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Jessica Bautista

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

**JESSICA BAUTISTA,  
Individually and On Behalf of All  
Others Similarly Situated,**

**Plaintiff,**

**v.**

**MERLIN ENTERTAINMENTS  
GROUP U.S. HOLDINGS INC., a  
Delaware Corporation; and  
LEGOLAND CALIFORNIA, LLC, a  
Delaware limited liability company**

**Defendants.**

**Case No.: '20CV1128 GPC LL**

**CLASS ACTION COMPLAINT  
FOR VIOLATIONS OF:**

- 1) CONSUMER LEGAL  
REMEDIES ACT, CAL. CIVIL  
CODE §§ 1750, ET SEQ.;**
  - 2) UNFAIR COMPETITION LAW,  
CAL. BUS. & PROF. §§ 17200,  
ET SEQ.;**
  - 3) UNJUST ENRICHMENT**
- JURY TRIAL DEMANDED**

**INTRODUCTION**

1  
2 1. Plaintiff JESSICA BAUTISTA (“Ms. Bautista,” or “Plaintiff”),  
3 individually and on behalf of all others similarly situated, brings this action for  
4 damages and injunctive relief, and any other available legal or equitable remedies,  
5 resulting from the unlawful practices and conduct of Defendants MERLIN  
6 ENTERTAINMENTS GROUP U.S. HOLDINGS INC. (“Merlin U.S.”), and  
7 LEGOLAND CALIFORNIA, LLC (“Legoland LLC”) (together “Legoland” or  
8 “Defendants”) in violation of: (1) California’s Consumer Legal Remedies Act  
9 (“CLRA”), Cal. Civ. Code §§ 1750, *et seq.*; (2) California’s Unfair Competition  
10 Law (“UCL”), Bus. & Prof. Code §§ 17200, *et seq.*; and (3) for Unjust  
11 Enrichment.

12 2. This action arises out of unfair and unlawful business practices  
13 stemming from the current COVID-19 global pandemic which has resulted in the  
14 closure of theme parks and other attractions throughout the United States.

15 3. The Center for Disease Control and Prevention (“CDC”) has  
16 classified COVID-19 as a serious threat to the health and safety of the public, and  
17 the World Health Organization declared the COVID-19 outbreak to be a  
18 pandemic.

19 4. Plaintiff alleges the following based upon personal knowledge as to  
20 herself and her own acts, and on information and belief as to all other matters,  
21 including, the investigation conducted by and through her attorneys which  
22 includes, without limitation, a review of Defendant’s public documents,  
23 announcements, and wire and press releases published by and regarding  
24 Defendants, and information readily obtainable on the internet.

**JURISDICTION**

25  
26 5. Jurisdiction is proper under 28 U.S.C. § 1332(d) (“CAFA”), which  
27 provides for original jurisdiction of the federal courts of any class action in which  
28 any member of the class is a citizen of a state different from the defendant, and in

1 which the matter in controversy exceed, in the aggregate, the sum of \$5,000,000,  
2 exclusive of interest and costs.

3 6. Upon information and belief, many members of the proposed Classes  
4 are residents of states other than California.

5 7. Upon information and belief, the total claims of individual members  
6 in this action are in excess of \$5,000,000, where Plaintiff seeks a refund of the  
7 purchase price of hotel reservations and other services, which, when aggregated  
8 among the proposed class in the several thousands, exceeds the \$5,000,000  
9 threshold.

10 8. Upon information and belief, Merlin U.S. is a Delaware corporation.

11 9. Upon information and belief, Legoland LLC is a Delaware limited  
12 liability company.

13 10. This Court has general and specific personal jurisdiction over  
14 Defendants because Defendants conduct business in the County of San Diego,  
15 State of California; and, upon information and belief Defendants main offices are  
16 located at 1 Legoland Drive, Carlsbad, CA 92008.

17 **VENUE**

18 11. Venue is proper in the United States District Court for the Southern  
19 District of California pursuant to 18 U.S.C. § 1391(b)(2) because a substantial part  
20 of the events giving rise to the claims occurred within this judicial district and the  
21 Defendants conduct substantial business within this judicial district.

22 **PARTIES**

23 12. At all times relevant, Plaintiff was and is an individual residing in the  
24 State of California.

25 13. Defendants are a part of a multinational attractions company that  
26 owns, manages, and operates a portfolio of attractions across the world including  
27 theme parks and related facilities throughout the United States, including  
28

1 Legoland California and other theme parks in the United States.

2 14. Plaintiff alleges that at all times relevant herein, Defendants  
3 conducted business in the State of California, in the County of San Diego, and  
4 within this judicial district, including but not limited to trade or commerce through  
5 advertising and offering various goods and services to consumers in California  
6 and throughout the United States.

7 **FACTUAL ALLEGATIONS**

8 15. On or about March 6, 2020 Ms. Bautista purchased a two-night stay  
9 in a Princess Deluxe Room at the Legoland Castle Hotel located in Carlsbad,  
10 California for May 15, 2020 through May 17, 2020.

11 16. Said hotel reservation came with four 3-day tickets to Legoland's  
12 California theme park, sea life, and water park.

13 17. Ms. Bautista additionally purchased a Legoland Castle Hotel  
14 Birthday Package to be delivered the day of check-in.

15 18. In total, Ms. Bautista paid close to \$1,900 to Defendants for such  
16 goods or services.

17 19. Mere days after this purchase, Governor Gavin Newsom issued a  
18 Stay at Home Order, requiring Californians to stay at home in their place of  
19 residence.<sup>1</sup> Governor Newsom acknowledged that in the early weeks of March  
20 2020, COVID-19 "rapidly spread through California, necessitating the need for  
21 more stringent guidelines."<sup>2</sup>

22 20. The rapid spread of the COVID-19 pandemic caused hundreds of  
23 thousands of people to fall ill, led to record high unemployment numbers, and  
24 critically damaged the stability of the stock market. As a result, many companies  
25

26 <sup>1</sup> Executive Department State of California, Executive Order N-33-20, (March 19,  
27 2020), [https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf)  
28 [N-33-20-COVID-19-HEALTH-ORDER.pdf](https://www.gov.ca.gov/wp-content/uploads/2020/03/3.19.20-attested-EO-N-33-20-COVID-19-HEALTH-ORDER.pdf).

<sup>2</sup> *Id.*

1 experienced serious financial burdens as a direct result of the pandemic.

2 21. Ms. Bautista could not have foreseen the rapid spread of COVID-19,  
3 nor could they have imagined such drastic measures would be implemented to  
4 prevent the spread of the virus.

5 22. Immediately following the Order issued by Governor Newsom, Ms.  
6 Bautista contacted Legoland to cancel her upcoming hotel reservation and  
7 requested a refund due to the extenuating circumstances.

8 23. On or about March 27, 2020, Legoland responded to Ms. Bautista's  
9 inquiry stating that she could not receive a refund for her upcoming stay. Ms.  
10 Bautista insisted that she did not want to risk her and her family's health by  
11 traveling to Legoland during a pandemic.

12 24. Legoland eventually, after numerous correspondences, offered to  
13 simply "reschedule" Ms. Bautista's trip. Due to the rapid and everchanging nature  
14 of the current national health crisis, Ms. Bautista again requested a refund.  
15 Legoland once again refused to honor this reasonable request.

16 25. Legoland California, including its onsite hotels, resorts, and theme  
17 parks, have remained closed to the public since March 2020.<sup>3</sup> Thus, even if Ms.  
18 Bautista desired to follow through with her May 15, 2020 trip to Legoland, she  
19 was prevented from doing so due to the indefinite closure of Legoland's hotels  
20 and theme parks by Defendants.

21 26. The closure of the park should have meant that ticketholders and  
22 customers who reserved hotels were refunded their money in full, which money  
23 that in many cases was needed by consumers to pay for food, rent, healthcare  
24 costs, and other basic necessities during the COVID-19 pandemic.

25 27. As a result of Defendants' knowing and willful failure to provide Ms.

26 \_\_\_\_\_  
27 <sup>3</sup> Legoland Vacations, Notification of Temporary Closure,  
28 <https://vacations.legoland.com/california/booking/package/search.html> (last  
visited June 10, 2020).

1 Bautista with a refund during a global pandemic for its own economic gain, Ms.  
2 Bautista has suffered loss of money and actual damages due to Legoland’s unfair  
3 and unlawful business practices.

4 28. As a consequence of Legoland’s unfair and deceptive practices, Ms.  
5 Bautista and other consumers similarly situated paid Legoland under the false  
6 impression that Legoland would provide the goods and services purchased, or  
7 that Legoland would provide refunds in the event the theme part was closed,  
8 including due to a public health crisis causing closure of the facilities indefinitely  
9 to the public.

10 29. Ms. Bautista’s case is one of the many of consumers who were not  
11 provided a refund after closure of the theme park and related services due to no  
12 fault of their own.

13 30. Defendants exploited Mr. Bautista and similarly situated customers  
14 during a global health crisis simply to enrich themselves.

15 **CLASS ACTION ALLEGATIONS**

16 31. Plaintiff brings this action on behalf of Plaintiff and all others  
17 similarly situated (the “National Class” and “California Class”).

18 32. Plaintiff represents, and is a member of, the National Class, pursuant  
19 to Fed. R. Civ. P. 23(b)(2) and/or (b)(3), which is defined as follows:  
20

21 All persons in the United States who purchased hotel  
22 reservations, vacation packages or related goods or  
23 services from or for any of Defendants’ attractions and  
24 theme parks for dates the attractions and theme parks  
were closed.

25 33. Plaintiff represents, and is a member of, the California-Class,  
26 pursuant to Fed. R. Civ. P. 23(b)(2) and/or (b)(3), which is defined as follows:  
27

28 All persons in the United States who purchased hotel

1 reservations, vacation packages or related goods or  
2 services from or for any of Defendants' attractions and  
3 theme parks in California for dates the attractions and  
4 theme parks were closed.

5 34. The National Class and California Class are jointly referred to as the  
6 "Classes."

7 35. Excluded from the Classes are: (1) Defendant, any entity or division  
8 in which Defendant has a controlling interest, and their legal representatives,  
9 officers, directors, assigns, and successors; (2) the Judge to whom this case is  
10 assigned and the Judge's staff; and (3) those persons who have suffered personal  
11 injuries as a result of the facts alleged herein.

12 36. Plaintiff reserves the right to redefine the Classes, including but not  
13 limited to expanding the class definition and adding one or more subclasses as  
14 appropriate based on discovery and specific theories of liability.

15 37. The Class that Plaintiff seeks to represent contains numerous  
16 members and is clearly ascertainable including, without limitation, by using  
17 Defendant's records to determine the size of the Classes and to determine the  
18 identities of individual members of the Classes.

19 **Numerosity**

20 38. The members of the Classes are so numerous that joinder of all  
21 members would be unfeasible and impractical. The membership of the Class is  
22 currently unknown to Plaintiff at this time. However, on information and belief,  
23 the class is likely to consist of several thousands, if not tens of thousands.  
24 Members of the Classes members can easily be identified through Defendants'  
25 records. The disposition of their claims in a class action will provide substantial  
26 benefits to the parties and the Court.

27 **Commonality**

28 39. There are questions of law and fact common to the Classes that

1 predominate over any questions affecting only individual members of the Classes.  
2 Those common questions of law and fact include, without limitation, the  
3 following:

- 4 a) Whether Defendant continued to charge Plaintiff and the members  
5 of the Classes for good or services that were not rendered;
- 6 b) Whether Defendants knowingly or intentionally failed to provide  
7 Plaintiff and the members of the Classes a full refund of all  
8 monies paid to Defendants during times the attractions and/or  
9 theme parks were closed;
- 10 c) Whether Defendants' conduct constituted an unfair business  
11 practice;
- 12 d) Whether Defendants' conduct constituted an unlawful business  
13 practice;
- 14 e) Whether Defendants misrepresented their products and services to  
15 include characteristics, uses, or benefits which they do not have;
- 16 f) Whether Defendants misrepresented that their products and services  
17 were the subject of a transaction, which had been supplied in  
18 accordance with previous representations when they had not;
- 19 g) Whether Defendant's conduct, practices, and misrepresentations  
20 related to the marketing, advertising, and sales of hotel  
21 reservations and tickets for their goods and services were unfair,  
22 deceptive, confusing, misleading, and/or unlawful in any respect,  
23 thereby violating the UCL and other applicable state law;
- 24 h) Whether Plaintiff and the members of the Classes are entitled to  
25 rescission, restitutionary, injunctive, declaratory, or other relief;  
26 and,
- 27 i) Whether members of the Classes are entitled to any such further  
28 relief as the Court deems appropriate.



1                   **Typicality**

2           40. Plaintiff is qualified to, and will, fairly and adequately protect the  
3 interests of each member of the Classes with whom they are similarly situated,  
4 and Plaintiff's claims (or defenses, if any) are typical of all Class members' as  
5 demonstrated herein.

6           41. Plaintiff represents and is a Class member of the Class because  
7 Plaintiff paid Defendants money to for a hotel reservation and related services at  
8 Defendants' theme park and hotel which were not rendered due to closure  
9 stemming from the COVID-19 pandemic, and Plaintiff refused a refund by  
10 Defendants despite multiple requests for a refund. Consequently, the claims of  
11 Plaintiff are typical of the claims of Class members and Plaintiff's interests are  
12 consistent with and not antagonistic to those of the other Class members whom  
13 Plaintiff seeks to represent.

14           42. Plaintiff and all members of the Class have been impacted by, and  
15 face continuing harm arising out of, Defendants' violations or misconduct as  
16 alleged herein.

17                   **Adequacy**

18           43. Plaintiff is qualified to, and will, fairly and adequately protect the  
19 interests of each Class member with whom Plaintiff is similarly situated, as  
20 demonstrated herein.

21           44. Plaintiff acknowledges that Plaintiff has an obligation to make  
22 known to the Court any relationship, conflicts, or differences with any Class  
23 member.

24           45. Plaintiff's attorneys, the proposed class counsel, are versed in the  
25 rules governing class action discovery, certification, and settlement. In addition,  
26 the proposed class counsel is experienced in handling claims involving consumer  
27 actions and violations of the causes of action asserted. Plaintiff has incurred, and  
28 throughout the duration of this action, will continue to incur costs and attorneys'

1 fees that have been, are, and will be, necessarily expended for the prosecution of  
2 this action for the substantial benefit of each Class member.

3 46. Neither Plaintiff nor Plaintiff's counsel have any interests adverse to  
4 those of the other Class members.

5 **Predominance**

6 47. Questions of law or fact common to the members of the Class  
7 predominate over any questions affecting only individual members of the class.  
8 The elements of the legal claims brought by Plaintiff and members of the Class  
9 are capable of proof at trial through evidence that is common to the class rather  
10 than individual to its members.

11 **Superiority**

12 48. A class action is superior to other available methods for the fair and  
13 efficient adjudication of this controversy because individual litigation of the  
14 claims of all Class members is impracticable and questions of law and fact  
15 common to the Class predominate over any questions affecting only individual  
16 members of the Class. Even if every individual Class member could afford  
17 individual litigation, the court system could not. It would be unduly burdensome  
18 to the courts if individual litigation of the numerous cases were to be required.

19 49. Individualized litigation also would present the potential for varying,  
20 inconsistent, or contradictory judgments, and would magnify the delay and  
21 expense to all parties and to the court system resulting from multiple trials of the  
22 same factual issues. By contrast, conducting this action as a class action will  
23 present fewer management difficulties, conserve the resources of the parties and  
24 the court system, and protect the rights of each Class member. Further, it will  
25 prevent the very real harm that would be suffered by numerous Class members  
26 who will be unable to enforce individual claims of this size on their own, and by  
27 Defendants' competitors, who will be placed at a competitive disadvantage  
28 because they chose to obey the law. Plaintiff anticipates no difficulty in the

1 management of this case as a class action.

2 50. The prosecution of separate actions by individual Class members  
3 may create a risk of adjudications with respect to them that would, as a practical  
4 matter, be dispositive of the interests of other Class members not parties to those  
5 adjudications, or that would otherwise substantially impair or impede the ability of  
6 those non-party Class members to protect their interests.

7 51. The prosecution of individual actions by members of the Classes  
8 would establish inconsistent standards of conduct for Defendants.

9 52. Defendants have acted or refused to act in ways generally applicable  
10 to the Class, thereby making appropriate final and injunctive relief or  
11 corresponding declaratory relief with regard to members of the Class as a whole.  
12 Likewise, Defendants' conduct as described above is unlawful, is capable of  
13 repetition, and will continue unless restrained and enjoined by the Court.

14 53. The Class may also be certified because:

15 (a) the prosecution of separate actions by individual Class members  
16 would create a risk of inconsistent or varying adjudication with  
17 respect to individual Class members, which would establish  
18 incompatible standards of conduct for Defendants;

19 (b) the prosecution of separate actions by individual Class members  
20 would create a risk of adjudications with respect to them that  
21 would, as a practical matter, be dispositive of the interests of other  
22 Class members not parties to the adjudications, or substantially  
23 impair or impede their ability to protect their interests; and,

24 (c) Defendants have acted or refused to act on grounds generally  
25 applicable to the Class, thereby making appropriate final and  
26 injunctive relief with respect to the members of the Class as a  
27 whole.

28 54. This suit expressly is not intended to request any recovery for

1 personal injury and claims related thereto.

2 **FIRST CAUSE OF ACTION**

3 **VIOLATION OF CAL. CIV. CODE §§ 1750, *ET SEQ.***

4 **[CALIFORNIA CONSUMERS LEGAL REMEDIES ACT (“CLRA”)]**

5 55. Plaintiff incorporates by reference all of the above paragraphs of this  
6 Complaint as though fully stated herein.

7 56. The Consumers Legal Remedies Act (“CLRA”) applies to  
8 Defendant’s actions and conduct as described herein because it extends to  
9 transactions that are intended to result, or which have resulted, in the sale of goods  
10 or services to consumers.

11 57. Defendants are “persons” as defined by Cal. Civ. Code § 1761(c).

12 58. Plaintiff and each member of the Class are “consumers” as defined  
13 by Cal. Civ. Code § 1761(a).

14 59. The tickets and vacation packages, such as the Legoland Castle Hotel  
15 Birthday Package, constitute “goods” within the meaning of Cal. Civ. Code §  
16 1761(a).

17 60. Further, access to Defendants’ hotels, theme parks, attractions, and  
18 related offerings are “services” within the meaning of Cal. Civ. Code § 1761(b).

19 61. As described herein, Defendants have engaged in deceptive practices,  
20 unlawful methods of competition, and/or unfair acts as defined by Cal. Civ. Code  
21 §§ 1750 *et seq.*, to the detriment of Plaintiff and the Class.

22 62. Defendants, acting with knowledge, intentionally, and unlawfully  
23 brought harm upon Plaintiff and the Classes by knowingly and/or purposefully  
24 failing to properly disclose that they would not provide refunds to those who  
25 purchased hotel stays or theme park tickets during Legoland’s indefinite closure.

26 63. Defendants, acting with knowledge, intentionally, and unlawfully  
27 brought harm upon Plaintiff and the Classes by knowingly and/or purposefully  
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1 failing to provide refunds to those who purchased hotel stays or theme park tickets  
2 during Legoland's indefinite closure, including following a reasonable request for  
3 a refund.

4 64. Specifically, by not providing Plaintiff and members of the Classes  
5 with a monetary refund due to cancellations by Defendants, Defendants violated  
6 Cal. Civ. Code § 1750 in at least the following respects:

- 7 a) In violation of § 1770(a)(5), by representing that Defendants'  
8 hotel reservations and related services have characteristics, uses,  
9 or benefits that it does not have;
- 10 b) In violation of § 1770(a)(7), by Defendants misrepresenting the  
11 standard, quality or grade of the goods or service purchased;
- 12 c) In violation of § 1770(a)(9), Defendants advertising good or  
13 services with the intent not to sell them as advertised; and,
- 14 d) In violation of § 1770(a)(14), by representing that payment to  
15 Defendants for a hotel reservation confers or involves rights,  
16 remedies, or obligations that it does not have or involve, or that  
17 are prohibited by law.

18 65. The facts concealed or not disclosed by Defendants to Plaintiff and  
19 the Class, including that if the hotel and parks were closed due to a global  
20 pandemic or other nationwide disaster, Defendants would refuse to issue refunds  
21 to affected customers.

22 66. Plaintiff and the Classes reasonably expected that their reservations  
23 would be refunded in the event of a nationwide pandemic requiring Defendants to  
24 close their hotels and venues.

25 67. Through the conduct or omissions detailed herein, Defendants  
26 wrongfully induced Plaintiff and the other members of the Class to pay  
27 Defendants for hotel reservations when they otherwise would not have paid it if  
28 they been warned that the hotel and venue would not be open for the dates

1 purchased;

2 68. Through the conduct or omissions detailed herein, Defendants  
3 wrongfully induced Plaintiff and the other members of the Class to pay  
4 Defendants for hotel reservations when they otherwise would not have paid it if  
5 they knew they would not be entitled to a refund in the event of closure of  
6 Defendants' hotel and venue due to a global pandemic.

7 69. Through the conduct or omissions detailed herein, Defendants  
8 wrongfully induced Plaintiff and the other members of the Class to pay  
9 Defendants for hotel reservations when they otherwise would not have paid it if  
10 they knew they the hotel and attractions did not have characteristics or benefits as  
11 promised.

12 70. As a direct and proximate result of Defendants' violations of Cal.  
13 Civ. Code §§ 1750, *et seq.*, Plaintiff and each member of the Classes have  
14 suffered harm in the form of paying monies to Defendants for hotel reservations  
15 and related offerings and Defendants' withholding of said money when they  
16 otherwise would not have paid for it if they knew that they would not be entitled  
17 to a refund due to closures required by a global pandemic.

18 71. Plaintiff intends to serve on Defendants a demand for corrective  
19 pursuant to Cal. Civ. Code § 1782.

20 72. This claim is for equitable relief only at this time. Plaintiff reserves  
21 the right to amend the complaint in the future to plead money damages if the  
22 Defendants do not appropriately remedy their CLRA violations following a 30-  
23 day grace period.

24 73. Attached hereto as Exhibit A is a sworn declaration from Plaintiff  
25 pursuant to Cal. Civ. Code § 1780(d).

26 74. Under Cal. Civ. Code § 1780(a) and (b), Plaintiff, individually and  
27 on behalf of the Class, seeks an injunction requiring Defendants to cease and  
28 desist the illegal conduct alleged in this Complaint, and all other appropriate

1 remedies for its violations of the CLRA.

2 **SECOND CAUSE OF ACTION**

3 **VIOLATION OF CAL. BUS. & PROF. CODE §§ 17200, *ET SEQ.***

4 **[CALIFORNIA’S UNFAIR COMPETITION LAW (“UCL”)]**

5 75. Plaintiff incorporates by reference all of the above paragraphs of this  
6 Complaint as through fully stated herein.

7 76. Plaintiff and Defendants are each “person[s]” as defined by  
8 California Business & Professional Code § 17201.

9 77. California Business & Professional Code § 17204 authorizes a  
10 private right of action on both an individual and representative basis.

11 78. “Unfair competition” is defined by Business and Professions Code  
12 Section § 17200 as encompassing several types of business “wrongs”: (1) an  
13 “unlawful” business act or practice, (2) an “unfair” business act or practice, (3) a  
14 “fraudulent” business act or practice, and (4) “unfair, deceptive, untrue or  
15 misleading advertising.” The definitions in § 17200 are drafted in the disjunctive,  
16 meaning that each of these “wrongs” operates independently from the others.

17 79. By and through Defendants’ conduct alleged in further detail above  
18 and herein, Defendant engaged in conduct that constitutes (a) unlawful, (b) unfair,  
19 and (c) fraudulent business practices prohibited by Bus. & Prof. Code § 17200 *et*  
20 *seq.*

21 ***(a) Unlawful” Prong***

22 80. Defendants have committed acts of unfair competition, including  
23 those described above, by engaging in a pattern of “unlawful” business practices,  
24 within the meaning of Business & Professional Code §§ 17200, *et seq.*, in that  
25 they violate as described her within at least the following law: The Consumers  
26 Legal Remedies Act, Cal. Civ. Code §§ 1750 *et seq.*

27 ***(b) “Unfair” Prong***

28 81. Defendants’ actions, representations or omissions constitute an



1 "unfair" business act or practice under Business & Professions Code §17200, *et*  
2 *seq.* in that Defendant's conduct is substantially injurious to consumers, offends  
3 public policy, and is immoral, unethical, oppressive, and unscrupulous as the  
4 gravity of the conduct outweighs any alleged benefits attributable to such conduct.

5 82. Without limitation, it is an unfair business act or practice for  
6 Defendants to close their parks and attractions without offering monetary refunds  
7 to customers who purchased tickets or made hotel reservations that could no  
8 longer be used as scheduled due to the closures.

9 83. Such conduct by Defendants is "unfair" because it offends  
10 established public policy and/or is immoral, unethical, oppressive, unscrupulous  
11 and/or substantially injurious to consumers in that consumers are led to believe  
12 that in the event of a nationwide pandemic and closure of facilities, they would  
13 receive a refund for services they could no longer use.

14 84. Plaintiffs could not have reasonably avoided the injury they suffered.  
15 Indeed, immediately after Plaintiff was on notice of the closures due to COVID-  
16 19 and Governor Newsom's Order, Plaintiff urgently contacted Defendant  
17 requesting a refund but was denied a refund.

18 85. Plaintiff reserves the right to allege further conduct that constitutes  
19 other unfair business acts or practices. Such conduct is ongoing and continues to  
20 this date, as Defendant continues to refuse to provide Plaintiff, and those similarly  
21 situated, with refunds.

22 ***(c) "Fraudulent" Prong***

23 86. Defendants' actions, representations or omissions constitute an  
24 "fraudulent" business act or practice under Business & Professions Code §17200,  
25 *et seq.* in terms of their online marketing and advertising of the hotel and related  
26 packages and services were likely to deceive a reasonable consumer by  
27 misleading them to believe they would only be charged for goods or services that  
28 they would actually have access to.



**THIRD CAUSE OF ACTION**

**UNJUST ENRICHMENT**

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87. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

88. Plaintiff brings this claim individually and on behalf of the members of the Classes against Defendants.

89. “Under California law, the elements of unjust enrichment are: (a) receipt of a benefit; and (b) unjust retention of the benefit at the expense of another.” *Valencia v. Volkswagen Grp. Of Am. Inc.*, No. 15-CV-00887-HSG, 2015 WL 4747533 at \*8 (N.D. Cal. Aug. 11, 2015).

90. Plaintiff and members of the Classes conferred non-gratuitous benefits upon Defendants by purchasing hotel reservations, tickets, memberships, and other packages, thereby significantly increasing Defendants’ revenue and profits, thereby unjustly enriching Defendants at the expense of and to the detriment of Plaintiff and the members of the Classes.

91. Defendants’ retention of any benefit collected from Plaintiff’s and Class Member’s payments to Defendants, either directly or indirectly, violated principles of justice, equity, and good conscience. Thus, Defendants have been unjustly enriched and Plaintiff and Class Members are entitled to recover from Defendants all amounts that Defendants have wrongfully and improperly obtained.

92. As a result of Defendant’s unlawful practices, Plaintiff and Class Members have suffered concrete harm and injury. Plaintiff and Class Members are therefore entitled to seek disgorgement and restitution of wrongful profits, revenue, and benefits conferred upon Defendants in a manner established by this Court.

93. Plaintiffs and Class Members request the Court enter an order awarding

1 Plaintiff and the Class Members Restitution, damages, and that they are  
2 entitled to recover their reasonable attorney’s fees.

3 94. Plaintiffs and Class Members therefore also seek pre-and-post-  
4 judgement interest and attorney’s fees and costs as allowed by statute,  
5 including without limitation those recoverable under Cal. Code Civ.  
6 Proc. § 1021.5, any common law “private attorney general” equitable  
7 doctrine, any “common fund” doctrine, any “substantial benefit”  
8 doctrine, and/or any equitable principles of contribution and/or other  
9 methods of awarding attorney’s fees and costs.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff, on behalf of himself and members of the Class,  
12 prays for the following relief against Defendants, and each of them:

- 13 • That this action be certified as a Class Action, establishing the Classes
- 14 and any appropriate sub-classes that the Court may deem appropriate;
- 15 • Appointing Plaintiff as the representative of the Classes;
- 16 • Appointing the law firms representing Plaintiff as Class Counsel;
- 17 • That the Court find and declare that Defendants have violated the UCL
- 18 and committed unfair, unlawful, and/or deceptive business practices;
- 19 • An order requiring Defendants to pay restitution to Plaintiff and the Class
- 20 due to Defendant’s UCL violations, pursuant to Cal. Bus. & Prof. Code
- 21 §§ 17200-17205 in the amount of the money paid to Defendants not
- 22 refunded;
- 23 • An order requiring imposition of a constructive trust and and/or
- 24 disgorgement of Defendants’ ill-gotten gains and to pay restitution to
- 25 Plaintiff and all members of the Class and to restore to Plaintiff and
- 26 members of the Class all funds acquired by means of any act or practice
- 27 declared by this court to be an unlawful, fraudulent, or unfair business
- 28 act or practice, in violation of laws, statutes or regulations, or

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constituting unfair competition;

- An Order enjoining Defendants from continuing the wrongful conduct alleged herein and be required to comply with all applicable laws;
- Actual damages;
- Punitive damages;
- Costs of suit;
- Pre-Judgment and Post-Judgment interest;
- An award of reasonable attorneys’ fees for Plaintiff and the Class pursuant to Code of Civil Procedure § 1021.5, and California Civil Code § 1780, the private attorney general doctrine, and/or any other applicable law; and,
- Any and all other relief as this Court may deem necessary or appropriate.

**JURY DEMAND**

95. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Dated: June 19, 2020

Respectfully submitted,

**KAZEROUNI LAW GROUP, APC**

By: /s/ Abbas Kazerounian  
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# EXHIBIT A

**DECLARATION OF JESSICA BAUTISTA**

**I, JESSICA BAUTISTA, declare:**

1. On March 6, 2020, I purchased a two-night stay at the Legoland California Restort (the "Purchase").
2. At the time of my payment for the Purchase, I was residing in the County of Los Angeles, State of California.
3. Legoland California Resort is located at One Legoland Drive, Carlsbad, CA 92008, within the County of San Diego, California.
4. Also, it is my understanding that Merlin Entertainments Group U.S. Holdings Inc. does business in the County of San Diego, State of California.

I declare under penalty of perjury under the laws of California and the United States of America that the foregoing is true and correct, and that this declaration was executed on June 19, 2020.

  
\_\_\_\_\_  
Jessica Bautista

# ClassAction.org

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