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Mendoza, an individual, on behalf of herself
and all others similarly situated.*

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF ALAMEDA**

Amber Takahashi-Mendoza, an individual, on behalf
of herself and all others similarly situated,

Plaintiff,

v.

Cooperative Regions of Organic Producer Pools
d/b/a Organic Valley, a Wisconsin Corporation.

Defendant.

ELECTRONICALLY FILED

Superior Court of California,
County of Alameda

07/19/2022 at 09:03:30 AM

By: Cheryl Clark,
Deputy Clerk

Case No. **22CV014564**

CLASS ACTION

COMPLAINT FOR:

- 1. Violation of California's
Consumers Legal Remedies Act
("CLRA"); Cal. Civil Code § 1750
et seq.**
- 2. Violation of California's Unfair
Competition Law ("UCL"); Bus. &
Prof. Code § 17200 et seq.**

JURY TRIAL DEMANDED

1 Plaintiff Amber Takahashi-Mendoza (“Plaintiff” or “Takahashi-Mendoza”) brings this action, on
2 behalf of herself and all others similarly situated against Cooperative Regions of Organic Producer Pools
3 d/b/a Organic Valley (collectively “Defendant” or “Organic Valley”). Plaintiff alleges the following
4 based upon information and belief, the investigation of counsel, and personal knowledge as to the
5 allegations pertaining to herself.

6 NATURE OF THE CASE

7 1. Defendant, one of the largest sellers of organic milk products in the United States, takes
8 in outsized profits off the booming market for humanely produced goods by labeling its products as being
9 manufactured through “Humane Animal Practices.” In reality, Defendant knows its milk is not.

10 2. When Plaintiff and others buy “Organic Valley” brand dairy products, they are told they
11 are supporting humane farming practices and pay premium prices for doing so. Instead, Defendant sells
12 them products made through needless cruelty to animals.

13 3. Unbeknownst to consumers, the dairy products they purchase come from cows whose
14 calves are stripped from them within days or hours of birth. These calves are then reared in isolation
15 hutches, often in poor health without vital socialization and natural sustenance. Male calves are quickly
16 sold for eventual commercial slaughter, while female calves go on to give birth to calves who are
17 immediately taken away from them. These practices are not “humane” and do not comport with
18 established “highest standards” of animal care “above and beyond other standards”—including provision
19 of “social” settings—that Defendant touts on its labels, but instead renders them false and misleading to
20 reasonable consumers such as Plaintiff. This is especially true given the context of the representations—
21 including, for example, cartons showing a mother cow and calf together in an open field, in direct contrast
22 to Defendant’s actual practices.

23 4. Defendant’s representations are important to consumers seeking humane alternatives to
24 conventionally-produced dairy products. Research shows these consumers are willing to pay more for
25 milk from production systems that do not involve premature separation of cows and calves. Defendant
26 and others in the industry know it would pose a risk to dairy sellers’ outsized profits if consumers learned
27 the truth: that dairy products found in every grocery store—even many of those marketed as “humane”
28

1 and sold at premium prices like Defendant's—are ruthless products of socially-deprived calves
2 prematurely separated from their mothers.

3 5. Defendant's label statements, targeted to consumers who care about the humane treatment
4 of animals, deceive consumers about the true nature of its business practices and cause Plaintiff and other
5 consumers to pay premium prices. It is these premium prices that regularly provide Defendant more than
6 \$1.1 billion in annual sales, including more than \$1.2 billion in recorded sales for the year ending 2020.

7 6. Defendant should not be allowed to continue its cruelty and fraud. Plaintiff thus brings
8 this action pursuant to: (i) California Business & Professions Code §§ 17200, *et seq.* (the Unfair
9 Competition Law or "UCL"); and (ii) California Civil Code §§ 1750, *et seq.* (the Consumers Legal
10 Remedies Act or "CLRA"). Plaintiff brings this action on behalf of a California class for restitution and
11 any other relief deemed appropriate by the Court, including without limitation, damages, exemplary
12 damages, declaratory relief holding that Defendant's conduct violates both California's consumer
13 protection laws and its penal code, and injunctive relief in the form of an order to remedy and put an end
14 to Defendant's unlawful conduct.

15 **I. JURISDICTION AND VENUE**

16 7. This Court has jurisdiction over all causes of action asserted herein under the California
17 Constitution.

18 8. This Court has jurisdiction over Defendant because it carries on a continuous and
19 systematic part of its general business within the State of California.

20 9. Venue is proper in this county pursuant to California Civil Code § 1780(d) because
21 Defendant does business here.

22 **II. THE PARTIES**

23 10. Plaintiff Amber Takahashi-Mendoza lives in Oroville, California, and grew up visiting
24 her uncle's farm. Her experience observing cows with their calves, and calves playing with their
25 companions, influenced her own dietary and purchasing habits. When Ms. Takahashi-Mendoza
26 purchases milk for house guests, she pays substantial premium prices in an effort to ensure she is
27 supporting humane husbandry practices. After seeing Defendant's advertising on its milk cartons,
28 including material representations referenced herein, she began regularly purchasing Defendant's milk

1 at a local grocery store. Based on Defendant’s representations, Ms. Takahashi-Mendoza believed
2 Defendant’s milk came from cows treated in a humane manner. Had she known the truth, she would not
3 have paid premium prices for Defendant’s milk or would not have purchased it at all. Ms. Takahashi-
4 Mendoza would consider purchasing Defendant’s milk again if Defendant were to treat cows in a manner
5 consistent with its advertising.

6 11. Defendant Organic Valley—headquartered in La Farge, Wisconsin—is one of the largest
7 organic dairy sellers in the world. Defendant markets products in all 50 states and exports to 25 countries.
8 It is organized for the express purpose of “adding value to, and marketing, its members’ production,” and
9 does so to great effect—regularly reporting annual revenue of more than \$1.1 billion, including recorded
10 sales of \$1.2 billion for the year ending 2020.¹ At least 18 of Defendant’s member farms—whose welfare
11 policies and practices Defendant has oversight and control over, and regularly inspects and investigates—
12 are based in California. Defendant markets and sells its products across California, including in this
13 county.

14 **III. FACTUAL BACKGROUND**

15 ***Humane Treatment: What ‘Highest Standards’ Mean for Mother Cows and Newborn Calves***

16 12. Various third-party animal welfare standards for cows used in dairy production set
17 minimum thresholds for what the “Highest Standards of Animal Care” would look like with respect to
18 separation of mother cow and calf. For example, one prominent certifier recommends husbandry systems
19 ***“that allow young calves to remain in the herd with their mothers until weaning occurs naturally,”***
20 with separation of mother cow and calf to occur only when doing so can “cause as little stress as
21 possible.”² To qualify for the top two tiers of another certifier’s six levels of certification, sellers are
22 required to allow calves to ***stay with their mothers for at least 168 days***, or else to make sure calves are
23
24

25 ¹ Organic Valley, *Press Release: Organic Valley Upholds Mission to Sustain Family Farms, Hits*
26 *Record \$1.2 Billion in Sales* (Jun. 9, 2021), available at
[https://www.organicvalley.coop/newspress/organic-valley-upholds-mission-sustain-family-farms-hits-](https://www.organicvalley.coop/newspress/organic-valley-upholds-mission-sustain-family-farms-hits-record-12-billion-sales/)
27 [record-12-billion-sales/](https://www.organicvalley.coop/newspress/organic-valley-upholds-mission-sustain-family-farms-hits-record-12-billion-sales/).

28 ² Animal Welfare Approved by AGW, *Certified Animal Welfare Approved by AGW Standards for*
Dairy Cattle (last visited May 31, 2022), available at [https://agreenerworld.org/wp-](https://agreenerworld.org/wp-content/uploads/2022/02/AWA-Dairy-Cattle-Standards-2021-v2.pdf)
[content/uploads/2022/02/AWA-Dairy-Cattle-Standards-2021-v2.pdf](https://agreenerworld.org/wp-content/uploads/2022/02/AWA-Dairy-Cattle-Standards-2021-v2.pdf).

1 fostered for at least 168 days by another nursing cow who is assigned no more than three calves.³ Despite
2 its promises, Defendant, on information and belief, does not meet these standards—and so inflicts undue
3 suffering.

4 ***Cows—Both Mothers and Calves—Are Sensitive, Intelligent Beings With Distinct Personalities***

5 13. Studies have shown cows are able to think and observe. They routinely demonstrate robust
6 and rapid learning abilities and express joy when they successfully learn something new. Cows perform
7 well in maze tests and can retain this knowledge for days or even weeks.⁴ Cows are also capable of
8 extrapolating knowledge from smaller pieces of information. For example, in one study, cows taught to
9 follow a trolley for food were able, after the trolley moved into a tunnel, to predict the trajectory of the
10 trolley and meet it at the far end of the tunnel.⁵

11 14. Cows are also capable of an advanced degree of visual discrimination. Studies have shown
12 they are capable of differentiating not only between shapes, colors, and brightness, but also among more
13 complex dimensions, such as between members of their own species and other animals, and between
14 human handlers whose interactions with the cows are more or less rough, gentle, stingy, or generous.⁶

15 15. Cows are acutely sensitive. They experience a wide range of both positive and negative
16 emotional states. Positive emotions include joy, pleasure, and excitement, often manifesting in, for
17 example, play behaviors. But cows can also experience fear and frustration. Fear can manifest in
18 behaviors such as hesitancy to enter new spaces, defecation, vocalizations, and escape attempts. More
19 subtle physical changes are also associated with shifts in emotion, such as nasal temperatures, ear posture,
20 heart rate, and eye widening in which a higher percentage of white space is visible below a cow's upper
21 eyelid. The latter, in particular, is associated with frustration and fear, as are other negative behaviors,
22 such as aggression, repetitive pacing, certain vocalizations, and head-shaking.

23 //

24
25 ³ Global Animal Partnership, *5-Step® Animal Welfare Pilot Standards for Dairy Cattle v1.1* (Dec. 9,
26 2021), available at [https://globalanimalpartnership.org/wp-content/uploads/2022/01/20211209-G.A.P.-](https://globalanimalpartnership.org/wp-content/uploads/2022/01/20211209-G.A.P.-5-Step-Standards-for-Dairy-Cattle-v1.1.pdf)
27 [5-Step-Standards-for-Dairy-Cattle-v1.1.pdf](https://globalanimalpartnership.org/wp-content/uploads/2022/01/20211209-G.A.P.-5-Step-Standards-for-Dairy-Cattle-v1.1.pdf).

28 ⁴ See, e.g., Lori Marino & Kristin Allen, *The Psychology of Cows*, 4(4) *Animal Behavior & Cognition*
474, 479 (2017), <https://dx.doi.org/10.26451/abc.04.04.06.2017>.

⁵ See, e.g., *id.* at 477.

⁶ See, e.g., *id.* at 478.

1 16. They are also very social animals. Like humans, cows are capable of emotional
2 contagion—the spread of positive or negative emotions throughout a group. When one cow exhibits fear
3 or distress in response to a stimulus, other cows who witness her response may also experience fear or
4 distress. Cows also provide emotional support to one another. Studies have shown that following a
5 stressful event, cows will prioritize seeking out a non-stressed companion over food.⁷

6 17. Unsurprisingly, cows’ cognitive, emotional, and physical wellbeing are all inextricably
7 linked to their social needs. As elaborated below, social rearing and experiences, particularly early in life,
8 are a necessary and crucial part of normal psychological development in cows just as they are in humans.
9 Cows are social herd animals who crave companionship, and calves raised together, as they would be in
10 more natural settings, learn from each other. Bonds between mother cows and their babies from birth
11 through the months-long, normal weaning process are similarly vital to cow development and wellbeing.
12 When cows are allowed to meet these crucial needs, they can thrive. When these needs are unfulfilled,
13 they suffer.

14 ***Defendant’s Advertising and Resulting Premium Pricing Induces Justified Reliance***

15 18. An ever-growing population of American consumers believes it is important that the food
16 industry treat farmed animals—including cows used by the dairy industry—humanely, and with attention
17 to their needs and natural behaviors. Like Plaintiff, many consumers base their purchasing decisions on
18 their perceptions of animal welfare and are willing to pay a premium to sellers who source their dairy
19 products from cows who are treated well and allowed to engage in natural behaviors, like raising their
20 young.

21 19. This is borne out by market research. In recent years, animal welfare claims outpaced
22 growth in claims relating to categories like organic ingredients, non-GMO status, and lack of added
23 hormones.⁸ During fiscal year 2019, the United States Department of Agriculture Food Safety and
24

25
26 ⁷ See, e.g., *id.* at 483-84.

27 ⁸ Elizabeth Crawford, *SPINS Data Shines Light on Why ‘Consumers Returned to Real Dairy Drove*
28 *During the Pandemic,’* Food Navigator-USA (Jun. 1, 2021), <https://www.foodnavigator-usa.com/Article/2021/06/01/SPINS-data-shines-light-on-why-consumers-returned-to-real-dairy-in-drove-during-the-pandemic>.

1 Inspection Service received over 200 label applications with animal-raising claims each week.⁹ A 2018
2 survey by a research firm supporting foodservice clients found that close to a third of supermarket
3 industry decision-makers are motivated to stock products that promise better animal welfare, and that 70
4 percent of those stocking products with humane claims report that sales from these products have
5 increased.¹⁰

6 20. Dairy sellers such as Defendant are well aware of, and monitor and report on, consumer
7 expectations, understanding they have massive ramifications for their operations and outsized profits. A
8 2018 survey by a national research firm found that 76 percent of consumers shopping at conventional
9 grocery stores, and 87 percent of consumers at premium/natural grocery stores, including consumers of
10 dairy products, say they are concerned about the welfare of animals raised for food.¹¹ Results were
11 similar across every demographic group.¹²

12 21. Defendant, one of the world's largest dairy manufacturers, goes to extensive lengths,
13 while scaling up its intensive milk production, to market itself as uniquely humane even among other
14 sellers of premium priced, animal welfare-branded dairy products. This is not surprising. As Defendant's
15 own vice president of brand management and innovation explained in November 2021, "concerns
16 regarding animal treatment" are "a narrative threatening the dairy industry."¹³ But instead of combatting
17 this narrative by rigorously enforcing humane standards, Defendant uses marketing to mask its treatment
18 of cows.

19 //

21 ⁹ *Animal Raising Claims Labeling Guidelines Update*, U.S. Dep't of Agric., Food Safety & Inspection
22 Serv. (Sep. 1, 2021), https://www.fsis.usda.gov/sites/default/files/media_file/2021-09/Animal-Raising-Claims-labeling-and-Non-GMO-slides-2021-09-01.pdf.

23 ¹⁰ The American Society for the Prevention of Cruelty to Animals and Technomic Inc., *Understanding*
24 *Retailers' Animal Welfare Priorities* (2018), available at
https://www.aspc.org/sites/default/files/aspc_2018_understanding_retailers_animal_welfare_priorities.pdf.

25 ¹¹ Bob Meadow and Meryl O'Bryan, Results from a Survey of American Consumers, Lake Research
26 Partners (Feb. 1, 2019), available at [https://www.aspc.org/sites/default/files/aspc-](https://www.aspc.org/sites/default/files/aspc-2018_animal_welfare_labelling_and_consumer_concern_survey.pdf)
[2018_animal_welfare_labelling_and_consumer_concern_survey.pdf](https://www.aspc.org/sites/default/files/aspc-2018_animal_welfare_labelling_and_consumer_concern_survey.pdf).

27 ¹² *Id.*

28 ¹³ Anna Boisseau, *2021 State of the Industry: Milk is on a Long and Winding Road*, DairyFoods (Nov. 5, 2021), available at <https://www.dairyfoods.com/articles/95315-2021-state-of-the-industry-milk-is-on-a-long-and-winding-road>.

22. Specifically, Defendant states on its cartons that:

- Organic Valley has a “commitment to the highest . . . animal care practices”;
- Organic Valley employs “Humane Animal Practices”;
- That these “high standards of animal care go above and beyond” other standards since “the best milk comes from happy cows”;
- “We Hold Ourselves to the Highest Standards”;
- “OUR COWS ARE SOCIAL AND SO ARE WE”;
- Organic Valley farms are “growing real food the right way”;
- Organic Valley raises cows with “LOVE.”

23. These messages are prominently displayed to every consumer who may happen upon Defendant’s milk cartons in the grocery aisle—frequently, as seen in the exemplary cartons below, alongside suggestive images of human mothers with their own children:





24. These statements do not appear in isolation. In addition to the idyllic imagery seen above, one of Defendant's current product lines—while making the explicit animal welfare commitments described above—actually depicts an image of what any reasonable consumer would infer to be a mother cow and her calf:



25. Defendant's representations misled Plaintiff into believing Defendant does not engage in needless, inhumane cruelty toward farmed animals, such as by separating cow mothers and babies within days or hours of birth, or by raising calves in a manner that deprives them of vital social bonding, health, and natural sustenance, or by engaging in practices beneath the requirements of other prominent third-party animal welfare standards. Plaintiff would not have paid a premium price for the products if she had known the true nature of Defendant's practices, as set forth herein. Nor, as elaborated further below, would many other consumers who research has shown are willing to pay more specifically for dairy products from production systems that do not involve premature separation of cows and calves.

26. Defendant uses these false and misleading representations to induce reliance from reasonable consumers like Plaintiff. Early separation of mother cows from their babies is a particular cruelty of the dairy industry. The babies of many other categories of farmed mammals—such as sheep,

pigs, horses, and cows used for beef—are frequently housed with their mothers for some meaningful period of time. Cows used in dairy production are an exception, one that reasonable consumers are unaware of due to deceptive packaging like Defendant’s.

27. The implications of this for dairy sellers are well understood. As one study published in 2020 put it, research regarding the “overwhelming” views on calf housing options among American youth and adults lends itself to the conclusion that “housing systems that enable greater degrees of behavioral freedom [including socialization] for calves may be more socially sustainable for the dairy sector.”¹⁴ This is consistent with other published studies showing that separation of mother and baby cows is a subject of particular concern, and is considered an unacceptable practice to many reasonable consumers—and linked to such consumers’ willingness to pay more.

28. For example, a 2015 study including hundreds of diverse U.S.-based consumers found significant majorities agreeing that mother and baby cows should not be separated early—even after reviewing common arguments for and against these practices.¹⁵ Unsurprisingly, these consumers left the study tending to believe cows were cognitively and emotionally complex, and would suffer undue acute and long-lasting psychological, physiological, and behavioral consequences from early maternal separation.

29. This finding is far from unique. During a study conducted among North American consumers across 2010 and 2011 with a diverse sample of participants, more than three quarters of those with no prior involvement in the dairy industry answered negatively when asked “Should dairy calves be separated from the cow within the first few hours after birth?,” citing concerns including the emotional and physiological health of cow mothers and babies.¹⁶ Notably, “No” was also a popular response to this question among participants with some knowledge of dairy industry standards, such as readers of trade

¹⁴ Rielle K. Perttu, Beth A. Ventura, & Marcia I. Endres, *Youth and Adult Public Views of Dairy Calf Housing Options*, 103(9) J. of Dairy Sci. 8507-8517 (Jul. 1, 2020), <https://doi.org/10.3168/jds.2019-17727>.

¹⁵ Gesa Busch, Daniel M. Weary, Achim Spiller, & Marina A. von Keyserlingk, *American and German Attitudes Towards Cow-Calf Separation on Dairy Farms*, 12(3) PloS one e0174013 (Mar. 16, 2017), <https://doi.org/10.1371/journal.pone.0174013>.

¹⁶ Beth A. Ventura, Marina A. von Keyserlingk, Catherine A. Schuppli, & Daniel M. Weary, *Views on Contentious Practices in Dairy Farming: The Case of Early Cow-Calf Separation*, 96(9) J. of Dairy Sci., 6105–6116. (Sep. 2013), <https://doi.org/10.3168/jds.2012-6040>.

1 publications, veterinarians, industry professionals, and even participants recruited at an actual dairy
2 industry conference.¹⁷

3 30. Informed consumers also disapprove of these practices. North American consumers
4 surveyed in 2014 both before and after a self-guided tour of a 500-cow dairy farm emerged more, rather
5 than less, concerned about premature separation of mother and calf.¹⁸

6 31. Some of the most up to date and detailed research into public attitudes toward, and
7 perceptions of, premature separation of mothers and calves was published in early 2022. In that study,
8 researchers surveyed a representative sample of close to 2,000 participants, including 1,487 Americans,
9 who were provided descriptions of cow-calf management systems differing in types of social and
10 maternal contact allowed.¹⁹ The results suggested “low acceptance of any cow-calf management system
11 involving early separation,” and that these participants considered “that early separation was a breach of
12 [the] standard of care owed to both cows and calves.”²⁰ All categories of participants, including those
13 who drink milk, expressed unfavorable attitudes “toward all systems involving early separation from the
14 mother, regardless of what form of additional social contact was provided.”²¹

15 32. Consistent with prior studies, participants explained that their attitudes and willingness to
16 pay premium prices were inextricably linked to their perceptions of animal welfare. Participants
17 expressed willingness to pay the same or more for milk from cows who were not separated from their
18 calves prematurely.²² This was echoed in qualitative findings offered by participants, who frequently
19 described premature maternal separation as “unnatural,” “unacceptable,” “inhumane,” and “cruel.”²³
20 Some of the responses provided by participants included the following:

21
22 ¹⁷ *Id.*

23 ¹⁸ Beth A. Ventura, Marina A. von Keyserlingk, Hannah Wittman, & Daniel M. Weary, *What*
24 *Difference Does a Visit Make? Changes in Animal Welfare Perceptions after Interested Citizens Tour a*
25 *Dairy Farm*, 11(5) PloS one e0154733 (May 31, 2016), <https://doi.org/10.1371/journal.pone.0154733>.

26 ¹⁹ Lara V. Sirovica, Caroline Ritter, Hendricks, J., Daniel M. Weary, Sumeet Gulati, & Marina A. von
27 Keyserlingk, *Public Attitude Toward and Perceptions of Dairy Cattle Welfare in Cow-Calf*
28 *Management Systems Differing in Type of Social and Maternal Contact*, 105(4) J. of Dairy Sci. 3248–
3268 (Jan. 28, 2022), <https://doi.org/10.3168/jds.2021-21344>.

²⁰ *Id.* at 3248.

²¹ *Id.* at 3257.

²² *Id.* at 3258-65

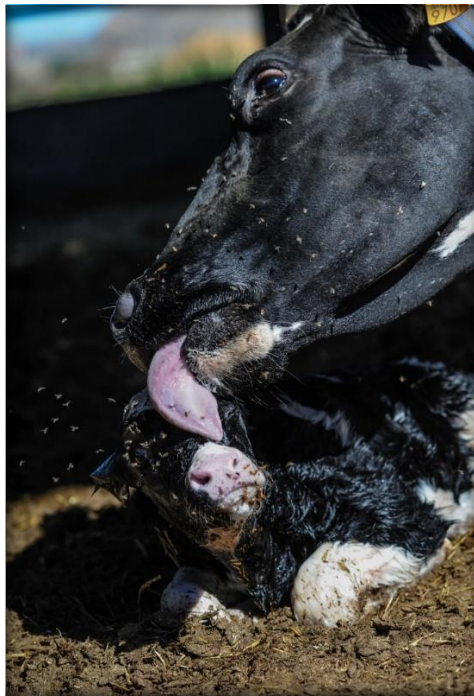
²³ *Id.* at 3261-63.

- 1 • “This is disappointing to learn. I think if more customers of dairy milk were educated [on]
2 this process they would be reluctant to purchase dairy milk.”
- 3 • “I am really saddened to learn this, both as a human being and a lover of animals. It makes
4 me a lot more self-conscious about what I consume as food products and have more
5 thoughts about the process in which these products are created. It is absolutely shocking
6 to hear how cruel and inhuman the process is. The poor animals are disposable and not
7 looked at as living life forms with emotions. Imagine doing this to a person, how
8 appropriate and sane would that be to do? Any baby needs their mother.”
- 9 • “It’s cruel to take a baby away from mother regardless of human or animal.”
- 10 • “Separating a calf after birth from the mom is totally unacceptable and inappropriate
11 whatever living being it is.”
- 12 • “I believe that this management system is entirely unethical and cruel.”
- 13 • “The idea of separating a mother from their offspring is upsetting. Just because they’re
14 animals and they can’t stand up for themselves, doesn’t mean they don’t feel the mother-
15 child connection. It is devastating to hear that they are separated right after birth, an
16 offspring needs their mother.”
- 17 • “The calf should be with the cow, when you separate them it affects them emotionally.”
- 18 • “[T]he calf is probably scared because [they have been] separated from [their] mother . .
19 . On the flip side the mother is probably super depressed after being separated from her
20 calf.”
- 21 • “It is inhumane to separate them and not allow natural bonding.”
- 22 • “I feel the calf should be with his mother cow to nurse as that is the most natural thing in
23 nature to do.”
- 24 • “There is general awareness that cows and calves have an emotional life and the bond
25 between cows and calves have an emotional life and the bond between cow and calf is a
26 concern if separated because it ultimately ends in distress for the calf.”
- 27 • “It is cruel to separate a mother and her calf and causes stress and anxiety.”
- 28

- “The calf needs a lot of immunity [they] only get[] from their cow’s (mother’s) milk. The calf wants to be healthy and free from diseases, [they] need[] cow milk.”
- “This method [not separating cow and calf] results in a healthier calf because the calf is able to receive the antibodies for the mother that is critical for good health.”
- “It seems a bit cruel to the calves that won’t get the benefits of their own mother’s antibodies before they are separated.”²⁴

Defendant’s Premature Separation of Mother Cows and Calves Inflicts Undue Suffering

33. In more humane settings, mother cows and calves form strong emotional bonds immediately after birth. Just as human mothers and their babies benefit from direct physical contact, cow mothers bond with their babies by rubbing, sniffing, remaining close to, licking, and suckling their calves after birth.



Jo-Anne McArthur / Animal Equality / We Animals Media

34. Afterwards, mother cows and calves engage in what are referred to as “contact calls,” with calves as young as three to five weeks old able to recognize their mothers based on distinct vocal cues. Mother cows remain protective of their calves. For example, in one study, 99 percent of mother cows moved between an unfamiliar approaching vehicle and their calves to provide a protective barrier, despite

²⁴ *Id.* at 3261-64.

1 the apparent risk.²⁵ In another study, mothers who were separated from their calves after only five minutes
2 still recognized their own babies even after 12 hours of separation.²⁶

3 35. There is also physiological evidence of these bonds. Cow mothers who are separated from
4 their calves display increased eye whites, which often indicates fear, stress, or frustration, in addition to
5 other behavioral signs of trauma. Cow mothers who are reunited with their calves display significantly
6 less eye whites, indicating a more positive, calm emotional state.

7 36. Mother-calf bonds can also take on unique, individualized characteristics. As referenced,
8 calves are able to selectively respond to their own mother's calls even after a day of separation. Maternal
9 attention, including time spent nursing, is sensitive to individual differences in calf sex and weight. For
10 example, male calves tend to benefit from more frequent nursing and protective behavior compared with
11 female calves. Additionally, more maternal protection and more frequent nursing occurs when calves are
12 born with lower birth weights.

13 37. Nevertheless, Defendant's common practice, despite its advertising indicating otherwise,
14 is to inhumanely separate cow mother and baby immediately after birth. Defendant disclosed to the
15 Cornucopia Institute, an organic industry-aligned third-party, that its calves are "[r]emoved shortly after
16 birth (standard practice)."²⁷ Thus, within days or potentially even hours of the birth of a baby calf on
17 many of Defendant's farms, each calf is ripped from his or her mother and never returned.

18 38. The pain and suffering this inflicts is as immense as it is needless. Mother cows separated
19 from their calves display various signs of acute distress, including pacing, increased urination, weight
20 loss, increase in stress hormone concentration, locomotor activity including searching behavior, and
21 vocalizing. These behaviors can continue for days. **All** mother cows in one study exhibited these signs of
22 distress after separation and chose to stay at one end of their paddock, vocalizing continuously.²⁸ This
23 includes the loud, high-pitched, wailing bellows such as can be seen and heard at the video excerpted
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25

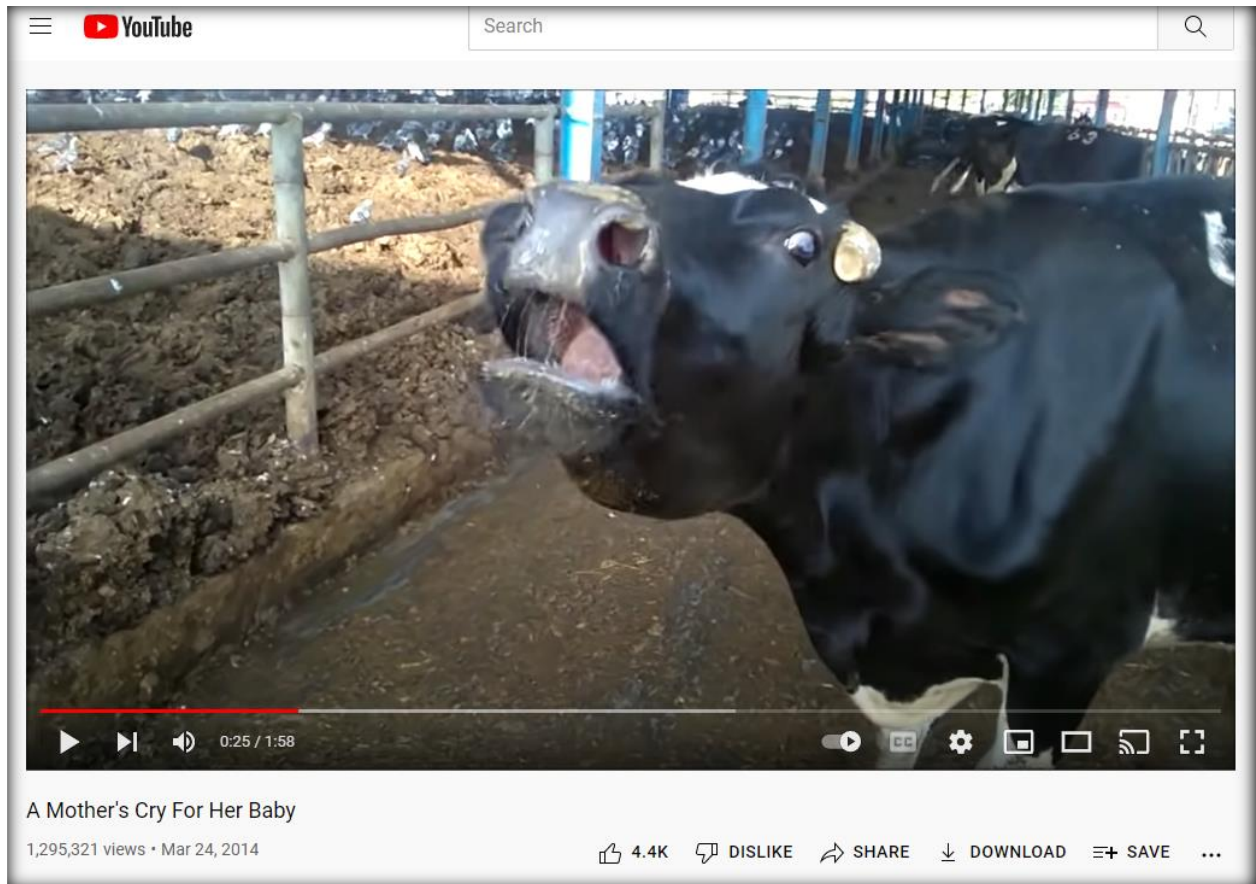
26 ²⁵ Marino & Allen, *The Psychology of Cows*, *supra* note 4 at 487.

27 ²⁶ *Id.* at 484.

28 ²⁷ The Cornucopia Institute, Grassmilk (Organic Valley) (last accessed May 31, 2022), available at
<https://www.cornucopia.org/scorecard/dairy/grassmilk-organic-valley/>.

²⁸ Marino & Allen, *The Psychology of Cows*, *supra* note 4 at 484.

below. It can also, and often does, include attempts by mother cows to struggle against the removal of their calves and to chase after them.



<https://www.youtube.com/watch?v=zBnZPJ2QG4>

39. Separated calves display many of these same clinical signs of suffering, including increases in vocalization, stress hormone concentration, weight loss, stress behaviors, and “reuniting behaviors,” including forlornly hugging a fence line and standing with heads outside their pens. Earlier weaning also results in less play of all kinds, depriving calves of an important source of emotional enrichment and learning opportunities. Calves who are prematurely separated are also more likely to engage in cross-sucking, or abnormal sucking behavior, and may form an oral fixation with their enclosure that causes them to suck on fixtures or suck on the body of another calf. The latter can cause milk loss in the sucked calf as well as digestive disorders and diarrhea in the sucking calf.

40. Many of these effects persist for the separated calves. Calves raised without their mothers are more inclined to respond fearfully to unknown objects or to confrontations with unknown cows. One

study found that calves allowed continual access to their mothers in their first 12 weeks of life were more likely to engage in positive activities like exploration, more likely to socialize with other cows, less prone to aggressive postures, and less likely to respond to new situations with stress and fear.²⁹ Conversely, other studies have demonstrated that adult cows who had suffered early maternal deprivation are less sociable, less able to provide maternal care for their own young, display more behavioral signs of stress, and are less able to cope with new challenges or stimuli.³⁰

41. Early separation may increase susceptibility to serious, even deadly, diseases in both mothers and babies. Stress in cows and calves can be especially high when calves are separated early in life, when the bond between them is strongest and calves are most socially dependent on their mothers.

42. There is no sufficient welfare or commercial justification for Defendant's practice of premature separation of cow mothers and babies. Many commercial alternatives to separation are available, including systems in which mother cows and their babies have unrestricted access to each other or at least daily contact. Such systems exist, are viable in the U.S., and are common globally, including in countries imposing the types of stronger animal welfare standards Defendant represents they follow to consumers.

43. Severing of maternal bonds causes separated cows not only emotional distress, but also physiological harm that is costly to both cows and calves. Numerous studies have established that abrupt and premature weaning impairs immune responses in calves, such as by impairing the function of cellular

²⁹ Kathrin Wagner, Daniel Seitner, Kerstin Barth, Rupert Palme, Adreas Futschik, & Susanne Waiblinger, *Effects of Mother Versus Artificial Rearing During the First 12 Weeks of Life on Challenge Responses of Dairy Cows*, 164 *Applied Animal Behaviour Sci.* 1-11 (2015), <https://r.jordan.im/download/mammals/wagner2015.pdf>.

³⁰ See, e.g., Rebecca K. Meagher, Annabelle Beaver, Daniel M. Weary, & Marina A. von Keyserlingk, *Invited review: A Systematic Review of the Effects of Prolonged Cow-Calf Contact on Behavior, Welfare, and Productivity*, 102(7) *J. of Dairy Sci.* 5765–5783 (May 15, 2019), <https://doi.org/10.3168/jds.2018-16021>; Marino & Allen, *The Psychology of Cows*, *supra* note 4; Rolnei R. Daros, Joao H. Costa, Marina J. Hötzel, & Daniel M. Weary, *Separation From the Dam Causes Negative Judgement Bias in Dairy Calves*, 9(5) *PloS one* e98429 (May 21, 2014), <https://doi.org/10.1371/journal.pone.0098429>; Tasja Kälber & Kerstin Barth, *Practical Implications of Suckling Systems for Dairy Calves in Organic Production Systems - A Review*, 64(1) *Landbauforschung Volkenrode* 45-58 (Mar. 2014); Kathrin Wagner, Kerstin Barth, Edna Hillmann, Rupert Palme, Andreas Futschik, & Susanne Waiblinger, *Mother Rearing of Dairy Calves: Reactions to Isolation and to Confrontation with an Unfamiliar Conspecific in a New Environment*, 147 *Applied Animal Behaviour Sci.* 43-54 (2013).

1 and other defenses against pathogens necessary to prevent potentially deadly infections.³¹ Likewise, there
2 are no protective benefits from premature separation that cannot be achieved through more humane
3 means. Calves reared by their mothers will tend to have higher survival rates.

4 44. Further evidence for the commercial viability of alternatives to Defendant’s practices, and
5 for the literal falsity of their claims to apply the “highest” animal welfare practices that go “above and
6 beyond” other standards, is supplied by various third-party animal welfare standards for cows used in
7 dairy production. As noted above, a prominent certifier recommends husbandry systems “that allow
8 young calves to remain in the herd with their mothers until weaning occurs naturally,” with separation of
9 mother cow and calf to occur only when doing so can “cause as little stress as possible.”³² To qualify for
10 the top two tiers of another certifier’s six levels of certification, sellers are required to allow calves to
11 stay with their mothers for at least 168 days, or otherwise make sure calves are fostered for at least 168
12 days by another nursing cow who is assigned no more than three calves.³³ Despite its promises,
13 Defendant, on information and belief, does not meet these standards.

14 ***Defendant’s Isolation of Calves Inflicts Undue Suffering***

15 45. In more natural settings, mother cows introduce their young to other calves to form social
16 groups where they learn how to become well-functioning, healthy adults.

17 46. In such settings, calves socialize freely. This includes engaging in, and deriving significant
18 welfare benefits from, vigorous social play—activities such as play-fighting, galloping, bucking, and
19 kicking. Calves begin engaging in these sorts of play behaviors around the second week of life, actively
20 seek companions, and play the most around the age of four months. Calves raised with peers tend to
21 engage in more play.

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25 ³¹ See, e.g., Kälber & Barth, *Practical Implications of Suckling Systems*, *supra* note 30; Eilish Lynch *et*
26 *al.*, *Effect of Abrupt Weaning at Housing on Leukocyte Distribution, Functional Activity of Neutrophils,*
27 *and Acute Phase Protein Response of Beef Calves*, 6 BMC Vet Res 39 (2010),
<https://doi.org/10.1186/1746-6148-6-39>.

28 ³² Animal Welfare Approved by AGW, *Certified Animal Welfare Approved by AGW Standards for Dairy Cattle*, *supra* note 3.

³³ Global Animal Partnership, *5-Step® Animal Welfare Pilot Standards*, *supra* note 2.

47. Play is not the only life skill young cows learn from each other. For example, cows allowed to interact with experienced grazers will pick up grazing behaviors more quickly. In addition, calves raised with peers may be able to smell food odors on the breath of their companions, making them more willing to consume new foods.

48. Cows raised together will form strong, complex, individualized social bonds. If raised in proximity to their peers, cows learn to interact with favored peers with compatible personalities. Cows can differentiate amongst their cow peers in a variety of circumstances and retain information about individual cows for extensive periods of time. In multiple studies, cows have shown skill at discriminating between photographs of familiar and unfamiliar cows.³⁴ Calves who are raised together will often be seen lying together, as well as engaging in social behaviors including showing affection and grooming each other. Social grooming is very beneficial for cows because it reduces tension and has a calming effect, helps maintain bonds and group cohesion, and can produce a positive emotional response in the recipient. Raising cows together also carries other long-term psychological and physiological benefits. Studies routinely show calves raised with more social interaction eat more, gain more weight, are more likely to eat new foods, are better learners, are less fearful, are less reactive to humans, and retain more ability to cope with change—among various signs of contentment and security.³⁵ Additionally, calves are highly motivated to seek out full body contact with other calves.

³⁴ Marino & Allen, *The Psychology of Cows*, *supra* note 4 at 478-79.

³⁵ See, e.g., Joao H. Costa, Marina A. von Keyserlingk, & Daniel M. Weary, *Invited Review: Effects of Group Housing of Dairy Calves on Behavior, Cognition, Performance, and Health*, 99(4) J. of Dairy Sci. 2453–2467 (Feb. 10, 2016), <https://doi.org/10.3168/jds.2015-10144>; Rebecca K. Meagher, Rolnei R. Daros, Joao H. Costa, Marina A. von Keyserlingk, Maria J. Hötzel, & Daniel M. Weary, *Effects of Degree and Timing of Social Housing on Reversal Learning and Response to Novel Objects in Dairy Calves*, 10(8) PloS one e0132828 (Aug. 14, 2014), <https://doi.org/10.1371/journal.pone.0132828>; Margit B. Jensen & Lars E. Larsen, *Effects of Level of Social Contact on Dairy Calf Behavior and Health*, 97(8) J. of Dairy Sci. 5035–5044 (Aug. 2014) <https://doi.org/10.3168/jds.2013-7311>; Joao H. Costa, Rolnei R. Daros, Marina A. von Keyserlingk, & Daniel M. Weary, *Complex Social Housing Reduces Food Neophobia in Dairy Calves*, 97(12) J. of Dairy Sci. 7804–7810 (Oct. 11, 2014), <https://doi.org/10.3168/jds.2014-8392>; Margit B. Jensen & Daniel M. Weary, *Group Housing and Milk Feeding of Dairy Calves*, 25 WCDs Advances in Dairy Tech. 179-189 (2013), https://wcds.ualberta.ca/wp-content/uploads/sites/57/wcds_archive/Archive/2013/Manuscripts/p%20179%20-%20192%20Jensen.pdf; Andreia De Paula Vieira, Anne Marie B. de Passillé, & Daniel M. Weary, *Effects of the Early Social Environment on Behavioral Responses of Dairy Calves to Novel*

49. Defendant, on information and belief, denies calves these demonstrated benefits, raising many calves for dairy production in individual isolation pens. These unfortunate calves are housed in individual hutches—small four-sided pens usually constructed of fiberglass, polyethylene, or wood. Calves are either tethered to hutches or restricted by fencing. While in these hutches, calves are alone, isolated from their mothers and other members of their species, until they reach an age where they will rejoin the herd, be impregnated, and begin to produce milk. The below image shows an interior of an industry-standard hutch:



Jo-Anne McArthur / We Animals Media

50. On information and belief, some farms supplying Defendant rear female calves in small hutches, including those pictured below in photographs available on Google Earth of farms supplying Defendant located in Valley Ford, Petaluma, and Manchester, California:

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Events, 95(9) J. of Dairy Sci. 5149–5155 (Sep. 1, 2012), <https://doi.org/10.3168/jds.2011-5073>; Linda R. Duve, Daniel M. Weary, Ulrich Halekoh, & Margit B. Jensen, *The Effects of Social Contact and Milk Allowance on Responses to Handling, Play, and Social Behavior in Young Dairy Calves*, 95(11) J. of Dairy Sci. 6571–6581 (Nov. 2012), <https://doi.org/10.3168/jds.2011-5170>.



51. The suffering isolation causes is immense in both the short and long terms. As with other species, research has shown that isolation results in behavioral and developmental harm to calves. Absent sufficient opportunities for interaction, calves will resort to unsatisfying redirected behaviors such as licking or sucking on fixtures in their pens, as well as on their own fur and skin. Calves reared in isolation also show symptoms of physical, cognitive, sensory, and social deprivation, including both short and long-term difficulties in coping with novel situations and poorer learning abilities compared with group housed and mother-raised calves.

52. No sufficient welfare or commercial justification exists for Defendant's isolation of calves. Many alternative systems exist and operate in the U.S. and globally, and such systems can be profitable. Social housing improves calves' welfare without compromising calf health, or necessarily increasing expense. For example, all health risks associated with social housing can be mitigated with basic management, while the health benefits and weight gains from social housing are manifest.

53. Further evidence for the commercial viability of alternatives to Defendant's practices, and that Defendant's claims that it applies the "highest" animal welfare practices that go "above and beyond" other standards are misleading, is supplied by various third-party animal welfare standards for cows used in dairy production. For example, one prominent certifier requires that all weaned calves "must be kept in groups of familiar animals."³⁶ To qualify for even the lowest of any of the six tiers of another certifier's six levels of certification, sellers are required to allow calves who are not kept with their mothers or with nurse cows to be kept with small groups of other calves, or at least in a same sex pair, and to have visual contact with other calves. This requirement is moot for sellers meeting this certifier's top two tiers of certification, as they are required to keep calves with their mothers or else with nurse cows.³⁷ Despite its representations to the contrary, Defendant, on information and belief, does not meet these standards.

Defendant's Deprivation of Adequate Sustenance to Calves Inflicts Undue Suffering

54. Standard practice in the dairy industry results in feeding individually-reared calves minimal sustenance, far below what they would consume from their mother. Defendant, despite its

³⁶ Animal Welfare Approved by AGW, *Certified Animal Welfare Approved by AGW Standards for Dairy Cattle*, *supra* note 3.

³⁷ Global Animal Partnership, *5-Step® Animal Welfare Pilot Standards*, *supra* note 2.

advertising, on information and belief, follows similar practices, and therefore, on information and belief, Defendant deprives these calves of adequate milk.

55. These practices are associated with poor growth and chronic hunger in calves. Early in life, it is difficult for calves to ingest sufficient amounts of feed to meet their nutrient demands when fed artificially. Studies routinely find a large discrepancy between the amount of milk consumed by calves raised in insufficient social environments on dairy farms, and the far larger amount calves will drink when allowed to suckle freely in more natural settings.³⁸

56. Hunger is not the only condition that causes calves deprived of milk to suffer. A contributing factor to the reduction in beneficial play behavior shown by newly separated calves is reduced energy intake. Lack of sufficient nutrients reduces immune health and resilience to lower temperatures, and can itself cause numerous painful and deadly conditions. Conversely, when calves can feed at will, they show fewer abnormal behaviors, higher rumination, increased play behavior, and improved mortality rates.

57. No sufficient welfare or commercial justification exists for the deprivation inflicted, on information and belief, by Defendant. Rather, as one would expect from the basic facts of cow physiology, cognition, and social structure, this lack of sustenance stems from the needless practices discussed above.

58. Further evidence for the commercial viability of alternatives to Defendant's practices, and that its claims of applying the "highest" animal welfare practices that go "above and beyond" other standards are misleading, is supplied by various third-party animal welfare standards for cows used in dairy production that, as elaborated above, instruct sellers not to wean calves until an appropriate age. Despite its promises, Defendant, on information and belief, does not meet these standards.

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³⁸ See, e.g., Costa, von Keyserlingk, & Weary, *Effects of Group Housing of Dairy Calves*, *supra* note 35; Costa, Daros, von Keyserlingk, & Weary, *Complex Social Housing*, *supra* note 35; Jensen & Larsen, *Effects of Level of Social Contact*, *supra* note 35; Jensen & Weary, *Group Housing and Milk Feeding*, *supra* note 35; De Paula Vieira, de Passillé, & Weary, *Effects of the Early Social Environment*, *supra* note 35; Andreia De Paula Vieira, Marina A. von Keyserlingk, & Daniel M. Weary, *Presence of an Older Weaned Companion Influences Feeding Behavior and Improves Performance of Dairy Calves Before and After Weaning From Milk*, 95(6) J. of Dairy Sci. 3218–3224 (Jun. 2012), <https://doi.org/10.3168/jds.2011-4821>.

1 *Undue Suffering From Maternal Separation and Isolation Lasts Until Death*

2 59. The above descriptions of the long-term effects of early separation of mother cows and
3 their babies, and consequent housing of calves in social isolation, are not the end of these animals'
4 suffering. Within the dairy industry, male calves' eventual destination, following their sale into the meat
5 industry, is typically a commercial slaughterhouse. Likewise, at their new facilities or locations, female
6 calves are either raised as "herd replacement" for the dairy business, or sold to other businesses, so that
7 they can continue this cycle. If they did not previously succumb to conditions caused by their deprivation,
8 females who are no longer at peak commercial value after their milk production levels drop will typically
9 end up at the slaughterhouse too.

10 60. The natural lifespan of a cow is 15-20 years. Nevertheless, despite Defendant's
11 advertising, the ultimate fate of male calves born on their farms, after short lives of deprivation, is being
12 trucked by third parties to commercial farms that raise them for meat. Ultimately, on information and
13 belief, all of Defendant's cows who survive long enough to see their milk production levels drop—
14 Defendant is listed by Cornucopia as having a "[m]oderate cull/death rate" that "[w]ill vary widely
15 between farms"³⁹—will be sold and suffer premature deaths, or what Defendant refers to as "harvest," at
16 commercial "slaughter plants."⁴⁰ Per an explanation published by Defendant in January 2020—in a
17 difficult to find and navigate question-and-answer section linked at the bottom of Defendant's website—
18 these cows are killed after being "stunned with a captive bolt in the middle of the skull and then the[ir]
19 throat is slit to bleed them out."⁴¹

20 **IV. CLASS ALLEGATIONS**

21 61. Plaintiff brings this action individually, as well as on behalf of each and all other persons
22 similarly situated, and seeks class certification under California Code of Civil Procedure § 382.

23 62. All claims alleged herein arise under California law for which Plaintiff seeks relief
24 authorized by California law.

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26 _____
27 ³⁹ The Cornucopia Institute, Grassmilk, *supra* note 27.

28 ⁴⁰ *What are Organic Prairie's slaughter practices?*, Organic Valley (Jan. 21, 2020), available at
<https://organicvalley.force.com/custhelp/s/article/What-are-Organic-Prairies-slaughter-practices>.

⁴¹ *Id.*

63. Pursuant to California Code of Civil Procedure § 382, Plaintiff brings this action on behalf of the following Class:

California Class: Every person in California who purchased Organic Valley dairy products which Defendant represented were made with any of the following qualities: a “commitment to the highest . . . animal care practices,” “humane” practices, “high” or “highest” standards of animal care that “go above and beyond other standards,” or cows that are “social.” Excluded from the Class are governmental entities, Defendant, any entity in which Defendant has a controlling interest, and Defendant’s officers, directors, affiliates, legal representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from the Class are any judges, justices or judicial officers presiding over this matter and the members of their immediate families and judicial staff.

64. **Numerosity:** The proposed Class is so numerous that individual joinder of all the members is impracticable. Due to the nature of the trade and commerce involved, while Plaintiff does not know the exact number of class members in the Class, she believes them to be in the tens of thousands, if not more. Joinder is also impractical because members of the Class are unlikely to be aware of their rights, and because Class members are unlikely to prosecute such claims on an individual basis since the amounts at stake for many members of the Class may not be sufficient to enable them to maintain separate suits against Defendant. While the exact number and identities of all members of the Class are unknown at this time, such information can be ascertained through appropriate investigation and discovery, such as through Defendant’s and/or Defendant’s agents’ records or by public notice.

65. **Common Questions of Law and Fact Predominate:** There are many questions of law and fact common to the representative Plaintiff and the Class, and those questions substantially predominate over any questions that may affect individual members of the Class. The common questions of law and fact include, but are not limited to, the following:

- i. Whether Defendant’s misleading and deceptive business practice as alleged herein violates sections (a)(2), (a)(3), (a)(5), (a)(7), and (a)(14) of the CLRA;
- ii. Whether Defendant’s misleading and deceptive business practice as alleged herein is an unlawful, unfair and/or fraudulent business practice under the UCL;
- iii. Whether Defendant’s misleading and deceptive business practice as alleged herein fraudulently induced Plaintiff and the Class to purchase its dairy products;

- 1 iv. Whether Plaintiff and the Class are entitled to restitution of all money obtained by
2 Defendant through its common and uniform scheme;
- 3 v. Whether Plaintiff and the Class are entitled to prospective injunctive relief
4 enjoining Defendant from continuing to engage in the deceptive, unlawful, and
5 unfair business practices alleged herein;
- 6 vi. Whether Plaintiff and the Class are entitled to declaratory relief holding
7 Defendant's business practices alleged herein are unlawful;
- 8 vii. The nature and extent of damages and other remedies to which the conduct of
9 Defendant entitles members of the putative Class.

10 66. These common questions of law and fact predominate over questions that may affect
11 individual class members in that the claims of all members of the Class herein can be established with
12 common proof. Additionally, a class action would be "superior to other available methods for the fair
13 and efficient adjudication of the controversy" because: (1) members of the Class have little interest in
14 individually controlling the prosecution of separate actions given that individual damages claims of each
15 member of the Class are not substantial enough to warrant individual filings; (2) Plaintiff is not aware of
16 other lawsuits against Defendant commenced by or on behalf of members of the Class; and (3) the
17 conduct alleged is common to all members of the Class, and because resolution of the claims of Plaintiff
18 will resolve the claims of the remaining Class, certification does not pose any manageability problems.

19 67. **Typicality:** Plaintiff's claims are typical of the claims of the Class, which all arise from
20 the same questions of law and fact involving Defendant's practices. Plaintiff and all members of the Class
21 have been similarly affected by Defendant's conduct as they all purchased and paid premium prices for
22 dairy products Defendant represented in a particular manner on the product packaging, and were
23 deceived.

24 68. **Adequacy of Representation:** Plaintiff will fairly and adequately represent and protect
25 the interests of the Class. Plaintiff has retained counsel with substantial experience in handling complex
26 class action litigation. Plaintiff and her counsel are committed to prosecuting this action vigorously on
27 behalf of the Class and have the financial resources to do so.

28 //

1 **69. Superiority of Class Action:** Plaintiff and the members of the Class suffered and will
2 continue to suffer harm as a result of Defendant's unlawful and wrongful conduct. A class action is
3 superior to other available methods for the fair and efficient adjudication of the present controversy.
4 Members of the Class have little interest in individually controlling the prosecution of separate actions
5 because the individual damages Claims of each member of the Class are not substantial enough to warrant
6 individual filings. Because joinder of all members of the Class is impractical, a class action is superior to
7 other available methods for the fair and efficient adjudication of this controversy. A class action will also
8 mitigate the risk of inconsistent or varying adjudications of the issues presented, which, in turn, could
9 establish incompatible standards of conduct for Defendant. No difficulties are likely to be encountered
10 in the management of this class action that would preclude its maintenance as a class action, and no
11 superior alternative exists for the fair and efficient adjudication of this controversy. In sum, for many, if
12 not most, members of the Class, a class action is the only feasible mechanism that will allow them an
13 opportunity for legal redress and justice.

14 **70.** Adjudication of individual claims of members of the Class with respect to Defendant
15 would, as a practical matter, be dispositive of the interests of other members not parties to the adjudication
16 and could substantially impair or impede the ability of other members of the Class to protect their
17 interests.

18 **71.** Among other relief, Plaintiff and the other Class members seek declaratory and injunctive
19 relief against Defendant to prevent Defendant from committing further violations of California law,
20 including by inflicting economic injury on additional California consumers by inducing them to buy
21 products they would not have purchased absent Defendant's unlawful, fraudulent, and unfair marketing,
22 advertising, packaging, and labelling, and by inducing them to pay excessive premium prices they would
23 not have paid absent Defendant's unlawful, fraudulent, and unfair marketing, advertising, packaging, and
24 labelling.

25 **72.** Defendant has acted on grounds generally applicable to the Class, thereby making
26 appropriate final relief with respect to the Class as a whole.

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28 //

1 **V. CLAIMS FOR RELIEF**

2 **FIRST CAUSE OF ACTION**

3 ***Violations of Cal. Civ. Code §§ 1750-1785 (the “CLRA”)***

4 **(By Plaintiff and the Class Against Defendant)**

5 73. Plaintiff, on behalf of herself and other Class members, restates and incorporates by
6 reference each and every allegation contained in paragraphs 1 to 72 as though set forth fully herein.

7 74. The Consumers Legal Remedies Act creates a non-exclusive statutory remedy for unfair
8 methods of competition and unfair or deceptive acts or business practices. *See Reveles v. Toyota by the*
9 *Bay* (1997), 57 Cal.App.4th 1139, 1164. Its self-declared purpose is to protect consumers against these
10 unfair and deceptive business practices, and to provide efficient and economical procedures to secure
11 such protection. Cal. Civ. Code § 1760. The CLRA was designed to be liberally construed and applied
12 in favor of consumers to promote its underlying purposes.

13 75. Plaintiff and the other Class members are “consumers,” as the term is defined by
14 California Civil Code § 1761(d), because they bought the products at issue for personal, family, or
15 household purposes.

16 76. Plaintiff and Defendant, and the other Class members and Defendant, have engaged in
17 “transactions,” as that term is defined by California Civil Code §1761(e).

18 77. The conduct alleged in this complaint constitutes unfair methods of competition and unfair
19 and deceptive acts and practices for the purpose of the CLRA, and the conduct was undertaken by
20 Defendant in transactions intended to result in, and which did result in, the sale of goods to consumers.

21 78. Defendant has violated the CLRA by representing to Plaintiff and the other Class members
22 that it has a “commitment to the highest . . . animal care practices,” that it employs “humane” practices,
23 that its “high” or “highest” standards of animal care “go above and beyond other standards,” and that its
24 cows are “social,” when its business practices are not so, and the cows are actually isolated.

25 79. More specifically, Plaintiff alleges that Defendant has violated paragraphs 2, 3, 5, 7, and
26 9 of California Civil Code § 1770(a) by engaging in the unfair and/or deceptive acts and practices set
27 forth herein. Defendant’s unfair and deceptive business practices in misrepresenting the nature of its
28 business were and are intended to, and did result in, numerous individuals, including Plaintiff, being

1 deceived, in violation of California Civil Code § 1770, *et seq.* Members of the putative Class were
2 damaged in that they paid for products they would not have purchased at all, or would not have paid
3 premium prices for, had they known the truth.

4 80. Defendant's violations of the CLRA are ongoing, and Plaintiff and other Class members
5 are seriously threatened, may be irreparably harmed, and denied an effective and complete remedy if,
6 pursuant to California Civil Code § 1780(a)(2) and (a)(5), this Court does not enter injunctive relief that
7 includes, but is not limited to, a requirement that Defendant remove and refrain from making statements
8 in its dairy advertising or on dairy product packaging representing that it has a "commitment to the highest
9 . . . animal care practices," that it employs "humane" practices, that its "high" or "highest" standards of
10 animal care "go above and beyond other standards," and that its cows are "social."

11 81. On April 23, 2022, Plaintiff sent a letter to Defendant via certified mail that provided
12 notice of Defendant's CLRA violations and demanded that within thirty (30) days from that date,
13 Defendant correct, repair, replace, or otherwise rectify the unlawful, unfair, false and/or deceptive
14 practices complained of herein. The letter also stated that if Defendant refused to do so, Plaintiff would
15 file a complaint seeking damages and other available relief in accordance with the CLRA's provisions.
16 In response, Defendant did not comply with Plaintiff's demands in the CLRA letter, and to date has not
17 so complied. Plaintiff and other Class members have suffered substantial economic injury by virtue of
18 buying products that they would not have purchased absent Defendant's unlawful conduct, or by virtue
19 of paying an excessive premium price they would not have paid absent Defendant's unlawful conduct.

20 **SECOND CAUSE OF ACTION**

21 ***Violations of Business & Professions Code Section 17200 et seq. (the "UCL")***

22 **(By Plaintiff and the Class Against Defendant)**

23 82. Plaintiff, on behalf of herself and other Class members, restates and incorporates by
24 reference each and every allegation contained in paragraphs 1 to 81 as if fully set forth herein.

25 83. California Business & Professions Code § 17200 *et seq.* authorizes private lawsuits to
26 enjoin acts of "unfair competition," which include any unlawful, unfair, or fraudulent business practice.

27 //

28 //

1 84. The UCL imposes strict liability. Plaintiff need not prove that Defendant intentionally or
2 negligently engaged in unlawful, unfair, or fraudulent business practices—only that such practices
3 occurred.

4 85. By committing the acts and practices alleged above, Defendant has violated the UCL, Cal.
5 Bus. & Prof. Code §§ 17200-17210, as to Plaintiff and the Class, by engaging in unlawful, fraudulent,
6 and unfair conduct in violation of the UCL’s three independent prongs for liability.

7 86. **Unlawful Practices.** Defendant’s conduct is in violation of the UCL’s proscription
8 against engaging in *unlawful* conduct as a result of: numerous violations of the CLRA’s provisions, as
9 set forth above, as it violates CLRA §§ 1770(a)(2), (a)(3), (a)(5), (a)(7), and (a)(9). Defendant’s conduct
10 also violates Penal Code § 597, which states that “every person who . . . tortures, torments, deprives of
11 necessary sustenance, drink, or shelter, . . . or causes or procures any animal to be so . . . tortured,
12 tormented, deprived of necessary sustenance, drink, shelter . . . ; and whoever, having the charge or
13 custody of any animal, either as owner or otherwise, subjects any animal to needless suffering, or inflicts
14 unnecessary cruelty upon the animal, or in any manner abuses any animal, or fails to provide the animal
15 with proper food, drink, or shelter or protection from the weather” is guilty of a crime. As set forth above,
16 on information and belief, Defendant separates baby cows and their mothers prior to natural weaning and
17 thereby subjects both mother and baby to needless suffering and inflicts unnecessary cruelty upon them,
18 amounting to torture and torment, in violation of Penal Code section 597. On information and belief,
19 Defendant houses calves in isolation and without access to other calves, and thereby subjects them to
20 needless suffering and inflicts unnecessary cruelty upon them, amounting to torture and torment, in
21 violation of Penal Code section 597. On information and belief, Defendant deprives calves of adequate
22 milk and thereby deprives them of necessary sustenance and fails to provide them with proper food and
23 drink, in violation of Penal Code section 597. Defendant’s business practices alleged herein, therefore,
24 violate numerous California statutes and are thus unlawful within the meaning of the UCL.

25 87. **Unfair Business Practices.** The harm to Plaintiff and members of the public outweighs
26 the utility of Defendant’s practices and, consequently, Defendant’s practices, as set forth fully above,
27 constitute an unfair business act or practice within the meaning of the UCL.

28 //

88. Plaintiff and other Class members have suffered a substantial economic injury by virtue of buying products based on Defendant's misrepresentations. There is no benefit to consumers or competition from Defendant's deceptive conduct. Further, the gravity of harm caused by Defendant's conduct as described above outweighs any justification, motive, or reason for it, particularly considering the viability of legal and humane alternatives. Based on this, Defendant's practices are additionally unfair because they have caused Plaintiff and the Class substantial injury, which is not outweighed by any countervailing benefits to consumers or to competition, and which is not an injury the consumers themselves could have reasonably avoided.

89. **Fraudulent Business Practices.** Defendant's practices, as set forth above, also violate the UCL's proscription against engaging in *fraudulent* conduct. Defendant's practices are likely to mislead the general public in the future. Consequently, Defendant's practices constitute a fraudulent business practice within the meaning of the UCL.

90. Pursuant to California Business & Professions Code § 17204, an action for unfair competition may be brought by any “person ... who has suffered injury in fact and has lost money or property as a result of such unfair competition.” Defendant’s misleading business practice directly and seriously injured Plaintiff and the putative Class who were thus deprived of their property rights.

91. Defendant's violations of the UCL are ongoing, and present an ongoing threat if, pursuant to California Business & Professions Code § 17203, this Court does not enter an order that includes, but is not limited to, requirements that: (1) Defendant remove and refrain from making representations in its dairy advertising or on dairy product packaging stating that it has a "commitment to the highest . . . animal care practices," that it employs "humane" practices," that its "high" or "highest" standards of animal care "go above and beyond other standards," and that its cows are "social"; (2) Defendant be enjoined from depriving calves of adequate milk, housing calves in isolation, and separating baby cows and their mothers prior to natural weaning; (3) Defendant provide restitution to Plaintiff and other Class members; and (4) Defendant disgorge all revenues obtained as a result of violations of the UCL.

RELIEF REQUESTED

WHEREFORE, Plaintiff, on behalf of themselves and other Class members, respectfully requests that this Court:

- 1 A. Certify the proposed Class; appoint Plaintiff as representative of the Class; and appoint
2 Plaintiff's undersigned counsel as Class counsel;
- 3 B. Declare that Defendant violates the CLRA, Penal Code section 597, and the UCL by (1)
4 depriving calves of adequate milk, (2) housing calves in isolation, and (3) separating baby
5 cows and their mothers prior to natural weaning.
- 6 C. Declare that Defendant is financially responsible for notifying Class members of the
7 pendency of this suit.
- 8 D. Order Defendant to remove and refrain from making representations in its dairy
9 advertising or on dairy product packaging stating, implying by necessary implication,
10 concealing, or omitting that it has a "commitment to the highest . . . animal care practices,"
11 that it employs "humane" practices, that its "high" or "highest" standards of animal care
12 "go above and beyond other standards," and that its cows are "social."
- 13 E. Enjoin Defendant from violating the law by continuing to (1) deprive calves of adequate
14 milk, (2) house calves in isolation, and (3) separate baby cows and their mothers prior to
15 natural weaning.
- 16 F. Award compensatory damages as requested herein, including restitution pursuant to
17 California Business & Professions Code §§ 17203 and 17535 for Plaintiff and other Class
18 members.
- 19 G. Award disgorgement pursuant to California Business & Professions Code §§ 17203 and
20 17535 for Plaintiff and other Class members.
- 21 H. Award exemplary damages in light of Defendant's fraud, malice and conscious disregard
22 for the rights of Plaintiff and putative Class members.
- 23 I. Award Plaintiff and the other Class members the reasonable costs and expenses of suit,
24 including their attorneys' fees, pursuant to the CLRA and the common law private
25 attorney general doctrine.
- 26 J. Grant Plaintiff and the other Class members such other and further relief as the Court
27 deems just and proper.
28

1 Date: July 19, 2022

Respectfully submitted,

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15 *Counsel for Plaintiff Amber Takahashi-Mendoza, an*
16 *individual, on behalf of herself and all others*
17 *similarly situated.*

1 **DEMAND FOR JURY TRIAL**

2 Plaintiff hereby demand a trial by jury on all claims so triable.

3
4 Date: July 19, 2022

Respectfully submitted,

5 
6

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