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7 **UNITED STATES DISTRICT COURT**
8 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

9 BRIGETTE HOOD, *individually and on*
10 *behalf of herself and all others similarly*
situated,

11 Plaintiff,

12 v.

13 HANDI-FOIL CORP., HANDI-FOIL
14 ALUMINUM CORP., and JIFFY-FOIL
CORP,

15 Defendant.
16

Case No.

CLASS ACTION:

- 1. **Violation of CLRA**
- 2. **Violation of UCL**
- 3. **Violation of FAL**
- 4. **Breach of Express and Implied Warranties**
- 5. **Unjust Enrichment**

JURY TRIAL DEMANDED

17
18 **CLASS ACTION COMPLAINT**

19 Plaintiff Brigitte Hood (“Ms. Hood”), a California citizen, on behalf of herself and all
20 others similarly situated, alleges violations of California’s Consumer Legal Remedies Act
21 (“CLRA”), Cal. Civ. Code § 1750, *et seq.*; California’s Unfair Competition Law (“UCL”), Cal.
22 Bus. & Prof Code § 17200, *et seq.*; California's False Advertising Law (“FAL”), Cal. Bus. & Prof
23 Code § 17500, *et seq.*; and unjust enrichment against Defendants Handi-Foil Corp., Handi-Foil
24 Aluminum Corp. and Jiffy-Foil Corp. (“Handi-Foil” or “Defendants”). This court has jurisdiction
25 pursuant to 28 U.S.C. § 1332. In support of these claims, Ms. Hood states as follows:

26 **NATURE OF THE ACTION**

27 1. Handi-Foil, one of the largest manufacturers of aluminum consumer products in the
28 United States, routinely misleads consumers and violates the law by inaccurately labeling and

1 advertising its products as “Made in the USA” and “Made in USA” when the products are not
2 completely processed domestically or made of materials sourced in the United States of America.

3 2. Given Defendants’ “Made in the USA” claims and the prominently featured
4 American flags on their labels, consumers expect that all of Defendants’ products and their
5 components originate in the USA.

6 3. But that is not the case—the products have significant foreign input in the form of
7 bauxite, the primary ingredient in aluminum. Almost no bauxite is mined in the USA. The
8 overwhelming majority of the material is mined and significantly processed internationally, then
9 imported from overseas and used to create the products.

10 4. Because the main component of Defendants’ products is foreign-sourced, consumers
11 are essentially buying foreign composite products. Moreover, because bauxite is processed overseas
12 before being shipped to the USA, Defendants’ products are not entirely “Made in the USA.” These
13 false representations have been made for the statutory period up to and including at least August
14 2022.

15 5. Defendants make deceptive claims and misrepresentations on their product labels,
16 falsely implying that the products are American, made in the United States, of American
17 components. Consumers rely on these representations, paying premium prices because they believe
18 Defendants’ products are made in the United States from American materials and are therefore more
19 valuable.

20 6. Ms. Hood brings this action on behalf of herself, and others similarly situated to
21 rectify these unlawful practices and compensate consumers for the losses incurred by relying on the
22 inaccurate labels.

23 **THE PARTIES**

24 7. Ms. Brigitte Hood is a natural person and citizen of California who resides in the
25 Northern District of California. Ms. Hood purchased products manufactured and distributed by
26 Defendants during the four (4) years prior to the filing of this Complaint (“the Class Period”) for
27 personal, family or household purposes. Ms. Hood was injured in fact and lost money as a result of
28 Defendants’ unlawful labeling.

1 8. Defendant Handi-Foil Corp. is a corporation incorporated under the laws of Illinois
2 with its principal place of business in Illinois. Upon information and belief, Handi-Foil Corp.’s
3 corporate address is 135 East Hintz Road, Wheeling, IL 60090.

4 9. Defendant Handi-Foil Aluminum Corp. is a corporation incorporated under the laws
5 of Illinois with its principal place of business in Illinois. Upon information and belief, Handi-Foil
6 Aluminum Corp.’s corporate address is 135 East Hintz Road, Wheeling, IL 60090.

7 10. Defendant Jiffy-Foil Corp. is a corporation incorporated under the laws of Illinois
8 with its principal place of business in Illinois. Upon information and belief, Jiffy-Foil Corp.’s
9 corporate address is 135 East Hintz Road, Wheeling, IL 60090.

10 11. Upon information and belief, Defendants are affiliated companies. Defendants have
11 the same corporate address and counsel for Defendants has represented that they are affiliated.

12 **JURISDICTION AND VENUE**

13 12. This court has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d) because
14 this is a putative class action wherein, upon information and belief, the aggregate amount in
15 controversy exceeds \$5,000,000; there are over 100 class members; and minimal diversity
16 requirements are met. *See* 28 U.S.C. § 1332(d)(2). Ms. Hood is a California citizen and no defendant
17 is a citizen of California.

18 13. Venue is proper in the District Court for the Northern District of California pursuant
19 to 28 U.S.C. § 1391(b)(2) because a substantial part of the events giving rise to Ms. Hood’s claims
20 occurred in this judicial district. Ms. Hood purchased the products at issue and was misled by
21 Defendants’ inaccurate labelling in this District.

22 **FACTUAL ALLEGATIONS**

23 **A. FTC’s Guidance on “Made in USA” Claims.**

24 14. “Made in the USA” and other similar advertising claims are terms of art with legal
25 definitions that guide their proper use. *See*, e.g., FTC Made in USA Labeling Rule, 16 C.F.R. §
26 323.1(a) (2021) (“The term *Made in the United States* means any unqualified representation, express
27 or implied, that a product or service, or a specified component thereof, is of U.S. origin. . . .”).

28 15. For decades, the FTC’s *Enforcement Policy Statement on U.S. Origin Claims* has

1 provided that manufacturers of products made with foreign or recycled materials cannot claim that
2 the products are “Made in the USA” unless the manufacturers can show that the materials used to
3 make the products originate domestically. *See* FTC “Made in USA” and Other U.S. Origin Claims,
4 62 Fed. Reg. 63756 (Dec. 2, 1997).

5 16. Codifying its existing guidance into a “restatement rule” which became effective on
6 August 13, 2021, the FTC explained that

7 it is an unfair or deceptive act or practice . . . to label any product as Made
8 in the United States unless [1.] the final assembly or processing of the
9 product occurs in the United States, [2.] all significant processing that goes
10 into the product occurs in the United States, and [3.] all or virtually all
11 ingredients or components of the product are made and sourced in the
12 United States.

13 16 C.F.R. § 323.2.

14 17. Even when a manufacturer buys product materials from a U.S. supplier, if those
15 materials themselves are foreign-sourced or made up of foreign-sourced ingredients, the
16 manufacturer may not simply label and advertise its final product as “Made in the USA.” *See* “Made
17 in USA” and Other U.S. Origin Claims, 62 Fed. Reg. at 63769.

18 18. The FTC bases its position on polls of consumers that show that most consumers
19 regard a “Made in the USA” label as meaning that the product—including the materials used in its
20 manufacture—is entirely or nearly entirely made in the USA. *See* FTC Made in USA Labeling Rule,
21 86 Fed. Reg. 37022, 37026 (July 14, 2021).

22 19. Manufacturers may use qualified “Made in the USA” claims to accurately label
23 products that are manufactured domestically using foreign materials. *See* “Made in USA” and Other
24 U.S. Origin Claims, 62 Fed. Reg. at 63769–70. An example of a compliant qualified claim is a label
25 that states “Made in the USA with globally sourced materials.” *Id.*

26 **B. Significant Components of Defendants’ Aluminum Products Are Not Domestically**
27 **Sourced.**

28 20. Defendants represent that their respective products are “Made in the USA.” The

1 representations are front and center on the products' labels, juxtaposed with a graphic of the
2 American flag.

3 21. Defendants make similar representations on their websites.

4 22. All significant processing that goes into Defendants' products does not occur in the
5 United States, and all or virtually all components of Defendants' products are not sourced in the
6 United States, making Defendants' labelling inaccurate, misleading, and unlawful.

7 23. The aluminum used to make Defendants' aluminum consumer products is
8 substantially made from the mined mineral bauxite. There is no way to manufacture aluminum for
9 consumer foil, bakeware, or grilling pans and liners except with bauxite.

10 24. The United States imports almost all of the bauxite it uses. Domestic bauxite mines
11 contribute less than 5% of the bauxite the United States consumes, and none of the domestically
12 mined bauxite is used to make aluminum for aluminum consumer products. U.S. Geological Survey,
13 E. Lee Bray, *Bauxite and Alumina, in 2018 Minerals Yearbook*, at 10.1 (Feb. 2022),
14 <https://pubs.usgs.gov/myb/vol1/2018/myb1-2018-bauxi.pdf>.

15 25. Based on U.S. Geological Survey data, and upon information and belief, bauxite used
16 in manufacturing Defendants' aluminum consumer products is imported from abroad. The
17 international sources of bauxite for aluminum production are readily known based on the U.S.
18 Geological Survey's annual and quarterly reports. A handful of countries produce most of the
19 world's supply of bauxite. *See Id.*

20 26. Upon information and belief, essential, significant, and expensive processing of
21 bauxite happens overseas.

22 27. Bauxite comes out of the ground as a slab of rock that can be transported to the U.S.
23 for processing, but that is not what international mines and domestic importers choose to do.

24 28. Rather, bauxite is extracted from the ground in complex mining operations and then
25 significantly processed before it is shipped to the United States.

26 29. Companies prefer to buy bauxite that has been processed internationally because it
27 is cheaper to ship processed bauxite to the United States, and processed bauxite that has been finely
28 ground has a maximized surface area that makes the domestic refining processes more efficient.

1 30. To that end, international mines significantly process bauxite to ensure that it is
2 consistent in surface area, quality, and moisture level.

3 31. Bauxite is crushed initially, then cleaned to remove excess, less valuable material,
4 then dried. During this process the bauxite is screened multiple times, conveyed multiple times, and
5 crushed again before being shipped to the United States.

6 32. Some bauxite is put through a grinding process and transformed into a substance that
7 is finer than sand to be primed for further chemical processing the U.S.

8 33. Even more extensive refinement of bauxite may occur overseas depending on
9 importers' contracts with mining companies.

10 34. Foreign bauxite makes up a significant portion of Defendants' products by cost of
11 production of the product and/or final composition of the product.

12 35. The high level of foreign input into Defendants' products conflict with the
13 expectations of an American consumer when they purchase a product bearing a "Made in the USA"
14 label.

15 36. Defendants cannot label their aluminum products with an unqualified "Made in the
16 USA" claim given the products' significant foreign bauxite content.

17 37. Defendants' misleading representations are directed at consumers *Seeking* to
18 purchase products with the American pedigree. The prominently displayed image of the American
19 flag combined with the "Made in the USA" reference on the label means to the reasonable
20 consumers that the product is an American product, of better American quality, of the United States,
21 made in the United States, from United States sourced materials, or all of the foregoing.

22 38. Manufacturers, like Defendants, are aware of the connotations of these labels. They
23 promote their products as superior, expressly or impliedly, because they originate from the United
24 States. The perception that Defendants' American-made products are more valuable induces
25 consumers to purchase Defendants' products at a premium price.

26 39. American consumers, like Ms. Hood, are more likely to buy products that are
27 marketed as "Made in the USA." Consumers place higher value on U.S.-made products because
28 they believe such products provide American jobs and support the U.S. economy. Consumers also

1 believe that “Made in the USA” labelling implies higher grade components or ingredients, so they
2 are willing to spend more money on products that are marketed as American-made.

3 40. Defendants intentionally use the “Made in the USA” label because they believe it
4 works to influence consumers to purchase their products. If the “Made in the USA” claim on
5 Defendants’ labels did not give their product a competitive advantage in the market, Defendants
6 would not use the labels.

7 41. Defendants capitalized on misleading and deceiving purchasers of their products to
8 get an unfair business advantage when competing with their marketplace peers.

9 42. Consumers like Ms. Hood are deceived by Defendants’ misrepresentations and are
10 harmed by overpaying for a material feature or benefit advertised on the product labels that they do
11 not receive.

12 **C. Ms. Hood’s Facts.**

13 43. Ms. Hood is a consumer who regularly purchases aluminum products for her
14 personal, family, or household purposes.

15 44. In or around August of 2022, Ms. Hood, relying on the “Made in the USA” labels
16 and American flag graphics on the packages, purchased Handi-Foil 8” square and 13” x 9” cake
17 pans and a Jiffy-Foil rack roaster because she believed the products were actually made in the United
18 States out of materials sourced in the United States.



27 45. The fact that the products were represented as being “Made in the USA” was an
28 important consideration for Ms. Hood in purchasing Defendants’ products.

1 53. Ms. Hood proposes that she serve as class representative.

2 54. Ms. Hood and the Class have all been harmed by the actions of Defendant.

3 55. Numerosity is satisfied. While the exact number of Class members is presently
4 unknown, and can only be ascertained through appropriate discovery, Ms. Hood believes the number
5 of Class members are in the thousands of persons, if not more. Individual joinder of these persons
6 is impracticable.

7 56. There are questions of law and fact common to Ms. Hood and to the Class that
8 predominate over any questions affecting only individual Class members, including, but not limited
9 to:

- 10 a. Whether Defendants engaged in unfair or deceptive business practices by
11 advertising and selling their products;
- 12 b. Whether Defendant made unlawful and misleading claims regarding the
13 origin of manufacture of their products;
- 14 c. Whether the products were falsely advertised and misbranded as to their
15 geographic origin of manufacture as a matter of law;
- 16 d. Whether Defendants violated the CLRA, UCL, FAL or were unjustly
17 enriched;
- 18 e. Whether Ms. Hood and the Class were damaged by Defendants' conduct;
- 19 f. Whether Ms. Hood and the Class are entitled to actual and/or statutory
20 damages as a result of Defendants' actions;
- 21 g. Whether Ms. Hood and the Class are entitled to restitution;
- 22 h. Whether Ms. Hood and the Class are entitled to attorney's fees and costs.
- 23 i. Proof of a common set of facts will establish the right of each Class member
24 to recover.

25 57. Ms. Hood's claims are typical of the claims of the Class members because Ms. Hood,
26 like the Class members, purchased Defendants' misleading "Made in the USA" labelled products in
27 reliance on that assertion. Defendants' unlawful, unfair and/or fraudulent actions concern the same
28

1 business practices described herein irrespective of where they occurred or were experienced. Ms.
2 Hood and the Class sustained similar injuries arising out of Defendants' conduct in violation of
3 California law. Ms. Hood and the members of the Class sustained the same types of damages and
4 losses. Ms. Hood's claims arise from the same course of conduct that give rise to the claims of the
5 Class members and are based on the same legal theories.

6 58. Ms. Hood is an adequate class representative because her interests do not conflict
7 with the interests of the Class members, and she will adequately and fairly protect the interests of
8 the Class members. Ms. Hood intends to prosecute this action vigorously and has taken actions
9 before filing this complaint by hiring skilled and experienced counsel and by making a pre-suit
10 demand on behalf of class members to protect the interests of the Class. There is no conflict between
11 Ms. Hood and the proposed class.

12 59. A class action is the superior method for fair and efficient adjudication of Ms. Hood's
13 and the Class members' claims. The likelihood that individual members of the Class will prosecute
14 separate actions is remote due to the time and expense necessary to conduct such litigation. In
15 addition, it is likely that most class members are unaware that they have claims. Finally, the
16 prosecution of separate actions by the individual class members, even, if possible, would create a
17 risk of inconsistent or varying adjudications regarding the individual class members.

18 60. There are no difficulties likely to be encountered by the court in management of this
19 putative class action.

20 **CAUSES OF ACTION**

21 **COUNT I**

22 **Violation of the California Consumers Legal Remedies Act**
Cal. Civ. Code §§ 1750, et seq.

23 61. Ms. Hood incorporates the preceding paragraphs as if alleged herein.

24 62. California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code §§ 1750, et
25 seq., provides that "unfair methods of competition and unfair or deceptive acts or practices
26 undertaken by any person in a transaction intended to result or which results in the sale or lease of
27 goods or services to any consumer are unlawful."

28 63. The products are "goods," as defined in California Civil Code section 1761(a).

1 64. Defendants are “person[s]” as defined in California Civil Code section 1761(c).

2 65. Ms. Hood and members of the Class are “consumers,” as defined in California Civil
3 Code section 1761(d).

4 66. Purchase of the products by Ms. Hood and members of the Class are “transactions,”
5 as defined in California Civil Code § 1761(e).

6 67. Defendants violate section 1770(a)(4), which prohibits the use of “deceptive
7 representations or designations of geographic origin in connection with goods or services,” by
8 representing that their products are “Made in the USA” when the materials from which they are
9 manufactured are not sourced in the USA. Defendants cannot label their aluminum products with
10 an unqualified “Made in the USA” claim given the products’ significant foreign bauxite content.

11 68. Defendants also violate section 1770(a)(5) by representing that the products have
12 “characteristics, . . . uses [or] benefits . . . which [they] do not have” in that Defendants use “Made
13 in the USA” on the products’ labels but the products are not from, of, or by the United States; instead
14 they are from foreign sources.

15 69. Similarly, Defendants violate section 1770(a)(7) by representing that the products
16 “are of a particular standard, quality, or grade . . . if they are of another” by advertising they are
17 from, by, of or related to America. Defendants’ products do not actually have those qualities, and
18 consequently they are misrepresented. Similarly, Defendants’ assertions that their products are
19 “Made in the USA” is an expressly stated feature that consumers often will pay more for, and the
20 products did not actually have that feature.

21 70. Lastly, Defendants violate section 1770(a)(9) by advertising the products “with
22 intent not to sell them as advertised” due to deceptive statements and claims that the products are
23 “Made in the USA” of domestic components when they were not.

24 71. Ms. Hood and the members of the Class reasonably and justifiably relied on
25 Defendants’ misrepresentations in purchasing the products. Had the products been honestly
26 advertised and labeled, Ms. Hood and members of the Class would not have purchased them and/or
27 would have paid less for the products.

28 72. As a proximate and direct result of Defendants’ conduct, Ms. Hood and members of

1 the Class have been injured and suffered damages by purchasing one or more of the products that
2 feature false and/or misleading labeling. Likewise, Defendants have unreasonably profited from its
3 conduct.

4 73. Given that Defendants' conduct violated section 1770(a)(5), Ms. Hoods and
5 members of the Class are entitled to and seek injunctive relief to put an end to Defendants' violations
6 of the CLRA.

7 74. Moreover, Defendants' conduct is malicious, fraudulent, and wanton in that
8 Defendants intentionally misled and withheld material information from consumers to increase the
9 sale of the products.

10 75. Pursuant to California Civil Code § 1782(a), Ms. Hood on her own behalf, and on
11 behalf of members of the Class, notified Defendants of the alleged violations of the CLRA in a letter
12 sent on or about September 22, 2020. Despite giving Defendants more than 30 days from the date
13 of the notification letter to provide appropriate relief for violations of the CLRA, Defendants have
14 failed to provide any such relief. As such, Ms. Hood also *Seeks* compensatory, monetary and
15 punitive damages, in addition to equitable and injunctive relief, and requests that this Court enter
16 such Orders or judgments as may be necessary to restore to any person in interest any money which
17 may have been acquired by means of such unfair business practices, and for such other relief as
18 provided in California Civil Code section 1780 and in the Prayer for Relief.

19 76. Ms. Hood also requests that the Court enjoin Defendants from continuing to employ
20 the unlawful methods, acts and practices alleged herein pursuant to section 1780(a)(2).

21 **COUNT II**
22 **Violation of the California False Advertising Law**
Cal. Bus. & Prof. Code §§ 17500–17606

23 77. Ms. Hood incorporates the preceding paragraphs as if alleged herein.

24 78. California's Unfair Competition Law (UCL), Cal. Bus. & Prof. Code §§ 17200 et
25 seq., protects consumers by holding companies liable for unfair competition and unlawful business
26 practices.

27 79. The UCL provides a private right of action to any person who has suffered injury in
28 fact and, as a result of unfair business practices, has lost money or property. Cal. Bus. & Prof. Code

1 § 17204.

2 80. The UCL broadly applies to any corporation that engages in unfair competition. *Id.*
3 §§ 17200, 17201.

4 81. The UCL defines unfair competition to include any “unlawful, unfair, or fraudulent”
5 business act or practice. *Id.* § 17200.

6 82. A business act or practice is “unlawful” under the UCL if it violates any other law or
7 regulation. The UCL’s coverage is “sweeping, embracing anything that can properly be called a
8 business practice and that at the same time is forbidden by law.” *Cel-Tech Commc’ns, Inc. v. Los*
9 *Angeles Cellular Tel. Co.*, 973 P.2d 527, 539 (Cal. 1999).

10 83. Because the UCL’s definition of unfair competition includes any unlawful business
11 act or practice, the statute “borrows violations of other laws and treats them as unlawful practices”
12 that are independently actionable under the UCL. *Id.* at 539–40. Accordingly, violations of other
13 statutes as alleged herein are all actionable under the UCL.

14 84. Defendants’ conduct as alleged herein was unlawful within the meaning of the UCL,
15 because Defendants have violated sections 1770(a)(4), 1770(a)(5), 1770(a)(7), and 1770(a)(9) of
16 the CLRA, as well as FTC regulations, including without limitation 16 C.F.R. §§ 323.1(a), 323.2;
17 and 62 Fed. Reg. 63756 (Dec. 2, 1997), 62 Fed. Reg. at 63769–70, and as pleaded above.

18 85. The unfair prong of the UCL prohibits unfair business practices that either offend an
19 established public policy or that are immoral, unethical, oppressive, unscrupulous, or substantially
20 injurious to consumers.

21 86. Defendants’ conduct, as alleged herein, was also fraudulent within the meaning of
22 the UCL. Defendant represented that its products were “Made in the USA” on the products’ labels
23 but the products are not from, of, or by the United States; instead they are from foreign sources.

24 87. Defendants accordingly made deceptive misrepresentations and omitted known
25 material facts in connection with the sale of the products at issue in this matter.

26 88. Had Plaintiffs and Nationwide Class Members known Defendants were not in fact
27 sourced from the United States, they would not have purchased Defendants’ products and were in
28 fact injured, having been induced to purchase products that would not have otherwise purchased

1 absent Defendants' misrepresentations.

2 89. Defendants' unlawful actions in violation of the UCL have caused and are likely to
3 cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that
4 is not outweighed by countervailing benefits to consumers or competition.

5 90. Plaintiff and Class Members were entitled to assume, and did assume, that
6 Defendants' representations that Defendants' products were "Made in the USA."

7 91. Plaintiffs and Nationwide Class Members reasonably relied upon Defendants'
8 representations that Defendants' products were "Made in the USA."

9 92. Defendant was in sole possession of and had a duty to disclose the material
10 information that the products at issue were not in fact Made in the USA.

11 93. The harm caused by the Defendants' conduct outweighs any potential benefits
12 attributable to such conduct and there were reasonably available alternatives to further Defendants'
13 legitimate business interests other than Defendants' conduct described herein.

14 94. Defendants' acts, omissions and conduct also violate the unfair prong of the UCL
15 because those acts, omissions and conduct offended public policy (including the aforementioned
16 California statutes and Federal regulation), and constitute immoral, unethical, oppressive, and
17 unscrupulous activities that caused substantial injury, including to Plaintiff and Class Members.

18 95. As a direct result of Plaintiff's and Class Members' reliance on Defendants'
19 representations that Defendants' products were "Made in the USA" Plaintiff and Class Members
20 were injured.

21 96. As a direct result of Defendants' violations of the UCL, Plaintiffs and Nationwide
22 Class Members have suffered injury in fact and lost money or property.

23 97. Defendants' conduct constitutes unfair and/or fraudulent business acts and practices
24 because Defendants made false representations to Ms. Hood and members of the Class that were
25 likely to deceive Ms. Hood and members of the Class into purchasing Defendants' products.
26 Defendants misrepresented and made false statements that the products were "Made in the USA,"
27 when they were not. Defendants cannot label their aluminum products with an unqualified "Made
28 in the USA" claim given the products' significant foreign bauxite content.

1 98. Defendants are aware that the claims or omissions they make about the products are
2 and continue to be false and misleading.

3 99. Defendants had an improper motive—to derive financial gain at the expense of
4 accuracy or truthfulness—in their practices related to the labeling of their products.

5 100. There were reasonable alternatives available to Defendants to further Defendants’
6 legitimate business interests other than the conduct described herein.

7 101. Moreover, Ms. Hood and members of the Class could not have reasonably avoided
8 such injury, given that Defendants failed to disclose the products’ true characteristics at any point.
9 Ms. Hood and members of the Class purchased the products in reliance on the representations made
10 by Defendants, as alleged herein.

11 102. As a result of the above conduct, Ms. Hood has suffered economic injury, and
12 Defendants have been unjustly enriched at the expense of Ms. Hood and members of the Class
13 through: the monies paid to Defendants for the products that lacked the characteristics advertised,
14 interest lost on those monies, and their unwitting support of a business enterprise that promotes
15 deception and undue greed to the detriment of consumers.

16 103. As a result of the business acts and practices described above, Ms. Hood and
17 members of the Class, pursuant to section 17203 of the UCL, are entitled to an Order enjoining such
18 future wrongful conduct on the part of Defendants and such other Orders and judgments that may
19 be necessary to disgorge Defendants’ ill-gotten gains and to restore to any person in interest any
20 money paid for the products as a result of the wrongful conduct of Defendants.

21 104. As a direct result of its unfair practices, Defendants have been unjustly enriched and
22 should be required to make restitution to Plaintiffs and Nationwide Class Members pursuant to §§
23 17203 and 17204 of the California Business & Professions Code, disgorgement of all profits
24 accruing to Defendant because of its unlawful business practices, declaratory relief, attorney’s fees
25 and costs (pursuant to Cal. Code Civ. Proc. §1021.5) and injunctive or other equitable relief.

26 105. Pursuant to California Civil Code section 3287(a), Ms. Hood and the Class are further
27 entitled to pre-judgment interest as a direct and proximate result of Defendants’ unfair and
28 fraudulent business conduct. The amount on which interest is to be calculated is a sum certain and

1 capable of calculation, and Ms. Hood and the Class are entitled to interest in an amount according
2 to proof.

3 **COUNT III**
4 **Violation of the California False Advertising Law**
5 **Cal. Bus. & Prof. Code §§ 17500–17606**

6 106. Ms. Hood incorporates the preceding paragraphs as if alleged herein.

7 107. California’s False Advertising Law (FAL), Cal. Bus. & Prof. Code §§ 17500 et seq.,
8 prohibits unfair, deceptive, untrue or misleading advertising.

9 108. Defendants violated the FAL when they represented through false and misleading
10 advertising and through other express representations that the products were “Made in the USA”
11 when they were not. The aluminum products, given their significant foreign bauxite content, cannot
12 be labelled with an unqualified “Made in the USA” claim. Defendants misled consumers to believe
13 that their products possessed quality, characteristics, and value that they did not actually have.

14 109. This conduct particularly violates California Business and Professional Code section
15 17533.7(a), which makes it unlawful to sell merchandise labelled with “Made in USA,” “Made in
16 America,” “USA,” or other similar expressions “if the merchandise or any article, unit, or part
17 thereof, has been entirely or substantially made, manufactured, or produced outside of the United
18 States.”

19 110. All of the articles, units, or parts of Defendants’ products that are obtained from
20 outside the United States constitute more than ten percent of the final wholesale value of the
21 manufactured products.

22 111. Defendants’ deceptive practices were specifically designed to induce Ms. Hood and
23 Class members to purchase the products. Defendants engaged in marketing efforts to reach Ms.
24 Hood and Class members and were successful in persuading Ms. Hood and Class members to
25 purchase the falsely advertised products. Ms. Hood and Class members purchased the products in
26 reliance on Defendants’ false and misleading statements.

27 112. Ms. Hood and Class members would not have purchased Defendants’ products had
28 it not been for Defendants’ misrepresentations of material facts. Ms. Hood and Class members were
denied the benefit of the bargain when they decided to purchase Defendants’ products over

1 competitor products. Had Ms. Hood and Class members been aware of the false and misleading
2 advertising tactics, they would have paid less than what they paid for the products, or they would
3 not have purchased them at all.

4 113. The above acts of Defendants, in disseminating misleading and deceptive
5 representations and statements throughout California to consumers, including Ms. Hood and Class
6 members, were and are likely to deceive reasonable consumers in violation of the FAL.

7 114. In making and disseminating the statements alleged herein, Defendants knew or
8 should have known that the statements were untrue or misleading, and acted in violation of the FAL.

9 115. Defendants continue to engage in unlawful, unfair and deceptive practices in
10 violation of the FAL to induce consumers to purchase their products.

11 116. As a direct and proximate result of Defendants' unlawful conduct in violation of the
12 FAL, Ms. Hood and Class members, pursuant to section 17535, are entitled to an Order of this Court
13 enjoining such future wrongful conduct on the part of Defendants and requiring Defendants to
14 disclose the true nature of their misrepresentations.

15 117. Ms. Hood and Class members also request an Order requiring Defendants to disgorge
16 their ill-gotten gains and/or award full restitution of all monies wrongfully acquired by Defendants
17 by means of such acts of false advertising, plus interests and attorneys' fees.

18 **COUNT IV**
19 **Breach of California Express and Implied Warranties**
20 **Cal. Com. Code §§ 2313, 2314(2)(f)**

21 118. Ms. Hood incorporates the preceding paragraphs as if alleged herein.

22 119. Defendants' products were manufactured, identified, and sold by Defendants and
23 expressly and impliedly warranted to Ms. Hood and Class members as "Made in the USA," which
24 Ms. Hood and Class members reasonably understood to mean that not only were the raw materials
25 for the products converted and transformed into the final products in the United States, but that the
raw materials for the products were also sourced within the United States.

26 120. Defendant had a duty to disclose and/or provide non-deceptive descriptions and
27 marketing of the Product.

28 121. Defendants made promises and affirmations of fact through the sale of their products

1 constituting warranties when they advertised and sold their aluminum products with the words
2 “Made in the USA” on the labels. Ms. Hood and Class members relied on these promises and
3 affirmations and they became part of the basis of the bargain between Ms. Hood and Class members
4 and Defendants.

5 122. Defendants, through their marketing and product labels, created express and implied
6 warranties that the products were actually “Made in the USA.”

7 123. Defendants are merchants with respect to the sale of the products. Therefore, a
8 warranty of merchantability is implied in every contract for sale of the products to Ms. Hood and
9 Class members.

10 124. Despite Defendants’ express and implied warranties about the origin of the products,
11 the quality and characteristics of the products were not as Defendants represented them to be. The
12 aluminum products, given their significant foreign bauxite content, cannot be labelled with an
13 unqualified “Made in the USA” claim. The products did not conform to its affirmations of fact and
14 promises due to Defendants’ deceptive and misleading actions.

15 125. Defendants breached their express warranties and the implied warranty of
16 merchantability because their products did not conform to the promises or affirmations of fact made
17 on the labels. *See* Cal. Com. Code §§ 2313, 2314(2)(f).

18 126. Defendants breached their express and implied warranties about the origin of their
19 aluminum products. Defendants knew the product attributes that potential customers like Ms. Hood
20 were *Seeking* and developed its marketing and labeling to directly meet those needs and desires. *See*
21 *Id.*

22 127. As a direct and proximate result of Defendants’ breach of warranties, Ms. Hood and
23 Class members were harmed in the amount of the purchase price they paid for the products. Further,
24 Ms. Hood and Class members have suffered and continue to suffer economic losses and other
25 general and specific damages including, but not limited to, the amounts paid for the products, and
26 any interest that would have accrued on those monies, in an amount to be proven at trial.

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COUNT V
Unjust Enrichment

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2 128. Ms. Hood incorporates the preceding paragraphs as if alleged herein.

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4 129. In the event Ms. Hood and Class members lack adequate remedies at law for the past,
5 present, and future injuries Defendants have inflicted, Ms. Hood *Seeks* equitable relief on behalf of
6 herself and all others similarly situated.

7 130. As alleged herein, Defendants have intentionally and recklessly made misleading
8 representations to Ms. Hood and Class members to induce them to purchase their products. Ms.
9 Hood and Class members have reasonably relied on the misleading representations and have not
10 received all of the benefits promised by Defendants. Ms. Hood and Class members therefore were
11 induced by Defendants' misleading and deceptive representations about the products and paid more
12 money to Defendants for the products than they otherwise would and/or should have paid.

13 131. Ms. Hood and Class members have conferred a benefit upon Defendants as they have
14 retained monies paid to them by Ms. Hood and Class members.

15 132. The monies received were obtained under circumstances that were at the expense of
16 Ms. Hood and Class members because Ms. Hood and Class members did not receive the full value
17 of the benefit conferred upon Defendants.

18 133. Therefore, it is inequitable and unjust for Defendants to retain the profit, benefit, or
19 compensation conferred upon them without paying Ms. Hood and Class members back for the
20 difference of the full value of the benefits compared to the value actually received.

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

PRAYER FOR RELIEF

25 WHEREFORE, Ms. Hood, on behalf of herself and others similarly situated, respectfully
26 requests that the Court:

27 A. Certify the proposed Class;

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- B. Appoint Ms. Hood as class representative and Ms. Hood’s counsel as class counsel;
- C. Temporarily and permanently enjoin Defendants from continuing the unlawful, deceptive, fraudulent, and unfair business practices alleged in this Complaint;
- D. Award damages, including compensatory and exemplary damages, to Ms. Hood and the Class in an amount to be determined at trial;
- E. Award statutory damages and/or penalties to Ms. Hood and the Class;
- F. Award punitive damages;
- G. Award Ms. Hood and the Class their expenses and costs of suit, including reasonable attorneys’ fees to the extent provided by law;
- H. Award pre-and post-judgment interest to the extent provided by law; and
- I. Award such further relief as the Court deems just and proper.

Dated: April 22, 2024

Respectfully Submitted,

ALMEIDA LAW GROUP LLC

/s/ John R. Parker, Jr.
John R. Parker, Jr. (SBN 257761)

**PEIFFER WOLF CARR
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*pro hac vice forthcoming

Attorneys for Plaintiff & the Proposed Class

**DECLARATION OF JOHN R. PARKER, JR.
PURSUANT TO CALIFORNIA CIVIL CODE § 1780(d)**

I, John R. Parker, Jr., declare as follows:

1. I submit this declaration pursuant to section 1780(d) of the California Consumers Legal Remedies Act. I have personal knowledge of the matters set forth below and if called as a witness could and would be competent to testify thereto. I am one of the attorneys representing Plaintiff and the putative class in this matter.

2. Defendants HANDI-FOIL CORP., HANDI-FOIL ALUMINUM CORP., and JIFFY-FOIL CORP are doing business in the Northern District of California.

3. Plaintiff Ms. Brigitte Hood resides in the Northern District of California. Plaintiff purchased Defendants' products in this District and viewed Defendants' labels in this District. Her claims are typical of those of the Class she seeks to represent in this action.

3. This action was commenced in the United States District Court for the Northern District of California.

I declare under the penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct and that this declaration was executed on April 22, 2024 in Sacramento, California.

/s/ John R. Parker, Jr.
John R. Parker, Jr.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

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

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- 1 U.S. Government Plaintiff 3 Federal Question (U.S. Government Not a Party)
2 U.S. Government Defendant 4 Diversity (Indicate Citizenship of Parties in Item III)

Table with columns for PTF and DEF for Citizen of This State, Citizen of Another State, and Citizen or Subject of a Foreign Country.

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

Large table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, HABEAS CORPUS, OTHER, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation-Transfer 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P. DEMAND \$

CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

JUDGE

DOCKET NUMBER

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

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

DATE

SIGNATURE OF ATTORNEY OF RECORD

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

Authority For Civil Cover Sheet. The JS-CAND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
 - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
 - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
 - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
 - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
 - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
 - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket. Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23. Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction. Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”
- Date and Attorney Signature.** Date and sign the civil cover sheet.

ATTACHMENT TO CIVIL COVER SHEET

Attorneys for Plaintiff:

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