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13  
14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**

16 ORGANIC CONSUMERS ASSOCIATION, a  
17 Minnesota non-profit corporation, on behalf of the  
17 general public; FRIENDS OF THE EARTH, a  
18 Washington, D.C. non-profit corporation, on behalf  
18 of the general public; CENTER FOR FOOD  
19 SAFETY, a California non-profit corporation, on  
19 behalf of the general public,

20 Plaintiffs,

21 v.

22 SANDERSON FARMS, INC., a Mississippi  
23 corporation,

24 Defendant.

CASE NO.

**COMPLAINT**

JURY TRIAL DEMANDED

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1 Organic Consumers Association (OCA), a national non-profit corporation based in Finland,  
2 Minnesota, Friends of the Earth, a Washington, D.C. based non-profit corporation, and Center for  
3 Food Safety, a national non-profit corporation based in Washington, D.C., acting on behalf of the  
4 general public, by and through their counsel, bring this action against Sanderson Farms, Inc.  
5 (“Defendant” or “Sanderson”), a Mississippi corporation, and allege the following based upon  
6 personal knowledge as to their own actions and their counsel’s investigations, and upon information  
7 and belief as to all other matters:

8 **NATURE OF THE CASE**

9 1. Defendant Sanderson produces, markets, and advertises Chicken Products, as defined  
10 *infra*, ¶ 9.

11 2. When tested by governmental entities, Sanderson’s chickens have been found to  
12 contain residues of antibiotics important for human medicine, residues of veterinary antibiotics, and  
13 other pharmaceuticals, as well as residues of hormones, steroids, and pesticides. The residues include  
14 chemicals such as chloramphenicol, melengesterol acetate, and prednisone. Governmental entities  
15 conducted 69 inspections in 2015 and 2016 at Sanderson facilities, and in 33% of those inspections,  
16 Sanderson samples tested positive for such residues.

17 3. The presence of these chemicals in the Sanderson samples means that consumers,  
18 when they eat Sanderson’s Chicken Products, are unknowingly ingesting these antibiotics and other  
19 pharmaceuticals.

20 4. The presence of these chemicals in the Sanderson samples indicates that drugs and  
21 other chemicals were used in the raising and/or harvesting of Sanderson’s chickens.

22 5. The use of these drugs and other chemicals in the raising and/or harvesting of  
23 Sanderson’s chickens indicates that Sanderson’s chickens, before they wind up in the Chicken  
24 Products, are raised in unnatural, intensive-confinement, warehouse conditions, and ultimately  
25 creates unnatural Chicken Products.

26 6. Despite these facts, Sanderson markets and advertises the Chicken Products as “100%  
27 Natural.”

28 7. Sanderson’s “100% Natural” marketing and advertising scheme falsely and

1 misleadingly suggests that (1) consumers are ingesting nothing but chicken, and certainly no synthetic  
2 drugs or other chemicals; (2) no antibiotics or other pharmaceuticals are employed in the raising or  
3 slaughtering of Sanderson’s chickens; and (3) the chickens who wind up in the Chicken Products are  
4 raised in natural conditions.

5 8. Plaintiffs, which are three non-profit organizations dedicated to safeguarding the  
6 rights of consumers, bring this action pursuant to California law in order to end Sanderson’s deceptive  
7 practices.

8 **FACT ALLEGATIONS**

9 9. The Sanderson Chicken Products at issue (collectively, the “Chicken Products”), all  
10 of which are marketed as “100% Natural” (*see infra*, ¶¶ 36-71) include the following:

- 11 • Clipped Chicken Tenderloins
- 12 • Boneless Skinless Chicken Thigh Fillets
- 13 • Boneless Skinless Breast Strips
- 14 • Thinly Slices Boneless Skinless Breast Fillets
- 15 • Boneless Skinless Breast Fillets
- 16 • Best of Boneless
- 17 • Boneless Skinless Breast Chunks
- 18 • Family Pack Whole Legs
- 19 • Whole Legs
- 20 • Family Pack Wingettes
- 21 • Wingettes
- 22 • Drumsticks & Thighs Combo
- 23 • Skinless Drumsticks
- 24 • Chicken Hearts
- 25 • Value Pack Chicken Gizzards
- 26 • Skinless Split Breast
- 27 • Family Pack Chicken Tenderloins
- 28 • Chicken Tenderloins

- 1 • Family Pack Boneless, Skinless Chicken Breast Fillets with Rib Meat
- 2 • Skinless Thighs
- 3 • Family Pack Thighs
- 4 • Thighs
- 5 • Value Pack Thighs
- 6 • Value Pack Leg Quarters
- 7 • Value Pack Wings
- 8 • Value Pack Drumsticks
- 9 • Value Pack Split Breasts
- 10 • Chicken Necks
- 11 • Wing Drumettes
- 12 • Family Pack Drumsticks
- 13 • Family Pack Thighs
- 14 • Family Pack Leg Quarters
- 15 • Whole Roasting Chicken
- 16 • Pick of the Chicken
- 17 • Family Pack Wings
- 18 • Family Pack Split Breasts
- 19 • Livers
- 20 • Chicken Gizzards
- 21 • Stripped Back Portions
- 22 • Wings
- 23 • Thighs
- 24 • Drumsticks
- 25 • Split Breasts
- 26 • Whole Cut-Up Chicken with Giblets and Neck
- 27
- 28

- Whole Frying Chicken (Whole Young Chicken).<sup>1</sup>

10. The Chicken Products are available for purchase under the Sanderson Farms label at retail locations such as Food 4 Less, Foods Co, and WinCo Foods,<sup>2</sup> with the Sanderson Farms label. Sanderson also sells chickens under other brand names at retail locations. The retail customer base that Sanderson reported to its investors on June 6, 2017<sup>3</sup> is summarized below:



11. Sanderson sells chickens to casual dining operators widely throughout the United States. Sanderson highlighted these prepared foods customers to its investors on June 6, 2017.<sup>4</sup>

<sup>1</sup> Discovery may indicate that additional products should be included within the scope of this Complaint, and Plaintiff reserves the right to add those products.

<sup>2</sup> Sanderson Farms, "Find A Store," available at <http://www.sandersonfarms.com/store-finder/>, last visited on June 21, 2017.

<sup>3</sup> Slides presented by Sanderson to its investors in New York, New York on June 6, 2017, at 10, available at [http://files.shareholder.com/downloads/ABEA-6BBVPE/4604132325x0x945735/E5261C1B-F34E-47F8-A9E7-749D3EC2CDC0/Stephens\\_-\\_20170606.pdf](http://files.shareholder.com/downloads/ABEA-6BBVPE/4604132325x0x945735/E5261C1B-F34E-47F8-A9E7-749D3EC2CDC0/Stephens_-_20170606.pdf), last visited June 9, 2017. The presentation concludes with "100% Natural."

<sup>4</sup> *Id.* at 8.

## Strong Portfolio of Customers

### Prepared Foods



12. Sanderson also sells minimally prepared chickens to distributors and food service establishments.<sup>5</sup> Sanderson's foodservice customers are summarized below, as Sanderson communicated this list to its investors on June 6, 2017.<sup>6</sup> Thus, many individuals have ingested Sanderson Chicken Products without knowing the provenance of the product.

<sup>5</sup> Sanderson Farms, 2016 Annual Report, available at <http://ir.sandersonfarms.com/>, last visited June 21, 2017.

<sup>6</sup> Sanderson Farms, *supra* note 3, at 9.



## Strong Portfolio of Customers

### Big Bird Deboning / Foodservice



Sanderson Farms

13. Through these foodservice providers, Sanderson chickens are distributed to hospitals, schools, and governmental institutions in large quantities. For example, Sysco, a large foodservice company that distributes Sanderson chickens, had \$50.36 billion in total sales in fiscal year 2016; 9% of those sales were from the healthcare sector and 8% from education and government.<sup>7</sup> US Foods distributes Sanderson chickens, contracts with school districts, and describes itself as “the market leader in healthcare foodservice.”<sup>8</sup>

14. Sanderson exports to 40 countries outside the United States,<sup>9</sup> predominantly to countries that do not have food safety standards comparable to the United States.

<sup>7</sup> Sysco’s 2016 Annual Report, available at [http://s1.q4cdn.com/164202355/files/doc\\_financials/annual/2016-Sysco-Corporation-Annual-Report.pdf](http://s1.q4cdn.com/164202355/files/doc_financials/annual/2016-Sysco-Corporation-Annual-Report.pdf), at 3, 48, last visited on June 15, 2017.

<sup>8</sup> US Foods’ website, available at <https://usfoods.com/your-business/value-added-services/legacy.html>, last visited June 20, 2017.

<sup>9</sup> Sanderson Farms’ website, available at <https://www.sandersonfarms.com/company/products/export-info/>, last visited June 15, 2017.

1 **I. The Chicken Products Contain Antibiotics and Other Pharmaceuticals.**

2 15. The National Residue Program (NRP) of the Food Safety and Inspection Service  
3 (FSIS) at the United States Department of Agriculture (USDA) routinely tests Sanderson poultry that  
4 becomes the Chicken Products. In 2015 and 2016, this process reported 49 instances in which  
5 Sanderson samples tested positive for residues that are not “100% Natural.” The unnatural substances  
6 found in Sanderson Chicken Products included antibiotics for human and veterinary use, and other  
7 pharmaceuticals. The governmental sampling and testing process reported an additional 82 instances  
8 of unconfirmed residues that cause concern, including repeated instances of pesticides.

9 **A. Antibiotics.**

10 16. On its “Poultry Fact Sheet,” at 3,<sup>10</sup> Sanderson states that “since 2009, no violative  
11 antibiotic residues have been found in poultry meat.” Contrary to that claim, NRP testing found  
12 antibiotics residue in Sanderson Chicken Products in 2015 and 2016, including violative levels of  
13 chloramphenicol. NRP testing also found ciprofloxacin (present as its metabolite desethylene  
14 ciprofloxacin), norfloxacin, sulfadiazine, and sulfamethizole. NRP conducted 69 unique inspections  
15 of samples in 2015 and 2016, and detected residues of antibiotics for human use in 11 separate  
16 instances. The number of samples tested by government chemists are selected to provide a statistically  
17 significant assurance of detecting a violation that affects a given percentage of the sample’s overall  
18 population, and are therefore representative of Sanderson’s chickens.

19 17. All of these human antibiotic residues (chloramphenicol, ciprofloxacin (present as its  
20 metabolite desethylene ciprofloxacin), norfloxacin, sulfadiazine, and sulfamethizole) appeared at  
21 levels detectable by USDA’s testing methods.

22 18. Contrary to Sanderson’s marketing and advertising claims (*see infra*), Sanderson  
23 Chicken Products tested positive for antibiotic residues *after* the chicken left the farm.

24 19. Chloramphenicol, which is not “natural” at the levels in Sanderson samples, appeared  
25 five times in test results from the USDA’s 69 inspections of Sanderson samples, up to 3.226 ppb<sup>11</sup> in  
26 Louisiana, Mississippi, North Carolina, and Texas in 2016. According to the FSIS NRP sampling

27 <sup>10</sup> Sanderson Farms, “Poultry Fact Sheet,” available at [https://www.sandersonfarms.com/wp-content/uploads/2016/07/Poultry-Myths-Fact-Sheet\\_v9.compressed.pdf](https://www.sandersonfarms.com/wp-content/uploads/2016/07/Poultry-Myths-Fact-Sheet_v9.compressed.pdf), last visited June 20, 2017.

28 <sup>11</sup> Throughout the Complaint, all figures with greater than three decimal places in the government inspection data were rounded to three decimal places of precision.



1 plan, “Chloramphenicol is a potent, broad-spectrum antibiotic with severe toxic effects in humans  
2 including bone marrow suppression or aplastic anemia in susceptible individuals. While  
3 microorganisms have developed resistance to this drug, it is still used selectively in human and  
4 veterinary medicine to treat companion animal bacterial infections. This drug is AMDUCA [Animal  
5 Medicinal Drug Use Clarification Act of 1994]-prohibited for extra-label use in animals intended for  
6 food.”<sup>12</sup> Because of a zero-tolerance policy, the USDA is permitted to seize poultry where  
7 chloramphenicol is found. Chloramphenicol has never been approved to treat food-producing  
8 animals.<sup>13</sup> It is dangerous to public health to dose any animal intended as human food with  
9 chloramphenicol, even in small amounts.<sup>14</sup>

10 20. Florfenicol, a synthetic analog of thiamphenicol that is not “natural,” appeared in test  
11 results for a Sanderson sample in Louisiana in 2016, at a level of 11.329 ppb. The FDA has not  
12 approved the use of florfenicol in poultry.

13 21. Desethylene ciprofloxacin, a metabolite of ciprofloxacin, a synthetic broad spectrum  
14 fluoroquinolone antibiotic that is not “natural,” is an antibiotic of last resort when bacteria have  
15 become resistant to other antibiotics. The European Food Safety Authority and the European Centre  
16 for Disease Prevention and Control report that resistance to ciprofloxacin is growing in parallel to its  
17  
18

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19 <sup>12</sup> USDA, U.S. National Residue Program for Meat, Poultry, and Egg Products, 2015 Residue  
20 Sampling Plans, at 15, available at <https://www.fsis.usda.gov/wps/wcm/connect/04c818ed-9bb1-44b2-9e3f-896461f1ffb9/2015-Blue-Book.pdf?MOD=AJPERES>, last visited on June 21, 2017.

21 <sup>13</sup> According to the U.S. Food & Drug Administration (FDA), “The CVM [Center for Veterinary  
22 Medicine] . . . had never approved it to treat food-producing animals because of the fear that  
23 harmful residues would remain in food products. During the early 1980s, testing of American meat  
24 samples showed potentially dangerous residue levels of chloramphenicol, indicating that  
25 veterinarians and farmers were using the drug illegally to treat cattle and pigs.” Available at  
26 <https://www.fda.gov/AboutFDA/WhatWeDo/History/ProductRegulation/AnimalHealthandConsumerProtection/>, last visited June 21, 2017.

27 <sup>14</sup> U.S. FDA, Compliance Policy Guides, Sec. 654.300, Chloramphenicol as an Unapproved New  
28 Animal Drug – Direct Reference Seizure Authority, states “The drug, when used in humans, is  
associated with many toxic effects and, therefore, is used only in life-threatening situations when  
less toxic drugs are not effective. The principal toxic effect is the development of a type of bone  
marrow depression (aplastic anemia) in susceptible individuals, which is usually irreversible and  
fatal. Since this condition only occurs in humans, an appropriate animal test model has never been  
developed. *The onset of the condition is not dose dependent.*” Available at  
<https://www.fda.gov/ICECI/ComplianceManuals/CompliancePolicyGuidanceManual/ucm074681.htm>  
(emphasis added), last visited June 21, 2017.

1 use in poultry production.<sup>15</sup> Sanderson samples tested positive for desethylene ciprofloxacin once in  
2 Georgia in 2015 and twice in Mississippi in 2016, at up to 13.11 ppb.

3 22. Amoxicillin, a semisynthetic antibiotic that is not “natural,” appeared six times in test  
4 results from USDA’s 69 inspections of Sanderson samples, ranging from 8.350 ppb to 440.310 ppb  
5 across Georgia, Louisiana, Mississippi, and Texas in 2016. Amoxicillin is a medically important  
6 antibiotic for human use. The FDA has not approved the use of amoxicillin in poultry. Federal  
7 regulations limit amoxicillin residue in uncooked beef and milk to 10 ppb<sup>16</sup>; the regulation is silent  
8 on chickens and, consistent with lack of regulation and legal use amoxicillin in poultry, the  
9 governmental testing method has not been validated for poultry. Upon information and belief, this  
10 residue indicates that Sanderson doses its chickens with amoxicillin.

11 23. Penicillin, for which the residue regulatory limit is zero for poultry, 21 C.F.R. §  
12 556.510, appeared in three test results for Sanderson samples in Georgia and Louisiana, at up to 0.285  
13 ppb. The FDA has not approved the use of penicillin in poultry. Upon information and belief, this  
14 residue indicates that Sanderson doses its chickens with penicillin, and upon information and belief,  
15 the penicillin as used in industrial poultry farming is not “natural.”

16 24. Desfuoylceftiofur, a metabolite of the veterinary antibiotic ceftiofur that is not  
17 “natural,” appeared in three test results for Sanderson samples in 2016 across Georgia, North  
18 Carolina, and Texas, at rates as high as 72.907 ppb. The FDA has not approved the use of  
19 desfuoylceftiofur in poultry.

20 25. Other unnatural veterinary antibiotics that appeared in test results for Sanderson  
21 samples included danofloxacin, metronidazole, and tulathromycin. The FDA has not approved the  
22 use of danofloxacin, metronidazole, and tulathromycin in poultry.

### 23 **B. Other Pharmaceuticals.**

24 \_\_\_\_\_  
25 <sup>15</sup> European Food Safety Authority, “Antimicrobial resistance on the rise in European union, EFSA  
and ECDC warn,” available at <https://www.efsa.europa.eu/en/press/news/160211>, last visited June  
26 21, 2017.

27 <sup>16</sup> There is no listed regulatory limit for amoxicillin residue in chickens. Therefore, it is not lawful  
28 to use amoxicillin in poultry production. There is a regulatory limit for uncooked beef and milk,  
which is 0.01 parts per million. 21 C.F.R. § 556.38. For ease of comparison to the Sanderson  
sample results, which are stated in parts per billion instead of million, the regulatory limit stated in  
parts per billion is 10 parts per billion.

1           26.       Ketamine, a Schedule III non-narcotic substance under the Federal Controlled  
2 Substances Act, 21 U.S.C. § 301 *et seq.*, that is not “natural,” appeared in test results for nine  
3 Sanderson samples across Georgia, Louisiana, Mississippi, North Carolina, and Texas in 2015 and  
4 2016, up to 24.380 ppb. The Drug Enforcement Agency describes ketamine as “a dissociative  
5 anesthetic that has some hallucinogenic effects.”<sup>17</sup> Ketamine’s street names include Special K, Cat  
6 Tranquilizer, and Cat Valium, the latter two referencing its veterinary uses, and it is commonly  
7 referred to as a club drug because it is used illegally at dance clubs and raves. The FDA has not  
8 approved the use of ketamine in poultry. The regulation addressing ketamine is silent on chickens  
9 and, consistent with lack of regulation and legal use of ketamine in poultry, the governmental testing  
10 method has not been validated for poultry. Upon information and belief, this residue indicates that  
11 Sanderson doses its chickens with ketamine.

12           27.       Ketoprofen, an anti-inflammatory drug that is not “natural,” appeared in three test  
13 results for Sanderson samples in 2016 in Louisiana, Mississippi, and Texas, at rates as high as 0.68  
14 ppb. The FDA has not approved the use of ketoprofen in poultry. Additionally, ketoprofen is banned  
15 from use in horses intended for human consumption, 21 C.F.R. § 522.1225.

16           28.       Prednisone, a steroid that is not “natural,” appeared in three test results Sanderson  
17 samples in 2016 in Louisiana and Mississippi, at up to 3.55 ppb. The FDA has not approved the use  
18 of prednisone in poultry. Upon information and belief, these results indicate that Sanderson doses its  
19 chickens with prednisone.

20           29.       Melengesterol acetate, also known as MGA, a synthetic hormone that is not “natural,”  
21 appeared in test results for Sanderson samples in 2016 in Mississippi, at levels as high as 1.42 ppb.  
22 The FDA has not approved the use of melengesterol acetate in poultry.

23           30.       Haldoperidol, an anti-psychotic drug that is also known as haldol and is not “natural,”  
24 appeared in test results for two Sanderson samples in 2016 in Louisiana, albeit its presence is  
25 unconfirmed. Upon information and belief, these results indicate that Sanderson has dosed its  
26 chickens with haldoperidol.

27  
28 <sup>17</sup> U.S. Drug Enforcement Agency, “Drug Fact Sheet – Ketamine,” available at  
[https://www.dea.gov/druginfo/drug\\_data\\_sheets/Ketamine.pdf](https://www.dea.gov/druginfo/drug_data_sheets/Ketamine.pdf), last visited June 21, 2017.

1           31.       Ractopamine, a growth-promoting beta agonizer commonly sold as a feed additive  
2 that is not “natural,” appeared in test results for Sanderson samples in Louisiana in 2016, up to 0.622  
3 ppb, albeit its presence is unconfirmed. Upon information and belief, these results indicate that  
4 Sanderson has dosed its chickens with ractopamine, which is a drug that maximizes lean muscle  
5 growth and thereby produces more marketable meat.<sup>18</sup> Ractopamine has dire consequences for animal  
6 welfare and is linked to more adverse events in pigs than any other animal drug on the market. The  
7 FDA has not approved the use of ractopamine in poultry production. 21 C.F.R. § 558.500.

8           32.       Other pharmaceuticals that are not “natural” and appeared in test results for Sanderson  
9 samples include 2-amino-flubendazole, an anti-parasitic drug; azaperone, a veterinary tranquilizer;  
10 butorphanol, an opioid analgesic; carazolol, a beta blocker; dimetridazole, a drug that combats  
11 protozoan infections and is banned in Canada;<sup>19</sup> and xylazine, a tranquilizer. Xylazine regulations  
12 specifically state that the drug should not be used in domestic food-producing animals. 21 C.F.R.  
13 § 522.2662. The presence of hydroxydimetridazole, ipronidazole, and ronidazole was also reported  
14 in USDA test results for Sanderson samples. None of these pharmaceuticals has been approved for  
15 use in poultry.

16           **C.    Pesticides.**

17           33.       Abamectin, a pesticide, appeared in 10 test results for Sanderson samples in 2016,  
18 across Georgia, Louisiana, Mississippi, North Carolina, and Texas, at up to 166.667 ppb, although  
19 the results have not been validated with a method specific to poultry. Any abamectin residue above  
20 20 parts per billion in chicken violates federal regulations. 40 C.F.R. § 180.449. Upon information  
21 and belief, this residue indicates that Sanderson doses its chickens with abamectin, and upon  
22 information and belief, the abamectin as used in industrial poultry farming is not “natural.”

23           34.       Emamectin, a pesticide, appeared in test results for Sanderson samples in Mississippi  
24 in 2016, at 0.387 ppb. The FDA has not approved the use of emamectin in poultry. The regulation  
25

26 <sup>18</sup> Center for Food Safety, “Ractopamine Factsheet,” available at  
27 [http://www.centerforfoodsafety.org/files/ractopamine\\_factsheet\\_02211.pdf](http://www.centerforfoodsafety.org/files/ractopamine_factsheet_02211.pdf), last visited June 20,  
2017.

28 <sup>19</sup> Canadian Food Inspection Agency, Standards and Practices Manual, available at  
<http://www.inspection.gc.ca/food/fish-and-seafood/manuals/standards-and-methods/eng/1348608971859/1348609209602?chap=7>, last visited June 20, 2017.

1 addressing emamectin is silent on chickens and, consistent with lack of regulation, the governmental  
2 testing method has not been validated for poultry. Upon information and belief, this residue indicates  
3 that Sanderson doses its chickens with emamectin, and upon information and belief, the emamectin  
4 as used in industrial poultry farming is not “natural.”

5 35. Other pesticides that are not “natural” and appeared in tested results for Sanderson  
6 samples, albeit unconfirmed, included malathion and permethrin.

7 **II. The Chicken Products Are Marketed, Advertised, and Sold in California.**

8 36. Upon information and belief, Sanderson markets and advertises its Chicken Products  
9 in California, and seeks to reach the vast California consumer base through broadcast television, print  
10 advertising, radio advertising, and online marketing such as Facebook, YouTube, and its own website.

11 37. The Chicken Products are available for purchase at retail locations throughout  
12 California, such as Food 4 Less, Foods Co, and WinCo Foods,<sup>20</sup> with the Sanderson Farms label. The  
13 Chicken Products are available from Redding in the north to San Diego in the south.

14 38. Sanderson processing plants from which Chicken Products are shipped to California  
15 are located in Georgia, Louisiana, Mississippi, North Carolina, and Texas. Governmental entities  
16 detected unnatural residues in every state in which Sanderson has processing plants. Therefore, upon  
17 information and belief, Sanderson chicken that tested positive for unnatural residues at the processing  
18 plants became Sanderson Chicken Products on grocery store shelves in California.

19 **III. Sanderson’s Marketing and Advertising Are Designed to, and Do, Mislead Consumers  
20 About the Nature of the Chicken Products.**

21 39. Sanderson misleadingly markets and advertises the Chicken Products as “100%  
22 Natural” because it knows consumers will buy more of, and pay more for, a natural product, and for  
23 a product that originates from animals raised humanely, animals raised with higher welfare standards,  
24 or animals raised without intensive use of pharmaceuticals.

25 40. In a 2015 Consumer Reports survey, consumers reported that they believed the  
26 following about meat and poultry products dubbed “natural”:

- 27 (a) The animals were given no artificial growth hormones (64%);

28 \_\_\_\_\_  
<sup>20</sup> Sanderson Farms, *supra* note 2.

- 1 (b) No artificial ingredients or colors were added (65%);  
 2 (c) The animals' feed contained no artificial ingredients or colors (61%);  
 3 (d) The animals' feed contained no GMOs (59%);  
 4 (e) No antibiotics or other drugs were ever used (57%); and  
 5 (f) The animals went outdoors (50%).<sup>21</sup>

6 41. The same Consumer Reports survey also found that it is important to consumers that  
 7 food not be produced via standard factory farm methods. For example, 82% of consumers said it was  
 8 "important" or "very important" to reduce antibiotic use in food production, and 84% said the same  
 9 about improving living conditions for animals.<sup>22</sup>

10 42. The 2015 survey additionally found that 62% of consumers purchase "natural"  
 11 products, and 87% of those purchasers are willing to pay more for products called "natural" that meet  
 12 their expectations as to what "natural" means.<sup>23</sup> A 2016 Consumer Reports survey found the number  
 13 of consumers who purchase "natural" products to be as high as 73%.<sup>24</sup>

14 43. As set forth above, the Chicken Products contain antibiotics and other  
 15 pharmaceuticals. Despite this, Sanderson heavily markets and advertises the Chicken Products as  
 16 "100% Natural" and intentionally omits the true facts. Sanderson's Chicken Products marketing  
 17 campaign is titled "The Truth About Chicken." Sanderson refers to this campaign as unique and  
 18 creative.<sup>25</sup> The campaign is available online.<sup>26</sup>

19 44. Upon information and belief, Sanderson also has aired its marketing videos as  
 20 broadcast television commercials in markets in which it sells its Chicken Products, including in  
 21 California; has aired its marketing messages as radio commercials in markets in which it sells its  
 22 Chicken Products, including in California; and has issued its marketing messages as print  
 23

24 <sup>21</sup> Consumer Reports National Research Center, Natural Food Labels Survey (2015), at 4, available  
 25 at [http://www.consumerreports.org/content/dam/cro/magazine-  
 26 articles/2016/March/Consumer\\_Reports\\_Natural\\_Food\\_Labels\\_Survey\\_2015.pdf](http://www.consumerreports.org/content/dam/cro/magazine-articles/2016/March/Consumer_Reports_Natural_Food_Labels_Survey_2015.pdf), last visited June  
 21, 2017.

26 <sup>22</sup> *Id.* at 3.

27 <sup>23</sup> *Id.* at 2.

27 <sup>24</sup> *Id.*

28 <sup>25</sup> Sanderson Farms, *supra* note 5, at 7.

<sup>26</sup> Sanderson Farms, "The Truth About Chicken," available at  
<http://www.sandersonfarms.com/truth-about-chicken/>, last visited June 21, 2017.



1 advertisements in markets in which it sells its Chicken Products, including in California.

2 45. Sanderson uses its marketing and advertising campaign to deceive and mislead  
3 consumers about what they are ingesting and what Sanderson's Chicken Products contain after they  
4 leave the farm, about Sanderson's use of antibiotics and other pharmaceuticals, and about how  
5 Sanderson's chickens are raised and treated.

6 **A. Sanderson's Marketing and Advertising Are Designed to, and Do, Mislead**  
7 **Consumers About Whether They Are Eating Only 100% Natural Chicken.**

8 46. Sanderson's marketing campaign features "Bob" and "Dale," two men clad in  
9 Sanderson Farms baseball caps who speak directly to the viewer. In one video titled "Floppy Arms,"  
10 Bob asserts that federal law requires chickens to be clear of antibiotics before they leave the farm<sup>27</sup>—  
11 giving the impression that Sanderson's Chicken Products do not contain antibiotics. "Floppy Arms"  
12 has been viewed approximately 753,431 times on YouTube, viewed more than 2.4 million times on  
13 a Facebook post dated October 13, 2016, and shared on Facebook 348 times. The commercial has an  
14 estimated 116,413,306 impressions on broadcast television.<sup>28</sup>

15 47. In a second video, titled "Marketing Guru," Bob and Dale stand in front of an old-  
16 fashioned red barn with white trim. Bob asserts that the phrase "raised without antibiotics" was  
17 invented to make chicken sound safer but that it doesn't mean much because federal law requires that  
18 chickens be clear of antibiotics before they leave the farm—again giving the impression that  
19 Sanderson's Chicken Products do not contain antibiotics. "Marketing Guru" has been viewed  
20 approximately 1,021,876 times on YouTube, viewed more than 711,000 times on a Facebook post  
21 dated November 1, 2016, and shared on Facebook 225 times. The commercial has an estimated  
22 89,745,934 impressions on broadcast television, at an estimated cost of \$2,293,431.<sup>29</sup>

23 *Below is a screenshot of the video titled "Marketing Guru."*  
24  
25

26 <sup>27</sup> Sanderson's "The Truth About Chicken" webpage also states, "By federal law, all chicken must  
27 be clear of antibiotics before they leave the farm." *Id.*

28 <sup>28</sup> Viewing analytics are available at [https://www.ispot.tv/ad/ARJ0/sanderson-farms-the-truth-  
about-chicken-mr-floppy-arms](https://www.ispot.tv/ad/ARJ0/sanderson-farms-the-truth-about-chicken-mr-floppy-arms), last viewed June 12, 2017.

<sup>29</sup> Viewing analytics are available at [https://www.ispot.tv/ad/ARHb/sanderson-farms-marketing-  
guru](https://www.ispot.tv/ad/ARHb/sanderson-farms-marketing-guru), last visited June 12, 2017.



10 48. In a third video, titled “Supermarket,” Dale is wearing a blindfold and pulling chicken  
11 packages off the grocery store shelves. Bob announces that they blindfolded Dale and told him to  
12 find the chicken that does not contain antibiotics. Bob further asserts that competitors used the phrase  
13 “raised without antibiotics” to get consumers to pay more money. Bob clearly states, “No antibiotics  
14 to worry about here”—again giving the impression that Sanderson’s Chicken Products do not contain  
15 antibiotics. Sanderson posted the “Supermarket” video to its Facebook page on November 22, 2016,  
16 where it was viewed more than four million times and shared 923 times, and was then viewed more  
17 than 2,137,612 times on YouTube. On broadcast television, “Supermarket” has an estimated  
18 108,214,520 impressions.<sup>30</sup>

19 49. In a fourth video, titled “Cooking Show,” Bob wears a green apron and takes issues  
20 with competitors’ “gimmick” labels claiming “no added hormones or steroids.” Dale, also wearing a  
21 green apron, says, “It’s funny because it’s illegal to give chickens added hormones or steroids”—  
22 giving the impression that Sanderson’s Chicken Products do not contain hormones or steroids. Bob  
23 then assures the viewer that Sanderson raises “good, honest chicken.” This video was viewed more  
24 than 310,223 times on YouTube, 2.5 million times on Facebook after the April 18, 2017 post, and  
25 shared on Facebook 398 times. The commercial has an estimated 59,351,385 impressions on  
26 broadcast television.<sup>31</sup>

27 <sup>30</sup> Viewing analytics are available at <https://www.ispot.tv/ad/ArQM/sanderson-farms-chicken-the-truth-about-chicken-supermarket>, last visited June 12, 2017.

28 <sup>31</sup> Viewing analytics are available at <https://www.ispot.tv/ad/wL7N/sanderson-farms-truth-about-chicken-cooking-show>, last visited on June 12, 2017.

1 Below is a screenshot of the video titled “Cooking Show.”



13 50. A fifth video, titled “Labels,” shows Bob and Dale in front of the red barn again, where  
14 they assert that some brands use labels to trick people and charge higher prices. They reiterate that  
15 “raised without antibiotics” is just marketing speak, because federal law requires that all chickens be  
16 clear of antibiotics before they leave the farm—again giving the impression that Sanderson’s Chicken  
17 Products do not contain antibiotics. The “Labels” video was viewed on YouTube 1,675,972 times,  
18 viewed 32,000 times on Facebook, and shared 367 times on Facebook. The commercial received an  
19 estimated 44,239,858 impressions on broadcast television.<sup>32</sup>

20 51. On its website for consumers,<sup>33</sup> Sanderson posts an interactive video titled “What  
21 Does It Mean to be 100% Natural?”<sup>34</sup> The animated video, which is hosted by “Professor Chicken,”  
22 states, “But most of all, at Sanderson Farms, being 100% natural means there’s only chicken in our  
23 chicken,” and, “So it’s easy for you to make your family a fresh, healthy meal without any hidden  
24 ingredients.” The video concludes with, “And that’s why, for more than 65 years, when we say 100%  
25 natural, we mean 100% natural.”

26 <sup>32</sup> Viewing analytics are available at <https://www.ispot.tv/ad/w72Z/sanderson-farms-truth-about-chicken-labels>, last visited June 12, 2017.

27 <sup>33</sup> Sanderson Farms’ website, available at <http://www.sandersonfarms.com/>, last visited June 21, 2017.

28 <sup>34</sup> Sanderson Farms, “Our Philosophy,” available at <http://www.sandersonfarms.com/our-philosophy/100-natural/>, last visited on June 21, 2017.

1  
2 Below is a screenshot of the consumer website representing that the only thing in Sanderson  
3 chicken is chicken.



17  
18 52. On its website, Sanderson advertises “The Truth About Hormones,” and claims that  
19 “The Truth Is” that “Hormones and steroids are never given to chickens in any way. In fact, hormone  
20 and steroid use in chickens has been banned in the US since the 1950’s”<sup>35</sup>—giving the impression  
21 that Sanderson’s Chicken Products do not contain hormones or steroids.

22 53. In its website’s Frequently Asked Questions section, Sanderson states, “The truth is,  
23 by law, all chickens must be clear of antibiotics before they leave the farm for harvest. So, all USDA  
24 inspected chicken you buy—no matter how it was raised—is, in fact, ‘antibiotic free’”<sup>36</sup>—giving the  
25 impression that the Chicken Products are antibiotic free, when in reality the products are raised with  
26 antibiotics, and antibiotic residue remains in the chickens at slaughter and purchase.

27 <sup>35</sup> Sanderson Farms, *supra* note 26.

28 <sup>36</sup> Sanderson Farms’ website, available at <http://www.sandersonfarms.com/products/faqs/> (accessed under the heading “Are Chickens Raised Without Antibiotics Safer to Eat?”), last visited June 20, 2017.



1       54.       Thus, through its marketing and advertising campaign, including but not limited to its  
2 prominent declarations of “100% Natural,” Sanderson misleads consumers about what they are  
3 ingesting when they eat the Chicken Products. “100% Natural,” to consumers, means just that—*i.e.*,  
4 that the Chicken Products contain nothing but chicken, 100%. Consumers do not expect to ingest  
5 synthetic antibiotics or other pharmaceuticals in a “100% Natural” food.

6           **B.       Sanderson’s Marketing and Advertising Are Designed to, and Do, Mislead**  
7           **Consumers About Whether the Birds Are Fed, Injected With, or Exposed to**  
8           **Antibiotics or Other Pharmaceuticals.**

9       55.       Through its marketing and advertising campaign, including but not limited to its  
10 prominent declarations of “100% Natural,” Sanderson misleads consumers about its use of antibiotics  
11 and pharmaceuticals.

12       56.       A 2016 Consumer Reports survey of 1,001 adults in 2016 found that 65% of  
13 respondents were concerned that routinely feeding healthy animals antibiotics and other drugs may  
14 create new bacteria that cause illnesses that antibiotics cannot cure, and 84% think that the  
15 government should require meat from healthy animals routinely fed antibiotics to be labeled as  
16 “raised with antibiotics.”<sup>37</sup>

17       57.       In its website’s Frequently Asked Questions section, Sanderson states, “Are  
18 antibiotics used in chickens to artificially stimulate growth? No. Antibiotics are NOT steroids . . .  
19 these birds grow to their full potential 100% naturally”<sup>38</sup>—giving the impression that Sanderson’s  
20 chickens are raised without antibiotics and are free from steroids.

21       58.       In its website’s Frequently Asked Questions section, Sanderson asks, “Are chickens  
22 given all the same antibiotics as humans . . . ?” Sanderson begins its response with “No”—giving the  
23 impression that the chickens were raised without antibiotics for human use like amoxicillin or  
24 penicillin.

25  
26  
27 <sup>37</sup> Consumer Reports National Research Center, Natural Food Labels Survey (2016), at 2-3,  
available at [http://greenerchoices.org/wp-content/uploads/2016/08/2016\\_CRFoodLabelsSurvey.pdf](http://greenerchoices.org/wp-content/uploads/2016/08/2016_CRFoodLabelsSurvey.pdf),  
last visited June 6, 2017.

28 <sup>38</sup> Sanderson Farm’s website, available <http://www.sandersonfarms.com/products/faqs/>, last visited  
June 20, 2017.

1 **▼ ARE CHICKENS GIVEN ALL THE SAME ANTIBIOTICS AS HUMANS, AND WHAT**  
2 **ABOUT ANTIBIOTIC RESISTANCE?**

3 No. The group of antibiotics most commonly used to treat and prevent disease among  
4 chickens in the U.S.—ionophores—are NEVER used in humans.

5 In reality, very few antibiotics used in human medicine are actually approved by the FDA  
6 for use in chickens. In those rare cases, as of January 2017, human-used antibiotics will  
7 only be used on chickens to address disease and sickness. In all of those limited cases, the  
8 antibiotics must be administered under the exclusive supervision and prescription of a  
9 veterinarian at FDA-approved dosages. What's more, the FDA further ensures the  
10 medicine has completely cleared the chicken's system before they leave the farm.  
11 Veterinary oversight has been our standard practice years before this law was written.

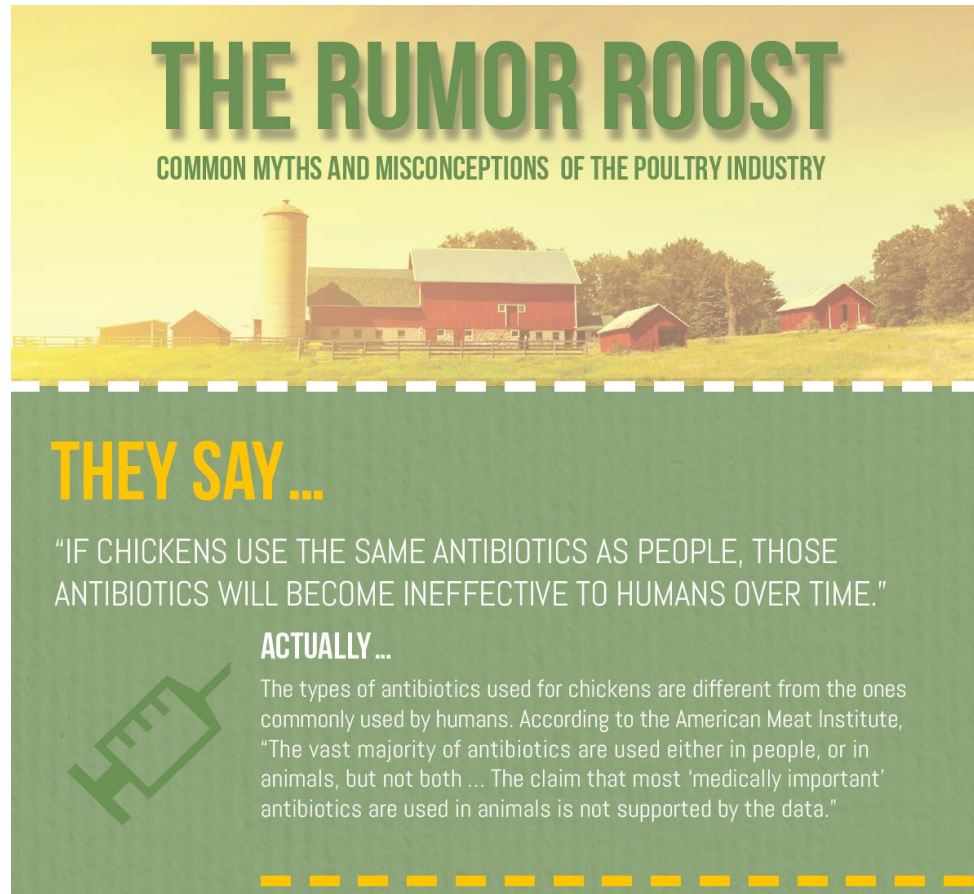
12 These industry and governmental restrictions on the use of the human-used antibiotics is  
13 part of an ongoing effort to prevent any bacteria from becoming resistant to antibiotics,  
14 which is actually an ongoing genetic phenomenon in nature. In fact, it is not uncommon  
15 for bacteria to be resistant to multiple antibiotics. While some have theorized a  
16 "superbug" could somehow be formed from this, the FDA refuted this notion, stating, "it  
17 is inaccurate and alarmist to define bacteria resistant to one, or even a few, antibiotics as  
18 'Superbugs' if these same bacteria are still treatable by other commonly used antibiotics."

19 59. Sanderson posts on its website, and has shared at shareholder meetings, an infographic  
20 titled, "The Rumor Roost: Common Myths and Misconceptions of the Poultry Industry."<sup>39</sup> The  
21 purported myth, according to Sanderson, is, "If chickens use the same antibiotics as people, those  
22 antibiotics will become ineffective to humans over time." Sanderson continues, "Actually. . . the  
23 types of antibiotics used for chickens are different from the ones commonly used by humans"—  
24 giving the impression that the chickens were raised without antibiotics for human use like amoxicillin  
25 or penicillin.  
26  
27

28 <sup>39</sup> Sanderson Farms, "The Rumor Roost," available at [https://www.sandersonfarms.com/wp-content/uploads/2016/07/RumorRoost\\_V11-1.compressed.pdf](https://www.sandersonfarms.com/wp-content/uploads/2016/07/RumorRoost_V11-1.compressed.pdf), last visited on June 21, 2017



1 Below is a screenshot of the Rumor Roost infographic.



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60. The Rumor Roost infographic continues with a so-called myth that “Unnecessary antibiotics are used in poultry.” Sanderson states, “Sanderson Farms does not use unnecessary antibiotics in their poultry. Dr. Phil Stayer explains, ‘We don’t think any antibiotics used in Sanderson Farms flocks are unnecessary. We don’t order antibiotics to be used unless the veterinarians deem them needed for flock health reasons’.” Upon information and belief, this is false, misleading, and deceptive, because Sanderson does use antibiotics unnecessarily, prophylactically, and for profit-related rationales instead of in response to particular flock health needs.

26

27

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61. Sanderson posts deceptive, false, and misleading representations about its Chicken Products on Facebook, and engages consumers who comment. Some of these comments further make Sanderson aware of its deceptive marketing practices, particularly regarding the confusion.

1 Below is a Facebook conversation in which users complain about misleading advertising.



3 **Eric Hartman** Whether or not antibiotics are a problem, this commercial is  
4 misleading and deceptive. It speaks of "raised without" and "cleared of  
5 antibiotics before sale" as if they are one and the same. Sanderson farms  
6 knows that they are not the same thing, and shouldnt try to mislead people  
7 that they are.

8 Like · Reply · 40 · September 5 at 10:13am



9 **Sanderson Farms Chicken** Hi Eric, we completely understand your  
10 concern and value your opinion. You are correct in that "raised without  
11 antibiotics" and "clear of antibiotics" don't necessarily mean the same  
12 thing. However, either definition, under USDA inspection, still  
13 produces chicken meat without antibiotic residues. It doesn't matter  
14 the brand name or the labels on the package; if it is USDA inspected,  
15 you can be sure it's free of antibiotics. The reason our veterinarians  
16 prescribe antibiotics are for your safety and the health of the chickens  
17 as well as the environmental sustainability. Sick chickens not treated  
18 with antibiotics carry higher levels of bacteria and can post a greater  
19 risk to your health. Chickens raised without antibiotics may endure  
20 unnecessary suffering for no apparent consumer or environmental  
21 benefit. If you'd like to learn more about our company practices you  
22 can find more information on our website here:

23 <http://www.sandersonfarms.com/products/faqs/>



24 Frequently Asked Questions |  
25 Sanderson Farms

26 SANDERSONFARMS.COM

27 Like · Reply · 3 · September 6 at 8:21am



28 **Eric Hartman Sanderson Farms Chicken** I'm not necessarily trying to  
say that antibiotics are a bad things in chickens, and I'm also not  
trying to dispute usda's policy on use of antibiotics or regulations for  
clearing chickens of antibiotics. I've got no problem buying or eating  
Sanderson farms chicken. What I am saying is that this is deceptive  
marketing where the message about antibiotics is not presented  
clearly and openly

Like · Reply · 2 · September 6 at 9:38am



**Sanderson Farms Chicken** Eric, thanks for making your concerns  
clear. As far as our advertisements, we're sorry you feel that we are  
being misleading. That is quite the opposite of what we intended. The  
primary goal of our advertising efforts is simply to better educate  
American consumers about chicken so they can make informed  
purchasing decisions.

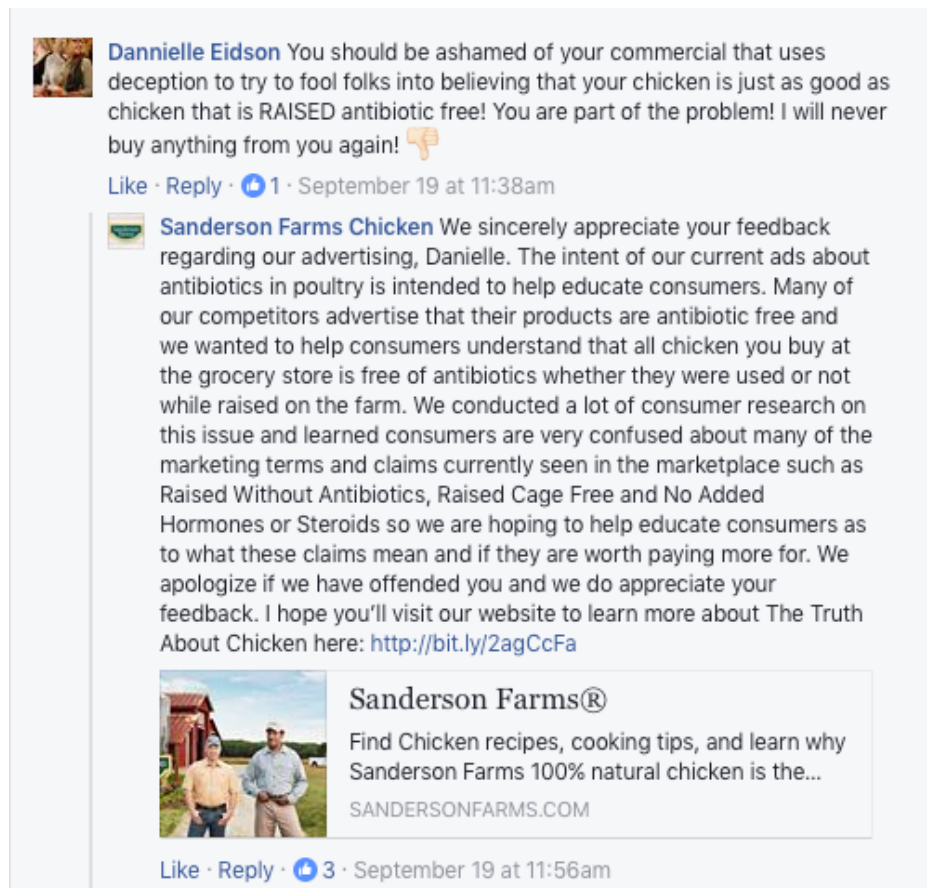
Like · Reply · 7 · September 6 at 10:05am



**Tony Evans Sanderson Farms Chicken** you know they are misleading.  
That's your marketing department's sole intention.

Like · Reply · 4 · September 22 at 7:35pm

1 Below is a second Facebook conversation in which a user complains about misleading advertising.



16 62. Sanderson knows—and as set forth above, has been reminded via social media—that

17 consumers believe that “natural” means the chickens who wind up in its Chicken Products were not

18 injected with or otherwise exposed to antibiotics and/or drugs. Sanderson also knows that, contrary

19 to the impression it is misleadingly giving consumers, its chickens *were* injected with or otherwise

20 exposed to antibiotics and/or other drugs.

21 **C. Sanderson’s Marketing and Advertising Are Designed to, and Do, Mislead**

22 **Consumers About the Conditions in Which Its Chickens Are Raised.**

23 63. Through its marketing and advertising campaign, including but not limited to its

24 prominent declarations of “100% Natural,” Sanderson misleads consumers about the conditions in

25 which its chickens are raised.

26 64. According to a 2016 Consumer Reports survey of 1,001 adults, 68% of respondents

27 are extremely or very concerned that feeding healthy animals antibiotics may allow animals to be

28 raised in crowded and unsanitary conditions, 53% of respondents are extremely or very concerned

that antibiotic use may lead to environmental pollution, and 51% of respondents are extremely or

1 very concerned that antibiotic use may artificially promote growth.<sup>40</sup>

2 65. According to the 2016 survey, 87% percent of respondents think that animals should  
3 not be given hormones, ractopamine, or other growth promoting drugs, and 88% percent think that  
4 the government should require that meat raised with hormones or ractopamine be labeled as such.<sup>41</sup>

5 66. Consumers care about animal welfare, and many are willing to pay extra money for  
6 products that they believe come from animals who were treated humanely, as numerous consumer  
7 studies have documented.<sup>42</sup> For instance, a 2007 consumer survey found that 58% of consumers are  
8 willing to pay more for animal products labeled as “humanely raised.”<sup>43</sup> Similarly, a 2010 survey  
9 found that 57% of consumers are willing to pay a premium for “food that promises to be produced  
10 according to higher ethical standards.”<sup>44</sup>

11 67. Sanderson knows the advantages of leading consumers to believe that “100% Natural”  
12 suggests humane and environmentally sound animal husbandry. In a press release dated September  
13 6, 2016, Sanderson wrote, “In a 2013 poll by the American Humane Association, 89 percent of  
14 consumers surveyed stated they were very concerned about farm animal welfare, and 74 percent  
15 stated they were willing to pay more for humanely raised meat, dairy and eggs.”<sup>45</sup> On page 4 of its  
16 2016 Annual Report, Sanderson claims, “We go beyond the highest animal welfare standards to  
17 support the healthy growth of our chickens and the safety of our products.”<sup>46</sup>

18 68. Consumers believe “100% Natural” Chicken Products to mean that the chickens were  
19 not injected with or exposed to antibiotics and/or other pharmaceuticals.

20 69. Sanderson’s website bolsters consumers’ expectations, stating, “Chickens are raised  
21 in spacious, climate controlled houses where they’re free to eat, drink and walk around all they want,”

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22 <sup>40</sup> Consumer Reports National Research Center, *supra* note 37, at 2-3.

23 <sup>41</sup> *Id.* at 3.

24 <sup>42</sup> Animal Welfare Institute, *Consumer Perceptions of Farm Animal Welfare*,  
[https://awionline.org/sites/default/files/uploads/documents/fa-  
consumer\\_perceptionsoffarmwelfare\\_-112511.pdf](https://awionline.org/sites/default/files/uploads/documents/fa-consumer_perceptionsoffarmwelfare_-112511.pdf), last visited June 21, 2017.

25 <sup>43</sup> *Id.* at 8

26 <sup>44</sup> *Id.*

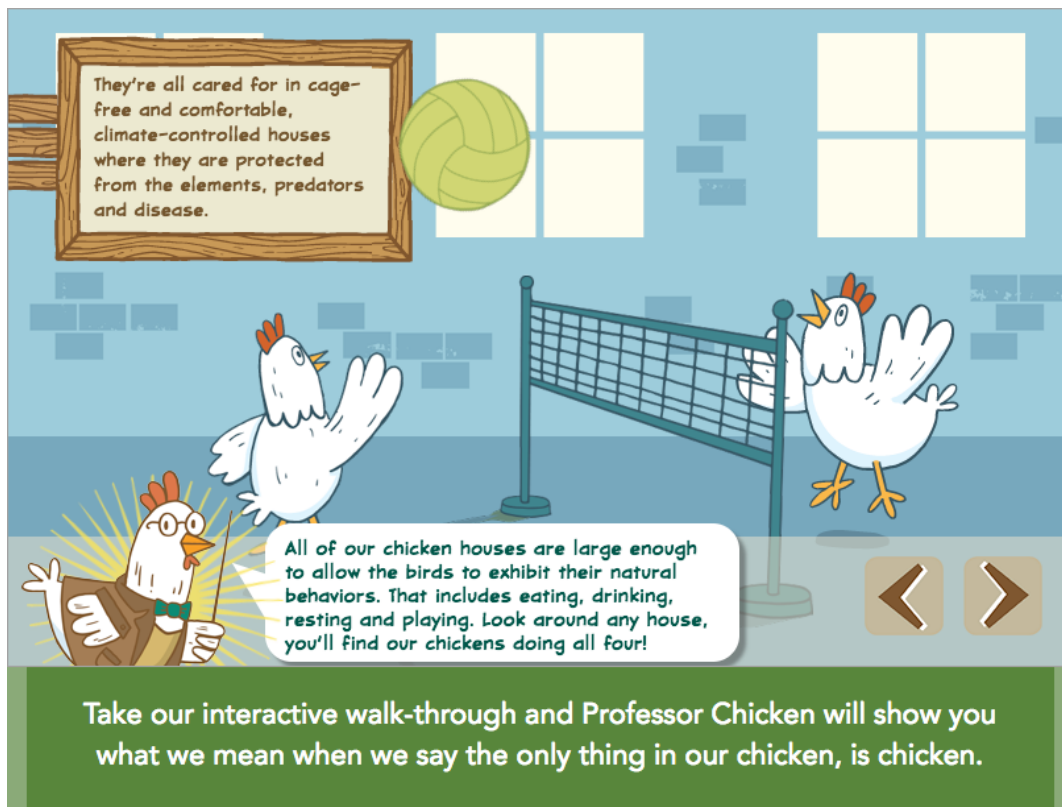
27 <sup>45</sup> Sanderson Farms, “Industry Experts, Veterinarians, and Sanderson Farms Discuss Issues  
Regarding Animal Welfare,” available at [http://www.sandersonfarms.com/press-releases/industry-  
experts-veterinarians-and-sanderson-farms-discuss-issues-regarding-animal-welfare/](http://www.sandersonfarms.com/press-releases/industry-experts-veterinarians-and-sanderson-farms-discuss-issues-regarding-animal-welfare/), last visited  
28 June 21, 2017.

<sup>46</sup> Sanderson Farms, *supra* note 5.

1 giving the consumer the false impression that Sanderson's Chicken Products are raised in something  
2 other than agro-industrial factory-farm conditions.

3 70. On its website for consumers, Sanderson posts an interactive video titled "What Does  
4 It Mean to be 100% Natural?" The video is hosted by an animated "Professor Chicken."<sup>47</sup> The video  
5 depicts chickens lying on lounge chairs in front of fans and playing volleyball. The text accompanying  
6 the volleyball-playing chickens states, "They're all cared for in cage-free and comfortable, climate-  
7 controlled houses where they are protected from the elements, predators and diseases." Professor  
8 Chicken tells consumers, "All of our chicken houses are large enough to allow the birds to exhibit  
9 their natural behaviors. That includes eating, drinking, resting and playing. Look around any house,  
10 you'll find our chickens doing all four!"

11 *Below is a screenshot of the Professor Chicken video.*



25 71. Sanderson's representations do not match the reality. Sanderson's use of antibiotics,  
26 and the steroids and other pharmaceuticals found in its Chicken Products, strongly indicate that the  
27

28 <sup>47</sup> Sanderson Farm's, "100% Natural," available at <http://www.sandersonfarms.com/our-philosophy/100-natural/>, last visited on June 21, 2017.



1 birds are raised in intensive-confinement, agro-industrial conditions where cruelty is inherent. While  
2 Sanderson represents that its chickens are sipping lemonade and playing volleyball, the Animal  
3 Welfare Institute conducted a four-year study of Good Commercial Practice violations, and  
4 Sanderson made the list of top six worst offenders.<sup>48</sup> Furthermore, a 2013 investigation revealed that  
5 132 birds entered the scald tank alive due to a mechanical failure.<sup>49</sup>

6 **IV. Sanderson's Conduct Has Injured, and Continues to Injure, Consumers.**

7 72. Sanderson's conduct has harmed, and continues to harm, California consumers.  
8 California consumers did not obtain the full value of their purchase prices because the Chicken  
9 Products were not "100% Natural" chicken. Moreover, California consumers bought more Chicken  
10 Products, and paid more for them, than they would have, had they known that the Chicken Products  
11 contained antibiotics and other pharmaceuticals; had they known that the chickens who end up in the  
12 Chicken Products were exposed to antibiotics and other pharmaceuticals; or had they known that the  
13 chickens who end up in the Chicken Products are not raised in natural conditions.

14 73. Sanderson's false and misleading representations and omissions of fact violate the  
15 California Unfair Competition Law, California Bus. & Prof. Code § 17200, *et seq.* ("UCL"), and the  
16 California False Advertising Law, California Bus. & Prof. Code § 17500, *et seq.* ("FAL"). Plaintiffs  
17 seek an order requiring Sanderson to, among other things (1) cease the unlawful marketing of the  
18 Chicken Products, and (2) conduct a corrective advertising campaign.

20 **PARTIES**

21 74. Defendant Sanderson is a Mississippi corporation with a principal place of business  
22 located at 127 Flynt Road, Laurel, Mississippi.

23 75. Sanderson is "a fully integrated poultry processing company that produces, processes,  
24 markets and distributes fresh and frozen chicken products." Sanderson contracts with more than 900  
25

26 \_\_\_\_\_  
27 <sup>48</sup> Animal Welfare Institute, *The Welfare of Birds at Slaughter in the United States*, available at  
<https://awionline.org/sites/default/files/products/FA-Poultry-Slaughter-Report-2016.pdf> last visited  
28 on June 21, 2017.

<sup>49</sup> A scald tank is tank of scalding water designed to loosen feathers from the carcass. *Id.*



1 independent growers.<sup>50</sup> It has 11 processing plants, 10 hatcheries, eight feed mills and one prepared-  
2 foods division. Its operations span five states and 14 cities.<sup>51</sup> Sanderson distributes throughout the  
3 nation, including to California.

4 76. Sanderson processed 3.765 billion dressed pounds of chicken in fiscal year 2016, for  
5 net sales of \$2.816 billion that same fiscal year.<sup>52</sup>

6 77. Plaintiff OCA is a national § 501(c)(3) organization based in Finland, Minnesota and  
7 is the only organization in the United States focused exclusively on promoting the views and interests  
8 of the nation's millions of organic and socially responsible consumers. The OCA's network members  
9 include both businesses and individual consumers, and its platform calls for truth and transparency  
10 in labeling of consumer products. The OCA's platform also calls for the transition away from  
11 corporate-controlled agriculture that contributes to the growing antibiotic-resistance crisis and  
12 produces products high in residues of unhealthful chemicals, antibiotics, growth hormones, and other  
13 substances. These corporate-controlled agricultural entities include factory farms that mistreat  
14 animals, employ unfair labor practices, put independent farmers at a competitive disadvantage,  
15 pollute the environment, and promote poor human health by producing consumer products low in  
16 nutritional value and contaminated with non-food substances.

17 78. Through its "Myth of Natural" and "Truth and Transparency in Labeling" campaigns,  
18 the OCA helps consumers navigate the confusing array of labels companies use to describe their  
19 products. The OCA also works to hold corporations accountable for accurately representing, through  
20 labels and advertising, the production methods behind their products as well as the product contents,  
21 including non-food substances.

22 79. As a result of Sanderson's legal violations, the OCA has suffered injury in fact and  
23 has lost money or property. The OCA has expended its resources to address Sanderson's  
24 misrepresentations with a call to action titled, "Tell Sanderson Farms to End the Reckless Use of  
25 Antibiotics in its Poultry Factory Farms!" The online alert states, "Sanderson likes to brag that its

26 \_\_\_\_\_  
27 <sup>50</sup> Sanderson Farms' website, available at <http://ir.sandersonfarms.com/>, last visited June 21, 2017.

28 <sup>51</sup> Sanderson Farms, "History & Values," available at <http://www.sandersonfarms.com/our-philosophy/history-values/>, last visited June 21, 2017.

<sup>52</sup> Sanderson Farms, *supra* note 5.

1 chicken is ‘100% natural’. . . What the website doesn’t tell you is that Sanderson is 100% committed  
2 to the over-use of antibiotics.”<sup>53</sup>

3 80. Plaintiff Friends of the Earth, U.S. (FoE) is a national non-profit environmental  
4 advocacy organization founded in 1969. FoE has offices in Berkeley, California and Washington,  
5 D.C, where it is incorporated. Its mission is to defend the environment and champion a healthy and  
6 just world. To this end, FoE promotes and policies and actions that ensure the food that we eat and  
7 the products that we use are sustainable and safe for our health and the environment. FoE has more  
8 than 175,000 members in all fifty states, of whom 17,362 are in California. Additionally, FoE has  
9 more than 920,000 activists on its email list throughout the United States, 51,055 of whom are in  
10 California.

11 81. FoE’s “Good Food Healthy Planet” program is focused on reducing the harmful  
12 environmental, animal welfare, and public health impacts of industrial animal foods. The program  
13 helps grow the consumer market and policy support for healthier, grass-fed and organic meat and  
14 dairy, and plant-based foods. FoE’s program educates the public about the impact of meat  
15 consumption and production, especially related to the issue of antibiotics and other harmful chemicals  
16 in animal products. FoE is a co-author of Chain Reaction,<sup>54</sup> an annual report and scorecard that grades  
17 America’s top restaurant chains on their policies and practices regarding antibiotic use and  
18 transparency in their meat and poultry supply chains. The report also covers the use of hormones and  
19 availability of organic and grass-fed options. FoE has campaigned over the past several years to  
20 eliminate the routine use of antibiotics in animal agriculture, with a focus on changing the purchasing  
21 policies of large restaurant chains, who buy large quantities of industrial meat.

22 82. FoE, which has more than a dozen staff based in Berkeley, California, co-authored a  
23 report in 2015 titled “Spinning Food: How Food Industry Front Groups and Covert Communications  
24

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25 <sup>53</sup> Organic Consumers Association, “Tell Sanderson Farms to End the Reckless Use of Antibiotics  
26 in its Poultry Factory Farms!” available at  
[https://action.organicconsumers.org/o/50865/p/dia/action3/common/public/?action\\_KEY=18976](https://action.organicconsumers.org/o/50865/p/dia/action3/common/public/?action_KEY=18976),  
last visited on June 21, 2017.

27 <sup>54</sup> FoE’s Chain Reaction report and restaurant scorecard is available at  
28 <http://www.foe.org/projects/food-and-technology/good-food-healthy-planet/chain-reaction>, last  
visited June 21, 2017.

1 Are Shaping the Story of Food,”<sup>55</sup> addressing the issues related to chemical-intensive industrial  
 2 agriculture. Berkeley-based FoE staff also educated the public through blog posts in 2015 titled,  
 3 “Antibiotic Resistance—with a side order of fries?”<sup>56</sup> FoE’s Berkeley staff authored “Redefining  
 4 Good Food at the Nation’s Largest Casual Restaurant Company,”<sup>57</sup> an article produced as part of the  
 5 Good Food Now campaign that was partially focused on the need to change Darden Restaurant’s  
 6 sourcing practices around industrial meat production and the use of antibiotics. Sanderson sells its  
 7 chicken to Darden Restaurants.

8 83. As a result of Sanderson’s legal violations, FoE has suffered injury in fact and has lost  
 9 money or property. FoE staff have devoted resources to educating the public through the news media,  
 10 and have been quoted in reports by CNN,<sup>58</sup> Reuters,<sup>59</sup> and Huffington Post<sup>60</sup> to address antibiotics in  
 11 meat.

12 84. Plaintiff Center for Food Safety (CFS) is a national not-for-profit environmental and  
 13 consumer advocacy organization that empowers people, supports farmers, and protects the earth from  
 14 the harmful impacts of industrial agriculture. Through groundbreaking legal, scientific, and  
 15 grassroots action, CFS protects and promotes the public’s right to safe food and the environment.  
 16 CFS has four offices nationally, including one in Washington, D.C. and one in San Francisco,  
 17 California, where it conducts much of its policy work and litigation challenging the use of  
 18 pharmaceuticals in industrial animal agriculture. CFS has more than 900,000 consumer and farmer  
 19 supporters across the country with 103,631 in California.

20 85. CFS’s “Animal Factories” program uses regulatory action, citizen engagement,

21 \_\_\_\_\_  
 22 <sup>55</sup> The report is available at <http://www.foe.org/news/archives/2015-06-big-food-and-chemical-corporations-spend-millions-to-attack-organic>, last visited June 21, 2017.

23 <sup>56</sup> Blog post available at <http://www.foe.org/news/blog/2015-09-antibiotic-resistance-with-a-side-order-of-fries>, last visited June 21, 2017.

24 <sup>57</sup> Article available at <https://foodrevolution.org/blog/redefining-good-food-darden-restaurants/>, last visited June 21, 2017.

25 <sup>58</sup> CNN, “USDA doesn’t care if our diets are climate friendly – but Americans do,” available at <http://www.cnn.com/2015/10/07/opinions/sutter-usda-dietary-guidelines-climate/>, last visited June 21, 2017.

26 <sup>59</sup> Reuters, “U.S. fast-food meat still mostly raised on antibiotics,” available at <http://www.reuters.com/article/restaurants-antibiotics-idUSL1N11K20Q20150915#cRp4I3VZ6pmemtbo.97> last visited June 21, 2017.

27 <sup>60</sup> Huffington Post, “Subway Is Transitioning To Antibiotic-Free Meat,” available at [http://www.huffingtonpost.com/entry/subway-antibiotic-free-meat\\_us\\_5626a723e4b0bce34702bc85](http://www.huffingtonpost.com/entry/subway-antibiotic-free-meat_us_5626a723e4b0bce34702bc85), last visited June 21, 2017.

1 litigation, and legislation to promote transparency and accountability in the food animal industry.  
2 Through this work, the program aims to reduce the harmful impacts of animal factories on animal  
3 welfare, the environment, and human health and to increase consumer awareness, availability, and  
4 accessibility of suitable alternatives by highlighting humane, organic, and pasture-based animal-  
5 raising practices and producers. Since 2009, CFS's Animal Factories program has developed  
6 expertise and multi-faceted strategies on addressing the known impacts and lack of robust information  
7 on approved animal drugs. CFS is a co-author of the annual Chain Reaction report and scorecard,  
8 ranking the top 25 U.S. restaurant chains based on implementation of policies restricting antibiotics  
9 use in their meat and poultry supply chains. In coalition with several groups, CFS has also launched  
10 several public pressure campaigns against individual restaurant chains to encourage strong  
11 commitments addressing antibiotics use, including campaigns against Subway and In-N-Out Burger.

12 86. CFS's innovative work on animal drugs has long extended beyond antibiotics to  
13 include the use of natural hormones, synthetic hormones, beta-agonists, heavy metal compounds, and  
14 antiparasitics, commonly used for non-therapeutic, production purposes like growth promotion or  
15 disease prevention. CFS successfully pressured the FDA to withdraw the approval of arsenic-based  
16 animal drugs—the only intentional introduction of arsenic in to the food supply—through successful  
17 litigation and grassroots mobilization. CFS staff in the San Francisco and Washington, D.C. offices  
18 authored the 2014 report, "America's Secret Animal Drug Problem," which highlighted FDA's  
19 insufficient oversight of the animal drug approval process and the lack of publicly available scientific  
20 information demonstrating the safety of several approved animal drugs for human health, animal  
21 welfare, and the environment. Leveraging information gathered in this foundational report, CFS staff  
22 continues to educate consumers about concerns of approved animal drugs through regular blog posts.  
23 Additionally, a 2016 factsheet, "Pharming Profits: The Drugs that Make Cheap Meat," provides an  
24 update to the 2014 report.

25 87. CFS has also spent considerable resources promoting transparency in labeling and  
26 providing consumers with information about the meaning and integrity of common label claims. This  
27 has included raising awareness of the lack of a federal definition for the term "natural" on food  
28 product labels. To help ensure that consumers are not misled by the term, CFS staff in California

1 published a simple factsheet, “What’s in a Label? Natural: Another Name for Conventionally  
2 Grown.”

3 88. Plaintiffs bring this action on behalf of the general public, and on behalf of their  
4 members, who actively seek and wish to purchase organic, natural, and/or socially responsible  
5 products and are deceived by Sanderson’s marketing campaign.

6 89. Because of Sanderson’s false marketing materials, Plaintiffs have had to devote  
7 organizational resources to counteract misinformation, educating consumers about this and other  
8 “natural” claims, advocating for stronger standards for the “natural” claim that fall in line with  
9 consumer expectations, and publicizing the truth about Sanderson’s farming practices. This  
10 misleading advertising of “100% Natural” products has caused Plaintiffs to divert their organizational  
11 resources away from other priorities and campaigns that could have protected more consumers. The  
12 injury to Plaintiffs is not speculative; instead, expenses incurred by the efforts described above, which  
13 resulted from Sanderson’s unlawful conduct, could have been spent in ways that better furthered  
14 Plaintiffs’ mission had Sanderson not launched its misleading “Truth About Chicken” campaign.

15 90. If Sanderson were to cease its “natural” advertising claims and its “Truth About  
16 Chicken” advertising campaign, including by the injunctive relief sought through this action,  
17 Plaintiffs would not have to continue diverting organizational resources to warn consumers and  
18 educate the public about Sanderson’s products and farming practices, and could redirect these  
19 resources to other projects, in furtherance of their respective missions.

20 **JURISDICTION AND VENUE**

21 91. This case arises under California Bus. & Prof. Code § 17203, which provides that any  
22 person who engages, has engaged, or proposes to engage in unfair competition may be enjoined in  
23 any court of competent jurisdiction. As more fully alleged in this Complaint, Sanderson’s  
24 misrepresentations and omissions of material fact in its labeling and marketing of the Chicken  
25 Products constitute false advertising under California Bus. & Prof. Code § 17500. This Court has  
26 subject-matter jurisdiction over this action pursuant to 28 U.S.C. § 1332 (diversity).

27 92. This Court has personal jurisdiction over the parties in this case. Plaintiff OCA  
28 maintains a presence in Alameda County with approximately 3,460 subscribers in the County, and



1 by filing this Complaint, consents to this Court having personal jurisdiction over it. Plaintiff FoE  
2 maintains a presence in Alameda County, including its Berkeley office located at 2150 Allston Way,  
3 Suite 360, Berkeley, California 94704, and, by filing this Complaint, consents to this Court having  
4 personal jurisdiction over it. FoE has approximately 134 members in Berkeley, approximately 142  
5 members in Oakland, and approximately 1,992 members in the Bay Area counties of Alameda (450),  
6 Santa Clara (343), Contra Costa (267), San Francisco (248), Marin (243), Sonoma (202), San Mateo  
7 (172), Napa (35), and Solano (32). Plaintiff CFS maintains a presence in San Francisco, California,  
8 including its office at 303 Sacramento Street, San Francisco, California 94111. CFS has  
9 approximately 4,128 members in San Francisco, approximately 1,837 members in Oakland, and  
10 approximately 28,988 members in the Bay Area counties of Alameda (5,789), Santa Clara (4,286),  
11 Contra Costa (2,995), San Francisco (4,833), Marin (3,515), Sonoma (3,923), San Mateo (2,207),  
12 Napa (655) and Solano (785).

13 93. Sanderson, a citizen of Mississippi, is authorized to, and in fact does, conduct  
14 substantial business in California, including in the Northern District of California. Sanderson  
15 purposefully avails itself of the laws of California to market, promote, distribute, and sell the Chicken  
16 Products to consumers in California and in the Northern District of California.

17 94. Venue is proper in this District pursuant to 28 U.S.C. §§ 1391(b), because a  
18 substantial portion of the events or omissions giving rise to the claims occurred in this District.  
19 Sanderson marketed, advertised, and sold Chicken Products in the Northern District of California,  
20 and Plaintiffs suffered an injury in the Northern District of California.

### 21 **STATUTORY FRAMEWORK**

22 95. The UCL, California Bus. & Prof. Code § 17200 *et seq.*, prohibits businesses from  
23 engaging in unlawful, fraudulent, or unfair business practices, including violations of other statutes.

24 96. California Bus. & Prof. Code § 17203 allows any person to pursue representative  
25 claims or relief on behalf of others if the claimant meets the standing requirements of California  
26 Bus. & Prof. Code § 17204 and California Civ. Proc. Code § 382.

27 97. Plaintiffs have standing under California Bus. & Prof. Code § 17204, which provides  
28 that actions for relief pursuant to the UCL shall be prosecuted exclusively in a court of competent

1 jurisdiction by, *inter alia*, any person who has suffered injury in fact and has lost money or property  
2 as a result of the unfair competition.

3 98. Plaintiffs have standing under California Civ. Proc. Code § 382, which provides that  
4 “when the question is one of a common or general interest, of many persons, or when the parties  
5 are numerous, and it is impracticable to bring them all before the court, one or more may sue or  
6 defend for the benefit of all.”

7 99. The FAL, California Bus. & Prof. Code § 17500, declares it unlawful for any person  
8 to disseminate before the public any statement concerning personal property that the person knows,  
9 or through the exercise of reasonable care should know, to be untrue or misleading, with intent to  
10 dispose of that property or to induce the public to enter into any obligation relating thereto; or to  
11 disseminate such untrue or misleading statements as part of a plan or scheme with the intent not to  
12 sell the property as advertised.

13 100. Pursuant to California Bus. & Prof. Code § 17535, any person, association, or  
14 organization which violates the FAL may be enjoined by any court of competent jurisdiction. Actions  
15 for injunctive relief under the FAL may be prosecuted by any person who has suffered injury in fact  
16 and has lost money or property as a result of a violation of the FAL, and the court may make such  
17 orders or judgments which may be necessary to restore to any person in interest any money or  
18 property which may have been acquired by means declared to be unlawful by the FAL.

19 **CAUSES OF ACTION**

20 **COUNT I**

21 **(Violation of California Unfair Competition Law –  
22 California Bus. & Prof. Code § 17200, *et seq.*)**

23 101. Plaintiffs incorporate by reference and re-allege the preceding paragraphs.

24 102. Sanderson engaged in unlawful, unfair, and/or fraudulent conduct under the California  
25 UCL, California Business & Professions Code § 17200, *et seq.*, by representing that the Chicken  
26 Products are “100% Natural” food products.

27 103. Sanderson engaged in unlawful, unfair, and/or fraudulent conduct under the California  
28 UCL, California Business & Professions Code § 17200, *et seq.*, by representing that its chickens are  
raised with “100% Natural” farming procedures.

1 104. Sanderson's conduct is unlawful in that it violates the California False Advertising  
2 Law ("FAL"), California Business & Professions Code § 17500 *et seq.*, described more fully in Count  
3 II.

4 105. Sanderson's conduct is unfair in that it offends established public policy and/or is  
5 immoral, unethical, oppressive, unscrupulous, and/or substantially injurious to Plaintiffs and  
6 California consumers. The harm to Plaintiffs arising from Sanderson's conduct outweighs any  
7 legitimate benefit Sanderson derived from the conduct. Sanderson's conduct undermines and violates  
8 the stated spirit and policies underlying the FAL and other legal regulations as alleged herein.

9 106. Sanderson's actions and practices with regard to the food product and the farming  
10 practices constitute "fraudulent" business practices in violation of the UCL because, among other  
11 things, they are likely to deceive reasonable consumers. As a direct and proximate result of  
12 Sanderson's violations, Plaintiffs OCA and FoE suffered injury in fact because they were forced to  
13 divert substantial organizational resources away from their core missions. Sanderson's unlawful  
14 encouragement of such practices have frustrated OCA's and FoE's efforts to promote transparency  
15 in the food system and to end cruel agro-industrial practices.

16 107. Plaintiffs seek (a) injunctive relief in the form of an order requiring Sanderson to cease  
17 the acts of unfair competition alleged herein and to correct its advertising, promotion, and marketing  
18 campaigns; (b) interest at the highest rate allowable by law; and (c) the payment of Plaintiffs'  
19 attorneys' fees and costs pursuant to, *inter alia*, California Code of Civil Procedure Section 1021.5.

20 **COUNT II**  
21 **(Violation of California False Advertising Law –**  
22 **California Bus. & Prof. Code § 17500, *et seq.*)**

23 108. Plaintiffs incorporate by reference and re-alleges the preceding paragraphs.

24 109. Sanderson publicly disseminated untrue or misleading advertising, or intended not to  
25 sell the Chicken Products as advertised, in violation of the California FAL, Business & Professional  
26 Code § 17500, *et seq.*, by representing that the Chicken Products are "100% Natural" food products  
27 when they are not.

28 110. Sanderson publicly disseminated untrue or misleading advertising, or intended not to  
sell the Chicken Products as advertised, in violation of the California FAL, Business & Professional

1 Code § 17500, *et seq.*, by representing that its farming procedures “100% Natural” when they are not.

2 111. Sanderson publicly disseminated untrue or misleading representations regarding the  
3 Chicken Products, which it knew, or in the exercise of reasonable care should have known, were  
4 untrue or misleading, in violation of the FAL.

5 112. As a direct and proximate result of Sanderson’s violations, Plaintiffs OCA and FoE  
6 suffered injury in fact because they were forced to divert substantial organizational resources away  
7 from their core missions. Sanderson’s unlawful encouragement of such practices have frustrated  
8 OCA’s and FoE’s efforts to promote on behalf of the general public transparency in the food system  
9 and to end cruel farming practices.

10 113. Plaintiffs seek (a) injunctive relief in the form of an order requiring Sanderson to cease  
11 the acts of unfair competition alleged herein and to correct its advertising, promotion, and marketing  
12 campaigns; (b) interest at the highest rate allowable by law; and (c) the payment of Plaintiffs’  
13 attorneys’ fees and costs pursuant to California Code of Civil Procedure Section 1021.5, *inter alia*.

14 **JURY DEMAND**

15 Plaintiffs demand a trial by jury of all claims in this Complaint so triable.

16 **REQUEST FOR RELIEF**

17 WHEREFORE, Plaintiffs respectfully request that the Court enter judgment in their favor and  
18 against Sanderson, as follows:

19 A. Declaring that Sanderson violated the UCL and FAL;

20 B. Ordering an accounting by Sanderson for any and all profits derived by Sanderson  
21 from its herein-alleged unlawful, unfair, and/or fraudulent conduct and/or business practices;

22 C. Ordering an awarding of injunctive relief as permitted by law or equity, including  
23 enjoining Sanderson from continuing the unlawful practices as set forth herein, and ordering  
24 Sanderson to engage in a corrective advertising campaign;

25 D. Ordering Sanderson to pay attorneys’ fees and litigation costs to Plaintiffs pursuant to  
26 California Code of Civil Procedure Section 1021.5 and the common-law private-attorney-general  
27 doctrine;

28 E. Ordering Sanderson to pay both pre- and post-judgment interest on any amounts

1 awarded; and

2 F. Ordering such other and further relief as may be just and proper.

3  
4 Dated: June 22, 2017

Respectfully submitted,

5  
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