in any particular” in food  
4 labeling claim in 1949).

5 28. Under the FDCA, the term “misleading” covers labels that are  
6 technically true, but are likely to deceive consumers. Under the FDCA, if any  
7 single representation on the labeling is misleading, the entire food is misbranded,  
8 and no other statement in the labeling can cure a misleading statement.

9 29. Further in addition to its blanket adoption of federal labeling  
10 requirements, California has also enacted a number of laws and regulations that  
11 adopt and incorporate specific numerated federal food laws and regulations. *See*  
12 *California Health & Safety Code § 110660* (misbranded if label is misleading).

13 30. Under California law, a food product that is “misbranded” cannot  
14 legally be manufactured, advertised, distributed, sold, or possessed.  
15 Misbranded products have no economic value and are legally worthless.

16 31. Representing that the Product will provide certain health benefits  
17 by making unlawful nutrient content claims as Defendants’ labels do is prohibited  
18 by the aforementioned misbranding laws and regulations.

19 32. The regulations relating to nutrient content claims discussed herein  
20 are intended to ensure that consumers are not misled as to the actual or relative  
21 nutritional value of food products.

22 **Defendants’ Marketing and Labeling of the Product Violates State and**  
23 **Federal Food Labeling Laws**

24 33. The Product is unlawful, misbranded, and violates the Sherman Law,  
25 California Health & Safety Code § 110660, *et seq.*, because the Product is  
26 intended for children less than 2 years of age and the Product’s label contains  
27 nutrient content claims.

28 34. As described above, the Product at issue in this case is intended for

1 children one year and up as evidenced on the front label and in the Product title.

2 35. Beyond the Product label, the Product is also sold in the “Baby Food”  
3 grocery store aisles, alongside infant formulas. On information and belief,  
4 Defendants direct retailers to sell the Product in the baby food aisle.

5 36. Defendants misbrand the Product by making nutrient content  
6 claims that are strictly prohibited by the FDA, and by misleading purchasers into  
7 believing that its Product provides physical health benefits in order to induce  
8 parents into purchasing the Product.

9 37. The Product’s front and back labels contain nutrient content claims  
10 that are unlawful. As shown in **Exhibit 2**, the Product prominently states nutrient  
11 content claims on the front label such as “✓ IMMUNE SUPPORT;”  
12 “✓ BRAIN DEVELOPMENT;” “✓ DIGESTIVE HEALTH;” “DHA, LUTEIN,  
13 VITAMIN E;” and “5 HMO PREBIOTICS.” Further, the Product’s back label  
14 states: “**2 servings have: 28 IMPORTANT NUTRIENTS for GROWTH and**  
15 **DEVELOPMENT** (emphasis in original);” and “At least 40% of the Daily Value:  
16 Iron • Calcium • Vitamins C, D & E.” The terms “IMMUNE SUPPORT, BRAIN  
17 DEVELOPMENT, and DIGESTIVE HEALTH” in conjunction with prominent  
18 images of checkmarks; “5 HMO PREBIOTICS;” “**28 IMPORTANT**  
19 **NUTRIENTS for GROWTH and DEVELOPMENT** (emphasis in original)” are  
20 each implied nutrient content claims. In addition, the statement “At least 40% of  
21 the Daily Value: Iron • Calcium • Vitamins C, D & E” is an express nutrient content  
22 claim. In the alternative, it is an implied nutrient claim. *See* 21 C.F.R. §  
23 101.13(b)(2); *FDA, Guidance for Industry: A Labeling Guide for Restaurants*  
24 *and Other Retail Establishments Selling Away- From-Home Foods*, 2008 WL  
25 2155726, at \*10 (April 2008) (explicit statement about a nutrient alongside  
26 synonyms of healthy are implied nutrient content claims).

27 38. Foods intended for children less than two are prohibited from  
28 making such nutrient content claims. 21 C.F.R. § 101.13(b)(3). Therefore, the



1 Product is accordingly misbranded.

2 39. In addition to being unlawful, the nutrient content claims on the  
3 Product are also separately misleading.

4 40. Reasonable consumers rely on the label claims to decide to  
5 purchase the Product for children under two years old. Reasonable consumers  
6 shopping in the baby food aisle of a grocery or online retailer see the Product  
7 alongside products intended for children as young as six months and purchase  
8 the Product for their toddler under the age of two.

9 41. The nutrient content claims on the Product misleads reasonable  
10 consumers into believing the Product will provide physical health benefits for their  
11 children, when in fact the Product is harmful.

12 42. The FDA has long warned that nutrient content claims could be  
13 misleading. This is especially true in the context of children under two because  
14 there are different recommended daily nutrient intakes for children 0-12 months;  
15 1-3 years; and 4 years and above.

16 43. The FDA described the purpose of nutrient content claim regulations  
17 to be “promoting sound nutrition for the nation’s consumers.” 56 Fed. Reg. 60421.  
18 The FDA relies on the USDA’s development of Dietary Guidelines as the basis for  
19 encouraging and discouraging the “selection of foods containing low or high levels  
20 of certain nutrients as part of an overall diet.” *Id.*

21 44. The FDA forbids nutrient content claims on products intended for  
22 children under two because “the agency lacks evidence that a more restrictive  
23 dietary pattern for other nutrients such as sodium or an increased intake for  
24 nutrients such as fiber are appropriate and recommended for infants and  
25 toddlers.” 56 Fed. Reg. 60421; *see also* 58 Fed. Reg. 33731, 33733. Although  
26 it has been nearly thirty years, not much has changed regarding the evidence as  
27 explained below.

28 45. At the time the regulation was implemented, there were

1 Recommended Daily Intakes (“RDI”) and Daily Recommended Values (“DRV”)   
2 for most nutrients for children under two. *See* 58 Fed. Reg. 2302, 2305 (stating there   
3 are RDIs for children under two); 58 FR 2206, 2211 (providing the RDIs). Despite   
4 knowing the target daily intake of nutrients for these ages, the FDA concluded that   
5 it would not be appropriate to promote nutrients on labels for this young group   
6 because “relatively little attention has been given” to the dietary patterns of children   
7 under two. 56 Fed. Reg. 60421; *see also* 60 Fed. Reg. 67184, 67191.

8 46. The same is true today. For example, there are still RDIs and DRVs   
9 for most nutrients for children under two. Just as in 1991, the RDIs and DRVs of   
10 nutrients is different for different ages, with a different set of values for children 0-   
11 12 months, 1-3 years old, and 4 and above. 21 C.F.R. § 101.9(c)(8)(4). And just as   
12 in 1991, in 2020 a USDA working group concluded “[d]eveloping recommended   
13 food patterns for infants and toddlers ages 6 to 24 months is challenging. . . in part   
14 because the scientific evidence for many questions is relatively scant.” Dietary   
15 Guidelines Advisory Committee. 2020. *Scientific Report of the 2020 Dietary*   
16 *Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture*   
17 *and the Secretary of Health and Human Services*. (hereinafter “2020 Scientific   
18 Report”).<sup>1</sup>

19 47. Children under two have unique dietary needs because they are   
20 experiencing huge amounts of growth, but eating relatively little solid food.   
21 Therefore, it is important that children under two receive the “most nutrient dense   
22 foods available in the household.” Dewey KG. *The challenge of meeting nutrient*   
23 *needs of infants and young children during the period of complementary feeding:*   
24 *an evolutionary perspective*. J Nutr. 2013 Dec;143(12):2050-4.   
25 doi:10.3945/jn.113.182527. Epub 2013 Oct 16. PMID: 24132575; PMCID:   
26 PMC3827643.

27 \_\_\_\_\_   
28 <sup>1</sup> U.S. Department of Agriculture, Agricultural Research Service,   
Washington, DC. Available at: <https://doi.org/10.52570/DGAC2020>.

1           48. The American Academy of Pediatrics (“AAP”) published a clinical  
2 report titled “Older Infant-Young Child ‘Formulas’” in November 2023 about “the  
3 lack of standardization in nomenclature and composition as well as questionable  
4 marketing practices” of formulas directed at older infants and toddlers 6 to 36 months  
5 of age (“OIYCFs”).<sup>2</sup> In it, the AAP explain that “[m]arketing of products in this age  
6 group...is often based on vague concerns parents have that their child is not getting  
7 some needed micronutrients and that these are uniquely provided by OIYCFs.” In fact,  
8 the AAP explained, the World Health Assembly has long recognized specialty  
9 formula milks for older infants as unnecessary and the AAP, as well as other expert  
10 organizations, have recommended “breastfeeding through 2 years of age or longer or  
11 whole cow’s milk and other acceptable nonformula dairy sources in conjunction with  
12 appropriate complementary solid foods as nutritionally adequate.”<sup>3</sup> Additionally, the  
13 AAP stated that “[c]laims of brain development or immune function have incorrectly  
14 shown to influence parents’ belief that OIYCFs are healthier than cow milk and  
15 promotes their intention to provide OIYCFs to their children.”

16           49. Defendants’ labeling and marketing of their Product capitalize on the  
17 exact concerns and beliefs that the AAP describes. For example, the back label of the  
18 Product states, “**2 servings have: 28 IMPORTANT NUTRIENTS for**  
19 **GROWTH and DEVELOPMENT** (emphasis in original).” As a further example,  
20 the front label includes the terms “✓ IMMUNE SUPPORT,” “✓ BRAIN  
21 DEVELOPMENT,” and “✓ DIGESTIVE HEALTH” with prominent images of  
22 checkmarks meant to catch the eye. By echoing the nutritional concerns of parents  
23 and including vague buzzwords, claims, and graphics regarding growth,  
24 development, immune support, brain development, and digestive health,

25           <sup>2</sup> Fuchs GJ, Abrams SA, Amezor AA, et al. American Academy of  
26 Pediatrics, Committee on Nutrition. Older Infant-Young Child “Formulas”  
27 Pediatrics. 2023; 152(5):e2023064050, available at:  
28 [https://www.researchgate.net/publication/374896188\\_Older\\_Infant-Young\\_Child\\_Formulas](https://www.researchgate.net/publication/374896188_Older_Infant-Young_Child_Formulas) (last accessed July 24, 2024).

<sup>3</sup> *Id.*

1 Defendants induce and mislead consumers into purchasing their Product for fear  
2 that a diet without the Product is nutritionally inadequate for their toddlers.

3 50. Dietary needs for children under two are also different from those of  
4 adults because the optimal diet for children under two also has to address needs  
5 beyond mere nutrition, such as developing neural pathways in the brain to establish  
6 healthy eating habits and developing gross and fine motor skills. The USDA-  
7 recommended diet for children under two includes nutrient-dense foods that  
8 promote exposure to new flavors and textures. Dietary Guidelines for Americans,  
9 2020-2025. 9th Edition. December 2020. Available at DietaryGuidelines.gov  
10 (hereinafter “USDA Dietary Guidelines”). The Dietary Guidelines emphasize that  
11 the period of 0-24 months “is key for establishing healthy dietary patterns that may  
12 influence the trajectory of eating behaviors and health throughout the life  
13 course...Children in this age group consume small quantities of foods, so it’s  
14 important to make every bite count!” Dietary Guidelines at 53. The AAP also stated  
15 in their clinical report, “...in the case of toddlers, developing taste preferences for a  
16 mixed diet is ideal.”<sup>4</sup> By making nutrient content claims on its packages’ front labels,  
17 Defendants mislead consumers into believing that foods for children under two  
18 should be purchased based on the quantities of the listed nutrients, when other  
19 considerations are just as, or more, important.

20 51. The Guidelines also recommend that children “younger than age 2”  
21 completely “[a]void foods and beverages with added sugars.” Dietary Guidelines at  
22 61. Defendants’ Product has 4 grams of added sugars.

23 52. For these reasons, Defendants marketing the Product as providing  
24 physical health benefits for toddlers being a healthful and safe source of nutrients  
25 for babies and toddlers is misleading to reasonable consumers and the Product is  
26 actually harmful for children under two both nutritionally and developmentally.

27  
28 

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<sup>4</sup> *Id.*

1           53. Defendants' marketing, advertising, and sale of the Product violates  
2 the false advertising provisions of the Sherman Law (California Health & Safety  
3 Code § 110390, *et. seq.*), including but not limited to:

- 4           a. Section 110390, which makes it unlawful to disseminate false or  
5           misleading food advertisements that include statements on  
6           products and product packaging or labeling or any other medium  
7           used to directly or indirectly induce the purchase of a food product;  
8           b. Section 110395, which makes it unlawful to manufacture, sell,  
9           deliver, hold, or offer to sell any falsely or misleadingly advertised  
10          food; and  
11          c. Sections 110398 and 110400, which make it unlawful to  
12          advertise misbranded food or to deliver or proffer for delivery  
13          any food that has been falsely or misleadingly advertised.

14          54. Defendants' marketing, advertising, and sale of the Product  
15 violates the misbranding provisions of the Sherman Law (California Health &  
16 Safety Code § 110660, *et. seq.*), including but not limited to:

- 17          a. Section 110665 (a food is misbranded if its labeling does not  
18          conform with the requirements for nutrition labeling as set forth  
19          in 21 U.S.C. Sec. 343(q));  
20          b. Section 110760, which makes it unlawful for any person to  
21          manufacture, sell, deliver, hold, or offer for sale any food that is  
22          misbranded;  
23          c. Section 110765, which makes it unlawful for any person to  
24          misbrand any food; and  
25          d. Section 110770, which makes it unlawful for any person to  
26          receive in commerce any food that is misbranded or to deliver or  
27          proffer for delivery any such food.

28          55. Defendants have violated 21 U.S.C. § 343(a), and the standards

1 set by FDA regulations, including, but not limited to, 21 C.F.R. §§ 101.13(b),  
2 101.13(c), 101.54(e), and 104.20, which have been incorporated by reference  
3 in the Sherman Law, by including impermissible nutrient content claims on  
4 the labels of foods intended for children less than 2 years of age, including  
5 misleading claims on the front and back labels.

6 56. A reasonable consumer would rely on the label claims to decide to  
7 purchase the Product. For example, Defendants' nutrient content claims mislead  
8 a reasonable consumer to believe the Product provides physical health benefits  
9 for their child when in fact, the Product is harmful for children under two both  
10 nutritionally and developmentally.

11 57. Defendants intend for and know that consumers will and do rely  
12 upon food labeling statements in making their purchasing decisions. Label  
13 claims and other forms of advertising and marketing drive product sales,  
14 particularly if placed prominently on the front of product packaging, as Defendants  
15 have done on the Product label.

16 58. Because consumers pay a price premium for products that have  
17 a nutrient content claim, by labeling the Product as providing nutritional value,  
18 Defendants are able to both increase its sales and retain more profits.

19 59. Defendants engaged in the practices complained of herein to further  
20 its private interests of: (i) increasing sales of their Product while decreasing  
21 the sales of competitors' products that do not make unlawful nutrient content  
22 claims, and/or (ii) commanding a higher price for the Product because consumers  
23 will pay more for them due to consumers' demand for healthful products for their  
24 children.

25 60. The market for toddler food and drink products continues to grow,  
26 and because Defendants know consumers rely on the nutrient content claims  
27 on the Product labels, Defendants have an incentive to continue to make such  
28 misleading and unlawful representations.

1           61. Defendants continue to launch new product lines with nutrient  
2 content claims to maintain their competitive edge, making it likely that  
3 Defendants will continue to misleadingly advertise their Product.

4           **Plaintiff's Experience**

5           62. Plaintiff is a California citizen residing in Shingle Springs, California.

6           63. In or around July 2021, and for about five (5) to six (6) months  
7 thereafter, Plaintiff purchased the Product for her child when he was one (1) year  
8 old

9           64. Plaintiff purchased the Product consistently during that time period,  
10 approximately two (2) to three (3) cases of the Product per month. One case  
11 includes six individual Products.

12           65. Plaintiff made these purchases from Target, Walmart, and/or WinCo  
13 Foods locations in or around Shingle Springs, California.

14           66. Plaintiff viewed both the advertising for the Product and the Product's  
15 packaging prior to purchasing the Product for the first time. Plaintiff purchased  
16 the Product in reliance on the representations on the packaging that the Product  
17 provides physical health benefits for children under two years of age.

18           67. As a result of Defendants' unlawful and misleading nutrient content  
19 claims, the Product has no, or at a minimum, much lower value to Plaintiff .

20           68. Plaintiff not only purchased the Product because the label contained  
21 nutrient content claims, but she also paid more money for the Product than she  
22 would have paid for it if it did not contain nutrient content claims.

23           69. Had Defendant not unlawfully and misleadingly labeled the  
24 Product, Plaintiff would not have purchased it or, at minimum, would have  
25 paid less for the Product.

26           70. Plaintiff regularly shops at stores and online retailers where the  
27 Product and other baby food products are sold.

28

1 **CLASS ACTION ALLEGATIONS**

2 71. Plaintiff brings this lawsuit as a class action on behalf of herself and  
3 all others similarly situated as members of the proposed Class pursuant to Federal  
4 Rules of Civil Procedure 23(a) and 23(b)(3). This action satisfies the numerosity,  
5 commonality, typicality, adequacy, predominance, and superiority requirements  
6 of those provisions.

7 72. The Class and Sub-Classes are defined as:

8 **Class:** All persons in the State of California who  
9 purchased the Product between 2021 and the present.

10 **CLRA Sub-Class:** All members of the Class who are  
11 “consumers” within the meaning of California Civil  
Code § 1761(d).

12 73. Excluded from the Class and Sub-Classes are: (1) Defendants, any  
13 entity or division in which Defendants has a controlling interest, and its legal  
14 representatives, officers, directors, assigns, and successors; (2) the Judge to whom  
15 this case is assigned and the Judge’s staff; (3) any Judge sitting in the presiding  
16 state and/or federal court system who may hear an appeal of any judgment entered;  
17 and (4) those persons who have suffered personal injuries as a result of the facts  
18 alleged herein. Plaintiff reserves the right to amend the Class and Sub-Class  
19 definitions if discovery and further investigation reveal that the Class and Sub-  
20 Classes should be expanded or otherwise modified.

21 74. **Numerosity:** Although the exact number of Class Members is  
22 uncertain, and can only be ascertained through appropriate discovery, the number  
23 is significant enough such that joinder is impracticable. The disposition of the  
24 claims of these Class Members in a single action will provide substantial benefits  
25 to all parties and to the Court. The Class Members are readily identifiable from  
26 information and records in Defendants’ possession, custody, or control.

27 75. **Typicality:** Plaintiff’s claims are typical of the claims of the Class in  
28 that Plaintiff, like all Class Members, purchased the Product designed,



1 manufactured, and distributed by Defendants. The representative Plaintiff, like all  
2 Class Members, has been damaged by Defendants' misconduct in that she has  
3 incurred the cost of purchasing the Product. Furthermore, the factual bases of  
4 Defendants' misconduct are common to all Class Members and represent a  
5 common thread resulting in injury to the Class.

6 76. Commonality: There are numerous questions of law and fact  
7 common to Plaintiff and the Class that predominate over any question affecting  
8 Class Members individually. These common legal and factual issues include the  
9 following:

- 10 (a) Whether the marketing, advertising, packaging, labeling, and  
11 other promotional materials for the Product is deceptive and/or  
12 unlawful;
- 13 (b) Whether Defendants' actions violate Federal and California  
14 laws invoked herein;
- 15 (c) Whether labeling the Product with unlawful nutrient content  
16 claims causes the Product to command a price premium in the  
17 market as compared with similar products that do not make  
18 such unlawful claims;
- 19 (d) Whether Defendants' advertising and marketing regarding  
20 the Product was likely to deceive reasonable consumers;
- 21 (e) Whether representations regarding the nutrient content of  
22 the Product is material to a reasonable consumer;
- 23 (f) Whether Defendants' engaged in the behavior knowingly,  
24 recklessly, or negligently;
- 25 (g) The amount of profits and revenues earned by Defendants  
26 as a result of the conduct;
- 27 (h) Whether class members are entitled to restitution, injunctive  
28 and other equitable relief and, if so, what is the nature (and

1 amount) of such relief; and

- 2 (i) Whether class members are entitled to payment of actual,  
3 incidental, consequential, exemplary and/or statutory damages  
4 plus interest thereon, and if so, what is the nature of such relief.

5 77. Adequate Representation: Plaintiff will fairly and adequately protect  
6 the interests of the Class Members. Plaintiff has retained attorneys experienced in  
7 the prosecution of class actions, and Plaintiff intends to vigorously prosecute this  
8 action.

9 78. Predominance and Superiority: Plaintiff and Class Members have all  
10 suffered, and will continue to suffer, harm and damages as a result of Defendants'  
11 unlawful and wrongful conduct. A class action is superior to other available  
12 methods for the fair and efficient adjudication of the controversy. Absent a class  
13 action, most Class Members would likely find the cost of litigating their claims  
14 prohibitively high and would therefore have no effective remedy. Because of the  
15 relatively small size of the individual Class Members' claims, it is likely that only  
16 a few Class Members could afford to seek legal redress for Defendants'  
17 misconduct. Absent a class action, Class Members will continue to incur damages,  
18 and Defendants' misconduct will continue unabated without remedy or relief.  
19 Class treatment of common questions of law and fact would also be a superior  
20 method to multiple individual actions or piecemeal litigation in that it will  
21 conserve the resources of the courts and the litigants and promote consistency and  
22 efficiency of adjudication.

23 **FIRST CAUSE OF ACTION**

24 **Violation of California's Consumer Legal Remedies Act ("CLRA"),**

25 **Cal Civ. Code § 1750, *et seq.***

26 **(On behalf of the CLRA Sub-Class)**

27 79. Plaintiff incorporates by reference each allegation set forth above.

28 80. Plaintiff brings this cause of action individually and on behalf of the

1 members of the CLRA Sub-Class.

2 81. Defendants are “person[s]” as defined by the CLRA. Cal. Civ. Code  
3 § 1761(c).

4 82. Plaintiff and CLRA Sub-Class Members are “consumers” within the  
5 meaning of the CLRA. Cal. Civ. Code § 1761(d).

6 83. The purchase of the Product by Plaintiff and the CLRA Sub-Class  
7 Members constitute “transactions” as defined by the CLRA. Cal. Civ. Code  
8 § 1761(e).

9 84. The Product constitutes “goods” or “services” as defined by the  
10 CLRA. Cal. Civ. Code § 1761(a) and (b).

11 85. Plaintiff and the CLRA Sub-Class Members purchased the Product  
12 primarily for personal, family, and household purposes as meant by the CLRA.  
13 Cal. Civ. Code § 1761(d).

14 86. Defendants’ representations, active concealments, omissions, and  
15 failures to disclose regarding the Product violated the CLRA in the following  
16 ways:

17 87. Defendants’ acts and practices, set forth in this Class Action  
18 Complaint, led Plaintiff and other similarly situated consumers to falsely believe  
19 that the Product provides physical health benefits for their child when in fact, the  
20 Product is harmful for children under two both nutritionally and developmentally.  
21 By engaging in the actions, representations and conduct set forth in this Class  
22 Action Complaint, Defendants have violated, and continue to violate, §  
23 1770(a)(2), § 1770(a)(5), § 1770(a)(7), and § 1770(a)(8) of the CLRA.

24 88. In violation of California Civil Code §1770(a)(2), Defendants’  
25 acts and practices constitute improper representations regarding the source,  
26 sponsorship, approval, or certification of the goods they sold.

27 89. In violation of California Civil Code §1770(a)(5), Defendants’  
28 acts and practices constitute improper representations that the goods they

1 sell have sponsorship, approval, characteristics, ingredients, uses, benefits, or  
2 quantities, which they do not have.

3 90. In violation of California Civil Code §1770(a)(7), Defendants’  
4 acts and practices constitute improper representations that the goods it sells  
5 are of a particular standard, quality, or grade, when they are of another.

6 91. In violation of California Civil Code §1770(a)(8), Defendants have  
7 disparaged the goods, services, or business of another by false or misleading  
8 representation of fact.

9 92. Plaintiff and the CLRA Sub-Class Members seek an order enjoining  
10 Defendants’ unfair or deceptive acts or practices and equitable relief under Cal.  
11 Civ. Code § 1780(e), and any other just and proper relief available under the  
12 CLRA.

13 93. Plaintiff provided Defendants with notice of their violations of the  
14 CLRA pursuant to California Civil Code § 1782(a), via letter dated July 3, 2024.  
15 Defendants failed to provide appropriate relief for their violations of the CLRA.  
16 Accordingly, California Plaintiff now seeks monetary, compensatory, and punitive  
17 damages, in addition to the injunctive and equitable relief that she seeks on behalf  
18 of herself and the CLRA Sub-Class.

19 **SECOND CAUSE OF ACTION**

20 **Violation of California’s Unfair Competition Law,**

21 **Cal. Bus. & Prof. Code § 17200, *et seq.***

22 **(On behalf of the Class)**

23 94. Plaintiff incorporates by reference each allegation set forth above.

24 95. Plaintiff brings this cause of action individually and on behalf of  
25 Class Members.

26 96. California Business & Professions Code § 17200 prohibits “unfair  
27 competition” including any “unlawful, unfair, or fraudulent business practice” and  
28 “unfair, deceptive, untrue or misleading advertising.” Defendants engaged in

1 conduct that violated each of this statute's three prongs.

2 97. Defendants have engaged, and continue to engage, in unfair practices  
3 as described herein, in violation of the Unfair Competition Law, California  
4 Business & Professions Code §§ 17200 *et seq.* (the "UCL"), by, without limitation,  
5 including unlawful nutrient content claims on the Product's labels and thereby  
6 selling Products that were not capable of being sold or held legally and which  
7 were legally worthless.

8 98. Defendants have engaged, and continue to engage, in unlawful  
9 practices as described herein, in violation of the UCL, by, without limitation,  
10 violating the following laws: (i) the CLRA as described herein; (ii) the FAL as  
11 described herein; (iii) the advertising provisions of the Sherman Law (Article 3),  
12 including without limitation, California Health & Safety Code §§ 110390,  
13 110395, 110398 and 110400; (iv) the misbranded food provisions of the Sherman  
14 Law (Article 6), including without limitation, California Health & Safety Code  
15 §§ 110665, 110760, 110765, and 110770; and (v) and federal laws regulating the  
16 advertising and branding of food in 21 U.S.C. § 343, *et seq.* and FDA regulations,  
17 including but not limited to 21 C.F.R. §§ 101.13(b), 101.13(c), 101.54(e), and  
18 104.20, which are incorporated into the Sherman Law (California Health &  
19 Safety Code §§ 110100(a), 110380, and 110505).

20 99. Defendants have engaged, and continue to engage, in fraudulent  
21 practices as described herein, in violation of the UCL, by, without limitation,  
22 including unlawful nutrient content claims on the Product labels and thereby  
23 selling Products that were not capable of being sold or held legally and which were  
24 legally worthless.

25 100. Plaintiff and those similarly situated relied to their detriment on  
26 Defendants' unlawful, unfair, and fraudulent business practices. Had Plaintiff  
27 and those similarly situated been adequately informed and not deceived by  
28 Defendants, they would have acted differently by, without limitation: (i) declining

1 to purchase the Product, (ii) purchasing less of the Product, or (iii) paying less for  
2 the Product.

3 101. Defendants' acts and omissions are likely to deceive the general  
4 public.

5 102. Defendants engaged in these deceptive and unlawful practices to  
6 increase their profits. Accordingly, Defendants have engaged in unlawful trade  
7 practices, as defined and prohibited by section 17200, *et seq.* of the California  
8 Business and Professions Code.

9 103. The aforementioned practices, which Defendants have used to  
10 their significant financial gain, also constitute unlawful competition and provide  
11 an unlawful advantage over Defendants' competitors as well as injury to the  
12 general public.

13 104. As a direct and proximate result of such actions, Plaintiff and the  
14 other Class members, have suffered and continue to suffer injury in fact and  
15 have lost money and/or property as a result of such deceptive and/or unlawful  
16 trade practices and unfair competition in an amount which will be proven at trial,  
17 but which is in excess of the jurisdictional minimum of this Court. In particular,  
18 Plaintiff and those similarly situated paid a price premium for the Product, i.e.,  
19 the difference between the price consumers paid for the Product and the price  
20 that they would have paid but for Defendants' misrepresentation. This  
21 premium can be determined by using econometric or statistical techniques such  
22 as hedonic regression or conjoint analysis. Alternatively, Plaintiff and those  
23 similarly situated will seek a full refund of the price paid upon proof that the sale  
24 of the Product was unlawful.

25 105. As a direct and proximate result of such actions, Defendants have  
26 enjoyed, and continue to enjoy, significant financial gain in an amount which  
27 will be proven at trial, but which is in excess of the jurisdictional minimum of  
28 this Court.

1           106. Plaintiff seeks, on behalf of herself and those similarly situated,  
2 equitable relief, including restitution for the premium and/or the full price that they  
3 and others paid to Defendants as result of Defendants’ conduct. Plaintiff and the  
4 Class lack an adequate remedy at law to obtain such relief with respect to their  
5 “unfairness” claims in this UCL cause of action, because there is no cause of  
6 action at law for “unfair” conduct. Plaintiff and the Class similarly lack an  
7 adequate remedy at law to obtain such relief with respect to their “unlawfulness”  
8 claims in this UCL cause of action because the Sherman Law (Articles 3 and 6)  
9 and the Federal laws and regulations referenced herein do not provide a direct  
10 cause of action, so Plaintiff and the Class must allege those violations as predicate  
11 acts under the UCL to obtain relief.

12           107. Plaintiff also seeks equitable relief, including restitution, with respect  
13 to her UCL unlawfulness claims for violations of the CLRA, FAL and her  
14 UCL “fraudulent” claims. Pursuant to Federal Rule of Civil Procedure 8(e)(2),  
15 Plaintiff makes the following allegations in this paragraph only hypothetically and  
16 as an alternative to any contrary allegations in their other causes of action, in the  
17 event that such causes of action do not succeed. Plaintiff and the Class may be  
18 unable to obtain monetary, declaratory and/or injunctive relief directly under  
19 other causes of action and will lack an adequate remedy of law, if the Court  
20 requires them to show classwide reliance and materiality beyond the objective  
21 reasonable consumer standard applied under the UCL, because Plaintiff may  
22 not be able to establish each Class member’s individualized understanding  
23 of Defendants’ misleading representations as described in this Complaint, but  
24 the UCL does not require individualized proof of deception or injury by absent  
25 class members. *See, e.g., Stearns v Ticketmaster*, 655 F.3d 1013, 1020, 1023-25  
26 (distinguishing, for purposes of CLRA claim, among class members for whom  
27 website representations may have been materially deficient, but requiring  
28 certification of UCL claim for entire class).

1 108. Plaintiff seeks, on behalf of herself and those similarly situated, a  
2 declaration that the above-described trade practices are fraudulent, unfair, and/or  
3 unlawful.

4 109. Plaintiff seeks, on behalf of herself and those similarly situated, an  
5 injunction to prohibit Defendants from continuing to engage in the deceptive  
6 and/or unlawful trade practices complained of herein. Such misconduct by  
7 Defendants, unless and until enjoined and restrained by order of this Court, will  
8 continue to cause injury in fact to the general public and the loss of money and  
9 property in that Defendants will continue to violate the laws of California,  
10 unless specifically ordered to comply with the same. This expectation of future  
11 violations will require current and future consumers to repeatedly and  
12 continuously seek legal redress in order to recover monies paid to Defendants  
13 to which they were not entitled. Plaintiff, those similarly situated and/or other  
14 consumers nationwide have no other adequate remedy at law to ensure future  
15 compliance with the California Business and Professions Code alleged to have  
16 been violated herein.

17 **THIRD CAUSE OF ACTION**

18 **False Advertising, Bus. and Prof. Code § 17500, *et seq.***

19 **(On behalf of the Class)**

20 110. Plaintiff incorporates by reference each allegation set forth above.

21 111. Plaintiff brings this cause of action individually and on behalf of  
22 Class Members.

23 112. Beginning at an exact date unknown to Plaintiff, but within three  
24 (3) years preceding the filing of the Class Action Complaint, Defendants made  
25 untrue, false, deceptive and/or misleading statements in connection with the  
26 advertising and marketing of the Product.

27 113. Defendants made representations and statements (by omission and  
28 commission) that led reasonable customers to believe that the Product that they



1 were purchasing were physically beneficial for their young children.

2 114. Plaintiff and those similarly situated relied to their detriment on  
3 Defendants' misleading and deceptive advertising and marketing practices,  
4 including each of the unlawful claims set forth above. Had Plaintiff and those  
5 similarly situated been adequately informed and not intentionally deceived by  
6 Defendants, they would have acted differently by, without limitation,  
7 refraining from purchasing the Product or paying less for it.

8 115. Defendants' acts and omissions are likely to deceive reasonable  
9 consumers and the general public.

10 116. Defendants engaged in these false, misleading and deceptive  
11 advertising and marketing practices to increase its profits. Accordingly,  
12 Defendants have engaged in false advertising, as defined and prohibited by  
13 section 17500, *et seq.* of the California Business and Professions Code.

14 117. The aforementioned practices, which Defendants used, and continue  
15 to use, to their significant financial gain, also constitute unlawful competition  
16 and provide an unlawful advantage over Defendants' competitors as well as  
17 injury to the general public.

18 118. As a direct and proximate result of such actions, Plaintiff and the  
19 other Class members have suffered, and continue to suffer, injury in fact and  
20 have lost money and/or property as a result of such false, deceptive and  
21 misleading advertising in an amount which will be proven at trial, but which is  
22 in excess of the jurisdictional minimum of this Court. In particular, Plaintiff,  
23 and those similarly situated, paid a price premium for the Product, i.e., the  
24 difference between the price consumers paid for the Product and the price that they  
25 would have paid but for Defendants' false, deceptive and misleading  
26 advertising.

27 119. Plaintiff seeks equitable relief, including restitution, with respect  
28 to their FAL claims.

1 120. Plaintiff seeks, on behalf of herself and those similarly situated, a  
2 declaration that the above-described practices constitute false, misleading and  
3 deceptive advertising.

4 121. Plaintiff seeks, on behalf of herself and those similarly situated, an  
5 injunction to prohibit Defendants from continuing to engage in the false,  
6 misleading and deceptive advertising and marketing practices complained of  
7 herein. Such misconduct by Defendants, unless and until enjoined and restrained  
8 by order of this Court, will continue to cause injury in fact to the general public  
9 and the loss of money and property in that Defendants will continue to violate the  
10 laws of California, unless specifically ordered to comply with the same. This  
11 expectation of future violations will require current and future consumers to  
12 repeatedly and continuously seek legal redress in order to recover monies paid  
13 to Defendants to which they are not entitled. Plaintiff, those similarly situated  
14 and/or other California consumers have no other adequate remedy at law to  
15 ensure future compliance with the California Business and Professions Code  
16 alleged to have been violated herein.

17 **FOURTH CAUSE OF ACTION**

18 **Common Law Fraud, Deceit, and/or Misrepresentation**

19 **(On behalf of the Class)**

20 122. Plaintiff incorporates by reference each allegation set forth above.

21 123. Plaintiff brings this cause of action individually and on behalf of  
22 Class Members.

23 124. Defendants have fraudulently and deceptively included unlawful  
24 nutrient content claims on the Product labels.

25 125. The unlawfulness of the claims was known exclusively to, and  
26 actively concealed by, Defendants, not reasonably known to Plaintiff, and material  
27 at the time they were made. Defendants' unlawful statements concerned material  
28 facts that were essential to the analysis undertaken by Plaintiff as to whether to

1 purchase the Product. In misleading Plaintiff and not so informing her,  
2 Defendants breached their duty to Plaintiff. Defendants also gained financially  
3 from, and as a result of, their breach.

4 126. Plaintiff and those similarly situated relied to their detriment on  
5 Defendants' unlawful representations. Had Plaintiff and those similarly situated  
6 been adequately informed and not intentionally deceived by Defendants, they  
7 would have acted differently by, without limitation: (i) declining to purchase  
8 the Product, (ii) purchasing less of them, or (iii) paying less for the Product.

9 127. By and through such fraud, deceit, and unlawful representations,  
10 Defendants intended to induce Plaintiff and those similarly situated to alter their  
11 position to their detriment. Specifically, Defendants fraudulently and deceptively  
12 induced Plaintiff and those similarly situated to, without limitation, purchase the  
13 Product.

14 128. Plaintiff and those similarly situated justifiably and reasonably  
15 relied on Defendants' unlawful representations, and, accordingly, were  
16 damaged by Defendants.

17 129. As a direct and proximate result of Defendants' unlawful  
18 representations, Plaintiff and those similarly situated have suffered damages,  
19 including, without limitation, the amount they paid for the Product.

20 130. Defendants' conduct as described herein was willful and malicious  
21 and was designed to maximize Defendants' profits even though Defendants knew  
22 that it would cause loss and harm to Plaintiff and those similarly situated.

23 **FIFTH CAUSE OF ACTION**

24 **For Unjust Enrichment**

25 **(On Behalf of the Class)**

26 131. Plaintiff incorporates by reference each allegation set forth above.

27 132. Plaintiff brings this cause of action on behalf of herself and the Class.

28 133. Defendants have received and retained a benefit from Plaintiff and

1 Class Members, and inequity has resulted.

2 134. Defendants have been unjustly enriched in retaining the revenues  
3 from Plaintiff's and Class Members' purchases of the Product, which retention  
4 is unjust and inequitable, because Defendants sold Products that were not capable  
5 of being sold or held legally and which were legally worthless. Plaintiff paid a  
6 premium price for the Product.

7 135. Because Defendants' retention of the non-gratuitous benefit  
8 conferred on them by Plaintiff and Class members is unjust and inequitable,  
9 Defendants must pay restitution and non-restitutionary disgorgement of profits  
10 to Plaintiff and the Class members for its unjust enrichment, as ordered by the  
11 Court. Plaintiff and those similarly situated have no adequate remedy at law to  
12 obtain this restitution.

13 136. Plaintiff, therefore, seeks an order requiring Defendants to pay non-  
14 restitutionary disgorgement of profits and make restitution to her and other  
15 members of the Class.

16 **SIXTH CAUSE OF ACTION**

17 **Violation of California's False Advertising Law, Bus. & Prof. Code § 17501**  
18 **(On Behalf of the Class)**

19 137. Plaintiff incorporates by reference each allegation set forth above.

20 138. Plaintiff brings this cause of action on behalf of herself and the Class.

21 139. Plaintiff brings this cause of action for restitution pursuant to Section  
22 17535 of the Business and Professions Code. Pursuant to Rule 8(a)(3) of the  
23 Federal Rules of Civil Procedure, Plaintiff seeks restitution in the alternative to  
24 the damages they seek in their first through fifth causes of action. Plaintiff is  
25 entitled to restitution because she lacks an adequate remedy at law; the legal  
26 remedies available to her are not as equally prompt and certain, and in other ways  
27 efficient.

28 140. Defendants violated Section 17501 of the Business and Professions

1 Code by through their misleading and deceptive advertising and marketing  
2 practices.

3 141. Defendants made representations and statements (by omission and  
4 commission) that led reasonable customers to believe that the Product that they  
5 were purchasing was physically beneficial for their young children.

6 142. Defendants violated Section 17501 with actual or constructive  
7 knowledge that their advertisements were untrue or misleading.

8 143. Defendants violated Section 17501 in order to induce Plaintiff and the  
9 class members to purchase the Product based on the false impression that they are  
10 physically beneficial for their young children.

11 144. Plaintiff and the class members reasonably relied on Defendants'  
12 representations and/or omissions made in violation of Section 17501, and were  
13 thereby induced to pay more for Defendants' Product and make purchases they  
14 would not have otherwise made.

15 145. As a direct and proximate result of Defendants' violations of Section  
16 17501, Defendants have improperly acquired money from Plaintiff and the class  
17 members. As such, Plaintiff requests this Court order Defendants to restore this  
18 money to them and all class members.

19 **RELIEF REQUESTED**

20 146. Plaintiff, on behalf of herself and all others similarly situated,  
21 requests the Court enter judgment against Defendants, as follows:

- 22 (a) An order certifying the proposed Class and Sub-Class,  
23 designating Plaintiff as named representative of the Class, and  
24 designating the undersigned as Class Counsel;
- 25 (b) An order temporarily and permanently enjoining Defendants  
26 from continuing the unlawful, deceptive, fraudulent, and unfair  
27 business practices alleged in this Complaint;
- 28 (c) An award to Plaintiff and the Class for compensatory,

