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*Counsel for Plaintiff Edison Corpuz  
and the Proposed Class*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

EDISON CORPUZ, individually and  
on behalf of all others similarly  
situated,

Plaintiff,

v.

BAYER CORPORATION,

Defendant.

Case No. '22CV1085 MMAJLB

**CLASS ACTION**

**DEMAND FOR JURY TRIAL**

1 Plaintiff EDISON CORPUZ (“Plaintiff”) individually and on behalf of all  
2 others similarly situated, by his attorneys, alleges the following upon information  
3 and belief, except for those allegations pertaining to Plaintiff, which are based on  
4 personal knowledge:

5 **SUMMARY OF THE ACTION**

6 1. This action seeks to remedy the deceptive and misleading business  
7 practices of Bayer Corporation (hereinafter “Defendant”) with respect to the  
8 marketing and sales of Defendant’s One a Day Natural Fruit Bites products<sup>1</sup> that  
9 represent that they are natural (“Products”).

10 2. Defendant manufactures, sells, and distributes the Products using a  
11 marketing and advertising campaign centered around claims that appeal to health-  
12 conscious consumers, i.e., that its Products are natural; however, Defendant’s  
13 advertising and marketing campaign is false, deceptive, and misleading because the  
14 Products contain non-natural, synthetic ingredients.

15 3. Plaintiff and those similarly situated (“Class Members”) relied on  
16 Defendant’s misrepresentations that the Products are natural when purchasing the  
17 Products. Plaintiff and Class Members paid a premium for the Products based upon  
18 their natural representation. Given that Plaintiff and Class Members paid a premium  
19 for the Products based on Defendant’s misrepresentations that they are natural,  
20 Plaintiff and Class Members suffered an injury in the amount of the premium paid.

21 4. Defendant’s conduct violated and continues to violate, *inter alia*,  
22 California Consumers Legal Remedies Act (“CLRA”), California Civil Code section  
23 1750 et al. Accordingly, Plaintiff brings this action against Defendant on behalf of  
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25 <sup>1</sup> The Products currently come in four varieties: Men’s, Women’s, Men’s 50+, and  
26 Women’s 50+. All make the “natural” claim. The Products would also include any  
27 additional One a Day Natural Fruit Bites introduced into the market during the Class  
28 Period that make a “natural” claim.

1 himself and Class Members who purchased the Products during the applicable  
2 statute of limitations period (the “Class Period”).

3 **JURISDICTION AND VENUE**

4 5. This Court has subject matter jurisdiction under the Class Action  
5 Fairness Act, 28 U.S.C. section 1332(d) in that: (1) this is a class action involving  
6 more than 100 class members; (2) Plaintiff is a citizen of the State of California,  
7 Defendant Bayer Corporation is a citizen of the States of Indiana and New Jersey,  
8 and (3) the amount in controversy is in excess of \$5,000,000, exclusive of interests  
9 and costs.

10 6. This Court has personal jurisdiction over Defendant because Defendant  
11 conducts and transacts business in the State of California, contract to supply goods  
12 within the State of California, and supply goods within the State of California,  
13 including the Products.

14 7. Venue is proper because a substantial part of the events or omissions  
15 giving rise to the classes’ claims occurred in this District.

16 **PARTIES**

17 8. Plaintiff is a citizen of California, residing in San Diego County,  
18 California. Plaintiff purchased the product from retail outlets in San Diego,  
19 California, during the class period.

20 9. Plaintiff purchased the Product because he believed the Product was  
21 natural based on the representations on the principal display panel of the Product.  
22 The packaging of the Product Plaintiff purchased contained the representation that  
23 it was natural. Plaintiff believes that products that are labeled as natural do not  
24 contain synthetic ingredients. Plaintiff believes a synthetic ingredient is formulated  
25 or manufactured by a chemical process or by a process that chemically changes a  
26 substance extracted from naturally occurring plant, animal, or mineral sources.  
27 Plaintiff remains in the market for natural vitamins, and continues to shop at retail  
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1 locations where the Products are sold. If the Products did not contain unnatural  
2 ingredients, Plaintiff would purchase the Product again in the immediate future. If  
3 the Court were to issue an injunction ordering Defendant to comply with the state  
4 and federal laws, and prohibiting Defendant's use of the deceptive practices  
5 discussed herein, Plaintiff would likely purchase the Products again in the near  
6 future. At present, however, Plaintiff cannot be confident that the labeling of the  
7 Products is, and will be, truthful and non-misleading. As a result, Plaintiff cannot  
8 rely on the labels of the Products.

9       10. Had Defendant not made the false, misleading, and deceptive  
10 representation that the Products were natural, Plaintiff would not have been willing  
11 to pay the same amount for the Products, and, consequently, would not have been  
12 willing to purchase the Products. Plaintiff purchased, purchased more of and/or paid  
13 more for, the Products than he would have had he known the truth about the  
14 Products. The Product Plaintiff received was worth less than the Product for which  
15 he paid. Plaintiff was injured in fact and lost money as a result of Defendant's  
16 improper conduct.

17       11. Defendant Bayer Corporation is a corporation with its principal place  
18 of business in Whippany, New Jersey. Defendant manufactures, markets, advertises,  
19 and distributes the Products throughout the United States, including in the District.  
20 Defendant created and/or authorized the false, misleading and deceptive  
21 advertisements, packaging and labeling for the Products.

22       12. Defendant manufactures, markets, advertises and sells vitamins,  
23 including the Products, one or more of which were purchased by Plaintiff and  
24 members of the proposed Class. Defendant manufactured, marketed, advertised,  
25 distributed and sold its Products widely throughout the State of California and the  
26 Southern District of California during the Class Period.

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1           13. On information and belief, in committing the wrongful acts alleged  
2 herein, Defendant, in connection with its subsidiaries, affiliates, and/or other related  
3 entities and their employees, planned, participated in and furthered a common  
4 scheme to induce members of the public to purchase the Products by means of false,  
5 misleading, deceptive and fraudulent acts and omissions.

6                           **FACTS COMMON TO ALL CAUSES OF ACTION**

7           14. Consumers have become increasingly concerned about the effects of  
8 synthetic and chemical ingredients in food, cleaning products, bath and beauty  
9 products and everyday household products. Companies such as Defendant, have  
10 capitalized on consumers’ desire for purportedly “natural products.” Indeed,  
11 consumers are willing to pay, and have paid, a premium for products branded  
12 “natural” over products that contain synthetic ingredients. In 2015, sales of natural  
13 products grew 9.5% to \$180 billion.<sup>2</sup> Reasonable consumers, including Plaintiff and  
14 Class Members, value natural products for important reasons, including the belief  
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17 <sup>2</sup> *Natural Products Industry Sales up 9.5% to \$180bn Says NBJ*, FOOD  
NAVIGATOR, [http://www.foodnavigator-usa.com/Markets/EXPO-WEST-](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6)  
18 [trendspotting-organics-natural-claims/\(page\)/6](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6); *see also* Shoshanna Delventhal,  
19 *Study Shows Surge in Demand for “Natural” Products*, INVESTOPEDIA (February  
22, 2017), [http://www.investopedia.com/articles/investing/022217/study-shows-](http://www.investopedia.com/articles/investing/022217/study-shows-surge-demand-natural-products.asp)  
20 [surge-demand-natural-products.asp](http://www.investopedia.com/articles/investing/022217/study-shows-surge-demand-natural-products.asp) (Study by Kline Research indicated that in 2016,  
21 the personal care market reached 9% growth in the U.S. and 8% in the U.K. The  
trend-driven natural and organic personal care industry is on track to be worth \$25.1  
22 million by 2025); *Natural living: The next frontier for growth? [NEXT Forecast*  
23 *2017]*, NEW HOPE NETWORK (December 20, 2016),  
[http://www.newhope.com/beauty-and-lifestyle/natural-living-next-frontier-growth-](http://www.newhope.com/beauty-and-lifestyle/natural-living-next-frontier-growth-next-forecast-2017)  
24 [next-forecast-2017](http://www.newhope.com/beauty-and-lifestyle/natural-living-next-frontier-growth-next-forecast-2017).

1 that they are safer and healthier than alternative products that are not represented as  
2 natural.

3 15. Despite the Products containing a number of synthetic ingredients,  
4 Defendant markets the Products as being natural. Below are the Products' labeling  
5 at issue:





16. Defendant's representations that the Products are natural, are false, misleading, and deceptive because all the Products contain same ingredients that are, as explained below, synthetic.

- a. **Cholecalciferol** (9,10-seco(5Z,7E,-)5,7,10(19)-cholestatrien-3-ol) is a synthetic substance. It is manufactured by ultraviolet irradiation of 7-dehydrocholesterol produced from cholesterol. *See* 21 C.F.R. § 184.1950(a)(2). It is then purified by crystallization. *Id.*
- b. **Niacinamide** (3-pyridinecarboxylic acid amide)<sup>3</sup> is a synthetic substance. Niacinamide, as known as nicotinamide,<sup>4</sup> is manufactured

<sup>3</sup> *See* 21 C.F.R. § 184.1535.

<sup>4</sup> NAT'L CTR. FOR BIOTECHNOLOGY INFO., U.S. DEP'T OF HEALTH & HUMAN SERVS., *Open Chemistry Database: Nicotinamide: 4.2. Synonyms* PUBCHEM.NCBI.NLM.NIH.GOV .

1 in several ways, each of which is a chemical process that chemically  
2 changes substances into niacinamide:<sup>5</sup>

- 3 i. 2-Methylglutaronitrile, a byproduct  
4 of adiponitrile production, is converted to 2-methyl-1,5-  
5 diaminopentane. Cyclic hydrogenation gives 3-  
6 methylpiperidine. Dehydrogenation yields 3-  
7 methylpyridine, which is then ammoxidated and partly  
8 hydrolyzed to nicotinamide;
- 9 ii. In a multitubular reactor 3-methylpyridine, air, ammonia,  
10 and hydrogen react at ca. 350 °C and moderate pressure  
11 to give 3-cyanopyridine. Heterogeneous catalysts  
12 containing oxides of antimony, vanadium, and titanium,  
13 antimony, vanadium, and uranium or antimony-  
14 vanadium-titanium catalyst are highly effective. For  
15 instance, with a vanadium, titanium, zirconium,  
16 molybdenum catalyst, a reactor temperature of 340 °C,  
17 and a molar feed ratio of 3-methylpyridine:  
18 ammonia: oxygen of 1:1.3:40 yields 95% of 3-  
19 cyanopyridine. 3-Cyanopyridine is converted to  
20 nicotinamide by alkaline hydrolysis. This reaction has the  
21 advantage that saponification to the amide is fast  
22 compared to total hydrolysis to nicotinic acid. The  
23 hydrolysis to the amide is normally carried out with  
24 catalytic amounts of bases, mainly sodium hydroxide, at  
25 130-150 °C;

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26  
27 <sup>5</sup> *Id.* at 10.2 *Methods of Manufacture.*  
28



- 1                   iii.       In the Lonza process, 3-cyanopyridine is converted to  
2                                    nicotinamide by means of an immobilized  
3                                    microorganism of the genus *Rhodococcus*.  
4                                    Heterogeneous catalysts are also mentioned. A copper-  
5                                    chromium oxide catalyst, manganese dioxide, or  
6                                    manganese dioxide with chromium-nickel oxide,  
7                                    chromium-cobalt oxide, or manganese dioxide with  
8                                    titanium-silicon dioxide give good yields of  
9                                    nicotinamide; or
- 10                   iv.       Nicotinic acid is melted and reacted with ammonia gas to  
11                                    yield nicotinamide. The reaction is catalyzed by the  
12                                    presence of ammonium salts. After distillation,  
13                                    nicotinamide is dissolved in water, purified by the  
14                                    addition of activated carbon, filtered, recrystallized and  
15                                    centrifuged. The nicotinamide contained in the mother  
16                                    liquor is reclaimed by a special recovery operation. The  
17                                    wet pure nicotinamide filter cake is dried under vacuum  
18                                    in a rotary vacuum drier.

19                   c. **Pyridoxine hydrochloride** (3-hydroxy-4,5-dihydroxymethyl-2-  
20                                    methylpyridine hydrochloride) is prepared by chemical synthesis<sup>6</sup>,  
21                                    and is therefore synthetic substance. Pyridoxine hydrochloride is  
22                                    manufactured in several ways, each of which is a chemical process  
23                                    that chemically changes substances into pyridoxine hydrochloride:<sup>7</sup>

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25 <sup>6</sup> 21 C.F.R. § 184.1676.

26 <sup>7</sup> NAT'L CTR. FOR BIOTECHNOLOGY INFO., U.S. DEP'T OF HEALTH & HUMAN SERVS.,  
27 *Open Chemistry Database: Pyridoxine hydrochloride: 10.2 Methods of*  
28 *Manufacture* PUBCHEM.NCBI.NLM.NIH.GOV.

- 1           i.       Synthesis by condensation of cyanoacetamide &
- 2                   ethoxyacetylacetone;
- 3           ii.       Synthesis from 2-butanon-1,4-diol & alpha-
- 4                   methyliminopropionitrile; or
- 5           iii.       Synthesis from ethyl pyruvate, ethyl glycinate, and 1,4-
- 6                   diethoxy-2-butanone.

7           d. **D-biotin** is a synthetic substance. Di-biotin, as known as biotin,<sup>8</sup> is

8                   manufactured in several ways, each of which is a chemical process

9                   that chemically changes substances into niacinamide:<sup>9</sup>

- 10           i.       The Hoffman-La Roche industrial synthesis of biotin
- 11                   starts with fumaric acid. The sequence of bromination,
- 12                   replacement of dibromide with benzyl-bromide, and ring
- 13                   closure with phosgene gives the imidazole cis-
- 14                   dicarboxylic acid. The corresponding anhydride is
- 15                   opened with cyclohexanol to the racemic monoester
- 16                   which is resolved with (+)-ephedrine in high yield. The
- 17                   enantiomer is recycled back to the anhydride. Lithium
- 18                   borohydride reduces only the ester group of (+)-
- 19                   ephedrine, thus producing the lactone with the desired
- 20                   absolute configuration. Sulfur is then introduced by
- 21                   treatment with potassium thioacetate to give the
- 22                   thiolactone. The side chain is introduced in two phases.
- 23                   The first three carbons are attached by a Grignard

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25 <sup>8</sup> NAT'L CTR. FOR BIOTECHNOLOGY INFO., U.S. DEP'T OF HEALTH & HUMAN SERVS.,

26 *Open Chemistry Database: Biotin: 2.4.2. Depositor-Supplied Synonyms*

27 *PUBCHEM.NCBI.NLM.NIH.GOV* .

28 <sup>9</sup> *Id.* at 10.2 *Methods of Manufacture*.

1 reaction. Dehydration and hydrogenation over Raney  
2 nickel establishes the third chiral center  
3 stereospecifically. The last two carbons are then added by  
4 reaction of the cyclic sulfonium cation with sodium  
5 dimethylmalonate. Hydrolysis of the ester groups of  
6 decarboxylation, and didebenzylation occur during  
7 heating with aqueous HBr to produce the optically pure  
8 biotin in a more than 25% overall yield;

9 ii. Sumitomo produces biotin by an efficient asymmetric  
10 conversion of the prochiral cis-acid to the optically active  
11 lactone. The acid reacts with the optically  
12 active dihydroxy amine to give quantitatively the chiral  
13 imide. Sodium borohydride reduces stereoselectively the  
14 pro-R carbonyl group to give, after recrystallization, the  
15 optically pure hydroxy amide. Hydrolysis then yields the  
16 lactone; or

17 iii. The stereocontrolled formation of all chiral centers of  
18 biotin can be achieved in three syntheses by means of  
19 1,3-dipolar nitrene-olefin cycloadditions and in two  
20 syntheses by (2+2) cycloaddition methods.

21 e. **Potassium iodide** is prepared by reacting hydriodic acid with  
22 potassium biocarbonate,<sup>10</sup> and is therefore a synthetic substance.

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27 <sup>10</sup> 21 C.F.R. § 184.1634.

1 Other methods of manufacturing include a chemical process that  
2 chemically changes substances into potassium iodide:<sup>11</sup>

- 3 i. Prepared from HI and KHCO<sub>3</sub>. Purification by melting in  
4 dry hydrogen ... Continuous electrolytic process for large  
5 scale industrial preparation;
- 6 ii. A hot aqueous solution of potassium hydroxide is treated  
7 with iodine ... to form mixture of KI & potassium iodate.  
8 Solution is concentrated by heating ... then an excess of  
9 powdered charcoal is added ... Mixture is evaporated to  
10 dryness, then ignited. Charcoal ...  
11 reduces iodate to iodide and all of the iodine is thus  
12 obtained as potassium iodide;
- 13 iii. Prepared by first forming ferrosferric iodide through  
14 reaction between iron wire and iodine in presence  
15 of water. A solution of pure potassium carbonate ...  
16 added until solution is faintly alkaline, boiled for few  
17 moments, and filtered; filtrate is concentrated and set  
18 aside to crystallize. KI ... is crystallized from an alkaline  
19 solution;
- 20 iv. Most USA production involves absorption of iodine in  
21 KOH. Approximately 80 wt % of the potassium iodate ...  
22 crystallizes from the reaction mixture and is separated for  
23 sale. Of the remainder, 90 wt % is removed by  
24 evaporation, fusion, and heating to about 600 °C.

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26 <sup>11</sup> NAT'L CTR. FOR BIOTECHNOLOGY INFO., U.S. DEP'T OF HEALTH & HUMAN SERVS., *Open*  
27 *Chemistry Database: Potassium iodide: 10.2 Methods of Manufacture*  
28 PUBCHEM.NCBI.NLM.NIH.GOV.

1 The iodate is a poison /and/ ... must be completely  
2 removed frequently by a final reduction with carbon.  
3 After re-resolution in water, further purification is carried  
4 out before recrystallization. Iron, barium, carbonate,  
5 and hydrogen sulfide are used to effect precipitation of  
6 sulfates and heavy metals; or

7 v. Made by (1) Reaction of HI & KCl, followed by  
8 distillation of HCl, (2) Reaction of iodine with KOH or  
9 K<sub>2</sub>CO<sub>3</sub> in solution, (3) Reaction of ferrous/ferric  
10 iodide with K<sub>2</sub>CO<sub>3</sub>, and (4) Evaporation of natural  
11 brines.

12 17. Whether Defendant’s labeling of the Products as natural is deceptive is  
13 judged by whether it would deceive or mislead a reasonable person. To assist in  
14 ascertaining what a reasonable consumer believes the term natural means, one can  
15 look to the regulatory agencies for their guidance.

16 18. In 2013, the United States Department of Agriculture (“USDA”) issued  
17 a Draft Guidance Decision Tree for Classification of Materials as Synthetic or  
18 Nonsynthetic (Natural). In accordance with this decision tree, a substance is  
19 natural—as opposed to synthetic—if: (a) it is manufactured, produced, or extracted  
20 from a natural source (i.e. naturally occurring mineral or biological matter); (b) it  
21 has not undergone a chemical change (i.e. a process whereby a substance is  
22 transformed into one or more other distinct substances) so that it is chemically or  
23 structurally different than how it naturally occurs in the source material; or (c) the  
24 chemical change was created by a naturally occurring biological process such as  
25 composting, fermentation, or enzymatic digestion or by heating or burning  
26 biological matter.

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1           19. Congress has defined “synthetic” to mean “a substance that is  
2 formulated or manufactured by a chemical process or by a process that chemically  
3 changes a substance extracted from naturally occurring plants, animals, or mineral  
4 sources . . . .” 7 U.S.C. § 6502 (21).

5           20. Consumers lack the meaningful ability to test or independently  
6 ascertain or verify whether a product is natural, especially at the point of sale.  
7 Consumers would not know the true nature of the ingredients merely by reading the  
8 ingredients label. This is because the ingredient list does not disclose the  
9 manufacturing process for each ingredient. As the citations in paragraph 7 make  
10 clear, it takes dedicated research of the scientific, manufacturing, and regulatory  
11 literature to ascertain the manufacturing process for each ingredient, and thereby  
12 ascertain whether the ingredient is a synthetic substance.

13           21. Discovering that the ingredients are not natural and are actually  
14 synthetic requires a scientific investigation and knowledge of chemistry beyond that  
15 the everyday knowledge of the average consumer. This is why, even though the  
16 ingredients listed above are identified on the back of the Products’ packaging in the  
17 ingredients list, the reasonable consumer would not understand – nor are they  
18 expected to understand - that these ingredients are synthetic.

19           22. Moreover, the reasonable consumer is not expected or required to scour  
20 the ingredients list on the back of the Products in order to confirm or debunk  
21 Defendant’s prominent claims and representations that the Products are natural.

22           23. Defendant did not disclose that the above listed ingredients are  
23 synthetic ingredients. A reasonable consumer understands Defendant’s natural  
24 claims to mean that the Products are natural and do not contain synthetic ingredients.

25           24. Consumers rely on label representations and information in making  
26 purchasing decisions.

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1           25. The marketing of the Products as natural in a prominent location on the  
2 labels of all of the Products, throughout the Class Period, evidences Defendant's  
3 awareness that natural claims are material to consumers.

4           26. Defendant's deceptive representations and omissions are material in  
5 that a reasonable person would attach importance to such information and would be  
6 induced to act upon such information in making purchase decisions.

7           27. Plaintiff and the Class members reasonably relied to their detriment on  
8 Defendant's misleading representations and omissions.

9           28. Defendant's false, misleading, and deceptive misrepresentations and  
10 omissions are likely to continue to deceive and mislead reasonable consumers and  
11 the general public, as they have already deceived and misled Plaintiff and the Class  
12 members.

13           29. In making the false, misleading, and deceptive representations and  
14 omissions described herein, Defendant knew and intended that consumers would pay  
15 a premium for Products labeled as being natural over comparable products not so  
16 labeled.

17           30. As an immediate, direct, and proximate result of Defendant's false,  
18 misleading, and deceptive representations and omissions, Defendant injured  
19 Plaintiff and the Class members in that they:

- 20           a. Paid a sum of money for Products that were not what  
21           Defendant represented;
- 22           b. Paid a premium price for Products that were not what  
23           Defendant represented;
- 24           c. Were deprived of the benefit of the bargain because the  
25           Products they purchased had less value than what  
26           Defendant represented;
- 27           d. Ingested a substance that was of a different quality than  
28

1 what Defendant promised; and

2 e. Were denied the benefit of the beneficial properties of the  
3 natural supplements Defendant promised.

4 31. Had Defendant not made the false, misleading, and deceptive  
5 representations and omissions, Plaintiff and the Class members would not have been  
6 willing to pay the same amount for the Products they purchased.

7 32. Plaintiff and the Class members paid for Products that are natural but  
8 received Products that are not natural. The Products Plaintiff and the Class members  
9 received were worth less than the Products for which they paid.

10 33. Plaintiff and the Class members all paid money for the Products;  
11 however, Plaintiff and the Class members did not obtain the full value of the  
12 advertised Products due to Defendant's misrepresentations and omissions. Plaintiff  
13 and the Class members purchased, purchased more of, and/or paid more for the  
14 Products than they would have had they known the truth about the Products.  
15 Consequently, Plaintiff and the Class members have suffered injury in fact and lost  
16 money as a result of Defendant's wrongful conduct.

17 **CLASS ALLEGATIONS**

18 34. Plaintiff brings this action as a class action pursuant to Federal Rule of  
19 Civil Procedure 23. Plaintiff seeks to represent the following class ("Class" or  
20 "California Class") defined as follows:

21 All consumers within the State of California who purchased the  
22 Products from July 25, 2019 through the date of entry of class  
23 certification for their personal use, rather than for resale or  
24 distribution. Excluded from the Class are Defendant's current or  
25 former officers, directors, and employees; counsel for Plaintiff  
26 and Defendant; and the judicial officer to whom this lawsuit is  
27 assigned.

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1           35. The requirements of Federal Rule of Civil Procedure 23 are satisfied  
2 because:

3           A. Numerosity: The members of the class are so numerous that  
4 joinder of all members is impracticable. While the exact number of class members  
5 is presently unknown to Plaintiff, based on Defendant’s volume of sales, Plaintiff  
6 estimates that it is in the thousands.

7           B. Commonality: There are questions of law and fact that are  
8 common to the class members and that predominate over individual questions.  
9 These include the following:

10                   i. Whether Defendant is responsible for the conduct alleged herein  
11                   which was uniformly directed at all consumers who purchased  
12                   the Products;

13                   ii. Whether Defendant’s misconduct set forth in this Complaint  
14                   demonstrates that Defendant has engaged in unfair, fraudulent,  
15                   or unlawful business practices with respect to the advertising,  
16                   marketing, and sale of its Products;

17                   iii. Whether Defendant made false and/or misleading statements to  
18                   the Class and the public concerning the contents of its Products;

19                   iv. Whether Defendant’s false and misleading statements  
20                   concerning its Products were likely to deceive the public; and

21                   v. Whether Plaintiff and the Class are entitled to money damages  
22                   under the same causes of action as the other Class Members.

23           C. Typicality: Plaintiff’s claims are typical of the claims of the class  
24 members because Plaintiff suffered the same injury as the class members—*i.e.*,  
25 Plaintiff purchased the Products based on Defendant’s misleading  
26 misrepresentations, omissions, and non-disclosures that the Products did not contain  
27 benzene.

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1           40. The purchases by Plaintiff and the California Class members of the  
2 Products are “transactions” under California Civil Code section 1761(e).

3           41. Under section 1770 of the CLRA:

4                   (a) The following unfair methods of competition and  
5 unfair or deceptive acts or practices undertaken by any  
6 person in a transaction intended to result or which results  
7 in the sale or lease of goods or services to any consumer  
8 are unlawful:

9                   \* \* \* \* \*

10                   (5) Representing that goods or services have sponsorship,  
11 approval, characteristics, ingredients, uses, benefits, or  
12 quantities which they do not have or that a person has a  
13 sponsorship, approval, status, affiliation, or connection  
14 which he or she does not have.

15                   \* \* \* \* \*

16                   (7) Representing that goods or services are of a particular  
17 standard, quality, or grade, or that goods are of a  
18 particular style or model, if they are of another.

19                   \* \* \* \* \*

20                   (9) Advertising goods or services with intent not to sell  
21 them as advertised.

22                   \* \* \* \* \*

23                   (16) Representing that the subject of a transaction has  
24 been supplied in accordance with a previous  
25 representation when it has not.

26 *Id.* § 1770.

27

28

1           42. As alleged above, Defendant violated, and continues to violate, Civil  
2 Code section 1770(a)(5) by representing the Products have characteristics, uses,  
3 benefits, and qualities which they do not. Specifically, Defendant represents the  
4 Products are natural, when, in fact, the Products contained unnatural ingredients.

5           43. Further, as alleged above, Defendant violated, and continues to violate,  
6 Civil Code section 1770(a)(7) by representing the Products are of a particular  
7 standard or quality when they are of another. Specifically, Defendant represents the  
8 Products are natural, when, in fact, the Products contained unnatural ingredients.

9           44. Further, as alleged above, Defendant violated, and continues to violate,  
10 Civil Code section 1770(a)(9) by advertising the Products are natural, when, in fact,  
11 the Products contained unnatural ingredients.

12           45. Finally, as alleged above, Defendant violated, and continues to violate,  
13 Civil Code section 1770(a)(16) by representing that the Products it sold Plaintiff and  
14 the Class members are natural, when, in fact, they are not.

15           46. Plaintiff and the Class members believed the Products were natural  
16 based on the Products' label. Plaintiff and the Class members would not purchase  
17 the Products, but for Defendant's misleading misrepresentations, omissions, and  
18 non-disclosures.

19           47. Plaintiff and the Class members are injured in fact and lose money as a  
20 result of Defendant's conduct. Plaintiff and the Class members pay for Products that  
21 are natural but do not receive such Products because the Products contained  
22 unnatural ingredients.

23           48. On information and belief, Defendant's actions were willful, wanton,  
24 and fraudulent.

25           49. On information and belief, officers, directors, or managing agents at  
26 Defendant authorized the use of the misleading statements about the Products.

27  
28



- 1 H. awarding Plaintiff reasonable costs and expenses of suit, including  
2 attorneys' fees;  
3 I. awarding pre- and post-judgment interest to the extent the law allows;  
4 and  
5 J. for such further relief as this Court may deem just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands trial by jury on all claims so triable.

8 Date: July 25, 2022

Respectfully submitted,

9 /s/Michael R. Reese

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [One A Day 'Natural' Fruit Bites Contain Synthetic Ingredients, Class Action Says](#)

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