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14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **COUNTY OF SAN DIEGO – CENTRAL DIVISION**

16 CORI HORTIN and VALERIE
17 MORRISON, on behalf of themselves, all
18 others similarly situated, and the general
19 public,

20 Plaintiffs,

21 v.

22 KRAFT HEINZ FOODS COMPANY,
23 LLC,

24 Defendant.

Case No:

CLASS ACTION

**COMPLAINT FOR VIOLATIONS OF
CAL. BUS. & PROF. CODE §§ 17200 *et*
seq.; CAL. BUS. & PROF. CODE §§ 17500
et seq.; AND UNJUST ENRICHMENT**

(CIVIL UNLIMITED MATTER)

DEMAND FOR JURY TRIAL

1 Plaintiffs Cori Hortin and Valerie Morrison, on behalf of themselves, all others
2 similarly situated, and the general public, by and through their undersigned counsel, hereby
3 sue Defendant Kraft Heinz Foods Company, LLC (“Kraft Heinz”), and allege the following
4 upon their own knowledge, or where they lack personal knowledge, upon information and
5 belief, including the investigation of their counsel.

6 **INTRODUCTION**

7 1. Kraft Heinz, the third-largest food and beverage company in North America
8 and the fifth-largest in the world, manufactures and sells various meal kits under the Oscar
9 Meyer brand, called “Lunchables.”

10 2. The Lunchables line of meal kits consist of about 30 different kinds of variety
11 combinations, which include crackers, pizzas, chicken nuggets, small hot dogs, small
12 burgers, nachos, subs, and wraps. The Lunchables meal kits are commercially marketed to
13 children. They are packaged in colorful boxes and typically consist of equal parts deli meat,
14 cheese, crackers, and sometimes pizza sauce for the “pizza” varieties.

15 3. A 2024 report by Consumer Reports found high concentrations of lead,
16 cadmium, and phthalates in certain varieties of Lunchables, including Turkey and Cheddar
17 Cracker Stackers, Pizza with Pepperoni, and Extra Cheesy Pizza (collectively the
18 “Products”). As a result, Consumer Reports petitioned the USDA to remove all Lunchables
19 products from the National School Lunch Program.

20 4. Lead and cadmium are heavy metals and their presence in food, alone or
21 combined, in the amounts found in the Products, can increase the risk of various
22 physiological diseases, including irreversible damage to brain development, liver, kidneys,
23 bones, and other health problems. With respect to lead specifically, particularly when
24 children are consuming it, experts agree no amount is considered safe.

25 5. Phthalates, often called “plasticizers,” are a group of chemicals used to make
26 plastics more durable. Some phthalates are used to help dissolve other materials. Phthalates
27 are often found in products such as vinyl flooring, lubricating oils, and personal-care
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1 products (soaps, shampoos, hair sprays), and can sometimes be found in polyvinyl chloride
2 plastics, which are used to make products such as plastic packaging, garden hoses, and
3 medical tubing. Phthalates are well-known for disrupting the hormonal system, with
4 extensive laboratory research concluding that exposure to phthalates reduces testosterone
5 levels and leads to an array of reproductive problems. Effects include malformations in
6 organs needed for sperm development, hypospadias (abnormal urinary openings), and
7 undescended testes.

8 6. The Products Consumer Reports tested contained so much lead and cadmium
9 that a single serving would expose a child at 74%, 73%, and 69% of California’s maximum
10 allowable dose level (“MADL”) for lead, respectively:



Lunchables

Turkey and Cheddar Cracker Stackers - Serving size: 3.2 oz.



Lunchables

Pizza with Pepperoni - Serving size: 4.3 oz.



Lunchables

Extra Cheesy Pizza - Serving size: 4.2 oz.



23 7. The two pizza varieties of the Products also contained more than 50% of the
24 MADL for cadmium.

25 8. According to experts at Consumer Reports, that is a high dose of heavy metals
26 for children given the relatively small serving sizes of Lunchables, which range from just 2
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1 to 4 ounces.¹ For example, the Lunchables provide only about 15 percent of the 1,600 daily
2 calories that a typical 8-year-old requires, but that small amount of food already puts them
3 close to the daily maximum limit for lead. Thus, “[e]ven if one meal kit doesn’t push a child
4 over the limit, it puts them in the danger zone because there will likely be exposure from
5 other sources. So if a child gets more than half of the daily limit for lead from so few calories,
6 there’s little room for potential exposure from other foods, drinking water, or the
7 environment.”²

8 9. Due to Kraft Heinz’s acts and omissions concerning the presence of lead,
9 cadmium, and phthalates, consumers who purchased the Products suffered economic injury
10 since the Products cost more than they would have had the truth about been known.

11 10. Plaintiffs bring this action against Kraft Heinz on behalf of themselves,
12 similarly-situated Class Members, and the general public to enjoin Kraft Heinz from
13 continuing its unfair, unlawful, and deceptively business practices regarding the Lunchables,
14 and to recover compensation for injured Class Members.

15 **JURISDICTION & VENUE**

16 11. The California Superior Court has jurisdiction over this matter as a result of
17 defendant’s violations of the California Business and Professions Codes and California
18 common law principles.

19 12. This Court has jurisdiction pursuant to Article VI, Section 10 of the California
20 Constitution, because this case is not a cause given by statute to other trial courts.

21 13. The aggregate restitution sought herein exceed the minimum jurisdictional
22 limits for the Superior Court and will be established at trial, according to proof.

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26 ¹ *Should You Pack Lunchables for Your Kid’s School Lunch?*, CONSUMER REPORTS (April
27 9, 2024), available at <https://www.consumerreports.org/health/lunch-and-snack-packs/should-you-pack-lunchables-for-your-kids-school-lunch-a1165583878/>.

28 ² *Id.*

1 14. The California Superior Court also has jurisdiction in this matter because there
2 is no federal question at issue, as the issues herein are based solely on California statutes and
3 law.

4 15. The Court has personal jurisdiction over Kraft Heinz as a result of Kraft Heinz's
5 substantial, continuous and systematic contacts with the State, and because Kraft Heinz has
6 purposely availed itself of the benefits and privileges of conducting business activities within
7 the State, including by marketing, distributing, and selling the Lunchables in California.

8 16. Venue is proper in San Diego County because a substantial part of the events
9 or omissions giving rise to the class claims occurred in San Diego County.

10 **PARTIES**

11 17. Plaintiff Cori Hortin is a resident of Escondido, California, in San Diego
12 County.

13 18. Plaintiff Valerie Morrison is a resident of San Diego, California.

14 19. Defendant Kraft Heinz Foods, LLC is a Pennsylvania limited liability company
15 with co-headquarters in Chicago, Illinois and Pittsburgh, Pennsylvania.

16 **FACTS**

17 **I. TOXIC LEAD, CADMIUM, AND PHTHALATES ARE PRESENT IN THE** 18 **PRODUCTS**

19 20. Each of the Products challenged in this lawsuit contain levels of lead, cadmium,
20 or phthalates which, when consumed, increase the risk of disease.

21 21. Consumer Reports' testing of the Turkey and Cheddar Lunchables showed it
22 contained 37ppb of lead. The testing also confirmed the presence of phthalates.

23 22. Consumer Reports' testing of the Pizza with Pepperoni showed it contained
24 37ppb of lead and more than 200ppb of cadmium. The testing also confirmed the presence
25 of phthalates.

26 23. Consumer Reports' testing of the Extra Cheesy Pizza showed it contained
27 35ppb of lead and more than 200ppb of cadmium.

1 24. Kraft Heinz knew, or reasonable should have known, the Products had unsafe
2 levels of toxic heavy metals and phthalates, and could have implemented changes to its
3 business practices, to eliminate, or at least significantly reduce, them in the Products it sold
4 to Plaintiffs and the public. But Kraft Heinz failed to take the steps necessary to do so.

5 **II. CONSUMPTION OF LEAD, CADMIUM, AND PHTHALATES INCREASE**
6 **THE RISK OF DISEASE**

7 25. Lead affects almost every organ and system in the body and accumulates over
8 time, leading to severe health risks and toxicity, including inhibiting neurological function,
9 anemia, kidney damage, seizures, and in extreme cases, coma and death.³ Even “extremely
10 low” levels of lead exposure have been “found to reduce the cognitive capacity of children”⁴
11 when the exposure is consistent and “prolonged intake of even [] low level[s] of lead is
12 hazardous to human beings.”⁵

13 26. “Once in the bloodstream, lead is primarily distributed among three
14 compartments – blood, mineralizing tissue, and soft tissues. The bones and teeth of adults
15 contain more than 95% of total lead in the body.”⁶ However, in times of stress, “the body
16 can mobilize lead stores, thereby increasing the level of lead in the blood,” making repeated
17 exposure, even at low levels, particularly sinister, since it is capable of accruing and then
18 lying in wait to be released into the blood at unexpected times.⁷

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22 ³ Wani AL, et al., *Lead toxicity: a review*, INTERDISCIP TOXICOL. (June 2015), available at
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4961898> (hereafter “*Lead toxicity*”).

23 ⁴ HL Needleman, et al., *The Long-Term Effects of Exposure to Low Doses of Lead in*
24 *Childhood—An 11-Year Follow-up Report*, N. ENGL. J. MED. 322:83–88 (1990).

25 ⁵ *Lead toxicity*, *supra* n.3.

26 ⁶ *Id.*

27 ⁷ Centers for Disease Control and Prevention ATSSDR Environmental Health and Medicine
28 Education, *What is the Biological Fate of Lead in the Body?* (June 12, 2019), available online
at https://www.atsdr.cdc.gov/csem/leadtoxicity/biologic_fate.html.

1 27. Along with bones, teeth and blood, many other tissues store lead in the body,
2 including the brain, spleen, kidneys, liver, and lungs.⁸ Lead has been conclusively found to
3 have no positive physiological role in the body, “while its harmful effects are manifold.”⁹
4 The effects of lead have been well studied also at the cellular level and “heavy metals,
5 including lead, create reactive radicals which damage cell structures, including DNA and
6 cell membrane.”¹⁰

7 28. In particular, “young children and pregnant women especially should avoid
8 exposure to lead.”¹¹ Children are at particular risk when it comes to lead exposure because
9 it can harm a child’s brain development, resulting in learning and behavioral problems.¹²

10 29. Exposure puts children at risk for lowered IQ, behavioral problems (such as
11 attention deficit hyperactivity disorder (ADHD)), type 2 diabetes, and cancer, among other
12 health issues. Heavy metals also pose risks to adults.

13 30. Because “[l]ead is a neurotoxin” it is particularly “dangerous for children”
14 because “it affects kids’ developing brains and nervous systems” and “[e]ven small amounts
15 of lead exposure add up over time, increasing risk of developmental effects.”¹³ Thus, because
16 the body has such difficulty expelling lead, and it builds over time, the amount of lead in the
17 Kraft Heinz Products constitutes an unreasonable safety risk for children.

18 31. In short, “[r]esearch shows no lead exposure is safe for children.”¹⁴

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20 ⁸ RC Dart, et al., *MEDICAL TOXICOLOGY* (Lippincot, Williams & Wilkins, 3rd ed. 2004).

21 ⁹ *Id.*

22 ¹⁰ MJ Kosnett, *POISONING AND DRUG OVERDOSE* (McGraw Hill Professional, 5th ed. 2006).

23 ¹¹ *Toxins in Chocolate, AS YOU SOW*, <https://www.asyousow.org/environmental-health/toxic-enforcement/toxic-chocolate> (last visited Mar. 24, 2023).

24 ¹² Center for Food Safety, <https://www.centerforfoodsafety.org>.

25 ¹³ LEAD POISONING, C.S. Mott Children’s Hospital, University of Michigan Health,
26 <https://www.mottchildren.org/posts/your-child/lead-poisoning>.

27 ¹⁴ Columbia University Irving Medical Center, *Lead and Children: No Amount of Lead is*
28 *Safe* (Oct. 6, 2022), <https://www.cuimc.columbia.edu/news/lead-poison-and-children-no-amount-lead-safe>.

1 32. In children, and even in adults, exposure to lead may cause anemia, weakness,
2 and kidney and brain damage.¹⁵ Lead affects almost every organ and system in the body and
3 accumulates over time, leading to severe health risks and toxicity, including inhibiting
4 neurological function, anemia, kidney damage, seizures, and in extreme cases, coma, and
5 death.¹⁶ Lead can also cross the fetal barrier during pregnancy, exposing the mother and
6 developing fetus to serious risks, including reduced growth and premature birth.¹⁷

7 33. According to the United Nations Children's Fund, known globally as UNICEF,
8 “[l]ead is a highly poisonous element that is responsible for nearly 1.5 per cent of annual
9 global deaths – almost as many deaths as from HIV and AIDS, and more than from malaria”
10 and, in fact, “the impact of lead on adults is so large that over 900,000 premature deaths per
11 year are attributed to lead exposure.”¹⁸

12 34. Dr. Carl Baum, a medical toxicologist for Yale Medicine who is the director of
13 the Lead Poisoning and Regional Treatment Center in Connecticut, reported that the lead
14 levels in food “are a legitimate cause for concern.”¹⁹ According to this expert, “[c]hildren
15 are in a very vulnerable developmental stage, as their brains are still forming” and “[w]e
16 don’t want anything interfering with that process, and lead and cadmium, as well as other
17 heavy metals, do interfere with that.”²⁰ Dr. Baum also said that “children may not show
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19 ¹⁵ Centers for Disease Control and Prevention, *ToxFAQs™ for Lead* (Aug. 7, 2020), at
20 <https://wwwn.cdc.gov/TSP/ToxFAQs/ToxFAQsDetails.aspx?faqid=93&toxid=22#>.

21 ¹⁶ *Id.*

22 ¹⁷ Centers for Disease Control and Prevention, *Pregnant Women* (July 21, 2022),
23 <https://www.cdc.gov/nceh/lead/prevention/pregnant.htm>.

24 ¹⁸ UNICEF, *7 things to know about lead exposure*, <https://www.unicef.org/stories/7-things-know-about-lead-exposure>.

25 ¹⁹ *High amounts of lead and sodium found in Lunchables, new report finds. Here's what you*
26 *need to know.*, Yahoo!Life (April 11, 2024), available at
27 <https://www.yahoo.com/lifestyle/high-amounts-of-lead-and-sodium-found-in-lunchables-new-report-finds-heres-what-you-need-to-know-214503162.html>.

28 ²⁰ *Id.*

1 immediate signs of lead poisoning, but that over time, it can cause neurodevelopmental
2 problems. Children exposed to lead may experience behavioral issues, slow growth and
3 problems with learning and development, which can affect school performance.”²¹ Elevated
4 lead levels can also lead to issues with “the synthesis of hemoglobin, which is important in
5 preventing anemia.”²²

6 35. Another medical expert, Dr. Sara Scherger, a pediatrician at the Mayo Health
7 Clinic in Austin, Minn., says that “long-term effects of high levels of lead can include kidney
8 damage and nervous system damage, as well as other issues such as seizures, lethargy,
9 abdominal pain, constipation and vomiting” and that, despite “legal and regulatory reasons,”
10 that permit food manufacturers to sell food products that contain lead, “when children eat
11 these things regularly, lead can accumulate in the body” and “none of these products should
12 have any lead or cadmium in them.”²³

13 36. Cadmium, likewise, poses a serious safety risk to consumers because it can
14 cause cancer and is a known teratogen, an agent which causes malformation of an embryo.
15 Exposure to cadmium can affect the kidneys, lungs, and bones.²⁴

16 37. There may be no safe level of exposure to a carcinogen, so all contact should
17 be reduced to the lowest possible level.²⁵ Cadmium is considered a class 1 carcinogen by the
18 World Health Organization.²⁶ Even at low exposure, cadmium can cause nausea, vomiting,
19 diarrhea and abdominal pain. And, because cadmium builds up in the body, even at low
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21 ²¹ *Id.*

22 ²² *Id.*

23 ²³ *Id.*

24 ²⁴ *Cadmium*, BETTER HEALTH CHANNEL, available at <https://tinyurl.com/4r8frd7z>.

25 ²⁵ New Jersey Department of Health, *Hazardous Substance Fact Sheet*, NJ.GOV (Dec. 2007),
26 available at <https://www.nj.gov/health/eoh/rtkweb/documents/fs/0305.pdf>.

27 ²⁶ United Nations Environment Programme, *Lead and Cadmium*, UNEP.ORG,
28 <https://www.unep.org/explore-topics/chemicals-waste/what-we-do/emerging-issues/lead-and-cadmium>.

1 dosage, repeated exposure can cause liver and kidney damage, anemia, and loss of smell.
2 According to the Centers for Disease Control and Prevention, “exposure to low levels of
3 cadmium in . . . food . . . over time may build up cadmium in the kidneys and cause kidney
4 disease and fragile bones” and is indisputably “considered a cancer-causing agent.”²⁷

5 38. Like with lead, “children are more susceptible than adults to exposure from low
6 doses of cadmium over time.”²⁸

7 39. “Phthalates are a series of widely used chemicals that demonstrate to be
8 endocrine disruptors and are detrimental to human health.”²⁹

9 40. “Even at low levels . . . phthalates can mimic or block hormones, disrupting
10 vital body systems in humans,” and “early life exposure to phthalates is linked with asthma,
11 allergies, and cognitive and behavioral problems.”³⁰

12 41. There is evidence linking “phthalates and surging rates of chronic disease” and
13 that is particularly true with children, especially males and older children starting puberty
14 are all at increased risk of harm.³¹

15 **III. REASONABLE CONSUMERS DO NOT EXPECT HEAVY METALS OR**
16 **PHTHALATES IN THE PRODUCTS, BUT KRAFT HEINZ NEVERTHELESS**
17 **FAILED TO DISCLOSE THEIR PRESENCE**

18 42. Parents purchase Lunchables for their children because they believe them to be
19 safe and convenient meal and snack options.

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22 ²⁷ Centers for Disease Control and Prevention, *Cadmium Factsheet* (Apr. 7, 2017),
<https://tinyurl.com/y4f2kku7>.

23 ²⁸ *Toxins in Chocolate*, *supra* n. 11.

24 ²⁹ Wang, Y., et al., *Phthalates and Their Impacts on Human Health*, Healthcare (Basel)
25 (May 18, 2021), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8157593>.

26 ³⁰ *Bisphenols & Phthalates*, Green Science Policy Institute, available at
<https://greensciencepolicy.org/harmful-chemicals/bisphenols-phthalates>.

27 ³¹ What are Phthalates? WebMD (Oct. 12, 2021), available at [https://www.webmd.com/a-](https://www.webmd.com/a-to-z-guides/features/what-are-phthalates)
28 [to-z-guides/features/what-are-phthalates](https://www.webmd.com/a-to-z-guides/features/what-are-phthalates)

1 43. Kraft Heinz has referred to the Lunchables as providing “improved nutrition.”³²
2 Kraft Heinz has also communicated to consumers that Lunchables are “great for field trips,
3 summer school and dinner programs.”³³

4 44. Food manufacturers, like Kraft Heinz, are required by law to “implement
5 preventive controls as needed to significantly minimize or prevent exposure to chemical
6 hazards—including lead,” especially in foods intended for vulnerable groups, like children.³⁴

7 45. Reasonable consumers would not expect foods marketed to children to contain
8 lead, cadmium, and/or phthalates.

9 46. Kraft Heinz knew that if it revealed to the public the presence of unsafe levels
10 of toxic heavy metals or phthalates in Products, Plaintiffs and other Class Members would
11 be unwilling to purchase the Products or would pay less for them.

12 47. Understanding consumers would be unwilling to purchase the Products or
13 would pay less if they knew that the Products contained toxic amounts of heavy metals and
14 phthalates, Kraft Heinz concealed this fact from Plaintiffs and other Class Members and did
15 not disclose the presence of, or risk of presence of, unsafe levels of toxic heavy metals and
16 phthalates on the label of the Products.

17 48. Kraft Heinz knew or should have known that Plaintiffs and other Class
18 members would rely upon the packages of the Products and intended for them to do so but
19 failed to disclose the presence of unsafe levels of toxic heavy metals and phthalates. That is,
20 the consumer-facing messages on the Products’ packaging that Defendant chose failed to
21 make any reference to lead, cadmium, or phthalates. Indeed, nowhere on the Products’
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23 ³² *Lunchables are going to be rolled out directly to students. Here’s what’s in them,*
24 CNN.com (Mar. 14, 2023), available at
25 <https://www.cnn.com/2023/03/13/business/lunchables-in-schools/index.html>

26 ³³ *Id.*

27 ³⁴ *Closer to Zero: Reducing Childhood Exposure to Contaminants from Foods,* FDA
28 (current as of Mar. 21, 2024), available at <https://www.fda.gov/food/environmental-contaminants-food/closer-zero-reducing-childhood-exposure-contaminants-foods>.

1 packaging is there any disclosure of the inclusion (or possible inclusion) of lead, cadmium,
2 or phthalates.

3 49. Kraft Heinz knew or should have known that it owed consumers a duty of care
4 to adequately test for lead, cadmium, other heavy metals, and phthalates. Had Kraft Heinz
5 done so, it would have known that its Products contained lead, cadmium, and/or phthalates.
6 Alternatively, Kraft Heinz *did* know that its Products contained lead, cadmium, and/or
7 phthalates and purposely hid that fact from consumers.

8 50. Additionally, Kraft Heinz knew or should have been aware that a reasonable
9 consumer would consume the Products regularly, and possibly multiple Products daily,
10 leading to repeated exposure to lead, cadmium, and/or phthalates, which each independently
11 accumulate in the body and its systems over time, exacerbating the negative effects over
12 time, even if each individual exposure is “low.” Thus, the cumulative effect of consuming
13 the Products renders the amount of lead, cadmium, and phthalates unreasonably dangerous
14 to vulnerable consumers, including children.

15 51. Kraft Heinz knew or should have known it could control the levels of lead,
16 cadmium, and phthalates in the Products by properly monitoring, sourcing better, less-
17 processed ingredients, adjusting its formulation and ingredients to reduce or eliminate heavy
18 metals, or improve its manufacturing process to eliminate introduction of lead, cadmium,
19 and phthalates caused by Kraft Heinz itself.

20 52. Prior to purchasing the Products, Plaintiffs and other Class Members were
21 exposed to, saw, read, and understood the labels of the Products, and relied upon the same
22 in purchasing the Products, but Kraft Heinz failed to disclose the presence of heavy metals.

23 53. As a result of Kraft Heinz’s concealment of the fact that the Products contained
24 lead, cadmium, and phthalates, Plaintiffs and other Class Members reasonably believed the
25 Products were free from substances that would negatively affect children’s health and
26 development.

1 54. Plaintiffs and other Class members purchased the Products in reliance upon the
2 Product labels. Had Plaintiffs and other Class members known that the Products contained
3 lead, cadmium, and/or phthalates, rendering them unsafe for children’s consumption, they
4 would not have been willing to purchase the Products or would have paid less for them.

5 55. Therefore, as a direct and proximate result of Kraft Heinz’s omissions
6 concerning the Products, Plaintiffs and other Class Members purchased the Products and
7 paid more than they were worth.

8 56. Plaintiffs and other Class Members were harmed in the form of the monies they
9 paid for the Products which they would not otherwise have paid had they known the truth
10 about the Products. Since the presence of lead, cadmium, and phthalates in the Products
11 renders them unsafe for children’s consumption, the Products that Plaintiffs and other Class
12 Members purchased are worthless, or at a minimum are worth less than Plaintiffs and other
13 Class Members paid for them.

14 **IV. THE PRODUCTS’ LABELING VIOLATES CALIFORNIA FOOD**
15 **LABELING LAW**

16 57. The Products’ labeling violates California Health and Safety Code §§ 109875,
17 *et. seq.* (the “Sherman Law”), which has expressly adopted the federal food labeling
18 requirements as its own. *See, e.g., id.* § 110100; *id.* § 110670 (“Any food is misbranded if
19 its labeling does not conform with the requirements for nutrition labeling as set forth in
20 Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulation adopted pursuant
21 thereto.”).

22 58. First, the labeling and website claims are false and misleading for the reasons
23 described herein. 21 U.S.C. § 343(a) deems misbranded any food whose “label is false or
24 misleading in any particular.” Kraft Heinz accordingly violated California’s parallel
25 provision of the Sherman Law. *See* Cal. Health & Safety Code § 110670.

26 59. Second, Kraft Heinz “fail[ed] to reveal facts that are material in light of other
27 representations made or suggested by the statement[s], word[s], design[s], device[s], or any
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1 combination thereof,” in violation of California’s provision of the Sherman Law
2 incorporating 21 C.F.R. § 1.21(a)(1). Such facts include the detrimental health consequences
3 of consuming the Products given that they contain lead, cadmium, or phthalates, which are
4 unsafe in the amounts present in the Products, particularly for vulnerable consumers,
5 including children. In addition, such facts include the detrimental health consequences of
6 consuming the Products, including inhibiting neurological function, anemia, kidney damage,
7 seizures, and in extreme cases, coma and death, which are all material to a consumer
8 choosing a food product.

9 60. Third, Kraft Heinz failed to reveal facts that were “[m]aterial with respect to
10 the consequences which may result from use of the article under” both “[t]he conditions
11 prescribed in such labeling,” and “such conditions of use as are customary or usual,” in
12 violation of California’s provision of the Sherman Law incorporating § 1.21(a)(2). Namely,
13 Kraft Heinz failed to disclose the increased risk of serious chronic disease, disability, and
14 impaired development that is likely to result from the usual consumption of the Products in
15 the customary and prescribed manners, including regular consumption of the standard
16 serving size.

17 61. Finally, Kraft Heinz has also misbranded its Products in violation of the
18 Sherman Law by, *inter alia*, failing to disclose the presence of lead, cadmium, and/or
19 phthalates on the Products’ labels as set forth in 21 U.S.C. § 343, which states that food is
20 misbranded “unless its label bears . . . the common or usual name of each . . . ingredient.”
21 That is, food manufacturers, like Kraft Heinz, are required to list all ingredients in the food,
22 unless those ingredients are subject to an exemption from this requirement. Because the lead,
23 cadmium, and/or phthalates are not subject to any exemption under applicable law, Kraft
24 Heinz misbranded the Products.

25 **V. PLAINTIFFS’ PURCHASE, RELIANCE, AND INJURY**

26 62. Plaintiff Cori Hortin purchased Turkey & Cheddar Cracker Stackers and Pizza
27 with Pepperoni varieties Lunchables for her children. She purchased one or both products
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1 approximately once or twice per month, throughout the class period, with her last purchase
2 approximately six to eight weeks ago. She regularly shops at, and purchased the Turkey &
3 Cheddar Cracker Stackers and Pizza with Pepperoni Lunchables from Vons, Albertsons, and
4 Target stores in Escondido, California.

5 63. When purchasing the Products, Ms. Hortin was seeking snacks and meals she
6 believed to be safe, nutritious, and convenient for her children. Ms. Hortin would have
7 avoided any food she knew contained lead, cadmium, and/or phthalates. She would also have
8 avoided purchasing any food she knew could increase her children's risk of physical injury,
9 illness, disease, disability, impaired development, or death.

10 64. Ms. Hortin still wish to purchase snack foods and packaged meals for her
11 children and continues to see the Products at stores where she shops. She would purchase
12 the Products in the future if, because of an injunction requiring Kraft Heinz to disclose lead,
13 cadmium, or phthalates when present, she could be assured by the absence of a disclosure
14 that the Products no longer contain lead, cadmium, or phthalates. But unless Kraft Heinz is
15 enjoined in the manner Ms. Hortin requests, she may not be able to reasonably determine
16 whether the lead, cadmium, or phthalates in the Products have been addressed by Kraft Heinz
17 correcting it's unfair business practices, or whether the Products continue to contain lead,
18 cadmium, or phthalates.

19 65. Plaintiff Valerie Morrison purchased Turkey & Cheddar Cracker Stackers,
20 Extra Cheesy Pizza, and Pizza with Pepperoni varieties Lunchables for her child. She
21 purchased one of the varieties once every four to six months. She most recently purchased
22 the Extra Cheesy Pizza variety on April 14, 2024 from the Vons store in Pacific Beach, San
23 Diego, California. Approximately four to five months ago, she purchased the Turkey and
24 Cheddar Cracker Stackers variety from the Miramar MCAS commissary. And
25 approximately one year ago, she purchased the Pizza with Pepperoni variety from either the
26 same Vons store or the Miramar commissary.

1 66. When purchasing the Products, Ms. Morrison was seeking snacks and meals
2 she believed to be safe, nutritious, and convenient for her child. Ms. Morrison would have
3 avoided any food she knew contained lead, cadmium, and/or phthalates. She would also have
4 avoided purchasing any food she knew could increase her child's risk of physical injury,
5 illness, disease, disability, impaired development, or death.

6 67. Plaintiffs acted reasonably in purchasing the Products, whose labels did not
7 disclose the presence of lead, cadmium, and/or phthalates, or the attendant health risks in
8 consuming the Products.

9 68. By omitting that its Products contain lead, cadmium, and/or phthalates, Kraft
10 Heinz was able to gain a greater share of the snack and packaged meal market, specifically
11 those marketed toward children, than it would have otherwise and to increase the size of the
12 market.

13 69. Plaintiffs paid more for the Products, and would only have been willing to pay
14 less, or unwilling to purchase them at all, absent Kraft Heinz's omissions regarding the lead,
15 cadmium, and phthalates content described herein.

16 70. Plaintiffs would not have purchased the Products if they had known that the
17 Products were misbranded pursuant to California and FDA regulations, or that the Products
18 contained lead, cadmium, or phthalates.

19 71. For these reasons, the Products were worth less than what Plaintiffs and the
20 Class Members paid for them.

21 72. Plaintiffs and the Class lost money as a result of Kraft Heinz's omissions and
22 unfair practices in that they did not receive what they paid for when purchasing the Products.

23 73. Plaintiffs' substantive right to a marketplace free of fraud, where they are
24 entitled to rely with confidence on representations such as those made by Kraft Heinz,
25 continues to be violated every time Plaintiffs are exposed to the Products' labels.

1 **CLASS ACTION ALLEGATIONS**

2 74. California Code of Civil Procedure § 382 provides that “when the question is
3 one of a common or general interest, of many persons, or when the parties are numerous,
4 and it is impracticable to bring them all before the court, one or more may sue or defend for
5 the benefit of all.”

6 75. While reserving the right to redefine or amend the class definition prior to or as
7 part of a motion seeking class certification, Plaintiff seeks, pursuant to Code Civ. Proc.
8 § 382, to represent a class of all persons in California, who, at any time from April 17, 2020
9 to the time a class is notified (the “Class Period”), purchased, for personal or household use,
10 and not for resale or distribution, the Products (the “Class”).

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

14 77. Certification of Plaintiffs’ claims for classwide treatment is appropriate because
15 Plaintiffs can prove the elements of their claims on a classwide basis using the same evidence
16 as would be used to prove those elements in individual actions alleging the same claims.

17 78. There is a well-defined community of interest in the common questions of law
18 and fact affecting Class members. The questions of law and fact common to Class members
19 predominate over questions affecting only individual Class members, and include without
20 limitation:

- 21 a. whether the omissions on the Products labels with respect to lead,
22 cadmium, or phthalates content are material, or likely to be material, to a reasonable
23 consumer;
- 24 b. whether the omissions regarding lead, cadmium, or phthalates content
25 were reasonably likely to deceive a reasonable consumer;
- 26 c. whether Kraft Heinz’s conduct is unfair;
- 27 d. whether Kraft Heinz’s conduct violates state food statutes or regulations;
- 28

- e. the proper amount of restitution;
- f. the proper scope of injunctive relief; and
- g. the proper amount of attorneys' fees.

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

80. Plaintiffs' claims are typical of Class Members' claims because they are based on the same underlying facts, events, and circumstances relating to Kraft Heinz's conduct. Specifically, all Class Members, including Plaintiffs, were subjected to the same unfair, unlawful, and deceptive conduct when they purchased the Products and suffered economic injury because the Products are misrepresented. Absent Kraft Heinz's unfair business practices, Plaintiffs and other Class Members would not have purchased the Products or would have paid less for them.

81. Plaintiffs will fairly and adequately represent and protect the interests of the Class, have no interests incompatible with the interests of the Class, and have retained counsel competent and experienced in class action litigation, and specifically in litigation involving the false and misleading advertising of foods and beverages.

82. A class action is superior to any other available means for the fair and efficient adjudication of this controversy, and no unusual difficulties are likely to be encountered in the management of this matter as a class action. The harm, including the financial detriment suffered individually by Plaintiffs and the other Class Members, is relatively small compared to the burden and expense that would be required to litigate their claims on an individual basis against Defendant, making it impracticable for Class Members to individually seek redress for Defendant's wrongful conduct. Even if Class Members could afford individual litigation, the court system should not be forced to shoulder such inefficiency. Individualized litigation would create a potential for inconsistent or contradictory judgments and increase the delay and expense to all parties and the court system. By contrast, the class action device

1 presents far fewer management difficulties, providing the benefits of single adjudication,
2 economies of scale, and comprehensive supervision by a single court.

3 83. Kraft Heinz has acted on grounds applicable to the Class, thereby making
4 appropriate final injunctive and declaratory relief concerning the Class as a whole.

5 84. As a result of the foregoing, class treatment is appropriate under Fed. R. Civ. P.
6 23(a), 23(b)(2), and 23(b)(3).

7 **CAUSES OF ACTION**

8 **FIRST CAUSE OF ACTION**

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

10 85. Plaintiffs reallege and incorporates the allegations elsewhere in the Complaint
11 as if set forth fully herein.

12 86. The UCL prohibits any “unlawful, unfair or fraudulent business act or
13 practice.” Cal. Bus. & Prof. Code § 17200.

14 87. Under California Business & Professions Code §17200, any business act or
15 practice that is likely to deceive members of the public constitutes a fraudulent business act
16 or practice.

17 88. The acts, omissions, misrepresentations, practices, and non-disclosures of as
18 alleged herein constitute business acts and practices.

19 **Fraudulent**

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

22 90. As set forth herein, Kraft Heinz’s omissions regarding the lead, cadmium, and
23 phthalates content of the Products is likely to deceive reasonable consumers and the public.

24 **Unlawful**

25 91. As set forth herein, Kraft Heinz’s omissions are “unlawful” under the UCL in
26 that they violate at least the following laws:

- 27 • The False Advertising Law, Cal. Bus. & Prof. Code §§ 17500 *et seq.*;

- 1 • The Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*;
- 2 • The Song-Beverly Act, Cal. Civ. Code, §§ 1790 *et seq.*;
- 3 • The California Sherman Food, Drug, and Cosmetic Law, Cal. Health & Safety
- 4 Code §§ 110100 *et seq.*

5 92. By violating these laws, Defendant has engaged in unlawful business acts and
6 practices, which constitute unfair competition within the meaning of Business & Professions
7 Code § 17200.

8 **Unfair**

9 93. Kraft Heinz's conduct with respect to the labeling, advertising, and sale of the
10 Products was unfair because Kraft Heinz's conduct was immoral, unethical, unscrupulous,
11 or substantially injurious to consumers, and the utility of its conduct, if any, does not
12 outweigh the gravity of the harm to its victims.

13 94. Kraft Heinz's conduct in manufacturing the Products was unfair because it
14 unnecessarily introduced lead, cadmium, and phthalates into the Products. Specifically, a
15 significant amount of the lead, cadmium, and phthalates found in the Products sold at retail
16 is the result of Kraft Heinz's manufacturing process. Kraft Heinz's unfair business practices
17 ultimately led to unsafe levels of lead, cadmium, and phthalates being present in the
18 Products. This is evidenced by the fact that Consumer Reports tested various other brands of
19 similar meal kits, including ones with meat, cheese, and crackers, and marketed to children,
20 of similar serving sizes, and found that they contained less than one-third of the amount of
21 lead in the Products.

22 95. Kraft Heinz's conduct with respect to the labeling, advertising, and sale of the
23 Products was also unfair because it violates public policy as declared by specific
24 constitutional, statutory or regulatory provisions, including but not necessarily limited to the
25 False Advertising Law and portions of the California Sherman Food, Drug, and Cosmetic
26 Law.

1 96. Kraft Heinz's conduct with respect to the labeling, advertising, and sale of the
2 Products was and is also unfair because the consumer injury was substantial, not outweighed
3 by benefits to consumers or competition, and not one consumers themselves could
4 reasonably have avoided. Specifically, the increase in profits obtained by Kraft Heinz
5 through the misleading labeling does not outweigh the harm to Class Members who were
6 deceived into purchasing the Products unaware that they contain lead, cadmium, and
7 phthalates and are of the type that can increase the risk of poor health. Consumers could not
8 have reasonably avoided the harm because this would have required that they conduct their
9 own research into the lead, cadmium, and phthalates content of the Products, which could
10 only feasibly be revealed by laboratory testing, which is not a reasonable expectation.
11 Further, the harm could have easily been avoided by Kraft Heinz as it would have cost them
12 only minimally to indicate to consumers that the Products contain lead, cadmium, and
13 phthalates, and that these toxins can over time accumulate in the body to the point where
14 poisoning, injury, disease, disability, and impaired development can occur.

15 97. Kraft Heinz profited from the sale of the falsely, deceptively, and unlawfully
16 advertised Products to unwary consumers.

17 98. Plaintiffs and other Class Members are likely to continue to be damaged by
18 Kraft Heinz's deceptive trade practices, because Kraft Heinz continues to disseminate
19 misleading information. Thus, injunctive relief enjoining Kraft Heinz's deceptive practices
20 is proper.

21 99. Kraft Heinz's conduct caused and continues to cause substantial injury to
22 Plaintiffs and other Class Members. Plaintiffs suffered injury in fact as a result of Kraft Heinz
23 unlawful conduct.

24 100. In accordance with Bus. & Prof. Code § 17203, Plaintiffs seek an order
25 enjoining Kraft Heinz from continuing to conduct business through unlawful, unfair, and/or
26 fraudulent acts and practices.

1 101. Plaintiffs and the Class also seek an order for the restitution of all monies from
2 the sale of the Products, which were unjustly acquired through acts of unlawful competition.

3 **SECOND CAUSE OF ACTION**

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

5 102. Plaintiffs reallege and incorporates the allegations elsewhere in the Complaint
6 as if set forth fully herein.

7 103. California’s False Advertising Law prohibits any statement in connection with
8 the sale of goods “which is untrue or misleading.” Cal. Bus. & Prof. Code § 17500.

9 104. As set forth herein, the Plaintiffs purchased Products based on their labels,
10 which constituted advertising and which omitted the presence of lead, cadmium, and
11 phthalates in the Products.

12 105. Plaintiffs and other Class Members paid money for the Products. However, they
13 did not obtain the full value or any value of the Products due to Kraft Heinz’s omissions
14 regarding the nature of the Products. Accordingly, Plaintiffs and other Class Members
15 suffered an injury in fact and lost money or property as a direct result of Kraft Heinz’s
16 omissions.

17 106. Kraft Heinz’s conduct is ongoing and continuing, such that prospective
18 injunctive relief is necessary, especially given Plaintiffs’ desire to purchase the Products in
19 the future and hope to rely on Kraft Heinz’s marketing and packaging.

20 107. Plaintiffs and other Class Members are entitled to injunctive and equitable
21 relief, and restitution in the amount they spent on the Products.

22 108. Injunctive relief is also appropriate, and indeed necessary, to require Kraft
23 Heinz to provide full and accurate disclosures regarding the Products so that Plaintiffs and
24 Class members can reasonably rely on the Products’ packaging as well as those of Kraft
25 Heinz’s competitors who may then have an incentive to follow Kraft Heinz’s deceptive
26 practices, further misleading consumers.
27
28

1 109. Restitution and/or injunctive relief may also be more certain, prompt, and
2 efficient than other legal remedies requested herein. The return of the full price or full
3 premium price, and an injunction requiring either (1) adequate disclosures of the existence
4 of toxic lead and cadmium in the Products or (2) the removal of lead and cadmium from the
5 Products, will ensure that Plaintiffs and other Class Members are in the same place they
6 would have been in had Kraft Heinz's wrongful conduct not occurred, *i.e.*, in the position to
7 make an informed decision about the purchase of the Products absent omissions.

8 **THIRD CAUSE OF ACTION**

9 **Unjust Enrichment**

10 110. Plaintiffs reallege and incorporate the allegations elsewhere in the Complaint
11 as if fully set forth herein.

12 111. Plaintiffs and Class Members conferred upon Defendant an economic benefit,
13 in the form of profits resulting from the purchase and sale of the Products.

14 112. Defendant's financial benefits resulting from its unlawful and inequitable
15 conduct are economically traceable to Plaintiffs' and Class Members' purchases of the
16 Products, and the economic benefits conferred on Defendant are a direct and proximate result
17 of its unlawful and inequitable conduct.

18 113. It would be inequitable, unconscionable, and unjust for Defendant to be
19 permitted to retain these economic benefits because the benefits were procured as a direct
20 and proximate result of its wrongful conduct.

21 114. As a result, Plaintiff and Class Members are entitled to equitable relief including
22 restitution and/or disgorgement of all revenues, earnings, profits, compensation and benefits
23 which may have been obtained by Defendant as a result of such business practices.

24 **PRAYER FOR RELIEF**

25 115. Wherefore, Plaintiffs, on behalf of themselves, all others similarly situated, and
26 the general public, pray for judgment against Kraft Heinz as to each and every cause of
27 action, and the following remedies:

1 a. An Order declaring this action to be a proper class action, appointing
2 Plaintiffs as Class Representative, and appointing Plaintiffs' undersigned counsel as
3 Class Counsel;

4 b. An Order requiring Kraft Heinz to bear the cost of Class Notice;

5 c. An Order compelling Kraft Heinz to destroy all misleading and deceptive
6 advertising materials and product labels, and to recall all offending Products;

7 d. An Order compelling Kraft Heinz to cease its unfair business practices
8 which unnecessarily result in concentrating high levels of lead, cadmium, and
9 phthalates;

10 e. An Order requiring Kraft Heinz to disgorge all monies, revenues, and
11 profits obtained by means of any wrongful act or practice;

12 f. An Order requiring Kraft Heinz to pay restitution to restore all funds
13 acquired by means of any act or practice declared by this Court to be an unlawful,
14 unfair, or fraudulent business act or practice, or untrue or misleading advertising, plus
15 pre-and post-judgment interest thereon;

16 g. An award of attorneys' fees and costs; and

17 h. Any other and further relief that the Court deems necessary, just, or
18 proper.

19 **JURY DEMAND**

20 116. Plaintiff hereby demands a trial by jury on all issues so triable.

21
22 Dated: April 17, 2024



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