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IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

MARC KASKY, On Behalf of the
General Public of the State of
California,

Plaintiff,

vs.

NIKE, INC., PHILIP KNIGHT, THOMAS
CLARKE, MARK PARKER, STEPHEN GOMEZ,
DAVID TAYLOR and DOES 1 through
200,

Defendants.

) Case No. 994446

) FIRST AMENDED COMPLAINT FOR
) STATUTORY EQUITABLE AND
) INJUNCTIVE RELIEF BASED
) UPON VIOLATION OF CAL. BUS.
) & PROF. CODE §17200,
) ET SEQ.:

) 1) UNLAWFUL BUSINESS
) PRACTICES, PREDICATED ON
) VIOLATIONS OF §§1572, 1709
) AND 1710, ET SEQ.; NEGLI-
) GENT MISREPRESENTATION;
) 2) UNLAWFUL BUSINESS
) PRACTICES, PREDICATED ON
) VIOLATIONS OF §§1572, 1709
) AND 1710 OF THE CAL. CIVIL
) CODE; FRAUD AND DECEIT;
) 3) VIOLATION OF CAL. BUS.
) & PROF. CODE §17200,
) ET SEQ.; UNFAIR BUSINESS
) PRACTICES; AND
) 4) VIOLATION OF CAL. BUS.
) & PROF. CODE §17200,
) ET SEQ.

TYPE OF ACTION:

Local Rule 2.3 Designation:

(1)(a): Unlawful and Unfair
Business Practices

PLAINTIFF DEMANDS A TRIAL BY JURY

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INTRODUCTION

1
2 1. This private attorney general action against defendant
3 NIKE INC. ("NIKE") charges that NIKE, in order to maintain and/or
4 increase its sales, made misrepresentations by the use of false
5 statements and/or material omissions of fact, including but not
6 limited to the following:

7 (a) Claims that workers who make NIKE products are
8 protected from and not subjected to corporal punishment and/or
9 sexual abuse;

10 (b) Claims that NIKE products are made in accordance
11 with applicable governmental laws and regulations governing wages
12 and hours;

13 (c) Claims that NIKE products are made in accordance
14 with applicable laws and regulations governing health and safety
15 conditions;

16 (d) Claims that NIKE pays average line-workers double-
17 the-minimum wage in Southeast Asia;

18 (e) Claims that workers who produce NIKE products
19 receive free meals and health care;

20 (f) Claims that the GoodWorks International (Andrew
21 Young) report proves that NIKE is doing a good job and "operating
22 morally"; and

23 (g) Claims that NIKE guarantees a "living wage" for
24 all workers who make NIKE products.

25 2. This action was originally filed on April 20, 1998.
26 NIKE's press release response to the lawsuit stated that, ". . .
27 the action appears to be more of a press release dressed up like
28 a lawsuit." NIKE's press release response to the lawsuit stated,

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1 "We have always been concerned about the health, safety and wage
2 levels of our workers" Yet, it was not until May 12, 1998,
3 three weeks after the lawsuit was filed and served, that NIKE
4 represented it would, in the future, increase the minimum age of
5 workers and adopt U.S. occupational safety and health air quality
6 standards. NIKE's May 12, 1998 commitment stated:

7 Effective today, NIKE commits to:

- 8 • Expanding its current independent monitoring
9 program to include non-governmental organizations
10 ("NGOs"), foundations and educational institutions
11 and making summaries of the finding public;
- 12 • Increasing the minimum age of footwear factory
13 workers to 18, and the minimum age for all other
14 light-manufacturing workers (apparel, accessories,
15 equipment) to 16;
- 16 • Adopting U.S. Occupational Safety and Health
17 Administration ("OSHA") indoor air quality
18 standards for all footwear factories;
- 19 • Expanding education programs, including middle and
20 high school equivalency courses, for workers in
21 all Nike footwear factories;
- 22 • Increasing support of its current micro-enterprise
23 loan program to 1,000 families each in Vietnam,
24 Indonesia, Pakistan and Thailand;

25 3. Plaintiff, by his attorneys, brings this action on
26 behalf of the General Public of the State of California and on
27 information and belief, except those allegations which pertain to
28 the named plaintiff (which are alleged on personal knowledge),
hereby alleges as follows:

24 JURISDICTION AND VENUE

25 4. This Court has jurisdiction over all causes of action
26 asserted herein pursuant to the California Constitution, Article
27 XI, §10, because this case is a cause not given by statute to
28 other trial courts.

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5. This Court has jurisdiction over NIKE because this defendant is a foreign corporation authorized to do business in California and registered with the California Secretary of State and who does sufficient business in California, has sufficient minimum contacts with California, and intentionally avails itself of the markets within California through the promotion, sale, marketing and distribution of its products in California to render the exercise of jurisdiction by the California courts permissible under traditional notions of fair play and substantial justice.

6. Each of the Individual Defendants has had substantial and continuing contacts with California, including trips here on behalf of NIKE in the course and scope of their employment such as to render the exercise of jurisdiction by the California courts permissible under traditional notions of fair play and substantial justice.

7. Venue is proper in this Court because the products at issue are advertised, promoted, sold and used in this County, and defendant has received substantial compensation from the sale of the products at issue in this County by doing business here and making numerous misrepresentations which had an effect in this County.

PARTIES

8. Plaintiff MARC KASKY is a resident of the City and County of San Francisco, State of California. Pursuant to California Business and Professions Code §17200, et seq., he brings this action on behalf of the General Public of the State of California. Plaintiff alleges no harm or damages whatsoever

1 regarding himself individually.

2 9. Defendant NIKE is an Oregon corporation and its
3 principal place of business is located on the Nike World Campus
4 at 1 Bowerman Drive, Beaverton, Oregon 97005-6453.

5 10. The Individual Defendants are each officers and/or
6 directors of NIKE as set forth below:

7 (a) Philip Knight -- Chief Executive Officer;

8 (b) Thomas Clarke -- President & Chief Operating
9 Officer;

10 (c) Mark Parker -- Vice President Consumer Product
11 Marketing;

12 (d) Stephen Gomez -- Vice President Apparel; and

13 (e) David Taylor -- Vice President Production.

14 Each Individual Defendant was actively involved in the unfair
15 business practices and misrepresentations of NIKE as detailed
16 herein and personally profited therefrom.

17 11. The true names and capacities of the defendants sued
18 herein as DOES 1 through 200 are unknown to plaintiff who
19 therefore sues them by such fictitious names. Plaintiff will
20 amend this Complaint to allege the true names and capacities of
21 these defendants when they have been determined. Each of the
22 fictitiously named defendants is responsible in some manner for
23 the conduct alleged herein.

24 12. At all times mentioned in the causes of action alleged
25 herein, each and every defendant was an agent and/or employee of
26 each and every other defendant. In doing the things alleged in
27 the causes of action stated herein, each and every defendant was
28 acting within the course and scope of this agency or employment

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1 and was acting with the consent, permission and authorization of
2 each of the remaining defendants. All actions of each defendant
3 as alleged in the causes of action stated herein were ratified
4 and approved by every other defendant or their officers or
5 managing agents, and by agreeing to actively conceal the true
6 facts regarding the acts and omissions, as alleged herein,
7 engaged in conspiratorial conduct with each other.

8 NIKE'S UBIQUITOUS AND SUCCESSFUL PROMOTIONAL SCHEME

9 13. In order to promote, advertise and market its athletic
10 shoes and apparel, NIKE expended almost \$1 billion in the fiscal
11 year ending May 31, 1997. NIKE had annual revenues of \$9.2
12 billion. See "NIKE INC. 1997 ANNUAL REPORT," attached as
13 Exhibit A.

14 14. According to sports-marketing specialists, by the
15 1990's, seven times as many athletes were parties to working
16 agreements with NIKE as with any other company. Over half of the
17 NCAA championship basketball teams of the past 10 years had worn
18 NIKE products, and more than 60 big-time colleges were "NIKE
19 schools" -- this, in most cases, because their coaches were NIKE
20 coaches. In total, NIKE has promotional arrangements with over
21 200 colleges and universities, including the University of
22 California at Berkeley. For example, the University of North
23 Carolina reportedly receives \$7 million from NIKE. Well over 200
24 of the 324 NBA players wore NIKE shoes -- over 80 of them by
25 contract. And, 275 pro football players wore NIKE shoes, as did
26 290 Major League Baseball players. See Donald Katz, Just Do It.
27 The Nike Spirit in the Corporate World, Adams Media Corp.,
28 Holbrook, MA., 1994, p. 25 (hereinafter, "Just Do It").

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1 15. Recently, NIKE paid the Brazilian National Soccer Team
2 an astonishing \$100-plus million to become a "NIKE team."

3 16. NIKE was so masterful at connecting its business
4 aspirations to customers and high-profiled athletes and teams
5 that NIKE's revenues by fiscal 1993 were as large as those
6 garnered from NBA, NFL and Major League Baseball TV deals,
7 tickets and retail paraphernalia sales combined. See Katz, Just
8 Do It, supra, at p. 25.

9 17. The success of the pervasive NIKE advertising and
10 promotional campaign has been phenomenal. One Time Magazine
11 story about the baby-boom generation quoted a social historian
12 saying that the ethos of the largest American generation could be
13 summed up in three words: "Just Do It." Scott Bedbury, an
14 Advertising Director for NIKE, said, with respect to the slogan,
15 "Just Do It," "[T]his thing has become much more than an ad
16 slogan. It's an idea. It's like a frame of mind." See Katz,
17 Just Do It, pp. 145-146.

18 NIKE'S SWEATSHOP STIGMA

19 18. NIKE's carefully cultured image has come under attack
20 in the past few years. Various human rights groups have provided
21 documentary evidence that:

22 • Thousands of mostly young, female workers in
23 Southeast Asian (Indonesia, Vietnam, China) factories
24 that produce NIKE products were being exposed to
25 reproductive toxins and suspected carcinogens. See,
26 e.g., Exhibit B: NIKE document entitled, "Ernst &
Young Environmental and Labor Practice Audit of Tae
Kwang Vina Industrial Ltd. Co. Vietnam," January 13,
1997; this NIKE document was released by the
Transnational Resource Action Center.

27 • These workers were not earning a "living wage"
28 even though they work unimaginable hours -- oftentimes
12 to 14 hours per day. See Exhibit C: "Working

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1 Conditions in the Sports Shoe Industry in China,"
2 published by Hong Kong Christian Industrial Committee,
3 Asia Monitor Resource Center Ltd., October 1997; see
4 also, Exhibit D: NIKE letter to Prema Mattai-Davis,
5 Executive Director, YWCA of America, from Dusty Kidd,
6 dated September 28, 1997.

7 • NIKE workers in Southeast Asia have suffered
8 corporal punishment and corporal abuse. See Exhibit E:
9 Nguyen, "Report Provided by Thuyen Nguyen of Vietnam
10 Labor Watch on March 29, 1997, After he Returned from
11 16-day Fact-Finding Tour of Vietnam Factories in
12 Vietnam."

13 • NIKE young female workers have suffered sexual
14 harassment.

15 • NIKE workers in Southeast Asia have been forced to
16 work overtime in violation of applicable laws
17 regulating wages and overtime.

18 Each of these allegations is more fully described below. NIKE
19 disclosed none of these facts to California consumers either in
20 the promotion of its shoes or at the point of purchase, or in any
21 other manner. As more fully described below, in response to the
22 public exposure of NIKE's labor policies and practices in
23 Southeast Asia, NIKE has misrepresented to the California
24 consuming public that in some instances the allegations herein
25 alleged were untrue, or, if true, NIKE was not responsible for
26 such acts.

27 19. The media have continued to expose NIKE's actual
28 practices. See, e.g., CBS News, Financial Times, The New York
Times, The San Francisco Chronicle, Greensboro North Carolina
News and Record, Buffalo News and The Oregonian, all of whom have
run stories and articles which expose NIKE's actual practices.
See Exhibits F to L.

20. Recently, Reggie White, the Green Bay Packer all-pro
defensive end, an ordained minister and a "NIKE athlete," has

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1 called on NIKE to start manufacturing athletic shoes in the
2 United States instead of in Southeast Asia. See Exhibit M.
3 Michael Jordan, who is synonymous with NIKE, is planning to view
4 working conditions in the Asian factories that produce NIKE
5 products, said that:

6 I'm hearing a lot of different sides to this issue so
7 . . . the best thing I can do is go to Asia and see it
8 for myself. If there are issues . . . If it's an
issue of slavery or sweatshops, [NIKE executives] have
to revise its situation.

9 See Exhibit N: Marantz, "A Model of Understatement," The
10 Sporting News, December 22, 1997.

11 NIKE IS LEGALLY RESPONSIBLE FOR EVERY
12 WORKER WHO PRODUCES NIKE PRODUCTS

13 21. The vast majority of NIKE's products are manufactured
14 by subcontractors in China, Vietnam and Indonesia. The vast
15 majority of the 300,000 workers who actually make NIKE products
16 are women under the age of 24.

17 22. NIKE is legally and ethically responsible for the
18 workers who make NIKE products. Beginning in or after March
19 1993, NIKE, pursuant to its contracts with each of its
20 subcontractors, has assumed legal responsibility to:

21 (a) Require compliance with applicable governmental
22 regulations regarding minimum wage;

23 (b) Require compliance with applicable governmental
24 regulations regarding overtime;

25 (c) Require compliance with applicable health and
26 safety regulations;

27 (d) Require compliance with environmental regulations;

28 and

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1 (e) Ensure that workers will not be put at risk of
2 physical harm. See Exhibit O: NIKE Memorandum of Understanding
3 with its Subcontractors.

4 23. NIKE has represented to the public that NIKE has
5 assumed full responsibility for these workers. In a NIKE
6 document entitled "Please, Consider This . . .," NIKE states:

7 NIKE takes full responsibility for working conditions
8 wherever its products are produced.

9 Emphasis added. See Exhibit P.

10 24. In a letter dated January 15, 1996, Lilian Bours, PR
11 Manager Nike Europe, represented that the NIKE Memorandum of
12 Understanding is "legally binding." See Exhibit Q.

13 25. In a letter dated June 18, 1996 to University
14 Presidents and Athletic Directors, including universities which
15 have contracts with NIKE to wear its equipment and to display the
16 "NIKE Swoosh," and copied to NIKE CEO Philip H. Knight, Steve
17 Miller, Director NIKE Sports Marketing, represented and certified
18 that NIKE is in compliance with applicable government regulations
19 regarding minimum wage and overtime, as well as occupational
20 health and safety, and environmental regulations, and that NIKE
21 enforces these standards through daily observation by NIKE staff
22 members. Mr. Miller stated:

23 First and foremost, wherever NIKE operates around the
24 globe, it is guided by principles set forth in a code
25 of conduct that binds its production subcontractors to
26 a signed Memorandum of Understanding. This Memorandum
27 strictly prohibits child labor, and certifies
28 compliance with applicable government regulations
regarding minimum wage and overtime as well as
occupational health and safety, environmental
regulations, workers insurance and equal opportunity
provisions.

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1 Nike enforces its standards through daily observation
2 by staff members who are responsible for mandatory
adherence to the Memorandum.

3 Emphasis added. See Exhibit R.

4 THE CODE OF CONDUCT AND MEMORANDUM
5 OF UNDERSTANDING ARE USED BY NIKE AS
6 MARKETING TOOLS TO ATTRACT CONSUMERS

7 26. In 1992, NIKE established its own Code of Conduct,
8 which NIKE claims applies to itself and to all of its business
partners. See Exhibit JJ.

9 27. NIKE's Code of Conduct and Memorandum of Understanding
10 were intended, among other things, to entice consumers who do not
11 want to purchase products made in sweatshop and/or under unsafe
12 and/or inhumane conditions. For example, in a candid acknowledg-
13 ment of the linkage of sales to good company practices and in an
14 overt appeal to customers to consider the Code of Conduct when
15 shopping, NIKE's Director of Communication, Lee Weinstein, wrote
16 in a letter to the editor published in the San Francisco Examiner
17 on December 14, 1997:

18 Consumers are savvy and want to know they support
19 companies with good products and practices
20 During the shopping season, we encourage shoppers to
21 remember that NIKE is the industry's leader in
22 improving factory conditions. Consider that Nike
established the sporting goods industry's first code of
conduct to ensure our workers know and can exercise
their rights.

23 Emphasis added. See Exhibit S.

24 NIKE'S CLAIM THAT ITS CONTRACTS PREVENT
25 CORPORAL PUNISHMENT AND SEXUAL ABUSE AT
26 FACTORIES WHICH PRODUCE NIKE PRODUCTS IS DECEITFUL

27 28. In March 1993, NIKE signed an agreement representing
28 that it would "only do business with partners whose workers are
. . . not put at risk of physical harm." Athletic Footwear

1 Association's Statement of Guidelines on Practices of Business
2 Partners, signed by NIKE in March 1993. See Exhibit T; see also,
3 Exhibit O: NIKE's Memorandum of Understanding. In a document
4 entitled "The Nike Code of Conduct: What it is, How it Works,"
5 NIKE represented that the "key provisions of the Code include:
6 . . . zero tolerance of corporal punishment or abuse, or of
7 harassment of any kind." See Exhibit U. In a NIKE document
8 which was distributed to the media entitled "NIKE Production
9 Primer," dated March 1996 (see Exhibit V), NIKE represented that
10 ". . . NIKE expatriates ensure safe working conditions and
11 prevent illegal working conditions."

12 29. Notwithstanding NIKE's representations and its legal
13 and ethical duties to ensure that workers are not subjected to
14 corporal punishment, reports of corporal abuse at factories which
15 make NIKE products abound:

16 • On March 8, 1997 (International Women's Day), a
17 supervisor forced 56 female workers to run twice around
18 the 1.2-mile factory perimeter as punishment for
19 failing to wear regulation company work shoes. Twelve
20 of the women suffered shock symptoms, fainted, and were
hospitalized. See Exhibit E: Nguyen, "Report Provided
by Thuyen Nguyen of Vietnam Labor Watch on 29 March
1997 After He Returned From 16-day Fact-Finding Tour of
Vietnam Factories in Vietnam."

21 • Forty-five Vietnamese workers were forced by their
22 supervisors to kneel down with their hands up in the
23 air for 25 minutes. See Exhibit F: CBS News Report,
"48 Hours," Transcript, October 17, 1996.

24 • On November 26, 1996, 100 workers at the Pouchen
25 factory in Dong Nai, Vietnam were forced to stand in
26 the sun for an hour for spilling a tray of fruit on an
27 altar which three supervisors were using. See
28 Exhibit W: VN Fact Sheet, "Hear Laps Story."

• In Indonesia, an American inspector from NIKE
reprimanded a supervisor because an incorrect color was
being used on the outsoles. The supervisor, in turn,
lined up six workers and smacked each of them with an

1 outsole. See Exhibit X: Jeff Atkinson and Tim Connor,
2 "Sweating For Nike," Community Aid Abroad, Melbourne,
3 Australia, November 1966.

4 • In certain Vietnamese factories, workers cannot go
5 to the bathroom more than once per eight-hour shift and
6 they cannot drink water more than twice per shift. See
7 Exhibit E.

8 • Fifteen Vietnamese women were hit over the head by
9 their supervisor for poor sewing. See Exhibit F: CBS
10 News Report, "48 Hours."

11 • In Vietnam, at the Tae Kwang Vina plant, a
12 supervisor fled the country after he was accused of
13 sexually molesting several Vietnamese workers.
14 However, in a speech to NIKE shareholders on September
15 16, 1996, NIKE CEO Philip H. Knight sought to minimize
16 the incident by saying that the supervisor was just
17 trying to wake the female workers and must have touched
18 them in the wrong place. Significantly, the Vietnamese
19 government took a different view: it instigated
20 extradition procedures against the supervisor. See Ex.
21 S. F&W.

22 • While ESPN was filming its special, "Outside the
23 Lines, Made in Vietnam: The American Sneaker
24 Controversy," which aired in or about May, 1998, Bob
25 Ley, the ESPN reporter, stated that two incidents
26 occurred while they visited the Tae Kwang Vina plant in
27 Vietnam. While neither incident was on the camera, a
28 producer saw a female supervisor slap a female worker
on the arm for not working fast enough, and Bob Ley saw
a supervisor angrily throw a shoe at a worker.

19 WAGE AND HOUR VIOLATIONS AT FACTORIES 20 IN CHINA AND VIETNAM

21 30. Pursuant to its Memorandum of Understanding, NIKE is
22 under a legal duty to ensure that its products are manufactured
23 in accordance with applicable governmental laws regulating wages
24 and overtime. And, NIKE has represented that its products are
25 manufactured in compliance with applicable laws and regulations
26 regulating wages and overtime. See, e.g., Exhibits O, P, Q, R
27 and S. The representations are intentionally and/or recklessly
28 misleading and deceptive and/or were negligently made because

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1 they omit material facts: documented violations of the
2 prohibitions of China's and Vietnam's labor laws against forced
3 overtime and against excessive overtime at plants which produce
4 NIKE products.

5 31. The Wellco Factory in Dongguan, Chang'an, China employs
6 8,000 workers who make NIKE products. The ratio of women to men
7 is seven to one and they are very young, between 18 and 25 years
8 old. See Exhibit C: "Working Conditions in Sports Shoe
9 Factories in China."

10 32. The Asia Monitor Resource Center Ltd. and the Hong Kong
11 Christian Industrial Committee documented the following wage and
12 hour violations at the Wellco plant:

13 • Workers work eleven hours per day in violation of
14 both Chinese law and NIKE's Code of Conduct. In
15 addition to this, workers must work overtime. The
overtime of 2.4 hours (on top of the 11-hour work day)
violates China's Labor Law.

16 • Workers who refuse overtime are subject to
17 termination. This violates both China's Labor Law and
NIKE's Code of Conduct which states that coerced labor
is not acceptable.

18 • Workers receive only two to four days off every
19 month. This violates both China's Labor Law and NIKE's
20 Code of Conduct which states that workers are entitled
to at least one day of rest every week.

21 • In violation of Chinese Labor Law, pregnant
22 workers are treated with disrespect and have been, on
occasion, unjustly terminated.

23 See Exhibit C.

24 33. In the same October 1997 report, the Asia Monitor
25 Resource Center Ltd. and the Hong Kong Christian Industrial
26 Committee documented the following wage and hour violations at
27 the Yue Yuen Plant in Dongguan, China. Yue Yuen is a huge
28 factory employing between 50,000 and 60,000 workers. About 80%

1 of the workers are women between the ages of 18 and 22 years old.

2 The documented violations at Yue Yuen include:

3 • In violation of Chinese law, workers must work 10
4 to 12 hours per day, six or seven days per week, not
5 including overtime. This means a normal work week of
6 60-84 hours which exceeds the limit set by Chinese law.

7 • Eighty percent of the workers who were interviewed
8 said that on top of the normal 10 to 12 hour workday,
9 they worked an additional two hours of overtime.

10 • In the survey, half of the workers were paid by
11 piece rate and stated that they did not receive any
12 extra pay for overtime work. This violates China's
13 Labor Law, Article 44, which requires that overtime pay
14 should be at least 1.5 times the regular wage.

15 See Exhibit C.

16 34. In Vietnam, the facts give the lie to NIKE's repre-
17 sentations that overtime is not compulsory. In late 1996, Ernst
18 & Young, at NIKE's request, conducted an audit of the Tae Kwang
19 Vina factory in Bien Hoa City, Vietnam. The audit report was
20 delivered to NIKE in January 1997 but was kept secret until
21 November 1997 when it was leaked to the press. Ernst & Young
22 examined the payroll register of 50 workers at Tae Kwang Vina.
23 Ernst & Young found as follows:

24 We noted 48 cases where workers were required to work
25 above the maximum working hours.

26 Emphasis added. See Exhibit B: the Ernst & Young Audit of Tae
27 Kwang Vina, at p. 3.

28 35. Thus, in 96% of the cases (48/50), Ernst & Young found
that workers producing NIKE products were required to work
overtime.

36. In addition to the Ernst & Young audit, Vietnam Labor
Watch has documented instances in which workers were forced to

1 work overtime to produce NIKE products. According to Vietnam
2 Labor Watch, most workers who produce NIKE products are forced to
3 work 500 hours or more per year of overtime. This is in clear
4 violation of Article 69 of the Labor Law of Vietnam which
5 restricts overtime to 200 hours per year. See Exhibit E.

6 37. In an eye-witness visit to the factories which produce
7 NIKE products, Thuyen Nguyen was able to observe the women
8 employees' sense of desperation, physical exhaustion and pressure
9 to work overtime to meet high production quotas. On March 29,
10 1997, Thuyen Nguyen reported that:

11 Many of the things I learned during my two-week visit I
12 had already known from earlier reports. But meeting
13 these workers face-to-face made me realize just how bad
14 the conditions are. I cannot describe to you these
15 women's sense of desperation. Many of them told me
16 they had lost weight since coming to work at the Nike
17 factories. They complained of being tired all the
18 time. Most of the women I spoke to work 10 to twelve
19 hour days, six or seven days a week. . . . Forced and
20 excessive overtime to meet high quotas is the
21 norm. . . . If workers refuse, they are punished or
22 receive a warning. After three warnings, they're
23 fired.

24 See Exhibit E.

25 38. In sum, NIKE's representation that its products are
26 manufactured in compliance with applicable laws governing wages
27 and hours is deceitful.

28 NIKE'S CLAIM THAT ITS CONTRACTS PREVENT
HEALTH AND SAFETY VIOLATIONS AT FACTORIES
THAT MAKE NIKE PRODUCTS IS DECEITFUL

29 39. By its Memorandum of Understanding, NIKE is legally and
30 ethically responsible to ensure that its subcontractors comply
31 with applicable governmental health and safety, and
32 environmental, standards. See Exhibit O. In a 1996 document
33 entitled "Please Consider This . . ." NIKE stated that:

1 NIKE takes full responsibility for working conditions
2 wherever its products are produced . . .

3 Emphasis added. See Exhibit P. In its letter of January 15,
4 1996 to University Presidents and Athletic Directors, NIKE
5 represented that the Memorandum of Understanding certifies NIKE's
6 compliance with "applicable government regulations regarding
7 occupational health & safety [and] environmental regulations."
8 See Exhibit R. At the NIKE Annual Shareholder Meeting on
9 September 22, 1997, NIKE CEO Philip H. Knight represented that
10 the air quality in NIKE's Vietnam shoe factory was better than it
11 is in Los Angeles:

12 You go into the new shoe factory in . . . Vietnam
13 today. There are no surgeon masks, and you'll find air
 quality better than it is in Los Angeles.

14 See Exhibit Y.

15 40. Notwithstanding NIKE's Memorandum of Understanding and
16 NIKE's representations, thousands of young (18-24 years old)
17 female workers are exposed to reproductive toxins, and other
18 harmful chemicals, in the solvents and glue which are used in the
19 production of NIKE shoes. These reproductive toxins include, but
20 are not limited to, toluene. In addition to being a reproductive
21 toxin, toluene has the following acute and long-term health
22 consequences:

23

SOLVENT	ACUTE HEALTH CONSEQUENCES	CHRONIC HEALTH CONSEQUENCE
Toluene	vertigo; headaches; narcotic coma	irritation of the mucous membrane; euphoria; headaches; vertigo; nausea; lost appetite; alcohol intolerance; autoimmune illness

24
25
26
27
28

Workers who produce NIKE products have been and are also exposed to acetone which has the following acute and chronic health consequences:

SOLVENT	ACUTE HEALTH CONSEQUENCES	CHRONIC HEALTH CONSEQUENCE
Acetone	unrest; nausea; vomiting; progressive collapse; coma; kidney and liver damage	headache; drowsiness; throat irritation; coughing; vertigo

41. NIKE's own documents confirm that workers who produce NIKE products have been exposed to highly toxic and dangerous chemicals. In the previously described audit of the Tae Kwang Vina plant in Bien Hoa City, Vietnam, Ernst & Young found the following:

- The problem of harmful fumes (caused by toluene) needs more attention.
- Dust in the mixing shops exceeds the standard by ten times.
- More than half of the employees in mixing, roller, P.U., stockfit, lamination, TPR (sections using chemicals) do not wear protective equipment (mask and gloves) even in highly hazardous places where the concentration of chemical dust and fumes exceeds the standard.
- In the stockfit section where employees can smell toluene fumes, only thin cotton mask and gloves are available. See Exhibit B, at p. 7.

42. On December 9, 1996, Ernst & Young found that the toluene and acetone levels dramatically exceeded the permissible levels:

- Toluene: the level at the Assembly I-sole fit, Assembly Ultra Violet, Sole sinking, Attaching room of Stockfit section; Sole fit Ultra Violet, Attaching room of Assembly line and Mixing section exceeded the standard from six to 177 times.

1 • Acetone: the level at Assembly I-sole fit,
2 Assembly Ultra Violet, Attaching room of Stockfit
3 section; Sole fit of Ultra Violet of Assembly line
4 exceeded the standard from six to 18 times.

5 See Exhibit B, at p. 8.

6 43. In addition, Ernst & Young found that dust in the
7 mixing room exceeded the standard by 11 times. See Exhibit B, at
8 p. 8. Ernst & Young also found that employees working in
9 sections with noise at more than 85dB(A) had no earplugs and
10 still worked more than eight hours per day. See Exhibit B, at
11 p. 8.

12 44. Notwithstanding the well-known and well-documented
13 adverse health effects of each of the above-listed chemicals and
14 the amount of those chemicals used in the manufacturing of its
15 products, NIKE officials amazingly say that they have little
16 information about the long-term health effects of exposure to
17 solvents. Dusty Kidd, Director of NIKE's Labor Practices depart-
18 ment, downplayed the danger, saying most workers' exposure is
19 limited because they do not stay more than two or three years in
20 the factories. NIKE's Kidd said the goal is to meet United
21 States OSHA standards, but that NIKE does not know how many
22 factories meet these standards. According to Kidd, "It's a work
23 in progress." See Exhibit L: Jeff Manning, "Poverty Legions
24 Flock to Nike," The Oregonian, November, 1997.

25 45. In its documentary aired in May, 1998, "outside the
26 Lines, Made in Vietnam: The American Sneaker Controversy," ESPN
27 documented that, while the largely young, female workers worked
28 the glue lines and were exposed to toluene daily, the recently
29 provided cotton masks worn by only some of the workers were

1 ineffective. ESPN interviewed Dr. Howard Frumkin, Chairman of
2 Environmental and Occupational Health at Emory University. Dr.
3 Frumkin stated that the workers need to wear gloves, as well as
4 masks. He stated that the cotton masks provided were
5 ineffective: appropriate masks must have charcoal cartridges to
6 filter out the toxic fumes. He recommended little or no exposure
7 during pregnancy. Thus, notwithstanding NIKE's long-term
8 knowledge of the use and effects of toluene, NIKE continues to
9 allow these young female workers of child-bearing age to be
10 exposed to dangerous reproductive toxins. Indeed, NIKE officials
11 acknowledged to ESPN that the cotton gloves were ineffective when
12 the toluene fume limits were high. NIKE officials knew when they
13 made this statement that recent tests had shown the levels to be
14 over the limits allowed under Vietnamese law.

15 NIKE'S CLAIM THAT IT PAYS DOUBLE
16 THE MINIMUM WAGE IS DECEITFUL

17 46. In a document entitled "Nike Responds to Sweatshop
18 Allegations," NIKE represents that the "average line-workers'
19 wage in Asian subcontracted facilities is double the government-
20 mandated minimum." See Exhibit Z.

21 47. The Ernst & Young audit directly contradicts this
22 claim. According to Ernst & Young, the minimum wage for workers
23 is \$40 per month. According to Ernst & Young, workers at the Tae
24 Kwang Vina factory in Vietnam received an average wage of \$45 per
25 month. See Exhibit B, at p. 2, ¶3, and p. 3, ¶12.

26 48. Another recent study of wages of workers who produce
27 goods for NIKE in Vietnam shows that NIKE's claim of paying
28 double-the-minimum wage is not true. Mr. Vo Minh Quang, Director

1 of the Dong Nai Labor Bureau, and Mr. Nguyen Dinh Thang,
2 President of the Dong Nai Confederation of Labor, reported that:

3 Most workers here in Dong Nai received at most \$40
4 (U.S.) Per month or 440,000 VND (Vietnam Dong).
5 According to [Vietnam minimum wage laws], this pay is
6 not even legal.

7 See Exhibit AA: "The Truth Behind Nike's Recent Public
8 Statement," excerpted from a newspaper entitled Thanh Nien and
9 translated by Vietnam Labor Watch.

10 49. In March 1997, Vietnam Labor Watch interviewed 35
11 workers of four factories which produce NIKE products. Vietnam
12 Labor Watch examined the pay stubs of some of the workers. The
13 pay stubs, attached as Exhibit BB, show as follows:

Exhibit No.	Basic Pay Without Overtime Per Month	Net Pay Including Overtime, After Deductions for Meals/Health	Hours of Overtime Per Month
1 & 2	Not legible		
3	387,000 (VND)	521,600	40
4	387,000/418,000	458,000	36
5	517,000	593,000	31
6	517,000	575,000	53
7	517,000	551,200	29
8	517,000	595,700	21

20 These pay stubs show that, even with overtime hours that often
21 exceed Vietnam's legal limits, workers do not earn twice the
22 minimum wage of 444,444 VND.

23 50. Indonesia provides another example that disproves
24 NIKE's representation that it pays double-the-minimum wage. To
25 attract companies such as NIKE, the Indonesian government set the
26 national minimum wage below what was deemed necessary to support
27 the workers' minimum "physical needs." Significantly, as NIKE
28 has conceded, throughout much of the 1990's, NIKE subcontractors

1 received government exemptions from paying even the minimum wage.
2 See Exhibit CC: Jeff Manning, "Life in Global Arena Grows in
3 Complexity: NIKE Criticized for Production in Asian Lands,"
4 Minneapolis Star Tribune, November 29, 1997.

5 51. In sum, NIKE's representation of double-the-minimum
6 wage is both false and based on misleading statistical data.

7 NIKE'S CLAIM THAT IT PROVIDES
8 FREE LUNCHES IS DECEITFUL

9 52. In its document "Nike Responds to Sweatshop
10 Allegations," NIKE represents that:

11 In addition, compensation extends beyond wages to
12 include . . . free meals . . .

13 See Exhibit Z. The identical representation was made by NIKE CEO
14 Philip H. Knight in a letter dated June 21, 1996 to the New York
15 Times asserting that NIKE "provides free meals, housing and
16 health care." See Exhibit DD.

17 53. As documented by Vietnam Labor Watch in their analysis
18 of workers' pay stubs, workers who produce NIKE products were
19 forced to pay 9¢ U.S. for their lunches. See Exhibit BB. To put
20 this in context, workers at the Tae Kwang Vina plant earn
21 approximately 16.8¢ U.S. per hour (\$45 per month for 267 hours).
22 In addition, the pay stubs show that the workers paid for their
23 own health care. See Exhibit BB.

24 NIKE'S RELIANCE ON THE GOODWORKS
25 INTERNATIONAL REPORT IS DECEITFUL

26 54. On February 22, 1997, hundreds of persons filled San
27 Francisco's Union Square on the opening day of Niketown, a multi-
28 floor NIKE superstore, to urge prospective customers to stay

1 away, citing widespread labor abuses by contractors who make NIKE
2 products.

3 55. Two days later, NIKE CEO Philip H. Knight announced
4 that NIKE was commissioning an independent investigation of its
5 Asian operations. NIKE contracted with Andrew Young, former U.S.
6 Ambassador to the United Nations, to conduct the investigation.
7 To conduct this investigation, Andrew Young founded a firm called
8 "GoodWorks International" (hereinafter, "GoodWorks").

9 56. GoodWorks released its report in June 1997. See
10 Exhibit EE. On the same day that GoodWorks issued its report,
11 NIKE took out full-page advertisements in major U.S. newspapers
12 (New York Times, Washington Post, U.S.A. Today, San Francisco
13 Chronicle, etc.) See Exhibit FF.

14 57. In addition, NIKE has repeatedly used the GoodWorks
15 Report in various public statements. For example, at the
16 September 22, 1997 Annual Shareholders' Meeting, NIKE CEO Philip
17 H. Knight, stated:

18 So I think we continue to make good progress, and I
19 think that any independent party will find as Andrew
Young that we are operating morally.

20 Emphasis added. See Exhibit Y.

21 58. NIKE's representations that the GoodWorks Report
22 supports claims that NIKE is "doing a good job" and "operating
23 morally" are misleading because NIKE intentionally omitted the
24 following facts:

25 (a) The GoodWorks Report did not address, directly or
26 indirectly, wage, hour and overtime violations at factories which
27 produced NIKE products. Mr. Young has stated, "I was not asked
28 by NIKE to address compensation and 'cost of living issues' which

1 some . . . had hoped would be a part of this report." See
2 Exhibit EE, p. 3;

3 (b) The GoodWorks Report did not address the life-
4 threatening health and safety issues documented in the Ernst &
5 Young audit of the Tae Kwang Vina factory. See Exhibit B. Even
6 though the Ernst & Young audit was completed three months before
7 Andrew Young visited Vietnam, Andrew Young did not address a
8 single violation which was documented in the Ernst & Young audit.
9 In fact, Andrew Young did not even visit the Tae Kwang Vina
10 plant. Either NIKE withheld the Ernst & Young Tae Kwang Vina
11 audit from Andrew Young, or Andrew Young and/or his staff
12 negligently or recklessly ignored the Ernst & Young report. In
13 any event, NIKE knew, or should have known, that the GoodWorks
14 Report was deficient in its failure to address the potentially
15 life-threatening health and safety violations at the Tae Kwang
16 Vina plant (as documented by Ernst & Young); and

17 (c) As NIKE knew, or should have known, the GoodWorks
18 Report listed consultants who were never consulted. For example,
19 The GoodWorks Report lists Anita Chan, a renowned researcher of
20 the Australian National University, as a person whom GoodWorks
21 contacted. Mr. Young states as follows:

22 Early in the process, I wrote and called a number of
23 the important international and U.S. N.G.O.'s [non-
24 governmental organizations] -- both to inform them of
our assignment and to solicit their input and advice.

25 See Exhibit EE, p. 7; Appendix, p. 16.

26 59. In a letter submitted to the Washington Post, Anita
27 Chan categorically denies that she was either phoned or contacted
28 by Andrew Young or anyone else from GoodWorks. She goes on to

1 list various health, safety and wage violations in China which
2 she would have brought to Mr. Young's attention had she been
3 phoned or contacted. See Exhibit GG.

4 60. NIKE also knew, or should have known, that the alleged
5 photograph of Andrew Young with the caption, "Andrew Young
6 meeting with plant management and union representatives in
7 Vietnam," was misleading. This photograph, along with others
8 purporting to show Andrew Young with "union representatives,"
9 came as something of a shock to the Vietnamese Confederation of
10 Labor, which represents workers at the NIKE factory. They do not
11 know these individuals. Mr. Vada Manager, a NIKE spokesperson,
12 has admitted that these individuals receive salaries from the
13 company, not from the union or the government. See Exhibit HH:
14 Stephen Glass, "The Young & the Feckless," New Republic,
15 September 15, 1997.

16 61. In sum, NIKE's representations that the GoodWorks
17 Report is proof that NIKE is "doing a good job" and that NIKE is
18 "operating morally" are misleading.

19 NIKE'S CLAIM THAT IT GUARANTEES A
20 "LIVING WAGE FOR ALL WORKERS" IS MISLEADING

21 62. On October 27, 1997, NIKE issued a release datelined
22 Washington, D.C. and entitled, "Nike Addresses Concerns Regarding
23 Women's Issues and Highlights Leadership in Worker Initiatives."
24 See Exhibit II. The release quotes Kathryn Reith, NIKE Manager
25 of Women's Sports Issues, who represented that NIKE guarantees a
26 living wage for all workers. Ms. Reith stated that:

27 ///

28 ///

1 NIKE is fulfilling our responsibility as a global
2 corporate citizen each and every day by guaranteeing a
3 living wage for all workers . . . and creating
4 opportunities for women's financial independence.

5 Emphasis added.

6 63. This statement is false. On September 28, 1997, a
7 month before the Kathryn Reich statement quoted above, Dusty
8 Kidd, Director of NIKE's Labor Practices department, wrote:

9 I am fully cognizant of the call on the part of some
10 for a "living wage." That is generally defined as
11 sufficient income to support the needs of a family of
12 four. We simply cannot ask our contractors to raise
13 wages to that level -- whatever that may be -- while
14 driving us all out of business, and destroying jobs, in
15 the process.

16 This letter was written to Prema Mattai-Davis, Ph.D., Chief
17 Executive Officer, YWCA of America. Dusty Kidd copied Doug
18 Stamm, NIKE's Director of Public Affairs, on the letter. See
19 Exhibit D.

20 64. The May, 1998 ESPN documentary, "Outside the Lines,
21 Made in Vietnam: The American Sneaker Controversy," documented
22 that workers did not receive a living wage and had often been
23 cheated out of the wages they were to receive.

24 HOW NIKE'S TOP OFFICERS HAVE POCKETED
25 MILLIONS FROM NIKE'S LABOR PRACTICES

26 65. NIKE has been quite explicit in proclaiming how well it
27 has done financially in recent years:

28 1996 Annual Report

By standards of measurement we normally use in
this space, fiscal year 1996 was a fantastic year. We
set an all-time record for sales and earnings. . . .
And, to its credit, Wall Street saw fit to increase our
multiple.

1 1997 Annual Report

2 If I could photocopy this letter for 1997 and send
3 it on to you for next year, I would be happy to do just
4 that. It was that good a year.

5 It was the best year we have ever had, the best
6 anybody has ever had in our business. Strong enough
7 that our increase in revenues equaled the total annual
8 sales of the number-three company in the industry.

9 Performance is in the details:

10 Revenues up 42%
11 Net Income up 44%
12 10-year return on equity (average) 27.5%
13 U.S. footwear up 36%
14 U.S. apparel up 70%
15 International revenues up 49%

16 These numbers represent the latest in a long run
17 of market strength and innovation. And it shows. If
18 you had invested \$100 in the S&P 500 in 1987, that
19 investment would be worth \$395 today. The same \$100
20 invested in NIKE in 1987 would be worth \$3,094 today.

21 66. NIKE's financial success over the past several years
22 are highlighted below:

23 Nike Financial History

	Year Ended May 31:				
	1997	1996	1995	1994	1993
Revenues	\$9.2 Bil.	\$6.5 Bil.	\$4.8 Bil.	\$4.8 Bil.	\$3.9 Bil.
Gross margin %	40.1%	39.6%	39.8%	39.3%	39.3%
Net income	\$796 Mil.	\$553 Mil.	\$400 Mil.	\$299 Mil.	\$365 Mil.
Net income per common share	\$2.68	\$1.88	\$1.36	\$.99	\$1.19
Cash dividends declared per common share	\$.38	\$.29	\$.24	\$.20	\$.19

27 ///

28 ///

	Year Ended May 31:				
	1992	1991	1990	1989	1988
Revenues	\$3.4 Bil.	\$3.0 Bil.	\$2.2 Bil.	\$1.7 Bil.	\$1.2 Bil.
Gross Margin%	38.7%	38.4%	38.1%	37.2%	33.2%
Net Income	\$329 Mil.	\$287 Mil.	\$243 Mil.	\$167 Mil.	\$102 Mil.
Net Income Per Common Share	\$1.07	\$.90	\$.80	\$.55	\$.34
Cash dividends declared per common share	\$.15	\$.13	\$.10	\$.07	\$.05

67. NIKE's executive compensation scheme has provided a strong motive for NIKE's top executives to increase NIKE's profits, and thus its stock price, by using cheap child labor, by failing to spend the money necessary to end illegal and harmful exposure of young women to reproductive toxins, and even by violating labor laws and standards of decency and fairness, because this allowed NIKE's top executives to pocket huge amounts of compensation, personally, and to inflate NIKE's stock price.

68. According to NIKE, its executive compensation program worked as follows:

EXECUTIVE COMPENSATION POLICIES AND PROGRAMS. The Company's executive compensation programs are designed to motivate [executives] to maximize shareholder returns A significant portion of each executive's total compensation is variable and dependent upon the attainment of strategic and financial goals

There are three basic components to the Company's "pay for performance" system: base pay; annual incentive bonus; and long-term, equity-based incentive compensation. . . .

* * *

///

1 BASE PAY. Base pay is designed to be competitive,
2 although conservative (generally in the second quarter)
3 as compared to salary levels for equivalent executive
4 positions at other global consumer product companies.
5 The executive's actual salary within this competitive
6 framework will vary based on responsibilities,
7 experience, leadership, potential future contribution,
8 and demonstrated individual performance.

9 ANNUAL REVIEWS. Each year, the Committee reviews
10 the executive compensation policies The
11 Company's philosophy and practice is to place a
12 relatively greater emphasis on the incentive components
13 of compensation.

14 ANNUAL INCENTIVE BONUS. Each executive is eligible
15 to receive an annual cash bonus The "target"
16 level for that bonus . . . are intended to motivate the
17 Company's executives by providing substantial bonus
18 payments for the achievement of financial goals within
19 the Company's business plan. An executive receives a
20 percentage of his or her target bonus depending on the
21 extent to which the Company achieves financial
22 performance goals set by the Committee and the Board, as
23 measured by the Company's net income before taxes.
24 Bonuses may exceed the target if the Company's
25 performance exceeds the goal.

26 LONG-TERM, EQUITY-BASED INCENTIVE COMPENSATION. The
27 long-term equity-based compensation program is tied
28 directly to shareholder return. Under the current
program, long-term incentive compensation consists of
stock options, 25% of which vest in each of the four
years after grant, and awards of restricted stock under
the proposed Long-Term Incentive Plan ("LTIP"). . . .

69. According to NIKE, its policies have enabled its
executives to exceed targeted financial goals in recent years and
thus receive much larger than their targeted bonus levels:

For fiscal years 1995, 1996 and 1997, the Company
exceeded the targeted financial performance objectives
set for named executive officers under the Executive
Performance Sharing Plan. This resulted from outstanding
growth in the Company's total revenues and earnings.
According to the Plan, the named executive officers
received 150% of their targeted incentive bonuses.

70. With respect to Philip Knight, NIKE's CEO:

In reviewing Mr. Knight's performance, the Committee
focused primarily on the Company's remarkable performance
in fiscal year 1997, which reflected (1) strong growth in

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sales and earnings, and (2) continued progress toward the achievement of various strategic and financial objectives such as expansion into and development of international markets. The Committee also considered the other facts and considerations described above. In addition to the incentive bonus, the Committee increased Mr. Knight's base salary for the 1997-1998 fiscal years to approximately \$1,050,000 and \$1,115,000, respectively.

71. The huge salaries and bonuses, plus stock option awards the individual defendants have received in recent years are set forth below:

Name & Principal Position	Year	Annual Compensation		Long-Term Compensation Awards
		Salary(\$)	Bonus (\$)	Stock Options(*)
Philip Knight Chief Executive Officer	1997	1,032,500	1,084,125	-
	1996	939,167	915,688	-
	1995	864,583	787,500	-
	1994	750,000	150,000	-
Thomas Clarke President & Chief Operating Officer	1997	758,333	739,375	40,000
	1996	670,833	603,750	133,892
	1995	625,000	515,625	140,000
	1994	370,833	112,438	36,698
Mark Parker Vice President Consumer Product Marketing	1997	541,667	487,500	35,000
	1996	495,833	409,062	60,000
	1995	442,500	337,500	120,000
	1994	357,083	99,806	33,028
Stephen Gomez Vice President Apparel	1997	391,667	323,125	25,000
	1996	314,583	235,937	40,000
	1995	272,917	165,000	48,000
	1994	-	-	-
David Taylor Vice President Production	1997	375,000	309,375	20,000
	1996	347,916	260,937	40,000
	1995	322,917	219,375	56,000
	1994	297,916	39,960	29,358

* These figures have been adjusted to reflect the 2-for-1 stock split that occurred on October 23, 1996.

72. On May 31, 1998, Philip Knight was interviewed on "NBC Today." It was noted during this show that Philip Knight, as a student at the Stanford Business School, had written a paper on the future of importation of athletic shoes from Asia. It was noted that in 1997 NIKE had profits in excess of \$800 million. "NBC

1 Today" emphasized that Philip Knight had become the seventeenth
2 wealthiest American, with known assets in excess of \$5 billion.

3 73. In its documentary on NIKE, "Branded," which aired on
4 September 30, 1996, the BBC revealed a typewritten document
5 entitled, "NIKE Principles." These ten commandments included the
6 following:

7 "3. Break the rules; fight the law."

8 "9. It won't be pretty."

9 "10. If we do the right thing, we'll make money down the
10 automatic."

11 Emphasis added.

12 FIRST CAUSE OF ACTION

13 (Unlawful Business Practices in Violation
14 of California Business & Professions Code
15 §17200, et seq., Predicated on Violations
of Civil Code §§1572, 1709 and 1710,
et seq. -- Negligent Misrepresentation)

16 74. Plaintiff incorporates by reference ¶¶1-73 above.

17 75. In order to maintain and/or increase its sales and
18 profits, NIKE, through its advertising, promotional campaigns,
19 public statements and marketing, has, by the use of false
20 statements and/or material omissions of fact, made misrepre-
21 sentations, including but not limited to the following:

22 (a) Claims that workers who make NIKE products are
23 protected from and not subjected to corporal punishment and/or
24 sexual abuse;

25 (b) Claims that NIKE products are made in accordance
26 with applicable governmental laws and regulations governing wages
27 and hours;

28 ///

1 (c) Claims that NIKE products are made in accordance
2 with applicable laws and regulations governing health and safety
3 conditions;

4 (d) Claims that NIKE pays average-line workers double-
5 the-minimum wage in Asia;

6 (e) Claims that workers who produce NIKE products
7 receive free meals and health care;

8 (f) Claims that the GoodWorks (Andrew Young) report
9 proves that NIKE is doing a good job and operating morally; and

10 (g) Claims that NIKE guarantees a "living wage" for all
11 workers who make NIKE products.

12 76. In making these misrepresentations of fact to the general
13 public, defendants have failed to fulfill their duty to not
14 misrepresent material facts. The direct and proximate cause of
15 defendants' misrepresentations was the negligence and carelessness
16 of NIKE.

17 77. By making misrepresentations of material fact, NIKE
18 violated Civil Code §§1572, 1709 and 1710 (negligent misrepresen-
19 tation). Accordingly, NIKE has also violated the Business &
20 Professions Code §17200's proscription against engaging in unlawful
21 business practices.

22 SECOND CAUSE OF ACTION

23 (Unlawful Business Practices in Violation of
24 California Business & Professions Code §17200,
25 et seq., Predicated on Civil Code §§1572,
1709 and 1710 -- Fraud and Deceit)

26 78. Plaintiff incorporates by reference ¶¶1-77.

27 79. In order to maintain and/or increase its sales and
28 profits, NIKE, through its advertising, promotional campaigns,

1 public statements and marketing, has, by the use of false
2 statements and/or material omissions of fact, made misrepre-
3 sentations, including but not limited to the following:

4 (a) Claims that workers who make NIKE products are
5 protected from and not subjected to corporal punishment and/or
6 sexual abuse;

7 (b) Claims that NIKE products are made in accordance
8 with applicable governmental laws and regulations governing wages
9 and hours;

10 (c) Claims that NIKE products are made in accordance
11 with applicable laws and regulations governing health and safety
12 conditions;

13 (d) Claims that NIKE pays average-line workers double-
14 the-minimum wage in Asia;

15 (e) Claims that workers who produce NIKE products
16 receive free meals and health care;

17 (f) Claims that the GoodWorks (Andrew Young) report
18 proves that NIKE is doing a good job and operating morally; and

19 (g) Claims that NIKE guarantees a "living wage" for all
20 workers who make NIKE products.

21 80. NIKE's misrepresentations were made with knowledge or
22 with reckless disregard of the laws of California prohibiting false
23 and misleading statements. In so doing, NIKE violated California
24 Civil Code §§1572, 1709 and 1710, et seq., and accordingly violated
25 California Business & Professions Code §17200, et seq.'s
26 proscription against engaging in unlawful business practices.

27 ///

28 ///

1 practices unknown to plaintiff at this time, with intent to induce
2 members of the public to enter into contracts for the purchase of
3 NIKE products.

4 PRAYER FOR RELIEF

5 WHEREFORE, plaintiff prays for the following relief:

6 1. Preliminary and permanent injunction enjoining NIKE, its
7 agents, employees, assigns and all persons acting in concert or
8 participating with it from:

9 (a) Failing and refusing to disgorge all monies which
10 NIKE acquired by means of any act found by this Court to be an
11 unlawful and/or unfair business practice under California Business
12 and Professions Code §17200, et seq.;

13 (b) Failing and refusing to undertake a Court-approved
14 public information campaign to correct any NIKE statement and/or
15 claim that this Court finds misleading or deceitful within the
16 meaning of California Business & Professions Code §17200, et seq.
17 and §17500, et seq.;

18 (c) Misrepresenting the working conditions under which
19 NIKE products are made including, but not limited to, wages, hours,
20 overtime, environmental, health and/or safety conditions, and the
21 use of child labor to produce NIKE products.

22 2. Reasonable attorneys' fees and costs.

23 3. Such other and further relief as this Court may deem just
24 and proper.

25 ///

26 ///

27 ///

28 ///

JURY DEMAND

Plaintiff demands a trial by jury.

DATED: July 2, 1998

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