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10 **UNITED STATES DISTRICT COURT**

11 **CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION**

12 KEVIN NGAI, individually and on  
13 behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 FAIRLIFE, LLC, a Delaware limited  
17 liability company; THE COCA-COLA  
18 COMPANY, a Delaware corporation;  
19 and DOES 1 through 10, inclusive,

20 Defendants.

Case No.: 2:19-cv-08148

**CLASS ACTION COMPLAINT**

- 1. **INTENTIONAL MISREPRESENTATION**
- 2. **NEGLIGENT MISREPRESENTATION**
- 3. **FALSE OR MISLEADING ADVERTISING (CAL. BUS. & PROF. CODE §§ 17500, *ET SEQ.*)**
- 4. **VIOLATION OF CAL. BUS & PROF. CODE § 17200, *ET SEQ.***

**DEMAND FOR JURY TRIAL**

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**CLASS ACTION COMPLAINT**

Plaintiff Kevin Ngai, individually and on behalf of all other similarly situated, hereby brings this Class Action Complaint (“Complaint”) as follows upon information and belief:

**THE PARTIES**

1. Plaintiff Kevin Ngai is a resident of the City of Inglewood, California.

2. Defendant Fairlife, LLC is a Delaware limited liability company with its principal place of business located in Chicago, Illinois. Fairlife, LLC manufactures, advertises, and sells the subject dairy products throughout the United States.

3. Defendant The Coca-Cola Company is a Delaware corporation with its principal place of business located in Atlanta, Georgia. The Coca-Cola Company advertises and distributes the subject dairy products throughout the United States. Plaintiff collectively refers to Fairlife, LLC and The Coca-Cola Company as “Fairlife” or “Defendants” hereinafter.

4. Defendants Does 1 through 10, inclusive, are, and at all times mentioned herein were, individuals and/or business entities, acting as agents, servants, employees, employers, representatives, co-venturers, associates, or independent contractors of the named Defendants and/or were, in some manner presently unknown to Plaintiff, engaged in activities giving rise to Plaintiff’s claims alleged herein.



1 and costs.

2 9. The Court has personal jurisdiction over Defendants The Coca-Cola  
3 Company and Fairlife, LLC because they market, distribute, and sell the Products  
4 throughout the United States, including in this District, and the conduct  
5 complained of occurred in or was targeted at this District.

6 10. Venue in the United States District Court for the Central District of  
7 California is proper under 28 U.S.C. section 1391 because a substantial part of the  
8 events or omissions giving rise to Plaintiff's claims and causes of action occurred  
9 in this judicial district.

10 **FACTUAL ALLEGATIONS**

11 11. Fairlife, LLC is the manufacturer, advertiser, and seller of Fairlife  
12 brand "ultrafiltered" milk products ("Fairlife Milk Products").

13 12. The Coca-Cola Company also markets and sells Fairlife Milk  
14 Products.

15 13. The packaging of Fairlife Milk Products feature various  
16 representations that lead reasonable consumers to believe that the cows from which  
17 Fairlife Milk Products are sourced are treated in a humane and ethical way.  
18 Unfortunately, nothing could be further from the truth.

19 14. Fairlife Milk Products feature the following, prominently displayed  
20 text (emphasis in underline):

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## LEARN OUR STORY

fairlife.com

### *Our promise*

The idea for this one-of-a-kind milk began at our kitchen table over 20 years ago. It was an ambition to provide the world with better nutrition while making the world a better place. Our Fairlife family farmers provide high quality, real milk, filtered for wholesome nutrition with exceptional care taken every step of the way.

- **Extraordinary care and comfort for our cows**
- **Exceptional quality milk standards**
- **Traceability back to our farms**
- **Continual pursuit of sustainable farming**

We'd love to have you visit our flagship farm in Indiana so you can see for yourself!

15. Fairlife's language on its products expressly and unambiguously represents that Fairlife provides its cows with "extraordinary care and comfort." The message reinforces the idea that Fairlife is an ethical and humane company, touting Fairlife's ambition to make the world "a better place," the "exceptional care" with which Fairlife purportedly manufactures its products, and its "continual pursuit of sustainable farming." Fairlife's message is headed by the words "our promise" in large, bolded, and italicized letters. Beneath these words appear the

1 signatures of Fairlife’s co-founders. Fairlife even invites consumers to verify its  
2 representations by visiting its “flagship farm in Indiana” so they can “see” for  
3 themselves, and by visiting Fairlife’s website which contains additional  
4 representations of the company’s purportedly humane treatment of its animals.  
5 The message is clear: With each bottle, Fairlife promises consumers that their  
6 cows were not just treated well, but were provided “*extraordinary care and*  
7 *comfort.*”

8 16. Fairlife’s image as a humane actor is illustrated by the graphical  
9 design of its packaging. Consumers are greeted by the friendly, stylized face of a  
10 cow on every bottle of Fairlife Milk Product, directly beneath Fairlife’s name. The  
11 cartoon cow is wearing sunglasses or a monocle. The implication of this  
12 anthropomorphized image beneath the words “fair” and “life” is obvious—the life  
13 being treated fairly (or at least not cruelly) is that of the cow.

14 17. Unfortunately, Fairlife’s representations are false. The reality is that  
15 Fairlife horribly mistreated its cows and calves. The widely-reported<sup>1</sup> details of  
16 this abuse—beatings, stabbings, maiming, force-feeding, lethal neglect in cramped  
17 and filthy enclosures<sup>2</sup>—are graphic and disturbing, as are the undercover videos

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19 <sup>1</sup> See, e.g., *An arrest has been made in the Fair Oaks Farms animal cruelty case*,  
20 CNN, June 12, 2019, <https://www.cnn.com/2019/06/12/us/fair-oaks-farms-animal-cruelty-case-arrest-trnd/index.html> (last visited Sept. 19, 2019).

21 <sup>2</sup> ARM’s full report of the animal abuse at Fair Oaks Farms can be found at  
<https://animalrecoverymission.org/reports/Operation-Fairlife-Full-Report.pdf> (last  
visited Sept. 19, 2019).

1 taken from Fairlife’s “flagship” Fair Oaks Farms by the Animal Recovery Mission  
2 (“ARM”) that brought the story to light in June 2019.

3 18. Plaintiff Kevin Ngai and his family began purchasing Fairlife Milk  
4 Products in May 2018. Since then, until learning of the abuse, Plaintiff purchased  
5 one bottle of Fairlife ultra-filtered whole milk and one bottle of Fairlife ultra-  
6 filtered Chocolate 2% Reduced Fat milk in the 1.5-liter size approximately once or  
7 twice a month from a Target store in Manhattan Beach, California.

8 19. Plaintiff read and relied upon the “our promise message” on the  
9 Fairlife bottles, and observed the visual design elements thereon, including the  
10 stylized cow and Fairlife’s name, prior to purchasing the Fairlife Milk Products  
11 and understood these representations to mean that Fairlife treats its cows  
12 humanely, ethically, and without cruelty.

13 20. Plaintiff’s belief that Fairlife was a humane actor, borne of Fairlife’s  
14 packaging representations, was both reasonable and a material factor in Plaintiff’s  
15 decision to purchase Fairlife Milk Products at a significant mark-up compared to  
16 other alternative products. Plaintiff would not have purchased and consumed  
17 Fairlife Milk Products if he had known Fairlife’s representations were false.  
18 Plaintiff’s payment of the Fairlife Milk Products was at a premium since the  
19 Products were not worth their advertised prices because the statements were false  
20 and misleading.

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**CLASS ACTION ALLEGATIONS**

21. Plaintiff brings this case as a class action pursuant to Fed. R. Civ. P. 23(b)(2) and (b)(3) on behalf of the following Class and Subclass (collectively referred to as the “Class” unless otherwise specified):

**Nationwide Class**

All persons who purchased Fairlife Milk Products within the United States and within the applicable statute of limitations period.

**California Subclass**

All persons who purchased the Fairlife Milk Products within the State of California and within the applicable statute of limitations period.

22. **Exclusions from the Class.** Plaintiff specifically excludes from the Class all defendants, defendants’ subsidiaries or affiliates, entities in which any defendant has a controlling interest, and any and all of defendants’ employees, affiliates, legal representatives, successors or assignees. Plaintiff also excludes from the Class any judicial officers assigned to this case and their immediate family members.

23. **Ascertainability.** Plaintiff brings this action on behalf of himself and on behalf the Class, which is comprised of members identified by the class definition.

24. **Numerosity.** The members of the Class are so numerous that their individual joinder of all Class Members is impracticable. Disposition of their



1 claims in a class action rather than in individual actions would benefit the parties  
2 and the Courts. Defendants have sold many thousands of units of the Products to  
3 Class Members.

4 25. **Means for Identification.** Reasonably available means of identifying  
5 Class Members exist.

6 26. **Commonality.** There is a well-defined community of interest  
7 amongst the members of the Class in the questions of law. Questions of fact and  
8 law predominate and include but are not limited to the following:

- 9 • Whether Defendants made representations regarding their humane  
10 treatment of their cows;
- 11 • Whether Defendants' representations of humane treatment were  
12 false;
- 13 • Whether Defendants intended to deceive Plaintiff and Class  
14 Members, showed reckless disregard for the truth of its  
15 representations, or was negligent as to their truth;
- 16 • Whether Plaintiff and Class Members relied on Defendants'  
17 representations in choosing to buy Fairlife Milk Products; and
- 18 • Whether Defendants engaged in unfair, unlawful, fraudulent,  
19 and/or deceptive practices by making affirmative  
20 misrepresentations regarding the care of its animals.

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1       27.       **Typicality.** The named Plaintiff's claims are typical of those of the  
2 Class.

3       28.       **Adequacy of Class Representatives.** The named Plaintiff can fairly  
4 and adequately represent the Class because he is a Class Member, has claims that  
5 are typical of the Class, and there is no reason why he cannot adequately represent  
6 the Class.

7       29.       **Adequacy of Counsel.** Counsel for Plaintiff are competent, qualified,  
8 and experienced in large class actions, multiparty complex cases and consumer  
9 protection cases, and there is no reason why they cannot adequately represent the  
10 Class.

11       30.       **Impracticability of joinder.** Joinder of the unnamed Class Members  
12 on an individual basis would be impracticable in light of their number and their  
13 locations throughout the United States and the State of California.

14       31.       **No Better Remedy.** There is no plain, speedy, or adequate remedy  
15 other than by maintenance of this Class since the damage to each victim is  
16 relatively small, making it economically infeasible to pursue lawful remedies other  
17 than by a class action. The Class would be superior to individualized actions for  
18 the fair and efficient adjudication of this controversy.

19       32.       **No Individualized Defenses.** There are no predominately unique or  
20 individualized defenses anticipated in this action that might be asserted against  
21 Plaintiff individually, as distinguished from the Class.

1 **FIRST CAUSE OF ACTION**

2 **Intentional Misrepresentation**

3 **(On behalf of the Nationwide Class)**

4 33. Plaintiff and the Class re-allege and incorporate by reference the  
5 foregoing paragraphs of this Complaint as if fully set forth herein.

6 34. Defendants represented to Plaintiff and Class Members that  
7 Defendants treated their cows humanely.

8 35. Defendants' representations of humane treatment were false because  
9 their employees subjected their cows to deplorable conditions and physical abuse

10 36. Defendants made the representations recklessly and without regard for  
11 their truth because they did not have sufficient policies or practices in place,  
12 including but not limited to effective monitoring or supervising of their animal-  
13 facing employees, to ensure that their representations of humane treatment of their  
14 cows were true.

15 37. Defendants intended that consumers, including Plaintiff and Class  
16 Members, rely on their advertising representations in order to sell their Fairlife  
17 Milk Products.

18 38. Plaintiff and Class Members reasonably relied on Defendants'  
19 representations when deciding to buy Fairlife Milk Products over other milk  
20 products.

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1 39. Plaintiff and Class Members were harmed by Defendants’  
2 misrepresentations because they would not have purchased Fairlife Milk Products  
3 had they known that Defendants’ representations of humane treatment were false.

4 40. Plaintiff and Class Members’ reliance on Defendants’ representations  
5 was a substantial factor in causing their harm because they would not have  
6 purchased Fairlife Milk Products had they known known that Defendants’  
7 representations of humane treatment were false.

8 41. As a result of Defendants’ misrepresentations, Plaintiff and Class  
9 Members have suffered damages in an amount precisely unknown, but believed to  
10 be within the jurisdiction of this court, including but not limited to reasonable  
11 attorney’s fees, expenses, costs, and punitive damages.

12 42. Plaintiff and Class Members claim the aforementioned damages  
13 together with prejudgment and post-judgment interest.

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**SECOND CAUSE OF ACTION**

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**Negligent Misrepresentation**

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**(On behalf of the Nationwide Class)**

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43. Plaintiff and the Class re-allege and incorporate by reference the  
foregoing paragraphs of this Complaint as if fully set forth herein.

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44. Defendants represented to Plaintiff and Class Members that  
Defendants treated their cows humanely.

1       45.       Defendants' representations of humane treatment were false because  
2 their employees subjected their cows to deplorable conditions and physical abuse,  
3 among other acts.

4       46.       Defendants had no reasonable grounds for believing the  
5 representations were true because they did not have sufficient policies or practices  
6 in place, including but not limited to effective monitoring or supervising of their  
7 animal-facing employees, to ensure that their representations of humane treatment  
8 of their cows were true.

9       47.       Defendants intended that consumers, including Plaintiff and Class  
10 Members, rely on their advertising representations in order to sell their Fairlife  
11 Milk Products.

12       48.       Plaintiff and Class Members reasonably relied on Defendants'  
13 representations when deciding to buy Fairlife Milk Products over other products.

14       49.       Plaintiff and Class Members were harmed by Defendants'  
15 misrepresentations because they would not have purchased Fairlife Milk Products  
16 had they known that Defendants' representations of humane treatment were false.

17       50.       Plaintiff and Class Members' reliance on Defendants' representations  
18 was a substantial factor in causing their harm because they would not have  
19 purchased Fairlife Milk Products had they known known that Defendants'  
20 representations of humane treatment were false.

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1 representations of humane treatment of their cows were true.

2 57. Plaintiff and Class Members reasonably believed and relied on  
3 Defendants' advertising representations when deciding to buy Fairlife Milk  
4 Products over other products.

5 58. Defendants' advertising representations of humane treatment were  
6 false and misleading because Defendants knew or should have known by the  
7 exercise of reasonable diligence that their employees subjected their cows to  
8 deplorable conditions and physical abuse.

9 59. As a direct result of Defendants' misrepresentations and Plaintiff and  
10 Class Members' reliance thereupon, Plaintiff and Class Members have suffered  
11 damages in an amount precisely unknown, but believed to be within the  
12 jurisdiction of this court including but not limited to reasonable attorney's fees,  
13 expenses, costs, and punitive damages.

14 60. Plaintiff and Class Members claim the aforementioned damages  
15 together with prejudgment and post-judgment interest.

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**FOURTH CAUSE OF ACTION**

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**Violation of Cal. Bus & Prof. Code § 17200, *et seq.***

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**(On behalf of the California Class)**

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61. Plaintiff and the Class re-allege and incorporate by reference the  
foregoing paragraphs of this Complaint as if fully set forth herein.

1       62.       The California Unlawful Competition Law (“UCL”) defines unfair  
2 business competition to include any “unlawful, unfair or fraudulent” act or  
3 practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.  
4 Bus. & Pro. Code § 17200.

5       63.       A business act or practice is “unfair” under the UCL if the reasons,  
6 justifications and motives of the alleged wrongdoer are outweighed by the gravity  
7 of the harm to the alleged victims.

8       64.       A business act or practice is “fraudulent” under the UCL if it is likely  
9 to deceive members of the consuming public.

10       65.       A business act or practice “unlawful” under the UCL if it is violative  
11 of other law.

12       66.       Defendants violated the unfair, fraudulent, and unlawful prongs of the  
13 UCL through their affirmative misrepresentations, omissions, and practices as  
14 described in this Complaint.

15       67.       The gravity of the harm to Plaintiff and Class Members resulting from  
16 these unfair business acts and practices outweighed any conceivable reasons,  
17 justifications and/or motives of Defendant for engaging in such deceptive acts and  
18 practices. By committing the acts and practices alleged above, Defendant engaged  
19 in unfair business practices within the meaning of California Business &  
20 Professions Code § 17200, *et seq.*

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