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FILED
Superior Court of California
County of Los Angeles

NOV 14 2019

Sherri R. Carter, Executive Officer/Clerk
By Alfredo Morales deputy
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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES, CENTRAL DISTRICT**

GABRIELA ZAMORA, SAMII
HARTMAN, individually and on behalf
of all others similarly situated,

Plaintiffs,

vs.

GT'S LIVING FOODS, LLC, a
California corporation,

Defendants.

RECEIVED
LOS ANGELES SUPERIOR COURT

NOV 13 2019

I. LOVO

Case No. 19STCV05710

CLASS ACTION

**THIRD AMENDED COMPLAINT
FOR DAMAGES AND EQUITABLE
RELIEF**

- 1. UNFAIR COMPETITION UNDER
CALIFORNIA BUSINESS &
PROFESSIONS CODE § 17200**
- 2. FALSE ADVERTISING UNDER
CALIFORNIA BUSINESS &
PROFESSIONS CODE § 17500**
- 3. UNFAIR BUSINESS PRACTICES
ACT UNDER CALIFORNIA
CIVIL CODE § 1750**

DEMAND FOR JURY TRIAL

Plaintiffs GABRIELA ZAMORA and SAMII HARTMAN (together, "Plaintiffs")
on behalf of themselves and all others similarly situated, allege the following against
GT'S LIVING FOODS, LLC ("GT's"):

PARTIES

1 1. Plaintiff GABRIELA ZAMORA is a resident and citizen of the City of
2 Los Angeles, County of Los Angeles, State of California. Plaintiff Zamora purchased
3 GT's Enlightened and Enlightened Synergy brand kombucha beverages
4 ("Enlightened Kombucha") in multiple flavors from various retail stores in California
5 on or after March 1, 2017. Plaintiff Zamora purchased Enlightened Kombucha for its
6 health benefits with the understanding that its label contained accurate
7 representations regarding the amount of alcohol and sugar in the product. Plaintiff
8 Zamora would have paid significantly less for Enlightened Kombucha, or would not
9 have purchased it at all, had the labels and advertising stated the true amounts of
10 alcohol and sugar. Plaintiff Zamora suffered injury in fact and lost money as a result
11 of GT's' deceptive, misleading, unfair and fraudulent practices described herein.

2. Plaintiff SAMII HARTMAN is a resident and citizen of the City of Hawthorne, County of Los Angeles, State of California. Plaintiff Hartman purchased GT's Enlightened and Enlightened Synergy brand kombucha beverages ("Enlightened Kombucha") in multiple flavors from various retail stores in California on or after March 1, 2017. Plaintiff Hartman purchased Enlightened Kombucha for its health benefits with the understanding that its label contained accurate representations regarding the amount of alcohol and sugar in the product. Plaintiff Hartman would have paid significantly less for Enlightened Kombucha, or would not have purchased it at all, had the labels and advertising stated the true amounts of alcohol and sugar. Plaintiff Hartman suffered injury in fact and lost money as a result of GT's' deceptive, misleading, unfair and fraudulent practices described herein.

24 3. Defendant GT'S LIVING FOODS, LLC ("GT's") is a California
25 corporation located at 4646 Hampton St., Vernon, California 90058. GT's
26 manufactures, advertises, sells, distributes, and markets Enlightened Kombucha
27 beverages as alleged herein nationwide, including in California.

JURISDICTION AND VENUE

1 4. GT's is subject to the jurisdiction of this Court. GT's conducts
2 substantial business within California, and in the County of Los Angeles, such that
3 GT's has significant, continuous, and pervasive contacts with the State of California.
4 Further, GT's' principal place of business and its headquarters is in the County of
5 Los Angeles.

6 5. Venue is proper in this Court because the challenged mislabeling,
7 misbranding, and marketing practices have been disseminated and committed in the
8 County of Los Angeles, GT's is headquartered in the County of Los Angeles, and
9 Plaintiffs reside and purchased GT's Enlightened Kombucha in the County of Los
10 Angeles.

11 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

12 6. This action seeks redress for GT's' deliberate and unlawful false and
13 misleading representations regarding its variously flavored Enlightened Kombucha.
14 The Enlightened Kombucha has been packaged, marketed and sold by GT's based on
15 representations significantly understating the alcohol and sugar content along with
16 other material misrepresentations.

17 **I. REGULATION OF KOMBUCHA**

18 7. While there is variation among kombucha beverages, the term
19 "kombucha" generally refers to a fermented beverage produced from a mixture of
20 steeped tea and sugar, combined with a culture of yeast strains and bacteria. In the
21 kombucha brewing process, yeast in the liquid metabolizes sugar and makes alcohol
22 while bacteria in the liquid metabolizes alcohol and makes vinegar. While some
23 kombucha beverages also have fruit juice or other flavors added during production,
24 the value that the marketplace and consumers place on GT's Enlightened Kombucha
25 as a product is substantially based on it not being an alcoholic beverage, and on its
26 low sugar content.

27 8. The Centers for Disease Control and Prevention ("CDC") is a federal
28 agency under the U.S. Department of Health and Human Services, and is the leading

1 national public health institute of the United States. The CDC's information page on
2 Alcohol and Public Health states that "Ethyl alcohol, or ethanol, is an intoxicating
3 ingredient found in beer, wine, and liquor. Alcohol is produced by the fermentation
4 of yeast, sugars, and starches." The CDC goes on:

5 "Alcohol affects every organ in the body. It is a central nervous system
6 depressant that is rapidly absorbed from the stomach and small
7 intestine into the bloodstream. Alcohol is metabolized in the liver by
8 enzymes. However, the liver can only metabolize a small amount of
9 alcohol at a time, leaving the excess alcohol to circulate throughout the
10 body. The intensity of the effect of alcohol on the body is directly
11 related to the amount consumed."

12 9. Every five years the U.S. Department of Agriculture and the U.S.
13 Department of Health and Human Services jointly publish the *Dietary Guidelines for*
14 *Americans*. The Dietary Guidelines encourage Americans to eat a healthful diet to
15 help achieve and maintain a healthy weight, promote health, and prevent disease.
16 The publication forms the basis for developing federal nutrition programs, nutrition
17 standards, and nutrition education initiatives. On January 7, 2016, the departments
18 released the 2015-2020 *Dietary Guidelines for Americans*.

19 10. The CDC notes that, according to the *Dietary Guidelines*, "some people
20 should not drink alcoholic beverages at all, including: Anyone younger than 21.
21 Women who are or may be pregnant. People taking certain prescription or over the
22 counter medications that can interact with alcohol. People with certain medical
23 conditions. People who are recovering from alcoholism or who are unable to control
24 the amount they drink." As to persons under 21, the CDC explains:

25 "Studies have shown that alcohol use by adolescents and young adults
26 increases the risk of both fatal and nonfatal injuries. Research has
27 shown that people who use alcohol before age 15 are six times more
28 likely to become alcohol dependent than adults who begin drinking at

1 age 21.”

2 Regarding pregnancy, the CDC states:

3 “There is no known safe level of alcohol during pregnancy. Women
4 who are pregnant or plan on becoming pregnant should refrain from
5 drinking alcohol. Several conditions, including fetal alcohol spectrum
6 disorders, have been linked to alcohol use during pregnancy.”

7 As to other adults, the CDC states:

8 “The Dietary Guidelines also recommend that if alcohol is consumed, it
9 should be in moderation – up to 1 drink per day for women and up to 2
10 drinks per day for men – and only by adults of legal drinking age.”

11 A standard “drink” is defined as equal to 14.0 grams (0.6 ounces) of pure alcohol,
12 which is the amount found in 12 ounces of beer containing 5% alcohol content. The
13 CDC further notes that this definition of “moderate” alcohol consumption “refers to
14 the amount consumed on any single day and is not intended as an average over
15 several days.” Thus, the CDC defines “excessive alcohol use” in the form of “heavy
16 drinking” as 15 drinks or more per week for men and 8 drinks or more per week for
17 women.

18 11. The Alcohol and Tobacco Tax and Trade Bureau (“TTB”) is a bureau
19 under the U.S. Department of the Treasury. The TTB’s mission, among other things,
20 is to protect the public and consumers from misleading or improperly labeled alcohol
21 products by assuring compliance with federal alcohol labeling and marketing
22 requirements, including compliance with the Alcoholic Beverage Labeling Act of
23 1988.

24 12. The Alcoholic Beverage Labeling Act (27 USC § 213 et seq.) requires
25 that a Government health warning statement appear on all alcohol beverages for sale
26 or distribution in the United States. Congress required that warning label in order
27 to “inform and remind the American public of health hazards that may result from
28 the consumption or abuse of alcoholic beverages.” The Act specifies how the label

1 should appear and the exact words to use. The TTB, in turn, provides specific format
2 requirements to ensure that alcohol labels conform to those requirements.

3 13. More specifically, 27 USC § 215 makes it unlawful for any person to
4 manufacture, import, or bottle for sale or distribution in the United States any
5 alcoholic beverage unless the container of such beverage bears the following
6 statement (the "Health Warning Statement"):

7 "GOVERNMENT WARNING: (1) According to the Surgeon General,
8 women should not drink alcoholic beverages during pregnancy because
9 of the risk of birth defects. (2) Consumption of alcoholic beverages
10 impairs your ability to drive a car or operate machinery, and may
11 cause health problems."

12 An "alcohol beverage" is defined in 27 U.S.C. 214(1) as "any beverage in liquid form
13 which contains not less than one-half of one percent [0.5%] of alcohol by volume and
14 is intended for human consumption."

15 14. The fermentation that occurs in the production of kombucha is a natural
16 reaction when the sugar, yeast and bacteria are combined. As a consequence of this
17 fermentation, the resulting product can have an alcohol content of 0.5% or more by
18 volume. When this happens, the kombucha is regulated as an alcohol beverage under
19 the federal law and TTB regulations.

20 15. Indeed, the TTB has published website guidance and FAQs on
21 kombucha, which include the following:

- 22 • Kombucha products which "derive alcohol primarily from the
23 fermentation of sugar" are "classified as beer under the TTB regulations if
24 they contain 0.5% or more alcohol by volume."
- 25 • TTB regulations apply to kombucha if it is at or above 0.5% alcohol by
26 volume at any time (i.e., during production, at the time of bottling, or after
27 bottling): **"IMPORTANT [-] TTB regulations of alcohol beverages DO APPLY**
28 **to any kombucha that has less than 0.5% alcohol by volume when bottled BUT**

1 *the alcohol content increases to 0.5% or more alcohol by volume at any*
2 *point afterwards* as a result of continued fermentation in the bottle.”

3 • “Such a product is an alcohol beverage, which is subject to the laws and
4 regulations governing the production, taxation, labeling, marketing, and
5 distribution of alcohol beverages.”

6 • Kombucha beverages which contain 0.5 percent or more alcohol by
7 volume “must bear the health warning statement required by the Alcoholic
8 Beverage Labeling Act of 1988.”

9 16. Thus, the necessity to affix the federally-mandated Health Warning
10 Statement on kombucha that contains 0.5% or more alcohol by volume is a well-
11 known requirement among kombucha producers and regulators.

12 17. Consistent with the federal health assessments described above, the
13 1984 National Minimum Drinking Age Act (23 U.S.C. § 158) requires that States
14 prohibit persons under 21 years of age from purchasing or publicly possessing
15 alcoholic beverages, or lose federal highway funds. By 1988, all 50 States had
16 adopted 21 as the minimum age.

17 18. Added sugars in food and beverages are well known to have health
18 implications. The *Dietary Guidelines* state:

19 “Consumption of added sugars can make it difficult for individuals to
20 meet their nutrient needs while staying within calorie limits.

21 Naturally occurring sugars, such as those in fruit or milk, are not
22 added sugars. Specific examples of added sugars that can be listed as
23 an ingredient include brown sugar, corn sweetener, corn syrup,
24 dextrose, fructose, glucose, high-fructose corn syrup, honey, invert
25 sugar, lactose, malt syrup, maltose, molasses, raw sugar, sucrose,
26 trehalose, and turbinado sugar.”

27 The *Dietary Guidelines* further state:

28 “Strong evidence from mostly prospective cohort studies but also

1 randomized controlled trials has shown that eating patterns that
2 include lower intake of sources of added sugars are associated with
3 reduced risk of CVD in adults, and moderate evidence indicates that
4 these eating patterns are associated with reduced risk of obesity, type
5 2 diabetes, and some types of cancer in adults.”

6 19. The CDC’s information page on “Facts about Added Sugars
7 Consumption” states:

8 “Americans are eating and drinking too much added sugars which can
9 lead to health problems such as weight gain and obesity, type 2
10 diabetes, and heart disease. To live healthier, longer lives, most need
11 to move more and eat better including getting fewer calories from
12 added sugars.”

13 20. The CDC and the Dietary Guidelines recommend that adults should not
14 get any more than 10 percent of their daily calories from added sugars. In a 2,000-
15 calorie diet, that amounts to approximately 50 grams of sugar.

16 21. The American Heart Association has stated:

17 “Many people consume more sugar than they realize. It’s important to
18 be aware of how much sugar you consume because our bodies don’t
19 need sugar to function properly. Added sugars contribute zero
20 nutrients but many added calories that can lead to extra pounds or
21 even obesity, thereby reducing heart health.”

22 22. Thus, the American Heart Association recommends that women and
23 men respectively get no more than 100 and 150 calories from added sugars each day,
24 i.e. approximately 25 and 37.5 grams of sugar, respectively.

25 23. Federal law and regulations, including the Nutrition Labeling and
26 Education Act and regulations of the U.S. Food and Drug Administration, require
27 most foods, including GT’s Enlightened Kombucha, to affix a Nutrition Facts label.
28 Those labels must disclose the total sugars per serving, but are not required to

1 distinguish between added sugars and sugars that are naturally present in foods.
2 Persons seeking to monitor and limit their daily intake of added sugars must
3 therefore depend on an accurate listing of the amount of all sugars in their food as
4 important foundational information on which to base their dietary decisions.

5 24. The Nutrition Facts labels on GT's Enlightened Kombucha list all
6 sugars (added and naturally occurring) together. Specifically, the containers list the
7 amount of "Sugars" as from 6 to 8 grams per serving (in two-serving bottles),
8 depending on the particular flavor.

9 **II. GT'S' PATTERN AND PRACTICE OF SELLING ENLIGHTENED**
10 **KOMBUCHA WITHOUT DISCLOSING ITS TRUE ALCOHOL AND**
11 **SUGAR LEVELS**

12 25. Testing, using headspace gas chromatography combined with mass
13 spectrometry, demonstrated that GT's Enlightened Kombucha contains more than
14 0.5% alcohol by volume. However, GT's has never affixed the government-mandated
15 Health Warning Statement to containers of Enlightened Kombucha.

16 26. Furthermore, at all times GT's has marketed and sold its Enlightened
17 Kombucha to persons under 21 years of age, who are legally prohibited from
18 purchasing alcoholic beverages.

19 27. During all of this time GT's has maintained publicly, including in
20 product advertising, that the alcohol in its Enlightened Kombucha is less than 0.5%
21 by volume and can be consumed by persons of any age. For example, to the present
22 day, GT's' website contains the representation that "GT's Enlightened Kombucha
23 also yields a lower alcohol content (under .5% ABV) than GT's Classic Kombucha
24 (over .5% ABV)."3 Acknowledging the legal restrictions on the sale of alcoholic
25 kombucha, GT's goes on to state:

26 "That's why you must be age 21 + to purchase GT's Classic Kombucha,
27 while GT's Enlightened Kombucha is for Everyone, Everywhere. [¶]
28 Everyone of all ages can enjoy our Enlightened Kombucha!"

1 28. Furthermore, testing demonstrated that the sugar present in GT's
2 Enlightened Kombucha is more than 20% higher than the 6-8 grams per 8 fluid
3 ounces disclosed on the labels.

4 29. GT's' deceptive marketing and false labeling of its Enlightened
5 Kombucha –including the misrepresentations that it has less alcohol and less sugar
6 than it actually contains – is part of GT's' effort to portray the product as healthy.

7 **CLASS REPRESENTATION ALLEGATIONS**

8 30. Plaintiffs bring this action as a class action under the provisions of
9 California Code of Civil Procedure section 382, on behalf of a class of persons defined
10 as follows:

11 All persons who purchased GT's Enlightened Kombucha
12 in California on or after March 1, 2017 (the "Class").

13 31. Plaintiffs are members of the Class they seek to represent. Plaintiff
14 Zamora, Plaintiff Hartman, and the members of the Class would have paid
15 significantly less for Enlightened Kombucha, or would not have purchased it at all,
16 had the labels and advertising stated the true amounts of alcohol and sugar.
17 Plaintiffs and the members of the Class have suffered injury in fact and lost money
18 as a result of GT's' deceptive, misleading, unfair and fraudulent practices described
19 herein.

20 32. Plaintiffs reserve the right to amend or modify the Class description
21 with greater specificity or further division into subclasses or limitation to particular
22 issues, based on the results of discovery.

23 33. This suit may be maintained as a class action under California Code of
24 Civil Procedure section 382 and California Civil Code section 1781 because questions
25 of law and fact common to the Class predominate over the questions affecting only
26 individual members of the Class and a class action is superior to other available
27 means for the fair and efficient adjudication of this dispute.

28 34. **Ascertainable Class** – GT's sells hundreds of thousands, if not

1 millions, of bottles of Enlightened Kombucha and, therefore, the members of the
2 Class are so numerous that their individual joinder is impracticable. Plaintiffs are
3 informed and believe that there are at least thousands of purchasers in the class.
4 Inasmuch as the class members may be identified through discovery and distribution
5 records of GT's, third party retailers, and vendors, the number and identities of class
6 members can be ascertained. Members of the Class can be notified of the pending
7 action through social media, e-mail, mail, publication and other methods.

8 35. **Community of Interest** – There is a well-defined community of
9 interest amongst the Class members:

10 a. ***Existence and Predominance of Common Question of Fact***
11 ***and Law*** – There are questions of law and fact common to the Class.
12 These questions predominate over any questions affecting only
13 individual class members. These common legal and factual issues
14 include, but are not limited to whether GT's Enlightened Kombucha is
15 misbranded as to alcohol and sugar content, and whether the labeling,
16 marketing and promotion of GT's Enlightened Kombucha is false and
17 misleading as to alcohol and sugar content.

18 b. ***Typicality*** – The claims of the representative Plaintiffs are
19 typical of the claims of each member of the Class. Plaintiffs, like all
20 other members of the Class, have sustained damages arising from GT's'
21 violations of the laws, as alleged herein. The representative Plaintiffs
22 and the members of the Class were and are similarly or identically
23 harmed by the same unlawful, deceptive, unfair, systematic, and
24 pervasive pattern of misconduct engaged in by GT's.

25 c. ***Adequacy*** – The representative Plaintiffs will fairly and
26 adequately represent and protect the interests of the Class members
27 and has retained counsel who are experienced and competent trial
28 lawyers in complex litigation and class action litigation. There are no

1 material conflicts between the claims of the representative Plaintiffs
2 and the members of the Class that would make class certification
3 inappropriate. Counsel for the Class will vigorously assert the claims of
4 all Class members.

5 36. **Manageability** – The damages suffered by individual Class members
6 are small compared to the burden and expense of individual prosecution of the
7 complex and extensive litigation needed to address GT's' conduct. Further, it would
8 be virtually impossible for the members of the Class to individually redress
9 effectively the wrongs done to them. Even if Class members themselves could afford
10 such individual litigation, the court system could not. In addition, individualized
11 litigation increases the delay and expense to all parties and to the court system
12 resulting from complex legal and factual issues of the case. Individualized litigation
13 also presents a potential for inconsistent or contradictory judgments. By contrast, the
14 class action device presents far fewer management difficulties; allows the hearing of
15 claims which might otherwise go unaddressed because of the relative expense of
16 bringing individual lawsuits; and provides the benefits of single adjudication,
17 economies of scale, and comprehensive supervision by a single court.

18 37. Accordingly, it is clearly appropriate and preferable for this suit to be
19 maintained as a class action under California Code of Civil Procedure section 382
20 and California Civil Code section 1781.

21 **FIRST CLAIM FOR RELIEF**

22 **(Statutory Unfair Competition – Cal. Bus. & Prof. Code § 17200, et seq.)**

23 38. Plaintiffs incorporate by reference and re-allege all paragraphs
24 previously alleged herein.

25 39. GT's has made, published, disseminated, and circulated false, deceptive,
26 and misleading statements, representations, and advertisements misrepresenting
27 the characteristics of its Enlightened Kombucha with the intent of selling,
28 distributing, and increasing the consumption of, and interest in, its Enlightened

1 Kombucha.

2 40. GT's' conduct as alleged herein was unlawful, violating both applicable
3 federal and state statutes and regulations, including but not limited to the California
4 Business and Professions Code provisions concerning exclusivity, marketing, sales,
5 and promotions of alcoholic beverages (e.g., Cal Bus & Prof Code § 25000 et seq.,
6 25502, 25503), state and federal regulation of alcoholic beverages once alcohol
7 content reaches 0.5% alcohol by volume at any time during the manufacturing,
8 distribution, or sales processes (e.g., Cal. Alcoholic Beverage Control Act (Cal. B&P
9 Code § 23000 et seq.); 27 CFR part 25), and federal regulations regarding sugar
10 disclosures (e.g., 21 CFR part 101).

11 41. GT's' conduct as alleged herein constitutes unfair competition in that
12 such acts were and are unlawful, unfair, deceptive and/or fraudulent business acts or
13 practices in violation of California Business & Professions Code § 17200, et seq.

14 42. Plaintiffs and the Class members, and each of them, have been damaged
15 by said practices. Pursuant to California Business and Professions Code §§ 17200
16 and 17203, Plaintiffs, on behalf of themselves and all others similarly situated, seek
17 relief as prayed for below.

18 **SECOND CLAIM FOR RELIEF**

19 (False Advertising Under Cal. Bus. & Prof. Code § 17500, et seq.)

20 43. Plaintiffs incorporate by reference and re-allege all paragraphs
21 previously alleged herein.

22 44. California's False Advertising Law, Cal. Bus. & Prof. Code § 17500, et
23 seq., makes it "unlawful for any person to make or disseminate or cause to be made
24 or disseminated before the public in this state, ... in any advertising device ... or in
25 any other manner or means whatever, including over the Internet, any statement,
26 concerning ... personal property or services, professional or otherwise, or performance
27 or disposition thereof, which is untrue or misleading and which is known, or which by
28 the exercise of reasonable care should be known, to be untrue or misleading."

1 45. GT's engaged in a scheme of offering mislabeled bottles of GT's
2 Enlightened Kombucha for sale to Plaintiffs and the Class members by way of
3 product packaging, labeling, and other promotional materials. These materials
4 misrepresented and/or omitted the true content and nature of the bottles of GT's
5 Enlightened Kombucha. GT's' advertisements and inducements were made in and
6 originated from California and come within the definition of advertising as contained
7 in Bus. & Prof. Code § 17500, et seq. in that the product packaging, labeling, and
8 promotional materials were intended as inducements to purchase GT's Enlightened
9 Kombucha, and are statements disseminated by GT's to Plaintiffs and Class
10 members. GT's knew that these statements were unauthorized, inaccurate, and
11 misleading.

12 46. GT's disseminated advertisements in print, online, and television
13 formats which contained materially misleading and deceptive information and
14 omitted material information, as discussed throughout the Complaint, for purposes of
15 inducing customers to purchase Enlightened Kombucha, in violation of California
16 Business and Professions Code §17500, et seq.

17 47. Plaintiffs and the Class, and each of them, have been damaged by said
18 practices. Pursuant to California Business and Professions Code §17500 et seq.,
19 Plaintiffs, on behalf of themselves and all others similarly situated, seek relief as
20 prayed for below.

21 **THIRD CLAIM FOR RELIEF**

22 **(Violation Of California's Consumers Legal Remedies Act,**
23 **California Civil Code § 1750, et seq.)**

24 48. Plaintiffs incorporate by reference and re-allege all paragraphs
25 previously alleged herein.

26 49. The following definitions come within the meaning of the Consumer
27 Legal Remedies Act (Cal. Civ. Code § 1750, et seq.):

28 a. The members of the Class, all of whom purchased Enlightened

- 1 Kombucha manufactured and sold by GT's are "consumers" (Cal.
2 Civ. Code § 1761(d));
- 3 b. GT's is a "person" (Cal. Civ. Code § 1761(c));
- 4 c. Plaintiffs' and each and every Class members' purchase of
5 Enlightened Kombucha constitutes a "transaction" (Cal. Civ.
6 Code § 1761(e)); and
- 7 d. Enlightened Kombucha beverages are "goods" (Cal. Civ. Code §
8 1761 (a)).

9 50. The acts and practices of GT's as discussed throughout the Complaint,
10 constitute "unfair or deceptive acts or practices" by GT's, that are unlawful, as
11 enumerated in section 1770(a) of the California Civil Code.

12 51. Such misconduct materially affected the purchasing decisions of
13 Plaintiffs and the members of the Class.

14 52. On or about February 21, 2019, Plaintiff Zamora notified GT's of the
15 unlawful acts and practices described above by written notice at its principal place of
16 business as required by California Civil Code section 1782. This written notice
17 contained a demand that GT's pay damages in the amount of the reimbursement cost
18 for Plaintiff Zamora and all other purchasers of the purchase price of the subject
19 beverages. The February 21, 2019 notice is attached hereto as **Exhibit A**.

20 53. On or about February 28, 2019, Plaintiff Zamora sent a further
21 amended notice to the same address to GT's clarifying that its wrongful conduct
22 included both its "Enlightened" and "Enlightened Synergy" brand kombucha
23 beverages. The February 28, 2019 notice is attached hereto as **Exhibit B**.

24 54. Pursuant to California Civil Code section 1782(b), GT's was required to
25 respond to Plaintiff Zamora's notice and demand letter within 30 days of its receipt
26 by either correcting, repairing, replacing, or rectifying the violation set forth in the
27 notice and demand or by agreeing to correct repair, replace, or rectify the violation
28 within a reasonable time. GT's refused to accept these notices at its principal place

1 of business, and has not otherwise responded to the notices.

2 55. Plaintiffs and the Class, and each of them, have been damaged by said
3 practices. Pursuant to California Civil Code §1780, Plaintiffs, on behalf of
4 themselves and all others similarly situated, seek injunctive relief, actual damages,
5 restitution, and punitive damages pursuant to California Civil Code section 1780 as
6 prayed for below.

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiffs pray for judgment against GT's as follows:

9 1. For an order certifying the Class under California Code of Civil
10 Procedure section 3852 and naming Plaintiffs Gabriela Zamora and Samii Hartman
11 as representatives of the Class and Plaintiffs' attorneys as Class Counsel to represent
12 the Class members;

13 2. For an order declaring that GT's' conduct violates the statutes
14 referenced herein;

15 3. For compensatory and punitive damages in amounts to be determined
16 by the Court and/or jury;

17 4. For prejudgment interest on all amounts awarded;

18 5. For an order of restitution and all other forms of equitable monetary
19 relief;

20 6. For permanent injunctive relief prohibiting GT's, its agents, or anyone
21 working for, in concert with or on behalf of GT's from engaging in false or misleading
22 advertising with respect to its Enlightened Kombucha, which relief includes but is
23 not limited to removal of all false or misleading advertisements and improper
24 labeling of GT's Enlightened Kombucha;

25 7. For an order awarding Plaintiffs and the Class their reasonable
26 attorneys' fees and expenses and costs of suit; and

27 8. For such other and further relief as the Court deems just and proper.
28

1 DATED: November 12, 2019

LEVATOLAW, LLP

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By: 

Stephen D. Weisskopf
Attorney for Plaintiffs


EXHIBIT 1

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I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action; my business address is 2029 Century Park East, Suite 2910, Los Angeles, California 90067.

Scott Voelz (svoelz@omm.com)
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400 South Hope Street
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.


Stephen D. Weisskopf