

Complaint

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**SUPERIOR COURT OF CALIFORNIA (UNLIMITED JURISDICTION)
COUNTY OF LOS ANGELES**

PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS, INC.,
a Virginia nonprofit corporation,

Plaintiff,

v.

KFC CORPORATION, a Delaware corporation; YUM! BRANDS, INC., a North
Carolina corporation; and DOES 1 through 50, inclusive,

Defendants.

CASE NO.: _____

COMPLAINT FOR INJUNCTIVE RELIEF

(**Business and Professions Code § 17200** et seq.; § **17500** et seq.)

INTRODUCTORY STATEMENT

1. This is a complaint seeking a permanent injunction against the defendants to prevent ongoing deceptive advertising practices in the false representations of KFC CORPORATION (“KFC”) and its parent company, YUM! BRANDS, INC. (“Yum”), published in various manners, including through postings on Web sites and through oral communications by defendants using KFC’s public information telephone lines. KFC and Yum require the raising and killing of more than 700 million chickens annually to supply the KFC chain of restaurants, yet despite this massive number of animals, the defendants

have shockingly few standards to protect the animals from abuse and injury. Plaintiff PEOPLE FOR THE ETHICAL TREATMENT OF ANIMALS (“PETA”) recently launched an international campaign to expose the intense suffering endured by these chickens. Among the methods that PETA has been using to bring awareness to the defendants’ neglect of these animals are news conferences, demonstrations, media releases, and a Web site at KFCCruelty.com. The defendants have responded to PETA’s campaign largely with public relations statements that are at best grossly misleading and, in numerous instances, entirely false. PETA brings this action to prevent the defendants from continuing their unlawful practices in deceiving consumers on factual issues about their methods of raising and killing chickens so that consumers will be able to make informed choices about whether to support these companies by purchasing from them.

PARTIES

2. Plaintiff PETA is, and at all times herein mentioned was, an international nonprofit membership corporation organized under the laws of the State of Virginia, with its corporate headquarters located in Norfolk, Virginia. PETA and its members are committed to ameliorating the suffering of animals. Toward this end, PETA has conducted investigations into and campaigned extensively with respect to the chicken industry and the difficult conditions under which chickens are housed. PETA maintains several Web sites with information about the welfare of chickens and the industry, including KFCCruelty.com, GoVeg.com, and its main site, PETA.org. PETA counts among its membership approximately 60,000 California residents. PETA has several employees based in California, as well.

3. Defendant KFC is, and at all times herein mentioned was, a corporation organized under the laws of Delaware, with its principal place of business in Louisville, Kentucky. KFC operates numerous “chicken” restaurants throughout California, it advertises extensively in the state, its Web site (which contains some of the false information at issue in this complaint) is accessible to California consumers, and it maintains a registered agent in Los Angeles.

4. Defendant Yum is, and at all times herein mentioned was, a corporation organized under the laws of North Carolina, with its principal place of business in Louisville, Kentucky. Yum is the parent company of KFC and, in that capacity, is liable for KFC’s operations within the state of California. Further, Yum maintains its own Web site, which is accessible to California consumers, and on which it also publishes some of the false information at issue in this case.

5. The true names and capacities of the defendants sued herein as Does 1 through 50, inclusive, are unknown to plaintiff at this time, and plaintiff sues the said defendants by such fictitious names. Plaintiff will ask leave of court to amend this complaint to show their true names and capacities when the same have been ascertained. Each of the fictitiously named defendants is responsible in some manner for the conduct alleged herein.

GENERAL ALLEGATIONS

6. Defendants are in the business of, among other things, operating KFC chicken restaurants. Defendants' suppliers raise and kill more than 700 million chickens every year to stock their restaurants. Despite the massive number of animals raised and killed for their restaurants, defendants have implemented remarkably few standards to protect the welfare of these birds. Consequently, these birds often endure suffering, often intense, for most, or all, of their lives.

7. Despite the lack of welfare protections and despite the known suffering of these birds, defendants defiantly claim they are committed to the welfare of animals. To demonstrate this, however, defendants started their public relations campaign not by creating standards to be implemented to safeguard the birds' welfare, but instead by using misleading rhetoric and, at times, outright lies to deceive the public about the issue. A number of those deceptive statements remain posted on the defendants' respective Web sites.

8. Defendants' misrepresentations have come in response to PETA's January 7, 2003, launch of an international campaign to expose defendants' lack of standards and the resulting suffering endured by the chickens. Defendants' misrepresentations have appeared in, among other places and manners, news releases to the media and the public, on the Web sites of both defendants, and through direct communication with callers to KFC's consumer information telephone number.

9. On January 16, 2003, PETA sent a letter to Yum's CEO, David Novak, to detail the misrepresentations that had been appearing on KFC's Web site. As of the date of this filing, KFC's Web site has remained unchanged and still contains significant misrepresentations and outright false statements that conceal from the public the horrific suffering endured by chickens raised and killed for KFC. An identical page also appears on Yum's Web site. (Copies of the defendants' respective Web pages and their links are attached and incorporated as Exhibits A and B.)

10. Defendants state that they have an animal welfare policy, which has been in place for nearly a decade, that "imposes specific, strict welfare performance standards on its suppliers." In fact, PETA alleges on information and belief, that no such specific and strict decade-old policy existed for the welfare of chickens and that the defendants' statements in this regard are false. Any statements made by defendants to the contrary are inherently false.

11. Defendants state that their guidelines are designed to "manage and monitor each step of the process to ensure that all birds are handled humanely and *suffer no pain*." (Emphasis added.) While it is true that defendants have taken a few minimal steps to decrease suffering in slaughterhouses, the claim that there are humane handling guidelines at "each step of the process" is deceptive at best. Despite the fact that defendants' statements were published months before, until May 2003, there were no welfare-related guidelines to prevent the massive suffering, injuries, and deaths that occur during the raising, handling, and transport of these birds. And even the minimal

“guidelines” the defendants have now created do not ensure that the birds suffer no pain. In fact, the birds raised and killed for defendants’ operations suffer great pain and injuries in massive numbers. Defendants attempt to cure this problem by employing false statements, in violation of California law, that mislead consumers into believing the problem doesn’t exist.

12. Defendants further state on their respective Web sites that they prohibit their suppliers from “using growth-promoting substances.” This statement is blatantly false. Defendants’ suppliers routinely feed chickens massive amounts of antibiotics for the dual purpose of keeping them alive in grossly unsanitary and overcrowded conditions and to stimulate the animals into growing larger and more rapidly than they otherwise would. This is standard industry practice—done to maximize profits—that continues despite the American Medical Association’s warning against the routine use of antibiotics in the industry for non-therapeutic purposes. The practice is dangerous to human health and dangerous to the welfare of the birds, who often suffer heart attacks, broken legs, and other injuries from growing too large too fast.

13. Defendants claim that they prohibit their “suppliers from de-beaking any poultry that will be *sold in its restaurants*.” (Emphasis added.) Defendants’ statement in this regard is misleading in that it gives the impression that birds associated with its chicken operations are not debeaked, when in fact they are debeaked in massive numbers. Debeaking is the process of cutting off the end of a chicken’s beak, most often done with a searing hot blade and always without the use of painkillers. This crude practice, which experts acknowledge results in chronic pain for the birds, is implemented to keep chickens from pecking each other to death as a result of their extreme stress from the intensely harsh conditions under which they’re housed. Because of their relatively short lives and other factors, however, the industry does not find it necessary to debeak broiler chickens (those bred to grow large and fast). Defendants’ claim that they prohibit their suppliers from engaging in a non-existing practice is insincere at best, but it is grossly misleading when one considers that the *breeding parents* of broiler chickens raised for defendants’ restaurants do, in fact, have their beaks cut by the millions. By qualifying the statement to apply only to birds “sold in its restaurants,” defendants each make a technically true statement, but simultaneously mislead consumers away from the fact that birds raised as part of defendants’ operations are, in fact, painfully debeaked in massive numbers.

14. Defendants state that birds arriving at the plant (presumably defendants mean the “slaughterhouse”) must be “clean and in good health” and “free of injury.” This is simply untrue. It is, in fact, standard practice within the poultry industry to allow for significant numbers of deaths during the process of raising, handling, and transporting chickens before they ever get to “the plant.” Industry statistics currently put this loss rate at approximately five percent, which translates to approximately 35 million dead chickens handled by defendants’ suppliers every year. And even if this staggering number of deaths during the time leading up to the arrival at the plant is excluded from consideration, defendants’ statement would still be false when one takes into account that defendants’ own minimal guidelines allow for significant injuries to birds during handling and transport, injuries that include broken wings and broken legs by the millions.

And contrary to defendants' claims regarding the birds being "clean," defendants have no guideline or requirement whatsoever for their suppliers to alter the typical industry practice of keeping chickens, for their entire lives, on warehouse floors saturated with their own urine and excrement.

15. Defendants further state that they use state-of-the-art slaughter equipment to ensure that "all birds are slaughtered quickly and without pain." Again, this is simply not true. The slaughter process for these birds typically consists of them being dumped from their transport crates and snapped upside down into leg shackles on a moving slaughter line. Once hanging from the slaughter line, they are subjected to an automated process during which many are injured or killed or, for those who aren't sufficiently stunned by the electric water bath, submersed in the intense heat of the scalding tank while still conscious. Defendants' slaughter process is neither quick, nor painless, nor even state-of-the-art. Despite this fact, however, defendants have, on at least one occasion, stated through the KFC consumer information telephone line that they have, in fact, adopted gas-killing as a more humane approach for "euthanizing" its chickens. Although this method is the one recommended by PETA (based on the findings of experts on defendants' own Animal Welfare Advisory Council), and although defendants released a statement in May 2003, that they would consider such a method, they have not yet adopted such a method, and any statements to the contrary are false.

16. In furtherance of their public relations campaign, defendants maintain a toll-free telephone line that consumers can call to speak to a KFC representative to get information about, among other things, the company's operating practices. Defendants have used that telephone line to repeatedly disseminate false information about PETA's campaign and defendants' chicken-handling standards. On no less than twenty separate occasions, defendants have made false claims to people who have called the KFC information line about PETA's campaign and about KFC's animal-handling practices and policies. Examples of statements made to callers to the KFC information line include, but are not limited to, that KFC had met with PETA representatives and gave PETA the chance to prove its claims, but it failed to do so. Others have stated that this process wasn't in the form of a meeting, but rather that both sides presented their case to a mediator, but PETA lost its case, giving the false impression that PETA's allegations failed under official judicial review. Still others have stated that KFC was able to prove that PETA's claims were totally false. Defendants' operators repeatedly told callers that none of PETA's claims are true and that the defendants have strict welfare guidelines created and monitored for compliance by its animal welfare council. Further, as stated above, on at least one known occasion, a representative of the defendants even told a caller that KFC had, in fact, adopted the gas-killing methods that PETA was urging as a more humane manner of killing chickens. These statements, and others not specifically listed, which have been and continue to be routinely made to callers to the telephone information line in response to their concerns, are false. Additionally, nearly all callers are referred for further answers to their animal welfare concerns to KFC's Web site, which site contains the false and misleading statements set forth herein.

17. The false and misleading statements detailed above are not comprehensive, but

merely representative of the unlawful business practices that defendants are employing to alleviate consumer concern for the widespread animal suffering caused by defendants that PETA has exposed since the launch of its campaign. Defendants continue to unlawfully disseminate false and misleading information with regard to the handling, transporting, and killing practices of its suppliers. On information and belief, Plaintiff alleges that the information stated herein is a true and accurate representation of the facts and circumstances giving rise to this lawsuit.

CAUSES OF ACTION

FIRST CAUSE OF ACTION (Unfair Competition)

18. Paragraphs 1-17 are incorporated herein by reference as though fully set forth.

19. In responding to PETA's campaign to expose the suffering of the hundreds of millions of chickens raised and killed each year for their restaurant operations, defendants, and each of them, have engaged and continue to engage in unfair competition, as set forth in California Business & Professions Code Section 17200, et seq.

20. The actions of defendants, and each of them, as alleged above, violate California's Unfair Competition Law, California Business & Professions Code Section 17200, et seq., which authorizes the enjoining of an entity from any past, current, or future engagement in unfair competition.

SECOND CAUSE OF ACTION **(False Advertising)**

21. Paragraphs 1-20 are incorporated herein by reference as though fully set forth.

22. In responding to PETA's campaign to expose the suffering of the hundreds of millions of chickens raised and killed each year for their restaurant operations, defendants, and each of them, for the purpose of maintaining or increasing its sales and profits, publicly disseminated, and are continuing to publicly disseminate, representations related to that purpose, both express and implied, that they knew, or in the exercise of reasonable care should have known, were, and are, untrue or misleading, and so acted in violation of California Business & Professions Code Section 17500, et seq.

23. Plaintiff has no adequate remedy at law in that the defendants, and each of them, unless enjoined by this court, will continue to engage in untrue or misleading advertising, as alleged above, in violation of California Business & Professions Code Section 17500, et seq.

PRAYER FOR RELIEF

WHEREFORE, the plaintiff seeks judgment as follows:

1. For permanent injunctive relief enjoining defendants from making, disseminating, or

causing to be made or disseminated before the public in any manner whatsoever, the unlawful representations detailed herein and in any other manner that such misrepresentations have been or continue to be published by defendants;

2. For costs of suit incurred herein;
3. For an award of reasonable attorney's fees;
4. For such other further relief as this Court may deem appropriate.

Respectfully Submitted,

Dated: July 7, 2003

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Matthew Penzer
Attorneys for Plaintiff