

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

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BRITTANY CRITTENDEN, individually, and on behalf
of all others similarly situated,

Case No.: 16-cv-05049

Plaintiff,

v.

STARBUCKS CORPORATION,

Defendant.

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As indicated in the joint statement, Plaintiff seeks to join in the *Siera Strumlauf, et al., v. Starbucks Corporation*, Case No.: 16-CV-01306 (TEH). Defendant does not object. A stipulation and the proposed order seeking leave for the *Strumlauf* plaintiffs to file an amended complaint with Plaintiff Crittenden’s claims was filed on September 16, 2016. As such, the parties seek to adopt the statement filed in the *Strumlauf* matter. *See*, Exhibit A.

/s/ Brittany Weiner

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19 UNITED STATES DISTRICT COURT
20 NORTHERN DISTRICT OF CALIFORNIA

21 SIERA STRUMLAUF and BENJAMIN
ROBLES, individually and on behalf of all
22 others similarly situated,
23 Plaintiffs,
24 v.
25 STARBUCKS CORPORATION,
26 Defendant.

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Case No. 16-CV-01306-TEH

**UPDATED JOINT CASE
MANAGEMENT CONFERENCE
STATEMENT**

Date: September 26, 2016
Time: 1:30 p.m.
Courtroom 12 – 19th Floor

The Honorable Thelton E. Henderson

1 Siera Strumlauf and Benjamin Robles (collectively, “Plaintiffs”) and Starbucks
2 Corporation (“Defendant” or “Starbucks”), the parties to the above-titled action (collectively, the
3 “Parties”), submit this Joint Case Management Conference Statement pursuant to the Court’s
4 July 11, 2016 Order (Dkt. No. 42) and Civil Local Rule 16-9.

5 Since the parties were before the Court on July 11, 2016, the Judicial Panel on Multidistrict
6 Litigation (“JPML”) heard argument on the Motion for Coordination or Consolidation and
7 Transfer on July 28, 2016. At the hearing, counsel for Plaintiffs agreed to coordinate the taking of
8 depositions of Starbucks witnesses with the parties to *Crittenden v. Starbucks Corp.*, No. 16-cv-
9 03496 (S.D.N.Y.). Starbucks states that counsel for all plaintiffs appearing before the JPML
10 agreed to coordinate document production and depositions of Starbucks witnesses. In addition,
11 Plaintiffs’ counsel represented that Brittany Crittenden, whose suit was pending in the Southern
12 District of New York, intended to transfer her case to this District. In light of these
13 representations, and concluding that the actions were not factually or legally complex, the JPML
14 denied the motion by Order of August 5, 2016.

15 Crittenden’s counsel subsequently sought transfer to this District and Starbucks consented
16 to that request. Crittenden’s case was transferred to this District on August 26, 2016 and related to
17 this matter by an order entered September 14, 2016. On September 16, 2016, Plaintiffs submitted
18 a joint Stipulation and Proposed Order seeking leave for Plaintiffs to file an amended complaint
19 with Ms. Crittenden’s claims, pursuant to Rule 15(a)(2) (Dkt. No. 49).

20 **1. Jurisdiction & Service**

21 Plaintiffs filed their Class Action Complaint (the “Complaint”) on March 16, 2016, and
22 service of the Complaint was completed on March 21, 2016.

23 Plaintiffs assert that this Court has subject matter jurisdiction over this action pursuant to
24 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all
25 members of the proposed class are in excess of \$5,000,000.00, exclusive of interest and costs, and
26 Plaintiffs, together with most members of the proposed class, are citizens of states different from
27 Defendant. Plaintiffs further allege that this Court has supplemental jurisdiction over state law
28 claims pursuant to 28 U.S.C. § 1367.

1 The Parties agree that personal jurisdiction and venue are proper.

2 **2. Facts**

3 **A. Plaintiffs' Statement**

4 On March 16, 2016, Plaintiffs filed a class action complaint alleging that Starbucks Lattes¹
5 are uniformly underfilled pursuant to a standardized recipe. Compl. ¶ 1. That is, Starbucks cheats
6 purchasers by providing less fluid ounces in their Lattes than represented. *Id.* In fact, Starbucks
7 Lattes are approximately 25% underfilled. *Id.* Several categories of evidence support these
8 allegations.

9 First, Plaintiffs' counsel purchased and measured Starbucks Lattes at different stores, in
10 different states, in different sizes, and in different flavors. *Id.* ¶ 21. The results were the same –
11 each Latte was underfilled by approximately 25%. *Id.*

12 Second, Plaintiffs' counsel acquired several standardized pitchers designed by Starbucks
13 and currently in use by Starbucks baristas to make Lattes. *Id.* ¶ 22. The etched “fill to” lines used
14 to measure the steamed milk are plainly set too low. *Id.* By way of example, for a Grande
15 beverage, the “fill to” line comprises less than 12 fluid ounces of milk. *Id.* After adding 2 shots of
16 espresso (2 fluid ounces), the resulting beverage measures less than 14 fluid ounces at most. *Id.*
17 That falls well short of Starbucks' “16 fl. oz.” representation. *Id.*

18 Third, the serving cups used by Starbucks simply do not accommodate the promised
19 beverage sizes in fluid ounces, per the standardized recipe for Lattes. *Id.* ¶ 23. When filled to the
20 brink, the serving cup used for Grande beverages holds exactly 16 fluid ounces (the same is true
21 for the Tall cup, which holds exactly 12 fluid ounces, and the Venti cup, which holds exactly 20
22 fluid ounces). *Id.* However, Starbucks' recipe for its Grande Latte calls to fill the serving cup up
23 to “1/4 inch below cup rim.” *Id.* Thus, 1/4” of empty cup space exists above 1/4” of milk foam,
24 which sits atop the fluid Latte. Accordingly, per the recipe, the Grande serving cup is just too
25 small to hold a 16 fluid ounce latte. *Id.*

26 _____
27 ¹ As used herein and in Plaintiffs' Complaint, the term “Starbucks Lattes” refers to Starbucks
28 Caffè Lattes, Flavored Lattes, Pumpkin Spice Lattes, Egg Nog Lattes, Skinny Lattes, Skinny
Flavored Lattes, Vanilla Lattes, and Skinny Vanilla Lattes. *See* Compl. ¶ 1.

1 Moreover, the milk foam added to the top of Starbucks Lattes does not count toward the
2 volume of its beverages. *Id.* ¶ 25. In the food science community, as well as in the weights and
3 measures community, foam is not measured on a volumetric basis. *Id.* Rather, it is measured by
4 mass. *Id.* When food scientists – and weights and measures inspectors – measure a liquid with
5 foam, the industry-standard procedure is to let the foam dissipate or eliminate the foam, then
6 measure the resulting liquid. *Id.* Under this analysis, milk foam cannot compensate for an
7 otherwise underfilled Latte. *Id.*

8 This uniform underfilling is not an accident. In January 2008, Howard Schultz resumed
9 his position as CEO of Starbucks after the company faced financial turmoil. *Id.* ¶ 26. Mr. Schultz
10 led an effort to increase profitability by reducing costs. *Id.* A key component of this cost-cutting
11 effort was to reduce the amount of milk used by baristas in Starbucks beverages. *Id.* ¶ 27.
12 Accordingly, Starbucks implemented a system of placing standardized, etched lines into the
13 pitchers. *Id.* In doing so, Starbucks eliminated barista discretion, and standardized the amount of
14 milk in each latte. *Id.* Unfortunately for consumers, Starbucks cut too much milk. *Id.* ¶ 30.
15 Stated otherwise, when a standard recipe is used to create a drink that is purportedly 16 fluid
16 ounces, the resulting beverage should in fact be 16 fluid ounces. *Id.* In connection with these
17 cost-saving measures, Starbucks knew that the etched “fill to” lines in its steaming pitchers
18 resulted in under filled beverages. *Id.* Yet Starbucks continued to advertise its Tall beverages as
19 “12 fl. oz.,” its Grande beverages as “16 fl. oz.,” and its Venti beverages as “20 fl. oz.” *Id.*

20 Plaintiffs Strumlauf and Robles are both citizens of California and have their permanent
21 residences in California. *Id.* ¶¶ 5-6. Both Plaintiffs visited a Starbucks retail store in California,
22 where they purchased a Grande-sized (16 fl. oz.) Starbucks Latte, which cost approximately \$3.95.
23 *Id.* Both Plaintiffs saw the representation on Starbucks’ menu that its Grande-sized Starbucks
24 Lattes would be “16 fl. oz.” prior to and at the time of purchase, and understood this to be a
25 representation and warranty that Starbucks Lattes would, in fact, contain 16 fluid ounces. Both
26 Plaintiffs relied on this representation and warranty in deciding to purchase their Starbucks Lattes,
27 and this representation and warranty was part of the basis of their bargain, in that they would not
28

1 have purchased Grande-sized Starbucks Lattes on the same terms if they had known that they were
2 not, in fact, 16 fluid ounces.

3 **B. Defendant's Statement**

4 Starbucks operates cafés throughout the United States that offer a variety of beverages,
5 including the lattes at issue in Plaintiffs' Complaint. (Compl., ¶ 7.) The beverages sold at
6 Starbucks cafés are made-to-order. (See Compl., ¶ 2.) As Plaintiffs acknowledge, a latte is a
7 beverage made with "espresso and steamed milk," topped with a layer of milk foam. (Compl., ¶¶
8 11, 12, 15.) Starbucks customers customize their orders, often specifying down to the last detail
9 of how they wish their latte to be prepared (e.g., types of milk, amount of foam, types and amounts
10 of flavors, sweeteners, and toppings, amount of caffeine, amounts of milk, beverage temperature,
11 and beverage fill level. (See, e.g., Compl., ¶ 1, 15, 18.) Customers order their beverages, often are
12 able to observe it being crafted, and then receive it directly from the barista who prepared it.

13 Indeed, the ability to customize beverages at Starbucks has entered popular culture as a
14 phenomenon and is embodied by its Barista Promise -- "Love your beverage or let us know.
15 We'll always make it right." That promise has been placed on Starbucks serving cups as well as
16 featured in store signage and media campaigns. Any customer who is not satisfied with a
17 beverage can simply ask the barista to make it to his or her liking. Here, Plaintiffs did not allege
18 that their drinks were underfilled and it was counsel's investigation that led to the allegations.

19 Starbucks contends that Plaintiffs cannot prevail on any of these claims because the
20 individual, hand-crafted beverages served at Starbucks cafés meet the reasonable expectations of
21 consumers. Customers receive what they order: lattes that contain espresso, steamed milk and
22 milk foam (or they can specify what they wish to receive if that differs from the customary
23 preparation of their beverages). Customers know they can "make it yours" by, among other
24 things, specifying the flavors, milk, and how it is prepared.

25 **3. Legal Issues**

26 **A. Plaintiffs' Statement**

27 Plaintiffs assert claims on behalf of themselves and a nationwide class of purchasers of
28 Starbucks Lattes, for breach of express warranty, violation of the California Consumer Legal

1 Remedies Act (“CLRA”), violation of the California Unfair Competition Law (“UCL”), violation
 2 of the California False Advertising Law (“FAL”), and fraud.²

3 **B. Defendant’s Statement**

4 Following this Court’s Order on Starbucks Motion to Dismiss, the following claims
 5 remain: (1) breach of express warranty; (2) violation of California’s Consumers Legal Remedies
 6 Act (“CLRA”); (3) violation of California’s Unfair Competition Law (“UCL”); (4) violation of
 7 California’s False Advertising Law (“FAL”); and (5) fraud.

8 Starbucks contends that Plaintiffs cannot prevail on any of these claims because the
 9 individual, hand-crafted beverages served at Starbucks cafés meet the reasonable expectations of
 10 consumers. Customers receive what they order, lattes that contain, espresso, steamed milk and
 11 milk foam (or they can specify what they wish to receive if that differs from the customary
 12 preparation of their beverages). Customers know they can “make it yours” by, among other
 13 things, specifying the flavors, milk, and how it is prepared.

14 **4. Motions**

15 Plaintiffs anticipate filing a motion for class certification, and the Parties may file motions
 16 for summary judgment.

17 Plaintiffs’ counsel recognized that a protective order would be necessary to protect
 18 Starbucks proprietary trade secret and financial information and initially proposed that the
 19 Northern District of California’s Stipulated Protective Order for Standard Litigation be used.
 20 Starbucks responded that a two-tier protective order would be necessary to protect Starbucks
 21 highly confidential information and circulated a draft based upon the Northern District’s
 22 Stipulated Protective Order for Litigation Involving Patents, Highly Sensitive Confidential
 23 Information and/or Trade Secrets. Plaintiffs’ counsel objected to certain portions of that form of
 24 order during conferral and Starbucks circulated a further draft addressing the concerns addressed
 25 by Plaintiffs’ counsel. Plaintiffs’ counsel has now taken the position that the Stipulated Protective
 26

27 ² Plaintiffs’ proposed amended complaint with Ms. Crittenden also asserts claims for:
 28 (i) violations of New York’s General Business Law § 349; (ii) violations of New York’s General
 Business Law § 350; and (iii) violations of Florida’s Deceptive and Unfair Trade Practices Act.

1 Order for Standard Litigation be used. Starbucks has responded that this form of order is
2 insufficient to protect its information. Conferral efforts are ongoing.

3 If the parties are unable to reach agreement, Starbucks will bring a motion for protective
4 order so that an appropriate form of order, necessary to protect its confidential and proprietary
5 information, is entered.

6 **5. Amendment of Pleadings**

7 Plaintiffs proposed filing an Amended Complaint that adds Plaintiff Brittany Crittenden,
8 whose suit was recently transferred to this District and related to this matter, to this case and adds
9 causes of action under New York and Florida law, along with assertions that additional Starbucks
10 hot beverages are underfilled. Plaintiffs provided a proposed Amended Complaint to Starbucks
11 and Starbucks responded that it had no objection to the filing of the proposed Amended
12 Complaint. On September 16, 2016, Plaintiffs submitted a joint Stipulation and Proposed Order
13 seeking leave to file an amended complaint, pursuant to Rule 15(a)(2).

14 **6. Evidence Preservation**

15 The Parties have reviewed the Guidelines Relating to the Discovery of Electronically
16 Stored Information (“ESI Guidelines”) and have met and conferred pursuant to Federal Rule of
17 Civil Procedure 26(f). The Parties have agreed to take responsible and necessary steps to preserve
18 evidence relevant to the issues reasonably evidence in this action.

19 **7. Disclosures**

20 The Parties provided their initial disclosures on July 5, 2016.

21 **8. Discovery**

22 **A. Plaintiffs’ Statement**

23 On June 20, 2016, Plaintiffs served an initial set of interrogatories and requests for
24 production of documents on Starbucks by U.S. Mail and by e-mail.

25 Plaintiffs anticipate taking discovery on, *inter alia*, the following topics:

- 26 • The number and sale price of Starbucks Lattes sold during the class period;
27 • The number and identity of Starbucks’ customers who purchased Starbucks Lattes during
28 the class period;

- 1 • Starbucks' advertising and marketing of Starbucks Lattes, especially relating to the
- 2 different sizes and characteristics of each variety of Starbucks Lattes;
- 3 • The equipment used by Starbucks employees to produce Starbucks Lattes prior to and
- 4 during the class period;
- 5 • The standardized recipes used by Starbucks to produce Starbucks Lattes prior to and
- 6 during the class period;
- 7 • Any analysis or study performed by Starbucks prior to the adoption of new equipment
- 8 and/or procedures for producing Starbucks Lattes prior to and during the class period;
- 9 • Starbucks' practice of uniformly underfilling its Lattes;
- 10 • Starbucks' costs and expenses associated with producing each standardized variant of
- 11 Starbucks Lattes; and
- 12 • Starbucks' revenue derived from sales of Starbucks Lattes prior to and during the class
- 13 period.

14 On August 8, 2016, Starbucks responded to Plaintiffs' initial set of discovery requests by
15 asserting a number of objections for each of Plaintiffs' requests. Since that time, counsel for the
16 parties have been meeting and conferring in an attempt to conduct discovery efficiently and
17 streamline the production of documents. To that end, Plaintiffs have agreed to revise a number of
18 their requests and Starbucks has agreed to produce categories of documents (once an appropriate
19 protective order is entered). These conferral discussions are still ongoing.

20 Moreover, during a conference call on August 26, 2016, the parties discussed the key terms
21 of an ESI protocol, and counsel for Starbucks agreed to prepare a first draft.

22 Furthermore, on August 17, 2016, Plaintiffs' counsel proposed that the parties agree to the
23 Northern District's Stipulated Protective Order For Standard Litigation, with no modifications.
24 On September 2, 2016, counsel for Starbucks rejected Plaintiffs' proposal, and instead proposed
25 that the parties should agree to a modified version of the Northern District's Stipulated Protective
26 Order For Litigation Involving Patents, Highly Sensitive Confidential Information And/Or Trade
27 Secrets. Following a subsequent meet and confer call, Starbucks circulated additional redlines to
28 its proposal on September 16, 2016. However, Plaintiffs believe that the Northern District's

1 Stipulated Protective Order For Standard Litigation is most appropriate for this litigation.

2 Starbucks disagrees that this form of order is appropriate or adequate.

3 Lastly, Starbucks represents in its section, below, that “As Plaintiffs’ counsel represented
4 to the JPML, discovery in this matter will be coordinated with all other actions related to the fill of
5 Starbucks beverages.” Plaintiffs agree with this statement to the extent that it concerns cases
6 involving Starbucks beverages made with steamed milk (*i.e.*, *Crittenden v. Starbucks*
7 *Corporation*). However, the JPML declined to consolidate the *Strumlauf* and *Crittenden* matters
8 with cases that concern iced beverages, finding that the two lines of cases involved different
9 factual issues and different legal theories.³ Thus, Plaintiffs understand the JPML’s Order as only
10 requiring coordination with the *Crittenden* matter, which they have done.

11 **B. Defendant’s Statement**

12 As Plaintiffs’ counsel represented to the JPML, discovery in this matter will be
13 coordinated with all other actions related to the fill of Starbucks beverages. *In re Starbucks Corp.*
14 *Mktg. & Sales Practices Litig.*, No. MDL 2725, 2016 WL 4153601, at *1 (U.S. Jud. Pan. Mult.
15 Lit. Aug. 5, 2016) (“[P]laintiffs’ counsel in all actions represented at oral argument that they will
16 coordinate the depositions of defendant’s witnesses to avoid any duplication and coordinate
17 production of overlapping documents.”). Starbucks reserves the right to seek a protective order if
18 discovery is not coordinated among all cases related to the fill of Starbucks beverages as agreed by
19 all plaintiffs before the JPML. As to Plaintiffs, Starbucks anticipates conducting at least the
20 following discovery:

- 21 • Conduct the depositions of Plaintiffs to address the allegations in the complaint.

23 ³ See Order Denying Transfer, *In re: Starbucks Corporation Marketing & Sales Practices*
24 *Litigation*, MDL No. 2725 (J.P.M.L. Aug 5, 2016) (“Although the actions commonly allege that
25 Starbucks misrepresents the quantity of fluid ounces in made-to-order beverages sold in Starbucks
26 stores, the actions concern two distinct categories of Starbucks beverages – beverages made with
27 steamed milk (latte and mocha beverages) and beverages made with ice – which involve different
28 factual theories of liability. Two actions allege that latte and mocha beverages are underfilled
based on recipes and equipment unique to beverages made with steamed milk, and two actions
allege that cold drinks are underfilled based on practices unique to beverages made with ice.
These factual dissimilarities likely will result in discovery, pretrial motions, and class certification
issues that are not shared across the beverage categories.”).

- 1 • Inquire about and inspect all property acquired from Starbucks to address how it was
- 2 acquired and maintained.
- 3 • Conduct written discovery regarding the grounds for class certification.
- 4 • Conduct written discovery to address the allegations in the complaint.
- 5 • Conduct the depositions of any experts whose declarations Plaintiffs offer to support their
- 6 motion for class certification.
- 7 • Conduct the depositions of any experts whose declarations or reports Plaintiffs offer to
- 8 support their claims or to rebut Starbucks experts.

9 **9. Class Actions**

10 Plaintiffs intend to take some initial discovery and then move for class certification at an
11 early practicable time. The Parties propose the following schedule for the class certification
12 motion: (1) Plaintiffs file their motion for class certification by June 29, 2017 and make experts
13 and declarants available for deposition within two weeks thereafter; (2) Starbucks files its
14 opposition to class certification by August 3, 2017; and (3) Plaintiffs file their reply in support of
15 class certification by August 31, 2017. If depositions of experts and declarants are not completed
16 within three weeks after Plaintiffs file the motion, then Starbucks would receive an extension of
17 time to submit its opposition such that there are two weeks between the conclusion of the
18 declarant and/or expert depositions and the deadline for filing the opposition.

19 The Parties make the following representations pursuant to Civil Local Rule 16-9(b):

20 **A. Plaintiffs' Statement**

- 21 1. This action is maintainable as a class action pursuant to Federal Rule of Civil
22 Procedure 23(b)(2) and (b)(3)(A)-(D).
- 23 2. Plaintiffs seek to represent a class defined as all persons in the United States who
24 purchased Starbucks Lattes (the "Class"). Plaintiffs also seek to represent a
25 subclass of all Class members who purchased Starbucks Lattes in California (the
26
27
28

1 “California Subclass”). Excluded from the Class and California Subclass are
 2 persons who made such purchase for purpose of resale.⁴

3 3. This case is suitable for class treatment because it concerns numerous consumers,
 4 each of whom purchased the same products, were exposed to the same
 5 misrepresentations, relied on the same misrepresentations, were affected by
 6 Defendant’s conduct in the same manner, and suffered the same damages.

7 4. Briefing on Plaintiffs’ anticipated motion for class certification is detailed above,
 8 *see supra*.

9 **B. Defendant’s Statement**

10 Starbucks does not believe that this action is appropriate for class certification or that the
 11 requirements of Rule 23 can be satisfied. As an initial matter, Plaintiffs have not alleged the
 12 specifics of their reliance on Starbucks alleged representations to establish that they have
 13 standing, that they were misled or that they were damaged. Plaintiffs will be unable to establish
 14 that common issues predominate because, *inter alia*, (1) Plaintiffs will be unable to demonstrate
 15 other consumers construe the menu boards in the manner set forth in the Complaint, (2) Plaintiffs
 16 will be unable to demonstrate that other consumers experienced under-filled beverages as
 17 Plaintiffs’ counsel has allegedly experienced; (3) Plaintiffs will be unable to demonstrate that the
 18 beverage did not meet the expectation of the consumer. Each class member will have the burden
 19 to prove that he or she relied on the beverage quantity representation, that it was material to him
 20 or her, and he or she purchased a hand-crafted and custom made beverage that was actually under
 21 filled. These individual issues demonstrate that common issues do not predominate, the class is
 22 not ascertainable, and proceeding as a class action would not be manageable nor superior.

23 **10. Related Cases**

24 **A. Plaintiffs’ Statement**

25 *Crittenden v. Starbucks Corp.*, Case No. 3:16-cv-05049 (N.D. Cal.) brings similar
 26 allegations to Plaintiffs’ Complaint.

27
 28 ⁴ Plaintiffs’ proposed Amended Complaint also includes subclasses for Florida and New York.

1 For the reasons discussed in Section 8.A, above, Plaintiffs believe that the *Pincus / Galanis*
2 and *Fourouzes* matters are dissimilar and not related to the *Strumlauf* or *Crittenden* matters.

3 **B. Defendant's Statement**

4 Starbucks provides notice of the following actions regarding the fill of Starbucks
5 beverages pending in this District and in the Northern District of Illinois which involve all or a
6 material part of the same subject matter as this case:

Court:	Case Name:	Case Number:	Claims for Relief:
U.S. District Court for the Northern District of California (transferred from the U.S. District Court for the Southern District of New York)	<i>Brittany Crittenden v. Starbucks Corporation</i>	3:16-cv-01549 TEH	(1) Breach of Warranty; (2) Violations of New York General Business Law § 349; (3) Violations of New York General Business Law § 350; (4) Fraudulent Concealment/Fraudulent Inducement; (5) Negligent Misrepresentation; and (6) Unjust Enrichment
U.S. District Court for the Northern District of Illinois	<i>Steven Galanis v. Starbucks Corporation</i>	1:16-cv-04705	(1) Breach of Express Warranty; (2) Breach of the Implied Warranty of Merchantability; (3) Negligent Misrepresentation; (4) Unjust Enrichment; (5) Fraud; (6) Violation of Illinois Consumer Fraud and Deceptive Business Practices Act; and (7) Violation of Illinois Uniform Deceptive Trade Practices Act

18 *Forouzes v. Starbucks Corporation*, Case No. 2:16-cv-03830 (C.D. Cal.), another case
19 alleging that Starbucks beverages are underfilled, was dismissed without leave to amend by the
20 Hon. Percy Anderson on August 19, 2016.

21 **11. Relief**

22 Plaintiffs seek damages, restitution, disgorgement, attorneys' fees, and/or monetary relief
23 in excess of \$5,000,000. Specifically, Plaintiffs seek statutory remedies, if available, for violation
24 of the CLRA, UCL, and FAL.⁵

25 Starbucks denies any liability and denies that any relief is appropriate.
26

27 _____
28 ⁵ Plaintiffs' proposed Amended Complaint also seeks damages, including statutory damages, for the claims for relief under New York's General Business Law §§ 349, 350.

1 **12. Settlement and ADR**

2 The parties have not begun settlement negotiations and believe that a settlement conference
3 would be premature at this time. However, the parties are willing to discuss ADR and private
4 mediation options at an early opportunity.

5 **13. Consent to Magistrate Judge for All Purposes**

6 The parties did not consent to proceed before a Magistrate Judge for all purposes.

7 **14. Other References**

8 The Parties do not believe that this case is suitable for reference to binding arbitration or a
9 special master.

10 **15. Narrowing of Issues**

11 The Parties are presently unaware of any stipulations or agreements that could narrow the
12 issues at this time.

13 **16. Expedited Trial Procedure**

14 The Parties do not believe that this case is suitable for the Expedited Trial Procedure of
15 General Order 64, Attachment A.

16 **17. Scheduling**

17 The Parties believe it is premature to set a trial date at this time. Below is a summary of
18 the deadlines proposed in this case:

- 19 • Briefing on Plaintiffs' anticipated motion for class certification is detailed in Section 9
20 above, *see supra*.
- 21 • Parties to submit a proposed protective order and ESI protocol by October 7, 2016.
- 22 • Rolling production to first document requests beginning October 14, 2016, assuming a
23 Stipulated Protective Order is entered by October 12, 2016.
- 24 • Completion of fact discovery on May 25, 2017.
- 25 • Parties to exchange Rule 26 affirmative expert disclosures and reports within 60 days after
26 a ruling on class certification.
- 27 • Parties to exchange responding expert disclosures and reports within 60 days after the
28 Parties serve affirmative expert disclosures.

- 1 • Completion of expert discovery within 30 days after the Parties serve responding expert
- 2 reports.
- 3 • Deadline to file dispositive motions TBD.

4 **A. Plaintiffs' Statement**

5 In addition to the dates set forth above, Plaintiffs further propose a deadline of October 31,
6 2016 for substantial completion of document production in response to Plaintiffs' June 20, 2016
7 discovery requests.

8 **B. Defendant's Statement**

9 Starbucks continues to meet and confer with counsel for Plaintiffs regarding the scope of
10 documents to be produced. As referenced above, counsel have made progress in the conferral
11 efforts and Plaintiffs have agreed to narrow certain of their requests and Starbucks has agreed to
12 produce certain categories of documents upon the entry of an acceptable protective order. The
13 timing for the production of documents will depend in large part on the reasonableness of
14 Plaintiffs' counsel in narrowing their requests and agreeing to the entry of an appropriate
15 protective order.

16 **18. Trial**

17 The Parties request a jury trial. Though it is difficult to estimate the length of the trial at
18 this stage, Plaintiffs preliminarily anticipate that the trial will last between 2-3 weeks. Starbucks
19 anticipates that a trial, if any, will last between 5 and 7 court days.

20 Starbucks also demands a jury trial on all appropriate issues.

21 **19. Disclosure of Non-Party Interested Entities or Persons**

22 Defendant filed its Certificate of Interested Entities on March 25, 2016. Plaintiffs filed
23 their Certificate of Interested Entities on June 24, 2016.

24 **20. Professional Conduct**

25 The Parties and their counsel have reviewed the Guidelines for Professional Conduct for
26 the Northern District of California.

27 **21. Other**

28 None at this time.

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