

Stephanie R. Tatar – State Bar No. 237792
TATAR LAW FIRM, APC
3500 West Olive Avenue
Suite 300
Burbank, California 91505
Tel. (323) 744-1146
Fax. (888) 778-5695
Stephanie@thetatarlawfirm.com

E-FILED
7/21/2017 1:14:27 PM
Clerk of Court
Superior Court of CA,
County of Santa Clara
17CV313463
Reviewed By:R. Walker

*Attorneys for Plaintiff Austin Rugg
and the proposed Class*

Additional attorneys on signature page

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

AUSTIN RUGG,
individually and on behalf of a class of
similarly situated persons,

Plaintiff,

vs.

JOHNSON & JOHNSON,
Defendant.

) Case No. **17CV313463**

) **CLASS ACTION COMPLAINT FOR**
) **BREACH OF EXPRESS WARRANTY,**
) **UNJUST ENRICHMENT, VIOLATIONS**
) **OF THE CALIFORNIA CONSUMERS**
) **LEGAL REMEDIES ACT, THE**
) **CALIFORNIA FALSE ADVERTISING**
) **LAW AND THE CALIFORNIA UNFAIR**
) **COMPETITION LAW**

) **JURY TRIAL DEMANDED**
)
)
)
)

1. Plaintiff Austin Rugg, by his attorneys, bring this class action against Defendant Johnson & Johnson (“J&J”), on his own behalf and on behalf of all others similarly situated, and alleges as follows.

INTRODUCTION

2. Whether by an annoying patch of dry skin or an oozing rash that affects one’s social life, as much as 70% of the U.S. population is allergic to at least one personal care product ingredient. Most of these skin allergies are of unknown cause.

3. It is extremely difficult for people to identify what ingredient they are allergic to.

1 Allergic reactions are attenuated in both space and time. Some allergic reactions will not manifest
2 until a week after exposure to the allergen. Even worse – some allergic reactions will not manifest
3 on the body part exposed to the allergen. Instead, the immune system will sometimes “remember”
4 the first exposure and the allergic reaction will develop on the body part that was *first* exposed to
5 the allergen.

6 4. Thus, consumers increasingly seek hypoallergenic products. Those who do not
7 suffer from skin allergies seek hypoallergenic products to avoid developing a skin allergy. Those
8 who do suffer from a skin allergy seek hypoallergenic products to avoid the inflammatory cascade
9 caused by an unidentified skin allergen.

10 5. Since its founding, J&J bases its brand as providing hypoallergenic products for
11 babies and adults.

Baby Care Products



JOHNSON'S Baby

For over 125 years, JOHNSON'S® has provided safe, mild and gentle products for babies and adults. All JOHNSON'S® baby products are soap-free, hypoallergenic, dermatologist-tested and paraben-free as part of our promise to enable a healthy future for all babies. Every JOHNSON'S® product is made with the purest and highest-quality ingredients because we are committed to happy, healthy development.

12
13
14
15
16
17
18
19
20 Exhibit A.¹

21
22
23 ¹ Exhibit A reads:

24 Baby Care Products
25 JOHNSON'S Baby

26 For over 125 years, JOHNSON'S® has provided safe, mild and gentle products for babies
27 and adults. All JOHNSON'S® baby products are soap-free, hypoallergenic, dermatologist-
28 tested and paraben-free as part of our promise to enable a healthy future for all babies.
Every JOHNSON'S® product is made with the purest and highest-quality ingredients
because we are committed to happy, healthy development.

Exhibit A.

1 6. J&J repeats this promise on the labels of almost all its products, claiming them to
2 be hypoallergenic. *See* Product Labels attached as Exhibits B, C.

3 7. However, despite its marketing scheme, J&J's products are chock-full of known
4 skin sensitizers (allergens), agents that cause serious skin damage, chemicals that cause serious
5 eye damage lasting longer than 21 days, skin irritants, and eye irritants. Even more, J&J's products
6 also contain known carcinogens, mutagens, reproductive toxins, and other chemicals extremely
7 hazardous to human health. *See* Exhibits B, C, D, ¶¶ 65-143, *infra*.

8 8. For example, J&J labels its popular “pink” baby lotion as hypoallergenic, despite
9 the fact that it contains a smorgasbord of known skin sensitizers. Other than water, the highest
10 ingredient by volume is *cocamidopropyl betaine*, which was named the Allergen of the Year in
11 2004 by the American Contact Dermatitis Society. The second highest ingredient by volume is
12 *PEG-80 sorbitan laurate*, a Category 1 skin sensitizer – the highest categorization given to
13 allergens. The so-called “hypoallergenic” product also contains *PEG-150 distearate*, which is
14 known to cause contact urticarial, *sodium hydroxide*, which is known to cause dermatitis and
15 causes serious skin corrosion, irreversibly damaging the skin. Concentrations as low as 5% cause
16 Category 1A skin corrosion, meaning that it irreversibly damages the skin after less than 3 minutes
17 of exposure. Corrosive reactions are typified by ulcers, bleeding, bloody scabs, and, by the end of
18 observation at 14 days, by discoloration due to blanching of the skin, complete areas of alopecia,
19 and scars. Even minute amounts (0.5%) are irritating to the skin and eyes. It causes Category 1 eye
20 damage, *i.e.*, it causes serious damage to the eye tissue or serious physical decay of vision which
21 is not fully reversible within 21 days of application. The product contains still more skin
22 sensitizers, skin irritants, and eye irritants. *See* Exhibits B, D, ¶¶ 65-143, *infra*.

23 9. This is a class action on behalf of a national class of consumers who purchased
24 J&J's body care products that were falsely and misleadingly marketed as “hypoallergenic.” These
25 products in fact contain a shocking array of compounds known to cause allergic responses. These
26 products are also stuffed with other chemicals that have not been analyzed for its skin sensitization
27 potential. Finally, these products also contain a plethora of other compounds known to cause
28 severe skin corrosion, serious eye damage, cancer, genetic mutations, birth defects, or are

1 otherwise toxic or hazardous to a person’s skin, their overall health, or to the environment.

2 10. Many of the ingredients are permitted body care products. Yet J&J did not simply
3 claim that its household products are “legal.” J&J falsely and misleadingly claimed that the
4 ingredients in its products are “hypoallergenic” when they are not.

5 11. By deceiving consumers about the nature, quality, and/or ingredients of its
6 products, J&J can command a premium price, increasing consumers’ willingness to pay and take
7 away market share from competing products, thereby increasing its own sales and profits.

8 12. Consumers lack the ability to test or independently ascertain the toxicity of a
9 chemical, especially at the point of sale. Reasonable consumers must and do rely on the chemicals
10 company to honestly report the nature of the product’s ingredients.

11 13. J&J further encouraged consumers to rely on its representations, marketing itself as
12 an honest company that provides transparent and truthful information about its products’
13 ingredients.

14 14. J&J intended for consumers to rely on its representations, and hundreds of
15 thousands of reasonable consumers did in fact so rely.

16 15. As a result of their false and misleading labeling, J&J was able to sell these products
17 to hundreds of thousands of consumers throughout the United States and to profit handsomely
18 from these transactions.

19 16. J&J’s false and misleading representations and omissions violate state and federal
20 law, both civil and criminal, detailed more fully below, including California’s Unfair Competition
21 Law, False Advertising Law and Consumer Legal Remedies Act, and common law.

22 17. Plaintiff brings this action to stop J&J’s deceptive and misleading practices.

23 **JURISDICTION AND VENUE**

24 18. This Court has personal jurisdiction over the parties in this case.

25 19. Plaintiff Austin Rugg resides in Santa Clara County, California.

26 20. Defendant Johnson & Johnson is a corporation with sufficient minimum contacts
27 in California or otherwise intentionally avails itself of the laws of this State through its marketing
28 and sales of the products at issue in California, to consumers in California, and to retailers

1 throughout California, so as to render the exercise of jurisdiction by this Court consistent with
2 traditional notions of fair play and substantial justice.

3 21. Venue is proper in this Court. Substantial acts in furtherance of the alleged
4 improper conduct, including the dissemination of false, misleading and deceptive information
5 regarding the nature, quality, and/or ingredients of the products described herein, occurred within
6 this District.

7 22. No other forum would be more convenient for the parties and witnesses to litigate
8 this action.

9 **PARTIES**

10 23. Plaintiff Rugg is an individual consumer who, at all times material hereto, is a
11 citizen of the State of California. During the class period, in or around January 2016, Plaintiff
12 Rugg purchased the J&J products Baby Bedtime Moisture Wash and Baby Bedtime Lotion from
13 a Target department store located in Santa Clara, California.

14 24. In deciding to make these purchases, Plaintiff Rugg saw, relied upon, and
15 reasonably believed the label representation that the products were “hypoallergenic.” These
16 representations were a significant reason for her purchases.

17 25. Had Plaintiff Rugg known at the time that these products were not hypoallergenic
18 as promised, he would not have purchased these products.

19 26. Had Plaintiff Rugg known at the time that these products contained irritating, toxic,
20 hazardous, or otherwise harmful chemicals, he would not have purchased these products.

21 27. Plaintiff Rugg purchased, purchased more of, or paid more for, these products than
22 he would have had he known that the products contained skin sensitizers, irritants, toxins,
23 carcinogens, or otherwise harmful chemicals.

24 28. If J&J’s products were reformulated such that its representations were truthful,
25 Plaintiff Rugg would consider purchasing J&J’s products in the future.

26 29. Defendant J&J is an international company in the business of marketing and selling
27 consumer healthcare products, medical devices and pharmaceuticals, through its more than 250
28 companies located in 60 countries. See <http://www.jnj.com/about-jnj/company-structure>.

1 30. Defendant J&J is a New Jersey corporation with its principal place of business
2 located in New Brunswick, New Jersey. J&J manufactures and/or causes the manufacture of
3 personal care and baby care products. J&J labels these products under its own name, and markets
4 and distributes the products through its online website and through retail stores in California, and
5 throughout the United States.

6 **CONSUMERS ACTIVELY SEEK**
7 **HYPOALLERGENIC BODYCARE PRODUCTS**

8 31. According to the Centers for Disease Control and Prevention (“CDC”), 8.8 million
9 children (12%) reported skin allergies in 2012. Skin allergies are even more prevalent among
10 young children; CDC reports that 14.2% of children between 0 and 4 suffered a skin allergy in
11 2012.

12 32. These numbers are likely to underreport the prevalence of allergic contact
13 dermatitis; recent studies show that somewhere between 14-70% of children suffer from skin
14 allergies, based on positive patch skin tests.

15 33. Skin allergies are similarly prevalent among adults.

16 34. When skin is exposed to a sufficient amount of a chemical allergen, the skin is
17 “sensitized.” Upon re-exposure to the allergen, the skin initiates an inflammatory cascade, causing
18 skin changes associated with allergic contact dermatitis. These include redness, oedema (fluid
19 retention), scaling, fissures (cracking), vesicles (fluid-filled sacs), bullae (bubble-like cavity), and
20 eventually oozing.

21 35. Contact sensitization and related skin allergies can severely affect a person’s quality
22 of life, depending on the severity and the site of skin sensitization. People suffering from
23 noticeable skin allergies will try to hide the symptoms under clothing if possible, and if not, will
24 avoid public spaces entirely. In either case, skin allergies can dramatically affect a person’s
25 confidence and engagement in life.

26 36. It is difficult to identify the substance causing an allergic response. Allergic contact
27 dermatitis develops several days after exposure to a skin allergen. Some substances do not cause
28 symptoms until a week after exposure.

1 37. Even more, once an individual is sensitized to an allergen, future contact with the
2 allergen can trigger a response in the *original* site of sensitization. For example, if someone had
3 an allergic response to a product used on the face, and later used a different product containing the
4 same allergen on the legs, the allergic response will occur again on the *face* – even if the face was
5 never exposed to the second product.

6 38. When a consumer cannot identify the material to which they are allergic, allergic
7 contact dermatitis will persist, and, it is believed, will take longer to resolve even after the cause
8 is identified.

9 39. Thus, consumers will actively seek out hypoallergenic products – to avoid a skin
10 allergy from occurring at all and/or to prevent a known skin allergy from repeating the
11 inflammatory cascade.

12 40. Once skin is sensitized, even a *minute* amount of the chemical allergen is enough
13 to cause the full-blown allergic response. Thus, consumers seeking hypoallergenic products
14 demand and expect that the product does not contain *any* skin sensitizers.

15 **DEFINITION OF HYPOALLERGENIC**

16 41. A hypoallergenic product is a product that contains no ingredients that are known
17 to induce an allergenic response. Similarly, consumers also believe and expect that a product that
18 is labeled as hypoallergenic contains no ingredients that are known to induce an allergenic
19 response.

20 42. J&J’s products are not hypoallergenic as they contain ingredients that are known
21 to induce an allergenic response.

22 43. Thus, J&J’s on-the-label promise that its products are “hypoallergenic” is false.

23 44. Consumers also believe and expect that a product that is labeled as hypoallergenic
24 contains no ingredients known to produce a negative reaction -- skin irritation, skin corrosion, eye
25 damage, birth defects, cancer, genetic mutations, etc.

26 45. J&J’s products contain ingredients known to produce a negative reaction -- skin
27 irritation, skin corrosion, eye damage, birth defects, cancer, genetic mutations, etc.

28 46. Thus, J&J’s on-the-label promise that its products are “hypoallergenic” is *also*

1 misleading.

2 47. J&J knows how consumers define “hypoallergenic,” and encourages this
3 understanding.

4 48. As J&J explains:

5 Our ingredients are carefully selected and reviewed for safety, and our
6 product formulations are clinically evaluated with appropriate testing. We ensure
7 each product displaying the NO MORE TEARS® or CLINICALLY PROVEN
8 MILDNESS® trademark has the right body of research and support behind it and
that claims like "hypoallergenic" and "designed gentle enough for newborns" have
appropriate data behind them.

9 Exhibit E.

10 49. Because even a *minute* amount of a chemical allergen is enough to cause a full-
11 blown allergic response, consumers reasonably expect and believe that when a product is labeled
12 as “hypoallergenic,” this representation is true not just for the final formulation, but to every
13 ingredient in the product.

14 50. J&J knows and encourages this understanding.

15 51. J&J knows that consumers rely upon it to not only test the final product
16 formulation for basic safety, but to select only those ingredients that it considers to be safe.

17 52. J&J stresses not only product safety, but *ingredient* safety. As J&J explains, “For
18 us, safe ingredients aren’t just a consideration. Safe ingredients are the focus of how our baby and
19 beauty personal care products are created.” Exhibit F.

20 53. For example, as J&J explains on its website:

21 We know you wouldn’t use a product on your baby without researching it
22 first. Neither would we. We examine every ingredient, combination of ingredients
23 and the safety of our products with the level of scrutiny we would want for our own
24 babies. Our scientists review the latest research to choose ingredients that are best
25 for your baby.

26 Exhibit G. *See also* Exhibit H, Exhibit I (discussing “Clinically Proven Mildness” seal, “Every
27 ingredient is evaluated by safety experts.”). *See also* Exhibit J, Why is JOHNSON’s Special?
28 (“Proven scientific methods are used to assess the ingredients used in our products and to ensure,
based on the evidence, that all ingredients are safe and appropriate for baby.”).

54. J&J promises that it has evaluated “every single” raw material in its products, and assures consumers that “ingredients without a full safety profile or without full composition are rejected.”

Level 2
Toxicology Assessment

Toxicology is about assessing safety – in our case, about the safe use of ingredients in our products. We conduct tiered assessments by accredited toxicologists and from independent safety experts.



global regulatory standards our products meet or exceed



raw materials in our products – and we’ve evaluated every single one



ingredients without a full safety profile or without full composition are rejected.

Exhibit K. *See also* Exhibits L, M, N.

55. As J&J explains in its “Ingredient Guidelines,”

JOHNSON’S Ingredient Guidelines

There is so much information out there; it sometimes can be difficult to feel confident you’re making the best choices for your little one.

We know you wouldn’t use a product on your baby without researching it first. Neither would we. We examine every ingredient, combination of ingredients and the safety of our products with the level of scrutiny we would want for our own babies.

Exhibit H.

56. In its “Ingredient Guidelines,” J&J explains that consumers can rely on it for “Selecting the Right Preservatives” (“There are lots of preservatives worldwide but only a small number meet all of our strict requirements for babies.”) and that its products contain “Non-Toxic Ingredients.” Exhibit H.

57. Similarly, J&J explains in its “Ingredient Policies” that it assesses each individual

1 ingredient in its “five-level safety assurance process.”

2 Our Position

3 The ingredients we use are all thoroughly evaluated during our five-level
4 safety assurance process. We also test each formulation to be confident that the raw
5 materials we’ve selected remain safe and effective when we combine them in a
6 product.

7 Exhibit O. *See also* Exhibit P (“Our scientists ensure that the preservatives we use have been
8 thoroughly evaluated for safety, are mild, and that we use the minimum amounts necessary to
9 protect the product from spoiling. This is part of Our Safety & Care Commitment to you. . . . We
10 also evaluate any preservatives we use for mildness and the potential to cause allergies.)

11 58. However, very few ingredients in J&J’s products have been adequately studied for
12 safety. Moreover, very few have been assessed for their sensitization potential. *See ¶¶ 65-143,*
13 *infra.*

14 **J&J’s FALSE REPRESENTATIONS**

15 59. On the products’ labels, and again on its retail website, J&J represents that certain
16 of its products are “hypoallergenic.” These products, (collectively, the “Falsely Labeled Products”)
17 are all falsely labeled, as all of these products contain skin sensitizers, skin irritants, eye irritants,
18 and other deleterious compounds.

19 60. These products are:

- 20 baby bedtime moisture wash
- 21 baby head-to-toe wash
- 22 baby moisture wash
- 23 baby moisture wash with shea & cocoa butter
- 24 baby moisture wash with vanilla oatmeal
- 25 baby wash honey apple
- 26 baby head-to-toe wash
- 27 baby powder
- 28 baby powder with soothing aloe & vitamin e
- 29 baby powder with medicated zinc oxide skin protectant
- 30 baby bedtime lotion
- 31 baby cream
- 32 baby intense moisture cream
- 33 baby lotion
- 34 baby lotion with aloe & vitamin e
- 35 baby lotion with shea & cocoa butter

1 baby lotion with vanilla oatmeal
2 baby bedtime lotion
3 no more tangles shampoo & conditioner
4 baby shampoo
5 kids detangling spray sun-ripened strawberry
6 baby bedtime bath
7 baby bedtime bath + lotion
8 baby wash + lotion
9 no more tangles shampoo
10 no more tangles detangling spray
11 head-to-toe baby cleansing cloths
12 head-to-toe extra moisturizing cream
13 head-to-toe extra moisturizing baby wash
14 head-to-toe baby lotion
15 baby powder refreshing magnolia petals
16 baby shampoo with calming lavender

17 61. The labels of these products are attached as Exhibits B and C.

18 62. Further encouraging consumers' reliance on J&J's "hypoallergenic" promise, J&J
19 labels only *some* products as hypoallergenic, giving consumers the (false) impression that J&J
20 carefully reviewed each ingredient in its products to ensure that the "hypoallergenic" promise was
21 made for only those products that truly are hypoallergenic. *See, e.g.*, Exhibit Q.

22 63. Yet, contrary to J&J's promise, *all* these products in fact contain known skin
23 sensitizers. They also *all* contain known skin or eye irritants, carcinogens, teratogens, mutagens,
24 or pollutants. Finally, they *all* contain substances that have not been adequately assessed for safety
25 or skin sensitization potential.

26 64. All J&J's Falsely Labeled Products contain one or more of the following chemicals.

27 65. The safety profile of *acrylates copolymer* has not been thoroughly
28 investigated. The limited testing done by the ingredient manufacturers, however, indicates that it
is a skin irritant and eye irritant, causing skin damage in less than four hours and serious irritation
to the cornea, iris, conjunctiva. It is also a suspected mutagen.

66. In animal testing, *acrylates/C10-30 alkyl acrylate crosspolymer* was shown to be a
sensitizer at concentrations as low as 2%. It also causes eye irritation that takes three days to clear.

67. *Anthemis nobilis flower oil* is a known skin and eye irritant. Moreover, it is
classified as a Category 1 skin sensitizer, based on positive testing, demonstrating that repeated

1 skin contact can be expected to cause allergic response in a substantial number of persons.

2 68. The safety of *disodium EDTA* has not been adequately studied, and it has not been
3 found to be non-sensitizing by any reputable authority. However, based on its chemical structure
4 and similarity to other known skin sensitizers, disodium EDTA is a likely skin sensitizer. The
5 limited testing completed also demonstrates that it is a skin irritant and eye irritant, causing skin
6 damage in less than four hours and serious irritation to the cornea, iris, conjunctiva. It is also
7 suspected of being a mutagen and reproductive toxin.

8 69. *Glyceryl oleate* is a skin irritant and eye irritant, causing skin damage in less than
9 four hours and serious irritation to the cornea, iris, conjunctiva. Its sensitization potential has not
10 been assessed by any reputable authority. However, based on its chemical structure and similarity
11 to other known skin sensitizers, it is a suspected skin sensitizer.

12 70. *Lauryl glucoside* is a skin irritant and a suspected skin sensitizer, based on its
13 chemical structure and similarity to other known skin sensitizers. Some tests also classify it as a
14 Category 1 skin sensitizer, meaning that repeated skin contact causes a skin allergy in a substantial
15 number of persons. In these sensitized individuals, very low future exposure can cause itching and
16 a skin rash. Furthermore, it causes Category 1 eye damage, *i.e.*, it causes serious damage to the
17 eye tissue or serious physical decay of vision which is not fully reversible within 21 days of
18 application.

19 71. *Lavandula angustifolia (lavender) oil* is classified as a Category 1 skin sensitizer,
20 based on positive testing demonstrating that repeated skin contact can be expected to cause an
21 allergic response in a substantial number of persons. It causes Category 1 eye damage, *i.e.*, it
22 causes serious damage to the eye tissue or serious physical decay of vision which is not fully
23 reversible within 21 days of application. It is also classified as a skin irritant, causing skin damage
24 in less than four hours.

25 72. *PEG-40 hydrogenated castor oil* has produced adverse reactions in human tests; a
26 minute amount (0.05%) of PEG-40 hydrogenated castor oil caused skin reactions in 4% of human
27 test subjects. In another test, small concentrations (0.1%) of PEG-40 hydrogenated castor oil in a
28 leg cream caused strong eczema reactions.

1 73. **Polyquaternium-7** is also a skin sensitizer. In human testing, concentrations of 8%
2 polyquaternium-7 has caused sensitization in 5% of test subjects.

3 74. **Potassium cetyl phosphate** is a skin irritant, causing skin damage in less than four
4 hours. It also causes serious eye damage lasting 21 days or longer. It is suspected to be toxic to
5 reproduction.

6 75. The sensitization characteristics of **styrene/acrylates copolymer** have not been
7 assessed by any reputable authority.

8 76. The sensitization characteristics of **polyglyceryl-2 dipolyhydroxystearate** have not
9 been assessed by any reputable authority.

10 77. **Coco-glucoside** is a skin irritant, causing skin damage in less than four hours, and
11 a Category 1 eye damage, *i.e.*, it causes serious damage to the eye tissue or serious physical decay
12 of vision which is not fully reversible within 21 days of application.

13 78. The sensitization potential of **Red 40** has not been assessed by any reputable
14 authority. However, based on its chemical structure and similarity to other known skin sensitizers,
15 it is a likely skin sensitizer. The limited testing performed on this ingredient demonstrates that it
16 is a skin irritant and eye irritant.

17 79. The sensitization characteristics of **glyceryl polyacrylate** have not been assessed by
18 any reputable authority.

19 80. **Zinc oxide** is a skin and eye irritant, a reproductive toxin that is known to damage
20 fertility or the unborn child based on human evidence, a carcinogen that is known to induce cancer
21 or increase its incidence in humans, based on human evidence, a suspected germ cell mutagen, *i.e.*,
22 it is suspected of mutating human cells in a way that can be transmitted to children conceived after
23 exposure. It is also very toxic to aquatic life with long lasting effects. Some testing indicates that
24 it is a Category 1 skin sensitizer, based on positive animal and/or human testing demonstrating that
25 repeated skin contact can be expected to cause an allergic response in a substantial number of
26 persons, and that it causes Category 1B skin corrosion, meaning that it irreversibly damages the
27 skin after short exposure; in animal tests, the substance caused visible necrosis after less than 1
28 hour of exposure. Corrosive reactions are typified by ulcers, bleeding, bloody scabs, and, by the

1 end of observation at 14 days, by discoloration due to blanching of the skin, complete areas of
2 alopecia, and scars, and Category 1 eye damage, *i.e.*, it causes serious damage to the eye tissue or
3 serious physical decay of vision which is not fully reversible within 21 days of application.

4 81. ***Zea mays (corn) starch*** is a mild skin irritant.

5 82. ***Yellow 6*** has produced allergenic responses in humans. It is also a skin and eye
6 irritant.

7 83. ***Yellow 10*** is a skin sensitizer, based on positive animal and human testing,
8 demonstrating that repeated skin contact can be expected to cause allergic response in a substantial
9 number of persons. It is also a skin and eye irritant.

10 84. Though ***xanthan gum*** is safe as a food ingredient, it is an irritant to both the skin
11 and eyes. It is a Category 2 eye irritant, causing adverse effects on the cornea, iris, conjunctiva. It
12 is also a Category 2 skin irritant, meaning that it causes significant erythema/eschar (redness and
13 dead tissue) or edema (abnormal accumulation of fluid beneath the skin) lasting more than three
14 days, or skin inflammation lasting longer than 14 days. Some testing indicates that it is also a skin
15 sensitizer.

16 85. The sensitization potential of ***trisiloxane*** has not been assessed by any reputable
17 authority. The limited testing done, however, indicates that it is a suspected skin sensitizer and
18 may be an eye irritant. It is also environmentally persistent, bioaccumulative, and inherently toxic
19 to aquatic organisms.

20 86. ***Tricalcium phosphate*** has not been assessed for its skin sensitization potential. It
21 is, however, a known skin and eye irritant.

22 87. The sensitization potential of ***tetrasodium EDTA*** has not been assessed by any
23 reputable authority. However, based on its chemical structure and similarity to other known skin
24 sensitizers, it is classified as a likely skin sensitizer. Some testing classifies tetrasodium EDTA as
25 a Category 1 skin sensitizer, based on positive animal and/or human testing demonstrating that
26 repeated skin contact can be expected to cause an allergic response in a substantial number of
27 persons. It causes Category 1 eye damage, *i.e.*, it causes serious damage to the eye tissue or serious
28 physical decay of vision which is not fully reversible within 21 days of application. It is an aliphatic

1 amine, which is known to be environmentally toxic.

2 88. *Talc* is an eye and skin irritant, and a possible human carcinogen.

3 89. *Stearic acid* is classified as a skin and eye irritant. It causes Category 1B skin
4 corrosion, meaning that it irreversibly damages the skin after short exposure; in animal tests, the
5 substance caused visible necrosis after less than 1 hour of exposure. Corrosive reactions are
6 typified by ulcers, bleeding, bloody scabs, and, by the end of observation at 14 days, by
7 discoloration due to blanching of the skin, complete areas of alopecia, and scars. It is also a skin
8 sensitizer, based on positive human testing, demonstrating that repeated skin contact can be
9 expected to cause erythema in a substantial number of persons. According to the National Institute
10 for Occupational Safety and Health, the health effects of exposure to stearic acid have not been
11 adequately investigated. Nonetheless, animal testing has found it to be acutely toxic and a possible
12 carcinogen. Testing also indicates that it causes skin corrosion, irreversibly damaging the skin after
13 short exposure; in animal tests, the substance caused visible necrosis after less than 1 hour of
14 exposure. It is also inherently toxic to aquatic animals. Nonetheless, stearic acid makes up 1-5%
15 of some of J&J's "hypoallergenic" products. Exhibit D.

16 90. *Stearyl alcohol* is a skin sensitizer, based on human evidence, and a known skin
17 and eye irritant.

18 91. Based on human evidence, *sorbitan laurate* has caused contact dermatitis at
19 concentrations as low as 2%. It is also a known skin and eye irritant.

20 92. *Sodium trideceth sulfate* has not been adequately tested for safety. However,
21 based on its chemical structure and similarity to other known skin sensitizers, sodium trideceth
22 sulfate is classified as a likely skin sensitizer. The little testing was done on the substance indicates
23 that it causes serious eye damage lasting 21 days or longer. It is also a skin irritant, causing skin
24 damage in less than four hours. It is also harmful to aquatic life with long lasting effects.
25 Nonetheless, sodium trideceth sulfate makes up 1-5% of some of J&J's "hypoallergenic" products.
26 Exhibit D.

27 93. The toxicological properties of *sodium lauroamphoacetate* have not been
28 adequately examined. However, based on its chemical structure and similarity to other known skin

1 sensitizers, it is a suspected skin sensitizer. Existing data indicates that the substance is hazardous
2 by definition, may cause burns and/or dermatitis through repeated skin contact, and may cause
3 irreversible damage through repeated eye contact. Based on its molecular structure, the chemical
4 may be an aliphatic amine, which is known to be environmentally toxic, an anionic surfactant,
5 which known to be toxic to a wide variety of aquatic organisms, and/or a cationic (quaternary
6 ammonium) surfactant, which is known to be biocidal to a wide array of species.

7 94. ***Sodium laureth sulfate*** is classified as a Category 1 skin sensitizer, based on
8 positive animal and/or human testing, demonstrating that repeated skin contact can be expected to
9 cause an allergic response in a substantial number of persons. It causes Category 1 eye damage,
10 *i.e.*, it causes serious damage to the eye tissue or serious physical decay of vision which is not fully
11 reversible within 21 days of application. Sodium laureth sulfate is also harmful to aquatic life and
12 toxic by definition under federal law, based on animal testing demonstrating that the substance is
13 lethal even in very small doses.

14 95. Repeated skin contact with ***sodium hydroxide*** is known to cause dermatitis. It also
15 causes serious skin corrosion, irreversibly damaging the skin. Concentrations as low as 5% cause
16 Category 1A skin corrosion, meaning that it irreversibly damages the skin after short exposure; in
17 animal tests, the substance caused visible necrosis after less than 3 minutes of exposure. Corrosive
18 reactions are typified by ulcers, bleeding, bloody scabs, and, by the end of observation at 14 days,
19 by discoloration due to blanching of the skin, complete areas of alopecia, and scars. Even minute
20 amounts (0.5%) are irritating to the skin and eyes. It causes Category 1 eye damage, *i.e.*, it causes
21 serious damage to the eye tissue or serious physical decay of vision which is not fully reversible
22 within 21 days of application. It is also a suspected skin or sense organ toxicant. Sodium hydroxide
23 is regulated by numerous federal laws as a toxic and hazardous substance. It is also federally
24 regulated as a hazardous substance which, when discharged to navigable waters or adjoining
25 shorelines (as by, e.g., washing J&J's product off the body), present an imminent and substantial
26 danger to the public health or welfare.

27 96. The sensitization potential of ***sodium citrate*** has not been assessed by any reputable
28 authority. Based on its chemical structure and similarity to other known skin sensitizers, it is

1 classified as a suspected skin sensitizer. It is also classified as a skin and eye irritant.

2 97. **Sodium benzoate** is a known skin sensitizer, based on positive animal and human
3 testing, demonstrating that repeated skin contact has a high frequency of causing an allergic
4 response in a substantial number of persons. It is also a skin irritant and causes serious eye damage.
5 Additionally, it is toxic to the female reproductive system, and it is suspected to be toxic to the
6 male reproductive system. It is also a suspected mutagen, meaning that it is suspected of
7 producing inheritable mutations in human germ cells in a way that can be transmitted to children
8 conceived after exposure. It may cause birth defects, and may also be toxic to blood, the liver, and
9 the central nervous system. It is hazardous by definition under federal law, and is acutely toxic
10 based on animal testing. Its use is limited in Europe.

11 98. **Red 33** is a known skin irritant. Like most of J&J's ingredients, it has not been
12 assessed for skin sensitization.

13 99. **Quaternium-15** is a skin and eye irritant, a relatively common cause of allergic
14 contact dermatitis in consumers, and is classified as a Category 1 skin sensitizer, as animal and/or
15 human studies demonstrate that repeated skin contact causes allergic contact dermatitis in a
16 substantial number of persons. In these sensitized individuals, very low future exposure can cause
17 itching and a skin rash. It is recognized as an allergen by the American Contact Dermatitis Society.
18 It is also a respiratory sensitizer. It contains methylene chloride (which is known to cause cancer
19 in animal studies) and releases formaldehyde (a suspected carcinogen). It is very toxic to aquatic
20 life and environmentally persistent (*i.e.*, not biodegradable). It is toxic by definition under federal
21 law, based on animal testing demonstrating that the substance is lethal even in very small doses.

22 100. Some studies classify **propylparaben** as a Category 1 skin sensitizer, based on
23 positive animal and/or human testing demonstrating that repeated skin contact can be expected to
24 cause an allergic response in a substantial number of persons. It causes Category 1 eye damage,
25 *i.e.*, it causes serious damage to the eye tissue or serious physical decay of vision which is not fully
26 reversible within 21 days of application. It is also a suspected skin or sense organ toxicant.

27 101. Because J&J failed to specify the chemical used, the safety of **potassium acrylates**
28 **copolymer** cannot be determined. Discovery is therefore necessary.

1 102. **PEG-80 sorbitan laurate**, a.k.a. **polysorbate 20**, is classified as a Category 1 skin
2 sensitizer, based on multiple positive tests demonstrating that repeated skin contact can be
3 expected to cause allergic response in a substantial number of persons. It is also a Category 2 skin
4 and eye irritant, causing skin damage in less than four hours and adverse effects on the cornea, iris,
5 and conjunctiva. Nonetheless, PEG-80 sorbitan laurate is in a substantial number of J&J
6 products. In many, it is second to only water in volume.

7 103. **Polyquaternium-10** is a skin and eye irritant. Its sensitivity potential has not been
8 assessed.

9 104. **Phenoxyethanol** is a skin and severe eye irritant. It has induced an allergic response
10 in both human and animal testing. It is recognized as an allergen by the American Contact
11 Dermatitis Society. It is toxic by all routes (inhalation, ingestion, and dermal contact). It is
12 extremely hazardous in case of eye contact and very hazardous in case of skin contact (defatting
13 the skin and causing skin inflammation characterize by itching, scaling, reddening, or,
14 occasionally, blistering). Even short exposure can cause serious temporary or residual injury. It is
15 toxic to the kidneys, the nervous system, and the liver, adversely affecting the central nervous
16 system and peripheral nervous system, causing headaches, tremors, and central nervous system
17 depression. It degrades into substances that are even more toxic. It is a germ cell mutagen,
18 suspected of mutating human cells in a way that can be transmitted to children conceived after
19 exposure. It is also a reproductive toxin, suspected of damaging fertility or the unborn child based
20 on human or animal evidence. Phenoxyethanol is an ethylene glycol ether, which is known to cause
21 wasting of the testicles, reproductive changes, infertility, and changes to kidney function.
22 Phenoxyethanol is also carcinogen, meaning that it is suspected to induce cancer or increase its
23 incidence. Case studies indicate that repeated exposure to phenoxyethanol results in acute
24 neurotoxic effects, as well as chronic solvent- induced brain syndrome, constant irritability,
25 impaired memory, depression, alcohol intolerance, episodes of tachycardia and dyspnea, and
26 problems with balance and rash. Phenoxyethanol is also toxic by definition under federal law, and
27 is regulated as a toxic compound. Its use is restricted in Europe.

28 105. **Petrolatum** is an eye irritant, causing adverse effects on the cornea, iris,

1 conjunctiva, reversible in 7 days. Repeated exposure to petrolatum has caused dermatitis in some
2 human subjects. It is also a presumed human carcinogen based on demonstrated animal
3 carcinogenicity. It is a reproductive toxin, suspected of damaging fertility or the unborn child
4 based on human or animal evidence of skin contact. It is also environmentally
5 persistent. Nonetheless, petrolatum makes up 1-5% of some J&J products. Exhibit D.

6 106. Low molecular weight polyethylene glycol compounds, like J&J's *PEG-150*
7 *distearate*, are known to cause contact urticaria. PEG-150 distearate is also a skin and eye irritant.

8 107. *P-anisic acid* is a skin and strong eye irritant. Its sensitization potential has not been
9 assessed.

10 108. *Oleic acid* is a known skin and eye irritant. The sensitization potential of oleic acid
11 has not been assessed by any reputable authority. However, based on its chemical structure and
12 similarity to other known skin sensitizers, it is classified as a likely skin sensitizer. It is also
13 inherently toxic to aquatic life. Additionally, according to a supplier, in humans, it passes the
14 placental barrier and has been detected in maternal milk. Animal data suggests that it may cause
15 cancer. It may also affect genetic material (mutagenic).

16 109. *Mineral oil* is a skin irritant, causing skin damage in less than four hours, and an
17 eye irritant, causing adverse effects on the cornea, iris, conjunctiva lasting 7-21 days. Some testing
18 indicates that it is also a skin sensitizer, based on positive animal tests demonstrating that repeated
19 skin contact can be expected to cause allergic response in a substantial number of persons. It is a
20 suspected germ cell mutagen, meaning that it is suspected of mutating human cells in a way that
21 can be transmitted to children conceived after exposure. It is a target organ systemic toxin in
22 humans, as generally low dermal exposure causes damage to the skin. Nonetheless, J&J adds
23 mineral oil to its products, at concentrations ranging from 1-5% to 10-20%. Exhibit D.

24 110. *Methylparaben's* use in cosmetics and topical products has caused allergic contact
25 dermatitis. It is classified as a Category 1 skin sensitizer, based on positive animal and/or human
26 testing demonstrating that repeated skin contact can be expected to cause an allergic response in a
27 substantial number of persons. It is also a skin and eye irritant.

28 111. The sensitization potential of *magnesium aluminum silicate* has not been assessed

1 by any reputable authority.

2 112. *Lauryl methyl gluceth-10 hydroxypropyldimonium chloride* is a proprietary
3 chemical that has not been adequately tested for safety or skin sensitization potential. Nonetheless,
4 the ingredient manufacturer has admitted that it is a moderate to strong eye irritant.

5 113. *Laureth-4* has caused allergic skin reactions in humans. It is also classified as a
6 suspected skin sensitizer, based on its chemical structure and similarity to other known skin
7 sensitizers that produce erythema in animal tests. Laureth-4 causes Category 1A skin corrosion,
8 meaning that it irreversibly damages the skin after short exposure; in animal tests, the substance
9 caused visible necrosis after less than 3 minutes of exposure. Corrosive reactions are typified by
10 ulcers, bleeding, bloody scabs, and, by the end of observation at 14 days, by discoloration due to
11 blanching of the skin, complete areas of alopecia, and scars. It causes Category 1 eye damage, *i.e.*,
12 it causes serious damage to the eye tissue or serious physical decay of vision which is not fully
13 reversible within 21 days of application. It is a suspected target organ systemic toxin, and it is
14 highly toxic to aquatic life with long lasting effects. It is an ethylene glycol ether, which is known
15 to be toxic to the environment and to human health, e.g., it is known to cause wasting of the
16 testicles, reproductive changes, infertility, and changes to kidney function.

17 114. *Isopropyl palmitate* is a skin and eye irritant. Moreover, it is an ester, a class of
18 chemicals known to be environmentally toxic

19 115. According to the manufacturer, there is no data regarding *hydroxyethyl*
20 *behenamidopropyl dimonium chloride*'s sensitization profile or dermal toxicity. However, it is
21 composed of behentrimonium methosulfate (which is very toxic to aquatic life, is toxic to aquatic
22 life with long lasting effects, causes serious eye damage lasting 21 days or longer, causes skin
23 damage in less than four hours, and may cause damage to organs through prolonged or repeated
24 exposure) and cetearyl alcohol (a skin and eye irritant, causing skin damage in less than four hours
25 and causing adverse effects on the cornea, iris, and conjunctiva).

26 116. According to trade associations, concentrations as little as 0.05% of *glycol*
27 *distearate* caused slight to severe skin irritation.

28 117. *Glyceryl stearate* is a skin and eye irritant. It is also inherently toxic to aquatic life.

1 118. **Glycerin** is classified as a skin and eye irritant. It is also known to cause eczema in
2 humans. Based on its chemical structure and similarity to other known skin sensitizers, it is a
3 suspected skin sensitizer. Nonetheless, J&J adds glycerin to its products at concentrations of 5-
4 10%. Exhibit D.

5 119. J&J does not disclose the identity of the fragrances it uses, listing only the generic
6 **fragrance**, or **parfum** on its product label. Many synthetic fragrances are known to be human
7 sensitizers, toxins and environmental hazards, and are associated with adverse reproductive
8 effects, genetic mutations, and other ill effects.

9 120. **Ethylparaben** is classified as a Category 1 skin sensitizer, based on positive animal
10 and/or human testing demonstrating that repeated skin contact can be expected to cause an allergic
11 response in a substantial number of persons. It is also a Category 2 eye irritant, causing adverse
12 effects on the cornea, iris, conjunctiva, and a Category 2 skin irritant, meaning that it causes
13 significant erythema/eschar (redness and dead tissue) or edema (abnormal accumulation of fluid
14 beneath the skin) lasting more than three days, or skin inflammation lasting longer than 14 days.
15 It is linked to reproductive-specific developmental abnormalities.

16 121. **Ethylhexylglycerin** causes Category 1 eye damage, *i.e.*, it causes serious damage
17 to the eye tissue or serious physical decay of vision which is not fully reversible within 21 days of
18 application. It is also toxic to aquatic organisms, with long-term adverse effects.

19 122. The sensitization potential of **disodium lauroamphodiacetate** has not been assessed
20 by any reputable authority. Based on its chemical structure and similarity to other known skin
21 sensitizers, disodium lauroamphodiacetate is classified as a likely skin sensitizer. Moreover, based
22 on its structure, this chemical maybe an anionic surfactant and/or cationic surfactant, both known
23 to be toxic to a variety of aquatic organisms.

24 123. The sensitization potential of **dimethicone** has not been assessed by any reputable
25 authority. However, based on its chemical structure and similarity to other known skin sensitizers,
26 it is classified as a likely skin sensitizer. The limited testing of dimethicone demonstrates that it
27 causes Category 1A skin corrosion, meaning that it irreversibly damages the skin after short
28 exposure; in animal tests, the substance caused visible necrosis after less than 3 minutes of

1 exposure. Corrosive reactions are typified by ulcers, bleeding, bloody scabs, and, by the end of
2 observation at 14 days, by discoloration due to blanching of the skin, complete areas of alopecia,
3 and scars. It causes Category 1 eye damage, *i.e.*, it causes serious damage to the eye tissue or
4 serious physical decay of vision which is not fully reversible within 21 days of application.
5 Dimethicone is presumed to cause damage to organs after generally moderate exposure, and it is
6 suspected of damaging fertility or the unborn child based on human or animal evidence. It is
7 inherently toxic to aquatic life, hazardous to the environment, and environmentally persistent (*i.e.*,
8 not biodegradable). It is considered to impair fertility in rats by inhalation, and is a potential
9 carcinogen (uterine tumors).

10 124. ***Cocamidopropyl betaine*** is a known skin sensitizer, based on positive animal
11 and/or human testing demonstrating that repeated skin contact can be expected to cause allergic
12 response in a substantial number of persons. In fact, cocamidopropyl betaine was named the
13 Allergen of the Year in 2004 by the American Contact Dermatitis Society. Cocamidopropyl
14 betaine is also a skin irritant and causes Category 1 eye damage, *i.e.*, it causes serious damage to
15 the eye tissue or serious physical decay of vision which is not fully reversible within 21 days of
16 application. Based on human or animal evidence, it is suspected of damaging fertility or the unborn
17 child. It is also very toxic to aquatic life. Nonetheless, J&J includes cocamidopropyl betaine in a
18 significant number of its products -- in many products, it is second only to water in terms of
19 volume. It is in J&J products at 1-5% concentrations, Exhibit D, an amount that is known to cause
20 skin sensitization.

21 125. While ***citric acid*** is a common food ingredient, skin contact is known to cause
22 allergic reactions in humans. It has been reported to cause Category 1B skin corrosion, meaning
23 that it irreversibly damages the skin after short exposure; in animal tests, the substance caused
24 visible necrosis after less than 1 hour of exposure. Corrosive reactions are typified by ulcers,
25 bleeding, bloody scabs, and, by the end of observation at 14 days, by discoloration due to blanching
26 of the skin, complete areas of alopecia, and scars. It causes Category 1 eye damage, *i.e.*, it causes
27 serious damage to the eye tissue or serious physical decay of vision which is not fully reversible
28 within 21 days of application. It is classified as a skin and eye irritant.

1 126. **Cetyl alcohol** has caused urticaria-like dermatitis in humans. It is also a skin and
2 eye irritant, and it is inherently toxic to aquatic life with long-lasting effects. Nonetheless, J&J
3 adds cetyl alcohol to its products, at concentrations of 1-5%. Exhibit D.

4 127. The sensitization potential of **ceteth-10** has not been assessed by any reputable
5 authority. However, based on its chemical structure and similarity to other known skin sensitizers,
6 it is a suspected skin sensitizer. Moreover, Ceteth-10 also has not been sufficiently analyzed for
7 safety. What little data exists shows it to be harmful to the skin; concentrations as low as 1% led
8 to erythema and edema, and concentrations over 10% led to thickening of the skin. It is a Category
9 2 skin irritant, causing skin damage in less than four hours, and causes Category 1 eye damage --
10 serious eye damage lasting 21 days or longer. It is toxic by definition under federal law and very
11 toxic to the aquatic environment.

12 128. **Cetearyl glucoside** has not been adequately studied for safety in personal care
13 products. However, based on its chemical structure and similarity to other known skin sensitizers,
14 cetearyl glucoside is classified as a likely skin sensitizer. The limited testing done on cetearyl
15 glucoside demonstrates that it causes Category 1 serious eye damage lasting 21 days or longer and
16 is a Category 2 skin irritant, causing skin damage in less than four hours. It is also very toxic to
17 aquatic life.

18 129. **Cetearyl alcohol's** safety for use in bodycare products has not been adequately
19 assessed. The limited testing done, however, shows it to be a skin irritant and eye irritant, causing
20 skin damage in less than four hours and adverse effects on the cornea, iris, conjunctiva. It is
21 inherently toxic to aquatic life, It is also toxic to the mucous membranes, and is hazardous by
22 definition under federal law.

23 130. The sensitization properties of **ceteareth-12** and **ceteareth-20** have not been
24 thoroughly investigated. The limited testing done, however, indicates that it is a skin irritant and
25 corrosive to ocular tissue, causing serious eye damage lasting 21 days or longer. Ceteareth-12 and
26 -20 are also very toxic to the aquatic environment and toxic by definition under federal law, based
27 on animal testing demonstrating that the substance is lethal even in very small doses.

28 131. The sensitization properties of **ceteareth-6** have not been thoroughly

1 investigated. The limited testing done, however, indicates that it is a skin irritant and corrosive to
2 ocular tissue, causing serious eye damage lasting 21 days or longer. Cetareth-6 is also very toxic
3 to the aquatic environment and toxic by definition under federal law, based on animal testing
4 demonstrating that the substance is lethal even in very small doses.

5 132. J&J adds "*carbomer*" to its products, but does not specify what substance it is
6 adding. "Carbomer" could refer to Carbomer 934, which is a weak sensitizer that irreversibly
7 damages the skin after short exposure; in animal tests, the substance caused visible necrosis after
8 less than 3 minutes of exposure. Corrosive reactions are typified by ulcers, bleeding, bloody scabs,
9 and, by the end of observation at 14 days, by discoloration due to blanching of the skin, complete
10 areas of alopecia, and scars. Some studies indicate that Carbomer 934 is a germ cell mutagen
11 known or presumed to mutate human cells in a way that can be transmitted to children conceived
12 after exposure. Some studies indicate that it is also a carcinogen. Or "Carbomer" could refer to
13 carboxypolymethylene, Carbomer 940, or Carbomer 941, all of which lack sufficient safety
14 testing. All carbomers contain 0.1-0.5% benzene, a known human carcinogen that causes acute
15 central nervous system damage and chronic bone marrow damage.

16 133. *Benzyl alcohol* is classified as a Category 1 skin sensitizer, based on positive
17 animal and/or human testing demonstrating that repeated skin contact can be expected to cause an
18 allergic response in a substantial number of persons. It is known to cause allergic reactions in 1.2
19 to 15% of patients with eczema from cosmetic products. It is also known to induce
20 nonimmunologic contact reactions without any previous sensitization. It is also a skin and eye
21 irritant, causing serious eye damage lasting 21 days or longer. It is recognized as an allergen by
22 the American Contact Dermatitis Society. It may also be a teratogen, causing birth defects. Animal
23 studies have shown it causes lung, liver, kidney, and central nervous system disorders. It is a
24 suspected immunotoxicant, suspected neurotoxicant, and suspected skin or sense organ toxicant.
25 It is toxic to aquatic organisms, toxic by definition under federal law, and its use is restricted in
26 Europe.

27 134. *Benzalkonium chloride* is classified as a Category 1 skin sensitizer, based on
28 positive animal and/or human testing demonstrating that repeated skin contact can be expected to

1 cause an allergic response in a substantial number of persons. It causes Category 1B skin corrosion,
2 meaning that it irreversibly damages the skin after short exposure; in animal tests, the substance
3 caused visible necrosis after less than 1 hour of exposure. Corrosive reactions are typified by
4 ulcers, bleeding, bloody scabs, and, by the end of observation at 14 days, by discoloration due to
5 blanching of the skin, complete areas of alopecia, and scars. It causes Category 1 eye damage, *i.e.*,
6 it causes serious damage to the eye tissue or serious physical decay of vision which is not fully
7 reversible within 21 days of application. It is recognized as an allergen by the American Contact
8 Dermatitis Society. Additionally, benzalkonium chloride is a Category 2 reproductive toxin,
9 meaning that it is suspected of damaging fertility or the unborn child based on human or animal
10 evidence. Its use is restricted in Europe.

11 135. ***Behentrimonium methosulfate*** has not been studied for skin sensitizing
12 potential. However, it is closely related to behentrimonium chloride, which is a sensitizer.
13 Behentrimonium methosulfate is known to cause serious eye damage lasting 21 days or longer. It
14 is a skin irritant, causing skin damage in less than four hours. It is also very toxic to aquatic life.

15 136. ***Caprylyl glycol*** causes Category 1 eye damage, *i.e.*, it causes serious damage to the
16 eye tissue or serious physical decay of vision which is not fully reversible within 21 days of
17 application.

18 137. The sensitization potential of ***PEG-100 stearate*** has not been assessed by any
19 reputable authority. Based on its chemical structure and similarity to other known skin sensitizers,
20 it is classified as a suspected skin sensitizer. It is also classified as a skin and eye irritant.

21 138. ***Steareth-20*** causes Category 1 eye damage, *i.e.*, it causes serious damage to the eye
22 tissue or serious physical decay of vision which is not fully reversible within 21 days of
23 application.

24 139. The sensitization potential of ***sorbitol*** has not been assessed by any reputable
25 authority. However, based on its chemical structure and similarity to other known skin sensitizers,
26 it is a suspected skin sensitizer.

27 140. ***Violet 2*** is classified as a Category 1 skin sensitizer, based on positive animal and/or
28 human testing, demonstrating that repeated skin contact can be expected to cause an allergic

1 response in a substantial number of persons.

2 141. According to ingredient manufacturers, *Orange 4* is a skin and strong eye irritant
3 that may cause allergic reactions in sensitive individuals.

4 142. Several tests classify *avena sativa (oat) kernel flour* as a Category 1 skin sensitizer,
5 based on positive animal and/or human testing, demonstrating that repeated skin contact can be
6 expected to cause an allergic response in a substantial number of persons.

7 143. *Propylene glycol* is a skin irritant, eye irritant, and a Category 1 skin sensitizer,
8 meaning that repeated skin contact causes a skin allergy in a substantial number of persons. In
9 these sensitized individuals, very low future exposure can cause itching and a skin rash. Moreover,
10 animal test data indicate that propylene glycol may cause adverse reproductive effects and birth
11 defects. It is also very toxic to aquatic life. It is recognized as an allergen by the American Contact
12 Dermatitis Society. Though not disclosed on ingredient labels, J&J's popular pink lotion contains
13 1-5% of propylene glycol. Exhibit D.

14 **THE REPRESENTATIONS ARE**
15 **FALSE, DECEPTIVE, AND MISLEADING**

16 144. J&J's conduct deceived and/or was likely to deceive the public. Consumers were
17 deceived into believing that the Falsely Labeled Products were hypoallergenic, as labeled.

18 145. All these representations were false, as explained *supra*.

19 146. Consumers would not know the true nature of the ingredients merely by reading
20 the ingredient label. Its discovery requires investigation beyond the grocery store and knowledge
21 of chemistry beyond that of the average reasonable consumer.

22 **LOCATION OF THE MISREPRESENTATIONS**

23 147. J&J made the above false, deceptive, and misleading misrepresentations and
24 omissions on the package of the Falsely Labeled Products. *See* Exhibit B.

25 148. J&J repeated the above false, deceptive, and misleading misrepresentations and
26 omissions on its online retail product page for the Falsely Labeled Products. *See* Exhibit C.

27 149. The misrepresentations and omissions were uniform and have actually been
28 communicated to Plaintiff and to each member of the Class at every point of purchase and

1 consumption.

2 **J&J'S DECEPTIVE AND MISLEADING OMISSIONS**

3 150. J&J presents itself as an expert in baby skincare. J&J boasts:

4 That's why we have published more research in this area than any other global skin
5 care company over the last five years. Our research is being used to set the standards
6 in baby care around the world. As a global healthcare company focused on skin
7 health, we have strived to fill critical research gaps by helping to advance 90% of
8 publications and peer -reviewed scientific literature on the understanding of baby
9 skin.

10 Exhibit R.

11 151. In 2011, in a letter to its customers outlining its "Safety and Care Commitment," J&J
12 explained:

13 We understand that earning your trust means more than meeting government safety
14 regulations, and sometimes even more than meeting the highest scientific standards
15 for safety. Trust means gaining your complete confidence in our ingredient
16 selection and decision-making process as a company, and also making your views
17 and concerns a part of this process. That's why we've created a website that brings
18 to life all we do to ensure the quality and safety of every product: Our Safety &
19 Care Commitment.

20 Exhibit S.

21 152. J&J deceptively and misleadingly conceals other material facts about the Falsely Labeled
22 Products, including:

- 23 a. the true nature of the Falsely Labeled Products' ingredients;
- 24 b. the identity of the Falsely Labeled Products' ingredients;
- 25 c. that the Falsely Labeled Products contain sensitizers, irritants, toxins,
26 carcinogens, pollutants, and/or otherwise hazardous substances;
- 27 d. the concentration of the sensitizers, irritants, toxins, carcinogens, pollutants,
28 and/or otherwise hazardous substances in the Falsely Labeled Products;
- 29 e. that the Falsely Labeled Products are not "hypoallergenic";
- 30 f. that the Falsely Labeled Products are not what a reasonable consumer would
31 consider to be "hypoallergenic;"
- 32 g. that the Falsely Labeled Products contain chemicals that a reasonable

1 consumer would not expect in a product labeled as “hypoallergenic.”

2 153. Plaintiff and the members of the Class are not at fault for failing to discover J&J’s
3 wrongs earlier, and had no actual or presumptive knowledge of facts sufficient to put them on
4 inquiry notice.

5 154. J&J has concealed the identity of several ingredients. Discovery is therefore
6 necessary to determine their identity. These ingredients may also be sensitizers, irritants, or
7 otherwise toxic.

8 155. For example, J&J adds “*fragrance*” or “*parfum*” to its products, but does not
9 identify what chemical is used. Many ingredients used as fragrances are known skin sensitizers.
10 Many are also extremely toxic to a person’s skin, their overall health, and/or to the environment.

11 156. As another example, J&J adds “*carbomer*” to its products, but does not specify
12 what substance it is adding. “Carbomer” could refer to Carbomer 934, which irreversibly damages
13 the skin after short exposure; in animal tests, the substance caused visible necrosis after less than
14 3 minutes of exposure. Some studies indicate that it is a germ cell mutagen known or presumed to
15 mutate human cells in a way that can be transmitted to children conceived after exposure. Some
16 studies indicate that it is also a carcinogen. Or “Carbomer” could refer to carboxypolymethylene,
17 Carbomer 940, Carbomer 941, or another carbomer, for which there is insufficient safety testing.

18 157. Similarly, because J&J failed to specify the chemical used, the safety of *potassium*
19 *acrylates copolymer* cannot be determined absent discovery.

20 158. Furthermore, J&J has not disclosed the concentration of each ingredient in its
21 products. Further investigation and discovery is needed so that Plaintiff can ascertain whether
22 entire products are also toxic.

23 159. J&J has also concealed from consumers the nature of its products’ ingredients
24 despite consumers’ requests. The possible carcinogenic, toxic, and environmental effects of its
25 ingredients are still concealed from consumers today.

26 160. These facts are not ascertainable and are still not known to Plaintiff, the Class
27 members, and reasonable consumers. J&J’s concealment tolls the applicable statute of limitations.

28 161. To this day, J&J continues to conceal and suppress the existence, true identity,

1 nature, and concentration of the sensitizers, irritants, toxins, carcinogens, pollutants, and/or
2 otherwise hazardous substances in the Falsely Labeled Products.

3 162. Similarly, to this day, J&J continues to conceal and suppress the fact that the Falsely
4 Labeled Products are not “hypoallergenic” as promised.

5 163. J&J represents elsewhere on the product label and on its website that the products
6 are “safe,” “gentle,” “mild,” cause “no more tears,” etc. This further obscures the fact that J&J’s
7 products are not hypoallergenic.

8 164. For example, in its Safety and Care Commitment, J&J also promises that its
9 ingredients are “not only gentle on baby, but also gentle on the environment long after you use
10 them.” As J&J knows, consumers care about the environmental effect of their bodycare products,
11 “[s]ince many of our products are washed off the body into the local wastewater systems, which
12 then feed into the broader water supply . . .” Exhibit T. *See also* Exhibit U (“We believe that
13 human health and environmental health are inextricably linked, and our sustainability goals are
14 designed to advance the health and well-being of people around the world and our planet.”);
15 Exhibit V (Ingredient Policies) (“When dealing with human or environmental safety, there are no
16 shortcuts and we do not compromise on safety for expediency in the process.”); Exhibit W (“All
17 ingredients are assessed for human and environmental safety.”).

18 165. Nonetheless, many ingredients in J&J’s products are known to be toxic to aquatic
19 life. Some are even regulated under the Clean Water Act as a hazardous substance which, when
20 discharged to navigable waters or adjoining shorelines, present an imminent and substantial danger
21 to the public health or welfare. *See* ¶¶ 65-143, *supra*.

22 **J&J KNEW ITS REPRESENTATIONS WERE FALSE**

23 166. J&J holds itself out to the public as trusted experts in the area of hypoallergenic,
24 safe, mild, and gentle personal care products.

25 167. J&J knew what representations it made regarding the Falsely Labeled Products, as
26 all representations appear on the products’ packages.

27 168. J&J also knew what ingredients were added to each product, as (presumably) all
28 product ingredients listed on the product packages and are further disseminated on their websites.

1 169. J&J is governed by and thus is presumed to know the federal regulations and state
2 laws that control the labeling of the Falsely Labeled Products, and thus is aware that many of the
3 ingredients have been federally declared to be chemical compounds that require inventory
4 reporting under the Toxic Substance Control Act, are hazardous or toxic compounds that require
5 special disclosures on safety data sheets, or are carcinogens or reproductive toxins that require
6 product label warnings under state law.

7 170. J&J thus knew all the facts demonstrating that its Falsely Labeled Products contain
8 sensitizers, irritants, and otherwise toxic ingredients, and that these products were therefore falsely
9 labeled.

10 **J&J INTENDED CONSUMERS RELY**

11 171. As J&J knows, consumers prefer hypoallergenic products. As J&J knows,
12 consumers will pay a premium for hypoallergenic products or would not purchase these products
13 at all unless they were hypoallergenic, as advertised.

14 172. J&J encourages consumers' preference for hypoallergenic products – specifically
15 for J&J's products – explaining to consumers that:

16 Your baby's skin is different than adult skin. It may look perfect, but it is
17 very delicate so it needs extra special care throughout the first years of life.
18 Compared to adult's skin, baby's skin:

- 19 • Is about 30% thinner
- 20 • Can lose moisture faster
- 21 • Is more prone to irritation
- 22 • Absorbs water at a faster rate, and can lose it faster, too

23 Because it is more delicate, baby's skin needs more protection from
24 environmental changes and harsh cleansers. So when caring for your little one, use
25 a mild and gentle cleanser and moisturizer that are developed especially for baby
26 like JOHNSON'S® baby HEAD-TO-TOE® wash and JOHNSON'S® baby lotion.

27 Exhibit X.

28 173. J&J's misleading affirmative statements (e.g., that the products were mild, gentle,
safe, caused "no more tears," or were environmentally safe) further obscured what J&J failed to
disclose. Thus, reliance upon J&J's misleading and deceptive representations and omissions may

1 be presumed.

2 174. J&J made the false, deceptive, and misleading representations and omissions,
3 intending Plaintiff and Class members to rely upon these representations and omissions in
4 purchasing and using one or more Falsely Labeled Products.

5 175. In making the false, misleading, and deceptive representations and omissions at
6 issue, J&J knew and intended that consumers would purchase the J&J products when consumers
7 would otherwise purchase a competing product or employ an alternate regimen (such as using an
8 oil for moisturizing).

9 176. In making the false, misleading, and deceptive representations and omissions at
10 issue, J&J also knew and intended that consumers would pay a premium for hypoallergenic
11 products, furthering J&J's private interest of increasing sales of its products and decreasing the
12 sales of products marketed by its competitors.

13 **CONSUMERS REASONABLY RELIED**

14 177. Consumers frequently rely on ingredient representations and information in making
15 purchase decisions, especially in purchasing personal care products.

16 178. When Plaintiff and the Class members purchased the Falsely Labeled Products,
17 Plaintiff and the Class members saw the false, misleading, and deceptive representations detailed
18 above, and did not receive disclosure of the facts concealed, as detailed above.

19 179. These misrepresentations were uniform and were communicated to Plaintiff and
20 every other member of the Class at every point of purchase and consumption.

21 180. Plaintiff and the Class members were among the intended recipients of J&J's
22 deceptive representations and omissions.

23 181. Plaintiff and the Class members reasonably relied to their detriment on J&J's
24 misleading representations and omissions.

25 182. J&J's false, misleading, and deceptive misrepresentations and omissions deceived
26 and misled, and are likely to continue to deceive and mislead, Plaintiff, the Class members,
27 reasonable consumers, and the general public.

28 183. J&J's misleading affirmative statements further obscured what it failed to disclose.

1 Thus, reliance upon J&J's misleading and deceptive representations and omissions may be
2 presumed.

3 184. J&J made the deceptive representations and omissions with the intent to induce
4 Plaintiff and the Class members to purchase the Falsely Labeled Products. Plaintiff's and the Class
5 members' reliance upon such representations and omissions may be presumed.

6 185. J&J's deceptive representations and omissions are material in that a reasonable
7 person would attach importance to such information and would be induced to act upon such
8 information in making purchase decisions. Thus, Plaintiff's and the Class members' reliance upon
9 such representations and omissions may be presumed as a matter of law. The materiality of those
10 representations and omissions also establishes causation between J&J's conduct and the injuries
11 sustained by Plaintiff and the Class members.

12 **J&J'S WRONGFUL CONDUCT CAUSED PLAINTIFF'S INJURY**

13 186. As an immediate, direct, and proximate result of J&J's false, misleading, and
14 deceptive representations and omissions, J&J injured Plaintiff and the Class members in that they:

- 15 a. paid a sum of money for a product that was not as represented;
- 16 b. paid a premium price for a product that was not as represented;
- 17 c. were deprived the benefit of the bargain because the Falsely Labeled
18 Products they purchased were different from what J&J warranted;
- 19 d. were deprived the benefit of the bargain because the Falsely Labeled
20 Products they purchased had less value than what was represented;
- 21 e. did not receive a product that measured up to their expectations as created
22 by J&J;
- 23 f. used (or caused their children to use) a substance that Plaintiff and the
24 members of the Class did not expect or consent to;
- 25 g. used (or caused their children to use) a product that was not hypoallergenic;
- 26 h. without their knowing consent, used (or caused their children to use) a
27 substance that is generally harmful to their health or their children's health;
- 28 i. without their knowing consent, used (or caused their children to use) a

1 substance that is a skin sensitizer, irritant, or a known or suspected toxin, carcinogen, mutagen,
2 teratogen, environmental pollutant, or otherwise is harmful to the environment and/or their health.

3 187. Had J&J not made the false, misleading, and deceptive representations and
4 omissions, Plaintiff and the Class members would not have been injured as listed above.
5 Accordingly, Plaintiff and the Class members have suffered “injury in fact” as a result of J&J’s
6 wrongful conduct.

7 188. Plaintiff and the Class members all paid money for the Falsely Labeled Products,
8 but did not obtain the full value of the advertised products due to J&J’s misrepresentations and
9 omissions. Plaintiff and the Class members purchased, purchased more of, or paid more for, the
10 Falsely Labeled Products than they would have had they known the truth about the Falsely Labeled
11 Products. Accordingly, Plaintiff and the Class members have suffered “injury in fact” and lost
12 money or property as a result of J&J’s wrongful conduct.

13 **J&J BENEFITTED FROM ITS MISLEADING AND**
14 **DECEPTIVE REPRESENTATIONS AND OMISSIONS**

15 189. As the intended, direct, and proximate result of J&J’s false, misleading, and
16 deceptive representations and omissions, J&J has been unjustly enriched through more sales of
17 Falsely Labeled Products and higher profits at the expense of Plaintiff and the Class members. As
18 a direct and proximate result of its deception, J&J also unfairly obtained other benefits, including
19 the higher value associated with a “hypoallergenic” brand and the resulting higher stock value,
20 redirecting sales to it and away from its competitors, and increased sales of its other products.

21 **CLASS ALLEGATIONS**

22 190. Plaintiff Rugg brings this action on behalf of himself and all other similarly situated
23 California residents who purchased the Falsely Labeled Products (as defined herein) (the
24 “California Class”).

25 191. Plaintiff Rugg also brings this action on behalf of himself and all other similarly
26 situated United States residents who purchased the Falsely Labeled Products (as defined herein)
27 (the “Nationwide Class”).

28 192. Excluded from the California Class and the Nationwide Class (“Classes” or
“Class”) are officers and directors of J&J; members of the immediate families of the officers and

1 directors of J&J; J&J's legal representatives, heirs, successors, or assigns; and any entity in which
2 they have or have had a controlling interest.

3 193. At this time, Plaintiff does not know the exact number of the Class members; given
4 the nature of the claims and the number of sales that J&J has made of the products, Plaintiff
5 believes that members of each Class are so numerous that joinder of all members is impracticable.

6 194. There is a well-defined community of interest in the questions of law and fact
7 involved in this case. Questions of law and fact common to the members of the Class that
8 predominate over questions that may affect individual Class members include:

9 a. whether J&J misrepresented and/or failed to disclose material facts
10 concerning the Falsely Labeled Products;

11 b. whether J&J's conduct was unfair and/or deceptive; and

12 c. whether J&J breached an express warranty created through the
13 labeling and marketing of its Falsely Labeled Products.

14 195. Plaintiff's claims are typical of those of the Class because Plaintiff, like all
15 members of the Class, purchased one or more of J&J's Falsely Labeled Products at a premium
16 price, relying on J&J's false and misleading representations, and Plaintiff sustained damages from
17 J&J's wrongful conduct.

18 196. Plaintiff will fairly and adequately protect the interests of the Class because
19 Plaintiff is similarly situated with, and has suffered similar injuries as, the members of the Class
20 he seeks to represent. Plaintiff feels that he has been deceived, wishes to obtain redress of the
21 wrong, and wants J&J to be stopped from perpetrating similar wrongs on others. Plaintiff is an
22 adequate representative of the Class because his interests do not conflict with the interests of the
23 Class members he seeks to represent, and he has retained counsel competent and experienced in
24 conducting complex class action litigation, who were the first to publicly uncover the true scope
25 and extent of J&J's wrongs. Plaintiff has no interests adverse to those of the Class members, and
26 will vigorously prosecute this litigation.

27 197. A class action is superior to other available methods for the fair and efficient
28 adjudication of this controversy. Specifically, no Class member has a substantial interest in

1 individually controlling the prosecution of a separate action. The damages suffered by each
2 individual Class member likely will be relatively small, especially given the burden and expense
3 of individual prosecution of the complex litigation necessitated by J&J's conduct. Thus, it would
4 be virtually impossible for the Class members individually to redress effectively the wrongs done
5 to them.

6 198. The prerequisites to maintaining a class action for injunctive or equitable relief are
7 met as J&J has acted or refused to act on grounds generally applicable to the Class, thereby making
8 appropriate final injunctive or equitable relief with respect to the Class as a whole.

9 199. Upon information and belief, there are no pending lawsuits concerning the products
10 at issue in this case. Concentration of the litigation concerning this matter in this Court is desirable,
11 and the difficulties likely to be encountered in the management of a class action are not great. The
12 resolution of the claims of all Class members in a single forum, and in a single proceeding, would
13 be a fair and efficient means of resolving the issues raised in this litigation.

14 200. The prosecution of separate actions by Class would create a risk of establishing
15 inconsistent rulings and/or incompatible standards of conduct for J&J.

16 201. J&J's conduct is generally applicable to the Class as a whole and Plaintiff seeks,
17 *inter alia*, equitable remedies with respect to the Class as a whole. As such, J&J's systematic
18 policies and practices make declaratory relief appropriate with respect to the Class.

19 202. The Class is specifically identifiable to facilitate provision of adequate notice and
20 there will be no significant problems managing this case as a class action. Notice to the Class can
21 be made through various means, such as in-store leaflets, website notices, Facebook notices,
22 notices on the labels of the packages, and/or direct notice to those consumers for which J&J knows
23 the e-mail or physical mailing address.

24 **CAUSES OF ACTION**

25 203. The allegations in each Cause of Action are repeated and realleged in every other
26 Cause of Action as if set forth in full therein.

COUNT 1

Breach of Express Warranty

On Behalf of the Nationwide Class and, in the alternative, the California Class

204. J&J provided Plaintiff and other members of the Class with written express warranties including, but not limited to, warranties that its Falsely Labeled Products were “hypoallergenic.”

205. These affirmations of fact or promises by J&J relate to the goods and became part of the basis of the bargain.

206. Plaintiff and members of each Class purchased the Falsely Labeled Products, believing them to conform to the express warranties.

207. J&J breached these warranties. This breach resulted in damages to Plaintiff and other members of the Class, who bought Falsely Labeled Products but did not receive the goods as warranted.

208. As a proximate result of the breach of warranties by J&J, Plaintiff and the other members of the Class did not receive goods as warranted. Plaintiff and the members of the Class therefore have been injured and have suffered damages in an amount to be proven at trial. Among other things, Plaintiff and members of the Class did not receive the benefit of the bargain and have suffered other injuries as detailed above. Moreover, had Plaintiff and the Class members known the true facts, they would not have purchased the products, would have purchased fewer products, or would not have been willing to pay the premium price J&J charged for the products.

WHEREFORE, Plaintiff prays for relief as set forth below.

COUNT 2

Unjust Enrichment

On Behalf of the Nationwide Class and, in the alternative, the California Class

209. As a result of J&J’s deceptive, fraudulent, and misleading labeling, advertising, marketing, and sales of the Falsely Labeled Products, J&J was enriched at the expense of Plaintiff and the other members of the Class through the payment of the purchase price for J&J’s Falsely Labeled Products.

1 deceptive, and fraudulent business acts and practices.

2 225. At all material times, J&J engaged in a scheme of offering the Falsely Labeled
3 Products for sale to Plaintiff and the other members of the Class by way of distributing within the
4 State of California (or the residence) to the public, *inter alia*, commercial marketing and
5 advertising, the World Wide Web (Internet), Falsely Labeled Product packaging and labeling, and
6 other promotional materials and offered for sale the Falsely Labeled Products on a nationwide
7 basis, including in California.

8 226. The misrepresentations and non-disclosures by J&J of the material facts detailed
9 above constitute false and misleading advertising, and therefore constitute a violation of Cal. Bus.
10 & Prof. Code § 17500, *et seq.* and similar statutes.

11 227. Said advertisements and inducements were made within the state of residence and
12 come within the definition of advertising contained in the FAL in that such promotional materials
13 were intended as inducements to purchase J&J's Falsely Labeled Products and are statements
14 disseminated by J&J to Plaintiff and the other Class members. J&J knew, or in the exercise of
15 reasonable care should have known, that these representations were misleading and deceptive.

16 228. Consumers, including Plaintiff and the other Class members, necessarily and
17 reasonably relied on these materials concerning J&J's Falsely Labeled Products. Consumers,
18 including Plaintiff and the Class members, were among the intended targets of such
19 representations.

20 229. The above acts of J&J did and were likely to deceive reasonable consumers,
21 including Plaintiff and the other members of the Class, by obfuscating the nature, quality, and/or
22 ingredients of the Falsely Labeled Products, in violation of the "misleading" prong of the FAL and
23 similar statutes.

24 230. The business practices alleged above are unlawful under the CLRA and similar
25 statutes, which forbids misleading and deceptive advertising.

26 231. Plaintiff and the other members of the Class have suffered injury in fact and have
27 lost money or property as a result of J&J's violations of the FAL and similar statutes.

28 232. As a result, J&J has been unjustly enriched at the expense of Plaintiff and the other

1 members of the Class. Plaintiff and the Class, pursuant to California Business and Professions
2 Code § 17535 and similar statutes, are entitled to an order of this Court enjoining such future
3 conduct on the part of J&J, and such other orders and judgments which may be necessary to
4 disgorge J&J's ill-gotten gains and restore to any person in interest any money paid for its Falsely
5 Labeled Products as a result of the wrongful conduct of J&J.

6 WHEREFORE, Plaintiff prays for relief as set forth below.

7 **COUNT 5**

8 **Violation of California's Unfair Competition Law and Similar Statutes**

9 **On Behalf of the Nationwide Class and, in the alternative, the California Class**

10 233. This cause of action is brought pursuant to California's Unfair Competition Law
11 (the "UCL"), Cal. Bus. & Prof. Code § 17200 *et seq.* and similar statutes.

12 234. By committing the acts and practices alleged herein, J&J has engaged in deceptive,
13 unfair, and unlawful business practices in violation of the UCL and similar statutes.

14 235. Plaintiff has standing to pursue this claim as he has suffered injury in fact and has
15 lost money or property as a result of J&J's actions as set forth above. Class members also have
16 suffered injury in fact and have lost money or property as a result of J&J's actions as set forth
17 above.

18 236. The violation of any law constitutes an "unlawful" business practice under Cal.
19 Bus. & Prof. Code § 17200 and similar statutes.

20 237. Each of J&J's false representations alleged herein violates U.S.C. § 331; Cal. Civ.
21 Code § 1709; Cal. Civ. Code § 1750 *et seq.*; and Cal. Bus. & Prof. Code § 17500 *et seq.*, and
22 similar statutes.

23 238. J&J has violated the UCL's proscription against engaging in unlawful conduct as a
24 result of its violations of (i) the CLRA and similar statutes, as alleged above, and (ii) the FAL and
25 similar statutes, as alleged above.

26 239. In addition, J&J has violated the UCL's proscription against engaging in unlawful
27 conduct as a result of its violations of the Sherman Law, Cal. Health & Safety Code § 109875 *et*
28 *seq.*, and similar statutes, which forbid (1) misbranding of any cosmetic, *id.* at §§ 110398 and

1 111445, and (2) manufacturing, selling, delivering, holding, or offering for sale any cosmetic that
2 is misbranded or delivering or proffering such for delivery. Cal. Health & Safety Code §§ 110390,
3 110395, 110398, 110400, 110550, 110585, 110620, 110625, 110660, 110770, 110705, 110740,
4 110760, 110765, 110770, 111445, and 111450.

5 240. The Sherman Law defines a “person” as “any individual, firm, partnership, trust,
6 corporation, limited liability company, company, estate, public or private institution, association,
7 organization, group, city, county, city and county, political subdivision of this state, other
8 governmental agency within the state, and any representative, agent, or agency of any of the
9 foregoing.” Cal. Health & Safety Code § 109995. J&J is a “person” within the meaning of the
10 Sherman Law.

11 241. As more fully described herein, J&J’s misleading marketing, advertising,
12 packaging, and labeling of the Falsely Labeled Products is likely to deceive a reasonable consumer.
13 Indeed, Plaintiff and the other Class members were unquestionably deceived regarding the
14 characteristics of J&J’s Falsely Labeled Products, as J&J’s marketing, advertising, packaging, and
15 labeling of the Falsely Labeled Products misrepresents and/or omits the true nature, quality, and/or
16 ingredients of the Falsely Labeled Products.

17 242. There is no benefit to consumers or competition from deceptively marketing and
18 labeling products. Indeed, the harm to consumers and competition is substantial. Plaintiff and the
19 other members of the Class who purchased the Falsely Labeled Products suffered a substantial
20 injury as alleged herein.

21 243. Plaintiff and the other members of the Class who purchased the Falsely Labeled
22 Products had no way of reasonably knowing that the Falsely Labeled Products they purchased
23 were not as marketed, advertised, packaged, and labeled. Thus, they could not have reasonably
24 avoided the injury each of them suffered.

25 244. J&J’s acts and omissions alleged above constitutes unfair business practices under
26 Cal. Bus. & Prof. Code § 17200 and similar statutes because the gravity of the consequences of
27 J&J’s conduct as described above outweighs any justification, motive, or reason therefor,
28 particularly considering the available legal alternatives which exist in the marketplace, and such

1 conduct is immoral, unethical, unscrupulous, offends established public policy, or is substantially
2 injurious to Plaintiff and the other members of the Class. J&J's false and misleading
3 representations and omissions also violate legislatively declared policy as they have violated
4 numerous state and federal laws. Moreover, the gravity of the harm to Plaintiff and Class members
5 resulting from J&J's conduct outweighs J&J's legitimate reasons, justifications and/or motives for
6 engaging in such deceptive acts and practices

7 245. Each false and misleading representation and omission constitutes fraudulent
8 business practices under Cal. Bus. & Prof. Code § 17200 and similar statutes because the
9 representations and omissions were false. Even if these representations were true, J&J's
10 representations and deceptive concealment were nonetheless fraudulent under the statute because
11 they were misleading and were likely to and did deceive the reasonable consumer, including
12 Plaintiff and the Class members.

13 246. J&J's violations continue to this day.

14 247. Pursuant to California Business and Professions Code § 17203 and similar statutes,
15 Plaintiff and the other members of the Class seek an order of this Court that includes, but is not
16 limited to, an order enjoining such future conduct on the part of J&J and such other orders and
17 judgments which may be necessary to disgorge J&J's ill-gotten gains and to restore to any person
18 in interest any money paid for J&J's Falsely Labeled Products as a result of the wrongful conduct
19 of J&J.

20 WHEREFORE, Plaintiff prays for relief as set forth below.

21 **PRAYER FOR RELIEF**

22 **WHEREFORE**, Plaintiff demands judgment on behalf of himself and the proposed
23 Classes providing such relief as follows:

24 A. Certification of the Classes proposed herein; appointment of Plaintiff Rugg as
25 representative of the California Class, and as representative of the Nationwide Class; and
26 appointment of the undersigned counsel as counsel for the Class;

27 B. A declaration that J&J is financially responsible for notifying members of the
28 Class of the pendency of this suit;

1 C. An order requiring an accounting for, and imposition of a constructive trust
2 upon, all monies received by J&J as a result of the unfair, misleading, fraudulent, and unlawful
3 conduct alleged herein;

4 D. Restitution, disgorgement, refund, and/or other monetary damages, together
5 with costs and disbursements, including reasonable attorneys' fees pursuant to the applicable
6 statutes and prejudgment interest at the maximum rate allowable by law;

7 E. Injunctive relief on behalf of the Classes, enjoining J&J's unlawful and
8 deceptive acts;

9 F. Statutory damages in the maximum amount provided by law;

10 G. Punitive damages in accordance with proof and in an amount consistent with
11 applicable precedent; and

12 H. Such further relief as this Court may deem just and proper.

13 **JURY TRIAL DEMANDED**

14 Plaintiff and the Class members hereby demand a trial by jury.

15
16 DATED: July 21, 2017

Respectfully submitted,

17
18 

19 Stephanie R. Tatar
20 TATAR LAW FIRM
21 3500 West Olive Avenue
22 Suite 300
23 Burbank, CA 91505
24 Tel. (323) 744-1146
25 Fax. (888) 778-5695

26 THE GOLAN FIRM
27 Yvette Golan (*pro hac vice* forthcoming)
28 1712 N Street, NW, Suite 302
Washington, D.C. 20036
Tel: (866) 298-4150, ext. 101
Fax: (928) 441-8250

1 **FRANCIS & MAILMAN, P.C.**
 2 James A. Francis (*pro hac vice* forthcoming)
 3 David A. Searles (*pro hac vice* forthcoming)
 4 Land Title Building, Suite 1902
 5 100 South Broad Street
 Philadelphia, PA 19110
 Tel. (215) 735-8600
 Fax. (215) 950-8000

6 **TURKE & STRAUSS, LLP**
 7 Samuel J. Strauss (*pro hac vice* forthcoming)
 8 613 Williamson Street #209
 Madison, WI 53703
 Tel: 608.237.1775
 Fax: 608.509.4423

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28