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ELECTRONICALLY FILED

Superior Court of California,
County of San Diego

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Clerk of the Superior Court
By Fernando Gonzalez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL DIVISION**

DIANA HAVER, on behalf of herself, all
others similarly situated, and the general
public,

Plaintiff,

v.

GENERAL MILLS, INC.,

Defendant.

Case No: 37-2024-00028888-CU-BT-CTL

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF
CAL. BUS. & PROF. CODE §§ 17200
ET SEQ.; CAL. BUS. & PROF. CODE
§§ 17500 ET SEQ.; AND UNJUST
ENRICHMENT**

DEMAND FOR JURY TRIAL

1 Plaintiff Diana Haver, on behalf of herself, all others similarly situated, and the general
2 public, by and through her undersigned counsel, brings this action against General Mills, Inc.
3 (“General Mills” or “Defendant”), and alleges the following upon her own knowledge, or
4 where she lacks personal knowledge, upon information and belief, including the investigation
5 of her counsel.

6 INTRODUCTION

7 1. General Mills sells a line of fruit snacks under its “Annie’s” brand that it
8 prominently labels as “Made with Real Fruit Juice” (the “Fruit Snacks”).¹ Depictions of the
9 packaging for two of the varieties appear below.



25 2. General Mills represents the Fruit Snacks are “Made with Real Fruit Juice”
26 because that claim appeals to consumers interested in snacks sweetened with fruit juice, as
27
28

¹ During the relevant time period, the Fruit Snacks were sold in at least seven flavors: Berry Patch Bunny, Bernie’s Farm (Strawberry, Orange & Raspberry), Bees, Bugs & Butterflies (Strawberry, Raspberry & Apple), Minis Bunny (Strawberry, Mango, Cherry), Tropical Treat, Summer Strawberry, and Building Blocks. To the extent any additional flavors were sold during the Class Period, the complaint should be read to include rather than exclude such flavors.

1 opposed to added sugars. This is especially true of snack foods marketed to children, like the
2 Fruit Snacks.

3 3. Plaintiff and other consumers purchased the Fruit Snacks believing they were
4 sweetened entirely, or at least primarily, with fruit juice. General Mills’ “Made with Real
5 Fruit Juice” claim, however, is false and misleading because the Fruit Snacks are sweetened
6 entirely with added sugars.

7 4. Plaintiff brings this action on behalf of herself, similarly-situated Class
8 Members, and the general public, to enjoin General Mills from deceptively marketing the
9 Fruit Snacks in this manner, and to recover compensation for injured Class Members.

10 **JURISDICTION & VENUE**

11 5. The California Superior Court has jurisdiction over this matter as a result of
12 defendant’s violations of the California Business and Professions Codes and California
13 common law principles.

14 6. This Court has jurisdiction pursuant to Article VI, Section 10 of the California
15 Constitution, because this case is not a cause given by statute to other trial courts.

16 7. The aggregate restitution sought herein exceeds the minimum jurisdictional
17 limits for the Superior Court and will be established at trial, according to proof.

18 8. The California Superior Court also has jurisdiction in this matter because there
19 is no federal question at issue, as the issues herein are based solely on California statutes and
20 law.

21 9. The Court has personal jurisdiction over General Mills as a result of its
22 substantial, continuous and systematic contacts with the State, and because General Mills has
23 purposely availed itself of the benefits and privileges of conducting business activities within
24 the State, including by marketing, distributing, and selling the Fruit Snacks in California.

25 10. Venue is proper in San Diego County because a substantial part of the events or
26 omissions giving rise to the class claims occurred in San Diego County.

PARTIES

11. Plaintiff Diana Haver presently resides and intends to continue to reside in San Diego County, California. Accordingly, she is a citizen of the State of California.

12. Defendant General Mills, Inc., is incorporated in Delaware and has its principal place of business in Minnesota.

FACTS

I. GENERAL MILLS FALSELY LABELS THE FRUIT SNACKS AS “MADE WITH REAL FRUIT JUICE”

13. As General Mills knows, many consumers prefer, are willing to pay more for, and purchase more often, snack foods sweetened with fruit juice rather than added sugars.

14. During at least the four years preceding the filing of this Complaint and continuing today, General Mills has leveraged this preference by prominently labeling the Fruit Snacks as “Made with Real Fruit Juice.” This is true of each variety of Fruit Snacks complained of herein.

15. Reasonable consumers, including Plaintiff, interpret the labeling “Made with Real Fruit Juice” to mean what it says: that the Fruit Snacks, which are sweetened snacks marketed for consumption by children, are sweetened with actual fruit juice.

16. However, contrary to the label claim, the Fruit Snacks are sweetened with added sugars, including concentrates, and not fruit juice.

17. In fact, the first four ingredients by volume of each variety of the Fruit Snacks are all added sugars: rice syrup, cane sugar, tapioca syrup solids, and pear juice concentrate.² None of these ingredients are fruit juice.

18. Below is the ingredient list for the Annie’s Summer Strawberry flavor Fruit Snacks.

² The Bees, Bugs, and Butterflies Fruit Snacks are also sweetened with honey.

Ingredients

Organic Rice Syrup, Organic Cane Sugar, Organic Tapioca Syrup Solids, Organic Pear Juice Concentrate, Water, Pectin, Citric Acid, Sodium Citrate, Ascorbic Acid (vitamin C), Organic Natural Flavor, Organic Sunflower Oil, Organic Color (organic black carrot, organic black currant extracts), Organic Carnauba Wax.

DOES NOT CONTAIN DECLARATION OBLIGATORY ALLERGENS

19. Rice syrup, also known as brown rice (malt) syrup or rice malt, is a sweetener derived by steeping cooked rice starch with saccharifying enzymes to break down the starches, followed by straining off the liquid and reducing it by evaporative heating.

20. Cane sugar is just sucrose derived from sugar cane with a small amount of non-sucrose components, usually just impurities.

21. Tapioca syrup solids, also known as dried glucose syrup or glucose syrup solids, are powders made from tapioca syrups through a spray-drying process.

22. Concentrates, like Organic Pear Juice Concentrate, are *formerly* fruit juices that have had most of their water content removed through a filtration and extraction process that also removes most nutrients in juice, along with its fiber. What remains is a thick, concentrated syrup consisting primarily of sugar. Under the applicable regulations, these are considered added sugars.³

II. THE FRUIT SNACKS' LABELING VIOLATES CALIFORNIA LAW

23. The Fruit Snacks' labeling violates California Health and Safety Code § 110670, which states, “[a]ny food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulations adopted pursuant thereto.”

³ See <https://www.fda.gov/food/nutrition-facts-label/added-sugars-nutrition-facts-label> (“Added sugars include sugars that are added during the processing of foods” including “sugars from concentrated fruit or vegetable juices.”).

1 24. Under 21 U.S.C. § 343(a), any food is misbranded where its “label is false or
2 misleading in any particular.”

3 25. The Fruit Snacks’ “Made With Real Fruit Juice” label is false or misleading in
4 that the Fruit Snacks contain only concentrated fruit juice, which is considered an added
5 sugar, and are otherwise entirely sweetened with other added sugars.

6 **III. PLAINTIFF’S PURCHASE, RELIANCE, AND INJURY**

7 26. As best as she can recall, Plaintiff Diana Haver purchased Annie’s Berry Patch
8 flavor and Summer Strawberry flavor Fruit Snacks beginning in approximately 2022. She
9 purchased one or both varieties occasionally, approximately six or seven times since her
10 initial purchase. She typically made her purchases from a Target store in La Mesa, California.

11 27. When purchasing the Fruit Snacks, Ms. Haver was looking for snacks for her
12 family that were sweetened with fruit juice, and specifically looked for label claims for snacks
13 made with real fruit juice. Whether the snacks she purchased were sweetened with fruit juice
14 was material to her purchase decision because she considers such snacks to be healthier
15 alternatives than snacks sweetened with added sugar. In purchasing the Fruit Snacks, Ms.
16 Haver was exposed to, read, and relied on the label claim, “Made with Real Fruit Juice.”

17 28. The “Made with Real Fruit Juice” representation was and is deceptive because
18 the Fruit Snacks are sweetened only with added sugars, including juice concentrates.

19 29. Ms. Haver is a lay consumer, like other reasonable consumers, who did not have
20 the specialized knowledge that General Mills had regarding the ingredients, or the nature of
21 the ingredients, of the Fruit Snacks. At the time of purchase, Ms. Haver was unaware that
22 juice concentrates, like those found in the Fruit Snacks, are actually added sugars that do not
23 possess the qualities she was seeking in products actually sweetened with fruit juice.

24 30. Ms. Haver acted reasonably in relying on the Fruit Snacks’ labels, which General
25 Mills intentionally placed on the Fruit Snacks with the intent to induce average consumers
26 into believing they were sweetened with fruit juice and to purchase them as a result.

1 31. Ms. Haver paid more for the Fruit Snacks as falsely and deceptively labeled, and
2 she would not have purchased them or would not have been willing to pay as much for them
3 if she knew they were not made with real fruit juice.

4 32. The Fruit Snacks cost more than similar products without misleading labeling
5 and would have cost less absent General Mills' false and misleading statements.

6 33. Through the misleading "Made with Real Fruit Juice" labeling claim, General
7 Mills was able to gain a greater share of the market than it would have otherwise and was
8 able to increase the size of the market.

9 34. For these reasons, the Fruit Snacks were worth less than what Ms. Haver and the
10 Class paid for them.

11 35. Ms. Haver and the Class lost money because of General Mills' deceptive claims
12 and practices in that they did not receive what they paid for when purchasing the Fruit Snacks.

13 **CLASS ACTION ALLEGATIONS**

14 36. California Code of Civil Procedure section 382 provides that "when the question
15 is one of a common or general interest, of many persons, or when the parties are numerous,
16 and it is impracticable to bring them all before the court, one or more may sue or defend for
17 the benefit of all."

18 37. Pursuant to Code Civ. Proc. § 382, Plaintiff seeks certification of a class defined
19 as:

20 All persons who, at any time from four years preceding the date of the filing of
21 this Complaint to the time a class is notified (the "Class Period"), purchased
22 within the State of California, for personal or household use, and not for resale
or distribution, Annie's Fruit Snacks.

23 38. Excluded from the Class are: (a) Defendant, its officers, directors, and
24 employees; affiliates and affiliates' officers, directors, and employees; (b) Plaintiff's
25 Counsel; (c) judicial officers and their immediate family members and associated court staff
26 assigned to this case; and (d) persons or entities who or which timely and properly exclude
27 themselves from the Class.
28

1 39. Certification of Plaintiff’s claims for classwide treatment is appropriate because
2 Plaintiff can prove the elements of her claims on a classwide basis using the same evidence
3 as would be used to prove those elements in individual actions alleging the same claims.

4 40. The Members in the proposed Class are so numerous that individual joinder of
5 all members is impracticable, and the disposition of the claims of all Class Members in a
6 single action will provide substantial benefits to the parties and Court. The Class includes at
7 least thousands of Members.

8 41. There is a well-defined community of interest in the common questions of law
9 and fact affecting Class Members. The questions of law and fact common to Class Members
10 predominate over questions affecting only individual Class Members, and include without
11 limitation:

12 a. whether General Mills communicated a message through its packaging
13 that the Fruit Snacks were sweetened with fruit juice;

14 b. whether General Mills communicated a message through its packaging
15 that the Fruit Snacks were sweetened only, or at least primarily, with fruit juice;

16 c. whether the label message on the Fruit Snacks was material, or likely to
17 be material, to a reasonable consumer;

18 d. whether the Fruit Snacks were sweetened only, or at least primarily, with
19 fruit juice;

20 e. whether the Fruit Snacks are sweetened only, or at least primarily, with
21 added sugars;

22 f. whether the challenged “Made with Real Fruit Juice” claim is false,
23 misleading, or reasonably likely to deceive a reasonable consumer;

24 g. whether General Mills’ conduct violates public policy;

25 h. whether General Mills’ conduct violates California statutes or regulations;

26 i. the proper amount of restitution;

27 j. the proper scope of injunctive relief; and

28 k. the proper amount of attorneys’ fees.

1 42. These common questions of law and fact predominate over questions that affect
2 only individual Class Members.

3 43. Plaintiff's claims are typical of Class Members' claims because they are based
4 on the same underlying facts, events, and circumstances relating to Defendant's substantially
5 uniform misconduct. Specifically, all Class Members, including Plaintiff, were subjected to
6 the same misleading and deceptive conduct when they purchased the Fruit Snacks and
7 suffered economic injury because the Fruit Snacks were misrepresented. Absent Defendant's
8 business practice of deceptively and unlawfully labeling the Fruit Snacks, Plaintiff and Class
9 Members would not have purchased them or would not have paid as much for them. Thus,
10 Plaintiff advances the same claims and legal theories on behalf of herself and all other Class
11 Members, and no defense is available to Defendant that is unique to Plaintiff.

12 44. Plaintiff will fairly and adequately represent and protect the interests of the
13 Class, has no interests incompatible with the interests of the Class, and has retained counsel
14 competent and experienced in class action litigation, and specifically in litigation involving
15 false and misleading advertising.

16 45. A class action is superior to any other available means for the fair and efficient
17 adjudication of this controversy, and no unusual difficulties are likely to be encountered in
18 the management of this matter as a class action. The damages, harm, or other financial
19 detriment suffered individually by Plaintiff and the other Class Members are relatively small
20 compared to the burden and expense that would be required to litigate their claims on an
21 individual basis against Defendant, making it impracticable for Class Members to
22 individually seek redress for Defendant's wrongful conduct. Even if Class Members could
23 afford individual litigation, the court system should not be forced to shoulder such
24 inefficiency. Individualized litigation would create a potential for inconsistent or
25 contradictory judgments and increase the delay and expense to all parties and the court
26 system. By contrast, the class action device presents far fewer management difficulties,
27 providing the benefits of single adjudication, economies of scale, and comprehensive
28 supervision by a single court.

1 46. General Mills has acted on grounds applicable to the Class, thereby making
2 appropriate final injunctive and declaratory relief concerning the Class as a whole.

3 47. As a result of the foregoing, class treatment is appropriate under California Code
4 of Civil Procedure section 382.

5 **CAUSES OF ACTION**

6 **FIRST CAUSE OF ACTION**

7 **Violations of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.***

8 48. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
9 as if set forth in full herein.

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

12 50. The acts, omissions, misrepresentations, practices, and non-disclosures of
13 Defendant as alleged herein constitute business acts and practices.

14 **Fraudulent**

15 51. A statement or practice is fraudulent under the UCL if it is likely to deceive a
16 significant portion of the public, applying an objective reasonable consumer test.

17 52. As set forth herein, General Mills’ “Made with Real Fruit Juice” labeling claim
18 for the Fruit Snacks is likely to deceive reasonable consumers and the public.

19 **Unlawful**

20 53. The acts alleged herein are “unlawful” under the UCL in that they violate at least
21 the following laws:

- 22 • The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*;
- 23 • The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*;
- 24 • The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*; and
- 25 • The California Sherman Food, Drug, and Cosmetic Law, Cal. Health &
26 Safety Code §§ 110100 *et seq.*

1 54. By violating these laws, General Mills has engaged in unlawful business acts
2 and practices, which constitute unfair competition within the meaning of Business &
3 Professions Code § 17200.

4 **Unfair**

5 55. General Mills' conduct with respect to the labeling, advertising, and sale of the
6 Fruit Snacks was and is unfair because its conduct was immoral, unethical, unscrupulous, or
7 substantially injurious to consumers, and the utility of its conduct, if any, did and does not
8 outweigh the gravity of the harm to its victims.

9 56. General Mills' conduct with respect to the labeling, advertising, and sale of the
10 Fruit Snacks was and is also unfair because it violates public policy as declared by specific
11 constitutional, statutory or regulatory provisions, including but not necessarily limited to the
12 False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions
13 of the California Sherman Food, Drug, and Cosmetic Law.

14 57. General Mills' conduct with respect to the labeling, advertising, and sale of the
15 Fruit Snacks was and is also unfair because the consumer injury was substantial, not
16 outweighed by benefits to consumers or competition, and not one consumers themselves
17 could reasonably have avoided. Specifically, the increase in profits obtained by General Mills
18 through the misleading labeling does not outweigh the harm to Class Members who were
19 deceived into purchasing the Fruit Snacks believing they were sweetened with fruit juice, and
20 not sweetened entirely, or primarily, with added sugars.

21 58. General Mills profited from the sale of the falsely, deceptively, and unlawfully
22 advertised Fruit Snacks to unwary consumers.

23 59. Plaintiff and Class Members are likely to continue to be damaged by General
24 Mills' deceptive trade practices, because General Mills continues to disseminate misleading
25 information. Thus, injunctive relief enjoining General Mills' deceptive practices is proper.

26 60. General Mills' conduct caused and continues to cause substantial injury to
27 Plaintiff and other Class Members. Plaintiff has suffered injury in fact as a result of General
28 Mills' unlawful conduct.

1 61. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining
2 General Mills from continuing to conduct business through unlawful, unfair, and/or
3 fraudulent acts and practices.

4 62. Plaintiff and the Class also seek an order for the restitution of all monies from
5 the sale of the Fruit Snacks, which were unjustly acquired through acts of unlawful
6 competition.

7 SECOND CAUSE OF ACTION

8 **Violations of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.***

9 63. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
10 as if set forth in full herein.

11 64. The FAL provides that “[i]t is unlawful for any person, firm, corporation or
12 association, or any employee thereof with intent directly or indirectly to dispose of real or
13 personal property or to perform services” to disseminate any statement “which is untrue or
14 misleading, and which is known, or which by the exercise of reasonable care should be
15 known, to be untrue or misleading.” Cal. Bus. & Prof. Code § 17500.

16 65. It is also unlawful under the FAL to disseminate statements concerning property
17 or services that are “untrue or misleading, and which is known, or which by the exercise of
18 reasonable care should be known, to be untrue or misleading.” *Id.*

19 66. As alleged herein, the labeling, policies, acts, and practices of General Mills
20 relating to the Fruit Snacks misled consumers acting reasonably to believe the Fruit Snacks
21 are “Made with Real Fruit Juice.”

22 67. Plaintiff suffered injury in fact as a result of General Mills’ actions as set forth
23 herein because Plaintiff purchased the Fruit Snacks in reliance on General Mills’ false and
24 misleading marketing claims stating the Fruit Snacks were “Made with Real Fruit Juice.”

25 68. General Mills’ business practices as alleged herein constitute unfair, deceptive,
26 untrue, and misleading advertising pursuant to the FAL because General Mills has marketed
27 the Fruit Snacks in a manner that is untrue and misleading, which General Mills knew or
28

1 reasonably should have known, and omitted material information from the Fruit Snacks’
2 labeling.

3 69. General Mills profited from the sale of the falsely and deceptively marketed the
4 Fruit Snacks to unwary consumers.

5 70. As a result, Plaintiff, the Class, and the general public are entitled to injunctive
6 and equitable relief, restitution, and an order for the disgorgement of the funds by which
7 General Mills was unjustly enriched.

8 71. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and
9 the Class, seeks an order enjoining General Mills from continuing to engage in deceptive
10 business practices, false advertising, and any other act prohibited by law, including those set
11 forth in this Complaint.

12 **THIRD CAUSE OF ACTION**

13 **Unjust Enrichment**

14 72. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
15 as if fully set forth herein.

16 73. Plaintiff and Class Members conferred upon General Mills an economic benefit,
17 in the form of profits resulting from the purchase and sale of the Fruit Snacks.

18 74. General Mills’ financial benefits resulting from its unlawful and inequitable
19 conduct are economically traceable to Plaintiff’s and Class Members’ purchases of the Fruit
20 Snacks, and the economic benefits conferred on General Mills are a direct and proximate
21 result of its unlawful and inequitable conduct.

22 75. It would be inequitable, unconscionable, and unjust for General Mills to be
23 permitted to retain these economic benefits because the benefits were procured as a direct and
24 proximate result of its wrongful conduct.

25 76. As a result, Plaintiff and Class Members are entitled to equitable relief including
26 restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits
27 which may have been obtained by General Mills as a result of such business practices.
28

PRAYER FOR RELIEF

1
2 77. Wherefore, Plaintiff, on behalf of herself, all others similarly situated, and the
3 general public, prays for judgment against General Mills as to each and every cause of action,
4 and the following remedies:

5 a. An Order declaring this action to be a proper class action, appointing
6 Plaintiff as Class Representative, and appointing Plaintiff’s undersigned counsel as
7 Class Counsel;

8 b. An Order requiring General Mills to bear the cost of Class Notice;

9 c. An Order compelling General Mills to destroy all misleading and
10 deceptive marketing materials and product labels, and to recall all offending Fruit
11 Snacks;

12 d. An Order compelling General Mills to cease its unfair business practices;

13 e. An Order requiring General Mills to disgorge all monies, revenues, and
14 profits obtained by means of any wrongful act or practice;

15 f. An Order requiring General Mills to pay restitution to restore all funds
16 acquired by means of any act or practice declared by this Court to be an unlawful,
17 unfair, or fraudulent business act or practice, or untrue or misleading advertising, plus
18 pre-and post-judgment interest thereon;

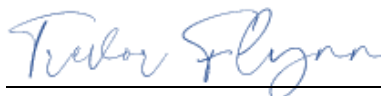
19 g. An award of attorneys’ fees and costs; and

20 h. Any other and further relief that the Court deems necessary, just, or
21 proper.

22 **JURY DEMAND**

23 78. Plaintiff hereby demands a trial by jury on all issues so triable.

24
25 Dated: June 20, 2024



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