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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 KAREN NELSON, individually, and
15 on behalf of all others similarly
16 situated,

16 Plaintiff,

17 v.

18 THE COCA-COLA COMPANY,

19 Defendant.

Case No.

CLASS ACTION

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

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1 Plaintiff Karen Nelson (“Plaintiff”) brings this class action complaint
2 against Defendant The Coca-Cola Company (“Defendant”), individually and on
3 behalf of all others similarly situated, and alleges upon personal knowledge as to
4 Plaintiff’s acts and experiences, and, as to all other matters, upon information
5 and belief, including investigation conducted by Plaintiff’s attorneys.

6 **NATURE OF THE ACTION**

7 1. Defendant manufactures, markets, advertises, and sells a line of
8 products in the “alternative” soda beverage category, which Defendant
9 prominently labels and sells as “Hansen’s Natural” sodas (collectively, the
10 “Hansen’s Natural Sodas”, individually, a “Hansen’s Natural Soda”). Defendant
11 uses the “natural” branding strategy and labeling claim as the primary feature
12 differentiating Hansen’s Natural Sodas from other soda products in the
13 marketplace. However, Defendant’s advertising and marketing is false, deceptive
14 and misleading because each Hansen’s Natural Soda product contains one or
15 more artificial and/or synthetic, non-natural ingredients, including Ascorbic
16 Acid, Citric Acid, and Caramel Color.

17 2. The labeling for the Hansen’s Natural Sodas is materially the same
18 for all flavors of the Hansen’s Natural Sodas, and appears as follows:



26 3. Plaintiff relied on Defendant’s representation that its Hansen’s
27 Natural Sodas were in fact “natural” and that representation was material to her
28 and other Class members’ decision to purchase the Hansen’s Natural Sodas. In

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1 fact, the “natural” branding strategy and labeling representation is central to the
2 marketing and sale of the Hansen’s Natural Sodas.

3 4. A reasonable consumer would expect that a product branded and
4 labeled “natural” does not contain any artificial or synthetic ingredients.
5 Defendant’s representation that the Hansen’s Natural Sodas are “natural” is false,
6 misleading, and reasonably likely to deceive the public. Defendant’s advertising
7 and marketing campaign is designed to cause consumers to purchase Hansen’s
8 Natural Sodas as a result of this deceptive message, and Defendant has
9 succeeded.

10 5. Plaintiff brings this action on behalf of herself and other similarly
11 situated consumers in the United States to halt the dissemination of Defendant’s
12 false and misleading advertising message, correct the false and misleading
13 perception it has created in the minds of consumers, and obtain redress for those
14 who have purchased the Hansen’s Natural Sodas. Plaintiff alleges violations of
15 the California Consumers Legal Remedies Act, California’s Unfair Competition
16 Law, and breach of the express warranty created by Defendant’s advertising,
17 including its labeling.

18 **JURISDICTION AND VENUE**

19 6. This Court has original jurisdiction over this action pursuant to 28
20 U.S.C. § 1332(d) because this is a class action in which: (1) there are over 100
21 members in the proposed class; (2) members of the proposed class have a
22 different citizenship from Defendant; and (3) the claims of the proposed class
23 members exceed \$5,000,000 in the aggregate.

24 7. This Court has personal jurisdiction because Defendant’s contacts
25 with the forum are continuous and substantial, and Defendant intentionally
26 availed itself of the markets within California through its sales of the Hansen’s
27 Natural Sodas to consumers, including Plaintiff.

28

1 8. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b)
2 because Defendant engages in continuous and systematic business activities
3 within the State of California. Moreover, a substantial part of the events and
4 omissions giving rise to the claims alleged herein occurred in this District.

5 **PARTIES**

6 9. Plaintiff Karen Nelson is a resident of San Diego County, and over
7 the age of eighteen (18) years. Plaintiff most recently purchased Hansen's
8 Natural Sodas in the summer of 2016 from a Walmart store located at 732 Center
9 Drive, San Marcos, California 92069. Plaintiff was exposed to, read and relied
10 on the "natural" representation that was prominently displayed on the front label
11 of the Hansen's Natural Sodas she purchased at Walmart. Plaintiff also
12 purchased Hansen's Natural Sodas at Sprouts Farmers Market and Smart &
13 Final. Prior to her purchases of Hansen's Natural Soda, Plaintiff was exposed to
14 and read the "natural" representation that was prominently displayed on the front
15 label of every Hansen's Natural Soda. At the time she made her purchases,
16 Plaintiff believed that Defendant's Hansen's "Natural" Soda was in fact natural,
17 *i.e.*, free of any artificial and synthetic ingredients. Plaintiff relied on Defendant's
18 representation that Hansen's Natural Sodas are "natural" and she would not have
19 purchased Defendant's Hansen's Natural Sodas if she had known they were not
20 natural but instead contained artificial and synthetic ingredients. Plaintiff was
21 injured in fact and lost money as a result of Defendant's improper conduct.

22 10. Defendant, The Coca-Cola Company, is a Delaware corporation,
23 with its principal place of business located in Atlanta, Georgia. Defendant
24 manufactures, markets and sells the Hansen's Natural Sodas throughout the
25 United States, including in California. In 2015, Defendant purchased Corona,
26 California-based Monster Beverage Corporation's non-energy products,
27 including Hansen's Natural Sodas, for \$2.15 billion. Following Defendant's
28

1 acquisition of Hansen's Natural Sodas, Hansen's offices remained in Corona,
2 California.

3 11. At all times relevant herein, Defendant and its subsidiaries,
4 affiliates, and other related entities, as well as their respective employees, were
5 the agents, servants and employees of Defendant, and at all times relevant herein,
6 each were acting within the course and scope of that agency and employment.

7 12. Whenever reference in this Class Action Complaint is made to any
8 act by Defendant or its subsidiaries, affiliates, distributors, retailers, and other
9 related entities, such allegation shall be deemed to mean that the principals,
10 officers, directors, employees, agents, and/or representatives of Defendant
11 committed, knew of, performed, authorized, ratified, and/or directed that act or
12 transaction on behalf of Defendant while actively engaged in the scope of their
13 duties.

14 **FACTUAL ALLEGATIONS**

15 13. There is a strong consumer demand for products that are "natural"
16 and free of artificial and synthetic ingredients. Natural products reportedly
17 generated sales of \$81 billion in 2010 alone. Reasonable consumers, including
18 Plaintiff and Class Members, value natural products for important reasons
19 including the belief that they are safer and/or healthier than products that are not
20 represented as natural.

21 14. There is also a well-recognized association amongst consumers
22 between the concept of nature (or "natural" food and drink products) and positive
23 feelings associated with nature. According to a 2017, peer-reviewed systematic
24 review of 72 published journal articles on the importance of naturalness,
25 "naturalness per se is perceived as a desirable product attribute."¹

26
27 ¹ S. Roman et al., *The importance of food naturalness for consumers: Results of a systematic review*, Trends in Food Science & Technology 67:44-57
28 (2017).

1 15. Academics hypothesize that the positive associations of so-called
2 natural products are rooted in part to “Argumentum ad Naturam” or “appeal to
3 nature,” which is the logical fallacy that “natural” is always better than
4 “unnatural.” Whether or not it is true that what is natural is good or better than
5 what is unnatural, there is a reasonable tendency to believe that things which are
6 natural are superior by virtue of their natural qualities.

7 16. “Natural” is a marketing buzzword because it positively influences
8 consumer perception and purchase decisions. For example, the 2015 Nielsen
9 Global Health and Wellness Survey, conducted in 60 countries and involving
10 30,000 consumers, revealed that the most desirable food attributes are freshness,
11 naturalness, and minimal processing.² Similarly, a 2012 study of over 4,000
12 consumers in eight European countries found that food naturalness was a
13 “decisive buying incentive.”³

14 17. In 2004, Rozin and co-authors published the results from two
15 studies of Americans examining the preference for “natural” with foods and
16 medicines. The authors observed that “In recent decades, in the developed world,
17 especially in the United States, a strong desire for things that are natural has
18 appeared.” Based on the results of their two studies, Rozin et al. concluded “that
19 there is a substantial natural preference.”⁴

20 18. In 2017, Roman et al. published the results from the first-ever
21 systematic review of the literature on consumers’ perceived importance of food
22

23 ² [https://www.nielsen.com/content/dam/nielsen-global/eu/nielseninsights/
24 pdfs/Nielsen%20Global%20Health%20and%20Wellness%20Report%20-%
25 20January%202015.pdf](https://www.nielsen.com/content/dam/nielsen-global/eu/nielseninsights/pdfs/Nielsen%20Global%20Health%20and%20Wellness%20Report%20-%20January%202015.pdf)

26 ³ [http://goodmillsinnovation.com/sites/kfi.kampffmeyer.faktor3server.de/
27 files/attachments/1_pi_kfi_cleanlabelstudy_english_final.pdf](http://goodmillsinnovation.com/sites/kfi.kampffmeyer.faktor3server.de/files/attachments/1_pi_kfi_cleanlabelstudy_english_final.pdf)

28 ⁴ P. Rozin et al., *Preference for natural: instrumental and ideational/moral motivations, and the contrast between foods and medicines*, *Appetite* 43:147-154 (2004).

1 naturalness. Based on their scientific review of 72 studies conducted in 32
2 countries involving 85,348 consumers, the authors found that “independent of
3 the country and the year of the study, naturalness was considerably important for
4 consumers,” and “for the majority of consumers in developed countries,
5 naturalness in food products is important.” According to the authors, “[i]t is
6 important to realize that consumers’ perceptions of a food product not only
7 influence the willingness to buy it, but also the sensory experience of that
8 product as well [as] other properties related to it” and therefore, “the food
9 industry needs to develop foods that are perceived as natural and as a result
10 evoke positive thoughts consumers associate with natural foods.”⁵

11 ***Hansen’s Natural Sodas***

12 19. In the 1930s, Hubert Hansen started a juice company that came to
13 be known as Hansen Natural Corporation. In 2002, the company began selling
14 Monster Energy drinks in addition to the natural soda drinks. Between 2003 and
15 2011, the company’s annual revenue went from \$50 million to \$1.7 billion and
16 the company renamed itself Monster Beverage Corporation. In 2015, Defendant
17 Coca-Cola acquired Hansen’s Natural Sodas from Monster Beverage
18 Corporation.

19 20. Throughout a long-term advertising campaign, Hansen’s natural
20 soda products have been consistently marketed as the natural alternative within
21 the soda product marketplace.

22 21. For instance, according to a beverage industry analyst quoted in a
23 1993 article published in the Los Angeles Times, “The idea has been that
24 Hansen wasn’t so much formulated as blended from natural products...A lot of
25

27 ⁵ S. Roman et al., *The importance of food naturalness for consumers: Results of a systematic review*, Trends in Food Science & Technology 67:44-57
28 (2017).

1 people perceive it as a healthier beverage” than its cola competitors.”⁶
2 According to the same article, Hansen’s natural, healthy image was at the heart
3 of its advertising as far back as the 1970s: “Hansen executives also hope to build
4 on the ‘good for you’ image that was at the heart of the advertising and
5 marketing concocted by founder Hansen in the late 1970s.”

6 22. In its 2009 annual report, the makers of Hansen’s natural soda
7 emphasized their product differentiation as a key marketing and sales factor:
8 “We believe that one of the keys to success in the beverage industry is
9 differentiation, which entails making our products visually distinctive from other
10 beverages on the shelves of retailers.”

11 23. In its 2004 annual report, Hansen Natural Corporation explained
12 that its soda products compete in the “alternative” beverage category, and that
13 the marketing and packaging for its “natural” soda products emphasize the
14 natural aspect of the products and are specifically focused on consumers who
15 seek products that do not contain artificial ingredients:

16 We focus on consumers who seek products that are perceived to be
17 natural and healthy and emphasize the natural ingredients and the
18 absence of preservatives, sodium, artificial coloring and caffeine in
19 our beverages (other than our energy drinks) and the addition to
20 most of our products, of one or more supplements. We reinforce this
21 message in our product packaging. Our marketing strategy with
22 respect to our nutrition food bars is similarly to focus on consumers
23 who seek bars that are perceived to be natural and healthy. We
24 emphasize the natural ingredients and the absence of preservatives.

25
26
27 24. According to Hansen Natural Corporation in 2006, “The premium
28 healthier brand image enjoyed by Hansen’s Natural Sodas offers unlimited

6 Greg Johnson, “Hansen Soda Company Bubbling Over With Possibilities:
Retailing: The beverage maker says it is well positioned to take advantage of the
trend toward ‘New Age’ drinks,” L.A. Times, June 1, 1993, [http://www.
http://articles.latimes.com/1993-06-01/business/fi-42144_1_tim-hansen](http://www.latimes.com/1993-06-01/business/fi-42144_1_tim-hansen).

1 opportunity to capture substantial additional share of the CSD [carbonated soft
2 drink] market, through national distribution.”

3 25. “Consumers asked and we listened” Gregg Arends, then the vice
4 president, marketing for Hansen’s Beverage Company⁷ explained in an April 4,
5 2008 press release to www.marketwired.com.⁸ In that Press Release, Hansen’s
6 described the then-newly released Hansen’s Natural Sodas as “exotic-flavored,
7 all natural sodas.”⁹ Moreover, in a section titled *About Hansen Natural*
8 *Corporation*, Hansen’s warranted that “Hansen’s brand products are free of
9 preservatives and contain no artificial colors”¹⁰ Thus, since their inception,
10 Hansen’s has always considered and sought to convince the public that the
11 “natural” branding and labeling on the Hansen’s Natural Sodas promises that the
12 products are free from non-natural ingredients.

13 26. In its 2010 annual report, Hansen Natural Corporation described that
14 its natural soda products are within the “new age,” “alternative” beverage
15 category industry:

16 We develop, market, sell and distribute “alternative” beverage
17 category beverages, primarily under the following brand
18 names...Hansen’s Natural Sodas®...

19 **Industry Overview**

20 The “alternative” beverage category combines non-
21 carbonated ready-to-drink iced teas, lemonades, juice cocktails,
22 single-serve juices and fruit beverages, ready-to-drink dairy and
23 coffee drinks, energy drinks, sports drinks, and single-serve still
24 water (flavored, unflavored and enhanced) with “new age”

24 ⁷ The Hansen Beverage Company formally changed its name to the Monster
25 Energy Company in 2012. *See* <http://articles.latimes.com/2012/jan/06/business/la-fi-hansen-20120106> (last visited August 8, 2018).

26 ⁸ *See* <http://www.marketwired.com/press-release/hansens-natural-soda-now-made-with-real-cane-sugar-840536.htm> (last visited August 7, 2018).

27 ⁹ *Id.*

28 ¹⁰ *Id.*

1 beverages, including sodas that are considered natural, sparkling
2 juices and flavored sparkling beverages. According to Beverage
3 Marketing Corporation, domestic wholesale sales in 2010 for the
4 “alternative” beverage category of the market are estimated at \$27.3
5 billion representing an increase of approximately 3.9% over the
6 estimated domestic wholesale sales in 2009 of approximately \$26.3
billion (revised from a previously reported estimate of \$29.9
billion).

7 27. Coca-Cola’s “Venturing and Emerging Brands” unit took ownership
8 of Hansen’s Natural Sodas when Defendant acquired the products from Monster
9 Energy in 2015. In a story published on Defendant’s website after the
10 acquisition, Defendant promoted Hansen’s “strong history and credibility” in the
11 alternative, craft beverage space, and the marketing and sales opportunity
12 presented by Hansen’s Natural Sodas: “Consumers today, especially Millennials,
13 want products that are new and different and reflect their lifestyles. They want to
14 know how their beverages are made and where the ingredients come from, and
15 they want to embrace both the founder’s story and the brand’s personality. The
16 Hansen’s brands fit with this mission.”

17 28. Defendant makes the same “natural” branding and labeling
18 misrepresentations about all flavors of its Hansen’s Natural Sodas at issue:
19 Hansen’s Natural Cherry Vanilla, Hansen’s Natural Root Beer, Hansen’s Natural
20 Ginger Ale, Hansen’s Natural Grapefruit, Hansen’s Natural Key Lime Twist,
21 Hansen’s Natural Kiwi Strawberry, Hansen’s Natural Mandarin Lime, Hansen’s
22 Natural Orange, Hansen’s Natural Orange Mango, Hansen’s Natural Original
23 Cola, Hansen’s Natural Pomegranate, and Hansen’s Natural Vanilla Cola (the
24 “Hansen’s Natural Sodas”).

25 29. A reasonable consumer understands the representation that a
26 product is “natural” to mean that none of its ingredients are synthetic or artificial.

27 30. However, despite Defendant’s claims, the Hansen’s Natural Sodas
28 are not “natural.” Each of the Hansen’s Natural Sodas contains one or more of

1 the following artificial or synthetic ingredients: caramel Color, citric acid, and
2 ascorbic acid.

3 31. Caramel color, by definition, is an artificial color and therefore non-
4 natural ingredient. According to the FDA, “all color additives regardless of
5 source” are artificial or synthetic.¹¹

6 32. Indeed, in a December 2014 letter to Consumers Union, the
7 lobbying arm of Consumer Reports, the FDA unequivocally declared that
8 caramel color specifically is an artificial ingredient. In its letter, the FDA’s
9 Acting Director stated that “FDA agrees that the use of the word ‘natural’ on
10 products that contain *any* artificial ingredients is *inappropriate*.” See Exhibit A
11 attached (emphasis added).

12 33. Citric acid and ascorbic acid are additional synthetic, non-natural
13 ingredients present in one or more of the Hansen’s Natural Sodas.

14 34. Citric acid is a synthetic substance. Citric acid is not extracted from
15 citrus fruits, but industrially manufactured by microbial fermentation with
16 (typically genetically modified) black mold (*Aspergillus niger*) by feeding it
17 highly processed and/or genetically modified corn syrup.

18 35. Ascorbic acid is a chemically modified form of vitamin C used in
19 foods as a chemical preservative (21 C.F.R. § 182.3013) that is a recognized
20 synthetic by federal regulation. 7 C.F.R. § 205.605(b). Unlike natural vitamin C,
21 synthetic ascorbic acid is generally produced from corn or wheat starch being
22 converted to glucose, then to sorbitol and then to ascorbic acid through a series
23 of chemical processes and purification steps.

24 36. The FDA has recognized citric acid and ascorbic acid as chemical
25 preservatives. In a 2010 warning letter issued to Chiquita Brands International,
26 the FDA identified citric acid and ascorbic acid as “chemical preservatives.”¹²

27 _____
28 ¹¹ See 21 C.F.R. § 101.22(a)(4) (declaring that all color additives are
artificial).

1 37. The FDA has issued numerous warning letters to food
2 manufacturers on the basis that products advertised as “natural” “means that
3 nothing artificial or synthetic has been included, or has been added.” In two
4 separate warnings letters from 2001, the FDA advised companies that products
5 containing citric acid should not be described as “natural.”¹³

6 38. As a result of the presence of these artificial and synthetic
7 ingredients in the Hansen’s Natural Sodas, reasonable consumers have been
8 misled by Defendant’s false and misleading representation that the Hansen’s
9 Natural Sodas are “natural.”

10 39. Defendant’s representation that the Hansen’s Natural Sodas are
11 “natural” is a material representation because consumers attach importance to
12 “natural” claims when making purchase decisions, especially when buying drink
13 products. Thus, Defendant markets and advertises its Hansen’s Natural Sodas as
14 “natural” in order to differentiate the products, increase sales and induce
15 consumers to purchase its Hansen’s Natural Sodas. Plaintiff and members of the
16 Class were among the intended recipients of Defendant’s deceptive “natural”
17 representations. Plaintiff and members of the Class reasonably relied to their
18 detriment on Defendant’s misleading representations.

19 40. Defendant’s false, misleading, and deceptive misrepresentations are
20 likely to continue to deceive and mislead reasonable consumers and the general
21 public, as they have already deceived and misled Plaintiff and members of the
22 Class.

23 ¹² See [http://wayback.archive-it.org/7993/20161023101747/http://](http://wayback.archive-it.org/7993/20161023101747/http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2010/ucm228663.htm)
24 www.fda.gov/ICECI/EnforcementActions/WarningLetters/2010/ucm228663.htm
25 (last visited September 12, 2018).

26 ¹³ See FDA Warning Letter to Hirzel Canning Co. (August 29, 2001) (the
27 term “natural” should not be used to describe chopped tomato products because
28 they contain citric acid and calcium chloride); FDA Warning Letter to Oak Tree
Dairy Farm (August 16, 2011) (lemonade drink should not be described as
“natural” because it contains citric acid).

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1 41. As a result of Defendant’s false, misleading, and deceptive
2 representation that its Hansen’s Natural Sodas are “natural”, Defendant injured
3 Plaintiff and members of the Class, in that Plaintiff and members of the putative
4 Class:

- 5 (a) paid a sum of money for the Hansen’s Natural Sodas that
6 were not as represented;
- 7 (b) were deprived the benefit of the bargain because the Hansen’s
8 Natural Sodas they purchased were different from what
9 Defendant warranted;
- 10 (c) were deprived the benefit of the bargain because the Hansen’s
11 Natural Sodas they purchased had less value than what
12 Defendant represented;
- 13 (d) received Hansen’s Natural Sodas that were of a different
14 quality than what Defendant promised; and
- 15 (e) were denied the benefit of truthful drink labels.

16 42. Plaintiff and members of the putative Class would not have
17 purchased the Hansen’s Natural Sodas if they had known that the Hansen’s
18 Natural Sodas were not “natural.”

19 43. Alternatively, Plaintiff and members of the putative Class would not
20 have purchased the Hansen’s Natural Sodas at the price paid had they known that
21 the Hansen’s Natural Sodas contained artificial and synthetic ingredients and are
22 thus, not “natural.”

23 44. Had Defendant not made the false, misleading, and deceptive
24 “natural” representations, Plaintiff and members of the putative Class would not
25 have been economically injured.

26 45. Accordingly, Plaintiff and members of the putative Class have
27 suffered injury in fact, lost money or property, and suffered economic damages
28 as a result of Defendant’s wrongful conduct.

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1 46. Therefore, Plaintiff and members of the Class are entitled to
2 damages and equitable relief, including, but not limited to, injunctive relief,
3 restitution, and disgorgement.

4 47. Plaintiff and members of the Class also seek injunctive relief in the
5 form of an order prohibiting Defendant from selling the deceptively advertised
6 Hansen’s Natural Sodas and for corrective advertising.

7 **CLASS ALLEGATIONS**

8 48. Plaintiff brings this action as a class action pursuant to Federal
9 Rules of Civil Procedure 23(b)(2) and 23(b)(3) on behalf of the following
10 Nationwide Class, or, in the alternative Multi-State Class:

11 **Nationwide Class**

12 All citizens of the United States who purchased Defendant’s
13 Hansen’s Natural Sodas for personal use until the date notice is
14 disseminated.

15 **Multi-State Class**

16 All persons in California and other states with similar laws,¹⁴ who
17 purchased Defendant’s Hansen’s Natural Sodas for personal use
18 until the date notice is disseminated.

19 49. In the alternative, Plaintiff brings this action on behalf of herself and
20 all other similarly situated California consumers pursuant to Rules 2 (b)(2) and
21 (b)(3) of the Federal Rules of Civil Procedure and seeks certification of the
22 following California Class:

23 ¹⁴ While discovery may alter the following, Plaintiff preliminarily avers
24 other states with similar consumer fraud laws under the facts of this case include,
25 but are not limited to: Florida (Fla. Stat. §§ 501.201, *et seq.*); Illinois (815 Ill.
26 Comp. Stat. Ann. §§ 505/1, *et seq.*); Massachusetts (Mass. Gen. Laws Ch. 93A,
27 *et seq.*); Michigan (Mich. Comp. Laws §§ 445.901, *et seq.*); Minnesota (Minn.
28 Stat. §§ 325F.67, *et seq.*); Missouri (Mo. Rev. Stat. §§ 407.010, *et seq.*); New
Jersey (N.J. Stat. §§ 56:8-1, *et seq.*); New York (N.Y. Gen. Bus. Law §§ 349, *et*
seq.; and Washington (Wash. Rev. Code §§ 19.86.010, *et seq.*) (collectively, the
“Multi-State Class States”).

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1 **California-Only Class**

2 All persons in California who purchased Defendant’s Hansen’s
3 Natural Sodas for personal use until the date notice is disseminated.

4 50. Excluded from the Class are: (i) Defendant and its officers,
5 directors, and employees; (ii) any person who files a valid and timely request for
6 exclusion; and (iii) judicial officers and their immediate family members and
7 associated court staff assigned to the case.

8 51. Plaintiff reserves the right to amend or otherwise alter the class
9 definition presented to the Court at the appropriate time, or to propose or
10 eliminate sub-classes, in response to facts learned through discovery, legal
11 arguments advanced by Defendant, or otherwise.

12 52. This action is properly maintainable as a class action pursuant to
13 Federal Rule of Civil Procedure 23 for the reasons set forth below.

14 53. **Numerosity—Federal Rule of Civil Procedure 23(a)(1).** Plaintiff
15 is informed and believes, and on that basis alleges, that Members of the Class are
16 so numerous that joinder of all members is impracticable. Upon information and
17 belief, the Class consists of hundreds of thousands of purchasers dispersed
18 throughout the United States, and the California Class likewise consists of
19 thousands or tens of thousands of purchasers throughout the State of California.
20 Accordingly, it would be impracticable to join all members of the Class before
21 the Court.

22 54. **Commonality and Predominance—Federal Rule of Civil**
23 **Procedure 23(a)(2) and 23(b)(3).** There are numerous and substantial questions
24 of law or fact common to all members of the Class that predominate over any
25 individual issues. Included within the common questions of law or fact are:

- 26 (a) Whether Defendant made material representations and
27 omissions in the marketing and sale of the Hansen’s Natural
28 Sodas;

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- 1 (b) Whether Defendant engaged in unlawful, unfair or deceptive
- 2 business practices by advertising and selling its Hansen's
- 3 Natural Sodas;
- 4 (c) Whether Defendant violated California Bus. & Prof. Code
- 5 §§ 17200, *et seq.*, and the Consumers Legal Remedies Act,
- 6 Cal. Civ. Code §§ 1750, *et seq.*;
- 7 (d) Whether Defendants committed a breach of express warranty;
- 8 (e) Whether Plaintiff and the Class are entitled to equitable
- 9 and/or injunctive relief;
- 10 (f) Whether Plaintiff and the Class members have sustained
- 11 damage as a result of Defendant's unlawful conduct; and
- 12 (g) The proper measure of damages sustained by Plaintiff and
- 13 Class Members.

14 55. **Typicality—Federal Rule of Civil Procedure 23(a)(3).** Plaintiff's
15 claims are typical of the claims of the members of the Class she seeks to
16 represent because Plaintiff, like the Class members, purchased Defendant's
17 falsely advertised Hansen's Natural Sodas. Defendant's unlawful, unfair and/or
18 fraudulent actions concern the same business practices described herein
19 irrespective of where they occurred or were experienced. Plaintiff and the Class
20 sustained similar injuries arising out of Defendant's conduct. Plaintiff's and
21 Class members' claims arise from the same practices and course of conduct and
22 are based on the same legal theories.

23 56. **Adequacy of Representation—Federal Rule of Civil Procedure**
24 **23(a)(4).** Plaintiff is an adequate representative of the Class she seeks to
25 represent because her interests do not conflict with the interests of the Members
26 of the Class Plaintiff seeks to represent. Plaintiff will fairly and adequately
27 protect the interests of members of the Class and has retained counsel
28

1 experienced and competent in the prosecution of complex class actions including
2 complex questions that arise in consumer protection litigation.

3 **57. Superiority—Federal Rule of Civil Procedure 23(b)(3).** A class
4 action is superior to other available methods for the fair and efficient
5 adjudication of the present controversy because it will permit a large number of
6 claims to be resolved in a single forum simultaneously, efficiently, and without
7 the unnecessary hardship that would result from the prosecution of numerous
8 individual actions and the duplication of discovery, effort, expense and burden
9 on the courts that individual actions would engender. The benefits of proceeding
10 as a class action, including providing a method for obtaining redress for claims
11 that would not be practical to pursue individually, are far superior than any
12 difficulties that might be argued with regard to the management of this class
13 action. This superiority makes class litigation superior to any other method
14 available for the fair and efficient adjudication of these claims. Absent a class
15 action, it would be highly unlikely that the representative Plaintiff or any other
16 members of the Class would be able to protect their own interests because the
17 cost of litigation through individual lawsuits might exceed expected recovery.

18 **58.** Because Plaintiff seeks relief for all members of the Class, the
19 prosecution of separate actions by individual members would create a risk of
20 inconsistent or varying adjudications with respect to individual members of the
21 Class, which would establish incompatible standards of conduct for Defendant.

22 **59.** The prerequisites to maintaining a class action for injunctive or
23 equitable relief pursuant to Fed. R. Civ. P. 23(b)(2) are met as Defendant has
24 acted or refused to act on grounds generally applicable to the Class, thereby
25 making appropriate final injunctive or equitable relief with respect to the Class as
26 a whole.

27 **60.** The prerequisites to maintaining a class action pursuant to Fed. R.
28 Civ. P. 23(b)(3) are also met as questions of law or fact common to Class

1 members predominate over any questions affecting only individual members,
2 and a class action is superior to other available methods for fairly and efficiently
3 adjudicating the controversy.

4 **CAUSES OF ACTION**

5 **COUNT I**

6 **Violation of the California Consumers Legal Remedies Act (“CLRA”)**

7 **Cal. Civ. Code §§ 1750, et seq.**

8 61. Plaintiff re-alleges and incorporates by reference all allegations set
9 forth in the preceding paragraphs as if fully set forth verbatim herein.

10 62. Plaintiff brings this claim under the Consumer Legal Rights Act,
11 Civil Code section 1750, et seq., (the “CLRA”), on behalf of herself and the
12 Class against Defendant.

13 63. At all times relevant hereto, Plaintiff and members of the Subclass
14 were “consumer[s],” as defined in Civil Code section 1761(d).

15 64. At all times relevant hereto, Defendant constituted a “person,” as
16 defined in Civil Code section 1761(c).

17 65. At all times relevant hereto, the Hansen’s Natural Sodas
18 manufactured, marketed, advertised, and sold by Defendant constituted “goods,”
19 as defined in Civil Code section 1761(a).

20 66. The purchases of the Hansen’s Natural Sodas by Plaintiff and
21 members of the Class were and are “transactions” within the meaning of Civil
22 Code section 1761(e).

23 67. Defendant disseminated, or caused to be disseminated, through its
24 advertising— including the Hansen’s Natural Sodas’ labeling that the Hansen’s
25 Natural Sodas were and are “natural,” which they are not because the Hansen’s
26 Natural Sodas contain artificial and/or synthetic ingredients. Defendant’s
27 representations violate the CLRA in at least the following respects:
28

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1 (a) In violation of Civil Code § 1770(a)(5), Defendant
2 represented that the Hansen’s Natural Sodas have
3 characteristics, ingredients, uses, and benefits which they do
4 not have;

5 (b). In violation of Civil Code § 1770(a)(7), Defendant
6 represented that the Hansen’s Natural Sodas are of a
7 particular standard, quality, or grade, which they are not;

8 (c) In violation of Civil Code § 1770(a)(9), Defendant advertised
9 the Hansen’s Natural Sodas with an intent not to sell the
10 Products as advertised; and

11 (d) In violation of Civil Code § 1770(a)(16), Defendant
12 represented that the subject of the sale of the Hansen’s
13 Natural Sodas has been supplied in accordance with a
14 previous representation when it has not.

15 68. Defendant violated the CLRA because the Hansen’s Natural Sodas
16 are not “natural” because they contain artificial and synthetic ingredients, as
17 described above. Defendant knew or should have known that its Hansen’s
18 Natural Sodas were not “natural” because Defendant created Hansen’s Natural
19 Sodas using the artificial and synthetic ingredients described above.

20 69. Defendant’s actions as described herein were done with conscious
21 disregard of Plaintiff’s rights, and was wanton and malicious.

22 70. Defendant’s wrongful business practices constituted, and constitute,
23 a continuing course of conduct in violation of the CLRA since Defendant is still
24 representing that its Hansen’s Natural Sodas have characteristics which they do
25 not have.

26 71. Pursuant to Civil Code section 1782(d), Plaintiff and members of
27 the Class seek an order enjoining Defendant from engaging in the methods, acts,
28 and practices alleged herein, and for restitution and disgorgement.

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1 72. Pursuant to Civil Code section 1782, Plaintiff notified Defendant in
2 writing by certified mail of the alleged violations of the CLRA and demanded
3 that Defendant rectify the problems associated with the actions detailed above
4 and give notice to all affected consumers of its intent to so act. A copy of the
5 letter is attached hereto as Exhibit B.

6 73. Pursuant to § 1782(d) of the Act, Plaintiff and the Class seek a
7 Court order enjoining the above-described wrongful acts and practices of
8 Defendant and for restitution and disgorgement.

9 74. If Defendant fails to rectify or agree to rectify the problems
10 associated with the actions detailed above and give notice to all affected
11 consumers within 30 days of the date of written notice pursuant to § 1782 of the
12 CLRA, Plaintiff will amend this Complaint to add claims for actual, punitive and
13 statutory damages, as appropriate.

14 75. Pursuant to § 1780(d) of the CLRA, attached as Exhibit C is an
15 affidavit showing that this action was commenced in a proper forum.

16 **COUNT II**

17 **Violation of the California Unfair Competition Law (“UCL”)**

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

19 76. Plaintiff re-alleges and incorporates by reference all allegations set
20 forth in the proceeding paragraphs, as if fully set forth verbatim herein.

21 77. Plaintiff brings this claim under California’s Unfair Competition
22 Law, Business and Professions Code section 17200, *et seq.* (“UCL”), on behalf
23 of herself and the Class against Defendant. The UCL prohibits any “unlawful,”
24 “fraudulent” or “unfair” business act or practice and any false or misleading
25 advertising.

26 78. Defendant committed unlawful business acts or practices by, among
27 other things, making the representations (which also constitutes advertising
28 within the meaning of § 17200), as set forth more fully herein, and violating

1 Civil Code sections 1572, 1573, 1709, 1711, 1770(a)(5), (7), (9) and (16) and
2 Business & Professions Code section 17500, *et seq.*, and the common law.
3 Plaintiff, individually and on behalf of the other Class members, reserves the
4 right to allege other violations of law, which constitute other unlawful business
5 acts or practices. Such conduct is ongoing and continues to this date.

6 79. Defendant committed “unfair” business acts or practices by, among
7 other things: (1) engaging in conduct where the utility of such conduct, if any, is
8 outweighed by the gravity of the consequences to Plaintiff and members of the
9 Class; (2) engaging in conduct that is immoral, unethical, oppressive,
10 unscrupulous, or substantially injurious to Plaintiff and members of the Class;
11 and (3) engaging in conduct that undermines or violates the spirit or intent of the
12 consumer protection laws alleged in this Class Action Complaint. There is no
13 societal benefit from false advertising—only harm. Plaintiff and the other Class
14 members paid for a product that is not as advertised by Defendant. While
15 Plaintiff and the other Class members were harmed, Defendant was unjustly
16 enriched by its false misrepresentations. As a result, Defendant’s conduct is
17 “unfair,” as it offended an established public policy. There were reasonably
18 available alternatives to further Defendant’s legitimate business interests, other
19 than the conduct described herein.

20 80. Defendant committed “fraudulent” business acts or practices by
21 making the representations of material fact regarding its Hansen’s Natural Sodas
22 as set forth fully herein. Defendant’s business practices as alleged herein are
23 “fraudulent” under the UCL because they are likely to deceive customers into
24 believing the Hansen’s Natural Sodas are “natural” when the Hansen’s Natural
25 Sodas are not natural but contain artificial and synthetic ingredients.

26 81. Plaintiff and the other members of the Class have in fact been
27 deceived as a result of their reliance on Defendant’s material representations,
28 which are described above. This reliance has caused harm to Plaintiff and the

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1 other members of the Class, each of whom purchased Defendant's Hansen's
2 Natural Sodas. Plaintiff and the other Class members have suffered injury in fact
3 and lost money as a result of purchasing the Hansen's Natural Sodas and
4 Defendant's unlawful, unfair, and fraudulent practices.

5 82. Defendant's wrongful business practices and violations of the UCL
6 are ongoing.

7 83. Pursuant to Business & Professions Code section 17203, Plaintiff,
8 individually and on behalf of the Class, seeks an order of this Court enjoining
9 Defendant from engaging in the unfair competition alleged herein in connection
10 with the sale of its Hansen's Natural Sodas. Additionally, Plaintiff requests an
11 order awarding Plaintiff and the Class restitution of the money wrongfully
12 acquired by Defendant by means of the unfair competition alleged herein.

13 84. Plaintiff and the Class are further entitled to pre-judgment interest as
14 a direct and proximate result of Defendant's unfair and fraudulent business
15 conduct. The amount on which interest is to be calculated is a sum certain and
16 capable of calculation, and Plaintiff and the Class are entitled to interest in an
17 amount according to proof.

18 85. Plaintiff requests all applicable remedies, awards, damages, and
19 relief allowable under the UCL.

20 **COUNT III**

21 **Breach of Express Warranty**

22 86. Plaintiff re-alleges and fully incorporates by reference all allegations
23 set forth in the preceding paragraphs as if fully set forth herein verbatim.

24 87. Defendant promised and expressly warranted that its Hansen's
25 Natural Sodas were "natural."

26 88. Every Hansen's Natural Soda product sold to Plaintiff and members
27 of the Class came in a container with the written representation on front that it
28 was "natural."

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1 89. These promises and affirmations of fact constitute express
2 warranties that became part of the basis of the bargain between Plaintiff and the
3 members of the Class on the one hand and Defendant on the other.

4 90. All conditions precedent to Defendant’s liability under the contract,
5 including notice, has been performed by Plaintiff and the Class.

6 91. Defendant has breached the terms of its express warranties by
7 failing to provide Hansen’s Natural Sodas that are “natural” as warranted.

8 92. As a result of Defendant’s breach of its warranties, Plaintiff and the
9 Class have been damaged in the amount of the purchase price of the Hansen’s
10 Natural Sodas at issue.

11 **JURY DEMAND**

12 Plaintiff demands a trial by jury of all claims in this Complaint so triable.

13 **PRAYER FOR RELIEF**

14 **WHEREFORE**, Plaintiff, individually, and on behalf of all others
15 similarly situated, prays for relief pursuant to each cause of action set forth in
16 this Class Action Complaint, as follows:

17 A. Declaring that this action is a proper class action, certifying the
18 Class as requested herein, designating Plaintiff as Class Representative and
19 appointing the undersigned counsel as Class Counsel;

20 B. Ordering restitution and disgorgement of all profits and unjust
21 enrichment that Defendant obtained from Plaintiff and the Class members as a
22 result of Defendant’s unlawful, unfair and fraudulent business practices;

23 C. Ordering injunctive relief as permitted by law or equity, including
24 enjoining Defendant from continuing the unlawful practices as set forth herein,
25 and ordering Defendant to engage in a corrective advertising campaign;

26 D. Ordering damages for Plaintiff and the Class;

27 E. Ordering Defendant to pay attorneys’ fees and litigation costs to
28 Plaintiff and the other members of the Class;

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F. Ordering Defendant to pay both pre- and post-judgment interest on any amounts awarded; and

G. Ordering such other and further relief as may be just and proper.

Respectfully submitted,

Dated: September 25, 2018

BLOOD HURST & O'REARDON, LLP
TIMOTHY G. BLOOD (149343)
THOMAS J. O'REARDON II (247952)
CRAIG W. STRAUB (249032)

By: *s/ Timothy G. Blood*

TIMOTHY G. BLOOD

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tblood@bholaw.com
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Attorneys for Plaintiff

JS 44 (Rev. 12/12)

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
 KAREN NELSON, individually, and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Timothy G. Blood / Thomas J. O'Reardon II [SEE ATTACHMENT]
 Blood Hurst & O'Reardon, LLP
 501 West Broadway, Ste. 1490, San Diego, CA 92101 (619) 338-1100

DEFENDANTS
 THE COCA-COLA 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)

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

1 U.S. Government Plaintiff

2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)

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)

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	<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 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	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 375 False Claims Act <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 <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" 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	CIVIL RIGHTS	PRISONER PETITIONS	LABOR	SOCIAL SECURITY	
<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	<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	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	<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	<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))	
			IMMIGRATION	FEDERAL TAX SUITS	
			<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

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

VI. CAUSE OF ACTION

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

Brief description of cause:
Violations of Civ. Code §1750 (CLRA); B&P Code §17200 (UCL); and Breach of Express Warranty

VII. REQUESTED IN COMPLAINT:

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

DEMAND \$ 5,000,000.00

CHECK YES only if demanded in complaint:
 JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 09/25/2018 SIGNATURE OF ATTORNEY OF RECORD s/ Timothy G. Blood

FOR OFFICE USE ONLY

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

Karen Nelson v. The Coca-Cola Company
United States District Court, Southern District of California

ATTACHMENT TO CIVIL COVER SHEET (JS 44)

Attorneys for Plaintiff Karen Nelson

BLOOD HURST & O'REARDON LLP	THE FRASER LAW FIRM, P.C.
Timothy G. Blood (149343)	Michael T. Fraser (275185)
Thomas J. O'Reardon, II (247952)	4120 Douglas Blvd., Suite 306-262
Craig W. Straub (249032)	Granite Bay, CA 95746
501 West Broadway, Suite 1490	Tel: 888/557-5115
San Diego, CA 92101	866/212-8434 (fax)
Tel: 619/338-1100	mfraser@thefraserlawfirm.net
619/338-1101 (fax)	
tblood@bholaw.com	
toreardon@bholaw.com	
cstraub@bholaw.com	

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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six 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. When the petition for removal is granted, check this box.
- 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. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- 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 pending cases, if any. If there are related pending 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 A



DEC 11 2014

Dr. Urvashi Rangan
Mr. Michael Crupain
Food Safety & Sustainability Center
Consumers Union / Consumer Reports
101 Truman Avenue
Yonkers, NY 10703

Dear Dr. Rangan and Mr. Crupain:

This is in response to your letter dated January 21, 2014 to the Food and Drug Administration (FDA) regarding use of the term “natural” in the labeling of foods and beverages containing caramel color. You requested clarification on FDA’s statement about “natural” labeling and requested specific changes to the way artificial colors are labeled on foods and beverages in general. You also asked that FDA ban the use of the term “natural” on food products that contain caramel color or any artificial color and requested that FDA amend 21 CFR 101.22(k)(2) to clarify the labeling of color additives not subject to certification.

You are correct in noting that FDA does not have any regulation or guidance specifically about the term “natural” for labeling purposes. However, FDA does have a longstanding policy stated in the preamble of the Nutrition Labeling and Education Act final rule, 58 FR 2407, published January 6, 1993. Our policy on the use of the term “natural” is that “natural” means that nothing artificial (including artificial flavors) or synthetic (including all color additives regardless of source) has been included in or has been added to a food that would not normally be expected to be in the food. FDA agrees that the use of the word “natural” on products that contain any artificial ingredients is inappropriate.

Regarding your request that 21 CFR 101.22 (k) be modified to require use of the term “artificial” in the ingredient statement when caramel color is used, we state in 21 CFR 101.22 (a)(4) that we consider all color additives as artificial. Also, Section 403(k) of the Food, Drug and Cosmetic Act states that a food is misbranded if it does not bear labeling stating a food contains an artificial color. The statute also states that a color not considered to be a certified color, such as caramel color, is not required to be labeled by its common or usual name, and that terms such as “color added” is allowed.

We appreciate you bringing to our attention the product labels attached to the end of your letter. We share your concern for the truthful labeling of food products. Letters such as yours help us to become aware of labeling issues that arise in the marketplace.

Page -2-Dr. Rangan & Mr. Crupain

Moving forward, we are interested in pursuing a public process to consider our policy on “natural” and intend to seek public comment regarding this issue. As part of this process, we anticipate addressing how color additives fit into our regulatory position. We will certainly take the concerns raised in your letter into account.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'P. Spiller', with a large, sweeping flourish extending to the left.

Philip C. Spiller
Acting Director
Office of Nutrition, Labeling
and Dietary Supplements
Center for Food Safety
and Applied Nutrition

Exhibit B

Timothy G. Blood
tblood@bholaw.com

September 25, 2018

VIA CERTIFIED MAIL (RETURN RECEIPT)
(RECEIPT NO. 7018 0040 0000 8346 5075)

James Quincey, CEO
The Coca-Cola Company
One Coca-Cola Plaza, N.W.
Atlanta, GA 30313

Re: Hansen's Natural Soda products

Dear Mr. Quincey:

We represent Karen Nelson ("Plaintiff") and all other consumers similarly situated in an action against The Coca-Cola Company ("Coca-Cola" or "defendant"), arising out of, *inter alia*, misrepresentations by Coca-Cola to consumers that its Hansen's Natural Soda products are natural when in fact they contain artificial and synthetic ingredients, including caramel color, ascorbic acid and citric acid.

Plaintiff and others similarly situated purchased defendant's Hansen's Natural Soda products unaware of the fact that defendant's representations were deceptive and not truthful, including because they contain artificial and synthetic ingredients. The full claims, including the facts and circumstances surrounding these claims, are detailed in the Class Action Complaint, a copy of which is attached and incorporated by this reference.

These representations and omissions are false and misleading and constitute unfair methods of competition and unlawful, unfair, and fraudulent acts or practices, undertaken by defendant with the intent to result in the sale of Hansen's Natural Soda products to the consuming public.

Defendant's practices constitute violations of the Consumers Legal Remedies Act, California Civil Code §§ 1750, *et seq.* Specifically, defendant's practices violate California Civil Code § 1770(a) under, *inter alia*, the following subdivisions:

- (5) Representing that goods or services have . . . approval, characteristics, . . . uses [or] benefits . . . which they do not have
* * *
- (7) Representing that goods or services are of a particular standard, quality or grade . . . if they are of another.
* * *
- (9) Advertising goods or services with intent not to sell them as advertised.
* * *
- (16) Representing that the subject of a transaction has been supplied in accordance with a previous representation when it has not.



James Quincey, CEO
The Coca-Cola Company
September 25, 2018
Page 2

As detailed in the attached Complaint, defendant's practices also violate California Business and Professions Code §§ 17200, *et seq.*, and constitute a breach of warranty.

While the Complaint constitutes sufficient notice of the claims asserted, pursuant to California Civil Code § 1782 and California Commercial Code § 2607, we hereby demand on behalf of our client and all others similarly situated that defendant immediately correct and rectify these violations by ceasing the misleading marketing campaign, ceasing dissemination of false and misleading information as described in the enclosed Complaint, and initiating a corrective advertising campaign to re-educate consumers regarding the truth of the products at issue. In addition, Coca-Cola must offer to refund the purchase price to all consumer purchasers of Hansen's Natural Soda products, plus provide reimbursement for interest, costs, and fees.

We await your response.

Sincerely,

TIMOTHY G. BLOOD

TGB:jk

Enclosure

cc: Michael T. Fraser

Exhibit C

BLOOD HURST & O'REARDON, LLP

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11 Attorneys for Plaintiff

12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**

14 KAREN NELSON, individually, and
on behalf of all others similarly
15 situated,

16 Plaintiff,

17 v.

18 THE COCA-COLA COMPANY,

19 Defendant.

Case No.

CLASS ACTION

**AFFIDAVIT OF TIMOTHY G.
BLOOD PURSUANT TO
CALIFORNIA CIVIL CODE
§1780(d)**

JURY TRIAL DEMANDED

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BLOOD HURST & O'REARDON, LLP

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I, TIMOTHY G. BLOOD, declare as follows:

1. I am an attorney duly licensed to practice before all of the courts of the State of California. I am the managing partner of the law firm of Blood Hurst & O'Reardon, LLP, one of the counsel of record for Plaintiff in the above-entitled action.

2. Defendant The Coca-Cola Company ("Coca Cola") manufactures, markets and sells the Hansen's Natural Sodas throughout the United States, including in San Diego County. Plaintiff resides in San Diego County and purchased one or more of the Hansen's Natural Sodas at issue in San Diego County.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on September 25, 2018, at San Diego, California.

s/ Timothy G. Blood
TIMOTHY G. BLOOD

ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims Coca-Cola-Made Hansen's 'Natural' Sodas Contain Synthetic Ingredients](#)
