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FILED
Superior Court of California
County of Los Angeles

OCT 23 2017

Sherri R. Carter, Executive Officer/Clerk
By *Nancy Alvarez* Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF LOS ANGELES**

BC 680843

EMILY ELSON, STACY HAAVISTO,
LORETTA OAKES, MICHELLE
LANUM, JULIA LEFEBVRE, SUE
GRLUCKY, TILLY DORENKAMP,
DINA SALAS, ARLENE RODRIGUEZ,
JERRY GAINES, and all others
similarly situated,

Plaintiffs,

vs.

ASHLEY BLACK, an individual,
ASHLEY DIANA BLACK
INTERNATIONAL HOLDINGS, LLC,
a Delaware Corporation, ADB
INTERESTS LLC, a Texas Corporation,
and DOES 1-100,

Defendants.

CASE NO. _____

CLASS ACTION COMPLAINT FOR:

1. FALSE ADVERTISING (CAL. CIV. CODE § 1770)
2. STRICT PRODUCT LIABILITY – DESIGN DEFECT
3. STRICT PRODUCT LIABILITY – FAILURE TO WARN
4. NEGLIGENCE
5. NEGLIGENCE PER SE
6. GROSS NEGLIGENCE
7. RECKLESS MISCONDUCT
8. BREACH OF EXPRESS WARRANTY
9. BREACH OF IMPLIED WARRANTY: FITNESS FOR PARTICULAR PURPOSE
10. BREACH OF IMPLIED WARRANTY: MERCHANTABILITY
11. DECEIT/INTENTIONAL FRAUD
12. DEFAMATION
13. INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
14. UNFAIR BUSINESS PRACTICES (CAL. BUS. & PROF. CODE §§ 17200 *et seq.*)
15. FALSE ADVERTISING (CAL. BUS. & PROF. CODE §§ 17500 *et seq.*)

JURY TRIAL DEMANDED

CIT/CASE: BC680843
LEA/DEF#:

RECEIPT #: CCH451233096
DATE PAID: 10/23/17 04:07 PM
PAYMENT: \$1,435.00
RECEIVED:

CHECK: \$0.00
CASH: \$0.00
CHANGE: \$0.00
CARD: \$1,435.00

CCW
211
310

11/23/2017

1 Plaintiffs Emily Elson, Stacy Haavisto, Loretta Oakes, Michelle Lanum, Julia
2 Lefebvre, Sue Grlicky, Tilly Dorenkamp, Dina Salas, Arlene Rodriguez, and Jerry
3 Gaines ("Plaintiffs") on their own behalf and on behalf of all others similarly
4 situated, bring this action for injunctive relief and for damages under the laws of the
5 State of California.

6
7 **I. INTRODUCTION**

8 1. Defendants Ashley Black ("Black"), Ashley Diana Black International
9 Holdings, LLC, Adb Interests, LLC, and DOES 1-100 (collectively "Defendants")
10 manufacture, test, market, endorse, distribute and/or sell a putative medical device
11 called "FasciaBlaster" which not only (a) did and does fail to deliver the aesthetic
12 results stridently guaranteed by Defendants' false and deceptive advertising, but
13 which moreover (b) did and does cause a wide array of physical injuries exemplified
14 by the experiences of the Plaintiffs, running the gamut from simply worsening the
15 aesthetic conditions which the device is supposed to improve, to far more severe
16 harms such as extreme hormonal instability, stroke, and others described herein.
17 Furthermore, when some of the Plaintiffs justifiably discussed their dangerous and
18 scary FasciaBlaster experiences within Internet social media forums, hoping to find
19 answers and to help minimize the risks to others, Defendants responded with (c)
20 censorship and a vicious, vindictive campaign of orchestrated defamation,
21 harassment, cyber-bullying, intentional infliction of emotional distress, and
22 malicious prosecution.

23 2. Currently selling for \$89, the FasciaBlaster is ostensibly a massage
24 'stick' with handles on both ends and a set of hard plastic claws¹ protruding from

25
26 ¹ Various versions of the device, differing mainly in size, are advertised for
27 use on different parts of the body, e.g. "FaceBlaster," however all versions have the
28 central 'claw' features in common, and all are marketed as operating on roughly the
(footnote continued)

1 the middle. Its damage is done when a user follows Defendants' marketing and
2 instructional materials' direction: first, to heat up the target area of the body e.g. in a
3 sauna, then to strenuously, painfully rake² the claws over one's heated skin.
4 Defendants direct users to 'blast' at a pain level of "7 out of 10" in pursuit of a
5 laundry list of exciting results promised by Defendants, including cellulite
6 reduction, improved skin tone and muscle definition, and other health and beauty
7 benefits. Some FasciaBlaster marketing assertions, e.g. that 'blasting' relieves
8 symptoms of Multiple Sclerosis and Parkinson's disease, or that it is "completely
9 safe for children!" are particularly galling. And of course, Defendants assert that
10 said benefits are all the more likely when one also purchases from their line of
11 approved FasciaBlaster accessories, including expensive skin creams and oils for
12 use with the device.

13 3. In addition to the foregoing false advertising, Defendants did and do
14 make deceptive public representations e.g. regarding U.S. Food and Drug
15 Administration ("FDA") approval of the FasciaBlaster, regarding the scientific
16 testing their devices have undergone, and regarding the academic and medical
17 credentials of multiple agents and employees whom Defendants did and do feature
18 prominently in FasciaBlaster advertising and instructional materials.

19 4. On information and belief, Defendants have long known that
20 FasciaBlaster can be dangerous, but instead of issuing a recall or ceasing to sell the
21 devices, they have persevered in commerce largely indifferent to the harms the

22
23 same principle via the same general type of usage, i.e. aggressive self-massage over
24 targeted connective tissue. As such, to avoid confusion this Complaint refers to all
25 versions of the device under the umbrella term "FasciaBlaster" except where a
distinction between versions may be pertinent for e.g. narrative purposes.

26 ² 'Blasting' is the vernacular term Defendants use in their marketing and
27 instructional materials, and which Plaintiffs adopt herein, as shorthand for the
28 directed use of the FasciaBlaster.

1 device did and will continue to cause. Instead of real accountability, Defendants
2 occasionally make mere minor adjustments to their marketing or directions for
3 use—presenting an air of authority while offering meaningless bromides such as
4 “blast for 5 minutes instead of 10” and “use less heat first”—along with the
5 aforementioned deliberate and callous campaign of intimidation against their
6 dissatisfied and/or injured customers.

7 5. The named Plaintiffs, along with all others similarly situated, were
8 taken in and victimized by Defendants’ deceptive business practices. Each named
9 Plaintiff, and others similarly situated, has suffered as a result of Defendants’
10 negligence, gross negligence, recklessness, and fraud in the manufacture, testing,
11 marketing, endorsement, distribution, and sale of a dangerous device with directions
12 for dangerous use coming from Defendants’ medically unqualified and incompetent
13 spokespeople. For product liability purposes, the proposed Plaintiff class may be
14 divided into subclasses based on the array of physical maladies attributable to
15 FasciaBlaster which the various named Plaintiffs have suffered, as detailed herein.
16 For example, Plaintiffs may ultimately seek to certify e.g. Subclass A consisting of
17 individuals who have suffered endocrine problems; Subclass B consisting of
18 individuals who have suffered cardiovascular problems; Subclass C consisting of
19 individuals who have suffered digestive problems; Subclass D consisting of
20 individuals who have suffered neurological problems; Subclass E consisting of
21 individuals who have suffered psychological problems; Subclass F consisting of
22 individuals who have suffered defamation, harassment, or cyber-bullying; and
23 Subclass G consisting of individuals who have suffered from aesthetic harms, e.g.
24 the worsening of cellulite or wrinkles after use of a FasciaBlaster purchased and/or
25 used based on Defendants’ aggressive representations that it would have precisely
26 the opposite effect. This Court is asked to expeditiously and actively enforce the
27 many laws at issue, in order both to provide redress for the physical injuries already
28

1 suffered and to prevent countless such injuries from continuing to occur in the
2 future.

3 II. JURISDICTION

4 3. Plaintiffs Elson and Haavisto are residents of Los Angeles County.

5 4. The Defendants include an individual—Ashley Black—who on
6 information and belief resides in Los Angeles County, whom the Plaintiffs hereby
7 sue in her personal capacity for acts and omissions by her (for both monetary and
8 nonmonetary³ purposes) and because two other Defendants, corporations of which
9 she is President, sole or controlling shareholder, or otherwise principal, qualify as
10 her alter egos on information and belief, justifying the Court in piercing corporate
11 veils.

12 5. Further, this Court has personal jurisdiction over the Defendants hereto
13 because any Defendants which are not California residents are nevertheless subject
14 to California's long-arm statute by virtue of *inter alia* the fact that they avail
15 themselves of the protection of California law in their commercial dealings in
16 California's marketplace, which dealings are ample and the subject of this lawsuit.
17 Specifically, the Defendants advertise and promote use of their products to potential
18 customers in California via e.g. the Internet, television, and in print, and sell their
19 products in California via e.g. online purchase or mail-order. The foregoing
20 constitutes well more than the minimum commercial contacts with California
21 necessary to provide this Court with personal jurisdiction over Defendants pursuant
22 to *Fireman's Fund Ins. Co v. National Bank of Cooperatives*, 103 F.3d 888, 893 (9th
23 Cir. 1996) and *International Shoe Co. v. Washington*, 326 U.S. 310, 316 (1945).

24
25
26 ³ Defendant Black relishes her status as a self-designated celebrity health
27 "guru," providing her with personal, nonmonetary egocentric benefits subject to
28 proof, above and beyond the personal and corporate financial rewards of her actions.

1 **III. PARTIES**

2 **DEFENDANTS**

3 6. On information and belief, Defendant Ashley Black is an individual
4 living in Manhattan Beach, California. On information and belief, Black is the
5 President, CEO, principal, majority shareholder, or only shareholder of both Ashley
6 Diana Black International Holdings, LLC and Adb Interests, LLC. On information
7 and belief, there are grounds on which this Court may find that said corporations are
8 Black's alter egos, and pierce one or both corporate veils as appropriate to hold her
9 personally liable for their acts and omissions.

10 7. Defendant Ashley Diana Black International Holdings, LLC
11 ("ADBIH") is a Delaware limited liability company headquartered, on information
12 and belief, in Pearland, Texas. On information and belief, ADBIH is a close
13 corporation controlled by, and qualifying as an alter ego of, Defendant Ashley
14 Black. On information and belief, ADBIH was incorporated to own/manage
15 intellectual property, i.e. trademarks and patents pertaining to the device(s) known
16 as FasciaBlaster and assorted accessories for use therewith. Other than the foregoing
17 corporate functions, the full and precise nature of ADBIH's relationship with the
18 other Defendants is unknown at this time, and Plaintiffs will seek leave of Court to
19 amend this description if necessary after discovery.

20 8. Defendant Adb Interests, LLC ("ADBI") is a Texas limited liability
21 company headquartered, on information and belief, in Pearland, Texas. On
22 information and belief, ADBI is a close corporation controlled by, and qualifying as
23 an alter ego of, Defendant Ashley Black. On information and belief, ADBI
24 produces, promotes, and sells FasciaBlaster devices and the assorted accessories
25 sold for use therewith; on information and belief, ADBI does business as ADB
26 Innovations LLC for purposes of distributing the skin creams and oils. Other than
27 the foregoing, the full and precise nature of ADBI's relationship with the other
28

1 Defendants is unknown at this time, and Plaintiffs will seek leave of Court to amend
2 this description if necessary after discovery.

3 9. At this time, the true names and capacities—individual, corporate,
4 associate or otherwise—of Defendants DOES 1 through 100, inclusive, are
5 unknown to Plaintiffs, who thus sue said DOES by such fictitious designation until
6 such time as Plaintiffs are adequately informed about them, including *inter alia* their
7 respective degrees of and reasons for personal liability, to seek leave of the Court to
8 amend this Complaint to include their true names. On information and belief, each
9 of the DOE Defendants bears some degree of liability to Plaintiffs, and others
10 similarly situated, for the unlawful acts and omissions described herein.

11 **PLAINTIFFS**

12 10. Each of the Plaintiffs named herein purchased and/or used
13 FasciaBlaster, and between them they suffered a wide variety of severe harms
14 therefrom as described herein.

15 **A. Emily Elson**

16 11. Emily Elson (“Elson”), age 40, is an individual who resides in Los
17 Angeles, California. Elson first purchased a FasciaBlaster device in or around
18 March of 2017 because she saw advertising—on social media website Facebook—
19 which touted the device’s ability to reduce cellulite. Elson then ‘blasted’ as directed
20 by Defendants’ marketing and instructional materials, i.e. raked the device over her
21 heated skin, all over her body except for her head, neck, and face, approximately
22 once per week for a mere four or five weeks, before stopping when a host of
23 physical ailments began to arise.

24 12. Elson has been and is planning to undergo artificial insemination. As of
25 early 2017, in light of her teaching schedule she planned to undergo the procedure in
26 June or July of 2017 (in order that her maternity leave at the end of the Spring 2018
27 semester would lead into her Summer break, allowing her to devote maximum time
28

1 to infant care and bonding) without unduly delaying the attempt beyond the already
2 fraught, well-known 40-years' benchmark. According to ample research (subject to
3 proof), after 40 years of age, women find e.g. fertilization more difficult to achieve,
4 egg quality degraded, egg numbers reduced, and that the risk of birth defects
5 increases significantly. In order to maximize her odds of conceiving a healthy baby,
6 Elson diligently underwent regular testing to monitor her reproductive hormone
7 levels, including *inter alia* Follicle-Stimulating Hormone ("FSH"), and Luteinizing
8 Hormone ("LH"), Progesterone, and Estrogen. Blood tests taken shortly before she
9 began 'blasting' showed all of the foregoing hormones within better-than-average
10 ranges. Prior to the events described herein, Elson had last undergone a test for Anti-
11 Mullerian Hormone ("AMH" which indicates 'ovarian age,' i.e. overall fitness for
12 fertilization) at age 38, at which time her AMH levels were optimal.

13 13. After 'blasting' for only a short period in or around March of 2017,
14 Elson became very ill. She is a carrier of the Epstein-Barr virus, and had
15 successfully managed that condition with *inter alia* natural supplements, keeping
16 'flare ups' at bay for approximately two years before she began 'blasting.'
17 Immediately after 'blasting,' however, she experienced an abrupt, aggressive and
18 painful flare up of Epstein-Barr virus symptoms, persisting to the date hereof. On
19 information and belief, 'blasting' released and reactivated dormant virus cells which
20 had previously been trapped benignly within e.g. subcutaneous fat cells, a
21 conclusion which Elson and multiple health practitioners later reached after *inter*
22 *alia* learning about other FasciaBlaster users' having had the same experience with
23 cases of 'reactivated' Epstein-Barr, Shingles, Lyme disease, etc.

24 14. In addition to the foregoing, promptly after 'blasting' Elson began to
25 experience intense menstrual and other unusual hormonal side-effects, different in
26 nature and severity than any variations she had previously experienced. Her next
27 round of reproductive hormone laboratory testing, undertaken within 6 weeks after
28

1 'blasting,' revealed dramatic changes compared to the preceding test results, well
2 beyond typical fluctuations: her FSH and LH levels had roughly doubled, while her
3 Progesterone level dropped precipitously. Her Estrogen levels swung wildly,
4 dropping at first before spiking well above February (pre-'blasting') levels. Further,
5 her AMH level had plummeted well below expectations, suddenly indicating
6 "compromised fertility." As any aspiring mother would be under these
7 circumstances, Elson was emotionally devastated⁴ by these results.

8 15. Beyond the foregoing illnesses, pain, hormonal swings, and emotional
9 distress Elson suffered as a result of her 'blasting,' the appearance of cellulite which
10 she had sought to reduce instead became—and remains—significantly more
11 conspicuous.

12 **B. Stacy Haavisto**

13 16. Stacy Haavisto ("Haavisto") is an individual who lives in Los Angeles,
14 California. She uses Facebook daily, and was subject to aggressive targeted
15 FasciaBlaster advertising thereon. Desiring to reduce cellulite and lose weight, she
16 gave in to the targeted ads and purchased her first FasciaBlaster in or around April
17 of 2016. She promptly began 'blasting' approximately five times per week for
18 approximately three months, then more sporadically until ceasing to 'blast' in ~~March~~
19 ~~or April~~ ^{or April} of 2017. She ultimately spent roughly \$500 on various FasciaBlaster
20 devices and accessories.

21 _____
22 ⁴ Elson's low AMH level was especially upsetting because, ordinarily, AMH
23 levels only ever decrease over time; significant AMH increases are extremely rare.
24 Elson was thus very fortunate when, after 10+ weeks of depression and anxiety
25 following her "compromised fertility" result, her next AMH test—between four and
26 five months after she had ceased 'blasting' once and for all—showed surprising
27 improvement. Although AMH decrease between ages 38 and 40 is normal, Elson
28 attributes the circumstance to the FasciaBlaster on information and belief because
the significant AMH *increase*, months later, is extraordinarily unusual.

1 17. From the beginning, 'blasting' would cause Haavisto to feel foggy-
2 headed, lethargic, and physically fatigued. She grew more and more ill, suffering
3 constipation, Irritable Bowel Syndrome, gas pains, heart palpitations, insomnia,
4 anxiety, difficulty concentrating, blurred vision, vertigo, and severe headaches every
5 day upon waking. Adding insult to injury, 'blasting' caused her to gain 13 pounds,
6 and she grew so inflamed and bloated that she appeared to have gained 30 pounds.

7 18. The foregoing finally made Haavisto cease 'blasting' in July 2016, and
8 forced her to spend the next three months with drastic dietary and other lifestyle
9 changes through October of 2016. Her aggressive new health regimen caused her to
10 lose 36 pounds, and her skin hung loose off of her body, so she began 'blasting'
11 again in an attempt to firm herself back up. Without any other change to her lifestyle
12 besides the renewed 'blasting' routine, Haavisto promptly regained eight pounds.

13 19. In January of 2017, Haavisto was suffering symptoms of severe
14 hormonal fluctuation, including hair loss and loss of collagen in her face. Based on
15 Defendants' assertions that FasciaBlaster simply has no hormonal impact, and in
16 light of conversations in a Facebook discussion group (which Defendants carefully
17 monitor and control) attributing Haavisto's symptoms to 'breast implant issues', she
18 needlessly had her breast implants surgically removed on January 31. Nevertheless,
19 in March of 2017, Haavisto's hormonal symptoms were explained by a formal
20 diagnosis of Adrenal Fatigue, which her physician found totally puzzling due to
21 Haavisto's age and healthy lifestyle⁵.

22 20. Moreover, by March her cellulite had returned tenfold to her thighs.
23 'Blasting' also left unsightly 'rake marks' on her thighs and calves, and dangerous
24

25 ⁵ Haavisto's doctor expressly confessed to being confused by the patient's
26 condition, before ultimately attributing it to "toxic overload." Here, FasciaBlaster's
27 high content of Bisphenol A ("BPA") is worthy of note. See Para. 86, *infra*.
28

1 inflammation; to gauge the latter, Haavisto underwent a C-Reactive Protein ("CRP")
2 blood test. CRP level of 1 is normal. Haavisto's blood test showed her CRP level at
3 8, very dangerously high.

4 21. As of October 2017, the sustained ramifications of Haavisto's
5 'blasting' include Oxidative Stress, a severely dangerous condition affecting the
6 body's ability to remove toxins and repair cell damage which studies have connected
7 to an array of terrible ailments, including *inter alia* Parkinson's Disease, Alzheimer's
8 Disease, heart failure, chronic fatigue syndrome and depression. Haavisto also now
9 suffers Metabolic Syndrome attributable to 'blasting,' increasing her risk of heart
10 disease, stroke, and diabetes. She also continues to chronically suffer brain fog,
11 insomnia, stiff neck, and headaches.

12 22. Haavisto came forward and wrote about the foregoing dangerous and
13 scary experiences in a public FasciaBlaster discussion group on Facebook.
14 Defendants promptly removed her comments and kicked her out of the group, and
15 thereafter retaliated against her by harassing, intimidating, cyber-bullying and
16 defaming her, and on information and belief, by soliciting third parties to harass,
17 intimidate, cyber-bully and defame her, as well. The latter conduct included *inter*
18 *alia* overtly encouraging Defendants' more loyal Facebook followers to attack
19 Haavisto e.g. by leaving false negative reviews of her own businesses' Facebook
20 pages, and by targeting her with groundless accusations to the authorities, as
21 exemplified by a public Facebook post on September 7, 2017, to wit:

22 Everyone. Let's report Dari, Julie D L, Veronica Verona, Stacy Havisto [*sic*],
23 Danielle Reins, Tammy Wike, and everyone else in their hate group to the
24 FTC, FDA, FBI, the DEA, and their local Police Stations.

25 Let's look up their businesses and leave 1 star reviews.

26 Let's make sure everyone knows the truth about how hateful they are and all
of the shadiness.

27 You don't have to have been personally injured by them. If you know anyone
28 who has spent anytime [*sic*] reading their lies then you have been injured

1 (permanently). You can't get that part of your life back.

2 I'll make it easy for everyone. I'll create a copy/paste list of things they have
3 done:

4 -Harrassment [*sic*]

5 -Cyber Bullying

6 -Extortion

7 -Tortuous [*sic*] Interference

8 -Defamation

9 -Product Libel

10 -Hate Crimes

11 -Defrauding the Government (abuse of gov systems)

12 You can do it anonymously. Just crop out your face. Don't worry about
13 negative repercussions. There is nothing they can do. We need to do this in
14 order to get the truth out and take them down.

15 Come on everyone, let's do this!!!!!!

16 I will send separate e-mails to everyone with guidance from "you know who"

17 The foregoing was posted publicly by a putative Facebook user named Sarah
18 Minow, although Ms. Minow's personal Facebook page appears to be fake⁶. On
19 information and belief, Defendant Black herself created this 'shill' Facebook profile
20 in order to post the foregoing 'call to arms,' and the allusion therein to "you know
21 who" refers to Defendant Black.

22 23. All told, on information and belief Haavisto's expenses in connection
23 with using FasciaBlaster and dealing with its aftermath exceeded \$10,000.

24 \\\

25 ⁶ Ms. Minow's Facebook page displays no photos, no friends, no posts, and
26 no information of any kind, save for two telling details: (i) under the heading
27 "Groups" Ms. Minow discloses only that she is a member of "FasciaBlasters
28 Official Open Forum", and (ii) under the heading "Contact Information" the sole
entry—"http://facebook.com/sarah.minnows"—wherein Ms. Minow mysteriously
seems to have misspelled her own name.

1 **C. Loretta Oakes**

2 24. Loretta Oakes ("Oakes") is an individual who resides in Las Vegas,
3 Nevada. After conducting ample research about cellulite reduction, in or around
4 September of 2016 Oakes purchased the standard FasciaBlaster device. In or around
5 November of 2016, she purchased another version, the "Mini 2." In or around
6 February 2017, she purchased yet another version, the "Faceblaster," along with
7 multiple creams and oils marketed by Defendant for use with the devices. Oakes
8 'blasted' as directed in Defendants' marketing and instructional materials,
9 exacerbating a peripheral neuropathy condition such that she then suffered near-
10 constant tingling in her feet and sometimes too much pain to walk, including as
11 recently as within the last month. She was bedridden from November 2016 through
12 January 2017, other than for doctor appointments.

13 25. Oakes's 'blasting' caused severe bruising which has lingered as
14 hemosiderin staining on her legs for over six months since she ceased 'blasting' in
15 approximately March of 2017. Further, by disrupting the tissue connecting skin to
16 muscle, 'blasting' has turned the skin on her legs and stomach crêpey, i.e. loose and
17 wrinkled worse than her elderly mother's skin.

18 26. On information and belief, other harms attributable to 'blasting' which
19 Oakes has suffered include depression (with suicidal ideation), anxiety, nausea,
20 panic attacks, and lightheadedness, at least one incident of which caused her to lose
21 consciousness and collapse. Even after she stopped 'blasting,' Oakes's depression
22 and anxiety have persisted due to personal attacks and falsehoods leveled against her
23 on social media by Defendant Ashley Black, and by others defaming and harassing
24 Oakes at Black's behest, on information and belief.

25 27. Oakes has spent several thousands of dollars on doctor visits, pain
26 management, and a variety of expensive skin treatments in attempts to repair the
27 damage wrought by FasciaBlaster.
28

1 **C. Michelle Lanum**

2 28. Michelle Lanum ("Lanum") is an individual who resides in Tampa,
3 Florida. Lanum is pursuing her Ph.D. in Psychology from Kaiser University, with
4 focus on the mind-body connection. When an acquaintance told her about
5 FasciaBlaster, Lanum looked into it and decided it would be a perfect subject for
6 study in connection with her degree, and she also saw an opportunity to reduce her
7 own scarring from a caesarian section several years earlier. Lanum purchased
8 multiple FasciaBlaster devices in November of 2016 and began 'blasting' as
9 directed.

10 29. When it came to her attention that Defendants were conducting a
11 putative "clinical trial" for the device at the Applied Science & Performance
12 Institute ("ASPI") right in her own neighborhood, Lanum jumped at the opportunity
13 to be able to observe the study for academic purposes, and to participate for her own
14 aesthetic reasons. She participated in ASPI's putative clinical trial of the
15 FasciaBlaster from December 10, 2016 through March 10, 2017.

16 30. Commencing with Lanum's participation in the putative clinical trial,
17 she promptly became severely ill due to 'blasting,' on information and belief. Her
18 symptoms included nausea, vomiting, migraines, neck and shoulder pain, dizziness,
19 and severe gastrointestinal distress alternating between prolonged and painful
20 constipation to violent diarrhea. Lanum quickly lost 16 pounds, then three more
21 pounds. She regularly communicated these experiences to putative clinical trial
22 "researcher" Kathleen Stross, who repeatedly asserted that any notions of a
23 connection between Lanum's symptoms and the 'blasting' were refuted by Lanum's
24 regular blood testing results and other data the putative study was purportedly
25 gathering. On information and belief, the foregoing was an outright falsehood, and
26 contrary to Defendants' repeated promises to return study participants' medical test
27 results to them, Defendants and the putative researchers have still not done so,
28

1 ignoring multiple requests by Lanum and others.

2 31. Continued 'blasting' brought out severe varicose and spider veins on
3 Lanum's legs which had not previously been apparent, and caused an increase in the
4 appearance of cellulite. When Lanum and multiple other participants in the putative
5 clinical trial mentioned the appearance of new varicose veins, the putative
6 researchers explicitly denied that there was any connection to 'blasting,' then later
7 asserted that the varicose veins might get worse but would ultimately disappear.

8 32. More than six months after terminating her use of the FasciaBlaster,
9 Lanum's legs still exhibit varicose veins, rake marks, and crêpey skin, none of
10 which had been present before 'blasting.' Lanum continues to suffer semi-regular
11 bouts of dizziness, nausea, tinnitus, sciatica, knee problems, and nerve pain and
12 tingling radiating down through her shoulders and arms, all of which on information
13 and belief are results of nerve damage attributable to her 'blasting' over six months
14 ago. Lanum has been prescribed and is currently undergoing a course of physical
15 therapy to address her persistent nerve pain, which she and her physical therapist
16 hope will also curtail her frightening dizziness and tingling in her arms.

17 33. In Lanum's judgment based on her personal academic background and
18 experience, she found the putative researchers' behaviors to be highly erratic, their
19 methods unprofessional, and the putative clinical trial to be unscientific and
20 improper. Further, Lanum learned that Bart Jameson—one of the putative
21 researchers whom Defendants' video(s) had referred to as "Doctor Bart"—is, in
22 fact, not a doctor. When Lanum would ask procedural questions of the putative
23 researchers, e.g. for the benefit of her own research, their replies revealed shocking
24 unfamiliarity with the scientific process, generally. In one notable instance, Lanum
25 found that she had to explain to Jameson what a "hypothesis" is, and that it
26 ordinarily comes before an experiment, not after.

1 34. 'Blasting' caused Lanum to personally re-experience⁷ prior trauma,
2 which went straight to her purpose in studying the FasciaBlaster, and she braved her
3 own psychological symptoms—anxiety, restlessness, and depression—for the
4 benefit of her research. When she questioned Stross about what lengths the study's
5 Institutional Review Board ("IRB") had authorized, however, Stross provided no
6 answer, and eventually stopped responding to Lanum's voicemails, emails, and
7 Facebook messages. On information and belief, the putative clinical trial was in fact
8 never supervised by any IRB, contravening FDA regulations for any study with
9 human participants, in addition to such further administrative flaws and abuses as
10 Plaintiffs may discover in the course of litigation, at which time they may seek leave
11 to amend this Complaint to reflect same.

12 35. Defendants' putative clinical trial's physical impact on Lanum was so
13 debilitating that it forced her to drop out of a required graduate school class—Cross-
14 Cultural Methods of Tests and Measurements—which then cost her \$3,600 to
15 retake the following semester. Adding insult to injury, plus more injury, due to the
16 ASPI study's countless procedural and administrative flaws, Lanum was
17 subsequently unable to use her experience therein for the benefit of her doctoral
18 dissertation, as had been her aim all along. This wasted time and effort will now
19 require her to extend the time for her dissertation research, at the cost of an
20 additional \$6,600 in tuition for the extra semester. Finally, treatment measures to
21 repair the damage wrought by Lanum's FasciaBlaster experience have cost over
22 \$600 to date, on information and belief, and she expects that she may ultimately
23 require costly plastic surgery if her currently ongoing treatments ultimately prove
24

25 ⁷ 'Re-experience' is the clinical terminology associated with the phenomenon
26 whereby e.g. Post Traumatic Stress Disorder ("PTSD") patients feel their previous
27 trauma all over again, as though it were happening in the present.
28

1 ineffective.

2 **D. Julia Lefebvre**

3 36. Julia Lefebvre ("Lefebvre") is an individual who resides in Hiram,
4 Maine. Lefebvre is an independent contractor performing background checks and
5 employee and renter screenings. Lefebvre and her husband booked a cruise for
6 November 2016 in order to renew their marriage vows, in preparation for which
7 Lefebvre researched "cellulite reduction" on the Internet in order to look her best in
8 bathing suit or short skirt for her romantic vacation. Her research caused Facebook's
9 advertising algorithm to begin targeting her with FasciaBlaster ads, which then led
10 her to the FasciaBlaster website, Defendants' promotional videos, and public
11 Internet forums populated by 90,000+ putative satisfied customers, wherein
12 Lefebvre noted a lack of any negative feedback whatsoever. She purchased
13 FasciaBlaster in September 2016 and promptly began 'blasting' five times per week.

14 37. Though Lefebvre had purchased FasciaBlaster only to reduce cellulite
15 on her thighs, Defendants' marketing promises led her to also 'blast' her face, neck,
16 arms, stomach, back and buttocks regularly. Before long her thighs, stomach, back
17 and arms began to show severe bruising, but she carried on 'blasting' based on
18 Defendants' admonition that results would be "worse before better!" Lefebvre
19 followed Defendants' instructions and encouragement to the effect that her
20 'blasting' build up to a pain level of "seven out of 10," that she "blast down to the
21 bone," and that "violent blasting does a body good." Lefebvre ceased blasting in the
22 last week of October 2016, in order that her accumulated bruises would have time to
23 fade away before her cruise, but the bruises simply changed color and remained as
24 ugly hemosiderin stains all over her 'blast' areas. To make matters worse, the
25 appearance of cellulite on her thighs had significantly worsened. The discoloration
26 and cellulite made her too self-conscious to wear shorts, bikini, or a short skirt, thus
27 ruining what was supposed to be a romantic vacation.
28

1 38. Notwithstanding the foregoing, on the basis of Defendants' "worse
2 before better" mantra, Lefebvre continued 'blasting' five times per week hoping for
3 improvement before another cruise, this one for her whole family, scheduled for
4 January 2017. Then on December 23, 2016, while driving home from a shopping
5 trip to the mall, Lefebvre was overcome with severe dizziness, her field of vision
6 narrowed, and her hearing muffled; it felt like a heart attack, or severe panic attack⁸,
7 the likes of which she had never experienced before. She quickly pulled off the road
8 and phoned her children, who had to come get her. A few days later, she had the
9 same experience again, this time in the middle of 'blasting.' On January 23, 2017,
10 Lefebvre saw stars and collapsed to the floor while 'blasting,' and lay on the floor
11 unable to speak or move for three to five terrifying minutes, her body twitching and
12 convulsing involuntarily. When her husband came home, he took her to the
13 emergency room, where a physician told her that she may have triggered the episode
14 by overheating and overstimulating her vagus nerve, i.e. Vasovagal Syncope, which
15 clearly would have been a consequence of 'blasting.' Lefebvre subsequently
16 continued blasting, but did so more gently and with less heat applied to her abdomen
17 in order to avoid a response from her vagus nerve.

18 39. Lefebvre continued to suffer debilitating panic attacks multiple times
19 per week until shortly after she ceased 'blasting' in May 2017. Her last such attack
20 was in June, but she felt compelled to refrain from driving her car between January
21 and August of 2017, other than a handful of short trips alone to the market, for fear
22 of an accident. These attacks understandably affected her ability to work and engage
23 with her family and others, constituting a severe impact on her quality of life

24
25 ⁸ On information and belief, this and subsequent similar episodes were not
26 panic attacks, but Vasovagal Syncope, however the Complaint refers to them as
27 panic attacks for clarity's sake to convey the abruptly incapacitating pain, anxiety,
28 weakness, and loss of physical control.

1 generally.

2 40. Beginning in January 2017, Lefebvre noticed newly rapid aging in her
3 face, including dramatic deepening of the so-called 'marionette lines.' Since then
4 she has spent over \$4,000 on collagen treatments and supplements, laser therapy,
5 microcurrent, microneedling, and other reparative measures to try to get her face
6 back to its pre-'blasted' state. Furthermore, over three months after she ceased
7 'blasting,' Lefebvre's legs still have hemosiderin stains, unsightly rake marks, and
8 worse cellulite than they exhibited a year ago.

9 41. Lefebvre has been subject to defamation, harassment, intimidation and
10 cyber-bullying after she honestly relayed her experiences in e.g. the "Master
11 Blaster" group on Facebook, including *inter alia* being mentioned in a Facebook
12 group post on September 7, 2017 which explicitly sought to incite group members to
13 *inter alia* attack Lefebvre's business with false negative online reviews. On
14 information and belief, the putative Facebook user "Sarah Minow" who posted said
15 incitement was in fact a fake 'shill' profile created and wielded by Defendant Black,
16 herself, or at her behest. Likewise, putative Facebook user "Georgia Peach" falsely
17 asserted that Lefebvre has committed fraud. On information and belief, "Georgia
18 Peach" is also a shill profile created and wielded by Defendant Black.

19 **E. Sue Grlicky**

20 42. Sue Grlicky ("Grlicky") is an individual who resides in Brooklyn,
21 Ohio. A 52 year-old office manager for a chemical company, Grlicky was in good
22 health overall, but in the Spring of 2017 she was suffering from lower back pain in
23 her psoas muscle. She undertook research on the subject via Google, which on
24 information and belief prompted Facebook to target her with an ad for
25 FasciaBlaster. Grlicky then assiduously researched FasciaBlaster over the course of
26 four weeks—she joined the "Ashley Black Guru" Facebook discussion group,
27 reviewed over a hundred product reviews therein, watched numerous promotional
28

1 and instructional videos, and purchased and read Defendant Black's book, The
2 Cellulite Myth: It's Not Fat, It's Fascia, cover to cover—before purchasing the
3 device and accessories in April of 2017. She commenced using it immediately,
4 targeting her lower back, shoulders, neck, scalp, abdomen, buttocks, and legs (inner,
5 outer, front, and back), for approximately one minute per target area, approximately
6 five times per week after a hot bath.

7 43. Within her first week of 'blasting' Grlicky began to experience severe
8 nausea, headaches, body aches, fatigue, and depression. She wrote to Black about
9 her symptoms via Facebook, to which the latter responded that "detox can really be
10 rough ... [it's] no fun but it's a necessary, TEMPORARY evil that is needed to
11 release all the gunk that's keeping your body from functioning at 100%." Grlicky
12 then took a break from 'blasting' for 2-3 days, then resumed 'blasting' as before, but
13 more gently and for shorter duration, and her symptoms improved slightly in
14 severity by the end of her second week, but did not go away.

15 44. During her third week of 'blasting,' Grlicky stumbled upon another
16 Facebook discussion group, this one dedicated to FasciaBlaster's adverse effects,
17 which caused her to draw the connection that her persistent illness was more than
18 the mere beneficial 'detoxification' that Black had asserted it was, so Grlicky then
19 ceased 'blasting.' Shortly thereafter, she experienced the abrupt onset of a stabbing,
20 throbbing, burning neck and shoulder pain. This new symptom was severe, constant,
21 and scary. Over the following few weeks Grlicky sought treatment from a
22 chiropractor and four different massage therapists—one of whom told her that her
23 neck and shoulder area was "highly inflamed"—until one day a tingling began to
24 radiate down her right arm. Her chiropractor diagnosed her with a pinched nerve,
25 and attempted a special chiropractic adjustment for that diagnosis, but it
26 accomplished nothing. Desperate and afraid, Grlicky went to the Cleveland Clinic in
27 early July, where she was referred to a neurologist who confirmed the pinched nerve
28

1 diagnosis. Grlicky underwent MRIs and x-rays, and the neurologist prescribed
2 neuropathic medication Gabapentin and pain medication Tramadol. This course of
3 treatment improved Grlicky's pain but did not fix it, and treatment efforts are
4 ongoing.

5 45. While at work on July 17, Grlicky felt a sudden mild pain in her hip,
6 which within 15 minutes became excruciating, whereupon she could not walk or
7 stand. A call to 911 brought an ambulance to take Grlicky to the Cleveland Clinic
8 Emergency Room, where she was subjected to CT scans, more x-rays, blood tests,
9 etc. ER personnel asked her "were you in some kind of accident?" "No," she
10 replied, "why?" She was then told that a burst blood vessel had caused a massive
11 hematoma and internal bleeding in her pelvic region (left side). After trying and
12 failing to find any exterior bruising in the area, the ER doctor told Grlicky that "this
13 is highly unusual, not something we see often [other than after e.g. a violent
14 collision]." Grlicky was admitted to the hospital for an overnight stay in order for
15 doctors to stop her internal bleeding.

16 46. Since the foregoing hospital stay, Grlicky has had appointments with
17 her primary doctor, a hematologist, physical and massage therapists, and a holistic
18 practitioner. Nonetheless, Grlicky still experiences occasional pain on the left side
19 of her pelvis, causing her to suffer extreme anxiety to ever be alone, lest her blood
20 vessel burst again, or worse. Her primary doctor concluded that this entire episode
21 was attributable to Grlicky's 'blasting,' and explicitly stated "you easily could have
22 died from internal bleeding. You should sue those people [Defendants]." Grlicky
23 also now suffers great anxiety about the possibility of losing her job, having had to
24 take off work to some degree roughly every week since her pinched nerve for
25 medical or therapeutic appointments, or on occasions when her pain is unbearable.

26 47. All of Grlicky's medical treatment described herein—including trips to
27 the Cleveland Clinic, ER, ambulance, chiropractor, physical and massage therapists,
28

1 and holistic practitioner—came at a combined cost in excess of \$23,800.08, of
2 which Grlicky has paid \$6,756.95 out of pocket, to date.

3 **F. Tilly Dorenkamp**

4 48. Tilly Dorenkamp (“Dorenkamp”) is an individual who resides in
5 Pinellas Park, Florida. Dorenkamp is an artist with average yearly income from
6 commissions of \$20,000 – \$25,000 per year. She enjoyed excellent muscle tone due
7 to attending Pilates classes roughly five times per week for several years. On the
8 recommendation of a friend, Dorenkamp purchased FasciaBlaster in October 2016
9 hoping to relieve pain from fibromyalgia and arthritis, and carefully adhered to the
10 instructions provided in Defendants’ YouTube videos.

11 49. Dorenkamp then learned about and opted to take part in ASPI’s
12 putative clinical trial from December 2016 through March 2017. Per the study
13 protocols, five times per week she used a portable sauna device for 20 minutes, then
14 ‘blasted’ for five minutes per target area: her abdomen, and then the front, back,
15 inside, and outside of each leg (i.e. 20 minutes per leg in total). A month into the
16 study she was given a FaceBlaster, and began ‘blasting’ her face and neck to reduce
17 the effects of aging. As the putative clinical trial progressed, Dorenkamp
18 complained numerous times that ‘blasting’: caused severe nerve pain in her legs and
19 knees; worsened the Restless Leg Syndrome (“RLS”) from which she suffered at
20 night; and left her utterly exhausted and bedridden such that she could not perform
21 any other physical activity on ‘blasting’ days. In the last few weeks of the putative
22 clinical trial, Dorenkamp’s suffering was so severe that her Rheumatologist
23 suggested she drop out.

24 50. During the putative clinical trial, an anxiety condition which
25 Dorenkamp had previously managed for 20 years—with anti-anxiety medication
26 Clonazepam (.5 mg)—suddenly worsened, and developed into deep depression,
27 causing her primary care physician to double her Clonazepam dosage and prescribe
28

1 an extra half-dose of an additional anti-anxiety medication, Zoloft. Dorenkamp
2 failed to draw a connection between her depression and the putative clinical trial
3 until May of 2017. To date, her exacerbated anxiety condition gives her stress
4 headaches almost every time she leaves the house, which was not the case before
5 her FasciaBlaster experience. She was prescribed yet another anti-anxiety
6 medication, Buspirone (15mg), in early September of 2017.

7 51. After the putative clinical trial ended, Dorenkamp tried 'blasting' three
8 more times. The third time, on May 9, 2017, abruptly brought on a severe
9 thunderclap headache, and elevated her resting heart rate to 185 beats per minute
10 ("BPM") (from her average resting heart rate of approximately 67 BPM),
11 necessitating an emergency room visit. Before this ER visit, Dorenkamp had
12 managed a Tachycardia condition for 20 years with 50mg prescription of Atenolol.
13 Following this ER visit, her cardiologist doubled her Atenolol dosage due to
14 severely worsened heart palpitations, elevated pulse, and mitral valve prolapse
15 diagnoses. The cardiologist also prescribed a nuclear stress test which Dorenkamp
16 has yet to undergo because the entire \$1,000 cost will have to come out of pocket.

17 52. Beyond her cardiological difficulties, 'blasting' severely increased
18 what had previously been quite minimal cellulite on Dorenkamp's legs; the skin now
19 sags off of her legs, there is a conspicuous dent in her thigh, and her calf muscle
20 atrophied to the point that she cannot see it and can barely feel it. 'Blasting' her face
21 and neck has also caused severely sagging skin, dramatically accelerating the
22 appearance of aging, notwithstanding that she was assiduously faithful to ASPI
23 researchers' and YouTube video instructions at all times.

24 53. Before she began 'blasting,' on an average day Dorenkamp
25 experienced a pain level of 3-4 (out of 10) from her fibromyalgia and arthritis
26 conditions. Since May of 2017, on an average day her pain level is 5-7 out of 10,
27 notwithstanding her efforts to manage the pain with ibuprofen and powerful
28

1 painkiller Tramadol (200mg). Her RLS condition has also worsened considerably,
2 disrupting her sleep cycles more than it ever had before. Dorenkamp has not been
3 able to work on her art since December 2016, and as a result she has multiple
4 commissions outstanding, harming her professional reputation.

5 54. Dorenkamp has been subject to defamation, harassment, intimidation,
6 and cyber-bullying, constituting intentional infliction of emotional distress by
7 Defendants, and others on their behalf, in retaliation for her having honestly relayed
8 her experiences in e.g. the "Ashley Black Guru" group discussion page on
9 Facebook. Dorenkamp was also the victim of malicious prosecution in the form of a
10 frivolous lawsuit against her by Defendants, which has been dismissed. Recently, at
11 Defendants' behest and direction on information and belief, individuals⁹ supporting
12 Defendants have sought to harass, embarrass, and intimidate Dorenkamp on
13 Facebook by the unauthorized public posting of unflattering photos of her, and
14 health-related records which, on information and belief, Defendants permitted to be
15 publicized in violation of numerous statutes and regulations, e.g. HIPAA.

16 55. On information and belief, Dorenkamp's FasciaBlaster use will have
17 necessitated medical and therapeutic treatments costing her more than \$15,000.

18 **G. Dina Salas**

19 56. Dina Salas ("Salas") is an individual residing in Las Vegas, Nevada.
20 Salas is 40 years old, has Multiple Sclerosis ("MS"), and in spite of a vegan diet and
21 taking yoga classes three times per week, she was frustrated and embarrassed by
22 cellulite on her thighs, knees and calves. In June of 2016, her cousin told her about
23 FasciaBlaster. Salas purchased one, but did not begin using it until October or
24

25 ⁹ The individuals in question undertook the described cyber-bullying for
26 Defendants' benefit *if*, that is, they are not in fact merely fake Facebook personae
27 operated by Defendants themselves, as alleged herein. See e.g. Para. 94, *infra*.
28

1 November of 2016, and only approximately twice a week, and gently, because it
2 was so painful. Salas saw no beneficial results, only dramatic bruising, and stopped
3 'blasting' in or around December 2016.

4 57. Notwithstanding that she had already stopped 'blasting,' Salas
5 remained a member of the Defendants' "FasciaBlasters" Facebook group, and in
6 early 2017 on the basis of new success stories and compelling 'before and after'
7 photos still cropping up in her Facebook News Feed, she decided to give 'blasting'
8 another try. This time her regimen entailed 'blasting' roughly every other day, and
9 much more strenuously, as she was encouraged by Defendants and others¹⁰ in the
10 discussion group to do so at a pain level of 7 out of 10. Salas saw no positive results,
11 only renewed, dark bruising.

12 58. A few weeks after reinitiating her 'blasting,' as Salas's enthusiasm
13 began to wane yet again, in her Facebook News Feed she saw a video posted by
14 Defendant Black with a caption¹¹ asserting that FasciaBlaster is effective at treating
15 Parkinson's disease and MS—both neurodegenerative conditions—by "lessen[ing]
16 lesions," i.e. the scars on the brain and spinal cord which cause MS. Further research
17 on Google then led Salas to a posting by Defendant(s) on social media

19 ¹⁰ Notably, shortly after Salas had renewed her attention to the Facebook
20 group, she received multiple Facebook friend requests from previously unknown
21 individuals, who were then enthusiastic FasciaBlaster cheerleaders, pushing and
22 prodding Salas to keep up the aggressive 'blasting' every time she expressed any
23 doubts. On information and belief, these individuals were either fake Facebook
24 profiles operated by Defendants, or paid motivators operating at Defendants' behest;
at one point in or around May 2017, Salas pointedly asked one of them if she were a
paid "motivator," and the other profile immediately 'unfriended' Salas.

25 ¹¹ Salas saw this video and its caption before she was summarily kicked out of
26 Defendants' "FasciaBlasters" Facebook group in June of 2017. On information and
27 belief, this claim pertaining to MS may have been removed since then, however not
before Salas and others similarly situated relied on it.

1 website/application Instagram, claiming that FasciaBlaster is “really helping with
2 MS patients – not only with symptoms but the lesions are lessening on the MRIs ...
3 I’ve known for years ... that fascia work helps with MS.” After stumbling upon the
4 foregoing social media posts, and then noticing more and more (putative¹²)
5 participants in the Facebook group who claimed to be treating MS with
6 FasciaBlaster, Salas’s enthusiasm understandably skyrocketed, and she added her
7 abdomen and back to her ‘blasting’ routine.

8 59. Approximately a month into her renewed ‘blasting’ routine, Salas
9 began suffering an extraordinarily severe itchiness. It was so uniquely awful that it
10 sent her to the emergency room and subsequently to a neurologist, who diagnosed
11 her condition as chronic Pruritis. Far from a garden-variety scratchable itch, Salas
12 experienced deep, torturously unyielding irritation everywhere throughout her body,
13 literally from her toes to scalp, and particularly bad in her tongue and eyeballs. The
14 maddening nerve pain deprived Salas of sleep and otherwise disrupted every aspect
15 of her life.

16 60. At the beginning of May, tortured by Pruritis, Salas quit ‘blasting’ for
17 good. Months of ‘blasting’ did not cure Salas’s MS, nor improve it to even the
18 slightest degree as Defendants claimed it would. All of that ‘blasting’ did, however,
19 significantly worsen her cellulite, and decorated her legs with a brand new network
20 of unsightly spider veins, where she had previously had none. For the first time in
21 decades, Salas experienced severe and painful oral Herpes outbreaks *repeatedly*
22 since first using the FasciaBlaster. She also gained 20 pounds since first ‘blasting,’
23 attributable thereto on information and belief because she had made no other change
24

25 ¹² On information and belief, some if not all of these individuals whom Salas
26 saw extolling the virtues of ‘blasting’ for MS treatment were/are fake Facebook
27 profiles or paid motivators. See e.g. Para. 94, *infra*.

1 to her vegan, yoga-enthusiast lifestyle.

2 61. Along with the total failure to improve her MS in the slightest, her
3 abrupt weight gain, brand new spider veins, resurgent Herpes outbreaks, and
4 torturous unscratchable itching from head to toe, on information and belief Salas's
5 'blasting' disrupted her hormonal levels, all of which combined to throw her into
6 severe depression.

7 62. To date, the various medical treatments necessitated by Salas's
8 FasciaBlaster experiences add up to approximately \$4,000 out of her pocket and
9 several thousand more paid on her behalf in financial assistance, on information and
10 belief. This figure of course fails to account for e.g. the future cosmetic treatments
11 required to fully repair all the damage wrought by Defendants' products and
12 business practices.

13 **H. Arlene Rodriguez**

14 63. Arlene Rodriguez ("Rodriguez") is an individual residing in Hanford,
15 California. She is a 38 year-old waitress. After seeing Defendants' advertising in her
16 Facebook News Feed, she joined the Facebook "FasciaBlasters" discussion group to
17 research the product. Seeing no meaningfully negative reviews, and eager to get rid
18 of cellulite on her thighs, she purchased the device in mid-November 2016 and in
19 late November commenced 'blasting' her thighs, abdomen, and arms, for roughly
20 five minutes in total, roughly three times per week in a very hot bath or shower.

21 64. Right away, Rodriguez would experience nausea, dizziness and
22 lightheadedness almost every time after 'blasting,' and frequently headaches.
23 Beginning in mid-December, Rodriguez began experiencing burning body aches as
24 well, which were sufficiently worrisome that she went to a doctor to be tested for
25 Lupus, arthritis, etc., but the tests were negative. She combed the Facebook
26 discussion group for feedback similar to her experiences from other users, and
27 finding none, Rodriguez carried on 'blasting.' Even as the cellulite which motivated
28

1 her purchase was worsening substantially, Rodriguez continued 'blasting' in
2 reliance on Defendant Black's representations that increased appearance of cellulite
3 is a temporary result of FasciaBlaster's breaking up the fascia in "layers," and
4 Defendants' famous, persistent refrain: "worse before better!"

5 65. In mid- December, Rodriguez began experiencing unusual mood
6 swings and increased anxiety, but failed to draw any connection to her 'blasting.' In
7 or around February 2017 Rodriguez bought a second FasciaBlaster, the 'Mini 2'
8 model, and extended her 'blasting' sessions to an average of seven minutes on the
9 basis of enthusiastic encouragement and authoritative advice and promises made by
10 Defendants (and other Facebook profiles which, on information and belief, were
11 either fake, or paid motivators) in Defendants' Facebook discussion group. In or
12 around March 2017, seeing her doctor about her unexplained persistent mood
13 swings and increased anxiety, she was prescribed Zoloft (15mg).

14 66. In or around May of 2017, Rodriguez's body aches grew so severe that
15 at one point she was bedridden for two days, yet she persisted in 'blasting.' Not long
16 thereafter, she happened upon a report about FasciaBlaster on the Facebook page of
17 Goop, a trendy lifestyle company. Among the public's comments on the Goop
18 posting was a link to a Facebook group for dissatisfied FasciaBlaster users,
19 providing Rodriguez's first inkling that the device might be remotely fallible; the
20 user comments in this second Facebook group constituted the first meaningfully
21 negative reviews about FasciaBlaster which Rodriguez had seen, after roughly six
22 months of participating in Defendants' own carefully monitored, controlled, 100%
23 enthusiastically positive discussion group. Rodriguez promptly stopped blasting at
24 this point, and began to make more pointed and less positive inquiries in the
25 Defendants' Facebook discussion group. She was then promptly kicked out of that
26 group, and blocked from the "Ashley Black Guru" Facebook page wherein she
27 might otherwise have been able to comment about her experiences e.g. for the
28

1 benefit of third parties.

2 67. Between a week and 10 days after Rodriguez ceased 'blasting,' she
3 developed the beginnings of a strange rash on her lower back. After another week it
4 had begun to spread, and it itched severely. Her doctor initially diagnosed the rash
5 as an allergic reaction, and prescribed Loratidine (10mg). Another week or two
6 later, the rash had spread like wildfire, all over Rodriguez's thighs, back, sides,
7 breasts, upper chest, and down her right arm. She returned to the doctor, who
8 inquired whether Rodriguez had traveled recently, or eaten anything exotic, or
9 undertaken any other new experience or meaningful lifestyle change of any kind.
10 The answer was no, and Rodriguez mentioned FasciaBlaster. Her doctor had never
11 heard of it, so Rodriguez explained Defendants' 'blasting' theories, to which the
12 doctor expressly replied that there was "a strong possibility" that FasciaBlaster had
13 caused the rash, and prescribed a 10-day course of steroid Prednazone (5mg).

14 68. Rodriguez took her prescribed Prednazone for 10 days, during which
15 the rash improved. Three days after the tenth day, however, the rash returned
16 aggressively, even worse and more painful than it had been previously, and
17 extremely unsightly (the factfinder will undoubtedly find photos thereof to be highly
18 upsetting). Rodriguez went back to the doctor again, had tissue samples taken for
19 biopsy, and was given a prescription for anti-fungal medication Terbinafine
20 (250mg) which she only took for a short time before receiving her biopsy results
21 back with her diagnosis: chronic superficial perivascular dermatitis, i.e.
22 inflammation of her blood vessels. In response, her doctor doubled the previous
23 Prednazone prescription dosage (to 10mg) and tripled its duration (30 days), added
24 prescriptions for Ranitidine (150mg) and Triamcinolone (1%) steroid cream to the
25 menu, and advised Rodriguez to supplement all of the foregoing with Benadryl any
26 time the itch grew too unbearable. All of the foregoing finally began to put the rash
27 on the retreat, and at the end of 30 days, the doctor prescribed another 30 days of
28

1 half the previous Prednazone dosage (back down to 5mg), then another 30 days of
2 the next lowest available dosage (1mg) in order to wean Rodriguez off of it; the rash
3 is much improved as of the date hereof but, notably, it is not gone.

4 69. During the Summer of 2017, temperatures in California's Central
5 Valley routinely exceeded 100 degrees. At that time, at the height of Rodriguez's
6 extremely unsightly rash, she was obliged to wear long sleeved shirts and long pants
7 to cover it, rather than the tank tops and shorts or skirts most women would prefer to
8 wear on hundred-degree days. Obviously such clothes were highly uncomfortable,
9 and the predictably profuse sweating that resulted ramped up Rodriguez's already
10 itchy discomfort into a painful burning sensation. On two occasions, between June
11 and July, she was sent home early from her waitressing job because constantly-
12 scratching waitresses are not good for business. She lost wages and tips totaling
13 \$300 or more as a result.

14 70. As of the date hereof, almost 11 months since she first 'blasted,'
15 Rodriguez's cellulite remains worse than it was before, and has spread from her
16 thighs to her buttocks, where it had not appeared previously. Her inner thighs bear
17 distinct, unsightly rake-marks (matching the dimensions of the FasciaBlaster claws),
18 notwithstanding that roughly five months have passed since she last raked them.
19 Rodriguez had minor spider veins on her outer knees before she purchased
20 FasciaBlaster. As of the date hereof, those spider veins are significantly darker,
21 thicker, wider, and more unsightly than they were, and they have been joined by
22 brand new networks of unsightly spider veins above her knees, prominently on the
23 front of her thighs.

24 **I. Jerry Gaines**

25 71. Jerry Gaines ("Gaines") is an individual residing in Tampa, Florida. He
26 is the grandfather of Plaintiff Lanum. When the latter purchased multiple
27 FasciaBlaster devices in November of 2016 (see Para. 28, *supra*), she gave one to
28

1 Gaines and told him to only use the device on his head and neck—pursuant to the
2 “migraine relief protocol” specified by Defendants’ on their FasciaBlaster Facebook
3 page, and to emulate Defendants’ online videos, photos and testimonials of subjects
4 from a putative hair growth study—and on his abdomen as recommended by
5 Defendant Black in other marketing and instructional materials. Gaines ‘blasted’
6 two to three times per week, for twenty minutes at a time in the shower or sauna,
7 beginning in late November 2016, right up until he suffered a stroke in June 2017.
8 Gaines suffered damage to cranial nerve no. 7, adversely affecting his speech and
9 causing severe expressive aphasia. CT scan results revealed “loss of grey-white
10 differentiation and cortical effacement in the left frontal cortex, in the left MCA
11 [(middle cerebral artery)] distribution.” Another scan revealed “left M2 [a segment
12 of the MCA] with diminished flow.” A third test, cerebral angiography, showed
13 “distal M2 occlusion.” A fourth test, brain MRI, showed “acute left MCA territory
14 infarct in the left frontal lobe + a few areas of punctate restricted to fusion in the
15 right frontal and parietal lobes.”

16 72. Following Gaines’s stroke, Lanum found testimonials from dissatisfied
17 FasciaBlaster users online, which made reference to the device’s dangerous
18 tendency to release blood clots. Lanum brought the foregoing to the attention of
19 Gaines and his physician, and the latter demanded that Gaines immediately cease all
20 ‘blasting’; specifically, his doctor expressly said “throw that thing [FasciaBlaster]
21 away!” Since then, Gaines has had to undergo extensive speech therapy and
22 cognitive exercise programs, as well as physical therapy and treatments to restore
23 his neurological system, including multiple weeks at an expensive in-patient
24 rehabilitation facility.

25 **Class Action Allegations**

26 73. Plaintiffs bring this action on their own behalf and as a Class Action
27 under the provisions of e.g. Cal. Civ. Code § 1781, on behalf of all members of a
28

1 plaintiff Class defined as: all persons who have purchased and/or used
2 FasciaBlaster, or who will have done so at some point prior to resolution of the
3 Plaintiffs' claims herein.

4 74. Plaintiffs do not know the exact number of claimed Class members, but
5 on information and belief, they number in the tens of thousands if not more. Due to
6 the nature of the trade and commerce involved, the claimed Class members are
7 sufficiently numerous and geographically dispersed throughout the U.S. so that the
8 joinder of all claimed Class members is impracticable.

9 75. There is considerable commonality here among the claimed Class
10 members in that each has purchased or used, or will have purchased or used, a
11 dangerous FasciaBlaster device(s) prior to e.g. the implementation of any injunctive
12 relief ordered as a result of this lawsuit. The various harms FasciaBlaster has
13 wrought on each Plaintiff constitute further commonality between each Plaintiff and
14 all claimed Class members who have suffered, or will suffer before this matter is
15 resolved, the same or substantially similar¹³ type(s) of physical and commercial
16 injuries as any given Plaintiff(s); hopefully, many claimed Class members have been
17 fortunate enough to avoid serious injury, but any individual who nevertheless has
18 failed or will fail to achieve the 'blasting' results promised by Defendants finds
19 commonality with the Plaintiffs regarding e.g. causes of action for false advertising,
20 breaches of express and implied warranty, and fraud, if not also others.

21
22 ¹³ For example, Plaintiff Elson alleges that the Epstein-Barr virus which
23 previously lay harmlessly dormant in her system was released and reawakened by
24 'blasting,' making Elson extremely ill. (See Para. 13, *supra*.) There is thus
25 commonality between Elson and any putative Class member who also became ill
26 after having a previously dormant virus reactivated by FasciaBlaster use; the
27 possibility that the Class member's specific virus might differ (e.g. Shingles) does
28 not inherently defeat the commonality of the cause, nor the consequences, of its
revival from prior dormancy.

1 76. Plaintiffs and claimed Class members have a common interest in
2 determining the following:

- 3 (a) whether Defendants engaged in false or misleading advertising;
4 (b) whether FasciaBlaster caused the injuries suffered by users
5 thereof;
6 (c) whether acts and omissions by Defendants contributed to the
7 injuries suffered by FasciaBlaster users;
8 (d) whether acts and omissions by Defendants were negligent,
9 grossly negligent, reckless, fraudulent, or any combination thereof; and
10 (e) that Plaintiffs and other members of the claimed Classes have
11 been, or are substantially likely to be, damaged by Defendants'
12 wrongful acts and/or omissions.

13 77. Plaintiffs' claims are typical of the claims of all Class members.
14 Plaintiffs will fairly and adequately protect the interests of the Classes. Plaintiffs are
15 typical users of FasciaBlaster devices and accessories sold throughout the United
16 States. Their interests are coincident with, and not antagonistic to, those of the other
17 members of the Class. In addition, Plaintiffs are represented by counsel who are
18 competent and experienced in the prosecution of class action litigation.

19 78. The prosecution of separate actions by individual members of the
20 plaintiff Class would create a risk of inconsistent or varying adjudications,
21 potentially establishing incompatible standards of conduct for Defendants and
22 inconsistent remedies available to injured Class members nationwide.

23 79. The questions of law and fact common to the members of the
24 Subclasses predominate over any questions affecting only individual members,
25 including legal and factual issues relating to liability for actual, general, and punitive
26 damages, and appropriateness of injunctive relief.

27 80. A class action is superior to other methods for the fair and efficient
28

1 adjudication of this controversy. Treatment as a class action will permit large
2 numbers of similarly situated persons to adjudicate their common claims in a single
3 forum simultaneously, efficiently, and without the duplication of effort and expense
4 that numerous individual actions would engender. Class treatment will also permit
5 the adjudication of claims by many Class members who could not afford
6 individually to litigate the numerous claims such as are asserted in this Complaint.
7 The plaintiff Class is readily ascertainable. Finally, this class action is not likely to
8 present such difficulties in management that would preclude its maintenance as a
9 class action.

10 **IV. FACTS COMMON TO ALL CAUSES OF ACTION**

11 **FasciaBlaster Marketing**

12 81. Defendants do or did advertise FasciaBlaster through multiple media
13 avenues, including *inter alia*: website www.fasciablaster.com; website
14 www.AshleyBlackGuru.com; Defendant Black's book The Cellulite Myth: It's Not
15 Fat, It's Fascia; pervasive targeted¹⁴ advertising, putatively instructional videos, and
16 putatively open discussion forums on social media websites/applications including
17 *inter alia* Facebook, Instagram, and YouTube; and by promotional interviews and
18 other varieties of marketing tie-ins e.g. on the Today Show and EXTRA television
19 programs, in Essence and Shape magazines, and on the much-ballyhooed lifestyle
20 website GOOP.com.

21 82. Putatively instructional materials (e.g. over 100 videos) and discussion-
22 oriented forums (e.g. multiple Facebook discussion groups) created and/or

23
24 ¹⁴ On information and belief, Defendants enjoy Facebook's top-of-the-line
25 targeted advertising package, whereby Facebook's algorithm communicates with a
26 user's web browser program to learn that e.g. she had previously run a Google
27 search for "cellulite," causing Facebook to automatically place Defendants' ad
28 prominently near the top of the user's Facebook 'News Feed' the next time she
scrolls through it.

1 moderated by Defendants feature public representations asserting or purporting to
2 reinforce assertions about the effectiveness of Defendants' products and techniques
3 for their advertised purposes. Moreover, on information and belief Defendants did
4 and do create and operate shill (i.e. fake) Facebook profiles, and/or surreptitiously
5 contract with third party 'motivators,' in order to give the false public impression
6 that these are disinterested parties as they broadcast glowing third-party feedback
7 and/or oppose, attack, and seek to undermine any negative third-party feedback.
8 Finally, representations on product packaging also qualify as marketing.

9 83. All putatively 'informational' material disseminated by Defendants
10 regarding FasciaBlaster, in any medium, has the underlying intent and effect of
11 advertising FasciaBlaster products, accessories and techniques. On information and
12 belief, most if not all of the foregoing relies on false and/or deceptive claims
13 pertaining to health benefits, aesthetic benefits, and the putatively scientific bases
14 for such claims, including but not limited to false representations of the
15 medical/academic qualifications of individuals and regulatory agency support for
16 the outcomes promised by the Defendants.

17 84. The following is a nonexhaustive list of Defendants' false and/or
18 misleading representations about FasciaBlaster's health benefits, aesthetic benefits,
19 the medical/academic qualifications of Defendants' agents and employees, the
20 scientific legitimacy of Defendants' putative clinical trial, and regulatory agency
21 support for Defendants' commercial promises, *inter alia*:

22 (a) Defendants have stated that FasciaBlaster is "FDA Approved."

23 ◦In fact, FasciaBlaster is merely registered with the FDA, as a Class 1
24 medical device ("massager"). Class 1 devices are considered low-risk
25 and subject to the lowest degree of regulatory control. For example,
26 dental floss is classified as a Class 1 device. FasciaBlaster is not FDA
27 *approved* for the myriad medical uses promoted by Defendants.
28

1 (b) Defendants claimed as far back as September 2016, if not earlier,
2 that their products were subject to “clinical study” and “double-blind
3 scientific research.” °In fact, on information and belief the only
4 putatively scientific research was the putative clinical trial undertaken
5 at ASPI from mid-December 2016 through mid-March 2017.

6 Moreover, as noted *supra* by participant Plaintiffs, the study was
7 dubiously scientific, was conducted without IRB oversight, violated
8 HIPAA and FDA protocols, and was certainly not “double-blind”
9 because there was no control group versus test group, but rather simply
10 35 participants all doing the same ‘blasting’ and submitting their
11 results. Contrary to innumerable prior representations by Defendant
12 Black and others, an officer of Defendant ADBI recently admitted that
13 there has been no genuine “clinical” study.

14 (c) Defendants have claimed and/or intentionally implied, *inter alia*:
15 that Defendant Black is a Licensed Massage Therapist, scientist, and
16 “Inventor of the Year” nominee; that former spokesperson Dari Samia
17 is a medical doctor; that spokesperson and putative researcher Bart
18 Jameson is a doctor; and that spokesperson and putative researcher
19 Kathleen Stross is a neuroscientist. °In fact, on information and belief,
20 none of these people possess the referenced qualifications.

21 (d) Defendants have claimed that FasciaBlaster is 100% safe; on
22 May 18, 2017, Defendant Black stated in a promotional video that no
23 woman had reported injuries to her; as recently as August 31, 2017,
24 Black stated “[t]here are no serious injuries reports (*sic*) ... [w]e
25 investigate all claims.” °In fact, on information and belief, thousands of
26 FasciaBlaster users have experienced adverse effects from ‘blasting.’
27 According to an FDA Inspection Report, a minimum of 70 such users
28

1 reported their injuries directly to Defendants, and were systematically
2 ignored. (See Paras. 89-90, *infra*.) On information and belief, anywhere
3 between dozens and thousands of FasciaBlaster users complained, or
4 merely inquired, about adverse experiences from 'blasting' on e.g.
5 social media forums, before Defendants censored or deleted their
6 comments and questions, and banned them from further participation in
7 said forums to prevent potential customers from seeing honest feedback
8 of a negative nature. Plenty of these complaints were raised before May
9 18, 2017; on information and belief, Defendant Black has received
10 numerous complaints dating back more than a year before she made
11 this claim. Many reports were provided to Defendants pertaining to
12 users whose injuries were serious enough to require emergency
13 hospitalization, including multiple Plaintiffs herein and others similarly
14 situated, and as explicitly noted in the FDA Inspection Report of which
15 Black had full knowledge before publicly claiming otherwise on
16 August 31, 2017.

17 (e) Defendants have claimed that FasciaBlaster use will not affect
18 hormones and will not increase estrogen levels. °In fact, the
19 experiences of multiple Plaintiffs and others similarly situated
20 demonstrate the dramatic effects FasciaBlaster use has wrought on their
21 hormone levels, including extreme cramping, missed periods, unusual
22 menstrual bleeding (e.g. lasting up to 10 days), depression, anxiety, etc.

23 (f) Defendants did and/or do claim that FasciaBlaster reduces the
24 appearance of varicose veins, and is "100% effective" at treating
25 cellulite, purportedly "better, faster, and more affordable than
26 [competing approaches to cellulite reduction] freezing [i.e.
27 CoolSculpting®] or surgery [e.g. liposuction]." °In fact, after 'blasting'
28

1 multiple Plaintiffs experienced a marked increase in the appearance and
2 severity of cellulite, varicose and spider veins, and these worsened
3 conditions have persisted long after they ceased 'blasting,' six months
4 later or more.

5 (g) Defendants did and/or do claim that FasciaBlaster erases lines
6 and wrinkles. °In fact, 'blasting' worsened the lines and wrinkles of
7 multiple Plaintiffs and others similarly situated.

8 (h) Defendants have claimed that bruising from FasciaBlaster is
9 "healthy, restorative, and cleansing[,]" and that, at any rate, any such
10 aesthetic side effects of any kind are only temporary and will improve
11 with continued 'blasting' in keeping with Defendant Black's oft-
12 repeated refrain, "worse before better!" °In fact, notwithstanding
13 faithful adherence to Defendants' instructions for use, multiple
14 Plaintiffs and others similarly situated have had the following side
15 effects persist through, and well after, prolonged 'blasting':
16 hemosiderin staining, crêpe skin, loose skin, fallen face, persistent claw
17 lines/rake marks, inflammation, Oxidative stress, crepitus, weight gain,
18 adrenal fatigue, thyroid disruption, hematoma, blood clot, burst blood
19 vessel, hormonal changes, mood swings, depression, anxiety, panic
20 attacks, Vasovagal Syncope, heart palpitations, difficulty breathing,
21 lightheadedness, vertigo, flu-like symptoms, nerve pain, joint pain,
22 muscle pain, muscle spasms, headaches, numbness, chronic Pruritis,
23 itching or burning sensations, rash, chronic perivascular dermatitis,
24 hives, hair loss, viral outbreaks, chest pain, etc.

25 (i) Defendants' various websites and social media profiles feature
26 multiple sets of promising 'before and after' photos to demonstrate the
27 results FasciaBlaster provides. ° Subject to proof: many of the photos
28

1 are digitally altered, others appear to have been copied from various
2 plastic surgery or liposuction websites, and on information and belief,
3 including according to former FasciaBlaster spokesperson Dari Samia,
4 at least one pair of pictures was taken mere moments apart, but with
5 different lighting giving them the appearance of improvement from one
6 to the next. On information and belief, at least one pair of photos
7 feature a woman who was eight-months pregnant in the 'before' photo,
8 then four or five months postpartum in the 'after,' which Defendants
9 fail to disclose in presenting them as indicative of successful 'blasting'.

10 **Fasciablaster's Chemical Composition**

11 85. Plaintiffs are informed and believe, and thereon allege, that
12 FasciaBlaster has been and is dangerous and defective in its design, and unfit to be
13 used for any purpose by any person, and that Defendants have been on actual and
14 constructive notice of said unfitness at all relevant times.

15 86. On information and belief, the chemical composition of the plastic in a
16 FasciaBlaster device includes more than 40% Bisphenol A ("BPA"), which can both
17 mimic and antagonize estrogen in the body. Multiple scientific studies link BPA to
18 endocrine system disruption, dating as far back as 1997. Studies have linked BPA's
19 xenoestrogenic effects to, *inter alia*, metabolic disease, thyroid disruption,
20 neurological damage, interference with fetal and early childhood development,
21 dopaminergic harms (e.g. attention deficits and increased susceptibility to drug
22 addiction), and multiple cancers (most prominently, breast cancer).

23 87. Studies have also demonstrated—and sources including Mayo Clinic
24 and Harvard University School of Public Health warn—that exposure to heat can
25 cause BPA to leach out of plastic at especially dangerous levels.

26 88. Notwithstanding the foregoing, Defendants did and do direct
27 FasciaBlaster users to use copious heat in their 'blasting' routines; each named
28

1 Plaintiff followed such instruction, and 'blasted' only during or immediately after a
2 sauna or very hot bath or shower. For example, Plaintiff Lanum used a portable
3 sauna device which was provided to every participant in the putative "clinical trial"
4 at ASPI; Plaintiff Haavisto's husband built a sauna for her in their home—at
5 substantial expense—specifically for 'blasting' purposes when she bought
6 FasciaBlaster; Plaintiff Gaines would always 'blast' during a hot shower. On
7 information and belief, tens of thousands of FasciaBlaster users follow Defendants'
8 guidance for use under temperature conditions which dramatically increase the risk
9 of BPA leaching from the device into their skin. Moreover, on information and
10 belief, Defendants' recommended oils and moisturizers risk further increasing
11 dermal penetrability, i.e. the ease with which a toxin like BPA can slip into the
12 user's body through her skin.

13 **FDA Inspection**

14 89. Between July 18 and August 4, 2017, an investigator from the U.S.
15 Department of Health and Human Services ("DHHS"), Food and Drug
16 Administration ("FDA") found numerous faults with Defendants' business
17 practices, detailed in Establishment Inspection Report FEI # 3012547534 ("FDA
18 Inspection Report"), which the Plaintiffs submit herewith as "Exhibit A."

19 Among other things, the FDA Inspection Report reflects the Investigator's
20 determinations that:

- 21 (a) Defendants had failed to develop, maintain, or implement
- 22 procedures for Medical Device Reporting ("MDR") by consumers.
- 23 (b) Defendants were aware that 70 MDRs had been filed in the
- 24 preceding year alleging injury by FasciaBlaster, but Defendants had
- 25 nevertheless failed in every instance to initiate any corrective and
- 26 preventive procedures ("CAPA") to address them.
- 27 (c) Defendants had in fact "failed to define[], document[], or
- 28

1 implement[] [any] CAPA procedure to analyze, for example, processes,
2 work operations, recurring complaints, returned product and other
3 sources of quality data that identify existing and potential causes of
4 nonconforming product or other quality problems.”

5 (d) Defendants have “been importing their FDA registered, Class I
6 medical device for at least 18 months, beginning initially ... in 2015
7 but there was no evidence that complaints older than 01 month have
8 been evaluated.”

9 (e) The foregoing might be explained in part by the fact that, for
10 every example of a user complaint which the Investigator cites in her
11 report, she notes either that “I found *minimal...*” or “I found *no*
12 *evidence that an attempt was made to determine the relationship, if*
13 *any, of the device to the reported incident or adverse event* to evaluate
14 if it was MDR reportable[,]” or that “I found *no evidence that an*
15 *attempt was made*, after learning the batch number of the medical
16 device, *to determine why* the medical device malfunctioned or if it was
17 due to a failure to meet design specifications.” (Emphasis added.)

18 (f) “Multiple complaints began to come into FDA’s MDR database”
19 as far back as “June 2016” and, the Investigator explicitly makes note,
20 multiple consumers reported requiring hospitalization for their injuries.

21 (g) “The FasciaBlaster and AshleyBlackGuru (websites) appear to
22 make structure/function claims that exceed the limitations of a Class II
23 (*sic*) medical device.”

24 (h) “The website makes disease claims by asserting that the medical
25 device can alleviate the symptoms of specific diseases. For example,

26 Restores Blood flow (cardiovascular disease)

27 Increases Nerve Activity (rheumatoid arthritis)

1 Cardiac output is increased (cardiovascular disease)

2 Better blood pressure (cardiovascular disease)

3 Less brain fog (Alzheimers)

4 Lessens stress on joints (rheumatoid arthritis)

5 Inflammation reduced (rheumatoid arthritis)

6 Loosens the Primary System that Causes Pain (fibromyalgia)”

7 (i) From the Dallas area, alone, FDA had received “approximately
8 06 complaints ... alleging injury due to the medical device or
9 requesting assistance due to disease claims made by the inventor,
10 Ashley Black.”

11 (j) Defendant’s agent or employee—identity redacted from the
12 report—who “inputs the required FDA medical device description in
13 the U.S. Customs database” when the device’s manufacturer(s) ships it
14 to the U.S. “was recently given direction by [redacted] to change the
15 product code for the FasciaBlaster from a finished device 89LYG
16 (manual therapeutic massager) to a medical device component, 89IOD
17 (Exercise component) . . . [a]t least 05 detentions were initiated by
18 FDA imports due to not having matching product code between the
19 exporting manufacturer (shipping) and the Initial Importer (receiving).”

20 (k) “I requested to see the raw data in support of the clinical study
21 documented online []. The firm [Defendant ADBI] had no raw data
22 available for regulatory review. ”

23 90. The intrepid FDA Investigator comes across as surprised to find herself
24 in the position of having to be the one to educate Defendants’ representatives
25 regarding their basic responsibilities and duties owed to customers and society at
26 large. Her detailed depictions of some of Defendants’ confused and unprepared
27 employees, desperately claiming ignorance, earnestly turning over empty report
28

1 files, etc. might even be humorous, had so many customers not been so badly
2 injured by their irresponsibility and incompetence. The Investigator seems almost
3 incredulous about being thrust into the role of chastising federal schoolmarm:

4 Specifically, your firm, ADB Interests LLC, has no MDR procedure or
5 internal system in place[] to provide for the timely and effective
6 identification, communication and evaluation of events that may be
7 subject to medical device reporting requirements. ¶ ADB Interests LLC
8 is registered with the FDA as a Specification Developer of Class I
9 finished medical devices: manual, therapeutic massagers. Your firm
10 also acts as the Initial Importer. *As such, you are responsible for*
11 *maintaining, evaluating and investigating, when necessary, all*
12 *complaints that may allege serious injury or malfunction by your*
13 *medical device, FasciaBlaster.*

14 (Emphasis added.) In sum, from the date of its entry into commerce until July 18,
15 2017, if not more recently or indeed currently, Defendant ADBI was grossly
16 noncompliant with FDA regulations, and at best oblivious, if not willfully
17 dismissive, of its obligation to society to refrain from selling a dangerous product.

18 **Defamation and Cyber-Bullying**

19 91. On information and belief, for Defendants' marketing purposes they
20 did and do rely most heavily on social media forums, e.g. discussion groups and
21 Defendant Black's and other company profile pages' comments sections on
22 Facebook. In these forums Defendants did and do e.g. tout FasciaBlaster's putative
23 beauty and health benefits, encourage purchases of different device models and
24 accessories, and cheerlead, motivate, and aggressively endeavor to foster a feeling
25 of community among 'blasters,' e.g. referring to their number as "Blaster Sisters".

26 92. One consequence of the foregoing is that this 'community' has many if
27 not all the hallmarks of a religious cult: (i) a charismatic, (ii) self-assured, (iii) self-
28 designated 'visionary' leader, with (iv) dubious credentials, who (v) makes lofty and
29 (vi) scientifically-unproven promises with (vii) absolute certainty, which (viii) her
30 would-be acolytes must take on faith subject, for good measure, to either (ix)

1 choreographed and (x) overly-enthusiastic cheerleading and praise for their loyal
2 commitment to the leader's 'vision', or else (xi) vindictive retaliatory punishment of
3 any dissent, including banishment from discussion groups, social media
4 'unfriending,' and coordinated campaigns of libel, character-attack, intimidation,
5 tortious interference, and other harassment orchestrated, on information and belief,
6 by Black herself. Multiple Plaintiffs, and others similarly situated, have experienced
7 all of the foregoing.

8 93. Defendant Black, along with DOE(S) operating via social media and
9 other media at Black's behest, on information and belief (collectively, "cyberbully
10 Defendants"), did and do attempt to discredit anyone making any negative feedback
11 about FasciaBlaster. Black did and does undertake or encourage these acts (i) for the
12 plain commercial purpose of protecting her FasciaBlaster brand, if not also (ii) in a
13 cognitively dissonant effort to safeguard the lofty social position she believes she
14 has earned, which (subject to proof) has clearly instilled in her a personal animus
15 against the audacity of any dissension. As addressed *supra*, and in other ways
16 subject to proof, some Plaintiffs and others similarly situated have been *inter alia*
17 publicly disparaged, baselessly accused of crimes, and threatened e.g. with reprisals
18 against their personal businesses by the cyberbully Defendants.

19 94. In addition to the wrongful acts which the cyberbully Defendants have
20 perpetrated in their own names, on information and belief one or more of the
21 cyberbully Defendants has created fake Facebook user accounts for the purpose of
22 defaming, harassing, intimidating, and bullying certain named Plaintiffs and others
23 who had honestly publicized negative experiences with FasciaBlaster. As addressed
24 *supra*, Plaintiffs have good cause to conclude that one of the cyberbully Defendants
25 manufactured "Sarah Minow" in order to undermine and attack dissatisfied
26 customers, including some of the named Plaintiffs, and to rally others to do so. On
27 information and belief, the same can be said of Facebook personae "Georgia Peach,"
28

1 “Brown Shuga,” and “Nikki Kaviani” who likewise did and do habitually harass,
2 threaten, and bully anybody with the temerity to discuss negative ‘blasting’
3 experiences on Facebook, including some of the named Plaintiffs.

4 95. Since first being contacted by antagonistic Facebook discussion group
5 participants such as Ms. Minow, Ms. Peach, Ms. Shuga, and Ms. Kaviani, some
6 Plaintiffs have been targeted for defamation, harassment and bullying in other
7 arenas. For example, wholly fabricated criticisms about some Plaintiffs’ personal
8 business enterprises have sprung up e.g. on Facebook, Yelp.com, and other crowd-
9 sourced commercial review websites/applications. On information and belief, said
10 professional defamation and attempted tortious interference is part and parcel of
11 Defendant Black’s broader scheme—along with unwarranted, vindictive personal
12 attacks and bizarre threats—to silence her growing chorus of actual, human critics.

13 96. The behavior of a particular group of Facebook personae (which might
14 be the same persona) operating on Defendants’ behalf under the pseudonyms “Black
15 Ryno Security”, “Ryno Black”, “Ryno Brandt”, and “Ryno Ulili” (collectively,
16 “Ryno”) is of particular concern. Multiple Plaintiffs, and many others similarly
17 situated, have been made to feel anxious, exposed, unsafe, and afraid by Ryno’s
18 conduct, including *inter alia*:

19 (a) Ryno made numerous public comments on Facebook, as well as
20 in private messages, accusing Defendants’ critics of various crimes and
21 deceptions, and vaguely threatening that e.g. women are “putting
22 themselves at risk” by their participation in one of the independent
23 Facebook groups which have been created by and for the many
24 dissatisfied FasciaBlaster users.

25 (b) On July 8, 2017, Ryno posted a warning message on Facebook
26 listing 51 FasciaBlaster critics by name, and encouraging e.g. business
27 owners to block these critics from their Facebook pages in retaliation.
28

1 (c) On information and Belief, Ryno did and does run background
2 checks on Defendants' critics, having on at least three occasions
3 publicized critics' having been arrested, e.g. for DUI; what any of that
4 had to do with FasciaBlaster remains to be seen, but plainly it was
5 intended to harass and intimidate.

6 (d) Some FasciaBlaster critics have had their Facebook accounts
7 hacked, finding earlier private messages from Defendant Black deleted
8 by Ryno or someone associated with Ryno, on information and belief.
9 Plaintiffs are informed and believe that these hacking victims may have
10 used the same password to register with Defendants' online resources
11 that they use for Facebook, thereby inadvertently providing Defendants
12 with those passwords. Facebook tracks profile logins by geographical
13 location, and some of these hacking victims, who do not live in Texas,
14 received indication from Facebook that their accounts had been
15 accessed by someone in Texas, the same state where Defendant ADBI
16 is headquartered.

17 **FIRST CAUSE OF ACTION**

18 **(FALSE ADVERTISING)**

19 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

20 97. Paragraphs 1 through 96 are incorporated by reference as though fully
21 set forth herein.

22 98. All Defendants are subject to *respondeat superior* liability for the
23 wrongful acts and omissions of any agent or employee of any of them, undertaken in
24 the course of any conduct for the commercial benefit of Defendants, collectively or
25 individually. Among the specified Defendants, individuals may also be jointly liable
26 for their own acts subject to proof.

27 99. Agents and/or employees of the Defendants—including Defendant
28

1 Black herself in both her personal capacity as a proud 'celebrity mogul' and in her
2 capacity as President and spokesperson for the corporate co-Defendants which bear
3 her name or initials—publicly disseminated untrue and/or misleading statements
4 with the intention to induce customers to purchase Defendants' commercial products
5 in reliance on said untrue and/or misleading statements.

6 100. Cal. Civ. Code § 1770 (a)(2) deems it unlawful to “[m]isrepresent[] the
7 source, sponsorship, *approval*, or *certification* of goods and services.” (Emphasis
8 added.) Defendants misrepresented the FDA’s designation of FasciaBlaster as a
9 “Class 1 medical device (massager)”—i.e. with the same degree of regulation as
10 dental floss—as constituting the FDA’s having bestowed its blessing on serious and
11 complex health claims and uses, far afield of the presumably modest benefits and
12 uses which someone at FDA once had in mind, regarding what had doubtless
13 seemed simply to be one of the market’s many innocuous commercial implements
14 for gentle self-massage, on information and belief.

15 101. Cal. Civ. Code § 1770 (a)(5) prohibits “[r]epresenting that goods or
16 services have sponsorship, approval, characteristics, ingredients, uses, benefits, or
17 quantities which they do not have or that a person has a sponsorship, approval,
18 status, affiliation, or connection which he or she does not have.” Defendants’
19 marketing did and does contravene this provision in numerous ways, including *inter*
20 *alia*: false representations of FDA approval of FasciaBlaster’s marketed techniques
21 for use; claims that it has been subject to “double-blind” testing, which it was not;
22 guarantees that it “cures” cellulite, improves muscle tone, rejuvenates skin, etcetera,
23 all of which the Plaintiffs have found to be far from the truth; and strenuous denials
24 regarding its dangerous effect on estrogen and other hormone levels, even while
25 Defendants were aware of, and attempting to squelch, reports to the contrary.

26 102. Defendants further violated Cal. Civ. Code § 1770 (a)(5) by their false
27 assertions of the medical and/or academic qualifications of individuals associated
28

1 with FasciaBlaster, including, *inter alia*:

- 2 (a) representations that Defendant Black is a “scientist” and
3 Licensed Massage Therapist, when on information and belief she has
4 no such license and no formal scientific education;
- 5 (b) repeated references in promotional materials (videos and
6 podcasts), by Black, to former FasciaBlaster spokesperson, Dari Samia,
7 as “Doctor Dari,” when in fact Mr. Samia is a nurse, not a doctor;
- 8 (c) references to putative researcher Ms. Stross as a “neuroscientist,”
9 though she is in fact a massage therapist who, on information and
10 belief, has no such academic background; and
- 11 (d) references to putative researcher Jameson as “Doctor Bart,”
12 though he is in fact an athletic trainer who, on information and belief,
13 has no medical or scientific qualifications of any kind.

14 103. The foregoing misleading and/or false designations of
15 medical/academic authority are/were evinced, and exacerbated, when on multiple
16 occasions Black, Samia, Stross, Jameson, and others did and do purport to be
17 qualified to dispense, and did and do dispense, advice on issues of a medical nature,
18 including *inter alia* regarding:

- 19 (a) ‘blasting’ while pregnant (e.g. that it is “perfectly safe”¹⁵);
- 20 (b) serious post-partum considerations such as Diastasis Recti,
21 separation of the large abdominal muscles (e.g. that ‘blasting’ fixes it);
- 22 (c) stroke (i.e. that it is not a risk);

23
24 ¹⁵ The “Terms & Conditions” section of Defendants’ AshleyBlackGuru.com
25 webpage *currently* offers a lengthy warning against certain uses of FasciaBlaster,
26 e.g. while pregnant, over varicose veins. On information and belief, this disclaimer
27 was added on or around May 22, 2017, prior to which Defendants—Defendant
28 Black most enthusiastically—expressly made exactly opposite assertions of safety
and usefulness, as described herein.

- 1 (d) Multiple Sclerosis (e.g. that 'blasting' can cure it);
2 (e) Parkinson's Disease (e.g. that 'blasting' helps with symptoms)
3 (f) brain injury;
4 (g) vertigo;
5 (h) peripheral neuropathy;
6 (i) Fibromyalgia;
7 (j) Sciatica;
8 (k) varicose veins (e.g. "you can use FasciaBlaster to ERASE your
9 varicose veins!"); and
10 (l) other delicate medical topics, subject to proof.

11 104. The FDA Inspection Report, for its part, presents eight unapproved and
12 illegal medical claims by Defendants, out of many more on information and belief.
13 (See Para. 89(h), *supra.*) The FDA Inspection Report further notes that Defendant
14 ADBI "had no raw data for regulatory review[]" from the putative clinical trial¹⁶
15 which Defendants tout authoritatively for marketing purposes. (See Para. 89(k),
16 *supra.*) In light of the foregoing, Plaintiffs allege on information and belief that
17 Defendants did or do fabricate the data, or direct or solicit DOE Defendant(s) to do
18 so, in order to falsely advertise the benefits of 'blasting'.

19 105. Further, the FDA Inspection Report evinces Defendants' willful
20 blindness to the relationship between FasciaBlaster and the many injuries its users
21 have informed Defendants about. (See Para. 89(e), *supra.*) Since first entering
22 commerce in (on information and belief) 2015, through at least July 18, 2017,
23 Defendants were and may still be violating FDA regulations by their lack of

24
25 ¹⁶ This presumably refers only to the putative clinical trial that actually
26 occurred, to the degree it did, as opposed to one of the scientific studies which, on
27 information and belief, Defendants have falsely claimed to have performed. (See
28 Para. 84(b), *supra.*)

1 reporting (MDR) or remedying (CAPA) procedures. Plaintiffs allege on information
2 and belief that these failures were the obvious and natural result of the reckless
3 indifference demonstrated by Defendants' failure to meaningfully investigate the
4 connection between 'blasting' and the numerous serious injuries reported to
5 Defendants during that long time span. On information and belief, Defendants
6 reasoned that they had more to gain by turning a blind eye. Defendants knew of
7 injurious side effects, thus the failure to investigate their connection to FasciaBlaster
8 ought reasonably to impute knowledge thereof to Defendants. On information and
9 belief, while touting a nigh-miraculous laundry list of health benefits from
10 'blasting', Defendants simultaneously, intentionally withheld actual and/or imputed
11 knowledge of serious dangers from the buying public.

12 106. Accordingly, Plaintiffs and others similarly situated have been directly
13 and proximately harmed by acts and omissions of Defendants. As such, the
14 Plaintiffs, in their personal capacities and on behalf of all others similarly situated
15 pursuant to Cal. Civ. Code §§ 1781 and 1782(d), hereby seek injunctive relief to
16 curtail and, to the degree possible, reverse all of Defendants' deceptive marketing
17 practices before Plaintiffs, Class members, and other vulnerable people might be
18 further harmed thereby. Plaintiffs hereby request that the Court enjoin Defendants to
19 immediately undertake the following remedial commercial actions, to the degree
20 possible, in or on every medium Defendants did or do use for any marketing
21 purpose, including prominently and permanently on the 'Home' page of every
22 website and social media profile controlled by Defendant:

- 23 (a) publicly and specifically retract all false health claims pertaining
- 24 to FasciaBlaster that Defendants have previously made;
- 25 (b) cease and refrain from henceforth making any definitive health
- 26 claims pertaining to FasciaBlaster which are not specifically approved
- 27 by an accredited health-related institution, to be approved by the
- 28

1 Plaintiffs;

2 (c) supplement Defendant's existing "Terms & Conditions"
3 disclosure of possible side effects to include *all* side effects for which
4 Plaintiff-approved health professionals suspect a connection to
5 'blasting' subject to proof, including *inter alia* anxiety, dizziness, heart
6 palpitations, bruise staining, sagging skin, crêpe skin, worsened
7 cellulite, etc.

8 (d) include in all future promotional material—and to the extent
9 possible, amend any existing promotional material to include—the
10 statement "Ashley Black is Not a Medical Professional. Consult Your
11 Doctor Before Use" in writing no more than one font-size smaller than
12 the biggest font-size appearing anywhere else in the advertisement if
13 the advertisement is in print, or at the beginning and end of every
14 promotional video or audio recording, at the same or louder speaking
15 volume as the rest of the recording;

16 (e) redesign and manufacture FasciaBlaster without BPA, and
17 amend any existing promotional material to include the statement
18 "WARNING: FasciaBlasters Sold Before [DATE] May Contain BPA
19 And Should Not Be Used In High Temperature Conditions".

20 (f) institute MDR and CAPA procedures assiduously compliant with
21 all FDA regulations, AMA guidelines, etc.

22 (g) publicize offer for full refund of any FasciaBlaster device or
23 accessory, no questions asked, with no expiration date; and

24 (h) record and publicly display a video online wherein Black
25 apologizes by name to each individual who will have provided formal
26 notice of having been unfairly maligned or intimidated online by one of
27 the Defendants or by any third party on behalf of any Defendant.
28

1 Plaintiffs further request that the Court enjoin Defendants to immediately:

- 2 (i) cease and refrain from all promotion and sales of FasciaBlaster
- 3 worldwide until Defendants have verifiably undertaken all of the
- 4 remedial commercial actions specified *supra* at subsections (a-h) of this
- 5 paragraph;
- 6 (j) provide every participant from Defendant's putative clinical trial
- 7 with her own full medical file i.e. all medical information gathered
- 8 about the participant during the ASPI study;
- 9 (k) after all private medical information has been provided to the
- 10 participants, Defendant will verifiably destroy any remnant or record of
- 11 any of the foregoing information still in its possession; and
- 12 (l) for any future effort at a scientific study regarding FasciaBlaster,
- 13 Defendant will adhere to all FDA and American Medical Association
- 14 ("AMA") regulations and guidelines, including IRB supervision.

15 Plaintiffs also seek attorney's fees and costs of suit incurred herein.

16 SECOND CAUSE OF ACTION

17 (STRICT PRODUCTS LIABILITY—DESIGN DEFECT)

18 Against Defendants Black, ADBIH, ADBI, and applicable DOES

19 107. Paragraphs 1 through 106 are incorporated by reference as though fully
20 set forth herein.

21 108. The specified Defendants are subject to *respondeat superior* liability
22 for the wrongful acts and omissions of any agent or employee of any of them,
23 undertaken in the course of any conduct for the commercial benefit of Defendants,
24 collectively or individually. Among the specified Defendants, individuals may also
25 be jointly liable for their own acts subject to proof.

26 109. The specified Defendants are/were responsible for and/or perform(ed)
27 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.
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1 110. As described herein *supra*, and on other occasions subject to proof,
2 FasciaBlaster did not and routinely does not perform as safely as an ordinary
3 consumer would expect it to perform when used or misused in an intended or
4 reasonably foreseeable way.

5 111. As described herein *supra*, and in other ways subject to proof, the
6 gravity of the potential harm resulting from the use of FasciaBlaster is extremely
7 high.

8 112. As described herein *supra*, and in other ways subject to proof, the
9 named Plaintiffs, and many others similarly situated, were harmed by their use of
10 FasciaBlasters.

11 113. FasciaBlaster's failure to perform safely was a substantial factor in
12 causing harm to the named Plaintiffs, and to many others similarly situated.

13 114. On information and belief, the entire premise of achieving health
14 benefits from 'blasting' one's fascia, which premise underlies FasciaBlaster's
15 design, is unfounded and dangerous. On information and belief, no product designed
16 to 'blast' fascia could or would be medically sound if used for that purpose.

17 115. The benefit of FasciaBlaster's design, if any, is significantly
18 outweighed by the gravity of the potential harm resulting from the use of
19 FasciaBlaster, which is very high as described herein *supra*, and in other ways
20 subject to proof.

21 116. The benefit of FasciaBlaster's design, if any, is significantly
22 outweighed by the likelihood that harm will occur from FasciaBlaster use, which is
23 very high as described herein *supra*, and in other ways subject to proof.

24 117. FasciaBlaster is fundamentally dangerous, likely to cause unexpected
25 harm(s) to its users, and irredeemable by any putative benefit. As such, the design of
26 FasciaBlaster—including all versions of devices marketed under that or a similar
27 name for similar use—is defective under both the 'customer expectation' and 'risk-
28

1 benefit' tests. The foregoing is the direct and proximate cause of harms suffered by
2 the Plaintiffs and others similarly situated, to whom the specified Defendants are
3 therefore strictly liable for all damages associated with FasciaBlaster.

4 **THIRD CAUSE OF ACTION**

5 **(STRICT PRODUCTS LIABILITY—FAILURE TO WARN)**

6 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

7 118. Paragraphs 1 through 117 are incorporated by reference as though fully
8 set forth herein.

9 119. The specified Defendants are subject to *respondeat superior* liability
10 for the wrongful acts and omissions of any agent or employee of any of them,
11 undertaken in the course of any conduct for the commercial benefit of Defendants,
12 collectively or individually. Among the specified Defendants, individuals may also
13 be jointly liable for their own acts subject to proof.

14 120. The specified Defendants are/were responsible for and/or perform(ed)
15 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

16 121. As described herein *supra*, and in other ways subject to proof,
17 FasciaBlaster use carries with it potential risks and/or side effects that were known
18 to the specified Defendants, and/or knowable in light of medical knowledge
19 generally accepted in the scientific community, at all relevant times herein. Such
20 knowledge may appropriately be imputed to the Defendants due to, *inter alia*:

- 21 (a) the significant volume of customer complaints which any
22 Defendant, or agent or employee thereof, caused to be erased from
23 Facebook discussion groups and elsewhere;
- 24 (b) 70 or more customer complaints lodged directly with a
25 Defendant or agent or employee thereof prior to July 18, 2017, at least,
26 which Defendants intentionally or recklessly neglected to meaningfully
27 investigate, on information and belief (see e.g. Para. 89(a-e), *supra*);
28

1 (c) data from the putative clinical trial undertaken by Defendants
2 which, on information and belief—based on, *inter alia*, Defendants’
3 refusal to disclose said data to the participants, notwithstanding
4 promises and privacy obligations to do so, and inability to provide it to
5 the FDA Investigator, notwithstanding regulatory obligation to do so—
6 support Plaintiffs’ allegations herein of risks and side effects, if not also
7 of additional risks and side effects subject to proof; and
8 (d) the fact that, on information and belief—based on, *inter alia*,
9 photographic evidence—Defendant Ashley Black herself has suffered
10 or is suffering from undisclosed risks and side effects of ‘blasting,’
11 including *inter alia* severely resurgent cellulite on her own legs, which
12 is regrettable and would not merit mentioning except under the
13 circumstances giving rise to this action.

14 122. As described herein *supra*, and in other ways subject to proof,
15 FasciaBlaster’s potential risks and/or side effects did and do present a substantial
16 danger when FasciaBlaster is used or misused in an intended or reasonably
17 foreseeable way.

18 123. As described herein *supra*, and for other reasons subject to proof,
19 ordinary customers such as the named Plaintiffs, and others similarly situated, did
20 not, do not, and would not recognize the potential risks and/or side effects of
21 FasciaBlaster use, particularly in light of Defendants’ aggressive wide-scale
22 marketing.

23 124. As described herein *supra*, and in other ways subject to proof, the
24 specified Defendants failed to adequately warn the public about the potential risks
25 and side effects of FasciaBlaster use, and failed to adequately instruct the public on
26 ways, if any exist, that the potential risks and side effects of FasciaBlaster use might
27 be avoided.
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1 125. The specified Defendants' failures to provide the public with either
2 sufficient warnings about FasciaBlaster, or instructions for its safe use (if any safe
3 use is possible), was a substantial factor in causing the harms described herein, and
4 any other harms subject to proof, suffered by the Plaintiffs and any others similarly
5 situated.

6 126. At all relevant times herein, the specified Defendants could, can, and
7 should, but did and do fail to, warn customers and potential customers of serious
8 risks and/or side effects from FasciaBlaster use. The foregoing acts and omissions
9 by Defendants were the direct and proximate cause of harms suffered by Plaintiffs
10 and others similarly situated, to whom the specified Defendants are therefore strictly
11 liable for all damages associated with FasciaBlaster.

12 **FOURTH CAUSE OF ACTION**
13 **(NEGLIGENCE)**

14 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

15 127. Paragraphs 1 through 126 are incorporated by reference as though fully
16 set forth herein.

17 128. The specified Defendants are subject to *respondeat superior* liability
18 for the wrongful acts and omissions of any agent or employee of any of them,
19 undertaken in the course of any conduct for the commercial benefit of Defendants,
20 collectively or individually. Among the specified Defendants, individuals may also
21 be jointly liable for their own acts subject to proof.

22 129. The specified Defendants did or do perform, supervise, and/or were or
23 are otherwise responsible for the manufacture, testing, marketing, distribution,
24 and/or sale of FasciaBlaster.

25 130. The specified Defendants knew or reasonably should have known that
26 FasciaBlaster was dangerous or likely to be dangerous when used or misused in a
27 reasonably foreseeable manner.
28

1 131. The specified Defendants knew or reasonably should have known that
2 customers and potential customers would not be aware of the potential danger(s) of
3 FasciaBlaster use.

4 132. As described herein *supra*, and in other ways subject to proof, the
5 specified Defendants failed to adequately warn the public about the potential
6 dangers of FasciaBlaster use. Further, the specified Defendants failed to adequately
7 instruct the public on ways, if any exist, that the potential dangers of FasciaBlaster
8 use might be avoided. Even if and to the degree any specified Defendant(s) learned
9 about any foreseeable danger from FasciaBlaster use after any sale(s) had already
10 been made, the specified Defendant(s) nevertheless failed to issue a recall.

11 133. A reasonable manufacturer, tester, marketer, distributor, or seller under
12 the same or similar circumstances as the specified Defendants', knowing that a
13 device he/she/it manufactures/tests/markets/distributes/sells is foreseeably
14 dangerous, would warn the public about that danger and/or instruct the public on
15 safe use of the device, if any safe use exists, or upon learning of such danger after
16 sale(s) would issue a recall of the device. Such reasonable actor would do the
17 foregoing not only as a matter of obvious business diligence, but hopefully per the
18 basic care and consideration for the general wellbeing of other people on which
19 civilized society relies.

20 134. Because the specified Defendants knew or reasonably should have
21 known that FasciaBlaster is foreseeably dangerous, yet failed to so warn or instruct
22 the public, or issue a recall, notwithstanding that such is what reasonably careful
23 actors under the same or similar circumstances would do, the specified Defendants
24 were and are negligent in supervising and/or conducting the manufacture, testing,
25 marketing, distribution, and/or sale of FasciaBlaster. Such negligence was the direct
26 and proximate cause of harms suffered by the Plaintiffs and others similarly
27 situated, to whom the specified Defendants are therefore liable for all damages
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1 associated with FasciaBlaster.

2 135. Each Plaintiff, and many others similarly situated, suffered serious
3 emotional distress, including one or more of suffering, anguish, fright, horror,
4 nervousness, anxiety, grief, worry, shock, humiliation, and shame.

5 136. The specified Defendants' negligence was a substantial factor in
6 causing the serious emotional distress of Plaintiffs and many others similarly
7 situated.

8 137. In light of the foregoing, the specified Defendants are liable for general
9 damages from negligent infliction of emotional distress upon the Plaintiffs and
10 others similarly situated.

11 **FIFTH CAUSE OF ACTION**

12 **(NEGLIGENCE PER SE)**

13 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

14 138. Paragraphs 1 through 137 are incorporated by reference as though fully
15 set forth herein.

16 139. The specified Defendants are subject to *respondeat superior* liability
17 for the wrongful acts and omissions of any agent or employee of any of them,
18 undertaken in the course of any conduct for the commercial benefit of Defendants,
19 collectively or individually. Among the specified Defendants, individuals may also
20 be jointly liable for their own acts subject to proof.

21 140. The specified Defendants are/were responsible for and/or perform(ed)
22 the manufacture, marketing, distribution, and/or sale of FasciaBlaster.

23 141. The specified Defendants are and/or were negligent in supervising
24 and/or conducting the manufacture, testing, marketing, distribution, and/or sale of
25 FasciaBlaster.

26 142. Personal health information ("PHI") pertaining to Plaintiffs Lanum,
27 Dorenkamp, and others similarly situated (e.g. more than 30 other participants in
28

1 any putatively scientific testing undertaken and/or commissioned by the specified
2 Defendants, on information and belief) is subject to strict protections by statutes and
3 regulations, including *inter alia* Health Insurance Portability and Accountability Act
4 of 1996 ("HIPAA"), Health Information Technology for Economic and Clinical
5 Health Act ("HITECH Act"), DHHS's 'HIPAA Omnibus Rule,' and California's
6 Confidentiality of Medical Information Act [Cal. Civ. Code §§ 56-56.37]
7 ("CMIA").

8 143. Acts and omissions by the specified Defendants caused, contributed to,
9 facilitated, or incited third parties to engage in unlawful disclosure(s) and/or other
10 misuse(s) of PHI pertaining to Plaintiffs Lanum, Dorenkamp, and others similarly
11 situated, including *inter alia* commercial use of Lanum's, Dorenkamp's, and others'
12 PHI for such improper purposes and effects as:

- 13 (a) advertising FasciaBlaster in various media;
- 14 (b) to shame, embarrass, and discredit Lanum, Dorenkamp, and
- 15 others via social media in retaliation for honest negative feedback;
- 16 (c) failing and/or refusing to provide Lanum, Dorenkamp, and others
- 17 with their own PHI upon request; and
- 18 (d) in other ways subject to proof.

19 144. As described herein *supra*, and in other ways subject to proof, the
20 specified Defendants' unlawful disclosure(s) and other misuse(s) of PHI was/is a
21 substantial factor in causing harm to Plaintiffs, and others similarly situated,
22 including *inter alia* injury to personal and professional reputation, and emotional
23 distresses such as suffering, anguish, fright, horror, nervousness, anxiety, grief,
24 worry, shock, humiliation, and shame.

25 145. In light of the foregoing, the specified Defendants are strictly liable for
26 special and general damages, including for emotional distress, upon the Plaintiffs
27 and others similarly situated.
28

1 **SIXTH CAUSE OF ACTION**
2 **(GROSS NEGLIGENCE)**

3 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

4 146. Paragraphs 1 through 145 are incorporated by reference as though fully
5 set forth herein.

6 147. The specified Defendants are subject to *respondeat superior* liability
7 for the wrongful acts and omissions of any agent or employee of any of them,
8 undertaken in the course of any conduct for the commercial benefit of Defendants,
9 collectively or individually. Among the specified Defendants, individuals may also
10 be jointly liable for their own acts subject to proof.

11 148. The specified Defendants are/were responsible for and/or perform(ed)
12 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

13 149. As described herein *supra*, and in other ways subject to proof, certain
14 acts and omissions by the specified Defendants are/were so severely careless that
15 they constitute(d) an extreme departure from the ordinary standard of conduct. Such
16 acts and omissions include, *inter alia*:

- 17 (a) unscientific and improper execution of Defendants' putative
18 FasciaBlaster clinical trial falling far short of ordinary scientific
19 practice both procedurally and administratively, including in the
20 violation of HIPAA and other rights of participants both during and
21 after the study;
- 22 (b) unabating aggressive marketing of FasciaBlaster, including with
23 unfounded medical claims, notwithstanding Defendants' receipt of, on
24 information and belief, over 70 direct customer complaints regarding
25 serious side effects as of July 18, 2017, at least;
- 26 (c) failure to meaningfully investigate over 70 direct customer
27 complaints regarding serious side effects; and
28

1 (d) unabating aggressive marketing of FasciaBlaster, including with
2 unfounded medical claims, in conjunction with the wide-scale summary
3 deletion of any negative customer feedback posted in putatively open
4 and honest social media forums controlled by Defendants.

5 150. Putting aside statutes and regulations against conducting a merely
6 methodologically-flawed scientific study, it is a *far* more extreme deviation from
7 ordinary standards of care when that study also e.g.: (i) lacks IRB oversight, or (ii)
8 any guidance from a genuine medical doctor for that matter, while promotional
9 materials make both subtle and overt misrepresentations regarding (iii) procedures
10 (e.g. “double-blind”) and (iv) academic and medical credentials (e.g. “Dr. Bart”),
11 including with respect to putative researchers who (v) take participants’ medical and
12 privacy rights far more lightly than required by FDA regulations, and (vi) fail to
13 produce study data upon request by participants and (vii) an FDA Investigator.

14 151. On information and belief, the foregoing precise scenario took place,
15 *inter alia*, causing harms suffered by Plaintiffs Lanum and Dorenkamp, more than
16 30 other participants in Defendants’ putative clinical trial, and thereafter every
17 subsequent FasciaBlaster user who reasonably relied on, at best, willfully ignorant
18 assertions about the putative clinical trial’s legitimacy according to the Defendants.

19 152. Multiple acts and omissions by the specified Defendants require(d)
20 such extreme departures from ordinary standards of care that they constitute(d)
21 gross negligence, constituting the direct and proximate cause of harms suffered by
22 the Plaintiffs, and others similarly situated, to whom the Defendants are therefore
23 liable for damages associated with FasciaBlaster e.g. after pertinent customer
24 feedback was ignored or censored, after the putative clinical trial, etc.

25 153. Each Plaintiff and many others similarly situated suffered serious
26 emotional distress, including one or more of suffering, anguish, fright, horror,
27 nervousness, anxiety, grief, worry, shock, humiliation, and shame.
28

1 154. The specified Defendants' gross negligence was a substantial factor in
2 causing the serious emotional distress of Plaintiffs and many others similarly
3 situated.

4 155. In light of the foregoing, the specified Defendants are liable for actual
5 and general damages, including from infliction of emotional distress, upon the
6 Plaintiffs and others similarly situated.

7 **SEVENTH CAUSE OF ACTION**
8 **(RECKLESS MISCONDUCT)**

9 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

10 156. Paragraphs 1 through 155 are incorporated by reference as though fully
11 set forth herein.

12 157. The specified Defendants are subject to *respondeat superior* liability
13 for the wrongful acts and omissions of any agent or employee of any of them,
14 undertaken in the course of any conduct for the commercial benefit of Defendants,
15 collectively or individually. Among the specified Defendants, individuals may also
16 be jointly liable for their own acts subject to proof.

17 158. The specified Defendants are/were responsible for and/or perform(ed)
18 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

19 159. As described herein *supra*, and in other ways subject to proof, certain
20 acts and omissions by the specified Defendants did and do evince deliberate
21 disregard for the rights and safety of every FasciaBlaster user and potential user,
22 which disregard did and does subject Plaintiffs and others similarly situated to a
23 high probability of the array of injuries described herein, if not more subject to
24 proof. For example, when any Defendant, or officer, employee, or agent thereof,
25 summarily deletes from putatively open Internet discussion forums any negative
26 user feedback in the nature of e.g. 'blasting is messing with my hormone levels,'
27 then banishes the commenter from the forum and threatens to or does retaliate due to
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1 that honest feedback, such deletion, banishment and threats/retaliation, in order to
2 chill honest feedback, demonstrate willful and conscious disregard for the health of
3 every contemporaneous or future FasciaBlaster user who e.g. might be reviewing
4 the putatively open forum in an effort to determine whether *her own* early symptoms
5 of hormone imbalance might be attributable to her recently undertaken 'blasting'
6 regimen. Such interference, with plainly germane third-party warnings, for purely
7 commercial reasons at best, brazenly disregards the safety of all FasciaBlaster users.
8 On information and belief, the specified Defendants perpetrated the foregoing
9 scenario on many occasions.

10 160. Moreover, the specified Defendants, officer(s), director(s), and/or
11 manager(s) thereof, did and/or¹⁷ do fail to make substantial changes e.g. to product
12 design, instructions for product use, or marketing language or strategy. Said failures,
13 along with Defendants' willfully ignoring potentially important feedback from
14 hundreds of consumers—e.g. by their censorship and retaliatory defamation
15 described above, by their failure to develop, maintain, or implement MDR and
16 CAPA procedures pursuant to FDA regulations (see Para. 89(a-e), *supra*), by their
17 conducting a putative clinical trial and then hiding and ignoring the results, on
18 information and belief—taken together constitute a pattern of deliberate disregard
19 for the health and safety of others in favor of keeping sales numbers as high as
20 possible.

21 161. The foregoing is far more egregious than mere mistake or
22 incompetence: it is recklessness, and the direct and proximate cause of harms
23 suffered by Plaintiffs, and all others similarly situated, to whom the specified
24

25 ¹⁷ On information and belief, Defendants updated the "Terms & Conditions"
26 section of the AshleyBlackGuru.com webpage on May 22, 2017 (see FN.13, *supra*),
27 but any effect thereof on their larger marketing approach is subject to proof.
28

1 Defendants are therefore liable for general and special damages associated with
2 FasciaBlaster, and for punitive damages pursuant to Cal. Civ. Code § 3294,
3 exemplifying the important public policy interest in deterring other commercial
4 actors from displaying the same level of disregard for societal health and wellbeing
5 that Defendants did and do amply display.

6 **EIGHTH CAUSE OF ACTION**
7 **(BREACH OF EXPRESS WARRANTY)**

8 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

9 162. Paragraphs 1 through 161 are incorporated by reference as though fully
10 set forth herein.

11 163. The specified Defendants are subject to *respondeat superior* liability
12 for the wrongful acts and omissions of any agent or employee of any of them,
13 undertaken in the course of any commercial conduct for the benefit of Defendants,
14 collectively or individually. Among the specified Defendants, individuals may also
15 be jointly liable for their own acts subject to proof.

16 164. The specified Defendants are/were responsible for and/or perform(ed)
17 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

18 165. As described herein *supra*, and in other ways subject to proof, the
19 specified Defendants were responsible for, personally made, and/or publicized
20 statements of purported fact, to Plaintiffs and others similarly situated, pertaining to
21 e.g. the use of FasciaBlaster, including *inter alia* that it eliminates the appearance of
22 cellulite (e.g. “this will absolutely work for everyone”), improves skin tone and
23 muscle definition, does not interfere with hormone levels, is a treatment for MS,
24 Parkinson’s disease, and other neurological conditions, can fix *inter alia* frozen
25 shoulder, rotator cuff injury, tendonitis, shin splints, Iliotibial band syndrome,
26 Plantar Fasciitis, and posture, and many other such assertions reflected herein.

27 166. As described herein *supra*, and in other ways subject to proof, multiple
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1 statements of purported fact which Defendants made and/or publicized, or induced
2 others to make and/or publicize, were presented as more than mere opinions or
3 personal recommendations, but rather in the nature of performance guarantees,
4 including with the express and implied weight of authority conferred by *inter alia*
5 medical and academic credentials falsely asserted by Defendants, and factual
6 misrepresentations by Defendants as to putative clinical trial procedures and results.

7 167. As described herein *supra*, and in other ways subject to proof,
8 FasciaBlaster did and does fail to perform as guaranteed by Defendants, as evinced
9 in numerous respects including, *inter alia* and most demonstrably, the fact that many
10 Plaintiffs and others similarly situated—including, on information and belief,
11 Defendant Black herself—currently exhibit e.g. a more pronounced appearance of
12 cellulite than they did before using FasciaBlaster.

13 168. Some Plaintiffs and many others similarly situated have informed
14 Defendants that FasciaBlaster's design is defective for purposes of achieving the
15 myriad benefits promised by Defendants.

16 169. Defendants did and do fail to repair, redesign, or reengineer
17 FasciaBlaster in order to make it perform as expressly represented by Defendants.
18 Further, Defendants did and do fail to notify the public, including Plaintiffs and
19 others similarly situated, that FasciaBlaster's design is defective for purposes of the
20 myriad benefits promised by Defendants.

21 170. FasciaBlasters' failure to perform as represented was and is a
22 substantial factor in causing harm to Plaintiffs and others similarly situated.

23 171. In light of the foregoing, the specified Defendants are liable to
24 Plaintiffs and others similarly situated for breach of Defendants' express warranties
25 pertaining to FasciaBlaster's abilities to provide health and aesthetic benefits.

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1 NINTH CAUSE OF ACTION
2 (BREACH OF IMPLIED WARRANTY – FITNESS FOR PARTICULAR
3 PURPOSE)

4 Against Defendants Black, ADBIH, ADBI, and applicable DOES

5 172. Paragraphs 1 through 171 are incorporated by reference as though fully
6 set forth herein.

7 173. The specified Defendants are subject to *respondeat superior* liability
8 for the wrongful acts and omissions of any agent or employee of any of them,
9 undertaken in the course of any commercial conduct for the benefit of Defendants,
10 collectively or individually. Among the specified Defendants, individuals may also
11 be jointly liable for their own acts subject to proof.

12 174. The specified Defendants are/were responsible for and/or perform(ed)
13 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster. The
14 Plaintiffs and others similarly situated purchased FasciaBlasters from the
15 Defendants, and the latter did and do know or have reason to know that every
16 purchaser did or does intend to use the device for the purpose of achieving one or
17 more results which Defendants did or do assert that 'blasting' achieves.

18 175. The specified Defendants know or have reason to know that Plaintiffs
19 and others similarly situated did, or will, rely on Defendants' skill, judgment, and/or
20 putative medical or academic authority to design, fabricate, test, market, and sell a
21 product suitable for the purposes eagerly promoted by Defendants. Plaintiffs and
22 others similarly situated did and do justifiably rely on Defendants' skill, judgment,
23 and/or putative medical or academic authority, and will continue to do so as long as
24 the Defendants continue in their course of commercial conduct at issue, barring e.g.
25 injunctive relief.

26 176. As described herein *supra*, and in other ways subject to proof,
27 FasciaBlaster was not, is not, and will not be suitable for some if not all of the
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1 purposes for which Plaintiffs and other similarly situated did or will purchase it. As
2 described herein *supra*, and in other ways subject to proof, some Plaintiffs and many
3 others similarly situated have taken reasonable steps, within a reasonable time, to
4 notify the Defendants that FasciaBlaster is not suitable for some if not all of the
5 purposes for which Plaintiffs and others similarly situated did or will purchase it.

6 177. As described herein *supra*, and in other ways subject to proof,
7 FasciaBlaster's unsuitability for some if not all of the purposes for which Plaintiffs
8 and other similarly situated did or will purchase it was, is, or will be a substantial
9 factor in causing harm to Plaintiffs and others similarly situated.

10 178. In light of the foregoing, the specified Defendants are liable to
11 Plaintiffs and others similarly situated for breach of implied warranties of
12 FasciaBlaster's fitness for particular purpose, i.e. to provide the health and aesthetic
13 benefits advertised by Defendants, as relied upon by Plaintiffs.

14 TENTH CAUSE OF ACTION

15 (BREACH OF IMPLIED WARRANTY – MERCHANTIBILITY)

16 Against Defendants Black, ADBIH, ADBI, and applicable DOES

17 179. Paragraphs 1 through 178 are incorporated by reference as though fully
18 set forth herein.

19 180. The specified Defendants are subject to *respondeat superior* liability
20 for the wrongful acts and omissions of any agent or employee of any of them,
21 undertaken in the course of any commercial conduct for the benefit of Defendants,
22 collectively or individually. Among the specified Defendants, individuals may also
23 be jointly liable for their own acts subject to proof.

24 181. The specified Defendants are/were responsible for and/or perform(ed)
25 the manufacture, marketing, distribution, and/or sale of FasciaBlaster. The Plaintiffs
26 and others similarly situated purchased FasciaBlasters from the Defendants in
27 reliance on *inter alia* the specified Defendants' holding themselves and one another
28

1 out as having special scientific knowledge or skill regarding the realm of health and
2 aesthetic benefits which, Defendants convinced Plaintiffs, FasciaBlaster purportedly
3 confers.

4 182. As described herein *supra*, and in other ways subject to proof,
5 FasciaBlaster was not and is not fit for even the most ordinary among the many
6 wide-ranging purposes which Defendants did or do promote, particularly given the
7 techniques they instruct. For example, on information and belief, FasciaBlaster's
8 high BPA content renders it below the standard quality expected of a purported
9 medical implement safe for use in a hot bathtub, shower or sauna, yet Defendants
10 did and do instruct precisely such use.

11 183. As described herein *supra*, and in other ways subject to proof, some
12 Plaintiffs and many others similarly situated have taken reasonable steps, within a
13 reasonable time, to notify the Defendants that FasciaBlaster did or does not have the
14 expected quality.

15 184. As described herein *supra*, and in other ways subject to proof,
16 FasciaBlaster's failure to have the expected quality was, is, or will be a substantial
17 factor in causing harm to Plaintiffs and others similarly situated.

18 185. In light of the foregoing, the specified Defendants are liable to
19 Plaintiffs and others similarly situated for breach of implied warranties of
20 merchantability.

21 **ELEVENTH CAUSE OF ACTION**

22 **(DECEIT/INTENTIONAL FRAUD)**

23 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

24 186. Paragraphs 1 through 185 are incorporated by reference as though fully
25 set forth herein.

26 187. The specified Defendants are subject to *respondeat superior* liability
27 for the wrongful acts and omissions of any agent or employee of any of them,
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1 undertaken in the course of any conduct for the commercial benefit of Defendants,
2 collectively or individually. Among the specified Defendants, individuals may also
3 be jointly liable for their own acts subject to proof.

4 188. The specified Defendants are or were responsible for and/or
5 perform(ed) the manufacture, testing, marketing, distribution, and/or sale of
6 FasciaBlaster.

7 189. As described herein *supra*, and in other ways subject to proof, the
8 specified Defendants did or do publicize, and/or solicit others to publicize, false
9 statements pertaining to, *inter alia*: FasciaBlaster's efficacy in achieving certain
10 aesthetic and health results; that FasciaBlaster is 100% safe to use; that
11 FasciaBlaster does not cause weight gain; academic and medical qualifications of
12 certain Defendants and agents/employees thereof; scientific legitimacy of
13 Defendants' putative clinical trial; etc.

14 190. As described herein *supra*, and in other ways subject to proof, the
15 specified Defendants

- 16 (a) knew that their representations were false when they made them,
- 17 (b) suppressed fact(s) which they had/have obligation(s) to disclose,
- 18 including *inter alia* by
- 19 (c) publicizing other information likely to mislead for want of
- 20 communication of the facts suppressed,
- 21 (d) made promises regarding the performance of FasciaBlaster and
- 22 accessories without any reasonable knowledge that FasciaBlaster or
- 23 accessories would perform every promise, and/or
- 24 (e) made false representations recklessly and without regard for their
- 25 truth.

26 For the purposes of this and other causes of action, full knowledge of facts to which
27 Defendants were indifferent, if any, ought properly to be imputed to them. "False
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1 representations made recklessly and without regard for their truth in order to induce
2 action by another are the equivalent of misrepresentations knowingly and
3 intentionally uttered.” *Engalla v. Permanente Medical Group, Inc.*, 15 Cal.4th 951,
4 974 (1997), quoting *Yellow Creek Logging Corp. v. Dare*, 216 Cal.App.2d 50, 55
5 (1963).

6 191. As described herein *supra*, and in other ways subject to proof, the
7 specified Defendants intended that Plaintiffs and others similarly situated would rely
8 on their false representations e.g. in deciding to purchase and use FasciaBlaster.

9 192. As described herein *supra*, and in other ways subject to proof, the
10 Plaintiffs and others similarly situated reasonably relied on the specified
11 Defendants’ false representations, e.g. in purchasing FasciaBlaster and in using it as
12 directed by the Defendants.

13 193. As described herein *supra*, and in other ways subject to proof, the
14 Plaintiffs and others similarly situated were harmed by their use of FasciaBlaster,
15 including endocrine, cardiovascular, digestive, neurological, psychological,
16 aesthetic, and other physical harms.

17 194. As described herein *supra*, and in other ways subject to proof, the
18 Plaintiffs and others similarly situated were also harmed by their use of
19 FasciaBlaster inasmuch as many if not all of them did or do suffer serious emotional
20 distress, e.g. one or more of suffering, anguish, fright, horror, nervousness, anxiety,
21 grief, worry, shock, humiliation, and shame.

22 195. The reliance by Plaintiffs and others similarly situated on the false
23 representations by the specified Defendants was a substantial factor in causing the
24 specified and further harms suffered by Plaintiffs and others similarly situated. As
25 such, the specified Defendants’ intentional and/or reckless misrepresentations of fact
26 constitute fraudulent deceit pursuant to *inter alia* Cal. Civ. Code §§ 1572, 1709, and
27 1710, and at common law, giving rise to the specified Defendants’ liability to the
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1 Plaintiffs and others similarly situated for special and general damages, including
2 *inter alia* for intentional infliction of emotional distress, as well as punitive
3 damages, which Plaintiffs hereby request pursuant to *inter alia* Cal. Civ. Code §
4 3294.

5 **TWELFTH CAUSE OF ACTION**
6 **(DEFAMATION)**

7 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

8 196. Paragraphs 1 through 195 are incorporated by reference as though fully
9 set forth herein.

10 197. The specified Defendants are subject to *respondeat superior* liability
11 for the wrongful acts and omissions of any agent or employee of any of them,
12 undertaken in the course of any conduct for the commercial benefit of Defendants,
13 collectively or individually. Among the specified Defendants, individuals may also
14 be jointly liable for their own acts subject to proof.

15 198. The specified Defendants are/were responsible for and/or perform(ed)
16 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

17 199. As described herein *supra*, and in other ways subject to proof, the
18 specified Defendants did and do publicize, and/or solicit, encourage, and permit
19 others to publicize, false and injurious statements about some of the Plaintiffs and
20 others similarly situated, including within public (social) media forums, e.g.
21 Facebook discussion groups over which the specified Defendants unilaterally
22 exercise editorial control. Within such media forums, the specified Defendants have
23 the power to, and do, delete, overwhelm, or otherwise counter any statement they do
24 not like—on numerous occasions, some or all of the specified Defendants have
25 deleted public comments by Plaintiffs and others e.g. in social media forums
26 controlled by Defendants—yet the Defendants did and do also contemporaneously
27 cause or permit false and disparaging comments pertaining to some Plaintiffs and
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1 others similarly situated to remain on public display, to be viewed by hundreds of
2 thousands of people or more. Defendants further did and do falsely disparage
3 Plaintiffs and others similarly situated between one another or with third parties in
4 more private conversations, online messaging (e.g. Facebook Messenger), and other
5 media. This conduct is nevertheless defamatory as well.

6 200. False and disparaging statements which the specified Defendants did
7 and do publicize and/or solicit, encourage, or permit others to publicize, include
8 *inter alia*:

9 (a) "A GoFundMe account was set up by Julie Day Lefebvre under
10 the pretenses of raising money to 'help anyone who has been Slapped
11 by Ashley Black' and to take Ashley Black to court in a civil suit. ...
12 This is fraud, and we encourage you not to associate with this crime"

13 (b) "[W]hat credible journalist would write a story based on some bs
14 some woman who steals money from gullible women and then uses it
15 for her own advantage. Julie Day Lefebvre....are you sleeping with this
16 man [the journalist]??? ... isn't it odd that she avoids the fact that she's
17 a con artist?"

18 (c) "Julie has multiple GO FUND ME accounts to raise money for
19 Ashley Black's ex husband ... The only problem, the money goes to
20 Julie."

21 (d) "[Plaintiffs] Michelle [Lanum] and Tilly [Dorenkamp] were
22 100% happy at the end of the study ... I don't know why people join
23 hate groups but Michelle and Tilly are blocked because they decided to
24 lie and slander[.]"

25 (e) "Both parties [Lanum and Dorenkamp] had an NDA, so when
26 we saw them posting lies but we were unable to respond..."

27 On information and belief, numerous Class members possess evidence of further
28

1 defamatory statements by the specified Defendants; Plaintiffs expect that their
2 initiating the instant action will encourage more cooperation from other victims who
3 may be too nervous to be publicly identified until this litigation is formally
4 underway. Plaintiffs may seek leave of Court to amend this Complaint as and when
5 further defamatory conduct by the specified Defendants comes to light.

6 201. None of the Plaintiffs or others subject to the specified Defendants'
7 conduct at issue in this cause of action is a public figure.

8 202. Any e.g. Facebook user who was following the activity of Defendants
9 and their more vocal critics, including some of the Plaintiffs herein, upon reading
10 the disparaging comments by Defendants would reasonably understand whom they
11 referred to.

12 203. Any e.g. Facebook user who was following the activity of Defendants
13 and their more vocal critics, including some of the Plaintiffs herein, upon reading
14 the disparaging comments by Defendants would reasonably understand the
15 statements to convey that the disparaged parties are e.g. a collection of mentally
16 deranged liars and criminals.

17 204. The specified Defendants knew of the falsity of the disparaging
18 statements, or failed to use reasonable care to determine the truth or falsity of the
19 statements. Notably, on information and belief, every time the specified Defendants
20 did and do first disparage any given individual, it is in retaliation for a true statement
21 or question from that individual. As such, the specified Defendants know or have
22 reason to know that, at the very least, their first retaliatory libel directed at any given
23 target is false.

24 205. The above-specified and other false and disparaging statements by the
25 specified Defendants, pertaining to certain Plaintiffs and others similarly situated,
26 were substantial factors in causing harms to those Plaintiffs and others similarly
27 situated. For example, Plaintiff Lefebvre and others similarly situated have been
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1 harmed in their personal and professional reputations by the false and disparaging
2 statements by the specified Defendants. Lefebvre received false negative feedback
3 on her personal business's Yelp.com customer review page, from people who had
4 not been her customers, whom the specified Defendants had incited to disparage
5 Lefebvre.

6 206 The Plaintiffs and others similarly situated who have been defamed by
7 the specified Defendants have suffered emotional distress, including *inter alia* fear,
8 anxiety, anger, mortification, depression, shame, and hurt feelings, as a direct and
9 proximate result of said defamation. The Plaintiffs who have been disparaged were
10 driven in part thereby to retain the Law Offices of Perrin F. Disner to prosecute this
11 claim, and to suffer all the burdens that accrue from the prosecution of this case,
12 including *inter alia* requiring them to put private personal information in the public
13 record because this is the only way to adequately defend themselves and their
14 reputations against the specified Defendants' harmful lies about them, shouted from
15 Defendants' bully pulpit and, often, echoed by an obedient chorus of acolytes, many
16 of whom are paid or fake.

17 207. In light of the foregoing, the specified Defendants' defamations are
18 direct and proximate causes of harms suffered by certain Plaintiffs and others
19 similarly situated, to whom specified Defendants are therefore liable for any general
20 and special damages attributable thereto. The injunctive relief requested at Para.
21 106(a-1), *supra* is also warranted, and hereby requested.

22 208. Moreover, the Plaintiffs will demonstrate by clear and convincing
23 evidence that the specified Defendants undertook the defamatory conduct
24 maliciously and with knowledge of their statements' falsity or reasonable grounds to
25 doubt their veracity, justifying an award of punitive damages to Plaintiffs and others
26 similarly situated.

27 \\\

1 **THIRTEENTH CAUSE OF ACTION**
2 **(INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS)**
3 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

4 209. Paragraphs 1 through 208 are incorporated by reference as though fully
5 set forth herein.

6 210. The specified Defendants are subject to *respondeat superior* liability
7 for the wrongful acts and omissions of any agent or employee of any of them,
8 undertaken in the course of any conduct for the commercial benefit of Defendants,
9 collectively or individually. Among the specified Defendants, individuals may also
10 be jointly liable for their own acts subject to proof.

11 211. The specified Defendants are/were responsible for and/or perform(ed)
12 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

13 212. As described herein *supra*, and in other ways subject to proof, in spite
14 of legal and moral obligations to the contrary, the specified Defendants did and do
15 engage in extreme and outrageous conduct, including, *inter alia*:

- 16 (a) marketing FasciaBlaster with false promises of miraculous
17 benefits, knowing or recklessly disregarding the fact that such promises
18 are not based on any sound scientific evidence;
19 (b) conducting a putative clinical trial without IRB oversight or the
20 supervision of a medical doctor(s), knowing or recklessly disregarding
21 the danger such failures posed to the trusting participants;
22 (c) asserting that their putative clinical trial was scientifically
23 undertaken and definitively vindicated their promises, knowing or
24 recklessly disregarding the falsity of those assertions;
25 (d) failing to undertake a single meaningful investigation—at least
26 as of July 18, 2017 if not more recently—after receiving numerous
27 reports of a wide variety of serious injuries from FasciaBlaster use,
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1 knowing or recklessly disregarding serious dangers to public health that
2 investigation would reveal;

3 (e) failing to remove the product from market or to meaningfully
4 change instructions for its use—at least as of May 22, 2017 if not more
5 recently—knowing or recklessly disregarding the many undisclosed
6 dangerous side effects which many users were reporting since 2016 if
7 not earlier;

8 (f) deleting feedback from, blocking social media participation by,
9 and denigrating honest people who had had bad experiences with
10 FasciaBlaster, knowing or recklessly disregarding the fact that such
11 feedback might prevent serious harm to thousands of other people;

12 (g) publicly using the likenesses and protected private medical
13 information of private individuals—including to ridicule and attempt to
14 discredit the individual—for commercial purposes, knowing or
15 recklessly disregarding the individuals' failure to authorize such use;

16 (h) publicizing, and soliciting, encouraging, and permitting others to
17 publicize, false and injurious statements about private individuals who
18 have suffered physically and emotionally scarring injuries, knowing or
19 recklessly disregarding the additional injurious effect of such conduct.

20 213. The specified Defendants undertook the foregoing and other extreme
21 and outrageous acts and omissions intending to cause emotional distress to some of
22 the Plaintiffs, and others similarly situated, or with reckless disregard for the
23 likelihood that all Plaintiffs, and others similarly situated, would suffer emotional
24 distress as a result of the Defendants' acts or omissions, many of which were
25 malicious (e.g. retaliatory defamation) or oppressive (e.g. preying on a woman's
26 insecurity about her legs to sell her an expensive device and accessories which,
27 ample customer feedback indicated, are as likely as not to significantly worsen her
28

1 appearance and mental state, thus making her more susceptible to further marketing
2 claims and accessory sales in her desperation for the promised "better" after the
3 "worse"¹⁸).

4 214. The Plaintiffs, and others similarly situated, did and do suffer severe
5 emotional distress as a result of their experiences with FasciaBlaster.

6 215. The extreme and outrageous acts and omissions by the specified
7 Defendants—some of which were malicious or oppressive rather than merely willful
8 or reckless—were substantial factors in causing severe emotional distress to each
9 Plaintiff and others similarly situated, to whom the specified Defendants are
10 therefore liable for general, special, and exemplary damages.

11 **FOURTEENTH CAUSE OF ACTION**

12 **(UNFAIR BUSINESS PRACTICES – Cal. Bus. & Prof. Code § 17200 *et seq.*)**

13 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

14 216. Paragraphs 1 through 215 are incorporated by reference as though fully
15 set forth herein.

16 217. The specified Defendants are subject to *respondeat superior* liability
17 for the wrongful acts and omissions of any agent or employee of any of them,
18 undertaken in the course of any conduct for the commercial benefit of Defendants,
19 collectively or individually. Among the specified Defendants, individuals may also
20 be jointly liable for their own acts subject to proof.

21 218. The specified Defendants are/were responsible for and/or perform(ed)
22 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

23 219. California's Unfair Competition Law, Business and Professions Code
24

25 ¹⁸ "Worse before better!" is a common marketing refrain of Defendant
26 Black's. See Paras. 37, 38, 64, 84(h), *supra*. The plain effect of such a slogan is to
27 incite injured users to continue injuring themselves, and to buy more products and
28 accessories if necessary, for promises of e.g. smooth thighs just over the horizon.

1 § 17200, defines "unfair competition" to include "any unlawful, unfair or fraudulent
2 business act or practice[.]" Cal. Bus. & Prof. Code § 17203 allows a person who has
3 lost money or property as a result of unfair competition to bring an action for
4 restitution of money or property acquired from him or her by means of unfair
5 competition.

6 220. As described herein *supra*, and in other ways subject to proof, the
7 conduct that Plaintiffs herein allege Defendants, and each of them, have undertaken,
8 are still undertaking, and/or will continue to undertake absent e.g. injunctive relief,
9 was and is unfair, unlawful, and/or fraudulent, many of which acts and omissions
10 did and do constitute unfair, deceptive, untrue, or misleading advertising.

11 221. As a result of the specified Defendants' above-alleged unlawful
12 business practices and deceptive advertising, Plaintiffs have suffered in jury in fact
13 and lost moneys and property.

14 222. Pursuant to Cal. Bus. & Prof. Code §§ 17200 and 17203, Plaintiffs seek
15 an order of restitution for all moneys and property that Defendants have acquired
16 from Plaintiffs by means of unfair competition as set forth above in amounts subject
17 to proof. As part of said relief,

18 223. Plaintiffs further request that the Court enjoin Defendants to
19 immediately undertake all of the actions sought at Para. 106(a-l), *supra*.

20 224. Pursuant to Cal. Bus. & Prof. Code § 17206 Plaintiffs seek civil
21 penalties for unfair competition perpetrated against senior citizens and disabled
22 persons.

23 225. Pursuant to Cal. Bus. & Prof. Code §§ 17200 *et seq.* Plaintiffs seek an
24 award of attorney's fees and costs of suit incurred herein.

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1 **FIFTEENTH CAUSE OF ACTION**

2 **(FALSE ADVERTISING – Cal. Bus. & Prof. Code § 17500 *et seq.*)**

3 **Against Defendants Black, ADBIH, ADBI, and applicable DOES**

4 226. Paragraphs 1 through 225 are incorporated by reference as though fully
5 set forth herein.

6 227. The specified Defendants are subject to *respondeat superior* liability
7 for the wrongful acts and omissions of any agent or employee of any of them,
8 undertaken in the course of any conduct for the commercial benefit of Defendants,
9 collectively or individually. Among the specified Defendants, individuals may also
10 be jointly liable for their own acts subject to proof.

11 228. The specified Defendants are/were responsible for and/or perform(ed)
12 the manufacture, testing, marketing, distribution, and/or sale of FasciaBlaster.

13 229. Cal. Bus. & Prof. Code § 17500 states:

14 It is unlawful for any person, firm, corporation or association, or any
15 employee thereof with intent directly or indirectly to dispose of real or
16 personal property or to perform services, professional or otherwise, or
17 anything of any nature whatsoever or to induce the public to enter into
18 any obligation relating thereto, to make or disseminate or cause to be
19 made or disseminated before the public in this state, or to make or
20 disseminate or cause to be made or disseminated from this state before
21 the public in any state, in any newspaper or other publication, or any
22 advertising device, or by public outcry or proclamation, or in any other
23 manner or means whatever, including over the Internet, any statement,
24 concerning that real or personal property or those services, professional
25 or otherwise, or concerning any circumstance or matter of fact
26 connected with the proposed performance or disposition thereof, which
27 is untrue or misleading, and which is known, or which by the exercise
28 of reasonable care should be known, to be untrue or misleading, or for
any person, firm, or corporation to so make or disseminate or cause to
be so made or disseminated any such statement as part of a plan or
scheme with the intent not to sell that personal property or those
services, professional or otherwise, so advertised at the price stated

therein, or as so advertised. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500), or by both that imprisonment and fine.

230. As described herein *supra*, and in other ways subject to proof, Defendants did and do disseminate, or cause to be disseminated, a wide variety of untrue or misleading statements concerning FasciaBlaster and accessories.

231. As described herein *supra*, and in other ways subject to proof, Defendants knew, or by the exercise of reasonable care would have known, that their many of their promotional statements concerning FasciaBlaster were untrue or misleading.

232. Cal. Bus. & Prof. Code § 17508(a) states:

It shall be unlawful for any person doing business in California and advertising to consumers in California to make any false or misleading advertising claim, including claims that (1) purport to be based on factual, objective, or clinical evidence, (2) compare the product's effectiveness or safety to that of other brands or products, or (3) purport to be based on any fact.

233. As described herein *supra*, and in other ways subject to proof, Defendants did and do advertise to California consumers with false or misleading claims purporting to be based on fact and, especially, clinical evidence. Defendants also falsely or misleadingly compare FasciaBlaster's effectiveness to that of e.g. Cool Sculpting and liposuction, claiming that FasciaBlaster is the superior approach to getting rid of cellulite, an utter falsehood.

234. As described herein *supra*, and in other ways subject to proof, Plaintiffs have been, are, and absent adequate relief will continue to suffer an array of harms from FasciaBlaster use. Defendants' untrue and misleading advertising was and is a direct and proximate cause of some of the harms suffered by Plaintiffs, to whom the specified Defendants are therefore liable for civil penalties in the amount of \$2,500 for every instance of an untrue or misleading statement made by the specified

1 Defendants in the course of promoting FasciaBlaster at any point prior to the
2 injuries suffered by Plaintiffs as a result thereof.

3 235. In addition to civil penalties, the foregoing acts and omissions by
4 Defendants are misdemeanors. Pursuant to Cal. Bus. & Prof. Code § 17500, each
5 untrue or misleading statement Defendants did or do make in promoting
6 FasciaBlaster is punishable by imprisonment in Los Angeles County Jail for up to
7 six months.

8 **PRAYER**

9 WHEREFORE, Plaintiffs pray for relief as follows:

- 10 1. For general damages, according to proof;
- 11 2. For special damages, according to proof;
- 12 3. For punitive damages in amounts which the Court deems protective of public
13 policy's interest in deterring the acts and omissions giving rise to this case;
- 14 4. For statutory damages;
- 15 5. For restitution, subject to proof;
- 16 6. For speculative damages accounting for future medical and aesthetic
17 remedies, subject to proof;
- 18 7. For damages for lost income, subject to proof;
- 19 8. For pre-judgment interest on all damages;
- 20 9. That appropriate injunctive relief be entered, including *inter alia* requiring
21 Defendants to immediately undertake all of the actions specified herein at Para.
22 106(a-1), *supra*.
- 23 10. For reasonable attorney fees and costs of suit, to be determined according to
24 pertinent case law authority; and
- 25 11. For incentive awards to the named Plaintiffs for their effort and courage.

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1 12. Such other and further relief as the Court may deem just and proper.

2
3 DATE: October 19, 2017

LAW OFFICES OF PERRIN F. DISNER

4
5
6 By: 

Perrin F. Disner

7 Attorneys for Plaintiffs

8 Emily Elson, Stacy Haavisto, Loretta Oakes,
9 Michelle Lanum, Julia Lefebvre, Sue Grlicky,
10 Tilly Dorenkamp, Dina Salas, Arlene
11 Rodriguez, and Jerry Gaines, and all others
12 similarly situated
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TRIAL BY JURY

Please take notice that a trial by jury is hereby requested.

DATE: October 19, 2017

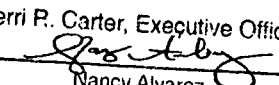
LAW OFFICES OF PERRIN F. DISNER

By: 

Perrin F. Disner

Attorneys for Plaintiffs

Emily Elson, Stacy Haavisto, Loretta Oakes,
Michelle Lanum, Julia Lefebvre, Sue Grlicky,
Tilly Dorenkamp, Dina Salas, Arlene
Rodriguez, and Jerry Gaines, and all others
similarly situated

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): Perrin Disner - SBN 257586 LAW OFFICES OF PERRIN F. DISNER 4630 Sepulveda Boulevard, Suite 105 Sherman Oaks, California 91403 TELEPHONE NO.: (310) 742-7944 FAX NO.: (888) 544-5154 ATTORNEY FOR (Name): Plaintiffs Emily Elson et al.		FOR COURT USE ONLY <div style="font-size: 1.5em; font-weight: bold; margin: 10px 0;">FILED</div> Superior Court of California County of Los Angeles <div style="font-size: 1.2em; font-weight: bold; margin: 10px 0;">OCT 23 2017</div> Sherri R. Carter, Executive Officer/Clerk By  Deputy Nancy Alvarez	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Los Angeles STREET ADDRESS: 111 North Hill Street MAILING ADDRESS: 111 North Hill Street CITY AND ZIP CODE: Los Angeles 90012 BRANCH NAME: Stanley Mosk Courthouse			
CASE NAME: Emily Elson, et al. v. Ashley Black, et al.			
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)		Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)	
		CASE NUMBER: <div style="font-size: 1.5em; font-weight: bold;">BC 6 8 0 8 4 3</div>	
		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:
- | | | |
|--|--|---|
| Auto Tort
<input type="checkbox"/> Auto (22)
<input type="checkbox"/> Uninsured motorist (46)
Other PI/PD/W/D (Personal Injury/Property Damage/Wrongful Death) Tort
<input type="checkbox"/> Asbestos (04)
<input checked="" type="checkbox"/> Product liability (24)
<input type="checkbox"/> Medical malpractice (45)
<input type="checkbox"/> Other PI/PD/W/D (23)
Non-PI/PD/W/D (Other) Tort
<input type="checkbox"/> Business tort/unfair business practice (07)
<input type="checkbox"/> Civil rights (08)
<input type="checkbox"/> Defamation (13)
<input checked="" type="checkbox"/> Fraud (16)
<input type="checkbox"/> Intellectual property (19)
<input type="checkbox"/> Professional negligence (25)
<input type="checkbox"/> Other non-PI/PD/W/D tort (35)
Employment
<input type="checkbox"/> Wrongful termination (36)
<input type="checkbox"/> Other employment (15) | Contract
<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)
Real Property
<input type="checkbox"/> Eminent domain/Inverse condemnation (14)
<input type="checkbox"/> Wrongful eviction (33)
<input type="checkbox"/> Other real property (26)
Unlawful Detainer
<input type="checkbox"/> Commercial (31)
<input type="checkbox"/> Residential (32)
<input type="checkbox"/> Drugs (38)
Judicial Review
<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) | Provisionally Complex Civil Litigation
(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)
Enforcement of Judgment
<input type="checkbox"/> Enforcement of judgment (20)
Miscellaneous Civil Complaint
<input type="checkbox"/> RICO (27)
<input type="checkbox"/> Other complaint (not specified above) (42)
Miscellaneous Civil Petition
<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 type="checkbox"/> Large number of separately represented parties
b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
c. <input checked="" type="checkbox"/> Substantial amount of documentary evidence | d. <input checked="" type="checkbox"/> Large number of witnesses
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
f. <input checked="" 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): **15, incl. False Advert., Neglig., Reckl., Bre. of Warr., Fraud, Defam., IIED**
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: **October 19, 2017**

Perrin Disner

(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

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

SHORT TITLE Elson et al. v. Black et al.	CASE NUMBER
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CIVIL CASE COVER SHEET ADDENDUM AND STATEMENT OF LOCATION
(CERTIFICATE OF GROUNDS FOR ASSIGNMENT TO COURTHOUSE LOCATION)

This form is required pursuant to Local Rule 2.3 in all new civil case filings in the Los Angeles Superior Court.

Step 1: After completing the Civil Case Cover Sheet (Judicial Council form CM-010), find the exact case type in Column A that corresponds to the case type indicated in the Civil Case Cover Sheet.

Step 2: In Column B, check the box for the type of action that best describes the nature of the case.

Step 3: In Column C, circle the number which explains the reason for the court filing location you have chosen.

Applicable Reasons for Choosing Court Filing Location (Column C)

- | | |
|--|---|
| 1. Class actions must be filed in the Stanley Mosk Courthouse, Central District.
2. Permissive filing in central district.
3. Location where cause of action arose.
4. Mandatory personal injury filing in North District.
5. Location where performance required or defendant resides.
6. Location of property or permanently garaged vehicle. | 7. Location where petitioner resides.
8. Location wherein defendant/respondent functions wholly.
9. Location where one or more of the parties reside.
10. Location of Labor Commissioner Office.
11. Mandatory filing location (Hub Cases – unlawful detainer, limited non-collection, limited collection, or personal injury). |
|--|---|

	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons See Step 3 Above
Auto Tort	Auto (22)	<input type="checkbox"/> A7100 Motor Vehicle - Personal Injury/Property Damage/Wrongful Death	1, 4, 11
	Uninsured Motorist (46)	<input type="checkbox"/> A7110 Personal Injury/Property Damage/Wrongful Death – Uninsured Motorist	1, 4, 11
Other Personal Injury/Property Damage/Wrongful Death Tort	Asbestos (04)	<input type="checkbox"/> A6070 Asbestos Property Damage <input type="checkbox"/> A7221 Asbestos - Personal Injury/Wrongful Death	1, 11 1, 11
	Product Liability (24)	<input checked="" type="checkbox"/> A7260 Product Liability (not asbestos or toxic/environmental)	1, 4, 11
	Medical Malpractice (45)	<input type="checkbox"/> A7210 Medical Malpractice - Physicians & Surgeons <input type="checkbox"/> A7240 Other Professional Health Care Malpractice	1, 4, 11 1, 4, 11
	Other Personal Injury Property Damage Wrongful Death (23)	<input type="checkbox"/> A7250 Premises Liability (e.g., slip and fall) <input type="checkbox"/> A7230 Intentional Bodily Injury/Property Damage/Wrongful Death (e.g., assault, vandalism, etc.) <input type="checkbox"/> A7270 Intentional Infliction of Emotional Distress <input type="checkbox"/> A7220 Other Personal Injury/Property Damage/Wrongful Death	1, 4, 11 1, 4, 11 1, 4, 11 1, 4, 11

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Elson et al. v. Black et al.

CASE NUMBER

Non-Personal Injury/ Property
Damage/ Wrongful Death Tort

Employment

Contract

Real Property

Unlawful Detainer

A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Business Tort (07)	<input type="checkbox"/> A6029 Other Commercial/Business Tort (not fraud/breach of contract)	1, 2, 3
Civil Rights (08)	<input type="checkbox"/> A6005 Civil Rights/Discrimination	1, 2, 3
Defamation (13)	<input type="checkbox"/> A6010 Defamation (slander/libel)	1, 2, 3
Fraud (16)	<input checked="" type="checkbox"/> A6013 Fraud (no contract)	1, 2, 3
Professional Negligence (25)	<input type="checkbox"/> A6017 Legal Malpractice <input type="checkbox"/> A6050 Other Professional Malpractice (not medical or legal)	1, 2, 3 1, 2, 3
Other (35)	<input type="checkbox"/> A6025 Other Non-Personal Injury/Property Damage tort	1, 2, 3
Wrongful Termination (36)	<input type="checkbox"/> A6037 Wrongful Termination	1, 2, 3
Other Employment (15)	<input type="checkbox"/> A6024 Other Employment Complaint Case <input type="checkbox"/> A6109 Labor Commissioner Appeals	1, 2, 3 10
Breach of Contract/ Warranty (06) (not insurance)	<input type="checkbox"/> A6004 Breach of Rental/Lease Contract (not unlawful detainer or wrongful eviction) <input type="checkbox"/> A6008 Contract/Warranty Breach -Seller Plaintiff (no fraud/negligence) <input type="checkbox"/> A6019 Negligent Breach of Contract/Warranty (no fraud) <input type="checkbox"/> A6028 Other Breach of Contract/Warranty (not fraud or negligence)	2, 5 2, 5 1, 2, 5 1, 2, 5
Collections (09)	<input type="checkbox"/> A6002 Collections Case-Seller Plaintiff <input type="checkbox"/> A6012 Other Promissory Note/Collections Case <input type="checkbox"/> A6034 Collections Case-Purchased Debt (Charged Off Consumer Debt Purchased on or after January 1, 2014)	5, 6, 11 5, 11 5, 6, 11
Insurance Coverage (18)	<input type="checkbox"/> A6015 Insurance Coverage (not complex)	1, 2, 5, 8
Other Contract (37)	<input type="checkbox"/> A6009 Contractual Fraud <input type="checkbox"/> A6031 Tortious Interference <input type="checkbox"/> A6027 Other Contract Dispute(not breach/insurance/fraud/negligence)	1, 2, 3, 5 1, 2, 3, 5 1, 2, 3, 8, 9
Eminent Domain/Inverse Condemnation (14)	<input type="checkbox"/> A7300 Eminent Domain/Condemnation Number of parcels _____	2, 6
Wrongful Eviction (33)	<input type="checkbox"/> A6023 Wrongful Eviction Case	2, 6
Other Real Property (26)	<input type="checkbox"/> A6018 Mortgage Foreclosure <input type="checkbox"/> A6032 Quiet Title <input type="checkbox"/> A6060 Other Real Property (not eminent domain, landlord/tenant, foreclosure)	2, 6 2, 6 2, 6
Unlawful Detainer-Commercial (31)	<input type="checkbox"/> A6021 Unlawful Detainer-Commercial (not drugs or wrongful eviction)	6, 11
Unlawful Detainer-Residential (32)	<input type="checkbox"/> A6020 Unlawful Detainer-Residential (not drugs or wrongful eviction)	6, 11
Unlawful Detainer- Post-Foreclosure (34)	<input type="checkbox"/> A6020F Unlawful Detainer-Post-Foreclosure	2, 6, 11
Unlawful Detainer-Drugs (38)	<input type="checkbox"/> A6022 Unlawful Detainer-Drugs	2, 6, 11

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	A Civil Case Cover Sheet Category No.	B Type of Action (Check only one)	C Applicable Reasons - See Step 3 Above
Judicial Review	Asset Forfeiture (05)	<input type="checkbox"/> A6108 Asset Forfeiture Case	2, 3, 6
	Petition re Arbitration (11)	<input type="checkbox"/> A6115 Petition to Compel/Confirm/Vacate Arbitration	2, 5
	Writ of Mandate (02)	<input type="checkbox"/> A6151 Writ - Administrative Mandamus <input type="checkbox"/> A6152 Writ - Mandamus on Limited Court Case Matter <input type="checkbox"/> A6153 Writ - Other Limited Court Case Review	2, 8 2 2
	Other Judicial Review (39)	<input type="checkbox"/> A6150 Other Writ /Judicial Review	2, 8
Provisionally Complex Litigation	Antitrust/Trade Regulation (03)	<input type="checkbox"/> A6003 Antitrust/Trade Regulation	1, 2, 8
	Construction Defect (10)	<input type="checkbox"/> A6007 Construction Defect	1, 2, 3
	Claims Involving Mass Tort (40)	<input type="checkbox"/> A6006 Claims Involving Mass Tort	1, 2, 8
	Securities Litigation (28)	<input type="checkbox"/> A6035 Securities Litigation Case	1, 2, 8
	Toxic Tort Environmental (30)	<input type="checkbox"/> A6036 Toxic Tort/Environmental	1, 2, 3, 8
	Insurance Coverage Claims from Complex Case (41)	<input type="checkbox"/> A6014 Insurance Coverage/Subrogation (complex case only)	1, 2, 5, 8
Enforcement of Judgment	Enforcement of Judgment (20)	<input type="checkbox"/> A6141 Sister State Judgment <input type="checkbox"/> A6160 Abstract of Judgment <input type="checkbox"/> A6107 Confession of Judgment (non-domestic relations) <input type="checkbox"/> A6140 Administrative Agency Award (not unpaid taxes) <input type="checkbox"/> A6114 Petition/Certificate for Entry of Judgment on Unpaid Tax <input type="checkbox"/> A6112 Other Enforcement of Judgment Case	2, 5, 11 2, 6 2, 9 2, 8 2, 8 2, 8, 9
	RICO (27)	<input type="checkbox"/> A6033 Racketeering (RICO) Case	1, 2, 8
	Other Complaints (Not Specified Above) (42)	<input type="checkbox"/> A6030 Declaratory Relief Only	1, 2, 8
		<input type="checkbox"/> A6040 Injunctive Relief Only (not domestic/harassment)	2, 8
		<input type="checkbox"/> A6011 Other Commercial Complaint Case (non-tort/non-complex) <input type="checkbox"/> A6000 Other Civil Complaint (non-tort/non-complex)	1, 2, 8 1, 2, 8
Miscellaneous Civil Petitions	Partnership Corporation Governance (21)	<input type="checkbox"/> A6113 Partnership and Corporate Governance Case	2, 8
	Other Petitions (Not Specified Above) (43)	<input type="checkbox"/> A6121 Civil Harassment <input type="checkbox"/> A6123 Workplace Harassment <input type="checkbox"/> A6124 Elder/Dependent Adult Abuse Case <input type="checkbox"/> A6190 Election Contest <input type="checkbox"/> A6110 Petition for Change of Name/Change of Gender <input type="checkbox"/> A6170 Petition for Relief from Late Claim Law <input type="checkbox"/> A6100 Other Civil Petition	2, 3, 9 2, 3, 9 2, 3, 9 2 2, 7 2, 3, 8 2, 9

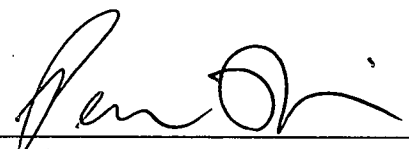
SHORT TITLE: Elson et al. v. Black et al.	CASE NUMBER
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Step 4: Statement of Reason and Address: Check the appropriate boxes for the numbers shown under Column C for the type of action that you have selected. Enter the address which is the basis for the filing location, including zip code. (No address required for class action cases).

REASON: <input checked="" type="checkbox"/> 1. <input type="checkbox"/> 2. <input type="checkbox"/> 3. <input type="checkbox"/> 4. <input type="checkbox"/> 5. <input type="checkbox"/> 6. <input type="checkbox"/> 7. <input type="checkbox"/> 8. <input type="checkbox"/> 9. <input type="checkbox"/> 10. <input type="checkbox"/> 11.			ADDRESS: 642 Sunset Avenue, Apt. C
CITY: Venice	STATE: CA	ZIP CODE: 90291	

Step 5: Certification of Assignment: I certify that this case is properly filed in the Central Judicial District of the Superior Court of California, County of Los Angeles [Code Civ. Proc., §392 et seq., and Local Rule 2.3(a)(1)(E)].

Dated: October 19, 2017


 (SIGNATURE OF ATTORNEY/FILING PARTY)

PLEASE HAVE THE FOLLOWING ITEMS COMPLETED AND READY TO BE FILED IN ORDER TO PROPERLY COMMENCE YOUR NEW COURT CASE:

1. Original Complaint or Petition.
2. If filing a Complaint, a completed Summons form for issuance by the Clerk.
3. Civil Case Cover Sheet, Judicial Council form CM-010.
4. Civil Case Cover Sheet Addendum and Statement of Location form, LACIV 109, LASC Approved 03-04 (Rev. 02/16).
5. Payment in full of the filing fee, unless there is court order for waiver, partial or scheduled payments.
6. A signed order appointing the Guardian ad Litem, Judicial Council form CIV-010, if the plaintiff or petitioner is a minor under 18 years of age will be required by Court in order to issue a summons.
7. Additional copies of documents to be conformed by the Clerk. Copies of the cover sheet and this addendum must be served along with the summons and complaint, or other initiating pleading in the case.