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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 JACQUELINE REAL,
12 Individually and On Behalf of
13 All Others Similarly Situated,
14 Plaintiff,
15 v.
16 JOHNSON & JOHNSON
CONSUMER COMPANIES,
17 INC.,
18 Defendant.

CASE NO. 2:15-cv-05025

CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

19 Plaintiff, Jacqueline Real (“Plaintiff” or “Real”), individually and on behalf
20 of all others similarly situated, by and through her attorneys, alleges on personal
21 knowledge as to all facts related to herself and upon information and belief (based
22 on the investigation of counsel) as to all other matters, as follows:

23 **PRELIMINARY STATEMENT**

24 1. Defendant, Johnson & Johnson Consumer Companies, Inc. (“J&J” or
25 “Defendant”), manufactures, markets, and sells Johnson & Johnson Bedtime
26 Products, including JOHNSON’S® BEDTIME® Bath (“Bedtime Bath”) and
27 JOHNSON’S® BEDTIME® Lotion (“Bedtime Lotion”) (collectively, “Bedtime
28 Product(s)” or “Product(s)”), which purport to help a baby sleep better.

1 Specifically, on the front of each bottle, there is a prominent logo that proclaims:
2 “CLINICALLY PROVEN, HELP BABY SLEEP BETTER.”¹ J&J also markets
3 and advertises, on the back of the bottles, that it has created a “clinically proven”
4 nighttime routine of a warm bath, gentle massage (with the Products), and quiet
5 activities that will help babies sleep better (*e.g.*, reading, cuddling, and singing
6 lullabies) (Exhibits 1, 2).

7 2. Since the introduction of the Bedtime Products in 2000, Defendant’s
8 nationwide advertising campaign for the Bedtime Products has been extensive,
9 and Defendant has spent a significant amount of money to convey its deceptive
10 messages to consumers throughout the United States and other parts of the world.
11 Defendant has utilized a wide array of media to convey its deceptive claims about
12 the Bedtime Products over time, including in television, magazines, the Internet,
13 and on the Product labels. Through this massive marketing campaign, Defendant
14 has worked to convey a singular message: the Bedtime Products are clinically
15 proven to help babies sleep better. Each person who has purchased the Bedtime
16 Products has been exposed to the advertising message and, in particular, the
17 misleading labels, and purchased the Products as a direct result of that message.

18 3. Defendant’s claims are deceptive and misleading, and have been
19 designed to induce consumers to buy the Bedtime Products. Defendant knew or
20 should have known, at the time it began selling the Products, that there are no
21 studies showing that the Bedtime Products are clinically proven to provide any
22 results, and Defendant has no basis to make the claims about its Products.

23 4. As a result of its deceptive conduct, J&J charges a premium of at least
24 \$1.00 for Bedtime Products over its other baby washes and lotions, which
25 premium Plaintiff and other consumers paid (and continue to pay) with the
26

27 ¹A true and correct copy of the current product label for the Bedtime Lotion
28 is attached hereto as Exhibit 1, and a true and correct copy of the current product
label for the Bedtime Bath is attached hereto as Exhibit 2.

1 specific understanding, based upon Defendant’s false and misleading labeling,
2 advertising, and pervasive representations, that using the Bedtime Products, either
3 alone or in connection with the “clinically proven” nighttime routine, will help
4 babies sleep better. As a result of seeing these false and misleading
5 representations, Plaintiff and consumers bought the Bedtime Products, paid more
6 for the Bedtime Products than they otherwise would have paid absent the wrongful
7 conduct, and have been damaged as a result of the wrongful conduct.

8 5. This class action seeks to provide redress to consumers in California
9 who have been harmed by the false and misleading marketing practices Defendant
10 has engaged in with respect to the Bedtime Products. Defendant’s conduct has
11 included the systematic and continuing practice of disseminating false and
12 misleading information throughout the United States via pervasive multi-media
13 advertising and the Product packaging. These actions were and are intended to
14 induce unsuspecting consumers, including Plaintiff and the members of the Class,
15 into purchasing the more expensive Bedtime Products, which Products are not
16 clinically proven to have the benefits that are represented. Those very supposed
17 benefits serve as the basis for consumers’ decisions to purchase the Bedtime
18 Products, instead of the less expensive J&J baby washes and lotions that have long
19 been sold on the market and do not purport to provide such “clinically proven”
20 benefits.

21 6. Plaintiff brings this action to obtain redress for those who have
22 purchased the Bedtime Products. Plaintiff alleges violations of the California
23 Consumers Legal Remedies Act, Civil Code § 1750, *et seq.* (“CLRA”); Unfair
24 Competition Law, California Business and Professions Code § 17200, *et seq.*
25 (“UCL”); and False Advertising Law, California Business and Professions Code, §
26 17500, *et seq.* (“FAL”).

27 7. Though this action, Plaintiff seeks injunctive relief, actual damages,
28 restitution and/or disgorgement of profits, statutory damages, attorneys’ fees,

1 costs, and all other relief available to the Class as a result of Defendant's unlawful
2 conduct.

3 **JURISDICTION AND VENUE**

4 8. This Court has original jurisdiction of this action under the Class
5 Action Fairness Act of 2005. The amount in controversy exceeds the sum or value
6 of \$5,000,000, exclusive of interest and other costs, and there is minimal diversity
7 because certain members of the Class and Defendant are citizens of different
8 states, as required by 28 U.S.C. § 1332(d)(2).

9 9. This Court has personal jurisdiction over Defendant because
10 Defendant is authorized to do business, and currently does business, in this State.

11 10. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)
12 because Defendant engages in substantial business throughout this District and a
13 substantial portion of the events and conduct giving rise to the violations alleged
14 in this Complaint occurred in this District.

15 **THE PARTIES**

16 11. Plaintiff is, and at all times relevant to this action has been, a resident
17 and citizen of Northridge, California.

18 12. J&J is a New Jersey corporation and, at all times relevant to this
19 action, has maintained its principal place of business in Skillman, New Jersey.
20 J&J, thus, is a citizen of New Jersey. J&J sold the Bedtime Products through retail
21 stores, the Internet, and through television and other advertisements, all of which
22 led consumers to purchase the Bedtime Products throughout the United States,
23 including in California. J&J knew, or should have known, that the representations
24 made regarding the Bedtime Products were false and misleading at the time that it
25 began distributing the Bedtime Products in the United States market.

1 **STATEMENT OF FACTS**

2 **Facts Common to Plaintiff and the Class**

3 13. This class action is brought against J&J for the benefit and protection
4 of all purchasers of the Bedtime Products in California.

5 14. J&J launched its Bedtime Products in 2000. As a general matter,
6 many babies and toddlers have difficulty falling asleep and sleeping through the
7 night. Indeed, J&J’s website indicates that “20-30 percent of babies experience
8 regular sleep problems, including difficulty falling asleep and sleeping through the
9 night.” Most parents, 76 percent, report a desire to change some aspect of their
10 baby’s sleep. <http://www.johnsonsbaby.com/difference/baby-science#sleep>.

11 15. Indeed, a majority of families report that sleep is the number one
12 challenge they face. *See* www.babycenter.com > Expert Advice, Americas Sleep
13 Crisis, July 2012, <http://www.babycenter.com/sleepstudy> (last visited July 1,
14 2015).

15 16. When Defendant introduced its Products, Defendant knew that its
16 target audience would be eager to accept claims that the Products could help
17 babies sleep better. Defendant used this opportunity to lure customers into paying
18 a premium price for the Product by making prominent representations in the
19 marketing materials for the Products, and especially the front labels for the
20 Products, that simply using the Products would help babies fall asleep more easily
21 and sleep better.

22 17. J&J has had baby washes and lotions on the market for years. J&J is
23 not in the business of selling routines – it is in the business of selling its Products.
24 In order to sell more products and attempt to capitalize on this perceived market to
25 improve baby’s sleep, J&J introduced its Bedtime Products. Indeed, J&J launched
26 these Products and claimed it had expanded its **product line** to introduce new and
27 innovative **products** to help a baby sleep better.

28 18. The Bedtime Products are known to customers only by the

1 representations made about the Products by Defendant. If, as is the case here, J&J
2 sold other baby washes and lotions for infants and young children, then customers
3 would have no reason to pay a premium to buy the new products, *i.e.*, the Bedtime
4 Products, unless and until they are exposed to Defendant’s labeling and other
5 pervasive messages about the purported properties and benefits of the Products.
6 The label itself, as well as the marketing material disseminated by Defendant, both
7 make the false and misleading representations about the Products’ benefits and
8 properties. In other words, given the existence of similar bath and skin lotion
9 products, long sold by J&J, for washing and moisturizing a baby’s skin,
10 consumers would purchase the Bedtime Products if, **and only if**, they were
11 exposed to Defendant’s pervasive labeling and advertising campaign that these
12 *new* Products did something that its others did not do – here, it is that the Bedtime
13 Products were (and are) *clinically proven* to help baby sleep better.

14 19. For example, the Products themselves are touted by Defendant. In its
15 Infant Sleep Guide, which cites to its own “baby care experts” at J&J, Defendant
16 stated that:

17 Our new products, enriched with NATURALCALM™ essences,
18 a unique blend of gentle ingredients and soothing aromas,
19 can help your baby sleep better when used as part of
20 a regular nightly routine. **JOHNSON’S® is the first and only**
21 **brand that’s clinically proven to help babies fall asleep easier**
22 **and sleep through the night better.** To learn more about our
23 products, visit JohnsonsBaby.com/sleep.

24 (emphasis added).²

25 20. Prior to January 2013, Defendant’s websites provided, *inter alia*,

27
28 ²A true and correct copy of the Infant Sleep Guide is attached hereto as Exhibit 3.

1 Baby Sleep Guides, New Parent's Guide to Better Sleep, and various “studies” to
2 support its misleading claims. While the language on some of these materials has
3 changed slightly between January 2013 and the present, the wording on the
4 Product labels has remained constant to this day: that the Bedtime Products are
5 clinically proven to help babies sleep better.

6 21. The labeling and marketing communicates a persistent and material
7 message and makes a common and pervasive representation that the Products are
8 clinically proven to help babies sleep better. These core representations alleged to
9 be false and misleading, that the Products themselves are clinically proven to help
10 babies sleep better, are also all contained on the Product label itself for every
11 purchaser to read.

12 22. On the front of the bottle of the Products, there is a prominent logo
13 that proclaims: “CLINICALLY PROVEN, HELP BABY SLEEP BETTER.”
14 (Exhibits 1, 2.)³

15 23. J&J claims that its Bedtime Bath and Bedtime Lotion are clinically
16 proven to help babies and toddlers fall sleep better, and are now labeled as able to
17 help babies who have “trouble sleeping” achieve a “better night’s sleep.” (Exhibits
18 1-2.)

19 24. Therefore, Defendant expressly and impliedly represented that the
20 Products were clinically proven to help baby sleep better.

21 25. As Defendant knows, however, contrary to the clear labeling and
22 advertising, the Bedtime Products themselves are not clinically proven.

23 26. J&J further states, on the back label of the Bedtime Product bottles,
24 that it has also created a “clinically proven” nighttime routine of a warm bath
25 (with the Products), gentle massage (with the Products), and quiet activities (*e.g.*,
26

27
28 ³Although there have been minor variations of the label, since 2010, these
same exact words have remained constant.

1 reading, cuddling, and singing lullabies):

2 Treat your baby to a bath with **JOHNSON'S® BEDTIME**
3 **BATH®**, a gentle massage with **JOHNSON'S® BEDTIME**
4 **LOTION®**, a few minutes of quiet time, and your baby will
5 drift off to a better night's sleep.

6 (See Exhibits 1, 2.) (emphasis added). Thus, in addition to the false representation
7 that the Products themselves are clinically proven, Defendant also has carefully
8 created the misleading and deceptive impression that consumers can use the
9 clinically proven Product **and** the clinically proven "nighttime routine" to help
10 baby sleep better.

11 27. Throughout the relevant time period, Defendant has marketed the
12 Products using uniformly deceptive advertising and packaging. Likewise, the
13 labeling and marketing for the Bedtime Lotion and Bedtime Bath contain
14 substantially the same message. A typical label promises that:

- 15 a. the Products are "CLINICALLY PROVEN, HELP BABY
16 SLEEP BETTER" (Exhibits 1, 2);
- 17 b. the Products help your baby fall asleep easier and sleep through
18 the night better (Exhibits 1, 2); and
- 19 c. the nighttime routine is clinically proven to help babies and
20 toddlers sleep better (Exhibits 1, 2).

21 28. At no time, however, either in its labels, advertising, or so-called
22 clinical studies, does J&J attempt to sell the routine, or to describe the use of the
23 routine or its studies, without **also** including the Bedtime Products in the
24 description of the routine and in the description of the studies. Nor would one
25 expect it to, since Defendant does not sell routines – it sells the Bedtime Products.
26 See <http://www.johnsonsbaby.com/difference/baby-science#sleep>.

27 29. Not surprisingly, and consistent with its goal of selling **products** (not
28 routines), Defendant has recently added a new **product** to its line - the
29 **JOHNSON'S® Baby BEDTIME® Washcloths**. The front of the package

1 proclaims that the washcloths are “clinically proven help baby sleep better.”⁴ The
2 label also states that the customer should “Try our other JOHNSON'S® Baby
3 BEDTIME® **products** to help baby sleep better.” (Exhibit 4.)(emphasis added).

4 30. Defendant has also repeated its unfair and/or deceptive
5 representations about its Products on its websites: www.johnsonsbaby.com,
6 www.jnj.com, and www.johnsonspromotional.com. The content of the websites
7 contains materially the same message about the Products that Defendant has put
8 on the labels of the Bedtime Products and disseminated since its launch.

9 31. Defendant’s website advertising also states that the Products are
10 formulated with NATURALCALM™, a “special blend of calming aromas.”⁵ *See*
11 *also* <https://www.johnsonsbaby.com/babywash/johnsons-bedtime-lotion>
12 (NATURALCALM™ is a special blend of gentle and calming aromas).

13 32. At some point since January 2013, Defendant changed this language
14 from the prior representation, that it was a “unique blend of patent pending
15 essences that has been tested and proven to have relaxing properties.” In fact,
16 since the time of the introduction of the Bedtime Products, J&J has claimed that
17 NATURALCALM™ is a “patent-pending blend of gentle and soothing aromas”
18 proven to promote calming and a relaxed state.⁶

19 33. However, Defendant is well aware that the patent for
20 NATURALCALM™ was never tested with babies or children.

21
22 ⁴A true and correct copy of the product box and label for the washcloths is
23 attached hereto as Exhibit 4.

24 ⁵A true and correct copy of the website page from 2014 is attached hereto as
25 Exhibit 5.

26 ⁶A true and correct copy of the product label for Bedtime Lotion is attached
27 hereto as Exhibit 6, and a true and correct copy of the product label for Bedtime
28 Bath is attached hereto as Exhibit 7. Both were used in or around January, 2013,
but were changed sometime between that date and the present.

1 34. Defendant also states that the Bedtime Lotion is “clinically shown to
2 last all night long.” (Exhibit 5.)

3 35. Since the launch of the Products and to the present, J&J has
4 consistently and uniformly stated on its labeling and in its other advertisements
5 that the Products are clinically proven to help babies sleep better. J&J intended
6 the statement to appear scientific and give the claims a special significance, when
7 in reality, Defendant knows that the Products themselves are not clinically proven.

8 36. J&J did not test the “routine” with products other than the Bedtime
9 Products, such as J&J’s long-sold ordinary bath products, another company’s
10 products, or with no products at all.

11 37. In the United Kingdom, a challenge to the advertising of the very
12 claims at issue here found that Defendant’s advertising was “likely to mislead” as
13 Defendant failed to show that it was the use of the Products in the suggested
14 routine that was proven to help babies sleep better and because the advertising did
15 not make clear that the routine had only been tested on babies over seven months
16 old. The Advertising Standards Authority Council “told them to ensure that any
17 similar advertising did not suggest that Johnson’s products, as part of the bedtime
18 routine, had been proven to help babies sleep better and to make clear that the
19 routine had been proven to work only for babies over seven months old.” *See* ASA
20 Adjudication on Johnson & Johnson Ltd, Apr. 30, 2008, formerly available at
21 [http://www.asa.org.uk/ASA-action/Adjudications/2008/4/Johnson-and-Johnson-Lt](http://www.asa.org.uk/ASA-action/Adjudications/2008/4/Johnson-and-Johnson-Ltd/TF_ADJ_44345.aspx)
22 [d/ TF_ADJ_44345.aspx](http://www.asa.org.uk/ASA-action/Adjudications/2008/4/Johnson-and-Johnson-Ltd/TF_ADJ_44345.aspx).⁷

23 38. All of these representations made by J&J on the Product labels are
24 deceptive, false, and misleading. Moreover, as a result of these representations,
25 Defendant was able to sell, to Plaintiff and other consumers, the Bedtime Products
26 at a premium over its plain baby lotion and wash products (*e.g.*, JOHNSON’S®
27

28 ⁷A true and correct copy of the decision is attached hereto as Exhibit 8.

1 Baby Lotion, JOHNSON'S® Baby Wash, or other comparable name brand
2 products), which cost at least twenty-five percent (25%) less than the Bedtime
3 Products. In other words, Plaintiff purchased the Products at a premium price over
4 other baby bath and lotion products.

5 39. Had Plaintiff and other members of the proposed Class been aware of
6 the truth, they would not have purchased the more expensive Bedtime Products or
7 would have paid substantially less for them.

8 **Plaintiff's Experiences**

9 40. Plaintiff's claims are based on the Products' labels. On or about
10 January 12, 2014, a month before her baby was born, Plaintiff, while shopping for
11 baby wash, viewed the claims on the label of the bottles of the Bedtime Products
12 at a Target store in Simi Valley, California. In particular, Plaintiff recalls reading
13 Defendant's claims on the labels that the Products were better than the other J&J
14 products because these Products (and only these Products) were "clinically
15 proven" to help babies sleep better.

16 41. Plaintiff also noticed that the labels of other baby wash and lotion
17 products, including J&J's long-sold regular products and other brand name
18 products, did not contain claims that the products were "clinically proven" to help
19 babies sleep better. As a result, the labels on the Products convinced Plaintiff to
20 purchase the Bedtime Products, instead of any other similar baby wash and lotion
21 products, to help her baby sleep better.

22 42. Defendant's claims that the Products would help baby sleep better
23 also induced Plaintiff, **in addition to** her purchase of the Bedtime Bath Products,
24 to also purchase J&J's long-sold regular products, **for use in the daytime.**

25 43. In reliance on the label's claims that the Bedtime Products were
26 clinically proven to help her baby sleep better, Plaintiff purchased two bottles of
27 Bedtime Bath for approximately \$4.99 per 15 oz. bottle, at the Target located at 51
28 Tierra Rejada Road in Simi Valley, California.

1 44. Plaintiff used the Bedtime Lotion in conjunction with the Bedtime
2 Bath in accordance with J&J's 3-step routine.

3 45. The labeling of the Product bottles, and the representations therein,
4 were made by Defendant. Reasonably relying on the claims made on the labeling
5 of the bottles, Plaintiff purchased the Products. Plaintiff reasonably expected that
6 the Products would work as advertised and sold and, thus, used the Bedtime
7 Products as directed.

8 46. After using the Bedtime Products as part of the 3-step nightly routine
9 for a period of time with her child, Plaintiff discontinued use, as she determined
10 that the use of the Bedtime Products (included in the "routine") did not help her
11 baby sleep better.

12 47. Plaintiff suffered actual damages and loss, in the amount of the total
13 price of the Bedtime Products purchased and/or the price premium of the Product,
14 as a result of the improper actions described herein.

15 **CLASS ACTION ALLEGATIONS**

16 48. Plaintiff brings this action as a class action, pursuant to Rule 23 of
17 the Federal Rules of Civil Procedure, seeking injunctive and other relief on behalf
18 of herself and all other similarly situated members of the Class, defined as follows:

19 All persons who purchased the Bedtime Products within
20 California, not for resale or assignment.

21 49. Specifically excluded from the Class are: (a) Defendant, its officers,
22 directors, agents, trustees, corporations, trusts, representatives, employees,
23 principals, servants, partners, joint ventures, or entities controlled by Defendant,
24 and their heirs, successors, assigns, or other persons or entities related to or
25 affiliated with Defendant and/or their officers and/or directors, or any of them; (b)
26 any person who has suffered personal injury or is alleged to have suffered personal
27 injury as a result of using the Bedtime Products; and (c) the Judge to whom this
28 case is assigned.

1 50. **Numerosity/Impracticability of Joinder.** The members of the Class
2 are so numerous that joinder of all members is impracticable. The proposed Class
3 includes thousands of members. The precise number of Class members can be
4 ascertained by reviewing documents in Defendant's possession, custody, and
5 control, or otherwise obtained through reasonable means.

6 51. **Typicality.** The representative Plaintiff's claims are typical of the
7 claims of the members of the Class she seeks to represent. Plaintiff and all
8 members of the Class purchased the Products at a premium price and have
9 sustained damages arising out of the same wrongful course of conduct. Plaintiff's
10 claims arise from the same practices and course of conduct that give rise to the
11 claims of the Class members and are based on the same legal theories.

12 52. **Commonality and Predominance.** Common questions of law and
13 fact exist as to all members of the Class and predominate over any questions solely
14 affecting individual Class members. These common legal and factual questions
15 include, but are not limited to, the following:

- 16 a. Whether Defendant engaged in a pattern of fraudulent,
17 deceptive, and misleading conduct targeting the public through
18 the marketing, advertising, promotion, labeling, and/or sale of
19 the Bedtime Products;
- 20 b. Whether Defendant made material misrepresentations of fact or
21 omitted to state material facts to Plaintiff and the Class
22 regarding the marketing, promotion, advertising, and sale of the
23 Bedtime Products, which material misrepresentations or
24 omissions operated as a fraud and deceit upon Plaintiff and the
25 Class;
- 26 c. Whether Defendant's false and misleading statements of fact
27 and concealment of material facts regarding the Bedtime
28 Products were intended to deceive the public;

1 d. Whether, as a result of Defendant's misconduct, Plaintiff and
2 the Class are entitled to equitable and other relief, and, if so,
3 the nature of such relief;

4 e. Whether Plaintiff and the members of the Class have sustained
5 loss and damages as a result of Defendant's acts and omissions,
6 and the proper measure thereof; and

7 f. Whether such a failure violates statutory and common law
8 prohibitions against such conduct, as detailed more fully
9 below.

10 53. **Adequacy.** Plaintiff will fairly and adequately represent and protect
11 the interests of the members of the Class. Plaintiff has retained counsel highly
12 experienced in complex consumer class action litigation and intends to prosecute
13 this action vigorously. Plaintiff is a member of the Class and does not have
14 interests antagonistic to, or in conflict with, the other members of the Class.

15 54. **Superiority.** A class action is superior to all other available methods
16 for the fair and efficient adjudication of this controversy since, among other
17 things, individual litigation and/or joinder of all members of the Class is
18 economically unfeasible and procedurally impracticable. While the aggregate
19 damages sustained by the Class are likely in the millions of dollars, the individual
20 damages incurred by individual Class members as a result of Defendant's
21 wrongful conduct alleged herein are too small to warrant the expense of individual
22 litigation. The likelihood of individual Class members prosecuting their own
23 separate claims is remote and, even if every Class member could afford individual
24 litigation, the court system would be unduly burdened by individual litigation of
25 such cases. Individual members of the Class do not have a significant interest in
26 individually controlling the prosecution of separate actions and individualized
27 litigation would present the potential for varying, inconsistent, or contradictory
28 judgments and would magnify the delay and expense to all of the parties and to the

1 court system because of multiple trials of the same factual and legal issues.
2 Plaintiff does not foresee any difficulty in the management of this litigation that
3 would preclude its maintenance as a class action.

4 55. Adequate notice can be given to Class members directly using
5 information maintained in Defendant's records, or through notice by publication.

6 56. The Class may be certified pursuant to Rule 23(b)(2) of the Federal
7 Rules of Civil Procedure because Defendant has acted on grounds generally
8 applicable to the putative Class members, thereby making final injunctive relief
9 and corresponding declaratory relief appropriate with respect to the claims raised
10 by the Class.

11 57. The Class may be certified pursuant to Rule 23(b)(3) of the Federal
12 Rules of Civil Procedure because questions of law and fact common to Class
13 members will predominate over questions affecting individual members, and a
14 class action is superior to all other methods for fairly and efficiently adjudicating
15 the controversy and causes of action described in this Complaint.

16 **FIRST CAUSE OF ACTION**
17 **(Violation of Consumers Legal Remedies Act –**
California Civil Code § 1750, et seq.)

18 58. Plaintiff incorporates by reference each and every preceding
19 paragraph as though fully set forth herein.

20 59. This cause of action is brought under the CLRA. Plaintiff and the
21 Class are consumers as defined by California Civil Code § 1761(d), and the
22 Bedtime Products constitute goods and services within the meaning of the CLRA.

23 60. Defendant violated and continues to violate the CLRA by engaging in
24 the following deceptive practices proscribed by California Civil Code § 1770(a) in
25 connection with transactions intended to result in, and that did result in, the sale of
26 the Products at issue herein to Plaintiff and members of the Class in violation of,
27 *inter alia*, the following provisions:

28 a. Representing the goods and services have characteristics, uses,

1 or benefits which they do not have (Cal. Civ. Code §
2 1770(a)(5));

3 b. Representing the goods and services are of a particular
4 standard, quality, or grade if they are of another (Cal. Civ.
5 Code § 1770(a)(7));

6 c. Advertising goods and services with the intent not to sell them
7 as advertised (Cal. Civ. Code § 1770(a)(9));

8 d. Representing a transaction involves rights, remedies, or
9 obligations that it does not have or involve (Cal. Civ. Code §
10 1770(a)(14)); and

11 e. Representing the goods and services have been supplied in
12 accordance with a previous representation when they have not
13 (Cal. Civ. Code § 1770(a)(16)).

14 61. Plaintiff and other Class members, in purchasing and using the
15 Products herein alleged, did reasonably act in response to Defendant's above
16 representations or would have considered the omitted facts detailed herein
17 material to their purchase decision. Plaintiff and the Class have suffered damages
18 by the wrongful acts and practices of Defendant that are in violation of California
19 Civil Code § 1781.

20 62. The representations regarding the Products were material to Plaintiff
21 and members of the Class. Defendant intended that Plaintiff and Class members
22 would rely on these representations and they did, in fact, rely on the
23 representations.

24 63. Under Civil Code § 1782(a), Plaintiff provided the required 30-day
25 notice, on July 7, 2014, before filing the Complaint pursuant to Civil Code §
26 1782(d). Following receipt of the notice, Defendant refused to provide the
27 requested remedies to the Class.

28 64. Plaintiff also is entitled to recover actual or statutory

1 compensatory/monetary damages as authorized by Civil Code §§ 1780(a)(1) and
2 1781(a)(1), restitution as applicable and authorized under Civil Code § 1780(a)(3),
3 and punitive damages as authorized by Civil Code § 1780(a)(4), which are
4 appropriate in this case in light of Defendant's knowing, intentional, malicious,
5 fraudulent, and unconscionable conduct; Defendant's reckless disregard of its
6 legal obligations to Plaintiff and the members of the Class; and/or as otherwise
7 recoverable under Civil Code § 1780(a)(4). Plaintiff's Declaration pursuant to
8 Cal. Civ. Code §1780(c) is attached hereto as Exhibit 9.

9 65. Plaintiff and the members of Class also are entitled to recover
10 attorneys' fees and costs pursuant to Civil Code §§ 1780 and 1781.

11
12 **SECOND CAUSE OF ACTION**
13 **(False and Misleading Advertising in Violation of**
14 **California Business and Professions Code § 17500, et seq.)**

15 66. Plaintiff incorporates by reference each and every preceding
16 paragraph as though fully set forth herein.

17 67. Defendant's acts and practices as described herein have deceived
18 and/or are likely to deceive members of the Class and the public. Defendant has
19 advertised and stated on its labels that the Bedtime Products are clinically proven
20 to help baby sleep better. This is an actual falsehood as the Bedtime Products are
21 not clinically proven.

22 68. Defendant has also advertised and stated on its labeling that the
23 Products and J&J's 3-step routine are clinically proven to help babies sleep better.
24 In reality, these claims about the efficacy of the Products and 3-step routine are
25 misleading to a reasonable consumer because the Products themselves are not
26 clinically tested and not worth the price paid by Plaintiff and the Class members.

27 69. By its actions, Defendant is disseminating uniform false advertising,
28 by its labeling, concerning its products and services, which by its nature is unfair,
deceptive, untrue, or misleading within the meaning of the FAL. Such

1 advertisements are likely to deceive, and continue to deceive, the consuming
2 public for the reasons detailed above.

3 70. The above-described false, misleading, and deceptive advertising
4 Defendant disseminated continues to have the likelihood to deceive in that
5 Defendant has failed to disclose the true and actual nature of the Bedtime
6 Products. Defendant has failed to initiate a public information campaign to alert
7 consumers of the Bedtime Products' true nature, which continues to create a
8 misleading perception of the Products' characteristics.

9 71. In making and disseminating the statements alleged herein, Defendant
10 should have known its labels were untrue and misleading, in violation of the FAL.
11 Plaintiff and the Class members based their decisions to purchase the Bedtime
12 Products, in substantial part, on Defendant's misrepresentations and omitted
13 material facts regarding the true nature of the Products. The revenues to
14 Defendant attributable to the Products sold using those false and misleading
15 labeling amounts to substantial monies paid for the Products. Plaintiff and the
16 Class were injured in fact and lost money or property as a result.

17 72. Defendant intended for Plaintiff and Class members to rely on these
18 representations and omissions and Plaintiff and Class members consequently did
19 rely on Defendant's misrepresentations and omissions.

20 73. The misrepresentations and non-disclosures by Defendant of the
21 material facts detailed above constitute false and misleading advertising and
22 therefore constitute a violation of the FAL.

23 74. As a result of Defendant's wrongful conduct, Plaintiff and the Class
24 members request that this Court enjoin Defendant from continuing to violate the
25 FAL. Such conduct is ongoing and continues to this date. Plaintiff and the Class
26 are therefore entitled to the relief described below as appropriate for this cause of
27 action.

28

1 **THIRD CAUSE OF ACTION**
2 **(Unlawful, Unfair, and Fraudulent Business Practices in Violation of**
3 **California Business and Professions Code § 17200, et seq.)**

4 75. Plaintiff incorporates by reference each and every preceding
5 paragraph as though fully set forth herein.

6 76. The UCL defines unfair competition to include any “unfair,”
7 “unlawful,” or “fraudulent” business act or practice.

8 77. Defendant violated, and continues to violate, the UCL by
9 misrepresenting the Bedtime Products as clinically proven to help babies sleep
10 better, when it knew, or should have known, that the Products are not, in fact,
11 clinically proven.

12 78. By engaging in the above described acts and practices, Defendant has
13 committed an unfair business practice within the meaning of the UCL. Consumers
14 suffered substantial injury they could not reasonably have avoided other than by
15 not purchasing the Products.

16 79. Defendant’s acts and practices have deceived and/or are likely to
17 deceive Class members and the public and thus constitute a fraudulent business
18 practice. Defendant uniformly advertised and labeled the Products as “clinically
19 proven” to help babies sleep better, despite the fact that it knew, or should have
20 known, of the Product’s real efficacy.

21 80. The acts and practices of Defendant are unlawful business acts or
22 practices because they violate, *inter alia*, California Civil Code §§ 1668, 1709,
23 1710, and 1750 *et seq.*, California Commercial Code § 2313, and California
24 Business and Professions Code § 17560.

25 81. As discussed above, Plaintiff and the members of the Class purchased
26 the Bedtime Products directly from Defendant and/or its authorized retail agents.
27 Plaintiff and members of the Class were injured in fact and lost money or property
28 as a result of such acts of unfair competition.

 82. The injuries suffered by Plaintiff and Class members are greatly

1 outweighed by any potential countervailing benefit to consumers or to
2 competition. Nor are they injuries that Plaintiff and Class members should have or
3 could have reasonably avoided.

4 83. Defendant received the funds paid by Plaintiff and the members of the
5 Class. Defendant profited by misrepresenting the properties of the Bedtime
6 Products that it otherwise would not have sold. Defendant's revenues attributable
7 thereto are thus directly traceable to the millions of dollars paid out by Plaintiff
8 and the Class for the Bedtime Products.

9 84. Unless Defendant is enjoined from continuing to engage in the
10 unlawful, unfair, and fraudulent business acts and practices as described herein,
11 Plaintiff and the Class will continue to be injured by Defendant's conduct.

12 85. Defendant, through its acts of unfair competition, has acquired money
13 from Class members. Plaintiff and the Class request this Court to enjoin
14 Defendant from continuing to violate the UCL.

15 86. The unlawful, unfair, and fraudulent conduct described herein is
16 ongoing and continues to this date. Plaintiff and the Class, therefore, are entitled
17 to relief described below as appropriate for this cause of action.

18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff, on behalf of herself and on behalf of the members
20 of the Class defined herein, prays for judgment and relief as follows as appropriate
21 for the above causes of action:

22 A. An order certifying this case as a class action and appointing Plaintiff
23 and her counsel to represent the Class;

24 B. A temporary, preliminary, and/or permanent order for injunctive
25 relief: (1) requiring Defendant to immediately cease its wrongful
26 conduct as set forth above; (2) enjoining Defendant from continuing
27 to misrepresent and conceal material information and conduct
28 business via the unlawful, unfair, and deceptive business acts and

1 practices complained of herein; (3) requiring Defendant to undertake
2 an informational campaign to inform members of the general public
3 as to the wrongfulness of Defendant's practices; and (4) requiring
4 Defendant to pay Plaintiff and all members of the Class the amounts
5 paid for the Bedtime Products;

6 C. Restitution and disgorgement of all amounts obtained by Defendant
7 as a result of its misconduct, together with interest thereon from the
8 date of payment, to the victims of such violations;

9 D. All recoverable compensatory and other damages sustained by
10 Plaintiff and the Class;

11 E. Actual and/or statutory damages for injuries suffered by Plaintiff and
12 the Class and in the maximum amount permitted by applicable law;

13 F. Statutory pre-judgment and post-judgment interest on any amounts;

14 G. Payment of reasonable attorneys' fees and costs; and

15 H. Such other and further relief as the Court may deem necessary or
16 appropriate.

17 **JURY DEMAND**

18 Plaintiff demands a trial by jury on all issues so triable.

19 Dated: July 2, 2015

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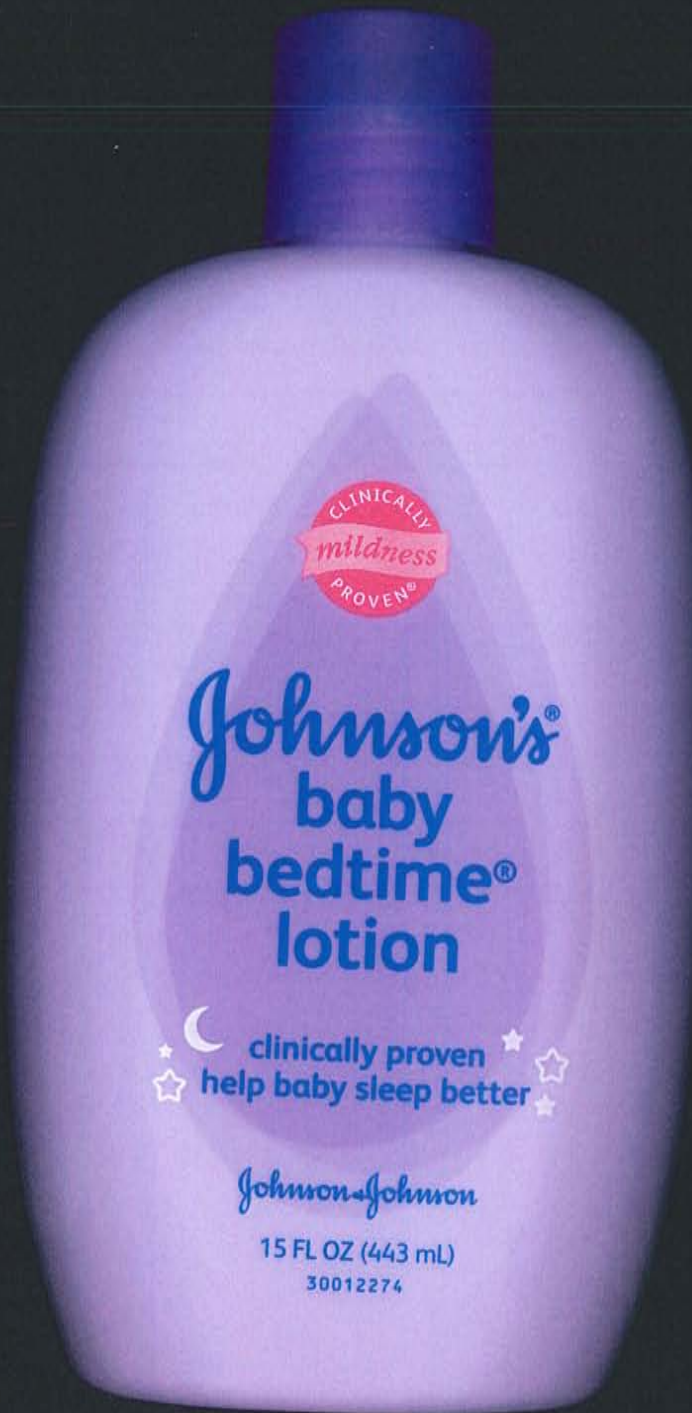
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**Attorneys for Plaintiff and
the Proposed Class**

Exhibit 1



CLINICALLY
mildness
PROVEN®

Johnson's
baby
bedtime®
lotion

★ clinically proven ★
★ help baby sleep better ★

Johnson & Johnson

15 FL OZ (443 mL)

30012274

We love babies.

And we understand they sometimes have trouble sleeping. That's why we created a clinically proven nighttime routine. Treat your baby to a bath with JOHNSON'S® BEDTIME® Bath, a gentle massage with JOHNSON'S® BEDTIME® Lotion, a few minutes of quiet time, and your baby will drift off to a better night's sleep. Held to our high standard of safety, this CLINICALLY PROVEN MILDNESS™ formula is dermatologist-tested and hypoallergenic.

Moms Trust JOHNSON'S® Always Mild & Gentle™

To Use: Massage lotion over entire body to soften baby's skin.

SAFETY TIP: Keep out of reach of children. Do not use if quality seal is broken.

Ingredients: Water, Mineral Oil, Glycerin, Carbomer, Phenoxyethanol, Cetearth-6, Fragrance, Methylparaben, Sodium Citrate, Stearyl Alcohol, Ethylparaben, Propylparaben, Citric Acid, Sodium Hydroxide.

The Triple Teardrop design is a trademark of Johnson & Johnson.



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Skillman, NJ 08588-0419

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30012279

Exhibit 2



We love babies.

And we understand they sometimes have trouble sleeping. That's why we created a clinically proven nighttime routine. Treat your baby to a bath with JOHNSON'S® BEDTIME® Bath, a gentle massage with JOHNSON'S® BEDTIME® Lotion, a few minutes of quiet time, and your baby will drift off to a better night's sleep. Held to our high standard of safety, this NO MORE TEARS® formula is dermatologist-tested and hypoallergenic.

Moms Trust JOHNSON'S® Always Mild & Gentle™

To Use: Pour into warm bath. Infant tubs use 1 capful, full-size tubs use 3 capfuls.

SAFETY TIP: Keep out of reach of children. Do not use if quality seal is broken.

Ingredients: Water, PEG-80 Sorbitan Laurate, Cocamidopropyl Betaine, Sodium Laureth Sulfate, Sodium Laurylphosphate, Polysorbate 20, PEG-150 Distearate, Sodium Benzoate, Fragrance, Citric Acid, Sodium Hydroxide.

The Triple-Reseal design is a trademark of Johnson & Johnson



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Exhibit 3

The Infant Sleep Guide

Between the ages of three and six months, your infant will be able to sleep for longer stretches at night. Which means you'll get a little more sleep than before. Congratulations! Now your baby is beginning to understand the difference between night and day, which makes it a perfect time to help improve their sleep time routine.

Put your infant to bed drowsy but awake.

The most important aspect of getting your baby to sleep through the night is to have your baby learn to soothe herself to sleep. Put your baby down to sleep when he or she is drowsy but awake. Babies need to be able to fall asleep independently, so that they can do the same when they wake in the middle of the night.*

How much sleep?

Your infant will sleep between 13 to 15 hours each day. It's important to realize though, that every baby is different and some will more sleep, while others need less. Your baby will also need to nap from two to four times a day.*

Create a loving nighttime routine.

To help ensure that your baby is getting the sleep he or she needs, build a consistent, **three-step sleep routine** that includes:



A warm bath



A soothing massage



& quiet time

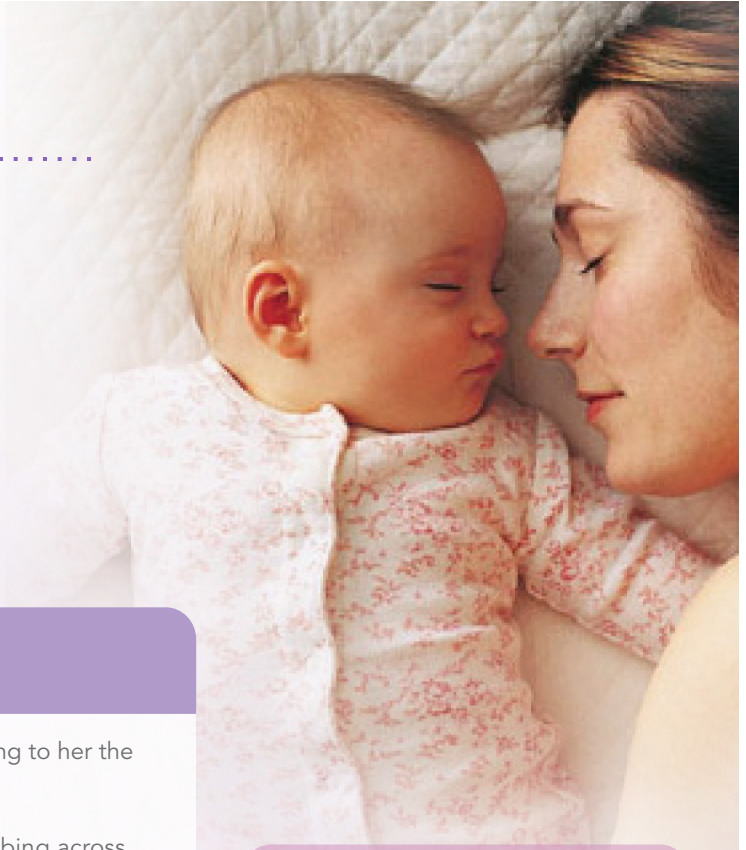
These calming events help tell your baby, "It's time to settle down and go to sleep." You may also want to begin to establish a set time for sleep, a set wake time, and set naptimes. To learn more about creating a nighttime routine that will help your baby sleep better, visit JohnsonsBaby.com/sleep.

Habits to avoid.

Make sure your baby's nighttime routine is not too long or too impractical to stick to. Try to avoid rocking or nursing your baby to sleep, because you may end up doing the same when your baby naturally wakes up during the night. Consider this: is this a habit you want to be catering to six months from now, or two years from now? Take turns with your partner with putting your baby to bed to help avoid developing such habits.*



The Infant Sleep Guide



Bathing is a good way to relax & bond with your baby.

You can help your baby relax before bed by including bathing into her nighttime routine. Warm water and a lullaby can help soothe your baby into the land of nod. Be sure to use a gentle cleanser suited for your baby.*

You can also try massage to help relax your baby.

Massage is a great way to relax your baby, It's also a wonderful way to bond with your baby.

To begin, lay a towel down to soften and add warmth to any flat surface. Start with your baby on her back. Be sure to keep your hand on your baby at all times when she's on the flat surface. Moisten your hands with a mild lotion specially made for babies, such as JOHNSON'S® BEDTIME TOUCH™ MASSAGE GEL, and warm the lotion in your hands. Begin massaging her head with gentle circular touches. Start with the forehead, temples, eyebrows, nose, ears, and around the mouth and jaw. Maintain eye contact with

your baby, talking or singing to her the whole time.

Work your way down, rubbing across her shoulders and chest, in one fluid motion. Be sure to follow your baby's cues to know whether the touch is soothing. Make gentle, light, circular motions across her tummy. Continue down her arms, hands and fingers, one at a time. And finally, legs to feet, rubbing all ten toes. Turn your baby on her tummy and repeat the same massage.

Enjoy your baby's nighttime routine. When you include a bath and massage, and a moment of quiet time together it becomes a wonderful time to unwind together and to bond.

New Resource for Sleepy Babies (and Parents)



Get personalized advice on helping your baby get a better night's sleep with the Customized Sleep Profile from JOHNSON'S®, a resource designed by world-renowned sleep experts Dr. Jodi Mindell and Dr. Avi Sadeh. You can also view a Q & A video with Dr. Mindell, watch instructional videos for bathing and massage, download lullabies, and more. Visit JohnsonsBaby.com/sleep to discover a better night's sleep for all.

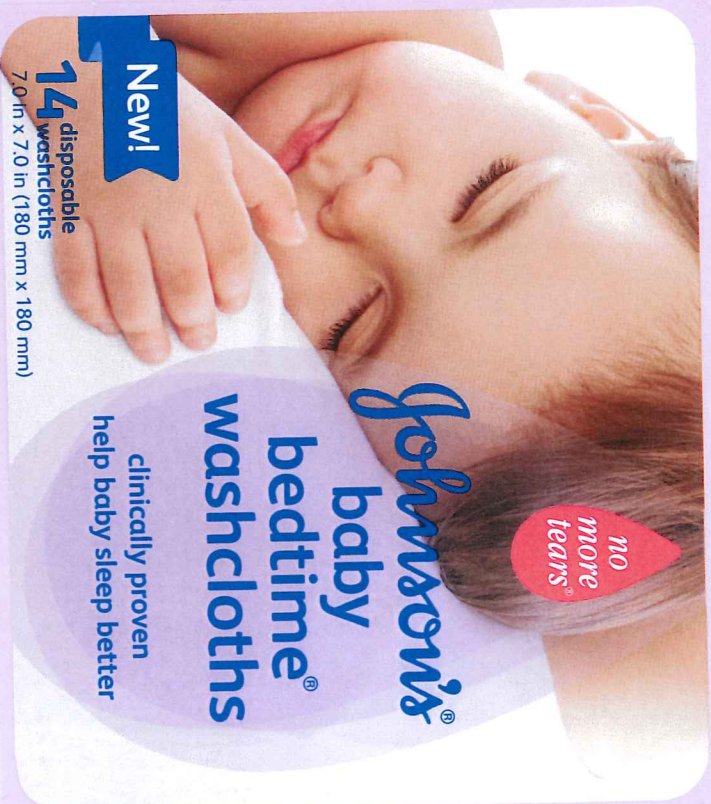


Our new products, enriched with NATURALCALM™ essences, a unique blend of gentle ingredients and soothing aromas, can help your baby sleep better when used as part of a regular nightly routine. JOHNSON'S® is the first and only brand that's clinically proven to help babies fall asleep easier and sleep through the night better. To learn more about our products, visit JohnsonsBaby.com/sleep

*Adapted from Sleeping Through the Night: How Infants, Toddlers, and Their Parents Can Get a Good Night's Sleep by Dr. Jodi Mindell and from an article by the baby care experts at JOHNSON'S®

Exhibit 4

Johnson's baby bedtime[®] washcloths



Johnson's
baby
bedtime[®]
washcloths
clinically proven
help baby sleep better

New!

14 disposable
washcloths
7.0 in x 7.0 in (180 mm x 180 mm)

Ingredients: Water, Glycerin, Cocamidopropyl Betaine, Sodium Cocoyl Isethionate, Sodium Coco-Sulfate, Polyglyceryl-10 Laurate, Sodium Lauryl Sulfacetate, Fragrance, Sodium Benzate, Potassium Acrylates Copolymer, Citric Acid, Lauryl/Stearyl Alcohol, Guar Hydroxypropyltrimonium Chloride, Sodium Hydroxide

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Moms trust **JOHNSON'S[®]**
Always Mild & Gentle[®]

Try our other **JOHNSON'S[®]** Baby **BEDTIME[®]** products to help baby sleep better!
BEDTIME[®] bath
BEDTIME[®] lotion
BEDTIME[®] bubble bath



Held to our high standard of safety, these **NO MORE TEARS[®]** bath formula washcloths are dermatologist-tested and allergy-tested.
Be a part of the **JOHNSON'S[®]** Baby community at facebook.com/johnsonsbaby

We love babies.

And we understand they sometimes have trouble sleeping.

That's why we created a **clinically proven nighttime routine.**

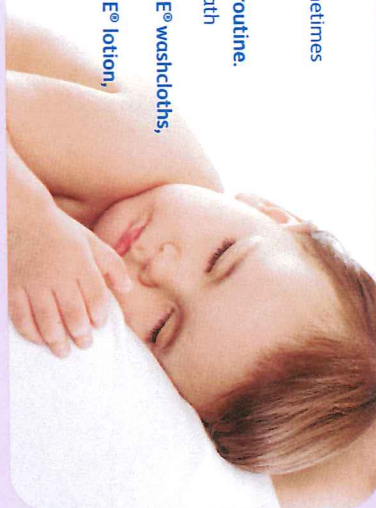
Treat your baby to a warm bath with these easy-to-use

JOHNSON'S® Baby BEDTIME® washcloths,

a gentle massage with

JOHNSON'S® Baby BEDTIME® lotion,

a few minutes of quiet time, and your baby will drift off to a better night's sleep.



To Use:

1. Moisten washcloth and lather by rubbing it gently between your fingers
2. Wash your baby's hair and body
3. Gently rinse your baby with the washcloth, diluting the wash formula with more and more water
4. Discard washcloth in trash after use, dry and snuggle your baby

Store in cool, dry place.

Do not leave box in tub or shower.

Do not use if box has been opened.

SAFETY TIP: Keep out of reach of children.

lift here to open

ultra-soft cloths

Exhibit 5



[Español](#)

[« go back to JOHNSON'S® BABY BEDTIME®](#)

Clinically Proven to Help Baby Fall Asleep Faster.

Treat your baby to a warm bath with JOHNSON'S® Baby BEDTIME® Bath, a gentle massage with JOHNSON'S® Baby BEDTIME® Lotion, and a few minutes of quiet time, and help your baby drift off to a better night's sleep.

Step 1: A Warm Bath with JOHNSON'S® Baby BEDTIME® Bath

Help your little one let go of the day's excitement with a warm bath. JOHNSON'S® Baby BEDTIME® Bath is formulated with NATURALCALM® essences - a special blend of calming aromas. Held to our high standard of safety, this NO MORE TEARS® formula is as gentle to the eyes as pure water.

For a bubblier start to your nighttime routine, try JOHNSON'S® Baby BEDTIME® Bubble Bath & Wash!

Step 2: A Gentle Massage with JOHNSON'S® Baby BEDTIME® Lotion

Follow the bath with a gentle massage. JOHNSON'S® Baby BEDTIME® Lotion is formulated with NATURALCALM® essences, a special blend that releases soothing aromas. Clinically shown to last all night long, this CLINICALLY PROVEN MILDNESS™ lotion formula is dermatologist-tested and hypoallergenic.

Step 3: Quietly Off to Sleep

After a warm bath and soothing massage, ease your little one off to sleep with quality quiet time together. Read a story, sing a lullaby or just quietly enjoy each other's warmth. Choose what works for you and your little one, but to ensure a good night's sleep, your quiet time shouldn't exceed twenty minutes.

A warm bath with JOHNSON'S® Baby BEDTIME® Bath, a gentle massage with JOHNSON'S® Baby BEDTIME® Lotion, and a few minutes of quiet time. It's the clinically proven routine that leaves more time to dream.

[Shop JOHNSON'S® Baby BEDTIME®](#)

Save \$2

on any two JOHNSON'S® Baby BEDTIME® products.

[Get coupon now](#)

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Exhibit 6

NEW & IMPROVED

Johnson's bedtime lotion®

CLINICALLY PROVEN.
HELP BABY



SLEEP BETTER

Releases NaturalCalm™ essences
Libera esencias NaturalCalm™

Johnson's Johnson

15 FL OZ (444 mL)

729453

JOHNSON'S® has created a nightly routine that is clinically proven to help your baby fall asleep easier and sleep through the night better. Treat your baby to a warm bath, using JOHNSON'S® BEDTIME BATH®, then gently massage skin with JOHNSON'S® BEDTIME LOTION®. Each product releases NATURALCALM™ essences, a patent-pending blend of gentle and soothing aromas. Your baby will drift off to a better night's sleep. JOHNSON'S® BEDTIME LOTION® is clinically proven mild, allergy tested and formulated to help keep baby's skin feeling soft.

DIRECTIONS: Massage gently over entire body.

SAFETY TIP: Keep this product out of reach of children.

Remove quality seal before use. Do not use if seal is broken.

Esto clínicamente comprobado que la rutina nocturna creada por JOHNSON'S® ayuda a tu bebé a dormirse más fácil y mejor durante toda la noche. Dale a tu bebé un baño tibio utilizando JOHNSON'S® BEDTIME BATH®. Luego masajear delicadamente su piel con JOHNSON'S® BEDTIME LOTION®. Cada producto desprende esencias NATURALCALM™.

Una mezcla con aromas delicados y relajantes en proceso de ser patentada. Tu bebé tendrá un mejor descanso durante la noche. Está clínicamente comprobado que la crema JOHNSON'S® BEDTIME LOTION® es ligera, no causa alergias y no irrita la piel.

Una mezcla con aromas delicados y relajantes en proceso de ser patentada. Tu bebé tendrá un mejor descanso durante la noche. Está clínicamente comprobado que la crema JOHNSON'S® BEDTIME LOTION® es ligera, no causa alergias y no irrita la piel de tu bebé.

DIRECCIONES: Masajear suavemente sobre todo el cuerpo.

PRECAUCIÓN: Mantener fuera del alcance de los niños.

Eliminar el sello de calidad antes de usarlo. No utilizar si el sello está roto.

Esto clínicamente comprobado que la crema JOHNSON'S® ayuda a tu bebé a dormirse más fácil y mejor durante toda la noche. Dale a tu bebé un baño tibio utilizando JOHNSON'S® BEDTIME BATH®. Luego masajear delicadamente su piel con JOHNSON'S® BEDTIME LOTION®. Cada producto desprende esencias NATURALCALM™.

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DIRECCIONES: Masajear suavemente sobre todo el cuerpo.

PRECAUCIÓN: Mantener fuera del alcance de los niños.

Eliminar el sello de calidad antes de usarlo. No utilizar si el sello está roto.

Esto clínicamente comprobado que la crema JOHNSON'S® ayuda a tu bebé a dormirse más fácil y mejor durante toda la noche. Dale a tu bebé un baño tibio utilizando JOHNSON'S® BEDTIME BATH®. Luego masajear delicadamente su piel con JOHNSON'S® BEDTIME LOTION®. Cada producto desprende esencias NATURALCALM™.

CLINICALLY PROVEN. HELP BABY SLEEP BETTER



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U.S. Patents Pending

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www.Johnsonsbaby.com/sleep

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CONSUMER COMPANIES, INC.

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Exhibit 7

NEW & IMPROVED

Johnson's bedtime bath®

CLINICALLY PROVEN.
HELP BABY
SLEEP BETTER



Releases NaturalCalm™ essences
Libera esencias NaturalCalm™

Johnson's

15 FL OZ (444 mL)
729454

JOHNSON'S® has created a nightly routine that is clinically proven to help your baby fall asleep easier and sleep through the night better. Treat your baby to a warm bath using JOHNSON'S® BEDTIME BATH®, then gently massage skin with JOHNSON'S® BEDTIME LOTION®. Each product releases NATURALCALM™ essences, a patent-pending blend of gentle and soothing aromas. Your baby will drift off to a better night's sleep. JOHNSON'S® BEDTIME BATH® has our exclusive NO MORE TEARS® formula and is clinically proven mild, allergy tested and formulated to help keep baby's skin feeling soft.

DIRECTIONS: Tinted tub use 1 capful, full-size tub use 3 capfuls poured into warm water.

SAFETY TIP: Keep this product out of reach of children. Remove quantity and before use. Do not use if seal is broken.

Este medicamento comprobado que la rutina nocturna creado por JOHNSON'S® ayuda a tu bebé a dormirse más fácil y mejor durante toda la noche. Dale a tu bebé un baño tibio utilizando JOHNSON'S® BEDTIME BATH® luego masajear delicadamente su piel con JOHNSON'S® BEDTIME LOTION®. Cada producto desprende esencias NATURALCALM™, una mezcla con aromas delicados y relajantes en proceso de ser patentada. Tu bebé tendrá un mejor descanso durante la noche. JOHNSON'S® BEDTIME BATH® contiene nuestra fórmula exclusiva NO MORE TEARS® y está clínicamente comprobado que es ligero, no causa alergias y ha sido creado con una fórmula para ayudar a mantener suave la piel de tu bebé.

DIRECCIONES: Para 1 tina tamaño infantil, utilizar 1 taza. Para 1 tina tamaño estándar, utilizar 3 tazas. Remover con el agua tibia.

PRECAUCIÓN: Mantener fuera del alcance de los niños.

Remove the seal of the cap before use. Do not use if seal is broken. No utilizar si el sello está roto.

JOHNSON'S® does not make store brands.

INGREDIENTS: Water, PEG-80 Sorbitan Laurate, Cocamidopropyl Betaine, Sodium Laureth Sulfate, Sodium Laurethamphosacetate, Polyorbote 20, PEG-150 Distearate, Sodium Benzothiazyl, Fragrance. May also contain: Citric Acid

1-866-JNJ-BABY www.Johnsonsbaby.com/sleep
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Exhibit 8

ASA Adjudication on Johnson & Johnson Ltd

Johnson & Johnson Ltd

The Braccans
London Road
Bracknell
Berkshire
RG12 2AT

Date:

30 April 2008

Media:

Magazine

Sector:

Health and beauty

Number of complaints:

1

Agency:

Lowe London

Complaint Ref:

46036

Ad

A magazine ad, for Johnson's Baby Bedtime bath and lotion, stated "Kiss goodbye to sleepless nights. Putting your baby down for the night can now be the highlight of the day thanks to Johnson's Baby. Our new Bedtime Bath and Bedtime Lotion routine has NaturalCalm, a unique blend of gentle, soothing aromas. In fact, ours is the first and only Clinically Proven routine to help your baby sleep better".

Issue

1. The complainant challenged whether Johnson & Johnson could substantiate the

claims that the routine could help babies sleep better.

2. The ASA challenged whether the ad misleadingly implied that Johnson & Johnson's products specifically, as part of the routine, had been proven to help babies sleep better and whether the ad implied the routine had been proven to work for babies of all ages.

CAP Code (Edition 11)

3.17.150.1

Response

1. Johnson & Johnson Ltd (Johnson's) said their Bedtime bath and lotion routine consisted of three steps. The first step was to bath the baby in a warm bath that contained Johnson's Baby Bedtime Bath. The second step was to massage the baby with Johnson's Baby Bedtime Lotion and the third was quiet time, which involved helping the baby to wind down by singing gently or reading to the baby or feeding him or her. They said the claim "clinically proven to help babies sleep better" was fully substantiated by a clinical study conducted before the product launch. They said a leading paediatric sleep expert, who was internationally recognised for her expertise in paediatric sleep disorders, was the sub-investigator in the study. They said the study's aim was to examine the effects on babies' sleep of a consistent pre-bedtime routine, which included the use of Johnson's Baby Bedtime Bath and Johnson's Baby Bedtime Lotion. They provided details of the study and said it provided support for the claims "fall asleep faster", "sleep longer" and "sleep better" in association with the bedtime routine.

Johnson's said the claim "Kiss goodbye to sleepless nights" was a play on words to reflect both the visual of the relaxed looking mother kissing her baby goodnight and the results of the study, which showed that a significant proportion of babies went to sleep faster, slept for longer and awoke less often during the night after adopting their bedtime routine. They believed consumers were unlikely to interpret the claim literally and therefore would not be misled.

2. Johnson's said it was not their intention to imply that it was their products alone that contributed to the improvement in sleep. They said it was obvious from the ad that they were promoting a routine. They said the study had compared the Johnson's bedtime routine against a control group. The parents in the control group had maintained their infant's existing night-time routine, which could include other bath products. They said that because they knew bath time in particular, and also massage, were very common pre-bedtime activities, they could assume that bath products other than Johnson's were used in the control group. They believed a routine that used other products had not been clinically proven to help babies sleep

better.

Johnson's said the study was carried out on babies between seven and 18 months of age, because seven months was the age at which normal sleep patterns were established. It was also a safety measure because that was when most babies could sit unaided in a bath. They said the ad showed an image of a baby who looked older than six months and that was therefore consistent with the study.

Johnson's said they had no plans to use the ad again.

Assessment

1. Not upheld

The ASA noted the study provided by Johnson's demonstrated that babies subjected to a before-bed routine using Johnson's products slept for longer, went to sleep faster and woke less often during the night than the babies in the control group. We noted the study had been conducted under the supervision of an independent expert in the field and had produced clinically relevant results. We concluded that the study demonstrated that the bedtime routine used could help babies sleep better. We also considered that readers were likely to interpret the claim "kiss goodbye to sleepless nights" in the context of the "help babies sleep better" claim and were unlikely to understand it as a guarantee that all babies would sleep at night if they were subjected to the routine.

On this point, we investigated the ad under CAP Code clauses 3.1 (Substantiation) and 50.1 (Health & Beauty Products and therapies) but did not find it in breach.

2. Upheld

We noted the control group in the study provided by Johnson's had consisted of mothers and babies carrying out their normal bedtime routine. Because there had not been a control group that carried out the 'bath, massage and quiet time' routine but without Johnson's products, we considered that the study did not demonstrate that it was specifically the addition of Johnson's Bedtime Bath and Bedtime Lotion to the routine that produced the results. We considered that the claim "Putting your baby down for the night can now be the highlight of the day thanks to Johnson's Baby" and "Our new Bedtime Bath and Bedtime Lotion routine has NaturalCalm, a unique blend of gentle, soothing aromas" suggested that Johnson's products played a key part in helping babies sleep better, rather than the nature of the routine itself, i.e. a baby having a bath, a massage and 'quiet time' before bed.

We also noted the study had only been carried out on babies aged seven months and older. We acknowledged there were safety reasons why babies of that age had been

used in the study but we considered that, in the absence of qualification, and because the image of the baby in the ad was not noticeably older than seven months, readers were likely to infer from the ad that the routine had been proven to work for babies of any age.

Because Johnsons had not specifically demonstrated that it was the use of their products in the suggested bedtime routine that was proven to help babies sleep better, and because the ad did not make clear that the routine had only been proven to work for babies over seven months old, we concluded that the ad was likely to mislead.

On this point, the ad breached CAP Code clauses 3.1 (Substantiation), 7.1 (Truthfulness) and 50.1 (Health & beauty products and therapies).

Action

We noted Johnson's did not intend to repeat the ad. We told them to ensure that any similar advertising did not suggest that Johnson's products, as part of the bedtime routine, had been proven to help babies sleep better and to make clear that the routine had been proven to work only for babies over seven months. We advised Johnsons to seek guidance from the CAP Copy Advice team on similar advertising in future.

Adjudication of the ASA Council (Non-broadcast)

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Exhibit 9

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

JACQUELINE REAL,
Individually and On Behalf of
All Others Similarly Situated,

Plaintiff,

v.

JOHNSON & JOHNSON
CONSUMER COMPANIES, INC.,

Defendant.

CASE NO.

DEMAND FOR JURY TRIAL

DECLARATION OF JACQUELINE REAL

I, Jacqueline Real, declare under penalty of perjury as follows:

1. I make this declaration based upon my personal knowledge except as to those matters stated herein that are based upon information or belief, which I believe to be true.

2. I am an adult citizen of the State of California. I reside in Northridge, California, and I am a named Plaintiff in this litigation.

3. In or about January 2014, I purchased Defendant's Bedtime Bath Products at a Target store in Simi Valley, California.

4. To the best of my knowledge, information and belief, Defendant Johnson & Johnson Consumer Companies Inc., is a New Jersey corporation with its principal place of business and executive offices located in Skillman, New Jersey.

5. To the best of my knowledge, information and belief, Defendant Johnson & Johnson Consumer Companies Inc. does business directly and/or indirectly in California.

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I declare under penalty of perjury under the laws of the State Of California that the foregoing is true and correct. Executed this ____ day of July, 2015 at Northridge, California.



JACQUELINE REAL