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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SYDNEY COHEN, an individual, on  
behalf of herself and all others similarly  
situated,  
  
Plaintiff,

v.

EAST WEST TEA COMPANY, LLC, an  
Oregon Limited Liability Company, and  
DOES 1-50, inclusive,  
  
Defendants.

Case No: '17CV2339 JLS BLM

**CLASS ACTION COMPLAINT FOR:**

- 1. VIOLATION OF UNFAIR  
COMPETITION LAW, Business  
& Professions Code § 17200, et  
seq.;**
- 2. VIOLATION OF FALSE  
ADVERTISING LAW, Business  
& Professions Code § 17500, et  
seq.;**
- 3. VIOLATION OF THE  
CONSUMERS LEGAL  
REMEDIES ACT, Civil Code §  
1750, et seq.;**
- 4. BREACH OF EXPRESS  
WARRANTY, Commercial  
Code § 2313, et seq.**

**DEMAND FOR JURY TRIAL**

1 Plaintiff Sydney Cohen (“Plaintiff”), individually and on behalf of all others  
 2 similarly situated, brings this consumer class action against Defendant East West Tea  
 3 Company, LLC (“Defendant”), for unlawful, unfair, and deceptive business practices in  
 4 violation of California Business & Professions Code Section 17200 *et seq.*, California  
 5 Business & Professions Code Section 17500 *et seq.*, California Civil Code Section 1750 *et*  
 6 *seq.*, and Breach of California Express Warranty, and alleges as follows:

7 **I. NATURE OF THE ACTION**

8 1. Defendant manufactures, distributes, markets, and sells a tea varietal, called  
 9 Yogi Green Tea Kombucha<sup>1</sup> (collectively, the “Kombucha Products”). A typical  
 10 Kombucha beverage is prepared by brewing tea, adding sugar, bacteria, and yeast, and  
 11 fermenting the mixture, which results in the production of live bacteria cultures, commonly  
 12 referred to as “probiotics”. Kombucha unequivocally contains live cultures.

13 2. Defendant represents on its packaging that the Kombucha Products are  
 14 comprised of a proprietary blend of herbs containing, among other ingredients, “Organic  
 15 Kombucha.” (*See generally*, Exhibit A, product packaging.) Defendant advertises that the  
 16 tea “combines Green Tea with Kombucha to supply antioxidants to support overall health.”  
 17 (*See id.*)

18 3. However, Defendant’s advertising and marketing campaign was false,  
 19 deceptive, and misleading because the Kombucha Products did not contain any “Organic  
 20 Kombucha” in its tea bags. In other words, Defendant advertises and sells its tea as  
 21 containing “Organic Kombucha,” when in fact, it is simply not possible that it contains any  
 22 kombucha, or alternatively, is pasteurized, resulting in the destruction of any potential  
 23 probiotic value once heated and prepared for consumption.

24 4. Defendant’s strategy to create a line of Kombucha Products for sale in the  
 25 health food market is not accidental. The recent spike in consumer fascination for this  
 26

27 \_\_\_\_\_  
 28 <sup>1</sup> Defendant also sells a Decaf version of the Yogi Green Tea Kombucha.

1 fermented beverage, called “kombucha,” is due to its innate characteristic that it contains  
2 live, beneficial bacteria and cultures. The “good kind” of bacteria that is produced during  
3 the fermentation process, commonly referred to as probiotics, is associated with providing  
4 the purported health benefits, such as improved digestion, a boosted immune system, and  
5 overall supported health. Consumers purchase kombucha in hopes that they will receive  
6 the positive health attributes associated with the probiotic brew.

7 5. Since at least 2015, Defendant, capitalizing on the public’s heightened  
8 intrigue for the magic elixir, has manufactured, distributed, marketed, and sold the  
9 Kombucha Products at various health food retail stores and in the online marketplace,  
10 targeting health-conscious consumers who desire attaining the probiotic benefits associated  
11 with kombucha.

12 6. Plaintiff and those similarly situated (“Class Members”) relied on Defendant’s  
13 misrepresentation that their Kombucha Products did in fact contain kombucha when  
14 deciding to purchase the Products. Plaintiff and Class Members would not have purchased  
15 the Kombucha Products absent Defendant’s misrepresentation regarding the composition  
16 of the Kombucha Products. As a result, Plaintiff and the Class Members suffered monetary  
17 damages as a result of Defendant’s false and misleading advertising.

## 18 **II. JURISDICTION**

19 7. This Court has subject matter jurisdiction under the Class Action Fairness Act,  
20 28 U.S.C. section 1332(d) in that: (1) this is a class action involving more than 100 Class  
21 Members; (2) Plaintiff is a citizen of the State of California and Defendant is a citizen of  
22 the State of Oregon; and (3) the amount in controversy exceeds the sum of \$5,000,000.00,  
23 exclusive of interest and costs.

24 8. The Court has personal jurisdiction over Defendant because Defendant  
25 conducts business in California. Defendant has marketed, promoted, distributed, and sold  
26 the Kombucha Products in California, and Defendant has sufficient minimum contacts with  
27 this State and/or has sufficiently availed itself of the market in this State through their  
28

1 promotion, sales, distribution, and marketing within this State to render the exercise of  
2 jurisdiction by this Court permissible.

3 **III. VENUE**

4 9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 1391(a) and (b) because  
5 a substantial part of the events or omissions giving rise to Plaintiff's claims occurred while  
6 Plaintiff resided in this judicial district.

7 **IV. PARTIES**

8 10. Plaintiff Sydney Cohen ("Plaintiff") is, and at all times relevant hereto was,  
9 an individual residing in San Diego County, California. In approximately October 2015,  
10 Plaintiff purchased Yogi Green Tea Kombucha from a Sprouts store located at 4175 Park  
11 Blvd., San Diego, CA 92103. Plaintiff read the Kombucha Product packaging, specifically,  
12 Defendant's representation that the Green Tea Kombucha contained "Organic Kombucha"  
13 and that the tea "combines Green Tea with Kombucha to supply antioxidants to support  
14 your overall health." Plaintiff purchased the Kombucha Products, believing she was  
15 receiving a tea that contained kombucha and its associated health benefits. In making her  
16 purchasing decision, she relied on Defendant's misrepresentation that the Kombucha  
17 Products did in fact contain kombucha. Plaintiff would not have purchased the Green Tea  
18 Kombucha but for Defendant's misrepresentation that the tea did in fact contain "Organic  
19 Kombucha." Indeed, had Plaintiff known that the Kombucha Products did not contain  
20 kombucha, Plaintiff would just have purchased a regular green tea varietal.

21 11. Defendant East West Tea Company, LLC (doing business as "Yogi") is a  
22 limited liability company existing under the laws of Oregon with its headquarters located  
23 at 950 International Way, Springfield, Oregon 97477. Defendant privately owns and  
24 operates a tea company that prides itself with providing consumers with healthy, natural  
25 and organic teas nationwide. Among Defendant's sixty (60) tea varietals, it manufactures,  
26 markets, and sells two (2) Kombucha Products: Yogi Green Tea Kombucha and Yogi  
27 Green Tea Kombucha Decaf. Defendant sells its Kombucha Products through its own  
28 online channel ([www.shop.yogiproductions.com](http://www.shop.yogiproductions.com)) and at various natural, grocery, and mass

1 market retailers such as Whole Foods Market, Sprouts, Walmart, Target, and Amazon.  
 2 Defendant created and/or authorized the false, misleading, and deceptive advertisements  
 3 and packaging of the Kombucha Products. Defendant, directly and through its agents, has  
 4 substantial contacts with and receives substantial benefits and income from and through  
 5 the State of California.

## 6 **V. SUBSTANTIVE ALLEGATIONS**

### 7 **a. Background of Kombucha**

8 12. Dating back as early as 220 BC, kombucha has been consumed for its  
 9 “suspected magical properties<sup>2</sup>.” As a result of trade route expansion through China,  
 10 kombucha consumption spread to Russia and Eastern Europe, as the affiliation with its  
 11 “supposed detoxifying effects on the blood and digestive system” grew. *Id.* Today,  
 12 consumers in the United States drink kombucha to attain these well-recognized, purported  
 13 health benefits, which are supposedly derived from the brew’s probiotic cultures. In  
 14 addition to supporting an individual’s overall health, some proponents even believe  
 15 kombucha consumption is linked to combatting and preventing the onset of terminal  
 16 illnesses, such as cancer and AIDS.

17 13. “The global kombucha market is estimated to grow from USD 0.6 Billion in  
 18 2015 to USD 1.8 Billion by 2020, at a CAGR [compound annual growth rate] of 25.0%  
 19 from 2015 to 2020<sup>3</sup>.” The kombucha market is reportedly “the fastest-growing market in  
 20 the functional beverage industry.” *Id.*

21 14. Companies like Defendant have capitalized on the worldwide recognition of  
 22 this trendy beverage and as a result, have marketed and advertised kombucha in the health  
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 25 <sup>2</sup> See C.J. Greenwalt et al., a Review, *Kombucha, the Fermented Tea: Microbiology,*  
 26 *Composition, and Claimed Health Effects*, J. Food Prot., Vol. 63, No. 7, 2000 at 976, last  
 accessed November 8, 2017.

27 <sup>3</sup> Markets and Markets, “Kombucha Market by Types (Bacteria, Yeast, Mold, Others),  
 28 Flavors (Herbs & Spices, Citrus, Berries, Apple, Coconut & Mangoes, Flowers, Others),  
 & by Region – Forecasts to 2020,” published August 2015.

1 food segment through the sale of popular kombucha brands such as GT’S Kombucha and  
 2 Kevita<sup>4</sup>. Consumers purchase this elixir, but do so at a hefty price. Kombucha is sold at  
 3 retail prices upwards of \$5.00 a bottle.

4 15. Proponents of kombucha’s health benefits tout that the beverage improves  
 5 mental health, brain development, digestion, gut health, assists in immune support, and  
 6 may even prevent serious health conditions such as cancer<sup>5</sup>. While scientific testing about  
 7 kombucha’s purported benefits on the human body is limited, the general consensus is that  
 8 kombucha is a detoxifying drink that provides antioxidants and probiotics due to its  
 9 fermented composition<sup>6</sup>. Notably, it is purportedly the fermented quality of the tea that is  
 10 associated with its probiotic value, since probiotics are created as a byproduct of the  
 11 fermentation process<sup>7</sup>. Notwithstanding the limited scientific research, “[s]ome health  
 12 benefits are likely since kombucha, when raw or unpasteurized, is rich in probiotics, good  
 13 gut bacteria (like those in yogurt) that have been shown to boost immunity and overall  
 14 health<sup>8</sup>.”

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18 <sup>4</sup> See generally GT’S Living Foods, [www.gtslivingfoods.com](http://www.gtslivingfoods.com), last visited October 17,  
 19 2017; Kevita Master Brew Kombucha, [www.kevita.com](http://www.kevita.com), last visited October 17, 2017.

20 <sup>5</sup> See e.g., Brent A. Bauer, M.D., *What is kombucha tea? Does it have any health*  
 21 *benefits?*, Mayo Clinic July 8, 2017, [https://www.mayoclinic.org/healthy-](https://www.mayoclinic.org/healthy-lifestyle/consumer-health/expert-answers/kombucha-tea/faq-20058126)  
 22 [lifestyle/consumer-health/expert-answers/kombucha-tea/faq-20058126](https://www.mayoclinic.org/healthy-lifestyle/consumer-health/expert-answers/kombucha-tea/faq-20058126), last accessed  
 23 October 17, 2017; Markets and Markets, “Kombucha Market by Types (Bacteria, Yeast,  
 24 Mold, Others), Flavors (Herbs & Spices, Citrus, Berries, Apple, Coconut & Mangoes,  
 25 Flowers, Others), & by Region – Forecasts to 2020,” published August 2015.

26 <sup>6</sup> See Kelli Miller, *Kombucha Tea/Alcohol: Is it Safe?*, WebMD January 25, 2016, at  
 27 <https://www.webmd.com/food-recipes/news/20160125/kombucha-tea-is-it-safe#1>, last  
 28 accessed October 17, 2017.

<sup>7</sup> See generally, C.J. Greenwalt et al., Review, *Kombucha, the Fermented Tea*, at 976–81.

<sup>8</sup> Ellie Krieger, *Kombucha: Is it really good for you?*, The Washington Post, October 29,  
 2014, at [https://www.washingtonpost.com/lifestyle/wellness/2014/10/28/7ba5f68a-5ad6-](https://www.washingtonpost.com/lifestyle/wellness/2014/10/28/7ba5f68a-5ad6-11e4-8264-deed989ae9a2_story.html?utm_term=.f43e03990b5d)  
 11e4-8264-deed989ae9a2\_story.html?utm\_term=.f43e03990b5d, last accessed November  
 9, 2017.



1           16. Kombucha is a centuries-old brew that is made by fermenting steeped tea  
2 (typically, green or black) with sugar, yeast, and bacteria<sup>9</sup>. Similar to making wine, a  
3 minimal amount of alcohol is produced as a byproduct during the fermentation phase.  
4 Typically, the process to create kombucha is as follows:

- 5           a) Infuse tea leaves into freshly boiled water;
- 6           b) Add sugar to the mixture;
- 7           c) Remove tea leaves and allow tea to cool to room temperature;
- 8           d) Add the symbiotic colony of bacteria and yeast (“SCOBY”)<sup>10</sup>;
- 9           e) Cover tea with a cloth and store at room temperature for  
10           approximately 7 to 10 days to allow for fermentation;
- 11           f) Remove SCOBY from tea; and
- 12           g) The final product is Kombucha<sup>11</sup>.

13           17. The process of creating kombucha can best be described as cyclical. This is  
14 because the SCOBY, which functions as the key ingredient to the fermentation process,  
15 can be used over and over again to brew kombucha. The SCOBY looks like a wet, sponge-  
16 like mushroom substance that floats atop the liquid. Once brewed, layers of the SCOBY  
17 will materialize and can be peeled off to make subsequent batches. Thus, SCOBYs can  
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19

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21 <sup>9</sup> See *Kombucha*, Alcohol and Tobacco Tax and Trade Bureau (“TTB”), U.S. Department  
22 of The Treasury September 18, 2015, last updated June 22, 2017,  
23 <https://ttb.gov/kombucha/index.shtml#information>, last accessed November 8, 2017.

24 <sup>10</sup> See C.J. Greenwalt et al., Review, *Kombucha, the Fermented Tea*, at 977 (“The  
25 fermented tea is produced by the action of a floating microbial mat/colony [or SCOBY]  
26 consisting of aerobic bacteria and yeasts. The colony’s appearance often resembles a  
27 surface mold or a mushroom but is actually a floating cellulose mat produced during  
28 microbial growth.”).

<sup>11</sup> See *id.* at 976; see also Brian A. Nummer, PhD, an Abstract, *Kombucha Brewing Under  
the Food and Drug Administration Model Food Code: Risk Analysis and Processing  
Guidance*, Journal of Environmental Health, Volume 76, No. 4, November 2013, at 8, last  
accessed November 8, 2017.

1 either be purchased from the store, or recycled from previous batches to make brand new  
2 batches of kombucha.

3 18. In other words, kombucha is not a tea leaf—rather, it is the end result of  
4 fermenting brewed tea comprised of live organisms created as a result of the fermentation  
5 process. Thus, it cannot be dried and stuffed into a tea bag, as Defendant suggests through  
6 the marketing and sale of its Kombucha Products.

7 19. Since the purported health benefits associated with kombucha are attributed  
8 to its live organisms that naturally occur after fermentation, it is essential that the tea  
9 remains “raw,” or avoids pasteurization in order to experience any of the probiotic benefits.  
10 Pasteurization, which is the process of heating liquid in order to sterilize it of harmful  
11 bacteria, although helpful to guard against food-borne illnesses, results in destroying the  
12 beneficial bacteria in kombucha, such as *Acetobacter xylinoides*, *A.pasteurianus*,  
13 *A.xylinium*, *A.aceti*, and *Bacterium gluconicum*<sup>12</sup>. Although “[t]he FDA suggested that  
14 kombucha be pasteurized, killing the microbes before delivery to the consumer [in order  
15 to] help standardize the alcohol content, it would ruin the whole idea of the drink and its  
16 purported benefits<sup>13</sup>.” Thus, it is critical to the integrity of kombucha and its probiotic value  
17 that it remains in “raw” form.

18 20. Defendant’s representation that the Kombucha Products contain “Organic  
19 Kombucha” is false, misleading, and deceptive because the Kombucha Products do not  
20 contain any kombucha, or alternatively, have been pasteurized, resulting in the destruction  
21 of any potential probiotic value once heated and prepared for consumption.  
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24 <sup>12</sup> See Caili Fu et al., *Antioxidant activities of kombucha prepared from three different*  
25 *substrates and changes in content of probiotics during storage*, Food Sci. Technol.  
(Campinas), Vol. 34, n.1, March 2014 at 123–26, last accessed November 8, 2017.

26 <sup>13</sup> See James Hamblin, *Is Fermented Tea Making People Feel Enlightened Because*  
27 *of...Alcohol?*, The Atlantic, December 8, 2016, at  
28 <https://www.theatlantic.com/health/archive/2016/12/the-promises-of-kombucha/509786/>,  
last accessed November 9, 2017.



21. Consumers lack the meaningful ability to test or independently ascertain or verify whether the Kombucha Products contain what they say they contain, especially at the point of sale. Discovery that Kombucha Products do not contain “Organic Kombucha” as advertised requires a scientific investigation and knowledge of chemistry beyond that of the average consumer.

**b. Defendant’s Advertising and Marketing of the Kombucha Products**

22. Defendant markets and sells its Kombucha Products in the tea aisle of health food grocery stores such as Sprouts and Whole Foods, as well as at other large retail chains such as Walmart and Target. Specifically, Defendant manufactures, markets and sells (1) Yogi Green Tea Kombucha (16 tea bags), and (2) Yogi Green Tea Kombucha Decaf (16 tea bags).

23. On the front packaging of Defendant’s Kombucha Products, the largest print readily apparent to consumers is the term “Kombucha.” Immediately underneath that is the claim that Defendant’s Green Tea Kombucha “supplies antioxidants to support overall health.” On one side of the packaging label, the Supplement Facts list the tea as containing a “proprietary blend of herbs,” one being “Organic Kombucha.” On the back of the packaging label, Defendant claims that it “combines Green Tea with Kombucha to supply antioxidants to support your overall health.” (*See generally*, Exhibit A, product packaging.)

24. Defendant seeks to take advantage of the public’s desire for this trendy beverage and its probiotic health benefits by advertising their Green Tea Kombucha Products as containing “Organic Kombucha,” which is brewed to “supply antioxidants to support [consumers’] overall health.”

25. Unfortunately, Defendant’s promise that its Products in fact contain “Organic Kombucha” to supply antioxidants and support overall health is nothing but a sham.

26. Defendant’s Kombucha Products do not contain any kombucha or alternatively, have been pasteurized, resulting in the destruction of any potential probiotic value once heated and prepared for consumption.

1           27. Throughout the liability period as defined below, Defendant has engaged in  
2 an advertising and marketing campaign that falsely represents that its Kombucha Products  
3 actually contain “Organic Kombucha” and thus, provide the positive health benefits widely  
4 recognized and associated with consuming kombucha.

5           28. As a result of this deception, Defendant has sold hundreds of thousands of  
6 units of the Kombucha Products through stores such as Sprouts, Walmart, Target, Whole  
7 Foods, and many other retail and online channels.

8           29. Plaintiff and members of the Class have been, and will continue to be,  
9 deceived or misled by Defendant’s deceptive advertising claims. Each Class Member  
10 purchased and consumed the Kombucha Products during the liability period and in doing  
11 so, read and considered the advertising claims on the Kombucha Products’ packaging and  
12 based their decision to purchase the Kombucha Products on the advertising claims.  
13 Defendant’s advertising claim that the Kombucha Products did in fact contain kombucha  
14 was not only a material factor, but the only factor in influencing Plaintiff’s decision to  
15 purchase and consume the Kombucha Products. Plaintiff and the Class Members would  
16 not have purchased the Kombucha Products had they known that they did not contain *any*  
17 kombucha, and thus, did not contain any of the health benefits associated with kombucha.

18           30. Unfortunately for Plaintiff and Class Members, Defendant’s advertising  
19 claims, in their entirety, are false and deceptive.

20           **c. Defendant’s Advertising Claims for the Kombucha Products are False**  
21           **and Deceptive**

22           31. Whether the Kombucha Products contain “Organic Kombucha” can be  
23 determined with objective factual evidence.

24           32. The marketing of the Kombucha Products as containing “Kombucha” is in a  
25 prominent place on the front label of the Products, throughout the Class Period,  
26 demonstrates Defendant’s awareness that this claim about the Products’ composition is  
27 material to consumers.  
28

1           33. Defendant's deceptive representations and omissions are material in that a  
2 reasonable person would attach importance to such information and would be induced to  
3 act upon such information in making purchasing decisions.

4           34. Plaintiff and Class Members reasonably relied to their detriment on  
5 Defendant's misleading representations and omissions.

6           35. In making the false, misleading, and deceptive representations and omissions  
7 described herein, Defendant knew and intended that consumers would purchase a Product  
8 advertised as containing "Kombucha" over comparable teas that are not advertised as  
9 containing "Kombucha."

10          36. In fact, Defendant has admitted on its website that its Kombucha Products do  
11 not contain "live organisms as does traditional kombucha<sup>14</sup>." Defendant also admits that  
12 their Kombucha creation process "pasteurizes the infusion's microbial culture." *Id.*

13          37. As an immediate, direct, and proximate result of Defendant's false,  
14 misleading, and deceptive representations and omissions, Defendant injured Plaintiff and  
15 the Class Members in that the Class:

- 16           a. Paid a sum of money for a Product that was not what Defendant  
17 represented;
- 18           b. Were deprived of the benefit of the bargain because the Product they  
19 purchased was different from what Defendant warranted; and
- 20           c. Were deprived of the benefit of the bargain because the Product they  
21 purchased has less value than what Defendant represented.

22          38. Had Defendant not made the false, misleading, and deceptive representations  
23 and omissions, Plaintiff and the Class Members would not have purchased the Kombucha  
24 Products at all.

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27 <sup>14</sup> Becca Lesser, *Weekly Q&A with our Facebook Fans*, Yogi February 16, 2017, at  
28 <https://www.yogiproductions.com/2010/03/weekly-qa-with-our-facebook-fans5/>, last  
accessed November 8, 2017.

39. Consequently, Plaintiff and the Class Members have suffered an injury in fact and lost money or property as a result of Defendant's wrongful conduct.

## **VI. CLASS ALLEGATIONS**

40. Plaintiff brings this action on behalf of herself and all other similarly situated Class Members pursuant to Rule 23 of the Federal Rules of Civil Procedure and seeks certification of the following Class against Defendant for violations of California state laws:

All consumers within the State of California who purchased the Yogi Kombucha Products during the applicable liability period for their personal use, rather than for resale or distribution. Excluded from the Class are Defendant's current or former officers, directors, and employees; counsel for Plaintiff and Defendant; and the judicial officer to whom this lawsuit is assigned.

41. **Numerosity**: The members of the Class are so numerous that joinder of all members is impracticable. Plaintiff is informed and believes that the proposed Class contains hundreds of thousands of individuals who have been damaged by Defendant's conduct as alleged herein. The precise number of Class Members is unknown to Plaintiff.

42. **Existence and Predominance of Common Questions of Law and Fact**: This action involves common questions of law and fact, which predominate over any questions affecting individual Class Members. These common legal and factual questions include, but are not limited to, the following:

- a. Whether the Products contain Kombucha or not;
- b. Whether Defendant made false and/or misleading statements to the Class and the public concerning the contents of their Products;
- c. Whether Defendant's mass media advertising and/or the packaging for the Products is misleading and deceptive;
- d. Whether Defendant has engaged in unfair, fraudulent, or unlawful business practices with respect to the advertising, marketing, and sale of the Products;

- e. Whether Defendant's false and misleading statements concerning their Products were likely to deceive the public;
- f. Whether Defendant represents to consumers that the Products have characteristics, uses, benefits, or qualities that the Products do not have;
- g. Whether Defendant advertised the Products with intent to sell them not as advertised; and
- h. Whether Defendant engaged in false advertising with respect to the Products.

43. **Typicality**: Plaintiff's claims are typical of the claims of the Class Members because, *inter alia*, all Class Members have been deceived (or were likely to be deceived) by Defendant's false and misleading advertising claims about the composition of Defendant's Products. Plaintiff is advancing the same claims and legal theories on behalf of herself and all Class Members.

44. **Adequacy**: Plaintiff will fairly and adequately protect the interests of the Class Members. Plaintiff has retained counsel experienced in complex consumer class action litigation, and Plaintiff intends to prosecute this action vigorously. Plaintiff has no antagonistic or adverse interests to those of the Class.

45. **Superiority**: The nature of this action and the nature of the laws available to Plaintiff and the Class make the use of the class action format a particularly efficient and appropriate procedure to afford relief to her and the Class for the wrongs alleged. The damages or other financial detriment suffered by individual Class Members is relatively modest compared to the burden and expense that would be entailed by individual litigation of their claims against Defendant. It would thus be virtually impossible for Plaintiff and Class Members, on an individual basis, to obtain effective redress for the wrongs done to them. Absent the class action, Class Members and the general public would not likely recover, or would not likely have the chance to recover damages or restitution, and Defendant will be permitted to retain the proceeds of its fraudulent and deceptive misdeeds.

1 **VII. CAUSES OF ACTION**

2 **FIRST CAUSE OF ACTION**

3 **Violation of California's Unfair Competition Law ("UCL")**  
4 **California Business & Professions Code Section 17200, *et seq.***

4 46. Plaintiff repeats and re-alleges the allegations contained in every preceding  
5 paragraph as if fully set forth herein.

6 47. The UCL defines "unfair business competition" to include any "unlawful,  
7 unfair or fraudulent" act or practice, as well as any "unfair, deceptive, untrue or  
8 misleading" advertising. Cal. Bus. & Prof. Code § 17200.

9 48. Plaintiff has standing to pursue this claim because Plaintiff has suffered  
10 injury-in-fact and has lost money or property as a result of Defendant's unlawful, unfair,  
11 and fraudulent actions. Specifically, Plaintiff purchased the Kombucha Product for her  
12 own personal use. In doing so, Plaintiff relied upon the false representations that the  
13 Product contained "Organic Kombucha," when in fact, it contained none. Plaintiff  
14 expended money in the transaction that she otherwise would not have had she known  
15 Defendant's advertising claims were false.

16 ***"Unfair" Prong***

17 49. A business act or practice is "unfair" under the UCL if it offends an  
18 established public policy or is immoral, unethical, oppressive, unscrupulous, or  
19 substantially injurious to consumers, and that unfairness is determined by weighing the  
20 reasons, justifications, and motives of the practice against the gravity of the harm to the  
21 alleged victims.

22 50. Defendant's conduct constitutes an "unfair" business practice because, as  
23 alleged, Defendant engaged in a false advertising campaign that mislead consumers into  
24 believing that they were receiving a Product that contained Kombucha and the positive  
25 health benefits that are publicly associated with and widely recognized of the ingredient.

26 51. Defendant's conduct harms the interests of consumers and market  
27 competition. There is no valid justification for Defendant's conduct.

28 ///



1           ***“Fraudulent” Prong***

2           52. A business act or practice is “fraudulent” under the UCL if it is likely to  
3 deceive members of the consuming public.

4           53. Defendant engaged in a fraudulent business practice by knowingly  
5 representing the Product as containing “Organic Kombucha.” Defendant’s practice  
6 deceived Plaintiff and are highly likely to deceive members of the consuming public who  
7 purchased the Product in reliance on its advertised composition. Such practice is devoid  
8 of utility and outweighed by the gravity of harm to Plaintiff and the Class who lost money  
9 or property by paying for the Product.

10           ***“Unlawful” Prong***

11           54. A business act or practice is “unlawful” under the UCL if it violates any other  
12 law or regulation.

13           55. Defendant’s actions, as alleged herein, constitute illegal and unlawful  
14 practices committed in violation of the Consumer Legal Remedies Act, Cal. Civ. Code §  
15 1750, *et seq.*, (the “CLRA”). Particularly, Defendant has unlawfully marketed and  
16 advertised the Kombucha Products because Defendant violates sections 1770(a)(5),  
17 1770(a)(7), and 1770(a)(9) of the CLRA.

18           56. Each of Defendant’s unfair, fraudulent, and unlawful practices enumerated  
19 above was the direct and proximate cause of financial injury to Plaintiff and the Class.  
20 Defendant has unjustly benefitted as a result of its wrongful conduct. Plaintiff and Class  
21 Members are accordingly entitled to have Defendant disgorge and restore to Plaintiff and  
22 Class Members all monies wrongfully obtained by Defendant as a result of the conduct as  
23 alleged herein.

24           57. Therefore, Plaintiff prays for the relief as set forth below.

25                           **SECOND CAUSE OF ACTION**

26           **Violation of California’s False and Misleading Advertising Law (“FAL”)**  
27           **California Business & Professions Code Section 17500, *et seq.***

28           58. Plaintiff repeats and re-alleges the allegations contained in every preceding  
paragraph as if fully set forth herein.

1           59. Plaintiff has standing to pursue this claim because Plaintiff has suffered  
2 injury-in-fact and has lost money or property as a result of Defendant's unlawful, unfair,  
3 and fraudulent actions. Specifically, Plaintiff purchased the Kombucha Product for her  
4 own personal use. In doing so, Plaintiff relied upon the false representations that the  
5 Product contained "Organic Kombucha," when in fact, it contained none. Plaintiff  
6 expended money in the transaction that she otherwise would not have had she known  
7 Defendant's advertising claims were false.

8           60. Defendant violated Business & Professions Code § 17500 by publicly  
9 disseminating false, misleading, and unsubstantiated advertisements regarding the  
10 Kombucha Products.

11           61. Defendant's false, misleading and unsubstantiated advertisements were  
12 disseminated to increase the sales of the Kombucha Products.

13           62. Defendant knew or should have known their advertisements for the  
14 Kombucha Products were false and misleading.

15           63. Plaintiff and the members of the Class have suffered harm as a result of these  
16 violations of the FAL because they have incurred charges and/or paid monies for the  
17 Kombucha Products that they otherwise would not have incurred or paid.

18           64. Defendant is aware, or by the exercise of reasonable care should have been  
19 aware, that the representations were untrue or misleading.

20           65. Plaintiff and the members of the Class have suffered injury in fact and have  
21 lost money as a result of Defendant's false representations and false advertising.

22           66. Plaintiff and the members of the Class seek an order awarding Plaintiff and  
23 other members of the Class restitution of the money wrongfully acquired by Defendant by  
24 means of responsibility attached to Defendant's failure to disclose the existence and  
25 significance of said misrepresentations.

26           67. Therefore, Plaintiff prays for the relief as set forth below.

27 ///

28 ///

**THIRD CAUSE OF ACTION**

**Violation of California's Consumer Legal Remedies Act ("CLRA")  
California Civil Code Section 1750, *et seq.***

68. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

69. As alleged herein, Plaintiff has standing to pursue this claim because Plaintiff has suffered injury-in-fact and has lost money or property as a result of Defendant's unlawful, unfair, and fraudulent actions. Specifically, Plaintiff purchased the Kombucha Product for her own personal use. In doing so, Plaintiff relied upon the false representations that the Product contained "Organic Kombucha," when in fact, in contained none. Plaintiff expended money in the transaction that she otherwise would not have had she known Defendant's advertising claims were false.

70. The Consumer Legal Remedies Act ("CLRA") was enacted to protect consumers against unfair and deceptive business practices. The CLRA applies to Defendant's acts and practices because the Act covers transactions involving the sale of goods to consumers.

71. Plaintiff and the members of the Class are "consumers" within the meaning of § 1761(d) of the California Civil Code, and they engaged in "transactions" within the meaning of §§ 1761(e) and 1770 of the California Civil Code, including the purchases of the Products.

72. Defendant is a "person" under Cal. Civ. Code § 1761(c).

73. The Products are "goods" under Cal. Civ. Code § 1761(a).

74. Defendant's unfair and deceptive business practices were intended to and did result in the sale of the Products.

75. Defendant violated the CLRA by engaging in the following unfair and deceptive acts and practices:

§ 1770(a)(5) Representing that [the Kombucha Products have] . . . characteristics, . . . uses [or] benefits . . . which [they do] not have . . . .

1       § 1770(a)(7) Representing that [the Kombucha Products are] of a particular  
2       standard, quality or grade . . . if [they are] of another.

3       § 1770(a)(9) Advertising goods or services with intent not to sell them as  
4       advertised.

5       76. If Plaintiff and the Class Members had known that the Products did not  
6       contain “Organic Kombucha” as advertised, they would not have purchased the Products  
7       at all.

8       77. As a direct and proximate result of Defendant’s conduct, Plaintiff and the  
9       Class Members suffered injury and damages in an amount to be determined at trial.

10      78. On information and belief, Defendant’s actions were willful, wanton, and  
11      fraudulent.

12      79. On information and belief, officers, directors, or managing agents of  
13      Defendant authorized the use of the misleading statements about the Kombucha Products.

14      80. Plaintiff has concurrently filed the declaration of venue required by Civil  
15      Code § 1780(d) with this complaint.

16      81. On November 17, 2017, Plaintiff, through counsel, sent a CLRA demand  
17      letter to Defendant that provided notice of Defendant’s violation of the CLRA and  
18      demanded Defendant correct, repair, replace, or otherwise rectify the unlawful, unfair,  
19      false, and deceptive practices complained of herein. The letter also stated that if Defendant  
20      refused to do so, Plaintiff would file a complaint seeking damages in accordance with the  
21      CLRA. If Defendant does not respond to Plaintiff’s letter or agree to rectify the problems  
22      associated with the actions detailed above and give notice to all affected consumers within  
23      30 days of the date of written notice pursuant to § 1782, Plaintiff will amend her complaint  
24      to seek actual, punitive, and statutory damages, as appropriate against Defendant.

25      82. Therefore, Plaintiff prays for the relief as set forth below.

26      ///

27      ///

28      ///

**FOURTH CAUSE OF ACTION**  
**BREACH OF EXPRESS WARRANTY**

**California Commercial Code Section 2313, *et seq.***

83. Plaintiff repeats and re-alleges the allegations contained in every preceding paragraph as if fully set forth herein.

84. Defendant was at all relevant times a “seller” within the meaning of Cal. Com. Code § 2103(d).

85. The Kombucha Products, at all relevant times, were “goods” within the meaning of Cal. Com. Code § 2105 (1).

86. On the Kombucha Products’ packaging, Defendant expressly warranted to all purchasers that the Product contained Kombucha.

87. Plaintiff and the Class Members formed a contract with Defendant at the time they purchased the Kombucha Products. As part of that contract, Defendant represented that the Kombucha Products contained “Organic Kombucha,” as described above. This representation constitutes an express warranty and became part of the basis of the bargain between Plaintiff and the Class Members.

88. Defendant made the above-described representations to induce Plaintiff and the Class Members to purchase the Kombucha Products, and Plaintiff and the Class Members relied on the representations in purchasing the Kombucha Products.

89. Defendant knowingly breached its warranty because the Kombucha Products did not contain “Organic Kombucha” as advertised.

90. As a result, Plaintiff and the members of the Class are entitled to damages in an amount to be determined at trial.

91. Within a reasonable time after they knew or should have known of such breach, Plaintiff, on behalf of herself and the other members of the Class, placed Defendant on notice thereof.

92. Therefore, Plaintiff prays for the relief as set forth below.

**VIII. JURY DEMAND**

93. Plaintiff demands a trial by jury on all issues so triable.

1 **IX. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff prays on behalf of herself and all others similarly situated,  
3 for judgment against Defendant as follows:

- 4 A. Certifying the Class as requested herein, appointing Plaintiff as Class  
5 Representative, and appointing her counsel as Class Counsel;  
6 B. Awarding monetary damages and punitive damages;  
7 C. Ordering Defendant to disgorge and make restitution of all monies  
8 Defendant acquired by means of the unlawful practices set forth above;  
9 D. Awarding declaratory and injunctive relief as permitted by law or equity,  
10 including: enjoining Defendant from continuing the unlawful practices as  
11 set forth herein, and directing Defendant to identify, with Court  
12 supervision, victims of its conduct and pay them all money it is required  
13 to pay;  
14 E. Ordering Defendant to engage in a corrective advertising campaign;  
15 F. Awarding Plaintiff and Class Members their costs and expenses incurred  
16 in the action, including reasonable attorney's fees; and  
17 G. Providing such further relief as may be just and proper.  
18

19 Date: November 17, 2017

Respectfully submitted,

21 /s/ Brittany C. Casola  
22 **CARLSON LYNCH SWEET**  
23 **KILPELA & CARPENTER, LLP**

24 Brittany C. Casola (CA 306561)  
25 1350 Columbia Street, Suite 603  
26 San Diego, California 92101  
27 Telephone: (619) 762-1900  
28 Facsimile: (619) 756-6991  
bcasola@carlsonlynch.com

*Attorneys for Plaintiff and  
Proposed Class Counsel*



JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

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

**I. (a) PLAINTIFFS**

Sydney Cohen, an individual, on behalf of herself and all others similar situated,

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Brittany C. Casola (CA 306561) 619-762-1900  
Carlson Lynch Sweet Kilpela & Carpenter, LLP  
1350 Columbia Street, Suite 603, San Diego, CA 92101

**DEFENDANTS**

East West Tea Company, LLC, an Oregon Limited Liability Company, and DOES 1-50, inclusive

County of Residence of First Listed Defendant Oregon

(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

**'17CV2339 JLS BLM**

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

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

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

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

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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

**VI. CAUSE OF ACTION**

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

Brief description of cause:

False Advertising

**VII. REQUESTED IN COMPLAINT:**

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

11/17/2017

SIGNATURE OF ATTORNEY OF RECORD

/s/ Brittany C. Casola

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_ JUDGE \_\_\_\_\_ MAG. JUDGE \_\_\_\_\_

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44****Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.  
**United States plaintiff.** (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.  
**United States defendant.** (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.  
**Federal question.** (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.  
**Diversity of citizenship.** (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.  
**Original Proceedings.** (1) Cases which originate in the United States district courts.  
**Removed from State Court.** (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.  
**Remanded from Appellate Court.** (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.  
**Reinstated or Reopened.** (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.  
**Transferred from Another District.** (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.  
**Multidistrict Litigation – Transfer.** (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.  
**Multidistrict Litigation – Direct File.** (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.  
**PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.  
**Demand.** In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.  
**Jury Demand.** Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

**Date and Attorney Signature.** Date and sign the civil cover sheet.

# **EXHIBIT A**

yogi

# Green Tea Kombucha

★ SUPPLIES ANTIOXIDANTS  
TO SUPPORT OVERALL HEALTH



## Supplement Facts

Serving Size 1 tea bag (Makes 8 fl oz)

	Amount Per Tea Bag	% Daily Value
Proprietary Blend of Herbs:	1,847 mg	
Organic Green Tea Leaf		†
Organic Lemongrass		†
Organic Spearmint Leaf		†
Organic Kombucha		†

† Daily Value not established.

**Other Ingredients:** Natural Passion Fruit Flavor, Natural Plum Flavor.

Each tea bag contains approximately 30 mg of caffeine, as compared to approximately 90 mg in 8 oz of coffee.

**WARNING:** Consult your healthcare provider prior to use if you are pregnant.



East West Tea Company, LLC  
Eugene, OR 97402  
Certified Organic by GAI, Inc.



VEGAN



Certified



COMPOSTABLE  
TEA BAGS



## Support Overall Health with Green Tea Kombucha

This delicious blend combines Green Tea with Kombucha to supply antioxidants to support your overall health.\* Spearmint and Lemongrass along with Plum and Passion Fruit flavors harmonize to create a bright, light, and delightful fruity flavor. Enjoy a bright and delightful cup of Green Tea Kombucha.

\*These statements have not been evaluated by the FDA. This product is not intended to diagnose, treat, cure, or prevent any disease.

At Yogi, it's about more than  
creating deliciously purposeful teas. Learn  
about our efforts to do good at home and around  
the world at [yogiproductions.com/doing-good](http://yogiproductions.com/doing-good).





**CARLSON LYNCH SWEET  
KILPELA & CARPENTER, LLP**

Todd D. Carpenter (CA 234464)  
Brittany C. Casola (CA 306561)  
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bcasola@carlsonlynch.com

*Attorneys for Plaintiff and  
Proposed Class Counsel*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

SYDNEY COHEN, an individual on  
behalf of herself and all others similarly  
situated,

Plaintiff,

v.

EAST WEST TEA COMPANY, LLC, an  
Oregon Limited Liability Company, and  
DOES 1-50, inclusive,

Defendants.

Case No.: '17CV2339 JLS BLM

**DECLARATION IN SUPPORT OF  
JURISDICTION**

I, Brittany C. Casola, declare under penalty of perjury the following:

1. I am an attorney duly licensed to practice before all of the courts in the State of California. I am an associate attorney at Carlson Lynch Sweet Kilpela & Carpenter, LLP, and the counsel of record for Plaintiff in the above-entitled action.

2. Defendant East West Tea Company, LLC has done and is doing business in the County of San Diego. Such business includes the marketing, distributing, and sale of its Yogi Green Tea Kombucha products in grocery stores.

3. Plaintiff Sydney Cohen purchased Yogi Green Tea Kombucha from a Sprouts grocery store in San Diego, California in approximately October 2015.

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

Executed this 17th day of November 2017 in San Diego, California.

/s/ Brittany C. Casola

Brittany C. Casola