

FILED

FEB - 9 2015

KIM TURNER, Court Executive Officer  
MARIN COUNTY SUPERIOR COURT  
By: C. Lucchesi, Deputy

1 EDWARD S. BERBERIAN  
2 District Attorney, County of Marin  
3 Andres H. Perez, SBN 186219  
4 Deputy District Attorney  
3501 Civic Center Dr., Room 130  
San Rafael, CA 94903

5 (For list of additional Plaintiff's counsel,  
6 see attached Exhibit 1)

7 Attorneys for Plaintiff

8 SUPERIOR COURT OF CALIFORNIA

9 IN AND FOR THE COUNTY OF MARIN

10 THE PEOPLE OF THE STATE OF  
11 CALIFORNIA,

12 Plaintiff,

13 v.

14 TARGET CORPORATION, a Minnesota  
corporation,

15 Defendant.

Case No. CIV 15 00 47 4

COMPLAINT FOR INJUNCTION,  
RESTITUTION, CIVIL PENALTIES,  
AND OTHER EQUITABLE RELIEF

17 Plaintiff, the People of the State of California, appearing through its attorneys, Edward S.  
18 Berberian, Marin County District Attorney, by Andres H. Perez, Deputy District Attorney; Mark  
19 A. Peterson, Contra Costa County District Attorney, by Gary E. Koeppel, Supervising Deputy  
20 District Attorney; Lisa A. Smittcamp, Fresno County District Attorney, by Edward T. Browne,  
21 Deputy District Attorney; Jeffrey Rosell, Santa Cruz County District Attorney, by William R.  
22 Atkinson, Assistant District Attorney; Jill R. Ravitch, Sonoma County District Attorney, by  
23 Matthew T. Cheever, Deputy District Attorney; and Jan I. Goldsmith, San Diego City Attorney,  
24 by Kathryn L. Turner, Assistant City Attorney and Kristine A. Lorenz, Deputy City Attorney;  
25 (hereinafter "Plaintiff") allege on information and belief the following:

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**COPY**

1 JURISDICTION AND VENUE

2 1. Defendant, Target Corporation, is and at all times mentioned herein, has been  
3 engaged in the retail business of selling food and general merchandise and has transacted business  
4 in the Counties of Contra Costa, Fresno, Marin, Santa Cruz, Sonoma; the City of San Diego; and  
5 elsewhere throughout the State of California. The violations of law alleged herein have been  
6 carried out within the Counties of Contra Costa, Fresno, Marin, Santa Cruz, Sonoma; the City of  
7 San Diego; and elsewhere throughout the State of California.

8 2. Target Corporation owns and operates approximately 258 retail stores throughout  
9 the State of California under the names Target, CityTarget, and SuperTarget.

10 3. Target Corporation is and was at all times mentioned in the Complaint, a  
11 Minnesota Corporation, with its principal place of business at 1000 Nicollet Mall, Minneapolis,  
12 Minnesota 55403.

13 4. Whenever a reference is made in this Complaint to any representation, act or  
14 transaction of Target Corporation, such allegation shall be deemed to mean that Target  
15 Corporation and its principals, officers, directors, employees, agents, and/or representatives  
16 (hereinafter collectively "Defendant"), while actively engaged within the actual or ostensible  
17 scope of their employment, did or authorized such representation, acts or transactions on behalf of  
18 Target Corporation.

19 5. The authority of the Plaintiff to bring this action on behalf of the People of the  
20 State of California is derived from the statutory law of the state of California, *inter alia* Business  
21 and Professions Code sections 17200, 17204, 17206, 17207, 17500, 17535, 17535.5, and 17536.

22 GENERAL ALLEGATIONS

23 6. Beginning at an exact date unknown to Plaintiff, but commencing no later than  
24 December 27, 2008, Defendant was doing business and at all times herein mentioned has  
25 continued to do business at various locations within the State of California as a retail business  
26 selling food, drug, and general merchandise products from its Target, CityTarget, and  
27 SuperTarget stores.

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1 7. Defendant sells its own private-label merchandise, in addition to popular branded  
2 merchandise. Defendant's private-label merchandise includes, but is not limited to, the following  
3 brands: Archer Farms, Market Pantry, Simply Balanced, Threshold, and up&up.

4 8. Defendant in the course of conducting its retail business failed to comply with  
5 various state laws, including but not limited to those regulating the advertising, packaging, and  
6 labeling of food and general merchandise, as more specifically alleged below.

7  
8 **FIRST CAUSE OF ACTION**  
9 **(Misleading Statements in Violation of Business and Professions Code §17500)**

10 9. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 8,  
11 inclusive, of this Complaint as though fully set forth herein.

12 10. Beginning at an exact date unknown to Plaintiff, but commencing no later than  
13 December 27, 2009, Defendant, with the intent to induce members of the public to purchase  
14 goods in its California stores, made or caused to be made statements about those goods that were  
15 untrue of misleading or had the capacity, likelihood, or tendency to deceive or confuse the public,  
16 and that were known or by the exercise of reasonable care should have been known to be untrue  
17 or misleading or having the capacity, likelihood, or tendency to deceive or confuse the public, in  
18 violation of Business and Professions Code section 17500, including but not limited to:

19 A. Advertising, posting, marking, or quoting a price for a commodity and  
20 charging at the point of sale a greater price;

21 B. Misrepresenting the weight of Defendant's branded products by way of  
22 inaccurate statements on display panels or labels.

23 11. The unlawful conduct, acts, and omissions of Defendant in violation of section  
24 17500 et seq. of the Business and Professions Code as set forth herein demonstrate the necessity  
25 and legal basis for granting injunctive relief, disgorgement and restitution to victims and  
26 imposing civil penalties pursuant to sections 17535 and 17536 of the Business and Professions  
27 Code.

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**SECOND CAUSE OF ACTION**

**(Unfair Competition in Violation of Business and Professions Code §17200)**

12. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 11, inclusive, of this Complaint as though fully set forth therein.

13. Beginning at an exact date unknown to Plaintiff but commencing no later than December 27, 2008, Defendant engaged in acts of unfair competition within the meaning of Business and Professions Code section 17200, including but not limited to the following:

A. Making untrue or misleading statements in connection with the sale or offering for sale of goods to the public in California, which statements constituted false advertising within the meaning of Business and Professions Code section 17500, and in violation of that provision, as alleged in the First Cause of Action, above;

B. Selling commodities by gross weight, in violation of Business and Professions Code section 12023;

C. Selling commodities in less quantity than represented, in violation of Business and Professions Code section 12024;

D. At the time of sale of a commodity, charging an amount greater than the price, or computing an amount greater than a true extension of the price per unit, that is then advertised, posted, marked, displayed or quoted for that commodity, in violation of Business and Professions Code section 12024.2(a)(1); and

E. At the time of sale of a commodity, charging an amount greater than the lowest price posted on the commodity itself or on a shelf tag that corresponds to the commodity, notwithstanding any limitation of the time period for which the posted price is in effect, in violation of Business and Professions Code section 12024.2(a)(2).

14. The unlawful conduct, acts, and omissions of Defendant in violation of section 17200 et seq. of the Business and Professions Code as set forth herein demonstrate the necessity and legal basis for granting injunctive relief, disgorgement and restitution to victims and imposing civil penalties pursuant to sections 17203 and 17206 of the Business and Professions Code.

**THIRD CAUSE OF ACTION**

**(Violation of 2008 Injunction Business and Professions Code §§17207 and 17535.5)**

15. Plaintiff re-alleges and incorporates herein by reference Paragraphs 1 through 14, inclusive, of this Complaint as though fully set forth herein.

16. On October 16, 2008, the Contra Costa County Superior Court issued, pursuant to Business and Professions Code sections 17200 et seq. and 17500 et seq., a Final Judgment including a permanent injunction against Defendant in case number C08-02628 (hereinafter "2008 Injunction"). The 2008 Injunction is and has at all times relevant hereto been valid and enforceable. The 2008 Injunction permanently enjoined and restrained Defendant from directly or indirectly doing any of the following practices or acts, which constitute unfair competition, within the State of California:

A. Charging at the time of sale of a commodity, a value which is more than the price posted, marked, displayed, or quoted in violation of Business and Professions Code §12024.2(a);

B. Making or causing to be made any false or misleading statement to the public with respect to the price of items offered for sale.

C. Using any type of scanning system unless Target maintained for a period of four years from the date of entry of the 2008 Injunction a Compliance Program to enhance pricing accuracy and correct pricing errors as set forth more fully in paragraph 5 of the 2008 Injunction, hereby incorporated by reference.

17. Beginning at an exact date unknown to Plaintiff, but commencing no later than December 27, 2008, Defendant violated the 2008 Injunction by intentionally committing acts and/or practices in violation thereof, including but not limited to the acts and/or practices alleged in the first and second causes of action of this complaint.

18. Each intentional violation of the 2008 Injunction, and each day during which any

1 intentional violation of the 2008 Injunction continued, constitutes a separate and distinct violation  
2 of Business and Professions Code sections 17207 and 17535.5, each of which constitutes the  
3 basis for issuance of an enhanced civil penalty as provided for in that section.  
4

5 **PRAYER**

6 **WHEREFORE**, PLAINTIFF PRAYS for judgment as follows:

7 1. That pursuant to Business and Professions Code sections 17203 and 17535,  
8 Defendant and its officers, directors, employees, agents, representatives, successors and assigns,  
9 and all persons, corporations or other entities acting in concert or participation with or for them,  
10 be preliminarily, and thereafter permanently, restrained and enjoined from engaging in any acts  
11 constituting false or misleading statements as defined in section 17500 of the Business and  
12 Professions Code and unfair competition as defined in section 17200 of the Business and  
13 Professions Code, including but not limited to the acts set forth in paragraphs 6 through 18,  
14 above.  
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16 2. That pursuant to Business and Professions Code Section 17536, Defendant be  
17 assessed a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED DOLLARS  
18 (\$2,500.00) for each and every violation of Business and Professions Code section 17500 as  
19 alleged in the First Cause of Action.  
20

21 3. That pursuant to California Business and Professions Code Section 17206,  
22 Defendant be assessed a civil penalty in the amount of TWO THOUSAND FIVE HUNDRED  
23 DOLLARS (\$2,500.00) for each and every violation of Business and Professions Code section  
24 17200 as alleged in the Second Cause of Action.

25 4. That pursuant to California Business and Professions Code Sections 17207 and  
26 17535.5, Defendant be assessed a civil penalty in the amount of SIX THOUSAND DOLLARS  
27 (\$6,000.00) for each and every violation of Business and Professions Code section 17207 and  
28

1 17535.5 as alleged in the Third Cause of Action.

2 5. That pursuant to California Business and Professions Code Section 12015.5,  
3 Defendant pay the incurred costs of the investigation in this action.

4 6. That Plaintiff recover reasonable restitution on behalf of consumers who suffered  
5 loss by Defendant's acts of deceptive advertising and/or unfair competition.  
6

7 7. That Plaintiff recover its cost of suit.

8 8. That Plaintiff be given such other further relief as the nature of this case may  
9 require and this Court deems proper to fully and successfully dissipate the effects of the unlawful  
10 and unfair acts complained of in this complaint.  
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14 Date: 2/7/2015

EDWARD S. BERBERIAN  
DISTRICT ATTORNEY

15  
16 By: Andres H. Perez  
Andres H. Perez  
Deputy District Attorney  
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19 **NOTICE THAT THIS COMPLAINT IS DEEMED VERIFIED PURUSANT TO**  
20 **SECTION 446 OF THE CODE OF CIVIL PROCEDURE**  
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**EXHIBIT 1**

MARK A. PETERSON  
Contra Costa County District Attorney  
Gary E. Koeppel, SBN 104596  
Supervising Deputy District Attorney  
900 Ward Street, Fourth Floor  
Martinez, CA 94533  
(925) 957-8604

JEFFREY ROSELL  
Santa Cruz County District Attorney  
William R. Atkinson, SBN 88933  
Assistant District Attorney  
701 Ocean St., Suite 200  
Santa Cruz CA 95060  
(831) 454-2000

LISA A. SMITTCAMP  
Fresno County District Attorney  
Edward T. Browne, SBN 167638  
Deputy District Attorney  
2220 Tulare St., Suite 1000  
Fresno CA 93721  
(559) 488-3156

JAN I. GOLDSMITH  
San Diego City Attorney  
Kathryn L. Turner, SBN 151477  
Assistant City Attorney  
Kristine Lorenz, SBN 220609  
Deputy City Attorney  
1200 Third Avenue, Suite 700  
San Diego, CA 92101  
(619) 533-5500

JILL R. RAVITCH  
Sonoma County District Attorney  
Matthew T. Cheever, SBN 191783  
Deputy District Attorney  
2300 County Center Dr., Suite B-170  
Santa Rosa, CA 95403  
(707) 565-3161