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11 *Counsel for Plaintiff and all others similarly situated*

12  
13 **UNITED STATES DISTRICT COURT**  
14 **WESTERN DISTRICT OF WASHINGTON**

15 BONNIE KURNICK, on behalf of  
16 herself and all others similarly situated,  
17 Plaintiff,  
18 v.  
19 STARBUCKS, CORPORATION, and  
DOES 1-10, inclusive,  
20 Defendants.

) Case No.  
) **CLASS ACTION**  
) **COMPLAINT FOR:**  
) **1. VIOLATION OF THE**  
) **WASHINGTON CONSUMER**  
) **PROTECTION ACT**  
) **2. UNJUST ENRICHMENT**  
) **3. VIOLATION OF THE FALSE**  
) **ADVERTISING LAWS ("UCL");**  
) **Bus. & Prof. Code §17500 et seq.;**  
) **4. VIOLATION OF CALIFORNIA'S**  
) **UNFAIR COMPETITION LAWS**  
) **("UCL"); Bus. & Prof. Code §17200**  
) **et seq.;**  
) **5. VIOLATION OF CALIFORNIA'S**  
) **CONSUMER LEGAL REMEDIES**  
) **ACT ("CLRA"), Civil Code §1750 et**  
) **seq.**  
) **DEMAND FOR JURY TRIAL**

1 Plaintiff, Bonnie Kurnick brings this action on behalf of herself and all others  
2 similarly situated against Defendant Starbucks Corporation. Plaintiff makes the  
3 following allegations upon information and belief, except as to allegations  
4 specifically pertaining to herself, which is based on personal knowledge.

5 **PARTIES**

- 6 1. Plaintiff Bonnie Kurnick (“Plaintiff”) is and was at all relevant times a  
7 resident of Valley Village, California. She purchased Starbucks half-pound  
8 bags of coffee from three Starbucks locations near her home. She believed  
9 that the coffee she was purchasing was being charged in a proper manner and  
10 had she known of the undisclosed fees, Plaintiff would have either not  
11 bought the product or paid less for the Starbucks product.
- 12 2. Defendant Starbucks Corporation (hereafter “Starbucks” or “Defendant”) is a  
13 Washington company, headquartered in Seattle, Washington. Starbucks  
14 sells its coffee and other food and drink products to consumers in  
15 Washington, California, and throughout the nation.
- 16 3. Plaintiff does not know the true names or capacities of the persons or entities  
17 sued herein as DOES 1-10, inclusive, and therefore sues such Defendant by  
18 such fictitious names. Plaintiff is informed and believes, and upon such  
19 information and belief alleges, that each of the DOE Defendants is in some  
20 manner legally responsible for the damages suffered by Plaintiff and the  
21 members of the class as alleged herein. Plaintiff will amend this complaint to  
22 set forth the true names and capacities of these Defendants when they have  
23 been ascertained, along with appropriate charging allegations, as may be  
24 necessary.
- 25 4. At all times herein mentioned, Defendant and each of them were the agents,  
26 principals, servants, employees and subsidiaries of the Defendant and were at  
27 all times acting within the purpose and scope of such agency, service, and  
28 employment and directed, consented, ratified, permitted, encouraged and

1 approved the acts of Defendant.

2 **JURISDICTION AND VENUE**

3 5. A Court has diversity jurisdiction over this class action pursuant to 28 U.S.C.  
4 § 1332 as amended by the Class Action Fairness Act of 2005 because the  
5 amount in controversy exceeds \$5,000,000, exclusive of interest and costs,  
6 and is a class action in which some members of the class are citizens of  
7 different states than the Defendants. *See* 28 U.S.C. § 1332(d)(2)(A).

8 6. This Court also has personal jurisdiction over Defendant because Defendant  
9 is authorized to do business, and currently does business, in this state.  
10 Defendant is in fact incorporated and has its headquarters in this state.

11 7. Venue is proper in this jurisdiction pursuant to 28 U.S.C. § 1391 because  
12 Defendant is subject to personal jurisdiction in this District and a substantial  
13 portion of the conduct complained of herein occurred in this District.

14 **FACTUAL ALLEGATIONS**

15 8. Starbucks is an international chain and the largest coffeehouse company in  
16 the world with over 17,000 stores.

17 9. Until recently, Starbucks was charging a \$1.50 service fee to customers who  
18 purchased less than a full pound of coffee.

19 10. Customers were not given notice of such fee prior to purchasing such bags of  
20 coffee, nor were they given notice after their purchase on their receipt. It was  
21 a completely undisclosed fee that unsuspecting customers were paying at  
22 stores around the country.

23 11. Consumers, such as Plaintiff and class members, have relied on Defendant's  
24 statements regarding price and that Defendant was acting in good faith when  
25 dealing with its customers and not charging for anything extra, when in fact  
26 that was not the case. Consumers paid money for the undisclosed fee  
27 without any notice prior to or after their purchases. Plaintiff and class  
28 members would have not purchased, or would have not paid as much, for

1 Starbucks' coffee had they known about this undisclosed fee. Defendant's  
2 wrongful conduct has caused Plaintiff and the Class Members to suffer injury  
3 in fact and a loss of money and/or property.

4 **CLASS DEFINITIONS AND CLASS ALLEGATIONS**

5 12. Plaintiff brings this action on behalf of herself, on behalf of all others  
6 similarly situated, and on behalf of the general public, as members of the  
7 class or subclasses (collectively referred to hereafter as the "Class") defined  
8 as follows:

9 (1) California Class: The class that Plaintiff seeks to represent ("the  
10 California Class") consists of all persons who are citizens or residents  
11 of California who purchased Starbucks coffee weighing less than one  
12 pound, within the four years prior to the filing of the initial complaint.  
13 Excluded from the class are Defendant, any parent, subsidiary,  
14 affiliate, or controlled person of Defendant, as well as the officers and  
15 directors of Defendant, and the immediate family member of any such  
16 person. Also excluded is any judge who may preside over this case,  
17 and such judge's immediate family and courtroom staff.

18 (2) Nationwide Class: The class that Plaintiff seeks to represent ("the  
19 Nationwide Class") is defined to include all persons in the United  
20 States who purchased who purchased Starbucks coffee weighing less  
21 than one pound, within the four years prior to the filing of the initial  
22 complaint. Excluded from the class are Defendant, any parent,  
23 subsidiary, affiliate, or controlled person of Defendant, as well as the  
24 officers and directors of Defendant, and the immediate family member  
25 of any such person. Also excluded is any judge who may preside over  
26 this case, and such judge's immediate family and courtroom staff.

27 13. This action is brought and may be properly maintained as a class action  
28 pursuant to the provisions of Federal Rule of Civil Procedure 23(a)(1)-(4)

1 and 23(b)(1)-(3). This action satisfies the numerosity, typicality, adequacy,  
2 predominance and superiority requirements of those provisions.

3 14. [Fed. R. Civ. P. 23(a)(1)] The Class is so numerous that the individual  
4 joinder of all of its members is impractical. While the exact number and  
5 identities of Class members are unknown to Plaintiff at this time and can only  
6 be ascertained through appropriate discovery, Plaintiff is informed and  
7 believes the Class includes thousands of members. Plaintiff alleges that the  
8 Class may be ascertained by the records maintained by Defendant.

9 15. [Fed. R. Civ. P. 23(a)(2)] Common questions of fact and law exist as to all  
10 members of the Class which predominate over any questions affecting only  
11 individual members of the Class. These common legal and factual questions,  
12 which do not vary from class member to class member, and which may be  
13 determined without reference to the individual circumstances of any class  
14 member, include, but are not limited to, the following:

- 15 (a) Whether Defendant's practice is false, misleading or defective;
- 16 (b) Whether Defendant's conduct violates the Washington Consumer  
17 Protection act or other laws;
- 18 (c) Whether Defendant's conduct violates the CLRA or other laws;
- 19 (d) Whether Defendant's conduct is "unfair" under Bus. & Prof. Code  
20 Section 17200;
- 21 (c) Whether, as a result of Defendant's misconduct, Plaintiff and the  
22 Class are entitled to damages, restitution, equitable relief and other  
23 relief, and the amount and nature of such relief.

24 16. [Fed. R. Civ. P. 23(a)(3)] Plaintiff's claims are typical of the claims of the  
25 members of the Class. Plaintiff and all members of the Class have sustained  
26 injury and are facing irreparable harm arising out of Defendant's common  
27 course of conduct as complained of herein. The losses of each member of the  
28 Class were caused directly by Defendant's wrongful conduct as alleged

1 herein.

2 17. [Fed. R. Civ. P. 23(a)(4)] Plaintiff will fairly and adequately protect the  
3 interests of the members of the Class. Plaintiff has retained attorneys  
4 experienced in the prosecution of class actions, including complex consumer  
5 and mass tort litigation.

6 18. [Fed. R. Civ. P. 23(b)(3)] A class action is superior to other available  
7 methods of fair and efficient adjudication of this controversy, since  
8 individual litigation of the claims of all Class members is impracticable.  
9 Even if every Class member could afford individual litigation, the court  
10 system could not. It would be unduly burdensome to the courts in which  
11 individual litigation of numerous issues would proceed. Individualized  
12 litigation would also present the potential for varying, inconsistent, or  
13 contradictory judgments and would magnify the delay and expense to all  
14 parties and to the court system resulting from multiple trials of the same  
15 complex factual issues. By contrast, the conduct of this action as a class  
16 action, with respect to some or all of the issues presented herein, presents  
17 fewer management difficulties, conserves the resources of the parties and of  
18 the court system, and protects the rights of each Class member.

19 19. [Fed. R. Civ. P. 23(b)(1)(A)] The prosecution of separate actions by  
20 thousands of individual Class members would create the risk of inconsistent  
21 or varying adjudications with respect to, among other things, the need for and  
22 the nature of proper notice, which Defendant must provide to all Class  
23 members.

24 20. [Fed. R. Civ. P. 23(b)(1)(B)] The prosecution of separate actions by  
25 individual class members would create a risk of adjudications with respect to  
26 them that would, as a practical matter, be dispositive of the interests of the  
27 other Class members not parties to such adjudications or that would  
28 substantially impair or impede the ability of such non-party Class members to

1 protect their interests.

2 21. [Fed. R. Civ. P. 23(b)(2)] Defendant has acted or refused to act in respects  
3 generally applicable to the Class, thereby making appropriate final injunctive  
4 relief with regard to the members of the Class as a whole.

5 **FIRST CAUSE OF ACTION**

6 **Violation of the Consumer Protection Act**

7 **(Rev. Code Wash. Ann. §§ 19.86.010, et seq.)**

8 **(By Plaintiff and the Class Against All Defendants)**

9 22. Plaintiff hereby incorporates paragraphs 1-21 above as if set forth in full.

10 23. The conduct of Defendant as set forth herein constitutes unfair or deceptive  
11 acts or practices, including, but not limited to, Starbucks' sale of less than  
12 one pound bags of coffee to consumers with an undisclosed \$1.50 fee.

13 24. Defendant's actions as set forth above occurred in the conduct of trade or  
14 commerce.

15 25. Defendant's actions impact the public interest because Plaintiff and the Class  
16 were injured in exactly the same way as hundreds of thousands of others  
17 purchasing Starbucks coffee in less than one-pound bags.

18 26. Plaintiff and the Class were injured as a result of Defendant's conduct.  
19 Plaintiff and the Class overpaid for their Starbucks coffee and did not receive  
20 the benefit of their bargain.

21 27. Starbucks' conduct proximately caused the injuries to Plaintiff and the  
22 Class.

23 28. Starbucks is liable to Plaintiff and the Class for damages in amounts to be  
24 proven at trial, including attorneys' fees, costs, and treble damages.

25 29. Pursuant to WASH. REV. CODE. ANN. § 19.86.095, Plaintiff will serve  
26 the Washington Attorney General with a copy of this complaint as Plaintiff  
27 seeks injunctive relief.

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1 this state before the public in any state, in any newspaper or other  
2 publication, or any advertising device, or by public outcry or proclamation, or  
3 in any other manner or means whatever, including over the Internet, any  
4 statement . . . which is untrue or misleading, and which is known, or which  
5 by the exercise of reasonable care should be known, to be untrue or  
6 misleading . . . .”

7 37. Defendant misled consumers by making untrue statements and failing to  
8 disclose what is required as stated in the Code, as alleged above.

9 38. As a direct and proximate result of Defendant’s misleading and false  
10 advertising, Plaintiff and the members of the Class have suffered injury in  
11 fact and have lost money or property.

12 39. The misleading and false advertising described herein presents a continuing  
13 threat to Plaintiff and the Class in that Defendant persists and continues to  
14 engage in these practices, and will not cease doing so unless and until forced  
15 to do so by this Court. Defendant’s conduct will continue to cause  
16 irreparable injury to consumers unless enjoined or restrained.

17 **FOURTH CAUSE OF ACTION**

18 **Business and Professions Code § 17200, et seq.**

19 **(Violation of the Unfair Competition Law)**

20 **(By Plaintiff and the Class Against All Defendants)**

21 40. Plaintiff hereby incorporates paragraphs 1-39 above as if set forth in full.

22 41. California Business and Professions Code § 17200, et seq., (the “Unfair  
23 Competition Law” or “UCL”) authorizes private lawsuits to enjoin acts of  
24 “unfair competition” which includes any unlawful, unfair, or fraudulent  
25 business practice.

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- 1 42. The UCL imposes strict liability. Plaintiff need not prove that Defendant  
2 intentionally or negligently engaged in unlawful, unfair or fraudulent  
3 business practices—but only that such practices occurred.
- 4 43. The material misrepresentations, concealment, and non-disclosures by  
5 Defendant and DOES 1-10 as part of their marketing, advertising, and sales  
6 of coffee in less than one pound are unlawful, unfair, and fraudulent business  
7 practices prohibited by the UCL.
- 8 44. In carrying out such marketing, Defendant has violated the Consumer Legal  
9 Remedies Act, the False Advertising Law, and various other laws,  
10 regulations, statutes, and/or common law duties. Defendant’s business  
11 practices alleged herein, therefore, are unlawful within the meaning of the  
12 UCL.
- 13 45. The harm to Plaintiff and members of the public outweighs the utility of  
14 Defendant’s practices and, consequently, Defendant’s practices, as set forth  
15 fully above, constitute an unfair business act or practice within the meaning  
16 of the UCL.
- 17 46. Defendant’s practices are additionally unfair because they have caused  
18 Plaintiff and the Class substantial injury, which is not outweighed by any  
19 countervailing benefits to consumers or to competition, and is not an injury  
20 the consumers themselves could have reasonably avoided.
- 21 47. Defendant’s practices, as set forth above, have misled the general public in  
22 the past and will mislead the general public in the future. Consequently,  
23 Defendant’s practices constitute an unlawful and unfair business practice  
24 within the meaning of the UCL.
- 25 48. Pursuant to California Business and Professions Code § 17204, an action for  
26 unfair competition may be brought by any “person . . . who has suffered  
27 injury in fact and has lost money or property as a result of such unfair  
28 competition.” Defendant’s wrongful misrepresentations and omissions have

1 directly and seriously injured Plaintiff and the putative class by causing them  
 2 to pay for a product that was defective, based on false and misleading  
 3 marketing and advertising.

4 49. The unlawful, unfair, and fraudulent business practices of Defendant are  
 5 ongoing and presents a continuing threat that members of the public will be  
 6 misled into purchasing less than a pound of Starbucks coffee, without ever  
 7 knowing of the undisclosed fee.

8 50. Pursuant to the UCL, Plaintiff is entitled to preliminary and permanent  
 9 injunctive relief ordering Defendant to cease this unfair competition, as well  
 10 as disgorgement and restitution to Plaintiff and the Class of all of  
 11 Defendant's revenues associated with Defendant's unfair competition, or  
 12 such portion of those revenues as the Court may find equitable.

### 13 **FIFTH CAUSE OF ACTION**

#### 14 **Civil Code § 1770, et seq.**

#### 15 **(Violation of the Consumer Legal Remedies Act)**

#### 16 **(By Plaintiff and the Class Against All Defendants)**

17 51. Plaintiff hereby incorporates paragraphs 1-50 above as if set forth in full.

18 52. The Consumer Legal Remedies Act ("CLRA") creates a non-exclusive  
 19 statutory remedy for unfair methods of competition and unfair or deceptive  
 20 acts or business practices. *See Reveles v. Toyota by the Bay*, 57 Cal. App. 4th  
 21 1139, 1164 (1997). Its self-declared purpose is to protect consumers against  
 22 these unfair and deceptive business practices, and to provide efficient and  
 23 economical procedures to secure such protection. Cal. Civil Code § 1760 et  
 24 seq. The CLRA was designed to be liberally construed and applied in favor  
 25 of consumers to promote its underlying purposes. *Id.*

26 53. Plaintiff has standing to pursue this claim as Plaintiff purchased Starbucks  
 27 coffee on numerous accessions in less than one pound quantities. Had she  
 28

1 known about the undisclosed \$1.50 fee, she would have either not bought the  
2 product or paid less for the Starbucks product.

3 54. Defendant's wrongful business practices constituted, and constitute, a  
4 continuing course of conduct in violation of the California CLRA.

5 55. More specifically, Plaintiff alleges that Defendant has violated paragraphs 5,  
6 7, and 9 of California Civil Code § 1770(a) by engaging in the unfair and/or  
7 deceptive acts and practices set forth herein. Defendant's unfair and  
8 deceptive business practices in carrying out the marketing program described  
9 above were and are intended to and did and do result in Plaintiff and Class  
10 members purchasing Defendant's products, in violation of the CLRA. Cal.  
11 Civil Code § 1770, et seq.

12 56. As a result of Defendant's unfair and/or deceptive business practices,  
13 Plaintiff and all consumers who purchased Defendant's coffee, weighing  
14 under one pound, have suffered damage and lost money in that they paid for  
15 products that had an undisclosed fee. Plaintiff seeks and is entitled to an  
16 order enjoining Defendant from continuing to engage in the unfair and  
17 deceptive business practices alleged herein.

18 57. Pursuant to Section 1782 of the CLRA, Plaintiff intends to notify Defendant  
19 in writing of the particular violations of Section 1770 of the CLRA (the  
20 "Notice Letter"). If Defendant fails to comply with Plaintiff's demands  
21 within thirty days of receipt of the Notice Letter, pursuant to Section 1782 of  
22 the CLRA, Plaintiff will amend this Complaint to further request damages  
23 under the CLRA.

#### 24 **PRAYER FOR RELIEF**

25 WHEREFORE, Plaintiff, individually and on behalf of the Class, prays for  
26 relief and judgment as follows:

27 1. For preliminary and permanent injunctive relief enjoining Defendant,  
28 its agents, servants and employees, and all persons acting in concert with them,

1 from engaging in, and continuing to engage in, the unfair, unlawful and/or  
2 fraudulent business practices alleged above and that may yet be discovered in the  
3 prosecution of this action;

4 2. For certification of the putative class;

5 3. For restitution and disgorgement of all money or property wrongfully  
6 obtained by Defendant by means of its herein-alleged unlawful, unfair, and  
7 fraudulent business practices;

8 4. For an accounting by Defendant for any and all profits derived by  
9 Defendant from its herein-alleged unlawful, unfair, and/or fraudulent conduct  
10 and/or business practices;

11 5. An award of statutory damages according to proof, except that no  
12 damages are currently sought on Plaintiff's Cause of Action regarding the  
13 Consumer Legal Remedies Act at this time;

14 6. An award of general damages according to proof, except that no  
15 damages are currently sought on Plaintiff's Cause of Action regarding the  
16 Consumer Legal Remedies Act at this time;

17 7. An award of special damages according to proof, except that no  
18 damages are currently sought on Plaintiff's Cause of Action regarding the  
19 Consumer Legal Remedies Act at this time;

20 8. Exemplary damages, except that no damages are currently sought on  
21 Plaintiff's Cause of Action regarding the Consumer Legal Remedies Act at this  
22 time;

23 9. For attorneys' fees and expenses pursuant to all applicable laws  
24 including, without limitation, the CLRA, and the common law private attorney  
25 general doctrine;

26 10. For costs of suit; and

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1 11. For such other and further relief as the Court deems just and proper.  
2

3 DATED: November 29, 2011

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**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury for all causes of actions so triable.

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