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Counsel for Plaintiff and Putative Class

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

BRENDAN PEACOCK, on Behalf of Himself, and All Others Similarly Situated,

Plaintiff,

v.

PABST BREWING COMPANY, LLC,

Defendant.

Case No: _____

Pleading Type: Class Action

CLASS ACTION COMPLAINT AND DEMAND FOR JURY TRIAL

Nature of the Case

1. Defendant, Pabst Brewing Company, LLC ("Defendant") is falsely creating the impression in the minds of its consumers that its Olympia beer products are exclusively brewed using artesian water in Washington, when in fact, the beers are now brewed in a mass-production brewery located in Los Angeles County, California. As a result of this false advertising, Plaintiff Brendan Peacock ("Plaintiff") sues Defendant on behalf of himself and the putative class of purchasers of Defendant's Olympia beer products, seeking damages and injunctive relief.

Jurisdiction and Venue

2. This Court has original jurisdiction under 28 U.S.C. § 1332(d)(2) (the Class Action Fairness Act) because the matter in controversy exceeds the sum or value of $5 million, exclusive of interest and costs, and there is diversity of citizenship between the proposed class members and Defendant.

3. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claim occurred here.

Parties

4. Plaintiff Brendan Peacock is a resident of California.

5. Defendant, Pabst Brewing Company, LLC, is a Delaware limited liability company with its principal place of business in Los Angeles, California.

Allegations

6. In the 1850's Leopold F. Schmidt purchased property in Tumwater, Washington and founded the Capital Brewing Company; in 1896, it began brewing and selling the Olympia Pale Export using artesian spring water from Schmidt's property. The Olympia beer became Capital Brewing Company's flagship beer, and in 1902, the slogan "It's the Water" was born to explain the popularity of the Tumwater lagers.

7. Tumwater is a city near the Deschutes River, in the southernmost point of Puget Sound. Tumwater is home to a famous series of cascades near where the Deschutes River empies into Budd Inlet. The area is known for its natural beauty and waterfalls.[1]

8. In 1983, the Olympia Brewing Company was purchased by G. Heileman Brewing Company, a Wisconsin brewery itself founded in the mid-1800's. G. Heileman Brewing Company ceased operations in 1996, and through a series of mergers, acquisitios and consolidations, Defendant acquired Olympia Brewing Company in 1999.

9. The Olympia beer consumers purchase now is no longer brewed in Tumwater, nor does it use the artesian spring water from Tumwater, Washington. The former Olympia brewery in Tumwater permanently closed in 2003. Following is a panoramic view of the falls at Tumwater, and the former Olympia brewery:[2]

10. Olympia beer today is brewed by a mega-brewery located in 15801 W. 1st Street, Irwindale, California.

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[1] In 1962, the Olympia Brewing Company donated 15 acres of land surrounding the Tumwater falls, creating the Tumwater Falls Park, which hosts 200,000 visitors annually. *See* https://en.wikipedia.org/wiki/Tumwater_Falls (last accessed February 5, 2018).

[2] https://en.wikipedia.org/wiki/Tumwater,_Washington#/media/File:Tumwater_pano_01.jpg (last accessed February 5, 2018).

11. Nonetheless, Defendant continues to market and sell Olympia beer with the now famous "It's the Water" slogan in its promotional advertising and on the packaging and containers of its Olympia brand beer, despite the fact that it is no longer brewed with the artesian water for which the beer was famed.

12. Defendant contract-brews its beer in Irwindale, a city in the San Gabriel Valley, which is "almost entirely urbanized and is an integral part of the Greater Los Angeles metropolitan area."[3]

13. It is unclear where the water is actually from; however, parts of Irwindale is serviced by the Valley County Water District ("VCWD"), a public utility that treats and delivers water supplied by "four active groundwater production wells." The VCWD chlorinates its water.[4]

14. The San Gabriel Valley's water supply has been contaminated by industrial solvents in the past; in 1985, several wells were shut down after state health officials declared the contamination a health risk.[5] Currently, two federal Superfund sites are located in Irwindale; one, the Baxter Healthcare Corp. Site at 4401 Foxdale Avenue, Irwindale, California 91706, is located approximately 2.4 miles from where the Olympia beer is brewed.[6]

15. Defendant markets and sells its beer in order to create the impression in the minds of consumers that the beer is being exclusively brewed using artesian waters from Tumwater, Washington. Defendant does this by continuing to use the slogan and imagery on its product

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[3] https://en.wikipedia.org/wiki/San_Gabriel_Valley

[4] http://www.vcwd.org/page/829101_Your_Water_Quality_FAQ_.asp (last accessed February 5, 2018)

[5] *See* http://articles.latimes.com/1985-04-28/news/ga-21696_1_san-gabriel-valley-water (last accessed February 5, 2018).

[6] *See* https://cumulis.epa.gov/supercpad/cursites/csitinfo.cfm?id=0903628 (last accessed February 5, 2018).

packaging which depict images of Tumwater, Washington and creating an impression in the mind of consumers that the beer is brewed using a unique water source.

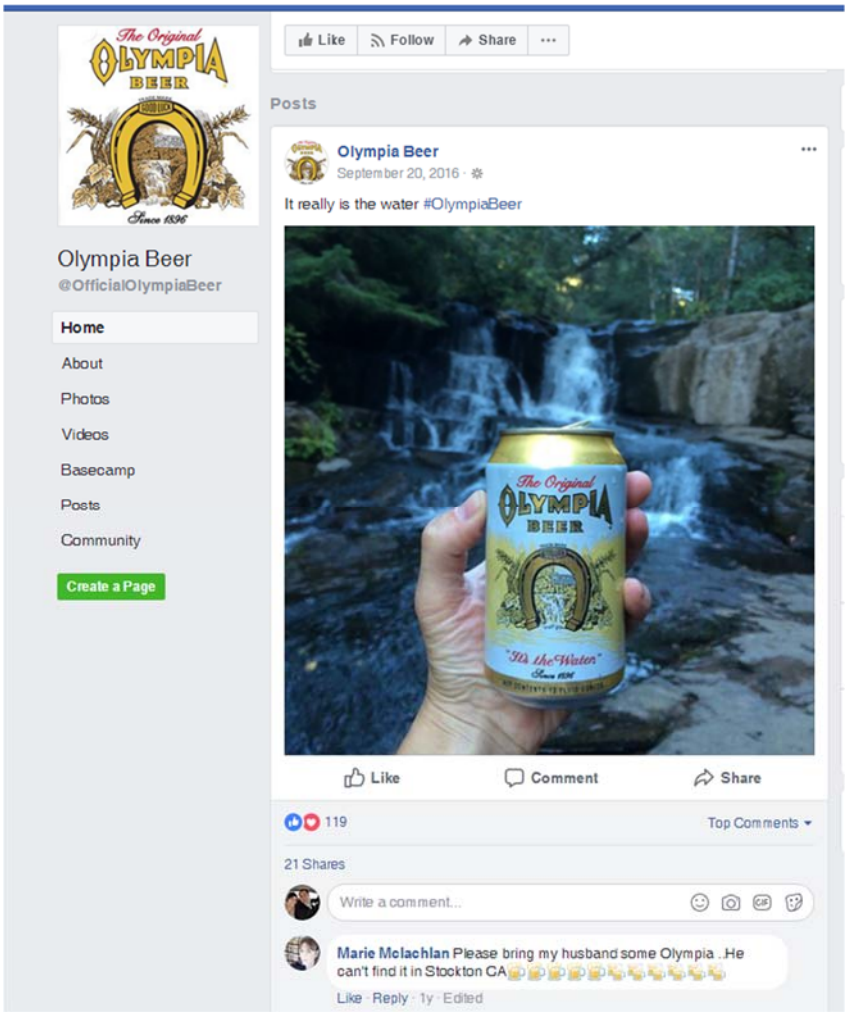
16. Defendant also creates the impression in the minds of consumers that the beer was brewed using artesian waters from Tumwater, Washington, through statements on its websites and in other media. For instance, Defendant's website describes the product below:

> First brewed in 1896 at a four-story wooden brewhouse near Puget Sound in Washington State, Olympia lager blends nature's finest raw materials from the Great Northwest's fields into an icon as stunning as the land itself. Crowned with a garland of fresh herbal hops, Olympia beer stands shoulders above other beers. Olympia Beer. It's the water.

http://pabstbrewingco.com/beer/olympia (last accessed February 5, 2018).

17. Defendant similarly creates the impression in the minds of consumers that the beer is being exclusively brewed using artesian waters from Tumwater, Washington through statements

and imagery on its social media, such as the Defendant's official Facebook page for Olympia beer which posted the following image and caption ("It really is the water. #OlympiaBeer"):



The statements and impressions that Defendant's beer is exclusively brewed using artesian waters from Tumwater, Washington are false, deceptive, and misleading.

Plaintiff's Allegations

18. Plaintiff is a beer, and craft beer, consumer.

19. On or about April 21, 2017, Plaintiff purchased Olympia Beer from Grocery Outlet #57 located at 2801 Zinfandel Drive, Rancho Cordova, California 95670. Prior to Plaintiff's

purchase of the beer, Plaintiff was exposed to Defendant's marketing messaging and impressions that the beer is exclusively brewed using artesian waters from Tumwater, Washington.

20. The beer Plaintiff purchased was not exclusively brewed with artesian water in Tumwater, Washington. In fact, none of the Defendant's beers are brewed in Tumwater, Washington, as the brewery closed in 2003. According to the Defendant: "Our Olympia products are brewed out of our Irwindale CA brewery. All of our beer products are made in several different brewing locations around the United States. These facilities are owned by outside companies, the largest of which is Miller Brewing Company, which is a common practice in the beer industry."[7]

21. Plaintiff purchased the beer because of and in reliance on these marketing messages. Plaintiff was deceived by, affected by, and harmed by Defendant's false advertising. Had Plaintiff known that Defendant's marketing messages were false, Plaintiff would not have purchased the beer. Plaintiff paid a price premium for the beer compared to other beer and related goods.

22. The source and quality of the water in beer is historically an important component of the overall quality of the final product, and a factor of importance to beer consumers.[8]

23. Unlike food and non-alcoholic beverages, there is no requirement for ingredient labelling in beer. Beer as a consumer product is particularly susceptible to false labelling, as product packaging, maketing, and advertising is the only information readily available to consumers informing them of what they are presumably consuming.

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[7] Plaintiff contacted Defendant inquiring about the location of Olympia Beer's brewery. On July 7, 2017, Defendant responded via e-mail, admitting that its Olympia products are brewed out of Irwindale, CA. A copy of the e-mail exchange is attached hereto as "Exhibit A."

[8] *See, e.g.*, https://www.npr.org/sections/thesalt/2012/06/09/154574766/to-grow-a-craft-beer-business-the-secrets-in-the-water ("To Grow A Craft Beer Business, The Secret's In The Water").

Class Action Allegations

24. Plaintiff seeks to certify a class of all purchasers in the United States of Olympia brand beer. This action is properly maintainable as a class action under Rule 23.

25. The Class is so numerous that joinder of all members is impracticable.

26. There are questions of law and fact which are common to the Class and which predominate over questions affecting any individual Class member. The common questions include, *inter alia*, the following: Whether the Defendant falsely markets and advertises where and how the beer is brewed to the Class.

27. Plaintiff's claims are typical of the claims of the other members of the Class and Plaintiff does not have any interests adverse to the Class.

28. Plaintiff is an adequate representative of the Class, has retained competent counsel experienced in litigation of this nature and will fairly and adequately protect the interests of the Class.

29. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for the party opposing the Class.

30. Plaintiff anticipates that there will be no difficulty in the management of this litigation. A class action is superior to other available methods for the fair and efficient adjudication of this controversy.

31. Defendant acted on grounds generally applicable to the Class with respect to the matters complained of herein, thereby making appropriate the relief sought herein with respect to the Class as a whole.

Count I

For Violation of the UCL

32. Plaintiff repeats and incorporates by reference the allegations in Paragraphs 1 through 31 set forth above as if fully set forth herein.

33. Cal. Bus. & Prof. Code § 17200 prohibits any "unlawful, unfair or fraudulent business act or practice."

34. The acts, omissions, misrepresentations, practices, and non-disclosures of Defendant as alleged herein constitute "unlawful" business acts and practices in that Defendant's conduct violates the Consumer Legal Remedies Act, and the California Sherman Food, Drug, and Cosmetic Law ("Sherman Law"), which incorporates all the regulations and requirements of the Federal Food, Drug, and Cosmetic Act. Specifically, Defendant acted in contravention of the following Sherman Law provisions:

- § 110100 (adopting all FDA regulations as state regulations);
- § 110290 ("In determining whether the labeling or advertisement of a food . . . is misleading, all representations made or suggested by statement, word, design, device, sound, or any combination of these shall be taken into account. The extent that the labeling or advertising fails to reveal facts concerning the food . . . or consequences of customary use of the food . . . shall also be considered.");
- § 110390 ("It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food . . . that is falsely advertised.");
- § 110398 ("It is unlawful for any person to advertise any food, drug, device, or cosmetic that is adulterated or misbranded.");
- § 110400 ("it is unlawful for any person to receive in commerce any food . . . that is falsely advertised or to deliver or proffer for deliver any such food . . . . ");

- § 110660 ("Any food is misbranded if its labeling is false or misleading in any particular.");
- § 110670 ("Any food is misbranded if its labeling does not confirm with the requirements for nutrient content or health claims as set forth in Section 403(r) (21 U.S.C. Sec. 343(r)) of the federal act and the regulations adopted pursuant thereto.");
- § 110680 ("Any food is misbranded if its labeling or packaging does not conform to the requirements of Chapter 4 (commencing with Section 110290).");
- § 110705 ("Any food is misbranded if any word, statement, or other information required pursuant to this part to appear on the label or labeling is not prominently placed upon the label or labeling and in terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.");
- § 110760 ("It is unlawful for any person to manufacture, sell, deliver, hold, or offer for sale any food that is misbranded.");
- § 110765 ("It is unlawful for any person to misbrand any food."); and
- § 110770 ("It is unlawful for any person to receive in commerce any food that is misbranded or to deliver or proffer for delivery any such food.").

35. By violating the California Unfair Competition Law, Defendant also violated the common law of unfair competition.

36. Defendant leveraged its deception to induce Plaintiff and members of the Class to buy products that were of lesser value and quality than advertised, including but not limited to being of a different origin.

37. Plaintiff suffered injury in fact and lost money or property as a result of Defendant's deceptive advertising: he was denied the benefit of the bargain in purchasing the beer. Had Plaintiff been aware of Defendant's false and misleading advertising tactics, he would not have purchased the beer. Moreover, had Defendant not engaged in the false and misleading advertising tactics, Plaintiff and the members of the Class would have paid less for the beer because Defendant would not have been able to charge them a premium for the product.

38. The false and misleading labeling and advertising of beer, as alleged herein, constitutes 'unfair" business acts and practices because such conduct is immoral, unscrupulous, and offends public policy. Further, the gravity of Defendant's conduct outweighs any conceivable benefit of such conduct.

39. The acts, omissions, misrepresentations, practices, and non-disclosures of Defendant as alleged herein constitute "fraudulent" business acts and practices because Defendant's conduct is false and misleading to Plaintiff, Class members, and the general public.

40. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order enjoining Defendant from continuing to conduct business through unlawful, unfair, and/or fraudulent acts and practices and to commence a corrective advertising campaign.

41. Plaintiff also seeks an order for the restitution of all monies from the sale of the beer which were unjustly acquired through acts of unlawful, unfair, and/or fraudulent competition.

Prayer for Relief

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

A. that the Court certify the Class under Rule 23 of the Federal Rules of Civil Procedure and appoint Plaintiff as Class Representative and his attorneys as Class Counsel to represent the members of the Class;

B. that the Court declare that Defendant's conduct violates the statutes referenced herein;

C. that the Court preliminarily and permanently enjoin Defendant from conducting its business through the unlawful, unfair, or fraudulent business acts or practices, untrue, and misleading labeling and marketing and other violations of law described in this Complaint;

D. that the Court order Defendant to conduct a corrective advertising and information campaign advising consumers that the beer do not have the characteristics, uses, benefits, and quality Defendant has claimed;

E. that the Court order Defendant to implement whatever measures are necessary to remedy the unlawful, unfair, or fraudulent business acts or practices, untrue and misleading advertising, and other violations of law described in this Complaint;

F. that the Court order Defendant to notify each and every individual and/or business who purchased the beer of the pendency of the claims in this action in order to give such individuals and businesses an opportunity to obtain restitution from Defendant;

G. that the Court order Defendant to pay restitution to restore to all affected persons all funds acquired by means of any act or practice declared by this Court to be an unlawful, unfair, or a fraudulent business act or practice, untrue or misleading labeling, advertising, and marketing, plus pre- and post-judgment interest thereon;

H. that the Court order Defendant to disgorge all monies wrongfully obtained and all revenues and profits derived by Defendant as a result of its acts or practices as alleged in this Complaint;

I. that the Court award damages to Plaintiff and the Class, including punitive damages;

J. the common fund doctrine, and/or any other appropriate legal theory; and

K. that the Court grant such other and further relief as may be just and proper.

Demand for Jury Trial

Plaintiff hereby demands trial by jury in this action on all issues so triable.

DATED: March 15, 2018

Respectfully submitted,

/s/ Elizabeth Lee Beck
Elizabeth Lee Beck
Counsel for Plaintiff and Putative Class

JS 44 (Rev. 08/16)

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

BRENDAN PEACOCK, on Behalf of Himself, and All Others Similarly Situated,

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

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
BECK & LEE TRIAL LAWYERS
12485 SW 137th Ave., Suite
205 305-234-2060

DEFENDANTS

PABST BREWING COMPANY, LLC

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

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

Attorneys *(If Known)*

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

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

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

(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	❒ 1	❒ 1	Incorporated *or* Principal Place of Business In This State	❒ 4	❒ 4
Citizen of Another State	❒ 2	❒ 2	Incorporated *and* Principal Place of Business In Another State	❒ 5	❒ 5
Citizen or Subject of a Foreign Country	❒ 3	❒ 3	Foreign Nation	❒ 6	❒ 6

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

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ❒ 110 Insurance
- ❒ 120 Marine
- ❒ 130 Miller Act
- ❒ 140 Negotiable Instrument
- ❒ 150 Recovery of Overpayment & Enforcement of Judgment
- ❒ 151 Medicare Act
- ❒ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ❒ 153 Recovery of Overpayment of Veteran's Benefits
- ❒ 160 Stockholders' Suits
- ❒ 190 Other Contract
- ❒ 195 Contract Product Liability
- ❒ 196 Franchise

REAL PROPERTY
- ❒ 210 Land Condemnation
- ❒ 220 Foreclosure
- ❒ 230 Rent Lease & Ejectment
- ❒ 240 Torts to Land
- ❒ 245 Tort Product Liability
- ❒ 290 All Other Real Property

TORTS

PERSONAL INJURY
- ❒ 310 Airplane
- ❒ 315 Airplane Product Liability
- ❒ 320 Assault, Libel & Slander
- ❒ 330 Federal Employers' Liability
- ❒ 340 Marine
- ❒ 345 Marine Product Liability
- ❒ 350 Motor Vehicle
- ❒ 355 Motor Vehicle Product Liability
- ❒ 360 Other Personal Injury
- ❒ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ❒ 365 Personal Injury - Product Liability
- ❒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ❒ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ❒ 370 Other Fraud
- ❒ 371 Truth in Lending
- ❒ 380 Other Personal Property Damage
- ❒ 385 Property Damage Product Liability

CIVIL RIGHTS
- ❒ 440 Other Civil Rights
- ❒ 441 Voting
- ❒ 442 Employment
- ❒ 443 Housing/ Accommodations
- ❒ 445 Amer. w/Disabilities - Employment
- ❒ 446 Amer. w/Disabilities - Other
- ❒ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ❒ 463 Alien Detainee
- ❒ 510 Motions to Vacate Sentence
- ❒ 530 General
- ❒ 535 Death Penalty

Other:
- ❒ 540 Mandamus & Other
- ❒ 550 Civil Rights
- ❒ 555 Prison Condition
- ❒ 560 Civil Detainee - Conditions of Confinement

FORFEITURE/PENALTY
- ❒ 625 Drug Related Seizure of Property 21 USC 881
- ❒ 690 Other

LABOR
- ❒ 710 Fair Labor Standards Act
- ❒ 720 Labor/Management Relations
- ❒ 740 Railway Labor Act
- ❒ 751 Family and Medical Leave Act
- ❒ 790 Other Labor Litigation
- ❒ 791 Employee Retirement Income Security Act

IMMIGRATION
- ❒ 462 Naturalization Application
- ❒ 465 Other Immigration Actions

BANKRUPTCY
- ❒ 422 Appeal 28 USC 158
- ❒ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ❒ 820 Copyrights
- ❒ 830 Patent
- ❒ 840 Trademark

SOCIAL SECURITY
- ❒ 861 HIA (1395ff)
- ❒ 862 Black Lung (923)
- ❒ 863 DIWC/DIWW (405(g))
- ❒ 864 SSID Title XVI
- ❒ 865 RSI (405(g))

FEDERAL TAX SUITS
- ❒ 870 Taxes (U.S. Plaintiff or Defendant)
- ❒ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ❒ 375 False Claims Act
- ❒ 376 Qui Tam (31 USC 3729(a))
- ❒ 400 State Reapportionment
- ❒ 410 Antitrust
- ❒ 430 Banks and Banking
- ❒ 450 Commerce
- ❒ 460 Deportation
- ❒ 470 Racketeer Influenced and Corrupt Organizations
- ❒ 480 Consumer Credit
- ❒ 490 Cable/Sat TV
- ❒ 850 Securities/Commodities/ Exchange
- ☒ 890 Other Statutory Actions
- ❒ 891 Agricultural Acts
- ❒ 893 Environmental Matters
- ❒ 895 Freedom of Information Act
- ❒ 896 Arbitration
- ❒ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ❒ 950 Constitutionality of State Statutes

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

☒ 1 Original Proceeding ❒ 2 Removed from State Court ❒ 3 Remanded from Appellate Court ❒ 4 Reinstated or Reopened ❒ 5 Transferred from Another District *(specify)* ❒ 6 Multidistrict Litigation - 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)***:
Cal. Bus. & Prof. Code § 17200

Brief description of cause:
Fraudulent business practice class action

VII. REQUESTED IN COMPLAINT:

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

DEMAND $ 5,000,001.00

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

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 03/15/2018

SIGNATURE OF ATTORNEY OF RECORD /s/ Elizabeth Lee Beck

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 statue.

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.