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13 **UNITED STATES DISTRICT COURT**
 14 **NORTHERN DISTRICT OF CALIFORNIA**

15 MARTIN SCHNEIDER, SARAH
 16 DEIGERT, LAURIE REESE, THERESA
 GAMAGE, TIFFANIE ZANGWILL, and
 17 NADIA PARIKKA, Individually and on
 Behalf of All Others Similarly Situated,

18 Plaintiffs,

19 v.

20 CHIPOTLE MEXICAN GRILL, INC., a
 Delaware Corporation,

21 Defendant.

Case No. 16-cv-02200

CLASS ACTION

CLASS ACTION COMPLAINT FOR VIOLATION OF:

1. California Consumer Protection Laws;
2. Maryland Consumer Protection Act;
3. Florida Deceptive and Unfair Trade Practices Act;
4. New York Consumer Protection Laws;
5. Unjust Enrichment;
6. Misrepresentation; and
7. Declaratory Judgment

DEMAND FOR JURY TRIAL

1 Plaintiffs Martin Schneider, Sarah Deigert, Laurie Reese, Theresa Gamage, Tiffanie
 2 Zangwill, and Nadia Parikka (“Plaintiffs”), by and through their attorneys, individually and on behalf
 3 of all others similarly situated, bring this Class Action Complaint (“Complaint”) against Defendant
 4 Chipotle Mexican Grill, Inc., a Delaware corporation (“Chipotle” or “Defendant”), and make the
 5 following allegations based upon knowledge as to themselves and their own acts, and upon
 6 information and belief as to all other matters, as follows:

7 **INTRODUCTION**

8 1. On April 27, 2015, Chipotle began its highly successful “G-M-Over It” publicity blitz,
 9 misrepresenting to consumers that it was giving “a farewell to GMOs” to become the first fast food
 10 chain in the United States with a GMO free menu that uses “only non-GMO ingredients.”



22 2. But Chipotle’s “non-GMO” advertising and labeling is misleading and deceptive to
 23 consumers, who reasonably understand today that such claims would mean that Chipotle’s menu is
 24 100% free of GMOs and that Chipotle does not serve food sourced from animals that have been
 25 raised on GMOs or genetically engineered feed. In fact, Chipotle (1) serves protein products such
 26 as beef, chicken, and pork from poultry and livestock that have been raised on GMO feed; (2) serves
 27 dairy products such as cheese and sour cream derived from cows raised on GMO feed; and (3) sells
 28 beverages such as Coca-Cola and Sprite that are loaded with corn-syrup derived from GMO corn.

1 Moreover, Chipotle does not disclose any of this information to consumers in its restaurants or on its
2 menus. Accordingly, Chipotle's GMO-free image and non-GMO advertising and labeling is
3 misleading and highly deceptive to reasonable consumers.

4 3. Plaintiffs bring this class action alleging that Chipotle's conduct, as described more
5 fully herein, violates California, Maryland, Florida, and New York consumer protection laws, and
6 they assert various common law tort claims. Plaintiffs seek damages, restitution and/or disgorgement
7 of Chipotle's profits, and injunctive and declaratory relief on behalf of themselves and similarly
8 situated consumers.

9 **PARTIES**

10 4. Plaintiff Martin Schneider is a resident of Valley Village, California.

11 5. Plaintiff Sarah Deigert is a resident of San Francisco, California.

12 6. Plaintiff Laurie Reese is a resident of Whittier, California.

13 7. Plaintiff Theresa Gamage is a resident of Rockville, Maryland.

14 8. Plaintiff Tiffanie Zangwill is a resident of Melbourne, Florida.

15 9. Plaintiff Nadia Parikka is a resident of Ardsley, New York.

16 10. Defendant Chipotle Mexican Grill, Inc., is a Delaware corporation headquartered in
17 Denver, Colorado. Founded in 1993, Chipotle develops and operates fast-casual and fresh Mexican
18 food restaurants. As of December 31, 2015, Chipotle has over 1,970 restaurants throughout the
19 United States, with approximately 351 restaurants in California, 70 restaurants in Maryland, 116
20 restaurants in Florida, and 115 in New York. Chipotle has reported revenues of \$1.5 billion.

21 **JURISDICTION AND VENUE**

22 11. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C.
23 § 1332, as amended by the Class Action Fairness Act of 2005, because the matter in controversy
24 exceeds \$5,000,000, exclusive of interest and costs, and is a class action in which some members of
25 the Class are citizens of different states than Chipotle. *See* 28 U.S.C. § 1332(d)(2)(A). This Court
26 has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

27 12. This Court has personal jurisdiction over Chipotle because it is authorized to do
28 business and does conduct business in California, has specifically marketed, advertised, and made

1 substantial sales in California, and has sufficient minimum contacts with this state and/or sufficiently
2 avails itself of the markets of this state through its promotion, sales, and marketing within this state
3 to render the exercise of jurisdiction by this Court permissible.

4 13. Venue in this Court is proper pursuant to 28 U.S.C. § 1391 because Chipotle does
5 substantial business in this District, has intentionally availed itself of the laws and markets within
6 this District through its promotion, marketing, distribution and sales activities in this District, and a
7 significant portion of the facts and circumstances giving rise to Plaintiffs' Complaint occurred in or
8 emanated from this District.

9 14. Pursuant to Civil Local Rule 3-2(c), an intra-district assignment to the San
10 Francisco/Oakland Division is appropriate because a substantial part of the events or omissions
11 which give rise to the claims asserted herein occurred in this Division, including that Plaintiff Deigert
12 patronized a Chipotle restaurant in San Francisco County.

13 **FACTUAL ALLEGATIONS**

14 **A. Chipotle Markets Its Mexican Fast Food As Healthy Lifestyle Brand**

15 15. Chipotle owns and operates a nationwide chain of casual Mexican fast-food
16 restaurants that has a fairly limited menu of tacos and burritos served on flour or corn tortillas, burrito
17 bowls (a burrito without the tortilla), and salads. *See* Exhibit 1. Chipotle's menu items can be filled
18 with a selection of proteins such as chicken, steak, beef ("barbacoa"), pork ("carnitas") or vegetables
19 and tofu ("sofritas"). Customers can then select from a cafeteria style selection of toppings or
20 condiments such as cheese, sour cream, salsa, guacamole, rice and beans. Chipotle also serves corn
21 tortilla chips as well as a selection of soft-drinks like Coca-Cola, Diet Coke, Pibb Ultra and Sprite.
22 Some Chipotle stores have alcoholic beverages such as beer and margaritas.

23 16. Since 2009, Chipotle has marketed itself as serving "Food With Integrity," and sets
24 itself apart from other fast-food chain competitors by claiming to serve locally-sourced produce,
25 antibiotic and hormone free livestock raised in humane conditions, and produce farmed using
26 environmentally-friendly techniques. Chipotle claims that it is "all about simple, fresh food without
27 artificial flavors or fillers," that it serves "more local produce than any restaurant company in the
28 U.S.," that it is "serious about pasture-raised animals that have room to be animals," and that there

1 is “no place for nontherapeutic antibiotics and synthetic hormones on the farms that produce”
2 Chipotle’s ingredients. Chipotle claims that “[w]ith every burrito we roll or bowl we fill, we’re
3 working to cultivate a better world.”

4 17. In addition to print, outdoor, transit and radio ads, Chipotle engages in special
5 promotions to demonstrate its “Food With Integrity” mission. Chipotle’s video and music programs,
6 events and festivals such as its “Cultivate Festival,” and digital, mobile, and social media campaigns
7 (such as its three-minute “The Scarecrow” and two-minute “Back to the Start” Youtube.com
8 campaigns) have permitted Chipotle to differentiate itself from other fast-food companies as its fast
9 food industry leader in being health and environmentally conscious. In 2014 alone, Chipotle spent
10 over \$57 million in advertising and marketing costs in the United States to promote its Food With
11 Integrity brand.

12 18. Chipotle has carefully tailored its public image by marketing to healthy-lifestyle and
13 environmentally conscious consumers that it knows are willing to pay premium prices for its food
14 products. In addition to capitalizing on market trends that fetch high sales and premium prices for
15 local produce and ethically raised animals, in 2013 Chipotle turned its attention to the growing
16 business trend of “non-GMO” and “GMO free” marketing and labeling.

17 **B. Consumers’ Understanding of Non-GMO and GMO Free Claims**

18 19. While the abbreviated term “GMO” may generally refer to genetically modified
19 organisms, when used in food marketing and labeling, terms like “non-GMO” and “GMO free”
20 (which are reasonably understood by consumers to be synonymous) have a broader meaning to
21 consumers in that they convey food products do not contain and are not sourced or derived from
22 genetically engineered foods and methods, such as genetically engineered corn that ends up in corn
23 syrup and beef from a cow that was raised on a diet of genetically engineered or modified food.
24 Consumers have this understanding because of educational efforts by “non-GMO” consumer
25 information sources and certification agencies as well as government authorities. The successful
26 results of their efforts to develop a consumer understanding of “non-GMO” and related terms in this
27 manner are demonstrated by market research surveys as discussed below.

1 20. For example, consumers have been educated by the Non-GMO Project
2 (www.nongmoproject.org), which is North America’s “only third party verification and labeling for
3 non-GMO food and products.” It was formed in the early 2000s after GMO use grew with the goal
4 of “creating a standardized meaning of non-GMO for the North American food industry.” Because
5 of the Non-GMO Project’s work with companies and food producers, through its Independent
6 Verification Program, its Non-GMO Project Verified seal is now found on over 34,700 plant and
7 animal food products and with 2,200 participating brands. Further, it makes significant educational
8 outreach efforts through its Non-GMO Project and LivingNonGMO.org websites that get over 200
9 million visits a year. Consumers thus readily and understandably associate “non-GMO” marketing
10 and similar terms with definitions set by the Non-GMO Project.

11 21. Accordingly, consumers understand that any product or ingredient that is
12 contaminated by or with GMOs is not “non-GMO.” And, the Non-GMO Project specifically extends
13 its definition of “Non-GMO or No-GM” to any “plant, animal, or other organism whose genetic
14 structure has not been altered by gene splicing” *and* to “a process or product that does not employ
15 GM processes or inputs.”¹ Per the consumers’ leading industry source, the Non-GMO Project states
16 that “animal feed commonly contains High-Risk Inputs” in the form of genetically modified or
17 engineered feed. As a result, animal food products (such as meat, poultry, and dairy) are included
18 on the Non-GMO Project’s list of High-Risk ingredients. In order for animal products to be properly
19 labeled as “non-GMO” the products must meet a number of stringent requirements, including that
20 the animals and poultry be fed seed that is less than 5% GMO for various periods of the animal’s life
21 (including the entire life for meat animals other than poultry). Other GMO awareness campaigns
22 similarly advise consumers that in order to avoid GMOs they should avoid “meat, eggs, and dairy
23 products that have eaten GMO feed” furthering the consumer understanding that “non-GMO” and
24 related marketing, labeling and advertising claims indicate to consumers that the animal products
25 were not raised on genetically modified feed.²

26 ¹ See <http://www.nongmoproject.org/wp-content/uploads/Non-GMO-Project-Standard.pdf>, page 24
27 (last accessed Mar. 11, 2016).

28 ² See <https://gmo-awareness.com/avoid-list/overview/> (last accessed Mar. 11, 2016);
<http://nongmoorganicrestaurants.com/gmo-ingredients> (last accessed Mar. 11, 2016).

1 22. The federal government has also taken steps to adopt standards that assist companies
2 and consumers with understanding that “non-GMO” labeling means animal products are not raised
3 on GMO derived feed. For example, in mid-2013, the Food Safety and Inspection Service, the
4 division of the U.S. Department of Agriculture charged with regulating the safety and proper labeling
5 of meat, poultry, and egg products, approved the Non-GMO Project Verified label claim for meat
6 and liquid egg products.³ The government’s efforts are intended to inform consumers that the animal
7 was *not* raised on a diet that consists of genetically engineered ingredients, like corn, soy and
8 alfalfa. Accordingly, consumers understandably associate advertising or labeling with the terms
9 “non-GMO” or “GMO free” with products whose ingredients have not been tainted by GMOs or
10 sourced from animals fed with GMOs.

11 23. More recently, in November 2015, the FDA issued guidelines on the labeling of foods
12 derived from genetically engineered plants and grouped the terms “*GMO free*,” “*GE free*,” “*does not*
13 *contain GMOs*,” “*non-GMO*” and similar claims” (original emphasis) together.⁴ The FDA warned
14 that the term “free” that is associated with these similar claims “conveys zero or total absence” of
15 ingredients derived through biotechnology and that these type of claims are “problematic” due to the
16 challenges of substantiating such claims. The FDA emphasized that its purpose in issuing its recent
17 guidelines was so that companies’ labeling on food derived from genetically engineered plants “be
18 truthful and not misleading” to consumers. Moreover, the FDA took care to appropriately group
19 these commonly used “non-GMO” related labeling terms in the same fashion consumers do,
20 demonstrating that “non-GMO,” “does not contain GMOs,” and “GMO free” have an identical and
21 synonymous meaning to consumers. The FDA also points out that the while the “O” in the acronym
22 GMO generally refers to the word “organism” because an entire organism is generally not contained
23 in a food (microorganisms in the dairy product yogurt being a cited exception), GMO is generally
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25 ³ See <http://www.foodliabilitylaw.com/2013/07/articles/legislation-and-regulation/food-labeling/usda-approves-non-gmo-label-claim-for-meat-and-egg-products/> (last accessed Mar. 4,
26 2016).

27 ⁴ See
28 <http://www.fda.gov/food/guidanceregulation/guidancedocumentsregulatoryinformation/ucm059098.htm#references> (last accessed Mar. 11, 2016).

1 “read as meaning that the food was not *derived from* a genetically modified organism, such as a plant
2 that has been genetically engineered” (original emphasis).

3 24. Market research also supports the fact that consumers understand and expect that
4 advertisements and labeling of “non-GMO,” “GMO free,” or related claims have similar meanings
5 and would not apply to foods sourced from animals fed with a GMO or genetically engineered diet.
6 For example, a poll of Ohio voters by Public Policy Polling in December 2015 indicated that 76% of
7 consumers would “[e]xpect that a dairy product labeled as “non-GMO” was made using milk from
8 cows that had not been fed any genetically modified feed.”⁵ Only 11% of respondents would *not*
9 expect such a product to come from cows fed only with non-GMO feed.

10 25. Recently, a consumer research survey firm conducted a market survey of 1,003
11 consumers nationwide on behalf of Plaintiffs that confirms reasonable consumers would also expect
12 and understand that a restaurant claiming its food did not contain GMOs would not serve food from
13 animals fed with GMOs:

QUESTION	YES	NO
If a restaurant states that it sells food that does not contain GMOs, would you expect the restaurant to serve food from animals that ate feed containing GMOs?	23%	77%
If a restaurant states that it serves food that does not contain GMOs, and it does serve food from animals that ate feed containing GMOs, would you say that the restaurant was misleading the public?	78%	22%

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24 When respondents were limited to California consumers, the results were approximately the same.

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27 ⁵See https://www.scribd.com/fullscreen/296829933?access_key=key-CZjpQ4qu9Q6VZ6AYOQvf&allow_share=false&escape=false&show_recommendations=false&view_mode=scroll (last accessed Mar. 11, 2016).
28

1 26. Accordingly, consumers reasonably understand food advertised or labeled as “non-
2 GMO,” “GMO free,” “does not contain GMOs,” or other similar claims only apply to food that
3 (1) does not contain GMOs and is not sourced from, or derived from any GMOs; and (2) does not
4 contain animal products such as meat, poultry, pork and dairy that have a diet of GMO feed, GMO
5 contaminated feed and/or genetically modified or engineered feed. Consumers also understand that
6 the term “food” applies broadly to food *and* drink, which is also how the FDA defines it. 21 U.S.C.
7 § 321(f)(1).

8 **C. Consumers Have a Negative, Unhealthy Perception of GMOs**

9 27. Today, genetically modified crops are used in biological and medical research,
10 production of pharmaceutical drugs, experimental medicine, and agriculture. Such crops are
11 engineered to, among other things, resist certain pests, diseases, or environmental conditions, reduce
12 spoilage, increase size and yield, taste and look better, and resist chemical treatments. In the United
13 States, as of 2015, 94% of the planted area of soybeans, 95% of cotton, and 92% of corn were
14 genetically modified varieties.⁶

15 28. Since 1996, farmers in animal agriculture (including poultry) have optimized GMOs
16 by feeding genetically modified grains (corn) and oilseeds (soybean) to their flocks and herds.⁷
17 Because more than 80% of the corn and soybeans in the United States are raised from genetically
18 modified seeds, almost all corn and soybean used in conventional livestock and poultry feed is
19 genetically modified. In addition, other genetically modified crops such as cotton, canola, sugar
20 beets, and alfalfa are commonly used in animal feed.⁸ Consequently, most meat and dairy products
21 are contaminated with GMOs due to the feed consumed by livestock and poultry and cannot be
22 labeled as “non-GMO” without deceiving consumers. Because the safety or health impact of food

23 ⁶ *Adoption of Genetically Engineered Crops in the U.S.*, United States Department of Agriculture
24 Economic Research Service (July 9, 2015), <http://www.ers.usda.gov/data-products/adoption-of-genetically-engineered-crops-in-the-us.aspx>.

25 ⁷ *See Genetically Modified Organism (GMO) Use in the Chicken Industry*, National Chicken
26 Council (July 5, 2013), <http://www.nationalchickencouncil.org/genetically-modified-organism-gmo-use-in-the-chicken-industry/>.

27 ⁸ *See Ryan Beville, How Pervasive are GMOs in Animal Feed?*, GMO Inside Blog (July 16, 2013),
28 <http://gmoinside.org/gmos-in-animal-feed/>.

1 and other goods derived from genetically modified crops has been and continues to be hotly debated,⁹
2 it is no surprise that according to a January 29, 2015 Pew Research Center survey, only 37% of the
3 general public believes that “it is generally safe to eat genetically modified (GM) foods.”¹⁰

4 29. While the potential environmental and health impact of GMOs has been the subject
5 of much scrutiny and debate within the food and science industries, Chipotle and other businesses
6 know customers attach an unhealthy, negative perception towards them. Chipotle itself has also
7 fostered consumers’ negative perception of GMOs and GMO derived foods by claiming that
8 “[e]vidence suggests that GMOs engineered to produce pesticides or withstand powerful chemical
9 herbicides damage beneficial insect populations and create herbicide resistant super-weeds.”
10 Chipotle also claims GMO crops are “fueling an escalating chemical arms race with weeds and
11 insects.” Accordingly, Chipotle advocates that consumers should not support the widespread use of
12 feeding chickens, pigs, and cows with GMO crops that are causing such alleged harm to the
13 environment. Chipotle’s claims (whether founded in fact or not) are specifically intended to
14 manipulate consumers into avoiding GMOs, including animal food products raised on GMO feed,
15 because of health and environmental concerns.

16 30. As a result of GMO controversy and consumer concerns, companies have created a
17 \$11 billion (and fast growing) market for non-GMO products and consumers are willing to pay the
18 higher costs associated with non-GMO products due to the negative perception of genetically
19 modified foods and because GMO-free ingredients are often more expensive.¹¹ And, there is no
20 dispute that GMO labeling is a material and important issue to consumers. In a November 2015 poll,
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22 ⁹ Compare, e.g., European Commission, *A Decade of EU-funded GMO Research (2001-2010)*,
23 http://ec.europa.eu/research/biosociety/pdf/a_decade_of_eu-funded_gmo_research.pdf (last
24 accessed Mar. 11, 2016), with *GMO Facts*, Non GMO Project,
25 <http://www.nongmoproject.org/learn-more/> (last accessed Mar. 11, 2016) (“Meanwhile, a growing
26 body of evidence connects GMOs with health problems, environmental damage and violation of
27 farmers’ and consumers’ rights.”).

28 ¹⁰ Cary Funk and Lee Rainie, *Public and Scientists’ Views on Science and Society*, Pew Research
Center (Jan. 29, 2015),
http://www.pewinternet.org/files/2015/01/PI_ScienceandSociety_Report_012915.pdf.

¹¹ Mary Beth Schweigert, *GMO Free Comes at a Price*, *Gluten-Free Living* (Nov. 25, 2014),
<http://www.glutenfreeliving.com/gluten-free-lifestyle/non-gmo/gmo-free-comes-at-price/>;

1 89% of likely voters in 2016 would support labeling of GMO foods.¹² And, 77% percent of those
 2 “strongly favored” such a requirement. Polls consistently show that Americans want to know if the
 3 food they are purchasing are non-GMO.¹³

4 **D. Chipotle’s April 2015 ‘G-M-Over It’ Announcement and Non-GMO Claims**

5 31. In April 2015, Chipotle seized upon the anti-GMO zeitgeist and took the
 6 unprecedented step among fast-food restaurants by launching a multi-media publicity and advertising
 7 campaign touting that it was the “first national company” in the restaurant industry to serve a menu
 8 devoid of GMOs and GMO derived foods. The announcement was a culmination of two years of
 9 Chipotle’s declared attention and focus at supposedly ridding its restaurants of GMOs. Chipotle
 10 titled its press release “Chipotle Becomes the First National Restaurant Company to Use Only Non-
 11 GMO Ingredients.” Chipotle led its press release with the proclamation that it “achieved its goal of
 12 moving to only non-GMO ingredients to make all of the food in its U.S. restaurants.” Among other
 13 things, Chipotle claimed its suppliers specially planted “non-GMO corn varieties” to meet its
 14 demands and that GMO ingredients in its products had been replaced with “non-GMO alternatives.”
 15 Chipotle declared to the American public that it was “G-M-Over It.”

16 32. As intended, Chipotle’s announcement garnered widespread coverage in national and
 17 local media throughout the United States, which was unsurprising given consumer interest in GMOs
 18 and Chipotle’s rapid growth and popularity. Chipotle’s announcement was covered by the national
 19 news media, both in print and on television. Notably, many of the articles and reports contained
 20 headlines or phrasing confirming the synonymous nature of the terms “non-GMO” and “GMO free”:

- 21 ➤ “Chipotle Goes GMO Free”
- 22 ➤ “Chipotle Says its Finished the Process of Going GMO Free”
- 23 ➤ “Chipotle Declares Its Menu Items GMO Free”

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 25 ¹²See The Mellman Group, Inc., “Voters Want GMO Food Labels Printed On Packaging,”
 26 <http://4bgr3aepis44c9bxt1ulxsysq.wpengine.netdna-cdn.com/wp-content/uploads/2015/12/15memn20-JLI-d6.pdf> (last accessed Mar.11, 2016).

27 ¹³ See The Mellman Group, Inc., “Voters Want GMO Food Labels Printed On Packaging,”
 28 <http://4bgr3aepis44c9bxt1ulxsysq.wpengine.netdna-cdn.com/wp-content/uploads/2015/12/15memn20-JLI-d6.pdf> (last accessed Mar. 11, 2016).

1 This amount of media coverage would likely have reached millions, if not tens of millions, of
2 consumers throughout the United States.

3 33. Since its announcement, Chipotle has engaged in a multi-media mass marketing and
4 advertising campaign to inform consumers that it was going “non-GMO” through methods including
5 billboards, social media, store fronts, and in-store signage.

6 34. On Twitter, Chipotle announced to its 684,000 followers on Twitter that: “We’re now
7 making all of the food at our US restaurants with only non-GMO ingredients[.]”¹⁴ In another tweet,
8 Chipotle noted that it was “literally dropping” the letters G, M, and O from their menu, including
9 taking out the “O” in “Chicken Burrito,” thus representing that its chicken burrito is non-GMO and
10 GMO free:



35. In Chipotle’s “A Farewell to GMOs” billboard advertisement of a corn hard-shell taco
laced with cheese, it represented that it replaced all of its ingredients “with non-GMO ingredients”
and that “all” of Chipotle’s “food is non-GMO”:

¹⁴ See @ChipotleTweets, Chipotle,
<https://twitter.com/ChipotleTweets/status/592793417652039680> (last accessed Aug. 10, 2015).

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A FAREWELL TO GMOs

For the last 21 years we have been striving to make our ingredients better. Given that we don't think genetically modified organisms (GMOs) are better, we have replaced them with non-GMO ingredients. Now all of our food is non-GMO.

CHIPOTLE.COM/GMO



36. In another advertisement, Chipotle represented that its food is “made with no-GMO ingredients”:



37. On store fronts, Chipotle advertised “A Farewell to GMOs,” noting that “[w]hen it comes to our food, genetically modified ingredients don’t make the cut”:



38. Indeed, inside Chipotle restaurants consumers are presented with a large, colorful billboard mounted behind the store cashiers, which states among things: “ONLY NON-GMO INGREDIENTS.” The in-store sign contains, directly above Chipotle’s representation, pictures of the “Ingredients,” including lettuce, lemons, limes, onions, tomatoes alongside raw pieces of beef and cheese. The photographs of cheese and meat placed just above “ONLY NON-GMO INGREDIENTS” are meant to be, and are, interpreted by consumers as a claim that all the ingredients pictured on the in-store board and in the restaurant are non-GMO or GMO free. Moreover, when read in conjunction with the other statements on the billboard and its placement next to the menu, Chipotle is representing to consumers that all of its ingredients, including its meat “raised without antibiotics or added hormones” and its “pasture-raised dairy” products, are non-GMO or GMO free:

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39. Chipotle’s strategic announcement that it would only prepare food with ingredients that are free of GMOs was intended to further its “Food With Integrity” and healthy lifestyle image, while differentiating it from its fast food competitors or other Mexican restaurants. Its move to becoming “non-GMO” was a strategic marketing campaign to entice new health-minded consumers and retain current ones.

40. Chipotle’s announcements, statements, advertising and marketing claims, including but not limited to those set forth in this Complaint that its food is made with “only non-GMO ingredients,” that “all of our food is non-GMO,” that it is “G-M-Over it,” that it made a “Farewell to GMOs,” and that “Chipotle: Made With No-GMO Ingredients” are collectively referred to as Chipotle’s “Non-GMO Claims.” Chipotle’s nationwide campaign supporting its Non-GMO Claims for its restaurants has been extensive and comprehensive throughout the Class Period. Chipotle has spent substantial time, money, and effort conveying to consumers throughout the United States its Non-GMO Claims. Chipotle’s Non-GMO Claims have been a resounding success for the company,

1 which saw a 100+ point jump in its stock price on the New York Stock Exchange in the four months
2 after its public announcement.

3 **E. Chipotle's False, Misleading and Deceptive Non-GMO Claims**

4 41. But as Chipotle told consumers it was "G-M-Over it," the opposite was true. In fact,
5 Chipotle's Non-GMO claims are deceptive and misleading to reasonable consumers because: (1)
6 Chipotle serves protein products such as beef, chicken, and pork from poultry and livestock that is
7 deceptively advertised and labeled as "non-GMO" because the animals have been raised on GMO
8 feed; (2) Chipotle serves dairy products such as cheese and sour cream that is deceptively advertised
9 and labeled as "non-GMO" because they have been derived from cows raised on GMO feed; and (3)
10 Chipotle serves beverages such as Coca-Cola and Sprite that are loaded with corn-syrup – a GMO.
11 Moreover, Chipotle does not disclose any of this information to consumers in its restaurants or on its
12 menus.

13 42. Chipotle's Meat and Dairy Is Not Non-GMO: As set forth above, consumers
14 associate the similar terms "non-GMO," "GMO free," and similar representations, to apply only to
15 meat and dairy products that do not come from animals fed with genetically engineered or GMO
16 derived feed. Chipotle deceptively advertises, labels, and markets its entire menu as "Non-GMO"
17 or "GMO free" even though its chicken, beef, and pork ("Meat Products"), as well as its sour cream,
18 and cheese ("Dairy Products") are all sourced from animals that are fed with a genetically engineered
19 or GMO derived feed. Accordingly, Chipotle's Non-GMO Claims about its Meat and Dairy Products
20 are deceptive and misleading to reasonable consumers. Chipotle's Meat Products are substantially
21 similar to each other and that Chipotle's Dairy Products are substantially similar because each
22 product within its respective group contains similar characteristics and purposes on Chipotle's menu
23 as filling for one of its main menu items such as a burrito or taco, and because each product carries
24 the same deceptive and misleading representations and omissions alleged herein.

25 43. Chipotle's Soft Drinks Actually Contain GMOs and Are Not Non-GMO: Chipotle's
26 Non-GMO Claims about its restaurants extend to the beverages it offers on its menu. Chipotle serves
27 a variety of soft drinks, such as Coca-Cola, Diet Coke, Fanta Orange, Barq's Root Beer, Pibb Ultra,
28 Minute Maid Lemonade, PowerAde, and Sprite (collectively "Soft Drinks"), that contain GMOs in

1 the form of high-fructose corn syrup or aspartame (which is manufactured with GMOs). Moreover,
 2 reasonable consumers are likely to be deceived by Chipotle's Non-GMO Claims because they make
 3 no attempt to differentiate or distinguish its Soft Drinks from other menu items and the FDA defines
 4 "food" to broadly encompass both food *and* drink. Accordingly, Chipotle's Non-GMO Claims about
 5 its Soft Drinks are deceptive and misleading to reasonable consumers. All of Chipotle's Soft Drinks
 6 are substantially similar products because they have similar qualities, characteristics, ingredients, the
 7 same manufacturer (Coca-Cola), are intended to be served along with Chipotle's other menu items,
 8 and because each product carries the same deceptive and misleading representations and omissions
 9 alleged herein.

10 44. Some food bloggers and commentators have also pointed out Chipotle's misleading
 11 and deceptive conduct with regard to its Non-GMO Claims. As food writer Julie Kelly points out,
 12 "[t]he company's holier-than-thou PR move proclaiming 'Food with Integrity' struck me as the
 13 ultimate cynical marketing tactic: feign integrity while you mislead customers to believe that your
 14 food is GMO-free when it's not."¹⁵ Noting that "Chipotle's advertising is purposefully misleading,"
 15 the *National Review* article, "GMO: Gimmicky Marketing Obfuscations" pointed out the following:

16 So you can eat GM-free at Chipotle as long as you don't order the pork, chicken,
 17 cheese, sour cream, tortillas, or Coke. "They conveniently ignore GMO-derived
 18 ingredients when they don't have alternatives or it doesn't serve profits," said Kevin
 19 Folta, chair of the Horticultural Sciences Department at the University of Florida. "It
 20 is corporate deception in the name of a buck and anti-GMO deception in the name of
 21 ideology." So much for food with integrity.¹⁶

22 45. Moreover, Chipotle has taken no meaningful steps to clarify consumer
 23 misconceptions about its Non-GMO Claims that it promulgated through the mass media, social

24 ¹⁵ Julie Kelly, *Why Whole Foods and Chipotle's anti-GMO campaigning has lost my business*,
 Genetic Literacy Project (July 6, 2015), <http://www.geneticliteracyproject.org/2015/07/06/why-whole-foods-and-chipotles-anti-gmo-campaigning-has-lost-my-business/>; see also Sarah Zhang,
 25 *Chipotle's Anti-GMO Stance Is Some Anti-Science Pandering Bull[]*, Gizmodo (Apr. 27, 2015,
 26 3:18 PM), <http://gizmodo.com/chipotles-anti-gmo-stance-is-some-pandering-bullshit-1700437048>.

27 ¹⁶ Julie Kelly and Jeff Stier, *GMO: Gimmicky Marketing Obfuscations; Perhaps Chipotle should
 have learned from Starbucks*, *National Review* (May 1, 2015, 5:30 PM),
 28 <http://www.nationalreview.com/article/417801/gmo-gimmicky-marketing-obfuscations-julie-kelly-jeff-stier>;
 see also Tim McDonnell, *Chipotle Says It's Getting Rid of GMOs. Here's the Problem.*,
 Mother Jones (Apr. 28, 2015, 4:08 PM), <http://www.motherjones.com/blue-marble/2015/04/chipotle-gmos-anti-science>.

1 media, its menus, on its store signage where its customers actually make their purchases, and in
2 advertisements and on its billboards, both in stores and in print, which say “all” of the ingredients
3 used in its food are “non-GMO”. Instead, to attempt to unravel Chipotle’s deception, a fast food
4 consumer is purportedly required to log onto Chipotle’s website and search it through the use of
5 various links for further information. Customers are not obligated to search ingredient lists or
6 websites for additional information for products that are otherwise advertised, marketed, or labeled
7 in a deceptive or misleading way.¹⁷ And, even if they were, Chipotle’s website contains misleading
8 and deceptive information, such as Chipotle’s own contradictory and inconsistent usage of the term
9 “non-GMO.” For example, on its advertising it says “all” of its ingredients and “all our food” is
10 “non-GMO” but on its website it only uses the term “Non-GMO” in connection with some
11 ingredients and food like its “Corn Masa Flour,” “Corn Starch,” and “Baking Soda” but not with the
12 vast majority of other ingredients such as its chicken, beef, sour cream, garlic, tomato, pork, black
13 beans, etc. As a result, reasonable consumers attempting to discern Chipotle’s own marketing
14 representations and in-store information with supposed clarifications on its website are only likely
15 to be further confused and deceived by Chipotle’s conduct and its amorphous, misleading,
16 inconsistent, self-interested definition of “Non-GMO.”

17 46. Of course, as a restaurateur, Chipotle is well aware its customers are unlikely to have
18 seen its website anyway because its fast-food consumers never need to visit Chipotle’s website to
19 buy food (as opposed to a purchase on Amazon.com for example), and are highly unlikely to seek
20 out this information when simply deciding where to get lunch or dinner. Chipotle has purposefully
21 chosen to only disclose further information about its Non-GMO Claims only on its website while
22 concealing that information from its advertisements and in its stores in a way that amounts to conduct
23
24

25 ¹⁷ On February 22, 2016, the Ninth Circuit Court of Appeals clarified and extended its holding in
26 *Williams v. Gerber Prods. Co.*, 552 F.3d 934 (9th Cir. 2008), in overturning the District Court’s
27 decision in *Balser v. Hain Celestial Grp.*, No. 13-cv-05604-MR, 2013 WL 6673617 (C.D. Cal. Dec.
28 18, 2013). See *Balser v. Hain Celestial Grp.*, No. 14-55074, ___ Fed. App’x ___, 2016 WL 696507
(9th Cir. Feb. 22, 2016).

1 purposefully intended, or at a minimum reasonably likely to, deceive consumers. As explained
2 above, a “Chipotle meal was, and remains, the very definition of a GMO meal...”¹⁸

3 **E. Chipotle Had A Duty To Disclose to Plaintiffs and Class Members**

4 47. Chipotle is and remains under a duty to Plaintiffs and Class Members to disclose the
5 true facts, as alleged herein. The duty to disclose the true facts arises because, as marketer and seller,
6 Chipotle is in a superior position to know the true character and quality of its food in relation to its
7 Non-GMO Claims and the true facts are not something that Plaintiffs and putative class members
8 could, without reasonable diligence, have discovered independently prior to purchase. As a result of
9 Chipotle’s omissions about its Non-GMO Claims, conveyed directly through its announcements,
10 statements, marketing and advertising campaigns, it has been able to charge consumers a significant
11 price premium for its food over other fast-food restaurants by convincing consumers to pay for a
12 purportedly superior product, as its advertising and marketing misleadingly convey.

13 48. Chipotle actively concealed and/or not disclosed material facts to Plaintiffs and the
14 Classes about its Non-GMO claims as set forth herein that are material facts in that a reasonable
15 person would have considered them important in deciding whether or not to purchase (or pay the
16 same price for) Chipotle. Were Chipotle’s Non-GMO Claims not material to consumers, Chipotle
17 would not focus its marketing and advertising to claim that it is the first non-GMO and GMO-free
18 fast-food restaurant, and Chipotle would not be able to charge customers premium prices for its
19 purportedly “non-GMO” menu. Chipotle’s deceptive and misleading Non-GMO claims, and its
20 omissions regarding the true facts surrounding its Non-GMO Claims, have been, and continue to be,
21 material to consumers, including Plaintiffs and other members of the putative classes, and Chipotle
22 knows that its misleading and deceptive representations are material in nature.

23 49. Chipotle intentionally concealed and/or failed to disclose to consumers its Non-GMO
24 Claims were deceptive and misleading as described in this Complaint for the purpose of inducing
25 Plaintiffs and putative class members to act thereon. Plaintiffs and the putative class members

26 ¹⁸ Jon Entine, *Chipotle’s GMO Gimmick Turned Them Into The Public Face Of Science Illiteracy*,
27 Science 2.0 (May 5, 2015, 7:30 AM),
28 http://www.science20.com/jon_entine/chipotles_gmo_gimmick_turned_them_into_the_public_fac_e_of_science_illiteracy-155328.

1 justifiably acted upon, or relied upon to their detriment, the concealed and/or non-disclosed material
2 facts as evidenced by their purchases at Chipotle. Had Plaintiffs known of the true character and
3 quality of the ingredients used in Chipotle's restaurants, they and the putative class members would
4 not have purchased (or would have paid less for) such products. As a direct and proximate cause of
5 Chipotle's misconduct, Plaintiffs and the putative class members have suffered actual damages,
6 Chipotle has been unjustly enriched, and Plaintiffs and class members are entitled to appropriate
7 relief. Chipotle's conduct has been and is malicious, wanton and/or reckless and/or shows a reckless
8 indifference to the interests and rights of others.

9 **PLAINTIFFS' EXPERIENCES**

10 50. Plaintiff Martin Schneider is a resident of Valley Village, California. He and his
11 girlfriend Sandra Coller made regular Chipotle purchases during the Class Period at various
12 locations, including most frequently at Chipotle's location at 5600 Van Nuys Blvd. in Van Nuys,
13 California. During the Class Period he would usually purchase a chicken or beef burrito that included
14 cheese, sour cream, and other condiments, and sometimes would order a side of chips and
15 guacamole. He also sometimes purchased Coca-Cola beverages. Prior to his purchases, Plaintiff
16 Schneider was aware of and was exposed to Chipotle's "Food With Integrity" campaign and believed
17 that its food was a healthy non-GMO alternative to other fast food chains based on Chipotle's
18 representations, which he understood to mean that Chipotle's menu did not contain GMOs and was
19 not sourced from animals that were raised on GMO feed. In particular, Plaintiff Schneider was
20 exposed to and relied on Chipotle's media campaign, the representation that Chipotle's menu was
21 non-GMO and GMO free, having seen or heard advertisements, including store signage, that
22 Chipotle used "only non-GMO ingredients," in deciding to continue his purchases at
23 Chipotle. Plaintiff Schneider would not have purchased Chipotle's menu items at the price he had
24 paid, or purchased it at all, had he known that Chipotle's non-GMO and GMO-free representations
25 made were materially deceptive and misleading. Plaintiff Schneider stopped going to Chipotle after
26 learning of its deceptive advertising and conduct but maintains an interest in continuing as a customer
27 at Chipotle in the future if Chipotle eventually does have a non-GMO and GMO-free menu.

1 51. Plaintiff Sarah Deigert is a resident of San Francisco, California. She made a few
2 purchases during the Class Period, including at Chipotle's 211 Sutter Street location in San
3 Francisco, California. One such purchase was made for herself on or about September 9, 2015, in
4 the amount of \$10.77. During the Class Period she usually purchased a chicken burrito that included
5 cheese, sour cream, and other condiments, but sometimes would get chicken or pork tacos with
6 guacamole, cheese, and sour cream. On or about June 26, 2015, Plaintiff Deigert hosted a party for
7 her co-workers and staff during which she made a purchase in the hundreds of dollars, some of which
8 was reimbursed by her employer and the remainder she recalls paying cash for. For the party,
9 Plaintiff Deigert ordered burritos that included chicken, pork, and beef, as well as cheese and sour
10 cream and sides of corn chips and guacamole and salsa. Prior to her purchases, Plaintiff Deigert was
11 aware of and was exposed to Chipotle's "Food With Integrity" campaign and believed that its food
12 was a healthy non-GMO alternative to other fast food chains based on Chipotle's representations,
13 which she understood to mean that Chipotle's menu did not contain GMOs and was not sourced from
14 animals that were raised on GMO or genetically engineered feed. In particular, Plaintiff Deigert was
15 exposed to and relied on Chipotle's media campaign, the representation that Chipotle's menu was
16 non-GMO and GMO-free, having seen or heard advertisements, including store signage, that
17 Chipotle used "only non-GMO ingredients," in deciding to continue her purchases at Chipotle.
18 Plaintiff Deigert would not have purchased Chipotle's menu items at the price she had paid, or
19 purchased it at all, had she known that Chipotle's non-GMO and GMO free representations made
20 were materially deceptive and misleading. Plaintiff Deigert also would not have served Chipotle at
21 her staff party had she known Chipotle was making misleading and deceptive claims about its menu.
22 Plaintiff Deigert also sometimes makes purchases at Taco Bell, but understood when making
23 purchases at Chipotle that she was paying premium prices for non-GMO and GMO-free food.
24 Plaintiff Deigert maintains an interest in continuing as a customer at Chipotle in the future.

25 52. Plaintiff Laurie Reese is a resident of Whittier, California. She made purchases
26 approximately twice a month during the Class Period at either Chipotle's 15528 Whittier Blvd. or
27 10121 Carmenita Road locations in Whittier, California. During the Class Period she regularly
28 purchased chicken and beef burritos, tacos, and salad bowls that included cheese, sour cream, and

1 other condiments. She also sometimes purchased a side of corn chips and guacamole and salsa. She
2 sometimes paid cash and sometimes paid with a card. Prior to her purchases, Plaintiff Reese was
3 aware of and was exposed to Chipotle's "Food With Integrity" campaign and believed that its food
4 was a healthy non-GMO alternative to other fast food chains based on Chipotle's representations,
5 which she understood to mean that Chipotle's menu did not contain GMOs and was not sourced from
6 animals that were raised on GMO or genetically engineered feed. In particular, Plaintiff Reese was
7 exposed to and relied on Chipotle's media campaign, the representation that Chipotle's menu was
8 non-GMO and GMO-free, having seen or heard advertisements, including store signage, that
9 Chipotle used "only non-GMO ingredients," in deciding to continue her purchases at Chipotle.
10 Plaintiff Reese would not have purchased Chipotle's menu items at the price she had paid, or
11 purchased it at all, had she known that Chipotle's non-GMO and GMO-free representations made
12 were materially false and misleading. However, Plaintiff Reese maintains an interest in continuing
13 as a customer at Chipotle in the future.

14 53. Plaintiff Theresa Gamage is a resident of Rockville, Maryland. She made regular
15 purchases approximately once a week during the Class Period, including at Chipotle's 865 Rockville
16 Pike and 564 N. Frederick Avenue locations in Maryland. She always pays in cash. During the
17 Class Period she usually purchased a burrito bowl with chicken or beef that included cheese, sour
18 cream, and other condiments. She sometimes purchased a side of corn chips and guacamole. Prior
19 to her purchases, Plaintiff Gamage was aware of and was exposed to Chipotle's "Food With
20 Integrity" campaign and believed that its food was a healthy non-GMO alternative to other fast food
21 chains based on Chipotle's representations, which she understood to mean that Chipotle's menu did
22 not contain GMOs and was not sourced from animals that were raised on GMO or genetically
23 engineered feed. In particular, Plaintiff Gamage was exposed to and relied on Chipotle's media
24 campaign, the representation that Chipotle's menu was non-GMO and GMO-free, having seen or
25 heard advertisements, including store signage, that Chipotle used "only non-GMO ingredients," in
26 deciding to continue her purchases at Chipotle. Plaintiff Gamage increased the frequency of her
27 purchases from about once every two-three weeks to once a week after learning of Chipotle's claims
28 that its menu was now non-GMO and GMO-free. Plaintiff Gamage would not have purchased

1 Chipotle's menu items at the price she had paid, or purchased it at all, had she known that Chipotle's
2 non-GMO and GMO-free representations made were materially deceptive and misleading. Plaintiff
3 Gamage maintains an interest in continuing as a customer at Chipotle in the future but believes its
4 conduct is misleading to consumers such as herself.

5 54. Plaintiff Tiffanie Zangwill is a resident of Melbourne, Florida. She made regular
6 purchases approximately once a week at Chipotle for her and her son during the Class Period,
7 including at Chipotle's 1563 W. New Haven Ave. location on Highway 192 in Melbourne, Florida.
8 She usually, if not always, paid in cash. During the Class Period her and her son usually purchased
9 chicken burritos with cheese and sour cream and other condiments. She sometimes purchased a side
10 of corn chips and guacamole, and sometimes purchased soft drinks including Coca-Cola, Diet Coke
11 and Sprite. Prior to her purchases, Plaintiff Zangwill was aware of and was exposed to Chipotle's
12 "Food With Integrity" campaign and believed that its food was a healthy non-GMO alternative to
13 other fast food chains based on Chipotle's representations, which she understood to mean that
14 Chipotle's menu did not contain GMOs and was not sourced from animals that were raised on GMO
15 or genetically engineered feed. In particular, Plaintiff Zangwill was exposed to and relied on
16 Chipotle's media campaign, the representation that Chipotle's menu was non-GMO and GMO-free,
17 having seen or heard articles, advertisements, including store signage, that Chipotle used "only non-
18 GMO ingredients," in deciding to continue her purchases at Chipotle. Plaintiff Zangwill began
19 frequenting Chipotle specifically after learning of Chipotle's claims that its menu was now non-
20 GMO and GMO-free. Prior to that she would go to a Tijuana Flats restaurant which served similar
21 items but was not non-GMO or GMO-free. Plaintiff Zangwill would not have purchased Chipotle's
22 menu items at the price she had paid, or purchased it at all, had she known that Chipotle's non-GMO
23 and GMO free representations made were materially deceptive and misleading. Plaintiff Zangwill
24 has discontinued going to Chipotle since learning that its claims are deceptive and misleading
25 because she feels duped, but she maintains an interest in continuing as a customer at Chipotle in the
26 future should Chipotle actually have a GMO-free or non-GMO menu.

27 55. Plaintiff Nadia Parikka is a resident of Ardsley, New York. During the Class Period,
28 she made at least eight purchases at Chipotle for herself, her husband, and two daughters, at Chipotle

1 restaurants located at 250 Main Street, White Plains, New York, and 5510 Xavier Drive, Yonkers,
2 New York. During these visits, she paid by both cash or credit/debit card. During the Class Period,
3 her and her family usually purchased burritos and bowls (chicken, steak and vegetables) along with
4 cheese, sour cream and other condiments. She also purchased soft drinks including Coca-Cola, Diet
5 Coke and Sprite. Prior to her purchases, Plaintiff Parikka was aware of and was exposed to
6 Chipotle's "Food With Integrity" campaign and believed that its food was a healthy non-GMO
7 alternative to other fast food chains based on Chipotle's representations, which she understood to
8 mean that Chipotle's menu did not contain GMOs and was not sourced from animals that were raised
9 on GMO or genetically engineered feed. In particular, Plaintiff Parikka was exposed to and relied
10 on Chipotle's media campaign, the representation that Chipotle's menu was non-GMO and GMO-
11 free, having seen or heard articles, advertisements, including store signage, that Chipotle used "only
12 non-GMO ingredients," in deciding to continue her purchases at Chipotle. Plaintiff Parikka began
13 frequenting Chipotle specifically after learning of Chipotle's claims that its menu was now non-
14 GMO and GMO-free. Plaintiff Parikka would not have purchased Chipotle's menu items at the price
15 she had paid, or purchased it at all, had she known that Chipotle's non-GMO and GMO-free
16 representations made were materially deceptive and misleading. Plaintiff Parikka has discontinued
17 going to Chipotle since learning that its claims are deceptive and misleading because she feels duped,
18 but she maintains an interest in continuing as a customer at Chipotle in the future should Chipotle
19 actually have a GMO-free or non-GMO menu.

20 **CLASS ACTION ALLEGATIONS**

21 56. Plaintiffs Schneider, Deigert, and Reese ("California Plaintiffs") bring a class action
22 pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of themselves and all members
23 of the following class (the "California Class"):

24 All persons residing in California, during the period April 27, 2015 to
25 the present, who purchased and/or paid for Chipotle's Food
26 Products.¹⁹

27
28 ¹⁹ "Food Products" hereinafter means Chipotle's Meat Products, Dairy Products, and/or Soft Drinks.

1 57. Plaintiff Gamage brings a class action pursuant to Rule 23 of the Federal Rules of
2 Civil Procedure on behalf of herself and all members of the following class (the “Maryland Class”):

3 All persons residing in Maryland, during the period April 27, 2015 to
4 the present, who purchased and/or paid for Chipotle Food Products.

5 58. Plaintiff Zangwill brings a class action pursuant to Rule 23 of the Federal Rules of
6 Civil Procedure on behalf of herself and all members of the following class (the “Florida Class”):

7 All persons residing in Florida, during the period April 27, 2015 to the
8 present, who purchased and/or paid for Chipotle Food Products.

9 59. Plaintiff Parikka brings a class action pursuant to Rule 23 of the Federal Rules of
10 Civil Procedure on behalf of herself and all members of the following class (the “New York”):

11 All persons residing in New York, during the period April 27, 2015 to
12 the present, who purchased and/or paid for Chipotle Food Products.

13 60. Excluded from the California, Maryland, Florida and New York Classes (collectively
14 “Class” or “Classes”) are: (1) any Judge or Magistrate presiding over this action and members of
15 their families; (2) Chipotle, Chipotle’s subsidiaries, parents, successors, predecessors, and any entity
16 in which Chipotle has a controlling interest, and its current or former employees, officers, and
17 directors; (3) counsel for Plaintiffs and Chipotle; and (4) legal representatives, successors, or assigns
18 of any such excluded persons.

19 61. The Classes meet all of the criteria required by Federal Rule of Civil Procedure 23(a).

20 62. **Numerosity:** The Class members are so numerous that joinder of all members is
21 impracticable. Though the exact number and identities of Class members are unknown at this time,
22 Chipotle’s sales as of December 31, 2015 resulted in revenues of \$1.5 billion. Moreover, Defendant
23 has over 1,970 restaurants throughout the United States, with approximately 351 restaurants in
24 California, 70 restaurants in Maryland, 116 restaurants in Florida, and 115 in New York. Based on
25 these figures, it appears that the membership of the Classes is in the tens of thousands. The identities
26 of Class members are also ascertainable through records of store purchases and store patronage,
27 social media accounts, publication notice, self-identification, and other means.

1 63. **Commonality:** Common questions of law and fact exist as to all Class members.
2 These common questions of law or fact predominate over any questions affecting only individual
3 members of the Classes. Common questions include, but are not limited to, the following:

- 4 (a) Whether Chipotle’s Non-GMO Claims violated California, Maryland, Florida,
5 and New York consumer protection statutes;
- 6 (b) Whether Chipotle concealed or omitted material information from Plaintiffs
7 and Class members concerning its Non-GMO Claims;
- 8 (c) Whether Chipotle’s Non-GMO Claims constitute intentional or negligent
9 misrepresentations;
- 10 (d) Whether Chipotle was unjustly enriched by its unlawful conduct regarding its
11 Non-GMO Claims;
- 12 (e) Whether Plaintiffs and Class Members have been injured by virtue of
13 Chipotle’s unlawful conduct regarding its Non-GMO Claims;
- 14 (f) Whether Plaintiffs and Class Members are entitled to restitution or other relief
15 from Chipotle, and if so, in what amounts;
- 16 (g) Whether Plaintiffs and Class members are entitled to monetary damages and,
17 if so, what is the measure of those damages; and
- 18 (h) Whether Class members are entitled to injunctive and/or declaratory relief.

19 64. Common sources of evidence may also be used to demonstrate Chipotle’s unlawful
20 conduct on a class-wide basis, including, but not limited to documents and testimony about its public
21 statements, advertising, marketing, and other media; Chipotle’s records of the factual basis for its
22 Non-GMO Claims; testing and other methods that can prove or disprove Chipotle’s conduct
23 regarding its Non-GMO Claims was unlawful; and records of sales and transactions.

24 65. **Typicality:** Plaintiffs’ claims are typical of the claims of the respective Classes they
25 seek to represent, in that the named Plaintiffs and all members of the proposed Classes have suffered
26 similar injuries as a result of the same practices alleged herein. Plaintiffs have no interests adverse
27 to the interests of the other members of the Classes.

1 66. **Adequacy:** Plaintiffs will fairly and adequately protect the interests of the Classes,
2 and have retained attorneys well experienced in class actions and complex litigation as their counsel,
3 including cases alleging consumer protection claims arising from corporate conduct that is deceptive
4 and misleading to consumers.

5 67. The Classes also satisfy the criteria for certification under Federal Rule of Civil
6 Procedure 23(b) and 23(c). Among other things, Plaintiffs aver that the prosecution of separate
7 actions by the individual members of the proposed classes would create a risk of inconsistent or
8 varying adjudication which would establish incompatible standards of conduct for Chipotle; that the
9 prosecution of separate actions by individual class members would create a risk of adjudications with
10 respect to them which would, as a practical matter, be dispositive of the interests of other class
11 members not parties to the adjudications, or substantially impair or impede their ability to protect
12 their interests; that Chipotle has acted or refused to act on grounds that apply generally to the
13 proposed classes, thereby making final injunctive relief or declaratory relief described herein
14 appropriate with respect to the proposed classes as a whole; that questions of law or fact common to
15 the Classes predominate over any questions affecting only individual members and that class action
16 treatment is superior to other available methods for the fair and efficient adjudication of the
17 controversy which is the subject of this action. Plaintiffs also aver that certification of one or more
18 subclasses or issues may be appropriate for certification under Federal Rule of Civil Procedure 23(c).
19 Plaintiffs further state that the interests of judicial economy will be served by concentrating litigation
20 concerning these claims in this Court, and that the management of the Classes will not be difficult.

21 68. Plaintiffs and other members of the Classes have suffered damages as a result of
22 Chipotle's unlawful and wrongful conduct. Absent a class action, Chipotle will retain substantial
23 funds received as a result of its wrongdoing, and such unlawful and improper conduct shall, in large
24 measure, not go remedied. Absent a class action, the members of the Class will not be able to
25 effectively litigate these claims and will suffer further losses, as Chipotle will be allowed to continue
26 such conduct with impunity and retain the proceeds of its ill-gotten gains.

CLAIMS FOR RELIEF
COUNT I

Violation of the California Consumer Legal Remedies Act, Cal. Civil Code §§ 1750, *et seq.*
On Behalf of the California Class

69. California Plaintiffs reallege each and every allegation contained above, and incorporate by reference all other paragraphs of this Complaint as if fully set forth herein. California Plaintiffs bring this claim on behalf of the California Class.

70. The California Consumer Legal Remedies Act (“CLRA”), Civil Code section 1750, *et seq.*, was designed and enacted to protect consumers from unfair and deceptive business practices. To this end, the CLRA sets forth a list of unfair and deceptive acts and practices in Civil Code section 1770.

71. The CLRA applies to Chipotle’s actions and conduct described herein because it extends to the transactions involving the sale of goods or services for personal, family, or household use within the meaning of Civil Code section 1761.

72. At all relevant times, California Plaintiffs and members of the California Class were "consumers" as that term is defined in Civil Code section 1761(d).

73. Chipotle's practices in connection with the marketing and sale of its Food Products violate the CLRA in at least the following respects:

- a) In violation of section 1770(a)(5), Chipotle’s Non-GMO Claims knowingly misrepresented the character, ingredients, uses and benefits of its products and menu;
- b) In violation of section 1770(a)(7), Chipotle’s Non-GMO Claims represented that its products and menu are of a particular standard, quality or grade, which they are not; and
- c) In violation of section 1770(a)(9), Chipotle knowingly advertised its Non-GMO Claims regarding its menu and products with the intent not to sell the products as advertised.

1 74. As set forth above, Chipotle’s Non-GMO claims are deceptive and misleading to
2 reasonable consumers in violation of the CLRA because: (1) Chipotle’s Meat Products have been
3 raised on GMO or genetically engineered feed and are not “non-GMO”; (2) Chipotle’s Dairy
4 Products are sourced from cows raised on GMO or genetically engineered feed and are not “non-
5 GMO”; and (3) Chipotle’s Soft Drinks contain GMOs and are not “non-GMO”. Moreover, Chipotle
6 intentionally does not disclose any of this information to consumers in its restaurants or on its menus.

7 75. By way of the foregoing, Chipotle engaged in the knowing concealment, suppression,
8 and omission of material facts with intent that others act upon such concealment, suppression, and
9 omission, in connection with the sale and advertisement of its goods and services. Through
10 Chipotle’s uniform concealment and suppression of material facts, Chipotle engaged in misleading
11 and deceptive conduct that created a likelihood of confusion or misunderstanding on the part of
12 California Plaintiffs and Class members.

13 76. Chipotle’s conduct described here in was undertaken in transactions intended to result
14 and which did result in the purchase of its products by consumers, which caused harm to California
15 Plaintiffs and Class members who would not have purchased (or paid as much for) its Chipotle’s
16 products had they known the truth. California Plaintiffs were in fact injured by purchasing or
17 overpaying for Chipotle’s products.

18 77. The CLRA is, by its express terms, a cumulative remedy, such that remedies under
19 its provisions can be awarded in addition to those provided under separate statutory schemes and/or
20 common law remedies, such as those alleged in the other Counts of this Complaint. *See* Cal. Civ.
21 Code § 1752.

22 78. In accordance with Civil Code section 1780, California Plaintiffs and Class members
23 seek injunctive and equitable relief for Chipotle’s violations of the CLRA necessary to bring them
24 in compliance with the CLRA by, among other things, discontinuing the dissemination of its
25 deceptive, and misleading Non-GMO Claims.²⁰

26 _____
27 ²⁰ Courts in this District are divided as to whether plaintiffs lack Article III standing to assert
28 injunctive relief under the CLRA. To the extent this Court finds that Plaintiffs lack Article III
standing, Plaintiffs respectfully disagree and assert claims for injunctive relief, including in order to
maintain an appropriate record for appeal, if necessary.

1 on GMO or genetically engineered feed and are not “non-GMO”; and (3) Chipotle Soft Drinks
2 contain GMOs and are not “non-GMO”. Moreover, Chipotle intentionally does not disclose any of
3 this information to consumers in its restaurants or on its menus.

4 84. In making and disseminating the statements alleged herein, Chipotle knew or should
5 have known its advertisements were deceptive and misleading. California Plaintiffs and members
6 of the Class based their decisions to purchase Chipotle’s products because of Chipotle’s
7 misrepresentations and omissions of material facts.

8 85. California Plaintiffs and Class members are entitled to relief, including enjoining
9 Chipotle to cease and desist from engaging in the practices described herein, as well as a declaration
10 of rights that Chipotle’s Non-GMO Claims are deceptive and misleading.

11 **COUNT III**

12 **Violation of California Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.***

13 **On Behalf of the California Class**

14 86. California Plaintiffs reallege each and every allegation contained above, and
15 incorporate by reference all other paragraphs of this Complaint as if fully set forth herein. California
16 Plaintiffs bring this claim on behalf of the California Class.

17 87. Chipotle has engaged in unfair competition within the meaning of California Business
18 & Professions Code section 17200, *et seq.*, because Chipotle’s conduct is unlawful, misleading and
19 unfair as herein alleged.

20 88. California Plaintiffs, the members of the Class, and Chipotle are a “person” or
21 “persons,” within the meaning of Section 17201 of the California Unfair Competition Law (“UCL”).

22 89. The UCL prohibits any unlawful, unfair, or fraudulent business practices or acts.
23 Chipotle’s conduct, as alleged herein, constitutes an unlawful, unfair and fraudulent business practice
24 that occurred in connection with the marketing, advertisement and sale of its products. As set forth
25 above, Chipotle’s Non-GMO claims are deceptive, and misleading to reasonable consumers because:
26 (1) Chipotle’s Meat Products have been raised on GMO or genetically engineered feed and are not
27 “non-GMO”; (2) Chipotle’s Dairy Products are sourced from cows raised on GMO or genetically
28 engineered feed and are not “non-GMO”; and (3) Chipotle’s Soft Drinks contain GMOs and are not

1 “non-GMO”. Moreover, Chipotle intentionally does not disclose any of this information to
2 consumers in its restaurants or on its menus.

3 90. Chipotle’s misleading and deceptive misrepresentations and omissions, concealment
4 and suppression of material fact, as described within, violated the UCL’s unlawful, unfair, and
5 fraudulent prongs.

6 91. **Unlawful prong:** Chipotle’s conduct, as described within, violated the UCL’s
7 unlawful prong because it violates the CLRA in connection with the sale of goods and services, has
8 unlawfully and unjustly enriched Chipotle, and has constituted actionable intentional or negligent
9 misrepresentation torts, at the expense of California Plaintiffs and the Class, who have spent money
10 purchasing Chipotle’s products (or paid more for them) they would not have otherwise purchased.

11 92. **Unfair prong:** Chipotle’s conduct, as described within, violated the UCL’s unfair
12 prong because its conduct violates established public policy intended to regulate the fair and ethical
13 sale of goods and services to consumers as set forth in the CLRA, and because it is immoral,
14 unethical, oppressive, or unscrupulous and has caused injuries to the California Plaintiffs and the
15 Class that outweigh any purported benefit. At all times relevant herein, Chipotle’s conduct of
16 misrepresenting and concealing material facts regarding Chipotle’s Non-GMO Claims from the
17 California Plaintiffs and consumers caused them injury by inducing them to purchase Chipotle’s
18 products (or paid more for them) they would not have otherwise purchased. The utility of Chipotle’s
19 conduct in misrepresenting and concealing material facts from the California Plaintiffs and the Class
20 is far outweighed by the gravity of harm to consumers who have now spent money they would not
21 have otherwise spent and that has resulted in Defendants being unjustly enriched.

22 93. **Fraudulent prong:** Chipotle’s conduct, as described within, violated the UCL’s
23 fraudulent prong by misrepresenting and concealing material information that caused, or would
24 likely cause, the California Plaintiffs and the Class to be deceived into purchasing Chipotle’s
25 products (or paid more for them) they would not have otherwise purchased. California Plaintiffs and
26 the Class did, in fact, purchase Chipotle’s products (or paid more for them) they would not have
27 otherwise purchased but for Chipotle’s fraudulent conduct misrepresenting and concealing material
28 information about its Non-GMO Claims. California Plaintiffs and the Class have been harmed and

1 sustained injury as a result of Chipotle's fraudulent conduct in violation of the UCL as explained
2 herein.

3 94. California Plaintiffs have standing to pursue this claim because they have been injured
4 by virtue of suffering a loss of money and/or property as a result of the wrongful conduct alleged
5 herein. California Plaintiffs would not have purchased Chipotle's products (or paid as much for it)
6 had they known the truth, though they have an interest in purchasing such products in the future. As
7 a direct result of Chipotle's actions and omissions of material facts, California Plaintiffs and Class
8 members did not obtain the value of the products for which they paid; were unlawfully, unfairly, and
9 fraudulently induced to make purchases that they otherwise would not have; and lost their ability to
10 make informed and reasoned purchasing decisions.

11 95. The UCL is, by its express terms, a cumulative remedy, such that remedies under its
12 provisions can be awarded in addition to those provided under separate statutory schemes and/or
13 common law remedies, such as those alleged in the other Counts of this Complaint. *See* Cal. Bus. &
14 Prof. Code § 17205.

15 96. As a direct and proximate cause of Chipotle's conduct, which constitutes unlawful,
16 unfair, and fraudulent business practices, as herein alleged, California Plaintiffs and Class members
17 have been damaged and suffered ascertainable losses measured by the cost of their Chipotle
18 purchases or some portion thereof, thereby entitling them to recover restitution and equitable relief,
19 including disgorgement or ill-gotten gains, refunds of moneys, interest, reasonable attorneys' fees,
20 filing fees, and the costs of prosecuting this class action, as well as any and all other relief that may
21 be available at law or equity.

22 **COUNT IV**

23 **Violation of Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. §§ 501.201, *et seq.***

24 **On Behalf of the Florida Class**

25 97. Plaintiff Zangwill realleges each and every allegation contained above, and
26 incorporates by reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiff
27 Zangwill brings this claim on behalf of the Florida Class.

1 98. This cause of action is brought pursuant to the Florida Deceptive and Unfair Trade
2 Practices Act (“FDUTPA”). Fla. Stat. §§ 501.201, *et seq.* The express purpose of the FDUPTA is
3 to “protect the consuming public . . . from those who engage in unfair methods of competition, or
4 unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce.” Fla.
5 Stat. § 501.202(2).

6 99. Chipotle’s sale of products at issue in this cause are a “consumer transaction” within
7 the scope of the FDUTPA. Fla. Stat. §§ 501.201-501.213. Plaintiff Zangwill is a “consumer” as
8 defined by the FDUTPA. Fla. Stat. § 501.203. Chipotle’s products are “goods” within the meaning
9 of the FDUTPA. Chipotle is engaged in trade or commerce within the meaning of the FDUTPA.

10 100. The FDUTPA declares as unlawful “unfair methods of competition, unconscionable
11 acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”
12 Fla. Stat. § 501.204(1).

13 101. The FDUPTA provides that “due consideration be given to the interpretations of the
14 Federal Trade Commission and the federal courts relating to Section 5(a)(1) of the Trade
15 Commission Act.” Fla. Stat. § 501.204(2). Chipotle’s unfair and deceptive practices are likely to
16 mislead -- and have misled -- the consumer acting reasonably under the circumstances. Fla. Stat. §
17 500.04; 21 U.S.C. § 343. As set forth above, Chipotle’s Non-GMO claims are deceptive and
18 misleading to reasonable consumers because: (1) Chipotle’s Meat Products have been raised on
19 GMO or genetically engineered feed and are not “non-GMO”; (2) Chipotle’s Dairy Products are
20 sourced from cows raised on GMO or genetically engineered feed and are not “non-GMO”; and (3)
21 Chipotle’s Soft Drinks contain GMOs and are not “non-GMO”. Moreover, Chipotle intentionally
22 does not disclose any of this information to consumers in its restaurants or on its menus.

23 102. Chipotle has violated the FDUPTA by engaging in the unfair and deceptive practices
24 described above, which offend public policies and are immoral, unethical, unscrupulous and
25 substantially injurious to consumers.

26 103. Plaintiff Zangwill has standing to pursue this claim because she has been injured by
27 virtue of suffering a loss of money and/or property as a result of the wrongful conduct alleged herein.
28 Plaintiff Zangwill would not have purchased Chipotle’s products (or paid as much for it) had she

1 known the truth, though she has an interest in purchasing such products in the future. As a direct
2 result of Chipotle's actions and omissions of material facts, Plaintiff Zangwill and Class members
3 did not obtain the value of the products for which they paid; were induced to make purchases that
4 they otherwise would not have; and lost their ability to make informed and reasoned purchasing
5 decisions.

6 104. The damages suffered by Plaintiff Zangwill and the Florida Class were directly and
7 proximately caused by the deceptive, misleading and unfair practices of Chipotle, as described above.

8 105. Plaintiff Zangwill and the Florida Class seek a declaratory judgment that Chipotle's
9 Non-GMO Claims are deceptive and misleading in violation of the FDUTPA and court order
10 enjoining the above described wrongful acts and practices of the Chipotle. Fla. Stat. § 501.211(1).

11 106. Additionally, Plaintiff Zangwill and the Florida Class make claims for actual
12 damages, attorney's fees and costs. Fla. Stat. §§ 501.2105, 501.211(2).

13 COUNT V

14 **Violation of Maryland Consumer Protection Act, MD. Code Ann. §§ 13-101, *et seq.***

15 **On Behalf of the Maryland Class**

16 107. Plaintiff Gamage realleges each and every allegation contained above, and
17 incorporates by reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiff
18 Gamage brings this claim on behalf of the Maryland Class.

19 108. This cause of action is brought pursuant to the Maryland Consumer Protection Act
20 ("MCPA"). MD Code Ann. §§ 13-101, *et seq.* The express purpose of the MCPA is to "set certain
21 minimum statewide standards for the protection of consumers across the State" because "consumer
22 protection is one of the major issues which confront all levels of government, and that there has been
23 mounting concern over the increase of deceptive practices in connection with sales of merchandise,
24 real property, and services and the extension of credit. MD Code Ann. §§ 13-102.

25 109. Plaintiff Gamage is a "consumer" as defined by the MCPA. MD Code Ann. §§ 13-
26 101(c)(1). Chipotle's products are "consumer goods," "consumer services," and "merchandise"
27 within the meaning of the MCPA. MD Code Ann. §§ 13-101(d)(1)-(2),(f). Chipotle is a "merchant"
28

1 engaged in sales, advertising, and commerce within the meaning of the MCPA. MD Code Ann.
2 §§ 13-101.

3 110. The MCPA declares as unlawful “unfair or deceptive trade practices.” MD Code
4 Ann. §§ 13-102. Chipotle’s unfair or deceptive trade practice in violation of the MCPA includes
5 making “[f]alse, falsely disparaging, or misleading oral or written statement, visual description, or
6 other representation of any kind which has the capacity, tendency, or effect of deceiving or
7 misleading consumers”; representing that its “goods and services have a sponsorship, approval,
8 accessory, characteristic, ingredient, use, benefit, or quantity which they do not have”; that it has “a
9 sponsorship, approval, status, affiliation, or connection which he does not have”; advertising
10 consumer goods without the intent to sell them as advertised; and engaging in “[d]eception, fraud,
11 false pretense, false premise, misrepresentation, or knowing concealment, suppression, or omission
12 of any material fact with the intent that a consumer rely on the same in connection” with the
13 promotion or sale of its consumer goods and services. MD Code Ann. §§ 13-103.

14 111. As set forth above, Chipotle’s Non-GMO claims are deceptive, and misleading to
15 reasonable consumers because: (1) Chipotle’s Meat Products have been raised on GMO or
16 genetically engineered feed and are not “non-GMO”; (2) Chipotle’s Dairy Products are sourced from
17 cows raised on GMO or genetically engineered feed and are not “non-GMO”; and (3) Chipotle’s
18 Soft Drinks contain GMOs and are not “non-GMO”. Moreover, Chipotle intentionally does not
19 disclose any of this information to consumers in its restaurants or on its menus.

20 112. Chipotle has violated the MCPA by engaging in the unfair and deceptive trade
21 practices described above, which offend Maryland’s public policies and are immoral, unethical,
22 unscrupulous and substantially injurious to consumers.

23 113. Plaintiff Gamage has standing to pursue this claim because she has been injured by
24 virtue of suffering a loss of money and/or property as a result of the wrongful conduct alleged herein.
25 Plaintiff Gamage would not have purchased Chipotle’s products (or paid as much for it) had she
26 known the truth. As a direct result of Chipotle’s actions and omissions of material facts, Plaintiff
27 Gamage and Class members did not obtain the value of the products for which they paid; were
28

1 induced to make purchases that they otherwise would not have; and lost their ability to make
2 informed and reasoned purchasing decisions.

3 114. The damages suffered by Plaintiff Gamage and the Maryland Class were directly and
4 proximately caused by the deceptive, misleading and unfair practices of Chipotle, as described above.

5 115. Plaintiff Gamage and the Maryland Class seek a declaratory judgment that Chipotle's
6 Non-GMO Claims are deceptive and misleading in violation of the FDUTPA and court order
7 enjoining the above described wrongful acts and practices of Chipotle.

8 116. Additionally, Plaintiff Gamage and the Maryland Class make claims for actual
9 damages, attorney's fees and costs. MD Code Ann. §§ 13-408.

10 **COUNT VI**

11 **Violation of New York's Consumer Protection Statute, N.Y. Gen. Bus. Law § 349**

12 **On Behalf of the New York Class**

13 117. Plaintiff Parikka realleges each and every allegation contained above, and
14 incorporates by reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiff
15 Parikka brings this claim on behalf of the New York Class.

16 118. This cause of action is brought pursuant to the New York General Business Law,
17 Section 349 which declares that all "[d]eceptive acts or practices in the conduct of any business, trade
18 or commerce or in the furnishing of any service in this state are hereby declared unlawful."

19 119. Plaintiff, the New York Class members, and Chipotle are "persons" within the
20 meaning of Section 349. Chipotle's products are goods and services offered for sale to the public
21 and thus, constitutes conduct involving the "business, trade, and commerce" within the meaning of
22 Section 349.

23 120. Chipotle's Non-GMO claims are deceptive acts and practices in violation of Section
24 349 because: (1) Chipotle's Meat Products have been raised on GMO or genetically engineered feed
25 and are not "non-GMO"; (2) Chipotle's Dairy Products are sourced from cows raised on GMO or
26 genetically engineered feed and are not "non-GMO"; and (3) Chipotle's Soft Drinks contain GMOs
27 and are not "non-GMO". Moreover, Chipotle intentionally does not disclose any of this information
28 to consumers in its restaurants or on its menus.

1 declared unlawful.” Each of the above deceptive, and misleading advertising practices of Chipotle
2 set forth above constitutes untrue or misleading advertising under Section 350. Plaintiff, the New
3 York Class members, and Chipotle are “persons” within the meaning of Section 350. Chipotle’s
4 products are goods and services offered for sale to the public and thus, constitute conduct involving
5 the “business, trade, and commerce” within the meaning of Section 350.

6 128. At all material times, Chipotle’s statement, marketing, and advertising materials
7 misrepresented or omitted to state material facts regarding Chipotle’s Non-GMO Claims as set forth
8 herein this Complaint. Chipotle is disseminating statements, marketing and advertising concerning
9 its Non-GMO Claims that are unfair, untrue, deceptive, or misleading within the meaning of Section
10 350. Chipotle’s acts and practices have deceived and/or are likely to continue to deceive Plaintiff
11 Parikka, members of the Class, and the public. As set forth above, Chipotle’s Non-GMO claims are
12 deceptive, and misleading to reasonable consumers because: (1) Chipotle’s Meat Products have been
13 raised on GMO or genetically engineered feed and are not “non-GMO”; (2) Chipotle’s Dairy
14 Products are sourced from cows raised on GMO or genetically engineered feed and are not “non-
15 GMO”; and (3) Chipotle’s Soft Drinks contain GMOs and are not “non-GMO”. Moreover, Chipotle
16 intentionally does not disclose any of this information to consumers in its restaurants or on its menus.

17 129. In making and disseminating the statements alleged herein, Chipotle knew or should
18 have known its advertisements were untrue, deceptive and misleading. Plaintiff Parikka and
19 members of the New York Class based their decisions to purchase Chipotle’s products because of
20 Chipotle’s misrepresentations and omissions of material facts.

21 130. Plaintiff Parikka and New York Class members are entitled to relief, including
22 enjoining Chipotle to cease and desist from engaging in the practices described herein, as well as a
23 declaration of rights that Chipotle’s Non-GMO Claims are deceptive and misleading.

24 **COUNT VIII**

25 **Unjust Enrichment**

26 **On Behalf of All Classes**

27 131. Plaintiffs reallege each and every allegation contained above, and incorporate by
28 reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiffs bring this claim

1 on behalf of all Classes.

2 132. Chipotle engaged in deceptive and misleading conduct regarding its Non-GMO
3 Claims as set forth above.

4 133. As a result of Chipotle's conduct alleged herein, Plaintiffs conferred a benefit on
5 Chipotle by patronizing its establishments and spending money purchasing Chipotle's products.

6 134. Chipotle accepted and retained the benefit in the amount of the sales and/or profits it
7 earned from sales of its products to Plaintiffs and Class members.

8 135. Chipotle has monetarily benefitted from its unlawful, unfair, misleading, and
9 deceptive practices and advertising at the expense of Plaintiffs and Class members, under
10 circumstances in which it would be unjust and inequitable for Chipotle to be permitted to retain the
11 benefit of its wrongful conduct.

12 136. Plaintiffs and the Class Members are entitled to full refunds, restitution and/or
13 damages from Chipotle and/or an order of this Court proportionally disgorging all profits, benefits,
14 and other compensation obtained by Chipotle from its wrongful conduct. If necessary, the
15 establishment of a constructive trust from which the Plaintiffs and Class members may seek
16 restitution or compensation may be created.

17 137. Additionally, Plaintiff Zangwill and the Florida Class Members may not have an
18 adequate remedy at law against Chipotle, and accordingly plead this claim for unjust enrichment in
19 addition to or, in the alternative to, other claims pleaded herein.

20 **COUNT IX**

21 **Misrepresentation (Intentional or Negligent)**

22 **On Behalf of All Classes**

23 138. Plaintiffs reallege each and every allegation contained above, and incorporate by
24 reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiffs bring this claim
25 on behalf of all Classes.

26 139. Chipotle's Non-GMO Claims have omitted materials fact to the public, including
27 Plaintiff and Class Members, about its products. Through its advertising and other means, Chipotle
28 failed to disclose that (1) Chipotle's Meat Products have been raised on GMO or genetically

1 engineered feed and are not “non-GMO”; (2) Chipotle’s Dairy Products are sourced from cows raised
2 on GMO or genetically engineered feed and are not “non-GMO”; and (3) Chipotle’s Soft Drinks
3 contain GMOs and are not “non-GMO”.

4 140. At all relevant times Chipotle was aware that its Non-GMO Claims were deceptive
5 and misleading, and purposefully omitted material facts regarding its Non-GMO Claims in order to
6 induce reliance by Plaintiffs and Class members and influence their decisions to purchase Chipotle’s
7 products. At a minimum, Chipotle negligently misrepresented and omitted material facts regarding
8 its Non-GMO Claims.

9 141. Plaintiffs and the Class members justifiably reasonably relied on Chipotle’s
10 representations and omissions as set forth herein, and, in reliance thereon, purchased Chipotle’s
11 products they would not have otherwise purchased or paid the same amount for. Had Plaintiffs
12 known all material facts regarding Chipotle’s Non-GMO Claims they would have acted differently,
13 and would not have been damaged by Chipotle’s conduct.

14 142. As a direct and proximate result of Chipotle’s misrepresentations and omissions,
15 Plaintiffs and Class members were induced to purchase and consume Chipotle’s products, and have
16 suffered damages to be determined at trial in that, among other things, they have been deprived of
17 the benefit of their bargain in that they bought products that were not what they were represented to
18 be, and they have spent money on products that had less value than was reflected in the premium
19 purchase price they paid.

20 **COUNT X**

21 **Declaratory Relief, 28 U.S.C. § 2201**

22 **On Behalf of All Classes**

23 143. Plaintiffs reallege each and every allegation contained above, and incorporate by
24 reference all other paragraphs of this Complaint as if fully set forth herein. Plaintiffs bring this claim
25 on behalf of all Classes.

26 144. An actual controversy has arisen and now exists between Plaintiffs and the putative
27 Classes on the one hand, and Chipotle on the other, concerning the misleading and deceptive nature
28 of Chipotle’s Non-GMO Claims. Plaintiffs and Class members contend that Chipotle’s Non-GMO

1 Claims are deceptive and misleading because (1) Chipotle's Meat Products have been raised on GMO
2 or genetically engineered feed and are not "non-GMO"; (2) Chipotle's Dairy Products are sourced
3 from cows raised on GMO or genetically engineered feed and are not "non-GMO"; and (3)
4 Chipotle's Soft Drinks contain GMOs and are not "non-GMO". Plaintiffs contend Chipotle's Non-
5 GMO Claims are inconsistent with reasonable consumers' understanding of such representations.
6 On the other hand, Chipotle contends that it can promulgate deceptive, confusing, misleading,
7 inconsistent, and amorphous Non-GMO Claims to suit its market and profit driven objectives.
8 Chipotle contends its use of Non-GMO Claims is not deceptive, and misleading to reasonable
9 consumers.

10 145. Accordingly, Plaintiffs are entitled to and seek a judicial determination of whether
11 Chipotle's Non-GMO Claims are deceptive and misleading to reasonable consumers.

12 146. A judicial determination of the rights and responsibilities of the parties over
13 Chipotle's Non-GMO Claims is necessary and appropriate at this time so (1) that the rights of the
14 Plaintiffs and the Classes may be determined with certainty for purposes of resolving this action; and
15 (2) and so that the Parties and the marketplace will have a consistent understanding of what Non-
16 GMO Claims mean in the absence of applicable regulations.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiffs, on behalf of themselves and on behalf of the Class, pray for relief
19 as follows:

- 20 A. For an Order certifying this case as a class action pursuant to Federal Rule of Civil
21 Procedure 23 against Chipotle, appointing Plaintiffs as Class Representatives of their
22 respective Classes, and Kaplan Fox & Kilsheimer LLP as Class Counsel;
- 23 B. Awarding monetary, punitive and actual damages and/or restitution, as appropriate;
- 24 C. Awarding declaratory and injunctive relief as permitted by law or equity to assure
25 that the Class have an effective remedy, including enjoining Chipotle from continuing
26 the unlawful practices as set forth above;
- 27 D. Prejudgment interest to the extent allowed by the law;
- 28

1 E. Awarding all costs, experts' fees and attorneys' fees, expenses and costs of
2 prosecuting this action; and

3 F. Such other and further relief as the Court may deem just and proper.

4 **JURY TRIAL DEMAND**

5 Plaintiffs demand a trial by jury on all issues so triable.

6 DATED: April 22, 2016

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