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LOS ANGELES

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22 UNITED STATES DISTRICT COURT  
23 CENTRAL DISTRICT OF CALIFORNIA

24 ALESSANDRA BALSER and RUTH  
25 KRESHA, Individually and on Behalf of  
26 All Others Similarly Situated,

27 Plaintiffs,

28 vs.

THE HAIN CELESTIAL GROUP, INC.,

Defendant.

No. 13-cv-05604-R-RZ

CLASS ACTION

**FIRST AMENDED CLASS  
ACTION COMPLAINT**

DEMAND FOR JURY TRIAL

1 Plaintiffs, by their attorneys, on behalf of themselves and all others similarly  
2 situated, make the following allegations pursuant to the investigation of their  
3 counsel and based on information and belief, except as to allegations pertaining to  
4 personal knowledge as to themselves. Plaintiffs believe that substantial additional  
5 evidentiary support exists for the allegations set forth herein and will be available  
6 after a reasonable opportunity for discovery.

7 **INTRODUCTION**

8 1. The Hain Celestial Group (“Defendant” or “Hain Celestial”)  
9 manufactures, sells, and distributes certain of its Alba Botanica brand lotion, body  
10 wash and hair care products using a marketing and advertising campaign that is  
11 centered around claims that the products are “Natural.”<sup>1</sup> The word “natural”  
12 appears prominently on the Principal Display Panel (“PDP”) of each of the  
13 following products (collectively, the “Products”):

14 a. **The Body Wash Products:** Natural Very Emollient Bath & Shower  
15 Gel (French Lavender, Honey Mango, Midnight Tuberose, Sparkling  
16 Mint and Island Citrus varieties); Natural Hawaiian Cocktail Body  
17 Wash (Creamy Pina Colada, Revitalizing Mai Tai and Exfoliating  
18 Lava Flow varieties); Natural Hawaiian Body Wash (Renewing  
19 Passion Fruit); Natural Hawaiian Exfoliating Body Wash  
20 (Rejuvenating Papaya Mango); and Natural Hawaiian Cream Body  
21 Wash (Nourishing Coconut Milk);

22 b. **The Lotion Products:** Natural Very Emollient Body Lotion  
23 (Unscented Original, Daily Shade Spf 15, Original and Maximum  
24

25 <sup>1</sup> Natural is defined as “existing in or produced by nature: not artificial.” <http://www.merriam-webster.com/dictionary/natural>. The FDA has not defined the term “natural” in the context of  
26 cosmetics. To the contrary, on December 14, 2012, the FDA affirmed that “proceedings to  
27 define the term “natural” do not fit within [its] current health and safety priorities.” Appellants’  
28 Motion to take Judicial Notice, Exhibit A at 3 *Astiana v. The Hain Celestial Group*, (No. 12-cv-17596) (9th Cir. March 22, 2013).

1 varieties); Natural Hawaiian After Sun Lotion (Replenishing Kona  
2 Coffee); Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa  
3 Butter); and Natural Hawaiian Body Cream (Nourishing Coconut  
4 Milk, Rejuvenating Papaya Mango and Deep Moisturizing Kukui Nut  
5 varieties).

6 c. **The Hair Care Products:** Natural Hawaiian Shampoo (Colorific  
7 Plumeria, Body Builder Mango, Drink It Up Coconut Milk, So  
8 Smooth Gardenia, Gloss Boss Honeydew and Real Repair Cocoa  
9 Butter varieties), Natural Hawaiian Conditioner (Colorific Plumeria,  
10 Body Builder Mango, Drink It Up Coconut Milk, So Smooth  
11 Gardenia, Gloss Boss Honeydew and Real Repair Cocoa Butter  
12 varieties) and Natural Hawaiian Leave-In Conditioning Mist (Drink It  
13 Up Coconut Milk).

14 2. This action seeks to remedy the unfair and deceptive business  
15 practices arising from the marketing and sale of the Products as “Natural.” The  
16 statement “Natural” on the PDP of the Products is false and misleading because, as  
17 set forth more fully herein, the Products contain unnatural synthetic ingredients.

18 3. Plaintiffs and the Class paid a premium for the Products over  
19 comparable lotion, body wash and hair care products that did not purport to be  
20 “Natural.” In direct contradiction to Defendant’s representations, instead of  
21 receiving natural products, they received products that contained unnatural  
22 synthetic ingredients.

23 4. Defendant’s false representation that the Products are Natural  
24 constitutes unfair, unlawful, and fraudulent conduct, is likely to deceive members  
25 of the public, is unethical, oppressive, unscrupulous, and/or substantially injurious  
26 to consumers and violates California’s legislatively declared policy against  
27 misrepresenting the characteristics of goods and services. As such, Defendant’s  
28

1 practices violate California’s Consumers Legal Remedies Act, Cal. Civ. Code §  
2 1750 *et seq.* (hereinafter, the “CLRA”) and California’s Unfair Competition Law,  
3 Cal. Bus. & Prof. Code § 17200, *et seq.* (hereinafter, the “UCL”). Accordingly,  
4 pursuant to Cal. Bus. & Prof. Code § 17203, Plaintiffs seek an order enjoining  
5 Defendant’s acts of unfair competition and awarding restitution and other  
6 appropriate relief to the individual victims of Defendant’s unfair and deceptive  
7 practices. Additionally, Plaintiffs seek damages pursuant to Cal. Civ. Code §  
8 1781(a).

9 **JURISDICTION AND VENUE**

10 5. This Court has original jurisdiction over the claims asserted herein  
11 individually and on behalf of the Class pursuant to 28 U.S.C. § 1332(d), as  
12 amended by the Class Action Fairness Act of 2005. Subject matter jurisdiction is  
13 proper because: (1) the amount in controversy in this class action exceeds five  
14 million dollars, exclusive of interest and costs; and (2) a substantial number of the  
15 members of the proposed class are citizens of a state different from that of  
16 Defendant. Personal jurisdiction is proper as Defendant has purposefully availed  
17 itself of the privilege of conducting business activities within the State of  
18 California.

19 6. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2) because a  
20 substantial part of the events or omissions giving rise to the claim occurred in this  
21 District.

22 **PARTIES**

23 7. Plaintiff Alessandra Balsler is a resident of Etna, New Hampshire and  
24 an individual consumer. Plaintiff purchased Alba Botanica Natural Very Emollient  
25 Bath & Shower Gel in “Lavender” and Natural Very Emollient Lotion in  
26 “Maximum” and “Unscented Original” varieties at Huckleberry’s Natural Market,  
27 926 South Monroe Street, Spokane, WA 99204 in 2010 and the Co-Op Food  
28

1 Stores, 45 South Park Street, Hanover, NH 03755 in 2011-2013. Plaintiff viewed  
2 and relied on the Products' PDPs that represented that the Products were "Natural"  
3 and paid a premium for the Products over comparable lotion and body wash  
4 products that do not purport to be natural.

5 8. Plaintiff Ruth Kresha is a resident of Bakersfield, California and an  
6 individual consumer. Plaintiff purchased Alba Botanica Natural Very Emollient  
7 Lotion in "Unscented Original," Natural Hawaiian Shampoo in "Drink It Up  
8 Coconut Milk," Natural Hawaiian Conditioner in "Drink It Up Coconut Milk" and  
9 Natural Hawaiian Leave-In Conditioning Mist in "Drink it Up Coconut Milk" at  
10 Whole Foods, 500 Wilshire Boulevard, Santa Monica, CA 90401 on approximately  
11 April 6, 2013. Plaintiff viewed and relied on the Products' PDPs that represented  
12 that the Products were "Natural" and paid a premium for the Products over  
13 comparable lotion and hair care products that do not purport to be natural.

14 9. Defendant The Hain Celestial Group, Inc. is a corporation organized  
15 and existing under the laws of the State of Delaware with its headquarters and  
16 principal place of business in Lake Success, NY. Hain Celestial manufactures its  
17 Alba Botanica brand products in Culver City, California.<sup>2</sup>

18 **SUBSTANTIVE ALLEGATIONS**

19 10. Consumers have become increasingly concerned about the effects of  
20 synthetic and chemical ingredients in food, cleaning, bath and beauty, and  
21 everyday household products. Companies such as Hain Celestial have capitalized  
22 on consumer appetite for "natural products." Indeed, consumers are willing to pay,  
23 and have paid, a premium for products branded "natural" over ordinary products  
24 that contain synthetic ingredients. In 2010, for example, nationwide sales of  
25 natural products totaled \$117 billion.<sup>3</sup>

26 <sup>2</sup> <http://www.sec.gov/Archives/edgar/data/910406/000144530512002779/hain-6302012x10k.htm>

27 <sup>3</sup> [http://www.npainfo.org/NPA/About\\_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociati  
28 on.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8](http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8)

1 11. Alba Botanica is a brand of body, facial, hair and sun care products  
2 manufactured and marketed by Hain Celestial and sold in drugstores and grocery  
3 stores such as Whole Foods and Stop & Shop nationwide.

4 12. Since approximately December 2010, Defendant has falsely  
5 represented that the Products are “Natural.” The term “Natural” in the color green  
6 appears next to a leaf prominently on the PDP of each Product:



21 13. The back labels of the Products state that the Products contain “100%  
22 Vegetarian ingredients.”<sup>4</sup>

23 14. Additionally, certain of the Products’ back labels represent that the  
24 products are Natural. For example, the back of Alba Botanica Natural Very  
25 Emollient Lotion, Maximum Variety, states,

26  
27 <sup>4</sup> The Merriam-Webster dictionary defines “vegetarian” as “consisting wholly of vegetables,  
28 fruits, grains, nuts, and sometimes eggs or dairy products.” <http://www.merriam-webster.com/dictionary/vegetarian>.

1 Give severely dry skin what it craves:

2 **A natural, maximum moisture body lotion** packed with rich botanical  
3 emollients and humectants to relieve dry, itchy skin instantly and provide 24  
4 hours of hydration. Alba Botanica Very Emollient Body Lotion blends aloe  
5 vera, green tea and chamomile extracts plus antioxidants to nourish, soothe  
6 and soften dry skin on contact. Cellular renewal is supported with alpha  
hydroxy acids so extremely rough, dry skin develops a fresh and healthy  
appearance.

7 [Emphasis added; emphasis omitted from original].

8 15. Alba Botanica’s website further touts the “natural” composition of the  
9 Products,<sup>5</sup> writing,

10 **About Alba Botanica<sup>6</sup>**

11 Alba Botanica. **We make natural, 100% vegetarian personal care**  
12 **products** that do beautiful for you and your friends: people, animals + earth.  
13 This means we DON’T use parabens, sulfates, or phthalates.

14 **Mission**

15 The Alba Botanica® mission is to Do Beautiful. **We offer natural, 100%**  
16 **vegetarian personal care products** that do beautiful for you, your friends  
17 and the animals and Earth you love. **We offer a full range of products**  
**packed with potent natural, botanical ingredients that are formulated to**  
**nourish the individualized needs of your skin and hair.**

18 [... ...]

19 **Products**

20 **Our products contain natural, organic and cruelty-free ingredient**  
21 **alternatives which are 100% vegetarian. We passionately strive to**  
22 **deliver the finest possible formulations for the ultimate efficacy and**  
23 **benefits to your skin and hair. We make maximum use of ingredients**  
**from our wonderful Earth’s plant sources...from rich vegetable and nut**  
**oils to pure plant waxes to herbal extracts and pure essential oils.**

24 [... ...]

25 \_\_\_\_\_  
26 <sup>5</sup> <http://www.albabotanica.com/about-alba>

27 <sup>6</sup> Botanica is defined as “a shop that deals in herbs and charms used especially by adherents of  
28 Santeria.” <http://www.merriam-webster.com/dictionary/botanica>

1 Alba Botanica® products are formulated without: parabens, phthalates,  
2 artificial colors, propylene glycol, aluminum, mineral oil, petrolatum,  
3 oxybenzone, PABA, nano-particles, DEA, MEA or TEA, PEGs and PEG  
4 derivatives, ethoxylated ingredients associated with 1,4 dioxane,  
5 formaldehyde donors, or GMOs.

6 [Emphasis and footnote added].

7 16. The term “Natural” constitutes a representation to a reasonable  
8 consumer that the *entire formula* is comprised of natural ingredients. The term  
9 “Natural” is misleading to a reasonable consumer because the Products actually  
10 contain numerous unnatural synthetic ingredients. That a reasonable consumer  
11 would be misled by this representation is further bolstered by Defendant’s use of  
12 the phrase “100% Vegetarian Ingredients,” which appears on the back label of the  
13 Products.

### 14 THE UNNATURAL INGREDIENTS

15 17. In direct contradiction of Defendant’s misrepresentations, the  
16 Products contain the following unnatural ingredients:

- 17 a. The Lotion Products each contain six or more of the following  
18 unnatural synthetic ingredients:
- 19 i. *Alpha-isomethyl Ionone* – a synthetic scent chemical;<sup>7</sup>
  - 20 ii. *Ascorbic Acid* – synthetic vitamin C that is classified as a  
21 chemical preservative;<sup>8</sup>
  - 22 iii. *Benzyl Benzoate* – a solvent and preservative associated with  
23 allergies and contact dermatitis;<sup>9</sup>

24 <sup>7</sup> [http://www.ewg.org/skindeep/ingredient/700295/ALPHA-ISOMETHYL\\_IONONE/](http://www.ewg.org/skindeep/ingredient/700295/ALPHA-ISOMETHYL_IONONE/). Found in  
25 Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

26 <sup>8</sup> 21 C.F.R. 182.3013. Found in Natural Very Emollient Body Lotion (Maximum and Daily  
27 Shade Spf 15 varieties).

28 <sup>9</sup> [http://www.ewg.org/skindeep/ingredient/700698/BENZYL\\_BENZOATE/](http://www.ewg.org/skindeep/ingredient/700698/BENZYL_BENZOATE/). Found in Natural  
Hawaiian After-Sun Lotion (Replenishing Kona Coffee), Natural Very Emollient Body Lotion  
(Maximum and Original varieties) and Natural Hawaiian Hand & Body Lotion (Replenishing  
Cocoa Butter).

- 1           iv. ***Benzyl Salicylate*** – a synthetic fragrance ingredient;<sup>10</sup>
- 2           v. ***Carbomer*** – a synthetic emulsion stabilizer;<sup>11</sup>
- 3           vi. ***Cetearyl Alcohol*** – a synthetic emulsion stabilizer;<sup>12</sup>
- 4           vii. ***Dehydroacetic Acid*** – a synthetic preservative;<sup>13</sup>
- 5           viii. ***Dimethicone*** – a synthetic silicon-based polymer used as an
- 6                     antifoaming and skin conditioning agent;<sup>14</sup>
- 7           ix. ***Ethylhexyl Salicylate*** a/k/a octisalate – a synthetic UVB
- 8                     absorber;<sup>15</sup>
- 9           x. ***Ethylhexyl Stearate*** – a synthetic skin conditioning agent;<sup>16</sup>
- 10           xi. ***Ethylhexylglycerin*** – a synthetic preservative and skin
- 11                     conditioning agent;<sup>17</sup>

12  
13  
14 <sup>10</sup> [http://www.ewg.org/skindeep/ingredient/700701/BENZYL\\_SALICYLATE/](http://www.ewg.org/skindeep/ingredient/700701/BENZYL_SALICYLATE/). Found in Natural Very Emollient Body Lotion (Maximum and Original varieties).

15 <sup>11</sup> <http://www.ewg.org/skindeep/ingredient/701088/CARBOMER/>. Found in Natural Hawaiian After-Sun Lotion (Replenishing Kona Coffee) and Natural Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango and Nourishing Coconut Milk varieties).

16 <sup>12</sup> [http://www.ewg.org/skindeep/ingredient/701236/CETEARYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/701236/CETEARYL_ALCOHOL/). Found in Natural Very Emollient Body Lotion (Maximum, Original, Unscented Original and Daily Shade Spf 15 varieties) and Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

17 <sup>13</sup> [http://www.ewg.org/skindeep/ingredient/701893/DEHYDROACETIC\\_ACID/](http://www.ewg.org/skindeep/ingredient/701893/DEHYDROACETIC_ACID/). Found in Natural Very Emollient Body Lotion (Maximum, Original, Unscented Original and Daily Shade Spf 15 varieties).

18 <sup>14</sup> <http://www.ewg.org/skindeep/ingredient/702011/DIMETHICONE/>. Found in all of the Lotion Products.

19 <sup>15</sup> <http://www.ewg.org/skindeep/ingredient/704204/OCTISALATE/>. Found in Natural Very Emollient Body Lotion (Daily Shade Spf 15).

20 <sup>16</sup> [http://www.ewg.org/skindeep/ingredient/702350/ETHYLHEXYL\\_STEARATE/](http://www.ewg.org/skindeep/ingredient/702350/ETHYLHEXYL_STEARATE/). Found in Natural Very Emollient Body Lotion (Maximum, Original and Unscented Original varieties).

21 <sup>17</sup> <http://www.ewg.org/skindeep/ingredient/702352/ETHYLHEXYLGLYCERIN/>. Found in Natural Hawaiian After-Sun Lotion (Replenishing Kona Coffee), Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter) and Natural Hawaiian Body Cream (Deep Moisturizing Kukui Nut and Rejuvenating Papaya Mango varieties).

- 1           xii. **Fragrance** – an undisclosed mixture of scent chemicals and  
2           ingredients;<sup>18</sup>
- 3           xiii. **Glyceryl Stearate** – a synthetic skin conditioning and  
4           emulsifying agent;<sup>19</sup>
- 5           xiv. **Glyceryl Stearate SE** – a synthetic surfactant and emulsifying  
6           agent;<sup>20</sup>
- 7           xv. **Glycolic Acid** – a synthetic exfoliant;<sup>21</sup>
- 8           xvi. **Homosalate** – a synthetic sunscreen ingredient that is a weak  
9           hormone disruptor;<sup>22</sup>
- 10          xvii. **Hydroxycitronellal** – a synthetic fragrance ingredient;<sup>23</sup>
- 11          xviii. **Octocrylene** – a synthetic UV absorber;<sup>24</sup>
- 12          xix. **Phenoxyethanol** – a synthetic preservative;<sup>25</sup>
- 13          xx. **Polysorbate 60** – a synthetic emulsifier and surfactant;<sup>26</sup>

14  
15 <sup>18</sup> <http://www.ewg.org/skindeep/ingredient.php?ingred06=702512#>. Found in all of the Lotion  
Products except Natural Very Emollient Body Lotion (Unscented Original).

16 <sup>19</sup> [http://www.ewg.org/skindeep/ingredient/702648/GLYCERYL\\_MONOSTEARATE/](http://www.ewg.org/skindeep/ingredient/702648/GLYCERYL_MONOSTEARATE/). Found  
17 in Natural Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango,  
and Nourishing Coconut Milk varieties).

18 <sup>20</sup> [http://www.ewg.org/skindeep/ingredient/702658/GLYCERYL\\_STEARATE\\_SE/](http://www.ewg.org/skindeep/ingredient/702658/GLYCERYL_STEARATE_SE/). Found in  
19 Natural Hawaiian After-Sun Lotion (Replenishing Kona Coffee), Natural Very Emollient Body  
Lotion (Maximum, Original, Unscented Original and Daily Shade Spf 15 varieties) and Natural  
20 Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

21 <sup>21</sup> [http://www.ewg.org/skindeep/ingredient/702704/GLYCOLIC\\_ACID/](http://www.ewg.org/skindeep/ingredient/702704/GLYCOLIC_ACID/). Found in Natural Very  
Emollient Body Lotion (Maximum and Daily Shade Spf 15 varieties).

22 <sup>22</sup> <http://www.ewg.org/skindeep/ingredient/702867/HOMOSALATE/>. Found in Natural Very  
23 Emollient Body Lotion (Daily Shade Spf 15).

24 <sup>23</sup> <http://www.ewg.org/skindeep/ingredient/703051/HYDROXYCITRONELLAL/>. Found in  
Natural Very Emollient Body Lotion (Maximum and Original varieties).

25 <sup>24</sup> <http://www.ewg.org/skindeep/ingredient/704206/OCTOCRYLENE/>. Found in Natural Very  
26 Emollient Body Lotion (Daily Shade Spf 15).

27 <sup>25</sup> <http://www.ewg.org/skindeep/ingredient/704811/PHENOXYETHANOL/>. Found in all of the  
Lotion Products.

- 1           xxi. *Potassium Hydroxide* – a caustic inorganic base that functions
- 2                           as a pH adjuster and buffering agent;<sup>27</sup>
- 3           xxii. *Sodium Benzoate* – a synthetic preservative;<sup>28</sup>
- 4           xxiii. *Sodium Carbomer* – a synthetic emulsion stabilizer;<sup>29</sup>
- 5           xxiv. *Sodium Cocoyl Glutamate* – a synthetic surfactant;<sup>30</sup>
- 6           xxv. *Sodium Hydroxide*- a synthetic caustic base;<sup>31</sup>
- 7           xxvi. *Sodium PCA* – a synthetic skin conditioning agent;<sup>32</sup>
- 8           xxvii. *Sodium Riboflavin Phosphate* – a synthetic skin conditioning
- 9                           agent;<sup>33</sup>
- 10          xxviii. *Stearyl Alcohol* – a synthetic emulsifying agent;<sup>34</sup> and

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12 <sup>26</sup> <http://www.ewg.org/skindeep/ingredient/705139/POLYSORBATE-60/>. Found in Natural  
13 Very Emollient Body Lotion (Maximum, Original, Unscented Original and Daily Shade Spf 15  
14 varieties), Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter) and Natural  
15 Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango and  
16 Nourishing Coconut Milk varieties).

15 <sup>27</sup> [http://www.ewg.org/skindeep/ingredient/705204/POTASSIUM\\_HYDROXIDE/](http://www.ewg.org/skindeep/ingredient/705204/POTASSIUM_HYDROXIDE/). Found in  
16 Natural Very Emollient Body Lotion (Maximum, Original, Unscented Original and Daily Shade  
17 Spf 15 varieties) and Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

17 <sup>28</sup> [http://www.ewg.org/skindeep/ingredient/705989/SODIUM\\_BENZOATE/](http://www.ewg.org/skindeep/ingredient/705989/SODIUM_BENZOATE/). Found in Natural  
18 Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

18 <sup>29</sup> [http://www.ewg.org/skindeep/ingredient/706009/SODIUM\\_CARBOMER/](http://www.ewg.org/skindeep/ingredient/706009/SODIUM_CARBOMER/). Found in Natural  
19 Hawaiian Body Cream (Rejuvenating Papaya Mango and Nourishing Coconut Milk varieties).

20 <sup>30</sup> [http://www.ewg.org/skindeep/ingredient/706044/SODIUM\\_COCOYL\\_GLUTAMATE/](http://www.ewg.org/skindeep/ingredient/706044/SODIUM_COCOYL_GLUTAMATE/).  
21 Found in Natural Hawaiian After-Sun Lotion (Replenishing Kona Coffee).

21 <sup>31</sup> [http://www.ewg.org/skindeep/ingredient/706075/SODIUM\\_HYDROXIDE/](http://www.ewg.org/skindeep/ingredient/706075/SODIUM_HYDROXIDE/). Found in Natural  
22 Hawaiian After-Sun Lotion (Replenishing Kona Coffee).

23 <sup>32</sup> [http://www.ewg.org/skindeep/ingredient/706151/SODIUM\\_PCA/](http://www.ewg.org/skindeep/ingredient/706151/SODIUM_PCA/). Found in Natural  
24 Hawaiian After-Sun Lotion (Replenishing Kona Coffee) and Natural Hawaiian Hand & Body  
25 Lotion (Replenishing Cocoa Butter).

25 <sup>33</sup> [http://www.ewg.org/skindeep/ingredient/706174/SODIUM\\_RIBOFLAVIN\\_PHOSPHATE/](http://www.ewg.org/skindeep/ingredient/706174/SODIUM_RIBOFLAVIN_PHOSPHATE/).  
26 Found in Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter).

26 <sup>34</sup> [http://www.ewg.org/skindeep/ingredient/706325/STEARYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/706325/STEARYL_ALCOHOL/). Found in Natural  
27 Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango and  
28 Nourishing Coconut Milk varieties).

1                   xxix. *Tocopheryl Acetate* – a synthetic skin conditioning agent  
2                                   susceptible to contamination by hydroquinone, a chemical  
3                                   associated with organ toxicity.<sup>35</sup>

4           b. The Body Wash Products each contain six or more of the following  
5           unnatural synthetic ingredients:

- 6                   i. *Ascorbic Acid* – see Paragraph 17(a)(ii);<sup>36</sup>
- 7                   ii. *Benzyl Benzoate* – see Paragraph 17(a)(iii);<sup>37</sup>
- 8                   iii. *Benzyl Salicylate* – see Paragraph 17(a)(iv);<sup>38</sup>
- 9                   iv. *Butylphenyl Methylpropional a/k/a lilial* – a synthetic scent  
10                                   ingredient associated with allergies and contact dermatitis;<sup>39</sup>
- 11                   v. *Carbomer* – see Paragraph 17(a)(v);<sup>40</sup>
- 12                   vi. *Cetearyl Alcohol* – see Paragraph 17(a)(vi);<sup>41</sup>
- 13                   vii. *Cocamidopropyl Hydroxysultaine* – a synthetic skin and hair  
14                                   conditioning agent;<sup>42</sup>

15  
16  
17 <sup>35</sup> [http://www.ewg.org/skindeep/ingredient/706569/TOCOPHERYL\\_ACETATE/](http://www.ewg.org/skindeep/ingredient/706569/TOCOPHERYL_ACETATE/). Found in  
18 Natural Very Emollient Body Lotion (Maximum, Original, Unscented Original and Daily Shade  
19 Spf 15 varieties), Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter) and  
Natural Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango,  
and Nourishing Coconut Milk varieties).

20 <sup>36</sup> Found in Hawaiian Cream Body Wash (Nourishing Coconut Milk).

21 <sup>37</sup> Found in Natural Hawaiian Body Wash (Revitalizing Mai Tai and Renewing Passion Fruit  
22 varieties) and Natural Very Emollient Bath & Shower Gel (Honey Mango).

23 <sup>38</sup> Found in Natural Very Emollient Bath & Shower Gel (Honey Mango).

24 <sup>39</sup> <http://www.ewg.org/skindeep/ingredient/700872/LILIAL/>. Found in Natural Very Emollient  
25 Bath & Shower Gel (Honey Mango).

26 <sup>40</sup> Found in Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

27 <sup>41</sup> Found in Natural Hawaiian Cream Wash (Nourishing Coconut Milk).

28 <sup>42</sup> [http://www.ewg.org/skindeep/ingredient/701523/COCAMIDOPROPYL\\_HYDROXYSULTAINE/](http://www.ewg.org/skindeep/ingredient/701523/COCAMIDOPROPYL_HYDROXYSULTAINE/). Found in Natural Hawaiian Cocktail Body Wash (Exfoliating Lava Flow).

- viii. *Cocamidopropyl Betaine* – a synthetic surfactant<sup>43</sup> used to boost foaming and control viscosity;<sup>44</sup>
- ix. *Decyl Glucoside*- a synthetic surfactant;<sup>45</sup>
- x. *Dimethicone* – see Paragraph 17(a)(viii);<sup>46</sup>
- xi. *Disodium Laureth Sulfosuccinate* – a synthetic surfactant and foam booster;<sup>47</sup>
- xii. *Ethylhexylglycerin* – see Paragraph 17(a)(xi);<sup>48</sup>
- xiii. *Fragrance* – see Paragraph 17(a)(xii);<sup>49</sup>
- xiv. *Glyceryl Stearate* – see Paragraph 17(a)(xiii);<sup>50</sup>
- xv. *Hydroxycitronellal* – see Paragraph 17(a)(xvii);<sup>51</sup>
- xvi. *Phenoxyethanol* – see Paragraph 17(a)(xix);<sup>52</sup>

<sup>43</sup> A surfactant is a chemical used to stabilize mixtures of oil and water by reducing surface tension to ensure ingredients are evenly distributed throughout the product.

<sup>44</sup> [http://www.ewg.org/skindeep/ingredient/701520/COCAMIDOPROPYL\\_BETAINE/](http://www.ewg.org/skindeep/ingredient/701520/COCAMIDOPROPYL_BETAINE/). Found in all Body Wash Products except for Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

<sup>45</sup> <http://www.truthinaging.com/ingredients/decyl-glucoside>. Found in Natural Hawaiian Exfoliating Body Wash (Rejuvenating Papaya Mango).

<sup>46</sup> Found in Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

<sup>47</sup> [http://www.ewg.org/skindeep/ingredient/702148/DISODIUM\\_LAURETH\\_SULFOSUCCINATE/](http://www.ewg.org/skindeep/ingredient/702148/DISODIUM_LAURETH_SULFOSUCCINATE/). Found in Natural Very Emollient Shower Gel (French Lavender, Honey Mango, Sparkling Mint and Island Citrus varieties) and Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

<sup>48</sup> Found in Natural Very Emollient Shower Gel (French Lavender, Honey Mango, Sparkling Mint, Midnight Tuberose and Island Citrus varieties) and Hawaiian Body Wash (Renewing Passion Fruit).

<sup>49</sup> Found in all Body Wash Products.

<sup>50</sup> Found in Natural Very Emollient Shower Gel (French Lavender, Honey Mango, Sparkling Mint, Midnight Tuberose and Island Citrus varieties) and Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

<sup>51</sup> Found in Natural Hawaiian Cocktail Body Wash (Exfoliating Lava Flow) and Natural Very Emollient Bath & Shower Gel (Midnight Tuberose).

<sup>52</sup> Found in Natural Very Emollient Shower Gel (French Lavender, Honey Mango, Sparkling Mint, Midnight Tuberose and Island Citrus varieties), Natural Hawaiian Exfoliating Body Wash

- 1 xvii. **Polysorbate 20** – a synthetic surfactant susceptible to  
2 contamination by carcinogens 1-4 dioxane and ethylene  
3 oxide;<sup>53</sup>
- 4 xviii. **Polysorbate 60** – see Paragraph 17(a)(xx);<sup>54</sup>
- 5 xix. **Retinyl Palmitate** – a synthetic skin conditioning agent. When  
6 exposed to UV light the retinol compounds produce toxic free  
7 radicals that can damage DNA and cause gene mutations;<sup>55</sup>
- 8 xx. **Sodium Benzoate** – see Paragraph 17(a)(xxii);<sup>56</sup>
- 9 xxi. **Sodium Coco-sulfate** – a synthetic surfactant;<sup>57</sup>
- 10 xxii. **Sodium Cocoyl Isethionate** – a synthetic surfactant;<sup>58</sup>
- 11 xxiii. **Sodium Hydroxide** – see Paragraph 17(a)(xxv);<sup>59</sup>
- 12 xxiv. **Sodium Lauryl Sulfoacetate** – a synthetic surfactant;<sup>60</sup>

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13 (Rejuvenating Papaya Mango), Natural Hawaiian Body Wash (Renewing Passion Fruit) and  
14 Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

15 <sup>53</sup> <http://www.ewg.org/skindeep/ingredient/705137/POLYSORBATE-20/>. Found in Natural  
16 Hawaiian Cocktail Body Wash (Creamy Pina Colada and Revitalizing Mai Tai varieties).

17 <sup>54</sup> Found in Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

18 <sup>55</sup> [http://www.ewg.org/skindeep/ingredient/705545/RETINYL\\_PALMITATE\\_%28VITAMIN\\_A\\_PALMITATE%29/#](http://www.ewg.org/skindeep/ingredient/705545/RETINYL_PALMITATE_%28VITAMIN_A_PALMITATE%29/#). Found in Natural Hawaiian Cream Body Wash (Nourishing Coconut  
19 Milk).

20 <sup>56</sup> Found in Natural Hawaiian Cocktail Body Wash (Creamy Pina Colada, Revitalizing Mai Tai,  
21 and Exfoliating Lava Flow varieties) and Hawaiian Body Wash (Renewing Passion Fruit).

22 <sup>57</sup> [http://www.ewg.org/skindeep/ingredient/706033/SODIUM\\_COCO-SULFATE/](http://www.ewg.org/skindeep/ingredient/706033/SODIUM_COCO-SULFATE/). Found in  
23 Natural Hawaiian Cocktail Body Wash (Creamy Pina Colada, Revitalizing Mai Tai and  
24 Exfoliating Lava Flow varieties).

25 <sup>58</sup> [http://www.ewg.org/skindeep/ingredient/706048/SODIUM\\_COCOYL\\_ISETHIONATE/](http://www.ewg.org/skindeep/ingredient/706048/SODIUM_COCOYL_ISETHIONATE/).  
26 Found in Natural Very Emollient Bath & Shower Gel (French Lavender, Honey Mango,  
27 Midnight Tuberose, Sparkling Mint and Island Citrus varieties) and Natural Hawaiian Cocktail  
28 Body Wash (Exfoliating Lava Flow).

29 <sup>59</sup> Found in Natural Hawaiian Exfoliating Body Wash (Rejuvenating Papaya Mango).

30 <sup>60</sup> [http://www.ewg.org/skindeep/ingredient/706111/SODIUM\\_LAURYL\\_SULFOACETATE/](http://www.ewg.org/skindeep/ingredient/706111/SODIUM_LAURYL_SULFOACETATE/).  
31 Found in Natural Very Emollient Bath & Shower Gel (French Lavender, Honey Mango,  
32 Midnight Tuberose, Sparkling Mint and Island Citrus varieties) and Natural Hawaiian Body  
33 Wash (Renewing Passion Fruit).

1 xxv. *Sodium PCA* – see Paragraph 17(a)(xxvi);<sup>61</sup>

2 xxvi. *Sorbitan Laurate* – a synthetic surfactant and emulsifying  
3 agent;<sup>62</sup>

4 xxvii. *Soyamidopropalkonium Chloride* – a synthetic antistatic  
5 agent;<sup>63</sup>

6 xxviii. *Stearyl Alcohol* – see Paragraph 17(a)(xxviii);<sup>64</sup> and

7 xxix. *Tocopheryl Acetate* – see Paragraph 17(a)(xxix).<sup>65</sup>

8 c. The Hair Care Products each contain seven or more of the following  
9 unnatural synthetic ingredients.

10 i. *Amodimethicone* – a synthetic silicon based polymer.<sup>66</sup>

11 ii. *Ascorbic Acid* – See Paragraph 17(a)(ii).<sup>67</sup>

12 iii. *Behentrimonium Chloride* – a synthetic preservative.<sup>68</sup>

13 iv. *Benzyl Benzoate* – See Paragraph 17(a)(iii).<sup>69</sup>

14 <sup>61</sup> Found in Natural Hawaiian Cocktail Body Wash (Creamy Pina Colada), Natural Hawaiian  
15 Exfoliating Body Wash (Rejuvenating Papaya Mango) and Natural Hawaiian Cream Body Wash  
(Nourishing Coconut Milk).

16 <sup>62</sup> [http://www.ewg.org/skindeep/ingredient/706229/SORBITAN\\_LAURATE/](http://www.ewg.org/skindeep/ingredient/706229/SORBITAN_LAURATE/). Found in Natural  
17 Hawaiian Exfoliating Body Wash (Rejuvenating Papaya Mango).

18 <sup>63</sup> [http://www.ewg.org/skindeep/ingredient/724078/SOYAMIDOPROPALKONIUM\\_CHLORID](http://www.ewg.org/skindeep/ingredient/724078/SOYAMIDOPROPALKONIUM_CHLORIDE)  
19 E. Found in Natural Hawaiian Body Wash (Renewing Passion Fruit).

20 <sup>64</sup> Found in Natural Hawaiian Cream Body Wash (Nourishing Coconut Milk).

21 <sup>65</sup> Found in Natural Hawaiian Cocktail Body Wash (Creamy Pina Colada, Revitalizing Mai Tai  
22 and Exfoliating Lava Flow varieties) and Hawaiian Cream Body Wash (Nourishing Coconut  
23 Milk).

24 <sup>66</sup> <http://www.ewg.org/skindeep/ingredient/700387/AMODIMETHICONE/>. Found in Natural  
25 Hawaiian Conditioner (All varieties except for Real Repair Cocoa Butter).

26 <sup>67</sup> Found in Natural Hawaiian Shampoo (Body Builder Mango and Real Repair Cocoa Butter  
27 varieties).

28 <sup>68</sup> [http://www.ewg.org/skindeep/ingredient/700657/BEHENTRIMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/700657/BEHENTRIMONIUM_CHLORIDE/). Found  
in Natural Hawaiian Conditioner (All varieties).

<sup>69</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria and Real Repair Cocoa Butter  
varieties) and Natural Hawaiian Conditioner (Colorific Plumeria and Real Repair Cocoa Butter  
varieties).

- 1 v. *Benzyl Salicylate* – See Paragraph 17(a)(iv).<sup>70</sup>
- 2 vi. *Butylphenyl Methylpropional* – See Paragraph 17(b)(iv).<sup>71</sup>
- 3 vii. *Caprylic/Capric Triglyceride* – a synthetic fragrance and skin-  
4 conditioning ingredient.<sup>72</sup>
- 5 viii. *Centrimonium Chloride* – a synthetic preservative.<sup>73</sup>
- 6 ix. *Cocamidopropyl Betaine* – See Paragraph 17(a)(viii);<sup>74</sup>
- 7 x. *Dimethicone* – See Paragraph 17(a)(viii).<sup>75</sup>
- 8 xi. *Dehydroacetic Acid* – a synthetic preservative.<sup>76</sup>
- 9 xii. *Ethylhexylglycerin* – See Paragraph 17(a)(xi).<sup>77</sup>
- 10 xiii. *Fragrance* – See Paragraph 17(a)(xii).<sup>78</sup>
- 11 xiv. *Glyceryl Stearate SE* – See Paragraph 17(a)(xiv).<sup>79</sup>

12 <sup>70</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria, Drink It Up Coconut Milk and So  
13 Smooth Gardenia varieties) and Natural Hawaiian Conditioner (Colorific Plumeria and Drink It  
Up Coconut Milk variety).

14 <sup>71</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria) and Natural Hawaiian Conditioner  
15 (Colorific Plumeria and So Smooth Gardenia varieties).

16 <sup>72</sup>[http://www.ewg.org/skindeep/ingredient/701056/CAPRYLIC%3B%3B\\_CAPRIC\\_TRIGLYCE  
RIDE/](http://www.ewg.org/skindeep/ingredient/701056/CAPRYLIC%3B%3B_CAPRIC_TRIGLYCE_RIDE/). Found in Natural Hawaiian Leave-In Conditioning Mist (Drink It Up Coconut Milk).

17 <sup>73</sup> [http://www.ewg.org/skindeep/ingredient/701258/CETRIMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/701258/CETRIMONIUM_CHLORIDE/). Found in  
18 Natural Hawaiian Conditioner (Body Builder Mango and Real Repair Cocoa butter varieties).

19 <sup>74</sup> Found in Natural Hawaiian Shampoo (all varieties) and Natural Hawaiian Conditioner (all  
varieties).

20 <sup>75</sup> Found in Natural Hawaiian Shampoo (Drink It Up Coconut Milk) and Natural Hawaiian  
21 Conditioner (Body Builder Mango and Real Repair Cocoa Butter varieties).

22 <sup>76</sup> [http://www.ewg.org/skindeep/ingredient/701893/DEHYDROACETIC\\_ACID/](http://www.ewg.org/skindeep/ingredient/701893/DEHYDROACETIC_ACID/). Found in  
23 Natural Hawaiian Shampoo (Body Builder Mango, So Smooth Gardenia, Gloss Boss Honeydew,  
and Real Repair Cocoa Butter varieties)

24 <sup>77</sup> Found in Natural Hawaiian Shampoo (So Smooth Gardenia) and Natural Hawaiian  
Conditioner (Colorific Plumeria, Drink It Up Coconut Milk, So Smooth Gardenia and Gloss  
25 Boss Honeydew varieties).

26 <sup>78</sup> Found in Natural Hawaiian Shampoo (all varieties).

27 <sup>79</sup> Found in Natural Hawaiian Leave-In Conditioning Mist (Drink It Up Coconut Milk), and  
Natural Hawaiian Conditioner (Body Builder Mango and Real Repair Cocoa Butter varieties).  
28

- 1                    xv. ***Guar Hydroxypropyltrimonium Chloride*** – a synthetic hair
- 2                                            conditioning and antistatic agent.<sup>80</sup>
- 3                    xvi. ***Hydroxyisohexyl 3-Cyclohexene Carboxaldehyde*** – a
- 4                                            fragrance ingredient associated with allergic reactions in people
- 5                                            with pre-existing eczema.<sup>81</sup>
- 6                    xvii. ***Phenoxyethanol*** – See Paragraph 17(b)(xix).<sup>82</sup>
- 7                    xviii. ***Polysorbate 60*** – See Paragraph 17(a)(xx).<sup>83</sup>
- 8                    xix. ***Retinyl Palmitate*** – See Paragraph 17(b)(xix).<sup>84</sup>
- 9                    xx. ***Sodium Benzoate*** – See Paragraph 17(a)(xxii).<sup>85</sup>
- 10                    xxi. ***Sodium Coco-Sulfate*** – See Paragraph 17(b)(xxi).<sup>86</sup>
- 11                    xxii. ***Sodium Cocoyl Isethionate*** – see Paragraph 17(b)(xxii);<sup>87</sup>
- 12                    xxiii. ***Sodium Lauryl Sulfoacetate*** – see Paragraph 17(b)(xxiv);<sup>88</sup>

13 \_\_\_\_\_  
 14 <sup>80</sup>[http://www.ewg.org/skindeep/ingredient/702759/GUAR\\_HYDROXYPROPYLTRIMONIUM\\_](http://www.ewg.org/skindeep/ingredient/702759/GUAR_HYDROXYPROPYLTRIMONIUM_CHLORIDE/)  
 15 [CHLORIDE/](http://www.ewg.org/skindeep/ingredient/702759/GUAR_HYDROXYPROPYLTRIMONIUM_CHLORIDE/). Found in Natural Hawaiian Shampoo (all varieties) and Natural Hawaiian  
 16 Conditioner (Colorific Plumeria, Drink It Up Coconut Milk, So Smooth Gardenia and Gloss  
 17 Boss Honeydew varieties).

16 <sup>81</sup> <http://www.truthinaging.com/ingredients/hydroxyisohexyl-3-cyclohexene-carboxaldehyde>.  
 17 Found in Natural Hawaiian Shampoo (Colorific Plumeria and So Smooth Gardenia varieties) and  
 18 Natural Hawaiian Conditioner (Colorific Plumeria and So Smooth Gardenia varieties).

18 <sup>82</sup> Found in Natural Hawaiian Shampoo (Body Builder Mango, So Smooth Gardenia, Gloss Boss  
 19 Honeydew and Real Repair Cocoa Butter varieties), Natural Hawaiian Leave-In Conditioning  
 20 Mist (Drink It Up Coconut Milk) and Natural Hawaiian Conditioner (all varieties).

20 <sup>83</sup> Found in Natural Hawaiian Conditioner (Body Builder Mango and Real Repair Cocoa Butter  
 21 varieties).

21 <sup>84</sup> Found in Natural Hawaiian Shampoo (Body Builder Mango and Real Repair Cocoa Butter  
 22 varieties), Natural Hawaiian Leave-In Conditioning Mist (Drink It Up Coconut Milk) and  
 23 Natural Hawaiian Conditioner (Body Builder Mango and Real Repair Coconut Butter varieties).

23 <sup>85</sup> Found in Natural Hawaiian Shampoo (all varieties), Natural Hawaiian Leave-In Conditioning  
 24 Mist (Drink It Up Coconut Milk) and Natural Hawaiian Conditioner (all varieties except for  
 25 Gloss Boss Honeydew).

25 <sup>86</sup> Found in Natural Hawaiian Shampoo (Body Builder Mango and Real Repair Cocoa Butter  
 26 varieties).

27 <sup>87</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria, So Smooth Gardenia, Gloss Boss  
 28 Honeydew and Real Repair Cocoa Butter varieties)

1 xxiv. *Sodium PCA* – See Paragraph 17(b)(xxvi).<sup>89</sup>

2 xxv. *Sodium Stearoyl Glutamate* – a synthetic hair conditioning  
3 agent.<sup>90</sup>

4 xxvi. *Triethyl Citrate* – a synthetic hair conditioning agent.<sup>91</sup>

5 xxvii. *Tocopheryl Acetate* – See Paragraph 17(a)(xxix).<sup>92</sup>

6 18. As set forth herein, Plaintiffs and the members of the Classes and  
7 Subclasses described below suffered an ascertainable loss in at least the following  
8 amounts, in that they paid a premium for the Products over comparable products  
9 that are not represented to be comprised entirely of natural ingredients:

#### Lotion Products

<p>11 <b><i>Alba Botanica “Natural” Product:</i></b> Natural Very Emollient Body 12 Lotion (Original, Unscented and Maximum varieties)</p>	<p><b><i>Price:</i></b> \$11.50-\$12.00/12 13 oz<sup>93</sup></p>	<p><b><i>Price Per Ounce:</i></b> \$0.96-\$1.00</p>
<p>14 <b><i>Comparable product:</i></b> Nature’s Gate Herbal Skin 15 Therapy Lotion</p>	<p><b><i>Price:</i></b> \$9.79/18 oz<sup>94</sup></p>	<p><b><i>Price Per Ounce:</i></b> \$0.54</p>

17 <sup>88</sup> Found in Natural Hawaiian Shampoo (all varieties except for Real Repair Cocoa Butter),  
18 Natural Hawaiian Conditioner (Colorific Plumeria, So Smooth Gardenia, Gloss Boss Honeydew  
and Real Repair Cocoa Butter varieties).

19 <sup>89</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria, Drink It Up Coconut Milk and  
20 Gloss Boss Honeydew varieties), Natural Hawaiian Leave-In Conditioning Mist (Drink It Up  
Coconut Milk) and Natural Hawaiian Conditioner (Body Builder Mango).

21 <sup>90</sup>[http://www.ewg.org/skindeep/ingredient/706192/SODIUM\\_STEAROYL\\_GLUTAMATE](http://www.ewg.org/skindeep/ingredient/706192/SODIUM_STEAROYL_GLUTAMATE).  
22 Found in Natural Hawaiian Leave-In Conditioning Mist (Drink It Up Coconut Milk).

23 <sup>91</sup> [http://www.ewg.org/skindeep/ingredient/706644/TRIETHYL\\_CITRATE/](http://www.ewg.org/skindeep/ingredient/706644/TRIETHYL_CITRATE/). Found in Natural  
Hawaiian Leave-In Conditioning Mist (Drink It Up Coconut Milk).

24 <sup>92</sup> Found in Natural Hawaiian Shampoo (Colorific Plumeria, Drink It Up Coconut Milk, Gloss  
25 Boss Honeydew and Real Repair Cocoa Butter varieties), Natural Hawaiian Leave-In  
Conditioning Mist (Drink It Up Coconut Milk) and Natural Hawaiian Conditioner (Body Builder  
Mango and Real Repair Cocoa Butter varieties).

26 <sup>93</sup> <http://www.albaboranica.com/body/body-moisturizers.html>

27 <sup>94</sup> <http://www.drugstore.com/natures-gate-herbal-skin-therapy-lotion/qxp40898?catid=182936>

<b><i>Premium paid per ounce:</i></b>	\$0.42-\$0.46
<b><i>Premium paid per 12 ounce product:</i></b>	<b>\$5.04 - \$5.52</b>

<b><i>Alba Botanica “Natural” Product:</i></b> Natural Very Emollient Body Lotion (Daily Shade Formula, SPF 15)	<b><i>Price:</i></b> \$14.50/12 oz <sup>95</sup>	<b><i>Price Per Ounce:</i></b> \$1.21
<b><i>Comparable product:</i></b> Aveeno Daily Moisturizing Lotion with Sunscreen, SPF 15	<b><i>Price:</i></b> (\$11.79/12 oz) <sup>96</sup>	<b><i>Price Per Ounce:</i></b> \$0.98
<b><i>Premium paid per ounce:</i></b>	\$0.23	
<b><i>Premium paid per 12 ounce product:</i></b>	<b>\$2.76</b>	

<b><i>Alba Botanica “Natural” Product:</i></b> Natural Hawaiian After Sun Lotion (Replenishing Kona Coffee)	<b><i>Price:</i></b> \$11.95/8.5 oz <sup>97</sup>	<b><i>Price Per Ounce:</i></b> \$1.41
<b><i>Comparable product:</i></b> Banana Boat Aloe After Sun Lotion	<b><i>Price:</i></b> \$6.99/16 oz <sup>98</sup>	<b><i>Price Per Ounce:</i></b> \$0.44
<b><i>Premium paid per ounce:</i></b>	\$0.97	
<b><i>Premium paid per 8.5 ounce product</i></b>	<b>\$8.25</b>	

<b><i>Alba Botanica “Natural” Product:</i></b>	<b><i>Price:</i></b>	<b><i>Price Per</i></b>
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<sup>95</sup> <http://www.albaboranica.com/body/body-moisturizers/daily-shade-spf-15.html>

<sup>96</sup> <http://www.drugstore.com/aveeno-active-naturals-daily-moisturizing-lotion-spf-15/qxp184048?catid=184131>

<sup>97</sup> <http://www.albaboranica.com/sun/after-sun/replenishing-kona-coffee.html>

<sup>98</sup> <http://www.drugstore.com/banana-boat-aloe-after-sun-lotion/qxp16175?catid=184130>

1	Natural Hawaiian Hand & Body Lotion (Replenishing Cocoa Butter)	\$10.50/7 oz <sup>99</sup>	<b>Ounce:</b> \$1.50
2			
3	<b>Comparable product:</b> J.R. Watkins Hand & Body Cream	<b>Price:</b> \$10.89/11 oz <sup>100</sup>	<b>Price Per Ounce:</b> \$0.99
4			
5	<b>Premium paid per ounce:</b>		\$0.51
6	<b>Premium paid per 7 oz product:</b>		<b>\$3.57</b>

7			
8	<b>Alba Botanica "Natural" Product:</b> Natural Hawaiian Body Cream (Deep Moisturizing Kukui Nut, Rejuvenating Papaya Mango, Nourishing Coconut Milk)	<b>Price:</b> \$13.99/6.5 oz <sup>101</sup>	<b>Price Per Ounce:</b> \$2.15
9			
10			
11			
12			
13	<b>Comparable product:</b> Burt's Bees Body Butter	<b>Price:</b> \$12.99/6.5 oz <sup>102</sup>	<b>Price Per Ounce:</b> \$2.00
14			
15	<b>Premium paid per ounce:</b>		\$0.15
16	<b>Premium paid per 6.5 oz product:</b>		<b>\$1.00</b>

### Body Wash Products

17			
18	<b>Alba Botanica "Natural" Product:</b> Natural Very Emollient Bath & Shower Gel (all varieties)	<b>Price:</b> \$9.50/12 oz <sup>103</sup>	<b>Price Per Ounce:</b> \$0.79
19			
20			
21	<b>Comparable product:</b>	<b>Price:</b>	<b>Price Per</b>

22 <sup>99</sup> <http://www.albobotanica.com/body/body-moisturizers/replenishing-cocoa-butter.html>

23 <sup>100</sup> <http://www.drugstore.com/j-r-watkins-hand-and-body-lotion-lemon-cream/qxp232806?catid=182918>

24 <sup>101</sup> <http://www.albobotanica.com/body/body-moisturizers.html>

25 <sup>102</sup> <http://www.drugstore.com/burts-bees-body-butter-mango-and-orange/qxp353587?catid=182923>

26 <sup>103</sup> <http://www.albobotanica.com/body/bath-shower.html>

1	Nature's Gate Velvet Moisture Body Wash	\$7.49/18 oz <sup>104</sup>	<b>Ounce:</b> \$.42
2			
3	<b>Premium paid per ounce:</b>		\$0.37
4	<b>Premium paid per 12 fl oz product:</b>		<b>\$4.44</b>

5			
6	<b>Alba Botanica "Natural" Product:</b> Natural Hawaiian Body Wash (Creamy Pina Colada, 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26 27 28	<b>Price:</b> \$8.95/12 oz <sup>105</sup>	<b>Price Per Ounce:</b> \$0.75
	<b>Comparable product:</b> Nature's Gate Velvet Moisture Body Wash	<b>Price:</b> \$7.49/18 oz <sup>106</sup>	<b>Price Per Ounce:</b> \$0.42
	<b>Premium paid per ounce:</b>		\$0.33
	<b>Premium paid per 12 oz product:</b>		<b>\$3.96</b>

	<b>Alba Botanica "Natural" Product:</b> Natural Hawaiian Body Wash (Renewing Passion Fruit, Rejuvenating Papaya Mango and Nourishing Coconut Milk varieties)	<b>Price:</b> \$10.50/7 oz <sup>107</sup>	<b>Price Per Ounce:</b> \$1.50
	<b>Comparable product:</b> Nature's Gate Velvet	<b>Price:</b> \$7.49/18 oz <sup>108</sup>	<b>Price Per Ounce:</b>

<sup>104</sup> <http://www.drugstore.com/natures-gate-moisture-body-wash-aloe-vera-velvet/qxp195918>

<sup>105</sup> <http://www.albobotanica.com/body/bath-shower.html>

<sup>106</sup> <http://www.amazon.com/Natures-Gate-Moisture-Pomegranate-Sunflower/dp/B004LLB9WW>

<sup>107</sup> <http://www.albobotanica.com/body/bath-shower.html>

<sup>108</sup> <http://www.amazon.com/Natures-Gate-Moisture-Pomegranate-Sunflower/dp/B004LLB9WW>

1	Moisture Body Wash	\$0.42
2	<b>Premium paid per ounce:</b>	<b>\$1.08</b>
3	<b>Premium paid per 7 oz product:</b>	<b>\$7.56</b>

#### Hair Care Products

5	<b>Alba Botanica "Natural" Product:</b>	<b>Price:</b>	<b>Price Per</b>
6	Natural Hawaiian Shampoo	\$10.50/12 oz <sup>109</sup>	<b>Ounce:</b>
7	(Colorific Plumeria, Body		\$0.88
8	Builder Mango, Drink It Up		
9	Coconut Milk, So Smooth		
10	Gardenia, Gloss Boss		
11	Honeydew and Real Repair		
11	Cocoa Butter varieties)		
12	<b>Comparable product:</b>	<b>Price:</b>	<b>Price Per</b>
13	Nature's Gate Awapuhi	\$6.59/18 oz <sup>110</sup>	<b>Ounce:</b>
14	Shampoo		\$0.37
15	<b>Premium paid per ounce:</b>		<b>\$0.51</b>
16	<b>Premium paid per 12 oz product:</b>		<b>\$6.12</b>

18	<b>Alba Botanica "Natural" Product:</b>	<b>Price:</b>	<b>Price Per</b>
19	Natural Hawaiian	\$10.50/12 oz <sup>111</sup>	<b>Ounce:</b>
20	Conditioner (Colorific		\$0.88
21	Plumeria, Body Builder		
22	Mango, Drink It Up Coconut		
23	Milk, So Smooth Gardenia,		
24	Gloss Boss Honeydew, Real		
24	Repair Cocoa Butter)		

<sup>109</sup> <http://www.albobotanica.com/hair/shampoos.html>

<sup>110</sup> <http://www.drugstore.com/natures-gate-awapuhi-volumizing-shampoo/qxp168599?catid=183491>

<sup>111</sup> <http://www.albobotanica.com/hair/conditioners.html>

1	<b>Comparable product:</b> Nature's Gate Awapuhi	<b>Price:</b> \$6.69/18 oz <sup>112</sup>	<b>Price Per</b>
2	Conditioner		<b>Ounce:</b> \$0.37
3	<b>Premium paid per ounce:</b>		\$0.51
4	<b>Premium paid per 12 oz product:</b>		<b>\$6.12</b>

6	<b>Alba Botanica "Natural" Product:</b>	<b>Price:</b>	<b>Price Per</b>
7	Natural Hawaiian Leave-In	\$8.99/8 oz <sup>113</sup>	<b>Ounce:</b>
8	Conditioning Mist (Drink It		\$1.12
9	Up Coconut Milk)		
10	<b>Comparable product:</b>	<b>Price:</b>	<b>Price Per Ounce:</b>
11	Palmer's Coconut Oil	\$4.99/ 8.5 oz <sup>114</sup>	\$0.59
12	Formula Replenishing Hair		
13	Mist		
14	<b>Premium paid per ounce:</b>		\$0.53
15	<b>Premium paid per 8 oz product</b>		<b>\$4.24</b>

19. Based on the foregoing, Plaintiffs and the Classes and Subclasses have been damaged.

### CLASS ACTION ALLEGATIONS

20. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23 on behalf of themselves and the Classes (the "Classes") defined as follows:

- a. All purchasers of the Products in the States of Alabama, Alaska, Arkansas, California, Connecticut, Delaware, Florida, Hawaii, Illinois, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Missouri, Montana, Nebraska, New

<sup>112</sup> <http://www.drugstore.com/natures-gate-awapuhi-volumizing-conditioner/qxp169425>

<sup>113</sup> <http://www.albabotanica.com/hair/conditioners.html>

<sup>114</sup> <http://www.drugstore.com/palmers-coconut-oil-formula-replenishing-hair-milk/qxp410984?catid=183407>

1 Hampshire, New Jersey, New York, North Carolina, Ohio,  
2 Rhode Island, South Carolina, Tennessee, Vermont,  
3 Washington, West Virginia, Wisconsin and the District of  
4 Columbia who purchased the Products primarily for personal,  
5 family or household purposes. Specifically excluded from this  
6 Class are Defendant; the officers, directors or employees of  
7 Defendant; any entity in which Defendant has a controlling  
8 interest; any affiliate, legal representative, heir or assign of  
9 Defendant; the judge to whom this case is assigned and any  
10 member of the judge's immediate family (the "Count VI  
11 Class"); in the alternative,

12 b. All purchasers of the Products in the States of Alaska,  
13 Arkansas, California, Connecticut, Delaware, Florida, Hawaii,  
14 Illinois, Kentucky, Maine, Maryland, Massachusetts, Michigan,  
15 Missouri, Nebraska, New Hampshire, New Jersey, New York,  
16 North Carolina, Ohio, Rhode Island, Vermont, Washington,  
17 West Virginia, Wisconsin and the District of Columbia who  
18 purchased the Products primarily for personal, family or  
19 household purposes. Specifically excluded from this Class are  
20 Defendant; the officers, directors or employees of Defendant;  
21 any entity in which Defendant has a controlling interest; any  
22 affiliate, legal representative, heir or assign of Defendant; the  
23 judge to whom this case is assigned and any member of the  
24 judge's immediate family (the "Count V Class").

25 21. Plaintiff Balser seeks to represent the following Subclasses:

26 All purchasers of the Products in the State of Washington who  
27 purchased the Products primarily for personal, family or  
28 household purposes. Specifically excluded from this Class are  
Defendant; the officers, directors or employees of Defendant;  
any entity in which Defendant has a controlling interest; and  
any affiliate, legal representative, heir or assign of Defendant.  
Also excluded are the judge to whom this case is assigned and  
any member of the judge's immediate family (the "Washington  
Subclass"); and

All purchasers of the Products in the State of New Hampshire  
who purchased the Products primarily for personal, family or  
household purposes. Specifically excluded from this Class are

1 Defendant; the officers, directors or employees of Defendant;  
2 any entity in which Defendant has a controlling interest; and  
3 any affiliate, legal representative, heir or assign of Defendant.  
4 Also excluded are the judge to whom this case is assigned and  
5 any member of the judge's immediate family (the "New  
6 Hampshire Subclass").

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22. Plaintiff Kresha seeks to represent the following Subclass:

All purchasers of the Products in the State of California who purchased the Products primarily for personal, family or household purposes. Specifically excluded from this Class are Defendant; the officers, directors or employees of Defendant; any entity in which Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of Defendant. Also excluded are the judge to whom this case is assigned and any member of the judge's immediate family (the "California Subclass").

23. The Classes and Subclasses are sufficiently numerous, as the Products are sold in thousands of stores and they include thousands of persons who have purchased the Products.

24. There are questions of law and fact common to the Classes and Subclasses and these questions predominate over questions affecting only individual Class and Subclass members. Common legal and factual questions include, but are not limited to:

- a. whether Defendant markets the Products in a way that is unfair, deceptive, false or misleading to a reasonable consumer;
- b. whether, by the misconduct set forth in this Complaint, Defendant has engaged in unfair, deceptive, or unlawful business practices with respect to the advertising, marketing, and sales of its Products;
- c. whether Defendant's conduct constitutes fraudulent, unfair, or unlawful conduct; and

1           d. whether, as a result of Defendant’s misconduct alleged herein,  
2           Plaintiffs and the Classes and Subclasses are entitled to restitution,  
3           injunctive and/or other monetary relief.

4           25. Plaintiffs will fairly and adequately represent the Classes and  
5 Subclasses and have retained counsel experienced and competent in the  
6 prosecution of consumer and class action litigation. Plaintiffs have no interests  
7 antagonistic to those of other members of the Classes or Subclasses. Plaintiffs are  
8 committed to the vigorous prosecution of this action and have retained counsel  
9 experienced in litigation of this nature to represent them. Plaintiffs anticipate no  
10 difficulty in the management of this litigation as a class action.

11           26. Plaintiffs’ claims are typical of the claims of the members of the  
12 Classes and Subclasses as all members of the Classes and Subclasses are similarly  
13 affected by Defendant’s wrongful conduct.

14           27. A class action is superior to other available methods for the fair and  
15 efficient adjudication of the controversy. Moreover, it would be impracticable and  
16 undesirable for each class member who suffered harm to bring a separate action.  
17 Because of the amount of the individual Class and Subclass members’ claims  
18 relative to the complexity of the litigation and the financial resources of the  
19 Defendant, few, if any, members of the Classes and Subclasses would seek legal  
20 redress individually for the wrongs complained of here. In addition, the  
21 maintenance of separate actions would place a substantial and unnecessary burden  
22 on the courts and could result in inconsistent adjudications, while a single class  
23 action can determine the rights of all class members with judicial economy.  
24 Absent a class action, Class members will continue to suffer damages and  
25 Defendant’s misconduct will proceed without remedy.

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**FIRST CAUSE OF ACTION**

**(Violation of the Unfair Competition Law (the “UCL”) Cal. Bus. & Prof. Code §17200, et seq. Based on Fraudulent, Unlawful and Unfair Acts and Practices brought by Plaintiff Kresha on behalf of the California Subclass)**

28. The foregoing allegations are realleged and incorporated by reference as if fully set forth herein.

29. Plaintiff Kresha asserts this First Cause of Action on behalf of the California Subclass.

30. Under the UCL, “any unlawful, unfair or fraudulent business act or practice” constitutes unfair competition.

*Fraudulent Acts and Practices*

31. Any business act or practice that is likely to deceive members of the public constitutes a fraudulent business act or practice under the UCL.

32. Defendant has engaged, and continues to engage, in conduct that is likely to deceive members of the public. This conduct includes, but is not limited to, representing the Products as “Natural,” leading consumers to believe the Products contained only natural ingredients.

33. By committing the acts alleged above, Defendant has engaged in fraudulent business acts and practices, which constitute unfair competition within the meaning of Cal. Bus. & Prof. Code §17200.

*Unlawful Acts and Practices*

34. The violation of any law constitutes an unlawful business practice under Cal. Bus. & Prof. Code §17200.

35. Defendant’s conduct violates Section 5 of the Federal Trade Commission (“FTC”) Act, 15 U.S.C. § 45, which prohibits unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce. By representing that the Products are “Natural” when, in fact, the products contain numerous synthetic ingredients, Defendant violated Section 5 of the FTC Act.

1 36. Defendant's conduct also violates Cal. Health & Safety Code  
2 §111730, which prohibits the sale of any misbranded cosmetic product. The  
3 Products, that bear labeling stating, "Natural" are "false and misleading in any  
4 particular" in violation of Health & Safety Code §111730.

5 37. By violating the FTC Act and/or Cal. Health & Safety Code §111730,  
6 Defendant has engaged in unlawful business acts and practices which constitute  
7 unfair competition within the meaning of Cal. Bus. & Prof. Code §17200.

8 *Unfair Acts and Practices*

9 38. Any business practice that offends an established public policy or is  
10 immoral, unethical, oppressive, unscrupulous, or substantially injurious to  
11 consumers constitutes an "unfair" practice under the UCL.

12 39. Defendant has engaged, and continues to engage, in unfair business  
13 practices. This conduct includes representing that the Products are "Natural"  
14 when, in fact, they contain numerous synthetic and unnatural ingredients.

15 40. Defendant has engaged, and continues to engage, in conduct that  
16 violates the legislatively declared policies of the FTC Act against committing  
17 unfair methods of competition and unfair or deceptive acts or practices in or  
18 affecting commerce. Defendant gains an unfair advantage over its competitors,  
19 whose advertising for Products must comply with the FTC Act.

20 41. Defendant's conduct, including misrepresenting the benefits of the  
21 Products, is substantially injurious to consumers. Such conduct has, and continues  
22 to cause, substantial injury to consumers because consumers would not have paid  
23 such a high price for the Products but for Defendant's false promotion that the  
24 Products are "Natural." Consumers have thus overpaid for the Products and such  
25 injury is not outweighed by any countervailing benefits to consumers or  
26 competition.

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1 42. No benefit to consumers or competition results from Defendant's  
2 conduct. Since consumers reasonably rely on Defendant's representations of the  
3 products and injury results from ordinary use of the Products, consumers could not  
4 have reasonably avoided such injury.

5 43. By committing the acts alleged above, Defendant has engaged in  
6 unfair business acts and practices which constitute unfair competition within the  
7 meaning of the UCL.

8 44. As a result of the conduct described above, Defendant has been  
9 unjustly enriched at the expense of Plaintiffs, the Class, and the California  
10 Subclass.

11 45. An action for injunctive relief and restitution is specifically authorized  
12 under Cal. Bus. & Prof. Code §17203.

13 46. Wherefore, Plaintiffs pray for judgment against Defendant, as set  
14 forth hereafter.

15 **SECOND CAUSE OF ACTION**  
16 **(Violation of the Consumers Legal Remedies Act (the "CLRA"),**  
**Cal. Civ. Code §1750 *et seq.* brought by Plaintiff Kresha on behalf of the**  
17 **California Subclass)**

18 47. The foregoing allegations are realleged and incorporated by reference  
19 as if fully set forth herein.

20 48. Plaintiff Kresha asserts this Second Cause of Action on Behalf of the  
21 California Subclass.

22 49. Plaintiffs and each member of the Class and California Subclass are  
23 "consumers" within the meaning of Cal. Civ. Code §1761(d).

24 50. The purchases of the Products constitute "transactions" within the  
25 meaning of Cal. Civ. Code §1761(e) and the Products offered by Defendant  
26 constitute "goods" within the meaning of Cal. Civ. Code §1761(a).

27 51. The acts and practices of Defendant as described above were intended  
28 to deceive Plaintiffs and members of the Class as described herein, and have

1 resulted, and will result, in damages to Plaintiffs, the Class and the California  
2 Subclass. These actions violated and continue to violate the CLRA in at least the  
3 following respects:

4 a. In violation of Section 1770(a)(5) of the CLRA, Defendant's acts and  
5 practices constitute representations that the Products have characteristics, uses  
6 and/or benefits which they do not;

7 b. In violation of Section 1770(a)(7) of the CLRA, Defendant's acts and  
8 practices constitute representations that the Products are of a particular standard,  
9 grade or quality which they are not; and

10 c. In violation of Section 1770(a)(9) of the CLRA, Defendant's acts and  
11 practices constitute the advertisement of the goods in question without the intent to  
12 sell them as advertised.

13 52. By reason of the foregoing, Plaintiffs and the Class have suffered an  
14 ascertainable loss and damages.

15 53. By committing the acts alleged above, Defendant has violated the  
16 CLRA.

17 54. In compliance with the provisions of Cal. Civ. Code § 1782, Plaintiff  
18 provided written notice to Defendant on August 2, 2013 regarding her intention to  
19 amend the Complaint to seek damages under Cal. Civ. Code § 1750, *et seq.* As of  
20 the date of this amended complaint, Defendant has failed to withdraw and/or  
21 correct its advertising as to the products at issue in the complaint and has not  
22 provided appropriate consideration or other remedy to all affected consumers.

23 55. Plaintiff seeks damages pursuant to Cal. Civ. Code § 1781(a) on  
24 behalf of Plaintiff and the California Subclass resulting from Defendant's wrongful  
25 acts and practices alleged herein and seek the payment of costs and attorneys' fees  
26 and any other relief deemed appropriate and proper by the Court under Cal. Civ.  
27 Code § 1780.

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1 72. Plaintiff and the Washington Subclass are entitled to recover damages  
2 and recover appropriate equitable relief, as alleged below.

3 **FIFTH CAUSE OF ACTION**  
4 **(Violation of State Consumer Protection Laws)**  
5 **(Brought by Plaintiffs on Behalf of the Count V Class)**

6 73. Plaintiffs restate the foregoing allegations as if alleged fully herein.

7 74. Plaintiffs assert this cause of action on behalf of the Count V Class  
8 under the state laws listed in Paragraph 75 below.

9 75. The practices discussed above all constitute unfair competition or  
10 unfair, unconscionable, deceptive, or unlawful acts or business practices in  
11 violation of the following state consumer protection statutes:<sup>115</sup>

- 12 a. **Alaska Unfair Trade Practices and Consumer Protection Act**,  
13 Alaska Stat. § 45.50.471, *et seq.*;
- 14 b. **Arkansas Deceptive Trade Practices Act**, Ark. Code Ann. § 4-88-  
15 101, *et seq.*;
- 16 c. **California Consumer Legal Remedies Act**, Cal. Civ. Code § 1750 *et*  
17 *seq.*, **California Unfair Competition Law**, Cal. Bus. & Prof. Code §  
18 17200 *et seq.*;
- 19 d. **Connecticut Unfair Trade Practices Act**, Conn. Gen. Stat. § 42-  
20 110a, *et seq.*;
- 21 e. **Delaware Consumer Fraud Act**, Del. Code Ann. tit. 6, § 2511, *et*  
22 *seq.*;
- 23 f. **District of Columbia Consumer Protection Procedures Act**, D.C.  
24 Code § 28-3901, *et seq.*;
- 25 g. **Florida Deceptive and Unfair Trade Practices Act**, Fla. Stat. §  
26 501.201, *et seq.*;

27 <sup>115</sup> There is no material conflict between these state statutes and the CLRA, the UCL, the  
28 NHCPA or the WCPA because these state statutes (1) do not require reliance by unnamed class  
members; (2) do not require scienter; and (3) allow class actions.

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- h. **Hawaii Unfair and Deceptive Practices Act**, Hawaii Rev. Stat. § 480-1, *et seq.*;
- i. **Illinois Consumer Fraud and Deceptive Business Practices Act**, 815 Ill. Comp. Stat. § 505/1, *et seq.*;
- j. **Kentucky Consumer Protection Act**, Ky. Rev. Stat. Ann. § 367.110, *et seq.*;
- k. **Maine Unfair Trade Practices Act**, Me. Rev. Stat. tit. 5, § 205-A, *et seq.*;
- l. **Maryland Consumer Protection Act**, Md. Code Ann., Com. Law § 13-101, *et seq.*;
- m. **Massachusetts Regulation of Business Practices for Consumers' Protection Act**, Mass. Gen. Laws Ann. ch. 93A, § 1, *et seq.*;
- n. **Michigan Consumer Protection Act**, Mich. Comp. Laws § 445.901, *et seq.*;
- o. **Missouri Merchandising Practices Act**, Mo. Rev. Stat. § 407.010, *et seq.*;
- p. **Nebraska Consumer Protection Act**, Neb. Rev. Stat. § 59-1601, *et seq.*;
- q. **New Hampshire Consumer Protection Act**, N.H. Rev. Stat. Ann. § 358-A:1, *et seq.*;
- r. **New Jersey Consumer Fraud Act**, N.J. Stat. Ann. § 56:8-1, *et seq.*;
- s. **New York Deceptive Acts and Practices Act**, N.Y. Gen. Bus. Law § 349, *et seq.*;
- t. **North Carolina Unfair Trade Practice Act**, N.C. Gen. Stat. § 75-1.1, *et seq.*;
- u. **Ohio Consumer Sales Practice Act**, Ohio Rev. Code Ann. § 1345.01, *et seq.*;

- 1 v. **Rhode Island Unfair Trade Practices and Consumer Protection**  
2 **Act**, R.I. Gen. Laws § 6-13.1-1, *et seq.*;
- 3 w. **Vermont Consumer Fraud Act**, Vt. Stat. Ann. tit. 9, § 2451, *et seq.*;
- 4
- 5 x. **Washington Consumer Protection Act**, Wash. Rev. Code §  
6 19.86.010, *et seq.*;
- 7 y. **West Virginia Consumer Credit and Protection Act**, W. Va. Code  
8 Ann. § 46A-6-101, *et seq.*; and
- 9 z. **Wisconsin Deceptive Trade Practices Act**, Wis. Stat. § 100.18, *et*  
10 *seq.*

11 76. Plaintiffs and the Count V Class are entitled to recover damages and  
12 receive appropriate equitable relief, as alleged below.

13 **SIXTH CAUSE OF ACTION**  
14 **(Violation of State Consumer Protection Laws)**  
15 **(Brought by Plaintiffs on Behalf of the Count VI Class)**

16 77. Plaintiffs restate the foregoing allegations as if alleged fully herein.

17 78. Plaintiffs assert this cause of action on behalf of the Count VI Class  
18 under the state laws listed in Paragraph 79 below.

19 79. The practices discussed above all constitute unfair competition or  
20 unfair, unconscionable, deceptive, or unlawful acts or business practices in  
21 violation of the following state consumer protection statutes:<sup>116</sup>

- 22 a. **Alabama Deceptive Trade Practices Act**, Ala. Code § 8-19-1, *et*  
23 *seq.*;

24 <sup>116</sup> These state statutes do not materially conflict with the CLRA, the UCL, the NHCPA or the  
25 WCPA. The statutes include those statutes listed in the Fifth Cause of Action as well as  
26 additional states whose statutes, like the CLRA and the UCL, require neither reliance by  
27 unnamed class members nor scienter, but do not permit class actions. Under *Shady Grove*  
28 *Orthopedic Assoc's v. Allstate Ins. Co.*, 559 U.S. 393, 130 S. Ct. 1431, 176 L. Ed. 2d 311 (2010),  
class actions may be brought under these state statutes in federal court under Federal Rules of  
Civil Procedure Rule 23.

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- b. **Alaska Unfair Trade Practices and Consumer Protection Act**, Alaska Stat. § 45.50.471, *et seq.*;
- c. **Arkansas Deceptive Trade Practices Act**, Ark. Code Ann. § 4-88-101, *et seq.*;
- d. **California Consumer Legal Remedies Act**, Cal. Civ. Code § 1750, *et seq.*, **California Unfair Competition Law**, Cal. Bus. & Prof. Code § 17200, *et seq.*;
- e. **Connecticut Unfair Trade Practices Act**, Conn. Gen. Stat. § 42-110a, *et seq.*;
- f. **Delaware Consumer Fraud Act**, Del. Code Ann. tit. 6, § 2511, *et seq.*;
- g. **District of Columbia Consumer Protection Procedures Act**, D.C. Code § 28-3901, *et seq.*;
- h. **Florida Deceptive and Unfair Trade Practices Act**, Fla. Stat. § 501.201, *et seq.*;
- i. **Hawaii Unfair and Deceptive Practices Act**, Hawaii Rev. Stat. § 480-1, *et seq.*;
- j. **Illinois Consumer Fraud and Deceptive Business Practices Act**, 815 Ill. Comp. Stat. § 505/1, *et seq.*;
- k. **Kentucky Consumer Protection Act**, Ky. Rev. Stat. Ann. § 367.110, *et seq.*;
- l. **Louisiana Unfair Trade Practices and Consumer Protection Law**, La. Rev. Stat. Ann. § 51:1401, *et seq.*;
- m. **Maine Unfair Trade Practices Act**, Me. Rev. Stat. tit. 5, § 205-A, *et seq.*;
- n. **Maryland Consumer Protection Act**, Md. Code Ann., Com. Law § 13-101, *et seq.*;

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- o. **Massachusetts Regulation of Business Practices for Consumers’ Protection Act**, Mass. Gen. Laws Ann. ch. 93A, § 1 *et seq.*;
- p. **Michigan Consumer Protection Act**, Mich. Comp. Laws § 445.901 *et seq.*;
- q. **Missouri Merchandising Practices Act**, Mo. Rev. Stat. § 407.010, *et seq.*;
- r. **Montana Unfair Trade Practices and Consumer Protection Act**, Mont. Code Ann. § 30-14-101, *et seq.*;
- s. **Nebraska Consumer Protection Act**, Neb. Rev. Stat. § 59-1601, *et seq.*;
- t. **New Hampshire Consumer Protection Act**, N.H. Rev. Stat. Ann. § 358-A:1, *et seq.*;
- u. **New Jersey Consumer Fraud Act**, N.J. Stat. Ann. § 56:8-1, *et seq.*;
- v. **New York Deceptive Acts and Practices Act**, N.Y. Gen. Bus. Law § 349, *et seq.*;
- w. **North Carolina Unfair Trade Practice Act**, N.C. Gen. Stat. § 75-1.1, *et seq.*;
- x. **Ohio Consumer Sales Practice Act**, Ohio Rev. Code Ann. § 1345.01, *et seq.*;
- y. **Rhode Island Unfair Trade Practices and Consumer Protection Act**, R.I. Gen. Laws § 6-13.1-1, *et seq.*;
- z. **South Carolina Unfair Trade Practices Act**, S.C. Code Ann. § 39-5-10, *et seq.*;
- aa. **Tennessee Consumer Protection Act of 1977**, Tenn. Code Ann. § 47-18-101, *et seq.*;
- bb. **Vermont Consumer Fraud Act**, Vt. Stat. Ann. tit. 9, § 2451, *et seq.*;

1 cc. **Washington Consumer Protection Act**, Wash. Rev. Code §  
19.86.010, *et seq.*;

2 dd. **West Virginia Consumer Credit and Protection Act**, W. Va. Code  
3 Ann. § 46A-6-101, *et seq.*; and

4 ee. **Wisconsin Deceptive Trade Practices Act**, Wis. Stat. § 100.18, *et*  
5 *seq.*

6  
7 80. Plaintiffs and the Count VI Class are entitled to recover damages and  
8 receive appropriate equitable relief, as alleged below.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs pray for judgment and relief against Defendant as  
11 follows:

12 A. For an Order certifying the Classes and Subclasses described herein  
13 and appointing Plaintiffs as Class Representatives and their attorneys as Class  
14 Counsel;

15 B. that the Court preliminarily and permanently enjoin Defendant from  
16 conducting its business through the unlawful, unfair or fraudulent business acts or  
17 practices, untrue and misleading advertising and other violations of law described  
18 in this Complaint;

19 C. that the Court order Defendant to notify each and every class member  
20 who purchased the Products of the pendency of the claims in this action in order to  
21 give such individuals and businesses an opportunity to obtain restitution from  
22 Defendant;

23 D. that the Court order Defendant to pay restitution to restore to all class  
24 members all funds acquired by means of any act or practice declared by this Court  
25 to be an unlawful, unfair, or a fraudulent business act or practice, untrue or  
26 misleading advertising, plus pre- and post-judgment interest thereon;

1 E. that the Court order Defendant to disgorge all monies wrongfully  
2 obtained and all revenues and profits derived by Defendant as a result of its acts or  
3 practices as alleged in this Complaint;

4 F. that the Court award damages to Plaintiffs, the Classes and the  
5 Subclasses;

6 G. that the Court grant Plaintiffs their reasonable attorneys' fees and  
7 costs of suit pursuant to Cal. Civ. Proc. Code § 1021.5, Cal. Civ. Code § 1780(e),  
8 the common fund doctrine and/or any other appropriate legal theory;

9 H. for treble damages with respect to the Washington Subclass; and

10 I. that the Court grant such other and further relief as may be just and  
11 proper.

12 **JURY DEMAND**

13 Plaintiffs demand a trial by jury on all causes of action so triable.

14  
15 DATED: September 30, 2013

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17   
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**AFFIDAVIT OF RUTH KRESHA**

I, RUTH KRESHA, submit this Affidavit pursuant to § 1780(d) of the California Code of Civil Procedure, Consumer Legal Remedies Act, and declare the following: .

1. I am a named plaintiff in this litigation.
2. If called as a witness I could and would competently testify as to the matters included herein.
3. I am informed and believe that the Defendant conducts substantial business activity in the State of California and within this District, and a substantial part of the events or omissions giving rise to the claims asserted in the Complaint occurred in this District. Therefore, this District is a proper place for trial of this action.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this 20 day of August, 2013 in Bakersfield, California.


Ruth Kresha  
RUTH KRESHA

**CERTIFICATE OF SERVICE**

I hereby certify that on this 30th day of September, 2013, I caused a true and correct copy of the foregoing **FIRST AMENDED CLASS ACTION COMPLAINT** to be sent via electronic mail and regular U.S. mail, postage prepaid, to the following:

William L. Stern  
Claudia Maria Vetesi  
Kathleen B. Roney  
MORRISON & FOERSTER LLP  
425 Market Street  
San Francisco, CA 94105-2482  
[cvetesi@mof.com](mailto:cvetesi@mof.com)  
[kroney@mof.com](mailto:kroney@mof.com)  
[wstern@mof.com](mailto:wstern@mof.com)

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 30, 2013.

  
Elizabeth P. Lin