

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
BENTON DIVISION**

Dawn Hancock, individually and on behalf of
all others similarly situated,

Plaintiff,

- against -

Arizona Beverages USA LLC,

Defendant

3:21-cv-01735

Class Action Complaint

Jury Trial Demanded

Plaintiff alleges upon information and belief, except for allegations pertaining to plaintiff, which are based on personal knowledge:

1. Arizona Beverages USA LLC (“Defendant”) manufactures, labels, markets, and sells mango drinks identified as “Mucho Mango Fruit Cocktail,” under the Arizona brand (“Product”).



2. The relevant front label representations include “Mucho Mango,” “Fruit Juice Cocktail,” “All Natural,” pictures of mangos and “VITAMIN C FORTIFIED” and “VITAMIN C FORTIFIED – ANTIOX.”



3. “VITAMIN C FORTIFIED” and “VITAMIN C FORTIFIED – ANTIOX” are relative nutrient content claims with the descriptor, “fortified.”

4. Nutrient content claims tell consumers about the levels of a nutrient in a food.

5. FDA regulations, identical to those of this State, restrict nutrient content claims to those that are specifically authorized.

6. If a nutrient content claim is not authorized, it is prohibited.

7. The purpose is to prevent consumers being deceived by the endless terms that marketers can devise in order to gain advantage in the marketplace, at the detriment of the public.

8. Relative nutrient content claims compare the level of a nutrient in one food with another food. 21 C.F.R. § 101.13(j).

9. Relative claims are required to identify the particular food a product is comparing itself against when making such a claim. 21 C.F.R. § 101.13(j)(2)(i).

10. Consumers understand “fortified with vitamin C” in the same way as “added vitamin C,” to describe differences in the level of vitamin C between two similar foods that result from the addition of vitamin C in the food bearing the claim. 21 CFR 101.13(j)(1).

11. Since “Fortified with Vitamin C” is a relative claim, it is required to contain at least

10 percent more vitamin C than a reference food. 21 CFR 101.54(e)(1)(i).

12. A reference food for the Product would be a similar fruit beverage which has not been fortified. 21 CFR 101.54(e)(1)(iii).

13. However, the Product does not list any reference food, and consumers are not told the basis for the Product's claim to be "fortified with Vitamin C."

14. The addition of vitamin C to the Product is not consistent with the FDA's fortification policy. 21 CFR 101.54(e)(1)(ii).

15. Fortification of the Product is not appropriate because there is no nutritional deficiency in vitamin C recognized by the scientific community and the addition of vitamin C does not replace nutrients lost in storage, handling, or processing.

16. The Product contains 22 grams of added sugars per eight oz serving, which is 44% of the daily value of added sugars.



17. The Product contains 15% of the daily value for vitamin C, through addition of ascorbic acid, as shown in the ingredient list.

INGREDIENTS: FILTERED WATER, HIGH FRUCTOSE CORN SYRUP (GLUCOSE-FRUCTOSE SYRUP), MANGO PUREE, PEAR JUICE FROM CONCENTRATE, CITRIC ACID, ASCORBIC ACID (VITAMIN C), NATURAL FLAVORS, BETA CAROTENE FOR COLOR, GUM ACACIA, ESTER GUM.

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18. Dietary guidance indicates foods with high added sugar content such as the Product should be consumed sparingly.

19. Fortification of the Product is deceptive, causing consumers to purchase it instead of other products, which are consistent with dietary guidance.

20. The Product contains other representations which are misleading, such as “All Natural.”

21. Reasonable consumers must and do rely on a company to honestly identify and describe the components, attributes, and features of a product, relative to itself and other comparable products or alternatives.

22. The value of the Product that Plaintiff purchased was materially less than its value as represented by defendant.

23. Defendant sold more of the Product and at higher prices than it would have in the absence of this misconduct, resulting in additional profits at the expense of consumers.

24. Had Plaintiff and proposed class members known the truth, they would not have bought the Product or would have paid less for it.

25. The Product is sold for a price premium compared to other similar products, no less than approximately \$3.79 per 128 oz, a higher price than it would otherwise be sold for, absent the

misleading representations and omissions.

Jurisdiction and Venue

26. Jurisdiction is proper pursuant to Class Action Fairness Act of 2005 (“CAFA”). 28 U.S.C. § 1332(d)(2).

27. The aggregate amount in controversy exceeds \$5 million, including any statutory damages, exclusive of interest and costs.

28. Plaintiff Dawn Hancock is a citizen of Illinois.

29. Defendant Arizona Beverages USA LLC, is a New York limited liability company with a principal place of business in Woodbury, Nassau County, New York and upon information and belief, at least one member of defendant is not a citizen of the same state as the plaintiff.

30. Defendant transacts business within this District through sale of the Product at stores within this State and District, including big box stores, convenience stores, drug stores, grocery stores, club stores, and online, sold directly to residents of this District.

31. Venue is in this District because plaintiff resides in this district and the actions giving rise to the claims occurred within this district.

32. Venue is in the Benton Division in this District because a substantial part of the events or omissions giving rise to the claim occurred in Williamson County, i.e., Plaintiff’s purchase of the Product and her awareness of the issues described here.

Parties

33. Plaintiff Dawn Hancock is a citizen of Johnson City, Williamson County, Illinois.

34. Defendant Arizona Beverages USA LLC, is a New York limited liability company with a principal place of business in Woodbury, New York, Nassau County.

35. Defendant is one of the largest sellers of non-carbonated beverages in the country,

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