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9
10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 CHELSEA GARLAND, ESTELITA
13 REY, and ZACHARY WILLIAMS,
14 individually, and on behalf of a class
of similarly situated individuals,

15 Plaintiffs,

16 v.

17 MEAD JOHNSON & COMPANY,
18 LLC, a Delaware limited liability
company; MEAD JOHNSON
19 NUTRITION COMPANY, a
Delaware corporation; and RECKITT
20 BENCKISER LLC, a Delaware
limited liability company,

21 Defendants.

Case No.: **'24CV1168 L SBC**

**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. Plaintiffs Chelsea Garland, Estelita Rey, and Zachary Williams (“Plaintiffs”), bring this Complaint individually and on behalf of all persons against Mead Johnson & Company, LLC; Mead Johnson Nutrition Company; and Reckitt Benckiser LLC (collectively, “Mead Johnson” or “Defendants”) to seek redress for Defendants’ deceptive and unlawful practices in labeling and marketing Enfagrow PREMIUM Toddler Nutritional Drink and Enfagrow NeuroPro Toddler Nutritional Drink products (collectively, “the Products”).

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

3. Defendants’ misbranding caused Plaintiffs and members of the class to pay a price premium for the Products.

THE PARTIES

Plaintiff Chelsea Garland

4. Plaintiff Chelsea Garland (“Plaintiff Garland”) is a California citizen residing in San Diego, California.

5. In or around May 2023, and for about six (6) months thereafter, Plaintiff Garland purchased the Products for her then one (1) year old child from Target, Vons, Walmart, Ralphs, and/or Albertsons. Plaintiff Garland purchased the Products in reliance on the representations on the packaging that the Products provide physical health benefits for children under two years of age. But for these

1 representations, Plaintiff Garland would not have purchased the Products.

2 **Plaintiff Estelita Rey**

3 6. Plaintiff Estelita Rey (“Plaintiff Rey”) is a California citizen residing
4 in Valley Village, California.

5 7. In or around 2022, and for about one (1) year thereafter, Plaintiff Rey
6 purchased Enfagrow for her then one (1) year old child from Target and other
7 retailers. Plaintiff Rey purchased the Products in reliance on the representations
8 on the packaging that the Products provide physical health benefits for children
9 under two years of age. But for these representations, Plaintiff Rey would not have
10 purchased the Products.

11 **Plaintiff Zachary Williams**

12 8. Plaintiff Zachary Williams (“Plaintiff Williams”) is a California
13 citizen residing in Highland, California.

14 9. In or around October 2022 and about two (2) to three (3) times per
15 month for about six (6) months thereafter, Plaintiff Williams purchased the
16 Products for his then one (1) year old child from Albertsons. Plaintiff Williams
17 purchased the Products in reliance on the representations on the packaging that the
18 Products provide physical health benefits for children under two years of age. But
19 for these representations, Plaintiff Williams would not have purchased the
20 Products.

21 **Defendants Mead Johnson & Company, LLC; Mead Johnson Nutrition**
22 **Company; and Reckitt Benckiser LLC**

23 10. Defendant Mead Johnson & Company, LLC is a limited liability
24 company organized and in existence under the laws of the State of Delaware and
25 registered to do business in the state of California. Mead Johnson & Company,
26 LLC is headquartered in Evansville, Indiana.

27 11. Defendant Mead Johnson Nutrition Company is a corporation
28 organized and in existence under the laws of the State of Delaware and registered

1 to do business in the states of California. Mead Johnson Nutrition Company is
2 headquartered in Evansville, Indiana.

3 12. Defendant Reckitt Benckiser LLC is a limited liability company
4 organized and in existence under the laws of the State of Delaware and registered
5 to do business in the state of California. Reckitt Benckiser LLC is headquartered
6 in Parsippany, New Jersey.

7 JURISDICTION

8 13. This is a class action.

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

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

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

15 17. This Court has personal jurisdiction over Plaintiffs because Plaintiffs
16 submit to this Court's jurisdiction. This Court has personal jurisdiction over
17 Defendants because they conduct substantial business in this District and discovery
18 will show that significant conduct involving Defendants giving rise to the
19 Complaint took place in this District.

20 VENUE

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

26 FACTUAL ALLEGATIONS

27 19. Defendants manufacture, distribute, market, advertise, and sell
28 toddler drink products under the brand name "Enfagrow." These products have

1 packaging that predominately, uniformly, and consistently makes nutrient content
2 claims on the principal display panel of the product labels. A non-exhaustive
3 demonstrative of the Products' labeling, which contain nutrient content claims, is
4 attached hereto as **Exhibit 2**.

5 20. The Products are intended for children under the age of two. The
6 Products are labeled with the intended age for each Product on the front label,
7 such as "Toddler" and "1+ Years."

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

10 22. Defendants nevertheless make nutrient content claims on the front of
11 the Product labels.

12 23. For example, the Products state on the front label, "IMMUNE
13 HEALTH Dual Prebiotics & Vitamins," "Supports BRAIN DEVELOPMENT
14 Omega-3 DHA & Iron," and "22 NUTRIENTS to help support growth."

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

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

23 25. The Food and Drug Administration regulates nutrition content
24 labeling. According to these regulations, "no nutrient content claims may be
25 made on food intended specifically for use by infants and children less than
26 2 years of age," subject to certain exceptions not applicable here. 21 C.F.R. §
27 101.13(b)(3).

28 26. According to the regulations, nutrient content claims can be expressed

1 or implied. 21 C.F.R. § 101.13(b)(1), 21 C.F.R. § 101.13(b)(2).

2 27. An express nutrient content claim is “any direct statement about
3 the level (or range) of a nutrient in the food.” 21 C.F.R. § 101.13(b)(1). Further,
4 where information that is required or permitted to be “declared in nutrition
5 labeling, and that appears as part of the nutrition label . . . is declared elsewhere
6 on the label or in labeling, it is a nutrient content claim and is subject to the
7 requirements for nutrient content claims.” 21 C.F.R. § 101.13(b)(1).

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

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

20 30. The Fortification Policy only allows for fortification under
21 specific circumstances. The Fortification Policy goes on to list four circumstances
22 where fortification is appropriate:

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

1 d. “to avoid nutritional inferiority” when replacing a traditional food.
2 21 C.F.R. § 104.20(b)-(e).

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

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

26 33. Although California amended its food labeling laws in 1995 in
27 response to the federal implementation of the 1993 Nutrition Labeling and
28 Education Act, California’s regulations of food labels predate the enactment of

1 the Sherman Law. For example, the current Cal. Health & Safety Code § 110660
2 invoked herein states “[a]ny food is misbranded if its labeling is false or
3 misleading in any particular.” California originally enacted this regulation in 1939,
4 previously found at Cal. Health & Safety Code § 26490. *See People v. 748 Cases*
5 *of Life Saver Candy Drops*, 94 Cal. App. 2d 599, 607 (1949) (applying section
6 26490 prohibition on “labeling is false or misleading in any particular” in food
7 labeling claim in 1949).

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

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

16 36. Under California law, a food product that is “misbranded” cannot
17 legally be manufactured, advertised, distributed, sold, or possessed.
18 Misbranded products have no economic value and are legally worthless.

19 37. Representing that the Products will provide certain health benefits
20 by making unlawful nutrient content claims as Defendants’ labels do is prohibited
21 by the aforementioned misbranding laws and regulations.

22 38. The regulations relating to nutrient content claims discussed herein
23 are intended to ensure that consumers are not misled as to the actual or relative
24 nutritional value of food products.

25 **Defendants’ Marketing and Labeling of the Products Violates State and**
26 **Federal Food Labeling Laws**

27 39. The Products are unlawful, misbranded, and violate the Sherman
28 Law, California Health & Safety Code § 110660, *et seq.*, because the Products

1 are intended for children less than 2 years of age and the Products' labels contain
2 nutrient content claims.

3 40. As described above, the Products at issue in this case are intended
4 for children one year and up as evidenced on the front labels and in the Product
5 titles.

6 41. Beyond the Product labels, the Products are also sold in the "Baby
7 Food" grocery store aisles, alongside infant formulas. On information and belief,
8 Defendants direct retailers to sell the Products in the baby food aisle.

9 42. Defendants misbrand the Products by making nutrient content
10 claims that are strictly prohibited by the FDA, and by misleading purchasers into
11 believing that its Products provide physical health benefits in order to induce
12 parents into purchasing the Products.

13 43. The Product labels contain nutrient content claims that are
14 unlawful. As shown in **Exhibit 2**, the Product labels prominently state nutrient
15 content claims on the front label such as "22 NUTRIENTS to help support
16 growth," "IMMUNE HEALTH Dual Prebiotics & Vitamins," and "Supports
17 BRAIN DEVELOPMENT Omega-3 DHA & Iron." Further, at least one of the
18 Products' back labels states: "Big on value, Enfagrow has **22 nutrients** to support
19 your toddler's optimum development (emphasis in original)" The terms "support
20 growth" in conjunction with "22 NUTRIENTS," "IMMUNE HEALTH" in
21 conjunction "Dual Prebiotics & Vitamins," "BRAIN DEVELOPMENT" in
22 conjunction with "Omega-3 DHA & Iron" and "optimum development" in
23 conjunction with "**22 nutrients** (emphasis in original)" are each implied nutrient
24 content claims. *See* 21 C.F.R. § 101.13(b)(2); *FDA, Guidance for Industry: A*
25 *Labeling Guide for Restaurants and Other Retail Establishments Selling Away-*
26 *From-Home Foods*, 2008 WL 2155726, at *10 (April 2008) (explicit statement
27 about a nutrient alongside synonyms of healthy are implied nutrient content claims).

28 44. At least one of the Products includes a "more" claim as defined in 21

1 C.F.R. § 101.54(e). For example, the Enfagrow PREMIUM Toddler Nutritional
 2 Drink states: “[i]t has Omega-3 DHA and Iron to help nourish your toddler’s brain
 3 development, plus dual prebiotics and vitamins, including vitamin C, and zinc to
 4 help support immune health.” In the context of the claim, “including” is a
 5 synonym for “added.” Thus, it is a “more” claim, which is a nutrient content claim.

6 45. The ingredients of the Products with “more” claims include
 7 “Ascorbic Acid” and “Zinc Sulfate.” The “more” claims on these Products are
 8 based on a nutrient that has been added to the food, and the Products must comply
 9 with the Fortification Policy as stated in 21 C.F.R. § 104.20.

10 46. Foods intended for children less than two are prohibited from
 11 making such nutrient content claims. 21 C.F.R. § 101.13(b)(3). Therefore, the
 12 Products are accordingly misbranded.

13 47. The Products with “more” claims are also unlawfully fortified. None
 14 of the four sanctioned bases for fortification is present here. There is no recognition
 15 by the scientific community that there is a dietary insufficiency in Vitamin C or
 16 zinc. To the contrary, as the FDA has recognized, dietary deficiency of Vitamin C
 17 is “extremely rare in the United States.” 56 FR 60624. In addition, per the National
 18 Institutes of Health, “[m]ost people in the United States consume adequate amounts
 19 of zinc”¹. Defendants have not added Vitamin C or zinc to its Products to “restore”
 20 levels of nutrients to those of the Products before storage. The third basis for
 21 fortification relates to foods that are fortified to contain all 21 specified nutrients.
 22 See 21 C.F.R. § 104.20(d)(3). Defendants’ Products do not contain all 21 nutrients.
 23 See Exhibit 2. The fourth basis for fortification is inapplicable because there is no
 24 basis on which to conclude that the Products replace a traditional food. Therefore,
 25 the Products violate the Fortification Policy because none of the conditions for
 26 fortification have been met.

27
 28 ¹ *Zinc Fact Sheet for Health Professionals*, NAT. INST. OF HEALTH,
<https://ods.od.nih.gov/factsheets/Zinc-HealthProfessional/>.

1 48. In addition to being unlawful, the nutrient content claims on the
2 Products are also separately misleading.

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

8 50. The nutrient content claims on the Products mislead reasonable
9 consumers into believing the Products will provide physical health benefits for
10 their children, when in fact the Products are harmful.

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

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

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

27 54. At the time the regulation was implemented, there were
28 Recommended Daily Intakes (“RDI”) and Daily Recommended Values (“DRV”)

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

7 55. The same is true today. For example, there are still RDIs and DRVs
 8 for most nutrients for children under two. Just as in 1991, the RDIs and DRVs of
 9 nutrients is different for different ages, with a different set of values for children 0-
 10 12 months, 1-3 years old, and 4 and above. 21 C.F.R. § 101.9(c)(8)(4). And just as
 11 in 1991, in 2020 a USDA working group concluded “[d]eveloping recommended
 12 food patterns for infants and toddlers ages 6 to 24 months is challenging. . . in part
 13 because the scientific evidence for many questions is relatively scant.” Dietary
 14 Guidelines Advisory Committee. 2020. *Scientific Report of the 2020 Dietary*
 15 *Guidelines Advisory Committee: Advisory Report to the Secretary of Agriculture*
 16 *and the Secretary of Health and Human Services*. (hereinafter “2020 Scientific
 17 Report”).²

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

26 57. The American Academy of Pediatrics (“AAP”) published a clinical
 27

28 ² U.S. Department of Agriculture, Agricultural Research Service,
 Washington, DC. Available at: <https://doi.org/10.52570/DGAC2020>.

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

58. Defendants’ labeling and marketing of their Products capitalize on the exact concerns and beliefs that the AAP describes. For example, the back label of Enfagrow PREMIUM Toddler Nutritional Drink states, “because [toddlers’] tastes and needs are changing at age 1, they may not be getting all the nutrients they require. That’s why Enfagrow Premium Toddler Nutritional Drink complements their diet with 22 nutrients including brain-building DHA and iron, plus vitamins and prebiotics to support immune health.” As a further example, the front label includes the terms “IMMUNE HEALTH” and “BRAIN DEVELOPMENT” within colorful graphics meant to catch the eye. By echoing the nutritional concerns of parents and including claims and graphics about brain development and immune

³ Fuchs GJ, Abrams SA, Amevor AA, et al. American Academy of Pediatrics, Committee on Nutrition. Older Infant-Young Child “Formulas” Pediatrics. 2023; 152(5):e2023064050, available at: https://www.researchgate.net/publication/374896188_Older_Infant-Young_Child_Formulas (last accessed July 2, 2024).

⁴ *Id.*

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

3 59. 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.”⁵ 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 60. 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. Enfagrow PREMIUM Toddler Nutritional Drink and Enfagrow NeuroPro
23 Toddler Nutritional Drink each have 2 grams of added sugars.

24 61. For these reasons, Defendants marketing the Products as providing
25 physical health benefits for toddlers being a healthful and safe source of nutrients
26 for babies and toddlers is misleading to reasonable consumers and the Products are
27

28 ⁵ *Id.*

1 actually harmful for children under two both nutritionally and developmentally.

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

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

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

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

1 64. Defendants have violated 21 U.S.C. § 343(a), and the standards
2 set by FDA regulations, including, but not limited to, 21 C.F.R. §§ 101.13(b),
3 101.13(c), 101.54(e), and 104.20, which have been incorporated by reference
4 in the Sherman Law, by including impermissible nutrient content claims on
5 the labels of foods intended for children less than 2 years of age, including
6 misleading claims on the labels, and fortifying the foods without complying
7 with the Fortification Policy.

8 65. A reasonable consumer would rely on the label claims to decide to
9 purchase the Products. For example, Defendants' nutrient content claims mislead
10 a reasonable consumer to believe the Products provide physical health benefits
11 for their child when in fact, the Products are harmful for children under two both
12 nutritionally and developmentally.

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

18 67. Because consumers pay a price premium for Products that have
19 a nutrient content claim, by labeling the Products as providing nutritional value,
20 Defendants are able to both increase its sales and retain more profits.

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

27 69. The market for toddler food and drink products continues to grow,
28 and because Defendants know consumers rely on the nutrient content claims

1 on the Product labels, Defendants have an incentive to continue to make such
2 misleading and unlawful representations.

3 70. Defendants continue to launch new product lines with nutrient
4 content claims to maintain their competitive edge, making it likely that
5 Defendants will continue to misleadingly advertise their Products.

6 **Plaintiffs' Experiences**

7 **Plaintiff Chelsea Garland**

8 71. Plaintiff Garland is a California citizen residing in San Diego,
9 California.

10 72. In or around May 2023, and for about six (6) months thereafter,
11 Plaintiff Garland purchased the Products for her then one (1) year old child from
12 Target, Vons, Walmart, Ralphs, and/or Albertsons. Plaintiff Garland purchased
13 the Products in reliance on the representations on the packaging that the Products
14 provide physical health benefits for children under two years of age.

15 73. As a result of Defendants' unlawful and misleading nutrient content
16 claims, the Products have no, or at a minimum, a much lower value to Plaintiff
17 Garland.

18 74. Plaintiff Garland not only purchased the Products because the labels
19 contained nutrient content claims, but she also paid more money for the Products
20 than she would have paid for them if they did not contain nutrient content claims.

21 75. Had Defendants not unlawfully and misleadingly labeled the
22 Products, Plaintiff Garland would not have purchased them or, at a very
23 minimum, she would have paid less for the Products.

24 76. Plaintiff Garland regularly shops at stores and online retailers where
25 the Products and other baby food products are sold.

26 **Plaintiff Estelita Rey**

27 77. Plaintiff Rey is a California citizen residing in Valley Village,
28 California.

1 78. In or around 2022, and for about one (1) year thereafter, Plaintiff Rey
2 purchased Enfagrow for her then one (1) year old child from Target and other
3 retailers. Plaintiff Rey purchased the Products in reliance on the representations
4 on the packaging that the Products provide physical health benefits for children
5 under two years of age.

6 79. As a result of Defendants' unlawful and misleading nutrient content
7 claims, the Products have no, or at a minimum, a much lower value to Plaintiff
8 Rey.

9 80. Plaintiff Rey not only purchased the Products because the labels
10 contained nutrient content claims, but she also paid more money for the Products
11 than she would have paid for them if they did not contain nutrient content claims.

12 81. Had Defendants not unlawfully and misleadingly labeled the
13 Products, Plaintiff Rey would not have purchased them or, at a very minimum,
14 she would have paid less for the Products.

15 82. Plaintiff Rey regularly shops at stores and online retailers where the
16 Products and other baby food products are sold.

17 **Plaintiff Zachary Williams**

18 83. Plaintiff Williams is a California citizen residing in Highland,
19 California.

20 84. In or around October 2022 and about two (2) to three (3) times per
21 month for about six (6) months thereafter, Plaintiff Williams purchased the
22 Products for his then one (1) year old child from Albertsons. Plaintiff Williams
23 purchased the Products in reliance on the representations on the packaging that the
24 Products provide physical health benefits for children under two years of age.

25 85. As a result of Defendants' unlawful and misleading nutrient content
26 claims, the Products have no, or at a minimum, a much lower value to Plaintiff
27 Williams.

28 86. Plaintiff Williams not only purchased the Products because the

1 labels contained nutrient content claims, but he also paid more money for the
2 Products than he would have paid for them if they did not contain nutrient content
3 claims.

4 87. Had Defendants not unlawfully and misleadingly labeled the
5 Products, Plaintiff Williams would not have purchased them or, at a very
6 minimum, he would have paid less for the Products.

7 88. Plaintiff Williams regularly shops at stores and online retailers where
8 the Products and other baby food products are sold.

9 **CLASS ACTION ALLEGATIONS**

10 89. Plaintiffs bring this lawsuit as a class action on behalf of themselves
11 and all others similarly situated as members of the proposed Class pursuant to
12 Federal Rules of Civil Procedure 23(a) and 23(b)(3). This action satisfies the
13 numerosity, commonality, typicality, adequacy, predominance, and superiority
14 requirements of those provisions.

15 90. The Class and Sub-Classes are defined as:

16 **Class:** All persons in the State of California who
17 purchased the Products between 2021 and the present.

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

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

1 92. Numerosity: Although the exact number of Class Members is
2 uncertain, and can only be ascertained through appropriate discovery, the number
3 is significant enough such that joinder is impracticable. The disposition of the
4 claims of these Class Members in a single action will provide substantial benefits
5 to all parties and to the Court. The Class Members are readily identifiable from
6 information and records in Defendants' possession, custody, or control.

7 93. Typicality: Plaintiffs' claims are typical of the claims of the Class in
8 that Plaintiffs, like all Class Members, purchased the Products designed,
9 manufactured, and distributed by Defendants. The representative Plaintiffs, like
10 all Class Members, have been damaged by Defendants' misconduct in that they
11 have incurred the cost of purchasing the Products. Furthermore, the factual bases
12 of Defendants' misconduct are common to all Class Members and represent a
13 common thread resulting in injury to the Class.

14 94. Commonality: There are numerous questions of law and fact
15 common to Plaintiffs and the Class that predominate over any question affecting
16 Class Members individually. These common legal and factual issues include the
17 following:

- 18 (a) Whether the marketing, advertising, packaging, labeling, and
19 other promotional materials for the Products are deceptive
20 and/or unlawful;
- 21 (b) Whether Defendants' actions violate Federal and California
22 laws invoked herein;
- 23 (c) Whether labeling the Products with unlawful nutrient content
24 claims causes the Products to command a price premium in
25 the market as compared with similar products that do not make
26 such unlawful claims;
- 27 (d) Whether Defendants' advertising and marketing regarding
28 the Products was likely to deceive reasonable consumers;

- (e) Whether representations regarding the nutrient content of the Products are material to a reasonable consumer;
- (f) Whether Defendants' engaged in the behavior knowingly, recklessly, or negligently;
- (g) The amount of profits and revenues earned by Defendants as a result of the conduct;
- (h) Whether class members are entitled to restitution, injunctive and other equitable relief and, if so, what is the nature (and amount) of such relief; and
- (i) Whether class members are entitled to payment of actual, incidental, consequential, exemplary and/or statutory damages plus interest thereon, and if so, what is the nature of such relief.

95. Adequate Representation: Plaintiffs will fairly and adequately protect the interests of the Class Members. Plaintiffs have retained attorneys experienced in the prosecution of class actions, and Plaintiffs intend to vigorously prosecute this action.

96. Predominance and Superiority: Plaintiffs and Class Members have all suffered, and will continue to suffer, harm and damages as a result of Defendants' unlawful and wrongful conduct. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. Absent a class action, most Class Members would likely find the cost of litigating their claims prohibitively high and would therefore have no effective remedy. Because of the relatively small size of the individual Class Members' claims, it is likely that only a few Class Members could afford to seek legal redress for Defendants' misconduct. Absent a class action, Class Members will continue to incur damages, and Defendants' misconduct will continue unabated without remedy or relief. Class treatment of common questions of law and fact would also be a superior method to multiple individual actions or piecemeal litigation in that it will

1 conserve the resources of the courts and the litigants and promote consistency and
2 efficiency of adjudication.

3 **FIRST CAUSE OF ACTION**

4 **Violation of California’s Consumer Legal Remedies Act (“CLRA”),**

5 **Cal Civ. Code § 1750, *et seq.***

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

7 97. Plaintiffs incorporate by reference each allegation set forth above.

8 98. Plaintiffs bring this cause of action individually and on behalf of the
9 members of the CLRA Sub-Class.

10 99. Defendants are “person[s]” as defined by the CLRA. Cal. Civ. Code
11 § 1761(c).

12 100. Plaintiffs and CLRA Sub-Class Members are “consumers” within the
13 meaning of the CLRA. Cal. Civ. Code § 1761(d).

14 101. The purchase of the Products by Plaintiffs and the CLRA Sub-Class
15 Members constitute “transactions” as defined by the CLRA. Cal. Civ. Code
16 § 1761(e).

17 102. The Products constitute “goods” or “services” as defined by the
18 CLRA. Cal. Civ. Code § 1761(a) and (b).

19 103. Plaintiffs and the CLRA Sub-Class Members purchased the Products
20 primarily for personal, family, and household purposes as meant by the CLRA.
21 Cal. Civ. Code § 1761(d).

22 104. Defendants’ representations, active concealments, omissions, and
23 failures to disclose regarding the Products violated the CLRA in the following
24 ways:

25 105. Defendants’ acts and practices, set forth in this Class Action
26 Complaint, led Plaintiffs and other similarly situated consumers to falsely
27 believe that the Products provide physical health benefits for their child when in
28 fact, the Products are harmful for children under two both nutritionally and

1 developmentally. By engaging in the actions, representations and conduct set
2 forth in this Class Action Complaint, Defendants have violated, and continue
3 to violate, § 1770(a)(2), § 1770(a)(5), § 1770(a)(7), and § 1770(a)(8) of the CLRA.

4 106. In violation of California Civil Code §1770(a)(2), Defendants'
5 acts and practices constitute improper representations regarding the source,
6 sponsorship, approval, or certification of the goods they sold.

7 107. In violation of California Civil Code §1770(a)(5), Defendants'
8 acts and practices constitute improper representations that the goods they
9 sell have sponsorship, approval, characteristics, ingredients, uses, benefits, or
10 quantities, which they do not have.

11 108. In violation of California Civil Code §1770(a)(7), Defendants'
12 acts and practices constitute improper representations that the goods it sells
13 are of a particular standard, quality, or grade, when they are of another.

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

17 110. Plaintiffs and the CLRA Sub-Class Members seek an order enjoining
18 Defendants' unfair or deceptive acts or practices and equitable relief under Cal.
19 Civ. Code § 1780(e), and any other just and proper relief available under the
20 CLRA.

21 111. Plaintiffs provided Defendants with notice of their violations of the
22 CLRA pursuant to California Civil Code § 1782(a), via letter dated April 30, 2024.
23 Defendants failed to provide appropriate relief for their violations of the CLRA.
24 Accordingly, California Plaintiffs now seek monetary, compensatory, and punitive
25 damages, in addition to the injunctive and equitable relief that they seek on behalf
26 of themselves and the CLRA Sub-Class.

SECOND CAUSE OF ACTION

Violation of California's Unfair Competition Law,

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

(On behalf of the Class)

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

113. Plaintiffs bring this cause of action individually and on behalf of Class Members.

114. California Business & Professions Code § 17200 prohibits “unfair competition” including any “unlawful, unfair, or fraudulent business practice” and “unfair, deceptive, untrue or misleading advertising.” Defendants engaged in conduct that violated each of this statute’s three prongs.

115. Defendants have engaged, and continue to engage, in unfair practices as described herein, in violation of the Unfair Competition Law, California Business & Professions Code §§ 17200 *et seq.* (the “UCL”), by, without limitation, including unlawful nutrient content claims on the Products’ labels and thereby selling Products that were not capable of being sold or held legally and which were legally worthless.

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

1 Safety Code §§ 110100(a), 110380, and 110505).

2 117. Defendants have engaged, and continue to engage, in fraudulent
3 practices as described herein, in violation of the UCL, by, without limitation,
4 including unlawful nutrient content claims on the Product labels and thereby
5 selling Products that were not capable of being sold or held legally and which were
6 legally worthless.

7 118. Plaintiffs and those similarly situated relied to their detriment on
8 Defendants' unlawful, unfair, and fraudulent business practices. Had Plaintiffs
9 and those similarly situated been adequately informed and not deceived by
10 Defendants, they would have acted differently by, without limitation: (i) declining
11 to purchase the Products, (ii) purchasing less of the Products, or (iii) paying less
12 for the Products.

13 119. Defendants' acts and omissions are likely to deceive the general
14 public.

15 120. Defendants engaged in these deceptive and unlawful practices to
16 increase their profits. Accordingly, Defendants have engaged in unlawful trade
17 practices, as defined and prohibited by section 17200, *et seq.* of the California
18 Business and Professions Code.

19 121. The aforementioned practices, which Defendants have used to
20 their significant financial gain, also constitute unlawful competition and provide
21 an unlawful advantage over Defendants' competitors as well as injury to the
22 general public.

23 122. As a direct and proximate result of such actions, Plaintiffs and the
24 other Class members, have suffered and continue to suffer injury in fact and
25 have lost money and/or property as a result of such deceptive and/or unlawful
26 trade practices and unfair competition in an amount which will be proven at trial,
27 but which is in excess of the jurisdictional minimum of this Court. In particular,
28 Plaintiffs and those similarly situated paid a price premium for the Products,

1 i.e., the difference between the price consumers paid for the Products and the
2 price that they would have paid but for Defendants' misrepresentation. This
3 premium can be determined by using econometric or statistical techniques such
4 as hedonic regression or conjoint analysis. Alternatively, Plaintiffs and those
5 similarly situated will seek a full refund of the price paid upon proof that the sale
6 of the Products was unlawful.

7 123. As a direct and proximate result of such actions, Defendants have
8 enjoyed, and continue to enjoy, significant financial gain in an amount which
9 will be proven at trial, but which is in excess of the jurisdictional minimum of
10 this Court.

11 124. Plaintiffs seek, on behalf of themselves and those similarly situated,
12 equitable relief, including restitution for the premium and/or the full price that they
13 and others paid to Defendants as result of Defendants' conduct. Plaintiffs and
14 the Class lack an adequate remedy at law to obtain such relief with respect to
15 their "unfairness" claims in this UCL cause of action, because there is no cause of
16 action at law for "unfair" conduct. Plaintiffs and the Class similarly lack an
17 adequate remedy at law to obtain such relief with respect to their "unlawfulness"
18 claims in this UCL cause of action because the Sherman Law (Articles 3 and 6)
19 and the Federal laws and regulations referenced herein do not provide a direct
20 cause of action, so Plaintiffs and the Class must allege those violations as predicate
21 acts under the UCL to obtain relief.

22 125. Plaintiffs also seek equitable relief, including restitution, with respect
23 to their UCL unlawfulness claims for violations of the CLRA, FAL and her
24 UCL "fraudulent" claims. Pursuant to Federal Rule of Civil Procedure 8(e)(2),
25 Plaintiffs make the following allegations in this paragraph only hypothetically and
26 as an alternative to any contrary allegations in their other causes of action, in the
27 event that such causes of action do not succeed. Plaintiffs and the Class may be
28 unable to obtain monetary, declaratory and/or injunctive relief directly under

1 other causes of action and will lack an adequate remedy of law, if the Court
2 requires them to show classwide reliance and materiality beyond the objective
3 reasonable consumer standard applied under the UCL, because Plaintiffs may
4 not be able to establish each Class member's individualized understanding
5 of Defendants' misleading representations as described in this Complaint, but
6 the UCL does not require individualized proof of deception or injury by absent
7 class members. *See, e.g., Stearns v Ticketmaster*, 655 F.3d 1013, 1020, 1023-25
8 (distinguishing, for purposes of CLRA claim, among class members for whom
9 website representations may have been materially deficient, but requiring
10 certification of UCL claim for entire class).

11 126. Plaintiffs seek, on behalf of themselves and those similarly situated,
12 a declaration that the above-described trade practices are fraudulent, unfair, and/or
13 unlawful.

14 127. Plaintiffs seek, on behalf of themselves and those similarly situated,
15 an injunction to prohibit Defendants from continuing to engage in the deceptive
16 and/or unlawful trade practices complained of herein. Such misconduct by
17 Defendants, unless and until enjoined and restrained by order of this Court, will
18 continue to cause injury in fact to the general public and the loss of money and
19 property in that Defendants will continue to violate the laws of California,
20 unless specifically ordered to comply with the same. This expectation of future
21 violations will require current and future consumers to repeatedly and
22 continuously seek legal redress in order to recover monies paid to Defendants
23 to which they were not entitled. Plaintiffs, those similarly situated and/or other
24 consumers nationwide have no other adequate remedy at law to ensure future
25 compliance with the California Business and Professions Code alleged to have
26 been violated herein.

THIRD CAUSE OF ACTION

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

(On behalf of the Class)

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

129. Plaintiffs bring this cause of action individually and on behalf of Class Members.

130. Beginning at an exact date unknown to Plaintiffs, but within three (3) years preceding the filing of the Class Action Complaint, Defendants made untrue, false, deceptive and/or misleading statements in connection with the advertising and marketing of the Products.

131. Defendants made representations and statements (by omission and commission) that led reasonable customers to believe that the Products that they were purchasing were physically beneficial for their young children.

132. Plaintiffs and those similarly situated relied to their detriment on Defendants' misleading and deceptive advertising and marketing practices, including each of the unlawful claims set forth above. Had Plaintiffs and those similarly situated been adequately informed and not intentionally deceived by Defendants, they would have acted differently by, without limitation, refraining from purchasing the Products or paying less for them.

133. Defendants' acts and omissions are likely to deceive reasonable consumers and the general public.

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

135. The aforementioned practices, which Defendants used, and continue to use, to their significant financial gain, also constitute unlawful competition and provide an unlawful advantage over Defendants' competitors as well as

1 injury to the general public.

2 136. As a direct and proximate result of such actions, Plaintiffs and the
3 other Class members have suffered, and continue to suffer, injury in fact and
4 have lost money and/or property as a result of such false, deceptive and
5 misleading advertising in an amount which will be proven at trial, but which is
6 in excess of the jurisdictional minimum of this Court. In particular, Plaintiffs,
7 and those similarly situated, paid a price premium for the Products, i.e., the
8 difference between the price consumers paid for the Products and the price that
9 they would have paid but for Defendants' false, deceptive and misleading
10 advertising.

11 137. Plaintiffs seek equitable relief, including restitution, with respect
12 to their FAL claims.

13 138. Plaintiffs seek, on behalf of themselves and those similarly situated, a
14 declaration that the above-described practices constitute false, misleading and
15 deceptive advertising.

16 139. Plaintiffs seek, on behalf of themselves and those similarly situated,
17 an injunction to prohibit Defendants from continuing to engage in the false,
18 misleading and deceptive advertising and marketing practices complained of
19 herein. Such misconduct by Defendants, unless and until enjoined and restrained
20 by order of this Court, will continue to cause injury in fact to the general public
21 and the loss of money and property in that Defendants will continue to violate the
22 laws of California, unless specifically ordered to comply with the same. This
23 expectation of future violations will require current and future consumers to
24 repeatedly and continuously seek legal redress in order to recover monies paid
25 to Defendants to which they are not entitled. Plaintiffs, those similarly situated
26 and/or other California consumers have no other adequate remedy at law to
27 ensure future compliance with the California Business and Professions Code
28 alleged to have been violated herein.

FOURTH CAUSE OF ACTION

Common Law Fraud, Deceit, and/or Misrepresentation

(On behalf of the Class)

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

141. Plaintiffs bring this cause of action individually and on behalf of Class Members.

142. Defendants have fraudulently and deceptively included unlawful nutrient content claims on the Product labels.

143. The unlawfulness of the claims was known exclusively to, and actively concealed by, Defendants, not reasonably known to Plaintiffs, and material at the time they were made. Defendants' unlawful statements concerned material facts that were essential to the analysis undertaken by Plaintiffs as to whether to purchase the Products. In misleading Plaintiffs and not so informing them, Defendants breached their duty to Plaintiffs. Defendants also gained financially from, and as a result of, their breach.

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

145. By and through such fraud, deceit, and unlawful representations, Defendants intended to induce Plaintiffs and those similarly situated to alter their position to their detriment. Specifically, Defendants fraudulently and deceptively induced Plaintiffs and those similarly situated to, without limitation, purchase the Products.

146. Plaintiffs and those similarly situated justifiably and reasonably relied on Defendants' unlawful representations, and, accordingly, were damaged by Defendants.

147. As a direct and proximate result of Defendants' unlawful representations, Plaintiffs and those similarly situated have suffered damages, including, without limitation, the amount they paid for the Products.

148. Defendants' conduct as described herein was willful and malicious and was designed to maximize Defendants' profits even though Defendants knew that it would cause loss and harm to Plaintiffs and those similarly situated.

FIFTH CAUSE OF ACTION

For Unjust Enrichment

(On Behalf of the Class)

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

150. Plaintiffs bring this cause of action on behalf of themselves and the Class.

151. Defendants have received and retained a benefit from Plaintiffs and Class Members, and inequity has resulted.

152. Defendants have been unjustly enriched in retaining the revenues from Plaintiffs' and Class Members' purchases of the Products, which retention is unjust and inequitable, because Defendants sold Products that were not capable of being sold or held legally and which were legally worthless. Plaintiffs paid a premium price for the Products.

153. Because Defendants' retention of the non-gratuitous benefit conferred on them by Plaintiffs and Class members is unjust and inequitable, Defendants must pay restitution and nonrestitutionary disgorgement of profits to Plaintiffs and the Class members for its unjust enrichment, as ordered by the Court. Plaintiffs and those similarly situated have no adequate remedy at law to obtain this restitution.

154. Plaintiffs, therefore, seek an order requiring Defendants to pay nonrestitutionary disgorgement of profits and make restitution to them and other members of the Class.

SIXTH CAUSE OF ACTION

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

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

156. Plaintiffs bring this cause of action on behalf of themselves and the Class.

157. Plaintiffs bring this cause of action for restitution pursuant to Section 17535 of the Business and Professions Code. Pursuant to Rule 8(a)(3) of the Federal Rules of Civil Procedure, Plaintiffs seek restitution in the alternative to the damages they seek in their first through fifth causes of action. Plaintiffs are entitled to restitution because they lack an adequate remedy at law; the legal remedies available to them are not as equally prompt and certain, and in other ways efficient.

158. Defendants violated Section 17501 of the Business and Professions Code by through their misleading and deceptive advertising and marketing practices.

159. Defendants made representations and statements (by omission and commission) that led reasonable customers to believe that the Products that they were purchasing were physically beneficial for their young children.

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

161. Defendants violated Section 17501 in order to induce Plaintiffs and the class members to purchase the Products based on the false impression that they are physically beneficial for their young children.

162. Plaintiffs and the class members reasonably relied on Defendants' representations and/or omissions made in violation of Section 17501, and were thereby induced to pay more for Defendants' Products and make purchases they would not have otherwise made.

163. As a direct and proximate result of Defendants' violations of Section 17501, Defendants have improperly acquired money from Plaintiffs and the class members. As such, Plaintiffs request this Court order Defendants to restore this money to them and all class members.

RELIEF REQUESTED

164. Plaintiffs, on behalf of themselves and all others similarly situated, request the Court enter judgment against Defendants, as follows:

- (a) An order certifying the proposed Class and Sub-Class, designating Plaintiffs as named representatives of the Class, and designating the undersigned as Class Counsel;
- (b) An order temporarily and permanently enjoining Defendants from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in this Complaint;
- (c) An award to Plaintiffs and the Class for compensatory, exemplary, and statutory damages, including interest, in an amount to be proven at trial;
- (d) Any and all remedies provided pursuant to the causes of action and statutes alleged herein;
- (e) A declaration that Defendants must disgorge, for the benefit of the Class, all or part of the ill-gotten profits it received from the sale of the Products or make full restitution to Plaintiffs and Class Members;
- (f) An award of attorneys' fees and costs, as allowed by law;
- (g) An award of pre-judgment and post-judgment interest, as provided by law;
- (h) Leave to amend the Complaint to conform to the evidence produced at trial; and
- (i) Such other relief as may be appropriate under the

1 circumstances.

2 **DEMAND FOR JURY TRIAL**

3 165. Pursuant to Federal Rule of Civil Procedure 38(b) and Southern
4 District of California Local Rule 38.1, Plaintiffs hereby demand a trial by jury of
5 all issues in this action so triable.

6 Dated: July 5, 2024

7 Respectfully submitted,

8 Capstone Law APC

9 By: /s/ Laura E. Goolsby

10 Tarek H. Zohdy
11 Cody R. Padgett
12 Laura E. Goolsby
13 Nathan N. Kiyam

14 Attorneys for Plaintiffs
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CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CHELSEA GARLAND, ESTELITA REY, and ZACHARY WILLIAMS,
individually, and on behalf of a class of similarly situated individuals,

(b) County of Residence of First Listed Plaintiff San Diego (CA)
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

CAPSTONE LAW APC

TAREK H. ZOHDY, CODY R. PADGETT, LAURA E. GOOLSBY, NATHAN N. KIYAM
1875 CENTURY PARK EAST, SUITE 1000, LOS ANGELES, CA 90067

(310) 556-4811

DEFENDANTS

MEAD JOHNSON & COMPANY, LLC, a Delaware limited liability company;
MEAD JOHNSON NUTRITION COMPANY, a Delaware corporation; and
RECKITT BENCKISER LLC, a Delaware limited liability company,

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

'24CV1168 L SBC

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332(d); 28 U.S.C. § 1391

Brief description of cause:
Violations of CLRA, UCL, and Similar Laws of other States

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
5000001.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

July 5, 2024

SIGNATURE OF ATTORNEY OF RECORD

/s/ Laura E. Goolsby

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

EXHIBIT 1

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5 CAPSTONE LAW APC
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6 Los Angeles, California 90067
Telephone: (310) 556-4811
7 Facsimile: (310) 943-0396

8 Attorneys for Plaintiffs

9
10 UNITED STATES DISTRICT COURT
11 SOUTHERN DISTRICT OF CALIFORNIA

12 CHELSEA GARLAND, ESTELITA
13 REY, and ZACHARY WILLIAMS,
individually, and on behalf of a class
of similarly situated individuals,

14 Plaintiffs,

15 v.

16 MEAD JOHNSON & COMPANY,
17 LLC, a Delaware limited liability
company; MEAD JOHNSON
18 NUTRITION COMPANY, a
Delaware corporation; and
19 RECKITT BENCKISER LLC, a
Delaware limited liability company,

20 Defendant.

Case No.: '24CV1168 L SBC

**DECLARATION OF LAURA E.
GOOLSBY IN SUPPORT OF VENUE
FOR CLASS ACTION COMPLAINT
PURSUANT TO CIVIL CODE §
1780(d)**

DECLARATION OF LAURA E. GOOLSBY

I, Laura E. Goolsby, declare under penalty of perjury as follows:

1. I am an attorney with the law firm of Capstone Law APC and am admitted to practice in California, including within the Southern District of California. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information and belief, and as to those matters, I believe them to be true. I am over the age of eighteen, a citizen of the State of California, and counsel for Plaintiff in this action.

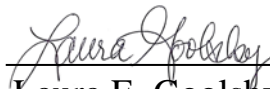
2. Pursuant to California Civil Code §1780(d), this Declaration is submitted in support of the Selection of Venue for the Trial of Plaintiff Chelsea Garland's Cause of Action alleging violation of California's Consumers Legal Remedies Act.

3. In or around May 2023, Plaintiff Chelsea Garland, who resides in the County of San Diego and within the Southern District of California, purchased the Products that are the subject of this action, from Target, Vons, Walmart, Ralphs, and/or Albertsons, also in the County of San Diego and within the Southern District of California.

4. Based on the facts set forth herein, this Court is a proper venue for the prosecution of Plaintiff's Cause of Action alleging violation of California's Consumers Legal Remedies Act because a substantial portion of the events giving rise to Garland's claims occurred in Southern District of California.

5. I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct.

Executed on July 5, 2024, in Fullerton, California.



Laura E. Goolsby

EXHIBIT 2

PRODUCT	AGE ON LABEL	NUTRIENT CONTENT CLAIMS
Enfagrow PREMIUM Toddler Nutritional Drink	1+ Years	<ul style="list-style-type: none"> - IMMUNE HEALTH Dual Prebiotics & Vitamins - Supports BRAIN DEVELOPMENT Omega-3 DHA & Iron - 22 NUTRIENTS to help support growth

Front and Back Labels:



PRODUCT	AGE ON LABEL	NUTRIENT CONTENT CLAIMS
Enfagrow NEUROPRO Toddler Nutritional Drink	1+ Years	<ul style="list-style-type: none"> - IMMUNE HEALTH Dual Prebiotics & Vitamins - Supports BRAIN DEVELOPMENT Omega-3 DHA & Iron - 24 NUTRIENTS to help support growth

Front and Back Labels:



ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Enfagrow Lawsuit Alleges Toddler Drinks Are Misbranded Due to FDA-Prohibited Nutrient Content Label Claims](#)
