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Attorneys for Plaintiffs, NARGUESS NOOHI, ROBERT BRYCE STEWART III, and
all others similarly situated

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

NARGUESS NOOHI and ROBERT
BRYCE STEWART III, individually, and
on behalf of other members of the general
public similarly situated,

Plaintiffs,

vs.

THE KRAFT HEINZ COMPANY and
KRAFT HEINZ INGREDIENTS CORP.,

Defendants.

Case No. 2:19-cv-10658-DSF-SK

**FIRST AMENDED CLASS ACTION
COMPLAINT**

- (1) Violation of Unfair Competition Law
(Cal. Business & Professions Code
§§ 17500, *et seq.*) and
- (2) Violation of Unfair Competition Law
(Cal. Business & Professions Code
§§ 17200, *et seq.*)
- (3) Common Law Fraud
- (4) Unjust Enrichment
- (5) Negligent Misrepresentation
- (6) Breach of Express Warranty
- (7) Violation of New York GBL § 349.
- (8) Violation of New York GBL § 350.
- (9) Violation of New York GBL § 350(a)(1).
- (10) Violation of Texas Deceptive Trade
Practices Act (Tex. Bus. & Com. Code §§
17.46, *et seq.*)
- (11) Violation of Georgia Uniform Deceptive
Trade Practices Act (OCGA §§ 10-1-372,
et seq.)

Jury Trial Demanded

1 Plaintiffs Narguess Noohi (“Plaintiff Noohi”) and Robert Bryce Stewart III (“Plaintiff
2 Stewart”), individually and on behalf of all other members of the public similarly situated, allege
3 as follows:

4 **PRELIMINARY STATEMENTS**

5 1. This is an action for damages, injunctive relief, and any other available legal or
6 equitable remedies, for violations of the California Unfair Competition Law (Cal. Business &
7 Professions Code §§ 17500, *et seq.*), the California Unfair Competition Law (Cal. Business &
8 Professions Code §§ 17200, *et seq.*), common law fraud, unjust enrichment, negligent
9 misrepresentation, breach of express warranty, the New York General Business Law (“GBL”) §
10 349, the New York GBL § 350, the New York GBL § 350(a)(1), the Texas Deceptive Trade
11 Practices Act (Tex. Bus. & Com. Code § 17.46, *et seq.*), and the Georgia Uniform Deceptive Trade
12 Practices Act (OCGA § 10-1-372, *et seq.*), resulting from the illegal actions of Defendants, in
13 intentionally labeling their drink products with false and misleading claims that they contain no
14 artificial flavors, when Defendants’ products contain artificial Malic Acid. Malic Acid is a
15 common food additive associated with tart and sour flavors. Plaintiffs allege as follows upon
16 personal knowledge as to themselves and their own acts and experiences, and, as to all other
17 matters, upon information and belief, including investigation conducted by their attorneys.
18
19

20 **JURISDICTION AND VENUE**

21 2. This Court has jurisdiction pursuant to 28 U.S.C. § 1332(d), because the matter in
22 controversy exceeds the sum or value of \$5,000,000 exclusive of interest or costs and is a class
23 action in which members of the class are citizens of a State different from the Defendant.
24

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PARTIES

5. Plaintiff Stewart is an individual who was a resident of Los Angeles, California and Atlanta, Georgia, and now resides in New York.

6. On information and belief, Defendant THE KRAFT HEINZ COMPANY (“KHC”) is a Delaware corporation whose principal places of business are located in Chicago, Illinois and Pittsburgh, Pennsylvania.

7. On information and belief, Defendant KRAFT HEINZ INGREDIENTS CORP. (“KHI”) is a Delaware corporation whose principal places of business are located in Chicago, Illinois and Pittsburgh, Pennsylvania.

8. At all times relevant hereto, Defendants were engaged in the manufacturing, marketing, and sale of drink products.

FACTS COMMON TO ALL COUNTS

10. During the Class Period the following list of products (the “Products”) were advertised as containing no artificial flavors when they in fact contained synthetic Malic Acid:

a. Mango Passion Fruit Crystal Light Liquid;

- b. Blueberry Raspberry Crystal Light Liquid;
- c. Berry Sangria Crystal Light Liquid;
- d. Black Cherry Lime Crystal Light Liquid;
- e. Strawberry Kiwi Crystal Light Pure;
- f. Grape Crystal Light Pure;
- g. Tropical Blend Crystal Light Pure;
- h. Peach Mango Green Tea Crystal Light;
- i. Raspberry Iced Tea Crystal Light;
- j. Mango Tangerine Pure;

11. During the Class Period Plaintiffs purchased many of the Products.

12. Plaintiff Noohi's most recent purchase was during or about September 2019.

13. Plaintiff Stewart has purchased the Products between 2017 and 2020. Plaintiff Stewart purchased the Products from local grocery stores in and around Los Angeles, California, New York, New York, Atlanta, Georgia, Texas, and other neighboring cities and towns. Plaintiff Stewart also purchased some of the Products while visiting the State of Texas.

14. All of the Products contain artificial DL-Malic Acid; therefore, the fruit flavors of Defendants' products are at least partially artificial, but Defendants intentionally advertise and label the Products as containing no artificial flavors.

15. Persons, like Plaintiffs herein, have an interest in purchasing products that do not contain false and misleading claims with regards to the inclusion of artificial ingredients in those products.

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1 16. By making false and misleading claims about the ingredients contained in their
2 products Defendants impaired Plaintiffs' ability to choose the type and quality of products they
3 chose to buy.

4 17. Therefore, Plaintiffs have been deprived of their legally-protected interest to obtain
5 true and accurate information about their consumer products as required by California, New York,
6 Georgia, Texas, and Federal law.

7 18. As a result, Plaintiffs have been misled into purchasing products they would not
8 have otherwise purchased.

9 19. A flavor is a substance the function of which is to impart taste. See 21 C.F.R. §
10 101.22(a)(1) and (a)(3).

11 20. Taste is the combination of sensations arising from specialized receptor cells
12 located in the mouth. Gary Reineccius, *Flavor Chemistry and Technology* 2nd edition, § 1.2 (2005).
13 Taste can be defined as sensations of sweet, sour, salty, bitter, and umami; however, limiting taste
14 to five categories suggests that taste is simple, which is not true. *Id.* For example, the taste of sour
15 contains the sourness of vinegar (Acetic Acid), sour milk (Lactic Acid), lemons (Citric Acid),
16 apples (Malic Acid), and wines (Tartaric Acid). *Id.* Each of those acids is responsible for unique
17 sensory characteristics of sourness. *Id.*

18 21. Fruit flavors are the sum of the interaction between sugars, acids, lipids, and a blend
19 of volatile compounds. Hui, *et al.*, *Handbook of Fruit and Vegetable Flavors*, Ch. 36, p. 693 (2010).
20 The content of sugars, mainly glucose and fructose, and their ratio to the content of acids, such as
21 citric and malic acid, determine the sweetness of fruits. *Id.*

22 22. Malic Acid (C₄H₆O₅) is the common name for 1-hydroxy-1, 2-ethanedicarboxylic
23 acid. Malic Acid has two isomers, or different arrangements of atoms in the molecule, L-Malic
24

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