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1 **P. K. SCHRIEFFER, LLP**
Paul K. Schrieffler, Esq. (CSB #151358)
2 Mitchell Freedman, Esq. (CSB #105757)
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3 West Covina, California 91791
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5 (PRO HAC VICE TO BE FILED)
6 **SANDLER, TRAVIS & ROSENBERG, P.A.**
Kenneth Wolf, Esq. (NY State Bar #1401017)
7 Arthur Purcell, Esq. (NY State Bar #2423150)
551 Fifth Avenue, Suite 1100
8 New York, New York 10176
Telephone: (212) 549-0131
9 Facsimile: (212) 883-0068

10 Attorneys for Defendant, DUTCH, LLC, a California Limited Liability Company

11
12
13 **UNITED STATES DISTRICT COURT**
14 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

15 SONIA HOFMANN, an individual and on
16 behalf of all others similarly situated,

17 Plaintiff,

18
19 DUTCH, LLC, a California Limited
20 Liability Company; and DOES 1 through
21 100, inclusive,

22 Defendants.

CASE No: '14CV2418 GPC JLB

NOTICE OF REMOVAL

(Served with Declarations of Rebecca Gallegos and Mitchell J. Freedman in support of the Notice of Removal)

DEMAND FOR JURY TRIAL

23
24 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR THE**
25 **STATE OF CALIFORNIA, SOUTHERN DISTRICT:**

26 Defendant, DUTCH, LLC's notice of the removal of this action to the United States
27 District Court, for the Southern District of California, pursuant to 28 U.S.C. §§1331 (federal
28 question), 1332(d) (Class Action Fairness Act), 1441(a), (c) and (e), 1446 and 1453, and in

1 support thereof, Defendant, DUTCH, LLC by and through its undersigned attorneys of record,
2 states as follows:

3 1. On September 5, 2014, an action was filed in the Superior Court, County of San
4 Diego, State of California entitled Sonia Hofmann, an individual and on behalf of all others
5 similarly situated, v. Dutch, LLC, a California limited liability company, and Does 1-100,
6 inclusive, case number 37-2014-00030115-CU-BT-CTL (“subject action”). The Summons and
7 Complaint for the subject action were served on Dutch, LLC on or about September 11, 2014.
8 A true and correct copy of the subject action’s Summons and Complaint is served as **Exhibit**
9 **“A”** and identified in the declaration of Mitchell J. Freedman in support of this removal motion.

10 2. Defendant Dutch, LLC, moving party herein, filed and served an Answer to the
11 Complaint on October 9, 2014 in the San Diego Superior Court, a true and correct copy of
12 which is served concurrently with this motion per the Declaration of Mitchell J. Freedman of the
13 P.K. Schrieffer LLP law firm, attorneys for Dutch, LLC.

14 3. The subject action pleads the following causes of action: (1) violation of
15 California Business & Professions Code §17200 et seq. (California Unfair Competition Law); (2)
16 violation of Business & Professions Code §17533.7 (False “made in the USA” claim); (3)
17 violation of California Civil Code §1750 et seq. (Consumer Remedies Act) and (4) Negligent
18 Misrepresentation.

19 4. There is at least one other case in the Southern District Federal Court, entitled
20 Clark v. Citizens of Humanity, LLC, Macy’s Inc., case number 14CV 1404 JLS WVG, that is
21 essentially identical to the complaint with reference to the particular allegations, except the
22 Clark lawsuit was initially filed in federal court. A true and correct copy of the Clark lawsuit is
23 served as **Exhibit “B”** and is identified in the declaration of Mitchell J. Freedman in support of
24 this removal motion. A third case from the same law firm on the same subject matter against
25 another manufacturer of jeans is the case of Paz v. AG Adriano Goldschmied et al. A true and
26 correct copy of that case is served as **Exhibit “C”** as identified in the declaration of Mitchell J.
27 Freedman. A review of the docket will reveal that plaintiff’s counsel (the same law firm
28 representing Clark represents Hofmann here) recognizes there is at least a question of federal

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1 pre-emption based upon the Textile Fiber Product Act, 15 U.S.C. 70 et seq., in addition to the
2 FTC Act, 15 U.S.C. §45a, which is an issue being considered in the Clark lawsuit. While a
3 federal question must normally appear on the face of a complaint, if there is complete pre-
4 emption, a federal court may assume jurisdiction through a removal motion under 28 U.S.C.
5 §1331. *See: Karambelas v. Hughes Aircraft Company*, 992 F.2d 971, 973, 974 (9th Cir. 1993).

6 5. The Class Action Fairness Act, 28 U.S.C. §1332(d) also applies herein. In the
7 declaration of Dutch, LLC’s Director of Production, Ms. Gallegos, paragraphs 4 and 5, Ms.
8 Gallegos states that four hundred and one thousand, four hundred and twenty eight (401,428)
9 jeans have been sold “nationwide,” including California. Of these, approximately three hundred
10 ninety-seven thousand nine hundred eighty-two (397,982) were sold wholesale to major
11 department stores across the nation and approximately three thousand four hundred forty-six
12 (3,446) were sold retail direct to customers. Dutch, LLC has sold approximately eight hundred
13 eighty-four (884) jeans via its retail online source to people or entities in the State of California
14 and approximately three thousand four hundred forty-six (3,446) jeans nationwide, thus the vast
15 majority of sales are to people outside California.

16 6. The subject action seeks a class that is in fact beyond California’s borders and
17 “nationwide,” thus implicating the Commerce Clause of the United States Constitution. *See:*
18 subject action Complaint, paragraphs 23 (page 6, line 5), 25 (page 6, line 26), 25 (page 7, line
19 1), 26 (page 7, lines 3, 4, 6 and 7), 27 (page 7, line 9), 28 (page 7, line 14), etc. Likewise, people
20 throughout the United States have purchased the Defendant’s jeans. *See:* Declaration of Ms.
21 Gallegos, paragraph 5.

22 7. The declaration of Ms. Gallegos, paragraph 6, further states the average
23 estimated price of the jeans are \$205 per jean. Thus, multiplying 401,428 by \$205 equals an
24 amount in controversy of **\$82,292,740, which well exceeds the minimum \$5 million amount**
25 in controversy for a class action under the federal law known as the Class Action Fairness Act,
26 as further described below.

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28 ///

1 8. The Complaint in the subject action, at paragraph 19 of the general charging
2 allegations, alleges that plaintiff's injury is "paying for something she believed was genuinely
3 manufactured in the USA, when it was not."

4 9. Assuming plaintiff will be demanding even half her money returned, as
5 restitution or damages (*see* Prayer at page 19 of the subject action's Complaint, paragraph
6 numbers 6 and 7, seeking "restitution" and a request to "recover" monies for "unjust
7 enrichment"), the sum in controversy is again well in excess of \$5 million. *See again:*
8 paragraphs 4-7 of the declaration of Ms. Gallegos. In stating this amount in controversy, the
9 moving Defendant Dutch, LLC is not agreeing with plaintiff's allegations against Defendant,
10 but merely assuming the truth of plaintiff's allegations for the purpose of analyzing removal of
11 the action. *See: MacPahil v. Deere & Co.*, 529 F. 3d 947, 956 (10th Cir. 2008) ("The amount in
12 controversy is not proof of the amount the plaintiff will recover. Rather, it is an estimate of the
13 amount that will be put at issue in the course of the litigation.").

14 10. A plaintiff cannot evade the Class Action Fairness Act by stipulating in the
15 Complaint that the amount in controversy is less than \$5 million. *See: Rodriguez v. AT&T*
16 *Mobility Services*, 728 F.3d 975, 981 (9th Cir. 2013). In addition, 28 U.S.C. §1332(d)(3) of the
17 Class Action Fairness Act states the following, with emphasis added:

18 "(3) A district court may, in the interests of justice and looking at the totality of
19 the circumstances, decline to exercise jurisdiction under paragraph (2) over a
20 class action in which greater than one-third but less than two-thirds of the
21 members of all proposed plaintiff classes in the aggregate and the primary
22 defendants are citizens of the State in which the action was originally filed based
23 on consideration of—

24 (A) **whether the claims asserted involve matters of national or**
25 **interstate interest;**

26 (B) whether the claims asserted will be governed by laws of the State
27 in which the action was originally filed or by the laws of other
28 States;

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- (C) **whether the class action has been pleaded in a manner that seeks to avoid Federal jurisdiction;**
- (D) whether the action was brought in a forum with a distinct nexus with the class members, the alleged harm, or the defendants;
- (E) whether the number of citizens of the State in which the action was originally filed in all proposed plaintiff classes in the aggregate is substantially larger than the number of citizens from any other State, and the citizenship of the other members of the proposed class is dispersed among a substantial number of States; and
- (F) whether, during the 3-year period preceding the filing of that class action, 1 or more other class actions asserting the same or **similar claims** on behalf of the same or **other persons** have been filed.

11. The subject action’s Complaint also alleges punitive damages (see: Prayer, paragraph 9), which may also be included in calculating the amount in controversy. *See: Bell v. Preferred Life Assurance Soc.*, 320 U.S. 238, 240 (1943).

12. A true and correct copy of this Notice of Removal will be filed with the Clerk of the Superior Court in and for the County of San Diego and served on the Plaintiff’s counsel once the federal case number is provided to Dutch, LLC’s counsel.

13. Based upon the foregoing, Defendant Dutch, LLC hereby provides notice of removal of the above entitled action now pending in the Superior Court of the State of California, County of San Diego, case number 37-2014-00030115-CU-BT-CTL to the United States District Court for the Southern District of California.


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DEMAND FOR JURY TRIAL

14. In removing this case to the Federal District Court, Defendant Dutch, LLC also gives notice of its intent to seek a jury trial.

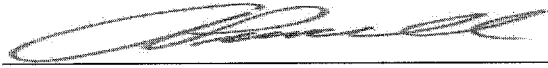
Dated: October 9, 2014

P. K. SCHRIEFFER LLP

By: 
Paul K. Schrieffer, Esq.
Mitchell Freedman, Esq.
Attorneys for Defendant, DUTCH, LLC

Dated: October 9, 2014

SANDLER, TRAVIS & ROSENBERG, P.A.

By: 
Arthur K. Purcell, Esq. *
Kenneth N. Wolf, Esq.*
Attorneys for Defendant, DUTCH, LLC
*Pro Hac Vice application to be submitted

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PROOF OF SERVICE

(DUT.100) Sonia Hofmann v. Dutch, LLC
United States District Court- Southern District of California

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within entitled action; my business address is 100 N. Barranca Avenue, Suite 1100, West Covina, California 91791.

On **October 9, 2014**, I served the foregoing document(s) described as **NOTICE OF REMOVAL**, by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

John Donboli, Esq.	Attorney for Plaintiff
JL Sean Slattery, Esq.	Phone: (858) 793-6244
Del Mar Law Group LLP	Fax: (858) 793-6005
2002 Jimmy Durante Blvd., Suite 100	
Del Mar, CA 92014	

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at West Covina, California in the ordinary course of business.

BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the office(s) of the addressee(s) noted above.

BY FEDERAL EXPRESS: I caused said envelope(s) to be sent by Federal Express to the address(s) noted above.

BY FACSIMILE: by use of facsimile machine, I served a copy of the document(s) on the interested party(ies) by transmitting by facsimile machine (626) 974-8403 to the party(ies) on the proof of service. The facsimile machine I used complied with California Rules of Court, Rule 2.301, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2.306(h), I caused the machine to print a transmission report to reflect it was properly issued by the sending facsimile machine and is attached hereto.

FEDERAL: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 9, 2014**, at West Covina, California.



DESIREE MARQUEZ

P.K. SCHRIFFER LLP
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JS 44 (Rev. 12/12)

CIVIL COVER SHEET

'14CV2418 GPC JLB

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SONIA HOFMANN, an Individual and on behalf of all others similarly situated

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

(c) Attorneys (Firm Name, Address, and Telephone Number)
John H. Donboli, Esq. and JL Sean Slattery, Esq.
Del Mar Law Group, LLP Tele: (858)793-6244
2002 Jimmy Durante Blvd., Suite 100, Del Mar, CA 92014

DEFENDANTS

DUTCH, LLC, a California Limited Liability

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

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

Attorneys (If Known)
Mitchell J. Freedman, Esq.
P.K. Schrieffer LLP Tele: (626) 373-2444
100 N. Barranca Ave., Suite 1100, West, Covina, CA 91791

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

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Sections 1331, 1332(d), 1441(a), (c), and (e), 1446 and 1453

Brief description of cause:
Federal Question, Class Action Fairness Act

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 5,000,000.00 plus CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE
10/09/2014

SIGNATURE OF ATTORNEY OF RECORD



FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

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8 (PRO HAC VICE TO BE FILED)
9 **SANDLER, TRAVIS & ROSENBERG, P.A.**
10 Kenneth Wolf, Esq. (NY State Bar #1401017)
11 Arthur Purcell, Esq. (NY State Bar #2423150)
12 551 Fifth Avenue, Suite 1100
13 New York, New York 10176
14 Telephone: (212) 549-0131
15 Facsimile: (212) 883-0068

16 Attorneys for Defendant, DUTCH, LLC, a California Limited Liability Company

17 **UNITED STATES DISTRICT COURT**
18 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

19 SONIA HOFMANN, an individual and on
20 behalf of all others similarly situated,

21 Plaintiff,

22 DUTCH, LLC, a California Limited
23 Liability Company; and DOES 1 through
24 100, inclusive,

25 Defendants.

CASE No: '14CV2418 GPC JLB

**DECLARATION OF MITCHELL J.
FREEDMAN IN SUPPORT OF NOTICE
OF REMOVAL**

26 I, Mitchell J. Freedman, do hereby declare:

27 1. I am a partner with P.K. Schrieffer LLP, attorneys for Defendant Dutch, LLC. If
28 called upon as a witness, I could and would competently testify to the facts set forth in this
declaration which are in my personal knowledge.

P.K. SCHRIEFER LLP
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1 2. The subject complaint of Sonia Hofmann, an individual and on behalf of all
2 others similarly situated, v. Dutch, LLC, a California limited liability company, and Does 1-100,
3 inclusive, case number 37-2014-00030115-CU-BT-CTL (“subject action”) is served as **Exhibit**
4 **“A.”**

5 3. An Answer to said Complaint is being concurrently filed in the San Diego
6 Superior Court and is provided concurrently with the Notice of Removal.

7 4. There is at least one other case in the Southern District Federal Court, entitled
8 Clark v. Citizens of Humanity, LLC, Macy’s Inc., case number 14CV 1404 JLS WVG, a true
9 and correct copy of which is served as **Exhibit “B.”**

10 5. A third case from the same law firm on the same subject matter against another
11 manufacturer of jeans is the case of Paz v. AG Adriano Goldschmied et al, a true and correct
12 copy of which is served as **Exhibit “C.”**

13 I declare under penalty of perjury under applicable laws that the foregoing is true and
14 correct. Executed in West Covina, CA.

15
16 

17
18 Mitchell J. Freedman

EXHIBIT A

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
09/05/2014 at 03:44:47 PM
Clerk of the Superior Court
By Diana Jordan, Deputy Clerk

1 JOHN H. DONBOLI (SBN: 205218)
2 JL SEAN SLATTERY (SBN: 210965)
3 DEL MAR LAW GROUP, LLP
4 2002 Jimmy Durante Blvd., Suite 100
5 Del Mar, CA 92014
6 Telephone: (858) 793-6244
7 Facsimile: (858) 793-6005

8 Attorneys for Plaintiff: SONIA HOFMANN, an individual and on behalf
9 of all others similarly situated

10 SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN DIEGO

11 SONIA HOFMANN, an individual and on)
12 behalf of all others similarly situated,)
13 Plaintiff,)
14 vs.)
15 DUTCH, LLC, a California Limited Liability)
16 Company; and DOES 1 through 100, inclusive,)
17 Defendants.)

CASE NO. 37-2014-00030115-CU-BT-CTL

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATION OF BUSINESS & PROFESSIONS CODE SECTIONS 17200 *ET SEQ.* (CALIFORNIA UNFAIR COMPETITION LAW);
- (2) VIOLATION OF BUSINESS & PROFESSIONS CODE § 17533.7 (FALSE "Made in U.S.A." CLAIM);
- (3) VIOLATION OF CONSUMERS LEGAL REMEDIES ACT (CIVIL CODE SECTION 1750 *ET SEQ.*);
- (4) NEGLIGENT MISREPRESENTATION

18 COMES NOW, plaintiff SONIA HOFMANN ("Plaintiff"), as an individual and on
19 behalf of the general public and all others similarly situated, by her undersigned attorneys,
20 alleges as follows:
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NATURE OF THE CASE

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1. This is a national class action case brought on behalf of all purchasers of Current/Elliott brand jeans manufactured, distributed, marketed, and/or sold by DUTCH, LLC (“Dutch”) that were labeled as "Made in the USA" but that contained foreign-made component parts (hereinafter referred to as “Jeans”). The Jeans are sold at various retail stores in California. The Jeans are also sold by Dutch via its website (www.currentelliott.com) directly to consumers throughout the United States.

2. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January 27, 2011) 51 Cal.4th 310, 328-29:

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

3. Through an unlawful, deceptive and unfair course of conduct, Dutch, and DOES 1 through 100 (collectively “Defendants”), manufactured, marketed, and/or sold a variety of Jeans to consumers nationwide with the false designation and representation that Defendants’ Jeans were "Made in the USA" during the relevant four year statutory time period. The "Made in the USA" label was clearly printed on the product. Contrary to the "Made in the USA" claim, however, the offending Jeans were manufactured or produced from component parts that were manufactured outside of the United States in violation of California law.

1 PARTIES

2 4. Plaintiff is an individual residing in San Diego, California.

3 5. Defendant Dutch, LLC is a California limited liability company that is organized
4 and exists under the laws of the State of California. Its business address (as listed on the
5 California Secretary of State website) is 4599 District Blvd., Vernon, CA 90058-2711. Dutch
6 can be served in California via its registered agent for service of process: Kerry Endert, c/o
7 Dutch, LLC, 4599 District Blvd., Vernon, CA 90058-2711.

8 6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
9 as DOES 1-100, inclusive; therefore, Plaintiff sues these defendants by such fictitious names.
10 Plaintiff is informed and believes that each of the fictitious named defendants are legally
11 responsible in some manner for the occurrences herein alleged, assisted in and about the wrongs
12 complained herein by providing financial support, advice, resources or other assistance. Plaintiff
13 will amend the complaint to allege their true names and capacities when ascertained.

14 7. Plaintiff is informed and believes that all defendants were agents, servants and
15 employees of their co-defendants, and in doing the things hereinafter mentioned, were acting
16 within the scope of their authority as such agents, servants and employees with the permission
17 and consent of their co-defendants.

18 JURISDICTION AND VENUE

19 8. This Court has jurisdiction in this matter because Defendants routinely transact
20 business in San Diego County.

21 9. Venue in this Court is proper pursuant to Code of Civil Procedure §§ 395 and
22 395.5 and Business & Professions Code §§ 17203 and 17204 because Defendants do business in
23 San Diego County and Plaintiff's transaction took place in San Diego County.

24 GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION

25 10. Plaintiff incorporates herein each and every allegation contained in paragraphs 1
26 through 9, inclusive, as though fully set forth herein.

27 11. During the relevant four year statutory time period, Defendants manufactured,
28

1 marketed, and/or sold Jeans with a "Made in the USA" label.

2 12. Contrary to the "Made in the USA" claim, however, the Jeans were made,
3 manufactured or produced with component parts that are manufactured outside of the United
4 States. On information and belief, the Jeans are made with foreign-made buttons, rivets, zipper
5 assembly, thread, and/or fabric in violation of California law.

6 13. Defendants marketed and represented to consumers nationwide that their Jeans
7 were "Made in the USA." In addition, Defendants concealed the true country of origin of their
8 "Made in the USA" labeled Jeans to the general public. The disclosure of this information was
9 necessary in order to make Defendants' representation not misleading. Defendants possess
10 superior knowledge of the true facts which were not disclosed, thereby tolling the running of any
11 applicable statute of limitations.

12 14. Consumers are particularly vulnerable to these deceptive and fraudulent practices.
13 Most consumers possess very limited knowledge of the likelihood that products, including the
14 component parts therein, claimed to be made in the United States are in fact made in foreign
15 countries. This is a material factor in many individuals' purchasing decisions, as they believe
16 they are supporting American companies and American jobs.

17 15. Consumers generally believe that "Made in the USA" products are of higher
18 quality than their foreign-manufactured counterparts. Due to Defendants' scheme to defraud the
19 market, members of the general public were fraudulently induced to purchase Defendants'
20 products. California laws are designed to protect consumers from this type of false
21 representation and predatory conduct. Defendants' scheme to defraud consumers is ongoing and
22 will victimize consumers each and every day until altered by judicial intervention.

23 **THE PLAINTIFF TRANSACTION**

24 16. In or around February 2014, Plaintiff purchased Current/Elliot brand jeans from a
25 local retail store in San Diego. At the time of purchase, the product itself was marked with a
26 "Made in the USA" designation when it was in fact comprised of component parts made outside
27 of the United States.

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1 17. Accordingly, Defendants were not entitled to lawfully make a "Made in the USA"
2 representation because California law requires 100% U.S.-made component parts within a
3 product to qualify for a "Made in USA" or "Made in the USA" country of origin designation (as
4 it relates to selling in California).

5 18. When Plaintiff, and Class Members, purchased Jeans from Defendants, they saw
6 and relied upon the unqualified "Made in the USA" representation to make their purchasing
7 decisions, which is typical of most California consumers, and they were deceived as a result of
8 Defendants' actions. These purchasing decisions were supported by the "Made in the USA"
9 representation made by Defendants, which is absent from many of Defendants' competitors (e.g.,
10 made in Mexico, etc.). Plaintiff believed at the time she purchased the Jeans that she was in fact
11 supporting American jobs and the American economy.

12 19. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
13 Defendants as a result of Defendants' false "Made in the USA" claim set forth on the offending
14 product (through its customary retail channels). Furthermore, she suffered an "injury in fact" by
15 paying for something she believed was genuinely manufactured in the USA, when it was not.

16 20. On information and belief, the Jeans at issue in this litigation were manufactured
17 with substandard foreign-made parts that are of inferior quality to their U.S.-manufactured
18 counterparts. Essentially, the Jeans are not worth the purchase price paid. Class Members are
19 entitled to monetary damages or restitution (the specific measure of which is the realm of expert
20 testimony).

21 21. U.S.-made component parts are subject to strict regulatory requirements, such as
22 environmental, labor, and safety standards. Foreign-made component parts are not subject to the
23 same U.S. manufacturing standards and are inherently of lower quality than their U.S.-made
24 counterparts. Moreover, foreign-made component parts are less reliable and durable than their
25 U.S.-made counterparts. As such, the offending Jeans, made with foreign-made component parts
26 (yet unlawfully labeled "Made in the USA"), are of inferior quality, less reliable, and fail more
27 often.

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1 22. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
2 false "Made in the USA" representations that are at issue in this litigation.

3 **CLASS ALLEGATIONS**

4 23. Plaintiff brings this action on behalf of herself as an individual and on behalf of
5 all other persons similarly situated nationwide who purchased Defendants' Jeans. Specifically
6 excluded from the class are any persons who have a controlling interest in Defendants, any of
7 Defendants' parent companies, subsidiaries, and Defendants' officers, directors, managers,
8 shareholders and members of their immediate families, and their heirs, successors and assigns
9 (the "Class"), pursuant to Code of Civil Procedure § 382 and Business & Professions Code §
10 17200 *et seq.* The class also does not include any persons who previously filed suit against
11 Defendants for similar violations of California law and/or the Hon. Judge presiding over this
12 matter and his or her judicial staff.

13 24. Pursuant to *Osborne v. Subaru of America, Inc.* (1988) 198 Cal. App. 3d 646 and
14 *Canon U.S.A., Inc. v. Superior Court* (1988) 68 Cal. App. 4th 1, it would be of benefit to the
15 Court and Plaintiff for California to host this nationwide class action. California claimants will
16 benefit from this Court's hosting of a nationwide class action because resolution by California
17 courts of the claims of class members outside of California, along with those of class members
18 residing within California, will aid California claimants in their recovery and in the prosecution
19 of this litigation. The pool of discoverable documents relating to the issues set out in the
20 complaint will be larger, the pool of deponents will be larger and the financial consequences to
21 Defendant of an adverse ruling will be more significant. All of these things can only act to
22 benefit the California claimants in their collective prosecution of this litigation, while adding
23 little if any additional burden on the California Courts due to the form contract aspect of the
24 litigation.

25 25. It would be a waste of class resources and to the detriment of class members to
26 require nationwide class members to litigate the issues set out in this complaint in forums all
27 over the nation, having to retain and compensate multiple attorneys, experts and the like, and
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1 compensate those multiple attorneys and experts for their services, when one nationwide class
2 counsel can oversee the entire nationwide litigation to their benefit at a fraction of the cost.

3 26. The hosting of a nationwide class would confer a substantial benefit on the
4 California Courts. The nationwide class will promote judicial economy by preventing a
5 multiplicity of litigation in different states and inconsistent judgments on identical issues. A
6 nationwide class is beneficial to California courts for reasons of comity. The adjudication of a
7 nationwide class may increase the damages claimed, but does not amend the legal theories at
8 issue in this case.

9 27. A nationwide class would also produce a beneficiary result as a large number of
10 the Class members reside in California and the adjudication of all claims will have a therapeutic
11 effect on manufacturers outside of California who engage in fraudulent conduct within the state;
12 will aid business enterprises in California by curtailing illegitimate competition; and will avoid
13 the burden of multiple cases involving identical claims.

14 28. In addition, California also has a special obligation to undertake the nationwide
15 class action because Dutch is a California limited liability company with its corporate
16 headquarters in California.¹ In addition, on information and belief, the decision to label the Jeans
17 as “Made in the USA” (the crux of the unfair competition violation) occurred in California at the
18 direction Dutch’s California ownership/management. As such, California has a special
19 obligation and a compelling interest to control the litigation and ensure the protection of its
20 residents who make up the largest portion of the nationwide class.

21 29. As to class members residing in California, the injury or damages from
22 Defendants’ acts arise within the State of California.

23 30. As to class members residing outside of California, claims for the injury or
24 damage from Defendants’ acts do not present a significant additional burden to the California
25 courts, as there are no known material variations in laws governing the claims. State law issues

26 _____
27 ¹ The Dutch website instructs consumers to contact a 323 area code phone number for all corporate
inquiries (see: <http://www.currentelliott.com/contact-us>).

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1 will not swamp common issues and defeat predominance.

2 31. This is not a case where as in *Canon* it was found that certification of a
3 nationwide class will require the trial court to adjudicate issues by application of numerous
4 different rules of law from various states and would result in numerous individual adjudications
5 of fact. Instead, the California Unfair Competition Law can be extended to a nationwide class as
6 will be demonstrated with additional evidence at the of class certification (i.e., additional facts
7 will be presented at that time to support Plaintiff's allegation that the decision to label the Jeans
8 as "Made in the USA" (the crux of the unfair competition violation) occurred in California at the
9 direction Dutch's California ownership/management).

10 32. The parties have a substantial connection with California as they routinely
11 transact business in California and, on information and belief, the greatest number of class
12 members per state reside in California. Discovery will confirm the exact numbers on these
13 issues.

14 33. On information and belief, more offending Jeans were sold in California than in
15 any other state. On information and belief, Defendants collected and continue to collect more
16 revenue in California than in any other state and more of the ill-gotten gains were collected in
17 California than in any other state and more of the material misrepresentations were made here.
18 Thus California has a compelling interest to proceed as to the nationwide class action claims. No
19 state has a more compelling interest than California in the prosecution of this action.

20 34. The benefit of a nationwide class action to the parties and the courts will be
21 substantial because a nationwide class will result in one judgment. It would be a waste of
22 judicial resources nationwide to require courts all over the nation to entertain identical actions
23 when one action could dispose of the litigation. A nationwide class will be beneficial to
24 Defendants in that it will not have to defend itself with respect to the same allegations in
25 numerous forums.

26 35. On information and belief, Defendants and/or their retail customers, have
27 documents and other information in their collective possession that will demonstrate the special
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1 interest that California has in hosting a nationwide class action.

2 Definition of the Subclass

3 36. Subclass members as to Plaintiff's First, Second, Third, and Fourth Causes of
4 Action are all of Defendants' customers who reside in California and/or California individuals
5 who purchased offending Class Products from September 5, 2010 to the present.

6 Other Class Allegations:

7 37. Plaintiff alleges no federal claims.

8 38. The exact number and identities of the members of the Class are readily
9 ascertainable from the records in Defendants' possession or that of its retail customers.

10 39. The members of the Class are so numerous that joinder of all members is
11 impracticable. The disposition of their claims in a class action will provide substantial benefits
12 to the parties and the Court. On information and belief, the exact number and identities of the
13 members of the Class are ascertainable from the records in Defendants' possession.

14 40. There is a well-defined community of interest in the questions of law and fact
15 involved in this case.

16 41. All causes of action herein have been brought and may properly be maintained as
17 a class action pursuant to the provisions of Code of Civil Procedure § 382 because there is a
18 well-defined community of interest in the litigation and the proposed class is easily
19 ascertainable:

20 a. Numerosity: On information and belief, the Class is so numerous that the
21 individual joinder of all members would be impracticable.

22 b. Common Questions Predominate: Common questions of law and fact
23 exist as to all members of the Class, and those questions clearly predominate over any questions
24 that might affect members individually. These common questions of law and fact include, for
25 example, whether Defendants violated Business & Professions Code § 17533.7 by
26 misrepresenting the country of origin of the Jeans because component parts within the product
27 are manufactured outside the United States and whether Defendants' actions in this regard

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1 constitute an unfair, unlawful, or fraudulent business practice pursuant to Business & Professions
2 Code § 17200 *et seq.*

3 c. Typicality: On information and belief, Plaintiff's claims are typical of the
4 claims of the members of the Class. Plaintiff and all members of the Class sustained damages
5 arising out of Defendants' common course of conduct complained herein.

6 d. Adequacy: Plaintiff will fairly and adequately protect the interests of the
7 members of the Class because Plaintiff has no interests which are adverse to the interests of
8 absent class members and because Plaintiff has retained counsel who possesses significant
9 litigation experience regarding violations of consumer statutes.

10 e. Superiority: A class action is superior to other available means for the fair
11 and efficient adjudication of this controversy since individual joinder of all members would be
12 impracticable. Class action treatment will permit a large number of similarly situated persons to
13 prosecute their common claims in a single forum simultaneously, efficiently and without the
14 unnecessary duplication of effort and expense that numerous individual actions would engender.
15 Furthermore, since most class members' individual claims for damages are likely to be modest,
16 the expenses and burdens of litigating individual actions would make it difficult or impossible
17 for individual members of the Class to redress the wrongs done to them. An important public
18 interest will be served by addressing the matter as a class action, substantial economies to the
19 litigants and to the judicial system will be realized and the potential for inconsistent or
20 contradictory judgments will be avoided.

21 **FIRST CAUSE OF ACTION**

22 **(Violation of Business & Professions Code § 17200 *et seq.* Against All Defendants)**

23 42. Plaintiff realleges and incorporates herein by reference all of the allegations
24 contained in Paragraphs 1 through 41, inclusive, of this complaint as though fully set forth
25 herein.

26 43. Business & Professions Code § 17200 *et seq.* provides that unfair competition
27 means and includes "any unlawful, unfair or fraudulent business act or practice and unfair,
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1 deceptive, untrue or misleading marketing.”

2 44. By and through their conduct, including the conduct detailed above, Defendants
3 engaged in activities which constitute unlawful, unfair, and fraudulent business practices
4 prohibited by Business & Professions Code § 17200 *et seq.* Beginning at an exact date unknown
5 as yet and continuing up through the present Defendants committed acts of unfair competition,
6 including those described above, by engaging in a pattern of “unlawful” business practices,
7 within the meaning of Business & Professions Code § 17200 *et seq.*, by manufacturing,
8 distributing, marketing, and/or selling products with a false country of origin designation and
9 violating Business & Professions Code § 17533.7 by falsely claiming that the products
10 referenced herein are “Made in the USA” when they are in fact made with component parts
11 manufactured outside of the United States.

12 45. Beginning at an exact date unknown as yet and continuing up through the present,
13 Defendants committed acts of unfair competition that are prohibited by Business & Professions
14 Code § 17200 *et seq.* Defendants engaged in a pattern of “unfair” business practices that violate
15 the wording and intent of the statutes, by engaging in practices that threaten an incipient
16 violation of law, or violate the policy or spirit of laws because its effects are comparable to or the
17 same as a violation of the law by manufacturing, distributing, and marketing products with a
18 false country of origin designation and violating Business & Professions Code § 17533.7 by
19 falsely claiming that the products referenced herein are “Made in U.S.A.” when they are in fact
20 made with component parts manufactured outside of the United States.

21 a. Alternatively, Defendants engaged in a pattern of “unfair” business
22 practices that violate the wording and intent of the statutes, by engaging in practices that are
23 immoral, unethical, oppressive or unscrupulous, the utility (if any) of which conduct is far
24 outweighed by the harm done to consumers and public policy by manufacturing, distributing,
25 marketing, and advertising products with the false claim that the products referenced herein are
26 “Made in the USA.”

27 b. Alternatively, Defendants engaged in a pattern of “unfair” business
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1 practices that violate the wording and intent of the statutes, by engaging in practices wherein: (1)
2 the injury to the consumer was substantial; (2) the injury was not outweighed by any
3 countervailing benefits to consumers or competition; and (3) the injury was of the kind that the
4 consumers themselves could not reasonably have avoided by manufacturing, distributing,
5 marketing, and advertising products with the false claim that the products referenced herein are
6 "Made in the USA."

7 46. Beginning at an exact date unknown as yet and continuing up through the present,
8 Defendants committed acts of unfair competition, including those described above, prohibited by
9 Business & Professions Code § 17200 *et seq.* by engaging in a pattern of "fraudulent" business
10 practices within the meaning of Business & Professions Code § 17200 *et seq.*, by manufacturing,
11 distributing, marketing, and/or selling products with a false country of origin designation and
12 violating Business & Professions Code § 17533.7 by falsely claiming that the products
13 referenced herein are "Made in the USA."

14 47. Defendants engaged in these unlawful, unfair and fraudulent business practices
15 for the primary purpose of collecting unlawful and unauthorized monies from Plaintiff and all
16 others similarly situated, thereby unjustly enriching Defendants.

17 48. As a result of the repeated violations described herein, Defendants received
18 unearned commercial benefits at the expense of their competitors and the public.

19 49. Defendants' unlawful, unfair and fraudulent business practices present a
20 continuing threat to the public in that Defendants continues to engage in unlawful conduct.

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

24 51. As a direct and legal result of their unlawful, unfair and fraudulent conduct
25 described herein, Defendants have been and will be unjustly enriched by the receipt of ill-gotten
26 gains from customers, including Plaintiff, who unwittingly provided their money to Defendants
27 based on Defendants' fraudulent country of origin designation.
28

1 52. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
2 Defendants as a result of Defendants' false "Made in the USA" claims set forth on the Jeans.
3 See also Paragraphs 18-22 herein.

4 53. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
5 false "Made in the USA" representations that are at issue in this litigation.

6 54. In prosecuting this action for the enforcement of important rights affecting the
7 public interest, Plaintiff seeks the recovery of attorneys' fees pursuant to Code of Civil
8 Procedure § 1021.5, which is available to a prevailing plaintiff who wins relief for the general
9 public.

10 **SECOND CAUSE OF ACTION**

11 **(Violation of Business & Professions Code § 17533.7 Against All Defendants)**

12 55. Plaintiff realleges and incorporates by reference Paragraphs 1 through 54,
13 inclusive, as if set forth in full herein.

14 56. Business & Professions Code § 17533.7 provides:

15
16 It is unlawful for any person, firm, corporation or association to
17 sell or offer for sale in this State any merchandise on which
18 merchandise or on its container there appears the words "Made in
19 USA" "Made in America," "U.S.A.," or similar words when the
20 merchandise or **any article, unit, or part thereof**, has been
21 entirely or substantially made, manufactured, or produced outside
22 of the United States. (Emphasis added).

23 57. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January
24 27, 2011) 51 Cal.4th 310, 328-29:

25 **Simply stated: labels matter.** The marketing industry is based on
26 the premise that labels matter, that consumers will choose one
27 product over another similar product based on its label and various
28 tangible and intangible qualities they may come to associate with a
particular source....In particular, **to some consumers**, the "Made in
U.S.A." label matters. A range of motivations may fuel this
preference, from the desire to support domestic jobs, to beliefs
about quality, to concerns about overseas environmental or labor

1 conditions, to simple patriotism. The Legislature has recognized
2 the materiality of this representation by specifically outlawing
3 deceptive and fraudulent "Made in America" representations. (§
4 17533.7; see also Civ.Code, § 1770, subd. (a)(4) [prohibiting
5 deceptive representations of geographic origin].) The object of
6 section 17533.7 "is to protect consumers from being misled when
7 they purchase products in the belief that they are advancing the
8 interests of the United States and its industries and workers...

9 58. Defendants violated Business & Professions Code § 17533.7 by manufacturing,
10 selling and/or offering to sell merchandise in the State of California with the "Made in the USA"
11 label as fully set forth herein. The Jeans in this case contain component parts that are
12 manufactured outside of the United States.

13 59. It is alleged on information and belief that Defendants' violations of Business &
14 Professions Code § 17533.7 was done with awareness of the fact that the conduct alleged was
15 wrongful and were motivated solely for increased profit. It is also alleged on information and
16 belief that Defendants did these acts knowing the harm that would result to Plaintiff and that
17 Defendants did these acts notwithstanding that knowledge.

18 60. As a direct and proximate result of Defendants' violations of Business &
19 Professions Code § 17533.7, Plaintiff and Class members are entitled to restitution of excess
20 monies paid to Defendants by Plaintiff and Class members relating to the false "Made in the
21 USA" claims on Defendants' Jeans.

22 61. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
23 Defendants as a result of Defendants' false "Made in the USA" claims set forth on the Jeans.
24 Furthermore, she suffered an "injury in fact" by paying for something she believed was
25 genuinely manufactured in the USA, when it was not. See also Paragraphs 18-22 herein.

26 62. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
27 false "Made in the USA" representations that are at issue in this litigation.

28 63. In prosecuting this action for the enforcement of important rights affecting the
public interest, plaintiff seeks to recover attorneys' fees pursuant to Code of Civil Procedure

1 § 1021.5, which is available to a prevailing plaintiff who wins relief for the general public.

2 **Third Cause of Action**

3 **(Violation of Consumers Legal Remedies Act Against Defendants)**

4 64. Plaintiff realleges and incorporates herein by reference all of the allegations
5 contained in Paragraphs 1 through 63, inclusive, of this complaint as though fully set forth
6 herein.

7 65. California Civil Code § 1750 *et seq.* (entitled the Consumers Legal Remedies
8 Act) provides a list of “unfair or deceptive” practices in a “transaction” relating to the sale of
9 “goods” or “services” to a “consumer.” The Legislature’s intent in promulgating the Consumers
10 Legal Remedies Act is expressed in Civil Code § 1760, which provides, *inter alia*, that its terms
11 are to be:

12 [C]onstrued liberally and applied to promote its underlying
13 purposes, which are to protect consumers against unfair and
14 deceptive business practices and to provide efficient and
15 economical procedures to secure such protection.

16 66. Defendants’ jean products are “goods” as defined in Civil Code § 1761(a).

17 67. Plaintiff, and Class members, are each a “Consumer” as defined in Civil Code
18 § 1761(d).

19 68. Plaintiff’s purchase of Defendants’ Jeans constituted a “transaction” as defined in
20 Civil Code § 1761(e).

21 69. Civil Code § 1770(a)(4) and (9) provides that “[t]he following unfair methods of
22 competition and unfair or deceptive acts or practices undertaken by any person in a transaction
23 intended to result or which results in the sale or lease of goods or services to any consumer are
24 unlawful: Using deceptive representations or designations of geographic origin in connection
25 with goods or services....Advertising good or services with intent not to sell them as marketed.”

26 70. Defendants violated Civil Code § 1770(a)(4) and (9) by marketing and
27 representing that their products are “Made in the USA” when they actually contain component
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1 parts that are manufactured outside of the United States.

2 71. It is alleged on information and belief that Defendants' violations of the
3 Consumer Legal Remedies Act set forth herein were done with awareness of the fact that the
4 conduct alleged was wrongful and were motivated solely for increased profit. It is also alleged
5 on information and belief that Defendants did these acts knowing the harm that would result to
6 Plaintiff and that Defendants did these acts notwithstanding that knowledge.

7 72. Plaintiff provided the requisite 30-day notice to Dutch, which was sent pursuant
8 to the Consumer Legal Remedies Act on or about June 30, 2014. Therefore, Plaintiff and Class
9 Members seek actual and/or statutory damages against Dutch in this litigation pursuant to Civil
10 Code § 1780. The 30-day notice complied with the relevant provisions of the Consumers Legal
11 Remedies Act as it was a demand to correct, repair, replace, or otherwise rectify the false country
12 of origin designation as it relates to offending and violative repair Jeans sold in California
13 pursuant to California Civil Code § 1782(a).

14 73. As a direct and proximate result of Defendants' violations of the Consumers Legal
15 Remedies Act, Plaintiff and Class members are entitled to the following remedies: (a) actual
16 damages according to proof at time of trial; (b) a declaration that Defendants violated the
17 Consumers Legal Remedies Act; (c) an injunction preventing Defendants' unlawful actions; and
18 (d) an award of punitive damages pursuant to Civil Code § 1780(a)(4).

19 74. Punitive damages are warranted in this case because knowingly² selling falsely
20 labeled "Made in the USA" products (as Defendants have been doing, at a minimum since their
21 receipt of Plaintiff's notice under the Consumer Legal Remedies Act) constitutes malice,
22 oppression, and/or fraud as defined by Civil Code § 3294.

23 a. "Malice" is defined by statute to mean "conduct which is intended by the
24 defendant to cause injury to the plaintiff or despicable conduct which is
25 carried on by the defendant with a willful and conscious disregard of the

26 ² Dutch is knowingly and willfully selling falsely labeled Jeans products since *at least* the date of
27 its receipt of Plaintiff's 30-day letter. Dutch never effectuated a product recall nor, on information and
28 belief, has taken any corrective action since June 30, 2014 to correct the false labeling at issue herein.

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rights or safety of others." Knowingly selling products containing shoddy foreign-made component parts as "Made in the USA" constitutes malice.

b. "Fraud" is defined by statute to mean "an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury." Knowingly selling products containing shoddy foreign-made component parts as "Made in the USA" constitutes fraud.

75. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by Defendants as a result of Defendants' false claims set forth on their Jeans. Furthermore, she suffered an "injury in fact" by paying for a substandard product that she believed was genuinely manufactured in the USA, when it was not.

76. Plaintiff and Class Members were undoubtedly injured as a result of Defendants' false "Made in the USA" representations that are at issue in this litigation.

77. Plaintiff is filing an Affidavit of Venue along with this Complaint to be in compliance with the requirement set forth in Civil Code § 1780(c).

FOURTH CAUSE OF ACTION

(For Negligent Misrepresentation Against All Defendants)

78. Plaintiff re-alleges and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 77, as though set forth in full.

79. During the relevant statutory time period, Defendants made false "Made in the USA" country of origin designations to Plaintiff and Class Members as it pertains to the sale of the Jeans.

80. The representation that Defendants' Jeans were "Made in the USA" was false as defined by California law. The true facts are that Defendants sold "Made in the USA" labeled Jeans with foreign-made component parts in violation of California and federal law.

81. When Defendants made the representations set forth above, they had no

1 reasonable grounds for believing them to be true.

2 82. Defendants made the representations with the intention of inducing Plaintiff and
3 Class Members to act in reliance upon these representations in the manner hereafter alleged, or
4 with the expectation that they would so act.

5 83. Plaintiff and Class Members, at the time the representations were made by
6 Defendants, and at the time Defendants took the actions herein alleged, were ignorant of the
7 falsity of the representations and believed them to be true. In reliance on these representations,
8 Plaintiff and Class Members were induced to and did pay monies to purchase Defendants'
9 products.

10 84. Had Plaintiff and Class Members known the actual facts, they would not have
11 taken such action. Furthermore, Plaintiff and other California consumers had no reason to
12 believe that Defendants would act otherwise than as to rely on the "Made in the USA" country of
13 origin designation.

14 85. Without knowledge, Plaintiff and Class Members acted on the false country of
15 origin designation and purchased products they did not truly want. Had Plaintiff and Class
16 Members known the actual facts, they would not have taken such action.

17 86. As a proximate result of the fraudulent conduct of Defendants as herein alleged,
18 Plaintiff and Class Members paid monies to Defendants, through Defendants' regular retail sales
19 channels, to which Defendants are not entitled, and have been damaged in an amount to be
20 proven at trial.

21 87. Plaintiff and Class Members seek damages, prejudgment interest, and reasonable
22 attorneys' fees (pursuant to Code of Civil Procedure § 1021.5) and costs as will be determined at
23 time of trial.

24 WHEREFORE, Plaintiff prays for relief and judgment against Defendants, as follows:

25 **PRAYER**

- 26 1. Damages according to proof;
27 2. For a judgment declaring this action to be a proper nationwide class action;

28

1 3. A declaration that Defendants violated the provisions of California Business &
2 Professions Code § 17200 *et seq.*;

3 4 A declaration that Defendants violated Civil Code § 1750 *et seq.*;

4 5. Pursuant to Business & Professions Code § 17204 and pursuant to the equitable
5 powers of this Court, a judgment enjoining Defendants, their subsidiaries, affiliates, and their
6 successors, agents, servants, officer, directors, employees, and all persons, acting in concert with
7 them, directly or indirectly, from engaging in conduct violative of Business & Professions Code
8 § 17200 *et seq.* as more fully described above;

9 6. Pursuant to Business & Professions Code § 17204, a judgment requiring
10 Defendants to provide adequate restitution to restore all persons in interest, including all Class
11 Members, with all monies acquired by means of Defendants' unfair competition;

12 7. Plaintiff and each of the other members of the Class recover the amounts by
13 which Defendants have been unjustly enriched;

14 8. Plaintiff's reasonable attorneys' fees as it relates to all causes of action pursuant
15 to Code of Civil Procedure § 1021.5;

16 9. For punitive damages as to the Third Cause of Action only;

17 10. For costs of suit incurred herein;

18 11. For prejudgment interest as allowed by law; and

19 12. For such other and further relief as this Court finds just, equitable and proper,
20 including, but not limited to, the remedy of disgorgement.

21 Dated: September 5, 2014

DEL MAR LAW GROUP, LLP

22
23 By: _____

John H. Donboli
JL Sean Slattery
Attorneys for: SONIA HOFMANN, an
individual and on behalf of all others similarly
situated

EXHIBIT B

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 7 of all others similarly situated

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

11 LOUISE CLARK, an individual and on
 12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15
 16 CITIZENS OF HUMANITY, LLC, a
 Delaware Limited Liability Company;
 17 MACY'S, INC., a Delaware
 18 Corporation; and DOES 1 through 100,
 19 inclusive,

20 Defendants.

CASE NO. '14CV1404 JLS WVG

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATION OF CONSUMERS
 LEGAL REMEDIES ACT
 (CALIFORNIA CIVIL CODE
 SECTION 1750 ET SEQ.);
- (2) VIOLATION OF BUSINESS &
 PROFESSIONS CODE
 SECTIONS 17200 *ET SEQ.*
 (CALIFORNIA UNFAIR
 COMPETITION LAW); AND
- (3) VIOLATION OF BUSINESS &
 PROFESSIONS CODE
 SECTION 17533.7
 (CALIFORNIA FALSE "MADE
 IN USA" CLAIM).

**DEMAND FOR JURY TRIAL
 [FRCP 38]**

1 COMES NOW, plaintiff LOUISE CLARK (“Plaintiff”), as an individual and
2 on behalf of the general public and all others similarly situated, by her undersigned
3 attorneys, alleges as follows:

4 **NATURE OF THE CASE**

5 1. This is a putative class action case brought on behalf of all purchasers
6 of “Made in the U.S.A.” labeled apparel products manufactured, distributed,
7 marketed, and/or sold by defendants Citizens of Humanity, LLC (“COH”) in
8 California. The unlawfully labeled COH apparel products are sold in various
9 stores in California, including Macy’s, Inc. (“Macy’s”).¹ COH, Macy’s, and the
10 DOE defendants are collectively hereinafter referred to as the “Defendants.”
11 Through an unlawful, deceptive and unfair course of conduct, Defendants
12 manufactured, marketed, and/or sold to California consumers a variety of COH
13 apparel products with the false designation and representation that the COH
14 apparel was “Made in the U.S.A.”

15 2. As stated by the California Supreme Court in *Kwikset v. Superior*
16 *Court* (January 27, 2011) 51 Cal.4th 310, 328-29:

17 **Simply stated: labels matter.** The marketing industry is
18 based on the premise that labels matter, that consumers
19 will choose one product over another similar product
20 based on its label and various tangible and intangible
21 qualities they may come to associate with a particular
22 source. . . . In particular, **to some consumers**, the “Made
23 in U.S.A.” label matters. A range of motivations may fuel
24 this preference, from the desire to support domestic jobs,
25 to beliefs about quality, to concerns about overseas
26 environmental or labor conditions, to simple patriotism.
The Legislature has recognized the materiality of this
representation by specifically outlawing deceptive and
fraudulent “Made in America” representations. (§17533.7;

27 ¹ Plaintiff purchased the mislabeled COH apparel product, which in part is the
28 subject matter of this lawsuit, from a San Diego Macy’s store.

1 see also Civ.Code, §1770, subd. (a)(4) [prohibiting
2 deceptive representations of geographic origin.] The
3 object of section 17533.7 “is to protect consumers from
4 being misled when they purchase products in the belief
5 that they are advancing the interests of the United States
6 and its industries and workers”

7 3. The “Made in the U.S.A.” claim is prominently printed on the apparel
8 products themselves.² The offending apparel products, however, are substantially
9 made, manufactured, or produced from component parts that are manufactured
10 *outside of the United States* in violation of California law and/or federal law.

11 4. On information and belief, major components of the apparel products,
12 including but not limited to the fabric, thread, buttons, subcomponents of the
13 zipper assembly, and/or rivets are manufactured *outside of the United States*.

14 PARTIES

15 5. Plaintiff is an individual residing in San Diego, California.

16 6. Defendant Citizens of Humanity, LLC is a limited liability company
17 that is organized and exists under the laws of the State of Delaware. COH may be
18 served with process in this matter by serving its registered agent for service of
19 process as follows: National Registered Agents, Inc., 2875 Michelle Drive, Irvine,
20 CA 92606.

21 7. COH is a leading designer and manufacturer of denim jean products.
22 On information and belief, COH designs, markets, and produces more than
23 one million pairs of jeans annually. COH is distributed in over 1,300
24 retailers in more than 35 countries including high-end specialty
25 boutiques such as Curve, Fred Segal, Scoop, Madison, and
26 Anthropologie; online at Shopbop.com and MyTheresa.com; as well as in

27 ² Plaintiff intends to seek class wide relief on behalf of all California
28 purchasers of any COH apparel product labeled as “Made in the U.S.A.” that
incorporated foreign-made component parts (in violation of California and/or
federal law) and not just the specific brand of jeans purchased by Plaintiff.

1 luxury department stores Barneys New York, Bergdorf Goodman,
2 Neiman Marcus and Bloomingdale's. One of the products COH manufacturers
3 and sells in California (either directly or through California retailers) is the
4 "BOYFRIEND" brand of jeans purchased by Plaintiff at a San Diego Macy's store on
5 or about May 31, 2014.

6 8. Defendant Macy's, Inc. (hereinafter "Macy's") is a Delaware
7 corporation doing business under and by virtue of the laws of the State of
8 California. Macy's principal place of business is 7 West Seventh Street,
9 Cincinnati, OH 45202. Macy's may be served with process in this matter by
10 serving its registered agent for service of process at: Corporation Service
11 Company, 2711 Centerville Road, Suite 400, Wilmington, DE 19808.

12 9. Macy's is a high-end fashion retailer that offers apparel, shoes,
13 cosmetics, and accessories for women, men, and children in the United States.

14 10. Plaintiff is ignorant of the true names and capacities of the defendants
15 sued herein as DOES 1-100, inclusive; therefore, Plaintiff sues these defendants by
16 such fictitious names. Plaintiff is informed and believes that each of the fictitious
17 named defendants are legally responsible in some manner for the occurrences
18 herein alleged, assisted in and about the wrongs complained herein by providing
19 financial support, advice, resources, or other assistance. Plaintiff will amend the
20 complaint to allege their true names and capacities when ascertained.

21 11. Plaintiff is informed and believes that all defendants were agents,
22 servants, and employees of their co-defendants, and in doing the things hereinafter
23 mentioned, were acting within the scope of their authority as such agents, servants,
24 and employees with the permission and consent of their co-defendants.

25 JURISDICTION AND VENUE

26 12. This Court has jurisdiction over this matter pursuant to CAFA because
27 the amount in controversy in this matter exceeds \$5,000,000.00 as to all Class
28

1 Members, inclusive of attorneys' fees and costs, and injunctive relief. 28 U.S.C.
2 Sections 1332(d), 1453, and 1711-1715.

3 13. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b)
4 and 1391(c) in that this is the judicial district in which a substantial part of the acts
5 and omissions giving rise to the claims occurred.

6 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

7 14. Plaintiff realleges and incorporates herein by reference all of the
8 allegations contained in Paragraphs 1 through 13, inclusive, of this complaint as
9 though fully set forth herein.

10 15. Defendants manufacture, market, and/or sell COH apparel products
11 that have printed on the product itself and the product packaging that the products
12 are "Made in the U.S.A."

13 16. Contrary to the representation, the COH apparel products are
14 substantially and/or partially made, manufactured, or produced with component
15 parts that are manufactured *outside of the United States*. Based upon information
16 and belief, the foreign component parts included in the BOYFRIEND jeans (and
17 presumably all other offending COH apparel products) are the fabric, thread,
18 buttons, and/or rivets. For other models of jeans, Plaintiff is informed and believes
19 that the fabric, thread, buttons, rivets, and/or certain subcomponents of the zipper
20 assembly are made outside of the United States as well.

21 17. Defendants market, and continue to market, and represent to the
22 general public that COH apparel products are "Made in the U.S.A." In addition,
23 Defendants fraudulently concealed the material facts at issue herein by failing to
24 disclose 100% of the truth to the California general public regarding the country of
25 origin of COH apparel products. The disclosure of this information was necessary
26 in order to make Defendants' representation not misleading. Defendants possess
27 superior knowledge of the true facts which were not disclosed, thereby tolling the
28 running of any applicable statute of limitations.

1 18. Consumers are particularly vulnerable to these deceptive and
2 fraudulent practices. Most consumers possess very limited knowledge of the
3 likelihood that products, including the component parts therein, claimed to be
4 made in the United States are in fact made in foreign countries. This is a material
5 factor in many individuals' purchasing decisions, as they believe they are
6 supporting American companies and American jobs.

7 19. Consumers generally believe that "Made in the U.S.A." products are
8 of higher quality than their foreign-manufactured counterparts. Due to
9 Defendants' scheme to defraud the market, members of the general public were
10 fraudulently induced to purchase Defendants' products at inflated prices. On
11 information and belief, and during the entirety of the relevant four-year statutory
12 time period, Defendants charged excess monies for COH apparel products, in
13 comparison to their competitors, based on the false "Made in the U.S.A."
14 designation. California and federal laws are designed to protect consumers from
15 this type of false representation and predatory conduct. Defendants' scheme to
16 defraud consumers is ongoing and will victimize consumers each and every day
17 until altered by judicial intervention.

18 **THE PLAINTIFF TRANSACTION**

19 20. On or about May 31, 2014, Plaintiff purchased the BOYFRIEND brand
20 jeans at a Macy's store in San Diego. At the time of purchase, the product itself
21 was marked with a "Made in the U.S.A." country of origin designation when the
22 product actually contains component parts made outside of the United States.
23 Accordingly, Defendants are not entitled to lawfully make a "Made in the U.S.A."
24 representation on the product.

25 21. In each case when Plaintiff, and Class Members, purchased a Class
26 Product³, they relied upon Defendants' "Made in the U.S.A." representation in

27 ³ The term "Class Products" is defined as any COH manufactured or labeled
28 product that was sold in California during the past four years with a "Made in the
U.S.A" or equivalent country of origin label but that incorporated foreign-made

1 their purchasing decision, which is typical of most U.S. consumers, and they were
2 deceived as a result of Defendants' actions. These purchasing decisions were
3 supported by the "Made in the U.S.A." representation made by Defendants, which
4 is absent from most of Defendants' competitors. Plaintiff believed at the time she
5 purchased the BOYFRIEND jeans that she was supporting U.S. jobs and the U.S.
6 economy.

7 22. Plaintiff suffered an "injury in fact" because Plaintiff's money was
8 taken by Defendants as a result of Defendants' false "Made in the U.S.A." claims
9 set forth on the BOYFRIEND jeans. Furthermore, she suffered an "injury in fact" by
10 paying for something she believed was genuinely manufactured in the USA, when
11 it was not.

12 23. U.S. made component parts are subject to strict regulatory
13 requirements, such as environmental, labor, and safety standards. Foreign made
14 component parts are not subject to the same U.S. manufacturing standards and are
15 often inherently of lower quality than their U.S. made counterparts. Foreign made
16 component parts are also routinely less reliable and durable than their U.S. made
17 counterparts. As such, the BOYFRIEND brand of jeans are of inferior quality due to
18 COH's decision to include foreign made component parts within.

19 24. As such, and on information and belief, the offending COH apparel
20 products, made with foreign-made component parts, are of inferior quality, less
21 reliable, and fail more often than if the product was truly made from 100%
22 American made component parts. Essentially, the BOYFRIEND brand of jeans are
23 not worth the purchase price paid. The precise amount of damages will be proven
24 at time of trial, in large part, by expert testimony.

25 25. Plaintiff and Class Members were undoubtedly injured as a result of
26 Defendants' false "Made in the U.S.A." representations that are at issue in this
27 litigation.

28 _____
component parts.

1 **CLASS ALLEGATIONS**

2 26. Plaintiff realleges and incorporates herein by reference all of the
3 allegations contained in Paragraphs 1 through 25, inclusive, of this complaint as
4 though fully set forth herein.

5 27. Plaintiff brings this action, as set forth below, against Defendants,
6 pursuant to Rules 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) of the Federal Rules of
7 Civil Procedure (“Fed. R. Civ. P.”), individually and on behalf of a class
8 consisting of all persons in the United States who purchased one or more of
9 Defendants’ COH apparel products during the relevant four-year statutory time
10 period that bore a “Made in the U.S.A.” country of origin designation but that
11 contained foreign-made component parts (the “Class”). Excluded from the Class
12 are the Court and its employees; Defendants; any parent, subsidiary, or affiliate of
13 Defendants; and all employees and directors who are or have been employed by
14 Defendants during the relevant time period.

15 **Definition of the Subclass**

16 28. Subclass members are all of Defendants’ California customers who
17 purchased COH apparel products that were labeled as “MADE IN U.S.A. OF
18 IMPORTED FABRIC” that contained foreign-made component parts beyond the
19 fabric (e.g., rivets, thread, buttons, and/or subcomponents of the zipper assembly)
20 during the relevant four-year statutory time period (hereinafter the “Sub-Class
21 Products”).

22 **Class Action Requirements**

23 29. The numerosity requirement of Fed. R. Civ. P. 23(a)(1) is satisfied for
24 each of the foregoing Classes because the members of each Class are so numerous
25 and geographically dispersed that joinder of all Class members is impracticable.
26 Plaintiff currently believes that there are hundreds of thousands of members of
27 each Class located in the State of California.

1 30. Common questions of fact and law exist here, satisfying the
2 requirement of Rule 23(a)(2), including but not limited to:

- 3 a. whether Defendants participated in, or committed the
4 wrongful conduct alleged herein;
5 b. whether Defendants' acts, transactions, or course of
6 conduct constitute the violations of law alleged herein;
7 c. whether the members of the Class and the Sub-Class
8 sustained and/or continue to sustain damages by reason of
9 Defendants' conduct, and, if so, the proper measure and
10 appropriate formula to be applied in determining such damages;
11 and
12 f. whether the members of the Class and the Sub-Class are
13 entitled to injunctive or other equitable relief.

14 31. Plaintiff's claims are typical of the claims of all other members of the
15 Class and the Sub-Class and involve the same violations of law by Defendants as
16 other Class members' claims. Plaintiff and members of the Class and Sub-Class
17 also sustained damages arising out of Defendants' common course of conduct
18 complained herein. Accordingly, Plaintiff satisfies the "typicality" requirements of
19 Fed. R. Civ. P. 23(a)(3) with respect to the Class and Sub-Class.

20 32. Plaintiff will fairly and adequately protect the interests of the other
21 members of the Class and Sub-Class, and has no interests that are antagonistic to or
22 which conflict with those of the other members of those Classes. Plaintiff is
23 committed to the vigorous prosecution of this action and has retained competent
24 counsel experienced in litigation of this nature to represent her and the other
25 members of the Class and Sub-Class; as such, the requirements of Rule 23(a)(4)
26 are satisfied.

27 33. Absent a representative class action, members of the Class and the
28 Sub-Class would continue to suffer the harm described herein, for which they

1 would have no remedy. Even if separate actions could be brought by individual
2 purchasers, the resulting multiplicity of lawsuits would cause undue hardship and
3 expense for both the Court and the litigants, as well as create a risk of inconsistent
4 rulings and adjudications that might be dispositive of the interests of similarly
5 situated purchasers, substantially impeding their ability to protect their interests,
6 while establishing incompatible standards of conduct for Defendants. The
7 proposed Class, and, respectively, the members of the Sub-Class, thus satisfy the
8 requirements of Fed. R. Civ. P. 23(b)(1).

9 34. Defendants acted or refused to act on grounds generally applicable to
10 Plaintiff and the other members of the Class, and, respectively, the members of the
11 Sub-Class, thereby rendering class certification and injunctive relief with respect to
12 the Class as a whole and the Sub-Class appropriate. Certification under Fed. R.
13 Civ. P. 23(b)(2) is proper in this regard.

14 35. As discussed above, numerous common questions of fact and law
15 exist. These questions predominate over the individual questions presented in this
16 action. The predominance requirement of Rule 23(b)(3) is thus satisfied.

17 36. A class action is the superior method for the fair and efficient
18 adjudication of this controversy, because joinder of all members of the Class, and,
19 respectively, the Sub-Class, is impracticable. Because the damages suffered by
20 individual members of the Class, and, respectively, the Sub-Class, may be
21 relatively small, the expense and burden of litigation would prevent class members
22 from individually redressing the wrongs done to them. Where, as here, the size
23 and nature of individual Class members' claims would allow few, if any, members
24 of those Classes to seek legal redress against Defendants for the wrongs
25 complained of herein, a representative class action is both the appropriate vehicle
26 by which to adjudicate these claims and is essential to the interests of justice.
27 Furthermore, a class action regarding the issues in this action creates no significant
28

1 problems of manageability. The superiority and manageability requirements of
2 Rule 23(b)(3) are thus satisfied.

3 **FIRST CLAIM FOR RELIEF**

4 **(Violation of California Consumers Legal Remedies Act Against All**
5 **Defendants)**

6 37. Plaintiff realleges and incorporates herein by reference all of the
7 allegations contained in Paragraphs 1 through 36, inclusive, of this complaint as
8 though fully set forth herein.

9 38. California Civil Code Section 1750 *et seq.* (entitled the Consumers
10 Legal Remedies Act) provides a list of “unfair or deceptive” practices in a
11 “transaction” relating to the sale of “goods” or “services” to a “consumer.” The
12 Legislature’s intent in promulgating the Consumers Legal Remedies Act is
13 expressed in Civil Code Section 1760, which provides, *inter alia*, that its terms are
14 to be:

15 [C]onstrued liberally and applied to promote its underlying
16 purposes, which are to protect consumers against unfair and
17 deceptive business practices and to provide efficient and
18 economical procedures to secure such protection.

19 39. COH apparel products constituted “goods” as defined in Civil Code
20 Section 1761(a).

21 40. Plaintiff, and Class members, are each a “Consumer” as defined in
22 Civil Code Section 1761(d).

23 41. Each of Plaintiff’s and Class members’ purchases of COH apparel
24 products constituted a “transaction” as defined in Civil Code Section 1761(e).

25 42. Civil Code Section 1770(a)(4) and (9) provides that “[t]he following
26 unfair methods of competition and unfair or deceptive acts or practices undertaken
27 by any person in a transaction intended to result or which results in the sale or
28 lease of goods or services to any consumer are unlawful: Using deceptive
representations or designations of geographic origin in connection with goods or

1 services [and] [a]dvertising goods or services with intent not to sell them as
2 advertised.”

3 43. Defendants violated Civil Code Section 1770(a)(4) and (9) by
4 marketing and representing that their COH apparel products are “Made in the
5 U.S.A.” when they actually contain component parts that are manufactured outside
6 of the United States.

7 44. It is alleged on information and belief that Defendant’s violations of
8 the Consumer’s Legal Remedies Act set forth herein were done with awareness of
9 the fact that the conduct alleged was wrongful and were motivated solely for
10 increased profit. It is also alleged on information and belief that Defendants did
11 these acts knowing the harm that would result to Plaintiff and that Defendants did
12 these acts notwithstanding that knowledge.

13 45. As a direct and proximate result of Defendants’ violations of the
14 Consumers Legal Remedies Act, Plaintiff and Class members are entitled to the
15 following remedies as against Defendants: (a) a declaration that Defendants
16 violated the Consumers Legal Remedies Act, and (b) an injunction preventing
17 Defendants’ unlawful actions.

18 46. Plaintiff suffered an “injury in fact” because Plaintiff’s money was
19 taken by Defendants as a result of Defendants’ false “Made in the U.S.A.” claims
20 set forth on the COH apparel products.

21 **SECOND CLAIM FOR RELIEF**

22 **(Violation of Business & Prof. Code Section 17200 *Et Seq.* Against All**
23 **Defendants)**

24 47. Plaintiff realleges and incorporates herein by reference all of the
25 allegations contained in Paragraphs 1 through 46, inclusive, of this complaint as
26 though fully set forth herein.

1 48. Business & Professions Code section 17200 *et seq.* provides that
2 unfair competition means and includes “any unlawful, unfair or fraudulent business
3 act or practice and unfair, deceptive, untrue or misleading marketing.”

4 49. By and through their conduct, including the conduct detailed above,
5 Defendants engaged in activities which constitute unlawful, unfair, and fraudulent
6 business practices prohibited by Business & Professions Code Section 17200 *et*
7 *seq.* Beginning at an exact date unknown as yet and continuing up through the
8 present, Defendants committed acts of unfair competition, including those
9 described above, by engaging in a pattern of “unlawful” business practices, within
10 the meaning of Business & Professions Code Section 17200 *et seq.*, by
11 manufacturing, distributing, and marketing COH apparel products with a false
12 country of origin designation and violating Section 17533.7 by falsely claiming
13 that the products referenced herein are “Made in U.S.A.” when they actually
14 contain component parts manufactured *outside of the United States.*

15 50. Beginning at an exact date unknown as yet and continuing up through
16 the present, Defendants committed acts of unfair competition that are prohibited by
17 Business and Professions Code section 17200 *et seq.* Defendants engaged in a
18 pattern of “unfair” business practices that violate the wording and intent of the
19 statutes, by engaging in practices that threaten an incipient violation of law or
20 violate the policy or spirit of laws because their effects are comparable to or the
21 same as a violation of the law by manufacturing, distributing, and marketing their
22 COH apparel products with a false country of origin designation, and by violating
23 Section 17533.7 by falsely claiming that their COH apparel products referenced
24 herein are “Made in the U.S.A.” when they actually contain component parts
25 manufactured outside of the United States.

26 51. Alternatively, Defendants engaged in a pattern of “unfair” business
27 practices that violate the wording and intent of the statutes, by engaging in
28 practices that are immoral, unethical, oppressive or unscrupulous, the utility (if

1 any) of which conduct is far outweighed by the harm done to consumers and public
2 policy by manufacturing, distributing, marketing, and advertising COH apparel
3 products with the false claim that the products referenced herein are “Made in the
4 U.S.A.”

5 52. Alternatively, Defendants engaged in a pattern of “unfair” business
6 practices that violate the wording and intent of the statutes, by engaging in
7 practices, including manufacturing, distributing, marketing, and advertising COH
8 apparel products with the false claim that the products referenced herein are “Made
9 in the U.S.A.,” wherein: (1) the injury to the consumer was substantial; (2) the
10 injury was not outweighed by any countervailing benefits to consumers or
11 competition; and (3) the injury was of the kind that the consumers themselves
12 could not reasonably have avoided.

13 53. Beginning at an exact date unknown as yet and continuing up through
14 the present, Defendants committed acts of unfair competition, including those
15 described above, prohibited by Business and Professions Code section 17200 *et*
16 *seq.* by engaging in a pattern of “fraudulent” business practices within the meaning
17 of Business & Professions Code section 17200 *et seq.*, by manufacturing,
18 distributing, and marketing COH apparel products with a false country of origin
19 designation and violating Section 17533.7 by falsely claiming that the products
20 referenced herein are “Made in U.S.A.”

21 54. Defendant engaged in these unlawful, unfair, and fraudulent business
22 practices for the primary purpose of collecting unlawful and unauthorized monies
23 from Plaintiff and all others similarly situated; thereby unjustly enriching
24 Defendants.

25 55. As a result of the repeated violations described herein, Defendants
26 received and continue to receive unearned commercial benefits at the expense of
27 their competitors and the public.
28

1 56. Defendants' unlawful, unfair, and fraudulent business practices
2 presents a continuing threat to the public in that Defendants continues to engage in
3 unlawful conduct.

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

8 58. As a direct and legal result of their unlawful, unfair, and fraudulent
9 conduct described herein, Defendants have been and will be unjustly enriched by
10 the receipt of ill-gotten gains from customers, including Plaintiff, who unwittingly
11 provided money to Defendants based on Defendants' fraudulent country of origin
12 designation.

13 59. Plaintiff suffered an "injury in fact" because Plaintiff's money was
14 taken by Defendants as a result of Defendants' false "Made in the U.S.A." claims
15 set forth on the COH apparel products.

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

19 **THIRD CLAIM FOR RELIEF**

20 **(Violation of Business & Professions Code § 17533.7 Against All Defendants)**

21 61. Plaintiff realleges and incorporates herein by reference all of the
22 allegations contained in Paragraphs 1 through 60, inclusive, of this complaint as
23 though fully set forth herein.

24 62. Business & Professions Code Section 17533.7 provides:

25 It is unlawful for any person, firm, corporation or
26 association to sell or offer for sale in this State any
27 merchandise on which merchandise or on its container
28 there appears the words "Made in U.S.A." "Made in
 America," "U.S.A.," or similar words when the

1 merchandise or **any article, unit, or part thereof**, has
2 been entirely or substantially made, manufactured, or
3 produced outside of the United States. (Emphasis
added).

4 63. Defendants (both COH and Macy's) violated Business & Professions
5 Code Section 17533.7 by selling and offering to sell merchandise in the State of
6 California with the "Made in the U.S.A." country of origin designation as fully set
7 forth herein. The merchandise at issue in this case actually contains component
8 parts that are manufactured outside of the United States in violation of California
9 and federal law.

10 64. It is alleged on information and belief that Defendants' violations of
11 Business & Professions Code Section 17533.7 were done with awareness of the
12 fact that the conduct alleged was wrongful and were motivated solely for increased
13 profit. It is also alleged on information and belief that Defendants did these acts
14 knowing the harm that would result to Plaintiff and that Defendants did these acts
15 notwithstanding that knowledge.

16 65. As a direct and proximate result of Defendants' violations of Business
17 & Professions Code Section 17533.7, Plaintiff and Class members are entitled to
18 restitution of excess monies paid to Defendants by Plaintiff and Class members
19 relating to the false "Made in the U.S.A." claims on Defendants' COH apparel
20 products.

21 66. Plaintiff suffered an "injury in fact" because Plaintiff's money was
22 taken by Defendants as a result of Defendants' false "Made in the U.S.A." claims
23 set forth on the COH apparel products.

24 67. In prosecuting this action for the enforcement of important rights
25 affecting the public interest, Plaintiff seeks the recovery of attorneys' fees, which
26 is available to a prevailing plaintiff in class action cases such as this.

27 **PRAYER**

28 WHEREFORE, Plaintiffs, on behalf of themselves, collectively on behalf of

1 the Class, and respectively on behalf of the Sub-Class, respectfully request the
2 following relief:

3 1. That the Court determine that this action may be maintained as a class
4 action by certifying this case as a California class action as to both the Class and
5 Sub-Class;

6 2. That the Court certify Plaintiff to serve as a class representative in this
7 case;

8 3. That Defendants' wrongful conduct alleged herein be adjudged and
9 decreed to violate the consumer protection statutory claims asserted herein;

10 4. That Plaintiff and each of the other members of the Class and each of
11 the Sub-Class recover the amounts by which Defendants have been unjustly
12 enriched;

13 5. That Defendants be enjoined from continuing the wrongful conduct
14 alleged herein and required to comply with all applicable law;

15 6. That Plaintiff and each of the other members of the Class and each of
16 the Sub-Class recover their costs of suit, including reasonable attorneys' fees and
17 expenses as provided by law; and

18 7. That Plaintiff and each of the other members of Class and each of the
19 Sub-Class be granted such other and further relief as the nature of the case may
20 require or as this Court deems just and proper.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

DEMAND FOR JURY TRIAL

Pursuant to Rule 38, Federal Rules of Civil Procedure, Plaintiff hereby
demands a trial by jury with respect to all issues triable to a jury.

Dated: June 9, 2014

Respectfully submitted,

DEL MAR LAW GROUP, LLP

By: /s/John H. Donboli

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Attorneys for: LOUISE CLARK, an
individual and on behalf of all others
similarly situated

JS 44 (Rev. 12/07)

CIVIL COVER SHEET

'14CV1404 JLS WVG

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Louise Clark

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Del Mar Law Group, LLP, 12250 El Camino Real, Ste. 120, San Diego, CA 92130; (858) 793-6244

DEFENDANTS

Citizens of Humanity, LLC; Macy's, Inc., and DOES 1 through 100

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

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE 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)

- | | | | | | |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgement

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Section 1332

Brief description of cause:
Violation of Consumer Statutes (False Country of Origin Designation)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMANDS
 CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE: 06/09/2014 SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

EXHIBIT C

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6 Attorneys for Plaintiff: DAVID PAZ, an individual and on behalf
 7 of all others similarly situated

8 UNITED STATES DISTRICT COURT
 9 SOUTHERN DISTRICT OF CALIFORNIA

10 DAVID PAZ, an individual and on
 11 behalf of all others similarly situated,

12 Plaintiff,

13 vs.

14 AG ADRIANO GOLDSCHMIED,
 15 INC., a California corporation;
 16 NORDSTROM, INC., a Washington
 17 Corporation; and DOES 1 through 100,
 18 inclusive,

19 Defendants.

CASE NO. '14CV1372 DMS DHB

CLASS ACTION

COMPLAINT FOR:

- (1) VIOLATION OF CONSUMERS LEGAL REMEDIES ACT (CALIFORNIA CIVIL CODE SECTION 1750 ET SEQ.);
- (2) VIOLATION OF BUSINESS & PROFESSIONS CODE SECTIONS 17200 ET SEQ. (CALIFORNIA UNFAIR COMPETITION LAW); AND
- (3) VIOLATION OF BUSINESS & PROFESSIONS CODE SECTION 17533.7 (CALIFORNIA FALSE "MADE IN USA" CLAIM).

DEMAND FOR JURY TRIAL
 [FRCP 38]

1 COMES NOW, plaintiff DAVID PAZ (“Plaintiff”), as an individual and on
2 behalf of the general public and all others similarly situated, by his undersigned
3 attorneys, alleges as follows:

4 **NATURE OF THE CASE**

5 1. This is a putative class action case brought on behalf of all purchasers
6 of AG Adriano Goldschmied, Inc. apparel products manufactured, distributed,
7 marketed, and/or sold by defendants AG Adriano Goldschmied, Inc. (“AGAG”)
8 and Nordstrom, Inc. (“Nordstrom”) in California. AGAG, Nordstrom, and the
9 DOE defendants are collectively hereinafter referred to as the “Defendants.”

10 Through an unlawful, deceptive and unfair course of conduct, Defendants
11 manufactured, marketed, and/or sold to California consumers a variety of AGAG
12 apparel products with the false designation and representation that the AGAG
13 apparel was “Made in U.S.A.”

14 2. The “Made in U.S.A.” claim is prominently printed on the apparel
15 products themselves.¹ However, the offending apparel products are substantially
16 made, manufactured or produced from component parts that are manufactured
17 outside of the United States in violation of California law and/or federal law.

18 3. On information and belief, major components of the apparel products,
19 including but not limited to the fabric, thread, buttons, subcomponents of the
20 zipper assembly, and/or rivets are manufactured *outside the United States*.

21 **PARTIES**

22 4. Plaintiff is an individual residing in San Diego, California.

23 5. Defendant AG Adriano Goldschmied, Inc. (“AGAG”) is a corporation
24 that is organized and exists under the laws of the State of California. AGAG may
25 be served with process in this matter by serving its registered agent for service of
26

27 ¹ Plaintiff intends to seek class wide relief on behalf of all California
28 purchasers of any AGAG apparel product that was labeled as “Made in U.S.A.”
but incorporated foreign-made component parts in violation of California and/or
federal law – not just the specific brand of men’s jeans purchased by Plaintiff.

1 process as follows: John Hur, 2700 Sequoia Drive, South Gate, CA 90280.

2 6. AGAG is a leading designer and manufacturer of men's and women's
3 denim jean products. On information and belief, AGAG sells jeans, shorts, skirts
4 and dresses, maternity wear, knits, woven, sweaters, and jackets for women; and
5 jeans, shorts, knits, woven, sweaters, and jackets, as well as fabrics for men.
6 AGAG sells its products through its own stores, online, and through high-end
7 retailers such as Nordstrom, Inc. It has retail store locations in Atlantic City,
8 Miami, Beverly Hills, Costa Mesa, San Francisco, New York, St. Louis, and
9 Tokyo. One of the products AGAG manufactures and sells to California retailers
10 is THE PROTÉGÉ brand jean purchased by Plaintiff at a San Diego Nordstrom store
11 on or about May 16, 2014.

12 7. Defendant NORDSTROM, INC. (hereinafter "Nordstrom" or
13 "Defendant") is a Washington corporation doing business under and by virtue of
14 the laws of the State of California. Nordstrom's principal place of business is 1700
15 Seventh Avenue, Seattle, WA 98101. Nordstrom may be served with process in
16 this matter by serving its California registered agent for service of process, CT
17 Corporation System, 818 West Seventh Street, 2nd Floor, Los Angeles, CA 90017.

18 8. On information and belief, Nordstrom is a fashion specialty retailer
19 that offers apparel, shoes, cosmetics, and accessories for women, men, and
20 children in the United States. THE PROTÉGÉ brand jean was purchased by Plaintiff
21 at a Nordstrom retail store.

22 9. Plaintiff is ignorant of the true names and capacities of the defendants
23 sued herein as DOES 1-100, inclusive; therefore, Plaintiff sues these defendants by
24 such fictitious names. Plaintiff is informed and believes that each of the fictitious
25 named defendants are legally responsible in some manner for the occurrences
26 herein alleged, assisted in and about the wrongs complained herein by providing
27 financial support, advice, resources or other assistance. Plaintiff will amend the
28 complaint to allege their true names and capacities when ascertained.

1 10. Plaintiff is informed and believes that all defendants were agents,
2 servants and employees of their co-defendants, and in doing the things hereinafter
3 mentioned, were acting within the scope of their authority as such agents, servants
4 and employees with the permission and consent of their co-defendants.

5 **JURISDICTION AND VENUE**

6 11. This Court has jurisdiction over this matter pursuant to CAFA because
7 the amount in controversy in this matter exceeds \$5,000,000.00 as to all Class
8 Members, inclusive of attorneys' fees and costs, and injunctive relief. 28 U.S.C.
9 Sections 1332(d), 1453, and 1711-1715.

10 12. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b)
11 and 1391(c) in that this is the judicial district in which a substantial part of the acts
12 and omissions giving rise to the claims occurred.

13 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

14 13. Plaintiff realleges and incorporates herein by reference all of the
15 allegations contained in Paragraphs 1 through 12, inclusive, of this complaint as
16 though fully set forth herein.

17 14. Defendants manufacture, market, and/or sell AGAG apparel products
18 that have printed on the product itself and the product packaging that the products
19 are "Made in U.S.A."

20 15. Contrary to the representation, the AGAG apparel products are
21 substantially and/or partially made, manufactured or produced with component
22 parts that are manufactured outside of the United States. Based upon information
23 and belief, the foreign component parts included in THE PROTÉGÉ jeans (and
24 presumably all other offending AGAG apparel products) are the fabric, thread,
25 buttons, rivets, and/or certain subcomponents of the zipper assembly. For other
26 models of jeans, Plaintiff is informed and believes that the fabric, thread, buttons,
27 rivets, and/or certain subcomponents of the zipper assembly are made outside of
28 the United States as well.

1 16. Defendants market, and continue to market, and represent to the
2 general public that its AGAG apparel products are “Made in U.S.A.” In addition,
3 Defendants fraudulently concealed the material facts at issue herein by failing to
4 disclose 100% of the truth to the California general public regarding the country of
5 origin of AGAG apparel products. The disclosure of this information was
6 necessary in order to make Defendants’ representation not misleading. Defendants
7 possess superior knowledge of the true facts which were not disclosed, thereby
8 tolling the running of any applicable statute of limitations.

9 17. Consumers are particularly vulnerable to these deceptive and
10 fraudulent practices. Most consumers possess very limited knowledge of the
11 likelihood that products, including the component parts therein, claimed to be
12 made in the United States are in fact made in foreign countries. This is a material
13 factor in many individuals’ purchasing decisions, as they believe they are
14 supporting American companies and American jobs.

15 18. Consumers generally believe that “Made in U.S.A.” products are
16 higher quality than their foreign-manufactured counterparts. Due to Defendants’
17 scheme to defraud the market, members of the general public were fraudulently
18 induced to purchase Defendants’ products at inflated prices. On information and
19 belief, and during the entirety of the relevant four-year statutory time period,
20 Defendants charged excess monies for AGAG apparel products, in comparison to
21 their competitors, based on the false “Made in U.S.A.” designation. California and
22 federal laws are designed to protect consumers from this type of false
23 representation and predatory conduct. Defendants’ scheme to defraud consumers
24 is ongoing and will victimize consumers each and every day until altered by
25 judicial intervention.

26 **THE PLAINTIFF TRANSACTION**

27 19. On or about May 16, 2014, Plaintiff purchased THE PROTÉGÉ brand
28 jeans at a Nordstrom store in San Diego. At the time of purchase, the product

1 itself was marked with a "Made in U.S.A." country of origin designation when the
2 product actually contains component parts made outside of the United States.
3 Accordingly, Defendants are not entitled to lawfully make a "Made in U.S.A."
4 representation on the product.

5 20. In each case when Plaintiff, and Class Members, purchased a Class
6 Product², they relied upon Defendants' "Made in U.S.A." representation in their
7 purchasing decision, which is typical of most U.S. consumers, and they were
8 deceived as a result of Defendants' actions. These purchasing decisions were
9 supported by the "Made in U.S.A." representation made by Defendants, which is
10 absent from most of Defendants' competitors. Plaintiff believed at the time he
11 purchased THE PROTÉGÉ that he was supporting U.S. jobs and the U.S.
12 economy.

13 21. Plaintiff suffered an "injury in fact" because Plaintiff's money was
14 taken by Defendants as a result of Defendants' false "MADE IN USA" claims set
15 forth on THE PROTÉGÉ. Furthermore, he suffered an "injury in fact" by paying
16 for something he believed was genuinely manufactured in the USA, when it was
17 not.

18 22. U.S. made component parts are subject to strict regulatory
19 requirements, such as environmental, labor, and safety standards. Foreign made
20 component parts are not subject to the same U.S. manufacturing standards and are
21 often inherently of lower quality than their U.S. made counterparts. Foreign made
22 component parts are also routinely less reliable and durable than their U.S. made
23 counterparts. As such, THE PROTÉGÉ is of inferior quality due to AGAG's
24 decision to include foreign made component parts within.

25
26
27 ² The term "Class Products" is defined as any AGAG manufactured or labeled
28 product that was sold in California during the past four years with a "Made in
U.S.A" or equivalent country of origin label but that incorporated foreign-made
component parts.

1 23. As such, the offending AGAG apparel products, made with foreign-
2 made component parts, are of inferior quality, less reliable, and fail more often
3 than if the product was truly made from 100% American made component parts.
4 Essentially, THE PROTÉGÉ is not worth the purchase price paid. The precise
5 amount of damages will be proven at time of trial, in large part, by expert
6 testimony.

7 24. Plaintiff and Class Members were undoubtedly injured as a result of
8 Defendants' false "Made in U.S.A." representations that are at issue in this
9 litigation.

10 **CLASS ALLEGATIONS**

11 25. Plaintiff realleges and incorporates herein by reference all of the
12 allegations contained in Paragraphs 1 through 24, inclusive, of this complaint as
13 though fully set forth herein.

14 26. Plaintiff brings this action, as set forth below, against Defendants,
15 pursuant to Rules 23(a), 23(b)(1), 23(b)(2), and 23(b)(3) of the Federal Rules of
16 Civil Procedure ("Fed. R. Civ. P."), individually and on behalf of a class
17 consisting of all persons in the United States who purchased one or more of
18 Defendants' AGAG apparel products during the relevant four-year statutory time
19 period that bore a "Made in U.S.A." country of origin designation but that
20 contained foreign-made component parts (the "Class"). Excluded from the Class
21 are the Court and its employees; Defendants; any parent, subsidiary, or affiliate of
22 Defendants; and all employees and directors who are or have been employed by
23 Defendants during the relevant time period.

24 **Definition of the Subclass**

25 27. Subclass members are all of Defendants' California customers who
26 purchased AGAG apparel products that were labeled as "MADE IN U.S.A. OF
27 IMPORTED FABRIC" that contained foreign-made component parts beyond the
28

1 fabric (e.g., rivets, thread, buttons, and/or subcomponents of the zipper assembly)
2 during the relevant four-year statutory time period (hereinafter the “Sub-Class
3 Products”).

4 **Class Action Requirements**

5 28. The numerosity requirement of Fed. R. Civ. P. 23(a)(1) is satisfied for
6 each of the foregoing Classes because the members of each Class are so numerous
7 and geographically dispersed that joinder of all Class members is impracticable.
8 Plaintiff currently believes that there are at hundreds of thousands of members of
9 each Class located in the State of California.

10 29. Common questions of fact and law exist here, satisfying the
11 requirement of Rule 23(a)(2), including but not limited to:

- 12 a. whether Defendants participated in, or committed the
13 wrongful conduct alleged herein;
- 14 b. whether Defendants’ acts, transactions, or course of
15 conduct constitute the violations of law alleged herein;
- 16 c. whether the members of the Class and the Sub-Class
17 sustained and/or continue to sustain damages by reason of
18 Defendants’ conduct, and, if so, the proper measure and
19 appropriate formula to be applied in determining such damages;
20 and
- 21 f. whether the members of the Class and the Sub-Class are
22 entitled to injunctive or other equitable relief.

23 30. Plaintiff’s claims are typical of the claims of all other members of the
24 Class and the Sub-Class and involve the same violations of law by Defendants as
25 other Class members’ claims. Plaintiff and members of the Class and Sub-Class
26 also sustained damages arising out of Defendants’ common course of conduct
27 complained herein. Accordingly, Plaintiff satisfies the “typicality” requirements
28 of Fed. R. Civ. P. 23(a)(3) with respect to the Class and Sub-Class.

1 31. Plaintiff will fairly and adequately protect the interests of the other
2 members of the Class and Sub-Class, and has no interests that are antagonistic to
3 or which conflict with those of the other members of those Classes. Plaintiff is
4 committed to the vigorous prosecution of this action and has retained competent
5 counsel experienced in litigation of this nature to represent themselves and the
6 other members of the Class and Sub-Class; as such, the requirements of Rule
7 23(a)(4) are satisfied.

8 32. Absent a representative class action, members of the Class and the
9 Sub-Class would continue to suffer the harm described herein, for which they
10 would have no remedy. Even if separate actions could be brought by individual
11 purchasers, the resulting multiplicity of lawsuits would cause undue hardship and
12 expense for both the Court and the litigants, as well as create a risk of inconsistent
13 rulings and adjudications that might be dispositive of the interests of similarly
14 situated purchasers, substantially impeding their ability to protect their interests,
15 while establishing incompatible standards of conduct for Defendants. The
16 proposed Class, and, respectively, the members of the Sub-Class, thus satisfy the
17 requirements of Fed. R. Civ. P. 23(b)(1).

18 33. Defendants has acted or refused to act on grounds generally applicable
19 to Plaintiff and the other members of the Class, and, respectively, the members of
20 the Sub-Class, thereby rendering class certification and injunctive relief with
21 respect to the Class as a whole and the Sub-Class appropriate. Certification under
22 Fed. R. Civ. P. 23(b)(2) is proper in this regard.

23 34. As discussed above, numerous common questions of fact and law
24 exist. These questions predominate over the individual questions presented in this
25 action. The predominance requirement of Rule 23(b)(3) is thus satisfied.

26 35. A class action is the superior method for the fair and efficient
27 adjudication of this controversy, because joinder of all members of the Class, and,
28 respectively, the Sub-Class, is impracticable. Because the damages suffered by

1 individual members of the Class, and, respectively, the Sub-Class, may be
2 relatively small, the expense and burden of litigation would prevent class
3 members from individually redressing the wrongs done to them. Where, as here,
4 the size and nature of individual Class members' claims would allow few, if any,
5 members of those Classes to seek legal redress against Defendants for the wrongs
6 complained of herein, a representative class action is both the appropriate vehicle
7 by which to adjudicate these claims and is essential to the interests of justice.
8 Furthermore, a class action regarding the issues in this action creates no
9 significant problems of manageability. The superiority and manageability
10 requirements of Rule 23(b)(3) are thus satisfied.

11 **FIRST CLAIM FOR RELIEF**

12 **(Violation of California Consumers Legal Remedies Act Against All**
13 **Defendants)**

14 36. Plaintiff realleges and incorporates herein by reference all of the
15 allegations contained in Paragraphs 1 through 35, inclusive, of this complaint as
16 though fully set forth herein.

17 37. California Civil Code Section 1750 *et seq.* (entitled the Consumers
18 Legal Remedies Act) provides a list of "unfair or deceptive" practices in a
19 "transaction" relating to the sale of "goods" or "services" to a "consumer." The
20 Legislature's intent in promulgating the Consumers Legal Remedies Act is
21 expressed in Civil Code Section 1760, which provides, *inter alia*, that its terms are
22 to be:

23 [C]onstrued liberally and applied to promote its underlying
24 purposes, which are to protect consumers against unfair and
25 deceptive business practices and to provide efficient and
26 economical procedures to secure such protection.

27 38. Defendant's AGAG apparel products constituted "goods" as defined
28 in Civil Code Section 1761(a).

1 39. Plaintiff, and Class members, are each a “Consumer” as defined in
2 Civil Code Section 1761(d).

3 40. Each of Plaintiff’s purchases of Defendant’s AGAG apparel products
4 constituted a “transaction” as defined in Civil Code Section 1761(e).

5 41. Civil Code Section 1770(a)(4) and (9) provides that “[t]he following
6 unfair methods of competition and unfair or deceptive acts or practices undertaken
7 by any person in a transaction intended to result or which results in the sale or
8 lease of goods or services to any consumer are unlawful: Using deceptive
9 representations or designations of geographic origin in connection with goods or
10 services [and] [a]dvertising goods or services with intent not to sell them as
11 advertised.”

12 42. Defendant violated Civil Code Section 1770(a)(4) and (9) by
13 marketing and representing that their AGAG apparel products are “Made in
14 U.S.A.” when they actually contain component parts that are manufactured
15 outside of the United States.

16 43. It is alleged on information and belief that Defendant’s violations of
17 the Consumer’s Legal Remedies Act set forth herein were done with awareness of
18 the fact that the conduct alleged was wrongful and were motivated solely for
19 increased profit. It is also alleged on information and belief that Defendants did
20 these acts knowing the harm that would result to Plaintiff and that Defendants did
21 these acts notwithstanding that knowledge.

22 44. As a direct and proximate result of Defendants’ violations of the
23 Consumers Legal Remedies Act, Plaintiff and Class members are entitled to the
24 following remedies as against Defendants: (a) a declaration that Defendants
25 violated the Consumers Legal Remedies Act, and (b) an injunction preventing
26 Defendants’ unlawful actions.
27
28

1 45. Plaintiff suffered an "injury in fact" because Plaintiff's money was
2 taken by Defendants as a result of Defendants' false "Made in U.S.A." claims set
3 forth on the AGAG apparel products.

4 46. Plaintiff and Class Members were undoubtedly injured as a result of
5 Defendants' false "MADE IN USA" representations that are at issue in this
6 litigation.

7 **SECOND CLAIM FOR RELIEF**

8 **(Violation of Business & Prof. Code Section 17200 *Et Seq.* Against All**
9 **Defendants)**

10 47. Plaintiff realleges and incorporates herein by reference all of the
11 allegations contained in Paragraphs 1 through 46, inclusive, of this complaint as
12 though fully set forth herein.

13 48. Business & Professions Code section 17200 *et seq.* provides that
14 unfair competition means and includes "any unlawful, unfair or fraudulent
15 business act or practice and unfair, deceptive, untrue or misleading marketing."

16 49. By and through their conduct, including the conduct detailed above,
17 Defendants engaged in activities which constitute unlawful, unfair, and fraudulent
18 business practices prohibited by Business & Professions Code Section 17200 *et*
19 *seq.* Beginning at an exact date unknown as yet and continuing up through the
20 present, Defendants committed acts of unfair competition, including those
21 described above, by engaging in a pattern of "unlawful" business practices, within
22 the meaning of Business & Professions Code Section 17200 *et seq.*, by
23 manufacturing, distributing, marketing AGAG apparel products with a false
24 country of origin designation and violating Section 17533.7 by falsely claiming
25 that the products referenced herein are "Made in U.S.A." when they actually
26 contain component parts manufactured *outside of the United States*.

27 50. Beginning at an exact date unknown as yet and continuing up through
28 the present, Defendants committed acts of unfair competition that are prohibited

1 by Business and Professions Code section 17200 *et seq.* Defendants engaged in a
2 pattern of “unfair” business practices that violate the wording and intent of the
3 statutes, by engaging in practices that threaten an incipient violation of law or
4 violate the policy or spirit of laws because their effects are comparable to or the
5 same as a violation of the law by manufacturing, distributing, and marketing their
6 AGAG apparel products with a false country of origin designation, and by
7 violating Section 17533.7 by falsely claiming that their AGAG apparel products
8 referenced herein are “Made in U.S.A.” when they actually contain component
9 parts manufactured outside of the United States.

10 51. Alternatively, Defendants engaged in a pattern of “unfair” business
11 practices that violate the wording and intent of the statutes, by engaging in
12 practices that are immoral, unethical, oppressive or unscrupulous, the utility (if
13 any) of which conduct is far outweighed by the harm done to consumers and
14 public policy by manufacturing, distributing, marketing, and advertising AGAG
15 apparel products with the false claim that the products referenced herein are
16 “Made in U.S.A.”

17 52. Alternatively, Defendants engaged in a pattern of “unfair” business
18 practices that violate the wording and intent of the statutes, by engaging in
19 practices, including manufacturing, distributing, marketing, and advertising
20 AGAG apparel products with the false claim that the products referenced herein
21 are “Made in U.S.A.,” wherein: (1) the injury to the consumer was substantial; (2)
22 the injury was not outweighed by any countervailing benefits to consumers or
23 competition; and (3) the injury was of the kind that the consumers themselves
24 could not reasonably have avoided.

25 53. Beginning at an exact date unknown as yet and continuing up through
26 the present, Defendants committed acts of unfair competition, including those
27 described above, prohibited by Business and Professions Code section 17200 *et*
28 *seq.* by engaging in a pattern of “fraudulent” business practices within the

1 meaning of Business & Professions Code section 17200 *et seq.*, by manufacturing,
2 distributing, marketing AGAG apparel products with a false country of origin
3 designation and violating Section 17533.7 by falsely claiming that the products
4 referenced herein are "Made in U.S.A."

5 54. Defendant engaged in these unlawful, unfair and fraudulent business
6 practices for the primary purpose of collecting unlawful and unauthorized monies
7 from Plaintiff and all others similarly situated; thereby unjustly enriching
8 Defendants.

9 55. As a result of the repeated violations described herein, Defendants
10 received and continue to receive unearned commercial benefits at the expense of
11 their competitors and the public.

12 56. Defendants' unlawful, unfair and fraudulent business practices
13 presents a continuing threat to the public in that Defendants continues to engage in
14 unlawful conduct.

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

19 58. As a direct and legal result of their unlawful, unfair and fraudulent
20 conduct described herein, Defendants have been and will be unjustly enriched by
21 the receipt of ill-gotten gains from customers, including Plaintiff, who unwittingly
22 provided their money to Defendants based on Defendants' fraudulent country of
23 origin designation.

24 59. Plaintiff suffered an "injury in fact" because Plaintiff's money was
25 taken by Defendants as a result of Defendant's false "Made in U.S.A." claims set
26 forth on the AGAG apparel products.

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1 60. In prosecuting this action for the enforcement of important rights
2 affecting the public interest, Plaintiff seeks the recovery of attorneys' fees, which
3 is available to a prevailing plaintiff in class action cases such as this.

4 **THIRD CLAIM FOR RELIEF**

5 **(Violation of Business & Professions Code § 17533.7 Against All Defendants)**

6 61. Plaintiff realleges and incorporates herein by reference all of the
7 allegations contained in Paragraphs 1 through 60, inclusive, of this complaint as
8 though fully set forth herein.

9 62. Business & Professions Code Section 17533.7 provides:

10 It is unlawful for any person, firm, corporation or
11 association to sell or offer for sale in this State any
12 merchandise on which merchandise or on its container
13 there appears the words "Made in U.S.A." "Made in
14 America," "U.S.A.," or similar words when the
15 merchandise or **any article, unit, or part thereof**, has
16 been entirely or substantially made, manufactured, or
17 produced outside of the United States. (emphasis
18 added).

19 63. Defendants (both AGAG and Nordstrom) Business & Professions
20 Code Section 17533.7 by selling and offering to sell merchandise in the State of
21 California with the "Made in U.S.A." country of origin designation as fully set
22 forth herein. The merchandise at issue in this case actually contains component
23 parts that are manufactured outside of the United States in violation of California
24 and federal law.

25 64. It is alleged on information and belief that Defendants' violations of
26 Business & Professions Code Section 17533.7 were done with awareness of the
27 fact that the conduct alleged was wrongful and were motivated solely for
28 increased profit. It is also alleged on information and belief that Defendants did

1 these acts knowing the harm that would result to Plaintiff and that Defendants did
2 these acts notwithstanding that knowledge.

3 65. As a direct and proximate result of Defendants' violations of Business
4 & Professions Code Section 17533.7, Plaintiff and Class members are entitled to
5 restitution of excess monies paid to Defendants by Plaintiff and Class members
6 relating to the false "Made in U.S.A." claims on Defendants' AGAG apparel
7 products.

8 66. Plaintiff suffered an "injury in fact" because Plaintiff's money was
9 taken by Defendants as a result of Defendants' false "Made in U.S.A." claims set
10 forth on the AGAG apparel products.

11 67. In prosecuting this action for the enforcement of important rights
12 affecting the public interest, Plaintiff seeks the recovery of attorneys' fees, which
13 is available to a prevailing plaintiff in class action cases such as this.

14 **PRAYER**

15 WHEREFORE, Plaintiffs, on behalf of themselves, collectively on behalf of
16 the Class, and respectively on behalf of the Sub-Class, respectfully request the
17 following relief:

18 1. That the Court determine that this action may be maintained as a class
19 action by certifying this case as a California class action as to both the Class and
20 Sub-Class;

21 2. That the Court certify Plaintiff to serve as a class representative in this
22 case;

23 3. That Defendants' wrongful conduct alleged herein be adjudged and
24 decreed to violate the consumer protection statutory claims asserted herein;

25 4. That Plaintiff and each of the other members of the Class and each of
26 the Sub-Class recover the amounts by which Defendants have been unjustly
27 enriched;

28 5. That Defendants be enjoined from continuing the wrongful conduct

1 alleged herein and required to comply with all applicable law;

2 6. That Plaintiff and each of the other members of the Class and each of
3 the Sub-Class recover their costs of suit, including reasonable attorneys' fees and
4 expenses as provided by law; and

5 7. That Plaintiff and each of the other members of Class and each of the
6 Sub-Class be granted such other and further relief as the nature of the case may
7 require or as this Court deems just and proper.

8 **DEMAND FOR JURY TRIAL**

9 Pursuant to Rule 38, Federal Rules of Civil Procedure, Plaintiff hereby
10 demands a trial by jury with respect to all issues triable to a jury.

11
12 Dated: June 4, 2014

Respectfully submitted,
DEL MAR LAW GROUP, LLP

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16 By: /s/John H. Donboli
17 John H. Donboli
18 E-mail: jdonboli@delmarlawgroup.com
19 JL Sean Slattery
20 E-mail: sslattery@delmarlawgroup.com
21 Attorneys for: DAVID PAZ, an
22 individual and on behalf of all others
23 similarly situated
24
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JS 44 (Rev. 12/07)

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 THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS
 David Paz

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

(c) Attorney's (Firm Name, Address, and Telephone Number)
 Del Mar Law Group, LLP, 12250 El Camino Real, Ste. 120, San Diego, CA 92130; (858) 793-6244

DEFENDANTS
 AG Adriano Goldschmied, Inc., Nordstrom, Inc., and DOES 1 through 10

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

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

Attorneys (if known) '14CV1372 DMS DHB

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

1 U.S. Government Plaintiff

3 Federal Question (U.S. Government Not a Party)

2 U.S. Government Defendant

4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

(For Diversity Cases Only)

Citizen of This State	<input checked="" type="checkbox"/> PTF	<input type="checkbox"/> DEF	<input type="checkbox"/> 1 Incorporated or Principal Place of Business in This State	<input type="checkbox"/> PTF	<input type="checkbox"/> DEF
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 3	<input checked="" type="checkbox"/> 3
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

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

CONTRACT	TORTS	FOREFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395G) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609 <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 830 Securities/Commodities' Exchange <input type="checkbox"/> 873 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding

2 Removed from State Court

3 Remanded from Appellate Court

4 Reinstated or Reopened

5 Transferred from another district (specify) _____

6 Multidistrict Litigation

7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
28 USC Section 1332 ; 28.1331 - Federal Question

Brief description of cause:
Violation of Consumer Statutes (False Country of Origin Designation)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____


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

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 06/04/2014

SIGNATURE OF ATTORNEY OF RECORD 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFF _____ JUDGE _____ MAG. JUDGE _____

PROOF OF SERVICE

(DUT.100) Sonia Hofmann v. Dutch, LLC
United States District Court- Southern District of California

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within entitled action; my business address is 100 N. Barranca Avenue, Suite 1100, West Covina, California 91791.

On **October 9, 2014**, I served the foregoing document(s) described as **DECLARATION OF MITCHELL J. FREEDMAN IN SUPPORT OF NOTICE OF REMOVAL**, by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

John Donboli, Esq.	Attorney for Plaintiff
JL Sean Slattery, Esq.	Phone: (858) 793-6244
Del Mar Law Group LLP	Fax: (858) 793-6005
2002 Jimmy Durante Blvd., Suite 100	
Del Mar, CA 92014	

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at West Covina, California in the ordinary course of business.

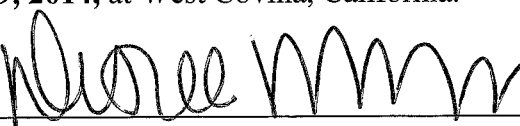
BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the office(s) of the addressee(s) noted above.

BY FEDERAL EXPRESS: I caused said envelope(s) to be sent by Federal Express to the address(s) noted above.

BY FACSIMILE: by use of facsimile machine, I served a copy of the document(s) on the interested party(ies) by transmitting by facsimile machine (626) 974-8403 to the party(ies) on the proof of service. The facsimile machine I used complied with California Rules of Court, Rule 2.301, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2.306(h), I caused the machine to print a transmission report to reflect it was properly issued by the sending facsimile machine and is attached hereto.

FEDERAL: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 9, 2014**, at West Covina, California.



 DESIREE MARQUEZ

**P.K. SCHRIFFER LLP
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403**

P.K. SCHRIEFFER LLP
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P. K. SCHRIEFFER, LLP
Paul K. Schrieffler, Esq. (CSB #151358)
Mitchell Freedman, Esq. (CSB #105757)
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403

(PRO HAC VICE TO BE FILED)
SANDLER, TRAVIS & ROSENBERG, P.A.
Kenneth Wolf, Esq. (NY State Bar #1401017)
Arthur Purcell, Esq. (NY State Bar #2423150)
551 Fifth Avenue, Suite 1100
New York, New York 10176
Telephone: (212) 549-0131
Facsimile: (212) 883-0068

Attorneys for Defendant, DUTCH, LLC, a California Limited Liability Company

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

SONIA HOFMANN, an individual and on
behalf of all others similarly situated,

Plaintiff,

DUTCH, LLC, a California Limited
Liability Company; and DOES 1 through
100, inclusive,

Defendants.

CASE No: '14CV2418 GPC JLB

**DECLARATION OF REBECCA
GALLEGOS IN SUPPORT OF NOTICE
OF REMOVAL**

I, Rebecca Gallegos, do hereby declare:

1. I am over eighteen years of age and reside in Orange County, State of California. I am Senior Director of Production for the Current/Elliott jeans which Dutch, LLC produces. If called upon as a witness, I could and would competently testify to the facts contained in this declaration which have been provided to me in my capacity as

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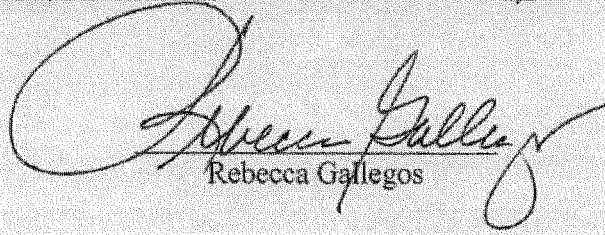
- Senior Director of Production or within my personal knowledge from my experience working at Dutch, LLC.
- 2. Dutch, LLC sells Current/Elliott jeans through retail and wholesale channels. It sells its jeans online through the Current/Elliott website and wholesale in bulk sales to major department stores.
- 3. Dutch, LLC has researched its records to determine the number of Current/Elliott jeans it has sold both wholesale and retail in the four years before the subject lawsuit was filed.
- 4. Dutch, LLC has sold a total of approximately four hundred one thousand four hundred twenty-eight (401,428) Current/Elliott jeans in the four years before the subject lawsuit was filed. Of these, approximately three hundred ninety-seven thousand nine hundred eighty-two (397,982) were sold wholesale to specialty stores and boutiques and major department stores and approximately three thousand four hundred forty-six (3,446) were sold retail direct to customers.
- 5. Dutch, LLC is able to state that, in the last four years before the subject lawsuit was filed, Dutch, LLC has sold approximately eight hundred eighty-four (884) jeans via its retail online source to people or entities in the State of California and approximately three thousand four hundred forty-six (3,446) jeans nationwide. As for bulk wholesale sales, Dutch, LLC is unable to pinpoint to whom the jeans have been ultimately sold, but are aware from its relationships with the specialty stores and major department stores that the sales are made to people and entities across the United States.
- 6. The average estimated price for the retail cost of the Current/Elliott jeans is two hundred five dollars (\$205.00).

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7. The amount in controversy therefore well exceeds \$5 million.

I declare under penalty under the applicable laws that the foregoing is true and correct. Executed in VERNON, California on October 9, 2014.



Rebecca Gallegos

P.K. SCHRIEFER LLP
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403

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PROOF OF SERVICE

(DUT.100) Sonia Hofmann v. Dutch, LLC
United States District Court- Southern District of California

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within entitled action; my business address is 100 N. Barranca Avenue, Suite 1100, West Covina, California 91791.

On **October 9, 2014**, I served the foregoing document(s) described as **DECLARATION OF REBECCA GALLEGOS IN SUPPORT OF NOTICE OF REMOVAL**, by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

John Donboli, Esq.	Attorney for Plaintiff
JL Sean Slattery, Esq.	Phone: (858) 793-6244
Del Mar Law Group LLP	Fax: (858) 793-6005
2002 Jimmy Durante Blvd., Suite 100	
Del Mar, CA 92014	

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at West Covina, California in the ordinary course of business.

BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the office(s) of the addressee(s) noted above.

BY FEDERAL EXPRESS: I caused said envelope(s) to be sent by Federal Express to the address(s) noted above.

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FEDERAL: I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 9, 2014**, at West Covina, California.



DESIREE MARQUEZ

P. K. SCHRIEFFER, LLP
Paul K. Schrieffer, Esq. (CSB #151358)
Mitchell Freedman, Esq. (CSB #105757)
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
10/09/2014 at 10:47:00 AM
Clerk of the Superior Court
By Sandra Villanueva, Deputy Clerk

(PRO HAC VICE TO BE FILED)
SANDLER, TRAVIS & ROSENBERG, P.A.
Kenneth Wolf, Esq. (NY State Bar #1401017)
Arthur Purcell, Esq. (NY State Bar #2423150)
551 Fifth Avenue, Suite 1100
New York, New York 10176
Telephone: (212) 549-0131
Facsimile: (212) 883-0068

Attorneys for Defendant, DUTCH, LLC, a California Limited Liability Company

P. K. S C H R I E F F E R L L P
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO

SONIA HOFMANN, an individual and on
behalf of all others similarly situated,

Plaintiff,

DUTCH, LLC, a California Limited
Liability Company; and DOES 1 through
100, inclusive,

Defendants.

CASE No: 37-2014-00030115-CU-BT-CTL
Assigned to Honorable Katherine Bacal
Dept. C-69

**ANSWER OF DEFENDANT DUTCH,
LLC TO PLAINTIFF'S COMPLAINT**

Complaint Filed: September 5, 2014

Defendant Dutch, LLC hereby responds to the Class Action Complaint of Plaintiff Sonia Hofmann ("Plaintiff"), individually, and on behalf of others similarly situated, as follows:

P.K. SCHRIEFER LLP
100 N. Barranca Avenue, Suite 1100
West Covina, California 91791
Telephone: (626) 373-2444
Facsimile: (626) 974-8403

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GENERAL DENIAL

1. Pursuant to the provisions of the California Code of Civil Procedure §431.30, Defendant generally and specifically denies each and every allegation in the Complaint, and the whole thereof, including each and every purported cause of action contained therein. Defendant further denies that Plaintiff and putative class members were damaged in the sum or sums alleged therein, or in any other sum or sums, or in any amount whatsoever. Further, in answering the Complaint and each cause of action contained therein, Defendant denies that Plaintiff and putative class members have sustained, or will sustain, any injuries, damage, and/or loss by reason of any act, omission, negligence, and/or any other conduct or absence thereof on the part of this Defendant or any agent, servant, or employee of Defendant.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(Failure to State a Claim)

2. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's Complaint, and each purported cause of action alleged therein, fails to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

(Statute of Limitations)

3. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's and putative class members' claims are barred by the applicable statute of limitations, including but not limited to, California Civil Code §1783; California Code of Civil Procedure §§ 337(1), 337(3), 338(a), 338(d), 339(1), 339(3), 340(a), 340(b), 343; California Business and Professions Code §17208, and the statute of limitations applicable to the Federal laws known as the Textile Fiber Product Act, 15 U.S.C. §70 et seq. and the FTC Act, 15 U.S.C. §41 et seq., among any other applicable laws regarding the statute of limitations.

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THIRD AFFIRMATIVE DEFENSE

(Good Faith)

4. As a separate and distinct affirmative defense, Defendant alleges that any and all actions taken by Defendant concerning or affecting Plaintiffs and putative class members were undertaken in good faith, on reasonable grounds, and were entirely justified, proper, and lawful with respect to its obligations under federal, state or other applicable laws.

FOURTH AFFIRMATIVE DEFENSE

(Conformity with State Law)

5. As a separate and distinct affirmative defense, Defendant acted reasonably and in reliance upon written administrative regulations, orders, and/or rulings to assure full compliance with all applicable requirements of California state law relative to the decisions made impacting Plaintiffs' and putative class members' employment.

FIFTH AFFIRMATIVE DEFENSE

(Waiver)

6. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's and putative class members' claims are barred by the doctrine of waiver.

SIXTH AFFIRMATIVE DEFENSE

(Estoppel)

7. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff and putative class members are estopped by their conduct from asserting each cause of action upon which they seek relief.

SEVENTH AFFIRMATIVE DEFENSE

(Laches)

8. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's and putative class members' claims are barred, in whole or in part, by the equitable doctrine of laches.

///

///

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EIGHTH AFFIRMATIVE DEFENSE

(Unclean Hands)

9. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's and putative class members' claims are barred, in whole or in part, by the doctrine of unclean hands.

NINTH AFFIRMATIVE DEFENSE

(Proximate Cause)

10. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's injuries, if any, were not proximately caused by any unlawful policy, custom, practice, and/or procedure promulgated and/or tolerated by Defendant.

TENTH AFFIRMATIVE DEFENSE

(Consent)

11. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff consented to, encouraged, and/or voluntarily participated in all actions taken, if any.

ELEVENTH AFFIRMATIVE DEFENSE

(Doctrine of Unavoidable Consequences)

12. As a separate and distinct affirmative defense, Defendant alleges that each purported cause of action in Plaintiff's Complaint is barred, or recovery should be reduced, pursuant to the doctrine of unavoidable consequences.

TWELFTH AFFIRMATIVE DEFENSE

(Business Necessity and Lawful Business Reasons)

13. As a separate and distinct affirmative defense, Defendant alleges that the conduct towards Plaintiff and putative class members by Defendant and/or its representatives was undertaken by reason of business necessity and/or for lawful business reasons.

THIRTEENTH AFFIRMATIVE DEFENSE

(Unconstitutional)

14. As a separate and distinct affirmative defense, Defendant alleges that the Complaint and each cause of action therein, or some of them, are barred because the law known

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1 as the “False “Made in USA” Claim”, California Business & Professions Code §17533.7, is
2 unconstitutionally overbroad, vague and ambiguous, and violates Defendant's rights under the
3 United States Constitution and the California Constitution, including but not limited to, due
4 process of law, , and other laws including the laws and regulations arising from the Textile Fiber
5 Product Act, 15 U.S.C. §70 et seq., and the FTC Act, 15 U.S.C. §41 et seq.

6 **FOURTEENTH AFFIRMATIVE DEFENSE**

7 **(Lack of Authorization)**

8 15. As a separate and distinct affirmative defense, Defendant alleges that any
9 unlawful or wrongful acts of any person(s) employed by Defendant were outside the scope of
10 his or her authority and such act(s), if any, were not authorized, ratified, and/or condoned by
11 Defendant, nor did Defendant know or have reason to be aware of such alleged conduct.

12 **FIFTEENTH AFFIRMATIVE DEFENSE**

13 **(Others' Conduct)**

14 16. As a separate and distinct affirmative defense, Defendant alleges that any loss or
15 damages sustained by Plaintiff and putative class members, if any, were caused by the acts or
16 omissions of Plaintiff and putative class members and/or persons other than Defendant.

17 **SIXTEENTH AFFIRMATIVE DEFENSE**

18 **(No Restitution or Disgorgement)**

19 17. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff's
20 Complaint fails to properly state facts upon which restitution or disgorgement of monies may be
21 ordered.

22 **SEVENTEENTH AFFIRMATIVE DEFENSE**

23 **(Failure to Mitigate)**

24 18. As a separate and distinct affirmative defense, Defendant alleges that even if
25 Plaintiff and putative class members could establish a claim for damages, they failed, refused,
26 and/or neglected to mitigate such damages complained of, if any, in the Complaint.

27 ///

28 ///

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EIGHTEENTH AFFIRMATIVE DEFENSE

(Accord and Satisfaction)

19. As a separate and distinct affirmative defense, Defendant alleges that the claims alleged by Plaintiff and putative class members are barred because, without admitting that Defendant owed any duties or obligations to Plaintiff and putative class members, such duties or obligations have been fully performed, satisfied, and/or discharged. Plaintiff's and putative class members' claims fail because they have been fully compensated for any wages owed.

NINETEENTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

20. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff has failed to exhaust the requisite administrative, statutory, and/or contractual remedies available to them under the law prior to commencing this action.

TWENTIETH AFFIRMATIVE DEFENSE

(Preemption)

21. As a separate and distinct affirmative defense, Plaintiff's action is pre-empted by the Textile Fiber Product Act, 15 U.S.C. §70 et seq., the FTC Act, 15 U.S.C. §41 et seq., and the regulations under said Acts, pursuant to the Federal Code of Regulations. Said pre-emption is either an impossibility pre-emption, field pre-emption or an obstacle pre-emption. Further, Plaintiff's action is pre-empted, again either an impossibility or obstacle pre-emption, by the North American Free Trade Agreement, the World Trade Organization, and other trade agreements that pre-empt laws that interfere with, undermine or otherwise do not promote free trade.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(First Amendment and Free Speech/Expression Violations)

22. As a separate and distinct affirmative defense, Plaintiff's action violates the First Amendment to the United States Constitution, as incorporated by the Fourteenth Amendment, and Fifth Amendment, and undermines, abridges or otherwise interferes with the right of Defendant to engage in free speech, freedom of expression and other related freedoms. Further,

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1 Business & Professions Code §17533.7 is not narrowly tailored to avoid interfering,
2 undermining or abridging the free speech, free expression and other related freedoms of
3 Defendant herein.

4 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

5 **(Adequate Remedies at Law)**

6 23. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff
7 and putative class members are not entitled to equitable relief insofar as they have adequate
8 remedies at law.

9 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

10 **(No Prejudgment Interest)**

11 24. As a separate and distinct affirmative defense, Defendant alleges that the
12 Complaint fails to properly state a claim upon which prejudgment interest may be awarded, as
13 the damages claimed are not sufficiently certain to allow an award of prejudgment interest.

14 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

15 **(Failure to Allege with Specificity)**

16 25. As a separate and distinct affirmative defense, Defendant alleges that the
17 Complaint fails to allege special damages with requisite specificity.

18 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

19 **(No Reliance)**

20 26. As a separate and distinct affirmative defense, Plaintiff has failed to allege facts
21 to prove reliance on her part or the part of any putative class members.

22 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

23 **(No Standing)**

24 27. As a separate and distinct affirmative defense, Defendant alleges that Plaintiff
25 and/or the putative class members lack standing to assert the claims for relief alleged in the
26 Complaint and to seek injunctive relief because Plaintiff and the putative class members cannot
27 show they have suffered “injury in fact” as required by Proposition 64. (See *Arias, supra*, 46
28 Cal. 4th 969, 980; *Amalgamated Transit Union, Local 1756, AFL-CIO v. Superior Court* (2009)

1 46 Cal. 4th 993, 1005; *see also Hangarter v. Provident Life & Accident Ins. Co.* (9th Cir. 2004)
2 373 F.3d 998, 1021-1022.)

3 **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**

4 **(Class Action Improper)**

5 28. As a separate and distinct affirmative defense, Defendant alleges that this suit
6 may not be properly maintained as a class action because: (1) Plaintiff has failed to plead and
7 cannot establish the necessary procedural elements for class treatment; (2) a class action is not
8 an appropriate method for the fair and efficient adjudication of the claims described in the
9 Complaint; (3) common issues of fact or law do not predominate; to the contrary, individual
10 issues predominate; (4) Plaintiff's claims are not representative or typical of the claims of the
11 putative class; (5) Plaintiff is not an adequate class representative; (6) Plaintiff's counsel cannot
12 adequately represent the class; (7) there is not a well-defined community of interest in the
13 questions of law or fact affecting Plaintiff and the putative class members; and (8) the putative
14 class is not ascertainable nor are its members identifiable.

15 **TWENTY-EIGHTH AFFIRMATIVE DEFENSE**

16 **(No Punitive Damages)**

17 29. As a separate and distinct affirmative defense, Plaintiff is not entitled to punitive
18 damages because Plaintiff will be unable to establish with clear and convincing evidence that
19 Defendant acted with malice, oppression, or fraud within the meaning of California Civil Code
20 §3294. Further, California Civil Code §3294, in this instance, violates the Fifth and Fourteenth
21 Amendments to the United States Constitution, the California Constitution, and is otherwise
22 unconstitutional under both the United States Constitution and the California Constitution.

23 **TWENTY-NINTH AFFIRMATIVE DEFENSE**

24 **(No Penalties)**

25 30. As a separate and distinct affirmative defense, Plaintiff has failed to allege
26 sufficient facts to prove entitlement to penalties under any statute or otherwise against
27 Defendant.

28 ///

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THIRTIETH AFFIRMATIVE DEFENSE

(Commerce Clause Violations)

31. As a separate and distinct affirmative defense, the State laws upon which Plaintiff's action is based violate the Commerce Clause, Article I, §8, and also the dormant Commerce Clause as generally explained in various cases from the United States Courts, including but not limited to Brown-Forman Distillers v. NY State Liquor Authority, 476 U.S. 573 (1986).

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Privilege)

32. As a separate and distinct affirmative defense, Defendant's conduct is privileged, and therefore Plaintiff's action is barred or limited to that extent.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Supremacy Clause applies)

33. As a separate and distinct affirmative defense, Plaintiff's action is barred by the U.S. Constitution's Supremacy provision Article XI, Section 2.

THIRTY-THIRD AFFIRMATIVE DEFENSE

(Additional Affirmative Defenses)

34. Defendant presently has insufficient knowledge or information on which to form a belief as to whether it may have additional, yet unstated, affirmative defenses. Defendant reserves the right to assert additional affirmative defenses in the event discovery or further investigation indicates that asserting affirmative defenses would be warranted.

WHEREFORE, Defendant prays for judgment as follows:

1. That Plaintiff and the putative class, if any, take nothing by reason of her Complaint in this action;
2. That Defendant recovers judgment against Plaintiff for its costs of suit incurred herein;
3. That Defendant be awarded reasonable attorney's fees pursuant to Rule 11 and any other applicable law;

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- 4. That Defendant be dismissed with prejudice; and
- 5. For such other and further relief as this Court deems just and proper.

Dated: October 9, 2014

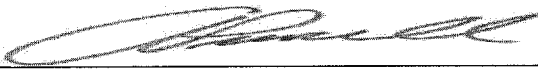
P. K. SCHRIEFFER LLP

By: 

Paul K. Schrieffer, Esq.
Mitchell Freedman, Esq.
Attorneys for Defendant, DUTCH, LLC

Dated: October 9, 2014

SANDLER, TRAVIS & ROSENBERG, P.A.

By: 

Arthur K. Purcell, Esq. *
Kenneth N. Wolf, Esq. *
Attorneys for Defendant, DUTCH, LLC
*Pro Hac Vice application to be submitted

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PROOF OF SERVICE

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(DUT.100) Sonia Hofmann v. Dutch, LLC
San Diego Superior Court, Central Courthouse, Dept. C-69
Assigned to Honorable Katherine Bacal; Case No.: 37-2014-00030115-CU-BT-CTL

I am employed in the county of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within entitled action; my business address is 100 N. Barranca Avenue, Suite 1100, West Covina, California 91791.

On **October 9, 2014**, I served the foregoing document(s) described as **ANSWER OF DEFENDANT DUTCH, LLC TO PLAINTIFF'S COMPLAINT**, by placing the true copies thereof enclosed in sealed envelopes addressed as follows:

John Donboli, Esq.	Attorney for Plaintiff
JL Sean Slattery, Esq.	Phone: (858) 793-6244
Del Mar Law Group LLP	Fax: (858) 793-6005
2002 Jimmy Durante Blvd., Suite 100	
Del Mar, CA 92014	

BY MAIL: I am "readily familiar" with the firm's practice of collection and processing correspondence and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at West Covina, California in the ordinary course of business.

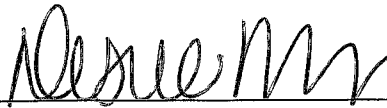
BY PERSONAL SERVICE: I delivered such envelope(s) by hand to the office(s) of the addressee(s) noted above.

BY FEDERAL EXPRESS: I caused said envelope(s) to be sent by Federal Express to the address(s) noted above.

BY FACSIMILE: by use of facsimile machine, I served a copy of the document(s) on the interested party(ies) by transmitting by facsimile machine (626) 974-8403 to the party(ies) on the proof of service. The facsimile machine I used complied with California Rules of Court, Rule 2.301, and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2.306(h), I caused the machine to print a transmission report to reflect it was properly issued by the sending facsimile machine and is attached hereto.

STATE I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 9, 2014**, at West Covina, California.



DESIREE MARQUEZ

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1 **P. K. SCHRIEFFER, LLP**
2 Paul K. Schrieffler, Esq. (CSB #151358)
3 Mitchell Freedman, Esq. (CSB #105757)
4 100 N. Barranca Avenue, Suite 1100
5 West Covina, California 91791
6 Telephone: (626) 373-2444
7 Facsimile: (626) 974-8403

8 (PRO HAC VICE TO BE FILED)
9 **SANDLER, TRAVIS & ROSENBERG, P.A.**
10 Kenneth Wolf, Esq. (NY State Bar #1401017)
11 Arthur Purcell, Esq. (NY State Bar #2423150)
12 551 Fifth Avenue, Suite 1100
13 New York, New York 10176
14 Telephone: (212) 549-0131
15 Facsimile: (212) 883-0068

16 Attorneys for Defendant, DUTCH, LLC, a California Limited Liability Company

17
18
19 **UNITED STATES DISTRICT COURT**
20 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

21 SONIA HOFMANN, an individual and on
22 behalf of all others similarly situated,

23 Plaintiff,

24 DUTCH, LLC, a California Limited
25 Liability Company; and DOES 1 through
26 100, inclusive,

27 Defendants.

CASE No: '14CV2418 GPC JLB

CERTIFICATE OF SERVICE

28 I am employed in the county of Los Angeles, State of California. I am over the age of
eighteen years and not a party to the within entitled action; my business address is 100 N.
Barranca Avenue, Suite 1100, West Covina, California 91791.

///

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On **October 9, 2014**, I served the foregoing document(s) described as follows:

1. Civil Case Cover Sheet;
2. Notice of Removal;
3. Declaration of Mitchell J. Freedman in Support of Removal;
4. Declaration of Rebecca Gallegos in Support of Removal;
5. Notice of Parties with Financial Interest; and
6. Certificate of Service;

on the interested parties in this action by placing a true copy thereof enclosed in sealed envelopes addressed as follows:

John Donboli, Esq.
JL Sean Slattery, Esq.
Del Mar Law Group LLP
2002 Jimmy Durante Blvd., Suite 100
Del Mar, CA 92014

(XX) BY MAIL: I am “readily familiar” with the firm’s practice of collection and processing correspondence and processing correspondence for mailing. Under that practice it would be deposited with the U.S. postal service on that same day with postage thereon fully prepaid at West Covina, California in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on **October 9, 2014**, at West Covina, California.



DESIREE MARQUEZ

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego

09/05/2014 at 03:44:47 PM

Clerk of the Superior Court
By Diana Jordan, Deputy Clerk

1 JOHN H. DONBOLI (SBN: 205218)
2 JL SEAN SLATTERY (SBN: 210965)
3 DEL MAR LAW GROUP, LLP
4 2002 Jimmy Durante Blvd., Suite 100
5 Del Mar, CA 92014
6 Telephone: (858) 793-6244
7 Facsimile: (858) 793-6005

8 Attorneys for Plaintiff: SONIA HOFMANN, an individual and on behalf
9 of all others similarly situated

10 SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN DIEGO

11 SONIA HOFMANN, an individual and on
12 behalf of all others similarly situated,

13 Plaintiff,

14 vs.

15 DUTCH, LLC, a California Limited Liability
16 Company; and DOES 1 through 100, inclusive,

17 Defendants.

CASE NO. 37-2014-00030115-CU-BT-CTL

CLASS ACTION

COMPLAINT FOR:

- 18 (1) VIOLATION OF BUSINESS &
19 PROFESSIONS CODE SECTIONS
20 17200 *ET SEQ.* (CALIFORNIA
21 UNFAIR COMPETITION LAW);
- 22 (2) VIOLATION OF BUSINESS &
23 PROFESSIONS CODE § 17533.7
24 (FALSE "Made in U.S.A." CLAIM);
- 25 (3) VIOLATION OF CONSUMERS
26 LEGAL REMEDIES ACT (CIVIL
27 CODE SECTION 1750 *ET SEQ.*);
- 28 (4) NEGLIGENT
MISREPRESENTATION

25 COMES NOW, plaintiff SONIA HOFMANN ("Plaintiff"), as an individual and on
26 behalf of the general public and all others similarly situated, by her undersigned attorneys,
27 alleges as follows:
28

1 NATURE OF THE CASE

2 1. This is a national class action case brought on behalf of all purchasers of
3 Current/Elliott brand jeans manufactured, distributed, marketed, and/or sold by DUTCH, LLC
4 ("Dutch") that were labeled as "Made in the USA" but that contained foreign-made component
5 parts (hereinafter referred to as "Jeans"). The Jeans are sold at various retail stores in California.
6 The Jeans are also sold by Dutch via its website (www.currentelliott.com) directly to consumers
7 throughout the United States.

8 2. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January
9 27, 2011) 51 Cal.4th 310, 328-29:

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

21 3. Through an unlawful, deceptive and unfair course of conduct, Dutch, and DOES 1
22 through 100 (collectively "Defendants"), manufactured, marketed, and/or sold a variety of Jeans
23 to consumers nationwide with the false designation and representation that Defendants' Jeans
24 were "Made in the USA" during the relevant four year statutory time period. The "Made in the
25 USA" label was clearly printed on the product. Contrary to the "Made in the USA" claim,
26 however, the offending Jeans were manufactured or produced from component parts that were
27 manufactured outside of the United States in violation of California law.
28

1 **PARTIES**

2 4. Plaintiff is an individual residing in San Diego, California.

3 5. Defendant Dutch, LLC is a California limited liability company that is organized
4 and exists under the laws of the State of California. Its business address (as listed on the
5 California Secretary of State website) is 4599 District Blvd., Vernon, CA 90058-2711. Dutch
6 can be served in California via its registered agent for service of process: Kerry Endert, c/o
7 Dutch, LLC, 4599 District Blvd., Vernon, CA 90058-2711.

8 6. Plaintiff is ignorant of the true names and capacities of the defendants sued herein
9 as DOES 1-100, inclusive; therefore, Plaintiff sues these defendants by such fictitious names.
10 Plaintiff is informed and believes that each of the fictitious named defendants are legally
11 responsible in some manner for the occurrences herein alleged, assisted in and about the wrongs
12 complained herein by providing financial support, advice, resources or other assistance. Plaintiff
13 will amend the complaint to allege their true names and capacities when ascertained.

14 7. Plaintiff is informed and believes that all defendants were agents, servants and
15 employees of their co-defendants, and in doing the things hereinafter mentioned, were acting
16 within the scope of their authority as such agents, servants and employees with the permission
17 and consent of their co-defendants.

18 **JURISDICTION AND VENUE**

19 8. This Court has jurisdiction in this matter because Defendants routinely transact
20 business in San Diego County.

21 9. Venue in this Court is proper pursuant to Code of Civil Procedure §§ 395 and
22 395.5 and Business & Professions Code §§ 17203 and 17204 because Defendants do business in
23 San Diego County and Plaintiff's transaction took place in San Diego County.

24 **GENERAL ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

25 10. Plaintiff incorporates herein each and every allegation contained in paragraphs 1
26 through 9, inclusive, as though fully set forth herein.

27 11. During the relevant four year statutory time period, Defendants manufactured,
28

1 marketed, and/or sold Jeans with a "Made in the USA" label.

2 12. Contrary to the "Made in the USA" claim, however, the Jeans were made,
3 manufactured or produced with component parts that are manufactured outside of the United
4 States. On information and belief, the Jeans are made with foreign-made buttons, rivets, zipper
5 assembly, thread, and/or fabric in violation of California law.

6 13. Defendants marketed and represented to consumers nationwide that their Jeans
7 were "Made in the USA." In addition, Defendants concealed the true country of origin of their
8 "Made in the USA" labeled Jeans to the general public. The disclosure of this information was
9 necessary in order to make Defendants' representation not misleading. Defendants possess
10 superior knowledge of the true facts which were not disclosed, thereby tolling the running of any
11 applicable statute of limitations.

12 14. Consumers are particularly vulnerable to these deceptive and fraudulent practices.
13 Most consumers possess very limited knowledge of the likelihood that products, including the
14 component parts therein, claimed to be made in the United States are in fact made in foreign
15 countries. This is a material factor in many individuals' purchasing decisions, as they believe
16 they are supporting American companies and American jobs.

17 15. Consumers generally believe that "Made in the USA" products are of higher
18 quality than their foreign-manufactured counterparts. Due to Defendants' scheme to defraud the
19 market, members of the general public were fraudulently induced to purchase Defendants'
20 products. California laws are designed to protect consumers from this type of false
21 representation and predatory conduct. Defendants' scheme to defraud consumers is ongoing and
22 will victimize consumers each and every day until altered by judicial intervention.

23 **THE PLAINTIFF TRANSACTION**

24 16. In or around February 2014, Plaintiff purchased Current/Elliot brand jeans from a
25 local retail store in San Diego. At the time of purchase, the product itself was marked with a
26 "Made in the USA" designation when it was in fact comprised of component parts made outside
27 of the United States.

28

1 17. Accordingly, Defendants were not entitled to lawfully make a "Made in the USA"
2 representation because California law requires 100% U.S.-made component parts within a
3 product to qualify for a "Made in USA" or "Made in the USA" country of origin designation (as
4 it relates to selling in California).

5 18. When Plaintiff, and Class Members, purchased Jeans from Defendants, they saw
6 and relied upon the unqualified "Made in the USA" representation to make their purchasing
7 decisions, which is typical of most California consumers, and they were deceived as a result of
8 Defendants' actions. These purchasing decisions were supported by the "Made in the USA"
9 representation made by Defendants, which is absent from many of Defendants' competitors (e.g.,
10 made in Mexico, etc.). Plaintiff believed at the time she purchased the Jeans that she was in fact
11 supporting American jobs and the American economy.

12 19. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
13 Defendants as a result of Defendants' false "Made in the USA" claim set forth on the offending
14 product (through its customary retail channels). Furthermore, she suffered an "injury in fact" by
15 paying for something she believed was genuinely manufactured in the USA, when it was not.

16 20. On information and belief, the Jeans at issue in this litigation were manufactured
17 with substandard foreign-made parts that are of inferior quality to their U.S.-manufactured
18 counterparts. Essentially, the Jeans are not worth the purchase price paid. Class Members are
19 entitled to monetary damages or restitution (the specific measure of which is the realm of expert
20 testimony).

21 21. U.S.-made component parts are subject to strict regulatory requirements, such as
22 environmental, labor, and safety standards. Foreign-made component parts are not subject to the
23 same U.S. manufacturing standards and are inherently of lower quality than their U.S.-made
24 counterparts. Moreover, foreign-made component parts are less reliable and durable than their
25 U.S.-made counterparts. As such, the offending Jeans, made with foreign-made component parts
26 (yet unlawfully labeled "Made in the USA"), are of inferior quality, less reliable, and fail more
27 often.

28

1 22. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
2 false "Made in the USA" representations that are at issue in this litigation.

3 CLASS ALLEGATIONS

4 23. Plaintiff brings this action on behalf of herself as an individual and on behalf of
5 all other persons similarly situated nationwide who purchased Defendants' Jeans. Specifically
6 excluded from the class are any persons who have a controlling interest in Defendants, any of
7 Defendants' parent companies, subsidiaries, and Defendants' officers, directors, managers,
8 shareholders and members of their immediate families, and their heirs, successors and assigns
9 (the "Class"), pursuant to Code of Civil Procedure § 382 and Business & Professions Code §
10 17200 *et seq.* The class also does not include any persons who previously filed suit against
11 Defendants for similar violations of California law and/or the Hon. Judge presiding over this
12 matter and his or her judicial staff.

13 24. Pursuant to *Osborne v. Subaru of America, Inc.* (1988) 198 Cal. App. 3d 646 and
14 *Canon U.S.A., Inc. v. Superior Court* (1988) 68 Cal. App. 4th 1, it would be of benefit to the
15 Court and Plaintiff for California to host this nationwide class action. California claimants will
16 benefit from this Court's hosting of a nationwide class action because resolution by California
17 courts of the claims of class members outside of California, along with those of class members
18 residing within California, will aid California claimants in their recovery and in the prosecution
19 of this litigation. The pool of discoverable documents relating to the issues set out in the
20 complaint will be larger, the pool of deponents will be larger and the financial consequences to
21 Defendant of an adverse ruling will be more significant. All of these things can only act to
22 benefit the California claimants in their collective prosecution of this litigation, while adding
23 little if any additional burden on the California Courts due to the form contract aspect of the
24 litigation.

25 25. It would be a waste of class resources and to the detriment of class members to
26 require nationwide class members to litigate the issues set out in this complaint in forums all
27 over the nation, having to retain and compensate multiple attorneys, experts and the like, and
28

1 compensate those multiple attorneys and experts for their services, when one nationwide class
2 counsel can oversee the entire nationwide litigation to their benefit at a fraction of the cost.

3 26. The hosting of a nationwide class would confer a substantial benefit on the
4 California Courts. The nationwide class will promote judicial economy by preventing a
5 multiplicity of litigation in different states and inconsistent judgments on identical issues. A
6 nationwide class is beneficial to California courts for reasons of comity. The adjudication of a
7 nationwide class may increase the damages claimed, but does not amend the legal theories at
8 issue in this case.

9 27. A nationwide class would also produce a beneficiary result as a large number of
10 the Class members reside in California and the adjudication of all claims will have a therapeutic
11 effect on manufacturers outside of California who engage in fraudulent conduct within the state;
12 will aid business enterprises in California by curtailing illegitimate competition; and will avoid
13 the burden of multiple cases involving identical claims.

14 28. In addition, California also has a special obligation to undertake the nationwide
15 class action because Dutch is a California limited liability company with its corporate
16 headquarters in California.¹ In addition, on information and belief, the decision to label the Jeans
17 as “Made in the USA” (the crux of the unfair competition violation) occurred in California at the
18 direction Dutch’s California ownership/management. As such, California has a special
19 obligation and a compelling interest to control the litigation and ensure the protection of its
20 residents who make up the largest portion of the nationwide class.

21 29. As to class members residing in California, the injury or damages from
22 Defendants’ acts arise within the State of California.

23 30. As to class members residing outside of California, claims for the injury or
24 damage from Defendants’ acts do not present a significant additional burden to the California
25 courts, as there are no known material variations in laws governing the claims. State law issues

26 _____
27 ¹ The Dutch website instructs consumers to contact a 323 area code phone number for all corporate
28 inquiries (see: <http://www.currentelliott.com/contact-us>).

1 will not swamp common issues and defeat predominance.

2 31. This is not a case where as in *Canon* it was found that certification of a
3 nationwide class will require the trial court to adjudicate issues by application of numerous
4 different rules of law from various states and would result in numerous individual adjudications
5 of fact. Instead, the California Unfair Competition Law can be extended to a nationwide class as
6 will be demonstrated with additional evidence at the of class certification (i.e., additional facts
7 will be presented at that time to support Plaintiff's allegation that the decision to label the Jeans
8 as "Made in the USA" (the crux of the unfair competition violation) occurred in California at the
9 direction Dutch's California ownership/management).

10 32. The parties have a substantial connection with California as they routinely
11 transact business in California and, on information and belief, the greatest number of class
12 members per state reside in California. Discovery will confirm the exact numbers on these
13 issues.

14 33. On information and belief, more offending Jeans were sold in California than in
15 any other state. On information and belief, Defendants collected and continue to collect more
16 revenue in California than in any other state and more of the ill-gotten gains were collected in
17 California than in any other state and more of the material misrepresentations were made here.
18 Thus California has a compelling interest to proceed as to the nationwide class action claims. No
19 state has a more compelling interest than California in the prosecution of this action.

20 34. The benefit of a nationwide class action to the parties and the courts will be
21 substantial because a nationwide class will result in one judgment. It would be a waste of
22 judicial resources nationwide to require courts all over the nation to entertain identical actions
23 when one action could dispose of the litigation. A nationwide class will be beneficial to
24 Defendants in that it will not have to defend itself with respect to the same allegations in
25 numerous forums.

26 35. On information and belief, Defendants and/or their retail customers, have
27 documents and other information in their collective possession that will demonstrate the special
28

1 interest that California has in hosting a nationwide class action.

2 Definition of the Subclass

3 36. Subclass members as to Plaintiff's First, Second, Third, and Fourth Causes of
4 Action are all of Defendants' customers who reside in California and/or California individuals
5 who purchased offending Class Products from September 5, 2010 to the present.

6 Other Class Allegations:

7 37. Plaintiff alleges no federal claims.

8 38. The exact number and identities of the members of the Class are readily
9 ascertainable from the records in Defendants' possession or that of its retail customers.

10 39. The members of the Class are so numerous that joinder of all members is
11 impracticable. The disposition of their claims in a class action will provide substantial benefits
12 to the parties and the Court. On information and belief, the exact number and identities of the
13 members of the Class are ascertainable from the records in Defendants' possession.

14 40. There is a well-defined community of interest in the questions of law and fact
15 involved in this case.

16 41. All causes of action herein have been brought and may properly be maintained as
17 a class action pursuant to the provisions of Code of Civil Procedure § 382 because there is a
18 well-defined community of interest in the litigation and the proposed class is easily
19 ascertainable:

20 a. Numerosity: On information and belief, the Class is so numerous that the
21 individual joinder of all members would be impracticable.

22 b. Common Questions Predominate: Common questions of law and fact
23 exist as to all members of the Class, and those questions clearly predominate over any questions
24 that might affect members individually. These common questions of law and fact include, for
25 example, whether Defendants violated Business & Professions Code § 17533.7 by
26 misrepresenting the country of origin of the Jeans because component parts within the product
27 are manufactured outside the United States and whether Defendants' actions in this regard
28

1 constitute an unfair, unlawful, or fraudulent business practice pursuant to Business & Professions
2 Code § 17200 *et seq.*

3 c. Typicality: On information and belief, Plaintiff's claims are typical of the
4 claims of the members of the Class. Plaintiff and all members of the Class sustained damages
5 arising out of Defendants' common course of conduct complained herein.

6 d. Adequacy: Plaintiff will fairly and adequately protect the interests of the
7 members of the Class because Plaintiff has no interests which are adverse to the interests of
8 absent class members and because Plaintiff has retained counsel who possesses significant
9 litigation experience regarding violations of consumer statutes.

10 e. Superiority: A class action is superior to other available means for the fair
11 and efficient adjudication of this controversy since individual joinder of all members would be
12 impracticable. Class action treatment will permit a large number of similarly situated persons to
13 prosecute their common claims in a single forum simultaneously, efficiently and without the
14 unnecessary duplication of effort and expense that numerous individual actions would engender.
15 Furthermore, since most class members' individual claims for damages are likely to be modest,
16 the expenses and burdens of litigating individual actions would make it difficult or impossible
17 for individual members of the Class to redress the wrongs done to them. An important public
18 interest will be served by addressing the matter as a class action, substantial economies to the
19 litigants and to the judicial system will be realized and the potential for inconsistent or
20 contradictory judgments will be avoided.

21 **FIRST CAUSE OF ACTION**

22 **(Violation of Business & Professions Code § 17200 *et seq.* Against All Defendants)**

23 42. Plaintiff realleges and incorporates herein by reference all of the allegations
24 contained in Paragraphs 1 through 41, inclusive, of this complaint as though fully set forth
25 herein.

26 43. Business & Professions Code § 17200 *et seq.* provides that unfair competition
27 means and includes "any unlawful, unfair or fraudulent business act or practice and unfair,
28

1 deceptive, untrue or misleading marketing.”

2 44. By and through their conduct, including the conduct detailed above, Defendants
3 engaged in activities which constitute unlawful, unfair, and fraudulent business practices
4 prohibited by Business & Professions Code § 17200 *et seq.* Beginning at an exact date unknown
5 as yet and continuing up through the present Defendants committed acts of unfair competition,
6 including those described above, by engaging in a pattern of “unlawful” business practices,
7 within the meaning of Business & Professions Code § 17200 *et seq.*, by manufacturing,
8 distributing, marketing, and/or selling products with a false country of origin designation and
9 violating Business & Professions Code § 17533.7 by falsely claiming that the products
10 referenced herein are "Made in the USA" when they are in fact made with component parts
11 manufactured outside of the United States.

12 45. Beginning at an exact date unknown as yet and continuing up through the present,
13 Defendants committed acts of unfair competition that are prohibited by Business & Professions
14 Code § 17200 *et seq.* Defendants engaged in a pattern of “unfair” business practices that violate
15 the wording and intent of the statutes, by engaging in practices that threaten an incipient
16 violation of law, or violate the policy or spirit of laws because its effects are comparable to or the
17 same as a violation of the law by manufacturing, distributing, and marketing products with a
18 false country of origin designation and violating Business & Professions Code § 17533.7 by
19 falsely claiming that the products referenced herein are "Made in U.S.A." when they are in fact
20 made with component parts manufactured outside of the United States.

21 a. Alternatively, Defendants engaged in a pattern of “unfair” business
22 practices that violate the wording and intent of the statutes, by engaging in practices that are
23 immoral, unethical, oppressive or unscrupulous, the utility (if any) of which conduct is far
24 outweighed by the harm done to consumers and public policy by manufacturing, distributing,
25 marketing, and advertising products with the false claim that the products referenced herein are
26 “Made in the USA.”

27 b. Alternatively, Defendants engaged in a pattern of “unfair” business
28

1 practices that violate the wording and intent of the statutes, by engaging in practices wherein: (1)
2 the injury to the consumer was substantial; (2) the injury was not outweighed by any
3 countervailing benefits to consumers or competition; and (3) the injury was of the kind that the
4 consumers themselves could not reasonably have avoided by manufacturing, distributing,
5 marketing, and advertising products with the false claim that the products referenced herein are
6 "Made in the USA."

7 46. Beginning at an exact date unknown as yet and continuing up through the present,
8 Defendants committed acts of unfair competition, including those described above, prohibited by
9 Business & Professions Code § 17200 *et seq.* by engaging in a pattern of "fraudulent" business
10 practices within the meaning of Business & Professions Code § 17200 *et seq.*, by manufacturing,
11 distributing, marketing, and/or selling products with a false country of origin designation and
12 violating Business & Professions Code § 17533.7 by falsely claiming that the products
13 referenced herein are "Made in the USA."

14 47. Defendants engaged in these unlawful, unfair and fraudulent business practices
15 for the primary purpose of collecting unlawful and unauthorized monies from Plaintiff and all
16 others similarly situated, thereby unjustly enriching Defendants.

17 48. As a result of the repeated violations described herein, Defendants received
18 unearned commercial benefits at the expense of their competitors and the public.

19 49. Defendants' unlawful, unfair and fraudulent business practices present a
20 continuing threat to the public in that Defendants continues to engage in unlawful conduct.

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

24 51. As a direct and legal result of their unlawful, unfair and fraudulent conduct
25 described herein, Defendants have been and will be unjustly enriched by the receipt of ill-gotten
26 gains from customers, including Plaintiff, who unwittingly provided their money to Defendants
27 based on Defendants' fraudulent country of origin designation.
28

1 52. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
2 Defendants as a result of Defendants’ false “Made in the USA” claims set forth on the Jeans.
3 See also Paragraphs 18-22 herein.

4 53. Plaintiff and Class Members were undoubtedly injured as a result of Defendants’
5 false “Made in the USA” representations that are at issue in this litigation.

6 54. In prosecuting this action for the enforcement of important rights affecting the
7 public interest, Plaintiff seeks the recovery of attorneys’ fees pursuant to Code of Civil
8 Procedure § 1021.5, which is available to a prevailing plaintiff who wins relief for the general
9 public.

10 **SECOND CAUSE OF ACTION**

11 **(Violation of Business & Professions Code § 17533.7 Against All Defendants)**

12 55. Plaintiff realleges and incorporates by reference Paragraphs 1 through 54,
13 inclusive, as if set forth in full herein.

14 56. Business & Professions Code § 17533.7 provides:

15
16 It is unlawful for any person, firm, corporation or association to
17 sell or offer for sale in this State any merchandise on which
18 merchandise or on its container there appears the words "Made in
19 USA" "Made in America," "U.S.A.," or similar words when the
20 merchandise or **any article, unit, or part thereof**, has been
21 entirely or substantially made, manufactured, or produced outside
22 of the United States. (Emphasis added).

23 57. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January
24 27, 2011) 51 Cal.4th 310, 328-29:

25 **Simply stated: labels matter.** The marketing industry is based on
26 the premise that labels matter, that consumers will choose one
27 product over another similar product based on its label and various
28 tangible and intangible qualities they may come to associate with a
particular source....In particular, **to some consumers**, the “Made in
U.S.A.” label matters. A range of motivations may fuel this
preference, from the desire to support domestic jobs, to beliefs
about quality, to concerns about overseas environmental or labor

1 conditions, to simple patriotism. The Legislature has recognized
2 the materiality of this representation by specifically outlawing
3 deceptive and fraudulent “Made in America” representations. (§
4 17533.7; see also Civ.Code, § 1770, subd. (a)(4) [prohibiting
5 deceptive representations of geographic origin].) The object of
6 section 17533.7 “is to protect consumers from being misled when
7 they purchase products in the belief that they are advancing the
8 interests of the United States and its industries and workers...

9 58. Defendants violated Business & Professions Code § 17533.7 by manufacturing,
10 selling and/or offering to sell merchandise in the State of California with the “Made in the USA”
11 label as fully set forth herein. The Jeans in this case contain component parts that are
12 manufactured outside of the United States.

13 59. It is alleged on information and belief that Defendants’ violations of Business &
14 Professions Code § 17533.7 was done with awareness of the fact that the conduct alleged was
15 wrongful and were motivated solely for increased profit. It is also alleged on information and
16 belief that Defendants did these acts knowing the harm that would result to Plaintiff and that
17 Defendants did these acts notwithstanding that knowledge.

18 60. As a direct and proximate result of Defendants’ violations of Business &
19 Professions Code § 17533.7, Plaintiff and Class members are entitled to restitution of excess
20 monies paid to Defendants by Plaintiff and Class members relating to the false “Made in the
21 USA” claims on Defendants’ Jeans.

22 61. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
23 Defendants as a result of Defendants’ false “Made in the USA” claims set forth on the Jeans.
24 Furthermore, she suffered an “injury in fact” by paying for something she believed was
25 genuinely manufactured in the USA, when it was not. See also Paragraphs 18-22 herein.

26 62. Plaintiff and Class Members were undoubtedly injured as a result of Defendants’
27 false “Made in the USA” representations that are at issue in this litigation.

28 63. In prosecuting this action for the enforcement of important rights affecting the
public interest, plaintiff seeks to recover attorneys’ fees pursuant to Code of Civil Procedure

1 § 1021.5, which is available to a prevailing plaintiff who wins relief for the general public.

2 **Third Cause of Action**

3 **(Violation of Consumers Legal Remedies Act Against Defendants)**

4 64. Plaintiff realleges and incorporates herein by reference all of the allegations
5 contained in Paragraphs 1 through 63, inclusive, of this complaint as though fully set forth
6 herein.

7 65. California Civil Code § 1750 *et seq.* (entitled the Consumers Legal Remedies
8 Act) provides a list of “unfair or deceptive” practices in a “transaction” relating to the sale of
9 “goods” or “services” to a “consumer.” The Legislature’s intent in promulgating the Consumers
10 Legal Remedies Act is expressed in Civil Code § 1760, which provides, *inter alia*, that its terms
11 are to be:

12 [C]onstrued liberally and applied to promote its underlying
13 purposes, which are to protect consumers against unfair and
14 deceptive business practices and to provide efficient and
15 economical procedures to secure such protection.

16 66. Defendants’ jean products are “goods” as defined in Civil Code § 1761(a).

17 67. Plaintiff, and Class members, are each a “Consumer” as defined in Civil Code
18 § 1761(d).

19 68. Plaintiff’s purchase of Defendants’ Jeans constituted a “transaction” as defined in
20 Civil Code § 1761(e).

21 69. Civil Code § 1770(a)(4) and (9) provides that “[t]he following unfair methods of
22 competition and unfair or deceptive acts or practices undertaken by any person in a transaction
23 intended to result or which results in the sale or lease of goods or services to any consumer are
24 unlawful: Using deceptive representations or designations of geographic origin in connection
25 with goods or services....Advertising good or services with intent not to sell them as marketed.”

26 70. Defendants violated Civil Code § 1770(a)(4) and (9) by marketing and
27 representing that their products are “Made in the USA” when they actually contain component
28

1 parts that are manufactured outside of the United States.

2 71. It is alleged on information and belief that Defendants' violations of the
3 Consumer Legal Remedies Act set forth herein were done with awareness of the fact that the
4 conduct alleged was wrongful and were motivated solely for increased profit. It is also alleged
5 on information and belief that Defendants did these acts knowing the harm that would result to
6 Plaintiff and that Defendants did these acts notwithstanding that knowledge.

7 72. Plaintiff provided the requisite 30-day notice to Dutch, which was sent pursuant
8 to the Consumer Legal Remedies Act on or about June 30, 2014. Therefore, Plaintiff and Class
9 Members seek actual and/or statutory damages against Dutch in this litigation pursuant to Civil
10 Code § 1780. The 30-day notice complied with the relevant provisions of the Consumers Legal
11 Remedies Act as it was a demand to correct, repair, replace, or otherwise rectify the false country
12 of origin designation as it relates to offending and violative repair Jeans sold in California
13 pursuant to California Civil Code § 1782(a).

14 73. As a direct and proximate result of Defendants' violations of the Consumers Legal
15 Remedies Act, Plaintiff and Class members are entitled to the following remedies: (a) actual
16 damages according to proof at time of trial; (b) a declaration that Defendants violated the
17 Consumers Legal Remedies Act; (c) an injunction preventing Defendants' unlawful actions; and
18 (d) an award of punitive damages pursuant to Civil Code § 1780(a)(4).

19 74. Punitive damages are warranted in this case because knowingly² selling falsely
20 labeled "Made in the USA" products (as Defendants have been doing, at a minimum since their
21 receipt of Plaintiff's notice under the Consumer Legal Remedies Act) constitutes malice,
22 oppression, and/or fraud as defined by Civil Code § 3294.

23 a. "Malice" is defined by statute to mean "conduct which is intended by the
24 defendant to cause injury to the plaintiff or despicable conduct which is
25 carried on by the defendant with a willful and conscious disregard of the

26 ² Dutch is knowingly and willfully selling falsely labeled Jeans products since *at least* the date of
27 its receipt of Plaintiff's 30-day letter. Dutch never effectuated a product recall nor, on information and
28 belief, has taken any corrective action since June 30, 2014 to correct the false labeling at issue herein.

1 rights or safety of others." Knowingly selling products containing shoddy
2 foreign-made component parts as "Made in the USA" constitutes malice.

3 b. "Fraud" is defined by statute to mean "an intentional misrepresentation, deceit,
4 or concealment of a material fact known to the defendant with the intention on
5 the part of the defendant of thereby depriving a person of property or legal
6 rights or otherwise causing injury." Knowingly selling products containing
7 shoddy foreign-made component parts as "Made in the USA" constitutes
8 fraud.

9 75. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
10 Defendants as a result of Defendants' false claims set forth on their Jeans. Furthermore, she
11 suffered an "injury in fact" by paying for a substandard product that she believed was genuinely
12 manufactured in the USA, when it was not.

13 76. Plaintiff and Class Members were undoubtedly injured as a result of Defendants'
14 false "Made in the USA" representations that are at issue in this litigation.

15 77. Plaintiff is filing an Affidavit of Venue along with this Complaint to be in
16 compliance with the requirement set forth in Civil Code § 1780(c).

17 **FOURTH CAUSE OF ACTION**

18 **(For Negligent Misrepresentation Against All Defendants)**

19 78. Plaintiff re-alleges and incorporates herein by reference each and every allegation
20 contained in Paragraphs 1 through 77, as though set forth in full.

21 79. During the relevant statutory time period, Defendants made false "Made in the
22 USA" country of origin designations to Plaintiff and Class Members as it pertains to the sale of
23 the Jeans.

24 80. The representation that Defendants' Jeans were "Made in the USA" was false as
25 defined by California law. The true facts are that Defendants sold "Made in the USA" labeled
26 Jeans with foreign-made component parts in violation of California and federal law.

27 81. When Defendants made the representations set forth above, they had no
28

1 reasonable grounds for believing them to be true.

2 82. Defendants made the representations with the intention of inducing Plaintiff and
3 Class Members to act in reliance upon these representations in the manner hereafter alleged, or
4 with the expectation that they would so act.

5 83. Plaintiff and Class Members, at the time the representations were made by
6 Defendants, and at the time Defendants took the actions herein alleged, were ignorant of the
7 falsity of the representations and believed them to be true. In reliance on these representations,
8 Plaintiff and Class Members were induced to and did pay monies to purchase Defendants'
9 products.

10 84. Had Plaintiff and Class Members known the actual facts, they would not have
11 taken such action. Furthermore, Plaintiff and other California consumers had no reason to
12 believe that Defendants would act otherwise than as to rely on the "Made in the USA" country of
13 origin designation.

14 85. Without knowledge, Plaintiff and Class Members acted on the false country of
15 origin designation and purchased products they did not truly want. Had Plaintiff and Class
16 Members known the actual facts, they would not have taken such action.

17 86. As a proximate result of the fraudulent conduct of Defendants as herein alleged,
18 Plaintiff and Class Members paid monies to Defendants, through Defendants' regular retail sales
19 channels, to which Defendants are not entitled, and have been damaged in an amount to be
20 proven at trial.

21 87. Plaintiff and Class Members seek damages, prejudgment interest, and reasonable
22 attorneys' fees (pursuant to Code of Civil Procedure § 1021.5) and costs as will be determined at
23 time of trial.

24 WHEREFORE, Plaintiff prays for relief and judgment against Defendants, as follows:

25 **PRAYER**

- 26 1. Damages according to proof;
27 2. For a judgment declaring this action to be a proper nationwide class action;

28

1 3. A declaration that Defendants violated the provisions of California Business &
2 Professions Code § 17200 *et seq.*;

3 4 A declaration that Defendants violated Civil Code § 1750 *et seq.*;

4 5. Pursuant to Business & Professions Code § 17204 and pursuant to the equitable
5 powers of this Court, a judgment enjoining Defendants, their subsidiaries, affiliates, and their
6 successors, agents, servants, officer, directors, employees, and all persons, acting in concert with
7 them, directly or indirectly, from engaging in conduct violative of Business & Professions Code
8 § 17200 *et seq.* as more fully described above;

9 6. Pursuant to Business & Professions Code § 17204, a judgment requiring
10 Defendants to provide adequate restitution to restore all persons in interest, including all Class
11 Members, with all monies acquired by means of Defendants' unfair competition;

12 7. Plaintiff and each of the other members of the Class recover the amounts by
13 which Defendants have been unjustly enriched;

14 8. Plaintiff's reasonable attorneys' fees as it relates to all causes of action pursuant
15 to Code of Civil Procedure § 1021.5;

16 9. For punitive damages as to the Third Cause of Action only;

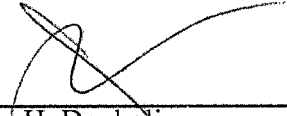
17 10. For costs of suit incurred herein;

18 11. For prejudgment interest as allowed by law; and

19 12. For such other and further relief as this Court finds just, equitable and proper,
20 including, but not limited to, the remedy of disgorgement.

21 Dated: September 5, 2014

DEL MAR LAW GROUP, LLP

22
23 By: 
24 John H. Donboli
25 JL Sean Slattery
26 Attorneys for: SONIA HOFMANN, an
27 individual and on behalf of all others similarly
28 situated