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8 **ATTORNEYS FOR PLAINTIFFS**
9 **AND THE PROPOSED CLASS**

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **FOR THE COUNTY OF ALAMEDA**

12 **DONNA CONNARY, ZORIANA PAWLUK-**
13 **FLORIO, ADRIENNE ANDRY, and PAUL**
14 **TORRECILLAS, on behalf of themselves**
15 **and all others similarly situated**

16 **Plaintiffs,**

17 **v.**

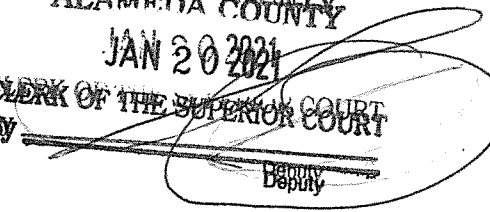
18 **S.C. JOHNSON & SON, INC.**

19 **Defendant.**

20 **CASE NO.: RG20061675**

21 **FIRST AMENDED CLASS ACTION**
22 **COMPLAINT FOR:**

- 23 (1) Breach of Express Warranty
- 24 (2) Breach of Implied Warranty
- 25 (3) Magnuson Moss Warranty Act
26 (“MMWA”), 15 U.S.C. §§ 2301, *et seq.*,
27 Violation of Written Warranty
- 28 (4) MMWA, 15 U.S.C. §§ 2301, *et seq.*,
Violation of Implied Warranty of
Merchantability Under California State
Law
- (5) “Unlawful” Business Practices in
Violation of The Unfair Competition Law
(“UCL”), Bus. & Prof. Code §§ 17200, *et*
seq.
- (6) “Unfair” Business Practices in Violation
of the UCL, Bus. & Prof. Code §§ 17200, *et*
seq.
- (7) “Fraudulent” Business Practices in
Violation of the UCL, Bus. & Prof. Code
§§ 17200, *et seq.*
- (8) False Advertising in Violation of
California Business & Professions Code §§
17500, *et seq.*
- (9) Violation of the Consumers Legal
Remedies Act (“CLRA”), California Civil
Code §§ 1750, *et seq.*
- (10) Restitution Based On Quasi-
Contract/Unjust Enrichment

ENDORSED
FILED
ALAMEDA COUNTY
JAN 20 2021
CLERK OF THE SUPERIOR COURT
By 
Deputy

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JAN 20 2021

1 Plaintiffs Donna Connary, Zoriana Pawluk-Florio, Adrienne Andry and Paul Torrecillas
2 (“Plaintiffs”), by and through their attorneys, bring this action against Defendant S.C. Johnson & Son,
3 Inc. (“Defendant” or “SCJ”), on behalf of themselves and all others similarly situated, and allege as
4 follows based upon their personal experience and investigation of their counsel:

5 **NATURE OF THE CASE**

6 1. This is an action seeking relief, on behalf of Plaintiffs and all others similarly situated,
7 who purchased mislabeled products (the “Products”¹) which were manufactured and sold by SCJ.

8 2. SCJ’s Products are falsely and misleadingly labeled as being “NON-TOXIC”² without
9 qualification, in materially the same manner as shown in Exhibits 1-21, when in fact those Products
10 are “toxic” because the Products have the capacity to harm human health and/or the environment.

11 3. This common understanding of toxic is consistent with California, federal and other
12 states that define “toxic” as any substance that has the capacity to produce personal injury or illness to
13 man through ingestion, inhalation, or absorption through any body surface. *See, e.g.*, Cal. Health &
14 Safety Code § 108145.

15 4. That SCJ’s “NON-TOXIC” claims are false and misleading because they have the
16 capacity to cause harm to humans and/or the environment was recently recognized by the National
17 Advertising Division (“NAD”), which in March of 2020 recommended that SCJ discontinue the claim
18 “non-toxic” on package labeling for certain Method Cleaning Products.

19 _____
20 ¹ SCJ’s Products include the following Method brand products (“Method Products” or “Products”) that were labelled “NON-TOXIC” with various different scents: Method All-Purpose Cleaner (Exhibit 1); Method Daily Shower Cleaner (Exhibit 2); Method Foaming Bathroom Cleaner (Exhibit 3); Method Squirt + Mop Hard Floor Cleaner (Exhibit 4); Method Bathroom Cleaner (Exhibit 5); Method Wood for Good Daily Clean (Exhibit 6); Method Dish Soap (Exhibit 7); Method Daily Granite Cleaner (Exhibit 8); Method Stainless Steel Polish (Exhibit 9); Method Heavy Duty Degreaser (Exhibit 10); Method Wood For Good Polish (Exhibit 11); Method Squirt + Mop Wood Floor Cleaner (Exhibit 12); Method Smarty Dish Plus (Exhibit 13); Method Smarty Dish (Exhibit 14); Method All-Purpose Cleaning Wipes (Exhibit 15); Method All-Purpose Cleaner for Dog (Exhibit 16); Method All-Purpose Cleaner for Cat (Exhibit 17); Method All-Purpose Cleaning Wipes for Dog (Exhibit 18); Method All-Purpose Cleaning Wipes for Cat (Exhibit 19); Method Glass + Surface Cleaner (Exhibit 20); and Method Power Dish (Exhibit 21).

27 ² “NON-TOXIC” used herein includes the materially same labeling statements, including the term
28 “non-toxic.”

1 5. In recommending SCJ remove the “NON-TOXIC” from labeling of certain Method
2 Products, NAD determined that the term “non-toxic” reasonably conveys a message that the product
3 will not harm people (including small children), common pets, or the environment, and that, a
4 reasonable consumer’s understanding of the concept of ‘will not harm’ is not limited to death, but also
5 various types of temporary physical illness, such as vomiting, rash, and gastrointestinal upset. NAD
6 also determined that SCJ’s evidence was insufficient to support the message conveyed that these
7 products will not harm humans and the environment, including household pets, and fell short of
8 providing the conclusive assessment of toxicity necessary to support a “non-toxic” claim.

9 6. Because the Products have the capacity to cause harm to people and/or the
10 environment, the Products’ “NON-TOXIC” labeling is in breach of SCJ’s express and implied
11 warranties and violates the Magnuson Moss Warranty Act (“MMWA”), 15 U.S.C. §§ 2301, *et seq.*,
12 The same conduct is also false and misleading in violation of California’s Consumers Legal Remedies
13 Act (“CLRA”), California Civil Code §§ 1750, *et seq.*; Unfair Competition Law (“UCL”), Cal. Bus.
14 & Prof. Code §§ 17200, *et seq.*; and False Advertising Law (“FAL”), Cal. Bus. & Prof. Code §§ 17500
15 *et seq.*

16 7. Accordingly, Plaintiffs bring this action on behalf of themselves and others who are
17 similarly situated (as described below), asking that they be awarded amounts including damages,
18 restitution, and other monetary relief, and that SCJ be enjoined from continuing to sell the Products
19 bearing the unlawful, false and misleading “NON-TOXIC” labeling alleged throughout this First
20 Amended Complaint.

21 **JURISDICTION AND VENUE**

22 8. This Court has jurisdiction and venue pursuant to Cal. Civ. Code 410.10 and Cal. Civ.
23 Code § 1780(d) over the claims raised in this First Amended Complaint. SCJ is doing business in
24 Alameda County as it regularly sells, advertises, markets and/or distributes the Products in Alameda
25 County and throughout the State of California. Additionally, Plaintiffs are citizens and residents of
26 California and purchased SCJ’s Products in California. Attached hereto as Exhibit 22 is a declaration
27 in compliance with Cal. Civ. Code § 1780(d).

28 **THE PARTIES**

1 9. Plaintiff Donna Connary is a resident of Riverside County, California. Ms. Connary
2 purchased at least the Method All-Purpose Cleaner labeled as being “NON-TOXIC” from a store near
3 her home in California within the past three years.

4 10. Plaintiff Zoriana Pawluk-Florio is a resident of San Francisco County, California.
5 Ms. Pawluk-Florio purchased at least the following from stores near her home in California within the
6 past three years: Method All-Purpose Cleaner, Method Bathroom Cleaner, Method Daily Shower
7 Cleaner, Method Squirt + Mop Hard Floor Cleaner, and Method Wood For Good Polish, each labeled
8 “NON-TOXIC.”

9 11. Adrienne Andry is a resident of Brooklyn, New York. Ms. Andry purchased at least
10 Method All Purpose Cleaner labeled as being “NON-TOXIC” within the past three years from stores
11 near her in New York.

12 12. Plaintiff Paul Torrecillas is a resident of Monterey County, California. Mr. Torrecillas
13 purchased at least Method Squirt + Mop Wood Floor Cleaner labeled as being “NON-TOXIC” from
14 a store near his house in California within the past three years.

15 13. Plaintiffs purchased the above-identified Products based, in part, on their materially
16 identical unqualified “NON-TOXIC” representations. Had the Products not been labeled “NON-
17 TOXIC” without qualification, Plaintiffs would not have been misled and this would have affected
18 their purchasing decisions as well as better enabled them to prevent or minimize hazardous exposure
19 to themselves, their children, and to the environment.

20 14. Defendant S.C. Johnson & Son, Inc. is a Wisconsin corporation with a principal place
21 of business in Racine, Wisconsin.

22 15. On September 14, 2017, S.C. Johnson announced that it reached an agreement to
23 acquire the Method brand in a transaction with People Against Dirt.
24 [https://www.scjohnson.com/en/press-releases/2017/september/sc-johnson-signs-agreement-to-](https://www.scjohnson.com/en/press-releases/2017/september/sc-johnson-signs-agreement-to-acquire-method-and-ecover)
25 [acquire-method-and-ecover.](https://www.scjohnson.com/en/press-releases/2017/september/sc-johnson-signs-agreement-to-acquire-method-and-ecover) Prior to SCJ’s acquisition of the Method brand, and since its acquisition,
26 Method brand products have been designed and labeled from headquarters located in San Francisco,
27
28

1 California.³ After SCJ's acquisition of People Against Dirt and its operations, People Against Dirt
2 became a division of SCJ.

3 BACKGROUND

4 16. "Toxic" is commonly understood as being a substance that has the capacity to harm
5 humans, animals or the environment. See Macmillan Dictionary, Toxic,
6 <https://www.macmillandictionary.com/us/dictionary/american/toxic> ("poisonous and harmful to
7 people, animals, or the environment.") See also the American Heritage Dictionary of the English
8 Language (5th Ed.), Toxic, <https://ahdictionary.com/word/search.html?q=toxic> ("toxic" means
9 "[c]apable of causing injury or death, especially by chemical means"); Your Dictionary, Toxic,
10 <https://www.yourdictionary.com/toxic> (same, and additionally defining "toxic" to mean "[h]aving a
11 chemical nature that is harmful to health or lethal if consumed or otherwise entering into the body in
12 sufficient quantities").

13 17. Many states define "toxic" in the materially same way as its common understanding.
14 For example, California defines "toxic" as a substance, other than a radioactive substance, that has the
15 capacity to produce personal injury or illness to man through ingestion, inhalation, or absorption
16 through any body surface. Cal. Health & Safety Code § 108145.⁴

17 18. As toxic refers to a substance capable of harming people or the environment, a product
18 or substance claiming to be "non-toxic" conveys that it is not toxic – *i.e.*, not capable of harming
19 people, animals or the environment. See Your Dictionary, non, <https://www.yourdictionary.com/non>
20 ("Non is defined as not or no"); Your Dictionary, Nontoxic,
21 <https://www.yourdictionary.com/nontoxic#wiktionary> (defining "nontoxic" as "Not toxic"). This is

22
23 ³ SCJ's current website links to the website for Method, <https://methodhome.com/>, which indicates
24 "our company headquarters are located in downtown san francisco [sic]." <https://methodhome.com/about-us/working-here/>. See also <https://methodhome.com/faq/> (in response
25 to the question, "where is your headquarters," answering "our office is headquartered in San Francisco,
26 California") and <https://methodhome.com/about-us/our-promise/> ("our san francisco [sic]
headquarters is a LEED-certified green building.")

27 ⁴ It is also consistent with applicable federal law. See 15 U.S.C. § 1261(g) ("The term "toxic" shall
28 apply to any substance (other than a radioactive substance) which has the capacity to produce personal
injury or illness to man through ingestion, inhalation, or absorption through any body surface.").

1 consistent with consumer expectations that a “non-toxic” product is harmless and will not harm people
2 or animals. *See* 1994 Community Outreach Prevention and Education Survey Results (Preliminary)
3 (51% of surveyed persons indicated that the term “nontoxic” meant “Harmless / Safe /Not Toxic” or
4 “Won’t harm people or animals.”)

5 19. Indeed, the Federal Trade Commission’s Green Guides say it is deceptive to
6 misrepresent, directly or by implication, that a product, package or service is non-toxic without
7 qualification if it has the capacity to cause harm in humans or the environment. *See* 16 CFR § 260.10.⁵

8 SCJ’S FALSE, UNLAWFUL AND DECEPTIVE “NON-TOXIC” LABELING

9 20. American consumers are health and environmentally conscience and look for safe,
10 effective products for use in their homes. Product package labels are vehicles that can convey
11 information to consumers that they can and do use to make purchasing decisions.

12 21. SCJ, and the original manufacturer of the Method brand products, know that consumer
13 want home care products that are not toxic. For example, a survey of Americans from 2014 showed
14 that 75% of those surveyed said it’s important to use non-toxic cleaning products.⁶

15 22. Home care products claiming to be “non-toxic” is increasingly material to American
16 consumers. According to a recent consumer survey on product labeling, “**Non-toxic**” was the most
17 **important**” labeling claim for consumers when asked, “Which issues matter most” for consumer
18 products generally.⁷ The survey authors indicated that “non-toxic” claims may have scored so high
19
20

21 ⁵ It is also a violation of California law to misrepresent a product or service as non-toxic. *See* Cal.
22 Bus. & Prof. Code § 17580.5.

23 ⁶ [https://sustainablebrands.com/read/stakeholder-trends-and-insights/survey-60-of-americans-](https://sustainablebrands.com/read/stakeholder-trends-and-insights/survey-60-of-americans-resolving-more-environmentally-responsible-lifestyles-in-2015)
24 [resolving-more-environmentally-responsible-lifestyles-in-2015](https://sustainablebrands.com/read/stakeholder-trends-and-insights/survey-60-of-americans-resolving-more-environmentally-responsible-lifestyles-in-2015) (“The survey evidenced Americans’
25 crucial commitment to grassroots efforts to helping the environment. More than 75 percent of
26 respondents said it’s important to buy eco-friendly appliances, use non-toxic cleaning products, reduce
household use of paper, and properly dispose of batteries, consumer electronics and everyday
household chemicals.”)

27 ⁷ *See* Crestline, American Shopping Guilt & Buying Dilemmas, available at
28 <https://crestline.com/c/consumer-guilt-and-buying-dilemmas> (indicating on a scale of 1-5, with “5”
being “Extremely important,” “non-toxic” claims scored a 4.09) (emphasis added).

1 “because **toxic chemicals have been implicated in the rise of autism spectrum disorders as well**
2 **as many types of cancer.**” *Id.* (emphasis added).

3 23. In order to capture and tap into the market and desire by consumers for what they
4 perceive to be safer, more environmentally friendly products, SCJ has labeled and advertised the
5 following Method products as “NON-TOXIC” for at least the past decade in various different scents,
6 when in fact those Products are “toxic” because the Products have the capacity to cause harm to
7 humans and/or the environment: Method All-Purpose Cleaner; Method Daily Shower Cleaner; Method
8 Foaming Bathroom Cleaner; Method Squirt + Mop Hard Floor Cleaner; Method Bathroom Cleaner;
9 Method Wood for Good Daily Clean; Method Dish Soap; Method Daily Granite Cleaner; Method
10 Stainless Steel Polish; Method Heavy Duty Degreaser; Method Wood For Good Polish; Method Squirt
11 + Mop Wood Floor Cleaner; Method Smarty Dish Plus; Method Smarty Dish; Method All-Purpose
12 Cleaning Wipes; Method All-Purpose Cleaner for Dog; Method All-Purpose Cleaner for Cat; Method
13 All-Purpose Cleaning Wipes for Dog; Method All-Purpose Cleaning Wipes for Cat; and Method Glass
14 + Surface Cleaner⁸.

15 24. Despite labeling the Products as being “NON-TOXIC,” the Products and their
16 ingredients can cause harm to humans and/or the environment. For example, ethanol, an ingredient in
17 several of the Products, is an eye and skin irritant from contact, and nose and lung irritant if inhaled
18 and passed through the skin. Ethanol can cause headache, drowsiness, nausea and vomiting, and
19 unconsciousness, and repeated high exposure to ethanol can also affect the liver and nervous system.⁹

20 25. Consumers lack a meaningful ability to test or independently ascertain the truthfulness
21 of SCJ’s “NON-TOXIC” labeling claim, especially at the point of sale. Consumers would not know
22 whether the product or its ingredients are toxic by reading the label; its discovery requires investigation
23 beyond the store and knowledge of chemistry and toxicology beyond that of the average consumer.

24 _____
25 ⁸ The Method Glass + Surface Cleaner is labeled with Method’s “PowergreenTM” technology
26 trademark on the front of its label. Method describes all of its PowergreenTM products as being
27 nontoxic, and as using naturally derived, non-toxic ingredients. See <https://methodhome.com/beyond-the-bottle/green-glossary/>.

28 ⁹ See <https://www.nj.gov/health/eoh/rtkweb/documents/fs/0844.pdf>.

1 Thus, reasonable consumers must and do rely on companies such as SCJ to honestly report whether a
2 substance is toxic, and companies such as SCJ intend and know that consumers rely upon labeling
3 statements in making their purchasing decisions. Such reliance by consumers is eminently reasonable,
4 since companies are prohibited from making false or misleading statements on their products under
5 state and federal law.

6 26. Even if consumers go to www.methodhome.com/ingredients to learn what is used in
7 the Products as the Products' labeling suggests, SCJ conceals the Products' toxicity. For example,
8 SCJ describes the same ethanol as "biodegrades readily; fermented from plant sugars such as corn or
9 sugar beets; not irritating to skin." See <https://methodhome.com/beyond-the-bottle/ingredients/>.
10 Again and in reality, ethanol can irritate the skin, nose and lungs, and affect the liver and nervous
11 system. SCJ also conceals the Products' toxicity by stating if there is a chance an ingredient is not
12 safe, they do not use it. www.methodhome.com/ingredients.

13 27. The vast majority of the Products' packaging also have small-print warnings buried on
14 their back labels to contact a doctor if ingested and/or contacts the eyes, and to keep them away from
15 children. These warnings admit the products are toxic as they have the capacity to cause harm to
16 humans. If the Products were incapable of causing harm to humans, there would be no need to contact
17 a physician if consumed, or to keep them away from children.

18 28. In fact, in March of 2020, the National Advertising Division of the Better Business
19 Bureaus, recommended that SCJ remove "NON-TOXIC" from the Products' labels because they had
20 the capacity to cause harm to humans, pets and/or the environment.¹⁰ NAD determined that SCJ's
21 evidence about the Products' toxicity was insufficient to support the message conveyed that these
22 products will not harm humans or the environment, including household pets, and fell short of
23 providing the conclusive assessment of toxicity necessary to support a 'non-toxic' claim. *Id.*

24 29. SCJ knew that it made the "NON-TOXIC" representation about the Products, as the
25 statement appears prominently on the Products' labels. SCJ also knew that the "NON-TOXIC" claim

26 _____
27 ¹⁰ See [https://www.prnewswire.com/news-releases/nad-recommends-sc-johnson-discontinue-non-
28 toxic-claim-on-method-cleaning-products-advertiser-to-appeal-to-narb-301029238.html](https://www.prnewswire.com/news-releases/nad-recommends-sc-johnson-discontinue-non-toxic-claim-on-method-cleaning-products-advertiser-to-appeal-to-narb-301029238.html), March 24,
2020.

1 was false and misleading because the Products have the capacity to cause harm to humans and/or the
2 environment. SCJ retains expert chemists, toxicologists, other scientists, regulatory compliance
3 personnel and attorneys, and had the ability to know, and did know, that the Products had the capacity
4 to cause harm to humans and/or the environment.

5 30. The labeling of home care products as “NON-TOXIC” carries implicit benefits valued
6 by consumers – benefits that consumers are often willing to pay a premium over comparable products
7 that are not “NON-TOXIC.” SCJ and the prior owner of the Method brand products cultivated and
8 reinforced an image that the Method brand products were not toxic and environmentally friendly by
9 boldly emblazoning “NON-TOXIC” on the Method brand Products’ labels, despite the fact the
10 Products have the capacity to cause harm in humans and/or the environment, making them toxic by
11 definition.

12 31. SCJ used the “NON-TOXIC” labels to shape the market of the Products and to sell the
13 Products. Yet, the fact that the Products have the capacity to harm humans and/or the environment
14 renders the use of the “NON-TOXIC” labeling false and misleading. In manufacturing the Products,
15 SCJ chose to use ingredients and formulations that could cause harm to humans and/or the
16 environment, but nonetheless labeled the Products as “NON-TOXIC.” As a matter of law, SCJ must
17 reconcile its labeling with the true nature of its toxic Products.

18 **PLAINTIFFS NOTIFIED SCJ OF ITS UNLAWFUL AND MISLEADING**
19 **“NON-TOXIC” LABELING BEFORE FILING SUIT**

20 32. On November 12, 2019, more than four months prior to NAD’s recommendation for
21 SCJ to remove the “NON-TOXIC” labeling from the Products, Plaintiffs Andry and Pawluk-Florio
22 notified Defendant of the allegations in this First Amended Complaint regarding Method Products via
23 letter pursuant to the CLRA, Cal. Civ. Code §§ 1750-85 (“CLRA Letter”).

24 33. As of the filing of this First Amended Complaint, SCJ has not removed the “NON-
25 TOXIC” labeling from the Products, indicated it would appeal NAD’s decisions on its “NON-TOXIC”
26 labeling, and continues to sell the Products with the “NON-TOXIC” labels even though they have the
27 capacity to cause harm to humans and/or the environment.

28 **CLASS ACTION ALLEGATIONS**

1 34. This action is brought and may properly be maintained as a class action pursuant to
2 Cal. Civ. Code § 382. Plaintiffs bring this action, on behalf of themselves and all others similarly
3 situated, as representative members of the following proposed nationwide class (“Class”) pursuant to
4 Cal. Civ. Proc. Code § 382:

5 Persons in the United States who purchased Method Products that were labeled “NON-
6 TOXIC” within the four-year period prior to the date this Action was filed through the date
7 the Class is certified.

8 Excluded from the Class are: (i) Defendant, the officers, employees, principals, affiliated
9 entities and directors of the Defendant at all relevant times, members of their immediate
10 families and their legal representatives, heirs, successors or assigns and any entity in which
11 Defendant has or had a controlling interest; (ii) the judges to whom this action is assigned
12 and any members of their immediate families; (iii) governmental entities; (iv) any person
13 that timely and properly excludes himself or herself from the Class in accordance with
14 Court-approved procedures; and (v) persons or entities that purchased the Method Products
15 for purposes of resale.

16 **A. The Parties are Numerous and Ascertainable**

17 35. The proposed Class is so numerous that it is impractical to bring them all before the
18 Court. Though the exact number and identities of the members of the Class is unknown at this time,
19 they likely number thousands of people, because the Products are widely offered and sold across the
20 country. Indeed, due to the nature of Defendant’s business, Plaintiffs believe there are tens of
21 thousands of members of the Class geographically dispersed throughout the United States. Therefore,
22 individual joinder of all members of the Classes would be impracticable. The Class is ascertainable
23 because its definition is objective and specific and the members of the Class can be identified by
24 objective criteria – the purchase of Method Products labeled “NON-TOXIC” during the Class Period.
25 Individual notice can be provided to members of the Class who can be identified through reasonable
26 effort, and to other Class members by electronic means, or other appropriate means. Moreover,
27 because Defendant’s labeling, marketing, and advertising campaign as described herein is so
28 pervasive, there is no concern that the Class includes individuals who were not exposed to the
misrepresentations.

B. There is a Well-Defined Community of Interest

 36. In order to determine if there is a well-defined community of interest such that the
question is one of a common or general interest, a court should consider: (1) whether common

1 questions of law and facts predominate; (2) whether the representatives of the Class' claims or
2 defenses are typical of the class; and (3) whether the representatives of the Class can adequately
3 represent the Class.

4 **i. Common Questions of Law and Facts Predominate**

5 37. This action presents questions of law and facts common to the Class, including, but not
6 limited to, the following:

- 7 a. Whether and when SCJ labeled the Products as "NON-TOXIC";
- 8 b. Whether the Products are toxic in that they have the capacity to cause harm
9 in humans and/or the environment;
- 10 c. Whether SCJ's "NON-TOXIC" labeling of the Products is and was likely
11 to deceive Class members or the general public;
- 12 d. Whether SCJ's "NON-TOXIC" labeling is unlawful;
- 13 e. Whether SCJ's conduct breached express or implied warranties; and
- 14 f. The appropriate measure of damages, restitutionary disgorgement and/or
15 restitution.

16 **ii. Plaintiffs' Claims Are Typical of the Class**

17 38. Plaintiffs' claims are typical of the claims of the Class in that plaintiffs were consumers
18 who purchased Method home care products labelled "NON-TOXIC" in the United States that had the
19 capacity to cause harm to humans and/or the environment within the past four years. Plaintiffs,
20 therefore, are no different in any relevant respect from any other Class member, and the relief sought
21 is common to the Class.

22 **iii. The Class Representatives Can Adequately Represent the Class**

23 39. Plaintiffs will fairly and adequately represent and protect the interests of the Class, in
24 that they have no interests that are antagonistic to or that irreconcilably conflict with those of other
25 members of the Class. Plaintiffs have retained counsel competent and experienced in the prosecution
26 of class action litigation, including substantial experience in the types of claims alleged herein.

27 **C. A Class Action Is Superior To All Other Available Methods For The Fair And**
28 **Efficient Adjudication Of Plaintiffs' And Class Members' Claims**

1 other Class members had known of the true nature of the Products, they would not have purchased the
2 Products, would have purchased less of the Products or would not have been willing to pay the
3 premium price associated with products that were truly “non-toxic.” Accordingly, Plaintiffs and
4 members of the Class have suffered injury in fact and lost money or property as a result of SCJ’s
5 wrongful conduct.

6 47. Plaintiffs and the Class are therefore entitled to recover damages, punitive damages,
7 equitable relief such as restitution and disgorgement of profits, and declaratory and injunctive relief.

8 **SECOND CAUSE OF ACTION**
9 **(Breach of Implied Warranty)**

10 48. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
11 restate them as if fully set forth herein.

12 49. Unless excluded or modified, a warranty that a good shall be merchantable is implied
13 in a contract for their sale if the seller is a merchant with respect to goods of that kind.

14 50. SCJ is a merchant with respect to the Products at issue, as it manufactures, distributes
15 and sells the Products nationwide.

16 51. In order to be merchantable, goods must conform to the promises or affirmations of
17 fact made on the container or labeling.

18 52. SCJ breached the implied warranty of merchantability to Plaintiffs and the Class in that
19 the labels of the Products promised and affirmed that the Products were “NON-TOXIC,” but, contrary
20 to the promise and affirmation of fact, the Products are toxic in that they have the capacity to harm
21 humans and/or the environment.

22 53. As a result of SCJ’s conduct, Plaintiffs and the Class did not receive merchantable
23 goods as impliedly warranted by SCJ.

24 54. SCJ did not exclude or modify the Products’ implied warranty of merchantability.

25 55. As a proximate result of SCJ’s breach of its implied warranty, Plaintiffs and members
26 of the Class incurred damages. Plaintiffs and members of the Class were damaged as a result of SCJ’s
27 failure to comply with its obligations under the implied warranty, since Plaintiff and members of the
28 Class paid for a product that did not have the promised quality and nature, did not receive the “NON-

1 TOXIC products that they bargained for, paid a premium for the Products when they could have
2 instead purchased other less expensive alternative products, and lost the opportunity to purchase other,
3 truly non-toxic products.

4 **THIRD CAUSE OF ACTION**
5 **(Magnuson Moss Warranty Act (“MMWA”), 15 U.S.C. §§ 2301, *et seq.***
6 **Violation of Written Warranty)**

6 56. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
7 restate them as if fully set forth herein.

8 57. The MMWA, 15 U.S.C. §§ 2301, *et seq.*, creates a private cause of action for breach
9 of “written warranty” as defined by that Act. 15 U.S.C. § 2301(6) and § 2310(d)(1).

10 58. The Products are “consumer products” as defined in 15 U.S.C. § 2301(1), as they
11 constitute tangible personal property which is distributed in commerce and which is normally used for
12 personal, family or household purposes.

13 59. Plaintiffs and Class members are “consumers” as defined in 15 U.S.C. § 2301(3), since
14 they are buyers of the Products for purposes other than resale.

15 60. SCJ is an entity engaged in the business of making the Products available, either
16 directly or indirectly, to consumers such as Plaintiffs and the Class. As such, SCJ is a “supplier” as
17 defined in 15 U.S.C. § 2301(4).

18 61. Through its labeling, SCJ gave and offered a written warranty to consumers relating
19 to the nature and quality of the ingredients in the Products. As a result, SCJ is a “warrantor” within
20 the meaning of 15 U.S.C. § 2301(5).

21 62. SCJ provided a “written warranty” within the meaning of 15 U.S.C. § 2301(6) for the
22 Products by prominently affirming and promising in writing on the labeling of the Products that the
23 Products were “NON-TOXIC” as described in this First Amended Complaint. This affirmation of fact
24 regarding the nature and quality of the Products constituted, and was intended to convey to purchasers,
25 a written promise that the Product labeled “NON-TOXIC” was free of a particular type of defect (*i.e.*,
26 that they were not toxic). As such, this written promise and affirmation was part of the basis of
27 Plaintiffs’ and Class members’ bargains with SCJ in purchasing the Products.

1 79. A business act or practice is “unlawful” if it violates any established state or federal
2 law.

3 80. The MMWA makes the breach of either a “written warranty” or an “implied warranty”
4 of merchantability a violation of federal law. 15 U.S.C. § 2310(d). SCJ violated, and continues to
5 violate the MMWA as alleged in Counts III and IV, and hence have also violated and continue to
6 violate the “unlawful” prong of the UCL, through its use of the term “NON-TOXIC” on the labels of
7 Products that were in fact toxic.

8 81. SCJ’s labeling of the Products as “NON-TOXIC” when they are toxic also constitute
9 unlawful business practices in violation of the UCL because, among other things, and as described
10 throughout this First Amended Complaint, they violate Cal. Com. Code § 2313; the CLRA.; and FAL.
11 The same conduct also violates the standard of conduct set forth in Cal. Health & Safety Code §
12 17580.5.

13 82. By committing the unlawful acts and practices alleged above, SCJ has engaged, and
14 continues to be engaged, in unlawful business practices within the meaning of California Business and
15 Professions Code §§ 17200, *et seq.*

16 83. Through its unlawful acts and practices, SCJ has obtained, and continues to unfairly
17 obtain, money from members of the Class. As such, Plaintiffs request that this Court cause SCJ to
18 restore this money to Plaintiffs and all members of the Class, to disgorge the profits SCJ made on
19 these transactions, and to enjoin SCJ from continuing to violate the Unfair Competition Law or
20 violating it in the same fashion in the future as discussed herein. Otherwise, the Class may be
21 irreparably harmed and/or denied an effective and complete remedy if such an order is not granted.

22
23 **SIXTH CAUSE OF ACTION**
24 **(“Unfair” Business Practices in Violation of**
25 **The UCL, Bus. & Prof. Code §§ 17200, *et seq.*)**

26 84. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
27 restate them as if fully set forth herein.
28

1 85. The UCL defines unfair business competition to include any “unlawful, unfair or
2 fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.
3 Bus. Prof. Code § 17200.

4 86. A business act or practice is “unfair” under the Unfair Competition Law if the reasons,
5 justifications and motives of the alleged wrongdoer are outweighed by the gravity of the harm to the
6 alleged victims.

7 87. SCJ has and continues to violate the “unfair” prong of the UCL through its misleading
8 description of the Products as “NON-TOXIC,” when they are toxic in that they have the capacity to
9 cause harm to humans and/or the environment. The gravity of the harm to Plaintiffs and members of
10 the Class resulting from such unfair acts and practices outweighs any conceivable reasons,
11 justifications and/or motives of SCJ for engaging in such deceptive acts and practices. By committing
12 the acts and practices alleged above, SCJ has engaged, and continues to engage in unfair business
13 practices within the meaning of California Business and Professions Code §§ 17200, *et seq.*

14 88. Through its unfair acts and practices, SCJ has obtained, and continues to unfairly
15 obtain, money from members of the Class. As such, Plaintiffs have been injured and request that this
16 Court cause SCJ to restore this money to Plaintiffs and the members of the Class, to disgorge the
17 profits SCJ has made on the Products and to enjoin SCJ from continuing to violate the Unfair
18 Competition Law or violating it in the same fashion in the future as discussed herein. Otherwise, the
19 Class may be irreparably harmed and/or denied an effective and complete remedy if such an Order is
20 not granted.

21 **SEVENTH CAUSE OF ACTION**
22 **(“Fraudulent” Business Practices in Violation of**
23 **The UCL, Bus. & Prof. Code §§ 17200, *et seq.*)**

24 89. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
25 restate them as if fully set forth herein.

26 90. The UCL defines unfair business competition to include any “unlawful, unfair or
27 fraudulent” act or practice, as well as any “unfair, deceptive, untrue or misleading” advertising. Cal.
28 Bus. & Prof. Code §17200.

1 91. A business act or practice is “fraudulent” under the Unfair Competition Law if it
2 actually deceives or is likely to deceive members of the consuming public.

3 92. SCJ’s acts and practices of mislabeling the Products as “NON-TOXIC” when these
4 products were toxic has the effect of misleading consumers into believing the Products are something
5 they are not.

6 93. As a result of the conduct described above, SCJ has been, and will continue to be,
7 unjustly enriched at the expense of Plaintiffs and members of the proposed Class. Specifically, SCJ
8 has been unjustly enriched by the profits it has obtained from Plaintiffs and the Class from the
9 purchases of the Products made by them.

10 94. Through its unfair acts and practices, SCJ has improperly obtained, and continues to
11 improperly obtain, money from members of the Class. As such, Plaintiffs request that this Court cause
12 SCJ to restore this money to Plaintiffs and the Class, to disgorge the profits SCJ has made on the
13 Products, and to enjoin SCJ from continuing to violate the Unfair Competition Law or violating it in
14 the same fashion in the future as discussed herein. Otherwise, the Class may be irreparably harmed
15 and/or denied an effective and complete remedy if such an Order is not granted.

16 **EIGHTH CAUSE OF ACTION**
17 **(False Advertising in Violation of**
California Business & Professions Code §§ 17500, *et seq.*)

18 95. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
19 restate them as if fully set forth herein.

20 96. SCJ uses advertising on the packaging to sell the Products. SCJ is disseminating
21 advertising that the Products are “NON-TOXIC” which by its very nature is deceptive, untrue, or
22 misleading within the meaning of the FAL, California Business & Professions Code §§ 17500, *et seq.*
23 because those advertising statements contained on the Products’ labels are misleading and likely to
24 deceive, and continue to deceive, members of the putative Class and the general public, because the
25 Products are toxic.

26 97. In making and disseminating the “NON-TOXIC” statement alleged herein, SCJ knew
27 or should have known that the statement was untrue or misleading, and violated the FAL.
28

1 98. The “NON-TOXIC” misrepresentation by SCJ constitutes false and misleading
2 advertising and therefore constitute a violation of the FAL.

3 99. Through its deceptive acts and practices, SCJ has improperly and illegally obtained
4 money from Plaintiffs and the members of the Class. As such, Plaintiffs request that this Court cause
5 SCJ to restore this money to Plaintiffs and the members of the Class, and to enjoin SCJ from continuing
6 to violate California Business & Professions Code §§ 17500, *et seq.*, as discussed above. Otherwise,
7 Plaintiffs and those similarly situated will continue to be harmed by SCJ’s false and misleading
8 advertising.

9 100. Pursuant to California Business & Professions Code § 17535, Plaintiffs seek an Order
10 of this Court ordering SCJ to fully disclose the true nature of its misrepresentations. Plaintiffs
11 additionally request an Order requiring SCJ to disgorge its ill-gotten gains and/or award full restitution
12 of all monies wrongfully acquired by SCJ by means of such acts of false advertising, plus interest and
13 attorneys’ fees so as to restore any and all monies which were acquired and obtained by means of such
14 untrue and misleading advertising, misrepresentations and omissions, and which ill-gotten gains are
15 still retained by SCJ. Plaintiffs and the Class may be irreparably harmed and/or denied an effective
16 and complete remedy if such an Order is not granted.

17 101. SCJ’s conduct is ongoing and continues to this date. Plaintiffs and the Class are
18 therefore entitled to the relief sought.

19 **NINTH CAUSE OF ACTION**
20 **(Violation of the CLRA,**
California Civil Code §§ 1750, *et seq.*)

21 102. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
22 restate them as if fully set forth herein.

23 103. This cause of action is brought pursuant to the CLRA, California Civil Code §§ 1750,
24 *et seq.* (the “CLRA”).

25 104. Plaintiffs and each member of the proposed Class are “consumers” within the meaning
26 of Civil Code § 1761(d).

1 105. The purchases of the Products by consumers constitute “transactions” within the
2 meaning of Civil Code § 1761(e) and the Products offered by SCJ constitute “goods” within the
3 meaning of Civil Code § 1761(a).

4 106. SCJ has violated, and continues to violate, the CLRA in at least the following respects:

5 a. In violation of Civil Code § 1770(a)(5), SCJ represented that the good (*i.e.*, the
6 Products) had characteristics or benefits (*i.e.*, were “NON-TOXIC”) which they did
not have;

7 b. in violation of Civil Code § 1770(a)(7), SCJ represented that its goods (*i.e.*, the
8 Products) were of a particular standard, quality or grade (*i.e.*, were “NON-
TOXIC”), which they were not; and

9 c. in violation of Civil Code § 1770(a)(9), SCJ advertised goods (*i.e.*, “NON-TOXIC”
10 Products) with the intent not to provide what it advertised.

11 107. SCJ knew or should have known that its “NON-TOXIC” representations in the context
12 of the Products violated consumer protection laws, and that these statements would be relied upon by
13 Plaintiffs and the members of the Class.

14 108. The “NON-TOXIC” representations were made to Plaintiffs and all members of the
15 Class. As set forth above, Plaintiffs relied on the “NON-TOXIC” representations on the Products’
16 labels as a material basis for their decisions to purchase the Products. Moreover, based on the very
17 materiality of SCJ’s misrepresentations uniformly made on its Products’ labels, reliance on those
18 misrepresentations as a material basis for the decision to purchase the Products may be presumed or
19 inferred for all members of the Class.

20 109. SCJ carried out the scheme set forth in this First Amended Complaint willfully,
21 wantonly and with reckless disregard for the interests of Plaintiffs and the Class, and as a result,
22 Plaintiffs and the Class have suffered an ascertainable loss of money or property.

23 110. Plaintiffs and the members of the Class request that this Court enjoin SCJ from
24 continuing to engage in the unlawful and deceptive methods, acts and practices alleged above, pursuant
25 to California Civil Code § 1780(a)(2). Unless SCJ is permanently enjoined from continuing to engage
26 in such violations of the CLRA, future consumers of the Products will be damaged by its acts and
27 practices in the same way as have Plaintiffs and the members of the proposed Class.
28

1 111. As noted above, Plaintiff Pawluk-Florio sent SCJ a pre-suit notice and demand to
2 describe SCJ's violation of the CLRA, and demanded SCJ cease selling Products bearing "NON-
3 TOXIC" labeling as described herein.

4 112. With respect to those violations of Civil Code § 1770 to which notification was
5 received by SCJ, SCJ has not yet changed its labeling to remove the "NON-TOXIC" claim or paid
6 restitution/damages to Plaintiffs and the Class. As SCJ failed to provide Plaintiffs the relief requested,
7 Plaintiffs hereby request damages from SCJ as provided for in Civil Code § 1780:

- 8 a. Actual damages in excess of the jurisdictional limits of this Court;
- 9 b. statutory damages allowable under Civil Code § 1780;
- 10 c. punitive damages; and
- 11 d. any other relief which the Court deems proper; and court costs and attorneys' fees.

12 **TENTH CAUSE OF ACTION**
13 **(Restitution Based On Quasi-Contract/Unjust Enrichment)**

14 113. Plaintiffs hereby incorporate all other paragraphs of this First Amended Complaint and
15 restate them as if fully set forth herein.

16 114. SCJ's conduct in enticing Plaintiffs and the Class to purchase the Products through the
17 use of false and misleading "NON-TOXIC" labeling as described throughout this First Amended
18 Complaint is unlawful because the "NON-TOXIC" statements contained on the Products' labels are
19 untrue. SCJ took monies from Plaintiffs and the Class for Products promised to be "NON-TOXIC,"
20 even though the Products it sold are toxic as specified throughout this First Amended Complaint. SCJ
21 has been unjustly enriched at the expense of Plaintiffs and the Class as result of its unlawful conduct
22 alleged herein, thereby creating a quasi-contractual obligation on SCJ to restore these ill-gotten gains
23 to Plaintiffs and the Class.

24 115. As a direct and proximate result of SCJ's unjust enrichment, Plaintiffs and the Class
25 are entitled to restitution or restitutionary disgorgement in an amount to be proved at trial.

26 **JURY DEMAND**

27 Plaintiffs demand a jury trial on all causes of action and/or issues so triable.
28

1 **PRAYER FOR RELIEF**

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

4 A. For an order that this action may be maintained as a class action under Cal. Civ. Code
5 § 382, that Plaintiffs be appointed as the Class Representatives for the Class, and that Plaintiffs’
6 counsel be appointed as counsel for the Class;

7 B. For preliminary and injunctive relief enjoining SCJ, its agents, servants, employees and
8 all persons acting in concert with them from continuing to engage in its unlawful conduct as alleged
9 herein and requiring that SCJ restrain from continuing to sell the mislabeled Products;

10 C. An order requiring SCJ to pay all costs associated with Class notice and administration
11 of Class-wide relief;

12 D. An award to Plaintiffs and all Class members of compensatory, consequential,
13 incidental, statutory and punitive damages, restitution, and disgorgement, in an amount to be
14 determined at trial;

15 E. For attorneys’ fees and expenses pursuant to all applicable laws;

16 F. For pre and post judgment interest; and

17 G. For such other and further relief as the Court may deem just and proper.

18 Dated: January 19, 2021

**FEINSTEIN DOYLE PAYNE
& KRAVEC, LLC**

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