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**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

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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 public¹—
11 contains unsafe per- and polyfluoralkyl substances (“PFAS”).²

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.”³

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.”⁴

22 ¹ 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 ² 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 ³ 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.

⁴ 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 Reports⁵ determined that the Product packaging contains **249.7 parts per million (ppm)**
5 **of total organic fluorine.**⁶

6 5. As a point of reference, the current EPA health advisor limit for safe consumption,
7 is just **70 nanograms per liter.**⁷ To put this in perspective, **1 part per million is the equivalent**
8 **of 1,000,000 nanograms per liter.**⁸ 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 ⁵ 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 ⁶ 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 ⁷ 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 ⁸ 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.

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