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ON SIGNATURE PAGE]

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Suzanne Alaei

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**SUZANNE ALAEI, Individually
And On Behalf Of All Others
Similarly Situated,**

Plaintiff,

v.

**ROCKSTAR, INC.; and
ROCKSTAR BEVERAGE
CORPORATION,**

Defendants.

Case No.: '15CV2959 JAH BGS

**CLASS ACTION COMPLAINT
FOR:**

- 1) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17533.7 (CALIFORNIA FALSE “MADE IN U.S.A.” CLAIM); AND,**
- 2) VIOLATION OF BUSINESS & PROFESSIONS CODE §§ 17200, ET SEQ. (CALIFORNIA UNFAIR COMPETITION LAW).**

JURY TRIAL DEMANDED

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INTRODUCTION

1. SUZANNE ALAEI (hereinafter “Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of ROCKSTAR, INC. and ROCKSTAR BEVERAGE CORPORATION (collectively “Rockstar” and/or “Defendants”) in unlawfully labeling Rockstar’s consumable consumer packaged goods such as energy drinks and caffeinated drinks with the false designation and representation that they are “Made In The USA” (or some derivative thereof). The unlawfully labeled consumable products are sold online and in various stores throughout the United States. Plaintiff alleges as follows upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.
2. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January 27, 2011) 51 Cal.4th 310, 328-29:

Simply stated: labels matter. The marketing industry is based on the premise that labels matter, that consumers will choose one product over another similar product based on its label and various tangible and intangible qualities that may come to associate with a particular source...In particular, **to some consumers**, the “Made in U.S.A.” label matters. A range of motivations may fuel this preference, from the desire to support domestic jobs to beliefs about quality, to concerns about overseas environmental or labor conditions, to simple patriotism. The Legislature has recognized the materiality of this representation by specifically outlawing deceptive and fraudulent “Made in America” representations. (Cal. Bus. & Prof. Code section 17533.7; see also Cal. Civ. Code § 1770, subd. (a)(4) (prohibiting deceptive representations of geographic origin)). The object of section 17533.7 “is to protect consumers from being misled when they purchase products in the belief that they are advancing

1 the interest of the United States and its industries and
2 workers...” (emphasis added).

- 3 3. The “Made In The USA” claim (or some derivative thereof) is prominently
4 printed on the Defendant’s consumable products.¹ Contrary to Defendants’
5 representation and in violation of California law, Defendants’ consumable
6 products, including the specific Product purchased by Plaintiff, include
7 foreign ingredients.

8 **JURISDICTION AND VENUE**

- 9 4. This Court has jurisdiction over this matter pursuant to the Class Action
10 Fairness Act (CAFA) because the amount in controversy in this matter
11 exceeds \$5,000,000.00 as to all putative Class members, inclusive of
12 attorneys’ fees and costs, and injunctive relief. 28 U.S.C. Sections 1332(d),
13 1453, and 1711-1715.
- 14 5. Venue is proper in the United States District Court for the Southern District
15 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
16 Plaintiff resides in the County of San Diego, State of California, which is
17 within this judicial district; (ii) the conduct complained of herein occurred
18 within this judicial district; and, (iii) many of the acts and transactions giving
19 rise to this action occurred in this district because Rockstar:

- 20 (a) is authorized to conduct business in this district and has
21 intentionally availed itself of the laws and markets within this
22 district;
- 23 (b) does substantial business within this district;
- 24 (c) is subject to personal jurisdiction in this district because it has

25 ¹ Plaintiff seeks class wide relief on behalf of all purchasers of any Rockstar
26 products that are substantially similar, as in consumable consumer packaged
27 goods, to the Product purchased by Plaintiff and labeled as “Made In The USA,”
28 or some derivative thereof, that are foreign-made or incorporates foreign-made
components (in violation of California law), not only the specific Product
purchased by Plaintiff.

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1 13. Based upon information and belief, the offending Product purchased by
2 Plaintiff contains foreign ingredients.

3 14. Based upon information and belief, the offending Product purchased by
4 Plaintiff, and presumably all of Defendant's products that are substantially
5 similar and contain foreign ingredients, are wholly or partially made of
6 and/or manufactured with foreign materials, contrary to Defendant's "Made
7 In The USA" representations (or some derivative thereof) ("Class
8 Product/s").

9 15. Defendants marketed, and continue to market, and represent to the general
10 public via its Class Products' labels that Defendants' products are "Made In
11 The USA." As such, Defendants fraudulently concealed, and continue to
12 conceal, the material facts at issue in this matter by misrepresenting to the
13 general public the true source of the component parts in the offending Class
14 Products. Rockstar possesses superior knowledge of the true facts that were
15 not disclosed, thereby tolling the running of any applicable statute of
16 limitations.

17 16. Consumers are particularly vulnerable to these deceptive and fraudulent
18 practices. Most consumers possess limited knowledge of the likelihood that
19 products, including the component products therein, claimed to be made in
20 the United States are in fact manufactured in foreign countries. This is a
21 material factor in many individuals' purchasing decisions, as they believe
22 they are purchasing superior goods, produced under American standards and
23 laws, while supporting American companies and American jobs.

24 17. Consumers generally believe that "Made In The USA" products are of
25 higher quality than their foreign-manufactured counterparts and that they are
26 produced under higher standards, including, but not limited to, higher
27 environmental and labor laws. Due to Rockstar's scheme to defraud the
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1 market, members of the general public were fraudulently induced to
2 purchase Rockstar’s products at inflated prices.

3 18. On information and belief, Defendants charged excess monies for its Class
4 Products, including the Product purchased by Plaintiff, in comparison to
5 Defendants’ competitors during the entirety of the relevant four-year
6 statutory time period, based on the false “Made In The USA” designation (or
7 some derivative thereof). California laws are designed to protect consumers
8 from such false representations and predatory conduct. Defendants’ scheme
9 to defraud consumers for its own self-interest and monetary gain is ongoing
10 and will victimize consumers daily for the foreseeable future unless altered
11 by judicial intervention.

12 19. On or about November 19, 2015, Plaintiff purchased Defendants’ product,
13 the Rockstar Sugar Free drink (the “Product”), from a CVS Pharmacy
14 located on 1101 S. Mission Road in Fallbrook, California. At the time of
15 Plaintiff’s purchase, the offending Product was described as “Made In The
16 USA,” which language is found next to an image of the United States of
17 America,² when the Product actually was made and/or contained
18 components made outside of the United States. As such, Rockstar is not
19 entitled to lawfully make representations that the Product was “Made In The
20 USA” (or some derivative thereof).

21 20. Plaintiff paid \$2.20 for the Product after tax.

22 21. In making the decision to purchase Defendants’ Product, Plaintiff relied
23 upon the advertising and/or other promotional materials prepared and
24 approved by Rockstar and its agents and disseminated through its Class
25 Products’ packaging containing the misrepresentations alleged herein. Had
26

27 _____
28 ² In the past, Rockstar has included an image of the American Flag in place of an
image of the United States of America.

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1 Plaintiff been made aware that the Product was not actually “Made In The
2 USA,” Plaintiff would not have purchased the Product.

3 22.Plaintiff suffered an “injury in fact” because Rockstar took Plaintiff’s money
4 as a result of Rockstar’s false “Made In The USA” designation set forth on
5 the Product and elsewhere.

6 23.In each case when Plaintiff and putative Class members purchased a Class
7 Product, they relied upon Rockstar’s “Made In The USA” representation (or
8 some derivative thereof) in their purchasing decision, which is typical of
9 most U.S. consumers. Consequently, they were deceived as a result of
10 Defendants’ actions. Plaintiff believed at the time she purchased the Product
11 that she was purchasing a superior quality product, supporting U.S. jobs and
12 the U.S. economy, and also supporting ethical working conditions.

13 24.Component parts made in the U.S.A. are subject to strict regulatory
14 requirements, including but not limited to environmental, labor, and safety
15 standards. Foreign made component parts are not subject to the same U.S.
16 standards and as a result can be potentially much more dangerous to
17 consumers, especially when ingested like Defendants’ consumable products.
18 Further, foreign made component parts are also generally of lower quality
19 than their U.S. made counterparts, and routinely less reliable and less
20 durable than their U.S. made counterparts.

21 25.Consequently, Defendants’ Class Products containing the foreign
22 ingredients, including the Product purchased by Plaintiff, are of inferior
23 quality, potentially more dangerous and less reliable, as Defendants falsely
24 represented that these products are “Made In The USA.” This results in
25 lower overall customer satisfaction than if the products were truly “Made In
26 The USA” and/or consisting of component parts made in the United States.

27 26.On information and belief, Defendants’ products containing the foreign
28 ingredients, including the Product purchased by Plaintiff, are not worth the

1 purchase price paid by Plaintiff and putative Class members. The precise
2 amount of damages will be proven at the time of trial, in large part, by expert
3 testimony.

4 27. Defendants' products contain various amounts of taurine, guarana seed
5 extract, and milk thistle extract, which, among other ingredients in
6 Defendants' products, are not from the United States.

7 28. Plaintiff and Class members were undoubtedly injured as a result of
8 Rockstar's false "Made In The USA" representations that are at issue in this
9 matter.

10 **CLASS ACTION ALLEGATIONS**

11 29. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
12 of this Complaint as though fully stated herein.

13 30. Plaintiff brings this action individually and on behalf of all others similarly
14 situated against Defendants and each of them, pursuant to Federal Rules of
15 Civil Procedure, Rules 23(a), 23(b)(1), 23(b)(2) and 23(b)(3).

16 31. Plaintiff represents, and is a member of the California Class, ("the Class")
17 consisting of:

18
19 All persons within California who purchased one or more
20 of Defendants' consumable consumer packaged good
21 products regardless of brand under which Defendants
22 marketed the product, that were advertised with a "Made
23 In The USA" country of origin designation (or some
24 derivative thereof), that were foreign-made and/or
25 composed of foreign-made component parts, within the
26 four years prior to the filing of the Complaint.

27 32. The "Class Period" means four years prior to the filing of the Complaint in
28 this action.

33. **Ascertainability.** Defendants and their employees and/or agents are excluded
from the Class. Plaintiff does not know the number of members in the

1 Class, but Plaintiff currently believes that there are hundreds of thousands, if
 2 not more, members of the Class within the State of California. Because of
 3 the nature of Defendants' products, Defendants and Defendants' distributors
 4 must keep detailed and accurate records of distribution in order to accurately
 5 and effectively execute a recall if so ordered by the Food and Drug
 6 Administration or any other organization. Therefore, the members of the
 7 Class are ascertainable through Defendants' records and/or Defendants'
 8 agents' records regarding retail and online sales, as well as through public
 9 notice. This matter should therefore be certified as a Class action to assist in
 10 the expeditious litigation of this matter.

11 34. **Numerosity.** The numerosity requirement of Fed. R. Civ. P. Rule 23(a)(1) is
 12 satisfied for the aforementioned Class because the members of the Class are
 13 so numerous and geographically disbursed that joinder of all Class members
 14 is impractical and the disposition of their claims in the Class action will
 15 provide substantial benefits both to the parties and to the court.

16 35. ***Existence and Predominance of Common Questions of Law and Fact.***

17 There is a well-defined community of interest in the questions of law and
 18 fact involved affecting the parties to be represented. Common questions of
 19 fact and law exist in this matter that predominate over questions that may
 20 affect individual Class members, satisfying the requirement of Fed. R. Civ.
 21 P., Rule 23(a)(2), including, but not limited to, the following:

- 22 a. Whether Defendants committed the wrongful conduct alleged herein;
- 23 b. Whether Defendants' acts, transactions, or course of conduct
 24 constitute the violations of law alleged herein;
- 25 c. Whether the members of the Class sustained and/or continue to
 26 sustain damages attributable to Defendants' conduct, and, if so, the
 27 proper measure and appropriate formula to be applied in determining
 28 such damages;

1 d. Whether Defendants’ other products³ contain the same of substantially
2 similar false representations;

3 e. Whether the members of the Class are entitled to injunctive and/or
4 any other equitable relief.

5 36. **Typicality.** Plaintiff’s claims are typical of the claims of all other members
6 of the Class and involve the same violations of law by Defendant as other
7 Class members’ claims. Plaintiff and members of the Class also sustained
8 damages arising out of Defendants’ common course of conduct complained
9 herein. Accordingly, Plaintiff satisfies the “typicality” requirement of Fed.
10 R. Civ. P., Rule 23(a)(3) with respect to the Class.
11

12 _____
13 ³ Including but not limited to:

- 14 1) Rockstar Original
- 15 2) Rockstar Punched
- 16 3) Rockstar Zero Carb
- 17 4) Rockstar Pure Zero Punched
- 18 5) Rockstar Recovery Lemonade
- 19 6) Rockstar Pure Zero Silver Ice
- 20 7) Rockstar Recovery Orange
- 21 8) Rockstar Organic Energy Drink
- 22 9) Rockstar Pina Colada Energy Drink
- 23 10) Rockstar Lime Freeze Energy Drink
- 24 11) Rockstar Boom! Whipped & Blended Orange
- 25 12) Rockstar Boom! Whipped & Blended Strawberry
- 26 13) Rockstar Pure Zero Mango-Orange-Passionfruit
- 27 14) Rockstar Perfectberry
- 28 15) Rockstar Supersours Green Apple
- 16) Rockstar Sparkling Cherry Citrus
- 17) Rockstar Sparkling Peach
- 18) Rockstar Energy Horchata Tradicional Dairy Beverage
- 19) Rockstar Roasted with Almond Milk White Chocolate
- 20) Rockstar Roasted with Almond Milk Light Vanilla
- 21) Rockstar Roasted with Almond Milk Caffe Latte
- 22) Rockstar Roasted Mocha
- 23) Rockstar Roasted Caramel Macchiato

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1 37. *Adequacy of Representation*. As a person who purchased one or more of
2 Defendants' products, that were advertised with a "Made In The USA"
3 country of origin designation (or some derivative thereof), but contain
4 foreign-made ingredients and/or composed of foreign-made component
5 parts, Plaintiff is asserting claims that are typical of the Class. Plaintiff will
6 fairly and adequately represent and protect the interests of other members of
7 the Class in that Plaintiff has no interests antagonistic to any member of the
8 Class. Further, Plaintiff has retained counsel experienced in handling class
9 action claims and claims involving violations of the consumer laws, and
10 specifically violations of the California Business and Professions Code.
11 Thus, Fed. R. Civ. P., Rule 23(a)(4) is satisfied.

12 38. *Superiority*. A class action is a superior method for the fair and efficient
13 adjudication of this controversy. Class-wide damages are essential to induce
14 Rockstar to comply with California law. The interest of Class members in
15 individually controlling the prosecution of separate claims against Rockstar
16 is small because the damages suffered by individual members of the Class
17 may be minimal. As a result, the expense and burden of litigation would
18 prevent class members from individually redressing the wrongs done to
19 them. A representative class action is both the appropriate vehicle by which
20 to adjudicate these claims and is essential to the interests of justice.
21 Furthermore, a class action regarding the issues presented in this matter
22 creates no significant problems of manageability. Therefore, the superiority
23 and manageability requirements of 23(b)(3) are satisfied.

24 39. This suit seeks only damages and injunctive relief for recovery of economic
25 injury on behalf of the Class, and it expressly is not intended to request any
26 recovery for personal injury and claims related thereto. Plaintiff reserves the
27 right to expand the Class definition to seek recovery on behalf of additional
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1 persons as warranted as facts are learned in further investigation and
2 discovery.

3 40. Plaintiff and members of the putative Class have suffered “injury in fact”
4 and have lost money or property as a result of Defendants’ unfair
5 competition, as more fully set forth herein. Plaintiff and members of the
6 putative Class have been injured as they relied on Defendants’ intentional
7 misrepresentation and were induced into purchasing, purchasing more of,
8 and overpaying for Defendants’ Class Products. Plaintiff and members of the
9 Class have been injured, as had they been made aware that the product was
10 not actually “Made In The USA,” they would not have purchased the
11 product. In other words, Plaintiff and members of the Class would not have
12 purchased Defendants’ Class Products, but for the “Made In The USA”
13 representations (or some derivative thereof) on Defendants’ products’ labels.

14 41. Plaintiff and the members of the Class have all suffered irreparable harm as
15 a result of the Defendants’ unlawful and wrongful conduct. Absent a
16 representative class action, members of the Class will continue to face the
17 potential for irreparable harm described herein. In addition, these violations
18 of law will be allowed to proceed without remedy and Defendants will likely
19 continue such illegal conduct. Because of the size of the individual Class
20 member’s claims, few, if any, Class members could not afford to seek legal
21 redress for the wrongs complained of herein. Furthermore, even if separate
22 actions could be brought by individual purchasers, the resulting multiplicity
23 of lawsuits would cause undue hardship and expense for both the Court and
24 the litigants, as well as create the risk of inconsistent rulings and
25 adjudications that might be dispositive of the interests of similarly situated
26 purchasers, thereby substantially impeding purchasers’ ability to protect
27 their interests, while establishing incompatible standards of conduct for
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1 Defendants. Thus, the proposed Class satisfy the requirements of Fed. R.
2 Civ. P., Rule 23(b)(1).

3 42. Rockstar has acted and/or refused to act on grounds generally applicable to
4 the Plaintiff and other members of the Class, thereby rendering class
5 certification and final injunctive relief and corresponding declaratory relief
6 with respect to members of the Class as a whole appropriate. Thus,
7 certification is proper under Fed. R. Civ. P. Rule 23(b)(2).

8 43. As discussed above, numerous common questions of fact and law exist in
9 this matter. These questions predominate over the individual questions
10 presented in this action. Thus, the predominance requirement of Fed. R.
11 Civ. P. Rule 23(b)(3) is satisfied.

12 44. A class action is a superior method for the fair and efficient adjudication of
13 this controversy. Class-wide damages are essential to induce Rockstar to
14 comply with California law. The interest of Class members in individually
15 controlling the prosecution of separate claims against Rockstar is small
16 because the damages suffered by individual members of the Class may be
17 minimal. As a result, the expense and burden of litigation would prevent
18 class members from individually redressing the wrongs done to them. A
19 representative class action is both the appropriate vehicle by which to
20 adjudicate these claims and is essential to the interests of justice.
21 Furthermore, a class action regarding the issues presented in this matter
22 creates no significant problems of manageability. Therefore, the superiority
23 and manageability requirements of 23(b)(3) are satisfied.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

26 **BUS. & PROF. CODE, SECTION 17533.7**

27 45. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
28 of this Complaint as though fully stated herein.

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1 46. Business & Professions Code § 17533.7 provides:
2

3 It is unlawful for any person, firm, corporation or
4 merchandise on which merchandise or on its container
5 there appears the words “Made in U.S.A.,” “Made in
6 America, “ U.S.A.,” or similar words when the
7 merchandise or any article, unit, or part thereof, has been
8 entirely or substantially made, manufactured, or
9 produced outside of the United States.

10 47. Rockstar violated Bus. & Prof. Code § 17533.7 by selling and offering to
11 sell products in the State of California with the “Made In The USA” country
12 of origin designation (or some derivative thereof) as fully set forth herein.
13 The products at issue in this matter are wholly and/or substantially
14 manufactured outside of the United States and/or contain ingredients that are
15 manufactured outside of the United States in violation of California law.

16 48. On information and belief, Defendants’ violations of Bus. & Prof. Code §
17 17533.7 as set forth herein were done with awareness of the fact that the
18 conduct alleged was wrongful and was motivated solely for Defendants’
19 self-interest, monetary gain and increased profit. Plaintiff further alleges that
20 Defendants committed these acts knowing the harm that would result to
21 Plaintiff and Defendants engaged in such unfair and deceptive conduct
22 notwithstanding such knowledge.

23 49. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
24 Defendants as a result of Defendants’ false “Made In The USA”
25 representations set forth on the Defendants’ products.

26 50. As a direct and proximate result of Defendants’ violations of Bus. & Prof.
27 Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess
28 monies paid to Defendants by Plaintiff and the Class relating to the false

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1 “Made In The USA” representations (or some derivative thereof) set forth on
2 the Defendants’ products.

3 51. In prosecuting this action for the enforcement of important rights affecting
4 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
5 available to a prevailing plaintiff in class action cases such as this matter.

6 **SECOND CAUSE OF ACTION**

7 **VIOLATION OF BUSINESS & PROFESSIONS CODE**

8 **BUS. & PROF. CODE, SECTION 17200, ET SEQ.**

9 52. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
10 of this Complaint as though fully stated herein.

11 53. Plaintiff and Defendants are each “person[s]” as defined by California
12 Business & Professions Code § 17201. California Business & Professions
13 Code § 17204 authorizes a private right of action on both an individual and
14 representative basis.

15 54. “Unfair competition” is defined by Business and Professions Code Section §
16 17200 as encompassing several types of business “wrongs,” including: (1)
17 an “unlawful” business act or practice, (2) an “unfair” business act or
18 practice, (3) a “fraudulent” business act or practice, and (4) “unfair,
19 deceptive, untrue or misleading advertising.” The definitions in § 17200 are
20 drafted in the disjunctive, meaning that each of these “wrongs” operates
21 independently from the others.

22 55. By and through Defendants’ conduct alleged in further detail above and
23 herein, Defendants engaged in conduct which constitutes unlawful, unfair,
24 and/or fraudulent business practices, and unfair, deceptive, untrue or
25 misleading advertising prohibited by Bus. & Prof. Code § 17200 et seq.

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A. “Unlawful” Prong

1
2 56.Beginning at a date currently unknown through the time of this Complaint,
3 Rockstar has committed acts of unfair competition, including those
4 described above, by engaging in a pattern of “unlawful” business practices,
5 within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing,
6 distributing, and/or marketing Rockstar’s products with a false country of
7 origin designation, in violation of Section 17533.7 by falsely representing
8 that the products referenced herein are “Made In The USA” when Rockstar’s
9 products are in fact foreign-made and/or composed of component parts
10 manufactured and/or grown outside of the United States.

B. “Unfair” Prong

11
12
13 57.Beginning at a date currently unknown and continuing up through the time
14 of this Complaint, Rockstar has committed acts of unfair competition that
15 are prohibited by Bus. & Prof. Code section 17200 et seq. Rockstar engaged
16 in a pattern of “unfair” business practices that violate the wording and intent
17 of the statutes by engaging in conduct and practices that threaten an incipient
18 violation of law/s or violate the policy or spirit of law/s by manufacturing,
19 distributing, and/or marketing Rockstar’s products with a false country of
20 origin designation, in violation of Section 17533.7 by falsely representing
21 that the products referenced herein are “Made In The USA” when Rockstar’s
22 products are in fact foreign-made and/or composed of component parts
23 manufactured and/or grown outside of the United States.

24 58.Alternatively, Rockstar engaged in a pattern of “unfair” business practices
25 that violate the wording and intent of the abovementioned statute/s by
26 engaging in practices that are immoral, unethical, oppressive or
27 unscrupulous, the utility of such conduct, if any, being far outweighed by the
28 harm done to consumers and against public policy by manufacturing,

1 distributing, and/or marketing Rockstar’s products with a false country of
2 origin designation, in violation of Section 17533.7 by falsely representing
3 that the products referenced herein are “Made In The USA” when Rockstar’s
4 products are in fact foreign-made and/or composed of component parts
5 manufactured and/or grown outside of the United States.

6 59. Alternatively, Rockstar engaged in a pattern of “unfair” business practices
7 that violate the wording and intent of the abovementioned statute/s by
8 engaging in practices, including manufacturing, distributing, marketing,
9 and/or advertising Rockstar’s products with a false country of origin
10 designation, in violation of Section 17533.7 by falsely representing that the
11 products referenced herein are “Made In The USA;” wherein: (1) the injury
12 to the consumer was substantial; (2) the injury was not outweighed by any
13 countervailing benefits to consumers or competition; and (3) the injury was
14 not of the kind that consumers themselves could not have reasonably
15 avoided.

16 C. “Fraudulent” Prong

17 60. Beginning at a date currently unknown and continuing up through the time
18 of this Complaint, Rockstar engaged in acts of unfair competition, including
19 those described above and herein, prohibited and in violation of Bus. & Prof.
20 Code § 17200 et seq., by engaging in a pattern of “fraudulent” business
21 practices within the meaning of Bus. & Prof. Code § 17200 et seq., by
22 manufacturing, distributing, and/or marketing Defendants’ products with a
23 false country of origin designation, in violation of Section 17533.7 by
24 falsely representing that the products referenced herein are “Made In The
25 USA” when Rockstar’s products are in fact foreign-made and/or composed
26 of component parts manufactured and/or grown outside of the United States.
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61.Plaintiff reserves the right to allege further conduct that constitutes other fraudulent business acts or practices. Such conduct is ongoing and continues to this date.

D. “Unfair, Deceptive, Untrue or Misleading Advertising” Prong

62.Defendants’ advertising is unfair, deceptive, untrue or misleading in that consumers are led to believe that Defendants’ products are “Made In The USA” and that therefore they are of superior quality and workmanship, and that they were produced according to U.S. standards and laws when in fact they are not entirely “Made In The USA.”

63.Plaintiff, a reasonable consumer, and the public would be likely to be, and, in fact were, deceived and misled by Defendants’ advertising as they would, and did, interpret the representation in accord with its ordinary usage, that the products were actually entirely manufactured by Defendants in the USA.

64.Defendants’ unlawful, unfair, and fraudulent business practices and unfair, deceptive, untrue or misleading advertising presents a continuing threat to the public in that Defendants continues to engage in unlawful conduct resulting in harm to consumers.

65.Defendants engaged in these unlawful, unfair, and fraudulent business practices motivated solely by Defendants’ self-interest with the primary purpose of collecting unlawful and unauthorized monies from Plaintiff and all others similarly situated; thereby unjustly enriching Defendants.

66.Such acts and omissions by Defendants are unlawful and/or unfair and/or fraudulent and constitute a violation of Business & Professions Code section 17200 et seq. Plaintiff reserves the right to identify additional violations by Defendants as may be established through discovery.

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1 67.As a direct and proximate result of the aforementioned acts and
2 representations described above and herein, Defendants received and
3 continues to receive unearned commercial benefits at the expense of their
4 competitors and the public.

5 68.As a direct and proximate result of Defendants’ unlawful, unfair and
6 fraudulent conduct described herein, Defendants have been and will
7 continue to be unjustly enriched by the receipt of ill-gotten gains from
8 customers, including Plaintiff, who unwittingly provided money to
9 Defendants based on Defendants’ fraudulent “Made In The USA”
10 representations when Defendants’ products are in fact foreign-made and/or
11 composed of component parts manufactured and/or grown outside of the
12 United States.

13 69.Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
14 Defendants as a result of Defendants’ false Made In USA representations set
15 forth on the Defendants’ products.

16 70.In prosecuting this action for the enforcement of important rights affecting
17 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
18 available to a prevailing plaintiff in class action cases such as this matter.

19 **AMENDMENT TO SEEK CLRA RELIEF**

20 71. Should the Defendants not comply with Plaintiff’s demand letter Pursuant
21 to California Civil Code § 1782, which was mailed via United States Postal
22 Service (return receipt requested) to Defendants on or about November 30,
23 2015, Plaintiff intends to amend this Complaint to include a Consumers
24 Legal Remedies Act as a cause of action.

25 **PRAYER FOR RELIEF**

26 **WHEREFORE**, Plaintiff respectfully requests the Court grant Plaintiff and
27 the Class members the following relief against Defendants and each of them:
28

KAZEROUNI LAW GROUP, APC
245 FISCHER AVENUE, SUITE D1
COSTA MESA, CA 92626

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- That the Court determine that this action may be maintained as a Class Action by certifying this case as a Class Action;
- That the Court certify Plaintiff to serve as the Class representative in this matter;
- That Defendants’ wrongful conduct alleged herein be adjudged and decreed to violate the consumer protection statutory claims asserted herein;
- That Plaintiff and each of the other members of the Class recover the amounts by which Defendants have been unjustly enriched;
- That Defendants be enjoined from continuing the wrongful conduct alleged herein and required to comply with all applicable laws;
- That Plaintiff and each of the other members of the class recover their costs of suit, including reasonable attorneys’ fees and expenses as provided by law; and,
- That Plaintiff and the members of the Class be granted any other relief the Court may deem just and proper.

TRIAL BY JURY

72. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: December 31, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ ABBAS KAZEROUNIAN
ABBAS KAZEROUNIAN, ESQ.
ATTORNEYS FOR PLAINTIFF

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ADDITIONAL PLAINTIFF’S COUNSEL

HYDE & SWIGART

Joshua B. Swigart, Esq. (SBN: 225557)
josh@westcoastlitigation.com
2221 Camino Del Rio South, Suite 101
San Diego, CA 92108-3551
Telephone: (619) 233-7770
Facsimile: (619) 297-1022

CIVIL COVER SHEET

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
SUZANNE ALAEI, Individually And On Behalf Of All Others Similarly Situated

DEFENDANTS
ROCKSTAR, INC.; and ROCKSTAR BEVERAGE CORPORATION

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

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.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Kazerouni Law Group, APC
245 Fischer Ave., Suite D1, Costa Mesa, CA 92626
Telephone: (800) 400-6808

Attorneys (If Known)

'15CV2959 JAH BGS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
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6 6

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

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Contains various legal categories and checkboxes.

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):
Cal. Bus. & Prof. Code § 17533.7 and 17200 et seq.
Brief description of cause:
California False "Made In The USA" Claim; California Unfair Competition Law

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 12/31/2015 SIGNATURE OF ATTORNEY OF RECORD /s/ Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 - Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
 - Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 - Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 - Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- Date and Attorney Signature.** Date and sign the civil cover sheet.