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10 *Attorneys for Defendant The Coca-Cola Company*

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12
13 **IN THE UNITED STATES DISTRICT COURT**
14 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

15
16 GWEN PHELPS, individually and all
similarly situated Plaintiffs,

17 Plaintiffs,

18 v.

19 THE COCA-COLA COMPANY, a
Delaware Corporation, and DOES 1
20 through 100, Inclusive,

21 Defendants.

Case No. _____

**Superior Court of California,
County of Los Angeles Case No.
BC547592**

NOTICE OF REMOVAL

22
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24 **TO THE CLERK OF THIS COURT, TO PLAINTIFF AND HER**
25 **ATTORNEYS OF RECORD:**

26 Defendant The Coca-Cola Company ("Coca-Cola"), through undersigned
27 counsel and pursuant to 28 U.S.C. §§ 1332, 1441, 1446, and 1453, files this Notice
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1 of Removal of the captioned action, *Phelps v. The Coca-Cola Company*, Case No.
2 BC547592, on the docket of the Superior Court of California, County of Los
3 Angeles. The grounds for removal are set forth below:

4 1. On or about June 3, 2014, Plaintiff Gwen Phelps commenced this
5 action by filing a Summons and Class Action Complaint in the Superior Court of
6 California, County of Los Angeles captioned *Gwen Phelps v. The Coca-Cola*
7 *Company*, Case No. BC547592.

8 2. Coca-Cola was served on June 6, 2014 by process server through an
9 agent CT Corporation System located at 818 West Seventh Street, Los Angeles,
10 California.

11 3. A true and correct copy of the Summons and Complaint is attached
12 hereto as Exhibit "A" .

13 4. This Notice of Removal is timely because it is filed within thirty days
14 after service of the initial pleading on Coca-Cola. *See* 28 U.S.C. § 1446(b);
15 *Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 347-349 (1999).

16 5. This Court has jurisdiction under the Class Action Fairness Act of
17 2005 ("CAFA"), 28 U.S.C. § 1332(d), and federal diversity jurisdiction under 28
18 U.S.C. § 1332(a), for the reasons set forth more fully below.

19 **PARTIES**

20 6. Plaintiff Gwen Phelps alleges that she is a resident of the State of
21 California. Compl. ¶ 4.

22 7. Defendant Coca-Cola is a Delaware corporation and has its principal
23 offices in Atlanta, Georgia. Compl. ¶ 5.

24 **PLAINTIFF'S ALLEGATIONS**

25 8. Phelps brings this case as a purported class action under California
26 Code of Civil Procedure section 382. Compl. ¶ 25.

27 9. Coca-Cola produces and sells 100% orange juice under its well-known
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1 Simply Orange brand. Coca-Cola does not admit the underlying facts as alleged by
2 Phelps or as summarized herein and expressly denies any liability to Phelps and the
3 putative class.

4 10. Phelps alleges that Coca-Cola's labeling and advertising for Simply
5 Orange 100% orange juice products are false and misleading in multiple respects.

6 11. First, Phelps alleges that Coca-Cola unlawfully labels and markets its
7 Simply Orange 100% orange juice products as "100% Pure Squeezed," "Fresh
8 Taste Guaranteed," "100% Orange Juice," "No Water or Preservative Added," and
9 "Honestly Simple." Compl. ¶ 11.

10 12. Second, Phelps alleges that Coca-Cola's labeling and marketing are
11 misleading because its orange juice undergoes a "highly-engineered and unnatural
12 process," including blending multiple batches of juice together and storing juice in
13 silos. Compl. ¶¶ 12-14.

14 13. Third, Phelps alleges that Coca-Cola's labeling and advertising for its
15 Simply Orange 100% orange juice products are misleading because Coca-Cola
16 allegedly flavors these products with "flavor packs" but does not disclose the use of
17 "flavor packs." Compl. ¶ 15.

18 14. Phelps asserts common law claims of intentional misrepresentation
19 (Compl. ¶¶ 32-41), negligent misrepresentation (Compl. ¶¶ 42-51), and fraud
20 (Compl. ¶¶ 52-58).

21 15. Phelps also asserts claims under the California False Advertising Act,
22 Business and Professions Code §§17500 et seq. (Compl. ¶¶ 59-65), the California
23 Business and Professions Code §§17200 et seq. (Compl. ¶¶ 66-79), and the
24 California Consumer Legal Remedies Act Civ. Code §§1750 et seq. (Compl. ¶¶ 80-
25 86).

26 16. Phelps seeks to recover on behalf of herself and a purported class of
27 consumers consisting of "[a]ll California residents who purchased for consumption
28

1 the subject Simply Orange Products in the State of California at any time during the
2 period of 10 years preceding the filing of the Complaint to class certification (the
3 ‘Class’).” Compl. ¶ 26.

4 17. As relief, Phelps seeks compensatory and general damages, restitution
5 and/or disgorgement, injunctive relief, payment made by Coca-Cola to a *cy pres*
6 fund, corrective advertising, and an apology. Compl. Prayer for Relief ¶¶ 4-9.

7 18. Phelps seeks punitive damages. Compl. Prayer for Relief ¶ 10.

8 19. Phelps seeks pre- and post-judgment interest. Compl. Prayer for
9 Relief ¶ 11.

10 20. Phelps seeks attorneys’ fees and costs and expert witness fees.
11 Compl. Prayer for Relief ¶ 11.

12 21. Phelps seeks “all such other and further relief as the Court deems just
13 and proper.” Compl. Prayer for Relief ¶ 12.

14 **BASIS FOR JURISDICTION UNDER CAFA**

15 22. This action is removable to this Court because federal diversity
16 jurisdiction exists over Phelps’s claims pursuant to CAFA, codified in various
17 sections of Title 28 of the United States Code including 28 U.S.C. §§ 1332(d) and
18 1453.

19 23. CAFA was enacted in 2005 “to enable more class actions to be
20 removed to federal court.” S. Rep. No. 109-14, at 29 (2005). Specifically, CAFA
21 was intended to “curb perceived abuses of the class action device.” *Visendi v. Bank*
22 *of America, N.A.*, 733 F.3d 863, 867 (9th Cir. 2013).

23 24. This case is a putative “class action” under CAFA because it was
24 brought under a state statute or rule, namely Cal. Code Civ. Pro. § 382, authorizing
25 an action to be brought by one or more representative persons as a class action. *See*
26 28 U.S.C. §§ 1332(d)(1)(B).

27 25. CAFA provides that a class action against a non-governmental entity
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1 may be removed to federal court if: (a) the number of proposed class members is
2 not less than 100; (b) any member of the proposed class is a citizen of a state
3 different from any defendant; and (c) the aggregate amount in controversy exceeds
4 \$5 million, exclusive of interest and costs. *See* 28 U.S.C. §§ 1332(d)(2), 1332(d)(5)
5 & 1453(b). As set forth below, all of the requirements for removal are satisfied.

6 **Class Size**

7 26. CAFA's first requirement that the proposed class contain at least 100
8 members, 28 U.S.C. § 1332(d)(5), is satisfied.

9 27. Phelps's proposed class contains "[a]ll California residents who
10 purchased for consumption the subject Simply Orange Products in the State of
11 California at any time during the period of 10 years preceding the filing of the
12 Complaint to class certification (the 'Class')." Compl. ¶ 26.

13 28. Phelps's Complaint acknowledges that the purported class includes
14 "hundreds of thousands of individuals in the State of California who purchased
15 Simply Orange Products during the relevant period." Compl. ¶ 28.

16 29. Coca-Cola's Simply Orange 100% orange juice products are mass
17 marketed products sold in retail and food service establishments throughout the
18 State of California.

19 30. Since June 2004, Coca-Cola has shipped well in excess of \$5 million
20 of bottles of Simply Orange 100% orange juice to major retailers' distribution
21 centers located in California. Declaration of Richard Villanueva ("Villanueva
22 Declaration"), at ¶ 7 (attached hereto as Exhibit "B").

23 31. Given the volume of Simply Orange 100% orange juice products
24 shipped to major retailers in California since June 2004 and their widespread
25 availability throughout the state, Phelps is undoubtedly correct that hundreds of
26 thousands of California residents have purchased Simply Orange 100% orange
27 juice products labeled as "100% pure squeezed orange juice."
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1 32. The size of Phelps's proposed class therefore is well in excess of 100
2 members and easily meets the threshold for CAFA jurisdiction.

3 **Minimal Diversity of Citizenship**

4 33. CAFA's second requirement, that any one member of the proposed
5 class be a citizen of a state different from any defendant, 28 U.S.C. § 1332(d)(2), is
6 satisfied.

7 34. Phelps alleges that she is a resident of California and purports to
8 represent a class of California citizens. Compl. ¶¶ 4, 26.

9 35. Coca-Cola is not a citizen of California. Coca-Cola is a Delaware
10 corporation and has its principal place of business in Atlanta, Georgia. Compl. ¶ 5.

11 36. The complete diversity of citizenship between Phelps and Coca-Cola
12 not only satisfies CAFA's minimal diversity-of-citizenship requirement, but also
13 precludes application of the "local controversy" or "home state" exceptions of 28
14 U.S.C. §§ 1332(d)(3) and (d)(4).

15 **Amount in Controversy**

16 37. CAFA's third requirement that the aggregate amount in controversy
17 exceed \$5 million exclusive of interest and costs, 28 U.S.C. § 1332(d)(2), is
18 satisfied.

19 38. Although Coca-Cola disputes liability and damages, Phelps's claims
20 on behalf of herself and her proposed classes for monetary relief, if granted, would
21 exceed \$5 million.

22 39. Phelps seeks money damages, disgorgement, restitution, punitive
23 damages, and "other and further" relief at law and equity. Compl. Prayer for Relief
24 ¶¶ 4-12.

25 40. Even if the court looks only to Phelps's claim for disgorgement, the \$5
26 million amount in controversy threshold is satisfied. Compl. Prayer for Relief ¶ 5.

27 41. Coca-Cola's revenues from the sale of Simply Orange 100% orange
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1 juice products in California since June 2004 are well in excess of \$5 million.
2 Villanueva Declaration, at ¶ 7.

3 42. Phelps also alleges that putative class members are entitled to
4 restitution, which can be calculated by looking at what putative class members have
5 spent out-of-pocket for Simply Orange 100% orange juice. Compl. Prayer for
6 Relief ¶ 5. Putative class members' out-of-pocket expenses for Simply Orange
7 100% orange juice have been well in excess of Coca-Cola's revenues because
8 Coca-Cola's revenues are based on the wholesale price of the product and
9 consumers typically pay the higher retail price. Villanueva Declaration, at ¶ 4.

10 **BASIS FOR JURISDICTION UNDER 28 U.S.C. § 1332(a)**

11 43. This action is also removable to this Court because federal diversity
12 jurisdiction, 28 U.S.C. § 1332, exists over Phelps's claims against Coca-Cola
13 brought in her individual capacity.

14 44. As discussed above, Phelps and Coca-Cola are citizens of different
15 states. Phelps alleges that she is a resident of California (Compl. ¶ 4), and Coca-
16 Cola is a Delaware corporation and has its principal place of business in Atlanta,
17 Georgia (Compl. ¶ 5).

18 45. The amount in controversy between Phelps, individually, and Coca-
19 Cola is in excess of \$75,000. First, Phelps's request for injunctive relief places the
20 amount in controversy in excess of \$75,000. Compl. Prayer for Relief ¶ 6. The
21 potential costs to Coca-Cola to implement an injunction which might require Coca-
22 Cola to design and implement new labeling and advertising for all of its Simply
23 Orange 100% orange juice products but would certainly and easily exceed \$75,000.

24 46. Further, Phelps seeks attorneys' fees. Compl. Prayer for Relief ¶ 11;
25 *see* Cal. Code Civ. P. § 1021.5 ("a court may award attorneys' fees to a successful
26 party against one or more opposing parties in any action which has resulted in the
27 enforcement of an important right affecting the public interest"). The potential
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1 availability of attorneys' fees to plaintiff further increases the amount in
2 controversy past the \$5 million threshold further places the amount in controversy
3 in excess of \$75,000.

4 **REMOVAL PROCEDURE**

5 47. A copy of this Notice of Removal is being served upon all known
6 counsel of record, along with a copy of the Notice to the Clerk of Court for the
7 Superior Court of California, County of Los Angeles, which is being filed
8 simultaneously in that Court.

9 48. The only document that has been served upon Coca-Cola in the state
10 court action are the summons and complaint, copies of which are attached as
11 Exhibit "A". Thus, a copy of all process, pleadings, and orders served upon Coca-
12 Cola in the state court action are attached as hereto.

13 WHEREFORE, Coca-Cola respectfully removes this action from the
14 Superior Court of California, County of Los Angeles (Case No. BC547592), to this
15 Court pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, and 1453.

16
17 Dated: July 3, 2014

18 Respectfully submitted,

19 GONZALEZ SAGGIO & HARLAN LLP

20
21
22 By:



23 Nelson L. Atkins, Esq.

24 Attorneys for Defendant

25 THE COCA-COLA COMPANY
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PROOF OF SERVICE

[CCP 1013a; Fed. R. Civ. P. 6]

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 3699 Wilshire Boulevard, Suite 890, Los Angeles, California 90010.

On July 3, 2014, I served the foregoing document, described as NOTICE OF REMOVAL OF ACTION UNDER 28 U.S.C. §1332(a) and 1441(b); CERTIFICATE OF INTERESTED PARTIES; CIVIL COVER SHEET in this action by placing ☐ the original ☒ a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as follows:

| | |
|--|--|
| Oliver A. Taillieu, Esq. Gilbert Perez, III, Esq. NATIONAL INJURY LAW FIRM LLP 450 North Roxbury Drive, #700 Beverly Hills, CA 90210 (310) 651-2441 (310) 651-2439 – Fax otailieu@nationalinjurylf.com gperez@nationalinjurylf.com | <i>Attorneys for Plaintiff</i> GWEN PHELPS |
|--|--|

☒ [BY MAIL] I am "readily familiar" with the business' practice for collection and processing of correspondence for mailing with the United States Postal Service. I know that the correspondence is deposited with the United State Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelope was sealed and, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at Los Angeles, California.

☐ [BY PERSONAL SERVICE] I delivered such envelope by hand to the offices of the addressee.

☐ [BY FEDERAL EXPRESS] I caused the above-referenced document(s) to be delivered to an overnight courier service for delivery to the above address(es).

I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

DATED: July 3, 2014



K. Cockrum

EXHIBIT “A”

ORIGINAL

SUMMONS
(CITACION JUDICIAL)

SUM-100

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

THE COCA-COLA COMPANY, a Delaware Corporation, and DOES 1 through 100, Inclusive

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

GWEN PHELPS *individually and all similarly situated plaintiffs,*

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

FILED

Superior Court of California
County of Los Angeles

JUN 03 2014

Sherri R. Carter, Executive Officer/Clerk
By *[Signature]* Deputy
Shaunya Bolden

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 pueda 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 o 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.

The name and address of the court is:
(El nombre y dirección de la corte es): Los Angeles Superior Court
Central District
111 N. Hill Street, Los Angeles, CA 90012

CASE NUMBER:
(Número del Caso):

BC547592

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):
Olivier Taillieu, 450 N. Roxbury Dr., Ste. 700, Beverly Hills, CA 90210; (310) 651-2440

DATE: June 3, 2014
(Fecha)

JUN 03 2014

Sherri R. Carter, by
(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)).

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):



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

SUMMONS

Page 1 of 1
Code of Civil Procedure §§ 412.20, 465
www.courtinfo.ca.gov

ORIGINAL

311 Shepard Wiley Jr

06/03/2014

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6 Attorneys for Plaintiff Gwen Phelps, individually, and all similarly situated Plaintiffs

7
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF LOS ANGELES, CENTRAL DISTRICT

11 GWEN PHELPS, individually and all
12 similarly situated Plaintiffs,

13 Plaintiffs,

14 v.

15 THE COCA-COLA COMPANY, a Delaware
Corporation, and DOES 1 through 100,
16 Inclusive,

17 Defendants.

CASE NO.

CLASS ACTION COMPLAINT:

(1) INTENTIONAL
MISREPRESENTATION;
(2) NEGLIGENT MISREPRESENTATION;
(3) FRAUD;
(4) VIOLATION OF THE CALIFORNIA
FALSE ADVERTISING ACT, BUS. AND
PROFESSIONS CODE §§17500, ET SEQ.;
(5) VIOLATION OF CAL. BUSINESS AND
PROFESSIONS CODE §§17200, ET SEQ.;
(6) VIOLATION OF THE CALIFORNIA
CONSUMER REMEDIES ACT, CAL.
CIVIL CODE §§1750, ET SEQ.

DEMAND FOR JURY TRIAL

22 INTRODUCTION

23 PLAINTIFF, GWEN PHELPS, individually, and in a representative capacity, on behalf
24 all those similarly situated, (hereinafter "Plaintiff" and/or "Plaintiff Phelps"), brings this action
25 against defendant, THE COCA-COLA COMPANY ("COCA-COLA" or "Defendant"), and DOES
26 1 through 100, inclusive, and alleges as follows:

27 ///

28 CLASS ACTION COMPLAINT

6013 90017
FILED
Superior Court of California
County of Los Angeles

JUN 03 2014

Sherri R. Carter, Executive Officer/Clerk
By: Shaunya Bolden Deputy

BC547592

CIT/CASE: BC547592
LEA/OF#:
RECEIVED:
DATE: 06/03/14 03:54 PM
PAYMENT: \$435.00
CHARGE: \$0.00
CASH: \$0.00
CREDIT: \$0.00
TOTAL: \$435.00

06/03/2014

JURISDICTION AND VENUE

1
2 1. This is an unlimited case, over which this Court has jurisdiction. The total amount
3 of damages sought by the Plaintiffs exceeds \$25,000.

4 2. This Court has personal jurisdiction over Defendant, because at all times mentioned
5 herein, Defendant resided in, was organized or existed in, or conducted business in the Counties of
6 the State of California, including, but not limited to in/around the County of Los Angeles, State of
7 California. Defendant has sufficient minimum contacts in California, or otherwise intentionally
8 avails itself of the California market so as to render the exercise of jurisdiction over Defendant by
9 the California courts consistent with traditional notions of fair play and substantial justice.

10 Moreover, this Court has jurisdiction over this action pursuant to the California
11 Constitution, Article VI, Section 10, which grants the superior court "original jurisdiction in all
12 other causes" except those given by statute to other courts.

13 3. Venue is proper in this Court because, upon information and belief, Defendant
14 operates, has agents, and transacts business in the County of Los Angeles. Plaintiff resides in the
15 State of California and the acts and omissions alleged herein took place in the State of California.

PARTIES

16
17 4. Plaintiff is, at all times referenced herein, a resident of the State of California.

18 5. Defendant, COCA-COLA, a corporation duly organized and existing under the
19 General Corporation Law of the State of Delaware is, at all times referenced herein, a Delaware
20 Corporation, and maintains its corporate headquarters in Atlanta, Georgia, is authorized to, and is
21 doing business in the State of California; and Does 1 through 100, inclusive, (hereinafter
22 collectively known as "COCA-COLA" or "Defendants."

23 6. Plaintiff brings this action individually, and on behalf of a class (as further alleged
24 and described below) consisting of similarly situated current and former purchasers for
25 consumption ("consumers") of the COCA-COLA product, Simply Orange.

26 7. The true names and capacities of Defendants, Does 1 through 100, inclusive, are
27 presently unknown to Plaintiff, who therefore sues said Defendants by such fictitious names.
28 Plaintiff will seek leave of court to amend this Complaint to insert the true names and capacities of

06/03/2014

1 said fictitiously named Defendants when the same have been ascertained. COCA-COLA and
2 Does 1 through 100 are collectively known herein as "Defendants".

3 8. Plaintiff is informed and believes, and thereon alleges, that each of the Defendants
4 designated herein is contractually, vicariously or legally responsible in some manner for the events
5 and happenings hereinafter alleged, either through said Defendant's own conduct or through the
6 conduct of their agents, servants, consultants, joint ventures, and employees, and each of them, or
7 in some other manner.

8 9. Plaintiff is informed and believes, and thereon alleges, that at all relevant times
9 herein mentioned, each of the Defendants was/were the agent, representative, principal, servant,
10 employee, partner, alter ego, joint venturer, successor-in-interest, assistant, and/or consultant of
11 each and every remaining Defendant, and as such, was at all times acting within the course, scope,
12 purpose and authority of said agency, partnership and/or employment, and with the express or
13 implied knowledge, permission, authority, approval, ratification and consent of the remaining
14 Defendants, and each Defendant was responsible for the acts alleged herein, and also negligent
15 and reckless in the selection, hiring, and supervision of each and every other Defendant as an
16 agent, representative, principal, servant, employee, partner, alter ego, joint venturer, successor-in-
17 interest, assistant, and/or consultant.

18 BACKGROUND

19 10. Defendant, COCA-COLA is a corporation engaged in the business of, among other
20 things, selling beverages. In connection with providing such services and products, Plaintiff is
21 informed and believes, and thereon alleges, that COCA-COLA has marketed and sold the subject
22 juice product(s), Simply Orange to California Consumers.

23 11. In addition to the name, Simply Orange, COCA-COLA describes Simply Orange
24 by such terms as: "100% Pure Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and
25 "No Water or Preservatives Added." Although it is anything but, it is described on the Simply
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27
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06/03/2014

1 Orange website as "Honestly Simple."¹ Moreover, the Simply Orange website states, "since the
2 launch of Simply Orange® in 2001, we have been making orange juice simple, the way nature
3 intended."²

4 12. At all times mentioned in this Complaint, as part of an extensive and long-term
5 advertising campaign, including, among other things, the Defendant's representations and
6 omissions of Simply Orange Products, appear on the products themselves, on television, and the
7 internet. Defendant has suppressed and concealed, and continues to suppress and conceal, the fact
8 that the Simply Orange products are actually concocted via a highly-engineered and unnatural
9 process - anything but simple or natural. COCA-COLA utilizes a process known as "Black
10 Book." Black Book is not a natural growing process, but rather, an algorithm that includes data
11 about consumer preferences and approximately 600 flavors that make up an orange.
12

13 13. COCA-COLA matches flavor data to a profile detailing many of the characteristics
14 of an orange, including orange type, acidity, sweetness, etc. COCA-COLA blends various batches
15 to replicate the same taste and consistency.³ Incidentally, these "batches" consist of a tank full of
16 raw juice that may be as much as eight months to a year old. Portions from multiple batches are
17 mixed together, some newer and some older, for a "fresh" taste according to Black Book
18 algorithms.
19

20 14. The original fresh-squeezed orange juice is stored in silos in Brazil and transported
21 via a 1.2 mile underground pipeline to COCA-COLA's packaging plant, where it is flash-
22 pasteurized.⁴ The flash-pasteurized product is then again transported via pipeline to storage tanks
23

24
25 ¹ <http://simplyorangejuice.com/>

26 ² <http://simplyorangejuice.com/our-story.jsp>

27 ³ http://chicagoist.com/2013/02/10/simply_orange_is_anything_but.php

28 ⁴ *Id.*; Flash pasteurization treats foods and liquids at high temperatures for a short amount of time to slow microbial growth.

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1 where it is slowly agitated and covered with a nitrogen gas blanket in effort to keep oxygen out of
2 the product, which oxygen has been extracted to prolong spoiling.

3 15. When the juice product undergoes flash-pasteurization and oxygen extraction, the
4 juice product is stripped of its color and flavor. Blend technicians follow Black Book
5 specifications, by adding back into the juice natural flavors and fragrances captured during
6 squeezing, to make up for the flavor lost in processing. COCA-COLA employs flavor and
7 fragrance companies to engineer "flavor packs" to inject back into the juice product to make it
8 taste fresh - the same fragrance companies that formulate perfumes for such names as Dior and
9 Calvin Klein.⁵
10

11 16. Merriam Webster defines "pure" as "unmixed with any other matter." It defines
12 "fresh" as "having its original qualities unimpaired." These are two descriptions COCA-COLA
13 uses in advertising and representing the Simply Orange products. They are blatant
14 misrepresentations meant to mislead the consuming public. It is inconceivable that Consumers are
15 aware that in purchasing Simply Orange for consumption, they are actually purchasing older
16 batches of mixed product, engineered with algorithms and flavor packs, concocted via an
17 unnatural process.
18

19 17. Plaintiff Phelps, and other similarly situated consumers, have, or have had in their
20 refrigerators for consumption, a tasteless and colorless substance, that has been brought back to
21 life via the Black Book process. The juice product is unnaturally brought back to life by being
22 infused with fragrance and flavor concoctions. The so-called "fresh-squeezed" juice product may
23 be in excess of eight months to a year old, in many cases. COCA-COLA does not state the true
24 nature of Simply Orange anywhere on their web site, does not provide this engineering process in
25

26
27 ⁵http://chicagoist.com/2013/02/10/simply_orange_is_anything_but.php
28

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1 nutritional information on the products, nor in their advertisements that the Simply Orange
2 products are anything but pure or fresh and/or engineered with Black Book technology.

3 18. During at least the last 10 years from the date of filing this complaint to now,
4 Plaintiff Phelps purchased and consumed Defendant's Simply Orange Products believing and
5 having been led to believe that the Simply Orange Products were pure and fresh and not created by
6 a complicated and highly-technical engineering process.
7

8 19. During at least the last 10 years from the date of filing this complaint to
9 approximately May 2, 2014, Plaintiff Phelps lived in California and purchased Simply Orange
10 products in the County of Los Angeles and in the County of Alameda. Plaintiff Phelps has since
11 stopped consuming all "100% Pure Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice,"
12 and "simple, the way nature intended," Simply Orange Products after learning about Defendant's
13 concealment and misrepresentations about the Simply Orange Products.
14

15 20. Plaintiff Phelps, having been exposed to Defendant's extensive and long-term
16 advertising campaign, including Defendant's representations about the Simply Orange Products on
17 the products themselves, on television, and the internet, purchased and consumed the subject
18 Simply Orange Products in reliance on Coca-Cola's descriptions of the Simply Orange Products
19 and pictorial representations of the Simply Orange Products, which led her to believe that the
20 subject Simply Orange Products were "100% Pure Squeezed," "Fresh Taste Guaranteed," "100%
21 Orange Juice," and "simple, the way nature intended," and not engineered from multiple batches
22 eight months to a year old with algorithms and flavor packs, concocted via an unnatural process.
23

24 21. When Plaintiff Phelps purchased the Simply Orange Products, she lost money,
25 because as a result of Defendant's misrepresentations and omissions, the subject Simply Orange
26 Products were not of the quality or type Plaintiff reasonably believed them to be, and had she
27 known that the subject Simply Orange Products were not what they purport to be, she would not
28

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1 have consumed them, she would not have purchased them, but rather, she would have used her
2 money to purchase truly pure and fresh orange juice products.

3 22. Defendant's extensive and long-term advertising campaign concealed the fact that
4 the subject Simply Orange Products are engineered from multiple batches of oranges and orange
5 products eight months to a year old with algorithms and flavor packs, concocted via an unnatural
6 process, led Plaintiff and members of the putative class to believe that the subject Simply Orange
7 Products were "Honestly Simple," "100% Pure Squeezed," "Fresh Taste Guaranteed," "100%
8 Orange Juice," and "simple, the way nature intended," and was the immediate cause of Plaintiff
9 and members of the putative class having consumed such juice products.
10

11 23. In light of Defendant's representations and omissions, as alleged herein, regarding
12 the subject Simply Orange Products, Plaintiff and members of the putative class reasonably
13 assumed that Defendant's Simply Orange Products were "Honestly Simple," "100% Pure
14 Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and "simple, the way nature
15 intended."
16

17 24. As a result of Defendant's false and misleading representations, in connection with
18 Defendant's extensive and long-term advertising campaign, as alleged herein, Plaintiff and
19 members of the putative class have suffered damages including, but not limited to, monetary loss
20 and emotional distress caused by the fact that they were misled into consuming juice products
21 engineered from multiple batches of oranges and orange products eight months to a year old, using
22 algorithms and flavor packs, concocted via an unnatural and convoluted process, which were not
23 "Honestly Simple," "100% Pure Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and
24 "simple, the way nature intended," even though they were represented as such.
25

26 **CLASS ALLEGATIONS**

27 25. Plaintiff brings this lawsuit as a class action on behalf of herself and all others
28

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1 similarly situated, as members of proposed subclasses pursuant to California Code of Civil
2 Procedure section 382. The subclasses satisfy the numerosity, commonality, typicality, adequacy,
3 predominance, and superiority requirements under those provisions.

4 26. The proposed class is defined as follows: All California residents who purchased
5 for consumption the subject Simply Orange Products in the State of California at any time during
6 the period of 10 years preceding the filing of the Complaint to class certification (the "Class").
7

8 Members of this class are referred to as "class members."

9 27. Plaintiff reserves the right to establish subclasses as appropriate.

10 **NUMEROSITY**

11 28. The class is so numerous that joinder of all members is impracticable. There are
12 hundreds of thousands of individuals in the State of California who purchased Simply Orange
13 Products during the relevant period.

14 **COMMON QUESTIONS OF LAW AND FACT**

15 29. There are questions of law and fact common to the members of the classes, which
16 questions predominate over any questions affecting only individual class members. Common
17 questions include, but are not limited to the following:
18

19 (a) Whether Defendant engaged in a pattern or practice of concealing, suppressing
20 and/or misrepresenting the fact that the subject Simply Orange Products were engineered from
21 multiple batches of oranges and orange products eight months to a year old, using algorithms and
22 flavor packs, concocted via an unnatural and convoluted process, which were not "Honestly
23 Simple," "100% Pure Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and "simple,
24 the way nature intended," even though they were represented as such;
25

26 (b) Whether Defendant engaged in intentional misrepresentation of the true nature of
27 the Simply Orange products;
28

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1 (c) Whether Defendant engaged in negligent misrepresentation of the true nature of the
2 Simply Orange products;

3 (d) Whether Defendant engaged in unlawful, unfair, misleading or deceptive business
4 acts or practices;

5 (e) Whether Defendant engaged in consumer fraud, deceptive trade practices, or other
6 unlawful acts;

7 (f) Whether Defendant engaged in false or misleading statements in its advertising in
8 violation of California False Advertising Act, Business & Professions Code §§17500 et seq.;

9 (g) Whether Defendant engaged in unfair business practices in violation of California
10 Business & Professions Code §§17200, et seq.;

11 (h) Whether Defendant's practice of concealing, suppressing and/or misrepresenting
12 the fact that the subject Simply Orange Products were engineered from multiple batches of
13 oranges and orange products eight months to a year old, using algorithms and flavor packs,
14 concocted via an unnatural and convoluted process, which were not "Honestly Simple," "100%
15 Pure Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and "simple, the way nature
16 intended," violated the California Consumer Legal Remedies Act, §§1750, et seq.; and,
17

18 (i) Whether class members are entitled to damages including punitive damages,
19 restitution, disgorgement of profits, and injunctive relief, and the proper measure, nature and
20 extent of such relief.
21

22 TYPICALITY

23 30. The claims of the named Plaintiff is typical of the claims of the members of the
24 class in that:
25

26 (a) Plaintiff is a member of the class.

27 (b) Plaintiff's claims stem from the same practice, acts, omissions, or course of conduct
28 that forms the basis of the class.

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1 (c) Plaintiff's claims are based upon the same legal and remedial theories as those of the
2 class and involve similar factual circumstances.

3 (d) There is no antagonism between the interests of the named Plaintiff and absent class
4 members.

5 (e) The injuries which Plaintiff suffered are similar to the injuries which class members
6 have suffered.

7 31. Certification of Plaintiff's claims pursuant to California law is appropriate because:

8 (a) The class is so numerous that joinder of the members is impracticable.

9 (b) There exists questions of fact and law which are common to the class.

10 (c) The claims of the representative party is typical of class claims.

11 (d) The representative party will fairly and adequately protect the interests of the class.

12 There is no conflict between her claims and those of other class members.

13 (e) Plaintiff has retained counsel whom are skilled and experienced in class actions and
14 who will vigorously prosecute the claims alleged herein.

15 (f) A class action is superior to other available methods for the fair and efficient
16 adjudication of this matter because no other similar litigation has been commenced, class members
17 have minimal interest in controlling the prosecution of separate actions, and the prosecution of
18 separate actions creates a risk of inconsistent or varying adjudication. Therefore, a class action
19 will be an efficient method of adjudication of the claims of the employees.

20 **FIRST CAUSE OF ACTION**

21 **INTENTIONAL MISREPRESENTATION**

22 **(Against Defendant, and Does 1-100)**

23 32. Plaintiff realleges each preceding paragraph as though fully set forth herein.

24 33. Plaintiff alleges for a First Cause of Action against Defendant and Does 1-100, and
25 each of them, as follows:

26 34. Defendant's representations were false.
27
28

1 35. Defendant knew that the representations were false when Defendant made them, or
2 that the Defendant made the representations recklessly and without regard for their truth.

3 36. Defendant intended that Plaintiff, and other similarly situated class members, rely
4 on the representations.

5 37. Plaintiff and the other class members reasonably relied on Defendant's
6 representations.

7 38. Plaintiff and the other class members were financially harmed and suffered other
8 damages including, but not limited to, emotional distress.

9 39. Plaintiff's and the other class members' reliance on Defendant's representations
10 were the immediate cause of the financial loss and emotional distress sustained by Plaintiff and the
11 other class members.

12 40. Defendant's misrepresentations and/or nondisclosures were the immediate cause of
13 Plaintiff and the other class members purchasing one or more of the subject Simply Orange
14 Products.

15 41. In the absence of Defendant's misrepresentations and/or nondisclosures, as
16 described above, Plaintiff and the other class members, in all reasonable probability, would not
17 have consumed the subject Simply Orange Products.

18
19
20
21 **SECOND CAUSE OF ACTION**

22 **NEGLIGENT MISREPRESENTATION**

23 **(Against Defendant, and Does 1-100)**

24 42. Plaintiff realleges each preceding paragraph as though fully set forth herein.

25 43. Plaintiff alleges for a Second Cause of Action against Defendant and Does 1-100,
26 and each of them, as follows:

27 44. Defendant represented to Plaintiff and other similarly situated class members that
28 important facts were true.

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1 45. Defendant's representations were not true.
2 46. Defendant had no reasonable grounds for believing the representations were true
3 when Defendant made them.

4 47. Defendant intended that Plaintiff and the other class members rely on the
5 representations.
6

7 48. Plaintiff and the other class members reasonably relied on Defendant's
8 representations.

9 49. Plaintiff's and the other class members' reliance on Defendant's representations
10 were a substantial factor in causing the financial loss and emotional distress sustained by Plaintiff
11 and the other class members.

12 50. Defendant's negligent misrepresentations and/or nondisclosures were the
13 immediate cause of Plaintiff and the other class members purchasing the subject Simply Orange
14 Products they believed were "Honestly Simple," "100% Pure Squeezed," "Fresh Taste
15 Guaranteed," "100% Orange Juice," and "simple, the way nature intended," and was the
16 immediate cause of Plaintiff and members of the putative class having consumed such juice
17 products, thereby sustaining monetary loss and emotional distress.
18

19 51. In absence of Defendant's negligent misrepresentations and/or nondisclosures, as
20 described above, Plaintiff and the other class members, in all reasonable probability, would not
21 have consumed the subject Simply Orange Products.
22

23 **THIRD CAUSE OF ACTION**

24 **FRAUD**

25 **(Against Defendant, and Does 1-100)**

26 52. Plaintiff realleges each preceding paragraph as though fully set forth herein.

27 53. Plaintiff alleges for a Third Cause of Action against Defendant and Does 1-100,
28 and each of them as follows:

1 54. The misrepresentations, nondisclosures and/or concealment of material facts made
2 by Defendant to Plaintiff and other similarly situated class members, as set forth above, were
3 known by Defendant to be false and material and were intended by Defendant to mislead Plaintiff
4 and the other class members.

5 55. Plaintiff and the other class members were actually misled and deceived and were
6 induced by Defendant to purchase the subject Simply Orange Products.
7

8 56. Defendant's misrepresentations and/or nondisclosures were the immediate cause of
9 Plaintiff and the other class members purchasing the subject Simply Orange Products.

10 57. In absence of Defendant's misrepresentations and/or nondisclosures, as described
11 above, Plaintiff and the other class members, in all reasonable probability, would not have
12 consumed the subject Simply Orange Products.
13

14 58. As a result of Defendant's conduct, Plaintiff and the other class members have been
15 damaged financially and have suffered other damages, including but not limited to, emotional
16 distress. In addition to such damages, Plaintiff and the other class members seek punitive or
17 exemplary damages pursuant to California Civil Code §3294 in that Defendant engaged in "an
18 intentional misrepresentation, deceit, or concealment of a material fact known to the defendant[s]
19 with the intention on the part of the defendant[s] of thereby depriving a person of property or legal
20 rights or otherwise causing injury."
21

22 **FOURTH CAUSE OF ACTION**

23 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING ACT, BUS. &**
24 **PROFESSIONS CODE §§17500, ET SEQ.**

25 **(Against Defendant, and Does 1-100)**

26 59. Plaintiff realleges each preceding paragraph as though fully set forth herein.

27 60. Plaintiff alleges for a Fourth Cause of Action against Defendant and Does 1-100,
28 and each of them, as follows:

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1 61. Defendant engaged in unfair and deceptive acts and practices, in violation of
2 Business and Professions Code §§17500, et seq., by marketing and/or selling the subject Simply
3 Orange Products without disclosure of the material fact that they were engineered from multiple
4 batches of oranges and orange products eight months to a year old, using algorithms and flavor
5 packs, concocted via an unnatural and convoluted process.
6

7 62. These acts and practices, as described above, have deceived Plaintiff and other
8 class members, causing them to lose money and suffer emotional distress as herein alleged, and
9 have deceived and are likely to deceive the consuming public, in violation of those sections.
10 Accordingly, Defendant's business acts and practices, as alleged herein, have caused injury to
11 Plaintiff and the other class members.
12

13 63. Defendant's misrepresentations and/or nondisclosures of the fact that the subject
14 Simply Orange Products were engineered from multiple batches of oranges and orange products
15 eight months to a year old, using algorithms and flavor packs, concocted via an unnatural and
16 convoluted process, they believed were "Honestly Simple," "100% Pure Squeezed," "Fresh Taste
17 Guaranteed," "100% Orange Juice," and "simple, the way nature intended," was the immediate
18 cause of Plaintiff and the other class members consuming one or more of the Simply Orange
19 Products.
20

21 64. In absence of Defendant's misrepresentations and/or nondisclosures, as described
22 above, Plaintiff and the other class members would not have consumed one or more of the subject
23 Simply Orange Products.
24

25 65. Plaintiff and the other class members are entitled to relief, including full restitution
26 and/or disgorgement of all revenues, earnings, profits, compensation, and benefits which may have
27 been obtained by Defendant as a result of such business acts or practices, and enjoining Defendant
28 to cease and desist from engaging in the practices described herein.

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FIFTH CAUSE OF ACTION

VIOLATION OF CAL. BUSINESS AND PROFESSIONS CODE §§17200, ET SEQ.

(Against Defendant, and Does 1-100)

66. Plaintiff realleges each preceding paragraph as though fully set forth herein.

67. Plaintiff alleges for a Fifth Cause of Action against Defendant and Does 1-100, and each of them, as follows:

68. California Business and Professions Code §§17200, et seq. prohibits any "unfair deceptive, untrue or misleading advertising." For the reasons discussed above, Defendant has engaged in unfair, deceptive, untrue and misleading advertising in violation of California Business & Professions Code §§17200, et seq.

69. California Business & Professions Code §17200 also prohibits any "unlawful... business act or practice." Defendant has violated §§17200, et seq.'s prohibition against engaging in unlawful acts and practices by, among other things, making the representations and omissions of material facts, as set forth herein, and violating, among other things, Cal. Civ. Code §1770 of the Consumers Legal Remedies Act.

70. Plaintiff and the Class reserve the right to allege other violations of law which constitute other unlawful business acts or practices. Such conduct is ongoing and continues to this date.

71. California Business & Professions Code §§17200, et seq. also prohibits any "unfair... business act or practice." Defendant's acts, omissions, misrepresentations, practices and non-disclosures as alleged herein also constitute "unfair" business acts and practices within the meaning of Business & Professions Code §17200 in that Defendant's conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any alleged benefits attributable to such conduct. Plaintiff asserts violations of the public policy of engaging in false and misleading

1 advertising, unfair competition, and deceptive conduct towards consumers. There were reasonably
2 available alternatives to further Defendant's legitimate business interests, other than the conduct
3 described herein. This conduct constitutes violations of the unfair prong of California Business &
4 Professions Code §§17200, et seq.

5
6 72. Business & Professions Code §§17200, et seq., also prohibits any "fraudulent
7 business act or practice." Defendant's claims, nondisclosures, and misleading statements, as set
8 forth above, were false, misleading, and/or likely to deceive the consuming public within the
9 meaning of Business & Professions Code §§17200, et seq. Defendant's business acts and
10 practices are fraudulent because they are likely to, and in fact, did deceive consumers, including
11 Plaintiff and class members, into believing they were purchasing "Honestly Simple," "100% Pure
12 Squeezed," "Fresh Taste Guaranteed," "100% Orange Juice," and "simple, the way nature
13 intended," Simply Orange Products.

14
15 73. Defendant's misrepresentations and/or nondisclosures of the fact that the subject
16 Simply Orange Products were originally colorless and flavorless, engineered from multiple
17 batches eight months to a year old with algorithms and flavor packs, concocted via an unnatural
18 process, was the immediate cause of Plaintiff and class members consuming one or more of the
19 subject Simply Orange Products.

20
21 74. As a result of Defendants' misrepresentations and omissions, Plaintiff and members
22 of the putative class lost money or property because the subject Simply Orange Products were not
23 of the quality Plaintiff and putative class members reasonably believed them to be, and had she
24 known that the subject Simply Orange Products were originally colorless and flavorless, and
25 engineered from multiple batches of oranges and orange products eight months to a year old, with
26 algorithms and flavor packs, she would not have consumed them, she would not have purchased
27
28

1 them from Defendant, but rather, she would have used her money to purchase alternate items from
2 another provider.

3 75. Defendant's conduct caused and continues to cause substantial injury to Plaintiff
4 and the other Class members. Plaintiff has suffered injury in-fact and has lost money as a result of
5 Defendant's wrongful conduct.
6

7 76. Pursuant to Business & Professions Code §§17203, Plaintiff seeks an order
8 requiring Defendant to immediately cease such acts of unlawful, unfair, and fraudulent business
9 practices and requiring Defendant to engage in a corrective advertising campaign.

10 77. Unless Defendant is enjoined from continuing to engage in these unfair, unlawful
11 and fraudulent business practices, Plaintiff and the class members will continue to be injured by
12 Defendant's actions and conduct.
13

14 78. Defendant has thus engaged in unlawful, unfair, and fraudulent business acts and
15 practices, entitling Plaintiff to judgment and equitable relief against Defendant, as set forth in the
16 Prayer for Relief, including full restitution and/or disgorgement of all revenues, earnings, profits,
17 compensation, and benefits which may have been obtained by Defendant as a result of such
18 business acts or practices, and enjoining Defendant to cease and desist from engaging in the
19 practices described herein.
20

21 79. Plaintiff, representative of the class herein, takes upon herself enforcement of these
22 laws and lawful claims. There is a financial burden involved in pursuing this action, the action is
23 seeking to vindicate a public right, and it would be against the interests of justice to penalize
24 Plaintiff by forcing her to pay attorneys' fees from the recovery in this action. Attorneys' fees are
25 appropriate pursuant to Code of Civil Procedure §1021.5, and otherwise.
26
27
28

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SIXTH CAUSE OF ACTION

**VIOLATION OF CAL. CONSUMER LEGAL REMEDIES ACT CIV. CODE §§1750, ET
SEQ.**

(Against Defendant, and Does 1-100)

80. Plaintiff realleges each preceding paragraph as though fully set forth herein.

81. Plaintiff alleges for a Sixth Cause of Action against Defendant and Does 1-100, and each of them, as follows:

82. Defendant, through its agents and employees, engaged in the following violations of California Civil Code §1770: Using deceptive representations in connection with goods (California Civil Code § 1770(a)(4)); Representing that goods have a characteristic that they do not have (California Civil Code § 1770(a)(5)).

83. The above-mentioned misrepresentations resulted in purchases by Plaintiff and the other class members.

84. As a result of the California Civil Code §1770 violations described herein, Plaintiff and the other class members have suffered specific and general damages.

85. Defendant continues to engage in the above-described deceptive practices and unless enjoined from doing so by this Court, will continue to damage consumers who will purchase its goods on the basis of its misrepresentations as herein alleged.

86. Defendant acted with fraud in engaging in the California Civil Code §1770 violations described herein. As a result, Plaintiff and the other class members are entitled to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, individually and on behalf of all other members of the general public similarly situated, prays for relief and judgment against Defendant and Does 1 through 100, and each of them, jointly and severally, as follows:

(1) That this action be certified as a class action;

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- 1 (2) That Plaintiff be appointed as the class representative;
- 2 (3) That counsel for Plaintiff and the putative class be appointed as class counsel;
- 3 **AS TO THE FIRST THROUGH SIXTH CAUSES OF ACTION**
- 4 (4) That Plaintiff and the other class members be awarded compensatory and general
- 5 damages according to proof on all causes of action except violation of the California Consumer
- 6 Legal Remedies Act;
- 7
- 8 (5) That Plaintiff and the putative class be awarded restitution and/or disgorgement and
- 9 other equitable relief as the Court deems proper;
- 10 (6) For injunctive relief to ensure compliance with the California Unfair False
- 11 Advertising Act, the California Unfair Business Practices Act, and the California Consumer Legal
- 12 Remedies Act;
- 13
- 14 (7) That Defendants be mandated to make a payment to a *cy pres* fund;
- 15 (8) That Defendants be mandated to engage in a corrective advertising campaign to
- 16 correct the misperceptions Defendants' deceptive, false and misleading acts have created;
- 17 (9) That Defendants be mandated to issue an apology to Plaintiff and the other class
- 18 members;
- 19 (10) That Plaintiff and the other class members be awarded punitive damages as to the
- 20 appropriate cause of action;
- 21
- 22 (11) That Plaintiff and the other class members be awarded pre-judgment and post-
- 23 judgment interest, as well as their reasonable attorneys', expert-witness fees, and other costs
- 24 pursuant to the California Consumer Legal Remedies Act, Civil Code §§1750 et seq., California
- 25 Code of Civil Procedure §1021.5, and other statutes as may be applicable; and
- 26 (12) All such other and further relief as the Court deems just and proper.
- 27
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DEMAND FOR JURY TRIAL

Plaintiff hereby Demands a Trial by Jury.

Dated: June 3, 2014

Respectfully submitted:

NATIONAL INJURY LAW FIRM, LLP

OLIVIER A. TAILLIEU

GILBERT PEREZ, III

By:


Attorneys for GWEN PHELPS individually, and
all similarly situated Plaintiffs

06/03/2014

ORIGINAL

SHORT TITLE: PHELPS v. THE COCA-COLA COMPANY

CASE NUMBER

BC 547592

3

**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 5-7 ☐ 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) | <input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death | 1., 2., 4. |
| | Uninsured Motorist (46) | <input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist | 1., 2., 4. |
| Other Personal Injury/Property Damage/ Wrongful Death Tort | Asbestos (04) | <input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death | 2. 2. |
| | Product Liability (24) | <input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental) | 1., 2., 3., 4., 8. |
| | Medical Malpractice (45) | <input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons | 1., 4. |
| | | <input type="checkbox"/> A7240 Other Professional Health Care Malpractice | 1., 4. |
| | Other Personal Injury Property Damage Wrongful Death (23) | <input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death | 1., 4. 1., 4. 1., 3. 1., 4. |

SHORT TITLE:

PHELPS v. THE COCA-COLA COMPANY

CASE NUMBER

Non-Personal Injury/ Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

7 10 2 / 03 / 00

| A Civil Case Cover Sheet Category No. | B Type of Action (Check only one) | C Applicable Reasons - See Step 3 Above |
|---|--|--|
| Business Tort (07) | <input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract) | 1., 3. |
| Civil Rights (08) | <input type="checkbox"/> A6005 Civil Rights/Discrimination | 1., 2., 3. |
| Defamation (13) | <input type="checkbox"/> A6010 Defamation (slander/libel) | 1., 2., 3. |
| Fraud (16) | <input checked="" type="checkbox"/> A6013 Fraud (no contract) | 1., 2., 3. |
| Professional Negligence (25) | <input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal) | 1., 2., 3. 1., 2., 3. |
| Other (35) | <input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort | 2., 3. |
| Wrongful Termination (36) | <input type="checkbox"/> A6037 Wrongful Termination | 1., 2., 3. |
| Other Employment (15) | <input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals | 1., 2., 3. 10. |
| Breach of Contract/ Warranty (06) (not insurance) | <input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence) | 2., 5. 2., 5. 1., 2., 5. 1., 2., 5. |
| Collections (09) | <input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case | 2., 5., 6. 2., 5. |
| Insurance Coverage (18) | <input type="checkbox"/> A6015 Insurance Coverage (not complex) | 1., 2., 5., 8. |
| Other Contract (37) | <input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence) | 1., 2., 3., 5. 1., 2., 3., 5. 1., 2., 3., 8. |
| Eminent Domain/Inverse Condemnation (14) | <input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels_____ | 2. |
| Wrongful Eviction (33) | <input type="checkbox"/> A6023 Wrongful Eviction Case | 2., 6. |
| Other Real Property (26) | <input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure) | 2., 6. 2., 6. 2., 6. |
| Unlawful Detainer-Commercial (31) | <input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction) | 2., 6. |
| Unlawful Detainer-Residential (32) | <input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction) | 2., 6. |
| Unlawful Detainer- Post-Foreclosure (34) | <input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure | 2., 6. |
| Unlawful Detainer-Drugs (38) | <input type="checkbox"/> A6022 Unlawful Detainer-Drugs | 2., 6. |

SHORT TITLE:

PHELPS v. THE COCA-COLA COMPANY

CASE NUMBER

Judicial Review

Provisionally Complex Litigation

Enforcement of Judgment

Miscellaneous Civil Complaints

Miscellaneous Civil Petitions

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

SHORT TITLE:

PHELPS v. THE COCA-COLA COMPANY

CASE NUMBER

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. <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. | | ADDRESS: 818 West Seventh Street 2nd Floor |
| CITY: Los Angeles | STATE: CA | ZIP CODE: 90017 |

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: June 3, 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.

06/03/2014

ORIGINAL

CM-010

| | | |
|---|--|---|
| ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Olivier A. Taillieu (SBN 206546) / Gilbert Perez, III (SBN 293480) NATIONAL INJURY LAW FIRM LLP 450 N. Roxbury Drive, Suite 700 Beverly Hills, CA 90210 TELEPHONE NO.: (310) 651-2440 FAX NO.: (310) 651-2439 | | FOR COURT USE ONLY FILED Superior Court of California County of Los Angeles JUN 03 2014 Sherri R. Carter, Executive Officer/Clerk By <u>Shaunya Bolden</u> Deputy |
| ATTORNEY FOR (Name): Plaintiff GWEN PHELPS | | |
| SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES STREET ADDRESS: 111 N. Hill Street MAILING ADDRESS: CITY AND ZIP CODE: Los Angeles, CA 90012 BRANCH NAME: Central District - Stanley Mosk Courthouse | | |
| CASE NAME: GWEN PHELPS v. THE COCA-COLA COMPANY | | |
| CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less) | Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402) | CASE NUMBER: BC 547592 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 <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15) | Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> 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. <input type="checkbox"/> Large number of separately represented parties | d. <input type="checkbox"/> Large number of witnesses |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence | f. <input type="checkbox"/> 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): 6: Misrepresentation, Fraud, Violation of CA Bus. & Prof. Codes
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: June 3, 2014
Gilbert Perez, III

(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.

Page 1 of 2

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 “B”

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**IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

GWEN PHELPS, individually and all similarly
situated Plaintiffs,

Plaintiffs,

v.

THE COCA-COLA COMPANY, a Delaware
Corporation, and DOES 1 through 100,
Inclusive,

Defendants.

Case No. _____

**Superior Court of California,
County of Los Angeles Case No. BC547592**

**Declaration in Support of
Notice of Removal**

**DECLARATION OF RICHARD VILLANUEVA
IN SUPPORT OF COCA-COLA'S NOTICE OF REMOVAL**

I, Richard Villanueva, declare under penalty of perjury as follows.

1. I am Finance Director for the Minute Maid Business Unit of The Coca-Cola Company ("Coca-Cola"), which sells the Simply Orange brand of 100% orange juice products. I submit this declaration based upon my personal knowledge in support of Defendant Coca-Cola's Notice of Removal.
2. I understand that the plaintiff alleges, among other things, that the statement "100% Pure Squeezed Orange Juice" on labels and in advertising for Simply Orange 100% orange juice products is false and misleading in violation of state laws. I further understand that plaintiff is seeking to recover on behalf of herself and a purported class of citizens of California who have purchased Simply Orange juice products, labeled and marketed as being "100% Pure Squeezed Orange Juice," at any time during the ten years preceding the filing of the complaint, that is, since June 3, 2004.
3. I was asked by counsel for Coca-Cola to ascertain whether Coca-Cola's revenues from the

1 sale of Simply Orange 100% orange juice in California from June 2004 to present have exceeded
2 \$5 million.

3 4. Coca-Cola's revenue from the sale of Simply Orange 100% orange juice products comes
4 primarily from sales to retailers such as grocery, convenience, and "big box" stores, which pay
5 Coca-Cola a wholesale price to carry these products. Typically, retailers then apply a "mark up"
6 and sell the products to consumers at a higher retail price.

7 5. Coca-Cola does not maintain records of every individual consumer who purchases Simply
8 Orange 100% orange juice. Nor does Coca-Cola maintain records that enable it to know with
9 certainty whether a consumer who purchases Simply Orange juice is a citizen of California or
10 any other state. Nevertheless, Coca-Cola does keep records of how much Simply Orange 100%
11 orange juice is shipped to major retailers in each state and the wholesale prices paid by those
12 retailers.

13 6. Using these records, I am able to determine the quantity of Simply Orange 100% orange
14 juice products shipped to major retailers in California between June 2004 and June 2014, as well
15 as the revenue that Coca-Cola received from those sales.

16 7. From June 3, 2004 through June 3, 2014, Coca-Cola shipped well in excess of \$5 million
17 of bottles of Simply Orange 100% orange juice to major retailers' distribution centers in
18 California. Coca-Cola's revenue from the sale of Simply Orange 100% orange juice products to
19 these key California retailers was also well in excess of \$5 million.

20 8. I declare under penalty of perjury that the foregoing is true and correct.

21 Executed this 2nd day of July 2014 in Sugar Land, Texas.

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Richard Villanueva