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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 COUNTY OF ALAMEDA

10 ROHINI KUMAR, an individual, on behalf
11 of herself, the general public and those simi-
12 larly situated,

13 Plaintiff,

14 v.

15 SAFEWAY, INC.; and DOES 1
16 THROUGH 50,

17 Defendants.

CASE NO.

UNLIMITED CIVIL CASE

CLASS ACTION COMPLAINT FOR VIOLA-
TION OF THE CALIFORNIA CONSUMERS
LEGAL REMEDIES ACT; FALSE ADVER-
TISING; BREACH OF CONTRACT;
BREACH OF THE COVENANT OF GOOD
FAITH AND FAIR DEALING; FRAUD, DE-
CEIT, AND/OR MISREPRESENTATION;
AND UNFAIR BUSINESS PRACTICES

JURY TRIAL DEMANDED

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1 Rohini Kumar, by and through her counsel, brings this Class Action Complaint against
2 Defendants Safeway, Inc. and Does 1 through 50, on behalf of herself and those similarly
3 situated, for violations of the Consumer Legal Remedies Act, false advertising, unfair trade
4 practices, breach of contract, breach of the covenant of good faith and fair dealing, and fraud,
5 deceit and/or misrepresentation. The following allegations are based upon information and belief,
6 including the investigation of Plaintiff's counsel, unless stated otherwise.

7 INTRODUCTION

- 8 1. This case concerns Defendants' false and deceptive marketing and sale of olive oil.
- 9 a. First, Defendants identically represent that all of their olive oil products are
10 "**IMPORTED FROM ITALY.**" This leads consumers to reasonably believe that
11 Defendants' olive oil products are made from olives grown, or at a minimum
12 pressed, in Italy. In truth, Defendants' olive oil is made from olives that are not
13 grown, or even pressed, in Italy. Rather, Defendants' olive oil is pressed (from
14 olives grown) in other countries, and (at best) is trucked or shipped to Italy, bottled
15 and then exported.
- 16 b. Second, Defendants label their products as a particular grade of olive oil, namely
17 "**Extra Virgin**" Olive Oil. This representation is also false and misleading
18 because, among other things, Defendants mix refined oil in with their extra virgin
19 olive oil and/or bottle their olive oil in clear, non-ultraviolet protective bottles.
20 The use of clear bottles exposes the oil to sunlight and heat and causes chemical
21 reactions inside the oil and causes it to oxidize, degrade, and degenerate. These
22 inferior bottles, which are used by Defendants for all of their extra virgin olive oil,
23 do not preserve the oil as "extra virgin." Rather, the oil degrades during shipping
24 and while it is on retailer shelves. Even if the oil is "extra virgin" at the time of
25 bottling, Defendants know that the oil will not qualify (and cannot be defined) as
26 "extra virgin" at the time it is sold to consumers. Defendants' deception is
27 compounded by providing a "**Best Before End**" date on each bottle that is
28 approximately a year to 18 months after the date of bottling, even though they

1 know that the oil sold in their defective bottles will not be “extra virgin” through
2 the period specified.

3 **PARTIES**

4 2. Rohini Kumar (“Plaintiff”) is an individual and has been a resident of Berkeley,
5 California since 2011. At all other times since the beginning of the class period, Plaintiff was a
6 resident of El Cerrito, California.

7 3. Defendant Safeway, Inc. (“Safeway”) is a corporation incorporated under the laws
8 of the State of California, having its principal place of business in Pleasanton, California.

9 4. The true names and capacities of Defendants sued as Does 1 through 50 inclusive
10 are unknown to Plaintiff, who therefore sues said Defendants by such fictitious names pursuant to
11 section 474 of the California Code of Civil Procedure. Plaintiff will seek leave of Court to amend
12 this Class Action Complaint when said true names and capacities have been ascertained.

13 5. The Parties identified in paragraphs 3 - 4 of this Class Action Complaint are
14 collectively referred to hereafter as “Defendants.”

15 6. At all times herein mentioned, each of the Defendants was the agent, servant,
16 representative, officer, director, partner or employee of the other Defendants and, in doing the
17 things herein alleged, was acting within the scope and course of his/her/its authority as such
18 agent, servant, representative, officer, director, partner or employee, and with the permission and
19 consent of each Defendant.

20 7. At all times herein mentioned, Defendants, and each of them, were members of,
21 and engaged in, a joint venture, partnership and common enterprise, and acting within the course
22 and scope of, and in pursuance of, said joint venture, partnership and common enterprise.

23 8. At all times herein mentioned, the acts and omissions of Defendants, and each of
24 them, concurred and contributed to the various acts and omissions of each and all of the other
25 Defendants in proximately causing the injuries and damages as herein alleged.

26 9. At all times herein mentioned, Defendants, and each of them, ratified each and
27 every act or omission complained of herein. At all times herein mentioned, the Defendants, and
28 each of them, aided and abetted the acts and omissions of each and all of the other Defendants in

1 proximately causing the damages, and other injuries, as herein alleged.

2 **JURISDICTION AND VENUE**

3 10. This action is brought by Plaintiff pursuant, *inter alia*, to the California Business
4 and Professions Code, section 17200, *et. seq.* Plaintiff and Defendants are “persons” within the
5 meaning of the California Business and Professions Code, section 17201.

6 11. The injuries, damages and/or harm upon which this action is based occurred in, or
7 arose out of activities engaged in by Defendants within, affecting, and emanating from, the State
8 of California.

9 12. Defendants have engaged, and continue to engage, in substantial and continuous
10 business practices in the State of California, including in Alameda County. Defendants, in fact,
11 sell more olive oil in the State of California than in any other state in the United States.

12 13. In accordance with California Civil Code Section 1780(d), Plaintiff concurrently
13 files herewith a declaration establishing that, at various times throughout the class period, she
14 purchased bottles of Safeway Select extra virgin olive oil at Safeway in Berkeley, California.
15 (Plaintiff’s declaration is attached hereto as Exhibit A.)

16 14. Plaintiff accordingly alleges that jurisdiction and venue are proper in this Court.

17 **SUBSTANTIVE ALLEGATIONS**

18 **A. The Defendants**

19 15. Safeway is an importer, marketer, distributor, and seller of food products in the
20 United States.

21 16. Defendants import, market, distribute, and sell, in the United States, the Safeway
22 Select brand of olive oil.

23 **B. Defendants’ False and Deceptive Product Packaging**

24 17. This case concerns Defendants’ marketing and sale of the Safeway Select brand
25 olive oil products. The specific products at issue in this case are:
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- 1 a. Safeway Select Extra Virgin Olive Oil;
- 2 b. Safeway Select Extra Light in Flavor Olive Oil; and
- 3 c. Safeway Select Pure Olive Oil.

4 These products are collectively referred to as the “Mock Italian Products” or “Products.”

5 18. The Safeway Select Extra Virgin Olive Oil, which is marketed as “Extra Virgin”
6 olive oil, is referred to hereafter as the “Mock EVOO Product.”

7 19. This case focuses on Defendants’ representations (1) on all the Products, that the
8 oil is “**IMPORTED FROM ITALY**” and (2) on the Mock EVOO Product, that the oil qualifies
9 (or is graded) as “**EXTRA VIRGIN**.”

10 20. Through Defendants’ use of intentional misrepresentations and selective omission,
11 each of the above representations deceives and misleads consumers.

- 12 a. First, by stating “IMPORTED FROM ITALY,” Defendants lead consumers to
13 believe that these Products are made from Italian olives or, at a minimum, are
14 pressed in Italy. This is false and deceptive. In fact, none of the Mock Italian
15 Products are made from olives grown in Italy. Nor are they pressed in Italy.
16 Rather, the Mock Italian Products are made from oil pressed in many different
17 countries, trucked or shipped to Italy, mixed with oil from other countries, bottled
18 and then exported.
- 19 b. Second, Defendants mislead and deceive consumers by representing (and
20 labelling) the Mock EVOO Product as “EXTRA VIRGIN”—i.e., the highest
21 grade/quality of olive oil—when they know that, due to their use of substandard,
22 clear (non-light protective) bottles, unprotected transport methods and storage
23 procedures, the oil invariably degrades, and does not qualify (or can be defined as)
24 “extra virgin” olive oil at the time of sale and/or well before the “Best Before”
25 date. Defendants’ Mock EVOO Product is deceptively misbranded.

26 **(1) Defendants’ False Origin Representations**

27 21. Part 134, Chapter 1 of Title 19 of the Code of Federal Regulations sets forth
28 regulations implementing the country of origin marking requirements and exceptions of section

1 304 of the Tariff Act of 1930, as amended (19 U.S.C. 1304), together with certain marking
2 provisions of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202).

3 22. 19 C.F.R. § 134.46 requires that:

4 In any case in which...the name of any foreign country or locality other than the
5 country or locality in which the article was manufactured or produced appear on
6 an imported article or its container, and those words, letters or names may mislead
7 or deceive the ultimate purchaser as to the actual country of origin of the article,
8 there shall appear legibly and permanently in close proximity to such words, let-
9 ters or name, and in at least a comparable size, the name of the country of origin
10 preceded by “Made in,” “Product of,” or other words of similar meaning.

11 23. All of Defendants’ Mock Italian Products are marketed with labels in bold font
12 that states “IMPORTED FROM ITALY,” when the oil is, in fact, the product of countries other
13 than Italy. Yet, Defendants, in violation of 19 C.F.R. § 134.46, do not include on the Mock
14 Italian Products, “in close proximity” to the ““IMPORTED FROM ITALY” representation, any
15 indication of the true country of origin of the olive oil preceded by “Made in,” “Product of,” or
16 other words of similar meaning. Instead, Defendants state only on the side of the Products, in
17 much smaller font, the notation “Packed in Italy,” and cryptically state on the back of the Mock
18 Italian Products “OLIVE OIL FROM” followed by country code(s) (such as “TR” for Turkey or
19 “CL” for Chile) indicating the geographical origin of the olive oil in the bottles.

20 24. The United States Food and Drug Administration (the “FDA”) has also
21 promulgated regulations governing misbranding of food and providing that food is misbranded if
22 its label expresses or implies a geographical origin of the food or any ingredient of the food
23 except when such representation is “[a] truthful representation of geographical origin.” *See* 21
24 CFR § 101.18. Because the “IMPORTED FROM ITALY” representation is not truthful,
25 Defendants’ labels violate 21 CFR § 101.18, which has been independently adopted as part of the
26 Sherman Food, Drug and Cosmetic Law, California Health and Safety Code (“Cal. Health & Saf.
27 Code”) § 109875, *et. seq.* *See* Cal. Health & Saf. Code §§ 110100(a), 110380, 110505 (adopting
28 FDA standards).

29 25. Though Defendants may contend that in some instances the Mock Italian Products
30 contain some olive oil from Italy, U.S. Customs and Border Protection (“CBP”), Department of
31 Homeland Security, has consistently held that a manufacturer cannot claim that a product is

1 “from” a particular country if it merely blends some product from that country with the same
2 product from another country, as that process does not constitute a “substantial transformation” of
3 the product from the other country which would justify a “country of origin” claim based on the
4 manufacturing location. With specific regard to olive oil, in HQ 560944, dated April 27, 1998,
5 CBP determined that the blending of Spanish olive oil with Italian olive oil in Italy does not result
6 in a “substantial transformation” of the Spanish product that would allow it to become an Italian
7 product.

8 26. The country of origin claims Defendants make on the Product bottles mislead
9 consumers, as they misled Plaintiff, by prominently making an Italian origin claim on the front of
10 the bottle, while placing in small print on the back of the bottle, cryptic information as to the
11 actual non-Italian origin of the olive oil. The disclaimer on the back of the bottle does not lessen
12 Defendants’ deception because, as the Ninth Circuit has stated, “reasonable consumers...should
13 [not] be expected to look beyond misleading representations on the front of the box to discover
14 the truth from the...small print on the side of the box.” *Williams v. Gerber Products Co.*, 552
15 F.3d 934, 939 (9th Cir. 2008).

16 **(2) Defendants’ False “Extra Virgin” Respresentations**

17 27. “Extra Virgin” olive oil is widely understood to mean the best (or highest)
18 grade/quality of olive oil. The term “Extra Virgin” is defined by the International Olive Council
19 (“IOC”),¹ the United States Department of Agriculture (“USDA”), and the State of California, the
20 United States’ largest domestic olive oil producer. The IOC, USDA, and State of California
21 established chemistry and sensory standards for “extra virgin” olive oil. Under each of these
22 standards, “extra virgin” olive oil must have zero sensory defects and greater than zero fruitiness.
23 Defendants Mock EVOO Product inevitably fails each of these standards for “extra virgin” olive
24

25 ¹ The IOC — an intergovernmental organization based in Madrid, Spain, with 16 member states
26 plus the European Union — promotes olive oil around the world by tracking production, defining
27 quality standards, and monitoring authenticity. The IOC officially governs 95% of international
28 production and holds great influence over the rest. The USDA’s olive oil standards are generally
based upon the IOC’s standards.

1 oil at the time of sale to consumers and/or prior to the “best before” date on the bottle.

2 28. The IOC defines “Extra Virgin Olive Oil” as: virgin olive oil which has a free
3 acidity, expressed as oleic acid, of not more than 0.8 grams per 100 grams. The IOC utilizes a
4 protocol for its sensory testing, which includes, but is not limited to, perception, sensation, and
5 sensitivity.

6 29. Since 1948, the USDA has regulated olive oil grades and, like the IOC, utilizes
7 both chemical and sensory standards to determine quality. USDA standards define “U.S. Extra
8 Virgin Olive Oil” as: “virgin olive oil which has excellent flavor and odor (median of defects
9 equal to zero and median of fruitiness greater than zero) and a free fatty acid content, expressed
10 as oleic acid, of not more than 0.8 grams per 100 grams.” The USDA additionally requires that
11 the oil meets the additional requirements outlined in the United States Standards for Grades of
12 Olive Oil and Olive-Pomace Oil, 75 FR 22363 (April 28, 2010), which sets forth the criteria to
13 ascertain the grades of the oil using both chemical and sensory standards.

14 30. The State of California defines “Extra Virgin Olive Oil” as: “virgin olive oil that
15 has excellent flavor and odor expressed as a median of defects equal to zero and a median of
16 fruitiness greater than zero, has a free fatty acid content, expressed as oleic acid, of not more than
17 0.8 grams per 100 grams oil, has a peroxide value of not more than 20 milliequivalent peroxide
18 oxygen per kilogram oil” and meets the additional chemical and sensory requirements for ‘United
19 States Extra Virgin Olive Oil’ outlined in the United States Standards for Grades of Olive Oil and
20 Olive-Pomace Oil published in the Federal Register that are in effect on October 25, 2010.” Cal.
21 Health & Safety Code §§ 112877(a).²

22 31. In March of 2014, Plaintiff’s counsel had several bottles of Defendants’ Products
23 tested by an independent, IOC-accredited laboratory and organoleptic evaluation panel. Each
24

25 ² Other states similarly define “extra virgin.” *See, e.g.,* Connecticut (Regs. Conn. State Agencies
26 § 21a-100-8 (stating “‘extra virgin olive oil’ means virgin olive oil which has a free acidity, ex-
27 pressed as oleic acid, of not more than 0.8 grams per hundred grams.”)); New York (N.Y. Agric.
28 & Mkts. Law § 204-a stating “‘extra virgin olive oil’ means virgin olive oil which has a free acid-
ity, expressed as oleic acid, of not more than 0.8 grams per hundred grams.”)); Oregon (ORS
2011 vol. 13, § 616716 (adopting USDA standard).)

1 bottle was purchased at a Safeway retail store, packed, and immediately shipped to an IOC-
2 accredited laboratory and organoleptic evaluation panel for analysis. The olive oil was tested
3 prior to the “best before” date indicated by Defendants on the bottles.

4 32. The IOC-accredited laboratory and organoleptic evaluation panel determined that,
5 contrary to Defendants’ representations, none of the bottles of olive oil tested contained oil that
6 qualified as “extra virgin,” under both the chemical analysis and sensory assessment. Each bottle
7 tested contained an inferior grade of olive oil that did not qualify as “extra virgin” under the IOC,
8 USDA, or State of California definitions.

9 33. Defendants know, or should have known, that the Mock EVOO Product they sell
10 and market, and which is labeled as “extra virgin,” does not meet the state, national, or
11 international standards for “extra virgin” when sold to consumers and/or during the entire “best
12 before” period indicated on the bottles.

13 34. Defendants have been aware of the fact that their olive oils are not adequately
14 preserved and do not maintain the quality of “extra virgin” since at least June of 2010, when the
15 University of California at Davis’ Olive Oil Center released its report entitled “Tests indicate that
16 imported ‘extra virgin’ olive oil often fails international and USDA standards” (the “Report”).
17 The Report³ evaluated olive oils, including those sold by Defendants, based on standards and
18 testing methods established by the IOC and USDA, as well as several newer standards and testing
19 methods adopted in Germany and Australia. The Report went on to note that the “samples failed
20 extra virgin standards for reasons that include one or more of the following:

- 21 • oxidation by exposure to elevated temperatures, light, and/or aging;
- 22 • adulteration with cheaper refined olive oil;
- 23 • poor quality oil made from damaged and overripe olives, processing flaws, and/or
24 improper oil storage.”

25 35. With specific regard to the Safeway Select brand olive oil that was tested, the
26 Report found that two of the three samples tested by UC Davis failed the chemical and/or sensory

27 ³ The tests relied upon in the Report were conducted by scientists at UC Davis and at the Australia-
28 nian Oils Research Laboratory, a governmental research center accredited by the IOC (the “Aus-
tralian Laboratory”).

1 assessment for “extra virgin” olive oil.

2 36. It is a well-known in the olive oil industry that all olive oil must be stored in a cool
3 and dark environment to preseve “extra virgin” qualities. Heat and light cause chemical reactions
4 inside the oil and causes it to degenerate into undesirable chemical products, thereby adulterating
5 and degrading the oil. For example, a 2007 study by researchers at the National Agricultural
6 Research Foundation, Institute of Technology of Agricultural Products, Greece and the Higher
7 Technical Educational School, Department of Food Science, Thermi, Thessaloniki, Greece, which
8 Defendants are aware of, concluded that olive oil exposed to light had significantly lower
9 tocopherol, carotenoid and chlorophyll contents than did the same oils kept in the dark. Overall,
10 the results obtained showed that the shelf life of the oils exposed to light is shorter than that of
11 oils kept in the dark, and that after only *two months* of exposure to light the oils examined could
12 no longer be considered as “extra virgin.”

13 37. Defendants continue to pack their olive oil in clear bottles and do not take steps to
14 adequately protect the Mock EVOO Product from light degradation once it reaches stores.
15 Indeed, Defendants do not have a policy for removing the Mock EVOO Product from store
16 shelves after its has become degraded by light or other conditions. Further, Defendants indicate a
17 “best before” date on the Mock EVOO Product that is eighteen months to two years after the oil
18 is bottled – well beyond the two months it takes oil exposed to light to degrade such that it is no
19 longer “extra virgin.” Defendants’ know that the Mock EVOO Product is not “extra virgin” when
20 it is sold to consumers and/or through the entire “best before” period indicated on the bottles, but
21 they label and price the oil as “extra virgin” and include a “best before” date even though they
22 know it to be untrue.

23 **C. Defendants Compound their Deception With Targeted Marketing and Advertising**
24 **Campaigns**

25 38. Over the past twenty years, extra virgin olive oil has become increasingly popular
26 among consumers. The media has reported extensively on the health benefits of olive oil, with
27 numerous media outlets covering studies suggesting that olive oil can lower cholesterol and risks
28 of cancer. Often these articles advise consumers that *extra virgin* olive oil is healthier than other

1 kinds of olive oil. *See, e.g.* [http://www.npr.org/blogs/thesalt/2013/09/30/226844915/to-get-the-](http://www.npr.org/blogs/thesalt/2013/09/30/226844915/to-get-the-benefits-of-olive-oil-fresh-may-be-best)
2 [benefits-of-olive-oil-fresh-may-be-best](http://www.mindbodygreen.com/0-12906/6-great-reasons-to-fall-in-love-with-olive-oil.html) and [http://www.mindbodygreen.com/0-12906/6-great-](http://www.mindbodygreen.com/0-12906/6-great-reasons-to-fall-in-love-with-olive-oil.html)
3 [reasons-to-fall-in-love-with-olive-oil.html](http://www.mindbodygreen.com/0-12906/6-great-reasons-to-fall-in-love-with-olive-oil.html), last accessed April 21, 2014.

4 39. Because real extra virgin olive oil has a distinct flavor profile, chefs and food
5 writers often recommend it for cooking over regular olive oil. Its popularity surged over the last
6 two decades, in part, because of the popularity of the Food Network channel, and the fact that
7 many chefs appearing on that channel recommend it. For example, Rachel Ray, a well known
8 celebrity chef famous for easy to prepare meals, uses extra virgin olive oil so frequently in her
9 television programs that she was credited with coining the “EVOO” acronym. *See*
10 http://en.wikipedia.org/wiki/Rachael_Ray, last accessed April 21, 2014. Giada De Laurentiis,
11 another popular Food Network host and celebrity chef, uses Italian extra virgin olive oil in her
12 recipes, and regularly advises viewers and home cooks to buy *Italian extra virgin olive oil* in
13 order to recreate her Italian dishes at home. Mario Batali, a former Food Network chef, cookbook
14 author, and current host of a popular daytime talk show, *The Chew*, has stated in his cookbooks
15 and in numerous television programs that the best olive oil in the world comes from Italy. He
16 accordingly counsels consumers to only use extra virgin olive oil from Italy when cooking.

17 40. Extra virgin olive oil is so frequently recommended by chefs that a search for
18 “extra virgin olive oil” on www.foodnetwork.com, the website operated by the Food Network,
19 brings up more than 8,500 recipes that call for extra virgin olive oil as an ingredient in the recipe.
20 [http://www.foodnetwork.com/search/search-](http://www.foodnetwork.com/search/search-results.recipes.html?searchTerm=%22extra+virgin+olive+oil%22&lastFilter=tab&_charset_=UTF-8)
21 [results.recipes.html?searchTerm=%22extra+virgin+olive+oil%22&lastFilter=tab&_charset_=UT](http://www.foodnetwork.com/search/search-results.recipes.html?searchTerm=%22extra+virgin+olive+oil%22&lastFilter=tab&_charset_=UTF-8)
22 [F-8](http://www.foodnetwork.com/search/search-results.recipes.html?searchTerm=%22extra+virgin+olive+oil%22&lastFilter=tab&_charset_=UTF-8), last accessed April 21, 2014. Other popular recipe websites, such as allrecipes.com and
23 epicurious.com similarly feature thousands of recipes calling for “extra virgin olive oil.”

24 41. Defendants unfairly and unlawfully attempt to capitalize on consumers’ desire for
25 Italian and extra virgin olive oil by representing that the Products are Italian and the Mock EVOO
26 Product is high quality “extra virgin” olive oil.

1 **D. Defendants' Conduct Differs From That Of Their Competitors**

2 **(1) Defendants' Competitors' Disclosures Related to the Origin of Their Products**

3 42. Unlike Defendants who claim their Products are "IMPORTED FROM ITALY,"
4 certain of their competitors state, on the front of their bottles, that their olive oil products are
5 "PACKED IN ITALY" OR "BOTTLED IN ITALY" or make no claim on the front of the
6 package about the place of manufacture. For example, one of Defendants' competitors in the
7 olive oil market is Violi brand olive oil. Violi sells its olive oil for lower prices than Defendants'
8 comparable products. It states "PACKED IN ITALY" on the front of its bottles. Trader Joe's
9 bottles of olive oil, which the company also sells for a lower cost than Defendants' olive oils, too
10 state "PACKED IN ITALY" on the front. Other of Defendants' olive oil competitors, including
11 Rizzoli, state on bottles that the olive oil is "BOTTLED IN ITALY." Other companies, such as
12 Star brand olive oil, make no reference on the front of the package of the geographic origin of
13 their olive oil, unless the oil is, in fact, made from olives that are grown and pressed in that
14 country, state or region. Other of Defendants' competitors, like Pompeian olive oil, simply state,
15 on the primary label panel, that the olive oil is "IMPORTED" without reference to any
16 geographical region.

17 **(2) Defendants' Competitors Use Bottles Designed to Prevent Degradation of**
18 **Their Olive Oil**

19 43. Unlike Defendants, many of their competitors bottle their olive oils in bottles that
20 are designed to better maintain the quality of the oil inside the bottles. For example, California
21 Olive Ranch olive oils are bottled in green glass to prevent exposure to light. Castillo de Piñar
22 Olive Oil is bottled in violet glass bottles, which preserve the "organoleptic qualities" of the
23 company's olive oils. And, Colavita, a large manufacturer of olive oil, and one of Defendants'
24 main competitors, bottles its olive oil in dark greenish glass. Indeed, following the release of the
25 results of the UC Davis Report, Colavita, unlike Defendants, made the decision to change to dark
26 glass bottles, even if it cost them more and reduced sales. Its CEO, Enrico Colavita, stated:
27 "Even if consumers want to see the color of the olive oil, we are moving to all dark bottles." See
28 <http://www.oliveoiltimes.com/olive-oil-basics/world/colavita-davis-olive-oil-study/7186> (last

1 visited, April 21, 2014.)

2 **PLAINTIFF'S EXPERIENCE**

3 44. Plaintiff regularly purchases extra virgin olive oil for home use. At various times
4 throughout the class period, she purchased Mock EVOO Product from a Safeway in Berkeley.

5 45. Prior to purchasing Defendants' Safeway Select brand extra virgin olive oil,
6 Plaintiff reviewed the packaging to satisfy herself that she was purchasing extra virgin olive oil
7 from Italy. Plaintiff specifically reviewed Defendants' statements on the package that the product
8 was "extra virgin" and "Imported from Italy." Plaintiff relied on Defendants' affirmative
9 disclosures to believe she was purchasing olive oil that was both extra virgin and made from
10 olives that were grown and pressed in Italy. Plaintiff also relied on Defendants' failure to
11 adequately disclose that by "Imported from Italy" it meant that it was "packed" or "bottled" in
12 Italy and that it was not either pressed in or made (exclusively) from olives that had been grown
13 in Italy.

14 46. Plaintiff purchased Defendants' Safeway Select extra virgin olive oil from a
15 Safeway supermarket in Berkeley, California for approximately \$6 a bottle.

16 47. Plaintiff later learned that the product she purchased was not extra virgin. Plaintiff
17 also later learned that the product she purchased was not made from olives grown and pressed in
18 Italy. Had Defendants not misrepresented (by omission and commission) the true nature of the
19 olive oil, Plaintiff would not have purchased Defendants' product or, at a very minimum, she
20 would have paid less for the product that she purchased.

21 48. Plaintiff intends to make additional purchases of olive oil, including brands that
22 are or may be owned by Defendants. Plaintiff has no way to determine prior to her purchases
23 whether oil sold by Defendants was made from olives grown and/or pressed in Italy and whether
24 oils labelled "extra virgin" actually meet the standards of that grade. Thus, in the absence of the
25 injunctive relief requested in this Complaint, Plaintiff is likely to be deceived in the future and to
26 suffer additional harm.

27 **CLASS ALLEGATIONS**

28 49. Plaintiff brings this action against Defendants on behalf of herself and all others

1 similarly situated, as a class action pursuant to section 382 of the California Code of Civil
2 Procedure and section 1781 of the California Civil Code. Plaintiff seeks to represent the
3 following groups of similarly situated persons, defined as follows:

4 All California citizens who, between May 23, 2010 and the present, pur-
5 chased, in California, any of Defendants' Products (the "Class"); and

6 All California citizens who, between May 23, 2010 and the present, pur-
7 chased, in the California, Defendants' Mock EVOO Product (the "EVOO
8 Class").

9 50. This action has been brought and may properly be maintained as a class action
10 against Defendants pursuant to the provisions of California Code of Civil Procedure section 382
11 because there is a well-defined community of interest in the litigation and the proposed classes
12 are easily ascertainable.

13 51. Numerosity: Plaintiff does not know the exact size of the classes, but it is
14 estimated that each is composed of more than 100 persons. The persons are so numerous that the
15 joinder of all such persons is impracticable and the disposition of their claims in a class action
16 rather than in individual actions will benefit the parties and the courts.

17 52. Common Questions Predominate: This action involves common questions of law
18 and fact to the potential classes because each class member's claim derives from the deceptive,
19 unlawful and/or unfair statements and omissions that led Defendants' customers to believe that
20 the Products were (or at a minimum contained olives) from Italy, and/or extra virgin. The
21 common questions of law and fact predominate over individual questions, as proof of a common
22 or single set of facts will establish the right of each member of the classes to recover. Among the
23 common questions of law and fact are:

24 a) Whether Defendants' Products were pressed in Italy and/or made from Italian
25 olives;

26 b) Whether Defendants' Mock EVOO Product qualifies as "extra virgin olive oil" as
27 that term is commonly understood and/or legally defined;

28 c) Whether Defendants unfairly, unlawfully and/or deceptively failed to inform class
members that their Products were not Italian or "extra virgin," as of the purchase date and/or the
"best before" date on the labels;

1 d) Whether Defendants misled class members by, *inter alia*, representing that their
2 Mock Italian Products were “Imported from Italy” and “Extra Virgin” Olive Oil;

3 e) Whether Defendants’ advertising and marketing regarding their Mock Italian
4 Products sold to class members was likely to deceive class members or was unfair;

5 f) Whether Defendants’ bottles for distributing the Mock EVOO Product were
6 inadequate or defective to preserve the “extra virgin” quality of the oil;

7 g) Whether Defendants engaged in the alleged conduct knowingly, recklessly, or
8 negligently;

9 h) The amount of revenues and profits Defendants received and/or the amount of
10 monies or other obligations lost by class members as a result of such wrongdoing;

11 i) Whether class members are entitled to injunctive and other equitable relief and, if
12 so, what is the nature of such relief; and

13 j) Whether class members are entitled to payment of actual, incidental,
14 consequential, exemplary and/or statutory damages plus interest thereon, and if so, what is the
15 nature of such relief.

16 53. Typicality: Plaintiff’s claims are typical of the class members because, in
17 California in Berkeley, she purchased one of the Mock Italian Products, namely Defendants’
18 Safeway Select Extra Virgin Olive Oil, in reliance on Defendants’ misrepresentations and
19 omissions that it was “extra virgin” and “Imported from Italy.” Thus, Plaintiff and the class
20 members sustained the same injuries and damages arising out of Defendants’ conduct in violation
21 of the law. The injuries and damages of each class member were caused directly by Defendants’
22 wrongful conduct in violation of law as alleged.

23 54. Adequacy: Plaintiff will fairly and adequately protect the interests of all class
24 members because it is in her best interests to prosecute the claims alleged herein to obtain full
25 compensation due to her for the unfair and illegal conduct of which she complains. Plaintiff also
26 has no interests that are in conflict with or antagonistic to the interests of class members. Plaintiff
27 has retained highly competent and experienced class action attorneys to represent her interests
28 and that of the classes. By prevailing on her own claim, Plaintiff will establish Defendants’

1 liability to all class members. Plaintiff and her counsel have the necessary financial resources to
2 adequately and vigorously litigate this class action, and Plaintiff and counsel are aware of their
3 fiduciary responsibilities to the class members and are determined to diligently discharge those
4 duties by vigorously seeking the maximum possible recovery for class members.

5 55. Superiority: There is no plain, speedy, or adequate remedy other than by
6 maintenance of this class action. The prosecution of individual remedies by members of the
7 classes will tend to establish inconsistent standards of conduct for the Defendants and result in the
8 impairment of class members' rights and the disposition of their interests through actions to
9 which they were not parties. Class action treatment will permit a large number of similarly
10 situated persons to prosecute their common claims in a single forum simultaneously, efficiently,
11 and without the unnecessary duplication of effort and expense that numerous individual actions
12 would engender. Furthermore, as the damages suffered by each individual member of the class
13 may be relatively small, the expenses and burden of individual litigation would make it difficult
14 or impossible for individual members of the class to redress the wrongs done to them, while an
15 important public interest will be served by addressing the matter as a class action.

16 56. Plaintiff is unaware of any difficulties that are likely to be encountered in the
17 management of this action that would preclude its maintenance as a class action.

18 **CAUSES OF ACTION**

19 57. Plaintiff does not plead, and hereby disclaims, causes of action under the Food
20 Drug and Cosmetic Act ("FDCA") and regulations promulgated thereunder by the FDA. If
21 failure to do so would cause any of her claims to be preempted, Plaintiff also disclaims causes of
22 action under the Tariff Act and regulations promulgated by the USDA, IOC and/or CBP.
23 Plaintiff relies on these regulations only to the extent such laws and regulations have been
24 separately enacted as state law or regulations or provide a predicate basis of liability under the
25 state and common laws cited in the following causes of action.

26 **PLAINTIFF'S FIRST CAUSE OF ACTION** 27 **(Violation of the Consumers Legal Remedies Act, California Civil Code § 1750, et. seq.)** 28 **On Behalf of Herself and the Class and the EVOO Class**

58. Plaintiff realleges and incorporates the paragraphs of this Class Action Complaint

1 as if set forth herein.

2 59. This cause of action is brought pursuant to the California Consumers Legal
3 Remedies Act, California Civil Code § 1750, *et. seq.* (“CLRA”).

4 60. Defendants’ actions, representations and conduct have violated, and continue to
5 violate the CLRA, because they extend to transactions that are intended to result, or which have
6 resulted, in the sale or lease of goods or services to consumers.

7 61. Plaintiff and other class members are “consumers” as that term is defined by the
8 CLRA in California Civil Code § 1761(d).

9 62. The Products that Plaintiff (and others similarly situated class members) purchased
10 from Defendants were “goods” within the meaning of California Civil Code § 1761(a).

11 63. By engaging in the actions, representations and conduct set forth in this Class
12 Action Complaint, Defendants have violated, and continue to violate, § 1770(a)(2), § 1770(a)(4),
13 § 1770(a)(5), § 1770(a)(7), and § 1770(a)(9) of the CLRA. In violation of California Civil Code
14 §1770(a)(2), Defendants’ acts and practices constitute improper representations regarding the
15 source, sponsorship, approval, or certification of the goods they sold. In violation of California
16 Civil Code §1770(a)(4), Defendants’ acts and practices constitute improper representations
17 representations or designations of geographic origin in connection with goods or service. In
18 violation of California Civil Code §1770(a)(5), Defendants’ acts and practices constitute
19 improper representations that the goods they sell have sponsorship, approval, characteristics,
20 ingredients, uses, benefits, or quantities, which they do not have. In violation of California Civil
21 Code §1770(a)(7), Defendants’ acts and practices constitute improper representations that the
22 goods they sell are of a particular standard, quality, or grade, when they are of another. In
23 violation of California Civil Code §1770(a)(9), Defendants have advertised goods or services
24 with intent not to sell them as advertised.

25 64. Specifically, Defendants’ acts and practices led customers to falsely believe that
26 that their Products were Italian and “extra virgin” when they knew all such representations to be
27 false and/or misleading. Plaintiff requests that this Court enjoin Defendants from continuing to
28 employ the unlawful methods, acts and practices alleged herein pursuant to California Civil Code

1 § 1780(a)(2). If Defendants are not restrained from engaging in these types of practices in the
2 future, Plaintiff and the other members of the Class and EVOO Class will continue to suffer
3 harm.

4 65. CLRA § 1782 NOTICE. **Irrespective of any representations to the contrary in**
5 **this Class Action Complaint, Plaintiff specifically disclaims, at this time, any request for**
6 **damages under any provision of the CLRA.** Plaintiff, however, hereby provides Defendants
7 with notice and demand that within thirty (30) days from that date, Defendants correct, repair,
8 replace or otherwise rectify the unlawful, unfair, false and/or deceptive practices complained of
9 herein. Defendants' failure to do so will result in Plaintiff amending this Class Action Complaint
10 to seek, pursuant to California Civil Code § 1780(a)(3), on behalf of herself and those similarly
11 situated class members, compensatory damages, punitive damages and restitution of any ill-gotten
12 gains due to Defendants' acts and practices.

13 66. Plaintiff also requests that this Court award her costs and reasonable attorneys'
14 fees pursuant to California Civil Code § 1780(d).

15 **PLAINTIFF'S SECOND CAUSE OF ACTION**
16 **(False Advertising, Business and Professions Code § 17500, *et. seq.* ("FAL"))**
17 **On Behalf Of Herself and the Class and EVOO Class**

18 67. Plaintiff realleges and incorporates by reference the paragraphs of this Class
19 Action Complaint as if set forth herein.

20 68. Beginning at an exact date unknown to Plaintiff, but within three (3) years
21 preceding the filing of the Class Action Complaint, Defendants made untrue, false, deceptive
22 and/or misleading statements in connection with the advertising and marketing of their Products.

23 69. Defendants made representations and statements (by omission and commission)
24 that led reasonable customers to believe that they were purchasing olive oil that: (1) originated in
25 Italy and (2) was "extra virgin" grade or quality at the time of sale and up until the "best before"
26 date on the bottle. Defendants deceptively failed to inform Plaintiff, and those similarly situated,
27 that their Mock Italian Products did not actually originate in Italy, and because the Mock EVOO
28 Product was packaged in defective bottles, it would not quality as "extra virgin" at the time of
sale and/or up until the "best before" date.

1 70. Plaintiff and those similarly situated relied to their detriment on Defendants' false,
2 misleading and deceptive advertising and marketing practices, including each of the
3 misrepresentations and omissions set forth in paragraphs 1, 20, 23, 26-37 and 42-43, above. Had
4 Plaintiff and those similarly situated been adequately informed and not intentionally deceived by
5 Defendants, they would have acted differently by, without limitation, refraining from purchasing
6 Defendants' Products, paying less for them or purchasing smaller quantities.

7 71. Defendants' acts and omissions are likely to deceive the general public.

8 72. Defendants engaged in these false, misleading and deceptive advertising and
9 marketing practices to increase their profits. Accordingly, Defendants have engaged in false
10 advertising, as defined and prohibited by section 17500, *et. seq.*, of the California Business and
11 Professions Code.

12 73. The aforementioned practices, which Defendants used, and continue to use, to
13 their significant financial gain, also constitute unlawful competition and provide an unlawful
14 advantage over Defendants' competitors as well as injury to the general public.

15 74. Plaintiff seeks, on behalf of those similarly situated, full restitution of monies, as
16 necessary and according to proof, to restore any and all monies acquired by Defendants from
17 Plaintiff, the general public, or those similarly situated by means of the false, misleading and
18 deceptive advertising and marketing practices complained of herein, plus interest thereon.

19 75. Plaintiff seeks, on behalf of those similarly situated, an injunction to prohibit
20 Defendants from continuing to engage in the false, misleading and deceptive advertising and
21 marketing practices complained of herein. The acts complained of herein occurred, at least in
22 part, within three (3) years preceding the filing of this Class Action Complaint.

23 76. Plaintiff and those similarly situated are further entitled to and do seek both a
24 declaration that the above-described practices constitute false, misleading and deceptive
25 advertising, and injunctive relief restraining Defendants from engaging in any such advertising
26 and marketing practices in the future. Such misconduct by Defendants, unless and until enjoined
27 and restrained by order of this Court, will continue to cause injury in fact to Plaintiff and the
28 general public and the loss of money and property in that the Defendants will continue to violate

1 the laws of California, unless specifically ordered to comply with the same. This expectation of
2 future violations will require current and future customers to repeatedly and continuously seek
3 legal redress in order to recover monies paid to Defendants to which Defendants are not entitled.
4 Plaintiff, those similarly situated and/or other consumers nationwide have no other adequate
5 remedy at law to ensure future compliance with the California Business and Professions Code
6 alleged to have been violated herein.

7 77. As a direct and proximate result of such actions, Plaintiff and the other members of
8 the Class and EVOO Class have suffered, and continue to suffer, injury in fact and have lost
9 money and/or property as a result of such false, deceptive and misleading advertising in an
10 amount which will be proven at trial, but which is in excess of the jurisdictional minimum of this
11 Court.

12 **PLAINTIFF'S THIRD CAUSE OF ACTION**
13 **(Breach of Contract)**
14 **On Behalf of Herself and the EVOO Class**

15 78. Plaintiff realleges and incorporates by reference the paragraphs of this Class
16 Action Complaint as if set forth herein.

17 79. At various times throughout the class period, Plaintiff entered into a contract with
18 Defendants for the purchase of Defendants' Safeway Select Extra Virgin Olive Oil that was best
19 used by the "best before" date printed on the bottle.

20 80. The terms of the contract were contained on the labels of the olive oil and
21 specified, *inter alia*, that Defendants' olive oil was "extra virgin" and that it would remain so for
22 approximately eighteen months. Persons similarly situated to Plaintiff entered into contracts with
23 the same language, other than varying best by dates, when purchasing olive oil from Defendants.

24 81. Defendants breached the contract by providing to Plaintiff, and those similarly
25 situated, olive oil that, due to Defendants' low quality, defective bottles, was not "extra virgin" at
26 the time of purchase and/or would not remain "extra virgin" (i.e., best in flavor and quality) for
27 the period stated.

28 82. As a direct and proximate result of the breaches set forth herein, Plaintiff, and
those similarly situated, have suffered, and continue to suffer, damages in an amount which will

1 be proven at trial, but which are in excess of the jurisdictional minimum of this Court.

2 **PLAINTIFF'S FOURTH CAUSE OF ACTION**
3 **(Breach of the Covenant of Good Faith and Fair Dealing)**
4 **On Behalf of Herself and the EVOO Class**

5 83. Plaintiff realleges and incorporates by reference the paragraphs of this Class
6 Action Complaint as if set forth herein.

7 84. The written agreement entered into between Plaintiff and Defendants included an
8 implied covenant of good faith and fair dealing. The same implied covenant existed in the
9 agreement between Defendants and the members of the EVOO Class, as they made their
10 purchases in California.

11 85. Defendant breached the covenant of good faith and fair dealing by knowingly and
12 intentionally providing to Plaintiff, and those similarly situated, olive oil that, due to Defendants'
13 low quality, defective bottles, was not "extra virgin" at the time of sale and/or would not remain
14 "extra virgin" (i.e., best in flavor and quality) for the period stated.

15 86. As a direct and proximate result of the breaches set forth herein, Plaintiff, and
16 those similarly situated, have suffered, and continue to suffer, damages in an amount which will
17 be proven at trial, but which are in excess of the jurisdictional minimum of this Court.

18 **PLAINTIFF'S FIFTH CAUSE OF ACTION**
19 **(Fraud, Deceit and/or Misrepresentation)**
20 **On Behalf of Herself and the EVOO Class**

21 87. Plaintiff realleges and incorporates by reference the paragraphs of this Class
22 Action Complaint as if set forth herein.

23 88. At various times throughout the class period, Defendants fraudulently and
24 deceptively led Plaintiff to believe that Defendants' olive oil was of a certain quality or grade—
25 i.e., extra virgin—when it was sold and would maintain its quality until the "best before" date.
26 Defendants failed to inform Plaintiff that due to their use of defective and low-quality bottles: (a)
27 the olive oil's quality would degrade; (b) the olive oil did not qualify as "extra virgin" at the time
28 of sale and/or would not qualify as "extra virgin" up until the "best before" date; (c) and the olive
oil would not maintain the "extra virgin" flavor and quality until the "best before" date.

89. These omissions were material at the time they were made. They concerned

1 material facts that were essential to the analysis undertaken by Plaintiff as to whether to purchase
2 Defendants' olive oil.

3 90. Defendants made identical misrepresentations and omissions to members of the
4 EVOO Class regarding Defendants' Mock Italian Product.

5 91. In not so informing Plaintiff and the members of the EVOO Class, Defendants
6 breached their duty to them. Defendants also gained financially from, and as a result of, their
7 breach.

8 92. Plaintiff and those similarly situated relied to their detriment on Defendants'
9 fraudulent omissions. Had Plaintiff and those similarly situated been adequately informed and
10 not intentionally deceived by Defendants, they would have acted differently by, without
11 limitation, not purchasing (or paying less for) Defendants' Mock EVOO Product.

12 93. Defendants had a duty to inform class members at the time of their purchase of
13 that the Mock EVOO Product they were purchasing was not "extra virgin" quality, was best used
14 sooner, and would degrade to a lower quality or grade over a short time. Defendants failed to to
15 provide this information to class members. Class members relied to their detriment on
16 Defendants' omissions. These omissions were material to the decisions of the class members to
17 purchase Defendants' Mock EVOO Product. In making these omissions, Defendants breached
18 their duty to class members. Defendants also gained financially from, and as a result of, their
19 breach.

20 94. By and through such fraud, deceit, misrepresentations and/or omissions,
21 Defendants intended to induce Plaintiff and those similarly situated to alter their position to their
22 detriment. Specifically, Defendants fraudulently and deceptively induced Plaintiff and those
23 similarly situated to, without limitation, to purchase the Mock EVOO Product.

24 95. Plaintiff and those similarly situated justifiably and reasonably relied on
25 Defendants' omissions, and, accordingly, were damaged by the Defendants.

26 96. As a direct and proximate result of Defendants' misrepresentations, Plaintiff and
27 those similarly situated have suffered damages, including, without limitation, the amount they
28 paid for the Mock EVOO Product.

1 97. Defendants' conduct as described herein was willful and malicious and was
2 designed to maximize Defendants' profits even though Defendants knew that it would cause loss
3 and harm to Plaintiff and those similarly situated.

4 **PLAINTIFF'S SIXTH CAUSE OF ACTION**
5 **(Unfair, Unlawful and Deceptive Trade Practices, Business and Professions Code § 17200,**
6 ***et. seq.*)**
7 **On Behalf of Herself and the Class and EVOO Class**

8 98. Plaintiff realleges and incorporates by reference the paragraphs of this Class
9 Action Complaint as if set forth herein.

10 99. Within four (4) years preceding the filing of this Class Action Complaint, and at
11 all times mentioned herein, Defendants have engaged, and continue to engage, in unfair, unlawful
12 and deceptive trade practices in California by engaging in the unfair, deceptive and unlawful
13 business practices outlined in this Class Action Complaint. In particular, Defendants have
14 engaged, and continue to engage, in unfair, unlawful and deceptive trade practices by, without
15 limitation, the following:

16 a. deceptively representing to Plaintiff, and those similarly situated, the Mock Italian
17 Products were "Imported From Italy," thereby implying that they contained Italian olive oil and/or
18 were pressed in Italy;

19 b. deceptively representing to Plaintiff, and those similarly situated, the Mock EVOO
20 Product was of a certain quality or grade—i.e., extra virgin—at the time of sale and would remain
21 "extra virgin" until the "best before" date;

22 c. failing to adequately inform Plaintiff, and those similarly situated, that the Mock
23 Italian Products were not and did not exclusively contain oil from Italian olives;

24 d. failing to adequately inform Plaintiff, and those similarly situated, that the Mock
25 Italian Products were not and did not exclusively contain oil that was pressed in Italy;

26 e. failing to adequately inform Plaintiff, and those similarly situated, that the Mock
27 Italian Products were merely bottled or packed in Italy;

28 f. failing to inform Plaintiff, and those similarly situated, that due to Defendants'
defective and inferior bottles, the Mock EVOO Product was not the represented quality or

1 grade—i.e., it was no longer extra virgin olive oil—at the time of sale and/or would not maintain
2 “extra virgin” quality until the “best before” date on the bottle;

3 g. engaging in fraud, deceit, and misrepresentation as described herein;

4 h. violating the CLRA as described herein;

5 i. violating the FAL as described herein;

6 j. violating the California Health and Safety Act §§ 112875, *et. seq.*; and

7 k. violating the Sherman Food, Drug and Cosmetic Act, Cal. Health & Saf. Code,
8 including, without limitation, sections 110300, 110380, 110385, 110390, 110395, 110398,
9 110400, 110660, 110680, 110760, 110765, and 110770.

10 100. Plaintiff and those similarly situated relied to their detriment on Defendants’
11 unfair, deceptive and unlawful business practices. Had Plaintiff and those similarly situated been
12 adequately informed and not deceived by Defendants, they would have acted differently by not
13 purchasing (or paying less for) Defendants’ Mock Italian Products.

14 101. Defendants’ acts and omissions are likely to deceive the general public.

15 102. Defendants engaged in these unfair practices to increase their profits.

16 Accordingly, Defendants have engaged in unlawful trade practices, as defined and prohibited by
17 section 17200, *et. seq.* of the California Business and Professions Code.

18 103. The aforementioned practices, which Defendants have used to their significant
19 financial gain, also constitute unlawful competition and provide an unlawful advantage over
20 Defendants’ competitors as well as injury to the general public.

21 104. Plaintiff seeks, on behalf of those similarly situated, full restitution of monies, as
22 necessary and according to proof, to restore any and all monies acquired by Defendants from
23 Plaintiff, the general public, or those similarly situated by means of the unfair and/or deceptive
24 trade practices complained of herein, plus interest thereon.

25 105. Plaintiff seeks, on behalf of those similarly situated, an injunction to prohibit
26 Defendants from continuing to engage in the unfair trade practices complained of herein.

27 106. The acts complained of herein occurred, at least in part, within four (4) years
28 preceding the filing of this Class Action Complaint.

1 107. Plaintiff and those similarly situated are further entitled to and do seek both a
2 declaration that the above-described trade practices are unfair, unlawful and/or fraudulent, and
3 injunctive relief restraining Defendants from engaging in any of such deceptive, unfair and/or
4 unlawful trade practices in the future. Such misconduct by Defendants, unless and until enjoined
5 and restrained by order of this Court, will continue to cause injury in fact to the general public
6 and the loss of money and property in that Defendants will continue to violate the laws of
7 California, unless specifically ordered to comply with the same. This expectation of future
8 violations will require current and future customers to repeatedly and continuously seek legal
9 redress in order to recover monies paid to Defendants to which Defendants are not entitled.
10 Plaintiff, those similarly situated and/or other consumers nationwide have no other adequate
11 remedy at law to ensure future compliance with the California Business and Professions Code
12 alleged to have been violated herein.

13 108. As a direct and proximate result of such actions, Plaintiff and the other members of
14 the Classes have suffered and continue to suffer injury in fact and have lost money and/or
15 property as a result of such deceptive, unfair and/or unlawful trade practices and unfair
16 competition in an amount which will be proven at trial, but which is in excess of the jurisdictional
17 minimum of this Court. Among other things, Plaintiff and the Classes lost the amount they paid
18 for the Mock Italian Products.

19 109. As a direct and proximate result of such actions, Defendants have enjoyed, and
20 continue to enjoy, significant financial gain in an amount which will be proven at trial, but which
21 is in excess of the jurisdictional minimum of this Court.

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff prays for judgment as follows:

24 A. On Cause of Action Number 1 against Defendants and in favor of Plaintiff and the
25 other members of the Class and EVOO Class:

- 26 1. for restitution and injunctive relief pursuant to California Civil Code sec-
27 tion 1780;
- 28 2. [Reserved]; and

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3 [Reserved].

B. On Causes of Action Numbers 2 and 6 against Defendants and in favor of Plaintiff and the other members of the Class and EVOO Class:

1. for restitution pursuant to, without limitation, the California Business & Professions Code §§ 17200, *et. seq.* and 17500, *et. seq.*; and
2. for injunctive relief pursuant to, without limitation, the California Business & Professions Code §§ 17200, *et seq.* and 17500, *et. seq.*

C. On Cause of Action Number 3 against Defendants and in favor of Plaintiff and the other members of the EVOO Class: an award of compensatory damages, the amount of which is to be determined at trial.

D. On Cause of Action Number 4 against Defendants and in favor of Plaintiff and the other members of the EVOO Class: an award of compensatory damages, the amount of which is to be determined at trial.

E. On Cause of Action Number 5 against Defendants and in favor of Plaintiff and the other members of the EVOO Class:

1. an award of compensatory damages, the amount of which is to be determined at trial; and
2. an award of punitive damages, the amount of which is to be determined at trial.

F. On all causes of action against Defendants and in favor of Plaintiff, class members and the general public:

1. for reasonable attorneys’ fees according to proof pursuant to, without limitation, the California Legal Remedies Act and California Code of Civil Procedure § 1021.5;
2. for costs of suit incurred; and
3. for such further relief as this Court may deem just and proper.

JURY TRIAL DEMANDED

Plaintiff hereby demands a trial by jury.

Dated: May 22, 2014

GUTRIDE SAFIER LLP



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