

GOOD GUSTAFSON AUMAIS LLP

Christopher T. Aumais (Cal. Bar No. 249901)
2330 Westwood Blvd., No. 103
Los Angeles, CA 90064
Tel: (310) 274-4663
cta@ggallp.com

SHENAQ PC

Amir Shenaq, Esq.*
3500 Lenox Road, Ste. 1500
Atlanta GA 30326
Tel: (888) 909-9993
amir@shenaqpc.com

THE KEETON FIRM LLC

Steffan T. Keeton, Esq.*
100 S Commons, Ste 102
Pittsburgh PA 15212
Tel: (888) 412-5291
stkeeton@keetonfirm.com

**Pro hac vice forthcoming*

Counsel for Plaintiff and the Proposed Class

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

Annemarie Lott, individually, and on
behalf of those similarly situated,

Plaintiff,

v.

S.C. Johnson & Son, Inc. and
Oars + Alps, LLC,

Defendants.

CASE NO.

CLASS ACTION COMPLAINT

Demand for Jury Trial

Plaintiff Annemarie Lott brings this action on behalf of herself and all others similarly situated against Defendants S.C. Johnson & Son, Inc. (“SCJ”) and Oars + Alps LLC (“Oars,” and collectively “Defendants”). Plaintiff makes the following allegations pursuant to the investigation of counsel and based upon information and belief, except as to the allegations specifically pertaining to herself, which are based on personal knowledge.

NATURE OF THE ACTION

“I think ‘fake it ‘til you make it’ is just an injection of confidence... [t]hat initial mentality really did help Oars + Alps at the onset.”

Mia Duchnowski
Co-Founder of Oars + Alps¹

1. This case arises from Defendants’ deceptive and misleading practices with respect to their marketing and sale of Oars + Alps® brand cosmetic and beauty products (collectively, the “Product” or “Products”).²

2. Defendants manufacture, market, and sell their Products throughout the United States including the State of California.

¹ Reid, Pauleanna. *Built And Bought In 3 Years: How The Women Behind Oars + Alps Brought Big Beauty To Masculine Hands*, FORBES (Mar. 31, 2020), <https://www.forbes.com/sites/pauleannareid/2020/03/31/built-and-bought-in-3-years-how-the-women-behind-oars--alps-brought-big-beauty-to-masculine-hands/>.

² At the time of this filing, the following Oars + Alps products are included in this definition: Natural Deodorant, Natural Face Moisturizer + Eye Cream, Natural Wake Up Eye Stick with Caffeine, Natural Charcoal Solid Face Wash, Natural Wake Up Face Serum, and Natural Body + Face Wash. This definition is not exhaustive, and shall include all of Defendants’ products that are similarly deceptively marketed.

3. Oars + Alps was launched in 2015 by Laura Lisowski Cox and Mia Duchnowski with the purpose of creating “a men’s skincare line that offers affordable, all natural products.”³

4. Despite the representations made on the Products’ labels, marketing, and advertising which lead reasonable consumers to believe that the Products are “natural,” they are not.

5. In fact, this was admitted by Co-Founder Mia Duchnowski in a March 2019 interview where she stated:⁴

We quickly found out that men actually don’t know the difference between natural and organic. Nine times out of ten, if you ask somebody, they don’t know. And so as such, there was no willingness to pay for organic products. And therefore, **our products are actually not made with natural ingredients**, and not necessarily made with organic ingredients, although we do have some products that have organic ingredients. The goal of this was to really understand the mindset of the consumer, to understand what they were willing to pay for these products....

6. From their focus on the “natural” market, Founders Laura Lisowski Cox and Mia Duchnowski grew the Oars + Alps brand into a *financially* successful health, beauty, and cosmetic company.

³ Elkins, Kathleen, *Why two women left high-profile corporate jobs to launch a skincare line for men*, CNBC (Jan. 18, 2017), <https://www.cnbc.com/2017/01/18/two-women-left-jobs-at-facebook-and-bloomberg-to-sell-skincare-for-men.html>.

⁴ Richie Siegel, *Role Reversal — with Mia Duchnowski of Oars + Alps Loose Threads* (2022), <https://www.stitcher.com/show/loose-threads-inside-the-fashion-business/episode/role-reversal-with-mia-duchnowski-of-oars-alps-59678558> (last visited May 27, 2022) at approximately 4:05 timestamp (emphasis added).

7. With this rapid growth in mind, Defendant SCJ acquired Defendant Oars in 2019 for \$20MM.⁵

8. The brand’s growth was not by accident, and instead developed from specifically targeting the “natural” market with intense focus.

9. As Co-Founder Laura Lisowski Cox describes, “We are very data-centric from the product development piece to the marketing piece. We’re looking at where are our guys are living and breathing. How do we reach them? Then, with messaging, we’re constantly testing. We look at Google keywords, Amazon keywords, industry reports.”⁶

10. Defendants marketing efforts stress the purported “natural” nature of their Products.

11. Notably, the principal display panel of all of the Products states “Natural.”

⁵ This amount is currently in dispute in an action against Defendant Oars and its co-founders where early investors allege that the co-founders misrepresented the true sales price. *See Levy Fam. Invs., LLC v. Oars + Alps LLC*, 2022 WL 245543 (Del. Ch. Jan. 27, 2022) (early investors allege that they learned from “a news article reporting that the Company was sold for \$20 million, not \$8.85 million as represented”).

⁶ McCormack, Claire. *Full Disclosure: How Oars + Alps Went From Launch To Exit In Less Than 36 Months*, BEAUTYINDEPENDENT (Oct. 28, 2019), <https://www.beautyindependent.com/how-oars-alps-went-from-launch-exit-36-months-s-c-johnson/>.



12. The word “Natural” is a representation to a reasonable consumer that the Products contain only natural ingredients.

13. This represents that the Product is “natural” to consumers.

14. Reasonable consumers, including Plaintiff, interpret “natural” to mean that the product does not include synthetic ingredients.

15. Despite this representation, the Products are not natural because they include multiple synthetic ingredients.

16. Specifically, the Products contain the following synthetic ingredients: Phenoxyethanol, Dimethicone, Caprylyl Glycol, Potassium Sorbate, Sodium Benzoate, Propanediol, Ethylhexylglycerin, and Citric Acid.

17. Plaintiff and those similarly situated (“Class Members”) relied on Defendants’ misrepresentations that the Products are “natural” when purchasing the Products.

18. This deception is not limited to the Products' labels, and rather, it is omnipresent throughout Defendants' marketing efforts.

19. Reasonable consumers purchased the Products believing, among other things, that they were accurately represented. Specifically, reasonable consumers believed that the Products contained accurate label information and representations. Reasonable consumers would not have purchased the Products if they had known about the misrepresentations or would have purchased them on different terms.

20. Plaintiff brings this action individually and on behalf of those similarly situated and seeks to represent a Nationwide Class and a California Class. Plaintiff seeks damages, interest thereon, reasonable attorneys' fees and costs, restitution, other equitable relief, and disgorgement of all benefits Defendants have enjoyed from its unlawful and/or deceptive business practices, as detailed herein. In addition, Plaintiff seeks injunctive relief to stop Defendants' unlawful conduct in the labeling and marketing of the Products.

21. Defendants' conduct violated and continues to violate, *inter alia*, the consumer protection statutes of California. Defendants have been and continue to be unjustly enriched. Accordingly, Plaintiff brings this action against Defendants on behalf of herself and Class Members who purchased the Products during the applicable statute of limitations period (the "Class Period").

JURISDICTION AND VENUE

22. This Court has personal jurisdiction over Defendants. Defendants purposefully avail themselves of the California consumer market and distributes the

1 Products to many locations within the state, where the Products are purchased by
2 hundreds of consumers every day.

3 23. This Court has original subject-matter jurisdiction over this proposed
4 class action pursuant to 28 U.S.C. § 1332(d), which, under the provisions of the Class
5 Action Fairness Act (“CAFA”), explicitly provides for the original jurisdiction of the
6 federal courts in any class action in which at least 100 members are in the proposed
7 Plaintiff’s class and the matter in controversy exceeds the sum of \$5,000,000.00,
8 exclusive of interest and costs. Plaintiff alleges that the total claims of individual
9 members of the proposed Classes (as defined herein) are well in excess of
10 \$5,000,000.00 in the aggregate, exclusive of interest and costs.
11

12 24. Venue is proper in this District under 28 U.S.C. § 1391. Plaintiff’s
13 purchases of Defendants’ Products, substantial acts in furtherance of the alleged
14 improper conduct, including the dissemination of false and misleading information
15 regarding the nature, quality, and/or ingredients of the Products, occurred within this
16 District and the Defendants conduct business in this District.
17
18

19 PARTIES

20 25. Plaintiff Annemarie Lott is a citizen of California who purchased the
21 Products during the class period, as described herein. Plaintiff’s purchases took place
22 in California. In addition, the advertising and labeling on the package of the Products
23 purchased by Plaintiff, including the “natural” representations, is typical of the
24 advertising and labeling of the Products purchased by members of the Class. Plaintiff
25 relied on the representation on the packaging that the Products were “natural.”
26
27
28

1 a. Within the past three years, Plaintiff purchased multiple Products.

2 These purchases were made at retailers throughout California. Most
3 recently in March 2021, Plaintiff purchased Defendants' Natural
4 Deodorant from the Target store in Roseville, CA at a price of
5 approximately \$14.00.
6

7 26. Defendant S.C. Johnson & Son, Inc. is a Delaware corporation with its
8 principal place of business in Racine, Wisconsin.

9 27. Defendant Oars + Alps LLC is a Delaware company with its principal
10 place of business in Chicago, Illinois.

11 28. Defendants produce, market and distribute the Products in retail stores
12 throughout the United States including stores physically located in the State of
13 California.
14

15 29. At the time of this filing, there is a dispute⁷ involving Founders Laura
16 Lisowski and Mia Duchnowski and early investors concerning the distributions,
17 ownership, and other matters related to Defendant Oars its acquisition by Defendant
18 SCJ in Delaware. To the extent that proper defendants may change as a result of the
19 Delaware litigation, Plaintiff reserves the right to amend.
20

21 30. Plaintiff reserves the right to amend this Complaint to add different or
22 additional defendants, including without limitation any officer, director, employee,
23 supplier, or distributor of Defendants who has knowingly and willfully aided, abetted,
24 or conspired in the false and deceptive conduct alleged herein.
25
26
27
28

⁷ *Supra* note 5.

31. Whenever reference is made in this Complaint to any representation, act, omission, or transaction of a defendant, that allegation shall mean that the defendant did the act, omission, or transaction through its officers, directors, employees, agents, and/or representatives while they were acting within the actual or ostensible scope of their authority.

FACTS

A. Consumers Value Representations that a Product is Natural

32. Consumers have become increasingly concerned about the effects of synthetic and chemical ingredients in food, cleaning products, bath and beauty products and everyday household products.⁸

33. Companies such as the Defendants have capitalized on consumers' desires for purportedly "natural products."

34. Indeed, consumers are willing to pay, and have paid, a premium for products branded "natural" over products that contain synthetic ingredients.

35. In 2015, sales of natural products grew 9.5% to \$180 billion.⁹ Reasonable consumers, including Plaintiff and Class Members, value natural products for

⁸ Julianna M. Butler & Christian A. Vossler, *What is an Unregulated and Potentially Misleading Label Worth? The case of "Natural"-Labelled Groceries*, Environmental & Resource Economics, Springer; European Association of Environmental and Resource Economists, vol. 70(2), pages 545-564 (2017).

⁹ *Natural Products Industry Sales up 9.5% to \$180bn Says NBJ*, FOOD NAVIGATOR, [http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/\(page\)/6](http://www.foodnavigator-usa.com/Markets/EXPO-WEST-trendspotting-organics-natural-claims/(page)/6) ; see also Shoshanna Delventhal, *Study Shows Surge in Demand for "Natural" Products*, INVESTOPEDIA (February 22, 2017), <http://www.investopedia.com/articles/investing/022217/study-shows-surge-demand-natural-products.asp> (Study by Kline Research indicated that in 2016, the personal care market reached 9% growth in the U.S. and 8% in the U.K. The trend-driven natural and organic personal care industry is on track to be worth \$25.1 million by 2025).

important reasons, including the belief that they are safer and healthier than alternative products that are not represented as natural.

36. Further, consumers have become increasingly concerned about the effects of synthetic ingredients in consumer products.¹⁰

37. Reasonable consumers, including Plaintiff and Class Members, value natural products for important reasons, including the belief that they are safer and healthier than alternative products that are not represented as natural.

38. As a result, “natural” products are worth more than products that contain artificial ingredients, and consumers pay a premium for products labeled “natural” over products that contain synthetic ingredients.

B. Plaintiff and Other Reasonable Consumers Understand Natural to Mean that a Product Lacks Artificial Ingredients

39. Plaintiff and Class Members understand “natural” representations to mean that a product lacks synthetic ingredients.

40. This interpretation is consistent with the understanding of a reasonable consumer.

41. The test to determine if a company’s “natural” representation is deceptive is judged by whether it would deceive or mislead a reasonable person. To assist in ascertaining what a reasonable consumer believes the term “natural” means, one can look to regulatory agency guidance.

42. Federal agencies have warned companies that they must ensure that they can substantiate “natural” claims.

¹⁰ Butler and Vossler, *supra* note 8.

43. In 2013, the United States Department of Agriculture ("USDA") issued a Draft Guidance Decision Tree for Classification of Materials as Synthetic or Nonsynthetic (Natural). In accordance with this decision tree, a substance is natural—as opposed to synthetic—if: (a) it is manufactured, produced, or extracted from a natural source (i.e. naturally occurring mineral or biological matter); (b) it has not undergone a chemical change (i.e. a process whereby a substance is transformed into one or more other distinct substances) so that it is chemically or structurally different than how it naturally occurs in the source material; or (c) the chemical change was created by a naturally occurring biological process such as composting, fermentation, or enzymatic digestion or by heating or burning biological matter.¹¹

44. The FTC has warned companies that the use of the term “natural” may be deceptive:¹²

Marketers that are using terms such as natural must ensure that they can substantiate whatever claims they are conveying to reasonable consumers. If reasonable consumers could interpret a natural claim as representing that a product contains no artificial ingredients, then the marketer must be able to substantiate that fact.

45. Likewise, the Food and Drug Administration (“FDA”) warns that any “natural” labeling on products must be “truthful and not misleading.”¹³

46. In April 2016, the FTC settled with four manufacturers and filed a complaint against a fifth company for representing that its products were “natural”

¹¹ U.S. Department of Agriculture, Draft Guidance Decision Tree for Classification of Materials as Synthetic or Nonsynthetic, March 26, 2013, *available at* <https://web.archive.org/web/20140818174458/http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELPRDC5103308>.

¹² 75 Fed. Reg. 63552, 63586 (Oct. 15, 2010).

¹³ U.S. Food and Drug Administration, Small Business & Homemade Cosmetics: Fact Sheet, *available at* <http://www.fda.gov/Cosmetics/ResourcesForYou/Industry/ucm388736.htm#7>.

when they contained Phenoxyethanol and other synthetic ingredients. The manufacturers agreed to cease marketing the products in question as being “natural.”¹⁴

47. Surveys and other market research, including expert testimony Plaintiff intends to introduce, will demonstrate that the term “natural” is misleading to a reasonable consumer because the reasonable consumer believes that the term “natural,” when used to describe goods such as the Products, means that the goods are free of synthetic ingredients. For example, according to a consumer survey, “[e]ighty-six percent of consumers expect a ‘natural’ label to mean processed foods do not contain any artificial ingredients.”¹⁵

48. A reasonable consumer’s understanding of the term “natural” comports with that of federal regulators and common meaning. That is, the reasonable consumer understands the representation that a product is “natural” to mean that it does not contain any synthetic ingredients.¹⁶

C. The Reasonable Consumers’ Interpretation of “Natural” Aligns with Defendants’ Interpretation of “Natural”

¹⁴ *Four Companies Agree to Stop Falsely Promoting Their Personal-Care Products as “All Natural” or “100% Natural”; Fifth is Charged in Commission Complaint*, (April 2016), <https://www.ftc.gov/news-events/press-releases/2016/04/four-companies-agree-stop-falsely-promoting-their-personal-care> (last visited Mar. 17, 2021).

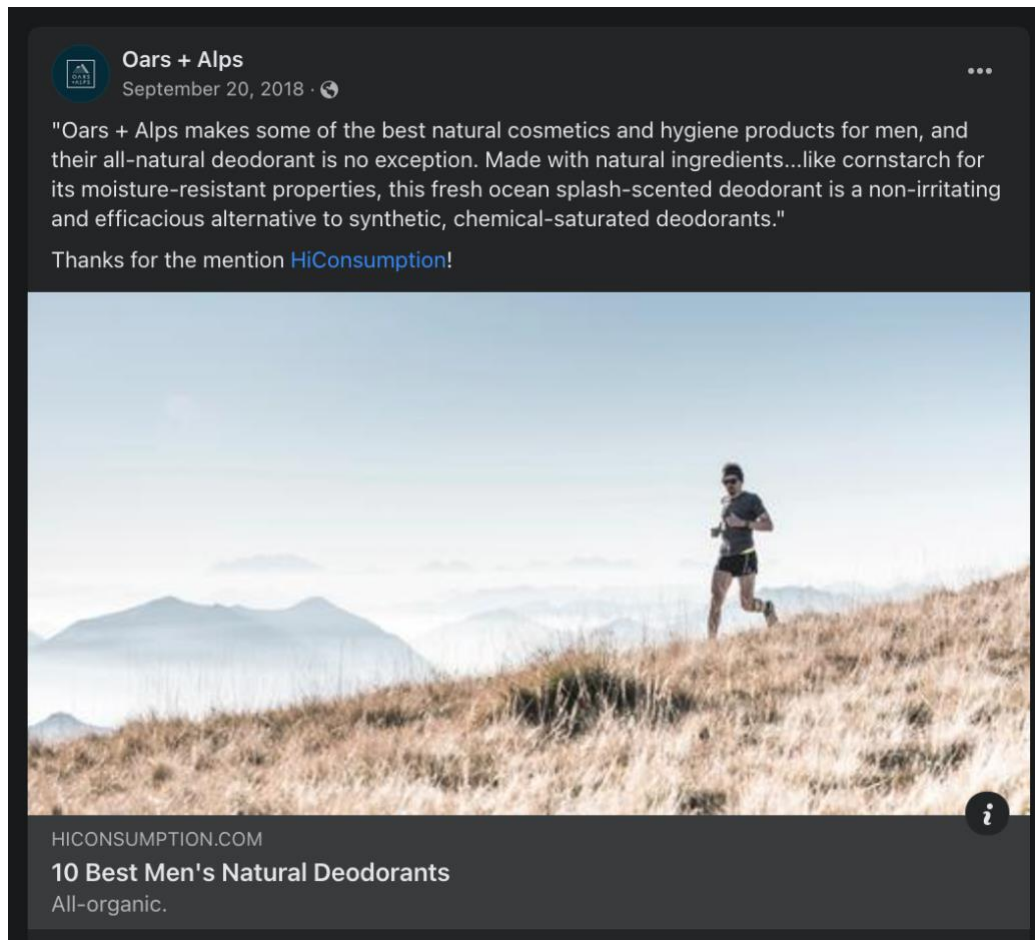
¹⁵ Urvashi Rangan, Comments of Consumers Union on Proposed Guides for Use of Environmental Marketing Claims, 16 C.F.R. Part 260, Notice of the Federal Trade Commission (2010), *available at* https://www.ftc.gov/sites/default/files/documents/public_comments/guides-use-environmental-marketing-claims-project-no.p954501-00289%C2%A000289-57072.pdf (also accessible as Comment 58 at <http://www.ftc.gov/policy/publiccomments/initiative-353>).

¹⁶ Butler and Vossler, *supra* note 8. “The vast majority of respondents stated a belief that ‘natural’ signals no artificial flavors, colors and/or preservatives.” *Id.*

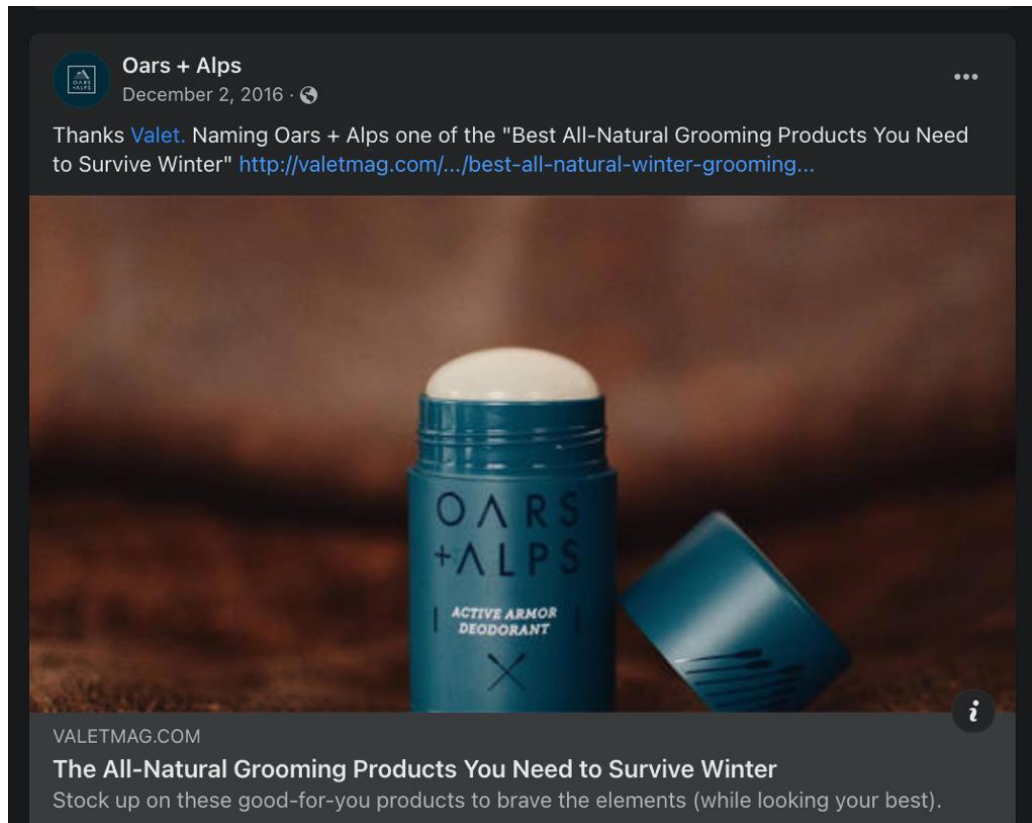
49. Defendants are aware that reasonable consumers interpret “natural” to mean that a product is devoid of synthetic ingredients.

50. This is consistently shown with Defendants’ public statements, behavior, and marketing.

51. For example, the Oars + Alps official Facebook Page routinely shares and quotes articles that refer to the Products as all-natural, “natural,” and containing natural ingredients.



a.



b.

52. Additionally, numerous profiles of the brand and its founders refer to the Products’ “natural” composition:

- a. “To dig deeper into the story behind this venture and how it is redefining the men’s skincare with its powerful product line based on all-natural ingredients, we sat down with Mia Saini, and here’s what she has to say.”¹⁷
- b. “When her husband started using many of the products she had brought home, she started thinking: is there an affordable skin care brand that is made just for men with all natural ingredients?”¹⁸

¹⁷ AS Pioneer, *Mia Saini Duchnowski: Revolutionizing the men’s grooming industry*, <https://aspioneer.com/mia-saini-revolutionizing-the-mens-grooming-industry/>.

¹⁸ Monica + Andy, *60 Mia Duchnowski - The Cofounder of Oars & Alps on Jumping In and Taking Risks*, <https://monicaandandy.com/blogs/ma-edit/mia-duchnowski>.

- c. "BEHIND THE BRAND: OARS + ALPS OFFERS ALL-NATURAL AND AFFORDABLE SKIN CARE PRODUCTS FOR MEN"¹⁹
- d. "Once the founders had settled on the all-natural ingredients for their core products, they teamed with a manufacturer that also works with other premium skincare companies such as Kiehl's, L'Oreal and Lancome to produce their core products."²⁰
- e. "Founders Laura Lisowski Cox and Mia Saini Duchnowski developed the line after being frustrated with their inability to find affordable, all-natural yet effective products to suit their husbands' active lifestyles."²¹
- f. "The brand uses all-natural ingredients to create mostly solid products in stick form that are spill-proof and TSA-approved."²²
- g. "Mia started this men's skincare line with all natural ingredients with her husband in mind."²³

¹⁹ Kirk, Kamala, *BEHIND THE BRAND: OARS + ALPS OFFERS ALL-NATURAL AND AFFORDABLE SKIN CARE PRODUCTS FOR MEN*, SPA & BEAUTY TODAY (Jan. 17, 2021), <https://spaandbeautytoday.com/articles/behind-the-brand-oars-alps-offers-all-natural-and-affordable-skin-care-products-for-men>.

²⁰ Lazare, Lewis, *Two female entrepreneurs dive into men's skincare with Oars + Alps launch*, CHICAGO BUSINESS JOURNAL (Jan. 31, 2017), <https://www.bizjournals.com/memphis/bizwomen/news/latest-news/2017/01/two-female-entrepreneurs-dive-into-mens-skincare.html>.

²¹ Love, James, *ACTIVE GUY ABOUT YOUR SKINCARE? MEET THE AFFORDABLE OARS + ALPS*, CASSIUS, <https://cassiuslife.com/44530/oars-and-alps-skincare/>.

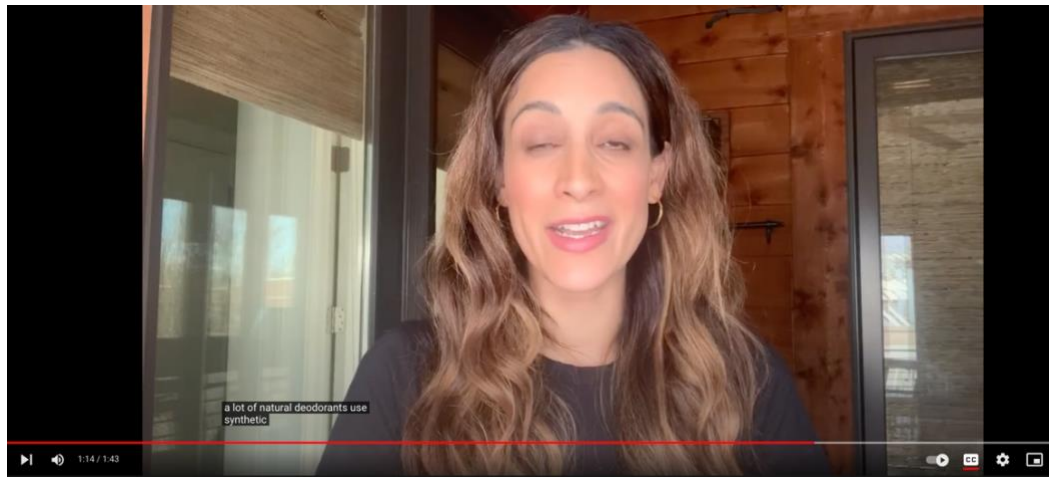
²² Ismael, Amir, *I tried this up-and-coming natural skincare line made for for active men — the products are affordable and effective, and the nice packaging is a bonus*, BUSINESS INSIDER (May 19, 2020), <https://www.insider.com/guides/beauty/oars-and-alps-skincare-review>.

²³ Odusanwo, Yewande, *EPISODE 1: TAKE TO THE OARS -AND ALPS*, Zora Digital (Jan. 23, 2019), <https://zora.digital/ztalks/podcast-episode-1-oars-and-alps/>.

h. “Saini and Lisowski Cox left their high-profile jobs in the spring of 2015 to create Oars + Alps, a men’s skincare line that offers affordable, all natural products.”²⁴

i. “...enabling men to groom themselves and keep care of their skin in an all-natural way.”²⁵

53. The Defendants also produce Youtube videos that examine the composition of competing products that contain “synthetic” and “harsh” ingredients.²⁶



a.



b.

²⁴ Elkins, *supra* note 3.

²⁵ PitchBook, Oars + Alps, <https://pitchbook.com/profiles/company/179597-98>.

²⁶ Oars + Alps Official Youtube Channel, *Does natural deodorant work? How to choose the best natural deodorant for you*, (Nov. 4, 2020), <https://www.youtube.com/watch?v=6zxn40ogBk>.

54. The reasonable consumer's understanding of "natural" also comports with the understanding of the brand's founders:

a. "We searched high and low for all-natural men's skincare options, but everything was too expensive, overly clinical, tailored to women, or just plain inconvenient to buy."²⁷

55. At every step of the way, Defendants want consumers to believe that the Products are "natural." They reference the "natural" characteristics at every detailed step including the URL for the Oars + Alps web store.

oarsandalps.com/collections/all-natural-skin-care

D. Defendants Represent that the Products are Natural

56. Defendants capitalize on consumers' preferences for natural products by making representations to consumers on its Products that they are natural.

57. The front label of every Product states that the Product is "Natural."

58. The following image is an example of that representation being prominently made on the front of three of the Products:

²⁷ Lauletta, Tyler, *Two women created a company aimed at changing the way guys think about skincare*, BUSINESS INSIDER (Mar. 21, 2017), <https://www.businessinsider.com/guides/oars-alps-skincare-review-2017-3>.



59. Based on the language that appears on the front of each product, Plaintiff reasonably believed that Products contained only natural ingredients.

60. “Natural” is a representation to a reasonable consumer that the Products contain only natural ingredients.

61. Throughout its marketing efforts, Defendants reinforce that the Products are “natural.”

62. For example, the Oars + Alps official website makes numerous references to the Products “Natural” composition:

Are your products natural?

- a. Yes! Our products use unprocessed ingredients sourced from the earth that are free of parabens, phthalates, sulfates, glycols, and aluminum.
- b. We use natural ingredients—and not just the stuff that’s easy to find!

The yays

The natural ingredients that make us us

c.



d.



“ Love everything about these products...the packaging, application, natural ingredients and results. My skin has never felt and looked better.

Alex D. Alex D. ★★★★★

e.

Stay clean with natural ingredients

We believe in powerful, natural ingredients that deliver real results. No harmful additives, no harsh chemicals, no worries.

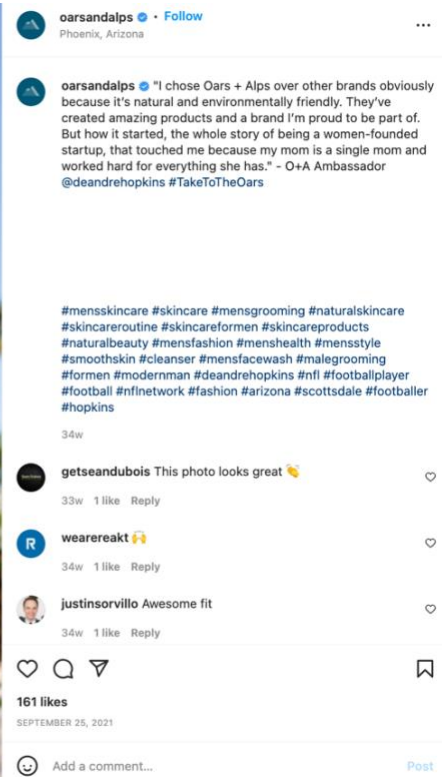
Our Ingredients

f.

63. Additionally, social media marketing efforts – including through celebrities like NFL superstar Deandre Hopkins - reinforce the “natural” representations on the Products’ labels.



a.



b.

64. Defendants represent on their Products’ labels and through coordinated marketing efforts that the Products are “natural.”

E. Defendants’ Representations Are False, Misleading, and Deceptive

65. Despite representing that the Products are “natural,” the Products contain multiple synthetic ingredients.

66. Thus, Defendants’ representations that the Products are “natural” is false, misleading, and deceptive because the Products contain ingredients that are, as set forth and described below, synthetic.²⁸

²⁸ Other ingredients in the Products may also be artificial as well. Plaintiff’s investigation is ongoing and will seek to amend the Complaint to specify other potential artificial ingredients in the future.

- 1 **a. Phenoxyethanol** is a synthetic substance associated with depressing
 2 the central nervous system, vomiting, and diarrhea.²⁹ This synthetic
 3 chemical concerned the FDA, and the agency warned consumers against
 4 using on nursing infants because it “can depress the central nervous
 5 system” and “may cause vomiting and diarrhea, which can lead to
 6 dehydration in infants.”³⁰ Concern for the use of this synthetic
 7 ingredient is not restricted to the United States, and after concerns were
 8 raised by the European Commission’s Scientific Committee on
 9 Consumer Safety, France prohibited the labeling and marketing of
 10 products containing Phenoxyethanol for use on children that are three
 11 years old and younger.³¹
 12
 13 **b. Dimethicone** is a synthetic ingredient.³²
 14
 15 **c. Caprylyl Glycol** is a synthetic skin conditioning agent and
 16 preservative.³³

17
 18
 19
 20
 21 ²⁹ 21 C.F.R. §172.515 and *FDA Consumer Update: Contaminated Nipple Cream*, (May 2008),

22 <https://web.archive.org/web/20140712202507/https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm049301.htm> (last visited Mar. 17, 2021).

23 ³⁰ U.S. Food and Drug Administration, For Consumers, *Contaminated Nipple Cream*,
 24 <https://web.archive.org/web/20140712202507/https://www.fda.gov/ForConsumers/ConsumerUpdates/ucm049301.htm> (last visited Mar. 17, 2021).

25 ³¹ Agence Nationale de Sécurité du Médicament et des Produits de Santé, Decision of
 26 13 Mars 2019, *available at*
 27 https://www.ansm.sante.fr/content/download/158253/2075101/version/1/file/DPS_Phenoxxyethanol-200319.pdf.

28 ³² 24 No. 3 FDA Advertising & Promotion Manual Newsl. 13.

29 ³³ ¶ 17,483 ABS CONSUMER PRODUCTS, LLC—COMPLAINT AND CONSENT
 ORDER, FTC DKT. C-4584, FILE NO. 152 3269, ANNOUNCED APRIL 12, 2016;
 ISSUED JULY 6, 2016., Trade Reg. Rep. P 17483.

d. **Potassium Sorbate** is a synthetic preservative.³⁴ It is created by using potassium hydroxide (KOH) to neutralize sorbic acid (C₆H₈O₂). The resulting potassium sorbate may be crystallized from aqueous ethanol. Studies have shown Potassium Sorbate to have genotoxic effects on humans and other mammals.³⁵ It causes chromosomal aberrations in cells, which can trigger the development of cancer.³⁶

e. **Sodium Benzoate** is a synthetic preservative.³⁷ Sodium Benzoate is produced by the neutralization of benzoic acid with sodium hydroxide, or by adding benzoic acid to a hot concentrated solution of sodium carbonate until effervescence ceases. The solution is then evaporated, cooled and allowed to crystalize or evaporate to dryness, and then granulated. It does not occur naturally.³⁸ Sodium Benzoate has been shown to cause DNA damage and chromosomal aberrations.³⁹ When Sodium Benzoate combines with either Ascorbic Acid or Citric Acid (a combination of ingredients present in some of the Products), the two

³⁴ U.S. Dept. of Agriculture, CFNP TAP Review, *Potassium Sorbate*, <https://www.ams.usda.gov/sites/default/files/media/P%20Sor%20technical%20advisory%20panel%20report.pdf> and see FDA Warning Letter to Bagels Forever (dated 7/22/2011) (available at: <http://wayback.archive-it.org/7993/20170112193358/http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2011/ucm265756.htm>): “Your product is manufactured with infused wild dry blueberries that contain potassium sorbate, which is listed in 21 CFR 182.3640 as a chemical preservative; therefore, your product may not make the claims ‘All Natural’ and ‘No Preservatives.’”

³⁵ Sevcan Mamur et al., Does Potassium Sorbate Induce Genotoxic or Mutagenic Effects in Lymphocytes?, *TOXICOLOGY IN VITRO* 790, 793 (2010).

³⁶ *Id.*

³⁷ 21 C.F.R. § 582.3733.

³⁸ 21 C.F.R. § 184.1733.

³⁹ N. Zengin et al., The Evaluation of the Genotoxicity of Two Food Preservatives: Sodium Benzoate and Potassium Benzoate, *FOOD AND CHEMICAL TOXICOLOGY* 763, 764-68 (2011).

substances can react to produce benzene, which is a highly toxic carcinogen that causes leukemia.⁴⁰

f. **Propanediol** is a synthetic liquid substance that absorbs water.⁴¹

g. **Ethylhexylglycerin** is a synthetic derived form of vegetable glycerin.

h. **Citric Acid** is recognized by the FDA and other federal agencies as an artificial substance.⁴² Citric acid is added as a synthetic preservative, flavorant, and acidity regulator. It is commonly manufactured through solvent extraction or mycological fermentation of bacteria.⁴³ While the chemical's name has the word "citric" in it, citric acid is not extracted

⁴⁰ U.S. Food and Drug Administration, *Questions and Answers on the Occurrence of Benzene in Soft Drinks and Other Beverages*, (2018), <https://www.fda.gov/food/chemicals/questions-and-answers-occurrence-benzene-soft-drinks-and-other-beverages#q4> (last visited Nov. 16, 2020); *See Gonzalez v. Pepsico, Inc.*, 489 F. Supp. 2d 1233, 1238 (D. Kan. 2007): "[P]roducts from defendants which contained sodium benzoate and ascorbic acid, citric acid or erythoribic acid. The Food and Drug Administration ("FDA") has reported that these ingredients may interact to form benzene, a hazardous substance which the Environmental Protection Agency ("EPA") knows to potentially cause anemia, nervous systems disorders and immunosuppression in persons who are exposed..." and Robert Snyder, *Leukemia and Benzene*, *International Journal of Environmental Research and Public Health* vol. 9,8 (2012): 2875-93 and Lakshmi Narayanan Venu & Anoop Austin, *Study and Quantification of Preservative (E211) In Carbonated Soft Drink Samples*, *International Organization of Scientific Research Journal of Applied Chemistry* vol. 12,4 (2019): 17-23 ("Sodium benzoate reacts with citric acid or ascorbic acid to form benzene").

⁴¹ National Institute of Health's National Library of Medicine, Propylene glycol available at <https://pubchem.ncbi.nlm.nih.gov/compound/Propylene-glycol> (last visited November 21, 2020).

⁴² *See* FDA Informal Warning Letter to the Hirzel Canning Company (August 29, 2001) ("the addition of calcium chloride and citric acid to these products preclude use of the term 'natural' to describe this product."); U.S. International Trade Commission, *Synthetic Organic Chemical Index*, USCTIC Pub. 2933, at 3-105 (Nov. 1995).

⁴³ 21 C.F.R. § 184.1033(a).

from fruit. Rather, it is industrially manufactured by fermenting genetically modified strains of the black mold fungus *Aspergillus niger*.⁴⁴

67. Consumers lack the meaningful ability to test or independently ascertain or verify whether a product is natural, especially at the point of sale. Consumers would not know that the Products contain unnatural, synthetic ingredients, by reading the ingredients label.

68. Discovering that the ingredients are not natural and are actually synthetic requires an investigation beyond that of the skills of the average consumer. That is why, even though the ingredients listed above are identified on the back of the Products' packaging in the ingredients listed, the reasonable consumer would not understand – nor are they expected to understand – that these ingredients are synthetic.

69. Moreover, the reasonable consumer is not expected or required to scour the ingredients list on the back of the Products in order to confirm or debunk Defendants' prominent front-of-the-product claims, representations, and warranties that the Products are "natural."

70. Defendants did not disclose that the above listed ingredients are synthetic ingredients anywhere on the product. A reasonable consumer understands Defendants' "natural" claims to mean that the Products are "natural" and do not contain synthetic ingredients.

⁴⁴ See, e.g., Belen Max, et al. *Biotechnological Production of Citric Acid*, BRAZILIAN JOURNAL OF MICROBIOLOGY, 41.4 Sao Paulo (Oct./Dec. 2010) and Sweis, Iliana E, and Bryan C Cressey. *Potential role of the common food additive manufactured citric acid in eliciting significant inflammatory reactions contributing to serious disease states: A series of four case reports*, TOXICOLOGY REPORTS, 5.808 (Aug. 9 2018).

71. Consumers rely on label representations and information in making purchasing decisions.

72. The marketing of the Products as “natural” in a prominent location on the labels of all of the Products, throughout the Class Period, evidences Defendants’ awareness that “natural” claims are material to consumers.

73. Additionally, Defendants are aware that products containing synthetic ingredients have lower demand and exploit reasonable consumers by projecting that the Products are “natural” and free of synthetic, bad ingredients.

a. Co-Founder Mia Duchnowski: “We want to be the go-to brand for natural men’s skincare. Skincare without the toxins and without all the bad ingredients.”⁴⁵

b. Co-Founder Laura Lisowski Cox: “Kiehl’s is very expensive. They wear these lab coats and act like there are all these great ingredients, but there are actually really poor ingredients. We wanted to create something better.”⁴⁶

74. Defendants’ deceptive representations are material in that a reasonable person would attach importance to such information and would be induced to act upon such information in making purchase decisions.

75. Plaintiff and the Class Members reasonably relied to their detriment on Defendants’ misleading representations and omissions.

⁴⁵ Siegel, *supra* note 4, at approximately the 42:40 timestamp.

⁴⁶ McCormack, *supra* note 6.

76. Defendants' false, misleading, and deceptive misrepresentations and omissions are likely to continue to deceive and mislead reasonable consumers, as they have already deceived and misled the Plaintiff and the Class Members.

F. Defendants' Deceptive Conduct Caused Plaintiff's and Class Members' Injuries

77. In making the false, misleading, and deceptive representations and omissions described herein, Defendants knew and intended that consumers would pay a premium for Products labeled "natural" over comparable products not so labeled and marketed.

78. This consumer focus on "natural" products and the associated premium that can be captured has always been the brand's target.

a. Co-Founder Mia Duchnowski: "...[O]ur product [costs] more than double the drugstore product. We have natural ingredients. Not every zip code wants those type of products, or lend itself to being our target consumer."⁴⁷

b. Co-Founder Laura Lisowski Cox: "It's premium formulations, but at a more approachable price point."⁴⁸

79. As an immediate, direct, and proximate result of Defendants' false, misleading, and deceptive representations, Defendants injured the Plaintiff and the Class Members in that they:

a. Paid a sum of money for Products that were not what Defendants represented;

⁴⁷ Siegel, *supra* note 4, at approximately the 34:34 timestamp.

⁴⁸ McCormack, *supra* note 6.

b. Paid a premium price for Products that were not what Defendants represented;

c. Were deprived of the benefit of the bargain because the Products they purchased were different from what Defendants warranted; and

d. Were deprived of the benefit of the bargain because the Products they purchased had less value than what Defendants represented.

80. Plaintiff and the Class Members paid for Products that were "natural" but received Products that were not "natural." The products Plaintiff and the Class Members received were worth less than the products for which they paid.

81. Based on Defendants' misleading and deceptive representations, Defendants were able to, and did, charge a premium price for the Products over the cost of competitive products not bearing the misrepresentations.

82. Plaintiff and the Class Members paid money for the Products. However, Plaintiff and the Class Members did not obtain the full value of the advertised Products due to Defendants' misrepresentations and omissions. Plaintiff and the Class Members purchased, purchased more of, and/or paid more for, the Products than they would have had they known the truth about the Products. Consequently, Plaintiff and the Class Members have suffered injury in fact and lost money as a result of Defendants' wrongful conduct.

83. Defendants knew that consumers will pay more for a product marketed as "natural," and intended to deceive Plaintiff and putative Class Members by labeling and marketing the Products as purportedly natural products.

84. Plaintiff and Class Members paid for the Products over and above comparable products that did not purport to be "natural." Given that Plaintiff and

1 Class Members paid for the Products based on Defendants' misrepresentations that
 2 they are "natural," Plaintiff and Class Members suffered an injury in the amount
 3 paid.

4 85. Additionally, Plaintiff and Class Members paid a premium for the
 5 Products over and above comparable products that did not purport to be "natural."
 6 Given that Plaintiff and Class Members paid a premium for the Products based on
 7 Defendants' misrepresentations that they are "natural," Plaintiff and Class Members
 8 suffered an injury in the amount of the premium paid.
 9

10 **CLASS DEFINITIONS AND ALLEGATIONS**

11
 12 86. Plaintiff, pursuant to Federal Rule of Civil Procedure 23, brings this
 13 action on behalf of the following classes (collectively, the "Class," "Classes," and
 14 "Class Members"):
 15

- 16 a. California Class: All persons who purchased Defendants' Products
 17 within the State of California and within the applicable statute of
 18 limitations period; and
 19
 20 b. Nationwide Class: All persons who purchased Defendants' Products
 21 within the United States and within the applicable statute of limitations
 22 period.
 23

24 87. Excluded from the Classes are Defendants, their parents, subsidiaries,
 25 affiliates, officers, and directors, those who purchased the Products for resale, all
 26 persons who make a timely election to be excluded from the Classes, the judge to
 27 whom the case is assigned and any immediate family members thereof, and those
 28 who assert claims for personal injury.

1 88. The members of the Classes are so numerous that joinder of all Class
2 Members is impracticable. Defendants have sold, at a minimum, millions of units of
3 the Products to Class Members.

4 89. There is a well-defined community of interest in the questions of law and
5 fact involved in this case. Questions of law and fact common to the members of the
6 putative classes that predominate over questions that may affect individual Class
7 Members include, but are not limited to the following:
8

- 9 a. whether Defendants misrepresented material facts concerning the
10 Products on the label of every product;
11 b. whether Defendants' conduct was unfair and/or deceptive;
12 c. whether Defendantst have been unjustly enriched as a result of the
13 unlawful, fraudulent, and unfair conduct alleged in this Complaint such
14 that it would be inequitable for Defendants to retain the benefits
15 conferred upon them by Plaintiff and the Classes;
16 d. whether Plaintiff and the Class are entitled to equitable and/or
17 injunctive relief;
18 e. whether Defendants breached express and implied warranties to
19 Plaintiff and the Classes;
20 f. whether Plaintiff and the classes have sustained damages with respect
21 to the claims asserted, and if so, the proper measure of their damages.
22
23
24

25 90. Plaintiff's claims are typical of those of other Class Members because
26 Plaintiff, like all members of the Classes, purchased Defendants' Products bearing
27 the natural representations and Plaintiff sustained damages from Defendants'
28 wrongful conduct.

1 91. Plaintiff will fairly and adequately protect the interests of the Classes
2 and has retained counsel that is experienced in litigating complex class actions.
3 Plaintiff has no interests which conflict with those of the classes.

4 92. A class action is superior to any other available means for the fair and
5 efficient adjudication of this controversy, and no unusual difficulties are likely to be
6 encountered in the management of this class action. The damages or other financial
7 detriment suffered by Plaintiff and the other Class Members are relatively small
8 compared to the burden and expense that would be required to individually litigate
9 their claims against Defendants, making it impracticable for Class Members to
10 individually seek redress for Defendants' wrongful conduct. Even if Class Members
11 could afford individual litigation, the court system could not. Individualized litigation
12 creates a potential for inconsistent or contradictory judgments, and increases the
13 delay and expense to all parties and the court system. By contrast, the class action
14 device presents far fewer management difficulties, and provides the benefits of single
15 adjudication, economies of scale, and comprehensive supervision by a single court.
16

17 93. The prerequisites to maintaining a class action for equitable relief are
18 met as Defendants have acted or refused to act on grounds generally applicable to the
19 classes, thereby making appropriate equitable relief with respect to the classes as a
20 whole.
21

22 94. The prosecution of separate actions by members of the classes would
23 create a risk of establishing inconsistent rulings and/or incompatible standards of
24 conduct for Defendants. For example, one court might enjoin Defendants from
25 performing the challenged acts, whereas another might not. Additionally, individual
26
27
28

actions could be dispositive of the interests of the classes even where certain Class Members are not parties to such actions.

COUNT I
Violation of California's Unfair Competition Law ("UCL"),
CAL. BUS. & PROF. CODE §§ 17200, et seq.

95. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

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

97. Defendants are subject to California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, et seq. The UCL provides, in pertinent part: "Unfair competition shall mean and include unlawful, unfair or fraudulent business practices and unfair, deceptive, untrue or misleading advertising"

98. Defendants violated the "unlawful" prong of the UCL by violating California's Consumer Legal Remedies Acts ("CLRA") and False Advertising Law ("FAL"), as alleged herein.

99. Defendants' misrepresentations and other conduct, described herein, violated the "unfair" prong of the UCL in that its conduct is substantially injurious to consumers, offends public policy, and is immoral, unethical, oppressive, and unscrupulous, as the gravity of the conduct outweighs any alleged benefits.

100. Defendants violated the "fraudulent" prong of the UCL by misrepresenting that the Products are "natural" when, in fact, they are made with synthetic ingredients.

101. Plaintiff and the California Class Members lost money or property as a result of Defendants' UCL violations because: because: (a) they would not have

1 purchased the Products on the same terms if they knew that the Products were made
 2 with synthetic ingredients (b) they paid a substantial price premium compared to
 3 other cosmetic products due to Defendants' misrepresentations; and (c) the Products
 4 do not have the characteristics, uses, or benefits as promised.

5 102. In accordance with Bus. & Prof. Code § 17203, Plaintiff seeks an order
 6 enjoining Defendants from continuing to conduct business through unlawful, unfair,
 7 and/or fraudulent acts and practices, and to commence a corrective advertising
 8 campaign.

9 103. Plaintiff and the California Class also seek an order for the restitution of
 10 all monies from the sale of the Products, which were unjustly acquired through acts
 11 of unlawful competition.
 12

13 104. Because Plaintiff and the California Class Members' claims under the
 14 "unfair" prong of the UCL sweep more broadly than their claims under the FAL,
 15 CLRA, or UCL's "fraudulent" prong, Plaintiff's legal remedies are inadequate to fully
 16 compensate Plaintiff for all of Defendants' challenged behavior.
 17
 18

19
 20 **COUNT II**
 21 **Violation of The False Advertising Law ("FAL"),**
 22 **CAL. BUS. & PROF. CODE §§ 17500, et seq.**

23 105. Plaintiff repeats and realleges each and every allegation contained in
 24 the foregoing paragraphs as if fully set forth herein.

25 106. Plaintiff brings this Count individually and on behalf of the members of
 26 the California Class.

27 107. California's False Advertising Law, Cal. Bus. & Prof. Code §§ 17500, et
 28 seq., makes it "unlawful for any person to make or disseminate or cause to be made or

1 disseminated before the public in this state, ... in any advertising device ... or in any
 2 other manner or means whatever, including over the Internet, any statement,
 3 concerning ... personal property or services, professional or otherwise, or performance
 4 or disposition thereof, which is untrue or misleading and which is known, or which by
 5 the exercise of reasonable care should be known, to be untrue or misleading.”

6
 7 108. Defendants committed acts of false advertising, as defined by §§17500, *et*
 8 *seq.*, by misrepresenting that the Products are “natural” when they are not.

9 109. Defendants knew or should have known through the exercise of
 10 reasonable care (i.e. pre-market testing) that its representations about the Products
 11 were untrue and misleading.

12
 13 110. Defendants’ actions in violation of §§ 17500, *et seq.* were false and
 14 misleading such that the general public is and was likely to be deceived.

15 111. Plaintiff and the California Class Members lost money or property as a
 16 result of Defendants’ FAL violations because: (a) they would not have purchased the
 17 Products on the same terms if they knew that the Products were made with synthetic
 18 ingredients; (b) they paid a substantial price premium compared to other cosmetic
 19 products due to Defendants’ misrepresentations; and (c) the Products do not have the
 20 characteristics, uses, or benefits as promised.

21
 22 112. Defendants profited from the sale of the falsely and deceptively
 23 advertised Products to unwary consumers.

24
 25 113. As a result, Plaintiff, the California Class, and the general public are
 26 entitled to injunctive and equitable relief, restitution, and an order for the
 27 disgorgement of the funds by which Defendants were unjustly enriched.
 28

114. Pursuant to Cal. Bus. & Prof. Code § 17535, Plaintiff, on behalf of herself and the California Class, seeks an order enjoining Defendants from continuing to engage in deceptive business practices, false advertising, and any other act prohibited by law, including those set forth in this Complaint.

115. Because the Court has broad discretion to award restitution under the FAL and could, when assessing restitution under the FAL, apply a standard different than that applied to assessing damages under the CLRA, and restitution is not limited to returning to Plaintiff and California Class Members monies in which they have an interest, but more broadly serves to deter the offender and others from future violations, the legal remedies available under the CLRA and commercial code are more limited than the equitable remedies available under the FAL, and are therefore inadequate.

COUNT III
Violation of The Consumer Legal Remedies Act (“CLRA”),
CAL. CIV. CODE §§ 1750, et seq.

116. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

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

118. This cause of action is brought pursuant to California’s Consumers Legal Remedies Act, Cal. Civ. Code §§ 1750 (the “CLRA”).

119. Plaintiff and the other members of the Classes are “consumers,” as the term is defined by California Civil Code § 1761(d), because they bought the Products for personal, family, or household purposes.

1 120. Plaintiff, the other members of the Classes, and Defendants have
2 engaged in “transactions,” as that term is defined by California Civil Code § 1761(e).

3 121. The conduct alleged in this Complaint constitutes unfair methods of
4 competition and unfair and deceptive acts and practices for the purpose of the CLRA,
5 and the conduct was undertaken by Defendants in transactions intended to result in,
6 and which did result in, the sale of goods to consumers.
7

8 122. As alleged more fully above, Defendants have violated the CLRA by
9 falsely representing to Plaintiff and the other members of the Classes that the
10 Products are “natural” when in fact they are made with synthetic ingredients.

11 123. As a result of engaging in such conduct, Defendants have violated
12 California Civil Code § 1770(a)(5), (a)(7) and (a)(9).
13

14 124. Pursuant to the provisions of Cal. Civ. Code § 1782(a), Plaintiff provided
15 notice to Defendants of its alleged violations of the CLRA, demanding that
16 Defendants correct such violations, and providing it with the opportunity to correct
17 its business practices. Notice was sent via certified mail, return receipt requested on
18 May 26, 2022. As of the date of filing this complaint, Defendants have not responded.
19 Accordingly, if after 30 days no satisfactory response to resolve this litigation on a
20 class-wide basis has been received, Plaintiff will seek leave to amend this request to
21 seek restitution and actual damages as provided by the CLRA.
22

23 125. Pursuant to California Civil Code § 1780, Plaintiff seeks injunctive
24 relief, reasonable attorneys’ fees and costs, and any other relief that the Court deems
25 proper.
26
27
28

COUNT IV
Unjust Enrichment

126. Plaintiff repeats and realleges each and every allegation contained in the foregoing paragraphs as if fully set forth herein.

127. Plaintiff brings this claim individually and on behalf of the members of the proposed Classes against the Defendants.

128. At all times relevant hereto, Defendants deceptively marketed, advertised, and sold merchandise to Plaintiff and the Classes.

129. Plaintiff and members of the Classes conferred upon Defendants nongratuitous payments for the Products that they would not have if not for Defendants' deceptive advertising and marketing. Defendants accepted or retained the nongratuitous benefits conferred by Plaintiff and members of the Classes, with full knowledge and awareness that, as a result of Defendants' deception, Plaintiff and members of the Classes were not receiving a product of the quality, nature, fitness, or value that had been represented by Defendants and reasonable consumers would have expected.

130. Defendants have been unjustly enriched in retaining the revenues derived from Plaintiff's and Class Members' purchases of the Products. Retention of those monies under these circumstances is unjust and inequitable because of Defendants' misrepresentations about the Products, which caused injuries to Plaintiff and Class Members because they would not have purchased the Products if the true facts had been known.

131. Because Defendants' retention of the non-gratuitous benefits conferred on it by Plaintiff and members of the Classes is unjust and inequitable, Defendants

1 must pay restitution to Plaintiff and members of the Classes for their unjust
2 enrichment, as ordered by the Court.

3
4 **RELIEF DEMANDED**

5 132. WHEREFORE, Plaintiff, individually and on behalf of all others
6 similarly situated, seeks judgment against Defendants, as follows:
7

- 8 a. For an order certifying the Class under Rule 23 of the Federal Rules of
9 Civil Procedure and naming Plaintiff as representative of the Classes
10 and Plaintiff's attorneys as Class Counsel to represent the members of
11 the Classes;
12
13 b. For an order declaring the Defendants' conduct violates the statutes and
14 laws referenced herein;
15
16 c. For an order awarding, as appropriate, compensatory and monetary
17 damages, statutory damages, restitution or disgorgement to Plaintiff
18 and the Classes for all causes of action;
19
20 d. For an order requiring Defendants to immediately cease and desist from
21 selling their misbranded Products in violation of law; enjoining
22 Defendants from continuing to label, market, advertise, distribute, and
23 sell the Products in the unlawful manner described herein; and ordering
24 Defendants to engage in corrective action;
25
26 e. For prejudgment and postjudgment interest on all amounts awarded;
27
28 f. For an order awarding punitive damages; and
For an order awarding attorneys' fees and expenses and costs of suit

JURY TRIAL DEMAND

Plaintiff demands a jury trial on all causes of action so triable.

Dated: May 31, 2022

Good Gustafson Aumais LLP

/s/ Christopher T. Aumais
Christopher T. Aumais (Cal. Bar No.
249901)
2330 Westwood Blvd., No. 103
Los Angeles, CA 90064
Tel: (310) 274-4663
cta@ggallp.com

SHENAQ PC

/s/ Amir Shenaq
Amir Shenaq, Esq.*
3500 Lenox Road, Ste 1500
Atlanta, GA 30326
Tel: (888) 909-9993
amir@shenaqpc.com

THE KEETON FIRM LLC

/s/ Steffan T. Keeton
Steffan T. Keeton, Esq.*
100 S Commons Ste 102
Pittsburgh PA 15212
Tel: (888) 412-5291
stkeeton@keetonfirm.com

**Pro hac vice forthcoming*

Counsel for Plaintiff and the Proposed Class

GOOD GUSTAFSON AUMAIS LLP

CIVIL COVER SHEET

Case 2:22-at-00555 Document 1-1 Filed 06/01/22 Page 1 of 2

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Annemarie Lott, individually, and on behalf of those similarly situated.

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

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

GOOD | GUSTAFSON | AUMAIS LLP
2330 Westwood Boulevard, Suite 103
Los Angeles, California 90064
Telephone: (310) 274-4663

SHENAO PC
3500 Lenox Road, Ste. 1500
Atlanta GA 30326
Telephone: (888) 909-9993

The Keeton Firm LLC
100 S Commons, Ste. 102
Pittsburgh, PA 15212
Telephone: (888) 412-5291

DEFENDANTS

S.C. Johnson & Son, Inc. and Oars + Alps, LLC

County of Residence of First Listed Defendant Racine (WI)
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

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

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

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

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input checked="" type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. Section 1332(d)(2) (Diversity Jurisdiction)

Brief description of cause:
Consumer Fraud - Deceptive, Misleading, and Fraudulent Marketing of Cosmetic Products

VII. REQUESTED IN COMPLAINT:

☒ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$
5,000,000.01

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE 05/31/2022 SIGNATURE OF ATTORNEY OF RECORD
/s/ Christopher T. Aumais

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

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

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
 - (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
 - (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
- United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
- Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
- Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
- Original Proceedings. (1) Cases which originate in the United States district courts.
- Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
- Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
- Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
- Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
- Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
- Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
- PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7.** Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
- Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
- Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

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