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CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIF.
LOS ANGELES



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12 **IN THE UNITED STATES DISTRICT COURT**
13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 GRETCHEN PATCH, individually and on
15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18 MILLENNIUM PRODUCTS, INC.,

19 Defendant.
20

CIVIL ACTION
No. 10-

CV10 7244

ODW

(Ex)

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

21 Plaintiff Gretchen Patch, individually and on behalf of the Class described below, by her
22 attorneys, alleges, based upon personal knowledge as to her own actions, and upon information
23 and belief as to the actions of others, as follows:

24 **I.**
25 **NATURE OF THE ACTION**
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27 1. This lawsuit is intended to put an end to the deceptive, misleading, unfair, and
28 unlawful labeling and advertising of GT's Organic Raw Kombucha and Synergy. In an effort to

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1 exploit consumers' health concerns, Defendant Millennium Products, Inc. ("Millennium or
2 Defendant") labels and advertises GT'S Organic Raw Kombucha and Synergy as wonder drinks
3 that possess amazing health benefits. However, available scientific evidence does not
4 substantiate claims that kombucha-based beverages such as GT's Organic Raw Kombucha and
5 Synergy possess any of those health benefits, nor has Defendant conducted any clinical trials on
6 GT's Organic Raw Kombucha or Synergy that could possibly support the health claims that
7 appear on their labels.
8

9 2. In fact, serious side effects and occasional deaths have been associated with
10 drinking kombucha tea. Yet, Defendant does not inform consumers of the possible health risks
11 of its kombucha-based products.
12

13 3. This lawsuit seeks damages for Plaintiff and each Class member, including, but
14 not limited to, injunctive relief, restitution, attorneys' fees, and the costs of this suit.
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16 II. 17 JURISDICTION & VENUE

18 4. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)
19 because the matter in controversy in this civil action exceeds the sum or value of \$5,000,000,
20 exclusive of costs and interest, and this is a class action in which members of the Class are
21 citizens of states other than California, where Defendant is incorporated and has its principal
22 places of business.

23 5. Venue is proper in this District under 28 U.S.C. § 1391(b)(2) because a
24 substantial part of the events or omissions giving rise to Plaintiff's claims occurred within this
25 District, including Defendant's scheme to deceive consumers about the health benefits of GT's
26 Organic Raw Kombucha and Synergy in order to increase their sales, and Plaintiff's purchase of
27 Defendant's products as a result of that scheme.
28

1 6. Venue is proper in this District under 28 U.S.C. § 1391(c) because Defendant
2 resides in this District.

3 7. Defendant resides in this District for purposes of 28 U.S.C. § 1391 because it is
4 subject to general personal jurisdiction in this District. Defendant has continuous and
5 systematic contacts with the State of California and this District through maintaining its
6 corporate headquarters and principal place of business in this District and manufacturing,
7 marketing, distributing, and selling GT's Organic Raw Kombucha and Synergy in this District
8 to residents of this District. Defendant is also subject to specific personal jurisdiction in the
9 State of California and this District because its contacts with this District gave rise to the instant
10 action.
11

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13 **III.**
14 **PARTIES**

15 8. Plaintiff Gretchen Patch is a citizen of California who resides in Los Angeles
16 County, California. Plaintiff purchased GT's Organic Raw Kombucha in this District between
17 February 1, 2010 and June 15, 2010.

18 9. Defendant is a corporation organized and existing under the laws of the State of
19 California, having its principal place of business at 4646 Hampton Street, Vernon, California
20 90058.
21

22 10. At all times relevant hereto, Defendant acted through its agents and employees
23 and the acts of its agents and employees were within the scope of their agency and employment.

24 11. Defendant promotes, markets, distributes, and sells GT' Organic Raw Kombucha
25 and Synergy throughout the United States, including to thousands of consumers in California.
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**IV.
FACTUAL ALLEGATIONS**

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12. Kombucha is a mixed culture of several species of live bacteria and yeast that resembles a mushroom in appearance. Kombucha is commonly prepared by taking a starter sample from an existing culture and growing a new culture in a fresh jar.

13. Kombucha tea is made by adding a kombucha culture to sugar and black or green tea and allowing the mixture to ferment.

14. Kombucha tea is popular in the East and goes by many names, including "Mongolian tea." Since the 1960s, kombucha tea has been popular in the West as an alleged elixir. Although some claim that kombucha tea has been around for centuries, it was likely developed around a hundred years ago in Russia. Kvass, which is similar to kombucha tea, is still popular in Russia and Latvia.

15. When kombucha tea became popular among people with HIV and AIDS in the 1990s, doctors became concerned that the bacteria and yeast in kombucha could harm people with compromised immune systems.

16. Reports have linked kombucha with serious health complications, including liver damage, toxicity, and metabolic acidosis, which is an abnormal increase of acid levels in body fluids. Other problems can include allergic reactions and nausea. Kombucha tea is rather acidic with high levels of lactic acid and other acids.

17. In 1995, the year that Millennium's owner, president, and CEO, George Thomas ("G.T.") Dave, founded Millennium and began bottling kombucha tea and selling it to the public, the first reports of serious harm associated with consumption of kombucha surfaced—they would not be the last. The Centers for Disease Control and Prevention issued a report linking kombucha to the death of an Iowa woman and the illness of another woman who was

1 revived after her heart stopped. Both woman experienced severe metabolic acidosis because of
2 excessive acid buildup in bodily fluids that health officials thought may have been related to
3 their daily consumption of kombucha.

4 18. Defendant manufactures, labels, markets, distributes, and sells GT's Organic
5 Raw Kombucha, a kombucha tea that contains strands of kombucha culture.

6
7 19. Defendant also manufactures, labels, markets, distributes, and sells Synergy,
8 which is 95% "GT's Kombucha" and 5% fruit juice.

9 20. Defendant describes the manufacturing process for GT's Organic Raw
10 Kombucha and Synergy as follows: "Each batch is gently placed in a warm and spiritual
11 environment where the walls are painted purple and spiritual music is playing. Though it may
12 sound silly, the most important thing that we do when making our batches is to give them LOTS
13 of love." "100% pure love!!!" is even listed as one of the ingredients of GT's Organic Raw
14 Kombucha and Synergy.¹

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16 21. The labels of GT's Organic Raw Kombucha and Synergy, which are pictured
17 below, astoundingly claim that "Kombucha supports" "Digestion," "Metabolism," "Immune
18 System," "Weight Control," "Liver Function," "Body Alkalinity," "Anti-Aging," "Cell
19 Integrity," and "Healthy Skin," and that kombucha is "an elixir that immediately works with the
20 body to restore balance and vitality."

21
22 22. The label of GT's Organic Raw Kombucha, a true and correct copy of which is
23 attached hereto as Exhibit 1, indicates that the enzymes, probiotics, and detoxifiers in the
24 product "rejuvenate," "restore," "revitalize," "recharge," "rebuild," "regenerate," "replenish,"
25 "regain," "rebalance," "renew."

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28 ¹ GT's Organic Raw Kombucha Facebook page, <http://www.facebook.com/pages/GTs-Organic-Raw-Kombucha/7933417537?v=info> (last visited Sept. 14, 2010).

23. Similarly, the label of Synergy indicates that the enzymes, probiotics, detoxifiers, organic acids, aminos, and electrolytes in the product "rejuvenate," "restore," "revitalize," "replenish," and "regenerate."

Nutrition Facts
Serving Size 8 FL. oz.
Servings Per Container 2

| | |
|-----------------------|---|
| Amount Per Serving | |
| Calories 20 | Calories from Fat 0 <small>(% Daily Value)</small> |
| Total Fat 0g | 0% |
| Cholesterol 0mg | 0% |
| Sodium 10mg | 0% |
| Total Carbohydrate 2g | 0% |
| Sugar 0g | 0% |
| Protein 0g | 0% |

ADDITIONAL NUTRIENTS (per bottle):
 Folic Acid 25% Vitamin B1 20%
 Vitamin B2 20% Vitamin B3 20%
 Vitamin B6 20% Vitamin B12 20%

PROBIOTIC CONTENT:
 Lactobacillus Bacterium 1 billion organisms
 S. Boulangerii 1 billion organisms

ANTIOXIDANTS & ORGANIC ACIDS:
 EGCG 100mg - Glucosamine Acid 10 mg
 (L+) Lactic Acid 25mg - Acetic Acid 90 mg

Ingredients:
 100% G.T.'s organic raw kombucha, bilberry*, honeysuckle*, red clover** and 100% pure love!!

Due to the fermentation, this product contains a naturally occurring effervescence. Please open carefully.

KEEP REFRIGERATED - DO NOT SHAKE



7 22430 18016 8

G.T. Dave began bottling Kombucha in 1995 after his mother's success from drinking it during her battle with breast cancer. He is committed to bringing you the freshest, purest, and most potent Kombucha available.



Organic Raw KOMBUCHA

Living Good for the Living Body

enzymes + probiotics + detoxifiers
 regenerate • replenish • rejoin • rebalance • renew

16 fl.oz.

480 ml.

BOTANIC NO. 9

MILLIENIUM PRODUCTS, INC.
 P.O. Box 2352, Beverly Hills, CA 90233
 Contact us: Toll Free (877) RE-JUCE
 dave@gtkombucha.com
 www.GTSkombucha.com

*Organically produced.
 Certified by Organic Certifiers

KOMBUCHA SUPPORTS*:
 DIGESTION
 METABOLISM
 IMMUNE SYSTEM
 APPETITE CONTROL
 WEIGHT CONTROL
 LIVER FUNCTION
 BODY ALKALINITY
 ANTI-AGING
 CELL INTEGRITY
 HEALTHY SKIN & HAIR

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.

KOMBUCHA (pronounced kom-BOO-cha) is a handcrafted Chinese tea that is delicately cultured for 30 days. During this time, essential nutrients from bilberry, Acacia enzymes, Yuloh, Probiotics, Amino Acids, Antioxidants, and Polyphenols. All of these combine to create an elixir that immediately works with the body to restore balance and vitality.



1 24. Each of the above-referenced representations on the labels of G.T.'s Organic
2 Raw Kombucha and Synergy is false or misleading because each representation is likely to lead,
3 and has led, consumers to believe that the beverages have been proven to have the health
4 benefits claimed in those representations, which is not true.

5 25. As the American Cancer Society has explained: "Available scientific evidence
6 does not support claims that Kombucha tea promotes good health, prevents any ailments, or is
7 effective in treating cancer or any other disease. Serious side effects and occasional deaths have
8 been associated with drinking Kombucha tea. . . . No human studies have been published in the
9 available scientific literature that support any of the health claims made for Kombucha tea."²
10

11 26. Similarly, Brent A. Bauer, M.D., an internist with the Mayo Clinic, has stated:
12

13 To date, there hasn't been a single human trial reported in a major medical
14 journal. . . . [A]t this time, there's no direct evidence that [Kombucha tea]
15 provides the benefits it's reported to have. . . . In short, there's not good
16 evidence that Kombucha tea delivers on its health claims. At the same time,
17 several cases of harm have been reported. Therefore, until definitive studies
18 quantify the risks and benefits of Kombucha tea, it's prudent to avoid it.³

19 27. Andrew Weil, M.D., a medical doctor and leader in alternative health, has
20 expressed similar concern:
21

22 I don't recommend kombucha tea at all. I know of no scientific studies backing
23 up the health claims made for it. Beyond that, there's evidence that kombucha
24 tea may have some antibiotic activity. If so, by drinking the tea you could be
25 unnecessarily taking antibiotics, which could encourage development of resistant
26 strains of bacteria

27 There have also been reports in the medical literature of adverse reactions
28 including nausea, vomiting and headaches among those who drink more than
four ounces of kombucha tea daily. Allergic reactions, jaundice and head and
neck pain have also been reported. I would particularly caution pregnant

² Kombucha Tea page, American Cancer Society website, <http://www.cancer.org/Treatment/TreatmentsandSideEffects/ComplementaryandAlternativeMedicine/DietandNutrition/kombucha-tea> (last visited Sept. 14, 2010).

³ Brent A. Bauer, M.D., *Question & Answer, Kombucha tea: What are the health benefits?*, Mayo Clinic website, June 26, 2009, <http://www.mayoclinic.com/health/kombucha-tea/AN01658> (last visited Sept. 14, 2010).

1 women, nursing mothers, the elderly, children and anyone with a compromised
2 immune system against drinking kombucha tea.⁴

3 28. Ralph W. Moss, Ph.D., an internationally acclaimed science writer who has spent
4 more than twenty years investigating and writing about cancer issues, has observed that the
5 "alleged health benefits of kombucha . . . are not scientifically proven."⁵

6 29. Nor has Defendant conducted any clinical trials on GT's Organic Raw
7 Kombucha or Synergy that could possibly support the health claims that appear on their labels.

8 30. There is thus no competent or reliable scientific evidence that substantiates the
9 health claims made on the labels of GT's Organic Raw Kombucha and Synergy.
10

11 31. GT's Organic Raw Kombucha and Synergy compete in the supermarket's cooler
12 section against popular drinks such as Lipton and Snapple beverages. GT's Organic Raw
13 Kombucha and Synergy are several times more expensive than their competitors.

14 32. Driven by the low-carbohydrate craze that had consumers looking for a healthy,
15 fizzy drink to replace sugary soda and juice, orders for GT's Organic Raw Kombucha and
16 Synergy surpassed the company's production capabilities in 2003.
17

18 33. Whole Foods Market, the largest retailer of G.T.'s Organic Raw Kombucha and
19 Synergy, began selling GT's Organic Raw Kombucha and Synergy nationally in 2004.
20

21 34. In June 2010, Whole Foods Market announced that it was removing kombucha
22 tea products from its shelves, including G.T.'s Organic Raw Kombucha and Synergy, because
23 of concerns over elevated alcohol levels. Bristol Farms, another retailer G.T.'s Organic Raw
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27 ⁴ Andrew Weil, M.D., *Q & A, Cured by Kombucha?*, website of Andrew Weil M.D., <http://www.drweil.com/drw/u/id/QAA365602> (last visited Sept. 14, 2010).

28 ⁵ Ralph W. Moss, Ph.D., *War on cancer: kombucha reconsidered*, Townsend Letter, Nov. 2009, http://findarticles.com/p/articles/mi_7396/is_316/ai_n39383107/pg_2/ (last visited Sept. 14, 2010).

1 Kombucha and Synergy, has also pulled the products from its shelves. According to G.T. Dave,
2 Defendant is “trying [its] best to get [its] product back on the shelves of every store.”⁶

3 35. GT’s Organic Raw Kombucha and Synergy are still being sold by other retailers
4 throughout the United States, including California.

5 36. Plaintiff first purchased GT’s Organic Raw Kombucha at Whole Foods in Los
6 Angeles County on February 1, 2010. Plaintiff read and believed the health claims on the
7 product’s label. Those health claims misled Plaintiff into believing that there was scientific
8 evidence showing that the product had the claimed health benefits when consumed by humans.

9
10 37. Plaintiff relied on those health claims in purchasing GT’s Organic Raw
11 Kombucha, and purchased the products as a result of those health claims.

12
13 38. Specifically, Plaintiff read and relied on the following deceptive, misleading, and
14 unfair health claims on the product label of GT’s Organic Raw Kombucha: “Kombucha
15 supports” “Digestion,” “Metabolism,” “Immune System,” “Weight Control,” “Liver Function,”
16 “Body Alkalinity,” “Anti-Aging,” “Cell Integrity,” and “Healthy Skin,” the product is “an elixir
17 that immediately works with the body to restore balance and vitality”; and the enzymes,
18 probiotics, and detoxifiers in the product “rejuvenate,” “restore,” “revitalize,” “recharge,”
19 “rebuild,” “regenerate,” “replenish,” “regain,” “rebalance,” “renew.”

20
21 39. Plaintiff purchased GT’s Organic Raw Kombucha every couple of days from
22 Whole Foods Market or Rainbow Acres Natural Foods in Los Angeles County until June 15,
23 2010 when the product was removed from the shelves of Whole Foods. Overall, Plaintiff
24 purchased the GT’s Organic Raw Kombucha approximately one hundred times.
25

26
27
28 ⁶ X17 Xclusive – Kombucha Creator: Lindsay Is Not To Blame For Alcohol Investigation, X17 Online
website, June 21, 2010, http://x17online.com/celebrities/lindsay_lohan/x17_xclusive_kombucha_creator_lindsay_is_not_to_blame_for_alcohol_investigation-06212010.php (last visited Sept. 14, 2010).

1 40. Plaintiff would not have purchased GT's Organic Raw Kombucha if she had
2 known that the product has not been proven to have the health benefits that its label claims it
3 has, and that the serious health risks may be associated with the product.

4 V. CLASS ACTION ALLEGATIONS

5 41. Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiff brings this
6 action on her own behalf and on behalf of the proposed Class. Plaintiff seeks certification of a
7 Class that consists of:
8

9 All persons or entities domiciled or residing in any of the fifty states of the
10 United States of America or in the District of Columbia who have purchased
11 GT's Organic Raw Kombucha or Synergy (the "Class"). Excluded from the
12 class are Defendant, its officers, directors, and employees.

13 42. The Class is comprised of thousands of purchasers of Defendant's products
14 throughout the United States, making joinder impracticable. The exact number of Class
15 members is unknown, but their identity can be ascertained through appropriate investigation and
16 discovery. The disposition of the numerous claims of the Class members in a single class action
17 will provide substantial benefits to all parties and to the Court.

18 43. There is a well-defined community of interest in the questions of law and fact
19 involved affecting the Class. The questions of law and fact common to the Class predominate
20 over questions affecting only individual Class members, and include, but are not limited to, the
21 following:
22

- 23 (a) Whether Defendant has represented to Plaintiff and the Class that GT's
24 Organic Raw Kombucha and Synergy have health benefits that they have
25 not been proven to have;
26 (b) Whether Defendant has represented to Plaintiff and the Class that GT's
27 Organic Raw Kombucha and Synergy are of a particular standard, quality,
28 or grade when they are of another;
(c) Whether Defendant has advertised GT's Organic Raw Kombucha and
Synergy with the intent not to sell them as advertised;

- 1 (d) Whether Defendant represented to Plaintiff and that Class its transactions
2 with Plaintiff and the Class conferred benefits on Plaintiff and the Class,
3 which were not, in fact, conferred;
- 4 (e) Whether Defendant has represented to Plaintiff and the Class that the
5 subject of a transaction has been supplied in accordance with a previous
6 representation when it has not in violation of section 1770(a)(16) of the
7 California Civil Code;
- 8 (f) Whether Defendant's above-referenced representations about the health
9 benefits of GT's Organic Raw Kombucha and Synergy that appear on their
10 products labels are unfair, unlawful, misleading and/or likely to deceive
11 consumers regarding the products' health benefits;
- 12 (g) Whether Defendant has omitted and/or suppressed material health risk
13 information in its labeling and marketing of GT's Organic Raw Kombucha
14 and Synergy;
- 15 (h) Whether Defendant intended to deceive Plaintiff and the Class into
16 purchasing GT's Organic Raw Kombucha through making deceptive,
17 misleading, unfair, and unlawful representations about the products' health
18 benefits on their labels;
- 19 (i) Whether Defendant knew or in the exercise of reasonable diligence should
20 have known that the above-referenced representations on the labels of GT's
21 Organic Raw Kombucha and Synergy are deceptive, misleading, unfair,
22 and unlawful;
- 23 (j) Whether Defendant's labeling and marketing of GT's Organic Raw
24 Kombucha violates the common law of unjust enrichment; and
- 25 (k) Whether Plaintiff and the Class are entitled to compensatory, statutory, and
26 punitive damages and attorneys' fees and costs as a result Defendant's
27 conduct.

28 44. Plaintiff asserts claims that are typical of the Class, having purchased GT's
Organic Raw Kombucha. Plaintiff and the Class have similarly suffered harm arising from
Defendant's false, misleading, deceptive, and unfair business practices alleged herein.

45. Injuries sustained by Plaintiff and Class members flow, in each instance, from a
common nucleus of operative facts—Defendant's deceptive, misleading, unfair, and unlawful
representations regarding the health benefits of GT's Organic Raw Kombucha and Synergy

1 made by Defendant for the purpose of inducing Plaintiff and Class members to purchase those
2 products at prices far in excess of their competitors' prices.

3 46. Plaintiff is an adequate representative of the Class because her interests do not
4 conflict with and are not antagonistic to the interests of the Class members she seeks to
5 represent. Plaintiff will fairly and adequately represent and protect the interests of the Class.
6 Plaintiff has retained counsel who are competent and experienced in the prosecution of class
7 action litigation.
8

9 47. Plaintiff and the Class members have all suffered and will continue to suffer
10 substantial harm and damages due to Defendant's wrongful conduct. A class action is superior
11 to other methods for the fair and efficient adjudication of the subject controversy. Absent a
12 class action, most proposed Class members will likely find the cost of litigating their individual
13 claims to be prohibitive and will have no effective remedy at all. Therefore, absent a class
14 action, the proposed Class members' injuries will not be redressed and Defendant's misconduct
15 will proceed without remedy. Class treatment of common questions of law and fact is also
16 superior to multiple individual actions or piecemeal litigation in that it conserves the resources
17 of the courts and the litigants and promotes consistency and efficiency of adjudication.
18 Additionally, Defendant has acted and failed to act on grounds generally applicable to Plaintiff
19 and the Class, requiring Court imposition of uniform relief to insure compatible standards of
20 conduct toward the Class.
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23 48. Notice can be provided to purchasers of GT's Organic Raw Kombucha and
24 Synergy at Defendant's expense via internet publication and through the U.S. mail.
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**VI.
CAUSES OF ACTION**

FIRST CAUSE OF ACTION

Violation of California's Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*

49. Plaintiff realleges and incorporates by reference preceding paragraphs as if fully set forth herein.

50. Defendant is a "person" within the meaning of section 1761(c) of the California Civil Code.

51. Plaintiff and the Class members are "consumers" within the meaning of section 1761(d) of the California Civil Code.

52. GT's Organic Raw Kombucha and Synergy are "goods" within the meaning of section 1761(a) of the California Civil Code.

53. The purchases by Plaintiff and the Class members of GT's Organic Raw Kombucha and/or Synergy constitute "transactions" within the meaning of sections 1761(e) and 1770 of the California Civil Code.

54. Venue is proper under section 1780(d) of the California Civil Code because the transactions or a substantial portion thereof occurred in counties comprising the Central District of California. An affidavit of the Plaintiff establishing this Court as the proper venue for this action is attached hereto as Exhibit 2.

55. In connection with its sale of goods to Plaintiff and the Class, Defendant violated the California Consumer Legal Remedies Act ("CLRA") in at least the following ways through its above-described labeling and marketing of GT's Organic Raw Kombucha and Synergy:

- (a) Representing to Plaintiff and the Class that GT's Organic Raw Kombucha and Synergy have health benefits that they have not been proven to have in

1 violation of section 1770(a)(5) of the California Civil Code;

2 (b) Representing that GT's Organic Raw Kombucha and Synergy are of a
3 particular standard, quality, or grade when they are of another in violation
4 of section 1770(a)(7) of the California Civil Code;

5 (c) Advertising goods to Plaintiff and the Class with the intent not to sell them
6 as advertised in violation of section 1770(a)(9) of the California Civil
7 Code;

8 (d) Representing that its transactions with Plaintiff and the Class conferred
9 benefits on Plaintiff and the Class, which were not, in fact, conferred in
10 violation of section 1770(a)(14) of the California Civil Code; and

11 (e) Representing to Plaintiff and the Class that the subject of a transaction has
12 been supplied in accordance with a previous representation when it has not
13 in violation of section 1770(a)(16) of the California Civil Code.

14
15
16 56. In addition, under California law, a duty to disclose arises in four circumstances:

17 (1) when the defendant is in a fiduciary relationship with the plaintiff; (2) when the defendant
18 had exclusive knowledge of material facts not known to the plaintiff; (3) when the defendant
19 actively conceals a material fact from the plaintiff; and (4) when the defendant makes partial
20 representations but also suppresses some material facts.
21

22 57. Defendant had a duty to disclose to Plaintiff and the Class that GT's Organic
23 Raw Kombucha and Synergy have not been proven to produce the health benefits claimed on
24 the products' labels and that there have been reports of serious harm associated with
25 consumption of kombucha, because: (a) Defendant actively concealed that material information
26 from Plaintiff and the Class; and (b) Defendant made partial representations to Plaintiff and the
27
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1 Class regarding the nature of GT's Organic Raw Kombucha and Synergy while also
2 suppressing that material information. Defendant violated the CLRA by concealing that
3 material information from Plaintiff and the Class when it had a duty to disclose the information.

4 58. Defendant's above-described representations and omissions that violate the
5 CLRA were likely to deceive and mislead consumers into believing that GT's Organic Raw
6 Kombucha and Synergy have been proven to have the health benefits claimed on the products'
7 labels.
8

9 59. Plaintiff and the Class reasonably interpreted Defendant's above-described
10 representations and omissions to mean that GT's Organic Raw Kombucha and Synergy have
11 been proven to have the health benefits claimed on their labels.
12

13 60. Defendant's above-described representations and omissions alleged herein were
14 material in that a reasonable person would attach importance to such information and would be
15 induced to act upon such information in making purchase decisions. Reliance upon such
16 representations and omissions may therefore be presumed as a matter of law. The materiality of
17 such representations and omissions also establishes causation between Defendant's conduct and
18 Plaintiff's and the Class' injuries.
19

20 61. Plaintiff and the Class relied to their detriment on Defendant's above-described
21 representations and omissions in purchasing GT's Organic Raw Kombucha and Synergy
22 because they would not have purchased those products if they had known that the products have
23 not been proven to have the health benefits claimed on their labels and that serious health risks
24 may be associated with the products.
25

26 62. On information and belief, Defendant's conduct alleged herein was intentional
27 and was specifically designed to induce consumers to purchase GT's Organic Raw Kombucha
28

1 and Synergy.

2 63. Plaintiff, on behalf of herself and the Class, demand judgment against Defendant
3 under the CLRA for injunctive relief to Plaintiff and the Class in an amount to be proven at
4 trial.

5 64. Plaintiff, on behalf of herself and the Class, further intends to seek monetary
6 damages, including restitution, and, in light of Defendant's intentional and fraudulent conduct,
7 an award of punitive damages.
8

9 65. Pursuant to section 1782(a) of the California Civil Code, Plaintiff will serve
10 Defendant with notice of its alleged violations of the CLRA by certified mail return receipt
11 requested. If within thirty days after the date of such notification, Defendant fails to provide
12 appropriate relief for its violations of the CLRA, Plaintiff will amend this Complaint to seek
13 monetary (both compensatory and punitive) damages under the CLRA.
14

15 66. Notwithstanding any other statements in this Complaint, Plaintiff does not seek
16 damages in conjunction with her CLRA claim, and will not do so until the thirty-day period
17 mentioned in the preceding paragraph has passed.
18

19 **SECOND CAUSE OF ACTION**

20 **Violation of California's Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, *et seq.***

21 67. Plaintiff realleges and incorporates by reference preceding paragraphs as if fully
22 set forth herein.

23 68. Plaintiff has standing to pursue this claim under California's Unfair Competition
24 Law ("UCL") because Plaintiff suffered an injury in fact and has lost money as a result of
25 Defendant's conduct alleged herein.
26

27 69. Defendant's conduct alleged herein violates the UCL.
28

1 70. Defendant's labeling and advertising of GT's Organic Raw Kombucha and
2 Synergy constitute unfair business acts and practices under the UCL because they offend
3 established public policy and/or are immoral, unethical, oppressive, unscrupulous, and/or
4 substantially injurious to its customers in that Defendant deceptively, misleadingly, unfairly,
5 and unlawfully claims that GT's Organic Raw Kombucha and Synergy have the health benefits
6 identified on the products' labels. That conduct has caused substantial injury to Plaintiff and the
7 Class in that they have expended money for products that have not been proven to have those
8 health benefits. The injuries suffered by Plaintiff and the class are not outweighed by any
9 countervailing benefits to Defendant or competition in general, and Plaintiff and the Class could
10 not have reasonably avoided their injuries.
11

12 71. Defendant's labeling and marketing of GT's Organic Raw Kombucha and
13 Synergy are unfair business acts and practices under the UCL are fraudulent business practices
14 because they are likely to deceive consumers into believing that GT's Organic Raw Kombucha
15 and Synergy have been proven to have the health benefits claimed on their labels.
16

17 72. Defendant's labeling and marketing of GT's Organic Raw Kombucha and
18 Synergy constitute unlawful business acts and practices under the UCL because they are
19 misleading and therefore (1) are false advertising in violation of section 110390 of California's
20 Health and Safety Code, (2) render GT's Organic Raw Kombucha and Synergy misbranded
21 under section 110660 of California's Health and Safety Code in violation of section 110398 of
22 California's Health and Safety Code, and (3) render GT's Organic Raw Kombucha and Synergy
23 misbranded under 21 U.S.C. § 343(a) in violation of 21 U.S.C. § 331(b).
24

25 73. Defendant is also liable to Plaintiff and the Class for damages sustained as a
26 result of its Defendants' misleading labeling and advertising of GT's Organic Raw Kombucha
27
28

1 and Synergy because that labeling and marketing violates California's False Advertising Law,
2 Cal. Bus. & Prof. Code §17500, *et seq.*, as set forth below.

3 74. Defendant's business practices alleged herein constitute a continuing course of
4 conduct of unfair competition.

5 75. Defendant's business acts and practices alleged herein were the immediate cause
6 of the economic injuries sustained by Plaintiff and the Class in the form of payment for GT's
7 Organic Raw Kombucha and Synergy.
8

9 76. Plaintiff and the Class relied to their detriment on Defendant's unfair, unlawful,
10 and fraudulent business acts and practices under the UCL by purchasing GT's Organic Raw
11 Kombucha and Synergy based on those business acts and practices.
12

13 77. Defendant's unfair, unlawful, and fraudulent acts and practices alleged herein
14 were specifically designed to induce Plaintiff and the Class to purchase GT's Organic Raw
15 Kombucha and Synergy.

16 78. Plaintiff and the Class members are thus entitled to injunctive relief and
17 restitution in an amount to be proven at trial.
18

19 79. Pursuant to section 17203 of the California Business and Professions Code,
20 Plaintiff and the Class seek an Order of this Court enjoining Defendant from continuing to
21 engage in unlawful, unfair, or deceptive business practices and any other act prohibited by law,
22 including the acts set forth herein.
23

24 **THIRD CAUSE OF ACTION**

25 **Violation of California's False Advertising Law, Cal. Bus. & Prof. Code § 17500, *et seq.***

26 80. Plaintiff realleges and incorporates by reference preceding paragraphs as if fully
27 set forth herein.

28 81. Defendant has committed acts of misleading advertising as defined in

1 California's False Advertising Law by, *inter alia*: (a) misleadingly advertising health benefits
2 on the labels of GT's Organic Raw Kombucha and Synergy; and (b) concealing material
3 information about the true nature of GT's Organic Raw Kombucha and Synergy.

4 82. Defendant knew, or in the exercise of reasonable diligence should have known,
5 that the statements about health benefits on the labels of GT's Organic Raw Kombucha and
6 Synergy are misleading. Those statements constitute misleading advertising under the False
7 Advertising Law because they are actually misleading and/or likely to deceive or confuse the
8 public.
9

10 83. Defendant's misrepresentations and omissions alleged herein are objectively
11 material to the reasonable consumer, and reliance upon such misrepresentations and omissions
12 may therefore be presumed as a matter of law. The materiality of such representations and
13 omissions also establishes causation between Defendant's conduct and Plaintiff's and the Class'
14 injuries.
15

16 84. Defendant's false advertising is still ongoing.

17 85. Unless restrained by this Court, Defendant will continue to engage misleading
18 advertising, as alleged above, in violation of Cal. Bus. & Prof. Code § 17500, *et seq.*
19

20 86. As a result of the foregoing, Plaintiff and each member of the Class have been
21 injured and lost money or property, and they are entitled to restitution and injunctive relief.
22

23 **FOURTH CAUSE OF ACTION**
24 **Unjust Enrichment**

25 87. Plaintiff realleges and incorporates by reference preceding paragraphs as if fully
26 set forth herein.

27 88. As a result of Defendant's deceptive, misleading, unfair, and unlawful labeling,
28 advertising, marketing, and sales of GT's Organic Raw Kombucha and Synergy, Defendant was

1 enriched, at the expense of Plaintiff and the Class, through the payment of the purchase price for
2 GT's Organic Raw Kombucha and Synergy.

3 89. Under the circumstances, it would be against equity and good conscience to
4 permit Defendant to retain the ill-gotten benefits that it received from Plaintiff and the Class, in
5 light of the fact that the GT's Organic Raw Kombucha and Synergy purchased by Plaintiff and
6 the Class have not been proven to have the health benefits that their labels claim they have.
7 Thus, it would be unjust and inequitable for Defendant to retain the benefits it received without
8 restitution to Plaintiff and the Class.
9

10 90. The amount of restitution to which Plaintiff and the Class are entitled should be
11 measured by the extent of Defendant's unjust enrichment, including its unjustly acquired profits
12 and other monetary benefits resulting from its wrongful conduct.
13

14 **VII.**
15 **PRAYER FOR RELIEF**

16 Plaintiff, on behalf of herself and the Class, requests that the Court order the following
17 relief and enter judgment against Defendant as follows:

- 18 a. An Order certifying the proposed Class and appointing Plaintiff and her
19 counsel to represent the Class;
20
21 b. An Order permanently enjoining Defendant from its improper activities
22 and conduct alleged herein;
23
24 c. A judgment awarding Plaintiff and the Class damages in an amount
25 according to proof;
26
27 d. A judgment awarding Plaintiff and the Class restitution in an amount
28 according to proof;
e. A judgment awarding Plaintiff and the Class punitive damages;


- 1 f. Pre-judgment and post-judgment interest;
2 g. Attorneys' fees and expenses and the costs of this action; and
3 h. All other and further relief as the Court deems necessary, just, and
4 proper.

5
6 **VIII.**
DEMAND FOR JURY TRIAL

7 Plaintiff hereby demands a trial by jury.

8
9 Respectfully submitted,

10 **LEVIN SIMES KAISER GORNICK, LLP**

11 By:  /s/ William A. Levin
12 William A. Levin, California Bar No. 98592
13 44 Montgomery Street, 36th Floor
14 San Francisco, CA 94104
15 Telephone: (415) 646-7160
16 Facsimile: (415) 981-1270
17 wlevin@lskg-law.com

18 **BAILEY PERRIN BAILEY**

19 Fletcher V. Trammell, Texas Bar No. 24042053
20 Justin C. Jenson, Texas Bar No. 24071095
21 The Lyric Centre
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23 Houston, Texas 77002
24 Telephone: (713) 425-7100
25 Facsimile: (713) 425-7101
26 ftrammell@bpblaw.com
27 jjenson@bpblaw.com
28 (*pro hac vice* admission will be requested)

CRAFT HUGHES LAW, P.C.

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(888) 995-3335 Facsimile
craft@crafthugheslaw.com
(*pro hac vice* admission will be requested)

Dated: September 20, 2010

Attorneys for Plaintiff

Exhibit 1

KOMBUCHA (pronounced koin-BOO-cha) is a handmade Chinese tea that is delicately cultured for 30 days. During this time, essential nutrients form like: Active Enzymes, Viable Probiotics, Amino Acids, Antioxidants, and Polyphenols. All of these combine to create an elixir that immediately works with the body to restore balance and vitality.

- KOMBUCHA SUPPORTS*:**
- DIGESTION
 - METABOLISM
 - IMMUNE SYSTEM
 - APETITE CONTROL
 - WEIGHT CONTROL
 - LIVER FUNCTION
 - BODY ALKALINITY
 - ANTI-AGING
 - CELL INTEGRITY
 - HEALTHY SKIN & HAIR

*These statements have not been evaluated by the Food and Drug Administration. This product is not intended to diagnose, treat, cure, or prevent any disease.



Organic Raw KOMBUCHA™

Being Good for the Human Body



rejuvenate restore revitalize recharge rebuild
enzymes+probiotics+detoxifiers
 regenerate replenish regain rebalance renew

MILLENNIUM PRODUCTS, INC
 P.O. Box 2352, Beverly Hills, CA 90213
 Contact us: Toll Free (877) 86-JUICE
 drinks4life@GTSkombucha.com
 www.GTSkombucha.com
 *Organically produced.
 Certified by Organic Certifiers.

480 mL

BOTANIC No. 9

16 fl oz

G. T. Dave began bottling Kombucha in 1995 after his mother's success from drinking it during her battle with breast cancer. He is committed to bringing you the freshest, purest, and most potent Kombucha available.

| Nutrition Facts | |
|--|---------------------------------------|
| Serving Size 8 fl. oz. Servings Per Container 2 | |
| Amount Per Serving | Calories from Fat 0 % Daily Value* |
| Total Fat 0g | 0% |
| Cholesterol 0mg | 0% |
| Sodium 10mg | 1% |
| Total Carbohydrate 7g | 2% |
| Sugars 2g | |
| Protein 0g | |
| ADDITIONAL NUTRIENTS (per bottle): | |
| Folic Acid | 25% |
| Vitamin B1 | 20% |
| Vitamin B2 | 20% |
| Vitamin B3 | 20% |
| Vitamin B6 | 20% |
| Vitamin B12 | 20% |
| PROBIOTIC CONTENT: | |
| Lactobacillus Bacterium: 1 billion organisms | |
| S. Boulardii: 1 billion organisms | |
| ANTIOXIDANTS & ORGANIC ACIDS | |
| EGCG | 100mg - Gallic Acid 10mg |
| 1(4) Lactic Acid | 25mg - Acetic Acid 30 mg |
| Ingredients: | |
| 100% G.T.'s organic raw kombucha, bilberry*, honeysuckle*, red clover** and 100% pure love!!! | |
| Due to the fermentation, this product contains a naturally occurring effervescence. Please open carefully. | |

KEEP REFRIGERATED - DO NOT SHAKE

THIS IS A RAW FOOD
 Strands of the culture may appear. These are natural, normal & only occur in raw kombucha.



5¢ REF. ME & HI. CA CASH REFUND. PLEASE RECYCLE.

Exhibit 2

1 **LEVIN SIMES KAISER GORNICK, LLP**
William A. Levin, California State Bar No. 98592
2 wlevin@lskg-law.com
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5 **BAILEY PERRIN BAILEY**
Fletcher V. Trammell, Texas State Bar No. 24042053
6 (*pro hac vice* admission will be requested)
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7 Houston, Texas 77002

8 **CRAFT HUGHES LAW, P.C.**
W. Craft Huges, Texas State Bar No. 24046123
9 (*pro hac vice* admission will be requested)
333 Clay Street, Suite 4720
10 Houston, Texas 77002

11 *Attorneys for Plaintiff*

12 **IN THE UNITED STATES DISTRICT COURT**

13 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

14 GRETCHEN PATCH, individually and on
15 behalf of all others similarly situated,

16 Plaintiff,

17 v.

18
19 MILLENNIUM PRODUCTS, INC.,

20 Defendant.
21

CIVIL ACTION
No. 10-

**AFFIDAVIT OF GRETCHEN PATCH
PURSUANT TO CALIFORNIA CIVIL
CODE SECTION 1780(d)**

22 I, Gretchen Patch, state as follows:

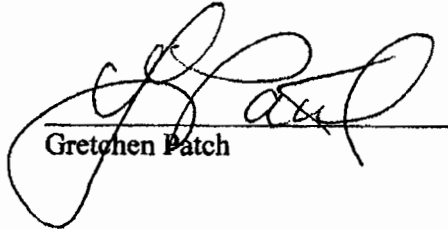
23 1. I am a Plaintiff in this action and am a citizen of the State of California. I have
24 personal knowledge of the facts herein and, if called as a witness, I could and would testify
25 competently thereto.

26
27 2. I purchased GT's Organic Raw Kombucha in Los Angeles County at Whole
28 Foods Market and Rainbow Acres Natural Foods as a result of Defendant Millennium Products,

1 Inc.'s ("Defendant's") labeling and advertising of the product.

2 3. Defendant has a principal place of business and is doing business in Los Angeles
3 County.

4 I declare under penalty of perjury under the laws of the State of California that the
5 foregoing is true and correct, and that this Affidavit was executed on September 17, 2010 in
6 Venice, California.
7

8 
9 Gretchen Patch

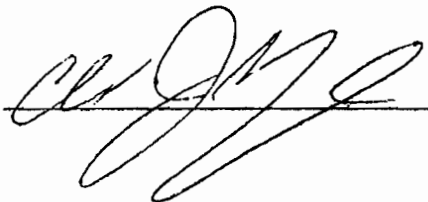
10
11
12 **ACKNOWLEDGMENT**

13 State of California)
14 County of Los Angeles)

15 On September 17, 2010 before me,
16 Chuck Jiro Murayama, Notary Public
17 personally appeared Gretchen Patch, who proved to me on
18 the basis of satisfactory evidence to be the person(s) whose name(s) ~~is/are~~ subscribed to the
19 within instrument and acknowledged to me that ~~he/she/they~~ executed the same in ~~his/her/their~~
20 authorized capacity~~(ies)~~, and that by ~~his/her/their~~ signature(s) on the instrument the person(s), or
the entity upon behalf of which the person(s) acted, executed the instrument.

21 I certify under PENALTY OF PERJURY under the laws of the State of California that the
22 foregoing paragraph is true and correct.

23 WITNESS my hand and official seal.

24
25 Signature  (Seal)
26
27
28



**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

| | |
|---|---|
| I (a) PLAINTIFFS (Check box if you are representing yourself <input type="checkbox"/> Gretchen Patch, individually and on behalf of the estate of all others similarly situated | DEFENDANTS MILLENIUM PRODUCTS, INC. |
| (b) Attorneys (Firm Name, Address and Telephone Number. If you are representing yourself, provide same.) William A. Levin, Esq.; LEVIN SIMES KAISER & GORNICK LLP, 44 Montgomery Street, 36th Floor San Francisco, CA 94104 | Attorneys (If Known) |

| II. BASIS OF JURISDICTION (Place an X in one box only.) <input type="checkbox"/> 1 U.S. Government Plaintiff <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) <input type="checkbox"/> 2 U.S. Government Defendant <input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III) | III. CITIZENSHIP OF PRINCIPAL PARTIES - For Diversity Cases Only (Place an X in one box for plaintiff and one for defendant.) <table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th>PTF</th> <th>DEF</th> <th></th> <th>PTF</th> <th>DEF</th> </tr> </thead> <tbody> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business in this State</td> <td><input type="checkbox"/> 4</td> <td><input checked="" type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </tbody> </table> | | PTF | DEF | | PTF | DEF | Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |
|--|--|----------------------------|---|----------------------------|---------------------------------------|-----|-----|-----------------------|----------------------------|----------------------------|---|----------------------------|---------------------------------------|--------------------------|----------------------------|----------------------------|---|----------------------------|----------------------------|---|----------------------------|----------------------------|----------------|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF | | | | | | | | | | | | | | | | | | | | |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in this State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 | | | | | | | | | | | | | | | | | | | | |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 | | | | | | | | | | | | | | | | | | | | |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 | | | | | | | | | | | | | | | | | | | | |

IV. ORIGIN (Place an X in one box only.)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify):
 6 Multi-District Litigation
 7 Appeal to District Judge from Magistrate Judge

V. REQUESTED IN COMPLAINT: JURY DEMAND: Yes No (Check 'Yes' only if demanded in complaint.)

CLASS ACTION under F.R.C.P. 23: Yes No **MONEY DEMANDED IN COMPLAINT: \$** _____

VI. CAUSE OF ACTION (Cite the U.S. Civil Statute under which you are filing and write a brief statement of cause. Do not cite jurisdictional statutes unless diversity.)
 U.S.C. Section 1391 events and omissions occurred within this District.

VII. NATURE OF SUIT (Place an X in one box only.)

| | | | | | |
|--|---|---|---|---|---|
| <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Act <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Info. Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes | <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property | PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Fed. Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury-Med Malpractice <input checked="" type="checkbox"/> 365 Personal Injury-Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus-Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions | PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability <input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 American with Disabilities - Employment <input type="checkbox"/> 446 American with Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights | <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General Habeas Corpus <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus/Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other | <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609 |
|--|---|---|---|---|---|

CV10 7244

FOR OFFICE USE ONLY: Case Number: _____

AFTER COMPLETING THE FRONT SIDE OF FORM CV-71, COMPLETE THE INFORMATION REQUESTED BELOW.

**UNITED STATES DISTRICT COURT, CENTRAL DISTRICT OF CALIFORNIA
CIVIL COVER SHEET**

VIII(a). IDENTICAL CASES: Has this action been previously filed in this court and dismissed, remanded or closed? No Yes
If yes, list case number(s): _____

VIII(b). RELATED CASES: Have any cases been previously filed in this court that are related to the present case? No Yes
If yes, list case number(s): _____

Civil cases are deemed related if a previously filed case and the present case:

- (Check all boxes that apply) A. Arise from the same or closely related transactions, happenings, or events; or
 B. Call for determination of the same or substantially related or similar questions of law and fact; or
 C. For other reasons would entail substantial duplication of labor if heard by different judges; or
 D. Involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c also is present.

IX. VENUE: (When completing the following information, use an additional sheet if necessary.)

(a) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named plaintiff resides.
 Check here if the government, its agencies or employees is a named plaintiff. If this box is checked, go to item (b).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles County | |

(b) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** named defendant resides.
 Check here if the government, its agencies or employees is a named defendant. If this box is checked, go to item (c).

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles County | |

(c) List the County in this District; California County outside of this District; State if other than California; or Foreign Country, in which **EACH** claim arose.
Note: In land condemnation cases, use the location of the tract of land involved.

| | |
|---------------------------|---|
| County in this District:* | California County outside of this District; State, if other than California; or Foreign Country |
| Los Angeles County. | |

* Los Angeles, Orange, San Bernardino, Riverside, Ventura, Santa Barbara, or San Luis Obispo Counties
Note: In land condemnation cases, use the location of the tract of land involved

X. SIGNATURE OF ATTORNEY (OR PRO PER):  Date September 28, 2010

Notice to Counsel/Parties: The CV-71 (JS-44) Civil Cover Sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law. This form, approved by the Judicial Conference of the United States in September 1974, is required pursuant to Local Rule 3-1 is not filed but is used by the Clerk of the Court for the purpose of statistics, venue and initiating the civil docket sheet. (For more detailed instructions, see separate instructions sheet.)

Key to Statistical codes relating to Social Security Cases:

| Nature of Suit Code | Abbreviation | Substantive Statement of Cause of Action |
|---------------------|--------------|--|
| 861 | HIA | All claims for health insurance benefits (Medicare) under Title 18, Part A, of the Social Security Act, as amended. Also, include claims by hospitals, skilled nursing facilities, etc., for certification as providers of services under the program. (42 U.S.C. 1935FF(b)) |
| 862 | BL | All claims for "Black Lung" benefits under Title 4, Part B, of the Federal Coal Mine Health and Safety Act of 1969. (30 U.S.C. 923) |
| 863 | DIWC | All claims filed by insured workers for disability insurance benefits under Title 2 of the Social Security Act, as amended; plus all claims filed for child's insurance benefits based on disability. (42 U.S.C. 405(g)) |
| 863 | DIWW | All claims filed for widows or widowers insurance benefits based on disability under Title 2 of the Social Security Act, as amended. (42 U.S.C. 405(g)) |
| 864 | SSID | All claims for supplemental security income payments based upon disability filed under Title 16 of the Social Security Act, as amended. |
| 865 | RSI | All claims for retirement (old age) and survivors benefits under Title 2 of the Social Security Act, as amended. (42 U.S.C. (g)) |