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ON SIGNATURE PAGE]**

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Stan Zakinov

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

**STAN ZAKINOV;
INDIVIDUALLY AND ON
BEHALF OF ALL OTHERS
SIMILARLY SITUATED,**

Plaintiff,

v.

**CHURCH & DWIGHT CO.,
INC.,**

Defendant.

Case No.: '15CV1992 DMS BLM

**CLASS ACTION COMPLAINT
FOR:**

- 1) VIOLATION OF THE
CONSUMERS LEGAL
REMEDIES ACT (CAL. CIVIL
CODE §§ 1750, ET SEQ.);**
- 2) VIOLATION OF BUSINESS &
PROFESSIONS CODE § 17533.7
(CALIFORNIA FALSE "MADE
IN U.S.A." CLAIM).**
- 3) VIOLATION OF BUSINESS &
PROFESSIONS CODE §§ 17200,
ET SEQ. (CALIFORNIA UNFAIR
COMPETITION LAW); AND**

JURY TRIAL DEMANDED

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INTRODUCTION

1. STAN ZAKINOV (hereinafter “Plaintiff”) brings this Class Action Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of CHURCH & DWIGHT CO., INC., (hereinafter “C&D” and/or “Defendant”) in unlawfully labeling Defendant’s personal care products with the false designation and representation that they are “Made In USA” (or some derivative thereof). The unlawfully labeled products are sold online and in various stores throughout the United States.¹ Plaintiff alleges as follows upon personal knowledge as to himself and his own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by their attorneys.
2. As stated by the California Supreme Court in *Kwikset v. Superior Court* (January 27, 2011) 51 Cal4th 310, 328-29:

Simply stated: labels matter. The marketing industry is based on the premise that labels matter, that consumers will choose one product over another similar product based on its label and various tangible and intangible qualities that may come to associate with a particular source...In particular, **to some consumers**, the “Made in U.S.A.” label matters. A range of motivations may fuel this preference, from the desire to support domestic jobs to beliefs about quality, to concerns about overseas environmental or labor conditions, to simple patriotism. The Legislature has recognized the materiality of this representation by specifically outlawing deceptive and fraudulent “Made in America” representations. (Cal. Bus. & Prof. Code section 17533.7; see also Cal. Civ. Code § 1770, subd. (a)(4) (prohibiting deceptive representations of geographic origin)). The object of section 17533.7 “is to protect consumers from being misled when they

¹ Plaintiff purchased Defendant’s mislabeled Trojan Magnum Ecstasy Ultrasmooth Lubricated condoms and Trojan Magnum Thin Ultrasmooth Lubricated condoms (the “Products”), which in part are the subject matter of this lawsuit, from Amazon.com.

1 purchase products in the belief that they are advancing
 2 the interest of the United States and its industries and
 3 workers...”

3. The “Made In USA” claim is prominently printed on the Defendant’s
 4 personal care products.² (True and correct pictures of Defendant’s Products
 5 are attached hereto as “Exhibit A”). Contrary to Defendant’s representation
 6 and in violation of California law, Defendants personal care products,
 7 including the specific Products purchased by Plaintiff, include foreign
 8 ingredients.

9 JURISDICTION AND VENUE

- 10 4. This Court also has jurisdiction over this matter pursuant to the Class Action
 11 Fairness Act (CAFA) because the amount in controversy in this matter
 12 exceeds \$5,000,000.00 as to all putative Class members, inclusive of
 13 attorneys’ fees and costs, and injunctive relief. 28 U.S.C. Sections 1332(d),
 14 1453, and 1711-1715.
- 15 5. Venue is proper in the United States District Court for the Southern District
 16 of California pursuant to 28 U.S.C. § 1391 for the following reasons: (i)
 17 Plaintiff resides in the City of El Cajon, County of San Diego, State of
 18 California, which is within this judicial district; (ii) the conduct complained
 19 of herein occurred within this judicial district; and, (iii) many of the acts and
 20 transactions giving rise to this action occurred in this district because
 21 Defendant:

- 22 (a) is authorized to conduct business in this district and has
 23 intentionally availed itself of the laws and markets within this
 24 district;

25 _____
 26 ² Plaintiff seeks class wide relief on behalf of all purchasers of any C&D products
 27 that are substantially similar to the Products purchased by Plaintiff and labeled as
 28 “Made In USA,” or some derivative thereof, that are foreign-made or incorporates
 foreign-made components (in violation of California law), not just the specific
 Products purchased by Plaintiff.

- (b) does substantial business within this district;
- (c) is subject to personal jurisdiction in this district because it has availed itself of the laws and markets within this district; and,
- (d) the harm to Plaintiff occurred within this district.

PARTIES

6. Plaintiff is an individual residing in the City of El Cajon, County of San Diego, State of California.
7. Defendant is a corporation that is organized and exists under the laws of the State of Delaware, with a principal place of business in the State of New Jersey.
8. Defendant is an American manufacturer of various personal care products, sold under multiple brands, that conducts business through Internet sales and at numerous stores within the United States. Two of the many personal care products sold by Defendant are the Trojan Magnum Ecstasy Ultrasmooth Lubricated condoms and Trojan Magnum Thin Ultrasmooth Lubricated condoms purchased by Plaintiff.³

FACTUAL ALLEGATIONS

9. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.
10. Defendant manufactures, markets and/or sells various personal care products, including the Products purchased by Plaintiff, that have been and are currently still represented as “Made In USA,” or some derivative thereof. Defendant’s makes these representations on the products themselves.

³ Plaintiff purchased the mislabeled Products, which in part are the subject matter of this lawsuit, from Amazon.com, but they are also available at numerous stores within the United States, including, but not limited to, Target, Walgreens, CVS Pharmacy, Rite Aid, and Ralphs.

11. Contrary to the representation, Defendant's products are wholly and/or substantially manufactured or produced with components that are manufactured outside of the United States.
12. Based upon information and belief, the offending Products purchased by Plaintiff contain foreign ingredients.
13. Based upon information and belief, the offending Products purchased by Plaintiff, and presumably all of Defendant's products that are substantially similar and contain foreign ingredients, are wholly or partially made of and/or manufactured with foreign materials, contrary to Defendant's "Made In USA" representations (or some derivative thereof) ("Class Product/s").
14. Defendant marketed, and continues to market, and represent to the general public via its Class Products' label that certain products, including the Products purchased by Plaintiff, are "Made In USA" (or some derivative thereof). As such, Defendant fraudulently concealed the material facts at issue in this matter by misrepresenting to the general public the true country of origin of the offending products. Defendant possesses superior knowledge of the true facts that were not disclosed, thereby tolling the running of any applicable statute of limitations.
15. Consumers are particularly vulnerable to these deceptive and fraudulent practices. Most consumers possess limited knowledge of the likelihood that products, including the component products therein, claimed to be made in the United States are in fact manufactured in foreign countries. This is a material factor in many individuals' purchasing decisions, as they believe they are purchasing superior goods, produced under American standards and laws, while also supporting American companies and American jobs.
16. Consumers generally believe that "Made In USA" products are of higher quality than their foreign-manufactured counterparts and that they are produced under higher standards, including, but not limited to, higher

1 environmental and labor laws. Due to Defendant's scheme to defraud the
2 market, members of the general public were fraudulently induced to
3 purchase Defendant's products at inflated prices.

4 17. On information and belief, Defendant charged excess monies for its Class
5 Products, including the Products purchased by Plaintiff, in comparison to
6 Defendant's competitors during the entirety of the relevant four-year
7 statutory time period, based on the false "Made In USA" designation (or
8 some derivative thereof). California laws are designed to protect consumers
9 from such false representations and predatory conduct. Defendant's scheme
10 to defraud consumers for its own self-interest and monetary gain is ongoing
11 and will victimize consumers daily for the foreseeable future unless altered
12 by judicial intervention.

13 18. On or about June 30, 2015, Plaintiff purchased Defendant's Products from
14 www.Amazon.com. At the time of Plaintiff's purchase, the description of
15 the offending Products described the Products origin as the U.S.A., when the
16 product was actually made and/or contained components made outside of the
17 United States. As such, Defendant is not entitled to lawfully make
18 representations that the product was "Made In USA."

19 19. In making the decision to purchase Defendant's Products, Plaintiff relied
20 upon the advertising and/or other promotional materials prepared and
21 approved by Defendant and its agents and disseminated through its products'
22 packaging containing the misrepresentations alleged herein. Had Plaintiff
23 been made aware that the Products were not actually "Made In USA," he
24 would not have purchased the Products. In other words, Plaintiff would not
25 have purchased Defendant's Products, but for the "Made In USA"
26 representations on Defendant's Products' label.

1 20.Plaintiff suffered an “injury in fact” because Defendant took Plaintiff’s
2 money as a result of Defendant’s false “Made In USA” designation set forth
3 on Defendant’s products and elsewhere.

4 21.In each case when Plaintiff and putative Class members purchased a Class
5 Product, they relied upon Defendant’s “Made In USA” representation (or
6 some derivative thereof) in their purchasing decision, which is typical of
7 most U.S. consumers. Consequently, they were deceived as a result of
8 Defendant’s actions. Plaintiff believed at the time he purchased the Products
9 that he was purchasing a superior quality product, supporting U.S. jobs and
10 the U.S. economy, and also supporting ethical working conditions.

11 22.Component parts made in the U.S.A. are subject to strict regulatory
12 requirements, including but not limited to environmental, labor, and safety
13 standards. Foreign made component parts are not subject to the same U.S.
14 standards and as a result can be potentially much more dangerous to
15 consumers. Further, foreign made component parts are also generally of
16 lower quality than their U.S. made counterparts, and routinely less reliable
17 and less durable than their U.S. made counterparts, which is especially
18 important to condoms.

19 23.Consequently, Defendant’s products containing the foreign ingredients,
20 including Defendant’s Products, are of inferior quality, potentially more
21 dangerous and less reliable, as Defendant falsely represented that these
22 products are “Made In USA.” This results in lower overall customer
23 satisfaction than if the product was truly “Made In USA” and/or consisting
24 of component parts made in the United States.

25 24.On information and belief, Defendant’s products containing the foreign
26 ingredients, including the Products purchased by Plaintiff, are not worth the
27 purchase price paid by Plaintiff and putative Class members. The precise
28

amount of damages will be proven at the time of trial, in large part, by expert testimony.

25. Plaintiff and Class members were undoubtedly injured as a result of Defendant's false "Made In USA" representations that are at issue in this matter.

CLASS ACTION ALLEGATIONS

26. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

27. Plaintiff brings this action individually and on behalf of all others similarly situated against Defendant, pursuant to Federal Rules of Civil Procedure, Rules 23(a), 23(b)(1), 23(b)(2) and 23(b)(3).

28. Plaintiff represents, and is a member of the California Class, ("the Class") consisting of:

All persons within California who purchased one or more of Defendant's personal care products, regardless of the brand under which Defendant marketed the product, that were advertised with a "Made In USA" country of origin designation (or some derivative thereof), that were foreign-made and/or composed of foreign-made component parts, within the four years prior to the filing of the Complaint.

29. The "Class Period" means four years prior to the filing of the Complaint in this action.

30. **Ascertainability.** Defendant and its employees and/or agents are excluded from the Class. Plaintiff does not know the number of members in the Class, but Plaintiff currently believes that there are hundreds of thousands, if not more, members of the Class within the State of California. The members of the Class are ascertainable through Defendant's records and/or Defendant's agents' records regarding retail and online sales, as well as

1 through public notice. This matter should therefore be certified as a Class
2 action to assist in the expeditious litigation of this matter.

3 31. **Numerosity.** The numerosity requirement of Fed. R. Civ. P. Rule 23(a)(1) is
4 satisfied for the aforementioned Class because the members of the Class are
5 so numerous and geographically disbursed that joinder of all Class members
6 is impractical and the disposition of their claims in the Class action will
7 provide substantial benefits both to the parties and to the court.

8 32. ***Existence and Predominance of Common Questions of Law and Fact.***

9 There is a well-defined community of interest in the questions of law and
10 fact involved affecting the parties to be represented. Common questions of
11 fact and law exist in this matter that predominate over questions that may
12 affect individual Class members, satisfying the requirement of Fed. R. Civ.
13 P., Rule 23(a)(2), including, but not limited to, the following:

- 14 a. Whether Defendant committed the wrongful conduct alleged herein;
- 15 b. Whether Defendant's acts, transactions, or course of conduct
- 16 constitute the violations of law alleged herein;
- 17 c. Whether the members of the Class sustained and/or continue to
- 18 sustain damages attributable to Defendant's conduct, and, if so, the
- 19 proper measure and appropriate formula to be applied in determining
- 20 such damages; and
- 21 d. Whether the members of the Class are entitled to injunctive and/or
- 22 any other equitable relief.

23 33. **Typicality.** Plaintiff's claims are typical of the claims of all other members
24 of the Class and involve the same violations of law by Defendant as other
25 Class members' claims. Plaintiff and members of the Class also sustained
26 damages arising out of Defendant's common course of conduct complained
27 herein. Accordingly, Plaintiff satisfies the "typicality" requirement of Fed.
28 R. Civ. P., Rule 23(a)(3) with respect to the Class.

1 34. ***Adequacy of Representation.*** As a person who purchased one or more of
2 Defendant's products, that were advertised with a "Made In USA" country
3 of origin designation (or some derivative thereof), but contain foreign-made
4 ingredients and/or composed of foreign-made component parts, Plaintiff is
5 asserting claims that are typical of the Class. Plaintiff will fairly and
6 adequately represent and protect the interests of other members of the Class
7 in that Plaintiff has no interests antagonistic to any member of the Class.
8 Further, Plaintiff has retained counsel experienced in handling class action
9 claims and claims involving violations of the consumer laws, and
10 specifically violations of the California Business and Professions Code.
11 Thus, Fed. R. Civ. P., Rule 23(a)(4) is satisfied.

12 35. ***Superiority.*** A class action is a superior method for the fair and efficient
13 adjudication of this controversy. Class-wide damages are essential to induce
14 Defendant to comply with California law. The interest of Class members in
15 individually controlling the prosecution of separate claims against Defendant
16 is small because the damages suffered by individual members of the Class
17 may be minimal. As a result, the expense and burden of litigation would
18 prevent class members from individually redressing the wrongs done to
19 them. A representative class action is both the appropriate vehicle by which
20 to adjudicate these claims and is essential to the interests of justice.
21 Furthermore, a class action regarding the issues presented in this matter
22 creates no significant problems of manageability. Therefore, the superiority
23 and manageability requirements of 23(b)(3) are satisfied.

24 36. This suit seeks only damages and injunctive relief for recovery of economic
25 injury on behalf of the Class, and it expressly is not intended to request any
26 recovery for personal injury and claims related thereto. Plaintiff reserves the
27 right to expand the Class definition to seek recovery on behalf of additional
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1 persons as warranted as facts are learned in further investigation and
2 discovery.

3 37. Plaintiff and members of the putative Class have suffered “injury in fact”
4 and have lost money or property as a result of Defendants’ unfair
5 competition, as more fully set forth herein. Plaintiff and members of the
6 putative Class have been injured as they relied on Defendants’ intentional
7 misrepresentation and were induced into purchasing, purchasing more of,
8 and overpaying for Defendant’s Class Products. Plaintiff and members of the
9 Class have been injured, as had they been made aware that the product was
10 not actually “Made In USA,” they would not have purchased the product. In
11 other words, Plaintiff and members of the Class would not have purchased
12 Defendant’s product, but for the “Made In USA” representations (or some
13 derivative thereof) on Defendant’s products’ labels.

14 38. Plaintiff and the members of the Class have all suffered irreparable harm as
15 a result of the Defendant’s unlawful and wrongful conduct. Absent a
16 representative class action, members of the Class will continue to face the
17 potential for irreparable harm described herein. In addition, these violations
18 of law will be allowed to proceed without remedy and Defendant will likely
19 continue such illegal conduct. Because of the size of the individual Class
20 member’s claims, few, if any, Class members could not afford to seek legal
21 redress for the wrongs complained of herein. Furthermore, even if separate
22 actions could be brought by individual purchasers, the resulting multiplicity
23 of lawsuits would cause undue hardship and expense for both the Court and
24 the litigants, as well as create the risk of inconsistent rulings and
25 adjudications that might be dispositive of the interests of similarly situated
26 purchasers, thereby substantially impeding purchasers’ ability to protect
27 their interests, while establishing incompatible standards of conduct for
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1 Defendant. Thus, the proposed Class satisfy the requirements of Fed. R.
2 Civ. P., Rule 23(b)(1).

3 39. Defendant has acted and/or refused to act on grounds generally applicable to
4 the Plaintiff and other members of the Class, thereby rendering class
5 certification and final injunctive relief and corresponding declaratory relief
6 with respect to members of the Class as a whole appropriate. Thus,
7 certification is proper under Fed. R. Civ. P. Rule 23(b)(2).

8 40. As discussed above, numerous common questions of fact and law exist in
9 this matter. These questions predominate over the individual questions
10 presented in this action. Thus, the predominance requirement of Fed. R.
11 Civ. P. Rule 23(b)(3) is satisfied.

12 41. A class action is a superior method for the fair and efficient adjudication of
13 this controversy. Class-wide damages are essential to induce Defendant to
14 comply with California law. The interest of Class members in individually
15 controlling the prosecution of separate claims against Defendant is small
16 because the damages suffered by individual members of the Class may be
17 minimal. As a result, the expense and burden of litigation would prevent
18 class members from individually redressing the wrongs done to them. A
19 representative class action is both the appropriate vehicle by which to
20 adjudicate these claims and is essential to the interests of justice.
21 Furthermore, a class action regarding the issues presented in this matter
22 creates no significant problems of manageability. Therefore, the superiority
23 and manageability requirements of 23(b)(3) are satisfied.

24 **FIRST CAUSE OF ACTION**

25 **VIOLATION OF CALIFORNIA CONSUMERS LEGAL REMEDIES ACT**

26 **CAL. CIV. CODE SECTION 1750, ET SEQ.**

27 42. Plaintiff re-alleges and incorporates by reference all of the above paragraphs
28 of this Complaint as though fully stated herein.

43. California Civil Code Section 1750 et seq., entitled the Consumers Legal Remedies Act (hereinafter “CLRA”), provides a list of “unfair or deceptive” practices in a “transaction” relating to the sale of “goods” or “services” to a “consumer.” The Legislature’s intent in promulgating the CLRA is expressed in Civil Code Section 1760, which provides, *inter alia*, that its terms are to be:

Construed liberally and applied to promote its underlying purposes, which are to protect consumers against unfair and deceptive business practices and to provide efficient and economical procedures to secure such protection.

44. Defendant’s products constitute “goods” as defined pursuant to Civil Code Section 1761(a).

45. Plaintiff, and the Class members, are each a “consumer” as defined pursuant to Civil Code Section 1761(d).

46. Each of Plaintiff’s and the Class members’ purchases of Defendant’s products constituted a “Transaction” as defined pursuant to Civil Code Section 1761(e).

47. Civil Code Section 1770(a)(2), (4), (5), (7) and (9) provide that:

The following unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction intended to result or which results in the sale or lease of goods or services to any consumer are unlawful:

[m]isrepresenting the source, sponsorship, approval, or certification of goods or services,

[u]sing deceptive representations or designations of geographic origin in connection with goods or services, [r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have,

[r]epresenting that goods or services are of a particular standard, quality, or grade... if they are of another, [and] [a]dvertising goods or services with intent not to sell them as advertised.”

48. Defendant violated Civil Code Section 1770(a)(2), (4), (5), (7) and (9) by marketing and representing that its products are “Made In USA” (or some

derivative thereof) when they actually contain foreign-made or manufactured ingredients.

49. On information and belief, Defendant's violations of the CLRA set forth herein were done with awareness of the fact that the conduct alleged was wrongful and was motivated solely for Defendant's self-interest, monetary gain and increased profit. Plaintiff further alleges that Defendant committed these acts knowing the harm that would result to Plaintiff and Defendant engaged in such unfair and deceptive conduct notwithstanding such knowledge.

50. Plaintiff suffered an "injury in fact" because Plaintiff's money was taken by Defendant as a result of Defendant's false "Made In USA" representations set forth on Defendant's actual products.

51. As a direct and proximate result of Defendant's violations of the CLRA, Plaintiff and members of the Class are entitled to a declaration that Defendant violated the Consumer Legal Remedies Act.

52. Plaintiff and the Class are also entitled to and seek injunctive relief prohibiting such conduct in the future.

SECOND CAUSE OF ACTION

VIOLATION OF BUSINESS & PROFESSIONS CODE

BUS. & PROF. CODE, SECTION 17533.7

53. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

54. Business & Professions Code § 17533.7 provides:

It is unlawful for any person, firm, corporation or association to sell or offer for sale in this State any merchandise on which merchandise or on its container there appears the words "Made in U.S.A.," "Made in America," "U.S.A.," or similar words when the merchandise or any article, unit, or part thereof, has been entirely or substantially made, manufactured, or produced outside of the United States.

1 55. Defendant violated Bus. & Prof. Code § 17533.7 by selling and offering to
2 sell products in the State of California with the “Made In USA” country of
3 origin designation (or some derivative thereof) as fully set forth herein. The
4 products at issue in this matter are wholly and/or substantially manufactured
5 outside of the United States and/or contain ingredients that are manufactured
6 outside of the United States in violation of California law.

7 56. On information and belief, Defendant’s violations of Bus. & Prof. Code §
8 17533.7 as set forth herein were done with awareness of the fact that the
9 conduct alleged was wrongful and was motivated solely for Defendant’s
10 self-interest, monetary gain and increased profit. Plaintiff further alleges that
11 Defendant committed these acts knowing the harm that would result to
12 Plaintiff and Defendant engaged in such unfair and deceptive conduct
13 notwithstanding such knowledge.

14 57. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by
15 Defendant as a result of Defendant’s false “Made In USA” representations
16 set forth on the Defendant’s products.

17 58. As a direct and proximate result of Defendant’s violations of Bus. & Prof.
18 Code § 17533.7, Plaintiff and the Class are entitled to restitution of excess
19 monies paid to Defendant by Plaintiff and the Class relating to the false
20 “Made In USA” representations (or some derivative thereof) set forth on the
21 Defendant’s products.

22 59. In prosecuting this action for the enforcement of important rights affecting
23 the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is
24 available to a prevailing plaintiff in class action cases such as this matter.

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THIRD CAUSE OF ACTION
VIOLATION OF BUSINESS & PROFESSIONS CODE
BUS. & PROF. CODE, SECTION 17200, ET SEQ.

60. Plaintiff re-alleges and incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

61. Plaintiff and Defendant are each “person[s]” as defined by California Business & Professions Code § 17201. California Business & Professions Code § 17204 authorizes a private right of action on both an individual and representative basis.

62. “Unfair competition” is defined by Business and Professions Code Section § 17200 as encompassing several types of business “wrongs,” including: (1) an “unlawful” business act or practice, (2) an “unfair” business act or practice, (3) a “fraudulent” business act or practice, and (4) “unfair, deceptive, untrue or misleading advertising.” The definitions in § 17200 are drafted in the disjunctive, meaning that each of these “wrongs” operates independently from the others.

63. By and through Defendant’s conduct alleged in further detail above and herein, Defendant engaged in conduct which constitutes unlawful, unfair, and/or fraudulent business practices, and unfair, deceptive, untrue or misleading advertising prohibited by Bus. & Prof. Code § 17200 et seq.

A. “Unlawful” Prong

64. Beginning at a date currently unknown through the time of this Complaint, Defendant has committed acts of unfair competition, including those described above, by engaging in a pattern of “unlawful” business practices, within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing, distributing, and/or marketing Defendant’s products with a false country of origin designation, in violation of Section 17533.7 by falsely representing

1 that the products referenced herein are “Made In USA” when Defendant’s
2 products are in fact foreign-made and/or composed of component parts
3 manufactured and/or grown outside of the United States.

4 **B. “Unfair” Prong**

5 65.Beginning at a date currently unknown and continuing up through the time
6 of this Complaint, Defendant has committed acts of unfair competition that
7 are prohibited by Bus. & Prof. Code section 17200 et seq. Defendant
8 engaged in a pattern of “unfair” business practices that violate the wording
9 and intent of the statutes by engaging in conduct and practices that threaten
10 an incipient violation of law/s or violate the policy or spirit of law/s by
11 manufacturing, distributing, and/or marketing Defendant’s products with a
12 false country of origin designation, in violation of Section 17533.7 by
13 falsely representing that the products referenced herein are “Made In USA”
14 when Defendant’s products are in fact foreign-made and/or composed of
15 component parts manufactured and/or grown outside of the United States.

16 66.Alternatively, Defendant engaged in a pattern of “unfair” business practices
17 that violate the wording and intent of the abovementioned statute/s by
18 engaging in practices that are immoral, unethical, oppressive or
19 unscrupulous, the utility of such conduct, if any, being far outweighed by the
20 harm done to consumers and against public policy by manufacturing,
21 distributing, and/or marketing Defendant’s products with a false country of
22 origin designation, in violation of Section 17533.7 by falsely representing
23 that the products referenced herein are “Made In USA” when Defendant’s
24 products are in fact foreign-made and/or composed of component parts
25 manufactured and/or grown outside of the United States.

26 67.Alternatively, Defendant engaged in a pattern of “unfair” business practices
27 that violate the wording and intent of the abovementioned statute/s by
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engaging in practices, including manufacturing, distributing, marketing, and/or advertising Defendant's products with a false country of origin designation, in violation of Section 17533.7 by falsely representing that the products referenced herein are "Made In USA;" wherein: (1) the injury to the consumer was substantial; (2) the injury was not outweighed by any countervailing benefits to consumers or competition; and (3) the injury was not of the kind that consumers themselves could not have reasonably avoided.

C. "Fraudulent" Prong

68. Beginning at a date currently unknown and continuing up through the time of this Complaint, Defendant engaged in acts of unfair competition, including those described above and herein, prohibited and in violation of Bus. & Prof. Code § 17200 et seq., by engaging in a pattern of "fraudulent" business practices within the meaning of Bus. & Prof. Code § 17200 et seq. by manufacturing, distributing, and/or marketing Defendant's products with a false country of origin designation, in violation of Section 17533.7 by falsely representing that the products referenced herein are "Made In USA" when Defendant's products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

69. Plaintiff reserves the right to allege further conduct that constitutes other fraudulent business acts or practices. Such conduct is ongoing and continues to this date.

D. "Unfair, Deceptive, Untrue or Misleading Advertising" Prong

70. Defendant's advertising is unfair, deceptive, untrue or misleading in that consumers are led to believe that Defendant's products are "Made In USA" and that therefore they are of superior quality and workmanship, and that

1 they were produced according to U.S. standards and laws when in fact they
2 are not entirely “Made In USA.”

3 71. Plaintiff, a reasonable consumer, and the public would be likely to be, and,
4 in fact were, deceived and mislead by Defendant’s advertising as they
5 would, and did, interpret the representation in accord with its ordinary usage,
6 that the products were actually entirely manufactured by Defendant in the
7 USA.

8 72. Defendant’s unlawful, unfair, and fraudulent business practices and unfair,
9 deceptive, untrue or misleading advertising presents a continuing threat to
10 the public in that Defendant continues to engage in unlawful conduct
11 resulting in harm to consumers.

12 73. Defendant engaged in these unlawful, unfair, and fraudulent business
13 practices motivated solely by Defendant’s self-interest with the primary
14 purpose of collecting unlawful and unauthorized monies from Plaintiff and
15 all others similarly situated; thereby unjustly enriching Defendant.

16 74. Such acts and omissions by Defendant are unlawful and/or unfair and/or
17 fraudulent and constitute a violation of Business & Professions Code section
18 17200 et seq. Plaintiff reserves the right to identify additional violations by
19 Defendant as may be established through discovery.

20 75. As a direct and proximate result of the aforementioned acts and
21 representations described above and herein, Defendant received and
22 continues to receive unearned commercial benefits at the expense of their
23 competitors and the public.

24 76. As a direct and proximate result of Defendant’s unlawful, unfair and
25 fraudulent conduct described herein, Defendant has been and will continue
26 to be unjustly enriched by the receipt of ill-gotten gains from customers,
27 including Plaintiff, who unwittingly provided money to Defendant based on
28 Defendant’s fraudulent “Made In USA” representations when Defendant’s

products are in fact foreign-made and/or composed of component parts manufactured and/or grown outside of the United States.

77. Plaintiff suffered an “injury in fact” because Plaintiff’s money was taken by Defendant as a result of Defendant’s false “Made In USA” representations set forth on the Defendant’s products.

78. In prosecuting this action for the enforcement of important rights affecting the public interest, Plaintiff seeks the recovery of attorneys’ fees, which is available to a prevailing plaintiff in class action cases such as this matter.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests the Court grant Plaintiff and the Class members the following relief against Defendant:

- That the Court determine that this action may be maintained as a Class Action by certifying this case as a Class Action;
- That the Court certify Plaintiff to serve as the Class representative in this matter;
- That Defendant’s wrongful conduct alleged herein be adjudged and decreed to violate the consumer protection statutory claims asserted herein;
- That Plaintiff and each of the other members of the Class recover the amounts by which Defendant has been unjustly enriched;
- That Defendant be enjoined from continuing the wrongful conduct alleged herein and required to comply with all applicable laws;
- That Plaintiff and each of the other members of the class recover their costs of suit, including reasonable attorneys’ fees and expenses as provided by law; and
- That Plaintiff and the members of the Class be granted any other relief the Court may deem just and proper.

///

TRIAL BY JURY

79. Pursuant to the Seventh Amendment to the Constitution of the United States of America, Plaintiff is entitled, and demands, a trial by jury.

Dated: September 8, 2015

Respectfully submitted,

KAZEROUNI LAW GROUP, APC

By: /s/ ABBAS KAZEROUNIAN
ABBAS KAZEROUNIAN, ESQ.
ATTORNEYS FOR PLAINTIFF

[ADDITIONAL PLAINTIFF'S COUNSEL]

HYDE & SWIGART

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CIVIL COVER SHEET

15CV1992 DMS BLM

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Stan Zakinov, individually and on behalf of all others similarly situated

(b) County of Residence of First Listed Plaintiff San Diego

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Abbas Kazerounian, Esq. (SBN: 249203)

Kazerouni Law Group, APC

245 Fischer Avenue, Suite D1, Costa Mesa, CA 92626 (800) 400-6808

DEFENDANTS

Church & Dwight Co., Inc.

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question
(U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity
(Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTIONCite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. § 1391

Brief description of cause:

Violation of the Consumers Legal Remedies Act; Business & Professions Code §§17533.7 and 17200

VII. REQUESTED IN COMPLAINT:☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.DEMAND \$
5,000,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

09/08/2015

SIGNATURE OF ATTORNEY OF RECORD

s/Abbas Kazerounian

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
- United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

PLAINTIFF'S EXHIBIT A

- 1) Trojan Magnum Ecstasy Ultrasmooth Lubricated condoms
 - 2) Trojan Magnum Thin Ultrasmooth Lubricated condoms
-

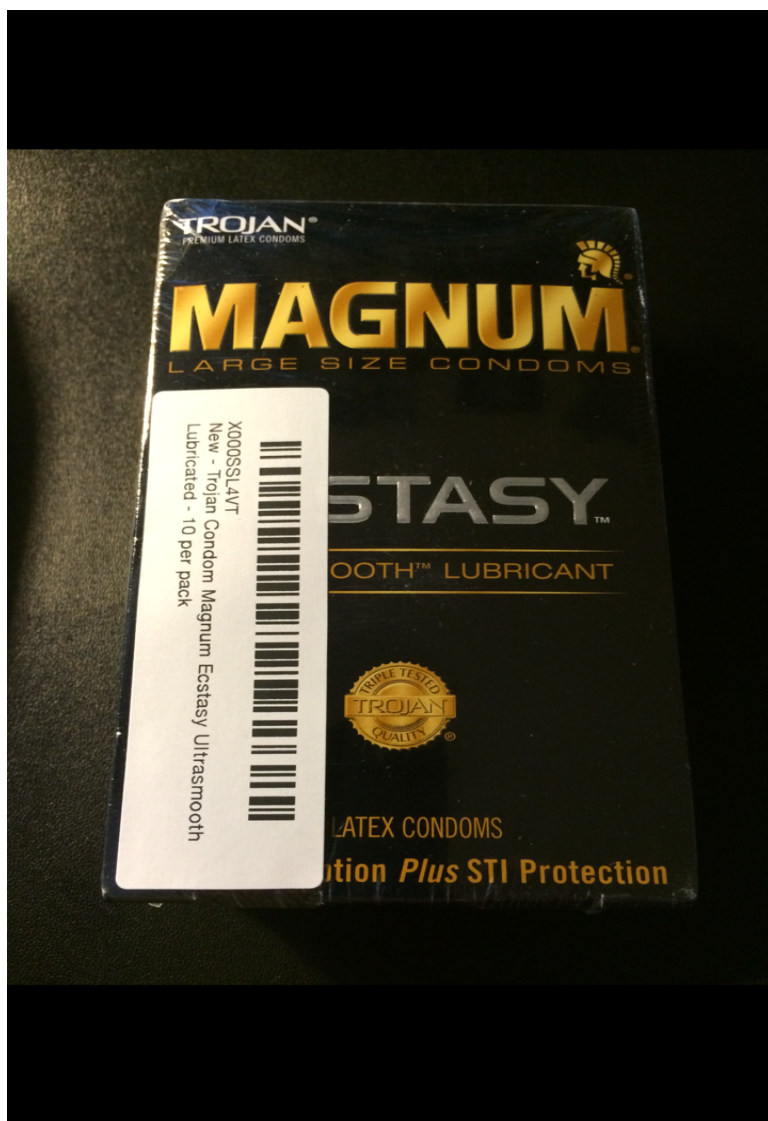
In The Case Of

Stan Zakinov; Individually And On Behalf Of All Others Similarly Situated,

v.

Church & Dwight CO., Inc.

1) Trojan Magnum Ecstasy Ultrasmooth Lubricated Condoms



2) Trojan Magnum Thin Ultrasmooth Lubricated condoms



**KAZEROUNI LAW GROUP
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