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21 *Attorneys for Plaintiffs Martin Shalika*
22 *and Alexander Panvini*

18 **UNITED STATES DISTRICT COURT**
19 **CENTRAL DISTRICT OF CALIFORNIA**

20 **MARTIN SHALIKAR and ALEXANDER**
21 **PANVINI**, individually and on behalf of
22 all others similarly situated,

23 Plaintiffs,

24 v.

25 **ASAHI BEER U.S.A., INC.,**

26 Defendant.

Case No.: 2:17-cv-02713 JAK
(JPRx)

**FIRST AMENDED CLASS
ACTION COMPLAINT**

1. **Violation of California Civil
Code §1750, et seq.**
2. **Violation of California
Business and Professions
Code § 17200, et seq.**
3. **Violation of California
Business and Professions
Code § 17500, et seq.**

FIRST AMENDED CLASS ACTION COMPLAINT

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- 4. Breach of Implied Warranty**
- 5. Common Law Fraud**
- 6. Intentional Misrepresentation**
- 7. Negligent Misrepresentation**
- 8. Breach of Contract**
- 9. Quasi-Contract/Unjust
Enrichment/Restitution**

JURY TRIAL DEMANDED

1 Plaintiffs Matin Shalikar and Alexander Panvini (“Plaintiffs”) by and through
 2 their counsel, bring this Class Action Complaint against Asahi Beer U.S.A, Inc.
 3 (“Defendant”), on behalf of themselves and all others similarly situated, and allege
 4 upon personal knowledge as to their own actions, and upon information and belief as
 5 to counsel’s investigations and all other matters, as follows:

6 **NATURE OF THE ACTION**

7 1. Plaintiffs bring this consumer protection and false advertising class
 8 action lawsuit against Defendant, based on Defendant’s misleading business practices
 9 with respect to the sale of Asahi Super Dry beer brewed by Molson Coors Brewing
 10 Company (“Molson”) in Canada (the “Product”).

11 2. At all relevant times, Defendant has marketed and sold the Product with
 12 labeling, packaging, and advertising that makes references to Japan, Japanese words,
 13 and Japanese characters. The Product’s labeling, packaging, and marketing led
 14 Plaintiffs and other consumers to reasonably believe that they were purchasing beer
 15 that is brewed in Japan.

16 3. In reality, the Product is not brewed in Japan, but instead is brewed in
 17 Canada by Molson.¹

18 4. Plaintiffs and other consumers have reasonably relied on Defendant’s
 19 deceptive advertising in purchasing the Product, believing that the Product was
 20 brewed in Japan. Had Plaintiffs and other consumers known that the Product was not
 21 brewed in Japan, they would not have purchased the Product or would have paid
 22 significantly less for the Product. Therefore, Plaintiffs and other consumers have
 23 suffered injury in fact as a result of Defendant’s deceptive practices.

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 26 ¹ “We also have an agreement with Asahi to brew and package Asahi Super Dry and Asahi Select to
 27 the U.S. market... ” Molson Coors Brewing Company, Form 10-K, p. 10 (February 14, 2017)
 28 (hereinafter “Molson Coors 2016 Form 10-K”); *see also*, Asahi Breweries, Ltd., Worldwide,
<http://www.asahibeer.com/worldwide/> (last visited April 10, 2017).

1 5. Plaintiffs bring this class action lawsuit on behalf of themselves and all
2 others similarly situated. Plaintiffs seek to represent a Nationwide Class, a California
3 Subclass, and a California Consumer Subclass (defined *infra* in paragraphs 36-38)
4 (collectively, referred to as “Classes”).

5 6. Plaintiffs, on behalf of themselves and the Classes, are seeking damages,
6 restitution, declaratory and injunctive relief, and all other remedies this Court deems
7 appropriate.

8 **JURISDICTION AND VENUE**

9 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §
10 1332(d)(2)(A) because this case is a class action where the aggregate claims of all
11 members of the proposed Classes are in excess of \$5,000,000, exclusive of interests
12 and costs, and Plaintiffs, as well as most members of the proposed Classes, which
13 total thousands of class members, are citizens of states different from the states of
14 Defendant.

15 8. This Court has personal jurisdiction over Defendant because Defendant
16 has its principle place business in California, and has sufficient minimum contacts in
17 California or otherwise intentionally did avail itself of the markets within California,
18 through its sale of the Product to California consumers.

19 9. Venue is proper in this District pursuant to 28 U.S.C. 1391(a)(1) because
20 Defendant has its principal place of business within this District, regularly conducts
21 business throughout this District, and a substantial part of the events and/or omissions
22 giving rise to this action occurred in this District.

23 **PARTIES**

24 10. Plaintiff Matin Shalika is a citizen of California, residing in Los
25 Angeles. In 2016, Mr. Shalika purchased the Product from Bristol Farms in Los
26 Angeles, California. In purchasing the Product, Mr. Shalika saw and relied on the
27 Product name “Asahi,” as well as the Japanese words and characters on the bottle and
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1 packaging of the Product. Based on these representations, Mr. Shalikar believed he
2 was purchasing a beer brewed in Japan. However, unbeknownst to Mr. Shalikar, the
3 Product he purchased was not brewed in Japan, but was instead brewed in Canada.
4 Mr. Shalikar would not have purchased the Product or would have paid significantly
5 less for the Product had he known that the Product was not brewed in Japan. Mr.
6 Shalikar therefore suffered injury in fact and lost money as a result of Defendant's
7 misleading, false, unfair, and fraudulent practices, as described herein. Despite being
8 misled, Mr. Shalikar would likely purchase the Product in the future if the Product
9 was in fact brewed in Japan.

10 11. Plaintiff Alexander Panvini has resided in Seattle, Washington during
11 the relevant time period. During the relevant time period, Plaintiff purchased Asahi
12 Dry at multiple locations in California during or around June through August of 2015.
13 He purchased Asahi Dry from retail stores in Concord, Lafayette and Walnut Creek,
14 California. Plaintiff purchased Asahi Dry bottles in six packs. Plaintiff purchased
15 Asahi Dry in reliance on Defendant's representations contained on the packaging that
16 the beer was imported from Japan. Plaintiff has since learned that Asahi Dry is not
17 imported from Japan, but rather made in North America. Plaintiff would not have
18 purchased Asahi Dry had he known the Defendant's representations were false.
19 Because of Defendant's misrepresentations and deceptive conduct, Plaintiff
20 purchased beer that had less value than what Plaintiff paid, and Plaintiff has
21 accordingly suffered legally cognizable damages proximately caused by Defendant's
22 misconduct. After learning the truth about Defendant's mislabeling of Asahi Dry,
23 Plaintiff decided to stop purchasing it. If Asahi Dry were accurately labeled, Plaintiff
24 would continue purchasing them.

25 12. Defendant Asahi Beer U.S.A., Inc. is a Delaware corporation with its
26 principal place of business at 3625 Del Amo Blvd., 9250, Torrance, CA 90503.
27 Defendant is a wholly owned subsidiary of Asahi Breweries, Ltd., which in turn is a
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1 wholly owned subsidiary of Asahi Group Holdings, Ltd. Defendant is responsible for
 2 the marketing, distribution, and sale of the Product in the United States, including in
 3 this District.

4 **FACTUAL ALLEGATIONS**

5 **A. Background**

6 13. In March 1987, Asahi Breweries, Ltd. launched Asahi Super Dry beer in
 7 Japan.²

8 14. In April 1998, Asahi Beer U.S.A, Inc. was established to market,
 9 distribute, and sell the Product in the United States.³

10 15. Since as early as 2004, Asahi Breweries, Ltd. contracted with Molson,
 11 whereby the two companies agreed that Molson would brew the Product in Canada
 12 for Asahi Breweries, Ltd., for distribution and sale in the United States by
 13 Defendant.⁴

14 16. At all relevant times, the Product was brewed by Molson in Canada, and
 15 then marketed, distributed, and sold in the United States by Defendant.⁵

16 17. Further, Molson is currently finalizing negotiations with Asahi
 17 Breweries, Ltd. for an extension of this contract through early 2020.⁶

18 18. At all relevant times, the Product was sold across California and the
 19 United States at grocery chains, convenience stores, liquor stores, and other retailers
 20 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.

21 19. The Product is manufactured in a variety of sizes as depicted below:
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 23
 24

25 ² http://www.asahigroup-holdings.com/en/ir/pdf/2016_yend_factbook.pdf#zoom=100 (last visited
 26 on April 10, 2017).

26 ³ *Id.*

27 ⁴ Molson Coors Brewing Company, Form 10-K, p. 85 (March 10, 2006).

27 ⁵ Molson Coors 2016 Form 10-K at 6, 9, 10.

28 ⁶ *Id.* at 10.



20. The Product is sold at a price premium above other domestically brewed beers. For example, a 6-pack of the Product is currently sold at Bristol Farms for \$9.99 while a 6-pack of Budweiser beer is currently sold at Bristol Farms for \$6.99. The Product also garners a price premium over Canadian brewed beer. For example, a 6-pack of Labatt Blue, a Canadian brewed beer, is currently sold at Bristol Farms for \$6.99.

21. Water makes up more than 90 percent of beer, and the type of water used greatly influences the taste and quality of the beer, just as climate and terroir greatly influence the taste and quality of wine.⁷

22. The Asahi beer distributed and sold in Japan contains water from the site of the brewery in which it is produced. For example, Asahi Breweries, Ltd.'s original brewery, the Suita Brewery, uses water from the water springs in Suita city in the Osaka Prefecture of Japan.⁸ The Osaka Prefecture is known for its good quality spring water, which is influential in the taste and quality of the beer.⁹

23. Defendant, through its agreement with Molson, does not use water from Japan in the Product. Rather, the water Molson uses to brew the Product comes from local sources near Molson's breweries in Canada. According to the Molson Coors 2016 Form 10-K, "[w]ater used in the brewing process is from local sources in the communities where our breweries operate."¹⁰

B. The Product's Labeling, Packaging, and Marketing are Misleading to Reasonable Consumers

24. The Product's labeling, packaging, and marketing are misleading to reasonable consumers, including Plaintiffs and other Class members, and only serves

⁷ <https://beerandbrewing.com/VUKd4igAABCrKdWe/article/brewing-water> (last visited on April 10, 2017).

⁸ <http://www.pref.osaka.lg.jp/en/attraction/culture/aquapolis/aquapolis4.html> (last visited on April 10, 2017).

⁹ *Id.*

¹⁰ Molson Coors 2016 Form 10-K at 9.

1 the profit maximizing interests of Defendant.

2 25. Defendant deceptively labeled and packaged the Product to target
3 consumers who are interested in purchasing Japanese-made products.

4 26. The overall brand image of Asahi beer, including its name¹¹, is centered
5 around Japan. Defendant uses references to Japan, Japanese words, and Japanese
6 characters/script on the Product label and its packaging, creating the impression that
7 the Product is brewed in Japan.

8 27. The following create a misleading perception that the Product is brewed
9 in Japan:

- 10 a. The “Asahi” product name spelled in English;
- 11 b. アサヒ ビールー Japanese Katakana script which means “Asahi beer;”
- 12 c. スーパードライー Japanese Katakana script which means “Super Dry”
- 13 d. 辛口ー Japanese Kanji characters which mean “Karakuchi”, the Japanese
14 word for dry taste.

15 28. Defendant knows, knew or should have known that Plaintiffs and other
16 consumers did and would rely on the labeling, packaging, and advertising of the
17 Product in purchasing the Product, and would reasonably believe that the Product was
18 brewed in Japan.

19 29. In reasonable reliance on the representations listed in Paragraph 26, and
20 reasonably believing that the Product was brewed in Japan, Plaintiffs and other
21 members of the Classes purchased the Product.

22 30. Consumer research has demonstrated that representations regarding
23 geographic origin of a product have a direct effect on product evaluations by
24 consumers, especially regarding the quality of the product.

25 31. Plaintiffs and members of the Classes did not know, and had no reason
26 to know, that the Product is not brewed in Japan because of how the Product is
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28 ¹¹ “Asahi” means morning sun in Japanese.

1 deceptively labeled, packaged, and advertised to create the impression that it is
2 brewed in Japan.

3 32. Because the Product is not brewed in Japan as reasonably expected by
4 Plaintiffs and other consumers, Defendant's marketing of the Product was and
5 continues to be misleading and deceptive.

6 33. Each consumer has been exposed to the same or substantially similar
7 deceptive practices because: 1) each Product contains identical or substantially
8 similar representations centered around Japan; and 2) each Product is not brewed in
9 Japan.

10 34. Plaintiffs and other consumers have paid an unlawful premium for the
11 Product. Plaintiffs and other consumers would have paid significantly less for the
12 Product had they known that the Product was not brewed in Japan. In the alternative,
13 Plaintiffs and other consumers would not have purchased the Product at all had they
14 known that the Product was not brewed in Japan. Therefore, Plaintiffs and other
15 consumers purchasing the Product suffered injury in fact and lost money as a result of
16 Defendant's false, unfair, and fraudulent practices, as described herein.

17 35. As a result of its misleading business practices, and the harm caused to
18 Plaintiffs and other consumers, Defendant should be enjoined from deceptively
19 representing that the Product is brewed in Japan. Furthermore, Defendant should be
20 required to pay for all damages caused to misled consumers, including Plaintiffs.

21 36. Despite being misled by Defendant, Plaintiff Shalikaar would likely
22 purchase the Product in the future if the Product was in fact brewed in Japan.

23 **CLASS ACTION ALLEGATIONS**

24 37. Plaintiffs bring this case as a class action that may be properly
25 maintained under Federal Rule of Civil Procedure 23 on behalf of themselves and all
26 persons in the United States who purchased the Product within the relevant statute of
27 limitations periods ("Nationwide Class").

1 38. Plaintiffs also seek to represent a subclass defined as all persons, who
2 are California residents who purchased the Product, or who purchased the Product
3 within the State of California, during the relevant statute of limitations periods
4 (“California Subclass”).

5 39. Plaintiffs also seek to represent a subclass defined as all persons, who
6 are California residents who purchased the Product, or who purchased the Product
7 within the State of California, for personal, family, or household purposes during the
8 relevant statute of limitations periods (“California Consumer Subclass”).

9 40. Excluded from the Classes are Defendant, the officers and directors of
10 Defendant at all relevant times, members of their immediate families and their legal
11 representatives, heirs, successors or assigns and any entity in which Defendant has or
12 had a controlling interest. Any judge and/or magistrate judge to whom this action is
13 assigned and any members of such judges’ staffs and immediate families are also
14 excluded from the Classes. Also excluded from the Classes are persons or entities
15 that purchased the Product for sole purposes of resale.

16 41. Plaintiffs hereby reserve the right to amend or modify the class
17 definitions with greater specificity or division after having had an opportunity to
18 conduct discovery.

19 42. Plaintiffs are members of all Classes.

20 43. Numerosity: Defendant has sold thousands of units of the Product. The
21 Product is sold at grocery chains, convenience stores, liquor stores, and other retailers
22 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.
23 Accordingly, members of the Classes are so numerous that their individual joinder
24 herein is impractical. While the precise number of Class members and their identities
25 are unknown to Plaintiffs at this time, the number may be determined through
26 discovery.

27 44. Common Questions Predominate: Common questions of law and fact
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1 exist as to all members of the Classes and predominate over questions affecting only
2 individual Class members. Common legal and factual questions include, but are not
3 limited to, the following: whether the Product's labeling, packaging, and marketing is
4 misleading to a reasonable consumer, and therefore violates various consumer
5 protection statutes and common laws.

6 45. Typicality: Plaintiffs' claims are typical of the claims of the Classes
7 they seek to represent in that Plaintiffs and members of the Classes were exposed to
8 Defendant's misleading labeling, packaging, and marketing, and purchased the
9 Product reasonably relying on the misleading labeling, packaging, and marketing, and
10 suffered losses as a result of such purchases.

11 46. Adequacy: Plaintiffs are adequate representatives of the Classes because
12 their interests do not conflict with the interests of the members of the Classes they
13 seek to represent, they have retained competent counsel experienced in prosecuting
14 class actions, and they intend to prosecute this action vigorously. The interests of the
15 members of the Classes will be fairly and adequately protected by Plaintiffs and their
16 counsel.

17 47. Superiority: A class action is superior to other available means for the
18 fair and efficient adjudication of the claims of the members of the Classes. The size
19 of each claim is too small to pursue individually and each individual Class member
20 will lack the resources to undergo the burden and expense of individual prosecution
21 of the complex and extensive litigation necessary to establish Defendant's liability.
22 Individualized litigation increases the delay and expense to all parties and multiplies
23 the burden on the judicial system presented by the complex legal and factual issues of
24 this case. Individualized litigation also presents a potential for inconsistent or
25 contradictory judgments. The class action mechanism is designed to remedy harms
26 like this one that are too small in value, although not insignificant, to file individual
27 lawsuits for.

1 marketing the Product with its current labels, packaging, and advertisements, Defendant
2 has used deceptive representations and designations of the Product's geographical origin
3 (Japan). Therefore, Defendant has violated section 1770(a)(4) of the CLRA.

4 55. Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that goods or
5 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
6 quantities which they do not have" By marketing the Product with its current
7 labels, packaging, and advertisements, Defendant has represented and continues to
8 represent that the Product has characteristics (that it is brewed in Japan) when it does not
9 have such characteristics. Therefore, Defendant has violated section 1770(a)(5) of the
10 CLRA.

11 56. Cal. Civ. Code § 1770(a)(7) prohibits "[r]espresenting that goods or
12 services are of a particular standard, quality, or grade, or that goods are of a particular
13 style or model, if they are of another." By marketing the Product with its current labels,
14 packaging, and advertisements, Defendant has represented and continues to represent
15 that the Product is of a particular style (that it is brewed in Japan) when it is of another
16 (brewed in Canada). Therefore, Defendant has violated section 1770(a)(7) of the CLRA.

17 57. Cal. Civ. Code § 1770(a)(9) prohibits "[a]dvertising goods or services
18 with intent not to sell them as advertised." By labeling, packaging, and marketing the
19 Product with references to Japan, Japanese words, and Japanese characters so that a
20 reasonable consumer would believe that the Product was brewed in Japan, and then
21 intentionally not selling the Product as brewed in Japan, Defendant has violated section
22 1770(a)(9) of the CLRA.

23 58. At all relevant times, Defendant has known or reasonably should have
24 known that the Product was not brewed in Japan, and that Plaintiffs and other
25 members of the California Consumer Subclass would reasonably and justifiably rely
26 on the labeling, packaging, and other advertisements in purchasing the Product.

27 59. Plaintiffs and members of the California Consumer Subclass have
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1 reasonably and justifiably relied on Defendant's misleading, and fraudulent conduct
2 when purchasing the Product. Moreover, based on the very materiality of
3 Defendant's fraudulent and misleading conduct, reliance on such conduct as a
4 material reason for the decision to purchase the Product may be presumed or inferred
5 for Plaintiffs and members of California Consumer Subclass.

6 60. Plaintiffs and members of the California Consumer Subclass have
7 suffered and continue to suffer injuries caused by Defendant because they would not
8 have purchased the Product or would have paid significantly less for the Product had
9 they known that Defendant's conduct was misleading and fraudulent.

10 61. Under Cal. Civ. Code § 1780(a), Plaintiffs and members of the
11 California Consumer Subclass are seeking injunctive relief pursuant to the CLRA,
12 preventing Defendant from further wrongful acts and unfair and unlawful business
13 practices, as well as restitution, disgorgement of profits, and any other relief this
14 Court deems proper.

15 62. Pursuant to Cal. Civ. Code § 1782, on March 6, 2017, counsel for
16 Plaintiff Matin Shalikaar mailed a notice and demand letter by certified mail, with
17 return receipt requested, to Defendant. Defendant received the notice and demand
18 letter on March 9, 2017.¹²

19 63. Pursuant to Cal. Civ. Code § 1782, on November 29, 2016, Plaintiff
20 Alexander Panvini, through counsel, delivered a CLRA demand letter to Defendant
21 that provided notice of Defendant's violation of the CLRA and demanded Defendant
22 correct, repair, replace, or otherwise rectify the unlawful, unfair, false, and deceptive
23 practices complained of herein. The letter also stated that if Defendant refused to do
24 so, Plaintiff would file a complaint seeking damages in accordance with the CLRA.
25 Defendant failed to comply with the letter.

26 64. Because Defendant has failed to fully rectify or remedy the damages
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28 ¹² See Exhibit 1.

1 caused after waiting more than the statutorily required 30 days after it received both
 2 the notice and demand letters, Plaintiffs timely filed their complaints against
 3 Defendant.

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 5 **SECOND CLAIM FOR RELIEF**
 6 **Violation of California’s Unfair Competition Law (“UCL”),**
 7 **California Business & Professions Code §§ 17200, et seq.**
 8 ***(for the California Subclass and California Consumer Subclass)***

9 65. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
 10 fully set forth herein.

11 66. Plaintiffs bring this claim individually and on behalf of the members of
 12 the proposed California Subclass and California Consumer Subclass against
 13 Defendant.

14 67. UCL §17200 provides, in pertinent part, that “unfair competition shall
 15 mean and include unlawful, unfair or fraudulent business practices and unfair,
 16 deceptive, untrue or misleading advertising”

17 68. Under the UCL, a business act or practice is “unlawful” if it violates any
 18 established state or federal law.

19 69. Defendant’s false and misleading advertising of the Product therefore
 20 was and continues to be “unlawful” because it violates the CLRA, California’s False
 21 Advertising Law (“FAL”), and other applicable laws as described herein.

22 70. As a result of Defendant’s unlawful business acts and practices,
 23 Defendant has unlawfully obtained money from Plaintiffs, and members of both the
 24 California Subclass and California Consumer Subclass.

25 71. Under the UCL, a business act or practice is “unfair” if the defendant’s
 26 conduct is substantially injurious to consumers, offends public policy, and is
 27 immoral, unethical, oppressive, and unscrupulous, as the benefits for committing such
 28 acts or practices are outweighed by the gravity of the harm to the alleged victims.

72. Defendant’s conduct was and continues to be of no benefit to purchasers

1 of the Product, as it is misleading, unfair, unlawful, and is injurious to consumers
2 who rely on the Product's labeling, packaging, and marketing. Creating consumer
3 confusion as to the actual location of brewing is of no benefit to consumers.
4 Therefore, Defendant's conduct was and continues to be "unfair."

5 73. As a result of Defendant's unfair business acts and practices, Defendant
6 has and continues to unfairly obtain money from Plaintiffs, and members of both the
7 California Subclass and California Consumer Subclass.

8 74. Under the UCL, a business act or practice is "fraudulent" if it actually
9 deceives or is likely to deceive members of the consuming public.

10 75. Defendant's conduct here was and continues to be fraudulent because it
11 has the effect of deceiving consumers into believing that the Product is brewed in
12 Japan, when it is not. Because Defendant misled Plaintiffs and members of both the
13 California Subclass and California Consumer Subclass, Defendant's conduct was
14 "fraudulent."

15 76. As a result of Defendant's fraudulent business acts and practices,
16 Defendant has and continues to fraudulently obtain money from Plaintiffs, and
17 members of both the California Subclass and California Consumer Subclass.

18 77. Plaintiffs request that this Court cause Defendant to restore this
19 unlawfully, unfairly, and fraudulently obtained money to Plaintiffs, and members of
20 both the California Subclass and California Consumer Subclass, to disgorge the
21 profits Defendant made on these transactions, and to enjoin Defendant from violating
22 the UCL or violating it in the same fashion in the future as discussed herein.
23 Otherwise, Plaintiffs, and members of both the California Subclass and California
24 Consumer Subclass, may be irreparably harmed and/or denied an effective and
25 complete remedy if such an order is not granted.

THIRD CLAIM FOR RELIEF
Violation of California's False Advertising Law ("FAL"),
California Business & Professions Code §§ 17500, et seq
(for the California Subclass and California Consumer Subclass)

78. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if fully set forth herein.

79. Plaintiffs bring this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

80. California's FAL makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

81. Defendant has represented and continues to represent to the public, including Plaintiffs and members of both the California Subclass and California Consumer Subclass, through Defendant's deceptive labeling, packaging, and marketing, that the Product is brewed in Japan. Defendant's representations are misleading because the Product is not brewed in Japan. Because Defendant has disseminated misleading information regarding the Product, and Defendant knows, knew, or should have known through the exercise of reasonable care that the representations were and continue to be misleading, Defendant violates the FAL.

82. Furthermore, Defendant knows, knew or should have known through the exercise of reasonable care that such representations were and continue to be untrue or misleading.

83. As a result of Defendant's false advertising, Defendant has and continues to fraudulently obtain money from Plaintiffs and members of both the

1 California Subclass and California Consumer Subclass.

2 84. Plaintiffs request that this Court cause Defendant to restore this
3 fraudulently obtained money to Plaintiffs and members of both the California
4 Subclass and California Consumer Subclass, to disgorge the profits Defendant made
5 on these transactions, and to enjoin Defendant from violating the FAL or violating it
6 in the same fashion in the future as discussed herein. Otherwise, Plaintiffs and
7 members of both the California Subclass and California Consumer Subclass may be
8 irreparably harmed and/or denied an effective and complete remedy if such an order
9 is not granted.

10 **FOURTH CLAIM FOR RELIEF**
11 **Breach of Implied Warranty**
12 **California Commercial Code § 2314**

(for the California Subclass and California Consumer Subclass)

13 85. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
14 fully set forth herein.

15 86. Plaintiffs bring this claim individually and on behalf of the members of
16 the proposed California Subclass and California Consumer Subclass against
17 Defendant.

18 87. California Commercial Code § 2314(1) provides that “a warranty that
19 the goods shall be merchantable is implied in a contract for their sale if the seller is a
20 merchant with respect to goods of that kind.” Cal. Com. Code § 2314(1).

21 88. California Commercial Code § 2314(2) provides that “[g]oods to be
22 merchantable must be at least such as... (f) conform to the promises or affirmations
23 of fact made on the container or label if any.” Cal. Com. Code § 2314(2)(f).

24 89. Defendant is a merchant with respect to the sale of beer products,
25 including the Product here. Therefore, a warranty of merchantability is implied in
26 every contract for sale of the Product to Plaintiffs and California consumers.

27 90. By advertising the Product with its current labeling and packaging,
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1 Defendant made an promise that the Product was brewed in Japan. By not brewing
2 the Product in Japan, the Product has not “conform[ed] to the promises...made on the
3 container or label” of the Product. Plaintiffs and California consumers did not
4 receive the goods as impliedly warranted by Defendant to be merchantable.

5 91. Therefore, the Product is not merchantable under California law and
6 Defendant has breached its implied warranty of merchantability in regard to the
7 Product.

8 92. If Plaintiffs and members of both the California Subclass and California
9 Consumer Subclass had known that the Product was not brewed in Japan, they would
10 not have purchased the Product or would not have been willing to pay the premium
11 price associated with the Product. Therefore, as a direct and/or indirect result of
12 Defendant’s breach, Plaintiffs and members of both the California Subclass and
13 California Consumer Subclass have suffered injury and deserve to recover all
14 damages afforded under the law.

15 **FIFTH CLAIM FOR RELIEF**
16 **Common Law Fraud**
(for the Classes)

17 93. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
18 fully set forth herein.

19 94. Plaintiffs bring this claim individually and on behalf of the members of
20 the Classes against Defendant.

21 95. Defendant has willfully, falsely, or knowingly labeled, packaged, and
22 marketed the Product in a manner indicating that the Product is brewed in Japan.
23 However, the Product is not brewed in Japan. Therefore, Defendant has made
24 misrepresentations regarding the Product.

25 96. Defendant’s misrepresentations are and were material (i.e., the type of
26 misrepresentations to which a reasonable person would attach importance and would
27 be induced to act thereon in making purchase decisions), because they relate to where
28

1 the brewing of the Product occurred.

2 97. Defendant knew or recklessly disregarded the fact that the Product was
3 not brewed in Japan.

4 98. Defendant intends that Plaintiffs and other consumers rely on these
5 representations, as evidenced by Defendant's intentionally using labeling and
6 packaging that references Japan, and uses Japanese words and characters.

7 99. Plaintiffs and members of the Classes have reasonably and justifiably
8 relied on Defendant's misrepresentations when purchasing the Product and had the
9 correct facts been known, would not have purchased the Product or would not have
10 purchased them at the prices at which they were offered.

11 100. Therefore, as a direct and proximate result of Defendant's fraud,
12 Plaintiffs and members of the Classes have suffered economic losses and other
13 general and specific damages, including but not limited to the amounts paid for the
14 Product, and any interest that would have accrued on those monies, all in an amount
15 to be proven at trial.

16 **SIXTH CLAIM FOR RELIEF**
17 **Intentional Misrepresentation**
(for the Classes)

18 101. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
19 fully set forth herein.

20 102. Plaintiffs bring this claim individually and on behalf of the members of
21 the Classes against Defendant.

22 103. Defendant labeled, packaged, and marketed the Product in a manner
23 indicating that the Product is brewed in Japan. However, the Product is not brewed in
24 Japan. Therefore, Defendant has made misrepresentations as to the Product.

25 104. Defendant's misrepresentations regarding the Product are material to a
26 reasonable consumer because they relate to the location of the brewing of the Product
27 received by consumers. A reasonable consumer would attach importance to such
28

1 representations and would be induced to act thereon in making purchase decisions.

2 105. At all relevant times when such representations were made, Defendant
3 knew that the representations were misleading, or has acted recklessly in making the
4 representations and without regard to the truth.

5 106. Defendant intends that Plaintiffs and other consumers rely on these
6 representations, as evidenced by Defendant intentionally using labeling and
7 packaging that references Japan, and uses Japanese words and characters.

8 107. Plaintiffs and members of the Classes have reasonably and justifiably
9 relied on Defendant's intentional misrepresentations when purchasing the Product,
10 and had the correct facts been known, would not have purchased the Product or
11 would not have purchased them at the prices at which they were offered.

12 108. Therefore, as a direct and proximate result of Defendant's intentional
13 misrepresentations, Plaintiffs and members of the Classes have suffered economic
14 losses and other general and specific damages, including but not limited to the
15 amounts paid for the Product, and any interest that would have accrued on those
16 monies, all in an amount to be proven at trial.

17
18 **SEVENTH CLAIM FOR RELIEF**
19 **Negligent Misrepresentation**
(for the Classes)

20 109. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
21 fully set forth herein.

22 110. Plaintiffs bring this claim individually and on behalf of the members of
23 the Classes against Defendant.

24 111. Defendant labeled, packaged, and marketed the Product in a manner
25 indicating that the Product is brewed in Japan. However, the Product is not brewed in
26 Japan. Therefore, Defendant has made misrepresentations as to the Product.

27 112. Defendant's misrepresentations regarding the Product are material to a
28

1 reasonable consumer because they relate to the location of the brewing of the Product
2 received by the consumer. A reasonable consumer would attach importance to such
3 representations and would be induced to act thereon in making purchase decisions.

4 113. At all relevant times when such misrepresentations were made,
5 Defendant knew or had been negligent in not knowing that that the Product was not
6 brewed in Japan. Defendant had no reasonable grounds for believing its
7 representations were not false and misleading.

8 114. Defendant intends that Plaintiffs and other consumers rely on these
9 representations, as evidenced by Defendant's intentionally using labeling and
10 packaging that references Japan, and uses Japanese words and characters.

11 115. Plaintiffs and members of the Classes have reasonably and justifiably
12 relied on Defendant's negligent misrepresentations when purchasing the Product, and
13 had the correct facts been known, would not have purchased the Product or would not
14 have purchased them at the prices at which they were offered.

15 116. Therefore, as a direct and proximate result of Defendant's negligent
16 misrepresentations, Plaintiffs and members of the Classes have suffered economic
17 losses and other general and specific damages, including but not limited to the
18 amounts paid for the Product, and any interest that would have accrued on those
19 monies, all in an amount to be proven at trial.

20
21 **EIGHTH CLAIM FOR RELIEF**
Breach of Contract
22 **(for the Classes)**

23 117. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
24 fully set forth herein.

25 118. Plaintiffs bring this claim individually and on behalf of the members of
26 the Classes against Defendant.

27 119. In purchasing the Product, Plaintiffs and members of the Classes have
28

1 formed valid contracts that are supported by sufficient consideration, pursuant to
 2 which Defendant was obligated to provide a product that was brewed in Japan, as
 3 deceptively represented by Defendant's packaging and labeling.

4 120. Defendant has materially breached its contracts with Plaintiffs and
 5 members of the Classes by selling a product that is not brewed in Japan.

6 121. As a direct and proximate result of Defendant's breaches, Plaintiffs and
 7 members of the Classes were damaged in that they received products with less value
 8 than the amounts paid. Moreover, Plaintiffs and members of the Classes have
 9 suffered economic losses and other general and specific damages, including but not
 10 limited to the amounts paid for the Product, and any interest that would have accrued
 11 on those monies, all in an amount to be proven at trial.

12 **NINTH CLAIM FOR RELIEF**
 13 **Quasi Contract/Unjust Enrichment/Restitution**
 14 ***(for the Classes)***

15 122. Plaintiffs repeat the allegations contained in paragraphs 1-49 above as if
 16 fully set forth herein.

17 123. Plaintiffs bring this claim individually and on behalf of the members of
 18 the Classes against Defendant.

19 124. As alleged herein, Defendant has intentionally and recklessly made
 20 misleading representations to Plaintiffs and members of the Classes to induce them to
 21 purchase the Product. Plaintiffs and members of the Classes have reasonably relied
 22 on the misleading representations and have not received all of the benefits promised
 23 by Defendant. Plaintiffs and members of the Classes therefore have been induced by
 24 Defendant's misleading and false representations about the Product, and paid for
 25 them when they would and/or should not have or paid more money to Defendant for
 26 the Product than they otherwise would and/or should have paid.

27 125. Plaintiffs and members of the Classes have conferred a benefit upon
 28

1 Defendant as Defendant has retained monies paid to them by Plaintiffs and members
2 of the Classes.

3 126. The monies received were obtained under circumstances that were at the
4 expense of Plaintiffs and members of the Classes – i.e., Plaintiffs and members of the
5 Classes did not receive the full value of the benefit conferred upon Defendant.

6 127. Therefore, it is inequitable and unjust for Defendant to retain the profit,
7 benefit, or compensation conferred upon it without paying Plaintiffs and the members
8 of the Classes back for the difference of the full value of the benefits compared to the
9 value actually received.

10 128. As a direct and proximate result of Defendant's unjust enrichment,
11 Plaintiffs and members of the Classes are entitled to restitution, disgorgement, and/or
12 the imposition of a constructive trust upon all profits, benefits, and other
13 compensation obtained by Defendant from its deceptive, misleading, and unlawful
14 conduct as alleged herein.

15 **PRAYER FOR RELIEF**

16
17 WHEREFORE, Plaintiffs, individually and on behalf of all others
18 similarly situated, seek judgment against Defendant, as follows:

19 a) For an order certifying the Nationwide Class, the California Subclass,
20 and the California Consumer Subclass, under Rule 23 of the Federal Rules of Civil
21 Procedure; naming Plaintiffs as representatives of all Classes; and naming
22 Plaintiffs' attorneys as Co-Lead Class Counsel to represent all Classes.

23 b) For an order declaring that Defendant's conduct violates the statutes
24 and laws referenced herein;

25 c) For an order finding in favor of Plaintiffs, and all Classes, on all
26 claims asserted herein;

27 d) For an order awarding damages on behalf of the California Consumer
28

1 Subclass, in amounts to be determined by the Court and/or jury;

2 e) For prejudgment interest on all amounts awarded;

3 f) For interest on the amount of any and all economic losses, at the
4 prevailing legal rate;

5 g) For an order of restitution and all other forms of equitable monetary
6 relief;

7 h) For injunctive relief as pleaded or as the Court may deem proper;

8 i) For an order awarding Plaintiffs and all Classes their reasonable
9 attorneys' fees, expenses and costs of suit, including as provided by statute such as
10 under California Code of Civil Procedure section 1021.5; and

11 j) For any other such relief as the Court deems just and proper.

12
13 **DEMAND FOR TRIAL BY JURY**

14 Plaintiffs demand a trial by jury on all issues so triable.

15
16 Dated: May 3, 2017

FARUQI & FARUQI, LLP

17 By: /s/ Barbara A. Rohr
18 Barbara A. Rohr, Bar No. 273353
19 Benjamin Heikali, Bar No. 307466
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20 Los Angeles, CA 90024
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*Attorneys for Plaintiffs Martin Shalika
and Alexander Panvini*

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Matin Shalika, declare as follows:

1. I am the Plaintiff in this action and a citizen of the State of California. To extent the allegations in the complaint are based on my personal knowledge, they are true and, if called as a witness, I could testify competently thereto.

2. This Class Action Complaint is filed in the proper place for trial because I purchased the Product in this District, and Defendant conducts a substantial amount of business in this District.

3. In 2016, I purchased the Product from Bristol Farms located in this District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on April 10, 2017 at Los Angeles, California.



Matin Shalika

EXHIBIT A



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

NEW YORK

CALIFORNIA

DELAWARE

PENNSYLVANIA

BARBARA A. ROHR
brohr@faruqilaw.com

March 6, 2017

Via Certified U.S. Mail
Return Receipt Requested

Asahi Beer U.S.A., Inc.
3625 Del Amo Blvd., #250
Torrance, CA 90503

Re: *Class Action Notification and Pre-Lawsuit Demand Pursuant to California Civil Code Section 1782 and All Other Applicable Laws Requiring Pre-Suit Notice Concerning Asahi Beer*

To Whom It May Concern:

Please be advised that Faruqi & Faruqi, LLP represents Matin Shalikar ("Client"), purchaser of Asahi Super Dry beer. Our Client seeks to represent a nationwide class of consumers ("Class") who, within the relevant time period,¹ purchased any Asahi beer brewed by Molson Canada ("Products"). This letter provides Asahi Beer U.S.A., Inc. ("Defendant") with notice and demand for corrective action. All further communications intended for our Client must be directed through this office. Furthermore, this demand and notice letter is meant to comply with the requirements of *California Civil Code* §1782, and all other laws requiring a pre-suit demand and notice prior to litigation, on behalf of our Client and all others similarly situated should this matter proceed to litigation.

During the relevant time period, Defendant and/or its agents have impliedly represented that the Products are brewed in Japan. The Products, however, are brewed in Canada.

Mr. Shalikar, a consumer residing in California, purchased Asahi Super Dry beer in Los Angeles, California. Based on Defendant's representations, Mr. Shalikar reasonably believed that the beer he purchased was brewed in Japan. The beer, however, is brewed in Canada.

These business practices violate several California consumer protection statutes and laws. Pursuant to *California Civil Code* §1782(a)(1), our Client and the Class further provide notice that they believe Defendant has violated, and continues to violate the California Consumers Legal Remedies Act ("CLRA"), and specifically *California Civil Code* §1770, in at least the following manner:

¹ From four years prior to the date of a prospective complaint filed by our Client.



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

Asahi Beer U.S.A., Inc.
Page 2
March 6, 2017

1. Misrepresenting the source, sponsorship, approval, or certification of goods or services (Section 1770(a)(2));
2. Using deceptive representations or designations of geographic origin in connection with goods or services (Section 1770(a)(4));
3. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have (Section 1770(a)(5));
4. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Section 1770(a)(7)); and
5. Advertising goods or services with intent not to sell them as advertised (Section 1770(a)(9)).

It is our opinion that Defendant has also violated and continues to violate California Business and Professions Code Sections 17200 and 17500, as well as other statutory and common law.

This letter not only serves as notification of Defendant's alleged violations of *California Civil Code* §1770 as outlined above, but also as our Client's demand, and all others similarly situated, that Defendant immediately corrects, repairs, refunds and otherwise rectifies the violations of § 1770 and the other statutes and causes of action referenced above, on a class-wide basis.

To cure the harmful conduct noted herein, we demand that Defendant: (1) cease and desist from advertising and selling of the Products in a false and misleading manner; (2) issue an immediate recall of the Products; and (3) make full restitution to the Class of all money obtained from the sales thereof.

We further demand that Defendant preserve all documents, emails, other electronically stored information and other evidence which refer or relate to any of the above-described practices, including, but not limited to:

1. All documents concerning the development and/or testing of the Products;
2. All documents concerning the brewing, manufacturing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
3. All documents concerning communications with any individual involved in the brewing, development, testing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

Asahi Beer U.S.A., Inc.

Page 3

March 6, 2017

4. All documents concerning communications with purchasers of the Products;
5. All documents concerning the sales volume of the Products (in units and/or dollars), and the revenues derived therefrom; and
6. All documents concerning the identities and location of potential class members who purchased the Products.

Further, this letter serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should Defendant fail to rectify the unfair and deceptive scheme within thirty (30) days of receipt of this letter, our Client will file a class action complaint for actual damages, punitive damages, and all other damages permitted under the CLRA and the other statutes and causes of action available to him, along with interest, attorneys' fees and costs for Defendant's violations.

We are willing to discuss an appropriate way to remedy the demands asserted in this letter. If Defendant wishes to enter into such a discussion, please contact our firm immediately. If we do not hear from Defendant promptly, we will conclude that Defendant is not interested in resolving this dispute short of litigation in the form of a class action lawsuit. If Defendant contends that any statement in this letter is inaccurate in any respect, please provide our firm with Defendant's contentions and supporting documents promptly.

Please contact the undersigned if there are any questions or concerns.

Sincerely,

A handwritten signature in blue ink, reading 'Barbara A. Rohr'.

Barbara A. Rohr

cc: Timothy J. Peter
Ben Heikali

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Sent To Asahi Beer U.S.A., Inc.
 Street and Apt. No., or PO Box No. 3625 Del Amo Blvd., #250
 City, State, ZIP+4® Torrance, CA 90503

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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<p>■ Complete items 1, 2, and 3.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to: <u>Asahi Beer U.S.A., Inc.</u> <u>3625 Del Amo Blvd., #250</u> <u>Torrance, CA 90503</u></p> <p>2. Article Number (Transfer from service label) <u>716 2140 0000 1581 4440</u></p>	<p>A. Signature <u>X</u> <u>[Signature]</u> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) _____ C. Date of Delivery _____</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>
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Farugi & Farugi, LLP
10866 Wilshire Blvd., #1470
Los Angeles, CA 90024

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Product & Tracking Information

Postal Product:

Features:
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Available Actions

Text Updates

Email Updates

DATE & TIME

STATUS OF ITEM

LOCATION

March 9, 2017 , 11:53 am

Delivered, Left with Individual

TORRANCE, CA 90503

Your item was delivered to an individual at the address at 11:53 am on March 9, 2017 in TORRANCE, CA 90503.

March 8, 2017 , 2:54 pm

In Transit to Destination

March 7, 2017 , 2:54 pm

Departed USPS Facility

LOS ANGELES, CA 90052

March 6, 2017 , 9:26 pm

Arrived at USPS Facility

LOS ANGELES, CA 90052

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CERTIFICATE OF SERVICE

I hereby certify that on May 3, 2017, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the e-mail addresses denoted on the Electronic Mail Notice List, and I hereby certify that I have mailed the foregoing document to the non-CM/ECF participants indicated on the Manual Notice List.

Dated: May 3, 2017

/s/ Barbara A. Rohr
Barbara A. Rohr

APPENDIX A

Barbara A. Rohr (SBN 273353)
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boyle@halunenlaw.com

Attorneys for Plaintiffs Matin Shalika
and Alexander Panvini

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

**MATIN SHALIKAR and ALEXANDER
PANVINI**, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

ASAHI BEER U.S.A., INC.,

Defendant.

Case No.: 2:17-cv-02713 JAK
(JPRx)

**FIRST AMENDED CLASS
ACTION COMPLAINT**

- 1. Violation of California Civil Code §1750, et seq.**
- 2. Violation of California Business and Professions Code § 17200, et seq.**
- 3. Violation of California Business and Professions Code § 17500, et seq.**

FIRST AMENDED CLASS ACTION COMPLAINT

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- 4. Breach of Implied Warranty**
- 5. Common Law Fraud**
- 6. Intentional Misrepresentation**
- 7. Negligent Misrepresentation**
- 8. Breach of Contract**
- 9. Quasi-Contract/Unjust Enrichment/Restitution**

JURY TRIAL DEMANDED

1 Plaintiff~~s~~ Matin Shalikar and Alexander Panvini (“Plaintiff~~s~~”) by and through
 2 his-their counsel, brings this Class Action Complaint against Asahi Beer U.S.A, Inc.
 3 (“Defendant”), on behalf of himself-themselves and all others similarly situated, and
 4 alleges upon personal knowledge as to his-their own actions, and upon information
 5 and belief as to counsel’s investigations and all other matters, as follows:

6 NATURE OF THE ACTION

7 1. Plaintiff~~s~~ brings this consumer protection and false advertising class
 8 action lawsuit against Defendant, based on Defendant’s misleading business practices
 9 with respect to the sale of Asahi Super Dry beer brewed by Molson Coors Brewing
 10 Company (“Molson”) in Canada (the “Product”).

11 2. At all relevant times, Defendant has marketed and sold the Product with
 12 labeling, packaging, and advertising that makes references to Japan, Japanese words,
 13 and Japanese characters. The Product’s labeling, packaging, and marketing led
 14 Plaintiff~~s~~ and other consumers to reasonably believe that they were purchasing beer
 15 that is brewed in Japan.

16 3. In reality, the Product is not brewed in Japan, but instead is brewed in
 17 Canada by Molson.¹

18 4. Plaintiff~~s~~ and other consumers have reasonably relied on Defendant’s
 19 deceptive advertising in purchasing the Product, believing that the Product was
 20 brewed in Japan. Had Plaintiff~~s~~ and other consumers known that the Product was not
 21 brewed in Japan, they would not have purchased the Product or would have paid
 22 significantly less for the Product. Therefore, Plaintiff~~s~~ and other consumers have
 23 suffered injury in fact as a result of Defendant’s deceptive practices.

24
 25
 26 ¹ “We also have an agreement with Asahi to brew and package Asahi Super Dry and Asahi Select to
 27 the U.S. market... ” Molson Coors Brewing Company, Form 10-K, p. 10 (February 14, 2017)
 28 (hereinafter “Molson Coors 2016 Form 10-K”); *see also*, Asahi Breweries, Ltd., Worldwide,
<http://www.asahibeer.com/worldwide/> (last visited April 10, 2017).

5. Plaintiff~~s~~ brings this class action lawsuit on behalf of ~~themselves~~himself and all others similarly situated. Plaintiff~~s~~ seeks to represent a Nationwide Class, a California Subclass, and a California Consumer Subclass (defined *infra* in paragraphs 36-38) (collectively, referred to as “Classes”).

6. Plaintiff~~s~~, on behalf of ~~themselves~~himself and the Classes, ~~are~~is seeking damages, restitution, declaratory and injunctive relief, and all other remedies this Court deems appropriate.

JURISDICTION AND VENUE

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)(A) because this case is a class action where the aggregate claims of all members of the proposed Classes are in excess of \$5,000,000, exclusive of interests and costs, and Plaintiff~~s~~, as well as most members of the proposed Classes, which total thousands of class members, ~~and~~ are citizens of states different from the states of Defendant.

8. This Court has personal jurisdiction over Defendant because Defendant has its principle place business in California, and has sufficient minimum contacts in California or otherwise intentionally did avail itself of the markets within California, through its sale of the Product to California consumers.

9. Venue is proper in this District pursuant to 28 U.S.C. 1391(a)(1) because Defendant has its principal place of business within this District, regularly conducts business throughout this District, and a substantial part of the events and/or omissions giving rise to this action occurred in this District.

PARTIES

10. Plaintiff Matin Shalika is a citizen of California, residing in Los Angeles. In 2016, Mr. Shalika purchased the Product from Bristol Farms in Los Angeles, California. In purchasing the Product, Mr. Shalika saw and relied on the Product name “Asahi,” as well as the Japanese words and characters on the bottle and

1 packaging of the Product. Based on these representations, Mr. Shalikar believed he
 2 was purchasing a beer brewed in Japan. However, unbeknownst to Mr. Shalikar, the
 3 Product he purchased was not brewed in Japan, but was instead brewed in Canada.
 4 Mr. Shalikar would not have purchased the Product or would have paid significantly
 5 less for the Product had he known that the Product was not brewed in Japan. Mr.
 6 Shalikar therefore suffered injury in fact and lost money as a result of Defendant's
 7 misleading, false, unfair, and fraudulent practices, as described herein. Despite being
 8 misled, Mr. Shalikar would likely purchase the Product in the future if the Product
 9 was in fact brewed in Japan.

10 11. Plaintiff Alexander Panvini has resided in Seattle, Washington during
 11 the relevant time period. During the relevant time period, Plaintiff purchased Asahi
 12 Dry at multiple locations in California during or around June through August of 2015.
 13 He purchased Asahi Dry from retail stores in Concord, Lafayette and Walnut Creek,
 14 California. Plaintiff purchased Asahi Dry bottles in six packs. Plaintiff purchased
 15 Asahi Dry in reliance on Defendant's representations contained on the packaging that
 16 the beer was imported from Japan. Plaintiff has since learned that Asahi Dry is not
 17 imported from Japan, but rather made in North America. Plaintiff would not have
 18 purchased Asahi Dry had he known the Defendant's representations were false.
 19 Because of Defendant's misrepresentations and deceptive conduct, Plaintiff
 20 purchased beer that had less value than what Plaintiff paid, and Plaintiff has
 21 accordingly suffered legally cognizable damages proximately caused by Defendant's
 22 misconduct. After learning the truth about Defendant's mislabeling of Asahi Dry,
 23 Plaintiff decided to stop purchasing it. If Asahi Dry were accurately labeled, Plaintiff
 24 would continue purchasing them.

25 12. Defendant Asahi Beer U.S.A., Inc. is a Delaware corporation with its
 26 principal place of business at 3625 Del Amo Blvd., 9250, Torrance, CA 90503.
 27 Defendant is a wholly owned subsidiary of Asahi Breweries, Ltd., which in turn is a
 28

1 wholly owned subsidiary of Asahi Group Holdings, Ltd. Defendant is responsible for
 2 the marketing, distribution, and sale of the Product in the United States, including in
 3 this District.

4 **FACTUAL ALLEGATIONS**

5 **A. Background**

6 13. In March 1987, Asahi Breweries, Ltd. launched Asahi Super Dry beer in
 7 Japan.²

8 14. In April 1998, Asahi Beer U.S.A, Inc. was established to market,
 9 distribute, and sell the Product in the United States.³

10 15. Since as early as 2004, Asahi Breweries, Ltd. contracted with Molson,
 11 whereby the two companies agreed that Molson would brew the Product in Canada
 12 for Asahi Breweries, Ltd., for distribution and sale in the United States by
 13 Defendant.⁴

14 16. At all relevant times, the Product was brewed by Molson in Canada, and
 15 then marketed, distributed, and sold in the United States by Defendant.⁵

16 17. Further, Molson is currently finalizing negotiations with Asahi
 17 Breweries, Ltd. for an extension of this contract through early 2020.⁶

18 18. At all relevant times, the Product was sold across California and the
 19 United States at grocery chains, convenience stores, liquor stores, and other retailers
 20 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.

21 19. The Product is manufactured in a variety of sizes as depicted below:
 22
 23
 24

25 ² http://www.asahigroup-holdings.com/en/ir/pdf/2016_yend_factbook.pdf#zoom=100 (last visited
 26 on April 10, 2017).

26 ³ *Id.*

27 ⁴ Molson Coors Brewing Company, Form 10-K, p. 85 (March 10, 2006).

27 ⁵ Molson Coors 2016 Form 10-K at 6, 9, 10.

28 ⁶ *Id.* at 10.



20. The Product is sold at a price premium above other domestically brewed beers. For example, a 6-pack of the Product is currently sold at Bristol Farms for \$9.99 while a 6-pack of Budweiser beer is currently sold at Bristol Farms for \$6.99. The Product also garners a price premium over Canadian brewed beer. For example, a 6-pack of Labatt Blue, a Canadian brewed beer, is currently sold at Bristol Farms for \$6.99.

21. Water makes up more than 90 percent of beer, and the type of water used greatly influences the taste and quality of the beer, just as climate and terroir greatly influence the taste and quality of wine.⁷

22. The Asahi beer distributed and sold in Japan contains water from the site of the brewery in which it is produced. For example, Asahi Breweries, Ltd.'s original brewery, the Suita Brewery, uses water from the water springs in Suita city in the Osaka Prefecture of Japan.⁸ The Osaka Prefecture is known for its good quality spring water, which is influential in the taste and quality of the beer.⁹

23. Defendant, through its agreement with Molson, does not use water from Japan in the Product. Rather, the water Molson uses to brew the Product comes from local sources near Molson's breweries in Canada. According to the Molson Coors 2016 Form 10-K, "[w]ater used in the brewing process is from local sources in the communities where our breweries operate."¹⁰

B. The Product's Labeling, Packaging, and Marketing are Misleading to Reasonable Consumers

24. The Product's labeling, packaging, and marketing are misleading to reasonable consumers, including Plaintiffs and other Class members, and only serves

⁷ <https://beerandbrewing.com/VUKd4igAABCrKdWe/article/brewing-water> (last visited on April 10, 2017).

⁸ <http://www.pref.osaka.lg.jp/en/attraction/culture/aquapolis/aquapolis4.html> (last visited on April 10, 2017).

⁹ *Id.*

¹⁰ Molson Coors 2016 Form 10-K at 9.

1 the profit maximizing interests of Defendant.

2 25. Defendant deceptively labeled and packaged the Product to target
3 consumers who are interested in purchasing Japanese-made products.

4 26. The overall brand image of Asahi beer, including its name¹¹, is centered
5 around Japan. Defendant uses references to Japan, Japanese words, and Japanese
6 characters/script on the Product label and its packaging, creating the impression that
7 the Product is brewed in Japan.

8 27. The following create a misleading perception that the Product is brewed
9 in Japan:

- 10 a. The “Asahi” product name spelled in English;
11 b. アサヒ ビールー Japanese Katakana script which means “Asahi beer;”
12 c. スーパードライー Japanese Katakana script which means “Super Dry”
13 d. 辛口ー Japanese Kanji characters which mean “Karakuchi”, the Japanese
14 word for dry taste.

15 28. Defendant knows, knew or should have known that Plaintiff^s and other
16 consumers did and would rely on the labeling, packaging, and advertising of the
17 Product in purchasing the Product, and would reasonably believe that the Product was
18 brewed in Japan.

19 29. In reasonable reliance on the representations listed in Paragraph 26, and
20 reasonably believing that the Product was brewed in Japan, Plaintiff^s and other
21 members of the Classes purchased the Product.

22 30. Consumer research has demonstrated that representations regarding
23 geographic origin of a product have a direct effect on product evaluations by
24 consumers, especially regarding the quality of the product.

25 31. Plaintiff^s and members of the Classes did not know, and had no reason
26 to know, that the Product is not brewed in Japan because of how the Product is
27

28 ¹¹ “Asahi” means morning sun in Japanese.

1 deceptively labeled, packaged, and advertised to create the impression that it is
2 brewed in Japan.

3 32. Because the Product is not brewed in Japan as reasonably expected by
4 Plaintiff~~s~~ and other consumers, Defendant's marketing of the Product was and
5 continues to be misleading and deceptive.

6 33. Each consumer has been exposed to the same or substantially similar
7 deceptive practices because: 1) each Product contains identical or substantially
8 similar representations centered around Japan; and 2) each Product is not brewed in
9 Japan.

10 34. Plaintiff~~s~~ and other consumers have paid an unlawful premium for the
11 Product. Plaintiff~~s~~ and other consumers would have paid significantly less for the
12 Product had they known that the Product was not brewed in Japan. In the alternative,
13 Plaintiff~~s~~ and other consumers would not have purchased the Product at all had they
14 known that the Product was not brewed in Japan. Therefore, Plaintiff~~s~~ and other
15 consumers purchasing the Product suffered injury in fact and lost money as a result of
16 Defendant's false, unfair, and fraudulent practices, as described herein.

17 35. As a result of its misleading business practices, and the harm caused to
18 Plaintiff~~s~~ and other consumers, Defendant should be enjoined from deceptively
19 representing that the Product is brewed in Japan. Furthermore, Defendant should be
20 required to pay for all damages caused to misled consumers, including Plaintiff~~s~~.

21 36. Despite being misled by Defendant, Plaintiff Shalikar would likely
22 purchase the Product in the future if the Product was in fact brewed in Japan.

23 **CLASS ACTION ALLEGATIONS**

24 37. Plaintiff~~s~~ brings~~s~~ this case as a class action that may be properly
25 maintained under Federal Rule of Civil Procedure 23 on behalf of themselves~~himself~~
26 and all persons in the United States who purchased the Product within the relevant
27 statute of limitations periods ("Nationwide Class").
28

1 38. Plaintiff~~s~~ also seek~~s~~ to represent a subclass defined as all persons, who
2 are California residents who purchased the Product, or who purchased the Product
3 within the State of California, during the relevant statute of limitations periods
4 (“California Subclass”).

5 39. Plaintiff~~s~~ also seek~~s~~ to represent a subclass defined as all persons, who
6 are California residents who purchased the Product, or who purchased the Product
7 within the State of California, for personal, family, or household purposes during the
8 relevant statute of limitations periods (“California Consumer Subclass”).

9 40. Excluded from the Classes are Defendant, the officers and directors of
10 Defendant at all relevant times, members of their immediate families and their legal
11 representatives, heirs, successors or assigns and any entity in which Defendant has or
12 had a controlling interest. Any judge and/or magistrate judge to whom this action is
13 assigned and any members of such judges’ staffs and immediate families are also
14 excluded from the Classes. Also excluded from the Classes are persons or entities
15 that purchased the Product for sole purposes of resale.

16 41. Plaintiff~~s~~ hereby reserve~~s~~ the right to amend or modify the class
17 definitions with greater specificity or division after having had an opportunity to
18 conduct discovery.

19 42. Plaintiff~~s-is~~ area member~~s~~ of all Classes.

20 43. Numerosity: Defendant has sold thousands of units of the Product. The
21 Product is sold at grocery chains, convenience stores, liquor stores, and other retailers
22 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.
23 Accordingly, members of the Classes are so numerous that their individual joinder
24 herein is impractical. While the precise number of Class members and their identities
25 are unknown to Plaintiff~~s~~ at this time, the number may be determined through
26 discovery.

27 44. Common Questions Predominate: Common questions of law and fact
28

1 exist as to all members of the Classes and predominate over questions affecting only
2 individual Class members. Common legal and factual questions include, but are not
3 limited to, the following: whether the Product's labeling, packaging, and marketing is
4 misleading to a reasonable consumer, and therefore violates various consumer
5 protection statutes and common laws.

6 45. Typicality: Plaintiff~~s~~'s claims are typical of the claims of the Classes
7 ~~they~~ seeks to represent in that Plaintiff~~s~~ and members of the Classes were exposed to
8 Defendant's misleading labeling, packaging, and marketing, and purchased the
9 Product reasonably relying on the misleading labeling, packaging, and marketing, and
10 suffered losses as a result of such purchases.

11 46. Adequacy: Plaintiff~~s~~ ~~are~~~~is~~~~an~~ adequate representative~~s~~ of the Classes
12 because ~~their~~s interests do not conflict with the interests of the members of the
13 Classes ~~they~~ seeks to represent, ~~they~~ have~~s~~ retained competent counsel experienced in
14 prosecuting class actions, and ~~they~~ intends to prosecute this action vigorously. The
15 interests of the members of the Classes will be fairly and adequately protected by ~~the~~
16 Plaintiff~~s~~ and ~~their~~his counsel.

17 47. Superiority: A class action is superior to other available means for the
18 fair and efficient adjudication of the claims of the members of the Classes. The size
19 of each claim is too small to pursue individually and each individual Class member
20 will lack the resources to undergo the burden and expense of individual prosecution
21 of the complex and extensive litigation necessary to establish Defendant's liability.
22 Individualized litigation increases the delay and expense to all parties and multiplies
23 the burden on the judicial system presented by the complex legal and factual issues of
24 this case. Individualized litigation also presents a potential for inconsistent or
25 contradictory judgments. The class action mechanism is designed to remedy harms
26 like this one that are too small in value, although not insignificant, to file individual
27 lawsuits for.

1 48. This lawsuit is maintainable as a class action under Federal Rule of Civil
2 Procedure 23(b)(2) because Defendant has acted or refused to act on grounds that are
3 generally applicable to the Class members, thereby making final injunctive relief
4 appropriate with respect to all Classes.

5 49. This lawsuit is maintainable as a class action under Federal Rule of Civil
6 Procedure 23(b)(3) because the questions of law and fact common to the members of
7 the Classes predominate over any questions that affect only individual members, and
8 because the class action mechanism is superior to other available methods for the fair
9 and efficient adjudication of the controversy.

10 **FIRST CLAIM FOR RELIEF**
11 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**
12 **California Civil Code §§ 1750, et seq.**
 (for the California Consumer Subclass)

13
14 50. Plaintiff^s repeats the allegations contained in paragraphs 1-4⁹⁸ above as
15 if fully set forth herein.

16 51. Plaintiff^s brings this claim individually and on behalf of the members of
17 the proposed California Consumer Subclass against Defendant.

18 52. The Product is a “good” within the meaning of Cal. Civ. Code § 1761(a),
19 and the purchases of such products by Plaintiff and members of the California
20 Consumer Subclass constitute “transactions” within the meaning of Cal. Civ. Code §
21 1761(e).

22 53. Cal. Civ. Code § 1770(a)(2) prohibits “misrepresenting the source,
23 sponsorship, approval, or certification of goods or services.” By marketing the Product
24 with its current labels, packaging, and advertisements, Defendant has represented and
25 continues to represent that the source of the Product is Japan, when it is not. Therefore,
26 Defendant has violated section 1770(a)(2) of the CLRA.

27 54. Cal. Civ. Code § 1770(a)(4) prohibits “using deceptive representations
28 or designations of geographical origin in connection with goods or services.” By

1 marketing the Product with its current labels, packaging, and advertisements, Defendant
2 has used deceptive representations and designations of the Product's geographical origin
3 (Japan). Therefore, Defendant has violated section 1770(a)(4) of the CLRA.

4 55. Cal. Civ. Code § 1770(a)(5) prohibits "[r]epresenting that goods or
5 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
6 quantities which they do not have" By marketing the Product with its current
7 labels, packaging, and advertisements, Defendant has represented and continues to
8 represent that the Product has characteristics (that it is brewed in Japan) when it does not
9 have such characteristics. Therefore, Defendant has violated section 1770(a)(5) of the
10 CLRA.

11 56. Cal. Civ. Code § 1770(a)(7) prohibits "[r]espresenting that goods or
12 services are of a particular standard, quality, or grade, or that goods are of a particular
13 style or model, if they are of another." By marketing the Product with its current labels,
14 packaging, and advertisements, Defendant has represented and continues to represent
15 that the Product is of a particular style (that it is brewed in Japan) when it is of another
16 (brewed in Canada). Therefore, Defendant has violated section 1770(a)(7) of the CLRA.

17 57. Cal. Civ. Code § 1770(a)(9) prohibits "[a]dvertising goods or services
18 with intent not to sell them as advertised." By labeling, packaging, and marketing the
19 Product with references to Japan, Japanese words, and Japanese characters so that a
20 reasonable consumer would believe that the Product was brewed in Japan, and then
21 intentionally not selling the Product as brewed in Japan, Defendant has violated section
22 1770(a)(9) of the CLRA.

23 58. At all relevant times, Defendant has known or reasonably should have
24 known that the Product was not brewed in Japan, and that Plaintiff_s and other
25 members of the California Consumer Subclass would reasonably and justifiably rely
26 on the labeling, packaging, and other advertisements in purchasing the Product.

27 59. Plaintiff_s and members of the California Consumer Subclass have
28

1 reasonably and justifiably relied on Defendant's misleading, and fraudulent conduct
2 when purchasing the Product. Moreover, based on the very materiality of
3 Defendant's fraudulent and misleading conduct, reliance on such conduct as a
4 material reason for the decision to purchase the Product may be presumed or inferred
5 for Plaintiff^s and members of California Consumer Subclass.

6 60. Plaintiff^s and members of the California Consumer Subclass have
7 suffered and continue to suffer injuries caused by Defendant because they would not
8 have purchased the Product or would have paid significantly less for the Product had
9 they known that Defendant's conduct was misleading and fraudulent.

10 61. Under Cal. Civ. Code § 1780(a), Plaintiff^s and members of the
11 California Consumer Subclass are seeking injunctive relief pursuant to the CLRA,
12 preventing Defendant from further wrongful acts and unfair and unlawful business
13 practices, as well as restitution, disgorgement of profits, and any other relief this
14 Court deems proper.

15 62. Pursuant to Cal. Civ. Code § 1782, on March 6, 2017, counsel for
16 Plaintiff Matin Shalikar mailed a notice and demand letter by certified mail, with
17 return receipt requested, to Defendant. Defendant received the notice and demand
18 letter on March 9, 2017.¹²

19 63. Pursuant to Cal. Civ. Code § 1782, On November 29, 2016, Plaintiff
20 Alexander Panvini, through counsel, delivered a CLRA demand letter to Defendant
21 that provided notice of Defendant's violation of the CLRA and demanded Defendant
22 correct, repair, replace, or otherwise rectify the unlawful, unfair, false, and deceptive
23 practices complained of herein. The letter also stated that if Defendant refused to do
24 so, Plaintiff would file a complaint seeking damages in accordance with the CLRA.
25 Defendant failed to comply with the letter.

26 63.64. Because Defendant has failed to fully rectify or remedy the damages
27

28 ¹² See Exhibit 1.

1 caused after waiting more than the statutorily required 30 days after it received both
2 the notice and demand letters, Plaintiffs~~s-is~~ timely filed~~ing~~ theiris complaints against
3 DefendantClass Action Complaint.

4
5 **SECOND CLAIM FOR RELIEF**
6 **Violation of California’s Unfair Competition Law (“UCL”),**
7 **California Business & Professions Code §§ 17200, et seq.**
8 ***(for the California Subclass and California Consumer Subclass)***

9 64.65. Plaintiffs repeats the allegations contained in paragraphs 1-498 above as
10 if fully set forth herein.

11 65.66. Plaintiffs brings this claim individually and on behalf of the members of
12 the proposed California Subclass and California Consumer Subclass against
13 Defendant.

14 66.67. UCL §17200 provides, in pertinent part, that “unfair competition shall
15 mean and include unlawful, unfair or fraudulent business practices and unfair,
16 deceptive, untrue or misleading advertising”

17 67.68. Under the UCL, a business act or practice is “unlawful” if it violates any
18 established state or federal law.

19 68.69. Defendant’s false and misleading advertising of the Product therefore
20 was and continues to be “unlawful” because it violates the CLRA, California’s False
21 Advertising Law (“FAL”), and other applicable laws as described herein.

22 69.70. As a result of Defendant’s unlawful business acts and practices,
23 Defendant has unlawfully obtained money from Plaintiffs, and members of both the
24 California Subclass and California Consumer Subclass.

25 70.71. Under the UCL, a business act or practice is “unfair” if the defendant’s
26 conduct is substantially injurious to consumers, offends public policy, and is
27 immoral, unethical, oppressive, and unscrupulous, as the benefits for committing such
28 acts or practices are outweighed by the gravity of the harm to the alleged victims.

71.72. Defendant’s conduct was and continues to be of no benefit to purchasers

1 of the Product, as it is misleading, unfair, unlawful, and is injurious to consumers
2 who rely on the Product's labeling, packaging, and marketing. Creating consumer
3 confusion as to the actual location of brewing is of no benefit to consumers.
4 Therefore, Defendant's conduct was and continues to be "unfair."

5 ~~72.73.~~ As a result of Defendant's unfair business acts and practices, Defendant
6 has and continues to unfairly obtain money from Plaintiff~~s~~, and members of both the
7 California Subclass and California Consumer Subclass.

8 ~~73.74.~~ Under the UCL, a business act or practice is "fraudulent" if it actually
9 deceives or is likely to deceive members of the consuming public.

10 ~~74.75.~~ Defendant's conduct here was and continues to be fraudulent because it
11 has the effect of deceiving consumers into believing that the Product is brewed in
12 Japan, when it is not. Because Defendant misled Plaintiff~~s~~ and members of both the
13 California Subclass and California Consumer Subclass, Defendant's conduct was
14 "fraudulent."

15 ~~75.76.~~ As a result of Defendant's fraudulent business acts and practices,
16 Defendant has and continues to fraudulently obtain money from Plaintiff~~s~~, and
17 members of both the California Subclass and California Consumer Subclass.

18 ~~77.~~ Plaintiff~~s~~ request~~s~~ that this Court cause Defendant to restore this
19 unlawfully, unfairly, and fraudulently obtained money to Plaintiff~~s~~, and members of
20 both the California Subclass and California Consumer Subclass, to disgorge the
21 profits Defendant made on these transactions, and to enjoin Defendant from violating
22 the UCL or violating it in the same fashion in the future as discussed herein.
23 Otherwise, Plaintiff~~s~~, and members of both the California Subclass and California
24 Consumer Subclass, may be irreparably harmed and/or denied an effective and
25 complete remedy if such an order is not granted.

THIRD CLAIM FOR RELIEF
Violation of California's False Advertising Law ("FAL"),
California Business & Professions Code §§ 17500, et seq
(for the California Subclass and California Consumer Subclass)

~~77-78~~. Plaintiff~~s~~ repeats the allegations contained in paragraphs 1-4~~98~~ above as if fully set forth herein.

~~78-79~~. Plaintiff~~s~~ brings this claim individually and on behalf of the members of the proposed California Subclass and California Consumer Subclass against Defendant.

~~79-80~~. California's FAL makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

~~80-81~~. Defendant has represented and continues to represent to the public, including Plaintiff~~s~~ and members of both the California Subclass and California Consumer Subclass, through Defendant's deceptive labeling, packaging, and marketing, that the Product is brewed in Japan. Defendant's representations are misleading because the Product is not brewed in Japan. Because Defendant has disseminated misleading information regarding the Product, and Defendant knows, knew, or should have known through the exercise of reasonable care that the representations were and continue to be misleading, Defendant violates the FAL.

~~81-82~~. Furthermore, Defendant knows, knew or should have known through the exercise of reasonable care that such representations were and continue to be untrue or misleading.

~~82-83~~. As a result of Defendant's false advertising, Defendant has and continues to fraudulently obtain money from Plaintiff~~s~~ and members of both the

1 California Subclass and California Consumer Subclass.

2 ~~83.84.~~ Plaintiff~~s~~s request~~s~~ that this Court cause Defendant to restore this
3 fraudulently obtained money to Plaintiff~~s~~s and members of both the California
4 Subclass and California Consumer Subclass, to disgorge the profits Defendant made
5 on these transactions, and to enjoin Defendant from violating the FAL or violating it
6 in the same fashion in the future as discussed herein. Otherwise, Plaintiff~~s~~s and
7 members of both the California Subclass and California Consumer Subclass may be
8 irreparably harmed and/or denied an effective and complete remedy if such an order
9 is not granted.

10 **FOURTH CLAIM FOR RELIEF**
11 **Breach of Implied Warranty**
12 **California Commercial Code § 2314**

(for the California Subclass and California Consumer Subclass)

13 ~~84.85.~~ Plaintiff~~s~~s repeat~~s~~ the allegations contained in paragraphs 1-4~~98~~ above as
14 if fully set forth herein.

15 ~~85.86.~~ Plaintiff~~s~~s bring~~s~~ this claim individually and on behalf of the members of
16 the proposed California Subclass and California Consumer Subclass against
17 Defendant.

18 ~~86.87.~~ California Commercial Code § 2314(1) provides that “a warranty that
19 the goods shall be merchantable is implied in a contract for their sale if the seller is a
20 merchant with respect to goods of that kind.” Cal. Com. Code § 2314(1).

21 ~~87.88.~~ California Commercial Code § 2314(2) provides that “[g]oods to be
22 merchantable must be at least such as... (f) conform to the promises or affirmations
23 of fact made on the container or label if any.” Cal. Com. Code § 2314(2)(f).

24 ~~88.89.~~ Defendant is a merchant with respect to the sale of beer products,
25 including the Product here. Therefore, a warranty of merchantability is implied in
26 every contract for sale of the Product to Plaintiff~~s~~s and California consumers.

27 ~~89.90.~~ By advertising the Product with its current labeling and packaging,
28

1 Defendant made an promise that the Product was brewed in Japan. By not brewing
2 the Product in Japan, the Product has not “conform[ed] to the promises...made on the
3 container or label” of the Product. Plaintiff~~s~~ and California consumers did not
4 receive the goods as impliedly warranted by Defendant to be merchantable.

5 ~~90.91.~~Therefore, the Product is not merchantable under California law and
6 Defendant has breached its implied warranty of merchantability in regard to the
7 Product.

8 ~~91.92.~~If Plaintiff~~s~~ and members of both the California Subclass and California
9 Consumer Subclass had known that the Product was not brewed in Japan, they would
10 not have purchased the Product or would not have been willing to pay the premium
11 price associated with the Product. Therefore, as a direct and/or indirect result of
12 Defendant’s breach, Plaintiff~~s~~ and members of both the California Subclass and
13 California Consumer Subclass have suffered injury and deserve to recover all
14 damages afforded under the law.

15 **FIFTH CLAIM FOR RELIEF**
16 **Common Law Fraud**
(for the Classes)

17 ~~92.93.~~Plaintiff~~s~~ repeats the allegations contained in paragraphs 1-4~~98~~ above as
18 if fully set forth herein.

19 ~~93.94.~~Plaintiff~~s~~ brings this claim individually and on behalf of the members of
20 the Classes against Defendant.

21 ~~94.95.~~Defendant has willfully, falsely, or knowingly labeled, packaged, and
22 marketed the Product in a manner indicating that the Product is brewed in Japan.
23 However, the Product is not brewed in Japan. Therefore, Defendant has made
24 misrepresentations regarding the Product.

25 ~~95.96.~~Defendant’s misrepresentations are and were material (i.e., the type of
26 misrepresentations to which a reasonable person would attach importance and would
27 be induced to act thereon in making purchase decisions), because they relate to where
28

1 the brewing of the Product occurred.

2 ~~96.97.~~ Defendant knew or recklessly disregarded the fact that the Product was
3 not brewed in Japan.

4 ~~97.98.~~ Defendant intends that Plaintiff~~s~~ and other consumers rely on these
5 representations, as evidenced by Defendant's intentionally using labeling and
6 packaging that references Japan, and uses Japanese words and characters.

7 ~~98.99.~~ Plaintiff~~s~~ and members of the Classes have reasonably and justifiably
8 relied on Defendant's misrepresentations when purchasing the Product and had the
9 correct facts been known, would not have purchased the Product or would not have
10 purchased them at the prices at which they were offered.

11 ~~99.100.~~ Therefore, as a direct and proximate result of Defendant's fraud,
12 Plaintiff~~s~~ and members of the Classes have suffered economic losses and other
13 general and specific damages, including but not limited to the amounts paid for the
14 Product, and any interest that would have accrued on those monies, all in an amount
15 to be proven at trial.

16 **SIXTH CLAIM FOR RELIEF**
17 **Intentional Misrepresentation**
(for the Classes)

18 ~~100.101.~~ Plaintiff~~s~~ repeat~~s~~ the allegations contained in paragraphs 1-4~~98~~
19 above as if fully set forth herein.

20 ~~101.102.~~ Plaintiff~~s~~ bring~~s~~ this claim individually and on behalf of the
21 members of the Classes against Defendant.

22 ~~102.103.~~ Defendant labeled, packaged, and marketed the Product in a
23 manner indicating that the Product is brewed in Japan. However, the Product is not
24 brewed in Japan. Therefore, Defendant has made misrepresentations as to the
25 Product.

26 ~~103.104.~~ Defendant's misrepresentations regarding the Product are material
27 to a reasonable consumer because they relate to the location of the brewing of the
28

1 Product received by consumers. A reasonable consumer would attach importance to
2 such representations and would be induced to act thereon in making purchase
3 decisions.

4 ~~104.105.~~ At all relevant times when such representations were made,
5 Defendant knew that the representations were misleading, or has acted recklessly in
6 making the representations and without regard to the truth.

7 ~~105.106.~~ Defendant intends that Plaintiff~~s~~ and other consumers rely on
8 these representations, as evidenced by Defendant intentionally using labeling and
9 packaging that references Japan, and uses Japanese words and characters.

10 ~~106.107.~~ Plaintiff~~s~~ and members of the Classes have reasonably and
11 justifiably relied on Defendant's intentional misrepresentations when purchasing the
12 Product, and had the correct facts been known, would not have purchased the Product
13 or would not have purchased them at the prices at which they were offered.

14 ~~107.108.~~ Therefore, as a direct and proximate result of Defendant's
15 intentional misrepresentations, Plaintiff~~s~~ and members of the Classes have suffered
16 economic losses and other general and specific damages, including but not limited to
17 the amounts paid for the Product, and any interest that would have accrued on those
18 monies, all in an amount to be proven at trial.

19
20 **SEVENTH CLAIM FOR RELIEF**
Negligent Misrepresentation
21 ***(for the Classes)***

22 ~~108.109.~~ Plaintiff~~s~~ repeat~~s~~ the allegations contained in paragraphs 1-4~~98~~
23 above as if fully set forth herein.

24 ~~109.110.~~ Plaintiff~~s~~ bring~~s~~ this claim individually and on behalf of the
25 members of the Classes against Defendant.

26 ~~110.111.~~ Defendant labeled, packaged, and marketed the Product in a
27 manner indicating that the Product is brewed in Japan. However, the Product is not
28

1 brewed in Japan. Therefore, Defendant has made misrepresentations as to the
2 Product.

3 ~~444.112.~~ Defendant's misrepresentations regarding the Product are material
4 to a reasonable consumer because they relate to the location of the brewing of the
5 Product received by the consumer. A reasonable consumer would attach importance
6 to such representations and would be induced to act thereon in making purchase
7 decisions.

8 ~~442.113.~~ At all relevant times when such misrepresentations were made,
9 Defendant knew or had been negligent in not knowing that that the Product was not
10 brewed in Japan. Defendant had no reasonable grounds for believing its
11 representations were not false and misleading.

12 ~~443.114.~~ Defendant intends that Plaintiff~~s~~ and other~~s~~ consumers rely on
13 these representations, as evidenced by Defendant's intentionally using labeling and
14 packaging that references Japan, and uses Japanese words and characters.

15 ~~444.115.~~ Plaintiff~~s~~ and members of the Classes have reasonably and
16 justifiably relied on Defendant's negligent misrepresentations when purchasing the
17 Product, and had the correct facts been known, would not have purchased the Product
18 or would not have purchased them at the prices at which they were offered.

19 ~~445.116.~~ Therefore, as a direct and proximate result of Defendant's
20 negligent misrepresentations, Plaintiff~~s~~ and members of the Classes have suffered
21 economic losses and other general and specific damages, including but not limited to
22 the amounts paid for the Product, and any interest that would have accrued on those
23 monies, all in an amount to be proven at trial.

EIGHTH CLAIM FOR RELIEF
Breach of Contract
(for the Classes)

~~116.117.~~ Plaintiff~~s~~ repeats the allegations contained in paragraphs 1-4~~98~~
above as if fully set forth herein.

~~117.118.~~ Plaintiff~~s~~ brings this claim individually and on behalf of the
members of the Classes against Defendant.

~~118.119.~~ In purchasing the Product, Plaintiff~~s~~ and members of the Classes
have formed valid contracts that are supported by sufficient consideration, pursuant to
which Defendant was obligated to provide a product that was brewed in Japan, as
deceptively represented by Defendant's packaging and labeling.

~~119.120.~~ Defendant has materially breached its contracts with Plaintiff~~s~~ and
members of the Classes by selling a product that is not brewed in Japan.

~~120.121.~~ As a direct and proximate result of Defendant's breaches,
Plaintiff~~s~~ and members of the Classes were damaged in that they received products
with less value than the amounts paid. Moreover, Plaintiff~~s~~ and members of the
Classes have suffered economic losses and other general and specific damages,
including but not limited to the amounts paid for the Product, and any interest that
would have accrued on those monies, all in an amount to be proven at trial.

NINTH CLAIM FOR RELIEF
Quasi Contract/Unjust Enrichment/Restitution
(for the Classes)

~~121.122.~~ Plaintiff~~s~~ repeats the allegations contained in paragraphs 1-4~~98~~
above as if fully set forth herein.

~~122.123.~~ Plaintiff~~s~~ brings this claim individually and on behalf of the
members of the Classes against Defendant.

~~123.124.~~ As alleged herein, Defendant has intentionally and recklessly
made misleading representations to Plaintiff~~s~~ and members of the Classes to induce

1 them to purchase the Product. Plaintiff~~s~~ and members of the Classes have reasonably
2 relied on the misleading representations and have not received all of the benefits
3 promised by Defendant. Plaintiff~~s~~ and members of the Classes therefore have been
4 induced by Defendant's misleading and false representations about the Product, and
5 paid for them when they would and/or should not have or paid more money to
6 Defendant for the Product than they otherwise would and/or should have paid.

7 ~~124.125.~~ Plaintiff~~s~~ and members of the Classes have conferred a benefit
8 upon Defendant as Defendant has retained monies paid to them by Plaintiff~~s~~ and
9 members of the Classes.

10 ~~125.126.~~ The monies received were obtained under circumstances that were
11 at the expense of Plaintiff~~s~~ and members of the Classes – i.e., Plaintiff~~s~~ and members
12 of the Classes did not receive the full value of the benefit conferred upon Defendant.

13 ~~126.127.~~ Therefore, it is inequitable and unjust for Defendant to retain the
14 profit, benefit, or compensation conferred upon it without paying Plaintiff~~s~~ and the
15 members of the Classes back for the difference of the full value of the benefits
16 compared to the value actually received.

17 ~~127.128.~~ As a direct and proximate result of Defendant's unjust enrichment,
18 Plaintiff~~s~~ and members of the Classes are entitled to restitution, disgorgement, and/or
19 the imposition of a constructive trust upon all profits, benefits, and other
20 compensation obtained by Defendant from its deceptive, misleading, and unlawful
21 conduct as alleged herein.

22 **PRAYER FOR RELIEF**

23
24 WHEREFORE, Plaintiff~~s~~, individually and on behalf of all others
25 similarly situated, seek~~s~~ judgment against Defendant, as follows:

26 a) For an order certifying the Nationwide Class, the California Subclass,
27 and the California Consumer Subclass, under Rule 23 of the Federal Rules of Civil
28

1 Procedure; naming Plaintiff~~s~~ as representatives~~s~~ of all Classes; and naming
2 Plaintiff~~s~~'s attorneys as Co-Lead Class Counsel to represent all Classes.

3 b) For an order declaring that Defendant's conduct violates the statutes
4 and laws referenced herein;

5 c) For an order finding in favor of Plaintiff~~s~~, and all Classes, on all
6 ~~claim~~~~ounts~~ asserted herein;

7 d) For an order awarding damages on behalf of the California Consumer
8 Subclass, in amounts to be determined by the Court and/or jury;

9 e) For prejudgment interest on all amounts awarded;

10 f) For interest on the amount of any and all economic losses, at the
11 prevailing legal rate;

12 g) For an order of restitution and all other forms of equitable monetary
13 relief;

14 h) For injunctive relief as pleaded or as the Court may deem proper;

15 i) For an order awarding Plaintiff~~s~~ and all Classes their reasonable
16 attorneys' fees, expenses and costs of suit, including as provided by statute such as
17 under California Code of Civil Procedure section 1021.5; and

18 j) For any other such relief as the Court deems just and proper.

19
20 **DEMAND FOR TRIAL BY JURY**

21 Plaintiff~~s~~ demand~~s~~ a trial by jury on all issues so triable.

22
23 Dated: April ~~28~~~~10~~, 2017

FARUQI & FARUQI, LLP

24 By: /s/ Barbara A. Rohr
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26 Benjamin Heikali, Bar No. 307466
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27 Los Angeles, CA 90024
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Attorneys for Plaintiffs Martin Shalika
and Alexander Panvini

CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)

I, Matin Shalika, declare as follows:

1. I am the Plaintiff in this action and a citizen of the State of California. To extent the allegations in the complaint are based on my personal knowledge, they are true and, if called as a witness, I could testify competently thereto.

2. This Class Action Complaint is filed in the proper place for trial because I purchased the Product in this District, and Defendant conducts a substantial amount of business in this District.

3. In 2016, I purchased the Product from Bristol Farms located in this District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on April 10, 2017 at Los Angeles, California.



Matin Shalika

EXHIBIT 1



FARUQI & FARUQI
LLP
ATTORNEYS AT LAW

NEW YORK

CALIFORNIA

DELAWARE

PENNSYLVANIA

BARBARA A. ROHR
brohr@faruqilaw.com

March 6, 2017

Via Certified U.S. Mail
Return Receipt Requested

Asahi Beer U.S.A., Inc.
3625 Del Amo Blvd., #250
Torrance, CA 90503

Re: *Class Action Notification and Pre-Lawsuit Demand Pursuant to California Civil Code Section 1782 and All Other Applicable Laws Requiring Pre-Suit Notice Concerning Asahi Beer*

To Whom It May Concern:

Please be advised that Faruqi & Faruqi, LLP represents Matin Shalikar ("Client"), purchaser of Asahi Super Dry beer. Our Client seeks to represent a nationwide class of consumers ("Class") who, within the relevant time period,¹ purchased any Asahi beer brewed by Molson Canada ("Products"). This letter provides Asahi Beer U.S.A., Inc. ("Defendant") with notice and demand for corrective action. All further communications intended for our Client must be directed through this office. Furthermore, this demand and notice letter is meant to comply with the requirements of *California Civil Code* §1782, and all other laws requiring a pre-suit demand and notice prior to litigation, on behalf of our Client and all others similarly situated should this matter proceed to litigation.

During the relevant time period, Defendant and/or its agents have impliedly represented that the Products are brewed in Japan. The Products, however, are brewed in Canada.

Mr. Shalikar, a consumer residing in California, purchased Asahi Super Dry beer in Los Angeles, California. Based on Defendant's representations, Mr. Shalikar reasonably believed that the beer he purchased was brewed in Japan. The beer, however, is brewed in Canada.

These business practices violate several California consumer protection statutes and laws. Pursuant to *California Civil Code* §1782(a)(1), our Client and the Class further provide notice that they believe Defendant has violated, and continues to violate the California Consumers Legal Remedies Act ("CLRA"), and specifically *California Civil Code* §1770, in at least the following manner:

¹ From four years prior to the date of a prospective complaint filed by our Client.



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Asahi Beer U.S.A., Inc.
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March 6, 2017

1. Misrepresenting the source, sponsorship, approval, or certification of goods or services (Section 1770(a)(2));
2. Using deceptive representations or designations of geographic origin in connection with goods or services (Section 1770(a)(4));
3. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have (Section 1770(a)(5));
4. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Section 1770(a)(7)); and
5. Advertising goods or services with intent not to sell them as advertised (Section 1770(a)(9)).

It is our opinion that Defendant has also violated and continues to violate California Business and Professions Code Sections 17200 and 17500, as well as other statutory and common law.

This letter not only serves as notification of Defendant's alleged violations of *California Civil Code* §1770 as outlined above, but also as our Client's demand, and all others similarly situated, that Defendant immediately corrects, repairs, refunds and otherwise rectifies the violations of § 1770 and the other statutes and causes of action referenced above, on a class-wide basis.

To cure the harmful conduct noted herein, we demand that Defendant: (1) cease and desist from advertising and selling of the Products in a false and misleading manner; (2) issue an immediate recall of the Products; and (3) make full restitution to the Class of all money obtained from the sales thereof.

We further demand that Defendant preserve all documents, emails, other electronically stored information and other evidence which refer or relate to any of the above-described practices, including, but not limited to:

1. All documents concerning the development and/or testing of the Products;
2. All documents concerning the brewing, manufacturing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
3. All documents concerning communications with any individual involved in the brewing, development, testing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;



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Asahi Beer U.S.A., Inc.
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March 6, 2017

4. All documents concerning communications with purchasers of the Products;
5. All documents concerning the sales volume of the Products (in units and/or dollars), and the revenues derived therefrom; and
6. All documents concerning the identities and location of potential class members who purchased the Products.

Further, this letter serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should Defendant fail to rectify the unfair and deceptive scheme within thirty (30) days of receipt of this letter, our Client will file a class action complaint for actual damages, punitive damages, and all other damages permitted under the CLRA and the other statutes and causes of action available to him, along with interest, attorneys' fees and costs for Defendant's violations.

We are willing to discuss an appropriate way to remedy the demands asserted in this letter. If Defendant wishes to enter into such a discussion, please contact our firm immediately. If we do not hear from Defendant promptly, we will conclude that Defendant is not interested in resolving this dispute short of litigation in the form of a class action lawsuit. If Defendant contends that any statement in this letter is inaccurate in any respect, please provide our firm with Defendant's contentions and supporting documents promptly.

Please contact the undersigned if there are any questions or concerns.

Sincerely,

A handwritten signature in blue ink, reading 'Barbara A. Rohr'.

Barbara A. Rohr

cc: Timothy J. Peter
Ben Heikali

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Sent To **Asahi Beer U.S.A., Inc.**
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3625 Del Amo Blvd., #250
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Torrance, CA 90503

PS Form 3800, April 2015 PSN 7530-02-000-9047 See Reverse for Instructions



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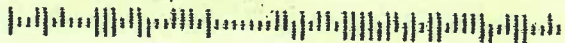
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