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8 *and the putative Class*

9 **UNITED STATES DISTRICT COURT**
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 **ANNA SALDIVAR**, individually and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 v.

15 **THE COOKWARE COMPANY (USA) LLC**,
a Delaware Company,

16 Defendant.

Case No.

CLASS ACTION COMPLAINT FOR:

- 17 **(1) VIOLATION OF CAL. BUS. & PROF. CODE § 17200, et seq.;**
- 18 **(2) VIOLATION OF CAL. BUS. & PROF. CODE § 17500, et seq.;**
- 19 **(3) VIOLATION OF CAL. CIV. CODE §§ 1750, et seq.; and**
- 20 **(4) BREACH OF WARRANTY**

JURY TRIAL DEMANDED

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1 Plaintiff ANNA SALDIVAR (“Saldivar” or “Plaintiff”), individually and on behalf of the
2 other members of the below-defined Class she seeks to represent (collectively, the “Class” or “Class
3 members”), hereby alleges against Defendant THE COOKWARE COMPANY (USA), LLC d/b/a
4 GreenPan (“GreenPan” or “Defendant”), upon personal knowledge, and as to all other matters upon
5 information and belief, based upon the investigation made by the undersigned attorneys, as follows:

6 I. NATURE OF THE CASE

7 1. Plaintiff brings this class action lawsuit seeking damages and equitable relief on her
8 own behalf and on behalf of members of the Class, each of whom purchased one or more nonstick
9 cookware products (“Products”) manufactured and/or marketed by GreenPan.

10 2. GreenPan makes several types of nonstick cookware Products which are coated with
11 its patented “Thermolon™” ceramic non-stick coating. GreenPan’s Products are widely available
12 and sold at brick-and-mortar and online retailers such as Amazon.com, WalMart, Target, Williams
13 Sonoma, Sur La Table, and Bed Bath & Beyond.

14 3. On the packaging attached to its nonstick Products, GreenPan advertises that its
15 nonstick Products—made primarily of metal with a “Thermolon™” coating—are “COMPLETELY
16 TOXIN FREE,” “HEALTHY CERAMIC NON-STICK,” and contain “No PFOA, PFAS, Lead or
17 Cadmium.”

18 4. On its website, www.greenpan.us, GreenPan advertises that its nonstick pans contain
19 “0% Toxins,” are “Good for the environment” and are “reinforced . . . with diamonds.” *See*
20 GreenPan, www.greenpan.us (last visited Sept. 23, 2019); *Why Ceramic*, GreenPan,
21 www.greenpan.us/why-ceramic (last visited Sept. 23, 2019); *Why GreenPan*, GreenPan,
22 <https://www.greenpan.us/WHY-GREENPAN> (last visited Sept. 23, 2019). GreenPan further claims
23 on its website that GreenPans are a “green” product because “60% less CO2 is emitted during the
24 curing phase of production of Thermolon coatings.” *Id.*

25 5. GreenPan Products are not, in fact, “COMPLETELY TOXIN FREE!”, but contain
26 compounds that are known to be toxic. Upon information and belief, the patent for “Thermolon™”
27 coating, which is applied to every GreenPan Product, contains several known toxins.

28 6. GreenPan’s Products are not “HEALTHY CERAMIC NON-STICK” because

1 GreenPan's Products, in and of themselves, do not make the food prepared any "healthier" (i.e.,
2 lower in fat, or higher in nutrients) than food prepared with other pans. The absence of toxins (as
3 falsely claimed by GreenPan) does not make a product inherently "healthy," and further, the presence
4 of toxins contained in GreenPan's Products in itself renders GreenPan's health claims false.

5 7. GreenPan's Products are not superior to other similar products simply because they
6 do not contain PFOA, PFAs, lead, or cadmium. In fact, cookware containing PFOA and PFAs have
7 largely been phased out of the cookware market in the United States. GreenPan's marketing of its
8 GreenPan Products as superior simply because they do not contain compounds that other cookware
9 does not contain is false and/or misleading.

10 8. GreenPan's Products are not "good for the environment" solely because GreenPan's
11 manufacturing process creates a lower amount of harmful gasses than GreenPan's competitors.
12 GreenPan's Products are not "reinforced . . . with diamonds," nor do they contain material amounts
13 of diamonds or diamond fragments.

14 9. GreenPan markets its Products to the health-conscious consumer. GreenPan's
15 consumer cares about the consumer's health and the health of the consumer's family. As a result, the
16 GreenPan consumer pays a premium for GreenPan's nonstick Product; in fact, GreenPan's Products
17 sell for an approximate 50% to 400% higher price than other nonstick cookware.

18 10. Each of GreenPan's claims related to the lack of toxins in its Products, the health
19 benefits of its Products, the beneficial impact of its Products on the environment, the implication that
20 GreenPan's competitors' products contain PFOA, PFAs, lead, or cadmium, and the use of diamonds
21 in GreenPan's Products deceived, confused, or misled the public as to the nature and/or value of
22 GreenPan's Products.

23 11. Because of these false and/or misleading claims, Plaintiff and members of the Class
24 paid more for their GreenPan Product than they would have paid in absence of the false and/or
25 misleading claims.

26 II. JURISDICTION AND VENUE

27 12. This Court has diversity jurisdiction over this action under 28 U.S.C. §§ 1332(a) and
28 (d) because the amount in controversy for the Class exceeds \$5,000,000, and Plaintiff and the Class

1 are citizens of a state other than that of the Defendant.

2 13. This Court has personal jurisdiction over Defendant because Plaintiff purchased her
3 GreenPan Product in the State of California, Defendant's Products are advertised, marketed,
4 distributed, and sold throughout the State of California; Defendant engaged in the wrongdoing
5 alleged in this Complaint in the State of California; Defendant is authorized to do business within
6 the State of California; and Defendant has sufficient minimum contacts with California and/or
7 otherwise has intentionally availed itself of the markets of California, rendering the exercise of
8 jurisdiction by the Court permissible under traditional notions of fair play and substantial justice.

9 14. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(a) because a substantial
10 part of the events or omissions giving rise to these claims occurred in this District, the Defendant has
11 caused harm to Class Members residing in this District, and the Plaintiff is a resident of this District.

12 III. PARTIES

13 A. Plaintiff

14 15. Plaintiff Anna Saldivar is a resident of the City of Greenfield, County of Monterey,
15 California. Plaintiff purchased her GreenPan Products new in 2017 and chose to purchase her
16 GreenPan Products based on GreenPan's website advertising and Product packaging.

17 B. Defendant

18 16. Defendant, The Cookware Company (USA) LLC, d/b/a the Original GreenPan
19 ("GreenPan"), is a Delaware Company with its principal place of business located at 660 White
20 Plains Road, Suite 550, Tarrytown, New York 10591.

21 17. The Cookware Company (USA) LLC is the United States arm and subsidiary of The
22 Cookware Company located in Belgium. The Cookware Company has "major offices" in Jiangmen,
23 Tokyo, London, and Hong Kong.

24 18. Defendant manufacturers over fifty types of nonstick pots and pans which are all
25 equipped with its patented "Thermolon™" nonstick coating, which it boasts as "100% TOXIN
26 FREE!" and "HEALTHY CERAMIC NON-STICK."

IV. FACTUAL ALLEGATIONS

A. Ban of PFOAs and PFAs Resulting from Teflon Controversy

19. In approximately 1951, DuPont de Nemours, Inc. (“DuPont”) began manufacturing Teflon, a chemical mixture used to make, among other things, non-stick coating for cookware products. The production of Teflon required the use of a class of chemicals known as C-8 perfluoroalkyls (PFAs), the most well-known of which is perfluorooctanoic acid (PFOA). When Teflon was first introduced it was widely believed to be safe.

20. In 1998, West Virginia farmer Wilbur Tennant sued DuPont alleging that DuPont’s Parkersburg, West Virginia manufacturing plant poisoned the water supply in Parkersburg, resulting in the death of over 150 cattle owned by Tennant. The lawsuit was settled in 2001.

21. In 2001 a class action complaint on behalf of approximately 80,000 individuals living near DuPont’s West Virginia manufacturing plant again was filed against DuPont seeking damages for injuries sustained on behalf of residents of as a result of DuPont’s chemical pollution. The class action was settled in 2005. Between 2015 and 2017, over 3,550 additional PFOA-related lawsuits were filed and settled.

22. As of 2013, Teflon ceased using PFAs in the production of Teflon. Based on information and belief, no nonstick cookware sold in the United States since 2013 has been produced using PFAs or PFOA.

23. Studies conducted after the filing of the lawsuits revealed that C-8 PFA exposure is positively related to a number of diseases and cancers.

24. Additionally, studies showed that when Teflon was heated to temperatures above 662 degrees Fahrenheit, the PFA chemicals begin to degrade and can release toxic fumes.

25. The health concerns surrounding PFAS were widely reported. Due to these concerns, a global market for chemical-free cookware was created.

B. Introduction of GreenPan

26. According to GreenPan’s website, GreenPan founders Jan Helskins and Wim De Veirman “discovered” that “traditional non-stick pans released toxins when overheated and used

1 PFOA during the manufacture of the coating.”¹ Based on these findings, GreenPan’s founders
 2 established a goal to create a new alternative.²

3 27. Around 2007 GreenPan “introduced the world to ceramic nonstick cookware” which
 4 was made possible by “Thermolon™,” a ceramic non-stick coating.³ GreenPan’s cookware,
 5 equipped with its patented “Thermolon™” coating, is now sold worldwide.

6 28. GreenPan’s Product packaging currently claims that its Products are “HEALTHY
 7 CERAMIC NON-STICK,” “COMPLETELY TOXIN FREE,” “good for the environment,”
 8 “reinforced . . . with diamonds,” and contain “No PFOA, PFAS, Lead or Cadmium.”

9 29. Thermolon™’s safety has yet to be conclusively established.

10 **C. GreenPan Admonished for Over-the-Top Advertising**

11 30. The National Advertising Division of the Council of Better Business Bureaus, Inc.
 12 (NAD) “monitors national advertising in all media, enforcing high standards of truth and accuracy.”⁴
 13 The NAD complaint and review process for challenging a competitor’s claims “is designed to
 14 encourage truthful advertising by providing a forum for the relatively quick resolution of disputes.”⁵

15 31. Around 2012, NAD launched an inquiry into claims made by GreenPan in an
 16 advertisement which compared GreenPan’s nonstick Products to one of its’ competitors’ nonstick
 17 cookware products.

18 32. Ultimately, NAD recommended that GreenPan take significant action concerning its
 19 claims, including, but not limited to:

- 20 • “[D]iscontinue its PFOA-free claims or modify them to avoid conveying the
 21 unsupported message that all PTFE non-stick coatings are made with PFOA”;
- 22 • “[D]iscontinue its PTFE-free claims or modify them to avoid conveying the
 23 unsupported message that its Thermolon coated products are better for the
 24

25 _____
 26 ¹ *Why GreenPan?*, GreenPan, <https://www.greenpan.us/WHY-GREENPAN> (last visited Sept. 23, 2019).

² *Id.*

³ GreenPan, <https://www.greenpan.us/> (last visited Sept. 23, 2019).

⁴ *National Advertising Division (NAD)*, BBB National Programs, Inc., <https://bbbprograms.org/programs/nad/> (last visited Sept. 23, 2019).

⁵ *Id.*

environment, healthier and safer than all PTFE-type non-stick products”;

- “[D]iscontinue its ‘eco-friendly’ claims” given “the lack of supporting evidence in the record . . .”;
- “[D]iscontinue energy savings [claims] (as they were not consumer meaningful). . .”;
- and
- [D]iscontinue its ‘natural,’ ‘mineral,’ and ‘mineral based’ claims as the product in its final form has been chemically altered.”⁶

33. GreenPan communicated to NAD that it would “take the NAD’s recommendations into consideration in future advertising and will make such modifications as necessary to comply with the NAD’s decision.”⁷

34. GreenPan removed most of the verbiage NAD found to be troublesome and replaced it with technically different, yet equally misleading, advertising.

35. GreenPan’s Product packaging still contains claims that its Products are PFOA-free.

D. GreenPan Advertising Today

36. Today, GreenPan claims on its advertising accompanying its nonstick Products that its nonstick Products are “HEALTHY CERAMIC NON-STICK.”⁸

37. While GreenPan’s Products may assist GreenPan’s consumers in preparing “healthy” (as well as non-healthy) meals, GreenPan’s nonstick Products are not, in and of themselves, healthy, nor do they guarantee that the meals cooked in them will be “healthy.”

38. On its website, GreenPan claims that “[u]nlike traditional nonstick cookware, our ceramic nonstick coating is made without the use of PFAs, PFOA, lead or cadmium and never releases toxic fumes when overheated.”⁹ As recognized by NAD, such statements are misleading because they convey the message that other non-stick coatings are made with PFOA, when in fact,

⁶ *NAD Recommends GreenPan Modify, Discontinue Certain Eco-Friendly Claims for its Non-Stick Cookware*, BBB National Programs, Inc., <http://www.ascreviews.org/nad-recommends-greenpan-modify-discontinue-certain-eco-friendly-claims-for-its-non-stick-cookware/> (last visited Sept. 23, 2019).

⁷ *Id.*

⁸ GreenPan, <https://www.greenpan.us/> (last visited Sept. 23, 2019).

⁹ *Id.*

1 they are not.

2 39. Implying that GreenPan's nonstick Products are superior because they do not contain
3 PFAS, PFOA, lead or cadmium misleads consumers to believe that competitor's cookware contains
4 PFAS, PFOA, lead or cadmium, when they do not.

5 40. On its website and Product packaging, GreenPan further claims that its Products
6 contain "0% Toxins," and/or are "COMPLETELY TOXIN FREE!"¹⁰

7 41. Despite its claims, upon information and belief, GreenPan's nonstick Products do
8 contain toxins.

9 42. The U.S. patent for Thermolon states that "[a]n anion- and far infrared ray-emitting,
10 inorganic ceramic coating agent for use in the present invention comprises in admixture the following
11 components: 40-50% wt % of an inorganic binding agent, which is silane such as formula R_nSiX_4-
12 n or an oligomer derived therefrom, as a binder" See United States Patent No. 7,727,637 (filed
13 June 1, 2010) [hereinafter the "Thermolon Patent"] at 4, attached hereto as Exhibit A.

14 43. Silane is a toxin. See *Silane*, PubChem, [https://pubchem.ncbi.nlm.nih.gov/](https://pubchem.ncbi.nlm.nih.gov/compound/Silane)
15 [compound/Silane](https://pubchem.ncbi.nlm.nih.gov/compound/Silane) (last visited Sept. 23, 2019). Specifically, silane is "a colorless, flammable and
16 poisonous gas, with a strong repulsive odor. It is easily ignited in air, reacts with oxidizing agents, is
17 very toxic by inhalation, and is a strong irritant to skin, eyes and mucous membranes." See *id.*

18 44. The U.S. patent for Thermolon states that the "structure has been produced by forming
19 an aluminum oxide (Al_2O_3) layer on the surface of an aluminum heat-cooker by anodic oxidation
20 and then applying thereon either an anion- and far infrared ray-emitting, inorganic ceramic coating
21 agent or a non-stick, inorganic ceramic coating agent" See Thermolon Patent at 4.

22 45. Aluminum oxide is also a toxin. See *Hazardous Substance Fact Sheet*, NJ Department
23 of Health (Feb. 2017), available at [https://www.nj.gov/health/eoh/rtkweb/](https://www.nj.gov/health/eoh/rtkweb/documents/fs/2891.pdf)
24 [documents/fs/2891.pdf](https://www.nj.gov/health/eoh/rtkweb/documents/fs/2891.pdf); see also Daniel Krewski, et al., *Human Health Risk Assessment for Aluminum, Aluminum Oxide, and*
25 *Aluminum Hydroxide*, NCBI, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2782734/> (last
26 visited Sept. 23, 2019). Aluminum oxide has been given a hazard rating of 2 out of 4 by the New
27

28 ¹⁰ *Id.*

1 Jersey Department of Health, and which noted on its “Hazardous Substance Fact Sheet” that
2 “[r]epeated exposure can lead to lung damage.”¹¹

3 46. The U.S. patent for Thermolon also states that another coating agent may be
4 comprised of:

5 an admixture [of] the following components: 65-83% wt % of an inorganic binding
6 agent as a binder wherein said inorganic binding agent consists of 33-47 wt % of
7 methyltrimethoxysilane, 17-23% wt % of tetraethoxysilane and 30-50 wt % of
8 silica sol; 10-19% of a functional filler which prevents the crack of a film between
9 said binding agent and said silicon mixture and controls the viscosity such that the
10 physico-chemical properties of the film are improved; 1-2 wt % of pigment which
11 produces color; and 2-15% wt % of an anion- and far infrared ray-emitting, ceramic
12 powder.

13 Thermolon Patent at 5. Various other coating agents are proposed, with all variations containing an
14 admixture of tetraethoxysilane, methyltrimethoxysilane, a “functional filler,” and/or pigment. *See*
15 *generally*, Thermolon Patent.

16 47. Tetraethoxysilane is toxin. *See generally* Gelest, Tetraethoxysilane Safety Data Sheet,
17 available at https://www.gelest.com/wp-content/uploads/SIT7110.1_TETRAETHOXY
18 [SILANE_GHS-US_English-US.pdf](https://www.gelest.com/wp-content/uploads/SIT7110.1_TETRAETHOXY).

19 48. Tetraethoxysilane “[c]auses serious eye irritation,” “[m]ay be harmful if swallowed,”
20 “[m]ay cause respiratory irritation,” and “[m]ay cause skin irritation.” *See id* at 2.

21 49. Methyltrimethoxysilane is a toxin. *See Methyltrimethoxysilane*, PubChem,
22 [https://pubchem.ncbi.nlm.nih.gov/compound/Methyltrimethoxysilane#](https://pubchem.ncbi.nlm.nih.gov/compound/Methyltrimethoxysilane#section=Consumer-Uses) section=Consumer-Uses
23 (last visited Sept. 23, 2019).

24 50. Methyltrimethoxysilane can cause “specific target organ toxicity,” in addition to
25 “serious eye irritation,” “respiratory irritation,” and “skin irritation.” *See id*.

26 51. GreenPan’s patent provides that the “functional filler” added to “prevent the crack of
27 a film between the binding agents or to control the viscosity of the coating agent” shall be made of
28 an “inorganic ceramic coating agent” such as “potassium titanate, alumina, and the like”
Thermolon Patent at 5.

52. Potassium titanate is a toxin. *See* Substance Information, European Chemicals

¹¹ *See Hazardous Substance Fact Sheet: Aluminum Oxide*, New Jersey Department of Health (Feb. 2017), available at <https://www.nj.gov/health/eoh/rtkweb/documents/fs/2891.pdf>.

1 Agency, https://echa.europa.eu/substance-information/-/substanceinfo/100.103.050#TRADE_
2 NAMEScontainer (last visited Sept. 23, 2019).

3 53. Specifically, potassium titanate “is suspected of causing cancer.” *Id.* Potassium
4 titanate is also “harmful if inhaled and may cause respiratory irritation.” *Id.*

5 54. Upon information and belief, GreenPan updated or “enhanced” its ceramic coating
6 and applied for a new patent for this ceramic coating in June of 2018. *See* United States Patent
7 Application No. 20180170815 (filed June 21, 2018), attached hereto as Exhibit B. The application
8 for the “enhanced” coating also contains the toxins mentioned above. *See id.*

9 55. Thus, GreenPan’s nonstick Products are not, in fact, “COMPLETELY TOXIN
10 FREE!” as advertised, but rather, contain several known toxins.

11 56. The Code of Federal Regulations directs that “[i]t is deceptive to misrepresent,
12 directly or by implication, that a product, package, or service is non-toxic. Non-toxic claims should
13 be clearly and prominently qualified to the extent necessary to avoid deception.” 16 C.F.R.
14 § 260.10(a).

15 57. GreenPan does not qualify its “nontoxic” claims in its Product packaging or website,
16 but boldly claims that its Products are “COMPLETELY TOXIN FREE!” and have “0% Toxins.”

17 58. GreenPan further advertises that its Products are “good for the environment.” *Why*
18 *Ceramic?*, GreenPan, <https://www.greenpan.us/why-ceramic> (last visited Sept. 23, 2019) (“Safe for
19 your loved ones, good for the environment.”).

20 59. Upon information and belief, GreenPan’s support for its assertion that its Products are
21 “good for the environment” is that GreenPan’s Thermolon non-stick coating is “made from a sand
22 derivative that does not require the use of toxic chemicals like PFOA or PFAS during the production
23 process.” *Id.*

24 60. Recognizing that environmental claims influence consumer purchases, The Federal
25 Trade Commission issued “Green Guides” for businesses and marketers. The FTC’s “Green Guides”
26 direct that “[m]arketers should not make broad, unqualified general environmental benefit claims
27 like ‘green’ or ‘eco-friendly.’ Broad claims are difficult to substantiate, if not impossible.”
28 *Environmental Claims: Summary of the Green Guides*, Federal Trade Commission at 1,

1 [https://www.ftc.gov/system/files/documents/public_events/975753/ftc_-_environmental_claims_s](https://www.ftc.gov/system/files/documents/public_events/975753/ftc_-_environmental_claims_summary_of_the_green_guides.pdf)
2 [ummary_of_the_green_guides.pdf](https://www.ftc.gov/system/files/documents/public_events/975753/ftc_-_environmental_claims_summary_of_the_green_guides.pdf) (last visited Sept. 23, 2019).

3 61. The FTC also directs: “Marketers should qualify general claims with specific
4 environmental benefits. Qualifications for any claims should be clear, prominent, and specific.” *Id.*
5 The FTC adds that “[w]hen a marketer qualifies a general claim with a specific benefit, consumers
6 understand the benefit to be significant. As a result, marketers shouldn’t highlight small or
7 unimportant benefits.” *Id.* Further, “[i]f a qualified general claim conveys that a product has an
8 overall environmental benefit because of a special attribute, marketers should analyze the trade-offs
9 resulting from the attribute to prove the claim.” *Id.*

10 62. Here, GreenPan has violated each of the directives issued by the FTC by claiming
11 broadly that GreenPan Products are “good for the environment.”

12 63. Insofar as GreenPan has qualified this claim with a specific benefit, which Plaintiff
13 argues it has not, upon information and belief, the benefit of “not requir[ing] the use of toxic
14 chemicals like PFOA or PFAS during the production process” is a small and/or unimportant benefit
15 in light of the negative environmental effects GreenPan’s Products create. For example, GreenPan’s
16 Products are made of metal and do not, upon information and belief, biodegrade.

17 64. Additionally, several consumer tests indicated that GreenPan’s Products work as
18 nonstick cookware for a fraction of the amount of time that a standard pan lasts. *See The*
19 *Disappointing, Disappearing GreenPan*, San Diego Consumers Action Network (May 3, 2016),
20 <https://www.sandiegocan.org/2016/05/03/the-disappointing-disappearing-greenpan/> (“Tests
21 conducted by America’s Test Kitchen and Cooks Illustrated shows that most green pans did not
22 perform as well as the more traditional nonstick finish. And consumer sentiment has not been kind
23 towards the GreenPan . . . The Ceramic coated skillet works [sic] well initially, however the ceramic
24 coating begins to become a not so non stick coating after about 3 or 4 months.”).

25 65. Upon information and belief, this causes consumers to buy additional GreenPans, or
26 other pans, which similarly do not biodegrade.

27 66. GreenPan advertises that its Products are “reinforced . . . with diamonds.” *Why*
28 *GreenPan*, GreenPan, <https://www.greenpan.us/WHY-GREENPAN> (last visited Sept. 23, 2019).

1 67. GreenPan advertises this reinforcement makes “[the Products] more advanced in
2 performance, durability and resilience.” *Id.*

3 68. Upon information and belief, GreenPan’s Products do not contain diamonds or
4 diamond fragments.

5 69. GreenPan’s statements regarding diamond reinforced Products, when in fact such
6 Products do not contain diamonds, misleads consumers to believe that GreenPan’s Product is of a
7 greater value than it actually is.

8 70. Based on information and belief, GreenPan’s consumers, including Plaintiff,
9 purchased GreenPan’s nonstick Products based largely on GreenPan’s claims, including:
10 “HEALTHY CERAMIC NON-STICK,” “COMPLETELY TOXIN FREE,” “good for the
11 environment,” “reinforced . . . with diamonds,” and “No PFOA, PFAS, Lead or Cadmium.”

12 71. GreenPan’s claims including “COMPLETELY TOXIN FREE,” “HEALTHY
13 CERAMIC NON-STICK,” and/or “Good for the environment” were materially misleading to
14 consumers, including Plaintiff.

15 **E. Plaintiff’s GreenPan Purchase**

16 72. In 2017 Plaintiff Saldiver purchased her GreenPan Products from a Target store in
17 Salinas, California.

18 73. Prior to purchasing her GreenPan Products, Plaintiff researched GreenPan’s Products
19 online on GreenPan’s website, and examined GreenPan’s claims on its Product packaging, including
20 GreenPan’s claims that its Products were, and are, “HEALTHY CERAMIC NON-STICK,”
21 “COMPLETELY TOXIN FREE,” “good for the environment,” “reinforced . . . with diamonds,” and
22 contain “No PFOA, PFAS, Lead or Cadmium.”

23 74. Based on GreenPan’s claims that its Products were, and are, “HEALTHY CERAMIC
24 NON-STICK,” “COMPLETELY TOXIN FREE,” “good for the environment,” “reinforced . . . with
25 diamonds,” and contain “No PFOA, PFAS, Lead or Cadmium.” Plaintiff chose to purchase GreenPan
26 Products over other comparable cookware.

27 75. Plaintiff paid a premium price for her GreenPan Products at the time she purchased
28 them. Had Plaintiff known that any of GreenPan’s claims regarding its Products were false, Plaintiff

1 would not have purchased her GreenPan Products, or would have paid substantially less for the
2 cookware.

3 V. CLASS ACTION ALLEGATIONS

4 76. Plaintiff brings this action pursuant to Rules 23(a), 23(b)(2), and 23(b)(3) of the
5 Federal Rules of Civil Procedure on behalf of herself and all others similarly situated on behalf of
6 the following Class:

7 All purchasers of GreenPan nonstick Products, purchased in California, within the
8 four (4) years prior to the filing of this Complaint.

9 77. This action has been brought, and may be properly maintained, under Federal Rule of
10 Civil Procedure Rule 23. The proposed Class and Class Representative satisfy the criteria of Rule
11 23 as outlined below.

12 78. **Numerosity—Federal Rules of Civil Procedure 23(a)(1).** Information regarding
13 exact numbers of sales of GreenPan nonstick Products is not publicly available. However, GreenPan
14 Products are sold nationwide in online and brick and mortar stores such as Amazon.com, WalMart,
15 Target, Williams Sonoma, Sur La Table, and Bed Bath & Beyond. Based on information and belief,
16 all of GreenPan’s Products have been marketed as “HEALTHY CERAMIC NON-STICK,” and/or
17 “TOXIN FREE” and/or “good for the environment,” and/or “PFOA, PFA, Lead [and] Cadmium”
18 free and/or “reinforced . . . with diamonds.” Based on the availability of GreenPan Products coupled
19 with the high demand for nontoxic cookware, it is reasonable to calculate that Class members are so
20 numerous and dispersed that joinder of all Class members is impossible. Although a precise number
21 of Class members is unknown, based on information currently available, Plaintiff is informed and
22 believes that the class members number in the millions.¹²

23 79. **Commonality and Predominance—Federal Rules of Civil Procedure 23(a)(2)**
24 **and 23(b)(3).** This action involves common questions of law and fact which predominate over any
25 questions which may affect individual Class members, including, but not limited to:

26 a. whether GreenPan’s alleged misrepresentations would deceive a reasonable

27
28 ¹² *Why GreenPan?*, GreenPan, <https://www.greenpan.us/WHY-GREENPAN> (last visited Sept. 23, 2019) (“Since 2007, millions of people across the globe have joined the ceramic non-stick revolution.”).

- 1 consumer and is a fraudulent business practice violating California's Unfair
 2 Competition Law, False Advertising Law, and Consumer Legal Remedies Act
 3 ;
- 4 b. whether GreenPan's alleged conduct constitutes a unfair business practice
 5 violating California's Unfair Competition Law;
- 6 c. whether GreenPan's alleged conduct constitutes a unlawful business practice
 7 violating California's Unfair Competition Law;
- 8 d. whether GreenPan's alleged conduct violates its design duties, warranty laws,
 9 and other laws as set forth herein;
- 10 e. whether GreenPan designed, manufactured, advertised, marketed, and
 11 distributed for sale the nonstick Products at issue into the stream of commerce;
- 12 f. whether GreenPan's alleged conduct was willful, or whether GreenPan
 13 willfully mislead consumers;
- 14 g. whether Class members are entitled to damages, restitution, restitutionary
 15 disgorgement, equitable relief, statutory damages, exemplary damages, and/or
 16 other relief; and
- 17 h. the amount and nature of relief to be awarded to Plaintiff and Class members.

18 80. **Typicality—Federal Rules of Civil Procedure 23(a)(3).** Plaintiff's claims are
 19 typical of the claims of Class members because Plaintiff and the Class members purchased GreenPan
 20 nonstick Products containing the one or more of GreenPan's standard advertising phrases, including
 21 claims that the Product was "HEALTHY CERAMIC NON-STICK," contained "No PFOA, PFAS,
 22 Lead or Cadmium," was "COMPLETELY TOXIN FREE" as well as "good for the environment,"
 23 and was "reinforced . . . with diamonds." Had Plaintiff or Class members known the truth of the
 24 Product they purchased, they either would not have purchased GreenPan's nonstick Products or
 25 would have paid less for the nonstick Products they did purchase. As a result of GreenPan's
 26 misleading and/or fraudulent conduct, Plaintiff and Class members have suffered monetary damages.
 27 Plaintiff's claims are typical of the Class members' claims because Plaintiff's claims arise from the
 28 same wrongful conduct that give rise to Class members' claims.

1 81. **Adequacy of Representation—Federal Rule of Civil Procedure 23(a)(4).** The
2 above-named Plaintiff is an adequate Class representative because Plaintiff’s interests do not conflict
3 with the interests of the Class it seeks to represent. Plaintiff has retained counsel that are well-versed
4 and experienced in complex litigation and class action litigation, and Plaintiff and counsel intend to
5 vigorously prosecute this action on behalf of Plaintiff and the Class. The interests of the Class will
6 be fairly and adequately protected by Plaintiff and counsel.

7 82. **Declaratory and Injunctive Relief—Federal Rule of Civil Procedure 23(b)(2).**
8 Injunctive and declaratory relief are appropriate because GreenPan has acted or refused to act on
9 grounds which are generally applicable to Plaintiff and Class members. Thus, final injunctive and
10 declaratory relief, as described below, is appropriate with respect to the Class.

11 83. **Superiority—Federal Rule of Civil Procedure 23(b)(3).** A class action is superior
12 to any other available means for the fair and efficient adjudication of this action; no unusual
13 difficulties are likely to be encountered in the management and litigation of this class action. When
14 compared to the burden and expense required to litigate each Class member’s claims, each individual
15 Class member’s claims are relatively small; thus, it would be impracticable for individual Class
16 members to seek redress for GreenPan’s wrongful conduct. Even if individual Class members could
17 afford individual suits, the court system could not. Furthermore, individualized litigation creates the
18 potential for embarrassment and inconsistent judgments and increases the delay and expense to all
19 parties and the court system. Adjudication of this matter by means of a class action ensures the most
20 efficient and time- and cost-effective resolution by providing economy of scale, presents fewer
21 management difficulties, and provides the benefit of a comprehensive supervision and a final
22 adjudication by a single court.

23 84. **Class Action Maintainable under Rule 23(b)(3).** A class action is appropriate
24 because common questions of law and fact predominate over any individual questions affecting only
25 individual members. Class treatment is superior to the alternatives for the fair and efficient
26 adjudication of the controversy alleged herein. Such treatment will permit a large number of similarly
27 situated persons to prosecute their common claims in a single form simultaneously, efficiently, and
28 without the duplication of effort and expense that numerous individual actions would entail. No

1 difficulties are likely to be encountered in the management of this class action that would preclude
 2 its maintenance as a class action, and no superior alternative exists for the fair and efficient
 3 adjudication of this controversy. Without a class action, the Defendant will remain free from
 4 responsibility for misleading Plaintiff and Class members regarding the nature of its nonstick
 5 Products.

6 85. **Class Action Maintainable Under Rule 23(b)(2).** By placing into the marketplace
 7 its nonstick Products containing misleading labelling and advertising, and by continuing to
 8 manufacture, market, and sell its nonstick Products “HEALTHY CERAMIC NON-STICK,”
 9 contained “No PFOA, PFAS, Lead or Cadmium,” was “COMPLETELY TOXIN FREE” as well as
 10 “good for the environment,” and was “reinforced . . . with diamonds,” the Defendant has acted or
 11 refused to act on grounds generally applicable to the Class, thereby making declaratory relief an
 12 appropriate remedy for Plaintiff and the Class.

13 VI. CLASS CLAIMS FOR RELIEF

14 COUNT I 15 VIOLATION OF CALIFORNIA BUSINESS & PROFESSIONS 16 CODE § 17200, *ET SEQ.*

16 86. Plaintiff repeats and realleges all preceding paragraphs as if fully set forth herein.

17 87. Plaintiff brings this Count individually and on behalf of the other Class members.

18 88. The UCL defines unfair business competition to include any “unlawful, unfair or
 19 fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.
 20 Bus. & Prof. Code § 17200.

21 89. GreenPan has violated the “unfair” prong of the UCL by advertising its Products as
 22 “HEALTHY CERAMIC NON-STICK,” “COMPLETELY TOXIN FREE,” “good for the
 23 environment,” “reinforced . . . with diamonds,” and containing “No PFOA, PFAS, Lead or
 24 Cadmium.”

25 90. A business act or practice is “unfair” under the UCL if the reasons, justification and
 26 motives of the alleged wrongdoer are outweighed by the gravity of the harm to the alleged victims.

27 91. GreenPan’s reasons for advertising its Products as “HEALTHY CERAMIC NON-
 28 STICK,” “COMPLETELY TOXIN FREE,” “good for the environment,” “reinforced . . . with

1 diamonds,” and containing “No PFOA, PFAS, Lead or Cadmium” were purely monetary and
2 intended to exploit the health, safety, and environment-conscious consumer.

3 92. The gravity of the harm to members of the Class resulting from these unfair acts and
4 practices outweighed any conceivable reasons, justifications, and/or motives of GreenPan for
5 engaging in such deceptive acts and practices. By committing the acts and practices alleged above,
6 GreenPan engaged in unfair business practices within the meaning of California Business &
7 Professions Code §§ 17200, *et seq.*

8 93. Similarly, GreenPan has violated the “deceptive” and “misleading” prongs of the
9 UCL by advertising online and on Product packaging that its Products are “HEALTHY CERAMIC
10 NON-STICK,” “COMPLETELY TOXIN FREE,” “good for the environment,” “reinforced . . . with
11 diamonds,” and containing “No PFOA, PFAS, Lead or Cadmium.”

12 94. This advertising is “deceptive” and/or “misleading” because they would lead a
13 reasonable consumer to believe that Defendant’s Products are healthy, toxin free, good for the
14 environment, and reinforced with diamonds, when these Products have none of these characteristics.

15 95. Furthermore, GreenPan has violated the “unlawful” prong of the UCL. The
16 California Civil Code §1770(a)(2), (5) and (7) prohibits mislabeling consumer products the as have
17 standard, quality, sponsorship, approval, and/or certification which they do not. Defendant’s actions
18 also violate California Business & Professions Code §§ 17500, *et seq.*

19 96. Such advertisements caused Plaintiff, and members of the proposed Class, to
20 overvalue GreenPan’s Products and to purchase GreenPan’s Products at a higher price than they
21 otherwise would have paid for the Product. As a direct and proximate result of Defendant’s
22 “unlawful” business practices as alleged herein, Plaintiff and each Class member have been
23 wrongfully deprived of money and/or property. As such, Plaintiff requests that this Court cause
24 GreenPan to restore this money to Plaintiff and all Class members, and to enjoin GreenPan from
25 continuing to violate the UCL as discussed herein and/or from violating the UCL in the future.

26 **COUNT II**
27 **VIOLATION OF THE CALIFORNIA FALSE ADVERTISING LAW,**
28 **CALIFORNIA BUSINESS & PROFESSIONS CODE SECTIONS 17500, *ET SEQ.***

97. Plaintiff repeats and realleges all preceding paragraphs as if fully set forth herein.

1 98. The California False Advertising Law prohibits unfair, deceptive, untrue, or
2 misleading advertising, including, but not limited to, false statements as to value.

3 99. Defendant disseminated, or caused to be disseminated, the deceptive Product labeling
4 and advertising alleged herein in violation of California Bus. & Prof. Code § 17500.

5 100. Defendant’s labeling and advertisements convey a series of express and implied
6 claims which they know are material to the reasonable consumer and for which they intend for
7 consumers to rely upon when choosing to purchase a cookware Product.

8 101. Defendant’s labeling and advertising was uniform and would be considered material
9 to the average consumer.

10 102. Plaintiff and members of the Class purchased Defendant’s Products believing the
11 Products were “HEALTHY CERAMIC NON-STICK,” “COMPLETELY TOXIN FREE,” “good
12 for the environment,” “reinforced . . . with diamonds,” and containing “No PFOA, PFAS, Lead or
13 Cadmium.” However, these statements are false, misleading, and have deceived reasonable
14 consumers like Plaintiff and members of the Class.

15 103. Defendant’s labeling and/or advertising of its Products as “healthy,” “toxin free” and
16 good for the environment” are misleading because: (1) meals cooked in its ceramic pans are no
17 healthier than the same meal cooked in any other pan; (2) a product is not “healthy” in and of itself
18 because it claims to not contain toxins; (3) the Products do, in fact, contain toxins despite claiming
19 to be “toxin free” and made of “0% Toxins”; (4) the pans are not, on balance, good for the
20 environment; (5) the Products are not reinforced with diamonds; and (6) the Products do not differ
21 in a material way from other non-stick cookware by virtue of the fact that they do not contain PFOA,
22 PFAs, lead or cadmium.

23 104. GreenPan’s practices of advertising its Products as “HEALTHY CERAMIC NON-
24 STICK,” “COMPLETELY TOXIN FREE,” “good for the environment,” “reinforced . . . with
25 diamonds,” and containing “No PFOA, PFAS, Lead or Cadmium” were unfair, deceptive and
26 misleading advertising practices because they gave Plaintiff and the Class the false impression that
27 GreenPan’s Products were and are healthy, toxin free, good for the environment, made with
28 diamonds, or are otherwise superior, when they are not.

1 from Plaintiff and the Class.

2 114. Plaintiff, on behalf of herself and all other similarly situated California consumers,
3 and as appropriate, on behalf of the general public of the state of California, seeks injunctive relief
4 prohibiting Defendant continuing these unlawful practices pursuant to California Civil Code §
5 1782(a)(2).

6 115. Plaintiff provided Defendant with notice of its alleged violations of the Consumer
7 Legal Remedies Act (“CLRA”) pursuant to California Civil Code § 1782(a) *via* certified mail,
8 demanding that Defendant correct such violations.

9 116. If Defendant’s fail to respond to Plaintiff’s CLRA notice within 30 days, Plaintiff
10 may amend this Complaint to seek all available damages under the CLRA for all violations
11 complained of herein, including, but not limited to, statutory damages, punitive damages, attorney’s
12 fees and cost and any other relief that the Court deems proper.

13
14 **COUNT IV**
BREACH OF EXPRESS WARRANTY

15 117. Plaintiff repeats and realleges all preceding paragraphs as if fully set forth herein.

16 118. Defendant’s labeling and advertisements convey a series of express and implied
17 claims which they know are material to the reasonable consumer and which they intend for
18 consumers to rely upon when choosing to purchase the Product.

19 119. Defendant’s labeling and advertising was uniform and would be considered material
20 to the average consumer.

21 120. Plaintiff and members of the Class purchased Defendant’s Products believing the
22 Products were healthy, toxin free, good for the environment, reinforced with diamonds, or superior
23 to other brands by virtue of being PFOA, PFA, cadmium, and lead free.

24 121. Plaintiff, and each member of the Class, formed a contract with Defendant at the time
25 Plaintiff and the other members of the Class purchased Defendant’s Products.

26 122. The terms of that contract include the promises and affirmations of fact made by
27
28

1 Defendant on its Product labels and in the marketing of Defendant's Products that falsely claim that
2 Defendant's Products are "HEALTHY CERAMIC NON-STICK," "COMPLETELY TOXIN
3 FREE," "good for the environment," "reinforced . . . with diamonds," and contain "No PFOA,
4 PFAS, Lead or Cadmium."

5
6 123. These promises and affirmations of fact constitute express warranties, became part of
7 the basis of the bargain, and are part of a standardized contract between Plaintiff and the members
8 of the Class on the one hand, and Defendant on the other.

9
10 124. Defendant breached the terms of this contract, including the express warranties, with
11 Plaintiff and the Class by failing to provide a product with the promised benefits described above.

12
13 125. As a result of Defendant's breach of its implied warranty, Plaintiff and the Class have
14 been damaged in an amount to be determined at trial.

14 CLAIMS FOR RELIEF

15 WHEREFORE, Plaintiff, individually and on behalf of the other Class members, respectfully
16 requests that the Court enter judgment in her favor and against Defendant GreenPan as follows:

- 17 1. Declaring that this action is a proper class action, certifying the Class as requested
18 herein, designating Plaintiff as Class Representative, and appointing Plaintiff's
19 attorneys as Class Counsel;
- 20 2. For an order that Defendant disgorges and restores to Plaintiff and the Class all monies
21 including but not limited to profits wrongfully obtained by Defendant as a result of
22 Defendant's untrue, unfair, deceptive or misleading advertising or unlawful, unfair or
23 fraudulent advertising as alleged herein, pursuant to Cal. Bus. & Prof. Code §§ 17200
24 *et seq.*;
- 25 3. For an order that Defendant disgorges and restores to Plaintiff and the Class all monies
26 including but not limited to profits wrongfully obtained by Defendant as a result of
27 Defendant's false advertising as alleged herein, pursuant to Cal. Bus. & Prof. Code
28 §§ 17500 *et seq.*;

