

**CLARKSON LAW FIRM, P.C.**

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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

THOMAS IGLESIAS, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

HORNELL BREWING CO., INC.

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

1. VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT, CIVIL CODE § 1750, *et. seq.*
2. VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, BUSINESS AND PROFESSIONS CODE § 17500, *et. seq.*
3. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, BUSINESS AND PROFESSIONS CODE § 17200, *et. seq.*
4. UNJUST ENRICHMENT
5. BREACH OF EXPRESS WARRANTY

**DEMAND FOR JURY TRIAL**

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1 Plaintiff Thomas Iglesias, (“Plaintiff”), individually and on behalf of all other similarly  
2 situated purchasers (the “Class”), brings this class action lawsuit against Hornell Brewing Co., Inc.  
3 (referred to herein as “Defendant”), and alleges as follows:

4  
5 **INTRODUCTION**

6 1. Defendant falsely labels and advertises its AriZona beverage products, including but  
7 not limited to, AriZona Kiwi Strawberry Fruit Juice Cocktail, Lemonade Fruit Juice Cocktail,  
8 Mucho Mango Fruit Juice Cocktail, Fruit Punch Fruit Juice Cocktail, Orangeade, Grapeade,  
9 Lemonade Drink Mix, Golden Bear Strawberry Lemonade, and Rx Energy as being “All Natural,”  
10 when in reality, they contain added coloring, including but not limited to “beta carotene,” “fruit and  
11 vegetable juices,” “annatto,” and “vegetable juice.” The “All Natural” AriZona beverages are  
12 collectively referred to as (the “Products”). See Figures 1-10, *infra*. The prominent label “ALL  
13 NATURAL” is depicted on the front of the Product container, to mislead consumers to believe that  
14 the Products are entirely natural.



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1 Ste. 400, Woodbury, New York 11797. Hornell Brewing Co., Inc., directly and through its agents,  
2 has substantial contacts with and receives substantial benefits and income from and through the  
3 State of California. Hornell Brewing Co., Inc. is the owner, manufacturer, and distributor of the  
4 Products, and is the company that created and/or authorized the false, misleading, and deceptive  
5 packaging of the Products.

6 **JURISDICTION AND VENUE**

7 8. This Court has subject matter jurisdiction of this action pursuant to 28 U.S.C. Section  
8 1332 and the Class Action Fairness Act of 2005 because: (i) there are 100 or more class members,  
9 (ii) there is an aggregate amount in controversy exceeding \$5,000,000, exclusive of interest and  
10 costs, and (iii) there is minimal diversity because at least one plaintiff and defendant are citizens of  
11 different states. This Court has supplemental jurisdiction over any state law claims pursuant to 28  
12 U.S.C. Section 1367.

13 9. Pursuant to 28 U.S.C. Section 1391, this Court is the proper venue for this action  
14 because a substantial part of the events, omissions, and acts giving rise to the claims herein occurred  
15 in this District. Plaintiff is a citizen of California who resides in San Francisco County; Defendant  
16 made the challenged false representations to Plaintiff in San Francisco County; Plaintiff purchased  
17 the Product in this County; and Plaintiff consumed the Product in this County. Moreover, Defendant  
18 receives substantial compensation from sales in San Francisco County, actively advertises and sells  
19 Products in San Francisco County, and Defendant made numerous misrepresentations through its  
20 advertising and labeling of Products which had a substantial effect in San Francisco County.

21 10. Defendant is subject to personal jurisdiction in California based upon sufficient  
22 minimum contacts which exist between Defendant and California. Defendant is authorized to do  
23 and is doing business in California.

24 **FACTUAL ALLEGATIONS**

25 11. Defendant labels and advertises its Products being “All Natural.” In reality, the  
26 Products cannot be labeled as “All Natural” because they contain added coloring. The specific food  
27 coloring agents in the Products are “vegetable juice,” “fruit and vegetable juices,” “annatto,” and  
28 “beta carotene.”

1 12. Consumers are willing to pay more for all natural products because of the association  
 2 with a healthy and organic diet. According to Nielsen’s 2015 Global Health & Wellness Survey that  
 3 polled over 30,000 people, 88% of Americans are willing to pay more for healthier foods.<sup>1</sup> This  
 4 sentiment is further evidenced by the fact that global sales of health foods reached \$1 trillion in  
 5 2017, according to Euromonitor.<sup>2</sup>

6 13. By representing the Products to be “All Natural,” Defendant seeks to capitalize on  
 7 consumers’ preference for food items with no artificial additives.

8 14. Defendant’s practice of capitalizing on consumers’ preferences for healthier products  
 9 is deceptive. This deception continues today, as consumers continue to purchase the Products under  
 10 the mistaken belief that they are all natural based on Defendant’s false, deceptive, and misleading  
 11 label claims “All Natural.”

12 15. Plaintiff and other consumers of the Products made their purchase decisions in  
 13 reliance upon Defendant’s advertised claims that that Products are “All Natural.”

14 16. By falsely labeling the Products as being “All Natural,” Defendant has profited from  
 15 consumers’ preference for food products that are perceived to be healthier and made free from any  
 16 added coloring.

17 **A. Defendant’s “All Natural” Label Claim**

18 17. The Food and Drug Administration (“FDA”) does not regard foods with added  
 19 coloring as natural, no matter the source of the coloring agent. According to their guidelines, they  
 20 “have considered ‘natural’ to mean that nothing artificial or synthetic (including colors regardless  
 21 of source) is included in, or has been added to, the product that would not normally be expected to  
 22 be there (56 FR 60421 at 60466).”<sup>3</sup>

23 \_\_\_\_\_  
 24 <sup>1</sup> See Global Health and Wellness Report 2015, NIELSON,  
 25 [https://www.nielsen.com/wp-](https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/Nielsen20Global20Health20and20Wellness20Report20-20January202015-1.pdf)  
 26 [content/uploads/sites/3/2019/04/Nielsen20Global20Health20and20Wellness20Report20-](https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/Nielsen20Global20Health20and20Wellness20Report20-20January202015-1.pdf)  
 27 [20January202015-1.pdf](https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/Nielsen20Global20Health20and20Wellness20Report20-20January202015-1.pdf) (last visited February 15, 2022).

28 <sup>2</sup> See Health and Wellness the Trillion Dollar Industry in 2017, EUROMONITOR,  
[https://blog.euromonitor.com/health-and-wellness-the-trillion-dollar-industry-in-2017-key-](https://blog.euromonitor.com/health-and-wellness-the-trillion-dollar-industry-in-2017-key-research-highlights)  
[research-highlights](https://blog.euromonitor.com/health-and-wellness-the-trillion-dollar-industry-in-2017-key-research-highlights) (last visited February 15, 2022).

<sup>3</sup> Leslie Kux, *FDA Rulemaking Re Term Natural*, 12 November 2015.  
<https://www.federalregister.gov/documents/2015/11/12/2015-28779/use-of-the-term-natural-in->

1 18. On November 10, 2015, in response to citizen petitions and consumer requests, the  
2 FDA announced the establishment of a docket to receive information and comments on the use of  
3 the term “natural” in the labeling of human food products to determine whether a definition of  
4 “natural” should be established.

5 19. Among the 7,687 public comments received by the FDA, not one comment from the  
6 public stated that “natural” should be allowed in food labeling if color is added to a food; rather,  
7 hundreds of comments stated “natural” should only be used for foods which are free from added  
8 coloring. Some representative examples include:

9 a. “When I see the word ‘Natural’ on packaging, I expect the contents to have  
10 only ingredients as they are found in nature. No chemicals, no coloring, no flavoring, no GMO’s.”  
11 (Comment from Kristine Milochik. Posted 02/23/2016)

12 b. “I think the term ‘Natural’ should be banned from food labeling. It is too  
13 ambiguous! It should be removed from all descriptors, including: Natural Flavor, Natural colors,  
14 All Natural and so on. I think for the interest of transparency all food ingredients should be simply  
15 labeled. The consumer has the right to know what they are eating or drinking.” (Comment from  
16 Daniel Kinkelaar. Posted 08/26/2016)

17 c. “I firmly believe that consumers should be made aware of what they are  
18 purchasing when shopping for food and too many times companies are fooling the public by using  
19 the word ‘Natural’ when in fact it is not. When I see the word Natural on a food product, I consider  
20 this to mean that it is free from all additives, GMOs, Preservatives, Drugs, or colors. It is in it’s  
21 natural state. I would like to see the FDA put more stringent requirements on companies who wish  
22 to use this term in their products.” (Comment from Artemis Hader. Posted on 02/18/2016)

23 d. “The term ‘Natural’ should only appear on foods that are organic without any  
24 preservatives or man-made chemicals. The food should be GMO-free and contain no added colors,  
25 flavors, or synthetic substances. If a food product fails to meet any of these requirements, then it  
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the-labeling-of-human-food-products-request-for-information-and-comments (Last visited  
February 15, 2022).

1 should not be allowed to have the label ‘Natural’ on it.” (Comment from Sara Burr. Posted on  
2 03/16/2016)

3 e. “Natural should indeed mean no preservatives, additives, GMO's and or flavor  
4 or color enhancers...” (Comment from Roy Collicutt. Posted on 03/15/2016)

5 20. To date, the FDA has not announced its decision to further define or regulate the term  
6 “natural” in food labeling.

7 21. The “All Natural” label is prominently and conspicuously printed on the front of the  
8 Products. But the added coloring agents in the Products render the “All Natural” label claims false.  
9 The added coloring agents, regardless of their source, are not ingredients consumers would normally  
10 expect to be included products that are labeled as “All Natural.”

11 22. There are market incentives for companies to label their products as “natural.”  
12 According to a national representative survey, more than half of consumers look for products with  
13 a “natural” food label, often under “the false belief that they’re produced without...artificial  
14 ingredients.”<sup>4</sup> As stated *supra*, the FDA considers “natural” to be defined as a product that includes  
15 nothing artificial “including colors *regardless of source*” [emphasis added].<sup>5</sup> The process by which  
16 naturally-sourced food coloring is added to products alters their status and renders them as no longer  
17 “natural.” Therefore, the reasonable consumer will pay a price premium for products with an “All  
18 Natural” label because they believe these products are safer, more nutritious, or otherwise have  
19 different attributes than products that do not have the label, all things being equal. Thus, these  
20 market forces push producers, like Defendant, to deceptively label their products as “All Natural”  
21 to give themselves a market advantage.

22 23. Reasonable consumers do not expect a product prominently labeled as “All Natural”  
23 to have added coloring. The Products’ labels have the “capacity, likelihood, or tendency to deceive  
24 or confuse the public” into believing that they are fully natural and are truthfully labeled. *Williams*  
25 *v. Gerber Prods. Co.*, 552 F.3d 934, 938 (9th Cir. 2008) (citing *Kasky v. Nike, Inc.*, 27 Cal.4th 939,

26 \_\_\_\_\_  
27 <sup>4</sup> Andrea Rock, “Peeling Back the ‘Natural’ Food Label.” *Consumer Reports*, 27 January 2016.  
28 <https://www.consumerreports.org/food-safety/peeling-back-the-natural-food-label/> (Last visited  
February 15, 2022).

<sup>5</sup> See Leslie Kux, *supra* note 5.



1 951 (2002) and *Leoni v. State Bar*, 39 Cal. 3d 609, 626 (1985)) (The California Supreme Court has  
2 recognized “that [consumer protection] laws prohibit ‘not only advertising which is false, but also  
3 advertising which, although true, is either actually misleading or which has a capacity, likelihood  
4 or tendency to deceive or confuse the public.’”).

5 24. Reasonable consumers such as Plaintiff do not have specialized knowledge necessary  
6 to identify ingredients in the Products as being inconsistent with Defendant’s advertised claim of  
7 “being “All Natural.”

8 25. Defendant knows that consumers are willing to pay more for foods that are labeled  
9 “All Natural” because they perceive it to be a healthier alternative to similar products without any  
10 added coloring, and advertises the Products with the intention that consumers rely on the  
11 representation made on the front of the Products’ packaging made in all capital letters with  
12 prominent bold font “All Natural.”

13 26. Plaintiff and other consumers purchased the Products due to their belief that the  
14 Products are safer, more nutritious, or otherwise have different attributes than do products that do  
15 not have the “All Natural” labels.

16 27. Plaintiff and the Class made their purchasing decisions in reliance upon Defendant’s  
17 advertised claims that that Products are “All Natural.”

18 28. Plaintiff and the Class reasonably and detrimentally relied upon the Products’ front  
19 labels indicating that the Products are “All Natural.”

20 29. Plaintiff and the Class would not have purchased the Products had they known that  
21 the Products contained ingredients that were added for coloring, thus rendering the Products no  
22 longer as being “All Natural.”

23 30. Defendant’s conduct threatens California consumers by using false, deceptive, and  
24 misleading labels. Defendant’s conduct also threatens other companies, large and small, who “play  
25 by the rules.” Defendant’s conduct stifles competition, has a negative impact on the marketplace,  
26 and reduces consumer choice.

27 31. There is no practical reason for the false or misleading labeling and advertising of the  
28 Products, other than to mislead consumers as to the actual ingredients of the Products being

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1 purchased by consumers while simultaneously providing Defendant with a financial windfall as a  
2 result of money saved from lower supply costs.

3 32. Plaintiff makes the allegations herein upon personal knowledge as to himself and his  
4 own acts and experiences, and as to all other matters, upon information and belief, including  
5 investigation conducted by his attorneys.

6 **CLASS ALLEGATIONS**

7 33. Plaintiff brings this action on his behalf and on behalf of all other persons similarly  
8 situated. The Class which Plaintiff seeks to represent comprises:

9 All persons who purchased the Products in the State of California, for  
10 personal consumption and not for resale during the time period of four  
years prior to the filing of the complaint through the present.

11 Said definition may be further defined or amended by additional pleadings, evidentiary  
12 hearings, a class certification hearing, and orders of this Court.

13 34. The class is so numerous and likely consists of hundreds of thousands of individuals,  
14 the joinder of whom is impracticable.

15 35. There is a well-defined community of interest in the questions of law and fact involved  
16 affecting the parties to be represented. The questions of law and fact common to the Class  
17 predominate over questions which may affect individual Class members. Common questions of law  
18 and fact include, but are not limited to, the following:

19 a. Whether Defendant's conduct constitutes an unfair method of competition, or  
20 unfair or deceptive act or practice, in violation of Civil Code section 1750, *et seq.*;

21 b. Whether Defendant used deceptive representations in connection with the sale  
22 of the Products in violation of Civil Code section 1750, *et seq.*;

23 c. Whether Defendant represented the Products as having characteristics or  
24 qualities that they do not have in violation of Civil Code section 1750, *et seq.*;

25 d. Whether Defendant advertised the Products with intent not to sell them as  
26 advertised in violation of Civil Code section 1750, *et seq.*;

27 e. Whether Defendant's labeling and advertising of the Products are untrue or  
28 misleading in violation of Business and Professions Code section 17500, *et seq.*;

1 f. Whether Defendant knew or by the exercise of reasonable care should have  
2 known its labeling and advertising was and is untrue or misleading in violation of Business and  
3 Professions Code section 17500, *et seq.*;

4 g. Whether Defendant’s conduct is an unfair business practice within the  
5 meaning of Business and Professions Code section 17200, *et seq.*;

6 h. Whether Defendant’s conduct is a fraudulent business practice within the  
7 meaning of Business and Professions Code section 17200, *et seq.*;

8 i. Whether Defendant’s conduct is an unlawful business practice within the  
9 meaning of Business and Professions Code section 17200, *et seq.*;

10 j. Whether Plaintiff and the Class paid more money for the Products than they  
11 actually received; and

12 k. How much more money Plaintiff and the Class paid for the Products than they  
13 actually received.

14 36. Plaintiff’s claims are typical of the claims of the Class, and Plaintiff will fairly and  
15 adequately represent and protect the interests of the Class. Plaintiff has retained competent and  
16 experienced counsel in class action and other complex litigation.

17 37. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
18 Defendant’s false representations and material omissions. Plaintiff purchased the Product under the  
19 false belief that they were “All Natural.” Plaintiff relied upon Defendant’s packaging and would not  
20 have purchased the Products if he had known that the Product contained ingredients that were added  
21 for coloring.

22 38. A class action is superior to other available methods for fair and efficient adjudication  
23 of this controversy. The expense and burden of individual litigation would make it impracticable or  
24 impossible for the Class to prosecute their claims individually.

25 39. The trial and litigation of Plaintiff’s claims are manageable. Individual litigation of  
26 the legal and factual issues raised by Defendant’s conduct would increase delay and expense to all  
27 parties and the court system. The class action device presents far fewer management difficulties and  
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1 provides the benefits of a single, uniform adjudication, economies of scale, and comprehensive  
2 supervision by a single court.

3 40. Defendant has acted on grounds generally applicable to the entire Class, thereby  
4 making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the  
5 Class as a whole. The prosecution of separate actions by individual Class members would create the  
6 risk of inconsistent or varying adjudications with respect to individual Class members that would  
7 establish incompatible standards of conduct for Defendant.

8 41. Absent a class action, Defendant will likely retain the benefits of its wrongdoing.  
9 Because of the small size of the individual Class members' claims, few, if any, Class members could  
10 afford to seek legal redress for the wrongs complained of herein. Absent a representative action, the  
11 Class will continue to suffer losses and Defendant will be allowed to continue these violations of  
12 law and to retain the proceeds of its ill-gotten gains.

13 **COUNT ONE**

14 **Violation of California Consumers Legal Remedies Act,**

15 **California Civil Code Section 1750, *et seq.***

16 42. Plaintiff repeats and realleges all allegations of the previous paragraphs, and  
17 incorporate the same as if set forth herein at length.

18 43. Plaintiff brings this cause of action pursuant to Civil Code section 1750, *et seq.*, the  
19 Consumers Legal Remedies Act ("CLRA"), on his own behalf and on behalf of all other persons  
20 similarly situated.

21 44. Plaintiff and the Class members are "consumers" within the meaning of California  
22 Civil Code Section 1761(d).

23 45. The sale of Defendant's products to Plaintiff's and Class members constitutes a  
24 "transaction" within the meaning of California Civil Code Section 1761(e).

25 46. Defendants products are "goods" within the meaning of California Civil Code Section  
26 1761(a).

27 47. The CLRA prohibits certain "unfair methods of competition and unfair or deceptive  
28 acts or practices" in connection with a sale of goods and prohibits "representing that goods or

1 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that  
2 they do not have.” California Civil Code Section 1770 (d)(5).

3 48. The CLRA also prohibits representing that the products are of “a particular standard,  
4 quality, or grade” when it is of another. California Civil Code Section 1770(a)(7).

5 49. The CLRA prohibits advertising goods with the intent not to sell them as advertised  
6 and representing the goods have been supplied in accordance with a previous representation  
7 when the they have not. California Civil Code Section 1770(a)(9) and (a)(16).

8 50. The practices described herein, specifically Defendant’s packaging, advertising, and  
9 sale of the Products, were intended to result and did result in the sale of the Products to the  
10 consuming public and violated and continue to violate the CLRA by (1) using deceptive  
11 representations in connection with the Products, including representing them as having  
12 characteristics, benefits and qualities they do not have; (2) representing them to be of a particular  
13 quality and standard as “All Natural” while they were not “all natural” and contained added  
14 coloring; and (3) advertising and packaging the Products with intent not to sell them as advertised  
15 – specifically as being “All Natural.”

16 51. Defendant fraudulently deceived Plaintiff and the Class by misrepresenting the  
17 Products as having characteristics which they do not have, e.g., advertising the Products in such a  
18 way to represent them being “All Natural” when the Products contain coloring additives. In doing  
19 so, Defendant misrepresented and concealed material facts from Plaintiff and the Class. Said  
20 misrepresentations and concealment were done with the intention of deceiving Plaintiff and the  
21 Class and depriving them of their legal rights and money.

22 52. Defendant fraudulently deceived Plaintiff and the Class by labeling and advertising  
23 the Products with the intent not to sell them as advertised. Specifically, Defendant intentionally  
24 labeled and misrepresented the Products as being “All Natural,” and failed to disclose the coloring  
25 agents in the Products. In doing so, Defendant intentionally misrepresented and concealed material  
26 facts from Plaintiff and the Class. Said misrepresentations and concealment were done with the  
27 intention of deceiving Plaintiff and the Class and depriving them of their legal rights and money.

28 53. Defendant knew or should have known, through the exercise of reasonable care, that

1 the Products’ labeling and advertising were misleading.

2 54. Defendant’s actions as described herein were done with conscious disregard of  
3 Plaintiff’s rights, and Defendant was wanton and malicious in its concealment of the same.

4 55. Defendant’s labeling and advertising of the Products were a material factor in  
5 Plaintiff’s and the Class’s decisions to purchase the Products. Based on Defendant’s labeling and  
6 advertising of the Products, Plaintiff and the Class reasonably believed that they were purchasing  
7 products that were safer, more nutritious, or otherwise had different attributes than products that do  
8 not have the “All Natural” labels. Had they known the truth of the matter, Plaintiff and the Class  
9 would not have purchased the Products.

10 56. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
11 Defendant’s unfair, unlawful, and fraudulent conduct. Specifically, Plaintiff paid for a beverage that  
12 was different from what he reasonably expected to receive when he decided to make his purchase.  
13 Plaintiff would not have purchased the Product had he known that the Products contained coloring  
14 agents that rendered the natural claims false.

15 57. Defendant’s false and misleading labeling and advertising should be enjoined due to  
16 its false, misleading, and/or deceptive nature.

17 58. By letter dated January 8, 2021, Plaintiff advised Hornell Brewing Co., Inc. of its false  
18 and misleading claims pursuant to California Civil Code Section 1782(a).

19 59. Pursuant to Section 1780(a) of the Act, Plaintiff seeks injunctive relief in the form of  
20 an order enjoining the above-described wrongful acts and practices of Defendant, including, but not  
21 limited to, an order enjoining Defendant from continuing to make the label and advertising claims  
22 challenged herein. Plaintiff also requests an order awarding Plaintiff and the Class restitution of the  
23 money wrongfully acquired by Defendant. Plaintiff shall be irreparably harmed if such an order is  
24 not granted.

25 60. Plaintiff respectfully requests that the Court enjoin Defendant from continuing to  
26 employ the unlawful methods, acts, and practices alleged herein pursuant to § 1780(a)(2). In  
27 addition, Defendant should be compelled to provide restitution and damages to consumers who paid  
28 for Products that are not what they expected to receive due to Defendant’s misrepresentations.

1 a. Plaintiff and members of the Class are entitled to equitable relief as no  
2 adequate remedy at law exists.

3 (1) Injunctive relief is appropriate on behalf of Plaintiff and members of  
4 the Class because Defendant continues to deceptively label the Products as  
5 being “All Natural.” Injunctive relief is necessary to prevent Defendant from  
6 continuing to engage in the unlawful conduct described herein and to prevent  
7 future harm—none of which can be achieved through available legal remedies.  
8 Further, injunctive relief, in the form of packaging or label modifications, is  
9 necessary to dispel public misperception about the Products that has resulted  
10 from years of Defendant’s unfair, fraudulent, and unlawful marketing efforts.  
11 Such modifications would include, reformulating the Products so they do not  
12 contain added coloring or removing the “ “All Natural” label claims. Such  
13 relief is also not available through a legal remedy as monetary damages may  
14 be awarded to remedy past harm (i.e., purchasers who have been misled),  
15 while injunctive relief is necessary to remedy future harm (i.e., prevent future  
16 purchasers from being misled), under the current circumstances where the  
17 dollar amount of future damages is not reasonably ascertainable at this time.  
18 Plaintiff is, currently, unable to accurately quantify the damages caused by  
19 Defendant’s future harm (e.g., the dollar amount that Plaintiff and Class  
20 members overpay pay for the falsely labeled Products), rendering injunctive  
21 relief a necessary remedy.

22 **COUNT TWO**

23 **Violation of California False Advertising Law,**

24 **Business & Professions Code Section 17500, *et seq.***

25 61. Plaintiff repeats and reallege the allegations set forth in the preceding paragraphs, and  
26 incorporate the same as if set forth herein at length.

27 62. Plaintiff brings this cause of action pursuant to Business and Professions Code section  
28 17500, *et seq.*, on his own behalf and on behalf of all other persons similarly situated.

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1           63. California’s False Advertising Law, California Business and Professions Code section  
2 17500, *et seq.*, makes it “unlawful for any person to make or disseminate or cause to be made or  
3 disseminated before the public in this state, in any advertising device or in any other manner or  
4 means whatever, including over the Internet, any statement, concerning personal property or  
5 services, professional or otherwise, or performance or disposition thereof, which is untrue or  
6 misleading and which is known, or which by the exercise of reasonable care should be known, to  
7 be untrue or misleading.”

8           64. Defendant knowingly disseminated misleading claims regarding the Products in order  
9 to mislead the public about the ingredient makeup of the Products.

10           65. Defendant controlled the labeling, packaging, production and advertising of the  
11 Products. Defendant knew or should have known, through the exercise of reasonable care, that its  
12 representations and omissions about the ingredients of the Products were untrue, deceptive, and  
13 misleading.

14           66. Defendant’s action of displaying misleading claims and omissions about the  
15 ingredients of the Products in prominent type face on each of the Products’ front labels is likely to  
16 deceive the general public.

17           67. Defendant’s actions in violation of Section 17500 were false and misleading such that  
18 the general public is and was likely to be deceived.

19           68. As a direct and proximate result of Defendant’s conduct alleged herein in violation of  
20 the FAL, Plaintiff and members of the Class, pursuant to § 17535, are entitled to an order of this  
21 Court enjoining such future wrongful conduct on the part of Defendant, and requiring Defendant to  
22 disclose the true nature of its misrepresentations.

23           b. Plaintiff and members of the Class are entitled to equitable relief as no  
24 adequate remedy at law exists.

25           (1) The scope of permissible plaintiffs under the FAL is broader than the  
26 CLRA to include, for example, individuals or entities who purchased the  
27 Products for non-personal, non-family, and non-household purposes. Thus,  
28



1 Plaintiff and class members may be entitled to restitution under the FAL, while  
2 not entitled to damages under the CLRA.

3 (2) Injunctive relief is appropriate on behalf of Plaintiff and members of  
4 the Class because Defendant continues to deceptively label the Products and  
5 deliberately omit that the Products contain coloring additives that render the  
6 Products no longer as being “All Natural.” Injunctive relief is necessary to  
7 prevent Defendant from continuing to engage in the unlawful conduct  
8 described herein and to prevent future harm—none of which can be achieved  
9 through available legal remedies. Further, injunctive relief, in the form of label  
10 modifications, is necessary to dispel public misperception about the Products  
11 that has resulted from years of Defendant’s unfair, fraudulent, and unlawful  
12 marketing efforts. Such modifications would include, but are not limited to,  
13 reformulating the Products or removing the false “All Natural” labeling. Such  
14 relief is also not available through a legal remedy as monetary damages may  
15 be awarded to remedy past harm (i.e., purchasers who have been misled),  
16 while injunctive relief is necessary to remedy future harm (i.e., prevent future  
17 purchasers from being misled), under the current circumstances where the  
18 dollar amount of future damages is not reasonably ascertainable at this time.  
19 Plaintiff is, currently, unable to accurately quantify the damages caused by  
20 Defendant’s future harm (e.g., the dollar amount that Plaintiff and Class  
21 members overpay for the falsely labeled Products), rendering injunctive relief  
22 a necessary remedy.

23 69. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
24 Defendant’s false representations. Plaintiff purchased the Products in reliance upon the claims and  
25 omissions by Defendant that the Products are “All Natural,” as represented by Defendant’s labeling  
26 and advertising. Plaintiff would not have purchased the Products if he had known that the claims  
27 and advertising as described herein were false and misleading.  
28

1 70. Plaintiff and members of the Class also request an order requiring Defendant to  
2 disgorge its ill-gotten gains and/or award full restitution of all monies wrongfully acquired by  
3 Defendant by means of such acts of false advertising, plus interests and attorneys' fees.

4 **COUNT THREE**

5 **Violation of California Unfair Competition Law**

6 **Business and Professions Code § 17200 et seq.**

7 71. Plaintiff repeats and realleges the allegations set forth above, and incorporate the same  
8 as if set forth herein at length.

9 72. Plaintiff brings this cause of action pursuant to Business and Professions Code §  
10 17200, *et seq.*, on his own behalf and on behalf of all other persons similarly situated.

11 73. The UCL prohibits “any unlawful, unfair... or fraudulent business act or practice.”  
12 Cal. Bus & Prof. Code § 17200.

13 **A. “Unfair” Prong**

14 74. Under California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et. seq.*,  
15 a challenged activity is “unfair” when “any injury it causes outweighs any benefits provided to  
16 consumers and the injury is one that the consumers themselves could not reasonably avoid.”  
17 *Camacho v. Auto Club of Southern California*, 142 Cal. App. 4th 1394, 1403 (2006).

18 75. Defendant’s advertising and labeling of the Products as being “All Natural,” when the  
19 Products contain coloring additives, is false, misleading, and deceptive.

20 76. Defendant’s false advertising of the Products causes injuries to consumers, who do  
21 not receive the promised benefits from the Products in proportion to their reasonable expectations.

22 77. Through false, misleading, and deceptive labeling of the Products, Defendant seeks  
23 to take advantage of consumers’ desire for “All Natural” products, while reaping the financial  
24 benefits of manufacturing lower quality Products.

25 78. When Defendant labels the Products as being “All Natural,” it provides false promises  
26 to consumers and stifles competition in the marketplace.

27 79. Consumers cannot avoid any of the injuries caused by Defendant’s false and  
28 misleading advertising of the Products.

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1 80. Some courts conduct a balancing test to decide if a challenged activity amounts to  
2 unfair conduct under California Business and Professions Code Section 17200. The courts “weigh  
3 the utility of the Defendant’s conduct against the gravity of the harm alleged to the victim.” *Davis*  
4 *v. HSBC Bank Nevada, N.A.*, 691 F. 3d 1152, 1169 (9th Cir. 2012).

5 81. Defendant’s material omissions result in financial harm to consumers. Thus, the utility  
6 of Defendant’s conduct is vastly outweighed by the gravity of its harm.

7 82. Some courts require the “unfairness must be tethered to some legislative declared  
8 policy or proof of some actual or threatened impact on competition.” *Lozano v. AT&T Wireless*  
9 *Servs. Inc.*, 504 F. 3d 718, 735 (9th Cir. 2007).

10 83. Defendant’s advertising of the Products, as alleged in the preceding paragraphs, is  
11 false, deceptive, misleading, and unreasonable, and constitutes unfair conduct.

12 84. Defendant knew or should have known of its unfair conduct.

13 85. As alleged in the preceding paragraphs, the material misrepresentations by Defendant  
14 detailed above constitute an unfair business practice within the meaning of California Business &  
15 Professions Code § 17200.

16 86. There were reasonably available alternatives to further Defendant’s legitimate  
17 business interests other than the conduct described herein. Defendant could have marketed the  
18 Products without making any false statements about the Products’ ingredients.

19 87. All of the conduct alleged herein occurs and continues to occur in Defendant’s  
20 business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct  
21 repeated on thousands of occasions daily.

22 88. Pursuant to Business & Professions Code Section 17203, Plaintiff and the Class seek  
23 an order of this Court enjoining Defendant from continuing to engage, use, or employ its practice  
24 of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek an order  
25 requiring Defendant to disclose such misrepresentations, and additionally request an order awarding  
26 Plaintiff restitution of the money wrongfully acquired by Defendant by means of responsibility  
27 attached to Defendant’s failure to disclose the existence and significance of said misrepresentations  
28 in an amount to be determined at trial.

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1 89. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
2 Defendant’s unfair conduct. Plaintiff paid an unwarranted premium for the Product. Plaintiff would  
3 not have purchased the Product if he had known that the Product’s “All Natural” label claims were  
4 false.

5 **B. “Fraudulent” Prong**

6 90. California Business and Professions Code § 17200, *et seq.* considers conduct  
7 fraudulent and prohibits said conduct if it is likely to deceive members of the public. *Bank of the*  
8 *West v. Superior Court*, 2 Cal. 4th 1254, 1267 (1992).

9 91. Defendant’s advertising of the Products as being “All Natural,” without referring to  
10 their actual characterization, is likely to deceive members of the public into believing that the  
11 Products are natural.

12 92. Defendant’s advertising of the Products, as alleged in the preceding paragraphs, is  
13 false, deceptive, misleading, and unreasonable and constitutes fraudulent conduct.

14 93. Defendant knew or should have known of its fraudulent conduct.

15 94. As alleged in the preceding paragraphs, the material misrepresentations and omissions  
16 by Defendant detailed above constitute a fraudulent business practice in violation of California  
17 Business & Professions Code Section 17200.

18 95. There were reasonably available alternatives to further Defendant’s legitimate  
19 business interests, other than the conduct described herein. Defendant could have refrained from  
20 labeling the Products as being “All Natural.”

21 96. All of the conduct alleged herein occurs and continues to occur in Defendant’s  
22 business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct  
23 repeated on thousands of occasions daily.

24 97. Pursuant to Business & Professions Code Section 17203, Plaintiff and the Class seek  
25 an order of this Court enjoining Defendant from continuing to engage, use, or employ its practice  
26 of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek an order  
27 requiring Defendant to disclose such misrepresentations, and additionally request an order awarding  
28 Plaintiff restitution of the money wrongfully acquired by Defendant by means of responsibility

1 attached to Defendant’s failure to disclose the existence and significance of said misrepresentations  
2 in an amount to be determined at trial.

3 98. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
4 Defendant’s fraudulent conduct. Plaintiff and the Class paid an unwarranted premium for the  
5 Products. Plaintiff and the Class would not have purchased the Products if they had known that the  
6 Products were not “All Natural.”

7 **C. “Unlawful” Prong**

8 99. California Business and Professions Code Section 17200, *et seq.*, identifies violations  
9 of other laws as “unlawful practices that the unfair competition law makes independently  
10 actionable.” *Velazquez v. GMAC Mortg. Corp.*, 605 F. Supp. 2d 1049, 1068 (C.D. Cal. 2008).

11 100. Defendant’s advertising of the Products, as alleged in the preceding paragraphs,  
12 violates California Civil Code Section 1750, *et seq.*, California Business and Professions Code  
13 Section 17500, *et seq.*

14 101. Defendant’s packaging, labeling, and advertising of the Products, as alleged in the  
15 preceding paragraphs, are false, deceptive, misleading, and unreasonable, and constitute unlawful  
16 conduct.

17 102. Defendant knew or should have known of its unlawful conduct.

18 103. As alleged in the preceding paragraphs, the misrepresentations by Defendant detailed  
19 above constitute an unlawful business practice within the meaning of California Business and  
20 Professions Code Section 17200.

21 104. There were reasonably available alternatives to further Defendant’s legitimate  
22 business interests other than the conduct described herein. Defendant could have refrained from  
23 omitting the true characteristics of the Products.

24 105. All of the conduct alleged herein occurred and continues to occur in Defendant’s  
25 business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct  
26 repeated on thousands of occasions daily.

27 106. Pursuant to Business and Professions Code Section 17203, Plaintiff and the Class seek  
28 an order of this Court enjoining Defendant from continuing to engage, use, or employ its practice

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1 of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek an order  
2 requiring Defendant to disclose such misrepresentations, and additionally request an order awarding  
3 Plaintiff restitution of the money wrongfully acquired by Defendant by means of responsibility  
4 attached to Defendant’s failure to disclose the existence and significance of said misrepresentations  
5 in an amount to be determined at trial.

6 107. Plaintiff and the Class have suffered injury in fact and have lost money as a result of  
7 Defendant’s unlawful conduct. Plaintiff paid an unwarranted premium for the Product. Plaintiff  
8 would not have purchased the Product if he had known that Defendant purposely deceived  
9 consumers into believing that the Products were “All Natural.”

10 108. As a result of the business acts and practices described above, Plaintiff and members  
11 of the Class, pursuant to § 17203, are entitled to an order enjoining such future wrongful conduct  
12 on the part of Defendant and such other orders and judgments that may be necessary to disgorge  
13 Defendant’s ill-gotten gains and to restore to any person in interest any money paid for the Products  
14 as a result of the wrongful conduct of Defendant.

15 c. Plaintiff and members of the Class are entitled to equitable relief as no  
16 adequate remedy at law exists.

17 (1) The applicable limitations period is four years for claims brought under  
18 the UCL, which is one year longer than the applicable statute of limitations  
19 under the FAL and CLRA. Thus, class members who purchased the Products  
20 between 3 and 4 years prior to the filing of the complaint will be barred from  
21 the Class if equitable relief were not granted under the UCL.

22 (2) The scope of actionable misconduct under the unfair prong of the UCL  
23 is broader than the other causes of action asserted herein to include, for  
24 example, the overall false and misleading marketing scheme of labeling the  
25 Products as being “All Natural.” Thus, Plaintiff and class members may be  
26 entitled to restitution under the UCL, while not entitled to damages under other  
27 causes of action asserted herein (e.g., the FAL requires actual or constructive  
28 knowledge of the falsity; the CLRA is limited to certain types of plaintiffs (an

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individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes) and other statutorily enumerated conduct).

(3) Injunctive relief is appropriate on behalf of Plaintiff and members of the Class because Defendant continues to deceptively label the Products. Injunctive relief is necessary to prevent Defendant from continuing to engage in this unfair, fraudulent, and/or unlawful conduct described herein and to prevent future harm—none of which can be achieved through available legal remedies. Further, injunctive relief, in the form of packaging or label modifications, is necessary to dispel public misperception about the Products that has resulted from years of Defendant’s unlawful marketing efforts. Such modifications could include, but are not limited to, reformulating the Products so they do not contain added coloring, or remove the “All Natural” label claims. Such relief is not available through a legal remedy, as monetary damages may be awarded to remedy past harm (i.e., purchasers who have been misled), while injunctive relief is necessary to remedy future harm (i.e., prevent future purchasers from being misled), under the current circumstances where the dollar amount of future damages is not reasonably ascertainable at this time. Plaintiff is, currently, unable to accurately quantify the damages caused by Defendant’s future harm (e.g., the dollar amount that Plaintiff and Class members will pay for the falsely labeled Products), rendering injunctive relief a necessary remedy.

109. Pursuant to Civil Code § 3287(a), Plaintiff and the Class are further entitled to pre-judgment interest as a direct and proximate result of Defendant’s unfair and fraudulent business conduct. The amount on which interest is to be calculated is a sum certain and capable of calculation, and Plaintiff and the Class are entitled to interest in an amount according to proof.

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**COUNT FOUR**

**Unjust Enrichment**

110. Plaintiff repeats and realleges the allegations set forth above, and incorporates the same as if set forth herein at length.

111. By means of Defendant’s wrongful conduct alleged herein, Defendant knowingly sold the Products to Plaintiff and members of the Class in a manner that was unfair, unconscionable, and oppressive.

112. Defendant knowingly received and retained wrongful benefits and funds from Plaintiff and members of the Class. In so doing, Defendant acted with conscious disregard for the rights of Plaintiff and members of the Class.

113. As a result of Defendant’s wrongful conduct as alleged herein, Defendant has been unjustly enriched at the expense of, and to the detriment of, Plaintiff and members of the Class.

114. Defendant’s unjust enrichment is traceable to, and resulted directly and proximately from, the conduct alleged herein.

115. Under the common law doctrine of unjust enrichment, it is inequitable for Defendant to be permitted to retain the benefits it received, without justification, from selling the Products to Plaintiff and members of the Class in an unfair, unconscionable, and oppressive manner. Defendant’s retention of such funds under such circumstances making it inequitable to do so constitutes unjust enrichment.

116. The financial benefits derived by Defendant rightfully belong to Plaintiff and members of the Class. Defendant should be compelled to return in a common fund for the benefit of Plaintiff and members of the Class all wrongful or inequitable proceeds received by Defendant.

117. Plaintiff and members of the Class have no adequate remedy at law.

**COUNT FIVE**

**Breach of Express Warranty**

118. Plaintiff repeats and realleges all the allegations of the previous paragraphs and incorporate the same as if set forth herein at length.

119. Defendant expressly warrants that the Products are “All Natural,” as set forth above.



1 Defendant's claims constitute an affirmation of fact, promise, and/or description of the goods that  
2 became part of the basis of the bargain and created an express warranty that the goods would  
3 conform to the stated promise. Plaintiff placed importance on Defendant's claims.

4 120. All conditions precedent to Defendant's liability under this contract have been  
5 performed by Plaintiff and the Class.

6 121. Defendant breached the terms of the contract, including the express warranties, with  
7 Plaintiff and the Class by not providing Products that conform to the advertising and label claims.

8 122. As a result of Defendant's breach of contract, Plaintiff and the Class have been  
9 damaged in an amount to be determined at trial.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, pray for  
12 judgment and relief on all Causes of Action as follows:

- 13 A. This action be certified as a class action;
- 14 B. Plaintiff be appointed as the representative of the Class;
- 15 C. Defendant's conduct be declared unlawful;
- 16 D. An order enjoining Defendant from continuing to label and advertise the  
17 Products as challenged herein;
- 18 E. An order for Defendant to issue a corrective advertising campaign;
- 19 F. For an award of restitutionary damages in an amount according to proof at  
20 trial;
- 21 G. An order of disgorgement of profits for Defendant's unjust enrichment  
22 obtained as a result of its unlawful, unfair, and fraudulent practices;
- 23 H. For pre-judgment interest from the date of filing this suit;
- 24 I. Punitive damages;
- 25 J. Reasonable attorneys' fees;
- 26 K. Costs of this suit; and
- 27 L. Such other and further relief as the Court may deem necessary or appropriate.

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**JURY TRIAL DEMANDED**

Plaintiff demands a jury trial on all triable issues.

DATED: March 21, 2022

**CLARKSON LAW FIRM, P.C.**

/s/ Yana Hart

Ryan J. Clarkson, Esq.

Yana Hart, Esq.

*Attorneys for Plaintiff*

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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: [Class Action Says Consumers Misled by 'All Natural' Claim on AriZona Beverages Label](#)

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