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Sherri R. Carter, Executive Officer / Clerk of Court

By: L. Castillejo Deputy

LAW OFFICES OF BRYAN W. PEASE

Bryan W. Pease (SBN 239139)
302 Washington St. #404
San Diego, CA 92103
Ph. (619) 723-0369
Email: bryan@bryanpease.com

SIMON LAW GROUP

David R. Simon (SBN 145197)
195 Hwy 50, #104
PMB 7172-247
Stateline NV 89449
Ph. (714) 975-1728
Email: dsimon1027@gmail.com

LAW OFFICES OF G. DAVID TENENBAUM

G. David Tenenbaum (SBN 150629)
269 S. Beverly Drive #1041
Beverly Hills, CA 90212
Ph. (312) 404-7723
Email: g.davidtenenbaum@gmail.com

Attorneys for Plaintiffs

SUPERIOR COURT OF CALIFORNIA

COUNTY OF LOS ANGELES

ANIMAL PROTECTION AND RESCUE
LEAGUE, INC., a California nonprofit
corporation; and DINA KOURDA, an individual,

Plaintiffs,
vs.

MICHAEL GINOR, an individual; IZZY
YANAY, an individual; HVFG, LLC, a New
York limited liability company; D'ARTAGNAN,
INC., a New Jersey corporation;
D'ARTAGNAN, LLC, a New Jersey limited
liability company; ARIANE DAGUIN, an
individual; ANDY WERTHEIM, an individual;
BELLA BELLA GOURMET FOODS, a business
entity of form unknown; LA BELLE FARM,
INC., a New York corporation; HERMAN LEE,
an individual; FRENCH LAUNDRY

CASE NO. 20STCV34229

**FIRST AMENDED VERIFIED
COMPLAINT**

1 PARTNERS, L.P., a California limited
2 partnership; THOMAS KELLER, an individual;
3 MICHAEL’S GOURMET PANTRY, INC., a
4 Nevada corporation; J. MICHAEL STAMM, an
5 individual; CATHY STAMM, an individual;
6 MGP SPECIALTY FOODS, a business entity of
7 form unknown; TYLER CHARMAN, an
8 individual; BRIAN REDZIKOWSKI, an
9 individual; MATTHEW SPENCER, an
10 individual; KETTNER HOUSE, LP, a California
11 limited partnership; SDCM, INC., a California
12 corporation; PETROSSIAN, INC., a New York
13 corporation; and DOES 1-25,

14 **Defendants.**

15 **INTRODUCTION**

16 1. Defendants HVFG, a/k/a “Hudson Valley Foie Gras,” and La Belle Farm, Inc. are
17 nationally notorious for exploiting and abusing migrant workers, torturing animals, and polluting the
18 environment in upstate New York, under the protection of a sympathetic local district attorney who
19 prosecutes whistleblowers instead of the owners of these farms: Michael Ginor, Izzy Yanay, and
20 Herman Lee.

21 2. The New York State Senate official YouTube channel has the following video of former
22 Senator Pedro Espada visiting HVFG on September 15, 2009:

23 <https://www.youtube.com/watch?v=qUOPYu8NNug>

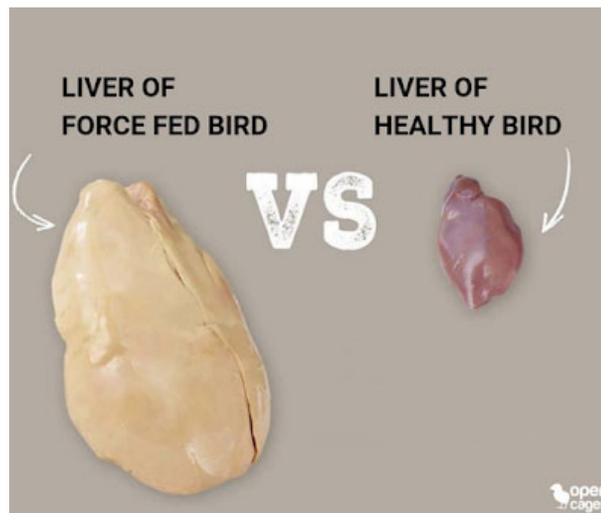
24 3. In the beginning of the video, a female worker describes the sexual abuse perpetrated by
25 her bosses at HVFG. At 2:20 in the video, a local priest describes how owners Ginor and Yanay fired all
26 the migrant farmworkers and brought in new ones when they complained about illegally low wages and
27 other labor violations. The workers had nowhere to go, and the local church had to house them in their
28 basement. At 8:40, Senator Espada confronts HVFG manager Marcus Henley directly about the sexual
abuse of workers occurring at HVFG. Henley responds by calling the police and screaming at Senator
Espada to leave HVFG’s property.

4. New York Times Op-Ed Columnist Bob Herbert wrote a column on June 8, 2009 called
“State of Shame,” describing the horrific working conditions of the migrant workers at HVFG.

1 (<https://www.nytimes.com/2009/06/09/opinion/09herbert.html>, last visited September 16, 2020.)

2 5. In order to produce “foie gras,” or fattened liver, Defendants HVFG and La Belle Farm
3 force feed ducks by having a worker grab each duck by the wings, pin the duck down with the worker’s
4 legs as the other ducks huddle in the corner of the pen as far away as possible, jam a half-inch diameter,
5 one-foot metal pipe down each duck’s esophagus, and pump up to a pound of corn mash in, two to three
6 times per day, for up to 30 days, until the ducks are on the verge of death from organ rupture and have a
7 distended liver that is over 12 times normal size.

8 6. Any chef can readily see that a foie gras liver is abnormal, grossly distended, extremely
9 large, and a pale, sickly, yellowish color rather than brown like an ordinary liver. The below image
10 illustrates:



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20 (Taken from <https://www.sandiegoville.com/2020/07/is-foie-gras-once-again-permitted-on.html>,
21 last visited September 16, 2020.)

22 7. In 2004, the State of California enacted a ban on force feeding ducks to enlarge their
23 livers beyond normal size, as well as the sale of such grossly enlarged liver. The ban had a seven and a
24 half year phaseout period, during which time the foie gras industry claimed it would find a more humane
25 method of causing ducks’ livers to explode.

26 8. The foie gras industry did not do so, and the ban took effect in 2012, shutting down
27 California’s only foie gras farm, “Sonoma Foie Gras,” which was actually located in the outskirts of
28 Stockton, California.

1 9. Unhappy that their cruel product could no longer be sold in California, HVFG launched a
2 protracted legal battle against the California Attorney General that is still ongoing. HVFG initially
3 convinced U.S. District Judge Stephen Wilson, who was appointed to the bench by President Ronald
4 Reagan, to overturn the sale portion of the ban as being preempted by the federal Poultry Products
5 Inspection Act (“PPIA”). In a lengthy, well reasoned opinion that took over a year to issue, the Ninth
6 Circuit overruled Judge Wilson, holding that the ban is fully enforceable. The Supreme Court then
7 denied certiorari, leaving the ban in effect.

8 10. HVFG next convinced Judge Wilson earlier this year to find that while the ban is not
9 preempted by the PPIA or any federal law, and there are no dormant commerce clause issues, the sale
10 ban as it is worded supposedly does not apply to mail ordering foie gras from out of state when using a
11 third party shipping service for personal use, and not for resale within the State of California.

12 11. The California Attorney General is again appealing Judge Wilson’s latest ruling, which
13 opines on how the State of California should interpret and apply its own laws, despite the absence of any
14 federal question or preemption issue, and purports to create this narrow exception for mail orders.

15 12. On July 14, 2020, media outlets, most notably the Associated Press, ran erroneous stories
16 about Judge Wilson’s latest ruling, proclaiming “foie gras back on the menu” in California. Despite the
17 AP issuing a corrected version of its story, and other media outlets correctly reporting that restaurants
18 *cannot* begin serving foie gras again, and Judge Wilson’s order itself explicitly stating that restaurants or
19 any other sellers within California *cannot* begin selling foie gras again, Defendants have been taking
20 advantage of the consumer confusion by continuing to illegally sell foie gras in California.

21 13. Michael’s Gourmet Pantry, Inc., a/k/a MGP Specialty Foods (“MGP”), states on its
22 website, “MGP has a 20 year history with our good friends at Hudson Valley, and we are excited to be
23 one of the few third-party distributors for Foie Gras into California.” MGP has been deliberately
24 misleading restaurants in California, including Monsieur Marcel restaurant in Los Angeles, that
25 restaurants in California can resell foie gras purchased from MGP.

26 14. Monsieur Marcel restaurant and its owner were previously named as defendants in this
27 lawsuit but have since stopped selling foie gras, acknowledging that it is illegal to do so, and are
28 therefore dropped without prejudice from this action.

1 15. The French Laundry in Napa County, owned by celebrity chef Thomas Keller, is another
2 example of a restaurant that has been illegally selling foie gras in California. While the French Laundry
3 stated it will remove foie gras yet again after the filing of this action, APRL has been through this
4 charade with the French Laundry many times over the past several years and is therefore seeking an
5 injunction to secure compliance this time around.

6 16. Kettner Exchange in San Diego is another restaurant that Plaintiff has repeatedly
7 informed about the ban over the years, yet Kettner Exchange continues to sell foie gras illegally.

8 17. Defendants HVFG, D'Artagnan, MGP, La Belle Farm, Inc., Bella Bella Gourmet Foods,
9 and their principals are also deliberately illegally selling foie gras in California by selling directly to
10 such restaurants.

11 18. Petrossian, Inc. has a restaurant and store in Los Angeles at which it illegally sells foie
12 gras from force fed ducks. Petrossian also sells foie gras in California through online orders.

13 19. Online and phone sales to consumers in California are also a violation of Health & Safety
14 Code § 25982, despite Judge Wilson's latest opining on that point, and accordingly, Defendants must be
15 enjoined from engaging in these illegal sales as well.

16 20. Defendant HVFG states in a banner on its website, "Now proudly shipping to customers
17 in California." This is an admission that HVFG is doing the shipping, and the shipping is not a separate
18 transaction between the buyer and some third-party shipping service.

19 21. Defendants Michael Ginor, Izzy Yanay, HVFG, D'Artagnan, Inc., D'Artagnan, LLC,
20 Ariane Daguin, and Andy Wertheim also continue making a number of misrepresentations about how
21 foie gras is produced, making several false and misleading humane claims about the force feeding
22 process, and referring to it through various euphemisms such as "strategically nurtured," "replicate the
23 natural gorging process," and "hand-feeding."

24 22. There is nothing natural about inserting a half-inch diameter, one-foot metal pipe down a
25 duck's esophagus and pumping up to a pound of corn mash in, two to three times per day, for up to 30
26 days, until the ducks are on the verge of death from organ rupture and have a distended liver that is over
27 12 times normal size. APRL has repeatedly documented and exposed this horror occurring at HVFG and
28 La Belle Farm, which is the industry standard for how foie gras is produced.

1 23. APRL's website www.stopforcefeeding.com shows what APRL has documented over the
2 years at Defendants' foie gras farms.

3 24. Plaintiffs herein seek no different or greater relief for themselves than for the general
4 public, which is an injunction prohibiting Defendants from selling foie gras from force fed ducks in
5 California, and from making false and misleading advertising claims to California consumers.

6 **JURISDICTION AND VENUE**

7 25. This Court has jurisdiction over the claims asserted because relief is sought under Bus. &
8 Prof. Code § 17200, *et seq.* and Civil Code § 1750, *et seq.*

9 26. This Court has personal jurisdiction over each of the Defendants because each conducts
10 substantial business in California, some Defendants reside in California, and the acts and omissions
11 complained of occurred in California

12 27. Venue is proper in Los Angeles County because most Defendants conduct substantial
13 business in this county, some are located in this county, and many of the acts and omissions complained
14 of occurred in this county.

15 **PARTIES**

16 28. Plaintiff ANIMAL PROTECTION AND RESCUE LEAGUE, INC. ("APRL") is a
17 California nonprofit corporation headquartered in San Diego County.

18 29. Plaintiff DINA KOURDA is an individual residing in Orange County.

19 30. On information or belief, Defendant MICHAEL GINOR is an individual residing in New
20 York State with substantial business activity in Los Angeles County, California, including selling foie
21 gras there. Ginor is co-owner of HVFG, LLC.

22 31. On information or belief, Defendant IZZY YANAY is an individual residing in New
23 York State with substantial business activity in Los Angeles County, California, including selling foie
24 gras there. Yanay is co-owner of HVFG, LLC.

25 32. Defendant HVFG, LLC is a New York limited liability company with substantial
26 business activity in Los Angeles County, California, including selling foie gras there.

27 33. Defendant D'ARTAGNAN, INC. is a New Jersey corporation with substantial business
28 activity in Los Angeles County, California, including selling foie gras there. D'Artagnan, Inc. is a major

1 distributor of HVFG products.

2 34. Defendant D'ARTAGNAN, LLC is a New Jersey limited liability company with
3 substantial business activity in Los Angeles County, California, including selling foie gras there.
4 D'Artagnan, LLC is a major distributor of HVFG products.

5 35. On information or belief, Defendant ARIANE DAGUIN is an individual residing in New
6 Jersey with substantial business activity in Los Angeles County, California, including selling foie gras
7 there. Daguin owns and manages D'Artagnan, Inc. and D'Artagnan, LLC.

8 36. On information or belief, Defendant ANDY WERTHEIM is an individual residing in
9 New Jersey with substantial business activity in Los Angeles County, California, including selling foie
10 gras there. Wertheim is the president of D'Artagnan, Inc. and D'Artagnan, LLC.

11 37. On information or belief, Defendant BELLA BELLA GOURMET FOODS ("Bella
12 Bella") is a business entity of unknown form, headquartered in Connecticut, with substantial business
13 activity in Los Angeles County, California, including selling foie gras there. Bella Bella is the
14 distribution arm of LA BELLE FARM, INC.

15 38. Defendant LA BELLE FARM, INC. ("La Belle") is a New York corporation with
16 substantial business activity in Los Angeles County, California, including selling foie gras there. La
17 Belle owns and operates a foie gras farm in Sullivan County, New York.

18 39. On information or belief, Defendant HERMAN LEE is an individual residing in New
19 York State, who owns and operates La Belle, and has substantial business activity in Los Angeles
20 County, California, including selling foie gras there.

21 40. Defendant FRENCH LAUNDRY PARTNERS, L.P. ("French Laundry") is a California
22 limited partnership headquartered in Napa County with substantial business activity in Los Angeles
23 County, including selling \$850 per-person dining tickets to residents of Los Angeles which must be
24 purchased months in advance to dine at its Yountville restaurant.

25 41. On information or belief, Defendant THOMAS KELLER is an individual residing in
26 Napa County with substantial business activity in Los Angeles County, including selling \$850 per-
27 person dining tickets to residents of Los Angeles which must be purchased months in advance to dine at
28 his French Laundry restaurant in Yountville, and until recently owned and operated a restaurant in Los

1 Angeles called Bouchon.

2 42. Defendant MICHAEL'S GOURMET PANTRY, INC. is a Nevada corporation with
3 substantial business activity in Los Angeles county, including selling foie gras to restaurants and
4 consumers there, and acting as accomplices to restaurants selling foie gras by misinforming them that
5 the foie gras purchased from this Defendant can be legally resold in restaurants in California.

6 43. On information or belief, Defendant J. MICHAEL STAMM is an individual residing in
7 Nevada who owns MICHAEL'S GOURMET PANTRY, INC., with substantial business activity in Los
8 Angeles county, including selling foie gras to restaurants and consumers there, and acting as an
9 accomplice to restaurants selling foie gras by misinforming them that the foie gras purchased from
10 MICHAEL'S GOURMET PANTRY, INC. can be legally resold in restaurants in California.

11 44. On information or belief Defendant CATHY STAMM is an individual residing in
12 Nevada who owns MICHAEL'S GOURMET PANTRY, INC., with substantial business activity in Los
13 Angeles county, including selling foie gras to restaurants and consumers there, and acting as an
14 accomplice to restaurants selling foie gras by misinforming them that the foie gras purchased from
15 MICHAEL'S GOURMET PANTRY, INC. can be legally resold in restaurants in California.

16 45. Defendant MGP SPECIALTY FOODS is a business entity of form unknown. On
17 information or belief, MGP SPECIALTY FOODS is an alias of MICHAEL'S GOURMET PANTRY,
18 INC.

19 46. On information or belief, Defendant TYLER CHARMAN is an individual residing in San
20 Diego County who owns Kettner Exchange restaurant and illegally sells foie gras from force fed ducks
21 there.

22 47. On information or belief, Defendant BRIAN REDZIKOWSKI is an individual residing in
23 San Diego County who is the head chef at Kettner Exchange restaurant, controls the menu, and
24 knowingly directs the restaurant to sell foie gras from force fed ducks despite having been personally
25 informed over several years that this product is illegal to sell in California.

26 48. On information or belief, Defendant MATTHEW SPENCER is an individual residing in
27 San Diego County who owns Kettner Exchange restaurant and illegally sells foie gras from force fed
28 ducks there.

1 (“D’Artagnan Defendants”) make a number of outrageously false claims on their website, including that
2 the ducks are “raised in low-stress open barns,” “are never caged,” “raised in a low-stress environment
3 on 200 acres in the lush valley formed by the Hudson River of New York State,” “live in deeply bedded
4 open-air barns with constant access to drinking water,” “have room to stretch, open their wings, and
5 group together, following their natural instincts as flock animals,” “live in an open pen holding fewer
6 than a dozen birds,” and “every measure is taken to ensure the ducks feel no stress.”

7 57. These claims are false and misleading. The true facts are as follows: D’Artagnan
8 Defendants sell foie gras from HVFG, which keeps ducks crammed in tiny pens with hard mesh
9 flooring; the ducks never have access to water for preening but can reach their heads through the slats of
10 the pen to access filthy water in a trough that looks like a rain gutter; the ducks are always stressed when
11 humans arrive and huddle at the far end of each pen to get as far away from them as possible; most of
12 the “200 acres” is used for giant factory farm sheds, processing facilities, squalid worker housing, and
13 manure lagoons, and the ducks certainly do not have access to it and are never outdoors; the ducks have
14 no opportunity to “follow their natural instincts”; and the pens are not “open,” but are instead lined up in
15 giant sheds holding thousands of ducks, suspended above fecal matter, urine, and vomit that falls
16 through the hard mesh flooring and collects below the pens.

17 58. On information or belief, Wertheim also instructs D’Artagnan employees to make false
18 claims such as “humane” and “grass fed” regarding other products the company sells.

19 59. On information or belief, Wertheim and Daguin also make public statements criticizing
20 companies like Purdue and Tyson and stating that D’Artagnan is different, while secretly sourcing
21 products from Purdue and Tyson to sell to customers, and instructing employees to lie about this as well.

22 60. Defendant HVFG makes similarly false and misleading claims on its website, including
23 referring to the force feeding as the ducks being “strategically nurtured,” and claiming that HVFG’s
24 feeding method is designed to “replicate the natural gorging process.”

25 61. These claims are false and misleading. The true facts are as follows: HVFG workers grab
26 each duck by the wings, pin them with the worker’s legs as the other ducks huddle in the corner of the
27 pen as far away as possible, jam a half-inch diameter, one-foot metal pipe down the duck’s esophagus
28 and pump up to a pound of corn mash in, two to three times per day, for up to 30 days, until the ducks

1 are on the verge of death from organ rupture and have a distended liver that is over 12 times normal size.
2 The breed of duck used is a cross between a Peking and a Muscovy, neither of which migrates in the
3 wild. Defendants' dub the crossbreed a "Moulard," which does not exist in the wild. These ducks do not
4 even fly, let alone migrate. Thus, comparisons to any pre-migratory gorging process engaged in by other
5 species of ducks or geese is nonsense.

6 62. Further, in species that do migrate and gorge before doing so in order to store fat in their
7 livers, the liver may increase from one and a half to two times normal size. The ducks force fed by
8 HVFG, on the other hand, end up being up to 12 times normal size, and the ducks can barely breathe or
9 walk by the end of the force feeding process.

10 63. In a rare moment of candor, HVFG co-owner and Defendant Michael Ginor was quoted
11 in the book *The Foie Gras Wars* by Mark Caro as stating, "There's no question that the duck on day 28
12 of feeding is not as happy as a duck that hasn't been fed...I felt like I was never 100-percent wholesome
13 with it in the sense that I think you can't be 100-percent wholesome with it...I understand the issues. I
14 partially agree with the issues."

15 64. Defendant Bella Bella makes the false and misleading claim on its website that "La Belle
16 Farm Achieves Organic From USDA." The photo accompanying the text is of ducks in the La Belle foie
17 gras farm, but the article is actually about La Belle's chicken farming operation becoming certified
18 organic. The ducks are not certified organic, as they are force fed massive quantities of genetically
19 modified corn made to be "Roundup Ready," so that it can be grown in this carcinogenic pesticide.

20 65. Plaintiff APRL has conducted repeated undercover investigations of HVFG's and La
21 Belle's farms over many years and has revealed constant misery and suffering there. The ducks are
22 crammed into small, filthy pens with hard mesh flooring, have a metal pipe jammed down their throats
23 three times per day for 30 days to pump them full of corn mash weighing 20% to 30% of their healthy
24 body weight per day, until their livers are up to 12 times normal size, and they are bloated, diseased,
25 greasy, panting, and barely able to walk from the diseased liver pressing against their lungs.

26 66. Rather than prosecute Ginor, Yanay, HVFG, Lee, and La Belle for violating New York
27 State's general animal cruelty law, NY Agriculture & Markets Code § 353, the District Attorney in rural
28 Sullivan County has instead in the past prosecuted APRL's volunteers for exposing HVFG and rescuing

1 ducks on the verge of death from force feeding, as seen in this New York Times article:

2 [https://www.nytimes.com/2015/02/23/nyregion/amid-foie-gras-controversy-an-activist-faces-a-](https://www.nytimes.com/2015/02/23/nyregion/amid-foie-gras-controversy-an-activist-faces-a-felony-charge-in-poaching-of-ducks.html)
3 [felony-charge-in-poaching-of-ducks.html](https://www.nytimes.com/2015/02/23/nyregion/amid-foie-gras-controversy-an-activist-faces-a-felony-charge-in-poaching-of-ducks.html) (last visited September 16, 2020.)

4 67. APRL has repeatedly contacted both the French Laundry and Kettner Exchange and their
5 principals about illegal foie gras sales over several years, including in person, by letter, and by phone.
6 The restaurants typically remove foie gras for a short time and then add it back to the menu later.

7 68. APRL has repeatedly picketed Thomas Keller’s restaurants in the past for serving cruel
8 foie gras over several years, including holding simultaneous protests at his restaurants in Yountville, Los
9 Angeles, and New York City in 2010.

10 69. New York City has since banned the sale of foie gras from force fed ducks just as
11 California has done. Keller is well aware of the cruelty involved in foie gras production.

12 70. In 2018, APRL sent cease and desist letters to many restaurants in California, including
13 Kettner Exchange and the French Laundry, warning them that they were violating California law by
14 continuing to serve foie gras from force fed ducks, after the Ninth Circuit overturned Judge Wilson’s
15 ruling on PPIA preemption. Attorneys for some of these restaurants, including the French Laundry,
16 wrote back stating the restaurants would continue violating the law because HVFG had filed a petition
17 for certiorari to the United States Supreme Court.

18 71. When the Supreme Court denied certiorari and Judge Wilson dissolved his own
19 injunction on remittitur, some restaurants including Kettner Exchange and the French Laundry only
20 temporarily stopped selling foie gras from force fed ducks in California but then at some point resumed
21 the illegal sales yet again.

22 72. A September 3, 2020 article in SF Eater entitled, “French Laundry Launches \$850-Per-
23 Person Indoor Dining ‘Experience’ Fit for a Bond Villain” lists the menu items that included foie gras at
24 the French Laundry at the time this action was filed. ([https://sf.eater.com/2020/9/3/21421335/french-](https://sf.eater.com/2020/9/3/21421335/french-laundry-yountville-thomas-keller-indoor-dining-rich-people)
25 [laundry-yountville-thomas-keller-indoor-dining-rich-people](https://sf.eater.com/2020/9/3/21421335/french-laundry-yountville-thomas-keller-indoor-dining-rich-people), last visited September 16, 2020.)

26 73. The SF Eater article links to an SF Chronicle article entitled, “Judge says foie gras is
27 legal to eat in California in confusing ruling.” That article explains that while it has always been legal to
28 possess or eat foie gras in California, it still remains illegal to sell it in California, which includes

1 restaurants serving it. ([https://www.sfchronicle.com/food/article/Foie-gras-is-legal-to-serve-again-in-](https://www.sfchronicle.com/food/article/Foie-gras-is-legal-to-serve-again-in-California-15408615.php)
2 [California-15408615.php](https://www.sfchronicle.com/food/article/Foie-gras-is-legal-to-serve-again-in-California-15408615.php))

3 74. The San Jose Mercury News also correctly reported, “Foie gras ruling puts it back on
4 Californians’ plates, but not on restaurant menus. Delicacy can be sold, shipped by out-of-state
5 producers; reselling it remains verboten.” ([https://www.mercurynews.com/2020/07/14/foie-gras-can-](https://www.mercurynews.com/2020/07/14/foie-gras-can-again-be-sold-in-california-judge-rules/)
6 [again-be-sold-in-california-judge-rules/](https://www.mercurynews.com/2020/07/14/foie-gras-can-again-be-sold-in-california-judge-rules/), last visited September 16, 2020.) This article also refers to
7 APRL’s advocacy efforts regarding the ban.

8 75. While Keller’s menu was described as “fit for a Bond villain,” one of the original actors
9 who played James Bond, Roger Moore, narrated one of APRL’s earlier videos about this cruel industry,
10 and specifically Defendants HVFG and Labelle. (<https://www.youtube.com/watch?v=OZftbXRFdBc>.)

11 76. As a sophisticated restaurateur whose personal net worth exceeds \$50 million, and who
12 had already consulted lawyers to write responses to APRL, Keller was surely aware of the illegality of
13 continuing to sell foie gras in California at the time this action was filed.

14 77. The daily menu for the French Laundry still had foie gras on it as of September 10, 2020.

15 78. Plaintiffs seek an injunction in the public interest to require Defendants to stop selling
16 foie gras from force fed ducks in California, including through phone and online orders, and to stop
17 falsely advertising how foie gras from force fed ducks is produced.

18 **FIRST CAUSE OF ACTION**

19 **Consumer Legal Remedies Act – Civil Code § 1750**

20 **(Dina Kourda against All Defendants)**

21 79. Plaintiffs reallege the paragraphs above as if fully set forth herein.

22 80. The Consumer Legal Remedies Act (“CLRA”), Civil Code § 1750, *et seq.*, prohibits
23 “unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or
24 which results in the sale or lease of goods or services to any consumer,” including:

- 25 a. “Misrepresenting the source, sponsorship, approval, or certification of services”
- 26 b. “Representing that services have approval, characteristics, benefits that they do not have
27 or that a person has an approval, status, that he or she does not have.”
- 28 c. “Representing that services are of a particular standard, quality, or grade, or that goods are

1 of a particular style or model, if they are of another.”

2 d. “Advertising services with intent not to sell them as advertised.”

3 e. “Representing that a transaction confers or involves rights, remedies, that it does not have
4 or involve.”

5 81. All Defendants have misrepresented to consumers in California, including Dina Kourda,
6 that Defendants are legally selling foie gras that is made in a humane and lawful manner, as more fully
7 described above. These statements are false and misleading to consumers.

8 82. Defendants’ advertisements and representations are false and misleading in material
9 respects and are directed at and misleading to reasonable consumers. As a consumer who has sustained
10 injury in the form of seeking to address Defendants’ unlawful acts, Plaintiff Kourda has standing to
11 bring a CLRA claim.

12 83. At all times during which Defendants made the above referenced representations to
13 Plaintiff Kourda, and to the public, Defendants knew that they were false and misleading.

14 **SECOND CAUSE OF ACTION**

15 **Unfair Business Practices – BPC § 17200, *et seq.***

16 **(All Plaintiffs against All Defendants)**

17 84. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding
18 paragraphs as if fully set forth herein.

19 85. California’s Unfair Competition Law (“UCL”), Business & Professions Code sections
20 17200 *et seq.*, prohibits businesses from engaging in unlawful, fraudulent, or unfair business practices.

21 86. An action based on Section 17200 to redress an unlawful business practice borrows
22 violations of other laws and treats them as a violation of Section 17200. In other words, a business
23 practice is “unlawful” under Section 17200 when it violates another federal, state or local law. The
24 violated law that serves as a basis for a UCL claim is referred to as a “predicate” law.

25 87. California Business and Professions Code § 17203 allows private parties who have lost
26 money or property to ask a court to enjoin unlawful business practices.

27 88. Plaintiff APRL has been forced to divert its limited organizational resources including
28 money paid to independent contractors to investigate, expose, and educate the public about the unlawful

1 business acts undertaken and perpetuated by Defendants, and to work with law enforcement agencies to
2 seek official enforcement action.

3 89. Plaintiff APRL would rather spend its time and resources on its core mission of helping
4 animals, and seeking bans in other jurisdictions, rather than exposing and seeking enforcement action
5 against Defendants' unlawful acts in a state that has already banned the sale of foie gras from force fed
6 ducks. Defendants' unlawful business acts as detailed in this complaint both frustrate APRL's core
7 mission of helping animals and impede APRL's ability to expend valuable time and resources to
8 promote its mission to further animal protection.

9 90. APRL and Kourda are each a party who has "suffered injury in fact and has lost money
10 or property as a result of ...unfair competition," and thus have standing under Business & Professions
11 Code § 17204 to enjoin Defendants' unlawful conduct.

12 91. All Defendants' sales of foie gras in California, collectively and individually, violate
13 Health & Safety Code § 25982.

14 92. On information or belief, all Defendants are knowingly and willfully acting as
15 accomplices to all other Defendants to evade California law and defraud consumers.

16 93. Instead of spending its limited resources helping animals, APRL instead must spend
17 significant organizational resources exposing and seeking official enforcement action against
18 Defendants' illegal activities that directly impact APRL's core mission.

19 94. Defendants, and each of them, have engaged in acts or practices that constitute unfair
20 competition, as that term is defined in section 17200 *et seq.* of the Business & Professions Code.

21 95. Defendants, and each of them, have violated, are violating, and plan to continue to violate
22 Business & Professions Code § 17200, *et seq.* through their unlawful business acts and practices, which
23 violate, *inter alia*, Health & Safety Code § 25982.

24 96. Defendants, and each of them, have independently and collectively engaged in and will
25 continue to engage in unlawful and unfair business practices through the illegal sale of foie gras from
26 force fed ducks in California unless specifically enjoined from doing so by this Court.

27 97. Defendants' false advertising as described above also constitutes a fraudulent business
28 practice that should be enjoined by the Court.

1 pendency of this action and permanently thereafter, from making false representations of fact in
2 connection with any products they are advertising and selling to California consumers, including falsely
3 representing to the public that they are legally selling foie gras that is made in a humane manner;

4 2. For a temporary restraining order, preliminary injunction, and permanent injunction
5 enjoining all Defendants and their principals, members, agents, officers, employees, representatives, co-
6 conspirators, and all person acting in concert, collaboration or participation with them during the
7 pendency of this action and permanently thereafter, from selling foie gras from force fed ducks in
8 California in violation of Health & Safety Code § 25982.

9 3. For a temporary restraining order, preliminary injunction, and permanent injunction
10 enjoining all Defendants and their principals, members, agents, officers, employees, representatives, co-
11 conspirators, and all person acting in concert, collaboration or participation with them during the
12 pendency of this action and permanently thereafter, from selling any products in California made in
13 violation of any state or federal laws, including labor laws and false advertising laws.

14 4. For reasonable attorneys' fees as provided by, *inter alia*, Code Civ. Proc. § 1021.5, and
15 for costs of suit incurred herein;

16 5. For pre- and post-judgment interest;

17 6. For such other and further relief as the Court deems just and proper;

18
19
20 Dated: September 16, 2020

By:



Bryan W. Pease, Esq.
Attorney for Plaintiffs

1 **VERIFICATION**

2 I, Dina Kourda, am a Plaintiff in the above-captioned action and am also an agent of Plaintiff
3 Animal Protection and Rescue League. I have read the foregoing Verified Complaint and am familiar
4 with its contents. The same is true of my own personal knowledge, except those matters alleged on
5 information or belief, and as to those matters, I believe them to be true.

6 I declare under penalty of perjury under the laws of California the foregoing is true and correct.

7
8
9 Dated: September 16, 2020

By: 

Dina Kourda