

1 PACIFIC TRIAL ATTORNEYS  
A Professional Corporation  
2 Scott J. Ferrell, Bar No. 202091  
sferrell@trialnewport.com  
3 Victoria C. Knowles, Bar No. 277231  
vknowles@pacifictrialattorneys.com  
4 4100 Newport Place Drive, Ste. 800  
Newport Beach, CA 92660  
5 Tel: (949) 706-6464  
Fax: (949) 706-6469

6 Attorneys for Plaintiff and the Proposed Class  
7

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **FOR THE COUNTY OF SAN DIEGO**

11 KAVEH FASIH, individually and on behalf of all  
others similarly situated

12 Plaintiff,

13 v.

14 SEED LEAF, INC., a Delaware corporation; and  
15 DOES 1 – 10, inclusive,

16 Defendants.  
17  
18

Case No.

**CLASS ACTION COMPLAINT FOR:**

1. VIOLATIONS OF CALIFORNIA'S UNFAIR COMPETITION LAW (BUSINESS & PROFESSIONS CODE §§ 17200-17204);
2. VIOLATIONS OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT (CAL. CIV. CODE § 1750 *ET SEQ.*); AND
3. DECLARATORY RELIEF PURSUANT TO CALIFORNIA CODE OF CIVIL PROCEDURE § 1060 *ET. SEQ.*

1 Plaintiff Kaveh Fasih (“Plaintiff”), individually and on behalf of all others similarly situated,  
2 complains and alleges as follows:

3 **INTRODUCTION**

4 1. Plaintiff brings this action individually and on behalf of all others similarly situated  
5 who purchased an automatically renewing coffee delivery subscription from Seed Leaf, Inc.  
6 (“Defendant”), doing business as “Trade,” and incurred unlawful charges from Defendant related to a  
7 continuing service. During the Class Period, Defendant made unlawful automatic renewal and/or  
8 continuous service offers to consumers in California in violation of California’s Automatic Renewal  
9 Law (the “ARL”), Cal. Bus. & Prof. Code § 17600 *et seq.*, by (1) failing to provide “clear and  
10 conspicuous” disclosures mandated by California law; (2) charging consumers’ credit or debit cards  
11 for purported automatically renewing candle plans without first obtaining affirmative consent to an  
12 agreement containing the requisite clear and conspicuous disclosures; (3) failing to provide an  
13 acknowledgment to Plaintiff and the Class that includes the automatic renewal or continuous service  
14 offer terms, the cancellation policy, and information regarding how to cancel in a manner that is  
15 capable of being retained by the consumer; and (4) failing to allow a consumer to terminate the  
16 automatic renewal or continuous service exclusively online, at will, and without engaging any further  
17 steps that obstruct or delay the consumer’s ability to terminate the automatic renewal or continuous  
18 service immediately. The foregoing violations of the ARL by Defendant likewise constitute violations  
19 of California’s Consumer Legal Remedies Act (the “CLRA”), Civil Code § 1750 *et seq.*, and  
20 California’s Unfair Competition Law (the “UCL”), California Business & Professions Code § 17200,  
21 *et seq.*

22 2. Plaintiff, on behalf of himself and the Class Members, seeks to enjoin Defendant from  
23 the ongoing violations of California law, as well as restitution, declaratory relief, and reasonable  
24 attorneys’ fees and costs.

25 **JURISDICTION AND VENUE**

26 3. This Court has jurisdiction over all causes of action asserted herein.  
27  
28

1 4. Venue is proper in this Court because Defendant knowingly engages in activities  
2 directed at consumers in this County and engaged in the wrongful conduct alleged herein against  
3 residents of this County.

4 5. Any out-of-state participants can be brought before this Court pursuant to California's  
5 "long-arm" jurisdictional statute.

6 **PARTIES**

7 6. Plaintiff is a resident of San Diego County, California. Plaintiff purchased an  
8 automatically renewing coffee subscription plan from Defendant earlier this year. Plaintiff and Class  
9 Members are consumers as defined under Cal. Bus. & Prof. Code § 17601(d).

10 7. Plaintiff is informed and believes, and upon such information and belief alleges,  
11 Defendant Seed Leaf, Inc., which is doing business as "Trade," is a Delaware corporation with its  
12 principal place of business located in New York, New York. Defendant operates in California and has  
13 done business in California at all times during the Class Period. Also during the Class Period,  
14 Defendant made, and continues to make, automatic renewal or continuous service offers to consumers  
15 in California. Defendant operates the website <https://www.drinktrade.com/> (the "Website"), which  
16 markets and sells coffee delivery plans and related products.

17 8. The true names and capacities of the Defendants sued herein as DOES 1 through 10,  
18 inclusive, are currently unknown to Plaintiff, who therefore sues such Defendants by fictitious names.  
19 Each of the Defendants designated herein as a DOE is legally responsible for the unlawful acts alleged  
20 herein. Plaintiff will seek leave of Court to amend this Complaint to reflect the true names and  
21 capacities of the DOE Defendants when such identities become known.

22 9. At all relevant times, each and every Defendant was acting as an agent and/or employee  
23 of each of the other Defendants and was acting within the course and/or scope of said agency and/or  
24 employment with the full knowledge and consent of each of the Defendants. Each of the acts and/or  
25 omissions complained of herein were alleged and made known to, and ratified by, each of the other  
26 Defendants (Seed Leaf LLC and DOE Defendants will hereafter collectively be referred to as  
27 "Defendant").

28 ///

1 **FACTUAL BACKGROUND**

2 **A. The Automatic Renewal Law (“ARL”), California B&P Code §§ 17600-17606**

3 10. On December 1, 2010, the Automatic Renewal Law (“ARL”) at sections 17600-17606  
4 of the Cal. Bus. & Prof. Code, came into effect. The Legislature’s stated intent for this Article was to  
5 end the practice of ongoing charges to consumers without consumers’ explicit consent for ongoing  
6 shipments of a product or ongoing deliveries of service. *See* Cal. Bus. & Prof. Code § 17600.

7 11. Cal. Bus. & Prof. Code § 17602(a) makes it unlawful for any business making an  
8 automatic renewal or continuous service offer to a consumer in this state to do any of the following:

- 9 (1) Fail to present the automatic renewal offer terms or continuous service offer  
10 terms in a clear and conspicuous manner before the subscription or purchasing  
11 agreement is fulfilled and in visual proximity, or in the case of an offer  
12 conveyed by voice, in temporal proximity, to the request for consent to the  
13 offer.
- 14 (2) Charge the consumer's credit or debit card or the consumer’s account with a  
15 third party for an automatic renewal or continuous service without first  
16 obtaining the consumer's affirmative consent to the agreement containing the  
17 automatic renewal offer terms or continuous service offer terms.
- 18 (3) Fail to provide an acknowledgment that includes the automatic renewal or  
19 continuous service offer terms, cancellation policy, and information regarding  
20 how to cancel in a manner that is capable of being retained by the consumer. If  
21 the offer includes a free trial, the business shall also disclose in the  
22 acknowledgment how to cancel and allow the consumer to cancel before the  
23 consumer pays for the goods or services.

24 12. Cal. Bus. & Prof. Code § 17601(a) defines the term “Automatic renewal” as a “plan or  
25 arrangement in which a paid subscription or purchasing agreement is automatically renewed at the end  
26 of a definite term for a subsequent term.”

27 13. Cal. Bus. & Prof. Code § 17601(b) requires that all “Automatic renewal offer terms”  
28 contain the following “clear and conspicuous” disclosures: (1) “That the subscription or purchasing  
agreement will continue until the consumer cancels. (2) The description of the cancelation policy that  
applies to the offer. (3) The recurring charges that will be charged to the consumer’s credit or debit  
card or payment account with a third party as part of the automatic renewal plan or arrangement, and  
that the amount of the charge may change, if that is the case, and the amount to which the charge will  
change, if known. (4) The length of the automatic renewal term or that the service is continuous,  
unless the length of the term is chosen by the consumer. (5) The minimum purchase obligation, if any.”

1           14. Pursuant to Cal. Bus. & Prof. Code § 17601(c), “clear and conspicuous” or “clearly and  
2 conspicuously” means “in larger type than the surrounding text, or in contrasting type, font, or color  
3 to the surrounding text of the same size, or set off from the surrounding text of the same size by  
4 symbols or other marks, in a manner that clearly calls attention to the language.”

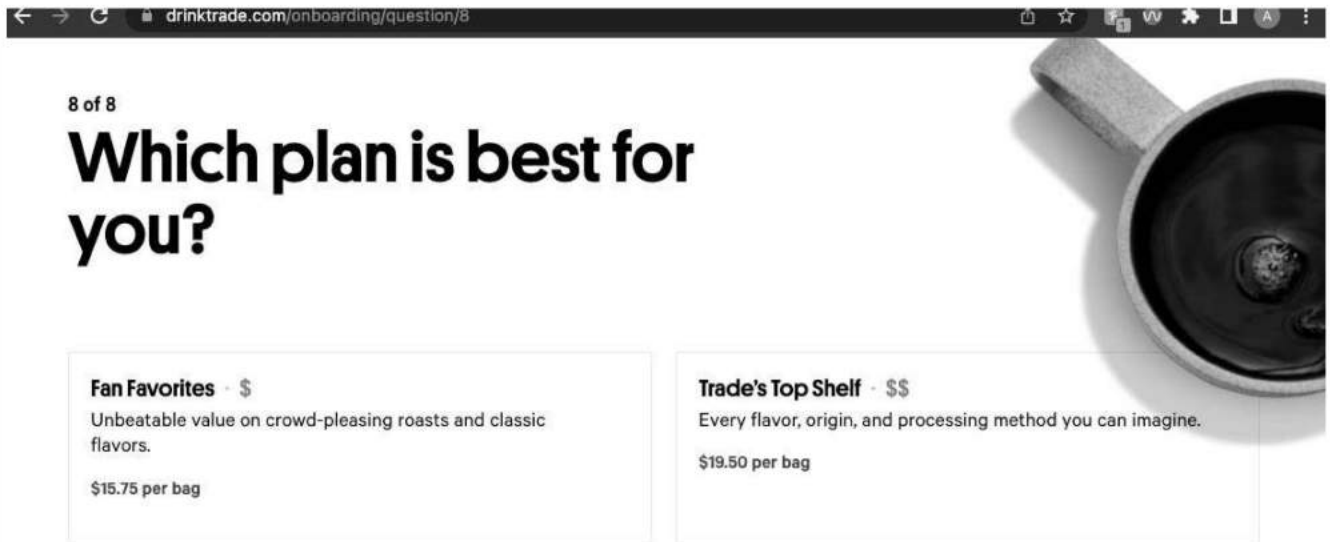
5           15. Cal. Bus. & Prof. Code § 17602(c) provides: “A business that makes an automatic  
6 renewal offer or continuous service offer shall provide a toll-free telephone number, electronic mail  
7 address, a postal address if the seller directly bills the consumer, or it shall provide another cost-  
8 effective, timely, and easy-to-use mechanism for cancellation that shall be described in the  
9 acknowledgment specified in paragraph (3) of subdivision (a).”

10           16. Cal. Bus. & Prof. Code § 17603 provides: “In any case in which a business sends any  
11 goods, wares, merchandise, or products to a consumer, under a continuous service agreement or  
12 automatic renewal of a purchase, without first obtaining the consumer’s affirmative consent as  
13 described in Section 17602, the goods, wares, merchandise, or products shall for all purposes be  
14 deemed an unconditional gift to the consumer, who may use or dispose of the same in any manner he  
15 or she sees fit without any obligation whatsoever on the consumer’s part to the business, including, but  
16 not limited to, bearing the cost of, or responsibility for, shipping any goods, wares, merchandise, or  
17 products to the business.”

18           **B. Defendant’s Pre-Transaction Violations of the ARL**

19           17. Defendant offers through the Website various subscriptions for coffee delivery plans.  
20 Defendant’s offerings constitute automatic renewals and/or continuous service plans or arrangements  
21 for the purposes of Cal. Bus. & Prof. Code § 17600 *et seq.*

22           18. Defendant’s coffee delivery plan offers  
23 (<https://www.drinktrade.com/onboarding/question/8>) are presented on its Website as follows:



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19. Defendant's coffee delivery plan checkout page (<https://www.drinktrade.com/recommendation/plan?subscriptionType=CC>) is presented on its website as follows:

# Trade

## Customize Your Plan


Enjoy a new craft coffee every time — roasted for you and delivered on your schedule.




### How many cups do you drink per day?

I drink less than 1 cup I drink between 1 and 2 cups I drink more than 2 cups

We recommend:

 **A Standard Bag every 10 days**

 **A Big Bag every 28 days** Best Value

Need help deciding? [Bag Size Guide](#)

### How would you like to pay?

**\$25 off + Free Shipping**




~~\$94.50~~ **\$69.50**

**Pay for 6 bags at a time**

- ✓ \$15.75 per bag
- ✓ Free Shipping
- ✓ \$25 off your first order

**\$15 off + Free Shipping**




~~\$47.25~~ **\$32.25**

**Pay for 3 bags at a time**

- ✓ \$15.75 per bag
- ✓ Free Shipping
- ✓ \$15 off your first order

**\$15.75 + \$4.95 Shipping**




**\$15.75 + \$4.95 Shipping**

**Pay for 1 bag at a time**

- ✓ \$15.75 per bag
- ✗ Free Shipping
- ✗ First-order savings

### What is your grind setting?

 **Whole**

 **Ground for Coffee Maker**

[Change Brew Method](#)

**In Your Cart****Alma  
Enchanted**

Your First Coffee - Shipped immediately

**5 Future Deliveries**

We'll email you before these are shipped so you can choose your coffees or edit your order date.

**My Order**

Subtotal (First 6 bags)	\$94.50
Discount (25OFF)	-\$25.00
Shipping	FREE

**Today's Total** **\$69.50**

CHECKOUT | \$69.50

Cancel recurring billing anytime.

20. Defendant's coffee subscription plan offer and checkout pages presented to Plaintiff and the Class violate several sections of the ARL:

- (1) Section 17601(b)(1) by failing to disclose that the "subscription or purchasing agreement will continue until the consumer cancels";
- (2) Section 17601(b)(2) by failing to describe the "cancellation policy that applies to the offer";
- (3) Section 17601(b)(3) by failing to disclose the amount of "[t]he recurring charges that will be charged to the consumer[]";
- (4) Section 17601(b)(4) by failing to disclose either "[t]he length of the automatic renewal term or that the service is continuous";
- (5) Section 17601(c) and section 17602(a)(1) by failing to include the automatic renewal terms in a "clear and conspicuous" manner, i.e. with "larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text



1 of the same size, or set off from the surrounding text of the same size by  
2 symbols or other marks, in a manner that clearly calls attention to the language.”

3 (6) Section 17602(a)(2) by failing to “obtain[] the consumer’s affirmative consent  
4 to the agreement containing the automatic renewal offer terms”.

5 21. In short, Defendant failed to properly present Plaintiff and the Class with its automatic  
6 renewal offers or continuous service offer terms prior to Plaintiff and the Class completing a purchase.  
7 Indeed, the offer and terms appear *nowhere* on the Website’s offer and checkout pages, except for in  
8 the standard footer at the very bottom of the page. Plaintiff and the class were not required to view, or  
9 even click on, the Terms and Conditions, before proceeding with a purchase.

10 **C. Defendant’s Post-Transaction Violations of the ARL**

11 22. Defendant similarly violated the ARL by failing to provide the post-transaction  
12 acknowledgement required by section 17602. Plaintiff received the following post-transaction emails  
13 from Defendant:

Trade

Shop

How-To

About

Coffee Gifts



We'll update you with tracking details as soon as your coffee is roasting and about to head your way.

EXPLORE COFFEE

**My Order**

Order No. T9951222345



**Sightglass**  
1 x Organic Toketee  
Automatic Drip  
310 g.

\$15.75

Subtotal

\$18.50

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Tax	\$0.00
Shipping	\$4.95
Discount	\$-2.75
Total	\$20.70

**Shipping**

Kaveh Fasih



**Payment**

MasterCard \*\*\*\*0289

# Prepay for Coffee + Get Rewarded

Stick with the coffee you love, but prepay for six (or 12) bags ahead of time, and you'll get up to **two free bags\*** right now!

**GET MY REWARD**





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# Welcome to Trade

You're now part of a community connecting craft roasters  
and coffee drinkers from coast to coast. Brew better coffee.

Discover new ones. Learn what you love. It's time to  
embark on your coffee journey!

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## Support Local. Support Farmers.

Support independent roasters across the US and be part of championing ethical and sustainable practices.

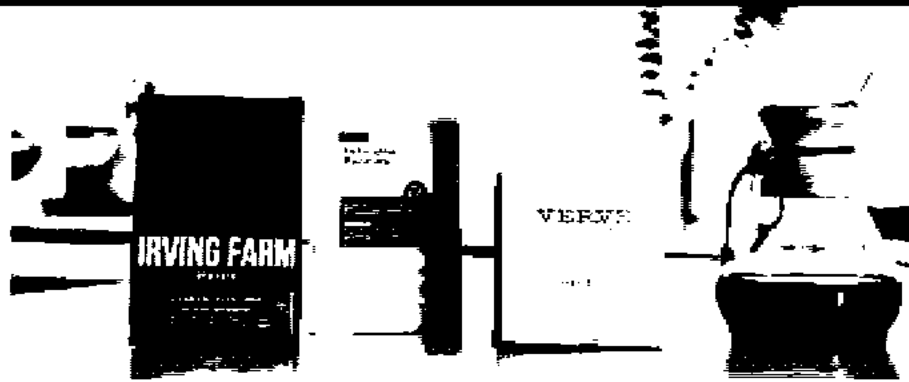
[MEET OUR ROASTERS](#)



## Only the Best of the Best

Each coffee is hand-picked and tasted by Trade's in-house coffee experts to ensure it passes our rigorous test.

[EXPLORE COFFEE](#)



## Curated Exploration

Gain access to 400+ coffees and over 55 roasters. We'll introduce you to all of them and guide you to the ones you'll love.

DISCOVER MATCHES



## Fresh Coffee, Conveniently Delivered

You'll never run out of coffee again. Set your own delivery schedule to suit your needs and lifestyle.

VIEW PROFILE

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## Refer Friends, Get Free Coffee

Give friends a free bag! You'll earn a **\$15 credit**,\* plus be entered to win a monthly prize once they sign up. It's a coffee win-win.

REFER NOW



Chat With Us

[DrinkTrade.com](https://drinktrade.com)



Call Us

1 (888) 262-8601



Email Us

[support@drinktrade.com](mailto:support@drinktrade.com)



Text Us

Send "Help" to 1 (424) 238-3630



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1 23. Defendant violated section 17602(a)(3) by failing to “provide an acknowledgment that  
2 includes the automatic renewal or continuous service offer terms, cancellation policy, and information  
3 regarding how to cancel in a manner that is capable of being retained by the consumer.”

4 24. Further, Defendant is in violation of section 17602(d)(1) which was recently amended  
5 and went into effect July 1, 2022. That section provides:

6 (d)(1) In addition to the requirements of subdivision (b), a business that allows a consumer to  
7 accept an automatic renewal or continuous service offer online shall allow a consumer to  
8 terminate the automatic renewal or continuous service exclusively online, at will, and without  
9 engaging any further steps that obstruct or delay the consumer’s ability to terminate the  
10 automatic renewal or continuous service immediately. The business shall provide a method of  
11 termination that is online in the form of either of the following:

12 (A) A prominently located direct link or button which may be located within either a  
13 customer account or profile, or within either device or user settings.

14 (B) By an immediately accessible termination email formatted and provided by the  
15 business that a consumer can send to the business without additional information.

16 25. Defendant did not provide to Plaintiff or the Class a direct link or button, nor an  
17 immediately accessible termination email, allowing Plaintiff and the Class to easily and quickly  
18 terminate Defendant’s automatically renewing coffee delivery plans. Instead, to cancel, Plaintiff and  
19 the Class were made to wade through a series of steps making cancellation unclear and difficult.  
20 Further, during the cancellation process Defendant encouraged and requested Plaintiff and the Class to  
21 re-renew the automatically renewing subscriptions.

22 **CLASS ACTION ALLEGATIONS**

23 26. Plaintiff brings this class action for restitution, declaratory relief and injunctive relief  
24 on behalf of the following Class:

25 **“All California consumers who, within the applicable statute of limitations period**  
26 **up to and including entry of judgment in this matter, purchased any product or**  
27 **service in response to an offer constituting an “Automatic Renewal” as defined by**  
28

1           **§ 17601 of the Business & Professions Code, from Defendant, its predecessors, or**  
2           **its affiliates, via the above-referenced website.”** (The “Class”).

3           27.     The proposed Class is so numerous that individual joinder of all its Members is  
4 impracticable. While the exact number and identities of the Class Members are unknown at this time,  
5 such information can be ascertained through appropriate investigation and discovery. The disposition  
6 of the claims of the Class Members in a single class action will provide substantial benefits to all  
7 parties and to the Court.

8           28.     There is a well-defined community of interest in the questions of law and fact affecting  
9 the Class, and these common questions predominate over any questions that may affect individual  
10 Class Members. Common questions of fact and law include, but are not limited to, the following:

- 11           i.       Whether Defendant failed to present to the Class the automatic renewal offer  
12                   terms, or continuous service offer terms, in a clear and conspicuous manner  
13                   before the subscription or purchasing agreement was fulfilled and in visual  
14                   proximity to the request for consent to the offer in violation of Cal. Bus. & Prof.  
15                   Code § 17602(a)(1);
- 16           ii.      Whether Defendant charged Plaintiff’s and Class Members’ payment method  
17                   for an automatic renewal or continuous service without first obtaining their  
18                   affirmative consent to the automatic renewal offer terms or continuous service  
19                   offer terms in violation of Cal. Bus. & Prof. Code § 17602(a)(2);
- 20           iii.     Whether Defendant failed to provide an acknowledgement that included the  
21                   automatic renewal or continuous service offer terms, cancellation policy, and  
22                   information on how to cancel in a manner that is capable of being retained by  
23                   Plaintiff and Class Members, in violation of Cal. Bus. & Prof. Code §  
24                   17602(a)(3);
- 25           iv.      Whether during the Class Period Defendant failed to provide to Plaintiff and the  
26                   Class Members an acknowledgment that describes a cost-effective, timely, and  
27                   easy-to-use mechanism for cancellation in violation of Cal. Bus. & Prof. Code §  
28                   17602(c);

- v. Whether Defendant allowed Plaintiff and Class Members to terminate the automatic renewal or continuous service exclusively online, at will, and without engaging any further steps that obstruct or delay the consumer's ability to terminate the automatic renewal or continuous service immediately in violation of Cal. Bus. & Prof. Code § 17602(d);
- vi. Whether Plaintiff and the Class Members are entitled to restitution of money paid in circumstances where the goods and services provided by Defendant are deemed an unconditional gift pursuant to Cal. Bus. & Prof. Code § 17603;
- vii. Whether Plaintiff and Class Members are entitled to restitution pursuant to Cal. Bus. & Prof. Code §§ 17200, 17203;
- viii. Whether Plaintiff and Class Members are entitled to injunctive pursuant to Cal. Bus. & Prof. Code § 17203;
- ix. Whether Plaintiff and Class Members are entitled to attorneys' fees and costs pursuant to California Code of Civil Procedure § 1021.5; and
- x. The proper formula(s) for calculating the restitution owed to Class Members.

29. Plaintiff's claims are typical of the claims of the Class Members. Plaintiff and all Class Members have been subjected to Defendant's common course of unlawful conduct as complained of herein and are entitled to the same restitution based on Defendant's wrongful conduct as alleged herein.

30. Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff has retained counsel with substantial experience in handling complex class action litigation. Plaintiff and his counsel are committed to vigorously prosecuting this action on behalf of the Class and have the financial resources to do so.

31. A class action is superior to other available methods for the fair and efficient adjudication of the present controversy. Individual joinder of all members of the Class is impracticable. Even if individual Class Members had the resources to pursue individual litigation, it would be unduly burdensome to the courts in which the individual litigation would proceed.



1 required to disgorge all the profits and gains it has reaped and restore such profits and gains to Plaintiff  
2 and Class Members, from whom they were unlawfully taken.

3 39. Plaintiff and similarly situated Class Members are entitled to enforce all applicable  
4 penalty provisions pursuant to Cal. Bus. & Prof. Code § 17202, and to obtain injunctive relief pursuant  
5 to Cal. Bus. & Prof. Code § 17203.

6 40. Plaintiff has assumed the responsibility of enforcement of the laws and public policies  
7 specified herein by suing on behalf of himself and other similarly situated Class Members. Plaintiff's  
8 success in this action will enforce important rights affecting the public interest. Plaintiff will incur a  
9 financial burden in pursuing this action in the public interest. An award of reasonable attorneys' fees  
10 to Plaintiff is thus appropriate pursuant to California Code of Civil Procedure § 1021.5.

11 **SECOND CAUSE OF ACTION**

12 **VIOLATION OF THE CALIFORNIA CONSUMER LEGAL REMEDIES ACT**

13 **(CAL. CIV. CODE § 1750 *et. seq.*)**

14 **(By Plaintiff, individually and on behalf of the Class, against All Defendants)**

15 41. The foregoing paragraphs are incorporated herein by reference.

16 42. Plaintiff is a "consumer" within the meaning of Civil Code § 1761(d) because Plaintiff  
17 purchased Defendants' goods and services for personal, family, and/or household purposes.  
18 Defendant's automatically renewing coffee subscription plan program is "goods" and/or "services"  
19 within the meaning of Civil Code § 1761(a), (b). The charges Defendant charged to Plaintiff and the  
20 Class Members' credit or debit card, or payment account with a third party as part of the automatic  
21 renewal plan or arrangement, are "transactions" within the meaning of Civil Code § 1761(e).

22 43. The CLRA, Cal. Civ. Code § 1750, *et seq.*, makes it unlawful to advertise goods or  
23 services with intent not to sell them as advertised (Cal. Civ. Code § 1770(a)(9)) or to represent that a  
24 transaction confers or involves rights, remedies, or obligations that it does not have or involve, or that  
25 are prohibited by law (Cal. Civ. Code § 1770(a)(14)). Defendant's violations of the ARL constitute a  
26 violation of both of these provisions of the CLRA.

1 44. Pursuant to Civil Code § 1780(a)(2), Plaintiff seeks an injunction on his behalf and on  
2 behalf of the Class Members prohibiting Defendant from continuing its unlawful practices as alleged  
3 herein.

4 **THIRD CAUSE OF ACTION**

5 **DECLARATORY RELIEF**

6 **(CAL. CODE CIV. PROC. § 1060-1062.5)**

7 **(By Plaintiff, individually and on behalf of the Class, against All Defendants)**

8 46. The foregoing paragraphs are incorporated herein by reference.

9 47. Plaintiff has reason to believe that Defendant may allege Plaintiff and Class Members  
10 are or were parties to a written instrument with Defendant, specifically the Terms of Service available  
11 on the Website (<https://www.drinktrade.com/terms>) (last visited September 11, 2022). A true and  
12 correct copy of Defendant’s full Terms of Service on the Website dated October 29, 2020, are attached  
13 hereto as **Exhibit A**. The Terms of Service are offered on the Website as a “browse wrap” agreement  
14 where consumers are not obligated to click on or expressly agree to the Terms of Service to complete a  
15 purchase or transaction.

16 48. Plaintiff believes that Defendant may contend that by merely using the Website, users  
17 accept all terms of the agreement: “These provisions, including the mandatory arbitration provisions,  
18 and the Trade Privacy Policy, Commercial Terms, as well as other terms or conditions that may be  
19 presented by us and accepted by you from time to time in connection with specific Service offerings or  
20 promotions (all of which we collectively refer to as the ‘**Terms**’), are a contract between our Customer  
21 and Seed Leaf Inc., d/b/a Trade, the provider of the Service (which we refer to in these Terms as  
22 ‘**Trade,**’ ‘**we**’ or ‘**us**’).”

23 49. The Terms of Service purport to impose upon all Website users, including Plaintiff and  
24 Class Members, a waiver of “THEIR RIGHT TO HAVE A TRIAL BY JURY” and “THEIR RIGHT  
25 TO SERVE AS A REPRESENTATIVE, AS A PRIVATE ATTORNEY GENERAL, OR IN ANY  
26 OTHER REPRESENTATIVE CAPACITY, OR TO PARTICIPATE AS A MEMBER OF A CLASS  
27 OF CLAIMANTS, IN ANY LAWSUIT INVOLVING ANY SUCH DISPUTE” and impose binding  
28 arbitration for the resolution of any dispute with Defendant. The Terms of Service also purport to

1 waive the right to any users' ability to bring a class action lawsuit against Defendant: "You may only  
2 resolve disputes with us on an individual basis and may not bring a claim as a plaintiff or a class  
3 member in a class, consolidated, or representative action. Class arbitrations, class actions, private  
4 attorney general actions, and consolidation with other arbitrations aren't allowed."

5 50. Based on the actual controversy between the parties, Plaintiff and the Class seek  
6 declaratory relief pursuant to Code of Civil Procedure § 1060 determining the legal rights and duties of  
7 Plaintiff and the Class, and Defendant, namely whether the Terms of Service are binding and  
8 enforceable against Plaintiff and the Class, and whether they have waived their right to bring this  
9 matter as a class action before the Superior Court of California.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiff requests the following relief:

12 1. That the Court determine that this action may be maintained as a class action in this  
13 court, and define the Class as requested herein;

14 2. That the Court find and declare that Defendant has violated Cal. Bus. & Prof. Code §  
15 17600 et seq.;

16 3. That the Court find and declare that Defendant has violated the UCL and committed an  
17 unlawful business practice by violating Cal. Bus. & Prof. Code § 17600 et seq.

18 4. That the Court award to Plaintiff and Class Members full restitution due to Defendant's  
19 UCL violations, pursuant to Cal. Bus. & Prof. Code §§ 17200-17205 in the amount of their  
20 subscription agreement payments;

21 5. That the Court find that Plaintiff and Class Members are entitled to injunctive relief  
22 pursuant to Cal. Bus. & Prof. Code § 17203;

23 6. That the Court find and declare that Defendant has violated the CLRA, Cal. Civ. Code  
24 § 1750, et seq.;

25 7. That the Court find that Plaintiff and Class Members are entitled to injunctive relief  
26 pursuant to Civ. Code § 1780(a)(2);


1           8.       That the Court declare that Defendant’s Terms of Service purporting to limit the rights  
2 of Plaintiff and the Class are unconscionable contracts of adhesion and thus void and unenforceable as  
3 a matter of law;

4           9.       That Plaintiff and the Class be awarded reasonable attorneys’ fees and costs pursuant to  
5 California Code of Civil Procedure § 1021.5, and/or other applicable law; and

6           10.      That the Court award such other and further relief as this Court may deem appropriate.

7 Dated: September 13, 2022

PACIFIC TRIAL ATTORNEYS, APC

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9 By:  \_\_\_\_\_  
10 Scott. J. Ferrell  
11 Attorneys for Plaintiff  
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