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

JONATHAN RETTA, KIRSTEN  
SCHOFIELD, and JESSICA MANIRE  
on Behalf of Themselves and all Others  
Similarly Situated,

Plaintiffs,

v.

MILLENNIUM PRODUCTS, INC.

Defendant.

Case No. 2:15-cv-01801-PSG-AJW

**THIRD AMENDED CLASS ACTION  
COMPLAINT**

**JURY TRIAL DEMANDED**

1 Plaintiffs Jonathan Retta, Kirsten Schofield, and Jessica Manire (“Plaintiffs”)  
2 bring this action on behalf of themselves and all others similarly situated against  
3 Defendant Millennium Products, Inc. (“Millennium” or “Defendant”). Plaintiffs  
4 make the following allegations pursuant to the investigation of their counsel and  
5 based upon information and belief, except as to the allegations specifically pertaining  
6 to themselves, which are based on personal knowledge.

### 7 INTRODUCTION

8 1. Millennium Products, Inc. has passed off millions of bottles of its wildly  
9 successful kombucha beverages as non-alcoholic, when, in fact, the beverages  
10 contain two to seven times the legal limit for non-alcoholic beverages. Having been  
11 caught selling alcoholic kombucha beverages to unsuspecting customers in 2006 and  
12 2010, Millennium decided to market and distribute an alcoholic version of its  
13 kombucha products (the “Classic” kombucha line) and a “non-alcoholic” version  
14 (the “Enlightened” line), knowing that the non-alcoholic line has a much greater  
15 market appeal and could be sold in far more retail locations. But the purported  
16 distinction between the “Classic” and “Enlightened” lines is a sham designed to  
17 confuse the public and government regulators, as both lines of products contain  
18 alcohol levels far surpassing the legal limit for non-alcoholic beverages.

19 2. Millennium’s marketing campaign also takes advantage of high  
20 consumer demand for antioxidants by touting the antioxidant content in its  
21 kombucha beverages in precisely the manner the Food and Drug Administration  
22 (“FDA”) sought to prohibit by establishing the antioxidant labeling requirements set  
23 forth in 21 C.F.R. § 101.54(g). Millennium has plastered misleading antioxidant  
24 messaging on every side of its GT’s Enlightened Kombucha and Enlightened  
25 Synergy (collectively, “the Enlightened line” or “Enlightened Kombucha”<sup>1</sup>)

26  
27 <sup>1</sup> “Enlightened Kombucha” refers to every flavor of Millennium’s GT’s Enlightened  
28 Kombucha and Enlightened Synergy lines, as described herein.

1 beverage labels. The simple truth is, however, that Enlightened Kombucha does not  
2 have even a single nutrient that the FDA recognizes and approves of for labeling  
3 statements using the term “antioxidant.” Because the antioxidant statements on  
4 Enlightened Kombucha’s labels are unauthorized and misleading nutrient content  
5 claims proscribed by the FDA, Enlightened Kombucha is misbranded and  
6 improperly labeled in violation of the Food, Drug, and Cosmetic Act, and  
7 corresponding state laws as described herein. Accordingly, Millennium has sold  
8 misbranded products using misleading advertising to millions of consumers, who  
9 relied on Millennium’s advertising and were injured as a result.

10 3. Plaintiffs Retta, Manire, and Schofield purchased numerous bottles of  
11 Enlightened Kombucha based on Millennium’s misleading advertising and labeling  
12 of the products.

13 4. Plaintiffs seek relief in this action individually, and on behalf of all  
14 purchasers of Enlightened Kombucha, for Millennium’s violations of the California  
15 Consumer Legal Remedies Act (“CLRA”), Civil Code §§ 1750, *et seq.*, Unfair  
16 Competition Law (“UCL”), Bus. & Prof. Code §§ 17200, *et seq.*, False Advertising  
17 Law (“FAL”), Bus. & Prof. Code §§ 17500, *et seq.*, and New York’s Deceptive and  
18 Unfair Trade Practices Act, New York General Business Law § 349 (“NYGBL”).

### 19 **PARTIES**

20 5. Plaintiff Jonathan Retta is a citizen of Virginia, residing in Annandale.  
21 Within the past three years, Mr. Retta purchased GT’s Enlightened Kombucha:  
22 Multi-Green and Enlightened Synergy: Mystic Mango from Whole Foods, in  
23 Washington, D.C. and New York. Mr. Retta purchased GT’s Enlightened  
24 Kombucha: Multi-Green and Enlightened Synergy: Mystic Mango relying on  
25 statements on the bottles’ labels, including the following statements that characterize  
26 the level of antioxidants in the beverages:  
27  
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