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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10

11 SHELLY ROBINSON, individually and
on behalf of all others similarly situated,

12 Plaintiff,

13 v.
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15 THE J.M. SMUCKER COMPANY, an
Ohio corporation; and DOES 1 through 10,
inclusive,
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17 Defendants.
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Case No. 3:18-cv-4654

CLASS ACTION

**COMPLAINT FOR DAMAGES AND
INJUNCTIVE RELIEF**

JURY TRIAL DEMAND

1 Plaintiff Shelly Robinson (“Plaintiff”), individually and on behalf of all others
2 similarly situated, alleges the following on information and belief:

3 **INTRODUCTION**

4 1. Defendant The J.M. Smucker Company (“Defendant”) manufactures,
5 markets, and sells olive oil labeled as “Crisco 100% Extra Virgin Olive Oil No-Stick
6 Spray” (“Crisco EVOO”).

7 2. In reality, extensive clinical testing conducted by a leading laboratory –
8 measuring the key variables of (1) Insoluble Impurities; (2) Free Fatty Acid, (3)
9 Peroxide Value (Acetic Acid-Isooctane Method), (4) Specific Extinction, Ultraviolet
10 Absorption, (5) Sensory analysis, (6) Copper (ICP-AES), and (7) Moisture & Volatile
11 Content – conclusively establishes that Crisco EVOO is not Extra Virgin Olive Oil.

12 3. Defendant’s misrepresentations regarding Crisco EVOO are designed to,
13 and did, lead Plaintiff and others similarly situated (collectively the “Class”) to believe
14 that Crisco EVOO in fact is Extra Virgin Olive Oil. Plaintiff and members of the Class
15 relied on Defendant’s misrepresentations and would not have paid as much, if at all, for
16 Crisco EVOO but for Defendant’s misrepresentations.

17 4. Plaintiff brings this class action lawsuit to enjoin the ongoing deception of
18 consumers by Defendant, and to recover the money taken by this unlawful practice.

19 **JURISDICTION AND VENUE**

20 5. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332,
21 because this is a class action, as defined by 28 U.S.C § 1332(d)(1)(B), in which a
22 member of the putative class is a citizen of a different state than Defendant, and the
23 amount in controversy exceeds the sum or value of \$5,000,000, excluding interest and
24 costs. See 28 U.S.C. § 1332(d)(2).

25 6. The Court has jurisdiction over the state law claim because it forms part of
26 the same case or controversy under Article III of the United States Constitution.

27 7. The Court has personal jurisdiction over Defendant because its Crisco
28 EVOO product is advertised, marketed, distributed and sold throughout the State of

1 California; Defendant engaged in the wrongdoing alleged in this Complaint throughout
2 the United States, including in the State of California; Defendant is authorized to do
3 business in the State of California; and Defendant has sufficient minimum contacts with
4 the State of California, rendering the exercise of jurisdiction by the Court permissible
5 under traditional notions of fair play and substantial justice. Moreover, Defendant is
6 engaged in substantial activity within the State of California.

7 8. Venue is proper in the United States District Court for the Northern
8 District of California pursuant to 28 U.S.C. § 1391(b) because a substantial part of the
9 events giving rise to the claims occurred within this judicial district, Defendant has
10 marketed and sold the Crisco EVOO product at issue in this action in this judicial
11 district, and it conducts business within this judicial district.

12 **PARTIES**

13 9. Plaintiff Shelly Robinson is a citizen of the State of California and resides
14 in Brentwood, California. Plaintiff purchased the Crisco EVOO product for personal
15 consumption during the last four years in Antioch, California, and other locations
16 within the Northern District of California.

17 10. Plaintiff is informed and believes, and upon such information and belief
18 alleges, that Defendant The J.M. Smucker Company is an Ohio corporation with its
19 principal place of business located in Orrville, Ohio. Plaintiff is informed and believes,
20 and upon such information and belief alleges, that Defendant, at all times relevant,
21 conducted business in the State of California and within the Northern District of
22 California.

23 11. The true names and capacities of the Defendants sued herein as DOES 1
24 through 10, inclusive, are currently unknown to Plaintiff, who therefore sues such
25 Defendants by fictitious names. Each of the Defendants designated herein as a DOE is
26 legally responsible for the unlawful acts alleged herein. Plaintiff will seek leave of
27 Court to amend this Complaint to reflect the true names and capacities of the DOE
28 Defendants when such identities become known.

1 12. At all relevant times, each and every Defendant was acting as an agent
2 and/or employee of each of the other Defendants and was acting within the course
3 and/or scope of said agency and/or employment with the full knowledge and consent of
4 each of the Defendants. Each of the acts and/or omissions complained of herein were
5 alleged and made known to, and ratified by, each of the other Defendants (The J.M.
6 Smucker Company and DOE Defendants will hereafter collectively be referred to as
7 “Defendant”).

8 **FACTUAL ALLEGATIONS**

9 13. Defendant manufactures, markets, and sells Crisco EVOO as Extra Virgin
10 Olive Oil.

11 14. Plaintiff purchased and consumed the Crisco EVOO product multiple
12 times during 2017 and 2018 in reliance on Defendant’s advertising and labeling of the
13 “Crisco EVOO” product as Extra Virgin Olive Oil. Specifically, Plaintiff and the Class
14 purchased the “Crisco “EVOO” product for the dual purpose of consuming it and
15 determining its authenticity as Extra Virgin Olive Oil.

16 15. As noted above, extensive clinical testing conducted by a leading
17 laboratory – measuring the key variables of (1) Insoluble Impurities; (2) Free Fatty
18 Acid, (3) Peroxide Value (Acetic Acid-Isooctane Method), (4) Specific Extinction,
19 Ultraviolet Absorption, (5) Sensory analysis, (6) Copper (ICP-AES), and (7) Moisture
20 & Volatile Content – conclusively establishes that Crisco EVOO is not Extra Virgin
21 Olive Oil. Accordingly, Defendant’s statements that the “Crisco EVOO” product is
22 Extra Virgin Olive Oil are false and misleading.

23 16. As further noted above, Defendant’s misrepresentations regarding Crisco
24 EVOO are designed to, and did, lead Plaintiff and others similarly situated (collectively
25 the “Class”) to believe that Crisco EVOO in fact is Extra Virgin Olive Oil. Plaintiff
26 and members of the Class relied on Defendant’s misrepresentations and would not have
27 paid as much, if at all, for Crisco EVOO but for Defendant’s misrepresentations.

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1 17. Plaintiff purchased the Crisco EVOO product based on the preceding false
2 advertising claims. As a result, Defendant has wrongfully taken hundreds of thousands
3 of dollars from consumers.

4 18. Accordingly, Plaintiff brings this lawsuit to enjoin the ongoing deception
5 of thousands of consumers by Defendant, and to recover the funds taken by this
6 unlawful practice.

7 **CLASS ACTION ALLEGATIONS**

8 19. Plaintiff brings this action as a class action pursuant to Rule 23 of the
9 Federal Rules of Civil Procedure on behalf of herself and the following class
10 (collectively, the “Class” or “Classes”), defined as:

11 **All California residents who made retail purchases of Defendant’s Crisco**
12 **EVOO product during the applicable limitations period up to and including**
13 **final judgment in this action.**

14 20. The proposed Class excludes current and former officers and directors of
15 Defendant, Members of the immediate families of the officers and directors of
16 Defendant, Defendant’s legal representatives, heirs, successors, assigns, and any entity
17 in which it has or has had a controlling interest, and the judicial officer to whom this
18 lawsuit is assigned.

19 21. Plaintiff reserves the right to revise the Class definition based on facts
20 learned in the course of litigating this matter.

21 22. The Crisco EVOO products sold by Defendant suffer from illegal product
22 labeling and advertising.

23 23. Numerosity: This action has been brought and may properly be maintained
24 as a class action against Defendant under Rules 23(b)(1)(B) and 23(b)(3) of the Federal
25 Rules of Civil Procedure. While the exact number and identities of other Class
26 Members are unknown to Plaintiff at this time, Plaintiff is informed and believes that
27 there are hundreds of thousands of Members in the Class. Based on sales of the Crisco
28 EVOO products it is estimated that the Class is composed of more than 10,000 persons.

1 Furthermore, even if subclasses need to be created for these consumers, it is estimated
2 that each subclass would have thousands of Members. The Members of the Class are so
3 numerous that joinder of all Members is impracticable and the disposition of their
4 claims in a class action rather than in individual actions will benefit the parties and the
5 courts.

6 24. Typicality: Plaintiff's claims are typical of the claims of the Members of
7 the Class as all Members of the Class are similarly affected by Defendant's wrongful
8 conduct, as detailed herein.

9 25. Adequacy: Plaintiff will fairly and adequately protect the interests of the
10 Members of the Class in that she has no interests antagonistic to those of the other
11 Members of the Class. Plaintiff has retained experienced and competent counsel.

12 26. Superiority: A class action is superior to other available methods for the
13 fair and efficient adjudication of this controversy. Since the damages sustained by
14 individual Class Members may be relatively small, the expense and burden of
15 individual litigation makes it impracticable for the Members of the Class to individually
16 seek redress for the wrongful conduct alleged herein. Furthermore, the adjudication of
17 this controversy through a class action will avoid the potentially inconsistent and
18 conflicting adjudications of the claims asserted herein. There will be no difficulty in the
19 management of this action as a class action. If Class treatment of these claims were not
20 available, Defendant would likely unfairly receive thousands of dollars or more in
21 improper revenue.

22 27. Common Questions Predominate: Common questions of law and fact exist
23 as to all Members of the Class and predominate over any questions solely affecting
24 individual Members of the Class. Among the common questions of law and fact
25 applicable to the Class are:

- 26 i. Whether Defendant's claim that the Crisco EVOO product is Extra
27 Virgin Olive Oil is accurate;
- 28 ii. Whether Defendant's product claims are properly substantiated;

1 iii. Whether Defendant has falsely represented that the Crisco EVOO
2 product has characteristics and benefits which it does not have;

3 iv. Whether Defendant knew that its product claims were false;

4 v. Whether Defendant's conduct constitutes a violation of the
5 Consumers Legal Remedies Act (Cal. Civ. Code §§ 1750, *et seq.*);

6 vi. Whether Defendant's conduct constitutes a violation of California's
7 false advertising law (Cal. Bus. & Prof. Code §§ 17500, *et seq.*);

8 vii. Whether Defendant's conduct constitutes an unfair, unlawful, and/or
9 fraudulent business practice in violation of California's unfair competition law
10 (Cal. Bus. & Prof. Code §§ 17200, *et seq.*);

11 viii. Whether Plaintiff and Class members are entitled to compensatory
12 damages, and if so, the nature of such damages;

13 ix. Whether Plaintiff and Class members are entitled to restitutionary
14 relief; and

15 x. Whether Plaintiff and Class members are entitled to injunctive
16 relief.

17 28. The class is readily definable, and prosecution of this action as a Class
18 action will reduce the possibility of repetitious litigation. Plaintiff knows of no
19 difficulty which will be encountered in the management of this litigation which would
20 preclude her maintenance of this matter as a Class action.

21 29. The prerequisites to maintaining a class action for injunctive relief or
22 equitable relief pursuant to Rule 23(b)(2) are met, as Defendant has acted or refused to
23 act on grounds generally applicable to the Class, thereby making appropriate final
24 injunctive or equitable relief with respect to the Class as a whole.

25 30. The prerequisites to maintaining a class action for injunctive relief or
26 equitable relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common
27 to the Class predominate over any questions affecting only individual Members; and a
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1 class action is superior to other available methods for fairly and efficiently adjudicating
2 the controversy.

3 31. The prosecution of separate actions by Members of the Class would create
4 a risk of establishing inconsistent rulings and/or incompatible standards of conduct for
5 Defendant. Additionally, individual actions may be dispositive of the interest of all
6 Members of the Class, although certain Class Members are not parties to such actions.

7 32. Defendant's conduct is generally applicable to the Class as a whole and
8 Plaintiff seeks, inter alia, equitable remedies with respect to the Class as a whole. As
9 such, Defendant's systematic policies and practices make declaratory relief with respect
10 to the Class as a whole appropriate.

11 **CAUSES OF ACTION**

12 **FIRST CAUSE OF ACTION**

13 **VIOLATION OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT,**

14 **(CAL. CIV. CODE § 1750, ET SEQ.)**

15 **(By Plaintiff and on Behalf of the Class Against Defendant)**

16 33. Plaintiff realleges and incorporates herein by reference the allegations
17 contained in all preceding paragraphs, and further alleges as follows:

18 34. Plaintiff brings this claim individually and on behalf of the Class for
19 Defendant's violations of California's Consumer Legal Remedies Act ("CLRA"), Cal.
20 Civ. Code 1761(d).

21 35. Plaintiff and the Class Members are consumers who purchased the Crisco
22 EVOO product for personal, family or household purposes. Plaintiff and the Class
23 Members are "consumers" as that term is defined by the CLRA in Cal. Civ. Code §
24 1761(d).

25 36. The Crisco EVOO products that Plaintiff and other Class Members
26 purchased from Defendant were "goods" within the meaning of Cal. Civ. Code §
27 1761(a).

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1 37. Defendant's actions, representations, and conduct have violated, and
2 continue to violate the CLRA, because they extend to transactions that intended to
3 result, or which have resulted in, the sale of goods to consumers.

4 38. Defendant violated California law because the Crisco EVOO products are
5 marketed as Extra Virgin Olive Oil when they in fact are not Extra Virgin Olive Oil.

6 39. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5),
7 prohibits "Misrepresenting that goods or services have sponsorship, approval,
8 characteristics, ingredients, uses, benefits, or quantities which they do not have or that a
9 person has a sponsorship, approval, status, affiliation, or connection which he or she
10 does not have." By engaging in the conduct set forth herein, Defendant violated and
11 continues to violate Section 1770(a)(5) of the CLRA, because Defendant's conduct
12 constitutes illegal and unlawful competition.

13 40. Cal. Civ. Code § 1770(a)(9) further prohibits "[a]dvertising goods or
14 services with intent not to sell them as advertised." By engaging in the conduct set
15 forth herein, Defendant violated and continues to violate Section 1770(a)(9), because
16 Defendant's conduct constitutes illegal and unfair methods of competition.

17 41. Given the materiality of Defendant's misrepresentations, absent Class
18 Members are entitled to a presumption of reliance.

19 42. Plaintiff and the Class suffered injuries caused by Defendant because the
20 Crisco EVOO products, which were advertised as Extra Virgin Olive Oil, in fact were
21 not Extra Virgin Oil.

22 43. On or about June 20, 2018, prior to filing this action, Plaintiff sent a CLRA
23 notice letter to Defendant which complies with California Civil Code 1782(a). Plaintiff
24 sent The J.M. Smucker Company, individually and on behalf of the proposed Class, a
25 letter via Certified Mail, advising Defendant that it is in violation of the CLRA and
26 demanding that it cease and desist from such violations and make full restitution by
27 refunding the monies received therefrom. A true and correct copy of the letter is
28 attached hereto as Exhibit 1.

1 44. Wherefore, Plaintiff seeks injunctive relief for these violations of the
2 CLRA.

3 **SECOND CAUSE OF ACTION**

4 **VIOLATION OF CALIFORNIA'S FALSE ADVERTISING LAW**

5 **(CAL. BUS. & PROF. CODE §§ 17500, ET SEQ.)**

6 **(By Plaintiff and on Behalf of the Class Against Defendant)**

7 45. Plaintiff realleges and incorporates herein by reference the allegations
8 contained in all preceding paragraphs, and further alleges as follows:

9 46. Plaintiff has standing to pursue this cause of action because Plaintiff has
10 suffered injury in fact and has lost money as a result of Defendant's actions as set forth
11 herein. Specifically, Plaintiff purchased the Crisco EVOO product in reliance on
12 Defendant's marketing claims. Plaintiff later learned, on the basis of the testing
13 described herein, that the Crisco EVOO product was not in fact Extra Virgin Olive Oil.

14 47. Defendant has engaged in false advertising as it has disseminated false
15 and/or misleading representations about the Crisco EVOO product.

16 48. Defendant knew or should have known by exercising reasonable care that
17 its representations were false and/or misleading. During the Class Period, Defendant
18 engaged in false advertising in violation of Cal. Bus. & Prof. Code §§ 17500, *et seq.*, by
19 misrepresenting in its advertising and marketing of the Crisco EVOO product to
20 Plaintiff, Class members, and the consuming public that the Crisco EVOO product is
21 Extra Virgin Olive Oil.

22 49. Each of the aforementioned representations alleged in this Complaint was
23 false and misleading because the Crisco EVOO product is not of the standard, quality
24 or grade advertised, and is in reality, not Extra Virgin Olive Oil.

25 50. By disseminating and publishing these statements in connection with the
26 sale of Crisco EVOO, Defendant has engaged in and continues to engage in false
27 advertising in violation of Bus. & Prof. Code §§ 17500, *et seq.*

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1 advertising media, including the Internet, within the meaning of California Business
2 and Professions Code §§ 17200, *et seq.*

3 57. Defendant knew or should have known by exercising reasonable care that
4 its representations were false and/or misleading. During the Class Period, Defendant
5 engaged in unfair, unlawful, and fraudulent business practices in violation of Cal. Bus.
6 & Prof. Code §§ 17200, *et seq.*, by misrepresenting in its advertising and marketing of
7 the Crisco EVOO product to Plaintiff, Class members, and the consuming public that
8 the Crisco EVOO product was Extra Virgin Olive Oil.

9 58. Each of the aforementioned representations alleged in this Complaint was
10 false and misleading because the Crisco EVOO product is not of the standard, quality
11 or grade advertised.

12 59. Defendant's business practices, as alleged herein, are unfair because they
13 offend established public policy and/or are immoral, unethical, oppressive,
14 unscrupulous, and/or substantially injurious to consumers in that consumers are misled
15 by the claims made with respect to the Crisco EVOO product as set forth herein.

16 60. Defendant's business practices, as alleged herein, are unlawful because
17 they violate the Consumers Legal Remedies Act and False Advertising Law.

18 61. Defendant's business practices, as alleged herein, are fraudulent because
19 they are likely to, and did, deceive customers—including Plaintiff and members of the
20 Class—into believing that the Crisco EVOO product has characteristics and benefits it
21 does not have.

22 62. Defendant's wrongful business practices constituted, and constitute, a
23 continuing course of conduct of unfair competition since Defendant is marketing and
24 selling the Crisco EVOO product in a manner likely to deceive the public.

25 63. As a direct and proximate result of Defendant's wrongful business
26 practices in violation of Business and Professions Code §§ 17200, *et seq.*, Plaintiff and
27 members of the Class have suffered economic injury by losing money as a result of
28 purchasing the Crisco EVOO product. Plaintiff and members of the Class would not

1 have purchased or would have paid less for the Crisco EVOO product had they known
2 that it was not as represented.

3 64. Pursuant to Business and Professions Code § 17203, Plaintiff and the Class
4 seek an order of this Court enjoining Defendant from continuing to engage in unlawful,
5 unfair, or deceptive business practices and any other act prohibited by law, including
6 those set forth in the Complaint. Plaintiff and the Class also seek an order requiring
7 Defendant to make full restitution of all moneys they wrongfully obtained from
8 Plaintiff and the Class.

9 **FOURTH CAUSE OF ACTION**

10 **NEGLIGENT MISREPRESENTATION**

11 **(By Plaintiff and on Behalf of the Class Against Defendant)**

12 65. Plaintiff realleges and incorporates herein by reference the allegations
13 contained in all preceding paragraphs, and further alleges as follows:

14 66. During the Class Period, Defendant misrepresented to consumers through
15 the advertising, marketing, and sale of the Crisco EVOO product that the Crisco EVOO
16 product was Extra Virgin Olive Oil.

17 67. Defendant's misrepresentations were false because the Crisco EVOO
18 product is not Extra Virgin Olive Oil.

19 68. Defendant's misrepresentations were material because a reasonable
20 consumer would attach importance to them in determining whether to purchase and
21 consume the Crisco EVOO product.

22 69. Defendant's material misrepresentations regarding the characteristics of
23 the Crisco EVOO product are false and made without reasonable grounds for believing
24 them to be true.

25 70. Defendant made material misrepresentations regarding the Crisco EVOO
26 product with the intent to induce Plaintiff and Class members to purchase and the
27 Crisco EVOO product.

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1 71. Plaintiff and Class members reasonably relied on Defendant’s material
2 misrepresentations in choosing to purchase and consume the Crisco EVOO product.

3 72. As a direct and proximate result of Defendant’s conduct, Plaintiff and
4 Class members have incurred damages in an amount to be proven at trial. Plaintiff and
5 Class members are not seeking damages arising out of personal injuries.

6 **PRAYER FOR RELIEF**

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

9 (A) For an Order certifying the Class pursuant to Federal Rule of Civil
10 Procedure 23, appointing Plaintiff as class representative, and designating
11 Plaintiff’s counsel as counsel for the Class;

12 (B) For damages suffered by Plaintiff and Class members;

13 (C) For restitution to Plaintiff and Class members of all monies wrongfully
14 obtained by Defendant;

15 (D) For an injunction ordering Defendant to cease and desist from
16 engaging in the unfair, unlawful, and/or fraudulent practices alleged in the
17 Complaint;

18 (E) For both pre-judgment and post-judgment interest at the maximum
19 allowable rate on any amounts awarded;

20 (F) For Plaintiff’s costs of the proceedings herein;

21 (G) For an Order awarding Plaintiff and the Class their reasonable
22 attorneys’ fees and expenses and costs of suit as pleaded pursuant to, *inter alia*,
23 Cal. Civ. Code § 1780(e) and Cal. Civ. Proc. Code § 1021.5; and

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(I) For such other and further relief as the Court deems just and proper.

Date: August 2, 2018

Respectfully submitted,

PACIFIC TRIAL ATTORNEYS
A Professional Corporation

By: /s/Scott J. Ferrell
Scott J. Ferrell
Attorneys for Plaintiff

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DEMAND FOR TRIAL BY JURY

Plaintiff, individually and on behalf of all others similarly situated, hereby demands a jury trial on all claims so triable.

Date: August 2, 2018

Respectfully submitted,

PACIFIC TRIAL ATTORNEYS
A Professional Corporation

By: /s/Scott J. Ferrell
Scott J. Ferrell
Attorneys for Plaintiff

CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

SHELLY ROBINSON, individually and on behalf of all others similarly situated,

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

(c) Attorneys (Firm Name, Address, and Telephone Number) Scott J. Ferrell, Pacific Trial Attorneys, 4100 Newport Place Drive, Suite 800, Newport Beach, CA 92660

DEFENDANTS

THE J.M. SMUCKER COMPANY, an Ohio corporation; and DOES 1 through 10, inclusive,

County of Residence of First Listed Defendant (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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship options: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

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

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER 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): 28 U.S.C § 1332(d)(1)(B)

Brief description of cause: Class action for violation of California Civil Code §1750 et seq

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: X Yes No

VIII. RELATED CASE(S), IF ANY (See instructions):

JUDGE DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only) X SAN FRANCISCO/OAKLAND SAN JOSE EUREKA-MCKINLEYVILLE

DATE 08/02/2018

SIGNATURE OF ATTORNEY OF RECORD

/s/ Scott J. Ferrell

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

Authority For Civil Cover Sheet. The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate 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 Federal Rule of Civil Procedure 8(a), 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.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 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.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 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-CAND 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 the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. **Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no 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 Federal Rule of Civil Procedure 23. 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-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. **Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.