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5 WILLENKEN LLP  
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10 Attorneys for Defendant  
11 HORNELL BREWING CO., INC.

12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14 VERONIKA GUSLITSER, individually  
15 and on behalf of all others similarly  
16 situated,

17 Plaintiff,

18 v.

19 HORNELL BREWING CO., INC.,

20 Defendant.

Case No.: 2:21-cv-06309

**DEFENDANT’S NOTICE OF  
REMOVAL**

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1 PLEASE TAKE NOTICE that defendant, Hornell Brewing Co., Inc.  
2 (“Defendant”), through its undersigned counsel, hereby removes the above-  
3 captioned action from the Superior Court of California, County of Los Angeles,  
4 to the United States District Court for the Central District of California, pursuant  
5 to 28 U.S.C. §§ 1332, 1441, 1446 and 1453, and respectfully states:

6 1. On June 25, 2021, plaintiff, Veronika Guslitser (“Plaintiff”),  
7 commenced this putative class action against Defendant by filing a Class Action  
8 Complaint (“Complaint”) in the Superior Court of the State of California, County  
9 of Los Angeles, bearing Case No. 21STCV23850.

10 2. As more fully set out below, this case is being properly removed to  
11 the United States District Court for the Central District of California pursuant to  
12 28 U.S.C. § 1441 because Defendant has satisfied the procedural requirements  
13 for removal and said Court has subject matter jurisdiction over this action  
14 pursuant to 28 U.S.C. §1332.

15 **I. DEFENDANT HAS SATISFIED THE PROCEDURAL**  
16 **REQUIREMENTS FOR REMOVAL**

17 3. The summons and Complaint were served on Defendant on July 6,  
18 2021. *See* proof of service of summons attached as Exhibit A. Accordingly, this  
19 Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

20 4. The Superior Court of the State of California, County of Los  
21 Angeles, is located within the Central District of California. Therefore, venue is  
22 proper within the Central District of California pursuant to 28 U.S.C. § 110 and  
23 28 U.S.C. § 1441 because said district is the district and division embracing the  
24 place where such action is pending.

25 5. No previous application has been made for the relief requested  
26 herein.

27 6. Pursuant to 28 U.S.C. §1446(a), a copy of all process, pleadings, and  
28 orders served upon the Defendant, which papers include the summons and

1 Complaint, is attached as Exhibit B. Pursuant to 28 U.S.C. §1446(d), a copy of  
2 this Notice of Removal is being served upon counsel for Plaintiff and a copy is  
3 being filed with the Clerk of the Superior Court of the State of California, County  
4 of Los Angeles.

5 **II. REMOVAL IS PROPER BECAUSE THIS COURT HAS SUBJECT**  
6 **MATTER JURISDICTION PURSUANT TO 28 U.S.C. §§ 1332 AND**  
7 **1441**

8 7. This case is subject to removal pursuant the Class Action Fairness  
9 Act (“CAFA”) (codified in various sections of 28 U.S.C. including 28 U.S.C. §  
10 1332).

11 8. As set forth below, this is a putative class action in which: (1) there  
12 are 100 or more members in the Plaintiff’s proposed class; (2) any member of the  
13 proposed class of plaintiffs is a citizen of a state different from the citizenship of  
14 Defendant; and (3) the claims of the proposed class members exceed the sum or  
15 value of five million dollars (\$5,000,000.00) in the aggregate. Thus, this Court  
16 has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1332(d).

17 **A. Class Action Consisting Of More Than 100 Members**

18 9. In the Complaint, Plaintiff purports to represent a class of all  
19 purchasers of Defendant’s products within the United States or, alternatively,  
20 persons who purchased the products within the State of California during the last  
21 four years. (Ex. B, Complaint, ¶ 2.)

22 10. Plaintiff asserts that “[t]he class is so numerous and likely consists of  
23 hundreds of thousands of individuals.” (*Id.*, Complaint, ¶ 34.)

24 **B. Diversity Of Citizenship**

25 11. Plaintiff is a citizen of the State of California. (*Id.*, Complaint, ¶ 6.)

26 12. Defendant is a New York corporation. Defendant has its principal  
27 place of business located at 60 Crossways Park Drive West, Suite 400,  
28 Woodbury, New York 11797. (*Id.*, Complaint, ¶ 6.)

1 13. Defendant is a citizen of the State of New York.

2 **C. The Amount-In-Controversy Requirement Is Satisfied**

3 14. Plaintiff claims that Defendant falsely labels and advertises  
4 beverages as “ALL NATURAL” and alleges that the following drinks are  
5 mislabeled: AriZona Kiwi Strawberry Fruit Juice Cocktail, Lemonade Fruit Juice  
6 Cocktail, Mucho Mango Fruit Juice Cocktail, Fruit Punch Fruit Juice Cocktail,  
7 Orangeade, Grapeade, Lemonade Drink Mix, Golden Bear Strawberry  
8 Lemonade, and Rx Energy (“Products”). (*Id.*, Complaint, ¶ 1.) Plaintiff further  
9 claims that as a result of Defendant’s “unlawful conduct,” “Plaintiff and the Class  
10 have suffered injury in fact and have lost money as a result of Defendant’s  
11 unlawful conduct.” (*Id.*, Complaint, ¶ 108.)

12 15. Plaintiff asserts the following five (5) separate causes of action:  
13 violation of the California Consumer Legal Remedies Act (“CLRA”), violation  
14 of the California False Advertising Law (“FAL”), violation of the California  
15 Unfair Competition Law (“UCL”), unjust enrichment, and breach of express  
16 warranty. (*Id.*, Complaint, ¶¶ 42-123).

17 16. Based on these claims, Plaintiff seeks a judgment for monetary  
18 damages, on behalf of herself and the entire putative classes, including, but not  
19 limited to, seeking or otherwise claiming that: (a) Defendant “provide restitution  
20 and damages to consumers who paid for Products that are not what they expected  
21 to receive due to Defendant’s misrepresentations” (*id.*, Complaint, ¶ 61); (b)  
22 Defendant be disgorged of “its ill-gotten gains and/or award full restitution of all  
23 monies wrongfully acquired by Defendant,” plus attorneys’ fees (*id.*, Complaint,  
24 ¶ 71); (c) Plaintiff is entitled to “restitution of the money wrongfully acquired by  
25 Defendant by means of responsibility attached to Defendant’s failure to disclose  
26 the existence and significance of said misrepresentations” (*id.*, Complaint, 107);  
27 (d) Defendant be disgorged of “ill-gotten gains and to restore to any person in  
28 interest any money paid for the Products as a result of the wrongful conduct of

1 Defendant” (*id.*, Complaint, ¶ 109); (e) “Plaintiff and class members may be  
2 entitled to restitution under the UCL” (*id.*, Complaint, ¶ 109(c)(2)); (f) “[t]he  
3 financial benefits derived by Defendant rightfully belong to Plaintiff and  
4 members of the Class” [and] “Defendant should be compelled to return in a  
5 common fund for the benefit of Plaintiff and members of the class all wrongful or  
6 inequitable proceeds received by Defendant” (*id.*, Complaint, ¶117); (g) “Plaintiff  
7 and the Class have been damaged” due to breach of express warranty (*id.*,  
8 Complaint, ¶123); and (h) judgment be entered against Defendant for  
9 “restitutionary damages,” “disgorgement of profits for Defendant’s unjust  
10 enrichment,” “punitive damages” and “reasonable attorneys’ fees” (*id.*,  
11 Complaint, Prayer for Relief at pp. 31-32, ¶¶ F, G, I, and J).

12 17. The claims of the individual class members in a class action are  
13 aggregated to determine if the amount in controversy exceeds the sum or value of  
14 five million dollars (\$5,000,000.00). *See* 28 U.S.C. § 1332(d)(6). Under this  
15 aggregated standard, Plaintiff’s claim manifestly meets the jurisdictional  
16 threshold.

17 18. Plaintiff sues “on behalf of all purchasers of the products within the  
18 United States” or, alternatively for purchasers in California. (Ex. B, Complaint, ¶  
19 2.) Plaintiff seeks a judgment awarding Plaintiff and members of the class  
20 restitution for all such sales. (*Id.*, Complaint, ¶¶ 4, 108, 109 and Prayer for  
21 Relief, at p. 32, ¶ F.)

22 19. Plaintiff also seeks injunctive relief in the form of enjoining the  
23 Defendant from labeling and advertising the Products as “ALL NATURAL.”  
24 (*Id.*, ¶ 4, Prayer for Relief, at p. 31, ¶ D.) “The amount in controversy in class  
25 actions requesting an injunction may be determined by the cost of compliance by  
26 Defendant.” *See Anderson v. Seaworld Parks & Entm’t, Inc.*, 132 F. Supp. 3d  
27 1156, 1161 (N.D. Cal. 2015). According to the legislative history of CAFA, the  
28 value of any injunctive relief sought by the plaintiff is calculated from the

1 perspective of the plaintiff or the defendant. *See, e.g.*, S. Rep. No. 109-14, at 42  
2 (2005) (“[T]he Committee intends that a matter be subject to federal jurisdiction  
3 under [28 U.S.C. § 1332(d)(6)] if the value of the matter in litigation exceeds  
4 \$5,000,000 either from the viewpoint of the plaintiff or the viewpoint of the  
5 defendant, and regardless of the type of relief sought (e.g., damages, injunctive  
6 relief, or declaratory relief.”). Moreover, since CAFA explicitly requires the  
7 aggregation of claims in class actions for determining the amount in controversy,  
8 28 U.S.C. § 1332(d)(6), the pre-CAFA concern “that assessing the amount in  
9 controversy from the defendant’s perspective was tantamount to aggregating  
10 damages” is no longer relevant. *Id.* at 43. Here, the economic costs of injunctive  
11 relief would be enormous due to the expenses attendant to changing labels and  
12 engaging in the corrective advertising sought.

13       20. Plaintiff purports to bring this action on behalf of all consumers of  
14 the disputed products throughout the United States. Taken in the aggregate, the  
15 amount in controversy exceeds five million dollars (\$5,000,000.00) given: (a) the  
16 breadth of this proposed class (hundreds of thousands of consumers of the  
17 Products in the country); (b) hundreds of thousands of instances of each alleged  
18 violation alleged in the Complaint; (c) the damages sought by each such  
19 individual of the putative class (including in punitive damages and counsel fees);  
20 and (d) the economic consequences to Defendant should Plaintiff succeed in  
21 disgorging Defendant’s profits and/or in enjoining Defendant from selling the  
22 Products, as labeled, in the United States. It is respectfully submitted that the  
23 jurisdictional threshold has been satisfied.

24       21. Finally, “Congress intended CAFA to be interpreted expansively.”  
25 *See Ibarra v. Manheim Inv., Inc.*, 775 F.3d 1193, 1197 (9th Cir. 2015) (citing S.  
26 Rep. No. 109-14, at 42). CAFA’s legislative history sets forth that doubts  
27 regarding the maintenance of interstate class actions in state or federal court  
28 should be resolved in favor of federal jurisdiction. *See, e.g.*, S. Rep. No. 109-14

1 at 43 (“Overall, new section 1332(d) is intended to expand substantially federal  
2 court jurisdiction over class actions. Its provisions should be read broadly, with a  
3 strong preference that interstate class actions should be heard in a federal court if  
4 properly removed by any defendant.”); *id.* at 35 (The intent of CAFA “is to  
5 strongly favor the exercise of federal diversity jurisdiction over class actions with  
6 interstate ramifications.”); *id.* at 27 (“[T]he Committee believes that the federal  
7 courts are the appropriate forum to decide most interstate class actions because  
8 these cases usually involve large amounts of money and many plaintiffs, and  
9 have significant implications for interstate commerce and national policy.”).

10 WHEREFORE, Defendant respectfully removes this action from the  
11 Superior Court of the State of California, County of Los Angeles, to the United  
12 States District Court for the Central District of California pursuant to 28 U.S.C.  
13 §1441.

14  
15 Dated: August 4, 2021

WILLENKEN LLP

16  
17 By: /s/ Jason H. Wilson

Jason H. Wilson

Attorneys for Defendant

HORNELL BREWING CO., INC.

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# **EXHIBIT A**



RYAN J. CLARKSON, ESQ. (SBN: 267074)  
CLARKSON LAW FIRM  
9255 Sunset Blvd Suite 804 Los Angeles, CA 90069  
TELEPHONE NO.: (213) 788-4050 | FAX NO. (310) 917-1001 | E-MAIL ADDRESS  
ATTORNEY FOR (Name): Plaintiff

**FILED**  
Superior Court of California  
County of Los Angeles

**JUL 08 2021**

Herri K. Carter, Executive Officer/Clerk  
By Rifa Nazarov, Deputy

**LOS ANGELES COUNTY SUPERIOR COURT**

STREET ADDRESS: 111 N. HILL STREET  
CITY AND ZIP CODE: LOS ANGELES, CA 90012-3117  
BRANCH NAME: STANLEY MOSK

PLAINTIFF/PETITIONER: VERONIKA GUSLISTER, etc.  
DEFENDANT/RESPONDENT: HORNELL BREWING CO. INC.

CASE NUMBER:  
21STCV23850

**PROOF OF SERVICE OF SUMMONS**

Ref. No. or File No.:  
Guslister v. Hornell Brewing Co.

*(Separate proof of service is required for each party served.)*

At the time of service I was at least 18 years of age and not a party to this action.

I served copies of:

- a.  Summons
- b.  Complaint
- c.  Alternative Dispute Resolution (ADR) package
- d.  Civil Case Cover Sheet
- e.  Cross-Complaint
- f.  other (specify documents): Civil Case Cover Sheet Addendum and Statement of Location; Notice of Case Assignment - Unlimited Civil Case

a. Party served (specify name of party as shown on documents served):  
**Hornell Brewing Co. Inc.**

b.  Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**National Registered Agents, Inc., Registered Agent, by serving Diana Ruiz - Authorized Agent**

Address where the party was served: **330 N Brand Blvd Ste 700  
Glendale, CA 91203-2336**

I served the party (check proper box)

a.  **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **7/6/2021** (2) at (time): **12:40 PM**

b.  **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):

- (1)  **(business)** a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
- (2)  **(home)** a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
- (3)  **(physical address unknown)** a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
- (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or  a declaration of mailing is attached.
- (5)  I attach a declaration of diligence stating actions taken first to attempt personal service.

RESPONDENT: HORNELL BREWING CO. INC.

c.  by mail and acknowledgment of receipt of service. I mailed the documents listed in item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,

(1) on (date): (2) from (city):

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)

(4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d.  by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

The "Notice to the Person Served" (on the summons) was completed as follows:

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (specify):

c.  as occupant.

d.  On behalf of **Hornell Brewing Co. Inc.**

under the following Code of Civil Procedure section:

416.10 (corporation)

416.20 (defunct corporation)

416.30 (joint stock company/association)

416.40 (association or partnership)

416.50 (public entity)

415.95 (business organization, form unknown)

416.60 (minor)

416.70 (ward or conservatee)

416.90 (authorized person)

415.46 (occupant)

other:

Person who served papers

a. Name: **Dion Jones - Nationwide Legal, LLC REG: 12-234648**

b. Address: **1609 James M Wood Blvd. Los Angeles, CA 90015**

c. Telephone number: **(213) 249-9999**

d. The fee for service was: **\$ 122.20**

e. I am:

(1)  not a registered California process server.

(2)  exempt from registration under Business and Professions Code section 22350(b).

(3)  registered California process server:

(i)  owner  employee

independent contractor.

(ii) Registration No.: **2013128925**

(iii) County: **Los Angeles**

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: **7/6/2021**

**Nationwide Legal, LLC**  
**1609 James M Wood Blvd.**  
**Los Angeles, CA 90015**  
**(213) 249-9999**  
**www.nationwideasap.com**

**Dion Jones**

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)

# **EXHIBIT B**

**FILED**  
Superior Court of California  
County of Los Angeles

JUL 02 2021

Sherril K. Carter, Executive Officer/Clerk

By *Rita Nazaryan*, Deputy  
Rita Nazaryan

**CLARKSON LAW FIRM, P.C.**  
Ryan J. Clarkson (SBN 257074)  
*rclarkson@clarksonlawfirm.com*  
Shireen M. Clarkson (SBN 237882)  
*sclarkson@clarksonlawfirm.com*  
Yana Hart (SBN 306499)  
*yhart@clarksonlawfirm.com*  
Celine Cohan (SBN 282661)  
*ccohan@clarksonlawfirm.com*  
22525 Pacific Coast Highway  
Malibu, CA 90265  
Tel: (213) 788-4050  
Fax: (213) 788-4070

*Attorneys for Plaintiff*

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES**

VERONIKA GUSLITSER, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

vs.

HORNELL BREWING CO. INC.,  
Defendant.

Case No. 21STCV23850

**PROOF OF SERVICE**

CLARKSON LAW FIRM, P.C.  
22525 Pacific Coast Highway  
Malibu, CA 90265

**PROOF OF SERVICE**

I am employed in the County of Los Angeles. I am over the age of eighteen years and not a party to the within entitled action. My business address is 22525 Pacific Coast Highway, Malibu, CA 90265.

On July 2, 2021, (date of service), I served a copy of the following document(s) on the interested party(ies) and/or person(s) identified on the Service List in the manner set forth below.

Documents Served

- **NOTICE OF CHANGE OF ADDRESS**

SERVICE LIST

**Hornell Brewing Co. Inc.**  
National Registered Agents, Inc. – Registered Agent  
330 N. Brand Blvd., Ste. 700  
Glendale, CA 91203

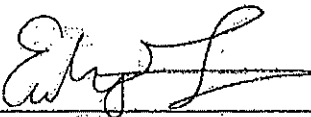
*Registered Agent for Defendant*

Method of Service

- BY MAIL, by placing a copy thereof in a separate envelope for each addressee named above, addressed to each addressee respectively, and then sealed each envelope and, with the postage fully prepaid, deposited each in the United States mail at San Diego, California in accordance with our business' practice.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on: July 2, 2021




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Emily Torromeo

CLARKSON LAW FIRM, P.C.  
22525 Pacific Coast Highway  
Malibu, CA 90265

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Clarkson Law Firm, P.C.  
22525 Pacific Coast Highway  
Malibu, CA 90265

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**CLARKSON LAW FIRM, P.C.**  
Ryan J. Clarkson (SBN 257074)  
*reclarkson@clarksonlawfirm.com*  
Shireen M. Clarkson (SBN 237882)  
*sclarkson@clarksonlawfirm.com*  
Yana Hart (SBN 306499)  
*yhart@clarksonlawfirm.com*  
Celine Cohan (SBN 282661)  
*ccohan@clarksonlawfirm.com*  
22525 Pacific Coast Highway  
Malibu, CA 90265  
Tel: (213) 788-4050  
Fax: (213) 788-4070

*Attorneys for Plaintiff*

**FILED**  
Superior Court of California  
County of Los Angeles

JUL 02 2021

Jherri R. Carter, Executive Officer/Clerk  
By *Rita Nazaryan*, Deputy  
Rita Nazaryan

**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES**

VERONIKA GUSLITSER,  
individually and on behalf of all others  
similarly situated,

Plaintiff,

vs.

HORNELL BREWING CO. INC.,

Defendant.

Case No. 21STCV23850

**CLASS ACTION**

**NOTICE OF CHANGE OF  
ADDRESS**

Hon. Yvette M. Palazuelos

Action Filed: June 25, 2021

1 **TO THE CLERK OF THIS COURT AND ALL PARTIES OF RECORD:**

2 PLEASE TAKE NOTICE that Ryan J. Clarkson, Shireen M. Clarkson, Yana  
3 Hart, and Celine Cohan of Clarkson Law Firm, P.C., Attorneys for Plaintiff have  
4 changed their address as follows:

5 Old Address: CLARKSON LAW FIRM, P.C.

6 9255 Sunset Boulevard, Suite 804

7 Los Angeles, CA 90069

8 New Address: CLARKSON LAW FIRM, P.C.

9 22525 Pacific Coast Highway

10 Malibu, CA 90265

11 For purposes of service of notices and documents in the above-captioned case,  
12 please amend your service list accordingly. Telephone, facsimile number and email  
13 addresses remain the same.

14  
15 DATED: July 2, 2021

**CLARKSON LAW FIRM, P.C.**

/s/ Ryan J. Clarkson

Ryan J. Clarkson, Esq.

Shireen M. Clarkson, Esq.

Yana Hart, Esq.

Celine Cohan, Esq.

*Attorneys for Plaintiff*

Clarkson Law Firm, P.C.  
22525 Pacific Coast Highway  
Malibu, CA 90265

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SUM-100

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
HORNELL BREWING CO., INC.

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED**  
Superior Court of California  
County of Los Angeles

JUN 25 2021

Sherril R. Carter, Executive Officer/Clerk of Court  
By Kristina Vargas Deputy  
Kristina Vargas

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
VERONIKA GUSLITSER, individually and on behalf of all others similarly situated,

ORIGINAL

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la Información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desechar el caso.

The name and address of the court is: Sup. Ct. of CA, County of Los Angeles  
(El nombre y dirección de la corte es):  
Stanley Mosk Courthouse  
111 North Hill Street, Los Angeles, CA 90012

CASE NUMBER:  
(Número del Caso)  
**21STCV23850**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Yana A. Hart, Ryan J. Clarkson, Shireen M. Clarkson, Celine Cohan; Clarkson Law Firm, P.C.  
9255 Sunset Blvd., Suite 804, Los Angeles, CA 90069; (213) 788-4050

DATE: JUN 25 2021  
(Fecha) **SHERRIL R. CARTER** Clerk, by Kristina Vargas Deputy  
(Secretaria) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)  
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).



- NOTICE TO THE PERSON SERVED:** You are served
- as an individual defendant.
  - as the person sued under the fictitious name of (specify):
  - on behalf of (specify):  
under:  CCP 416.10 (corporation)  CCP 416.60 (minor)  
 CCP 416.20 (defunct corporation)  CCP 416.70 (conservatee)  
 CCP 416.40 (association or partnership)  CCP 416.90 (authorized person)  
 other (specify):
  - by personal delivery on (date):

**RECEIVED**  
JUN 25 2021  
Filing Window

06/29/2021



CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, if number, and address):  
 Yana A. Hart (SBN 306499) Ryan J. Clarkson (SBN 257074)  
 Shireen M. Clarkson (SBN 237882) Celine Cohan (SBN 282661)  
 Clarkson Law Firm, P.C.  
 9255 Sunset Blvd., Suite 804, Los Angeles, CA 90069  
 TELEPHONE NO.: (213) 788-4050 FAX NO.: (213) 788-4070  
 ATTORNEY FOR (Name): Plaintiff Veronika Guslitser

FOR COURT USE ONLY  
**FILED**  
 Superior Court of California  
 County of Los Angeles  
  
**JUN 25 2021**  
 Sherri R. Carter, Executive Officer/Clerk of Court  
 By Kristina Vargas Deputy  
 Kristina Vargas

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles  
 STREET ADDRESS: 111 North Hill Street  
 MAILING ADDRESS: same as above  
 CITY AND ZIP CODE: Los Angeles, CA 90012  
 BRANCH NAME: Stanley Mosk Courthouse

CASE NAME:  
 Guslitser v. Hornell Brewing Co., Inc.

**CIVIL CASE COVER SHEET**  
 **Unlimited** (Amount demanded exceeds \$25,000)  **Limited** (Amount demanded is \$25,000 or less)  
 **Complex Case Designation**  
 **Counter**  **Joinder**  
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER: **21STCV23850**  
 JUDGE:  
 DEPT:

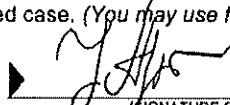
Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<p><b>Auto Tort</b></p> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <p><b>Other PI/DPD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b></p> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/DPD/WD (23) <p><b>Non-PI/DPD/WD (Other) Tort</b></p> <input type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input checked="" type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/DPD/WD tort (35) <p><b>Employment</b></p> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<p><b>Contract</b></p> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <p><b>Real Property</b></p> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <p><b>Unlawful Detainer</b></p> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <p><b>Judicial Review</b></p> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<p><b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403)</p> <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <p><b>Enforcement of Judgment</b></p> <input type="checkbox"/> Enforcement of judgment (20) <p><b>Miscellaneous Civil Complaint</b></p> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <p><b>Miscellaneous Civil Petition</b></p> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	--

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |   |  |
|---|--|
| a. <input type="checkbox"/> Large number of separately represented parties  | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input checked="" type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive
4. Number of causes of action (specify): 5; Violations of California Consumer Legal Remedies Act
5. This case  is  is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: 05/28/2021  
 Yana A. Hart, Esq.  
 (TYPE OR PRINT NAME)

  
 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

ORIGINAL

05/28/2021

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete Items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the primary cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other P/DPD/W (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/DPD/W (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/DPD/W (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/DPD/W

## Non-PI/DPD/W (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/DPD/W Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition

08/04/21

SHORT TITLE: Guslitser v. Hornell Brewing Co., Inc.

CASE NUMBER

21STCV23853

**CIVIL CASE COVER SHEET ADDENDUM AND  
STATEMENT OF LOCATION  
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)**

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

ORIGINAL

**Step 1:** After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

**Step 2:** In Column B, check the box for the type of action that best describes the nature of the case.

**Step 3:** In Column C, circle the number which explains the reason for the court filing location you have chosen.

**Applicable Reasons for Choosing Court Filing Location (Column C)**

- |  |   |
|--|---|
| <ul style="list-style-type: none"> <li>1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.</li> <li>2. Permissive filing in central district.</li> <li>3. Location where cause of action arose.</li> <li>4. Mandatory personal injury filing in North District.</li> <li>5. Location where performance required or defendant resides.</li> <li>6. Location of property or permanently garaged vehicle.</li> </ul> | <ul style="list-style-type: none"> <li>7. Location where petitioner resides.</li> <li>8. Location wherein defendant/respondent functions wholly.</li> <li>9. Location where one or more of the parties reside.</li> <li>10. Location of Labor Commissioner Office.</li> <li>11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury).</li> </ul> |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	<input type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall)	1, 4, 11
		<input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.)	1, 4, 11
<input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death		1, 4, 11 1, 4, 11	

3303007955

SHORT TITLE: Guslitsner v. Hornell Brewing Co., Inc.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
<b>Non-Personal Injury/ Property Damage/ Wrongful Death Tort</b>	Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
	Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
	Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
	Fraud (16)	<input checked="" type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
	Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice	1, 2, 3
		<input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3	
<b>Employment</b>	Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
	Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case	1, 2, 3
		<input type="checkbox"/> A6109 Labor Commissioner Appeals	10
<b>Contract</b>	Breach of Contract/ Warranty (08) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction)	2, 5
		<input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence)	2, 5
		<input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud)	1, 2, 5
		<input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	1, 2, 5
	Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff	5, 6, 11
		<input type="checkbox"/> A6012 Other Promissory Note/Collections Case	5, 11
Insurance Coverage (18)	<input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11	
Other Contract (37)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8	
	<input type="checkbox"/> A6009 Contractual Fraud	1, 2, 3, 5	
	<input type="checkbox"/> A6031 Tortious Interference	1, 2, 3, 5	
	<input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 8, 9	
<b>Real Property</b>	Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation      Number of parcels _____	2, 6
	Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
	Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure	2, 6
<input type="checkbox"/> A6032 Quiet Title		2, 6	
<input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)		2, 6	
<b>Unlawful Detainer</b>	Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
	Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
	Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

6629221



SHORT TITLE: Guslitsner v. Hornell Brewing Co., Inc.	CASE NUMBER
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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
<b>Judicial Review</b>	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus	2, 8
		<input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter	2
<input type="checkbox"/> A6153 Writ - Other Limited Court Case Review		2	
Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8	
<b>Provisionally Complex Litigation</b>	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
	<b>Enforcement of Judgment</b>	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment
<input type="checkbox"/> A6160 Abstract of Judgment			2, 6
<input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations)			2, 9
<input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes)			2, 8
<input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax			2, 8
<input type="checkbox"/> A6112 Other Enforcement of Judgment Case			2, 8, 9
<b>Miscellaneous Civil Complaints</b>	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex)	1, 2, 8
<input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8		
<b>Miscellaneous Civil Petitions</b>	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment With Damages	2, 3, 9
		<input type="checkbox"/> A6123 Workplace Harassment With Damages	2, 3, 9
		<input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case With Damages	2, 3, 9
		<input type="checkbox"/> A6190 Election Contest	2
		<input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender	2, 7
		<input type="checkbox"/> A6170 Petition for Relief from Late Claim Law	2, 3, 8
<input type="checkbox"/> A6100 Other Civil Petition	2, 9		

06/29/2021 12:07:59

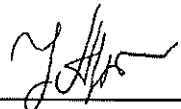
SHORT TITLE: Guslitser v. Hornell Brewing Co., Inc.	CASE NUMBER
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**Step 4: Statement of Reason and Address:** Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

<b>REASON:</b> <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.	<b>ADDRESS:</b> 1301 N. Victory Pl			
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; padding: 2px;">CITY: Burbank</td> <td style="width:17%; padding: 2px;">STATE: CA</td> <td style="width:50%; padding: 2px;">ZIP CODE: 91502</td> </tr> </table>	CITY: Burbank	STATE: CA	ZIP CODE: 91502	
CITY: Burbank	STATE: CA	ZIP CODE: 91502		

**Step 5: Certification of Assignment:** I certify that this case is properly filed in the Central District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: 05/28/2021

  
 \_\_\_\_\_  
 (SIGNATURE OF ATTORNEY/FILING PARTY)

**PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:**

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.

05/29/2021

**FILED**  
Superior Court of California  
County of Los Angeles

JUN 25 2021

Sherril R. Carter, Executive Officer/Clerk of Court  
By Kristina Vargas Deputy  
Kristina Vargas

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*Attorneys for Plaintiff*

THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

VERONIKA GUSLITSER, individually  
and on behalf of all others similarly  
situated,

Plaintiff,

vs.

HORNELL BREWING CO., INC.

Defendant.

Case No.

**21STCV23850**

**CLASS ACTION COMPLAINT**

1. VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT, CIVIL CODE § 1750, *et. seq.*
2. VIOLATION OF CALIFORNIA FALSE ADVERTISING LAW, BUSINESS AND PROFESSIONS CODE § 17500, *et. seq.*
3. VIOLATION OF CALIFORNIA UNFAIR COMPETITION LAW, BUSINESS AND PROFESSIONS CODE § 17200, *et. seq.*
4. UNJUST ENRICHMENT
5. BREACH OF EXPRESS WARRANTY

**DEMAND FOR JURY TRIAL**

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06/29/2021

1 Plaintiff Veronika Guslitser, (“Plaintiff”), individually and on behalf of all other  
2 similarly situated purchasers (the “Class”), brings this class action lawsuit against  
3 Hornell Brewing Co., Inc. (referred to herein as “Defendant”), and alleges as follows:  
4

5 **INTRODUCTION**

6 1. Defendant falsely labels and advertises its AriZona beverage products,  
7 including but not limited to, AriZona Kiwi Strawberry Fruit Juice Cocktail,  
8 Lemonade Fruit Juice Cocktail, Mucho Mango Fruit Juice Cocktail, Fruit Punch Fruit  
9 Juice Cocktail, Orangeade, Grapeade, Lemonade Drink Mix, Golden Bear Strawberry  
10 Lemonade, and Rx Energy as being “All Natural,” when in reality, they contain added  
11 coloring, including but not limited to “beta carotene,” “fruit and vegetable juices,”  
12 “annatto,” and “vegetable juice.” The “All Natural” AriZona beverages are  
13 collectively referred to as (the “Products”). See Figures 1-10, *infra*. The prominent  
14 label “ALL NATURAL” is depicted on the front of the Product container, to mislead  
15 consumers to believe that the Products are entirely natural.  
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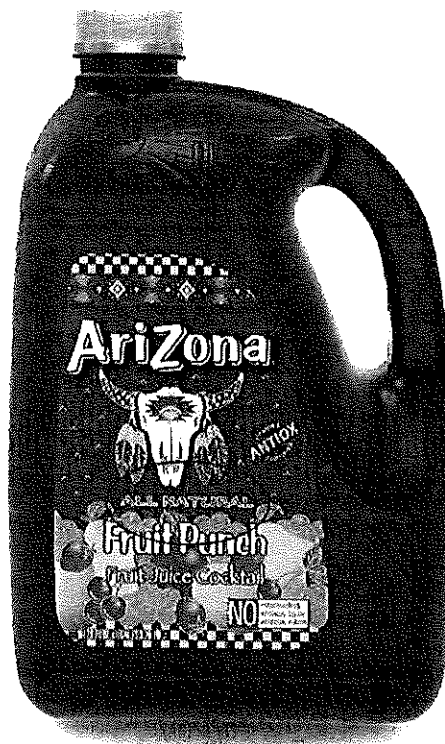
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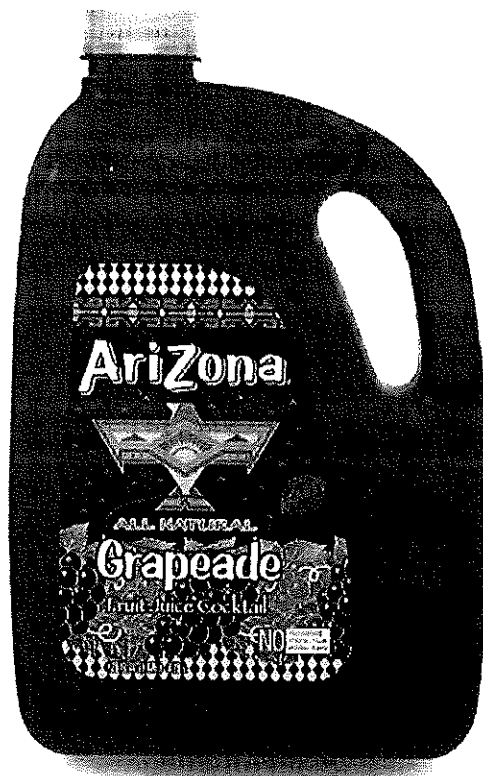
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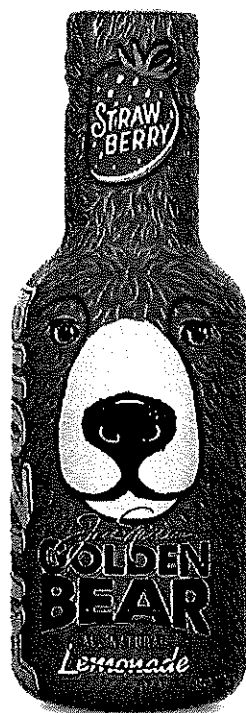
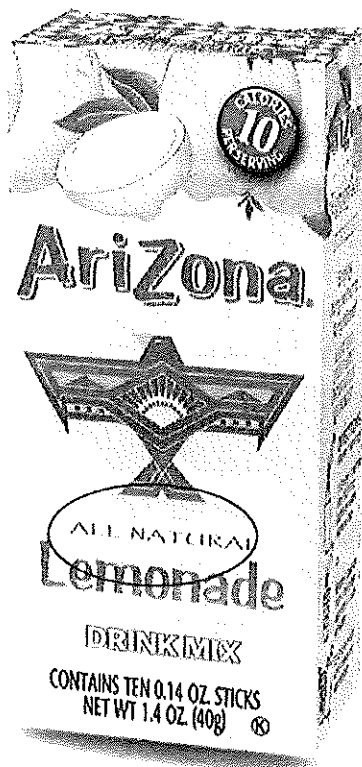
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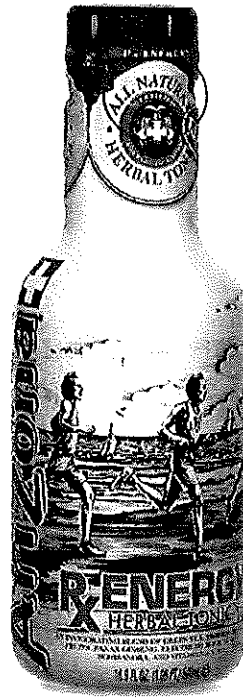
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2. Plaintiff brings this class action lawsuit on behalf of all purchasers of the Products within the United States, or alternatively, within the State of California, during the last four years.

3. Plaintiff brings this class action against Defendant, who is among the United States' leading producers of beverage products. Defendant has realized that, based on the public's concern about natural and healthy foods, there is a financial benefit to be derived in selling products claiming to be natural. Accordingly, Defendant labels its Products as "All Natural," even though the Products contain added coloring in violation of California and federal advertising laws.

4. Plaintiff seeks to secure injunctive relief and restitution for the Class against Defendant for false and misleading advertising in violation of California's Business & Professions Code section 17200, *et seq.*, Business & Professions Code section 17500, *et seq.*, and the Consumers Legal Remedies Act Civil Code section 1750, *et seq.* Defendant made and continues to make false and misleading statements in its advertising of the Products. Specifically, Defendant labels the Products as "All



1 Natural” (depicted in capital letters on the front label) and markets them as such, even  
2 though the Products contain coloring additives.

3 5. By letter dated January 8, 2021, Plaintiff advised Defendant of its false  
4 and misleading claims pursuant to California Civil Code Section 1782(a). Plaintiff  
5 has provided Defendant with notice of its violations of the CLRA pursuant to Civil  
6 Code section 1782(a).

7 **PARTIES**

8 6. Plaintiff is, and at all times relevant hereto was, a citizen of the United  
9 States. Plaintiff is a citizen of California. Plaintiff purchased the Kiwi Strawberry  
10 Fruit Juice Cocktail from a Walmart store in Burbank, California in 2020. Plaintiff  
11 paid approximately \$4 for the Product. In making her purchase, Plaintiff relied upon  
12 Defendant’s labeling and advertising claims, namely, the “All Natural” label clearly  
13 printed on the front of the Product. These claims were prepared and approved by  
14 Defendant and its agents and disseminated statewide and nationwide, to encourage  
15 consumers to purchase the Products. If Plaintiff had known that the Product was not  
16 completely natural, she would not have purchased the Product.

17 7. Hornell Brewing Co., Inc. is a corporation headquartered in Woodbury,  
18 New York. Hornell Brewing Co., Inc. maintains its principal business office at 60  
19 Crossways Park Drive W., Ste. 400, Woodbury, New York 11797. Hornell Brewing  
20 Co., Inc., directly and through its agents, has substantial contacts with and receives  
21 substantial benefits and income from and through the State of California. Hornell  
22 Brewing Co., Inc. is the owner, manufacturer, and distributor of the Products, and is  
23 the company that created and/or authorized the false, misleading, and deceptive  
24 packaging of the Products.

25 **JURISDICTION AND VENUE**

26 8. This Court has subject matter jurisdiction of this action pursuant to the  
27 Court’s general jurisdiction.  
28

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1 9. This Court is the proper venue for this action because a substantial part of  
2 the events, omissions, and acts giving rise to the claims herein occurred in Los  
3 Angeles County; Plaintiff is a citizen of California who resides in Los Angeles  
4 County; Defendant made the challenged false representations to Plaintiff in Los  
5 Angeles County; Plaintiff purchased the Product in this District; and Plaintiff  
6 consumed the Product in Los Angeles County. Moreover, Defendant receives  
7 substantial compensation from sales in Los Angeles County, actively advertises and  
8 sells Products in Los Angeles County, and Defendant made numerous  
9 misrepresentations through its advertising and labeling of Products which had a  
10 substantial effect in Los Angeles County.

11 10. Defendant is subject to personal jurisdiction in California based upon  
12 sufficient minimum contacts which exist between Defendant and California.  
13 Defendant is authorized to do and is doing business in California.

14 **FACTUAL ALLEGATIONS**

15 11. Defendant labels and advertises its Products being "All Natural." In  
16 reality, the Products cannot be labeled as "All Natural" because they contain added  
17 coloring. The specific food coloring agents in the Products are "vegetable juice,"  
18 "fruit and vegetable juices," "annatto," and "beta carotene."

19 12. Consumers are willing to pay more for all natural products because of the  
20 association with a healthy and organic diet. According to Nielsen's 2015 Global  
21 Health & Wellness Survey that polled over 30,000 people, 88% of Americans are  
22 willing to pay more for healthier foods.<sup>1</sup> This sentiment is further evidenced by the  
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24  
25

26 \_\_\_\_\_  
27 <sup>1</sup> See Global Health and Wellness Report 2015, NIELSON,  
28 <https://www.nielsen.com/wp-content/uploads/sites/3/2019/04/Nielsen20Global20Health20and20Wellness20Report20-20January202015-1.pdf> (last visited February 16, 2021).

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1 fact that global sales of health foods reached \$1 trillion in 2017, according to  
2 Euromonitor.<sup>2</sup>

3 13. By representing the Products to be “All Natural,” Defendant seeks to  
4 capitalize on consumers’ preference for food items with no artificial additives.

5 14. Defendant’s practice of capitalizing on consumers’ preferences for  
6 healthier products is deceptive. This deception continues today, as consumers  
7 continue to purchase the Products under the mistaken belief that they are all natural  
8 based on Defendant’s false, deceptive, and misleading label claims “All Natural.”

9 15. Plaintiff and other consumers of the Products made their purchase  
10 decisions in reliance upon Defendant’s advertised claims that that Products are “All  
11 Natural.”

12 16. By falsely labeling the Products as being “All Natural,” Defendant has  
13 profited from consumers’ preference for food products that are perceived to be  
14 healthier and made free from any added coloring.

15 **A. Defendant’s “All Natural” Label Claim**

16 17. The Food and Drug Administration (“FDA”) does not regard foods with  
17 added coloring as natural, no matter the source of the coloring agent. According to  
18 their guidelines, they “have considered ‘natural’ to mean that nothing artificial or  
19 synthetic (including colors regardless of source) is included in, or has been added to,  
20 the product that would not normally be expected to be there (56 FR 60421 at  
21 60466).”<sup>3</sup>

22 18. On November 10, 2015, in response to citizen petitions and consumer  
23 requests, the FDA announced the establishment of a docket to receive information

24  
25 <sup>2</sup> See Health and Wellness the Trillion Dollar Industry in 2017, EUROMONITOR,  
26 <https://blog.euromonitor.com/health-and-wellness-the-trillion-dollar-industry-in-2017-key-research-highlights/> (last visited February 16, 2021).

27 <sup>3</sup> Leslie Kux, *FDA Rulemaking Re Term Natural*, 12 November 2015.  
28 <https://www.federalregister.gov/documents/2015/11/12/2015-28779/use-of-the-term-natural-in-the-labeling-of-human-food-products-request-for-information-and-comments>. (Last visited February 16, 2021).

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1 and comments on the use of the term “natural” in the labeling of human food products  
2 to determine whether a definition of “natural” should be established.

3 19. Among the 7,687 public comments received by the FDA, not one  
4 comment from the public stated that “natural” should be allowed in food labeling if  
5 color is added to a food; rather, hundreds of comments stated “natural” should only  
6 be used for foods which are free from added coloring. Some representative examples  
7 include:

8 a. “When I see the word ‘Natural’ on packaging, I expect the contents  
9 to have only ingredients as they are found in nature. No chemicals, no coloring, no  
10 flavoring, no GMO’s.” (Comment from Kristine Milochik. Posted 02/23/2016)

11 b. “I think the term ‘Natural’ should be banned from food labeling. It  
12 is too ambiguous! It should be removed from all descriptors, including: Natural  
13 Flavor, Natural colors, All Natural and so on. I think for the interest of transparency  
14 all food ingredients should be simply labeled. The consumer has the right to know  
15 what they are eating or drinking.” (Comment from Daniel Kinkelaar. Posted  
16 08/26/2016)

17 c. “I firmly believe that consumers should be made aware of what  
18 they are purchasing when shopping for food and too many times companies are  
19 fooling the public by using the word ‘Natural’ when in fact it is not. When I see the  
20 word Natural on a food product, I consider this to mean that it is free from all  
21 additives, GMOs, Preservatives, Drugs, or colors. It is in it’s natural state. I would  
22 like to see the FDA put more stringent requirements on companies who wish to use  
23 this term in their products.” (Comment from Artemis Hader. Posted on 02/18/2016)

24 d. “The term ‘Natural’ should only appear on foods that are organic  
25 without any preservatives or man-made chemicals. The food should be GMO-free and  
26 contain no added colors, flavors, or synthetic substances. If a food product fails to  
27 meet any of these requirements, then it should not be allowed to have the label  
28 ‘Natural’ on it.” (Comment from Sara Burr. Posted on 03/16/2016)

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1 e. “Natural should indeed mean no preservatives, additives, GMO's  
2 and or flavor or color enhancers...” (Comment from Roy Collicutt. Posted on  
3 03/15/2016)

4 20. To date, the FDA has not announced its decision to further define or  
5 regulate the term “natural” in food labeling.

6 21. The “All Natural” label is prominently and conspicuously printed on the  
7 front of the Products. But the added coloring agents in the Products render the “All  
8 Natural” label claims false. The added coloring agents, regardless of their source, are  
9 not ingredients consumers would normally expect to be included products that are  
10 labeled as “All Natural.”

11 22. There are market incentives for companies to label their products as  
12 “natural.” According to a national representative survey, more than half of consumers  
13 look for products with a “natural” food label, often under “the false belief that they’re  
14 produced without...artificial ingredients.”<sup>4</sup> As stated *supra*, the FDA considers  
15 “natural” to be defined as a product that includes nothing artificial “including colors  
16 *regardless of source*” [emphasis added].<sup>5</sup> The process by which naturally-sourced  
17 food coloring is added to products alters their status and renders them as no longer  
18 “natural.” Therefore, the reasonable consumer will pay a price premium for products  
19 with an “All Natural” label because they believe these products are safer, more  
20 nutritious, or otherwise have different attributes than products that do not have the  
21 label, all things being equal. Thus, these market forces push producers, like  
22 Defendant, to deceptively label their products as “All Natural” to give themselves a  
23 market advantage.

24 23. Reasonable consumers do not expect a product prominently labeled as  
25 “All Natural” to have added coloring. The Products’ labels have the “capacity,  
26

27 <sup>4</sup> Andrea Rock, “Peeling Back the ‘Natural’ Food Label.” *Consumer Reports*, 27  
28 January 2016. <https://www.consumerreports.org/food-safety/peeling-back-the-natural-food-label/> (Last visited February 16, 2021).

<sup>5</sup> See Leslie Kux, *supra* note 5.

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1 likelihood, or tendency to deceive or confuse the public” into believing that they are  
2 fully natural and are truthfully labeled. *Williams v. Gerber Prods. Co.*, 552 F.3d 934,  
3 938 (9th Cir. 2008) (citing *Kasky v. Nike, Inc.*, 27 Cal.4th 939, 951 (2002) and *Leoni*  
4 *v. State Bar*, 39 Cal. 3d 609, 626 (1985)) (The California Supreme Court has  
5 recognized “that [consumer protection] laws prohibit ‘not only advertising which is  
6 false, but also advertising which, although true, is either actually misleading or which  
7 has a capacity, likelihood or tendency to deceive or confuse the public.’”).

8 24. Reasonable consumers such as Plaintiff do not have specialized  
9 knowledge necessary to identify ingredients in the Products as being inconsistent with  
10 Defendant’s advertised claim of “being “All Natural.”

11 25. Defendant knows that consumers are willing to pay more for foods that  
12 are labeled “All Natural” because they perceive it to be a healthier alternative to  
13 similar products without any added coloring, and advertises the Products with the  
14 intention that consumers rely on the representation made on the front of the Products’  
15 packaging made in all capital letters with prominent bold font “All Natural.”

16 26. Plaintiff and other consumers purchased the Products due to their belief  
17 that the Products are safer, more nutritious, or otherwise have different attributes than  
18 do products that do not have the “All Natural” labels.

19 27. Plaintiff and the Class made their purchasing decisions in reliance upon  
20 Defendant’s advertised claims that that Products are “All Natural.”

21 28. Plaintiff and the Class reasonably and detrimentally relied upon the  
22 Products’ front labels indicating that the Products are “All Natural.”

23 29. Plaintiff and the Class would not have purchased the Products had they  
24 known that the Products contained ingredients that were added for coloring, thus  
25 rendering the Products no longer as being “All Natural.”

26 30. Defendant’s conduct threatens California consumers by using false,  
27 deceptive, and misleading labels. Defendant’s conduct also threatens other  
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1 companies, large and small, who “play by the rules.” Defendant’s conduct stifles  
2 competition, has a negative impact on the marketplace, and reduces consumer choice.

3 31. There is no practical reason for the false or misleading labeling and  
4 advertising of the Products, other than to mislead consumers as to the actual  
5 ingredients of the Products being purchased by consumers while simultaneously  
6 providing Defendant with a financial windfall as a result of money saved from lower  
7 supply costs.

8 32. Plaintiff makes the allegations herein upon personal knowledge as to  
9 herself and her own acts and experiences, and as to all other matters, upon information  
10 and belief, including investigation conducted by her attorneys.

11 **CLASS ALLEGATIONS**

12 33. Plaintiff brings this action on her behalf and on behalf of all other persons  
13 similarly situated. The Class which Plaintiff seeks to represent comprises:

14 All persons who purchased the Products in the State of California, for  
15 personal consumption and not for resale during the time period of four  
16 years prior to the filing of the complaint through the present.

17 Said definition may be further defined or amended by additional pleadings,  
18 evidentiary hearings, a class certification hearing, and orders of this Court.

19 34. The class is so numerous and likely consists of hundreds of thousands of  
20 individuals, the joinder of whom is impracticable.

21 35. There is a well-defined community of interest in the questions of law and  
22 fact involved affecting the parties to be represented. The questions of law and fact  
23 common to the Class predominate over questions which may affect individual Class  
24 members. Common questions of law and fact include, but are not limited to, the  
25 following:

26 a. Whether Defendant’s conduct constitutes an unfair method of  
27 competition, or unfair or deceptive act or practice, in violation of Civil Code section  
28 1750, *et seq.*;

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b. Whether Defendant used deceptive representations in connection with the sale of the Products in violation of Civil Code section 1750, *et seq.*;

c. Whether Defendant represented the Products as having characteristics or qualities that they do not have in violation of Civil Code section 1750, *et seq.*;

d. Whether Defendant advertised the Products with intent not to sell them as advertised in violation of Civil Code section 1750, *et seq.*;

e. Whether Defendant’s labeling and advertising of the Products are untrue or misleading in violation of Business and Professions Code section 17500, *et seq.*;

f. Whether Defendant knew or by the exercise of reasonable care should have known its labeling and advertising was and is untrue or misleading in violation of Business and Professions Code section 17500, *et seq.*;

g. Whether Defendant’s conduct is an unfair business practice within the meaning of Business and Professions Code section 17200, *et seq.*;

h. Whether Defendant’s conduct is a fraudulent business practice within the meaning of Business and Professions Code section 17200, *et seq.*;

i. Whether Defendant’s conduct is an unlawful business practice within the meaning of Business and Professions Code section 17200, *et seq.*;

j. Whether Plaintiff and the Class paid more money for the Products than they actually received; and

k. How much more money Plaintiff and the Class paid for the Products than they actually received.

36. Plaintiff’s claims are typical of the claims of the Class, and Plaintiff will fairly and adequately represent and protect the interests of the Class. Plaintiff has retained competent and experienced counsel in class action and other complex litigation.

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1 37. Plaintiff and the Class have suffered injury in fact and have lost money as  
2 a result of Defendant’s false representations and material omissions. Plaintiff  
3 purchased the Product under the false belief that they were “All Natural.” Plaintiff  
4 relied upon Defendant’s packaging and would not have purchased the Products if she  
5 had known that the Product contained ingredients that were added for coloring.

6 38. A class action is superior to other available methods for fair and efficient  
7 adjudication of this controversy. The expense and burden of individual litigation  
8 would make it impracticable or impossible for the Class to prosecute their claims  
9 individually.

10 39. The trial and litigation of Plaintiff’s claims are manageable. Individual  
11 litigation of the legal and factual issues raised by Defendant’s conduct would increase  
12 delay and expense to all parties and the court system. The class action device presents  
13 far fewer management difficulties and provides the benefits of a single, uniform  
14 adjudication, economies of scale, and comprehensive supervision by a single court.

15 40. Defendant has acted on grounds generally applicable to the entire Class,  
16 thereby making final injunctive relief and/or corresponding declaratory relief  
17 appropriate with respect to the Class as a whole. The prosecution of separate actions  
18 by individual Class members would create the risk of inconsistent or varying  
19 adjudications with respect to individual Class members that would establish  
20 incompatible standards of conduct for Defendant.

21 41. Absent a class action, Defendant will likely retain the benefits of its  
22 wrongdoing. Because of the small size of the individual Class members’ claims, few,  
23 if any, Class members could afford to seek legal redress for the wrongs complained  
24 of herein. Absent a representative action, the Class will continue to suffer losses and  
25 Defendant will be allowed to continue these violations of law and to retain the  
26 proceeds of its ill-gotten gains.

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COUNT ONE

**Violation of California Consumers Legal Remedies Act,  
California Civil Code Section 1750, et seq.**

42. Plaintiff repeats and realleges all allegations of the previous paragraphs, and incorporate the same as if set forth herein at length.

43. Plaintiff brings this cause of action pursuant to Civil Code section 1750, et seq., the Consumers Legal Remedies Act (“CLRA”), on her own behalf and on behalf of all other persons similarly situated.

44. Plaintiff and the Class members are “consumers” within the meaning of California Civil Code Section 1761(d).

45. The sale of Defendant’s products to Plaintiff’s and Class members constitutes a “transaction” within the meaning of California Civil Code Section 1761(e).

46. Defendants products are “goods” within the meaning of California Civil Code Section 1761(a).

47. The CLRA prohibits certain “unfair methods of competition and unfair or deceptive acts or practices” in connection with a sale of goods and prohibits “representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have.” California Civil Code Section 1770 (d)(5).

48. The CLRA also prohibits representing that the products are of “a particular standard, quality, or grade” when it is of another. California Civil Code Section 1770(a)(7).

49. The CLRA prohibits advertising goods with the intent not to sell them as advertised and representing the goods have been supplied in accordance with a previous representation when the they have not. California Civil Code Section 1770(a)(9) and (a)(16).

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1           51. The practices described herein, specifically Defendant’s packaging,  
2 advertising, and sale of the Products, were intended to result and did result in the sale  
3 of the Products to the consuming public and violated and continue to violate the  
4 CLRA by (1) using deceptive representations in connection with the Products,  
5 including representing them as having characteristics, benefits and qualities they do  
6 not have; (2) representing them to be of a particular quality and standard as “All  
7 Natural” while they were not “all natural” and contained added coloring; and (3)  
8 advertising and packaging the Products with intent not to sell them as advertised –  
9 specifically as being “All Natural.”

10           52. Defendant fraudulently deceived Plaintiff and the Class by  
11 misrepresenting the Products as having characteristics which they do not have, e.g.,  
12 advertising the Products in such a way to represent them being “All Natural” when  
13 the Products contain coloring additives. In doing so, Defendant misrepresented and  
14 concealed material facts from Plaintiff and the Class. Said misrepresentations and  
15 concealment were done with the intention of deceiving Plaintiff and the Class and  
16 depriving them of their legal rights and money.

17           53. Defendant fraudulently deceived Plaintiff and the Class by labeling and  
18 advertising the Products with the intent not to sell them as advertised. Specifically,  
19 Defendant intentionally labeled and misrepresented the Products as being “All  
20 Natural,” and failed to disclose the coloring agents in the Products. In doing so,  
21 Defendant intentionally misrepresented and concealed material facts from Plaintiff  
22 and the Class. Said misrepresentations and concealment were done with the intention  
23 of deceiving Plaintiff and the Class and depriving them of their legal rights and  
24 money.

25           54. Defendant knew or should have known, through the exercise of  
26 reasonable care, that the Products’ labeling and advertising were misleading.

27           55. Defendant’s actions as described herein were done with conscious  
28 disregard of Plaintiff’s rights, and Defendant was wanton and malicious in its



1 concealment of the same.

2 56. Defendant’s labeling and advertising of the Products were a material  
3 factor in Plaintiff’s and the Class’s decisions to purchase the Products. Based on  
4 Defendant’s labeling and advertising of the Products, Plaintiff and the Class  
5 reasonably believed that they were purchasing products that were safer, more  
6 nutritious, or otherwise had different attributes than products that do not have the “All  
7 Natural” labels. Had they known the truth of the matter, Plaintiff and the Class would  
8 not have purchased the Products.

9 57. Plaintiff and the Class have suffered injury in fact and have lost money as  
10 a result of Defendant’s unfair, unlawful, and fraudulent conduct. Specifically,  
11 Plaintiff paid for a beverage that was different from what she reasonably expected to  
12 receive when she decided to make her purchase. Plaintiff would not have purchased  
13 the Product had she known that the Products contained coloring agents that rendered  
14 the natural claims false.

15 58. Defendant’s false and misleading labeling and advertising should be  
16 enjoined due to its false, misleading, and/or deceptive nature.

17 59. By letter dated January 8, 2021, Plaintiff advised Hornell Brewing Co.,  
18 Inc. of its false and misleading claims pursuant to California Civil Code Section  
19 1782(a).

20 60. Pursuant to Section 1780(a) of the Act, Plaintiff seeks injunctive relief in  
21 the form of an order enjoining the above-described wrongful acts and practices of  
22 Defendant, including, but not limited to, an order enjoining Defendant from  
23 continuing to make the label and advertising claims challenged herein. Plaintiff also  
24 requests an order awarding Plaintiff and the Class restitution of the money  
25 wrongfully acquired by Defendant. Plaintiff shall be irreparably harmed if such an  
26 order is not granted.

27 61. Plaintiff respectfully requests that the Court enjoin Defendant from  
28 continuing to employ the unlawful methods, acts, and practices alleged herein

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1 pursuant to § 1780(a)(2). In addition, Defendant should be compelled to provide  
2 restitution and damages to consumers who paid for Products that are not what they  
3 expected to receive due to Defendant’s misrepresentations.

4 a. Plaintiff and members of the Class are entitled to equitable relief  
5 as no adequate remedy at law exists.

6 (1) Injunctive relief is appropriate on behalf of Plaintiff and  
7 members of the Class because Defendant continues to deceptively  
8 label the Products as being “All Natural.” Injunctive relief is  
9 necessary to prevent Defendant from continuing to engage in the  
10 unlawful conduct described herein and to prevent future harm—  
11 none of which can be achieved through available legal remedies.  
12 Further, injunctive relief, in the form of packaging or label  
13 modifications, is necessary to dispel public misperception about  
14 the Products that has resulted from years of Defendant’s unfair,  
15 fraudulent, and unlawful marketing efforts. Such modifications  
16 would include, reformulating the Products so they do not contain  
17 added coloring or removing the “All Natural” label claims. Such  
18 relief is also not available through a legal remedy as monetary  
19 damages may be awarded to remedy past harm (i.e., purchasers  
20 who have been misled), while injunctive relief is necessary to  
21 remedy future harm (i.e., prevent future purchasers from being  
22 misled), under the current circumstances where the dollar amount  
23 of future damages is not reasonably ascertainable at this time.  
24 Plaintiff is, currently, unable to accurately quantify the damages  
25 caused by Defendant’s future harm (e.g., the dollar amount that  
26 Plaintiff and Class members overpay pay for the falsely labeled  
27 Products), rendering injunctive relief a necessary remedy.  
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**COUNT TWO**

**Violation of California False Advertising Law,  
Business & Professions Code Section 17500, *et seq.***

62. Plaintiff repeats and reallege the allegations set forth in the preceding paragraphs, and incorporate the same as if set forth herein at length.

63. Plaintiff brings this cause of action pursuant to Business and Professions Code section 17500, *et seq.*, on her own behalf and on behalf of all other persons similarly situated.

64. California’s False Advertising Law, California Business and Professions Code section 17500, *et seq.*, makes it “unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, in any advertising device or in any other manner or means whatever, including over the Internet, any statement, concerning personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading.”

65. Defendant knowingly disseminated misleading claims regarding the Products in order to mislead the public about the ingredient makeup of the Products.

66. Defendant controlled the labeling, packaging, production and advertising of the Products. Defendant knew or should have known, through the exercise of reasonable care, that its representations and omissions about the ingredients of the Products were untrue, deceptive, and misleading.

67. Defendant’s action of displaying misleading claims and omissions about the ingredients of the Products in prominent type face on each of the Products’ front labels is likely to deceive the general public.

68. Defendant’s actions in violation of Section 17500 were false and misleading such that the general public is and was likely to be deceived.

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69. As a direct and proximate result of Defendant’s conduct alleged herein in violation of the FAL, Plaintiff and members of the Class, pursuant to § 17535, are entitled to an order of this Court enjoining such future wrongful conduct on the part of Defendant, and requiring Defendant to disclose the true nature of its misrepresentations.

b. Plaintiff and members of the Class are entitled to equitable relief as no adequate remedy at law exists.

(1) The scope of permissible plaintiffs under the FAL is broader than the CLRA to include, for example, individuals or entities who purchased the Products for non-personal, non-family, and non-household purposes. Thus, Plaintiff and class members may be entitled to restitution under the FAL, while not entitled to damages under the CLRA.

(2) Injunctive relief is appropriate on behalf of Plaintiff and members of the Class because Defendant continues to deceptively label the Products and deliberately omit that the Products contain coloring additives that render the Products no longer as being “All Natural.” Injunctive relief is necessary to prevent Defendant from continuing to engage in the unlawful conduct described herein and to prevent future harm—none of which can be achieved through available legal remedies. Further, injunctive relief, in the form of label modifications, is necessary to dispel public misperception about the Products that has resulted from years of Defendant’s unfair, fraudulent, and unlawful marketing efforts. Such modifications would include, but are not limited to, reformulating the Products or removing the false “All Natural” labeling. Such relief is also not available through a legal remedy as monetary damages may be awarded to remedy past harm (i.e., purchasers who have been misled), while injunctive relief is necessary to remedy future harm (i.e., prevent future purchasers from being misled), under the current circumstances

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where the dollar amount of future damages is not reasonably ascertainable at this time. Plaintiff is, currently, unable to accurately quantify the damages caused by Defendant’s future harm (e.g., the dollar amount that Plaintiff and Class members overpay for the falsely labeled Products), rendering injunctive relief a necessary remedy.

70. Plaintiff and the Class have suffered injury in fact and have lost money as a result of Defendant’s false representations. Plaintiff purchased the Products in reliance upon the claims and omissions by Defendant that the Products are “All Natural,” as represented by Defendant’s labeling and advertising. Plaintiff would not have purchased the Products if she had known that the claims and advertising as described herein were false and misleading.

71. Plaintiff and members of the Class also request an order requiring Defendant to disgorge its ill-gotten gains and/or award full restitution of all monies wrongfully acquired by Defendant by means of such acts of false advertising, plus interests and attorneys’ fees.

**COUNT THREE**

**Violation of California Unfair Competition Law  
Business and Professions Code § 17200 et seq.**

72. Plaintiff repeats and realleges the allegations set forth above, and incorporate the same as if set forth herein at length.

73. Plaintiff brings this cause of action pursuant to Business and Professions Code § 17200, et seq., on her own behalf and on behalf of all other persons similarly situated.

74. The UCL prohibits “any unlawful, unfair... or fraudulent business act or practice.” Cal. Bus & Prof. Code § 17200.

**A. “Unfair” Prong**

75. Under California’s Unfair Competition Law, Cal. Bus. & Prof. Code § 17200, et. seq., a challenged activity is “unfair” when “any injury it causes outweighs

1 any benefits provided to consumers and the injury is one that the consumers  
2 themselves could not reasonably avoid.” *Camacho v. Auto Club of Southern*  
3 *California*, 142 Cal. App. 4th 1394, 1403 (2006).

4 76. Defendant’s advertising and labeling of the Products as being “All  
5 Natural,” when the Products contain coloring additives, is false, misleading, and  
6 deceptive.

7 77. Defendant’s false advertising of the Products causes injuries to  
8 consumers, who do not receive the promised benefits from the Products in proportion  
9 to their reasonable expectations.

10 78. Through false, misleading, and deceptive labeling of the Products,  
11 Defendant seeks to take advantage of consumers’ desire for “All Natural” products,  
12 while reaping the financial benefits of manufacturing lower quality Products.

13 79. When Defendant labels the Products as being “All Natural,” it provides  
14 false promises to consumers and stifles competition in the marketplace.

15 80. Consumers cannot avoid any of the injuries caused by Defendant’s false  
16 and misleading advertising of the Products.

17 81. Some courts conduct a balancing test to decide if a challenged activity  
18 amounts to unfair conduct under California Business and Professions Code Section  
19 17200. The courts “weigh the utility of the Defendant’s conduct against the gravity  
20 of the harm alleged to the victim.” *Davis v. HSBC Bank Nevada, N.A.*, 691 F. 3d 1152,  
21 1169 (9th Cir. 2012).

22 82. Defendant’s material omissions result in financial harm to consumers.  
23 Thus, the utility of Defendant’s conduct is vastly outweighed by the gravity of its  
24 harm.

25 83. Some courts require the “unfairness must be tethered to some legislative  
26 declared policy or proof of some actual or threatened impact on competition.” *Lozano*  
27 *v. AT&T Wireless Servs. Inc.*, 504 F. 3d 718, 735 (9th Cir. 2007).

28 84. Defendant’s advertising of the Products, as alleged in the preceding

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1 paragraphs, is false, deceptive, misleading, and unreasonable, and constitutes unfair  
2 conduct.

3 85. Defendant knew or should have known of its unfair conduct.

4 86. As alleged in the preceding paragraphs, the material misrepresentations  
5 by Defendant detailed above constitute an unfair business practice within the meaning  
6 of California Business & Professions Code § 17200.

7 87. There were reasonably available alternatives to further Defendant’s  
8 legitimate business interests other than the conduct described herein. Defendant could  
9 have marketed the Products without making any false statements about the Products’  
10 ingredients.

11 88. All of the conduct alleged herein occurs and continues to occur in  
12 Defendant’s business. Defendant’s wrongful conduct is part of a pattern or  
13 generalized course of conduct repeated on thousands of occasions daily.

14 89. Pursuant to Business & Professions Code Section 17203, Plaintiff and the  
15 Class seek an order of this Court enjoining Defendant from continuing to engage, use,  
16 or employ its practice of false and deceptive advertising of the Products. Likewise,  
17 Plaintiff and the Class seek an order requiring Defendant to disclose such  
18 misrepresentations, and additionally request an order awarding Plaintiff restitution of  
19 the money wrongfully acquired by Defendant by means of responsibility attached to  
20 Defendant’s failure to disclose the existence and significance of said  
21 misrepresentations in an amount to be determined at trial.

22 90. Plaintiff and the Class have suffered injury in fact and have lost money as  
23 a result of Defendant’s unfair conduct. Plaintiff paid an unwarranted premium for the  
24 Product. Plaintiff would not have purchased the Product if she had known that the  
25 Product’s “All Natural” label claims were false.

26 **B. “Fraudulent” Prong**

27 91. California Business and Professions Code § 17200, *et seq.* considers  
28 conduct fraudulent and prohibits said conduct if it is likely to deceive members of the

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public. *Bank of the West v. Superior Court*, 2 Cal. 4th 1254, 1267 (1992).

92. Defendant’s advertising of the Products as being “All Natural,” without referring to their actual characterization, is likely to deceive members of the public into believing that the Products are natural.

93. Defendant’s advertising of the Products, as alleged in the preceding paragraphs, is false, deceptive, misleading, and unreasonable and constitutes fraudulent conduct.

94. Defendant knew or should have known of its fraudulent conduct.

95. As alleged in the preceding paragraphs, the material misrepresentations and omissions by Defendant detailed above constitute a fraudulent business practice in violation of California Business & Professions Code Section 17200.

96. There were reasonably available alternatives to further Defendant’s legitimate business interests, other than the conduct described herein. Defendant could have refrained from labeling the Products as being “All Natural.”

97. All of the conduct alleged herein occurs and continues to occur in Defendant’s business. Defendant’s wrongful conduct is part of a pattern or generalized course of conduct repeated on thousands of occasions daily.

98. Pursuant to Business & Professions Code Section 17203, Plaintiff and the Class seek an order of this Court enjoining Defendant from continuing to engage, use, or employ its practice of false and deceptive advertising of the Products. Likewise, Plaintiff and the Class seek an order requiring Defendant to disclose such misrepresentations, and additionally request an order awarding Plaintiff restitution of the money wrongfully acquired by Defendant by means of responsibility attached to Defendant’s failure to disclose the existence and significance of said misrepresentations in an amount to be determined at trial.

99. Plaintiff and the Class have suffered injury in fact and have lost money as a result of Defendant’s fraudulent conduct. Plaintiff and the Class paid an unwarranted premium for the Products. Plaintiff and the Class would not have

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1 purchased the Products if they had known that the Products were not “All Natural.”

2 **C. “Unlawful” Prong**

3 100. California Business and Professions Code Section 17200, *et seq.*,  
4 identifies violations of other laws as “unlawful practices that the unfair competition  
5 law makes independently actionable.” *Velazquez v. GMAC Mortg. Corp.*, 605 F.  
6 Supp. 2d 1049, 1068 (C.D. Cal. 2008).

7 101. Defendant’s advertising of the Products, as alleged in the preceding  
8 paragraphs, violates California Civil Code Section 1750, *et seq.*, California Business  
9 and Professions Code Section 17500, *et seq.*

10 102. Defendant’s packaging, labeling, and advertising of the Products, as  
11 alleged in the preceding paragraphs, are false, deceptive, misleading, and  
12 unreasonable, and constitute unlawful conduct.

13 103. Defendant knew or should have known of its unlawful conduct.

14 104. As alleged in the preceding paragraphs, the misrepresentations by  
15 Defendant detailed above constitute an unlawful business practice within the meaning  
16 of California Business and Professions Code Section 17200.

17 105. There were reasonably available alternatives to further Defendant’s  
18 legitimate business interests other than the conduct described herein. Defendant could  
19 have refrained from omitting the true characteristics of the Products.

20 106. All of the conduct alleged herein occurred and continues to occur in  
21 Defendant’s business. Defendant’s wrongful conduct is part of a pattern or  
22 generalized course of conduct repeated on thousands of occasions daily.

23 107. Pursuant to Business and Professions Code Section 17203, Plaintiff and  
24 the Class seek an order of this Court enjoining Defendant from continuing to engage,  
25 use, or employ its practice of false and deceptive advertising of the Products.  
26 Likewise, Plaintiff and the Class seek an order requiring Defendant to disclose such  
27 misrepresentations, and additionally request an order awarding Plaintiff restitution of  
28 the money wrongfully acquired by Defendant by means of responsibility attached to

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1 Defendant’s failure to disclose the existence and significance of said  
2 misrepresentations in an amount to be determined at trial.

3 108. Plaintiff and the Class have suffered injury in fact and have lost money as  
4 a result of Defendant’s unlawful conduct. Plaintiff paid an unwarranted premium for  
5 the Product. Plaintiff would not have purchased the Product if she had known that  
6 Defendant purposely deceived consumers into believing that the Products were “All  
7 Natural.”

8 109. As a result of the business acts and practices described above, Plaintiff  
9 and members of the Class, pursuant to § 17203, are entitled to an order enjoining  
10 such future wrongful conduct on the part of Defendant and such other orders and  
11 judgments that may be necessary to disgorge Defendant’s ill-gotten gains and to  
12 restore to any person in interest any money paid for the Products as a result of the  
13 wrongful conduct of Defendant.

14 c. Plaintiff and members of the Class are entitled to equitable relief  
15 as no adequate remedy at law exists.

16 (1) The applicable limitations period is four years for claims  
17 brought under the UCL, which is one year longer than the  
18 applicable statute of limitations under the FAL and CLRA. Thus,  
19 class members who purchased the Products between 3 and 4  
20 years prior to the filing of the complaint will be barred from the  
21 Class if equitable relief were not granted under the UCL.

22 (2) The scope of actionable misconduct under the unfair prong  
23 of the UCL is broader than the other causes of action asserted  
24 herein to include, for example, the overall false and misleading  
25 marketing scheme of labeling the Products as being “All  
26 Natural.” Thus, Plaintiff and class members may be entitled to  
27 restitution under the UCL, while not entitled to damages under  
28 other causes of action asserted herein (e.g., the FAL requires

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actual or constructive knowledge of the falsity; the CLRA is limited to certain types of plaintiffs (an individual who seeks or acquires, by purchase or lease, any goods or services for personal, family, or household purposes) and other statutorily enumerated conduct).

(3) Injunctive relief is appropriate on behalf of Plaintiff and members of the Class because Defendant continues to deceptively label the Products. Injunctive relief is necessary to prevent Defendant from continuing to engage in this unfair, fraudulent, and/or unlawful conduct described herein and to prevent future harm—none of which can be achieved through available legal remedies. Further, injunctive relief, in the form of packaging or label modifications, is necessary to dispel public misperception about the Products that has resulted from years of Defendant’s unlawful marketing efforts. Such modifications could include, but are not limited to, reformulating the Products so they do not contain added coloring, or remove the “All Natural” label claims. Such relief is not available through a legal remedy, as monetary damages may be awarded to remedy past harm (i.e., purchasers who have been misled), while injunctive relief is necessary to remedy future harm (i.e., prevent future purchasers from being misled), under the current circumstances where the dollar amount of future damages is not reasonably ascertainable at this time. Plaintiff is, currently, unable to accurately quantify the damages caused by Defendant’s future harm (e.g., the dollar amount that Plaintiff and Class members will pay for the falsely labeled Products), rendering injunctive relief a necessary remedy.

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1 110. Pursuant to Civil Code § 3287(a), Plaintiff and the Class are further  
2 entitled to pre-judgment interest as a direct and proximate result of Defendant’s  
3 unfair and fraudulent business conduct. The amount on which interest is to be  
4 calculated is a sum certain and capable of calculation, and Plaintiff and the Class are  
5 entitled to interest in an amount according to proof.

6 **COUNT FOUR**

7 **Unjust Enrichment**

8 111. Plaintiff repeats and realleges the allegations set forth above, and  
9 incorporates the same as if set forth herein at length.

10 112. By means of Defendant’s wrongful conduct alleged herein, Defendant  
11 knowingly sold the Products to Plaintiff and members of the Class in a manner that  
12 was unfair, unconscionable, and oppressive.

13 113. Defendant knowingly received and retained wrongful benefits and funds  
14 from Plaintiff and members of the Class. In so doing, Defendant acted with conscious  
15 disregard for the rights of Plaintiff and members of the Class.

16 114. As a result of Defendant’s wrongful conduct as alleged herein, Defendant  
17 has been unjustly enriched at the expense of, and to the detriment of, Plaintiff and  
18 members of the Class.

19 115. Defendant’s unjust enrichment is traceable to, and resulted directly and  
20 proximately from, the conduct alleged herein.

21 116. Under the common law doctrine of unjust enrichment, it is inequitable for  
22 Defendant to be permitted to retain the benefits it received, without justification, from  
23 selling the Products to Plaintiff and members of the Class in an unfair,  
24 unconscionable, and oppressive manner. Defendant’s retention of such funds under  
25 such circumstances making it inequitable to do so constitutes unjust enrichment.

26 117. The financial benefits derived by Defendant rightfully belong to Plaintiff  
27 and members of the Class. Defendant should be compelled to return in a common  
28 fund for the benefit of Plaintiff and members of the Class all wrongful or inequitable

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proceeds received by Defendant.

118. Plaintiff and members of the Class have no adequate remedy at law.

**COUNT FIVE**

**Breach of Express Warranty**

119. Plaintiff repeats and realleges all the allegations of the previous paragraphs and incorporate the same as if set forth herein at length.

120. Defendant expressly warrants that the Products are “All Natural,” as set forth above. Defendant’s claims constitute an affirmation of fact, promise, and/or description of the goods that became part of the basis of the bargain and created an express warranty that the goods would conform to the stated promise. Plaintiff placed importance on Defendant’s claims.

121. All conditions precedent to Defendant’s liability under this contract have been performed by Plaintiff and the Class.

122. Defendant breached the terms of the contract, including the express warranties, with Plaintiff and the Class by not providing Products that conform to the advertising and label claims.

123. As a result of Defendant’s breach of contract, Plaintiff and the Class have been damaged in an amount to be determined at trial.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff, individually and on behalf of all others similarly situated, pray for judgment and relief on all Causes of Action as follows:

- A. This action be certified as a class action;
- B. Plaintiff be appointed as the representative of the Class;
- C. Defendant’s conduct be declared unlawful;
- D. An order enjoining Defendant from continuing to label and advertise the Products as challenged herein;
- E. An order for Defendant to issue a corrective advertising campaign;

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- F. For an award of restitutionary damages in an amount according to proof at trial;
- G. An order of disgorgement of profits for Defendant’s unjust enrichment obtained as a result of its unlawful, unfair, and fraudulent practices;
- H. For pre-judgment interest from the date of filing this suit;
- I. Punitive damages;
- J. Reasonable attorneys’ fees;
- K. Costs of this suit; and
- L. Such other and further relief as the Court may deem necessary or appropriate.

**JURY TRIAL DEMANDED**

Plaintiff demands a jury trial on all triable issues.

DATED: May 28, 2021



\_\_\_\_\_  
Ryan J. Clarkson, Esq.  
Shireen Clarkson, Esq.  
Yana Hart, Esq.  
Celine Cohan, Esq.

*Attorneys for Plaintiff*

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*Attorneys for Plaintiffs and the Putative Class*

THE SUPERIOR COURT OF CALIFORNIA  
COUNTY OF LOS ANGELES

VERONIKA GUSLITSER,  
individually and on behalf of all others  
similarly situated,  
  
Plaintiff,  
  
vs.  
  
HORNELL BREWING CO., INC.  
  
Defendant.

Case No.  
**CLASS ACTION**  
**DECLARATION OF VERONIKA  
GUSLITSER REGARDING  
VENUE PURSUANT TO  
CALIFORNIA CODE OF CIVIL  
PROCEDURE SECTION 1780(d)**

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I, Veronika Guslitser, declare as follows:

1. I am a plaintiff in this action and a citizen of the State of California, residing in this District. I have personal knowledge of the facts stated herein, and if called to testify as a witness, I could and would competently testify to them.

2. Pursuant to California Civil Code Section 1780(d), this Court is proper for trial of this action because Defendants conduct a substantial amount of business in this District.

3. The transaction at issue and the subject matter of the above-captioned action occurred in the Central District of California. I purchased the All Natural AriZona beverage product from a Wal-Mart in Los Angeles County, California in 2020.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed on May 27, 2021 at Los Angeles, California.

*Veronika Guslitser*  
\_\_\_\_\_  
Veronika Guslitser

CLARKSON LAW FIRM, P.C.  
9255 Sunset Blvd., Ste. 804  
Los Angeles, CA 90069

08/04/2021

<p><b>SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</b></p>	<p><small>Reserved for Clerk's File Stamp</small></p> <p><b>FILED</b> Superior Court of California County of Los Angeles <b>06/25/2021</b> Sherri R. Carter, Executive Officer / Clerk of Court By: <u>          K. Vargas          </u> Deputy</p>
<p><small>COURTHOUSE ADDRESS:</small> Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012</p>	
<p><b>NOTICE OF CASE ASSIGNMENT UNLIMITED CIVIL CASE</b></p>	
<p>Your case is assigned for all purposes to the judicial officer indicated below.</p>	<p><small>CASE NUMBER:</small> <b>21STCV23850</b></p>

**THIS FORM IS TO BE SERVED WITH THE SUMMONS AND COMPLAINT**

	ASSIGNED JUDGE	DEPT	ROOM		ASSIGNED JUDGE	DEPT	ROOM
✓	Yvette M. Palazuelos	9					

Given to the Plaintiff/Cross-Complainant/Attorney of Record           Sherri R. Carter, Executive Officer / Clerk of Court          

on 06/28/2021  
(Date)

By           K. Vargas          , Deputy Clerk



**INSTRUCTIONS FOR HANDLING UNLIMITED CIVIL CASES**

The following critical provisions of the California Rules of Court, Title 3, Division 7, as applicable in the Superior Court, are summarized for your assistance.

**APPLICATION**

The Division 7 Rules were effective January 1, 2007. They apply to all general civil cases.

**PRIORITY OVER OTHER RULES**

The Division 7 Rules shall have priority over all other Local Rules to the extent the others are inconsistent.

**CHALLENGE TO ASSIGNED JUDGE**

A challenge under Code of Civil Procedure Section 170.6 must be made within 15 days after notice of assignment for all purposes to a judge, or if a party has not yet appeared, within 15 days of the first appearance.

**TIME STANDARDS**

Cases assigned to the Independent Calendaring Courts will be subject to processing under the following time standards:

**COMPLAINTS**

All complaints shall be served within 60 days of filing and proof of service shall be filed within 90 days.

**CROSS-COMPLAINTS**

Without leave of court first being obtained, no cross-complaint may be filed by any party after their answer is filed. Cross-complaints shall be served within 30 days of the filing date and a proof of service filed within 60 days of the filing date.

**STATUS CONFERENCE**

A status conference will be scheduled by the assigned Independent Calendar Judge no later than 270 days after the filing of the complaint. Counsel must be fully prepared to discuss the following issues: alternative dispute resolution, bifurcation, settlement, trial date, and expert witnesses.

**FINAL STATUS CONFERENCE**

The Court will require the parties to attend a final status conference not more than 10 days before the scheduled trial date. All parties shall have motions in limine, bifurcation motions, statements of major evidentiary issues, dispositive motions, requested form jury instructions, special jury instructions, and special jury verdicts timely filed and served prior to the conference. These matters may be heard and resolved at this conference. At least five days before this conference, counsel must also have exchanged lists of exhibits and witnesses, and have submitted to the court a brief statement of the case to be read to the jury panel as required by Chapter Three of the Los Angeles Superior Court Rules.

**SANCTIONS**

The court will impose appropriate sanctions for the failure or refusal to comply with Chapter Three Rules, orders made by the Court, and time standards or deadlines established by the Court or by the Chapter Three Rules. Such sanctions may be on a party, or if appropriate, on counsel for a party.

**This is not a complete delineation of the Division 7 or Chapter Three Rules, and adherence only to the above provisions is therefore not a guarantee against the imposition of sanctions under Trial Court Delay Reduction. Careful reading and compliance with the actual Chapter Rules is imperative.**

**Class Actions**

Pursuant to Local Rule 2.3, all class actions shall be filed at the Stanley Mosk Courthouse and are randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be a class action it will be returned to an Independent Calendar Courtroom for all purposes.

**\*Provisionally Complex Cases**

Cases filed as provisionally complex are initially assigned to the Supervising Judge of complex litigation for determination of complex status. If the case is deemed to be complex within the meaning of California Rules of Court 3.400 et seq., it will be randomly assigned to a complex judge at the designated complex courthouse. If the case is found not to be complex, it will be returned to an Independent Calendar Courtroom for all purposes.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar Number, and address)

Ryan J. Clarkson, Esq. | SBN: SBN 257074  
 CLARKSON LAW FIRM  
 9255 Sunset Blvd Suite 804 Los Angeles, CA 90069  
 TELEPHONE NO.: (213) 788-4050 | FAX NO. (310) 017-1001 | E-MAIL ADDRESS  
 ATTORNEY FOR (Name): Plaintiff:

FOR COURT USE ONLY

**FILED**  
 Superior Court of California  
 County of Los Angeles

**JUL 08 2021**

Herri K. Nazarov, Executive Officer/Clerk  
 by *[Signature]*, Deputy  
 Herri K. Nazarov

**LOS ANGELES COUNTY SUPERIOR COURT**

STREET ADDRESS: 111 N. HILL STREET  
 CITY AND ZIP CODE: LOS ANGELES, CA 90012-3117  
 BRANCH NAME: STANLEY MOSK

PLAINTIFF/PETITIONER: VERONIKA GUSLISTER, etc.  
 DEFENDANT/RESPONDENT: HORNELL BREWING CO. INC.

CASE NUMBER:  
 21STCV23850

**PROOF OF SERVICE OF SUMMONS**

Ref. No. or File No.:  
 Guslister v. Hornell Brewing Co.

*(Separate proof of service is required for each party served.)*

1. At the time of service I was at least 18 years of age and not a party to this action.
2. I served copies of:
  - a.  Summons
  - b.  Complaint
  - c.  Alternative Dispute Resolution (ADR) package
  - d.  Civil Case Cover Sheet
  - e.  Cross-Complaint
  - f.  other (specify documents): **Civil Case Cover Sheet Addendum and Statement of Location; Notice of Case Assignment - Unlimited Civil Case**
3. a. Party served (specify name of party as shown on documents served):  
**Hornell Brewing Co. Inc.**
  - b.  Person (other than the party in item 3a) served on behalf of an entity or as an authorized agent (and not a person under item 5b on whom substituted service was made) (specify name and relationship to the party named in item 3a):  
**National Registered Agents, Inc., Registered Agent, by serving Diana Ruiz - Authorized Agent**
4. Address where the party was served: **330 N Brand Blvd Ste 700  
 Glendale, CA 91203-2336**
5. I served the party (check proper box)
  - a.  **by personal service.** I personally delivered the documents listed in item 2 to the party or person authorized to receive service of process for the party (1) on (date): **7/6/2021** (2) at (time): **12:40 PM**
  - b.  **by substituted service.** On (date): at (time): I left the documents listed in item 2 with or in the presence of (name and title or relationship to person indicated in item 3b):
    - (1)  (business) a person at least 18 years of age apparently in charge at the office or usual place of business of the person to be served. I informed him or her of the general nature of the papers.
    - (2)  (home) a competent member of the household (at least 18 years of age) at the dwelling house or usual place of abode of the party. I informed him or her of the general nature of the papers.
    - (3)  (physical address unknown) a person at least 18 years of age apparently in charge at the usual mailing address of the person to be served, other than a United States Postal Service post office box. I informed him or her of the general nature of the papers.
    - (4)  I thereafter mailed (by first-class, postage prepaid) copies of the documents to the person to be served at the place where the copies were left (Code Civ. Proc., §415.20). I mailed the documents on (date): from (city): or  a declaration of mailing is attached.
    - (5)  I attach a declaration of diligence stating actions taken first to attempt personal service.

PETITIONER: VERONIKA GUSLISTER, etc.

CASE NUMBER:

21STCV23850

RESPONDENT: HORNELL BREWING CO. INC.

c.  by mail and acknowledgment of receipt of service. I mailed the documents listed in Item 2 to the party, to the address shown in item 4, by first-class mail, postage prepaid,

(1) on (date): (2) from (city):

(3)  with two copies of the Notice and Acknowledgment of Receipt and a postage-paid return envelope addressed to me. (Attach completed Notice and Acknowledgement of Receipt.) (Code Civ. Proc., § 415.30.)

(4)  to an address outside California with return receipt requested. (Code Civ. Proc., § 415.40.)

d.  by other means (specify means of service and authorizing code section):

Additional page describing service is attached.

i. The "Notice to the Person Served" (on the summons) was completed as follows:

a.  as an individual defendant.

b.  as the person sued under the fictitious name of (specify):

c.  as occupant.

d.  On behalf of Hornell Brewing Co. Inc.

under the following Code of Civil Procedure section:

416.10 (corporation)

416.20 (defunct corporation)

416.30 (joint stock company/association)

416.40 (association or partnership)

416.50 (public entity)

415.95 (business organization, form unknown)

416.60 (minor)

416.70 (ward or conservatee)

416.90 (authorized person)

415.46 (occupant)

other:

f. Person who served papers

a. Name: Dion Jones - Nationwide Legal, LLC REG: 12-234648

b. Address: 1609 James M Wood Blvd. Los Angeles, CA 90015

c. Telephone number: (213) 249-9999

d. The fee for service was: \$ 122.20

e. I am:

(1)  not a registered California process server.

(2)  exempt from registration under Business and Professions Code section 22350(b).

(3)  registered California process server:

(i)  owner  employee

independent contractor.

(ii) Registration No.: 2013128925

(iii) County: Los Angeles

j.  I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

or

k.  I am a California sheriff or marshal and I certify that the foregoing is true and correct.

Date: 7/6/2021

Nationwide Legal, LLC  
1609 James M Wood Blvd.  
Los Angeles, CA 90015  
(213) 249-9999  
www.nationwideasap.com

Dion Jones

(NAME OF PERSON WHO SERVED PAPERS/SHERIFF OR MARSHAL)



SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF LOS ANGELES  
SSC-Department 9  
Case Name. VERONIKA GUSLITSER vs. HORNE LL BREWING CO., INC  
Case Number. 21STCV23850  
**INITIAL STATUS CONFERENCE ORDER**

FILED  
Superior Court of California  
County of Los Angeles  
JUL 15 2021  
SHERRI R. CARTER, CLERK  
BY MARIBEL MATA, Deputy  
OFFICER/CLERK

The Court issues the following Initial Status Conference Order:

Due to the pandemic and the urgent need to avoid court appearances, the parties MUST sign up with an e-service provider at least ten (10) court days in advance of the Initial Status Conference and advise the Court, via email to [sscdept9@lacourt.org](mailto:sscdept9@lacourt.org) which provider was selected.

This case has been assigned for all purposes to Judge Yvette M. Palazuelos in the Complex Litigation Program. An Initial Status Conference is set for August 18, 2021 at 10:00 a.m., in Department 09 located in the Spring Street Courthouse, at United States District Court, 312 N. Spring Street, Los Angeles, California 90012. Counsel for all the parties are ordered to attend.

Counsel for all parties are ordered to meet and confer regarding the following areas and be prepared to discuss them with the Court at the Initial Status Conference. Counsel for Plaintiff is to take the lead in preparing a Joint Initial Status Conference Report to be filed and served five (5) court days prior to the hearing date. Do not the use the Judicial Council Form CM-110 (Case Management Statement) for this purpose.

The Joint Initial Status Conference Report must address the following:

1. Parties and Counsel: Please list all presently-named class representatives and presently-named defendants, together with all counsel of record, including counsel's contact and email information.
2. Potential Additional Parties: Does any plaintiff presently intend to add more class representatives? If so, and if known, by what date and by what name? Does any plaintiff presently intend to name more defendants? If so, and if known, by what date and by what name? Does any appearing defendant presently intend to file a cross-complaint? If so, who will be named.
3. Adequacy of Proposed Class Representative(s): If any party believes one or more named plaintiffs might not be an adequate class representative, please explain. No prejudice will attach to these responses.
4. Estimated Class Size: Please discuss and indicate the estimated class size.
5. Other Actions with Overlapping Class Definitions: Please list other cases with overlapping class definitions. Please identify the court, the short caption title, the docket number, and the case status.
6. Potentially Relevant Arbitration and/or Class Action Waiver Clauses: Please include a sample of any clause of this sort. Opposing parties must summarize their views on this issue.

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7. Potential Early Crucial Motions: Opposing counsel are to identify and describe the significant core issues in the case. Counsel then are to identify efficient ways to resolve those issues. The vehicles include:

- Early motions in limine
- Early motions about particular jury instructions
- Demurrers
- Motions to strike
- Motions for judgment on the pleadings, and
- Motions for summary judgment and summary adjudication.

8. Class Contact Information: Does plaintiff need class contact information from the defendant's records? If so, do the parties consent to an "opt-out" notice process (as approved in *Belair-West Landscape, Inc. v. Superior Court* (2007) 149 Cal.App.4th 554, 561) to precede defense delivery of this information to plaintiff's counsel? If the parties agree on the notice process, who should pay for it? Should there be a third-party administrator?

9. Protective Orders: Parties considering an order to protect confidential information from general disclosure should begin with the model protective orders found on the Los Angeles Superior Court Website under "Civil Tools for Litigators."

10. Discovery: Please discuss discovery. Do the parties agree on a plan? If not, can the parties negotiate a compromise? At minimum, please summarize each side's views on discovery. The Court generally allows discovery on matters relevant to class certification, which (depending on circumstances) may include factual issues also touching the merits. The Court generally does not permit extensive or expensive discovery relevant only to the merits (for example, detailed damages discovery) unless a persuasive showing establishes early need. If any party seeks discovery from absent class members, please estimate how many, and also state the kind of discovery you propose<sup>1</sup>.

11. Insurance Coverage: Please state if there is insurance for indemnity or reimbursement.

12. Alternative Dispute Resolution: Please discuss ADR and state each party's position about it. If pertinent, how can the Court help identify the correct neutral and prepare the case for a successful settlement negotiation?

13. Timeline for Case Management: Please recommend dates and times for the following:

- The next status conference, if needed. The court does not schedule status conferences for most cases. Rather, the court gives deadlines for the filing of motions for class certification with non-appearance case management reviews set a few days after the filing deadlines
- A schedule for alternative dispute resolution, if it is relevant,
- A filing deadline for the motion for class certification, and
- Filing deadlines and descriptions for other anticipated non-discovery motions.

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<sup>1</sup> California Rule of Court, Rule 3.768.

14. Electronic Service of Papers: The Court will issue an Order requiring electronic service. The parties must select of one of the following services:

Case Anywhere (<http://www.caseanywhere.com>).

File & Serve Xpress (<https://secure.fileandservexpress.com>)

CaseHomePage (<http://www.casehomepage.com>)

Electronic service is not the same as electronic filing. Only traditional methods of filing by physical delivery of original papers or by fax filing are presently acceptable.

To the extent the parties are unable to agree on the matters to be addressed in the Joint Initial Status Conference Report, the positions of each party or of various parties shall be set forth separately in the Joint Statement. The parties are encouraged to propose, either jointly or separately, any approaches to case management that they believe will promote the fair and efficient handling of this case. The Court is particularly interested in identifying potentially dispositive or significant threshold issues the early resolution of which may assist in moving the case toward effective ADR and/or a final disposition.

Pending further order of this Court, and except as otherwise provided in the Initial Status Conference Order, these proceedings are stayed in their entirety. This stay shall preclude the filing of any answer, demurrer, motion to strike, or motions challenging the jurisdiction of the Court. However, each defendant is directed to file a Notice of Appearance for purposes of identification of counsel and preparation of a service list. The filing of such a Notice of Appearances shall be without prejudice to any challenge to the jurisdiction of the Court, substantive or procedural challenges to the Complaint, without prejudice to any affirmative defense, and without prejudice to the filing of any cross-complaint in this action. This stay is issued to assist the Court and the parties in managing this complex case through the development of an orderly schedule for briefing and hearings on procedural and substantive challenges to the complaint and other issues that may assist in orderly management. This stay shall not preclude the parties from continuing informally exchange documents that may assist in their initial evaluation of the issues presented in this case. However, all outstanding discovery requests are stayed.

All management stays, including stays of discovery issued by the Court, shall not be considered as a stay per Code of Civil Procedure section 583.310 unless specifically ordered by the Court.

Remember that when seeking to dismiss or to obtain settlement approval, “[a] dismissal of an entire class action, or of any party or cause of action in a class action, requires Court approval . . . Requests for dismissal must be accompanied by a declaration setting forth the facts on which the party relies. The declaration must clearly state whether consideration, direct or indirect, is being given for the dismissal and must describe the consideration in detail.” If the parties have settled the class action, that too will require judicial approval based on a noticed motion (although it may be possible to shorten time by consent for good cause shown).

Plaintiffs’ counsel is to serve this Initial Status Conference Order on counsel for Defendant, or if counsel is not known, on Defendant within five (5) days of service of this Order.

08/04/21 10:29 AM



If the Complaint has not been served as of the date of this Order, Counsel for Plaintiff is to serve the Complaint within five (5) days of service of this Order.

IT IS SO ORDERED.

DATED: July 15, 2021



**YVETTE M. PALAZUELOS**

YVETTE M. PALAZUELOS  
Judge of the Superior Court

FILED

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Spring Street Courthouse, Department 9

**21STCV23850**

**VERONIKA GUSLITSER vs HORNELL BREWING CO., INC.**

July 15, 2021

10:24 AM

Judge: Honorable Yvette M. Palazuelos

Judicial Assistant: M. Mata

Courtroom Assistant: None

CSR: None

ERM: None

Deputy Sheriff: None

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**APPEARANCES:**

For Plaintiff(s): No Appearances

For Defendant(s): No Appearances

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**NATURE OF PROCEEDINGS:** Court Order re: Complex Designation

By this order, the Court determines this case to be Complex according to Rule 3.400 of the California Rules of Court. The Clerk's Office has randomly assigned this case to this department for all purposes.

By this order, the Court stays the case, except for service of the Summons and Complaint. The stay continues at least until the Initial Status Conference. Initial Status Conference is set for 08/18/2021 at 10:00 AM in this department. At least 10 days prior to the Initial Status Conference, counsel for all parties must discuss the issues set forth in the Initial Status Conference Order issued this date. The Initial Status Conference Order is to help the Court and the parties manage this complex case by developing an orderly schedule for briefing, discovery, and court hearings. The parties are informally encouraged to exchange documents and information as may be useful for case evaluation.

Responsive pleadings shall not be filed until further Order of the Court. Parties must file a Notice of Appearance in lieu of an Answer or other responsive pleading. The filing of a Notice of Appearance shall not constitute a waiver of any substantive or procedural challenge to the Complaint. Nothing in this order stays the time for filing an Affidavit of Prejudice pursuant to Code of Civil Procedure Section 170.6.

Counsel are directed to access the following link for information on procedures in the Complex litigation Program courtrooms: <http://www.lacourt.org/division/civil/CI0037.aspx>

Pursuant to Government Code Sections 70616(a) and 70616(b), a single complex fee of one thousand dollars (\$1,000.00) must be paid on behalf of all plaintiffs. For defendants, a complex fee of one thousand dollars (\$1,000.00) must be paid for each defendant, intervenor, respondent or adverse party, not to exceed, for each separate case number, a total of eighteen thousand dollars (\$18,000.00), collected from all defendants, intervenors, respondents, or adverse parties.

**SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES**

**Civil Division**

Central District, Spring Street Courthouse, Department 9

**21STCV23850**

**VERONIKA GUSLITSER vs HORNELL BREWING CO., INC.**

July 15, 2021

10:24 AM

Judge: Honorable Yvette M. Palazuelos

CSR: None

Judicial Assistant: M. Mata

ERM: None

Courtroom Assistant: None

Deputy Sheriff: None

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All such fees are ordered to be paid to Los Angeles Superior Court, within 10 days of service of this order.

The plaintiff must serve a copy of this minute order and the attached Initial Status Conference Order on all parties forthwith and file a Proof of Service in this department within 7 days of service.

Certificate of Mailing is attached.

<b>SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES</b>		Reserved for Clerk's File Stamp
COURTHOUSE ADDRESS: Spring Street Courthouse 312 North Spring Street, Los Angeles, CA 90012		<b>FILED</b> Superior Court of California County of Los Angeles <b>07/15/2021</b>
PLAINTIFF/PETITIONER: Veronika Guslitser		Sherril R. Carter, Executive Officer / Clerk of Court By: <u>          M. Mata          </u> Deputy
DEFENDANT/RESPONDENT: Hornell Brewing Co., Inc.		
<b>CERTIFICATE OF MAILING</b>		CASE NUMBER: 21STCV23850

I, the below-named Executive Officer/Clerk of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served the Minute Order (Court Order re: Complex Designation) of 07/15/2021, Initial Status Conference upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Ryan Jack Clarkson  
Clarkson Law Firm, P.C.  
22525 Pacific Coast Highway  
Malibu, CA 90265

Sherril R. Carter, Executive Officer / Clerk of Court

Dated: 07/15/2021

By:           M. Mata            
Deputy Clerk

**CERTIFICATE OF MAILING**

# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Class Action Claims 'All Natural' AriZona Products Contain Added Coloring](#)

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