

1 Alan R. Plutzik (State Bar No. 77785)  
 Michael S. Strimling (State Bar No. 96135)  
 2 **BRAMSON, PLUTZIK, MAHLER**  
 & **BIRKHAUSER LLP**  
 3 2125 Oak Grove Road  
 Walnut Creek, CA 94598  
 4 Telephone: (925) 945-0200  
 Facsimile: (925) 945-8792  
 5 aplutzik@bramsonplutzik.com  
 6 mstrimling@bramsonplutzik.com

7 Mark P. Kindall (State Bar No. 138703)  
 Robert A. IZARD (*pro hac vice forthcoming*)  
 8 Jeffrey S. Nobel (*pro hac vice forthcoming*)  
 Nicole A. Veno (*admitted pro hac vice*)  
 9 **IZARD NOBEL LLP**  
 10 29 South Main Street, Suite 305  
 West Hartford, CT 06107  
 11 Telephone: (860) 493-6292  
 Facsimile: (860) 493-6290  
 12 mkindall@izardnobel.com  
 rizard@izardnobel.com  
 13 jnobel@izardnobel.com  
 14 nveno@izardnobel.com

15 *Attorneys for Plaintiffs*

16 *[Additional counsel on signature page]*

17 UNITED STATES DISTRICT COURT  
 18 EASTERN DISTRICT OF CALIFORNIA  
 19

20  
 21 ALBA MORALES, LAINIE COHEN, LINDA  
 22 CLAYMAN and KENNETH DREW on behalf of  
 themselves and all others similarly situated,

23 Plaintiffs,

24 v.

25 CONOPCO INC. d/b/a UNILEVER  
 26

27 Defendant.  
 28

No. 2:13-cv-02213-WBS-EFB

CORRECTED SECOND AMENDED  
CLASS ACTION COMPLAINT

DEMAND FOR JURY TRIAL

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

6 **INTRODUCTION**

7 1. Defendant Conopco Inc. d/b/a Unilever (“Defendant” or “Unilever”)  
8 manufactures, sells and distributes TRESemmé brand hair products throughout the United States.  
9 Its “TRESemmé Naturals” line of shampoo and conditioners are marketed and advertised with a  
10 campaign that is centered around representations that these products are “Natural.” The term  
11 “Naturals” appears on the Principal Display Panel (“PDP”) of each of the TRESemmé Naturals  
12 products listed below (collectively, the “Products”):

- 13 a. Naturals Nourishing Moisture Shampoo;
- 14 b. Naturals Nourishing Moisture Conditioner;
- 15 c. Naturals Radiant Volume Shampoo;
- 16 d. Naturals Radiant Volume Conditioner;
- 17 e. Naturals Vibrantly Smooth Shampoo; and
- 18 f. Naturals Vibrantly Smooth Conditioner.

19 2. This action seeks to remedy the unfair and deceptive business practices arising  
20 from the marketing and sale of the Products as “Natural.”<sup>1</sup> The term “Naturals,” which appears  
21 prominently next to a green leaf on the PDP of each product, is false and misleading to a  
22 reasonable consumer because the Products contain synthetic ingredients.

23 \_\_\_\_\_  
24 <sup>1</sup> The Merriam-Webster Dictionary defines “natural” as “existing in or produced by nature: not  
25 artificial.” See [www.merriam-webster.com/dictionary](http://www.merriam-webster.com/dictionary). The FDA has not defined the term  
26 “natural” in the context of cosmetics. To the contrary, on March 7, 2013, the FDA affirmed that  
27 “proceedings to define the term ‘natural’ do not fit within [its] current health and safety  
28 priorities.” See the letter dated March 7, 2013 from the FDA to Plaintiff-Appellant’s counsel in  
*Astiana v. The Hain Celestial Group, Inc.*, Appellate No. 12-cv-17596 (9th Cir.), filed in support  
of Appellant’s Motion for Judicial Notice [ECF No. 8-3] and publicly available on the Ninth  
Circuit’s PACER website.

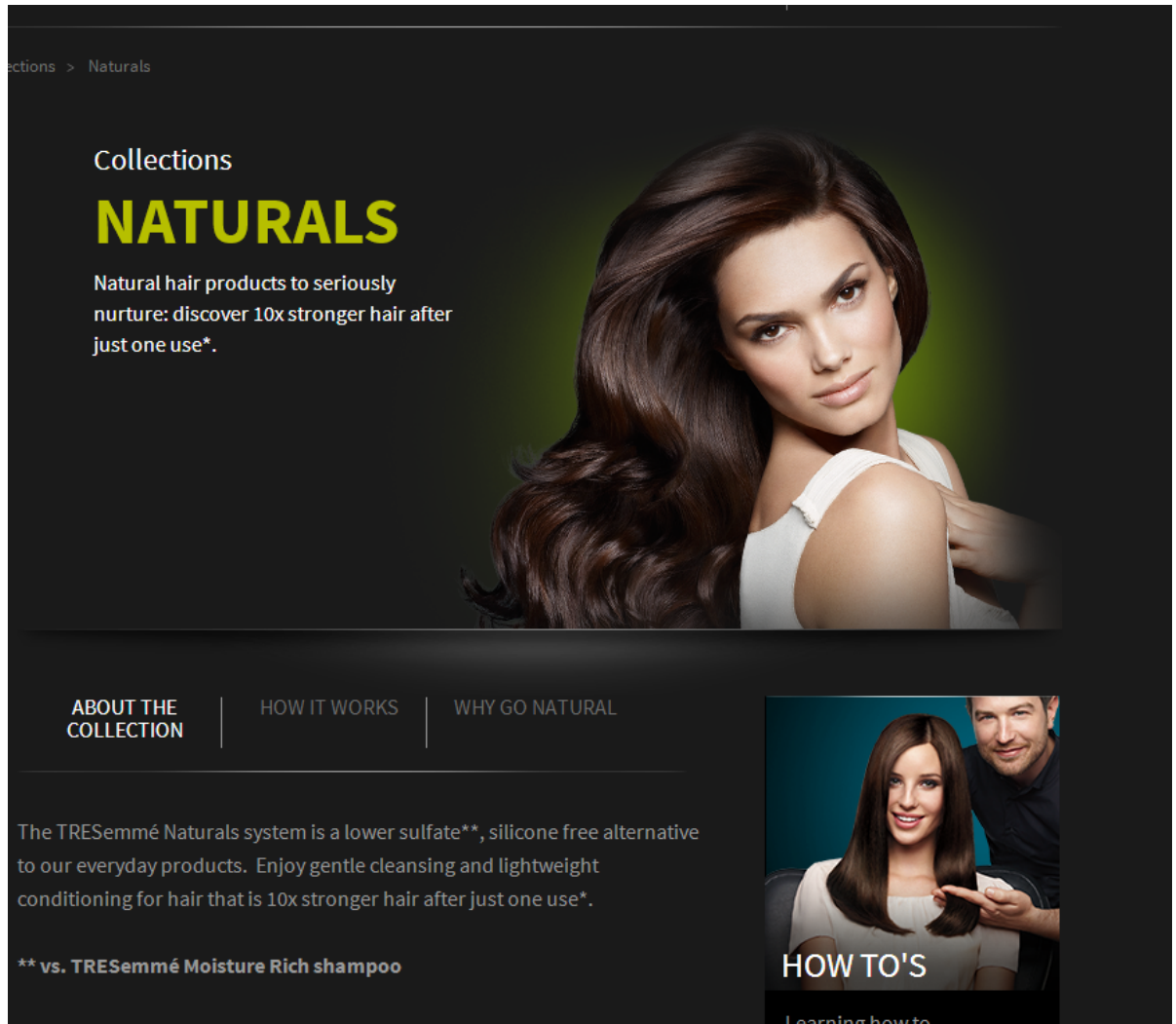




1           13. Defendant falsely represents that the Products are “natural.” As shown below, the  
2 word “Naturals” appears prominently on the Products’ PDPs:



1           14.       Moreover, TRESemmé has marketed the Products as “natural” on its website and  
2 in television advertisements. Its website<sup>3</sup> touts the “natural” nature of the Products:



21           15.       TRESemmé markets the Products in television commercials that falsely represent  
22 that the Products are natural. A television commercial launched in 2010 featured a woman at the  
23 hairdresser:

3 <http://www.tresemme.com/product/category/332747/naturals>





The commercial's narrator states:

My clients want salon quality and **natural ingredients** in products that work. Here's the secret to getting the best of both worlds: New TRESemme Naturals -- formulas with pure natural ingredients bring your hair's natural beauty to life. Hair is 10x stronger after one use and TRESemmé naturals with low sulfates won't dry out or damage hair. **Get salon quality in a natural way**, at a price that feels right. New TRESemmé Naturals: Professional, affordable.

[Emphasis added].

16. The representation "Naturals" constitutes a representation to a reasonable consumer that the Products contain only Natural ingredients and this representation is material to a reasonable consumer.

17. This representation is false and misleading to a reasonable consumer because contrary to Defendant's representations, the Products contain numerous synthetic ingredients, including ingredients that release formaldehyde, or have a high risk of contamination by 1,4 dioxane (a chemical that is "likely to be carcinogenic to humans").<sup>4</sup>

#### **THE UNNATURAL INGREDIENTS**

18. Directly contrary to Defendant's misrepresentations, the Products contain the following synthetic ingredients:

a. **Each of the Shampoo Products** contains the following synthetic ingredients:

<sup>4</sup> <http://www.epa.gov/IRIS/subst/0326.htm>

- i. **Ammonium Laureth Sulfate** – a synthetic surfactant<sup>5</sup> susceptible to contamination by carcinogens 1,4 dioxane and ethylene oxide.<sup>6</sup>
- ii. **Bisamino PEG/PPG 41/3 Aminoethyl PG Propyl Dimethicone** – a synthetic polymer used as a hair conditioning agent susceptible to contamination by carcinogens 1,4 dioxane and ethylene oxide.<sup>7</sup>
- iii. **Cocamidopropyl Betaine** – a synthetic surfactant used to boost foaming and control viscosity.<sup>8</sup>
- iv. **Dipropylene Glycol** – a synthetic solvent.<sup>9</sup>
- v. **Disodium EDTA** – a synthetic chelating agent.<sup>10</sup>
- vi. **Guar Hydroxypropyltrimonium Chloride** – a synthetic hair conditioning and antistatic agent.<sup>11</sup>
- vii. **Hydroxypropyl Methylcellulose** – a synthetic emulsion stabilizer.<sup>12</sup>
- viii. **PEG 18 Glyceryl Oleate/Cocoate** – a synthetic skin conditioning agent susceptible to contamination by carcinogens 1,4 dioxane and ethylene oxide.<sup>13</sup>
- ix. **Polyquaternium 7-** a synthetic polymer based on quaternary ammonium compounds used as an antistatic and film forming agent.<sup>14</sup>
- x. **Quaternium 80** – a synthetic quaternary ammonium salt used as an antistatic and hair conditioning agent.<sup>15</sup>

<sup>5</sup> A surfactant is a chemical used to stabilize mixtures of oil and water by reducing surface tension to ensure ingredients are evenly distributed throughout the product.

<sup>6</sup> [http://www.ewg.org/skindeep/ingredient/700373/AMMONIUM\\_LAURETH\\_SULFATE/](http://www.ewg.org/skindeep/ingredient/700373/AMMONIUM_LAURETH_SULFATE/)

<sup>7</sup> [http://www.ewg.org/skindeep/ingredient/700774/BISAMINO\\_PEG%3B%3B\\_PPG-41%3B%3B\\_3\\_AMINOETHYL\\_PG-PROPYL\\_DIMETHICONE/](http://www.ewg.org/skindeep/ingredient/700774/BISAMINO_PEG%3B%3B_PPG-41%3B%3B_3_AMINOETHYL_PG-PROPYL_DIMETHICONE/)

<sup>8</sup> [http://www.ewg.org/skindeep/ingredient/701520/COCAMIDOPROPYL\\_BETAINE/](http://www.ewg.org/skindeep/ingredient/701520/COCAMIDOPROPYL_BETAINE/)

<sup>9</sup> [http://www.ewg.org/skindeep/ingredient/702123/DIPROPYLENE\\_GLYCOL/](http://www.ewg.org/skindeep/ingredient/702123/DIPROPYLENE_GLYCOL/)

<sup>10</sup> [http://www.ewg.org/skindeep/ingredient/702146/DISODIUM\\_EDTA/](http://www.ewg.org/skindeep/ingredient/702146/DISODIUM_EDTA/)

<sup>11</sup> [http://www.ewg.org/skindeep/ingredient/702759/GUAR\\_HYDROXYPROPYLTRIMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/702759/GUAR_HYDROXYPROPYLTRIMONIUM_CHLORIDE/)

<sup>12</sup> [http://www.ewg.org/skindeep/ingredient/703077/HYDROXYPROPYL\\_METHYLCELLULOSE](http://www.ewg.org/skindeep/ingredient/703077/HYDROXYPROPYL_METHYLCELLULOSE)

<sup>13</sup> [http://www.ewg.org/skindeep/ingredient/704535/PEG-18\\_GLYCERYL\\_OLEATE%3B%3B\\_COCOATE/](http://www.ewg.org/skindeep/ingredient/704535/PEG-18_GLYCERYL_OLEATE%3B%3B_COCOATE/)

<sup>14</sup> <http://www.ewg.org/skindeep/ingredient/705124/POLYQUATERNIUM-7/>



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

xi. *Sodium Cocoyl Isethionate* – a synthetic surfactant.<sup>16</sup>

xii. *Sodium Xylene Sulfonate* – a synthetic surfactant.<sup>17</sup>

b. **TRESemmé Naturals Vibrantly Smooth Shampoo** contains the following additional unnatural synthetic ingredients:

i. *Ammonium Chloride* – a synthetic viscosity controlling agent.<sup>18</sup>

ii. *Ammonium Lauryl Sulfate* – a synthetic surfactant.<sup>19</sup>

iii. *DMDM Hydantoin* – a synthetic antimicrobial preservative that releases formaldehyde.<sup>20</sup>

iv. *Fragrance* – an undisclosed mixture of scent chemicals and ingredients.<sup>21</sup>

v. *Lauryl Glucoside* – a synthetic surfactant.<sup>22</sup>

vi. *Propylene Glycol* – an organic alcohol used as a skin conditioning agent that has been associated with contact dermatitis and hives.<sup>23</sup>

c. **TRESemmé Naturals Radiant Volume Shampoo, with Sweet Orange**

contains the following additional unnatural synthetic ingredients:

i. *Amino Methyl Propanol* – a synthetic buffering agent susceptible to contamination by nitrosamines, a carcinogen.<sup>24</sup>

ii. *Methylchloroisothiazolinone* – a synthetic preservative associated with allergic reactions.<sup>25</sup>

---

<sup>15</sup> <http://www.ewg.org/skindeep/ingredient/705493/QUATERNIUM-80/>

<sup>16</sup> [http://www.ewg.org/skindeep/ingredient/706048/SODIUM\\_COCOYL\\_ISETHIONATE/](http://www.ewg.org/skindeep/ingredient/706048/SODIUM_COCOYL_ISETHIONATE/)

<sup>17</sup> [http://www.ewg.org/skindeep/ingredient/706207/SODIUM\\_XYLENE\\_SULFONATE/](http://www.ewg.org/skindeep/ingredient/706207/SODIUM_XYLENE_SULFONATE/)

<sup>18</sup> [http://www.ewg.org/skindeep/ingredient/700366/AMMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/700366/AMMONIUM_CHLORIDE/)

<sup>19</sup> [http://www.ewg.org/skindeep/ingredient/700374/AMMONIUM\\_LAURYL\\_SULFATE/](http://www.ewg.org/skindeep/ingredient/700374/AMMONIUM_LAURYL_SULFATE/)

<sup>20</sup> [http://www.ewg.org/skindeep/ingredient/702196/DMDM\\_HYDANTOIN/](http://www.ewg.org/skindeep/ingredient/702196/DMDM_HYDANTOIN/)

<sup>21</sup> <http://www.ewg.org/skindeep/ingredient.php?ingred06=702512#>.

<sup>22</sup> [http://www.ewg.org/skindeep/ingredient/703445/LAURYL\\_GLUCOSIDE/](http://www.ewg.org/skindeep/ingredient/703445/LAURYL_GLUCOSIDE/)

<sup>23</sup> [http://www.ewg.org/skindeep/ingredient/705315/PROPYLENE\\_GLYCOL/#](http://www.ewg.org/skindeep/ingredient/705315/PROPYLENE_GLYCOL/#)

<sup>24</sup> [http://www.ewg.org/skindeep/ingredient/700348/AMINOMETHYL\\_PROPANOL/](http://www.ewg.org/skindeep/ingredient/700348/AMINOMETHYL_PROPANOL/)

<sup>25</sup> <http://www.ewg.org/skindeep/ingredient/703924/METHYLCHLOROISOTHIAZOLINONE>

1                   iii. *Methylisothiazolinone* – a synthetic preservative associated with allergic  
2                   reactions that may be neurotoxic.<sup>26</sup>

3                   d. **TRESemmé Naturals Nourishing Moisture Shampoo** contains the following  
4                   additional unnatural synthetic ingredients:

5                   i. *Amino Methyl Propanol* – See Paragraph 16(c)(i);

6                   ii. *Ammonium Chloride* – See Paragraph 16(b)(i).

7                   iii. *DMDM Hydantoin* – See Paragraph 16(b)(iii).

8                   iv. *Fragrance* – See Paragraph 16(b)(iv).

9                   v. *Lauryl Glucoside* – See Paragraph 16(b)(vi).

10                   vi. *Propylene Glycol* – See Paragraph 16(b)(vi).

11                   vii. *Sodium Methyl Lauroyl Taurate* – a synthetic surfactant.<sup>27</sup>

12                   e. **Each of the Conditioner Products** contains the following unnatural synthetic  
13                   ingredients:<sup>28</sup>

14                   i. *Brassica Campestris/Aleurites Fordi Oil Copolymer* – a synthetic film  
15                   former.<sup>29</sup>

16                   ii. *Fragrance* – see Paragraph 16(b)(iv).

17                   iii. *Lauroyl Lysine* – a synthetic hair conditioning agent.<sup>30</sup>

18                   iv. *Stearamidopropyl Dimethylamine* – a synthetic skin conditioning agent.<sup>31</sup>

19 \_\_\_\_\_  
20 <sup>26</sup> <http://www.ewg.org/skindeep/ingredient/703935/METHYLISOTHIAZOLINONE/>

21 <sup>27</sup> [http://www.ewg.org/skindeep/ingredient/706123/SODIUM\\_METHYL\\_LAUROYL\\_TAURATE](http://www.ewg.org/skindeep/ingredient/706123/SODIUM_METHYL_LAUROYL_TAURATE)

22 <sup>28</sup> Upon information and belief, prior to May 2013, TRESemmé Naturals Radiant Volume  
23 Conditioner and TRESemmé Naturals Nourishing Moisture Conditioner Aloe Vera and  
24 Avocado contained each of the ingredients listed in Paragraph 16(g)(i)-(iv) as well as  
25 Stearamidopropyl Dimethylamine, Fragrance and Lauryl Lysine.

26 <sup>29</sup> [http://www.ewg.org/skindeep/ingredient/700820/BRASSICA\\_CAMPESTRIS%3B%3B\\_ALEURITES\\_FORDI\\_OIL\\_COPOLYMER/](http://www.ewg.org/skindeep/ingredient/700820/BRASSICA_CAMPESTRIS%3B%3B_ALEURITES_FORDI_OIL_COPOLYMER/)

27 <sup>30</sup> [http://www.ewg.org/skindeep/ingredient/703434/LAUROYL\\_LYSINE/](http://www.ewg.org/skindeep/ingredient/703434/LAUROYL_LYSINE/)

28 <sup>31</sup> [http://www.ewg.org/skindeep/ingredient/706289/STEARAMIDOPROPYL\\_DIMETHYLAMINE/](http://www.ewg.org/skindeep/ingredient/706289/STEARAMIDOPROPYL_DIMETHYLAMINE/)

1 f. **TRESemmé Naturals Nourishing Moisture Conditioner, Aloe Vera and**  
2 **Avocado and TRESemmé Naturals Radiant Volume Conditioner** additionally contain the  
3 following unnatural synthetic ingredients:

- 4 i. ***Behentrimonium Chloride*** – a quaternary ammonium salt used as a  
5 conditioner.<sup>32</sup>
- 6 ii. ***Cetearyl Alcohol*** – a synthetic emulsion stabilizer.<sup>33</sup>
- 7 iii. ***Dipropylene Glycol*** – see Paragraph 16(a)(iv).
- 8 iv. ***Disodium EDTA*** – see Paragraph 16(a)(v).
- 9 v. ***DMDM Hydantoin*** – see Paragraph 16(b)(iii).
- 10 vi. ***Methylchloroisothiazolinone*** – see Paragraph 15(c)(ii).
- 11 vii. ***Methylisothiazolinone*** – see Paragraph 16(c)(iii).
- 12 viii. ***PEG 150 Distearate*** – a synthetic surfactant susceptible to contamination  
13 by carcinogens 1,4 dioxane and ethylene oxide.<sup>34</sup>
- 14 ix. ***Potassium Chloride*** – a synthetic viscosity controlling agent.<sup>35</sup>

15 g. **TRESemmé Naturals Vibrantly Smooth Conditioner** additionally contains the  
16 following unnatural synthetic ingredients:

- 17 i. ***Cetyl Alcohol*** – a synthetic emulsion stabilizer.<sup>36</sup>
- 18 ii. ***Distearyldimonium Chloride*** – a quaternary ammonium salt that functions  
19 as an antistatic agent and hair conditioning agent.<sup>37</sup>
- 20 iii. ***Isopropyl Alcohol*** -- a synthetic viscosity controlling agent.<sup>38</sup>
- 21 iv. ***Stearyl Alcohol*** – a synthetic emulsion stabilizer.<sup>39</sup>

22 \_\_\_\_\_  
23 <sup>32</sup> [http://www.ewg.org/skindeep/ingredient/700657/BEHENTRIMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/700657/BEHENTRIMONIUM_CHLORIDE/)

24 <sup>33</sup> [http://www.ewg.org/skindeep/ingredient/701236/CETEARYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/701236/CETEARYL_ALCOHOL/)

25 <sup>34</sup> [http://www.ewg.org/skindeep/ingredient/704526/PEG-150\\_DISTEARATE/](http://www.ewg.org/skindeep/ingredient/704526/PEG-150_DISTEARATE/)

26 <sup>35</sup> [http://www.ewg.org/skindeep/ingredient/705191/POTASSIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/705191/POTASSIUM_CHLORIDE/)

27 <sup>36</sup> [http://www.ewg.org/skindeep/ingredient/701263/CETYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/701263/CETYL_ALCOHOL/)

28 <sup>37</sup> [http://www.ewg.org/skindeep/ingredient/702183/DISTEARYLDIMONIUM\\_CHLORIDE/](http://www.ewg.org/skindeep/ingredient/702183/DISTEARYLDIMONIUM_CHLORIDE/)

<sup>38</sup> [http://www.ewg.org/skindeep/ingredient/703198/ISOPROPYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/703198/ISOPROPYL_ALCOHOL/)

1           19. As set forth herein, Plaintiffs and the members of the Classes described below  
 2 suffered an ascertainable loss, in that they paid a premium for the Products over comparable  
 3 products that are not marketed as consisting of natural ingredients. For example, the Products  
 4 were priced at a premium even compared to TRESemmé brand products that are not marketed as  
 5 consisting of natural ingredients:

<b>Mislabeled natural product</b>	<b>Price</b>	<b>Price per ounce</b>
TRESemmé Naturals Shampoo (Vibrantly Smooth, Nourishing Moisture, Radiant Volume)	\$5.89-\$6.39/25 oz <sup>40</sup>	\$0.24-0.26/oz
<b>Comparable product not labeled “natural”</b>	<b>Price</b>	<b>Price per ounce</b>
TRESemmé Smooth and Silky Shampoo	\$5.99/32oz <sup>41</sup>	\$0.19
<i>Premium paid per ounce</i>		\$0.05-\$0.07
<i>Premium paid per 25 oz product</i>		<b>\$1.20-\$1.75</b>

25 <sup>39</sup> [http://www.ewg.org/skindeep/ingredient/706325/STEARYL\\_ALCOHOL/](http://www.ewg.org/skindeep/ingredient/706325/STEARYL_ALCOHOL/)

26 <sup>40</sup> <http://www.drugstore.com/tresemme-naturals-vibrantly-smooth-shampoo/qxp358754?catid=183504>

27 <sup>41</sup> <http://www.drugstore.com/tresemme-smooth-and-silky-shampoo/qxp193984>

<b>Mislabeled natural product</b>	<b>Price</b>	<b>Price per ounce</b>
TRESemmé Naturals Conditioner (Vibrantly Smooth, Nourishing Moisture, Radiant Volume)	\$5.89-\$6.39/25 oz <sup>42</sup>	\$0.24-0.26/oz
<b>Comparable product not labeled “natural”</b>	<b>Price</b>	<b>Price per ounce</b>
TRESemmé Smooth and Silky Conditioner	\$5.99/32oz <sup>43</sup>	\$0.19
<i>Premium paid per ounce</i>		\$0.05-\$0.07
<i>Premium paid per 25 oz product</i>		<b>\$1.25-\$1.75</b>

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

### CLASS ACTION ALLEGATIONS

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

a. Plaintiff Morales seeks to represent the following Class (the “California Class”):

All purchasers of the Products in the State of California from August 28, 2010, to the present, who purchased the Products primarily for personal, family or household purposes. Specifically excluded from this Class are Defendant; the officers, directors or employees of Defendant; any entity in which Defendant has a controlling interest; and any affiliate, legal representative, heir or assign of Defendant. Also excluded are the judge to whom this case is assigned and any member of the judge’s immediate family.

b. Plaintiff Cohen seeks to represent the following Class (the “Massachusetts Class”):

All purchasers of the Products in the State of Massachusetts from August 28, 2009 to the present, who purchased the Products primarily for personal, family or household purposes. Specifically excluded from this Class are Defendant; the officers, directors or employees of Defendant; any entity in which Defendant has a controlling interest; and any affiliate, legal

<sup>42</sup><http://www.drugstore.com/tresemme-naturals-vibrantly-smooth-shampoo/qxp358754?catid=183504>

<sup>43</sup> <http://www.drugstore.com/tresemme-smooth-and-silky-conditioner/qxp193988?catid=183403>

1 representative, heir or assign of Defendant. Also excluded are the judge to  
2 whom this case is assigned and any member of the judge's immediate family.

3 c. Plaintiff Clayman seeks to represent the following Class (the "Florida  
4 Class"):

5 All purchasers of the Products in the State of Florida from August 28, 2009 to  
6 the present who purchased the Products primarily for personal, family or  
7 household purposes. Specifically excluded from this Class are Defendant; the  
8 officers, directors or employees of Defendant; any entity in which Defendant  
9 has a controlling interest; and any affiliate, legal representative, heir or assign  
10 of Defendant. Also excluded are the judge to whom this case is assigned and  
11 any member of the judge's immediate family.

12 d. Plaintiff Drew seeks to represent the following Class (the "New York Class"):

13 All purchasers of the Products in the State of New York from August 28,  
14 2010, to the present, who purchased the Products primarily for personal,  
15 family or household purposes. Specifically excluded from this Class are  
16 Defendant; the officers, directors or employees of Defendant; any entity in  
17 which Defendant has a controlling interest; and any affiliate, legal  
18 representative, heir or assign of Defendant. Also excluded are the judge to  
19 whom this case is assigned and any member of the judge's immediate family.

20 22. The members of the Classes are so numerous that joinder of all members is  
21 impractical, as the products are sold in thousands of stores nationwide, including Walmart,  
22 Target and Walgreens. Upon information and belief, the Classes each include thousands of  
23 persons who have purchased the Products.

24 23. Plaintiffs' claims are typical of the claims of the members of the Classes because  
25 Plaintiffs' claims, and the claims of all Class members, arise out of the same conduct, policies  
26 and practices of Defendant as alleged herein, and all members of the Classes are similarly  
27 affected by Defendant's wrongful conduct.

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

a. whether Defendant markets the Products in a way that is unfair, deceptive, false  
or misleading to a reasonable consumer;



- 1           b. whether, by the misconduct set forth in this Complaint, Defendant has engaged in  
2           unfair, deceptive, or unlawful business practices with respect to the advertising,  
3           marketing, and sales of its Products;  
4           c. whether the representation “natural” is material to a reasonable consumer;  
5           d. whether Defendant’s conduct constitutes fraudulent, unfair, or unlawful conduct;  
6           and  
7           e. whether, as a result of Defendant’s misconduct alleged herein, Plaintiffs and the  
8           Classes are entitled to restitution, injunctive and/or other monetary relief.

9           25. Plaintiffs will fairly and adequately represent the Classes and have retained  
10          counsel experienced and competent in the prosecution of consumer and class action litigation.  
11          Plaintiffs have no interests antagonistic to those of other members of the Classes. Plaintiffs are  
12          committed to the vigorous prosecution of this action and anticipate no difficulty in the  
13          management of this litigation as a class action.

14          26. A class action is superior to other available methods for the fair and efficient  
15          adjudication of the controversy within the meaning of Rule 23(b) and in consideration of the  
16          matters set forth in Rule 23(b)(3)(A)-(D). Because of the amount of the individual Class  
17          members’ claims relative to the complexity of the litigation and the financial resources of the  
18          Defendant, few, if any, members of the Classes would seek legal redress individually for the  
19          wrongs complained of here. The maintenance of separate actions would place a substantial and  
20          unnecessary burden on the courts and could result in inconsistent adjudications, while a single  
21          class action can determine, with judicial economy, the rights of all Class members. Absent a  
22          class action, Class members will continue to suffer damages and Defendant’s misconduct will  
23          proceed without remedy.

24  
25  
26  
27  
28

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

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

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

28. Plaintiff Morales asserts Count I on behalf of herself and the California Class.

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

***Fraudulent Acts and Practices***

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

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

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

***Unlawful Acts and Practices***

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

34. Defendant’s conduct violates Cal. Health & Safety Code § 111730, which prohibits the sale of any misbranded cosmetic product. The Products, which bear labeling representing them as “Natural,” are “false and misleading in any particular” in violation of Health & Safety Code § 111730.

35. By violating Cal. Health & Safety Code § 111730, Defendant has engaged in unlawful business acts and practices which constitute unfair competition within the meaning of

1 Cal. Bus. & Prof. Code §17200.

2 ***Unfair Acts and Practices***

3 36. Any business practice that offends an established public policy or is immoral,  
4 unethical, oppressive, unscrupulous, or substantially injurious to consumers constitutes an  
5 “unfair” practice under the UCL.

6 37. Defendant has engaged, and continues to engage, in unfair business practices.  
7 This conduct includes representing that the Products are “Natural” when, in fact, they contain  
8 numerous synthetic and unnatural ingredients.

9 38. Defendant has engaged, and continues to engage, in conduct that violates the  
10 legislatively declared policies of Section 5 of the Federal Trade Commission (“FTC”) Act, 15  
11 U.S.C. § 45, against committing unfair methods of competition and unfair or deceptive acts or  
12 practices in or affecting commerce. By representing that the Products are “Natural” when, in  
13 fact, the Products contain numerous synthetic ingredients, Defendant violated Section 5 of the  
14 FTC Act, which prohibits unfair methods of competition and unfair or deceptive acts or practices  
15 in or affecting commerce.

16 39. Defendant gains an unfair advantage over its competitors, whose advertising must  
17 comply with the FTC Act.

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

24 41. No benefit to consumers or competition results from Defendant’s conduct. Since  
25 consumers reasonably rely on Defendant’s representations of the products and injury results from  
26 ordinary use of the Products, consumers could not have reasonably avoided such injury.

27 42. By committing the acts alleged above, Defendant has engaged in unfair business  
28

1 acts and practices which constitute unfair competition within the meaning of the UCL.

2 43. As a result of the conduct described above, Defendant has been unjustly  
3 enriched at the expense of Plaintiff, and the California Class.

4 44. An action for injunctive relief and restitution is specifically authorized under Cal.  
5 Bus. & Prof. Code §17203.

6 45. Wherefore, Plaintiff prays for judgment against Defendant, as set forth above.

7 **COUNT II**  
8 **(Violation of the Consumers Legal Remedies Act (the “CLRA”),**  
9 **Cal. Civ. Code §1750 *et seq.*, brought by Plaintiff Morales on behalf**  
10 **of the California Class)**

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

13 47. Plaintiff Morales asserts Count II on behalf of herself and the California Class.

14 48. Plaintiff Morales and each member of the California Class are “consumers”  
15 within the meaning of Cal. Civ. Code §1761(d).

16 49. The purchases of the Products constitute “transactions” within the meaning of  
17 Cal. Civ. Code §1761(e) and the Products offered by Defendant constitute “goods” within the  
18 meaning of Cal. Civ. Code §1761(a).

19 50. The acts and practices of Defendant as described above were intended to deceive  
20 Plaintiff and members of the California, and have resulted, and will result, in damages to  
21 Plaintiff and the California Class. These actions violated and continue to violate the CLRA in at  
22 least the following respects:

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

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

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

3 51. By reason of the foregoing, Plaintiff and the California Class have suffered an  
4 ascertainable loss and damages.

5 52. By committing the acts alleged above, Defendant engaged in unfair competition  
6 or unfair, unconscionable, deceptive, or unlawful acts or business practices in violation of the  
7 CLRA.

8 53. Defendant knew, or should have known, that the Products were not natural.

9 54. Pursuant to Cal. Civ. Code § 1781(a) Plaintiff and members of the California  
10 Class are entitled to damages based upon Defendant's violation of the CLRA.

11 55. Pursuant to Cal. Civ. Code § 1780(1)(2), Plaintiff and members of the California  
12 Class are also are entitled to an order enjoining the above-described wrongful acts and practices  
13 of Defendant, and ordering the payment of costs and attorneys' fees and any other relief deemed  
14 appropriate and proper by the Court under Cal. Civ. Code § 1780.

15 56. Wherefore, Plaintiff prays for judgment against Defendant, as set forth below.

16 **COUNT III**

17 **(Violation of the Massachusetts Consumer Protection Act (the "MCPA"),  
Mass. Gen. Laws Ann. ch. 93A)**

18 **(Brought by Plaintiff Cohen on Behalf of the Massachusetts Class)**

19 57. Plaintiff Cohen restates the foregoing allegations as though fully pled herein.

20 58. Plaintiff Cohen asserts Count III behalf of herself and the the Massachusetts  
21 Class.

22 59. Defendant is engaged in trade or commerce in the State of Massachusetts because  
23 Defendant offers for sale and distributes the Products in the State of Massachusetts.

24 60. Upon information and belief, Defendant does not maintain a place of business or  
25 keep assets in the State of Massachusetts.

26 61. By representing that the Products are "Natural" when the Products contain  
27 numerous unnatural synthetic ingredients, Defendant has engaged in unfair methods of  
28

1 competition and unfair and deceptive acts and practices within the meaning of Mass. Gen. Laws  
2 Ann. ch. 93A, § 2(a).

3 62. Upon information and belief, Defendant knew that the Products were not natural.

4 63. Plaintiff and the Massachusetts Class suffered an injury as a result of Defendant's  
5 unlawful acts and practices by paying a premium for the Products over comparable products that  
6 are not represented to be Natural.

7 64. Wherefore, Plaintiff and the Massachusetts Class are entitled to damages and  
8 other appropriate relief, as set forth below.

9 **COUNT IV**

10 **(Violation of New York General Business Law § 349)**  
11 **(Brought by Plaintiff Drew on Behalf of the New York Class)**

12 65. Plaintiff Drew restates the foregoing allegations as though fully pled herein.

13 66. Plaintiff Drew asserts Count IV behalf of himself and the New York Class.

14 67. Defendant's sale of the Products and representations made on the Products' labels  
15 were directed at consumers.

16 68. By representing that the Products are "Natural" when the Products contain  
17 numerous unnatural synthetic ingredients, Defendant has engaged in deceptive acts and practices  
18 within the meaning of New York General Business Law § 349.

19 69. Plaintiff and the New York Class suffered an injury as a result of Defendant's  
20 unlawful acts and practices by paying a premium for the Products over comparable products that  
21 are not represented to be natural.

22 70. Wherefore, Plaintiff and the New York Class are entitled to damages and other  
23 appropriate relief, as set forth below.

24 **COUNT V**

25 **(Violation of the Florida Deceptive and Unfair Trade Practices Act, F.S.A. § 501.201 et seq.)**  
26 **(Brought by Plaintiff Clayman on Behalf of the Florida Class)**

27 71. Plaintiff Clayman restates the foregoing allegations as though fully pled herein.

28 72. Plaintiff Clayman asserts Count V behalf of herself and the Florida Class.





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

4 G. that the Court award exemplary damages pursuant to Cal. Civ. Code § 3294;

5 **With respect to the Massachusetts Class:**

6 H. actual damages or statutory damages in the amount of twenty-five dollars, whichever  
7 is greater;

8 I. appropriate equitable relief;

9 J. double or treble damages;

10 K. attorneys' fees and costs;

11 **With respect to the New York Class:**

12 L. actual damages or statutory damages in the amount of fifty dollars, whichever is  
13 greater;

14 M. that the Court enjoin Defendant's unlawful practices described in this Complaint;

15 N. attorneys' fees and costs;

16 **With respect to the Florida Class:**

17 O. actual damages;

18 P. attorney's fees and costs;

19 Q. a declaration that Defendant's conduct violates the Florida Deceptive and Unfair  
20 Trade Practices Act; and

21 **With respect to the Classes:**

22 R. grant such other and further relief as may be just and proper.

23 **JURY DEMAND**

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

25

26

27

28

1 DATED: April 30, 2014

Respectfully submitted,

2 By: /s/ Alan R. Plutzik

Alan R. Plutzik (State Bar No. 77785)

3 Michael S. Strimling (State Bar No. 96135)

4 **BRAMSON, PLUTZIK, MAHLER  
& BIRKHAUSER LLP**

5 2125 Oak Grove Road

Walnut Creek, CA 94598

6 Telephone: (925) 945-0200

Facsimile: (925) 945-8792

7 aplutzik@bramsonplutzik.com

mstrimling@bramsonplutzik.com

9 Mark P. Kindall (State Bar No. 138703)

Robert A. Izard (*pro hac vice forthcoming*)

10 Jeffrey S. Nobel (*pro hac vice forthcoming*)

Nicole A. Venno (*admitted pro hac vice*)

11 **IZARD NOBEL LLP**

12 29 South Main Street, Suite 305

West Hartford, CT 06107

13 Telephone: (860) 493-6292

Facsimile: (860) 493-6290

15 Joseph J. DePalma (*admitted pro hac vice*)

16 Katrina Carroll (*pro hac vice forthcoming*)

**LITE DEPALMA GREENBERG, LLC**

17 Two Gateway Center, 12th Floor

Newark, New Jersey 07102

18 Telephone: (973) 623-3000

Facsimile: (973) 623-0858

19 jdepalma@litedepalma.com

kcarroll@litedepalma.com

20 *Attorneys for Plaintiffs*

CIVIL COVER SHEET

Case 2:13-cv-02213-WBS-FFB Document 31-1 Filed 04/30/14 Page 1 of 1

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

Alba Morales, Lainie Cohen, Linda Clayman and Kenneth Drew on behalf of themselves and all others similarly situated

(b) County of Residence of First Listed Plaintiff El Dorado, CA (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Alan R. Plutzik (077785) Bramson, Plutzik, Mahler & Birkhaeuser, LLP 2125 Oak Grove Road, Suite 120 Walnut Creek, CA 94598 925-945-0200 / Fax: 925-945-8792

DEFENDANTS

CONOPCO INC. d/b/a/ UNILEVER

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) James Maxwell Cooper (284054) Kirkland & Ellis, LLP 555 California Street, 27th Floor San Francisco, CA 94104 415-439-1400 / Fax 415-439-1500

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

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business in Another State
Foreign Nation

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

Table with 5 main categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATES. Each category contains a list of specific legal claims with checkboxes.

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): California Statutory Claims, e.g., Civil Code Sections 11750 et seq
Brief description of cause: Consumer Class Action

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE: 04/30/2014 SIGNATURE OF ATTORNEY OF RECORD: Alan R. Plutzik

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE