

NATURE OF THE CASE

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1. For Valentine’s Day, Defendants manufacture, market, distribute, and sell heart-shaped boxes of assorted chocolates in their retail stores, known as See’s Candies Shops. Defendants know that Plaintiff and other consumers that purchase Kosher certified goods look for the presence of a symbol to indicate whether a product is Kosher certified or not. Defendants misrepresent that their popular Classic Red Heart Assorted Chocolates is Kosher certified by uniformly placing a Kosher certified symbol on the signs prominently placed directly above the boxes of chocolates in their See’s Candies Shops throughout the nation. However, the Classic Red Heart Assorted Chocolates is not Kosher certified.

2. Defendants’ conduct breaches their express warranties with consumers, constitutes false advertising, and violates the California Unfair Competition Law, the California Consumer Legal Remedies Act, the California False Advertising Law, and constitutes fraudulent inducement.

3. Plaintiff brings this action on behalf of himself and a class of purchasers to stop Defendants’ from misrepresenting that certain Valentine’s Day candies are Kosher certified and to warn purchasers, before they consume these products, that the products do not conform to the representations made by Defendants. In addition, Plaintiff, on behalf of himself and the proposed class, seeks restitution and other equitable, injunctive, declaratory, and monetary relief as set forth below.

PARTIES

4. Plaintiff Avi Weiss (“Plaintiff”) is a resident of the State of New Jersey. He purchased the See’s Candies’ Assorted Chocolates at a See’s Candies Shop located in Los Angeles, California.

5. Defendant See’s Candies, Inc., is incorporated in the State of California and has its principal place of business in South San Francisco, California. See’s

1 Candies maintains a registered agent for service of process at 210 El Camino Real,
2 South San Francisco, California 94080.

3 6. Defendant See's Candy Shops Incorporated is incorporated in the State
4 of California and has its principal place of business in South San Francisco,
5 California. See's Candy Shops Incorporated maintains a registered agent for service
6 of process at 210 El Camino Real, South San Francisco, California 94080.

7 7. Plaintiff is currently ignorant of the true names and capacities, whether
8 individual, corporate, associate, or otherwise, of the Defendants sued herein under the
9 fictitious names Does 1 through 5, inclusive, and therefore, sues such Defendants by
10 such fictitious names. Plaintiff will seek leave to amend this complaint to allege the
11 true names and capacities of said fictitiously named Defendants when their true
12 names and capacities have been ascertained. Plaintiff is informed and believes and
13 based thereon alleges that each of the fictitiously named Doe Defendants is legally
14 responsible in some manner for the events and occurrences alleged herein, and for the
15 damages suffered by Plaintiff.

16 8. Plaintiff is informed and believes and based thereon alleges that all
17 defendants, including the fictitious Doe Defendants, were at all relevant times acting
18 as actual agents, conspirators, ostensible agents, partners and/or joint venturers and
19 employees of all other defendants, and that all acts alleged herein occurred within the
20 course and scope of said agency, employment, partnership, and joint venture,
21 conspiracy or enterprise, and with the express and/or implied permission, knowledge,
22 consent, authorization and ratification of their co-Defendants; however, each of these
23 allegations are deemed "alternative" theories whenever not doing so would result in a
24 contraction with the other allegations.

25 9. All Defendants, including Does 1 through 5, are collectively referred to
26 as "Defendants."

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1 17. Consumers rely on the company's representations of products as Kosher
2 certified in making their purchasing decisions.

3 18. Food products that are represented as Kosher certified command a
4 premium in the marketplace. In addition, companies increase sales when they offer
5 Kosher certified food products.

6 19. American consumers choose Kosher certified food products for reasons
7 related to health, food safety, taste, vegetarianism, lactose intolerance, religious, and
8 other dietary restrictions.

9 **B. See's Candies Falsely Advertises Chocolates As Kosher Certified**

10 20. Defendants manufacture, promote, and distribute chocolates and other
11 candy products.

12 21. Defendants sell these products in their retail stores known as See's
13 Candies Shops located throughout the nation.

14 22. In each of their candy shops, Defendants offer a selection of Kosher
15 certified candies. To designate that an item is Kosher certified, Defendants affix a
16 prominent and commonly known symbol for Kosher certification on large signs
17 placed directly above the Kosher certified merchandise displayed in their stores.

18 23. These signs, which were designed by Defendants in California for use
19 throughout the nation, and which identify the price of the item, the weight of the item,
20 the contents of the item, and whether the product is Kosher certified, are placed in the
21 See's Candies Shops throughout the nation in the same or substantially similar
22 manner as depicted in the Figure 1 below:

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23 24. Consumers, including Plaintiff and Class Members, look for the Kosher
24 symbol on these signs to make their purchasing decisions.

25 25. Defendants advertise candies, including but not limited to the heart
26 shaped Valentine's Day Classic Red Heart Box in various sizes and weights, as
27 containing Kosher certified candies, when in fact the candies are not Kosher certified.

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CLASS ACTION ALLEGATIONS

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2 37. Plaintiff brings this action pursuant to Federal Rule of Civil Procedure
3 23(b)(2) and Rule 23(b)(3) on behalf of himself and a class defined as follows:

4 All individuals nationwide who, from four years prior to the
5 filing of this Complaint through to date of certification
6 purchased a product from a See's Candies Shop that was
7 marketed as Kosher certified when the product was not
8 Kosher certified.

9 38. Excluded from the Class are Defendants, any entity in which Defendants
10 have a controlling interest or which has a controlling interest in Defendants, and
11 Defendants' agents, legal representatives, predecessors, successors, assigns, and
12 employees. Also excluded from the Class are the judge and staff to whom this case is
13 assigned, and any member of the judge's immediate family.

14 39. Plaintiff reserves the right to revise the definition of the Class based on
15 facts learned during discovery.

16 40. The exact number of persons in the Class, as herein identified and
17 described, is unknown but is estimated to number in the thousands. The Class is so
18 numerous that joinder of individual members herein is impracticable.

19 41. Plaintiff will fairly and adequately represent and protect the interests of
20 the other members of each Class. Plaintiff has retained counsel with substantial
21 experience in prosecuting complex litigation and class actions. Plaintiff and his
22 counsel are committed to vigorously prosecuting this action on behalf of the members
23 of the Class, and have the financial resources to do so. Neither Plaintiff nor his
24 counsel has any interest adverse to those of the other members of the Class.

25 42. Absent a class action, most members of the Class would find the cost of
26 litigating their claims to be prohibitive, and will have no effective remedy. The class
27 treatment of common questions of law and fact is also superior to multiple individual
28 actions or piecemeal litigation in that it conserves the resources of the courts and the
litigants, and promotes consistency and efficiency of adjudication.

1 43. Defendants have acted and failed to act on grounds generally applicable
2 to the Plaintiff and the other members of the Class in falsely advertising products as
3 Kosher certified, requiring the Court's imposition of uniform relief to ensure
4 compatible standards of conduct toward members of the Class.

5 44. The factual and legal basis of Defendants' liability to Plaintiff and to the
6 other members of the Class are the same, resulting in injury to the Plaintiff and to all
7 of the other members of the Class as a result of the Defendants' conduct of falsely
8 advertising products as Kosher certified. Plaintiff and members of the Class have all
9 suffered harm and damages as a result of Defendants' unlawful and wrongful
10 conduct.

11 45. There are many questions of law and fact common to the claims of
12 Plaintiff and the other members of the Class, and those questions predominate over
13 any questions that may affect individual members of the Class. Common questions
14 for the Class include but are not limited to the following:

- 15 (a) Whether Defendants' inclusion of a Kosher symbol on its signage
16 for particular candies constituted an express warranty;
- 17 (b) Whether Defendants breached their express warranties with
18 Plaintiff and class members;
- 19 (c) Whether Defendants' advertising is unlawful, unfair, deceptive, or
20 misleading to reasonable consumers under the UCL;
- 21 (d) Whether Defendants' conduct violates the Cal. Bus. & Profs.
22 Code §17200, the Cal. Civil Code §1750, and the Cal. Civil Code
23 17500;
- 24 (e) Whether Defendants' Classic Red Heart Assorted Chocolates and
25 other candies are in fact Kosher certified;
- 26 (f) Whether a reasonable consumer would expect that products
27 advertised with a Kosher certification symbol would in fact be
28 Kosher certified;
- (g) Whether, as a result of Defendants' conduct, Plaintiff and the class
 members are entitled to equitable relief and/or other relief, and, if
 so, the nature of such relief; and
- (h) The method of calculation and extent of damages for Plaintiff and
 members of the Class.

1 **FIRST CLAIM FOR RELIEF**
2 **Violation of the California Commercial Code, Section 2313,**
3 **Breach of Express Warranty**

4 46. Plaintiff repeats and re-alleges the allegations of the preceding
5 paragraphs as if fully set forth herein.

6 47. Defendants produced, advertised, marketed, sold, and distributed candies
7 with the affirmation of fact, promise, and description on the signs above those
8 candies that those candies were Kosher certified.

9 48. Plaintiff and members of the Class relied on these affirmations of fact,
10 promises, and descriptions in that they were part of the basis of the bargain under
11 which Plaintiff and members of the Class purchased candies from Defendants.

12 49. Defendants breached these express warranties by producing, distributing,
13 marketing and selling candies to Plaintiff and Class members that did not conform to
14 the affirmations of fact, promises, and/or descriptions made on the signage above the
15 candies (i.e., that the candies were Kosher certified).

16 50. At the time of their purchase, Plaintiff and Class Members did not and
17 could not reasonably have known of or discovered the falsity of Defendants'
18 representations or avoided the harm those misrepresentations caused.

19 51. Defendants have been on notice of their breach of these express
20 warranties as they are in possession of a Kosher certification letter that designates
21 other products sold by Defendants as Kosher certified but does not include the
22 products complained-of herein.

23 52. As a proximate result of Defendants' breach of its express warranty,
24 Plaintiff and members of the Class sustained damages, including but not limited to
25 the purchase price of the product and/or the premium paid for the product.

26 53. Plaintiff, on behalf of himself and the Class, is entitled to damages and
27 other legal and equitable relief including, a right of reimbursement, as well as costs,
28 expenses and attorneys' fees.

1 54. Plaintiff brings this action as a private attorney general, and to vindicate
2 and enforce an important right affecting the public interest. Plaintiff and the Class are
3 therefore entitled to an award of attorneys’ fees under Code of Civil Procedure
4 section 1021.5 for bringing this action.

5 **SECOND CLAIM FOR RELIEF**
6 **Violations of California Business & Professions Code, Section 17200, *et***
7 ***seq.*,**
8 **Unlawful, Unfair and Fraudulent Business Acts and Practices**

9 55. Plaintiff repeats and realleges the allegations of the preceding paragraphs
10 as if fully set forth herein.

11 56. Defendants’ acts and practices as detailed herein constitute acts of unfair
12 competition. Defendants have engaged in unlawful, unfair or fraudulent business acts
13 and/or practices within the meaning of California Business & Professions Code,
14 section 17200, *et seq.* Defendants need only violate one of the three prongs to be held
15 strictly liable.

16 57. Defendants have engaged in “unlawful” business acts and practices by
17 manufacturing, promoting, distributing, and selling candy as Kosher certified, when,
18 in fact, it is not Kosher certified.

19 58. Defendants’ business acts and practices violate the California Business
20 and Professions Code, section 17500, *et seq.* and the California Consumer Legal
21 Remedies Act, California Civil Code, Section 1750, *et seq.*, as alleged herein.

22 59. Defendants’ business acts and practices also violate California’s
23 Sherman Food, Drug, and Cosmetics Law, Cal. Health & Saf. Code, §109875, *et seq.*
24 (“Sherman Law”). The Sherman Law prohibits the false advertising of food.

25 60. Defendants’ acts and practices violate the following sections of the
26 Sherman Law: § 110390 (“It is unlawful for any person to disseminate any false
27 advertisement of any food An advertisement is false if it is false or misleading in
28 any particular.”); § 110395 (“It is unlawful for any person to manufacture, sell,

1 deliver, hold, or offer for sale any food . . . that is falsely advertised.”); § 110100
2 (adopting all FDA food labeling regulations as state regulations); § 110290 (“In
3 determining whether the labeling or advertisement of a food . . . is misleading, all
4 representations made or suggested by statement, word, design, device, sound, or any
5 combination of these shall be taken into account. The extent that the labeling or
6 advertising fails to reveal facts concerning the food . . . or consequences of customary
7 use of the food . . . shall also be considered.”); and § 110315 (“It is unlawful for any
8 person, with the intent to deceive, to place, or cause to be placed upon any food . . . , or
9 its package, the trade name or other identifying mark or imprint of another person or
10 any likeness of the trade name or other identifying mark or imprint of another
11 person”).

12 61. Defendants’ acts and practices are further “unlawful” because they
13 violate the Federal Trade Commission Act (FTC Act), specifically, 15 U.S.C. §
14 52(a)(2), which deems it “unlawful for any person, partnership, or corporation to
15 disseminate, or cause to be disseminated, any false advertisement . . . [b]y any means,
16 for the purpose of inducing, or which is likely to induce, directly or indirectly, the
17 purchase in or having an effect upon commerce, of food, drugs, devices, services, or
18 cosmetics.”

19 62. All of the challenged advertisements and statements made by Defendants
20 thus constitute violations of the Sherman Law and the FTC Act, and as such, violate
21 the “unlawful” prong of the UCL.

22 63. Plaintiff reserves the right to identify additional provisions of the law
23 violated by Defendants as further investigation and discovery warrants.

24 64. Defendants’ failure to comply with the above statutes and regulations
25 constitute an unlawful business act or practice.

26 65. Section 17200 of the California Business & Professional Code also
27 prohibits any “unfair business act or practice.” As described above, Defendants have
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1 engaged in “unfair” business acts or practices in that they falsely advertised certain
2 candies as Kosher certified, when, in fact, those candies were not Kosher certified.

3 66. The gravity of the harm to Plaintiff and the Class outweighs any
4 arguable utility of Defendants’ conduct. Plaintiff’s injury is substantial, is not
5 outweighed by any countervailing benefit to consumers or competition, and is not one
6 that consumers could have reasonably avoided.

7 67. Defendants’ conduct offends California public policy tethered to the
8 California Consumer Legal Remedies Act, the California False Advertising Law, the
9 California Sherman Law, and the Federal Trade Commission Act, which are intended
10 to preserve fair competition, to protect consumers from market distortions, and to
11 allow consumers to make informed choices in their purchasing food products.

12 68. Defendants’ actions are immoral, unethical, unscrupulous, and offend
13 established public policy, and have injured Plaintiff and other members of the Class.

14 69. Section 17200 also prohibits any “fraudulent business act or practice.”
15 Defendants’ conduct constituted “fraudulent” business acts or practices in that their
16 conduct had a tendency and likelihood to deceive persons to whom such conduct was
17 and is targeted by falsely representing that certain candies were Kosher certified,
18 when, in fact, they were not.

19 70. Plaintiff and members of the Class were deceived by Defendants’
20 representations as to whether the candies they were buying were Kosher certified.

21 71. Plaintiff and members of the Class reasonably relied on Defendants’
22 representations. As the California Supreme Court has explained, “Simply stated:
23 labels matter. The marketing industry is based on the premise that labels matter, that
24 consumers will choose one product over another similar product based on its label
25 and various tangible and intangible qualities they may come to associate with a
26 particular source.” *Kwikset Corp. v. Superior Court*, 51 Cal.4th 310, 328 (2011).

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1 72. Plaintiff and members of the Class have suffered injuries as a direct and
2 proximate result of the unlawful, unfair, and fraudulent business practices of
3 Defendants in that they purchased products that they would not have purchased, or
4 they would have paid less for the products, had they known that the products were not
5 Kosher certified.

6 73. Pursuant to section 17203 of the California Business and Professions
7 Code, Plaintiff, on his own behalf and on behalf of the Class, seeks restitution and a
8 Court order enjoining Defendants from such future conduct and any other such orders
9 that may be necessary to rectify the unlawful, unfair, and fraudulent business
10 practices of Defendants, including requiring Defendants to cease misrepresenting that
11 certain candy is Kosher certified by removing the Kosher symbol affixed on the signs
12 in See's Candies Shops and requiring that Defendants provide a notice to consumers
13 who already purchased the products.

14 74. Plaintiff brings this action as a private attorney general, and to vindicate
15 and enforce an important right affecting the public interest. Plaintiff and the Class are
16 therefore entitled to an award of attorneys' fees under Code of Civil Procedure
17 section 1021.5 for bringing this action.

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THIRD CLAIM FOR RELIEF
Violations of the Consumers Legal Remedies Act,
California Civil Code Section 1750, *et seq.*,

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4 75. Plaintiff repeats and realleges the allegations of the preceding paragraphs
5 as if fully set forth herein.

6 76. The California Consumer Legal Remedies Act, Section 1750 of the
7 California Civil Code, protects consumers against fraud, unlawful practices, and
8 unconscionable commercial practices in connection with the sale of any merchandise.

9 77. Plaintiff and members of the Class are “consumers” as defined by
10 Section 1761(d) of California Code because they sought or acquired Defendants’
11 goods for personal, family, or household purposes.

12 78. See’s candies are “goods” within the meaning of the Section 1761(a) of
13 the California Civil Code as they are tangible chattels bought for personal, family, or
14 household purposes.

15 79. Defendants manufactured, licensed, distributed, marketed, and sold
16 certain candies as being Kosher certified when, in fact, they were not. Such conduct
17 constitutes a violation of the California Consumer Legal Remedies Act as specified
18 below.

19 80. Defendants’ conduct violated and continues to violate the Consumer
20 Legal Remedies Act by engaging in the following practices proscribed by section
21 1770(a), subsections (2), (3), (5), (7), and (9) of the California Civil Code,
22 respectively, in transactions with Plaintiff and members of the Class, which were
23 intended to result in, and did result in, the sale of the candy in that Defendants:
24 misrepresenting the source, sponsorship, approval, or certification of goods or
25 services; misrepresenting the affiliation, connection, or association with, or
26 certification by, another; misrepresenting that goods or services have sponsorship,
27 approval, characteristics, ingredients, uses, benefits, or quantities which they do not

1 have; representing that goods or services are of a particular standard, quality, or
2 grade...if they are of another; and advertising goods or services with intent not to sell
3 them as advertised.

4 81. Plaintiff and other members of the Class reasonably relied upon and
5 were deceived by Defendants' representations that certain candies were Kosher
6 certified.

7 82. Pursuant to section 1782(d) of the California Civil Code, Plaintiff, on
8 behalf of himself and the Class seek a Court order enjoining Defendants from such
9 future conduct and any other such orders that may be necessary to rectify the
10 fraudulent, unlawful, unconscionable commercial practices, and fraudulent business
11 practices of Defendants, including requiring Defendants to cease misrepresenting that
12 certain candy is Kosher certified by removing the Kosher symbol affixed on the signs
13 in See's Candies Shops and requiring that Defendants provide a notice to consumers
14 who already purchased the products.

15 **FOURTH CLAIM FOR RELIEF**
16 **Violations of the False Advertising Act,**
17 **California Civil Code Section 17500, et seq.,**

18 83. Plaintiff repeats and realleges the allegations of the preceding paragraphs
19 as if fully set forth herein.

20 84. Section 17500 of the California False Advertising Act prohibits the
21 dissemination of statements that are untrue, misleading, and which are known, or
22 which by the exercise of reasonable care should be known, to be untrue or
23 misleading.

24 85. Defendants' acts and practices violated Section 17500 of the California
25 False Advertising Act. Defendants disseminated untrue and misleading statements to
26 Plaintiffs and members of the Class about the Kosher certification of certain candies.

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1 86. Defendants' statements were untrue and misleading in material respects
2 because Plaintiff and the Class would not have purchased the candy, or not have paid
3 as much for the candy, had they known that it was not Kosher certified.

4 87. Defendants' statements had the capacity, likelihood and tendency to
5 deceive and confuse consumers into believing that the candy offered for sale was
6 Kosher certified.

7 88. Defendants' affixed a commonly known symbol for Kosher certified on
8 signs directly above the product.

9 89. Defendants, as the manufacturers and sellers of these products, knew or
10 should have known, with the exercise of reasonable care, that the products they were
11 offering to consumers were not in fact Kosher certified and that consumers rely on
12 these symbols to indicate whether the products they are purchasing are Kosher
13 certified or not. Therefore, Defendants' knew or should have known that their
14 statements were untrue and misleading.

15 90. Plaintiff and members of the Class were induced to purchase
16 Defendant's candy, and/or pay a premium for the candy, based on Defendants' untrue
17 and misleading statements.

18 91. Plaintiff and members of the Class were aware of and reasonably relied
19 on Defendants' untrue and misleading statements.

20 92. Defendants disseminated untrue and misleading statements about the
21 Kosher certification of certain candies with the intent not to sell those candies as
22 advertised.

23 93. Pursuant to section 17535 of the California Business and Professions
24 Code, Plaintiff, on behalf of himself and the Class seeks restitution and a Court order
25 enjoining Defendants from such future conduct and any other such orders as may be
26 necessary to rectify Defendants' false advertising, including requiring Defendants to
27 cease misrepresenting that certain candy is Kosher certified by removing the Kosher
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1 symbol affixed on the signs in See's Candies Shops and requiring Defendants to
2 provide a notice to consumers who already purchased the products.

3 94. Plaintiff brings this action as a private attorney general, and to vindicate
4 and enforce an important right affecting the public interest. Plaintiff and the Class are
5 therefore entitled to an award of attorneys' fees under Code of Civil Procedure
6 section 1021.5 for bringing this action.

7 **FIFTH CLAIM FOR RELIEF**
8 **Fraudulent Inducement**

9 95. Plaintiff repeats and realleges the allegations of the preceding paragraphs
10 as if fully set forth herein.

11 96. As described with particularity above, Defendants have used and
12 continue to use, marketing tactics they know or reasonably should know are false and
13 misleading.

14 97. To induce Plaintiff and the Class into purchasing certain candies,
15 Defendants affirmatively represented that the candies were certified Kosher.

16 98. Unfortunately for Plaintiff and the Class, Defendants' affirmative
17 representations were, in fact, false. In particular, certain candies represented as
18 Kosher certified, were, in fact, not Kosher certified.

19 99. The representations made by Defendants about Kosher certification were
20 material terms in their transactions with Plaintiff and the Class because they directly
21 affected their choices to purchase and consume Defendants' food.

22 100. As the manufacturer of its candies and the designer of its marketing
23 materials (including its retail advertisements), Defendants knew or should have
24 known that their representations about certain Kosher certified candies were false.
25 Defendants are in possession of a Kosher certification letter that designates other
26 products sold by Defendants as Kosher certified, but does not include the products
27 complained-of herein. Therefore, Defendants intentionally designed their public
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1 representations to mislead consumers about the Kosher certification of certain
2 candies.

3 101. Defendants made these representations with the intent to induce Plaintiff
4 and the Class to rely upon them by purchasing certain candies.

5 102. Given the information asymmetry between Defendants and Plaintiff and
6 the Class regarding knowledge that certain candies were actually Kosher certified,
7 Plaintiff and the Class did not and could not reasonably have known of or discovered
8 the falsity of Defendants' representations or avoided the harm those
9 misrepresentations caused. They would not have purchased (or would have paid less)
10 for Defendant's candies advertised as Kosher certified, but for the misrepresentations
11 alleged herein.

12 103. As a result of their reasonable reliance on Defendants'
13 misrepresentations, Plaintiff and the Class have suffered actual monetary damages in
14 the form of the price paid for Defendants' candies.

15 104. Plaintiff therefore prays for relief in the amount of the price paid for
16 Defendants' candies which were advertised as Kosher certified when they were not.

17 WHEREFORE, Plaintiff Avi Weiss, on behalf of himself and the Class, prays
18 for the following relief:

- 19 a. An order certifying the Class as defined above;
- 20 b. An award of actual damages;
- 21 c. An injunction requiring Defendants to cease misrepresenting that certain
22 candy is Kosher certified by removing the Kosher symbol affixed on the
23 signs in See's Candies Shops and requiring Defendants to provide a
24 notice to consumers who already purchased the product;
- 25 d. For any and all other relief available under Business and Professions
26 Code sections 17200, *et. seq.*, including but not limited to disgorgement
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of profits received through Defendants’ unfair business practices and
restitution;

e. An award of reasonable attorneys’ fees and costs;

f. For pre-judgment interest on the sums owing; and

g. For such other and further relief as the Court deems just and proper.

Dated: February 9, 2016

Respectfully submitted,

By: /s/David C. Parisi
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*Attorneys for Avi Weiss,
individually and on behalf of a class of
similarly situated individuals*

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JURY DEMAND

Plaintiff demands a trial by jury of all causes of action and matters so triable.

Dated: February 9, 2016

Respectfully submitted,

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*Attorneys for Avi Weiss,
individually and on behalf of a class of
similarly situated individuals*

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

AVI WEISS, individually and on behalf of a class of similarly situated individuals

(b) County of Residence of First Listed Plaintiff Bergen County, NJ (EXCEPT IN U.S. PLAINTIFF CASES)

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

David C. Parisi, (SBN 162248), PARISI & HAVENS LLP 212 Marine Street, Suite 100, Santa Monica, CA 90405 Telephone: (818) 990-1299 Facsimile: (818) 501-7852

DEFENDANTS

SEE'S CANDY SHOPS INC., and SEE'S CANDIES INC.; and DOES 1 through 5

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

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

Attorneys (If Known)

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, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation

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, 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(d)

Brief description of cause: Violations of Cal Com. Code § 2313; Cal. Bus & Profs. Code §17200; Cal. Civil Code §§ 1750 and 17500

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

SIGNATURE OF ATTORNEY OF RECORD

February 9, 2016

/s/David C. Parisi

(Place an "X" in One Box Only)

- SAN FRANCISCO/OAKLAND, SAN JOSE, EUREKA

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.