



FILED
ALAMEDA COUNTY

OCT 20 2016
CLERK OF THE SUPERIOR COURT
By [Signature] Deputy

1 NANCY E. O'MALLEY
2 District Attorney of Alameda County
3 Matthew L. Beltramo, Deputy District Attorney
4 (State Bar No. 184796)
5 7677 Oakport Street, Suite 650
6 Oakland, CA 94621
7 Telephone: (510) 383-8600
8 Facsimile: (510) 383-8615
9
10 Attorneys for Plaintiff
11
12 *(For list of additional Plaintiff's counsel,*
13 *see Attachment 1)*

SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

12 PEOPLE OF THE STATE OF CALIFORNIA,
13
14 Plaintiff,
15
16 vs.
17
18 MY PILLOW, INC., a Minnesota Corporation;
19 and MY PILLOW DIRECT, LLC, a Minnesota
20 Limited Liability Company.
21 Defendants.

Case No.: **HG 16836619**

COMPLAINT FOR EQUITABLE RELIEF,
INCLUDING AN INJUNCTION,
RESTITUTION AND CIVIL PENALTIES

22 Plaintiff, the People of the State of California, appearing through its attorneys: Nancy E.
23 O'Malley, District Attorney of Alameda County, by Matthew L. Beltramo, Deputy District Attorney;
24 Edward S. Berberian, District Attorney of Marin County, by Andres H. Perez, Deputy District
25 Attorney; Dean Flippo, District Attorney of Monterey County, by John Hubanks, Deputy District
26

1 Attorney; Gary Lieberstein, District Attorney of Napa County, by Patrick Collins, Deputy District
2 Attorney; Tony Rackauckas, District Attorney of Orange County, by Tracy E. Hughes, Deputy District
3 Attorney; Jeffrey F. Rosen, District Attorney of Santa Clara County, by Francisca B. Allen, Deputy
4 District Attorney; Jeffrey Rosell, District Attorney of Santa Cruz County, by Douglas Allen, Assistant
5 District Attorney; Stephen S. Carlton, District Attorney of Shasta County, by Anand "Lucky" Jesrani,
6 Senior Deputy District Attorney; Krishna Abrams, District Attorney of Solano County, by Diane M.
7 Newman, Deputy District Attorney; and Jill R. Ravitch, District Attorney of Sonoma County, by
8 Matthew T. Cheever, Deputy District Attorney, alleges on information and belief the following:
9

10 JURISDICTION AND VENUE

- 11 1. The authority of the District Attorneys to bring this action is derived from that statutory law of
12 the State of California, specifically Business & Professions Code sections 17200, 17203, 17204,
13 17206, 17508, 17535 and 17536.
- 14 2. Defendants advertise and market products, and otherwise conduct business, within the counties
15 of Alameda, Napa, Solano, Sonoma, Marin, Monterey, Orange, Santa Clara, Santa Cruz, and
16 Shasta, and elsewhere in the State of California. The violations of law herein alleged have been
17 carried out within these counties and elsewhere in the State of California.

18 DEFENDANT

- 19 3. Defendant, My Pillow, Inc., is a Minnesota corporation with a registered address of 343 East
20 82nd Street #102, Chaska, MN 55318.
- 21 4. Defendant My Pillow Direct, LLC, a Minnesota limited liability company with a registered
22 address of 343 East 82nd Street #102, Chaska, MN 55318
- 23 5. Defendant My Pillow, Inc., and My Pillow Direct, LLC, will hereinafter collectively be referred
24 to as "Defendants" or "My Pillow."
25
26

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

GENERAL ALLEGATIONS

6. Defendants are in the business of developing, manufacturing, packaging, labelling, promoting, advertising and selling bedding products, including pillow products, marketed under the brand name "MyPillow." Defendants engaged in this business activity in the counties of Alameda, Marin, Monterey, Napa, Orange, Santa Clara, Santa Cruz, Shasta, Solano and Sonoma, and elsewhere in the State of California.
7. In their marketing and advertising, including their use of consumer testimonials, Defendants made and/or disseminated representations about the effects, efficacy, or attributes of MyPillow products that were not supported by competent and reliable scientific evidence. By way of example only, such statements included the following: "MyPillow can help your fibromyalgia"; "MyPillow® Can Help Insomnia"; "MyPillow can help your migraines and headaches"; "MyPillow Can Help Sleep Apnea"; "MyPillow Can Help Your Snoring"; "MyPillow can help your TMJ"; and "MyPillow can help your Restless Leg Syndrome."
8. In their marketing and advertising, Defendants also claimed that MyPillow was the "Official Bed Pillow" of the National Sleep Foundation (NSF), without disclosing that a material financial connection existed between Defendants and NSF.

18
19
20
21
22
23
24
25
26
27
28

**FIRST CAUSE OF ACTION
VIOLATIONS OF BUSINESS & PROFESSIONS CODE SECTION 17500
(False and Misleading Advertising)**

9. The People re-allege and incorporate by reference Paragraphs 1 through 8 of this Complaint as though fully set forth herein.
10. Beginning at an exact date which is unknown to plaintiff, but within three years prior to the filing of this complaint, Defendants, with the intent directly or indirectly to dispose of property or to perform services, or to induce members of the public to enter into obligations relating thereto, made or disseminated or caused to be made or disseminated before the public in this state statements concerning such property, services or obligations which were untrue or

1 misleading and which Defendant knew or reasonably should have known were untrue or
2 misleading, as prohibited by Business & Professions Code section 17500. Such statements
3 included but are not limited to all of the claims set forth in Paragraphs 7 and 8, above.

4 11. Defendant is subject to civil penalties, pursuant to Business & Professions Code section 17536,
5 and to injunctive relief, pursuant to Business & Professions Code section 17535.

6
7 **SECOND CAUSE OF ACTION**
8 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**
9 **(Unfair Competition)**

10 12. Plaintiff realleges and incorporates by reference Paragraphs 1 through 11 of this Complaint as
11 though fully set forth herein.

12 13. Beginning at an exact date which is unknown to the People, but within four years prior to the
13 filing of this complaint, Defendants engaged in a course of conduct constituting acts of unfair
14 competition, as defined by Business & Professions Code section 17200, including but not
15 limited to the following:

- 16 a. Violating Business and Professions Code section 17500 as set forth in the First Cause of
17 Action;
18 b. Violating the provisions of the Health & Safety Code set forth in Part 5, Chapter 4,
19 Article 3, and Part 5, Chapter 6, Articles 3 and 5, pertaining to medical devices;
20 c. Violating California Civil Code section 1770(a)(5) by representing that goods or
21 services have sponsorship, approval, characteristics, ingredients, uses, benefits or
22 quantities which they do not have.

23 14. Defendants are subject to civil penalties, pursuant to Business & Professions Code section
24 17206, and to injunctive relief, pursuant to Business & Professions Code sections 17203 and
25 17204.

26 **WHEREFORE**, the People pray for relief as follows:

27 15. For a preliminary and permanent injunction, pursuant to Business & Professions Code sections
28

1 17203, 17204, and 17535, restraining and enjoining Defendants, from making, disseminating, or
2 causing to be made or disseminated any false or misleading statements as set forth in the First
3 Cause of Action, above, or from engaging in or performing, directly or indirectly, any acts of
4 unfair competition as set forth in the Second Cause of Action, above.

5 16. That Defendants be ordered to pay a civil penalty of up to \$2,500.00 for each act of false
6 advertising and/or unfair competition, pursuant to Business and Professions Code sections
7 17206 and 17536.

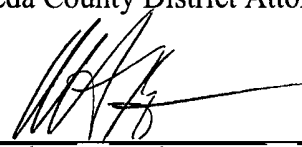
8 17. That Defendants be ordered to pay restitution as required under law.

9 18. That the People recover its costs of suit herein.

10 19. That the People be given such other and further relief as the nature of this case may require and
11 this Court deems proper to fully and successfully dissipate the effects of the unlawful and unfair
12 acts complained of in this complaint.

13 Date: October 25, 2016

Nancy E. O'Malley
Alameda County District Attorney

14
15
16 By: 
17 Matthew L. Beltramo
18 Deputy District Attorney
19
20
21
22
23
24
25
26
27
28

ATTACHMENT 1

The following additional attorneys represent Plaintiff, the People of the State of California, in this action:

GARY LIEBERSTEIN
District Attorney, County of Napa
Patrick Collins, SBN 253872
Deputy District Attorney
931 Parkway Mall
Napa, CA 94559
(707) 253-4211

EDWARD S. BERBERIAN
District Attorney, County of Marin
Andres Perez, SBN 186219
Deputy District Attorney
3501 Civic Center Drive, Room 130
San Rafael CA 94903
(415) 473-6450

DEAN FLIPPO
District Attorney, County of Monterey
John Hubanks, SBN 163765
Deputy District Attorney
1200 Aguajito Road, Room 301
Monterey CA 93940
(831) 647-7770

TONY RACKAUCKAS
District Attorney, County of Orange
Tracy E. Hughes, SBN 180494
Deputy District Attorney
401 Civic Center Drive
Santa Ana CA 92701
(714) 834-6504

JILL R. RAVITCH
District Attorney, County of Sonoma
Matthew T. Cheever, SBN 191783
Deputy District Attorney
2300 County Center Dr., Ste. B170
Santa Rosa, CA 95403
(707) 565-3161

KRISHNA ADAMS
District Attorney, County of Solano
Diane M. Newman, SBN 179926
Deputy District Attorney
675 Texas Street, Suite
Fairfield CA 94533
(707) 748-6800

JEFFREY F. ROSEN
District Attorney, County of Santa Clara
Francisca Allen, SBN 99402
Deputy District Attorney
70 W. Hedding St., West Wing
San Jose CA 95110
(408) 792-2480

JEFFREY ROSELL
District Attorney, County of Santa Cruz
Douglas Allen, SBN 99239
Assistant District Attorney
701 Ocean St., Suite 200
Santa Cruz CA 95060
(831) 454-2930

STEPHEN S. CARLTON
District Attorney, County of Shasta
Anand "Lucky" Jesrani, SBN 238252
Senior Deputy District Attorney
1355 West Street
Redding CA 96001
(530) 245-6300