

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

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COMPLAINT

EDUARDO LEON CASTILLO VS. PEET'S COFFEE & TEA, LLC ET AL

001C05732065

**Instructions:**

Please place this sheet on top of the document to be scanned.

**SUMMONS**  
**(CITACION JUDICIAL)**

FOR COURT USE ONLY  
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**NOTICE TO DEFENDANT:**

**(AVISO AL DEMANDADO):**

PEET'S COFFEE & TEA, LLC, a Washington limited liability company, dba PEET'S COFFEE & TEA; and DOES 1 through 10, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:**

**(LO ESTÁ DEMANDANDO EL DEMANDANTE):**

EDUARDO LEON CASTILLO, on behalf of a class of similarly situated individuals, and himself individually

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is:

(El nombre y dirección de la corte es):

San Francisco County Superior Court  
Civic Center Courthouse  
400 McAllister Street  
San Francisco, CA 94102

CASE NUMBER:

**CGC-17-556926**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Gene J. Stonebarger, Esq.; Crystal L. Matter, Esq., STONEBARGER LAW, APC  
75 Iron Point Circle, Suite 145, Folsom, CA 95630  
Tel: (916) 235-7140 Fax: (916) 235-7141

DATE: **FEB 03 2017**  
(Fecha)

**CLERK OF THE COURT**

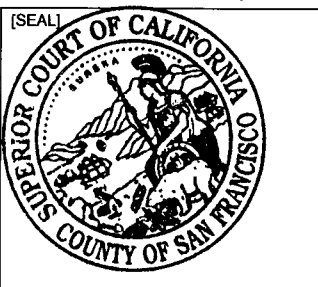
Clerk, by  
(Secretario)

*Katene Antonov*  
**KATENE ANTONOV**

Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



**NOTICE TO THE PERSON SERVED:** You are served

- 1.  as an individual defendant.
- 2.  as the person sued under the fictitious name of (specify):
- 3.  on behalf of (specify):
  - under:  CCP 416.10 (corporation)  CCP 416.60 (minor)
  - CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)
  - CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)
  - other (specify):

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9 ATTORNEYS FOR INDIVIDUAL AND  
REPRESENTATIVE PLAINTIFF EDUARDO LEON CASTILLO  
10 AND PUTATIVE CLASS PLAINTIFFS

11  
12 **SUPERIOR COURT OF CALIFORNIA**  
13 **SAN FRANCISCO COUNTY**

14 EDUARDO LEON CASTILLO, on behalf  
15 of a class of similarly situated individuals,  
16 and himself individually,

17 Plaintiffs,

18 v.

19 PEET'S COFFEE & TEA, LLC, a  
20 Washington limited liability company, dba  
21 PEET'S COFFEE & TEA; and DOES 1  
22 through 10, inclusive,

23 Defendants.

Case Number: **CGC-17-556926**

CLASS ACTION COMPLAINT FOR:

1. VIOLATIONS OF CALIFORNIA'S  
AUTOMATIC RENEWAL LAW  
[CAL. BUS. & PROF. CODE § 17600,  
ET SEQ.];
2. VIOLATIONS OF CALIFORNIA'S  
UNFAIR COMPETITION LAW  
[CAL. BUS. & PROF. CODE § 17200,  
ET SEQ.]; AND
3. RESTITUTION AND INJUNCTIVE  
RELIEF [CAL. BUS. & PROF. CODE  
§ 17535, ET SEQ.]

- Demand for Trial by Jury -

**FILED**  
San Francisco County Superior Court

FEB 03 2017

CLERK OF THE COURT  
BY: Chalene Johnson  
Deputy Clerk

1 REPRESENTATIVE PLAINTIFF EDUARDO LEON CASTILLO (hereafter called  
2 "REPRESENTATIVE PLAINTIFF"), on behalf of himself and all others similarly situated current  
3 and former customers of DEFENDANT PEET'S COFFEE AND TEA, LLC, doing business as Peet's  
4 Coffee & Tea (hereafter referred to as "Peet's" or "Defendant"), hereby complains and  
5 alleges as follows:

6 INTRODUCTION AND OVERVIEW OF CLAIMS

7 1. Representative Plaintiff Eduardo Leon Castillo brings this class action on  
8 behalf of himself and a class of other similarly situated individuals, consisting of all  
9 persons in California who, within the applicable statute of limitations period, purchased a  
10 coffee and/or tea "Subscription" through Defendant's website, www.peets.com, and  
11 whose credit cards or debit cards were automatically charged on a recurring basis for such  
12 Subscription. (This class of other individuals similarly situated to Representative Plaintiff  
13 will be referred to herein as the putative "Class" or "Class Members.") In selling its coffee  
14 and tea Subscriptions to California consumers on its website, as a matter of practice,  
15 Defendant fails to comply with the requirements California's Automatic Renewal Law,  
16 Business & Professions Code §17600 *et seq.*, by failing to provide consumers with legally  
17 compliant notices and disclosures.

18 2. Plaintiff alleges that Defendant is accordingly liable for violations of the  
19 Automatic Renewal Law as well as the Unfair Competition Law (Bus. & Prof. Code  
20 §17200, *et seq.*), and injunctive relief under Bus. & Prof. Code §17535.

21 3. This putative class action and the claims herein seek monetary damages and  
22 equitable relief for customers aggrieved by Defendant's unlawful business practices,  
23 including restitution, injunctive relief, and attorneys' fees and costs as authorized by law.

24 ///

25 ///

26 ///

27 ///

28 ///

PARTIES

1  
2           4.       *Representative and Individual Plaintiff Eduardo Leon Castillo*: Plaintiff Eduardo  
3 Leon Castillo is a resident of Los Angeles County, California (hereinafter “Representative  
4 Plaintiff” or “Plaintiff”).

5           5.       *Putative Class Plaintiffs*: The putative Class Plaintiffs are comprised of all  
6 persons in California who purchased a coffee and/or tea Subscription through  
7 Defendant’s website, www.peets.com, and whose credit cards or debit cards were  
8 automatically charged on a recurring basis as part of that Subscription within the relevant  
9 time period preceding the filing of this Complaint through the present (hereinafter,  
10 putative “Class” or “Plaintiffs”). The Representative Plaintiff brings this class action  
11 against Defendant pursuant to California Code of Civil Procedure §382, on behalf of  
12 himself and all similarly situated persons in California. Excluded from the putative Class  
13 for purposes of this action are Defendant, its corporate parents, subsidiaries and affiliates,  
14 officers and directors, any entity in which Defendant has a controlling interest, and the  
15 legal representatives, successors or assigns of any such excluded persons or entities.

16           6.       *Defendant Peet’s Coffee & Tea, LLC*: Plaintiffs are informed and believe, and  
17 based upon such information and belief allege, that Defendant Peet’s Coffee & Tea, LLC, is  
18 a Washington limited liability company, doing business as “Peet’s Coffee & Tea,” which,  
19 as Plaintiffs are informed and believe, is headquartered in Emeryville, California.  
20 Plaintiffs are also informed and believe that Peet’s is and was at all relevant times,  
21 including during the Class Period, authorized to transact business in the State of  
22 California, where it has and continues to transact business. Among other things, Peet’s  
23 sells its products throughout California and markets its products to California consumers  
24 through retail locations referred to on Defendant’s website as “Peet’s Coffee & Tea Stores.”  
25 Defendant also sells and markets its products, including its coffee and tea Subscriptions,  
26 by and through its website, www.peets.com (hereinafter “Website”), as described herein  
27 below.



1 such as the Representative Plaintiff herein, by and through its Website. Defendant has  
2 accepted online payments via credit cards and debit cards for the transaction of business  
3 throughout the State of California and specifically within San Francisco County, which has  
4 caused liability to arise therein, including, in particular, the transaction with the  
5 Representative Plaintiff. Numerous transactions have occurred, and continue to occur,  
6 within San Francisco County; and the amount in controversy exceeds the jurisdictional  
7 minimum of this Court.

8 **GENERAL ALLEGATIONS**

9 **A. Defendant's Business and Recurring Coffee/Tea "Subscriptions":**

10 11. Peet's sells coffee, teas, drinkware, and brewing equipment (such as coffee  
11 makers, grinders, and tea kettles) throughout the United States by and through brick and  
12 mortar "Stores." In California alone, according to Defendant's Website, there are  
13 approximately 29 Stores in San Francisco County, and over 180 Stores located throughout  
14 the State.

15 12. Defendant also sells its products online through its Website,  
16 www.peets.com. In addition to other products sold thereon, Defendants sells  
17 "Subscriptions" for its coffee and tea products. The Subscriptions are offered in varying  
18 frequencies; for delivery "Every Week," "Every 2 Weeks," "Every 3 Weeks," "Every 4  
19 Weeks," "Every 6 Weeks," "Every 8 Weeks," or a "Custom Option."

20 13. To purchase a Subscription, the consumer first selects a particular type of  
21 coffee and/or tea from the various offerings on the Website. For coffee products, the  
22 consumer also selects a type of grind. The consumer must then click on "SUBSCRIBE" to  
23 proceed with signing up for the Subscription. The consumer next enters a descriptive  
24 "Name" for the Subscription and then selects one of the aforementioned frequencies for  
25 the Subscription.

26 14. To complete his/her purchase of the Subscription of the chosen coffee  
27 and/or tea, the consumer is required to register an account through the Defendant's  
28 Website by providing an email address, zip code (optional), and by creating a password.

1 After doing that, to complete his/her purchase of the Subscription, the consumer clicks on  
2 "PROCEED TO CHECKOUT" to commence the "CHECKOUT" process, during which the  
3 consumer provides his/her "Shipping Address."

4 15. Next, the consumer must provide his/her "Payment Method," including the  
5 type of "Debit/Credit Card" being used to pay for the Subscription, and corresponding  
6 credit card number, expiration date, security code, and "Name on Card." (Hereinafter,  
7 "credit card" and "debit card" shall be referred to as the "payment method".) After  
8 entering his/her payment method, the consumer enters his/her "Billing Address."

9 16. To complete the Subscription order, the consumer next clicks "Review &  
10 Place Order." Once the order is completed, the consumer is provided an "Order  
11 Confirmation," and receives an email confirmation thereafter.

12 17. For every recurring Subscription, the consumer's payment method is  
13 charged at the time of initially purchasing the Subscription, and thereafter, for ensuing  
14 consecutive weeks corresponding to the consumer's chosen frequency. For every type of  
15 Subscription, thus, the consumer's payment method is automatically charged for each  
16 subsequent shipment of the selected item(s) as part of the recurring Subscription.

17 **B. Representative Plaintiff's Transaction:**

18 18. On July 28, 2016, Representative Plaintiff Castillo visited the Defendant's  
19 Website, [www.peets.com](http://www.peets.com). After reviewing products and the various coffee and tea  
20 Subscriptions offered on Defendant's Website, Representative Plaintiff signed up for a  
21 Subscription for a coffee product, "Café Domingo." He selected "Every 4 Weeks" for the  
22 Subscription frequency. Representative Plaintiff then clicked the "PROCEED TO  
23 CHECKOUT" button and completed the "CHECK OUT" process by providing his  
24 shipping address, billing address, and payment method information. Defendant's  
25 Website processed the transaction and charged Representative Plaintiff's payment  
26 method, which charge appeared on his debit card statement with a transaction date of  
27 August 1, 2016. A few days later, Representative Plaintiff received the first shipment of  
28 the coffee product.



1           19.     About a month later before the next shipment, on August 24, 2016,  
2 Representative Plaintiff switched the coffee from “Café Domingo” to “Columbia” and  
3 shortly thereafter, received a second shipment as part of his Subscription. His debit card  
4 was automatically charged for this shipment on August 29, 2016. Then, about another  
5 month later, on September 21, 2016, Representative Plaintiff ordered “Columbia  
6 Luminosa” and shortly thereafter received a third shipment as part of his Subscription.  
7 His debit card was automatically charged for this third shipment on September 26, 2016.  
8 Then, about another month later, on October 19, 2016, Representative Plaintiff ordered  
9 “Arabian Mocha-Java” and shortly thereafter received a fourth shipment as part of his  
10 Subscription. His debit card was automatically charged for this fourth shipment on  
11 October 24, 2016.

12           20.     At that point, Representative Plaintiff elected to discontinue his Subscription,  
13 which he did through Defendant’s Website.

14 **C.     California’s Automatic Renewal Law and Defendant’s Non-Compliance**  
15 **Therewith:**

16           21.     The consumer transactions that are the subject of this putative class action  
17 are subject to, among other protections, California’s Automatic Renewal Law, codified as  
18 Bus. & Prof. Code §§ 17600 through 17606.

19           22.     Pursuant to that law, specifically, Bus. & Prof. Code §17602(a), it is unlawful  
20 for any business making an automatic renewal or continuous service offer to a consumer  
21 in this state to do any of the following:

- 22                   (1)     Fail to present the automatic renewal offer terms or  
23                   continuous service offer terms in a clear and conspicuous  
24                   manner before the subscription or purchasing agreement is  
25                   fulfilled and in visual proximity, or in the case of an offer  
26                   conveyed by voice, in temporal proximity, to the request for  
27                   consent to the offer.
- 28                   (2)     Charge the consumer’s credit or debit card or the consumer’s  
                    account with a third party for an automatic renewal or  
                    continuous service without first obtaining the consumer’s  
                    affirmative consent to the agreement containing the  
                    automatic renewal offer terms or continuous service offer  
                    terms.

1 (3) Fail to provide an acknowledgment that includes the  
2 automatic renewal or continuous service offer terms,  
3 cancellation policy, and information regarding how to cancel  
4 in a manner that is capable of being retained by the consumer.  
5 If the offer includes a free trial, the business shall also disclose  
6 in the acknowledgment how to cancel and allow the  
7 consumer to cancel before the consumer pays for the goods or  
8 services.

9 23. Bus. & Prof. Code §17601(a) defines the term "Automatic renewal" as a  
10 "plan or arrangement in which a paid subscription or purchasing agreement is  
11 automatically renewed at the end of a definite term for a subsequent term." Bus. & Prof.  
12 Code §17601(e) defines "Continuous service" as a "plan or arrangement in which a  
13 subscription or purchasing agreement continues until the consumer cancels the service."

14 24. Under Bus. & Prof. Code §17601(b), the term "Automatic renewal offer  
15 terms" means the following clear and conspicuous disclosures:

- 16 (1) That the subscription or purchasing agreement will continue until the  
17 consumer cancels.
- 18 (2) The description of the cancellation policy that applies to the offer.
- 19 (3) The recurring charges that will be charged to the consumer's credit or  
20 debit card or payment account with a third party as part of the  
21 automatic renewal plan or arrangement, and that the amount of the  
22 charge may change, if that is the case, and the amount to which the  
23 charge will change, if known.
- 24 (4) The length of the automatic renewal term or that the service is  
25 continuous, unless the length of the term is chosen by the consumer.
- 26 (5) The minimum purchase obligation, if any."

27 25. Under Bus. & Prof. Code §17601(c), "'Clear and conspicuous' or 'clearly and  
28 conspicuously' means in larger type than the surrounding text, or in contrasting type, font,  
or color to the surrounding text of the same size, or set off from the surrounding text of the  
same size by symbols or other marks, in a manner that clearly calls attention to the  
language."

29 26. Furthermore, with respect to the remedy under Bus. & Prof. Code §17603,  
30 "[i]n any case in which a business sends any goods, wares, merchandise, or  
31 products to a consumer, under a continuous service agreement or  
32 automatic renewal of a purchase, without first obtaining the consumer's

1 affirmative consent as described in Section 17602, the goods, wares,  
2 merchandise, or products shall for all purposes be deemed an  
3 unconditional gift to the consumer, who may use or dispose of the same in  
4 any manner he or she sees fit without any obligation whatsoever on the  
consumer's part to the business, including, but not limited to, bearing the  
cost of, or responsibility for, shipping any goods, wares, merchandise, or  
products to the business."

5 27. Defendant's coffee and tea Subscriptions, as offered through its Website,  
6 automatically renew on a recurring basis, depending on the consumer's chosen frequency  
7 and continue until the consumer cancels. As such, after Class Members entered their  
8 payment method and purchased their respective Subscriptions, Defendant charged, and  
9 has continued to charge the Class Members' payment method on a recurring basis  
10 depending on their chosen Subscription frequency. Such charges continued to be charged  
11 to Class Members' payment method until Class Members canceled their coffee and tea  
12 Subscriptions.

13 28. In offering its recurring coffee and tea Subscriptions to Class Members  
14 during the Class Period, therefore, Defendant has made automatic renewal or continuous  
15 service offers to California consumers. Defendant's coffee and tea Subscriptions are  
16 accordingly subject to the requirements of the ARL such that its sale of said Subscriptions  
17 must comply with the notice and disclosure requirements of the ARL.

18 29. When enrolling in one of Defendant's coffee and/or tea Subscriptions,  
19 however, consumers are not provided sufficient and compliant notices and disclosures as  
20 required by the ARL. As alleged more fully below, contrary to the requirements of the  
21 ARL, at the time of offering its coffee and tea Subscriptions to prospective purchasers,  
22 Defendant: (a) fails to present the automatic renewal offer terms or continuous service  
23 offer terms in a clear and conspicuous manner and in visual proximity to the request for  
24 consent to the offer before the subscription or purchasing agreement is fulfilled; (b)  
25 charges consumers' payment method without first obtaining the affirmative consent of  
26 consumers to the agreement containing the automatic renewal offer terms or continuous  
27 service offer terms; and (c) fails to provide an acknowledgement that includes the  
28

1 automatic renewal or continuous service offer terms, cancellation policy, and information  
2 regarding how to cancel in a manner that is capable of being retained by the consumer.

3 CLASS ALLEGATIONS

4 30. This lawsuit is filed on behalf of an ascertainable statewide Class comprised  
5 of all persons in California who, purchased one or more of Defendant's coffee and/or tea  
6 Subscriptions and whose payment methods were automatically charged on a recurring  
7 basis for said Subscriptions at any time during the four (4) year period preceding the filing  
8 of this Class Action Complaint and continuing through the date of trial.

9 31. The putative Class *excludes* Defendant, its corporate parents, subsidiaries and  
10 affiliates, officers and directors, any entity in which Defendant has a controlling interest,  
11 and the legal representatives, successors or assigns of any such excluded persons or  
12 entities.

13 32. This action is appropriately suited for a Class Action for the following  
14 reasons:

- 15 A. The members of the putative Class are so numerous that joinder of all  
16 members is impracticable. While the exact number of potential Class  
17 members is unknown to Plaintiffs at this time, since this information  
18 is in Defendant's exclusive control, such information can be  
19 ascertained through appropriate discovery from records maintained  
20 by Defendant and its agents.
- 21 B. A Class Action is superior to other available methods for fair and  
22 efficient adjudication of this controversy because the likelihood of  
23 individual Class members prosecuting separate claims is remote and  
24 the individual Class members do not have a significant interest in  
25 individually controlling the prosecution of separate actions.
- 26 C. There is a well-defined community of interest among the members of  
27 the putative Class because common questions of law and fact  
28 predominate. Given that the Representative Plaintiff's claims are

1 typical of the members of the putative Class, the Representative  
2 Plaintiff can fairly and adequately represent the interest of such  
3 putative Class.

4 D. Common questions of law and fact exist as to all members of the  
5 putative Class which predominate over any questions solely affecting  
6 individual members of the Class, given that the putative Class  
7 members have suffered the same injury; determination of the truth,  
8 falsity, accuracy, and legality of the common questions will therefore  
9 resolve central issues that affect the entire Class. Such common  
10 questions include, *inter alia*, the following:

- 11 (1) Whether Defendant presents the automatic renewal offer terms  
12 or continuous service terms in a “clear and conspicuous  
13 manner” before the subscription or purchasing agreement was  
14 fulfilled?
- 15 (2) Whether Defendant presents the automatic renewal offer terms  
16 or continuous service terms “in visual proximity” to the  
17 request for consent to the offer?
- 18 (3) Whether Defendant charges California consumers’ credit cards  
19 or debit cards without first obtaining the “affirmative consent”  
20 of California consumers to the agreement containing the  
21 automatic renewal offer terms or continuous service offer  
22 terms?
- 23 (4) Whether Defendant fails to provide an acknowledgement that  
24 includes the automatic renewal or continuous service offer  
25 terms, cancellation policy, and information regarding how to  
26 cancel in a manner that is capable of being retained by the  
27 consumer?

- 1 (5) Whether Defendant fails to provide adequate means as  
2 required by statute for the consumer to cancel the automatic  
3 renewal or continuous service?  
4 (6) Whether the Representative Plaintiff and putative Class  
5 Members are entitled to retain the goods purchased from  
6 Defendant by and through their coffee and/or tea  
7 Subscriptions as an unconditional gift and are entitled to  
8 restitution of the monies paid to Defendant for said  
9 Subscriptions?  
10 (7) Whether Defendant's practices violate the Unfair Competition  
11 Law by virtue of its failure to provide notices and disclosures  
12 in compliance with the ARL requirements?  
13 (8) Whether the Representative Plaintiff and putative Class are  
14 entitled to restitution and/or the disgorgement of profits under  
15 the Unfair Competition Law?  
16 (9) Whether the Representative Plaintiff and putative Class are  
17 entitled to injunctive relief and restitution under Cal. Bus. &  
18 Prof. Code §17535?

19 E. The Representative Plaintiff can fairly and adequately represent the  
20 interests of the putative Class. The Representative Plaintiff has no  
21 conflicts of interest with other putative Class Members, and has  
22 retained counsel competent and experienced in class actions and  
23 complex civil litigation.

24 **FIRST CAUSE OF ACTION**

25 ***- Violation of the Automatic Renewal Law -***

26 ***[Cal. Bus. & Prof. Code § 17600, et seq.]***

27 33. Plaintiffs hereby reallege, and incorporate by reference as though set forth  
28 fully herein, the allegations contained in each preceding paragraph above.

1           34.     As alleged more fully below, Defendant has violated the requirements of the  
2 ARL, including in particular, the requirements of §§17602(a)(1) - (3), 17602(b), and  
3 17602(c).

4 **A.     Clear/Conspicuous and Visual Proximity Violations:**

5           35.     In offering its coffee and tea Subscriptions through its Website, during the  
6 class period, Defendant has made an automatic renewal or continuous service offer to  
7 consumers in California, including to the Representative Plaintiff and putative Class  
8 Members. In so doing, however, Defendant has failed to state the automatic renewal or  
9 continuous service offer in “clear and conspicuous manner” in compliance with law in,  
10 *inter alia*, the following respects:

- 11                   (a)     failing to clearly and conspicuously state that the recurring coffee and  
12                             tea Subscriptions will continue until the consumer cancels;
- 13                   (b)     failing to clearly and conspicuously describe the cancellation policy  
14                             that applies to the offer;
- 15                   (c)     failing to clearly and conspicuously state that the recurring charges  
16                             will be charged to the consumer’s payment method as part of the  
17                             automatic renewal plan or arrangement, and that the amount of the  
18                             charge may change, if that is the case, and the amount to which the  
19                             charge will change, if known;
- 20                   (d)     failing to clearly and conspicuously state that the coffee and tea  
21                             Subscriptions are continuous; and
- 22                   (e)     failing to clearly and conspicuously state that there is a minimum  
23                             purchase obligation, if any.

24           36.     In addition to the above failures, Defendant has failed and continues to fail,  
25 to state the automatic renewal or continuous service offer during the “Check Out” process  
26 anywhere on the webpage where the Representative Plaintiff and Class Members  
27 complete their purchase of the coffee and tea Subscriptions. As such, when offering coffee  
28 and tea Subscriptions through its Website to the Representative Plaintiff and Class

1 Members, Defendant failed to state the automatic renewal or continuous service offer “in  
2 visual proximity” to the request for consent to the offer.

3 37. As such, Defendant has violated Bus. & Prof. Code §17602(a)(1), such that  
4 the Representative Plaintiff and putative Class Members are entitled to the relief under  
5 Cal. Bus. & Prof. Code §17603, including, *inter alia*, restitution of the monies paid to  
6 Defendant for such Subscriptions and retention of the goods purchased through such  
7 Subscriptions as an “unconditional gift.”

8 38. WHEREFORE, based on the above violations of their lawful rights, the  
9 Representative Plaintiff and putative Class Members seek relief as requested herein.

10 **B. Failure to Obtain Affirmative Consent:**

11 39. In addition to the above failures, throughout the Class Period, Defendant  
12 failed to obtain the affirmative consent of the Representative Plaintiff and Class Members  
13 to the agreement containing the automatic renewal and/or continuous service offer terms.  
14 This has included, *inter alia*, failing to obtain their affirmative consent to the term that their  
15 payment method would be automatically and perpetually charged on a recurring basis,  
16 corresponding to the consumer’s chosen frequency, unless and until they cancelled their  
17 coffee and/or tea Subscriptions, on the webpage in which Defendant obtained the  
18 payment method information from the Representative Plaintiff and Class Members. There  
19 is no mechanism during the checkout process by which consumers could provide their  
20 explicit consent to Defendant’s automatic renewal and/or continuous service terms prior  
21 to entering the information for their payment methods and prior to the charge thereto. For  
22 instance, there is no box which consumers are required to check or other form of  
23 acknowledgement by which consumers affirmed that they explicitly agreed to recurring  
24 charges to their respective payment methods for the coffee and/or tea Subscriptions until  
25 they affirmatively cancelled their Subscriptions.

26 40. Defendant has therefore charged, and has continued to charge, the payment  
27 method of the Representative Plaintiff and Class Members without first obtaining their  
28



1 affirmative consent to the terms of the coffee and/or tea Subscriptions in violation of Bus.  
2 & Prof. Code §176012(a)(2).

3 41. As a result of these failures, the Representative Plaintiff and putative Class  
4 Members are entitled to the relief under Cal. Bus. & Prof. Code §17603, including, *inter*  
5 *alia*, restitution of the monies paid to Defendant for such Subscriptions and retention of the  
6 goods purchased through such Subscriptions as an “unconditional gift.”

7 42. WHEREFORE, based on the above violations of their lawful rights, the  
8 Representative Plaintiff and putative Class Members seek relief as requested herein.

9 **C. Retainable Cancellation Policy and Cancellation Mechanism:**

10 43. In addition to the above failures, throughout the Class Period, Defendant has  
11 failed, and continues to fail, to provide the Representative Plaintiff and Class Members  
12 with a retainable “acknowledgement” that includes the automatic renewal or continuous  
13 service offer terms, cancellation policy, and information on how to cancel, in violation of  
14 Cal. Bus. & Prof. Code § 17602(a)(3). Upon concluding the “CHECKOUT” process for  
15 purchasing one of Defendant’s coffee and/or tea Subscriptions, Defendant failed to  
16 provide information, such as a downloadable or printable document or other retainable  
17 format, which sets forth the terms of the automatic renewal or continuous service offers,  
18 the cancellation policies applicable to the coffee and tea Subscriptions, or any information  
19 on how to cancel the Subscriptions.

20 44. Defendant has therefore violated the requirements of Bus. & Prof. Code  
21 §176012(a)(3), such that the Representative Plaintiff and putative Class Members are  
22 entitled to the relief under Cal. Bus. & Prof. Code §17603, including, *inter alia*, restitution of  
23 the monies paid to Defendant for such Subscriptions and retention of the goods purchased  
24 through such Subscriptions as an “unconditional gift.”

25 45. WHEREFORE, based on the above violations of their lawful rights, the  
26 Representative Plaintiff and putative Class Members seek relief as requested herein.

1 SECOND CAUSE OF ACTION

2 - *Violation of the Unfair Competition Law* -

3 [*Bus. & Prof. Code §17200, et seq.*]

4 46. Plaintiffs hereby reallege, and incorporate by reference as though set forth  
5 fully herein, the allegations contained in each preceding paragraph above.

6 47. Defendant engages in business practices, offers its products and services,  
7 and advertises its products and services to consumers within the State of California. In so  
8 doing, Defendant has a duty to comply with applicable laws protecting against, *inter alia*,  
9 unlawful and unfair business practices and acts, as prohibited by Bus. & Prof. Code  
10 §17200, *et seq.*, also known as the Unfair Competition Law (hereinafter "UCL").

11 48. Section §17204 of the UCL allows "a person who has suffered injury in fact  
12 and has lost money or property" to prosecute a civil action for violation of the UCL  
13 individually and on behalf of a class of similarly situated individuals affected by the  
14 unlawful or unfair business practices or acts.

15 49. Defendant has engaged in numerous acts and/or a pattern and practice of  
16 unlawful and unfair business practices within the State of California, in violation of the  
17 UCL. These illegal business practices and acts include failing to provide consumers, such  
18 as the Representative Plaintiff and Class Members, with notices and disclosures in  
19 compliance with the Automatic Renewal Law, Bus. & Prof. Code §17600 *et seq.*  
20 corresponding to Defendant's sale of its coffee and tea Subscriptions. In particular, as set  
21 forth more fully herein above, Defendant failed and continues to fail to comply with the  
22 requirements of §17602(a)(1) through (3).

23 50. For at least the last four years, Defendant has committed unlawful and  
24 unfair business acts and practices, as defined by the UCL, based on its violations of the  
25 Automatic Renewal Law.

26 51. The Representative Plaintiff and putative Class Members have standing to  
27 pursue this claim because they have suffered injury in fact by, among other things, having  
28

1 lost money which they paid for Defendant's coffee and tea Subscriptions, which do not  
2 comply with applicable laws.

3 52. As a result of its conduct, Defendant has been unjustly enriched and should  
4 be disgorged of profits realized from its unlawful business practices. Plaintiffs and other  
5 members of the general public have no other adequate remedy of law in that, absent  
6 equitable relief from the Court, Defendant is likely to continue to injure consumers, reap  
7 unjust enrichment, and harm the public interest, thus engendering a multiplicity of  
8 judicial proceedings.

9 53. WHEREFORE, based on the above violations of their lawful rights, the  
10 Representative Plaintiff and Class Members seek relief as requested herein.

11 **THIRD CAUSE OF ACTION**

12 ***- Injunctive Relief -***

13 ***[Cal. Bus. & Prof. Code § 17535]***

14 54. Plaintiffs hereby reallege, and incorporate by reference as though set forth  
15 fully herein, the allegations contained in each preceding paragraph above.

16 55. Bus. & Prof. Code §17535 allows "any person who has suffered injury in fact  
17 and has lost money or property" to prosecute a civil action for violation of the UCL. An  
18 individual aggrieved as such may bring an action on behalf himself or herself and others  
19 similarly situated who are affected by the unlawful and/or unfair business practice.

20 56. For at least the last four years, Defendant has committed unlawful and/or  
21 unfair business acts and practices within the meaning of the UCL based on its violations of  
22 the Automatic Renewal Law, Bus. & Prof. Code §17601 *et seq.*, as set forth above.

23 57. As a direct and proximate result of Defendant's unlawful and/or unfair  
24 business acts and practices, described herein, Defendant has received and continues to  
25 hold unlawfully obtained money belonging to the Representative Plaintiff and Class  
26 Members in the form of payments made by them for Defendant's coffee and tea  
27 Subscriptions. Defendant has profited from its unlawful and unfair acts and practices in  
28 the amounts of those Subscription payments and interest accrued thereon.

1 58. Representative Plaintiff and similarly situated Class Members are entitled to  
2 injunctive relief and/or restitution pursuant to Cal. Bus. & Prof. Code § 17535 and interest  
3 thereon for all monies paid by Class Members under the Subscription agreements for the  
4 last four years preceding the filing of this legal action through the date of such restitution,  
5 at rates specified by law. Defendant should be required to disgorge all profits and gains it  
6 has reaped and should be ordered to restore those profits and gains to Representative  
7 Plaintiff and Class Members, from whom they were unlawfully taken.

8 59. Representative Plaintiff and similarly situated Class Members are entitled to  
9 enforce all applicable penalty provisions pursuant to Cal. Bus. & Prof. Code § 17202.

10 60. Representative Plaintiff has assumed the responsibility of enforcement of the  
11 laws for the benefit of consumers by suing on behalf himself and other similarly situated  
12 Class Members. Representative Plaintiff's success in this action will enforce important  
13 rights affecting the public interest. Therefore, an award of reasonable attorneys' fees to  
14 Representative Plaintiff is appropriate pursuant to California Code of Civil Procedure §  
15 1021.5.

16 61. WHEREFORE, based on the above violations of their lawful rights, the  
17 Representative Plaintiff and Class Members seek relief as requested herein.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs pray for judgment and relief as follows:

20 1. Certification of the Class and any subclasses the Court deems appropriate,  
21 appointment of Representative Plaintiff as class representative, and Plaintiffs' counsel of  
22 record as Class Counsel;

23 2. For restitution under Bus. & Prof. Code §17603 and related statutory  
24 provisions;

25 3. For a declaration that the goods purchased by Representative Plaintiff and  
26 Class Members are deemed an unconditional gift to them by Defendants in accord with  
27 Bus. & Prof. Code §17603,  
28

1 4. For restitution and/or disgorgement of profits under Bus. & Prof. Code  
2 §17200, *et seq.*;

3 5. For injunctive relief and restitution under Bus. & Prof. Code §17535;

4 6. For issuance of temporary, preliminary and permanent injunctive relief  
5 enjoining Defendant from engaging in the above-described unlawful conduct, and/or  
6 other remedial or equitable relief;

7 7. For attorneys' fees pursuant to statute including, but not limited to  
8 California Code of Civil Procedure §1021.5, and as otherwise authorized by law, including  
9 as authorized under the "common fund" doctrine and "substantial benefit" doctrine;

10 8. For declaratory relief regarding the liability of Defendant;

11 9. For pre-judgment and post-judgment interest, as allowable at the maximum  
12 rate allowed by law;

13 10. For a declaration of financial responsibility on the part of Defendant for the  
14 costs of class notification; and

15 11. For such other and further relief as this Honorable Court deems just and  
16 proper.

17  
18 Dated: January 31, 2017

Respectfully Submitted by:

19 **STONEBARGER LAW, APC**

20 **SOLIMAN LAW GROUP, PC**

21 By: 

22 CRYSTAL L. MATTER

23 TONY M. SOLIMAN

24 ATTORNEYS FOR PUTATIVE CLASS PLAINTIFFS  
25 AND REPRESENTATIVE PLAINTIFF **EDUARDO LEON CASTILLO**

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**DEMAND FOR TRIAL BY JURY**


Plaintiffs demand a trial by jury on all questions of fact raised by the foregoing  
CLASS ACTION COMPLAINT.

Dated: January 31, 2017

Respectfully Submitted by:

**STONEBARGER LAW, APC**

**SOLIMAN LAW GROUP, PC**

By:   
CRYSTAL L. MATTER  
TONY M. SOLIMAN

ATTORNEYS FOR PUTATIVE CLASS PLAINTIFFS  
AND REPRESENTATIVE PLAINTIFF **EDUARDO LEON CASTILLO**

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  
Gene J. Stonebarger (SBN 209461); Crystal L. Matter (SBN 278084)  
STONEBARGER LAW, APC  
75 Iron Point Circle, Suite 145  
Folsom, CA 95630  
TELEPHONE NO.: (916) 235-7140 FAX NO.: (916) 235-7141  
ATTORNEY FOR (Name): Plaintiff Eduardo Leon Castillo

FOR COURT USE ONLY  
**FILED**  
San Francisco County Superior Court  
FEB 03 2017  
CLERK OF THE COURT  
BY: *Chalene Johnson* Deputy Clerk

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco  
STREET ADDRESS: 400 McAllister Street  
MAILING ADDRESS:  
CITY AND ZIP CODE: San Francisco, CA 94102  
BRANCH NAME:

CASE NAME:  
Eduardo Leon Castillo v. Peet's Coffee & Tea, LLC, et al.

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  **Limited** (Amount demanded is \$25,000 or less)  
 **Counter**  **Joinder**  
Complex Case Designation  
Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER  
**CGC-17-556926**  
JUDGE:  
DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41)
<b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23)	<b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26)	<b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20)
<b>Non-PI/PD/WD (Other) Tort</b> <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35)	<b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38)	<b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42)
<b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence  | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 3
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: January 31, 2017  
Crystal L. Matter  
(TYPE OR PRINT NAME)

*Crystal L. Matter*  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.