

1 THE LAW OFFICE OF  
2 PAIGE M. TOMASELLI  
3 Paige M. Tomaselli (CSB No. 237737)  
4 P.O. Box 71022  
5 Richmond, CA 94807  
6 paige@tomasellilaw.com  
7 T: (619) 339-3180

8 ELSNER LAW & POLICY, LLC  
9 Gretchen Elsner (*pro hac vice forthcoming*)  
10 314 South Guadalupe Street  
11 Santa Fe, NM 87505  
12 Gretchen@ElsnerLaw.org  
13 Tel: 505.303.0980

14 *Attorneys for Plaintiffs*

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**

IN DEFENSE OF ANIMALS and  
FRIENDS OF THE EARTH,  
on behalf of the general public,

Plaintiffs,

v.

SANDERSON FARMS, INC.

Defendant.

CASE NO.:

**COMPLAINT FOR UNFAIR  
COMPETITION AND FALSE  
ADVERTISING**

Plaintiffs In Defense of Animals (IDA) and Friends of the Earth (FoE), by their attorneys, allege the following upon information and belief, except for those allegations pertaining to Plaintiffs, which are based on personal knowledge:

**NATURE OF THE ACTION**

1  
2 1. This case is brought on behalf of Plaintiffs and the general public regarding  
3 Sanderson’s farming practices and advertising of its Chicken Products, as listed *infra* ¶ 76 (the  
4 “Products”). Defendant Sanderson Farms, Inc. (“Sanderson”) sold these Chicken Products based  
5 on misleading representations in its advertising and misleading representations regarding its  
6 practices.

7 2. Sanderson’s advertising misleads consumers in four ways:

- 8 a. Sanderson’s advertising misleads consumers into believing that Sanderson’s  
9 chickens were not given antibiotics or other pharmaceuticals;
- 10 b. Sanderson’s advertising misleads consumers into believing that the chickens  
11 were raised in a natural environment;
- 12 c. Sanderson’s advertising misleads consumers into believing that there is no  
13 evidence that the use of antibiotics and other pharmaceuticals in poultry  
14 contributes to the evolution of antibiotic-resistant bacteria; and
- 15 d. Sanderson’s advertising misleads consumers into believing that the Products do  
16 not contain any antibiotic or pharmaceutical residue.

17 3. However, the truth is that the feed Sanderson routinely gives to its chickens  
18 contains antibiotics and pharmaceuticals; the chickens are raised indoors in crowded and dirty  
19 industrial sheds, which is one reason why its routine use of antibiotics is necessary; there is  
20 extensive reliable evidence that the use of antibiotics in poultry contributes to antibiotic-resistant  
21 bacteria; and Sanderson’s chickens have been found to contain antibiotic and/or pharmaceutical  
22 residue.

23 4. The ongoing coronavirus global pandemic has highlighted how unsanitary animal  
24 raising and slaughtering practices, like Sanderson’s, contribute to calamitous consequences for  
25 public health. The Centers for Disease Control estimates that three out of every four new or  
26  
27  
28

1 emerging infectious diseases in people come from animals.<sup>1</sup>

2         5. Antibiotic use in poultry, such as Sanderson’s routine use for every flock, has  
3 contributed to antibiotic resistance.<sup>2</sup> Resistant bacterial strains in poultry spread to humans, which  
4 causes a risk to human health, specifically to poultry workers.<sup>3</sup> Poultry workers labor in tight  
5 conditions in slaughterhouses, which have become hotspots for coronavirus, including Sanderson  
6 slaughterhouses.<sup>4</sup>

7         6. The prevalence of antibiotic resistant bacteria is relevant in the battle against the  
8 coronavirus pandemic. The Director of the Antibiotic Resistance Action Center at the Milken  
9 Institute for Public Health at George Washington University<sup>5</sup> has stated that antibiotic resistant  
10 bacteria “are going to be what ultimately kills a large portion of COVID-19 victims as they  
11 succumb to secondary bacterial pneumonia.”<sup>6</sup>

---

12  
13  
14 <sup>1</sup> Centers for Disease Control and Prevention, available at  
15 [https://www.cdc.gov/onehealth/basics/zoonotic-](https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html#:~:text=Scientists%20estimate%20that%20more%20than,States%20and%20around%20the%20world.,)  
16 [diseases.html#:~:text=Scientists%20estimate%20that%20more%20than,States%20and%20around%20the%20world.](https://www.cdc.gov/onehealth/basics/zoonotic-diseases.html#:~:text=Scientists%20estimate%20that%20more%20than,States%20and%20around%20the%20world.), last visited July 2020.

17 <sup>2</sup> Alonso-Hernando, A., Prieto, M., Garcia-Fernandez, C., Alonson-Calleja, C., Capita, R. (2012).  
18 Increase over time in the prevalence of multiple antibiotic resistance among isolates of *Listeria*  
19 *monocytogenes* from poultry in Spain. *Food Control*, 23 (1), 37-41.  
20 <https://doi.org/10.1016/j.foodcont.2011.06.006>, last visited July 2020.

21 <sup>3</sup> Apata, D.F. (2009). Antibiotic Resistance in Poultry. *International Journal of Poultry Science*, 8  
22 (4), 404-408. Agada, G.O.A., Abdullahi, I.O., Aminu, M., Odugbo, M., Chollom, S.C., Kumbish,  
23 P.R., Okwori, A.E.J. (2014). Prevalence and antibiotic resistance profile of Salmonella isolates  
24 from commercial poultry and poultry farm handlers in Jos, Plateau State, Nigeria. *Microbiology*  
25 *Research Journal International* 4(4), 462-479. <https://doi.org/10.9734/BMRJ/2014/5872>.

26 <sup>4</sup> Silbergeld, E.K., Graham, J., and Price, L.B. (2008). Industrial food animal production,  
27 antimicrobial resistance, and human health. *The Annual Review of Public Health* 29, 151-169.  
28 [10.1146/annurev.publhealth.29.020907.090904](https://doi.org/10.1146/annurev.publhealth.29.020907.090904), last visited July 2020.

<sup>5</sup> The Bryan, Texas processing plant had 49 COVID-19 cases, as one example at one Sanderson  
location, reported by the local news, a [https://www.kxxv.com/hometown/brazos-county/49-covid-](https://www.kxxv.com/hometown/brazos-county/49-covid-19-cases-reported-at-sanderson-farms-in-bryan)  
19-cases-reported-at-sanderson-farms-in-bryan, last visited July 2020.

<sup>6</sup> Antibiotic Resistance Action Center, <http://battlesuperbugs.com/directory/lance-price>, last  
visited July 2020.

<sup>6</sup> Price, Lance B., Ph.D. (2020, April 22). *Superbugs: COVID-19’s Coconspirators*. Medium.  
<https://medium.com/gwpublichealth/superbugs-covid-19s-coconspirators-ebc20b9e0b99>, last  
visited July 2020. See also Cox, M. Loman, N., Bogaert, D., O’Grady, J. (2020). Co-infections:  
potentially lethal and unexplored in COVID-19. *The Lancet*, Vol. 1 May 2020.  
[https://www.thelancet.com/pdfs/journals/lanmic/PIIS2666-5247\(20\)30009-4.pdf](https://www.thelancet.com/pdfs/journals/lanmic/PIIS2666-5247(20)30009-4.pdf).



1 California to render the exercise of jurisdiction by this Court permissible under traditional notions  
2 of fair play and substantial justice.

3 14. Venue is proper under 28 U.S.C. § 1391(a) because (1) Defendant does substantial  
4 business in this District; and (2) a substantial part of the events or omissions giving rise to these  
5 claims occurred in this District, and Defendant engaged in the extensive promotion, advertising,  
6 marketing, distribution, and sales of the Products at issue in this District.

7 15. Venue is also proper in this Court under 28 U.S.C. § 1391(e) because Plaintiff In  
8 Defense of Animals resides in the Northern District of California and Plaintiff Friends of the Earth  
9 maintains a presence in the Northern District of California.

10 16. Intradistrict assignment to San Francisco per Local Rule 3-5(b) and 3-2(c) is  
11 appropriate because Plaintiffs are located in or near San Francisco.

12 **PARTIES**

13 **Plaintiffs**

14 ***In Defense of Animals***

15 17. Plaintiff In Defense of Animals is an international not-for-profit animal protection  
16 organization founded in 1983. IDA's principal place of business is located in San Rafael,  
17 California, where it is incorporated. Its mission is to rescue animals in need, foster respect for all  
18 sentient beings, and spark a revolution of compassion that liberates animals from the tyranny of  
19 systemic cruelty and exploitation. Consistent with this mission, IDA aims to inform the public  
20 about the ways in which animal agriculture impacts animal welfare.

21 18. IDA has more than 250,000 supporters across the globe, with over 450,000  
22 followers on social media.

23 19. As a result of Sanderson's advertising, IDA diverted staff time from its core  
24 mission of ending animal exploitation to addressing Sanderson's advertising and the consumer  
25 confusion that Sanderson caused.

26 20. On December 6, 2016, IDA approached the Federal Trade Commission (FTC) in  
27 writing with its concerns about Sanderson's advertising.  
28

# Explore Litigation Insights

Docket Alarm provides insights to develop a more informed litigation strategy and the peace of mind of knowing you're on top of things.

## Real-Time Litigation Alerts



Keep your litigation team up-to-date with **real-time alerts** and advanced team management tools built for the enterprise, all while greatly reducing PACER spend.

Our comprehensive service means we can handle Federal, State, and Administrative courts across the country.

## Advanced Docket Research



With over 230 million records, Docket Alarm's cloud-native docket research platform finds what other services can't. Coverage includes Federal, State, plus PTAB, TTAB, ITC and NLRB decisions, all in one place.

Identify arguments that have been successful in the past with full text, pinpoint searching. Link to case law cited within any court document via Fastcase.

## Analytics At Your Fingertips



Learn what happened the last time a particular judge, opposing counsel or company faced cases similar to yours.

Advanced out-of-the-box PTAB and TTAB analytics are always at your fingertips.

## API

Docket Alarm offers a powerful API (application programming interface) to developers that want to integrate case filings into their apps.

## LAW FIRMS

Build custom dashboards for your attorneys and clients with live data direct from the court.

Automate many repetitive legal tasks like conflict checks, document management, and marketing.

## FINANCIAL INSTITUTIONS

Litigation and bankruptcy checks for companies and debtors.

## E-DISCOVERY AND LEGAL VENDORS

Sync your system to PACER to automate legal marketing.