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21 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
22 COUNTY OF LOS ANGELES

23 KELLY STEINBACH

24 Plaintiff,

25 vs.

26 THE WONDERFUL COMPANY LLC; FIJI  
27 WATER COMPANY, LLC;

28 Defendants.

Case No.

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

UNLIMITED JURISDICTION

1 Plaintiff KELLY STEINBACH (“Steinbach” or “Plaintiff”), by and through its attorneys of  
2 record, for its Complaint against defendants THE WONDERFUL COMPANY LLC (“Wonderful  
3 Co.”) and FIJI WATER COMPANY, LLC (“Fiji Water Co.”) (collectively, (“Fiji Water” or  
4 “Defendants”), alleges as follows:

5 **NATURE OF THE CASE**

6 1. Plaintiff Steinbach, professionally known as Kelleth Cuthbert, is widely known as the  
7 “Fiji Water Girl” due to her appearance on the National Broadcasting Company’s (“NBC”)   
8 broadcast of the 76th Golden Globe Awards (“Golden Globes”) on January 6, 2019.

9 2. Seeking to capitalize on Steinbach’s status as the “Fiji Water Girl,” Fiji Water created  
10 a worldwide cardboard cutout marketing campaign based on the unauthorized use of Steinbach’s  
11 photograph, likeness, and identity.

12 3. On or about January 7, 2019, Fiji Water intentionally created cardboard cutouts of  
13 Steinbach for use in a cardboard cutout marketing campaign prominently featuring Steinbach’s  
14 photograph, likeness and identity for Fiji Water’s benefit and profit.

15 4. On January 8, 2019, Fiji Water attempted to negotiate an agreement with Steinbach’s  
16 agent. No agreement was reached authorizing Fiji Water to use Steinbach’s photograph, likeness, or  
17 identity in a cardboard cutout marketing campaign.

18 5. On January 9, 2019, Fiji Water’s cardboard cutout marketing campaign became  
19 known to Steinbach and her agent when a cardboard cutout was reported at Bristol Farms in West  
20 Hollywood, California. Fiji Water did not have authorization to use Steinbach’s photograph,  
21 likeness, or identity in its cardboard cutout marketing campaign used for selling Fiji Water products.

22 6. On January 9, 2019, Fiji Water asked Steinbach to its Los Angeles office offering  
23 gifts to entice Steinbach to sign away her rights in the moniker “Fiji Water Girl” and authorize the  
24 use of her photograph, likeness, and identity in the Fiji Water cardboard cutout marketing campaign  
25 to sell its products. Steinbach did not sign away her rights to “Fiji Water Girl” and did not authorize  
26 the use of her photograph, likeness or identity.

27 7. On January 9, 2019, during Steinbach’s visit to Fiji Water’s Los Angeles office, Fiji  
28 Water pressured Steinbach into video recording a fake signing of a fake document to simulate

1 Steinbach signing on as a Fiji Water Ambassador for use in the event an agreement was reached  
2 between Steinbach and Fiji Water in the near future. The fake document Steinbach fake signed in  
3 the potential future promotional video was not an agreement.

4 8. The fake document was not signed by Fiji Water and was later destroyed by  
5 Steinbach.

6 9. On January 10, 2019, Fiji Water was informed that they were not authorized to use  
7 Steinbach's photograph and likeness in a cardboard cutout marketing campaign.

8 10. Fiji Water was aware that no agreement existed between Fiji Water and Steinbach  
9 authorizing the cardboard cutout campaign. On January 11, 2019, Steinbach and Fiji Water were  
10 still negotiating and Fiji Water transmitted a revised agreement to Steinbach's agent in furtherance  
11 of those negotiations. The negotiations did not result in an agreement.

12 11. Fiji Water has never presented Steinbach with a countersigned agreement between  
13 Fiji Water and Steinbach because no such agreement exists and Fiji Water never paid Steinbach.

14 12. On January 18, 2019, Fiji Water was again notified that Steinbach does not authorize  
15 use of her photograph, likeness, and identity in Fiji Water's cardboard cutout marketing campaign to  
16 advertise and sell Fiji Water products.

17 13. Yet, Fiji Water deliberately and willfully misappropriated Steinbach's likeness,  
18 photograph and identify and Fiji Water continues to deliberately and willfully advertise, sell, and  
19 solicit sales of Fiji Water products based on an unauthorized use of Steinbach's photograph,  
20 likeness, and identity through its cardboard cutout advertising campaign in direct contravention of  
21 California Civil Code Section 3344 and California common law.

22 **PARTIES**

23 14. Steinbach is a California resident.

24 15. Steinbach is informed and believes, and based thereon alleges, that Defendant  
25 Wonderful Co. is now, and at all times mentioned herein was, a Delaware corporation authorized to  
26 do business in the County of Los Angeles, State of California. On information and belief,  
27 Wonderful Co.'s principle place of business is 11444 W Olympic Blvd., 10th Fl, Los Angeles, CA  
28 90064.

1 16. Steinbach is informed and believes, and based thereon alleges, that Defendant Fiji  
2 Water Co. is now, and at all times mentioned herein was, a Delaware corporation authorized to do  
3 business in the County of Los Angeles, State of California. On information and belief, Fiji Water  
4 Co.’s principle place of business is 11444 W Olympic Blvd., 10th Fl, Los Angeles, CA 90064.

5 **JURISDICTION & VENUE**

6 17. This Court has personal jurisdiction over Wonderful Co. and Fiji Water Co. because  
7 both entities reside in this State, do business in this State, have engaged in acts or omissions within  
8 this State causing injury, and have otherwise established contacts with this State making the exercise  
9 of personal jurisdiction proper.

10 18. As the Superior Court of the county in which the injury occurred, venue is proper in  
11 this Court under Code of Civil Procedure section 395.

12 **GENERAL ALLEGATIONS**

13 **Fiji Water Has Launched a Worldwide Cardboard Cutout Marketing Campaign Based on the**  
14 **Unauthorized Use of Steinbach’s Photograph, Likeness, and Identity**

15 19. Steinbach incorporates by reference the facts and nature of the case in paragraphs 1 to  
16 13.

17 20. Steinbach works as an international model. Steinbach models for various agencies  
18 and companies in locations such as Los Angeles, Chicago, Seattle, Toronto, Montreal, Calgary, and  
19 Frankfurt, among others.

20 21. On December 11, 2018, Steinbach was staffed by Matrix Staffing, to work as a model  
21 for the 76th Golden Globe Awards (“Golden Globes”) to be held on January 6, 2019.

22 22. Steinbach does not have a general contract with Matrix Staffing or a specific written  
23 contract with Matrix Staffing to model at the Golden Globes.

24 23. On January 6, 2019, Steinbach was informed that she would be modeling on the “red  
25 carpet” at the entrance to the Beverly Hilton, the location of the Golden Globes. The red carpet is  
26 the specific location where famous film and television actors and actresses enter the Beverly Hilton.  
27 The red carpet is widely photographed and filmed; and was broadcast on the National Broadcasting  
28 Company’s (“NBC”) television network.

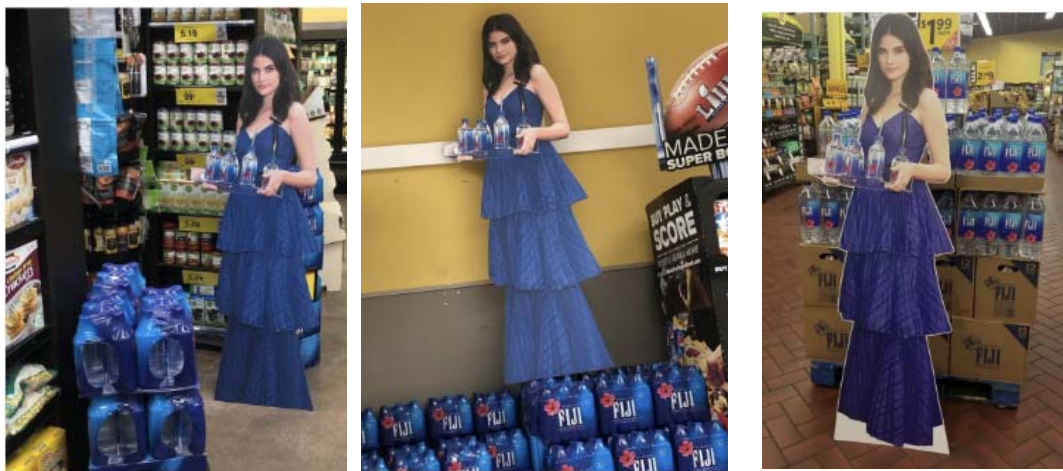
1           24.     As various film and television actors walked the red carpet, and occasionally stopped  
2 for photographs, Steinbach was broadcasted on NBC standing behind the actors holding a tray of  
3 bottles of Fiji Water’s product.

4           25.     Due to her prominence in many photographs and her regular appearance on NBC’s  
5 broadcast, Steinbach quickly became known as the “Fiji Water Girl.”

6           26.     Steinbach became a viral sensation on the internet, and Steinbach’s likeness as the  
7 “Fiji Water Girl” became a widely recognizable moniker and internet meme.

8           27.     Fiji Water, seeking to capitalize on Steinbach’s popularity and likeness as “Fiji Water  
9 Girl” launched a national and worldwide cardboard cutout marketing campaign in order to advertise,  
10 sell, or solicit sales of Fiji Water products soon after the conclusion of the Golden Globes.

11          28.     Fiji Water placed cardboard cutouts of Steinbach in Los Angeles, in other parts of the  
12 United States, and around the world in order to market Fiji Water products as shown here:



22          29.     On or about January 6, 2019, Fiji Water uploaded images of Steinbach including  
23 images of the unauthorized cardboard cutouts of Steinbach’s photograph and likeness to its social  
24 media accounts marketing, advertising and promoting Fiji Water products.

25          As of January 24, 2019, Fiji Water’s social media accounts (Facebook, Instagram, and Twitter)  
26 continue to feature the unauthorized cardboard cutouts as shown on the Instagram account  
27 @fijiwater and Twitter account @FIJIWater, respectively below:

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**FIJI Water** @FIJIWater · Jan 7  
No matter where you're headed, FIJI Water is the perfect road trip companion.  
#FIJIWaterGirl



30. Although Steinbach is known and identified as the Fiji Water Girl, Fiji Water filed for trademark registrations (Serial Nos. 88252122 and 88252529) for the mark “Fiji Water Girl,” for use connected with the sale of Fiji Water products stating the mark is intended for “providing advertising, marketing, and promotional services, namely participation in advertising campaigns . . . featuring product offerings.”

31. On information and belief, Steinbach’s likeness as the “Fiji Water Girl” generated more than approximately \$12,000,000 worth of brand exposure from January 6 to January 7, 2019 for Fiji Water based on Steinbach’s appearances on the NBC broadcast.

32. On information and belief, Fiji Water’s worldwide cardboard cutout Fiji Water Girl marketing campaign continues to provide millions in brand exposure and profits for Fiji Water.

33. However, Steinbach did not authorize or consent to a cardboard cutout advertising campaign featuring her photograph, likeness, or identify.

**FIRST CAUSE OF ACTION**

**(Violation of CIV § 3344 – Misappropriation of Likeness/Right of Publicity)**

34. Steinbach hereby incorporates and realleges the allegations in paragraphs 1 through 33, above, as though fully stated herein.

35. Fiji Water knowingly used, and continues to use, Steinbach’s photograph, likeness, and identify in a manner for the purposes of advertising or selling, or soliciting purchases of Fiji Water products, without Steinbach’s prior consent.

1 36. Fiji Water's use of Steinbach's photograph, likeness, and identity are directly  
2 connected to Fiji Water's advertising or selling, or soliciting purchases, of Fiji Water products.

3 37. Steinbach is readily identifiable from the naked eye from the photographs of her used  
4 in Fiji Water's worldwide marketing campaign.

5 38. Steinbach's likeness as the Fiji Water Girl is readily identifiable as used in Fiji  
6 Water's worldwide marketing campaign.

7 39. Steinbach's photograph and likeness in Fiji Water's marketing campaign is essential,  
8 not incidental, to Fiji Water's advertising or selling, or soliciting purchases of Fiji Water products.

9 40. Steinbach did not consent to Fiji Water's use of her photograph, likeness, or identity  
10 by Fiji Water in a cardboard cutout campaign.

11 41. Steinbach was injured by Fiji Water's use of her photograph, likeness, and identify  
12 including actual damages to her peace, happiness, feelings, goodwill, professional standing, and  
13 future publicity value.

14 42. Fiji Water profited from the unauthorized cardboard cutout campaign and Fiji  
15 Water's profits are directly connected to Fiji Water's unauthorized use of Steinbach's photograph,  
16 likeness, or identity.

## 17 **SECOND CAUSE OF ACTION**

### 18 **(Common Law Misappropriation of Name or Likeness (Right of Publicity))**

19 43. Steinbach hereby incorporates and realleges the allegations in paragraphs 1 through  
20 42, above, as though fully stated herein.

21 44. Fiji Water knowingly used, and continues to use, Steinbach's identity, including, but  
22 not limited to, her photograph, likeness, and recognition as the "Fiji Water Girl," in a manner for the  
23 purposes of advertising or selling, or soliciting purchases of, Fiji Water products, without  
24 Steinbach's prior consent.

25 45. Fiji Water appropriated Steinbach's identify to Fiji Water's advantage, commercially  
26 or otherwise in its unauthorized cardboard cutout advertising campaign.

27 46. Steinbach did not consent to Fiji Water's use of her identity in this manner.

28 47. Steinbach was injured by Fiji Water's use of her identify, including actual damages to

1 her peace, happiness, feelings, goodwill, professional standing, and future publicity value.

2 48. Fiji Water's profits are attributable to Fiji Water's unauthorized use of Steinbach's  
3 identify.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff Steinbach prays for judgment against Fiji Water, as follows:

- 6 1. For Fiji Water's profits from the unauthorized use of Steinbach's likeness, in an  
7 amount to be proven at trial;
- 8 2. For punitive damages, in an amount to be proven at trial;
- 9 3. For compensatory damages, in an amount to be proven at trial, or statutory damages,  
10 whichever is greater;
- 11 4. For reasonable attorney fees and costs of suit incurred herein; and
- 12 5. For such other relief as the Court may deem just and proper.

13  
14 Dated: January 31, 2019

PILLSBURY WINTHROP SHAW PITTMAN LLP

15  
16 By: 

17 Kimberly Buffington  
18 Attorney for Plaintiff



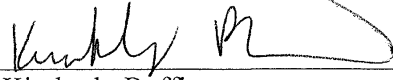
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DEMAND FOR JURY TRIAL

Plaintiff further requests a trial by jury on all issues properly belonging before a jury.

Dated: January 31, 2019

PILLSBURY WINTHROP SHAW PITTMAN LLP

By:   
\_\_\_\_\_  
Kimberly Buffington  
Attorney for Plaintiff