

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

ROBERT GARRETT, Plaintiff, and on
behalf of the class
members described below,

Plaintiff,

vs.

PEETS COFFEE & TEA, INC., and
PEET'S OPERATING COMPANY, INC.,

Defendants.

Case No.

**PLAINTIFF DEMANDS
TRIAL BY JURY**

COMPLAINT – CLASS ACTION

Plaintiff, ROBERT GARRETT, as Plaintiff, and on behalf of the class members described below, by and through his undersigned attorneys, complains against Defendants, PEET'S COFFEE & TEA, INC. and PEET'S OPERATING COMPANY, INC., as follows:

I. INTRODUCTION AND SUMMARY OF THE CASE

1. Plaintiff, ROBERT GARRETT, brings this action, among other things, to secure redress against unlawful practices engaged in by Defendants, PEET'S COFFEE & TEA, INC. and PEET'S OPERATING COMPANY, INC. (collectively "Peet's"), with regard to the sale by Peet's of its "Press Pot" coffees.

2. Press pot coffee, or also commonly known as French press coffee, is a hand-crafted coffee which is brewed in a narrow glass cylindrical beaker where coarse ground coffee is placed in the bottom of the device over which hot (almost boiling) water is poured into the device and pressed down on the ground coffee with the use of a metal filter and plunger ("Brewing Device"). The French press produces a very rich form of coffee high in sediment which is commonly served in France.

3. Peet's point-of-purchase in-store signage and menu in its stores throughout the United States represents that the twelve (12) ounce and thirty-two (32) ounce press pot coffees sold at Defendants' establishments and delivered in paper cups are in fact twelve ounces and thirty-two ounces, respectfully, in liquid volume. In truth, they are at least 25% less than the advertised volume. The point-of-purchase in-store signage and menu used by Defendants, instead, actually refers to the size of the Brewing Device (see Paragraph 2 herein) used by Peet's, not the liquid volume of press pot coffees being served to consumers in paper cups. Defendants have engaged in conduct designed to induce, or having the affect of inducing, consumers to believe that they are receiving materially more ounces of press coffee for their money than they actually are.

4. As more fully alleged herein, Defendants' schemes or artifices to defraud Plaintiff and other members of the proposed Class consist of false and misleading information via point-of-purchase in-store signage and menus intended to trick unsuspecting consumers, including Plaintiff and other members of the proposed Class, into believing that they are purchasing more ounces of press pot coffees for their money than they actually are receiving.

5. Peet's originated in 1966 in Berkley, California. Since then, Peet's has grown nationally to over 243 stores in the District of Columbia and in nine (9) states as follows: California, Illinois, Wisconsin, Virginia, Maryland, Massachusetts, Oregon, Colorado, and Washington. Most of Peet's growth has occurred in the last few years. All of Peet's stores are company-owned.

6. As a large chain coffee house, Peet's has the money and the resources to ensure greater accuracy in the description of its press pot coffees and to correct the wrongful representations as alleged herein.

7. When making product purchases, consumers of coffees have the right to expect that retailers are providing accurate information and not misleading them in any way, shape or form.

8. Plaintiff brings this action on behalf of himself and other similarly-situated consumers located throughout the United States to remove the false and misleading point-of-purchase in-store signage and menus regarding press pot coffees, correct the false and misleading perception that they have created in the minds of consumers, and to obtain equitable and injunctive relief for consumers of press pot coffees preventing Peet's in the future from selling press pot coffees in amounts less than represented, as well as monetary damages.

9. Plaintiff alleges violations of the consumer fraud statutes of all nine (9) states where Peet's press pot coffees are sold and the District of Columbia including claims for breach of contract and unjust enrichment.

II. JURISDICTION AND VENUE

10. This Court has jurisdiction of this matter over Defendants in the State of Illinois as Peet's is doing business in the State of Illinois.

11. Venue is proper in this Court because a substantial part of the acts and omissions giving rise to the claims occurred in Cook County, Illinois, and Peet's is doing business in this county.

III. PARTIES

12. Plaintiff, Garrett, is, and at all times relevant to this action has been, a citizen of the State of Illinois, residing in Cook County, Illinois.

13. Defendant, PEET'S COFFEE & TEA, INC., is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at

18. Plaintiff is a repeat purchaser of Peet's press pot coffees and exhibits strong brand loyalty. Plaintiff intends to continue to purchase Peet's because Plaintiff believes the coffee to be superior in quality and tastier than other coffee options. Therefore, equitable and injunctive relief is necessary to prevent future injury to Plaintiff and the proposed Class.

19. All of the coffees for sale at Peet's, other than press pot coffees, are sold in sizes described on the point-of-purchase in-store signage and menus as "small," "medium" or "large." The largest paper cup used by Peet's to deliver coffee to consumers only holds 24 ounces of coffee.

20. Peet's implements and directs the substance and style of the point-of-purchase in-store signage and menu at all of its establishments as well as dictates the appearance, equipment, hours of operation, employees' appearance and demeanor, and marketing and advertising.

21. Upon information and belief, all employees of Peet's are required to undergo training programs regarding these uniform standards and practices, and are not permitted to deviate therefrom.

22. At the time that Plaintiff purchased press pot coffees from Peet's, Defendants were misrepresenting the volume of the coffee that would be provided to Plaintiff through the point-of-purchase in-store signage and menu set forth below:

1400 Park Avenue, Emeryville, California. Peet's has at least seventeen (17) stores in the State of Illinois. Peet's registered agent is located at 7288 Hanover Green Drive, Mechanicsville, Virginia 2311. Defendant, PEET'S COFFEE & TEA, INC., is the parent of Defendant, PEET'S OPERATING COMPANY, INC.

14. Defendant, PEET'S OPERATING COMPANY, INC., is a corporation organized and existing under the laws of the State of Washington, with its principal place of business located at 1400 Park Avenue, Emeryville, California. Peet's has at least seventeen (17) stores in the State of Illinois. Peet's registered agent in Illinois is located at 901 S. 2nd Street, Suite 201, Springfield, Illinois 62704. Defendant, PEET'S OPERATING COMPANY, INC., is a wholly-owned subsidiary of Defendant, PEET'S COFFEE & TEA, INC.

IV. FACTS COMMON TO ALL COUNTS

15. Garrett was repeatedly exposed to and saw Peet's point-of-purchase in-store signage and menu regarding the size of press pot coffees for sale to consumers. After seeing Defendants' point-of-purchase in-store signage and menu regarding the 12 and 32 ounce press pot coffees for sale at Peet's, Garrett purchased both sizes to drink at the Peet's retail store located at 817 Elm Street, Winnetka, Illinois 60093.

16. The press pot coffees purchased by Garrett were provided to him in the same paper cups used to deliver all of Peet's other coffees to consumers and were materially less than either 12 or 32 ounces in volume.

17. Plaintiff purchased the 12 and 32 ounce press pot coffees in reliance on the misrepresentations and omissions of Peet's. Plaintiff suffered an injury in fact as a result of the deceptive and unfair conduct described herein, because the 12 and 32 ounce press pot coffees that he purchased were materially less than the 12 and 32 ounces represented by Defendants.

COFFEE			
	SM	MD	LG
Coffee of the Day	1.90	2.10	2.40
Café au Lait	2.50	2.70	3.00
Peet's to Go <small>Serve Size</small>	21.00		
	12 oz	32 oz	
Press Pot	3.05 or 4.05	5.35 or 6.35	
ICED DRINKS			
	SM	MD	LG
COLD BREW Iced Coffee	2.40	2.90	3.40
The Black Tie	3.00	3.65	4.00
Iced Latte	3.00	3.65	4.00
Iced Vanilla Latte	3.50	4.15	4.50
Iced Caramel Macchiato	3.80	4.45	4.80
Iced Mocha	3.50	4.15	4.50
COFFEE-FREE			
Hot Cocoa	2.95	3.25	3.55
Steamed Milk with Flavored Syrup	2.95	3.25	3.55

23. Upon information and belief, the point-of-purchase in-store signage and menus depicted in Paragraph 22 above, is the same signage used by Peet's in its stores for the last five (5) years.

24. Indeed, Defendants have knowingly and intentionally tolerated and permitted a common policy to exist in its stores which has allowed press pot coffees sold to consumers in paper cups that are, and were for the past five (5) years or more, materially less in volume than represented.

25. As a result of the press pot coffees delivered to consumers not being as advertised, Plaintiff and the proposed Class members have received less press pot coffee than they were promised by Defendants, and received less than they bargained for.

V. CLASS ACTION ALLEGATIONS

26. Plaintiff brings this lawsuit, both individually and as a class action on behalf of similarly situated purchasers of Peet's press pot coffees, pursuant to 735 ILCS 5/2-810 of the

Illinois Code of Civil Procedure. The proposed Class is defined as follows:

All persons in the United States who purchased press pot coffees at a Peet's® store after January 1, 2009.

The Class and all subclasses defined above are collectively referred to herein as the "Class." Excluded from the proposed Class are Defendants, their respective officers, directors and employees, and all of their respective employees, affiliates, legal representatives, heirs, successors, or assignees. Plaintiffs reserve the right to amend the Class definition as necessary.

27. Upon information and belief, the proposed Class comprises thousands of consumers throughout the nation, and is so numerous that joinder of all members of the Class is impracticable. While the exact number of Class members is presently unknown and can only be ascertained through discovery, Plaintiff believes that there are thousands of Class members based upon the fact that Peet's is one of the largest coffee chains in the United States, with over 243 stores in the United States, and press pot coffee is believed to be a common and popular offering on Peet's menu.

28. There are questions of law and fact common to the proposed Class, which predominate over any individual issues, including:

- a. whether Defendants represented that the press pot coffees that they are selling to consumers in paper cups are 12 or 32 ounces, respectfully, in volume;
- b. whether Defendants' press pot coffees sold to consumers are less than 12 ounces and 32 ounces, respectfully, in volume;
- c. whether Defendants failed to disclose that its press pot coffees sold to consumers are less than 12 or 32 ounces in volume, respectively;
- d. whether Defendants' point-of-purchase in-store signage and menus regarding its press pot coffees are deceptive or misleading;
- e. whether Defendants engaged in false, deceptive and/or misleading advertising;

f. whether Defendants' conduct as alleged herein violates the consumer fraud statutes of the various States referenced herein and the District of Columbia;

g. whether Defendants' conduct as alleged herein violates public policy; and

h. whether Plaintiff and the proposed Class members are entitled to equitable and injunctive relief.

29. Plaintiff's claims are typical of the claims of the proposed Class, and Plaintiff will fairly and adequately represent and protect the interests of the proposed Class. Plaintiff does not have any interests antagonistic to those of the proposed Class. Plaintiff has retained competent counsel experienced and successful in the prosecution of class actions.

30. Unless an injunction is issued, Defendants will continue to commit the violations alleged, and the members of the proposed Class and the general public will continue to be misled and harmed.

COUNT I

(Violation of the Consumer Fraud and Deceptive Trade Practices Acts of the Various States and District of Columbia)

31. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 30 of the Complaint as Paragraph 31 of the Complaint with the same force and effect as though fully set forth herein.

32. Plaintiff brings Count I individually, and on behalf of all similarly-situated citizens of each of the nine (9) states and the District of Columbia where Peet's coffee is sold for violations of the respective statutory consumer protection laws, as follows:

a. the California Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.* and 17500 *et seq.*;

b. the California Consumers Legal Remedies Act, Civil Code § 1750, *et seq.*;

- c. the Colorado Consumer Protection Act, C.R.S.A. §6-1-101, *et seq.*;
- d. the D.C. Consumer Protection Procedures Act, DC Code § 28-3901, *et seq.*;
- e. the Illinois Consumer Fraud and Deceptive Business Practices Act, 815 ILCS 501/1 *et seq.*;
- f. the Maryland Consumer Protection Act, MD Code, Commercial Law, § 13-301, *et seq.*;
- g. the Massachusetts Regulation of Business Practices for Consumers Protection Act, M.G.L.A. 93A, *et seq.*;
- h. the Oregon Unlawful Trade Practices Act, ORS 646.605, *et seq.*;
- i. the Virginia Consumer Protection Act of 1977, VA ST § 59.1-196, *et seq.*;
- j. the Washington Consumer Protection Act, RCWA 19.86.010, *et seq.*; and
- k. the Wisconsin Deceptive Trade Practices Act, WIS. STAT. § 100.18, *et seq.*.

33. Defendants' foregoing misrepresentations and omissions regarding the size of the 12 and 32 ounce press pot coffees, as set forth above, are deceptive and/or unfair acts or practices prohibited by the consumer fraud statutes set forth above.

34. Defendants intended to be deceptive and/or unfair to Plaintiff and the proposed Class by intentionally making the foregoing false and misleading statements and omitting accurate statements as alleged above.

35. Defendants' practice of creating, approving and distributing the point-of-purchase in-store signage and menus in its stores for press pot coffees that contained false and misleading representations regarding the size of those coffees for the purpose of selling them to Plaintiffs and the proposed Class, as alleged in detail *supra*, is both an unfair act and deceptive practice prohibited by the foregoing statutes.

36. Defendants intended to be deceptive and unfair to Plaintiff and the proposed Class by unlawfully representing that each press pot coffee is 12 or 32 ounces, respectfully, in volume. Defendants' intent is evidenced by, *inter alia*, its reliance on units of measurement in its point-

of-purchase in-store signage and menus (See Paragraph 22 above).

37. Defendants intended that Plaintiff and the proposed Class members rely on Defendants' misrepresentations as to the size of the press pot coffees when purchasing them, and Defendants omitted to disclose to, or notify, Plaintiff and the proposed Class that the coffee being delivered was materially less than 12 or 32 ounces in volume, respectfully.

38. Plaintiff and the proposed Class members justifiably relied on the misrepresentations and omissions referenced herein to their detriment by purchasing the press pot coffees after seeing Defendants' point-of-purchase in-store signage and menu. Defendants made no attempt to inform consumers that the press pot coffees represented to be a volume of either 12 or 32 ounces, respectively, were actually only approximately 8 or 20 ounces, in volume, respectively.

39. The above-described deceptive and unfair acts and practices were used or employed in the conduct of a trade or commerce, namely, the sale of the press pot coffees by Peet's to Plaintiff and the proposed Class members.

40. The above-described deceptive and unfair acts offend public policy and cause substantial injury to consumers.

41. As a direct and proximate result of the foregoing, the Plaintiffs and the proposed Class members have been damaged in that they have received less than they bargained for.

WHEREFORE, Plaintiff, ROBERT GARRETT, individually, and on behalf of the proposed Class, prays for an Order as follows:

A. Finding that this action satisfies the prerequisites for maintenance as a class action as set forth in 735 ILCS 5/2-801, and certifying the proposed Class as defined herein;

B. Designating Plaintiff as representative of the proposed Class, and Daniel J. Voelker, Esq. as

Lead Counsel;

C. Entering judgment in favor of Plaintiff and the proposed Class and against Defendants, and ordering Defendants to ensure that its press pot coffees delivered to consumers are either 12 or 32 ounces, respectfully, in volume, and are not substantially less than represented;

D. Enjoining Defendants' illegal conduct as alleged herein;

E. Awarding Plaintiff and the proposed Class, compensatory damages, attorneys' fees, expenses and costs as allowed or required by law; and

F. Granting all such further and other relief as the Court deems just and appropriate under the circumstances.

COUNT II
(Breach of Contract)

42. Plaintiff repeats and realleges the allegations contained in Paragraphs 1 through 41 of the Complaint as Paragraph 42 of the Complaint with the same force and effect as though fully set forth herein.

43. Plaintiff brings Count II individually, and on behalf of all similarly-situated citizens of each of the nine (9) states and the District of Columbia where Peet's Coffee is sold for violations of breach of contract.

44. Once the purchase of press pot coffee is consummated, the point-of-purchase in-store signage and menu at Peet's constitutes a binding contract and requires that Peet's deliver either a cup consisting of 12 ounces or 32 ounces, respectfully, of press pot coffee to consumers.

45. By delivering materially less than the 12 or 32 ounces, respectfully, of press pot coffees to consumers, Peet's has breached its contract with Plaintiff and the proposed Class.

46. As a result, Plaintiff and the proposed Class have been damaged by the monetary difference between what is represented by Peet's as being sold and what is actually delivered to

the consumers

WHEREFORE, Plaintiff, ROBERT GARRETT, individually, and on behalf of the proposed Class, prays for an Order as follows:

A. Finding that this action satisfies the prerequisites for maintenance as a class action as set forth in 735 ILCS 5/2-801, and certifying the proposed Class as defined herein;

B. Designating Plaintiff as representative of the proposed Class, and Daniel J. Voelker, Esq. as Lead Counsel;

C. Entering judgment in favor of Plaintiff and the proposed Class and against Defendants, and ordering Defendants to ensure that its press pot coffees are either 12 or 32 ounces, respectfully, in volume, and are not substantially less than represented;

D. Enjoining Defendants' illegal conduct as alleged herein;

E. Awarding Plaintiff and the proposed Class compensatory damages, attorneys' fees, expenses and costs as allowed or required by law; and

F. Granting all such further and other relief as the Court deems just and appropriate.

COUNT III
(Unjust Enrichment)

46. Plaintiff repeats and realleges the allegations contained Paragraphs 1 through 41 of the Complaint as Paragraph 46 of the Complaint with the same force and effect as though fully set forth herein.

47. Plaintiff brings Count III individually, and on behalf of all similarly-situated citizens of each of the nine (9) states and the District of Columbia where Peet's coffee is sold for unjust enrichment.

48. By delivering less press pot coffee than represented and saving ground coffee in the delivery of the same, Peet's is being unjustly enriched at the expense of the Plaintiff and the

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proposed Class.

49. Plaintiff and the proposed Class are entitled to compensation for the monetary difference in the volume of the press pot coffees.

WHEREFORE, Plaintiff, ROBERT GARRETT, individually, and on behalf of the proposed Class, prays for an Order as follows:

A. Finding that this action satisfies the prerequisites for maintenance as a class action as set forth in 735 ILCS 5/2-801, and certifying the proposed Class as defined herein;

B. Designating Plaintiff as representative of the proposed Class, and Daniel J. Voelker as Lead Counsel;

C. Entering judgment in favor of Plaintiff and the proposed Class and against Defendants, and ordering Defendants to ensure that its press pot coffees delivered to consumers are either 12 or 32 ounces, respectfully, in volume, and are not substantially less than represented;

D. Enjoining Defendants' illegal conduct as alleged herein;

E. Awarding Plaintiff and the proposed Class compensatory damages, attorneys' fees, expenses and costs as allowed or required by law; and

F. Granting all such further and other relief as the Court deems just and appropriate.

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Dated: October 29, 2015

Respectfully submitted,

ROBERT GARRETT,
Plaintiff

By: /s/Alexander N. Loftus
One of His Attorneys