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David W. Slayton,
Executive Officer/Clerk of Court,
By D. Williams, Deputy Clerk

1 DAWYN R. HARRISON, County Counsel
SCOTT KUHN, Assistant County Counsel
2 (SBN 190517) • SKuhn@counsel.lacounty.gov
ANDREA ROSS, Principal Deputy County Counsel
3 (SBN 179398) • ARoss@counsel.lacounty.gov
4 CANDICE ROOSJEN, Senior Deputy County Counsel
(SBN 260310) • CRoosjen@counsel.lacounty.gov
5 JENNIFER MALONE, Senior Deputy County Counsel
(SBN 151421) • JMalone@counsel.lacounty.gov
6 OFFICE OF THE COUNTY COUNSEL
7 648 Kenneth Hahn Hall of Administration
500 West Temple Street
8 Los Angeles, California 90012-2713
9 Telephone: (213) 974-1852 · Fax: (213) 680-2165

10 Attorneys for Plaintiff
THE PEOPLE OF THE STATE OF CALIFORNIA,
11 acting by and through Los Angeles County Counsel
Dawyn R. Harrison
12

13 *(Additional Counsel listed on next page)*

14 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
15 **FOR THE COUNTY OF LOS ANGELES**

16 THE PEOPLE OF THE STATE OF
17 CALIFORNIA, acting by and through
Los Angeles County Counsel Dawyn R.
18 Harrison,

19 Plaintiff,

20 v.

21 PEPSICO, INC.; PEPSI BOTTLING
22 VENTURES LLC; THE COCA-COLA
COMPANY; and REYES COCA-COLA
23 BOTTLING, LLC; and DOES 1-25,
24 inclusive,

25 Defendants.

CASE NO. **24STCV28450**

**COMPLAINT FOR PUBLIC NUISANCE,
VIOLATIONS OF UNFAIR
COMPETITION LAW AND FALSE
ADVERTISING LAW, SEEKING
INJUNCTIVE RELIEF, RESTITUTION,
ABATEMENT, AND CIVIL PENALTIES**

1 **MOTLEY RICE LLC**
Linda Singer (*Pro Hac Vice forthcoming*)
2 Paige Boggs (*Pro Hac Vice forthcoming*)
Devin X. Williams (SBN 347577)
3 401 9th Street, NW, Suite 630
4 Washington, DC 20004
Telephone: (202) 386-9628
5 lsinger@motleyrice.com
pboggs@motleyrice.com
6 dwilliams@motleyrice.com

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1 **Figure 1: Plastic Pollution in the Los Angeles River²**



13 4. In the past several decades, virgin plastic production has exploded. Plastic
14 production has risen from 2.3 million tons in 1950 to 448 million tons in 2015.³ By 2060, plastic
15 manufacturing is expected to triple.⁴

16 5. Nearly half of all plastic is designed for single-use packaging. Plastic bottles make
17 up a considerable portion of single-use plastic waste. For example, in 2021, companies generated
18 roughly 600 billion plastic water bottles alone, resulting in 25 million tons of plastic waste.⁵ The
19 majority of this waste ends up in landfills.

20 6. As plastic pollution increases, it infiltrates drainage systems and accrues in
21 landfills. The impact of plastic waste particularly impacts coastal jurisdictions, like the County,
22 causing them to incur significant economic costs because of litter cleanups and prevention efforts.

23
24 ² See James, Rainey, *Group Sues to Hold Coca-Cola, Pepsi and Others Liable for Plastics Fouling California Waters*,
25 L.A. Times (Feb. 26, 2020), <https://www.latimes.com/environment/story/2020-02-26/coca-cola-pepsi-other-big-companies-face-plastic-pollution-lawsuit> (Photo Credit: Rick Loomis).

26 ³ Erin McCormick et al., *Americans' Plastic Recycling is Dumped in Landfills, Investigation Shows*, The Guardian
(June 21, 2019), <https://www.theguardian.com/us-news/2019/jun/21/us-plastic-recycling-landfills>.

27 ⁴ Organisation for Economic Co-operation and Development, *Global Plastics Outlook* (June 21, 2022),
https://www.oecd.org/en/publications/global-plastics-outlook_aa1edf33-en/full-report.html.

28 ⁵ Rachel Ramirez, *The Plastic Water Bottle Industry is Booming. Here's Why That's a Huge Problem*, CNN (Mar. 16,
2023), <https://www.cnn.com/2023/03/16/world/plastic-water-bottles-un-report-climate/index.html>.

1 7. Runoff from the County channels millions of tons of debris into oceans per year,
2 threatening irreplaceable natural habitats and marine life.

3 8. The plastics industry has spread deceptive information about the true impact of
4 plastic and its recyclability for decades. Following their lead, PepsiCo and Coca-Cola have
5 employed similar disinformation campaigns, deceptively promising that recycling can offset any
6 harm associated with single-use plastic bottles. For example, Coca-Cola has promised to create a
7 "circular economy"⁶ for its bottles, in which plastic bottles can be recycled and reused an endless
8 number of times. Similarly, PepsiCo has overplayed the recyclability of its bottles by promising
9 that it can create a "circular economy for plastics."⁷ However, in reality, plastic bottles can only
10 be recycled once, if at all, making promises of a "circular economy" impossible. Moreover,
11 PepsiCo and Coca-Cola have pushed forward purported solutions, like chemical recycling, that
12 they know, or should know, will not solve the problem. PepsiCo and Coca-Cola have also made
13 false promises that they would increase the use of recycled plastic by certain percentages and
14 eliminate the use of virgin plastic.

15 9. For years, consumers have purchased products in single-use plastic bottles and
16 packaging believing, based on PepsiCo's and Coca-Cola's marketing, that their "disposable"
17 products can be recycled. They have dutifully rinsed and sorted plastic products into designated
18 recycling bins and carted them to curbs or trash rooms believing they are doing their part to make
19 sure that the plastic they buy does not end up as waste. Except at the margins, it is theater—a
20 show designed to make consumers feel good about, and be willing to, consume unprecedented
21 volumes of Defendants' single-use plastic.

22 10. Defendants know, and have known, that the plastic in which their beverages are
23 sold is not, and will not, be recycled at a scale meaningful enough to offset the significant harm
24 associated with single-use plastic. Even worse, PepsiCo and Coca-Cola have used recycling to
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27 ⁶ See, e.g., The Coca-Cola Company, *Packaging Solutions for a World Without Waste*, [https://www.coca-](https://www.coca-colacompany.com/sustainability/packaging-sustainability)
[colacompany.com/sustainability/packaging-sustainability](https://www.coca-colacompany.com/sustainability/packaging-sustainability) (last visited Oct. 4, 2024).

28 ⁷ See, e.g., PepsiCo, Inc., *Packaging*, <https://www.pepsico.com/our-impact/esg-topics-a-z/packaging> (last visited Oct. 4, 2024) (hereinafter "PepsiCo Packaging Website").

1 distract consumers from real solutions to the plastic crisis—reducing the use of plastic and
2 investing in sustainable materials that can be reused.

3 11. The County is bringing this lawsuit to hold Defendants accountable for their role in
4 the plastic crisis that is overwhelming the County.

5 **PARTIES**

6 ***Plaintiff***

7 12. The People bring this civil law enforcement action by and through
8 Dawyn R. Harrison, County Counsel for the County of Los Angeles, pursuant to statutory
9 authority provided under the Unfair Competition Law ("UCL"), Business & Professions Code
10 ("Bus. & Prof. Code") § 17200, *et seq.* and the False Advertising Law ("FAL"), Bus. & Prof. Code
11 § 17500, *et seq.*

12 13. The People also bring this action to abate a public nuisance in the County pursuant
13 to California Code of Civil Procedure § 731.

14 ***Defendants***

15 14. Defendant PepsiCo, Inc. is a North Carolina corporation with its principal place of
16 business at 700 Anderson Hill Road, Purchase, New York 10577. At all relevant times, PepsiCo
17 manufactured, marketed, and sold beverages packaged in plastic bottles, including, but not limited
18 to, Pepsi, Mountain Dew, Aquafina, LifeWTR, and Gatorade, throughout the United States
19 including in Los Angeles County, California. PepsiCo uses both its own bottlers and independent
20 bottlers to bottle its beverages.

21 15. Defendant Pepsi Bottling Ventures LLC is a Delaware limited liability company
22 with a principal place of business at 4141 Parklake Avenue, Suite 600, Raleigh, North Carolina,
23 27612 and is registered with the California Secretary of State to do business in California. Pepsi
24 Bottling is a joint venture between Defendant PepsiCo and Suntory, another beverage company.
25 At all relevant times, Pepsi Bottling manufactured and distributed PepsiCo beverages packaged in
26 plastic bottles in various areas of the country, including, upon information and belief, in
27 Los Angeles County, California.

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1 16. PepsiCo has three main distribution channels for its products. First, PepsiCo, along
2 with its independent bottlers and distributors, operates a direct-store-delivery system where
3 beverages are delivered to retail stores. Second, PepsiCo delivers some of its products from
4 manufacturing plants and distribution centers, both company and third-party operated, to customer
5 warehouses. Third, PepsiCo distributes some of its products, primarily for its foodservice and
6 vending business, through third-party distributors.

7 17. Defendant The Coca-Cola Company is a Georgia company with its principal place
8 of business at One Coca-Cola Plaza, N.W., Atlanta, Georgia 30313 and is registered with the
9 California Secretary of State to do business in California. At all relevant times, Coca-Cola
10 manufactured, marketed, and sold beverages packaged in plastic bottles, including, but not limited
11 to, Coca-Cola, Diet Coke, Dasani, Sprite, Minute Maid, Fanta, Vitamin Water, and Smartwater,
12 throughout the United States including in Los Angeles County, California.

13 18. Coca-Cola and its bottling partners are collectively known as the Coca-Cola
14 system. Coca-Cola owns the brands it sells (*e.g.*, Coca-Cola, Vitamin Water) and is responsible
15 for consumer marketing initiatives. It also manufactures and sells concentrates, beverage bases,
16 and syrups for its products to bottling operations. Coca-Cola bottling partners manufacture,
17 package, merchandise, and distribute final branded beverages to Coca-Cola's customers and
18 vending partners, who then sell the products to consumers. Coca-Cola does not own, manage, or
19 control most local bottling companies. Coca-Cola's finished product operations consist primarily
20 of company-owned or company-controlled bottling, sales, and distribution operations.

21 19. Defendant Reyes Coca-Cola Bottling, LLC is a Delaware limited liability company
22 with its principal place of business at 6250 North River Road, Suite 9000, Rosemont, Illinois
23 60018 and is registered with the California Secretary of State to do business in California. Reyes
24 Bottling has a production center and a distribution center at 1334 South Central Avenue, Los
25 Angeles, California 90021. At all relevant times, Reyes Bottling manufactured and distributed
26 Coca-Cola beverages packaged in plastic bottles in various areas of the country, including in Los
27 Angeles County, California.

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JURISDICTION AND VENUE

20. The Superior Court has original jurisdiction over this action pursuant to Article VI, Section 10 of the California Constitution, which grants the Superior Court original jurisdiction in all causes other than those specifically enumerated therein.

21. This Court has personal jurisdiction over Defendants under California Code of Civil Procedure § 410.10. Defendants have submitted to jurisdiction by conducting and transacting business in California on a regular and continuous basis, manufacturing, marketing, and/or selling beverages to California consumers, and by committing acts in violation of the laws of California.

22. This Court has subject matter jurisdiction over the People's claims for restitution, civil penalties, injunctive relief, and other equitable relief under the UCL and the FAL.

23. Venue is proper in Los Angeles County, under California Code of Civil Procedure § 393, because violations alleged in this Complaint occurred in part in Los Angeles County.

FACTUAL ALLEGATIONS

A. The Plastic Crisis in Los Angeles County Impacts the Environment and Human Health

24. Because of its versatility and durability, plastic is commonly used across a number of business sectors. However, its long life cycle and lack of recyclability threatens both terrestrial ecosystems and marine life. Plastic pollution also poses a significant risk to human health.

25. Plastics are part of a sector known as "petrochemicals," which are products made from fossil fuels such as oil and gas. The vast majority of plastics cannot be recycled; that is, they cannot be collected, processed, and remanufactured into new products because of both technical and economic limitations.

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1 26. Widespread production and promotion of single-use plastic has led to persistent
2 plastic leakage into the environment. Around the world each year, an estimated 11 million tons of
3 plastic waste become aquatic pollution, and 20 million tons are polluted to land.⁸ In the United
4 States, between 1.13 million to 2.24 million metric tons of plastic waste leak into the environment
5 each year.⁹ Plastic products account for approximately 85 percent of total marine waste and
6 between 70 percent to 80 percent of all waste that ends up on land or in marine environments
7 combined.¹⁰

8 27. In California, from 1990 to 2022, 2.7 to 3.3 million tons of plastic waste escaped
9 into California's environment.¹¹ In 2022 alone, estimates of the amount of plastic waste leaked to
10 land and into the ocean in California ranged from 121,324 to 179,656 tons.¹²

11 28. Nearly two-thirds of total plastic waste comes from products that are discarded
12 within five years of purchase. Single-use plastics, such as plastic packaging, bags, straws, and
13 disposable bottles and plasticware, represent the largest plastics application, and account for one-
14 third of all plastics consumed globally. Single-use plastics comprise most of the plastic waste that
15 escapes and/or is discharged into the environment. Production of single-use plastics has
16 consistently risen over the years. For example, from just 2019 to 2021, production of single-use
17 plastics rose by 6 million tons.¹³

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23 ⁸ California Ocean Protection Council, *Plastic Pollution*, <https://opc.ca.gov/water-quality/plastics> (last visited Oct. 23, 2024); International Union for Conservation of Nature, *Plastic pollution*, <https://iucn.org/resources/issues-brief/plastic-pollution> (last visited Oct. 23, 2024).

24 ⁹ Tik Root, *U.S. is Top Contributor to Plastic Waste, Report Shows*, Wash. Post (Dec. 1, 2021), <https://www.washingtonpost.com/climate-environment/2021/12/01/plastic-waste-ocean-us/>.

25 ¹⁰ U.S. Environmental Protection Agency, *Draft National Strategy to Prevent Plastic Pollution* (April, 2023) at 5, https://www.epa.gov/system/files/documents/2023-04/Draft_National_Strategy_to_Prevent_Plastic_Pollution.pdf.

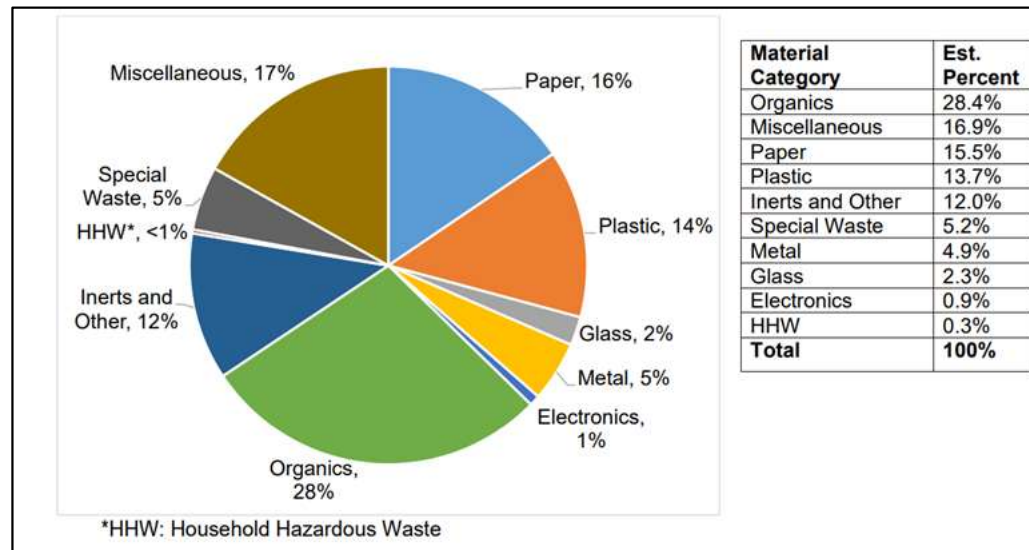
26 ¹¹ Cara Horowitz, *Why You Should Read CA's ExxonMobil Plastic Lawsuit*, Legal Planet (Oct. 8, 2024), <https://legal-planet.org/2024/10/08/why-you-should-read-cas-exxonmobil-plastic-lawsuit/>.

27 ¹² *Id.*

28 ¹³ *Single-Use Plastic Production Rose between 2019 and 2021 Despite Pledges*, Reuters (Feb. 6, 2023), <https://www.reuters.com/business/environment/single-use-plastic-waste-rises-2019-2021-despite-pledges-2023-02-06/>.

1 29. In 2024, plastic accounted for 246,124 tons of all waste materials produced by
 2 County residences and 628,211 tons of all County commercial waste, representing a massive
 3 amount of plastic waste.¹⁴ Because plastic is light, this measure underrepresents the volume of
 4 plastic waste in the County, but is consistent with plastic pollution levels throughout California,
 5 with plastic making up 13.7 percent of disposed waste throughout the state (see Figure 2 showing
 6 categories of California's overall disposed waste system).¹⁵ Plastics are the most difficult
 7 materials to process and sell to the recycling market because there is often contamination in plastic
 8 materials, as well as technological challenges to correctly sort different types of plastics. For
 9 example, because many single-use plastics are made of different types of plastic polymers and
 10 other materials, it is impractical, if not impossible, to separate these different components for
 11 recycling.

12 **Figure 2: Material Categories in California's Overall Disposed Waste System**¹⁶



14 California Department of Resources & Recycling Recovery, *Solid Waste Characterization Home*, <https://www2.calrecycle.ca.gov/wasteCharacterization/> (last visited Oct. 22, 2024).

15 California Department of Resources & Recycling Recovery, *2021 Disposal Facility-based Characterization of Solid Waste in California*, (May 30, 2024) at 10, <https://calrecycle.ca.gov/wcs/dbstudy/> (hereinafter "CalRecycle Report").

16 *Id.*

1 30. Plastics constantly pollute the County's natural resources. Single-use plastics
2 continually wash into County waterways and storm and sewer systems. Moreover, the toxins
3 released by plastics seep into and impair natural resources in and affecting the County. For
4 example, some additives entering the environment directly from plastic pollution, including
5 phthalates and bisphenol A ("BPA"), affect reproduction and development in a number of marine
6 species. The toxins subsequently enter the food chain and pose a risk to human health.

7 31. Over 8 million tons of plastic enter the ocean each year, degrading the natural
8 environment, and impacting wildlife, tourism, and commercial fishing.¹⁷ According to the
9 California Coastal Commission, plastics make up seven of the top 10 litter products found on
10 beaches, with four of those being food service ware, such as plastic bottles and containers.¹⁸
11 Single-use plastics are a significant portion of waste that is littered. A study conducted by the
12 University of California, Santa Barbara Bren School concluded that plastic debris collected in
13 river and beach cleanups accounts for about half of all the trash amassed in California, with close
14 to 50 percent being single-use plastic packaging items.¹⁹

15 32. Urban runoff is the primary source of marine debris in the Los Angeles and
16 San Gabriel River Watersheds. Litter is recognized as the primary source of trash within urban
17 runoff.

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25 ¹⁷ Carole Excell, et al., *Legal Limits on Single-Use Plastics and Microplastics: A Global Review of National Laws and*
Regulations, United Nations Environment Programme (July 3, 2018) at 6,
26 <https://www.unep.org/resources/publication/legal-limits-single-use-plastics-and-microplastics-global-review-national>.
¹⁸ California Coastal Commission, *California Coastal Cleanup Day History*,
27 <https://www.coastal.ca.gov/publiced/ccd/history.html> (last visited Oct. 3, 2024).
¹⁹ Jessica Midbust, et al., *Reducing Plastic Debris in the Los Angeles and San Gabriel River Watersheds*, University
28 of California, Santa Barbara Bren School of Environmental Science & Management (April 2014) at 11,
<https://bren.ucsb.edu/projects/reducing-plastic-debris-los-angeles-and-san-gabriel-river-watersheds>.

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Figure 4: Ballona Creek Trash Interceptor



35. Despite these efforts, coastal cities, like Los Angeles, are primary sources of oceanic plastic pollution. Each year, an estimated 4.8 to 12.7 million metric tons of plastic enter the oceans.²⁴ Over time, plastics that enter the oceans break down into microplastics, and even smaller nanoplastics, which are then consumed by animals.

36. Because plastic pollution has spread to every corner of the planet, its impact on ecosystems and humans has been studied extensively. Researchers have shown that plastic pollutes soil and waters and harms living organisms, and that the capacity of ecosystems to adapt to climate change is diminished by plastic pollution, which can alter habitats and natural processes.²⁵ Plastic pollution compromises the natural processes of marine life and threatens wildlife with laceration or death. Furthermore, because of the buoyancy of most plastics, plastic waste accrues on the sea surface. Some types of plastic resins, such as polyethylene, have also been found to release greenhouse gases as they break down in the environment.

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²⁴ Marcus Haward, *Plastic Pollution of the World's Seas and Oceans as a Contemporary Challenge in Ocean Governance*, Nature Communications (Feb. 14, 2018) at 1, <https://pubmed.ncbi.nlm.nih.gov/29445166/>.

²⁵ United Nations Environment Program, *Plastic Pollution*, <https://www.unep.org/plastic-pollution> (last visited Oct. 3, 2024).

1 37. A significant amount of plastic ends up in landfills instead of being recycled.
2 There are currently 18 public landfills in Los Angeles County. Up until 2013, Los Angeles
3 County was home to one of the largest landfills on the planet, Puente Hills. At the time it was
4 decommissioned, Puente Hills contained 150 million tons of trash and was the fifth largest landfill
5 in the world by size. At its peak, Puente Hills brought in 13,200 tons of trash per day. Landfills
6 further contribute to plastic harming land ecosystems because they constantly introduce new waste
7 into the environment.

8 38. Exposed to the elements, plastics that have leaked into the environment inevitably
9 disintegrate into smaller and smaller pieces until they eventually become "microplastics," tiny
10 plastic bits measuring five millimeters or less, that are readily transported by air, wind, water, and
11 the fecal matter of organisms that ingest them. Microplastic pollution has emerged as a global
12 environmental threat to land ecosystems because of its impact on soil environments.
13 Microplastics affect both seed germination and plant growth and productivity, as well as reduce
14 food yields and negatively impact food chain components and food security.²⁶ Microplastics are
15 currently almost impossible to eradicate in the environment.

16 39. Microplastics affect a variety of fish, birds, turtles, and other marine mammals.
17 Microplastics have been found in the guts and feces of a wide variety of both marine and land-
18 based wildlife.²⁷ Ingestion of microplastics has negative impacts on the health of the animals,
19 including their immune systems.²⁸ Microplastics also contaminate soils and waters, affecting the
20 food production, and the lives, of millions of people, including those in Los Angeles County.²⁹

21 40. Microplastics also have been found to harm humans. While the full effect of
22 microplastics on the human body is still being explored, the research thus far points to troubling

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24 ²⁶ Raveendra Sahasa, *Effect of polyethylene microplastics on seed germination of Blackgram (Vigna mungo L.) and*
25 *Tomato (Solanum lycopersicum L.)*, *Env'tl Advances* (Feb. 5, 2023) at 2,
<https://www.sciencedirect.com/science/article/pii/S2666765723000091>.

26 ²⁷ John Prata & Patricia Dias-Pereira, *Microplastics in Terrestrial Domestic Animals and Human Health: Implications*
for Food Security and Food Safety and Their Role as Sentinels, *Animals* (Feb. 14, 2023) at 8-9,
27 <https://www.mdpi.com/2076-2615/13/4/661>.

28 ²⁸ Sumon Sarkar, et al., *Microplastic Pollution: Chemical Characterization and Impact on Wildlife*, *Int'l J. Env'tl. Res.*
& Pub. Health (Jan. 18, 2023) at 23-25, <https://pmc.ncbi.nlm.nih.gov/articles/PMC9914693/pdf/ijerph-20-01745.pdf>.

29 ²⁹ Excell, *supra* note 17 at 6.

1 and dangerous consequences resulting from the boom in plastic waste caused, in part, by
2 Defendants' conduct. For example, ingesting microplastics has been shown to reduce nutritional
3 intake and cause physical damage, such as lacerations and inflammatory responses in marine and
4 freshwater invertebrates, leading to reduced reproduction and growth.³⁰ These effects vary
5 between species and are influenced by the types of plastics and the concentration of microplastics
6 present in the environment.³¹

7 41. Studies have shown that microplastics are contaminating the air we breathe, the
8 food we eat, and the water we drink.³² One study revealed the consumption of common food and
9 beverages, such as water, beer, shellfish, and salt, results in a weekly ingestion of approximately
10 five grams of plastic.³³ In other words, humans consume the equivalent of a credit card worth of
11 plastic every week.³⁴

12 42. Microplastics have been found to penetrate some human organs.³⁵ Particles can be
13 lodged in the respiratory or digestive tract and can then be absorbed through the small intestine
14 and lungs, subsequently being distributed throughout the body to other organs through the
15 circulatory system.³⁶ In addition, microplastics have been found to accumulate in the human gut,
16 lungs, and bloodstream, and, in some cases, the male testes, mammary glands, and placental
17 tissue.³⁷

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20 ³⁰ Coffee *supra* note 1 at 10.

21 ³¹ XiaoZhi Lim, *Microplastics are Everywhere – But Are They Harmful?*, Nature (May 4, 2021),
<https://www.nature.com/articles/d41586-021-01143-3>.

22 ³² Dalberg Advisors et al., *No Plastic In Nature: Assessing Plastic Ingestion From Nature to People*, WWF International
(2019) at 7-9, 11,

23 https://files.worldwildlife.org/wwfcmprod/files/Publication/file/91am5jqlgw_WWF_McK_Plastic_Waste_FinalWeb_2.pdf?_ga=2.63986223.1013812354.1655063013-1628915625.1655063013.

24 ³³ *Id.*

25 ³⁴ Chris Cillizza, *We consume a credit card's worth of plastic *every* week*, CNN (Nov. 2, 2022),
<https://www.cnn.com/2022/10/31/us/microplastic-credit-card-per-week/index.html>.

26 ³⁵ See Simon Ducoquet & Shannon Osaka, *The Plastics We Breathe*, Wash. Post (June 10, 2024),
<https://www.washingtonpost.com/climate-environment/interactive/2024/microplastics-air-human-body-organs-spread/>.

27 ³⁶ Suvash Saha & Goutam Saha, *Effect of Microplastics Deposition on Human Lung Airways: A Review with Computational Benefits and Challenges*, Heliyon (Jan. 11, 2024) at 3, [https://www.cell.com/heliyon/fulltext/S2405-8440\(24\)00386-4?returnURL](https://www.cell.com/heliyon/fulltext/S2405-8440(24)00386-4?returnURL).

28 ³⁷ Antonio Ragusa, et al., *Plasticenta: First Evidence of Microplastics in Human Placenta*, *Env'tl. Int'l* (Jan. 2021) at 7,
<https://www.sciencedirect.com/science/article/pii/S0160412020322297>.

1 43. Microplastics and nanoplastics ("MNPs") are emerging as a potential risk factor for
2 cardiovascular disease. A study published in the New England Journal of Medicine this year
3 found patients with carotid artery plaque in which MNPs were detected had a higher risk of a
4 combination of heart attack, stroke, or death from any cause at 34 months of follow-up than those
5 in whom MNPS were not detected.³⁸

6 44. The National Institute of Health shared a preview of another study in 2024 which is
7 still undergoing peer review. It found microplastics in the livers, kidneys, and brains of human
8 cadavers, with brains containing 7-to-30 times more plastic (mostly nanoplastics) than other
9 organs.³⁹ Most alarming, the brains of people with Alzheimer's disease or dementia contained
10 significantly more plastic than the brains of people without these diseases.

11 45. Microplastics also contain many chemicals that have been extensively studied and
12 are well-known to harm human health, including bisphenols, phthalates, volatile organic
13 compounds, per- and polyfluoroalkyl substances ("PFAS"), flame retardants, and heavy metals.⁴⁰

14 46. Moreover, living in neighborhoods littered with plastic also negatively impacts
15 residents' mental and physical health. Living in areas where litter is a constant presence creates an
16 atmosphere of disorder and an absence of safety.

17 47. The County does its part by investing millions of dollars annually for street
18 sweeping of all identified roads within the County and picking up tens of thousands of tons of
19 trash on an annual basis in addition to all the innovative approaches discussed above to keep
20 oceans and other waterways clean.

21 48. Substantial amounts of plastic packaging and products litter County sidewalks,
22 streets, beaches, parks, waterways, and other property. The presence of plastics and microplastics
23 negatively impacts the public health of communities and neighborhoods, their environment, and
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25 ³⁸ Raffaele Marfella, et al., *Microplastics and Nanoplastics in Atheromas and Cardiovascular Events*, 390 New Eng.
26 J. of Med. 900, 908 (Mar. 6, 2024), <https://www.nejm.org/doi/full/10.1056/NEJMoa2309822>.

27 ³⁹ Matthew Campen et al., *Bioaccumulation of Microplastics in Decedent Human Brains Assessed by Pyrolysis Gas
28 Chromatography-Mass Spectrometry*, National Library of Medicine (May 6, 2024) at 6,
<https://pmc.ncbi.nlm.nih.gov/articles/PMC11100893/>.

⁴⁰ Tracey J. Woodruff, *Health Effects of Fossil Fuel-Derived Endocrine Disruptors*, 390 New Eng. J. Med. 922, 928
(2024).

1 citizens' health. Citizens are forced to observe and interact with plastic pollution throughout their
2 everyday lives. Plastic pollution is an unsightly nuisance, and due to its quantity and constant
3 replenishment, it is nearly impossible to fully clear from public areas.

4 **B. Defendants Contribute Significantly to the Plastic Waste Crisis**

5 49. Defendants are significant contributors to the plastic waste crisis throughout the
6 United States. PepsiCo and Coca-Cola have been ranked as the world's top plastic polluters for six
7 consecutive years by Break Free From Plastic and yet they have faced little to no accountability
8 for their plastic trash that litters areas around the globe, including the County. PepsiCo's and
9 Coca-Cola's reliance on and deceptive marketing of single-use plastics are key contributors to
10 plastic waste.

11 50. Researchers found a direct link between increased plastic production and increased
12 plastic pollution, such that every 1 percent increase in consumer goods companies' plastic
13 production is associated with a 1 percent increase in plastic pollution in the environment.⁴¹ To put
14 it another way, the more plastic packaging PepsiCo and Coca-Cola use and sell, the more plastic
15 pollution occurs.

16 51. Break Free From Plastics' 2023 Brand Audit found that PepsiCo was the number
17 one polluter (surpassing Coca-Cola for the first time) with 34,780 items identified and recorded
18 across 30 countries.⁴² PepsiCo produces approximately 2.5 million metric tons of plastic
19 annually.⁴³ Coca-Cola produces approximately 3.224 million metric tons of plastic every year and
20 has consistently been one of the world's top plastic polluters.⁴⁴ Coca-Cola was ranked as the
21 number two polluter with 33,820 items identified and recorded across 40 countries.⁴⁵ Upon
22 information and belief, these results are consistent with pollution rates in Los Angeles County.

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25 ⁴¹ Win Cowger et al., *Global producer responsibility for plastic pollution*, Science Advances (Apr. 24, 2024) at 1-2,
<https://www.science.org/doi/epdf/10.1126/sciadv.adj8275>.

26 ⁴² Break Free From Plastic, *The Brand Audit 2023 Report* (2023) at 5,
<https://brandaudit.breakfreefromplastic.org/brand-audit-2023/> (hereinafter "2023 Brand Audit").

27 ⁴³ Break Free From Plastic, *Brand Audit Report 2022* (2022) at 18, [https://brandaudit.breakfreefromplastic.org/brand-](https://brandaudit.breakfreefromplastic.org/brand-audit-2023)
[audit-2023](https://brandaudit.breakfreefromplastic.org/brand-audit-2023) (hereinafter 2022 Brand Audit).

28 ⁴⁴ *Id.*

⁴⁵ 2023 Brand Audit *supra* note 42 at 5.

1 52. Defendants depend on and, in turn, increase the manufacture of single-use plastics.
 2 Many drinks produced, manufactured, distributed, and sold by PepsiCo and Coca-Cola are
 3 packaged in single-use plastic packaging. Many of these bottles are thrown away, resulting in the
 4 plastics industry manufacturing virgin plastic into more single-use plastic packaging for
 5 consumption of their products. Thus, single-use plastics create the need for the plastics industry to
 6 continually manufacture virgin plastic. The new plastic continuously being produced creates an
 7 endless cycle of pollution in Los Angeles County.

8 53. Defendants use a variety of different plastic polymers in their packaging, including
 9 polyethylene terephthalate ("PET" or "PETE"), polypropylene ("PP"), high-density polyethylene
 10 ("HDPE"), low-density polyethylene ("LDPE") and several others. Each of these forms of plastic
 11 makes up a significant portion of the plastic waste around the world, including in Los Angeles
 12 County (see Figure 5 showing PETE and HDPE plastic waste in California). These polymers are
 13 used in food and beverage containers, bottles, plastic films, and plastic bags.

14 **Figure 5: PETE and HDPE Plastic Waste in California, 2021**⁴⁶

Plastic	13.7%				5,445,299
PETE Beverage Containers - CRV	0.6%	0.8%	0.5%	0.7%	240,391
PETE Bottles and Jars - Non-CRV	0.2%	0.3%	0.2%	0.2%	84,250
HDPE Beverage Containers - CRV	0.1%	0.2%	0.0%	0.1%	24,042
HDPE Bottles and Jars - Non-CRV	0.4%	0.6%	0.4%	0.5%	161,107

19 54. Most plastic beverage bottles are made of PET; however, plastic beverage caps are
 20 typically made of HDPE or PP. These plastics are generally not recyclable, and even if they can
 21 be recycled, they can usually only be recycled one time before being discarded. However, because
 22 of the expense involved in recycling bottle caps, it is more likely that the plastic will end up in a
 23 landfill instead. Upon information and belief, Pepsi Bottling and Reyes Coca-Cola manufacture
 24 and distribute many of the single-use plastic bottles sold in Los Angeles County.
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28 ⁴⁶ CalRecycle Report, *supra* note 15 at 13.

1 55. Recycling plastics also introduces new toxins that become part of any new plastic
2 products, creating contaminated recycled products. As such, the life cycle of recycled plastic
3 often does not extend further than one use. Furthermore, some types of plastics cannot be recycled
4 with other types. For example, a PET bottle cannot be recycled with a HDPE bottle, despite their
5 similar appearance.

6 56. The single-use plastic packaging that Defendants manufacture, distribute, and sell
7 continually pollutes the County's natural resources. The plastic packaging continually washes into
8 County waterways and storm and sewer systems. Moreover, the toxins released by plastics seep
9 into and harm the County's natural resources.

10 **C. PepsiCo and Coca-Cola Have Engaged in Disinformation Campaigns to**
11 **Deceive Consumers About the Environmental Impact of Their Products**

12 57. PepsiCo and Coca-Cola have used the plastics industry's decades-long playbook to
13 deceive consumers and further exacerbate the plastic pollution crisis. The strategy for marketing
14 and selling more plastic products, despite the clear harm to the environment, has evolved over the
15 years. By the 1970s, public concern over plastic pollution had become apparent. However, the
16 plastics industry promoted incineration and landfilling as "solutions" to the problem. Both ideas
17 worsened the issue, creating more pollution and releasing harmful toxins into the atmosphere.

18 58. Many people grew up learning that they could help the environment by practicing
19 the three Rs—Reduce, Reuse, and Recycle. But, in the 1980s, the plastics industry only promoted
20 recycling as the key to solving the plastic waste problem, even though it knew plastics were
21 notoriously difficult to recycle.

22 59. The plastics industry began to lie about the viability of recycling as a direct result
23 of the backlash it faced from lawmakers and the public. Facing the possibility of a plastic ban, the
24 plastics industry banded together to form various trade associations that lobbied lawmakers around
25 the country. The goal was to sell the promise of recycling as a solution to the problem the plastics
26 industry created.

27 60. One of the first steps was implementing Resin Identification Codes ("RICs"). RICs
28 grouped plastics by resin type and labeled them with a number surrounded by a triangle of

1 "chasing arrows," the recognized symbol for recycling. While the claimed goal of RICs was to
2 promote recycling, experts determined that it made no difference to the actual recycling process,
3 and only comforted consumers. False-solution campaigns, like the RICs, have become
4 commonplace and have been adopted by PepsiCo and Coca-Cola. In addition, the plastics
5 industry also made performative investments as part of its campaigns to promote plastic recycling.

6 61. PepsiCo and Coca-Cola have joined and expanded the plastics industry's deceptive
7 campaigns. These campaigns are particularly harmful because they emphasize recycling—a
8 solution experts have known for decades cannot work on a large enough scale—instead of tried-
9 and-true solutions like reducing the use of plastic and investing in sustainable materials that can be
10 reused.

11 **1. PepsiCo and Coca-Cola Have Represented Themselves as "Sustainable"**
12 **Companies, but Their Actions Show Otherwise**

13 62. PepsiCo and Coca-Cola know that consumers increasingly and deliberately seek
14 out products and services from environmentally responsible and sustainable companies.

15 63. PepsiCo and Coca-Cola purport to be environmentally conscious companies that
16 work to protect the interests of the planet. For example, PepsiCo's website touts that it is "building
17 a stronger more sustainable future."⁴⁷ Similarly, Coca-Cola's website states that its "growth
18 strategy is grounded in [its] core values and commitment to social and environmental
19 responsibility."⁴⁸

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27 ⁴⁷ See, e.g., PepsiCo, Inc., *PepsiCo Positive*, <https://www.pepsico.com/who-we-are/our-commitments/pepsico-positive>
(last visited Oct. 3, 2024).

28 ⁴⁸ See, e.g., The Coca-Cola Company, *Our Sustainability Progress*, <https://www.coca-colacompany.com/sustainability>
(last visited Oct. 3, 2024).

1 69. Coca-Cola has proactively lobbied against packaging regulations around the world
2 for over a decade. PepsiCo is also a core partner in six industry alliance groups, including
3 Alliance to End Plastic Waste, Closed Loop Partners, and Circulate Capital. However, these
4 groups are promoting numerous false solution projects, such as advocating for unproven
5 technologies for recycling and pushing responsibility for the plastic waste to consumers, that are
6 funded by the top seven polluting fast-moving consumer good companies.

7 70. In addition, in 2015, Coca-Cola funded and steered a report published by the Ocean
8 Conservancy and written by McKinsey & Company placing the blame for the majority of plastic
9 pollution in the ocean on five Asian countries—the Philippines, China, Indonesia, Vietnam, and
10 Thailand. The report was highly problematic in that it failed to address key contributors to ocean
11 pollution, specifically Coca-Cola's and others' continual use and promotion of single-use
12 plastics.⁵³ The report was later retracted, and Ocean Conservancy issued a formal apology
13 acknowledging plastic production as the root cause of ocean pollution.

14 71. Until 2022, Coca-Cola was a major financial supporter of PLASTICS—a trade
15 association that lobbied against bans on single-use plastic. Coca-Cola ended its association with
16 PLASTICS after facing significant backlash from several environmental groups. PepsiCo was
17 also a long-time member of PLASTICS.

18 **2. PepsiCo and Coca-Cola Falsely Pushed Recycling as the Solution to**
19 **Excuse and Address Single-Use Plastic Packaging**

20 72. For decades, plastic manufacturers and experts have known about the futility of
21 recycling. In April 1973, an industry consultant tasked with forecasting possible issues for top
22 industry executives wrote a report that said that recycling plastic was unlikely to happen on a
23 broad scale.

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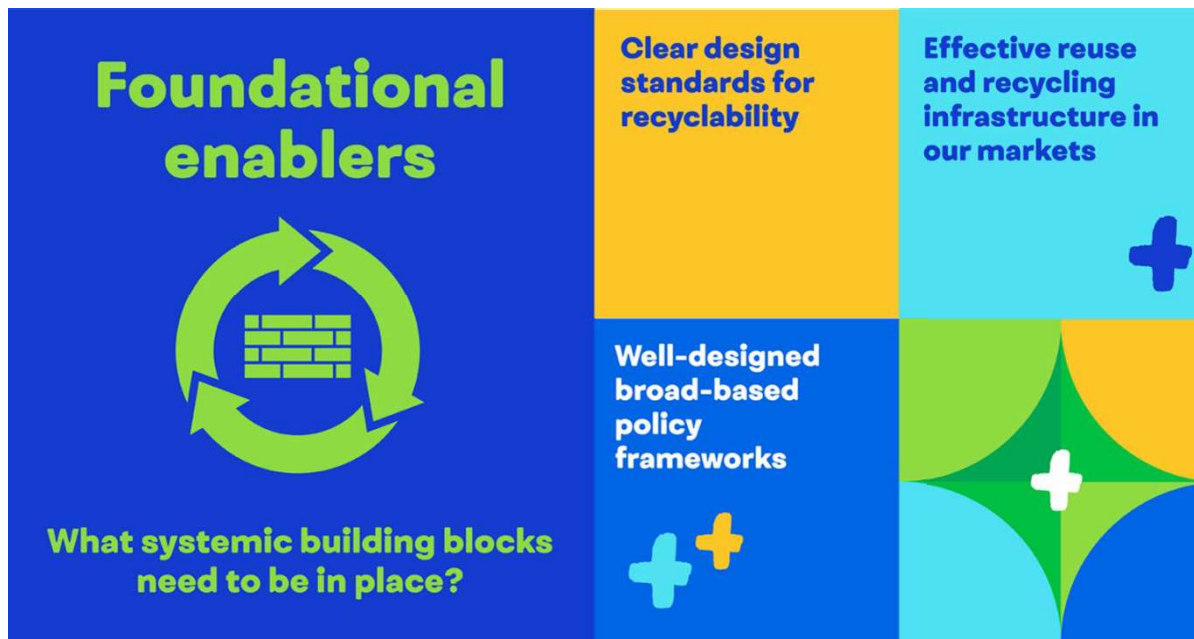
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28 ⁵³ 2022 Brand Audit, *supra* note 43 at 17.

1 73. PepsiCo has characterized the problem as a "plastic pollution crisis,"⁵⁴ and has
2 expressly acknowledged that its plastic packaging may end up as waste on land or in water with
3 "potential environmental impacts."⁵⁵ Coca-Cola has also acknowledged that the world has a
4 "packaging waste problem," and acknowledged its responsibility to help solve the global plastic
5 waste crisis.⁵⁶

6 74. PepsiCo Chief Sustainability Officer Jim Andrew, in association with the Ellen
7 MacArthur Foundation, issued a press release stating "[w]e know we cannot recycle our way out
8 of this plastic pollution crisis."⁵⁷ Yet, PepsiCo still promotes reuse and recycling (but not
9 reduction) as foundation building blocks in PepsiCo's pep+ program strategy (see Figure 8).⁵⁸

10 **Figure 8: PepsiCo pep+ program strategy.**



24 ⁵⁴ PepsiCo, *PepsiCo Introduces New Packaging Goal, Doubling Down on Scaling Reusable Packaging Options* (Dec.
25 5, 2022), <https://www.pepsico.com/our-stories/press-release/pepsico-introduces-new-packaging-goal-doubling-down-on-scaling-reusable-packaging-12052022> (hereinafter "PepsiCo 2022 Press Release").

26 ⁵⁵ *Id.*

27 ⁵⁶ The Coca-Cola Company, *The Coca-Cola Company Announces New Global Vision to Help Create a World Without
28 Waste* (January 1, 2018), <https://www.coca-colacompany.com/media-center/coca-cola-announces-new-global-vision-to-help-create-world-without-waste>.

⁵⁷ PepsiCo 2022 Press Release, *supra* note 54.

⁵⁸ *Id.*

1 76. Despite PepsiCo's and Coca-Cola's awareness of the limits of recycling as a
2 solution to the plastic pollution crisis, they have routinely and consistently portrayed recycling as a
3 practical solution (see Figure 10, Coca-Cola claiming it can create a "world without waste").⁶⁰

4 **Figure 10: Coca-Cola #WorldWithoutWaste Campaign**



15 77. PepsiCo and Coca-Cola have pushed recycling as a key solution to the plastic waste
16 problem. For example, Coca-Cola's website states that "by properly recycling bottles and cans, we
17 can help sustain a circular economy where we can source more recycled material to use in future
18 packaging" (see Figure 11, "again and again and again" advertising).⁶¹ Furthermore, Coca-Cola's
19 packaging places a heavy focus on recycling and pushes that "recycling is [its] message on the
20 bottle."⁶² Similarly, PepsiCo's sustainable packaging vision includes a heavy focus on "driving
21 recycling and a circular economy for recycled materials."⁶³ In addition, PepsiCo and Coca-Cola,
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25 ⁶⁰ See The Coca-Cola Company, *World Without Waste*, YouTube (Jan. 19, 2018),
26 <https://www.youtube.com/watch?v=MD6ORHLbaAA>.

27 ⁶¹ The Coca-Cola Company, *Recycling in the United States: How to Recycle Your Bottle or Can*, <https://www.coca-colacompany.com/sustainability/packaging-sustainability/united-states-recycling> (last visited Oct. 23, 2024).

28 ⁶² The Coca-Cola Company, *Endlessly Refreshing*, <https://us.coca-cola.com/EndlesslyRefreshing> (last visited Oct. 6, 2024).

⁶³ PepsiCo Packaging Website, *supra* note 7.

1 along with Dr. Pepper, are partners in the "Every Bottle Back" initiative (see Figure 12 below).⁶⁴
2 This falsely portrays the feasibility of collecting every bottle.

3 **Figure 11: Coca-Cola "again and again and again" Advertising**



14 **Figure 12: "Every Bottle Back" Advertisement**



21 78. PepsiCo's website asserts that it is "helping build a circular and inclusive value
22 chain" and plans to "introduce more sustainable packaging into the value chain."⁶⁵ While PepsiCo
23 touts a desire to cut virgin plastic use by 50 percent, this ignores that much plastic cannot be
24 effectively recycled, or if it can, can only be recycled once.⁶⁶ The self-described, never-ending,
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26 ⁶⁴ American Beverage Association, Facebook (Feb. 1, 2021, 9:14 AM),

27 <https://www.facebook.com/AmeriBev/videos/every-bottle-back/4906053126135778/>.

28 ⁶⁵ PepsiCo, Inc., *Positive Value Chain: Packaging*, <https://sustainabilityaction.pepsico.com/pep-positive-pillars/positive-value-chain-packaging> (last visited Oct. 3, 2024).

⁶⁶ PepsiCo Packaging Website, *supra* note 7.

1 and environmentally virtuous circular chain that PepsiCo claims it will create is in clear
2 contravention to well-documented research and reality itself.

3 79. PepsiCo and Coca-Cola have placed significant emphasis on the idea that their
4 plastic bottles are "made to be remade" (see Figure 13 below).⁶⁷ However, this downplays how
5 difficult recycling plastic bottles is and the effectiveness of doing so. Plastic bottles cannot be
6 recycled into new bottles over and over again, as PepsiCo and Coca-Cola suggest and state in their
7 advertising and corporate statements.

8 **Figure 13: "Made to be Remade" Initiative**



19 80. As PepsiCo and Coca-Cola are aware, it is economically and practically impossible
20 to recycle all of the plastic that they produce. In 1996, only 9.5 percent of plastic was recycled.⁶⁸
21 By 2018, that number had fallen to 8.7 percent.⁶⁹ Recycling simply cannot keep pace with
22 Defendants' plastic production—or their false promises.

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25 ⁶⁷ American Beverage Association, *Working Together to Get Every Bottle Back*,
<https://www.innovationnaturally.org/every-bottle-back/> (last visited Oct. 3, 2024).

26 ⁶⁸ Environmental Defense Fund, *Environmental Defense Fund Exposes "Sorry State" of Plastics Recycling*,
<https://www.edf.org/media/environmental-defense-fund-exposes-sorry-state-plastics-recycling> (last visited Oct. 23,
27 2024).

28 ⁶⁹ Valerie Volcovici, *How is the Growing Plastic Waste Problem Impacting America?*, World Economic Forum (May
5, 2022), <https://www.weforum.org/agenda/2022/05/plastic-waste-generation-new-highs-us-report/>.

1 81. It is estimated that, between 1950 and 2015, only 0.9 percent of plastics produced
2 have been recycled more than once, and doing so may not be an unequivocal benefit given the
3 inputs of the process combined with the diminishing returns of the product.⁷⁰ The reality is that
4 even plastic bottles that can be recycled must be clear, colorless, and free of contaminants from
5 things such as labels—making it difficult to make plastic bottles out of recycled plastic bottles. As
6 a consequence, as PepsiCo and Coca-Cola knew or should have known, a significant number of
7 their plastic bottles would not and do not get recycled. Even if the plastic bottles do get recycled,
8 the bottles are likely "downcycled," meaning they are remade into an item of lower quality—not
9 another plastic bottle—and typically cannot be recycled again. Downcycling has significant
10 ramifications for the role of recycling, because it imposes a terminal point on the life of any given
11 plastic product. Thus, PepsiCo and Coca-Cola's promotion of recycling as a fix to the plastic
12 pollution crisis is not feasible or based in reality regarding the packaging they make and how they
13 know consumers use and recycle their packaging.

14 82. Recycled material merely delays production of virgin material from fossil fuel
15 precursors until a later date. This means that recycling alone, using current common methods, is
16 incapable of eliminating the impacts—such as greenhouse gas emissions—of plastic production,
17 even in the extremely unlikely event that recycling rates reached 100 percent.

18 83. Despite knowing it is ineffective, PepsiCo and Coca-Cola have also advocated for
19 "advanced recycling," also known as chemical recycling, to the public after traditional recycling
20 efforts have largely failed. For example, Coca-Cola senior director of sustainability and public
21 policy in Europe stated that "this new technology is critical to improve access to recycled
22 materials for bottles."⁷¹ Similarly, PepsiCo supported a position paper advocating for the use of
23 chemical recycling.⁷² "Advanced recycling" is a term used by the plastics industry to describe a
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26 ⁷⁰ Coffee, *supra* note 1 at 21.

27 ⁷¹ Dieter Holger, *Coca-Cola Trials Turning Hard-to-Recycle Plastic Into Bottles*, Wall St. J. (May 11, 2023),
<https://www.wsj.com/articles/coca-cola-trials-turning-hard-to-recycle-plastic-into-bottles-2f8d0dec>.

28 ⁷² Cecilia Keating, *Nestle, Danone, Unilever and PepsiCo Agree on Plastic Chemical Recycling Principles*, Trellis
(Apr. 15, 2022), <https://trellis.net/article/nestle-danone-unilever-and-pepsico-agree-plastic-chemical-recycling-principles/>.

1 variety of heat or solvent-based technologies that can theoretically convert certain types of plastic
2 waste into fuels, chemicals, waxes, and petrochemical feedstock, which, after further refinement,
3 can be used to make new plastic. Pyrolysis is the most common type of proposed advanced
4 recycling and involves heating plastic in a standalone chamber until it breaks down into liquids,
5 waxes, and gases. The liquid is composed of an oil called pyrolysis oil that includes naphtha and
6 other hydrocarbons. The naphtha is then further broken down into ethylene and propylene, which
7 are polymerized to make new plastics, including polyethylene and polypropylene. However, very
8 little of the plastic waste that undergoes this process will be recycled into new plastic, with a 2023
9 study finding that only 1 percent to 14 percent of the plastic was actually made into a new plastic
10 product.⁷³ Moreover, chemical conversion has not been proven at scale. Compared with
11 traditional, or mechanical, recycling, it has higher costs, energy requirements, and greenhouse
12 emissions. As one report put it, "chemically transforming plastic into fuel is not recycling, it's
13 simply another way to burn fossil fuel."⁷⁴

14 84. As PepsiCo and Coca-Cola are well aware, chemical recycling will not reduce the
15 amount of plastic being produced and is not *actual* recycling of its single-use plastic products.
16 This is an example of a false solution—methods that are unproven, infeasible, or promote a false
17 narrative—advanced by PepsiCo and Coca-Cola.

18 **3. PepsiCo and Coca-Cola Misled Consumers About Their Use of Recycled** 19 **Plastic**

20 85. PepsiCo and Coca-Cola have made numerous misleading and unrealistic promises
21 to consumers about reducing their use of "virgin" plastic and increasing their use of recycled
22 plastic.

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26 ⁷³ Taylor Uekert et al., *Technical, Economic, and Environmental Comparison of Closed-Loop Recycling Technologies*
27 *for Common Plastics*, 11 ACS Sustainable Chem. Eng. 965, 969 (2023),
https://pubs.acs.org/doi/epdf/10.1021/acssuschemeng.2c05497?ref=article_openPDF.

28 ⁷⁴ Break Free From Plastic, *Missing the Mark: Unveiling Corporate False Solutions to the Plastic Pollution Crisis*
(2021), <https://www.breakfreefromplastic.org/missing-the-mark-unveiling-corporate-false-solutions-to-the-plastic-crisis/>.

1 86. In 2019, PepsiCo announced that it would reduce the total amount of virgin plastic
2 it uses by 35 percent by 2025.⁷⁵ However, PepsiCo ceased to publish its progress toward this
3 beverage bottle objective and substituted a new goal for reducing virgin plastic. That new goal
4 was to reduce virgin plastic by 50 percent by 2030.⁷⁶ This is just one example of PepsiCo making
5 public declarations for sustainable initiatives and failing to actually implement any methodology
6 to reach those goals. By repeating this endless cycle of making promises and not living up to
7 them, PepsiCo is able to reap significant profits and maintain a public face that it is fighting the
8 pollution crisis. In reality, PepsiCo continually pushes back the projected completion date of its
9 initiatives.

10 87. Coca-Cola has employed the same strategy. It has promoted the lofty goal of
11 creating a "world without waste," while simultaneously pushing practices and initiatives that will
12 not accomplish that goal.⁷⁷ Coca-Cola claimed that it can achieve a "circular economy" and
13 published objectives to curb its contributions to plastic pollution, while simultaneously failing to
14 meet them.

15 88. Furthermore, Coca-Cola Chief Executive Officer, James Quincey, made clear in a
16 2019 interview that the company has no intention of reducing its plastic use.⁷⁸

17 89. Both Coca-Cola and PepsiCo's plastic productions have actually increased over the
18 past few years, directly contradicting their consistent promises to be sustainable and reduce their
19 use of virgin plastic. Coca-Cola produces over 3.2 million metric tons of plastic each year, and
20 PepsiCo produces 2.5 million tons of plastic each year, both of which increase every year.⁷⁹

24 ⁷⁵ *PepsiCo Accelerates Plastic Waste Reduction Efforts*, PR Newswire (Sept. 13, 2019),

<https://www.prnewswire.com/news-releases/pepsico-accelerates-plastic-waste-reduction-efforts-300917771.html>.

25 ⁷⁶ PepsiCo, Inc., *PepsiCo Introduces New Packaging Goal Doubling Down on Scaling Reusable Packaging* (Dec. 5, 2022), <https://www.pepsico.com/our-stories/press-release/pepsico-introduces-new-packaging-goal-doubling-down-on-scaling-reusable-packaging-12052022>.

26 ⁷⁷ The Coca-Cola Company, *Packaging Solutions for a World Without Waste*, <https://www.coca-colacompany.com/sustainability/packaging-sustainability> (last visited Oct. 3, 2024).

27 ⁷⁸ Simon Jack, *In the War on Plastics Is Coca-Cola a Friend or Foe?*, BBC (Oct. 24, 2019), <https://www.bbc.com/news/business-50175594>.

28 ⁷⁹ 2022 Brand Audit, *supra* note 43 at 18-19.

1 90. Coca-Cola heavily markets its bottles made of 100 percent recycled plastic (see
2 Figures 14 and 15 below), making consumers believe that all—or at least a substantial share—of
3 the company's bottles are made of recycled plastic. But Coca-Cola fails to disclose that the vast
4 majority of its products are still packaged using virgin plastic. Coca-Cola and PepsiCo pledged to
5 source a quarter of their plastic packaging from recycled material by 2025. By 2030, Coca-Cola
6 says it aims to source 50 percent of its plastic bottles from recycled material and PepsiCo hopes to
7 eliminate the use of virgin plastic. Yet, in 2022, Coca-Cola's rate of sourcing recycled plastic was
8 at 13.6 percent and PepsiCo's was at 6 percent.⁸⁰ One major hurdle to recycling plastic bottles is
9 collecting them. The National Association for PET Container Resources estimated the long-
10 stagnant recycling rate in the United States would need to somehow double by 2025 and triple by
11 2030 to generate enough supply for the industry to fulfill their pledges.⁸¹

12 **Figure 14: Dasani 100% Recycled Bottle Advertisement**



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27 ⁸⁰ Ben Elgin, *Big Soda's Addiction to New Plastic Jeopardizes Climate Progress*, Bloomberg (July 12, 2022),
28 <https://www.bloomberg.com/features/2022-coke-pepsi-plastic-recycling-climate-action/>.

⁸¹ *Id.*

1 **Figure 15: 100% Recycled Plastic Bottle Advertisement**



10 91. These misrepresentations and false promises are significant. Research shows that
11 consumers care about, and are likely to be deceived by, claims relating to the recyclability of
12 plastic products. For example, 78 percent of consumers look at recycling information on a product
13 or product label to make sure an item ends up in the right place.⁸² And 71 percent of consumers
14 said they would feel disappointed, deceived, upset, angry, and/or lied to if products were marked
15 as recyclable when they could not be made into new things.⁸³

16 **4. PepsiCo and Coca-Cola Failed to Disclose the Presence of Microplastics**
17 **in Their Products and the Resulting Risks**

18 92. Plastics have been found to leach into beverages as well as the environment.
19 Microplastics are a major source of this contamination. A 2018 study of 259 bottled water
20 samples across 19 different locations in nine countries, including the United States, found
21 93 percent were contaminated with microplastic, including Aquafina water (sold by PepsiCo) and
22 Dasani water (sold by Coca-Cola).⁸⁴

23 93. In January 2024, researchers from Columbia University and Rutgers University
24 conducted a similar study using a new optical technique with unprecedented sensitivity and

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26 ⁸² The Recycling Partnership, *Consumer Research on Recycling Behavior and Attitudes Regarding On-Pack Labeling*
(Mar. 10, 2023), [https://recyclingpartnership.org/consumer-research-on-recycling-behavior-and-attitudes-regarding-](https://recyclingpartnership.org/consumer-research-on-recycling-behavior-and-attitudes-regarding-on-pack-labeling/)
27 [on-pack-labeling/](https://recyclingpartnership.org/consumer-research-on-recycling-behavior-and-attitudes-regarding-on-pack-labeling/).

28 ⁸³ *Id.*

⁸⁴ Sherri Mason, et al., *Synthetic Polymer Contamination in Bottled Water*, *Frontiers in Chemistry* (Sept. 11, 2018), at
9-10, <https://pmc.ncbi.nlm.nih.gov/articles/PMC6141690/>.

1 specificity to detect plastics in water.⁸⁵ They found that 10 percent of the plastic particles in water
2 were microplastics and 90 percent of the particles were nanoplastics, which require high-powered,
3 advanced microscopes to observe. Researchers found one liter of bottled water had an average
4 number of 240,000 nanoplastics.

5 94. Despite this research, PepsiCo and Coca-Cola have failed to disclose the presence
6 of microplastics in their products or the harms discussed above that microplastics pose to the
7 environment or human health.

8 **CLAIM FOR RELIEF**

9 **FIRST CAUSE OF ACTION**

10 **Violations of California Civil Code Sections 3479 and 3480**

11 **(Public Nuisance)**

12 95. The People re-allege and incorporate by reference the allegations in each of the
13 above paragraphs as though fully set forth herein.

14 96. Civil Code § 3479 defines a "nuisance" as "anything which is indecent or offensive
15 to the senses," or "an obstruction to the free use of property, so as to interfere with the comfortable
16 enjoyment of life or property," or "unlawfully obstructs the free passage or use, in the customary
17 manner, of any navigable lake, or river, bay, stream, canal, or basin, or any public park, square,
18 street, or highway."

19 97. Civil Code § 3480 defines a "public nuisance" as "one which affects at the same
20 time an entire community or neighborhood, or any considerable number of persons, although the
21 extent of the annoyance or damage inflicted upon individuals may be unequal."

22 98. Defendants, by their affirmative acts and omissions, have created, caused,
23 contributed to, and assisted in creating harmful plastic pollution and waste in Los Angeles County,
24 which threatens and harms the environment, wildlife, and communities. These harms are indecent
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28 ⁸⁵ Naixin Qian et al, *Rapid single-particle chemical imaging of nanoplastics by SRS microscopy*, PNAS (Jan. 8, 2024)
at 1, <https://www.pnas.org/doi/full/10.1073/pnas.2300582121>.

1 and offensive to the senses, and obstruct the free use of property, so as to interfere with the
2 comfortable enjoyment of property.

3 99. Defendants knowingly caused, assisted in causing, and/or contributed to plastic
4 pollution that harms and threatens the Los Angeles County environment, wildlife, natural
5 resources, and communities, by (1) promoting and vastly increasing the production of single-use
6 plastic, while (2) deceptively promoting solutions, including recycling, that would take care of the
7 considerable increase in plastic waste, and (3) while knowing that these solution would lead to
8 increasing plastic pollution, and (4) knowing that once plastic enters the environment, it leads to
9 environmental harms and risks to human health.

10 100. Defendants knowingly, intentionally, and/or recklessly created, caused, or assisted
11 in the creation of a nuisance by promoting false solutions to the plastic waste crisis generated by
12 Defendants' production, sale, and promotion of their plastic products at all times, up to and
13 including today.

14 101. The plastic-related harms that Defendants created, caused, contributed to, and
15 assisted in the creation of are present in Los Angeles County, and therefore affect a considerable
16 number of County residents.

17 102. An ordinary person would be reasonably annoyed or disturbed by these harms.

18 103. The harms caused by Defendants' nuisance-creating conduct are extremely grave,
19 and far outweigh the social utility of that conduct.

20 104. The plastic-related harms that Defendants created, caused, contributed to, and
21 assisted in the creation of continue to harm the County and its residents to the present day, and
22 will continue to harm the County and its residents many years into the future.

23 105. The County and its residents did not consent to Defendants' conduct.

24 106. Defendants' misconduct was a substantial factor in bringing about the continuing
25 public nuisance.

26 107. As a direct and proximate result of Defendants' acts and omissions, the County has
27 sustained and will sustain injuries to public safety and welfare, the loss of use and enjoyment of
28 natural resources, and obstruction to the free use of public property.

1 108. Defendants' acts and omissions have caused or threaten to cause injuries to people,
2 properties, and natural resources in the County that are indivisible.

3 **SECOND CAUSE OF ACTION**

4 **Violations of Business and Professions Code Section 17200**

5 **(Unfair Competition)**

6 109. The People re-allege and incorporate by reference the allegations in each of the
7 above paragraphs as though fully set forth herein.

8 110. PepsiCo and Coca-Cola are named in this Count for their activities that occurred
9 within four years of the filing of this action.

10 111. The UCL prohibits "any unlawful, unfair, or fraudulent business act or practice and
11 unfair, deceptive, untrue, or misleading advertising[.]" Bus. & Prof. Code § 17200.

12 112. PepsiCo's and Coca-Cola's practices as described in this Complaint are deceptive
13 business practices that violate Section 17200 because the practices are likely to deceive consumers
14 in California. Such practices include, but are not limited to, the following:

- 15 a. Deceptively representing that single-use plastic does not pose any
16 significant environmental hazards;
- 17 b. Deceptively representing the ability of recycling to offset any
18 environmental risks associated with single-use plastic;
- 19 c. Deceptively representing the economic viability of recycling single-use
20 plastic;
- 21 d. Deceptively representing that single-use plastic can be continuously
22 recycled as part of a circular plastics economy, including that single-use
23 plastic beverage bottles can be continuously remade into single-use plastic
24 beverage bottles rather than being downcycled into other products;
- 25 e. Deceptively representing the effectiveness of chemical recycling;
- 26 f. Deceptively representing their use of recycled plastic in their single-use
27 plastic packaging;

- 1 g. Failing to disclose the presence of microplastics in their products packaged
- 2 in single-use plastic bottles;
- 3 h. Failing to disclose the environmental and health-related risks associated
- 4 with microplastics; and
- 5 i. Creating or assisting in the creation of a public nuisance in violation of
- 6 Civil Code § 3479, as alleged in the first cause of action.

7 113. PepsiCo and Coca-Cola knew, or by the exercise of reasonable care should have
8 known, at the time of making or disseminating these statements, or causing these statements to be
9 made or disseminated, that such statements were untrue, false, or misleading and therefore likely
10 to deceive the public. In addition, PepsiCo and Coca-Cola knew or should have known that their
11 marketing and promotional efforts created an untrue, false, and misleading impression regarding
12 their products in single-use plastic packaging.

13 114. Such omissions, which are deceptive and misleading in their own right, render even
14 PepsiCo's and Coca-Cola's seemingly truthful statements about their plastic packaging false and
15 misleading. All of this conduct, separately and collectively, was likely to deceive California
16 consumers who purchased PepsiCo's and Coca-Cola's products in single-use plastic packaging.

17 115. PepsiCo's and Coca-Cola's practices as set forth in this Complaint are also unfair
18 business practices that violate Section 17200 because they offend established public policy, and
19 because the harm they cause to consumers in California greatly outweighs any benefits associated
20 with those practices.

21 116. It is the public policy of the State of California to reduce plastic pollution and
22 encourage recycling. Both the County and the State of California have taken extraordinary
23 measures to address plastic pollution, including through the collection and effort to recycle
24 discarded single-use plastic. In addition, in 2022, California enacted landmark legislation to
25 further address the crisis of single-use plastic pollution. The Plastic Pollution and Packaging
26 Producer Responsibility Act (SB 54) requires producers to cut single-use plastic waste and ensure
27 packaging is recyclable or compostable.

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1 117. As a direct and proximate result of the foregoing acts and practices, PepsiCo and
2 Coca-Cola have received, or will receive, income, profits, and other benefits, which they would
3 not have received if they had not engaged in the violations of the Unfair Competition Law
4 described in this Complaint.

5 118. As a direct and proximate result of the foregoing acts and practices, PepsiCo and
6 Coca-Cola have obtained a competitive unfair advantage over similar businesses that have not
7 engaged in such practices.

8 119. "Any person who engages, has engaged, or proposes to engage in unfair
9 competition shall be liable for a civil penalty not to exceed two thousand five hundred dollars
10 (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the
11 name of the people of the State of California . . . by a county counsel of any county within which a
12 city has a population in excess of 750,000 . . . in any court of competent jurisdiction." Bus. & Prof.
13 Code § 17206(a).

14 120. PepsiCo and Coca-Cola are "persons" as defined by Bus. & Prof. Code § 17201,
15 which includes "natural persons, corporations, firms, partnerships, joint stock companies,
16 associations and other organizations of persons."

17 121. The People, by and through County Counsel, therefore, are entitled to an injunctive
18 order requiring PepsiCo and Coca-Cola to cease the unfair and deceptive business practices
19 alleged herein; to pay restitution to all victims of such acts or practices.

20 122. The People further seek an appropriate civil penalty under Bus. & Prof. Code
21 § 17206(a) of up to \$2,500 for each violation of the UCL, consistent with the purpose of the UCL
22 and Bus. & Pro. Code § 17206(b), to hold PepsiCo and Coca-Cola accountable for their unfair and
23 deceptive business practices alleged herein and to deter further violations of the UCL.

24 123. The People further seek an additional appropriate civil penalty under Bus. & Prof.
25 Code § 17206.1(a)(1) of up to \$2,500 for each violation of the UCL perpetrated against a senior
26 citizen or disabled person.

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1 **THIRD CAUSE OF ACTION**

2 **Violations of Business and Professions Code Section 17500**

3 **(Untrue or Misleading Advertising)**

4 124. The People re-allege and incorporate by reference the allegations in each of the
5 above paragraphs as though fully set forth herein.

6 125. The FAL prohibits any person from "disseminat[ing] . . . any statement . . . which is
7 untrue or misleading, and which is known, or which by the exercise of reasonable care should be
8 known, to be untrue or misleading" concerning real or personal property or services. Bus. & Prof.
9 Code § 17500.

10 126. PepsiCo and Coca-Cola have engaged in and continue to engage in acts or practices
11 that constitute violations of the False Advertising Law, Business and Professions Code § 17500 *et*
12 *seq.*

13 127. PepsiCo and Coca-Cola, with the intent to induce members of the public to
14 purchase and utilize their products in single-use plastic packaging, made or caused to be made
15 and/or disseminated untrue or misleading statements concerning plastics and plastic recycling,
16 which PepsiCo and Coca-Cola knew, or should have known, were untrue or misleading at the time
17 they were made. Such misrepresentations include, but are not limited to, claims that:

- 18 a. Single-use plastic does not pose any significant environmental hazards;
19 b. Recycling can offset any environmental risks associated with single-use
20 plastic;
21 c. Recycling is economically viable;
22 d. Single-use plastic can be continuously recycled as part of a circular plastics
23 economy, including that single-use plastic bottles can be continuously
24 remade into single-use plastic bottles rather than being downcycled into
25 other products;
26 e. PepsiCo and Coca-Cola will significantly reduce or eliminate virgin plastic
27 in their packaging when that is not realistically achievable, and the
28 companies have not taken meaningful steps to achieve that goal; and

1 f. Chemical recycling is effective.

2 128. The People, by and through County Counsel, therefore, are entitled to an injunctive
3 order requiring PepsiCo and Coca-Cola to cease the false and misleading advertising practices
4 alleged herein pursuant to Bus. & Prof. Code § 17535.

5 129. The People further seek an appropriate civil penalty under Bus. & Prof. § 17536 of
6 up to \$2,500 for each violation of Bus. & Prof. Code § 17500.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, the People pray for the following relief:

- 9 a. Declare Defendants have created a public nuisance in violation of Civil Code
10 §§ 3479 and 3480;
- 11 b. Declare that PepsiCo and Coca-Cola have violated the UCL and FAL;
- 12 c. Enjoin Defendants from performing any further acts in violation of Civil
13 Code §§ 3479 and 3480;
- 14 d. Enjoin PepsiCo and Coca-Cola from the use or employment of unfair and
15 deceptive business practices alleged herein under the authority of Bus. &
16 Prof. Code §§ 17203 and 17535 as alleged herein;
- 17 e. Order Defendants to abate the public nuisance that they created in violation
18 of Civil Code §§ 3479 and 3480;
- 19 f. Order PepsiCo and Coca-Cola to pay restitution of the money acquired by
20 means of their unfair and deceptive business practices alleged herein,
21 pursuant to Bus. & Prof. Code § 17203;
- 22 g. Order PepsiCo and Coca-Cola to make restitution to all victims of their
23 unfair and deceptive business practices pursuant to Bus. & Prof. Code §
24 17203, either directly or through appropriate *cy pres* funds;
- 25 h. Order PepsiCo and Coca-Cola to make restitution to all victims of their
26 unfair and deceptive business practices alleged herein, pursuant to Bus. &
27 Prof. Code § 17535, either directly or through appropriate *cy pres* funds;
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- i. Order PepsiCo and Coca-Cola to pay a civil penalty of up to \$2,500 for each violation of the UCL and FAL, pursuant to Bus. & Prof. Code §§ 17206 and 17536;
- j. Order PepsiCo and Coca-Cola to pay an additional civil penalty of up to \$2,500 for each violation of the UCL perpetrated against a senior citizen or disabled person, pursuant to Bus. & Prof. Code § 17206.1(a)(1);
- k. Order Defendants to pay Plaintiff's attorney's fees and costs of this case; and
- l. Provide such further and additional relief as the Court deems proper.

DATED: October 29, 2024

Respectfully submitted,

DAWYN R. HARRISON
County Counsel

By Scott Kuhn

SCOTT KUHN
Assistant County Counsel
ANDREA ROSS
Principal Deputy County Counsel
CANDICE ROOSJEN
Senior Deputy County Counsel
JENNIFER MALONE
Senior Deputy County Counsel

MOTLEY RICE LLC
Linda Singer (Pro Hac Vice forthcoming)
Paige Boggs (Pro Hac Vice forthcoming)
Devin X. Williams (SBN 347577)

Attorneys for Plaintiff The People of the State of California