

1 **BURSOR & FISHER, P.A.**

2 L. Timothy Fisher (State Bar No. 191626)
3 1990 North California Boulevard, Suite 940
4 Walnut Creek, CA 94596
5 Telephone: (925) 300-4455
6 Facsimile: (925) 407-2700
7 E-Mail: ltfisher@bursor.com

8 *Counsel for Plaintiff*

9
10 **UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 JOI BUTTS, individually and on behalf of all
13 others similarly situated,

14 Plaintiff,

15 v.

16 CIBO VITA, INC.,

17 Defendant.

Case No.

CLASS ACTION COMPLAINT

1 Plaintiff, Joi Butts (“Plaintiff”), brings this action on behalf of herself, and all others
2 similarly situated against Defendant Cibo Vita, Inc. (“Defendant”). Plaintiff makes the following
3 allegations pursuant to the investigation of her counsel and based upon information and belief,
4 except as to the allegations specifically pertaining to herself, which are based on personal
5 knowledge:

6 **NATURE OF THE ACTION**

7
8 1. This action seeks to remedy the deceptive and misleading business practices of
9 Defendant with respect to the marketing and sales of a number of its trail mix products under the
10 Nature’s Garden brand, including Nature’s Garden Heart Healthy Trail Mix, Nature’s Garden
11 Omega-3 Deluxe Mix, and Nature’s Garden Cranberry Health Mix (collectively the “Products”).

12 2. Excessive consumption of added sugar has consistently been found to increase the
13 risk of several medical conditions, including but not limited to, heart disease, diabetes, obesity, high
14 cholesterol, and hypertension.

15 3. Despite the evidence, which Defendant is well aware of, Defendant engages in a
16 pervasive marketing campaign, advertising its high-sugar trail mix Products with health and wellness
17 claims that the Products are “heart healthy.” Defendant makes these misrepresentations to increase
18 the price and sales of its Products. However, these claims are deceptive and misleading because they
19 incompatible with the known dangers of excessive sugar consumption.
20

21 4. As a direct and proximate result of Defendant’s false and misleading advertising
22 claims and marketing practices, Defendant has caused Plaintiff and the members of the putative
23 Class to purchase Products that do not live up to their representations. Plaintiff and other similarly
24 situated consumers have been harmed in the amount they paid for the Products.
25

26 5. Plaintiff seeks relief in this action individually, and on behalf of all purchasers of the
27 Products for violations of the California Consumers Legal Remedies Act (“CLRA”), Civil Code §§
28

1 1750, *et seq.*, Unfair Competition Law (“UCL”), Bus. & Prof. Code §§ 17200, *et seq.*, False
2 Advertising Law (“FAL”), Bus. & Prof. Code §§ 17500, *et seq.*, breach of express warranty, breach
3 of implied warranty of merchantability, and for unjust enrichment.

4 **JURISDICTION AND VENUE**

5 6. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332(d)(2)(A), as
6 modified by the Class Action Fairness Act of 2005, because at least one member of the Class, as
7 defined below, is a citizen of a different state than the Defendant, there are more than 100 members
8 of the Class, and the aggregate amount in controversy exceeds \$5,000,000.00 exclusive of interest
9 and costs.

10
11 7. This Court has personal jurisdiction over Defendant because Defendant conducts and
12 transacts business in the State of California, contracts to supply goods within the State of California,
13 and supplies goods within the State of California.

14
15 8. Venue is proper because Plaintiff and many Class Members reside in the Eastern
16 District of California and Defendant sells their Products throughout the Eastern District of
17 California.

18 **PARTIES**

19 9. Plaintiff Joi Butts is an individual consumer who, at all times material hereto, was a
20 citizen of California residing in Solano County.

21
22 10. Ms. Butts made several purchases of Defendant’s Products, including Nature’s
23 Garden Cranberry Health Mix and Nature’s Garden Heart Healthy Mix. Before purchasing the
24 Products, Ms. Butts reviewed information about the Products, including Defendant’s representations
25 on packaging labels that the Products were “heart healthy.” When purchasing the Products, Ms.
26 Butts also reviewed the accompanying labels, disclosures, warranties, and marketing materials, and
27 understood them as representation and warranties by Defendant that the Products were “heart
28

1 healthy.”

2 11. Ms. Butts relied on Defendant’s false, misleading, and deceptive representations and
3 warranties about the Products in making her decision to purchase the Products. Accordingly, these
4 representations and warranties were part of the basis of the bargain, in that she would not have
5 purchased the Products had she known Defendant’s representations were not true. Defendant’s
6 Products are not “heart healthy” due to the excessive amounts of added sugar.

7
8 12. Ms. Butts has made countless purchases of the Products throughout the Class Period.
9 Had Ms. Butts known the truth—that the representations she relied upon in making her purchase
10 were false, misleading, and deceptive—she would not have purchased the Products. Ms. Butts did
11 not receive the benefit of the of her bargain, because Defendant’s Products are not “heart healthy.”
12 Ms. Butts understood that each purchase involved a direct transaction between herself and
13 Defendant, because her Products came with packaging, labeling, and other materials prepared by
14 Defendant, including representations and warranties regarding the advertised claims. Ms. Butts
15 would be interested in purchasing Defendant’s Products in the future if the representations about the
16 Products being “heart healthy” were true.

17
18 13. Defendant Cibo Vita, Inc. is a corporation with a principal place of business in
19 Totowa, New Jersey. Defendant manufactures, markets, and advertises and distributes the Products
20 throughout the United States, including California. Defendant manufactured, marketed, and sold the
21 Products during the relevant class period.

22
23 **FACTUAL BACKGROUND**

24 14. Nature’s Garden’s Products are sold nationwide at a variety of retail chains, including
25 Costco and Walmart, as well as many online retailers, such as Amazon.

26 15. As explained in detail below, Defendant makes numerous false and misleading health
27 and wellness claims regarding the Products.

28

1 **Nature's Garden Heart Healthy Trail Mix**

2 16. The packaging for Nature's Garden Heart Healthy Trail Mix represents that it is
3 "heart healthy":
4



25 17. Defendant markets its Product as "heart healthy," as shown above, despite being
26 aware of the numerous negative health complications that can arise from consuming excessive
27 amounts of added sugar.
28

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