

Moreover, some of these artificial and synthetic ingredients are associated with the development of severe health problems.

3. Plaintiff and those similarly situated (“Class Members”) relied on Defendant’s misrepresentations that the Products were natural when purchasing the Products. Plaintiff and Class Members paid a premium for the Products over comparable products that did not purport to be natural. Given that Plaintiff and Class Members paid a premium for the Products based on Defendant’s misrepresentations that they were natural, Plaintiff and Class Members suffered an injury in the amount of the premium paid.

4. Defendant’s conduct violated and continues to violate New York General Business Law §§ 349 and 350, the consumer protection statutes of all 50 states, and the Magnusson-Moss Warranty Act. Defendant breached and continues to breach express and implied warranties regarding the Products. Defendants have been and continue to be unjustly enriched. Accordingly, Plaintiff brings this action against Defendant on behalf of herself and Class Members who purchased one or more of the Products during the applicable statute of limitations period (the “Class Period”).

FACTUAL BACKGROUND

5. American consumers are health conscious and are increasingly expressing a preference for natural products. As is explained in an article in *The Economist*, “natural” products are a fast growing market. Perceiving natural products to be safer and healthier – consumers purchase them to promote good health and to avoid the known and unknown dangers

associated with synthetic ingredients.¹ In 2010, sales of natural products grew 6% to \$117 billion.²

6. Seeking to profit from consumers' desire for purportedly natural products, Defendant markets each of the Products as a natural pain reliever for teething babies. The directions for each Product instruct users to administer it orally to teething babies, either by placing it on the baby's gums or under the baby's tongue, as often as six times per day. *See* Exhibits (Exs.) A-C. It is thus essential to Defendant's bottom line to convince consumers that the Products are safe. Defendant represents that the Products are natural in order to convince consumers that they are safe and healthy.

7. As is pictured below, and in Exhibits A-D, the packaging and labeling³ for the Products include the following prominent representation: "Baby Orajel Naturals for Teething Pain Relief." The packaging and labeling for each Product also prominently represent that it is "Benzocaine-Free," "Paraben-Free," "Belladonna-Free," and "Dye-Free." *See* Exs. A-D.

¹ *Chemical Blessings What Rousseau Got Wrong*, THE ECONOMIST, Feb. 4, 2008, available at <http://www.economist.com/node/10633398>; *see also* Hunger Oatman-Stanford, *What Were We Thinking? The Top 10 Most Dangerous Ads*, COLLECTORS WEEKLY (Aug. 22, 2012), <http://www.collectorsweekly.com/articles/the-top-10-most-dangerous-ads/> (featuring advertisements for dangerous synthetic chemicals that were once marketed as safe).

² *About the Natural Products Association*, NATURAL PRODUCTS ASSOCIATION (last accessed July 3, 2015), http://www.npainfo.org/NPA/About_NPA/NPA/AboutNPA/AbouttheNaturalProductsAssociation.aspx?hkey=8d3a15ab-f44f-4473-aa6e-ba27ccebcb8.

³ By way of example, pictured below and in exhibit D is the labeling for the Baby Orajel Naturals tablets. The labeling for the other Products includes the same representations stated in paragraphs 5 and 6 of the Complaint. The Products' labeling is substantially similar.



8. On Defendant's website, the principal display panel ("PDP") for each Product prominently displays the word "Naturals" without any qualification. See Exs. A-C. Defendant also displays on each of the Products' pages the following purported customer testimonials:

My daughter has been teething for a few weeks now. I feel so helpless with seeing her in pain. With the Baby ORAJEL Naturals, I know I am giving her something safe.

– Heather, Illinois

I am in love with the product! My daughter (who will be 2 in just a couple of weeks) was recently battling severe teething pain (her molars are coming in) Then I picked up my tube of Baby ORAJEL Naturals! It was exactly what we needed. It was safe and soothed her pain

– Corrine, Pennsylvania

9. Defendant’s representations that the Products are natural is false and misleading because each of the Products contains multiple ingredients that are synthetic and artificial, including ingredients that are associated with the risk of developing severe health problems.

10. United States regulatory organizations have clearly delineated between natural ingredients and synthetic ingredients.

11. In 2013, the 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. Ex. E.

12. The term “synthetic” is also defined by federal statute as “a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.” 7 U.S.C. § 6502(21).

13. Each of the Products contains synthetic ingredients, some of which are associated with the development of severe health problems. Each of the Products contains Calcearea Phosphorica, which is synthetic. Defendant's Baby Orajel Naturals tablets also contains Magnesium Stearate. Defendant's Baby Orajel Natural Gel and Baby Orajel Natural Nighttime Gel each contain sodium benzoate, potassium sorbate, sorbic acid, glycerin and hydroxyethylcellulose. As is explained below, each of these ingredients is artificial and synthetic, and some are associated with the risk of developing severe health problems:

- a. **Calcearea Phosphorica** ($10\text{CaO} \cdot 3\text{P}_2\text{O}_5 \cdot \text{H}_2\text{O}$) is a white, amorphous, tasteless, odorless powder. It is extracted from bones by dissolving them in hydrochloric acid and precipitating with ammonium hydroxide. *See* Ex. F.
- b. **Sodium benzoate** is a chemical preservative.⁴ 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.⁵ Sodium benzoate has been shown to cause DNA damage and chromosomal aberrations.⁶ When sodium benzoate combines with ascorbic acid (an ingredient common in many food products) the two substances can react to produce benzene, which is a highly toxic carcinogen.

⁴ http://www.ewg.org/skindeep/ingredient/705989/SODIUM_BENZOATE/;
<http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2011/ucm274535.htm>.

⁵ 21 C.F.R. § 184.1733.

⁶ 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).

- c. **Potassium Sorbate** is a chemical preservative.⁷ See 21 C.F.R. § 582.3640. It is created by using potassium hydroxide (KOH) to neutralize sorbic acid (C₆H₈O₂). Studies have shown Potassium Sorbate to have genotoxic effects on humans and other mammals.⁸ It causes chromosomal aberrations in cells, which can trigger the development of cancer.⁹
- d. **Magnesium Stearate** is a white powder synthesized by the reaction of sodium stearate and magnesium sulfate. Magnesium stearate is used as a lubricant for pharmaceutical preparations and as an anti-sticking agent in medical devices. There have been reports that the consumption of magnesium stearate may pose health risks. Specifically, magnesium stearate has been shown to suppress immune cells that fight off cancer.¹⁰
- e. **Glycerin** is a factory-produced texturizer that is created by complex processing. It is recognized by federal regulations as synthetic. See 7 C.F.R. § 205.605(b). It is commonly used as a filler and thickening agent. It requires multiple processing steps in an industrial environment to create Glycerin. Therefore, it cannot be described as “natural.” A technical evaluation report compiled by the USDA AMS Agricultural Analytics Division for the USDA National Organic Program explains that Glycerin is “produced by a hydrolysis of fats and oils” and is listed in the USDA Organic Program’s National List as a “synthetic nonagricultural (nonorganic) substance.” The same report lists several methods of producing

⁷ <http://www.fda.gov/ICECI/EnforcementActions/WarningLetters/2011/ucm274535.htm>.

⁸ Sevcn Mamur et al., *Does Potassium Sorbate Induce Genotoxic or Mutagenic Effects in Lymphocytes?*, TOXICOLOGY IN VITRO 790, 793 (2010).

⁹ *Id.*

¹⁰ P.W. Tebbey & T.M. Buttke, *Molecular Basis for the Immunosuppressive Action of Stearic Acid on T Cells*, IMMUNOLOGY 379 (1990).

Glycerin, each of which involve numerous steps that include the use of high temperatures and pressure and purification to get an end product:

Table 2 Processes for producing glycerin by hydrolysis of fats and oils	
Lemmens Fryer's Process	Oil or fat is subjected in an autoclave to the conjoint action of heat and pressure (about 100 PSI) in the presence of an emulsifying and accelerating agent, e.g. zinc oxide or hydroxide (sodium hydroxide can be substituted) for about eight hours. The strong solution of glycerin formed is withdrawn and replaced by a quantity of hot, clean and preferably distilled water equal to about one third to one fourth of the weight of the original charge of oil or fat and treatment continued for an additional four hours. The dilute glycerin obtained from the latter part of the process is drawn off and used for the initial treatment of the further charge of oil or fat.
Budde and Robertson's Process	The oils or fats are heated and mechanically agitated with water and sulphuric acid gas, under pressure in a closed vessel or autoclave. The advantage claimed for the process are that the contents of the vessel are free from foreign matter introduced by reagents and need no purification; that the liberated glycerin is in the form of a pure and concentrated solution; that no permanent emulsion is formed and that the fatty acids are not discolored.
Ittner's Process	Coconut oil is kept in an autoclave in the presence of water at 70 atmospheres pressure and 225-245°C temperature and split into fatty acids and glycerin, both being soluble under these conditions in water. The glycerin solution separates in the bottom of the autoclave. The aqueous solution contains at the end of the splitting process more than 30 percent glycerin.
Continuous High Pressure Hydrolysis	In this process a constant flow of fat is maintained flowing upward through an autoclave column tower against a downward counter-flow of water at a pressure of 600 PSI maintained at temperature of 480-495°F. Under these conditions, the fat is almost completely miscible in water and the hydrolysis take place in a very short time. The liberated fatty acids, washed free of glycerin by the downward percolating water, leave the top of the column and pass through a flash tank while the liberated glycerin dissolves in the downward flow of water and is discharged from the bottom of the tower into the sweet-water storage tank.

- f. **Hydroxyethylcellulose** is a modified cellulose polymer. It is used as a gelling and thickening agent.
 - g. **Sorbic Acid** is a chemical preservative. *See* 21 C.F.R. § 582.3089. It is produced commercially by condensing crotonaldehyde and ketene in the presence of boron trifluoride.
14. Given the presence of these synthetic and artificial ingredients in the Products, Defendant's representations that they are natural were deceptive and misleading.

15. 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 term "natural" to mean that none of the ingredients are synthetic or artificial.

16. Furthermore, 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 the true nature of the ingredients merely by reading the ingredients label.

17. Discovering that the ingredients are unnatural and synthetic requires a scientific investigation and knowledge of chemistry beyond that of the average consumer. That is why, even though the Calcarea Phosphorica, Magnesium Stearate, Sodium Benzoate, Glycerin, Hydroxyethylcellulose, Potassium Sorbate, and Sorbic Acid are identified on the back of the packaging in the Products' ingredients lists, the reasonable consumer would not understand – nor is she expected to understand - that these ingredients are synthetic.

18. Moreover, the reasonable consumer is not expected or required to scour the ingredients list on the back of the product in order to confirm or debunk Defendant's prominent front-of-the-product claims, representations, and warranties.

19. Defendant did not disclose that Calcarea Phosphorica, Magnesium Stearate, Sodium Benzoate, Glycerin, Hydroxyethylcellulose, Potassium Sorbate, and Sorbic Acid are synthetic ingredients. A reasonable consumer understands Defendant's natural claim to mean that the Products are natural and do not contain synthetic ingredients.

20. The aforementioned material misrepresentation induced consumers, including Plaintiff and Class Members, to pay a premium to purchase the Products. Plaintiff and Class Members relied on Defendant's false and misleading misrepresentations in purchasing the Products at a premium price above comparable alternatives that are not represented to be natural.

If not for Defendant's misrepresentations, Plaintiff and Class Members would not have been willing to purchase the Products at a premium price. Accordingly, they have suffered an injury as a result of Defendant's misrepresentations.

JURISDICTION AND VENUE

21. Jurisdiction is proper pursuant to 28 U.S.C. § 1332(d)(2). Plaintiff is a citizen of the State of New York and resides in Brooklyn. Defendant is a corporation with its principal place of business in Ewing, New Jersey, and is organized and existing under the laws of the State of Delaware. Upon information and belief, the amount in controversy is in excess of \$5,000,000, exclusive of interests and costs.

22. This Court has personal jurisdiction over Defendant because Defendant conducts and transacts business in the State of New York, contracts to supply goods within the State of New York, and supplies goods within the State of New York. Defendant is also actively registered in the State of New York as a foreign business corporation.

23. Venue is proper because Plaintiff and many Class Members reside in the Eastern District of New York, and throughout the State of New York.

PARTIES

Plaintiff

24. Plaintiff Noelky Sullivan is an individual consumer who, at all times material hereto, was a citizen of New York residing in the City of Brooklyn. During the Class Period Plaintiff purchased the Products at stores in the State of New York and online.

25. Plaintiff purchased the Products because she saw the labeling, advertising, and read the packaging, which represented that the Products were natural. Plaintiff relied on Defendant's false, misleading, and deceptive representations about the Products. Had Plaintiff

known the truth—that the representations she relied upon in making her purchases were false, misleading, and deceptive—she would not have purchased the Products at a premium price.

Defendant

26. Defendant Dwight & Church, Inc. is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business in Ewing, New Jersey. Defendant manufactures, markets, advertises and distributes the Products throughout the United States. Defendant created and/or authorized the false, misleading and deceptive advertisements, packaging and labeling for the Products.

CLASS ALLEGATIONS

27. Plaintiff brings this matter on behalf of herself and those similarly situated. As detailed at length in this Complaint, Defendant orchestrated deceptive marketing and labeling practices. Defendant’s customers were uniformly impacted by and exposed to this misconduct. Accordingly, this Complaint is uniquely situated for class-wide resolution, including injunctive relief.

28. The Class is defined as all consumers who purchased one or more of the Products anywhere in the United States during the Class Period (the “Class”).

29. Plaintiff also seeks certification, to the extent necessary or appropriate, of a subclass of individuals who purchased the product in the State of New York at any time during the Class Period (the “New York Subclass”).

30. The Class and New York Subclass shall be referred to collectively throughout the Complaint as the Class.

31. The Class is properly brought and should be maintained as a class action under Rule 23(a), satisfying the class action prerequisites of numerosity, commonality, typicality, and adequacy because:

32. Numerosity: Class Members are so numerous that joinder of all members is impracticable. Plaintiff believes that there are thousands of consumers who are Class Members described above who have been damaged by Defendant's deceptive and misleading practices.

33. Commonality: The questions of law and fact common to the Class Members which predominate over any questions which may affect individual Class Members include, but are not limited to:

- a. Whether Defendant is responsible for the conduct alleged herein which was uniformly directed at all consumers who purchased the Products;
- b. Whether Defendant's misconduct set forth in this Complaint demonstrates that Defendant has engaged in unfair, fraudulent, or unlawful business practices with respect to the advertising, marketing, and sale of its Products;
- c. Whether Defendant made false and/or misleading statements to the Class and the public concerning the content and safety of its Products.
- d. Whether Defendant's false and misleading statements concerning its Products were likely to deceive the public;
- e. Whether Plaintiff and the Class are entitled to injunctive relief;
- f. Whether Plaintiff and the Class are entitled to money damages under the same causes of action as the other Class Members.

34. Typicality: Plaintiff is a member of the Class. Plaintiff's claims are typical of the claims of each Class Member in that every member of the Class was susceptible to the same

deceptive, misleading conduct and purchased the Defendant's Products. Plaintiff is entitled to relief under the same causes of action as the other Class Members.

35. Adequacy: Plaintiff is an adequate Class representative because her interests do not conflict with the interests of the Class Members she seeks to represent; her consumer fraud claims are common to all members of the Class and she has a strong interest in vindicating her rights; she has retained counsel competent and experienced in complex class action litigation and they intend to vigorously prosecute this action. Plaintiff has no interests which conflict with those of the Class. The Class Members' interests will be fairly and adequately protected by Plaintiff and her counsel. Defendant has acted in a manner generally applicable to the Class, making relief appropriate with respect to Plaintiff and the Class Members. The prosecution of separate actions by individual Class Members would create a risk of inconsistent and varying adjudications.

36. The Class is properly brought and should be maintained as a class action under Rule 23(b) because a class action is superior to traditional litigation of this controversy. Pursuant to Rule 23(b)(3), common issues of law and fact predominate over any other questions affecting only individual members of the Class. The Class issues fully predominate over any individual issue because no inquiry into individual conduct is necessary; all that is required is a narrow focus on Defendant's deceptive and misleading marketing and labeling practices. In addition, this Class is superior to other methods for fair and efficient adjudication of this controversy because, *inter alia*:

37. Superiority: A class action is superior to the other available methods for the fair and efficient adjudication of this controversy because:

- a. The joinder of thousands of individual Class Members is impracticable, cumbersome, unduly burdensome, and a waste of judicial and/or litigation resources;
- b. The individual claims of the Class Members may be relatively modest compared with the expense of litigating the claim, thereby making it impracticable, unduly burdensome, and expensive—if not totally impossible—to justify individual actions;
- c. When Defendant’s liability has been adjudicated, all Class Members’ claims can be determined by the Court and administered efficiently in a manner far less burdensome and expensive than if it were attempted through filing, discovery, and trial of all individual cases;
- d. This class action will promote orderly, efficient, expeditious, and appropriate adjudication and administration of Class claims;
- e. Plaintiff knows of no difficulty to be encountered in the management of this action that would preclude its maintenance as a class action;
- f. This class action will assure uniformity of decisions among Class Members;
- g. The Class is readily definable and prosecution of this action as a class action will eliminate the possibility of repetitious litigation;
- h. Class Members’ interests in individually controlling the prosecution of separate actions is outweighed by their interest in efficient resolution by single class action; and

- i. It would be desirable to concentrate in this single venue the litigation of all plaintiffs who were induced by Defendant's uniform false advertising to purchase its "Natural" Products.

38. Accordingly, this Class is properly brought and should be maintained as a class action under Rule 23(b)(3) because questions of law or fact common to Class Members predominate over any questions affecting only individual members, and because a class action is superior to other available methods for fairly and efficiently adjudicating this controversy.

INJUNCTIVE CLASS RELIEF

39. Rules 23(b)(1) and (2) contemplate a class action for purposes of seeking class-wide injunctive relief. Here, Defendant has engaged in conduct resulting in misleading consumers about ingredients in its Products. Since Defendant's conduct has been uniformly directed at all consumers in the United States, and the conduct continues presently, injunctive relief on a class-wide basis is a viable and suitable solution to remedy Defendant's continuing misconduct.

40. The injunctive Class is properly brought and should be maintained as a class action under Rule 23(a), satisfying the class action prerequisites of numerosity, commonality, typicality, and adequacy because:

- a. Numerosity: Individual joinder of the injunctive Class Members would be wholly impracticable. Defendant's Products have been purchased by thousands of people throughout the United States.
- b. Commonality: Questions of law and fact are common to members of the Class. Defendant's misconduct was uniformly directed at all consumers. Thus, all members of the Class have a common cause against Defendant to

stop its misleading conduct through an injunction. Since the issues presented by this injunctive Class deal exclusively with Defendant's misconduct, resolution of these questions would necessarily be common to the entire Class. Moreover, there are common questions of law and fact inherent in the resolution of the proposed injunctive class, including, *inter alia*:

- i. Resolution of the issues presented in the 23(b)(3) class;
 - ii. Whether members of the Class will continue to suffer harm by virtue of Defendant's deceptive product marketing and labeling; and
 - iii. Whether, on equitable grounds, Defendant should be prevented from continuing to deceptively mislabel its Products as natural.
- c. Typicality: Plaintiff's claims are typical of the claims of the injunctive Class because her claims arise from the same course of conduct (i.e. Defendant's deceptive and misleading marketing, labeling, and advertising practices). Plaintiff is a typical representative of the Class because, like all members of the injunctive Class, she purchased Defendant's Products which were sold unfairly and deceptively to consumers throughout the United States.
- d. Adequacy: Plaintiff will fairly and adequately represent and protect the interests of the injunctive Class. Her consumer protection claims are common to all members of the injunctive Class and she has a strong interest in vindicating her rights. In addition, Plaintiff and the Class are represented by counsel who is competent and experienced in both consumer protection and class action litigation.

41. The injunctive Class is properly brought and should be maintained as a class action under Rule 23(b)(2) because Plaintiff seeks injunctive relief on behalf of the Class Members on grounds generally applicable to the entire injunctive Class. Certification under Rule 23(b)(2) is appropriate because Defendant has acted or refused to act in a manner that applies generally to the injunctive Class (i.e. Defendant has marketed its Products using the same misleading and deceptive labeling to all of the Class Members). Any final injunctive relief or declaratory relief would benefit the entire injunctive Class as Defendant would be prevented from continuing its misleading and deceptive marketing practices and would be required to honestly disclose to consumers the nature of the contents of its Products.

FIRST CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 349
(On Behalf of Plaintiff and All Class and/or New York Subclass Members)

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

43. New York General Business Law Section 349 (“GBL § 349”) declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade, or commerce or in the furnishing of any service in this state . . .”

44. The conduct of Defendant alleged herein constitutes recurring, “unlawful” deceptive acts and practices in violation of GBL § 349, and as such, Plaintiff and the Class and/or New York Subclass Members seek monetary damages and the entry of preliminary and permanent injunctive relief against Defendant, enjoining it from inaccurately describing, labeling, marketing, and promoting its Products.

45. There is no adequate remedy at law.

46. Defendant misleadingly, inaccurately, and deceptively presents its Products to consumers.

47. Defendant's improper consumer-oriented conduct—including labeling and advertising the Products as natural—is misleading in a material way in that it, *inter alia*, induced Plaintiff and Class and/or New York Subclass Members to purchase and pay a premium for Defendant's Products and to use those Products when they otherwise would not have.

48. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

49. Plaintiff and the Class and/or New York Subclass Members have been injured inasmuch as they paid a premium for products that were—contrary to Defendant's representations—not natural. Accordingly, Plaintiff and the Class and/or New York Subclass Members received less than what they bargained and/or paid for.

50. Defendant's advertising and Product packaging and labeling induced the Plaintiff and Class and/or New York Subclass Members to buy Defendant's Products and to pay a premium price for them.

51. Defendant's deceptive and misleading practices constitute a deceptive act and practice in the conduct of business in violation of New York General Business Law §349(a) and Plaintiff and the Class have been damaged thereby.

52. As a result of Defendant's recurring, "unlawful" deceptive acts and practices, Plaintiff and Class and/or New York Subclass Members are entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant's unlawful conduct, interest, and attorneys' fees and costs.

SECOND CAUSE OF ACTION
VIOLATION OF NEW YORK GBL § 350

(On Behalf of Plaintiff and All Class and/or New York Subclass Members)

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

54. N.Y. Gen. Bus. Law § 350 provides, in part, as follows:

False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.

55. N.Y. Gen. Bus. Law § 350a(1) provides, in part, as follows:

The term ‘false advertising, including labeling, of a commodity, or of the kind, character, terms or conditions of any employment opportunity if such advertising is misleading in a material respect. In determining whether any advertising is misleading, there shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity or employment to which the advertising relates under the conditions proscribed in said advertisement, or under such conditions as are customary or usual . . .

56. Defendant's labeling and advertisements contain untrue and materially misleading statements concerning Defendant's Products inasmuch as they misrepresent that the Products are natural.

57. Plaintiff and the Class and/or New York Subclass Members have been injured inasmuch as they relied upon the labeling, packaging and advertising and paid a premium for Products that were—contrary to Defendant's representations—not natural. Accordingly, Plaintiff and the Class and/or New York Subclass Members received less than what they bargained and/or paid for.

58. Defendant's advertising, packaging and product labeling induced the Plaintiff and Class and/or New York Subclass Members to buy Defendant's Products.

59. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

60. Defendant's conduct constitutes multiple, separate violations of N.Y. Gen. Bus. Law § 350.

61. Defendant made the material misrepresentations described in this Complaint in Defendant's advertising, and on the Products' packaging and labeling.

62. Defendant's material misrepresentation were substantially uniform in content, presentation, and impact upon consumers at large. Moreover, all consumers purchasing the Products were and continue to be exposed to Defendant's material misrepresentations.

63. As a result of Defendant's recurring, "unlawful" deceptive acts and practices, Plaintiff and Class and/or New York Subclass Members are entitled to monetary, compensatory, treble and punitive damages, injunctive relief, restitution and disgorgement of all moneys obtained by means of Defendant's unlawful conduct, interest, and attorneys' fees and costs.

THIRD CAUSE OF ACTION
VIOLATION OF STATE CONSUMER PROTECTION STATUTES
(On Behalf of Plaintiff and All Class Members)

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

65. Plaintiff and Class Members have been injured as a result of Defendant's violations of the following state consumer protection statutes, which also provide a basis for redress to Plaintiff and Class Members based on Defendant's fraudulent, deceptive, unfair and unconscionable acts, practices and conduct.

66. Defendant's conduct as alleged herein violates the consumer protection, unfair trade practices and deceptive acts laws of each of the following jurisdictions:

- a. **Alaska:** Defendant's practices were and are in violation of Alaska's Unfair Trade Practices and Consumer Protection Act, Alaska Stat. § 45.50.471, *et seq.*
- b. **Arizona:** Defendant's practices were and are in violation of Arizona's Consumer Fraud Act, Ariz. Rev. Stat. Ann. §§ 44-1521, *et seq.*
- c. **Arkansas:** Defendant's practices were and are in violation of Arkansas Code Ann. § 4-88-101, *et seq.*
- d. **California:** Defendant's practices were and are in violation of California Consumer Legal Remedies Act, Civil Code § 1750, *et seq.*, and California's Unfair Competition Law, California Business and Professions Code § 17200, *et seq.*
- e. **Colorado:** Defendant's practices were and are in violation of Colorado's Consumer Protection Act, Colo. Rev. Stat. §§ 61-1-101, *et seq.*

- f. **Connecticut:** Defendant's practices were and are in violation of Connecticut's Gen. Stat. § 42-110a, *et seq.*
- g. **Delaware:** Defendant's practices were and are in violation of Delaware's Consumer Fraud Act, Del. Code Ann. tit. 6, § 2511, *et seq.* and the Deceptive Trade Practices Act, Del. Code Ann. tit. 6, § 2531, *et seq.*
- h. **District of Columbia:** Defendant's practices were and are in violation of the District of Columbia's Consumer Protection Act, D.C. Code § 28-3901, *et seq.*
- i. **Florida:** Defendant's practices were and are in violation of the Florida Deceptive and Unfair Trade Practices Act, Fla. Stat. Ann. § 501.201, *et seq.*
- j. **Hawaii:** Defendant's practices were and are in violation of the Hawaii's Uniform Deceptive Trade Practices Act, Haw. Rev. Stat. § 481A-1, *et seq.* and Haw. Rev. Stat. § 480-2.
- k. **Idaho:** Defendant's practices were and are in violation of Idaho's Consumer Protection Act, Idaho Code Ann. § 48-601, *et seq.*
- l. **Illinois:** Defendant's acts and practices were and are in violation of Illinois' Consumer Fraud and Deceptive Business Practices Act, 815 Ill. Comp. Stat. 505/2; and Uniform Deceptive Trade Practices Act, 815 Ill. Comp. Stat. 510/2.
- m. **Indiana:** Defendant's practices were and are in violation of Indiana's Deceptive Consumer Sales Act, Ind. Code Ann. § 24-5-0.5-1, *et seq.*
- n. **Kansas:** Defendant's practices were and are in violation of Kansas's Consumer Protection Act, Kat. Stat. Ann. § 50-623, *et seq.*
- o. **Kentucky:** Defendant's practices were and are in violation of Kentucky's Consumer Protection Act, Ky. Rev. Stat. Ann. § 367.110, *et seq.*

- p. **Maine:** Defendant's practices were and are in violation of the Maine Unfair Trade Practices Act, 5 Me. Rev. Stat. Ann. Tit. 5, § 205-A, *et seq.* and 10 Me. Rev. Stat. Ann. § 1101, *et seq.*
- q. **Maryland:** Defendant's practices were and are in violation of Maryland's Consumer Protection Act, Md. Code Ann. Com. Law § 13-101, *et seq.*
- r. **Massachusetts:** Defendant's practices were unfair and deceptive acts and practices in violation of Massachusetts' Consumer Protection Act, Mass. Gen. Laws ch. 93A, § 2.
- s. **Michigan:** Defendant's practices were and are in violation of Michigan's Consumer Protection Act, Mich. Comp. Laws Ann. § 445.901, *et seq.*
- t. **Minnesota:** Defendant's practices were and are in violation of Minnesota's Prevention of Consumer Fraud Act, Minn. Stat. § 325F.68, *et seq.* and the Unlawful Trade Practices law, Minn. Stat. § 325D.09, *et seq.*
- u. **Missouri:** Defendant's practices were and are in violation of Missouri's Merchandising Practices Act, Mo. Rev. Stat. § 407.010, *et seq.*
- v. **Nebraska:** Defendant's practices were and are in violation of Nebraska's Consumer Protection Act, Neb. Rev. Stat. § 59-1601, *et seq.* and the Uniform Deceptive Trade Practices Act, § 87-302, *et seq.*
- w. **Nevada:** Defendant's practices were and are in violation of Nevada's Deceptive Trade Practices Act, Nev. Rev. Stat. Ann. §§ 598.0903 and 41.600.

- x. **New Hampshire:** Defendant's practices were and are in violation of New Hampshire's Regulation of Business Practices for Consumer Protection, N.H. Rev. Stat. Ann. § 358-A:1, *et seq.*
- y. **New Jersey:** Defendant's practices were and are in violation of New Jersey's Consumer Fraud Act, N.J. Stat. Ann. § 56:8-1, *et seq.*
- z. **New Mexico:** Defendant's practices were and are in violation of New Mexico's Unfair Practices Act, N.M. Stat. Ann. § 57-12-1, *et seq.*
- aa. **New York:** Defendant's practices were in and are in violation of New York's Gen. Bus. Law §§ 349, *et seq.*
- bb. **North Carolina:** Defendant's practices were and are in violation of North Carolina's Unfair Deceptive Trade Practices Act, N.C. Gen. Stat. Ann. § 75-1, *et seq.*
- cc. **North Dakota:** Defendant's practices were and are in violation of North Dakota's Unlawful Sales or Advertising Practices law, N.D. Cent. Code § 51-15-01, *et seq.*
- dd. **Ohio:** Defendant's practices were and are in violation of Ohio's Consumer Sales Practices Act, Ohio Rev. Code Ann. § 1345.01, *et seq.* and Ohio's Deceptive Trade Practices Act. Ohio Rev. Code Ann. § 4165.01, *et seq.*
- ee. **Oklahoma:** Defendant's practices were and are in violation of Oklahoma's Consumer Protection Act, Okla. Stat. Ann. tit. 15 § 751, *et seq.*, and Oklahoma's Deceptive Trade Practices Act, Okla. Stat. Ann. tit. 78 § 51, *et seq.*
- ff. **Oregon:** Defendant's practices were and are in violation of Oregon's Unlawful Trade Practices law, Or. Rev. Stat. § 646.605, *et seq.*

- gg. **Pennsylvania:** Defendant's practices were and are in violation of Pennsylvania's Unfair Trade Practice and Consumer Protection Law, 73 Pa. Stat. Ann. § 201-1, *et seq.*
- hh. **Rhode Island:** Defendant's practices were and are in violation of Rhode Island's Deceptive Trade Practices Act, R.I. Gen. Laws § 6-13.1-1, *et seq.*
- ii. **South Dakota:** Defendant's practices were and are in violation of South Dakota's Deceptive Trade Practices and Consumer Protection Act, S.D. Codified Laws § 37-24-1, *et seq.*
- jj. **Texas:** Defendant's practices were and are in violation of Texas' Deceptive Trade Practices Consumer Protection Act, Tex. Bus. & Com. Code Ann. § 17.41, *et seq.*
- kk. **Utah:** Defendant's practices were and are in violation of Utah's Consumer Sales Practices Act, Utah Code Ann. § 13-11-1, *et seq.*, and Utah's Truth in Advertising Law, Utah Code Ann. § 13-11a-1, *et seq.*
- ll. **Vermont:** Defendant's practices were and are in violation of Vermont's Consumer Fraud Act, Vt. Stat. Ann. tit. 9 § 2451, *et seq.*
- mm. **Washington:** Defendant's practices were and are in violation of Washington Consumer Protection Act, Wash. Rev. Code Ann. § 19.86, *et seq.*
- nn. **West Virginia:** Defendant's practices were and are in violation of West Virginia's Consumer Credit and Protection Act, W. Va. Code § 46A-6-101, *et seq.*
- oo. **Wisconsin:** Defendant's practices were and are in violation of Wisconsin's Consumer Act, Wis. Stat. §421.101, *et seq.*

pp. **Wyoming:** Defendant's practices were and are in violation of Wyoming's Consumer Protection Act, Wyo. Stat. Ann. §40-12-101, *et seq.*

67. Defendant violated the aforementioned states' unfair and deceptive acts and practices laws by representing that the Products are natural.

68. Contrary to Defendant's representations, the Products are not natural.

69. Defendant's misrepresentations were material to Plaintiff's and Class Members' decision to pay a premium for the Products.

70. Defendant made its untrue and/or misleading statements and representations willfully, wantonly, and with reckless disregard for the truth.

71. As a result of Defendant's violations of the aforementioned states' unfair and deceptive practices laws, Plaintiff and Class Members paid a premium for the Products.

72. As a result of Defendant's violations, Defendant has been unjustly enriched.

73. Pursuant to the aforementioned states' unfair and deceptive practices laws, Plaintiff and Class Members are entitled to recover compensatory damages, restitution, punitive and special damages including but not limited to treble damages, reasonable attorneys' fees and costs and other injunctive or declaratory relief as deemed appropriate or permitted pursuant to the relevant law.

FOURTH CAUSE OF ACTION
BREACH OF EXPRESS WARRANTY
(On Behalf of Plaintiff and All Class Members)

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

75. Defendant provided the Plaintiff and Class Members with an express warranty in the form of written affirmations of fact promising and representing that the Products are natural.

76. The above affirmations of fact were not couched as “belief” or “opinion,” and were not “generalized statements of quality not capable of proof or disproof.”

77. These affirmations of fact became part of the basis for the bargain and were material to the Plaintiff’s and Class Members’ transactions.

78. Plaintiff and Class Members reasonably relied upon the Defendant’s affirmations of fact and justifiably acted in ignorance of the material facts omitted or concealed when they decided to buy Defendant’s Products.

79. Within a reasonable time after they knew or should have known of Defendant’s breach, Plaintiff, on behalf of herself and Class Members, placed Defendant on notice of its breach, giving Defendant an opportunity to cure its breach, which it refused to do.

80. Defendant breached the express warranty because the Products are not natural.

81. Defendant thereby breached the following state warranty laws:

- a. Code of Ala. § 7-2-313;
- b. Alaska Stat. § 45.02.313;
- c. A.R.S. § 47-2313;
- d. A.C.A. § 4-2-313;
- e. Cal. Comm. Code § 2313;
- f. Colo. Rev. Stat. § 4-2-313;
- g. Conn. Gen. Stat. § 42a-2-313;
- h. 6 Del. C. § 2-313;
- i. D.C. Code § 28:2-313;
- j. Fla. Stat. § 672.313;
- k. O.C.G.A. § 11-2-313;

- l. H.R.S. § 490:2-313;
- m. Idaho Code § 28-2-313;
- n. 810 I.L.C.S. 5/2-313;
- o. Ind. Code § 26-1-2-313;
- p. Iowa Code § 554.2313;
- q. K.S.A. § 84-2-313;
- r. K.R.S. § 355.2-313;
- s. 11 M.R.S. § 2-313;
- t. Md. Commercial Law Code Ann. § 2-313;
- u. 106 Mass. Gen. Laws Ann. § 2-313;
- v. M.C.L.S. § 440.2313;
- w. Minn. Stat. § 336.2-313;
- x. Miss. Code Ann. § 75-2-313;
- y. R.S. Mo. § 400.2-313;
- z. Mont. Code Anno. § 30-2-313;
- aa. Neb. Rev. Stat. § 2-313;
- bb. Nev. Rev. Stat. Ann. § 104.2313;
- cc. R.S.A. 382-A:2-313;
- dd. N.J. Stat. Ann. § 12A:2-313;
- ee. N.M. Stat. Ann. § 55-2-313;
- ff. N.Y. U.C.C. Law § 2-313;
- gg. N.C. Gen. Stat. § 25-2-313;
- hh. N.D. Cent. Code § 41-02-30;

- ii. II. O.R.C. Ann. § 1302.26;
- jj. 12A Okl. St. § 2-313;
- kk. Or. Rev. Stat. § 72-3130;
- ll. 13 Pa. Rev. Stat. § 72-3130;
- mm. R.I. Gen. Laws § 6A-2-313;
- nn. S.C. Code Ann. § 36-2-313;
- oo. S.D. Codified Laws, § 57A-2-313;
- pp. Tenn. Code Ann. § 47-2-313;
- qq. Tex. Bus. & Com. Code § 2.313;
- rr. Utah Code Ann. § 70A-2-313;
- ss. 9A V.S.A. § 2-313;
- tt. Va. Code Ann. § 59.1-504.2;
- uu. Wash. Rev. Code Ann. § 6A.2-313;
- vv. W. Va. Code § 46-2-313;
- ww. Wis. Stat. § 402.313;
- xx. Wyo. Stat. § 34.1-2-313.

82. As a direct and proximate result of Defendant's breach of express warranty, Plaintiff and Class Members were damaged in the amount of the price they paid for the Products, in an amount to be proven at trial.

FIFTH CAUSE OF ACTION
VIOLATION OF THE MAGNUSSON-MOSS
WARRANTY ACT, 15 U.S.C. § 2301 et seq.
(On Behalf of Plaintiff and All Class Members)

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

84. Plaintiff brings this claim individually and on behalf of all members of the Class. Upon certification, the Class will consist of more than 100 named Plaintiffs.

85. The Magnusson-Moss Warranty Act provides a federal remedy for consumers who have been damaged by the failure of a supplier or warrantor to comply with any obligation under a written warranty or implied warranty, or other various obligations established under the Magnusson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.*

86. The Product is a “consumer Product” within the meaning of the Magnusson-Moss Warranty Act, 15 U.S.C. § 2301(1).

87. Plaintiff and other members of the Class are “consumers” within the meaning of the Magnusson-Moss Warranty Act, 15 U.S.C. § 2301(3).

88. Defendant is a “supplier” and “warrantor” within the meaning of the Magnusson-Moss Warranty Act, 15 U.S.C. §§ 2301(4) & 2301(5).

89. Defendant represented in writing that the Products are natural.

90. These statements were made in connection with the sale of the Products and relate to the nature of the Products and affirm and promise that the Products are as represented and defect free and, as such, are “written warranties” within the meaning of the Magnusson-Moss Warranty Act, 15 U.S.C. § 2301(6)(A).

91. As alleged herein, Defendant breached the written warranty by selling consumers Products that are not natural.

92. The Products do not conform to the Defendant’s written warranty and therefore violate the Magnusson-Moss Warranty Act, 15 U.S.C. § 2301 *et seq.* Consequently, Plaintiff and the other members of the Class have suffered injury and are entitled to damages in an amount to be proven at trial.

SIXTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTY OF MERCHANTABILITY
(On Behalf of Plaintiff and All Class Members)

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

94. Defendant is in the business of manufacturing, distributing, marketing and advertising pain relievers for teething babies.

95. Under the Uniform Commercial Code's implied warranty of merchantability, the Defendant warranted to Plaintiff and Class Members that the Products are natural.

96. Defendant breached the implied warranty of merchantability in that Defendant's Products' ingredients deviate from the label and product description, and reasonable consumers expecting a product that conforms to its label would not accept the Defendant's products if they knew that they actually contained synthetic ingredients and are not natural.

97. Within a reasonable amount of time after the Plaintiff discovered that the Products contain synthetic ingredients, Plaintiff notified the Defendant of such breach.

98. The inability of the Defendant's Products to meet the label description was wholly due to the Defendant's fault and without Plaintiff's or Class Members' fault or neglect, and was solely due to the Defendant's manufacture and distribution of the Products to the public.

99. As a result of the foregoing, Plaintiff and Class Members have been damaged in the amount paid for the Defendant's Products, together with interest thereon from the date of purchase.

SEVENTH CAUSE OF ACTION
BREACH OF IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE
(On Behalf of Plaintiff and All Class Members)

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

101. Plaintiff and Class Members bought the Defendant's Products with the specific purpose of buying pain relievers for teething babies that contained exclusively natural ingredients.

102. Defendant knew or had reason to know that the Plaintiff and other Class Members were buying its Products with the specific purpose of buying products that contained exclusively natural ingredients.

103. Plaintiff and the other Class Members, intending to use wholly natural products, relied on the Defendant in selecting its Products to fit their specific intended use.

104. Defendant held itself out as having particular knowledge of the Defendant's Products' ingredients and safety.

105. Plaintiff's and Class Members' reliance on Defendant in selecting Defendant's Products to fit their particular purpose was reasonable given Defendant's claims and representations in its advertising, packaging and labeling concerning the Products' ingredients and safety.

106. Plaintiff and the other Class Members' reliance on Defendant in selecting Defendant's Products to fit their particular use was reasonable given Defendant's particular knowledge of the Products it manufactures and distributes.

107. As a result of the foregoing, Plaintiff and Class Members have been damaged in the amount paid for the Defendant's Products, together with interest thereon from the date of purchase.

EIGHTH CAUSE OF ACTION
COMMON LAW UNJUST ENRICHMENT
(On Behalf of Plaintiff and All Class Members in the Alternative)

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

109. Plaintiff, on behalf of herself and consumers nationwide, brings a common law claim for unjust enrichment.

110. Defendant's conduct violated, *inter alia*, state and federal law by manufacturing, advertising, marketing, and selling its Products while misrepresenting and omitting material facts.

111. Defendant's unlawful conduct as described in this Complaint allowed Defendant to knowingly realize substantial revenues from selling its Products at the expense of, and to the detriment or impoverishment of, Plaintiff and Class Members, and to Defendant's benefit and enrichment. Defendant has thereby violated fundamental principles of justice, equity, and good conscience.

112. Plaintiff and Class Members conferred significant financial benefits and paid substantial compensation to Defendant for Products that were not as Defendant represented them to be.

113. Under New York's common law principles of unjust enrichment, it is inequitable for Defendant to retain the benefits conferred by Plaintiff's and Class Members' overpayments.

114. Plaintiff and Class Members seek disgorgement of all profits resulting from such overpayments and establishment of a constructive trust from which Plaintiff and Class Members may seek restitution.

JURY DEMAND

Plaintiff demands a trial by jury on all issues.

WHEREFORE, Plaintiff, on behalf of herself and the Class, prays for judgment as follows:

- (a) Declaring this action to be a proper class action and certifying Plaintiff as the representative of the Class under Rule 23 of the FRCP;
- (b) Entering preliminary and permanent injunctive relief against Defendant, directing Defendant to correct its practices and to comply with consumer protection statutes nationwide, including New York consumer protection law;
- (c) Awarding monetary damages, including treble damages;
- (d) Awarding punitive damages;
- (e) Awarding Plaintiff and Class Members their costs and expenses incurred in this action, including reasonable allowance of fees for Plaintiff's attorneys and experts, and reimbursement of Plaintiff's expenses; and
- (f) Granting such other and further relief as the Court may deem just and proper.

Dated: August 13, 2015

THE SULTZER LAW GROUP, P.C.

Joseph Lipari /s/

By: _____

Joseph Lipari, Esq. (Bar ID #: JL3194)

Jason P. Sultzer, Esq. (Bar ID #: JS4546)

Jean M. Sedlak, Esq. (Bar ID #: JS4895)

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Fax: (888) 749-7747

liparij@thesultzerlawgroup.com

Counsel for Plaintiff and the Class

EXHIBIT A



Contact Us Where to Buy

Coupons

Products Child Oral Care Adult Oral Care Resource Center About Orajel™

Home / Child Oral Care / Teething Relief / Baby Orajel™ Naturals Teething Tablets



Baby Orajel™ Naturals Teething Tablets

With the essence of Chamomilla (commonly known as Chamomile), Baby Orajel™ Naturals Teething Quick-Dissolving Tablets help to soothe your baby's teething pain safely and naturally.

- Homeopathic formula
- Benzocaine-free
- Belladonna-free
- Paraben-free

#1 Pharmacist recommended homeopathic brand for teething pain relief.

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How To Use

Product Label

Expert Advice

Testimonials

Video Testimonials

Drug Facts

Active ingredient Purpose

Calcarea phosphorica,
3x HPUS.....Supports dentition
Coffea cruda, 3x HPUS..... Restlessness
Chamomilla, 3x HPUS Irritability

Uses ■ temporarily relieves the simple symptoms of restlessness and wakeful irritability due to cutting teeth ■ for children under age 2, consult with your physician or pediatrician

Warnings

Stop use and ask a doctor if ■ symptoms persist for more than 7 days, if irritation persists or if inflammation, fever or infection develops

Keep out of reach of children. In case of overdose or allergic reaction, get medical help or contact a Poison Control Center right away.

Directions ■ dissolve 2-3 tablets (1 at a time) under baby's tongue or in a teaspoon of water prior to being given to baby ■ can give 2-3 tablets every hour up to 4 times per day or as recommended by a licensed health care professional

Other information ■ do not use if seal is cut or torn prior to opening

Inactive ingredients

cellulose, lactose, magnesium stearate

Questions or comments?

call us at **1-800-952-5080** M-F
9am-5pm ET or visit our website at
www.oralnaturals.com

Composición

Ingrediente activo Propósito

Calcarea phosphorica, 3x HPUS	Apoya la dentición
Coffea cruda, 3x HPUS	Inquietud
Chamomilla, 3x HPUS	Irritabilidad

Indicaciones ■ alivio temporal de los síntomas sencillos de inquietud e irritabilidad en vela debido a la aparición de dientes ■ para niños menores de 2 años, consultar a su médico o pediatra

Advertencias Dejar de usar y consultar a un médico si ■ los síntomas persisten por más de 7 días, si persiste la irritación o si se manifiesta inflamación, fiebre o infección

Mantener fuera del alcance de los niños. En caso de sobredosis o reacción alérgica, buscar de inmediato ayuda médica o ponerse en contacto con un centro de intoxicaciones. (Continúa adentro)

Recommended **Child** Products





TEETHING RELIEF
**Baby Orajel™
Naturals Teething Gel**



TEETHING RELIEF
**Baby Orajel™
Naturals Nighttime
Teething Gel**



EARLY TOOTH AND
GUM CARE
**Baby Orajel™ Elmo
Tooth & Gum
Cleanser With
Toothbrush**



ADULT ORAL CARE
CONTACT US

CHILD ORAL CARE
FOR PROFESSIONALS

RESOURCE CENTER
WHERE TO BUY

ABOUT ORAJEL™
COUPONS

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Orajel™ Single Dose: *For temporary topical pain relief.

EXHIBIT B



Contact Us Where to Buy

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Home / Child Oral Care / Teething Relief / Baby Orajel™ Naturals Teething Gel



Baby Orajel™ Naturals Teething Gel

With the soothing power of Chamomilla (commonly known as Chamomile), Baby Orajel™ Naturals Teething Gel offers safe, effective, and naturally derived teething pain relief for your baby.

- Homeopathic formula
- Benzocaine-free
- Belladonna-free
- Paraben-free

#1 Pharmacist recommended homeopathic brand for teething pain relief.

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How To Use

Product Label

Expert Advice

Testimonials

Video Testimonials

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<p>Warnings Stop use and ask a physician if</p> <ul style="list-style-type: none"> ■ symptoms persist for more than 7 days or if irritation persists ■ inflammation, fever or infection develops 	<p>Advertencias Dejar de usar y consultar a un médico si</p> <ul style="list-style-type: none"> ■ los síntomas persisten por más de 7 días, si persiste la irritación ■ se manifiesta inflamación, fiebre o infección 																
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<p>Directions ■ wash hands ■ cut open tip of tube on score mark ■ use your fingertip or cotton applicator to apply a small, pea-size amount of Baby Orajel Naturals and spread over the gums ■ apply to the affected area up to 6 times daily or as directed by a physician or healthcare provider ■ for infants under 4 months of age, ask a physician or healthcare provider</p>	<p>Posología ■ lavarse las manos ■ abrir el tubo cortando su extremo por la marca indicada ■ utilizar la yema de los dedos o un aplicador de algodón para aplicar una pequeña cantidad de Baby Orajel Naturals sobre las encías ■ no más de 6 veces por día o siguiendo la indicación de un médico o profesional de la salud ■ para los niños menores de 4 meses de edad, consultar a un médico o profesional de la salud</p>																
<p>Other information</p> <ul style="list-style-type: none"> ■ do not use if tube tip is cut prior to opening 	<p>Otra información</p> <ul style="list-style-type: none"> ■ no usar si el extremo del tubo está cortado antes de abrirlo 																
<p>Inactive ingredients glycerin, hydroxyethylcellulose, potassium sorbate, sodium benzoate, sorbic acid, water</p>	<p>Ingredientes inactivos glicerina, hidroxietilcelulosa, sorbato potásico, benzoato sódico, ácido sórbico, agua</p>																
<p>Questions or comments? call us at 1-800-952-5080 M-F 9am-5pm ET or visit our website at www.orajelnaturals.com</p>	<p>¿Preguntas o comentarios? Llámenos al 1-800-952-5080 L-V 9am-5pm ET o visite nuestro sitio web en www.orajelnaturals.com</p>																

Recommended **Child** Products



TEETHING RELIEF
Baby Orajel™
Naturals Nighttime



TEETHING RELIEF
Baby Orajel™
Naturals Teething



EARLY TOOTH AND GUM CARE
Baby Orajel™ Elmo



ADULT ORAL CARE
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Orajel™ Single Dose: *For temporary topical pain relief.

EXHIBIT C



Contact Us Where to Buy

Coupons

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Home / Child Oral Care / Teething Relief / Baby Orajel™ Naturals Nighttime Teething Gel



Baby Orajel™ Naturals Nighttime Teething Gel

With the soothing power of Chamomilla (commonly known as Chamomile) and passion flower, Baby Orajel™ Naturals Nighttime Teething Gel helps to relieve teething pain discomfort and calm the restlessness that comes from teething, so your baby can get a good night's sleep.

- Homeopathic formula
- Benzocaine-free
- Belladonna-free
- Paraben-free

#1 Pharmacist recommended homeopathic brand for teething pain relief.

How To Use

Product Label

Expert Advice

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Coffea cruda, 6x HPUS	Inquietud																				
Passiflora incarnata (Passion Flower), 6x HPUS	Inquietud																				
<p>Uses ■ temporarily relieves the symptoms of simple restlessness and wakeful irritability due to cutting teeth ■ for children under 4 months of age, consult with your physician or healthcare provider</p>	<p>Indicaciones ■ alivio temporal de los síntomas de simple inquietud e irritabilidad en vela debido a la aparición de dientes ■ para niños menores de 4 meses de edad, consultar a su médico o profesional de la salud</p>																				
<p>Warnings Stop use and ask a physician if</p> <ul style="list-style-type: none"> ■ symptoms persist for more than 7 days or if irritation persists ■ inflammation, fever or infection develops 	<p>Advertencias Dejar de usar y consultar a un médico si</p> <ul style="list-style-type: none"> ■ los síntomas persisten por más de 7 días, si persiste la irritación ■ se manifiesta inflamación, fiebre o infección 																				
<p>Keep out of reach of children. In case of overdose or allergic reaction, get medical help or contact a Poison Control Center right away.</p>	<p>Mantener fuera del alcance de los niños. En caso de sobredosis o reacción alérgica, buscar de inmediato ayuda médica o ponerse en contacto con un centro de intoxicaciones.</p>																				
<p>Directions ■ wash hands ■ cut open tip of tube on score mark ■ use your fingertip or cotton applicator to apply a small, pea-size amount of Baby Orajel Naturals and spread over the gums ■ apply to the affected area up to 6 times daily or as directed by a physician or healthcare provider ■ for infants under 4 months of age, ask a physician or healthcare provider</p>	<p>Posología ■ lavarse las manos ■ abrir el tubo cortando su extremo por la marca indicada ■ utilizar la yema de los dedos o un aplicador de algodón para aplicar una pequeña cantidad de Baby Orajel Naturals sobre las encías ■ no más de 6 veces por día o siguiendo la indicación de un médico o profesional de la salud ■ para los niños menores de 4 meses de edad, consultar a un médico o profesional de la salud</p>																				
<p>Other information</p> <ul style="list-style-type: none"> ■ do not use if tube tip is cut prior to opening 	<p>Otra información</p> <ul style="list-style-type: none"> ■ no usar si el extremo del tubo está cortado antes de abrirlo 																				
<p>Inactive ingredients flavor, glycerin, hydroxyethylcellulose, potassium sorbate, sodium benzoate, sorbic acid, water</p>	<p>Ingredientes inactivos sabor, glicerina, hidroxietilcelulosa, sorbato potásico, benzoato sódico, ácido sórbico, agua</p>																				
<p>Questions or comments? call us at 1-800-952-5080 M-F 9am-5pm ET or visit our website at www.oralnaturals.com</p>	<p>¿Preguntas o comentarios? Llámenos al 1-800-952-5080 L-V 9am-5pm ET o visite nuestro sitio web en www.oralnaturals.com</p>																				

Recommended **Child** Products





TEETHING RELIEF
Baby Orajel™
Naturals Teething Gel



TEETHING RELIEF
Baby Orajel™
Naturals Teething
Tablets



EARLY TOOTH AND
GUM CARE
Baby Orajel™ Elmo
Tooth & Gum
Cleanser With
Toothbrush



ADULT ORAL CARE
CONTACT US

CHILD ORAL CARE
FOR PROFESSIONALS

RESOURCE CENTER
WHERE TO BUY

ABOUT ORAJEL™
COUPONS

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Orajel™ Single Dose: *For temporary topical pain relief.

EXHIBIT D



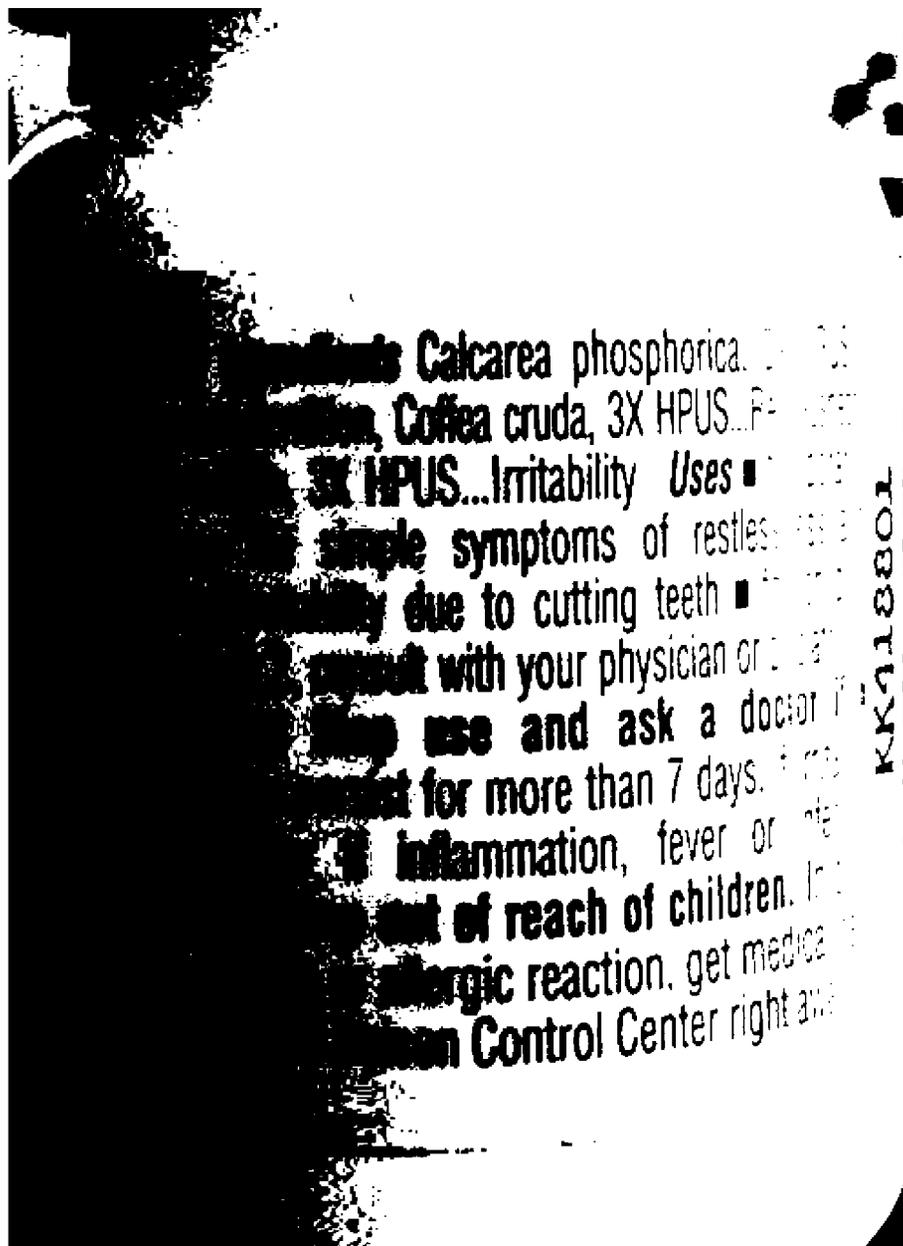


EXHIBIT E



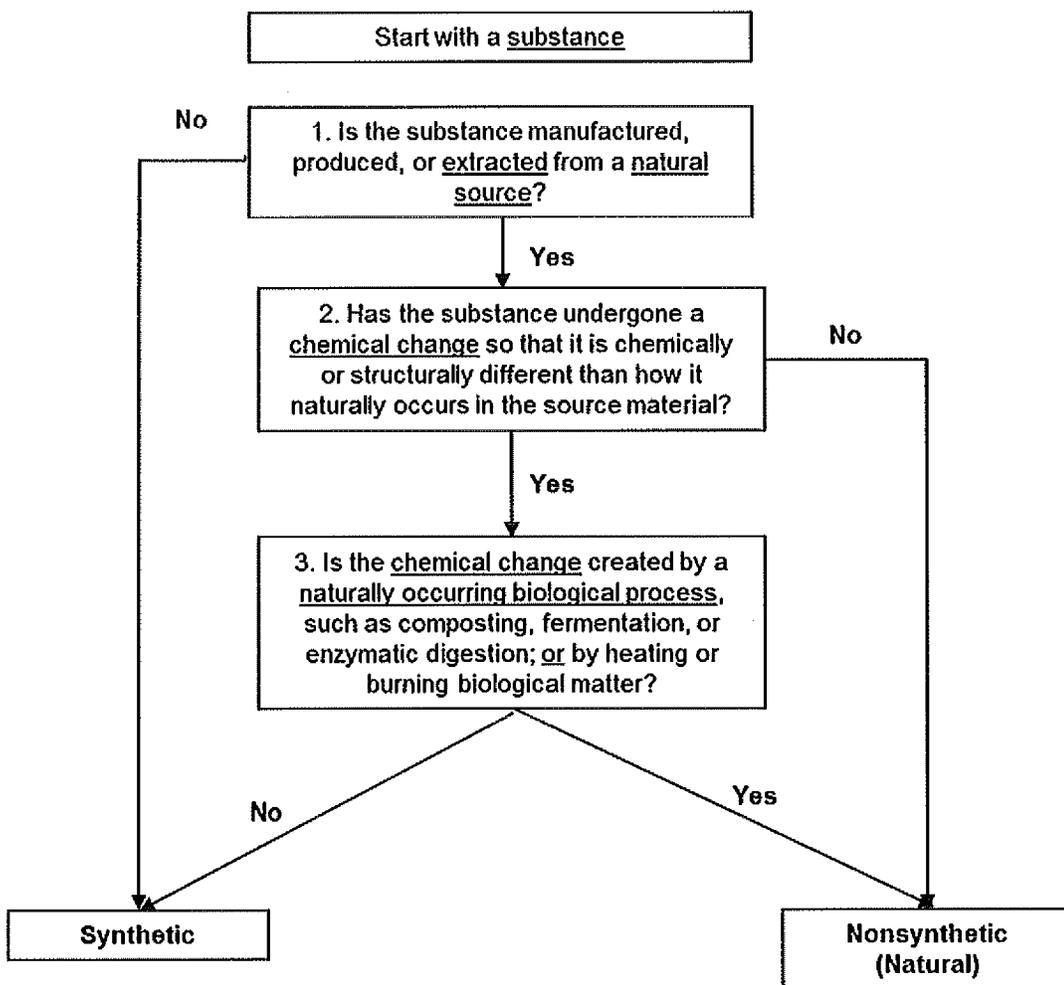
United States Department of Agriculture
Agricultural Marketing Service
National Organic Program

1400 Independence Avenue SW.
Room 2646-South Building
Washington, DC 20250

NOP 5033-1
Effective Date: TBD
Page 1 of 3

Draft Guidance Decision Tree for Classification of Materials as Synthetic or Nonsynthetic

Underlined terms defined on page 2





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Page 2 of 3

Definitions (bolded terms in 7 CFR 205.2)

Agricultural inputs. All substances or materials used in the production or handling of organic agricultural products.

Agricultural product. Any agricultural commodity or product, whether raw or processed, including any commodity or product derived from livestock, that is marketed in the United States for human or livestock consumption.

Allowed synthetic. A substance that is included on the National List of synthetic substances allowed for use in organic production or handling.

Chemical change. A process (i.e. chemical reaction) whereby a substance is transformed into one or more other distinct substances.

Extract. To separate, withdraw, or obtain one or more constituents of an organism, substance, or mixture by use of solvents (dissolution), acid-base extraction, or mechanical or physical methods.

Formulate. To combine different materials according to a recipe or formula.

Generic. The common and familiar non-proprietary name.

Manufacture. To make a substance from raw materials.

Natural source. Naturally occurring mineral or biological matter.

Naturally occurring biological process. A process that occurs due to the action of biological organisms or subcomponents of biological organisms, such as enzymes. Examples of naturally occurring biological processes include, but are not limited to, fermentation, composting, manure production, enzymatic processes, and anaerobic digestion.

Nonagricultural substance. A substance that is not a product of agriculture, such as a mineral or a bacterial culture, that is used as an ingredient in an agricultural product. For the purposes of this part, a nonagricultural ingredient also includes any substance, such as gums, citric acid, or pectin, that is extracted from, isolated from, or a fraction of an agricultural product so that the identity of the agricultural product is unrecognizable in the extract, isolate, or fraction.

Nonsynthetic (natural). A substance that is derived from mineral, plant, or animal matter and does not undergo a synthetic process as defined in section 6502(21) of the Act (7 U.S.C. 6502(21)). For the purposes of this part, nonsynthetic is used as a synonym for natural as the term is used in the Act.

Substance. A generic type of material, such as an element, molecular species, or chemical compound, that possesses a distinct identity (e.g. having a separate Chemical Abstracts Service



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 Page 3 of 3

(CAS) number, Codex International Numbering System (INS) number, or FDA or other agency standard of identity).

Synthetic. A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Table 1. Classification examples of inputs:

Substance	Classification	Explanation
Ash (burned wood)	Nonsynthetic	Substance is created by burning biological matter.
Calcium carbonate (limestone)	Nonsynthetic	Substance is produced from a natural source (mined mineral) and does not undergo chemical change.
Calcium oxide (quicklime)	Synthetic	Substance is produced from a natural source (mined mineral), but undergoes chemical change caused by heating the mineral.
Citric acid	Nonsynthetic	Substance is created from a naturally occurring biological process (microbial fermentation of carbohydrate substances).
Enzymes, without synthetic additional ingredients	Nonsynthetic	Substance is extracted from a natural source and is not formulated with synthetic ingredients
Gibberellic acid	Nonsynthetic	Substance is extracted from a natural source without further chemical change
Liquid fish products – pH adjusted with phosphoric acid	Synthetic	Substance is derived from a natural source, but is treated with synthetic acids for pH adjustment.
Molasses	Nonsynthetic	Substance is derived from a natural source and chemical change is due to heating or naturally occurring biological processes.
Newspaper	Synthetic	Substance is manufactured via a chemical process.
Raw manure	Nonsynthetic	Substance is from a natural source and used without further processing.
Rosemary oil	Nonsynthetic	Substance is extracted from a natural source.

EXHIBIT F



The Homœopathic Pharmacopœia of the United States

Welcome Ron Marron

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Monograph

[View Drug Data](#) | [QC Data](#)

CALCAREA PHOSPHORICA

2043

CAPH

NAME IN CONTEMPORARY USE: Calcium phosphate

SYNONYMS:

Latin: Calcii phosphas, Tricalcii phosphas

English: Precipitated calcium phosphate, Tribasic calcium phosphate

Spanish:

French: Phosphate tricalcique

German: Calciumphosphat

Italian:

BIOLOGICAL CLASSIFICATION:

CHEMICAL FORMULA AND MOLECULAR WEIGHT: $Ca_5(PO_4)_3$ 502.31

DESCRIPTION:

A Tribasic calcium phosphate consists of a variable mixture of calcium phosphates [$Ca_5(OH)(PO_4)_3$ (m.w. 502.31) and $Ca_3(PO_4)_2$ (m.w. 310.20)] having the approximate composition $10CaO \cdot 3P_2O_5 \cdot H_2O$. A white, amorphous, tasteless, odorless powder; sparingly soluble in water, insoluble in alcohol, soluble in nitric and hydrochloric acids. At a strong red heat, it melts without decomposition, yielding, on cooling, a porcelain-like mass. It is contained in bones (80%), and extracted from them by dissolving in hydrochloric acid and precipitating with ammonium hydroxide.

RANGE AND HABITAT:

PREPARATION AND CLASSIFICATION:

Trituration (Class F).

Liquid attenuation (Class H): 8X and higher.

MEDICATION: **OTC:** 1X
Ext. 1X
Use:
Rx: N/A
HPN: N/A

First approval date: 11/01/2010
Last update date: 12/15/2010

CIVIL COVER SHEET

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
Noelky Sullivan, individually on behalf of herself and all others similarly situated,

DEFENDANTS
Church & Dwight, Inc.

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

County of Residence of First Listed Defendant Mercer County, NJ
(IN U.S. PLAINTIFF CASES ONLY)

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

Attorneys (If Known)

(c) Attorneys (Firm Name, Address, and Telephone Number)
The Sultzzer Law Group PC (646) 722-4266
77 Water Street, 8th Floor
New York, NY 10005

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)

- Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
PTF DEF
1 1 Incorporated or Principal Place of Business In This State
2 2 Incorporated and Principal Place of Business In Another State
3 3 Foreign Nation
4 4
5 5
6 6

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

Table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes various legal categories like Personal Injury, Contract, Labor, etc.

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

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. § 1332, 15 U.S.C. § 2301

Brief description of cause:
GBL §§ 349 and 350, state consumer protection statutes, fraud, breach of warranty, unjust enrichment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 50,000,000.00 CHECK YES only if demanded in complaint: JURY DEMAND: X Yes [] No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE DOCKET NUMBER

DATE 08/13/2015 SIGNATURE OF ATTORNEY OF RECORD Joseph Lipari /s/

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

CERTIFICATION OF ARBITRATION ELIGIBILITY

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Joseph Lipari, counsel for Plaintiff and Class Members, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- the complaint seeks injunctive relief,
- the matter is otherwise ineligible for the following reason

DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

RELATED CASE STATEMENT (Section VIII on the Front of this Form)

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that " A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
 - a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? No
 - b) Did the events of omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County? n/a

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

BAR ADMISSION

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

- Yes
- No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

- Yes (If yes, please explain)
- No

I certify the accuracy of all information provided above.

Signature: Joseph Lipari /s/

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Eastern District of New York

Noelky Sullivan, individually on behalf of herself and all others similarly situated,

Plaintiff(s)

v.

Church & Dwight Inc.,

Defendant(s)

Civil Action No.

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) Church & Dwight Co. Inc. c/o National Registered Agents, Inc. 111 Eighth Avenue New York, New York 10011

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: The Sultzer Law Group PC Joseph Lipari, Esq. 77 Water Street, 8th Floor New York, New York 10005 (646) 722-4266

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER CLERK OF COURT

Date: 08/13/2015

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. _____

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for *(name of individual and title, if any)* _____
was received by me on *(date)* _____ .

I personally served the summons on the individual at *(place)* _____
_____ on *(date)* _____ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* _____
_____, a person of suitable age and discretion who resides there,
on *(date)* _____ , and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* _____ , who is
designated by law to accept service of process on behalf of *(name of organization)* _____
_____ on *(date)* _____ ; or

I returned the summons unexecuted because _____ ; or

Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: