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9
10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**
12 **SAN FRANCISCO DIVISION**

13 Victoria Monsch, individually and on behalf
14 of all others similarly situated,

15 *Plaintiff,*

16 v.

17 Dreamland Baby Company,

18 *Defendant.*

19 Case No. 3:24-cv-2996

20 **COMPLAINT**

21 **CLASS ACTION**

22 **DEMAND FOR JURY TRIAL**
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CLASS ACTION COMPLAINT

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2 Plaintiff Victoria Monsch (“Plaintiff”), individually and on behalf of all others similarly
3 situated, hereby brings this Class Action Complaint against Defendant Dreamland Baby Company,
4 and, in support thereof, alleges as follows:
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6 **INTRODUCTION**

7 1. Defendant manufactures, markets, and sells weighted sleep products for children,
8 including, but not limited to, weighted sleep sacks such as the Dream Weighted Sleep Sack;
9 weighted swaddles such as the Dream Weighted Sleep Swaddle, the Dream Weighted Transition
10 Swaddle, and the Bamboo Weighted Transition Swaddle; and a Weighted Toddler Blanket
11 (“Weighted Sleep Products”). Defendant touts these products as “[g]ently weighted sleep solutions
12 to help your baby sleep – so you can too.” The problem is that these products do not help children
13 sleep. Worse, Defendant markets its products as “design[ed]...according to the American Academy
14 of Pediatrics safe sleep guidelines,” when this is patently false.
15

16 2. The American Academy of Pediatrics (“AAP”) has, on multiple occasions, warned
17 against the use of weighted blankets, sleepers, or swaddles on children. In its 2022
18 Recommendations for Reducing Infant Deaths in the Sleep Environment, the AAP wrote: “It is
19 recommended that weighted blankets, weighted sleepers, weighted swaddles, or other weighted
20 objects not be placed on or near the sleeping infant.” In 2023, it wrote the U.S. Consumer Product
21 Safety Commission (“CPSC”) and was even more explicit: “The AAP believes these weighted
22 swaddles and related blankets are unsafe for infants and does not recommend these products.” The
23 AAP noted that these products are associated with “concerning reductions in oxygen saturation
24 levels in infants...which if sustained, may be harmful to the developing infant’s brain.”
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27 3. The AAP is joined by numerous other scientific organizations in finding these
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1 products are unsafe for children. The Center for Disease Control and Prevention writes: “[w]eighted
2 products such as weighted sleepers, weighted swaddles, weighted sleep sacks, and weighted blankets
3 are not safe for infants.” The National Institute of Health agrees, finding that “[t]hings in the sleep
4 area can pose dangers for baby, especially if they are...Weighted (e.g., weighted blankets, weighted
5 swaddles.”

6
7 4. This overwhelming scientific consensus caught the attention of the CPSC, which
8 recently wrote to numerous retailers that it was “aware of **multiple infant deaths** involving
9 weighted infant sleep sacks.” (emphasis original). In a statement last month, CPSC Commissioner
10 Richard L. Trumka Jr. wrote: “I’ve sat with parents of a child who died in one of these products, and
11 I carry their grief with me. I share their desire to make sure that no one else suffers the fate that their
12 family did.”

13
14 5. Defendant nonetheless continues to deceptively and unlawfully market its products
15 as safe and effective. In the words of a United States Senator, Defendant “continue[s] selling these
16 products to vulnerable and unsuspecting parents who are sleep-deprived, stressed and desperate for
17 help, all while lacking reputable research to back the safety of these items.”

18
19 6. No reasonable consumer would purchase Defendant’s Weighted Sleep Products if
20 she or he knew the overwhelming scientific consensus is that these products are unsafe and should
21 not be used with children; nor would she or he purchase the Weighted Sleep Products if she or he
22 knew that there was no evidence the products helped children sleep more soundly.

23
24 7. In other words, Defendant uses deceptive and unfair tactics to sell millions of dollars’
25 worth of its wholly useless Weighted Sleep Products which do not provide the benefits that
26 Defendant market. Worse, Defendant makes millions of dollars’ worth of sales while omitting from
27 its marketing the fact that these products are dangerous and should not be used.

28 8. Accordingly, Plaintiff brings this consumer class action individually and on behalf of

1 a class of similarly situated consumers (defined below) to redress the false and misleading, as well as
2 deceptive and unfair, trade practices, acts, and omissions employed by Defendant in the marketing
3 and sale of its Weighted Sleep Products.

4
5 **PARTIES**

6 9. Plaintiff Victoria Monsch is domiciled in Santa Monica, CA.

7 10. Defendant Dreamland Baby Company. is a California corporation headquartered at
8 3383 Deer Hollow Dr., Danville, CA 94506.

9
10 **JURISDICTION AND VENUE**

11 11. This Court has subject matter jurisdiction under the Class Action Fairness Act, 28
12 U.S.C. § 1332(d)(2)(A), because there are 100 or more class members; at least one class member is
13 a citizen of a state that is diverse from Defendant's citizenship; and the matter in controversy exceeds
14 \$5 million, exclusive of interest and costs.

15
16 12. This Court has personal jurisdiction over Defendant because Defendant operates,
17 conducts, and engages in substantial business in this judicial district, including but not limited to the
18 promotion, sale, marketing, and distribution of its Weighted Sleep Products; Defendant committed
19 tortious acts in this State through its misrepresentations related to the sale, marketing, and
20 distribution of the Weighted Sleep Products; Defendant caused injury to persons within this State;
21 and a substantial portion of the actions giving rise to the claims took place in this State, given
22 Defendant is headquartered in Danville, California.

23
24 13. Venue is appropriate in this District pursuant to 28 U.S.C. § 1391(b)(2) because this
25 is a judicial district in which a substantial part of the events or omissions giving rise to the claim
26 occurred, or a substantial part of property that is the subject of the action is situated. This is especially
27 true given Defendant is headquartered in Danville, California.
28

14. **Divisional Assignment:** Pursuant to Local Rules 3.1(c) and (d), this action may be assigned to the San Francisco Division, as a substantial part of the events or omissions giving rise to the claim occurred in Contra Costa County.

FACTUAL ALLEGATIONS

A. Weighted sleep products, like Defendant’s, are neither effective nor safe.

15. The AAP has addressed the topic of weighted sleep blankets, sleep sacks, and swaddles on numerous occasions. In 2022, the AAP stated this explicitly in its report: *Sleep-Related Infant Deaths: Updated 2022 Recommendations for Reducing Infant Deaths in the Sleep Environment*:¹

Soft bedding	It is recommended that weighted blankets, weighted sleepers, weighted swaddles, or other weighted objects not be placed on or near the sleeping infant.
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16. In 2023, the AAP reaffirmed this recommendation in a letter to the CPSC, writing that weighted sleep products dangerously reduce oxygen levels for children using the products:²

There is no evidence in the peer-reviewed scientific literature evaluating the safety of weighted sleep products on typical, healthy infants, and there is also nothing published regarding their use in an unmonitored setting. Even preliminary, non-peer-reviewed data under discussion in ASTM International proceedings suggest these products are associated with concerning reductions in oxygen saturation levels in infants. This means there is evidence that the use of weight sleep products on infants can lead to lower oxygen levels, which if sustained, may be harmful to the developing infant’s brain. A lack of substantial evidence about the possible harms of weighted sleep products should not serve as evidence that they do not cause harm.

17. It also noted that the evidence available on weighted sleep products “does not...demonstrate that they are effective in helping babies sleep longer or with fewer disruptions.”³

¹ <https://publications.aap.org/pediatrics/article/150/1/e2022057990/188304/Sleep-Related-Infant-Deaths-Updated-2022?autologincheck=redirected>

² <https://www.documentcloud.org/documents/23849624-aap-letter-61523>

³ *Id.*

1 18. The AAP ended its letter with a warning that the CPSC should not allow a repeat of
2 history in allowing unsafe sleep products to harm children:

3 Parents expect that products available for purchase at reputable retailers are thoroughly tested for safety.
4 CPSC and ASTM International should both take a precautionary approach to these and other novel infant sleep
5 products to avoid a repeat of what happened with inclined sleepers, in-bed sleepers, and other novel sleep-
6 related products. These products ultimately were associated with over 100 infants' deaths—all of which would
7 have been prevented if these products were not kept on the consumer market. Waiting for the emergence of
8 confirmatory data about these concerns while these products proliferate is an unacceptable outcome when
9 each of those data points will be a family whose lives are forever marked by unfathomable tragedy of their
10 infant dying from a sleep-related death.

11 The AAP urges you to conduct vigorous oversight on all weighted sleep products, especially those marketed for
12 infants and children. Thank you for this opportunity to comment on this important issue and for your work to
13 better protect children from dangerous products. If the AAP can be of any further assistance, please do not
14 hesitate to contact Zach Laris in our Washington, D.C. office at 202/347-8600 or zlaris@aap.org.

15 Sincerely,

16 

17 Sandy L. Chung, MD, FAAP
18 President

19 SC/zml

20 19. Likewise, on its Safe to Sleep website, the National Institutes of Health warns against
21 putting weighted items in a crib with a baby:⁴

22 **Can I put a pillow, blanket, or a favorite toy in
23 baby's sleep area?**

24 Even though a crib with nothing in it except a fitted sheet covering the mattress may seem bare, it
25 is the safest option for baby.

26 Things in the sleep area can pose dangers for baby, especially if they are:






- 27 • Soft or squishy (e.g., pillows, stuffed toys, crib bumpers)
- 28 • Under or on top of baby (e.g., comforters, quilts, blankets, positioners)
- Non-fitted, even if they are lightweight, small, or "tucked in" (e.g., loveys/cloths, non-fitted sheets, tucked-in blankets)
- **Weighted** (e.g., **weighted** blankets, **weighted** swaddles)

Research also links crib bumpers and bedding other than a fitted sheet covering the baby's mattress to serious injuries and deaths from SIDS, suffocation, entrapment, and strangulation.

Keeping these things out of baby's sleep area is the best way to avoid these dangers.

⁴ <https://safetosleep.nichd.nih.gov/reduce-risk/safe-sleep-environment>

1 20. The Center for Disease Control has come to the same conclusion:⁵

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- **Keep soft bedding such as blankets, pillows, bumper pads, and soft toys out of your baby's sleep area. Additionally, do not cover your baby's head or allow your baby to get too hot.** Some parents may feel they should add sheets or blankets to their baby's crib to help keep their baby warm and comfortable while sleeping. However, sheets, comforters, and blankets can increase the risk of suffocation or overheat your baby. If you're worried about your baby getting cold during sleep, you can dress them in sleep clothing, like a wearable blanket, also known as a sleep sack. **Weighted products such as weighted sleepers, weighted swaddles, weighted sleep sacks, and weighted blankets are not safe for infants. In a Pediatrics report** [\[link\]](#), CDC scientists found that using soft bedding was associated with 16 times the risk of explained suffocation, compared with no soft bedding use.
 - Learn how to create a safe sleep environment for baby in your home by exploring an [Interactive Safe Sleep Environment Tool from Safe to Sleep](#) [\[link\]](#)     .

8 21. In an interview with the Washington Post, Dr. Rachel Moon, the co-chair of the
9 American Academy of Pediatrics task force on Sudden Infant Death Syndrome, explained why
10 weighted blankets, swaddles, and sleep sacks were so dangerous to children: “When babies are first
11 born, their rib cage is not rigid, and so it doesn’t take a lot of pressure to press on it and create
12 obstruction there. **It makes it harder for them to breathe, it makes it harder for their heart to**
13 **beat properly if there’s pressure on there.”** (emphasis added).⁶

14

15 22. These warnings from the scientific community led to Senator Richard Blumenthal to
16 write to Defendant, on numerous occasions, most recently stating that he was “deeply disappointed
17 by [Defendant’s] refusal to engage meaningfully with my office to discuss critical safety concerns
18 concerning your weighted sleep products.”⁷

19

20 23. The CPSC has taken notice of the scientific community’s consensus and issued its
21 own warnings and declarations about the safety, or lack thereof, of Defendant’s Weighted Sleep
22 Products.

23 24. On its “Safe Sleep – Cribs and Infant Products” website, the CPSC is explicit in
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25 ⁵ <https://www.cdc.gov/reproductivehealth/features/baby-safe-sleep/index.html#:~:text=Weighted%20products%20such%20as%20weighted,with%20no%20soft%20bedding%20use>.

26 ⁶ <https://www.washingtonpost.com/wellness/2024/01/22/weighted-baby-blankets-unsafe/>

27 ⁷ https://www.blumenthal.senate.gov/download/2024-04-25_blumenthal-letter_follow-up-dreamland-baby

1 recommending that parents avoid using weighted blankets or weighted swaddles with their
 2 children:⁸

3 **Remember CPSC's "dos and don'ts" for baby sleep spaces**

4 Many young babies cannot lift their heads to pull away from soft objects that can pose a suffocation risk, such as bumpers, blankets, pillows, and sleep positioners. Also, a seated
 5 or semi-reclined position can cause your baby's head to tip forward and their airway to be blocked.

6 Follow these simple tips to make every sleep a safe sleep:

7 **DO:**

- 8 • Do use products intended for sleep including cribs, bassinet, play yard and bedside sleepers that meet federal requirements.
- 9 • Do remember "**Bare is Best**" - nothing but a fitted sheet in a crib, bassinet or play yard.
- 10 • Do always place baby on their back.
- 11 • Do move your baby to their crib, bassinet, or play yard if they fall asleep elsewhere.
- 12 • Do check our website for recalls (SaferProducts.gov) and [sign up](#) to receive recall notifications


13 **DON'T:**

- 14 • Don't add pillows or blankets to your baby's sleep space.
- 15 • **Don't use weighted blankets or weighted swaddles*.**
- 16 • Don't allow your baby to sleep in an inclined product with an angle greater than 10° such as a rocker, bouncer or glider.
- 17 • Don't leave your baby unsupervised in products that aren't designed for safe sleeping, such as any inclined product.

18 *Inclined products, such as rockers, gliders, soothers and swings, should never be used for infant sleep.*

19 *NIH.gov and CDC.gov

20 25. On April 15, 2024, Commissioner Richard Trumka Jr. wrote to retailers, urging them
 21 to stop sales of these products:



22 UNITED STATES
 23 CONSUMER PRODUCT SAFETY COMMISSION
 24 4330 EAST WEST HIGHWAY
 25 BETHESDA, MD 20814

26 STATEMENT OF
 27 COMMISSIONER RICH TRUMKA JR.

28 April 15, 2024

**BEWARE: WEIGHTED INFANT SWADDLES AND BLANKETS ARE
 UNSAFE FOR SLEEP;
 RETAILERS SHOULD CONSIDER STOPPING SALES**

CPSC has a clear warning for safe infant sleep: "**Don't** use weighted blankets or weighted swaddles" for your babies.¹ This matches the warnings from the National Institutes of Health (NIH) that weighted products "can pose dangers for babies," and from the Centers for Disease Control and Prevention (CDC) that "[w]eighted products such as weighted sleepers, weighted swaddles, weighted sleep sacks, and weighted blankets are not safe for infants."²

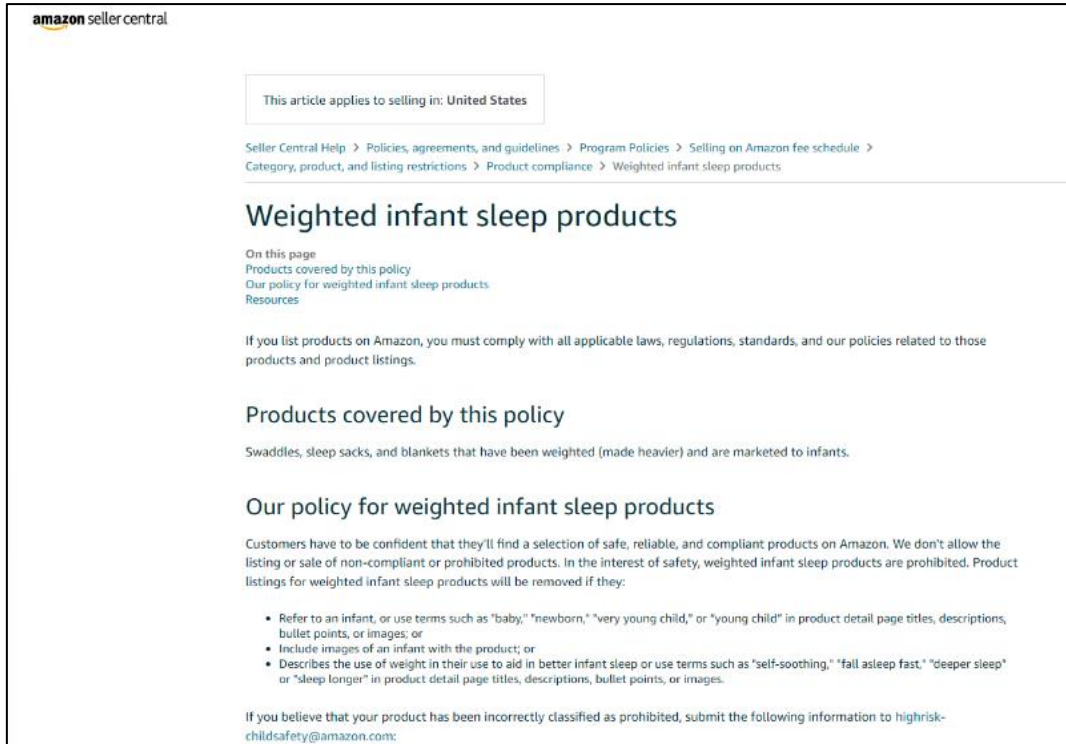
There are multiple infant deaths in these products. As the co-chair of the American Academy of Pediatrics' (AAP's) task force on Sudden Infant Death Syndrome (SIDS), Dr. Rachel Moon, explained to the Washington Post: "When babies are first born, their rib cage is not rigid, and so it doesn't take a lot of pressure to press on it and create obstruction there. It makes it harder for them to breathe, it makes it harder for their heart to beat properly if there's pressure on there."³

AAP also cites risks to babies' brain development, stating that "there is evidence that the use of weighted sleep products on infants can lead to lower oxygen levels, which . . . may be harmful to the developing infant's brain."⁴

⁸ [Safe Sleep – Cribs and Infant Products | CPSC.gov](https://www.cpsc.gov/Safe-Sleep-Cribs-and-Infant-Products)

1 26. Retailers saw these warnings and took action, with companies such as Amazon,
2 Walmart, and Target, pulling Defendant’s Weighted Sleep Products and similar items from their
3 shelves.⁹

4 27. Amazon’s policy for the weighted sleep infant products is explicit in the company’s
5 reasoning for pulling the products – Amazon does not believe these products are safe:
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19 28. The decision by these major retailers to pull Defendant’s Weighted Sleep Products
20 and similar items from their shelves was met with approval from one CPSC commissioner, who
21 noted that the retailers were “acting as responsible stewards of public safety [and] focusing on their
22 customers’ best interests” in stopping the sale of the items. That commissioner also noted that he
23 had “sat with parents of a child who died in one of these products, and I carry their grief with me.”¹⁰
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27 ⁹ <https://www.npr.org/2024/05/02/1248194639/weighted-infant-sleepwear-amazon-target-safety>

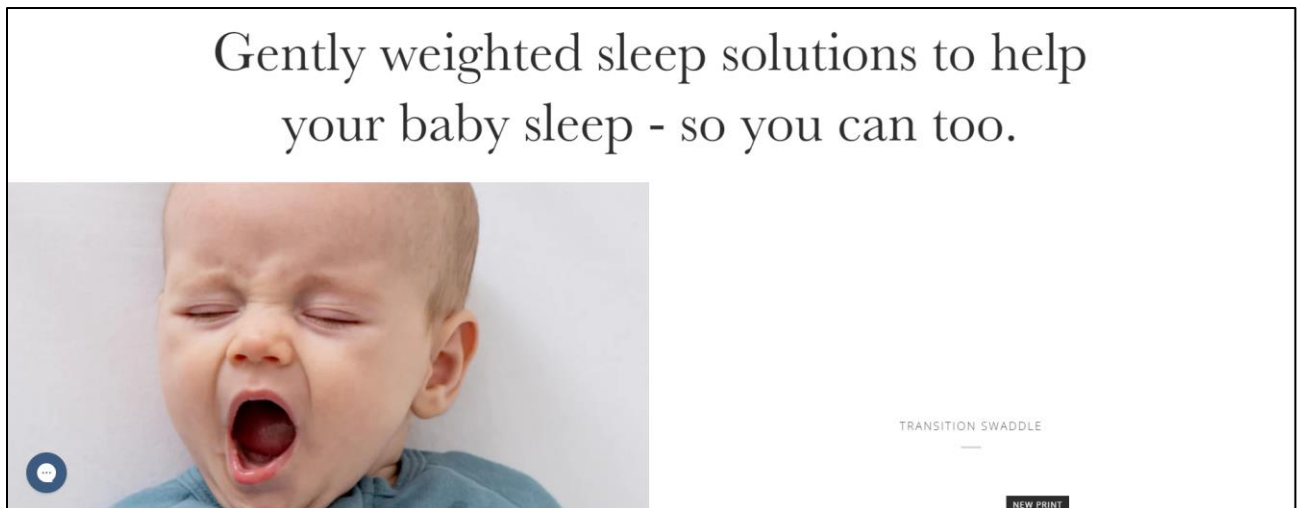
28 ¹⁰ <https://www.cpsc.gov/s3fs->

1 29. The AAP also cheered this decision, calling this a “strong first step” and noting that
2 “[e]xhausted parents shouldn’t have to become part-time product safety regulators, but our current
3 system forces them to by allowing infant products onto the market without evidence they are safe.”¹¹

4 **B. Defendant sells Weighted Sleep Products it claims help children sleep safely.**

5 30. Defendant manufactures, markets, and sells several substantially similar Weighted
6 Sleep Products in swaddle, sleep sack, and blanket varieties.

7 31. It promotes its Weighted Sleep Products as “[g]ently weighted sleep solutions to help
8 your baby sleep – so you can too.”¹²



19 32. Defendant previously said on its website that Dreamland Baby “has exceeded all
20 United States Consumer Product Safety Commission Standards,” even after the CPSC had on
21 numerous occasions said that Defendant’s Weighted Sleep Products were not safe to use.¹³

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public/Trumka_Statement_Weighted_Infant_Products_4_26_24_with_attachments.pdf?VersionId=iK5EDmatuGu9_z2jKt8t8BaWndFKwWCh

27 ¹¹ <https://publications.aap.org/aapnews/news/28768/AAP-leaders-call-decision-to-pull-harmful-weighted>.

28 ¹² <https://dreamlandbabyco.com/> (last accessed May 15, 2024).

¹³ <https://dreamlandbabyco.com/pages/faq> (last accessed May 10, 2024)

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PRODUCT SAFETY & CARE

Is Dreamland Baby safe? >

Does Dreamland Baby meet all current safety standards? v

Dreamland Baby has exceeded all United States Consumer Product Safety Commission standards. Our products were designed in close partnership with Pediatricians and Neonatal Intensive Care Unit (NICU) Nurses.

We continually work with experts in the medical, science, and sleep fields to ensure our products exceed safety standards. Read more about our commitment to safety [here](#).

PRODUCT SAFETY & CARE

Is Dreamland Baby safe? v

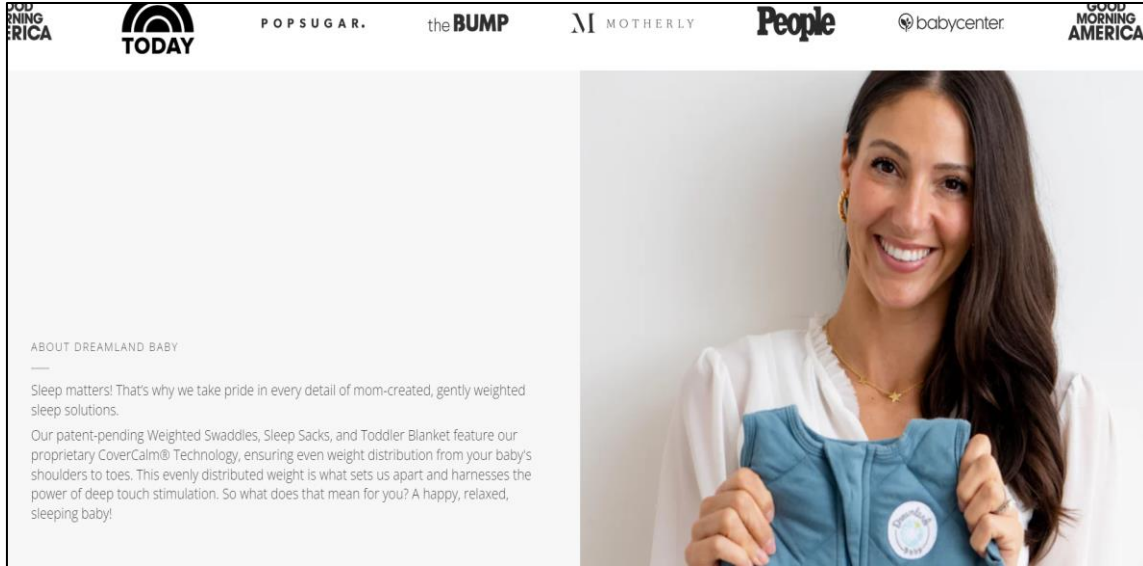
At Dreamland Baby, safety is our number one priority. As a mom-owned business, nothing is more important to us, which is why we partnered with pediatricians, NICU nurses, and certified sleep consultants when developing our weighted sleep sacks.

Our products exceed all U.S. Consumer Product Safety Commission standards and we use only natural and non-toxic materials. The International Hip Dysplasia Institute acknowledges the Dreamland Baby Weighted Swaddle as a "hip-healthy" product when used as directed.

We also pulled research from this clinical study demonstrating that [weighted blankets are safe](#) for newborns, significantly increase calm feelings, and improve sleep patterns. You can learn more about our commitment to safety [here](#). With over 500,000 products sold, we have never had an adverse event caused by our products.

33. Defendant markets the Weighted Sleep Products as “gently weighted sleep solutions” that are “patent pending” and which lead to “[a] happy, relaxed, sleeping baby!”¹⁴

¹⁴ <https://dreamlandbabyco.com/> (last accessed May 15, 2024).



34. As of May 15, 2024, Dreamland has removed any discussions of Weighted Sleep Product Safety from its FAQ page, with the section that used to be entitled “Product Safety and Care” now simply labeled as “Care”.¹⁵



35. However, it still has blog posts up stating that its Weighted Sleep Products are “a godsend for getting fussy babies sound asleep, and keep[ing] them that way” and that, “[w]hile some may have concerns about the safety of weighted swaddles, there’s little evidence to back up the doubt.”¹⁶

¹⁵ <https://dreamlandbabyco.com/pages/faq> (last accessed May 15, 2024)

¹⁶ https://dreamlandbabyco.com/blogs/news/are-weighted-swaddles-safe?_pos=5&_sid=b52cdf427&_ss=r (last accessed May 15, 2024)

1 **C. Defendant’s marketing of its Weighted Sleep Products is misleading to the reasonable**
2 **consumer.**

3 36. By selling Weighted Sleep Products that are “gently weighted sleep solutions,” that
4 are “patent pending,” which lead to “[a] happy, relaxed, sleeping baby!,” and which “exceed[] all
5 United States Consumer Product Safety Commission Standards,” Defendant is representing to
6 consumers that these products help children sleep better and are safe for use.

7 37. When parents of young children, desperate for a good night’s sleep, read about
8 Defendant’s products, they reasonably believe the Weighted Sleep Products will help children sleep
9 better when using them. No reasonable consumer would read Defendant’s website and think that
10 Weighted Sleep Products do not actually help children sleep.
11

12 38. Moreover, consumers cannot reasonably know about the ineffective and dangerous
13 nature of the Weighted Sleep Products at the point of sale. Consumers do not realize that, even when
14 the Weighted Sleep Products are used as intended, they can create an unreasonable risk of oxygen
15 reduction and fatal harm in children. They reasonably expect that Defendant—which has far greater
16 expertise in product safety and is aware of the scientific literature detailed above—would not market
17 a product that was unsafe and ineffective. To lay consumers who are not experienced in product
18 design, the Weighted Sleep Products appear safe.
19

20 39. Defendant does not put consumers on notice of the dangers posed by the Weighted
21 Sleep Products. Defendant could have warned consumers about the dangers presented by its products,
22 but it did and does the opposite. It explicitly stated and states that its products are safe.
23

24 40. Thus, consumers are left unaware about the dangers presented by the Weighted Sleep
25 Products at the time of purchase.

26 41. As a manufacturer of consumer products, Defendant is responsible for the design and
27 safety testing of its Weighted Sleep Products.
28

1 42. Yet, Defendant did and does nothing to disclose the dangers presented by its Weighted
2 Sleep Products to consumers.

3 43. In short, Plaintiff and class members purchased a dangerous product that is unusable
4 for its intended central purpose: to help children sleep safely and soundly.

5
6 **D. Defendant’s Weighted Sleep Products are worthless.**

7 44. The misrepresentations and omissions made by Defendant in regard to its Weighted
8 Sleep Products are highly material to reasonable consumers. Consumers buy Weighted Sleep
9 Products because they believe those products are safe and will help their children sleep.

10 45. No reasonable consumer would purchase Weighted Sleep Products if she or he knew
11 there was no evidence that those products are effective, and that the scientific consensus is that the
12 products are unsafe to use.

13
14 46. If consumers knew the truth—that Defendant’s Weighted Sleep Products are not
15 proven to work and are unsafe to use—the price of the Weighted Sleep Products would crater. In fact,
16 Weighted Sleep Products that do not work and are unsafe to use are wholly worthless to consumers.
17 Thus, the full economic injury here is the entire price of the Weighted Sleep Products purchased by
18 Plaintiff and the class members.

19 47. Alternatively, Plaintiff and class members were deprived the benefit of their
20 bargained-for exchange and have suffered damages in an amount to be established at trial.

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22
23 **E. Ms. Monsch was misled and harmed by Defendant’s deceptive marketing.**

24 48. In October 2023, Ms. Monsch purchased a Bamboo Weighted Swaddle, one of
25 Defendant’s Weighted Sleep Products, directly from Defendant’s website.

26 49. Ms. Monsch bought the Weighted Sleep Product because she believed that it would
27 safely help her child sleep. She read and relied on Defendant’s marketing materials representing as
28

1 much.

2 50. After Ms. Monsch purchased the Weighted Sleep Product, she found that her young
3 son slept *worse* in the Weighted Sleep Product than he had before. She discontinued it after several
4 uses.

5 51. She would not have purchased the Weighted Sleep Product at the price she paid if
6 she knew it did not help her child sleep. In fact, knowing the truth, the Weighted Sleep Product is
7 worthless to her. The economic injury she suffered is the entire purchase price she paid for the
8 Weighted Sleep Product.
9

10 52. Before purchasing the Weighted Sleep Product, Ms. Monsch did not know that the
11 Product suffered from significant defects. Reasonable consumers with no special knowledge of
12 product design or safety testing must rely on manufacturers’ representations of safety when deciding
13 to purchase a product, and Defendant explicitly marketed its Weighted Sleep Products as safe to use.
14 Had Ms. Monsch known the truth, she would not have purchased the Product. Likewise, if the truth
15 were known, other consumers would not buy Weighted Sleep Products either, which would drive
16 down the demand for, and consequently the price of, the Products. So apart from purchasing
17 something she would not have bought at all, Ms. Monsch also overpaid for the Product.
18

19 53. Thus, Ms. Monsch suffered economic injury as a direct result of Defendant’s actions.
20 Ms. Monsch would purchase a product that was proven to help her child sleep and was safe to use.
21 Ms. Monsch, however, faces an imminent threat of harm because she will not be able to rely on
22 representations of safety and the comprehensiveness of warnings in the future, and thus will not be
23 able to purchase a Weighted Sleep Product.
24

25 **F. Defendant breached its contract with and warranties to Ms. Monsch.**

26 54. Ms. Monsch and other class members entered into contracts with Defendant when
27 they purchased Weighted Sleep Products. Defendant offered to provide Weighted Sleep Products
28

1 that were safe for ordinary use, free from safety defects, and helped children sleep, for an advertised
2 price. Ms. Monsch and other class members accepted this offer by purchasing Weighted Sleep
3 Products.

4 55. By selling the Weighted Sleep Products, Defendant warranted that the Weighted
5 Sleep Products were free from safety defects and fit and safe for their intended use. These were
6 material terms of the contract.

7
8 56. Ms. Monsch and other class members performed their obligations under the contract
9 by paying for the items that they purchased.

10 57. Defendant breached its contract and warranties by failing to provide Plaintiff and
11 other class members with Weighted Sleep Products that were safe for their intended use, free from
12 defects, and actually helped children sleep.

13
14 58. Defendant was on notice of its breaches from multiple letters from the scientific
15 community stating that its Weighted Sleep Products were not safe to use.

16 **G. Defendant's actions injured other members of the putative class.**

17 59. Defendant's material omissions, false representations of safety, and failure to warn
18 consumers about the dangers of its Weighted Sleep Products allowed Defendant to charge more for
19 the Products than it could have had the safety defects and lack of proof regarding the Products'
20 effectiveness been disclosed to consumers. Consumers like Ms. Monsch would not have bought the
21 Weighted Sleep Products or, at minimum, would have paid substantially less for them if they knew
22 the Products were unsafe and not proven to be effective. Stated another way, demand for Weighted
23 Sleep Products would have plummeted if Defendant disclosed the dangers and shortcomings of the
24 Products. As a result of Defendant's omissions and misrepresentations, Plaintiff and class members
25 were charged a price premium and sustained economic injuries.

26
27
28 60. Consumers purchase Defendant's Weighted Sleep Products because they think they

1 are safe and will help their children sleep. Instead, Defendant's Weighted Sleep Products endanger
2 children and are not proven to be effective. Therefore, the products Plaintiff and class members
3 received in exchange for their purchase price are worthless. The economic injury suffered by Plaintiff
4 and the class members is the entire purchase price of the Weighted Sleep Products because they were
5 unsafe and useless for their intended purpose.

6 **H. No adequate remedy at law.**

7
8 61. Plaintiff seeks damages and, in the alternative, restitution. Plaintiff is permitted to seek
9 equitable remedies in the alternative because she has no adequate remedy at law.

10 62. A legal remedy is not adequate if it is not as certain as an equitable remedy.

11 63. To obtain a full refund as damages, Plaintiff must show that the products they received
12 have essentially no market value. In contrast, Plaintiff can seek restitution without making this
13 showing. This is because Plaintiff purchased products that she would not otherwise have purchased,
14 but for Defendant's misrepresentations. Obtaining a full refund by law is less certain than obtaining
15 a refund in equity.

16
17 64. Also, winning damages under the CLRA requires additional showings not required
18 under the UCL and FAL. For example, to obtain damages under the CLRA, Plaintiff must prove that
19 she complied with the CLRA's notice requirement. No such requirements exist to obtain restitution.
20 In addition, the CLRA prohibits only particular categories of deceptive conduct. By contrast, the UCL
21 broadly prohibits "unfair" conduct and is thus broader.

22
23 65. By the same token, Plaintiff's common law claims require additional showings,
24 compared to her UCL, FAL, or unjust enrichment claims. For example, to prevail on her breach of
25 warranty claim, Plaintiff needs to show that the statements they challenge constitute a warranty and
26 that the warranty was part of the basis of the bargain. No such showings are required by the UCL or
27 FAL, or for an unjust enrichment theory. In fact, the UCL and the FAL were enacted specifically to
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1 create new claims and remedies not available at common law. And unjust enrichment exists in part
2 because contractual claims are often more difficult to establish. In this way, Plaintiff’s UCL and FAL
3 claims, and Plaintiff’s unjust enrichment claims, are more certain than her legal claims.

4 66. Finally, the remedies at law available to Plaintiff are not equally prompt or otherwise
5 efficient. The need to schedule a jury trial may result in delay. And a jury trial will take longer, and
6 be more expensive, than a bench trial.

7
8 **CLASS ALLEGATIONS**

9 67. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
10 length herein.

11 68. Pursuant to Federal Rule of Civil Procedure 23, Plaintiff brings this action individually
12 and on behalf of the following Class and Subclasses:

13 **Nationwide Class.** All individuals who purchased a Weighted Sleep
14 Product from Defendant Dreamland Baby Company within the applicable
15 statute of limitations.

16 **Multistate Subclass.** All individuals who purchased a Weighted Sleep
17 Product in California, Connecticut, Illinois, Maryland, Missouri, and New
18 York within the applicable statute of limitations.

19 **California Subclass.** All individuals who purchased a Weighted Sleep
20 Product in California within the applicable statute of limitations.

21 69. Plaintiff represents, and is a member of, this Class and these Subclasses.

22 70. Excluded from the Class and Subclasses are the Defendant, any entities in which the
23 Defendant has a controlling interest, the Defendant’s employees, any Judge to whom this action is
24 assigned, any member of such Judge’s staff and immediate family, and all individuals pursuing claims
25 for personal injury or wrongful death.

26 71. Plaintiff reserves the right to amend or modify the Class and Subclass definitions after
27 having an opportunity to conduct discovery.

1 72. The Class and Subclasses meet the criteria for certification under Rule 23(a), (b)(2),
2 (b)(3), and (c)(4). Plaintiff and all members of the Class have been harmed by the acts of the
3 Defendant. Class-wide adjudication of Plaintiff's claims is appropriate because Plaintiff can prove
4 the elements of her claims on a class-wide basis using the same evidence as would be used to prove
5 those elements in individual actions asserting the same claims.
6

7 73. **Numerosity.** The members of the Class and Subclasses are so numerous that individual
8 joinder of all class members is impracticable. Although the exact number of members is unknown at
9 this time, it can readily be determined from the internal business records of Defendant or the retailers
10 and distributors of the Weighted Sleep Products, and Class members may be notified of the pendency
11 of this action by published and/or mail/emailed notice. Plaintiff reasonably estimates that there are
12 hundreds of thousands of members of the Class.
13

14 74. **Commonality and Predominance.** Common questions of law and fact exist as to all
15 members of the putative class and Subclasses that will drive the litigation and predominate over any
16 questions affecting only individual class members. Common questions include, but are not limited to:

- 17 a. Whether Defendant's Weighted Sleep Products improve sleep for children;
- 18 b. Whether Defendant's Weighted Sleep Products are safe for children;
- 19 c. Whether Defendant's Weighted Sleep Products are fit for their ordinary and
20 intended use;
- 21 d. Whether Defendant's Weighted Sleep Products are fit for their particular purpose;
- 22 e. Whether Defendant committed a breach of an express or implied warranty;
- 23 f. Whether Defendant engaged in an unlawful deceptive practice in marketing and
24 selling the Weighted Sleep Products as they are;
- 25 g. Whether Plaintiff and other consumers who purchased Defendant's Weighted
26 Sleep Products suffered ascertainable loss as a result of Defendant's conduct;
- 27
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- 1 h. Whether Defendant should be enjoined from further sales of its Weighted Sleep
- 2 Products;
- 3 i. What damages are needed to compensate Plaintiff and the members of the
- 4 proposed Class and Subclasses;
- 5 j. Whether Defendant was unjustly enriched by the sale of the Weighted Sleep
- 6 Products;
- 7
- 8 k. Whether Defendant violated consumer protection statutes.

9 75. **Typicality.** Plaintiff’s claims are typical of the claims of each putative class member
 10 and are based on the same facts and legal theories as each of the class members. Plaintiff, like all
 11 members of the Class and Subclasses, purchased one of Defendant’s Weighted Sleep Products.
 12 Plaintiff, like all Class and Subclass members, was thus subject to Defendant’s common
 13 misrepresentations and omissions regarding the efficacy and safety of its products, which
 14 misleadingly and deceptively claimed that the Weighted Sleep Products had value by purportedly
 15 helping children sleep and that the products were safe. Plaintiff is entitled to relief under the same
 16 causes of action as the other members of the putative class.
 17

18 76. **Adequacy of Representation.** Plaintiff is an adequate representative of the putative
 19 Class and Subclasses because her interests coincide with, and are not antagonistic to, the interests of
 20 the members of the Class and Subclasses. Plaintiff has retained counsel competent and highly
 21 experienced in complex consumer class action litigation who intend to prosecute the action
 22 vigorously. Plaintiff and her counsel will fairly and adequately protect the interests of the members
 23 of the Class and Subclasses.
 24

25 77. **Superiority.** Questions of law and fact common to the Class and Subclass members
 26 predominate over questions affecting only individual members, and a class action is superior to other
 27 available methods for fair and efficient adjudication of the controversy. The damages sought by each
 28

1 member are such that individual prosecution would prove burdensome and expensive. It would be
2 virtually impossible for all members of the Class and Subclasses individually to effectively redress
3 the wrongs done to them. Even if the members of the Class and Subclasses could afford and pursue
4 such individual litigation, it would be an unnecessary burden on the Courts. Furthermore,
5 individualized litigation presents a potential for inconsistent or contradictory judgments and increases
6 the delay and expense to all parties and to the court system presented by the legal and factual issues
7 raised by Defendant’s conduct. By contrast, the class action device will result in substantial benefits
8 to the litigants and the Court by allowing the Court to resolve numerous individual claims based upon
9 a single set of proof. Plaintiff is not aware of any other current pending litigation against Defendant
10 to which any Class member is a party involving the subject matter of this suit. This case presents no
11 difficulties that will impede its management by the Court as a class action.
12

13
14 78. ***Injunctive Relief Appropriate for the Class.*** Class certification is appropriate because
15 Defendant has acted on grounds generally applicable to the entire Class, thereby making appropriate
16 injunctive relief and/or corresponding declaratory relief with respect to Plaintiff and putative Class
17 members. The prosecution of separate actions by individual Class members would create the risk of
18 inconsistent or varying adjudications with respect to individual members of the Class that could
19 establish incompatible standards of conduct for Defendant. Injunctive relief is necessary to prevent
20 further fraudulent and unfair business practices by Defendant including Defendant’s continued sale
21 of its dangerous and worthless Weighted Sleep Products.
22

23
24 **CLAIMS FOR RELIEF**

25 79. Based on the foregoing allegations, Plaintiff’s claims for relief include the following:

26 **COUNT I**

27 **Breach of Contract**

28 **On behalf of Plaintiff and the Nationwide Class**

80. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
Class Action Complaint 20 Case No.

1 length herein.

2 81. Plaintiff brings this count individually and for the Nationwide Class. Common law
3 breach of contract claims are materially similar in all fifty states. In the alternative, Plaintiff brings
4 this claim under California law for herself and members of the California Subclass.

5 82. Plaintiff and Class members entered into contracts with when they placed orders to
6 purchase Weighted Sleep Products on Defendant’s website. A valid contract existed between Plaintiff
7 and the Class members and Defendant.

8 83. The contracts provided that Plaintiff and Class members would pay Defendant for the
9 Products ordered.

10 84. The contracts further required that Defendant provide Plaintiff and Class members
11 with Weighted Sleep Products that conformed to the description advertised on the website and that
12 was free of defects. These were specific and material terms of the contracts.
13

14 85. Plaintiff and Class members paid Defendant for the Weighted Sleep Products they
15 ordered, and satisfied all other conditions of their contracts.
16

17 86. Defendant breached the contracts with Plaintiff and Class members by failing to
18 provide Products that conformed to the description advertised on the website. Defendant breached its
19 contract by providing Products that were defective, as described more fully above.
20

21 87. As a direct and proximate result of Defendant’s breaches, Plaintiff and Class members
22 were deprived of the benefit of their bargained-for exchange and have suffered damages in an amount
23 to be established at trial.
24

25 **COUNT II**
26 **Breach of Express Warranty**
On behalf of Plaintiff and the Nationwide Class

27 88. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
28 length herein.

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89. Plaintiff brings this count on behalf of herself and the Nationwide Class. Common law breach of express warranty claims are materially similar in all fifty states. In the alternative, Plaintiff brings this claim under California law for herself and members of the California Subclass.

90. Defendant, as the manufacturer, marketer, and seller of Weighted Sleep Products, issues material written warranties by representing that the products help children sleep and are safe to use. These were affirmations of fact about the Weighted Sleep Products and a promise relating to the goods.

91. These warranties were part of the basis of the bargain and Plaintiff and the Class relied on this warranty.

92. However, the Weighted Sleep Products do not conform to the above-referenced representations because, as alleged in detail above, the Weighted Sleep Products do not help children sleep and are not safe to use. Thus, the warranties were breached.

93. Plaintiff provided Defendants with notice of this breach of warranty, by mailing a notice letter to Defendants’ headquarters, on May 15, 2024. Defendant also had notice of this breach through countless news articles and letters from the scientific community and government agencies stating the products were unsafe.

94. Plaintiff and class members were injured as a direct and proximate result of Defendants’ conduct, and this conduct was a substantial factor in causing harm, because: (a) they would not have purchased Weighted Sleep Products if they had known that the Products were ineffective and/or unsafe or (b) they received products that were, in truth, worthless.

COUNT III
Breach of Implied Warranty of Fitness
On behalf of Plaintiff and the Nationwide Class

1 95. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
2 length herein.

3 96. Plaintiff brings this count on behalf of herself and the Nationwide Class. Common law
4 implied warranty of fitness claims are materially similar in all fifty states. In the alternative, Plaintiff
5 brings this claim under California law for herself and members of the California Subclass.

6 97. The Uniform Commercial Code Sec. 2-315 states where a seller has “reason to know
7 any particular purpose for which the goods are required and that the buyer is relying on the seller’s
8 skill or judgment to select or furnish suitable goods there is...an implied warranty that the goods shall
9 be fit for such purpose.”
10

11 98. Plaintiff and members of the Nationwide Class purchased Weighted Sleep Products
12 for the particular purpose of helping their children sleep safely, and Defendant knew or should have
13 known this.
14

15 99. Defendant marketed itself as a knowledgeable and effective developer, manufacturer,
16 and seller of sleep products for children.

17 100. Defendant knew or should have known that Plaintiff and members of the Nationwide
18 Class would justifiably rely on Defendant’s particular skill and knowledge of baby sleep products
19 when choosing to purchase the Weighted Sleep Products.
20

21 101. Plaintiff and members of the Nationwide Class did justifiably rely on Defendant’s
22 purported judgment and skill.

23 102. But the Weighted Sleep Products were not suitable for their intended purpose, as they
24 neither helped children sleep nor were safe to use.
25

26 103. Defendant thus breached its implied warranty of fitness concerning the products and
27 knew of this breach through countless news articles and letters from the scientific community and
28 government agencies stating the products were unsafe.

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104. Plaintiff provided Defendants with notice of this breach of warranty, by mailing a notice letter to Defendants’ headquarters, on May 15, 2024. Defendant also had notice of this breach through countless news articles and letters from the scientific community and government agencies stating the products were unsafe.

105. As a result of the breach, Plaintiff and members of the Nationwide Class suffered economic harm and damages.

COUNT IV
Breach of Implied Warranty of Merchantability
On behalf of Plaintiff and the Nationwide Class

106. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

107. Plaintiff brings this count on behalf of herself and the Nationwide Class. Common law implied warranty of merchantability claims are materially similar in all fifty states. In the alternative, Plaintiff brings this claim under California law for herself and members of the California Subclass.

108. The Uniform Commercial Code Sec. 2-314 states that “a warranty that [] goods shall be merchantable is implied in a contract for their sale if the seller is a merchant with respect to goods of that kind.” Merchantable goods must be “fit for the ordinary purposes for which the goods are used.”

109. As alleged above, Plaintiff and Class members entered into contracts with Defendant when they placed orders to purchase Products on Defendant’s website. A valid contract existed between Plaintiff and the Class and Defendant.

110. Defendant is and was at all times a merchant with respect to its Weighted Sleep Products for children, and the products constitute goods under the UCC.

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111. Plaintiff and members of the Nationwide Class purchased the Weighted Sleep Products.

112. Defendant, as the manufacturer, marketer, and seller of the Weighted Sleep Products impliedly warranted to Plaintiff and the Class that the products were of merchantable quality and were safe for their ordinary use.

113. In fact, the Weighted Sleep Products were never in merchantable condition and were not fit for children to use while sleeping. Specifically, the Weighted Sleep Products were unsafe in that they restricted oxygen flow to children wearing them. The Weighted Sleep Products are unsafe even when used according to Defendant’s instructions.

114. Moreover, the Weighted Sleep Products were never in merchantable condition because there was no evidence that they worked for their stated purpose, to help children sleep more soundly.

115. Defendant breached the implied warranty of merchantability when it sold its Weighted Sleep Products.

116. Plaintiff provided Defendants with notice of this breach of warranty, by mailing a notice letter to Defendants’ headquarters, on May 15, 2024. Defendant also had notice of this breach through countless news articles and letters from the scientific community and government agencies stating the products were unsafe.

117. Defendant’s breach directly caused Plaintiff and the Class harm, as neither Plaintiff nor the Class would have bought the products had they known the products were unsafe when used for their ordinary purpose.

COUNT V
Fraud
On behalf of Plaintiff and the Nationwide Class

118. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

1 119. Plaintiff brings this count on behalf of herself and the Nationwide Class. Common law
2 fraud claims are materially similar in all fifty states. In the alternative, Plaintiff brings this claim under
3 California law for herself and members of the California Subclass.

4 120. As alleged above, Defendant made false representations to Plaintiff and Nationwide
5 Class members when it said its Weighted Sleep Products were effective and safe to use.

6 121. These representations were false.

7
8 122. When Defendant made these misrepresentations, it knew they were false and/or acted
9 recklessly in making them.

10 123. Defendant intended that Plaintiff and Class members rely on these representations and
11 Plaintiff and Class members reasonably relied on them.

12 124. In addition, class-wide reliance can be inferred because Defendant's
13 misrepresentations were material, i.e., a reasonable consumer would consider them important in
14 deciding whether to buy the Weighted Sleep Products.

15 125. Defendant's misrepresentations were a substantial factor and proximate cause in
16 causing damages and losses to Plaintiff and Class members.

17 126. Defendant also made materially misleading omissions concerning the efficacy and
18 safety of its Weighted Sleep Products. Specifically, it concealed information related to the related to
19 the risks of oxygen reduction in the Products.

20 127. In deciding to purchase the Weighted Sleep Products from Defendant, Plaintiff and
21 the Nationwide Class members reasonably relied on Defendant's omissions to form the mistaken
22 belief that the Weighted Sleep Products were effective and safe to use.

23 128. Defendant's conduct was knowing and intentional and intended to induce, and actually
24 induced, Plaintiff and the Nationwide Class members to purchase the Weighted Sleep Products.
25 Plaintiff and Nationwide Class members would not have purchased the products if they knew the

1 products were unsafe. Class-wide reliance can be inferred because Defendant's omissions were
2 material, i.e. a reasonable consumer would consider them important to their purchase decision.

3 129. Defendant had a duty to disclose because it had superior knowledge and access to
4 material facts about the Products' safety, and a reasonable consumer could not have expected or
5 known that the Weighted Sleep Products were unsafe.

6 130. Plaintiff and the Nationwide Class members were injured as a direct and proximate
7 result of Defendant's conduct because: (a) they would not have purchased Defendant's Weighted
8 Sleep Products if they had known that the products were unsafe and ineffective at helping children
9 sleep, and (b) they received products that were, in truth, worthless.

10 131. Defendant's acts were done maliciously, oppressively, deliberately, with intent to
11 defraud, and in reckless disregard of Plaintiff's and the Class members' rights and well-being to
12 enrich Defendant. Defendant's conduct warrants an assessment of punitive damages in an amount
13 sufficient to deter such conduct in the future, which amount is to be determined according to proof.
14

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16 **COUNT VI**
17 **Negligent Misrepresentation**
18 **On behalf of Plaintiff and the Nationwide Class**

19 132. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
20 length herein.

21 133. Plaintiff brings this count on behalf of herself and the Nationwide Class. Common law
22 negligent misrepresentation claims are materially similar in all fifty states. In the alternative, Plaintiff
23 brings this claim under California law for herself and members of the California Subclass.

24 134. As alleged more fully above, Defendant made false representations to Plaintiff and
25 Nationwide Class members when it said its Weighted Sleep Products were effective and safe to use.
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27 135. These representations were false.
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136. When Defendant made these misrepresentations, it knew or should have known that they were false. Defendant had no reasonable grounds for believing that these representations were true when made.

137. Defendant intended that Plaintiff and Nationwide Class members rely on these representations; Plaintiff and Nationwide Class members did in fact reasonably rely on them.

138. In addition, class-wide reliance can be inferred because Defendant’s misrepresentations were material, i.e., a reasonable consumer would consider them important in deciding whether to buy the Weighted Sleep Products.

139. Defendant’s misrepresentations were a substantial factor and proximate cause in causing damages and losses to Plaintiff and Class members.

140. Plaintiff and the Nationwide Class members were injured as a direct and proximate result of Defendant’s conduct because: (a) they would not have purchased Defendant’s Weighted Sleep Products if they had known that the products were unsafe and ineffective at helping children sleep, and (b) they received products that were, in truth, worthless.

**COUNT VII
Quasi-Contract Claim for Restitution (“Unjust Enrichment”)
On behalf of Plaintiff and the Nationwide Class**

141. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at length herein.

142. Plaintiff brings this cause of action on behalf of herself and the Nationwide Class. Common law quasi-contract claims are materially similar in all fifty states. Plaintiff brings this cause of action in the alternative to her Breach of Contract claim (First Cause of Action) and Breach of Express Warranty claim (Fifth Cause of Action) on behalf of herself and the Nationwide Class. In the alternative, Plaintiff brings this claim under California law for herself and members of the California Subclass.

1 143. As alleged in detail above, Defendants’ false and misleading representations caused
 2 Plaintiff and the Class to purchase wholly worthless Products.

3 144. In this way, Defendants received a direct and unjust benefit, at Plaintiff’s and the Class
 4 members’ expense.

5 145. Plaintiff and the Class seek restitution, and in the alternative, rescission.

6
 7 **COUNT VIII**
 8 **Violation of State Consumer Protection Acts**
 9 **On behalf of Plaintiff and the Multistate Consumer Protection Class**

10 146. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
 length herein.

11 147. As alleged below, Plaintiff brings individual and California Subclass claims based on
 12 California law. For the Multistate Consumer Protection Subclass, Plaintiff brings this count for
 13 violations of state consumer protection laws that are materially similar to the laws of California,
 14 including:
 15

State	Statute
California	Cal. Bus. & Prof. Code § 17200, and the following: <i>Id.</i> §17500, and the following; Cal. Civ. Code §1750 and the following.
Connecticut	Conn. Gen Stat. Ann. § 42- 110, and the following.
Illinois	815 ILCS § 501/1, and the following.
Maryland	Md. Code Ann. Com. Law, § 13-301, and the following.
Missouri	Mo. Rev. Stat. § 407, and the following.
New York	N.Y. Gen. Bus. Law § 349, and the following.

1 156. Defendant’s misrepresentations were intended to induce reliance, and Plaintiff saw,
2 read, and reasonably relied on the statements when purchasing the Weighted Sleep Products. In
3 addition, subclass-wide reliance can be inferred because Defendant’s misrepresentations were
4 material, i.e., a reasonable consumer would consider them important in deciding whether to buy the
5 Weighted Sleep Products.

6 157. Defendant’s misrepresentations were a substantial factor in Plaintiff’s purchase
7 decision and the purchase decisions of the Subclass members.

8 158. Plaintiff and the Subclass members were injured as a direct and proximate result of
9 Defendant’s conduct because: (a) they would not have purchased Weighted Sleep Products if they
10 had known that the products were unsafe and ineffective and (b) they received products that were, in
11 truth, worthless.
12

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14 **COUNT X**
15 **Violation of California’s Consumer Legal Remedies Act**
16 **On behalf of Plaintiff and the California Subclass**

17 159. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
18 length herein.

19 160. Plaintiff asserts this count on behalf of herself and members of the California Subclass.

20 161. Plaintiff and the subclass members are “consumers,” as the term is defined by
21 California Civil Code § 1761(d).
22

23 162. Plaintiff and the subclass members have engaged in “transactions” with Defendant as
24 that term is defined by California Civil Code § 1761(e).

25 163. The conduct alleged in this Complaint constitutes unfair methods of competition and
26 unfair and deceptive acts and practices for the purpose of the CLRA, and the conduct was undertaken
27
28

1 by Defendant in transactions intended to result in, and which did result in, the sale of goods to
2 consumers.

3 164. As alleged more fully above, Defendant violated the CLRA by falsely representing
4 that its Weighted Sleep Products were safe and effective. Defendant knew or should have known,
5 through the exercise of reasonable care, that these statements were false and misleading.

6 165. Defendant violated, and continues to violate, section 1770 of the California Civil
7 Code.
8

9 166. Defendant violated, and continues to violate, section 1770(a)(5) of the California Civil
10 Code by representing that Products offered for sale have characteristics or benefits that they do not
11 have. Defendant represents that its Weighted Sleep Products have the characteristic of being safe to
12 use and effective in helping children sleep, when neither is true.

13 167. Defendant violated, and continues to violate, section 1770(a)(7) of the California Civil
14 Code by representing that Weighted Sleep Products offered for sale are of a particular standard,
15 quality, or grade, if they are another. Defendant represents that its Weighted Sleep Products meet the
16 standard of being safe to use and effective at helping children sleep, when in reality they do not.
17

18 168. Defendant also violated, and continues to violate, section 1770(a)(9) of the California
19 Civil Code. Defendant violated this law by advertising its Weighted Sleep Products as being fit for
20 their intended purpose of helping children sleep, when they were not.
21

22 169. Defendant's false labeling was likely to deceive, and did deceive, Plaintiff, the
23 Subclass members, and all reasonable consumers. Defendant knew or should have known through the
24 exercise of reasonable care that these statements were inaccurate and misleading.
25

26 170. Defendant's misrepresentations were intended to induce reliance, and Plaintiff and the
27 Subclass members reasonably relied on the statements when purchasing the Weighted Sleep Product.
28 In addition, subclass-wide reliance can be inferred because Defendant's misrepresentations were

1 material, i.e., a reasonable consumer would consider them important in deciding whether to buy the
2 Weighted Sleep Products.

3 171. Defendant's misrepresentations were a substantial factor in Plaintiff's purchase
4 decision and the purchase decisions of the Subclass members.

5 172. Plaintiff and the Subclass members were injured as a direct and proximate result of
6 Defendant's conduct because: (a) they would not have purchased Weighted Sleep Products if they
7 had known that the products were unsafe and ineffective and (b) they received products that were, in
8 truth, worthless.

9 173. Accordingly, pursuant to California Civil Code § 1780(a)(2), Plaintiff, on behalf of
10 herself and all other members of the Subclass, seeks injunctive relief.

11 174. A CLRA venue declaration is attached.

12
13
14 **COUNT XI**
15 **Violation of California's Unfair Competition Law**
16 **On behalf of Plaintiff and the California Subclass**

17 175. Plaintiff restates each of the allegations in the preceding paragraphs as if set forth at
18 length herein.

19 176. Plaintiff asserts this count on behalf of herself and members of the California Subclass.

20 177. Defendant has violated California's Unfair Competition Law (UCL) by engaging in
21 unlawful, fraudulent, and unfair conduct (i.e., violating each of the three prongs of the UCL).

22 ***The Unlawful Prong***

23 178. Defendant engaged in unlawful conduct by violating the CLRA and FAL, as alleged
24 above and incorporated here.

25 ***The Fraudulent Prong***

1 179. As alleged in detail above, Defendant’s representations that its Weighted Sleep
2 Products promote sleep and are safe to use were false and misleading. Its marketing is likely to
3 deceive, and did deceive, Plaintiff and other reasonable consumers.

4 ***The Unfair Prong***

5 180. Defendant’s conduct, as detailed above, also violated the “unfair” prong of the UCL.

6 181. Defendant’s conduct caused substantial injury to Plaintiff and the Subclass members.
7
8 The harm to Plaintiff and the Subclass greatly outweighs the public utility of Defendant’s conduct
9 (which is none). Unsafe Weighted Sleep Products have no public utility and in fact are a hazard to
10 public safety. This injury was not outweighed by any countervailing benefits to consumers or
11 competition. Dangerous and useless products only injure and harm consumers.

12 182. Plaintiff and the Subclass could not have reasonably avoided this injury. As alleged
13 above, Defendant’s marketing is false and misleading. It is likely to deceive and did deceive
14 reasonable consumers like Plaintiff.

15 183. Defendant’s conduct, as alleged above, was immoral, unethical, oppressive,
16 unscrupulous, and substantially injurious to consumers.

17 184. Defendant’s conduct violated the public policy against false and misleading
18 advertising, which is tethered to the CLRA and the FAL.

19 185. For all prongs, Defendant’s misrepresentations were intended to induce reliance, and
20 Plaintiff and the Subclass members reasonably relied on the statements when purchasing the
21 Weighted Sleep Products. In addition, subclass-wide reliance can be inferred because Defendant’s
22 misrepresentations were material, i.e., a reasonable consumer would consider them important in
23 deciding whether to buy the Weighted Sleep Products.

24 186. Defendant’s misrepresentations were a substantial factor in Plaintiff’s purchase
25 decision and the purchase decisions of the Subclass members.

1 187. Plaintiff and the Subclass members were injured as a direct and proximate result of
2 Defendant’s conduct because: (a) they would not have purchased Weighted Sleep Products if they
3 had known that the products were unsafe and ineffective and (b) they received products that were, in
4 truth, worthless.

5 **DEMAND FOR JURY TRIAL**

6 188. Plaintiff, individually and on behalf of all others similarly situated, hereby demands a
7 jury trial on all claims so triable.
8

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiff respectfully requests that the Court enter judgment on behalf of
11 herself and the Class and Subclasses she seeks to represent against Defendant for:

- 12 • An order certifying the asserted claims, or issues raised, as a class action;
- 13 • An order appointing Plaintiff as a representative for the Nationwide Class, Multistate
- 14 Subclass, and the California Subclass, and appointing her counsel as lead counsel for
- 15 the Class and Subclasses;
- 16 • An order awarding Plaintiff and all other Class and Subclass members damages in an
- 17 amount to be determined at trial for the wrongful acts of Defendant
- 18 • A declaration that Defendant’s Weighted Sleep Products are unfit for ordinary
- 19 purposes and pose a serious safety risk to consumers;
- 20 • An order enjoining Defendant from engaging in or continuing to engage in the
- 21 manufacture, marketing, and sale of its Weighted Sleep Products; requiring Defendant
- 22 to issue corrective actions including notification, recall, service bulletins, or
- 23 replacement of the Weighted Sleep Products; and requiring Defendant to preserve all
- 24 evidence relevant to this lawsuit and notify Weighted Sleep Product owners with
- 25 whom it comes in contact of the pendency of this and related litigation;
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- Nominal damages as authorized by law;
- Restitution as authorized by law;
- Pre- and post-judgment interest;
- Reasonable attorneys' fees and costs, as allowed by law; and
- Any additional relief that the Court deems reasonable and just.

Dated: May 16, 2024

Respectfully submitted,

By: BAILEY & GLASSER, LLP

/s/ Arthur H. Bryant

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