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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 KACHUCK ENTERPRISES, BANTLE
11 AVOCADO FARM, MASKELL FAMILY
12 TRUST D/B/A MASKELL GROWERS and
13 NORTHERN CAPITAL, INC., and, on behalf
14 of themselves and all others similarly situated,

15 Plaintiffs,

16 v.

17 MISSION PRODUCE, INC., CALAVO
18 GROWERS, INC., FRESH DEL MONTE
19 PRODUCE, INC., DEL MONTE FRESH
20 PRODUCE COMPANY, DEL MONTE
21 FRESH PRODUCE N.A., INC.,

22 Defendants.

23 Case No. 2:25-cv-01523

24 **CLASS ACTION COMPLAINT**

25 DEMAND FOR JURY TRIAL

26 Cal. Bus. & Prof. Code § 17500 *et seq.*
27 Cal. Bus. & Prof. Code § 17200 *et seq.*

28 Plaintiffs Kachuck Enterprises, Bantle Avocado Farm, Maskell Family Trust d/b/a
Maskell Growers, and Northern Capital, Inc., (collectively, “Plaintiffs”) all own and operate
avocado orchards located in Southern California. Plaintiffs, individually and on behalf of other
similarly situated businesses and individuals, by and through their counsel, hereby bring this
action against Mission Produce, Inc. (“Mission”), Calavo Growers, Inc. (“Calavo”), and Fresh
Del Monte Produce, Inc., Del Monte Fresh Produce Company, Del Monte Fresh Produce N.A.,
Inc. (collectively, “Del Monte”) for violations of California’s False Advertising Law (“FAL”),

1 Cal. Bus. & Prof. Code § 17500 *et seq.*, California’s Unfair Competition Law (“UCL”), Cal.
2 Bus. & Prof. Code § 17200 *et seq.*, and unjust enrichment. Plaintiffs allege the following based
3 upon information, belief, and the investigation of counsel:
4

5 **I. NATURE OF THE CASE**

6 1. In order to increase sales of their imported Mexican avocados, Mission, Calavo,
7 and Del Monte (collectively, “Defendants”) make representations to consumers that their
8 avocados are sustainably and responsibly sourced. These statements are not true, because
9 Defendants all source their avocados from orchards in Mexico, where the local environment is
10 being decimated by uncontrolled deforestation, severe water shortages, soil degradation, and
11 biodiversity and habitat loss driven by U.S. demand for sustainably sourced avocados.
12

13 2. Mexican government shipping records, cross-referenced with Mexican
14 government maps of orchards certified for import to the U.S., and with satellite imagery, confirm
15 that each Defendant has sourced Mexican avocados from orchards that were installed on
16 deforested land.
17

18 3. Defendants’ marketing not only misleads consumers but also creates unfair
19 competition for California-based avocado growers, such as Plaintiffs and the class they seek to
20 represent. Plaintiffs have suffered declining sales, lost profits, loss of goodwill, and other injuries
21 as a result of Defendants’ unlawful conduct.
22

23 4. Consumers, who otherwise would choose to purchase California avocados, are
24 convinced by Defendants’ deceptive advertising that Mexican avocados are essentially identical
25 in terms of their environmental impact as California-grown avocados. This is untrue.
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1 5. This consumer confusion is compounded at the point of sale, as retailers generally
2 do not distinguish between California-grown and Mexican-grown avocados. Instead, they are
3 often commingled.
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5 6. Retail stores have also been known to use store displays that advertise California-
6 grown avocados but then fill the bins with either commingled or strictly Mexican-grown
7 avocados, contrary to the in-store signage.
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9 7. Upon information and belief, Defendants are aware of this retailer practice of
10 commingling California-grown and Mexican-grown avocados, and have taken no action to
11 counter this practice, which benefits their own financial interest.
12

13 8. The only way for a consumer to differentiate between a California-grown and
14 Mexican-grown avocado is via the small PLU stickers that are placed on the fruit. Below are
15 examples of how avocados often appear at retail supermarkets in the U.S.:
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9. As a result of Defendants' sustainability representations, consumers are unaware that Defendants' sourcing practices are environmentally destructive, and that California avocados

1 are the more sustainable choice. Most consumers, in turn, do not seek out California avocados at
2 the grocery store, or differentiate between California-grown or Mexican-grown avocados when
3 purchasing avocados.
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5 10. Defendants’ misleading online advertising about the sustainability and responsible
6 sourcing of Mexican avocados also leads to decreased market share for California-grown
7 avocados, including those grown by Plaintiffs and the putative class members.
8

9 11. If consumers were aware of Defendants’ actual sourcing practices, many more
10 would opt to purchase California-grown avocados.

11 12. Defendants are deceptively holding their avocados out to consumers as
12 “sustainable,” thereby profiting from consumers’ concern for the environment without having to
13 pay the true cost of sourcing sustainably grown avocados, undercutting California avocado
14 farmers.
15

16 13. Defendants’ false and deceptive advertising of Mexican-grown avocados as
17 sustainable has had devastating consequences for the California avocado industry, including
18 Plaintiffs and the class they seek to represent. In addition to each Plaintiffs’ monetary losses, the
19 California avocado industry as a whole has lost close to ten thousand fruit bearing acres since
20 2013.¹
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22 14. By this action, Plaintiffs seek to enjoin Defendants from engaging in unfair,
23 anticompetitive, and deceptive marketing practices. Plaintiffs also seek restitution of all monies
24 acquired by Defendants as a result of their unlawful, unfair, or fraudulent business practices.
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27 ¹*Industry Statistical Data, California Avocado Commission,*
28 <https://www.californiaavocadogrowers.com/industry/industry-statistical-data> (last visited Feb. 20,
2025).

1 **II. BACKGROUND**

2 15. In the early 1990’s the California Avocado Commission (“CAC”), using
3 California Avocado Farmers’ assessments, spent millions of dollars to investigate the avocado’s
4 nutritional attributes. This research established that the avocado is high in vitamins and
5 antioxidants, and low in polyunsaturated fats. This groundbreaking nutritional research resulted
6 in a significant increase in consumer demand for avocado. Mexico was eager to cash in on the
7 California avocado farmers’ investment and the emerging US market. Since the mid-1990s, when
8 the North American Free Trade Agreement (“NAFTA”) “established a free-trade zone” among
9 Canada, the U.S., and Mexico and lifted the ban on the importation of Mexican avocados to the
10 U.S., the popularity of avocados in the U.S. has soared.²

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14 16. Prior to NAFTA, in the 1980s, the total supply of avocados in the United States
15 was almost entirely covered by domestic production, and the majority of U.S. avocados were
16 grown in California.³

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18 17. In 2020, the United States–Mexico–Canada Agreement (“USMCA”) replaced
19 NAFTA. The USMCA has made importing avocados from Mexico even “easier and cheaper.”⁴

20 18. The popularity of, and demand for, avocados in the United States has increased
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25 ² Danielle Kurtzleben, *How NAFTA fueled the great avocado boom*, Vox (Feb. 16, 2015),
26 <https://www.vox.com/2015/2/16/8047991/nafta-avocados-fruit-vegetables>.

27 ³ Malek A. Hammami, et. al., *An Overview of the Avocado Market in the United States*,
28 Ask IFAS (Aug. 15, 2024), <https://edis.ifas.ufl.edu/publication/FE1150>.

⁴ Jacob Lee, *Shipping Avocados from Mexico to the United States*, Cross Border Freight
(Aug. 22, 2024), <https://mexicocrossborderfreight.com/shipping-avocados-from-mexico-to-the-united-states/>.

1 exponentially over the past few decades.⁵

2 19. The presence of avocados in United States supermarkets has tripled in the past
3 twenty years, and avocados in the United States are now a \$3-billion-per-year industry.⁶

4 20. Since the early 1990s, however, the total supply of avocados in the United States
5 has been increasingly dependent on imports. During the last decade, 90% of the U.S. supply of
6 avocados was imported from other countries. Mexico has been the dominant import source of
7 avocados, representing around 80% of total U.S. avocado shipments and 90% of imported
8 shipments over the last five years.⁷

9 21. California produces 95% of the avocados grown in the United States, but its share
10 of the total U.S. avocado market in any given year is usually less than 10%.⁸

11 22. Coinciding with increased consumer demand for avocados is consumer demand
12 for more environmentally sustainable produce.

13 23. Modern consumers are increasingly concerned about the sustainability and the
14 environmental consequences of their food purchases.

15 24. Consumers are motivated to purchase produce marketed as “sustainable” due to
16 growing awareness of the negative environmental consequences of the commercial agriculture
17 industry. These negative environmental consequences include deforestation, climate change,
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24 ⁵ Catharine Weber, et al., *Imports play dominant role as U.S. demand for avocados*
25 *climbs*, U.S.D.A., Econ. Rsch. Serv., (May 2, 2022), [https://www.ers.usda.gov/data-](https://www.ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=103810)
26 [products/charts-of-note/chart-detail?chartId=103810](https://www.ers.usda.gov/data-products/charts-of-note/chart-detail?chartId=103810).

27 ⁶ Jorge Vaquero Simancas, *Arson, logging and water theft: The avocado industry*
28 *deforests Mexico*, EL PAÍS (Nov. 29, 2023, 10:07 AM),
[https://english.elpais.com/international/2023-11-29/arson-logging-and-water-theft-the-avocado-](https://english.elpais.com/international/2023-11-29/arson-logging-and-water-theft-the-avocado-industry-deforests-mexico.html)
[industry-deforests-mexico.html](https://english.elpais.com/international/2023-11-29/arson-logging-and-water-theft-the-avocado-industry-deforests-mexico.html).

⁷ Hammami, et. al., *supra* note 3.

⁸ *Id.*

1 water and air pollution, soil degradation, and habitat and biodiversity loss.

2 25. Many consumers seek to minimize their ecological footprint and prioritize
3 supporting environmentally responsible farming methods for long-term ecological health. These
4 values are thought to be promoted by products that are marketed to consumers as “sustainable”
5 or environmentally responsible.
6

7 26. Consumers are often willing to pay more for products that align with their values,
8 or to buy more of those products. Corporations that market these products are keenly aware of
9 this consumer willingness.
10

11 27. As stated above, most avocados sold in the U.S. are imported from Mexico, and
12 the vast majority of Mexican avocados sold in the U.S. are exported from two Mexican states,
13 Michoacán and Jalisco.⁹
14

15 28. Michoacán is the only place on earth where avocado trees bloom four times a
16 year, instead of just once. This occurs because of the state’s rich volcanic soil and ideal elevation
17 for growing.¹⁰
18

19 29. Unfortunately, due to a combination of factors, Michoacán and Jalisco have been
20 decimated by uncontrolled deforestation, severe water shortages, and biodiversity and habitat
21 loss, among other adverse environmental consequences. Those factors include rising
22 international demand for avocados, lax governmental enforcement of environmental regulations,
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25 ⁹ Mark Stevenson, *2nd state in Mexico begins avocado exports to U.S. market*, AP (July
26 29, 2022, 1:40 PM), https://apnews.com/article/mexico-caribbean-global-trade-climate-and-environment-37ab9c9439de14d5393eb4dbf94f3d8b?utm_source=copy&utm_medium=share.

27 ¹⁰ Cassandra Garrison, *Mexican Avocados Grown on Illegal Orchards Should Not Be*
28 *Exported to U.S., Ambassador Says*, U.S. News & World Report (Feb. 26, 2024, 6:13 PM),
<https://www.usnews.com/news/world/articles/2024-02-26/mexican-avocados-grown-on-illegal-orchards-should-not-be-exported-to-u-s-ambassador-says>.

1 cartel and organized crime links to the Mexican avocado industry, and high profit margins for
2 avocados exported to the United States.

3
4 30. Michoacán’s Secretary of Environment, Alejandro Mendez, stated: “In
5 Michoacán right now I think the most sensitive, serious environmental issue is the indiscriminate
6 change of land use for avocado crops . . . , [which] puts at increasing risk our biodiversity, the
7 provision of water, and the forests in this state.”¹¹

8
9 31. Water is often diverted from local rivers and streams in the area in order to irrigate
10 avocado orchards. Water theft and uncontrolled use of water by the Mexican avocado industry
11 wreak havoc on the local environment and population, as streams dry up and residents do not
12 have enough water for human consumption.¹²

13
14 32. In April 2024, it was reported that “[r]ivers and even whole lakes are disappearing
15 in the once green and lush state of Michoacán,” and that local residents have organized to “rip
16 out illegal water pumps and breach unlicensed irrigation holding ponds” in a desperate attempt
17 to restore water security to their community.¹³

18
19 33. Patzcuaro Lake in Michoacán has been reduced to approximately half its former
20 size due to the drought, deforestation, sediment build-up, and the increased water diversion from
21 avocado and berry growers in the region. Nearby Lake Cuitzeo, one of the largest
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25 ¹¹ *Aguacate: negocio, ecocidio y crimen: Parte 1 [Avocado: Business, Ecocide and*
26 *Crime: Part 1]*, UGTV Territory Reporting Channel 44, YouTube (Sept. 7, 2022),
<https://www.youtube.com/watch?v=PaaaJXAx6NQ>.

27 ¹² *A serious risk’: Mexican villagers take on cartel-backed avocado farms as water dries*
28 *up*, *Euronews* (Apr. 24, 2024), [https://www.euronews.com/green/2024/04/24/a-serious-risk-](https://www.euronews.com/green/2024/04/24/a-serious-risk-mexican-villagers-take-on-cartel-backed-avocado-farms-as-water-dries-up)
[mexican-villagers-take-on-cartel-backed-avocado-farms-as-water-dries-up](https://www.euronews.com/green/2024/04/24/a-serious-risk-mexican-villagers-take-on-cartel-backed-avocado-farms-as-water-dries-up).

¹³ *Id.*

1 freshwater lakes in Mexico, has nearly dried up.¹⁴

2 34. In order to convince environmentally conscious U.S. consumers to continue
3 purchasing Mexican avocados despite these negative environmental consequences, Defendants
4 each make marketing representations about their avocados being sustainably sourced and
5 environmentally responsible.
6

7 35. These false and misleading representations deceive reasonable consumers who
8 would otherwise choose to purchase domestically grown California avocados to avoid
9 contributing to the harmful environmental effects caused by the Mexican avocado industry.
10

11 36. By contrast, Plaintiffs and their fellow California avocado farmers must follow
12 robust federal and state requirements for environmental protection, such as Good Agricultural
13 Practices and the Food Safety Modernization Act.
14

15 37. Plaintiffs and the class of California avocado farmers that they seek to represent
16 also must follow state implemented food safety and other environmental regulations, including
17 those regarding water use and those aimed at preventing agricultural runoff from impairing
18 surface waters and ground water.
19

20 38. Importantly, Plaintiffs and other California avocado farmers located in San Diego
21 County pay some of the highest prices for water in the country. For example, the Valley Center
22 Municipal Water District currently charges more than \$2,000 per acre-foot, excluding pumping
23 rates and other miscellaneous charges.¹⁵ The San Diego County Water Authority charges
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27 ¹⁴ *Id.*

28 ¹⁵ *Schedule of Rates*, Valley Center Municipal Water District, chrome-
extension://efaidnbmnnnibpcajpcgiclfindmkaj/https://www.vcmwd.org/Portals/0/PDF/Finance/
ScheduleOfRates.pdf (last visited Feb. 20, 2025).

1 between \$912 and \$1412 per acre-foot.¹⁶ By contrast, California farmers in neighboring Imperial
2 County pay \$20 per acre-foot of agricultural water.¹⁷

3
4 39. Meanwhile, unauthorized diversion of local water supplies for use on avocado
5 orchards is routine in Mexico.¹⁸

6 40. Upon information and belief, Defendants source from orchards in Mexico that
7 employ unauthorized diversion of local suppliers to water their avocado crops. Orchards that
8 employ these practices neither pay for nor sustainably obtain the water used to grow their fruit.

9
10 41. This purposeful consumer confusion not only harms consumers; it causes great
11 economic harm to Plaintiffs and their fellow California avocado growers. In addition to each
12 Plaintiff's monetary losses, the California avocado industry has lost significant market share, as
13 well as thousands of producing acres of avocado orchards, as a result of Defendants' actions.

14 15 **III. PARTIES**

16 **A. Plaintiffs**

17 42. Plaintiff Kachuck Enterprises is a California corporation with a principal place of
18 business in Los Angeles County, California.

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22 ¹⁶ *Rates and Charges*, San Diego County Water Authority,
23 <https://www.sdcwa.org/member-agencies/rates-charges/> (last visited Feb. 20, 2025).

24 ¹⁷ *About IID Water*, Imperial Irrigation District, [https://www.iid.com/water/about-iid-](https://www.iid.com/water/about-iid-water)
25 [water](https://www.iid.com/water/about-iid-water) (last visited Feb. 20, 2025).

26 ¹⁸ *CRI Mexico Report: Unholy Guacamole*, Climate Rights Int'l (Nov. 2023),
27 <https://cri.org/reports/unholy-guacamole/>. (“A CONAGUA official in Michoacán said that the
28 illegal use of water for avocado orchards is a “very serious problem,” and that it is common for
producers to pump water from wells or streams to water storage pools without licenses. Another
senior official in Michoacán said he believed that many of the water storage pools are sourced
from illegal wells and rivers.”)

1 43. Kachuck Enterprises manages, and its Kachuck Living Trust owns, a 372-acre
2 avocado grove in Valley Center, California that was originally purchased by Dr. Norman
3 Kachuck's family in 1968. Over the past 20 years, Kachuck Enterprises has harvested an average
4 of 3 million pounds of California avocados annually.
5

6 44. Between 2007 and 2019, the average annual profit from Kachuck Enterprises'
7 avocado grove was approximately \$1.2 million. Since 2019, however, the business has suffered
8 an average loss of approximately \$900,000 per year.
9

10 45. Kachuck Enterprises' avocado grove complies with all U.S. environmental laws
11 and regulations and grows its avocados sustainably.
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13 46. During the applicable statute of limitations, Kachuck Enterprises has suffered
14 declining sales, lost profits, loss of goodwill, and other injuries as a result, in part or in whole, of
15 Defendants' unfair conduct, including deceptive marketing of Mexican avocados.
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17 47. Bantle Avocado Farm is a domestic sole proprietorship owned by Jennifer and
18 Kurt Bantle with a principal place of business in San Diego County, California.
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20 48. Bantle Avocado Farm operates a 12-acre avocado orchard in Fallbrook, California.
21 The Bantles purchased the farm in 2011 as a means to help support their family.
22

23 49. Since 2016 and the present, they have faced financial losses in the amount of at
24 least \$600,000.
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26 50. Bantle Avocado Farm complies with all U.S. environmental laws and regulations
27 and grows its avocados sustainably.
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1 51. During the applicable statute of limitations, Bantle Avocado Farm has suffered
2 declining sales, lost profits, loss of goodwill, and other injuries as a result, in part or in whole, of
3 Defendants’ unfair conduct, including deceptive marketing of Mexican avocados.
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5 52. Maskell Family Trust d/b/a Maskell Growers (“Maskell Growers”) is a living trust
6 operated by Stuart Maskell with a principal place of business in San Diego County, California.
7

8 53. Since 2019, Maskell Growers has operated a 6-acre avocado orchard in San
9 Marcos, California.

10 54. Since 2021, Maskell Growers has incurred approximately \$30,000 to \$60,000 in
11 financial losses each year.

12 55. Maskell Growers complies with all U.S. environmental laws and regulations and
13 grows its avocados sustainably.
14

15 56. During the relevant time period, Maskell Growers has suffered declining sales,
16 lost profits, loss of goodwill, and other injuries as a result, in part or in whole, of Defendants’
17 unfair conduct, including deceptive marketing of Mexican avocados.
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19 57. Plaintiff Northern Capital, Inc. (“Northern Capital”) is a California corporation
20 with a principal place of business in San Diego County, California.

21 58. Northern Capital owns and operates a 15-acre avocado farm located in Fallbrook,
22 California. Northern Capital’s chief executive officer has been involved in avocado farming since
23 1978.
24

25 59. For the time period between 2016 and 2023, Northern Capital has operated at a net
26 loss for four out of the eight years, ranging from approximately \$25,000 to \$75,000 in losses for
27 each of those years.
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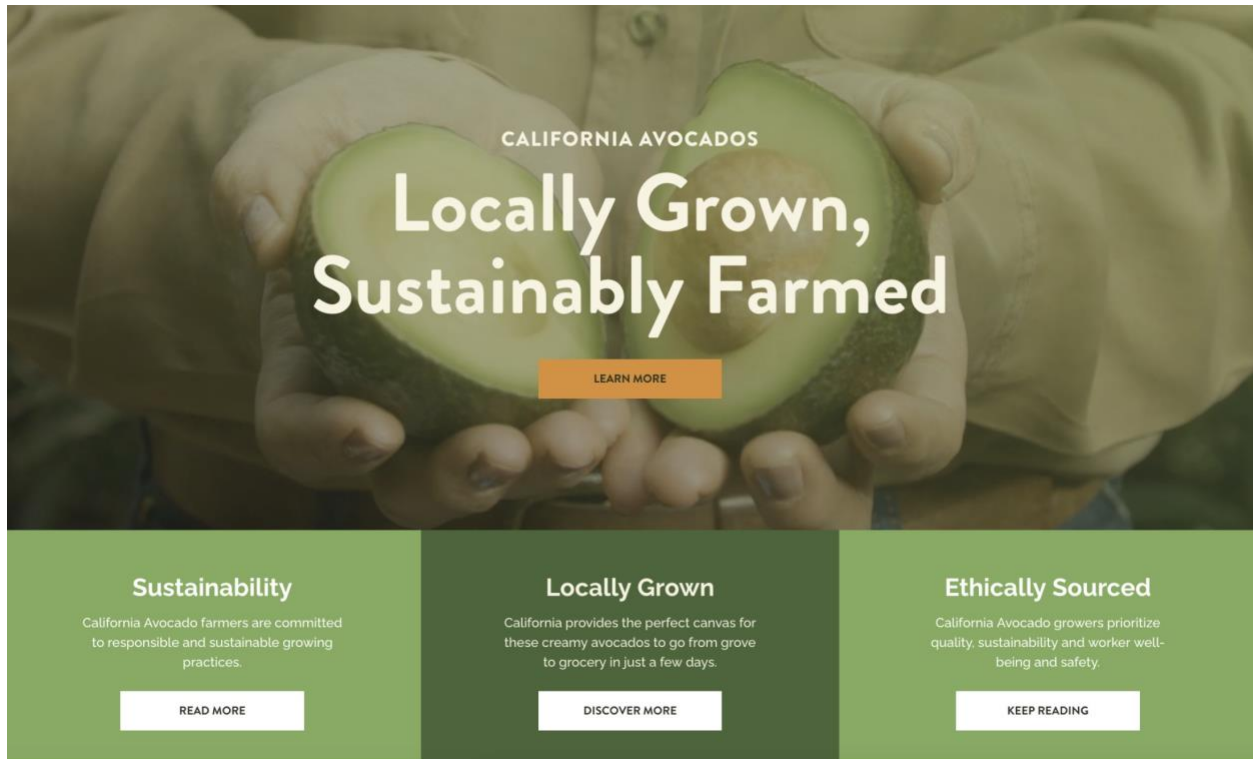
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60. Northern Capital complies with all U.S. environmental laws and regulations and grows its avocados sustainably.

61. During the relevant time period, Northern Capital has suffered declining sales, lost profits, loss of goodwill, and other injuries as a result, in part or in whole, of Defendants’ unfair conduct, including deceptive marketing of Mexican avocados.

62. Each of the Plaintiffs and the proposed Class Members also pay mandatory assessments to the California Avocado Commission (“CAC”), an organization with the stated mission “[t]o maximize grower returns by enhancing premium brand positioning for California avocados and improving grower sustainability.” A portion of these mandatory assessment payments go towards consumer marketing for California-grown avocados. An example of this marketing is shown in the below screenshot from the CAC website.¹⁹

¹⁹ *Online Platforms, California Avocado Commission*, <https://www.californiaavocadogrowers.com/marketing-california-avocados/online-platforms> (last visited Feb. 20, 2025).



63. Due to Defendants' false advertising, CAC's marketing for California-grown avocados is substantially diluted and/or rendered meaningless.

64. Plaintiffs and the Class Members are therefore entitled to restitution of, *inter alia*, the value of their mandatory assessment contributions made to CAC during the Class Period by Defendants.

B. Defendants

65. Defendant Mission is a Delaware corporation founded in 1983 and headquartered in Ventura County, California.

1 66. Mission is a vertically integrated company and global supplier and seller of
2 avocados and mangos.²⁰

3 67. Mission distributes and sells its avocados, or causes its avocados to be distributed
4 and sold, throughout the United States, including in California.

5 68. Mission’s avocados are marketed to consumers across the United States, including
6 in California.

7 69. Mission is the self-described “#1 exporter of Mexican avocados to the U.S.”²¹
8 Mission specifically states that it has “long-standing relationships with avocado growers
9 throughout Mexico's premium growing regions of Michoacán & Jalisco.”²²

10 70. In order to generate sales, Mission also promises consumers that its avocado
11 supply chain is sustainable.

12 71. Despite these assurances from Mission, Mexican government shipping records
13 show that Mission sources its avocados from orchards installed on deforested land in Michoacán
14 and Jalisco. Upon information and belief, based on satellite imagery, these orchards exist on land
15 that previously contained mature, native forest—established habitats removed for monocrop
16 avocado cultivation.

17 72. Defendant Calavo is a California business corporation founded in 1982 and
18 headquartered in Murrieta, California.

19 73. Calavo is one of the leading producers and distributors of avocados globally.

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26 ²⁰ *Discover the Mission Advantage*, Mission Produce, <https://missionproduce.com/discover-the-mission-advantage> (last visited Feb. 20, 2025).

27 ²¹ *Mexico*, Mission Produce, <https://missionproduce.com/mexico> (last visited Feb. 20,
28 2025).

²² *Id.*

1 74. Calavo is an avocado producer, packer, importer, and distributor with offices and
2 distribution centers across the United States, and with sourcing operations in Mexico, Colombia,
3 Peru, and Chile.
4

5 75. Calavo distributes and sells its avocados, or causes its avocados to be distributed
6 and sold, throughout the United States, including in California.

7 76. Calavo’s avocados are marketed to consumers across the United States, including
8 in California.
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10 77. In order to generate sales, Calavo represents that its avocados are “sustainable,”
11 responsibly grown, and “better for the planet.” *See supra* ¶ 100.

12 78. Despite these assurances, Mexican government shipping records show that Calavo
13 sources its avocados from orchards installed on deforested land in Michoacán and Jalisco. Upon
14 information and belief, based on satellite imagery, these orchards exist on land that previously
15 contained mature, native forest—established habitats removed for monocrop avocado cultivation.
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17 79. Defendant Fresh Del Monte Produce Inc. is a foreign business incorporated in the
18 Cayman Islands founded in 1989 and headquartered in Coral Gables, Florida.
19

20 80. Defendant Del Monte Fresh Produce Company is a Delaware business corporation
21 formed in 1985 and headquartered in Coral Gables, Florida.
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23 81. Defendant Del Monte Fresh Produce N.A. Inc. is a Florida business corporation
24 formed in 1969 and headquartered in Coral Gables, Florida.

25 82. Del Monte is a producer, packer, importer, and distributor of avocados and other
26 food products with offices and distribution centers across the United States, and with sourcing
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1 operations across Central America, South America, Europe, Kenya, the Middle East, North
2 Africa, Japan, South Korea, Hong Kong, and the Philippines.

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4 83. Del Monte distributes and sells its avocados, or causes its avocados to be
5 distributed and sold, throughout the United States, including in California.

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7 84. Del Monte’s avocados are marketed to consumers across the United States,
8 including in California.

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10 85. In order to generate sales, Del Monte represents that its avocados are sourced
11 responsibly and sustainably and that its growers “implement the best practices that protect the
12 environment.” *See supra* ¶ 103.

13
14 86. Despite these assurances, Mexican government shipping records show that Del
15 Monte sources its avocados from orchards installed on deforested land in Michoacán and Jalisco.
16 Upon information and belief, based on satellite imagery, these orchards exist on land that
17 previously contained mature, native forest—established habitats removed for monocrop avocado
18 cultivation.
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1 **IV. JURISDICTION AND VENUE**

2 87. This Court has original subject-matter jurisdiction over this proposed class action
3 pursuant to 28 U.S.C. § 1332(d), the Class Action Fairness Act (“CAFA”). There are at least 100
4 members in the proposed class. Plaintiffs are citizens of California and have principal places of
5 business within the State of California. On information and belief, Mission is a citizen of the State
6 of California; Calavo is a citizen of the State of California; and the Del Monte Defendants are
7 citizens of the State of Florida. The amount in controversy exceeds the sum of \$5,000,000,
8 exclusive of interest and costs.
9

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11 88. This Court has personal jurisdiction over Defendants in that they regularly conduct
12 and transact business in California, purposefully avail themselves of the laws of California, market
13 their avocados with various sustainability representations to consumers in California and sell their
14 Products in numerous grocery stores in California.
15

16 89. Venue is proper in this District under 28 U.S.C. § 1391(a). Substantial acts in
17 furtherance of the alleged improper conduct, including the dissemination of false and misleading
18 marketing and advertising regarding the nature and sourcing of the products and sales of the
19 products at issue, occurred within this District.
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21 90. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.
22 § 1332 (diversity).
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1 **IV. FACT ALLEGATIONS**

2 **A. Defendants Each Make Representations That Their Avocados Are**
3 **Sustainably and Responsibly Sourced.**

4 91. Consumers who wish to purchase sustainably sourced avocados rely on marketing
5 and advertising to make purchasing decisions and to choose avocados that they believe align with
6 their values.

7
8 92. Reasonable consumers do not expect avocados marketed as sustainably sourced to
9 be grown on deforested land or to contribute to extreme water depletion and other negative
10 environmental consequences.

11
12 93. Domestic avocado growers, such as Plaintiffs and the Class they seek to represent—
13 who comply with U.S. laws, follow environmentally sustainable practices, and incur the financial
14 costs of doing so—struggle to compete with Defendants’ alleged “sustainable” Mexican avocados,
15 grown on deforested land, with stolen water, and without paying for the proper permits.

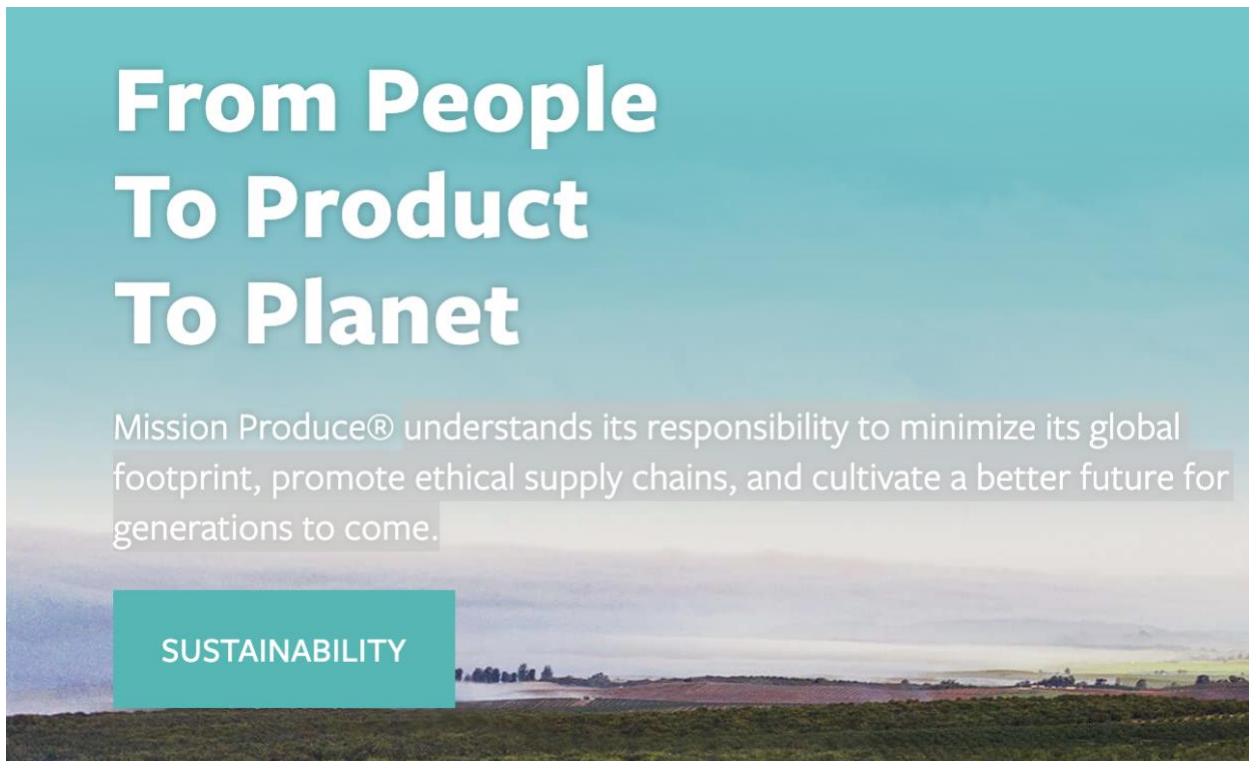
16
17 94. The issue is not that avocados imported from Mexico are simply cheaper to produce
18 than American-grown ones. Instead, Defendants are knowingly passing their unsustainably grown
19 Mexican avocados as “sustainable” to consumers and purposefully circumventing the true
20 financial cost of sustainably grown avocados for their own profit, and to the detriment of domestic
21 avocado farmers, such as Plaintiffs and their fellow California avocado farmers.

22
23 **1. Mission Makes Sustainability Representations to Consumers.**

24 95. Mission represents to consumers that it is a company devoted to environmental
25 sustainability.
26
27
28

1 96. Examples of Mission’s representations about the sustainable and responsible
2 production of its avocados (herein called the “Mission Sustainability Representations”) are listed
3 and seen below:
4

- 5 a. On its main webpage, Mission states that it “understands its responsibility to
6 minimize its global footprint, promote ethical supply chains, and cultivate a
7 better future for generations to come.”²³
8



- 22 b. On its “Sustainability” webpage, Mission explains in detail to consumers why
23 it is a sustainable produce company, emphasizing the three pillars of its
24 sustainability framework: “People, Product, and Planet.”²⁴
25
26

27 ²³ *Mission Produce*, <https://missionproduce.com/> (last visited Feb. 20, 2025).

28 ²⁴ *Sustainability*, Mission Produce, <https://missionproduce.com/sustainability> (last visited Feb. 20, 2025).

Sustainability Framework



- c. Mission states that it “recognize[s] [its] responsibility to preserve [] resources, promote ethical supply chains, and cultivate a better future for generations to come.”²⁵
- d. Mission publicizes its 2023 Sustainability Report,²⁶ advertised to consumers via Mission’s website, in which Mission represents that it efficiently manages water resources to “prevent water waste and help conserve water for future generations.”²⁷

Water Management

Water management is a significant component of our approach to sustainable crop production. By using water resources effectively and efficiently, we can prevent water waste and help conserve water for future generations. We track and report total water usage in the SASB index of this report.

- e. Mission represents that it “maintain[s] and care[s]” for the biodiversity surrounding its avocado fields by “monitoring plant and animal ecosystems.”²⁸

²⁵ *Id.*

²⁶ *Mission Produce: FY 2023 Sustainability Report*, Issuu (Apr. 1, 2024), <https://issuu.com/missionavocados/docs/mis-esg-report-2023-pages>.

²⁷ *Id.* at 10.

²⁸ *Id.* at 22.

f. On its consumer-facing social media page, Mission frequently highlights purported sustainability efforts, such as in the images below, captured from Instagram.²⁹



²⁹Mission Produce (@mission_produce), Instagram (Apr. 26, 2023), <https://www.instagram.com/p/CrgO1iEMVOR/>; Mission Produce (@mission_produce), Instagram (Apr. 12, 2023), <https://www.instagram.com/p/Cq8Zab2OvPF/>; Mission Produce (@mission_produce), Instagram (July 14, 2022), https://www.instagram.com/p/Cf_zeOVMGq5/.



mission_produce · Follow

mission_produce Happy #EarthMonth from Mission Produce! This month, we released our FY 2022 Sustainability Report, sharing our commitment to a more sustainable future throughout our global network. Stay tuned this #April for highlights of some of our most impactful #sustainability achievements.

#MissionProduce #People #Product #Planet

80w

63 likes
April 12, 2023

Add a comment... Post



mission_produce · Follow

mission_produce Growing high-quality avocados is great, but growing high-quality avocados sustainably is even better. 🌱

Read more in our #ESG report at the link in our bio.

#MissionProduce #MissionAvocados #ESG

118w

avoberriesmx Excellent 🌱

118w 1 like Reply

32 likes
July 14, 2022

Add a comment... Post

1 97. Finally, Mission recognizes that the Mission Sustainability Representations are an
2 important marketing tool. For this reason, “sustainability” is also a key part of Mission’s
3 campaigns at produce-related conferences.³⁰
4

5 98. The foregoing Mission Sustainability Representations are intended to, and do, lead
6 reasonable consumers to believe that Mission’s avocados are sustainably sourced in a manner that
7 is not harmful to the environment. In reality, Mission sources its avocados from orchards installed
8 on deforested land and uses practices that are environmentally destructive, specifically
9 contributing to deforestation, degradation of air quality from shipping long distances, climate
10 change, natural habitat and biodiversity loss, and extreme water scarcity for local communities.
11

12 **2. Calavo Makes Sustainability Representations to Consumers.**

13 99. Calavo states that its “sustainability strategy includes a commitment to long-term
14 ecological balance, environmental soundness and social equity throughout our enterprise.”³¹
15

16 100. Examples of Calavo’s representations about the sustainable and responsible
17 production of its avocados (herein called the “Calavo Sustainability Representations”) are listed
18 and seen in the images below:
19

- 20 a. Calavo emphasizes “ecological balance, environmental soundness and social
21 equity.”³²
22
23
24
25

26 ³⁰*Mission Launches “Experience the Difference” Campaign*, Mission Produce,
27 <https://missionproduce.com/news/mission-launches-experience-the-difference-campaign> (last
28 visited Feb. 21, 2025).

³¹ *Sustainability*, Calavo, <https://ir.calavo.com/sustainability> (last visited Feb. 21, 2025).

³² *Id.*



- b. Calavo touts that “[s]ustainability is embedded into all our decision-making processes, whether they occur within our own packing, distribution and manufacturing operations or extend to our individual growers and suppliers from whom we source.”³³

Sustainability

Calavo’s sustainability strategy includes a commitment to long-term ecological balance, environmental soundness and social equity throughout our enterprise. Sustainability is embedded into all of our decision-making processes, whether they occur within our own packing, distribution and manufacturing operations or extend to our individual growers and suppliers from whom we source.

³³ *Id.*

1 c. Calavo’s consumer-facing 2022 Sustainability Report makes many
2 representations about its fresh produce, specifically its avocados, being
3 produced sustainably. As shown in the images below, Calavo claims that
4 “avocado trees contribute to fighting climate change by capturing and storing
5 CO2,” using no-till growing that “improves soil health,” while asserting that its
6 operations “promote[] water efficiency” and “support[] strong farming
7 communities.”³⁴
8
9

- 10 • **Capturing Carbon:** Avocado trees contribute to fighting climate change by capturing and storing CO2 from the
11 atmosphere and breathing-out oxygen. A mature avocado tree can absorb up to 48 pounds of CO2 per year.
- 12 • **Building Soil Health:** Avocado farmers practice no-till growing which stores and prevents the release of CO2,
13 prevents soil erosion, and improves soil health. In addition, leaves from avocado trees are left in the groves where
14 they create mulch which builds microbial activity and adds nutrients to the soil.
- 15 • **Water Use and Efficiency:** Modernized precision irrigation systems combined with the use of natural rainwater,
16 on over 90% of the acreage growing avocados for U.S. consumption, promotes water efficiency. Regenerative
17 practices, including no-till, improve water retention and infiltration.
- 18 • **Higher Density Planting:** New plantings in many growing regions put trees in closer proximity to each other
19 to produce more fruit using less area. This practice also promotes using less resources on fewer acres driving
20 the efficient use of all resources including water and fertilizer. This practice can also be beneficial in helping
21 preserve the natural habitats of insects, animals, and plants.
- 22 • **Supporting Strong Farming Communities:** Family farms, in all growing regions, benefit the communities they
23 operate in with job creation. This benefit occurs in many low-income and rural communities, in multiple countries.
- 24 • **Renewable Energy:** The industry is implementing and exploring opportunities to power irrigation and operations
25 systems with solar following smart agricultural practices, in an effort to be more energy efficient, reduce green-
26 house gas emissions and improve air quality.

27 d. Calavo additionally represents that its avocados are “better for the planet” as
28 seen in the image below:³⁵

³⁴ *Calavo Growers, Inc.: 2022 Sustainability Report*, Calavo (2022) at 9,
https://calavo.com/wp-content/uploads/2024/02/CalavoESG2022_FIN_SGL_2__91.pdf.

³⁵ *Sustainability*, *supra* note 31.



- e. In Calavo’s 2022 sustainability report, Calavo describes its “sustainability framework,” which includes “climate action, social responsibility, *sustainable agriculture*, and sound governance” (emphasis added).³⁶
- f. Calavo specifically states that it “seeks to minimize pollution to land, water and air because we understand that responsibly managing our waste streams is important to our business and to the communities in which we operate.”³⁷

³⁶Calavo Growers, Inc.: 2022 Sustainability Report, *supra* note 34 at 4.

³⁷ *Id* at 13.

- 1 g. In its “Environmental Policy Statement,” Calavo states that it is “specifically
2 committed” to “conservation of natural resources through careful planning and
3 efficient use of water, energy and raw materials.”³⁸
4
- 5 h. In its “Sustainability Policy,” Calavo claims that its “environmental and social
6 expectations [extend] into our supply chain, where we buy from thousands of
7 individual growers and food producers.”³⁹
8
- 9 i. On its consumer-facing social media page, Calavo frequently highlights
10 purported sustainability efforts, such as in the images below, captured from
11 Instagram.⁴⁰
12
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24 ³⁸ *Environmental Policy Statement*, Calavo, <https://ir.calavo.com/static-files/e9ce82eb-4dff-4a4b-9d0f-f0e07676e760> (last visited Feb. 21, 2025).

25 ³⁹ *Id.*

26 ⁴⁰ Calavo Growers (@calavogrowers), Instagram,
27 <https://www.instagram.com/p/CcqCEy3ree7/> (Apr. 22, 2022); Calavo Growers
28 (@calavogrowers), Instagram, <https://www.instagram.com/p/C6EbjbUuoJZ/> (Apr. 24, 2022).

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Calavo calavogrowers



34 1

calavogrowers We take pride in sustaining a healthy planet, so you can protect and nourish what matters most.
Happy Earth Day!
April 22, 2022

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101. The foregoing Calavo Sustainability Representations are intended to, and do, lead reasonable consumers to believe that Calavo’s avocados are sustainably sourced in a manner that is not harmful to the environment. In reality, Calavo sources its avocados from distant orchards installed on deforested land and uses practices that are environmentally destructive, specifically contributing to air quality degradation, deforestation, climate change, natural habitat and biodiversity loss, and extreme water scarcity for local communities.

1 **3. Del Monte Makes Sustainability Representations to Consumers.**

2 102. Del Monte promises, on the landing page of its consumer-facing website, that its
3 “business is built on agriculture and ecosystems thriving together,”⁴¹ and that “in order to ensure
4 the prosperity of [its] farms and the biodiversity that surrounds them, water stewardship is key.”⁴²
5

6 103. Examples of Del Monte’s representations about the sustainable and responsible
7 production of its products (herein called the “Del Monte Sustainability Representations”) are listed
8 and seen in the images below:
9

10 a. “At Fresh Del Monte, sustainability isn’t just a word, it’s woven into every
11 fiber of our business.”⁴³
12

13 **A look into our**
14 **sustainability program**
15
16
17

18 At Fresh Del Monte, sustainability isn’t just a word, it’s woven into every fiber of our
19 business. Take a look into our sustainability efforts and how we’re working to
20 conserve biodiversity, reduce our impact on climate change, and partner with
21 communities around the world to create A Brighter World Tomorrow®.
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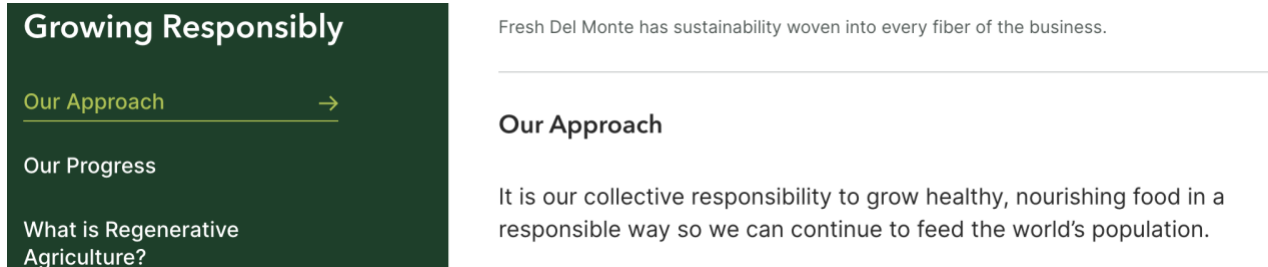
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27 ⁴¹ *The Gold Standard of Goodness*, Fresh Del Monte, <https://freshdelmonte.com/> (last
28 visited Feb. 21, 2025).

⁴² *Id.*

⁴³ *Our Approach*, Fresh Del Monte, <https://freshdelmonte.com/our-approach/> (last visited
Feb. 21, 2025).

b. “We only have one planet where we grow the healthy, nourishing food that feeds the world’s population. Protecting it and its resources is our collective responsibility.”⁴⁴



c. “Our business is intrinsically connected to natural resources and using them responsibly and sustainably is a top priority for Del Monte. This involves concerted efforts across our operations to conserve biodiversity, reduce our carbon footprint, improve soil health, and water quality, and partner with the communities around our farms.”⁴⁵

⁴⁴ *Id.*

⁴⁵ *A Brighter World Tomorrow: 2022 Sustainability Report*, Fresh Del Monte (2022) at 12, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://freshdelmonte.com/wp-content/uploads/2023/10/FDM_2022_SustainabilityReportFINAL.pdf.

APPROACH TO SUSTAI- NABILITY

**Protecting our planet and
its resources is our
collective responsibility.**

Our business is intrinsically connected to natural resources and using them responsibly and sustainably is a top priority for Fresh Del Monte. This involves concerted efforts across our operations to conserve biodiversity, reduce our carbon footprint, improve soil health, and water quality, and partner with the communities around our farms.

We recognize that the success of our business is fundamentally linked to people - those in our direct operations and our supply chain. Alongside environmental protection, we prioritize key social issues that impact the wellbeing of our people.

Our vision for **A Brighter World Tomorrow®** is our commitment to building a food system that will sustainably meet humanity's most basic needs for generations to come. Our strength is in creating sustainability programs that focus on shared learning and technological innovation, while considering what an entire ecosystem needs to thrive. In doing so, we seek to build a sustainable and resilient business and to positively contribute to the entire agriculture industry.

1 d. “[A]ssessing water resiliency beyond [Del Monte’s] own operations is
2 critical to [its] business as climate risk and stakeholder actions throughout [its] watershed affect
3 water availability.”⁴⁶

4 e. “[N]o agricultural projects will be developed in lands covered with mature
5 forest.”⁴⁷

6 f. Del Monte lists one of its sustainability pillars as “protecting our planet,”
7 defining this pillar as “protecting and promoting the health of our planet, its wildlife and its natural
8 resources.”
9

10 g. Del Monte has trademarked a corresponding “people, planet, produce”
11 symbol⁴⁸ for use in its marketing materials:
12



23
24
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28

⁴⁶ *Id.* at 38.

⁴⁷ *Land and Water Suitability*, Del Monte (Aug. 17, 2020), https://freshdelmonte.com/wp-content/uploads/2021/12/LWSA_2020.pdf.

⁴⁸ *A Brighter World Tomorrow: 2022 Sustainability Report*, *supra* note 45 at 19.

1 h. Del Monte makes representations to consumers about a Global
2 Environmental Policy, highlighting a purported “unique ability to steward our land, water, and
3 air”;⁴⁹
4



5 6 7 8 **Fresh Del Monte Produce** 9 **Global Environmental Policy**

10 At Fresh Del Monte Produce, we are working towards A Better World Tomorrow where our
11 business, products, people, communities, and planet are sustainable through generations. We
12 embed sustainability into how we do business; including how we grow, transport, package and
13 deliver our products and in how we interact with our communities. As one of the world’s
14 leading produce companies, we recognize that it is our responsibility to provide safe and
15 wholesome food to our consumers, while also protecting and ensuring the well-being of our
16 planet. As a vertically integrated consumer food company, we also have a unique ability to
17 steward our land, water, and air, along with a responsibility to lead by example.

18 i. Del Monte declares in this policy that it will “ensure that no agricultural
19 projects will be developed in lands covered with mature forest or in areas with a high risk of
20 directly impacting wetlands in order to both protect local ecosystems and avoid GHG emissions
21 due to such land use change.”⁵⁰

22 j. In its “Responsible Farming Program,” to which its Global Environmental
23 Policy cites, Del Monte affirms, “We work hard to provide the highest quality produce for our
24 consumers while leaving the smallest possible footprint.”⁵¹

25
26
27 ⁴⁹ *Fresh Del Monte Produce Global Environmental Policy*, Del Monte (Sept. 1, 2020),
https://freshdelmonte.com/wp-content/uploads/2021/12/FDM_EnvironmentalPolicy_2020.pdf.

28 ⁵⁰ *Id.*

⁵¹ *Id.*

1 k. Del Monte’s “Land and Water Suitability Analysis Policy” states in the
2 “Ecosystem Conservation” section: “No agricultural projects will be developed in lands covered
3 with mature forest,” and a “satellite or drone image should be submitted to show the type of
4 vegetation existing on the land under assessment and its immediate surroundings.”⁵²

5
6 l. Del Monte promises that its vendors and growers “adopt and implement the
7 best practices that protect the environment.”⁵³



13 Protection of the Environment

14 Our vendors and growers comply with
15 applicable local environmental laws,
16 regulations, and standards and adopt and
17 implement the best practices that protect the
18 environment.

19
20 m. On its consumer-facing social media page, Del Monte frequently highlights
21 purported sustainability efforts, such as in the images below, captured from Instagram.⁵⁴

24 ⁵² *Land and Water Suitability*, *supra* note 47.

25 ⁵³ *Vendors and Grower*, Del Monte, <https://freshdelmonte.com/vendors-growers/> (last
26 visited Feb. 21, 2025).

27 ⁵⁴ Del Monte Fresh Produce (@delmontefresh), Instagram,
28 https://www.instagram.com/p/Cy_LwKINq6G/ (Oct. 29, 2023); Del Monte Fresh Produce
29 (@delmontefresh), Instagram, <https://www.instagram.com/p/Cu7GXJ5sWBL/> (July 20, 2023);
30 Del Monte Fresh Produce (@delmontefresh), Instagram,
31 <https://www.instagram.com/p/Ctb6Su3smTo/> (June 13, 2023).



62 2

Sustainability isn't just our goal; it's something Fresh Del Monte firmly believes in and lives by. A strong environmental management system is crucial to continue providing fresh fruits and vegetables.

[#DelMonteFreshProduce](#) [#Fresh](#) [#Delicious](#)
[#Sustainability](#) [#Earth](#)

October 29, 2023

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delmontefresh The complete ecosystem is vital to the health of our products and the success of our sustainability efforts. The goals the Del Monte brands have are designed to support this ecosystem and our entire value chain!

[#DelMonteFreshProduce](#) [#Fresh](#) [#Delicious](#)
[#Sustainability](#) [#Ecosystem](#) [#SustainabilityEfforts](#)
[#BusinessStrategy](#)

July 20, 2023

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104. The foregoing Del Monte Sustainability Representations are intended to, and do, lead consumers to believe that Del Monte’s avocados are sourced responsibly and sustainably, in a manner that is not harmful to the environment. In reality, Del Monte sources its avocados from orchards grown on deforested land and use practices that are environmentally destructive, specifically contributing to degradation of air quality, deforestation, climate change, natural habitat and biodiversity loss, and extreme water scarcity for local communities.

1 **B. Contrary to Their Sustainability Representations, Defendants’ Avocados Are**
2 **Not Sustainably or Responsibly Sourced.**

3 **1. Defendants Each Source Avocados from Orchards in Mexico Installed**
4 **on Recently Deforested Land.**

5 105. Mexican government shipping records, cross-referenced with Mexican government
6 maps of avocado orchards certified to export to the United States and with satellite imagery,
7 confirm that Defendants each sourced avocados from orchards installed on deforested land as
8 recently as 2024, as explained in further detail below.

9
10 106. Mexican law requires a federal permit to convert forests to agricultural uses.
11 Government records indicate that no such permits have been issued in Michoacán for at least two
12 decades; none were issued in Jalisco between 2011 and 2022; and just nine were issued in the state
13 for avocado plantations between 2000 and 2010.⁵⁵ In this regard, Defendants’ avocado sourcing,
14 in addition to being unsustainable, appears to be illegal.

15
16 107. Forest clearing for avocado plantations has perpetuated deforestation of these
17 important forests and threatened water supply across the state. A study published in the *Journal of*
18 *Environmental Management* in 2020 indicated that avocado orchards accounted for about one-fifth
19 of the deforestation in Michoacán and neighboring Jalisco between 2001 and 2017.⁵⁶

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24 ⁵⁵ Autorizaciones De Cambio De Uso Del Suelo En Terrenos Forestales 2003-2022
25 [Authorizations For Changes In Land Use On Forest Land 2003-2022], Secretaria De Medio
26 Ambiente Y Recursos Naturales, Delegacion Federal En Michoacán [Sec’y of the Env’t and Nat.
27 Res., Fed. Delegation] [https://www.gob.mx/tramites/ficha/solicitud-de-cambio-de-uso-de-suelo-
en-terrenos-forestales/SEMARNAT237](https://www.gob.mx/tramites/ficha/solicitud-de-cambio-de-uso-de-suelo-en-terrenos-forestales/SEMARNAT237) (downloaded on May 1, 2024).

28 ⁵⁶ Kimin Cho et al., *Where does your guacamole come from? Detecting deforestation
associated with the export of avocados from Mexico to the United States*, 278 J. OF ENV’T MGMT.
111482 (Oct. 27, 2020) <https://pubmed.ncbi.nlm.nih.gov/33126191/>.

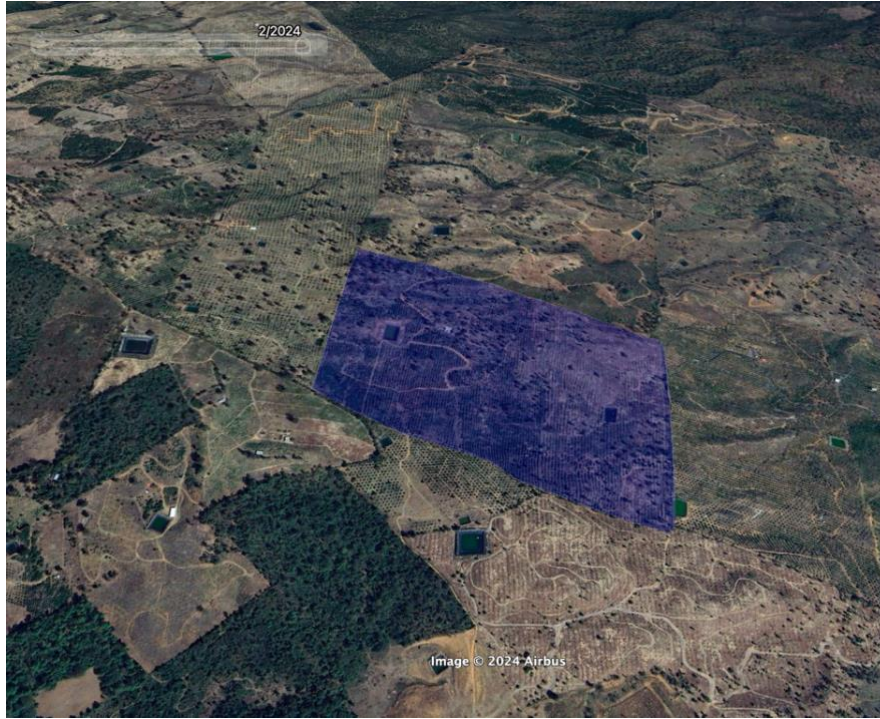
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3 **a. Mission’s Sourcing Practices.**

4 108. Satellite imagery of Zacapu, Michoacán shows before (February 2015) and after
5 (February 2024) photos of land where avocado orchards currently exist. The images below
6 illustrate how deforestation has impacted an orchard from which Mission sourced 27,510
7 kilograms of avocados in 2022 (area in blue).⁵⁷ Mission also purchased avocados from this orchard
8 in January 2024.⁵⁸



21
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27 ⁵⁷ Google Earth images. Data sourced from Mexican Government Transparency Request
330028323000032; publico.senasica.gob.mx/?id=7258. Mexican Government Shipping Records
Reference Number HUE08161070708 (on file with Plaintiff’s counsel).

28 ⁵⁸ *Deforestation in Mexico*, Climate Rights Int’l (Aug. 6, 2024), <https://cri.org/reports/us-avocado-sellers-fail-to-end-sourcing-from-illegally-deforested-land-in-mexico/>



109. Additionally, satellite imagery cross-referenced with shipping records show that in 2022, Mission sourced 17,330 kilograms of avocados from an orchard in Madero, Michoacán installed on deforested land.⁵⁹ Mission also purchased avocados from the same orchard in December 2023.⁶⁰

110. Mexican government shipping records indicate that in 2022, Mission sourced 16,290 kilograms from another Madero orchard, which satellite imagery confirms was installed on land deforested between 2015 and 2024.⁶¹

111. In 2022, Mission sourced a total of 7,700 kilograms of avocados from two Ziracuaretiro orchards that were installed on deforested land between 2015 and 2023.⁶²

⁵⁹ Mexican Government Shipping Records Reference Number HUE08160490979 (on file with Plaintiff's counsel).

⁶⁰ *Deforestation in Mexico*, *supra* note 58.

⁶¹ Mexican Government Shipping Records Reference Number HUE08160490325 (on file with Plaintiff's counsel).

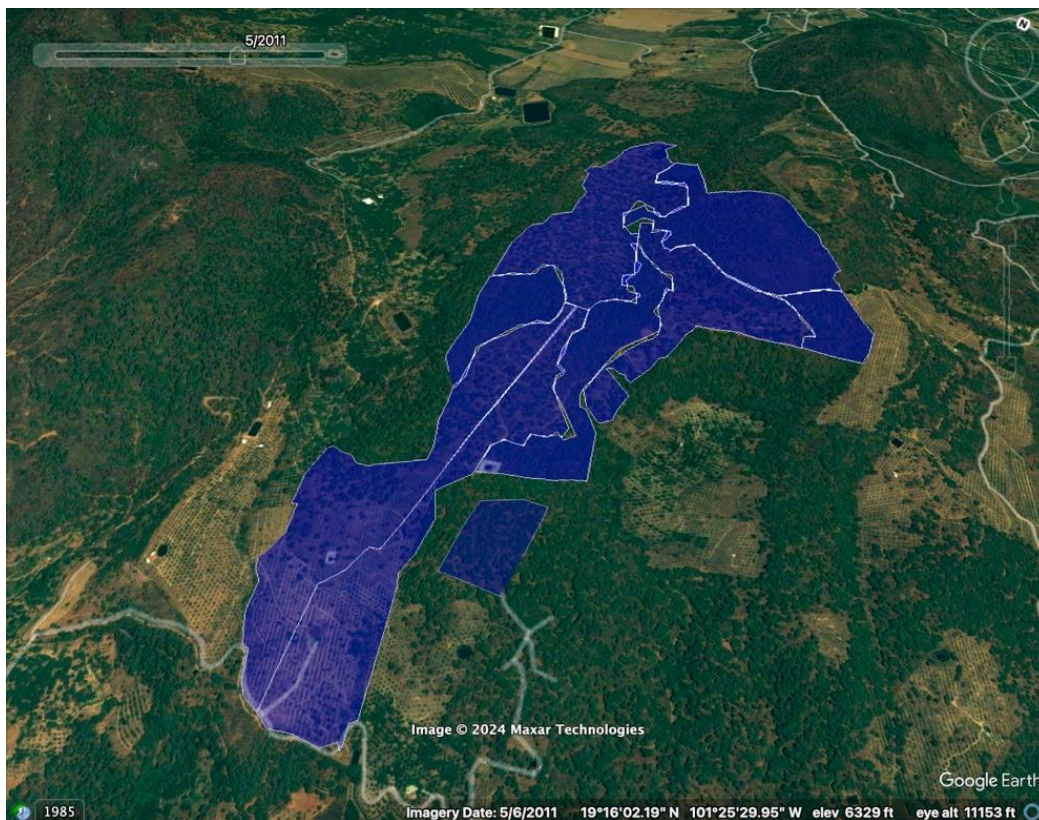
⁶² Mexican Government Shipping Records Reference Numbers HUE08160870679 and HUE08160795278 (on file with Plaintiff's counsel).

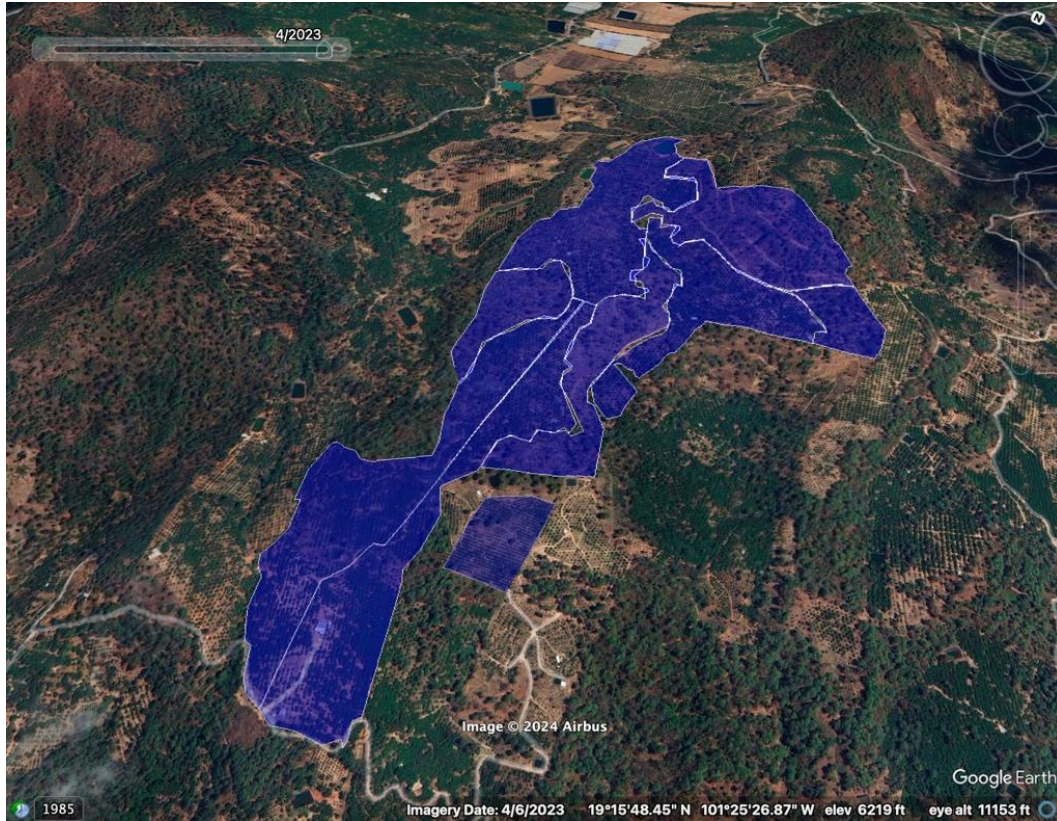
1 **b. Calavo’s Sourcing Practices**

2 112. Based upon Mexican government shipping records, in 2022, Calavo sourced more
3 than 700,000 kilograms of avocados (more than 7 million avocados) from the nine orchards shaded
4 in blue in the image below, each of which was installed on deforested land, as confirmed by
5 satellite imagery.⁶³

6
7 113. The first image below from 2011 reveals nine orchards in the municipality of
8 Tacámbaro, Michoacan covered in native forest, while the next image shows the same area in
9 2023, now deforested and replaced with avocado orchards.
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24 ⁶³ Records of “harvest logs” (“bitacoras de cosecha”) provided via Mexico’s transparency
25 law response from National Service of Health, Food Safety and Quality (SENASICA) to request
26 number 330028323000180, June 27, 2023. The referenced numbers are taken from Mexican
27 Government Shipping records (on file with Plaintiffs’ counsel) with the following reference
28 numbers, followed by the weights of shipments for each avocado orchard: HUE08160826643:
75,685; HUE08160825241: 425,371; HUE08160826641: 30,850; HUE08160825240: 62,890;
HUE08160823052: 9,990; HUE08160826640: 26,180; HUE08160825239: 57,580;
HUE08160826642: 15,415; HUE08160826621: 12,755.





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114. Mexican government shipping records indicate that in 2022, Calavo sourced 29,460 kilograms of avocados from orchards in the municipality of Apatzingán that were installed on land that was deforested between 2013 and 2023.⁶⁴

115. Mexican government shipping records also reveal that Calavo sourced 24,665 kilograms of avocados from orchards in the municipality of Morelia, Michoacan that were installed on land that was deforested between 2011 and 2023.

116. In December 2023, Calavo purchased at least 22,165 kilograms of avocados from an orchard installed on land that was deforested between 2015 and 2023.⁶⁵

⁶⁴ HUE08160837637 supplied 29,460 kilograms of avocados to Calavo according to government shipment records (on file with Plaintiffs' counsel).

⁶⁵ Mexican Government Shipping Records Reference Number HUE08161070410 (on file with Plaintiffs' counsel).

1 117. In 2023, Calavo purchased at least 15,385 kilograms of avocados from an orchard
2 installed on land that was deforested between 2015 and 2024.⁶⁶

3 118. In 2023 and 2024, Calavo purchased at least 15,795 kilograms of avocados from an
4 orchard in Madero, Michoacán installed on land that was deforested between 2015 and 2023.⁶⁷

5 119. In November 2023, Calavo was informed about deforestation in its supply chain.⁶⁸
6 Since then, Calavo has nonetheless continued to ship from orchards on illegally deforested areas.
7

8 **c. Del Monte's Sourcing Practices.**

9 120. Based upon Mexican government shipping records, in 2022, Del Monte sourced
10 107,764 kilograms of avocados (more than half a million avocados) from the deforested land
11 outlined in green—the lines comport with Mexican government maps of orchards certified to
12 exports to the United States—in the Google Earth images below.⁶⁹

13 121. Based upon Mexican government shipping records, in 2022, Del Monte sourced
14 49,394 kilograms from orchards in the municipality of Zacapu, Michoacán, shown in the images
15 below.⁷⁰ Satellite photography from May 2012 shows native forest covering this land; photography
16 from October 2020 shows the land deforested and replaced with an avocado orchard from which
17 Del Monte sourced avocados:
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19
20
21

22 ⁶⁶ Mexican Government Shipping Records Reference Number HUE08160794632 (on file
23 with Plaintiffs' counsel).

24 ⁶⁷ Mexican Government Shipping Records Reference Number HUE08160490979 (on file
25 with Plaintiffs' counsel).

26 ⁶⁸ Garrison, *supra* note 10.

27 ⁶⁹ Mexican Government Shipping Records reference numbers: HUE08160490766,
28 HUE08161070041, HUE08160530568, HUE08160530573, HUE08160530574,
HUE08161070741, HUE08161070500, HUE08161070501, HUE08161070695,
HUE08161070694, HUE08160870435, and HUE0816083511 (on file with Plaintiffs' counsel).

⁷⁰ Mexican Government Shipping Records reference numbers HUE08161070695 and
HUE08161070694 (on file with Plaintiffs' counsel).





122. Mexican shipping records⁷¹ and satellite imagery reveal that, in 2022, Del Monte sourced 15,125 kilograms of avocados from an orchard in the municipality of Taretan, Michoacán that was installed on land deforested between 2011 and 2023.

123. Mexican shipping records⁷² reveal that, in 2022, Del Monte sourced 12,984 kilograms from the orchards in the municipality of Zacapu, Michoacán that were installed on land deforested between 2012 and 2022.

⁷¹ Mexican Government Shipping Record Reference Number HUE08160870435 (on file with Plaintiffs' counsel).

⁷² Mexican Government Shipping Records Reference Numbers HUE08161070500 and HUE08161070501 (on file with Plaintiffs' counsel).

1 124. In September 2023, Del Monte sourced at least 14,480 kilograms of avocados from
2 an orchard that was installed on land deforested between 2013 and 2023.⁷³

3 125. In December 2023 and February 2024, Del Monte sourced at least 21,175 kilograms
4 of avocados from an orchard that was installed on land deforested between 2015 and 2023.⁷⁴

5 126. From March through April 2024, Del Monte sourced at least 56,460 avocados from
6 an orchard that was installed on land deforested between 2015 and 2023.⁷⁵

7 127. As reported by Reuters, in November of 2023 Del Monte was confronted and
8 informed about deforestation in its supply chain.⁷⁶ Since then, Del Monte has nonetheless
9 continued to ship from orchards on illegally deforested lands.

10
11
12 **2. Defendants' Sourcing of Avocados from Orchards Installed on**
13 **Deforested Land Exacerbates Water Scarcity.**

14 128. Water depletion is endemic within the Mexican avocado industry, which uses 9.5
15 billion liters of water daily for production.⁷⁷

16 129. Mexico already experiences high levels of water scarcity due to its natural climate,
17 industry use, water-management practices, and other contributing factors.⁷⁸ The avocado industry
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19
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21 _____
22 ⁷³ Mexican Government Shipping Records Reference Number HUE08160010356 (on file
with Plaintiffs' counsel).

23 ⁷⁴ Mexican Government Shipping Records Reference Number HUE08160826463 (on file
with Plaintiffs' counsel).

24 ⁷⁵ Mexican Government Shipping Records Reference Number HUE08161070336 (on file
with Plaintiffs' counsel).

25 ⁷⁶ Garrison, *supra* note 10.

26 ⁷⁷ M.M. Mekonnen & A.Y. Hoekstra, *The Green, Blue and Grey Water Footprint of Crops*
27 *and Derived Crop Products* (Volume 1: Main Report), UNESCO-IHE Inst. For Water Educ. at
20 (Dec. 2010) <https://waterfootprint.org/resources/Report47-WaterFootprintCrops-Vol1.pdf>.

28 ⁷⁸ Cody Copeland, *Mexico water crisis in spotlight on World Water Day*, Courthouse
News Service (Mar. 22, 2023), <https://www.courthousenews.com/mexico-water-crisis-in-the-spotlight-on-world-water-day/>.

1 exacerbates this existing water scarcity crisis and jeopardizes the use of the limited water available
2 for local populations.

3
4 130. Virtually all of the avocado-producing areas of Michoacán, and most of the areas
5 in Jalisco, overlap with watersheds or aquifers that the Mexican government has determined to
6 have a “deficit” of water available, meaning that additional water extraction cannot be sustained.

7
8 131. Upon information and belief, Defendants each source avocados from orchards in
9 areas that the Mexican government has determined to have a deficit of water available.

10
11 132. A recent study revealed that agro-industrial avocado production consumes up to
12 120% of the surface and groundwater volumes granted to agriculture use in years with dry
13 conditions in Michoacán, which is “creating water stress and scarcity, and leading to water rights
14 conflicts and social discomfort” for communities across the region.⁷⁹

15
16 133. Defendants’ sourcing of avocados from avocado orchards installed on deforested
17 land directly links Defendants’ sourcing practices with increased water scarcity in the avocado-
18 growing regions of Mexico. This is because native forests play a crucial role in allowing water to
19 infiltrate the soil to replenish aquifers. While native forests “naturally act to retain water in the
20 soil,” agricultural monocultures such as avocado production “usually result in lower soil water
21 retention and increased runoff.”⁸⁰
22
23
24

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26 ⁷⁹Alberto F. Gómez-Tagle et al., *Blue and green water footprint of agro-industrial avocado*
27 *production in Central Mexico*, 14 *Sustainability* 9664 (Aug. 5, 2022),
28 <https://doi.org/10.3390/su14159664>.

⁸⁰ M. Bravo-Espinosa et al., *Effects of Converting Forest to Avocado Orchards on Topsoil*
Properties in the Trans-Mexican Volcanic System, Mexico, 25 *Land Degradation & Dev.* 467
(May 16, 2012), <https://doi.org/10.1002/ldr.2163>.

1 134. Researchers have found that pine trees native to avocado-growing regions of
2 Mexico naturally filter water into the ground at least fourteen times more effectively than avocado
3 trees. This is because branch pruning alters the way water moves down avocado trees, avocado
4 trees are spaced further apart in orchards than native plants in a forest, and avocado tree roots tend
5 to grow more horizontally than pine roots.⁸¹

6
7 135. The *New York Times* recently reported that “clear-cutting for avocados, which
8 require vast amounts of water, has ignited another crisis [for communities in the avocado-growing
9 region of Mexico] by draining aquifers that are a lifeline for many farmers.”⁸²

10
11 136. A vast majority of the avocados that are exported to the U.S. are grown in either
12 Michoacán or Jalisco.⁸³

13
14 137. As these facts suggest, not only are Defendants sourcing one of the most water-
15 intensive crops from an already water-deficient region, but they are actively contributing to
16 increased water scarcity by sourcing avocados from orchards installed on deforested land—all
17 while marketing their avocados to consumers as sustainably sourced.

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24 ⁸¹ Alberto Gómez-Tagle et al., *supra* note 79.

25 ⁸² Simon Romero & Emiliano Rodríguez Mega, *Americans Love Avocados. It's Killing*
26 *Mexico's Forests*, *The New York Times* (Nov. 28, 2023),
27 <https://www.nytimes.com/2023/11/28/us/mexico-avocado-deforestation.html>.

28 ⁸³ *Avocado Annual*, U.S. Dept. of Agriculture Foreign Agricultural Service (Apr. 5, 2024)
chrome-
extension://efaidnbmnnnibpcajpcgiclfndmkaj/https://apps.fas.usda.gov/newgainapi/api/Report/
DownloadReportByFileName?fileName=Avocado%20Annual_Mexico%20City_Mexico_MX20
24-0018.pdf

1 **3. Defendants’ Sourcing of Avocados from Orchards on Deforested**
2 **Land Contributes to Climate Change and to Habitat and Biodiversity**
3 **Loss.**

4 138. Deforestation exacerbates the effects of climate change by disrupting the natural
5 carbon cycle of native forests. Native forests act as crucial carbon sinks, absorbing large amounts
6 of carbon dioxide from the atmosphere and storing it in their biomass and soil. When native forests
7 are cleared or burned down, stored carbon is released back into the atmosphere as carbon dioxide,
8 contributing to greenhouse gas emissions and global warming.
9

10 139. The destruction and replacement of native forests in the avocado-growing regions
11 of Mexico with avocado monocrop orchards reduces the capture and storage of atmospheric
12 carbon. One scientific study found that the “need to minimize deforestation for avocado expansion
13 is clear, as aboveground carbon storage in Michoacán’s pine-oak forests is more than double that
14 of avocado orchards.”⁸⁴
15

16 140. Avocado trees sequester much less carbon than other local species, such as the
17 native pine, which captures four times more carbon dioxide per hectare than avocado trees.⁸⁵
18

19 141. Defendants’ sourcing of avocados from orchards grown on deforested land is,
20 therefore, directly linked to the release of greenhouse gases into the atmosphere and decreased
21 carbon capture, exacerbating climate change and contravening Defendants’ Sustainability
22 Representations to consumers.
23

24
25 ⁸⁴ Audrey Denvir, *Avocados Become a Global Commodity: Consequences for Landscapes*
26 *and People*, at 92 (Aug. 2023) (Ph.D. dissertation, University of Texas at Austin) (on file with
27 Plaintiffs’ counsel).

28 ⁸⁵ *Forests Falling Fast to Make Way for Mexican Avocado*, Global Forest Watch (Mar. 20,
2019), <https://www.globalforestwatch.org/blog/forest-insights/forests-falling-fast-to-make-way-for-mexican-avocado/>.

1 142. Michoacán’s native forests are described as a “hotspot of pine and oak diversity”⁸⁶
2 and are of conservation importance for the diversity of plant and animal life that they contain.

3 143. The Trans-Mexican Volcanic Belt Pine-Oak Forests ecoregion, which runs through
4 Michoacán, includes white oak species and the family *Asteraceae* with 370 endemic species.⁸⁷

5 144. The prevalence of volcanic activity in this area has created myriad microhabitats
6 with a wide variety of flora and fauna. The area is home to numerous animals including axolotls,
7 the Mexican bearded lizard, several species of frogs, and other amphibians and reptiles.

8 145. The volcano rabbit and Mexican volcano mouse are examples of unique, endemic
9 mammals that live in these native forests. In fact, 50% of Mexico’s mammals can be found in the
10 ecoregion.

11 146. Restricted-range birds native to the Trans-Mexican Volcanic Belt Pine-Oak Forests
12 ecoregion include the Sierra Madre sparrow and green-stripe brush finch.

13 147. Michoacán is home to some of the most biologically important forests in Mexico,⁸⁸
14 such as the Monarch Butterfly Biosphere Reserve, where millions of endangered monarch
15 butterflies travel to during their annual migration journey.⁸⁹ Colonies of monarch butterflies
16 hibernate in these forests annually before migrating north.

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⁸⁶ Audrey Denvir, *Avocado expansion and the threat of forest loss in Michoacán, Mexico*
26 *under climate change scenarios*, 151 APPLIED GEOGRAPHY, at 2 (2023),
27 <https://doi.org/10.1016/j.apgeog.2022.102856>.

28 ⁸⁷ Jan Schipper, *Trans-Mexican Volcanic Belt Pine-Oak Forests*, One Earth (Sept. 23,
2020), <https://www.oneearth.org/ecoregions/trans-mexican-volcanic-belt-pine-oak-forests/>.

⁸⁸ *Avocado expansion and the threat of forest loss in Michoacán, Mexico under climate*
change scenarios, *supra* note 86.

⁸⁹ *Forests Falling Fast to Make Way for Mexican Avocado*, *supra* note 85.

1 148. The number of endangered monarch butterflies in Mexico dropped by 59% in the
2 2023-2024 season to the second-lowest level since record keeping began.⁹⁰

3
4 149. The monocrop avocado orchards that are replacing forests across Michoacán
5 exacerbate water scarcity in the region, contribute to habitat and biodiversity loss, and contribute
6 to climate change.

7
8 150. Therefore, Defendants’ Sustainability Representations—which suggests that their
9 avocados are produced sustainably, and that Defendants’ sourcing practices are aimed at
10 environmental protection—is false and misleading to consumers.

11 151. The loss of these incredibly diverse and ecologically important forests to avocado
12 orchards has devastating effects on the biodiversity of the region as well as the local habitats for
13 dozens of unique species, such as those mentioned above.⁹¹

14
15 152. Defendants’ sourcing of avocados from orchards installed on deforested land in this
16 region is directly linked to the biodiversity and habitat loss occurring in Michoacán and Jalisco.

17
18 153. Defendants’ Sustainability Representations are false and misleading to consumers
19 because Defendants sell avocados harvested from deforested land.

20
21 154. As explained herein, the sourcing of the avocados sold and distributed by the
22 Defendants contributes to deforestation, water scarcity, climate change, and biodiversity and
23 habitat loss.

24
25
26 ⁹⁰ *Eastern migratory monarch butterfly populations decrease by 59% in 2024 grounds*,
World Wildlife Fund (Feb. 7, 2024) <https://www.worldwildlife.org/stories/eastern-migratory-monarch-butterfly-populations-decrease-by-59-in-2024>.

27
28 ⁹¹ Audrey Denvir et al., *Ecological and Human Dimensions of Avocado Expansion in Mexico: Towards Supply-Chain Sustainability*, 51 Nat’l Libr. of Med. 152-166 (Mar. 18, 2021), <https://pubmed.ncbi.nlm.nih.gov/33738729/>.

C. Defendants’ Sustainability Representations Are Misleading to Consumers.

155. Defendants’ Sustainability Representations deceive consumers into believing that their avocados are sustainably sourced.

156. Defendants’ Sustainability Representations are material to consumers, who rely on them when making their purchasing decisions.

157. A survey of 5,000 United States consumers showed that significant segments prioritize “more transparency from food producers and retailers” and “accountability and transparency through the entire food supply chain.”⁹²

158. A recent survey by Specright found that “more than half (58 percent) of consumers indicated they are willing to spend more money on products that are deemed sustainable or environmentally friendly.”⁹³

159. Another survey concluded that 77% of consumers are concerned about sustainability specifically as it relates to “day-to-day decisions about food.”⁹⁴

160. A recent study by NielsenIQ found that 78% of United States consumers say that a “sustainable” lifestyle is “important to them.”⁹⁵

⁹² *Consumer Survey Shows Changing Definition of Food Safety*, Food Safety News (Feb. 4, 2016), <https://www.foodsafetynews.com/2016/02/123246/>.

⁹³ *Survey Reveals Consumers Prioritize Purchasing Sustainable Products and Desire Greater Transparency from Companies on Sustainability Progress*, PR Newswire (Nov. 15, 2023, 10:00 AM), <https://www.prnewswire.com/news-releases/survey-reveals-consumers-prioritize-purchasing-sustainable-products-and-desire-greater-transparency-from-companies-on-sustainability-progress-301988839.html>.

⁹⁴ Louise Berrebi et al., *Whetting Consumers’ Appetite for Sustainable Foods*, Boston Consulting Grp. (May 30, 2023), <https://www.bcg.com/publications/2023/whetting-consumers-appetite-for-sustainable-foods>.

⁹⁵ *Consumers care about sustainability—and back it up with their wallets*, McKinsey & Co. (Feb. 6, 2023), <https://www.mckinsey.com/industries/consumer-packaged-goods/our-insights/consumers-care-about-sustainability-and-back-it-up-with-their-wallets#/>.

1 161. Deloitte’s “The Sustainable Consumer” 2023 report states that “one in four
2 consumers are prepared to pay more for sustainability.”⁹⁶

3
4 162. The Federal Trade Commission (“FTC”) has specifically acknowledged that
5 “sustainable” claims are material to consumers.⁹⁷ The FTC has determined that unqualified general
6 environmental benefit claims such as “sustainable”⁹⁸ are “likely convey that the product . . . has
7 specific and far-reaching environmental benefits and may convey that the item . . . has no negative
8 environmental impact.”⁹⁹ The FTC has admonished companies not to use unqualified claims such
9 as “sustainable” due to its determination that “it is highly unlikely that marketers can substantiate
10 all reasonable interpretations of these claims.”

11
12 163. Researchers have found that consumers seek out and are willing to pay significantly
13 more for products labeled as “ecologically sustainable.”¹⁰⁰

14
15 164. Defendants know that the orchards they source their avocados from in Mexico are
16 operating contrary to Defendants’ Sustainability Representations.¹⁰¹

17
18 165. Defendants are aware that consumers are willing to pay more for sustainably
19 sourced avocados and deceptively tailor their marketing to take advantage of that willingness.

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22 _____
23 ⁹⁶ *The Sustainable Consumer: Understanding consumer attitudes to sustainability and*
24 *sustainable behaviors*, Deloitte (Oct. 19, 2023) at 25, chrome-
25 extension://efaidnbmnnnibpajpcgclclefindmkaj/file:///Users/jessicajohnson/Downloads/deloitte-
26 uk-sustainable-consumer-2024.pdf.

27 ⁹⁷ See FTC Green Guides, 16 C.F.R. § 260.4(b) (2014).

28 ⁹⁸ Press Release, *FTC Sends Warning Letters to Companies Regarding Diamond Ad Disclosures*, F.T.C. (Apr. 2, 2019), <https://www.ftc.gov/news-events/press-releases/2019/03/ftc-sends-warning-letters-companies-regarding-diamond-ad>.

⁹⁹ 16 C.F.R. § 260.4(b) (2014).

¹⁰⁰ Loren McClenachan et al., *Fair trade fish: Consumer support for broader seafood sustainability*, 17 FISH AND FISHERIES 825–838, 825 (2016), <https://doi.org/10.1111/faf.12148>.

¹⁰¹ *CRI Mexico Report*, *supra* note 18.

1 166. Consumer confusion is often compounded at the point of sale, as many retailers do
2 not distinguish or separate California-grown avocados from Mexican-grown avocados. In fact, it
3 is common for store displays that advertise California-grown avocados to contain Mexican-grown
4 avocados. Only the most discerning and informed consumer would be able to differentiate based
5 upon the PLU stickers on the fruit.
6

7 167. Upon information and belief, Defendants are aware of this retailer practice of
8 commingling California-grown and Mexican-grown avocados, and have taken no action to
9 counter this practice, which benefits their own financial interest.
10

11 168. For an example of retailers' practices, the below images were taken at a Gelson's
12 grocery store in West Lake, California on December 12, 2024. They depict Mexican avocados
13 inside of a store display that states "the best avocados have California in them."
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11 169. In this way, Defendants’ deceptive marketing, which leads consumers to falsely
12 believe that Mexican avocados are as sustainable as, and have a similar environmental impact to,
13 California avocados, is compounded at the point of sale when retailers not only fail to distinguish
14 between the two but commingle them in displays advertising California-grown avocados.

15
16 **V. CLASS ALLEGATIONS**

17 170. Plaintiffs re-allege and incorporate by reference the allegations set forth in each
18 of the preceding paragraphs of this Complaint.

19
20 171. Plaintiffs bring this action pursuant to Rule 23 of the Federal Rules of Civil
21 Procedure on behalf of themselves and all other similarly situated businesses and individuals
22 within California (the “Class”) defined as follows:
23

24 all individuals and business entities engaged in the business of
25 producing, or causing to be produced, California-grown avocados
26 for sale within the State of California within the applicable statute
27 of limitations, and until the date of class certification (the “Class
28 Period”).

1 172. Excluded from the Class are any persons or business entities with an average annual
2 production of less than 10,000 pounds of avocados in each of the three preceding market years,
3 Defendants, and their respective parents, subsidiaries and affiliates, legal representatives, officers,
4 directors, assigns, and successors, as well as any government entities including the Court and its
5 staff.

6 173. Plaintiffs reserve the right to amend the class definition prior to class certification.

7 174. There are substantial questions of law and fact common to all members of the
8 Class, which will predominate over any individual issues. These common questions of law and
9 fact include, without limitation:
10

11 (a) whether Defendants are responsible for the advertising at issue;

12 (b) whether Defendants' practices and representations related to the
13 marketing and sales of their Mexican avocados were unfair, deceptive, fraudulent, and/or
14 unlawful in any respect, in violation of California law;

15 (c) whether Defendants' conduct as set forth above injured, and may continue
16 to injure, Plaintiffs and Class members.
17

18 175. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs are each
19 members of a well-defined class of similarly situated persons and/or entities, and the members
20 of the Class were and are similarly affected by Defendants' conduct and are owed the same kinds
21 of relief, as alleged in this Complaint. Members of the Class are ascertainable from Plaintiffs'
22 description of the Class, and from records of third parties accessible through discovery.
23

24 176. Plaintiffs will fairly and adequately protect the interests of the Class and have no
25 interests that are antagonistic to the claims of the Class. Plaintiffs will vigorously pursue the
26 claims of the Class.
27
28

1 177. Plaintiffs have retained counsel who are competent and experienced in class
2 actions relating to false advertising and unfair business practices. Plaintiffs' counsel have
3 successfully represented plaintiffs in complex class actions and currently represent plaintiffs in
4 complex class action lawsuits involving false advertising. Plaintiffs' counsel have experience in
5 the representation of business competitors harmed by unfair competition in the context of
6 misleading marketing.
7

8 178. A class action provides a fair and efficient method, if not the only method, for
9 adjudicating this controversy. The substantive claims of Plaintiffs and the Class are nearly
10 identical and will require evidentiary proof of the same kind and application of the same laws.
11 There is no plain, speedy, or adequate remedy other than by maintenance of this class action.
12

13 179. A class action is superior to other available methods for the fair and efficient
14 adjudication of this controversy because Class members number in the hundreds or thousands
15 and individual joinder is impracticable. The disposition of this case as part of a single class action
16 will benefit the parties and reduce the aggregate judicial resources that would be spent if this
17 matter were handled as hundreds or thousands of separate lawsuits, due to, for example, the
18 efficiency of joint discovery. Trial of Plaintiffs' and the Class members' claims together is
19 manageable.
20

21 180. No member of the Class has a substantial interest in individually controlling the
22 prosecution of a separate action.
23

24 181. The prerequisites to maintaining a class action for equitable relief are met, because
25 Defendants—by representing that their Mexican avocados are sustainably and responsibly
26 sourced despite the fact that they were sourced from orchards installed on recently deforested
27
28

1 land and that engage in other environmentally destructive practices—have acted or refused to act
2 on grounds generally applicable to the Class, thereby making appropriate final equitable relief
3 with respect to the Class as a whole.
4

5 182. The prosecution of separate actions by members of the Class would create a risk
6 of establishing inconsistent rulings and/or incompatible standards of conduct for Defendants.
7 Additionally, individual actions could be dispositive of the interests of the Class even where
8 certain Class members are not parties to such actions.
9

10 183. Defendants’ conduct is generally applicable to the Class as a whole, and Plaintiffs
11 seek, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendants’
12 systematic policies and practices make declaratory relief appropriate with respect to the Class as
13 a whole.
14

15 184. Plaintiffs know of no difficulty that will be encountered in the management of this
16 litigation that would preclude its maintenance of a class action.
17

18 **CAUSES OF ACTION**

19 **COUNT I**

20 **Violations of California’s False Advertising Law
21 (Against All Defendants)**

22 185. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged
23 above.
24

25 186. As alleged more fully above, Defendants have falsely advertised their Mexican
26 avocados with Defendants’ Sustainability Representations.
27

28 187. The misrepresentations and non-disclosures by Defendants of the material facts
detailed above constitute false and misleading advertising and therefore constitute a violation of

1 California’s False Advertising Law (“FAL”), Cal. Bus. & Prof. Code § 17500 *et seq.*

2 188. Said advertisements and inducements were made within the State of California and
3 come within the definition of advertising contained in the FAL, in that such promotional materials
4 were intended as inducements to purchase Defendants’ avocados and are statements disseminated
5 by each Defendant to, and intended to reach, consumers. Defendant knew, or in the exercise of
6 reasonable care should have known, that these representations were misleading and deceptive.
7

8 189. The above-described acts of Defendants did deceive and were likely to deceive
9 reasonable consumers by obfuscating the nature and sourcing of the avocados in violation of the
10 “misleading” prong of the FAL.
11

12 190. Plaintiffs and the other members of the Class suffered injury in the form of
13 declining sales, lost profits, loss of goodwill and other injuries as a result of Defendants’ unlawful
14 conduct.
15

16 191. Business and Professions Code section 17535 confers standing to private plaintiffs
17 to sue under the FAL when they have suffered injury in fact and have lost money or property as a
18 result of false or misleading advertising.
19

20 192. Plaintiffs and the other members of the Class have suffered injury in fact and have
21 lost money or property as a result of Defendants’ violations of California’s False Advertising Law,
22 Cal. Bus. & Prof. Code § 17500 *et seq.*
23

24 193. Pursuant to California Business and Professions Code §§ 17203 and 17535,
25 Plaintiffs and the Class seek an order of this Court that includes, but is not limited to, requiring
26 Defendants to:
27

28 (a) provide restitution to Plaintiffs and the other members of the Class;

1 (b) cease its unlawful and deceptive acts; and

2 (c) pay the attorney fees and costs of Plaintiffs and the Class.

3
4 **COUNT II**
5 **Violation of California’s Unfair Competition Law**
6 **(Against All Defendants)**

7 194. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

8 195. By committing the acts and practices alleged herein, Defendants have violated
9 California’s Unfair Competition Law (“UCL”), Cal. Bus. & Prof. Code §§ 17200-17210, as to the
10 Class as a whole, by engaging in unlawful, fraudulent, and unfair conduct.

11 196. Under the UCL, a business practice or act is “unlawful” when it violates another
12 local, state, or federal law.

13 197. Defendants have violated the UCL’s proscription against engaging in unlawful
14 conduct as a result of their violations of the California’s False Advertising Law, as alleged above;

15 198. Defendants have further violated the UCL’s proscription against engaging in
16 unlawful conduct as a result of violations of California’s Environmental Marketing Claims Act
17 (“EMCA”), Cal. Bus. & Prof. Code §§ 17580.5 and 17580(a).

18 199. As outlined in the Green Guides, the FTC has determined that unqualified general
19 environmental benefit claims such as “sustainable” are “likely convey that the product . . . has
20 specific and far-reaching environmental benefits and may convey that the item . . . has no negative
21 environmental impact.” For that reason, the FTC has admonished companies not to use unqualified
22 claims such as “sustainable” due to its determination that “it is highly unlikely that marketers can
23 substantiate all reasonable interpretations of these claims.”
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1 200. EMCA states that “it is unlawful for any person to make any untruthful, deceptive,
2 or misleading environmental marketing claim, whether explicit or implied. For the purpose of this
3 section, environmental marketing claims shall include any claims contained in the Guides for the
4 use of Environmental Marketing Claims published by the Federal Trade Commission.” Cal. Bus.
5 & Prof. Code § 17580.5. Taking advantage of consumer perception of sustainably produced
6 avocados violates the policy of the Green Guides and EMCA. Defendants’ conduct violates the
7 EMCA, which makes it unlawful for any person to make any unsubstantiated environmental
8 marketing claim.
9

11 201. Pursuant to the EMCA, “Any person who represents in advertising or on the label
12 or container of a consumer good that the consumer good that it manufactures or distributes is not
13 harmful to, or is beneficial to, the natural environment, through use of such terms as
14 ‘environmental choice,’ ‘ecologically friendly,’ ‘earth friendly,’ ‘environmentally friendly,’
15 ‘ecologically sound,’ ‘environmentally sound,’ ‘environmentally safe,’ ‘ecologically safe,’
16 ‘environmentally lite,’ ‘green product,’ or any other like term . . . shall maintain in written form in
17 its records all of the following information and documentation supporting the validity of the
18 representation:
19

- 21 (1) The reasons the person believes the representation to be true;
22 (2) Any significant adverse environmental impacts directly associated with the production,
23 distribution, use, and disposal of the consumer good;
24 (3) Any measures that are taken by the person to reduce the environmental impacts directly
25 associated with the production, distribution, and disposal of the consumer good; and
26
27
28

1 (4) Violations of any federal, state, or local permits directly associated with the production
2 or distribution of the consumer good.

3
4 202. Defendants' Sustainability Representations are unqualified statements of
5 environmental benefit, because they lead consumers to believe that Defendants' sourcing practices
6 do not cause environmental harm, when the opposite is true.

7 203. Defendants' conduct violates the Environmental Marketing Claims Act.

8
9 204. As more fully described above, Defendants' misleading marketing and advertising
10 of its Mexican avocados is likely to deceive reasonable consumers. Defendants' marketing and
11 advertising of their Mexican avocados misrepresent or omit the true facts concerning the benefits
12 and detriments of their avocados. Those acts are fraudulent business practices.

13
14 205. Defendants' acts and practices described above also violate the UCL's proscription
15 against engaging in unfair conduct.

16
17 206. Business and Professions Code section 17204 confers standing to private plaintiffs
18 to sue under the Unfair Competition Law when they have suffered injury in fact and have lost
19 money or property as a result of the unfair competition.

20
21 207. By offering for sale and selling deceptively labeled Mexican avocados, Defendants
22 mislead consumers and engage in unfair competition in violation of the UCL. Defendants will
23 continue to do so unless enjoined by this Court.

24
25 208. Plaintiffs are entitled to reasonable attorneys' fees pursuant to the California Code
26 of Civil Procedure section 1021.5, because by taking on the necessity and financial burden of
27 private enforcement of California's consumer protections laws by means of California's UCL,
28

1 Plaintiffs confer a significant benefit on the general public of the State of California, namely, the
2 enjoinder of Defendants' unlawful and unfair business practices.

3
4 209. Plaintiffs and the other members of the Class suffered injury in the form of
5 declining sales, lost profits, loss of goodwill and other injuries as a result of Defendants' unlawful
6 conduct.

7
8 210. There is no benefit to consumers or competition from deceptively marketing
9 products like the Defendants' Mexican avocados, which purport to be sustainably and
10 responsibly sourced, when these claims are false and unqualified.

11
12 211. The consequences of Defendants' conduct as described above outweigh any
13 justification, motive, or reason therefore, particularly considering the available legal alternatives
14 that exist in the marketplace, and such conduct is immoral, unethical, unscrupulous, offends
15 established public policy, and is substantially injurious to Plaintiffs and the other members of the
16 Class.

17
18 212. Pursuant to California Business and Professional Code § 17203, Plaintiffs and the
19 members of the Class seek an order of this Court that, *inter alia*, requires Defendants to:

- 20 (a) provide restitution to Plaintiffs and the other members of the Class;
21 (b) disgorge all revenues obtained as a result of violations of the UCL;
22 (c) cease their unlawful and deceptive acts; and
23 (d) pay the attorneys' fees and costs of Plaintiffs and the Class.
24

25 **COUNT III**
26 **Unjust Enrichment**
27 **(Against all Defendants)**

28 213. Plaintiffs incorporate by reference and reallege herein all paragraphs alleged above.

1 214. Plaintiffs brings this claim individually and on behalf of the Class.

2 215. To the extent required by law, this cause of action is alleged in the alternative to
3 legal claims, as permitted under Fed. R. Civ. P. 8.
4

5 216. Defendants received the benefit of their false advertising of their avocados as
6 sustainably and responsibly sourced when consumers purchased Defendants' avocados.

7 217. Defendants were unjustly enriched by receipt of these revenues derived from
8 California consumers, who would have otherwise purchased California-grown avocados.
9

10 218. Retention of those moneys under these circumstances is unjust and inequitable
11 because Defendants misrepresented their avocados to consumers as sustainable and responsibly
12 sourced, when they in fact neither sustainable nor responsibly sourced.
13

14 219. Plaintiffs and the Class were damaged by Defendants' misrepresentations because
15 consumers would have otherwise purchased California-grown avocados but for Defendants' false
16 advertising.
17

18 220. Because Defendants' retention of the non-gratuitous benefits conferred on them by
19 consumers is unjust and violates the fundamental principles of justice, equity, and good
20 conscience, Defendants have been unjustly enriched in an amount to be determined at trial.

21 221. Plaintiffs and the members of the Class have no adequate remedy at law.

22 222. Plaintiffs and the members of the Class seek an order of this Court that, *inter alia*,
23 requires Defendants to:
24

- 25 a. provide restitution to Plaintiffs and the other members of the Class;
26 b. disgorge all revenues obtained as a result of violations of the UCL;
27 c. cease their unlawful and deceptive acts; and
28

1 d. pay the attorneys' fees and costs of Plaintiffs and the Class.

2 **PRAYER FOR RELIEF**

3 **WHEREFORE**, Plaintiffs respectfully requests that the Court enter judgment in their
4 favor and in favor of the Class as follows:

5 A. An order certifying the proposed Class; appointing Plaintiffs as representatives of
6 the Class; and appointing Plaintiffs' undersigned counsel as class counsel for the Class;

7 B. A declaration that Defendants are financially responsible for notifying Class
8 members of the pendency of this suit;

9 C. An order enjoining Defendants' unlawful and deceptive acts, including, but not
10 limited to, requiring Defendants to remove any references to "sustainable" and/or "responsible"
11 sourcing practices in their advertising materials;

12 D. An order requiring Defendants to take corrective action to inform consumers that
13 their sourcing practices are not environmentally sustainable or responsible;

14 E. Restitution of all monies acquired by Defendants as a result of their unlawful, unfair
15 or fraudulent business practices;

16 F. Disgorgement of all monies received by Defendants as a result of their unlawful,
17 unfair or fraudulent business practices.

18 G. Monetary damages and statutory damages in the maximum amount provided by
19 law;

20 H. An order awarding Plaintiffs and the other Class members the reasonable costs and
21 expenses of suit, including their attorneys' fees;

22 I. Pre- and post-judgment interest; and

1 J. Any further relief that the Court may deem appropriate.
2

3 **JURY TRIAL DEMANDED**
4

5 Plaintiffs hereby demands a trial by jury.

6 DATED: February 21, 2025
7

8 **RICHMAN LAW & POLICY**

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11 _____
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