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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **IN AND FOR THE COUNTY OF SAN DIEGO**

10
11 EVAN PARENT, an individual on behalf of
12 himself, a class of persons similarly situated,
and the general public,

13 Plaintiffs,

14 v.

15 MILLERCOORS LLC, a Delaware Limited
16 Liability Company authorized to do business
in California, and DOES 1 to 50 inclusive,

17 Defendants.

CASE NO.: 37-2015-00013913-CU-BT-CTL

CLASS ACTION

**COMPLAINT FOR DAMAGES,
RESTITUTION, AND INJUNCTIVE
RELIEF:**

**(1) VIOLATIONS OF THE CONSUMER
LEGAL REMEDIES ACT (CAL. CIV. CODE
§ 1750 et seq.);**

**(2) DECEPTIVE AND MISLEADING
ADVERTISING (CAL. BUS. & PROF. CODE
§ 17500 et seq.); and**

**(3) UNFAIR COMPETITION (CAL. BUS. &
PROF. CODE § 17200 et seq.)**

DEMAND FOR JURY TRIAL

21
22 Plaintiff Evan Parent (hereinafter "Plaintiff" or "Mr. Parent"), by and through his attorneys
23 of record, brings this action on behalf of himself and all persons similarly situated, against
24 Defendant MillerCoors LLC (hereinafter "Defendant"), on the following grounds:

25 **INTRODUCTION**

26 1. This class action is brought on behalf of all consumers who purchased Blue Moon
27 beer from a retailer within the state of California for personal, family, or household purposes, and
28 not for resale purposes.

2. All allegations in this Complaint are based upon information and belief except for those allegations that pertain to Plaintiff, which are based on his own personal knowledge. Each allegation in this Complaint has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

JURISDICTION AND VENUE

3. Pursuant to Cal. Civ. Proc. Code § 382, Cal. Civ. Code § 1781, and Cal. Bus. & Prof. Code § 17203, Plaintiff brings this action on behalf of himself, and on behalf of all persons within the Class, as defined below.

4. The Court has jurisdiction over this action pursuant to Cal. Civ. Proc. Code § 410.10. Defendant maintains production facilities in the state of California and advertises and sells its products to California residents. The amount in controversy, exclusive of interest, costs, and attorneys' fees, exceeds the minimum jurisdictional amount for this Court.

5. Venue is proper in this judicial district pursuant to Cal. Civ. Proc. Code § 395(a). Defendant transacts business through a number of retail locations throughout San Diego County. The unlawful acts alleged herein have a direct effect on Plaintiff and those similarly situated within San Diego County and the state of California.

CLASS DEFINITION

6. The proposed Class consists of all consumers who purchased Blue Moon beer from a retailer within the state of California for personal, family, or household purposes, and not for resale purposes, during the period commencing on the date that is within four (4) years prior to the filing of this Complaint and through the present date (hereinafter the "Class Period").¹ To the extent that equitable tolling operates to toll claims by the Class against Defendant, the Class Period should be adjusted accordingly.

7. The Class is comprised of "consumers" and "members of the public," as the terms are used in California's Civil Code and Business and Professions Code.

¹ Excluded from the Class are Plaintiff's attorneys of record, their employees, and their family members, as well as any judges to which this action is assigned, and their family members.

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THE PARTIES

8. At all material times mentioned herein, Plaintiff Evan Parent resided in, and continues to reside in, San Diego, California. During the relevant time period, Plaintiff frequently purchased Blue Moon beer from San Diego-area retailers, including Ralph's, Vons, and 7-11. Relying on its advertising, its placement among other craft beers, and the premium price it commanded, Plaintiff believed that Blue Moon was a microbrew or "craft" beer.

9. Defendant MillerCoors LLC is a limited liability company organized and existing under the laws of the state of Delaware, with its principal place of business at 250 South Wacker Drive, Chicago, Illinois 60606. According to the company's web site (<http://www.millercoors.com/who-we-are/timeline.aspx>), MillerCoors was formed in 2008 as a joint U.S. venture between SAB Miller and Molson Coors Brewing Company.

10. Defendant manufactures, markets and sells beer throughout the United States under numerous brand names, including Coors Light, Miller Genuine Draft, Miller High Life, Milwaukee's Best, Keystone and Blue Moon.

11. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate, or otherwise of Defendant Does 1 through 50, are unknown to Plaintiff, who therefore sues these defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. Plaintiff will amend the complaint to allege the true names and capacities of Does 1 through 50 when they are ascertained.

FACTUAL ALLEGATIONS

12. Over the past 25 years, craft brewing in the United States has seen tremendous growth, with the number of craft breweries increasing from approximately 250 in 1989 to more than 3,400 in 2014. With nearly 400 craft breweries, California is home to more craft breweries than any other state. The economic impact of craft brewing in California is estimated to exceed \$4.5 billion.

13. Beer consumers, including Plaintiff, are willing to pay, and do pay, a premium for high quality, small batch, craft beers. On average, a six pack of craft beer typically costs \$2.00 to \$3.00 more than a six pack of macrobrewed, or mass produced beer.

1 14. The Brewers Association, an organization dedicated to promoting and protecting
2 American craft brewers, defines craft breweries as “small, independent and traditional.” To qualify
3 as an American craft brewer, a brewery must:

- 4 (a) Produce less than 6 million barrels of beer annually;
5 (b) Be less than 25 percent owned or controlled by a non-craft brewer; and
6 (c) Make beer using only traditional or innovative brewing ingredients.

7 15. With eight major breweries located in California, Colorado, Georgia, North
8 Carolina, Ohio, Texas, Virginia, and Wisconsin, Defendant produces more than 76 million barrels,
9 or 2.4 billion gallons, of beer on an annual basis. Based on the volume of beer it produces, as well
10 as the ownership interests of its parent companies, Defendant clearly does not qualify as a craft
11 brewer.

12 16. Defendant began producing Blue Moon beer in 1995 to compete in the burgeoning
13 craft beer market. While Defendant was operating as Coors Brewing Company at the time, it sold
14 Blue Moon beer under the name, Blue Moon Brewing Company.

15 17. Blue Moon Brewing Company is a small, limited capacity brewery located inside
16 Coors Field, home to the Colorado Rockies baseball team. The Blue Moon beer that is sold in
17 stores is not brewed at or by the Blue Moon Brewing Company. Rather, it is brewed by
18 MillerCoors at the company’s Golden, Colorado and Eden, North Carolina breweries. In addition
19 to brewing Blue Moon, these breweries produce all of Defendant’s other beers, including Coors,
20 Milwaukee’s Best, Miller High Life, Hamm’s, Icehouse and Olde English.

21 18. Despite brewing Blue Moon for the past 20 years, Defendant goes to great lengths
22 to disassociate Blue Moon beer from the MillerCoors name. MillerCoors does not appear anywhere
23 on the Blue Moon bottle. Moreover, while Blue Moon is prominently displayed on the MillerCoors
24 web site, there is not a single reference to MillerCoors on the Blue Moon Brewing Company web
25 site. In this regard, Defendant gains the benefit of having a top selling beer included among its
26 brands, while at the same time avoiding the loss of sales that would undoubtedly come with having
27 Blue Moon branded as a macrobrew and/or a MillerCoors beer.

28 19. In addition to fraudulently claiming that Blue Moon is brewed by Blue Moon

1 Brewing Company and intentionally omitting the MillerCoors name from Blue Moon products and
2 advertising, Defendant also uses the registered trademark "Artfully Crafted" to falsely portray Blue
3 Moon as a craft beer. This phrase, which appears on Defendant's web site and in print advertising,
4 further serves to further mislead consumers by implying that Blue Moon is a true craft beer brewed
5 by an almost entirely fictitious brewery.

6 20. Through its false and deceptive marketing, Defendant misleads consumers to
7 believe that Blue Moon is an independently brewed, hand-crafted beer. While MillerCoors clearly
8 does not constitute a craft brewer, and thus Blue Moon does not constitute a craft beer, Defendant
9 falsely identifies it as such on the MillerCoors web site. This practice misleads consumers and
10 allows Defendant to charge up to 50% more for Blue Moon beer than it charges for other
11 MillerCoors products.

12 21. From 2011 until mid-2012, Plaintiff frequently purchased Blue Moon beer from San
13 Diego-area retailers for personal and family consumption. Relying on its advertising, its placement
14 among other craft beers, and the premium price it commanded, Plaintiff, who is also a beer
15 aficionado and home brewer, purchased Blue Moon believing it was a craft beer, as the term is
16 commonly used by beer consumers and the Brewers Association.

17 22. In or around July 2012, Plaintiff was informed by friends that Blue Moon is not a
18 craft beer, but rather a mass produced beer made by MillerCoors. Plaintiff was initially skeptical,
19 but eventually verified the facts through his own research. As a result, Plaintiff has not purchased
20 Blue Moon since approximately July 2012.

21 CLASS ALLEGATIONS

22 23. Plaintiff brings this action on behalf of himself, and on behalf of all persons within
23 the defined Class.

24 24. This class action meets the statutory prerequisites for the maintenance of a class
25 action, as set forth in Cal. Civ. Proc. Code § 382 and Cal. Civ. Code § 1781, in that:

- 26 (a) The persons who comprise the Class are so numerous that the joinder of all
27 such persons is impracticable and the disposition of their claims as a class
28 will benefit the parties and the Court;

- 1 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues
2 that are raised in this Complaint are common to the Class and will apply
3 uniformly to every member of the Class, and as a practical matter, be
4 dispositive of the interests of the other members not party to the
5 adjudication;
- 6 (c) The parties opposing the Class have acted or have refused to act on grounds
7 generally applicable to the Class, thereby making final injunctive relief or
8 corresponding declaratory relief appropriate with respect to the Class as a
9 whole; and
- 10 (d) Common questions of law and fact exist as to the members of the Class and
11 predominate over any question affecting only individual members, and a
12 class action is superior to other available methods for the fair and efficient
13 adjudication of the controversy, including consideration of:
- 14 i. The interests of Class members in individually controlling the
15 prosecution or defense of separate actions;
- 16 ii. The extent and nature of any litigation concerning the controversy
17 already commenced by or against members of the Class;
- 18 iii. The desirability or undesirability of concentrating the litigation of the
19 claims in this particular forum; and
- 20 iv. The difficulties likely to be encountered in the management of a class
21 action.

22 25. The Court should permit this action to be maintained as a class action pursuant to
23 Cal. Civ. Proc. Code § 382 and Cal. Civ. Code § 1781 because:

- 24 (a) Questions of law and fact common to the Class are substantially similar and
25 predominate over any questions affecting only individual members;
- 26 (b) A class action is superior to any other available method for the fair and
27 efficient adjudication of Class members' claims;
- 28 (c) The members of the Class are so numerous that it is impractical to bring all
Class members before the Court;

- 1 (d) Plaintiff's claims are typical of the claims of the Class;
- 2 (e) Plaintiff, and the other members of the Class, will not be able to obtain
- 3 effective and economic legal redress unless the action is maintained as a
- 4 class action;
- 5 (f) There is a community of interest in obtaining appropriate legal and equitable
- 6 relief for the common law and statutory violations and other improprieties
- 7 alleged, and in obtaining adequate compensation for the damages which that
- 8 Defendant's actions have inflicted upon the Class;
- 9 (g) Plaintiff can, and will, fairly and adequately protect the interests of the
- 10 Class;
- 11 (h) There is a community of interest in ensuring that the combined assets and
- 12 available insurance of Defendant are sufficient to adequately compensate the
- 13 members of the Class for the injuries sustained; and
- 14 (i) Defendant has acted or refused to act on grounds generally applicable to the
- 15 Class, thereby making final injunctive relief appropriate with respect to the
- 16 Class as a whole.

17 CAUSES OF ACTION

18 **FIRST CAUSE OF ACTION** 19 **(By Plaintiff and the Class against all Defendants)** 20 **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT** 21 **[Cal. Civ. Code § 1750 et seq.]**

22 26. Plaintiff realleges and incorporates by this reference, as though fully set forth

23 herein, the proceeding paragraphs of this Complaint.

24 27. California's Consumer Legal Remedies Act ("CLRA"), as codified in Cal. Civ.

25 Code § 1750 et seq., prohibits certain unfair or deceptive acts "in a transaction intended to result or

26 which results in the sale or lease of goods or services to any consumer." Cal. Civ. Code § 1770(a).

27 28. Blue Moon beer constitutes "goods" as defined by the CLRA. Cal. Civ. Code §§

28 1761(a) and 1770.

29. Defendant is a "person" within the meaning of the CLRA. Cal. Civ. Code § 1761(c)

specifically defines "person" as any "individual, partnership, corporation, limited liability

1 company, association, or other group, however organized.”

2 30. Individuals who purchased Blue Moon beer, including Plaintiff and other members
3 of the proposed Class, are “consumers” within the meaning of the CLRA. Under the CLRA, the
4 term “consumer” includes any “individual who seeks or acquires, by purchase or lease, any goods
5 or services for personal, family, or household purposes.” Cal. Civ. Code § 1761(d).

6 31. Plaintiff and each and every Class member’s purchase of Blue Moon beer
7 constitutes a “transaction” under the CLRA. Cal. Civ. Code § 1761(e) defines “transaction” as “an
8 agreement between a consumer and another person, whether or not the agreement is a contract
9 enforceable by action, and includes the making of, and the performance pursuant to, that
10 agreement.”

11 32. Defendant violated and continues to violate the CLRA by engaging in the following
12 practices proscribed by Cal. Civ. Code § 1770(a) in transactions with Plaintiff and the other
13 members of the Class, which were intended to result in, and did result in, the purchase of Blue
14 Moon beer:

- 15 (a) Violating Cal. Civ. Code § 1770(a)(1) by passing off Blue Moon as a
16 product of Blue Moon Brewing Company, when it is in fact a product of
17 MillerCoors;
- 18 (b) Violating Cal. Civ. Code § 1770(a)(2) by representing that Blue Moon is
19 brewed by Blue Moon Brewing Company, when it was in fact brewed in a
20 MillerCoors brewery;
- 21 (c) Violating Cal. Civ. Code § 1770(a)(3) by making both affirmative
22 misrepresentations and omissions regarding the affiliation, connection, and
23 association between MillerCoors and Blue Moon beer; and
- 24 (d) Violating Cal. Civ. Code § 1770(a)(7) by representing that Blue Moon is a
25 craft beer when Defendant does not qualify as a craft brewer based on the
26 volume of beer it produces, as well as the ownership interests of its parent
27 companies.

28 33. Defendant violated the CLRA by misrepresenting and failing to disclose material

1 facts on Blue Moon bottles, cans, packaging, and associated advertising, as described herein, when
2 it knew or should have known that its representations were unsubstantiated, false, and misleading,
3 and that the omissions were of material facts and were contrary to the actual representations made
4 by Defendant.

5 34. Moreover, Defendant's practices, acts, and course of conduct in connection with its
6 production and sale of Blue Moon beer are materially deceptive and are likely to mislead, and
7 actually do mislead, reasonable consumers to purchase Blue Moon beer when they would not have
8 otherwise purchased it, or would have only purchased it at a lower price.

9 35. Pursuant to Cal. Civ. Code § 1780(a)(2), Plaintiff and the other members of the
10 Class are entitled to, and do seek, an order enjoining the above-described wrongful acts and
11 practices of Defendant.

12 36. Pursuant to Cal. Civ. Code § 1780(a)(3), Plaintiff and the other members of the
13 Class are entitled to, and do seek, restitutionary disgorgement of all monies wrongfully acquired by
14 Defendant from the deceptive and unfair sale of Blue Moon beer.

15 37. Pursuant to Cal. Civ. Code § 1780(e), Plaintiff and the Class are entitled to, and do
16 seek, reasonable attorneys' fees and all costs incurred in bringing this action, as well as any other
17 relief this Court deems just and proper.

18 **SECOND CAUSE OF ACTION**
19 **(By Plaintiff and the Class against all Defendants)**
20 **DECEPTIVE AND MISLEADING ADVERTISING**
21 **[Cal. Bus. & Prof. Code § 17500 et seq.]**

22 38. Plaintiff realleges and incorporates by this reference, as though fully set forth
23 herein, the proceeding paragraphs of this Complaint.

24 39. Under Cal. Bus. & Prof. Code § 17500, it is unlawful to make an untrue or
25 misleading statement in connection with the sale or dissemination of goods or services if the person
26 making the statement knew or should have known the statement was untrue or misleading. Section
27 17500 prohibits "not only advertising which is false, but also advertising which[,] although true, is
28 either actually misleading or which has a capacity, likelihood or tendency to deceive or confuse the
public." *Colgan v. Leatherman Tool Group, Inc.* (2006) 135 Cal. App. 4th 663, 679. The test under

1 § 17500 is whether a reasonable consumer would be deceived. *Id.* at 682. “A ‘reasonable
2 consumer’ is the ordinary consumer acting reasonably under the circumstances, and is not versed in
3 the art of inspecting and judging a product, in the process of its preparation or manufacture.” *Id.*
4 (internal quotation marks omitted).

5 40. In addition, Cal. Bus. & Prof. Code § 17505 provides:

6 No person shall state, in an advertisement of his goods, that he is a
7 producer, manufacturer, processor, wholesaler, or importer, or that he
8 owns or controls a factory or other source of supply of goods when
such is not the fact, and no person shall in any other manner
misrepresent the character, extent, volume, or type of his business.

9 41. Under California law, virtually any statement made in connection with the sale of
10 products or services constitutes advertising. *See e.g., Chern v. Bank of America* (1976) 15 Cal. 3d
11 866. This includes statements printed on a product label or packaging. *See Kwikset Corp. v.*
12 *Superior Court* (2011) 51 Cal. 4th 310.

13 42. In connection with the sale of Blue Moon beer, Defendant disseminated or caused
14 the dissemination of untrue, misleading, and deceptive advertising to the general public regarding
15 the quality, source, and characteristics of Blue Moon. On its web site, Defendant advertises Blue
16 Moon as a craft beer even though the company knows or should know that Blue Moon does not
17 qualify as a craft beer under the Brewers Association guidelines, or as the term is generally
18 understood by beer consumers. Moreover, Defendant reiterates and emphasizes its false and
19 deceptive statements by employing the trademarked term, “Artfully Crafted.”

20 43. Additionally, on various advertising materials, as well as on each bottle of Blue
21 Moon, Defendant falsely states that the beer is brewed by Blue Moon Brewing Company. While
22 there is in fact a Blue Moon Brewing Company, the facility does not brew the Blue Moon beer sold
23 in stores. Rather, the Blue Moon beer purchased from retail stores by Plaintiff and the other
24 members of the Class is brewed by MillerCoors at a MillerCoors brewing facility.

25 44. Defendant uses untrue, misleading, and deceptive advertising for the purpose of
26 selling Blue Moon beer to consumers, including Plaintiff and the Class. Such advertising, as
27 described herein, is likely to, and actually did deceive and confuse, reasonable consumers as to the
28 identity of the actual brewer of Blue Moon beer.

1 45. As a result of Defendant's untrue, misleading, and deceptive advertising, Plaintiff
2 and the other members of the Class have suffered injury in fact because they paid more for Blue
3 Moon than they would have in the absence of such advertising, or they purchased Blue Moon beer
4 when they otherwise would have purchased another beer.

5 46. Plaintiff and the Class are entitled to, and do seek, equitable relief in the form of full
6 restitution of all monies paid for Blue Moon beer and disgorgement of the profits derived from
7 Defendant's false and misleading advertising, as well as reasonable attorneys' fees and all costs
8 incurred in bringing this action.

9 47. Plaintiff and the Class are also entitled to, and do seek, an injunction prohibiting
10 Defendant from continuing such conduct and for an order requiring Defendant to make full
11 disclosures to correct its prior misrepresentations and omissions.

12 **THIRD CAUSE OF ACTION**
13 **(By Plaintiff and the Class against all Defendants)**
14 **UNFAIR BUSINESS PRACTICES**
 [Cal. Bus. & Prof. Code § 17200 et seq.]

15 48. Plaintiff realleges and incorporates by this reference, as though fully set forth
16 herein, the proceeding paragraphs of this Complaint.

17 49. As codified in Cal. Bus. & Prof. Code § 17200 et seq., California's Unfair
18 Competition Law ("UCL") broadly prohibits "any unlawful, unfair or fraudulent business act or
19 practice."

20 50. The UCL permits a cause of action to be brought if a practice violates some other
21 law. In effect, the "unlawful" prong of the UCL makes a violation of the underlying law a per se
22 violation of Cal. Bus. & Prof. Code § 17200. *Cel-Tech Commc'ns, Inc. v. Los Angeles Cellular Tel.*
23 *Co.* (1999) 20 Cal. 4th 163, 180. Virtually any law or regulation—federal or state, statutory or
24 common law—can serve as predicate for a § 17200 "unlawful" violation. *See Farmers Ins. Exch. v.*
25 *Sup. Ct.* (1992) 2 Cal. 4th 377, 383.

26 51. Under the UCL, a practice may be "unfair" even if not specifically proscribed by
27 some other law. *Korea Supply Co. v. Lockheed Martin Corp.* (2003) 29 Cal. 4th 1134, 1143. The
28 California Supreme Court has made it clear that the "unfair" standard is intentionally broad to

1 allow courts maximum discretion in prohibiting new schemes to defraud consumers. *See Cel-Tech*
2 *Commc'ns, Inc. v. Los Angeles Cellular Tel. Co.*, *supra*, 20 Cal. 4th 163, 180-81.

3 52. A business act or practice may be deemed “fraudulent” under the UCL where
4 “members of the public are likely to be deceived.” *Blakemore v. Superior Court* (2005) 129 Cal.
5 App. 4th 36, 49. That is, a showing of actual deception, reasonable reliance, or damages is not
6 required. *Id.* Moreover, under § 17200, even a true statement may be unlawful if it is “couched in
7 such a manner that it is likely to mislead or deceive . . . , such as by failure to disclose other
8 relevant information.” *See Boschma v. Home Loan Ctr., Inc.* (2011) 198 Cal. App. 4th 230, 253.

9 53. As set forth in the preceding paragraphs, Defendant’s business practices violate all
10 three prongs of California’s UCL.

11 54. Defendant committed, and continues to commit, unlawful business practices, in
12 violation of Cal. Civ. Code § 1770(a)(1)-(3), (7), by falsely representing that Blue Moon is a craft
13 beer brewed by Blue Moon Brewing Company and by intentionally omitting the fact that Blue
14 Moon is produced by MillerCoors. In addition, Defendant’s business practices violate the federal
15 Food Drug & Cosmetic Act, as well as California’s Sherman Act, which make it unlawful to
16 “manufacture, sell, deliver, hold, or offer for sale any food that is misbranded.” Under both Acts,
17 food is misbranded if it fails to include the “name and place of business of the manufacturer,
18 packer, or distributor.” *See* 21 U.S. Code § 343; Cal. Health & Saf. Code § 110675.

19 55. Defendant’s conduct also constitutes an unfair business practice in that it
20 intentionally deceives consumers to the detriment of MillerCoors competitors, particularly those
21 who are properly defined as craft brewers. Plaintiff, in direct reliance on Defendant’s
22 representation that Blue Moon was a craft beer brewed by Blue Moon Brewing Company, was
23 willing to, and actually did pay, a premium price for Blue Moon beer. By omitting the fact that
24 Blue Moon was brewed by MillerCoors, Defendant deceived and misled Plaintiff to believe that he
25 was purchasing a craft beer from a small, independent brewery. In the absence of Defendant’s
26 representations and omissions, Plaintiff would not have purchased Blue Moon or would have only
27 purchased it at a lower price.

28 56. Claiming that Blue Moon beer is brewed by Blue Moon Brewing Company, rather

1 than by MillerCoors, also constitutes a fraudulent business practice under the UCL. Indeed, even if
2 there is some element of truth to Defendant's representation, the conduct nonetheless violates Cal.
3 Bus. & Prof. Code § 17200 because it is "couched in such a manner that it is likely to mislead or
4 deceive" members of the public. *See Boschma v. Home Loan Ctr., Inc., supra*, 198 Cal. App. 4th at
5 253.

6 57. Defendant's business practices are immoral, unethical, oppressive, and
7 unscrupulous, and cause substantial injury to consumers, including Plaintiff and the other members
8 of the Class. As a direct and proximate result of Defendant's unlawful business practices, Class
9 members suffered injury in that they paid a premium price for a product that would not ordinarily
10 command a premium price, or purchased a product they otherwise would not have purchased,
11 absent Defendant's misrepresentations and omissions.

12 58. Defendant subjected Plaintiff and the Class to the same unfair, unlawful, and
13 deceptive practices and harmed them in the same manner.

14 59. Through its unlawful, unfair, and fraudulent business practices, Defendant reaped,
15 and continues to reap, benefits and profits at the expense of Plaintiff and members of the Class.
16 Moreover, the business practices alleged herein are ongoing, and there is no indication that
17 Defendant will refrain from such activities in the future. Plaintiff believes, and on that basis
18 alleges, that if Defendant is not enjoined, it will continue to engage in conduct that is injurious to
19 the public and violates California law. As such, injunctive relief is appropriate.

20 60. Plaintiff and the Class are entitled to, and do seek, restitution, an injunction
21 prohibiting Defendant from continuing its unlawful, unfair, and fraudulent business practices, and
22 any other relief the Court deems appropriate, consistent with Cal. Bus. & Prof. Code § 17203.

23 61. Pursuant to Cal. Civ. Code § 1021.5, Plaintiff and the Class also seek reasonable
24 attorneys' fees and all costs incurred in bringing this action.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff, on behalf of himself, and on behalf of a Class of persons similarly
3 situated, prays for judgment against Defendant as follows:

4 **AS TO THE FIRST CLAIM**
5 **(Violation of Cal. Civ. Code § 1750 et seq.)**

- 6 1. For restitution and disgorgement;
- 7 2. For attorneys' fees and costs incurred in bringing this action, pursuant to Cal. Civ.
8 Code § 1780(e); and
- 9 3. For any other relief the Court deems just and proper.

10 **AS TO THE SECOND CLAIM**
11 **(Violation of Cal. Bus. & Prof. Code § 17500 et seq.)**

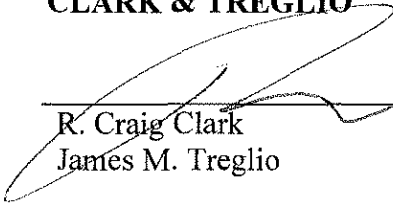
- 12 1. For restitution and disgorgement;
- 13 2. For injunctive relief ordering the above-described unfair business practices to cease
14 and ordering corrective advertising;
- 15 3. For attorneys' fees and costs incurred in bringing this action, pursuant to Cal. Civ.
16 Code § 1021.5; and
- 17 4. For any other relief the Court deems just and proper.

18 **AS TO THE THIRD CLAIM**
19 **(Violation of Cal. Bus. & Prof. Code § 17200 et seq.)**

- 20 1. For restitution and disgorgement;
- 21 2. For injunctive relief ordering the above-described unfair business practices to cease;
- 22 3. For attorneys' fees and costs incurred in bringing this action, pursuant to Cal. Civ.
23 Code § 1021.5; and
- 24 4. For any other relief the Court deems just and proper.

25 Dated: April 24, 2015

CLARK & TREGLIO

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27 R. Craig Clark
James M. Treglio

28 Attorneys for Plaintiff and the Putative Class

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Dated: April 24, 2015

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James M. Treglio

Attorneys for Plaintiff and the Putative Class