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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RANDY TYNDALL, an individual
Plaintiff,

v.

SPROUTS FARMERS MARKET, INC., a
Delaware corporation; and ECOSOUL HOME
INC., a Delaware corporation
Defendants.

Case No.

CLASS ACTION COMPLAINT

Plaintiff, RANDY TYNDALL, an individual (“**Plaintiff**”), on behalf of himself and those similarly situated, based upon information, belief, and investigation by himself and his counsel, except for information based on personal knowledge, hereby alleges:

INTRODUCTION

1. Defendant Sprouts Farmers Market, Inc., a Delaware corporation (“**Sprouts**”) and ECOSOUL HOME INC., a Delaware corporation (“**EcoSoul**”), (collectively, “**Defendants**”), advertise, market, and sell disposable single-use tableware such as plates, bowls, cold beverage cups, and hot beverage cups with lids, beverage straws, and cutlery sets, all under the Sprouts brand name (collectively, the “**Products**”) which are marketed on their packaging as compostable.

1 A compostable product is one which is capable of being broken down into non-toxic elements
2 (compost) which are beneficial to the soil.

3 2. Many consumers concerned with environmental problems associated with the
4 proliferation of trash and waste actively seek to purchase products that are compostable so such
5 products can be introduced into the soil, rather than deposited in landfills. These consumers are
6 willing to pay more for such products, which often cost significantly more than non-compostable
7 disposable bags, plates, and bowls.

8 3. The purpose of this Complaint is to remedy Defendants' unlawful, unfair, and
9 deceptive business practices with respect to the advertising, marketing, labeling, and sale, both
10 presently and in the future, of the Products as compostable, when in fact they are not.

11 4. Plaintiff purchased several items of the Products from one of Sprout's stores, and
12 did so in reliance on Defendants' false representations that the Products were compostable.
13 Specifically, Plaintiff purchased a package of twenty 6" round plates, a package of twenty 9" round
14 plates, a package of twenty 12-oz. bowls, a package of 100 straws, a package of a 36-count cutlery
15 set, a package of twenty 16-oz cold beverage cups, and a package of twenty 16-oz hot beverage
16 cups with lids.

17 5. Plaintiff viewed Defendants' false representations on the labels and packaging of
18 these aforementioned Products, and the representations of the Products' alleged compostability
19 was a determining factor in Plaintiff's decision to purchase each of the foregoing Products.
20 Plaintiff relied upon the apparent truthfulness of these representations as to the Products'
21 compostability, leading to the injuries and damages suffered by Plaintiff as further described
22 herein. If Plaintiff had known that the Products were not actually compostable as claimed by
23 Defendants, Plaintiff would not have purchased the Products and/or would not have paid the
24 premium price for compostable products. Defendants have thus breached their express warranties
25 under the California Commercial Code § 2313; violated the California Consumers Legal Remedies
26 Act ("CLRA") by making representations that the Products have characteristics, benefits, and
27 qualities which they do not have, and subsequently advertising the Products while claiming that
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1 they did in fact have those characteristics, benefits, and qualities; and violated the Business and
2 Professions Code § 17200 based on fraudulent, unlawful, and unfair acts and practices.

3 6. Plaintiff and the Class seek an order enjoining Defendants' ongoing acts of unfair
4 competition and other unlawful conduct, an award of damages to compensate them for Defendant's
5 acts of unfair competition, false and misleading advertising, and breaches of warranty, and
6 restitution to the individual victims of Defendants' fraudulent, unlawful, and unfair acts and
7 practices.

8 **PARTIES**

9 7. Plaintiff RANDY TYNDALL, is a resident of the State of California at the time of
10 the events alleged herein. Plaintiff is therefore a citizen of the State of California for diversity
11 jurisdiction purposes.

12 8. When given the choice, Plaintiff buys products that are compostable, recyclable, or
13 reusable so that he can minimize his impact on the environment. Plaintiff purchased the Products
14 during 2024 from a Sprouts Farmer's Market store in Visalia, California. Plaintiff purchased the
15 Products because he believed that they would be an environmentally-friendly alternative to plastic
16 products which are not compostable. Plaintiff specifically selected the Products for purchase in
17 reliance on Defendants' representations that the Products are compostable. These false
18 representations are located on the labels of the Products and in other marketing materials for the
19 Products promulgated by Defendants online and in print media. Had Plaintiff known that the
20 Products contained PFAS chemicals, and thus could not break down into compostable material, he
21 would not have purchased the Products. As a result, Plaintiff paid considerably more for the
22 Products than he would have for similar products which are not and do not claim to be
23 compostable.

24 9. Defendant Sprouts is a Delaware limited liability company with its principal office
25 located in Phoenix, Arizona. Sprouts is therefore a citizen of the states of Delaware and Arizona.
26 Sprouts distributes and/or sells the Products in California via its Sprouts-branded grocery stores.
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1 By so distributing and/or selling the Products in California, Sprouts has submitted to the
2 jurisdiction of California's courts for purposes of diversity jurisdiction.

3 10. Defendant EcoSoul is a Delaware corporation with its principal place of business
4 in the State of Washington. EcoSoul is therefore a citizen of the states of Delaware and
5 Washington. EcoSoul manufactures the Products at issue in this complaint for eventual sale in the
6 State of California. By so manufacturing the Products for sale in California, EcoSoul has submitted
7 to the jurisdiction of California's courts for purposes of diversity jurisdiction.

8 **JURISDICTION AND VENUE**

9 11. There is complete diversity of citizenship between all Plaintiffs and all Defendants
10 in this case. This Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a) over Defendants
11 because both Defendants are citizens of different states other than California, which is the state of
12 Plaintiff's citizenship.

13 12. This Court has personal jurisdiction over the Defendants. Defendants are foreign
14 business entities that nonetheless have sufficient minimum contacts with California, and have
15 intentionally availed themselves of the California consumer market either through the distribution,
16 sale, or marketing of the Products within the State of California, or by having facilities located
17 within California so as to render the exercise of jurisdiction over them by California courts
18 consistent with traditional notions of fair play and substantial justice. Per Sprout's most recent 10-
19 K filing with the US Securities and Exchange Commission dated February 22, 2024, the most
20 recent such filing preceding the filing of this complaint, Sprouts reported that it had 139 stores
21 located within the State of California. An excerpt from the aforementioned 10-K filing confirming
22 this figure is attached hereto and incorporated herein as **Exhibit A**. Plaintiff therefore asserts that
23 such contacts are sufficiently numerous to subject Defendants to this Court's personal jurisdiction.

24 13. The amount in controversy in this action exceeds the jurisdictional minimum of this
25 Court of \$75,000. Defendant Sprouts categorizes its products as either perishable or non-
26 perishable. The Products would be considered non-perishable items. Per Sprouts' most recent
27 Form 10-Q filing with the US Securities and Exchange Commission dated October 30, 2024, the
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1 most recent such filing preceding the filing of this complaint, Sprouts reported net sales of non-
2 perishable products from the first week of 2024 through September 29, 2024, as amounting to
3 \$2,434,086 million, as indicated in the excerpt from the Form 10-Q attached hereto and
4 incorporated herein as **Exhibit B**. Plaintiff therefore asserts that, given the sheer volume of sales
5 of non-perishable products publicly reported by Sprouts in the product category comprising those
6 under which the Products were sold, amounts in excess of \$75,000 worth of sales of the offending
7 Products themselves were sold in 2024 to California residents in violation of the CLRA and
8 Business & Professions Code § 17200 as alleged in this Complaint.

9 14. Venue in this Court is proper pursuant to 28 U.S.C. §1391(b)(2) because a
10 substantial part of the events or omissions giving rise to the claim herein described occurred in this
11 District.

12 15. **Intradistrict Assignment (L.R. 120(d))**: This action arises in Tulare County, in
13 that a substantial part of the events which give rise to the claims asserted herein occurred in Tulare
14 County. Pursuant to L.R. 120, all civil actions which arise in Tulare County shall be assigned to
15 the Fresno Division.

16 **BACKGROUND FACTS**

17 16. Due to the amount of landfilled waste accumulating in the environment,
18 biodegradable and compostable foodware options have become increasingly popular. As
19 consumers look to invest in sustainable alternatives to single-use plastics and packaging, some,
20 including Plaintiff, actively seek out products that are compostable, recyclable, or reusable to
21 prevent the increase in global waste and to minimize their environmental footprints.

22 17. The California Business and Professions Code § 17580.5 makes it “unlawful for
23 any person to make any untruthful, deceptive, or misleading environmental marketing claim,
24 whether explicit or implied.” Pursuant to that section, the term “environmental marketing claim”
25 includes any claim contained in the Guides for use of Environmental Marketing Claims published
26 by the Federal Trade Commission (the “**Green Guides**”). *Ibid*; see also 16 C.F.R. § 260.1, *et seq.*
27 Under the Green Guides, “[i]t is deceptive to misrepresent, directly or by implication, that a
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1 product or package is compostable.” 16 C.F.R. 260.7(a). “A marketer claiming that an item is
2 compostable should have competent and reliable scientific evidence that all the materials in the
3 item will break down into, or otherwise become part of, usable compost...in a safe and timely
4 manner...in an appropriate composting facility...” 16 C.F.R. §260.7(b).

5 18. The Green Guides’ definition of “compostable” is consistent with reasonable
6 consumer expectations that compost is comprised largely of “decayed organic matter” that “is used
7 for fertilizing and conditioning land.”¹ Accordingly, reasonable consumers expect that products
8 advertised, marketed, sold, labeled, and/or represented as compostable will be converted into
9 usable organic matter that decomposes into fertilizer to condition the land, and that such products
10 will not introduce toxic chemicals into the fertilizer or land.

11 19. The Green Guides specifically prohibit marketers from labeling products as
12 compostable if those products release toxins into the compost as they break down, noting that “a
13 claim is deceptive if the presence...toxins prevents the compost from being usable” 16 C.F.R.
14 §260.7(d).

15 20. California has passed its own state-level standards regarding the use of
16 environmental marketing claims such as the labeling of products as being “compostable”.
17 Specifically under current law, a consumer product can only be considered compostable if it “Does
18 not have a total organic fluorine concentration of greater than 100 parts per million” per California
19 Public Resources Code § 42357(g)(1)(A). Thus, if a consumer product has a total organic fluorine
20 concentration level in excess of 100 parts per million, then it would be misleading to label such
21 product as being compostable.

22 **FACTS REGARDING DEFENDANTS’ PRODUCTS CONTAINING PFAS**

23 21. Defendants advertise, market, and sell their Products under the Sprouts label as
24 being compostable. However, the Products contain significant amounts of perfluoroalkyl and
25 polyfluoroalkyl substances (“PFAS”), which do not break down and never become part of usable
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27 ¹ Merriam-Webster Dictionary (2024); accessible at:
28 <https://www.merriam-webster.com/dictionary/compost>; last accessed on: December 19, 2024.

1 compost. PFAS are highly persistent synthetic fluorinated chemicals which have been associated
2 with a variety of negative health effects such as cancer, developmental toxicity, immunotoxicity
3 among others.²

4 22. PFAS are known as “forever chemicals” because they do not break down over time.
5 When PFAS are introduced into the environment, they seep into and contaminate both land and
6 water and then never leave it. PFAS introduced into soil contaminates crops grown in that soil and
7 the meat from farm animals that graze there. Compost is used as soil-conditioning material or
8 fertilizer, so when compost is itself contaminated with PFAS, the PFAS then contaminate the soil
9 treated or fertilized with that compost and whatever grows or grazes on that soil.

10 23. PFAS’ characteristic carbon-fluorine bonds make them extremely resistant to
11 degradation, even at high temperatures. The strength of the bond between carbon and fluorine
12 means that these chemicals do not degrade in the environment. Due to the highly persistent nature
13 of these chemicals, they break down, very slowly, if at all.³

14 24. Because PFAS do not naturally break down like compostable materials, they
15 accumulate in air, soil, water, and in the human body.

16 25. PFAS have grease and water-resistant properties, which means they are often added
17 to paper plates, bowls, food storage, and packaging products (together, “**Foodware**”). This leads
18 to increased PFAS exposure in humans and in the environment. For products containing PFAS
19 which are sold as compostable, there is the added concern that PFAS will seep into the ground and
20 soil, contaminating otherwise-usable compost streams.

21 26. Foodware containing PFAS can contaminate food items they come into contact
22 with. Worse yet, for contaminated Foodware products that are compostable, PFAS can leach from
23 noncompostable products which are placed into the compost stream, contaminating the compost
24 itself and the organic matter grown using that composted material. For this reason, and for their

25 ² Schaider, L., et al., “Fluorinated Compounds in U.S. Fast Food Packaging” Environ Sci Technol Lett.
26 2017; 4(3): 105–111. doi:10.1021/acs.estlett.6b00435, (August 22, 2018), accessible at:
27 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6104644/pdf/nihms983267.pdf>, last accessed on
December 19, 2024.

28 ³ National Institute of Environmental Health Sciences, accessible at:
<https://www.niehs.nih.gov/health/topics/agents/pfc>, last accessed on December 19, 2024.

1 environmental persistence, “PFASs should be considered incompatible with compostable food
2 packaging.”⁴

3 27. Humans are exposed to PFAS by consuming PFAS-contaminated water and food,
4 as well as through the use of products that contain PFAS. Such exposure can lead to effects on the
5 immune system, cancer, and thyroid hormone disruption.

6 28. Compostable and biodegradable Foodware options have become increasingly
7 popular with consumers as a means to eliminate waste and divert usable products from landfills.
8 For products that claim to be compostable and/or biodegradable, private certification companies
9 have arisen in the last two decades to provide certification of such claims.

10 **DEFENDANTS’ CLAIMS REGARDING THEIR PRODUCTS’ COMPOSTABILITY**

11 29. In California, consumer products cannot be labeled as “compostable” if they have
12 a total organic fluorine concentration of greater than 100 parts per million (CA Public Resources
13 Code § 42357(g)(1)(C)). The Sprouts-branded Products at issue in this complaint bear a
14 compostability certification from a private organization, the Biodegradable Products Institute
15 (“BPI”), on their packaging. The presence of such a certification presumably confirms to
16 consumers that the Products are in fact compostable, or else they would not be certified by BPI as
17 such.

18 30. Notwithstanding this certification, Plaintiff has caused the Products sold by Sprouts
19 and manufactured by EcoSoul to be independently tested by a third-party laboratory to ascertain
20 the presence and amount of PFAS within them.

21 31. The test results indicate the presence of significant amounts of PFAS within the
22 bowls, plates, straws, and cutlery that Plaintiff purchased, in direct contradiction of Defendants’
23 claims that their Products are compostable. Defendants’ claims that the Products are compostable
24 are uniform, consistent, and material claims. Because the claims are false and misleading, many
25 ordinary, reasonable consumers, including members of the class as defined hereinafter, are likely

26 ⁴ Schaidler, L., et al., “Fluorinated Compounds in U.S. Fast Food Packaging” Environ Sci Technol
27 Lett. 2017; 4(3): 105–111. doi:10.1021/acs.estlett.6b00435, (August 22, 2018), accessible at:
28 <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6104644/pdf/nihms983267.pdf>, last accessed on
December 19, 2024 at p. 8.

1 to be deceived by such representations if they rely on them as a factor in deciding to purchase any
2 of the Products, like Plaintiff did here.

3 32. By encouraging consumers to dispose of the Products in compost collection bins
4 on the basis that the Products are allegedly compostable, Defendants are contaminating entire
5 compost streams with PFAS materials that will not break down over time. The Products are then
6 mixed with composted and compostable materials in an industrial composting facility and turned
7 into soil fertilizer for crops and other foods. However, the PFAS will remain uncomposted, thus
8 contaminating the crops grown in that soil. Environmentally motivated consumers who purchase
9 the Products in the belief that such products are compostable are thus unwittingly hindering
10 sustainable composting efforts.

11 33. A reasonable, ordinary consumer would be expected to assume that if a Foodware
12 product which is alleged to be compostable is accepted into an industrial composting program, then
13 that Foodware product is in fact compostable. Defendants' representations that their Products are
14 compostable are therefore likely to deceive ordinary consumers because the Products are not, in
15 fact, compostable as they are held out to be.

16 34. The Green Guides are clear: "[a] marketer claiming that an item is compostable
17 should have competent and reliable scientific evidence that all the materials in the item will break
18 down into, or otherwise become part of, usable compost (e.g., soil-conditioning materials, mulch)
19 in a safe and timely manner (i.e., in approximately the same time as the materials with which it is
20 composted) in an appropriate composting facility, or in a home compost pile or device." 16 C.F.R.
21 §260.7(b). California has adopted similar standards: "A manufacturer or supplier, upon the request
22 of a member of the public, shall submit to that member, within 90 days of the request, information
23 and documentation demonstrating compliance with this chapter, in a format that is easy to
24 understand and scientifically accurate." Cal Pub Resources Code § 42357(d). Plaintiff is also
25 informed and believes and thereon asserts that other states in which the Products are sold –
26 including but not limited to Washington and Colorado – have adopted similar limitations on
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1 permissible levels of PFAS in consumer Foodware products, and that Defendants' Products sold
2 in those states are in violation of those limitations.

3 35. Here, the bowls, plates, straws, and cutlery manufactured and sold by Defendants
4 are not compostable under applicable California law because they are made with substantial levels
5 of PFAS, which cannot break down over time, or break down into usable compost.

6 36. Defendants' marketing of these Products as compostable is thus a direct violation
7 of the Green Guides and the California Public Resources Code. Because the Products are not
8 compostable, Defendants' representations are thus per se deceptive under the Green Guides and
9 under California law. Because the Products are not compostable, Defendant cannot make any
10 truthful compostable claims as to the Products.

11 **DEFENDANTS' LABELING DEFICIENCIES**

12 37. California Public Resources Code § 42357(g)(1)(D) requires that product sold in
13 the State of California that is labeled "compostable" be labeled "in a manner that distinguishes the
14 product from a noncompostable product upon reasonable inspection by consumers and to help
15 enable efficient processing by solid waste processing facilities."

16 38. A "product" is defined by California Public Resources Code § 42356(g)(4) as
17 encompassing "A food or beverage container or a container component, including, but not limited
18 to, a straw, lid, or utensil". This necessarily includes the Sprouts-branded straws, cutlery, cold
19 cups, hot cups, and the hot cups' lids manufactured by EcoSoul and sold by Sprouts.

20 39. The plain language of California Public Resources Code § 42356(g)(4) requires
21 that food containers and the containers' components such as straws, lids, or utensils be themselves
22 labeled as compostable.

23 40. None of the aforementioned Sprouts-branded straws, cutlery, cold cups, hot cups,
24 or hot cup lids contain any labeling on any of the actual items or utensils themselves stating that
25 they are compostable. The only such labeling claiming that the aforementioned products are
26 compostable is found on the products' packaging, however, this alone is insufficient to comply
27 with the express terms of Public Resources Code § 42356(g)(4).

41. Defendants' marketing and sale of these particular products as compostable is not in compliance with the Public Resources Code sections requiring that food container components themselves be themselves labeled as compostable. Because the straws, cutlery, cold cups, hot cups, and hot cup lids are not properly labeled as compostable as required by applicable law, Defendants' sale, marketing, and distribution of such products is improper and Defendants cannot make any truthful compostable claims as to the improperly labeled Sprouts-branded products. Until such time as the offending products are able to be manufactured by defendant EcoSoul to be in compliance with the labeling requirement of Public Resources Code § 42356(g)(4), defendant Sprouts must be required to remove such products from its stores.

CLASS ACTION ALLEGATIONS

42. Plaintiff brings this suit individually and as a class action pursuant to Federal Rule of Civil Procedure Rule 23, on behalf of himself and the following class of similarly situated individuals:

All persons who purchased the Products for personal, family or household purposes in California (either directly or through an agent) during the applicable statute of limitations period (the "**Class**"). Specifically excluded from the Class are Defendants; the officers, directors or employees of Defendants; any entity in which Defendants have a controlling interest; and any affiliate, legal representative, heir or assign of Defendants. Also excluded are any judicial officer presiding over this action and the members of his/her immediate family and judicial staff, and any juror assigned to this action.

43. Plaintiff is unable to state the precise number of potential members of the proposed Class because that information is determinable only by review of Defendants' business records relating to the sale of the Products to the potential Class members, and such information is in the exclusive possession of Defendants. However, the number of Class members is so numerous that joinder would be impracticable for purposes of Rule 23(a)(1). The exact size of the proposed Class and the identity of its members will be readily ascertainable from the business records of Defendants and Defendants' retailers as well as Class members' own records and evidence. The disposition of the claims of the members of the Class in this action will substantially benefit both

1 the parties and the Court. As stated previously, Defendant Sprouts indicated in its most recent 10-K
2 filing that it had 139 stores in the State of California which consumers can patronize. In light of
3 this, Plaintiff is therefore informed and believes that the number of Class members is in excess of
4 100,000 persons.

5 44. There is a community of interest among the members of the proposed Class in that
6 there are questions of law and fact common to the proposed Class for purposes of Rule 23(a)(2),
7 including whether Defendants' labels, advertisements, and packing include uniform
8 misrepresentations that misled Plaintiff and the other members of the Class to believe that the
9 Products are compostable when they are not. Proof of a common set of facts will establish the
10 liability of Defendants and the right of each member of the Class to relief.

11 45. Plaintiff asserts claims that are typical of the claims of the entire class, for purposes
12 of Rule 23(a)(3). Plaintiff and all members of the Class have been subjected to the same wrongful
13 conduct because they have purchased the Products that are labeled and sold as plates, bowls, and
14 other Foodware items that are claimed by Defendants to be compostable, when they are not in fact
15 compostable.

16 46. Plaintiff will fairly and adequately represent and protect the interests of the other
17 members of the Class for purposes of Rule 23(a)(4). Plaintiff has no interests antagonistic to those
18 of the other members of the Class. Plaintiff is committed to the vigorous prosecution of this action.
19 Plaintiff anticipates no difficulty in the management of this litigation as a class action.

20 47. Class certification is appropriate under Rule 23(b)(2) because Defendants have
21 acted on grounds that apply generally to the Class, so that final injunctive relief or corresponding
22 declaratory relief, is appropriate respecting the Class as a whole. Defendants utilized labeling and
23 advertising concerning the Products that include uniform misrepresentations that misled both
24 Plaintiff and the other members of the Class.

25 48. Class certification is appropriate under Rule 23(b)(3) because common questions
26 of law and fact substantially predominate over any questions that may affect only individual
27 members of the Class. These common legal and factual questions, which do not vary among Class
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1 members and which may be determined without reference to the individual circumstances of any
2 Class member include, but are not limited to the following:

3 a. Whether Defendants advertise and market the Products by representing that
4 the Products are compostable;

5 b. Whether the Products contain PFAS in excess of allowable limits prescribed
6 by the State of California;

7 c. If the Products contain PFAS, whether Defendants sold the Products with
8 the knowledge that the Products contained PFAS;

9 d. Whether the Products are in fact compostable as advertised and labeled by
10 Defendants;

11 e. Whether Defendants' marketing, advertising, and labeling claims regarding
12 the compostability of the Products are likely to deceive a reasonable consumer;

13 f. Whether Defendants' representations regarding the compostability of the
14 Products are likely to be read and understood by a reasonable consumer;

15 g. Whether Defendants' representations regarding the compostability of the
16 Products are in compliance with the Green Guides and the California Public Resources Code;

17 h. Whether Defendants' claims regarding the compostability of the Products
18 would be material to a reasonable consumer of the Products;

19 i. Whether Defendants' conduct in advertising, marketing, and labeling of the
20 Products constitutes a violation of California consumer protection laws;

21 j. Whether Defendants' representations concerning the Products constitute
22 express warranties with regard to the Products;

23 k. Whether Defendants breached the express warranties they made with regard
24 to the Products;

25 l. Whether Defendants' representations regarding compostability constitute
26 representations that the Products have characteristics, benefits, or qualities which they do not have;

1 m. Whether Defendants advertised their Products without an intent to sell them
2 as so advertised;

3 n. Whether Defendants have been unjustly enriched from the sale of the
4 Products;

5 o. Whether punitive damages are warranted for Defendants' conduct, and if
6 so, an appropriate amount of such damages; and

7 p. Whether Plaintiff and the Class members are entitled to injunctive,
8 equitable, and monetary relief.

9 49. Defendants utilize marketing, advertisements, and labeling that includes uniform
10 misrepresentations that misled Plaintiff and the other members of the Class. Defendants' claims
11 regarding the compostability of the Products are one of the most prominent features of Defendants'
12 marketing, advertising, and labeling of the Products. Nonetheless, the Products are not in fact
13 compostable. Thus, there is a well-defined community of interest in the questions of law and fact
14 involved in this action and affecting the parties.

15 50. Proceeding as a class action provides substantial benefits to both the parties and the
16 Court because this is the most efficient method for the fair and efficient adjudication of the
17 controversy. Class members have suffered and will suffer irreparable harm and damages as a result
18 of Defendants' wrongful conduct. Because of the nature of the individual Class members' claims,
19 few, if any, could or would otherwise afford to seek legal redress against Defendants for the wrongs
20 complained of herein, and a representative class action is therefore appropriate, the superior
21 method of proceeding, and essential to the interests of justice insofar as the resolution of Class
22 members' claims are concerned. Absent a representative class action, members of the Class would
23 continue to suffer losses for which they would have no remedy, and Defendants would unjustly
24 retain the proceeds of its ill-gotten gains. Even if separate actions could be brought by individual
25 members of the Class, the resulting multiplicity of lawsuits would cause undue hardship, burden,
26 and expense for the Court and the litigants, as well as create the risk of inconsistent rulings which

1 might be dispositive of the interests of the other members of the Class who are not parties to the
2 adjudications or may substantially impede their ability to protect their interests.

3 **FIRST CAUSE OF ACTION**

4 **(Plaintiff, on Behalf of Himself, the Class, and the General Public, Alleges Violations of CA
Business & Professions Code § 17200, *et seq.* Based on Commission of Unlawful Acts)**

5 51. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 50 of
6 this Complaint.

7 52. The violation of any law constitutes an unlawful business practice under Business
8 & Professions Code §17200.

9 53. Defendants' conduct violates CA Business & Professions Code § 17580.5, which
10 makes it unlawful for any person to make any untruthful, deceptive, or misleading environmental
11 marketing claim. Pursuant to §17580.5, the term "environmental marketing claim" includes any
12 claim contained in the Green Guides. 16 C.F.R. §260.1, *et seq.* Under the Green Guides, "[i]t is
13 deceptive to misrepresent, directly or by implication, that a product or package is compostable. A
14 marketer claiming that an item is compostable should have competent and reliable scientific
15 evidence that all the materials in the item will break down into, or otherwise become part of, usable
16 compost (e.g., soil-conditioning material, mulch) in a safe and timely manner (i.e., in
17 approximately the same time as the materials with which it is composted) in an appropriate
18 composting facility, or in a home compost pile or device. A marketer should clearly and
19 prominently qualify compostable claims to the extent necessary to avoid deception if: (1) the item
20 cannot be composted safely or in a timely manner in a home compost pile or device; or (2) the
21 claim misleads reasonable consumers about the environmental benefit provided when the item is
22 disposed of in a landfill." 16 C.F.R. § 260(a)-(c). Furthermore, California Public Resources Code
23 § 42357(g)(1)(C) forbids the labeling of a consumer product as being "compostable" if it contains
24 a total organic fluorine concentration of greater than 100 parts per million. Plaintiff has had the
25 Products tested for the presence of PFAS in them by an independent laboratory and has confirmed
26 that many of the Products contain PFAS chemicals in excess of permissible standards. By
27 nonetheless representing that the Products are compostable and have been certified as compostable
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1 by a third party compostable certification authority like BPI as described above at the time Plaintiff
2 purchased the Products, Defendants are violating Business and Professions Code § 17580.5.

3 54. As detailed more fully in the paragraphs below, the acts and practices alleged herein
4 were intended to or did result in the sale of the Products in violation of the CLRA, California Civil
5 Code §1750, *et seq.*, and specifically California Civil Code § 1770(a)(5), (a)(7) and (a)(9).

6 55. Defendants' conduct also violates Section 5 of the Federal Trade Commission Act
7 ("FTC ACT"), 15 U.S.C. § 45, which prohibits unfair methods of competition and unfair or
8 deceptive acts or practices in or affecting commerce. By misrepresenting that the Products are
9 compostable, Defendants are violating Section 5 of the FTC Act.

10 56. Defendants' conduct also violated California Business & Professions Code §
11 17500, which prohibits knowingly making, by means of any advertising device or otherwise, any
12 untrue or misleading statement with the intent to sell a product or to induce the public to purchase
13 a product. By misrepresenting that the Products are compostable, Defendants are violating
14 Business & Professions Code § 17500.

15 57. For the bowl and plate Products which Plaintiff purchased, those contain a
16 statement on the face of the packaging stating that they are "PFAS Free" as well as having a
17 circular stamp on them stating that they are plant-based and compostable. On the underside of the
18 package is printed the BPI label allegedly certifying that the Products are commercially
19 compostable. These statements are unquestionably representations and warranties of matters of
20 ascertainable fact.

21 58. Defendants' representations on their packaging that the Products are compostable
22 constitute affirmations of fact made with regard to the Products, as well as descriptions of the
23 Products, that are part of the basis of the bargain between Defendants and purchasers of the
24 Products. Because those representations are material, false, and misleading, and because Plaintiff
25 and members of the Class have relied upon the perceived truthfulness of those representations to
26 their detriment, Defendants have breached their express warranties as to the Products and have
27 violated California Commercial Code § 2313.

1 59. Defendants' conduct is also a breach of California Public Resources Code §
2 42357(g)(1)(D). Certain of Defendants' Products which are required to have certain labeling
3 features on the products themselves signifying that they were compostable were sold without those
4 required labeling features printed on them. By selling certain of the Products without the labeling
5 features as required by statute, Defendants are violating Public Resources Code § 42357(g)(1)(D).

6 60. By violating the CLRA, the FTC Act, Business & Professions Code §§ 17500 and
7 17580.5, California Commercial Code § 2313, and California Public Resources Code §42357,
8 Defendants have engaged in unlawful business acts and practices which constitute unfair
9 competition within the meaning of Business & Professions Code § 17200. Plaintiff would not have
10 purchased the Products, or would not have paid as much for Products, but for Defendants' unlawful
11 business practices. Plaintiff has thus suffered injury in fact and lost money or property as a direct
12 result of Defendants' misrepresentations and material omissions.

13 61. An action for injunctive relief and restitution is specifically authorized under
14 Business & Professions Code § 17203. Plaintiff has standing to demand injunctive relief because
15 Plaintiff, and by extension, the Class, have suffered a concrete and ongoing injury: an inability to
16 rely, now or in the future, upon the validity of the information advertised on Defendants' Products,
17 rendering Plaintiff, the Class, and average consumers unable to rely on the Products' representation
18 of being "compostable" without any degree of confidence in the truthfulness of such
19 representations. Plaintiff continues to desire to purchase truly compostable Foodware products in
20 the future, including those Products manufactured and sold by Defendants. Plaintiff continues to
21 patronize Sprouts stores where Sprouts-branded Foodware Products are sold with packaging
22 claiming that such Products are compostable. However, Plaintiff has no way of determining
23 whether the Products' representations as being "PFAS free" and "compostable" are in fact true.
24 Injunctive relief would provide redress for this ongoing injury by requiring that both at present and
25 in the future, Defendants only make truthful representations as to the compostability of the
26 Products upon which a reasonable consumer could rely now and hereafter.

SECOND CAUSE OF ACTION

(Plaintiff, on Behalf of Himself, the Class, and the General Public, Alleges Violations of California Business & Professions Code § 17200, *et seq.* Based on Fraudulent Acts and Practices)

62. Plaintiff realleges and incorporated herein by reference Paragraphs 1 through 61 of this Complaint.

63. Under Business & Professions Code § 17200, any business act or practice that is likely to deceive members of the public constitutes a fraudulent business act or practice.

64. Defendants have engaged in and continue to engage in conduct that is likely to deceive members of the public. This conduct includes but is not limited to, representing that the Products are compostable; representing that the products have been certified as compostable by an independent third-party certification organization such as BPI; and selling certain of the Products in violation of California Public Resources Code § 42357(g)(1)(D) by failing to properly label them in accordance with applicable law.

65. Plaintiff purchased the Products in reliance on Defendants' representations that the Products are compostable. Defendants' claims that the Products are compostable are material, untrue, and misleading. These compostable claims are prominent on all of Defendants' marketing, advertising, and labeling materials on the Products' packaging, even though Defendants are aware that the claims are false and misleading. Also, because Defendants' compostable claims violate Business & Professions Code §17580.5, such claims are deceptive *per se*. Defendants' claims are thus likely to deceive both Plaintiff and a reasonable consumer. Plaintiff would not have purchased the Products, or would not have paid as much for the Products, but for Defendants' false representations that the Products are compostable. Plaintiff has thus suffered injury in fact and lost money or property as a direct result of Defendants' misrepresentations and material omissions.

66. By committing the acts alleged above, Defendants have engaged in fraudulent business acts and practices, which constitute unfair competition within the meaning of Business & Professions Code §17203.

THIRD CAUSE OF ACTION

(Plaintiff, on Behalf of Himself, the Class, and the General Public, Alleges Violations of California Business & Professions Code § 17200, *et seq.* Based on Unfair Acts and Practices)

67. Plaintiff realleges and incorporated herein by reference Paragraphs 1 through 66 of this Complaint.

68. Under Business & Professions Code § 17200, any business act or practice that is unethical, oppressive, unscrupulous, or substantially injurious to consumers, or that violated a legislatively declared policy, constitutes an unfair business act to practice.

69. Defendants have engaged in and continue to engage in conduct which is immoral, unethical, oppressive, unscrupulous, and substantially injurious to consumers. This conduct includes but is not limited to, advertising and marketing the Products as compostable and having labeling on the Products' packaging stating that the Products are compostable when they are not actually compostable. By taking advantage of consumers concerned about the environmental impact of non-sustainable waste, Defendants' conduct, as described herein, far outweighs the utility, if any, of such conduct.

70. Defendants have engaged in and continue to engage in conduct that violates the legislatively declared policy of the CLRA against misrepresenting the characteristics, uses, benefits, and quality of goods for sale by representing to consumers that the Products are compostable when they are not in fact compostable as advertised.

71. Defendants' conduct violated California Public Resources Code § 42357(g)(1)(C) by selling or offering for sale a product in the State of California labeled with the term "compostable" which such product has a total organic fluorine concentration of greater than 100 parts per million.

72. Defendants' conduct also violated the policy of the Green Guides. The Green Guides mandate that "it is deceptive to misrepresent, directly or by implication, that a product or package is compostable." 16 C.F.R. § 260.7(a). It further states that "[a] marketer claiming that an item is compostable should have competent and reliable scientific evidence that all the materials in the item will break down into, or otherwise become part of usable compost...in a safe and timely

manner.” 16 C.F.R. § 260.7(b). As explained above, the Products are not compostable and the PFAS contained within the Products do not break down into usable compost over time, notwithstanding the Products’ claims on their packaging to the contrary. Moreover, the PFAS contaminate the compost, thereby contaminating the soil treated with the compost.

73. Defendants’ conduct, including failing to disclose that the Products contain PFAS which cannot break down into usable compost, is substantially injurious to consumers. Such conduct has caused and continues to cause substantial injury to consumers because consumers would not have purchased the Products but for Defendants’ representations that the Products are compostable. Consumers are concerned about environmental issues in general and PFAS contamination in particular. Defendants’ representations are therefore material to such consumers. Misleading causes injury to such consumers that is not outweighed by any countervailing benefits to consumers or competition. Indeed, no benefit to consumers or competition results from Defendants’ conduct. Defendants gain an unfair advantage over their competitors, whose advertising must comply with the CLRA, the FTC Act, Cal. Business & Professions Code § 17580.5, Cal. Public Resources Code, and the Green Guides. Since consumers reasonably rely on Defendants’ representations of the Products, and injury results from the ordinary use of the Products, consumers could not have reasonably avoided such injury.

74. Although Defendants know that the Products are not compostable, Defendants failed to disclose that fact to Plaintiff and to the Class.

75. By committing the acts alleged above, Defendants have engaged in unfair business acts and practices which constitute unfair competition within the meaning of California Business & Professions Code § 17200.

76. An action for injunctive relief and restitution is specifically authorized under Business & Professions Code § 17203. Plaintiff has standing to demand injunctive relief because Plaintiff, and by extension, the Class, have suffered a concrete and ongoing injury: an inability to rely, now or in the future, upon the validity of the information advertised on Defendants’ Products, rendering Plaintiff, the Class, and average consumers unable to rely on the Products’ representation

1 of being “compostable” without any degree of confidence in the truthfulness of such
2 representations. Plaintiff continues to desire to purchase truly compostable Foodware products in
3 the future, including those Products manufactured and sold by Defendants. Plaintiff continues to
4 patronize Sprouts stores where Sprouts-branded Foodware Products are sold with packaging
5 claiming that such Products are compostable. However, Plaintiff has no way of determining
6 whether the Products’ representations as being “PFAS free” and “compostable” are in fact true.
7 Injunctive relief would provide redress for this ongoing injury by requiring that both at present and
8 in the future, Defendants only make truthful representations as to the compostability of the
9 Products upon which a reasonable consumer could rely now and hereafter.

10 77. Plaintiff would not have purchased the Products, or would not have paid as much
11 for the Products, but for Defendants’ unfair business practices. Plaintiff has thus suffered injury in
12 fact and lost money or property as a direct result of Defendants’ misrepresentations and material
13 omissions.

14 **FOURTH CAUSE OF ACTION**
15 **(Plaintiff, on Behalf of Himself and the Class, Alleges Violations of the California**
16 **Consumers Legal Remedies Act – Injunctive Relief and Damages)**

17 78. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 77 of
18 this Complaint.

19 79. Plaintiff and the Class members purchased the Products for personal, family, or
20 household purposes.

21 80. The acts and practices of Defendants as described above were intended to deceive
22 Plaintiff and the Class members as described herein and have resulted and will result in damages
23 to Plaintiff and the Class members. These actions violated and continue to violate the CLRA in at
24 least the following respects:

25 a. In violation of Section 1770(a)(5) of the CLRA, Defendants’ acts and
26 practices constitute representations that the Products have characteristics, uses, or benefits which
27 they do not, in fact, have;
28

b. In violation of Section 1770(a)(7) of the CLRA, Defendants' acts and practices constitute representations that the Products are of a particular quality, which they are not; and

c. In violation of Section 1770(a)(9) of the CLRA, Defendants' acts and practices constitute the advertisement of the Products without the intent to sell them as advertised.

81. By reason of the foregoing, Plaintiff and the Class members have suffered damages.

82. By committing the acts alleged above, Defendants violated the CLRA.

83. In compliance with the provisions of California Civil Code § 1782, on November 1, 2024, and December 5, 2024, Plaintiff, through counsel, provided written notice to Defendants of his intention to seek damages under applicable California law, and requested that Defendants offer an appropriate consideration or other remedy to all affected consumers. As of the date of this second amended complaint, Defendants have not done so. Accordingly, Plaintiff seeks damages pursuant to California Civil Code §§ 1780(a)(1) and 1781(a).

84. Pursuant to California Civil Code § 180(a)(2), Plaintiff and the Class members are entitled to an order enjoining the above-described wrongful acts and practices of Defendants, providing actual and punitive damages and restitution to Plaintiff and the Class members, and ordering the payment of costs and attorneys' fees and any other relief deemed appropriate and proper by the Court under California Civil Code § 1780.

FIFTH CAUSE OF ACTION

(Plaintiff, on Behalf of Himself and the Class, Alleges Breach of Express Warranty)

85. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 84 of this Complaint.

86. The Uniform Commercial Code §2-313 provides that an affirmation of fact or promise made by the seller to the buyer which relates to the goods and becomes part of the basis of the bargain creates an express warranty that the goods shall conform to the promise.

87. As detailed above, Defendants marketed and sold the Products as compostable. Defendants' representations that the Products are compostable constitute affirmations of objective,

1 verifiable fact made with regard to the Products, as well as to the descriptions of the Products in
2 their marketing and printed directly on the packaging of the Products. The packaging for the
3 various Products has claims printed on it that the Products were “PFAS Free” and “Compostable”
4 and were certified as compostable by BPI.

5 88. Defendants’ representations to consumers regarding the alleged compostability of
6 the Products are uniformly made in the Products’ advertising, internet websites, and other
7 marketing materials, and on the Product’ own labeling and packaging materials, and are thus part
8 of the basis of the bargain between Defendants and purchasers of the Products concerning the
9 compostability of the Products.

10 89. California has codified and adopted the provisions of the Uniform Commercial
11 Code governing express warranties (Cal. Com. Code § 2313).

12 90. At the time that Defendants designed, manufactured, sold, and distributed the
13 Products, Defendants knew that the Products were not in fact compostable.

14 91. As set forth in the paragraphs above, the Products are not compostable and thus do
15 not conform to Defendants’ express representations that the Products are compostable. Defendants
16 knew or should have known that reasonable consumers to whom such representations about the
17 Products’ compostability would be made to via Defendants’ advertising and marketing efforts
18 would rely upon the perceived truthfulness of such representations in deciding to purchase the
19 Products. In making such representations knowing that such representations were not in fact true,
20 Defendants have thus breached their express warranties concerning the claimed compostability of
21 the Products.

22 92. On November 1, 2024, Plaintiff sent a pre-suit demand letter to Defendants
23 notifying Defendants that the Products were improperly labeled as being compostable, and
24 including a lab report confirming the presence of excessive amounts of PFAS chemicals in
25 Defendant’s 9” plates. On December 5, 2024, Plaintiff sent a second pre-suit demand letter to
26 Defendants notifying them that the Products were not in fact compostable as Defendants market,
27 advertise, and otherwise claim the Products are, and notifying Defendants of Plaintiff’s intent to
28

1 file a class action lawsuit to remedy the consumer products claims Defendants' misleading
2 advertising have caused. Defendants therefore have actual and constructive knowledge that the
3 Products are not compostable and were thus not sold as marketed and advertised, but were instead
4 sold in violation of the express warranties provided to consumers as to the alleged compostability
5 of the Products.

6 93. As a direct and proximate result of Defendants' breach of express warranties,
7 Plaintiff and Class members have suffered damages.

8 **SIXTH CAUSE OF ACTION**
9 **(Plaintiff, on Behalf of Himself and the Class, Alleges Unjust Enrichment)**

10 94. Plaintiff realleges and incorporates herein by reference Paragraphs 1 through 93 of
11 this Complaint.

12 95. Plaintiff and the Class members conferred monetary benefits on Defendants by
13 purchasing the Products.

14 96. Defendants have knowledge of such benefits.

15 97. Defendants voluntarily accepted and retained the benefits conferred.

16 98. Defendants have been unjustly enriched in retaining the revenues derived from
17 Plaintiff's and the Class members' purchases of the Products.

18 99. Retention of that money under these circumstances is unjust and inequitable
19 because Defendants falsely and misleadingly represented through their labeling, advertising, and
20 marketing materials that the Products are compostable, when the Products are not in fact
21 compostable.

22 100. These misrepresentations and omissions caused injuries to Plaintiff and the Class
23 members because they would not have purchased the Products, or would not have paid as much
24 for the Products, had they known that the Products are not compostable, but instead, contaminate
25 the compost stream.

1 8. That the Court award damages to Plaintiff and the Class to compensate them for
2 the conduct alleged in this complaint;

3 9. That the Court award punitive damages pursuant to California Civil Code §
4 1780(a)(4);

5 10. That the Court grant Plaintiff reasonable attorneys' fees and costs of suit pursuant
6 to California Code of Civil Procedure § 1021.5, California Civil Code § 1780(e), the common fund
7 doctrine, or any other appropriate legal theory; and

8 11. That the Court grant such other and further relief as may be just and proper.

9
10 **JURY DEMAND**

11 Plaintiff hereby demands a trial by jury on all causes of action so triable.
12
13

14 Dated: January 8, 2025

KAHN, SOARES & CONWAY, LLP

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16 By: /s/ Ian I. Brady
17 Ian I. Brady, attorney for Plaintiff,
 Randy Tyndall, an individual
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