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15 UNITED STATES DISTRICT COURT
16 NORTHERN DISTRICT OF CALIFORNIA

17 Marcia Campbell, individually, and on
18 behalf of those similarly situated,

19 Plaintiff,

20 v.

21 Arizona Beverages USA LLC and
22 Hornell Brewing Co., Inc.,

23 Defendants.

24 CASE NO.

25 **CLASS ACTION COMPLAINT**

26 **Demand for Jury Trial**

27
28

1 Plaintiff Marcia Campbell brings this action on behalf of herself and all others
2 similarly situated against Defendants Arizona Beverages USA LLC and Hornell
3 Brewing Co., Inc. (collectively “Arizona” or “Defendants”). Plaintiff makes the
4 following allegations pursuant to the investigation of counsel and based upon
5 information and belief, except as to the allegations specifically pertaining to herself,
6 which are based on personal knowledge.
7

8 NATURE OF THE ACTION

9
10 1. This case arises from Defendants’ deceptive and misleading practices
11 with respect to its marketing and sale of their fruit snack products (the “Products”).¹
12

13 2. Defendants manufacture, sell, and distribute the Products using a
14 marketing and advertising campaign focused on claims that appeal to health-
15 conscious consumers – specifically the importance of real fruit and its presence in the
16 Products.
17

18 3. Defendants engage in a deceptive marketing campaign to convince
19 consumers that the Products contain significant amounts of the actual fruits shown
20 in the marketing² and on the labeling³ of the Products, they are nutritious and
21 healthful to consume, and are more healthful than similar products.
22
23

24 _____
25 ¹ At the time of this filing, the following Arizona products are included in this
26 definition: Arnold Palmer Half & Half Fruit Snacks and Green Tea Fruit Snacks.
This definition is not exhaustive, and shall include all of Defendants’ products that
are similarly deceptively marketed.

27 ² Variants of the words “marketing,” and “market” refer to all forms of advertising in
28 all forms of media, including but not limited to print advertisements, television, and
radio commercials, Products’ labels, viral marketing, incentives, and websites.

³ The term “labeling” encompasses other descriptive terms, including various forms of

4. Notably, the Products' name – “Fruit Snacks” – combined with packaging that displays images of fresh fruit and prominently states, “MADE WITH REAL FRUIT” and “FRUIT IS OUR FIRST INGREDIENT” establishes this belief with reasonable consumers:

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1 5. The deception lies in the fact that the Products are devoid of real fruit.
2 Rather than containing real fruit, the Products are packed with sugar. Defendants'
3 Products contain sugar levels comparable to candy and none of the vibrantly depicted
4 fruits.

5 6. Thus, although Defendants market the Products as containing real fruit
6 while being healthful and nutritious, they are devoid of the health benefits
7 reasonable consumers associate with consuming real fruit.
8

9 7. Reasonable consumers purchased the Products believing, among other
10 things, that they were accurately represented. Specifically, reasonable consumers
11 believed that the Products were healthful and contained a significant amount of real
12 fruit. Reasonable consumers would not have purchased the Products if they had
13 known about the misrepresentations and omissions, or would have purchased them
14 on different terms.
15

16 8. Defendants violated the trust of Plaintiff and Class Members because
17 the Products are not the fruit-packed snack that Defendants' marketing and labeling
18 represents.
19

20 9. Relying on Defendants' representations, consumers that seek healthier
21 alternatives than mere candy only later realize that their purchase of Defendants'
22 Products was a fruitless endeavor.
23

24 10. Plaintiff brings this action individually and on behalf of those similarly
25 situated and seek to represent a National Class and a California Class. Plaintiff
26 seeks damages, interest thereon, reasonable attorneys' fees and costs, restitution,
27 other equitable relief, and disgorgement of all benefits that Defendants have enjoyed
28 from their deceptive business practices, as detailed herein. In addition, Plaintiff seeks

1 injunctive relief to stop Defendants' deceptive conduct in the labeling and marketing
2 of the Products.

3 **JURISDICTION AND VENUE**

4
5 11. This Court has personal jurisdiction over Defendants. Defendants
6 purposefully avail themselves of the California consumer market and distribute the
7 Products to many locations within this District and hundreds of retail locations
8 throughout the State of California, where the Products are purchased by thousands of
9 consumers every day.

10 12. This Court has original subject-matter jurisdiction over this proposed
11 class action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class
12 Action Fairness Act ("CAFA"), explicitly provides for the original jurisdiction of the
13 federal courts in any class action in which at least 100 members are in the proposed
14 plaintiff class, any member of the plaintiff class is a citizen of a State different from
15 any defendant, and the matter in controversy exceeds the sum of \$5,000,000.00,
16 exclusive of interest and costs. Plaintiff alleges that the total claims of individual
17 members of the proposed Class (as defined herein) are well in excess of \$5,000,000.00
18 in the aggregate, exclusive of interest and costs.

19 13. Venue is proper in this District under 28 U.S.C. § 1391(a). Plaintiff's
20 purchases of Defendants' Products, substantial acts in furtherance of the alleged
21 improper conduct, including the dissemination of false and misleading information
22 regarding the nature, quality, and/or ingredients of the Products, occurred within this
23 District and the Defendants conduct business in this District.

24
25 **DIVISIONAL ASSIGNMENT**

26 14. Pursuant to Civil Local Rule 3-2(c-d), a substantial part of the events
27 giving rise to the claims arose in Humboldt County, and this action should be
28 assigned to the Eureka Division.

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