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19 **UNITED STATES DISTRICT COURT**
20 **CENTRAL DISTRICT OF CALIFORNIA**

21 **ESTELLE SHANE, on behalf of her-**
22 **self and all others similarly situated,**

23 **Plaintiff,**

24 **v.**

25 **FLORIDA BOTTLING, INC.,**

26 **Defendant.**

27 **CASE NO.: 17-cv-2197**

CLASS ACTION

**COMPLAINT FOR DAMAGES,
EQUITABLE, DECLARATORY,
AND INJUNCTIVE RELIEF**

DEMAND FOR JURY TRIAL

1 Plaintiff, by her attorneys, brings this class action against Defendant Florida
2 Bottling, Inc. (“Defendant” or “Lakewood”), on her own behalf and on behalf of all
3 others similarly situated, and alleges as follows based upon information and belief and
4 the investigation of her counsel.

5
6 **INTRODUCTION**

7 1. This is a class action on behalf of a California class of consumers who
8 purchased Lakewood Organic Juices (“Juices”) bearing the phrases “cold pressed” and
9 “fresh pressed” on their labels.

10 2. Lakewood markets itself as a juice company with a diverse line of pure
11 organic and premium fruit juice products that claim to be “fresh pressed 100% pure
12 organic and premium juices, with no additives or artificial ingredients of any kind.”
13 Lakewood website, <http://www.lakewoodjuices.com/about> (last visited on Mar. 9,
14 2017).

15 3. Lakewood represents that its Juices are both “cold pressed” and “fresh
16 pressed.” These representations are false and misleading because Lakewood Juices are
17 heat processed (pasteurized).

18 4. Over the past several years, the most significant driver in the juice industry
19 has been consumer demand for fresh and minimally processed juices. Such juices are
20 an alternative to the majority of juices in the marketplace that have been pasteurized
21 and sit on store shelves for months. The terms “cold pressed” and “fresh” are material
22 representations that carry a specific meaning in both law and logic for the consuming
23 public.

24 5. By law, the term “fresh,” when used on a food label in a manner that sug-
25 gests or implies that the food is unprocessed, means that the food has not been subjected
26 to thermal processing or any other form of preservation. In other words, juice that has
27 been pasteurized cannot be labeled with the term “fresh.” The law is clear on the matter
28

1 and the United States Food and Drug Administration (“FDA”) uniformly enforces it as
2 well.

3 6. The term “cold pressed” is a non-thermal processing method that uses high
4 pressure to kill bacteria rather than heat thereby maintaining most of the juice’s nutri-
5 ents and living enzymes, which otherwise get destroyed by heat.

6 7. Lakewood seeks to take advantage of the consumer demand for fresh and
7 non-thermally processed juices by labeling its Juices as both “fresh pressed” and “cold
8 pressed.”

9 8. Lakewood represents to consumers that its Juices are both cold pressed and
10 fresh pressed in bold, italic, underlined, and large font on the front labels of the Juice
11 bottles. But the truth is that Lakewood Juices are neither. Indeed, on the back of the
12 label, in much smaller print, buried in the middle of a paragraph, Lakewood describes
13 its Juices as pasteurized—a fact that renders the representations on the front of the Juice
14 labels false and misleading.

15 9. Plaintiff alleges that Lakewood’s conduct violates the unlawful, unfair, and
16 fraudulent prongs of the Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et
17 seq. (the “UCL”), violates the False Advertising Law, Cal. Bus. & Prof. Code §§ 17500,
18 et seq. (the “FAL”), violates the Consumers Legal Remedies Act, Cal. Civ. Code §§
19 1750, et seq. (the “CLRA”), breaches express warranty (Cal. Com. Code § 2313) and
20 the implied warranty of merchantability (Cal. Com. Code § 2314). Plaintiff also alleges
21 in the alternative that Lakewood’s conduct is grounds for restitution on the basis of
22 quasi-contract/unjust enrichment.

23 10. Plaintiff also seeks injunctive and declaratory relief based upon Lake-
24 wood’s conduct asserted in this Complaint. As of the date of this Complaint, upon in-
25 formation and belief, Lakewood continues to advertise and sell its Juices as cold pressed
26 and fresh pressed. Even if Lakewood elected to remove the offending labels, they are
27 not presently enjoined from putting the representations back on its Juice labels at will

1 and continuing to mislead the consuming public. Accordingly, Plaintiff seeks declara-
2 tory and injunctive relief to ensure that Lakewood removes all representations describ-
3 ing its Juices as either “cold pressed” or “fresh pressed.”

4 **PARTIES**

5 11. Plaintiff Estelle Shane is a resident of Los Angeles, California. Ms. Shane
6 purchased Lakewood’s Pomegranate, Carrot, and Pineapple juices each of which
7 claimed to be both “cold pressed” and “fresh pressed” despite the fact the Juice had
8 been pasteurized. The representations that the Juice was both cold pressed and fresh
9 pressed were material to Ms. Shane’s decision to purchase the Juice. She did not know
10 that the Juice was, in fact, pasteurized and therefore neither cold pressed nor fresh
11 pressed. Ms. Shane purchased Lakewood Organic Juices because she is committed to
12 eating well and committed to feeding her family in a wholesome manner. She, like other
13 consumers, reads products’ front labels and relies upon them in making her purchasing
14 decisions. Ms. Shane read the label on the Juices and relied on their representations in
15 making her purchase. Had she known the truth about the representations made on the
16 Juice labels, she would not have purchased them.

17 12. Defendant Lakewood is a subsidiary of Florida Bottling, Inc. with its
18 principal place of business in Miami, Florida.

19 **JURISDICTION AND VENUE**

20 13. Jurisdiction of this Court is proper under 28 U.S.C. § 1332(d)(2). Diversity
21 jurisdiction exists as Plaintiff Shane resides in Los Angeles County. Lakewood is in-
22 corporated and maintains its principal place of business in Florida. The class (“Class”)
23 consists of citizens and residents of California. The amount in controversy exceeds
24 \$5,000,000 for the Representative Plaintiff and members of the Class collectively, ex-
25 clusive of interest and costs, by virtue of the combined purchase prices paid by Plaintiff
26 and the Class, and the profits reaped by Lakewood from its transactions with Plaintiff
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1 and the Class, as a direct and proximate result of the wrongful conduct alleged herein,
2 and by virtue of the injunctive and equitable relief sought.

3 14. Venue is proper within this judicial district pursuant to 28 U.S.C. § 1391
4 because a substantial portion of the underlying transactions and events complained of
5 occurred and affected persons and entities located in this judicial district, and Lakewood
6 has received substantial compensation from such transactions and business activity in
7 this judicial district.

8 **FACTUAL ALLEGATIONS**

9 15. Lakewood manufactures and distributes Juices under the moniker Lake-
10 wood Organics. Lakewood markets its Juices as premium, healthful juices that are a
11 natural source of antioxidants, phytochemical nutrients, dietary fiber, vitamins, and
12 minerals. Lakewood makes material claims that its Juices are “cold pressed” and “fresh
13 pressed.”



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16. As further detailed below, “cold pressed” and “fresh pressed” are material representations that carry a specific meaning in both law and logic for the consuming public. Specifically, juices that are fresh or processed by cold pressure cannot be thermally processed.

17. Lakewood’s representations are false and misleading. Despite representing to consumers that its Juices are cold pressed and fresh pressed in bold, italic, underlined and large font, the truth is that Lakewood juices are neither. Indeed, on the back of the label, in much smaller print, buried in the middle of a paragraph, Lakewood reveals its Juices are pasteurized—thereby rendering the representations on the front of the juice labels false and misleading.



1 **PASTEURIZATION**

2 18. Today’s juice market is highly diverse. On one end of the spectrum you
3 have standard bottled juices most typically found on store shelves. These products
4 have been pasteurized, are generally not refrigerated, and have long shelf lives. On the
5 other hand, you have fresh juices that are made with no thermal processing, have short
6 shelf lives, sold at premium prices and are routinely considered more healthful than the
7 alternatives. The trend in the juice industry over the past several years has favored un-
8 processed premium juices, which address consumer desires for minimally processed
9 foods that retain their original nutritional benefits (*e.g.*, enzymes, micronutrients, vita-
10 mins, and minerals). *See, e.g.*, Mary MacVean, Juicing Trend Still Going Strong In
11 2015, L.A. Times (Jan. 29, 2015), [http://www.latimes.com/health/la-he-juice-](http://www.latimes.com/health/la-he-juice-20150131-story.html)
12 [20150131-story.html](http://www.latimes.com/health/la-he-juice-20150131-story.html). Two of the most significant categories in the premium juice
13 market are juices that are fresh pressed and those that are cold pressed.

14 19. Pasteurization is a process by which foods are heated to a specific tem-
15 perature for a specific amount of time to kill potentially harmful bacteria. FDA,
16 through its Center for Food Safety and Applied Nutrition, sets detailed guidelines for
17 the pasteurization of fruit juices. These heating processes vary in length of time from
18 0.3 to 6.0 seconds, with heating temperatures between 160-180°F. PennState Exten-
19 sion, Food Safety, Juice HACCP Resources, FDA Recommended Pasteurization
20 Time/Temperatures, *available at* [http://extension.psu.edu/food/safety/course-follow-](http://extension.psu.edu/food/safety/course-follow-up-information/juice-haccp-resources/food-safety-juice-haccp-regulations/FDA%20Recommended%20Pasteurization%20Time.pdf)
21 [up-information/juice-haccp-resources/food-safety-juice-haccp-regula-](http://extension.psu.edu/food/safety/course-follow-up-information/juice-haccp-resources/food-safety-juice-haccp-regulations/FDA%20Recommended%20Pasteurization%20Time.pdf)
22 [tions/FDA%20Recommended%20Pasteurization%20Time.pdf](http://extension.psu.edu/food/safety/course-follow-up-information/juice-haccp-resources/food-safety-juice-haccp-regulations/FDA%20Recommended%20Pasteurization%20Time.pdf).

23 20. While the goal of pasteurization—to eliminate harmful pathogens—is
24 critical to food safety, it is also accompanied by a real and perceived downside—that
25 food subjected to thermal processing kills not only harmful bacteria, but beneficial mi-
26 croorganisms, vitamins, and enzymes as well, leaving the food devoid of its nutri-
27 tional benefits otherwise available in its original state.

1 <http://www.coldpressure.org/en/what-is-cold-pressure> (last visited Mar. 9, 2017). In
2 contrast to pasteurized juices, cold pressed juices are processed with a technology,
3 called High Pressure Processing, that uses high pressure instead of heat thereby main-
4 tain most of the juice’s nutrients and living enzymes, which otherwise get destroyed
5 by heat. “Cold pressed juice is as close to a raw fruit or vegetable as possible.” Rajiv
6 Singh, Can Cold-Pressed Juice Startups Like RAW Pressery Give Established Bever-
7 age Brands a Run for Their Money?, *Econ. Times* (July 31, 2016), [http://econom-](http://economictimes.indiatimes.com/articleshow/53469372.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)
8 [ictimes.indiatimes.com/articleshow/53469372.cms?utm_source=contentofinter-](http://economictimes.indiatimes.com/articleshow/53469372.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst)
9 [est&utm_medium=text&utm_campaign=cppst](http://economictimes.indiatimes.com/articleshow/53469372.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst).

10 24. High Pressure Processing (“HPP”) subjects liquids to pressures between
11 100 and 800 MPa. Pressures used in the HPP of foods appear to have little effect on
12 covalent bonds. Thus, foods subjected to HPP treatment at or near room temperature
13 will not undergo significant chemical transformations due to the pressure treatment it-
14 self. Critically, HPP provides a non-thermal alternative to pasteurization. *See, e.g.,*
15 FDA, Kinetics of Microbial Inactivation for Alternative Food Processing Technolo-
16 gies—High Pressure Processing, [http://www.fda.gov/Food/FoodScienceResearch/SafePractic-](http://www.fda.gov/Food/FoodScienceResearch/SafePracticesforFoodProcesses/ucm101456.htm)
17 [esforFoodProcesses/ucm101456.htm](http://www.fda.gov/Food/FoodScienceResearch/SafePracticesforFoodProcesses/ucm101456.htm) (last visited Mar. 9, 2017); Lori F. Pivarnik et al.,
18 Non-Thermal or Alternative Food Processing Methods to Enhance Microbial Safety
19 and Quality (Nov. 2014), *available at* [http://ucfoodsafety.ucda-](http://ucfoodsafety.ucdavis.edu/files/227891.pdf)
20 [vis.edu/files/227891.pdf](http://ucfoodsafety.ucdavis.edu/files/227891.pdf).

21 25. “High Pressure Processing is recognized by the FDA, USDA, Health
22 Canada, the EU and other authoritative bodies for preserving freshness and increasing
23 shelf life without preservatives or high heat. The process leads to the elimination of
24 harmful bacteria while maintaining a higher yield of vitamins, minerals and enzymes,
25 and preserving a fresher taste.” Cold Pressure Council, What Is Cold Pressur,
26 <http://www.coldpressure.org/en/what-is-cold-pressure> (last visited Mar. 9, 2017).

* * *

1 To achieve wider distribution and a longer shelf life for these juice
2 products, companies turned to [High Pressure Processing] (“HPP”), a
3 method of processing that, unlike pasteurization, uses high pressure
4 instead of heat to inhibit bacteria growth in raw foods and beverages.
5 The juice, which is already bottled when it undergoes HPP, does not
6 come in actual contact with pressure. Although HPP gives raw foods
7 a shelf life of only a few weeks, it is widely regarded as superior to
pasteurization (which is how most juice products are processed) in
maintaining nutrition and flavors from raw ingredients.

* * *

8 HPP has helped create the cracks for what Church and others see as
9 potentially a seismic shift in the way mainstream consumers view
10 and purchase juice. They argue that the wave of new cold pressed
11 juices offer quality and taste that shatters the mold of traditional
packaged juice, and it’s the emergence of HPP that is the single big-
gest factor behind greater adoption of the products.

12 28. Lakewood pasteurizes its juices. Lakewood website, FAQs,
13 <http://www.lakewoodjuices.com/faqs#top> (last visited Mar. 9, 2017). They are not
14 processed by High Pressure Processing, nor any other form of non-thermal processing.
15 Accordingly, they cannot represent that their juices are cold pressed. Doing so is false,
16 misleading, and deceptive to the consuming public.

18 **FRESH PRESSED**

19 29. The term “fresh” has been and remains one of the most desirable food
20 label claims among consumers and is consistent with the increasing trend for clean la-
21 bel /minimally processed foods. *See, e.g.*, What consumers want—and don't want—on
22 food and beverage labels, A.E. Sloan (2003); What Consumers Want on Food Labels,
23 Hartman Group (2015).

24 30. The term fresh in the context of making food choices has long been mate-
25 rial to the consuming public. As a result, in January 1993, the FDA established label-
26 ing regulations that specifically govern the use of the terms “fresh,” “freshly (*e.g.*,
27 “freshly baked”) and “fresh frozen” as they appear on the labeling of foods, including
28 the use of these terms in brand names and as sensory modifiers.

1 31. The final rule was memorialized in 21 CFR 101.95 which states that the
2 term “fresh,” when used on the label or in labeling of a food in a manner that suggests
3 or implies that the food is unprocessed, means that the food is in its raw state and has
4 not been frozen or subjected to any form of thermal processing or any other form of
5 preservation.

6 32. The regulation was necessary “because of the continued misuse of the
7 term “fresh” and related terms in the marketplace.” Department of Health and Human
8 Services, Food and Drug Administration, 21 CFR Part 101, Docket No. OON-13511,
9 Food Labeling; Use of the Term “Fresh” for Foods Processed With Alternative Non-
10 thermal Technologies; Public Meeting July 21, 2000. [https://www.federalregis-
11 ter.gov/documents/2000/07/03/00-16716/food-labeling-use-of-the-term-fresh-for-
12 foods-processed-with-alternative-nonthermal-technologies.](https://www.federalregister.gov/documents/2000/07/03/00-16716/food-labeling-use-of-the-term-fresh-for-foods-processed-with-alternative-nonthermal-technologies)

13 33. The FDA determined that “it was necessary to establish a definition for
14 “fresh” to preclude the type of misuse that [it] encountered most often, i.e., use of the
15 term to imply that a food is unprocessed, when in fact it has been processed. Thus,
16 provisions in § 101.95 (21 CFR 101.95) govern the use of the term “fresh” when used
17 on the labels or in labeling of foods to suggest or imply that the food is unprocessed.
18 Generally, the appearance of the term “fresh” on a label or in labeling means that the
19 food in its raw state or finished form has not been frozen or subjected to any form of
20 thermal processing or any other form of preservation.” *Id.*

21 34. FDA defined pasteurization as a heat treatment sufficient to destroy vege-
22 tative cells of pathogens. Guidance for Industry: Juice HACCP Hazards and Controls
23 Guidance First Edition; Final Guidance (March 2004) *available at*
24 [http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInfor-
25 mation/Juice/ucm072557.htm](http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Juice/ucm072557.htm). It is a thermal process within the meaning in 21 CFR
26 101.95.

27 35. Since the passage of 21 CFR 101.95, FDA has routinely and unequivoco-
28 cally reasserted and enforced the black letter mandate of 21 CFR 101.95—that the

1 term “fresh” cannot be used in conjunction with food that has been subject to any
2 form of thermal processing.

3 36. For example, in October 2009, the FDA warned Shik Poom Inc. that its
4 “Fresh Tuna” product was misbranded within the meaning of section 403(a)(1) of the
5 Act [21 U.S.C. 343(a)(1)] because it was canned and therefore could not be properly
6 labeled as “fresh.” “Your use of the word “fresh” implies that this product is unpro-
7 cessed or unpreserved. However, the product fails to meet definition of fresh as out-
8 lined in 21 CFR 101.95(a), because it is not in its raw state and has been subjected to
9 either a form of thermal processing or another form of preservation.” *Available at*
10 <http://www.fda.gov/iceci/enforcementactions/warningletters/2009/ucm189681.htm>.

11 37. Less than 3 years later the FDA sent a similar warning letter to
12 Michelle’s Miracle, Inc. this time finding the labeling of their tart cherry juice prod-
13 ucts false and misleading for the exact reasons raised in this Complaint. “The
14 webpages [of various juice products],.... bear the statement “Always fresh from the
15 farm to the bottle.” However, these webpages also bear the statement “flash-pasteur-
16 ized to preserve the rich flavor and potency of the cherries,” indicating that the prod-
17 ucts have been preserved via thermal processing. Under 21 CFR 101.95, the term
18 “fresh,” when used on the label or in labeling of a food in a manner that suggests or
19 implies that the food is unprocessed, means that the food is in its raw state and has not
20 been frozen or subjected to any form of thermal processing or any other form of
21 preservation. Because your products are made from frozen pasteurized tart cherry con-
22 centrate, they do not meet the requirements for a “fresh” claim and, therefore, the la-
23 beling of these products is false and misleading.” *Available at*
24 <http://www.fda.gov/iceci/enforcementactions/warningletters/2012/ucm307676.htm>

25 38. The FDA’s commitment to enforcing 21 CFR 101.95 has not waned as it
26 continues to issue warning letters on abuse of the term fresh on pasteurized products.
27 On August 4, 2015, FDA issued a warning to P&S Ravioli Company over the labeling
of its Jumbo Lobster Ravioli & Linguine. “The label states “So enjoy the quality line

1 of P&S products, and you will experience the quality, freshness, and tradition we have
2 combined to bring you the finest pasta that ever graced your table.” The pasta is la-
3 beled “Keep Frozen Until Ready To Use” and contains a processed ingredient (*e.g.*,
4 “Pasteurized Whole Eggs”). Under 21 CFR 101.95(a), the term “fresh,” when used on
5 the label or in labeling of a food in a manner that suggests or implies that the food is
6 unprocessed, means that the food is in its raw state and has not been frozen or sub-
7 jected to any form of thermal processing or any other form of preservation. Because
8 the product is frozen and contains a processed ingredient, we question whether the
9 product should be characterized as “fresh.” *Available at* [http://www.fda.gov/iceci/en-](http://www.fda.gov/iceci/enforcementactions/warningletters/2015/ucm457402.htm)
10 [forcementactions/warningletters/2015/ucm457402.htm](http://www.fda.gov/iceci/enforcementactions/warningletters/2015/ucm457402.htm).

11 39. Finally, even last year FDA reiterated its long-standing position that a
12 product which has been subject to thermal processing simply cannot be labeled as
13 fresh. In a warning letter issued to Aloe Farms, Inc., on July 15, 2016, FDA stated
14 that, “[t]he characterization of the Aloe Vera Juice as “fresh” on the firm's website,
15 www.thealoeverastore.us, is false because it does not meet the requirements of 21
16 CFR 101.95. The term “fresh” when used on the label or in labeling of a food in a
17 manner that suggests or implies that the food is unprocessed, means that the food is in
18 its raw state and has not been frozen or subjected to any form of thermal processing or
19 any other form of preservation, except as provided in paragraph 21 CFR 101.95(c).
20 The webpage states “Our freshly make [sic] Aloe Farms Aloe Vera Juice. The miracle
21 plant ... is bottled fresh and pure “ The product is made with several preservatives
22 and has been cooked. Therefore, it cannot be characterized as “fresh.” *Available at*
23 <http://www.fda.gov/iceci/enforcementactions/warningletters/2016/ucm516593.htm>.

24 40. Lakewood prominently states on the front label of each juice bottle that it
25 is “fresh pressed,” despite the fact the Juice is pasteurized. Lakewood’s use of the
26 term fresh is therefore false, misleading, and deceptive to the consuming public.
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28

1 **LAKEWOOD HAS REFUSED TO STOP ITS WRONGDOING**

2 41. On or about June 7, 2016, Ms. Shane transmitted a demand letter pursu-
3 ant to the Consumer Legal Remedies Act in which she explained the violations de-
4 tailed herein and demanded that the labels be corrected and that she and the class of
5 similarly situated consumers of Lakewood be compensated for the deception. As of
6 this date, Lakewood has refused to take any corrective action.

7 **CLASS ACTION ALLEGATIONS**

8 42. Plaintiff brings this action on behalf of herself and on behalf of all others
9 similarly situated defined as follows: All persons who purchased a purchased a Lake-
10 wood Juice bearing the label “cold pressed” and/or “fresh pressed” as identified in this
11 Complaint.

12 43. Plaintiff brings this Class pursuant to Federal Rule of Civil Procedure
13 23(a), and 23(b)(1), 23(b)(2) and 23(b)(3).

14 44. Excluded from the Class are: (i) Lakewood and its employees, principals,
15 affiliated entities, legal representatives, successors and assigns; and (ii) the judges to
16 whom this action is assigned.

17 45. Upon information and belief, there are tens of thousands of members of
18 the Class. Therefore, individual joinder of all members of the Class would be impracti-
19 cable.

20 46. There is a well-defined community of interest in the questions of law and
21 fact affecting the parties represented in this action.

22 47. Common questions of law or fact exist as to all members of the Class.
23 These questions predominate over the questions affecting only individual Class mem-
24 bers. These common legal or factual questions include but are not limited to:

- 25 a. Whether Lakewood labeled its Juice Products as “fresh
26 pressed” or “cold pressed;”
27 b. Whether Lakewood pasteurizes its Juices;

- 1 c. Whether Lakewood exercised control over or otherwise partic-
- 2 ipated in the marketing, advertising, or labeling of these Juices;
- 3 d. Whether Lakewood participated in the sales and distribution of
- 4 the Juices;
- 5 e. Whether Lakewood's actions in labeling pasteurized products
- 6 as cold pressed or fresh pressed was likely to deceive Class
- 7 members or the general public;
- 8 f. Whether those representations violate the Unfair Competition
- 9 Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.* (the "UCL");
- 10 g. Whether those representations violate the False Advertising
- 11 Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.* (the "FAL")
- 12 h. Whether those representations violate the Consumers Legal
- 13 Remedies Act, Cal. Civ. Code §§ 1750, *et seq.* (the "CLRA");
- 14 i. The appropriate measure of damages, restitutionary disgorge-
- 15 ment, or restitution.

16 48. Plaintiff's claims are typical of the claims of the Class, in that Plaintiff was
17 a consumer who purchased a Juice that Lakewood represented to be fresh pressed or
18 cold pressed despite the fact its Juices are pasteurized. Plaintiff, therefore, is no different
19 in any relevant respect from any other Class Member who purchased Juices, and the
20 relief sought is common to the Class.

21 49. Plaintiff is an adequate representative of the Class because her interests do
22 not conflict with the interests of the members of the Class she seeks to represent, and
23 she has retained counsel competent and experienced in conducting complex class action
24 litigation. Plaintiff and her counsel will adequately protect the interests of the Class.

25 50. A class action is superior to other available means for the fair and efficient
26 adjudication of this dispute. The damages suffered by each individual Class Member
27 likely will be relatively small, especially given the relatively small cost of the Juices at
28 issue and the burden and expense of individual prosecution of the complex litigation

1 necessitated by Lakewood’s conduct. Thus, it would be virtually impossible for mem-
2 bers of the Class individually to effectively redress the wrongs done to them. Moreover,
3 even if members of the Class could afford individual actions, it would still not be pref-
4 erable to class-wide litigation. Individualized actions present the potential for incon-
5 sistent or contradictory judgments. By contrast, a class action presents far fewer man-
6 agement difficulties and provides the benefits of single adjudication, economies of
7 scale, and comprehensive supervision by a single court.

8 51. In the alternative, the Class may be certified because Lakewood has acted
9 or refused to act on grounds generally applicable to the Class, thereby making appro-
10 priate preliminary and final equitable relief with respect to each Class.

11 **FIRST CAUSE OF ACTION**
12 **(Breach of Express Warranty, Cal. Com. Code § 2313)**

13 52. Lakewood made express warranties to Plaintiff and members of the Class
14 that the Juices they were purchasing were “cold pressed” and “fresh pressed.”

15 53. The “fresh pressed” and “cold pressed” express warranties made to Plain-
16 tiff and the Class appear on every label of the Juices. This promise regarding the nature
17 of the Juices marketed by Lakewood specifically relates to the goods being purchased
18 and became the basis of the bargain.

19 54. Plaintiff and the Class purchased the Juices in the belief that they con-
20 formed to the express warranties that were made on the Juices’ labels.

21 55. Lakewood breached the express warranties made to Plaintiff and members
22 of the Class by failing to supply goods that conformed to the warranties it made. As a
23 result, Plaintiff and members of the Class suffered injury and deserve to be compensated
24 for the damages they suffered.

25 56. Plaintiff and the members of the Class paid money for the Juices. However,
26 Plaintiff and the members of the Class did not obtain the full value of the advertised
27 Juices. If Plaintiff and other members of the Class had known of the true nature of the
28 Juices, they would not have purchased them, would not have made as many purchases,

1 or would not have been willing to pay the premium price associated with other juices
2 that are truly “fresh pressed” or “cold pressed.” Accordingly, Plaintiff and members of
3 the Class have suffered injury in fact and lost money or property as a result of Lake-
4 wood’s wrongful conduct.

5 57. Plaintiff and the Class are therefore entitled to recover damages, punitive
6 damages, equitable relief such as restitution and disgorgement of profits, and declara-
7 tory and injunctive relief.

8 **SECOND CAUSE OF ACTION**

9 **(Breach of Implied Warranty of Merchantability, Cal. Com. Code § 2314)**

10 58. Plaintiff and other Class members purchased the Juices, which Lakewood
11 promoted, marketed, advertised, packaged and labeled using promises or affirmations of
12 fact on the Juice labels. Lakewood impliedly warranted that the Juices it sold conformed
13 to these promises or affirmations when they did not. Lakewood impliedly warranted that
14 the Juices were of a particular kind and quality when they were not.

15 59. Plaintiff and those similarly situated purchased the Juices, relied on Lake-
16 wood’s representations that the Juices were fresh pressed or cold pressed.

17 60. Lakewood breached the warranties implied at the time of sale in that Plain-
18 tiff and those similarly situated did not receive goods that they bargained for. Accord-
19 ingly, the goods were not merchantable as conforming with the promises or affirmations
20 of fact made on their labels, and were not merchantable as the kind and quality Lake-
21 wood represented them to be.

22 61. As a proximate result of these breaches of warranty by Lakewood, Plaintiff
23 and those similarly situated have suffered damages in an amount to be determined at
24 trial in that, among other things, they purchased and paid for products that did not con-
25 form with the proises or affirmations of fact made on their labels, and were not of the
26 kind and quality Lakewood represented. They were deprived of the benefit of their bar-
27

1 gain and spent money on products that did not have any value, had less value than war-
2 ranted, or that they would not have purchased and used had they known the true facts
3 about them.

4 **THIRD CAUSE OF ACTION**
5 **(“Unlawful” Business Practices in Violation of**
6 **The Unfair Competition Law (“UCL”), Bus. & Prof. Code §§ 17200, *et seq.*)**

7 62. The UCL defines unfair business competition to include any “unlawful,
8 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or mis-
9 leading” advertising. Cal. Bus. Prof. Code § 17200.

10 63. A business act or practice is “unlawful” if it violates any established state
11 or federal law.

12 64. California's Sherman Food, Drug, and Cosmetic Law (“Sherman Law”),
13 Cal. Health & Safety Code § 109875 *et seq.*, broadly prohibits the misbranding of food.
14 Cal. Health & Safety Code § 110765; See, also Cal. Health & Safety Code § 110660
15 (“Any food is misbranded if its labeling is false or misleading in any particular.”). The
16 Sherman Law incorporates all food labeling regulations and any amendments to those
17 regulations adopted pursuant to the Food, Drug, and Cosmetic Act of 1938 (“FDCA”)
18 as the food labeling regulations of California. Cal. Health & Safety Code § 110100(a);
19 *see also* Cal. Health & Safety Code §§ 110665, 110670.

20 65. As described in detail above, by labeling its Juices as “fresh pressed,”
21 Lakewood violates at a minimum 21 CFR 101.95 as incorporated by the California
22 Sherman Law. Independently, by labeling its Juices and cold pressed or fresh pressed,
23 Lakewood also violates Cal. Health & Safety Code § 110660 (any food is misbranded
24 if its labeling is false or misleading in any particular), which incorporates 21 U.S.C.
25 343(a)(1) (a food shall be deemed to be misbranded if its labeling is false or misleading
26 in any particular).

27 66. Lakewood violated, and continues to violate the Sherman Law, Article 6,
28 Section 110660 and hence has also violated and continues to violate the “unlawful”

1 prong of the UCL through its use of the terms “fresh pressed” and “cold pressed” on the
2 labels of its Juice Products that are pasteurized. Lakewood’s identical conduct that vio-
3 lates the Sherman Law, also violates FDCA § 403(a)(1), 21 U.S.C. § 343(a)(1), which
4 declares food misbranded under federal law if its “labeling is false and misleading in
5 any particular.” This identical conduct serves as the sole factual basis of each cause of
6 action brought by this Complaint, and Plaintiff does not seek to enforce any of the state
7 law claims to impose any standard of conduct that exceeds that which would violate
8 FDCA § 403(a)(1).

9 67. By committing the unlawful acts and practices alleged above, Lakewood
10 has engaged, and continues to be engaged, in unlawful business practices within the
11 meaning of California Business and Professions Code §§ 17200, *et seq.*

12 68. Through its unlawful acts and practices, Lakewood has obtained, and
13 continues to unfairly obtain, money from members of the Class. As such, Plaintiff re-
14 quests that this Court cause Lakewood to restore this money to Plaintiff and all mem-
15 bers of the Class, to disgorge the profits Lakewood made on these transactions, and to
16 enjoin Lakewood from continuing to violate the Unfair Competition Law or violating
17 it in the same fashion in the future. Otherwise, the Class may be irreparably harmed
18 and denied an effective and complete remedy if such an order is not granted.

19 **FOURTH CAUSE OF ACTION**
20 **(“Unfair” Business Practices in Violation of**
21 **The Unfair Competition Law (“UCL”), Bus. & Prof. Code §§ 17200, *et seq.*)**

22 69. The UCL defines unfair business competition to include any “unlawful,
23 unfair or fraudulent” act or practice, as well as any “unfair, deceptive, untrue or mis-
24 leading” advertising. Cal. Bus. Prof. Code § 17200.

25 70. A business act or practice is “unfair” under the Unfair Competition Law if
26 the reasons, justifications and motives of the alleged wrongdoer are outweighed by the
27 gravity of the harm to the alleged victims.

1 76. As a result of the conduct described above, Lakewood has been, and will
2 continue to be, unjustly enriched at the expense of Plaintiff and members of the pro-
3 posed Class. Specifically, Lakewood has been unjustly enriched by the profits it has
4 obtained from Plaintiff and the Class from the purchases of its Juices.

5 77. Through its unfair acts and practices, Lakewood has improperly obtained,
6 and continues to improperly obtain, money from members of the Class. As such, Plain-
7 tiff requests that this Court cause Lakewood to restore this money to Plaintiff and the
8 Class, to disgorge the profits Lakewood has made , and to enjoin Lakewood from con-
9 tinuing to violate the Unfair Competition Law or violating it in the same fashion in the
10 future. Otherwise, the Class may be irreparably harmed and denied an effective and
11 complete remedy if such an Order is not granted.

12 **SIXTH CAUSE OF ACTION**
13 **(False Advertising in Violation of**
14 **California Business & Professions Code §§ 17500, et seq.)**

15 78. Lakewood uses advertising and packaging to sell its Juices. Lakewood is
16 disseminating advertising regarding the Juices which by its very nature is deceptive,
17 untrue, or misleading within the meaning of California Business & Professions Code
18 §§ 17500, et seq. because those advertising statements contained on the labels are mis-
19 leading and likely to deceive, and continue to deceive, members of the putative Class
20 and the general public.

21 79. In making and disseminating the statements alleged herein, Lakewood
22 knew or should have known that the statements were untrue or misleading, and acted in
23 violation of California Business & Professions Code §§ 17500, et seq.

24 80. The misrepresentations and non-disclosures by Lakewood of the material
25 facts detailed above constitute false and misleading advertising and therefore constitute
26 a violation of California Business & Professions Code §§ 17500, et seq.

27 81. Through its deceptive acts and practices, Lakewood has improperly and
28 illegally obtained money from Plaintiff and the members of the Class. As such, Plaintiff

1 requests that this Court cause Lakewood to restore this money to Plaintiff and the mem-
2 bers of the Class, and to enjoin Lakewood from continuing to violate California Busi-
3 ness & Professions Code §§ 17500, *et seq.*, as discussed above. Otherwise, Plaintiff and
4 those similarly situated will continue to be harmed by Lakewood’s false and/or mis-
5 leading advertising.

6 82. Pursuant to California Business & Professions Code § 17535, Plaintiff
7 seeks an Order of this Court ordering Lakewood to fully disclose the true nature of its
8 misrepresentations. Plaintiff additionally requests an Order (1) requiring Lakewood to
9 disgorge its ill-gotten gains, (2) award full restitution of all monies wrongfully acquired
10 by Lakewood and (3), interest and attorneys’ fees. Plaintiff and the Class may be irrep-
11 arably harmed and denied an effective and complete remedy if such an Order is not
12 granted.

13 83. Lakewood’s conduct is ongoing and continues to this date. Plaintiff and
14 the Class are therefore entitled to the relief sought.

15 **SEVENTH CAUSE OF ACTION**
16 **(Violation of the Consumers Legal Remedies Act,**
17 **California Civil Code §§ 1750, *et seq.*)**

18 84. This cause of action is brought pursuant to the Consumers Legal Remedies
19 Act, California Civil Code §§ 1750, *et seq.* (the “CLRA”).

20 85. Plaintiff and each member of the proposed Class are “consumers” within
21 the meaning of Civil Code § 1761(d).

22 86. The purchases of the Juices by consumers constitute “transactions” within
23 the meaning of Civil Code § 1761(e) and the Juices constitute “goods” within the mean-
24 ing of Civil Code § 1761(a).

25 87. Lakewood has violated, and continues to violate, the CLRA in at least the
26 following respects:

- 27 a. in violation of Civil Code § 1770(a)(5), Lakewood represented that
the transaction had characteristics which it did not have;

- 1 b. in violation of Civil Code § 1770(a)(7), Lakewood represented that
2 its goods were of a particular standard, quality or grade, which they
3 were not; and
- 4 c. in violation of Civil Code § 1770(a)(9), Lakewood advertised its
5 goods (*i.e.*, the Lakewood Products) with the intent not to provide
6 what it advertised.

7 88. Lakewood knew, or should have known, that its fresh pressed or cold
8 pressed representations violated consumer protection laws, and that these statements
9 would be relied upon by Plaintiff and the members of the Class.

10 89. The fresh pressed or cold pressed representations were made to Plaintiff
11 and all members of the Class. Plaintiff relied on the fresh pressed and cold pressed
12 representations on Lakewood's labels. They each formed a material basis for her deci-
13 sion to purchase the Juices. Moreover, based on the very materiality of Lakewood's
14 misrepresentations, concealments, and omissions uniformly made on or omitted from
15 its Juice labels, reliance may be presumed or inferred for all members of the Class.

16 90. Lakewood carried out the scheme set forth in this Complaint willfully,
17 wantonly, and with reckless disregard for the interests of Plaintiff and the Class, and as
18 a result, Plaintiff and the Class have suffered an ascertainable loss of money or property.

19 91. Plaintiff and the members of the Class request that this Court enjoin Lake-
20 wood from continuing to engage in the unlawful and deceptive methods, acts and prac-
21 tices alleged above, pursuant to California Civil Code § 1780(a)(2). Unless Lakewood
22 is permanently enjoined from continuing to engage in such violations of the CLRA,
23 future consumers of Lakewood's Juices will be damaged by its acts and practices in the
24 same way as have Plaintiff and the members of the proposed Class.

25 92. On or about June 7, 2016, Plaintiff Shane, through her counsel and pursu-
26 ant to Civil Code § 1782, sent Lakewood a certified letter notifying it of the conduct
27 described herein and that such conduct was in violation of particular provisions of Civil
28 Code § 1770. The letter demanded that Lakewood repair, or otherwise rectify, problems
29 associated with its illegal behavior which are in violation of Civil Code § 1770. Lake-
30 wood accepted service of this letter.

1 B. Restitution in such amount that Plaintiff and all members of the Class paid
2 to purchase Lakewood’s Juices or paid as a premium over non-natural alternatives, or
3 restitutionary disgorgement of the profits Lakewood obtained from those transactions,
4 for Causes of Action for which they are available.

5 C. Compensatory damages for Causes of Action for which they are available.

6 D. Statutory damages allowable under Civil Code § 1780.

7 E. Other statutory penalties for Causes of Action for which they are available.

8 F. Punitive Damages for Causes of Action for which they are available.

9 G. A declaration and Order enjoining Lakewood from advertising its Juices
10 misleadingly, in violation of California’s Sherman Food, Drug and Cosmetic Law and
11 other applicable laws and regulations as specified in this Complaint.

12 H. An Order awarding Plaintiff her costs of suit, including reasonable attor-
13 neys’ fees and pre- and post-judgment interest.

14 I. An Order requiring an accounting for, and imposition of, a constructive
15 trust upon all monies received by Lakewood as a result of the unfair, misleading, fraud-
16 ulent and unlawful conduct alleged herein.

17 J. Such other and further relief as may be deemed necessary or appropriate.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiff hereby demands a trial by jury on all causes of action or issues so triable.
20
21

22 DATED: March 21, 2017

Respectfully Submitted,

23
24 

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