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CAMPBELL SOUP COMPANY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

SANDAH L. NELSON, individually
and on behalf of all others similarly
situated,

Plaintiff,

v.

CAMPBELL SOUP COMPANY,
and DOES 1-50, inclusive,

Defendants.

No. '14CV2647 DMS JLB

[Removed from San Diego Super. Ct.
Case No. 37-2014-00033088-CU-MC-
CTL]

NOTICE OF REMOVAL

Compl. filed: September 30, 2014
Trial date: None Set

1 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

2 PLEASE TAKE NOTICE that pursuant to 28 U.S.C. §§ 1332, 1446 and
3 1453, Defendant Campbell Soup Company (“Defendant” or “Campbell”) hereby
4 removes the state court action described below from the California Superior Court
5 for the County of San Diego to the United States District Court for the Southern
6 District of California.

7 **I. BACKGROUND**

8 **A. Procedural Background**

9 1. On or about September 30, 2014, Plaintiff Sandahl Nelson (“Plaintiff”)
10 commenced a class action against Defendant Campbell Soup Company
11 (“Defendant”) in the California Superior Court for the County of San Diego,
12 entitled *Sandahl Nelson v. Campbell Soup Company*, as case number 37-2014-
13 00033088-CU-MC-CTL (the “Complaint”). Copies of the Summons and
14 Complaint, and all other documents served on Defendant, are attached as Exhibit A.

15 2. Defendant was served with the Summons and Complaint on October 8,
16 2014, via Fed Ex Priority Overnight mail. Pursuant to 28 U.S.C. § 1446(b), this
17 Notice of Removal is timely because it was filed within 30 days of service of the
18 Summons and Complaint.

19 **B. The Complaint**

20 3. The Complaint alleges three causes of action: (1) Violation of
21 California’s Consumer Legal Remedies Act (“CLRA”), Cal. Civil Code § 1750, *et*
22 *seq.*; (2) Violation of California’s False Advertising Law (“FAL”), Cal. Bus. &
23 Prof. Code § 17500, *et seq.*; and (3) Violation of California’s Unfair Competition
24 Law (“UCL”), Cal. Bus. & Prof. Code § 17200, *et seq.*

25 4. Each cause of action in the Complaint derives from Defendant’s
26 advertising (product labeling) and sale of Campbell’s Prego-branded sauces labeled
27 as “100% Natural.” Compl. ¶ 1.
28

5. The Complaint, which was filed as a putative class action, purports to seek relief on behalf of Plaintiff individually, and on behalf of a class defined as “[a]ll consumers within the State of California who purchased Defendant’s ‘Prego’-branded products that were labeled as ‘100% Natural’ during the applicable limitations period(s).” *Id.* ¶ 8; *see also id.* ¶¶ 8–14.

6. The remedies sought by Plaintiff include, *inter alia*, damages, restitution, and “other monetary relief according to proof”; attorney’s fees and costs of suit; and pre-judgment interest. Compl. Prayer.

II. GROUND FOR REMOVAL

A. **The Court Has Jurisdiction Over This Action Pursuant To The Class Action Fairness Act.**

7. Under the Class Action Fairness Act (“CAFA”), 28 U.S.C. § 1332(d), federal district courts have original jurisdiction over any putative class action in which (1) there are at least 100 putative class members, (2) any putative class member is a citizen of a state different from any defendant, and (3) the aggregated claims of the members of the putative class exceed \$5 million. 28 U.S.C. § 1332(d). This action may be removed pursuant to 28 U.S.C. §§ 1446 and 1453 because each of these requirements is satisfied, and this case is timely and properly removed by the filing of this Notice.

a. **The Putative Class Consists of More Than 100 Members.**

8. CAFA defines “class action” as “any civil action filed under rule 23 of the Rules of Civil Procedure or similar state statute or rule of judicial procedure authorizing an action to be brought by 1 or more representative persons as a class action.” 28 U.S.C. § 1332(d)(1)(B). Here, the Complaint is titled “Class Action” and is purported to be brought by Plaintiff on behalf of herself and “all others similarly situated.” Compl. Introduction. Under the section titled “Class Allegations,” the Complaint states that this is a class action under California Code

1 of Civil Procedure § 382. *Id.* ¶ 8. Plaintiff further alleges that “[t]he Class is so
 2 numerous that the individual joinder of all members is impractical under the
 3 circumstances of this case,” *id.* ¶ 10, “individual joinder of all members of the Class
 4 is impractical,” *id.* ¶ 14, and “Class action treatment will permit a large number of
 5 similarly situated persons to prosecute their common claims in a single forum.” *Id.*

6 9. The Complaint is temporally limited to purchases made during “the
 7 applicable limitations period(s).” *Id.* ¶ 8. Based on the four-year statute of
 8 limitations for false advertising claims brought under the UCL, *see* Cal. Bus. &
 9 Prof. Code § 17208, the putative nationwide class consists of consumers within
 10 California who purchased Defendant’s Prego-branded products labeled as “100%
 11 Natural” from September 30, 2010 through the filing of the Complaint.

12 10. Exhibit 2 to Plaintiff’s Complaint is a sample label for Prego
 13 Traditional Spaghetti Sauce. As discussed below, Defendant’s revenues from
 14 California retail sales of at least one stock keeping unit (SKU) of the Prego
 15 Traditional Spaghetti sauce exceeded \$5 million each year from 2010 until present.
 16 Declaration of Kevin Ward in Support of Notice of Removal (“Ward Decl.”), ¶ 5.
 17 This SKU typically sells at a retail price that is below \$10. *Id.* In addition to this
 18 SKU, Campbell has also sold many other Prego-branded products containing a
 19 “100% Natural” label at differing times since September 30, 2010, and sold Prego-
 20 branded products in several different size units and under several different labels
 21 during this period. *Id.* ¶ 6. Consequently, given the price of the individual SKUs,
 22 the purported class will absolutely exceed 100 members. *See id.* ¶¶ 6, 7.

23 **b. Minimal Diversity Exists Between The Parties.**

24 11. CAFA requires that only “minimal diversity” exist; that is, the
 25 citizenship of at least one putative class member differs from that of at least one
 26 defendant. 28 U.S.C. §§ 1332(d)(2)(A); *see also* *Schneider v. Bishop*, No. 12-1998,
 27 2012 WL 5948465, at *1 (S.D. Cal. Nov. 17, 2012) (holding minimal diversity
 28

1 under CAFA was met where plaintiff was a citizen of California and defendant was
2 incorporated in Washington and maintained its principal place of business in
3 Washington).

4 12. Plaintiff is a resident of California and therefore a citizen of California.
5 Compl.¶ 2; 28 U.S.C. § 1332(a)(1) (an individual is a citizen of the state in which
6 she resides).

7 13. Defendant is incorporated under the laws of the State of New Jersey,
8 and its headquarters are located in New Jersey. Decl. of Tara Smith in Support of
9 Notice of Removal, ¶ 2. A corporation's principal place of business is the place
10 where "a corporation's officers direct, control, and coordinate the corporation's
11 activities," which is typically "the place where the corporation maintains its
12 headquarters." *Hertz Corp. v. Friend*, 130 S. Ct. 1181, 1192 (2010). Defendant is
13 therefore a citizen of New Jersey.

14 14. Thus, the citizenship of "any member of a class of plaintiffs is a citizen
15 of a State different from any defendant," as required under CAFA. 28 U.S.C. §
16 1332(d)(2)(A).

17 **c. The Amount In Controversy Requirement Is Satisfied.**

18 15. Plaintiff's lawsuit also meets CAFA's amount-in-controversy
19 requirements because it seeks restitution and other relief that, in the aggregate,
20 exceed CAFA's \$5 million threshold.

21 16. Under CAFA, "the claims of individual class members shall be
22 aggregated to determine whether the matter in controversy exceeds the sum or
23 value of \$5,000,000, exclusive of interest and costs." 28 U.S.C. § 1332(d)(6).
24 Plaintiff does not plead a specific amount in controversy, so Defendant simply
25 needs to establish by a preponderance of the evidence "that the potential damages
26 could exceed the jurisdictional amount." *Rea v. Michaels Stores Inc.*, 742 F.3d
27 1234, 1239 (9th Cir. 2014) (internal quotation marks and citation omitted);
28

1 *Rodriguez v. AT&T Mobility Services LLC*, 728 F.3d 975, 981–82 (9th Cir. 2013).

2 17. Under CAFA, the “claims of the individual class members must be
3 aggregated.” § 1332(d)(6). “[T]he [CAFA] statute tells the District Court to
4 determine whether it has jurisdiction by adding up the value of the claim of each
5 person who falls within the ... proposed class and determine whether the resulting
6 sum exceeds \$5 million.” *Standard Fire Ins. Co. v. Knowles*, 133 S.Ct. 1345, 1348
7 (2013). Attorney’s fees are properly included in the calculation. *Deaver v. BBVA*
8 *Compass Consulting & Benefits, Inc.*, No. 13-CV-00222, 2014 WL 2199645, at *3
9 (N.D. Cal. May 27, 2014). If the Court is uncertain whether the amount in
10 controversy exceeds \$5 million, “the court should err in favor of exercising
11 jurisdiction over the case.” S. Rep. No. 109-14, at 42 (2005).

12 18. Removal is appropriate because Plaintiff requests restitution and other
13 relief that, if granted, would cost Defendant at least \$5 million. Plaintiff seeks
14 “damages, restitution, and other monetary relief according to proof,” Compl.
15 Prayer ¶ 1, for the applicable limitations periods. Plaintiff seeks a full refund for
16 herself and the putative class, repeatedly alleging that she and the Class would not
17 have purchased the Products but for the alleged advertising. *See, e.g.*, Compl. ¶ 20
18 (“Plaintiff and the Class members would not have purchased the Products at the
19 price offered, or at all, if they had known that, contrary to Defendant's
20 representation, the Products contained artificial and/or synthetic ingredients. As a
21 result of Defendant’s misrepresentation, Plaintiff and the Class members have been
22 damaged in an amount to be proved at trial.”); *id.* ¶ 25 (“Plaintiff and the Class
23 members would not have purchased the Products at the price offered, or at all, if
24 they had known that Defendant’s “100% Natural” representation was false.”); *id.* ¶
25 31 (“Plaintiff and the Class members have suffered injury in fact and lost money as
26 a result of Defendant’s conduct, since they purchased the Products in reliance on
27 Defendant’s “100% Natural” representation and would not have purchased the
28

1 Products at the price offered, or at all, if they had known that the representation was
2 false.”). Plaintiff also seeks pre-judgment interest on the relief sought, attorney’s
3 fees and costs, and “such other relief as the Court deems proper.” Compl. Prayer ¶¶
4 1–4. Together, as shown below, these remedies exceed \$5 million, as required for
5 federal jurisdiction:

6 19. Restitution. As detailed in the Declaration of Kevin Ward filed in
7 support of this Notice of Removal, the sales of Prego-branded products since
8 September 30, 2010 well exceeded \$5 million in California. Ward Decl. ¶¶ 5, 6.
9 California retail sales of at least one SKU of the Prego Traditional Spaghetti sauce
10 exceeded \$5 million each year from 2010 until present. *Id.* ¶ 5. Moreover, during
11 the four years preceding the filing of this Complaint, Campbell also sold many
12 other Prego-branded products with “100% Natural” labels at grocery, convenience,
13 and drug stores located in California. *Id.* ¶ 3. Sales since September 30, 2010 in
14 California of all of the Prego Sauce SKUs have exceeded \$10 million per year. *Id.*
15 ¶ 6. Because California consumers spent at least \$5 million on Prego-branded
16 products with “100% Natural” labels that are the subject of the Complaint during
17 the four year period preceding the filing of the lawsuit, the amount in controversy
18 unquestionably exceeds the CAFA threshold. *Watkins v. Vital Pharms., Inc.*, No.
19 13-55755, 2013 WL 3306322, at *2 (9th Cir. July 2, 2013) (per curiam) (holding
20 that a declaration stating that total sales of the product at issue exceeded \$5 million
21 during the class period was sufficient to meet CAFA’s amount in controversy
22 requirement); *see also Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744 (11th Cir.
23 2010) (concluding a developer carried its burden by including a declaration that the
24 developer had collected more than \$5 million in purchase deposits from prospective
25 purchasers who sought return of deposits).

26 20. Statutory relief. On behalf of a putative California class, Plaintiff
27 seeks damages and other monetary relief according to proof. Compl. Prayer ¶ 1.
28

1 Under the CLRA, “[a]ny consumer who suffers any damage” as a result of a
2 practice declared to be unlawful under the statute may recover actual damages (and
3 at least \$1000 in the case of a class action), and “any other relief that the court
4 deems proper.” Cal. Civ. Code § 1780. The CLRA allows for an additional
5 statutory award of up to \$5,000 to senior citizens or disabled persons under certain
6 circumstances, including where the trier of fact finds that “an additional award is
7 appropriate.” § 1752. Remedies available under the CLRA are not exclusive and
8 are available in addition to “other procedures or remedies for any violation or
9 conduct provided for in any other law.” *Id.* Hence, to the extent that a court may
10 find that Defendant’s alleged conduct violated the CLRA and damages may be
11 awarded to Plaintiff and the class, the amount in controversy is even higher than the
12 restitution amount mentioned above.

13 21. Attorney’s Fees. Plaintiff also seeks attorney’s fees and costs. Compl.
14 Prayer ¶ 2. State law governs the award of attorney’s fees in class actions where
15 the underlying causes of action are based on state law. *Vizcaino v. Microsoft Corp.*,
16 290 F.3d 1043, 1047 (9th Cir. 2002). The CLRA allows a prevailing plaintiff to
17 recover court costs and attorney’s fees as a matter of right. Cal. Civ. Code §
18 1780(e). The Ninth Circuit has approved 25 percent of the total common fund
19 recovery as a “bench mark” for adequate compensation of attorney’s fees in a class
20 action suit. *Paul, Johnson, Alston & Hunt v. Gaulty*, 886 F.2d 268, 272 (9th Cir.
21 1989). Plaintiff does not allege an estimate as to the amount in controversy here.
22 However, based on Defendant’s own calculations of the minimum cost of
23 restitution at issue, reasonable attorney’s fees could be substantial.

24 22. Total Amount in Controversy. As discussed above, the amount in
25 controversy exceeds the \$5 million threshold as required for removal to federal
26 court under 28 U.S.C. § 1332(d). The actual value of the restitution sought by
27 Plaintiff is at least \$5 million, without even accounting for attorney’s fees and other
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1 monetary relief. Should additional relief be granted, as requested by Plaintiff, the
2 potential cost to Defendant is even higher.

3 **B. Defendant Has Satisfied All Other Requirements For Removal.**

4 23. Intradistrict Assignment. Pursuant to 28 U.S.C. § 1441(a), assignment
5 to the United States District Court for the Southern District of California is proper
6 because Plaintiff filed this action in the Superior Court of California, County of
7 San Diego.

8 24. Attachment of Pleadings. Pursuant to 28 U.S.C. § 1446, Defendant
9 hereby provides this Court with copies of all process, pleadings, and orders served
10 on Defendant in this action, attached as Exhibit A. Defendant has not received any
11 pleadings, process or orders besides those attached.

12 25. Notice to State Court/Plaintiff. Pursuant to 28 U.S.C. § 1446(d),
13 Defendant will promptly serve on Plaintiff and file with the Superior Court a
14 Notice to Plaintiff of Removal to Federal Court. Pursuant to Federal Rule of Civil
15 Procedure 5(d), Defendant will also file with this Court a Certificate of Service of
16 its Notice to Plaintiff.

17 **C. Non-Waiver of Defenses**

18 26. Defendant expressly reserves all of its defenses. By removing the
19 Action to this Court, Defendant does not waive any rights or defenses available
20 under federal or state law. Defendant expressly reserves the right to move for
21 dismissal of the Complaint pursuant to Rule 12 of the Federal Rules of Civil
22 Procedure. Nothing in this Notice of Removal should be taken as an admission that
23 Plaintiff's allegations are sufficient to state a claim or have any substantive merit.

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1 WHEREFORE, Defendant hereby removes the above-entitled case to this
2 Court.

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4
5 DATED: November 6, 2014

PERKINS COIE LLP

6 By: s/ Julie L. Hussey

7 Julie L. Hussey, Bar No. 237711
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8 Attorneys for Defendant
9 CAMPBELL SOUP COMPANY
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7 Attorneys for Plaintiff

8
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA
10 COUNTY OF SAN DIEGO

11 SANDAHL NELSON, individually and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 CAMPBELL SOUP COMPANY, and DOES
16 1-50, inclusive,

17 Defendants.
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ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/30/2014 at 11:05:16 AM

Clerk of the Superior Court
By Andrea Santiago, Deputy Clerk

CASE NO. 37-2014-00033088-CU-MC-CTL

CLASS ACTION COMPLAINT FOR
VIOLATION OF:

(1) Violation of California Consumers Legal
Remedies Act, Civ. Code §§ 1750 *et seq.*;

(2) Violation of California False Advertising
Law, Bus. & Prof. Code §§ 17500 *et seq.*;

(3) Violation of California Unfair Competition
Law, Bus. & Prof. Code §§ 17200 *et seq.*

1 Plaintiff Sandahl Nelson ("Plaintiff"), on behalf of herself and all others similarly situated,
2 alleges the following claims against Defendant Campbell Soup Company ("Campbell" or
3 "Defendant").

4 INTRODUCTION

5 1. This is a class action lawsuit brought on behalf of California consumers who
6 purchased Campbell's "Prego"-branded sauces that were labeled as "100% Natural" (the
7 "Products"). During the applicable limitations period, Campbell falsely represented on the front
8 label of each Product that the Product was "100% Natural," when in fact the Product contained
9 one or more genetically modified ingredients. Genetically modified ingredients are not "natural"
10 because they are produced from organisms whose genetic material has been altered in the
11 laboratory to cause the organisms to express traits that are not found in nature.

12 2. Plaintiff Sandahl Nelson is an individual residing in San Diego County, California.

13 3. Defendant Campbell Soup Company is a New Jersey corporation doing business in
14 San Diego, California.

15 4. Plaintiff does not know the names of those defendants sued as DOES 1 through 50
16 but will amend this complaint when she learns those names. Plaintiff alleges on information and
17 belief that each of the defendants was, at all relevant times, the agent, representative, successor,
18 affiliate, officer, director, employee, co-conspirator, or alter ego of each of the other defendants
19 and is in some manner responsible for the wrongdoing alleged herein. For the purposes of this
20 complaint, all defendants are collectively referred to as "Campbell" or "Defendant."

21 5. As described in Plaintiff's declaration, attached hereto as Exhibit 1, venue is proper
22 in this Court because Plaintiff purchased the Products in San Diego County, California.

23 SUBSTANTIVE ALLEGATIONS

24 6. For at least some portion of the limitations period, Campbell labeled the Products
25 as "100% Natural" for the purpose of inducing consumers to believe that the Products contained
26 no artificial or synthetic ingredients. Attached hereto as Exhibit 2 is true and accurate
27 representation of the front and back label of a Product that Plaintiff purchased at a Von's grocery
28 store in San Diego County, California during the last three years. The phrase "100% Natural"

1 appears prominently on the front label. Plaintiff, as well as other California consumers, purchased
2 the Products during the limitations period in reliance on the representation on the front label that
3 the Products were “100% Natural” and contained no artificial or synthetic ingredients. A
4 reasonable California consumer, like Plaintiff, would not expect a Product that is labeled “100%
5 Natural” to contain genetically modified ingredients, which are, by definition, artificial and
6 synthetic. Furthermore Plaintiff and other California consumers would not have purchased the
7 Products if they had known that the Products contained artificial and/or synthetic ingredients.

8 7. Plaintiff and other California consumers lacked the ability to ascertain the
9 truthfulness of Campbell’s representations at the point of sale. Although Campbell lists the
10 ingredients on the back panel of each Product, a reasonable consumer cannot determine whether a
11 particular ingredient has been genetically modified. Accordingly, reasonable consumers were
12 likely to be deceived by Campbell’s false “100% Natural” representation.

13 CLASS ALLEGATIONS

14 8. Class Definition: Plaintiff brings this lawsuit on her own behalf and as a class
15 action under C.C.P. § 382. The class (“Class”) that plaintiff seeks to represent is defined as
16 follows: “All consumers within the State of California who purchased Defendant’s ‘Prego’-
17 branded products that were labeled as ‘100% Natural’ during the applicable limitations period(s).
18 Excluded from the Class are Campbell’s current or former officers, directors, and employees;
19 counsel for Plaintiff and Campbell; and the judicial officer to whom this lawsuit is assigned and
20 his or her court staff.”

21 9. Ascertainable Class: The Class is ascertainable in that its members may be
22 identified using information in the possession of Defendant, third parties, or the Class members
23 themselves.

24 10. Numerosity: The Class is so numerous that the individual joinder of all members is
25 impractical under the circumstances of this case.

26 11. Common Questions of Fact or Law: This lawsuit is suitable for class treatment
27 because common questions of fact and law predominate over individual issues. Common
28 questions include, but are not limited to, the following: (1) Defendant’s policies and practices

1 regarding the labeling of the Products as “100% Natural”; (2) whether the labeling of a Product
2 that contains genetically modified ingredients as “100% Natural” is false or misleading;
3 (3) whether a reasonable consumer in California would be misled by the “100% Natural”
4 representation on Defendant’s label; (4) whether Defendant violated Bus. & Prof. Code §§ 17200
5 *et seq.*, Bus. & Prof. Code §§ 17500 *et seq.*, and/or Civ. Code. §§ 1750 *et seq.*; and (5) the
6 appropriate remedies for Defendant’s conduct.

7 12. Typicality: Plaintiff’s claims are typical of the claims of Class members. Plaintiff
8 and the Class members were injured by purchasing Defendant’s mislabeled Products in reliance on
9 the representation that the Products were “100% Natural.”

10 13. Adequacy. Plaintiff will fairly and adequately protect the interests of the Class.
11 Plaintiff has no interests that are adverse to the interests of the Class.

12 14. Superiority. A class action is superior to other available means for the fair and
13 efficient adjudication of this controversy, since individual joinder of all members of the Class is
14 impractical. Class action treatment will permit a large number of similarly situated persons to
15 prosecute their common claims in a single forum simultaneously, efficiently, and without
16 unnecessary duplication of effort and expense. Furthermore, the expenses and burden of
17 individualized litigation would make it difficult or impossible for individual members of the Class
18 to redress the wrongs done to them, while an important public interest will be served by
19 addressing the matter as a class action. Individualized litigation would also present the potential
20 for inconsistent or contradictory judgments.

21 **FIRST CAUSE OF ACTION**

22 **(Violation of the California Consumers Legal Remedies Act)**

23 15. Plaintiff incorporates by reference the allegations set forth above.

24 16. Plaintiff and the Class members are “consumers” under the California Consumers
25 Legal Remedies Act (“CLRA”), California Civil Code § 1761(d).

26 17. The Products are “goods” under California Civil Code § 1761(a).

27 18. The purchases by Plaintiff and the Class members of the Products are
28 “transactions” under California Civil Code § 1761(e).

19. Within the applicable limitations period, Defendant has violated California Civil Code §§ 1770(a)(5), (a)(7), and (a)(9) by making a false representation on the Product label that the Products were “100% Natural” when in fact they contained artificial and/or synthetic ingredients that were derived from genetically modified organisms.

20. Plaintiff and the Class members reasonably relied on the “100% Natural” representation on the Product label. Plaintiff and the Class members were not aware that the Products contained artificial and/or synthetic ingredients and had no ability to ascertain that information at the point of sale. Plaintiff and the Class members would not have purchased the Products at the price offered, or at all, if they had known that, contrary to Defendant’s representation, the Products contained artificial and/or synthetic ingredients. As a result of Defendant’s misrepresentation, Plaintiff and the Class members have been damaged in an amount to be proved at trial.

21. Pursuant to Civil Code § 1782(a), Plaintiff served by certified mail a pre-filing demand letter on Defendant and its agent for service of process that notified Defendant of its unlawful practices and demanded that Defendant remedy those practices. More than thirty (30) days have elapsed since the service of the letter, and Defendant has not fully remedied its unlawful practices.

22. Pursuant to California Civil Code §§ 1780 and 1782, Plaintiff and the Class members seek monetary relief in an amount to be proved at trial, as well as reasonable attorneys' fees and costs.

SECOND CAUSE OF ACTION

(Violation of the California False Advertising Law)

23. Plaintiff incorporates by reference the allegations set forth above.

24. The California False Advertising Law (“FAL”), California Business & Professions Code §§ 17500 *et seq.*, makes it unlawful for a defendant to induce the public to buy its products by knowingly disseminating untrue or misleading statements about the products.

25. Defendant's representation that the Products were "100% Natural," as alleged above, was untrue and misleading. Defendant's representation was likely to deceive reasonable

1 consumers. Reasonable consumers could not ascertain the truthfulness of Defendant's
2 representation at the point of sale. Defendant knew, or reasonably should have known, that its
3 representation concerning the Products was untrue and misleading, since it knew how the Products
4 and their ingredients were sourced and manufactured. Defendant made its representation with the
5 intent to induce Plaintiff and Class members to purchase the Products. Plaintiff and Class
6 members purchased the Products in reliance on the untrue and misleading representation by
7 Defendant. Plaintiff and the Class members would not have purchased the Products at the price
8 offered, or at all, if they had known that Defendant's "100% Natural" representation was false.

9 26. Pursuant to California Business & Professions Code § 17535, Plaintiff and the Class
10 members seek monetary relief in an amount to be proved at trial.

11 27. Within a reasonable time after they knew or should have known of such breach,
12 Plaintiff, on behalf of herself and the other members of the Class, placed Defendant on notice
13 thereof.

14 **THIRD CAUSE OF ACTION**

15 **(Violation of the California Unfair Competition Law)**

16 28. Plaintiff incorporates by reference the allegations set forth above.

17 29. The California Unfair Competition Law, California Business & Professions Code §§
18 17200 *et seq.*, prohibits any unlawful, unfair, or fraudulent business act or practice.

19 30. Defendant's conduct is unlawful because, as set forth above, it violates the CLRA and
20 the FAL.

21 31. Plaintiff and the Class members have suffered injury in fact and lost money as a result
22 of Defendant's conduct, since they purchased the Products in reliance on Defendant's "100%
23 Natural" representation and would not have purchased the Products at the price offered, or at all, if
24 they had known that the representation was false.

25 32. Pursuant to California Business & Professions Code § 17203, Plaintiff and the Class
26 members seek restitution in an amount to be proved at trial.

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PRAYER

Plaintiff requests entry of judgment, on behalf of herself and the other Class members, against each Defendant, jointly and severally, as follows:

1. For damages, restitution, and other monetary relief according to proof;
2. For reasonable attorneys' fees and costs of suit;
3. For pre-judgment interest; and
4. For such other relief as the Court deems proper.

Dated: September 30, 2014

DOSTART CLAPP & COVENEY, LLP


JAMES F. CLAPP
ZACH P. DOSTART
Attorneys for Plaintiff

660042.1

EXHIBIT 1

1 I, Sandahl Nelson, declare:

2 1. I am over 18 years of age and am the plaintiff in this lawsuit.

3 2. During the applicable statute of limitations I purchased "100% Natural" Prego-
4 branded sauce at a Vons in San Diego, California.

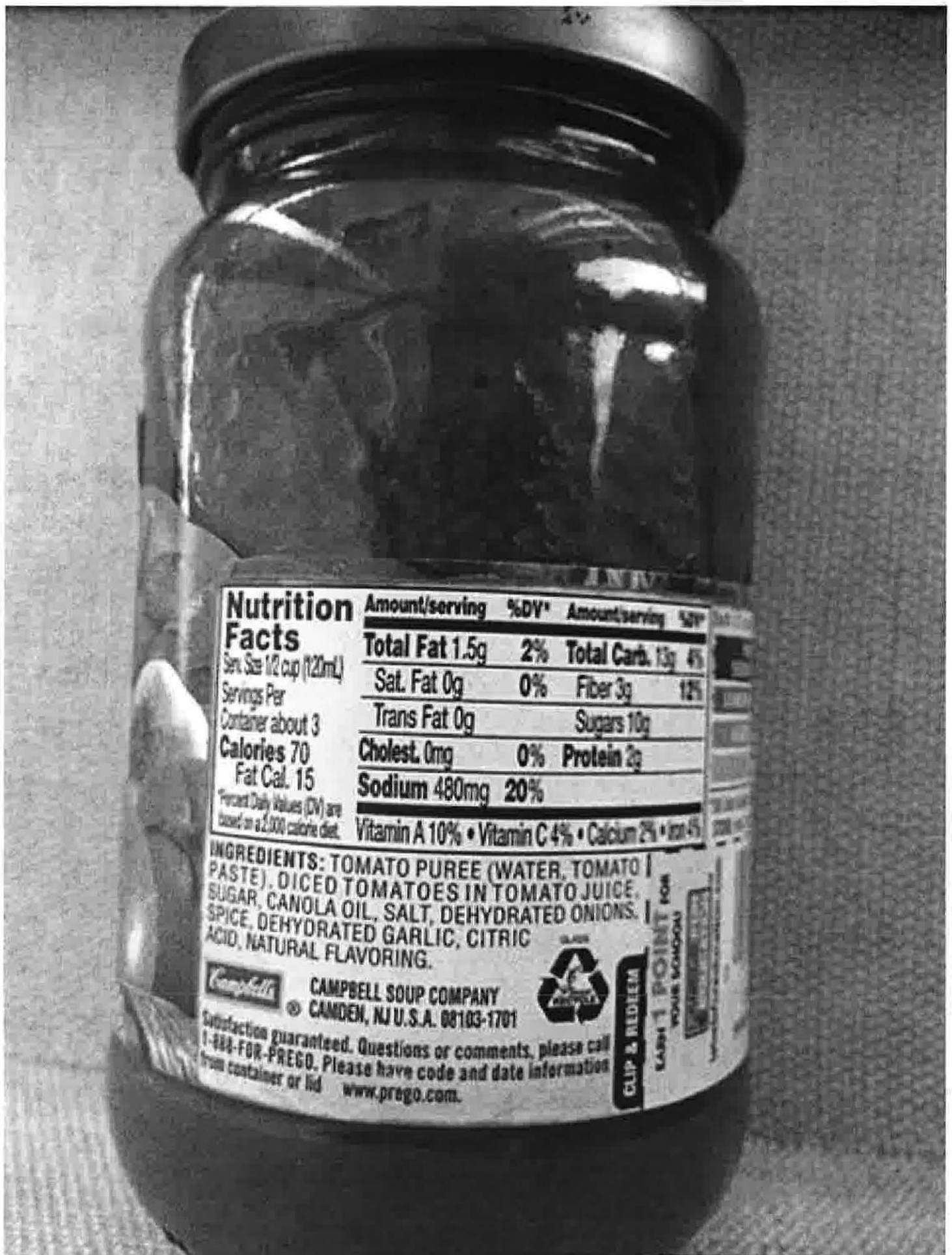
5 I declare under penalty of perjury under the laws of the State of California that the
6 foregoing is true and correct. Executed on September 27, 2014 at San Diego, California.

7 
8 SANDAHL NELSON

9 662437.1

EXHIBIT 2





SUM-100

SUMMONS (CITACION JUDICIAL)

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/30/2014 at 11:05:16 AM

Clerk of the Superior Court
By Andrea Santiago, Deputy ClerkNOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

CAMPBELL SOUP COMPANY, and DOES 1-50, inclusive

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):SANDAHN NELSON, individually and on behalf of all others similarly
situated**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 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.

The name and address of the court is:

(El nombre y dirección de la corte es): San Diego County Superior Court

Hall of Justice

330 W Broadway, San Diego, CA 92101

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):

CASE NUMBER:

(Nº)

37-2014-00033088-CU-MC-CTL

DATE: 09/30/2014

(Fecha)

Clerk, by
(Secretario)A. Santiago
A. SantiagoDeputy
(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 416.20 (defunct corporation)☐ CCP 416.40 (association or partnership)☐ other (specify):☐ CCP 416.60 (minor)☐ CCP 416.70 (conservatee)☐ CCP 416.90 (authorized person)

- 4.
- ☐
- by personal delivery on (date):

[SEAL]



Page 1 of 1

CIVIL COVER SHEET

14CV2647 DMS JLB

The 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, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

NELSON, SANDAHL

(b) County of Residence of First Listed Plaintiff San Diego
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

James F. Clapp, James T. Hannick, Zach P. Dostart
DOSTART CLAPP & COVENEY LLP
4370 La Jolla Village Drive, Suite 970, San Diego, CA 92122-1253

DEFENDANTS

CAMPBELL SOUP COMPANY

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

David T. Biderman, Julie L. Hussey, Courtney E. Hoyt
PERKINS COIE LLP
1888 Century Park E., Suite 1700, Los Angeles, CA 90067-1721

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 (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|-------------------------------------|---------------------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. 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 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1332 (action for violations of Cal. B&P Code 17200 and 17500 and Cal. Civil Code 1750)
Brief description of cause of action: 28:1331 - Federal Question
Plaintiff alleges violations of Cal. B&P Code 17200 and 17500 and Cal. Civil Code 1750

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:
JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/06/2014

SIGNATURE OF ATTORNEY OF RECORD

s/ Julie L. Hussey

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE