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6 *Attorneys for Plaintiff and the Proposed Class*

7
8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **COUNTY OF LOS ANGELES**

11 ABRAHAM MOHAMED, individually and
12 on behalf of all others similarly situated,

13 Plaintiffs,

14 v.

15 THE HERSHEY COMPANY, doing
16 business as BUBBLE YUM, and DOES 1
17 through 10, inclusive,

18 Defendant.

Case No. **24STCV27893**

CLASS ACTION COMPLAINT

1. FALSE AND MISLEADING
ADVERTISING IN VIOLATION OF
BUSINESS AND PROFESSIONS CODE
§ 17200, *et seq.*
2. FALSE AND MISLEADING
ADVERTISING IN VIOLATION OF
BUSINESS AND PROFESSIONS CODE
§ 17500, *et seq.*
3. VIOLATION OF CALIFORNIA CIVIL
CODE § 1750, *et seq.* (Consumers Legal
Remedies Act)

DEMAND FOR JURY TRIAL

1 Plaintiff Abraham Mohamed (hereinafter “Plaintiff”), individually and on behalf of
2 himself and others similarly situated (hereinafter “the Class” or “Class Members”), alleges the
3 following:

4 **I. NATURE OF THE ACTION AND STATEMENT OF FACTS**

5 1. This is an important consumer protection matter that concerns three issues: i)
6 violations of California Health & Safety Code §§ 108945, 108946 and § 109000 for selling and
7 distributing in commerce in the State of California products produced, marketed and sold by
8 The Hershey Company (“Defendant”) under the brand name “BUBBLE YUM” and
9 specifically, its Bubble Yum Original Flavor Bubble Gum, due to, among other things, the
10 amount of organic fluorine in the Bubble Yum Original Flavor Bubble Gum Product and its
11 wrapper; ii) the omission and non-disclosure of information that is a material concern for
12 consumers—the existence of, and potential health risks from, organic fluorine in the Bubble
13 Yum Original Flavor Bubble Gum Product; and iii) false and misleading marketing of the
14 Hershey family of brands as being “high[] quality,” “sustainable” and “transparent about [their]
15 ingredients” given the existence of, and potential health risks from, organic fluorine in the
16 Bubble Yum Original Flavor Bubble Gum.

17 2. Defendant is a manufacturer, distributor, and marketer of a variety of
18 confectionary products.

19 3. The product at issue is Defendant’s Bubble Yum Original Flavor Bubble Gum
20 (hereinafter individually referred to as “Product”, plurally referred to as “Products”).

21 4. The Products that were manufactured, marketed, advertised and sold by
22 Defendant over the proposed class period and are currently being manufactured, marketed,
23 advertised and sold by Defendant, and the Product purchased by Plaintiff and tested by Plaintiff
24 as set forth herein, were and are substantially similar. The Products are the same “Original”
25 flavor, all have the same essential design with variances in the number of gum pieces in each
26 package, and all are made from the same ingredients and manufacturing process.

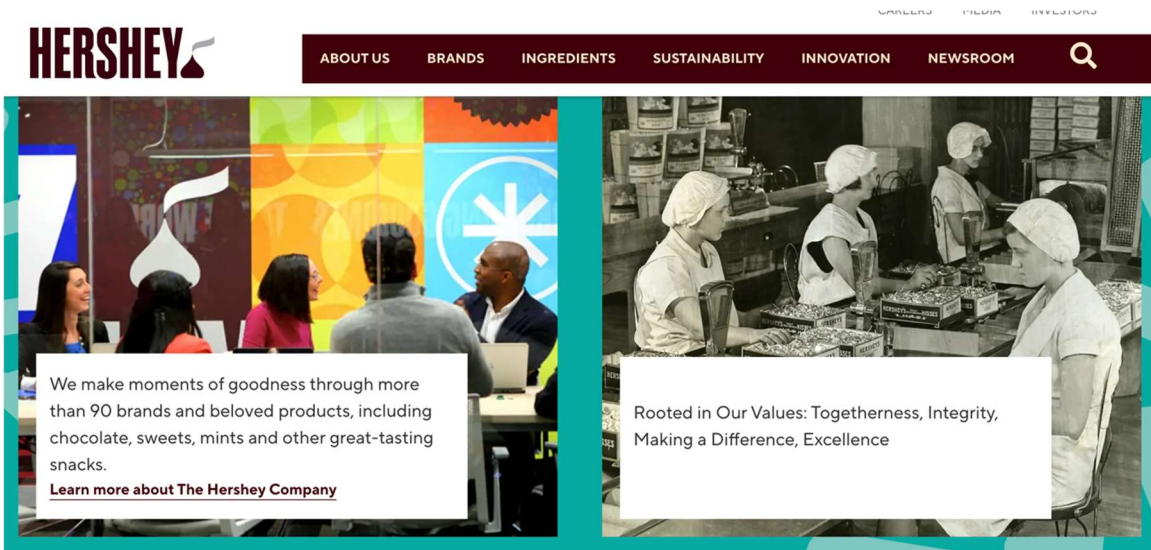
1 5. Defendant offers the Products for sale through various channels, including third-
2 party retail outlets and internet websites such as Target, Walmart, Ralph's, Walgreens and
3 Amazon.

4 6. As set forth below, through an extensive, widespread, comprehensive, and
5 uniform nationwide marketing campaign, including creating marketing materials pertaining to
6 the Product for third-party sellers, Defendant promoted itself and the Product as being high
7 quality, sustainable and transparent about ingredients.

8 **A. Defendant's False, Misleading And Deceptive Marketing Of The Product.**

9 7. During the Class Period defined herein, from four (4) years prior to the date of
10 the filing of the complaint, Defendant promoted, and continues to promote, the Hershey family
11 of brands and the Products through the following false, misleading and deceptive statements on
12 Hershey's and BUBBLE YUMS's brand website pages. Images of the website pages and the
13 statements and terminology that are false, misleading and or add to the deception are identified
14 in bold, as set forth below:

15 i.



- **Rooted in Our Values: Togetherness, Integrity, Making a Difference, Excellence**
https://www.thehersheycompany.com/en_us/home/about-us.html

ii.

Doing Well by Doing Good

Shared Goodness Promise

The Shared Goodness Promise is an idea as simple as it is big: our business, our planet, our communities, our children—they've always mattered. It's a promise delivered by all of us at Hershey—to see every day as a chance to be successful in a way that makes a difference.

[Learn More](#)



- Shared Goodness: Promise
- An idea as simple as it is big: our business, our planet, our communities, our children—they've always mattered.

https://www.thehersheycompany.com/en_us/home/sustainability.html

iii.

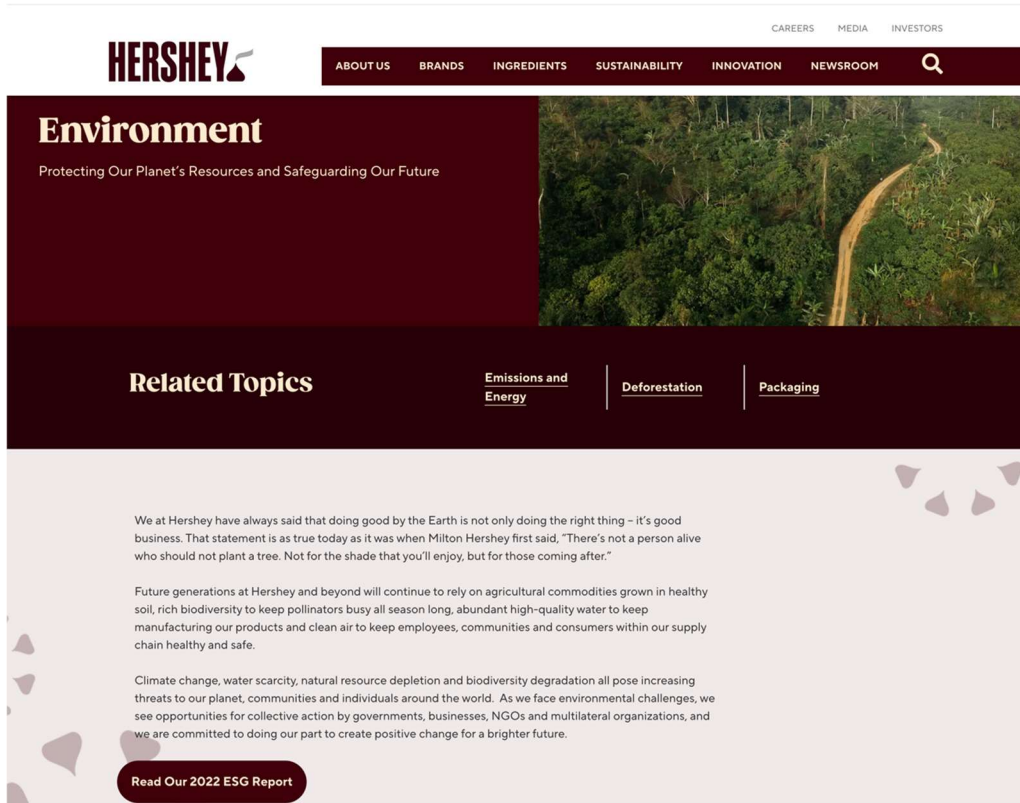
Sustainability

Hershey's Shared Goodness Promise is our holistic sustainability strategy that guides how we support and engage the remarkable people behind our brands, from farmers to employees. This strategy guides how we make more moments of goodness by delivering on our commitments to safeguard the health of the environment, support children and youth and build prosperous communities within our supply chain.

[View Our 2022 ESG Report](#)

- Sustainability
- Delivering on our commitments to safeguard the health of the environment, support children and youth and build prosperous communities within our supply chain.

https://www.thehersheycompany.com/en_us/home/sustainability.html



- **Doing good by the Earth is not only doing the right thing – it’s good business.**
https://www.thehersheycompany.com/en_us/home/sustainability/sustainability-focus-areas/environment.html

V.



CAREERS MEDIA IN

ABOUT US BRANDS INGREDIENTS SUSTAINABILITY INNOVATION NEWSROOM

Advancing Sustainable Packaging Solutions

In order to reduce the potential negative impacts of plastic waste and waste sent to landfills, we are eliminating unnecessary packaging and converting to eco-friendly alternatives to create a more sustainable future. In 2015, we committed to reducing packaging weight by 25 million pounds by 2025. We're proud to say we've surpassed this goal and have set a new goal of reducing an additional 25 million pounds by 2030. We're also aiming to make 100 percent of our plastic packaging recyclable, reusable or compostable by 2030.

Ending Deforestation

We are committed to ending deforestation across our supply chain by 2030 by working within our individual commodity supply chains to drive sustainable practices across our supply chain. Our **No Deforestation Policy** commitment is a key part of Hershey's efforts to meet our Scope 3 commitment. Read more about this **commodity-specific approach to ending deforestation** in our **Cocoa Forest Initiative Report**.

Protecting Biodiversity

Hershey recognizes that biodiversity plays a critical role in business success and in safeguarding the health of our planet and communities. We have deeply embedded biodiversity within our environmental policies, including our **Environmental Policy** and **No Deforestation Policy**. Through ongoing interactions with farmers and other suppliers, we invest in and work toward protecting the ecologically important ecosystems where our **cocoa** is sourced and where our **palm oil** is produced.

Protecting Water Sources

As a global snacking company, water is critical to our business and interconnected to our climate action strategy. In 2020, we joined the Science Based Targets Network's (SBTN) Corporate Engagement Program to stay aligned with emerging best practices in water stewardship. In 2021, we launched a preliminary assessment to better understand our water footprint and gather insights on contextual water challenges across our business. Through continued participation in SBTN's self-guided pilot, we've continued to take important steps to integrate water quality and quantity awareness across our supply chain. We will continue to report on our progress in our annual sustainability report and on our website.

- Advancing Sustainable Packaging Solutions
- https://www.thehersheycompany.com/en_us/home/sustainability/sustainability-focus-areas/environment.html

1 vi.

2
3 **About our Ingredients**

4 We all want to know more about the food we eat – from the
5 ingredients and where they come from to how it's made. These
6 questions are important to us. We're committed to providing a
7 variety of choices to meet lifestyle needs across our beloved
8 brands and being transparent about the ingredients inside your
9 favorite Hershey products.



- 8 • We are committed to . . . being transparent about the ingredients inside your favorite
9 **Hershey products.**
10 [https://www.thehersheycompany.com/en_us/home/ingredients/about-our-
11 ingredients.html](https://www.thehersheycompany.com/en_us/home/ingredients/about-our-ingredients.html)

11 vii.

12 **Increased Transparency through SmartLabel®**

13 We are committed to transparency and support consumers' right to know what is in their food. We want
14 consumers to be able to quickly access information about our products whether they are at home or on the go.
15 By partnering with other companies, we helped develop an industry-wide technology for U.S. products called
16 SmartLabel®. By scanning the QR Code on our U.S. product packages, you can access SmartLabel® which
17 puts more detailed information than could ever fit on a package right at your fingertips. In addition to nutrition
18 and ingredients you can find ingredient definitions, allergen information, claims information, religious
19 certifications, and bioengineered food disclosure statements (bioengineered food is often referred to as
20 "GMOs"). We encourage consumers to use SmartLabel® to get all the information they want to know about
21 their food purchases when they want to know it.

- 19 • We are committed to transparency and support consumer's right to know what
20 **is in their food.**
21 [https://www.thehersheycompany.com/en_us/home/ingredients/about-our-
22 ingredients.html](https://www.thehersheycompany.com/en_us/home/ingredients/about-our-ingredients.html)

viii.

WE HOLD OURSELVES TO THE HIGHEST QUALITY, SAFETY AND SUSTAINABILITY STANDARDS.

Responsibly Sourced Ingredients

View All Priority Ingredients



Cocoa



Palm



Sugar



Dairy



The Hershey Company does not conduct, fund or contribute to animal testing.

- **Highest quality, safety and sustainability standards**
https://www.thehersheycompany.com/en_us/home/ingredients/about-our-ingredients.html

ix.

BUBBLE YUM Frequently Asked Questions

Is BUBBLE YUM Gum sugar free? —

No, one piece of BUBBLE YUM Bubble Gum has about 5 grams of sugar.

When was BUBBLE YUM Bubble Gum first produced? —

As the first soft bubble gum marketed in the U.S., BUBBLE YUM Bubble Gum was first produced in 1973 by Life Savers. Since 2000, The Hershey Company has been producing BUBBLE YUM Gum.

Where is BUBBLE YUM Gum made? —

BUBBLE YUM Bubble Gum is manufactured by The Hershey Company in Mexico.

Is original BUBBLE YUM Bubble Gum flavor gluten free? —

BUBBLE YUM Bubble Gum does not contain any gluten ingredients. Always refer to each package for current ingredients and allergen statements to make an informed decision about Hershey products. [Explore other gluten free Hershey products.](#)

- Always refer to each package for current ingredients and allergen statement to make an informed decision about Hershey products.
<https://www.hersheyland.com/bubbleyum>

8. Through Defendant’s marketing and advertising campaign, Defendant was able to sell the Products to thousands of consumers throughout California and the rest of the United States. The Products are sold individually for prices ranging from \$1.69 to \$1.99 per product.

9. Plaintiff read, believed, and relied upon Defendant’s marketing and advertising of the Hershey family of brands and the Products set forth in paragraph 7 (i-ix) herein as “our

1 planet, our communities, our children – they’ve always mattered”, “Delivering on our
2 commitments to safeguard the health of the environment”, “Doing good by the Earth is not
3 only doing the right thing – it’s good business”, “We are committed to . . . being transparent
4 about the ingredients in your favorite Hershey products”, “We are committed to transparency
5 and support consumer’s right to know what is in their food”, “Highest quality, safety and
6 sustainability standards” and “Always refer to each package for current ingredients and
7 allergen statement to make an informed decision about Hershey products” (hereafter
8 collectively referred to as “the Misrepresentations”) when purchasing the Products.

9 10. Plaintiff reasonably understood the net impression of the Misrepresentations to
10 mean that the Products are high quality, sustainable and transparent about their ingredients.

11 11. Currently, there is significant public health concern about the materials and
12 chemicals used in the food industry.¹

13 12. In addition, consumers today are increasingly conscious of brands' efforts to
14 make a positive difference in the world.² Sustainable marketing is the promotion of
15 environmentally and socially responsible products, practices, and brand values.^{3 4}
16 Incorporating social responsibility into brands’ public relations strategies can make a
17 profound impact on consumer decisions.

18 13. Thus, there is a continuous incentive for a company such as Defendant’s to
19 market itself as being high quality, sustainable and transparent about the ingredients in its
20 food products.

21 _____
22
23 ¹ [https://www.cnn.com/2024/09/16/health/food-packaging-chemical-toxins-study-
wellness/index.html](https://www.cnn.com/2024/09/16/health/food-packaging-chemical-toxins-study-wellness/index.html)

24 ² See [https://www.linkedin.com/pulse/5-key-elements-successful-wellness-brand-pr-strategy-
examples](https://www.linkedin.com/pulse/5-key-elements-successful-wellness-brand-pr-strategy-examples)

25 ³ [https://www.smartinsights.com/online-brand-strategy/brand-positioning/sustainable-marketing-
how-should-you-use-it/](https://www.smartinsights.com/online-brand-strategy/brand-positioning/sustainable-marketing-how-should-you-use-it/)

26 ⁴ [https://abmatic.ai/blog/sustainable-marketing-strategies-building-brands-with-environmental-
responsibility#:~:text=Sustainable%20marketing%20focuses%20on%20integrating,customers%
20who%20value%20environmental%20stewardship.](https://abmatic.ai/blog/sustainable-marketing-strategies-building-brands-with-environmental-responsibility#:~:text=Sustainable%20marketing%20focuses%20on%20integrating,customers%20who%20value%20environmental%20stewardship.)

1 **B. The Existence Of Chemicals In the Product That Implicate Health And Safety**
2 **Concerns That A Reasonable Consumer Would Find Material.**

3 14. The Products at issue contain, among other things, organic fluorine, which
4 places consumers at risk of exposure to perfluoroalkyl and polyfluoroalkyl substances
5 (“PFAS”).

6 15. According to the U.S. Centers for Disease Control and Prevention (CDC),
7 PFAS are a group of over 9,000 synthetic chemicals that have been used in industry and
8 consumer products, worldwide, for over 70 years.⁵

9 16. The California legislature has found and declared the following: “PFAS,” are
10 highly toxic and highly persistent in the environment. See Cal Health & Safety Code §
11 108981(a).

12 17. The California legislature has found and declared the following: PFAS are
13 referred to as “forever chemicals” because they are extremely resistant to degradation in the
14 natural environment, including the water, the soil, the air, and our bodies, because of their
15 carbon-fluorine bond, one of the strongest bonds known in nature. See Cal Health & Safety
16 Code § 108981(b).

17 18. The California legislature has found and declared the following: PFAS have
18 been linked by scientific, peer- reviewed research to severe health problems, including breast
19 and other cancers, hormone disruption, kidney and liver damage, thyroid disease,
20 developmental harm, and immune system disruption, including interference with vaccines. See
21 Cal Health & Safety Code § 108981(c).

22 19. The CDC outlines several health effects associated with PFAS exposure,
23 including cancer, liver damage, decreased fertility, increased risk of asthma and thyroid
24 disease.⁶

25
26
27 ⁵ <https://www.cdc.gov/niosh/topics/pfas/default.html>

28 ⁶ <https://www.atsdr.cdc.gov/pfas/health-effects/index.html> ; see also
<https://www.hsph.harvard.edu/news/hsph-in-the-news/pfas-health-risks->

1 20. Other studies have associated exposure to PFAS with increased pregnancy
2 losses, disruption in sex hormone homeo-statis and sexual maturation.⁷

3 21. Because of the widespread use of PFAS, they can be found in water, air,
4 animals, and soil at locations across the nation and the globe. Due to this widespread use, the
5 CDC’s National Health and Nutrition Examination Survey (NHANES) found PFAS in the
6 blood of 97 percent of Americans, suggesting virtually ubiquitous exposure of Californians to
7 these highly toxic chemicals. Widespread use has also resulted in broad PFAS dispersal in
8 indoor and outdoor environments, including the PFAS contamination of the drinking water of
9 approximately 16 million Californians, particularly in disadvantaged communities, of breast
10 milk, and of indoor and outdoor air. See Cal Health & Safety Code § 108981(e).

11 22. On October 5, 2021, California Gov. Gavin Newsom signed into law California
12 Assembly Bill 652(AB 652) , Cal Health & Safety Code §§ 108945 – 108947 (Added by Stats
13 2021 ch 500 § 1 (AB 652) and Assembly Bill 1200 (AB 1200), 109000 – 109014, (added by
14 Stats. 2021, Ch. 503, § 1 (AB 1200), effective January 1, 2022), which provides for the
15 Prohibition of sales or distribution of Juvenile Products and Food Packaging containing
16 “regulated” PFAS chemicals.

17 23. Under California Health & Safety Code § 108945(c) “Juvenile product” means
18 a product designed for use by infants and children under 12 years of age

19 24. Under California Health & Safety Code § 108945(b) “Regulated perfluoroalkyl
20 and polyfluoroalkyl substances” or “regulated PFAS” that pertains to Juvenile Products means
21 either of the following:

- 22 (1) PFAS that a manufacturer has intentionally added to a product and that
23 have a functional or technical effect in the product, including, but not
24 limited to, the PFAS components of intentionally added chemicals that

25
26
27 [underestimated/#:~:text=A%20recent%20review%20from%20the,of%20asthma%20and%20thyroid%20disease](#)

28 ⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2679623/>

1 are intentional breakdown products of an added chemical that also have
2 a functional or technical effect in the product.

- 3 (2) The presence of PFAS in a product or product component at or above
4 100 parts per million, as measured in total organic fluorine.

5 25. Under California Health & Safe Code § 109000 (a)(1) “Food Packaging” means
6 a nondurable package, packaging component, or food service ware that is intended to contain,
7 serve, store, handle, protect, or market food, foodstuffs, or beverages, and is comprised, in
8 substantial part, of paper, paperboard, or other materials originally derived from plant fibers
9 and includes unit product boxes, liners, and wrappers.

10 26. Under California Health & Safety Code § 109000(a)(3) “Regulated
11 perfluoroalkyl and polyfluoroalkyl substances” or “regulated PFAS” that pertains to Food
12 Packaging means either of the following:

- 13 (1) PFAS that a manufacturer has intentionally added to a product and that
14 have a functional or technical effect in the product, including, but not
15 limited to, the PFAS components of intentionally added chemicals that
16 are intentional breakdown products of an added chemical that also have
17 a functional or technical effect in the product.
18 (2) The presence of PFAS in a product or product component at or above
19 100 parts per million, as measured in total organic fluorine.

20 27. As set forth herein, under the California Health & Safety Code, the presence of
21 PFAS in food packaging and juvenile products is measured in organic fluorine. See Cal. Health
22 & Safety Code §§ 109000(a)(3)(B) and 108945(b)(2).

23 28. Leading science has also directed that identification of organic fluorine in
24 industry and consumer products is an indicator that encompasses the total content of both known
25
26
27
28

1 and unknown types of PFAS, unlike traditional targeted analyses that can reliably quantify only a
2 few dozen known PFAS that have commercially available analytical standards.”⁸

3 29. Plaintiff commissioned independent third-party testing to determine whether the
4 Product and its packaging contain organic fluorine.

5 30. The testing conducted by the laboratory was conducted in accordance with
6 accepted industry standards for detecting the presence of organic fluorine.

7 31. The testing was performed at the independent analytical contract laboratory’s
8 facilities.

9 32. Plaintiff conducted two rounds of testing. The first round was conducted on the
10 same Product Plaintiff purchased and near in time to Plaintiff’s purchase. Specifically, Plaintiff
11 was a frequent shopper of the Product and purchased the Products at various CVS and
12 Walgreens locations in Los Angeles County multiple times a year for the last five years. The
13 product tested, the part tested, the test date and the test result are set forth below:

- 14 • **Product Tested:** Bubble Yum Original Flavor Bubble Gum
- 15 **Test Date:** February 20, 2024
- 16 **Result:** Wrapper 130 PPM Organic Fluorine
- 17 **Result:** Gum 197 PPM Organic Fluorine

18 33. The first round of test results found organic fluorine present in the Product and
19 packaging tested, which was the same Product and packaging as that purchased by Plaintiff, in
20 amounts which exceeded the permissible manufacturing limits set forth in Cal. Health & Safety
21 Code §§ 108945(b)(2) and 109000(a)(3)(B).

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26 ⁸ Anna S. Young, Heidi M. Pickard, Elsie M. Sunderland, and Joseph G. Allen; “Organic
27 Fluorine as an Indicator of Per- and Polyfluoroalkyl Substances in Dust from Buildings with
28 Healthier versus Conventional Materials” *Environmental Science & Technology*. November 4,
2022.

1 34. The second round of testing commissioned by Plaintiff was performed on an
2 additional sample of the same Product and packaging as that purchased by Plaintiff. The
3 product tested, the parts tested, the test dates and test results are set forth below:
4

- 5 • **Product Tested:** Bubble Yum Original Flavor Bubble Gum
6 **Test Date:** March 5, 2024
7 **Result:** Wrapper 122 PPM Organic Fluorine
8 **Result:** Gum 75.19 PPM Organic Fluorine

9 35. The second round of test results also found organic fluorine present in the Product
10 tested, which was the same Product as that purchased by Plaintiff, in amounts which exceeded
11 the permissible manufacturing limits set forth in Cal. Health & Safety Code § 109000(a)(3)(B).

12 **C. Defendant’s Omission And Non-Disclosure Of The Existence Of Chemicals In**
13 **The Products Implicates Health And Safety Concerns That A Reasonable**
14 **Consumer Would Find Material.**

15 36. While the California Health & Safety Code permits certain levels of organic
16 fluorine in certain products as of January 1, 2023, the omission and non-disclosure of
17 information that is a material concern for consumers is different than compliance under the
18 California Health & Safety Code, which only concerns production and distribution, not otherwise
19 lawful disclosures or warnings. Therefore, required disclosures and warnings are an issue not
20 addressed or covered by the Health & Safety Code. Indeed, Governor Gavin Newsom’s veto
21 message in vetoing a “disclosure” bill for products containing PFAS (Assembly Bill No. 2247)
22 makes clear disclosure requirements are a separate issue.⁹

23 37. Because PFAS chemicals are “forever chemicals” and accumulate in the human
24 body and environment, there is no safe manner or level of exposure to humans. The Products
25 are particularly concerning given the fact bubble gum is marketed to and consumed by
26 children.

27
28 ⁹ www.gov.ca.gov/wp-content/uploads/2022/09/AB-2247-VETO.pdf?emrc=cc359d

1 38. Therefore, both rounds of testing indicate dangerous levels of organic fluorine
2 that implicate health and safety concerns set forth herein.

3 39. Therefore, the existence of organic fluorine in the Products thus implicates health
4 and safety concerns that a reasonable consumer would find material and therefore, Defendant has
5 a duty to disclose the existence of organic fluorine in the Products and omitted facts it was
6 obliged to disclose.

7 40. The Product's marketing and advertising, including the website pages, product
8 labels and packaging, were and are uniform and pervasive over the proposed class period.

9 41. The marketing of the Product, including the Product's website pages, product
10 labels and packaging as set forth herein, and in the photographs below, omit and do not provide
11 any disclosure of the existence of, and potential health risks from, organic fluorine in the
12 Product:

13 **Front of Packaging**



21 **Back of Packaging**



1 **Top of Packaging**

2 **Bottom of Packaging**



16 42. The marketing and labeling of the Products, as set forth herein, including the
17 Product’s website pages, packaging and labels, should and could have revealed and disclosed the
18 existence of, and potential health risks from, organic fluorine in the Products and could and
19 should have provided a disclosure that states, at a minimum, “Caution: This product contains
20 organic fluorine which is a known indicator of per and polyfluoroalkyl substance (“PFAS”).
21 Exposure to PFAS may cause serious health effects.”

22 43. Plaintiff and other consumers were not and are not provided adequate information
23 or warning of the existence of, and health risks from, organic fluorine in the Products from the
24 Products’ information panel provided by Defendant.

25 44. Defendant’s omission and non-disclosure of the existence of, and health risks
26 from, organic fluorine in the Products is unlawful for the following reasons:

1 a. It is contrary to representations made by Defendant. The existence of
2 organic fluorine in the Product directly contradicts Defendant’s marketing, as set forth
3 above, and especially representations that the Hershey family of brands and the Product
4 are high quality, sustainable, and transparent about their ingredients.

5 b. It is an omission of a fact Defendant was obliged to disclose, on the
6 following basis:

7 i. Defendant had exclusive knowledge of material facts not known
8 or reasonably accessible to Plaintiff. Defendant has exclusive knowledge of the
9 manufacturing process and composition of materials and chemicals in the Product as
10 Defendant is the manufacturer, distributor, and marketer of the Product. At the time of
11 purchase, Plaintiff lacked the knowledge of the manufacturing process and composition
12 of materials and chemicals in the Product and lacked the expertise to ascertain the
13 existence of organic fluorine in the Product and their risks to human health. Further,
14 consumers lacked and continue to lack the knowledge of the manufacturing process and
15 composition of materials and chemicals in the Product and the expertise to ascertain the
16 existence of organic fluorine in the Product and their risks to human health. Plaintiff and
17 reasonable consumers must, and do, rely on Defendant to disclose the materials,
18 chemicals, and ingredients in the Product and advise of the risks that may potentially
19 affect the health and/or safety of consumers.

20 ii. Defendant made and continues to make partial representations
21 that are misleading because some other material fact has not been disclosed.
22 Defendant’s representations and images that the Hershey family of brands and the
23 Product are high quality, sustainable, and transparent about their ingredients are
24 misleading in light of the omission of the existence of organic fluorine in the Product.

25 iii. The undisclosed information of the existence of organic fluorine
26 in the Product implicates safety concerns that a reasonable consumer would find
27 material.
28

1 **D. Plaintiff’s And Consumers’ Reliance On Defendant’s Misrepresentations And**
2 **Omissions And Resulting Harm.**

3 45. Plaintiff and other consumers read, believed, and relied upon Defendant’s
4 marketing and advertising and omissions set forth herein when purchasing the Products.
5 Plaintiff and other consumers reasonably understood the marketing and labeling and omission
6 of the existence of organic fluorine in the Products to mean that the products do not contain
7 suspected harmful chemicals.

8 46. In reliance on Defendant’s labeling, marketing claims and omissions set forth
9 herein, Plaintiff and consumers purchased products they would not have purchased but for
10 Defendant’s false promotion of the Product as being high quality, sustainable and transparent
11 about their ingredients and their omission of information regarding the presence of organic
12 fluorine in the Product. Had Plaintiff and other consumers known the true nature of the Product
13 and had information regarding the presence of organic fluorine in the Product not been omitted
14 from marketing and labeling materials, they would not have purchased and spent money on the
15 Product.

16 47. As such, Defendant has engaged in conduct which violates Business &
17 Professions Code § 17200, et seq., Business & Professions Code § 17500, et seq. and the
18 California Consumers Legal Remedies Act (“CLRA”) California Civil Code § 1750, et seq.,
19 particularly California Civil Code §§ 1770(a)(5) and 1770(a)(7).

20 **E. Summary Of Notice Of Violations Of Law And Demand For Relief.**

21 48. On March 15, 2024, Defendant was served by Plaintiff with written notices
22 pursuant to Civil Code § 1750, et seq., which set forth Plaintiff’s contentions and requested
23 remedy. Plaintiff’s letter was sent via certified mail with electronic return receipt to Defendant
24 who acknowledged receipt. Defendant rejected Plaintiff’s attempts to address the concerns
25 stated herein and instead has allowed the Product to continue to be sold with full knowledge of
26 the alleged claims.

1 56. Plaintiff is further informed and believes and based thereon alleges that DOES 1
2 through 10 were and/or are, in some manner or way, responsible for and liable to Plaintiff for the
3 events, happenings, and damages hereinafter set forth below. The true names and capacities,
4 whether individual, corporate, associate or otherwise of certain manufacturers, distributors,
5 and/or their alter egos sued herein as DOES 1 through 10 inclusive are presently unknown to
6 Plaintiff who therefore sue this Defendant by fictitious names. Plaintiff will seek leave of this
7 Court to amend the Complaint to show their true names and capacities when the same have been
8 ascertained. Plaintiff is informed and believes and based thereon alleges that DOES 1 through
9 10 were authorized to do and did business in Los Angeles, California.

10 **B. Plaintiff**

11 57. Plaintiff Abraham Mohamed (“Plaintiff”) is an individual residing in Los
12 Angeles County, California.

13 58. Plaintiff purchased the Product that contained organic fluorine. Plaintiff was a
14 frequent shopper of the Product and has purchased Bubble Yum Original Flavor Bubble Gum
15 from various CVS and Walgreens locations in Los Angeles County multiple times a year for the
16 last five years. Plaintiff paid approximately \$1.69 for the Product. The independent testing of
17 the Product conducted by Plaintiff was the same Product purchased by Plaintiff and near in time
18 to Plaintiff’s purchases. Therefore, the Product Plaintiff purchased contained organic fluorine.

19 59. Plaintiff used the Product on a daily basis multiple times throughout the day and
20 was therefore exposed to organic fluorine at a heightened level.

21 60. Prior to and at the time of each purchase, Plaintiff considered Defendant’s
22 marketing and omissions related to the Product, including those set out herein, including that the
23 Product and the Hershey family of brands maintain the “[highest] quality, safety and
24 sustainability standards.” Plaintiff reasonably relied on these misrepresentations and omissions
25 in deciding to purchase the Product, and he would not have purchased the Product if the true
26 facts had been known. As a direct result of Defendant’s material misrepresentations and
27 omissions, Plaintiff suffered and continues to suffer, economic injuries.

1 61. Plaintiff would like to purchase the Product in the future. Plaintiff understands
2 that the composition of the Product could change to remove all organic fluorine over time.
3 However, Plaintiff is unable to determine the composition of the Product before purchasing it
4 again and whether the Product contains suspected harmful chemicals, or if it continues to contain
5 organic fluorine. Plaintiff might purchase the Product in the future, despite the fact it was once
6 marred by false marketing and omissions of the existence of harmful chemicals in the Product, as
7 he may reasonably assume, incorrectly, that the composition of the Product was changed to
8 remove all organic fluorine. As long as Defendant continues to manufacture the Product with
9 organic fluorine but promote the Hershey family of brands and, by implication, the Product as
10 maintaining the “[h]ighest quality, safety and sustainability standards” and “support[ing] [a]
11 consumer’s right to know what’s in their food” and not disclose to Plaintiff and the public of the
12 existence of, and warn of the potential safety risks from, organic fluorine in the Product,
13 Plaintiff (and other consumers) will be unable to make informed decisions about whether to
14 purchase the Product and will be unable to evaluate the differences between the Product and
15 competitors’ products. Plaintiff is further likely to be repeatedly misled by Defendant’s conduct,
16 unless and until Defendant is enjoined from continuing to engage, use, or employ the practice of
17 falsely marketing and advertising for sale of the Product as follows:

- 18 i. An order compelling Defendant to test for the existence of organic
19 fluorine in the Product and Product wrapper;
- 20 ii. If unintentional organic fluorine is detected in the Product or Product
21 wrapper, above 100 ppm, an order compelling defendant to replace the
22 organic fluorine with the least toxic alternative and reduce the organic
23 fluorine below 100 ppm;
- 24 iii. If detectable levels of organic fluorine are in the Product, an order
25 compelling Defendant to cease marketing, labeling, packaging, and
26 advertising the Hershey family of brands and, by implication, the
27 Product as maintaining the “[h]ighest quality, safety and sustainability
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standards” and “support[ing] [a] consumer’s right to know what’s in their food”; or

- iv. If detectable levels of organic fluorine are in the Product, an order compelling Defendant to disclose to Plaintiff and the public of the existence of, and warn of the potential safety risks from, organic fluorine in the Product and Product Wrapper.

III. JURISDICTION AND VENUE

62. This Court has personal jurisdiction over Plaintiff because Plaintiff resides in Los Angeles County, California and submits to the Court’s jurisdiction.

63. Defendant Hershey directly and through its agents, has substantial contacts with and receives substantial benefits and income from sales of the Product from and through the State of California and Los Angeles County. Therefore, Defendant is subject to personal jurisdiction in California based upon sufficient minimum contacts which exist between it and Los Angeles County, California.

64. Venue is proper in this District pursuant to California Civil Code § 1780(d), because Defendant is doing business in Los Angeles County and Los Angeles County is where a substantial portion of the transaction that is the subject of the above-entitled action occurred.

IV. CLASS ACTION ALLEGATIONS

65. Plaintiff brings this class action on his own behalf and on behalf of all other persons similarly situated. The Class which Plaintiff seeks to represent comprises:

All persons who purchased the Product in the State of California during the time period of four (4) years preceding the date of the filing of this class action through the present.

(Referred to herein as “the Class” or “Class Members”)

66. Said definition may be further defined or amended by additional pleadings, evidentiary hearings, a class certification hearing, and orders of this Court.

1 67. Numerosity: Although the exact number of Class Members is uncertain and can
2 only be ascertained through appropriate discovery, the number is great enough such that joinder
3 is impracticable.

4 68. Adequacy: Plaintiff is an adequate representative of the Class because Plaintiff's
5 interests are the same as the Class in that Plaintiff and the Class Members were subjected to the
6 same omissions and representations by Defendant as set forth herein; Plaintiff intends to
7 prosecute this action vigorously and completely on behalf of himself and the Class Members;
8 Plaintiff has retained competent counsel experienced in prosecuting class actions; and Plaintiff's
9 interests do not conflict with the interests of the Members of the Class. Based thereon, the
10 interests of the Class Members will be fairly and adequately protected by Plaintiff and Plaintiff's
11 counsel.

12 69. Commonality and Predominance of Common Issues: Defendant has acted on
13 grounds common and applicable to the entire Class and therefore, numerous questions of law and
14 fact are common to Plaintiff and the Class Members that predominate over any question
15 affecting only individual Class Members thereby making relief appropriate with respect to the
16 Class as a whole. Common and predominate factual and legal issues include but are not limited
17 to:

- 18 i. The Product that was and is currently being manufactured, marketed,
19 advertised and sold by Defendant over the proposed class period and the
20 Product purchased and tested by Plaintiff, as set forth herein, have the
21 same manufacturing process and composition of materials and chemicals
22 and were marketed, advertised and sold by Defendant in the same place
23 and manner.
- 24 ii. The Product is labeled and packaged the same. Therefore, Plaintiff and
25 the Class Members were exposed to the same labeling and packaging for
26 the Product.

- 1 iii. Defendant’s marketing and representations about the Product and the
2 Hershey family of brands to which Plaintiff and the Class were exposed
3 were the same during the class period and therefore common to Plaintiff
4 and the Class Members.
- 5 iv. Defendant’s omissions and non-disclosures as to the Product to which
6 Plaintiff and the Class Members were exposed were the same during the
7 class period and therefore common to Plaintiff and the Class Members.
- 8 v. Whether the Product and or its packing contain organic fluorine.
- 9 vi. Whether the Product and or its packing contain organic fluorine at or
10 above 100 ppm in violation of California’s Health & Safety Code.
- 11 vii. Whether the existence of organic fluorine in the Product implicates
12 potential health or safety concerns to Plaintiff and the Class Members.
- 13 viii. Whether the omissions and non-disclosures by Defendant of the
14 existence of organic fluorine in the Product were and are material to
15 Plaintiff and the Class Members.
- 16 ix. Whether the marketing and advertising by Defendant promoting the
17 Hershey family of brands and the Product as maintaining the “[h]ighest
18 quality, safety and sustainability standards” and “support[ing] [a]
19 consumer’s right to know what’s in their food” were and are material to
20 Plaintiff and the Class Members.
- 21 x. Whether the marketing and advertising by Defendant promoting the
22 Product as maintaining the “[h]ighest quality, safety and sustainability
23 standards” and “support[ing] [a] consumer’s right to know what’s in
24 their food” was and is false, deceptive and/or misleading in violation of
25 California Business & Professions Code § 17200, et seq., California
26 Business & Professions Code § 17500, et seq. and/or California Civil
27 Code § 1750, et. seq.

1 xi. Whether the omission and non-disclosures by Defendant of the existence
2 of, and health risks from, organic fluorine in the Product violates
3 California Business & Professions Code § 17200, et seq., California
4 Business & Professions Code § 17500, et seq. and/or California Civil
5 Code § 1750, et. seq.

6 70. Accordingly, the determination of Defendant's liability under each of the causes
7 of action presents legal issues that are common to Plaintiff and the class as a whole.

8 71. Typicality: Plaintiff's claims are co-extensive with those of the Class members
9 as Plaintiff and the Class Members' injuries and claims arise from the same course of conduct
10 by Defendant as alleged herein.

11 72. The Class is identifiable and ascertainable. Plaintiff has precisely defined the
12 Class based on objective criteria whereby Class Members would be able to know whether they
13 are a member of the prospective Class, specifically, all persons who purchased the Product in
14 the State of California during the time period of four (4) years preceding the date of the filing of
15 this class action through the present.

16 73. Notice can be provided to such purchasers using techniques and a form of notice
17 customarily used in class actions, including direct notice by email to the Class Members and
18 other California consumers from Defendant's and third-party retailers' records, internet
19 publication, radio, newspapers, magazines and other social media platforms such as YouTube,
20 Instagram, TikTok and Facebook.

21 74. Superiority: A class action is superior to other available methods for the fair and
22 efficient adjudication of this controversy. Plaintiff and Class Members have all suffered and
23 will continue to suffer harm and damages as a result of Defendant's unlawful and wrongful
24 conduct. The expense and burden of individual litigation would make it impracticable and
25 impossible for proposed Class Members to afford to seek legal redress for the wrongs
26 complained of herein and prosecute their claims individually. Therefore, absent a class or
27 representative action, the Class Members will continue to suffer losses and Defendant will be
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1 allowed to continue these violations of law and to retain the proceeds of its wrongdoing. Class
2 treatment of common questions of law and fact would also be a superior method to multiple
3 individual actions or piecemeal litigation in that class treatment will conserve the resources of
4 the courts and the litigants and will promote consistency and efficiency of adjudication. Finally,
5 trial on a representative and class basis would be manageable. Liability may be determined by
6 facts and law common to the Class Representative and the Class Members and monetary
7 damages or restitution may be determined by proven and approved methods on a class wide
8 basis.

9 **VI. CAUSES OF ACTION**

10 **FIRST CAUSE OF ACTION**

11 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17200, et seq.**
12 **(Unlawful, Unfair, and Fraudulent Business Acts or Practices and Unfair, Deceptive,**
13 **Untrue or Misleading Advertising)**

14 75. Plaintiff repeats and realleges the allegations set forth in the preceding
15 paragraphs and incorporates the same as if set forth herein at length.

16 76. This cause of action is brought pursuant to Business and Professions Code
17 §17200, et seq., on behalf of Plaintiff and the Class Members.

18 77. Defendant is a “person” as defined by California Business & Professions Code §
19 17201.

20 78. Defendant’s violations of California Health & Safety Code §§ 108945, 108946
21 and § 109000 for selling and distributing in commerce in the State of California food products
22 produced, marketed and sold by The Hershey Company under the brand name “BUBBLE
23 YUM” and specifically, its Bubble Yum Original Flavor Bubble Gum, due to, among other
24 things, the amount of organic fluorine in the Product and its wrapper at 100 ppm or above, the
25 omissions and non-disclosures of the existence and health risks of organic fluorine in the
26 Product and the false, misleading and deceptive marketing and advertising by Defendant
27 detailed herein constitute unlawful, unfair, and fraudulent business acts or practices and unfair,
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1 deceptive, untrue or misleading advertising within the meaning of California Business &
2 Professions Code § 17200, et seq.

3 79. Defendant’s business practices, described herein, violated and continue to violate
4 the “unlawful” prong of California Business & Professions Code § 17200, et seq. by violating
5 California Civil Code §§ 3294, 1573, 1709, 1710, 1711, and 1750 et. seq., California Health &
6 Safety Code §§ 108945 – 108947, 109000 – 109014, 110390, 110395, 110400 as well as the
7 common law.

8 80. Defendant violated California Health & Safety Code §§ 108945 – 108947,
9 109000 – 109014 by manufacturing, producing and distributing the Product and its wrapper with
10 organic fluorine at 100pm or above in commerce in California.

11 81. Defendant violated California Health & Safety Code § 110390, 110395, 110400
12 by disseminating false advertisements about the Product.

13 82. Defendant violated California Health & Safety Code § 110395 by manufacturing,
14 selling, delivering, holding, and offer for sale a Product that is falsely advertised.

15 83. Defendant violated California Health & Safety Code § 110400 by receiving in
16 commerce a Product that is falsely advertised and delivering and proffering for delivery a
17 Product that is falsely advertised.

18 84. Defendant, in its production and distribution of the Product with organic fluorine
19 and its marketing and advertising of the Hershey family of brands and, by implication, the
20 Product, makes material omissions and false and misleading statements regarding the attributes
21 and qualities of the Product, as set forth herein.

22 85. Defendant knew that the omissions and representations that it made and continue
23 to make about the Product are false, deceptive, and misleading to Plaintiff and Class Members.

24 86. Defendant’s omissions and false, deceptive, and misleading representations were
25 material to Plaintiff and the Class Members and played a substantial part, and was a substantial
26 factor, in influencing Plaintiff’s and the Class Members’ decisions to purchase the Product.

1 87. Plaintiff and the Class Members relied on Defendant’s omissions and false,
2 deceptive, and misleading representations and would not have purchased the Product if not for
3 the omissions and false, deceptive, and misleading representations and marketing by Defendant
4 about the Product set forth herein.

5 88. Plaintiff and the Class Members have suffered injury in fact and have lost money
6 or property as a result of Defendant’s false, deceptive, and misleading representations and
7 marketing set forth herein.

8 89. The Products as purchased by the Plaintiff and the Class Members were and are
9 unsatisfactory and worth less than the amount paid for them.

10 90. Defendant’s wrongful conduct is part of a pattern or generalized course of
11 conduct.

12 91. All of Defendant’s conduct alleged herein occurs and continues to occur in
13 Defendant’s business.

14 92. Wherefore, Plaintiff, the Class Members, and other California consumers have,
15 among other things, no adequate remedy at law for the injuries that are currently being suffered
16 and that will be suffered in the future in that, unless and until enjoined by order of this Court,
17 the omissions and non-disclosure of material information by Defendant that implicates health
18 and safety concerns that a reasonable consumer would find material (i.e. the non-disclosure of
19 the existence and health risks of organic fluorine in the Product) and the continued false,
20 misleading and deceptive marketing and advertising by Defendant promoting the Hershey
21 family of brands and, by implication, the Product as maintaining the “[h]ighest quality, safety
22 and sustainability standards” and “support[ing] [a] consumer’s right to know what’s in their
23 food”, will continue and cause great and irreparable injury to Plaintiff, Class Members and other
24 California consumers.

25 93. Therefore, pursuant to Business & Professions Code § 17203, Plaintiff seeks an
26 order in equity from this Court enjoining Defendant from continuing to engage, use, or employ
27 the practice of falsely marketing and advertising for sale of the Product as follows:
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- i. An order compelling Defendant to test for the existence of organic fluorine in the Product and Product wrapper;
 - ii. If unintentional organic fluorine is detected in the Product or Product wrapper, above 100 ppm, an order compelling defendant to replace the organic fluorine with the least toxic alternative and reduce the organic fluorine below 100 ppm;
 - iii. If detectable levels of organic fluorine are in the Product, an order compelling Defendant to cease marketing, labeling, packaging, and advertising the Hershey family of brands and, by implication, the Product as maintaining the “[h]ighest quality, safety and sustainability standards” and “support[ing] [a] consumer’s right to know what’s in their food”; or
 - iv. If detectable levels of organic fluorine are in the Product, an order compelling Defendant to disclose to Plaintiff and the public of the existence of, and warn of the potential safety risks from, organic fluorine in the Product and Product Wrapper.

18 94. In addition, Plaintiff seeks an order awarding Plaintiff and the Class Members
19 restitution of the monetary amounts by which Plaintiff and the Class Members did not receive
20 the value of the Product they paid for, and by which Defendant was unjustly enriched.

21 **SECOND CAUSE OF ACTION**

22 **VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS CODE § 17500, et seq.**

23 **(False and Misleading Advertising)**

24 95. Plaintiff repeats and realleges the allegations set forth in the preceding
25 paragraphs and incorporates the same as if set forth herein.

26 96. This cause of action is brought pursuant to California Business and Professions
27 Code § 17500, et seq., on behalf of Plaintiff and the Class.

1 97. As alleged in the preceding paragraphs, the omissions and non-disclosures of the
2 existence of, and health risks from, organic fluorine in the Product and the false, misleading and
3 deceptive marketing and advertising by Defendant promoting the Hershey family of brands and,
4 by implication, the Product as maintaining the “[h]ighest quality, safety and sustainability
5 standards” and “support[ing] [a] consumer’s right to know what’s in their food” detailed herein
6 constitute unfair, unlawful, and fraudulent business practices within the meaning of California
7 Business & Professions Code § 17500, et seq.

8 98. Defendant intended the omissions and non-disclosures of the existence of, and
9 health risks from, organic fluorine in the Product and the marketing and advertising by
10 Defendant promoting the Product as maintaining the “[h]ighest quality, safety and sustainability
11 standards” and “support[ing] [a] consumer’s right to know what’s in their food” detailed herein.

12 99. Defendant publicly disseminated advertising which contained unlawful
13 omissions and non-disclosures of material facts (i.e. the existence of, and health risks from,
14 organic fluorine in the Product) and publicly disseminated advertising promoting the Product as
15 maintaining the “[h]ighest quality, safety and sustainability standards” and “support[ing] [a]
16 consumer’s right to know what’s in their food” which Defendant knew, or should have known
17 in the exercise of reasonable care, was untrue or misleading via advertising mediums that
18 include but are not limited to,
19 https://www.thehersheycompany.com/en_us/home/ingredients/about-our-ingredients.html, as
20 set forth herein.

21 100. Defendant’s omissions and false, deceptive, and misleading representations were
22 material to Plaintiff and the Class Members and played a substantial part, and was a substantial
23 factor, in influencing Plaintiff’s and the Class Members’ decisions to purchase the Product.

24 101. Plaintiff and the Class Members relied on Defendant’s omissions and false,
25 deceptive, and misleading representations and would not have purchased the Product if not for
26 the omissions and false, deceptive, and misleading representations and marketing by Defendant
27 set forth herein.

1 102. Plaintiff and the Class Members have suffered injury in fact and have lost money
2 or property as a result of Defendant’s false, deceptive, and misleading representations and
3 marketing set forth herein.

4 103. The Product as purchased by Plaintiff and the Class Members was and is
5 unsatisfactory and worth less than the amount paid for it.

6 104. All of Defendant’s conduct alleged herein occurs and continues to occur in
7 Defendant’s business.

8 105. Wherefore, Plaintiff, the Class Members, and other California consumers have,
9 among other things, no adequate remedy at law for the injuries that are currently being suffered
10 and that will be suffered in the future in that, unless and until enjoined by order of this Court,
11 the omissions and non-disclosure of material information by Defendant that implicates health
12 and safety concerns that a reasonable consumer would find material (i.e. the non-disclosure of
13 the existence of, and health risks from, organic fluorine in the Product) and the continued false,
14 misleading and deceptive marketing and advertising by Defendant promoting the Product as
15 maintaining the “[h]ighest quality, safety and sustainability standards” and “support[ing] [a]
16 consumer’s right to know what’s in their food” will continue and cause great and irreparable
17 injury to Plaintiff, Class Members and other California consumers.

18 106. Therefore, pursuant to Business & Professions Code §17535, Plaintiff seeks an
19 order in equity from this Court enjoining Defendant from continuing to engage, use, or employ
20 the practice of falsely marketing and advertising for sale the Product as follows:

- 21 i. An order compelling Defendant to test for the existence of organic
22 fluorine in the Product and Product wrapper;
- 23 ii. If unintentional organic fluorine is detected in the Product or Product
24 wrapper, above 100 ppm, an order compelling defendant to replace the
25 organic fluorine with the least toxic alternative and reduce the organic
26 fluorine below 100 ppm;

- 1 i. The Product that was and is currently being manufactured, marketed,
2 advertised and sold by Defendant over the proposed class period and the
3 Product purchased and tested by Plaintiff, as set forth herein, have the same
4 manufacturing process and composition of materials and chemicals and were
5 marketed, advertised and sold by Defendant in the same place and manner.
- 6 ii. The Product was labeled and packaged the same during the proposed class
7 period. Therefore, Plaintiff and the Class Members were exposed to the
8 same labeling and packaging for the Product.
- 9 iii. Defendant’s marketing and representations about the Hershey family of
10 brands and the Product as maintaining the “[h]ighest quality, safety and
11 sustainability standards” and “support[ing] [a] consumer’s right to know
12 what’s in their food” to which Plaintiff and the Class were exposed were the
13 same during the proposed class period and therefore common to Plaintiff and
14 the Class Members.
- 15 iv. Defendant’s omissions and non-disclosures as to the Product to which
16 Plaintiff and the Class Members were exposed were the same during the
17 proposed class period and therefore common to Plaintiff and the Class
18 Members.
- 19 v. Whether the Product contains organic fluorine.
- 20 vi. Whether the existence of organic fluorine in the Product implicates potential
21 health or safety concerns to Plaintiff and the Class Members.
- 22 vii. Whether the omissions and non-disclosures by Defendant of the existence of
23 organic fluorine in the Product were and are material to Plaintiff and the
24 Class Members.
- 25 viii. Whether the marketing and advertising by Defendant promoting the Product
26 as maintaining the “[h]ighest quality, safety and sustainability standards” and
27 “support[ing] [a] consumer’s right to know what’s in their food” was and is
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1 false, deceptive and/or misleading in violation of California Civil Code §
2 1750, et. seq.

3 ix. Whether the omission and non-disclosures by Defendant of the existence of,
4 and health risks from, organic fluorine in the Product violates California
5 Civil Code § 1750, et. seq.

6 112. As set forth in detail herein, Defendant publicly disseminated marketing and
7 advertising which contained unlawful omissions and non-disclosures of material facts (i.e. the
8 existence of, and health risks from, organic fluorine in the Product) and publicly disseminated
9 marketing and advertising promoting the Product as maintaining the “[h]ighest quality, safety
10 and sustainability standards” and “support[ing] [a] consumer’s right to know what’s in their
11 food” when in fact it does not.

12 113. The policies, acts, and practices described herein were intended to result in the
13 sale of the Product to the consuming public and violated and continue to violate California Civil
14 Code § 1770(a)(5) of the Act by making omissions and representations that the Hershey family
15 of brands and the Product have characteristics, ingredients and benefits which they do not have
16 as represented, and violate California Civil Code § 1770(a)(7) by representing that the Product
17 is of a particular standard, quality, grade and style when it is of another.

18 114. In doing so, Defendant intentionally misrepresented material facts.

19 115. Defendant’s omissions and representations about the Product led Plaintiff and
20 other consumers to believe that the Product has characteristics, ingredients and benefits which it
21 does not have and is of a particular standard, quality, grade and style when it is of another.

22 116. Defendant knew that the omissions and the representations concerning the
23 Products’ purported attributes and qualities were false and/or misleading and material to the
24 Plaintiff, the Class Members and other consumers’ purchase decisions.

25 117. Defendant’s actions as described hereinabove were done with a conscious
26 disregard of Plaintiff’s, the Class Members’ and other consumers’ rights.

1 118. Defendant’s omissions and false, deceptive, and misleading representations were
2 material to Plaintiff and the Class Members and played a substantial part, and was a substantial
3 factor, in influencing Plaintiff’s and the Class Members’ decisions to purchase the Product.

4 119. Plaintiff and the Class Members relied on Defendant’s omissions and false,
5 deceptive, and misleading representations and would not have purchased the Product if not for
6 the omissions and false, deceptive, and misleading representations and marketing by Defendant
7 set forth herein.

8 120. Plaintiff and the Class Members have suffered injury in fact and have lost money
9 or property as a result of Defendant’s false, deceptive, and misleading representations and
10 marketing set forth herein.

11 121. The Product as purchased by Plaintiff and the Class Members was and is
12 unsatisfactory and worth less than the amount paid for it.

13 122. On March 15, 2024, Defendant was served by Plaintiff with written notices
14 pursuant to Civil Code § 1750, et seq., which set forth Plaintiff’s contentions and requested
15 remedy. Plaintiff’s letter was sent via certified mail with electronic return receipt to Defendant
16 who acknowledged receipt. Defendant rejected Plaintiff’s attempts to address the concerns
17 stated herein and instead has allowed the Product to continue to be sold with full knowledge of
18 the alleged claims.

19 123. All of Defendant’s conduct alleged herein occurs and continues to occur in
20 Defendant’s business.

21 124. Wherefore, Plaintiff and other California consumers have, among other things,
22 no adequate remedy at law for the injuries that are currently being suffered and that will be
23 suffered in the future in that, unless and until enjoined by order of this Court, the omissions and
24 non-disclosure of material information by Defendant that implicates health and safety concerns
25 that a reasonable consumer would find material (i.e. the existence of, and health risks from, of
26 organic fluorine in the Product) and the continued false, misleading and deceptive marketing
27 and advertising by Defendant promoting the Product as maintaining the “[h]ighest quality,
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1 safety and sustainability standards” and “support[ing] [a] consumer’s right to know what’s in
2 their food”, will continue and cause great and irreparable injury to Plaintiff, Class Members and
3 other California consumers.

4 125. Therefore, pursuant to California Civil Code § 1780(a)(2), Plaintiff seeks an
5 order in equity from this Court enjoining Defendant from continuing to engage, use, or employ
6 the practice of falsely marketing and advertising for sale the Products as follows:

- 7 i. An order compelling Defendant to test for the existence of organic
8 fluorine in the Product and Product wrapper;
- 9 ii. If unintentional organic fluorine is detected in the Product or Product
10 wrapper, above 100 ppm, an order compelling defendant to replace the
11 organic fluorine with the least toxic alternative and reduce the organic
12 fluorine below 100 ppm;
- 13 iii. If detectable levels of organic fluorine are in the Product, an order
14 compelling Defendant to cease marketing, labeling, packaging, and
15 advertising the Hershey family of brands and, by implication, the
16 Product as maintaining the “[h]ighest quality, safety and sustainability
17 standards” and “support[ing] [a] consumer’s right to know what’s in
18 their food”; or
- 19 iv. If detectable levels of organic fluorine are in the Product, an order
20 compelling Defendant to disclose to Plaintiff and the public of the
21 existence of, and warn of the potential safety risks from, organic
22 fluorine in the Product and Product Wrapper.
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24 126. In addition, Plaintiff seeks an order awarding Plaintiff and the Class Members
25 restitution of the monetary amounts by which Plaintiff and the Class Members did not receive
26 the value of the Product they paid for and by which Defendant was unjustly enriched, an award
27 of punitive damages, costs and attorney’s fees.
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1 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated,
2 prays for judgment and relief on all Causes of Action as follows:

3
4 **FIRST AND SECOND CAUSES OF ACTION**

- 5 1. An order enjoining Defendant from the practices complained of herein;
6 2. An order certifying that the action may be maintained as a Class Action;
7 3. For an award of restitution in an amount according to proof at trial;
8 4. For an award of attorney’s fees pursuant to California Civil Code § 1021.5.

9
10 **THIRD CAUSE OF ACTION**

- 11 1. An order enjoining Defendant from pursuing the practices complained of
12 pursuant to California Civil Code § 1780(a)(2);
13 2. An order certifying that the action may be maintained as a Class Action
14 pursuant to California Civil Code § 1781;
15 3. For an award of restitution in an amount according to proof at trial pursuant to
16 California Civil Code § 1780(a)(3);
17 4. For an award of punitive damages pursuant to California Civil Code §
18 1780(a)(4);
19 5. For an award of costs of this suit pursuant to California Civil Code § 1780(e);
20 6. For an award of attorney’s fees pursuant to California Civil Code § 1780(e)
21 and/or California Civil Code § 1021.5.

22
23 **FURTHER RELIEF**

24 Plaintiff further seeks actual and punitive damages pursuant to California Civil Code §
25 3294, pre- and post-judgment interest and such other and further relief as the Court may deem
26 necessary or appropriate.

1 **VII. JURY TRIAL DEMANDED**

2 Plaintiff demands a jury trial on all triable issues.

3
4 DATED: October 24, 2024

STEVENS, L.C.

5
6 By: 

7 Paul D. Stevens
8 Attorneys for Plaintiff and the Class