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Clerk of the Superior Court
By A. Villasenor ,Deputy Clerk

Attorneys for Plaintiff DARKO BOGAVAC, an Individual on behalf of himself and all others
similarly situated and the general public

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF SAN DIEGO

DARKO BOGAVAC, an Individual on
behalf of himself and all others similarly
situated and the general public,

CASE NO.: 24CU018405C

(Proposed CLASS ACTION)

Plaintiffs,

**FIRST AMENDED CLASS ACTION
COMPLAINT FOR:**

v.

EL POLLO LOCO, INC. a Corporation
with its principal place business in
California, and DOES 1-100, inclusive,

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

Defendants

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

3. **VIOLATION OF CIVIL CODE
§1750, et seq.**

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1 COMES NOW Plaintiff, DARKO BOGAVAC, (“Plaintiff,”) an Individual on behalf of
2 himself and all others similarly situated and the general public, and hereby alleges as follows:

3 Plaintiff brings this action on behalf of himself, and all others similarly situated, against
4 Defendant, EL POLLO LOCO, INC., (hereinafter, “Defendant,” or “EPL”). The allegations in this
5 Complaint, stated on information and belief, have evidentiary support, or are likely to have
6 evidentiary support after a reasonable opportunity for further investigation and discovery.

7 **NATURE OF THE ACTION**

8 1. Plaintiff files this class action lawsuit on behalf of himself and all similarly situated
9 California citizens who purchased EPL products in the State of California that are branded,
10 manufactured, distributed, marketed and/or sold by EPL.

11 2. This matter involves false, deceptive and/or misleading representations, by EPL, that
12 its packaging/labeling is “recyclable.” Plaintiff viewed the subject mis-representations prior to his
13 purchase of said products, and relied on said mis-representations when purchasing said products.

14 3. The EPL representations that its packaging/labeling is “recyclable” is false, deceptive
15 and/or misleading, pursuant to the plain and common definitions of the terms.

16 4. EPL is, or reasonably should be, aware that its statements are false and/or misleading,
17 as its packaging/labeling does not meet the criteria for statewide recyclability. EPL is aware that
18 these recyclability claims, as used by EPL, are and were false, deceptive and/or misleading when first
19 disseminated by EPL.

20 **THE PARTIES**

21 5. Plaintiff is a citizen of the State of California, and has purchased Defendant’s
22 products in the County of San Diego regularly (and over a period of more than three years) based on
23 his reliance on Defendant’s false, deceptive and/or misleading representations, and thereby adversely
24 altered his position in an amount equal to the amount she paid for the Defendant’s products. Plaintiff
25 was aware of Defendant’s mis-representations prior to his purchases, and relied on said mis-
26 representations prior to his purchases. Plaintiff and the Proposed Class would not have purchased
27 or paid a premium for the EPL products had they known that the recycling representations were false,
28 deceptive and/or misleading.

1 6. Defendant EPL is registered with the Secretary of State as a corporation. Its
2 Headquarters, and designated “principal place of business,” is in the State of California.

3 7. The true names and capacities, whether individual, corporate, associate or otherwise
4 of each of the defendants designated herein as a DOE are unknown to Plaintiff at this time, who
5 therefore sue said defendants by fictitious names, and will ask leave of this Court for permission to
6 amend this Complaint to show their names and capacities when the same have been ascertained.
7 Plaintiff is informed and believes and thereon alleges that each of the defendants designated as a
8 DOE is legally responsible in some manner for the events and happenings herein referred to, and
9 caused injuries and damages, as alleged herein.

10 8. On information and belief, Plaintiff alleges that at all times herein mentioned, each
11 of the defendants were acting as an agent, servant or employee of the other defendants and that
12 during the times and places of the incident in question, Defendant and each of their agents, servants,
13 and employees became liable to Plaintiff and class members for the reasons described in the
14 complaint.

15 9. On information and belief, Plaintiff alleges that Defendant carried out a joint scheme
16 with a common business plan and policies in all respects pertinent hereto and that all acts and
17 omissions herein complained of were performed in knowing cooperation with each other.

18 10. On information and belief, Plaintiff alleges that the shareholders, executive officers,
19 managers, and supervisors of the Defendant directed, authorized, ratified and/or participated in the
20 actions, omissions and other conduct that gives rise to the claims asserted herein. Defendant’s
21 officers, directors, and high-level employees caused EPL Products to be sold with knowledge or
22 reckless disregard that the statements and representations concerning the EPL Products were false
23 and misleading.

24 11. Plaintiff is informed and believes, and thereon alleges, that Defendants are in some
25 manner intentionally, negligently, or otherwise responsible for the acts, omissions, occurrences, and
26 transactions alleged herein.

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JURISDICTION AND VENUE

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2 12. This Court has jurisdiction over this matter in that all parties are citizens of, or do
3 business and have Headquarters within, the State of California and the amount in controversy
4 exceeds the statutory minimum limit of this Court. The relief sought by Plaintiff exceeds the minimal
5 jurisdiction limits of the Superior Court and will be established according to proof at trial.
6 Furthermore, there is no federal question at issue as the operative allegations all solely involve state
7 (and not federal) law.

8 13. Plaintiff is a citizen of the State of California and subject to the personal jurisdiction
9 of this Superior Court. Further, Plaintiff purchased the majority of the EPL goods within San Diego
10 County. Defendant’s Headquarters is in the State of California, and because Defendant’s conduct
11 business in San Diego County, California and otherwise intentionally avail themselves of the markets
12 in San Diego County, the exercise of jurisdiction by this Court is proper.

FACTUAL BACKGROUND

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14 14. Plaintiff has purchased EPL’s goods/products (including plastic drink containers,
15 straws, plastic packaging, and plastic bags) regularly (and over a period of more than three years)
16 based on his reliance of said false, deceptive and/or misleading representations, and thereby
17 adversely altered his position in an amount equal to the amount he paid for the Defendant’s
18 goods/products. Plaintiff and the Proposed Class would not have purchased (or would not have paid
19 a premium for) the EPL products had they known that the recyclability claims were false, deceptive
20 and/or misleading.

21 15. As more specifically set forth below, EPL recycling claims are widely disseminated
22 on the EPL packaging/labeling and/or website, and/or through other written and internet
23 publications.

24 16. At all relevant times, Plaintiff believed that he was purchasing EPL goods that were
25 packaged in recyclable materials, based on his reliance (prior to purchase) on Defendant’s
26 representations. Plaintiff would not have continued to purchase the products, or would have
27 purchased them but at a lesser price, absent the misleading statements and misrepresentations made
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1 by EPL. Please see specific examples of Defendant’s false, untrue and misleading representations,
2 below.

3 **The Recycling Claims**

4 17. Defendant advertises that many of its products are “recyclable,” by and through a
5 variety of ways, including the use of the “chasing arrows” symbol on its labeling/packaging. For
6 example, many of Defendant’s “to go,” or “takeaway,” packaging (including both the exterior
7 packaging and the overlaying “film”), drink containers, straws and plastic bags, contain a “chasing
8 arrows” symbol. (Please see **Exhibits A-D**). Plaintiff’s purchases from Defendant’s (including
9 plastic drink containers, straws, plastic packaging, and plastic bags) contained these represented
10 symbols.

11 18. The “recycling” representations (including the use of the “chasing arrows” symbol)
12 are false, deceptive and/or misleading. For example, most (if not all) of the products are not actually
13 recyclable in San Diego County, or any other County in California. Defendant package its products
14 in a plastic bag commonly-identified as “#2 HDPE” plastic. (See **Exhibit A**). Plastic films and bags
15 of any resin code, including #2 HDPE, are not commonly recycled in California, or anywhere else.
16 In fact, such plastics are rejected by many California counties and Recycling facilities, including San
17 Diego County. Flexible plastic bags, film, wrap, and pouches are a top form of contamination in
18 curbside recycling bins. These materials are not widely accepted in curbside bins in California, as
19 they clog machinery at Material Recovery Facilities (MRFs) and other plastic waste processors.
20 (Please see **Exhibit E**).

21 19. Defendant packages several of their food items in take-out containers that are labeled
22 with the chasing arrows symbol and #5 plastic resin code. (See **Exhibits B-D**). The bottom of some
23 of these containers are solid black in color. (See **Exhibit B**). Plastic #5 is only very rarely recycled
24 in California. While #5 Plastics may be accepted in *some* curbside recycling programs, they are not
25 commonly sorted, sold, or recycled as there is no market demand for #5 plastics. Further, black
26 plastic is very difficult to recycle, as optical sorters cannot detect black items and therefore cannot
27 easily sort them. Additionally, black plastic does not melt well with other plastics. Many cities and
28 counties therefore instruct residents to place black plastics in the garbage.

1 20. California law requires that, in order for a plastic to be recyclable, there must be
2 market demand and it must maintain value. Under California law, “[i]t is deceptive to misrepresent,
3 directly or by implication, that a product or packaging is recyclable. A product of package shall not
4 be marketed as recyclable unless it can be collected, separated, or otherwise recovered from the
5 waste stream through an established recycling program for reuse or use in manufacturing or
6 assembling another item.” Defendant’s representations are false, deceptive and/or misleading, as
7 there is no current established recycling program for reuse or use in manufacturing or assembling
8 another item.

9 21. Whether consumers place these plastics products in their curbside recycling bin, or
10 locate a store drop-off collection site, it is highly unlikely that any of EPL plastic packaging will
11 actually be recycled by anyone, or any Recycling facility. Thus, the EPL representations are false,
12 deceptive and/or misleading.

13 **PRIVATE ATTORNEYS GENERAL ALLEGATIONS**

14 22. Plaintiff asserts claims on behalf of class members pursuant to California Business
15 & Professions Code § 17200, et seq. The purpose of such claims is to obtain injunctive orders
16 regarding the false labeling, deceptive marketing and consistent pattern and practice of falsely
17 promoting natural claims and the disgorgement of all profits and/or restoration of monies wrongfully
18 obtained through the Defendant’s pattern of unfair and deceptive business practices as alleged herein.
19 This private attorneys general action is necessary and appropriate because Defendant has engaged
20 in wrongful acts described herein as part of the regular practice of its business.

21 **CLASS ACTION ALLEGATIONS**

22 23. Plaintiff brings this action on his own behalf and on behalf of all other persons
23 similarly situated pursuant to California law. Specifically, Plaintiff brings the First and Second
24 Causes of Action as proposed class action claims. Plaintiff brings the Third Cause of Action both
25 in his individual capacity, and on behalf of a proposed class.

26 24. Plaintiff seeks to represent a Class (hereinafter collectively the “Class”). Excluded
27 from the Class are EPL, as well as its officers, employees, agents or affiliates, and any judge who
28 presides over this action, as well as all past and present employees, officers and directors of EPL.

1 Plaintiff reserves the right to expand, limit, modify, or amend this class definition, including the
2 addition of one or more subclasses, in connection with his motion for class certification, or at any
3 other time, based upon, *inter alia*, changing circumstances and/or new facts obtained during
4 discovery.

5 25. The Class is made up of thousands of persons throughout California, the joinder of
6 whom is impracticable, and the disposition of their claims in a Class Action will benefit the parties
7 and the Court. The Class is sufficiently numerous because, based on information and belief,
8 thousands to hundreds of thousands of units of the EPL Products have been sold in the State of
9 California during the time period from October 22, 2020, through the present (the “Class Period”).

10 26. There is a well-defined community of interest in this litigation and the Class is easily
11 ascertainable:

12 a. Numerosity: The members of the Classes are so numerous that any form of
13 joinder of all members would be unfeasible and impractical. On information and
14 belief, Plaintiff believes the size of the Classes exceeds One Hundred Thousand
15 (100,000) members.

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

20 c. Adequacy: Plaintiff does not have a conflict with the Classes and is qualified to
21 and will fairly and adequately protect the interests of each member of the Classes
22 with whom she has a well- defined community of interest and typicality of claims.
23 Plaintiff 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
27 have been previously designated, by California state courts, as “Class Counsel” on
28 at least 50 prior occasions.

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

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

- 9 a. Whether Defendant's conduct is a fraudulent business act or practice within
10 the meaning of Business and Professions Code section 17200, et seq.;
- 11 b. Whether Defendant's advertising is untrue or misleading within the meaning
12 of Business and Professions Code section 17500, et seq.;
- 13 c. Whether Defendant made false, deceptive and/or misleading representations
14 in the advertising and/or packaging of the EPL Products;
- 15 d. Whether Defendant knew or should have known that the recyclability claims
16 and representations were false, deceptive and/or misleading;
- 17 e. Whether Defendant represented that the EPL Products have characteristics,
18 benefits, uses, or quantities which they do not have;
- 19 f. Whether Defendant's representations regarding the EPL Products are false,
20 deceptive and/or misleading;
- 21 g. Whether the Defendant breached warranties regarding the EPL Products;
- 22 h. Whether the Defendant committed statutory and common law fraud; and
- 23 i. Whether Defendant's conduct as alleged herein constitutes an unfair and/or
24 unlawful business act or practice within the meaning of Business and
25 Professions Code section 17200, et seq.

26 28. Plaintiff's claims are typical of the claims of the Class, and Plaintiff will fairly and
27 adequately represent and protect the interests of the Class. Plaintiff has retained competent and
28 experienced counsel in class action and other complex litigation.

1 29. Plaintiff and the Class have suffered injury in fact, and have lost money, as a result
2 of Defendant's misrepresentations. Plaintiff purchased the EPL products under the belief that they
3 were packaged with recyclable materials. Plaintiff relied on Defendant's labeling, marketing and
4 website and would not have purchased the EPL Products or paid a premium for them if he had
5 known that they did not have the characteristics, benefits, or qualities as represented vis-à-vis the
6 claims.

7 30. The Defendant's misrepresentations regarding the Claims were material insofar as
8 consumers relate to recyclable policies, and tend to be willing to pay a price premium for foods that
9 employ such policies and/or practices. The Defendant is aware of consumer preference for such
10 products, and has implemented a strategic false advertising and marketing campaign intended to
11 deceive consumers into thinking that the EPL employs such policies and practices.

12 31. A class action is superior to other available methods for fair and efficient adjudication
13 of this controversy. The expense and burden of individual litigation would make it impracticable or
14 impossible for class members to prosecute their claims individually.

15 32. The trial and litigation of Plaintiff's claims are manageable. Individual litigation of
16 the legal and factual issues raised by Defendant's conduct would increase delay and expense to all
17 parties and the court system. The class action device presents far fewer management difficulties and
18 provides the benefits of a single, uniform adjudication, economies of scale, and comprehensive
19 supervision by a single court.

20 33. Defendant has acted on grounds generally applicable to the Class as a whole, thereby
21 making final injunctive relief and/or corresponding declaratory relief appropriate with respect to the
22 Class as a whole. The prosecution of separate actions by individual class members would create the
23 risk of inconsistent or varying adjudications with respect to individual members of the Class that
24 would establish incompatible standards of conduct for the Defendant.

25 34. Absent a class action, Defendant is likely to retain the benefits of their wrongdoing.
26 Because of the small size of the individual class members' claims, few, if any, class members could
27 afford to seek legal redress for the wrongs complained of herein. Absent a representative action, the
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1 class members will continue to suffer losses and Defendant will be allowed to continue these
2 violations of law and to retain the proceeds of their ill-gotten gains.

3 35. Were if not for this class action, most class members would find the cost associated
4 with litigating claims extremely prohibitive, which would result in no remedy.

5 36. This class action would serve to preserve judicial resources, the respective parties'
6 resources, and present fewer issues with the overall management of claims, while at the same time
7 ensuring a consistent result as to each class member.

8 **FIRST CAUSE OF ACTION**
9 **Violations of California Business & Professions Code §§17500, et seq.**
10 **By Plaintiff and the Proposed Class against Defendants**

11 37. Plaintiff hereby incorporates by reference the allegations contained in all preceding
12 paragraphs of this complaint.

13 38. Pursuant to Cal. Bus. & Prof. Code §§ 17500, et seq., it is “unlawful for any person
14 to make or disseminate or cause to be made or disseminated before the public in this state, ... in any
15 advertising device ... or in any other manner or means whatever, including over the Internet, any
16 statement, concerning ... personal property or services, professional or otherwise, or performance or
17 disposition thereof, which is untrue or misleading and which is known, or which by the exercise of
18 reasonable care should be known, to be untrue or misleading.”

19 39. Defendant committed acts of false advertising, as defined by §17500, by making the
20 Claims regarding the EPL products because those claims are untrue and/or misleading.

21 40. Because the Defendant has been made aware of the lack of recyclability aspect to its
22 product packaging/labeling, Defendant knew or should have known through the exercise of
23 reasonable care, that the EPL claims were false, untrue and/or misleading to Plaintiff and the class
24 members.

25 41. Defendant’s actions in violation of § 17500 were untrue and/or misleading such that
26 the Plaintiff, the Proposed Class and the general public are and were likely to be deceived by the
27 untrue and/or misleading statements.
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1 42. Plaintiff and the Proposed Class Members lost money or property as a result of
2 Defendant's false advertising violations, because they would not have purchased, or would not have
3 paid a premium, for the EPL Products if they had not been deceived by the Claims.

4 43. On behalf of the ascertainable class, Plaintiff respectfully requests a public injunction
5 against Defendant to enjoin it from continuing to engage in the illegal conduct alleged herein.

6 **SECOND CAUSE OF ACTION**
7 **For Violation Cal. Bus. & Prof. Code § 17200, et seq. By Plaintiff**
8 **and Proposed Class against Defendants**

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

11 45. Plaintiff is a direct victim of Defendant's illegal and/or unfair business acts and
12 practices referenced in this complaint, has lost money as a result of such practices, and brings this
13 action both in his individual capacity and on behalf of California citizen consumers who share a
14 common or general interest in the damages as a result of the illegal and/or unfair practices.

15 46. The approximately 100,000 member class is ascertainable via their experience as
16 California citizens who purchased EPL products within the State of California at some point within
17 the operative Limitations Period. Class members share a community of interest and an injury-in-fact
18 as Defendant has violated California laws, thereby depriving class members of money earned. Based
19 on the facts set forth above, it would be impracticable to proceed in individual actions.

20 47. Plaintiff suffered an injury-in-fact pursuant to Business & Professions Code section
21 17204, and lost money as a result of Defendant's illegal and/or unfair practices.

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

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

1 50. Plaintiff's allegations herein are based upon Defendant's institutional business acts
2 and practices.

3 51. Defendant's acts and practices, as described herein above, are unlawful and unfair,
4 in that they violate California law.

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

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

10 54. Plaintiff respectfully requests a public injunction against Defendant to enjoin it from
11 continuing to engage in the illegal conduct alleged herein.

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

15 **THIRD CAUSE OF ACTION**
16 **Violations of California Civil Code § 1750, et seq. By Plaintiff**
17 **and Proposed Class against Defendants**

18 56. Plaintiff hereby incorporates by reference the allegations contained in all preceding
19 paragraphs of this complaint.

20 57. This cause of action is brought pursuant to the Consumer Legal Remedies Act,
21 California Civil Code § 1750 (hereinafter "CLRA"). Plaintiff and each member of the proposed class
22 are "consumers" as defined by California Civil Code §1761(d).

23 58. The EPL sales of products to Plaintiff and other proposed class members were
24 "transactions" within the meaning of California Civil Code §1761(e).

25 59. The EPL products purchased by Plaintiff and members of the proposed class are and
26 were "goods" as defined by California Civil Code §1761(a).

27 60. California Civil Code §1770(a)(5) prohibits "[r]epresenting that goods or services
28 have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do
not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or

1 she does not have.” EPL violated §1770(a)(5) insofar as the representations in their packaging,
2 labeling and advertising materials constitute characteristics and benefits that the EPL goods do not
3 possess (among other acts).

4 61. California Civil Code §1770(a) (7) prohibits “[r]epresenting that goods or services are
5 of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are
6 of another.” Defendant violated §1770(a) (7) insofar as they represent their goods are of certain
7 standards, when in truth they are not.

8 62. California Civil Code §1770(a)(9) prohibits “[a]dvertising goods or services with intent
9 not to sell them as advertised.” Defendant has violated § 1770(a)(9) insofar as (among other issues)
10 their advertising suggests the packaging, labeling and advertising materials are recyclable, but are
11 not advertised or sold in a manner consistent with those claims.

12 63. On or about **October 22, 2024**, Plaintiff served Defendant a notice letter pursuant to
13 California Civil Code §1782(a). This letter served to notify Defendant of their violations of
14 California Civil Code §1770(a)(5), California Civil Code §1770(a)(7), and California Civil Code
15 §1770(a)(9). Plaintiff further demanded that Defendant remediate the issues in the actions described
16 above, and give notice to all affected consumers of Defendant of its’ intent to act. A copy of said
17 letter is attached hereto as **Exhibit E**.

18 64. EPL responded to Plaintiff’s October 22, 2024 notice letter. However, EPL failed to
19 respond to all issues set forth within Plaintiff’s letter, failed to fully remediate the issues detailed
20 above, and failed to give notice to all affected consumers within 30 days of Plaintiff’s written notice.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Plaintiff, individually and on behalf of all other members of the public
23 similarly situated, seeks judgment against Defendant, as follows:

24 **First Cause of Action - California Business & Professions Code §§17500, et seq.**

25 As to the First Cause of Action, Plaintiff prays as follows:

- 26 a. For an order certifying the Class;
27 b. For an order certifying Plaintiff as the representative of the Class and Plaintiff’s
28 attorneys as Class Counsel;

- 1 c. For an order declaring the Defendant’s conduct violates the statutes and laws
- 2 referenced herein;
- 3 d. For a Public Injunctive order, directing Defendant to correct, destroy, and change all
- 4 false and/or misleading labeling and website terms relating to the Claims; and/or
- 5 e. For an order awarding Plaintiff attorneys’ fees pursuant to California Code of Civil
- 6 Procedure section 1021.5, and/or any other applicable statute.

7 **Second Cause of Action - California Business & Professions Code §§17200, et seq.**

8 As to the Second Cause of Action, Plaintiff prays as follows:

- 9 a. For an order certifying the Class;
- 10 b. For an order certifying Plaintiff as the representative of the Class and Plaintiff’s
- 11 attorneys as Class Counsel;
- 12 c. For an order declaring the Defendant’s conduct violates the statutes and laws
- 13 referenced herein;
- 14 d. For a Public Injunctive order, directing Defendant to correct, destroy, and change all
- 15 false and/or misleading labeling and website terms relating to the Claims; and/or
- 16 e. For an order awarding Plaintiff attorneys’ fees pursuant to California Code of Civil
- 17 Procedure section 1021.5, and/or any other applicable statute.

18 **Third Cause of Action - California Civil Code §§1750, et seq.**

19 As to the Third Cause of Action, Plaintiff prays 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 Defendant’s conduct violates the statutes and laws
- 24 referenced and awarding Plaintiff statutory penalties and damages;
- 25 d. For a Public Injunctive order, directing Defendant to correct, destroy, and change all
- 26 false and/or misleading labeling and website terms relating to the Claims;
- 27 e. For an order finding in favor of Plaintiff and the Class on all counts asserted herein;
- 28 and/or

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f. For an order awarding Plaintiff, and the Class, their reasonable attorneys' fees and expenses and costs of suit.

DEMAND FOR TRIAL BY JURY

Plaintiff respectfully demands a trial by jury on all issues allowed by law.

Dated: November 27, 2024

SULLIVAN & YAECKEL LAW GROUP, APC

Ryan Kuhn

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on behalf of himself and all others similarly situated and the
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