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11 **UNITED STATES DISTRICT COURT**  
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 Case No.: 2:17-cv-02713

14 MATIN SHALIKAR, individually and on  
15 behalf of all others similarly situated,

16 **CLASS ACTION COMPLAINT**

17 Plaintiff,

18 **1. Violation of California Civil  
19 Code §1750, et seq.**

20 v.

21 **2. Violation of California  
22 Business and Professions  
23 Code § 17200, et seq.**

24 ASAHI BEER U.S.A., INC.,

25 **3. Violation of California  
26 Business and Professions  
27 Code § 17500, et seq.**

28 Defendant.

**4. Breach of Implied Warranty**

**5. Common Law Fraud**

**6. Intentional Misrepresentation**

**7. Negligent Misrepresentation**

**8. Breach of Contract**

**9. Quasi-Contract/Unjust  
Enrichment/Restitution**

**JURY TRIAL DEMANDED**

1 Plaintiff Matin Shalika (“Plaintiff”) by and through his counsel, brings this  
2 Class Action Complaint against Asahi Beer U.S.A, Inc. (“Defendant”), on behalf of  
3 himself and all others similarly situated, and alleges upon personal knowledge as to  
4 his own actions, and upon information and belief as to counsel’s investigations and  
5 all other matters, as follows:

6 **NATURE OF THE ACTION**

7 1. Plaintiff brings this consumer protection and false advertising class  
8 action lawsuit against Defendant, based on Defendant’s misleading business practices  
9 with respect to the sale of Asahi Super Dry beer brewed by Molson Coors Brewing  
10 Company (“Molson”) in Canada (the “Product”).

11 2. At all relevant times, Defendant has marketed and sold the Product with  
12 labeling, packaging, and advertising that makes references to Japan, Japanese words,  
13 and Japanese characters. The Product’s labeling, packaging, and marketing led  
14 Plaintiff and other consumers to reasonably believe that they were purchasing beer  
15 that is brewed in Japan.

16 3. In reality, the Product is not brewed in Japan, but instead is brewed in  
17 Canada by Molson.<sup>1</sup>

18 4. Plaintiff and other consumers have reasonably relied on Defendant’s  
19 deceptive advertising in purchasing the Product, believing that the Product was  
20 brewed in Japan. Had Plaintiff and other consumers known that the Product was not  
21 brewed in Japan, they would not have purchased the Product or would have paid  
22 significantly less for the Product. Therefore, Plaintiff and other consumers have  
23 suffered injury in fact as a result of Defendant’s deceptive practices.

24 5. Plaintiff brings this class action lawsuit on behalf of himself and all  
25 others similarly situated. Plaintiff seeks to represent a Nationwide Class, a California

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27 <sup>1</sup> “We also have an agreement with Asahi to brew and package Asahi Super Dry and Asahi Select to  
28 the U.S. market...” Molson Coors Brewing Company, Form 10-K, p. 10 (February 14, 2017)  
(hereinafter “Molson Coors 2016 Form 10-K”).

1 Subclass, and a California Consumer Subclass (defined *infra* in paragraphs 36-38)  
2 (collectively, referred to as “Classes”).

3 6. Plaintiff, on behalf of himself and the Classes, is seeking damages,  
4 restitution, declaratory and injunctive relief, and all other remedies this court deems  
5 appropriate.

### 6 **JURISDICTION AND VENUE**

7 7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §  
8 1332(d)(2)(A) because this case is a class action where the aggregate claims of all  
9 members of the proposed Classes are in excess of \$5,000,000, exclusive of interests  
10 and costs, and Plaintiff, as well as most members of the proposed Classes, which total  
11 thousands of class members, and are citizens of states different from the states of  
12 Defendant.

13 8. This Court has personal jurisdiction over Defendant because Defendant  
14 has its principle place business in California, and has sufficient minimum contacts in  
15 California or otherwise intentionally did avail itself of the markets within California,  
16 through its sale of the Product to California consumers.

17 9. Venue is proper in this District pursuant to 28 U.S.C. 1391(a)(1) because  
18 Defendant has its principal place of business within this District, regularly conducts  
19 business throughout this District, and a substantial part of the events and/or omissions  
20 giving rise to this action occurred in this District.

### 21 **PARTIES**

22 10. Plaintiff Matin Shalika is a citizen of California, residing in Los  
23 Angeles. In 2016, Mr. Shalika purchased the Product from Bristol Farms in Los  
24 Angeles, California. In purchasing the Product, Mr. Shalika saw and relied on the  
25 Product name “Asahi,” as well as the Japanese words and characters on the bottle and  
26 packaging of the Product. Based on these representations, Mr. Shalika believed he  
27 was purchasing a beer brewed in Japan. However, unbeknownst to Mr. Shalika, the  
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1 Product he purchased was not brewed in Japan, but was instead brewed in Canada.  
2 Mr. Shalikar would not have purchased the Product or would have paid significantly  
3 less for the Product had he known that the Product was not brewed in Japan. Mr.  
4 Shalikar therefore suffered injury in fact and lost money as a result of Defendant's  
5 misleading, false, unfair, and fraudulent practices, as described herein. Despite being  
6 misled, Mr. Shalikar would likely purchase the Product in the future if the Product  
7 was in fact brewed in Japan.

8 11. Defendant Asahi Beer U.S.A., Inc. is a Delaware corporation with its  
9 principal place of business at 3625 Del Amo Blvd., 9250, Torrance, CA 90503.  
10 Defendant is a wholly owned subsidiary of Asahi Breweries, Ltd., which in turn is a  
11 wholly owned subsidiary of Asahi Group Holdings, Ltd. Defendant is responsible for  
12 the marketing, distribution, and sale of the Product in the United States, including in  
13 this District.

14 **FACTUAL ALLEGATIONS**

15 **A. Background**

16 12. In March 1987, Asahi Breweries, Ltd. launched Asahi Super Dry beer in  
17 Japan.<sup>2</sup>

18 13. In April 1998, Asahi Beer U.S.A, Inc. was established to market,  
19 distribute, and sell the Product in the United States.<sup>3</sup>

20 14. Since as early as 2004, Asahi Breweries, Ltd. contracted with Molson,  
21 whereby the two companies agreed that Molson would brew the Product in Canada  
22 for Asahi Breweries, Ltd., for distribution and sale in the United States by  
23 Defendant.<sup>4</sup>

24 15. At all relevant times, the Product was brewed by Molson in Canada, and  
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26 <sup>2</sup> [http://www.asahigroup-holdings.com/en/ir/pdf/2016\\_yend\\_factbook.pdf#zoom=100](http://www.asahigroup-holdings.com/en/ir/pdf/2016_yend_factbook.pdf#zoom=100) (last visited  
27 on April 10, 2017).

28 <sup>3</sup> *Id.*

<sup>4</sup> Molson Coors Brewing Company, Form 10-K, p. 85 (March 10, 2006).

1 then marketed, distributed, and sold in the United States by Defendant.<sup>5</sup>

2 16. Further, Molson is currently finalizing negotiations with Asahi  
3 Breweries, Ltd. for an extension of this contract through early 2020.<sup>6</sup>

4 17. At all relevant times, the Product was sold across California and the  
5 United States at grocery chains, convenience stores, liquor stores, and other retailers  
6 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.

7 18. The Product is manufactured in a variety of sizes as depicted below:  
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27 <sup>5</sup> Molson Coors 2016 Form 10-K at 6, 9, 10.

28 <sup>6</sup> *Id.* at 10.

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1 19. The Product is sold at a price premium above other domestically brewed  
2 beers. For example, a 6-pack of the Product is currently sold at Bristol Farms for  
3 \$9.99 while a 6-pack of Budweiser beer is currently sold at Bristol Farms for \$6.99.  
4 The Product also garners a price premium over Canadian brewed beer. For example,  
5 a 6-pack of Labatt Blue, a Canadian brewed beer, is currently sold at Bristol Farms  
6 for \$6.99.

7 20. Water makes up more than 90 percent of beer, and the type of water used  
8 greatly influences the taste and quality of the beer, just as climate and terroir greatly  
9 influence the taste and quality of wine.<sup>7</sup>

10 21. The Asahi beer distributed and sold in Japan contains water from the site  
11 of the brewery in which it is produced. For example, Asahi Breweries, Ltd.'s original  
12 brewery, the Suita Brewery, uses water from the water springs in Suita city in the  
13 Osaka Prefecture of Japan.<sup>8</sup> The Osaka Prefecture is known for its good quality  
14 spring water, which is influential in the taste and quality of the beer.<sup>9</sup>

15 22. Defendant, through its agreement with Molson, does not use water from  
16 Japan in the Product. Rather, the water Molson uses to brew the Product comes from  
17 local sources near Molson's breweries in Canada. According to the Molson Coors  
18 2016 Form 10-K, "[w]ater used in the brewing process is from local sources in the  
19 communities where our breweries operate."<sup>10</sup>

20 **B. The Product's Labeling, Packaging, and Marketing are Misleading to**  
21 **Reasonable Consumers**

22 23. The Product's labeling, packaging, and marketing are misleading to  
23 reasonable consumers, including Plaintiff and other Class members, and only serves  
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25 <sup>7</sup> <https://beerandbrewing.com/VUKd4igAABcrKdWe/article/brewing-water> (last visited on April  
10, 2017).

26 <sup>8</sup> <http://www.pref.osaka.lg.jp/en/attraction/culture/aquapolis/aquapolis4.html> (last visited on April  
10, 2017).

27 <sup>9</sup> *Id.*

28 <sup>10</sup> Molson Coors 2016 Form 10-K at 9.

1 the profit maximizing interests of Defendant.

2 24. Defendant deceptively labeled and packaged the Product to target  
3 consumers who are interested in purchasing Japanese-made products.

4 25. The overall brand image of Asahi beer, including its name<sup>11</sup>, is centered  
5 around Japan. Defendant uses references to Japan, Japanese words, and Japanese  
6 characters/script on the Product label and its packaging, creating the impression that  
7 the Product is brewed in Japan.

8 26. The following create a misleading perception that the Product is brewed  
9 in Japan:

- 10 a. The “Asahi” product name spelled in English;
- 11 b. アサヒビール- Japanese Katakana script which means “Asahi beer;”
- 12 c. スーパードライ- Japanese Katakana script which means “Super Dry”
- 13 d. 辛口- Japanese Kanji characters which mean “Karakuchi”, the Japanese  
14 word for dry taste.

15 27. Defendant knows, knew or should have known that Plaintiff and other  
16 consumers did and would rely on the labeling, packaging, and advertising of the  
17 Product in purchasing the Product, and would reasonably believe that the Product was  
18 brewed in Japan.

19 28. In reasonable reliance on the representations listed in Paragraph 26, and  
20 reasonably believing that the Product was brewed in Japan, Plaintiff and other  
21 members of the Classes purchased the Product.

22 29. Consumer research has demonstrated that representations regarding  
23 geographic origin of a product have a direct effect on product evaluations by  
24 consumers, especially regarding the quality of the product.

25 30. Plaintiff and members of the Classes did not know, and had no reason to  
26 know, that the Product is not brewed in Japan because of how the Product is  
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28 <sup>11</sup> “Asahi” means morning sun in Japanese.

1 deceptively labeled, packaged, and advertised to create the impression that it is  
2 brewed in Japan.

3 31. Because the Product is not brewed in Japan as reasonably expected by  
4 Plaintiff and other consumers, Defendant's marketing of the Product was and  
5 continues to be misleading and deceptive.

6 32. Each consumer has been exposed to the same or substantially similar  
7 deceptive practices because: 1) each Product contains identical or substantially  
8 similar representations centered around Japan; and 2) each Product is not brewed in  
9 Japan.

10 33. Plaintiff and other consumers have paid an unlawful premium for the  
11 Product. Plaintiff and other consumers would have paid significantly less for the  
12 Product had they known that the Product was not brewed in Japan. In the alternative,  
13 Plaintiff and other consumers would not have purchased the Product at all had they  
14 known that the Product was not brewed in Japan. Therefore, Plaintiff and other  
15 consumers purchasing the Product suffered injury in fact and lost money as a result of  
16 Defendant's false, unfair, and fraudulent practices, as described herein.

17 34. As a result of its misleading business practices, and the harm caused to  
18 Plaintiff and other consumers, Defendant should be enjoined from deceptively  
19 representing that the Product is brewed in Japan. Furthermore, Defendant should be  
20 required to pay for all damages caused to misled consumers, including Plaintiff.

21 35. Despite being misled by Defendant, Plaintiff would likely purchase the  
22 Product in the future if the Product was in fact brewed in Japan.

23 **CLASS ACTION ALLEGATIONS**

24 36. Plaintiff brings this case as a class action that may be properly  
25 maintained under Federal Rule of Civil Procedure 23 on behalf of himself and all  
26 persons in the United States who purchased the Product within the relevant statute of  
27 limitations periods ("Nationwide Class").

1 37. Plaintiff also seeks to represent a subclass defined as all persons, who  
2 are California residents who purchased the Product, or who purchased the Product  
3 within the State of California, during the relevant statute of limitations periods  
4 (“California Subclass”).

5 38. Plaintiff also seeks to represent a subclass defined as all persons, who  
6 are California residents who purchased the Product, or who purchased the Product  
7 within the State of California, for personal, family, or household purposes during the  
8 relevant statute of limitations periods (“California Consumer Subclass”).

9 39. Excluded from the Classes are Defendant, the officers and directors of  
10 Defendant at all relevant times, members of their immediate families and their legal  
11 representatives, heirs, successors or assigns and any entity in which Defendant has or  
12 had a controlling interest. Any judge and/or magistrate judge to whom this action is  
13 assigned and any members of such judges’ staffs and immediate families are also  
14 excluded from the Classes. Also excluded from the Classes are persons or entities  
15 that purchased the Product for sole purposes of resale.

16 40. Plaintiff hereby reserves the right to amend or modify the class  
17 definitions with greater specificity or division after having had an opportunity to  
18 conduct discovery.

19 41. Plaintiff is a member of all Classes.

20 42. Numerosity: Defendant has sold thousands of units of the Product. The  
21 Product is sold at grocery chains, convenience stores, liquor stores, and other retailers  
22 including, but not limited to, Bristol Farms, BevMo!, and Total Wine & More.  
23 Accordingly, members of the Classes are so numerous that their individual joinder  
24 herein is impractical. While the precise number of Class members and their identities  
25 are unknown to Plaintiff at this time, the number may be determined through  
26 discovery.

27 43. Common Questions Predominate: Common questions of law and fact  
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1 exist as to all members of the Classes and predominate over questions affecting only  
2 individual Class members. Common legal and factual questions include, but are not  
3 limited to, the following: whether the Product's labeling, packaging, and marketing is  
4 misleading to a reasonable consumer, and therefore violates various consumer  
5 protection statutes and common laws.

6 44. Typicality: Plaintiff's claims are typical of the claims of the Classes he  
7 seeks to represent in that Plaintiff and members of the Classes were exposed to  
8 Defendant's misleading labeling, packaging, and marketing, and purchased the  
9 Product reasonably relying on the misleading labeling, packaging, and marketing, and  
10 suffered losses as a result of such purchases.

11 45. Adequacy: Plaintiff is an adequate representative of the Classes because  
12 his interests do not conflict with the interests of the members of the Classes he seeks  
13 to represent, he has retained competent counsel experienced in prosecuting class  
14 actions, and he intends to prosecute this action vigorously. The interests of the  
15 members of the Classes will be fairly and adequately protected by the Plaintiff and  
16 his counsel.

17 46. Superiority: A class action is superior to other available means for the  
18 fair and efficient adjudication of the claims of the members of the Classes. The size  
19 of each claim is too small to pursue individually and each individual Class member  
20 will lack the resources to undergo the burden and expense of individual prosecution  
21 of the complex and extensive litigation necessary to establish Defendant's liability.  
22 Individualized litigation increases the delay and expense to all parties and multiplies  
23 the burden on the judicial system presented by the complex legal and factual issues of  
24 this case. Individualized litigation also presents a potential for inconsistent or  
25 contradictory judgments. The class action mechanism is designed to remedy harms  
26 like this one that are too small in value, although not insignificant, to file individual  
27 lawsuits for.

1 47. This lawsuit is maintainable as a class action under Federal Rule of Civil  
2 Procedure 23(b)(2) because Defendant has acted or refused to act on grounds that are  
3 generally applicable to the Class members, thereby making final injunctive relief  
4 appropriate with respect to all Classes.

5 48. This lawsuit is maintainable as a class action under Federal Rule of Civil  
6 Procedure 23(b)(3) because the questions of law and fact common to the members of  
7 the Classes predominate over any questions that affect only individual members, and  
8 because the class action mechanism is superior to other available methods for the fair  
9 and efficient adjudication of the controversy.

10 **FIRST CLAIM FOR RELIEF**  
11 **Violation of California's Consumers Legal Remedies Act ("CLRA"),**  
12 **California Civil Code §§ 1750, et seq.**  
*(for the California Consumer Subclass)*

13 49. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
14 fully set forth herein.

15 50. Plaintiff brings this claim individually and on behalf of the members of  
16 the proposed California Consumer Subclass against Defendant.

17 51. The Product is a "good" within the meaning of Cal. Civ. Code § 1761(a),  
18 and the purchases of such products by Plaintiff and members of the California  
19 Consumer Subclass constitute "transactions" within the meaning of Cal. Civ. Code §  
20 1761(e).

21 52. Cal. Civ. Code § 1770(a)(2) prohibits "misrepresenting the source,  
22 sponsorship, approval, or certification of goods or services." By marketing the Product  
23 with its current labels, packaging, and advertisements, Defendant has represented and  
24 continues to represent that the source of the Product is Japan, when it is not. Therefore,  
25 Defendant has violated section 1770(a)(2) of the CLRA.

26 53. Cal. Civ. Code § 1770(a)(4) prohibits "using deceptive representations  
27 or designations of geographical origin in connection with goods or services." By  
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1 marketing the Product with its current labels, packaging, and advertisements, Defendant  
2 has used deceptive representations and designations of the Product’s geographical origin  
3 (Japan). Therefore, Defendant has violated section 1770(a)(4) of the CLRA.

4 54. Cal. Civ. Code § 1770(a)(5) prohibits “[r]epresenting that goods or  
5 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or  
6 quantities which they do not have . . . .” By marketing the Product with its current  
7 labels, packaging, and advertisements, Defendant has represented and continues to  
8 represent that the Product has characteristics (that it is brewed in Japan) when it does not  
9 have such characteristics. Therefore, Defendant has violated section 1770(a)(5) of the  
10 CLRA.

11 55. Cal. Civ. Code § 1770(a)(7) prohibits “[r]espresenting that goods or  
12 services are of a particular standard, quality, or grade, or that goods are of a particular  
13 style or model, if they are of another.” By marketing the Product with its current labels,  
14 packaging, and advertisements, Defendant has represented and continues to represent  
15 that the Product is of a particular style (that it is brewed in Japan) when it is of another  
16 (brewed in Canada). Therefore, Defendant has violated section 1770(a)(7) of the CLRA.

17 56. Cal. Civ. Code § 1770(a)(9) prohibits “[a]dvertising goods or services  
18 with intent not to sell them as advertised.” By labeling, packaging, and marketing the  
19 Product with references to Japan, Japanese words, and Japanese characters so that a  
20 reasonable consumer would believe that the Product was brewed in Japan, and then  
21 intentionally not selling the Product as brewed in Japan, Defendant has violated section  
22 1770(a)(9) of the CLRA.

23 57. At all relevant times, Defendant has known or reasonably should have  
24 known that the Product was not brewed in Japan, and that Plaintiff and other  
25 members of the California Consumer Subclass would reasonably and justifiably rely  
26 on the labeling, packaging, and other advertisements in purchasing the Product.

27 58. Plaintiff and members of the California Consumer Subclass have  
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1 reasonably and justifiably relied on Defendant’s misleading, and fraudulent conduct  
2 when purchasing the Product. Moreover, based on the very materiality of  
3 Defendant’s fraudulent and misleading conduct, reliance on such conduct as a  
4 material reason for the decision to purchase the Product may be presumed or inferred  
5 for Plaintiff and members of California Consumer Subclass.

6 59. Plaintiff and members of the California Consumer Subclass have  
7 suffered and continue to suffer injuries caused by Defendant because they would not  
8 have purchased the Product or would have paid significantly less for the Product had  
9 they known that Defendant’s conduct was misleading and fraudulent.

10 60. Under Cal. Civ. Code § 1780(a), Plaintiff and members of the California  
11 Consumer Subclass are seeking injunctive relief pursuant to the CLRA, preventing  
12 Defendant from further wrongful acts and unfair and unlawful business practices, as  
13 well as restitution, disgorgement of profits, and any other relief this Court deems  
14 proper.

15 61. Pursuant to Cal. Civ. Code § 1782, on March 6, 2017, counsel for  
16 Plaintiff mailed a notice and demand letter by certified mail, with return receipt  
17 requested, to Defendant. Defendant received the notice and demand letter on March  
18 9, 2017.<sup>12</sup> Because Defendant has failed to fully rectify or remedy the damages  
19 caused after waiting more than the statutorily required 30 days after it received the  
20 notice and demand letter, Plaintiff is timely filing this Class Action Complaint.

21 **SECOND CLAIM FOR RELIEF**  
22 **Violation of California’s Unfair Competition Law (“UCL”),**  
23 **California Business & Professions Code §§ 17200, et seq.**  
24 ***(for the California Subclass and California Consumer Subclass)***

25 62. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
26 fully set forth herein.

27 63. Plaintiff brings this claim individually and on behalf of the members of

28 <sup>12</sup> See Exhibit A.

1 the proposed California Subclass and California Consumer Subclass against  
2 Defendant.

3 64. UCL §17200 provides, in pertinent part, that “unfair competition shall  
4 mean and include unlawful, unfair or fraudulent business practices and unfair,  
5 deceptive, untrue or misleading advertising . . . .”

6 65. Under the UCL, a business act or practice is “unlawful” if it violates any  
7 established state or federal law.

8 66. Defendant’s false and misleading advertising of the Product therefore  
9 was and continues to be “unlawful” because it violates the CLRA, California’s False  
10 Advertising Law (“FAL”), and other applicable laws as described herein.

11 67. As a result of Defendant’s unlawful business acts and practices,  
12 Defendant has unlawfully obtained money from Plaintiff, and members of both the  
13 California Subclass and California Consumer Subclass.

14 68. Under the UCL, a business act or practice is “unfair” if the defendant’s  
15 conduct is substantially injurious to consumers, offends public policy, and is  
16 immoral, unethical, oppressive, and unscrupulous, as the benefits for committing such  
17 acts or practices are outweighed by the gravity of the harm to the alleged victims.

18 69. Defendant’s conduct was and continues to be of no benefit to purchasers  
19 of the Product, as it is misleading, unfair, unlawful, and is injurious to consumers  
20 who rely on the Product’s labeling, packaging, and marketing. Creating consumer  
21 confusion as to the actual location of brewing is of no benefit to consumers.  
22 Therefore, Defendant’s conduct was and continues to be “unfair.”

23 70. As a result of Defendant’s unfair business acts and practices, Defendant  
24 has and continues to unfairly obtain money from Plaintiff, and members of both the  
25 California Subclass and California Consumer Subclass.

26 71. Under the UCL, a business act or practice is “fraudulent” if it actually  
27 deceives or is likely to deceive members of the consuming public.

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1 72. Defendant’s conduct here was and continues to be fraudulent because it  
2 has the effect of deceiving consumers into believing that the Product is brewed in  
3 Japan, when it is not. Because Defendant misled Plaintiff and members of both the  
4 California Subclass and California Consumer Subclass, Defendant’s conduct was  
5 “fraudulent.”

6 73. As a result of Defendant’s fraudulent business acts and practices,  
7 Defendant has and continues to fraudulently obtain money from Plaintiff, and  
8 members of both the California Subclass and California Consumer Subclass.

9 74. Plaintiff requests that this Court cause Defendant to restore this  
10 unlawfully, unfairly, and fraudulently obtained money to Plaintiff, and members of  
11 both the California Subclass and California Consumer Subclass, to disgorge the  
12 profits Defendant made on these transactions, and to enjoin Defendant from violating  
13 the UCL or violating it in the same fashion in the future as discussed herein.  
14 Otherwise, Plaintiff, and members of both the California Subclass and California  
15 Consumer Subclass, may be irreparably harmed and/or denied an effective and  
16 complete remedy if such an order is not granted.

17 **THIRD CLAIM FOR RELIEF**  
18 **Violation of California’s False Advertising Law (“FAL”),**  
19 **California Business & Professions Code §§ 17500, et seq**  
*(for the California Subclass and California Consumer Subclass)*

20 75. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
21 fully set forth herein.

22 76. Plaintiff brings this claim individually and on behalf of the members of  
23 the proposed California Subclass and California Consumer Subclass against  
24 Defendant.

25 77. California’s FAL makes it “unlawful for any person to make or  
26 disseminate or cause to be made or disseminated before the public . . . in any  
27 advertising device . . . or in any other manner or means whatever, including over the  
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1 Internet, any statement, concerning . . . personal property or services professional or  
2 otherwise, or performance or disposition thereof, which is untrue or misleading and  
3 which is known, or which by the exercise of reasonable care should be known, to be  
4 untrue or misleading.”

5 78. Defendant has represented and continues to represent to the public,  
6 including Plaintiff and members of both the California Subclass and California  
7 Consumer Subclass, through Defendant’s deceptive labeling, packaging, and  
8 marketing, that the Product is brewed in Japan. Defendant’s representations are  
9 misleading because the Product is not brewed in Japan. Because Defendant has  
10 disseminated misleading information regarding the Product, and Defendant knows,  
11 knew, or should have known through the exercise of reasonable care that the  
12 representations were and continue to be misleading, Defendant violates the FAL.

13 79. Furthermore, Defendant knows, knew or should have known through the  
14 exercise of reasonable care that such representations were and continue to be untrue  
15 or misleading.

16 80. As a result of Defendant’s false advertising, Defendant has and  
17 continues to fraudulently obtain money from Plaintiff and members of both the  
18 California Subclass and California Consumer Subclass.

19 81. Plaintiff requests that this Court cause Defendant to restore this  
20 fraudulently obtained money to Plaintiff and members of both the California Subclass  
21 and California Consumer Subclass, to disgorge the profits Defendant made on these  
22 transactions, and to enjoin Defendant from violating the FAL or violating it in the  
23 same fashion in the future as discussed herein. Otherwise, Plaintiff and members of  
24 both the California Subclass and California Consumer Subclass may be irreparably  
25 harmed and/or denied an effective and complete remedy if such an order is not  
26 granted.

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**FOURTH CLAIM FOR RELIEF**  
**Breach of Implied Warranty**  
**California Commercial Code § 2314**

*(for the California Subclass and California Consumer Subclass)*

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3 82. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
4 fully set forth herein.

5 83. Plaintiff brings this claim individually and on behalf of the members of  
6 the proposed California Subclass and California Consumer Subclass against  
7 Defendant.

8 84. California Commercial Code § 2314(1) provides that “a warranty that  
9 the goods shall be merchantable is implied in a contract for their sale if the seller is a  
10 merchant with respect to goods of that kind.” Cal. Com. Code § 2314(1).

11 85. California Commercial Code § 2314(2) provides that “[g]oods to be  
12 merchantable must be at least such as... (f) conform to the promises or affirmations  
13 of fact made on the container or label if any.” Cal. Com. Code § 2314(2)(f).

14 86. Defendant is a merchant with respect to the sale of beer products,  
15 including the Product here. Therefore, a warranty of merchantability is implied in  
16 every contract for sale of the Product to Plaintiff and California consumers.

17 87. By advertising the Product with its current labeling and packaging,  
18 Defendant made an promise that the Product was brewed in Japan. By not brewing  
19 the Product in Japan, the Product has not “conform[ed] to the promises...made on the  
20 container or label” of the Product. Plaintiff and California consumers did not receive  
21 the goods as impliedly warranted by Defendant to be merchantable.

22 88. Therefore, the Product is not merchantable under California law and  
23 Defendant has breached its implied warranty of merchantability in regard to the  
24 Product.

25 89. If Plaintiff and members of both the California Subclass and California  
26 Consumer Subclass had known that the Product was not brewed in Japan, they would  
27 not have purchased the Product or would not have been willing to pay the premium  
28

1 price associated with the Product. Therefore, as a direct and/or indirect result of  
2 Defendant's breach, Plaintiff and members of both the California Subclass and  
3 California Consumer Subclass have suffered injury and deserve to recover all  
4 damages afforded under the law.

5 **FIFTH CLAIM FOR RELIEF**  
6 **Common Law Fraud**  
7 *(for the Classes)*

8 90. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
9 fully set forth herein.

10 91. Plaintiff brings this claim individually and on behalf of the members of  
11 the Classes against Defendant.

12 92. Defendant has willfully, falsely, or knowingly labeled, packaged, and  
13 marketed the Product in a manner indicating that the Product is brewed in Japan.  
14 However, the Product is not brewed in Japan. Therefore, Defendant has made  
15 misrepresentations regarding the Product.

16 93. Defendant's misrepresentations are and were material (i.e., the type of  
17 misrepresentations to which a reasonable person would attach importance and would  
18 be induced to act thereon in making purchase decisions), because they relate to where  
19 the brewing of the Product occurred.

20 94. Defendant knew or recklessly disregarded the fact that the Product was  
21 not brewed in Japan.

22 95. Defendant intends that Plaintiff and other consumers rely on these  
23 representations, as evidenced by Defendant's intentionally using labeling and  
24 packaging that references Japan, and uses Japanese words and characters.

25 96. Plaintiff and members of the Classes have reasonably and justifiably  
26 relied on Defendant's misrepresentations when purchasing the Product and had the  
27 correct facts been known, would not have purchased the Product or would not have  
28 purchased them at the prices at which they were offered.

1 97. Therefore, as a direct and proximate result of Defendant's fraud,  
2 Plaintiff and members of the Classes have suffered economic losses and other general  
3 and specific damages, including but not limited to the amounts paid for the Product,  
4 and any interest that would have accrued on those monies, all in an amount to be  
5 proven at trial.

6 **SIXTH CLAIM FOR RELIEF**  
7 **Intentional Misrepresentation**  
8 ***(for the Classes)***

9 98. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
10 fully set forth herein.

11 99. Plaintiff brings this claim individually and on behalf of the members of  
12 the Classes against Defendant.

13 100. Defendant labeled, packaged, and marketed the Product in a manner  
14 indicating that the Product is brewed in Japan. However, the Product is not brewed in  
15 Japan. Therefore, Defendant has made misrepresentations as to the Product.

16 101. Defendant's misrepresentations regarding the Product are material to a  
17 reasonable consumer because they relate to the location of the brewing of the Product  
18 received by consumers. A reasonable consumer would attach importance to such  
19 representations and would be induced to act thereon in making purchase decisions.

20 102. At all relevant times when such representations were made, Defendant  
21 knew that the representations were misleading, or has acted recklessly in making the  
22 representations and without regard to the truth.

23 103. Defendant intends that Plaintiff and other consumers rely on these  
24 representations, as evidenced by Defendant intentionally using labeling and  
25 packaging that references Japan, and uses Japanese words and characters.

26 104. Plaintiff and members of the Classes have reasonably and justifiably  
27 relied on Defendant's intentional misrepresentations when purchasing the Product,  
28 and had the correct facts been known, would not have purchased the Product or

1 would not have purchased them at the prices at which they were offered.

2 105. Therefore, as a direct and proximate result of Defendant's intentional  
3 misrepresentations, Plaintiff and members of the Classes have suffered economic  
4 losses and other general and specific damages, including but not limited to the  
5 amounts paid for the Product, and any interest that would have accrued on those  
6 monies, all in an amount to be proven at trial.

7 **SEVENTH CLAIM FOR RELIEF**  
8 **Negligent Misrepresentation**  
9 ***(for the Classes)***

10 106. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
11 fully set forth herein.

12 107. Plaintiff brings this claim individually and on behalf of the members of  
13 the Classes against Defendant.

14 108. Defendant labeled, packaged, and marketed the Product in a manner  
15 indicating that the Product is brewed in Japan. However, the Product is not brewed in  
16 Japan. Therefore, Defendant has made misrepresentations as to the Product.

17 109. Defendant's misrepresentations regarding the Product are material to a  
18 reasonable consumer because they relate to the location of the brewing of the Product  
19 received by the consumer. A reasonable consumer would attach importance to such  
20 representations and would be induced to act thereon in making purchase decisions.

21 110. At all relevant times when such misrepresentations were made,  
22 Defendant knew or had been negligent in not knowing that that the Product was not  
23 brewed in Japan. Defendant had no reasonable grounds for believing its  
24 representations were not false and misleading.

25 111. Defendant intends that Plaintiff and others consumers rely on these  
26 representations, as evidenced by Defendant's intentionally using labeling and  
27 packaging that references Japan, and uses Japanese words and characters.

28 112. Plaintiff and members of the Classes have reasonably and justifiably

1 relied on Defendant's negligent misrepresentations when purchasing the Product, and  
2 had the correct facts been known, would not have purchased the Product or would not  
3 have purchased them at the prices at which they were offered.

4 113. Therefore, as a direct and proximate result of Defendant's negligent  
5 misrepresentations, Plaintiff and members of the Classes have suffered economic  
6 losses and other general and specific damages, including but not limited to the  
7 amounts paid for the Product, and any interest that would have accrued on those  
8 monies, all in an amount to be proven at trial.

9 **EIGHTH CLAIM FOR RELIEF**  
10 **Breach of Contract**  
*(for the Classes)*

11 114. Plaintiff repeats the allegations contained in paragraphs 1-48 above as if  
12 fully set forth herein.

13 115. Plaintiff brings this claim individually and on behalf of the members of  
14 the Classes against Defendant.

15 116. In purchasing the Product, Plaintiff and members of the Classes have  
16 formed valid contracts that are supported by sufficient consideration, pursuant to  
17 which Defendant was obligated to provide a product that was brewed in Japan, as  
18 deceptively represented by Defendant's packaging and labeling.

19 117. Defendant has materially breached its contracts with Plaintiff and  
20 members of the Classes by selling a product that is not brewed in Japan.

21 118. As a direct and proximate result of Defendant's breaches, Plaintiff and  
22 members of the Classes were damaged in that they received products with less value  
23 than the amounts paid. Moreover, Plaintiff and members of the Classes have suffered  
24 economic losses and other general and specific damages, including but not limited to  
25 the amounts paid for the Product, and any interest that would have accrued on those  
26 monies, all in an amount to be proven at trial.



1 compensation obtained by Defendant from its deceptive, misleading, and unlawful  
2 conduct as alleged herein.

3 **PRAYER FOR RELIEF**

4  
5 WHEREFORE, Plaintiff, individually and on behalf of all others  
6 similarly situated, seeks judgment against Defendant, as follows:

7 a) For an order certifying the Nationwide Class, the California Subclass,  
8 and the California Consumer Subclass, under Rule 23 of the Federal Rules of Civil  
9 Procedure; naming Plaintiff as representative of all Classes; and naming Plaintiff's  
10 attorneys as Class Counsel to represent all Classes.

11 b) For an order declaring that Defendant's conduct violates the statutes  
12 and laws referenced herein;

13 c) For an order finding in favor of Plaintiff, and all Classes, on all counts  
14 asserted herein;

15 d) For an order awarding damages on behalf of the California Consumer  
16 Subclass, in amounts to be determined by the Court and/or jury;

17 e) For prejudgment interest on all amounts awarded;

18 f) For interest on the amount of any and all economic losses, at the  
19 prevailing legal rate;

20 g) For an order of restitution and all other forms of equitable monetary  
21 relief;

22 h) For injunctive relief as pleaded or as the Court may deem proper;

23 i) For an order awarding Plaintiff and all Classes their reasonable  
24 attorneys' fees, expenses and costs of suit, including as provided by statute such as  
25 under California Code of Civil Procedure section 1021.5; and

26 j) For any other such relief as the Court deems just and proper.  
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**DEMAND FOR TRIAL BY JURY**

Plaintiff demands a trial by jury on all issues so triable.

Dated: April 10, 2017

**FARUQI & FARUQI, LLP**

By: /s/ Barbara A. Rohr  
Barbara A. Rohr, Bar No. 273353  
Benjamin Heikali, Bar No. 307466  
10866 Wilshire Blvd., Suite 1470  
Los Angeles, CA 90024  
Telephone: 424.256.2884  
Fax: 424.256.2885  
E-mail: brohr@faruqilaw.com  
bheikali@faruqilaw.com

*Counsel for Matin Shalika*

**CLRA Venue Declaration Pursuant to California Civil Code Section 1780(d)**

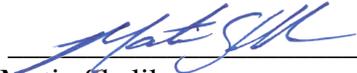
I, Matin Shalika, declare as follows:

1. I am the Plaintiff in this action and a citizen of the State of California. To extent the allegations in the complaint are based on my personal knowledge, they are true and, if called as a witness, I could testify competently thereto.

2. This Class Action Complaint is filed in the proper place for trial because I purchased the Product in this District, and Defendant conducts a substantial amount of business in this District.

3. In 2016, I purchased the Product from Bristol Farms located in this District.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, executed on April 10, 2017 at Los Angeles, California.

  
\_\_\_\_\_  
Matin Shalika

# EXHIBIT A



**FARUQI & FARUQI**  
LLP  
ATTORNEYS AT LAW

NEW YORK

CALIFORNIA

DELAWARE

PENNSYLVANIA

BARBARA A. ROHR  
brohr@faruqilaw.com

March 6, 2017

**Via Certified U.S. Mail**  
**Return Receipt Requested**

Asahi Beer U.S.A., Inc.  
3625 Del Amo Blvd., #250  
Torrance, CA 90503

Re: *Class Action Notification and Pre-Lawsuit Demand Pursuant to California Civil Code Section 1782 and All Other Applicable Laws Requiring Pre-Suit Notice Concerning Asahi Beer*

To Whom It May Concern:

Please be advised that Faruqi & Faruqi, LLP represents Matin Shalikar (“Client”), purchaser of Asahi Super Dry beer. Our Client seeks to represent a nationwide class of consumers (“Class”) who, within the relevant time period,<sup>1</sup> purchased any Asahi beer brewed by Molson Canada (“Products”). This letter provides Asahi Beer U.S.A., Inc. (“Defendant”) with notice and demand for corrective action. All further communications intended for our Client must be directed through this office. Furthermore, this demand and notice letter is meant to comply with the requirements of *California Civil Code* §1782, and all other laws requiring a pre-suit demand and notice prior to litigation, on behalf of our Client and all others similarly situated should this matter proceed to litigation.

During the relevant time period, Defendant and/or its agents have impliedly represented that the Products are brewed in Japan. The Products, however, are brewed in Canada.

Mr. Shalikar, a consumer residing in California, purchased Asahi Super Dry beer in Los Angeles, California. Based on Defendant’s representations, Mr. Shalikar reasonably believed that the beer he purchased was brewed in Japan. The beer, however, is brewed in Canada.

These business practices violate several California consumer protection statutes and laws. Pursuant to *California Civil Code* §1782(a)(1), our Client and the Class further provide notice that they believe Defendant has violated, and continues to violate the California Consumers Legal Remedies Act (“CLRA”), and specifically *California Civil Code* §1770, in at least the following manner:

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<sup>1</sup> From four years prior to the date of a prospective complaint filed by our Client.



**FARUQI & FARUQI**  
LLP  
ATTORNEYS AT LAW

Asahi Beer U.S.A., Inc.  
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1. Misrepresenting the source, sponsorship, approval, or certification of goods or services (Section 1770(a)(2));
2. Using deceptive representations or designations of geographic origin in connection with goods or services (Section 1770(a)(4));
3. Representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a sponsorship, approval, status, affiliation, or connection which he or she does not have (Section 1770(a)(5));
4. Representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another (Section 1770(a)(7)); and
5. Advertising goods or services with intent not to sell them as advertised (Section 1770(a)(9)).

It is our opinion that Defendant has also violated and continues to violate California Business and Professions Code Sections 17200 and 17500, as well as other statutory and common law.

This letter not only serves as notification of Defendant's alleged violations of *California Civil Code* §1770 as outlined above, but also as our Client's demand, and all others similarly situated, that Defendant immediately corrects, repairs, refunds and otherwise rectifies the violations of § 1770 and the other statutes and causes of action referenced above, on a class-wide basis.

To cure the harmful conduct noted herein, we demand that Defendant: (1) cease and desist from advertising and selling of the Products in a false and misleading manner; (2) issue an immediate recall of the Products; and (3) make full restitution to the Class of all money obtained from the sales thereof.

We further demand that Defendant preserve all documents, emails, other electronically stored information and other evidence which refer or relate to any of the above-described practices, including, but not limited to:

1. All documents concerning the development and/or testing of the Products;
2. All documents concerning the brewing, manufacturing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;
3. All documents concerning communications with any individual involved in the brewing, development, testing, packaging, labeling, advertisement, promotion, marketing and sale of the Products;



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LLP  
ATTORNEYS AT LAW

Asahi Beer U.S.A., Inc.  
Page 3  
March 6, 2017

4. All documents concerning communications with purchasers of the Products;
5. All documents concerning the sales volume of the Products (in units and/or dollars), and the revenues derived therefrom; and
6. All documents concerning the identities and location of potential class members who purchased the Products.

Further, this letter serves as a thirty (30) day notice and demand requirement under §1782 for damages. Accordingly, should Defendant fail to rectify the unfair and deceptive scheme within thirty (30) days of receipt of this letter, our Client will file a class action complaint for actual damages, punitive damages, and all other damages permitted under the CLRA and the other statutes and causes of action available to him, along with interest, attorneys' fees and costs for Defendant's violations.

We are willing to discuss an appropriate way to remedy the demands asserted in this letter. If Defendant wishes to enter into such a discussion, please contact our firm immediately. If we do not hear from Defendant promptly, we will conclude that Defendant is not interested in resolving this dispute short of litigation in the form of a class action lawsuit. If Defendant contends that any statement in this letter is inaccurate in any respect, please provide our firm with Defendant's contentions and supporting documents promptly.

Please contact the undersigned if there are any questions or concerns.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Barbara A. Rohr'.

Barbara A. Rohr

cc: Timothy J. Peter  
Ben Heikali

7016 2140 0000 1581 4440

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Street and Apt. No., or PO Box No.  
 3625 Del Amo Blvd., #250

City, State, ZIP+4®  
 Torrance, CA 90503

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 Asahi Beer U.S.A., Inc.  
 3625 Del Amo Blvd., #250  
 Torrance, CA 90503

2. Article Number (Transfer from service label)  
 716 2140 0000 1581 4440

PS Form 3811, July 2015 PSN 7530-02-000-9053

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 X *[Signature]*  Agent  Addressee

B. Received by (Printed Name)  
 C. Date of Delivery

D. Is delivery address different from item 1?  Yes  No  
 If YES, enter delivery address below:

3. Service Type
- |  |   |
|--|---|
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| <input type="checkbox"/> Certified Mail®                               | <input type="checkbox"/> Registered Mail Restricted Delivery        |
| <input type="checkbox"/> Certified Mail Restricted Delivery            | <input type="checkbox"/> Return Receipt for Merchandise             |
| <input type="checkbox"/> Collect on Delivery                           | <input type="checkbox"/> Signature Confirmation™                    |
| <input type="checkbox"/> Collect on Delivery Restricted Delivery       | <input type="checkbox"/> Signature Confirmation Restricted Delivery |
| <input type="checkbox"/> Insured Mail                                  |   |
| <input type="checkbox"/> Insured Mail Restricted Delivery (over \$500) |   |

Domestic Return Receipt

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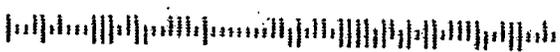


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Barbara A. Rohr  
 Farugi & Farugi, LLP  
 10866 Wilshire Blvd., #1470  
 Los Angeles, CA 90024



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March 8, 2017 , 2:54 pm	In Transit to Destination	
March 7, 2017 , 2:54 pm	Departed USPS Facility	LOS ANGELES, CA 90052
March 6, 2017 , 9:26 pm	Arrived at USPS Facility	LOS ANGELES, CA 90052

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