

# **EXHIBIT A**

DISTRICT COURT  
CLARK COUNTY, NEVADA

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CLARK

MARGARET PICUS, an individual; on behalf of herself, and)  
on behalf of all others similarly situated,

Plaintiffs,

vs.

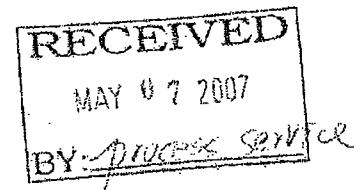
WAL-MART STORES, INC.; MENU FOODS INC.; DEL  
MONTE FOODS COMPANY; SUNSHINE MILLS, INC.;  
CHEMNUTRA INC.; and DOES 1 through 100, Inclusive,

Defendants.

CASE NO:  
DEPT NO:

A 540315

X/III



SUMMONS

TO: CHEMNUTRA, INC.  
810 South Durango Dr. Ste. 102  
Las Vegas, NV 89145

**NOTICE! YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST YOU  
WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND WITHIN 20 DAYS. READ  
THE INFORMATION BELOW.**

**TO THE DEFENDANTS:** A Civil Complaint has been filed by the Plaintiff against you for the relief set forth in the Complaint.

1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you exclusive of the day of service, you must do the following:

- a. File with the Clerk of the Court, whose address is shown below, a formal written response to the Complaint in accordance with the rules of the Court.
- b. Serve a copy of your response upon the attorney whose name and address is shown below.

2. Unless you respond, your default will be entered upon application of the plaintiff and this

Court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint.

3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so that your response may be filed on time.

4. The State of Nevada, its political subdivisions, agencies, officers, employees, board members, commission members and legislators, each have 45 days after service of this Summons within which to file an answer or other responsive pleading to the Complaint.

Issued at the direction of:

SHIRLEY B. PARRAGUIRRE, CLERK OF COURT

*RBG*  
\_\_\_\_\_  
Robert B. Gerard, Esq.  
Nevada State Bar #005323  
Lawrence T. Osuch, Esq.  
Nevada State Bar #006771  
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Las Vegas, Nevada 89146  
Attorney for Plaintiffs

JULIE RICHMOND APR 30 2007  
DEPUTY CLERK Date:  
Regional Justice Center  
200 Lewis Street  
Las Vegas, Nevada 89101



**STATE OF NEVADA** }  
**COUNTY OF CLARK** } **ss.**

**AFFIDAVIT OF SERVICE**

I, \_\_\_\_\_, being duly sworn says: That at all times herein affiant was and is a citizen of the United States, over 18 years of age, not a party to or interested in the proceeding in which this affidavit is made. That affiant received \_\_\_\_\_ copy(jes) of the Summons and First Consolidated Complaint on the \_\_\_\_\_ day of \_\_\_\_\_, 2007 and served the same on the \_\_\_\_\_ day of \_\_\_\_\_, 2007 by:

(affiant must complete the appropriate paragraph)

1. delivering and leaving a copy with the defendant at (state address) \_\_\_\_\_
2. serving the defendant \_\_\_\_\_ by personally delivering and leaving a copy with \_\_\_\_\_ a person of suitable age and discretion residing at the defendant's usual place of abode located at: \_\_\_\_\_  
(use paragraph 3 for service upon agent, completing A or B)
3. serving the defendant \_\_\_\_\_ by personally delivering and leaving a copy at the defendant's last known address which is:
  - a. with \_\_\_\_\_ as \_\_\_\_\_, as agent lawfully designated by statute to accept service of process;
  - b. with \_\_\_\_\_ pursuant to NRS 14.020 as a person of suitable age and discretion at the above address, which address is the address of the resident agent as shown on the current certificate of designation filed with the Secretary of State.
4. personally depositing a copy in a mail box of the United States Post Office, enclosed in a sealed envelope postage prepaid (check appropriate method): \_\_\_\_\_

ordinary mail  
certified mail, return receipt requested  
registered mail, return receipt requested

addressed to the defendant.

Signature of person making service

SUBSCRIBED AND SWORN to before  
me this      day of      , 2007.

NOTARY PUBLIC in and for said  
County and State

My commission expires: \_\_\_\_\_  
(SEAL)

1 **COM**

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FILED

APR 30 11 21 AM '07

CLERK OF THE COURT  
C.R. 25

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15 **EIGHTH JUDICIAL DISTRICT COURT**

16 **CLARK COUNTY, NEVADA**

17 MARGARET PICUS, an individual; on behalf  
18 of herself, and on behalf of all others similarly  
19 situated,

CASE NO.:

A 5 4 0 3 1 5

20 **COMPLAINT**

XXII

21 **(JURY DEMAND)**

22 Plaintiffs,

23 vs.

24 WAL-MART STORES, INC.; MENU FOODS  
25 INC.; DEL MONTE FOODS COMPANY;  
26 SUNSHINE MILLS, INC.; CHEMNUTRA  
27 INC.; and DOES 1 through 100, Inclusive;  
28 Defendants.

**ARBITRATION EXEMPTION  
(CLASS ACTION)**

**CLASS ACTION COMPLAINT**

COMES NOW, Plaintiff MARGARET PICUS ("Plaintiff"), individually and on behalf of all others similarly situated, brings this action as a class action against Defendants WAL-MART STORES, INC; MENU FOODS INC.; DEL MONTE FOODS COMPANY; SUNSHINE MILLS, INC.; CHEMNUTRA INC., and DOES 1 through 100, inclusive (hereinafter collectively referred to as "Defendants"), for violations of applicable consumer fraud statutes, for unjust enrichment, and for fraud by omission and concealment. Plaintiff alleges, based upon information and belief, except where otherwise stated, as follows:

#### **NATURE OF THE ACTION**

I. The instant Class Action Complaint involves a scheme among the Defendants through which OI' Roy brand pet food products were expressly sold to consumers as "Made in USA," when in fact components of the OI' Roy brand pet food products were made and/or manufactured in China. Plaintiffs seek restitution and/or damages for all consumers throughout the United States who purchased "OI' Roy" brand pet food products which represent on the product label to have been "Made in USA" during the applicable Class Period. The OI' Roy brand pet food products which are the subject of this suit are the following specific products:

- a. Pouch with Beef
- b. Pouch with Chicken
- c. Pouch with Filet Mignon
- d. Pouch with Chicken Teriyaki
- e. Pouch with Beef/Noodle/Vegetable
- f. Pouch with Lamb/Rice/Gravy
- g. Pouch with Stew
- h. Pouch with Turkey
- i. Can SI Beef
- j. Can SI Chicken
- k. Ol' Roy Beef Flavor Jerky Strips Dog Treats
- l. Ol' Roy County Stew Hearty Cuts in Gravy Dog Food
- m. Ol' Roy with Beef Hearty Cuts in Gravy Dog Food
- n. Ol' Roy with Beef Hearty Strips in Gravy Dog Food
- o. 4-Flavor Large Biscuits
- p. Peanut Butter Biscuits

27 In addition, there may be other Ol' Roy brand pet food products that were similarly labeled as  
28 "Made in USA" but contained components that were imported from outside of the United States

1 Plaintiff will therefore amend to list any additional Ol' Roy brand pet food products which were  
 2 sold as "Made in USA" but contained components that were imported from outside the United  
 3 States as such additional Ol' Roy brand pet food products are identified through discovery.

4       2.     Central to the Defendants' marketing of certain of their products is the  
 5 representation and designation that such products were and are "Made in USA." Defendants  
 6 package these products with the designation on the label or packaging, in capital and bold  
 7 lettering, that the products were "MADE IN USA." Studies show that the "MADE IN USA" is a  
 8 substantial factor in consumer purchasing decisions. Moreover, in the context of food products,  
 9 the designation that the products were "Made in USA" becomes a central and primary concern  
 10 because of concerns about the health and safety of the pet and the differences in health and safety  
 11 procedures in foreign countries.

12       3.     At all relevant times, Defendant Wal-Mart Stores, Inc. operated a nationwide  
 13 chain of retail stores selling a wide variety of consumer goods including pet food products under  
 14 the brand name "Ol' Roy" after the famous Wal-Mart founder Sam Walton's bird dog, Ol' Roy.  
 15 Defendant Wal-Mart Stores, Inc. operated these retail stores in Nevada and sold pet food  
 16 products under the brand name "Ol' Roy" to consumers in Nevada and throughout the United  
 17 States

18       4.     All of the pet food products under the brand name "Ol' Roy" sold to consumers in  
 19 Nevada and nationwide have substantially the same product label. On each package of Ol' Roy  
 20 pet food, the label uniformly represents that the product was "MADE IN USA" in capital letters.  
 21 A true and correct exemplar copy of an Ol' Roy pet food label attached hereto as Exhibit #1,  
 22 evidencing the uniform representations regarding geographic origin of the product. All of the Ol'  
 23 Roy pet food sold by Wal-Mart Stores, Inc. contains identical or substantively similar  
 24 representations as to the geographic origin of the product being "Made in USA."

25       5.     At all relevant times, Ol' Roy brand pet foods were not "Made in USA" as falsely  
 26 advertised, but instead, were manufactured either in whole or in part, in China. On or after  
 27 March 16, 2007, as a result of the FDA investigation into these products, Defendants disclosed  
 28 for the first time that the Ol' Roy brand pet food products contained ingredients manufactured in

1 China.

2 6. At all relevant times, Defendants WAL-MART STORES, INC. ("Wal-Mart")  
3 MENU FOODS INC. ("Menu"), DEL MONTE FOODS COMPANY ("Del Monte"), and  
4 SUNSHINE MILLS, INC. ("Sunshine") were companies that each participated in the  
5 manufacture and/or distribution of an OI' Roy brand pet food product and were responsible in  
6 some part, for the misrepresentation that the OI' Roy product was "Made in USA." Wal-Mart,  
7 Menu, Del Monte and Sunshine each participated in the packaging or labeling of different OI'  
8 Roy brand pet food products, each with the fraudulent representation of geographic origin. Wal-  
9 Mart, Menu, Del Monte and Sunshine each knew or exercised conscious disregard for the truth  
10 that OI' Roy brand pet food products were not "Made in USA," but instead, were manufactured  
11 either in whole or in part, in China. Despite this knowledge, they nevertheless participated with  
12 Wal-Mart in the fraudulent labeling of OI' Roy pet food products as "Made in USA." Wal-Mart,  
13 Menu, Del Monte and Sunshine each knew that the fraudulent labeling of OI' Roy brand pet food  
14 products as "Made in USA" would be reasonably relied upon by end consumers. Despite this  
15 knowledge, they nevertheless participated in fraudulent labeling of OI' Roy brand pet food  
16 products, distributing OI' Roy products to Wal-Mart for the intended purpose of sales to the  
17 consumers in Nevada and nationwide, without any reasonable grounds to believe that the  
18 products were "Made in USA."

19 7. At all relevant times, Defendant CHEM NUTRA INC. ("Chemnutra") is the  
20 company responsible, whole or in part, for importing the manufactured wheat gluten ingredient  
21 in OI' Roy brand pet food products from China and supplying the same for use in the OI' Roy  
22 brand pet food products. The Chinese product imported by CHEM NUTRA was actually used in  
23 the OI' Roy brand pet food products. Although importing the manufactured wheat gluten  
24 ingredient from China, CHEM NUTRA nevertheless participated in the scheme and practice of  
25 labeling the OI' Roy brand pet food products as "Made in USA" and/or were responsible for the  
26 mislabeling of the OI' Roy brand pet food products as "Made in USA."

27 8. Under the federal regulations established by the Federal Trade Commission, for a  
28 product to be called "Made in USA," the product must be "all or virtually all" made in the U.S.

1 The term "United States," includes the 50 states, the District of Columbia, and the U.S. territories  
2 and possessions. Under this standard, "All or virtually all" means that "all significant parts and  
3 processing that go into the product must be of U.S. origin. That is, the product should contain no  
4 — or negligible — foreign content." See Federal Trade Commission Statement "Complying with  
5 the Made In the USA Standard."

6 9. The O'l' Roy brand pet food products that were imported, manufactured and sold  
7 by Defendants were comprised of components that were manufactured outside of the United  
8 States; including but not limited to China. At all relevant times prior to March 16, 2007,  
9 Defendants failed to disclose and concealed the fact that O'l' Roy brand pet food products  
10 contained ingredients or components that were manufactured and/or made in China and failed to  
11 exercise the necessary skill and care required to determine the accuracy of this statement.

12 10. Contrary to Defendants' packaging of O'l' Roy brand pet food products, (a) the O'l'  
13 Roy products contain certain components that have been entirely or substantially made,  
14 manufactured or produced outside of the United States, and (b) not all, or virtually all, of each  
15 O'l' Roy product is "Made in USA." Defendants have fraudulently concealed the material facts at  
16 issue herein by failing to disclose to the general public the true facts regarding the country of  
17 origin designation appearing on the O'l' Roy brand pet food products. The disclosure of this  
18 information was necessary in order to make the Defendants' representations regarding product  
19 origin not misleading. Defendants possess superior knowledge of the true facts, including  
20 knowledge that certain components were imported under a "Made in China" designation, which  
21 was not disclosed and which was necessary to discover the wrongful conduct, thereby tolling the  
22 running of any applicable statute of limitation.

23 11. Consumers and users of these products are particularly vulnerable to these  
24 deceptive and fraudulent practices. Defendants were in the exclusive possession of information  
25 regarding the country of origin for O'l' Roy brand pet food products. Most consumers possess  
26 very limited knowledge of the likelihood that products claimed to be "Made in USA" are in fact  
27 made, in whole or in part, in foreign countries. This is a material factor in many people's  
28 purchasing decisions, as they believe they are buying truly American products and supporting

1 American companies and American jobs. Consumers generally believe that "Made in USA" -  
2 products are higher-quality products than those of other countries. Unaware of the falsity of the  
3 Defendants' country-of-origin claims, Plaintiff and the other members of the Class were  
4 fraudulently induced to purchase Ol' Roy brand pet food products under false pretenses and at  
5 premium prices. State and federal laws are uniformly designed to protect consumers from this  
6 type of false advertising and predatory conduct. Defendants' deception of consumers is ongoing  
7 and will victimize consumers every day until it is altered by judicial intervention.

8 12. The country-of-origin designation is especially important and material in the  
9 context of food products because of the protections afforded by the Food and Drug  
10 Administration, and local health agencies, over food products made in the United States. For  
11 example, food products made in foreign countries can be grown or made using banned pesticides  
12 and/or chemicals, which one would not expect to find in Made in USA food products.  
13 Consumers who purchase food products designated with the "Made in USA" reasonably believe  
14 that they are purchasing product which has been grown and made in accordance with state and  
15 federal regulations. These same regulations are not present in foreign countries where unsafe and  
16 deleterious chemicals may be used without regulatory oversight. This concern is evidenced by  
17 the 2007 recall of many Ol' Roy brand pet food products, which was ordered because of the  
18 presence of chemicals which were illegal for use in food in the United States. This would not  
19 have occurred if the products were in fact "Made in USA" as represented.  
20

21 **THE PARTIES**

22 13. The Plaintiff MARGARET PICUS is, and at all time mentioned herein was, a  
23 resident of Nevada, who purchased Ol' Roy brand pet food products at a Wal-Mart retail store  
24 located in Henderson, Nevada during the Class Period. The Plaintiff purchased Ol' Roy brand  
25 pet food products as a consumer for the household purpose of feeding the product to her beloved  
26 pet.

27 14. Defendant WAL-MART STORES, INC. is and at all times mentioned herein was,  
28

1 a corporation organized under the laws of Delaware, authorized to conduct business in Nevada,  
2 and has a principal place of business in Arkansas. At all relevant times, Wal-Mart conducted and  
3 conducts substantial business in the State of Nevada and substantially availed and avails itself of  
4 the consumer pet food market in Nevada and the United States.

5 15. Defendant MENU FOODS INC. is and at all times mentioned herein was, a  
6 corporation organized under the laws of New Jersey with a principal place of business in Ontario,  
7 Canada. At all relevant times, Menu conducted and conducts substantial business in the State of  
8 Nevada and substantially availed and avails itself of the consumer pet food market in Nevada and  
9 the United States.

10 16. DEL MONTE FOODS COMPANY is and at all times mentioned herein was, a  
11 corporation organized under the laws of Delaware with a principal place of business in San  
12 Francisco, California. At all relevant times, Del Monte conducted and conducts substantial  
13 business in the State of Nevada and substantially availed and avails itself of the consumer pet  
14 food market in Nevada and the United States.

15 17. SUNSHINE MILLS, INC. is and at all times mentioned herein was, a corporation  
16 organized under the laws of Delaware with a principal place of business in Alabama. At all  
17 relevant times, Sunshine conducted and conducts substantial business in the State of Nevada and  
18 substantially availed and avails itself of the consumer pet food market in Nevada and the United  
19 States.

20 18. CHEMUTRA INC. is and at all times mentioned herein was, a corporation  
21 residing in and with a principal place of business in Nevada. At all relevant times, Chemutra  
22 conducted and conducts substantial business in the State of Nevada and substantially availed and  
23 avails itself of the consumer pet food market in Nevada and the United States.

24 19. Plaintiffs are ignorant of the true names and capacities of the Defendants sued  
25 herein as DOES 1 through 100, inclusive, and therefore sued these Defendants by fictitious  
26 names. Plaintiffs will amend further this Class Action Complaint to allege the true names and  
27 capacities of these Defendants if and when they are ascertained. Each of these Defendants, sued  
28 by the fictitious DOE designation, was in some manner responsible for the acts, omissions,

1 misrepresentations, non-disclosures, breach of warranties, fraud, unjust enrichment, deceptive  
 2 business practices, violation of statutes, aiding and abetting the scheme, and other wrongdoing as  
 3 alleged herein, all of which directly and proximately caused damage to Plaintiffs. Plaintiffs are  
 4 further informed and believe that said Defendants, some of them, each of them and/or all of them  
 5 were the knowing and willful participants in a scheme to promote, market, sell, advertise, or  
 6 otherwise benefit from the sale of mislabeled Ol' Roy brand pet food products.

7

8 **JURISDICTION AND VENUE**

9 20. This Court has jurisdiction over this action, and venue is proper in Clark County,  
 10 Nevada, because: (1) the Plaintiff's purchases of Ol' Roy brand pet food products occurred in  
 11 Clark County, (2) the Plaintiff resides in Clark County, (3) sale of Ol' Roy brand pet food  
 12 products to members of the Class occurred in Clark County, (4) Chemnatura is located in Las  
 13 Vegas, Nevada, and (5) the deceptive trade practices that give rise to this claim emanated from  
 14 and occurred, in whole or in part, in Nevada.

15 **CLASS ALLEGATIONS**

16 21. Plaintiff brings this action pursuant to Rule 23 of the Nevada Rules of Civil  
 17 Procedure as a nationwide class action on her own and on behalf of a class defined as:

18 ALL INDIVIDUALS IN THE UNITED STATES WHO PURCHASED ONE OR  
 19 MORE OL' ROY BRAND PET FOOD PRODUCTS PRIOR TO MARCH 16,  
 20 2007

21 The OL' ROY BRAND PET FOOD PRODUCTS which are the subject of this suit are the  
 22 following specific products:

- 23 a. Pouch with Beef
- b. Pouch with Chicken
- c. Pouch with Filet Mignon
- d. Pouch with Chicken Teriyaki
- e. Pouch with Beef/Noodle/Vegetable
- f. Pouch with Lamb/Rice/Gravy
- g. Pouch with Stew
- h. Pouch with Turkey
- 24 i. Can SI Beef
- j. Can SI Chicken
- 25 k. Ol' Roy Beef Flavor Jerky Strips Dog Treats
- l. Ol' Roy Country Stew Hearty Cuts in Gravy Dog Food
- 26 m. Ol' Roy with Beef Hearty Cuts in Gravy Dog Food

- n. OI' Roy with Beef Hearty Strips in Gravy Dog Food
- o. 4-Flavor Large Biscuits
- p. Peanut Butter Biscuits

1 In addition, other OI' Roy brand pet food products may also have been similarly labeled as  
2 "Made in USA" but contained components that were imported from outside of the United States.  
3 Plaintiff will therefore amend to list any additional OI' Roy brand pet food products which were  
4 sold as "Made in USA" but contained components that were imported from outside the United  
5 States as such additional OI' Roy brand pet food products are identified through discovery.  
6 Excluded from the Class are Defendants, any parent, subsidiary or affiliate of Defendants, and  
7 their officers, directors, and employees of Defendants, and any judicial officer who may preside  
8 over this cause of action.

9 22. The requirements for maintaining this action as a class action are satisfied in that:

10 a. It is impracticable to bring all members of the Class before the Court.

11 Plaintiff estimates that there are thousands of Class Members geographically spread throughout  
12 Nevada and that there are millions of Class Members, geographically spread throughout the  
13 United States. Attempting to join and name each Class member as a Co-Plaintiff would be  
14 unreasonable and impracticable.

15 b. There are questions of law and fact common to the Class, which are  
16 identical for each member of the Class and which predominate over the questions affecting the  
17 individual Class members, if any. Among these common questions of law and fact are:

- (i) Whether Defendants made deceptive representations or  
designations of geographic origin in connection with OI' Roy  
brand pet food products;
- (ii) Whether the representations or designations of geographic origin in  
connection with OI' Roy brand pet food products violated 15  
U.S.C. §45a;
- (iii) Whether OI' Roy brand pet food products were represented on the  
package labeling to have been "MADE IN USA";

- (iii) Whether all, or virtually all, of the OI<sup>®</sup> Roy brand pet food products were "Made in USA"; ;
- (iv) Whether Defendants were unjustly enriched through the distribution and/or sale of OI<sup>®</sup> Roy brand pet food products as "Made in USA";
- (v) Whether Defendants concealed the true origin of OI<sup>®</sup> Roy brand pet food products and omitted the fact that OI<sup>®</sup> Roy brand pet food products contained components that were manufactured and made, in whole or in part, outside the United States;
- (vi) Whether Defendants participated in the alleged mislabeling of OI<sup>®</sup> Roy brand pet food products as "Made in USA";
- (vii) Whether Defendants knew or should have known that OI<sup>®</sup> Roy brand pet food products contained components that were manufactured and made, in whole or in part, outside the United States;
- (viii) Whether the members of the Class sustained damage as a result of the Defendants' conduct;
- (ix) Whether the Defendants unfairly or unlawfully received and/or retained revenue acquired through the scheme alleged herein;
- (x) Whether the Defendants engaged in a uniform corporate policy of marketing OI<sup>®</sup> Roy brand pet food products as "Made in USA";
- (xi) Whether the applicable statute of limitations was tolled by virtue of Defendant's concealment and fraud;
- (xii) Whether the Defendants committed fraud in the marketing, distribution and/or sale of OI<sup>®</sup> Roy brand pet food products and whether Defendants participated in such fraud.

c. The claims of the representative Plaintiff are typical of the claims of the

1 Class in that the Plaintiff purchased Ol' Roy brand pet food products prior to March 16, 2007.  
2 The claims of both the named Plaintiff and the claims of all other Class members result from  
3 Defendants' actions in marketing and/or labeling Ol' Roy brand pet food products as "Made in  
4 USA" which were in fact made, manufactured or produced with certain components made  
5 outside of the United States.

6 d. The claims of the representative Plaintiff will fairly and adequately protect  
7 the interests of the Class. The Class interests are coincident with, and not antagonistic to, those  
8 of the Plaintiff. Furthermore, Plaintiff has retained and is represented by experienced class action  
9 counsel.

10 23. In this action, Plaintiff and the Class seek all relief authorized under Nevada law  
11 for which class-wide relief is available, disgorgement, restitution and reasonable attorneys' fees  
12 and costs incurred in the prosecution of this action. There are no manageability problems due to  
13 variations in state laws or choice of law provisions, because the representations of "Made in  
14 USA" were uniform and systematic and the laws of the United States and of all 50 states prohibit  
15 and make unlawful the designation of "Made in USA" on a product that is not made in the  
16 U.S.A. Further, the deceptive or false designation of geographic origin is actionable in all 50  
17 states, and there are no relevant variations in the law of the states which impact the claims  
18 asserted herein. The performance of applicable choice of law or conflict of law analysis does not  
19 render the class unmanageable, moreover, any manageability issue which may arise can be  
20 handled through the use of a subclass.

21 24. A class action is superior to any other available methods for the fair and efficient  
22 adjudication of this controversy. The amount of each individual claim is too small to warrant  
23 individual litigation. Even if any group of class members itself could afford individual litigation,  
24 such a multitude of individual litigation would be unduly burdensome to the courts in which the  
25 individual litigation would proceed. The class action device is preferable to individual litigation  
26 because it provides the benefits of unitary adjudication, economies of scale, and comprehensive  
27 adjudication by a single court. Finally, class wide litigation will insure that wrong doers do not  
28 retain the ill-gotten gains acquired through their wrongful conduct.