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Counsel for Plaintiff

12 **UNITED STATES DISTRICT COURT**
 13 **SOUTHERN DISTRICT OF CALIFORNIA**

15
 16 EVLYN ANDRADE-HEYMSFIELD, on
 17 behalf of herself, all others similarly situated,
 18 and the general public,

Plaintiff,

v.

20 NEXTFOODS, INC.,

Defendant.

Case No: 3:21-cv-01446-BTM-MSB

CLASS ACTION

**FIRST AMENDED COMPLAINT
 FOR VIOLATIONS OF CAL. BUS.
 & PROF. CODE §§17200 *et seq.*;
 CAL. BUS. & PROF. CODE §§17500
et seq.; CAL. CIV. CODE §§ 1750 *et*
seq.; and BREACH OF EXPRESS
 WARRANTIES**

DEMAND FOR JURY TRIAL

1 Plaintiff Evlyn Andrade-Heymsfield, on behalf of herself, all others similarly situated,
2 and the general public, by and through her undersigned counsel, hereby sues Defendant
3 NextFoods, Inc. (“NextFoods”), and alleges the following upon her own knowledge, or where
4 she lacks personal knowledge, upon information and belief, including the investigation of her
5 counsel.

6 INTRODUCTION

7 1. For several years, NextFoods has sold a line of fruit juice beverages branded
8 GoodBelly Probiotic JuiceDrinks (the “JuiceDrinks”).¹ NextFoods represents on their labels
9 that the JuiceDrinks promote “digestive health” and thereby promote “overall health,” and
10 “overall wellness.”

11 2. The labeling of the JuiceDrinks is false or highly misleading for several reasons.

12 3. First, representations that the JuiceDrinks promote “digestive health” are false,
13 or at least highly misleading, because the sugar contained in the JuiceDrinks directly harms
14 digestive health. A reasonable consumer would not expect a product labeled as promoting
15 “digestive health” to contain large amounts of another substance that directly and
16 significantly harms digestive health, and thus would be misled.

17 4. Second, representations that the JuiceDrinks promote digestive health and
18 thereby promote “overall health,” and “overall wellness” are also false, or at least highly
19 misleading. This is because the sugar contained in the JuiceDrinks directly harms digestive
20 health and those harmful effects to the digestive system increase inflammation which and
21 thereby increase risk of metabolic syndrome, obesity, and type 2 diabetes. A reasonable
22 consumer would not expect a product labeled as promoting “overall health,” and “overall
23 wellness” to contain large amounts of another substance that directly and significantly
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26 ¹ This includes at least the following varieties: Tropical Green, Blueberry Acai, Pomegranate
27 Blackberry, Mango, Cranberry Watermelon, Strawberry Banana, Raspberry Blackberry,
28 Orange, and Peach Mango Orange. For exemplars of the JuiceDrinks’ labeling available at
the time of filing, *see* Appendix 1.

1 increases risk of chronic diseases like metabolic syndrome, obesity, and type 2 diabetes and
2 others.

3 5. Third, given the representations that the JuiceDrinks promote “digestive health”
4 and also thereby promote “overall health,” and “overall wellness,” the JuiceDrinks omit
5 material facts regarding the harmful effects of sugar on both digestive and overall health.

6 6. Plaintiff brings this action against NextFoods on behalf of herself, similarly-
7 situated Class Members, and the general public to recover compensation for injured Class
8 Members.

9 **JURISDICTION & VENUE**

10 7. This Court has original jurisdiction over this action under 28 U.S.C. § 1332(d)(2)
11 (The Class Action Fairness Act) because the matter in controversy exceeds the sum or value
12 of \$5,000,000, exclusive of interest and costs, and at least one member of the class of
13 plaintiffs is a citizen of a State different from NextFoods.

14 8. The Court has personal jurisdiction over NextFoods because it has purposely
15 availed itself of the benefits and privileges of conducting business activities within California,
16 specifically through distributing and selling the JuiceDrinks at issue in California and
17 transactions giving rise to this action occurred in California.

18 9. Venue is proper pursuant to 28 U.S.C. § 1391(b) and (c), because NextFoods
19 resides (*i.e.*, is subject to personal jurisdiction) in this district, and a substantial part of the
20 events or omissions giving rise to the claims occurred in this district.

21 **PARTIES**

22 10. Plaintiff Evlyn Andrade-Heymsfield is a resident and citizen of San Diego
23 County, California.

24 11. Defendant NextFoods, Inc. is a Colorado corporation with its principal place of
25 business in Boulder, Colorado.

FACTS

I. NEXTFOODS MARKETS THE JUICEDRINKS AS BENEFICIAL TO DIGESTIVE AND OVERALL HEALTH

12. NextFoods was founded by two food industry veterans who helped popularize products consumers perceive as healthy, like Silk Soymilk. Their self-described mission “was born out of the age-old mantra that food is the best medicine.”² According to one founder’s “epiphany,” the Baby Boomer generation needs “some help having long, happy, healthy and active lives . . . but they need a means to do it and [sic] that means is better food.”³ The company was started in late 2006, with the promise that its products would have “scientifically substantiated health benefits combined with the goodness and responsibility of healthy, natural foods.”⁴ NextFoods communicates to consumers that the JuiceDrinks are “just the thing to give us that extra boost we need as we’re trekking along on our own personal journeys toward GoodHealth and nutrition.”⁵

13. As NextFoods is well aware, consumers prefer healthful foods and are willing to pay more for, or purchase more often, products marketed and labeled as healthy. For instance, a Nielsen 2015 Global Health & Wellness Survey found that “88% of those polled are willing to pay more for healthier foods.”⁶

14. Accordingly, NextFoods markets the JuiceDrinks as promoting digestive health, as well as “overall” health and wellness, by placing on the JuiceDrinks’ labels, statements that expressly or implicitly convey the message that the JuiceDrinks are healthy.

² NextFoods Inc., “About” Page, <https://goodbelly.com/about> (last visited July 7, 2021).

³ *Id.*

⁴ *See id.*

⁵ *Id.*

⁶ Nancy Gagliardi, “Consumers Want Healthy Foods--And Will Pay More For Them,” *Forbes* (Feb. 18, 2015) (citing Neilson, Global Health & Wellness Survey, at 11 (Jan. 2015)).

1 15. During the Class Period, the JuiceDrinks’ labels bore at least the following
2 statements, which individually and in the context of the label as a whole, convey a message
3 that the JuiceDrinks promote digestive health and overall health:

4 a. “START YOUR GOODHEALTH GAME PLAN . . . Drink one 8 oz.
5 glass of delicious GoodBelly a day for 12 days.”;

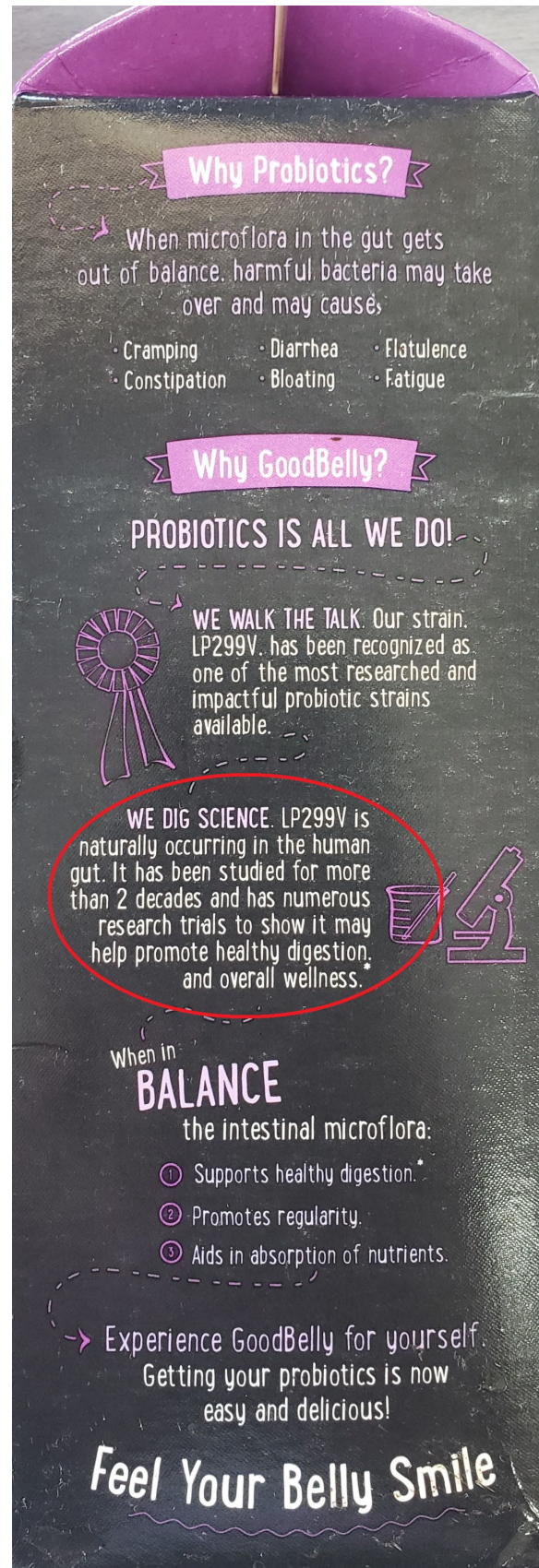
6 b. “Reboot your belly, then make GoodBelly your daily drink to keep your
7 GoodHealth going. Because when your belly smiles the rest of you does too.”

8 c. “WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It
9 has been studied more than 2 decades and has numerous research trials to show that it
10 may help promote healthy digestion and overall wellness”; and

11 d. “GoodBelly Probiotics is a delicious blend of fruit juices and a daily dose
12 of probiotic cultures created to naturally renew your digestive health, right where your
13 overall health gets started – in your belly.”⁷

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27 ⁷ According to NextFoods, “Probiotics are living microorganisms, which, when taken in
28 adequate amounts, have a beneficial effect on the body.” See NextFoods Inc., “The Science”
Page, <https://goodbelly.com/goodhealth> (last visited July 7, 2021).

16. An exemplar of the JuiceDrinks' health and wellness labeling is shown below.



1 **II. SCIENTIFIC EVIDENCE DEMONSTRATES THAT CONSUMING SUGAR,**
2 **LIKE THAT IN NEXTFOOD’S JUICEDRINKS, HARMS DIGESTIVE**
3 **HEALTH**

4 **A. The Sugar in the NextFoods JuiceDrinks Harms the Gut Microbiota**

5 17. Diet plays a central role in shaping the microbiota that make up the gut biome
6 in human’ digestive tracts. In fact, studies “suggest that diet has a dominant role over other
7 possible variables such as ethnicity, sanitation, hygiene, geography, and climate, in shaping
8 the gut microbiota.”⁸

9 18. Studies also show that certain types of nutrients have specific effects on the gut
10 microbiota.

11 19. “For example, complex polysaccharides commonly referred to as dietary fiber,
12 remain undigested in the small intestine, reach the microbiota in the distal gut, and promote
13 colonization by beneficial microbes associated with lean and healthy individuals.”⁹

14 20. “Conversely, diets rich in simple sugars favor the expansion of [harmful
15 microbial] organisms . . .”¹⁰ in at least four separate ways.

18 ⁸ De Filippo, C., et al., “Impact of diet in shaping gut microbiota revealed by a comparative
19 study in children from Europe and rural Africa,” *PNAS*, Vol. 107, No. 33, 14691-14696
20 (August 17, 2010); *see also* Brown, K, et al., “Diet-Induced Dysbiosis of the Intestinal
21 Microbiota and the Effects on Immunity and Disease,” *Nutrients* 2012, 4, 1095-1119 (“the
22 composition of the gut microbiota strongly correlates with diet as demonstrated by a study
23 assessing the relative contributions of host genetics and diet in shaping the gut microbiota”
24 “dietary changes could explain 57% of the total structural variation in gut microbiota whereas
25 changes in genetics accounted for no more than 12% This indicates that diet has a dominating
26 role in shaping gut microbiota”) [hereafter “De Filippo, Diet-Induced Dysbiosis of the
27 Intestinal Microbiota”].

26 ⁹ Townsend II, G., et al., “Dietary sugar silences a colonization factor in a mammalian gut
27 symbiont,” *PNAS*, Vol. 116, No. 1, 233-238 (January 2, 2019) [hereinafter “Townsend II,
28 Dietary sugar silences a colonization factor”].

¹⁰ *Id.*

1 21. First, simple sugars serve as a nutrient for harmful bacteria and “[r]ecent studies
2 have shown that high intake of sugars increase the relative abundance of [harmful]
3 Proteobacteria in the gut, while simultaneously decreasing the abundance of [beneficial]
4 Bacteroidetes.”¹¹

5 22. Second, and importantly, high sugar diets result in “lost gut microbial
6 diversity.”¹²

7 23. Third, independent of their effect as a nutrient for harmful microbiota, because
8 consuming sugar increases bile output, “[r]efined sugars,” also “mediate the overgrowth of
9 opportunistic[, harmful] bacteria like *C. difficile* and *C. perfringens*,”¹³ which feed on the
10 bile.

11 24. Fourth, sugar “can impact gut colonization by the microbiota independently of
12 their ability to serve as nutrients” since both “fructose and glucose silence a critical
13 colonization factor, called Roc, in a widely distributed gut commensal bacterium *B.*
14 *thetaiotaomicron*.”¹⁴

17 ¹¹ Satokari, R., “High Intake of Sugar and the Balance between Pro- and Anti-Inflammatory
18 Gut Bacteria,” *Nutrients* 2020 May, 12(5), 1348 (published online May 8, 2020) [hereinafter
19 “Satokari, High Intake of Sugar”].

20 ¹² Ho Do, M., et al., “High-Glucose or -Fructose Diet Cause Changes of the Gut Microbiota
21 and Metabolic Disorders in Mice without Body Weight Change,” *Nutrients* 2018, 10, 761
22 (June 13, 2018) [hereinafter “Ho Do, High-Glucose or -Fructose Diet Cause Changes of the
23 Gut Microbiota and Metabolic Disorders ”]; *see also* Jian-Mei Li, et al., “Dietary fructose-
24 induced gut dysbiosis promotes mouse hippocampal neuroinflammation: a benefit of short-
25 chain fatty acids,” *Microbiome*, 7, Article No. 98 (2019) (June 29, 2019) (“The abundance of
26 Bacteroidetes was significantly decreased and Proteobacteria was significantly increased in
27 fructose-fed mice”) [hereinafter “Jian-Mei Li, Dietary fructose-induced gut dysbiosis”].

26 ¹³ De Filippo, Diet-Induced Dysbiosis of the Intestinal Microbiota, *supra* n.8.

27 ¹⁴ Townsend II, Dietary sugar silences a colonization factor, *supra* n.9 (“dietary simple sugars
28 can suppress gut colonization in a commensal bacterium just by altering the levels of a
colonization factor [know as Roc] dispensable for the utilization of such sugars.”).

1 25. These changes in the gut microbiota composition harm digestive health and
2 increase risk of chronic digestive track conditions.

3 26. Specifically, “[e]vidence suggests that the composition of the intestinal
4 microbiota can influence susceptibility to chronic disease of the intestinal tract including
5 ulcerative colitis, Crohn’s disease, celiac disease and irritable bowel syndrome”¹⁵

6 27. “Evidence [also] suggests that the composition of the intestinal microbiota can
7 influence susceptibility to . . . more systemic diseases such as obesity, type 1 diabetes and
8 type 2 diabetes.”¹⁶

9 28. In sum, “high sugar intake may stagger the balance of microbiota to have
10 increased pro-inflammatory properties and decreased [] capacity to regulate epithelial
11 integrity and mucosal immunity. Consequently, high dietary sugar can, through the
12 modulation of microbiota, promote metabolic endotoxemia, systemic (low grade)
13 inflammation and the development of metabolic dysregulation and thereby, high dietary sugar
14 may have many-fold deleterious health effects, in addition to providing excess energy.”¹⁷

15 **B. The Sugar in the NextFoods JuiceDrinks Harms the Gut Barrier**

16 29. “The gut barrier consists of a specialized, semi-permeable mucosal, and
17 epithelial cell layers that are reinforced by tight junction proteins. Among other functions,
18 this barrier serves to regulate nutrient and water entry and prevents the entry of harmful
19 compounds into extra-luminal tissues” and the blood.¹⁸

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23 ¹⁵ De Filippo, Diet-Induced Dysbiosis of the Intestinal Microbiota, *supra* n.8.

24 ¹⁶ *Id.*

25 ¹⁷ Satokari, High Intake of Sugar, *supra* n.11.

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27 ¹⁸ Noble, E., et al., “Gut to Brain Dysbiosis: Mechanisms Linking Western Diet Consumption,
28 the Microbiome, and Cognitive Impairment,” *Front Behav. Neurosci.* 2017, 11:9 (published
online January 30, 2017).

1 30. When the permeability of the gut or epithelial barrier is increased, this “allows
2 for the influx of adverse substances and may ultimately contribute to the development of
3 metabolic disorders, and cognitive dysfunction.”¹⁹

4 31. “A compromised gut barrier makes the intestinal tract potentially vulnerable to
5 the gram-negative bacteria-derived LPS, which upon excess entry into circulation promotes
6 endotoxemia and systemic inflammation.”²⁰

7 32. Both glucose and fructose increase gut barrier permeability.

8 33. “Although dietary fructose was thought to be metabolized exclusively in the
9 liver, evidence has emerged that it is also metabolized in the small intestine and leads to
10 intestinal epithelial barrier deterioration.”²¹ A high fructose diet, for example, has been found
11 to result in the “thinning of the intestinal mucosa, epithelium, and muscularis mucosae; loss
12 of crypts and glands” among other harmful effects.²²

13 34. The “increase[d] intestinal permeability,” in turn “precedes the development of
14 metabolic endotoxemia, inflammation, and lipid accumulation, ultimately leading to hepatic
15 steatosis and normal-weight obesity.”²³

16 35. In addition, “[t]he monosaccharide fructose can escape absorption in the small
17 intestine and reach the microbiota in the distal gut, where microbiota-derived products of
18 fructose metabolism enter the host blood.”²⁴

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20 ¹⁹ *Id.*

21 ²⁰ *Id.* (Studies have found “elevated plasma levels of a gavigated fluorescent molecule (FITC-
22 dextran) that is typically unable to cross the gut barrier.”).

23 ²¹ Febbraio, M., et al., “‘Sweet death’: Fructose as a metabolic toxin that targets the gut-liver
24 axis,” *Cell Metab.* 2021 Dec 7;33(12):2316-2328 (published online October 6, 2021)
[hereinafter “Febbraio, Fructose as a metabolic toxin that targets the gut-liver axis”].

25 ²² Jian-Mei Li, Dietary fructose-induced gut dysbiosis, *supra* n.12.

26 ²³ Ho Do, High-Glucose or -Fructose Diet Cause Changes of the Gut Microbiota and
27 Metabolic Disorders, *supra* n.12.

28 ²⁴ Townsend II, Dietary sugar silences a colonization factor, *supra* n.9.

1 36. Thus, “excessive fructose consumption” has been shown to “result[] in barrier
2 deterioration, dysbiosis, low-grade intestinal inflammation, and endotoxemia.”²⁵

3 37. In short, consuming fructose, like that in the GoodBelly JuiceDrinks, has
4 numerous harmful effects on the gut barrier.^{26, 27, 28, 29}

5 38. Like fructose, glucose also harms the gut barrier. For example, both a “[high
6 glucose diet] and [high fructose diet] increased gut permeability and disrupted the gut
7 barrier.”³⁰ This harms the health of the digestive track because “damaged gut barriers” lead
8 to endotoxins crossing the epithelial and into the blood stream, resulting in “higher [blood]
9 plasma endotoxin levels.”³¹

10 39. Not only does glucose harm the gut barrier from within the digestive track, high
11 levels of glucose in the blood, known as “[h]yperglycemia[,] markedly interfered with
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13 ²⁵ Febbraio, Fructose as a metabolic toxin that targets the gut-liver axis, *supra* n.21.

14 ²⁶ Satokari, High Intake of Sugar, *supra* n.11 (“consuming high amounts of sugar harms the
15 gut by “increasing small intestinal permeability in healthy humans,”).

16 ²⁷ Ho Do, High-Glucose or -Fructose Diet Cause Changes of the Gut Microbiota and
17 Metabolic Disorders, *supra* n.12 (“diet induced changes in the gut microbiota affect the
18 expression of tight junction proteins and inflammatory cytokines, which leads to increased
19 gut permeability and inflammation”).

20 ²⁸ Febbraio, Fructose as a metabolic toxin that targets the gut-liver axis, *supra* n.21 (“fructose,
21 . . . led to the downregulation of enterocyte tight-junction proteins and subsequent barrier
22 deterioration, which is in agreement with previous rodents and human studies (Jin et al., 2014;
23 Kavanagh et al., 2013; Lambertz et al., 2017; Spruss et al., 2012).”).

24 ²⁹ Young-Eun Cho, et al., “Fructose Promotes Leaky Gut, Endotoxemia, and Liver Fibrosis
25 Through Ethanol-Inducible Cytochrome P450-2E1–Mediated Oxidative and Nitrate
26 Stress,” *Hepatology*, Vol. 73, Issue 6, June 2021, 2180-2195 (April 8, 2019) (“fructose intake
27 causes protein nitration of intestinal [tight-junction] and AJ proteins, resulting in increased
28 gut leakiness, endotoxemia, and steatohepatitis with liver fibrosis”).

³⁰ Ho Do, High-Glucose or -Fructose Diet Cause Changes of the Gut Microbiota and
Metabolic Disorders, *supra* n.12.

³¹ *Id.*

1 homeostatic epithelial integrity, leading to abnormal influx of immune-stimulatory microbial
2 products and a propensity for systemic spread of enteric pathogens.”³² This happens, at least
3 in part, because “hyperglycemia causes retrograde transport of glucose into intestinal
4 epithelial cells via GLUT2, followed by alterations in intracellular glucose metabolism and
5 transcriptional reprogramming.”³³

6 40. In short, “experiments establish hyperglycemia as a direct and specific cause for
7 intestinal barrier dysfunction and susceptibility to enteric infection,”³⁴ such that “[b]lood
8 glucose concentrations are associated with microbial product influx in humans[.]”³⁵

9 **III. SCIENTIFIC EVIDENCE DEMONSTRATES THAT CONSUMING JUICE,**
10 **LIKE NEXTFOOD’S JUICEDRINKS, HARMS OVERALL HEALTH**

11 41. In addition to harming the digestive track directly, because sugar consumption
12 negatively impacts the gut microbiota composition and harms the gut barrier (which causes
13 inflammation), it can also increase risk of “more systemic diseases such as obesity, type 1
14 diabetes and type 2 diabetes.”³⁶

15 **A. Juice Consumption is Associated with Increased Risk of Metabolic Disease**

16 42. Excess sugar consumption leads to metabolic syndrome by stressing and
17 damaging crucial organs, including the pancreas and liver. When the pancreas, which
18 produces insulin, becomes overworked, it can fail to regulate blood sugar properly. Large
19 doses of fructose can overwhelm the liver, which metabolizes fructose. In the process, the

21 ³² Thaiss, C., et al., “Hyperglycemia drives intestinal barrier dysfunction and risk for enteric
22 infection,” *Science* 359, 1376–1383 (2018) (March 23, 2018) (“We have identified glucose
as an orchestrator of intestinal barrier function.”).

23 ³³ *Id.*

24 ³⁴ *Id.*

25 ³⁵ *Id.* (Human studies “suggest that similar to their effects in mice, serum glucose
26 concentrations, rather than obesity, may associate with or potentially even drive intestinal
27 barrier dysfunction in humans.”).

28 ³⁶ De Filippo, Diet-Induced Dysbiosis of the Intestinal Microbiota, *supra* n.8.

1 liver will convert excess fructose to fat, which is stored in the liver and released into the
2 bloodstream. This process contributes to key elements of metabolic syndrome, including high
3 blood fats and triglycerides, high cholesterol, high blood pressure, and extra body fat,
4 especially in the belly.³⁷

5 43. Metabolic disease has been linked to type 2 diabetes, cardiovascular disease,
6 obesity, polycystic ovary syndrome, nonalcoholic fatty liver disease, and chronic kidney
7 disease, and is defined as the presence of any three of the following:

- 8 a. Large Waist Size (35” or more for women, 40” or more for men);
- 9 b. High triglycerides (150mg/dL or higher, or use of cholesterol
10 medication);
- 11 c. High total cholesterol, or HDL levels under 50mg/dL for women, and 40
12 mg for men;
- 13 d. High blood pressure (135/85 mm or higher); or
- 14 e. High blood sugar (100mg/dL or higher).

15 44. More generally, “metabolic abnormalities that are typical of the so-called
16 metabolic syndrome . . . includ[e] insulin resistance, impaired glucose tolerance, high
17 concentrations of circulating triacylglycerols, low concentrations of HDLs, and high
18 concentrations of small, dense LDLs.”³⁸

19 45. Fifty-six million Americans have metabolic syndrome, or about 22.9% over the
20 age of 20, placing them at higher risk for chronic disease.

21 46. In 2010, Harvard researchers published a meta-analysis of three studies,
22 involving 19,431 participants, concerning the effect of consuming sugar-sweetened
23

24 ³⁷ Te Morenga, L., et al., “Dietary sugars and body weight: systematic review and meta-
25 analyses of randomized controlled trials and cohort studies,” *BJM* (January 2013)
26 [hereinafter, “Te Morenga, Dietary Sugars & Body Weight”].

27 ³⁸ Fried, S.K., “Sugars, hypertriglyceridemia, and cardiovascular disease,” *American Journal*
28 *of Clinical Nutrition*, Vol. 78 (suppl.), 873S-80S, at 873S (2003) [hereinafter, “Fried,
Hypertriglyceridemia”].

1 beverages on risk for metabolic syndrome. They found participants in the highest quantile of
 2 1-2 servings per day³⁹ had an average 20% greater risk of developing metabolic syndrome
 3 than did those in the lowest quantile of less than 1 serving per day, showing “a clear link
 4 between SSB consumption and risk of metabolic syndrome”⁴⁰

5 47. Researchers who studied the incidence of metabolic syndrome and its
 6 components in relation to soft drink consumption in more than 6,000 participants in the
 7 Framingham Heart Study found that individuals who consumed 1 or more soft drinks per day
 8 (i.e., 140-150 calories and 35-37.5 grams of sugar or more) had a 48% higher prevalence of
 9 metabolic syndrome than infrequent consumers, those who drank less than 1 soft drink per
 10 day. In addition, the frequent-consumer group had a 44% higher risk of developing metabolic
 11 syndrome.⁴¹

12 **B. Juice Consumption is Associated with Increased Risk of Type 2 Diabetes**

13 48. Diabetes affects 25.8 million Americans, and can cause kidney failure, lower-
 14 limb amputation, and blindness. In addition, diabetes doubles the risk of colon and pancreatic
 15 cancers and is strongly associated with coronary artery disease and Alzheimer’s disease.⁴²
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17 ³⁹ Because 1 sugar-sweetened beverage typically has 140-150 calories and 35-37.5 grams of
 18 sugar per 12-ounce serving, this is equivalent to between 140 and 300 calories per day, and
 19 35 to 75 grams of sugar per day.

20 ⁴⁰ Malik, Vasanti S., et al., “Sugar-Sweetened Beverages and Risk of Metabolic Syndrome
 21 and Type 2 Diabetes,” *Diabetes Care*, Vol. 33, No. 11, 2477-83, at 2477, 2480-81 (November
 2010) [hereinafter “Malik, 2010 Meta-Analysis”].

22 ⁴¹ Dhingra, R., et al., “Soft Drink Consumption and Risk of Developing Cardiometabolic Risk
 23 Factors and the Metabolic Syndrome in Middle-Aged Adults in the Community,”
 24 *Circulation*, Vol. 116, 480-88 (2007) [hereinafter “Dhingra, Cardiometabolic Risk”].

25 ⁴² Aranceta Bartrina, J. et al., “Association between sucrose intake and cancer: a review of
 26 the evidence,” *Nutrición Hospitalaria*, Vol. 28 (Suppl. 4), 95-105 (2013); Garcia-Jimenez,
 27 C., “A new link between diabetes and cancer: enhanced WNT/beta-catenin signaling by high
 28 glucose,” *Journal of Molecular Endocrinology*, Vol. 52, No. 1 (2014); Linden, G.J., “All-
 cause mortality and periodontitis in 60-70-year-old men: a prospective cohort study,” *Journal
 of Clinical Periodontal*, Vol. 39, No. 1, 940-46 (October 2012).

1 49. In 2010, Harvard researchers also performed a meta-analysis of 8 studies
2 concerning sugar-sweetened beverage consumption and risk of type 2 diabetes, involving a
3 total of 310,819 participants. They concluded that individuals in the highest quantile of SSB
4 intake had an average 26% greater risk of developing type 2 diabetes than those in the lowest
5 quantile.⁴³ Moreover, “larger studies with longer durations of follow-up tended to show
6 stronger associations.”⁴⁴ Thus, the meta-analysis showed “a clear link between SSB
7 consumption and risk of . . . type 2 diabetes.”⁴⁵

8 50. An analysis of data for more than 50,000 women from the Nurses’ Health
9 Study,⁴⁶ during two 4-year periods (1991-1995, and 1995-1999), showed, after adjusting for
10 confounding factors, that women who consumed 1 or more sugar-sweetened soft drink per
11 day (*i.e.*, 140-150 calories and 35-37.5 grams of sugar), had an 83% greater relative risk of
12 type 2 diabetes compared with those who consumed less than 1 such beverage per month, and
13 women who consumed 1 or more fruit punch drinks per day had a 100% greater relative risk
14 of type 2 diabetes.⁴⁷

17 ⁴³ Malik, 2010 Meta-Analysis, *supra* n.40 at 2477, 2480.

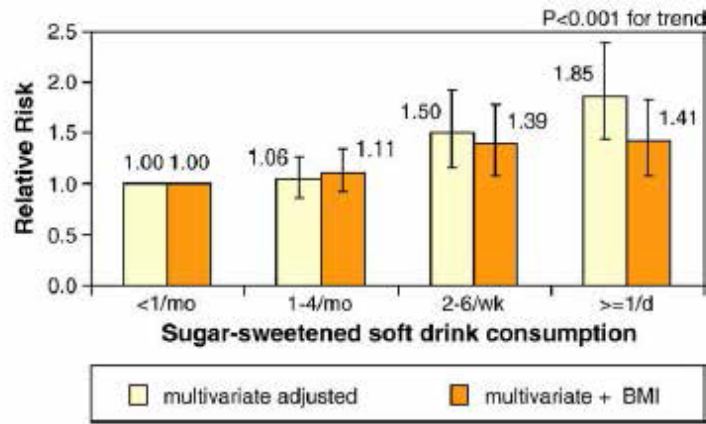
18 ⁴⁴ *Id.* at 2481.

19 ⁴⁵ *Id.*

20 ⁴⁶ The Nurses’ Health Study was established at Harvard in 1976, and the Nurses’ Health Study
21 II, in 1989. Both are long-term epidemiological studies conducted on women’s health. The
22 study followed 121,700 women registered nurses since 1976, and 116,000 female nurses
23 since 1989, to assess risk factors for cancer, diabetes, and cardiovascular disease. The Nurses’
24 Health Studies are among the largest investigations into risk factors for major chronic disease
25 in women ever conducted. *See generally* “The Nurses’ Health Study,” at
<http://www.channing.harvard.edu/nhs>.

26 ⁴⁷ Schulze, M.B., et al., “Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type
27 2 Diabetes in Young and Middle-Aged Women,” *Journal of the American Medical*
28 *Association*, Vol. 292, No. 8, 927-34 (Aug. 25, 2004) [hereinafter “Schulze, Diabetes in
Young & Middle-Aged Women”].

1 51. The result of this analysis shows a statistically significant linear trend with
2 increasing sugar consumption.⁴⁸



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Fig. 4. Multivariate relative risks (RRs) of type 2 diabetes according to sugar-sweetened soft drink consumption in the Nurses' Health Study II 1991-1999 (Multivariate RRs were adjusted for age, alcohol (0, 0.1-4.9, 5.0-9.9, 10+ g/d), physical activity (quintiles), family history of diabetes, smoking (never, past, current), postmenopausal hormone use (never, ever), oral contraceptive use (never, past, current), intake (quintiles) of cereal fiber, magnesium, trans fat, polyunsaturated:saturated fat, and consumption of sugar-sweetened soft drinks, diet soft drinks, fruit juice, and fruit punch (other than the main exposure, depending on model). The data were based on Ref. [50]).

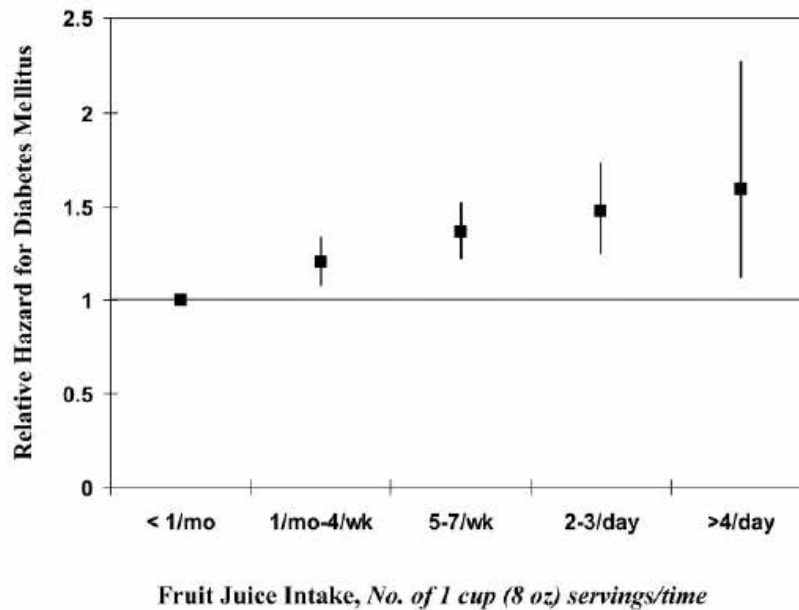
52. A prospective cohort study of more than 43,000 African American women between 1995 and 2001 showed that the incidence of type 2 diabetes was higher with higher intake of both sugar-sweetened soft drinks and fruit drinks. After adjusting for confounding variables, those who drank 2 or more soft drinks per day (*i.e.*, 140-300 calories and 35-75 grams of sugar) showed a 24% greater risk of type 2 diabetes, and those who drank 2 or more fruit drinks per day showed a 31% greater risk of type 2 diabetes, than those who drank 1 or less such drinks per month.⁴⁹

53. A large cohort study of 71,346 women from the Nurses' Health Study followed for 18 years showed that those who consumed 2 to 3 apple, grapefruit, and orange juices per day (280-450 calories and 75-112.5 grams of sugar) had an 18% greater risk of type 2 diabetes

⁴⁸ Hu, F.B., et al., "Sugar-sweetened beverages and risk of obesity and type 2 diabetes: Epidemiologic evidence," *Physiology & Behavior*, Vol. 100, 47-54 (2010).

⁴⁹ Palmer, J.R., et al., "Sugar-Sweetened Beverages and Incidence of Type 2 Diabetes Mellitus in African American Women," *Archive of internal Medicine*, Vol. 168, No. 14, 1487-82 (July 28, 2008) [hereinafter "Palmer, Diabetes in African American Women"].

1 than women who consumed less than 1 sugar-sweetened beverage per month. The data also
 2 showed a linear trend with increased consumption, as demonstrated below.⁵⁰



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Figure 1—Multivariate-adjusted relative hazard of diabetes by category of cumulatively updated fruit juice intake. Values were adjusted for cumulatively updated BMI, physical activity, family history of diabetes, postmenopausal hormone use, alcohol use, smoking, and total energy intake. For an increase of 1 serving/day of fruit juice, the multivariate-adjusted relative risk was 1.18 (95% CI 1.10–1.26; $P < 0.0001$).

54. An analysis of more than 40,000 men from the Health Professionals Follow-Up Study, a prospective cohort study conducted over a 20-year period, found that, after adjusting for age and a wide variety of other confounders, those in the top quartile of sugar-sweetened beverage intake had a 24% greater risk of type 2 diabetes than those in the bottom quartile, while consumption of artificially-sweetened beverages, after adjustment, showed no association.⁵¹

55. In an analysis of tens of thousands of subjects from three prospective longitudinal cohort studies (the Nurses' Health Study, Nurses' Health Study II, and Health Professionals Follow-up Study), researchers found, after adjusting for BMI, initial diet,

⁵⁰ Bazzano, L.A., et al., "Intake of fruit, vegetables, and fruit juices and risk of diabetes in women," *Diabetes Care*, Vol. 31, 1311-17 (2008).

⁵¹ de Konig, L., et al., "Sugar-sweetened and artificially sweetened beverage consumption and risk of type 2 diabetes in men," *American Journal of Clinical Nutrition*, Vol. 93, 1321-27 (2011).

1 changes in diet, and lifestyle covariates, that increasing sugary beverage intake—which
2 included both sugar-sweetened beverages and fruit juice—by half-a-serving per day over a
3 4-year period was associated with a 16% greater risk of type 2 diabetes.⁵²

4 56. In another study of subjects from the Nurses' Health Study, Nurses' Health
5 Study II, and Health Professionals Follow-up Study, researchers set out to “determine
6 whether individual fruits are differentially associated with risk of type 2 diabetes,” looking at
7 the associated risk with eating three servings per week of blueberries, grapes and raisins,
8 prunes, apples and pears, bananas, grapefruit, oranges, strawberries, cantaloupe, and peaches,
9 plums and apricots, as well as “the same increment” in fruit juice consumption. They found
10 that “[g]reater consumption of specific whole fruits” was “significantly associated with a
11 lower risk of type 2 diabetes, whereas greater consumption of fruit juice is associated with a
12 higher risk.” The increased risk was approximately 8% based on three fruit juice servings per
13 week.⁵³ Similarly, a meta-analysis of 17 prospective cohort studies showed higher
14 consumption of fruit juice was associated with a 7% greater incidence of type 2 diabetes after
15 adjusting for adiposity.⁵⁴

16 57. An econometric analysis of repeated cross-sectional data published in 2013
17 established a causal relationship between sugar availability and type 2 diabetes. After
18 adjusting for a wide range of confounding factors, researchers found that an increase of 150
19 calories per day related to an insignificant 0.1% rise in diabetes prevalence by country, while
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22 ⁵² Drouin-Chatier, J., et al., “Changes in Consumption of Sugary Beverages and Artificially
23 Sweetened Beverages and Subsequent Risk of Type 2 Diabetes: Results From Three Large
24 Prospective U.S. Cohorts of Women and Men.” *Diabetes Care*, Vol. 42, pp. 2181-89 (Dec.
25 2019).

26 ⁵³ Muraki, I., et al., “Fruit consumption and risk of type 2 diabetes: results from three
27 prospective longitudinal cohort studies.” *BMJ* (Aug. 28, 2013).

28 ⁵⁴ Imamura, F., et al., “Consumption of sugar sweetened beverages, artificially sweetened
beverages, and fruit juice and incidence of type 2 diabetes: systematic review, meta-analysis,
and estimation of population attributable fraction.” *BMJ*, Vol. 351 (2015).

1 an increase of 150 calories per day in sugar related to a 1.1% rise in diabetes prevalence by
2 country, a statically-significant 11-fold difference.⁵⁵

3 **C. Juice Consumption is Associated with Increased Risk of Cardiovascular**
4 **Heart Disease**

5 58. Heart disease is the number one killer in the United States. The scientific
6 literature demonstrates that consumption of sugar-containing beverages (SCB), including
7 juices, at amounts typically consumed, has deleterious effects on heart health.

8 59. In a study published in January 2020, researchers set out to determine whether
9 consumption of SCBs, including juice, is associated with cardiometabolic risk (CMR) in
10 preschool children, using 2007-2018 data from TARGet Kids!, a primary-care, practice-based
11 research network in Canada. After adjusting for sociodemographic, familial, and child-related
12 covariates, higher consumption of SCB was significantly associated with elevated CMR
13 scores, including lower HDL “good” cholesterol, and higher triglycerides. In addition, when
14 examined separately, juice specifically was significantly associated with lower HDL
15 cholesterol. The researchers stated that their “findings support recommendations to limit
16 overall intake of SCB in early childhood, in [an] effort to reduce the potential long-term
17 burden of CMR.”⁵⁶

18 60. But juice consumption does not just detrimentally affect children. Analyzing
19 data from the Danish Diet, Cancer and Health cohort study, representing 57,053 men and
20 women aged 50 to 64 years old, researchers found “a tendency towards a lower risk of ACS
21 [acute coronary syndrome] . . . for both men and women with higher [whole] fruit and
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25 ⁵⁵ Basu, S., et al., “The Relationship of Sugar to Population-Level Diabetes Prevalence: An
26 Econometric Analysis of Repeated Cross-Sectional Data,” *PLOS Online*, Vol. 8, Issue 2
(February 27, 2013).

27 ⁵⁶ Eny, KM, et al., “Sugar-containing beverage consumption and cardiometabolic risk in
28 preschool children.” *Prev. Med. Reports* 17 (Jan. 14, 2020).

1 vegetable consumption,” but “a higher risk . . . among women with higher fruit juice
2 intake[.]”⁵⁷

3 61. In one study, those who consumed juice daily, rather than rarely or occasionally,
4 had significantly higher central systolic blood pressure, a risk factor for cardiovascular
5 disease, even after adjusting for age, height, weight, mean arterial pressure, heart rate, and
6 treatment for lipids and hypertension.⁵⁸

7 62. Studies of the cardiovascular effects of added sugar consumption further suggest
8 juice consumption causes increased risk for and contraction of cardiovascular disease, since
9 the free sugars in juice act physiologically identically to added sugars, such as those in sugar-
10 sweetened beverages.

11 63. For example, data obtained from NHANES surveys during the periods of 1988-
12 1994, 1999-2004, and 2005-2010—after adjusting for a wide variety of other factors—
13 demonstrate that those who consumed 10% - 24.9% of their calories from added sugar had a
14 30% greater risk of cardiovascular disease (CVD) mortality than those who consumed 5% or
15 less of their calories from added sugar. In addition, those who consumed 25% or more of their
16 calories from added sugar had an average 275% greater risk of CVD mortality than those who
17 consumed less than 5% of calories from added sugar. Similarly, when compared to those who
18 consumed approximately 8% of calories from added sugar, participants who consumed
19 approximately 17% - 21% (the 4th quintile) of calories from added sugar had a 38% higher
20 risk of CVD mortality, while the relative risk was more than double for those who consumed
21 21% or more of calories from added sugar (the 5th quintile). Thus, “[t]he risk of CVD
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26 ⁵⁷ Hansen, L., et al., “Fruit and vegetable intake and risk of acute coronary syndrome.” *British*
J. of Nutr., Vol. 104, p. 248-55 (2010).

27 ⁵⁸ Pase, M.P., et al., “Habitual intake of fruit juice predicts central blood pressure.” *Appetite*,
28 Vol. 84, p. 658-72 (2015).

1 mortality increased exponentially with increasing usual percentage of calories from added
2 sugar,” as demonstrated in the chart below.⁵⁹

3 64. The NHANES analysis also found “a significant association between sugar-
4 sweetened beverage consumption and risk of CVD mortality,” with an average 29% greater
5 risk of CVD mortality “when comparing participants who consumed 7 or more servings/wk
6 (360 mL per serving) with those who consumed 1 serving/wk or less”⁶⁰ The study
7 concluded that “most US adults consume more added sugar than is recommended for a
8 healthy diet. A higher percentage of calories from added sugar is associated with significantly
9 increased risk of CVD mortality. In addition, regular consumption of sugar-sweetened
10 beverages is associated with elevated CVD mortality.”⁶¹

11 65. Data from the Nurses’ Health Study consistently showed that, after adjusting for
12 other unhealthy lifestyle factors, those who consumed two or more sugar-sweetened
13 beverages per day (280 calories, or 70 grams of sugar or more) had a 35% greater risk of
14 coronary heart disease compared with infrequent consumers.⁶²

15 66. In another prospective cohort study, it was suggested that reducing sugar
16 consumption in liquids is highly recommended to prevent CHD. Consumption of sugary
17 beverages was significantly shown to increase risk of CHD, as well as adverse changes in
18 some blood lipids, inflammatory factors, and leptin.⁶³

21 ⁵⁹ Yang, Quanhe, et al., “Added Sugar Intake and Cardiovascular Diseases Mortality Among
22 US Adults,” *JAMA*, at E4-5 (pub. online, Feb. 3, 2014).

23 ⁶⁰ *Id.* at E6.

24 ⁶¹ *Id.* at E8.

25 ⁶² Fung, T.T., et al., “Sweetened beverage consumption and risk of coronary heart disease in
26 women.” *Am. J. of Clin. Nutr.*, Vol. 89, pp. 1037-42 (Feb. 2009).

27 ⁶³ Koning, L.D., et al., “Sweetened Beverage Consumption, Incident Coronary Heart Disease,
28 and Biomarkers of Risk in Men,” *Circulation*, Vol. 125, pp. 1735-41 (2012).

1 67. Juice consumption is also associated with several CHD risk factors. For
2 example, consumption of sugary beverages like juice has been associated with
3 dyslipidemia,⁶⁴ obesity,⁶⁵ and increased blood pressure.⁶⁶

4 **D. Juice Consumption is Associated with Increased Risk of Obesity**

5 68. Excess sugar consumption also leads to weight gain and obesity because insulin
6 secreted in response to sugar intake instructs the cells to store excess energy as fat. This
7 excess weight can then exacerbate the problems of excess sugar consumption, because excess
8 fat, particularly around the waist, is in itself a primary cause of insulin resistance, another
9 vicious cycle. Studies have shown that belly fat produces hormones and other substances that
10 can cause insulin resistance, high blood pressure, abnormal cholesterol levels, and
11 cardiovascular disease. And belly fat plays a part in the development of chronic inflammation
12 in the body, which can cause damage over time without any signs or symptoms. Complex
13 interactions in fat tissue draw immune cells to the area, which triggers low-level chronic
14 inflammation. This in turn contributes even more to insulin resistance, type 2 diabetes, and
15 cardiovascular disease.

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18 ⁶⁴ Elliott S.S., et al., “Fructose, weight gain, and the insulin resistance syndrome.” *Am. J. Clin. Nutr.*, Vol. 76, No. 5, pp. 911-22 (2002).

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20 ⁶⁵ Faith, M.S., et al., “Fruit Juice Intake Predicts Increased Adiposity Gain in Children From
21 Low-Income Families: Weight Status-by-Environment Interaction.” *Pediatrics*, Vol. 118
22 (2006) (“Among children who were initially either at risk for overweight or overweight,
23 increased fruit juice intake was associated with excess adiposity gain, whereas parental
24 offerings of whole fruits were associated with reduced adiposity gain.”); Schulze, M.B., et al.,
25 “Sugar-Sweetened Beverages, Weight Gain, and Incidence of Type 2 Diabetes in Young and
26 Middle-Aged Women.” *JAMA*, Vol. 292, No. 8, pp. 927-34 (2004); Ludwig, D.S., et al.,
27 “Relation between consumption of sugar-sweetened drinks and childhood obesity: a
28 prospective, observational analysis.” *Lancet*, Vol. 257, pp. 505-508 (2001); Dennison, B.A.,
et al., “Excess fruit juice consumption by preschool-aged children is associated with short
stature and obesity.” *Pediatrics*, Vol. 99, pp. 15-22 (1997).

⁶⁶ Hoare, E., et al., “Sugar- and Intense-Sweetened Drinks in Australia: A Systematic Review
on Cardiometabolic Risk.” *Nutrients*, Vol. 9, No. 10 (2017).

1 69. Based on a meta-analysis of 30 studies between 1966 and 2005, Harvard
2 researchers found “strong evidence for the independent role of the intake of sugar-sweetened
3 beverages, particularly soda, in the promotion of weight gain and obesity in children and
4 adolescents. Findings from prospective cohort studies conducted in adults, taken in
5 conjunction with results from short-term feeding trials, also support a positive association
6 between soda consumption and weight gain, obesity, or both.”⁶⁷

7 70. A recent meta-analysis by Harvard researchers evaluating change in Body Mass
8 Index per increase in 1 serving of sugar-sweetened beverages per day found a significant
9 positive association between beverage intake and weight gain.⁶⁸

10 71. One study of more than 2,000 2.5-year-old children followed for 3 years found
11 that those who regularly consumed sugar-sweetened beverages between meals had a 240%
12 better chance of being overweight than non-consumers.⁶⁹

13 72. An analysis of data for more than 50,000 women from the Nurses’ Health Study
14 during two 4-year periods showed that weight gain over a 4-year period was highest among
15 women who increased their sugar-sweetened beverage consumption from 1 or fewer drinks
16 per week, to 1 or more drinks per day (8.0 kg gain during the 2 periods), and smallest among
17 women who decreased their consumption or maintained a low intake level (2.8 kg gain).⁷⁰

18 73. A study of more than 40,000 African American women over 10 years had similar
19 results. After adjusting for confounding factors, those who increased sugar-sweetened
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21 ⁶⁷ Malik, V.S., et al., “Intake of sugar-sweetened beverages and weight gain: a systematic
22 review,” *American Journal of Clinical Nutrition*, Vol. 84, 274-88 (2006).

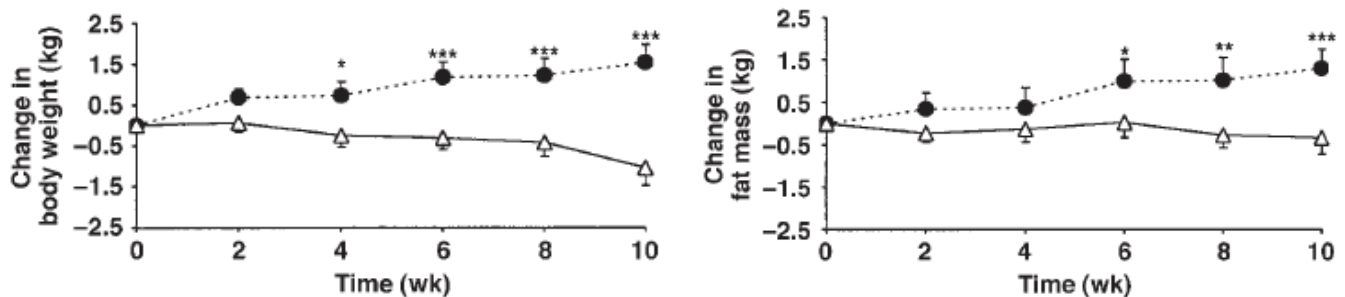
23 ⁶⁸ Malik, V.S., et al., “Sugar-sweetened beverages and BMI in children and adolescents:
24 reanalyses of a meta-analysis,” *American Journal of Clinical Nutrition*, Vol. 29, 438-39
25 (2009).

26 ⁶⁹ Dubois, L., et al., “Regular sugar-sweetened beverage consumption between meals
27 increases risk of overweight among preschool-aged children,” *Journal of the American
Dietetic Association*, Vol. 107, Issue 6, 924-34 (2007).

28 ⁷⁰ Schulze, Diabetes in Young & Middle-Aged Women, *supra* n.47.

1 beverage intake from less than 1 serving per week, to more than 1 serving per day, gained the
2 most weight (6.8 kg), while women who decreased their intake gained the least (4.1 kg).⁷¹

3 74. Experimental short-term feeding studies comparing sugar-sweetened beverages
4 to artificially-sweetened beverages have illustrated that consumption of the former leads to
5 greater weight gain. As demonstrated in the chart below, one 10-week trial involving more
6 than 40 men and women demonstrated that the group that consumed daily supplements of
7 sucrose (for 28% of total energy) increased body weight and fat mass, by 1.6 kg for men and
8 1.3 kg for women, while the group that was supplemented with artificial sweeteners lost
9 weight—1.0 kg for men and 0.3 kg for women.⁷²



15 **FIGURE 2.** Mean (\pm SEM) changes in body weight, fat mass, and fat-
16 free mass during an intervention in which overweight subjects consumed
17 supplements containing either sucrose (●; $n = 21$) or artificial sweeteners
18 (Δ ; $n = 20$) daily for 10 wk. The diet \times time interactions were significant
19 for changes in body weight ($P < 0.0001$) and fat mass ($P < 0.05$) by analy-
20 sis of variance with Tukey's post hoc tests. At specific time points for
21 changes in body weight and fat mass, there were significant differences
22 between the sucrose and sweetener groups: * $P < 0.05$, ** $P < 0.001$, and
23 *** $P < 0.0001$ (general linear model with least squares means and adjust-
24 ment for multiple comparisons).

25 ⁷¹ Palmer, Diabetes in African American Women, *supra* n.49.

26 ⁷² Raben, A., et al., "Sucrose compared with artificial sweeteners: different effects on ad
27 libitum food intake and body weight after 10 wk of supplementation in overweight subjects,"
28 *American Journal of Clinical Nutrition*, Vol. 76, 721-29 (2002) [hereinafter, "Raben, Sucrose
vs. Artificial Sweeteners"].

E. Juice Consumption is Associated with Increased Risk of Liver Disease

75. Sugar consumption causes serious liver disease, including non-alcoholic fatty liver disease (NAFLD), characterized by excess fat build-up in the liver. Five percent of these cases develop into non-alcoholic steatohepatitis (NASH), scarring as the liver tries to heal its injuries, which gradually cuts off vital blood flow to the liver. About 25% of NASH patients progress to non-alcoholic liver cirrhosis, which requires a liver transplant or can lead to death.⁷³

76. Since 1980, the incidence of NAFLD and NASH has doubled, along with the rise of fructose consumption, with approximately 6 million Americans estimated to have progressed to NASH and 600,000 to Nash-related cirrhosis. Most people with NASH also have type 2 diabetes. NASH is now the third-leading reason for liver transplant in America.⁷⁴

77. Moreover, because the liver metabolizes sugar virtually identically to alcohol, the U.S. is now seeing for the first time alcohol-related diseases in children. Conservative estimates are that 31% of American adults, and 13% of American children suffer from NAFLD.⁷⁵

⁷³ Farrell, G.C., et al., “Nonalcoholic fatty liver disease: from steatosis to cirrhosis,” *Hepatology*, Vol. 433, No. 2 (Suppl. 1), S99-S112 (February 2006); Powell, E.E., et al., “The Natural History of Nonalcoholic Steatohepatitis: A Follow-up Study of Forty-two Patients for Up to 21 Years,” *Hepatology*, Vol. 11, No. 1 (1990).

⁷⁴ Charlton, M.R., et al., “Frequency and outcomes of liver transplantation for nonalcoholic steatohepatitis in the United States,” *Gastroenterology*, Vol. 141, No. 4, 1249-53 (October 2011).

⁷⁵ Lindback, S.M., et al., “Pediatric Nonalcoholic Fatty Liver Disease: A Comprehensive Review,” *Advances in Pediatrics*, Vol. 57, No. 1, 85-140 (2010); Lazo, M. et al., “The Epidemiology of Nonalcoholic Fatty Liver Disease: A Global Perspective,” *Seminars in Liver Disease*, Vol. 28, No. 4, 339-50 (2008); Schwimmer, J.B., et al., “Prevalence of Fatty Liver in Children and Adolescents,” *Pediatrics*, Vol. 118, No. 4, 1388-93 (2006); Browning, J.D., et al., “Prevalence of hepatic steatosis in an urban population in the United States: Impact of ethnicity,” *Hepatology*, Vol. 40, No. 6, 1387-95 (2004).

1 **F. Juice Consumption is Associated with Increased Risk of High Blood**
2 **Triglycerides and Abnormal Cholesterol Levels**

3 78. Cholesterol is a waxy, fat-like substance found in the body’s cells, used to make
4 hormones, bile acids, vitamin D, and other substances. The human body manufactures all the
5 cholesterol it requires, which circulates in the bloodstream in packages called lipoproteins.
6 Excess cholesterol in the bloodstream can become trapped in artery walls, building into
7 plaque and narrowing blood vessels, making them less flexible, a condition called
8 atherosclerosis. When this happens in the coronary arteries, it restricts oxygen and nutrients
9 to the heart, causing chest pain or angina. When cholesterol-rich plaques in these arteries
10 burst, a clot can form, blocking blood flow and causing a heart attack.

11 79. Most blood cholesterol is low-density lipoprotein, or LDL cholesterol, which is
12 sometimes called “bad” cholesterol because it carries cholesterol to the body’s tissues and
13 arteries, increasing the risk of heart disease. High-density lipoprotein, or HDL cholesterol, is
14 sometimes called “good” cholesterol because it removes excess cholesterol from the
15 cardiovascular system, bringing it to the liver for removal. Thus, a low level of HDL
16 cholesterol increases the risk of heart disease.

17 80. Diet affects blood cholesterol. For example, the body reacts to saturated fat by
18 producing LDL cholesterol.

19 81. When the liver is overwhelmed by large doses of fructose, it will convert excess
20 to fat, which is stored in the liver and then released into the bloodstream, contributing to key
21 elements of metabolic syndrome, like high blood fat and triglycerides, high total cholesterol,
22 and low HDL “good” cholesterol.⁷⁶

23 82. A study of more than 6,000 participants in the Framingham Heart Study found
24 those who consumed more than 1 soft drink per day had a 25% greater risk of
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28 ⁷⁶ Te Morenga, *Dietary Sugars & Body Weight*, *supra* n.37.

1 hypertriglyceridemia, and 32% greater risk of low HDL cholesterol than those who consumed
2 less than 1 soft drink per day.⁷⁷

3 83. A systematic review and meta-analysis of 37 randomized controlled trials
4 concerning the link between sugar intake and blood pressure and lipids found that higher
5 sugar intakes, compared to lower sugar intakes, significantly raised triglyceride
6 concentrations, total cholesterol, and low density lipoprotein cholesterol.⁷⁸

7 84. A cross-sectional study among more than 6,100 U.S. adults from the NHANES
8 1999-2006 data were grouped into quintiles for sugar intake as follows: (1) less than 5% of
9 calories consumed from sugar, (2) 5% to less than 10%, (3) 10% to less than 17.5%, (4) 17.5%
10 to less than 25%, and (5) 25% or more. These groups had the following adjusted mean HDL
11 levels (because HDL is the “good” cholesterol, higher levels are better): 58.7 mg/dL, 57.5,
12 53.7, 51.0, and 47.7. Mean triglyceride levels were 105 mg/dL, 102, 111, 113, and 114. Mean
13 LDL levels were 116 mg/dL, 115, 118, 121, and 123 among women, with no significant trend
14 among men. Consumers whose sugar intake accounted for more than 10% of calories had a
15 50% - 300% higher risk of low HDL levels compared to those who consumed less than 5%
16 of calories from sugar. Likewise, high-sugar consumers had greater risk of high triglycerides.
17 All relationships were linear as demonstrated in the charts below.⁷⁹

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24 ⁷⁷ Dhingra, *Cardiometabolic Risk*, *supra* n.41.

25 ⁷⁸ Te Morenga, L., et al., “Dietary sugars and cardiometabolic risk: systematic review and
26 meta-analyses of randomized controlled trials on the effects on blood pressure and lipids,”
American Journal of Clinical Nutrition, Vol. 100, No. 1, 65-79 (May 7, 2014).

27 ⁷⁹ Welsh, J.A., et al., “Caloric Sweetener Consumption and Dyslipidemia Among US Adults,”
28 *Journal of the American Medical Association*, Vol. 303, No. 15, 1490-97 (April 21, 2010).

Figure 1. Multivariable-Adjusted Mean HDL-C Levels by Level of Added Sugar Intake Among US Adults, NHANES 1999-2006

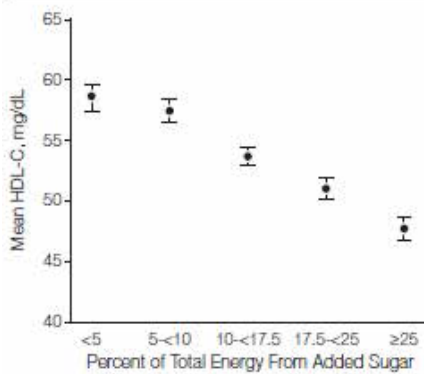


Figure 2. Multivariable-Adjusted Geometric Mean Triglyceride Levels by Level of Added Sugar Intake Among US Adults, NHANES 1999-2006

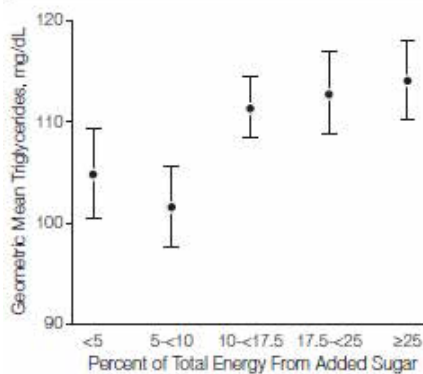
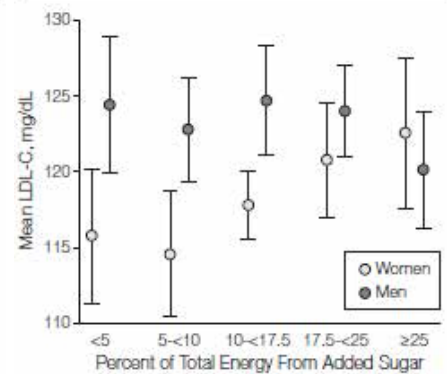


Figure 3. Multivariable-Adjusted Mean LDL-C Levels by Level of Added Sugar Intake Among US Men and Women, NHANES 1999-2006



85. One experimental study showed that, when a 17% fructose diet was provided to healthy men, they showed an increase in plasma triacylglycerol concentrations of 32%.⁸⁰

86. Another 10-week experimental feeding study showed that those who were fed 25% of their energy requirements as fructose experienced increases in LDL cholesterol, small dense LDL cholesterol, and oxidized LDL cholesterol, as well as increased concentrations of triglycerides and total cholesterol, while those fed a 25% diet of glucose did not experience the same adverse effects.⁸¹

87. In a cross-sectional study of normal weight and overweight children aged 6-14, researchers found that “the only dietary factor that was a significant predictor of LDL particle size was total fructose intake.”⁸²

⁸⁰ Bantle, J.P., et al., “Effects of dietary fructose on plasma lipids in healthy subjects,” *American Journal of Clinical Nutrition*, Vol. 72, 1128-34 (2000).

⁸¹ Stanhope, K.L., et al., “Consuming fructose-sweetened, not glucose-sweetened, beverages increases visceral adiposity and lipids and decreases insulin sensitivity in overweight/obese humans,” *The Journal of Clinical Investigation*, Vol. 119, No. 5, 1322-34 (May 2009).

⁸² Aeberli, I., et al., “Fructose intake is a predictor of LDL particle size in overweight schoolchildren,” *American Journal of Clinical Nutrition*, Vol. 86, 1174-78 (2007).

G. Juice Consumption is Associated with Increased Risk of Hypertension

88. An analysis of the NHANES data for more than 4,800 adolescents also showed a positive, linear association between sugar-sweetened beverages and higher systolic blood pressure, as well as corresponding increases in serum uric acid levels.⁸³

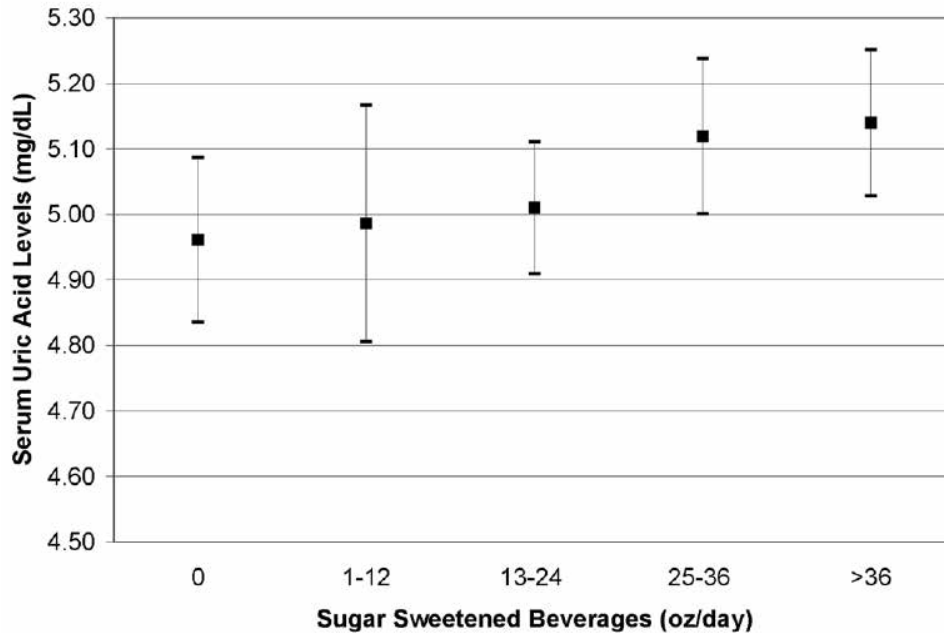


Figure 1. Sample mean of serum uric acid with 95% confidence intervals by categories of sugar sweetened beverage consumption adjusted for age, race/ethnicity, sex, total calories, BMI z-score, alcohol, smoking, dietary fiber intake, diet beverage consumption, and milk consumption. *P* for trend = 0.01

89. In one study, 15 healthy men drank 500 ml water containing either no sugar, 60 grams of fructose, or 60 grams of glucose. Blood pressure, metabolic rate, and autonomic nervous system activity were measured for 2 hours. While the administration of fructose was associated with an increase in both systolic and diastolic blood pressure, blood pressure did not rise in response to either water or glucose ingestion, as demonstrated in the chart below.⁸⁴

⁸³ Nguyen, S., et al., “Sugar Sweetened Beverages, Serum Uric Acid, and Blood Pressure in Adolescents,” *Journal of Pediatrics*, Vol. 154, No. 6, 807-13 (June 2009).

⁸⁴ Brown, C.M., et al., “Fructose ingestion acutely elevates blood pressure in healthy young humans,” *Am. J. Physiol. Regul. Integr. Compl. Physiol.*, Vol. 294, R730-37 (2008).

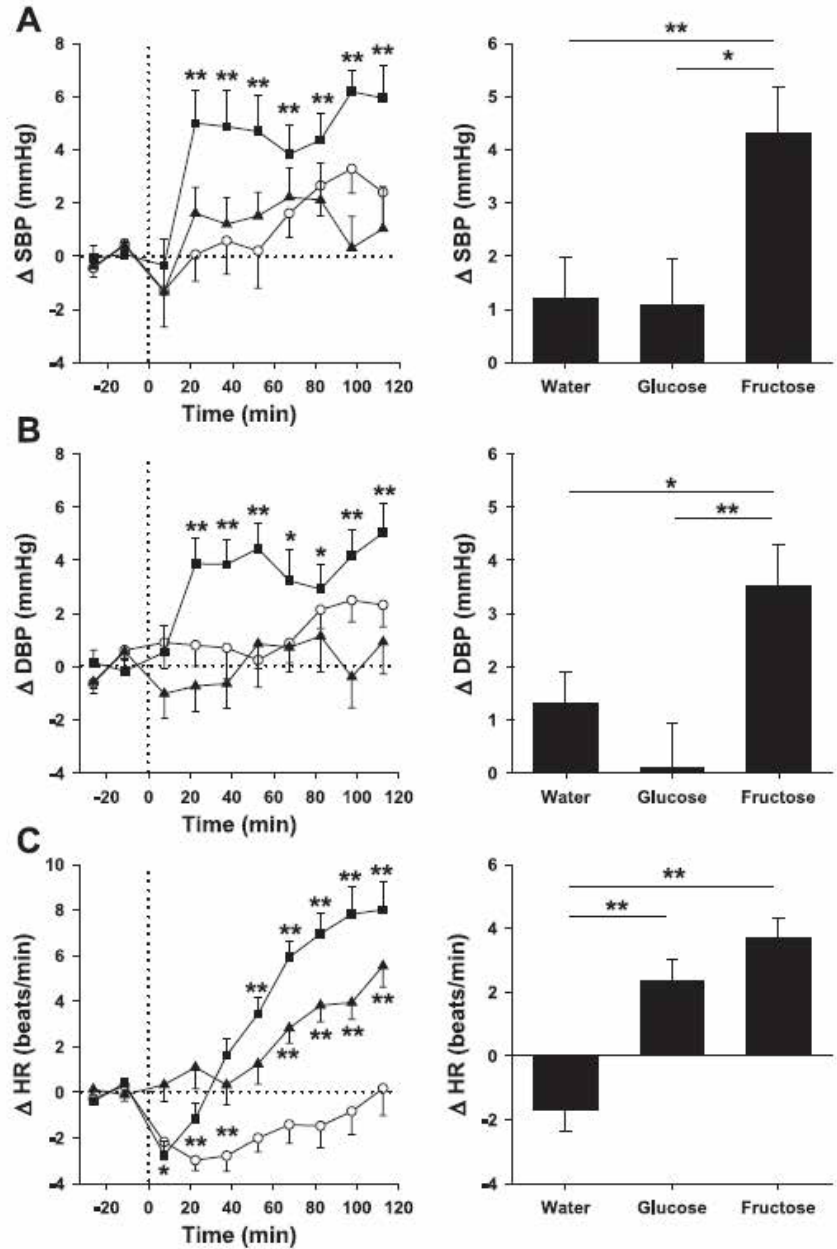


Fig. 1. Time course of the systolic blood pressure (SBP; A), diastolic blood pressure (DBP; B), and heart rate (HR; C) changes (left) and mean responses (right) to drinking water (○), glucose (▲), and fructose (■). **P* < 0.05 and ***P* < 0.01, statistically significant differences over time from baseline values (left) and differences between responses to the drinks (right).

90. In another study, more than 40 overweight men and women were supplemented for 10 weeks with either sucrose or artificial sweeteners. The sucrose group saw an increase in systolic and diastolic blood pressure, of 3.8 and 4.1 mm Hg, respectively, while the artificial sweetener group saw a decrease in systolic and diastolic blood pressure, of 3.1 and 1.2 mm Hg, respectively.⁸⁵

⁸⁵ Raben, Sucrose vs. Artificial Sweeteners, *supra* n.72.

1 91. Another study took a variety of approaches to measuring the association between
 2 sugar intake and blood pressure, concluding that an increase of 1 serving of sugar-sweetened
 3 beverages per day (*i.e.*, 140-150 calories, and 35-37.5 grams of sugar) was associated with
 4 systolic/diastolic blood pressure differences of +1.6 and +0.8 mm Hg (and +1.1/+0.4 mm Hg
 5 with adjustment for height and weight), while an increase of 2 servings results in
 6 systolic/diastolic blood pressure differences of +3.4/+2.2, demonstrating that the relationship
 7 is direct and linear.⁸⁶

8 **H. Juice Consumption is Associated with Increased All-Cause Mortality**

9 92. In a cohort study of 13,440 black and white adults 45 years and older, observed
 10 for a mean of 6 years, each additional 12-oz serving per day of fruit juice was associated with
 11 a 24% higher all-cause mortality risk. This was significantly higher than the increased risk
 12 associated with *all* sugary beverages, including sugar-sweetened beverages like soda, which
 13 was 11% for each additional 12-oz serving per day. The researchers from Emory University,
 14 University of Alabama, and the Weill Cornell Medical College concluded their findings
 15 “suggest that consumption of sugary beverages, including fruit juices, is associated with all-
 16 cause mortality.”⁸⁷

17 **IV. Because of the Compelling Evidence that Consuming Juice is Unhealthy,** 18 **Authoritative Bodies Recommend Limiting its Consumption**

19 93. The American Academy of Pediatrics (AAP) suggests limiting juice
 20 consumption to no more than 4 to 6 ounces for young children aged 1 to 6,⁸⁸ and no more
 21

22 _____
 23 ⁸⁶ Brown, I.J., et al., “Sugar-Sweetened Beverage, Sugar Intake of Individuals, and Their
 24 *Hypertension*, Vol. 57, 695-701 (2011).

25 ⁸⁷ Collin, L.J., et al., “Association of Sugary Beverage Consumption With Mortality Risk in
 26 US Adults: A Secondary Analysis of Data From the REGARDS Study,” *JAMA Network Open*
 27 Vol. 2, No. 5 (May 2019).

28 ⁸⁸ Am. Academy of Pediatrics, “Healthy Children, Fit Children: Answers to Common
 Questions From Parents About Nutrition and Fitness.” (2011).

1 than 8 fluid ounces for children 7 to 18 years of age, as well as adults.⁸⁹ In addition, both the
2 AAP and Dietary Guidelines for Americans recommend that children consume whole fruit in
3 place of juice.⁹⁰

4 94. The most recent Dietary Guidelines for Americans states that “[t]he amounts of
5 fruit juice allowed in the USDA Food Patterns for young children align with the
6 recommendation from the American Academy of Pediatrics that young children consume no
7 more than 4 to 6 fluid ounces of 100% fruit juice per day.”⁹¹

8 95. The World Health Organization recommends that no more than 10% of an
9 adult’s calories, and ideally less than 5%, come from free or added sugar, or from natural
10 sugars in honey, syrups, and fruit juice.

11 **V. NEXTFOODS’ REPRESENTATIONS AND OMISSIONS SUGGESTING THE**
12 **JUICEDRINKS ARE HEALTHY ARE FALSE AND MISLEADING**

13 96. For more than four years preceding the filing of this Complaint and continuing
14 today, NextFoods has sold and continues to sell the JuiceDrinks on a nationwide basis,
15 including in California, in at least 32 ounce and 15.2 ounce sizes, and in various flavors.

16 97. The JuiceDrinks’ standard serving size is 8 fl. oz (1 cup).⁹² Each serving,
17 depending on flavor, contains between 9g and 21g of free sugar, contributing 60% to 88% of
18 its calories.

19 _____
20 ⁸⁹ Heyman, M.B., et al., “Fruit Juice in Infants, Children, and Adolescents: Current
21 Recommendations.” *Pediatrics* Vol. 139, No. 6 (June 2017).

22 ⁹⁰ *Id.*; see also Auerbach, B.J., et al., “Review of 100% Fruit Juice and Chronic Health
23 Conditions: Implications for Sugar-Sweetened Beverage Policy.” *Adv. Nutr.*, Vol. 9, pp. 78-
85 (2018).

24 ⁹¹ U.S. Dep’t of Health & Human Servs. and U.S. Dept. of Agric., “Dietary Guidelines for
25 Americans 2015 – 2020,” at 22 (8th ed.), available at
26 https://health.gov/sites/default/files/2019-09/2015-2020_Dietary_Guidelines.pdf.

27 ⁹² This is also the FDA-promulgated Reference Amount Customarily Consumed (RACC) for
28 juice. 81 Fed. Reg. 34,000 (May 27, 2016). RACCs reflect amounts of food customarily
consumed per eating occasion and are derived from NHANES data.

1 98. Because scientific evidence demonstrates that consuming foods high in free
2 sugar content, like the JuiceDrinks, harms digestive health, NextFoods’ representations that
3 the JuiceDrinks promote digestive or gut health are false, or at least highly misleading.

4 99. To the extent the JuiceDrinks probiotics may provide some benefits to “digestive
5 health”—like the mitigation of “Flatulence,” “Diarrhea,” and “Constipation,” as set out on
6 the JuiceDrinks’ labels, it is nevertheless deceptive for NextFoods to advertise the products
7 as promoting digestive health since regular consumption of the JuiceDrinks actually is likely
8 to detriment digestive health.

9 100. Because scientific evidence demonstrates that, due to its high free sugar content,
10 juice consumption is associated with increased risk of metabolic disease, cardiovascular
11 disease, type 2 diabetes, liver disease, obesity, high blood triglycerides and cholesterol,
12 hypertension, and all-cause mortality, NextFoods’ representations that the JuiceDrinks
13 promote “overall health” and “GoodHealth,” are healthy, are false, or at least highly
14 misleading.

15 101. While representing that the JuiceDrinks promote digestive health, NextFoods
16 regularly and intentionally omits material information regarding the dangers of the free sugars
17 in the JuiceDrinks and the harm to digestive health that they cause. NextFoods is under a duty
18 to disclose this information to consumers because (a) NextFoods is revealing some
19 information about its Products—enough to suggest they are beneficial to digestive health—
20 without revealing additional material information, (b) NextFoods deceptive omissions
21 concern human health, and specifically the detrimental digestive health consequences of
22 consuming its Products, (c) NextFoods was in a superior position to know of the dangers
23 presented by the sugars in its juices, as it is a food company whose business depends upon
24 food science and policy, and (d) NextFoods actively concealed material facts not known to
25 Plaintiff and the Class.

26 102. While representing that the JuiceDrinks promote “overall health” and
27 “GoodHealth,” NextFoods regularly and intentionally omits material information regarding
28 the dangers of the free sugars in the JuiceDrinks. NextFoods is under a duty to disclose this

1 information to consumers because (a) NextFoods is revealing some information about its
2 Products—enough to suggest they are healthy or beneficial to health—without revealing
3 additional material information, (b) NextFoods deceptive omissions concern human health,
4 and specifically the detrimental health consequences of consuming its Products, (c)
5 NextFoods was in a superior position to know of the dangers presented by the sugars in its
6 juices, as it is a food company whose business depends upon food science and policy, and (d)
7 NextFoods actively concealed material facts not known to Plaintiff and the Class.

8 **VI. THE JUICEDRINKS’ LABELING VIOLATES CALIFORNIA AND FEDERAL** 9 **LAW**

10 103. The JuiceDrinks and their challenged labeling statements violate California
11 Health and Safety Code §§109875, *et. seq.* (the “Sherman Law”), which has expressly
12 adopted the federal food labeling requirements as its own. *See e.g., id.* § 110100, *id.* § 110670
13 (“Any food is misbranded if its labeling does not conform with the requirements for nutrition
14 labeling as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the
15 regulation adopted pursuant thereto.”).

16 104. First, the challenged claims are false and misleading for the reasons described
17 herein, in violation of 21 U.S.C. § 343(a), which deems misbranded any food whose “label is
18 false or misleading in any particular.” NextFoods accordingly also violated California’s
19 parallel provision of the Sherman Law. *See* Cal. Health & Safety Code § 110670.

20 105. Second, despite making the challenged claims, NextFoods “fail[ed] to reveal
21 facts that are material in light of other representations made or suggested by the statement[s],
22 word[s], design[s], device[s], or any combination thereof,” in violation of 21 C.F.R. §
23 1.21(a)(1). Such facts include the detrimental health consequences of consuming the
24 JuiceDrinks at typical levels, including (1) harm to the digestive system that can cause chronic
25 digestive track diseases such as ulcerative colitis, Crohn’s disease, celiac disease and irritable
26 bowel syndrome and (2) increased risk of other chronic diseases such as metabolic disease,
27 cardiovascular disease, type 2 diabetes, liver disease, obesity, high blood triglycerides and
28 cholesterol, hypertension, and death.

1 106. Third, NextFoods failed to reveal facts that were “[m]aterial with respect to the
2 consequences which may result from use of the article under” both “[t]he conditions
3 prescribed in such labeling,” and “such conditions of use as are customary or usual,” in
4 violation of § 1.21(a)(2). Namely, NextFoods failed to disclose the harm to the digestive
5 system that can cause chronic digestive track diseases and increased risk of other serious
6 chronic diseases that is likely to result from the usual consumption of the JuiceDrinks in the
7 customary and prescribed manners.

8 **VII. PLAINTIFF’S PURCHASE, RELIANCE, AND INJURY**

9 107. As best she can recall, Plaintiff started purchasing 32 oz. cartons of the
10 JuiceDrinks in 2018, and continued to purchase the products until around the middle of 2019.
11 She recalls making her purchases at local stores including the Sprouts Farmers Market, at
12 9361 Mission Gorge Road, Santee, California 92071, for approximately \$3 to \$5 per carton.

13 108. In purchasing the JuiceDrinks, Plaintiff was exposed to, read, and relied upon
14 NextFoods’ labeling claims that were intended to appeal to consumers, like her, interested in
15 health and nutrition. Specifically, to the best of her recollection, when deciding to purchase
16 the JuiceDrinks, Plaintiff at various times read and relied on at least the following statements
17 on the products’ packaging:

18 a. “START YOUR GOODHEALTH GAME PLAN . . . Drink one 8 oz.
19 glass of delicious GoodBelly a day for 12 days.”;

20 b. “Reboot your belly, then make GoodBelly your daily drink to keep your
21 GoodHealth going. Because when your belly smiles the rest of you does too”;

22 c. “WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It
23 has been studied more than 2 decades and has numerous research trials to show that it
24 may help promote healthy digestion and overall wellness”; and

25 d. “GoodBelly Probiotics is a delicious blend of fruit juices and a daily dose
26 of probiotic cultures created to naturally renew your digestive health, right where your
27 overall health gets started – in your belly.”
28

1 109. Plaintiff believed these claims regarding digestive health and overall health of,
2 which were and are deceptive because they convey that the products promote digestive and
3 overall health and will not detriment digestive or overall health, despite that they contain
4 excessive amounts of free sugar, which harms digestive health and is likely to increase risk
5 of other diseases when consumed regularly.

6 110. When purchasing the JuiceDrinks, Plaintiff was seeking beverages that were
7 beneficial to digestive and overall health when consumed, that is, whose regular consumption
8 would not harm her digestive health or increase her risk of disease.

9 111. The digestive health and overall wellness representations on the JuiceDrinks'
10 packaging, however, were misleading, and had the capacity, tendency, and likelihood to
11 confuse or confound Plaintiff and other consumers acting reasonably. This is because, as
12 described in detail herein, the Products actually harm digestive health and are likely to
13 increase the risk of digestive health issues and other chronic diseases when regularly
14 consumed.

15 112. Plaintiff is not a nutritionist, food expert, or food scientist, but rather a lay
16 consumer who did not have the specialized knowledge that NextFoods had regarding the
17 nutrients present in its JuiceDrinks. At the time of purchase, Plaintiff was unaware of the
18 extent to which consuming high amounts of free sugar, like that in the JuiceDrinks, adversely
19 affects digestive health, blood glucose and cholesterol levels, and increases inflammation.
20 She was also unaware of what amount of free sugar might have such an effect. She also did
21 not know the extent to which consuming high amounts of free sugar, like that in the
22 JuiceDrinks, increases risk of chronic digestive diseases and increases risk of metabolic
23 disease, liver disease, heart disease, diabetes, and other morbidity. She also did not know
24 what amount of free sugar might have such an effect.

25 113. The average and reasonable consumer is unaware that or at least the extent to
26 which consuming high amounts of free sugar, like that in the JuiceDrinks, adversely affects
27 digestive health, blood glucose and cholesterol levels, and increases inflammation. The
28 reasonable consumer is also unaware what amount of free sugar might have such an effect.

1 The average and reasonable consumer is unaware that or at least the extent to which
2 consuming high amounts of free sugar, like that in the JuiceDrinks, increases risk of chronic
3 digestive diseases and increases risk of metabolic disease, liver disease, heart disease,
4 diabetes, and other morbidity. The average or reasonable consumer is also unaware of what
5 amount of free sugar might have such an effect.

6 114. Numerous studies demonstrate that the mandatory nutrition facts are not
7 sufficient to allow consumers to make accurate assessments of the healthfulness of foods and
8 beverages.

9 115. To start, “[m]any consumers have difficulty interpreting nutrition labels[.]” In
10 fact, the “mandated nutrition labels have been criticized for being too complex for many
11 consumers to understand and use.”⁹³ “Understanding the NFP label requires health literacy,
12 that is, ‘the capacity to obtain, process, and understand basic health information and services
13 needed to make appropriate health decisions.’ However, a sizable proportion of the US
14 population is deficient in health literacy.”⁹⁴

15 116. For example, “[t]he 2003 National Assessment of Adult Literacy found that
16 more than one-third of the US population had only basic or below-basic health literacy,
17 meaning they would have difficulty viewing the nutrition labels of 2 different potato chip
18 packages and determining the difference in the number of calories.”⁹⁵ And other “studies
19 have found that even high school graduates and college students lack the basic health literacy
20 skills to effectively apply nutrition label information.”⁹⁶

24 ⁹³ Persoskie A, Hennessy E, Nelson WL, “US Consumers’ Understanding of Nutrition Labels
25 in 2013: The Importance of Health Literacy,” 14 *Prev. Chronic Dis.* 170066 (2017).

26 ⁹⁴ *Id.*

27 ⁹⁵ *Id.*

28 ⁹⁶ *Id.*

1 117. While it may be unfortunate, the most consumers “ability to interpret nutrition
2 label information [is] poor” and “[e]ven a college education did not ensure nutrition label
3 understanding.”⁹⁷

4 118. In short, “[a] substantial proportion of consumers in this country, including those
5 with a college education, have difficulty understanding NFP labels, which is likely a function
6 of limited health literacy.”⁹⁸

7 119. Not only does the reasonable consumer have difficulty using the nutrition facts
8 panel deciding if a food or beverage is healthy or unhealthy is complex and the most
9 consumers have difficulty accurately assessing the healthfulness of such products.

10 120. This has been studied and found to be true in regard to sugar containing
11 beverages. Specifically, even though one may understand a drink is high in sugar and have
12 some notion that sugar can be harmful, many nevertheless still view such products as overall
13 being healthful when there is a health or nutritional claim made on a label.

14 121. In one study, for example, “[w]hile participants were aware that beverages can
15 contain high amounts of sugar, and that this can be harmful to health, many other factors
16 influence the perceptions of beverage healthfulness *and these can outweigh the perceived*
17 *harms of consumption.*”⁹⁹

18 122. In fact, “research indicates that consumers hold erroneous views about the
19 healthfulness of certain sugar-containing beverages. For example, previous research has
20 indicated that beverages such as juice, flavoured waters, sports drinks (e.g. Gatorade) and
21 iced teas, are perceived to be healthy, or healthier, and as less likely to lead to disease
22
23

24 ⁹⁷ *Id.*

25 ⁹⁸ *Id.*

26
27 ⁹⁹ Aimee L. Brownbill et al., “What makes a beverage healthy? A qualitative study of young
28 adults’ conceptualisation of sugar-containing beverage healthfulness,” 150 *Appetite* 104675
(2020).

1 development, compared to soda (or ‘soft drink’ e.g. Coca-Cola; Sprite) or energy drinks (e.g.
2 Red Bull).”¹⁰⁰

3 123. In one study, “sugar content, nutritional value, naturalness and functionality
4 were important factors participants considered in their conceptualisation of beverage
5 healthfulness. Participants suggested that sugar content was a primary indicator of how
6 healthy a beverage was *but lacked knowledge about the amount of sugar in beverages, and*
7 *how much should be considered harmful for health.*”¹⁰¹

8 124. Crucially, “[m]any participants perceived juice to be a healthier option. Juices
9 were viewed by some participants as equating to fruit consumption or as providing important
10 nutrients to the consumer. While it was common for participants to identify that juice
11 contained sugar, the perceived nutritional benefits appeared to offset concerns about sugar
12 content for some participants.”¹⁰²

13 125. In addition, “[b]everages that were perceived as having added nutrients were
14 seen as healthier. Nutritional value appeared to be particularly relevant to participants’
15 ranking of the relative healthfulness of beverages.”¹⁰³

16 126. Likewise, if a beverage purported to provide a functional benefit, “that
17 functionality of beverages may negate concern about sugar content.”¹⁰⁴

18 127. Unfortunately, “research has similarly shown that consumers often focus more
19 on added nutrients than unhealthy ingredients and that added nutrients can be seen to
20 counteract the effect of unhealthy ingredients.”¹⁰⁵

21
22 ¹⁰⁰ *Id.*

23 ¹⁰¹ *Id.*

24 ¹⁰² *Id.*

25 ¹⁰³ *Id.*

26 ¹⁰⁴ *Id.*

27 ¹⁰⁵ *Id.*

1 128. In short, “health-related marketing . . . may mislead consumers to more
2 positively assess the healthfulness of sugar-containing beverages.”¹⁰⁶

3 129. That health positioning may mislead consumers is no secret to marketers as there
4 is a wealth of research showing that all sorts of health related representations may mislead
5 consumers to believe a product is healthier than it is—despite them being aware of the sugar
6 content.

7 130. For example, “[n]utrient content claims may lead consumers to mistakenly infer
8 that a product is healthful, regardless of its overall nutritional profile (i.e., the “health halo
9 effect”) and can subsequently increase intentions to purchase the product (Roe et al., 1999;
10 Choi et al., 2013; Schuldt and Schwarz, 2010; Kaur et al., 2017; Talati et al., 2017).”¹⁰⁷

11 131. Likewise, “research that has found that health-related and nutrient content
12 claims make food and beverages seem healthier and more appealing (Roe et al., 1999; Choi
13 et al., 2013; Schuldt and Schwarz, 2010; Kaur et al., 2017; Talati et al., 2017; Fernan et al.,
14 2018).”¹⁰⁸

15 132. Health positioning claims also have the specific effect of “decreas[ing]
16 perceptions of the presence of certain less healthful nutrients.”¹⁰⁹

17 133. And the presence of such claims make consumers “1) less likely to look for
18 nutrition information on the Nutrition Facts label, 2) more likely to select the product for
19 purchase, 3) more likely to perceive the product as healthier, and 4) less likely to correctly
20 choose the healthier product.”¹¹⁰

21
22 ¹⁰⁶ *Id.*

23 ¹⁰⁷ *Id.*

24 ¹⁰⁸ *Id.*

25
26 ¹⁰⁹ Linda Verrill et al., “Vitamin-Fortified Snack Food May Lead Consumers to Make Poor
27 Dietary Decisions, *Journal of the Academy of Nutrition and Dietetics*,” 117:3, 376-385
(2017).

28 ¹¹⁰ *Id.*

1 134. One study meant to test consumers ability to determine which of six snack
2 products were the healthiest, found that “[o]nly 9% of Americans could identify the *healthiest*
3 cereal bar,” and “81% wrongly identified the healthiest choice.”¹¹¹

4 This data shows that identifying real, healthy products appears to be a serious difficulty
5 for American shoppers.¹¹²

6 135. Plaintiff acted reasonably in relying on the challenged labeling claims, which
7 NextFoods intentionally placed on the JuiceDrinks’ labeling with the intent to induce average
8 consumers into purchasing the products.

9 136. Plaintiff would not have purchased the JuiceDrinks if she knew that the labeling
10 claims were false and misleading in that the products do not provide the claimed benefits and
11 actually harm digestive and overall health.

12 137. The JuiceDrinks cost more than similar products without misleading labeling,
13 and would have cost less absent NextFoods’ false and misleading statements and omissions.

14 138. Through the misleading labeling claims and omissions, NextFoods was able to
15 gain a greater share of the juice market than it would have otherwise and also increased the
16 size of the market.

17 139. Plaintiff paid more for the JuiceDrinks, and would only have been willing to pay
18 less, or unwilling to purchase the JuiceDrinks at all, absent the false and misleading labeling
19 complained of herein.

20 140. Plaintiff would not have purchased the JuiceDrinks if she had known that the
21 Products were misbranded pursuant to California and FDA regulations or that the challenged
22 claims were false or misleading.

23 141. For these reasons, the JuiceDrinks were worth less than what Plaintiff and the
24 Class paid for them.

25
26
27 ¹¹¹ *Id.*

28 ¹¹² *Id.*

1 142. Instead of receiving products that had actual healthful qualities, the JuiceDrinks
2 Plaintiff and the Class received were of the type that harms digestive health and increases risk
3 of chronic diseases.

4 143. Plaintiff and the Class lost money as a result of NextFoods’ deceptive claims,
5 omissions, and practices in that they did not receive what they paid for when purchasing the
6 JuiceDrinks.

7 **CLASS ACTION ALLEGATIONS**

8 144. While reserving the right to redefine or amend the class definition prior to or as
9 part of a motion seeking class certification, pursuant to Federal Rule of Civil Procedure 23,
10 Plaintiff seeks to represent a class of all persons in California who, at any time from four
11 years preceding the date of the filing of this Complaint to the time a class is notified (the
12 “Class Period”), purchased, for personal or household use, and not for resale or distribution,
13 any of the JuiceDrinks (the “Class”).

14 145. The members in the proposed Class are so numerous that individual joinder of
15 all members is impracticable, and the disposition of the claims of all Class Members in a
16 single action will provide substantial benefits to the parties and Court.

17 146. Questions of law and fact common to Plaintiff and the Class include:

18 a. whether NextFoods communicated a message regarding digestive and
19 overall healthfulness of the Products through its packaging and advertising;

20 b. whether those messages were material, or likely to be material, to a
21 reasonable consumer;

22 c. whether the challenged claims are false, misleading, or reasonably likely
23 to deceive a reasonable consumer;

24 d. whether NextFoods’ conduct violates public policy;

25 e. whether NextFoods’ conduct violates state or federal food statutes or
26 regulations;

27 f. the proper amount of damages, including punitive damages;

28 g. the proper amount of restitution; and

1 h. the proper amount of attorneys' fees.

2 147. These common questions of law and fact predominate over questions that affect
3 only individual Class Members.

4 148. Plaintiff's claims are typical of Class Members' claims because they are based
5 on the same underlying facts, events, and circumstances relating to NextFoods' conduct.
6 Specifically, all Class Members, including Plaintiff, were subjected to the same misleading
7 and deceptive conduct when they purchased the JuiceDrinks and suffered economic injury
8 because the products are misrepresented. Absent NextFoods' business practice of deceptively
9 and unlawfully labeling the JuiceDrinks, Plaintiff and Class Members would not have
10 purchased the products.

11 149. Plaintiff will fairly and adequately represent and protect the interests of the
12 Class, has no interests incompatible with the interests of the Class, and has retained counsel
13 competent and experienced in class action litigation, and specifically in litigation involving
14 the false and misleading advertising of foods.

15 150. Class treatment is superior to other options for resolution of the controversy
16 because the relief sought for each Class Member is small, such that, absent representative
17 litigation, it would be infeasible for Class Members to redress the wrongs done to them.

18 151. NextFoods has acted on grounds applicable to the Class, thereby making
19 appropriate declaratory relief concerning the Class as a whole.

20 152. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P.
21 23(a), and 23(b)(3).

22 **CAUSES OF ACTION**

23 **FIRST CAUSE OF ACTION**

24 **Violations of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200 *et seq.***

25 153. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
26 as if set forth in full herein.

27 154. The UCL prohibits any "unlawful, unfair or fraudulent business act or practice."
28 Cal. Bus. & Prof. Code § 17200.

1 155. The acts, omissions, misrepresentations, practices, and non-disclosures of
2 NextFoods as alleged herein constitute business acts and practices.

3 **Fraudulent**

4 156. A statement or practice is fraudulent under the UCL if it is likely to deceive a
5 significant portion of the public, applying an objective reasonable consumer test.

6 157. As set forth herein, NextFoods’ claims relating to the JuiceDrinks are likely to
7 deceive reasonable consumers and the public.

8 **Unlawful**

9 158. The acts alleged herein are “unlawful” under the UCL in that they violate at least
10 the following laws:

- 11 • The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*;
- 12 • The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*;
- 13 • The Federal Food, Drug, and Cosmetic Act, 21 U.S.C. §§ 301 *et seq.*; and
- 14 • The California Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety
15 Code §§ 110100 *et seq.*

16 **Unfair**

17 159. NextFoods’ conduct with respect to the labeling, advertising, and sale of the
18 JuiceDrinks was unfair because NextFoods’ conduct was immoral, unethical, unscrupulous,
19 or substantially injurious to consumers, and the utility of its conduct, if any, does not outweigh
20 the gravity of the harm to its victims.

21 160. NextFoods’ conduct with respect to the labeling, advertising, and sale of the
22 JuiceDrinks was and is also unfair because it violates public policy as declared by specific
23 constitutional, statutory or regulatory provisions, including but not necessarily limited to the
24 False Advertising Law, portions of the Federal Food, Drug, and Cosmetic Act, and portions
25 of the California Sherman Food, Drug, and Cosmetic Law.

26 161. NextFoods’ conduct with respect to the labeling, advertising, and sale of the
27 JuiceDrinks was and is also unfair because the consumer injury was substantial, not
28 outweighed by benefits to consumers or competition, and not one consumers themselves

1 could reasonably have avoided. Specifically, the increase in profits obtained by NextFoods
2 through the misleading labeling does not outweigh the harm to Class Members who were
3 deceived into purchasing the JuiceDrinks believing they were beneficial to gut health and
4 overall health when in fact they are of the type that is likely to detriment gut health and overall
5 health.

6 162. NextFoods profited from the sale of the falsely, deceptively, and unlawfully
7 advertised JuiceDrinks to unwary consumers.

8 163. Plaintiff has suffered injury in fact as a result of NextFoods' unlawful conduct.

9 164. Plaintiff and the Class also seek an order for the restitution of all monies from
10 the sale of the JuiceDrinks, which were unjustly acquired through acts of unlawful
11 competition.

12 165. Because Plaintiff's claims under the "unfair" prong of the UCL sweep more
13 broadly than their claims under the FAL, CLRA, or UCL's "fraudulent" prong, Plaintiff's
14 legal remedies are inadequate to fully compensate Plaintiff for all of NextFoods' challenged
15 behavior.

16 SECOND CAUSE OF ACTION

17 Violations of the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*

18 166. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
19 as if set forth in full herein.

20 167. The FAL provides that "[i]t is unlawful for any person, firm, corporation or
21 association, or any employee thereof with intent directly or indirectly to dispose of real or
22 personal property or to perform services" to disseminate any statement "which is untrue or
23 misleading, and which is known, or which by the exercise of reasonable care should be
24 known, to be untrue or misleading." Cal. Bus. & Prof. Code § 17500.

25 168. It is also unlawful under the FAL to disseminate statements concerning property
26 or services that are "untrue or misleading, and which is known, or which by the exercise of
27 reasonable care should be known, to be untrue or misleading." *Id.*

1 169. As alleged herein, the advertisements, labeling, policies, acts, and practices of
2 NextFoods relating to the JuiceDrinks misled consumers acting reasonably as to the digestive
3 health impact and overall health impact of the products.

4 170. Plaintiff suffered injury in fact as a result of NextFoods' actions as set forth
5 herein because Plaintiff purchased the JuiceDrinks in reliance on NextFoods' false and
6 misleading marketing claims stating or suggesting that the products, among other things, are
7 beneficial to digestive health and overall health.

8 171. NextFoods' business practices as alleged herein constitute unfair, deceptive,
9 untrue, and misleading advertising pursuant to the FAL because NextFoods has advertised
10 the JuiceDrinks in a manner that is untrue and misleading, which NextFoods knew or
11 reasonably should have known, and omitted material information from the JuiceDrinks'
12 labeling.

13 172. NextFoods profited from the sale of the falsely and deceptively advertised
14 JuiceDrinks to unwary consumers.

15 173. As a result, Plaintiff, the Class, and the general public are entitled to restitution,
16 and an order for the disgorgement of the funds by which NextFoods was unjustly enriched.

17 174. Because the Court has broad discretion to award restitution under the FAL and
18 could, when assessing restitution under the FAL, apply a standard different than that applied
19 to assessing damages under the CLRA or commercial code (for Plaintiff's breach of warranty
20 claims), and restitution is not limited to returning to Plaintiff and class members monies in
21 which they have an interest, but more broadly serves to deter the offender and others from
22 future violations, the legal remedies available under the CLRA and commercial code are more
23 limited than the equitable remedies available under the FAL, and are therefore inadequate.

24 **THIRD CAUSE OF ACTION**

25 **Violations of the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.***

26 175. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
27 as if set forth in full herein.

1 176. The CLRA prohibits deceptive practices in connection with the conduct of a
2 business that provides goods, property, or services primarily for personal, family, or
3 household purposes.

4 177. NextFoods' false and misleading labeling and other policies, acts, and practices
5 were designed to, and did, induce the purchase and use of the JuiceDrinks for personal,
6 family, or household purposes by Plaintiff and Class Members, and violated and continue to
7 violate the following sections of the CLRA:

8 a. § 1770(a)(5): representing that goods have characteristics, uses, or
9 benefits which they do not have;

10 b. § 1770(a)(7): representing that goods are of a particular standard, quality,
11 or grade if they are of another;

12 c. § 1770(a)(9): advertising goods with intent not to sell them as advertised;
13 and

14 d. § 1770(a)(16): representing the subject of a transaction has been supplied
15 in accordance with a previous representation when it has not.

16 178. NextFoods profited from the sale of the falsely, deceptively, and unlawfully
17 advertised JuiceDrinks to unwary consumers.

18 179. NextFoods' wrongful business practices constituted, and constitute, a continuing
19 course of conduct in violation of the CLRA.

20 180. Pursuant to California Civil Code § 1782, more than 30 days before filing this
21 lawsuit, Plaintiff sent written notice of her claims and NextFoods' particular violations of the
22 Act to NextFoods by certified mail, return receipt requested, but NextFoods has failed to
23 implement remedial measures.

24 181. As a result, Plaintiff and the Class have suffered harm, and therefore seek (a)
25 actual damages resulting from purchases of the JuiceDrinks sold throughout the Class Period
26 to all Class Members, (b) punitive damages, (c) restitution, and (d) attorneys' fees and costs.
27 *See* Cal. Civ. Code § 1782(d).
28

1 182. In compliance with Cal. Civ. Code § 1780(d), Plaintiff filed an affidavit of venue
2 with the original complaint. *See* Dkt. No. 1-2.

3 **FOURTH CAUSE OF ACTION**

4 **Breaches of Express Warranties, Cal. Com. Code § 2313(1)**

5 183. Plaintiff realleges and incorporates the allegations elsewhere in the Complaint
6 as if set forth in full herein.

7 184. Through the JuiceDrinks’ labeling, NextFoods made affirmations of fact or
8 promises, or description of goods as enumerated in paragraph 15, that, *inter alia*, the
9 JuiceDrinks are beneficial to digestive and overall health.

10 185. These representations were “part of the basis of the bargain,” in that Plaintiff
11 and the Class purchased the JuiceDrinks in reasonable reliance on those statements. Cal. Com.
12 Code § 2313(1).

13 186. NextFoods breached its express warranties by selling JuiceDrinks that are not
14 beneficial to digestive or overall health, but rather contain high levels of free sugar that are
15 likely to increase the risk of chronic digestive diseases and other chronic diseases.

16 187. That breach actually and proximately caused injury in the form of the lost
17 purchase price that Plaintiff and Class Members paid for the JuiceDrinks.

18 188. As a result, Plaintiff seeks, on behalf of herself and other Class Members, their
19 actual damages arising as a result of NextFoods’ breaches of express warranty, including,
20 without limitation, expectation damages.

21 **PRAYER FOR RELIEF**

22 189. Wherefore, Plaintiff, on behalf of herself, all others similarly situated, and the
23 general public, prays for judgment against NextFoods as to each and every cause of action,
24 and the following remedies:

25 a. An Order declaring this action to be a proper class action, appointing
26 Plaintiff as Class Representative, and appointing Plaintiff’s undersigned counsel as
27 Class Counsel;

28 b. An Order requiring NextFoods to bear the cost of Class Notice;

1 c. An Order requiring NextFoods to disgorge all monies, revenues, and
2 profits obtained by means of any wrongful act or practice;

3 d. An Order requiring NextFoods to pay restitution to restore all funds
4 acquired by means of any act or practice declared by this Court to be an unlawful,
5 unfair, or fraudulent business act or practice, or untrue or misleading advertising, plus
6 pre-and post-judgment interest thereon;

7 e. An Order requiring NextFoods to pay compensatory damages and
8 punitive damages as permitted by law;

9 f. An award of attorneys’ fees and costs; and

10 g. Any other and further relief that Court deems necessary, just, or proper.

11 **JURY DEMAND**

12 190. Plaintiff hereby demands a trial by jury on all issues so triable.

13
14 Dated: May 27, 2022

/s/ Paul K. Joseph

15 **FITZGERALD JOSEPH LLP**

16 JACK FITZGERALD

17 *jack@fitzgeraldjoseph.com*

18 PAUL K. JOSEPH

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22 TREVOR M. FLYNN

23 *trevor@fitzgeraldjoseph.com*

24 Caroline Emhardt

25 *caroline@fitzgeraldjoseph.com*

26 2341 Jefferson Street, Suite 200

27 San Diego, California 92110

28 Phone: (619) 215-1741

Counsel for Plaintiff

Appendix 1

Tropical Green



Blueberry Acai



Contains 30% Juice

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	Calories	% Daily Value*
Calories	110	
Total Fat 0g	0%	
Saturated Fat 0g	0%	
Trans Fat 0g		
Cholesterol 0mg	0%	
Sodium 20mg	1%	
Total Carb. 26g	9%	
Dietary Fiber 0g	0%	
Total Sugars 21g		
Includes 14g Added Sugars	26%	
Protein <1g		
Vitamin D 0mg	0%	
Calcium 200mg	15%	
Iron 0.3mg	2%	
Potassium 120mg	3%	

*The Daily Value 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.

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC BLUEBERRY JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF ORGANIC OAT FLOUR, ORGANIC ACAI PUREE, ORGANIC FLAVOR, NATURAL FLAVOR, CALCIUM CITRATE, CITRIC ACID, ORGANIC CARROT JUICE (FOR COLOR), ORGANIC BARLEY MALT, LACTOBACILLUS PLANTARUM 299V.

CONTAINS: GLUTEN from organic oat flour and barley malt.

Keep Refrigerated
Use within 14 days of opening.

Manufactured for:
NextFoods
Boulder, Colorado 80301

Certified Organic by QAI

Get Questions?
Contact us at:
info@goodbelly.com
www.goodbelly.com

Manufactured in USA

GoodBelly

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* Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Constipation
- Diarrhea
- Bloating
- Flatulence
- Fatigue

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE WALK THE TALK. Our strain, LP299V, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied for more than 2 decades and has numerous research trials to show it may help promote healthy digestion, and overall wellness.

When in **BALANCE** the intestinal microflora.

- ① Supports healthy digestion.*
- ② Promotes regularity.
- ③ Aids in absorption of nutrients.

→ Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

Give It a GoodShake!

NON-GMO SOY-FREE DAIRY-FREE VEGAN

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.

12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

- ① Sign up at: goodbelly.com/12-day-reboot
- ② Check your email for coupons and print 'em out.
- ③ Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- ④ We guarantee you'll love it — or your money back!†

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Pomegranate Blackberry



Contains 30% Juice

Keep Refrigerated
Use within 14 days of opening

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	Calories	% Daily Value*
	90	
Total Fat 0g		0%
Saturated Fat 0g		0%
Trans Fat 0g		0%
Cholesterol 0mg		0%
Sodium 15mg		1%
Total Carb. 22g		8%
Dietary Fiber 0g		0%
Total Sugars 18g		
Includes 10g Added Sugars		20%
Protein <1g		
Vitamin D 0mcg		0%
Calcium 15mg		1%
Iron 0.3mg		2%
Potassium 120mg		3%

*The Daily Value 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.

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC BLACKBERRY JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC POMEGRANATE JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF ORGANIC OAT FLOUR, NATURAL FLAVORS, ORGANIC CARROT JUICE (FOR COLOR), CITRIC ACID, ORGANIC BARLEY MALT, LACTOBACILLUS PLANTARUM 299V.

CONTAINS: GLUTEN from organic oat flour and barley malt.

Manufactured for: **NextFoods**
Boulder, Colorado 80301

Certified Organic by QAI

Get Questions? Contact us at: info@goodbelly.com
www.goodbelly.com

Manufactured in USA

GoodBelly

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* Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Diarrhea
- Flatulence
- Constipation
- Bloating
- Fatigue

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE WALK THE TALK. Our strain, LP299V, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied for more than 2 decades and has numerous research trials to show it may help promote healthy digestion, and overall wellness.

When in **BALANCE** the intestinal microflora:

- Supports healthy digestion.*
- Promotes regularity.
- Aids in absorption of nutrients.

Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

Give It a GoodShake!

NON-GMO BOY-FREE DAIRY-FREE VEGAN

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.†

Probiotic Support probi.com

12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

- 1 Sign up at: goodbelly.com/12-day-reboot
- 2 Check your email for coupons and print 'em out.
- 3 Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- 4 We guarantee you'll love it — or your money back!†

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Mango



Contains 25% Juice

Nutrition Facts
4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving	Calories	100
% Daily Value*		
Total Fat 0g		0%
Saturated Fat 0g		0%
Trans Fat 0g		
Cholesterol 0mg		0%
Sodium 10mg		1%
Total Carb. 23g		8%
Dietary Fiber 0g		0%
Total Sugars 19g		
Includes 12g Added Sugars		24%
Protein <1g		
Vitamin D 0mg		0%
Calcium 10mg		1%
Iron 0.3mg		2%
Potassium 120mg		3%

*The Daily Value 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.

INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC MANGO PUREE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC BANANA PUREE, CONTAINS 2% OR LESS OF ORGANIC OAT FLOUR, ORGANIC FLAVORS, NATURAL FLAVOR, CITRIC ACID, ORGANIC BARLEY MALT, ORGANIC GUAR GUM, LACTOBACILLUS PLANTARUM 299V.

CONTAINS: GLUTEN from organic oat flour and barley malt.

Keep Refrigerated
Use within 14 days of opening

Manufactured for:
NextFoods
Boulder, Colorado 80301

Certified Organic by QAI

Got Questions?
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Manufactured in USA

GoodBelly

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MADE WITH Organic Ingredients

Probiotic Support goodbelly.com

Recycling symbol

* Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Why Probiotics?

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- Constipation
- Diarrhea
- Bloating
- Flatulence
- Fatigue

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When in **BALANCE** the intestinal microflora:

- Supports healthy digestion.*
- Promotes regularity.
- Aids in absorption of nutrients.

Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

GIVE IT A GoodShake!

NON-DENO FIBER PALATE TASTE VEGAN

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.

Probiotic Support goodbelly.com

12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

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- 2 Check your email for coupons and print 'em out.
- 3 Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- 4 We guarantee you'll love it — or your money back!†

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Cranberry Watermelon



Contains 30% Juice

Nutrition Facts
Serving Size 8 oz. (240mL)
Servings Per Package about 4

Amount Per Serving	
Calories 100	
Calories from Fat	0
% Daily Value**	
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Potassium 100mg	3%
Total Carb. 24g	8%
Dietary Fiber 1g	2%
Sugars 22g	
Protein 1g	
Vitamin A 0%	Vitamin C 0%
Calcium 2%	Iron 2%

**Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.

INGREDIENTS: FILTERED WATER, ORGANIC GRAPE JUICE FROM CONCENTRATE, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, ORGANIC CRANBERRY JUICE FROM CONCENTRATE, ORGANIC STRAWBERRY JUICE FROM CONCENTRATE, CONTAINS 2% OR LESS OF: ORGANIC OAT FLOUR, ORGANIC WATERMELON JUICE FROM CONCENTRATE, CITRIC ACID, NATURAL FLAVOR, ORGANIC GUAR GUM, ORGANIC BARLEY MALT, ORGANIC VEGETABLE JUICE (FOR COLOR), LACTOBACILLUS PLANTARUM 299V.

This product contains some gluten from organic oat flour and barley malt. Try our gluten-free option!

*Lactobacillus plantarum 299v can be found naturally in the intestinal system, and may help promote healthy digestion when consumed daily as part of a nutritious diet and healthy lifestyle. GoodBelly is a food product and not a treatment or cure for any medical disorder or disease. If you have any concerns about your digestive system, please consult your healthcare professional.

† Cells per serving at time of manufacture. Storage conditions may affect the number of active probiotic cultures. Please keep at 35-40°F for maximum potency.

Keep Refrigerated
Use within 14 days of opening

Manufactured for:
NextFoods
Boulder, Colorado 80301

Certified Organic by QAI

Got Questions?
Contact us at:
info@goodbelly.com
www.goodbelly.com

Made in USA.

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Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Diarrhea
- Flatulence
- Constipation
- Bloating
- Fatigue

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE WALK THE TALK. Our strain, LP299V, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LP299V is naturally occurring in the human gut. It has been studied for more than 2 decades and has numerous research trials to show it may help promote healthy digestion and overall wellness.

When in **BALANCE** the intestinal microflora:

- Supports healthy digestion.*
- Promotes regularity.
- Aids in absorption of nutrients.

Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile

Give it a GoodShake!

NON-GMO NOY-FREE DAIRY-FREE VEGAN

GoodBelly PROBIOTICS

is a delicious blend of fruit juices and a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.

Probiotic Support probio.com

12 DAY Belly Reboot

START YOUR GOODHEALTH GAME PLAN

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- 2 Check your email for coupons and print 'em out.
- 3 Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- 4 We guarantee you'll love it — or your money back! †

Reboot your belly, then make GoodBelly your daily drink to keep your GoodHealth going. Because when your belly smiles, the rest of you does too.

† Some restrictions apply.

Raspberry Blackberry



Raspberry Blackberry



Contains 50% Juice

Nutrition Facts

4 Servings Per Container
Serving size 8 fl oz (240 mL)

Amount Per Serving

Calories 50

% Daily Value*

Total Fat 1g 2%

Saturated Fat 1g 2%

Total Carb 13g 26%

Dissolved Solids 8g 16%

Bottles 130mg 1%

Total Fiber 1g 2%

Dietary Fiber 1g 2%

Total Sugar 1g 2%

Protein 1g 2%

Sodium 20mg 0%

Calcium 10mg 0%

Iron 1g 2%

Potassium 100mg 2%

*The Daily Value 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.

INGREDIENTS: WATER, ORGANIC RASPBERRY, ORGANIC BLACKBERRY, SUCRALOSE, ORGANIC CITRIC ACID, ORGANIC SALT, ORGANIC POTASSIUM CITRATE, ORGANIC FLAVOR, ORGANIC CARROT AND PARSNIP, ORGANIC LACTOBACILLUS FLAVIFACIENS

CONTAINS: GLUTEN, SOY, EGGS, AND TREE NUTS

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GoodBelly Probiotics

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GoodBelly Probiotics

Keep Refrigerated

Use within 94 days of opening.

Manufactured for

NextFoods

Boulder, Colorado 80501

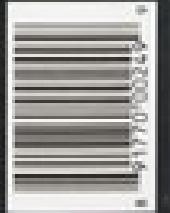
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Get Questions?

Contact us at: info@goodbelly.com

www.goodbelly.com

Manufactured in USA.



Why Probiotics?

When microflora in the gut gets out of balance, harmful bacteria may take over and may cause:

- Cramping
- Bloating
- Fatigue
- Constipation
- Diarrhea
- Irritability

Why GoodBelly?

PROBIOTICS IS ALL WE DO!

WE MAKE THE BARK. Our strain, LF2991, has been recognized as one of the most researched and impactful probiotic strains available.

WE DIG SCIENCE. LF2991 is naturally occurring in the human gut. It has been studied for more than 2 decades, and has numerous research trials to show it may help promote healthy digestion and overall wellness.

What is BALANCE?

the intestinal microflora

- Supports healthy digestion*
- Promotes regularity
- Aids in absorption of nutrients.

Experience GoodBelly for yourself. Getting your probiotics is now easy and delicious!

Feel Your Belly Smile.

Give it a GoodShake!



GoodBelly PROBIOTICS

NO SUGAR ADDED Juice Drink delivers the flavor pop you crave with less sugar. GoodBelly provides a daily dose of probiotic cultures created to naturally renew your digestive health, right where your overall health gets started — in your belly.*

12 DAY Belly Reboot

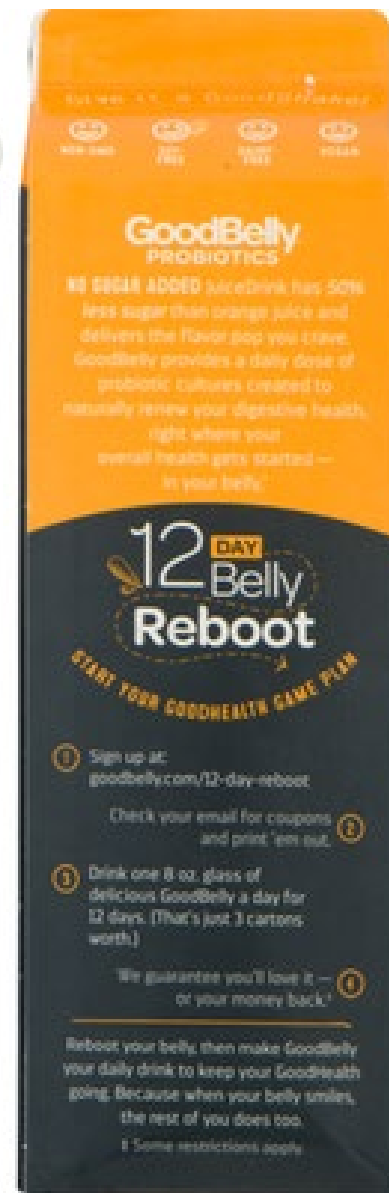
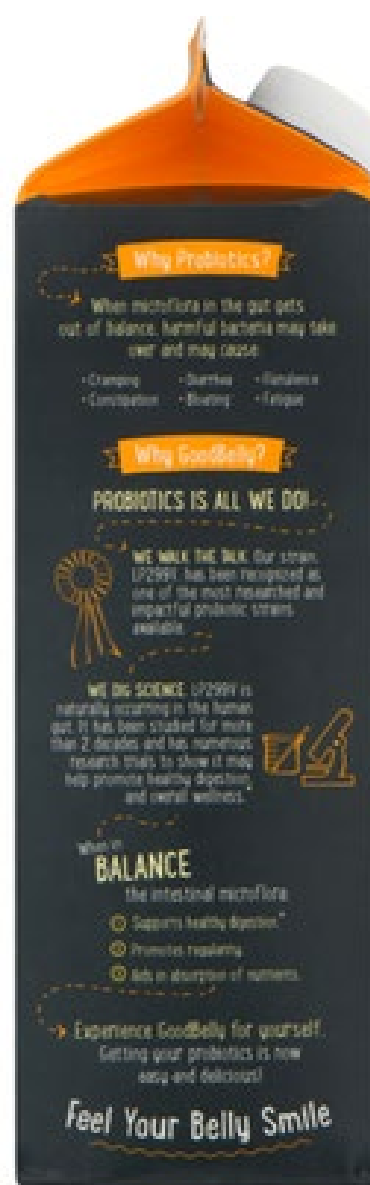
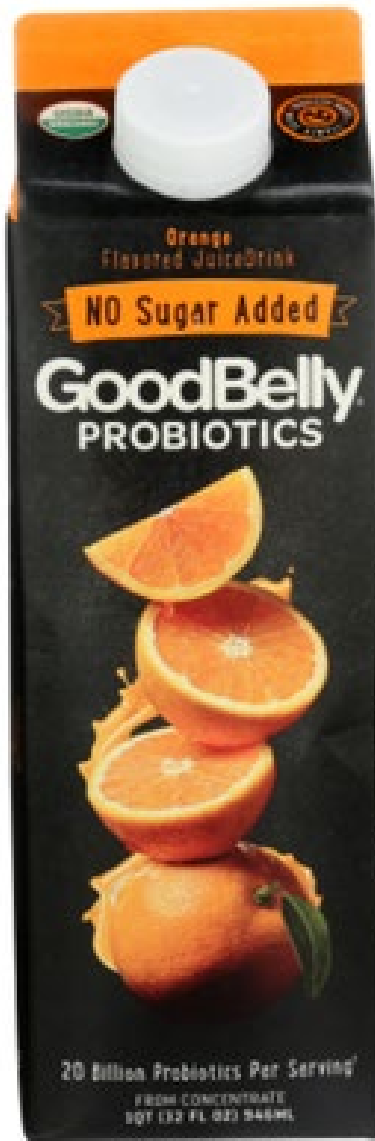
START YOUR GOODHEALTH GAME PLAN

- 1 Sign up at: goodbelly.com/12-day-reboot
 - 2 Check your email for coupons and print 'em out.
 - 3 Drink one 8 oz. glass of delicious GoodBelly a day for 12 days. (That's just 3 cartons worth.)
- We guarantee you'll love it — or your money back!†

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† Some restrictions apply.

Orange



Peach Mango Orange



Nutrition Facts	
Serving Size 8 oz. (240 mL)	
Servings Per Package about 4	
Amount Per Serving	
Calories 90	
Calories from Fat 0	
% Daily Value**	
Total Fat 0g	0%
Saturated Fat 0g	0%
Trans Fat 0g	
Cholesterol 0mg	0%
Sodium 20mg	1%
Potassium 140mg	4%
Total Carb. 21g	7%
Dietary Fiber 0g	0%
Sugars 19g	
Protein 0g	
Vitamin A 0%	Vitamin C 0%
Calcium 0%	Iron 0%
**Percent Daily Values are based on a 2,000 calorie diet. Your daily values may be higher or lower depending on your calorie needs.	
INGREDIENTS: FILTERED WATER, ORGANIC PEAR JUICE FROM CONCENTRATE, ORGANIC PEACH JUICE FROM CONCENTRATE, ORGANIC MANGO PUREE, ORGANIC ORANGE JUICE FROM CONCENTRATE, ORGANIC EVAPORATED CANE SUGAR, CONTAINS 2% OR LESS OF NATURAL FLAVORS, CALCIUM CITRATE, CITRIC ACID, ORGANIC GUAR GUM, LACTOBACILLUS PLANTARUM 299V.	