

**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.

CONTAINS 5% JUICE		
Nutrition Facts		
16 servings per container		
Serving size 8 fl oz (240mL)		
Amount per serving		
Calories	100	
% Daily Value*		
Total Fat 0g		0%
Sodium 0mg		0%
Total Carbohydrate 24g		9%
Total Sugars 23g		
Includes 22g Added Sugars		44%
Protein 0g		
Vitamin C 13mg		15%
Not a significant source of saturated fat, trans fat, cholesterol, dietary fiber, vitamin D, calcium, iron and potassium.		
*The % Daily Value (DV) tells you how much a nutrient in a serving of food contributes to a daily diet. 2,000 calories a day is used for general nutrition advice.		

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.

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.

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,

Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.