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10 Attorneys for Plaintiff,  
11 CRYSTAL SPRINGS UPLANDS SCHOOL

12 **UNITED STATES SCHOOL COURT**  
13 **NORTHERN SCHOOL OF CALIFORNIA**

14 CRYSTAL SPRINGS UPLANDS  
15 SCHOOL, a California corporation,

16 Plaintiff

17 v.

18 FIELDTURF USA, INC., a Florida  
19 corporation; FIELDTURF, INC., a  
20 Canadian corporation; and FIELDTURF  
21 TARKETT SAS, a French corporation

22 Defendants.  
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CASE NO.: 3:16-cv-1335

**COMPLAINT FOR BREACH OF  
WARRANTY, FRAUD, NEGLIGENT  
MISREPRESENTATION, AND  
RECOVERY UNDER CALIFORNIA  
UNFAIR COMPETITION ACT**

**[Demand For Jury Trial]**

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**JURISDICTION**

1. This Court has subject matter jurisdiction over this action pursuant to 28 USC § 1332 in that there is complete diversity of citizenship between Plaintiff and Defendants and the amount in controversy exceeds \$75,000.

**VENUE AND INTRADISTRICT ASSIGNMENT**

2. The contract and actions at issue were performed in San Mateo County, California. Venue, therefore, lies in the United States District Court for the Northern District of California pursuant to 28 USC § 1391, and in either the San Francisco or Oakland Divisions pursuant to Civil L.R. 3-2(d).

**PARTIES**

3. Plaintiff, CRYSTAL SPRINGS UPLANDS SCHOOL (“SCHOOL”) is a California corporation in good standing operating a private, coeducational day, middle and high school for grades 6-12, in San Mateo County, California, which is also the SCHOOL’s principal place of business.
4. Defendant, FIELDTURF USA, INC. (“FUSA”), is a Florida corporation with its principal place of business in Canada, doing business in California. FUSA installed the artificial turf fields which are the subject matter of this action, and may have also manufactured them.
5. Defendant, FIELDTURF, INC. (“FTI”), is a Canadian corporation, which is, upon information and belief, a sister corporation of FUSA. FTI may have manufactured the artificial turf fields which are the subject matter of this action.
6. Defendant, FIELDTURF TARKETT SAS (“FTS”), is a French corporation, which is, upon information and belief, the parent corporation of both FUSA and

1 FTI and is, thus, responsible for the actions of each of them. FTS may have also  
2 manufactured the artificial turf fields which are the subject matter of this action.

3 7. FUSA, FTI and FTS are collectively referred to herein as “FIELDTURF.”

4 FIELDTURF manufactures and installs artificial turf fields and, at all times  
5 relevant hereto, claimed that it had completed more the 2500 such installations  
6 throughout the world.

7 8. At all times relevant hereto, FIELDTURF did not manufacture the fibers from  
8 which it manufactured its fields, but, rather exclusively obtained such fibers from  
9 a foreign company known as TenCate Thiolon (“TenCate”) whose manufacturing  
10 facilities are located in the Middle East.

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12 **STATEMENT OF FACTS**

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14 9. In 2008, the SCHOOL’s administration began to investigate the possibility of  
15 installing a synthetic turf soccer field at the SCHOOL’s campus in Hillsborough,  
16 California.

17 10. In furtherance of the investigation, SCHOOL staff conducted a study into the  
18 various artificial turf products available on the market and the suppliers of those  
19 products, one of which was FIELDTURF.

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21 **FIELDTURF’s Representations and Warranties**

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23 11. FIELDTURF’s marketing materials touted its products by stating that they were  
24 made from a patented monofilament fiber available only to FIELDTURF, which  
25 it marketed under the trade name of “Fieldturf Duraspine,” among others.

26 FIELDTURF represented that, because of the use of the Fieldturf Duraspine  
27 fiber, its fields were more durable and had a longer product life than those of its  
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1 competitors. Among the representations that FIELDTURF made in its marketing  
2 materials were that:

- 3 • purchasers would be able to “amortize the life of [a FIELDTURF] field on  
4 a 10+ year basis;”
- 5 • “although FieldTurf sometimes cost more to install, it is actually cheaper  
6 over the long term. Sometimes almost \$1,000,000 cheaper!”
- 7 • FIELDTURF fields have a “Turf Life [of] 8-10 years;”
- 8 • Duraspine “provides the industry’s strongest wear resistance and superior  
9 pile recovery. It’s the most durable fiber...;”
- 10 • “FieldTurf has proven to be the most durable system in the world;”
- 11 • “All of FieldTurf’s components are made from the highest quality  
12 materials;”
- 13 • Duraspine is “renowned for its durability and resistance to matting;”
- 14 • “FieldTurf has proven to be the most durable and longest-lasting synthetic  
15 turf system in the marketplace;”
- 16 • “FieldTurf may be priced slightly higher but it costs significantly less;”  
17 and
- 18 • FieldTurf installs “10 pounds of infill per square foot [of field] (7 pounds  
19 of silica sand plus 3 pounds of cryogenic rubber) [which is] vital to safety,  
20 durability and longevity.”

21 12. FIELDTURF buttressed its representations concerning the durability and quality  
22 of its Duraspine fields by extending a third-party insured, eight-year  
23 manufacturer’s warranty to the SCHOOL, touting that it could do so because  
24 FIELDTURF “inspect[ed] all aspects of the product from fiber to finishing.”

25 13. In reliance upon the foregoing and other representations FIELDTURF had made  
26 concerning its fields, in or about July 2009, the SCHOOL entered into a contract  
27 with FUSA whereby FUSA agreed to furnish and install a two-inch thick  
28 artificial grass in-filled playing surface for use as a soccer field at the SCHOOL’s

1 campus in exchange for a total payment by the SCHOOL of \$281,760.00, which  
2 was later increased to \$293,760.00 through the issuance of a change order.

3 14. Under the contract, FUSA agreed to furnish and install an artificial turf field to  
4 the SCHOOL made of the Fieldturf Duraspine monofilament fibers which  
5 FIELDTURF had described at length in its marketing materials.

6 15. FUSA completed installation of the field in or about September 2009 and, at that  
7 time, provided the SCHOOL with an eight-year warranty for repair or  
8 replacement of all, or any portion, of the field “defective in material or  
9 workmanship, resulting in premature wear” in a further effort to lead the  
10 SCHOOL to believe that the field at issue would last at least eight years, a  
11 representation and warranty that the SCHOOL, in fact, believed and relied upon.

12 16. The representations and warranties which FIELDTURF made in the marketing  
13 materials and the warranty were false and FIELDTURF knew they were false, or  
14 at the very least, FIELDTURF recklessly disregarded the possibility of their  
15 falsehood at the time FUSA entered into the contract with, and issued the  
16 warranty to, the SCHOOL.

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18 **FIELDTURF’s Lawsuit Against TenCate**

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20 17. On March 1, 2011, only eighteen months after it finished installing the field  
21 under the contract, FIELDTURF commenced an action against TenCate in the  
22 United States District Court for the Northern District of Georgia bearing case no.  
23 4:11-CV-50-TWT (the “TenCate Action”). In its complaint in the TenCate  
24 Action, FIELDTURF alleged that from 2005 through March 2011, TenCate was  
25 FIELDTURF’s exclusive supplier of the monofilament fiber which FIELDTURF  
26 marketed under the name of Fieldturf Duraspine, among others. FIELDTURF  
27 further alleged, *inter alia*, that prior to 2007, TenCate changed both the formula  
28 and the process by which it made the Fieldturf Duraspine fiber, rendering the

1 fiber “less durable,” thereby “increasing the likelihood of premature fiber  
2 degradation under certain conditions” and further, manufactured the fiber without  
3 an “adequate amount of ultraviolet stabilizers required to prevent loss of tensile  
4 strength,” thus exacerbating the fiber’s “premature disintegration during the  
5 warranty period.”

6 18. FIELDTURF’s complaint in the TenCate action alleges that during 2009, which,  
7 importantly, was at or prior to the time that it entered into the contract with, and  
8 issued the warranty to, the SCHOOL:

- 9 a. FIELDTURF “received complaints from a significant number of customers  
10 in North America who had purchased...Duraspine fields. Some customers  
11 reported that the fibers on their fields were splitting and shedding during  
12 routine use (e.g., covering player uniforms during sports games and  
13 practices). Other customers reported excessive thinning and fading of the  
14 fibers – especially along white and yellow lines, logos and other field areas  
15 composed of colored yarn. Still other customers reported that large areas of  
16 their fields in all colors had degraded dramatically.”
- 17 b. “In many instances, customers complained that fiber in one tufted row of a  
18 field was failing, while fiber of the same color in an immediately adjacent  
19 tufted row was not failing. The existence of variable degradation rates in  
20 fiber exposed to the same environmental and wear conditions suggested, at  
21 a minimum, that the [TenCate] was not performing in a uniform manner.  
22 Upon information and belief, such a marked variability in performance  
23 means that TenCate had quality control issues in their extrusion processes  
24 that resulted in alterations to what should have been chemically  
25 indistinguishable fibers.”
- 26 c. FIELDTURF representatives including Howard McNeil (Senior Vice  
27 President of Operations) and Brian Waters (Director of Logistics and  
28 Purchasing) reported customer complaints to TenCate.

- 1 19. In reality, FIELDTURF began receiving customer complaints about Duraspine  
2 fields failing and commenced its own investigation into the defects in the  
3 Duraspine fibers as early as 2006.
- 4 20. Incredibly, during the trial of the TenCate Action, Eric Daliere, FIELDTURF's  
5 CEO, testified under oath that at the very same time that FIELDTURF filed the  
6 lawsuit against TenCate, it (1) considered the Duraspine fiber to be defective; (2)  
7 was, nevertheless, in the process of installing 41 new fields made with the  
8 defective fibers without telling its customers their fields would likely fail  
9 prematurely; (3) was replacing the defective fields that did fail with the same  
10 defective material, and (4) continued to make a profit on the defective fields at  
11 the expense of their unknowing customers. Excerpts from the transcript of Mr.  
12 Daliere's testimony are attached hereto as Exhibit "A" and incorporated herein by  
13 this reference ("Evolution" is TenCate's trade name for FIELDTURF's  
14 "Duraspine").
- 15 21. FIELDTURF did not disclose any of the foregoing to the SCHOOL prior to, at,  
16 or after the time the SCHOOL entered into the contract with FUSA, nor did it  
17 disclose such facts prior to or at the time the SCHOOL made any payments under  
18 the contract to FUSA.

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20 **The Field Installed by FUSA Under the Contract Failed Prematurely**

- 21  
22 22. The allegations which FIELDTURF made in the TenCate Action in effect  
23 predicted what would happen to the field installed by FUSA under the contract.
- 24 23. In early 2015, the SCHOOL noticed that the field installed by FUSA pursuant to  
25 the contract was failing, despite the fact that the field gets substantially less use  
26 than many other FIELDTURF artificial turf fields. The types of failures  
27 experienced at the SCHOOL's field included breaking, splitting and thinning of  
28 the individual fibers characterized by fibrillation, fiber breakage and pile layover,

1 just as FIELDTURF admitted was occurring in its complaint in the TenCate  
2 Action.

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4 **FIELDTURF Failed to Honor Its Warranties and Representations**

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6 24. When the SCHOOL reported the failures with the field and made a warranty  
7 claim to FIELDTURF, FIELDTURF first completely ignored the SCHOOL for  
8 approximately six months, only to, thereafter, refuse to replace the field with a  
9 non-defective product that complied with the promises and representations made  
10 by FIELDTURF at no additional cost to the SCHOOL. Rather, FIELDTURF  
11 attempted to mollify the SCHOOL by performing routine maintenance work on a  
12 field which had already failed.

13 25. Conditions at the field have continued to deteriorate to the extent that large piles  
14 of turf fibers have been found in clumps all over the field.

15 26. As of the filing of this complaint, and despite demand therefor having been  
16 made, FIELDTURF has failed and refused to replace the field with one that  
17 complies with its original warranty and representations. The SCHOOL now  
18 brings this action to seek relief from the actions and inactions of FIELDTURF.

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20 **FIRST CLAIM**

21 (Breach of Warranty)

22 27. The SCHOOL incorporates all of the preceding allegations of this complaint as if  
23 fully set forth herein.

24 28. The SCHOOL has performed all of its obligations under the contract and the  
25 warranty, except those waived, excused or prevented by the actions or inactions  
26 of FIELDTURF.

27 29. FIELDTURF and FUSA have breached the warranty by, *inter alia*, failing to  
28 replace the defective field at no cost to the SCHOOL with a field which conforms



1 to the warranties and representations made by FIELDTURF and FUSA to the  
2 SCHOOL.

3 30. In every contract there is implied the covenant of good faith and fair dealing  
4 whereby the parties agree that neither will do anything that will injure the right of  
5 the other to receive the benefits of the agreement.

6 31. FIELDTURF and FUSA, at all times relevant herein, had a duty to act fairly and  
7 in good faith with respect to the SCHOOL.

8 32. As fully described hereinabove, FIELDTURF and FUSA breached their  
9 obligation to act fairly and in good faith toward the SCHOOL.

10 33. As a result of the numerous breaches by FIELDTURF and FUSA, including, but  
11 not limited to, those set forth in paragraph 29 hereof and the breach of the  
12 implied covenant of good faith and fair dealing, SCHOOL has suffered damages  
13 in an exact amount yet to be determined, but which are currently estimated to be  
14 \$293,760.00, plus interest thereon at the statutory rate from and after November  
15 20, 2009 (the last date of payment by the SCHOOL).

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17 **SECOND CLAIM**

18 (Fraud)

19 34. The SCHOOL incorporates all of the preceding allegations of this complaint as  
20 if fully set forth herein.

21 35. At the times and in the manners set forth in this complaint, FIELDTURF and  
22 FUSA made the representations set forth in paragraphs 11, 12 and 15 hereof to  
23 the SCHOOL.

24 36. Those representations were, in fact, false. The true facts were as alleged by  
25 FIELDTURF in its complaint in the TenCate Action (except that the customer  
26 complaints and FieldTurf's own investigation date back to as early as 2006) and  
27 as testified to by FIELDTURF's CEO, Eric Dalier during the trial thereof.

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37. In addition to the foregoing, FIELDTURF and FUSA failed to reveal and intentionally suppressed the facts set forth in paragraphs 17-20 hereof. The suppression of these facts was likely to mislead the SCHOOL and did, in fact, mislead the SCHOOL in light of the other representations made by FIELDTURF and FUSA to the SCHOOL concerning their product.

38. When FIELDTURF and FUSA made the representations and withheld the information set forth above, they knew such representations to be false or made them with reckless disregard for their falsity, and with the intention that the SCHOOL rely upon them, or with the expectation that the SCHOOL would act in the manner it did.

39. The SCHOOL, at the time these representations were made by FIELDTURF and FUSA, and at the time the SCHOOL entered into and performed its contract with FUSA, was ignorant of the falsity of the representations and believed them to be true. In justifiable reliance on these representations, the SCHOOL paid FUSA the sum of \$293,760.00. Had the SCHOOL known the actual facts, it would not have taken such action.

40. As a proximate result of the misrepresentations and suppressions of fact by FIELDTURF and FUSA, the SCHOOL has been damaged in an exact amount yet to be determined, but which damages are currently estimated to be in the sum of \$293,760.00, plus interest thereon at the statutory rate.

41. The aforementioned conduct of FIELDTURF and FUSA was an intentional misrepresentation, deceit, or concealment of a material fact known to them with the intention on their part of depriving the SCHOOL of property or legal rights or otherwise causing injury, and was despicable conduct that subjected the SCHOOL to a cruel and unjust hardship in conscious disregard of the SCHOOL's rights, so as to justify an award of exemplary and punitive damages.

**THIRD CLAIM**

(Negligent Misrepresentation)

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3 42. The SCHOOL incorporates all of the preceding allegations of this complaint as if  
4 fully set forth herein.

5 43. FIELDTURF and FUSA, and each of them, made affirmative misrepresentations  
6 and false promises to the SCHOOL and suppressed key facts from the SCHOOL  
7 relative to the field which FIELDTURF and FUSA provided to the SCHOOL  
8 under the contract.

9 44. When FIELDTURF and FUSA made the misrepresentations and false promises,  
10 including but not limited to those set forth in paragraphs 11, 12 and 15 hereof,  
11 they had no reasonable grounds for believing them to be true in light of their  
12 knowledge of the true facts as set forth in paragraphs 17-20 hereof.

13 45. When FIELDTURF and FUSA made the misrepresentations and false promises,  
14 and withheld the information set forth above, they did so with the intention that  
15 the SCHOOL rely upon them, or with the expectation that the SCHOOL would  
16 act in the manner it did.

17 46. FIELDTURF's and FUSA's affirmative misrepresentations, false promises and  
18 suppressions were of material facts, essential to the SCHOOL's decision to enter  
19 into the contract and make payments thereunder. Had the truth been disclosed to  
20 the SCHOOL, the SCHOOL would not have entered into the contract with, or  
21 made payments to, FIELDTURF and FUSA, and each of them.

22 47. The SCHOOL justifiably and actually relied on the affirmative  
23 misrepresentations and false promises made to it by FIELDTURF and FUSA and  
24 did, in fact, alter its position and entered into the contract with FUSA.

25 48. As a proximate result of the affirmative misrepresentations, false promises and  
26 suppressions of fact by FIELDTURF and FUSA, the SCHOOL has been  
27 damaged in an exact amount yet to be determined, but which damages are  
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1 currently estimated to be in the sum of \$293,760.00, plus interest thereon at the  
2 statutory rate.

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4 **FOURTH CLAIM**

5 (Unfair Competition)

6 49. The SCHOOL incorporates all of the preceding allegations of this complaint as  
7 if fully set forth herein.

8 50. Under California Business and Professions Code § 17200 et seq., a business may  
9 not engage in any “Unfair Competition” including, but not limited to any  
10 unlawful, unfair or fraudulent business act or practice.

11 51. FIELDTURF and FUSA operate a business to which section 17200 applies. As  
12 such, FIELDTURF and FUSA owe all of their customers a duty not to engage in  
13 conduct prohibited by law.

14 52. FIELDTURF and FUSA breached their duties to the SCHOOL and their actions  
15 and inactions, as alleged herein above, constitute acts of unfair competition  
16 within the meaning of California Business and Professions Code Section 17200 et  
17 seq. Moreover, the SCHOOL is informed and believes that FIELDTURF and  
18 FUSA have knowingly provided other customers with turf fields that have failed  
19 and that FIELDTURF has declined to replace with products that live up to their  
20 warranties and representations, and that FIELDTURF and FUSA will continue to  
21 engage in such conduct unless the Court orders them to cease and desist.

22 53. FIELDTURF and FUSA have failed to honor the warranty they gave the  
23 SCHOOL and refused the SCHOOL's request for restitution of the sums it paid.  
24 The SCHOOL is informed and believes and thereon alleges that FIELDTURF  
25 and FUSA have likewise refused, and in the future will refuse, to accede to  
26 others' requests for restitution.

27 54. The SCHOOL is without an adequate remedy at law and, accordingly, is entitled  
28 to permanent injunctive relief pursuant to California Business and Professions

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Code Section 17203 and restitution of all sums that it paid FIELDTURF and FUSA under the contracts, plus interest at the statutory rate.

55. The SCHOOL has incurred and, during the pendency of this action, will incur attorneys' fees, expenses and costs herein. Such attorneys' fees, expenses and costs are necessary for the prosecution of this action and will result in a benefit to the public.

**PRAYER FOR RELIEF**

Wherefore, the SCHOOL prays for judgment as follows:

On the First Claim for Relief:

1. Damages in an amount to be proven at trial, but which are currently estimated to be at least \$293,760.00, plus interest thereon at the statutory rate from and after the date of payment by the SCHOOL;
2. Costs of suit; and
3. Such other relief as the Court deems proper.

On the Second Claim for Relief:

1. Damages in an amount to be proven at trial, but which are currently estimated to be at least \$293,760.00, plus interest thereon at the statutory rate from and after the date of payment by the SCHOOL;
2. For an award of punitive and exemplary damages sufficient to punish defendants and deter similar future conduct by others;
3. Costs of suit; and
4. Such other relief as the Court deems proper.

1 On the Third Claim for Relief:

- 2 1. Damages in an amount to be proven at trial, but which are currently estimated to  
3 be at least \$293,760.00, plus interest thereon at the statutory rate from and after  
4 the date of payment by the SCHOOL;  
5 2. Costs of suit; and  
6 3. Such other relief as the Court deems proper.

7  
8 On the Fourth Claim for Relief:

- 9 1. Restitution of all sums paid under the contract in the sum of \$293,760.00, plus  
10 interest thereon at the statutory rate from and after the date of payment by the  
11 SCHOOL;  
12 2. For an order permanently enjoining Defendants from responding to a warranty  
13 claim made with respect to any field installed prior to July 1, 2011 in any other  
14 manner other than a full replacement of that field at no cost to the customer;  
15 3. Attorneys' fees and costs of suit; and  
16 4. Such other relief as the Court deems proper.

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18 **JURY DEMAND**

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20 The SCHOOL demands a trial by jury on the claims for relief in this Complaint.

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23 Dated: March 18, 2016 LINDBORG & MAZOR LLP

24  
25 By: /s/ Irina J. Mazor, Esq.  
26 Peter F. Lindborg, Esq. and Irina J. Mazor, Esq.  
27 Attorneys for Plaintiff, CRYSTAL SPRINGS  
28 UPLANDS SCHOOL