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8 Attorneys for Plaintiff

9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 ALLISON PAPPAS, Individually and on
12 Behalf of All Others Similarly Situated,

13 Plaintiff,

14 vs.

15 CHIPOTLE MEXICAN GRILL, INC., a
16 Delaware Corporation,

17 Defendant.

Case No.: '16CV0612 MMAJLB

CLASS ACTION

COMPLAINT FOR VIOLATION OF:

1. Consumer Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*;
2. False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.*; and
3. Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

DEMAND FOR JURY TRIAL

19 _____)
20 Plaintiff Allison Pappas (“Plaintiff”), by and through her attorneys, individually and
21 on behalf of all others similarly situated, brings this Class Action Complaint
22 (“Complaint”) against Defendant Chipotle Mexican Grill, Inc., a Delaware corporation
23 (hereinafter referred to as “Chipotle” or “Defendant”), and makes the following
24 allegations based upon knowledge as to herself and her own acts, and upon information
25 and belief as to all other matters, as follows:
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3 **INTRODUCTION**

4 1. This is a class action brought by Plaintiff individually and on behalf of all
5 other individuals similarly situated in California who purchased Chipotle food and
6 beverage products (“Food Products”) marketed, advertised, and/or sold by Defendant
7 during the period from April 27, 2015 to the present (the “Class Period”).

8 2. Chipotle owns and operates a nationwide chain of casual Mexican fast-food
9 restaurants that sell four main menu items: burritos, burrito bowls, tacos, and salads.
10 Since 2009, Chipotle has marketed itself as serving “Food With Integrity,” and sets itself
11 apart from other fast-food chain competitors by claiming to serve locally-sourced produce,
12 antibiotic and hormone free livestock raised in humane conditions, and produce farmed
13 using environmentally-friendly techniques. Chipotle claims that “[w]ith every burrito we
14 roll or bowl we fill, we’re working to cultivate a better world.”
15

16 3. Chipotle has tailored its public image by marketing to healthy-lifestyle and
17 environmentally conscious consumers who it knows are willing to pay premium prices for
18 its food products because they align with the consumers’ ethical eating choices. As part of
19 this public image, beginning in 2013, Chipotle began listing its food ingredients on its
20 website, indicating whether an ingredient was organic, locally produced, had a
21 preservative, or contained a genetically modified organism (“GMO”).
22

23 4. The potential health impact of GMOs has been the subject of much scrutiny
24 and debate within the food and science industries, but Chipotle knows customers attach an
25 unhealthy, negative perception towards them. Capitalizing on this perception, in April
26 2015, Chipotle took the unprecedented step among fast-food restaurants by launching a
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1 multi-media publicity campaign touting that it was the “first national company” in the
 2 food industry to serve a menu devoid GMOs.¹ Chipotle has advertised its GMO-free
 3 message on television commercials, billboards, social media, storefronts, and in-store
 4 signage. Chipotle represents to customers that, if they eat at Chipotle, they will not be
 5 eating GMOs. Chipotle’s marketing campaign has been a resounding success for the
 6 company.
 7

8 5. But as Chipotle told consumers it was “G-M-Over it,” the opposite was
 9 true. In fact, the ingredients in Chipotle’s menu items have never been free of GMOs at
 10 any time. Among other things, Chipotle serves meat products that come from animals
 11 which feed on GMOs, including corn and soy. Chipotle’s tacos and burritos are also
 12 usually served with sour cream and cheese from dairy farms that feed animals with
 13 GMOs. And, Chipotle also sells Coca-Cola and other soft drinks which are made with
 14 corn-syrup—a GMO. While Chipotle knows that its menu contains ingredients with
 15 GMOs, or contains items from animals raised on GMOs, it takes no meaningful steps to
 16 clarify for in-store consumers its actual practices relative to GMOs.
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19 6. As a result of Chipotle’s conduct, customers like Plaintiff Pappas have
 20 been deceived into buying Chipotle’s food, or paying more for Chipotle products than
 21 they would have otherwise paid. Accordingly, Plaintiff brings a proposed class action
 22 against Chipotle arising from Chipotle’s deceptive conduct that seeks damages, restitution
 23 and/or disgorgement of Chipotle’s profits, and other equitable relief.
 24

25 PARTIES

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 27
 28 ¹ See Food With Integrity, G-M-Over It, Chipotle, <http://chipotle.com/gmo> (last accessed March 3, 2015).

1 7. Plaintiff Allison Pappas is a resident of San Diego, California. She
2 purchased Chipotle's Food Products, relying on Defendant's "Food With Integrity"
3 campaign and believing that its food products were contained "Only NON-GMO
4 ingredients" as a result of Defendant's ad campaign. Plaintiff in particular further relied on
5 the representation that Defendant's Food Products did not contain any GMO ingredients,
6 having seen or heard advertisements, including in-store signage, that Chipotle used "only
7 NON-GMO ingredients," in deciding to make purchases at Chipotle. Prior to Chipotle's
8 "Food With Integrity" campaign Plaintiff never made purchases at Chipotle, and
9 specifically chose to purchase food at the restaurant for the first time on May 26, 2015 as a
10 result of ads regarding the use of "only NON-GMO ingredients" in the campaign.
11 Plaintiff would not have purchased from Defendant at the price she had paid, or purchased
12 it at all, had she known that the representations made concerning Defendant's Food
13 Products were materially false and misleading.

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17 8. Defendant Chipotle Mexican Grill, Inc., is a Delaware corporation
18 headquartered in Denver, Colorado. Founded in 1993, Chipotle develops and operates
19 fast-casual and fresh Mexican food restaurants. As of December 31, 2014, Chipotle has
20 over 1,780 restaurants throughout the United States, with 325 restaurants in California
21 alone. Chipotle has reported revenues of \$1.07 billion.

22
23 **JURISDICTION AND VENUE**

24 9. This Court has jurisdiction over the subject matter of this action pursuant to
25 28 U.S.C. § 1332, as amended by the Class Action Fairness Act of 2005, because the
26 matter in controversy exceeds \$5,000,000, exclusive of interest and costs, and is a class
27 action in which some members of the Class are citizens of different states than the
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1 Defendant. See 28 U.S.C. § 1332(d)(2)(A). This Court has supplemental jurisdiction over
2 the state law claims pursuant to 28 U.S.C. § 1367.

3
4 10. This Court has personal jurisdiction over Defendant because Defendant is
5 authorized to do business and does conduct business in California, has specifically
6 marketed, advertised, and sold its Food Products in California, and has sufficient
7 minimum contacts with this state and/or sufficiently avail itself of the markets of this state
8 through its promotion, sales, and marketing within this state to render the exercise of
9 jurisdiction by this Court permissible.
10

11 11. Venue in this Court is proper pursuant to 28 U.S.C. § 1391 because
12 Defendant does business in this District, has intentionally availed itself of the laws and
13 markets within this District through the promotion, marketing, distribution and sale of its
14 Food Products in this District, and a significant portion of the facts and circumstances
15 giving rise to Plaintiff's Complaint occurred in or emanated from this District.
16

17 12. Pursuant to Civil L.R. 3-2(c), an intra-district assignment to the San Diego
18 Division is appropriate because a substantial part of the events or omissions which give
19 rise to the claims asserted herein occurred in this Division, including that Plaintiff
20 purchased Food Products from a Chipotle restaurant in San Diego County.
21

22 FACTUAL ALLEGATIONS

23 **I. Genetically Modified Organisms**

24 13. For thousands of years, humans have domesticated plants, such as wheat
25 and maize, and animals, including cattle, dogs, and sheep, to develop desired genetic traits
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1 through a process of selective breeding (also known as artificial selection).² Selective
2 breeding differs from traditional breeding, which involves the exchange of large,
3 unregulated chunks of their genomes and can lead to unpredictable and unwanted traits in
4 the offspring. However, selective breeding takes time and may require multiple
5 generations of crossing genes to produce the desired genetic trait (such as bigger, better
6 tasting corn kernels).³

8 14. With advances in technology, new techniques have been applied that obtain
9 faster results in getting desired genetic traits. Now, genes that express a desired trait can
10 be physically moved or added to a new organism to enhance the trait in that organism.⁴
11 Also known as genetic engineering or genetic modification,⁵ this technique allows new
12 traits to be introduced one at a time without unwanted complications from extra genes and
13 extensive crossbreeding.⁶ A GMO, also known as a transgenic organism, is the term used
14 for any organism whose genetic material has been altered using these genetic engineering
15 techniques.
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18 15. Today, GMOs are used in biological and medical research, production of
19 pharmaceutical drugs, experimental medicine, and agriculture.⁷ Genetically modified
20 crops are engineered to, among other things, resist certain pests, diseases, or
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23 ² See Genetically modified organism, Wikipedia,
24 https://en.wikipedia.org/wiki/Genetically_modified_organism (last accessed Aug. 7,
2015).

25 ³ See Genetically Modified Organisms (GMO), University of California San Diego,
26 <http://www.bt.ucsd.edu/gmo.html> (last accessed Aug. 7, 2015).

27 ⁴ Id.

28 ⁵ See GMO Education, Institute for Responsible Technology,
<http://www.responsibletechnology.org/gmo-education> (last accessed Aug. 7, 2015).

⁶ <http://www.bt.ucsd.edu/gmo.html>.

⁷ https://en.wikipedia.org/wiki/Genetically_modified_organism.

1 environmental conditions, reduce spoilage, increase size and yield, taste and look better,
2 and resist chemical treatments. As of 2010, 10% of the world's croplands are planted with
3 genetically modified crops.⁸ In the United States, as of 2015, 94% of the planted area of
4 soybeans, 95% of cotton, and 92% of corn were genetically modified varieties.⁹ Other
5 common genetically modified crops include alfalfa, canola, papaya, sugar beets, zucchini,
6 and yellow summer squash.¹⁰

8 16. Since 1996, farmers in animal agriculture (including poultry) have
9 optimized GMOs by feeding genetically modified grains (corn) and oilseeds (soybean) to
10 their flocks and herds.¹¹ Because more than 80% of the corn and soybeans in the United
11 States are raised from genetically modified seeds, almost all corn and soybean used in
12 conventional livestock and poultry feed is genetically modified.¹² In addition, other
13 genetically modified crops such as cotton, canola, sugar beets, and alfalfa are commonly
14 used in animal feed.¹³

21 ⁸ Id.

22 ⁹ Adoption of Genetically Engineered Crops in the U.S., United States Department of
23 Agriculture Economic Research Service (July 9, 2015), [http://www.ers.usda.gov/data-
products/adoption-ofgenetically-engineered-crops-in-the-us.aspx](http://www.ers.usda.gov/data-products/adoption-ofgenetically-engineered-crops-in-the-us.aspx).

24 ¹⁰ See What is GMO? Agricultural Crops That Have a Risk of Being GMO, Non-GMO
25 Project, <http://www.nongmoproject.org/learn-more/what-is-gmo/> (last accessed Aug. 7,
26 2015).

27 ¹¹ See Genetically Modified Organism (GMO) Use in the Chicken Industry, National
28 Chicken Council (July 5, 2013), [http://www.nationalchickencouncil.org/genetically-
modified-organismgmo-use-in-the-chicken-industry/](http://www.nationalchickencouncil.org/genetically-modified-organismgmo-use-in-the-chicken-industry/).

¹² Id

¹³ See Ryan Beville, How Pervasive are GMOs in Animal Feed?, GMO Inside Blog (July
16, 2013), <http://gmoinside.org/gmos-in-animal-feed/>.

1 17. While the safety or health impact of food and other goods derived from
2 genetically modified crops has been, and continues to be, hotly debated,¹⁴ according to a
3 January 29, 2015 Pew Research Center survey, only 37% of the general public believes
4 that “it is generally safe to eat genetically modified (GM) foods.”¹⁵

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6 18. Because the safety (or benefit) of eating genetically modified foods has
7 been questioned, and the perception that GMOs are unnatural and harm the environment
8 has persisted, consumers who are health and environmentally conscious have sought
9 products that are non-GMO. As a result, companies have created a \$5 billion (and fast
10 growing) market for products without GMOs¹⁶ and consumers are willing to pay the
11 higher costs associated with non-GMO products due to the negative perception of
12 genetically modified foods and because GMO-free ingredients are often more expensive.¹⁷

13 **II. Chipotle’s Advertising and Marketing**

14 **A. Chipotle’s “Food With Integrity” Campaign**

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19 ¹⁴ Compare, e.g., European Commission, A Decade of EU-funded GMO Research (2001-
20 2010), [http://ec.europa.eu/research/biosociety/pdf/a_decade_of_eu-
21 funded_gmo_research.pdf](http://ec.europa.eu/research/biosociety/pdf/a_decade_of_eu-funded_gmo_research.pdf) (last accessed Aug. 7, 2015) (“The main conclusion to be
22 drawn from the efforts of more than 130 research projects, covering a period of more than
23 25 years of research, and involving more than 500 independent research groups, is that
24 biotechnology, and in particular GMOs, are not per se more risky than e.g. conventional
25 plant breeding technologies.”), with GMO Facts, Non GMO Project,
26 <http://www.nongmoproject.org/learn-more/> (last accessed Aug. 7, 2015) (“Meanwhile, a
27 growing body of evidence connects GMOs with health problems, environmental damage
28 and violation of farmers’ and consumers’ rights.”).

¹⁵ Cary Funk and Lee Rainie, Public and Scientists’ Views on Science and Society, Pew
Research Center (Jan. 29, 2015),
http://www.pewinternet.org/files/2015/01/PI_ScienceandSociety_Report_012915.pdf.

¹⁶ Mary Beth Schweigert, GMO Free Comes at a Price, Gluten-Free Living (Nov. 25,
2014), [http://www.glutenfreeliving.com/gluten-free-lifestyle/non-gmo/gmo-free-comes-at-
price/](http://www.glutenfreeliving.com/gluten-free-lifestyle/non-gmo/gmo-free-comes-at-price/).

¹⁷ Id.

1 19. Since 2009, Chipotle has marketed, sold, and prided itself on serving “Food
2 With Integrity,”¹⁸ promoting its brand and Food Products as a leader in healthier food and
3 ethical farming practices. In addition to print, outdoor, transit and radio ads, Chipotle
4 conducts online advertising and strategic promotions to demonstrate its “Food With
5 Integrity” mission. Chipotle’s video and music programs, events and festivals such as its
6 “Cultivate Festival,” and digital, mobile, and social media campaigns (such as its three-
7 minute “The Scarecrow” and two-minute “Back to the Start” Youtube.com campaigns)
8 have permitted Chipotle to differentiate itself from other fast-food companies as the
9 industry leader in being health and environmentally conscious. In 2014 alone, Chipotle
10 spent over \$57 million in advertising and marketing costs in the United States.
11

12
13 20. Chipotle claims that it is “all about simple, fresh food without artificial
14 flavors or fillers,” that it serves “more local produce than any restaurant company in the
15 U.S.,” that it is “serious about pasture-raised animals that have room to be animals,” and
16 that there is “no place for nontherapeutic antibiotics and synthetic hormones on the farms
17 that produce” Chipotle’s ingredients. Chipotle’s “Food with Integrity” principle
18 purportedly led it to stop serving pork in some of its restaurants after it found that
19 suppliers were not meeting its pork production standards.¹⁹
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26 ¹⁸ See Day After Day, We’re Committed, Chipotle, <http://chipotle.com/food-with-integrity>
(last accessed Aug. 25, 2015).

27 ¹⁹ Hayley Peterson, Chipotle workers are trained to give you smaller portions of these 7
28 ingredients, Business Insider (Feb. 25, 2015, 11:46 AM),
<http://www.businessinsider.com/chipotles-critical-seven-ingredients-2015-2>.

1 21. Beginning in March 2013, Chipotle released a comprehensive list of all of
2 its ingredients on its online website, which was reportedly a first among fast-food chains.²⁰
3 When Chipotle first listed its ingredients online, 12 of the 24 ingredients listed contained
4 the presence of GMOs, including, but not limited to, Chipotle’s tortillas, rice, salad
5 dressing, potato chips, and its meat products.²¹ Chipotle stated, however, that it was
6 committed “to remov[ing] the GMOs from” its’ Food Products “to the fullest extent
7 possible.”²² But, this information was never disclosed in Chipotle’s stores, or in its
8 advertising campaigns, and was, instead, specifically concealed, from the public in those
9 forums.
10

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12 **B. Chipotle’s April 2015 “GMO Free” Announcement**

13 22. On or about April 27, 2015, Chipotle announced, and began advertising,
14 that it would only prepare food with ingredients that are free of GMOs.²³ Steve Ells,
15 Chipotle’s founder and co-chief executive, stated that, “Just because food is served fast
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19 ²⁰ See A “Food Babe Investigates” Win – Chipotle Posts Ingredients, Food Babe,
20 <http://foodbabe.com/2013/03/24/a-food-babe-investigates-win-chipotle-posts-ingredients/>
(last accessed Aug. 9, 2015); see also Joe Satran, Chipotle Starts Labeling GMO
21 Ingredients on Website Menu, Huff Post Green (June 18, 2013, 1:57 PM),
22 http://www.huffingtonpost.com/2013/06/18/chipotle-gmo_n_3460402.html; Steve Ellis,
23 Chipotle Is Saying No To GMOs. Here’s Why., Huff Post Food for Thought (Jan. 28,
2014, 8:48 AM), [http://www.huffingtonpost.com/steve-ells/chipotle-gmos-
no_b_4063994.html](http://www.huffingtonpost.com/steve-ells/chipotle-gmos-no_b_4063994.html).

24 ²¹ See Chipotle Starts Labeling GMO Ingredients on Website Menu; A “Food Babe
25 Investigates” Win – Chipotle Posts Ingredients.

26 ²² Chipotle Is Saying No To GMOs. Here’s Why.

27 ²³ See Stephanie Strom, Chipotle to Stop Using Genetically Altered Ingredients, The New
28 York Times (Apr. 26, 2015), [http://www.nytimes.com/2015/04/27/business/chipotle-to-
stop-servinggenetically-altered-food.html?_r=0](http://www.nytimes.com/2015/04/27/business/chipotle-to-stop-servinggenetically-altered-food.html?_r=0); Jana Kasperkevic, Chipotle removes all
GMO ingredients from its menu, The Guardian (Apr. 27, 2015, 12:09 PM),
<http://www.theguardian.com/business/2015/apr/27/chipotle-gmo-food-off-the-menu>.

1 doesn't mean it has to be made with cheap raw ingredients, highly processed with
2 preservatives and fillers and stabilizers and artificial colors and flavors.”²⁴

3
4 23. Chipotle's announcement was a strategic marketing campaign to entice
5 new health-minded consumers and retain current ones. As Phil Lampert noted in his April
6 28, 2015 Forbes' article, "Chipotle's Non-GMO Policy Changes Everything," "Chipotle's
7 move will no doubt attract new customers to the chain's restaurants and most likely bring
8 in an entirely new customer base, not for the food, but because they align with the chain's
9 ethical positions. Some will like the food and come back for more.”²⁵

10
11 24. In an April 30, 2015 article for New York Magazine, Jesse Singal pointed
12 out that Chipotle would "score points" by advertising that it was "ditching" GMOs:

13 Most consumers aren't going to carefully analyze the scientific consensus on
14 a given issue – who has time for that? Rather, they use mental shortcuts,
15 taking cues from people and institutions they trust. Chipotle has developed a
16 reputation for corporate responsibility and making careful decisions about the
17 ingredients on its menu, and Chipotle ditched GMOs — therefore, GMOs
18 must be bad. Chipotle scores points, science loses.²⁶

19 25. On billboards and in its marketing and advertising, Chipotle declared that
20 its Food Products are made from "non-GMO ingredients." Chipotle also took to social
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25 ²⁴ Id.

26 ²⁵ Phil Lampert, Chipotle's Non-GMO Policy Changes Everything, Forbes (Apr. 28, 2015,
27 3:24 PM), [http://www.forbes.com/sites/phillempert/2015/04/28/chipotles-non-gmo-
28 policychanges-everything/](http://www.forbes.com/sites/phillempert/2015/04/28/chipotles-non-gmo-policychanges-everything/).

²⁶ Jesse Singal, Chipotle Is Promoting Opportunistic Anti-Science Hysteria, New York
Magazine (Apr. 30, 2015, 1:12 PM), [http://nymag.com/scienceofus/2015/04/chipotle-is-
promoting-antiscience-hysteria.html](http://nymag.com/scienceofus/2015/04/chipotle-is-promoting-antiscience-hysteria.html).

1 media, announcing to its 684,000 followers on Twitter that: “We’re now making all of the
 2 food at our US restaurants with only non-GMO ingredients.”²⁷

3
 4 26. In another tweet, Chipotle noted that it was “literally dropping” the letters
 5 G, M, and O from their menu, including taking out the “O” in “Chicken Burrito,” thus
 6 representing that its chicken burrito does not have any GMO ingredients—even though
 7 Chipotle knew that its meat products come from animals that consume GMO feed:



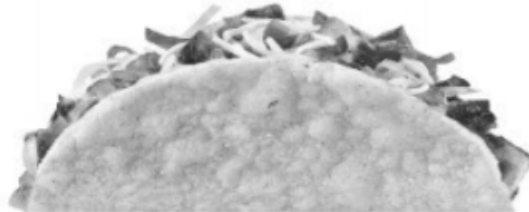
21 27. In Chipotle’s “A Farewell to GMOs” billboard advertisement of a taco
 22 laced with cheese, it represented that it replaced all of its ingredients “with non-GMO
 23 ingredients” and that “all” of Chipotle’s “food is non-GMO”:

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 27 ²⁷ See @ChipotleTweets, Chipotle,
 28 <https://twitter.com/ChipotleTweets/status/592793417652039680> (last accessed Aug. 10, 2015).

1
2 **A FAREWELL TO GMOs**

3 For the last 21 years we have been striving to make our
4 ingredients better. Given that we don't think genetically modified
5 organisms (GMOs) are better, we have replaced them with
6 non-GMO ingredients. Now all of our food is non-GMO.

7 **CHIPOTLE.COM/GMO**



12 28. In another advertisement, Defendant represented that its Food Products are
13 “made with no-GMO ingredients”:



24 29. On store fronts, Chipotle advertised “A Farewell to GMOs,” noting that
25 “[w]hen it comes to our food, genetically modified ingredients don’t make the cut”:



30. Indeed, Defendant advertises and represents on its in-store billboards that it uses “only NON-GMO ingredients,” representing to consumers that all of its ingredients, including its meat “raised without antibiotics or added hormones” and its “pasture-raised dairy” products, do not contain any GMOs:



31. Defendant’s nationwide advertising campaign for its Food Products has been extensive and comprehensive throughout the Class Period. Defendant has spent tens of millions of dollars conveying to consumers throughout the United States its deceptive

1 message that Chipotle’s Food Products use “only NON-GMO ingredients” and that “all”
2 of its Food Products are “non-GMO.”

3
4 32. As a result of Chipotle’s deceptive and misleading messages and omissions
5 about its Food Products, conveyed directly through its marketing and advertising
6 campaigns, it has been able to charge consumers a significant price premium for its Food
7 Products over other fast-food restaurants by convincing consumers to pay for a
8 purportedly superior product, as its advertising and marketing misleadingly convey.

9
10 **III. Defendant’s False, Misleading and Deceptive GMO Free Claims**

11 33. Chipotle’s false and misleading representation to consumers claiming that
12 its Food Products do not have GMOs, and its omissions regarding the GMOs used in
13 certain of the meat and dairy ingredients it uses in its Food Products, have been, and
14 continue to be, material to consumers, including Plaintiff and other members of the
15 putative class, and Defendant knows that its misleading representations are material in
16 nature. Were the presence of GMOs in food, and in the feed given to animals yielding
17 food products, not material to consumers, Chipotle would not focus its marketing and
18 advertising to claim that it is the first GMO-free fast-food restaurant, and Chipotle would
19 not be able to charge customers premium prices for its purportedly “non-GMO” Food
20 Products.
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22

23 34. However, as food writer Julie Kelly points out, “[t]he company’s holier-
24 than-thou PR move proclaiming ‘Food with Integrity’ struck me as the ultimate cynical
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1 marketing tactic: feign integrity while you mislead customers to believe that your food is
2 GMO-free when it's not.”²⁸

3
4 35. In reliance upon Chipotle's prominently displayed ad campaign to utilize
5 “Only NON-GMO Ingredients”, Plaintiff understood the ads to mean that chipotle's menu
6 items did not contain GMOs, were not sourced from animals that were raised on GMO
7 feed, did not use GMO processing aids in food preparation, and were otherwise certified
8 as non-GMO under industry standards. As a result of this understanding, Plaintiff made
9 multiple purchases at the Chipotle located at 101 West Broadway San Diego, CA 92101.
10

11 These purchases include, but are not limited to the following:

12 1. On 5/26/15, Plaintiff purchased a meal at Chipotle in the amount of \$9.45. Plaintiff
13 believes the meal she purchased to be a combination of one to three meat and cheese
14 only tacos on flour tortillas with side of tortilla chips.

15
16 2. On 6/24/15, Plaintiff purchased a meal at Chipotle in the amount of \$10.48.
17 Plaintiff believes the meal she purchased to be a combination of one to three meat and
18 cheese only tacos on flour tortillas with a side of tortilla chips.

19
20 3. On 7/13/15, Plaintiff purchased a meal at Chipotle in the amount of \$10.69.
21 Plaintiff believes the meal she purchased to be a combination of one to three meat and
22 cheese only tacos on flour tortillas with a side of tortilla chips.
23
24

25 ²⁸ Julie Kelly, Why Whole Foods and Chipotle's anti-GMO campaigning has lost my
26 business, Genetic Literacy Project (July 6, 2015),
27 <http://www.geneticliteracyproject.org/2015/07/06/whywhole-foods-and-chipotles-anti-gmo-campaigning-has-lost-my-business/>; see also Sarah Zhang, Chipotle's Anti-GMO
28 Stance Is Some Anti-Science Pandering Bullshit, Gizmodo (Apr. 27, 2015, 3:18 PM),
<http://gizmodo.com/chipotles-anti-gmo-stance-is-some-pandering-bullshit-1700437048>.

1 4. On 7/16/15, Plaintiff purchased a meal at Chipotle in the amount of \$9.34. Plaintiff
2 believes the meal she purchased to be a combination of one to three meat and cheese
3 only tacos on flour tortillas with a side of tortilla chips.
4

5 5. On 7/23/15, Plaintiff purchased a meal at Chipotle in the amount of \$9.34. Plaintiff
6 believes the meal she purchased to be a combination of one to three meat and cheese
7 only tacos on flour tortillas with a side of tortilla chips.
8

9 6. On 7/28/15, Plaintiff purchased a meal at Chipotle in the amount of \$9.45. Plaintiff
10 believes the meal she purchased to be a combination of one to three meat and cheese
11 only tacos on flour tortillas with a side of tortilla chips.
12

13 7. On 8/07/15, Plaintiff purchased a meal at Chipotle in the amount of \$4.27. Plaintiff
14 believes the meal she purchased to be a combination of one to three meat and cheese
15 only tacos on flour tortillas with a side of tortilla chips.
16

17 8. On 9/03/15, Plaintiff purchased a meal at Chipotle in the amount of \$6.97. Plaintiff
18 believes the meal she purchased to be a combination of one to three meat and cheese
19 only tacos on flour tortillas with a side of tortilla chips.
20

21 36. Plaintiff is informed and believes and based thereon alleges that all of the
22 food she purchased as set forth above either contained GMO ingredients, or was a meat
23 product raised, at least in part, on GMO ingredients. On average, Plaintiff spent about \$5
24 more per meal at Chipotle than she would have at a similar food store, such as Taco Bell,
25 that did not advertise their food contained “Only NON-GMO ingredients.” Plaintiff chose
26 to purchase food at the more expensive Chipotle due to her belief that it contained “only
27 NON-GMO Ingredients”, unlike Taco Bell, which does not make any such claims.
28

1 37. Defendant’s advertising and marketing claims that its Food Products are
2 made with “only NON-GMO ingredients” and that “all” of its Food Products are “NON-
3 GMO” are false, misleading, deceptive, unfair and unconscionable because Chipotle
4 utilizes meat and dairy products from animals that consume genetically modified food,
5 and because it serves soft drinks that contain GMOs.
6

7 38. There is an ongoing debate as to the effect on meat from animals that have
8 been fed GMO feed. While some researchers say that there is no effect on the meat from
9 the animals, other researchers have found the opposite to be true. A long-term, peer-
10 reviewed study conducted by a group of scientists led by Dr. Judy Carman of the Institute
11 of Health and Environmental Research in Australia was released in 2013 that found there
12 to be serious health issues in animals fed GMO feed.²⁹ This study found that animals fed
13 GMO feed experienced several adverse effects, including reproductive and digestive
14 disorders as a result of the genetically modified feed. In the study, pigs and cows were fed
15 with GMO corn and soy products. Half of the pigs in the study were fed GM feed, (the
16 GM-fed group), and the other half were fed non-GM feed, (the control group). Dr.
17 Carmen explains her methodology for conducting the study as follows:
18
19

20 At a commercial piggery in the US, we took 168 just-weaned pigs and fed them a
21 typical diet for the piggery, containing soy and corn, for 22.7 weeks (over 5 months)
22 until the pigs were slaughtered at their usual slaughter age. Half of the pigs were fed
23

24
25 ²⁹ Judy A. Carmen. A long-term toxicology study on pigs fed a combined
26 genetically modified (GM) soy and GM maize diet. <http://www.organic-systems.org/journal/81/8106.pdf>. (March 19, 2016, 10:00 AM); See also Christina Sarich. First Long Term Study Released on Pigs, Cattle Who Eat GMO Soy and Corn Offers Frightening Results. (June 27, 2013). <http://www.nationofchange.org/first-long-term-study-released-pigs-cattle-who-eat-gmo-soy-and-corn-offers-frightening-results-13723>.
27 (March 19, 2016, 10:00 AM).
28

1 widely-used varieties of GM soy and GM corn (the GM-fed group) for this whole
2 period, and the other half of the pigs were fed an equivalent non-GM diet (the control
3 group). The GM diet contained three GM genes and therefore three GM proteins. One
4 protein made the plant resistant to a herbicide, and two proteins were insecticides.
5

6 39. All of the pigs fed the GMO feed experienced adverse effects and
7 developed adverse health conditions that the control group did not. The GMO-fed group
8 were found to have several pathologies as a result of the GMO-feed including but not
9 limited to the following: Carcinoma, inflammation of the stomach and small intestine,
10 stomach ulcers, reduced ability to procreate, increase in hemorrhaging bowels, enlarged
11 uteri, reproductive issues, and endometritis among other serious conditions.
12

13 40. Another study conducted by Gilles-Éric Séralini found that rats that were
14 fed GMO-feed developed chronic kidney deficiencies, large mammary tumors, hormone
15 imbalances and other adverse effects.³⁰ The study concluded that “our findings imply that
16 long-term (2 year) feeding trials need to be conducted to thoroughly evaluate the safety of
17 GM foods and pesticides in their full commercial formulations.”
18

19 41. Conversely, there are other studies that claim that there is no effect on an
20 animal whether it is fed GMO or Non-GMO feed. A study conducted by University of
21 California-Davis Department of Animal Science geneticist Alison Van Eenennaam and
22 research assistant Amy E. Young concluded that GMO feed was safe to feed animals and
23
24

25
26 _____
27 ³⁰ Gilles-Eric Séralini. Republished study: long-term toxicity of a Roundup
28 herbicide and a Roundup-tolerant genetically modified maize. (June 24, 2014.)
<http://enveurope.springeropen.com/articles/10.1186/s12302-014-0014-5>. (March 9, 2016.
10:00 a.m.)

1 furthermore, there was no adverse effects on humans that eat meat from animals that have
2 been fed GMO-feed.³¹

3
4 42. What is clear from these studies is that there is an ongoing debate as to the
5 effect of GMO-feed on animals. Plaintiff is informed and thereon believes that as a result
6 of this ongoing debate, the general public is concerned about the use of GMO crops and
7 the thought of consuming meat from animals that have consumed genetically modified
8 feed. A recent broadcast by ABC News stated that “the public debate and concern over
9 GMO foods shows no sign of easing.”³² According to the broadcast, “It’s a common
10 refrain among consumers who often admit they only dimly understand what scientists
11 have been doing to modify the food we eat and the crops we feed to animals, which many
12 of us eat.” Plaintiff is informed and thereon believes that this growing concern over the
13 use of GMO foods is why it’s so important that GMO foods be labeled properly and
14 truthfully. This is why regarding GMO foods, The Institute of Health and Environmental
15 Research Inc. suggests that “there is an urgent need for the full labelling of GM foods,
16 comprehensive safety testing by independent researchers of all GM foods currently in the
17 marketplace and of all subsequent GM foods before they enter the marketplace.”³³
18
19
20
21
22

23 ³¹ Jon Entine. What happens when 100 billion animals, over 18 years, eat GMOs?
24 (September 19, 2014.) Forbes. <https://www.geneticliteracyproject.org/2014/09/19/what-happens-when-100-billion-animals-over-18-years-eat-gmos/> (March 10, 2016. 10:00 a.m.)

25 ³² Dave Marquis. Genetic engineering pushes new frontiers as GMO food debate
26 still rages. (January 26, 2016.) ABC 10 News.
27 <http://legacy.abc10.com/story/news/local/california/2016/01/26/genetic-engineering-pushes-new-frontiers-gmo-food-debate-still-rages/79335140/> (March 10, 2016. 12:00 p.m.)

28 ³³ Is GMO Food Safe to Eat? Iher Australia. (June 18). <http://www.iher.org.au/is-gm-food-safe-to-eat/> (March 9, 2016 10:00 a.m.)

1 43 Chipotle concedes in disclaimers located on its website, but not in its stores
2 or advertising campaigns, that some of its soft drinks contain GMOs, and that its meat and
3 dairy supplies come from animals fed with GMO grains.³⁴ Contrary to its advertising
4 campaign and in-store signage, Chipotle’s ingredient list on its website provides, “there is
5 currently not a viable supply of responsibly raised meats and dairy from animals raised
6 without GMO feed.”³⁵ Chipotle only discloses this information on its website, because it
7 knows its fast-food customers never need to visit Chipotle’s website to buy food, and are
8 highly unlikely to seek out this information when simply deciding where to purchase
9 lunch or dinner. Rather, reasonable consumers are likely to rely on Chipotle’s internet,
10 mass media, and in-store advertising to choose Chipotle over its competitors.
11

12 44. Noting that “Chipotle’s advertising is purposefully misleading” and
13 pointing out that Chipotle “admits as much” on its website, Julie Kelly and Jeff Stier call
14 out Chipotle’s advertising “gimmicks” in their May 1, 2015 National Review article,
15 “GMO: Gimmicky Marketing Obfuscations”:
16

17 So you can eat GM-free at Chipotle as long as you don’t order the pork,
18 chicken, cheese, sour cream, tortillas, or Coke. “They conveniently ignore
19 GMO-derived ingredients when they don’t have alternatives or it doesn’t
20 serve profits,” said Kevin Folta, chair of the Horticultural Sciences
21 Department at the University of Florida. “It is corporate deception in the
22 name of a buck and anti-GMO deception in the name of ideology.” So
23 much for food with integrity.³⁶

24 ³⁴ Food With Integrity, G-M-Over It.

25 ³⁵ See Ingredient Statement, Chipotle, <http://chipotle.com/ingredient-statement> (last
26 accessed Aug. 25, 2015).

27 ³⁶ Julie Kelly and Jeff Stier, GMO: Gimmicky Marketing Obfuscations; Perhaps Chipotle
28 should have learned from Starbucks, National Review (May 1, 2015, 5:30 PM),
[http://www.nationalreview.com/article/417801/gmo-gimmicky-marketing-obfuscations-
julie-kellyjeff-stier](http://www.nationalreview.com/article/417801/gmo-gimmicky-marketing-obfuscations-julie-kellyjeff-stier); see also Tim McDonnell, Chipotle Says It’s Getting Rid of GMOs.
Here’s the Problem., Mother Jones (Apr. 28, 2015, 4:08 PM),
<http://www.motherjones.com/bluemarble/2015/04/chipotle-gmos-anti-science>.

1
2 45. No billboard or in-store advertisement indicates that Chipotle's Food
3 Products have ingredients containing GMOs, even though Defendant's Food Products are
4 necessarily made with ingredients containing GMOs, since Defendant's meat and dairy
5 products come from animals that consume GMOs.
6

7 46. Food is considered misbranded under the Federal Food, Drug and Cosmetic
8 Act ("FDCA") if "its labeling is false or misleading in any particular," or if it does not
9 contain certain information on its label or labeling. See 21 U.S.C. § 343. If any
10 representation in the labeling is misleading, the entire food is misbranded. Because
11 Defendant has made and continues to make misleading claims that "all" of the ingredients
12 comprising its Food Products are "NON-GMO," when the representation is false and
13 misleading, Chipotle is in violation of the FDCA.
14
15

16 **IV. Chipotle's Concealment**

17 47. Defendant is, and remains under, a duty to Plaintiff and the putative class to
18 disclose in its physical store locations and in its advertising campaigns, the facts, as
19 alleged herein. The duty to disclose the true facts arises because, as marketer and seller,
20 Defendant is in a superior position to know the true character and quality of its Food
21 Products, and the true facts are not something that Plaintiff and the putative class members
22 could be reasonably expected to have discovered by undertaking research independently
23 prior to purchase.
24

25 48. The facts concealed and/or not disclosed to Plaintiff and the Class,
26 specifically that consumers are not consuming "only NON-GMO ingredients," including
27 meat products fed with GMO ingredients, are material facts, in that a reasonable person
28

1 would have considered them important in deciding whether or not to purchase (or pay the
2 same price for) a Chipotle Food Product.

3 49. Defendant intentionally concealed, and/or failed to disclose to consumers,
4 in its store locations, and through its advertising campaigns, that not all of the ingredients
5 Chipotle uses in its Food Products are GMO-free, and that its meat and dairy products
6 come from animals fed GMOs for the purpose of inducing Plaintiff and putative class
7 members to act thereon.
8

9 50. Plaintiff and the putative class members justifiably acted upon, or relied
10 upon to their detriment, the concealed and/or non-disclosed material facts as evidenced by
11 their purchase of Chipotle's Food Products. Had they known of the true character and
12 quality of the ingredients used in Chipotle's Food Products, and the fact that its meat and
13 dairy products were derived from GMO-fed animals, Plaintiff and the putative class
14 members would not have purchased (or would have paid less for) such products.
15
16

17 51. As a direct and proximate cause of Chipotle's misconduct, Plaintiff and the
18 putative class members have suffered actual damages.

19 **CLASS ACTION ALLEGATIONS**

20 52. Plaintiff brings this class action pursuant to Rule 23 of the Federal Rules
21 of Civil Procedure on behalf of herself and all members of the following class (the
22 "Class"):
23

24 All persons who purchased, between April 27, 2015 and the present,
25 Chipotle Food Products, in California, which contain GMO products, or
26 meat or dairy products derived from animals which were fed GMO
27 products, and who did not review the disclosures on defendant's website
28 relative to its GMO product sales prior to purchase.

1 Excluded from the Class are: (1) any Judge or Magistrate presiding over this action and
2 members of their families; (2) Defendant, Defendant's subsidiaries, parents, successors,
3 predecessors, and any entity in which Defendant has a controlling interest, and its current
4 or former employees, officers, and directors; (3) counsel for Plaintiff and Defendant; and
5 (4) legal representatives, successors, or assigns of any such excluded persons.
6

7 53. The Class is so numerous that joinder of all members is impracticable.
8 Though the exact number and identities of Class members are unknown at this time,
9 Defendant's sales as of December 31, 2014 resulted in revenues of \$1.07 billion.
10 Moreover, Defendant has over 1,780 restaurants, with 325 restaurants in California alone.
11 Based on these figures, it appears that the membership of the Class is in the tens of
12 thousands.
13

14 54. Common questions of law and fact exist as to all Class members. These
15 common questions of law or fact predominate over any questions affecting only individual
16 members of the Class. Common questions include, but are not limited to, the following:
17

18 Whether Defendant engaged in deceptive and unfair business and trade
19 practices alleged herein;

20 (a) Whether Defendant knowingly concealed or omitted material
21 information concerning the ingredients in its Food Products in some of
22 its ad campaigns and in its ads displayed in Chipotle stores;

23 (b) Whether Defendant falsely and deceptively misrepresented in its
24 advertisements and promotional materials, and other materials, that all
25 of its Food Products were made with "Only NON-GMO ingredients";
26
27
28

1 (c) Whether Defendant represented that its Food Products and their
2 ingredients have characteristics, uses, benefits, or qualities that they do
3 not have;

4 (d) Whether the Class has been injured by virtue of Defendant's unfair
5 and/or deceptive business practices and conduct; and

6 (e) Whether Class members that purchased Defendant's Food Products
7 suffered monetary damages and, if so, what is the measure of those
8 damages.
9

10
11 55. Plaintiff's claims are typical of the claims of the respective Class she seeks
12 to represent, in that the named Plaintiff and all members of the proposed Class has
13 suffered similar injuries as a result of the same practices alleged herein. Plaintiff has no
14 interests adverse to the interests of the other members of the Class.
15

16 56. Plaintiff will fairly and adequately protect the interests of the Class, and has
17 retained attorneys experienced in class actions and complex litigation as their counsel.

18 57. Plaintiff and other members of the Class have suffered damages as a result
19 of Chipotle's unlawful and wrongful conduct. Absent a class action, Chipotle will retain
20 substantial funds received as a result of its wrongdoing, and such unlawful and improper
21 conduct shall, in large measure, not go remedied. Absent a class action, the members of
22 the Class will not be able to effectively litigate these claims and will suffer further losses,
23 as Defendant will be allowed to continue such conduct with impunity and retain the
24 proceeds of its ill-gotten gains.
25

26 58. Plaintiff avers that the prerequisites for class action treatment apply to this
27 action and that questions of law or fact common to the Class predominate over any
28

1 questions affecting only individual members and that class action treatment is superior to
2 other available methods for the fair and efficient adjudication of the controversy which is
3 the subject of this action. Plaintiff further states that the interests of judicial economy will
4 be served by concentrating litigation concerning these claims in this Court, and that the
5 management of the Class will not be difficult.
6

7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 **(Violation of the California Consumer Legal Remedies Act,
10 Cal. Civil Code §§ 1750, et seq.)**

11 59. Plaintiff repeats and realleges each and every allegation contained above,
12 and incorporates by reference all other paragraphs of this Complaint as if fully set forth
13 herein.
14

15 60. The California Consumer Legal Remedies Act ("CLRA"), Civil Code
16 section 1750, et seq., was designed and enacted to protect consumers from unfair and
17 deceptive business practices. To this end, the CLRA sets forth a list of unfair and
18 deceptive acts and practices in Civil Code section 1770.
19

20 61. The CLRA applies to Defendant's actions and conduct described herein
21 because it extends to the sale of goods or services for personal, family, or household use.
22

23 62. At all relevant times, Plaintiff and members of the Class were "consumers"
24 as that term is defined in Civil Code section 1761(d).

25 63. The transactions from which this action arises include transactions
26 involving the sale or lease of goods or services for personal, family, or household
27 purposes within the meaning of Civil Code section 1761.
28

1 64. Chipotle's practices in connection with the marketing and sale of its Food
2 Products violate the CLRA in at least the following respects:

3 (a) In violation of section 1770(a)(5), Defendant knowingly
4 misrepresented the character, ingredients, uses and benefits of the
5 ingredients in its Food Products;

6 (b) In violation of section 1770(a)(7), Defendant represented that the
7 ingredients in its Food Products are of a particular standard, quality or
8 grade, which they are not; and

9 (c) In violation of section 1770(a)(9), Defendant knowingly advertised its
10 Food Products with the intent not to sell the products as advertised.

11 65. Chipotle represents that all of its Food Products contain “only NON-GMO
12 ingredients” and omits to disclose that its Food Products necessarily contain GMO
13 ingredients in order to convey to consumers that they are obtaining a product that provides
14 more benefit and are safer for consumers than other restaurants which offer similar or
15 substantially similar food products. These representations are false and misleading in that
16 many of the ingredients composing Chipotle’s Food Products do contain GMOs.
17

18 66. Defendant's acts and practices, undertaken in transactions intended to result
19 and which did result in the purchase of its Food Products by consumers, violate Civil
20 Code section 1770 and caused harm to Plaintiff and Class members who would not have
21 purchased (or paid as much for) its Food Products had they known the truth. The acts and
22 practices engaged in by Defendant that violate the CLRA include inducing Plaintiff and
23 the Class to purchase (or pay more for) its Food Products than they would otherwise have
24 paid had they known the truth.
25
26
27
28

1 67. Plaintiff was injured by purchasing (or overpaying for) Chipotle's Food
2 Products.

3 68. In accordance with Civil Code section 1780(a), Plaintiff and members of
4 the Class seek injunctive and equitable relief for violations of the CLRA. In addition, after
5 mailing appropriate notice and demand in accordance with Civil Code sections 1782(a) &
6 (d), Plaintiff will subsequently amend this Class Action Complaint to also include a
7 request for damages. Plaintiff and members of the Class request that this Court enter such
8 orders or judgments as may be necessary to restore to any person in interest any money
9 which may have been acquired by means of such unfair business practices, and for such
10 other relief, including attorneys' fees and costs, as provided in Civil Code section 1780
11 and the Prayer for Relief.
12
13

14
15 **COUNT II**
16 **(Violation of California False Advertising Law,**
17 **Cal. Bus. & Prof. Code §§ 17500, et seq.)**

18 69. Plaintiff repeats and realleges each and every allegation contained above,
19 and incorporates by reference all other paragraphs of this Complaint as if fully set forth
20 herein.

21 70. Each of the above misleading advertising practices of Chipotle set forth
22 above constitutes untrue or misleading advertising under the California False Advertising
23 Law ("FAL"), California Business & Professions Code section 17500, et seq.

24 71. At all material times, Defendant's marketing materials misrepresented or
25 omitted to state that Defendant's Food Products contain ingredients that have GMOs.
26 Chipotle's acts and practices have deceived and/or are likely to deceive members of the
27 Class and the public.
28

1 72. Defendant is disseminating marketing and advertising concerning its Food
2 Products, which by its nature is unfair, untrue, deceptive, or misleading within the
3 meaning of California Business & Professions Code section 17500, et seq. Such
4 advertisements are likely to deceive, and in fact have deceived plaintiff and the class.
5

6 73. In making and disseminating the statements alleged herein, Chipotle should
7 have known its advertisements were untrue and misleading. Plaintiff and members of the
8 Class based their decisions to purchase Chipotle Food Products in substantial part on
9 Defendant's misrepresentations and omitted material facts.
10

11 74. Plaintiff and the Class are entitled to relief, including enjoining Defendant
12 to cease and desist from engaging in the practices described herein.
13

14 **COUNT III**
15 **(Violation of California Unfair Competition Law,**
16 **Cal. Bus. & Prof. Code §§ 17200, et seq.)**

17 75. Plaintiff repeats and realleges each and every allegation contained above,
18 and incorporates by reference all other paragraphs of this Complaint as if fully set forth
19 herein.
20

21 76. Defendant has engaged in unfair competition within the meaning of
22 California Business & Professions Code section 17200, et seq., because Defendant's
23 conduct is unlawful, misleading and/or unfair as herein alleged.
24

25 77. Chipotle's business practices are unlawful because they violate the CLRA,
26 FDCA, and FAL.
27

28 78. Chipotle's business practices are misleading because they were likely to
deceive consumers into believing that they are obtaining a product that provides more

1 benefit and is safer to consumers than other restaurants which offer similar, or
2 substantially similar, food products.

3 79. Defendant's business practices, and each of them, are unfair because they
4 offend established public policy and/or are immoral, unethical, oppressive, unscrupulous
5 and/or substantially injurious to consumers, which harm greatly outweighs any benefit
6 associated with the business practice, in that Defendant omits to disclose material
7 information about its products and, as such, consumers are led to believe that the products
8 they were paying for had qualities that it did not have.
9
10

11 80. Plaintiff has standing to pursue this claim because she has been injured by
12 virtue of suffering a loss of money and/or property as a result of the wrongful conduct
13 alleged herein. Plaintiff would not have purchased Chipotle's Food Products (or paid as
14 much for it) had she known the truth.
15

16 81. Plaintiff and the Class are entitled to relief, including full restitution and/or
17 restitutionary disgorgement, to the greatest extent permitted by law, which may have been
18 obtained by Defendant as a result of such business acts or practices, and enjoining
19 Defendant to cease and desist from engaging in the practices described herein.
20

21 82. Chipotle's aforementioned actions and activities have been committed
22 willfully with an intent to damage Plaintiff and the Class, and have caused and will
23 continue to cause damage and irreparable harm and injury to Plaintiff and the Class unless
24 and until such time as it is preliminarily and permanently enjoined by this Court.
25

26 **PRAYER FOR RELIEF**

27 WHEREFORE, Plaintiff, on behalf of herself and on behalf of the Class, prays for relief
28 as follows:

1 A. For an Order certifying this case as a class action against Chipotle and
2 appointing

3 Plaintiff as Representative of the Class;

4 B. Awarding monetary and actual damages and/or restitution, as appropriate;

5 C. Awarding declaratory relief as permitted by law or equity to assure that the
6 Class has an effective remedy, including enjoining Chipotle from
7 continuing the unlawful practices as set forth above;

8 D. Prejudgment interest to the extent allowed by the law;

9 E. Awarding all costs, including experts' fees and attorneys' fees, expenses
10 and costs of prosecuting this action; and

11 F. Such other and further relief as the Court may deem just and proper.
12

13 **JURY TRIAL DEMAND**

14 Plaintiff demands a trial by jury on all issues so triable.
15

16 Dated: March 10, 2016

The Law Offices of Stephen B. Morris

17 By: /s/ Stephen B. Morris

18 Stephen B. Morris,

19 Attorney for Plaintiff and the putative class
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