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9 *and the Putative Class*

**FILED**  
Superior Court of California  
County of Los Angeles

OCT 05 2020

By Rita Nazaryan, Deputy  
Executive Officer/Clerk

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**SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
**COUNTY OF LOS ANGELES**

**ALEXANDER J. LEON**, Individually and on  
Behalf of All Others Similarly Situated,

Plaintiff,

v.

**MISHIMA FOODS USA, INC.**, dba SunTree,  
and DOES 1 through 50, inclusive,

Defendants.

Case No.: **20STCV38201**

**CLASS ACTION COMPLAINT FOR:**

- (1) Violation of the Consumer Legal Remedies Act, Cal. Civ. Code §§1750. *et seq.*
- (2) False Advertising (Cal. Bus. & Prof. Code §§17500, *et seq.*)
- (3) Fraudulent Business Practices (Cal. Bus. & Prof. Code §§17200, *et seq.*)
- (4) Unfair Advertising (Cal. Bus. & Prof. Code §§17200, *et seq.*)
- (5) Unlawful Business Practices (Cal. Bus. & Prof. Code §§17200, *et seq.*)

**DEMAND FOR JURY TRIAL**

BY FAX

10/06/2020

1 Plaintiff Alexander Leon, on behalf of himself and all others similarly situated, asserts this  
2 class action against Mishima Foods USA, Inc. (referred to herein as “Defendant” or “Mishima”), and  
3 alleges as follows:

4 **I. INTRODUCTION**

5 1. Mishima imports and distributes various food products, including its Mishima branded  
6 “Wasabi Green Peas.” On the front and top of each of the Wasabi Green Peas Product, Defendant  
7 describes the product as “Wasabi Green Peas,” suggesting to reasonable consumers that the product is  
8 comprised Wasabi covered peas. Similarly, its Nutrition Facts panel states that Defendant’s Wasabi  
9 Green Peas includes “Wasabi Powder” as an ingredient. Accordingly, a reasonable consumer would  
10 understand that Defendant’s Wasabi Green Peas contained Wasabi as its primary flavorant. This is  
11 simply not true.

12 2. Defendant’s Wasabi Green Peas actually contain no wasabi. Instead, the principle  
13 flavorant in Defendant’s Wasabi Green Peas is mustard. Accordingly, the Wasabi Green Peas are  
14 demonstrably not “Wasabi Green Peas.” Instead, this product is nothing more than mustard flavored  
15 peas and food coloring to mimic Wasabi coloring. Such false labeling is unlawful for the reasons  
16 alleged herein and injures unsuspecting consumers who purchase Defendant’s Wasabi Green Peas  
17 based on their labeling claims.

18 3. Plaintiff Alexander Leon, individually and on behalf of all others similarly situated,  
19 seeks to recover damages and restitution for Defendant’s unlawful and deceptive labeling under: (1)  
20 the California Consumer Remedies Act, CAL. CIV. CODE §§ 1750, *et seq.*, (2) California Business and  
21 Professions Code, Unfair or Unlawful Business Practices, CAL. BUS. & PROF. CODE §§ 17200, *et seq.*;  
22 and (3) California’s False Advertising Law, CAL. BUS. & PROF. CODE § 17500. Plaintiff also seeks  
23 public injunctive relief to ensure that Defendant removes any and all false or misleading labels and to  
24 prevent them from making similar representations in the future.

25 **II. JURISDICTION**

26 4. This Court has jurisdiction over this action pursuant to Article 6, section 10 of the  
27 California Constitution, California Business & Professions Code, section 17203, Civil Code, section  
28 1780(d) and Code of Civil Procedure, sections 382 and 410.10.

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1           5.       This Court has jurisdiction over Defendant because it is registered to conduct, and does  
2 conduct, substantial business within California.

3           6.       Venue is proper in this Court pursuant to Code of Civil Procedure, section 395, because  
4 Plaintiff contracted with the Defendant and a substantial or significant portion of the conduct  
5 complained of herein occurred and continues to occur within this County.

6       **III.   PARTIES**

7           7.       Plaintiff Alexander Leon is a resident of San Diego County, California, and a citizen  
8 of California. Plaintiff Alexander Leon has purchased several of Defendant's Wasabi Green Peas in  
9 the past four years in San Diego, California.

10          8.       Defendant Mishima Foods USA, Inc. is a California Corporation with its headquarters  
11 in Torrance, California. Defendant Mishima Foods USA, Inc. imports, labels, markets, advertises,  
12 distributes, and sells the Wasabi Green Peas products throughout the United States, including  
13 California. The labeling and advertising for Mishima's Wasabi Green Peas products, sold and  
14 distributed nationwide, are and were created, controlled and distributed by management located at  
15 Defendant's Torrance, California headquarters.

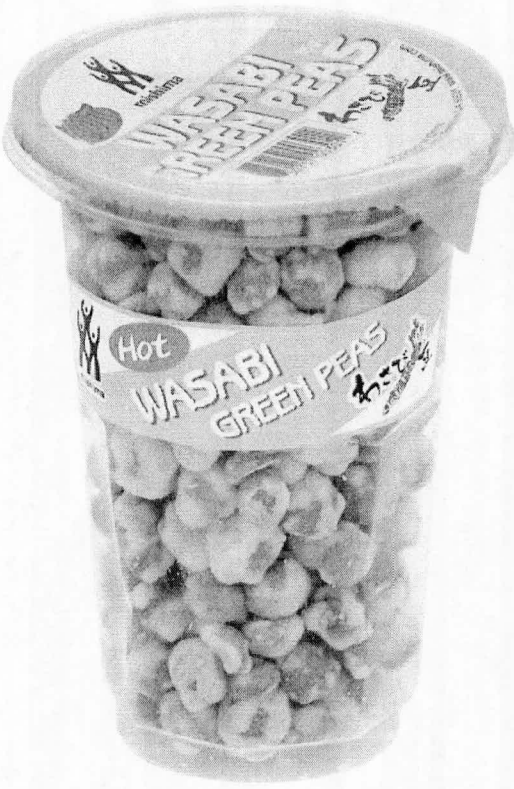
16          9.       Plaintiff does not know the true names of defendants DOES 1 through 50 inclusive,  
17 and therefore sues them by those fictitious names. Plaintiff is informed and believes, and on the basis  
18 of that information and belief, alleges, that each of the doe defendants are in some manner proximately  
19 responsible for the events and happenings alleged in this complaint and for Plaintiff's injuries,  
20 damages, restitution and equitable remedies prayed for herein.

21       **IV.   SUBSTANTIVE ALLEGATIONS**

22          10.       Defendant prominently displays, on the front and top of its Mishima branded Wasabi  
23 Green Peas products, that such products contain Wasabi. This "wasabi" representation is made on the  
24 principle panels of the Mishima branded Wasabi Green Peas products, both at the top and side of the  
25 product's label, and is the largest representation that Defendant makes on the product.

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11. Additionally, Defendant lists “Wasabi Powder” as an ingredient on the Wasabi Green Peas product’s Nutrition Facts panel. Wasabi Powder is listed as constituting “Wasabi Essence (Mustard)” and “Maltodextrin.” Listing Wasabi Powder and Wasabi Essence as ingredients in the Wasabi Green Peas only reinforces the perception that products contain Wasabi.

12. A reasonable consumer would comprehend the “Wasabi” references on Defendant’s Wasabi Green Peas products in accordance with the term’s ordinary, common understanding: the product contains some appreciable amount of Wasabi, which provides the product with its flavor. Despite representing that the Wasabi Green Peas contain and are flavored by Wasabi, Defendant’s products do not contain any Wasabi. Instead, in the Wasabi Green Peas contain mustard as its principle flavorant.

13. Wasabi, more specifically known as *Wasabia japonica*, is a prized plant which has been used as the basis for food condiments and flavoring that is used in Japanese food products. Wasabi is deemed by most experts to be the most difficult plant in the world to commercially grow because it can only be cultivated in small areas in Japan. Because Wasabi is hard to produce, which makes it

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1 rare, Wasabi is relatively expensive. At prices exceeding, \$150 per pound, Wasabi is sought after by  
2 consumers as a premium food ingredient.

3 14. Accordingly, the importance of the “Wasabi” representation is plain. Real estate on a  
4 product’s label is limited, therefore food manufacturers are unlikely to devote sufficient and prominent  
5 labeling space to ineffective marketing claims. Defendant uses labeling claims in the same role as any  
6 other manufacturer of consumer products, to differentiate the Mishima branded Wasabi Green Peas  
7 products from the competition. Thus, the importance of labeling claims cannot be disputed. The  
8 California Supreme Court summarized what many years of marketing research have demonstrated:  
9 “Simply stated: labels matter.” *Kwikset Corp. v. Superior Court* (2011) 51 Cal.4th 310, 328.

10 15. Thus, the representation that a product contains “Wasabi” is material to the reasonable  
11 consumer, factoring into a consumer’s decision to purchase the product and the amount he or she is  
12 willing to pay. Indeed, Plaintiff would not have purchased the Mishima branded Wasabi Green Peas  
13 products had he known that such products does not contain Wasabi or, alternatively, would have paid  
14 less.

15 16. Defendant should have known that such advertisements were false and misleading and,  
16 therefore, prohibited by law. The Federal Food, Drug, and Cosmetic Act (“FDCA”), passed by  
17 Congress in 1938, grants the Food and Drug Administration (“FDA”) power to ensure “foods are safe,  
18 wholesome, sanitary, and properly labeled.” 21 U.S.C. § 393(b)(2). In 1990, Congress amended the  
19 FDCA with the Nutrition Labeling and Education Act (“NLEA”), which sought to clarify and to  
20 strengthen the FDA’s legal authority to require nutrition labeling on foods, and to establish the  
21 circumstances under which claims may be made about nutrients in foods. 21 U.S.C. §§ 343, *et seq.*  
22 The above laws, and all regulations enacted pursuant thereto, are incorporated into California law.  
23 HEALTH & SAF. CODE § 110100.

24 17. Federal Regulations, enacted by the FDA pursuant to the FDCA and NLEA, speak  
25 directly to the misleading nature of this sort of labeling practice. 21 C.F.R. § 101.18(b) states:

26 The labeling of a food which contains two or more ingredients may be misleading by  
27 reason (among other reasons) of the designation of such food in such labeling by a  
28 name which includes or suggests the name of one or more but not all such ingredients,  
even though the names of all such ingredients are stated elsewhere in the labeling.

1 In violation of 21 C.F.R. § 101.18(b), Defendant names their product “Wasabi Green Peas” when they  
2 do not contain Wasabi, but are flavored by mustard.

3 18. Furthermore, Defendant should not label its Mishima branded Wasabi Green Peas  
4 products as containing “Wasabi Powder” or “Wasabi Essence (Mustard)” in the product’s ingredient  
5 list. 21 C.F.R. § 101.4 requires that ingredients in food products must be declared by their common  
6 or usual name. “Wasabi Powder” commonly refers to a dried form of the Wasabia Japonica plant,  
7 which may be mixed with other favors. Wasabi Powder is not a combination of mustard (a condiment  
8 made from the seeds of a mustard plant) and maltodextrin (a vegetable starch derived food additive  
9 used as a filler and thickener).

10 19. Similarly, “Wasabi Essence” is not a common term for any food ingredient. But, in  
11 food products, “essences” are a general term used to describe a flavorant derived from the underlying  
12 ingredient. For example, fruit essence is created by mixing fruit with alcohol, to create an ingredient  
13 that invokes the flavor of that fruit.

14 20. Here, Defendant uses ingredients labeled as “Wasabi Powder” and “Wasabi Essence”  
15 that contains no Wasabi, but only mustard. Instead, mustard should be listed by its common name,  
16 mustard.

17 **V. CLASS ACTION ALLEGATIONS**

18 21. Plaintiff brings this action as a class action pursuant to California Code of Civil  
19 Procedure, section 382 and 178,1 for the following “Class” of persons:

20 All persons, from April 6, 2016 to the date of class certification, who purchased  
21 Defendant’s Wasabi Green Peas products in California for personal, family or  
household use.

22 Excluded from the Class are all legal entities (any purchasers whom, according to Defendant’s records,  
23 identified themselves as affiliated with a company or other legal entity at checkout), Defendant herein  
24 and any person, firm, trust, corporation, or other entity related to or affiliated with Defendant, any  
25 entities that purchased the Class Products for resale, as well as any judge, justice or judicial officer  
26 presiding over this matter and members of their immediate families and judicial staff.

27 22. Plaintiff reserves the right to amend the Class definition if further investigation and  
28 discovery indicates that the Class definition should be narrowed, expanded, or otherwise modified.

1           23. While the exact number of Class members is unknown to Plaintiff at this time, and will  
2 be ascertained through appropriate discovery, Plaintiff is informed and believes that there are tens of  
3 thousands of members in the proposed Class. The number of individuals who comprise the Class is  
4 so numerous that joinder of all such persons is impracticable and the disposition of their claims in a  
5 class action, rather than in individual actions, will benefit both the parties and the courts.

6           24. Plaintiff's claims are typical of the claims of the other members of the Class. All  
7 members of the Class have been and/or continue to be similarly affected by Defendant's wrongful  
8 conduct as complained of herein, in violation of federal and state law. Plaintiff is unaware of any  
9 interests that conflict with or are antagonistic to the interests of the Class.

10           25. Plaintiff will fairly and adequately protect the Class members' interests and have  
11 retained counsel competent and experienced in consumer class action lawsuits and complex litigation.  
12 Plaintiff and their counsel have the necessary financial resources to adequately and vigorously litigate  
13 this class action, and Plaintiff is aware of their duties and responsibilities to the Class.

14           26. Defendant has acted with respect to the Class in a manner generally applicable to each  
15 Class member. Common questions of law and fact exist as to all Class members and predominate  
16 over any questions wholly affecting individual Class members and make injunctive relief proper.  
17 There is a well-defined community of interest in the questions of law and fact involved in the action,  
18 which affect all Class members. Among the questions of law and fact common to the Class are, *inter*  
19 *alia*:

20           (a) Whether Defendant's Wasabi Green Peas products contain Wasabi, which  
21 would support representations made on the products' labels;

22           (b) Whether Defendant labels, markets and otherwise advertises its Wasabi Green  
23 Peas products in a deceptive, false, or misleading manner by labeling the product as containing  
24 Wasabi, when they do not;

25           (c) Whether Defendant's Wasabi Green Peas are misbranded by including the term  
26 "Wasabi" on each of the Products' labels, when they do not contain Wasabi;

27           (d) Whether Defendant's sale of their Wasabi Green Peas constitutes unfair method  
28 of competition and deceptive practice in violation of, *inter alia*, California Civil Code, section

1 1750 *et seq.*, including:

2 (i) Whether Defendant misrepresents the source, sponsorship,  
3 approval, or certification of their Wasabi Green Peas;

4 (ii) Whether Defendant misrepresents that its Wasabi Green Peas  
5 have benefits which they do not have;

6 (iii) Whether Defendant represents that its Wasabi Green Peas are of  
7 a particular standard or quality if it is of another; and

8 (iv) Whether Defendant advertises its Wasabi Green Peas with intent  
9 not to sell them as advertised.

10 (e) Whether Defendant's business practices, alleged herein, constitutes misleading  
11 and deceptive advertising under, *inter alia*, the False Advertising Law, CAL. BUS. & PROF.  
12 CODE §§ 17500.

13 (f) Whether Defendant's business practices, alleged herein, constitutes "unlawful,"  
14 "unfair," or "fraudulent" business acts or practices under, *inter alia*, the Unlawful Competition  
15 Law, CAL. BUS. & PROF. CODE §§ 17200, including:

16 (i) Whether Defendant's sale of its Wasabi Green Peas constitutes  
17 "unlawful" or "unfair" business practices by violating the public policies set out in the  
18 FDCA, CAL. CIV. CODE §§ 1770 *et seq.*, CAL. BUS. & PROF. CODE § 17500 and other  
19 California and federal statutes and regulations;

20 (ii) Whether Defendant's sale of its Wasabi Green Peas is immoral,  
21 unethical, oppressive, unscrupulous or substantially injurious to consumers;

22 (iii) Whether Defendant's sale of its Wasabi Green Peas constitutes an  
23 "unfair" business practice because consumer injury outweighs any countervailing  
24 benefits to consumers or competition, and because such injury could not be reasonably  
25 avoided by consumers; and

26 (iv) Whether Defendant's sale of its Wasabi Green Peas constitutes a  
27 "fraudulent" business practice because members of the public are likely to be deceived;

28 (g) The nature and extent of remedies, including restitution, damages, and

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1 declaratory and injunctive relief to which Plaintiff and the Class are entitled; and

2 (h) Whether Plaintiff and the Class should be awarded attorneys' fees and the costs  
3 of suit for Defendant's violations of the UCL, FAL, and CLRA.

4 27. A class action is superior to all other available methods for the fair and efficient  
5 adjudication of this controversy since joinder of all members is impracticable. Furthermore, as the  
6 damages suffered by individual Class members may be relatively small, the expense and burden of  
7 individual litigation make it virtually impossible for Class members to individually redress the wrongs  
8 done to them. There will be no difficulty in managing this action as a class action.

9 28. Defendant has acted on grounds generally applicable to the entire Class with respect to  
10 the matters complained of herein, thereby making appropriate the relief sought herein with respect to  
11 the Class as a whole.

12 **FIRST COUNT**

13 **Violation of Cal. Bus. & Prof. Code § 17500 -**  
14 **Untrue, Misleading and Deceptive Advertising**  
**(On Behalf of the Class)**

15 29. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
16 paragraphs of this Complaint.

17 30. At all material times, Defendant engaged in a scheme of offering its Wasabi Green Peas  
18 for sale to Plaintiff, and other members of the Class, by way of commercial marketing, and advertising,  
19 internet publication, product packaging and labeling, and other promotional materials.

20 31. These materials, advertisements, and other inducements misrepresented and/or omitted  
21 the true contents and benefits of Defendant's Wasabi Green Peas as alleged herein. Said materials,  
22 advertisements and other inducements were controlled and emanated from Defendant's headquarters,  
23 located the State of California. Such advertisements and inducements appear on the labels of  
24 Defendant's Wasabi Green Peas which are designed and controlled from Defendant's California  
25 headquarters.

26 32. Defendant's advertisements and other inducements come within the definition of  
27 advertising as contained in Cal. Bus. Prof. Code § 17500, in that such promotional materials were  
28 intended as inducements to purchase Defendant's Wasabi Green Peas and are statements disseminated

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1 by Defendant, who is located in California, to Plaintiff and other members of the Class.

2 33. A reasonable consumer would be misled by Defendant's packaging. Defendant labels  
3 its Wasabi Green Peas products as containing Wasabi, when they do not. Additionally, the presence  
4 of Wasabi in a prized and expensive ingredient, such as Wasabi, in a good product is material to a  
5 reasonable consumer. Indeed, in this case, Plaintiff and members of the Class specifically purchases  
6 Wasabi Green Peas for their Wasabi flavor.

7 34. Defendant knew, or in the exercise of reasonable care should have known, that the  
8 statements regarding its Wasabi Green Peas' Wasabi content were false, misleading and/or deceptive.

9 35. Consumers, including Plaintiff and members of the Class, necessarily and reasonably  
10 relied on Defendant's statements regarding the contents of its products. Consumers, including Plaintiff  
11 and members of the Class, were among the intended targets of such representations.

12 36. The above acts of Defendant, in disseminating said misleading and deceptive  
13 statements throughout the State of California and nationwide to consumers, including Plaintiff and  
14 members of the Class, were and are likely to deceive reasonable consumers by obfuscating the true  
15 nature and amount of the ingredients in Defendant's Wasabi Green Peas, and thus were violations of  
16 Cal. Bus. Prof. Code § 17500.

17 37. Plaintiff and Class members were harmed and suffered injury as a result of Defendant's  
18 violations of the Cal. Bus. Prof. Code § 17500. Accordingly, Plaintiff and members of the Class seek  
19 injunctive relief prohibiting Defendant from continuing these wrongful practices, and such other  
20 equitable relief, including full restitution of all improper revenues derived from Defendant's wrongful  
21 conduct to the fullest extent permitted by law.

22 **SECOND COUNT**

23 **Violation of Cal. Civ. Code §§ 1750, *et seq.*-**  
24 **Misrepresentation of a Product's standard, quality,**  
25 **sponsorship, approval, and/or certification**  
26 **(On Behalf of the Class)**

27 38. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
28 paragraphs of this Complaint.

39. Defendant's Wasabi Green Peas are a "good" as defined by California Civil Code

1 §1761(a).

2 40. Defendant is a "person" as defined by California Civil Code §1761(c).

3 41. Plaintiff and Class members are "consumers" within the meaning of California Civil  
4 Code §1761(d) because they purchased their Wasabi Green Peas for personal, family or household  
5 use.

6 42. The sale of Defendant's Wasabi Green Peas to Plaintiff and Class members is a  
7 "transaction" as defined by California Civil Code §1761(e).

8 43. By labeling its Wasabi Green Peas as containing "Wasabi" when in fact these Products  
9 do not, Defendant violated California Civil Code §§ 1770(a)(2), (5), (7) and (9), as it misrepresented  
10 the standard, quality, sponsorship, approval, and/or certification of its Wasabi Green Peas.

11 44. As a result of Defendant's conduct, Plaintiff and Class members were harmed and  
12 suffered actual damages as a result of Defendant's unfair competition and deceptive acts and practices.  
13 Had Defendant disclosed the true nature and/or not falsely represented its Wasabi Green Peas'  
14 contents, Plaintiff and the Class would not have been misled into purchasing Defendant's Wasabi  
15 Green Peas, or, alternatively, would have paid significantly less for them. Accordingly, Defendant's  
16 Wasabi are material to reasonable consumers.

17 45. Plaintiff, on behalf of himself and all other similarly situated California consumers, and  
18 as appropriate, on behalf of the general public of the state of California, seeks injunctive relief  
19 prohibiting Defendant continuing these unlawful practices pursuant to California Civil Code §  
20 1782(a)(2).

21 46. Plaintiff provided Defendant with notice of its alleged violations of the CLRA pursuant  
22 to California Civil Code § 1782(a) *via* certified mail, demanding that Defendant correct such  
23 violations.

24 47. If Defendant's fail to respond to Plaintiff's CLRA notice within 30 days, Plaintiff may  
25 amend this Complaint to seek all available damages under the CLRA for all violations complained of  
26 herein, including, but not limited to, statutory damages, punitive damages, attorney's fees and cost and  
27 any other relief that the Court deems proper.  
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**THIRD COUNT**

**Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* -  
Unlawful Business Acts and Practices  
(On Behalf of the Class)**

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4 48. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
5 paragraphs of this Complaint.

6 49. The Sherman Law, HEALTH & SAF. CODE §§ 109875 *et seq.*, broadly prohibits the  
7 misbranding of any food products. The Sherman Law provides that food is misbranded “if its labeling  
8 is false or misleading in any particular.” HEALTH & SAF. CODE § 110660.

9 50. Defendant is a person within the meaning of HEALTH & SAF. CODE § 109995.

10 51. Additionally, California has adopted as its own, and as the Sherman Law expressly  
11 incorporates, “[a]ll food labeling regulations and any amendments to those regulations adopted  
12 pursuant to the federal act, in effect on January 1, 1993, or adopted on or after that date” as “the food  
13 labeling regulations of this state.” Federal statutes and regulations, including, but not limited to, 21  
14 U.S.C. §§ 321, 343 and 21 C.F.R. §§ 101.4, 101.18, prohibit the mislabeling and misbranding of food  
15 products.

16 52. Federal statutes and regulations prohibit misleading consumers by misrepresenting a  
17 product’s ingredients and including the inclusion of references to “Wasabi” on each Wasabi Green  
18 Peas’ labels. The FDA has long held that Defendant’s actions are unlawful, and enacted regulations  
19 to combat such false product labeling.

20 53. The California Civil Code § 1770(a)(2), (5), (7) and (9) and Business and Professional  
21 Code § 17500 also prohibits mislabeling food misrepresenting the standard, quality, sponsorship,  
22 approval, and/or certification of food products, as noted in above.

23 54. The business practices alleged above are unlawful under Business and Professional  
24 Code § 17500, California Civil Code §§ 1770(a)(2), (5), (7) and (9), the FDCA, and the Sherman Law,  
25 each of which forbids the untrue, fraudulent, deceptive, and/or misleading marketing, advertisement,  
26 packaging and labelling of food and beverage products.

27 55. As a result of Defendant’s above unlawful, unfair and fraudulent acts and practices,  
28 Plaintiff, on behalf of himself and all others similarly situated, and as appropriate, on behalf of the

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1 general public, seeks injunctive relief prohibiting Defendant from continuing these wrongful practices,  
2 and such other equitable relief, including full restitution of all improper revenues and ill-gotten profits  
3 derived from Defendant's wrongful conduct to the fullest extent permitted by law.

4 **FOURTH COUNT**

5 **Violation of Cal. Bus. & Prof. Code §§ 17200, *et seq.* -**  
6 **Unfair Business Acts and Practices**  
7 **(On Behalf of the Class)**

8 56. Plaintiff hereby incorporates by reference the allegations contained in the preceding  
9 paragraphs of this Complaint.

10 57. Plaintiff and other members of the Class who purchased Defendant's Wasabi Green  
11 Peas suffered a substantial injury by virtue of buying a product that misrepresented and/or omitted the  
12 true contents of the product. Had Plaintiff and members of the Class known that Defendant's  
13 materials, advertisement and other inducements misrepresented and/or omitted the true contents and  
14 benefits of its Wasabi Green Peas product, they would not have purchased said products.

15 58. Defendant's actions alleged herein violate the laws and public policies of California  
16 and the federal government, as set out in preceding paragraphs of this Complaint.

17 59. There is no benefit to consumers or competition by allowing Defendant to deceptively  
18 market, advertise, package and label its Wasabi Green Peas in violation of the law.

19 60. The above acts of Defendant, in disseminating said misleading and deceptive  
20 statements throughout the State of California and nation-wide to consumers, including Plaintiff and  
21 members of the Class, were and are likely to deceive reasonable consumers by obfuscating the true  
22 nature and amount of the ingredients in Defendant's Wasabi Green Peas, and thus were violations of  
23 Cal. Bus. Prof. Code §§ 17200, *et seq.*

24 61. The gravity of the harm suffered by Plaintiff and Class members who purchased  
25 Defendant's Wasabi Green Peas outweighs any legitimate justification, motive or reason for  
26 marketing, advertising, packaging and labeling the Wasabi Green Peas in a deceptive and misleading  
27 manner. Accordingly, Defendant's actions are immoral, unethical, unscrupulous and offend the  
28 established public policies as set out in federal regulations and is substantially injurious to Plaintiff  
and members of the Class.

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1 reasonable consumer. Indeed, in this case, Plaintiff and members of the Class specifically purchases  
2 Wasabi Green Peas for their Wasabi flavor.

3 69. As a result of Defendant's above unlawful, unfair and fraudulent acts and practices,  
4 Plaintiff, on behalf of themselves and all others similarly situated, and as appropriate, on behalf of the  
5 general public, seeks injunctive relief prohibiting Defendant from continuing these wrongful practices,  
6 and such other equitable relief, including full restitution of all improper revenues and ill-gotten profits  
7 derived from Defendant's wrongful conduct to the fullest extent permitted by law.

8 **VI. PRAY FOR RELIEF**

9 WHEREFORE, Plaintiff and the Class pray for relief and judgment as follows:

10 A. For an order declaring that this action is properly maintained as a class action and  
11 appointing Plaintiff as representative for the Class, and appointing Plaintiff's counsel as Class counsel;

12 B. For an order enjoining Defendant from continuing to engage in the unlawful and unfair  
13 business acts and practices as alleged herein;

14 C. For an order directing Defendant to make corrective notices on its website and in other  
15 appropriate publications.

16 D. For an award of restitution and damages, including punitive damages, resulting from  
17 Defendant's unlawful advertising;

18 E. For an order awarding attorneys' fees and costs of suit, including expert witness fees,  
19 as permitted by law; and

20 F. Such other and further relief as this Court may deem just and proper.

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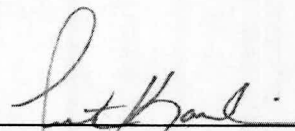
**JURY TRIAL**

Plaintiff demands a trial by jury for all of the claims asserted in this Complaint so triable.

Respectfully submitted,

SOMMERS SCHWARTZ P.C.

Dated: October 2, 2020

By:  Trenton R. Kashima, Esq.

*Attorney for Plaintiff and the Class*

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