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8 *Counsel for Defendant Colgate-Palmolive Company*

9  
10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 MELISSA L. VIGIL, individually  
13 and on behalf of all others similarly  
14 situated,

15 Plaintiff,

16 v.  
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18 COLGATE-PALMOLIVE CO.  
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20 Defendant.  
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) Case No. [XXX]

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**NOTICE OF REMOVAL**

1 Defendant Colgate-Palmolive Company (“Colgate”), by and through its  
 2 counsel, hereby gives notice of the removal of this action, from the Superior Court of  
 3 the State of California for the County of Alameda to the United States District Court  
 4 for the Northern District of California, pursuant to 28 U.S.C. §§ 1332, 1441, and  
 5 1446, based on the following facts.

### 6 **BACKGROUND**

7 1. Plaintiff Melissa Vigil filed this putative class action in the Superior  
 8 Court of the State of California, Alameda County on December 2, 2016. *See* Exhibit  
 9 B-1 (“Complaint” or “Compl.”). Colgate was served on January 24, 2017, and  
 10 Colgate has filed this Notice of Removal within thirty (30) days of its receipt of  
 11 Plaintiff’s Complaint, which was the first pleading received by Colgate, through  
 12 service or otherwise, setting forth the claim for relief upon which this action is based.  
 13 This notice is therefore timely under 28 U.S.C. § 1446(b).

14 2. Plaintiff alleges she is a resident of Alameda, California. Compl. ¶ 4.

15 3. Colgate is a Delaware corporation with its principal place of business in  
 16 New York, New York. Among other things, Colgate manufactures Optic White®  
 17 toothpaste, an innovative whitening toothpaste that is uniquely formulated to whiten  
 18 teeth with hydrogen peroxide.

19 4. Plaintiff alleges that “[b]eginning on or around August 2015, Plaintiff  
 20 regularly purchased Colgate Optic White toothpaste at a Target store in Alameda,  
 21 California.” *Id.* ¶ 4. According to Plaintiff, Colgate falsely advertised that Optic  
 22 White “Deeply Whitens” teeth, “Goes Beyond Surface Stain Removal To Deeply  
 23 Whiten,” and that “Optic White toothpaste is clinically proven to whiten teeth with  
 24 peroxide. It goes beyond surface stains unlike ordinary toothpastes.” *Id.* ¶ 8.

25 Because Plaintiff alleges these statements were false, she contends they were made in  
 26 violation of the Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750, *et seq.*,  
 27 False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, *et seq.*, Unfair Competition  
 28 Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*, and California common law governing

express warranties and fitness for a particular purpose. *Id.* Counts I-VII.

5. Plaintiff previously filed a materially similar complaint in this Court on May 18, 2016. *See Vigil v. Colgate-Palmolive Co.*, Case No. 4:16-cv-02697, Dkt. 1 (N.D. Cal.). After her motion to transfer was denied by the Judicial Panel on Multidistrict Litigation, and after Colgate filed a motion to dismiss or stay proceedings, Plaintiff voluntarily dismissed that action. *See id.* Dkts. 16, 20, 21.

### **BASIS FOR REMOVAL**

6. Congress enacted the Class Action Fairness Act (“CAFA”) to “ensur[e] ‘Federal court consideration of interstate cases of national importance.’” *Standard Fire Ins. Co. v. Knowles*, 133 S. Ct. 1345, 1350 (2013) (citation omitted). Under CAFA, this Court has original jurisdiction over any civil action where: (1) any class member is a citizen of a state different from any defendant; (2) the proposed class consists of at least 100 members; and (3) the aggregate amount in controversy exceeds \$5,000,000. *See* 28 U.S.C. §§ 1332(d)(2), (d)(5)(B), (d)(6). All of these requirements for this Court’s exercise of original jurisdiction are met here, and thus this action is properly removed. *See id.* § 1453(b)

7. First, there is minimal diversity of citizenship. Minimal diversity exists because Plaintiff is a citizen of California and Colgate is a Delaware corporation with its principal place of business in New York. *Miss. ex rel. Hood v. AU Optronics Corp.*, 134 S. Ct. 736, 740 (2014) (“Under [CAFA’s diversity] requirement, a federal court may exercise jurisdiction over a class action if ‘any member of a class of plaintiffs is a citizen of a State different from any defendant.’”) (quoting 28 U.S.C. § 1332(d)(2)(A)); *see also* Compl. ¶¶ 4-5; 28 U.S.C. § 1332(c)(1) (for purposes of diversity, a corporation is deemed to be a citizen of the state(s) in which it is incorporated and where it has its principal place of business).

8. Second, the putative class contains at least 100 class members. *See* 28 U.S.C. § 1332(d)(5)(B). Plaintiff brings this action on behalf of “[a]ll persons in California who, within the relevant statute of limitations period, purchased, [sic]

Colgate Optic White toothpaste.” Compl. ¶ 29. The face of the Complaint confirms that the putative class contains over 100 members. Plaintiff alleges “[a]lthough Plaintiff does not yet know the exact size of the Class, Optic White is sold in major retail stores across California, including stores such as Target, and Walgreens. Major online retailers include Amazon.com and Drugstore.com. Upon information and belief, the Class includes more than one million members.” *Id.* ¶ 33.

9. Third, the amount in controversy exceeds \$5,000,000. *See* 28 U.S.C. § 1332(d)(2). To remove on the basis of CAFA, “a removing party must initially file a notice of removal that includes ‘a plausible allegation that the amount in controversy exceeds the jurisdictional threshold.’” *Ibarra v. Manheim Invs., Inc.*, 775 F.3d 1193, 1195 (9th Cir. 2015) (quoting *Dart Cherokee Basin Operating Co., LLC v. Owens*, 135 S. Ct. 547, 554 (2014)). The Court then determines whether the amount in controversy has been proven by a preponderance of the evidence. *Id.*

10. Here, Plaintiff seeks compensatory and related damages on behalf of herself and the putative class. *See* Compl. Prayer for Relief. Specifically, Plaintiff seeks “full restitution of all monies paid to Defendant as a result of their deceptive practices.” Compl. ¶¶ 80, 88, 95. In order to determine the amount that has been put at issue by Plaintiff’s Complaint, Colgate reviewed its business records to determine the total sales of Optic White in California within the relevant time period. Colgate licenses access to various types of syndicated market data compiled and maintained by The Nielsen Company (“Nielsen”). Ex. A, Decl. of Rita Gallagher, ¶ 2. Nielsen tracks and maintains retail level sales data for various markets, including the toothpaste market, by compiling “scan data” from consumer purchases. *Id.* This data represents each time a UPC code on a particular package is scanned at a retail store. *Id.* Although Colgate does not have access to sales figures on a state-wide basis, it does maintain Nielsen data for major markets, including San Francisco and Los Angeles. Based upon a review of these records, the total sales of Optic White in San Francisco and Los Angeles in 2016 alone exceeded \$12 million. *See id.* ¶ 4, Ex. 1.

1 Even assuming Plaintiff seeks only a portion of the amount consumers have paid for  
 2 Optic White, the amount in controversy of this litigation is unquestionably higher than  
 3 \$5 million (particularly considering that the over \$12 million in sales cited above only  
 4 accounts for sales in 2016 alone, and only in two cities, not in the state of California  
 5 as a whole).

6 11. None of CAFA's narrow exceptions apply. *See Serrano v. 180 Connect,*  
 7 *Inc.*, 478 F.3d 1018, 1019, 1021-22 (9th Cir. 2007) (explaining that once CAFA's  
 8 prerequisites have been met, "the party seeking remand bears the burden of proof as to  
 9 any exception under CAFA"). The local-controversy exception does not apply  
 10 because Colgate is not a citizen of California. *See* 28 U.S.C. § 1332(d)(4)(A)(i)(II)  
 11 (requiring in part that "at least [one] defendant is a defendant . . . who is a citizen of  
 12 the State in which the action was originally filed"). Neither the home-state  
 13 controversy exception nor the discretionary jurisdiction exception applies for the same  
 14 reason. *See id.* § 1332(d)(4)(B) (requiring in part that "the primary defendants[] are  
 15 citizens of the State in which the action was originally filed" for the home-state  
 16 controversy exception); *id.* § 1332(d)(3) (requiring in part that "the primary  
 17 defendants are citizens of the State in which the action was originally filed" for the  
 18 discretionary jurisdiction exception). Therefore, this Court has jurisdiction under  
 19 CAFA.

### 20 **NOTICE TO THE STATE COURT**

21 12. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal is  
 22 being served on all adverse parties and filed with the Superior Court of the State of  
 23 California, Alameda County, where this case was originally filed.

### 24 **STATE COURT PLEADINGS PROVIDED**

25 13. Colgate attaches hereto as Exhibits B-1 through B-4 all other process,  
 26 pleadings, and orders previously served upon it in the state court action.

27 14. By removing this action to this Court, Colgate does not waive any  
 28 defenses.

**VENUE**

15. The state court in which this case was commenced is within this Court's federal district. Therefore, this action is properly removable to this Court pursuant to 28 U.S.C. § 1446(a).

16. Accordingly, for the above reasons, this Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332.

WHEREFORE, Defendant Colgate-Palmolive Company respectfully provides notice that this action, filed in the Superior Court of the State of California for Alameda County, is removed to this Court, and that no further proceedings shall be had in state court.

DATED: February 23, 2017

Respectfully submitted,

s/ Robyn E. Bladow

Robyn E. Bladow (Bar No. 205189)  
KIRKLAND & ELLIS LLP  
333 South Hope Street  
Los Angeles, CA 90071  
Telephone: (213) 680-8400  
Facsimile: (213) 680-8500  
robyn.bladow@kirkland.com

*Counsel for Defendant  
Colgate-Palmolive Company*



**PROOF OF SERVICE**

I, Laura Bay, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 South Hope Street, Los Angeles, California 90071.

On February 23, 2017, the foregoing document was served on the interested parties in this action as follows:

☒ By placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

FINKELSTEIN & KRINSK LLP

Jeffrey R. Krinsk

David J. Harris, Jr.

A. Trent Ruark

Trenton R. Kashima

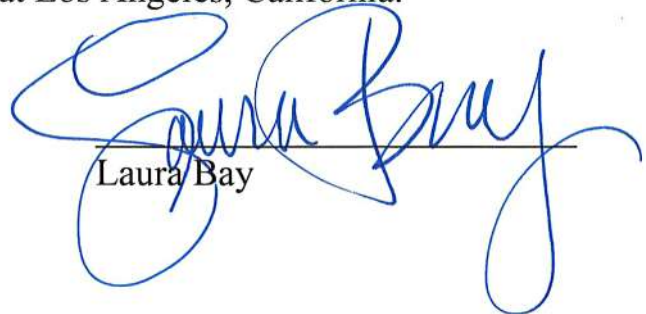
550 W. C Street, Suite 1760

San Diego, California 92101

Telephone: (619) 238-1333

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 23, 2017 at Los Angeles, California.



Laura Bay

# EXHIBIT A



1 Robyn E. Bladow (Bar No. 205189)  
2 KIRKLAND & ELLIS LLP  
3 333 South Hope Street  
4 Los Angeles, CA 90071  
5 Telephone: (213) 680-8400  
6 Facsimile: (213) 680-8500  
7 robyn.bladow@kirkland.com

8  
9 *Counsel for Defendant Colgate-Palmolive Company*

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 MELISSA L. VIGIL, individually  
13 and on behalf of all others similarly  
14 situated,

15 Plaintiff,

16 v.

17 COLGATE-PALMOLIVE CO.

18 Defendant.

Case No. [XXX]

**DECLARATION OF RITA  
GALLAGHER IN SUPPORT OF  
NOTICE OF REMOVAL**

1 I, Rita Gallagher, declare under penalty of perjury that the following is true and  
2 correct:

3 1. I have been employed by Colgate-Palmolive Company ("Colgate") for  
4 approximately seven years. I am currently Associate Marketing Director, Irish Spring,  
5 for North America Personal Care Division. I was previously Associate Marketing  
6 Director of the North America Consumer Innovation Center for Oral Care. Before  
7 that, I was Senior Brand Manager for Colgate's Optic White® from October 2012 to  
8 August 2014. As part of my responsibilities, I managed a broad range of issues  
9 regarding the sale and marketing of Optic White whitening toothpaste, including (for  
10 example) product advertising, pricing, packaging, and promotion. The facts contained  
11 in this declaration are based on my personal knowledge, and I can testify competently  
12 to them if called upon to do so.

13 2. As Senior Brand Manager, I regularly worked with market data as part of  
14 my daily job functions. Colgate licenses access to various types of syndicated market  
15 data compiled and maintained by The Nielsen Company ("Nielsen"). I have  
16 personally worked with Nielsen data, have communicated with Nielsen about its data  
17 compilations regarding Colgate products, and based on years of experience reviewing  
18 Nielsen data, I understand Nielsen's process of market data compilations. Nielsen  
19 tracks and maintains retail level sales data for various markets, including the  
20 toothpaste market, by compiling "scan data" from consumer purchases. This data  
21 represents each time a UPC code on a particular package is scanned at a retail store.  
22 The Nielsen syndicated data contains information about most products in the  
23 toothpaste marketplace, including Colgate and its competitors, such as Procter &  
24 Gamble and GlaxoSmithKline.

25 3. In the ordinary course of business and in my capacity as Senior Brand  
26 Manager for Colgate Optic White, I regularly used the Nielsen syndicated data to  
27 obtain information about Optic White's sales. Although Colgate does not have access  
28 to Nielsen sales figures for the entire California market, Colgate does maintain

1 Nielsen sales data for major markets, including San Francisco and Los Angeles.  
2 Attached as Exhibit 1 is a true and correct copy of the Nielsen retail level sales data  
3 for Optic White 1% hydrogen peroxide toothpaste products in San Francisco and Los  
4 Angeles since launch.

5 4. I have reviewed the Nielsen syndicated retail level sales data of Optic  
6 White 1% hydrogen peroxide toothpaste products in San Francisco and Los Angeles.  
7 Based upon a review of these records, and as indicated on Exhibit 1, the total retail  
8 sales of Optic White 1% hydrogen peroxide toothpaste products in San Francisco and  
9 Los Angeles in 2016 alone was \$12,091,558.

10  
11 Executed on this 22 day of February, 2017 in New York, New York.

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14 Rita Gallagher  
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# EXHIBIT 1

[illegible]

**PROOF OF SERVICE**

I, Laura Bay, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 South Hope Street, Los Angeles, California 90071.

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☒ By placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

FINKELSTEIN & KRINSK LLP

Jeffrey R. Krinsk

David J. Harris, Jr.

A. Trent Ruark

Trenton R. Kashima

550 W. C Street, Suite 1760

San Diego, California 92101

Telephone: (619) 238-1333

☒ (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 23, 2017 at Los Angeles, California.

  
Laura Bay

# EXHIBIT B-1



10:25

**SUMMONS  
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
COLGATE-PALMOLIVE CO.

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
Melissa L. Vigil, individually and on behalf of all others similarly situated.

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED BY FAX  
ALAMEDA COUNTY**

December 02, 2016

**CLERK OF  
THE SUPERIOR COURT  
By Melanie Williams, Deputy**

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. NOTE: The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case. **AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que lo dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 o más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desochar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of CA, County of Alameda  
1225 Fallon Street  
Oakland CA, 94612

CASE NUMBER:  
(Número del Caso):

RG16841304

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Finkelstein & Krinsk LLP, Jeffrey Krinsk, 550 West C Street, Ste. 1760, San Diego, CA 92101

DATE: December 02, 2016  
(Fecha)

Clerk, by  
(Secretario)

, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

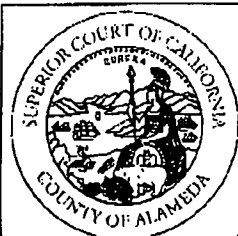
(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED: You are served**

1. ☐ as an individual defendant.  
2. ☐ as the person sued under the fictitious name of (specify):

3. ☒ on behalf of (specify): Colgate-Palmolive Co.  
under: ☒ CCP 416.10 (corporation) ☐ CCP 416.80 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):

4. ☒ by personal delivery on (date): 1-24-17



**FILED BY FAX**  
**ALAMEDA COUNTY**  
December 02, 2016  
CLERK OF  
THE SUPERIOR COURT  
By Melanie Williams, Deputy  
CASE NUMBER:  
**RG16841304**

1 FINKELSTEIN & KRINSK LLP  
2 Jeffrey R. Krinsk (SBN 109234)  
3 jrk@classactionlaw.com  
4 David J. Harris, Jr. (SBN 286204)  
5 djh@classactionlaw.com  
6 A. Trent Ruark (291753)  
7 atr@classactionlaw.com  
8 Trenton R. Kashima (SBN 291405)  
9 trk@classactionlaw.com  
10 550 W. C Street, Suite 1760  
11 San Diego, California 92101  
12 Telephone: (619) 238-1333  
13 Facsimile: (619) 238-5425

14 Attorneys for Plaintiff

15 **SUPERIOR COURT OF CALIFORNIA**  
16 **COUNTY OF ALAMEDA**

17 MELISSA L. VIGIL, individually and on behalf  
18 of all others similarly situated,

19 Plaintiff,

20 v.

21 COLGATE-PALMOLIVE CO.

22 Defendant.

Case No:

**CLASS ACTION COMPLAINT FOR:**

1. BREACH OF EXPRESS WARRANTY;
2. BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE;
3. VIOLATION OF CONSUMER LEGAL REMEDIES ACT, CIVIL CODE §§ 1750, *et seq.*;
4. VIOLATION OF FALSE ADVERTISING LAW, BUSINESS & PROFESSIONS CODE §§ 17500, *et seq.*;
5. VIOLATION OF THE "UNLAWFUL PRONG" OF THE UNFAIR COMPETITION LAW, BUS. & PROF CODE §§ 17200, *et seq.*;
6. VIOLATION OF THE "FRAUDULENT PRONG" OF THE UNFAIR COMPETITION LAW, BUS. & PROF CODE §§ 17200, *et seq.*;
7. VIOLATION OF THE "UNFAIR PRONG" OF THE UNFAIR COMPETITION LAW, BUS. & PROF CODE §§ 17200, *et seq.*

**DEMAND FOR JURY TRIAL**

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**CLASS ACTION COMPLAINT**

1  
2 Plaintiff Melissa Vigil ("Plaintiff"), by her attorneys, makes the following allegations  
3 pursuant to the investigation of her counsel and based upon information and belief, except as to  
4 allegations specifically pertaining to herself and her counsel, which are based on personal  
5 knowledge.

6 **NATURE OF ACTION**

7 1. This is a class action against Colgate-Palmolive Co. ("Defendant") for falsely  
8 representing that Colgate Optic White toothpaste ("Optic White") "Goes Beyond Surface Stain  
9 Removal To Deeply Whiten," that Optic White "Deeply Whitens," and that the peroxide in Optic  
10 White is clinically proven to whiten and go beyond surface stain removal. In fact, Colgate Optic  
11 White toothpaste only reaches surface stains by abrading teeth, does not go beyond surface stain  
12 removal, and does not deeply whiten teeth. Because Colgate Optic White toothpaste does not  
13 function as a whitening agent on intrinsic stains, Defendant's representations are false and  
14 misleading.

15 2. As a direct and proximate result of Defendant's false and misleading advertising  
16 claims and marketing practices, Plaintiff and the members of the Class, as defined herein, purchased  
17 Colgate Optic White toothpaste. Plaintiff and the members of the Class purchased Colgate Optic  
18 White because they were deceived into believing that Optic White goes beyond surface stains to  
19 deeply whiten teeth. As a result, Plaintiff and members of the Class purchased Colgate Optic White  
20 and have been injured in fact because Optic White was not effective for deep whitening or whitening  
21 intrinsic stains. Plaintiff and class members have suffered an ascertainable and out-of-pocket loss.  
22 Plaintiff and members of the Class seek a refund and/or rescission of the transaction and all further  
23 equitable and injunctive relief as provided by applicable law.

24 3. Plaintiff seeks relief in this action individually and on behalf of all California  
25 purchasers of Colgate Optic White toothpaste for breach of express and implied warranties. Plaintiff  
26 also seeks relief in this action individually and on behalf of purchasers of Optic White in California  
27 for violation of Civil Code §§ 1750, *et seq.*, the California Consumer Legal Remedies Act  
28

1 (“CLRA”), Bus. & Prof. Code §§ 17200, *et seq.*, California’s Unfair Competition Law (“UCL”), and  
 2 Bus. & Prof. Code §§ 17500, *et seq.*, California’s False Advertising Law (“FAL”).

### 3 PARTIES

4 4. Plaintiff Melissa Vigil is a citizen of Alameda, California. Beginning on or around  
 5 August 2015, Plaintiff regularly purchased Colgate Optic White toothpaste at a Target store in  
 6 Alameda, California. Plaintiff purchased Colgate Optic White based on claims and in reliance on  
 7 Optic White’s label and in television commercials, including, but not limited to, the assertion that  
 8 that the toothpaste would “deeply” whiten teeth and go beyond surface stain removal. One of the  
 9 commercials Plaintiff viewed featured a sand dollar that “can absorb stains like teeth” that showed  
 10 Colgate Optic White “whiten[ing] deeper” than another toothpaste. She would not have purchased  
 11 Colgate Optic White if the label and television commercials had not stated that it would deeply  
 12 whiten her teeth. Although she has been purchasing and using Colgate Optic White as directed, her  
 13 last purchase (in August 2015), caused her to conclude that Colgate Optic White did not whiten her  
 14 teeth, or positively affect any of the intrinsic stains on her teeth. She ceased subsequent purchases.

15 5. Defendant Colgate Palmolive Co. is a Delaware corporation with its principal place of  
 16 business at 300 Park Avenue, New York, New York 10022. Colgate Palmolive Co. is engaged in the  
 17 business of manufacturing, mass marketing, and distributing Colgate Optic White toothpaste  
 18 throughout the United States.

### 19 JURISDICTION AND VENUE

20 6. This Court has jurisdiction over this action pursuant to Article 6, § 10 of the  
 21 California Constitution, California Business & Professions Code § 17203, Civil Code § 1780(d) and  
 22 Code of Civil Procedure §§ 382 and 410.10. Plaintiff is unable to represent and cannot reasonably  
 23 assert, and thus does not believe that the amount in controversy satisfies the amount necessary to  
 24 allow for Federal jurisdiction and, ergo Defendant must prove otherwise to change venue.

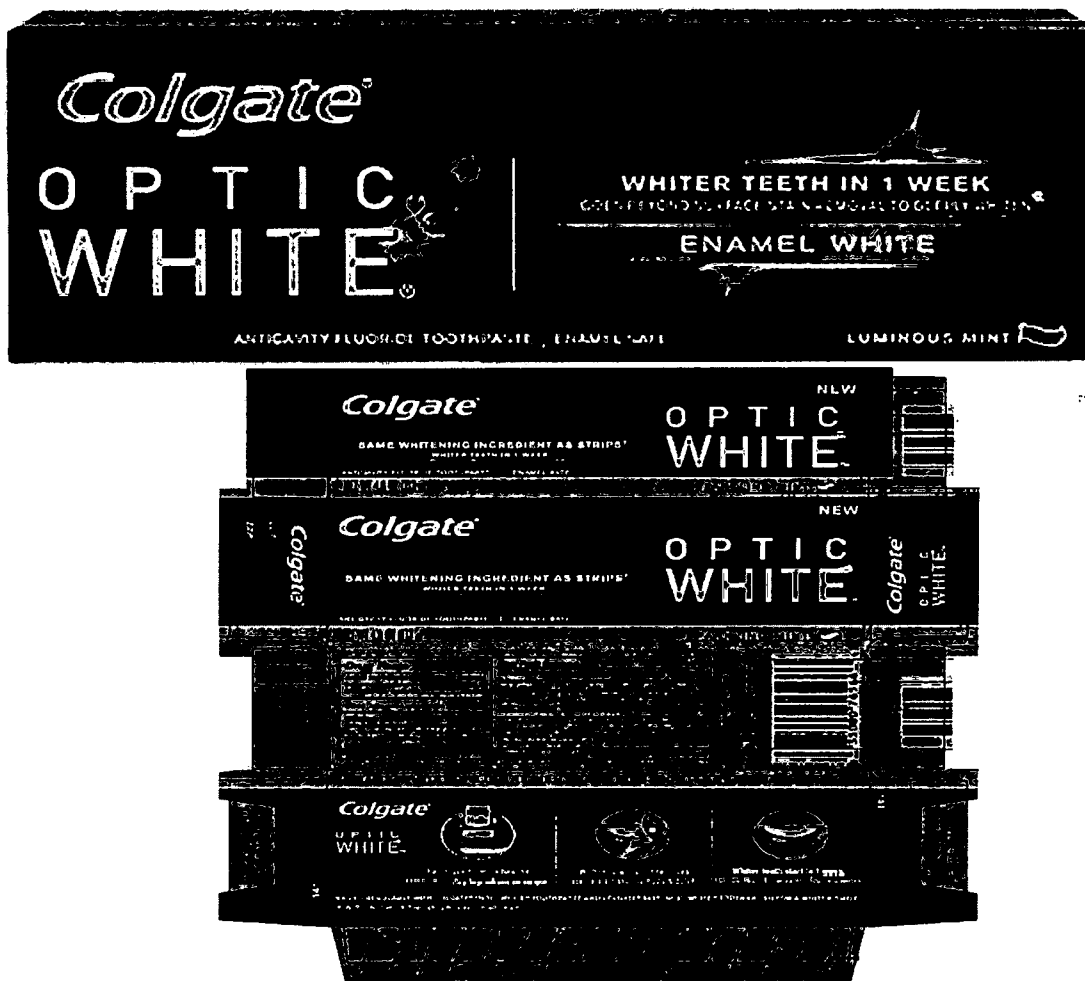
25 7. Venue is proper in this Court pursuant to Code of Civil Procedure § 395 because  
 26 Plaintiff was persuaded by Defendant to purchase their product in this county and a substantial or  
 27 significant portion of the conduct complained of herein occurred and continues to occur within this  
 28

County.

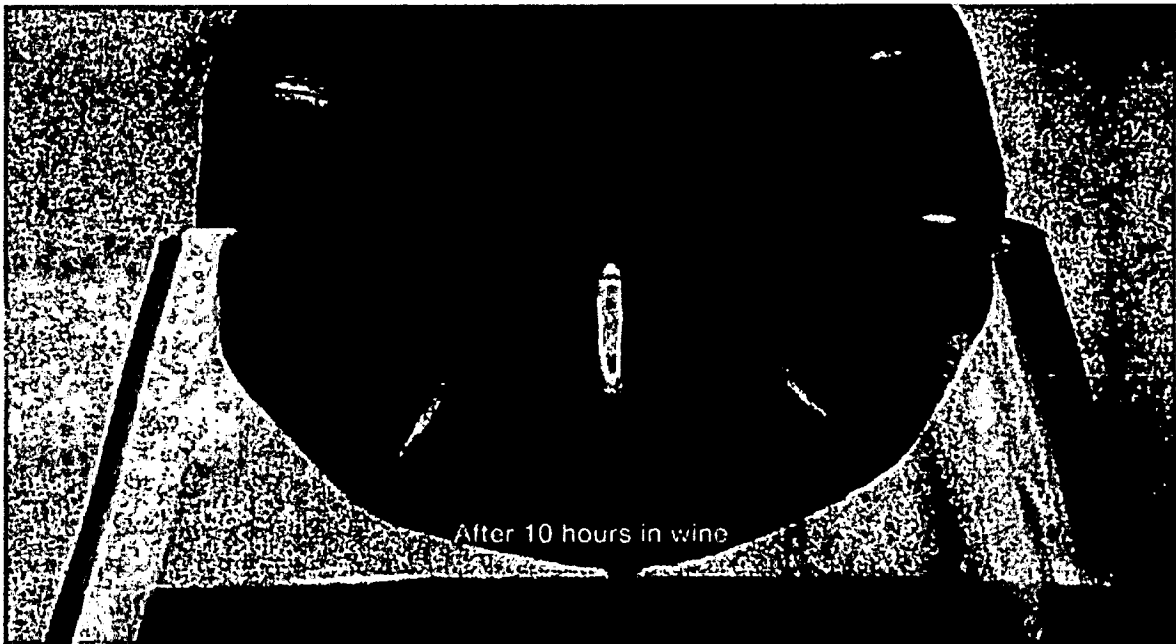
## FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

### A. Colgate Optic White's False and Misleading Labels and Advertising

8. As shown below, the labels of Colgate Optic White toothpaste falsely represent that it "Deeply Whitens," "Goes Beyond Surface Stain Removal To Deeply Whiten," and that "Optic White toothpaste is clinically proven to whiten teeth with peroxide. It goes beyond surface stains unlike ordinary toothpastes." In fact, toothpastes cannot go beyond surface stains to deeply whiten teeth because peroxide in toothpaste does not function as a whitening agent on intrinsic stains. Instead, Optic White only reaches surface stains (created on the surface of teeth by substances like wine, coffee, or tobacco) by abrading the surface of teeth. Thus, Defendant's "deeply whitens" representations on Colgate Optic White's labels are false and misleading.



1           9. Defendant makes the same “deeply whitens” misrepresentations in television  
2 commercials. For example, one commercial begins with the tagline “How much whiter can your  
3 smile be?” So that consumers can find out how much whiter their smile can be, Defendant  
4 “Introduc[es] new Colgate Optic White Whitening Protect Toothpaste.” To illustrate Optic White’s  
5 supposed deeply whitening capabilities, as shown below, Defendant use a dramatization of a shell  
6 dipped in wine that “is made of calcium that can absorb stains like teeth.”



19           10. The commercial goes on to explain, “Brush one side with regular whitening  
20 toothpaste and the other side with Optic White. It whitens deeper.” To emphasize the commercial’s  
21 message that Optic White works by whitening intrinsic stains, beneath the shell illustration,  
22 Defendant underscores that “Colgate Optic White can penetrate to work below the tooth’s surface.”

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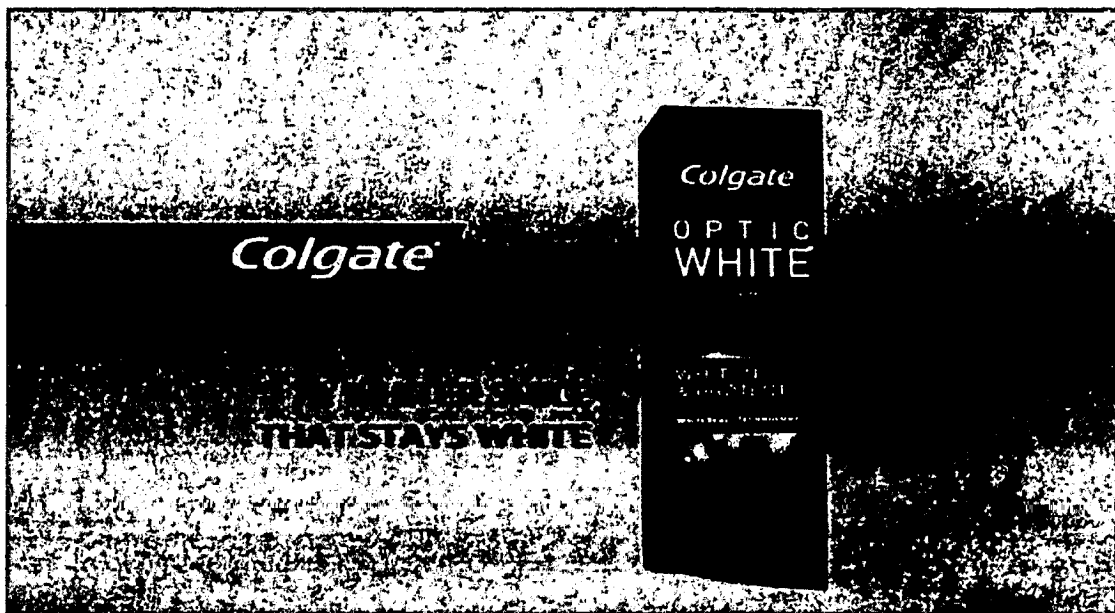
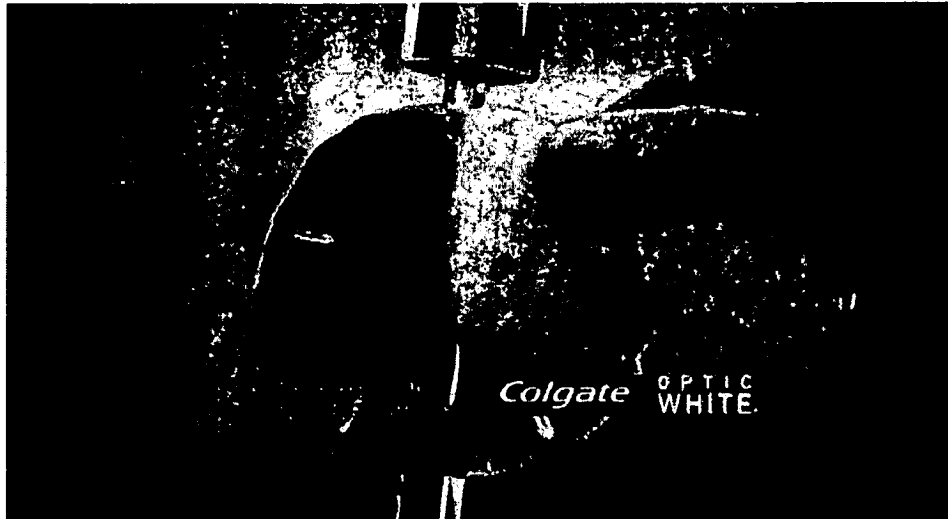
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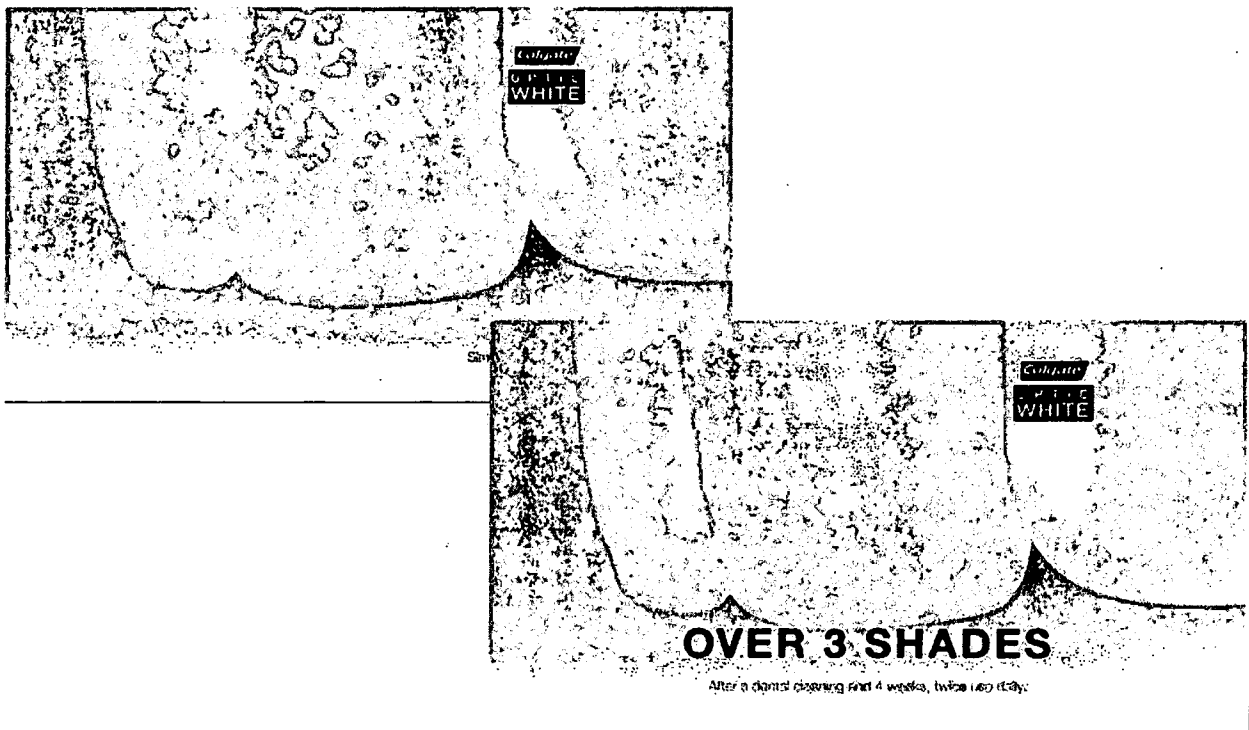
11. Because toothpaste only reaches surface stains, Defendant's shell commercial is false and misleading.

12. Defendant highlights the same "deeply whitens" message in another commercial featuring a series of smiling women adorning themselves with sunglasses, small purses, hats and other accessories while brushing with Colgate Optic White toothpaste. The commercial begins "Now your best accessory can be your smile with Colgate Optic White Toothpaste."





13. While depicting sparkly Optic White particles reaching below surface stains to whiten teeth (shown below), the commercial continues, "Unlike the leading whitening toothpaste, Colgate Optic White toothpaste goes beyond surface stains to deeply whiten teeth."



14. Like Defendant's labeling and shell commercial, Defendant's accessory commercial conveys the false and misleading message that Colgate Optic White deeply whitens teeth by acting as a whitening agent on intrinsic stains.

**B. Colgate Optic White Toothpaste Does Not "Deeply Whiten" Teeth**

15. Defendant's representations that Colgate Optic White toothpaste "Deeply Whitens," "Goes Beyond Surface Stain Removal To Deeply Whiten," and that "Optic White toothpaste is clinically proven to whiten teeth with peroxide. It goes beyond surface stains unlike ordinary toothpastes" are false and misleading because peroxide in toothpaste does not go beyond surface stains or deeply whiten teeth. In fact, dentists agree that peroxide in toothpaste does not work on intrinsic stains because the amount of peroxide in toothpaste is too small and gets rinsed away before it can deeply whiten teeth.

16. As Dr. De Vizio, DMD, Vice-President for Dental Clinical Research at Colgate-Palmolive, explained on behalf of Defendant:

Whitening toothpastes have some disadvantages. They don't actually whiten your teeth. Instead, they contain an abrasive that grinds away stains on the enamel, making your teeth seem brighter. When used for a long time, the abrasive can remove so much enamel that your teeth can get stained even more easily. In addition, using abrasive whitening toothpastes can dull veneers and crowns. *Toothpastes with hydrogen peroxide for whitening don't really help much. Because the toothpaste gets all over your mouth, including your gums, and because you might swallow some, the amount of hydrogen peroxide is small. In addition, you probably won't brush long enough for the hydrogen peroxide to have much of an effect.*<sup>1</sup>

17. Dr. Vincent Mayher, dentist and the past president of the Academy of General Dentistry, similarly emphasized:

There's no doubt that whitening toothpastes can clean stains off teeth and give them a little extra gleam. But the term "whitening" is misleading. *Unlike trays and strips that can bleach deep within a tooth... toothpastes can reach only the surface ... bleaches in toothpastes are useless because they'll get rinsed away before they do anything.*<sup>2</sup>

<sup>1</sup> *What are the disadvantages of using whitening toothpaste?*, Teeth Whitening, Sharecare (July 27, 2011) (available at <http://www.sharecare.com/health/teethwhitening/Disadvantagesofusingwhiteningtoothpaste>).

<sup>2</sup> See Woolston, Chris, *Are Whitening Toothpastes a Bright Idea?*, The Healthy Skeptic, Los Angeles Times (July 4, 2011) (available at <http://articles.latimes.com/2011/jul/04/health/la-he-skeptic-whitening-toothpaste-20110704>).

18. Yet another dentist, Dr. Mark Burhenne DDS explains "*How Toothpaste Packaging Messes With Your Mind*" as follows:

The newer whitening toothpastes whiten your teeth chemically with a hydrogen peroxide-based chemical. *These toothpastes contain the right chemical for whitening, but you're never going to get the results with only two, or even five minutes of brushing.*

*Proper whitening requires you to hold the peroxide up against the tooth for several hours or more.* You can think of the second type of whitening toothpaste like sandpaper – the increased abrasiveness in whitening toothpaste helps to polish and remove surface staining. This is effective for removing surface staining from coffee, tea, and berries.

*Be aware that you are only removing stains, not changing the intrinsic color of your teeth.*

I don't recommend these toothpastes because they remove tooth structure by scraping away dentin and enamel.<sup>3</sup>

19. Likewise, the material for a continuing education course, implemented in accordance with the standards of the Academy of General Dentistry Program, teaches that:

*Toothpastes with hydrogen peroxide are not very effective* because the peroxide reacts with other substances on the teeth. The effectiveness is also dependent on the duration of time peroxide is on the teeth. The longer it is in contact with the tooth surface, the better it works. *Since brushing is usually done quickly, peroxide does not have much time to work properly.*<sup>4</sup>

20. Dr. Joe Oliver at London's Welbeck Clinic also explained his skepticism about the efficacy of the small amount of peroxide (0.1 %) in toothpaste, "Unless a peroxide toothpaste is left in contact with teeth for 30 minutes it's probably not going to have an effect."<sup>5</sup>

21. Richard Bebermeyer, DDS, MBA and retired professor and former chairman of restorative dentistry and biomaterials at The University of Texas Health Science Center at Houston

<sup>3</sup> Burhenne, Mark, *How Toothpaste Packaging Messes With Your Mind*, Ask the Dentist (Oct. 15, 2014) (available at <http://askthedentist.com/toothpaste-marketing/>).

<sup>4</sup> Dynamic Dental Educators, Teeth Whitening, ADA Continuing Education Recognition Program (May 1, 2014).

<sup>5</sup> Coleman, Claire, *Is whitening toothpaste just a waste of money?*, Daily Mail, (Jan. 20, 2013) (available at <http://www.dailymail.co.uk/femail/article-2265539/Iswhitening-toothpaste-just-waste-money-They-promise-dazzling-Hollywood-smileinvestigation-reveals-products-barely-make-difference.html>).

1 (UTHealth) School of Dentistry also agrees that removal of intrinsic staining cannot be achieved  
2 with toothpaste.<sup>6</sup>

3 22. Donna Warren-Morris, a registered dental hygienist and professor at the University of  
4 Texas School of Dentistry agrees and adds, “to whiten or bleach the teeth to any significant degree,  
5 the hydrogen or carbamide peroxide concentration has to be much higher than can be found in  
6 whitening toothpastes.”<sup>7</sup> Another registered dental hygienist, Kristina Kucinskaite, also commented  
7 that whitening toothpaste with peroxide is not in contact with the enamel surface of teeth for long  
8 enough and had too little peroxide because “[r]eal whitening needs peroxide and time.”

9 23. Moreover, scientific research also shows that the whitening effect of hydrogen  
10 peroxide in toothpaste is not clinically significant. As researchers summarized in the Brazilian Dental  
11 Journal: “In vitro studies show that brushing with toothpaste containing bleaching products do not  
12 promote significant results in discolored teeth compared to conventional dentifrices [toothpastes],  
13 concluding that these dentifrices, due to their mechanical action (abrasion) and the increase of high-  
14 performance abrasives as hydrated silica, act just at removing pigmentation, giving a false sense of  
15 whitening.”<sup>8</sup>

16 24. In another example, in the Brazilian Oral Research Journal, researchers explained that  
17 the whitening effect obtained from whitening toothpastes is not clinically significant because a  
18 “study that compared the efficacy and safety of three OTC bleaching products (1% hydrogen  
19 peroxide dentifrice [toothpaste], 18% carbamide peroxide paint-on gel, and 5% carbamide tray  
20 system) showed that ... *the paint-on gel and dentifrice [toothpaste] groups did not result in*  
21 *significant color improvements from baseline.*”<sup>9</sup>

22 25. Colgate Optic White only makes teeth appear whiter because it contains an abrasive

23  
24 <sup>6</sup> See Webb, Camille, *The Toothpaste Trance*, UT Dentists (Oct. 8, 2014) (available at  
<https://www.utdentists.com/news/story.htm?id=c8822c6a-75bb-4e4e-af4a-a77ebbc0e071>).

25 <sup>7</sup> *Id.*

26 <sup>8</sup> Horn, Bruna Andrade, *Clinical Evaluation of the Whitening Effect of Over-the-Counter Dentifrices*  
*on Vital Teeth*, Braz. Dent. J. Vol. 25 No. 3 (2014).

27 <sup>9</sup> Demarco, Flavio, *Over-the-counter whitening agents: a concise review*, Braz. Oral  
28 Res. Vol. 23 Supl.1 (2009).

1 that grinds away stains on the enamel. Using abrasive whitening toothpaste can remove enamel  
 2 exposing the yellowish dentin beneath the surface, which can also cause teeth to stain more easily.  
 3 Indeed, Colgate Optic White received a Relative Dentin Abrasion (RDA) score of 100, and is  
 4 considered highly abrasive, or even more abrasive than the majority of whitening toothpastes.<sup>10</sup>

5  
 6 **C. The National Advertising Division Concluded That Defendant Misled Consumers by**  
**Claiming That Colgate Optic White Deeply Whitens Teeth**

7 26. In 2012, the National Advertising Division of the Council of Better Business Bureaus  
 8 (“NAD”) found that Defendant did not have sufficient evidence to support the message that  
 9 hydrogen peroxide as contained in Optic White functions as a significant whitening agent on intrinsic  
 10 stains. Specifically, the NAD cautioned that Colgate should avoid conveying the message that  
 11 whitening improvement from Optic White toothpaste is attributable to the peroxide contained in  
 12 Optic White. Accordingly, the NAD recommended that Defendant discontinue claims that suggest  
 13 that hydrogen peroxide in toothpaste deeply whitens and whitens below surface stains. Defendant,  
 14 however, refused to change their advertising and continues to make claims about the intrinsic  
 15 whitening capabilities of Colgate Optic White.<sup>11</sup>

16 27. In 2014, the NAD again conducted a compliance inquiry because, in the latest  
 17 advertising for Colgate Optic White toothpaste, Defendant’s Optic White packaging claims that  
 18 Optic White toothpaste, “Goes Beyond Surface Stain Removal to Deeply Whiten,” that “This Unique  
 19 Formula is Clinically Proven to Whiten Teeth With Peroxide,” and that Optic White “Goes Beyond  
 20 Surface Stains Unlike Ordinary Toothpastes.”<sup>12</sup>

21 28. In response to the NAD’s compliance inquiry, Defendant claimed that Optic White  
 22 had been “reformulated” and that new evidence supported the claims made for the “reformulated”

23  
 24 <sup>10</sup> Sorin, Robert, Toothbrush Abrasion (available at <http://nycdmd.com/uncategorized/toothpaste-abrasions/>).

25 <sup>11</sup> *NAD Recommends Colgate Discontinue Certain Claims for Optic White Toothpaste*, Advertising  
 26 Self-Regulation Council (Aug. 14, 2012) (available at <http://www.ascreviews.org/nad-recommends-colgate-discontinue-certain-claims-for-optic-white-toothpaste-following-pg-challenge/>)

27 <sup>12</sup> *NAD Refers Advertising from Colgate to FTC for Further Review*, Advertising Self-Regulation  
 28 Council (July 16, 2014) (available at <http://www.ascreviews.org/nad-refers-advertising-from-colgate-to-ftc-for-further-review/>).

1 Optic White's intrinsic whitening capabilities. The NAD disagreed because the amount of peroxide  
 2 in Optic White had not changed. In particular, the NAD observed "[t]hat changes to the reformulated  
 3 product are of little consequence with respect to the advertiser's claims of Optic White's ability to  
 4 provide whitening benefits below the tooth surface." Further, the NAD found that the claim  
 5 challenged in the 2014 compliance proceeding was not markedly different from the claim that it  
 6 recommended be discontinued in 2012. Thus, the NAD found "that the claim 'whitens deeper' and  
 7 related claims contravene NAD's earlier decision and recommendations and recommended that the  
 8 company modify its broadcast advertising to remove the word 'deeper' and to avoid any implication  
 9 that the Optic White product intrinsically whitens teeth." Defendant again refused to bring its  
 10 advertising into compliance with the NAD's decision and recommendations.<sup>13</sup>

#### 11 CLASS ACTION ALLEGATIONS

12 29. Plaintiff brings this action as a class action pursuant to Cal. Civ. Proc. Code § 382 for  
 13 the following Class of persons ("The Class"):

14 All persons in California who, within the relevant statute of limitations period, purchased,  
 15 Colgate Optic White toothpaste.

16 30. Excluded from the Class is the Defendant, the officers and directors of the Defendant  
 17 at all relevant times, members of their immediate families and their legal representatives, heirs,  
 18 successors or assigns and any entity in which either Defendant has or had a controlling interest.

19 31. Also excluded from the Class are persons or entities that purchased Optic White for  
 20 purposes of resale.

21 32. Plaintiff is a member of the Class she seeks to represent.

22 33. The Class is so numerous that joinder of all members is impractical. Although  
 23 Plaintiff does not yet know the exact size of the Class, Optic White is sold in major retail stores  
 24 across California, including stores such as Target, and Walgreens. Major online retailers include  
 25 Amazon.com and Drugstore.com. Upon information and belief, the Class includes more than one  
 26 million members.

27 34. The Class is ascertainable because the Class members can be identified by objective

28 <sup>13</sup> *Id.*



1 criteria – the purchase of Colgate Optic White toothpaste during the Class Period.

2 35. There are numerous questions of law and fact common to the Class which  
3 predominate over any individual actions or issues, including but not limited to:

4 (a) Whether Defendant breached an express warranty made to Plaintiff and the  
5 Class;

6 (b) Whether Defendant breached the implied warranty of fitness for a particular  
7 purpose;

8 (c) Whether Defendant's marketing of Optic White is false, misleading, and/or  
9 deceptive;

10 (d) Whether Defendant's marketing of Optic White is an unfair business practice;

11 (e) Whether Optic White goes beyond surface stains to deeply whiten teeth;

12 (f) Whether Optic White is clinically proven to whiten with peroxide and to go  
13 beyond surface stains to deeply whiten teeth;

14 (g) Whether Defendant was unjustly enriched by its conduct;

15 (h) Whether Defendant violated the CLRA;

16 (i) Whether Defendant violated the UCL;

17 (j) Whether Defendant violated the FAL;

18 (k) Whether Class Members suffered an ascertainable loss as a result of  
19 Defendant's misrepresentations; and

20 (l) Whether, as a result of Defendant's misconduct as alleged herein, Plaintiff and  
21 the Class Members are entitled to restitution, injunctive and/or monetary relief and, if so, the  
22 amount and nature of such relief.

23 36. Plaintiff's claims are typical of the claims of the members of the Class as all members  
24 of the Class are similarly affected by Defendant's wrongful conduct. Plaintiff has no interests  
25 antagonistic to the interests of the other members of the Class. Plaintiff and all members of the Class  
26 have sustained economic injury arising out of Defendant's violations of common and statutory law as  
27 alleged herein.



37. Plaintiff is an adequate representative of the Class because her interests do not conflict with the interests of the Class members she seeks to represent, she has retained counsel competent and experienced in prosecuting class actions, and she intends to prosecute this action vigorously. Plaintiff and her counsel will fairly and adequately protect the interests of the Class members.

38. The class action mechanism is superior to other available means for the fair and efficient adjudication of the claims of Plaintiff and the Class members. Each individual Class member may lack the resources to undergo the burden and expense of individual prosecution of the complex and extensive litigation necessary to establish Defendant's liability. Individualized litigation increases the delay and expense to all parties and multiplies the burden on the judicial system presented by the complex legal and factual issues of this case. Individualized litigation also presents a potential for inconsistent or contradictory judgments. In contrast, the class action device presents far fewer management difficulties and provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single court on the issue of Defendant's liability. Class treatment of the liability issues will ensure that all claims are consistently adjudicated.

## COUNT I

### **Breach of Express Warranty**

39. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth herein.

40. Plaintiff brings this Count individually and on behalf of the members of the Class.

41. In connection with the sale of Optic White, Defendant issued express warranties including that Optic White would go beyond surface stains to deeply whiten teeth, that Optic White is clinically proven to whiten teeth with peroxide and to go beyond surface stain removal to deeply whiten teeth, and that Colgate Optic White penetrates to work below the tooth's surface. Defendant expressly warranted that Optic White was effective and would whiten intrinsic stains below the tooth's surface.

42. Defendant's affirmations of fact and promises made to Plaintiff and the Class on Optic White labels and in television commercials, became part of the basis of the bargain between

1 Defendant on the one hand, and Plaintiff and the Class Members on the other, thereby creating  
2 express warranties that Optic White would conform to Defendant's affirmations of fact,  
3 representations, promises, and descriptions.

4 43. Defendant breached its express warranties because Optic White does not in fact  
5 deeply whiten teeth, does not go beyond surface stain removal, and is not clinically proven to whiten  
6 with peroxide below the tooth's surface. In short, Optic White does not perform as expressly  
7 warranted.

8 44. Plaintiff and the Class members were injured as a direct and proximate result of  
9 Defendant's breach because: (a) they would not have purchased Optic White if they had known the  
10 true facts; (b) they paid for Optic White due to the mislabeling; and (c) Optic White did not have the  
11 quality, effectiveness, or value as promised. As a result, Plaintiff and the Class have been damaged.

## 12 **COUNT II**

### 13 **Breach of Implied Warranty of Fitness for a Particular Purpose**

14 45. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth  
15 herein.

16 46. Plaintiff brings this Count individually and on behalf of the members of the Class.

17 47. Defendant marketed, distributed, and/or sold Optic White with implied warranties that  
18 they were fit for the particular purpose of deeply whitening teeth, and going beyond surface stain  
19 removal to whiten below the tooth's surface. However, the peroxide in Optic White has no effect on  
20 intrinsic stains in teeth and does not deeply whiten teeth. At the time Optic White was sold,  
21 Defendant knew or should have known that Plaintiff and the Class Members would rely on  
22 Defendant's skill and judgment regarding the efficacy of Optic White.

23 48. In reliance on Defendant's skill and judgment and the implied warranties of fitness for  
24 the purpose, Plaintiff and the Class Members purchased Optic White for use in deeply whitening  
25 teeth.

26 49. Optic White was not altered by Plaintiff or the Class members.

27 50. Plaintiff and the Class members were injured as a direct and proximate result of  
28

1 Defendant's breach because: (a) they would not have purchased Optic White if the true facts  
 2 concerning their efficacy had been known; (b) they paid an increased price for Optic White based on  
 3 Defendant's representations regarding Optic White's efficacy; and (c) Optic White did not have the  
 4 characteristics, uses, or benefits as promised. As a result, Plaintiff and the Class members have been  
 5 damaged.

### 6 **COUNT III**

#### 7 **Consumer Legal Remedies Act, Civil Code §§ 1750, *et seq.***

8 51. Plaintiff brings this Count individually and on behalf of the Class.

9 52. Plaintiff and the Class members are consumers who purchased Optic White for  
 10 personal, family, or household purposes. Accordingly, Plaintiff and the Class members are  
 11 "consumers" as that term is defined by the CLRA in Cal. Civ. Code § 1761(d). Plaintiff and the Class  
 12 members are not sophisticated experts with independent knowledge of the formulation or efficacy of  
 13 Optic White.

14 53. At all relevant times, Optic White constituted a "good" as that term is defined in Cal.  
 15 Civ. Code § 1761(a).

16 54. At all relevant times, Defendant was a "person" as that term is defined in Civ. Code §  
 17 1761(c).

18 55. At all relevant times, Plaintiff's purchase of Optic White, and the purchases of Optic  
 19 White by other Class members, constituted "transactions" as that term is defined in Cal. Civ. Code §  
 20 1761(e). Defendant's actions, representations, and conduct has violated, and continues to violate the  
 21 CLRA, because they extend to transactions that intended to result, or which have resulted in, the sale  
 22 of Optic White to consumers.

23 56. The policies, acts, and practices described in this Complaint were intended to and did  
 24 result in the sale of Optic White to Plaintiff and the Class. Defendant's practices, acts, policies, and  
 25 course of conduct violated the CLRA §§ 1750, *et seq.* as described above.

26 57. Defendant represented that Optic White had sponsorship, approval, characteristics,  
 27 uses, and benefits, which it did not have, in violation of Cal. Civ. Code § 1770(a)(5).  
 28

1           58. Defendant represented that Optic White was of a particular standard, quality, and  
2 grade, when it was another, in violation of California Civil Code § 1770(a)(7).

3           59. Defendant violated California Civil Code §§ 1770(a)(5) and (a)(7) by representing  
4 that Optic White was effective at deeply whitening teeth, and effective at going beyond surface stain  
5 removal to deeply whiten teeth when, in fact, it was not.

6           60. Defendant advertised Optic White with the intent not to sell it as advertised in  
7 violation of § 1770(a)(9) of the CLRA. Defendant did not intend to sell Optic White as advertised  
8 because Defendant knew that peroxide in toothpaste is not effective at deeply whitening teeth, or at  
9 removing intrinsic stains in teeth.

10          61. Plaintiff and the Class members suffered injuries caused by Defendant's  
11 misrepresentations because: (a) Plaintiff and the Class Members would not have purchased Optic  
12 White if they had known the true facts; (b) Plaintiff and the Class paid an increased price for Optic  
13 White due to the mislabeling of Optic White; and (c) Optic White did not have the level of quality,  
14 effectiveness, or value as promised.

15          62. Prior to the filing of this Complaint, a CLRA notice letter was served on Defendant,  
16 which complies in all respects with California Civil Code § 1782(a). A true and correct copy of  
17 Plaintiff's letter is attached as Exhibit A. In December 2016, Plaintiff sent Defendant a letter via  
18 certified mail, return receipt requested, advising Defendant that it is in violation of the CLRA and  
19 must correct, repair, replace, or otherwise rectify the goods alleged to be in violation of § 1770.  
20 Defendant was further advised that in the event that the relief requested had not been provided within  
21 thirty (30) days, Plaintiff would bring an action for damages pursuant to the CLRA.

22          63. Should defendants fail to adequately respond to Plaintiff's notice within 30 days,  
23 Plaintiff will amend this complaint and seek all available damages under the CLRA for all violations  
24 complained of herein, including, but not limited to, statutory damages, punitive damages, attorneys'  
25 fees and costs, and any other relief that the Court deems proper.

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27 ///

**COUNT IV**

**False Advertising Law, Business & Professions Code §§ 17500, *et seq.***

64. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth herein.

65. Plaintiff brings this Count on behalf of the Class.

66. California's FAL (Bus. & Prof. Code §§ 17500, *et seq.*) makes it "unlawful for any person to make or disseminate or cause to be made or disseminated before the public in this state, . . . in any advertising device . . . or in any other manner or means whatever, including over the Internet, any statement, concerning . . . personal property or services, professional or otherwise, or performance or disposition thereof, which is untrue or misleading and which is known, or which by the exercise of reasonable care should be known, to be untrue or misleading."

67. Throughout the Class Period, Defendant committed acts of false advertising, as defined by the FAL, by using false and misleading statements to promote the sale of Optic White, as described above, and including, but not limited to, representing that Optic White deeply whitens teeth, that Optic White is clinically proven to whiten and go beyond surface stain removal to deeply whiten teeth, and that Optic White whitens intrinsic stains.

68. Defendant knew or should have known, through the exercise of reasonable care, that their statements were untrue and misleading.

69. Defendant's actions in violation of the FAL were false and misleading such that the general public is and was likely to be deceived.

70. As a direct and proximate result of these acts, consumers have been and are being harmed. Plaintiff and members of the Class have suffered injury and actual out-of-pocket losses as a result of Defendant's FAL violation because: (a) Plaintiff and the Class would not have purchased Optic White if they had known the true facts regarding the effectiveness of Optic White; (b) Plaintiff and the Class paid an increased price due to the misrepresentations about Optic White; and (c) Optic White did not have the promised quality, effectiveness, or value.

71. Consumers, including Plaintiff and members of the Class, necessarily and reasonably

1 relied on Defendant's advertisements, which were not properly qualified, regarding the quality and  
 2 standard of its Optic White toothpaste. Consumers, including Plaintiff and members of the Class,  
 3 were among the intended targets of such misrepresentations.

4 72. Plaintiff brings this action pursuant to Bus. & Prof. Code § 17535 for injunctive relief  
 5 to enjoin the practices described herein and to require Defendant to issue corrective disclosures to  
 6 consumers. Plaintiff and the California Class are therefore entitled to: (a) an order requiring  
 7 Defendant to cease the acts of unfair competition alleged herein; (b) full restitution of all monies paid  
 8 to Defendant as a result of their deceptive practices; (c) interest at the highest rate allowable by law;  
 9 and (d) the payment of Plaintiff's attorneys' fees and costs pursuant to, *inter alia*, California Code of  
 10 Civil Procedure §1021.5.

#### 11 COUNT V

#### 12 **The "Unlawful Prong" of the Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.***

13 73. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth  
 14 herein.

15 74. Plaintiff brings this Count on behalf of the Class.

16 75. The UCL, Bus. & Prof. Code §§ 17200, *et seq.*, provides, in pertinent part: "Unfair  
 17 competition shall mean and include unlawful, unfair or fraudulent business practices and unfair,  
 18 deceptive, untrue or misleading advertising ...." The UCL also provides for injunctive relief and  
 19 restitution for UCL violations.

20 76. "By proscribing any unlawful business practice, section 17200 borrows violations of  
 21 other laws and treats them as unlawful practices that the UCL makes independently actionable." *Cel-*  
 22 *Tech Communications, Inc. v. Los Angeles Cellular Telephone Co.*, 20 Cal. 4th 163, 180 (1999)  
 23 (citations and internal quotation marks omitted).

24 77. Virtually any law or regulation – federal or state, statutory, or common law – can  
 25 serve as a predicate for an UCL "unlawful" violation. *Klein v. Chevron U.S.A., Inc.*, 202 Cal. App.  
 26 4th 1342, 1383 (2012).

27 78. Defendant violated the "unlawful prong" by violating the CLRA, and the FAL, as  
 28

1 well as by breaching express and implied warranties as described herein.

2 79. As a direct and proximate result of these acts, consumers have been and are being  
3 harmed. Plaintiff and members of the Class have suffered injury and actual out-of-pocket losses as a  
4 result of Defendant's UCL "unlawful prong" violation because: (a) Plaintiff and the Class would not  
5 have purchased Optic White if they had known the true facts regarding the effectiveness and contents  
6 of Optic White; (b) Plaintiff and the Class paid an increased price due to the misrepresentations  
7 about Optic White; and (c) Optic White did not have the promised quality, effectiveness, or value.

8 80. Pursuant to Bus. & Prof. Code § 17203, Plaintiff and the Class are therefore entitled  
9 to: (a) an order requiring Defendant to cease the acts of unfair competition alleged herein; (b) full  
10 restitution of all monies paid to Defendant as a result of their deceptive practices; (c) interest at the  
11 highest rate allowable by law; and (d) the payment of Plaintiff's attorneys' fees and costs pursuant to,  
12 *inter alia*, California Code of Civil Procedure §1021.5.

### 13 **COUNT VI**

#### 14 **The "Fraudulent Prong" of the Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.***

15 81. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth  
16 herein.

17 82. Plaintiff brings this Count on behalf of the Class.

18 83. The UCL, Bus. & Prof. Code §§ 17200, *et seq.*, provides, in pertinent part: "Unfair  
19 competition shall mean and include unlawful, unfair or fraudulent business practices and unfair,  
20 deceptive, untrue or misleading advertising ...."

21 84. Defendant's conduct, described herein, violated the "fraudulent" prong of the UCL  
22 because Defendant represented that Optic White deeply whitens teeth, and goes beyond surface stain  
23 removal to deeply whiten teeth when, in fact, it does not. As described above, Defendant  
24 misrepresented that Optic White deeply whitens and that it is clinically proven to whiten teeth with  
25 peroxide and to go beyond surface stains.

26 85. Plaintiff and the Class members are not sophisticated experts with independent  
27 knowledge of the formulation or efficacy of Optic White, and they acted reasonably when they  
28



1 purchased Optic White based on their belief that Defendant's representations were true.

2 86. Defendant knew or should have known, through the exercise of reasonable care, that  
3 their representations about Optic White were untrue and misleading.

4 87. As a direct and proximate result of these acts, consumers have been and are being  
5 harmed. Plaintiff and members of the Class have suffered injury and actual out-of-pocket losses as a  
6 result of Defendant's UCL "fraudulent prong" violation because: (a) Plaintiff and the Class would  
7 not have purchased Optic White if they had known the true facts regarding the effectiveness of Optic  
8 White; (b) Plaintiff and the Class paid an increased price due to the misrepresentations about Optic  
9 White; and (c) Optic White did not have the promised quality, effectiveness, or value.

10 88. Pursuant to Bus. & Prof. Code §17203, Plaintiff and the Class are therefore entitled  
11 to: (a) an order requiring Defendant to cease the acts of unfair competition alleged herein; (b) full  
12 restitution of all monies paid to Defendant as a result of their deceptive practices; (c) interest at the  
13 highest rate allowable by law; and (d) the payment of Plaintiff's attorneys' fees and costs pursuant to,  
14 *inter alia*, Code of Civil Procedure §1021.5.

#### 15 **COUNT VII**

#### 16 **The "Unfair Prong" of the Unfair Competition Law, Bus. & Prof. Code §§ 17200, *et seq.***

17 89. Plaintiff repeats the allegations contained in the paragraphs above as if fully set forth  
18 herein.

19 90. Plaintiff brings this Count on behalf of the Class.

20 91. The UCL, Bus. & Prof. Code §§ 17200, *et seq.*, provides, in pertinent part: "Unfair  
21 competition shall mean and include unlawful, unfair or fraudulent business practices and unfair,  
22 deceptive, untrue or misleading advertising ...."

23 92. Defendant's misrepresentations and other conduct, described herein, violated the  
24 "unfair" prong of the UCL in that their conduct is substantially injurious to consumers, offends  
25 public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct  
26 outweighs any alleged benefits. Defendant's conduct is unfair in that the harm to Plaintiff and the  
27 Class arising from Defendant's conduct outweighs the utility, if any, of those practices.

95. Pursuant to Bus. & Prof. Code § 17203, Plaintiff, and the Class are therefore entitled to: (a) an order requiring Defendant to cease the acts of unfair competition alleged herein; (b) full restitution of all monies paid to Defendant as a result of their deceptive practices; (c) interest at the highest rate allowable by law; and (d) the payment of Plaintiff's attorneys' fees and costs pursuant to, *inter alia*, California Code of Civil Procedure § 1021.5.

**WHEREFORE, Plaintiff prays for relief and judgment, as follows:**

1 A. Determining that this action is a proper class action;

2 B. For an order declaring that the Defendant's conduct violates the statutes referenced  
3 herein;

4 C. Awarding compensatory or related damages in favor of Plaintiff, and members of the  
5 Class against Defendant for all damages sustained as a result of the Defendant's wrongdoing, in an  
6 amount to be proven at trial, including interest thereon;

7 D. For an order of restitution and/or disgorgement and all other forms of equitable  
8 monetary relief;

9 E. Awarding Plaintiff and members of the Class their reasonable costs and expenses  
10 incurred in this action, including counsel fees and expert fees; and

11 F. Awarding such other and further relief as the Court may deem just and proper.

12 **JURY DEMAND**

13 Plaintiff hereby demands a trial by jury on all claims so triable in this action

14 Dated: December 1, 2016

Respectfully submitted,

16 **FINKELSTEIN & KRINSK LLP**

18 By: 

Jeffrey R. Krinsk

David J. Harris, Jr.

A. Trent Ruark

Trenton R. Kashima

Attorneys for the Plaintiff

**VERIFICATION OF MELISSA VIGIL**

I, Melissa Vigil, am the Plaintiff in the referenced case, including with respect to the third cause of action for violations of the Consumer Legal Remedies Act. I am a competent adult, over eighteen years of age, and a resident of the State of California. I am making this declaration in support of my Class Action Complaint against Colgate-Palmolive Co.

I purchased Colgate Optic White toothpaste at a Target store in Alameda, California within the relevant statute of limitations. As such, the transaction which gives rise to this Complaint occurred within Alameda County. Additionally, Defendant advertises, markets, and sells its products in Alameda County, thus Defendant conducts substantial business within this County.

I declare and certify that I have read the foregoing complaint and know its contents. I am the Plaintiff in this action. The matters stated in the complaint described above are true of my own knowledge and belief except as to those matters stated on information and belief, and as to those matters I believe them to be true.

Accordingly, pursuant to California Code of Civil Procedure, section 1780, the Superior Court of California, County of Alameda is the proper venue for Plaintiff and the Class' with respect to the Consumer Legal Remedies Act claims.

I declare (or certify) under penalty of perjury that the foregoing is true and correct.

Executed on 12/1/16, 2016, at HAYWARD, California.

  
Melissa Vigil

12/1/16

---

CLASS ACTION COMPLAINT

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Finkelstein &amp; Krnsk LLP</b> <b>Jeffrey R. Krnsk</b> <b>550 West C Street, Ste. 1760</b> <b>San Diego, CA 92101</b> TELEPHONE NO.: 619.238.1333 FAX NO.: 619.238.5425 ATTORNEY FOR (Name):		<b>FILED BY FAX</b> <b>ALAMEDA COUNTY</b> <b>December 02, 2016</b> <b>CLERK OF</b> <b>THE SUPERIOR COURT</b> <b>By Melanie Williams, Deputy</b> <b>CASE NUMBER:</b> <b>RG16841304</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda</b> STREET ADDRESS: 1225 Fallon Street MAILING ADDRESS: CITY AND ZIP CODE: <b>Oakland, CA</b> BRANCH NAME: <b>Oakland</b>		
CASE NAME: <b>Vigil v. Colgate-Palmolive Co.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	
<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)		CASE NUMBER:  JUDGE:  DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (48) <b>Other PIPD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PIPD/W/D (23) <b>Non-PIP/W/D (Other) Tort</b> <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PIP/W/D tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (38) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (08) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
---	--	---

2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input checked="" type="checkbox"/> Large number of separately represented parties	d. <input type="checkbox"/> Large number of witnesses
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve	e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
c. <input type="checkbox"/> Substantial amount of documentary evidence	f. <input type="checkbox"/> Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive

4. Number of causes of action (specify): UCL, CLRA

5. This case ☒ is ☐ is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 1, 2016

Jeffrey R. Krnsk

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

 Form Adopted for Mandatory Use  
 Judicial Council of California  
 CM-010 (Rev. July 1, 2007)

## CIVIL CASE COVER SHEET

 Cal. Rules of Court, rules 3.20, 3.220, 3.400-3.403, 3.740;  
 Cal. Standards of Judicial Administration, std. 3.10  
[www.courtinfo.ca.gov](http://www.courtinfo.ca.gov)

 American LegalNet, Inc.  
[www.PharmaWorldflow.com](http://www.PharmaWorldflow.com)

CM-010

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you must complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check one box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties In Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties In Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease  
Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor  
Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal. Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition



## Unified Rules of the Superior Court of California, County of Alameda

## F. ADDENDUM TO CIVIL CASE COVER SHEET

Short Title:

Vigil v. Colgate-Palmolive Co.

Case Number:

## CIVIL CASE COVER SHEET ADDENDUM

BY FAX

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE  
SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

[ ] Hayward Hall of Justice (447)

[ x ] Oakland, Rene C. Davidson Alameda County Courthouse (446)

[ ] Pleasanton, Gale-Schenone Hall of Justice (448)

Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	[ ] 34 Auto tort (G) Is this an uninsured motorist case? [ ] yes [ ] no
Other PI / PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	[ ] 75 Asbestos (D) [ ] 89 Product liability (not asbestos or toxic tort/environmental) (G) [ ] 97 Medical malpractice (G) [ ] 33 Other PI/PD/WD tort (G)
Non - PI / PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	[ x ] 79 Bus tort / unfair bus. practice (G) [ ] 80 Civil rights (G) [ ] 84 Defamation (G) [ ] 24 Fraud (G) [ ] 87 Intellectual property (G) [ ] 59 Professional negligence - non-medical (G) [ ] 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	[ ] 38 Wrongful termination (G) [ ] 85 Other employment (G) [ ] 53 Labor comm award confirmation [ ] 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wmty (06) Collections (09) Insurance coverage (18) Other contract (37)	[ ] 04 Breach contract / Wmty (G) [ ] 81 Collections (G) [ ] 86 Ins. coverage - non-complex (G) [ ] 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	[ ] 18 Eminent domain / Inv Cdm (G) [ ] 17 Wrongful eviction (G) [ ] 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	[ ] 94 Unlawful Detainer - commercial [ ] 47 Unlawful Detainer - residential [ ] 21 Unlawful detainer - drugs Is the deft. in possession of the property? [ ] Yes [ ] No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	[ ] 41 Asset forfeiture [ ] 62 Pet. re: arbitration award [ ] 49 Writ of mandate Is this a CEQA action (Publ.Res.Code section 21000 et seq) [ ] Yes [ ] No [ ] 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	[ ] 77 Antitrust / Trade regulation [ ] 82 Construction defect [ ] 78 Claims involving mass tort [ ] 91 Securities litigation [ ] 93 Toxic tort / Environmental [ ] 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	[ ] 19 Enforcement of judgment [ ] 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	[ ] 90 RICO (G) [ ] 88 Partnership / Corp. governance (G) [ ] 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	[ ] 06 Change of name [ ] 69 Other petition

Finkelstein & Krinsk LLP  
 Attn: Krinsk, Jeffrey R  
 550 West C St  
 Ste 1760  
 San Diego, CA 92101

Colgate-Palmolive Co.

**Superior Court of California, County of Alameda**  
**Rene C. Davidson Alameda County Courthouse**

Vigil

Plaintiff/Petitioner(s)

VS.

Colgate-Palmolive Co.

Defendant/Respondent(s)

(Abbreviated Title)

No. RG16841304

**NOTICE OF HEARING**

To each party or to the attorney(s) of record for each party herein:

Notice is hereby given that the above-entitled action has been set for:

Complex Determination Hearing  
 Case Management Conference

You are hereby notified to appear at the following Court location on the date and time noted below:

**Complex Determination Hearing:**

DATE: 01/17/2017 TIME: 03:00 PM DEPARTMENT: 30

LOCATION: U.S. Post Office Building, Second Floor  
 201 13th Street, Oakland

**Case Management Conference:**

DATE: 02/21/2017 TIME: 03:00 PM DEPARTMENT: 30

LOCATION: U.S. Post Office Building, Second Floor  
 201 13th Street, Oakland

Pursuant to California Rules of Court, Rule 3.400 et seq. and Local Rule 3.250 (Unified Rules of the Superior Court, County of Alameda), the above-entitled matter is set for a Complex Litigation Determination Hearing and Initial Complex Case Management Conference.

Department 30 issues tentative rulings on DomainWeb ([www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb)). For parties lacking access to DomainWeb, the tentative ruling must be obtained from the clerk at (510) 268-5104. Please consult Rule 3.30(c) of the Unified Rules of the Superior Court, County of Alameda, concerning the tentative ruling procedures for Department 30.

Counsel or party requesting complex litigation designation is ordered to serve a copy of this notice on all parties omitted from this notice or brought into the action after this notice was mailed.

All counsel of record and any unrepresented parties are ordered to attend this Initial Complex Case Management Conference unless otherwise notified by the Court.

Failure to appear, comply with local rules or provide a Case Management Conference statement may result in sanctions. Case Management Statements may be filed by E-Delivery, by submitting directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to **Direct Calendar Departments** at



<http://apps.alameda.courts.ca.gov/domainweb>.

All motions in this matter to be heard prior to Complex Litigation Determination Hearing must be scheduled for hearing in Department 30.

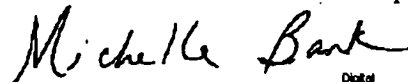
If the information contained in this notice requires change or clarification, please contact the courtroom clerk for Department 30 by e-mail at Dept.30@alameda.courts.ca.gov or by phone at (510) 268-5104.

TELEPHONIC COURT APPEARANCES at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties can make arrangements by calling (888) 882-6878, or faxing a service request form to (888) 883-2946. This service is subject to charges by the vendor.

Dated: 12/08/2016

Chad Finke Executive Officer / Clerk of the Superior Court

By



Deputy Clerk

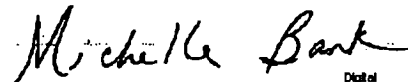
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**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 12/09/2016.

By



Deputy Clerk

# EXHIBIT B-2

# SUMMONS (CITACION JUDICIAL)

**NOTICE TO DEFENDANT:  
(AVISO AL DEMANDADO):**  
COLGATE-PALMOLIVE CO.

**YOU ARE BEING SUED BY PLAINTIFF:  
(LO ESTÁ DEMANDANDO EL DEMANDANTE):**  
Melissa L. Vigil, individually and on behalf of all others similarly  
situated.

SUM-100

FOR COURT USE ONLY  
(SOLO PARA USO DE LA CORTE)

**FILED BY FAX**  
ALAMEDA COUNTY

December 02, 2016

CLERK OF  
THE SUPERIOR COURT  
By Melanie Williams, Deputy

**NOTICE!** You have been sued. The court may decide against you without your being heard unless you respond within 30 days. Read the information below.

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form. If you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), the California Courts Online Self-Help Center ([www.courtinfo.ca.gov/selfhelp](http://www.courtinfo.ca.gov/selfhelp)), or by contacting your local court or county bar association. **NOTE:** The court has a statutory lien for waived fees and costs on any settlement or arbitration award of \$10,000 or more in a civil case. The court's lien must be paid before the court will dismiss the case.

**¡AVISO!** Lo han demandado. Si no responde dentro de 30 días, la corte puede decidir en su contra sin escuchar su versión. Lea la información a continuación.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, ([www.lawhelpcalifornia.org](http://www.lawhelpcalifornia.org)), en el Centro de Ayuda de las Cortes de California, ([www.sucorte.ca.gov](http://www.sucorte.ca.gov)) o poniéndose en contacto con la corte o el colegio de abogados locales. **AVISO:** Por ley, la corte tiene derecho a reclamar las cuotas y los costos exentos por imponer un gravamen sobre cualquier recuperación de \$10,000 ó más de valor recibida mediante un acuerdo o una concesión de arbitraje en un caso de derecho civil. Tiene que pagar el gravamen de la corte antes de que la corte pueda desochar el caso.

The name and address of the court is:  
(El nombre y dirección de la corte es): Superior Court of CA, County of Alameda  
1225 Fallon Street  
Oakland CA, 94612

CASE NUMBER:  
(Número del Caso):

**RG16841304**

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:  
(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):  
Finkelstein & Krinsk LLP, Jeffrey Krinsk, 550 West C Street, Ste. 1760, San Diego, CA 92101

DATE: December 02, 2016  
(Fecha)

Clerk, by  
(Secretario)

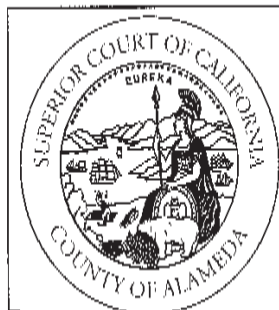
, Deputy  
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

**NOTICE TO THE PERSON SERVED:** You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):
3. ☐ on behalf of (specify):  
under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)  
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)  
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)  
☐ other (specify):
4. ☐ by personal delivery on (date):



# EXHIBIT B-3

CM-010

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <b>Finkelstein &amp; Krinsk LLP</b> <b>Jeffrey R. Krinsk</b> <b>550 West C Street, Ste. 1760</b> <b>San Diego, CA 92101</b> TELEPHONE NO.: <b>619.238.1333</b> FAX NO.: <b>619.238.5425</b> ATTORNEY FOR (Name):		<b>FILED BY FAX</b> <b>ALAMEDA COUNTY</b> <b>December 02, 2016</b> <b>CLERK OF</b> <b>THE SUPERIOR COURT</b> <b>By Melanie Williams, Deputy</b> <b>CASE NUMBER:</b> <b>RG16841304</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF Alameda</b> STREET ADDRESS: <b>1225 Fallon Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>Oakland, CA</b> BRANCH NAME: <b>Oakland</b>		
CASE NAME: <b>Vigil v. Colgate-Palmolive Co.</b>		
<b>CIVIL CASE COVER SHEET</b> <input checked="" type="checkbox"/> <b>Unlimited</b> (Amount demanded exceeds \$25,000)	<input type="checkbox"/> <b>Limited</b> (Amount demanded is \$25,000 or less)	<b>Complex Case Designation</b> <input type="checkbox"/> <b>Counter</b> <input type="checkbox"/> <b>Joinder</b> Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)
		CASE NUMBER: JUDGE: DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

<b>Auto Tort</b> <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) <b>Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort</b> <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) <b>Non-PI/PD/WD (Other) Tort</b> <input checked="" type="checkbox"/> Business tort/unfair business practice (07) <input type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) <b>Employment</b> <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	<b>Contract</b> <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Rule 3.740 collections (09) <input type="checkbox"/> Other collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) <b>Real Property</b> <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) <b>Unlawful Detainer</b> <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) <b>Judicial Review</b> <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	<b>Provisionally Complex Civil Litigation</b> (Cal. Rules of Court, rules 3.400-3.403) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental/Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) <b>Enforcement of Judgment</b> <input type="checkbox"/> Enforcement of judgment (20) <b>Miscellaneous Civil Complaint</b> <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) <b>Miscellaneous Civil Petition</b> <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case ☒ is ☐ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- |  |  |
|--|--|
| a. <input checked="" type="checkbox"/> Large number of separately represented parties  | d. <input type="checkbox"/> Large number of witnesses  |
| b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. <input type="checkbox"/> Substantial amount of documentary evidence   | f. <input type="checkbox"/> Substantial postjudgment judicial supervision  |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☒ nonmonetary; declaratory or injunctive relief c. ☒ punitive
4. Number of causes of action (specify): UCL, CLRA
5. This case ☒ is ☐ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: December 1, 2016

Jeffrey R. Krinsk

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

## NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

Page 1 of 2

CM-010

## INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

**To Plaintiffs and Others Filing First Papers.** If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must complete items 1 through 6 on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 2.30 and 3.220 of the California Rules of Court.

**To Parties in Rule 3.740 Collections Cases.** A "collections case" under rule 3.740 is defined as an action for recovery of money owed in a sum stated to be certain that is not more than \$25,000, exclusive of interest and attorney's fees, arising from a transaction in which property, services, or money was acquired on credit. A collections case does not include an action seeking the following: (1) tort damages, (2) punitive damages, (3) recovery of real property, (4) recovery of personal property, or (5) a prejudgment writ of attachment. The identification of a case as a rule 3.740 collections case on this form means that it will be exempt from the general time-for-service requirements and case management rules, unless a defendant files a responsive pleading. A rule 3.740 collections case will be subject to the requirements for service and obtaining a judgment in rule 3.740.

**To Parties in Complex Cases.** In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 3.400 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

## CASE TYPES AND EXAMPLES

## Auto Tort

Auto (22)—Personal Injury/Property Damage/Wrongful Death  
Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

## Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)  
Asbestos Property Damage  
Asbestos Personal Injury/Wrongful Death  
Product Liability (*not asbestos or toxic/environmental*) (24)  
Medical Malpractice (45)  
Medical Malpractice—Physicians & Surgeons  
Other Professional Health Care Malpractice  
Other PI/PD/WD (23)  
Premises Liability (e.g., slip and fall)  
Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)  
Intentional Infliction of Emotional Distress  
Negligent Infliction of Emotional Distress  
Other PI/PD/WD

## Non-PI/PD/WD (Other) Tort

Business Tort/Unfair Business Practice (07)  
Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*) (08)  
Defamation (e.g., slander, libel) (13)  
Fraud (16)  
Intellectual Property (19)  
Professional Negligence (25)  
Legal Malpractice  
Other Professional Malpractice (*not medical or legal*)  
Other Non-PI/PD/WD Tort (35)

## Employment

Wrongful Termination (36)  
Other Employment (15)

## Contract

Breach of Contract/Warranty (06)  
Breach of Rental/Lease Contract (*not unlawful detainer or wrongful eviction*)  
Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)  
Negligent Breach of Contract/Warranty  
Other Breach of Contract/Warranty  
Collections (e.g., money owed, open book accounts) (09)  
Collection Case—Seller Plaintiff  
Other Promissory Note/Collections Case  
Insurance Coverage (*not provisionally complex*) (18)  
Auto Subrogation  
Other Coverage  
Other Contract (37)  
Contractual Fraud  
Other Contract Dispute

## Real Property

Eminent Domain/Inverse Condemnation (14)  
Wrongful Eviction (33)  
Other Real Property (e.g., quiet title) (26)  
Writ of Possession of Real Property  
Mortgage Foreclosure  
Quiet Title  
Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

## Unlawful Detainer

Commercial (31)  
Residential (32)  
Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential*)

## Judicial Review

Asset Forfeiture (05)  
Petition Re: Arbitration Award (11)  
Writ of Mandate (02)  
Writ—Administrative Mandamus  
Writ—Mandamus on Limited Court Case Matter  
Writ—Other Limited Court Case Review  
Other Judicial Review (39)  
Review of Health Officer Order  
Notice of Appeal—Labor Commissioner Appeals

## Provisionally Complex Civil Litigation (Cal.

## Rules of Court Rules 3.400–3.403)

Antitrust/Trade Regulation (03)  
Construction Defect (10)  
Claims Involving Mass Tort (40)  
Securities Litigation (28)  
Environmental/Toxic Tort (30)  
Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

## Enforcement of Judgment

Enforcement of Judgment (20)  
Abstract of Judgment (Out of County)  
Confession of Judgment (*non-domestic relations*)  
Sister State Judgment  
Administrative Agency Award (*not unpaid taxes*)  
Petition/Certification of Entry of Judgment on Unpaid Taxes  
Other Enforcement of Judgment Case

## Miscellaneous Civil Complaint

RICO (27)  
Other Complaint (*not specified above*) (42)  
Declaratory Relief Only  
Injunctive Relief Only (*non-harassment*)  
Mechanics Lien  
Other Commercial Complaint Case (*non-tort/non-complex*)  
Other Civil Complaint (*non-tort/non-complex*)

## Miscellaneous Civil Petition

Partnership and Corporate Governance (21)  
Other Petition (*not specified above*) (43)  
Civil Harassment  
Workplace Violence  
Elder/Dependent Adult Abuse  
Election Contest  
Petition for Name Change  
Petition for Relief From Late Claim  
Other Civil Petition



## Unified Rules of the Superior Court of California, County of Alameda

## F. ADDENDUM TO CIVIL CASE COVER SHEET

<b>Short Title:</b> Vigil v. Colgate-Palmolive Co.	<b>Case Number:</b>
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## CIVIL CASE COVER SHEET ADDENDUM

BY FAX

THIS FORM IS REQUIRED IN ALL NEW UNLIMITED CIVIL CASE FILINGS IN THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA		
[ ] Hayward Hall of Justice (447)		
[ x ] Oakland, Rene C. Davidson Alameda County Courthouse (446)		
[ ] Pleasanton, Gale-Schenone Hall of Justice (448)		
Civil Case Cover Sheet Category	Civil Case Cover Sheet Case Type	Alameda County Case Type (check only one)
Auto Tort	Auto tort (22)	[ ] 34 Auto tort (G) Is this an uninsured motorist case? [ ] yes [ ] no
Other PI /PD / WD Tort	Asbestos (04) Product liability (24) Medical malpractice (45) Other PI/PD/WD tort (23)	[ ] 75 Asbestos (D) [ ] 89 Product liability (not asbestos or toxic tort/environmental) (G) [ ] 97 Medical malpractice (G) [ ] 33 Other PI/PD/WD tort (G)
Non - PI /PD / WD Tort	Bus tort / unfair bus. practice (07) Civil rights (08) Defamation (13) Fraud (16) Intellectual property (19) Professional negligence (25) Other non-PI/PD/WD tort (35)	[ x ] 79 Bus tort / unfair bus. practice (G) [ ] 80 Civil rights (G) [ ] 84 Defamation (G) [ ] 24 Fraud (G) [ ] 87 Intellectual property (G) [ ] 59 Professional negligence - non-medical (G) [ ] 03 Other non-PI/PD/WD tort (G)
Employment	Wrongful termination (36) Other employment (15)	[ ] 38 Wrongful termination (G) [ ] 85 Other employment (G) [ ] 53 Labor comm award confirmation [ ] 54 Notice of appeal - L.C.A.
Contract	Breach contract / Wmnty (06) Collections (09) Insurance coverage (18) Other contract (37)	[ ] 04 Breach contract / Wmnty (G) [ ] 81 Collections (G) [ ] 86 Ins. coverage - non-complex (G) [ ] 98 Other contract (G)
Real Property	Eminent domain / Inv Cdm (14) Wrongful eviction (33) Other real property (26)	[ ] 18 Eminent domain / Inv Cdm (G) [ ] 17 Wrongful eviction (G) [ ] 36 Other real property (G)
Unlawful Detainer	Commercial (31) Residential (32) Drugs (38)	[ ] 94 Unlawful Detainer - commercial [ ] 47 Unlawful Detainer - residential [ ] 21 Unlawful detainer - drugs Is the deft. in possession of the property? [ ] Yes [ ] No
Judicial Review	Asset forfeiture (05) Petition re: arbitration award (11) Writ of Mandate (02) Other judicial review (39)	[ ] 41 Asset forfeiture [ ] 62 Pet. re: arbitration award [ ] 49 Writ of mandate Is this a CEQA action (Publ.Res.Code section 21000 et seq) [ ] Yes [ ] No [ ] 64 Other judicial review
Provisionally Complex	Antitrust / Trade regulation (03) Construction defect (10) Claims involving mass tort (40) Securities litigation (28) Toxic tort / Environmental (30) Ins covrg from cmplx case type (41)	[ ] 77 Antitrust / Trade regulation [ ] 82 Construction defect [ ] 78 Claims involving mass tort [ ] 91 Securities litigation [ ] 93 Toxic tort / Environmental [ ] 95 Ins covrg from complex case type
Enforcement of Judgment	Enforcement of judgment (20)	[ ] 19 Enforcement of judgment [ ] 08 Confession of judgment
Misc Complaint	RICO (27) Partnership / Corp. governance (21) Other complaint (42)	[ ] 90 RICO (G) [ ] 88 Partnership / Corp. governance (G) [ ] 68 All other complaints (G)
Misc. Civil Petition	Other petition (43)	[ ] 06 Change of name [ ] 69 Other petition



# EXHIBIT B-4

Finkelstein & Krinsk LLP  
Attn: Krinsk, Jeffrey R  
550 West C St  
Ste 1760  
San Diego, CA 92101

Colgate-Palmolive Co.

**Superior Court of California, County of Alameda  
Rene C. Davidson Alameda County Courthouse**

<p>Vigil</p> <p>Plaintiff/Petitioner(s)</p>	<p>No. <u>RG16841304</u></p>
<p>VS.</p> <p>Colgate-Palmolive Co.</p> <p>Defendant/Respondent(s) (Abbreviated Title)</p>	<p>NOTICE OF HEARING</p>

To each party or to the attorney(s) of record for each party herein:  
Notice is hereby given that the above-entitled action has been set for:  
Complex Determination Hearing  
Case Management Conference

You are hereby notified to appear at the following Court location on the date and time noted below:

**Complex Determination Hearing:**

DATE: 01/17/2017 TIME: 03:00 PM DEPARTMENT: 30  
LOCATION: U.S. Post Office Building, Second Floor  
201 13th Street, Oakland

**Case Management Conference:**

DATE: 02/21/2017 TIME: 03:00 PM DEPARTMENT: 30  
LOCATION: U.S. Post Office Building, Second Floor  
201 13th Street, Oakland

Pursuant to California Rules of Court, Rule 3.400 et seq. and Local Rule 3.250 (Unified Rules of the Superior Court, County of Alameda), the above-entitled matter is set for a Complex Litigation Determination Hearing and Initial Complex Case Management Conference.

Department 30 issues tentative rulings on DomainWeb ([www.alameda.courts.ca.gov/domainweb](http://www.alameda.courts.ca.gov/domainweb)). For parties lacking access to DomainWeb, the tentative ruling must be obtained from the clerk at (510) 268-5104. Please consult Rule 3.30(c) of the Unified Rules of the Superior Court, County of Alameda, concerning the tentative ruling procedures for Department 30.

Counsel or party requesting complex litigation designation is ordered to serve a copy of this notice on all parties omitted from this notice or brought into the action after this notice was mailed.

All counsel of record and any unrepresented parties are ordered to attend this Initial Complex Case Management Conference unless otherwise notified by the Court.

Failure to appear, comply with local rules or provide a Case Management Conference statement may result in sanctions. Case Management Statements may be filed by E-Delivery, by submitting directly to the E-Delivery Fax Number (510) 267-5732. No fee is charged for this service. For further information, go to **Direct Calendar Departments** at

<http://apps.alameda.courts.ca.gov/domainweb>.

All motions in this matter to be heard prior to Complex Litigation Determination Hearing must be scheduled for hearing in Department 30.

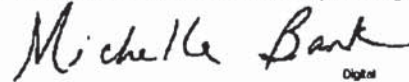
If the information contained in this notice requires change or clarification, please contact the courtroom clerk for Department 30 by e-mail at [Dept.30@alameda.courts.ca.gov](mailto:Dept.30@alameda.courts.ca.gov) or by phone at (510) 268-5104.

TELEPHONIC COURT APPEARANCES at Case Management Conferences may be available by contacting CourtCall, an independent vendor, at least 3 business days prior to the scheduled conference. Parties can make arrangements by calling (888) 882-6878, or faxing a service request form to (888) 883-2946. This service is subject to charges by the vendor.

Dated: 12/08/2016

Chad Finke Executive Officer / Clerk of the Superior Court

By



Digital  
Deputy Clerk

**CLERK'S CERTIFICATE OF MAILING**

I certify that the following is true and correct: I am the clerk of the above-named court and not a party to this cause. I served this Notice by placing copies in envelopes addressed as shown hereon and then by sealing and placing them for collection, stamping or metering with prepaid postage, and mailing on the date stated below, in the United States mail at Alameda County, California, following standard court practices.

Executed on 12/09/2016.

By



Digital  
Deputy Clerk

## CIVIL COVER SHEET

The JS-CAND 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 in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

MELISSA L. VIGIL, individually and on behalf of all others similarly situated

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

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

FINKELSTEIN & KRINSKY LLP  
Jeffrey R. Krinsky  
David J. Harris, Jr.  
A. Trent Ruark  
Trenton R. Kashima  
550 W. C Street, Suite 1760  
San Diego, California 92101

## DEFENDANTS

COLGATE-PALMOLIVE CO.

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)

Robyn E. Bladow (Bar No. 205189)  
KIRKLAND & ELLIS LLP  
333 South Hope Street  
Los Angeles, CA 90071  
Telephone: (213) 680-8400

## 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)

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

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

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice <b>PERSONAL INJURY</b> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC § 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities-Employment <input type="checkbox"/> 446 Amer. w/Disabilities-Other <input type="checkbox"/> 448 Education <b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-Conditions of Confinement			

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

- ☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation-Direct File

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 USC §§ 1332(d), 1441, 1446

Brief description of cause:  
Plaintiff alleges unfair business practices related to toothpaste purchases.

## VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S),

IF ANY (See instructions):

JUDGE Hon. Maxine M. Chesney

DOCKET NUMBER 3:16-cv-02697-MMC

## IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

DATE: 02/23/2017

SIGNATURE OF ATTORNEY OF RECORD: s/Robyn E. Bladow



## INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS-CAND 44

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

- I. a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
  - b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the “defendant” is the location of the tract of land involved.)
  - c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section “(see attachment).”
- II. Jurisdiction.** The basis of jurisdiction is set forth under Federal Rule of Civil Procedure 8(a), which requires that jurisdictions be shown in pleadings. Place an “X” in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- (1) United States plaintiff. Jurisdiction based on 28 USC §§ 1345 and 1348. Suits by agencies and officers of the United States are included here.
  - (2) United States defendant. When the plaintiff is suing the United States, its officers or agencies, place an “X” in this box.
  - (3) Federal question. This refers to suits under 28 USC § 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
  - (4) Diversity of citizenship. This refers to suits under 28 USC § 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS-CAND 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an “X” in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an “X” in one of the six boxes.
- (1) Original Proceedings. Cases originating in the United States district courts.
  - (2) Removed from State Court. Proceedings initiated in state courts may be removed to the district courts under Title 28 USC § 1441. When the petition for removal is granted, check this box.
  - (3) Remanded from Appellate Court. Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
  - (4) Reinstated or Reopened. Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
  - (5) Transferred from Another District. For cases transferred under Title 28 USC § 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
  - (6) Multidistrict Litigation Transfer. Check this box when a multidistrict case is transferred into the district under authority of Title 28 USC § 1407. When this box is checked, do not check (5) above.
  - (8) Multidistrict Litigation Direct File. Check this box when a multidistrict litigation case is filed in the same district as the Master MDL docket.
- Please note that there is no Origin Code 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC § 553. Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an “X” in this box if you are filing a class action under Federal Rule of Civil Procedure 23.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS-CAND 44 is used to identify related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.
- IX. Divisional Assignment.** If the Nature of Suit is under Property Rights or Prisoner Petitions or the matter is a Securities Class Action, leave this section blank. For all other cases, identify the divisional venue according to Civil Local Rule 3-2: “the county in which a substantial part of the events or omissions which give rise to the claim occurred or in which a substantial part of the property that is the subject of the action is situated.”

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

**PROOF OF SERVICE**

I, Laura Bay, am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 333 South Hope Street, Los Angeles, California 90071.

On February 23, 2017, the foregoing document was served on the interested parties in this action as follows:

[ X ] By placing the document listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Los Angeles, California addressed as set forth below. I am familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

FINKELSTEIN & KRINSK LLP

Jeffrey R. Krinsk

David J. Harris, Jr.

A. Trent Ruark

Trenton R. Kashima

550 W. C Street, Suite 1760

San Diego, California 92101

Telephone: (619) 238-1333

[X] (FEDERAL) I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on February 23, 2017 at Los Angeles, California.

  
Laura Bay