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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 MARLENY OLIVO, individually and on
11 behalf of all others similarly situated,

12 Plaintiff,

13 v.

14 THE COCA-COLA COMPANY, and
15 FAIRLIFE, LLC,

16 Defendants.
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Case No.: 2:19-cv-08302

CLASS ACTION COMPLAINT

1. **Violation of California Consumer Legal Remedies Act**
2. **Violation of California Unfair Competition Law**
3. **Violation of California False Advertising Law**
4. **Breach of Express Warranty**
5. **Breach of Implied Warranty**
6. **Common Law Fraud**
7. **Negligent Misrepresentation**
8. **Unjust Enrichment**

JURY TRIAL DEMANDED

1 Plaintiff Marleny Olivo (“Plaintiff”), individually and on behalf of all others
2 similarly situated (the “Class,” as more fully defined below), brings this class action
3 complaint against Defendants The Coca-Cola Company and Fairlife, LLC
4 (collectively, “Fairlife” or “Defendants”). Plaintiff makes the following allegations
5 upon personal knowledge as to her own acts, and upon information and belief and the
6 investigation of her attorneys as to all other matters, and alleges as follows:

7 **NATURE OF THE ACTION**

8 1. Defendants produce, market, and sell a brand of milk products under the
9 “Fairlife” label that are marketed as premium products (the “Products”).

10 2. Starting most egregiously with the name of Defendants’ Products,
11 “Fairlife,” and throughout the labeling and marketing of Defendants’ Products, the
12 pervasive marketing scheme promises to reasonable consumers that the animals
13 involved in producing the Products are treated humanely.

14 3. For example, the packaging of the Products prominently states, under the
15 heading “our promise,” that the Products are a “one-of-a-kind milk” based on the goal
16 of “making the world a better place.” In bold font, Defendants promise: “Extraordinary
17 care and comfort for our cows”; “Traceability back to our farms”; and “Continual
18 pursuit of sustainable farming.” Defendants also direct consumers to the Fairlife
19 website—which makes additional claims about the humane treatment of animals—and
20 invites consumers to “visit our flagship farm in Indiana so you can see for yourself!”

21 4. Fairlife’s entire marketing scheme focuses on the company’s humane
22 treatment of its dairy cows, and Fairlife specifically targets its advertising toward
23 consumers who are willing to choose the Products and pay a premium to guarantee that
24 the dairy products they purchase are from animals that are humanely treated.

25 5. Defendants’ representations are false. Contrary to Defendants’
26 representations, the Products are not derived from cows that are treated “fairly” or with
27 “extraordinary care and comfort”; to the contrary, Defendants’ dairy cows are not
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1 treated “fairly” at all—rather, they are the victims of horrendous animal abuse. The
2 cruelty and suffering inflicted on the cows and calves at Fair Oaks Farms—the *flagship*
3 *farm* for the Fairlife Products—was so significant that it has led to criminal charges
4 being brought against three individuals.

5 6. Plaintiff, and the many other consumers she seeks to represent, have been
6 scammed by Defendants’ false representations. Because consumers believed
7 Defendants’ claims about the humane treatment of animals at Fairlife farms— which
8 were promised on the Products’ labels— they were duped into buying Products that
9 were sold not as advertised. Plaintiff and the Class members (defined below) suffered
10 financial injury because they bought Products they otherwise would not have bought,
11 or for which they would have paid less. But beyond that, they were forced, through
12 Defendants’ deception, to unknowingly contribute to and participate in the infliction of
13 cruelty on the Fairlife cows through their purchases of the Products. To remedy this
14 wrongdoing, Plaintiff brings this class action to put a stop to Defendants’ deceptive and
15 unlawful practices and to recover financial compensation for their injuries.

16 **PARTIES**

17 7. Plaintiff Marleny Olivo is a citizen of California, residing in Los Angeles,
18 California. During the past year, Ms. Olivo purchased Defendants’ Products from Food
19 For Less in Los Angeles County. Prior to purchasing the Products, Ms. Olivo reviewed
20 the Products’ labels and relied on the following animal welfare claims on the Products’
21 labels:

- 22 • “Our promise”
- 23 • “The idea for this one-of-a-kind milk began at our kitchen table over 20
24 years ago. It was an ambition to provide the world with better nutrition
25 while making the world a better place. Our fairlife® family farmers
26 provide high quality, real milk, filtered for wholesome nutrition with
27 exceptional care taken every step of the way.”

- 1 • “Extraordinary care and comfort for our cows”
- 2 • “We’d love to have you visit our flagship farm in Indiana so you can see
- 3 for yourself!”
- 4 • The product name “Fairlife”
- 5 • The picture of the cow.

6 8. Reasonably relying on these representations, Ms. Olivo believed she was
7 buying Products from animals that are humanely treated and paid a premium for the
8 Products. However, the Products were worth less than represented because the
9 statements were not true and were highly misleading. Defendants’ representations were
10 part of the basis of the bargain in that Ms. Olivo attributed value to these promises and
11 would not have purchased the Products, or would have paid significantly less for them,
12 if she knew the truth about Defendants’ abuse of their milk cows.

13 9. While Ms. Olivo wishes to and is likely to purchase the Products in the
14 future, should Ms. Olivo encounter any of the Products in the future, she cannot rely
15 on the truthfulness of the labels’ statements absent corrective advertising and will
16 therefore abstain from purchasing the Products. If Defendants take corrective action of
17 their treatment of cows and correct the Products’ labels, pricing, or treatment of its
18 animals, Ms. Olivo would consider buying the current formulations of the Products in
19 the future, as she is a regular milk purchaser.

20 10. Defendant The Coca-Cola Company is a Delaware corporation with its
21 principal place of business located in Atlanta, Georgia. The Coca-Cola Company
22 markets and distributes the Products throughout the United States. In marketing the
23 Products on its website, The Coca-Cola Company refers to the Products as one of its
24 “brands.”

25 11. Defendant Fairlife, LLC, is a Delaware limited liability company with its
26 principal place of business located in Chicago, Illinois. Fairlife, LLC, manufactures,
27 markets, and sells the Products throughout the United States. Fairlife, LLC, is a joint
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1 venture owned by The Coca-Cola Company (“Coca-Cola”) and Select Milk Producers,
2 Inc.

3 JURISDICTION AND VENUE

4 12. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
5 § 1332(d)(2) because this is a class action, there is minimal diversity, and the amount
6 in controversy exceeds \$5 million, exclusive of interest and costs.

7 13. The Court has personal jurisdiction over Defendants, because they have
8 sufficient minimum contacts with the State of California, and/or otherwise intentionally
9 avails itself of the markets in the State of California through the promotion, marketing,
10 and sale of Products in this State to render the exercise of jurisdiction by this Court
11 permissible under traditional notions of fair play and substantial justice because they
12 markets, distributes, and sells the Products throughout the United States, including in
13 this District.

14 14. Venue is proper because a substantial part of the events or omissions
15 giving rise to Plaintiff’s claims occurred in this District and because Defendants are
16 subject to personal jurisdiction in this District. 28 U.S.C. § 1391(b)(2)-(3).

17 FACTUAL ALLEGATIONS

18 Coca-Cola’s Partnership with Fairlife

19 15. In 2011, sales of major carbonated soft drinks were declining, affecting
20 the bottom lines of companies like Coca-Cola. Eager to increase sales of its product
21 lines, in 2012, Coca-Cola formed a partnership with Select Milk Producers that would
22 “rain[] money” for Coca-Cola.¹

23 16. Fairlife’s former CEO Stephen Jones, who is also a former Coca-Cola
24 executive, publicly acknowledged that Coca-Cola’s sale of a premium milk product
25 would help Coca-Cola’s bottom line by also reversing declining milk consumption.

26 _____
27 ¹ Coke Bets on “Premium Milk” to Boost Declining Category, *available at*
28 <https://www.agweb.com/article/coke-bets-on-premium-milk-to-boost-declining-category-naa-associated-press/> (last visited September 25, 2019).

1 Betting on a premium milk product, Coca-Cola hoped that Fairlife would be a
2 significant driver of sales growth.

3 17. Coca-Cola has, at all times relevant to this lawsuit, including to this day,
4 maintained control over Fairlife—including regulating animal welfare, “ensur[ing]
5 [that the dairy farmers] uphold the highest standards of animal welfare,” and
6 demanding that Fairlife conduct audits of dairy suppliers.²

7 18. Coca-Cola’s control over its suppliers includes enforceable Sustainable
8 Agriculture Guiding Principles, and Supplier Guiding Principles, as well as an internal
9 auditing process, all of which were in place throughout its relationship and ownership
10 of Fairlife.

11 **Animal Welfare Claims Are Central to Defendants’ Marketing**

12 19. Defendants’ Products are named “Fairlife.” This prominent claim—
13 namely the brand itself—means to reasonable consumers that the Fairlife dairy cows
14 are treated “fairly.” Further, Defendants devote an entire side of the packaging to telling
15 the story about how humanely Fairlife dairy cows are treated and make nearly identical
16 animal welfare claims on the labeling and packaging of all of the Products.

17 20. The packaging invites consumers to “LEARN OUR STORY” at
18 fairlife.com. Below that, Defendants make a lengthy promise to treat Fairlife dairy
19 cows humanely.

20 21. This representation is captioned with the heading “our promise,” which is
21 in bold font.

22 22. Below the “our promise” heading, Defendants state that the Product is a
23 “one-of-a-kind milk” arising out of “an ambition to provide the world with better
24 nutrition while making the world a better place.” It then states that Fairlife farmers take
25 “exceptional care . . . every step of the way.”

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27 ² The Coca-Cola Company, *Taking Action to Address Animal Abuses at Fair Oaks Farms* (June 6,
28 2019), <https://www.coca-colacompany.com/press-center/company-statements/coca-cola-company-statement-regarding-fair-oaks-farms>.

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23. Next is a bullet-point list, in bold font, which states:

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

24. Defendants then invite consumers to “visit our flagship farm in Indiana so you can see for yourself!” This refers to Fair Oaks Farms, where the Animal Recovery Mission (“ARM”) uncovered pervasive practices of animal abuse.

25. This side of the labeling is depicted below:

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26. Defendants’ message that animal welfare is paramount to Fairlife operations is reinforced by the front of the labeling, which includes a stylized drawing of a cow’s face. The cute drawing—reminiscent of an illustration in a children’s book—encourages consumers to conclude that the animal is healthy and happy.

27. Of course, the name “Fairlife” reinforces Defendants’ animal welfare message. Among the recognized meanings of the word “fair” are “marked by impartiality and honesty”; “conforming with the established rules”; “not stormy or

1 foul”; “pleasing to the eye or mind”; and “clean, pure.”³ Particularly when coupled
2 with a stylized drawing of an apparently happy, well-treated cow, the very name
3 “Fairlife” suggests to reasonable consumers that Fairlife’s animals are treated “fairly.”

4 28. The front of the labeling is depicted below:



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20 29. Defendants’ animal welfare representations are also reinforced by the
21 animal welfare claims on the Fairlife website. As noted above, the “our promise” side
22 of the labeling invites consumers to “LEARN OUR STORY” at the Fairlife website,
23 fairlife.com.

24 30. The Fairlife website reinforces this animal welfare branding and
25 messaging.

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27 ³ Fair, Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/fair>
28 (last visited September 25, 2019).

1 31. Prior to the public revelations of animal abuse (discussed in more detail
2 below), the Fairlife website contained a lengthy description of all the steps taken to
3 make sure Fairlife dairy cows and calves were treated well.

4 32. Prior to the public revelations of animal abuse in early June 2019, the
5 Fairlife website featured an “OUR PROMISE” page that stated, in relevant part:

6 a. “We believe in doing better every step of the way, because it’s the
7 right thing to do. For us, ‘better’ means growing our own crops and
8 putting our cows’ well-being at the top of our list.”

9 b. “As dairy farmers, we treat our cows with the utmost care, because
10 we know that their health and happiness are the foundation of our
11 business. We grow the crops that feed our cows so we can ensure
12 that they’re getting high quality nutrition. We invite you to our
13 flagship farm in Fair Oaks, Indiana, to see just how we do it.”⁴

14 33. Prior to the public revelations of animal abuse in early June 2019, the
15 Fairlife website featured an “Our Farms” page that stated, in relevant part:

16 a. “**BEST *in* CLASS ANIMAL CARE:** Co-founder Mike
17 McCloskey got his start as a veterinarian specializing in dairy cows,
18 so we know how important it is to put our cows’ needs first. And
19 since comfortable, healthy cows produce better quality milk, they
20 reward us with some of the best milk in the industry.”⁵

21 34. Prior to the public revelations of animal abuse in early June 2019, the
22 Fairlife website featured an “Animal Care” page that stated, in relevant part:
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25 ⁴ This is from the version of the Fairlife website that existed on April 20, 2019, according to the
26 Wayback Machine, *available at* <http://web.archive.org/web/20190420162213/https://fairlife.com/our-promise/> (last visited September 25, 2019).

27 ⁵ This is from the version of the Fairlife website that existed on April 20, 2019, according to the
28 Wayback Machine, *available at* <http://web.archive.org/web/20190420162213/https://fairlife.com/our-promise/our-farms/> (last visited September 25, 2019).

- 1 a. **“IT’S *all* ABOUT HER:** Our co-founder Mike McCloskey started
2 his career as a cow veterinarian before turning to dairy farming, and
3 under his care and guidance, we know that nothing is as important
4 to us as the health and well-being of our animals. Our world
5 revolves around making sure that our cows are fed well, treated
6 humanely and live in comfortable, stress-free conditions.”
- 7 b. **“SPOILED *from the* VERY START:** Newborn calves are visually
8 monitored daily and are given immediate and proper medical
9 treatment should they become ill.”
- 10 c. **“COMFORTABLE *at all* TIMES:** She and her friends have
11 comfortable beds and freestanding stalls, allowing them to walk
12 freely while being protected from harsh weather. In the winter we
13 keep wind and the elements out of their living areas by closing the
14 curtained sidewalls of the barns. Cows love to stay cool, so in the
15 warm summer months we use fans to maintain a 7 mph breeze over
16 the feed manger and over the cows’ beds. We also spray our cows
17 ’ skin with water many times a day in order to keep their body
18 temperature down.”
- 19 d. **“ALWAYS *in* GOOD HANDS:** We spend a significant amount of
20 time training all of our employees not only in proper animal
21 husbandry but also indoctrinating them as to why we will accept
22 nothing less than the utmost care, respect and humane treatment of
23 our cows.”⁶

24 35. In addition, prior to the public revelation of animal abuse, the website for
25 Fair Oaks Farms linked to the farm’s Facebook page, which explicitly stated that bull

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27 ⁶ This is from the version of the Fairlife website that existed on April 20, 2019, according to the
28 Wayback Machine, *available at* <http://web.archive.org/web/20190420162213/https://fairlife.com/our-promise/animal-care/> (last visited September 25, 2019).

1 calves were not sent to be turned into veal. In a response posted on the Fair Oak Farms
2 website, Mike McCloskey has now acknowledged that the representation regarding
3 bull calves was untrue.⁷

4 36. After the public revelation of widespread animal abuse at Fair Oaks
5 Farms, Fairlife changed its website to remove some of the most blatant
6 misrepresentations. Nevertheless, the Fairlife website still claims that animal welfare
7 is an important part of its philosophy and operations. For example, the current Fairlife
8 website states, in relevant part:

9 a. **“FAIRLIFE PROMISES AND ETHICAL PRACTICES:** We
10 recognize that now more than ever we need more rigorous auditing
11 and verification of our milk suppliers’ practices when it comes to
12 cow well-being.”

13 b. **“*cow care:*** Our suppliers’ cows’ health and happiness are the
14 foundation of the what we do. To better protect cows, we are
15 increasing our investment in animal welfare actions, requiring
16 training, certification and support programs for supplying farmers,
17 so they can set the standard in the best practices in animal well-
18 being. We are enhancing our farm monitoring policy, significantly
19 increasing the number of animal welfare audits to 24 audits per year
20 in cooperation with Select Milk Producers, all of which will be
21 unannounced.”⁸

22 37. Prior to the discovery of animal abuse, the Coca-Cola website also
23 corroborated that the welfare of Fairlife cows is one of the critical aspects of the
24 Products. For example, one prominently displayed marketing article about the
25 introduction of the Products to the Canadian market referred to “high-quality milk and
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27 ⁷ *Official Statement From Our Founder Mike McCloskey On The ARM Video Release*, Fair Oaks
Farms, <https://fofarms.com/post/response/> (last visited September 25, 2019).

28 ⁸ *Our Promise*, Fairlife, <https://fairlife.com/our-promise/> (last visited September 25, 2019).

1 animal care practices, which pair well with the premium standards and passion for
2 quality fairlife is known for.”⁹

3 38. Another marketing article prominently displayed on the Coca-Cola
4 website before the discovery of animal abuse, entitled *From Staple to Superfood: How*
5 *fairlife's Belief in Better Milk is Shaking Up the Dairy Aisle*, repeatedly emphasized
6 Defendants’ animal welfare claims:

7 a. “We’ve always known that the better you treat an animal, the
8 happier and more productive she is. It’s a symbiotic relationship.”

9 b. “The McCloskeys formed the co-op of fellow family-owned farms
10 in 2004, gradually building a network of progressive farmers who
11 share their ‘grass to glass’ commitment to milk quality, animal care
12 and environmental sustainability. All fairlife products can be traced
13 back to the dairies their milk comes from.”

14 c. “When we share our story of how we treat our cows and focus on
15 their comfort and care and creating a stress-free environment, that
16 really resonates with people who visit our farm”¹⁰

17 39. A reasonable consumer would understand from each of the
18 representations described above that Fairlife’s dairy farms prioritize animal welfare
19 and treat their cows with the utmost care and kindness. Moreover, the representations
20 are mutually reinforcing, such that they work together to strengthen this message to
21 consumers that Fairlife’s cows are treated well.

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24 ⁹ This is from the version of the Coca-Cola website that existed on July 12, 2018, according to the
25 Wayback Machine, *available at* <https://web.archive.org/web/20180612212301/https://www.coca-colacompany.com/stories/fairlife-ultrafiltered-milk-coming-to-canada> (last visited September 25, 2019).

26 ¹⁰ This is from the version of the Coca-Cola website available on January 21, 2018, according to the
27 Wayback Machine, *available at* <https://web.archive.org/web/20180121142609/http://www.coca-colacompany.com/stories/from-staple-to-superfood-how-fairlifes-belief-in-better-milk-is-shaking-up-the-dairy-category> (last visited September 25, 2019).

1 **Defendants’ Animal Welfare Claims Are False**

2 40. On June 4, 2019, and on September 25, 2019, ARM released the results
3 of an undercover investigation it conducted of Fair Oaks Farms.¹¹ Fair Oaks Farms is
4 the “flagship farm” for the Fairlife brand that Defendants invite consumers to visit and
5 hold out to the public as the exemplar of their commitments to animal welfare and
6 transparency.

7 41. An undercover investigator working for ARM was hired as a calf-care
8 employee at Fair Oaks Farms. In that role, the investigator bottle fed newborn calves,
9 assisted loading calves on transports, and disposed of dead calves. The investigator
10 used surveillance equipment to capture the normal daily practices on the farm.

11 42. ARM also placed an investigator in the milking areas of Fair Oaks Farms,
12 where day-to-day operations with cows took place.

13 43. ARM’s investigator found “extreme animal abuse” that was evidently “the
14 normal way to do business at Fair Oaks Farms.” Daily or commonplace practices
15 included:

- 16 a. Separating calves from their mothers soon after birth (distressing
17 both animals);
- 18 b. Throwing calves in and out of their huts;
- 19 c. Dragging calves by their ears (including from a motorized cart) or
20 by their tails and legs;
- 21 d. Pushing, throwing, slapping, kicking, and slamming calves to the
22 ground if the calves did not nurse from the artificial rubber nipple
23 during the feeding process;
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27 ¹¹ The results of ARM’s undercover investigation are available at [https://animalrecoverymission.org](https://animalrecoverymission.org/wp-content/uploads/2019/06/Operation_Fair_Oaks_Farms_Dairy_Adventure.pdf)
28 /wp-content/uploads/2019/06/Operation_Fair_Oaks_Farms_Dairy_Adventure.pdf (last visited
September 25, 2019).

- 1 e. Dumping formula on the ground instead of feeding it to calves,
- 2 thereby denying them the appropriate nutrition and hydration
- 3 needed to survive;
- 4 f. Ignoring the numerous emaciated cows, which had a body score of
- 5 two or three on the nine-point scale;
- 6 g. Maintaining calves in filthy conditions;
- 7 h. Joking with other employees while sitting on top of a calf, whose
- 8 legs buckled because they could not support the extra weight;
- 9 i. Stabbing and hitting calves with objects including steel rebars, hard
- 10 plastic milking bottles, steel branding irons;
- 11 j. Burning calves' faces and bodies with hot branding irons;
- 12 k. Breaking tails of cows who would not move in the milking parlor;
- 13 l. Kicking, beating, punching, pushing, and otherwise abusing cows;
- 14 m. Pinning cows inside milking-carousel machinery and allowing
- 15 them to fall out of it;
- 16 n. Dragging downed cows with straps who were too sick or weak to
- 17 walk;
- 18 o. Packing cows into overcrowded housing; and
- 19 p. Denying medical care to sick cows, including downers that were
- 20 left to die slowly.

21 44. None of the problematic footage found by the ARM investigation took
22 place in areas open to the public.

23 45. The ARM investigation is also notable for what it did *not* find. The
24 investigator never observed disciplinary action being taken against any employee, even
25 though the animal abuse was known and perpetuated at all levels of employment,
26 including foremen and upper management. Law enforcement was never contacted or
27 notified.

1 46. The investigator found no medical attention paid to calves or cows, even
2 though the Fairlife website claimed the contrary. Medical attention was not provided
3 even when temperatures in the calves' hutches reached 110 degrees Fahrenheit.

4 47. Adult cows that became sick or injured also did not receive treatment.
5 When adult cows were too sick to produce milk, they were shot or left to languish and
6 die slowly. When the animals were shot, small-caliber bullets were improperly used by
7 untrained workers. As a result, the cows frequently suffered for hours before they died.

8 48. ARM's investigator received training related to the transportation of dead
9 calves. Employees were instructed to "always take the back dairy roads while
10 transporting the dead to a hidden dump area" to prevent any tourists or tour buses from
11 seeing the workers disposing of the dead animals.

12 49. Male calves were sold to veal farms—contrary to Fair Oaks Farms'
13 promise that this would not be done—where they were held in such small enclosures
14 that they were unable to turn around and were forced constantly to stand in their own
15 feces.

16 50. As a result of the ARM investigation, the Newton County Sheriff's Office
17 (Indiana) launched an investigation of its own. Newtown County prosecutors have filed
18 criminal charges against three individuals for animal cruelty (a Class A misdemeanor)
19 and torturing or mutilating a vertebrate animal (a Class 6 felony). Prosecutors have
20 issued arrest warrants and arrested at least one individual. The investigation is still
21 active and ongoing.

22 51. On June 6, 2019, Fairlife, LLC, issued a statement acknowledging the
23 ARM investigation, admitting the truth of its allegations, and apologizing for its
24 failures. Fairlife, LLC, stated that it was "devastated by the abuse that was recently
25 discovered at Fair Oaks Farms." It also indicated it was discontinuing the use of milk
26 from Fair Oaks Farms, increasing animal welfare requirements, and seeking further
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1 audits by industry representatives.¹² The current Coca-Cola website also references
2 these events and refers to the Fairlife website.¹³

3 52. Coca-Cola, for its part, stated that, in addition to “conducting [its] own
4 independent investigations of all fairlife’s dairy suppliers to ensure they uphold the
5 highest standards of animal welfare,” it was “taking action to ensure that internationally
6 recognized animal welfare standards are appropriately enforced through our
7 Sustainable Agriculture Guiding Principles, our Supplier Guiding Principles and our
8 auditing processes.”¹⁴

9 **Animal Welfare Is Material to Consumers**

10 53. Meat and dairy companies increasingly make animal welfare claims about
11 their products because they have discovered those claims increase sales, allow them to
12 charge higher prices, or both. Animal welfare claims are profitable because consumers
13 care about the treatment of the animals that their food comes from. Consumers are more
14 likely to buy a product, and will pay more for it, if the animals it is comes from were
15 treated humanely.

16 54. Numerous studies conducted by third parties have confirmed the fact that
17 animal welfare matters to consumers.

18 55. In one survey published in 2010, 68% of consumers agreed or strongly
19 agreed they would like to know more about “ways [farmers] ensure animal care.”¹⁵
20 That was the second-highest rate of agreement with any survey question, behind only
21 “measures used to produce safe food.”

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23 ¹² *Fairlife Statement on Animal Care*, Fairlife, <https://fairlife.com/news/fairlife-statement-regarding-arm-video/> (last visited September 25, 2019).

24 ¹³ *fairlife*, The Coca-Cola Company, <https://www.coca-colacompany.com/brands/fairlife> (last visited September 25, 2019).

25 ¹⁴ *Taking Action to Address Animal Abuses at Fair Oaks Farms*, The Coca-Cola Company, <https://www.coca-colacompany.com/press-center/company-statements/coca-cola-company-statement-regarding-fair-oaks-farms> (last visited September 25, 2019).

26 ¹⁵ *What “Indicator Consumers” Want to Know Most About How U.S. Foods Are Produced*, SEGMENTTrak (June 2010), available at http://demetercommunications.com/wp-content/uploads/2011/05/FINAL.Demeter.SegemenTrak.Full_Report.June2010.pdf.

1 56. Another 2010 study found “that consumers desire high standards of
2 animal care, even if it raises food prices and involves government regulation.”¹⁶

3 57. A study published by the Animal Humane Association in 2014, indicated
4 that concerns may be increasing among consumers. For instance, it found that 94.9%
5 of survey participants “stated they were very concerned about farm animal welfare,”
6 up from 89% the year before. Similarly, “75.7% stated that they were very willing to
7 pay more for humanely raised meat, dairy and eggs,” which was an increase from 74%
8 the year before. Additionally, the most important labeling attribute to consumers was
9 “humanely raised,” including over labels such as “antibiotic free,” “natural,” and
10 “organic.”¹⁷

11 58. Wal-Mart announced in 2015 that its own research shows that 77% of its
12 shoppers would increase their trust of, and 66% would increase their likelihood to shop
13 at, a retailer that improved the treatment of livestock.¹⁸

14 59. One 2018 survey found that 77% of consumers were concerned about
15 animal welfare as it relates to their food, more than 66% of consumers paid some or a
16 lot of attention to food labels regarding how the animal was raised, and over 70% of
17 retailers stocking products with humane claims reported increased sales.¹⁹

18 60. Fairlife, LLC itself has acknowledged the importance of animal welfare
19 to its consumers. In an interview conducted after public revelation of animal abuse at
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21 ¹⁶ RW Prickett et al., *Consumer Preferences for Farm Animal Welfare: Results from a Telephone*
22 *Survey of US Households*, Animal Welfare (Aug. 2010), available at
<https://www.ingentaconnect.com/contentone/ufaw/aw/2010/00000019/00000003/art00015> (last
23 visited September 25, 2019).

24 ¹⁷2014 *Humane Heartland Farm Animal Welfare Survey*, available at
<https://www.americanhumane.org/app/uploads/2016/08/2014-humane-heartland-farm-survey.pdf>
(last visited September 25, 2019).

25 ¹⁸ Christine M. Boynton, *Wal-Mart’s Push on Animal Welfare Hailed as Game Changer*, Fox 5 News,
26 <https://foxbaltimore.com/news/local/wal-mart39s-push-on-animal-welfare-hailed-as-game-changer>
(last visited September 25, 2019).

27 ¹⁹ Alicia Kelso, *Consumers Are Willing to Pay a Premium for Animal Welfare Certifications*, Grocery
28 Dive (July 17, 2018), <https://www.grocerydive.com/news/grocery--consumers-are-willing-to-pay-a-premium-for-animal-welfare-certifications/533852/> (last visited September 25, 2019).

1 Fair Oaks Farms, Fairlife COO Tim de Doleman stated that “this whole company . . .
2 [is] built on great animal welfare.”²⁰

3 61. Accordingly, Fairlife’s marketing of its Products as humanely treating the
4 animals used to produce the Products is material to the reasonable consumer.
5 Reasonable consumers would not expect that Products labeled with the promises by
6 Fairlife discussed herein would be produced through the inhumane treatment of
7 animals as described above.

8 62. The marketplace’s reaction to the public revelation of animal abuse at Fair
9 Oaks Farms further demonstrates the importance to consumers of humane animal
10 treatment. Numerous retailers have stopped selling the Products as a result of the
11 animal abuse.

12 **CLASS ACTION ALLEGATIONS**

13 63. Plaintiff brings this action pursuant to Federal Rules of Civil Procedure
14 23(b)(2) and (b)(3), on behalf of herself and on behalf of following Class and
15 Subclasses which, unless otherwise specified, are referred to collectively as the
16 “Class”:

- 17 a. All persons who purchased the Products within the U.S. within the
18 applicable statute of limitations period (“Nationwide Class”);
- 19 b. All persons who purchased the Products within the State of
20 California within the applicable statute of limitations period
21 (“California Subclass”); and
- 22 c. All persons who purchased the Products within the State of
23 California for personal, family, or household purposes within the
24 applicable statute of limitations period (“California Consumer
25 Subclass”).

26 _____
27 ²⁰ *Fairlife COO Speaks Out After Release of Undercover Videos*, NBC Chicago (June 7, 2019),
28 https://www.nbcchicago.com/multimedia/web-fairlife-coo-interview_Chicago-510995412.html (last
visited September 25, 2019).

1 64. Excluded from the Class are Defendants, including their parents,
2 subsidiaries, affiliates, officers, and directors; those who purchased the Products for
3 resale; all persons who make a timely election to be excluded from the Class; and the
4 judicial officers and staff to whom this case is assigned and any immediate family
5 members thereof.

6 65. **Numerosity:** The members of the Class are so numerous that individual
7 joinder of all Class members is impracticable. Defendants have sold many thousands
8 of units of the Products to Class members.

9 66. **Commonality and Predominance:** This action involves common
10 questions of law and fact, which predominate over any questions affecting individual
11 Class members, including, without limitation:

- 12 a. Whether the representations discussed herein that Defendants made
13 about the Products were or are true, misleading, or likely to deceive
14 a reasonable consumer;
 - 15 b. Whether the representations discussed herein were material to a
16 reasonable consumer;
 - 17 c. Whether Defendants' conduct violates public policy;
 - 18 d. Whether Defendants engaged in false or misleading advertising;
 - 19 e. Whether Defendants' conduct constitutes violations of the laws
20 asserted herein;
 - 21 f. Whether Plaintiff and the other Class members have been injured
22 and the proper measure of their losses as a result of those injuries;
23 and
 - 24 g. Whether Plaintiff and the other Class members are entitled to
25 injunctive, declaratory, or other equitable relief.
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1 67. **Typicality:** Plaintiff’s claims are typical of those of the other Class
2 members because, among other things, Plaintiff and all Class members were
3 comparably injured through the uniform conduct described herein.

4 68. **Adequacy:** Plaintiff is an adequate representative of the Class because
5 Plaintiff’s interests do not conflict with the interests of the other Class members
6 Plaintiff seeks to represent; Plaintiff has retained counsel competent and experienced
7 in complex commercial and class action litigation; and Plaintiff intends to prosecute
8 this action vigorously. The interests of the Class members will be fairly and adequately
9 protected by Plaintiff and her counsel.

10 69. **Declaratory and Injunctive Relief:** Defendants have acted or refused to
11 act on grounds generally applicable to Plaintiff and the other Class members, thereby
12 making appropriate final injunctive relief and declaratory relief, as described below,
13 with respect to Class as a whole.

14 70. **Superiority:** A class action is superior to any other available means for
15 the fair and efficient adjudication of this controversy, and no unusual difficulties are
16 likely to be encountered in the management of this class action. The damages or other
17 financial detriment suffered by Plaintiff and the other Class members are relatively
18 small compared to the burden and expense that would be required to individually
19 litigate their claims against Defendants, making it impracticable for Class members to
20 individually seek redress for Defendants’ wrongful conduct. Even if Class members
21 could afford individual litigation, the court system could not. Individualized litigation
22 creates a potential for inconsistent or contradictory judgments and increases the delay
23 and expense to all parties and the court system. By contrast, the class action device
24 presents far fewer management difficulties, and provides the benefits of single
25 adjudication, economies of scale, and comprehensive supervision by a single court.

1 **CAUSES OF ACTIONS**

2 **FIRST CLAIM FOR RELIEF**

3 **Violation of California’s Consumers Legal Remedies Act (“CLRA”),**
4 **California Civil Code §§ 1750, et seq.**
5 ***(for the California Consumer Subclass)***
6 ***(for injunctive relief only)***

7 71. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
8 fully set forth herein.

9 72. Plaintiff brings this claim individually and on behalf of the members of
10 the proposed California Consumer Subclass against Defendants.

11 73. The Products are “goods” within the meaning of Cal. Civ. Code § 1761(a),
12 and the purchases of such Products by Plaintiff and members of the California
13 Consumer Subclass constitute “transactions” within the meaning of Cal. Civ. Code §
14 1761(e).

15 74. Cal. Civ. Code § 1770(a)(2) prohibits “misrepresenting the source,
16 sponsorship, approval, or certification of goods or services.” By marketing the Products
17 with the animal welfare claims, Defendants have represented and continue to represent
18 that the Products are derived from humanely raised cows when they are not. Therefore,
19 Defendants have violated section 1770(a)(2) of the CLRA.

20 75. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or
21 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
22 quantities which they do not have” By marketing the Products with the animal welfare
23 claims, Defendants have represented and continue to represent that the Products have
24 characteristics (are derived from humanely raised cows) that they do not have. Therefore,
25 Defendants have violated section 1770(a)(5) of the CLRA.

26 76. Cal. Civ. Code § 1770(a)(7) prohibits “[r]epresenting that goods or
27 services are of a particular standard, quality, or grade, or that goods are of a particular
28 style or model, if they are of another.” By marketing the Products with the animal

1 welfare claims, Defendants have represented and continue to represent that the Products
2 are of a particular standard or quality (from humanely raised cows) when they are of
3 another. Therefore, Defendants have violated section 1770(a)(7) of the CLRA.

4 77. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services
5 with intent not to sell them as advertised.” By marketing the Products with the animal
6 welfare claims, and then not selling the Products with milk from humanely treated cows,
7 Defendants have violated section 1770(a)(9) of the CLRA.

8 78. Defendants have also violated the CLRA by intentionally failing to
9 disclose material information about the Products, such as the fact that the milk is
10 derived from cows that are systematically abused and mistreated.

11 79. At all relevant times, Defendants have known or reasonably should have
12 known that the milk in the Products is derived from cows that are systematically abused
13 and mistreated, and that Plaintiff and other members of the California Consumer
14 Subclass would reasonably and justifiably rely on the packaging and other
15 advertisements in purchasing the Products.

16 80. Plaintiff and other members of the California Consumer Subclass have
17 reasonably and justifiably relied on Defendants’ misleading and fraudulent conduct
18 when purchasing the Products. Moreover, based on the materiality of Defendants’
19 fraudulent and misleading conduct, reliance may be presumed or inferred for Plaintiff
20 and other members of the California Consumer Subclass.

21 81. Plaintiff and other members of the California Consumer Subclass have
22 suffered and continue to suffer injuries caused by Defendants because they would not
23 have purchased the Products or would have paid significantly less for the Products had
24 they known that Defendants’ conduct was misleading and fraudulent.

25 82. Under Cal. Civ. Code § 1780(a), Plaintiff and other members of the
26 California Consumer Subclass are seeking injunctive relief pursuant to the CLRA,
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1 preventing Defendants from further wrongful acts and unfair and unlawful business
2 practices.

3 **SECOND CLAIM FOR RELIEF**
4 **Violation of California’s Unfair Competition Law (“UCL”),**
5 **California Business & Professions Code §§ 17200, et seq.**
6 ***(for the California Subclass and California Consumer Subclass)***

7 83. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
8 fully set forth herein.

9 84. Plaintiff brings this claim individually and on behalf of the members of
10 the proposed California Subclass and California Consumer Subclass against
11 Defendants.

12 85. Cal. Bus. & Prof Code § 17200 provides, in pertinent part, that “unfair
13 competition shall mean and include unlawful, unfair or fraudulent business practices
14 and unfair, deceptive, untrue or misleading advertising”

15 86. Under the UCL, a business act or practice is “unlawful” if it violates any
16 established state or federal law.

17 87. Defendants’ misleading advertising of the Products therefore was and
18 continues to be “unlawful” because it violates the CLRA, California’s False
19 Advertising Law (“FAL”), and other applicable laws as described herein.

20 88. As a result of Defendants’ unlawful business acts and practices,
21 Defendants have unlawfully obtained money from Plaintiff and members of the
22 California Subclass and California Consumer Subclass.

23 89. Under the UCL, a business act or practice is “unfair” if the defendants’
24 conduct is substantially injurious to consumers, offends public policy, and is immoral,
25 unethical, oppressive, and unscrupulous, as the benefits for committing such acts or
26 practices are outweighed by the gravity of the harm to the alleged victims.

27 90. Defendants’ conduct was and continues to be of no benefit to purchasers
28 of the Products, as it is misleading, unfair, unlawful, and is injurious to consumers who

1 rely on the Products’ packaging and marketing. Creating consumer confusion as to the
2 welfare of the animals used to derive the Products is of no benefit to consumers.
3 Therefore, Defendants’ conduct was and continues to be “unfair.”

4 91. As a result of Defendants’ unfair business acts and practices, Defendants
5 have and continue to unfairly obtain money from Plaintiff, and members of the
6 California Subclass and California Consumer Subclass.

7 92. Under the UCL, a business act or practice is “fraudulent” if it actually
8 deceives or is likely to deceive members of the consuming public.

9 93. Defendants’ conduct here was and continues to be fraudulent because it
10 has the effect of deceiving consumers into believing that the Products contain milk
11 from humanely treated cows when they do not. Defendants’ conduct is also fraudulent
12 because Defendants fail to disclose material information about the Products, such as
13 the fact that the milk is derived from cows that are systematically abused and
14 mistreated.

15 94. Because Defendants misled Plaintiff and members of the California
16 Subclass and California Consumer Subclass, Defendants’ conduct was “fraudulent.”

17 95. As a result of Defendants’ fraudulent business acts and practices,
18 Defendants have and continue to fraudulently obtain money from Plaintiff and
19 members of the California Subclass and California Consumer Subclass.

20 96. Plaintiff requests that this Court cause Defendants to restore this
21 unlawfully, unfairly, and fraudulently obtained money to Plaintiff, and members of the
22 California Subclass and California Consumer Subclass, to disgorge the profits
23 Defendants made on these transactions, and to enjoin Defendants from violating the
24 UCL or violating it in the same fashion in the future as discussed herein. Otherwise,
25 Plaintiff, and members of the California Subclass and California Consumer Subclass,
26 may be irreparably harmed and/or denied an effective and complete remedy if such an
27 order is not granted.
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THIRD CLAIM FOR RELIEF
Violation of California’s False Advertising Law (“FAL”),
California Business & Professions Code §§ 17500, et seq.
(for the California Subclass and California Consumer Subclass)

97. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if fully set forth herein.

98. Plaintiff brings this claim individually and on behalf of the members of the proposed the California Subclass and California Consumer Subclass against Defendants.

99. California’s FAL makes it “unlawful for any person to make or disseminate or cause to be made or disseminated before the public . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.”

100. Defendants have represented and continues to represent to the public, including Plaintiff and members of the California Subclass and California Consumer Subclass, through Defendants’ deceptive packaging and marketing, that the Products are made with milk from humanely raised cows. Defendants’ representations are false and misleading because the Products do not contain milk from humanely raised cows. Because Defendants have disseminated false and misleading information regarding the Products, and Defendants know, knew, or should have known through the exercise of reasonable care that the representations are and continue to be false and misleading, Defendants have violated the FAL.

1 101. Defendants' conduct is also misleading because Defendants fail to
2 disclose material information about the Products, such as the fact that the milk is
3 derived from cows that are systematically abused and mistreated.

4 102. As a result of Defendants' false advertising, Defendants have and continue
5 to fraudulently obtain money from Plaintiff and members of the California Subclass
6 and California Consumer Subclass.

7 103. Plaintiff requests that this Court cause Defendants to restore this
8 fraudulently obtained money to Plaintiff and members of the California Subclass and
9 California Consumer Subclass, to disgorge the profits Defendants made on these
10 transactions, and to enjoin Defendants from violating the FAL or violating it in the
11 same fashion in the future as discussed herein. Otherwise, Plaintiff and members of
12 the California Subclass and California Consumer Subclass may be irreparably harmed
13 and/or denied an effective and complete remedy if such an order is not granted.

14 **FOURTH CLAIM FOR RELIEF**

15 **Breach of Express Warranty**

16 **California Commercial Code § 2313**

17 *(for the California Subclass and California Consumer Subclass)*

18 104. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
19 fully set forth herein.

20 105. Plaintiff brings this claim individually and on behalf of the members of
21 the proposed California Subclass and California Consumer Subclass against
22 Defendants.

23 106. California Commercial Code § 2313 provides that "(a) Any affirmation of
24 fact or promise made by the seller to the buyer which relates to the goods and becomes
25 part of the basis of the bargain creates an express warranty that the goods shall conform
26 to the affirmation or promise," and "(b) Any description of the goods which is made
27 part of the basis of the bargain creates an express warranty that the goods shall conform
28 to the description." Cal. Com. Code § 2313.

1 107. Defendants have expressly warranted and continue to expressly warrant
2 on the Products' packaging that the Products are made with milk from humanely raised
3 cows. These representations about the Products: (1) are affirmations of fact or promises
4 made by Defendants to consumers that the Products are made with milk from humanely
5 raised cows; (2) became part of the basis of the bargain to purchase the Products when
6 Plaintiff relied on the representations; and (3) created an express warranty that the
7 Products would conform to these affirmations of fact or promises. In the alternative,
8 the representations about the Products are descriptions of goods which were made as
9 part of the basis of the bargain to purchase the Products, and which created an express
10 warranty that the Products would conform to the product descriptions.

11 108. Plaintiff and members of both the California Subclass and California
12 Consumer Subclass reasonably and justifiably relied on the foregoing express
13 warranties, believing that the Products did in fact conform to these warranties.

14 109. Defendants have breached the express warranties made to Plaintiff and
15 members of both the California Subclass and California Consumer Subclass by failing
16 to manufacture the Products with milk from humanely raised cows.

17 110. Plaintiff and members of both the California Subclass and California
18 Consumer Subclass paid a premium price for the Products but did not obtain the full
19 value of the milk as represented. If Plaintiff and members of both the California
20 Subclass and California Consumer Subclass had known of the true nature of the
21 Products, they would not have purchased the Products or would not have been willing
22 to pay the premium price associated with the Products.

23 111. As a result, Plaintiff and members of both the California Subclass and
24 California Consumer Subclass suffered injury and deserve to recover all damages
25 afforded under the law.

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1 112. Within a reasonable amount of time after Plaintiff discovered that
2 Defendants did in fact breach the express warranty, Plaintiff notified Defendants of the
3 breach.

4 **FIFTH CLAIM FOR RELIEF**
5 **Breach of Implied Warranty**
6 **California Commercial Code § 2314**
7 ***(for the California Subclass and California Consumer Subclass)***

8 113. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
9 fully set forth herein.

10 114. Plaintiff brings this claim individually and on behalf of the members of
11 the proposed California Subclass and California Consumer Subclass against
12 Defendants.

13 115. California Commercial Code § 2314(1) provides that “a warranty that the
14 goods shall be merchantable is implied in a contract for their sale if the seller is a
15 merchant with respect to goods of that kind.” Cal. Com. Code § 2314(1).

16 116. California Commercial Code § 2314(2) provides that “[g]oods to be
17 merchantable must be at least such as . . . (f) conform to the promises or affirmations
18 of fact made on the container or label if any.” Cal. Com. Code § 2314(2)(f).

19 117. Defendants are merchants with respect to the sale of milk, including the
20 Products here. Therefore, a warranty of merchantability is implied in every contract for
21 sale of the Products to California consumers.

22 118. By advertising the Products with their current packaging, Defendants
23 made an implied promise that the Products were made with milk from humanely raised
24 cows. By not making the Products with milk from humanely raised cows, Defendants
25 have not “conformed to the promises . . . made on the container or label.” Plaintiff, the
26 California Subclass and the California Consumer Subclass did not receive the goods as
27 impliedly warranted by Defendants to be merchantable.
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1 119. Therefore, the Products are not merchantable under California law and
2 Defendants have breached their implied warranty of merchantability in regard to the
3 Products.

4 120. If Plaintiff and members of both the California Subclass and California
5 Consumer Subclass had known that the Products were not made with milk from
6 humanely raised cows, they would not have purchased them or would not have been
7 willing to pay the premium price associated with the milk. Therefore, as a direct and/or
8 indirect result of Defendants' breach, Plaintiff and members of both the California
9 Subclass and California Consumer Subclass have suffered injury and deserve to
10 recover all damages afforded under the law.

11 **SIXTH CLAIM FOR RELIEF**
12 **Common Law Fraud**
13 ***(for the Classes)***

14 121. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
15 fully set forth herein.

16 122. Plaintiff brings this claim individually and on behalf of the members of
17 the Classes against Defendants.

18 123. Defendants have willfully, falsely, or knowingly packaged and marketed
19 the Products in a manner indicating that the Products are made with milk from
20 humanely raised cows. However, the Products are not made with milk from humanely
21 raised cows. Therefore, Defendants have made misrepresentations as to the Products.

22 124. Defendants also failed to disclose that the Products are made with milk
23 from cows that are systematically abused and mistreated, in order to induce consumers'
24 purchases of the Products.

25 125. Defendants' misrepresentations and omissions are and were material (i.e.,
26 the type of misrepresentations to which a reasonable person would attach importance
27 and would be induced to act thereon in making purchase decisions) because they relate
28 to the characteristics of the Products and how they were made.

1 126. Defendants knew or recklessly disregarded the fact that the Products are
2 made with milk from cows that are systematically abused and mistreated.

3 127. Defendants intend that Plaintiff and other consumers rely on these
4 representations and omissions, as evidenced by Defendants intentionally using labeling
5 that either directly states or clearly implies that the Products are made with milk from
6 cows that are humanely raised.

7 128. Plaintiff and members of the Classes have reasonably and justifiably relied
8 on Defendants' misrepresentations and omissions when purchasing the Products and,
9 had the correct facts been known, would not have purchased the Products or would not
10 have purchased them at the prices at which they were offered.

11 129. Therefore, as a direct and proximate result of Defendants' fraud, Plaintiff
12 and members of the Classes have suffered economic losses and other general and
13 specific damages, including but not limited to the amounts paid for the Products, and
14 any interest that would have accrued on those monies, all in an amount to be proven at
15 trial.

16 **SEVENTH CLAIM FOR RELIEF**
17 **Negligent Misrepresentation**
 (for the Classes)

18 130. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
19 fully set forth herein.

20 131. Plaintiff brings this claim individually and on behalf of the members of
21 the Classes against Defendants.

22 132. Defendants marketed the Products in a manner indicating that the milk is
23 from cows that are humanely raised. However, the cows are systematically abused and
24 mistreated. Therefore, Defendants have made misrepresentations as to the Products.

25 133. Defendants' misrepresentations regarding the Products are material to a
26 reasonable consumer because they relate to the characteristics of the milk. A reasonable
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1 consumer would attach importance to such representations and would be induced to act
2 thereon in making purchase decisions.

3 134. At all relevant times when such misrepresentations were made,
4 Defendants knew or had been negligent in not knowing that that the Products were not
5 made with from milk from cows that are humanely raised. Defendants had no
6 reasonable grounds for believing their misrepresentations were not false and
7 misleading.

8 135. Defendants intend that Plaintiff and other consumers rely on these
9 representations, as evidenced by Defendants intentionally using packaging that either
10 directly states or clearly implies that the milk is from cows that are humanely raised.

11 136. Plaintiff and members of the Classes have reasonably and justifiably relied
12 on Defendants' negligent misrepresentations when purchasing the Products and, had
13 the correct facts been known, would not have purchased the Products or would not have
14 purchased them at the prices at which they were offered.

15 137. Therefore, as a direct and proximate result of Defendants' negligent
16 misrepresentations, Plaintiff and members of the Classes have suffered economic
17 losses and other general and specific damages, including but not limited to the amounts
18 paid for the Products and any interest that would have accrued on those monies, all in
19 an amount to be proven at trial.

20 **EIGHTH CLAIM FOR RELIEF**
21 **Unjust Enrichment**
22 ***(for the Classes)***

23 138. Plaintiff repeats the allegations contained in paragraphs 1-70 above as if
24 fully set forth herein.

25 139. Plaintiff brings this claim individually and on behalf of the members of
26 the Classes against Defendants.

1 140. As alleged herein, Defendants have intentionally and recklessly made
2 misleading representations to Plaintiff and members of the Classes to induce them to
3 purchase the Products. Plaintiff and members of the Classes have reasonably relied on
4 the misleading representations and have not received all of the benefits promised by
5 Defendants. Plaintiff and members of the Classes therefore have been induced by
6 Defendants' misleading and false representations about the Products and paid for them
7 when they would and/or should not have or paid more money to Defendants for the
8 Products than they otherwise would and/or should have paid.

9 141. Plaintiff and members of the Classes have conferred a benefit upon
10 Defendants as Defendants have retained monies paid to them by Plaintiff and members
11 of the Classes.

12 142. The monies received were obtained under circumstances that were at the
13 expense of Plaintiff and members of the Classes – i.e., Plaintiff and members of the
14 Classes did not receive the full value of the benefit conferred upon Defendants.

15 143. Therefore, it is inequitable and unjust for Defendants to retain the profit,
16 benefit, or compensation conferred upon them without paying Plaintiff and the
17 members of the Classes back for the difference of the full value of the benefits
18 compared to the value actually received.

19 144. As a direct and proximate result of Defendants' unjust enrichment,
20 Plaintiff and members of the Classes are entitled to restitution, disgorgement, and/or
21 the imposition of a constructive trust upon all profits, benefits, and other compensation
22 obtained by Defendants from their deceptive, misleading, and unlawful conduct as
23 alleged herein.

24 **REQUEST FOR RELIEF**

25 Plaintiff, individually and on behalf of the other Class members, respectfully
26 requests that the Court enter judgment against Defendants as follows:
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1 1. Certifying the Class as requested herein, designating Plaintiff as class
2 representative and appointing the undersigned counsel as class counsel;

3 2. Declaring that Defendants are financially responsible for notifying the
4 Class members of the pendency of this suit;

5 3. Damages to the maximum extent allowed, in an amount to be proven at
6 trial;

7 4. Restitution and disgorgement of all profits and unjust enrichment
8 Defendants obtained from Plaintiff and Class members as a result of Defendants'
9 unlawful, unfair and fraudulent business practices;

10 5. Injunctive relief as permitted by law or equity, including enjoining
11 Defendants from continuing the unlawful practices as set forth herein, and ordering
12 Defendants to engage in a corrective advertising campaign;

13 6. Payment of Plaintiff's reasonable attorneys' fees, costs, and expenses;

14 7. Pre- and post-judgment interest on any amounts awarded; and

15 8. Such other and further relief as may be just and proper.

16 **DEMAND FOR TRIAL BY JURY**

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

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19 Dated: September 25, 2019

FARUQI & FARUQI, LLP

20
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