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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
JOHANA GARCIA,

JANIE MORALES, and

SHUTING HUANG,

*on behalf of themselves and others similarly  
situated,*

Plaintiffs,

- against -

THE PROCTER & GAMBLE COMPANY  
and THE PROCTOR & GAMBLE  
DISTRIBUTING LLC,

Defendants.  
-----X

Case No.

**CLASS ACTION COMPLAINT**

JURY TRIAL DEMANDED

Plaintiffs JOHANA GARCIA, JANIE MORALES, and SHUTING HUANG (collectively, "Plaintiffs"), individually and on behalf of all other persons similarly situated, by their undersigned attorneys, as and for their Complaint against the Defendants, allege the following based upon personal knowledge as to themselves and their own action, and, as to all other matters, respectfully allege, upon information and belief, as follows (Plaintiffs believe that substantial evidentiary support will exist for the allegations set forth herein after a reasonable opportunity for discovery):

### **NATURE OF THE ACTION**

1. This action seeks redress for a deceptive and otherwise improper business practices that Defendants, THE PROCTER & GAMBLE COMPANY ("P&G") and THE PROCTOR & GAMBLE DISTRIBUTING LLC ("P&G Distributing") (collectively, "P&G Companies" or "Defendants"), engage in with respect to the packaging of several Tide® liquid detergent products. The liquid detergent products are packaged in bottles of various sizes and liquid detergent quantities.

2. Each of the Tide® liquid detergent products (hereinafter, the "Products" as defined in Paragraph 22 below) (i) contain the same or similar product packaging, as described herein, and (ii) are packaged in containers made, formed or filled as to be misleading, as described herein.

3. Defendant violated statutes enacted in New York, California, and Florida that are designed to protect consumers against unfair, deceptive, fraudulent and unconscionable trade and business practices and false advertising. These statutes are:

- a) New York Deceptive Acts and Practices Act, N.Y. Gen. Bus. Law §§ 349, *et seq.*;
- b) California Consumer Legal Remedies Act, Cal. Civ. Code § 1750, *et seq.*; California's Unfair Competition Law, Cal. Bus. & Prof Code § 17200, *et seq.*; and
- c) Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*

4. The Products are packaged in non-transparent plastic bottles. The size of the bottles in comparison to the volume of detergent contained therein make it appear as if the consumer is buying more than what is actually being sold. By increasing the size of the Product packaging, Defendants maximize the shelf presence of their Products over competitor products.

5. Plaintiffs and Class members viewed Defendants' misleading Product packaging, reasonably relied in substantial part on the representations and were thereby deceived in deciding to purchase the Products for a premium price.

6. Plaintiffs bring this proposed consumer class action on behalf of themselves and all other persons nationwide, who from the applicable limitations period up to and including the present (the “Class Period”), purchased for consumption and not for resale any of the Products.

7. Defendants have deceived Plaintiffs and other consumers nationwide by mischaracterizing the volume of the Products. Defendants have been unjustly enriched as a result of selling the Products in disproportionately large containers compared to the volume of the actual product contained therein. Through these unfair and deceptive practices, Defendants have collected millions of dollars from the sale of the Products that they would not have otherwise earned. Plaintiffs bring this action to stop Defendants’ misleading practice.

#### **JURISDICTION AND VENUE**

8. The Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332, because this is a class action, as defined by 28 U.S.C § 1332(d)(1)(B) whereby: (i) the proposed class consists of over 100 class members, (ii) a member of the putative class is a citizen of a different state than Defendants, and (iii) the amount in controversy exceeds the sum or value of \$5,000,000, excluding interest and costs.

9. The Court has jurisdiction over the state law claims because they form part of the same case or controversy under Article III of the United States Constitution.

10. Alternatively, the Court has jurisdiction over all claims alleged herein pursuant to 28 U.S.C § 1332 because the matter in controversy exceeds the sum or value of \$75,000 and is between citizens of different states.

11. This court has personal jurisdiction over Defendants because their Products are advertised, marketed, distributed, and sold throughout New York State; Defendants engaged in the wrongdoing alleged in this Complaint throughout the United States, including in New York

State; and Defendants have sufficient minimum contacts with New York and/or otherwise have intentionally availed themselves of the markets in New York State, rendering the exercise of jurisdiction by the Court permissible under traditional notions of fair play and substantial justice. Moreover, Defendants are engaged in substantial and not isolated activity within New York State.

12. Venue is proper in this Court pursuant to 28 U.S.C. § 1391 because a substantial part of the events, omissions and acts giving rise to the claims herein occurred in this District. Plaintiff GARCIA is a citizen of New York, resides in this District, and purchased the Products in this District. Moreover, Defendants distributed, advertised, promoted, and sold the Products, which are the subject of the present Complaint, in this District.

### **PARTIES**

#### **New York Plaintiff**

13. Plaintiff JOHANA GARCIA is, and at all relevant times hereto has been, a citizen of the State of New York and resides in Bronx County. Plaintiff GARCIA has purchased the Products for personal use within the State of New York. Plaintiff GARCIA purchased the Products from convenience stores, supermarkets, and pharmacies located throughout New York State, including but not limited to Costco Wholesale and Pioneer Supermarket. Specifically, in the twelve month period prior to the filing of this Complaint, Plaintiff GARCIA purchased the (i) Tide® Plus Bleach Alternative Original 92 Fluid Ounce Product for \$19.99 and (ii) Tide® Plus Bleach Alternative Original HE 138 Fluid Ounce Product for approximately \$24.99 in Westchester County and Bronx County, respectively. Plaintiff GARCIA purchased Tide® detergents relying on the volume representation made by Defendants. At the time of purchase, Plaintiff GARCIA did not know that the containers were not filled to capacity, exclusive of

functional elements. Plaintiff GARCIA would not have purchased Tide® detergent, or would have paid significantly less for the Products, had she known the containers were made, formed or filled as to be misleading. Plaintiff GARCIA was reasonably misled by Defendants' oversized containers because she expected the size of the containers to accurately reflect the volume of detergent contained therein. Plaintiff GARCIA suffered injury in fact and lost money as a result of Defendants' deceptive, false, and misleading practice as described herein. However, she would still be willing to purchase the Products, absent the price premium, so long as Defendants engage in corrective packaging and/or provide a disclaimer regarding product fill. The Products purchased by Plaintiff GARCIA are substantially similar to, and are filled in a similarly misleading manner as all the other Products; and she has standing to represent purchasers of all Products.

**California Plaintiff**

14. Plaintiff JANIE MORALES is, and at all relevant times hereto has been, a citizen of the State of California and resides in San Bernardino County. Plaintiff MORALES has purchased the Products for personal use within the State of California. Plaintiff MORALES purchased the Product from a local Costco Wholesale store located in California. Specifically, Plaintiff MORALES purchased the Tide® Original HE 170 Fluid Ounce Product for \$23.52 (or more) in San Bernardino, California. Plaintiff MORALES purchased Tide® detergents relying on the volume representation made by Defendants. At the time of purchase, Plaintiff MORALES did not know that the containers were not filled to capacity, exclusive of functional elements. Plaintiff MORALES would not have purchased Tide® detergent, or would have paid significantly less for the Products, had she known the containers were made, formed or filled as to be misleading. Plaintiff MORALES was reasonably misled by Defendants' oversized

containers because she expected the size of the containers to accurately reflect the volume of detergent contained therein. Plaintiff MORALES suffered injury in fact and lost money as a result of Defendants' deceptive, false, and misleading practice as described herein. However, she would still be willing to purchase the Products, absent the price premium, so long as Defendants engage in corrective packaging and/or provide a disclaimer regarding product fill. The Products purchased by Plaintiff MORALES are substantially similar to, and are filled in a similarly misleading manner as all the other Products; and she has standing to represent purchasers of all Products.

**Florida Plaintiff**

15. Plaintiff SHUTING HUANG is, and at all relevant times hereto has been, a citizen of the State of Florida and resides in Palm Beach County. Plaintiff HUANG has purchased the Products for personal use within the State of Florida. Plaintiff HUANG purchased the Products from a local Target store located in Palm Beach County, Florida. Specifically, Plaintiff HUANG purchased the four Tide® Plus a Touch of Downy 92 Fluid Ounce Products for a total of \$40.97 in Palm Beach County, Florida. Plaintiff HUANG purchased Tide® detergents relying on the volume representation made by Defendants. At the time of purchase, Plaintiff HUANG did not know that the containers were not filled to capacity, exclusive of functional elements. Plaintiff HUANG would not have purchased Tide® detergent, or would have paid significantly less for the Products, had she known the containers were made, formed or filled as to be misleading. Plaintiff HUANG was reasonably misled by Defendants' oversized containers because she expected the size of the containers to accurately reflect the volume of detergent contained therein. Plaintiff HUANG suffered injury in fact and lost money as a result of Defendants' deceptive, false, and misleading practice as described herein. However, she

would still be willing to purchase the Products, absent the price premium, so long as Defendants engage in corrective packaging and/or provide a disclaimer regarding product fill. The Products purchased by Plaintiff HUANG are substantially similar to, and are filled in a similarly misleading manner as all the other Products; and she has standing to represent purchasers of all Products.

***Defendants***

16. Defendant THE PROCTER & GAMBLE COMPANY is a corporation organized under the laws of Ohio with its headquarters at 1 Procter & Gamble Plaza, Cincinnati, Ohio 45202 and an agent for service of process at CT Corporation System, 1300 East Ninth Street, Cleveland, Ohio 44114. P&G engages in business throughout the State of Ohio and the United States. P&G is engaged in the business of manufacturing, marketing, and distributing health care and branded consumer products under various brand names including Charmin, Bounty, Vicks, Tide Pods, Tide, Always, Oral-B, Crest, Gillette, Braun, Pantene, Bounty, Dawn, Gain, Olay, Cover Girl, Ivory, Secret, and Downy. In addition to this direct conduct, as the parent company of P&G Distributing, P&G is liable for the actions of P&G Distributing under basic doctrines of agency and corporate law.

17. Defendant THE PROCTER & GAMBLE DISTRIBUTING LLC is a corporation organized under the laws of Ohio with its headquarters at 1 Procter & Gamble Plaza, Cincinnati, Ohio 45202 and an agent for service of process at C T Corporation System, 111 Eighth Avenue, New York, New York 10011. P&G Distributing engages in business throughout the State of Ohio and the United States. P&G Distributing is a wholly owned subsidiary of Defendant P&G.

P&G Distributing distributed Tide® detergents to the stores in which Plaintiffs and the other Class Members bought the Products during the relevant period.

18. Defendants operate as a single integrated and common enterprise. Together, Defendants manufactured, distributed, advertised, marketed and sold the Products to millions of customers nationwide.

### **FACTUAL ALLEGATIONS**

#### **Defendants' Products Are Misleading**

19. P&G directs and controls all significant aspects of the sale of its well-known household brand name Tide®, including the manufacturing, marketing, packaging, distribution, and pricing. P&G products are sold at thousands of stores throughout the United States and on consumer retail websites. The Products that are the subject of this Complaint are sold at most supermarket chains, convenience stores and major retail outlets, including but not limited to Wal-Mart, Costco, CVS, Walgreens, Kroger, Target and Amazon.com.

20. Defendants have routinely employed deceptive packaging containing excessive empty space to mislead customers into believing that they were receiving more laundry detergent than they actually were.



21. Plaintiffs were (and a consumer would reasonably be) misled about the volume of the product contained within the container in comparison to the size of the Products' packaging. Plaintiffs and Class members relied on the size of the bottle as indicative of the volume of the laundry detergent contained therein. The size of the bottle in relation to the actual volume of the tablets contained therein was intended to mislead the consumer into believing the consumer was getting more of the Product than what was actually in the container.

22. Defendants sold Plaintiffs and Class members, and continue to sell consumers the following Tide® products in misleading containers with at least 11% non-functional empty space (together, the "Products"):

- i. Tide® Original 25 Fl Oz Product
- ii. Tide® Original HE 40 Fl Oz Product
- iii. Tide® Clean Breeze HE 40 Fl Oz Product
- iv. Tide® Clean Breeze 50 Fl Oz Product
- v. Tide® Plus a Touch of Downy – Sweet Dreams 40 Fl Oz Product
- vi. Tide® Plus a Touch of Downy – April Fresh 40 Fl Oz Product
- vii. Tide® Plus Bleach Alternative Original HE 92 Fl Oz Product
- viii. Tide® Plus Bleach Alternative – Clean Breeze 46 Fl Oz Product
- ix. Tide® Simply Clean and Fresh 40 Fl Oz Product
- x. Tide® Simply Clean and Fresh 60 Fl Oz Product
- xi. Tide® Free and Gentle 40 Fl Oz Product
- xii. Any other Tide® Products filled as to be misleading.

23. The Product packaging is shown in **EXHIBIT A**, with horizontal lines indicating the approximate height of the detergent in the respective bottles.

24. Visual estimates in **EXHIBIT A** show that the contents of the Products do not fill up the entirety of the containers. In fact, each bottle contains significant excessive empty space of up to 21% in violation of state laws against deceptive acts and practices.

25. The size of the bottles in relation to the volume of the liquid detergent actually contained therein gives the false impression that the consumer is buying more than they are actually receiving.

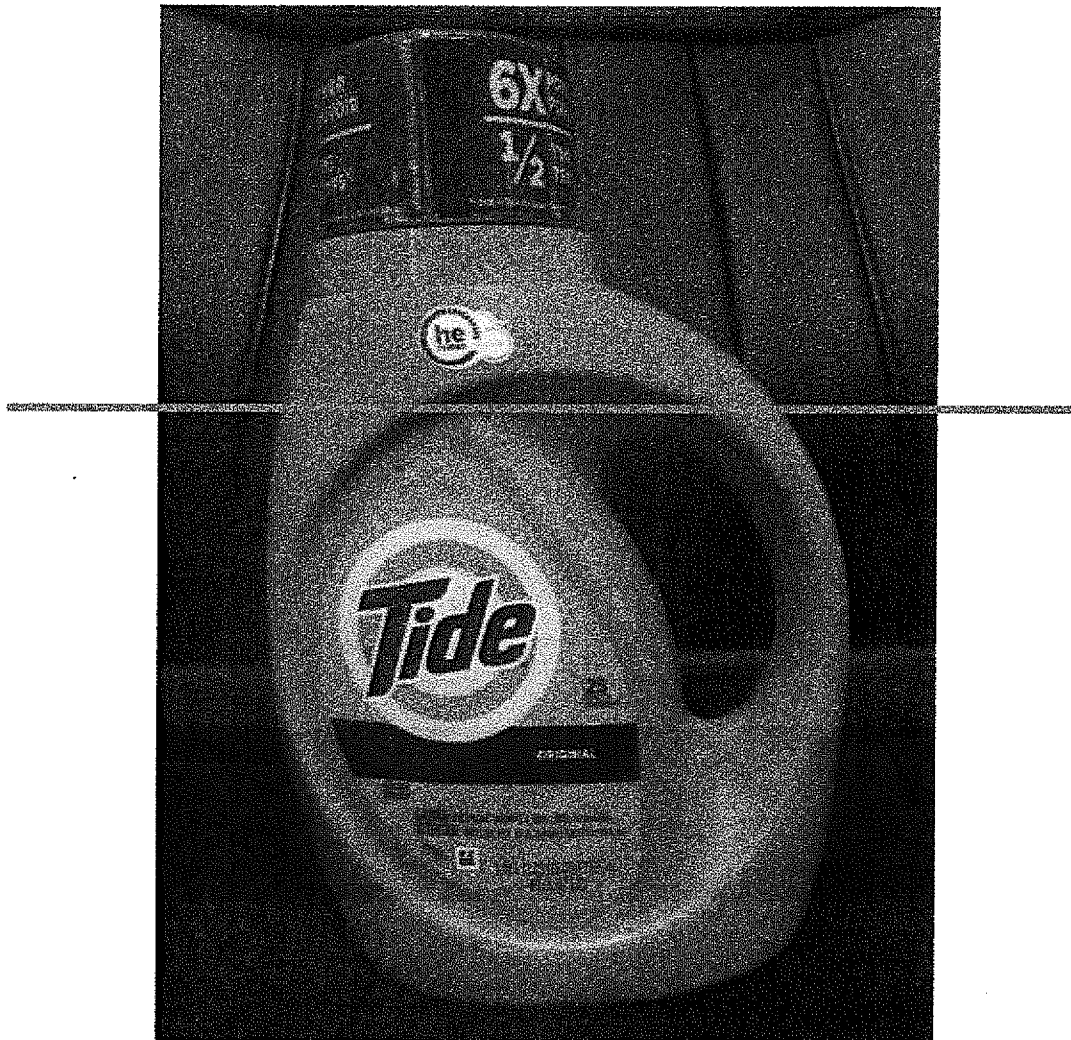
26. Plaintiffs and the members of the Class relied on the sizes of the Tide® detergent bottles to believe that the entire volume of the containers would be filled to capacity with liquid detergent, exclusive of functional elements such as reasonable headspace.

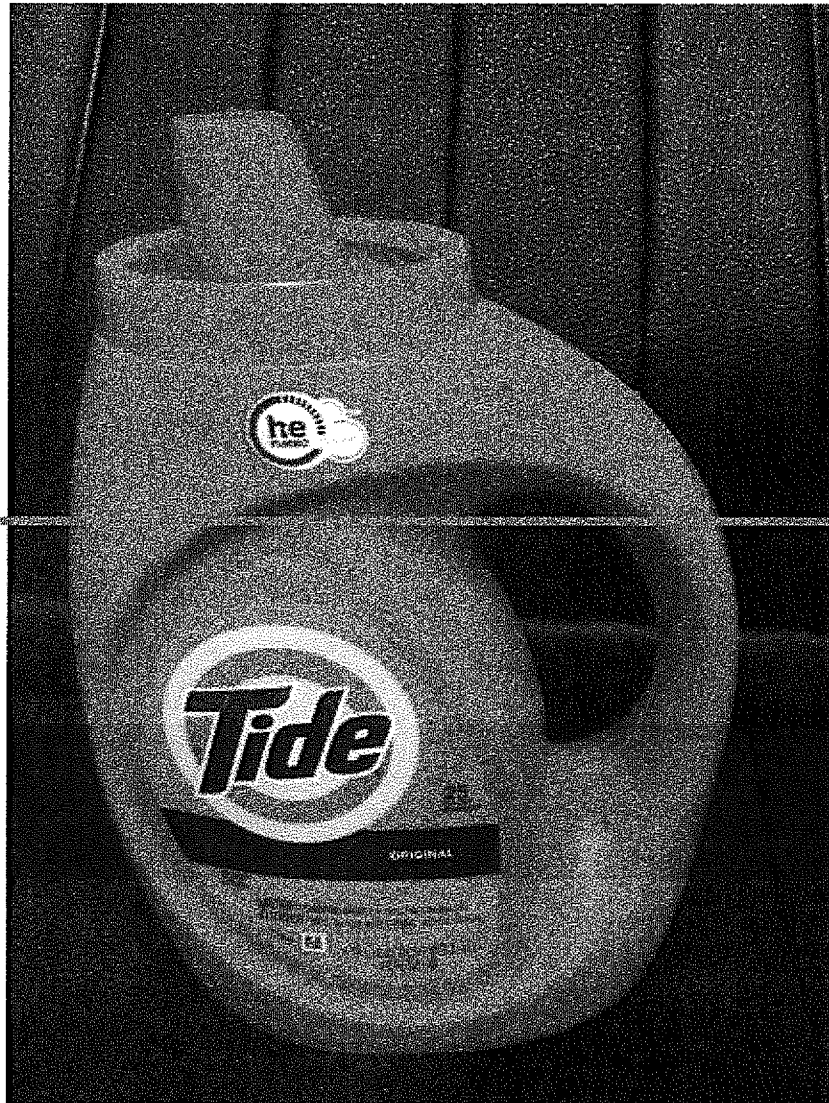
**Plaintiffs Were Injured as a Result of Defendants' Misleading and Deceptive Conduct**

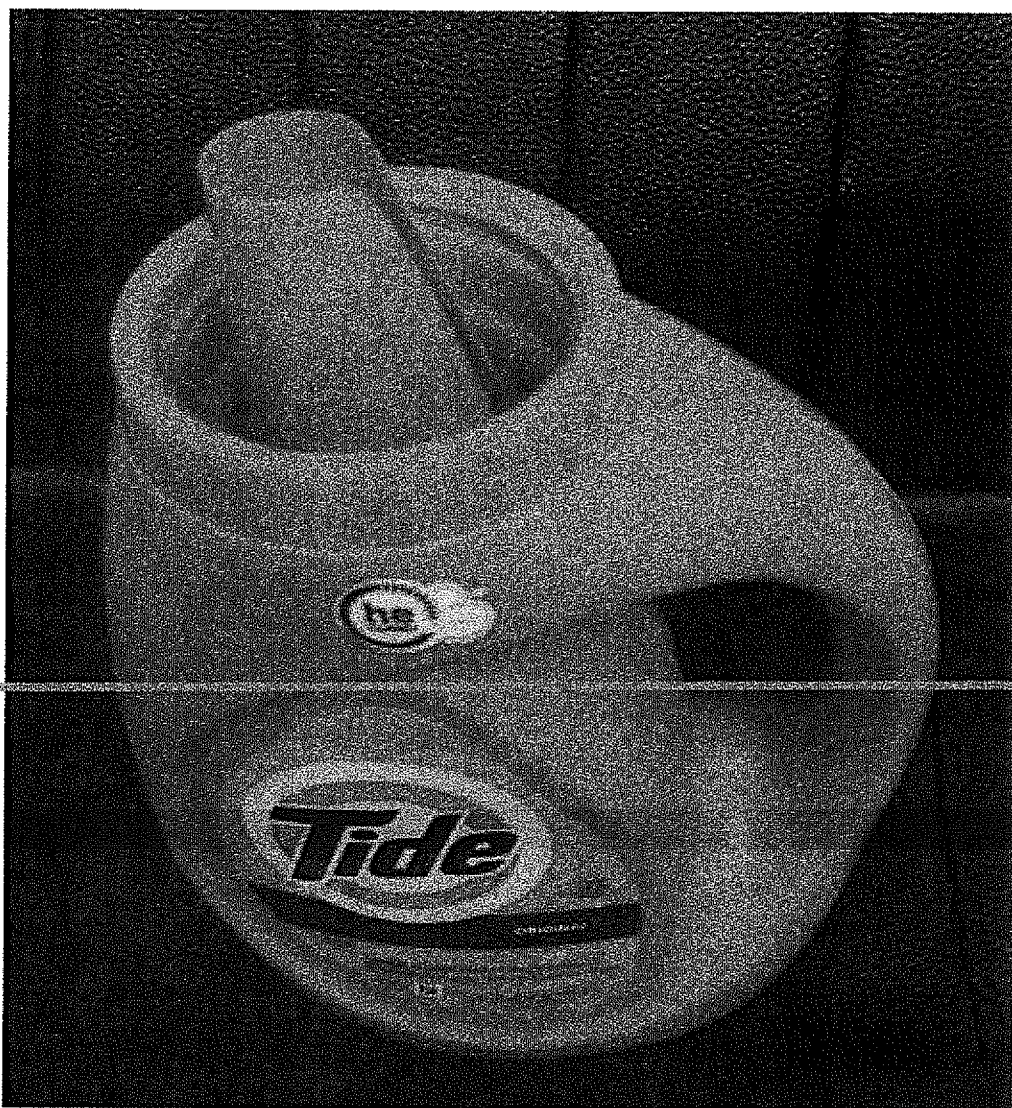
27. Defendants' Product packaging as alleged herein is deceptive and misleading and was designed to increase sales of the Products. By increasing the size of the bottles in which the Tide® detergents are contained, Defendants maximize the shelf presence of their Products over competitor products. Defendants' misrepresentations are part of their systematic Product packaging practice. There is no practical reason to package the Products in over-sized containers other than to mislead consumers as to the actual volume of the Products being purchased.

28. As a result of Defendants' deception, consumers – including Plaintiffs and members of the proposed Class – have purchased Products packaged misleadingly for a premium price over other detergent products sold on the market.

29. Defendants' misleading marketing and advertising campaign is buttressed by the incorporation of the integrated pour spout in their entire range of Products. As an example, photographs of the Tide Original HE 40 Fluid Ounce Product are shown below:

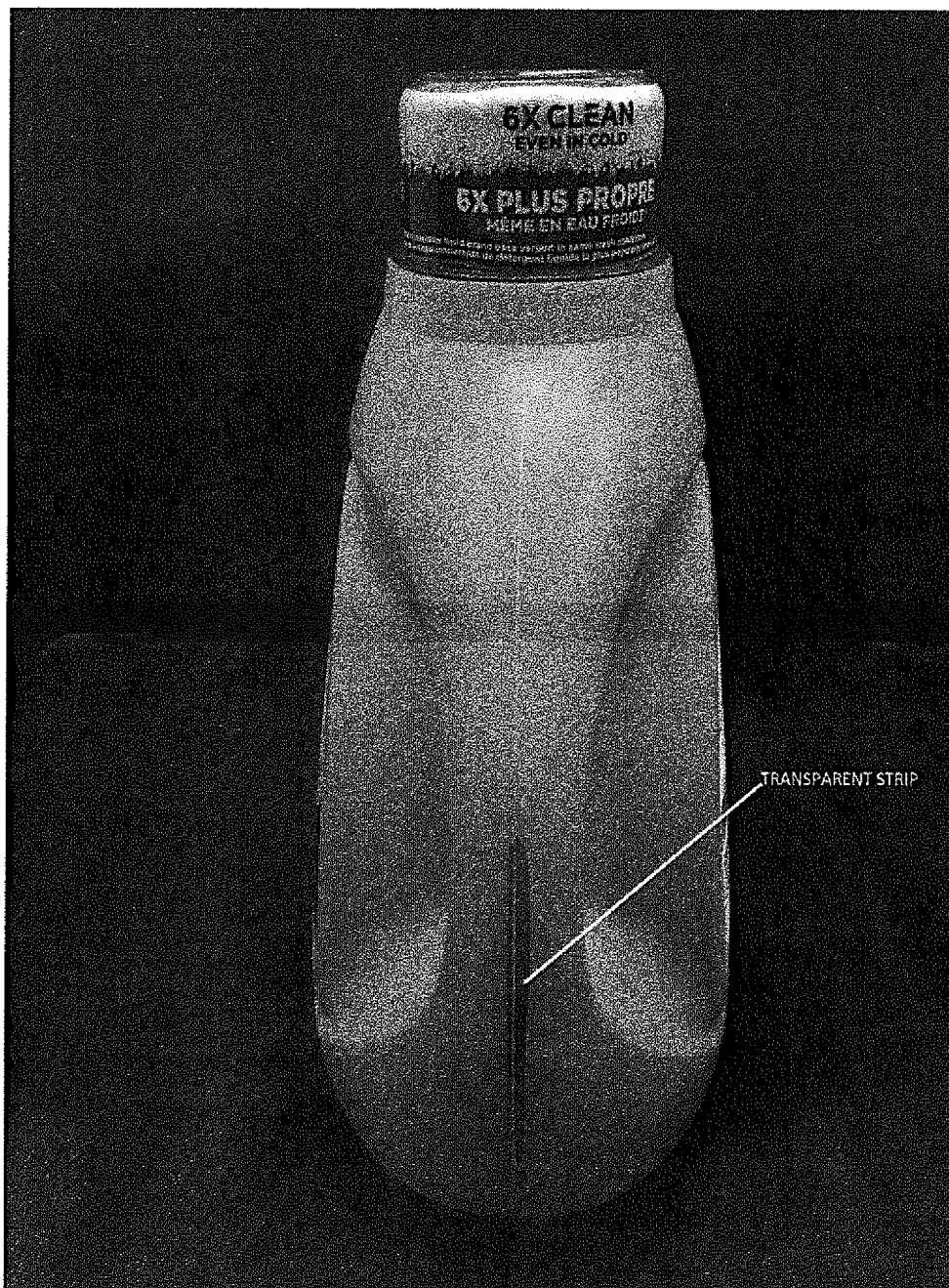


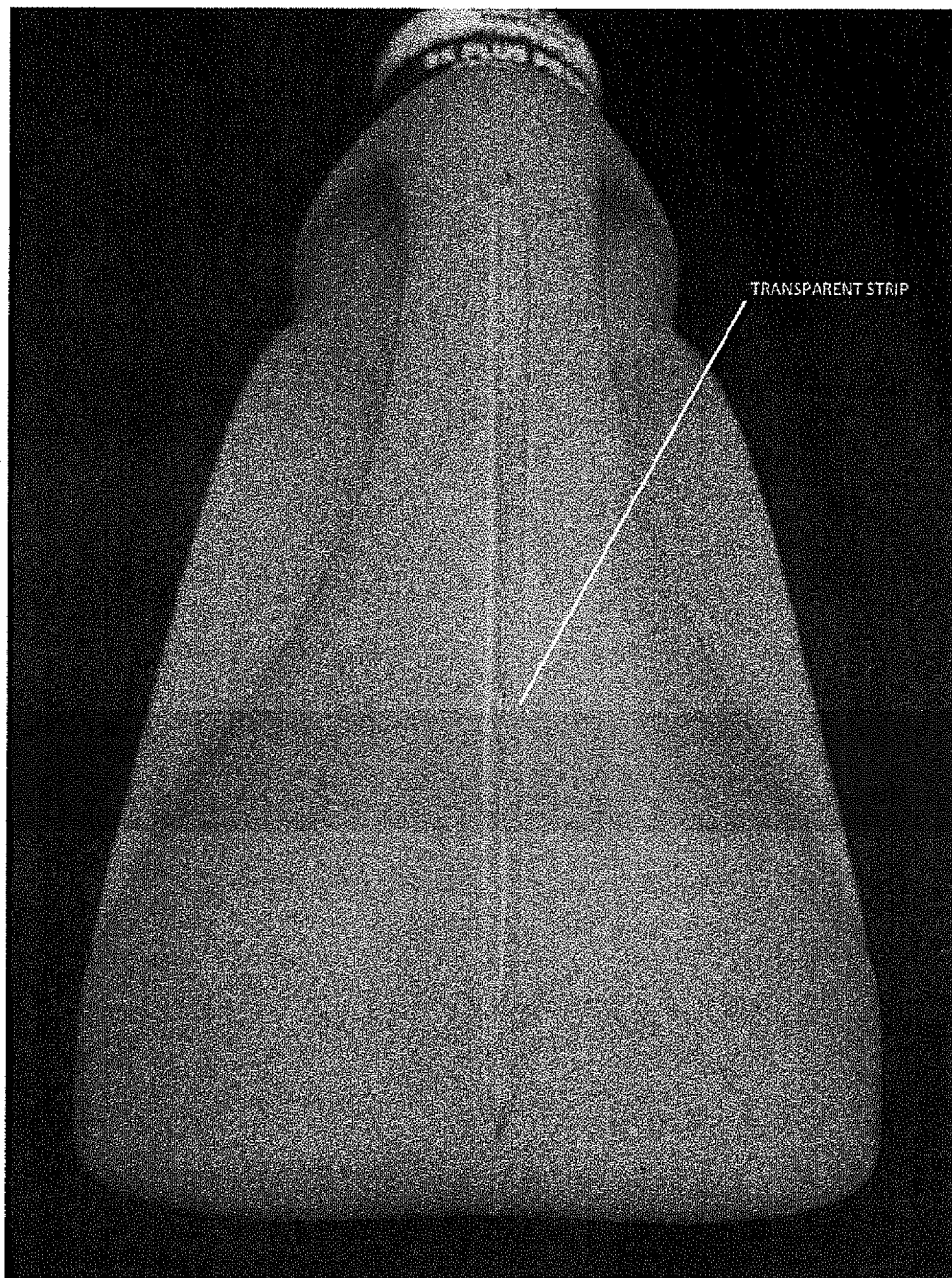




A reasonable consumer would sensibly deduce and expect from the staunch color differentiation between the royal blue screw-in measuring cap and the red body container that the liquid detergent within the Product fills up the entire container. As evident from the photographs, the bottom of the integrated pour spout ends well below the rim required for the screw-in measuring cap. There is simply no reason, even with the spigot apparatus, why the liquid detergent could not be filled to the top of the bottle.

30. In certain of the Products, Defendants further deceive consumers by including a transparent strip on the side of the handle to allow for visibility into the contents of the container, as shown below:





The transparent strip only goes from the bottom of the container up towards the middle of the container, however, and does not provide any visibility into the amount of liquid detergent above the strip. This is a conscious effort intended to mislead the consumer, as the Defendants knowingly and deliberately chose to add a transparent strip that would not allow consumers to



see the significant amount of empty space towards the top of the container. If Defendants wanted consumers to have the complete visual of the amount of liquid detergent contained in the Products, they could have extended the transparent strip along the entire height of the Products.

31. There is no practical reason for the Products to be packaged in over-sized containers other than to mislead consumers as to the actual volume of the Products being purchased by consumers.

32. Defendants' Products are misbranded under consumer protection laws of New York, California and Florida because they misled Plaintiffs and Class members about the volume of the Products in comparison to the size of the Products' packaging. The size of the containers in relation to the actual amount of the Products contained therein gives the false impression that the consumer is buying more than they are actually receiving.

33. The types of misrepresentations made above would be considered by a reasonable consumer when deciding to purchase the Products. A reasonable person would attach importance to whether Defendants' Products are "misbranded," *i.e.*, not legally salable, or capable of legal possession, and/or contain excessive empty space.

34. Plaintiffs and Class members did not know, and had no reason to know, that the Products were packaged in containers made, formed or filled as to be misleading.

35. Defendants' Product packaging was a material factor in Plaintiffs' and Class members' decisions to purchase the Products. Based on Defendants' Product packaging, Plaintiffs and Class members believed that they were getting more of the Products than was actually being sold. Had Plaintiffs and Class members known Defendants' Products were packaged in over-sized containers with excessive empty space, they would not have bought the Products.



36. At the point of sale, Plaintiffs and Class members did not know, and had no reason to know, that the Products were packaged in containers made, formed or filled as to be misleading as set forth herein, and would not have bought the Products had they known the truth about them.

37. Defendants have reaped enormous profits from their false, misleading and deceptive marketing and sale of the Products.

38. Plaintiffs bring this action on behalf of themselves and other similarly situated consumers who have purchased the Products to stop the dissemination of this false, misleading and deceptive advertising message, correct the false and misleading perception it has created in the minds of consumers, and obtain redress for those who have purchased the Products. Plaintiffs allege negligent misrepresentation, unjust enrichment and violations of consumer protection laws of New York, California and Florida.

39. Plaintiffs and Class members paid the full price of the Products and received less of what Defendants represented they would be getting due to the excessive empty space in the over-sized containers. In order for Plaintiffs and Class members to be made whole, Plaintiffs and Class members would have to receive enough of the liquid detergent so that there is no excessive empty space or have paid less for the Products. In the alternative, Plaintiffs and members of the Class are damaged by the percentage of empty space in the containers relative to the purchase price they paid.

40. Through this action, Plaintiffs seek injunctive relief, actual damages, restitution and/or disgorgement of profits, statutory damages, attorneys' fees, costs and all other relief available to the Class as a result of Defendants' unlawful conduct.

**CLASS ACTION ALLEGATIONS**

***The Nationwide Class***

41. Plaintiffs bring this action as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure on behalf of the following class (the “Nationwide Class”):

All persons or entities in the United States who made retail purchases of Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

***The New York Class***

42. Plaintiff GARCIA seeks to represent a class consisting of the following subclass (the “New York Class”):

All New York residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

***The California Class***

43. Plaintiff MORALES seeks to represent a class consisting of the following subclass (the “California Class”):

All California residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

***The Florida Class***

44. Plaintiff HUANG seeks to represent a class consisting of the following subclass (the “Florida Class”):

All Florida residents who made retail purchases of the Products during the applicable limitations period, and/or such subclasses as the Court may deem appropriate.

45. The proposed Classes exclude current and former officers and directors of Defendant, members of the immediate families of the officers and directors of Defendant, Defendants' legal representatives, heirs, successors, assigns, and any entity in which they have or have had a controlling interest, and the judicial officer to whom this lawsuit is assigned.

46. Plaintiffs reserve the right to revise the Class definition based on facts learned in the course of litigating this matter.

47. Numerosity: The members of the Class are so numerous that joinder of all members is impracticable. While the exact number of Class members is unknown to Plaintiffs at this time and can only be ascertained through the appropriate discovery, Plaintiffs believe that there are thousands of members in the proposed Class. Other members of the Class may be identified from records maintained by Defendants and may be notified of the pendency of this action by mail, or by advertisement, using the form of notice similar to that customarily used in class actions such as this.

48. Common Questions Predominate: Questions of law and fact arise from Defendants' conduct described herein. Such questions are common to all Classes because each Class member's claim derives from the same false, misleading and deceptive misconduct. The common questions of law and fact involved predominate over any questions affecting only Plaintiffs or individual Class members. Thus, proof of a common or single set of facts will establish the right of each member of the Classes to recover. Among the questions of law and fact common to the Classes are:

- i. Whether Defendants labeled, packaged, marketed, advertised and/or sold Products to Plaintiffs and Class members, using false, misleading and/or deceptive packaging and labeling;

- ii. Whether Defendants' actions constitute violations of the consumer protection laws of New York, California, and Florida;
- iii. Whether Defendants omitted and/or misrepresented material facts in connection with the labeling, packaging, marketing, advertising and/or sale of Products;
- iv. Whether Defendants' labeling, packaging, marketing, advertising and/or selling of Products constituted an unfair, unlawful or fraudulent practice;
- v. Whether any of the Products during the relevant statutory period were packaged in over-sized containers with excessive empty space;
- vi. Whether, and to what extent, injunctive relief should be imposed on Defendants to prevent such conduct in the future;
- vii. Whether the members of the Class have sustained damages as a result of Defendants' wrongful conduct;
- viii. The appropriate measure of damages and/or other relief;
- ix. Whether Defendants have been unjustly enriched by their scheme of using false, misleading and/or deceptive labeling, packaging or misrepresentations, and;
- x. Whether Defendants should be enjoined from continuing their unlawful practices.

49. Typicality: Plaintiffs' claims are typical of those of the Class members because Plaintiffs and the other Class members sustained damages arising out of the same wrongful conduct, as detailed herein. Plaintiffs purchased the Products during the Class Period and sustained similar injuries arising out of Defendants' conduct in violation of the consumer protection laws of New York, California and Florida. Defendants' unlawful, unfair and fraudulent actions concern the same business practices described herein irrespective of where

they occurred or were experienced. The injuries of the Class were caused directly by Defendants' wrongful misconduct. In addition, the factual underpinning of Defendants' misconduct is common to all Class members and represents a common thread of misconduct resulting in injury to all members of the Class. Plaintiffs' claims arise from the same practices and course of conduct that give rise to the claims of the members of the Class and are based on the same legal theories.

50. Adequacy: Plaintiffs will fairly and adequately represent and pursue the interests of the Class and have retained competent counsel experienced in prosecuting nationwide class actions. Plaintiffs understand the nature of their claims herein, have no disqualifying conditions, and will vigorously represent the interests of the Class. Neither Plaintiffs nor Plaintiffs' counsel have any interests that conflict with or are antagonistic to the interests of the Class. Plaintiffs have retained highly competent and experienced class action attorneys to represent their interests and those of the Class. Plaintiffs and Plaintiffs' counsel have the necessary financial resources to adequately and vigorously litigate this class action, and Plaintiffs and counsel are aware of their fiduciary responsibilities to the Class and will diligently discharge those duties by vigorously seeking the maximum possible recovery for the Class.

51. Superiority: A class action is superior to other available methods for the fair and efficient adjudication of this controversy. Since the damages sustained by individual Class members may be relatively small, the expense and burden of individual litigation make it impracticable for the members of the Class to individually seek redress for the wrongful conduct alleged herein. If Class treatment of these claims were not available, Defendants would likely unfairly receive millions of dollars or more in improper charges.

52. The class is readily definable, and prosecution of this action as a Class action will reduce the possibility of repetitious litigation. Plaintiffs know of no difficulty which will be encountered in the management of this litigation which would preclude its maintenance as a Class action.

53. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(2) are met, as Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making appropriate final injunctive or equitable relief with respect to the Class as a whole.

54. The prerequisites to maintaining a class action for injunctive relief or equitable relief pursuant to Rule 23(b)(3) are met, as questions of law or fact common to the Class predominate over any questions affecting only individual members and a class action is superior to other available methods for fairly and efficiently adjudicating the controversy.

55. The prosecution of separate actions by members of the Class would create a risk of establishing inconsistent rulings and/or incompatible standards of conduct for Defendants. Additionally, individual actions may be dispositive of the interest of all members of the Class, although certain Class members are not parties to such actions.

56. Defendants' conduct is generally applicable to the Class as a whole and Plaintiffs seek, *inter alia*, equitable remedies with respect to the Class as a whole. As such, Defendants' systematic policies and practices, including advertising, marketing, distributing, and/or selling Products in consistently and intentionally over-sized containers, make declaratory relief with respect to the Class as a whole appropriate.

**CAUSES OF ACTION**

**COUNT I**

**NEGLIGENT MISREPRESENTATION**

**(Brought on Behalf of the Nationwide Class, or Alternatively,  
on Behalf of the New York, California, and Florida Classes)**

57. Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein and further allege the following:

58. Defendants, directly or through their agents and employees, made false representations, concealment and nondisclosures to Plaintiffs and members of the Class. Defendants, through their deceptive packaging of the Products, make uniform representations regarding the Products.

59. Defendants, as the manufacturers, packagers, labelers and initial sellers of the Products purchased by the Plaintiffs, had a duty to disclose the true nature of the Products and not sell the Products in over-sized containers with excessive empty space. Defendants had exclusive knowledge of material facts not known or reasonably accessible to the Plaintiffs; Defendants actively concealed material facts from the Plaintiffs and Defendants made partial representations that are misleading because some other material fact has not been disclosed. Defendants' failure to disclose the information it had a duty to disclose constitutes material misrepresentations and materially misleading omissions which misled the Plaintiffs who relied on Defendants in this regard to disclose all material facts accurately and truthfully and fully.

60. Plaintiffs and members of the Class reasonably relied on Defendants' representation that their Products contain more product than actually packaged.

61. In making the representations of fact to Plaintiffs and members of the Class described herein, Defendants have failed to fulfill their duties to disclose the material facts set forth above. The direct and proximate cause of this failure to disclose was Defendants' negligence and carelessness.

62. Defendants, in making the misrepresentations and omissions, and in doing the acts alleged above, knew or reasonably should have known that the representations were not true. Defendants made and intended the misrepresentations to induce the reliance of Plaintiffs and members of the Class.

63. Plaintiffs and members of the Class would have acted differently had they not been misled – i.e. they would not have paid money for the Products in the first place.

64. Defendants have a duty to correct the misinformation they disseminated through the deceptive packaging of the Products. By not informing Plaintiffs and members of the Class, Defendants breached their duty. Defendants also profited financially as a result of this breach.

65. Plaintiffs and members of the Class relied upon these false representations and nondisclosures by Defendants when purchasing the Products, upon which reliance was justified and reasonably foreseeable.

66. As a direct and proximate result of Defendants' wrongful conduct, Plaintiffs and members of the Class have suffered and continue to suffer economic losses and other general and specific damages, including but not limited to the amounts paid for Products, and any interest that would have been accrued on all those monies, all in an amount to be determined according to proof at time of trial.

67. Defendants acted with intent to defraud, or with reckless or negligent disregard of the rights of Plaintiffs and members of the Class.



68. Plaintiffs and members of the Class are entitled to damages, including punitive damages.

## COUNT II

### UNJUST ENRICHMENT

**(Brought on Behalf of the Nationwide Class, or Alternatively,  
on Behalf of the New York, California, and Florida Classes)**

69. Plaintiffs repeat and reallege each and every allegation contained above as if fully set forth herein and further allege the following:

70. As a result of Defendants' deceptive, fraudulent and misleading labeling, packaging, advertising, marketing and sales of Products, Defendants were enriched, at the expense of and members of the Class, through the payment of the purchase price for Defendants' Products.

71. Plaintiffs and members of the Class conferred a benefit on Defendants through purchasing the Products, and Defendants have knowledge of this benefit and have voluntarily accepted and retained the benefits conferred on it.

72. Defendants will be unjustly enriched if they are allowed to retain such funds, and each Class member is entitled to an amount equal to the amount they enriched Defendants and for which Defendants has been unjustly enriched.

73. Under the circumstances, it would be against equity and good conscience to permit Defendants to retain the ill-gotten benefits that they received from Plaintiffs, and all others similarly situated, in light of the fact that the volume of the Products purchased by Plaintiffs and the Class, was not what Defendants purported it to be by their labeling and packaging. Thus, it would be unjust or inequitable for Defendants to retain the benefit without restitution to Plaintiffs, and all others similarly situated, for selling their Products in packaging resulting in slack-fill. In order for Plaintiffs and Class members to be made whole, they need to

receive either the price premium paid for the Products or a refund of the purchase price of the Products equal to the percentage of empty space in the Products.

### COUNT III

#### **INJUNCTION FOR VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT) (Brought on Behalf of the New York Class)**

74. Plaintiff GARCIA repeats and realleges each and every allegation contained above as if fully set forth herein and further alleges the following:

75. Plaintiff GARCIA brings this claim individually and on behalf of the other members of the New York Class for an injunction for violations of New York's Deceptive Acts or Practices Law, General Business Law ("NY GBL") § 349.

76. NY GBL § 349 provides that "deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are . . . unlawful."

77. Under the New York Gen. Bus. Code § 349, it is not necessary to prove justifiable reliance. ("To the extent that the Appellate Division order imposed a reliance requirement on General Business Law [§] 349 . . . claims, it was error. Justifiable reliance by the plaintiff is not an element of the statutory claim." *Koch v. Acker, Merrall & Condit Co.*, 18 N.Y.3d 940, 941 (N.Y. App. Div. 2012) (internal citations omitted)).

78. The foregoing deceptive acts and practices were directed at consumers.

79. Defendants should be enjoined from packaging their Products with slack-fill as described above pursuant to NY GBL § 349.

80. A consumer has standing to seek injunctive relief even where they are not likely to repurchase the product. *See Belfiore v. Procter & Gamble Co.*, No. 14-cv-4090 (E.D.N.Y. 2014).

81. Plaintiff GARCIA, on behalf of herself and all others similarly situated, respectfully demands a judgment enjoining Defendants' conduct, awarding costs of this proceeding and attorneys' fees, as provided by NY GBL, and such other relief as this Court deems just and proper.

#### **COUNT IV**

##### **VIOLATIONS OF NEW YORK GENERAL BUSINESS LAW § 349 (DECEPTIVE AND UNFAIR TRADE PRACTICES ACT) (Brought on Behalf of the New York Class)**

82. Plaintiff GARCIA repeats and realleges each and every allegation contained above as if fully set forth herein and further alleges the following:

83. Plaintiff GARCIA brings this claim individually and on behalf of the other members of the New York Class for Defendants' violations of NY GBL § 349.

84. Any person who has been injured by reason of any violation of NY GBL § 349 may bring an action in her own name to enjoin such unlawful act or practice, an action to recover her actual damages or fifty dollars, whichever is greater, or both such actions. The court may, in its discretion, increase the award of damages to an amount not to exceed three times the actual damages up to one thousand dollars, if the court finds the defendant willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

85. "There is no requirement that the plaintiff show specific dollar injury, or to obtain injunctive relief that there even be pecuniary injury at all. Nor is there any requirement that the deceptive practice or false advertising be intentional or even reckless or amount to fraud." N.Y. Gen. Bus. L. § 349, Practice Commentaries. "Nor does plaintiff have to prove reliance upon defendant's deceptive practices." *BNi New York Ltd. v. DeSanto*, 675 N.Y.S.2d 753 at 755

(1998). *See also, Small v. Lorillard Tobacco Company*, 677 N.Y.S.2d 518, 519 (1st Dept. 1998) (Section 349 “does not require proof of justifiable reliance”).

86. By the acts and conduct alleged herein, Defendants committed unfair or deceptive acts and practices by misbranding their Products as seeming to contain more in the packaging than is actually included.

87. The practices employed by Defendants, whereby Defendants advertised, promoted, marketed and sold their Products in containers made, formed or filled as to be misleading are unfair, deceptive and misleading and are in violation of the NY GBL § 349 in that said Products are misbranded.

88. The foregoing deceptive acts and practices were directed at consumers.

89. The foregoing deceptive acts and practices are misleading in a material way because they fundamentally misrepresent the quantities of the Products in that they misled Plaintiff and the other Class members into believing that they were buying more than what they actually received.

90. Plaintiff GARCIA and the other Class members suffered a loss as a result of Defendants’ deceptive and unfair trade acts. Specifically, as a result of Defendants’ deceptive and unfair acts and practices, Plaintiff GARCIA and the other Class members suffered monetary losses associated with the purchase of Products, i.e., receiving less than the capacity of the packaging due to excessive empty space in the Products. In order for Plaintiff GARCIA and Class members to be made whole, they need to receive either the price premium paid for the Products or a refund of the purchase price of the Products equal to the percentage of non-functional empty space in the Products.

## COUNT V

**VIOLATIONS OF CALIFORNIA'S CONSUMER LEGAL REMEDIES ACT,**

**Cal. Civ. Code § 1750, *et seq.***

**(Brought on Behalf of the California Class)**

91. Plaintiff MORALES repeats and realleges each and every allegation contained above as if fully set forth herein and further alleges the following:

92. Plaintiff MORALES brings this claim individually and on behalf of the other members of the California Class for Defendants' violations of California's Consumer Legal Remedies Act ("CLRA"), Cal. Civ. Code § 1761(d).

93. Plaintiff MORALES and California Class members are consumers who purchased the Products for personal, family or household purposes. Plaintiff MORALES and the California Class members are "consumers" as that term is defined by the CLRA in Cal. Civ. Code § 1761(d). Plaintiff MORALES and the California Class members are not sophisticated experts with independent knowledge of corporate branding, labeling, and packaging practices.

94. Products that Plaintiff MORALES and other California Class members purchased from Defendants were "goods" within the meaning of Cal. Civ. Code § 1761(a).

95. Defendants' actions, representations, and conduct have violated, and continue to violate the CLRA, because they extend to transactions that intended to result, or which have resulted in, the sale of goods to consumers.

96. Defendants' packaging with non-functional slack-fill violates federal and California law because the Products are intentionally packaged to prevent the consumer from being able to fully see their contents.

97. California's Consumers Legal Remedies Act, Cal. Civ. Code § 1770(a)(5), prohibits "[r]epresenting that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities which they do not have or that a person has a

sponsorship, approval, status, affiliation, or connection which he or she does not have.” By engaging in the conduct set forth herein, Defendants violated and continues to violate Section 1770(a)(5) of the CLRA, because Defendants’ conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it misrepresents that the Products have quantities which they do not have.

98. Cal. Civ. Code § 1770(a)(9) further prohibits “[a]dvertising goods or services with intent not to sell them as advertised.” By engaging in the conduct set forth herein, Defendants violated and continues to violate Section 1770(a)(9), because Defendants’ conduct constitutes unfair methods of competition and unfair or fraudulent acts or practices, in that it advertises goods with the intent not to sell the goods as advertised.

99. Plaintiff MORALES and the California Class members are not sophisticated experts about the corporate branding, labeling, and packaging practices related to the Products. Plaintiff MORALES and the California Class acted reasonably when they purchased the Products based on their belief that Defendants’ representations were true and lawful.

100. Plaintiff MORALES and the California Class suffered injuries caused by Defendants because (a) they would not have purchased the Products on the same terms absent Defendants illegal and misleading conduct as set forth herein, or if the true facts were known concerning Defendants’ representations; (b) they paid a price premium for the Products due to Defendants’ misrepresentations and deceptive marketing; and (c) the Products did not have the quantities as promised.

101. On or about March 30, prior to filing this action, a CLRA notice letter was served on Defendants which complies in all respects with California Civil Code § 1782(a). Plaintiff MORALES sent THE PROCTER & GAMBLE COMPANY and THE PROCTER & GAMBLE

DISTRIBUTING LLC., respectively, on behalf of herself and the proposed Class, a letter via certified mail, return receipt requested, advising Defendants that they are in violation of the CLRA and demanding that they cease and desist from such violations and make full restitution by refunding the monies received therefrom. A true and correct copy of Plaintiff MORALES' letter is attached hereto as **EXHIBIT B**.

102. Wherefore, Plaintiff MORALES seeks damages, restitution, and injunctive relief for these violations of the CLRA.

### **COUNT VI**

#### **VIOLATION OF CALIFORNIA'S UNFAIR COMPETITION LAW, California Business & Professions Code §§ 17200, *et seq.* (Brought on Behalf of the California Class)**

103. Plaintiff MORALES repeats and realleges each and every allegation contained above as if fully set forth herein and further alleges the following:

104. Plaintiff MORALES brings this claim individually and on behalf of the members of the proposed California Class for Defendants' violations of California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*

105. The UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising ...."

106. Defendants' packaging practices violate federal and California law because their packaging contains misleading and deceptive non-functional slack-fill.

107. Defendants' business practices, described herein, violated the "unlawful" prong of the UCL by violating the California Business and Professional Code, § 12606 (b), which specifically prohibits non-functional slack-fill in any commodities. Defendants' packaging and

labeling practices as described herein are unlawful also because they violated the California Business and Professional Code, § 12606 (b), which specifically prohibits non-functional slack-fill in any commodities.

108. Defendants' business practices, described herein, violated the "unfair" prong of the UCL in that their conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any alleged benefits. Defendants' advertising is of no benefit to consumers.

109. Defendants violated the "fraudulent" prong of the UCL by misleading Plaintiff MORALES and the California Class to believe that their Products do not contain unnecessary, excessive non-functional slack-fill and not intended to deceive or mislead the consumers.

110. Plaintiff MORALES and the California Class members are not sophisticated experts about corporate branding, labeling, and packaging practices. Plaintiff MORALES and the California Class acted reasonably when they purchased the Products based on their belief that Defendants' representations were true and lawful.

111. Plaintiff MORALES and the California Class lost money or property as a result of Defendants' UCL violations because (a) they would not have purchased the Products on the same terms absent Defendants' illegal conduct as set forth herein, or if the true facts were known concerning Defendants' representations; (b) they paid a price premium for the Products due to Defendants' misrepresentations and deceptive marketing; and (c) the Products did not have the quantities as promised.

## **COUNT VII**

**VIOLATION OF FLORIDA'S DECEPTIVE AND UNFAIR TRADE PRACTICES,  
Fla. Stat. Ann. § 501.201, *et seq.*  
(Brought on Behalf of the Florida Class)**



112. Plaintiff HUANG repeats and realleges each and every allegation contained above as if fully set forth herein and further alleges the following:

113. Plaintiff HUANG brings this claim individually and on behalf of the Florida Class for Defendants' violations of Florida's Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*

114. Section 501.204(1) of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA") makes "unfair or deceptive acts or practices in the conduct or any trade or commerce" in Florida unlawful.

115. Throughout the Class Period, by advertising, marketing, distributing, and/or selling the Products in over-sized containers with excessive empty space, to Plaintiff HUANG and other Florida Class members, Defendants violated the FDUTPA by engaging in false advertising concerning the Products.

116. Defendants have made and continue to make deceptive, false and misleading statements concerning the Products, namely manufacturing, selling, marketing, packaging and advertising the Products as alleged herein. Defendants falsely represented that the Products contain much more liquid detergent than they actually do.

117. Plaintiff HUANG and other Florida Class members seek to enjoin such unlawful acts and practices as described above. Each of the Florida Class members will be irreparably harmed unless the unlawful actions of Defendants are enjoined in that they will continue to be unable to rely on the Defendants' misleading packaging and advertising.

118. Had Plaintiff HUANG and the Florida Class members known the misleading and/or deceptive nature of Defendants' claims, they would not have purchased the Products.

119. Plaintiff HUANG and the Florida Class members were injured in fact and lost money as a result of Defendants' conduct of improperly packaging the Products in over-sized containers with excessive empty space. Plaintiff HUANG and the Florida Class members paid for Defendants' premium priced Products, but received Products that were worth less than the Products for which they paid.

120. Plaintiff HUANG and the Florida Class seek declaratory relief, enjoining Defendants from continuing to disseminate their false and misleading statements, actual damages plus attorney's fees and court costs, and other relief allowable under the FDUTPA.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs, on behalf of themselves and all others similarly situated, pray for relief and judgment against Defendants as follows:

(A) For an Order certifying the nationwide Class and under Rule 23 of the Federal Rules of Civil Procedure and naming Plaintiffs as representatives of the Class and Plaintiffs' attorneys as Class Counsel to represent members of the Class;

(B) For an Order declaring the Defendants' conduct violates the statutes referenced herein;

(C) For an Order finding in favor of Plaintiffs and members of the Class;

(D) For compensatory and punitive damages in amounts to be determined by the Court and/or jury;

(E) For prejudgment interest on all amounts awarded;

(F) For an Order of restitution and all other forms of equitable monetary relief;

(G) For injunctive relief to repackage the Products without e as pleaded or as the Court may deem proper;

(H) For an Order awarding Plaintiffs and members of the Class their reasonable attorneys' fees and expenses and costs of suit; and

(I) For such other and further relief as the Court deems just and proper.

**DEMAND FOR TRIAL BY JURY**

Plaintiffs, individually and on behalf of all others similarly situated, hereby demands a jury trial on all claims so triable.

Dated: November 20, 2015

**Respectfully submitted,**

**LEE LITIGATION GROUP, PLLC**

C.K. Lee (CL 4086)

Anne Seelig (AS 3976)

Shan Shan Zheng (SZ 3301)

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New York, NY 10016

Tel.: 212-465-1188

Fax: 212-465-1181

*Attorneys for Plaintiffs and the Class*

/s/ C.K. Lee

BY: C.K. Lee, Esq.

# EXHIBIT A

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**Tide® Original**  
**(25 FL OZ)**



The 25 Fluid Ounce Product is packaged in a bottle that is approximately 7.75 x 5 x 3 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 25 Fluid Ounce Product is approximately 31.11 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 25.01 fluid ounces, leaving a difference of 6.01 fluid ounces or approximately 20% non-functional slack-fill.



**Tide® Original HE**  
**(40 FL OZ)**



The 40 Fluid Ounce Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill.

**Tide® Clean Breeze HE**  
**(40 FL OZ)**



The 40 Fluid Ounce Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill.



**Tide® Original, Clean Breeze**  
**(50 FL OZ)**



The 50 Fluid Ounce Product is packaged in a bottle that is approximately 10 x 6 x 3 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 50 Fluid Ounce Product is approximately 60.19 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 48.69 fluid ounces, leaving a difference of 11.5 fluid ounces or approximately 19% non-functional slack-fill.

**Tide® Plus a Touch of Downy, Sweet Dreams**  
**(40 FL OZ)**



The 40 Fluid Ounce Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill.



**Tide® Plus a Touch of Downy, April Fresh**  
**(40 FL OZ)**



The 40 Fluid Ounce Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill.

**Tide® Plus Bleach Alternative, Original HE**  
**(92 FL OZ)**



The Bleach Alternative HE 92 Fluid Ounce Product is packaged in a bottle that is approximately 11.125 x 7.5 x 5.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 92 Fluid Ounce Product is approximately 104.15 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 91.3 fluid ounces, leaving a difference of 12.85 fluid ounces or approximately 12% non-functional slack-fill.



**Tide® Plus Bleach Alternative, Clean Breeze  
(46 FL OZ)**



The Bleach Alternative 46 Fluid Ounce Product is packaged in a bottle that is approximately 10 x 6 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 46 Fluid Ounce Product is approximately 53.43 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 46.66 fluid ounces, leaving a difference of 6.77 fluid ounces or approximately 13% non-functional slack-fill.

## **Tide® Simply Clean & Fresh (40 FL OZ)**



The 40 Fluid Ounce Simply Clean & Fresh Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Simply Clean & Fresh Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill.



**Tide® Simply Clean & Fresh**  
**(60 FL OZ)**



The 60 Fluid Ounce Product is packaged in a bottle that is approximately 11 x 6 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 60 Fluid Ounce Product is approximately 66.95 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 59.51 fluid ounces, leaving a difference of 7.44 fluid ounces or approximately 11% non-functional slack-fill.

## **Tide® Free & Gentle (40 FL OZ)**



The 40 Fluid Ounce Free & Gentle Product is packaged in a bottle that is approximately 9.5 x 6.5 x 3.5 inches with a bottle cap that is about 2 inches in height. The total volume capacity of the 40 Fluid Ounce Free & Gentle Product is approximately 50.04 fluid ounces. The actual volume of the liquid detergent contained within the bottle is approximately 39.56 fluid ounces, leaving a difference of 10.48 fluid ounces or approximately 21% non-functional slack-fill



# EXHIBIT B

## LEE LITIGATION GROUP, PLLC

30 EAST 39<sup>TH</sup> STREET, SECOND FLOOR

NEW YORK, NY 10016

TEL: 212-465-1180

FAX: 212-465-1181

INFO@LEELITIGATION.COM

WRITER'S DIRECT: 212-465-1188  
cklee@leelitigation.com

March 26, 2015

**VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED**

Legal Department  
The Procter & Gamble Company  
1 Procter & Gamble Plaza  
Cincinnati, OH 45202

Legal Department  
Procter & Gamble Products Inc.  
1 Procter & Gamble Plaza  
Cincinnati, OH 45202

Re: Demand Letter re: Tide®, Cheer®, Dreft®, Downy®, Era® and Gain® Detergent Products (See attached Exhibit for complete list of Products.)

To Whom It May Concern:

This demand letter serves as a notice and demand for corrective action on behalf of my client, Janie Morales and all other persons similarly situated, arising from breaches of warranty under the Magnuson-Moss Warranty Act, violations of numerous provisions of California law including the Consumers Legal Remedies Act, Civil Code § 1770, including but not limited to subsections (a)(5) and (a)(9) and violations of consumer protection laws of each of the fifty states and the District of Columbia. This demand letter serves as notice pursuant to state laws concerning the breaches of express and implied warranties.

You have participated in the manufacture, marketing and sale of the Tide®, Cheer®, Dreft®, Downy®, Era® and Gain® Detergent Products. The Products come in containers with non-functional slack-fill and violate consumer protection laws of each of the fifty states and the District of Columbia. As a result, the Products are misbranded.

Janie Morales, a resident of California, purchased the Tide® Detergent Products and is acting on behalf of a class defined as all persons in each of the fifty states and the District of Columbia who purchased the Products (hereafter, the "Class"). All Products are substantially similar to the Products purchased by Janie Morales because they utilize similar packaging and similarly contain non-functional slack-fill.

To cure the defects described above, we demand that you (i) cease and desist from continuing to package the Products with non-functional slack-fill; (ii) issue an immediate recall on any Products with non-functional slack-fill; and (iii) make full restitution to all purchasers throughout the United States of all purchase money obtained from sales thereof.

## **Tide Products**

1. Tide® Original 25 Fluid Ounce
2. Tide® Original 40 Fluid Ounce
3. Tide® Original 50 Fluid Ounce
4. Tide® Original 75 Fluid Ounce
5. Tide® Original 100 Fluid Ounce
6. Tide® Original 150 Fluid Ounce
7. Tide® Original 170 Fluid Ounce
8. Tide® Original HE 40 Fluid Ounce
9. Tide® Original HE 50 Fluid Ounce
10. Tide® Original HE 75 Fluid Ounce
11. Tide® Original – Clean Breeze 75 Fluid Ounce
12. Tide® Original – Clean Breeze 100 Fluid Ounce
13. Tide® Original – Clean Breeze 150 Fluid Ounce
14. Tide® Original – Clean Breeze HE 40 Fluid Ounce
15. Tide® Original – Clean Breeze HE 75 Fluid Ounce
16. Tide® Original – Clean Breeze HE 100 Fluid Ounce
17. Tide® Original – Clean Breeze HE 150 Fluid Ounce
18. Tide® Original – Mountain Spring 40 Fluid Ounce
19. Tide® Original – Mountain Spring 50 Fluid Ounce
20. Tide® Original – Mountain Spring 75 Fluid Ounce
21. Tide® Original – Mountain Spring 100 Fluid Ounce
22. Tide® Original – Mountain Spring 150 Fluid Ounce
23. Tide® Plus a Touch of Downy – April Fresh 50 Fluid Ounce
24. Tide® Plus a Touch of Downy – April Fresh 69 Fluid Ounce
25. Tide® Plus a Touch of Downy – April Fresh 92 Fluid Ounce
26. Tide® Plus a Touch of Downy – April Fresh 138 Fluid Ounce
27. Tide® Plus a Touch of Downy – April Fresh HE 46 Fluid Ounce
28. Tide® Plus a Touch of Downy – April Fresh HE 92 Fluid Ounce
29. Tide® Plus a Touch of Downy – April Fresh HE 138 Fluid Ounce
30. Tide® Plus a Touch of Downy – Clean Breeze 46 Fluid Ounce
31. Tide® Plus a Touch of Downy – Clean Breeze 92 Fluid Ounce
32. Tide® Plus a Touch of Downy – Clean Breeze 138 Fluid Ounce
33. Tide® Plus Bleach Alternative Original 25 Fluid Ounce
34. Tide® Plus Bleach Alternative Original 40 Fluid Ounce
35. Tide® Plus Bleach Alternative Original 46 Fluid Ounce
36. Tide® Plus Bleach Alternative Original 69 Fluid Ounce
37. Tide® Plus Bleach Alternative Original 92 Fluid Ounce
38. Tide® Plus Bleach Alternative Original HE 46 Fluid Ounce
39. Tide® Plus Bleach Alternative Original HE 138 Fluid Ounce
40. Tide® Plus Bleach Alternative – Clean Breeze 69 Fluid Ounce
41. Tide® Plus Bleach Alternative – Clean Breeze 92 Fluid Ounce
42. Tide® Plus Bleach Alternative – Clean Breeze 138 Fluid Ounce
43. Tide® Simply Clean and Fresh – Refreshing Breeze 40 Fluid Ounce
44. Tide® Simply Clean and Fresh – Refreshing Breeze 50 Fluid Ounce

91. Tide® Plus Febreze Freshness Sport – Active Fresh HE 92 Fluid Ounce
92. Tide® Plus Febreze Freshness Sport – Active Fresh HE 138 Fluid Ounce
93. Tide® Plus Febreze Freshness Sport – Victory Fresh 40 Fluid Ounce
94. Tide® Plus Febreze Freshness Sport – Victory Fresh 46 Fluid Ounce
95. Tide® Plus Febreze Freshness Sport – Victory Fresh 92 Fluid Ounce
96. Tide® Plus Febreze Freshness Sport – Victory Fresh HE 40 Fluid Ounce
97. Tide® Plus Febreze Freshness Sport – Victory Fresh HE 46 Fluid Ounce
98. Tide® Plus Febreze Freshness Sport – Victory Fresh HE 69 Fluid Ounce
99. Tide® Plus Febreze Freshness Sport – Victory Fresh HE 92 Fluid Ounce
100. Any other Tide® Products that contain non-functional slack-fill.

#### **Cheer Products**

1. Cheer® 2x Ultra Fresh Clean Scent 50 Fluid Ounce
2. Cheer® 2x Ultra Fresh Clean Scent 100 Fluid Ounce
3. Cheer® 2x Ultra Fresh Clean Scent 150 Fluid Ounce
4. Cheer® 2x Ultra Fresh Clean Scent HE 40 Fluid Ounce
5. Cheer® 2x Ultra Fresh Clean Scent HE 100 Fluid Ounce
6. Cheer® 2x Ultra Liquid Free & Gentle 50 Fluid Ounce
7. Cheer® 2x Ultra Liquid Free & Gentle 100 Fluid Ounce
8. Cheer® 2x Ultra Liquid Free & Gentle HE 100 Fluid Ounce
9. Any other Cheer® Products that contain non-functional slack-fill.

#### **Downy Products**

1. Ultra Downy® Free & Sensitive Liquid 40 Fluid Ounce
2. Ultra Downy® Free & Sensitive Liquid 60 Fluid Ounce
3. Ultra Downy® Free & Sensitive Liquid 90 Fluid Ounce
4. Ultra Downy® Free & Sensitive Liquid 120 Fluid Ounce
5. Ultra Downy® Spring Lavender Liquid – with SilkTouch™ 60 Fluid Ounce
6. Ultra Downy® Spring Lavender Liquid – with SilkTouch™ 120 Fluid Ounce
7. Ultra Downy® Sun Blossom Liquid – with SilkTouch™ 21 Fluid Ounce
8. Ultra Downy® Sun Blossom Liquid – with SilkTouch™ 52 Fluid Ounce
9. Ultra Downy® Sun Blossom Liquid – with SilkTouch™ 60 Fluid Ounce
10. Ultra Downy® Sun Blossom Liquid – with SilkTouch™ 120 Fluid Ounce
11. Ultra Downy® Clean Breeze Liquid – with SilkTouch™ 40 Fluid Ounce
12. Ultra Downy® Clean Breeze Liquid – with SilkTouch™ 60 Fluid Ounce
13. Ultra Downy® Clean Breeze Liquid – with SilkTouch™ 90 Fluid Ounce
14. Ultra Downy® Clean Breeze Liquid – with SilkTouch™ 120 Fluid Ounce
15. Ultra Downy® Clean Breeze Liquid – with SilkTouch™ 150 Fluid Ounce
16. Ultra Downy® April Fresh Liquid – with SilkTouch™ 23 Fluid Ounce
17. Ultra Downy® April Fresh Liquid – with SilkTouch™ 40 Fluid Ounce
18. Ultra Downy® April Fresh Liquid – with SilkTouch™ 52 Fluid Ounce
19. Ultra Downy® April Fresh Liquid – with SilkTouch™ 60 Fluid Ounce
20. Ultra Downy® April Fresh Liquid – with SilkTouch™ 90 Fluid Ounce
21. Ultra Downy® April Fresh Liquid – with SilkTouch™ 105 Fluid Ounce
22. Ultra Downy® April Fresh Liquid – with SilkTouch™ 120 Fluid Ounce
23. Ultra Downy® April Fresh Liquid – with SilkTouch™ 150 Fluid Ounce

14. Gain® Lavender Liquid Laundry Detergent 100 Fluid Ounce
15. Gain® Lavender Liquid Laundry Detergent 150 Fluid Ounce
16. Gain® Lavender HE Liquid Laundry Detergent 50 Fluid Ounce
17. Gain® Lavender HE Liquid Laundry Detergent 100 Fluid Ounce
18. Gain® Island Fresh Liquid Laundry Detergent 50 Fluid Ounce
19. Gain® Island Fresh Liquid Laundry Detergent 75 Fluid Ounce
20. Gain® Island Fresh Liquid Laundry Detergent 100 Fluid Ounce
21. Gain® Island Fresh Liquid Laundry Detergent 150 Fluid Ounce
22. Gain® Island Fresh HE Liquid Laundry Detergent 100 Fluid Ounce
23. Gain® Apple Mango Tango Liquid Laundry Detergent 50 Fluid Ounce
24. Gain® Apple Mango Tango Liquid Laundry Detergent 100 Fluid Ounce
25. Gain® Apple Mango Tango Liquid Laundry Detergent 150 Fluid Ounce
26. Gain® Apple Mango Tango HE Liquid Laundry Detergent 50 Fluid Ounce
27. Gain® Apple Mango Tango HE Liquid Laundry Detergent 100 Fluid Ounce
28. Gain® Apple Mango Tango HE Liquid Laundry Detergent 150 Fluid Ounce
29. Gain® Aloha Fresh Liquid Laundry Detergent 50 Fluid Ounce
30. Gain® Aloha Fresh Liquid Laundry Detergent 100 Fluid Ounce
31. Gain® Aloha Fresh Liquid Laundry Detergent 150 Fluid Ounce
32. Gain® Thai Dragon Fruit Liquid Laundry Detergent 100 Fluid Ounce
33. Gain® Thai Dragon Fruit Liquid Laundry Detergent 150 Fluid Ounce
34. Gain® Thai Dragon Fruit HE Liquid Laundry Detergent 40 Fluid Ounce
35. Gain® Thai Dragon Fruit HE Liquid Laundry Detergent 50 Fluid Ounce
36. Gain® Thai Dragon Fruit HE Liquid Laundry Detergent 100 Fluid Ounce
37. Gain® Thai Dragon Fruit HE Liquid Laundry Detergent 150 Fluid Ounce
38. Gain® Sunflower and Sunshine HE Liquid Laundry Detergent 50 Fluid Ounce
39. Gain® Sunflower and Sunshine HE Liquid Laundry Detergent 100 Fluid Ounce
40. Gain® Sunflower and Sunshine HE Liquid Laundry Detergent 150 Fluid Ounce
41. Gain® Ocean Escape Liquid Laundry Detergent 50 Fluid Ounce
42. Gain® Ocean Escape Liquid Laundry Detergent 100 Fluid Ounce
43. Gain® OxiBoost with Icy Fresh Fizz Liquid Laundry Detergent 40 Fluid Ounce
44. Gain® OxiBoost with Icy Fresh Fizz Liquid Laundry Detergent 50 Fluid Ounce
45. Gain® OxiBoost with Icy Fresh Fizz Liquid Laundry Detergent 100 Fluid Ounce
46. Gain® OxiBoost with Icy Fresh Fizz HE Liquid Laundry Detergent 40 Fluid Ounce
47. Gain® OxiBoost with Icy Fresh Fizz HE Liquid Laundry Detergent 50 Fluid Ounce
48. Gain® OxiBoost with Icy Fresh Fizz HE Liquid Laundry Detergent 100 Fluid Ounce
49. Any other Gain® Products that contain non-functional slack-fill.