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8 Attorneys for Plaintiff LIZETTE FISHER, an Individual on behalf of herself and all others similarly
situated and the general public
9

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

11 **COUNTY OF SAN DIEGO**

12
13 LIZETTE FISHER, an Individual on)
behalf of herself and all others similarly)
14 situated and the general public,)

CASE NO.: 37-2023-00037152-CU-BT-CTL

(Proposed) CLASS ACTION COMPLAINT

15 Plaintiffs,)

1. VIOLATION OF CALIFORNIA
BUSINESS & PROFESSIONS CODE
§17500, et seq., and

16 v.)

17)
18 INTERNATIONAL COFFEE & TEA,)
LLC, a Limited Liability Company with a)
19 principal place of business in California,)
and DOES 1-100, inclusive)
20)

2. VIOLATION OF CALIFORNIA
BUSINESS & PROFESSIONS CODE
§17200, et seq.

21 Defendants)
22)
23)
24)
25)
26)
27)
28)

1 COMES NOW Plaintiff, LIZETTE FISHER, an Individual on behalf of herself and all others
2 similarly situated and the general public, and hereby alleges as follows:

3 Plaintiff LIZETTE FISHER (“Plaintiff”) brings this action on behalf of herself and all others
4 similarly situated against Defendant INTERNATIONAL COFFEE & TEA, LLC (hereinafter
5 “Defendant,” or “ICT”). The allegations in this Complaint, stated on information and belief, have
6 evidentiary support, or are likely to have evidentiary support after a reasonable opportunity for
7 further investigation and discovery.
8

9 **NATURE OF THE ACTION**

10 1. Plaintiff files this class action lawsuit on behalf of herself and all similarly situated
11 persons who are citizens of California, and purchased Defendants products (that are branded,
12 manufactured, distributed, marketed and/or sold by Defendants) in the state of California.
13

14 2. This matter involves “Corporate Greenwashing,” and alleges several separate
15 misrepresentations, each of which are meant to mislead the public (including the Plaintiff) to believe
16 that the Defendants manufacture and/or supply process actually benefits, or does not harm, the
17 environment and ecosystem(s). For example, Defendants labeling directly advertise that they employ
18 “Sustainability” practices. Specifically, Defendants labeling advertise as follows: **“Coffee Bean and
19 Tea Leaf is proud of its commitment to quality and sustainability.”** (Please see Exhibit A).
20

21 3. As a *second* example, Defendants advertise “As native Californians, **we have always**
22 **cared deeply about** conservation and **sustainability**. As an organization, we have implemented
23 many practices to reduce waste and contribute to a healthier, happier world. **We believe**
24 **sustainability is a chance for all of us to make better daily choices....**” Further, “For us,
25 **practicing sustainability** isn’t just good business - it’s the right thing to do.” (Please see Exhibit
26 **B**).
27
28

1 representations, and that were manufactured in a custom and manner in which Defendants would
2 sustain (*i.e.* to maintain at the current level, and/or not adversely impact) the forests, environment
3 and ecosystem, and would not harm or adversely affect its neighbors and/or community. Further,
4 Plaintiff believed she was purchasing goods and/or products from entities that were fully-compliant
5 with California law. Plaintiff would not have continued to purchase the products, or would have
6 purchased them but at a lesser price, absent the misleading statements and misrepresentations made
7 by Defendants. Please see specific examples of Defendants' false, untrue and misleading
8 representations, below.
9

10 **The "Sustainability" Claims**

11
12 19. Defendants display claims that they employ "sustainability" directly on their labeling
13 and packaging, on its website, and within its marketing tools and devices. (Please see **Exhibit A -**
14 **B**).

15
16 20. Defendants also advertise "**As native Californians, we have always cared deeply**
17 **about** conservation and **sustainability**. As an organization, we have implemented many practices
18 to reduce waste and contribute to a healthier, happier world. **We believe sustainability is a chance**
19 **for all of us to make better daily choices....**" Further, "For us, practicing sustainability isn't just
20 good business - it's the right thing to do." (Please see **Exhibit B**).

21
22 21. In actuality, the Defendants products are not "Sustainable," and actually cause harm
23 to the environment and ecosystems.

24 **The "Protecting Our Growers" Claims**

25
26 22. Defendants labeling directly advertises as follows: "We nurture long lasting
27 relationships with our growers. We support their Earth-friendly growing practices and social
28 responsibility standards, particularly the conscientious way they treat their workers and families."

1 Further, Defendants falsely allege each of their coffee suppliers is a “family-owned farm.” (Please
2 see **Exhibit C**).

3
4 23. In actuality, the products, growers, and goods are causing severe harm to the planet,
5 the environment and ecosystems, and to Defendants neighbors and communities.

6 **PRIVATE ATTORNEYS GENERAL ALLEGATIONS**

7 24. In addition to asserting class claims, Plaintiffs assert claims on behalf of class
8 members pursuant to California Business & Professions Code § 17200, et seq. The purpose of such
9 claims is to obtain injunctive orders regarding the false labeling, deceptive marketing and consistent
10 pattern and practice of falsely promoting natural claims and the disgorgement of all profits and/or
11 restoration of monies wrongfully obtained through the Defendants’ pattern of unfair and deceptive
12 business practices as alleged herein. This private attorneys general action is necessary and
13 appropriate because Defendants have engaged in wrongful acts described herein as part of the regular
14 practice of its business.
15

16 **CLASS ACTION ALLEGATIONS**

17
18 25. Plaintiff brings this action on her own behalf and on behalf of all other persons
19 similarly situated pursuant to California law.

20 All persons who are citizens of the State of California and who purchased
21 Defendants goods/products in the state of California, during the time period
22 from August 29, 2019 to the date of Certification by the Court (the “Class”).

23 Excluded from the Class are Defendants, as well as their officers, employees, agents or
24 affiliates, and any judge who presides over this action, as well as all past and present employees,
25 officers and directors of Defendants. Plaintiff reserves the right to expand, limit, modify, or amend
26 this class definition, including the addition of one or more subclasses, in connection with her motion
27 for class certification, or at any other time, based upon, *inter alia*, changing circumstances and/or
28 new facts obtained during discovery.

1 26. The Class is made up of thousands of persons throughout California, the joinder of
2 whom is impracticable, and the disposition of their claims in a Class Action will benefit the parties
3 and the Court. The Class is sufficiently numerous because, based on information and belief,
4 thousands to hundreds of thousands of units of the Products have been sold in the state of California
5 during the time period from August 29, 2019 to the date of Certification by the Court (the “Class
6 Period”).
7

8 27. There is a well-defined community of interest in this litigation and the Class is easily
9 ascertainable:

10 a. Numerosity: The members of the Class are so numerous that any form of joinder
11 of all members would be unfeasible and impractical. On information and belief,
12 Plaintiff believes the size of the Class exceeds One Hundred Thousand (100,000)
13 members.
14

15 b. Typicality: Plaintiff is qualified to and will fairly and adequately protects the
16 interests of each member of the Class with whom she has a well-defined community
17 of interest and the claims (or defenses, if any), are typical of all members of the
18 Class.
19

20 c. Adequacy: Plaintiff does not have a conflict with the Class and is qualified to
21 and will fairly and adequately protect the interests of each member of the Class with
22 whom she has a well-defined community of interest and typicality of claims. Plaintiff
23 acknowledges that she has an obligation to the Court to make known any
24 relationship, conflict, or difference with any putative class member. Plaintiff’s
25 attorneys and proposed class counsel are well versed in the rules governing class
26 action and complex litigation regarding discovery, certification, and settlement, and
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have been previously designated, by California state courts, as “Class Counsel” on at least 80 prior occasions.

d. Superiority: The nature of this action makes the use of class action adjudication superior to other methods. Class action will achieve economies of time, effort, and expense as compared with separate lawsuits, and will avoid inconsistent outcomes because the same issues can be adjudicated in the same manner and at the same time for the entire class.

28. Common questions of law and fact exist, that predominate over questions that may affect individual class members. Common questions of law and fact include, but are not limited to, the following:

- a. Whether Defendants’ conduct is a fraudulent business act or practice within the meaning of Business and Professions Code section 17200, et seq.;
- b. Whether Defendants’ advertising is untrue or misleading within the meaning of Business and Professions Code section 17500, et seq.;
- c. Whether Defendants made false and misleading representations in the advertising and/or packaging of the products;
- d. Whether Defendants knew or should have known that the “sustainability” claims and representations were false;
- e. Whether Defendants represented that their products have characteristics, benefits, uses, or quantities which they do not have;
- f. Whether Defendants’ representations regarding their products are false;
- g. Whether Defendants warranted the health and wellness of their products by virtue of their claims;
- h. Whether the Defendants breached warranties regarding their products;

- 1 i. Whether the Defendants committed statutory and common law fraud; and
- 2 j. Whether Defendants' conduct as alleged herein constitutes an unfair and/or
- 3 unlawful business act or practice within the meaning of Business and
- 4 Professions Code section 17200, et seq.

5
6 29. Plaintiff's claims are typical of the claims of the Class, and Plaintiff will fairly and
7 adequately represent and protect the interests of the Class. Plaintiff has retained competent and
8 experienced counsel in class action and other complex litigation.

9
10 30. Plaintiff and the Class have suffered injury in fact, and have lost money, as a result
11 of Defendants' misrepresentations. Plaintiff purchased Defendants products under the belief that they
12 were made employing "sustainability." Plaintiff relied on Defendants' labeling, marketing and
13 website and would not have purchased the products or paid a premium for them if she had known
14 that they did not have the characteristics, benefits, or qualities as represented vis-à-vis the claims.

15
16 31. The Defendants' misrepresentations regarding the Claims were material insofar as
17 consumers relate to "environmentally friendly," and "sustainability" practices, and tend to be willing
18 to pay a price premium for foods that employ such policies and/or practices. The Defendants are
19 aware of consumer preference for such products, and have implemented a strategic false advertising
20 and marketing campaign intended to deceive consumers into thinking that they employ such policies
21 and practices.

22
23 32. A class action is superior to other available methods for fair and efficient adjudication
24 of this controversy. The expense and burden of individual litigation would make it impracticable or
25 impossible for class members to prosecute their claims individually.

26
27 33. The trial and litigation of Plaintiff's claims are manageable. Individual litigation of
28 the legal and factual issues raised by Defendants' conduct would increase delay and expense to all
parties and the court system. The class action device presents far fewer management difficulties and

1 provides the benefits of a single, uniform adjudication, economies of scale, and comprehensive
2 supervision by a single court.

3
4 34. Defendants have acted on grounds generally applicable to the Class as a whole,
5 thereby making final injunctive relief and/or corresponding declaratory relief appropriate with
6 respect to the Class as a whole. The prosecution of separate actions by individual class members
7 would create the risk of inconsistent or varying adjudications with respect to individual members of
8 the Class that would establish incompatible standards of conduct for the Defendants.

9
10 35. Absent a class action, Defendants are likely to retain the benefits of their wrongdoing.
11 Because of the small size of the individual class members' claims, few, if any, class members could
12 afford to seek legal redress for the wrongs complained of herein. Absent a representative action, the
13 class members will continue to suffer losses and Defendants will be allowed to continue these
14 violations of law and to retain the proceeds of their ill-gotten gains.

15
16 36. Were it not for this class action, most class members would find the cost associated
17 with litigating claims extremely prohibitive, which would result in no remedy.

18
19 37. This class action would serve to preserve judicial resources, the respective parties'
20 resources, and present fewer issues with the overall management of claims, while at the same time
21 ensuring a consistent result as to each class member.

22 **FIRST CAUSE OF ACTION**

23 **Violations of California Business & Professions Code §§17500, et seq.
By Plaintiff and the Proposed Class against Defendants**

24 38. Plaintiff hereby incorporates by reference the allegations contained in all preceding
25 paragraphs of this complaint.

26 39. Pursuant to Cal. Bus. & Prof. Code §§ 17500, et seq., it is "unlawful for any person
27 to make or disseminate or cause to be made or disseminated before the public in this state, ... in any
28 advertising device ... or in any other manner or means whatever, including over the Internet, any

1 statement, concerning ... personal property or services, professional or otherwise, or performance or
2 disposition thereof, which is untrue or misleading and which is known, or which by the exercise of
3 reasonable care should be known, to be untrue or misleading.”

4
5 40. Defendants committed acts of false advertising, as defined by §17500, by making the
6 claims regarding the products because those claims are untrue and/or misleading.

7 41. Because the Defendants have been made aware of the lack of a “sustainable” aspect
8 to its practices, Defendants knew or should have known through the exercise of reasonable care, that
9 the practices, and statements, were false, untrue and misleading to Plaintiff and class members.

10 42. Defendants’ actions in violation of § 17500 were untrue and misleading such that the
11 Plaintiff, the Proposed Class and the general public are and were likely to be deceived by the untrue
12 and/or misleading statements.

14 43. Plaintiff and the Proposed Class Members lost money or property as a result of
15 Defendants’ false advertising violations, because they would not have purchased, or would not have
16 paid a premium, for their products if they had not been deceived by the claims.

17
18 **SECOND CAUSE OF ACTION**
19 **For Violation Cal. Bus. & Prof. Code § 17200, et seq. By Plaintiff**
20 **and Proposed Class against Defendants**

21 44. Plaintiff hereby incorporates by reference the allegations contained in all preceding
22 paragraphs of this complaint.

23 45. Plaintiff is a direct victim of Defendants’ illegal and/or unfair business acts and
24 practices referenced in this complaint, has lost money as a result of such practices, and brings this
25 action both in her individual capacity and on behalf of Defendants’ current and former California-
26 based, nonexempt employees who share a common or general interest in the damages as a result of
27 the illegal and/or unfair practices.
28

1 46. The approximately 100,000 member class is ascertainable via their experience as
2 California citizens and purchasers of the products, in the state of California. Class members share
3 a community of interest and an injury-in-fact as Defendants have violated California laws, thereby
4 depriving class members of money earned. Based on the facts set forth above, it would be
5 impracticable to proceed in individual actions.
6

7 47. Plaintiff suffered an injury-in-fact pursuant to Business & Professions Code section
8 17204, and lost money as a result of Defendants' illegal and/or unfair practices. Plaintiff suffered
9 an injury-in-fact pursuant to Business & Professions Code section 17204, and lost money as a result
10 of Defendants' illegal and/or unfair practices. These illegal and/or unfair practices include, but are
11 not limited to, violations of California Business & Professions Code §§17500, *et seq.* and California
12 Civil Code § 1750, *et seq.* and on Defendants' misleading and deceptive advertising representations
13 regarding "regenerative agriculture," "sustainability," and/or "water reduction/conservation," said
14 mis-representations providing no "countervailing benefit" to consumers.
15

16 48. Plaintiff brings this action on behalf of an ascertainable class who share a community
17 of interest pursuant to Business & Professions Code section 17203 and Code of Civil Procedure
18 section 382 and who share a common or general interest in the damages as a result of the illegal
19 and/or unfair practices, in that those individuals on whose behalf the action is brought have also lost
20 money as a result of Defendants' practices, as set forth above, and that it would be impracticable to
21 proceed as an individual plaintiff action.
22

23 49. Business & Professions Code section 17200 *et seq.* prohibits any unlawful, unfair,
24 or fraudulent business act or practice.
25

26 50. Plaintiff's allegations herein are based upon Defendants' institutional business acts
27 and practices.
28

1 51. Defendants' acts and practices, as described herein above, are unlawful and unfair,
2 in that they violate California law.

3 52. As a direct result of Defendants' unlawful and unfair business acts and practices,
4 Plaintiff and all other class members have been damaged in an amount to be proven. Accordingly,
5 Plaintiff prays for restitution and injunctive damages in an amount to be proven.
6

7 53. Plaintiff is informed and believes, and on that basis alleges, that Defendants' unlawful
8 and unfair business practices, alleged above, are continuing in nature and are widespread.

9 54. On behalf of the ascertainable class, Plaintiff respectfully requests an injunction
10 against Defendants to enjoin them from continuing to engage in the illegal conduct alleged herein.
11 On behalf of the ascertainable class, Plaintiff respectfully requests restitution damages.
12

13 55. Plaintiff has incurred and continues to incur legal expenses and attorneys' fees.
14 Plaintiff is presently unaware of the precise amount of these expenses and fees, and prays for leave
15 of court to amend this complaint when the amounts are more fully known.
16

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, seeks
19 judgment against Defendants, as follows:

- 20 a. For an order certifying the Class;
- 21 b. For an order certifying Plaintiff as the representative of the Class and Plaintiff's
22 attorneys as Class Counsel;
- 23 c. For an order declaring the Defendants' conduct violates the statutes and laws
24 referenced herein;
- 25 d. For an order to correct, destroy, and change all false and misleading labeling and
26 website terms relating to the claims;
- 27 e. For an order finding in favor of Plaintiff, the Class on all counts asserted herein;
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- f. For compensatory and punitive damages in amounts to be determined;
- g. For prejudgment interest on all amounts awarded;
- h. For an order of restitution, disgorgement of profits, and all other forms of equitable monetary relief;
- i. For injunctive relief as pleaded or as the Court may deem proper; and
- j. For an order awarding Plaintiff, and the Class, their reasonable attorneys' fees and expenses and costs of suit.

Dated: August 28, 2023

SULLIVAN & YAECKEL LAW GROUP, APC

Karoline Kitlowski

Eric K. Yaeckel
Ryan T. Kuhn
Karoline D. Kitlowski
Plaintiff LIZETTE FISHER, an Individual on behalf
of herself and all others similarly situated and the
general public