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Superior Court of California,
County of San Diego

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By Lila Behr, Deputy Clerk

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

10 SUPERIOR COURT OF CALIFORNIA - COUNTY OF SAN DIEGO

11 JEFF CARD, an individual and on behalf of all)
12 others similarly situated,)
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Plaintiff,

vs.

JOE'S JEANS, INC., a California Corporation;)
and DOES 1 through 100, inclusive,)
Defendants.)

CASE NO. 37-2015-00021834-CU-BT-CTL

CLASS ACTION

COMPLAINT FOR:

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

COMES NOW, plaintiff JEFF CARD ("Plaintiff"), as an individual and on behalf of the general public and all others similarly situated, by his undersigned attorneys, alleges as follows:

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1 NATURE OF THE CASE

2 1. This is a California class action case brought on behalf of all purchasers of Joe’s
3 Jeans manufactured, distributed, marketed, and/or sold by JOE’S JEANS, INC. (“Joe’s”) that
4 were labeled as "Made in USA" but that contained foreign-made component parts (hereinafter
5 referred to as “Jeans”). The Jeans are sold at various retail stores in California, including
6 Nordstrom’s and Bloomingdales. The Jeans are also sold by Joe’s via its website
7 (www.joesjeans.com) directly to consumers throughout the United States.

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

10 **Simply stated: labels matter.** The marketing industry is based on
11 the premise that labels matter, that consumers will choose one
12 product over another similar product based on its label and various
13 tangible and intangible qualities they may come to associate with a
14 particular source....In particular, **to some consumers**, the “Made in
15 U.S.A.” label matters. A range of motivations may fuel this
16 preference, from the desire to support domestic jobs, to beliefs
17 about quality, to concerns about overseas environmental or labor
18 conditions, to simple patriotism. The Legislature has recognized
19 the materiality of this representation by specifically outlawing
20 deceptive and fraudulent “Made in America” representations. (§
21 17533.7; see also Civ.Code, § 1770, subd. (a)(4) [prohibiting
22 deceptive representations of geographic origin].) The object of
23 section 17533.7 “is to protect consumers from being misled when
24 they purchase products in the belief that they are advancing the
25 interests of the United States and its industries and workers...

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

1 **PARTIES**

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

3 5. On information and belief, Defendant Joe’s Jeans, Inc. is a corporation with its
4 principle place of business located in California (as per the California Secretary of State website
5 its principle place of business is 2340 S. Eastern Avenue, Commerce, CA 90040). Joe’s can be
6 served in California via its registered agent for service of process: CSC – Lawyers Incorporating
7 Service, 2710 Gateway Oaks Drive, Suite 150N, Sacramento, CA 95833.

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

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

18 **JURISDICTION AND VENUE**

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

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

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

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

27 11. During the relevant four year statutory time period, Defendants manufactured,
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1 marketed, and/or sold Jeans with a "Made in USA" label.

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

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

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

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

23 THE PLAINTIFF TRANSACTION

24 16. In or around June 2014, Plaintiff purchased a pair of Joe's jeans from a local retail
25 store in San Diego. At the time of purchase, the product itself was marked with a "Made in
26 USA" label when it was in fact comprised of component parts made outside of the United States.

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

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

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

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

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

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

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1 **CLASS ALLEGATIONS**

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

11 24. Plaintiff alleges no federal claims.

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

16 a. Numerosity: On information and belief, the Class is so numerous that the
17 individual joinder of all members would be impracticable. The exact number and identities of
18 the members of the Class are readily ascertainable from the records in Defendants' possession or
19 that of its retail customers.

20 b. Common Questions Predominate: Common questions of law and fact
21 exist as to all members of the Class, and those questions clearly predominate over any questions
22 that might affect members individually. These common questions of law and fact include, for
23 example, whether Defendants violated Business & Professions Code § 17533.7 by
24 misrepresenting the country of origin of the Jeans because component parts within the product
25 are manufactured outside the United States and whether Defendants' actions in this regard
26 constitute an unfair, unlawful, or fraudulent business practice pursuant to Business & Professions
27 Code § 17200 *et seq.*

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

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

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

19 **FIRST CAUSE OF ACTION**

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

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

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

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

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

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

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

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

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

15 32. As a result of the repeated violations described herein, Defendants received
16 unearned commercial benefits at the expense of their competitors and the public.

17 33. Defendants' unlawful, unfair and fraudulent business practices present a
18 continuing threat to the public in that Defendants continues to engage in unlawful conduct.

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

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

26 36. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by
27 Defendants as a result of Defendants' false "Made in USA" claims set forth on the Jeans.

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1 selling and/or offering to sell merchandise in the State of California with the “Made in USA”
2 label as fully set forth herein. The Jeans in this case contain component parts that are
3 manufactured outside of the United States.

4 43. It is alleged on information and belief that Defendants’ violations of Business &
5 Professions Code § 17533.7 was done with awareness of the fact that the conduct alleged was
6 wrongful and were motivated solely for increased profit. It is also alleged on information and
7 belief that Defendants did these acts knowing the harm that would result to Plaintiff and that
8 Defendants did these acts notwithstanding that knowledge.

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

13 45. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
14 Defendants as a result of Defendants’ false “Made in USA” claims set forth on the Jeans.
15 Furthermore, he suffered an “injury in fact” by paying for something he believed was genuinely
16 manufactured in the USA, when it was not. See also Paragraphs 16-22 herein.

17 46. Plaintiff and Class Members were undoubtedly injured as a result of Defendants’
18 false “Made in USA” representations that are at issue in this litigation.

19 47. In prosecuting this action for the enforcement of important rights affecting the
20 public interest, plaintiff seeks to recover attorneys’ fees pursuant to Code of Civil Procedure
21 § 1021.5, which is available to a prevailing plaintiff who wins relief for the general public.

22 **THIRD CAUSE OF ACTION**

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

24 48. Plaintiff re-alleges and incorporates herein by reference each and every allegation
25 contained in Paragraphs 1 through 47, as though set forth in full.

26 49. During the relevant statutory time period, Defendants made false “Made in USA”
27 country of origin designations to Plaintiff and Class Members as it pertains to the sale of the
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1 Jeans.

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

5 51. When Defendants made the representations set forth above, they had no
6 reasonable grounds for believing them to be true.

7 52. Defendants made the representations with the intention of inducing Plaintiff and
8 Class Members to act in reliance upon these representations in the manner hereafter alleged, or
9 with the expectation that they would so act.

10 53. Plaintiff and Class Members, at the time the representations were made by
11 Defendants, and at the time Defendants took the actions herein alleged, were ignorant of the
12 falsity of the representations and believed them to be true. In reliance on these representations,
13 Plaintiff and Class Members were induced to and did pay monies to purchase Defendants'
14 products.

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

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

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

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

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

3 **PRAYER**

4 1. Damages according to proof;

5 2. For a judgment declaring this action to be a proper class action;

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

8 4 Pursuant to Business & Professions Code § 17204 and pursuant to the equitable
9 powers of this Court, a judgment enjoining Defendants, their subsidiaries, affiliates, and their
10 successors, agents, servants, officer, directors, employees, and all persons, acting in concert with
11 them, directly or indirectly, from engaging in conduct violative of Business & Professions Code
12 § 17200 *et seq.* as more fully described above;

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

16 6. Plaintiff's reasonable attorneys' fees as it relates to all causes of action pursuant
17 to Code of Civil Procedure § 1021.5;

18 7. For costs of suit incurred herein;

19 8. For prejudgment interest as allowed by law; and

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

22 Dated: June 30, 2015

DEL MAR LAW GROUP, LLP

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By: _____

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John H. Donohi
JL Sean Slattery

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Attorneys for: JEFF CARD, an individual and
on behalf of all others similarly situated

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