

**BURSOR & FISHER, P.A.**

L. Timothy Fisher (State Bar No. 191626)  
Sean L. Litteral (State Bar No. 331985)  
1990 North California Blvd., Suite 940  
Walnut Creek, CA 94596  
Telephone: (925) 300-4455  
Facsimile: (925) 407-2700  
Email: ltfisher@bursor.com  
slitteral@bursor.com

**BURSOR & FISHER, P.A.**

Joshua D. Arisohn (*pro hac vice* forthcoming)  
Alec M. Leslie (*pro hac vice* forthcoming)  
888 Seventh Avenue  
New York, NY 10019  
Telephone: (646) 837-7150  
Facsimile: (212) 989-9163  
E-Mail: jarisohn@bursor.com  
aleslie@bursor.com

*Attorneys for Plaintiff*

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

AZMAN HUSSAIN, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

BURGER KING CORPORATION,

Defendant.

Case No.

**CLASS ACTION COMPLAINT**

**JURY TRIAL DEMANDED**

28

1 Plaintiff Azman Hussain (“Plaintiff”) brings this action on behalf of himself and all others  
2 similarly situated against Defendant Burger King Corporation (“Defendant”). Plaintiff makes the  
3 following allegations pursuant to the investigation of his counsel and based upon information and  
4 belief, except as to the allegations specifically pertaining to himself, which are based on personal  
5 knowledge.

### 6 NATURE OF ACTION

7 1. Plaintiff brings this Class action lawsuit on behalf of herself and similarly situated  
8 consumers (“Class Members”) who purchased for personal, family, or household use, Defendant’s  
9 Whopper (the “Product”), which is unfit for human consumption because the packaging in which it  
10 is contained—and is essential and integral to delivering the Product to the consuming public<sup>1</sup>—  
11 contains unsafe per- and polyfluoralkyl substances (“PFAS”).<sup>2</sup>

12 2. PFAS are a group of synthetic chemicals known to be harmful to both the  
13 environment and humans. Because PFAS persist and accumulate over time, they are harmful even  
14 at very low levels. Indeed, “PFAS have been shown to have a number of toxicological effects in  
15 laboratory studies and have been associated with thyroid disorders, immunotoxic effects, and  
16 various cancers in epidemiology studies.”<sup>3</sup>

17 3. In fact, scientists are studying—and are extremely concerned about—how PFAS  
18 affect human health. Consequently, the CDC outlined “a host of health effects associated with  
19 PFAS exposure, including cancer, liver damage, decreased fertility, and increased risk of asthma  
20 and thyroid disease.”<sup>4</sup>

---

22 <sup>1</sup> Due to the integral and essential nature of the packaging, the term “Product” is used herein to  
23 denote both the Product and the Product’s packaging.

24 <sup>2</sup> Discovery may reveal that additional Burger King products are within the scope of this  
25 Complaint. Accordingly, Plaintiff reserves the right to include additional food products identified  
26 throughout the course of discovery.

27 <sup>3</sup> Nicholas J. Heckert, et al. “Characterization of Per- and Polyfluorinated Alkyl Substances Present  
28 in Commercial Anti-fog Products and Their In Vitro Adipogenic Activity,” *Environ. Sci. Technol.*  
2022, 56, 1162-1173, 1162.

<sup>4</sup> Harvard T.H. Chan Sch. Of Pub. Health, Health Risks of widely used chemicals may be  
underestimated (June 27, 2018), <https://www.hsph.harvard.edu/news/hsph-in-the-news/pfas-health-risks-underestimated/> (last visited Mar. 30, 2022).

1           4.       Despite Defendant’s representations to consumers that its products are “safe,” and  
2 “sustainable,” including in its website and the Product packaging—which is an essential and  
3 integral part of delivering the Product to consumers—independent research conducted by  
4 Consumer Reports<sup>5</sup> determined that the Product packaging contains **249.7 parts per million (ppm)**  
5 **of total organic fluorine.**<sup>6</sup>

6           5.       As a point of reference, the current EPA health advisor limit for safe consumption,  
7 is just **70 nanograms per liter.**<sup>7</sup> To put this in perspective, **1 part per million is the equivalent**  
8 **of 1,000,000 nanograms per liter.**<sup>8</sup> Accordingly, the Product would expose a consumer to PFAS  
9 at levels that are several orders of magnitude higher than one would receive from drinking a liter of  
10 water that contains PFAS at the level considered safe by the EPA.

11           6.       Thus, based on Defendant’s representations, a reasonable consumer would expect  
12 that the Product can be safely purchased and consumed as marketed and sold. However, the  
13 Product is not safe, posing a significant health risk to unsuspecting consumers. Nor is the Product  
14 sustainable. Yet, neither before nor at the time of purchase does Defendant notify consumers like  
15 Plaintiff that their Product is unsafe and harmful to the environment, contains heightened levels of  
16 PFAS, or should otherwise be approached with caution.

17           7.       Accordingly, Plaintiff brings his claims against Defendant individually and on  
18 behalf of a class of all other similarly situated for (1) violation of California’s Unfair Competition  
19 Law, Cal. Bus. & Prof. Code § 17200, et seq.; (2) violation of the Consumer Legal Remedies Act,  
20 Cal. Civ. Code § 1750, et seq.; (3) breach of the Implied Warranty under Song-Beverly Consumer

21 <sup>5</sup> Kevin Loria, “Dangerous PFAS Chemicals Are in Your Food Packaging,” *Consumer Reports*,  
22 <https://www.consumerreports.org/pfas-food-packaging/dangerous-pfas-chemicals-are-in-your-food-packaging-a3786252074/> (last visited Mar. 30, 2022).

23 <sup>6</sup> According to Toxin Free USA, “organic fluorine results identify a quantity of organofluorine  
24 compounds (e.g., PFAS) and excludes the possibility that fluorine may be present from other or  
25 natural sources.” See *GMO Free v. CoverGirl Cosmetics, et al.*, Case No. 2021-CV-0046786B  
(D.C. Super. Dec. 20, 2021), Docket No. 1, ¶¶ 30-31.

26 <sup>7</sup> Duke University, Nicholas School of the Environment, “High Levels of PFAS Found in Anti-  
27 Fogging Sprays and Cloths,” (Jan. 5, 2022), <https://nicholas.duke.edu/news/high-levels-pfas-found-anti-fogging-sprays-and-cloths> (last visited Mar. 30, 2022).

28 <sup>8</sup> JustinTOOLS, “Density Units Conversion parts-per-million to nanograms-per-liter,”  
<https://www.justintools.com/unit-conversion/density/php?k1=parts-per-million&k2=nanograms-per-milliliter> (last visited Mar. 30, 2022).

1 Warranty Act, Cal. Civ. Code § 1792, et seq. and California Commercial Code § 2314; (4)  
2 violation of California's False Advertising Law, Cal. Bus. & Prof. Code § 17200, et seq.; (5)  
3 Fraud; (6) Constructive Fraud; (7) Fraudulent Inducement; (8) Money Had And Received; (9)  
4 Fraudulent Omission or Concealment; (10) Fraudulent Misrepresentation; (11) Negligent  
5 Misrepresentation; (12) Quasi-Contract / Unjust Enrichment; (13) Breach of Express Warranty;  
6 and (14) Negligent Failure to Warn.

### 7 THE PARTIES

8 8. Plaintiff Azman Hussain is a natural person and citizen of California who resides in  
9 Fremont, California. Plaintiff Hussain has purchased the Product from Defendant for several years,  
10 including as recently as March 2022 from a Burger King located in Fremont, California. Prior to  
11 his purchase, Mr. Hussain reviewed the labeling, packaging, and marketing materials of his  
12 Product, including those set out herein, including that the Product was safe and sustainable. Mr.  
13 Hussain understood that based on Defendant's claims, that Product was safe for consumption, and  
14 otherwise a sustainable product. Mr. Hussain reasonably relied on these representations and  
15 warranties in deciding to purchase the Product, and these representations and warranties were part  
16 of the basis of the bargain in that he would not have purchased the Product, or would not have  
17 purchased it on the same terms, if the true facts had been known. As a direct result of Defendant's  
18 material misrepresentations and omissions, Mr. Hussain suffered and continues to suffer, economic  
19 injuries.

20 9. Mr. Hussain continues to desire to purchase the Product from Defendant. However,  
21 Mr. Hussain is unable to determine if the Product is actually safe and sustainable. Mr. Hussain  
22 understands that the composition of the Product may change over time. But as long as Defendant  
23 continues to market its products as "safe" and "sustainable," he will be unable to make informed  
24 decisions about whether to purchase Defendant's Product and will be unable to evaluate the  
25 different prices between Defendant's Product and competitor's Products. Mr. Hussain is further  
26 likely to be repeatedly misled by Defendant's conduct, unless and until Defendant is compelled to  
27 ensure that the Product is marketed, labeled, packaged, and advertised as safe and sustainable, are  
28 in fact safe and sustainable.



# 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.