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Attorneys for Defendant
Skinny Crisps, Inc.

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

ASAF AGAZANOF, Individually, and on behalf of other members of the general public similarly situated,

Plaintiff,

v.

SKINNY CRISPS, INC., a Colorado corporation,

Defendant.

Case No. CV14-01125 - DDP(SHx)

NOTICE OF REMOVAL

Removed from Superior Court of California, Los Angeles County, Case BC532760 on February 13, 2014)

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TO THE CLERK OF COURT FOR THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF CALIFORNIA:

PLEASE TAKE NOTICE that Defendant, Skinny Crisps, Inc. ("Skinny Crisps" or "Defendant"), appearing solely for purposes of filing this notice, reserving all rights, defenses, exceptions and claims and without waiver thereof, hereby removes to this Court the state-court action described in paragraph 1 below pursuant to 28 U.S.C. §§ 1331, 1332, 1446 and 1453, on the following grounds:

THE COMPLAINT

1. The removed case is a purported civil class action filed on or about January 9, 2014, in the Superior Court of the State of California for the County of Los Angeles, entitled "*Asaf Agazanof, Individually and on behalf of others members of the general public similarly situated versus Skinny Crisps, Inc.*" bearing case number BC532760 on the state court's docket. See, Class Action Complaint attached as **Exhibit A**.

2. This civil action falls under this Court's original jurisdiction under 28 U.S.C. 28 U.S.C. §1331 (federal question) and 28 U.S.C. §1332 (diversity of citizenship) and is one that may be removed to this Court by Skinny Crisps in accordance with the provisions of 28 U.S.C. § 1441 et seq. in that it is a civil action raising issues of federal question, and also and in the alternative between parties of diverse citizenship and the amount in controversy exceeds $75,000, exclusive of interest and costs. Additionally and in the alternative, this civil action falls under this Court's original jurisdiction pursuant to the Class Action Fairness Act ("CAFA").

3. Plaintiff Asaf Agazanof ("Plaintiff"), asserts five causes of action against Defendant on behalf of himself and others similarly situated, including: (1) Violation of unfair competition law Cal. *Bus & Prof. Code* §§17200 et seq; (2) Violation of unfair competition law Cal. *Bus & Prof. Code* §§17500 et seq; (3)

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Violation of the Consumers Legal Remedies Act Cal. *Civil Code* §§1750 et seq; (4) Negligent misrepresentation; and (5) breach of quasi-contract. *See*, **Exhibit A.**

4. In the "Prayer for Relief" clause, Plaintiff seeks compensatory damages, injunctive relief, "full restitution of all funds acquired from Plaintiff and Class Members from the sale of misbranded Class Products," statutory enhanced damages, punitive damages, attorney's fees provided by statute and at law, costs, and "such other relief as the Court may deem appropriate." *See*, **Exhibit A** at "Prayer for Relief" clause.

5. Plaintiff seeks to represent the following purported class: "All persons in the United States who, within the last four years, purchased Defendant's Class Products labeled with the ingredient, "organic dehydrated cane juice." *See*, **Exhibit A** at ¶35.

6. Removal of this action to this Court is proper under 28 U.S.C. § 1446(a) because this Court is the United States District Court for the district and division within which the removed state-court action was pending. Because the Complaint was filed and currently is pending in the Superior Court of the State of California for the County of Los Angeles, this District is the proper venue for this action upon removal pursuant to 28 U.S.C. § 1441(a).

7. As required by 28 U.S.C. § 1446(a), the following documents are attached hereto and are incorporated herein by reference:

Exhibit A: Pleadings asserting causes of action filed in the state-court action (there is only the Class Action Complaint; no answer has been filed);

Exhibit B: Executed Proof of Service on Skinny Crisps, Inc.;

Exhibit C: The docket sheet of the state-court action;

Exhibit D: Affidavit on behalf of Skinny Crisps in support of Notice of Removal.

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Additionally, the docket sheet of the state-court action, **Exhibit C**, contains an Order dated February 6, 2014 that has not been served on Defendant and Defendant has not otherwise received.

8. The first date upon which Defendant received a copy of any document purporting to serve it with the Complaint was January 14, 2014. *See*, **Exhibit D** at ¶ 6. *See* **Exhibit B**, copy of Plaintiff's Proof of Service of Summons and Class Action Complaint ("Proof of Service").

9. Defendant contends service was not proper, and reserves all rights pertaining to same. Out of an abundance of caution, however, Defendant files this Notice of Removal within 30 days of the purported service. *See, Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354, 119 S. Ct. 1322, 1329 (1999) (removal period triggered by proper service on defendant).

10. This notice of removal, filed within 30 days of the first purported service on Defendant, is filed within the time period prescribed by 28 U.S.C. § 1446(b), by the procedure prescribed in 28 U.S.C. § 1446, and within the process prescribed by 28 U.S.C. § 1448.

FEDERAL QUESTION

11. This Court has federal question jurisdiction over this matter.

12. Plaintiff's claims are preempted by the Federal Food, Drug, and Cosmetic Act ("FDCA"), on the bases of implied preemption, express preemption, and the doctrine of primary jurisdiction.

13. The FDCA, codified at 21 U.S.C. §§ 301 et seq., "gives the FDA the responsibility to protect the public health by ensuring that 'foods are safe, wholesome, sanitary, and properly labeled.'" *Lockwood v. Conagra Foods, Inc.*, 597 F.Supp.2d 1028, 1030 (N.D.Cal.2009) (quoting 21 U.S.C. § 393(b)(2)(A)). Section 331 of the FDCA expressly prohibits the misbranding of food in interstate commerce, see 21 U.S.C. § 331(a)-(c), (k), while Section 343 sets forth conditions under which food is considered "misbranded," see 21 U.S.C. § 343. In general, a

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food is "misbranded" if its labeling is "false or misleading in any particular." 21 U.S.C. § 343(a)(1).

14. All of the alleged misbranding violations considered in this case are covered by existing FDA regulations, policies, and guidelines, including "natural" claims, 21 C.F.R. § 101.22; 58 Fed.Reg. 2302–01, 2407 (Jan. 6, 1993); FDA Compliance Policy Guide § 587.1000; "common name" claims, 21 C.F.R. §§ 10 1.4, 102.5; and ingredient definitions, 21 C.F.R. §§ 101.4(b)(20) (sugar); 120.1 (juice); 168.130 (sugar cane syrup).

DIVERSITY JURISDICTION

A. Diversity of Citizenship

15. Additionally and in the alternative, the case is removable on the basis of diversity jurisdiction. 28 U.S.C.A. § 1332(a).

16. The plaintiffs and all defendants are, and at all material times were, citizens of different states.

17. Plaintiff was at the time of filing of this action, and still is, "a citizen and resident", domiciled in the State of California. *See*, Plaintiff's Complaint, **Exhibit A** at ¶ 25. The test of state citizenship, for the purpose of determining diversity of citizenship, is that of domicile. Citizenship and domicile are substantially synonymous in determining the jurisdiction of this Court under Title 28 U.S.C. § 1332. *See McClanahan v. Galloway*, 127 F. Supp. 929, 930 (D. Cal. 1955). This allegation of citizenship constitutes prima facie evidence of the citizenship of Plaintiff in California.

18. The class that Plaintiff represents is comprised of a national class of consumers. *See*, **Exhibit A** at ¶ 35. For purposes of establishing complete diversity in class actions, citizenship of unnamed class members is disregarded. 28 U.S.C.A. § 1332; *Gibson v. Chrysler Corp.*, 261 F.3d 927 (9th Cir. 2001) holding modified by *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005).

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19. Skinny Crisps was at the time of filing of this action and still is, a company incorporated under the laws of the State of Colorado with its principal place of business in the State of Colorado. *See*, **Exhibit A** at ¶ 26, *See* also **Exhibit D** at ¶ 4. Skinny Crisps was not at the time of the filing of this action, and still is not, incorporated under the laws of the State of California. Skinny Crisps did not at the time of the filing of this action, and still does not, have its principal place of business in the State of California. *See* **Exhibit D** at ¶ 5.

20. There is complete diversity of citizenship between the Plaintiff and Defendant in this case.

B. Amount in Controversy

21. Federal district courts have original jurisdiction of civil actions when there is diversity between the Plaintiff and Defendant, and where "the matter in controversy exceeds the sum or value of $75,000, exclusive of interest and costs."

i. Damages Sought Generally

22. Plaintiff asserts five causes of action against Defendant. *See*, **Exhibit A**.

23. In the "Prayer for Relief" clause, Plaintiff seeks compensatory damages, injunctive relief, "full restitution of all funds acquired" from the sale of misbranded Class Products; statutory enhanced damages, punitive damages, attorney's fees provided by statute and at law, costs, and "such other relief as the Court may deem appropriate." **Exhibit A** at ¶84. Plaintiff also seeks disgorgement of all amounts earned by Defendant, see, e.g., **Exhibit A** at ¶¶ 55, 81 and "imposition of a constructive trust upon all profits, benefits and compensation obtained by Skinny Crisps." *See*, e.g., **Exhibit A** at ¶81.

ii. Request for Punitive Damages

24. It is well established that punitive damages are part of the amount in controversy in a civil action. *See Bell v. Preferred Life Assur. Society*, 320 U.S. 238, 240, 64 S.Ct. 5, 88 L.Ed. 15 (1943); *Gibson v. Chrysler Corp.*, 261 F.3d 927,

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945 (9th Cir. 2001), holding modified by *Exxon Mobil Corp. v. Allapattah Services, Inc.*, 545 U.S. 546, 125 S. Ct. 2611, 162 L. Ed. 2d 502 (2005).

25. Plaintiff requests punitive damages against Defendant in his Prayer for Relief. *See* **Exhibit A** at ¶ 84(h).

26. Moreover, to avoid federal jurisdiction in a case seeking punitive damages, the Supreme Court has held that it must appear "to a legal certainty from the complaint that [the Plaintiff] could not recover ... sufficient punitive damages to make up the requisite [jurisdictional amount]." *Coleman v. Assurant, Inc.*, 463 F. Supp. 2d 1164, 1168 (D. Nev. 2006), quoting *Bell v. Preferred Life Assur. Soc. of Montgomery, Ala.*, 320 U.S. 238, 241, 64 S.Ct. 5, 88 L.Ed. 15 (1943).

27. Here, it cannot be established with legal certainty that the aggregate sum of punitive damages sought on behalf of Plaintiff could not exceed $75,000.00. When coupled with the requests for compensatory damages, restitution, disgorgement and the imposition of a constructive trust, the punitive damages and the compensatory damages clearly exceed the jurisdictional threshold for an individual plaintiff.

iii. Request for Attorney Fees Awardable by Statute

28. Typically, attorney's fees are not considered part of the amount in controversy for diversity purposes. *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1155-56 (9th Cir.1998). However, where an underlying statute authorizes an award of attorney's fees, such fees may be included in calculating the amount in controversy. *Id.*; *Morrison v. Allstate Indem. Co.*, 228 F.3d 1255, 1265 (11th Cir.2000); *Galt G/S*, 142 F.3d at 1156 (citing *Velez v. Crown Life Ins. Co.*, 599 F.2d 471, 474 (1st Cir. 1979). The *Galt G/S* Court specifically held that where an underlying state statute authorizes an award of attorney's fees with either mandatory or discretionary language such fees may be included in the amount in controversy. *Galt G/S*, 142 F.3d at 1156.

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29. Plaintiff requests "[a]ll reasonable and necessary attorneys' fees and costs provided by statute, common law or the Court's inherent power" in his Prayer for Relief. *See* **Exhibit A** at ¶84(j).

30. The California Consumer Legal Remedies Act §1780(de) mandates attorney fees be awarded to the prevailing plaintiff with respect to the claims brought in Plaintiff's Third Cause of Action. Additionally, California *Civil Code* §1021.50 permits Courts to award attorneys' fees to successful parties in certain actions that have resulted in the enforcement of "an important right affecting the public interest."

31. Since Plaintiff's request for attorney fees is based upon California statutes, that amount is also properly included in the jurisdictional amount.

32. Even as a single-plaintiff case, attorney fees incurred in connection with this litigation involving complex food and drug regulations under the claims asserted will no doubt exceed $75,000 through trial.

33. Defendant does not agree, and specifically denies, that attorney's fees should be awarded to Plaintiff. Furthermore, Defendant will challenge at the appropriate time not only whether this matter has been properly instituted as a class action but also whether the appropriate class representative is entitled to attorney's fees. However, attorney's fees are an important component of the plaintiffs' overall claims and, therefore, are an integral part of the amount in controversy before the Court.

iv. <u>Request for Declaratory Judgment</u>

34. To the extent that Plaintiff's claim and prayer for "declaratory judgment" seek a form of injunctive relief, then the amount in controversy is determined according to the cost to the defendant if such relief were granted. See, *BEM I, L.L.C. v. Anthropologie, Inc.*, 301 F. 3rd 548, 553 (7th Cir. 2002).

35. Plaintiff Agazanof seeks an order requiring Defendant to: (1) change the product packaging for the products at issue so that it complies with all

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applicable food labeling rules and regulations as alleged; and (2) engage in corrective advertising regarding the improper conduct as alleged. *See* **Exhibit A** at ¶84(d)-(f)

36. The cost of sending any corrective notices or advertisements, and to change the product packaging as demanded by the Plaintiff, and to implement same, will no doubt exceed $75,000.00 alone.

37. When one considers the value of the Plaintiff's claims, the value of the injury Plaintiff seeks to prevent (by declaratory and/or injunctive relief), the value of his request for punitive damages, restitution, disgorgement, constructive trust, and attorney's fees, it is respectfully submitted that the "value of the object of the litigation" in this case easily exceeds $75,000 as to Plaintiff Agazanof.

38. For the foregoing reasons, the amount in controversy in this case exceeds $75,000, exclusive of interest and costs and this Court has jurisdiction of this matter pursuant to 28 U.S.C. § 1332.

CAFA JURISDICTION

39. Defendant incorporates the prior paragraphs 1-38, inclusive, as if copied here *in extenso*.

40. Under the Class Action Fairness Act ("CAFA"), federal district Courts will have original jurisdiction over any "class action" in which the "matter in controversy exceeds the sum or value of $5,000,000", "any member of a class of plaintiffs is a citizen of a State different from any defendant," and the number of members of plaintiff's proposed class in the aggregate is at least 100. 28 U.S.C. §1332(d).

41. This is a purported "class action" pursuant to CAFA, in that Plaintiff filed his Class Action Complaint seeking class certification under California Code of Civil Procedure § 382, which authorizes one or more individuals to sue as representative parties on behalf of a purported class.

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A. The Proposed Class Exceeds 100 Members

42. The class Plaintiff seeks to represent is defined as: "All persons in the United States who, within the last four years purchased Defendant's Class Products labeled with the ingredient, 'organic dehydrated cane juice.'" *See* **Exhibit A** at ¶35.

43. The geographical scope is the "United States" and the temporal scope of the class is "the last four years." See **Exhibit A** ¶35.

44. Plaintiff takes issue with the product labeling on all eight of Defendant's products, referred to as: (1) Plain Jane, (2) White Sesame, (3) Toasty Onion, (4) Seeded, (5) Say Cheese, (6) Whole Shebang, (7) Cinnamon Crisps, and (8) Brownie Crisps. *See* **Exhibit A** at ¶1. These eight products constitute all of the products produced and sold by Defendant. **Exhibit D** at ¶ 7.

45. Defendant's products are sold in at least 33 stores in California, and in 325 stores nationwide. **Exhibit D** at ¶ 8. Additionally, Defendant's products are sold directly to the consumer nationwide via Defendant's website. **Exhibit D** at ¶ 8.

46. Given that Defendant has sold its products to 325 distributors, it is clear that the proposed class exceeds 100 members.

47. Each bag of Defendant's products retails, on average for $6.99. **Exhibit D** at ¶ 9.

48. Between 2010 and 2014, Defendant estimates that it sold approximately 725,000 bags of Defendant's product nationwide. **Exhibit D** at ¶ 10. At an average retail price of $6.99 per bag, Defendant estimates that approximately $5,067,750.00 worth of Defendant's products have been sold to consumers nationwide. **Exhibit D** at ¶ 10.

49. Since the implementation of its new packaging in March 2013, Defendant estimates that it sold approximately 200,000 bags of Defendant's products nationwide. **Exhibit D** at ¶ 11. At an average retail price of $6.99 per

bag, Skinny Crisps estimates that approximately $1,398,000.00 worth of Defendant's products have been sold nationwide with the new packaging. **Exhibit D** at ¶ 11.

50. Given the number of bags sold, the number of persons who are alleged to fall within the proposed class is certain to be well in excess of 100. **Exhibit D** at ¶ 12.

B. Diversity Under CAFA

51. Under CAFA's "minimal diversity" standard, Defendant need only show that one plaintiff and one defendant are citizens of different states. See U.S.C. § 1332(d)(2)(A).

52. As explained in paragraph 17 above, Plaintiff Agazanof is a citizen, resident and domiciliary of the State of California. As explained in paragraph 19 above, Skinny Crisps, Inc. is a citizen, resident and domiciliary of the State of Colorado.

53. Accordingly, the "minimal diversity" elements of CAFA have been met.

C. Amount in Controversy Under CAFA

54. Under CAFA, "the claims of individual class members shall be aggregated to determine whether the matter in controversy exceeds the sum or value of $5,000,000, exclusive of interest and costs." 28 U.S.C. § 1332(d)(6) (emphasis added).

55. In the "Prayer for Relief" clause, plaintiff seeks compensatory damages, injunctive relief, "full restitution of all funds acquired" from the sale of misbranded Class Products; statutory enhanced damages, punitive damages, attorney's fees provided by statute and at law, costs, and "such other relief as the Court may deem appropriate." *See*, **Exhibit A** at ¶84. Plaintiff also seeks disgorgement of all amounts earned by Defendant, *See*, e.g., **Exhibit A** at ¶¶ 55,

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81 and "imposition of a constructive trust upon all profits, benefits and compensation obtained by Skinny Crisps." *See*, e.g., **Exhibit A** at ¶81

56. Plaintiff takes issue with the product labeling on all eight Defendant's products, referring to as: (1) Plain Jane, (2) White Sesame, (3) Toasty Onion, (4) Seeded, (5) Say Cheese, (6) Whole Shebang, (7) Cinnamon Crisps, and (8) Brownie Crisps. *See* **Exhibit A** at ¶1. These eight products constitute all of the products produced and sold by Defendant. **Exhibit D** at ¶ 7.

57. Between 2010 and 2014, Defendant estimates that it sold approximately 725,000 bags of Skinny Crisps product nationwide. **Exhibit D** at ¶ 10. At an average retail price of $6.99 per bag, Defendant estimates that approximately $5,067,750.00 worth of Skinny Crisp products have been sold to consumers nationwide. **Exhibit D** at ¶ 10.

58. Since the implementation of its new packaging in March 2013, Defendant estimates that it sold approximately 200,000 bags of Skinny Crisps products nationwide. **Exhibit D** at ¶ 11. At an average retail price of $6.99 per bag, Defendant estimates that approximately $1,398,000.00 worth of Skinny Crisp products have been sold nationwide with the new packaging. **Exhibit D** at ¶ 11.

59. Accordingly, Plaintiff and Class Members will seek up to approximately $5,067,750.00 in restitution of the amounts they paid for the Class Products over the last four years.

60. As discussed above, punitive damages are properly included in determining the amount in controversy for purposes of federal jurisdiction. "The purpose of punitive damages is to punish wrongdoers and thereby deter the commission of wrongful acts." *Neal v. Farmers Ins. Exchange*, (1978) 21 Cal. 3d 910, 928. Punitive damages awards are often a double or treble multiplier of compensatory damages. *See Lane v. Hughes Aircraft*, (2000) 22 Cal. 4th 405, 425-426, Brown, J. concurring (Noting the California Legislature has provided

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for double or treble damages in more than 30 instances, and legislative policy may be a source of law).

61. Accordingly, we would expect Plaintiff and Class Members to seek punitive damages of at least $10,135,500.00 and up to $15,203,250.00.

62. Additionally, as discussed above, Plaintiff and Class Members request attorney fees in connection with the class action. Statutory attorney fees are properly considered in the calculation of amount in controversy in action removed pursuant to Class Action Fairness Act (CAFA). 28 U.S.C.A. § 1332(d)(6); *Walker v. Motricity Inc.*, 627 F. Supp. 2d 1137 (N.D. Cal. 2009); *Lewis v. Ford Motor Co.*, 610 F. Supp. 2d 476 (W.D. Pa. 2009). Attorney fees are includible in amount in controversy for purposes of determining whether Class Action Fairness Act (CAFA) jurisdictional minimum was met, where attorney fees are authorized by state statutes under which state-court class action sought to be removed had been brought. 28 U.S.C.A. § 1332(d); *Lowdermilk v. U.S. Bank National Ass'n*, 479 F.3d 994 (overturned by *Adams v. Am. Family Mut. Ins. Co.*, 2013 U.S. Dist. LEXIS 160824 (S.D. Iowa Nov. 8, 2013) on other grounds),12 Wage & Hour Cas. 2d (BNA) 684 (9th Cir. 2007). Where statutory authority provides for attorneys' fees, fees are included in amount in controversy to reach $5 million jurisdictional amount under Class Action Fairness Act (CAFA). *Ortiz v. Menu Foods, Inc.*, 525 F. Supp. 2d 1220 (D. Haw. 2007).

63. Even as a single-plaintiff case, attorneys' fees incurred in connection with this litigation involving complex food and drug regulations under the claims asserted will no doubt exceed $75,000 through trial. If Plaintiff is successful in certifying this as a class, the amount of attorneys' fees to be sought will exceed that amount by many-fold.

64. Additionally, as discussed above, Plaintiff and Class Members seek corrective notices and advertisements, as well as changes to the product packaging

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going forward. Implementing the injunctive relief demanded by Plaintiff and Class Members will no doubt exceed $75,000.00.

65. The aggregate amount of restitution, punitive damages, attorneys' fees, as well as the costs associated with implementation of the injunctive relief sought by Plaintiff and Class Members, all as set forth hereinabove in more detail, over a potential nationwide class with membership in the thousands, will easily exceed the sum or value of $5,000,000, exclusive of interest and costs.

PROCEDURAL NOTICE

66. Promptly after filing this Notice of Removal with this Court, Defendant will give notice of the removal to all adverse parties, and will file a copy of the Notice to Adverse Party of Removal to Federal Court and the Notice of Removal with the Clerk of Court for the Los Angeles County Superior Court to effect the removal of this action to this Court, all in conformity with 28 U.S.C. § 1446(d).

67. Defendant reserves the right to amend or supplement this Notice of Removal or to submit evidence as demanded by further proceedings of this Court.

Respectfully submitted,

DATED: February 13, 2014

EDGERTON & WEAVER, LLP

By: _____

Samuel Y. Edgerton, Esq.
Megan Hayati, Esq.
Attorneys for Defendant
Skinny Crisps, Inc.

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EXHIBIT A

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Attorneys for Plaintiff Asaf Agazanof

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ASAF AGAZANOF, individually, and on behalf of other members of the general public similarly situated,

Plaintiff,

vs.

SKINNY CRISPS, INC., a Colorado corporation,

Defendants.

Case No.: BC532760

CLASS ACTION COMPLAINT

(1) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17200 *et seq.*);
(2) Violation of Unfair Competition Law (Cal. Business & Professions Code §§ 17500 *et seq.*);
(3) Violation of the Consumers Legal Remedies Act (Cal. Civil Code §§ 1750 *et seq.*);
(4) Negligent Misrepresentation; and
(5) Breach of Quasi-Contract.

Jury Trial Demanded

Plaintiff Asaf Agazanof ("Plaintiff"), individually and on behalf of all other members of the public similarly situated, allege as follows:

NATURE OF THE ACTION

1. Plaintiff brings this class action Complaint against Defendant Skinny Crisps, Inc. (hereinafter "Defendant" or "Skinny Crisps") to stop Defendant's practice of releasing misbranded products into the stream of commerce and to obtain redress for all nationwide consumers ("Class Members") who purchased, within the applicable statute of limitations period, a Skinny Crisps product which listsr "organic dehydrated cane juice" as an ingredient, including, but not limited to, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Plain Jane, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- White Sesame, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Toasty Onion, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Seeded, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Say Cheese, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Whole Shebang, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Cinnamon Crisps, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Brownie Crisps, (hereinafter collectively referred to as the "Class Products").

2. Skinny Crisps is a Colorado company that sells and distributes the Class Products at premium prices throughout the United States, including California. Skinny Crisps's principal place of business is in Boulder, Colorado.

3. Skinny Crisps knows that a majority of its consumers are health conscious and prefer foods lacking added sugar. Skinny Crisps recognizes that health claims drive sales, and actively promotes the health benefits of its products.

4. For example, Skinny Crisps makes the following representations regarding the Class Products:

- We use only the highest quality ingredients including: ground almonds, chickpea flour, organic ground golden flax seed, psyllium husks, organic dehydrated cane juice, olive oil and sea salt plus spices and assorted toppings.
- The Skinny Crisps bakery has created a nutritious, satisfying, crispy cracker

Exhibit A

2

that combines great taste with gluten free ingredients and approximately one half a net carb per cracker.

- Skinny Crisps are the perfect snack for those who need to eliminate gluten and carbohydrates from their diet and because these treats are high in fiber, they have little effect on blood sugar levels as well.
- Our Skinny Crisps are ideal for those with celiac disease, autism, diabetes and low carb dieters, or just about anyone who enjoys a great cracker which is not only tasty, but healthy and nutritious.
- The high fiber content provides satisfaction with just a few crackers. To control hunger cravings, just have three or four crackers with some coffee or tea or juice and you may find that your hunger will subside in a few minutes.

5. Skinny Crisps' website, http://www.skinnycrisps.com, is also largely dedicated to promoting the nutritional and health aspects of the Class Products.

6. However, Skinny Crisps sought to conceal the added sugar in the Class Products, by failing to list "sugar" or "dried cane syrup" as an ingredient. Instead, the labels lists "organic dehydrated cane juice" as an ingredient, as depicted below, despite the fact that the U.S. Food and Drug Administration ("FDA") has specifically warned companies that term is false and misleading. In so doing, Skinny Crisps has violated California's Sherman Law and California consumer protection statutes.

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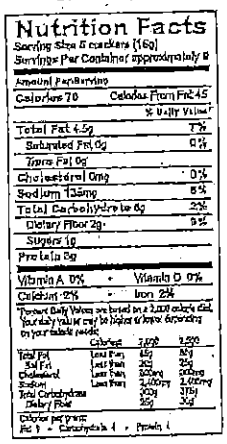
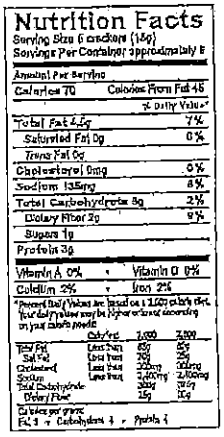
PLAIN JANE



Plain Jane Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, olive oil, sea salt, organic dehydrated cane juice

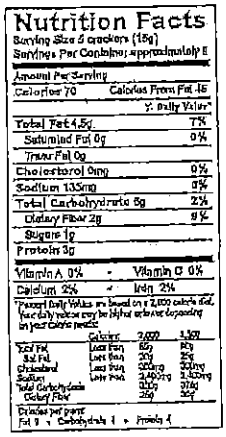
WHITE SESAME



White Sesame Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, sesame seeds, olive oil, sea salt, organic dehydrated cane juice

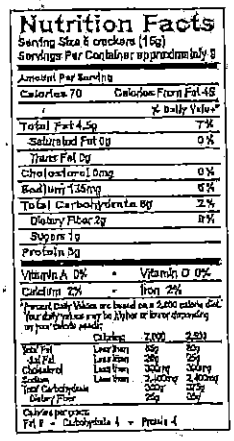
TOASTY ONION



Toasty Onion Ingredients:

almonds, chickpea flour, organic golden flaxseeds, psyllium husks, dehydrated onions, olive oil, sea salt, organic dehydrated cane juice

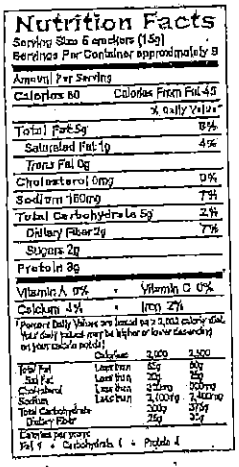
SEEDED



Seeded Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, olive oil, sea salt, fennel, white & black sesame seeds, organic dehydrated cane juice

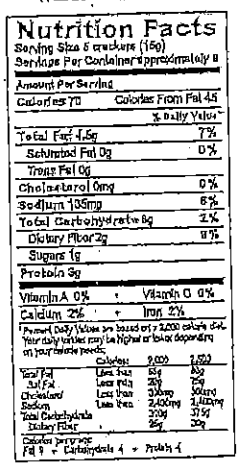
SAY CHEESE



Say Cheese Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, olive oil, organic dehydrated cane juice, kosher white cheddar blend, sea salt, paprika

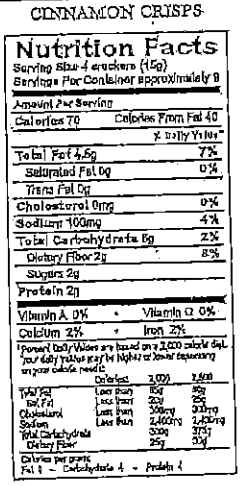
WHOLE SHEBANG



Whole Shebang Ingredients:

almonds, chickpea flour, organic golden flax seeds, organic psyllium husks, olive oil, dehydrated cane, sea salt, garlic, onion, black and white sesame seeds, poppy seeds

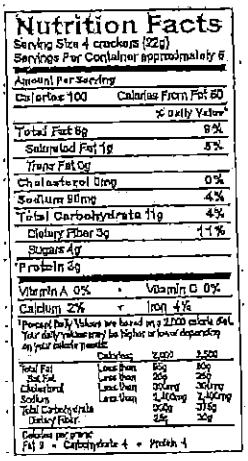
CINNAMON CRISPS



Cinnamon Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, cinnamon, olive oil, sea salt, organic dehydrated cane juice

BROWNIE CRISPS



Brownie Crisps Ingredients:

almonds, chickpea flour, organic golden flax seeds, psyllium husks, cocoa powder, olive oil, sea salt, organic dehydrated cane juice

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7. This action is not pre-empted by federal law. State law claims based on a food product's non-conforming, misleading or deceptive label are expressly permitted where, as here, they impose legal obligations identical to the Food Drug and Cosmetics Act ("FDCA") of 1938 and corresponding FDA regulations, including FDA regulations concerning naming and labeling.

NATURE OF THE CASE & COMMON ALLEGATIONS OF FACT

8. In recent years, Americans have become increasingly health conscious, with strong justification. Numerous independent studies have come to the same conclusion: an informed, healthy, and balanced diet is critical to a long and healthy life.[1] Those same studies have found that poor dietary habits are one of the leading causes of preventable deaths. Proper dietary habits regarding sugar intake have been found to have a significant correlation to improving overall health while lessening the risks of diabetes and cardiovascular diseases. Consequently, maintaining a diet low in sugar has become important to a growing number of consumers.

9. To profit from the public's increasing focus on dietary health, Skinny Crisps has, at various times during the class period, advertised, marketed, and placed a label on its misbranded Class Products, listing "organic dehydrated cane juice" as an ingredient.

10. The Food Drug and Cosmetics Act of 1938 provides the Food and Drug Administration ("FDA") with the authority to oversee the safety of food, drugs and cosmetics. 21 U.S.C. §301, *et seq*. Pursuant to this authority, the FDA has promulgated regulations and issued guidance that spell out in painstaking detail how ingredients are to be declared on the label of foods.

11. If a manufacturer makes a claim on a food label, the label must meet certain legal requirements that help consumers make informed choices and ensure that they are not misled. As described more fully below, Defendant has made, and continues to make false and deceptive claims in violation of federal and California laws that govern the types of

[1] *See, e.g.*, "A Statement for Healthcare Professionals From the Nutrition Committee of the American Heart Association" http://circ.ahajournals.org/content/102/18/2284.long

Exhibit A

5

representations that can be made on food labels. These laws recognize that reasonable consumers are likely to choose products claiming to have a health or nutritional benefit over otherwise similar food products that do not claim such properties it benefits or that disclose certain ingredients. More importantly, these laws recognize that the failure to disclose the presence of risk-increasing ingredients, like sugar, is deceptive because it conveys to consumers the net impression that a food makes only positive contributions to a diet, or does not contain any ingredients at levels that raise the risk of diet related disease or health-related condition.

12. Defendant has made and continues to make, unlawful ingredient claims on the food labels of its misbranded Class Products that are prohibited under applicable federal and California laws. Under the FDCA section 403(a), food is considered misbranded if "its labeling is false or misleading in any particular," or if it does not contain certain information on it label or its labeling. 21 U.S.C. § 343(a).

13. Under FDCA, the term "false" has its usual meaning of "untruthful," while the term "misleading: is a term of art. Misbranding reaches not only false claims, but those claims that might be technically true, but still misleading. If any one representation in the labeling is misleading, the entire food is misbranded. No other statement in the labeling cure a misleading statement. "Misleading" is judged in reference to "the ignorant, the unthinking and the credulous who, when making a purchase, do not stop to analyze." *United States v. El-O-Pathic Pharmacy*, 192 F.2d 62, 75 (9th Cir. 1975). Under the FDCA, it is not necessary to prove that anyone was actually misled.

14. Defendant's Class Products are also misbranded under applicable California state law. Specifically, California's Sherman Law incorporates "[a]ll food labeling regulations and any amendments to those regulations adopted pursuant to the FDCA" as "the food labeling regulations of this state." Cal. Health & Saf. Code § 110100(a). "Any food is misbranded if its labeling does not conform with the requirements for nutrient content or health claims as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulations adopted pursuant thereto." Cal. Health & Saf. Code § 110670. State law claims

Exhibit A

6

based on a food product's non-conforming, misleading or deceptive label are expressly permitted when they impose legal obligations identical to the FDCA and corresponding FDA regulations, including FDA regulations concerning naming and labeling. *In re Farm Raised Salmon Cases*, 42 Cal. 4th 1077, 1094-95 (2008). Skinny Crisps' conduct thus constitutes a violation of California law for which Plaintiff and class members are entitled to seek redress under the UCL, CLRA and other California consumer protection statutes.

15. By way of this Complaint, Plaintiff seeks to impose requirements that are identical to and do not exceed the federal requirements. As such, this action is not pre-empted by federal law. State law claims based on a food product's non-conforming, misleading or deceptive label are expressly permitted where, as here, they impose legal obligations identical to the FDCA and corresponding FDA regulations, including FDA regulations concerning naming and labeling.

16. Defendant has made, and continues to make, false and deceptive claims in its misbranded Class Products in violation of federal and California laws. In particular, Defendant has violated federal and California labeling regulations by listing sugar and/or sugar cane syrup as "organic dehydrated cane juice."

17. FDA regulations require ingredients to be declared by their common or usual names. 21 C.F.R. § 101.4(a)(1); 21 C.F.R. § 101.3; 21 C.F.R. § 102.5. According to the FDA, the term "cane juice" is not the common or usual name for any type of sweetener, including sugar or cane products. Sugar or sucrose is defined by regulation in 21 C.F.R. § 101.4(b)(2) and 21 C.F.R. § 184.1854, as the common or usual name for material obtained from the crystallization from sugar cane or sugar beet juice that has been extracted by pressing or diffusion, then clarified and evaporated. Cane syrup is defined by regulation in 21 C.F.R. § 168.130. The common or usual name for the solid or dried form of cane syrup is "dried cane syrup." Sugar cane products are required by regulation (21 C.F.R. § 101.4) to be described by their common or usual names, sugar (21 C.F.R. § 101.4(b)(20) and 21 C.F.R. § 184.1854) or cane syrup (21 C.F.R. § 168.1340).

18. Furthermore, in 2009 the FDA issued its Guidance to the Industry regarding

Exhibit A

7

ingredients declared as cane juice.[2] In its Guidance, the FDA advised the food industry not to list "cane juice" as an ingredient on product labels "because that term falsely suggests that the sweeteners are juice." Nevertheless, Skinny Crisps has made, and continues to make, false, and deceptive claims on its misbranded Class Products in violation of federal and California laws that govern the types of representations that can be made on food labels.

19. Defendant's violations of the law include, but not limited to, the illegal advertising, marketing, distribution, delivery, and sale of Skinny Crisps' misbranded Class Products to consumers in California and throughout the United States. As such, Skinny Crisps' misbranded Class Products cannot legally be manufactured, advertised, distributed, held, or sold.

20. On behalf of the class, Plaintiff seeks an injunction requiring Defendant to cease circulation of the misbranded Class Products and an award of damages to the Class Members, together with costs and reasonable attorneys' fees.

JURISDICTION AND VENUE

21. This class action is brought pursuant to California Code of Civil Procedure section 382. The damages and restitution sought by Plaintiff exceeds the minimal jurisdiction limits of the Superior Court and will be established according to proof at trial.

22. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section 10, which grants the Superior Court "original jurisdiction in all causes except those given by statute to other courts." The statutes under which this action is brought do not specify any other basis for jurisdiction.

23. This Court has jurisdiction over the Defendant because, upon information and belief, Defendant has sufficient minimum contacts in California, or otherwise intentionally avails itself of the California market so as to render the exercise of jurisdiction over it by the California courts consistent with traditional notions of fair play and substantial justice.

[2] Guidance for Industry: Ingredients declared as Evaporated Cane Juice; Draft Guidance (Oct. 2009) *available at* http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/LabelingNutrition/ucm181491.htm (last visited Apr 9, 2013).

Exhibit A

8

Defendant lists on their website that they sell their Class Products in at least 33 stores in California.

24. Venue is proper in this Court because, upon information and belief, Plaintiff resides and transacts business in this County and the acts and omissions alleged herein took place in this County.

THE PARTIES

25. Plaintiff Asaf Agazanof is a citizen and resident of the State of California, County of Los Angeles.

26. Defendant Skinny Crisps, Inc. is a Colorado corporation with its principal office at 2669 Juniper Ave., Boulder, Colorado 80304.

27. Plaintiff is informed and believes, and thereon alleges, that each and all of the acts and omissions alleged herein was performed by, or is attributable to, Skinny Crisps, Inc., and/or its employees, agents, and/or third parties acting on its behalf, each acting as the agent for the other, with legal authority to act on the other's behalf. The acts of any and all of Defendant's employees, agents, and/or third parties acting on its behalf, were in accordance with, and represent, the official policy of Defendant.

28. Plaintiff is informed and believes, and thereon alleges, that said Defendant is in some manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and transactions of each and all its employees, agents, and/or third parties acting on its behalf, in proximately causing the damages herein alleged.

29. At all relevant times, Defendant ratified each and every act or omission complained of herein. At all relevant times, Defendant, aided and abetted the acts and omissions as alleged herein.

PLAINTIFF'S FACTS

30. Plaintiff Asaf Agazanof is a health-conscious person who routinely purchases and pays a premium for products advertised to be healthy and/or low in sugar.

31. Plaintiff purchased the Class Products, including, but not limited to, Skinny Crisps Low Carb and Glutten Free Gourmet Crackers- Brownie Crisps, from Whole Foods

grocery stores located in Los Angeles, California.

32. Plaintiff read and relied upon the ingredients listed on the Class Products at the time of purchase, and selected Skinny Crisps products over other less expensive alternatives because he believed the Class Products contained lesser amounts of sugar and was healthier for him.

33. Had Skinny Crisps properly marketed, advertised, and labeled the Class Products as containing sugar, cane sugar, cane syrup, and/or dried cane syrup, Plaintiff would not have purchased the product, would have purchased less of the product, and/or would have paid less for the product.

CLASS ACTION ALLEGATIONS

34. Plaintiff brings this action, on behalf of himself and all others similarly situated, and thus, seeks class certification under California Code of Civil Procedure section 382.

35. The class Plaintiff seeks to represent (the "Class") is defined as follows:

> All persons in the United States who, within the last four years, purchased Defendant's Class Products labeled with the ingredient, "organic dehydrated cane juice." ("Class Members").

36. As used herein, the term "Class Members" shall mean and refer to the members of the Class described above.

37. Excluded from the Class are Skinny Crisps, its affiliates, employees, agents, and attorneys, and the Court.

38. Plaintiff reserves the right to amend the Class, and to add additional subclasses, if discovery and further investigation reveals such action is warranted.

39. There is a well-defined community of interest in the litigation and the class is readily ascertainable:

(a) Numerosity: Upon information and belief, the members of the class (and subclass) are so numerous that joinder of all members would be unfeasible and impractical.

Exhibit A

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect the interests of each Class Member with whom he has a well-defined community of interest, because Plaintiff bought Skinny Crisps' misbranded Class Products during the Class Period. Skinny Crisps' unlawful, unfair and/or fraudulent actions concerns the same business practices described herein irrespective of where they occurred or were experiences. Plaintiff's claims (or defenses, if any) are typical of all Class Members as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly and adequately, protect the interests of each class member with whom he has a well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff acknowledges that he has an obligation to make known to the Court any relationship, conflicts or differences with any class member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies of time, effort and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

40. There are common questions of law and fact as to the class members that predominate over questions affecting only individual members, including but not limited to:

(a) Whether Defendant engaged in unlawful, unfair, or deceptive business

Exhibit A

11

practices by failing to properly package and label its food products it sold to consumers;

(b) Whether the Class Products at issue were misbranded as a matter of law;

(c) Whether Defendant made unlawful and misleading "organic dehydrated cane juice" claims with respect to the Class Products sold to consumers;

(d) Whether Defendant violated California Bus. & Prof. Code § 17200, *et seq.*, California Bus. & Prof. Code § 17500, *et seq.*, and California Civ. Code § 1750, *et seq.*;

(e) Whether Plaintiff and Class Members are entitled to equitable and/or injunctive relief;

(f) Whether Defendant's unlawful, unfair, and/or deceptive practices harmed Plaintiff and Class Members; and

(g) The method of calculation and extent of damages for Plaintiff and Class Members

FIRST CAUSE OF ACTION

Violation of Unfair Business Practices Act

(Cal. Bus. & Prof. Code §§ 17200 *et seq.*)

41. Plaintiff incorporates by reference each allegation set forth above.

42. California Business and Professions Code Section 17200, *et seq.* prohibits "any unlawful, unfair or fraudulent business act or practice."

43. As set forth above, under FDA regulations wholly adopted by California's Sherman Act, sugar cane products must be declared by their common or usual name including, sugar, cane sugar, cane syrup, and/or dried cane syrup. Instead, Skinny Crisps misbrands the Class Products as containing "organic dehydrated cane juice" as an ingredient on product labels, falsely suggesting that the sweetener is a juice, in violation of California Sherman Act's advertising and misbranded food provisions. The declaration that the Class Products contain "organic dehydrated cane juice" is therefore an "unlawful" business practice or act under Business and Professions Code Section 17200 *et seq.*

44. Skinny Crisps' declaration that its Class Products contain "organic dehydrated cane juice" in its advertising, marketing, packaging, and labeling, as set forth herein, also constitutes an "unfair" business act or practice within the meaning of California Business and Professions Code sections 17200 *et seq.*, because any utility for Skinny Crisps' conduct is outweighed by the gravity of the consequences to Plaintiff and Class Members and because the conduct offends public policy.

45. In addition, Skinny Crisps' declaration that its Class Products contain "organic dehydrated cane juice" in its advertising, marketing, packaging, and labeling constitutes a "fraudulent" business practice or act within the meaning of Business and Professions Code Section 17200 *et seq.* The applicable food labeling regulations are carefully crafted to require that sugar cane products be declared by their common or usual names to protect the consuming public from being deceived. Skinny Crisps' non-compliant advertising, marketing, packaging, and labeling declaring that the Class Products contain "organic dehydrated cane juice" poses the very risk of deception the regulations were promulgated to protect against.

46. Moreover, there were reasonable alternatives available to Skinny Crisps to further its legitimate business interests, other than the conduct described herein. For example, Skinny Crisps could have complied with FDA requirements by declaring the inclusion of a sugar cane product by their common or usual name including, sugar, cane sugar, cane syrup, and/or dried cane syrup product.

47. Skinny Crisps used misbranded advertising, marketing, packaging, and labeling to induce Plaintiff and Class Members to purchase its Class Products. Had Skinny Crisps not misbranded its Class Products as containing "organic dehydrated cane juice" in its advertising, marketing, packaging, and labeling, Plaintiff and Class Members would not have purchased the product, would have purchased less of the product and/or would have paid less for the product. Skinny Crisps' conduct therefore caused and continues to cause economic harm to Plaintiff and Class Members.

48. Skinny Crisps has thus engaged in unlawful, unfair, and fraudulent business acts entitling Plaintiff and Class Members to judgment and equitable relief against Skinny

Crisps, as set forth in the Prayer for Relief. Additionally, pursuant to Business and Professions Code section 17203, Plaintiff and Class Members seek an order requiring Skinny Crisps to immediately cease such acts of unlawful, unfair, and fraudulent business practices and requiring Skinny Crisps to correct its actions.

SECOND CAUSE OF ACTION

Violation of the California False Advertising Act

(Cal. Bus. & Prof. Code §§ 17500 *et seq.*)

49. Plaintiff incorporates by reference each allegation set forth above.

50. Pursuant to California Business and Professions Code section 17500, *et seq.*, it is unlawful to engage in advertising "which is untrue or misleading, and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

51. As explained above, Skinny Crisps misbrands the Class Products as containing "organic dehydrated cane juice" as an ingredient on product labels, falsely suggesting that the sweetener is a juice.

52. As also explained above, the applicable food labeling regulations are carefully crafted to protect the consuming public from being deceived. Skinny Crisps' non-compliant advertising, marketing, packaging, and labeling declaring that the Class Products contain "organic dehydrated cane juice" poses the very risk of deception the regulations were promulgated to protect against.

53. Skinny Crisps is a multi-million dollar company advised by skilled counsel who, on information and belief, are or by the exercise of reasonable care should be aware of the governing regulations and their purpose, and the fact that the labels on the Class Products do not comply with them.

54. Skinny Crisps use of the misbranded labels on the Class Products therefore constitutes untrue and/or misleading advertising within the meaning of Business and Professions Code Section 17500 *et seq.*

55. Plaintiff, individually and on behalf of all others similarly situated, demands judgment against Skinny Crisps for restitution, disgorgement, injunctive relief, and all other

Exhibit A

relief afforded under Business & Professions Code section 17500, plus interest, attorneys' fees, and costs.

THIRD CAUSE OF ACTION

Violation of the Consumers Legal Remedies Act

(Cal. Civil Code §§ 1750 *et seq.*)

56. Plaintiff incorporates by reference each allegation set forth above.

57. This cause of action is brought pursuant to the Consumers Legal Remedies Act, California Civil Code Sections1750 *et seq.* ("CLRA").

58. The CLRA has adopted a comprehensive statutory scheme prohibiting various deceptive practices in connection with the conduct of a business providing goods, property, or services to consumers primarily for personal, family or household purposes. The self-declared purposes of the act are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.

59. The Defendant named herein is a "person" as defined by Civil Code section 1761(c) because it is a corporation and/or company as set forth above.

60. Plaintiff and Class Members are "consumers" within the meaning of Civil Code section 1761(d) because they are individuals who purchased the products at issue in this complaint for personal and/or household use, i.e. the Class Products.

61. The Class Products are "goods" within the meaning of California Civil Code section 1761 (a) in that they are tangible products bought by Plaintiff and Class Members for personal, family, and/or household use.

62. Plaintiff's and Class Members' payments for the goods of the Class Products are "transaction[s]" as defined by Civil Code section 1761 (e) because Skinny Crisps entered into an agreement to sell those products in exchange for Plaintiff's and Class Members' monetary compensation.

63. Plaintiff has standing to pursue this claim as he has suffered injury in fact and has lost money as a result of Skinny Crisps' actions as set forth herein. Specifically, Plaintiff purchased the Class Products on various occasions. Had Skinny Crisps not marketed,

Exhibit A

15

advertised or included the offending labels on its Class Products, Plaintiff would not have purchased the product, would have purchased less of the product and/or would have paid less for the product.

64. Section 1770(a)(5) of the CLRA prohibits anyone from "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have . . . ." As discussed above, Skinny Crisps misbrands the Class Products as containing "organic dehydrated cane juice" as an ingredient on product labels, falsely suggesting that the sweetener is a juice, in violation of California Sherman Act's advertising and misbranded food provisions. As a result, by marketing, advertising, and employing the misbrand labels on its Class Products, Skinny Crisps effectively represented that its products has sponsorship, approval, characteristics, ingredients, uses and benefits which it does not have under the governing law.

65. Section 1770(a)(7) of the CLRA prohibits anyone from "[r]epresenting that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another." By marketing, advertising, and employing the misbrand labels on its Class Products, Skinny Crisps similarly represented its juice to be of a particular standard, quality or grade which it is not under the governing law.

66. Section 1770(a)(9) of the CLRA prohibits anyone from "[a]dvertising goods or services with intent not to sell them as advertised." As noted above, Skinny Crisps is a multi-million dollar company advised by skilled counsel who, on information and belief, are or by the exercise of reasonable care should be aware of the governing regulations and their purpose, and the fact that the labels on its Class Products, declaring that it contains "organic dehydrated cane juice,"," does not comply with them. By introducing its Class Products with non-compliant labels into the stream of commerce notwithstanding this knowledge, Skinny Crisps thus intentionally sold a misbranded product.

67. Pursuant to section 1782 of the CRLA, Plaintiff notified Skinny Crisps in writing of the particular violations of section of the CLRA and demanded that Skinny Crisps rectify the problems associated with the behavior detailed above, which acts and practices are

in violation of Civil Code section 1770.

68. Skinny Crisps failed to adequately respond to Plaintiff's above-described demands and failed to give notice to all affected consumers, pursuant to Civil Code section 1782.

69. Plaintiff has filed concurrently herewith the declaration of venue required by Civil Code section 1780(d).

70. Plaintiff seeks an order enjoining the act and practices described above, restitution of property, and any other relief that the court deems proper.

71. Currently, pursuant to California Civil Code 1782(d), with respect only to Plaintiff's CLRA claim, Plaintiff only seeks equitable and injunctive relief through the CLRA and not actual damages via the CLRA. Upon Skinny Crisps' failure to rectify or agree to adequately rectify the problems associated with the actions detailed above, Plaintiff will amend his complaint to additionally seek damages, restitutionary relief, punitive damages, attorneys' fees and costs, and any other relief available under section 1780(a) of the CRLA.

FOURTH CAUSE OF ACTION

Negligent Misrepresentation

72. Plaintiff incorporates by reference each allegation set forth above.

73. Skinny Crisps owed a duty to Plaintiff and Class Members to exercise reasonable care in making representations about its Class Products which it offered for sale to consumers.

74. Skinny Crisps knew, or should have known by the exercise of reasonable care, that sugar cane products must be declared by their common or usual name including, sugar, cane sugar, cane syrup, and/or dried cane syrup. Never the less, Skinny Crisps negligently and/or recklessly included the non-complaint labels, declaring that its Class Products contained "organic dehydrated cane juice," on it's widely distributed Class Products that is sold nationwide and consumed by millions of people annually.

75. Plaintiff and Class Members reviewed, believed, and relied upon the misbranded labels on the Class Products when deciding to purchase them, and how much to

Exhibit A

17

pay for the Class Products.

76. As a direct and proximate result of Skinny Crisps' negligent and/or reckless conduct, Plaintiff and Class Members have been damaged in an amount to be proven at trial.

FIFTH CAUSE OF ACTION

Breach of Quasi-Contract

77. Plaintiff incorporates by reference each allegation set forth above.

78. As a direct and proximate result of Skinny Crisps' acts, as set forth above, Skinny Crisps has been unjustly enriched.

79. Through unlawful and deceptive conduct in connection with the advertising, marketing, promotion, and sale of its Class Products, Skinny Crisps has reaped the benefits of Plaintiff's and Class Members' payments for a misbranded product.

80. Skinny Crisps' conduct created a contract or quasi-contract through which Skinny Crisps received a benefit of monetary compensation without providing the consideration promised to Plaintiff and Class Members. Accordingly, Skinny Crisps will be unjustly enriched unless ordered to disgorge those profits for the benefit of Plaintiff and Class Members.

81. Plaintiff and Class Members are entitled to and seek through this action restitution of, disgorgement of, and the imposition of a constructive trust upon all profits, benefits, and compensation obtained by Skinny Crisps from its improper conduct as alleged herein.

MISCELLANEOUS

82. Plaintiff and Class Members allege that they have fully complied with all contractual and other legal obligations and fully complied with all conditions precedent to bringing this action or all such obligations or conditions are excused.

REQUEST FOR JURY TRIAL

83. Plaintiff requests a trial by jury as to all claims so triable.

PRAYER FOR RELIEF

84. Plaintiff, on behalf of himself and the Class, requests the following relief:

(a) An order certifying the Class and appointing Plaintiff as Representative of the Class;

(b) An order certifying the undersigned counsel as Class Counsel;

(c) A declaratory judgment that the labels on Skinny Crisps' Class Products are unlawful;

(d) An order requiring Skinny Crisps, at its own cost, to notify all Class Members of the unlawful and deceptive conduct herein;

(e) An order requiring Skinny Crisps to change the product packaging for its Class Products such that it complies with all applicable food labeling rules and regulations;

(f) An order requiring Skinny Crisps to engage in corrective advertising regarding the conduct discussed above;

(g) Actual damages suffered by Plaintiff and Class Members as applicable or full restitution of all funds acquired from Plaintiff and Class Members from the sale of misbranded Class Products during the relevant class period;

(h) Punitive damages, as allowable, in an amount determined by the Court or jury;

(i) Any and all statutory enhanced damages;

(j) All reasonable and necessary attorneys' fees and costs provided by statute, common law or the Court's inherent power;

(k) Pre- and post-judgment interest; and

(l) All other relief, general or special, legal and equitable, to which Plaintiff and Class Members may be justly entitled as deemed by the Court.

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///

///

Exhibit A

Dated: January 7, 2014

Respectfully submitted,

Law Office of L. Paul Mankin, IV

By: _____

L. Paul Mankin, IV

Attorneys for Plaintiff Asaf Agazanof

Exhibit A

L. Paul Mankin, IV (SBN 264038)
LAW OFFICES OF L. PAUL MANKIN, IV
8730 Wilshire Blvd., Suite 310
Beverly Hills, California 90211
Tel: (310) 776-6336
Fax: (323) 207-3885
pmankin@paulmankin.com

Attorneys for Plaintiff Asaf Agazanof

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

ASAF AGAZANOF, individually, and on behalf of other members of the general public similarly situated,

Plaintiffs,

v.

Skinny Crisps, Inc. a Colorado corporation,

Defendants.

Case No.: BC532760

DECLARATION OF ASAF AGAZANOF IN SUPPORT OF VENUE FOR CLASS ACTION COMPLAINT PURSUANT TO CIVIL CODE SECTION 1780(d)

Exhibit A

I, Asaf Agazanof, declare under penalty of perjury as follows:

1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information and belief, which I believe to be true. I am over the age of eighteen, a citizen of the State of California, and am a named Plaintiff in the litigation described in the caption page of this declaration.

2. This declaration is made pursuant to California Civil Code section 1780(d).

3. The complaint filed concurrently with this declaration contains a cause of action for violation of the Consumers Legal Remedies Act against Defendant SKINNY CRISPS, INC., (hereinafter "Defendant" or "Skinny Crisps"), which advertises, manufactures, and sells "Low Carb & Gluten Free Gourmet Crackers – Naturally Baked in Colorado," which includes the following products (collectively, "Class Products"):

- Plain Jane
- White Sesame
- Toasty Onion
- Seeded
- Say Cheese
- Whole Shebang
- Cinnamon Crisps
- Brownie Crisps

4. Between August and December of 2013, I purchased Defendant's Class Product from the Whole Foods Market grocery store located in and around Los Angeles, California.

5. To the best of my knowledge, based upon information and belief, Defendant does business in and throughout California and manufacturers, distributes, sells, advertises and markets its products, including the products at issue in this Complaint, in and from Los Angeles County, California. Accordingly, Los Angeles County is a proper place for trial of this action.

I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct.

///

Exhibit A

22

Executed this 7th day of January, 2014 in Los Angeles, California.

Asaf Agazanof

Exhibit A

SHORT TITLE: Agazanof, Asaf, et al. v. Skinny Crisps, Inc.	CASE NUMBER BC532760

CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION (CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.0 in all new civil case filings in the Los Angeles Superior Court.

Item I. Check the types of hearing and fill in the estimated length of hearing expected for this case:

JURY TRIAL? ☐ YES CLASS ACTION? ☑ YES LIMITED CASE? ☐ YES TIME ESTIMATED FOR TRIAL 7-10 ☐ HOURS/ ☑ DAYS

Item II. Indicate the correct district and courthouse location (4 steps – If you checked "Limited Case", skip to Item III, Pg. 4):

Step 1: After first completing the Civil Case Cover Sheet form, find the main Civil Case Cover Sheet heading for your case in the left margin below, and, to the right in Column A, the Civil Case Cover Sheet case type you selected.

Step 2: Check one Superior Court type of action in Column B below which best describes the nature of this case.

Step 3: In Column C, circle the reason for the court location choice that applies to the type of action you have checked. For any exception to the court location, see Local Rule 2.0.

Applicable Reasons for Choosing Courthouse Location (see Column C below)

1. Class actions must be filed in the Stanley Mosk Courthouse, central district.
2. May be filed in central (other county, or no bodily injury/property damage).
3. Location where cause of action arose.
4. Location where bodily injury, death or damage occurred.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle.
7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office

Step 4: Fill in the information requested on page 4 in Item III; complete Item IV. Sign the declaration.

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	☐ A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1., 2., 4.
	Uninsured Motorist (46)	☐ A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1., 2., 4.
Other Personal Injury/ Property Damage/ Wrongful Death Tort	Asbestos (04)	☐ A6070 Asbestos Property Damage ☐ A7221 Asbestos - Personal Injury/Wrongful Death	2. 2.
	Product Liability (24)	☐ A7260 Product Liability (not asbestos or toxic/environmental)	1., 2., 3., 4., 8.
	Medical Malpractice (45)	☐ A7210 Medical Malpractice - Physicians & Surgeons ☐ A7240 Other Professional Health Care Malpractice	1., 4. 1., 4.
	Other Personal Injury Property Damage Wrongful Death (23)	☐ A7250 Premises Liability (e.g., slip and fall) ☐ A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) ☐ A7270 Intentional Infliction of Emotional Distress ☐ A7220 Other Personal Injury/Property Damage/Wrongful Death	1., 4. 1., 4. 1., 3. 1., 4.

Exhibit A

SHORT TITLE: Agazanof, Asaf, et al. v. Skinny Crisps, Inc.	CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Non-Personal Injury/ Property Damage/ Wrongful Death Tort	Business Tort (07)	☑ A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1., 3.
	Civil Rights (08)	☐ A6005 Civil Rights/Discrimination	1., 2., 3.
	Defamation (13)	☐ A6010 Defamation (slander/libel)	1., 2., 3.
	Fraud (16)	☐ A6013 Fraud (no contract)	1., 2., 3.
	Professional Negligence (25)	☐ A6017 Legal Malpractice ☐ A6050 Other Professional Malpractice (not medical or legal)	1., 2., 3. 1., 2., 3.
	Other (35)	☐ A6025 Other Non-Personal Injury/Property Damage tort	2., 3.
Employment	Wrongful Termination (36)	☐ A6037 Wrongful Termination	1., 2., 3.
	Other Employment (15)	☐ A6024 Other Employment Complaint Case ☐ A6109 Labor Commissioner Appeals	1., 2., 3. 10.
Contract	Breach of Contract/ Warranty (06) (not insurance)	☐ A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) ☐ A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) ☐ A6019 Negligent Breach of Contract/Warranty (no fraud) ☐ A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2., 5. 2., 5. 1., 2., 5. 1., 2., 5.
	Collections (09)	☐ A6002 Collections Case-Seller Plaintiff ☐ A6012 Other Promissory Note/Collections Case	2., 5., 6. 2., 5.
	Insurance Coverage (18)	☐ A6015 Insurance Coverage (not complex)	1., 2., 5., 8.
	Other Contract (37)	☐ A6009 Contractual Fraud ☐ A6031 Tortious Interference ☐ A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8.
Real Property	Eminent Domain/Inverse Condemnation (14)	☐ A7300 Eminent Domain/Condemnation Number of parcels_____	2.
	Wrongful Eviction (33)	☐ A6023 Wrongful Eviction Case	2., 6.
	Other Real Property (26)	☐ A6018 Mortgage Foreclosure ☐ A6032 Quiet Title ☐ A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2., 6. 2., 6. 2., 6.
Unlawful Detainer	Unlawful Detainer-Commercial (31)	☐ A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Residential (32)	☐ A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	2., 6.
	Unlawful Detainer-Post-Foreclosure (34)	☐ A6020FUnlawful Detainer-Post-Foreclosure	2., 6.
	Unlawful Detainer-Drugs (38)	☐ A6022 Unlawful Detainer-Drugs	2., 6.

Exhibit A

SHORT TITLE: Agazanof, Asaf, et al. v. Skinny Crisps, Inc.	CASE NUMBER

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	☐ A6108 Asset Forfeiture Case	2., 6.
	Petition re Arbitration (11)	☐ A6115 Petition to Compel/Confirm/Vacate Arbitration	2., 5.
	Writ of Mandate (02)	☐ A6151 Writ - Administrative Mandamus ☐ A6152 Writ - Mandamus on Limited Court Case Matter ☐ A6153 Writ - Other Limited Court Case Review	2., 8. 2. 2.
	Other Judicial Review (39)	☐ A6150 Other Writ /Judicial Review	2., 8.
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	☐ A6003 Antitrust/Trade Regulation	1., 2., 8.
	Construction Defect (10)	☐ A6007 Construction Defect	1., 2., 3.
	Claims Involving Mass Tort (40)	☐ A6006 Claims Involving Mass Tort	1., 2., 8.
	Securities Litigation (28)	☐ A6035 Securities Litigation Case	1., 2., 8.
	Toxic Tort Environmental (30)	☐ A6036 Toxic Tort/Environmental	1., 2., 3., 8.
	Insurance Coverage Claims from Complex Case (41)	☐ A6014 Insurance Coverage/Subrogation (complex case only)	1., 2., 5., 8.
Enforcement of Judgment	Enforcement of Judgment (20)	☐ A6141 Sister State Judgment ☐ A6160 Abstract of Judgment ☐ A6107 Confession of Judgment (non-domestic relations) ☐ A6140 Administrative Agency Award (not unpaid taxes) ☐ A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax ☐ A6112 Other Enforcement of Judgment Case	2., 9. 2., 6. 2., 8. 2., 8. 2., 8. 2., 6., 9.
Miscellaneous Civil Complaints	RICO (27)	☐ A6033 Racketeering (RICO) Case	1., 2., 8.
	Other Complaints (Not Specified Above) (42)	☐ A6030 Declaratory Relief Only ☐ A6040 Injunctive Relief Only (not domestic/harassment) ☐ A6011 Other Commercial Complaint Case (non-tort/non-complex) ☐ A6000 Other Civil Complaint (non-tort/non-complex)	1., 2., 8. 2., 8. 1., 2., 8. 1., 2., 8.
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	☐ A6113 Partnership and Corporate Governance Case	2., 8.
	Other Petitions (Not Specified Above) (43)	☐ A6121 Civil Harassment ☐ A6123 Workplace Harassment ☐ A6124 Elder/Dependent Adult Abuse Case ☐ A6190 Election Contest ☐ A6110 Petition for Change of Name ☐ A6170 Petition for Relief from Late Claim Law ☐ A6100 Other Civil Petition	2., 3., 9. 2., 3., 9. 2., 3., 9. 2. 2., 7. 2., 3., 4., 8. 2., 9.

Exhibit A

SHORT TITLE:	CASE NUMBER
Agazanof, Asaf, et al. v. Skinny Crisps, Inc.	

Item III. Statement of Location: Enter the address of the accident, party's residence or place of business, performance, or other circumstance indicated in Item II., Step 3 on Page 1, as the proper reason for filing in the court location you selected.

REASON: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected for this case.	ADDRESS:
☑1. ☐2. ☑3. ☐4. ☐5. ☐6. ☐7. ☐8. ☐9. ☐10.	1611 Manning Avenue

CITY:	STATE:	ZIP CODE:
Los Angeles	CA	90025

Item IV. *Declaration of Assignment:* I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that the above-entitled matter is properly filed for assignment to the Stanley Mosk courthouse in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., § 392 et seq., and Local Rule 2.0, subds. (b), (c) and (d)].

Dated: January 7, 2014

(SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 03/11).
5. Payment in full of the filing fee, unless fees have been waived.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

Exhibit A

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
Paul Mankin, IV. (SBN 264038)
The Law Offices of L. Paul Mankin, IV
8730 Wilshire Blvd., Suite 310
Beverly Hills, CA 90211
TELEPHONE NO.: (310) 776-6336 FAX NO.: (323) 207-3885
ATTORNEY FOR (Name): Plaintiff Asaf Agazanof

FOR COURT USE ONLY

CONFORMED COPY
ORIGINAL FILED
Superior Court Of California
County Of Los Angeles

JAN 09 2014

Sherri R. Carter, Executive Officer/Clerk
By: Kristina Vargas, Deputy

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles
STREET ADDRESS: 111 North Hill Street
MAILING ADDRESS: 111 North Hill Street
CITY AND ZIP CODE: Los Angeles 90012
BRANCH NAME: Stanley Mosk Courthouse

CASE NAME:
Agazanof, Asaf, et al. v. Skinny Crisps, Inc.

CIVIL CASE COVER SHEET
[✓] Unlimited (Amount demanded exceeds $25,000) [ ] Limited (Amount demanded is $25,000 or less)

Complex Case Designation
[ ] Counter [ ] Joinder
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: BC532760

JUDGE:

DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort
- [ ] Auto (22)
- [ ] Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- [ ] Asbestos (04)
- [ ] Product liability (24)
- [ ] Medical malpractice (45)
- [ ] Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort
- [✓] Business tort/unfair business practice (07)
- [ ] Civil rights (08)
- [ ] Defamation (13)
- [ ] Fraud (16)
- [ ] Intellectual property (19)
- [ ] Professional negligence (25)
- [ ] Other non-PI/PD/WD tort (35)

Employment
- [ ] Wrongful termination (36)
- [ ] Other employment (15)

Contract
- [ ] Breach of contract/warranty (06)
- [ ] Rule 3.740 collections (09)
- [ ] Other collections (09)
- [ ] Insurance coverage (18)
- [ ] Other contract (37)

Real Property
- [ ] Eminent domain/Inverse condemnation (14)
- [ ] Wrongful eviction (33)
- [ ] Other real property (26)

Unlawful Detainer
- [ ] Commercial (31)
- [ ] Residential (32)
- [ ] Drugs (38)

Judicial Review
- [ ] Asset forfeiture (05)
- [ ] Petition re: arbitration award (11)
- [ ] Writ of mandate (02)
- [ ] Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
- [ ] Antitrust/Trade regulation (03)
- [ ] Construction defect (10)
- [✓] Mass tort (40)
- [ ] Securities litigation (28)
- [ ] Environmental/Toxic tort (30)
- [ ] Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment
- [ ] Enforcement of judgment (20)

Miscellaneous Civil Complaint
- [ ] RICO (27)
- [ ] Other complaint *(not specified above)* (42)

Miscellaneous Civil Petition
- [ ] Partnership and corporate governance (21)
- [ ] Other petition *(not specified above)* (43)

2. This case [ ] is [✓] is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
   a. [ ] Large number of separately represented parties
   b. [ ] Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
   c. [ ] Substantial amount of documentary evidence
   d. [ ] Large number of witnesses
   e. [ ] Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
   f. [ ] Substantial postjudgment judicial supervision

3. Remedies sought *(check all that apply)*: a. [✓] monetary b. [✓] nonmonetary; declaratory or injunctive relief c. [ ] punitive
4. Number of causes of action *(specify)*: Five; Unfair Business Practices
5. This case [✓] is [ ] is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. *(You may use form CM-015.)*

Date: 1/7/2014
Paul Mankin, IV
(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE
- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Form Adopted for Mandatory Use
Judicial Council of California
CM-010 [Rev. July 1, 2007]

CIVIL CASE COVER SHEET

Cal. Rules of Court, rules 2.30, 3.220, 3.400–3.403, 3.740;
Cal. Standards of Judicial Administration, std. 3.10
www.courtinfo.ca.gov

Exhibit A

CM-010

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers. If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

To Parties in Rule 3.740 Collections Cases. A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than $25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

To Parties in Complex Cases. In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort
- Auto (22)–Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) *(if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto)*

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
- Asbestos (04)
  - Asbestos Property Damage
  - Asbestos Personal Injury/Wrongful Death
- Product Liability *(not asbestos or toxic/environmental)* (24)
- Medical Malpractice (45)
  - Medical Malpractice–Physicians & Surgeons
  - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
  - Premises Liability (e.g., slip and fall)
  - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
  - Intentional Infliction of Emotional Distress
  - Negligent Infliction of Emotional Distress
  - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort
- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) *(not civil harassment)* (08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
  - Legal Malpractice
  - Other Professional Malpractice *(not medical or legal)*
- Other Non-PI/PD/WD Tort (35)

Employment
- Wrongful Termination (36)
- Other Employment (15)

Contract
- Breach of Contract/Warranty (06)
  - Breach of Rental/Lease Contract *(not unlawful detainer or wrongful eviction)*
  - Contract/Warranty Breach–Seller Plaintiff *(not fraud or negligence)*
  - Negligent Breach of Contract/Warranty
  - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
  - Collection Case–Seller Plaintiff
  - Other Promissory Note/Collections Case
- Insurance Coverage *(not provisionally complex)* (18)
  - Auto Subrogation
  - Other Coverage
- Other Contract (37)
  - Contractual Fraud
  - Other Contract Dispute

Real Property
- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
  - Writ of Possession of Real Property
  - Mortgage Foreclosure
  - Quiet Title
  - Other Real Property *(not eminent domain, landlord/tenant, or foreclosure)*

Unlawful Detainer
- Commercial (31)
- Residential (32)
- Drugs (38) *(if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential)*

Judicial Review
- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
  - Writ–Administrative Mandamus
  - Writ–Mandamus on Limited Court Case Matter
  - Writ–Other Limited Court Case Review
- Other Judicial Review (39)
  - Review of Health Officer Order
  - Notice of Appeal–Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)
- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Environmental/Toxic Tort (30)
- Insurance Coverage Claims *(arising from provisionally complex case type listed above)* (41)

Enforcement of Judgment
- Enforcement of Judgment (20)
  - Abstract of Judgment (Out of County)
  - Confession of Judgment *(non-domestic relations)*
  - Sister State Judgment
  - Administrative Agency Award *(not unpaid taxes)*
  - Petition/Certification of Entry of Judgment on Unpaid Taxes
  - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint
- RICO (27)
- Other Complaint *(not specified above)* (42)
  - Declaratory Relief Only
  - Injunctive Relief Only *(non-harassment)*
  - Mechanics Lien
  - Other Commercial Complaint Case *(non-tort/non-complex)*
  - Other Civil Complaint *(non-tort/non-complex)*

Miscellaneous Civil Petition
- Partnership and Corporate Governance (21)
- Other Petition *(not specified above)* (43)
  - Civil Harassment
  - Workplace Violence
  - Elder/Dependent Adult Abuse
  - Election Contest
  - Petition for Name Change
  - Petition for Relief From Late Claim
  - Other Civil Petition

Exhibit A

SUM-100

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

ASAF AGAZANOF, individually, and on behalf of other members of the general public similarly situated,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):

SKINNY CRISPS, INC., a Colorado corporation.

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

CONFORMED COPY
ORIGINAL FILED
Superior Court Of California
County Of Los Angeles

JAN 09 2014

Sherri R. Carter, Executive Officer/Clerk
By: Kristina Vargas, Deputy

NOTICE! You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (*www.lawhelpcalifornia.org*), the California Courts Online Self-Help Center (*www.courtinfo.ca.gov/selfhelp*), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of $10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. *¡AVISO! Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.*

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted puede usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.sucorte.ca.gov), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.sucorte.ca.gov) o poniéndose en contacto con la corte o el colegio de abogados locales. AVISO: Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de $10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

CASE NUMBER:
(Número del Caso): BC532760

The name and address of the court is:
(El nombre y dirección de la corte es): Stanley Mosk Courthouse
111 North Hill Street
Los Angeles, California 90012

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):
Paul Mankin, IV, 8730 Wilshire Blvd., Suite 310, Los Angeles, CA 90211, (310) 776-6336

DATE: SHERRI R. CARTER
(Fecha)
Clerk, by Kristina Vargas *(Secretario)* , Deputy *(Adjunto)*

(For proof of service of this summons, use Proof of Service of Summons *(form POS-010).)*
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, *(POS-010)).*

(SEAL)
JAN 09 2014

NOTICE TO THE PERSON SERVED: You are served
1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of *(specify):*
3. ☐ on behalf of *(specify):*
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other *(specify):*
4. ☐ by personal delivery on *(date):*

Page 1 of 1

Form Adopted for Mandatory Use
Judicial Council of California
SUM-100 [Rev. July 1, 2009]

SUMMONS

Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

Exhibit A

EXHIBIT B

POS-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):	FOR COURT USE ONLY
Paul Mankin, IV. (SBN 264038) The Law Offices of L. Paul Mankin, IV 8730 Wilshire Blvd., Suite 310 Beverly Hills, CA 90211 TELEPHONE NO.: (310) 776-6336 FAX NO. (Optional): 866-633-0228 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): Plaintiff Asaf Agazanof	CONFORMED COPY OF ORIGINAL FILED Los Angeles Superior Court JAN 3 1 2014 Sherri R. Carter, Executive Officer/Clerk By: Cathy Randle Jones, Deputy
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Stanley Mosk Courthouse	
PLAINTIFF/PETITIONER: Agazanof, Asaf, et al. DEFENDANT/RESPONDENT: Skinny Crisps, Inc.	CASE NUMBER: Dept 311 BC532760
PROOF OF SERVICE OF SUMMONS	Ref. No. or File No.:

(Separate proof of service is required for each party served.)

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
   a. [✓] summons
   b. [✓] complaint
   c. [✓] Alternative Dispute Resolution (ADR) package
   d. [✓] Civil Case Cover Sheet *(served in complex cases only)*
   e. [ ] cross-complaint
   f. [ ] other *(specify documents):*
3. a. Party served *(specify name of party as shown on documents served):*
   Skinny Crisps, Inc.
   b. [ ] Person (other than the party in Item 3a) served on behalf of an entity or as an authorized agent (and not a person under Item 5b on whom substituted service was made) *(specify name and relationship to the party named in Item 3a):*
4. Address where the party was served:
   2669 Juniper Avenue, Boulder, CO 80304
5. I served the party *(check proper box)*
   a. [ ] by personal service. I personally delivered the documents listed in Item 2 to the party or person authorized to receive service of process for the party (1) on *(date):* (2) at *(time):*
   b. [X] by substitute service. On *(date):* 1/14/14 at *(time):* 1:45 pm I left the documents listed in Item 2 with or in the presence of *(name and title or relationship to person indicated in Item 3):*
      (1) [X] (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers. Mirna Marrow, office manager
      (2) [ ] (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
      (3) [ ] (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
      (4) [ ] I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., § 415.20). I mailed the documents on *(date):* from *(city):* or [ ] a declaration of mailing is attached.
      (5) [ ] I attach a declaration of diligence stating actions taken first to attempt personal service.

Exhibit B

PLAINTIFF/PETITIONER: Agazanof, Asaf, et al.	CASE NUMBER: BC532760
DEFENDANT/RESPONDENT: Skinny Crisps, Inc.	

5. c. ☒ by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,
   (1) on *(date)*: 1/22/14 (2) from *(city)*: Boulder, CO
   (3) ☐ with two copies of the *Notice and Acknowledgment of Receipt* and a postage-paid return envelope addressed to me. *(Attach completed* Notice and Acknowledgement of Receipt.*)* (Code Civ. Proc., § 415.30.)
   (4) ☐ to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

   d. ☐ by other means *(specify means of service and authorizing code section)*:

   ☐ Additional page describing service is attached.

6. The "Notice to the Person Served" (on the summons) was completed as follows:
   a. ☐ as an individual defendant.
   b. ☐ as the person sued under the fictitious name of *(specify)*:
   c. ☐ as occupant.
   d. ☐ On behalf of *(specify)*:
   under the following Code of Civil Procedure section:

☐ 416.10 (corporation)	☐ 415.95 (business organization, form unknown)
☐ 416.20 (defunct corporation)	☐ 416.60 (minor)
☐ 416.30 (joint stock company/association)	☐ 416.70 (ward or conservatee)
☐ 416.40 (association or partnership)	☐ 416.90 (authorized person)
☐ 416.50 (public entity)	☐ 415.46 (occupant)
	☐ other:

7. Person who served papers
   a. Name: Taylor Bennett
   b. Address: 3229 Walnut St, Boulder, CO 80301
   c. Telephone number: 303-444-9833
   d. The fee for service was: $
   e. I am:
      (1) ☒ not a registered California process server.
      (2) ☐ exempt from registration under Business and Professions Code section 22350(b).
      (3) ☐ a registered California process server:
         (i) ☐ owner ☐ employee ☐ independent contractor.
         (ii) Registration No.:
         (iii) County:

8. ☒ I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

   or

9. ☐ I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date:

Taylor Bennett
(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

(SIGNATURE)

LISA M. CRAMER
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID# 20134048730
MY COMMISSION EXPIRES 07/29/2017

Exhibit B

EXHIBIT C

Case Summary

Please make a note of the Case Number.

Click here to access document images for this case.
If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page.

Case Number: BC532760
ASAF AGAZANOF VS SKINNY CRISPS INC

Filing Date: 01/09/2014
Case Type: Other Commercial/Business Tort (General Jurisdiction)
Status: Pending

Future Hearings

04/03/2014 at 02:00 pm in department 311 at 600 South Commonwealth Ave., Los Angeles, CA 90005
Initial Status Conference

Documents Filed | Proceeding Information

Parties

AGAZANOF ASAF - Plaintiff/Petitioner

LAW OFFICES OF L. PAUL MANKIN IV - Attorney for Plaintiff/Petitioner

SKINNY CRISPS INC. - Defendant/Respondent

Case Information | Party Information | Proceeding Information

Please make a note of the Case Number.

Click here to access document images for this case.
If this link fails, you may go to the Case Document Images site and search using the case number displayed on this page.

Documents Filed (Filing dates listed in descending order)

02/06/2014 Order (CLASS ACTION INITIAL STATUS CONFERENCE ORDER)
Filed by Clerk

01/31/2014 Proof of Service (PARTY SERVED: SKINNY CRISPS, INC)
Filed by Attorney for Plaintiff/Petitioner

01/09/2014 Complaint

Case Information | Party Information | Documents Filed

Proceedings Held (Proceeding dates listed in descending order)

02/06/2014 at 08:30 am in Department 311, JOHN SHEPARD WILEY JR, Presiding
Order-Complex Determination - **Case Determined to be Complex**

Case Information | Party Information | Documents Filed | Proceeding Information

Exhibit C

Exhibit C

EXHIBIT D

STATE OF COLORADO)
)
COUNTY OF BOULDER)

AFFIDAVIT OF MYRNA MIROW

Before me, the undersigned Notary Public, personally came and appeared MYRNA MIROW, who being duly sworn, did affirm and testify under oath as follows:

1. I am over eighteen years of age and competent to testify to the matters contained herein.

2. I am one of the founders of Skinny Crisps, Inc. (hereinafter "Skinny Crisps" or the "Company"). In such capacity, I am personally familiar with the facts sworn below.

3. I execute this affidavit in support of a Notice of Removal by Skinny Crisps, Inc. in connection with a case filed in the Superior Court of the State of California for the County of Los Angeles, entitled *"Asaf Agazanof, Individually and on behalf of others members of the general public similarly situated versus Skinny Crisps, Inc."* bearing case number BC532760 on the state court's docket.

4. Skinny Crisps was at the time of filing of this action and still is, a company incorporated under the laws of the State of Colorado with its principal place of business in the State of Colorado.

5. Skinny Crisps was not at the time of the filing of this action, and still is not, incorporated under the laws of the State of California. Skinny Crisps did not at the time of the filing of this action, and still does not, have its principal place of business in the State of California.

6. The Company first received a copy of the Complaint on January 14, 2014.

7. Plaintiff takes issue with the product labeling on all eight Skinny Crisps products,

Exhibit D

referred to as: (1) Plain Jane, (2) White Sesame, (3) Toasty Onion, (4) Seeded, (5) Say Cheese, (6) Whole Shebang, (7) Cinnamon Crisps, and (8) Brownie Crisps. These eight products constitute all of the products produced and sold by Skinny Crisps, Inc.

8. Skinny Crisps products are sold in at least 33 stores in California, and in 325 stores nationwide. Additionally, Skinny Crisps products are sold directly to the consumer via the Company's website.

9. Each bag of Skinny Crisps' products, on average, retails for $6.99.

10. Between 2010 and 2014, Skinny Crisps estimates that it sold approximately 725,000 bags of Skinny Crisps product nationwide. At an average retail price of $6.99 per bag, Skinny Crisps estimates that approximately $5,067,750.00 worth of Skinny Crisp products have been sold to consumers nationwide.

11. Since the implementation of its new packaging in March 2013, Skinny Crisps estimates that it sold approximately 200,000 bags of Skinny Crisps products nationwide. At an average retail price of $6.99 per bag, Skinny Crisps estimates that approximately $1,398,000.00 worth of Skinny Crisp products have been sold nationwide with the new packaging.

12. Accordingly, I can state with a high degree of certainty that there are more than 100 persons in the United States that have purchased one of our eight products in the last four years labeled with the ingredient "organic dehydrated cane juice."

Further affiant sayeth naught.

Dated: February 12, 2014

Myrna Mirow
MYRNA MIROW

Sworn to and Subscribed Before Me, this 12 day of February, 2014.

Notary Public

JOSE I BOLIVAR
Notary Public
State of Colorado

Exhibit 2 D

CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles. I declare that I am over the age of eighteen (18) and not a party to this action. My business address is 2615 Pacific Coast Highway, Suite 300, Hermosa Beach, California 90254.

On February 13, 2014, I served the following document described as:

NOTICE OF REMOVAL

on the interested parties in this action by placing the true copies thereof enclosed in sealed envelopes as follows:

PLEASE SEE ATTACHED SERVICE LIST

(X) **By U.S. Mail:** I deposited such envelopes in the mail at Hermosa Beach, California. The envelopes were mailed with postage thereon fully prepaid.

( ) **By Electronic E-mail:** I caused the above-referenced document(s) to be transmitted to the above-named person at the following addresses.

(X) I declare under penalty of perjury under the laws of the State of California and the United States that the above is true and correct.

EXECUTED on February 13, 2014, at Hermosa Beach, California.

Karmella Salgado

EDGERTON & WEAVER, LLP
2615 Pacific Coast Hwy., Suite 300
Hermosa Beach, California 90254
Telephone: (310) 937-2066
Facsimile: (310) 937-2064
www.edgertonweaver.com

SERVICE LIST

ATTORNEY FOR PLAINTIFF: L. Paul Mankin, IV LAW OFFICES OF L. PAUL MANKIN, IV 8730 Wilshire Blvd., Suite 310 Beverly Hills, California 90211	

EDGERTON & WEAVER, LLP
2615 Pacific Coast Hwy., Suite 300
Hermosa Beach, California 90254
Telephone: (310) 937-2066
Facsimile: (310) 937-2064
www.edgertonweaver.com

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

NOTICE OF ASSIGNMENT TO UNITED STATES JUDGES

This case has been assigned to District Judge Dean D. Pregerson and the assigned Magistrate Judge is Stephen J. Hillman .

The case number on all documents filed with the Court should read as follows:

2:14-cv-01125-DDP(SHx)

Pursuant to General Order 05-07 of the United States District Court for the Central District of California, the Magistrate Judge has been designated to hear discovery related motions.

All discovery related motions should be noticed on the calendar of the Magistrate Judge.

Clerk, U. S. District Court

February 13, 2014
Date

By APEDRO
Deputy Clerk

NOTICE TO COUNSEL

A copy of this notice must be served with the summons and complaint on all defendants (if a removal action is filed, a copy of this notice must be served on all plaintiffs).

Subsequent documents must be filed at the following location:

☒ Western Division
312 N. Spring Street, G-8
Los Angeles, CA 90012

☐ Southern Division
411 West Fourth St., Ste 1053
Santa Ana, CA 92701

☐ Eastern Division
3470 Twelfth Street, Room 134
Riverside, CA 92501

Failure to file at the proper location will result in your documents being returned to you.

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA

CIVIL COVER SHEET

I. (a) PLAINTIFFS (Check box if you are representing yourself ☐)

Asaf Agazanof, Individually, and on behalf of other members of the general public similarly situated

DEFENDANTS (Check box if you are representing yourself ☐)

Skinny Crisps, Inc.

(b) County of Residence of First Listed Plaintiff Los Angeles

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

(c) Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

L. Paul Mankin, IV
Law Offices of L. Paul Mankin, IV
8730 Wilshire Blvd., Suite 310
Beverly Hills, CA 90211

Attorneys (*Firm Name, Address and Telephone Number*) If you are representing yourself, provide the same information.

EDGERTON & WEAVER, LLP
SAMUEL Y. EDGERTON, III
2615 Pacific Coast Highway, Suite 300, Hermosa Beach, CA 90254

II. BASIS OF JURISDICTION (Place an X in one box only.)

- ☐ 1. U.S. Government Plaintiff
- ☒ 3. Federal Question (U.S. Government Not a Party)
- ☐ 2. U.S. Government Defendant
- ☒ 4. Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES-For Diversity Cases Only
(Place an X in one box for plaintiff and one for defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	☒ 1	☐ 1	Incorporated or Principal Place of Business in this State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated and Principal Place of Business in Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. ORIGIN (Place an X in one box only.)

☐ 1. Original Proceeding ☒ 2. Removed from State Court ☐ 3. Remanded from Appellate Court ☐ 4. Reinstated or Reopened ☐ 5. Transferred from Another District (Specify) ☐ 6. Multi-District Litigation

V. REQUESTED IN COMPLAINT: JURY DEMAND: ☒ Yes ☐ No (Check "Yes" only if demanded in complaint.)

CLASS ACTION under F.R.Cv.P. 23: ☒ Yes ☐ No ☐ **MONEY DEMANDED IN COMPLAINT:** $ unspecified

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
Complaint alleges: Violation of Unfair Competition Law (Cal. Bus. Code 17200 et. seq. and 17500 et. seq.), Violation of the Consumers Legal Remedies Act (Cal. Civil Code 1750), Negligent Misrepresentation, and Breach of Quasi Contract. This Petition is submitted pursuant to 28 U.S.C. 1446(a), 1331, 1441, and 1332.

VII. NATURE OF SUIT (Place an X in one box only).

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce/ICC Rates/Etc.
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced & Corrupt Org.
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/Exchange
- ☒ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Info. Act
- ☐ 896 Arbitration
- ☐ 899 Admin. Procedures Act/Review of Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loan (Excl. Vet.)
- ☐ 153 Recovery of Overpayment of Vet. Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment

REAL PROPERTY CONT.
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

TORTS PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Fed. Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury-Med Malpratice
- ☐ 365 Personal Injury-Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

TORTS PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 American with Disabilities-Employment
- ☐ 446 American with Disabilities-Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus/Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee Conditions of Confinement

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Mgmt. Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Ret. Inc. Security Act

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405 (g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405 (g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS-Third Party 26 USC 7609

FOR OFFICE USE ONLY: Case Number: CV14-01125

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

VIII. VENUE: Your answers to the questions below will determine the division of the Court to which this case will most likely be initially assigned. This initial assignment is subject to change, in accordance with the Court's General Orders, upon review by the Court of your Complaint or Notice of Removal.

Question A: Was this case removed from state court? ☒ Yes ☐ No If "no," go to Question B. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	STATE CASE WAS PENDING IN THE COUNTY OF:	INITIAL DIVISION IN CACD IS:
	☒ Los Angeles	Western
	☐ Ventura, Santa Barbara, or San Luis Obispo	Western
	☐ Orange	Southern
	☐ Riverside or San Bernardino	Eastern

Question B: Is the United States, or one of its agencies or employees, a party to this action? ☐ Yes ☒ No If "no," go to Question C. If "yes," check the box to the right that applies, enter the corresponding division in response to Question D, below, and skip to Section IX.	If the United States, or one of its agencies or employees, is a party, is it:		
	A PLAINTIFF? Then check the box below for the county in which the majority of DEFENDANTS reside.	A DEFENDANT? Then check the box below for the county in which the majority of PLAINTIFFS reside.	INITIAL DIVISION IN CACD IS:
	☐ Los Angeles	☐ Los Angeles	Western
	☐ Ventura, Santa Barbara, or San Luis Obispo	☐ Ventura, Santa Barbara, or San Luis Obispo	Western
	☐ Orange	☐ Orange	Southern
	☐ Riverside or San Bernardino	☐ Riverside or San Bernardino	Eastern
	☐ Other	☐ Other	Western

Question C: Location of plaintiffs, defendants, and claims? (Make only one selection per row)	A. Los Angeles County	B. Ventura, Santa Barbara, or San Luis Obispo Counties	C. Orange County	D. Riverside or San Bernardino Counties	E. Outside the Central District of California	F. Other
Indicate the location in which a majority of plaintiffs reside:	☒	☐	☐	☐	☐	☐
Indicate the location in which a majority of defendants reside:	☐	☐	☐	☐	☐	☒
Indicate the location in which a majority of claims arose:	☐	☐	☐	☐	☐	☐

C.1. Is either of the following true? If so, check the one that applies:

☐ 2 or more answers in Column C

☐ only 1 answer in Column C and no answers in Column D

Your case will initially be assigned to the SOUTHERN DIVISION.
Enter "Southern" in response to Question D, below.

If none applies, answer question C2 to the right. →

C.2. Is either of the following true? If so, check the one that applies:

☐ 2 or more answers in Column D

☐ only 1 answer in Column D and no answers in Column C

Your case will initially be assigned to the EASTERN DIVISION.
Enter "Eastern" in response to Question D, below.

If none applies, go to the box below. ↓

Your case will initially be assigned to the WESTERN DIVISION.
Enter "Western" in response to Question D below.

Question D: Initial Division?	INITIAL DIVISION IN CACD
Enter the initial division determined by Question A, B, or C above: →	Western

UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET

IX(a). IDENTICAL CASES: Has this action been previously filed **in this court** and dismissed, remanded or closed? ☒ NO ☐ YES

If yes, list case number(s): _____

IX(b). RELATED CASES: Have any cases been previously filed **in this court** that are related to the present case? ☒ NO ☐ YES

If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

(Check all boxes that apply)
- ☐ A. Arise from the same or closely related transactions, happenings, or events; or
- ☐ B. Call for determination of the same or substantially related or similar questions of law and fact; or
- ☐ C. For other reasons would entail substantial duplication of labor if heard by different judges; or
- ☐ D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

X. SIGNATURE OF ATTORNEY (OR SELF-REPRESENTED LITIGANT): _____ DATE: 2/13/14

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet).

Key to Statistical codes relating to Social Security Cases:

Nature of Suit Code	Abbreviation	Substantive Statement of Cause of Action
861	HIA	All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b))
862	BL	All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923)
863	DIWC	All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405 (g))
863	DIWW	All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))
864	SSID	All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended.
865	RSI	All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405 (g))