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13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 TANIA CAMPBELL, on behalf of herself
16 and all others similarly situated,

17 Plaintiff,

18 v.
19

20 CHIQUITA BRANDS INTERNATIONAL,
21 INC., a New Jersey corporation,

22 Defendant.
23

No. 2:15-cv-02860

CLASS ACTION COMPLAINT

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CLASS ACTION COMPLAINT

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FOURTH CAUSE OF ACTION: UNJUST ENRICHMENT /
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PRAYER FOR RELIEF 26

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1 Plaintiff Tania Campbell brings this action on behalf of herself and on behalf of
2 all others similarly situated against Chiquita Brands International, Inc. (“Chiquita” or
3 “Defendant”). Plaintiff’s allegations are made on information and belief except as to
4 allegations regarding herself which are based on personal knowledge. Plaintiff alleges
5 as follows:
6

7 I. OVERVIEW

8 1. When a company falsely represents itself as an exemplar of environmental
9 stewardship and/or omits the truth about its environmental and harvesting practices
10 which would be material to a reasonable consumer, and thereby induces consumers to
11 buy its products, that company has engaged in unfair and deceptive business practices.
12

13 2. This consumer class action arises from such practices, as employed by
14 Chiquita, one of the world’s largest producers of fruits and vegetables.

15 3. Chiquita markets its bananas as though all of them are farmed in an
16 ecologically friendly and otherwise sustainable manner. Each banana has on it a “blue
17 sticker” that, according to Chiquita, indicates that the banana has been produced in
18 compliance with Chiquita’s “strict standards” and is an “iconic symbol for high quality
19 fruit.” Among Chiquita’s “strict standards” include practices that “conserve wildlife
20 habitats, national resources and promote community well being.” In fact, some of
21 Chiquita’s bananas – including bananas grown in impoverished areas of Guatemala –
22 are produced in a way that destroys natural ecosystems, contaminates the drinking water
23 of local communities, and poisons local residents. Chiquita fails to disclose in its
24 marketing materials and at the point of sale that its production methods contaminate
25 water supplies, destroy the crops of local communities, and cause illnesses in children.
26
27
28

1 disclosed that its production methods contaminate water supplies, destroy the crops of
2 local communities, and/or cause illnesses in children, she would not have purchased
3 these bananas.

4 10. Defendant Chiquita is a for-profit corporation, and is one of the world's
5 largest producers and marketers of "high quality" fresh fruits and fresh vegetables.
6 Defendant is incorporated in New Jersey, and maintains its principal place of business
7 in Charlotte, North Carolina.
8

9 **IV. FACTUAL ALLEGATIONS**

10 11. Chiquita purchases millions of pounds of bananas per year from
11 plantations that have caused significant environmental harm to ecosystems that have
12 historically provided sustenance and livelihoods to approximately 7,200 Guatemalan
13 people. Chiquita, which knew or should have known of this reality, nonetheless
14 represented itself as selling bananas that had been produced in an environmentally
15 sustainable manner and failed to disclose that production methods contaminate water
16 supplies, destroy wetlands, cause flooding, destroy the crops of local communities, and
17 cause illnesses in children.
18

19 **A. Chiquita claims to have abandoned its history of destroying Latin American**
20 **communities and environments**

21 12. As Chiquita admitted in its 2000 Corporate Responsibility Report, the
22 company has a "complex history" as a result of its direct descendance from the
23 notorious United Fruit Company. United Fruit Company was known for its domination
24 of Central America in the early 20th century, and especially Guatemala, where the
25 company (in Chiquita's own words) was known for its "improper government influence,
26 antagonism toward organized labor, and disregard for the environment."
27
28

1 13. However, over the last 20 years, Chiquita has tried to remake its image by
2 adopting policies and directives that it then promotes to the public as proof that the
3 Chiquita’s business practices have changed. In its 2009-2012 Corporate Social
4 Responsibility Report (“CSR Report”) published on its public website, Chiquita states:
5

6 In the past, our reputation was not what we aspire to today.
7 ... We have learned from that history and it has helped form
8 the basis of our commitment to high ethical standards.

9 14. The CSR Report also states that the company’s CEO and Board of
10 Directors now “strongly support the company’s commitment to high ethical, legal, and
11 environmental standards.”

12 15. Similarly, Chiquita’s adopted (and publicly declared) “Core Values”
13 include that the company “conduct[s] business ethically and lawfully” and “act[s]
14 responsibly in the communities and environments in which we live and work.”

15 16. The company has also declared in its Code of Conduct, as posted on its
16 website:

17 We will protect natural ecosystems, including water, soil and
18 air, by implementing sound and safe operating practices.

19 A variation of this same statement appears elsewhere in the Code of Conduct, declaring
20 that Chiquita is “committed to protecting natural ecosystems, including water, soil and
21 air, by implementing sound and safe operating practices.”

22 17. Chiquita has also declared in its Code of Conduct that it demands equally
23 high standards from its suppliers:
24

25 We will also work with suppliers to ensure that they adopt
26 environmental practices when providing goods or services,
27 and will incorporate environmental considerations into our
28 purchase decisions.

1 18. Chiquita has also made numerous specific declarations about how it has
2 cleaned up its banana-growing operations. For example, according to a statement by
3 Chiquita’s CEO, Keith Lonergan, as reproduced in the CSR Report, “[o]ur bananas are
4 grown in a way that is respectful of the environment and the local communities, ...
5 consistent with being a good and responsible citizen.”
6

7 19. In its Code of Conduct, Chiquita also claims to actively encourage its
8 employees to report any evidence that “one of Chiquita’s suppliers is violating
9 environmental protection laws” so that “action can be taken to protect Chiquita and our
10 commitment to the environment.”
11

12 20. Chiquita also states in the CSR that

13 Chiquita has taken several measures to reduce its water
14 footprint [at banana] farms ..., as well as measures to reduce
15 pollutant loadings to receiving waters:

16 ...

- 17 • Heavy mulching, cover crops and buffer zones to reduce
18 water runoff.

19 **B. Chiquita knows that producing bananas in an environmentally responsible**
20 **manner is important to consumers**

21 21. Chiquita knows that a reasonable and ordinary consumer wants to
22 purchase products that come from a harvesting and production process that is
23 environmentally responsible. Thus Chiquita represents that it produces bananas in a
24 socially responsible manner. It represents that:

25 **did you know?**
26 100% of our banana
27 Plantations have been
Modified to conserve
Wildlife habitats, natural
Resources, and promote
Community well-being.¹



In 1992, we became the first major banana company to agree to work with the Rainforest Alliance and by all our owned farms (which at the time were in Colombia, Costa Rica, Panama, Honduras and Guatemala) become Rainforest Alliance Certified™. Today, the majority of our supplier farms are too. Rainforest Alliance certification means our bananas are grown with respect for the environment, and our employees receive wages as well as enjoying good working conditions.

28 ¹ <http://www.chiquita.com/The-Chiquita-Difference/Our-Story.aspx>

22. It further represents:



Loving the Planet

Banana farms need very specific conditions, such as land that is fertile, level, well drained, has sufficient moisture through rain or irrigation, and has good road connections to the ports where bananas are loaded onto ships. The success of our crops and our business is completely dependent on the environment, which is why it is vital we treat it well.

Water Conservation



We believe we have a duty to conserve water. Water plays an important role in banana farming. A banana plant grows to a height of four meters (13 feet) in just nine months and requires a lot of water to do so. Most of the water comes from rainfall but in areas where water is scarce, we rely on irrigation using water from local aquifers, wells and rivers. This is why we are careful with the water we have and **why water conservation is so important to us.**

Pesticides



We believe in responsible farming. The hot and humid climate, combined with deep, fertile soils in tropical Latin America's growing regions, is ideal for growing bananas.

These conditions are also ideal for pests, diseases and weeds, which we need to control in order to sustain high quality production of bananas. We're continually looking for better, more sustainable and practicable ways to control pests, disease and weeds.

Sustainability



We believe in the **sustainable use of all resources.** Every year, we recycle or reuse over 2,000 metric tons of the plastic bags and twine used on company farms.

We also reuse the wooden pallets that banana boxes are stacked on, which saves 35,000 trees each year, and we turn discarded fruit materials into energy to power one of our workplaces.

Conservation



We believe in protecting and restoring natural habitat. We are **committed to protecting forests and reforestation,** having planted nearly one million trees and bushes, the equivalent to over 1,000 hectares of forest, since 1992.

Discover the steps we are taking to conserve the biodiversity of the regions in Latin America where our banana farms are located.

Carbon Emissions Reduction



We believe in reducing our carbon emissions and that as a business we have the opportunity to decrease our carbon footprint substantially. This is good for our business and for the environment.

We have committed to reducing our carbon emissions by 30% by 2020. From 2009 to 2011, we purchased or leased 7,000 new energy-saving containers which reduced our CO2 emissions by 17,000-tons per year.

23. Chiquita has also declared on its website that the following “conservation and reforestation practices” are employed where its bananas are grown:

- “Planting tree ‘screens’ to help to keep agrichemicals where they need to be and away from people.”
- “Forbidding any deforestation to protect natural habitats.”
- “Reforesting any land not used for banana production to eliminate soil erosion.”
- “Using native species to maintain the local ecosystem.”
- “Protecting existing forests and natural ecosystems (wetlands, lagoons, etc.) to preserve resources.”

1 24. Chiquita’s website has also made the following declarations about the
2 growing conditions of bananas sold under its label:²

3 a. “The banks of all natural watercourses are reforested and
4 protected from erosion.”
5

6 b. “All drainage ditches on our banana farms are planted with cover
7 crops and no chemical weed control is allowed.”
8

9 c. “We have discontinued routine, blanket applications, and we now
10 apply pesticides only when and where necessary.”

11 d. “We apply pesticides in ways that protect the health, safety, and
12 well-being of our workers and the environment.”
13

14 e. “All workers using pesticides receive special training and safety
15 gear.”
16

17 f. “To avoid risks of accidents and harm to human health and the
18 environment, we store all pesticides in appropriate, controlled facilities.”

19 g. “We apply fertilizers only in small amounts.”
20

21 h. “We utilize solid waste traps at all our packing stations to help to
22 keep the rivers and streams clean.”
23

24 i. “Given the importance of water as a natural resource, we are
25 committed to exploring additional ways to use water more efficiently and to ensure
26

27 ² Some statements in this paragraph appear in the 2000 CSR Report. This report
28 remains on Chiquita’s website for the public to read and review before purchasing
bananas, and has not been disavowed in any aspect.

1 that the water that leaves our farms is as clean as the water that enters. Chiquita has
2 undertaken a host of infrastructure and monitoring efforts to preserve water quality.”

3
4 25. Defendant knew, or should have known, that the statements in
5 paragraphs 13 to 24 were false. Defendant knew or should have known that these
6 statements were not true for all of the bananas it sells under the Chiquita brand.

7
8 26. Defendant’s website is, and always has been, available for review by
9 consumers in California seeking information about bananas sold under the Chiquita
10 label.

11
12 **C. At the point of sale, Chiquita represents that its products meet “strict
standards”**

13
14 Chiquita bananas all are sold with a “famous blue sticker” that represents
15 bananas that meet Chiquita’s “strict standards.”



25 27. According to Chiquita, the blue sticker represents a “high quality”
26 product.

1 **did you know?**

2 Chiquita-owned
3 farms are **100%**
4 **Rainforest Alliance**
5 **Certified.**

6 Our Chiquita stickers have become an
7 iconic symbol for high-quality fruit and
8 produce. We've used the stickers to
9 promote bananas for school lunches,
10 celebrate major anniversaries, advertise
11 our sponsorship of the Olympics in 1980,
12 celebrate Miss Chiquita's 50th birthday,
13 and feature our slogan "Quite Possibly,
14 The World's Perfect Food®,"



15 **D. American consumers are “conscious consumers” and are demanding that**
16 **products be produced in a healthy and responsible manner**

17 28. Recent studies of consumer behavior evidence that consumers want the
18 products they buy to be produced in a healthy manner, by companies that are honest
19 in their practices. A 2007 study by BBMG (a brand consulting firm) reported the
20 results of a national survey on consumers’ attitudes as to why they buy certain
21 products:

22 In the first major study to combine field observations with a
23 national survey on purchasing behavior and social values,
24 increasingly conscious consumers are demanding that
25 companies **be transparent about their practices** and
26 **accountable for their impact on people and the planet.**

27 According to the inaugural BBMG Conscious Consumer
28 Report, nearly nine in ten Americans say the words
29 “conscious consumer” describe them well and are more likely
30 to buy from companies that manufacture energy efficient
31 products (90%), promote health and safety benefits (88%),
32 support fair labor and trade practices (87%) and **commit to**
33 **environmentally-friendly practices (87%),** if **products are**
34 **of equal quality and price.** (Emphasis added.)

35 29. The BBMG report found that five core values drive consumers’
36 purchasing behavior, three of which are relevant here:

37 **Health and Safety.** Conscious consumers seek natural,
38 organic and unmodified products that meet their essential
39 health and nutrition needs. They avoid chemicals or
40 pesticides that can harm their health or the planet. They are

1 looking for standards and safeguards to ensure the quality of
2 the products they consume.

3 Honesty. Conscious consumers insist that companies reliably
4 and accurately detail product features and benefits. They will
5 reward companies that are honest about processes and
6 practices, authentic about products and accountable for their
7 impact on the environment and larger society. Making
8 unsubstantiated green claims or over promising benefits risks
9 breeding cynicism and distrust.

10 Doing Good. Finally, conscious consumers are concerned
11 about the world and want to do their part to make it a better
12 place. From seeking out environmentally-friendly products to
13 rewarding companies' fair trade and labor practices, they are
14 making purchasing choices that can help others. These
15 consumers want to make a difference, and they want brands
16 to do the same.

17 30. The survey also found the following consumer preferences regarding
18 company practices and purchasing:

19 **Desired Company Practices:**



20 31. As set forth below, Chiquita is not transparent about its production
21 practices and violates consumers' core values with respect to "environmentally-
22 friendly practices" and "health and safety benefits."
23

24 32. A June 2014 study released by Nielsen N.V. found that "consumers
25 around the world are saying loud and clear that a brand's social purpose is among the
26 factors that influence purchase decisions."
27

1 33. These studies indicate that information on how a product might be
2 harming local communities where it is harvested is material to the average consumer.

3 **E. Chiquita has omitted mention of the true conditions under which Chiquita**
4 **bananas are grown in Guatemala**

5 34. Chiquita's carefully crafted marketing campaign omits any mention of
6 the true conditions under which a substantial portion of its bananas are grown.

7 35. Chiquita buys a substantial amount of its bananas from farms it does not
8 own, including a Guatemalan company named COBIGUA. Between January 1,
9 2012 to December 31, 2012, Defendant purchased more than 639 million pounds of
10 bananas from COBIGUA.
11

12 36. COBIGUA's banana sales to Chiquita represent approximately 95
13 percent of all the Company's banana sales.
14

15 37. COBIGUA is, at a minimum, a *de facto* subsidiary of Chiquita, and may
16 be or was an actual subsidiary of Chiquita at certain times.
17

18 38. Trucks bearing Chiquita's logo are routinely observed entering and
19 leaving COBIGUA's banana fields, and entrances to COBIGUA's fields bear
20 Chiquita's name:
21
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19 **F. Guatemalan communities suffer from environmental degradation caused by**
20 **Chiquita's banana operations**

21 39. The local communities of Ticanu, Barra Nahualate, Playa Semillero,
22 Huitzitzil, and San Francisco Madre Vieja, hereinafter referred to as the
23 "Communities," suffer from water pollution and airborne exposure to toxic
24 chemicals that are the result of Defendant's production practices.³
25
26

27 ³ Water Quality and Health Assessment Report, Water And Sanitation Health,
28 October 25, 2013.

1 40. The Communities represent 1,200 families (an estimated 7,200 people)
2 in the municipality of Tiquisate in the district of Esquintla in Guatemala.

3 41. COBIGUA operates and subcontracts operations on banana plantations
4 in the municipality of Tiquisate, department of Esquintla Guatemala. This area is
5 hereinafter referred to as the “Affected Area.”
6

7 42. COBIGUA grows bananas in the area surrounding the Nahualate River
8 and Madre Vieja River, the Affected Area. The people of the Communities in the
9 Affected Area surrounding the Nahualate River and Madre Vieja River have
10 historically depended on the rivers for their livelihoods and ground water for the
11 provision of clean drinking water.
12

13 43. COBIGUA contaminates rivers and drinking water in the affected area
14 with fertilizers, pesticides, fungicides, and organic matter.

15 44. COBIGUA mixes fertilizers into its irrigation system every 14 to 21
16 days and aerial fumigates its banana fields every 6 to 8 days using toxic chemicals
17 like dithane, paraquat (gramoxone), and mocap (ethoprop).
18

19 45. Studies done by the U.S. Environmental Protection Agency state
20 dithane contains cancer-causing elements and a survey conducted in the Philippines
21 shows elevated levels of cancer, birth defects, cerebral palsy, and asthma in
22 communities living near plantations using dithane.

23 46. COBIGUA spreads approximately 420 gallons of various fungicides
24 over its banana trees every 8 to 10 days to control the spread of the fungus *sigatoka*
25 *negra*.
26
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1 47. COBIGUA uses no buffer zone for aerial fumigation of plants that
2 border schools and homes, despite the fact that aerial fumigation requires a 100-
3 meter buffer zone for the safety of those nearby.⁴

4 48. COBIGUA’s use of aerial fumigation combined with no buffer zone
5 results in toxic chemical residues visibly seen on the Communities’ school’s roof and
6 playground.
7



21 49. The use of these toxic chemicals causes children in the Communities to
22 suffer nausea, dizziness, vomiting, skin rashes, and other health problems.
23

24 50. Adults in the Communities have reported fever, vomiting, and skin
25 rashes occurring after aerial fumigation.
26
27

28 ⁴ Graham Matthews, *Pesticide Application Methods* (2008).

1 51. In one study, 60 percent of those interviewed in the Communities stated
2 they have received an actual “pesticide shower” during aerial fumigation with visible
3 indication of white particulates on their arms and legs.
4

5 52. The Communities’ drinking water has levels of nitrites, nitrates, and
6 heavy metals that are 10 times the maximum level recommended by the World
7 Health Organization.
8

9 53. Nitrites, nitrates, and heavy metals are chemicals commonly found in
10 pesticides, fungicides, and fertilizers used in the farming of bananas.
11

12 54. COBIGUA has no buffer zone for aerial fumigation bordering open
13 water sources, rivers, and streams.⁵
14

15 55. COBIGUA has not reforested along the banks of river and streams.
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27 ⁵ Conservation Agriculture Network, *Complete Standards for Banana*
28 *Certification* (2013), “Buffer zones must be established along rivers, lakes, and
ravines and around springs to control sedimentation and contamination.”

1 56. Because of the contamination described in paragraphs 39 to 55,
2 floodwaters annually deposit toxic chemicals directly on the plains where
3 Community members have historically farmed corn.
4

5 57. These toxic chemicals directly threaten the livelihoods of the
6 Community members.
7

8 58. COBIGUA operates an open dumpsite next to an open water source
9 used by the Communities. Leachate from the waste leaks into the open water source.
10



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21 **G. Independent sources confirm environmental degradation from Chiquita’s
22 Guatemalan operations**

23 59. In 2013, Water & Sanitation Health, Inc. (“WASH”), a non-profit
24 organization registered in the State of Washington that helps impoverished villages
25 across the world build sustainable clean-water systems, learned that drinking water
26 in the Communities had been contaminated by COBIGUA’s operations on behalf of
27 Chiquita.
28

1 60. WASH agents visited the Communities and conducted their own
2 research. They found that the Communities' drinking water had been contaminated.

3 61. Chiquita nowhere discloses that methods used to produce its bananas
4 contaminate water supplies, destroy the crops of local communities, and cause
5 illnesses in children.

6 62. Chiquita had a duty to disclose such material information to consumers
7 based on its superior knowledge regarding the foreign plantations on which its
8 banana crops are grown.

9 63. Lacking such material information, consumers purchased Chiquita
10 bananas when they otherwise would not have.

11
12
13 **H. Plaintiff purchased bananas because of Chiquita's omissions and**
14 **misrepresentations**

15 64. Plaintiff avoids purchasing foodstuffs and other products from
16 companies that destroy clean-water systems in impoverished villages. This is
17 especially true because Plaintiff takes care of her mother, who grew up in Indonesia
18 and is accustomed to eating fresh, ethically grown fruit and produce.

19 65. In 2013, Plaintiff researched the practices of companies which sell
20 bananas in the grocery stores she typically shops in, with the goal of determining if
21 those companies grew their bananas in an environmentally responsible fashion.

22 66. As part of that research, Plaintiff searched Defendant's website for
23 information about Defendant's environmental practices. Plaintiff did this to learn
24 about Defendant's environmental and local social responsibility record.
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1 73. Questions of law and fact are common to the Class and predominate
2 over questions affecting only individual members, including, *inter alia*, the
3 following:

4 a. Whether the COBIGUA plantation on which Chiquita bananas
5 are grown employed production methods that polluted local lands and water
6 supplies, destroyed the crops of local communities, and caused illnesses in children
7 and adults;

8 b. Whether Chiquita failed to disclose that production methods
9 employed by the COBIGUA plantation polluted local lands and water supplies,
10 destroyed the crops of local communities, and caused illnesses in children and adults;

11 c. Whether Chiquita had a duty to make these disclosures based on
12 its superior knowledge regarding the foreign plantations on which its banana crops
13 are grown;

14 d. Whether the undisclosed information would be material to a
15 reasonable consumer;

16 e. Whether the nondisclosures were likely to deceive a reasonable
17 consumer in violation of the CLRA and UCL;

18 f. Whether the nondisclosures constitute an unlawful business
19 practice in violation of the UCL;

20 g. Whether the nondisclosures constitute an unfair business practice
21 in violation of the UCL;

22 h. Whether Chiquita's unlawful, unfair, and/or deceptive practices
23 harmed Plaintiff and the members of the Class;

1 i. Whether Chiquita was unjustly enriched by its deceptive
2 practices; and

3 j. Whether Plaintiff and the members of the Class are entitled to
4 damages, restitution, and/or equitable or injunctive relief.
5

6 74. Plaintiff's claims are typical of the claims of the Class members as
7 described above, and arise from the same course of conduct by Chiquita and
8 COBIGUA. The relief Plaintiff seeks is typical of the relief sought for the absent
9 Class members.

10 75. Plaintiff will fairly and adequately represent and protect the interests of
11 all absent Class members. Plaintiff is represented by counsel competent and
12 experienced in both consumer protection and class action litigation.
13

14 76. A class action is superior to other available methods for the fair and
15 efficient adjudication of this controversy, since joinder of all the individual Class
16 members is impracticable. Furthermore, because the restitution and damages
17 suffered, and continue to be suffered, by each individual Class member may be
18 relatively small, the expense and burden of individual litigation would make it very
19 difficult or impossible for individual Class members to redress the wrongs done to
20 each of them individually and the burden imposed on the judicial system would be
21 enormous.
22

23 77. The prosecution of separate actions by the individual Class members
24 would create a risk of inconsistent or varying adjudications with respect to individual
25 Class members, which would establish incompatible standards of conduct for
26 Defendant. In contrast, the conduct of this action as a class action presents far fewer
27
28

1 management difficulties, conserves judicial resources and the parties' resources, and
2 protects the rights of each Class member.

3 **VI. CAUSES OF ACTION**

4 **FIRST CAUSE OF ACTION**

5 **VIOLATIONS OF THE CONSUMER LEGAL REMEDIES ACT**
6 **(CAL. CIV. CODE § 1750, *ET SEQ.*)**

7 78. Plaintiff realleges and incorporates by reference all paragraphs alleged
8 herein.

9 79. Defendant is a "person" under CAL. CIV. CODE § 1761(c).

10 80. Plaintiff is a "consumer," as defined by CAL. CIV. CODE § 1761(d), who
11 purchased bananas sold by Defendant.

12 81. By failing to disclose that production methods employed by companies
13 producing its bananas expropriated and contaminated water supplies, destroyed
14 wetlands, caused flooding, destroyed the crops of local communities, and caused
15 illnesses in children, Chiquita engaged in deceptive business practices prohibited by
16 the CLRA, CAL. CIV. CODE § 1750, *et seq.*, including (1) representing that products
17 have characteristics, uses, benefits, and qualities which they do not have;
18 (2) representing that products are of a particular standard, quality, and grade when
19 they are not; and (3) advertising products with the intent not to sell them as
20 advertised.
21

22 82. Chiquita had a duty to make these disclosures based on its superior
23 knowledge regarding the foreign plantations on which its banana crops are grown, as
24 well as its affirmative misrepresentations to the contrary.
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1 83. A reasonable consumer would not have purchased nor paid as much for
2 the bananas had Chiquita disclosed the truth about the environmental degradation
3 and adverse health effects caused by the methods used in producing its bananas, as
4 that information is material to a reasonable consumer.
5

6 84. As a result of its violations of the CLRA detailed above, Defendant has
7 caused and continues to cause actual damage to Plaintiff and members of the Class
8 and, if not stopped, will continue to harm them. Had Plaintiff known the truth about
9 the environmental degradation and adverse health effects caused by the methods
10 used in producing Chiquita bananas, she would not have purchased the bananas.
11

12 85. In accordance with Civil Code § 1780(a), Plaintiff and members of the
13 Class seek injunctive and equitable relief for Defendant's violations of the CLRA.
14 In addition, after mailing appropriate notice and demand in accordance with Civil
15 Code § 1782(a) & (d), which occurred on April 16, 2015, Plaintiff will subsequently
16 amend this Complaint to also include a request for damages. Plaintiff and members
17 of the Class request that this Court enter such orders or judgments as may be
18 necessary to restore to any person in interest any money which may have been
19 acquired by means of such unfair business practices, and for such other relief,
20 including attorneys' fees and costs, as provided in Civil Code § 1780 and the Prayer
21 for Relief.
22

23 86. Plaintiff includes an affidavit with this Complaint that shows venue in
24 this District is proper, to the extent such an affidavit is required by CAL. CIV. CODE
25 § 1780(d) in federal court.
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1 **SECOND CAUSE OF ACTION**

2 **VIOLATION OF THE CALIFORNIA UNFAIR COMPETITION LAW**
3 **(CAL. BUS. & PROF. CODE § 17200, *ET SEQ.*)**

4 87. Plaintiff realleges and incorporates by reference all paragraphs alleged
5 herein.

6 88. California Business and Professions Code section 17200 prohibits any
7 “unlawful, unfair, or fraudulent business act or practice.” Chiquita has engaged in
8 unlawful, fraudulent, and unfair business acts and practices in violation of the UCL.

9 89. Chiquita has violated the unlawful prong by its violation of the CLRA
10 described above.

11 90. Chiquita has violated the fraudulent prong of section 17200 because the
12 omissions regarding the production of its bananas as set forth in this Complaint were
13 likely to deceive a reasonable consumer, and the information would be material to a
14 reasonable consumer.

15 91. Chiquita has violated the unfair prong of section 17200 because the acts
16 and practices set forth in the Complaint offend established public policy and because
17 the harm they cause to consumers greatly outweighs any benefits associated with
18 those practices. Chiquita’s conduct has also impaired competition within the
19 bananas market and has prevented Plaintiff from making fully informed decisions
20 about whether to purchase Chiquita bananas and/or the price to be paid. Defendant’s
21 conduct also offends established public policy.

22 92. The Named Plaintiff has suffered injury in fact, including the loss of
23 money or property, as a result of Defendant’s unfair, unlawful, and/or deceptive
24 practices. As set forth in the allegations concerning Plaintiff, in purchasing bananas
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1 the Plaintiff relied on Chiquita's misrepresentation. Had the Named Plaintiff known
2 the truth about the environmental degradation and adverse health effects caused by
3 the methods of production of Chiquita bananas, she would not have purchased the
4 bananas.

5
6 93. All of the wrongful conduct alleged herein occurred, and continues to
7 occur, in the conduct of Defendant's business. Defendant's wrongful conduct is part
8 of a pattern or generalized course of conduct that is still perpetuated and repeated
9 throughout the State of California and nationwide.

10 94. Plaintiff requests that this Court enter such orders or judgments as may
11 be necessary to enjoin Defendant from continuing their unfair, unlawful, and/or
12 deceptive practices and to restore to Plaintiff and members of the Class any money
13 Chiquita acquired by unfair competition, as provided in CAL. BUS. & PROF. CODE
14 § 17203, and for such other relief set forth below.

15
16 **THIRD CAUSE OF ACTION**
17 **FRAUD BY CONCEALMENT**
18 **(BASED ON CALIFORNIA COMMON LAW)**

19 95. Plaintiff realleges and incorporates by reference all paragraphs alleged
20 herein.

21 96. As set forth above, Chiquita concealed material facts concerning the
22 production methods of its bananas. Chiquita had a duty to make these disclosures
23 based on its superior knowledge regarding the foreign plantations on which its
24 banana crops are grown, as well as its affirmative misrepresentations to the contrary.

25
26 97. Chiquita actively concealed material facts, in whole or in part, with the
27 intent to induce Plaintiff and members of the Class to purchase their bananas.

1 A. Determine that this action may be maintained as a Class action with
2 respect to the Class identified herein and certify it as such under Rule 23(b)(3), or
3 alternatively certify all issues and claims that are appropriately certified, and
4 designate and appoint Plaintiff as Class Representative and her counsel as Class
5 Counsel;
6

7 B. Declare, adjudge, and decree the conduct of the Defendant as alleged
8 herein to be unlawful, unfair, and/or deceptive;

9 C. Notify all Class members of the truth regarding the methods of
10 production for Chiquita bananas;
11

12 D. Award to Plaintiff and Class members actual, compensatory damages,
13 as proven at trial;

14 E. Award Plaintiff restitution of all monies paid to Defendant as a result of
15 unlawful, deceptive, and unfair business practices;

16 F. Award Plaintiff and the Class members exemplary damages in such
17 amount as proven at trial;

18 G. Award Plaintiff and the Class members reasonable attorneys' fees,
19 costs, and pre- and post-judgment interest; and
20

21 H. Award Plaintiff and the Class members such other further and different
22 relief as the nature of the case may require or as may be determined to be just,
23 equitable, and proper by this Court.
24

JURY TRIAL DEMAND

25 Plaintiff, by counsel, requests a trial by jury on her legal claims, as set forth
26 herein.
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1 DATED: April 17, 2015

HAGENS BERMAN SOBOL SHAPIRO LLP

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18 *Attorneys for Plaintiff and the Proposed Class*
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DECLARATION RE CLRA VENUE

I, Tania Campbell, do hereby declare and state as follows:

1. I am a party plaintiff in *Tania Campbell, on behalf of herself and all others similarly situated v. Chiquita Food Company, Inc., a Delaware corporation.*

Pursuant to CAL. CIV. CODE § 1780(d), I make this declaration in support of the Class Action Complaint and the claim therein for relief under CAL. CIV. CODE § 1780(a). I have personal knowledge of the facts stated herein and, if necessary, could competently testify thereto.

2. This action for relief under CAL. CIV. CODE § 1780(a) has been commenced in a county that is a proper place for trial of this action because Chiquita does business throughout the State of California.

This declaration is signed under penalty of perjury under the laws of the State of California this 15 day of April, 2015.

